

**PROPOSED
MENTAL HEALTH ACT OF 1951**

A

Report

of the

SUBCOMMITTEE ON MENTAL HEALTH LAWS



of the

JOINT STATE GOVERNMENT COMMISSION

of the

GENERAL ASSEMBLY

of the

COMMONWEALTH OF PENNSYLVANIA

AUGUST, 1950

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The Joint State Government Commission was created by Act of 1937, July 1, P. L. 2460, as amended 1939, June 26, P. L. 1084; 1943, March 8, P. L. 13, as a continuing agency for the development of facts and recommendations on all phases of government for the use of the General Assembly.

of the

JOINT STATE GOVERNMENT COMMISSION

of the

GENERAL ASSEMBLY

of the

COMMONWEALTH OF PENNSYLVANIA

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INTRODUCTION

Pursuant to House of Representatives Concurrent Resolution No. 74 of the 1949 Session of the General Assembly, the Joint State Government Commission was directed to study and revise the mental health laws.

The codification of mental health laws is a continuation of the assignment made to the Commission by Senate Resolution No. 108, March 3, 1947, concurred in by the House of Representatives May 19, 1947. At that time, the provisions of the Mental Health Act of 1923, miscellaneous provisions relating to mental health generally, acts relating to lunatics, habitual drunkards, guardianship of weak-minded persons, provisions as to hospital patients and State mental institutions were compiled, but codification was deferred in view of the expanding mental health program.

The proposed codification of mental health laws now being considered is intended to eliminate obsolete matter and terminology, remove duplications, clarify ambiguities, to arrange the subject matter in logical order, shorten sections wherever possible, and bring all of the statutory provisions into one consistent act. The accomplishment of this aim, it is hoped, will prove beneficial to administrators, the courts, attorneys and other persons concerned.

It has been observed that the Mental Health Act of 1923 (P. L. 998), while adequate, has been many times amended and does not embody many provisions of earlier statutes dating back over a hundred years.

In accordance with the Act of 1943, March 8, P. L. 13, Section 1, the Commission created a subcommittee to aid in the study of the mental health laws. An interim report in the form of a Proposed Mental Health Act of 1951, compiled by the Legislative Reference Bureau, is herewith submitted, with

pertinent comments, for consideration.

It is the intention of the Joint State Government Commission, through its subcommittee on Mental Health Laws, to give careful consideration to suggestions and recommendations concerning this draft before it is finally submitted to the General Assembly.

Suggestions and recommendations should be addressed to The Joint State Government Commission, P. O. Box 61, Harrisburg, Pa.

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PROPOSED MENTAL HEALTH ACT OF 1951

AN ACT

Relating to mental health including mental illness, mental defect, epilepsy, and inebriety; and amending, revising, consolidating, and changing the laws relating thereto.

Comment:—All reference to sections in this draft refer to The Mental Health Act of One Thousand Nine Hundred and Twenty-Three, (1923, July 11, P. L. 998, 50 P. S. 1), unless otherwise indicated.

All provisions relating to costs have been transferred to Article VII

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The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

ARTICLE I

PRELIMINARY PROVISIONS

SECTION 101. *Short Title.*—This act shall be known and may be cited as "The Mental Health Act of 1951."

Source:—§ 1.

This act shall be called and cited as The Mental Health Act of One Thousand Nine Hundred and Twenty-Three.

1951-2053 SECTION 102. *Definitions.*—As used in this act, unless the context clearly indicates otherwise, the following words and phrases shall have the following meanings:

(1) "Care" shall include reception, detention, transfer, parole, discharge, custody, care, treatment, maintenance, support, segregation, education, culture, training, discipline, improvement, occupation, employment, medical and surgical treatment and nursing, food and clothing.

Source:—§ 103, as amended 1945, April 6, P. L. 151, with the words "transfer" and "discharge" added.

"Care" shall include reception, detention, custody, care, treatment, maintenance, support, segregation, education, culture, training, discipline, improvement, occupation, employment, medical and surgical treatment and nursing, food and clothing.

(2) "Court" shall mean any court of record or law judge thereof of the county in which the patient is or resides.

Comment:—This is new. A definition of "court" seems desirable because of frequent use. The definition does not attempt to restrict the definition to one specific court, e.g. common pleas, or quarter sessions.

Source:—§ 303 and § 311, as amended 1938, Sp. Ses. Oct. 11, P. L. 63, § 1.

§ 303. Any person who is mentally ill may be placed and detained in a hospital for mental diseases by order of the court of common pleas or other court of record of the county in which the said person resides or is, or of any law judge of said courts, . . .

§ 311. (a) Any person mentally defective may be placed and detained in a proper State or licensed school for mental defectives by order of the court of common pleas or other court of record or the juvenile court of the county in which such person is or resides, . . .

(3) "Criminal" shall mean any person who has been convicted on a criminal charge and whose period of sentence has not expired or who has a criminal tendency.

Comment:—"Insane" has been dropped since it is not a general term.

Source:—§ 103, as amended 1945, April 6, P. L. 151, § 1.

"Insane Criminal" shall mean any person mentally ill who has been convicted on a criminal charge and the period of whose sentence has not expired, or who has a criminal tendency.

(4) "Criminal tendency" shall mean a tendency to repeat offenses against the law or to perpetrate new offenses as shown by repeated convictions for such offenses or a tendency to habitual delinquency.

Source:—§ 103, as amended 1945, April 6, P. L. 151, § 1.

"Criminal tendency" shall mean a tendency to repeat offenses against the law or to perpetrate new offenses as shown by repeated convictions for such offenses—a tendency to habitual delinquency.

(5) "Department" shall mean the Department of Welfare or such other department to which its powers and duties may be transferred.

Source:—§ 103, as amended 1945, April 6, P. L. 151, § 1

"Department" shall mean the Department of Public Welfare, or any other department to which the powers and duties of the same department may at any time be transferred by law.

(6) "Epileptic" shall mean any person who is or is thought to be suffering from epilepsy.

Comment:—This definition is new. Cf. § 313.

Persons suffering from epilepsy . . .

(7) "Inebriate" shall mean a person who except for his inebriety is of good character and reputation but who is so habitually addicted to the use of alcoholic or other intoxicating or narcotic substances as to be unable or unwilling to stop the excessive use of such substances without help. The term shall include "dipsomaniac," "drug addict" and "habitual drunkard."

Comment:—The parts of the old definition not used do not add to the definition. "Drug addict" is added.

Source:—§ 103, as amended 1945, April 6, P. L. 151, § 1.

"Inebriate" shall mean a person habitually so addicted to the use of alcoholic or other intoxicating or narcotic substances as to be unable without help or unwilling to stop the excessive use of such substances. The term shall be held to include "dipsomaniac," "habitual drunkard," "person addicted to the use of alcoholic drink or intoxicating drugs," "person so habitually addicted to the use of alcoholic drink, absinthe, opium, morphine, chloral, or other intoxicating liquor or drug as to be a proper subject for restraint, care and treatment in a hospital or asylum," "person habitually so addicted to the use of alcohol or narcotic drugs as to be a proper subject for restraint, care and treatment." But for the purposes of this act, the term shall mean only those inebriates who, except for their inebriety, are of good character and reputation.

(8) "Institution" shall mean any State or licensed place, public or private, for the care of patients. The term shall include "mental hospital," "school," "village" and every other place by whatever name called caring for patients whether or not for compensation.

Comment:—There is need for a simple term to include all types of institutions. The old term "institution" has been broadened. Cf. § 103 as amended 1945, April 6, P. L. 151, § 1, for definitions of "mental hospital," "hospital for mental diseases," "institution," "school," "village," or "place."

Source:—§ 103, as amended 1945, April 6, P. L. 151, § 1.

(9) "Mental Defective" shall mean a person whose mental development is so retarded that he has not acquired enough self-control, judgment, and discretion to manage himself and his affairs, and for whose welfare or that of

others care is necessary or advisable. The term shall include "feeble-minded," "idiot," and "imbecile," but shall not include "mental illness," "inebriate," "epileptic," or "senile."

Comment:—Last sentence is new as to "mental illness," "inebriate" and "senile."

Source:—§ 103, as amended 1945, April 6, P. L. 151, § 1.

"Mental defective" shall mean a person who is not mentally ill but whose mental development is so retarded that he has not acquired enough self-control, judgment, and discretion to manage himself and his affairs, and for whose own welfare or that of others supervision, guidance, care, or control are necessary or advisable. The term shall be construed to include "feeble-minded," "idiot," "imbecile."

(10) "Mental hospital" shall mean any institution intended primarily for the care of patients who are or are thought to be mentally ill.

Comment:—Inebriates may be committed to such an institution (§ 313), and probably other types of cases. The definition is intended to encompass an institution maintained primarily for persons who are mentally ill as opposed to defectives or inebriates. It replaces the longer term "hospital for mental diseases." The old term "mental hospital" is replaced by "institution."

Source:—§ 103, as amended 1945, April 6, P. L. 151, § 1.

"Hospital for mental diseases" shall mean any State, semi-State, or licensed hospital, house, or place for the treatment and care of persons mentally ill.

(11) "Mental illness" shall mean an illness which so lessens the capacity of a person to use his customary self-control, judgment, and discretion in the conduct of his affairs and social relations as to make it necessary or advisable for him to be under care. The term shall include "insanity," "unsoundness of mind," "lunacy," "mental disease," "mental disorder," and all other types of mental cases but the term shall not include "mental defectiveness," "epilepsy," "inebriety," or "senility."

Comment:—Last sentence is partly new and is added for clarity.

Source:—§ 103, as amended, 1945, April 6, P. L. 151, § 1.

"Mental illness," "mental disease," "mental disorder" shall mean an illness which so lessens the capacity of the person to use his customary self-control, judgment, and discretion in the conduct of his affairs and social relations as to make it necessary or advisable for him to be under treatment, care, supervision, guidance, or control. The terms shall be construed to include "lunacy," "unsoundness of mind," and "insanity."

(12) "Patient" shall mean any person who is or is thought to be mentally ill, mentally defective, epileptic, or inebriate or for whom admission to an institution is being sought or who is or has been an inmate of an institution. The term shall not include a person who is "senile."

Comment:—"Mental" dropped as useless and confusing. "Mental" is used in this draft to refer to "mental illness" consistently. "Senile" is added as an exclusion.

Source:—§ 103, as amended 1945, April 6, P. L. 151, § 1.

"Mental patient" shall mean any person who is or is thought to be mentally ill, mentally defective, epileptic, or inebriate, or who is or has been an inmate of any hospital, school, or place for such persons or for whom admission thereto is being sought.

1951-1429 (13) "Qualified physician" shall mean a physician who has been: (1) a resident of Pennsylvania for at least three years, (2) licensed to practice medicine in Pennsylvania and (3) in the actual practice of medicine for at least three years or has had at least one year's experience as a physician in an institution.

Source:—§ 103, as amended 1945, April 6, P. L. 151, § 1.

"Qualified physician" shall mean a physician who has been resident in this State for at least three years, has been licensed to practice medicine in this State, and has been in the actual practice of medicine for at least three years or has had at least one year's experience as physician in a hospital for mental patients.

(14) "School" shall mean any institution for the care of mental defectives or epileptics. The term shall in-

clude "village," "training school" or other institution by whatever name called for the care of such patients.

Source:—Definitions of "village," "school," § 103, as amended 1945, April 6, P. L. 151, § 1.

"School" shall mean any hospital, institution, training school, school, or place, public or private, for the care, education, and training of mental defectives or epileptics.

"Village" shall be considered an equivalent term with "school."

(15) "Superintendent" shall mean the person in charge of the administration of an institution or person acting as such in his stead or under his direction.

Comment:—This definition is new and desirable.

(16) "Transfer" shall mean the removal of a patient from one institution to another for the same kind of patients without other procedure for admission than that prescribed by the department.

Source:—§ 103 as amended 1945, April 6, P. L. 151, § 1.

"Transfer" of a mental patient shall mean his removal from one mental hospital to another mental hospital for the same kind of patients, without other procedure for admission than those prescribed by the department.

(17) "Trustees" shall mean the persons organized to manage and to be responsible for an institution. The term shall include "board of trustees," "board of managers," "managers," "directors," "board of directors." The term shall not include "superintendent."

Source:—Definition "trustees," § 103, as amended 1945, April 6, P. L. 151, § 1.

"Trustees" shall mean the person or group of persons organized to manage and be responsible for an institution or place for the care of mental patients, and shall include board of trustees, managers, board of managers, directors, or board of directors of such institution or place.

Comment:—From the old section 103, the following definitions have been dropped:

(1) "Applicant"—applied only to § 201 and taken care of in this draft in the corresponding section.

(2) "Place"—meaningless as a separate definition and hardly useful as a distinction when so used.

(3) "Prison"—penal or correctional institution has a well defined meaning and is used when needed.

The phrases "institution," "mental hospital," "hospital for mental diseases," "mental patient" have been revised for clarity.

SECTION 103. *Effective Date.*—The provisions of this act shall take effect on the first day of January, one thousand nine hundred fifty-two, except that the provisions of Article IX shall apply only to proceedings instituted on or after that date.

ARTICLE II

INSTITUTIONS FOR PATIENTS

Comment:—The following statutes were considered for inclusion in this article and were treated as indicated:

1. Article II and 701. *Reworded slightly and included.*
2. Administrative Code provisions relating to the Department. *Omitted, as the provisions have to do with State governmental administration and as such belong in that Code.*
3. Various separate acts creating State institutions existing prior to the Mental Health Act. *Applicable provisions of the several acts are consolidated and included.*
4. Act of 1938, Sp. Ses., Sept. 29, P. L. 53, as last amended by Act of 1945, May 25, P. L. 1074, providing for transfer of local institutions to Commonwealth. *This act is mostly executed. All the executed sections are omitted and cited for repeal except to preserve the Commonwealth's chain of title. The remaining sections are included.*
5. Act of 1913, July 25, P. L. 1306, §§ 7-11, as supplemented by Act of 1917, July 25, P. L. 1212, § 2, relating to State Institution for Inebriates. *This act was partly repealed by Act of 1923, June 7, P. L. 498, which substituted the Cumberland County Institution for Mental Defectives on the site for the State Institution for Inebriates. Since there is no such existing institution and since the Mental Health Act contains similar provisions as to commitment of inebriates, the acts are cited for repeal.*
6. Act of 1917, April 26, P. L. 106, relating to temporary care of mentally deranged. *Local units no longer care for insane. Cited for repeal.*

7. Act of 1945, May 29, P. L. 1190, providing for transfer of institutions of private corporations to Commonwealth. *Included.*
8. Act of 1945, May 18, P. L. 815, providing for establishment of additional institutions. *Included in so far as it relates to mental institutions, and cited for repeal accordingly.*
9. Act of 1874, April 27, P. L. 114, No. 42, Proviso of § 1. *Not included.*
10. Act of 1945, May 15, P. L. 570; Act of 1945, May 15, P. L. 569. *Not germane. In practice, "defective delinquents" are not now considered or treated (at Huntingdon) as patients. The term is not defined.*

(a) In General

SECTION 201. *Places for the Care of Patients.—*

(a) In this Commonwealth patients shall be cared
for

(1) In the following State institutions:

- Allentown State Hospital
- Danville State Hospital
- Farview State Hospital
- Harrisburg State Hospital
- Norristown State Hospital
- Warren State Hospital
- Wernersville State Hospital
- Torrance State Hospital
- Laurelton State Village
- Pennhurst State School
- Polk State School
- Selinsgrove State Colony for Epileptics
- Western State Psychiatric Institute & Clinic
- Clark's Summit State Hospital
- Dixmont State Hospital
- Embreeville State Hospital
- Hollidaysburg State Hospital
- Philadelphia State Hospital

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Retreat State Hospital
 Somerset State Hospital
 Woodville State Hospital
 Mayview State Hospital
 Eastern Pennsylvania Psychiatric Institute

(2) In such other institutions as may be taken over or created by the Commonwealth.

(3) In such private institutions as shall have procured licenses from the department in accordance with the provisions of this act.

Source:—Part of § 201, as amended 1945, April 6, P. L. 151, § 2.

Mental patients in the Commonwealth shall be cared for—

(a) In the following existing State hospitals: Allentown State Homeopathic Hospital, Danville State Hospital, Farview State Hospital, Harrisburg State Hospital, Norristown State Hospital, Warren State Hospital, Torrance State Hospital, and Wernersville State Hospital; the Laurelton State Village, Pennhurst State School, and Polk State School.

(b) In the semi-State institution known as Dixmont Hospital.

(c) In such semi-State, county, municipal, incorporated district, or private institution or places as shall have procured from the department licenses as provided for in this act.

(b) The authorities of general hospitals may set apart, establish and maintain beds, wards, or departments for the temporary care of patients upon procuring licenses from the department in accordance with the provisions of this act.

Source:—Part of § 201, amended 1945, April 6, P. L. 151, § 2.

No mental patient shall be admitted for care to any almshouse, poorhouse, prison, or other place, except a general hospital unless such almshouse, poorhouse, prison, or other place shall have a license for such purpose from the department.

The authorities of general hospitals may set apart or establish beds, wards, or departments, for temporary care of mental patients, under such conditions as may be approved by the department.

Comment:—Cf. Proviso, § 2 (a), 1938, Sp. Ses., Sept. 29, P. L. 53, amended 1945, May 25, P. L. 1074.

The authorities of general hospitals may continue to maintain or hereafter may set apart, establish and maintain beds, wards or departments for the temporary care of mental patients under licensure by the Department of Welfare, as now provided by law.

SECTION 202. *Political Subdivisions not to Operate Institutions.*—

No political subdivision or ward shall operate or maintain, in whole or in part, any institution for the care of patients.

Source:—Part of § 2 (a), 1938, Sp. Ses., Sept. 29, P. L. 53, amended 1945, May 25, P. L. 1074.

Comment:—This section calls for the repeal of 1917, April 26, P. L. 106, § 1, which reads as follows:

The trustees of the insane, or directors or overseers of the poor, of any poor district, are authorized to provide a building or rooms in any building, separate and apart from the insane department of such poor district, in which to care for, treat, and maintain persons committed to their care who are temporarily mentally deranged, but whose condition does not warrant their classification as an insane person or their commitment to the insane department of said poor district.

(b) Private Institutions

SECTION 211. *License Required;—Penalty.*—

(a) No person shall operate any institution, other than a State institution, for the care of patients without having first procured from the department, in accordance with the provisions of this act, an annual license to operate such institution.

Source:—Part of § 201 (2), as amended 1945, April 6, P. L. 151.

It shall be unlawful for the persons in charge of any institution or place within the jurisdiction of the department, whether incorporated or nonincorporated, except State institutions, to care for any mental patients without having obtained from the department, on or before the first day of January, one thousand nine hundred and twenty-four, and annually thereafter, a license authorizing such institution or place to care for mental patients: Provided,

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however, That any incorporated institution in existence when this act takes effect shall have the right by petition, to appeal to the court of common pleas of the county in which the institution is situated from the order of the department refusing to grant licenses to such corporation, and thereupon said courts shall determine whether the order of the department is reasonable, and shall either dismiss the petition, or make such order governing the act of the department in the premises, as it shall deem wise.

(b) Any person who violates the provisions of this section shall, upon summary conviction thereof, be sentenced to pay a fine not to exceed one hundred dollars (\$100).

Source:—§ 701.

Any person who shall violate any provision of Article II of this act shall be guilty of a misdemeanor, and, upon conviction in the proper court, be subject to a fine of not more than one hundred dollars.

1957-2053 SECTION 212. *Application for and Grant of License.*—

(a) Every person other than a State institution desiring to operate an institution shall annually file with the department an application for a license.

(b) The application shall be on a form prescribed, prepared, and furnished by the department, and together with such other information as the department requires shall state:

(1) The name and address of the applicant and of the trustees and superintendent of the institution; and the names and addresses of all the partners or officers of a partnership, or association, or corporation, together with the address of the principal office and state of registration, organization or incorporation.

(2) The location of the institution.

(3) The facilities of the institution for the care of patients including sanitary and fire protection facilities.

(c) Upon receipt of an application for a license, the department shall make a thorough investigation of the character, financial responsibility, and qualifications of the applicant; if the applicant is a partnership, association, or corporation, of the officers or partners, as the case may be; of the trustees and superintendent of the institution; the adequacy of the facilities of the institution to furnish the type of care and service specified in the application; the sanitary and fire protection facilities; and any other matter or thing which the department deems proper.

(d) If satisfied that the applicant is qualified and responsible, and that the place sought to be used as an institution is a suitable place for the care of patients and is properly equipped therefor, the department shall issue a license to the applicant upon the payment of a license fee of fifteen dollars (\$15), which shall be paid into the State Treasury through the Department of Revenue.

Source:—(a)-(d) Part of § 201 (3), as amended 1945, April 6, P. L. 151.

SECTION 213. *Transfer of Private Institutions to Commonwealth.*—

Whenever the board of directors of any corporation, incorporated under the laws of this Commonwealth, for the purpose of the support of an institution for the care of mental defectives, epileptics, or mentally ill persons, shall determine that it will be for the best interests of such persons then in its charge, it may transfer to the Commonwealth absolute title in fee simple to all of its properties, possessions and endowments, real and personal, together with the care of the persons then in its charge. Upon the recommendation of the Secretary of Welfare, approved by the Governor, the Commonwealth shall accept such transfer. All moneys pre-

viously appropriated to such corporation, which remain unexpended after payment of all of its debts and liabilities, shall be expended by the department for the maintenance of the properties so transferred and the care of the persons housed thereon.

Comment:—The term "insane person" of the Act of 1945 is changed to the language of this draft—viz. mental illness, mental defective, etc.

Source:—1945, May 29, P. L. 1190, § 1.

1951-1820 SECTION 214. *Review of Action by Department.*—

Any person aggrieved by any action of the department relating to his license, or by rule or regulation adopted and promulgated by the department, shall have the right to file a complaint with the department and to have a hearing thereon before the department. Such hearings shall be conducted and the decision of the department on the issue involved shall be rendered in accordance with the provisions of the Administrative Agency Law, approved June 4, 1945, (P. L. 1388), and its amendments, relating to adjudication procedure. Any person aggrieved by any adjudication of the department shall have the right of appeal therefrom to the Court of Common Pleas of Dauphin County and have a judicial review of such adjudication within the time and in the manner and with the same effect as is provided by the Administrative Agency Law and the Rules of Civil Procedure promulgated by the Supreme Court for judicial review of adjudications of agencies of the Commonwealth.

Comment:—See Administrative Agency Law, 1945, June 4, P. L. 1388.

(c) **State Institutions**

1951-2053 SECTION 221. *Outpatient and Psychiatric Clinical Services.*—

To promote prevention, recognition and treatment of mental illness, mental defect, epilepsy, and inebriety, the

department may establish, extend, operate, maintain and provide outpatient services in conjunction with State institutions and separate psychiatric clinical services, and may fix and establish charges for such services.

Source:—§ 202, as added 1949, April 14, P. L. 469.

SECTION 222. *Relocation and Establishment of Additional Institutions.*—

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(a) The department may recommend to the Governor the establishment of new institutions for the care of persons afflicted with any mental illness, mental defect, or epilepsy, or the relocation of present institutions under the supervision of the department, where it appears that a present institution is no longer fit for use or for reconstruction and that the conditions of its water supply, sewerage location or environment justify its abandonment.

(b) Upon receiving the recommendations of the department, the Governor, if he approves, shall direct the Department of Property and Supplies to determine desirable sites within the areas recommended by the department for the erection of such institutions. Such sites shall provide ample water supply and be capable of adequate sewerage and drainage. Consideration shall be given to the needs for expansion over a period of fifty years. The quality of soil and the acreage obtained shall be sufficient for the most productive agricultural employment of the type of persons for which the institution is planned.

(c) After the Governor has approved a site from among those proposed by the Department of Property and Supplies, the Department of Property and Supplies shall acquire the land and improvements thereon by purchase or

by condemnation, and shall proceed with the construction of necessary buildings and facilities following the recommendations of the Department of Welfare and the Governor's approval. The cost of such land, buildings and facilities shall be paid from appropriations made for such purpose.

(d) Upon completion of the institution, it shall be administered by the same board of trustees as was appointed for the institution which was relocated, or, in the case of a new institution, by a board of trustees which shall be appointed and organized, which shall conduct its affairs in accordance with the provisions of the act approved the ninth day of April, one thousand nine hundred twenty-nine (Pamphlet Laws 177) known as The Administrative Code of 1929, and its amendments. The name for any new institution shall be selected by the department with the Governor's approval, and shall be indicative of the political subdivision in or near which such institution is located.

(e) Admissions and commitments to any institution established or relocated under the provisions of this section, and transfer, release, discharge or parole therefrom, shall be as provided in this act.

(f) The Board of Commissioners of Public Grounds and Buildings shall advertise publicly in newspapers of general circulation for offers to purchase lands and buildings no longer used by the Commonwealth for institutional purposes and may make award and execute deed of conveyance to the highest responsible bidder. The board shall have the power to reject any and all bids and to postpone offer of sale from time to time. The costs of sale shall be paid from the biennial appropriation for salaries and general expenses of the Department of Property and Supplies.

SECTION 223. *Retransfer of Property from Commonwealth to Political Subdivisions.*—

(a) Any property, real or personal, transferred to and vested in the Commonwealth in accordance with the act approved the twenty-ninth day of September, one thousand nine hundred thirty-eight (Pamphlet Laws 53) and its reenactments and amendments, if found unsuitable for use as a State institution or if abandoned by the Commonwealth as such an institution before substantial improvements thereto have been made, shall revert to and vest in the political subdivision or ward from which transferred, and the Commonwealth shall have no further claim or title thereto.

(b) If any personal property originally transferred to the Commonwealth cannot be returned to the political subdivision or ward, other personal property of equivalent value may be returned, or the value thereof at the date of return may be paid by the Commonwealth to the political subdivision or ward from funds appropriated to the department for such purpose.

Source:—Part of § 1, 1938, Sp. Ses., Sept. 29, P. L. 53, amended 1945, May 25, P. L. 1074.

SECTION 224. *Obligations and Rights of Political Subdivisions.*—

(a) All obligations incurred by a political subdivision or ward by reason of the erection, acquisition or maintenance of an institution, or of a place for the care and maintenance of indigent persons who are not patients, which were outstanding on the date that the Commonwealth took over the operation and management of such institution or place or ordered such institution or place closed, in accordance with the provisions of the act approved the

twenty-ninth day of September, one thousand nine hundred thirty-eight (Pamphlet Laws 53) its reenactments and amendments, shall remain the obligations of the political subdivision or ward, and shall be paid in the same manner as though the operation and management still remained in the political subdivision or ward. For the payment of such obligations, the authorities of such political subdivision or ward may continue to levy and collect taxes as if control and management were still vested in the political subdivision or ward.

(b) All amounts due any political subdivision or ward for the care of any patient in any institution or place for the care and maintenance of indigent persons transferred to the Commonwealth that had accrued and remained unpaid on the date that the Commonwealth took over the operation and management of the institution or place or on the date such institution or place was closed may be collected by the political subdivision or ward in the same manner as if the control and management were still vested in the political subdivision or ward.

(c) Where there is a claim against the estate of any patient both on behalf of the Commonwealth and on behalf of a political subdivision or ward, and there is not sufficient in the estate to pay both claims in full, payment shall be made to the Commonwealth and the political subdivision or ward in the proportion of the amount of maintenance legally recoverable by each.

Source:—§ 8, 1938, Sept. 29, P. L. 53, reenacted and amended 1945, May 25, P. L. 1074.

SECTION 225. *Management of Institutions Taken over from Political Subdivisions.*—

(a) Each institution taken over by the Commonwealth from a political subdivision or ward in accordance

with the provisions of the act approved the twenty-ninth day of September, one thousand nine hundred thirty-eight (Pamphlet Laws 53) its reenactments and amendments, which the Governor has directed the department to operate and manage shall be operated and managed by the department as a State institution. The department, in managing and operating any such institution, shall have all the powers and perform all the duties vested in and imposed upon boards of trustees of similar State institutions by the act, approved the ninth day of April, one thousand nine hundred twenty-nine (Pamphlet Laws 177), and its amendments, known as The Administrative Code of one thousand nine hundred twenty-nine.

(b) All patients in any institution, at the time the management and operation thereof was assumed by the department, shall have the same status as if originally committed or admitted to a State institution. Commitments may be made to any such institution, patients may be cared for therein, and transfers may be made therefrom and thereto in the same manner and in accordance with provisions of this act applying to other similar State institutions. The department shall have power to designate the counties of the Commonwealth from which commitments may be made to each institution.

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Source:—§ 4, 1938, Sp. Ses., Sept. 29, P. L. 53, reenacted and amended 1945, May 25, P. L. 1074.

Comment:—Sections 226 through 231 are derived from the acts creating the several State institutions, namely:

- (1) Allentown State Hospital, Act of July 18, 1901, P. L. 737.
- (2) Danville State Hospital, Act of March 27, 1873, P. L. 54.
- (3) Farview State Hospital, Act of May 11, 1905, P. L. 400.
- (4) Harrisburg State Hospital, Act of April 10, 1845, P. L. 440.
- (5) Norristown State Hospital, Act of May 5, 1876, P. L. 121.
- (6) Warren State Hospital, Act of June 8, 1881, P. L. 83.
- (7) Wernersville State Hospital, Act of June 22, 1891, P. L. 379.
- (8) Torrance State Hospital, Act of June 18, 1915, P. L. 1055.

- (9) Laurelton State Village, Act of July 25, 1913, P. L. 1319.
- (10) Pennhurst State School, Act of May 15, 1903, P. L. 446.
- (11) Polk State School, Act of June 3, 1893, P. L. 289, No. 256.
- (12) Selinsgrove State Colony for Epileptics, Act of July 25, 1917, P. L. 1206.
- (13) Western State Psychiatric Institute and Clinic, Acts of June 23, 1931, P. L. 1199; May 20, 1949, P. L. 1643.
- (14) Eastern Pennsylvania Psychiatric Institute, Act of April 18, 1949, P. L. 599.

Other than the laws regulating the recently created Psychiatric Institutes, little of any of the above acts remains in use for one or more of the following reasons:

- (1) Part was temporary and has been executed.
- (2) Administrative provisions have been supplanted and repealed by The Administrative Codes of 1923, June 7, P. L. 498 and 1929, April 9, P. L. 177.
- (3) Some provisions have been supplanted and repealed by the Mental Health Act of 1923, Oct. 11, P. L. 998 and its amendments or other later laws which were incorporated therein.
- (4) Parts are obsolete.

The remaining existing law in use has been consolidated into the following general sections; the acts as listed, together with their amendments and certain of their supplements, are cited for repeal in part (3) of Section 1001 except for those sections of each that have to do with the Commonwealth's chain of title.

Very little of the acts relating to the Psychiatric Institutes has been used or cited for repeal in this draft since most of the provisions of those laws have to do with administration and should be included in The Administrative Code of 1929.

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SECTION 226. *Qualifications, etc. of Superintendents.*—(a) The superintendent of every State institution shall be a physician with training or experience, or both, in the care of patients. In institutions for the care of female patients, the superintendent shall be a woman.

Source:—Nearly every act defines general qualifications.

First sentence—§ 2, 1949, May 23, P. L. 1645; § 5, 1845, April 10, P. L. 440; § 8, 1901, July 18, P. L. 737; § 9, 1905, May 11, P. L. 400.

Second sentence—§ 7, 1913, July 25, P. L. 1319 (Laurelton).

(b) When adequate housing facilities exist at a State institution, the superintendent shall reside there; if he

has a family, they may reside with him. In either case, the cost of maintaining the residence shall be assumed by the institution.

Source:—§ 5, 1845, April 10, P. L. 440. § 1, 1873, March 28, P. L. 53.

Comment:—Provisions in general as to assistants and employes and their qualifications, see 1929, April 9, P. L. 177, §§ 217, 2318 (b).

SECTION 227. *Trustees' Reports.*—The trustees of every State institution shall submit a written financial report to the Auditor General, the State Treasurer, and the department quarterly. The report shall contain an itemized statement of the expenses of the institution during the previous quarter. Every report shall be approved or disapproved by the department, the Auditor General, and the State Treasurer. If the trustees of an institution fail to submit such report, or until the report submitted by an institution is approved, the State Treasurer shall not pay any money to the institution.

*Repealed
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Source:—Most of the separate acts creating individual institutions have this section. E.g.,

§ 12, 1917, July 25, P. L. 1206.

§ 19, 1893, June 3, P. L. 289.

§ 18, 1903, May 15, P. L. 446.

§ 12, 1915, June 18, P. L. 1055.

SECTION 228. *Ex Officio Visitation.*—In addition to the visitation and inspection powers of the department, the Governor, the several courts of the Commonwealth, and the members of the legislature shall be ex officio visitors of State institutions.

Source:—Most of the separate acts have equivalent sections. E.g.,

§ 20, 1893, June 3, P. L. 289.

§ 14, 1917, July 25, P. L. 1206.

§ 16, 1845, April 10, P. L. 440.

§ 19, 1903, May 15, P. L. 446.

§ 13, 1905, May 11, P. L. 400.

The department, which now exercises the powers of the Board of Public Charities, has visitation and inspection powers. § 2304, 1929, April 9, P. L. 177.

SECTION 229. *Acceptance of Gifts.*—The trustees of every State institution, with the approval of the department, may accept grants, devises, or gifts of real property or any interest therein, which, or the income of which, shall be used for the benefit of the patients of the institution or shall be devoted to the general use of the institution.

Source:—§ 6, 1881, June 8, P. L. 83.

§ 16, 1903, May 15, P. L. 446.

§ 17, 1893, June 3, P. L. 289.

§ 7, 1845, April 10, P. L. 440.

Personal property is covered by § 513, 1929, April 9, P. L. 177.

1951-2053 **SECTION 230. *Purposes of State Institutions.***—(a) The department shall determine and designate the type of patients to be admitted to and cared for in all State institutions except as otherwise provided in this section.

Source:—§ 2315 (b), 1929, April 9, P. L. 177.

Comment:—The Wernersville State Hospital cares for syphilitics under the provisions of the act of May 16, 1921 (P. L. 636). These persons are under the joint supervision of the Department of Welfare and the Department of Health and for this reason no reference to the act has been made in this draft the scope of which is mental health.

(b) The Farview State Hospital shall be exclusively devoted to the care of criminal patients.

Source:—§ 1, 1905, May 11, P. L. 400.

(c) The Polk State School shall be exclusively devoted to the care of mentally deficient and epileptic children and shall provide separate classification for the various grades of patients.

Source:—§ 10, 1893, June 3, P. L. 289.

(d) The Pennhurst State School shall be exclusively devoted to the care of mental deficient and epileptics of all ages and shall provide separate classification for the various grades of patients.

Source:—§ 1, 1913, June 12, P. L. 494.

(e) The Laurelton State Village shall be exclusively devoted to the care of mentally deficient women and shall provide separate classification for the various grades of patients.

Source:—§ 1, 1913, July 25, P. L. 1319 as last amended 1923, July 13, P. L. 1088.

(f) The Selinsgrove State Colony for Epileptics shall be devoted exclusively to the care of epileptics. 1953-1256

Source:—Title of institution.

(g) The Western State Psychiatric Institute and Clinic and the Eastern Pennsylvania Psychiatric Institute shall be devoted to study and research into the causes, treatment, prevention and care of the various types of nervous disorders, mental illness, mental defects, and epilepsy. In furtherance of such purposes, they shall:

(1) Provide both undergraduate and graduate students studying to become general medical practitioners with a technical background of training in mental illness;

(2) Provide regular courses of study for personnel of State institutions;

(3) Deal with the mental hygiene of the normal child in the way of study and training;

(4) Focus their activities on problems of administering mental institutions and a Commonwealth mental health program; and

(5) Train and teach nurses and other personnel necessary in the care and prevention of mental illness, mental defect and epilepsy.

Source:—§ 1, 1949, May 20, P. L. 1643; § 1, 1949, April 19, P. L. 599, Act No. 126.

Comment:—The provisions of several acts requiring that they give precedence to indigents are obsolete and have not been included, namely:

Harrisburg—§ 15, 1845, April 10, P. L. 440.

Danville—§ 4, 1873, March 27, P. L. 54.

Norristown—§ 9, 1876, May 5, P. L. 121.

*Repealed
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SECTION 231. *Special Education, Training and Employment.*—(a) Agricultural training shall be primarily considered in the educational departments of the Laurelton State Village and the Polk State School, and, for male patients, of the Pennhurst State School. The patients shall also be employed in agricultural pursuits directed toward the maintenance of the institutions.

Source:—§ 10, 1893, June 3, P. L. 289.

§ 1, 1913, June 12, P. L. 494.

§ 1, 1913, July 25, P. L. 1319.

(b) At the Laurelton State Village, each patient shall be instructed in English and in a manual or handicraft vocation useful to her.

Source:—§ 1, 1913, July 25, P. L. 1319.

(c) The trustees of the Wernersville State Hospital shall provide workshops for the employment of patients and shall employ patients therein or in farm or ward work or other useful occupation directed toward the maintenance of the institution.

Source:—§ 14, 1891, June 22, P. L. 379.

ARTICLE III

ADMISSION AND COMMITMENT OF PATIENTS

Comment:—Article III has been rearranged and rewritten to accomplish the following:

- (1) To put the subject matter in logical order for readier reference.
- (2) To eliminate unnecessary repetition and cross-reference within the article.
- (3) To transfer all the material relating to costs to a separate article dealing with that subject (Article VII).
- (4) To produce greater clarity of expression.
- (5) To add section headings and shorten sections.

This draft changes the emphasis from the type of patient admitted or committed to the manner of admission or commitment.

(a) Voluntary Admission

Comment:—These sections (301-304) combine and rearrange the subject matter of §§ 301, 312 and 315 relating to voluntary admissions.

SECTION 301. *Application for Voluntary Ad-* 1951 -
mission.—(a) Application for voluntary admission as a pa- 2053
tient may be made:

- (1) By any person thought to be mentally ill to the superintendent of any mental hospital;
- (2) By any epileptic twenty-one years of age or older to the superintendent of any school or institution for the care of epileptics;

(3) By any inebriate to the superintendent of any mental hospital, institution for the care of inebriates, or of any general hospital maintaining a psychopathic department or ward.

(b) Every such application shall be in writing and signed by the applicant in the presence of at least one witness.

Source:—(1) First paragraph, § 301, as amended 1938, Sp. Ses., Oct. 11, P. L. 63.

Any person thought to be mentally ill may make application, in writing, to the superintendent of any hospital for mental diseases for admission as a patient to such hospital. Such application shall be signed by the applicant in the presence of at least one witness.

(2) Part of § 312, as amended 1938, Sp. Ses., Oct. 11, P. L. 63.

. . . and any epileptic person twenty-one years of age or over may be admitted upon his own written application, signed in the presence of at least one witness. . . .

NOTE—Elsewhere in the section, it is provided that admission be to "any institution or place for the care of epileptics."

(3) Part of first paragraph, § 315, as amended 1937, May 28, P. L. 973.

Any inebriate who, except for his inebriety, is of good character and reputation may be admitted to and detained in any State hospital for mental diseases . . . or to any licensed hospital for mental diseases, other than a State hospital, or to the psychopathic department or ward of any general hospital maintaining such department or ward, by the same procedure as in the case of the voluntary admission of a person thought to be mentally ill, as provided in section three hundred and one of this act.

Comment:—The phrase "except for his inebriety, is of good character and reputation" is omitted because it is contained in the definition of inebriate.

SECTION 302. Examination and Admission of Voluntary Patient.—The superintendent receiving an application for voluntary admission shall examine the applicant. If he finds that the applicant is mentally competent to make such application and that he is in need of care and will be benefited by admission he may admit the applicant as a patient.

Source:—(1) Person thought to be mentally ill:

Second paragraph, § 301, as amended 1938, Sp. Ses., Oct. 11, P. L. 63.

If the said superintendent shall be satisfied, after examining the applicant, that he is in need of hospital treatment and will be benefited thereby, and that the mental condition of the applicant is such as to render him competent to make such application, said superintendent may receive and care for the applicant in the hospital.

(2) Inebriate: see source under preceding section.

(3) Epileptic: Part of § 312, as amended 1938, Sp. Ses., Oct. 11, P. L. 63.

" . . . if his mental condition is such as to render him, in the opinion of the superintendent or attending physician of such institution or place, competent to make such application."

Comment:—Examination by attending physician as alternative to superintendent is provided for only in § 312.

Finding that "applicant needs care and will be benefited by admission" replaces language "in need of hospital treatment and will be benefited thereby." "Care" is defined in the act; hospital treatment is not. Existing law makes no provision for this latter finding as to epileptics.

SECTION 303. *Admission of Inebriate Conditioned on Bond.*—No inebriate shall be admitted to any State institution on his voluntary application until a bond in the amount of five hundred dollars (\$500), payable to the Commonwealth, conditioned on the payment of the costs of his care and maintenance at the full rate established by the Department of Revenue has been furnished to the superintendent of the institution to which he has applied for admission.

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Source:—Proviso of § 315, as amended 1937, May 28, P. L. 973.

Provided, That a bond in the amount of five hundred dollars (\$500.00), payable to the Commonwealth, conditioned that the cost of care and maintenance of such person, at the full rate established by the Department of Revenue, be paid, shall have been furnished to the superintendent of such hospital.

SECTION 304. *Limits of Detention of Voluntary Patients.*—*Notice to Relatives, etc.*—(a) No person voluntarily admitted shall be detained for more than ten days after he has given written notice to the superintendent of his intention or desire to leave the institution where he is detained.

(b) In any case where the superintendent finds it inadvisable to discharge a person thought to be mentally ill, he shall notify the patient's friends, relatives, or other persons liable for his support.

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Source:—(1) Person mentally ill:

Third paragraph, § 301, as amended 1938, Sp. Ses., Oct. 11, P. L. 63.

Such patient shall not be detained for more than ten days after he shall have given notice, in writing, to the superintendent of his desire to leave said hospital; but, if, in the opinion of the superintendent, it is inadvisable to discharge such patient, the said superintendent shall notify the friends or relatives of the patient or other persons liable for his support.

(2) Epileptics:

Part of § 312, as amended 1938, Sp. Ses., Oct. 11, P. L. 63.

“ . . . and no epileptic person admitted upon his own written request shall be detained more than ten days after he shall have given written notice to the said superintendent of his desire or intention to leave.”

(3) Inebriate:

Second paragraph, as amended 1937, May 28, P. L. 973.

He shall not be detained therein for more than ten days after he shall have given written notice to the superintendent thereof of his desire or intention to leave.

(b) Admission on Application, etc., with Qualified Physician's Certificate

SECTION 311. *Admission by Superintendent on Application of Relative, Etc., and Physician's Certificate.*—

(a) Application for admission as a patient may be made in the interest of:

(1) Any person who appears to be mentally ill, or in such condition as to need the care required by persons who are mentally ill, to the superintendent of any mental hospital; or

(2) Any resident mental defective under twenty years of age and incapable of being properly educated and trained in the public schools or over twenty years of age and of such inoffensive habits as to make him a subject for classification and discipline in a school, to the superintendent of any school; or

(3) Any epileptic, to the superintendent of any school or institution for the care of epileptics,

Source:—(1) Part of first paragraph, § 302, as amended, 1938, Sp. Ses., Oct. 11, P. L. 63.

Whenever it shall appear that any person is mentally ill, or in such condition as to be benefited by or need such care as is required by persons mentally ill, the superintendent of any hospital for mental diseases may receive and detain such person, on the written application of any relative or friend, or the legal guardian of such person or any other responsible citizen, and on the certificate of two qualified physicians that said person is mentally ill and is in need of treatment and care in a hospital for mental diseases.

(2) Part of first paragraph, § 309, as amended 1938, Sp. Ses., Oct. 11, P. L. 63.

§ 310, as amended 1925, April 27, P. L. 337.

The superintendent of any State or licensed school for mental defectives may receive and detain any mentally defective person, resident of this State, under twenty years of age and incapable of being properly educated and trained in the public schools, whose condition or mental defect and whose need of and fitness for care in a school for mental defectives shall have been certified to by a qualified physician, and whose admission shall be applied for by a parent, guardian, or relative of such person, or by any other responsible person having custody of such mentally defective person or being liable for his support.

The superintendent of any State or licensed school for mental defectives may receive and detain any mentally defective person twenty years of age or over, or who is of such inoffensive habits as to make him a proper subject for classification and discipline in a school for mental defectives. The procedure for admitting any such person shall be the same as for the admission of mentally defective persons under the age of twenty years.

(3) § 313.

Persons suffering from epilepsy may be admitted to and detained in any institution or place for epileptics, or which receive epileptics for care, by any of the procedures provided for the admission of mental defectives to schools for mental defectives, except that, in such cases, the application or petition and certificate therein required shall state that the person desired to be admitted is an epileptic and is a fit subject for care in a hospital or institution for epileptics.

(b) Application may be made by the patient's relative, friend, legal guardian, the person having his custody or the liability for his support, or by any other responsible person.

Source:—Same as (a). The reference to "responsible person" is from Section 311. Section 302 does not require him to have custody or liability for support.

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(c) Every application shall be in writing on a form prescribed by the department. The applicant shall state the name, sex, age, and residence of the patient, the opinion that the patient is mentally ill, mentally defective, or epileptic and that the patient is a fit subject for care and will be benefited by admission, the facts on which such opinions are based and any other information required by the department. If any information required is unknown to the applicant, he shall so state.

Source:—Second paragraph, § 302, as amended, 1938, Sp. Ses., Oct. 11, P. L. 63.

The application aforesaid shall be in the form prescribed by the department, and shall state the name, sex, and residence of the patient, the opinion that said patient is mentally ill and that care in such a hospital is necessary for his benefit, and the facts on which the said opinions are based, and such other facts or information as may be required by the department. If the facts called for or any of them, are unknown to the applicant or applicants, it shall be so stated in the application.

2nd Par. § 309, as amended 1938, Sp. Ses., Oct. 11, P. L. 63.

The said application shall be made on a form prescribed by the department, and shall state the name, sex, age, and residence of said mentally defective person, and such other facts as may be required by the department. If the facts or any of them are unknown to the applicant, it shall be so stated in the application.

Comment:—The provisions of the two sections have been combined so that the requirements are now uniform.

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(d) Every application shall be accompanied by the certificate of one qualified physician in the case of a mental defective or epileptic and two qualified physicians in the case of a person thought to be mentally ill. The certificate shall not authorize the admission of the patient unless he shall be admitted within two weeks of the date thereof.

Source:—First sentence—part of first paragraph, §§ 302, 309, as amended, 1938, Sp. Ses., Oct. 11, P. L. 63.

Second sentence—last paragraph, § 302, as amended, 1938, Sp. Ses., Oct. 11, P. L. 63.

The certificate shall not authorize the admission of the patient unless the patient shall be admitted within two weeks of the date thereof.

(e) In the case of a person thought to be mentally ill, such application and certificate shall be sworn to or affirmed before a person authorized to administer an oath in the Commonwealth, who shall certify to the genuineness of the signatures.

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Comment:—"Person authorized to administer an oath in the Commonwealth" has been substituted for "judge or magistrate."

Source:—Next to last paragraph, § 302, as amended, 1938, Sp. Ses., Oct. 11, P. L. 63.

The aforesaid application and certificate shall be sworn to or affirmed before a judge or magistrate; and said judge or magistrate shall certify to the genuineness of the signatures, and to the standing and good repute of the signers of the certificate.

(f) On receipt of an application and certificate, the superintendent may receive and detain the person sought to be admitted as a patient.

Source:—Part of first paragraph, §§ 302, 309, as amended, 1938, Sp. Ses., Oct. 11, P. L. 63.

§ 310, as amended, 1925, April 27, P. L. 337; § 313.

(g) The provisions of this section shall not apply to the admission of mentally defective or epileptic children sought to be admitted to any State institution from any judicial district in which there is a municipal court vested with the exclusive jurisdiction over proceedings concerning children suffering from epilepsy and nervous and mental defects.

Source:—Proviso of § 309, as amended 1938, Sp. Ses., Oct. 11, P. L. 63.

Provided, however, That in any judicial district in which there is a municipal court, vested with the exclusive jurisdiction over proceedings concerning children suffering from epilepsy, nervous and mental defects, admission of mentally defective or epileptic children to any State or municipal institution from said judicial district shall be exclusively vested in said court.

SECTION 312. Contents of Physician's Certificate; Penalty for False Statement.—(a) In every qualified physi-

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cian's certificate required by this act for the admission or commitment of a patient, the physician issuing the same shall state:

(1) His residence;

(2) That he has resided in this State for at least three years;

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(3) That he has been licensed to practice medicine in this State;

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(4) That he has been in the actual practice of medicine for at least three years or has had at least one year's experience as a physician in an institution;

(5) That he is not related by blood or marriage to the patient or applicant;

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(6) That he is not connected in any way as medical attendant, or otherwise, with the institution to which application has been made for the admission of the patient;

(7) That he has examined the patient with care and diligence within a week of making the certificate;

(8) That in his opinion the patient is or is thought to be mentally ill, mentally defective, inebriate or epileptic or is in need of and will be benefited by care and the admission applied for;

(9) The information relative to the patient, given him by others and the facts as to the physical and mental condition and the behavior of the patient which he has observed and on which he bases his opinion; and

(10) Such other information as the particular request for admission or commitment or as the department may require.

Comment:—Clause (10) is added to take care of special circumstances surrounding a particular type of admission, e.g. for temporary detention.

Source:—Third paragraph, § 302, as amended 1938, Sp. Ses., Oct. 11, P. L. 63.

In the certificate, aforesaid, the physicians shall each state his residence; that he has resided in this State for at least three years; that he has been licensed to practice medicine in this State; that he has been in the actual practice of medicine for at least three years, or has had at least one year's experience as physician in a hospital for mental patients; that he is not related by blood or marriage to the patient, or to the applicant or any of the applicants; that he is not connected in any way as medical attendant, or otherwise, with the hospital to which application has been made for the admission of the patient; that he has examined the patient with care and diligence within one week; and that, in his opinion, the patient is mentally ill and in need of hospital care. He shall further state in said certificate the information, relative to the patient, given him by others, and the facts, as to the physical and mental condition and the behavior of the patient, which he has himself observed, on which he bases his opinion.

(b) Any physician who falsely certifies to the mental illness, mental defectiveness, inebriety, or epilepsy of any person or whose false certificate as to the mental illness, defectiveness, inebriety, or epilepsy of any person is proved to be the result of negligence or deficient professional skill, or who signs such a certificate for a pecuniary reward or promise thereof, or other consideration of value or operating to his advantage, other than the professional fee usually paid for such service, shall be guilty of a misdemeanor and upon conviction thereof shall be sentenced to pay a fine not to exceed five hundred dollars (\$500) or to imprisonment not to exceed one (1) year, or both.

Source:—1876, March 23, P. L. 8, § 1.

If any physician shall falsely certify to the insanity of any person, under the provisions of the first section of the act to which this is a supplement, and it shall appear in evidence that such false certificate was the result of negligence or deficient professional skill on the part of said physician, or that the said physician signed such certificate for a pecuniary reward, or for the promise of a pecuniary reward, or for any other consideration of value whatsoever, other than the professional fee usually paid for such services, or in which such false certificate shall tend in any manner, directly

or indirectly, to advantage said physician other than relates to the said professional fee, then the said physician shall be guilty of a misdemeanor, and on conviction be fined not exceeding five hundred dollars, or undergo an imprisonment not exceeding one year, or both or either, at the discretion of the court.

SECTION 313. *Admission of Minor Epileptic; Limit of Detention.*—(a) Application for admission as a patient may be made to the superintendent of any school or institution for the care of epileptics, in the interest of any person under twenty-one years of age suffering from epilepsy.

(b) The application shall be in writing and may be made by the epileptic's parent or guardian or other person liable for his support.

(c) On receipt of the application, the superintendent may receive and detain the minor epileptic as a patient. No minor epileptic so admitted shall be detained for more than ten days after the person who applied for his admission has given written notice to the superintendent of intention or desire to remove the patient.

Source:—Parts of first and second paragraphs § 312, as amended, 1938, Sp. Ses., Oct. 11, P. L. 63.

Any person under twenty-one years of age suffering from epilepsy may be admitted to and detained in any institution or place for the care of epileptics, upon the written application to the superintendent of such institution or place by the parent, guardian, or other person liable for the support of such epileptic person; . . .

No epileptic person, admitted upon such written application of parent, guardian, or other person, shall be detained more than ten days after the said parent, guardian, or other person shall have given notice to the said superintendent of his desire or intention to remove such epileptic person; . . .

1951-2053 SECTION 314. *Admission for Temporary Detention.*—(a) Application may be made to the superintendent of any mental hospital for admission as a patient for temporary care in the interest of any person who is or is thought to be suffering from mental illness.

(b) The application shall be in writing and may be made by a relative, legal guardian, or friend of the person sought to be admitted. It shall be accompanied by the certificate of at least one qualified physician which shall also state that immediate temporary care in a mental hospital is necessary for the person sought to be admitted by reason of mental illness.

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(c) Upon receipt of the application and certificate, which he shall retain, the superintendent may receive and detain the patient for temporary care for a period of not more than ten days.

Source:—First two paragraphs, § 305, as amended 1938, Sp. Ses., Oct. 11, P. L. 63.

The superintendent of any hospital for mental diseases may receive, in the hospital of which he has charge, and detain for temporary care as a patient, for a period not to exceed ten days, any person who is, or is thought to be, suffering from mental illness, on the written application to said superintendent by the legal guardian or relative or friend of such person, which application shall be accompanied by a certificate of at least one licensed physician that immediate temporary care in a hospital for mental diseases is necessary for such person by reason of mental illness.

Said application and certificate shall be given to the superintendent, or other officer of the hospital, at the time of the admission of the patient.

SECTION 315. *Examination, Discharge, or Further Detention of Person Temporarily Detained.*—(a) After admitting any person as a patient for temporary care, during the ten day period of detention, the superintendent shall examine such patient for further disposition.

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(b) If the superintendent finds on such examination that the patient does not require such temporary care, he shall either discharge him or notify the applicant for his admission to remove him.

(c) If the superintendent finds on such examination that the patient requires further care he may admit the

patient on a voluntary application or he shall notify the applicant to apply for the patient's commitment by application to him or by order of court, or to remove the patient.

Source:—Part of third and fourth paragraphs, § 305, as amended, 1938, Sp. Ses., Oct. 11, P. L. 63.

If, after the admission of such patient, the superintendent shall be of the opinion that the patient does not require such temporary care, the superintendent shall discharge said patient or shall notify the said guardian, relative, or friend, on whose application the patient was admitted, to forthwith remove the patient from the hospital, whereupon it shall be the duty of said guardian, relative, or friend to remove him. . . .

If the said superintendent shall be of the opinion that the patient requires further care, and if the patient shall not have been removed from said hospital, the said guardian, relative, or friend shall, before the expiration of said period of ten days, cause the patient to be duly committed according to law, unless said patient shall have signed a request to remain as a voluntary patient. . . .

Repealed
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SECTION 316. *Admission of Violent or Dangerous Person; Temporary Detention.*—(a) Application may be made to the superintendent of any mental hospital for admission as a patient for temporary care in the interest of any person who is violently or dangerously mentally ill or whose case is otherwise of an emergency nature.

(b) The application may be made by a relative, friend, guardian or committee of the patient; and shall be evidenced by the certificate of two qualified physicians who shall also state therein that the person is violently or dangerously ill or that his case is otherwise of an emergency nature. The certificate need not be sworn to or affirmed.

(c) At the request of the applicant or one of the certifying physicians, the sheriff or a constable or police officer shall deliver the patient to the superintendent.

(d) The superintendent may admit and detain any such patient for care for a period not to exceed ten days.

Source:—First paragraph, § 306, as amended 1938, Sp. Ses., Oct. 11, P. L. 63.

The superintendent of any hospital for mental disease may receive and detain as a patient, for a period not exceeding ten days, any person whose case is certified to be one of violent or dangerous mental illness or of other emergency, by two qualified physicians, in a certificate similar to the certificate required in section three hundred and two of this act, except as to being sworn or affirmed to. Upon the request of one of the aforesaid physicians, or any relative or friend, or of the guardian or committee of said patient, a sheriff or constable or police officer shall cause the delivery of said patient to the superintendent of said hospital.

SECTION 317. *Disposition of Violent or Dangerous Person.*—Within ten days after the admission of any person who is violently or dangerously mentally ill or whose condition is otherwise of an emergency nature, such person shall be either:

- (1) Committed by order of court of the county where the patient is, resides or was apprehended on application of the person who sought his temporary admission; or
- (2) Admitted on his voluntary application; or
- (3) Removed by the applicant for his temporary admission.

Source:—(1) Part of second paragraph, § 306, as amended, 1938, Sp. Ses., Oct. 11, P. L. 63.

The person requesting such admission shall, within ten days after the date of admission, apply to a judge of the court of common pleas or other court of record of the county in which the patient is or resides or was apprehended for the commitment of said patient as mentally ill, in accordance with the provisions of section three hundred and three of this act. The certificate aforesaid may be used as the certificate of mental illness required in said section.

(2) and (3) Other disposition provides for voluntary admission or removal.

*Repealed
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(c) Commitments Other Than Criminals, Etc.

Comment:—§§ 326, 328 and 329 combine the provisions of §§ 303, 304, 307, 311 (a), 313, 314 and 316.

Section 326 combines the requirements of the above sections in so far as the petition and certificate is concerned.

Some sections use "application," others "petition." Since the matter concerns court procedure, the term "petition" is here used.

SECTION 326. *Petition for Commitment.*—(a) A petition may be presented to any court of the county in which a patient resides, or is, for the commitment of any:

(1) Person who is mentally ill, to a mental hospital; or

(2) Person who is thought to be mentally ill, for observation, diagnosis, and treatment, to a mental hospital; or

(3) Epileptic not dangerous to himself or others, to an institution for the care and treatment of epileptics; or

(4) Person who by reason of epilepsy is dangerous to himself or others, to a mental hospital or a State institution for epileptics; or

(5) Mental defective, to a school; or

(6) Inebriate, to a State or other mental hospital or institution for inebriates.

Source:—(1) Part of first paragraph, § 303, as amended, 1938, Sp. Ses., Oct. 11, P. L. 63.

Any person who is mentally ill may be placed and detained in a hospital for mental diseases by order of the court of common pleas or other court of record of the county in which the said person resides or is, or of any law judge of said courts, upon a sworn or affirmed application by any responsible person addressed to said courts or judge, which application shall be accompanied by a sworn or affirmed certificate of two qualified physicians.

Said application and certificate shall conform, in all respects, to the forms prescribed by the department, and be executed not more than two weeks before the same are presented to the court or judge.

(2) Part of first paragraph, § 307, as amended, 1943, May 27, P. L. 682.

The guardian, committee, or any relative or friend of a person thought to be mentally ill, may make application to the court of common pleas or other court of record of the county wherein such person resides or is, or to any judge thereof, for an order for the commitment of such person to a hospital for mental diseases for observation, diagnosis, and treatment. Such application shall be accompanied by the sworn certificate of two qualified physicians, setting forth, upon a form prescribed by the department, that such person is in such a condition as to require observation in a hospital for mental diseases, and giving the information called for by said form.

(3) § 313.

See comment under ((a) (3)), Section 311 of this draft.

(4) § 314.

Any person who by reason of epilepsy is dangerous to himself or others may be committed to a hospital for mental diseases or to a State institution for epileptics by the order of the court of common pleas or other court of record of the county in which such person is or resides, or by any law judge thereof, in accordance with the procedure provided for the commitment, by court or judge, of a person mentally ill to a hospital for mental diseases, as provided in section three hundred and three of this act, except that the application and certificate of physicians therein required shall state that the person for whose commitment application is made is an epileptic and, by reason of epilepsy, is dangerous to himself or others.

(5) First paragraph, § 311 (a), as amended, 1938, Sp. Ses., Oct. 11, P. L. 63.

(a) Any person mentally defective may be placed and detained in a proper State or licensed school for mental defectives by order of the court of common pleas or other court of record or the juvenile court of the county in which such person is or resides, upon the sworn or affirmed petition of any parent, guardian, or other responsible person, addressed to the said court, praying that the said person may be placed therein. The said petition must be accompanied by a sworn or affirmed certificate of a qualified physician that it is his opinion that the said person is mentally defective and a proper subject for commitment to a school for mental defectives; in the said certificate the physician shall further state the facts of his own observation, and any other information upon which his said opinion is based. It shall be, in other respects, in form similar to that prescribed by the department for the admission of persons mentally ill to a hospital for mental diseases.

(6) First paragraph, § 316, as amended 1937, May 28, P. L. 973.

Any inebriate who, except for his inebriety, is of good character and reputation, and who is a proper subject for care in a State or licensed hospital or institution for inebriates or for mental diseases, may be placed and

detained in such institution by order of the court of common pleas or other court of record of the county in which such person is or resides, upon petition, under oath or affirmation of at least two citizens, who shall be either the wife, husband, parent, child, committee of the estate of an inebriate, or next friends of such person, praying for the commitment of such person to a proper hospital or institution for detention, care and treatment.

Comment:—Cf. § 2, 1917, July 25, P. L. 1212 and § 1, 1903, April 27, P. L. 325, as amended 1921, May 20, P. L. 973 both of which are supplied by the above and ought to be repealed:

From and after the passage of this act, it shall be lawful for any person so habitually addicted to the use of alcoholic drink, absinthe, opium, morphine, chloral, or other intoxicating liquor or drug as to be a proper subject for restraint, care, and treatment in a hospital or asylum, for at least two persons, being the wife, husband, parent, child, children, or next friends of such person, to apply by petition to the court of quarter sessions of the proper county, setting forth the facts upon oath, and requesting the committee of such person to a proper hospital or asylum for restraint, care, and treatment; and such petition shall be accompanied by the affidavit of at least two physicians, based on examination by them of the alleged drunkard, setting forth the condition of such person, and stating that, in their opinion, restraint, care and treatment in a hospital or asylum will be a benefit to such person. Whereupon the said court shall issue a warrant to have brought into court, on a day certain, the petition, both physicians, and the alleged drunkard; and a hearing shall then be had, and, if the facts set forth in the petition and affidavits are proved to the satisfaction of the court, it shall be the duty of the court to commit such alleged drunkard to a proper hospital or asylum for restraint, care, and treatment until, upon further hearing, the said court shall be satisfied that such restraint, care, and treatment are no longer beneficial to the person committed as aforesaid; Provided, That such restraint shall not be continued in any case for a period of more than one year: And provided, That no person shall be committed under the provisions of this act, or be admitted into any hospital or asylum, until payment has been made, or security has been given, to the managers of the hospital or asylum, satisfactory to them, to pay the proper charges for board, care, and treatment of the alleged drunkard, and also to indemnify the said managers from all costs and expense. But if at such hearing the court finds that the inebriate is indigent, and that the wife, husband, or parent is unable to pay the cost and expense of the restraint, care, and treatment in the hospital or asylum, it shall so certify in the order committing the inebriate, whereupon the cost and expense of restraint, care, and treatment of said indigent inebriate shall be borne and paid by the county from which the inebriate is committed, and any overhead charges shall be paid by the State when the inebriate is committed to a public State institution: And provided, That all commitments under this act shall be reviewable by proceedings under writ of habeas corpus, which may be

sued out at any time by any person restrained hereby or by any one acting for or on behalf of such person.

As soon as buildings sufficient to care for fifty patients shall be available, such buildings shall be turned over to the board of trustees provided for in the act to which this is a supplement, and thereafter commitments to said institution may be made as contemplated by said act.

The said board of trustees shall receive and care for such inebriates, or persons habitually addicted to the use of alcoholic drink or intoxicating drugs, as may be committed thereto by any of the courts of the counties of the Commonwealth having jurisdiction in such cases. It shall be lawful for the husband, wife, parent, guardian, or other person standing in loco parentis to such person, his or her next of kin, the county commissioners or the overseers of the poor, or the managers or trustees of any institution having such person in charge, or the district attorney of the county in which such person shall reside, to apply by petition to the proper court of the county in which such person shall be resident, setting forth in said petition the age and residence of such person and the address of the petitioner, praying for the commitment of such person to the State Institution for Inebriates; which said petition shall be accompanied by a certificate made under oath, after a personal examination of such person, by a reputable physician, with an experience of at least five years in the actual practice of his profession, setting forth that such person is an inebriate or person habitually addicted to the use of alcoholic drink or intoxicating drugs, and a proper subject for commitment to said State institution. Thereupon the said court, or a judge thereof, shall appoint a day for the hearing of the said petition, and shall cause notice thereof to be given to all parties in interest; and if at the said hearing it shall be made to appear that said person is a proper subject for commitment to said State institution, and that the best interests of said person or the welfare of society require such commitment, the court shall make an order committing such person to the said State institution, and direct his or her removal thereto by a proper officer or person at the cost of the said county.

At the said hearing the said court or judge shall inquire as to the estate of such person committed, and, if the same be sufficient for the purpose, shall make an order directing the payment therefrom of the cost of maintaining such person in said State institution; otherwise, that such payment be made by the husband, wife, or parent of such person, if it appear that the circumstances of said husband, wife, or parent are such as to make such an order proper and advisable; and any such order shall be enforceable in the same manner in which orders in desertion cases are now enforceable by law. Where the estate of said person committed is insufficient, and the circumstances of the husband, wife, or parent are not such as to warrant an order for maintenance on any of them, the said person shall be maintained and cared for in the said State institution at the cost of the proper county.

The costs of such hearing shall be paid by the county; and the court may, in its discretion, allow a fee of five dollars (\$5.00) to the physician

making the examination, and a fee of ten dollars (\$10.00) to the attorney presenting the petition and appearing at the hearing, which fee shall be paid by the county.

The board of trustees shall cause to be kept an account of the expense of the support and maintenance of each person committed to the State institution with the county from which he or she was sent, and bills for the same shall be forwarded periodically to the commissioners of the proper county, deducting first from said bills any amount which has been received from the labor of the person so committed, and it shall be the duty of the county officers to pay the balance due on said account within thirty days from the receipt of this statement.

When in the opinion of the board of trustees it appears probable that the mental condition of any inmate of said institution has so improved that his or her release will be beneficial to such inmate, and not incompatible with the welfare of society, the said board may recommend the discharge of such inmate to the court committing him or her to said State institution; which recommendation shall be accompanied by a record of the case of such inmate, setting forth the date of his or her commitment, the time of his or her detention, the history of his or her case in the State institution, and the opinion of the superintendent and medical staff as to his or her present mental condition; whereupon the said court may, in its discretion, after hearing all persons desirous of being heard in the premises, issue an order, under the seal of the court, upon the said board, to discharge the said inmate from the said institution.

(b) The petition, which shall be sworn to or affirmed, may be made in the case of:

(1) A person who is mentally ill or who by reason of epilepsy is dangerous to himself or others, by any responsible person.

(2) A person who is thought to be mentally ill and in need of observation, diagnosis and treatment, by his guardian, committee, relative or friend.

(3) An epileptic not dangerous to himself or others, or a mental defective, by his parent or guardian or other responsible person.

(4) An inebriate, by at least two citizens who shall be his spouse, parent, child, committee of the estate or next friends.

Source:—References are same as for subsection (a).

(c) Every such application or petition shall be in the form prescribed by the department. It shall state the name, sex, age and residence of the person sought to be committed, the opinion of the petitioner that such person is mentally ill, epileptic, mentally defective or inebriate and is a fit subject for care or needs observation, diagnosis and treatment in the type of institution to which commitment is sought, together with the facts on which such opinion is based, and such other facts as the department may require. If any of the facts are unknown, the petition shall so state.

Source:—Based largely on second paragraphs of §§ 311 (a) and 316.

Second paragraph, § 311 (a).

The said petition shall be in the form prescribed by the department, and shall state the name, sex, age, and residence of the person alleged to be mentally defective, the opinion of the petitioner that the said person is mentally defective, and such other facts as may be required by the department, if the facts, or any of them, are unknown to the petitioner, it shall be so stated in the petition.

Second paragraph § 316.

Said petition shall state the opinion of the petitioners that the said person is an inebriate within the scope of this act and is a fit subject for detention, care, and treatment in such a hospital or institution, and shall set forth the facts on which said opinion is based. Said petition shall be accompanied by the sworn or affirmed certificate of two qualified physicians, based on careful examination by them of the alleged inebriate, setting forth the condition of such person, their opinion that said person is an inebriate and a fit subject for detention, care, and treatment, and stating the facts of their own observation and the information given them by others on which said opinion is based.

(d) Every such petition shall be accompanied by the sworn or affirmed certificate of two qualified physicians.

Source:—Required by all sections referred to above.

(e) The court shall not entertain any such petition or certificate executed more than two weeks prior to its presentation.

Comment:—Only § 303 provides for this. See reference to Cl. (1) subsection (a).

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SECTION 327. *Appointment of Commission by Court; Powers and Duties of Commission.*—(a) Whenever petition is made to a court for an order for the commitment of any person thought to be mentally ill to a hospital, the court may immediately appoint a commission to inquire into and report upon the facts in the case.

1951-2053 (b) Such commission shall be composed of three persons, two qualified physicians and an attorney-at-law. Each member of the commission shall receive the sum of five dollars (\$5) for each day he is necessarily employed in the duty of his appointment. The attorney-at-law member shall prepare and file all necessary notices, reports, and other papers and shall receive the additional sum of five dollars (\$5) for such services.

(c) The commission shall hear such evidence as may be offered, or as they may require relating to the mental condition of the person sought to be committed as well as his or his counsel's statement. If such person shall refuse to submit to an examination before the commission, the court may issue a warrant to bring him before the commission for examination.

(d) The commission shall make a written report to the court setting forth whether or not they find that the patient is in fact mentally ill and a proper subject for commitment to a hospital and the facts on which their conclusion is based.

Source:—First paragraph, § 304, as amended, 1938, Sp. Ses., Oct. 11, P. L. 63.

An application may be made to a court of common pleas, or judge thereof, for an order for the admission of any person thought to be mentally ill to a hospital for mental diseases; whereupon the court, or judge thereof, may, in its or his discretion, immediately appoint a commission to inquire into and report upon the facts in the case. Such commission shall be com-

posed of three persons, two of whom shall be qualified physicians, and the other a lawyer. They shall in their inquisition, hear such evidence as may be offered, or as they may require, relating to the mental condition of the person whose admission to a hospital for mental disease is sought, as well as the statements of such person, or his counsel, and shall make a report, in writing, to the court, or judge thereof, setting forth whether or not they find that the person in question is in fact mentally ill and a proper subject for admission to a hospital for mental disease, and setting forth the facts on which their conclusion is based.

Last paragraph, § 304, as amended, 1938, Sp. Ses., Oct. 11, P. L. 63.

If the person thought to be mentally ill shall refuse to submit himself to an examination by the aforesaid commission, the court, or judge thereof, may issue a warrant for the bringing of said person before said commission for examination.

Compensation.—1889, May 8, P. L. 127 as amended 1923, May 24, P. L. 358.

Each member of the commission provided for by section six of the act to which this is a supplement shall be entitled to receive the sum of five dollars for each day necessarily employed in the duty of his appointment.

The lawyer member of the commission shall prepare and file all necessary notices, reports, and other papers, and he shall be entitled to receive the additional sum of five dollars for such services.

SECTION 328. *Hearings; Commitment.* — (a) ¹⁹⁵¹⁻₂₀₅₃

Upon receipt of a petition for the commitment of a patient or of the report of a commission, if one has been appointed, the court may fix a day for a hearing to be held at such place as the court directs. When the hearing is to be held the court shall notify the parties in interest. The court may require the presence of the person sought to be committed.

Comment:—(See also comments to § 326, of this draft.)

Source:—Part of § 303, as amended, 1938, Sp. Ses., Oct. 11, P. L. 63.

Such procedure may be held at any place in the discretion of the court or judge, who may or may not, in his discretion, require the presence before him of the said mental patient.

Last sentence, second paragraph, § 304 as amended, 1938, Sp. Ses., Oct. 11, P. L. 63.

The court or judge may or may not, in its or his discretion, require the presence in court of the person thought to be mentally ill, and the procedure may be held in any place in the discretion of the court or judge.

Part of § 311 (a), as amended, 1938, Sp. Ses., Oct. 11, P. L. 63.

Thereupon the said court, or a judge thereof, may, in his discretion,

appoint a day for a hearing of the said petition, and, if he shall appoint a day for a hearing, he shall cause notice thereof to be given to the proper parties in interest; and, in his discretion, he may or may not require the presence of the alleged mentally defective person at said hearing.

(b) In the case of a petition for the commitment of an inebriate, the court shall hold such hearing and shall issue its warrant for his presence before the court.

Source:—Second paragraph, § 316, as amended, 1937, May 25, P. L. 973.

Upon such petition and certificate, the said court shall issue its warrant requiring the said inebriate, on a day fixed, to be brought in court for a hearing.

(c) If the court approves the report of a commission that the person in question is mentally ill and is a proper subject for admission to a mental hospital or is satisfied that the person sought to be committed is a proper subject for care, or that the safety and welfare of the public require such commitment, the court shall make an order committing the person to the institution named in the petition and direct his removal thereto by a proper person.

Source:—Part of § 303, as amended 1938, Sp. Ses., Oct. 11, P. L. 63.

See comment to prior section.

Part of § 304, as amended, 1938, Sp. Ses., Oct. 11, P. L. 63.

If such commission finds that the person in question is mentally ill and is a proper subject for admission to a hospital for mental diseases, and the court, or judge thereof, shall approve the report of the said commission, said court or judge shall thereupon order the person to be admitted to and detained in the hospital named in the application, which order shall impose liability for payment of the cost of care and maintenance of such patient on his estate, or on the persons liable under existing laws for his support, or on the Commonwealth.

Part of § 307, amended, 1943, May 27, P. L. 682—See comment to § 311 of this draft.

Part of § 311 (a), as amended, 1938, Sp. Ses., Oct. 11, P. L. 63.

If it shall be made to appear to the said court or judge that the said person is mentally defective and a proper subject for commitment to a school for mental defectives, and that the best interests of the said person or the safety and welfare of the public require such commitment, the court shall make an order committing such mentally defective person to the school

named in the petition, and direct his removal thereto by a proper officer or person; but before any person shall be admitted, under the provisions of this section, to any school for mental defectives, the consent of the managers, trustees, or superintendent thereof to such admission shall have been obtained.

Part of § 316, as amended 1937, May 28, P. L. 973.

If, after such hearing, the court is satisfied that the alleged inebriate is a proper subject for detention, care, and treatment, the court shall commit said inebriate to the hospital or institution set forth in the petition or other appropriate hospital or institution, and shall, in its order, impose liability for the payment of the cost of care and maintenance of such patient on his estate, or on the persons liable under existing laws for his support, or on the proper county or poor district. But before such commitment shall be made, the consent of the superintendent thereof to such admission shall have been obtained.

(d) No order shall authorize the commitment of a patient unless he is admitted within two weeks from its date.

Source:—Part of § 303, as amended, 1938, Sp. Ses., Oct. 11, P. L. 63.

Such an order shall not authorize the admission of the patient unless he shall be admitted to the hospital within two weeks from the date thereof.

(e) No order shall authorize the commitment of a mental defective, inebriate or epileptic unless the superintendent or trustees of the institution to which the commitment is to be made shall approve.

Source:—See notes to subsection (c) above.

(f) The order shall authorize the superintendent to detain the patient until he has recovered or is otherwise removed in accordance with the provisions of this act.

Source:—§ 303, as amended, 1938, Sp. Ses., Oct. 11, P. L. 63.

The superintendent of said hospital shall receive the said patient, and may detain him therein until said patient shall have recovered or shall be removed according to law.

SECTION 329. *Detention of Inebriate.*—When any inebriate is committed in accordance with this act, he shall remain in the institution until the superintendent certifies to the court that care is no longer beneficial or necessary to

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the inebriate or that he is cured. The court which committed him shall then order his discharge under such supervision and restriction as it may impose. No inebriate shall be detained for a period of more than one year.

Source:—Part of last paragraph, § 316, as amended 1937, May 28, P. L. 973.

When so committed the said inebriate shall remain in such hospital or institution until the board of managers or trustees, or the superintendent thereof, shall certify to the said court, that detention, care, and treatment are no longer beneficial or necessary to the inebriate or that he is cured, whereupon the court shall order the inebriate to be discharged under such supervision and restriction as the court may impose. But no person shall be detained under the provisions of this act for a period of more than one year.

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SECTION 330. *Detention of Mental Defective After Reaching Majority.*—When any mentally defective person has been committed to any school by a juvenile court, the superintendent shall have authority to detain such person after he reaches the age of twenty-one years. Thereafter, in the discretion of the superintendent, such person may be discharged or allowed a leave of absence upon the order of a court of the county in which the commitment was made.

Source:—Last paragraph of § 311 (a), as amended, 1938, Sp. Ses., Oct. 11, P. L. 63.

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SECTION 331. *Disposition of Person Committed for Observation, Diagnosis and Treatment.*—(a) Whenever the court commits a person thought to be mentally ill to a hospital for observation, diagnosis and treatment, it shall make such commitment for a definite period and with such limitations as it may direct.

(b) Before the expiration of the period of commitment, the superintendent shall report the patient's mental condition in writing to the committing court. If the court

is satisfied that he is not mentally ill, it shall order his discharge. Otherwise, the court shall make such order for his further disposition as may seem proper.

Source:—Part of § 307, as amended, 1943, May 27, P. L. 682.

Thereupon, or in his own discretion without such application the court or judge, if satisfied that the condition of such person is such as to make his commitment desirable for his best interests, shall commit him, for such period and under such limitations as the court or judge may direct, to the institution indicated in the application or to such other like institution as the court or judge may designate: Provided, That such court or judge, at the time of commitment, by order, shall impose liability for the payment of the cost of care and maintenance of such patient on his estate, or on the persons liable under existing laws for his support, or on the Commonwealth.

The superintendent or other person in charge of the institution to which the said person is committed shall, before the expiration of the period of commitment of the patient, make written report of said patient's mental condition to the court or judge making the commitment. Thereupon the court or judge, if satisfied that the patient is not mentally ill, shall order his discharge and that the cost of his care and treatment be paid by the person so committed, by the applicant for his commitment, or by the Commonwealth, and that the cost of his transportation and commitment be paid by the person committed by the applicant for his commitment or by the proper institution district in which such person is resident, as the court or judge shall deem just and proper, otherwise the court or judge shall make such order for the further disposition of the patient as may to him seem proper.

SECTION 332. Copies of Application, etc., to Accompany Patient; Filing.—(a) A certified copy of every order of commitment and copies of the application or petition and certificate therefor shall accompany the patient and be given to the superintendent of the institution to which he is committed.

(b) The application, certificate, report of commission if any, and order of the court shall be kept on file in a special docket in the court.

Source:—Part of §§ 303, 304, as amended, 1938, Sp. Ses., Oct. 11, P. L. 63.

§ 304. A certified copy of the order of the court or judge and copies of the application shall accompany the patient and be given to the superin-

tendent in charge of the hospital in which the patient is ordered to be placed. The said application and order shall be kept on file in a special docket in the court.

§ 303. A certified copy of the order of the court or judge, which shall impose liability for the payment of the cost of care and maintenance of such patient on his estate, or on the persons liable under existing laws for his support, or on the Commonwealth, and copies of the application and of the certificate, shall accompany the patient and be given to the superintendent in charge of the hospital in which the patient is ordered to be placed. The said application, certificate, and order shall be kept on file in a special docket in the court.

Sec 333 add 1951-2053

1951-2053 — (d) **Commitment of Criminals and Persons Charged with Crime, Etc.**

SECTION 341. *Commitment of Person Acquitted of Crime Because of Insanity.*—(a) Whenever any person charged with any crime is acquitted on the ground of insanity or having been insane at the time he committed the crime, the jury shall state such reason for acquittal in its verdict.

1951-2053 (b) The court before which any such person has been tried may order the commitment of such person to a mental hospital on its own initiative or upon the report of a commission, or for observation, diagnosis and treatment, in accordance with the provisions of this act for the commitment of persons who are not criminals or who have not been charged with crime.

Source:—Last paragraph, § 308, as amended, 1937, May 28, P. L. 973.

When any person charged with any crime or misdemeanor whatever shall be acquitted on the ground of insanity or having been insane at the time the offense was committed, the jury shall set out this fact in its verdict; and the court or judge before whom such person is tried may thereupon order such person to be committed to a hospital for mental diseases, in the manner provided in sections three hundred three, three hundred four, or three hundred seven of this act.

1951-2053 SECTION 342. *Commitment of Person Charged with Crime.*—Whenever any person charged with crime, upon production or appearance before the court, appears to

be mentally ill or in need of care in a mental hospital, the court shall designate a responsible person to apply for his commitment or for his commitment for observation, treatment and diagnosis, by order of such court in accordance with the provisions of this act for the commitment of persons who are not criminals or who have not been charged with crime.

Source:—Second to last paragraph, § 308, as amended, 1937, May 28, P. L. 973.

When, on the production or appearance of any person charged with criminal offense, or on the production or appearance before the court of such a person under any other circumstances, it shall appear to the court that such person is insane, or in such condition as to make it necessary that he be observed or cared for in a hospital for mental diseases, proceedings for the commitment of such person to such a hospital shall be had, such as are provided for in section three hundred seven or section three hundred three of this act, upon application of some person to be designated by the court.

SECTION 343. *Commitment of Convicted Person in Lieu of Sentence After Report of Psychiatrist.*—(a)

Whenever any person is convicted of a crime punishable by sentence to a penal or correctional institution, the trial court may defer sentence and order a mental examination of the defendant to guide it in determining his disposition. Such action may be taken on the court's initiative or on the application of the district attorney, the defendant or his counsel or other person acting in his interest.

(b) The court shall order his examination by a psychiatrist employed by the department in a State institution or otherwise. The examiner shall make a written report of his findings to the court and the report shall be available to the district attorney and counsel for the defendant. The examiner shall be paid the actual expenses incurred by him but shall receive no other compensation. The county of

conviction shall pay his expenses on bills approved by the court.

1951-2053 (c) On the report of the examiner that the defendant is so mentally ill or defective that it is advisable for his welfare or the protection of the community that he be committed to other than a penal or correctional institution, the court may commit him to a State institution for the care of such mental cases in lieu of sentence to a penal or correctional institution and direct his detention until further order of the court. If the examiner's report indicates no such mental illness or deficiency, he shall be sentenced as in other cases.

(d) When a defendant is committed to an institution, an appeal shall lie in the same manner and with like effect as if sentence to a penal or correctional institution had been imposed and may be taken by defendant or his counsel.

Source:—§§ 1-3, 1933, May 2, P. L. 224, amended 1935, June 20, P. L. 352.

§ 1. In case of the conviction of any person for any offense, the trial judge may, on his own initiative, or on the application of the district attorney, the defendant, or counsel for the defendant or other person acting for the defendant, defer sentence until the report of a mental examination of the defendant can be secured to guide the judge in determining what disposition shall be made of the defendant.

§ 2. The trial judge shall have power to require such mental examination, and report thereon, to be made by a psychiatrist employed by the State Department of Welfare or by a psychiatrist employed in any State hospital or in any mental hospital maintained by the county. Such report, when furnished to the judge, shall be available to counsel for defendant and to the district attorney.

The psychiatrist making such examination shall not be entitled to any compensation for making such examination and report, but shall be paid by the county his actual expenses, on bills approved by the trial judge.

§ 3. If the report of the examination by the psychiatrist shows that the defendant thought not insane is so mentally ill or mentally deficient as to make it advisable for the welfare of the defendant or the protection of the community that he or she be committed to some institution other than the county prison, workhouse or a penitentiary, the trial judge shall

have power by virtue of this act to commit such defendant to any State or county institution provided for the reception, care, treatment and maintenance of such cases or similar mental cases, in lieu of a sentence to a county prison, workhouse or penitentiary where required by a relevant act of Assembly or by law, and to direct the detaining of the defendant in such institution until further order of the court. The trial judge shall, at the time of such commitment, make an order upon the defendant, or such person or persons responsible for the support of the defendant, or upon the county or the Commonwealth, as may be proper in such case, for the cost of admission, care and discharge of such defendant.

From any order of commitment heretofore or hereafter made by the court to any State or county institution provided for the reception, care, treatment and maintenance of mental patients, an appeal shall lie in the same manner and with like effect as if sentence to a prison, workhouse or penitentiary had been imposed in the case. Such appeal may be taken by either the defendant or the attorney for the defendant.

SECTION 344. *Petition for Commitment of Prisoner or Person Released on Bail.*—(a) Petition for the commitment of

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(1) Any person detained in any penal or correctional institution who is thought to be mentally ill or in such condition that he requires care in a mental hospital or who is thought to be a mental defective or epileptic,

(2) Any person charged with a crime and released on bail pending trial who is thought to be a mental defective or epileptic,

may be made to the court under the order of which such person is detained or which has jurisdiction of the charge,

(b) The application shall be in writing on a form prescribed by the department. It may be made by the superintendent, warden, jail physician or other executive officer of the institution in which the person sought to be committed is detained or by any responsible person.

(c) No application shall be made for the commitment of any mental defective convicted of first degree murder.

Source:—Part of § 308, as amended, 1937, May 28, P. L. 973.

Part of § 311 (b), as amended, 1938, Sp. Ses., Oct. 11, P. L. 63.
(Epileptics: See § 313.)

When any person detained in any prison, penitentiary, reformatory, or other penal or correctional institution, whether awaiting trial or undergoing sentence, or detained for any other reason (e.g. as a witness), shall, in the opinion of the superintendent, jail physician, warden, or other chief executive officer of the institution or other responsible person, be insane, or in such condition as to make it necessary that he be cared for in a hospital for mental diseases, the said superintendent, jail physician, warden, or other chief responsible officer of the institution, or other person, shall immediately make application, upon a form prescribed by the department, to a law judge of the court having jurisdiction of the charge against said person, or under whose order he is detained, for commitment of said person to a proper hospital for mental diseases.

(b) When any person detained in any prison, penitentiary, reformatory, or other penal or correctional institution, whether awaiting trial or undergoing sentence, except upon conviction for murder in the first degree, shall, in the opinion of the superintendent, jail physician, warden, or other chief executive officer of the institution, or other responsible person, be mentally defective; or when any person charged with a criminal offense and released on bail pending trial therefor, shall, in the judgment of any responsible person, be a mental defective,—the said superintendent, jail physician, warden, other chief responsible officer of the institution, or other responsible person, shall, in the case of a person detained in an institution, and said responsible person in other cases may make application, upon a form prescribed by the department, to a law judge of the court having jurisdiction of the charge against said person believed to be mentally defective, or under whose order he is detained, for the examination, and if necessary, the commitment of said person to a proper institution for mental defectives.

1951-2053 SECTION 345. *Examination of Prisoner, etc. by Physicians or Commission; Hearing; Commitment.*—(a) Upon receipt of an application, the court shall order an examination of the person sought to be committed by two qualified physicians or a commission. The physicians or commission shall report to the court on such examination

and shall state whether the person is of criminal tendency. The report by physicians shall be by certificate, and by a commission as in other cases under this act.

(b) The court may hold a hearing, summon other witnesses and secure further evidence subsequent to receipt of the report of such examination.

(c) If the court is satisfied that the person sought to be committed is mentally ill, mentally defective or epileptic, it shall order the commitment or transfer of such person to a mental hospital or an institution for mental defectives. If the person is undergoing sentence or is found to have a criminal tendency, the commitment shall be to a State hospital for the criminal insane.

Comment:—Part of § 311 (b), as amended 1938, Sp. Ses., Oct. 11, P. L. 63, was repealed by 1949, May 20, P. L. 1643. It reads as follows:

"After the completion of the Cumberland Valley State Institution for Mental Defectives, all applications for the commitment of male mental defectives, over sixteen years of age, who have been arraigned and convicted, or who are in custody on a criminal charge, shall request the commitment of such persons to said Cumberland Valley State Institution for Mental Defectives."

Source:—Part of § 308, as amended, 1937, May 28, P. L. 973.

The said judge shall forthwith order an inquiry by two qualified physicians, or by a commission as provided in section three hundred and four of this act, who shall immediately examine the said person and make written report of their or its findings to the said judge. If, in their opinion, the person so detained is insane, the physicians shall so state in a certificate conforming to the requirements of section three hundred and two, or the commission in a report conforming to the requirements of section three hundred and four of this act. They or it shall also report whether, in their or its opinion, such person is of criminal tendency. The said judge may, in his discretion, summon other witnesses and secure further evidence. If he is then satisfied that the person thought or alleged to be insane is in fact insane, he shall order the transfer of such person to a hospital for mental diseases. If the person is serving sentence, or if he is of criminal tendency, he shall be removed to a State hospital for insane criminals. In any other case, the judge shall commit him to some other hospital for mental diseases.

(b) The judge to whom application shall be made as hereinbefore provided shall forthwith order an inquiry by two qualified physicians, or by a commission, as provided by section three hundred and four of this act, who shall immediately examine the person alleged to be mentally defective and make written report of their or its findings to the said judge. If, in their opinion, the said person is mentally defective, the physicians shall so state in a certificate conforming to the requirements of section three hundred and two of this act; or the commission, in a report conforming to the requirements of section three hundred and four of this act. They or it shall also report whether, in their or its opinion, such person is of criminal tendency. The said judge may, in his discretion, summon other witnesses and secure further evidence; and, if he shall then be satisfied that the person alleged to be mentally defective is in fact mentally defective, he shall order his commitment to an institution for mental defectives; or, if detained in a prison, penitentiary, reformatory, or other penal or correctional institution, his transfer to an institution for mental defectives: Provided, That after the completion of the Cumberland Valley State Institution for Mental Defectives, males over sixteen years of age committed or transferred under the provisions of this subsection shall be committed or transferred to the Cumberland Valley State Institution for Mental Defectives.

1957-5053 SECTION 346. *Deportation of Criminals.*—Whenever any person is detained in a mental hospital, after having been charged with or convicted of crime, and is subject to deportation from the Commonwealth under the laws of the United States, the court committing such person to the mental hospital, upon the petition of the superintendent of such hospital or the department, may enter an order directed to the superintendent to release such person from detention into the custody of an agent of the United States for the purposes of deportation.

Source:—§ 1, 1931, March 26, P. L. 8, No. 5.

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1952-1370 SECTION 347. *Effect of Commitment on Pending Criminal Proceedings.*—If any person is committed while awaiting indictment or trial or has been arraigned or is being tried, proceedings against him shall be stayed until his recovery. Upon his recovery, if he was previously confined in a penal or correctional institution, he shall be returned upon proper order of the court to the penal or correctional insti-

tution from which he was transferred for the disposition of the charges against him. If he was committed before trial he shall be returned to the court having jurisdiction of him for trial or such other disposition of such charges as the court may make.

Source:—Part of second paragraph, § 308, as amended, 1937, May 28, P. L. 973.

If the person found to be insane and transferred to a hospital is awaiting indictment or trial, or has been arraigned or is being tried, proceedings against him shall be stayed until his recovery. Upon his recovery, he shall be returned to the prison from which he was removed, for the disposition of the charges against him, upon proper order of the court.

Part of § 311 (b), as amended, 1938, Sp. Ses., Oct. 11, P. L. 63.

If the person found to be mentally defective and committed to an institution under this subsection is awaiting indictment or trial, or has been arraigned, or is being tried, proceedings against him shall be stayed until his condition becomes such that he can leave the institution.

And see notes to next section.

SECTION 348. *Effect of Commitment on Criminal* ¹⁹⁵¹⁻₂₀₅₃
Serving Sentence.—(a) If the person committed is a convict serving sentence, the time during which he is committed as a patient shall be computed as part of the term for which he was sentenced.

(b) If the person committed is a convict serving sentence, and such sentence expires before his recovery, the department may transfer him to any other institution for care until his recovery when he shall be discharged.

(c) If the person committed is a convict serving sentence, and recovers before the expiration of his sentence or is found after observation not to be mentally ill, mentally defective, or epileptic, the superintendent of the institution to which he has been committed shall certify such fact to the committing court and he shall be returned on the order of such court to the penal or correctional institution from which he was transferred.

Source:—Part of § 308, as amended, 1937, May 28, P. L. 973.

If he is a convict serving sentence, the time during which he is in the hospital shall be computed as part of the term for which he was sentenced.

The expense of examination, including the fees of physicians or commissioners, and all costs incident to the commitment and transfer of such person, and if such person is undergoing sentence, all costs of maintenance in the hospital previous to the expiration of such sentence, shall be paid by the county liable for the maintenance of the patient in the prison, penitentiary, reformatory, or other penal or correctional institution from which he was transferred, without recourse against any poor district.

If the sentence of a person committed to a hospital for mental diseases, under the provisions of this section, shall expire before his recovery, he may be transferred, by the authority of the department, to any other hospital for care until his recovery, when he shall be discharged as in the case of any non-criminal patient. If the person found to be insane and removed to a hospital is undergoing sentence and recovers before the expiration of his sentence, or is found, after observation for a sufficient time, not to be insane, the superintendent or chief officer of the hospital to which said person has been committed shall properly certify such fact to the court which has committed him, and he shall be returned, upon order of the said court, to the prison, penitentiary, reformatory, or other penal or correctional institution from which he was removed. The expense of removal shall be paid by the county liable for his maintenance in the prison, penitentiary, reformatory, or other penal or correctional institution from which he was removed, without recourse against any poor district.

Part of § 311 (b), as amended, 1938, Sp. Ses., Oct. 11, P. L. 63.

His condition becoming such that he may be released from the institution for mental defectives, he shall, if he was previously confined in a prison, penitentiary, reformatory, or other penal or correctional institution, be returned, upon proper order of the court, to the institution from which he was transferred for the disposition of the charges against him or the completion of his sentence; and if he was undergoing sentence, the time during which he was in the institution for mental defectives shall be computed as part of the term for which he was sentenced. If he was committed to the institution for mental defectives before trial, he shall, upon being released from the institution for mental defectives, be returned to the court having jurisdiction over him for trial or such other disposition of such charges as the court may lawfully make.

The expense of examination, including the fees of physicians or commissioners, and all costs incidental to the commitment or transfer of such persons, and if such person is undergoing sentence, all costs of maintenance in the institution for mental defectives, previous to the expiration of sentence, shall be paid by the county liable for the maintenance of the patient in the prison, penitentiary, reformatory, or other penal or correctional institution from which he was transferred, without recourse against any poor district.

(e) Provisions Applicable to All Commitments

SECTION 351. *Habeas Corpus*.—Every commitment made under the provisions of this act may be appealed by writ of habeas corpus which may be sued out at any time by any person restrained or anyone acting on his behalf.

Source:—Part of § 317.

All commitments under this act shall be revisable under writ of habeas corpus, which may be sued out, at any time, by any person restrained hereby, or by any one acting for or on behalf of such person: . . .

SECTION 352. *Superintendent of Institution to Ascertain Whether Patient is a Veteran*.—(a) Whenever any person is received for care in any institution, the superintendent shall endeavor to ascertain whether such person has served in the armed forces of the United States.

(b) Whenever the superintendent finds, or has reason to believe that a patient received is a veteran of the armed forces of the United States, he shall notify the Department of Military Affairs together with the information concerning such service.

Source:—§§ 1 and 2, 1935, July 15, P. L. 1005.

§ 1. Whenever any person is admitted to a State, State-aid, or county institution in this Commonwealth, where mental patients are received for treatment, the authorities in charge of such institution shall endeavor to ascertain whether such person has served in the naval or military forces of the United States.

§ 2. Whenever it shall appear, or the authorities have reason to believe, that such person admitted is an ex-service man or woman, it shall be the duty of the authorities in charge of such institution to notify the Department of Military Affairs of this Commonwealth of their findings, together with as complete information concerning the military history of each such individual as possible.

SECTION 353. *Commitment of Veteran to United States Veterans' Hospital*.—Whenever it appears that any person sought to be committed is (1) mentally ill or men-

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tally defective, (2) a veteran of any war, military occupation or expedition, (3) eligible for treatment in a United States Veterans' Hospital, and (4) commitment to such hospital is necessary for his proper care, the court may commit him to a United States Veterans' Hospital upon receipt of a certificate of eligibility from the United States Veterans' Administration.

Source:—§ 318, as amended, 1929, April 23, P. L. 635.

Whenever, in proceedings for commitment under this act, it shall appear that the person named in the proceeding is a veteran of any war, military occupation or expedition, who is insane or incompetent, or a weak minded person, and is eligible for treatment in a United States Veterans' Hospital and commitment to such hospital is necessary for the proper care and treatment of such veteran, the court, upon receipt of a certificate of eligibility from the United States Veterans' Bureau, or its successor, may commit such veteran to such United States Veterans' Hospital.

SECTION 354. *Superintendent not Liable for Detention.*—No superintendent or other officer of any institution shall be held personally liable for the detention of any patient who has been received, committed or detained in such institution in compliance with the provisions of this act.

Source:—Proviso, § 317.

Provided, That superintendents and other officers of institutions are not to be held personally liable for the detention of patients when such patients are received, placed, and detained in such institutions in compliance with the provisions of this act.

§ 10, 1869, April 20, P. L. 78.

If the superintendent or officers of any hospital for the insane shall receive any person into the hospital after full compliance with the provisions of this act, no responsibility shall be incurred by them for any detention in the hospital.

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SECTION 355. *When Person Liable for Another's Detention.*—No verdict or judgment shall be entered in any action or indictment against any person who is subject to the provisions of this act and who has complied with its require-

ments for the detention of any person as a patient in any institution without compliance with this act unless the court after trial and verdict certifies that there was proof that the person charged acted with gross negligence, or corruptly, or without reasonable or probable cause, or was actuated by motives other than the good of the person restrained.

Source:—§ 703.

No verdict or judgment shall be entered in any action, nor shall judgment be entered on any indictment, for detention, without compliance with the provisions of this act, of any person, as mentally ill, in any institution or place for mental patients as against any person or persons, subject to the provisions of this act, who shall have complied with its requirements, unless the judge, after trial and verdict, shall certify that there was proof to his satisfaction that the party charged acted with gross negligence or corruptly, or that he acted without reasonable or probable cause, or was actuated by motives other than the good of the person restrained.

ARTICLE IV

TRANSFER OF PATIENTS

SECTION 401. *Transfer from One Institution to Another.*—

(a) The department may, in its discretion and for any reason which to it seems sufficient, transfer any patient from any institution to which the patient has been admitted, under any of the provisions of this act, to any other like institution within the Commonwealth.

(b) No transfer shall be made to or from a private institution except upon the joint application of the superintendent thereof and of the legal or natural guardian or other person liable for the support of the patient.

(c) No patient under sentence by any court, or committed by any court after having been charged with any

crime and acquitted on the ground of insanity, may be transferred without an order of such court authorizing such transfer.

1951-2053 (d) A voluntary patient may be transferred only if the patient has consented in writing to such transfer.

(e) Whenever any patient, not a convict, who has been committed by order of a court is transferred, the order of commitment shall be held to apply to the institution to which the patient is transferred as though the institution had been the one to which the order of commitment had originally been made.

Source:—§ 401.

SECTION 402. *Papers to Accompany Patient on Transfer.*—Whenever any patient is transferred, certified copies of the application, of the certificate of physicians or report of commission, and of the order of court, if any, and the order of the department authorizing the transfer, shall accompany the patient to the institution to which he is transferred, together with a copy of all clinical records, or a full abstract thereof containing all essential particulars, including results of mental and physical examinations and laboratory tests relating to the patient.

Source:—§ 402.

1951-2053 SECTION 403. *Transfer of Patient Requiring Different Care.*—Whenever the superintendent of any institution finds that any patient therein needs care in an institution for patients of a different kind, he shall report the facts relative to the patient to the department. The department may order that application be made for the admission of the patient to any proper institution by any of the pro-

cedures provided by this act for admission of patients to such institution.

Source:—§ 403.

SECTION 404. *Transfer of Non-Residents.*—

(a) If, upon investigation, the department finds that any patient supported wholly or in part at the expense of the Commonwealth is not a legal resident of this Commonwealth, it may, by order addressed to the trustees or the superintendent of the institution to which such patient has been admitted, return him to that State or country in which he has a legal residence or where he belongs.

(b) Any patient returned to another State or country shall be suitably clothed, and, unless he is fully competent to travel alone, shall be attended by a person of his own sex, who shall exercise due care over him until he has reached the destination agreed upon by the department and the proper authorities of the State or country to which he is returned. If competent to travel alone and unable to pay the costs of travel, he shall be furnished with funds sufficient for sustenance and travel to the destination agreed upon.

Source:—§ 413, first two paragraphs.

SECTION 405. *Interstate Agreements.*—The department may enter into the agreements with the authorities of other States which have legislation, consistent with this act, for the arbitration of disputed questions between such States and this Commonwealth respecting the residence of patients, and for the return of patients to their proper residences.

Source:—§ 414.

1951-2053 SECTION 406. *Determination of Residence by Department.*—Whenever any indigent patient is to be returned to the Commonwealth by the proper authorities of another State, or whenever any patient is to be transferred by the department from one institution district to another, the legal residence of the patient may be determined by the department, and the commitment of such person shall be made in accordance with such determination. The determination of the department shall be binding, unless and until changed by a court of competent jurisdiction.

Source:—§ 1, 1929, April 11, P. L. 487.

1951-2053 SECTION 407. *Transfer of Patient to United States Veterans' Hospital.*—Any veteran of any war, military occupation or expedition, who has been committed to an institution within the Commonwealth prior to the passage of this act who is eligible for treatment in a United States Veterans' Hospital, and who is actually confined in an institution or on parole, may be transferred to a United States Veterans' Hospital, by order of the superintendent of the institution in which the veteran is confined, or by order of the department, if such veteran is on parole, or, in either case, by order of the court which committed the veteran.

Source:—§ 415, added 1929, April 23, P. L. 635.

ARTICLE V

ESCAPES AND INTERSTATE EXTRADITION

1951-2053 SECTION 501. *Escapes.*—Any patient who escapes from an institution may be apprehended and returned there to by any sheriff, constable or police officer, or by any officer or employe of the institution, at the expense of the institution.

Source:—§ 408.

SECTION 502. *Application for Extradition of Escaped Patient.*—The Governor may, upon demand, deliver to the executive of any other State any patient who has escaped from an institution to which he has been admitted under the laws of such State, and who may be dangerous to the safety of the public; or may, upon application, appoint an agent to demand of the executive authority of any other State any patient who has escaped from an institution in this Commonwealth. The demand or application shall be accompanied by an attested copy of the commitment, and sworn evidence of the superintendent of the institution stating that the patient demanded has escaped from the institution within six months preceding the date of the application or demand, and by such further evidence as the Governor may require.

Source:—§ 409.

SECTION 503. *Warrant for Extradition; Habeas Corpus; Penalty.*—(a) If the Governor is satisfied that the demand conforms to law and ought to be complied with, he shall issue his warrant, under the seal of the Commonwealth, to an officer authorized to serve warrants in criminal cases, directing him, at the expense of the agent who makes the demand, at the time designated in the warrant, to take and transport the patient to the boundary line of the Commonwealth and there deliver him to such agent. For this purpose the officer may require aid as in criminal cases.

(b) No person so arrested shall be delivered to the agent of another State until he has been notified of the demand for his surrender, and has had an opportunity to apply for a writ of habeas corpus if he claims the right of the officer who makes the arrest. If such writ is applied for, notice thereof and the time and place of hearing shall be given to the Attorney General or district attorney for the county in

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which the arrest is made. Pending the determination of the court on the application for the writ, the person shall be detained in custody in a suitable institution.

(c) Any officer who delivers a person in his custody, to an agent for extradition without having complied with the provisions of this section shall be guilty of a misdemeanor and upon conviction shall be sentenced to pay a fine of not more than one thousand dollars (\$1000).

Source:—§ 410.

* * * * *

Comment:—Parts of § 702, as amended 1931, April 24, P. L. 47, are not necessary as supplied by section 317, 1939, June 24, P. L. 872.

ARTICLE VI

DISCHARGE, LEAVES OF ABSENCE, AND BOARDING OUT OF PATIENTS

(a) Discharge

SECTION 601. *Discharge by Trustees and Superintendents.*—

1951-2053 (a) The trustees of any institution, or the superintendent when given authority by the trustees, may discharge any patient from the institution, if, in their or his opinion, no harm will arise from the action. No patient shall be discharged until notice of the action has been given to the Department of Revenue. The following patients shall not be discharged:

(1) A patient under sentence for crime or charged with crime and acquitted on the ground of insanity, without an order of the court in which he was sentenced or acquitted.

(2) A patient known to be homicidal or otherwise dangerous to be at large, without examination by, and consent of, the department, nor without a sufficient guarantee by the person liable for his support and care that the safety of the public or any individual will be safeguarded.

(3) A patient whose parent, guardian or friend liable for his support opposes his discharge, without notice to the parent, guardian or friend, and an opportunity to state his reasons.

(4) A mental defective or inebriate committed by order of court, without the recommendation of the chief medical officer in charge and an order of the court. The provisions of this clause do not apply to a person discharged by lapse of time from leave of absence or escape, or to an inebriate who has been under hospital care for one year.

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(5) A mental defective who, prior to his transfer to an institution for mental defectives, has been arraigned and convicted, or in custody on a criminal charge, before he might have been discharged from the penal or correctional institution from which he was originally transferred to the institution for mental defectives.

Source:—§ 404, as amended 1937, May 28, P. L. 973.

SECTION 602. *Return of Mental Defective to Institution District.*—A mental defective, forty-five years of age and over, not having criminal tendencies, and no longer requiring care in a school for mental defectives, may be returned by the department upon recommendation of the superintendent and trustees, to the institution district of the

county to which he belongs. If committed by a court, the consent of the court shall be obtained.

Comment:—The present law does not say by what agency the return is made. The return would presently be to the institution district rather than to the county.

Source:—Last paragraph of § 404, as amended 1937, May 28, P. L. 973.

1951-2053 SECTION 603. *Discharge by Department.*—The department may, in its discretion, order and compel the discharge from any institution of any patient except a criminal under sentence, or a person charged with any crime and acquitted on the ground of insanity. Before issuing such order, the department shall give due notice to the trustees or superintendent of the institution wherein the patient is under care and to the person at whose instance the said patient is detained, and shall give reasonable opportunity to such trustees or superintendent and person to justify a further detention of the said patient.

Source:—§ 405.

SECTION 604. *Discharge by Order of Court.*—

(a) Any court may order and compel the discharge of any patient committed by the court to any institution if, upon hearing, it appears that such discharge is for the best interest of the patient and not incompatible with the public welfare and safety.

(b) Before ordering a discharge, the court shall require that notice of the application be given to the Department of Revenue.

(c) In making an order not in accordance with the expressed opinion of the superintendent of the institution,

the court shall set forth the reasons for its decision, which reasons shall be part of the order. The order and reasons and the opinion of the superintendent shall be entered in the clinical record of the patient.

(d) The court may, in its discretion, admit in evidence the sworn statement of the superintendent, or the physician in charge of the patient, as to the condition of the patient, without requiring the appearance and personal examination of the superintendent or physician.

Source:—§ 406, amended 1937, May 28, P. L. 973.

(Cf. 1869, P. L. 78, section 7, which is included within this section.)

On statement, in writing, to any law judge, by some friend of the party, that a certain person placed in a hospital under the fifth section is losing his bodily health, and that consequently his welfare would be promoted by his discharge, or that his mental disorder has so far changed its character as to render his further confinement unnecessary, the judge shall make suitable inquisition into the merits of the case, and, according to its result, may or may not order the discharge of the person.

SECTION 605. *Discharge by Lapse of Time.*— 1951-
2053

(a) Any patient, except a criminal under sentence or one charged with crime and acquitted on the ground of insanity, who has been continuously absent, with or without leave, for a period of twelve months from the institution in which he was under care, shall be deemed to be discharged therefrom and cannot be readmitted except as provided by this act for admission or commitment.

(b) The provisions of this section shall not apply to a mental defective who is on indefinite leave of absence when away from the institution. Unless formally discharged such mental defective may be returned to the institution without a new commitment.

Source:—§ 412, as amended 1927, April 27, P. L. 431.

(b) Leaves of AbsenceSECTION 611. *Leaves of Absence.*—

1951-2053 (a) The superintendent of any institution in his discretion, may allow a leave of absence to any patient whose condition is such as to warrant the action, for a period, not exceeding twelve months, and upon such conditions as he may prescribe not inconsistent with the provisions for discharge of patients as provided in this act.

(b) Leaves of absence may be terminated by the superintendent, who may, if necessary, authorize the apprehension and return of the patient by any sheriff, constable, or police officer, who shall apprehend and return the patient.

Source:—§ 407, as amended 1938, Sp. Ses., Oct. 11, P. L. 63.

(c) Boarding OutSECTION 616. *Boarding Out of Patients.*—

(a) The superintendent and the board of trustees of any State institution may by contract or otherwise arrange for the boarding out of committed patients who have no criminal, suicidal, or homicidal tendencies, who are not addicted to the use of alcohol or narcotics, and who in the opinion of the superintendent and board of trustees may be otherwise suitable. Such arrangements shall be made only with the approval of and subject to regulations prescribed by the department.

1951-2053 (b) Such patients shall be considered remaining inmates of the State institution and shall be considered as on parole, subject to return should the condition of the patient or other circumstances, in the opinion of the superintendent and the trustees, make such return necessary.

(c) Subject to the approval of the department, patients, if physically and mentally able, may earn the cost

of their maintenance or a portion thereof by engaging in suitable employment.

Source:—§ 627, added 1935, July 12, P. L. 679.

SECTION 617. *Colonies for Mental Defectives.*—

(a) Whenever, in the judgment of the superintendent and trustees of any State institution for mental defectives, there is a group of patients in such institution of such a character that their interests and the interests of the Commonwealth would be better served through their colonization in a colony outside of the institution, and if such a colony can be established without damage to private property or detriment to the public welfare, these facts may be brought to the attention of the department.

(b) If the department approves, it may authorize the superintendent, with the approval of the trustees of the institution, to establish a colony by the rental or purchase of suitable property.

(c) The patients of the colony may be employed on and about the premises of the colony, or under supervision by residents of the community. Strict account shall be kept by the treasurer of the institution of the cost of administration thereof, of the wages of the patients, and any other direct compensation paid to them, and of all financial transactions of the colony. The superintendent and the trustees of the institution, with the approval of the department, shall determine the wages of the patients, the portion of the wages to be paid the Commonwealth as maintenance reimbursement, the portion to be set aside for the benefit of the patients of the institution or colony, and the portion to be paid to the patient.

Source:—§ 625, added 1927, April 27, P. L. 431.

ARTICLE VII

COSTS

(a) In General

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1956-1291 SECTION 701. *Liability for Costs of Care of Patient.*—Except as otherwise specifically provided in this act, liability for all costs of care of any patient in any institution is hereby imposed in the following order against:

- (1) The patient's real and personal property.
- (2) The persons liable for the patient's support.
- (3) The Commonwealth, or in the case of an inebriate the county or institution district in which he resides.

Comment:—This section is new except in substance. "Care" is an all-inclusive term and takes in every kind of expense connected with admission, maintenance, special treatment, discharge, etc.

This section restates the underlying principle found throughout the act as to the liability for costs: See also § 501 (admission), § 503 (care and maintenance), and § 505 (court order), § 506 (transfer), and § 508 (discharge),—§ 311 (a) all to the same effect—the text of which is cited to various sections of this draft below.

§ 503, as amended 1938, Sp. Ses., Oct. 11, P. L. 63.

Whenever any mental patient is admitted, whether by order of a court or judge, or in any other manner authorized by the provisions of this act, to any mental hospital maintained wholly or in part by the Commonwealth, the cost of care and maintenance, including clothing, of such patient in such hospital shall be defrayed from the real or personal property of such patient; and this liability may be enforced by writ of fieri facias, venditioni exponas, or attachment execution, if he have any such property. If he have no such property, or is not possessed of sufficient property to defray such expenses, then so much of said expenses as shall be in excess of any amount collected from his said property and paid on account of said expenses shall be paid by such person as is liable under existing laws for his support; and if there be no such person, or if he is financially unable to pay such expenses or any proportion thereof, then such expenses or the proportion thereof which cannot be collected from the patient, or the person liable for his support, shall be paid by the Commonwealth.

The following other sections of the act reiterate the same principle: §§ 303, 304, 307, 407:

Part of § 303, as last amended 1938, Sp. Ses., Oct. 11, P. L. 63.

A certified copy of the order of the court or judge, which shall impose liability for the payment of the cost of care and maintenance of such patient on his estate, or on the persons liable under existing laws for his support, or on the Commonwealth, and copies of the application and of the certificate, shall accompany the patient and be given to the superintendent in charge of the hospital in which the patient is ordered to be placed.

Part of § 304, amended 1938, Sp. Ses., Oct. 11, P. L. 63.

. . . said court or judge shall thereupon order the person to be admitted to and detained in the hospital named in the application, which order shall impose liability for payment of the cost of care and maintenance of such patient on his estate, or on the persons liable under existing laws for his support, or on the Commonwealth.

Part of § 307, amended 1943, May 27, P. L. 682.

Provided, That such court or judge, at the time of commitment, by order, shall impose liability for the payment of the cost of care and maintenance of such patient on his estate, or on the persons liable under existing laws for his support, or on the Commonwealth.

Part of § 407, amended 1938, Sp. Ses., Oct. 11, P. L. 63.

In such case the expenses necessarily incurred by such sheriff or other officer in such return of a patient shall be paid by the person in whose charge the patient was allowed to leave, if he is financially able to pay, otherwise such expenses shall be paid by the person liable for the maintenance of such patient in such hospital, or by the Commonwealth.

Clause (3) of the draft is from § 316 and applies only to inebriates.

Part of § 316, amended 1937, May 28, P. L. 973.

. . . impose liability for the payment of the cost of care and maintenance of such patient on his estate, or on the persons liable under existing laws for his support, or on the proper county or poor district.

See also 1915, April 14, P. L. 120, § 8.

The court committing the inebriate is hereby empowered to direct payment to be made for the cost and expense of his restraint, care and treatment while in the institution, by the inebriate or by person or persons who were directed to bear the liability at the time of his commitment out of his, her or their property, and to enforce the payment of the same by execution or otherwise.

Cf., as to maintenance, 1895, June 25, P. L. 270, § 1, putting cost on county.

Where any person is or shall be committed to the care and custody of any hospital for the insane by any court or judge in any county, in pursuance of the laws of this Commonwealth, the county from which said person has been sent or committed to said hospital shall be liable to said hospital for his or her maintenance therein, and the expenses connected

therewith: Provided, That said county shall, in all cases, have full recourse to recover all expenses incurred in behalf of said person so committed, from the parties or persons or poor district properly chargeable therewith under the laws of this Commonwealth.

See also:

§ 1, 1889, May 21, P. L. 258, amended 1925, Apr. 4, P. L. 139.

The expense of the care and treatment of the indigent insane, whether chronic or otherwise, in the State and semi-State hospitals for the insane, is hereby fixed at the uniform rate of two dollars and fifty cents per week for each person, including clothing, chargeable to the respective counties or poor districts from which such insane shall come, and the excess over said two dollars and fifty cents, shall be paid by the State, but in no case shall said excess exceed two dollars and fifty cents per week for each indigent insane person. Provided, however, That during the period beginning June first, one thousand nine hundred and twenty-five, and ending May thirty-first, one thousand nine hundred and twenty-seven, the rates aforesaid shall be increased to the sum of three dollars per week, as now provided by law, which is repealed in effect by 1927, April 7, P. L. 157, repealed by 1929, April 25, P. L. 707, repealed by 1938, Sp. Ses., Oct. 11, P. L. 63, effective June 1, 1941.

1951-2053 SECTION 702. *Liability for Costs of Care of Convicted Criminal Patient Undergoing Sentence.*

(a) Liability for all costs of care of any convicted criminal patient undergoing sentence prior to the expiration of the term of such sentence is hereby imposed in the following order against:

- (1) The county in which such patient was convicted.
- (2) Such patient's real and personal property.
- (3) The persons liable for such patient's support.

(b) Any county paying any such costs may recover the same from the patient's estate or the persons liable for his support, but not from the institution district of his residence.

Source:—§ 507, amended 1937, May 28, P. L. 973.

The expenses of the care and maintenance, including clothing in any mental hospital of an insane or mentally defective person undergoing sentence for a criminal offense shall be paid by the county liable for the maintenance of the patient in the prison, penitentiary, reformatory, or other penal or correctional institution from which he was transferred: Provide, That if the term of sentence of any prisoner shall expire while he is still a patient in any hospital, such expenses shall thereupon become chargeable as provided in section five hundred and three of this act.

Part of § 308, as amended 1937, May 28, P. L. 973.

The expense of examination, including the fees of physicians or commissioners, and all costs incident to the commitment and transfer of such person, and if such person is undergoing sentence, all costs of maintenance in the hospital previous to the expiration of such sentence, shall be paid by the county liable for the maintenance of the patient in the prison, penitentiary, reformatory, or other penal or correctional institution from which he was transferred, without recourse against any poor district.

Part of § 308, as amended 1937, May 28, P. L. 973.

The expense of removal shall be paid by the county liable for his maintenance in the prison, penitentiary, reformatory, or other penal or correctional institution from which he was removed, without recourse against any poor district.

SECTION 703. *Court Order for Payment of Costs.*—

(a) When any patient is committed by order of court, the committing court at the time of commitment shall make an order for the payment of the costs of care of the patient.

(b) When any patient is or has been admitted to any institution, any court of the county in which the patient resided prior to his admission, shall have power to make an order for the payment of the costs of care of the patient.

(c) Before making any order, the court shall take into consideration the ability to pay of the patient or the persons liable for his support.

(d) Any court having the power or duty to make an order shall have the power or duty to modify or revise the order from time to time on cause shown.

(e) Every order shall be entered in the prothonotary's office and shall have the effect of a judgment:

Source:—In general: §§ 303, 304, 307, 311(a), 316, 503, 505 for which see below or as a source note to sections 701 and 702 of this draft.

(a)-(d), § 505, 311 (a).

(e) Part of § 503, as amended 1938, Sp. Ses., Oct. 11, P. L. 63.

" . . . this liability may be enforced by writ of fieri facias, venditioni exponas, or attachment execution if he have any such property."

§ 505, as amended 1929, April 25, P. L. 700.

The court of common pleas or other court of record of the county in which any mental patient resided prior to his admission to any mental hospital maintained in whole or in part by the Commonwealth shall have power, upon the application of the Department of Justice acting on behalf of the Department of Revenue, to make an order, conformable to the provisions of this article, for the payment of maintenance to the Commonwealth, upon the trustee, committee, guardian, or other person who has charge of the estate of such patient, or against the husband, father, wife, mother, or child of any patient so maintained, in such amounts respectively, as the court, in its discretion, may deem proper, taking into consideration the ability of the patient, or the person liable for his support, to pay for such maintenance; and the court may also, upon like application, direct any trustees, committee, guardian, or other person having charge of any such estate, to file with the Department of Revenue the statement required by the second section of the act, approved the first day of June, Anno Domini one thousand nine hundred fifteen (Pamphlet Laws, six hundred and sixty-one), entitled "An act relating to the maintenance of insane, feeble-minded, and other persons confined in the various institutions of the Commonwealth; fixing liability for their support; providing for the collection of the moneys due the Commonwealth therefor, and for proceedings relating thereto."

Part of § 311 (a), as amended 1938, Sp. Ses., Oct. 11, P. L. 65.

At the said hearing the said court or judge shall inquire as to the estate of such mentally defective person, and, if the same be sufficient for the purpose, shall make an order directing the payment therefrom of the cost of clothing and other support of such mentally defective person in said school, otherwise that such payment be made by the husband or parent of such mentally defective person, if it appear that the circumstances of such husband or parent are such as to make such an order proper and advisable. Where the estate of said mentally defective person is insufficient, and the circumstances of said husband or parent are not such as to warrant such an order for the payment of clothing and other support, or either of them, the expense of clothing of said mentally defective person and all other support shall be provided for by the Commonwealth, at such per capita rates as shall be appropriated by the Legislature, on the application of the trustees or managers of the said school, after submission of the same to and approval by the department.

(f) added 1959-1743

SECTION 704. *Reports of Guardians, etc., to Department of Revenue.*—

(a) Every trustee, committee, guardian or other person, nominated or appointed to take charge of the estate of any patient in any State institution or of any patient receiving public funds in any private institution, within three months after his appointment shall make a report, under oath, to the Department of Revenue, showing the amount and character of the estate, and every year thereafter shall report to the Department of Revenue what changes if any, there are in the estate.

(b) Every executor or administrator of any deceased patient in any State institution or of any patient receiving public funds in any private institution, within three months after letters testamentary or of administration have been issued shall make a true, full, and complete report, under oath, to the Department of Revenue of the extent and character of the estate.

(c) Whenever any fiduciary shall file, in any court, an account of his administration of such property or estate, he shall file a duplicate of his account with the Department of Revenue. No account shall be confirmed except upon proof to the court of the filing of a copy with the Department of Revenue. The fiduciary shall also notify the Department of Revenue when, where, and by whom his account will be audited. No report of the auditor or final adjudication thereof by any court shall be confirmed except after proof to the court of the giving of such notice.

(d) Any person failing to make any report to the Department of Revenue hereby required shall be personally liable for such amount due the Commonwealth, which

amount may be recovered by suit, brought in the name of the Commonwealth, through the Department of Justice, in the same manner as other debts are recoverable.

Source:—§ 2, 1915, June 1, P. L. 661, Act No. 293, as amended 1929, P. L. 704.

SECTION 705. *Investigation of Financial Status of Patient.*—Whenever any person is maintained as a patient in any institution, wholly or in part at the expense of the Commonwealth, the Department of Revenue may investigate the financial ability of the patient, or of the person liable for his support to defray the expenses of his care in whole or in part. If upon investigation by the Department of Revenue it appears that the patient's estate, or the financial ability of the persons liable for his support, are such that the full cost of his care, or a part thereof, can be paid, the Department of Revenue shall require the payment of same if the patient was admitted upon voluntary application, or, if the patient was committed by order of court, the Department of Revenue, through the Department of Justice, shall ask the court to revise its order so as to provide for the payment of the care in full or in part as the case may be.

Source:—§ 504, as amended 1929, April 25, P. L. 700.

SECTION 706. *Collection of Costs.*—

(a) All moneys due the Commonwealth from the estate of a patient, or the persons liable for the patient's support, for his care in an institution, owned and operated by the Commonwealth, shall be collected by the Department of Revenue, as collection agency for such institution, and shall be promptly transmitted by the Department of Revenue to the State Treasurer.

(b) Where there is a claim against the estate of any indigent patient or the persons liable for his support on behalf of any political subdivision, or ward, for his care in any institution, either owned and operated by the Commonwealth, or, prior to its transfer to the Commonwealth owned and operated by such political subdivision, or ward, the political subdivision, or ward, shall collect such claim from said estate.

(c) Where there is a claim against the estate of any indigent patient or the persons liable for his support both on behalf of the Commonwealth and on behalf of any political subdivision, or ward, and there is not sufficient in the estate to pay the claim in full, the same shall be paid pro rata to the Commonwealth and to the political subdivision, or ward, in proportion to the amount of their respective claims.

(d) For amounts due the Commonwealth from the counties, for the care of criminal patients, in an institution owned and operated by the Commonwealth, the Department of Revenue, after the last day of each calendar month, shall promptly transmit to the county commissioners of the several counties a certified account of the expenses of the care of such patients for the calendar month, together with an order payable to the Department of Revenue, drawn on the county commissioners of the county, who shall accept and promptly pay same to the Department of Revenue.

Source:—§ 509, as added 1929, April 25, P. L. 700, amended 1947, April 11, P. L. 59.

Comment:—1901, July 18, P. L. 674, §§ 2 and 3, are obsolete, not included, and are cited for repeal. They read as follows:

Section 2.—It shall be the duty of the county commissioners, or the directors or overseers of the poor of the different counties or poor districts of the State to report under oath to the Auditor General, on the first days of September, December, March and June of each year, the number of indigent

insane persons transferred, as provided by law, to the State hospitals or asylums for the insane in their respective districts; said report shall contain the name of every indigent insane person, when admitted, length of time cared for in said State hospital or asylum, and date of discharge or death.

Section 3—That for the neglect or refusal of the county commissioners or directors of the poor of the county poor houses or almshouses, or otherwise, controlling the custody of such indigent insane persons, or of the directors or managers of the State hospitals or asylums wherein the indigent insane are treated and cared for, to make report to the Auditor General as required by this act, said counties, hospitals or asylums shall forfeit the whole amount due for the quarter in which no report was made: Provided, That all insane persons who apply for admission to any of said hospitals with proper papers, and are willing and able to pay their expenses, be admitted, and that accommodations shall be furnished for said insane: Provided, also, That no payment shall be made on account of the care and treatment of the insane until the Secretary of the Board of Charities shall have certified to the Auditor General, under oath, that the quarterly report of the cost of such care and treatment contain no charge except for maintenance.

(b) Admission and Commitment

SECTION 716. *Admission and Commitment Costs.*

—Costs of admission and commitment shall include:

- (1) Removal of the patient to the institution.
- (2) Fees of physicians or commission.
- (3) All other necessary expenses incurred in connection with such admission or commitment.

Source:—§ 501, as amended 1943, May 27, P. L. 682.

Whenever any patient who is mentally ill, mentally defective, epileptic, or inebriate is admitted to any mental hospital, whether by order of a court or judge, or in any other manner authorized by the provisions of this act, the cost of such admission or commitment shall be deemed to include the expenses of removing such patient to the hospital, the fees of physicians or commissioners, and all other necessary expenses however incurred. Such costs shall be chargeable to the estate of such patient, or to the person liable for his support: Provided, That if such estate or person is unable to pay the same, the proper institution district in which such person is resident shall be liable for such costs.

If the patient is committed by order of court, the court or judge shall determine, at the time of commitment, the liability for such costs, and shall assess the same as shall seem to him just and proper.

SECTION 717. *Payment of Costs of Commitment; Proceedings Adverse to Petitioners.*—When any commission appointed by a court to report on the mental illness of any person, finds that the person is not mentally ill or is not a fit subject for care in an institution or otherwise reports adversely to the petitioners for the commitment, the appointing court may impose the costs of the proceedings upon the county in which such person resides.

Source:—§ 1, 1911, June 20, P. L. 1076, amended 1915, May 3, P. L. 240.

That hereafter any court, wherein a proceeding shall be had for the commitment of an alleged insane person, may, in its discretion, impose the costs of such proceeding upon the proper county, where the report of the commission shall be adverse to the petitioners.

SECTION 718. *Payment of Costs of Admission and Commitment when Patient, etc., Unable.*—Whenever the patient or persons liable for his support are unable to pay any of the costs of his admission or commitment, the institution district of which the patient is a resident shall be liable for such costs.

Source:—Part of § 501.

(See source note, Section 716, this draft.)

SECTION 719. *Patient Detained for Temporary Care.*—

(a) Costs of admission of any person admitted to an institution for temporary care shall include those for his maintenance during the temporary period and removal if he is removed during the period. The person applying for temporary detention shall be liable for the costs.

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(b) When any patient admitted for temporary care is committed, the costs of the commitment shall include the expenses incident to his admission for temporary care.

Source:—Part of § 305, as amended 1938, Sp. Ses., Oct. 11, P. L. 63.
 . . . and said guardian, relative, or friend shall be liable to the hospital for the expenses incurred, including those for care, maintenance, and removal. . . .

When such patient is so further committed, the costs of such commitment shall be considered to include the expenses incident to his admission for temporary care.

SECTION 720. *Costs of Admission of Dangerous*

Person.—

*Repealed
1957-2053*

(a) The applicant for the admission of any patient who is alleged to be dangerous or violent or whose case is otherwise of an emergency nature shall be liable for the costs of his admission or commitment.

(b) If the applicant does not have the patient committed during the period of temporary detention or does not remove him and if the patient is not voluntarily admitted, the applicant shall be liable for all costs incident to the care of the patient in the institution.

Source:—Part of § 306, as amended 1938, Sp. Ses., Oct. 11, P. L. 63.

If within the said ten days, no commitment be made, or if the patient does not sign a request to remain in the hospital as a voluntary patient, or if the patient be not removed, the applicant aforesaid shall be liable to the hospital for the expenses.

SECTION 721. *Costs of Commitment of Persons Charged with Crime, etc., Not Undergoing Sentence.*—

(a) The costs of commitment and removal to or from a mental hospital of any person charged with a criminal offense, but who is not in custody, or who is arraigned or brought before the court under any other circumstances,

or of any prisoner who, before or during trial, is found or thought to be mentally ill or in such condition as to make it necessary that he be cared for in a mental hospital, shall be paid by the county in which the person or prisoner is committed.

(b) Whenever any person convicted of any crime but not sentenced, or charged with any crime and acquitted on the ground of insanity, is committed to any mental hospital, the costs of commitment and of removal to or from the hospital shall be paid by the county in which the crime was committed.

(c) In any case, the county may recover costs paid by it from the estate of the patient, or from the persons liable for his support, but not from any institution district.

Source:—§ 502.

(c) Maintenance

SECTION 726. *Mental Defectives and Epileptics in Schools.*—

(a) No superintendent of any school shall accept an application for the admission of any mental defective or epileptic until the Department of Revenue has fixed the amount, if any, to be paid for the maintenance of the patient. The amount shall be fixed according to the ability to pay of the parent of the patient or according to the value of his estate. Payment of the amount so far as there is ability to pay shall be required as a condition to the admission or detention of the patient. The amount may be changed from time to time by the Department of Revenue upon its receiving further information concerning ability to pay. 1959-1743

(b) When neither the patient nor his parent has the ability to pay for his maintenance in the school, his main-

tenance at the school shall be provided for by annual appropriations, at such per capita rates as shall be appropriated by the General Assembly on the application of the trustees after submission to and approval by the department.

Source:—Part of § 309, as amended 1938, Sp. Ses., Oct. 11, P. L. 63.

But before any person shall be admitted to any school for mental defectives under the provisions of this section, the consent of the managers or superintendent thereof to such admission shall have been obtained.

Before said managers or superintendent shall accept an application for the admission of any person the Department of Revenue shall fix the amount, if any, which shall be paid for such support according to the ability of such parents or parent of the person, or according to the value of such person's estate, if any, and shall require payment for such support, so far as there may be ability to pay, as a condition to the admission or retention of said person. Said amount may, at any time, be changed by said Department of Revenue upon receiving further information concerning such means of support. When neither the said person nor his parent or parents defray the expense of his support in said school such support at the school shall be provided for by annual appropriations, at such per capita rates as shall be appropriated by the General Assembly, on the application of the trustees or managers, after submission of the same to and approval by the Department of Welfare.

Comment:—Epileptics:—see § 313 which provides for admission, by same procedures as those provided for admission of mental defectives.

(d) Transfer

SECTION 731. *Costs of Transfer.*—Whenever any patient is transferred under the provisions of this act, the cost of transfer or removal shall be paid by the patient, or by the persons liable for his support if the transfer was made at the request of such person. Otherwise the costs shall be paid out of the appropriations for the care, treatment, and removal of indigent patients made to the department.

Source:—§ 506, amended 1938, Sp. Ses., Oct. 11, P. L. 63.

SECTION 732. *Costs of Returning Non-Residents.*
—The actual expenses of returning a patient who is a non-

resident of the Commonwealth to the place of his residence shall include travel costs and sustenance during travel. All costs shall be paid by the Commonwealth.

Source:—Part of § 413.

The actual necessary expense of returning such patient shall be paid from the State Treasury by warrant drawn by the Auditor General on the State Treasurer, on account settled by the Auditor General.

(e) Leave of Absence and Discharge

SECTION 736. *Costs of Return, Leave of Absence.*

—Whenever the leave of absence of any patient is terminated by a superintendent, the costs incurred by any sheriff, constable or police officer in apprehending and returning the patient shall be paid by the person in whose charge the patient was allowed to leave. If such person is unable to pay the costs, they shall be paid by the person liable for the costs of care charged to the patient.

Source:—§ 407.

SECTION 737. *Payment of Traveling Expenses of Certain Patients Discharged.*—If any patient in an institution is ordered by the department to be discharged and such patient and the persons liable for his support are financially unable to pay the costs relating to discharge, the superintendent of the institution shall pay his traveling expenses to his home. The institution shall be reimbursed by the Commonwealth from current appropriations.

Source:—Second paragraph, § 508.

If such patient is in a State hospital and there is no estate of such patient, or person liable for his support who is able to pay therefor, and the patient is ordered by the department to be discharged, the authorities of such hospital shall pay the traveling expenses of such patient to his home; the amount of which payment shall be refunded and paid to such hospital from the appropriations for the indigent insane or mentally ill then current.

(f) Other Costs

SECTION 741. *Expenses of Extradition.*—If the application for the arrest of a patient escaped from any institution in this Commonwealth to another State is granted, and an agent is appointed for the purpose of returning the patient, the account of the agent shall be paid by the institution from which the patient escaped, but the Governor may direct the whole or any part of the account to be paid by the Commonwealth.

Source:—§ 411.

*Repealed
1951-2053* SECTION 742. *Costs of Habeas Corpus Proceedings.*—The respondent in any writ of habeas corpus shall be liable for the costs and charges of every habeas corpus proceeding instituted on behalf of any patient unless the court certifies that there were sufficient grounds for detaining the patient.

Source:—Clause (f), § 601.

ARTICLE VIII

MISCELLANEOUS PROVISIONS RELATING TO
PATIENTS AND INSTITUTIONS**(a) Patients**

1951-2053 SECTION 801. *Rights of Patient.*—Every patient in any institution shall have the right—

(1) To communicate with and to be alone at any interview with his counsel or representative of the department;

(2) To religious freedom, and to be visited by any minister of any religious denomination. Religious services

rendered by such minister shall be personal to the patient desiring the same, and shall not interfere with the established order of religious services in the institution;

(3) To be employed at a useful occupation in so far as the condition of the patient may permit, and the institution is able to furnish useful employment to the patient;

(4) In the discretion of the superintendent to sell articles, the product of his individual skill and labor, and the produce of any small individual plot of ground which may be assigned to and cultivated by him, and to keep or expend the proceeds thereof or send the same to his family;

(5) To be furnished with writing materials, and reasonable opportunity, in the discretion of the superintendent, for communicating, under seal, with any person outside of the institution. Communications shall be stamped and mailed;

(6) To be discharged as soon as he is restored to reason and competent to manage his own affairs;

(7) To be visited and examined, at all reasonable hours, by any medical practitioner designated by him, or by any member of his family or "near friend," with the sanction of a court of the county in which he resided prior to his commitment to such institution. With the consent of the patient and of the superintendent, the medical practitioner may attend the patient for all maladies, other than mental illness, in the same manner as if the patient were in his own home.

Source:—§ 601, as amended 1925, Apr. 27, P. L. 337.

801.1 add 1951-2053.

SECTION 802. *Habeas Corpus*.—(a) Any patient or person acting on his behalf may petition any court for a

writ of habeas corpus on the grounds that the patient is unjustly deprived of his liberty. The petition shall be in writing and shall be sworn to or affirmed.

(b) On the petition the court shall issue a writ of habeas corpus requiring the patient to be brought before the court for a public hearing where the question of his mental illness, mental deficiency, epilepsy or inebriety may be determined. The burden of proof shall rest upon the persons responsible for his admission or commitment.

Source:—Cf. Cl. (f), § 601, as amended 1925, April 27, P. L. 337.

§§ 3, and 11, 1869, April 20, P. L. 78.

On a written statement, properly sworn to or affirmed, being addressed by some respectable person to any law judge, that a certain person then confined in a hospital for the insane is not insane, and is thus unjustly deprived of his liberty, the judge shall issue a writ of habeas corpus, commanding that the said alleged lunatic be brought before him for a public hearing, where the question of his or her alleged lunacy may be determined, and where the onus of proving the said alleged lunatic to be insane shall rest upon such persons as are restraining him or her of his or her liberty.

That nothing in this act shall be construed so as to deprive any alleged lunatic or habitual drunkard of the benefit of the writ of habeas corpus or trial by jury, or any other remedy guaranteed to alleged lunatics or habitual drunkards by any existing laws or statutes of the Commonwealth of Pennsylvania.

SECTION 803. *Female Patients.*—(a) Whenever any female patient is to be removed to or from her home or any institution and whenever any such patient is transferred, she shall be accompanied by a female attendant, unless such patient is accompanied by a member of her family.

(b) The court committing such patient, or, if such patient has not been committed by the court, the persons liable for her support, shall provide a female attendant for her.

Source:—§ 602.

1951-2053

SECTION 804. *Employment of Patients.*—(a) All inmates of any institution which is wholly or in part maintained by the Commonwealth may make, manufacture, or produce supplies, manufactured articles, goods, and products for the institution or for the Commonwealth or for any political subdivision, or any State institution or any educational or charitable institution receiving aid from the Commonwealth.

(b) All the manufactured goods, manufactured in institutions, shall bear a stamp giving the full name or title of the institution wherein the goods were manufactured.

(c) Supplies, manufactured articles, goods, and products so made, manufactured or produced, may be sold or exchanged to or with the Commonwealth or any political subdivision, or any State institution or any educational or charitable institution receiving aid from the Commonwealth. In the case of State institutions, the proceeds of any sales of products shall be collected by the Department of Revenue to be by it transmitted to the State Treasurer. Each board of trustees shall keep an accurate record of the dates, quantities, and prices of all sales made hereunder, which record shall at all times be subject to examination and audit by the Auditor General.

(d) Any trustee or superintendent or other person connected with the management or control of any institution who violates any of the provisions of this section by permitting any supplies, manufactured articles, goods or products to be sold or exchanged in any other way except as herein provided, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine of not more than five hundred dollars (\$500.00).

Source:—§§ 1 to 4, 1907, May 28, P. L. 290 as amended.

Repealed
1957-2053

SECTION 805. *Effect of Admission, etc. to United States Veterans' Hospital.*—Any veteran, after admission to a United States Veterans' Hospital, either upon commitment or transfer under the provisions of this act, shall be subject to the rules and regulations of such hospital. The chief officers thereof, or of any similar United States Veterans' Hospital to which the veteran may thereafter be transferred, shall be vested with the same powers authorized by law to be exercised by a superintendent in this Commonwealth, with reference to retention of custody, or of discharge of the veteran so committed or transferred. Any discharge, granted by such chief officer, upon a certificate of sanity, shall have the same effect as that granted by a superintendent or by the department under the provisions of this act.

Source:—§ 509, added 1929, April 23, P. L. 635.

(b) Officers of Institutions

1951-2053
1959-1394

SECTION 811. *Statement of Officer of Institution as to Condition of Patient.*—Whenever the superintendent, or any physician, or psychiatrist of any State-owned mental hospital or manager of a veterans' administration hospital is required to appear and testify before any court or commission issued out of such court in a civil proceeding relating to the mental condition of any patient in his charge in such hospital, the deposition of, or sworn statement by such superintendent, manager, physician or psychiatrist may be admissible in evidence as to the condition of the patient, in lieu of the appearance and testimony of the superintendent, manager, physician or psychiatrist in court, or before a commission, unless by special order, the court directs and requires the appearance and testimony in person of such superintendent, manager, physician or psychiatrist.

Source:—§ 1, 1947, May 23, P. L. 293, amended 1949, May 17, P. L. 1409.

SECTION 812. *Payment of Cash Balance to Patient at Discharge.*—Upon discharge from an institution the superintendent shall determine whether any balance to the credit of a patient shall be immediately paid over to the discharged patient or his guardian, or shall be held in trust by the treasurer of the institution until such time as, in the judgment of the department, it would serve the best interests of the patient to pay to him or to his guardian the balance or any part thereof.

Source:—§ 626, added 1927, April 27, P. L. 431.

(c) Penalties

SECTION 821. *Penalty for Furnishing Liquor.*—Any person who delivers or causes to be delivered any alcoholic or other intoxicating or narcotic substance to any patient in any institution or psychopathic department or ward of a general hospital without the knowledge and consent of the superintendent thereof is guilty of a misdemeanor and upon conviction thereof shall be sentenced to pay a fine not to exceed fifty dollars (\$50.00) or to undergo imprisonment not to exceed three months, or both.

Source:—Part of § 702, as amended, 1931, April 24, P. L. 47.

SECTION 822. *Penalty for Furnishing Weapons.*—Any person who, directly or indirectly, sells, gives or furnishes to any patient in any institution any weapon or other instrument which may be used to injure any person in such institution is guilty of a felony and upon conviction thereof shall be sentenced to pay a fine not to exceed one thousand dollars (\$1,000.00), or to undergo imprisonment not to exceed five years, or both.

Source:—Part of § 702, as amended 1931, April 24, P. L. 47.

If any person shall aid or assist any mental patient lawfully admitted to any mental hospital to make, or attempt to make, his escape therefrom,

or shall connive in any way at such escape, or attempt at escape, although no escape has actually been made; or if any person shall deliver, or cause to be delivered, or in any way connive at the delivery, of any alcoholic or other intoxicating or narcotic substance to any mental patient in any mental hospital or psychopathic department or ward of a general hospital; without the knowledge and consent of the physician in charge thereof,—such person shall be deemed guilty of a misdemeanor, and, upon conviction in the proper court, be subject to a fine of not more than fifty dollars, or imprisonment for not more than three months, or both, at the discretion of the court.

If any person shall sell, give or furnish, either directly or indirectly, any weapon or other implement to any mental patient in any mental hospital, which may be used to injure any person or any mental patient in a mental hospital, or which may be used to assist any mental patient to escape from such mental hospital; or if any person shall bring any such weapon or other implement into any mental hospital or dispose of the same in such a manner or in such a place that it may be secured by any mental patient in the mental hospital,—he or she shall be guilty of a felony and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand dollars, or undergo imprisonment not exceeding five years, or both, at the discretion of the court.

823 add 1951-2053

824 n. 1951-2053

ARTICLE IX

GUARDIAN OF THE PERSON

Comment:—The remaining material in the compilation of the laws relating to mental health deals with the care of the person and estate of mental patients. By and large this material boils down to three acts and their amendments, supplements and related acts, namely:

(1) 1836, June 13, P. L. 369, relating to lunatics and habitual drunkards, provisions for finding them such, and appointment, etc., of committees of their person and estate, and governing the control of their persons and estates.

(2) and (3) 1907, May 28, P. L. 292, and April 27, 1909, P. L. 185, the former relating to appointment, etc., of guardians for resident weak-minded persons, the latter for non-residents, and governing the control of their estates.

For the purposes of this draft, the above laws have been considered and included only in so far as the appointment, etc., of a guardian of the person is concerned for the reason that the subcommittee on Decedents' Estates Laws of the Joint State Government Commission is preparing a report recommending legislation governing the administration and distribution of incompetents' estates in the orphans' court, which will include most of the subject matter of the 1836, 1907 and 1909 acts. The acts, for the most part, govern guardians of the estates of incompetents,

In order to avoid duplication in this field, the subcommittee on Mental Health Laws is not submitting any draft of this subject matter. The material relating to guardian of the person has been so drafted as to be as similar as possible in approach to the text dealing with guardians of the estate submitted by the subcommittee on Decedents' Estates Laws. The 1836, 1907 and 1909 acts are inconsistent and confusing and a single system for all cases is recommended.

The material in this Article, Guardian of the Person, is based on or covers substantially the same ground, in so far as the person of a patient is concerned, and replaces the acts of

1836, June 13, P. L. 589, §§ 1-19, 42, 63-67.

1851, April 15, P. L. 713.

1897, July 15, P. L. 301, No. 234.

1849, April 16, P. L. 663.

1897, June 10, P. L. 138, No. 114.

1874, May 8, P. L. 122, No. 55.

1897, June 10, P. L. 137.

See also the report of the Joint State Government Commission's subcommittee on Decedents' Estate Laws, concerning estates of incompetents.

(a) Appointment

SECTION 901. *Petition for Appointment of a Guardian of the Person.*—(a) When any person domiciled in this Commonwealth is or is thought to be mentally ill, mentally defective, epileptic or inebriate, any of his relatives by blood or marriage or other responsible person may petition the court of common pleas of the county of his residence for the appointment of a guardian of the person for him in the interest of his safety and well-being.

Source:—Cf. §§ 1-4 and 7, 1836, June 13, P. L. 589; 1851, April 15, P. L. 713; 1897, July 15, P. L. 301.

§ 1. It shall be lawful for any court of Common Pleas of this commonwealth, to issue a commission, in the nature of a writ de lunatico inquirendo, as heretofore practised and allowed, to inquire into the lunacy or habitual drunkenness of any person being within this commonwealth, or having real or personal estate therein.

§ 2. The jurisdiction aforesaid, shall be exercised as follows, viz:

I. If any person alleged to be a lunatic or habitual drunkard, shall reside within the commonwealth, such commission shall be issued by the

court of the county in which he shall reside, and shall be executed therein: Provided, That if an alleged lunatic shall be under restraint, in any place within this commonwealth, out of the county of his residence, and it shall be made to appear to the satisfaction of the court of such county, that such person cannot conveniently be removed to the place of his residence, such commission may be executed in the county where such person may be so restrained.

II. If such alleged lunatic or habitual drunkard shall not have any residence within this commonwealth, such commission may be issued by the court of the county in which he may be, and shall be executed therein.

III. If any inhabitant of this commonwealth shall be absent therefrom, such commission may be issued by the court of the county in which his last place of residence was, or in which he may have any real estate, and shall be executed therein.

§ 3. The commission aforesaid, shall be made according to the following form, viz:

The Commonwealth of Pennsylvania, to
Greetings:

Whereas, we have been informed in our court, (.....) that, of the county of, now is a lunatic, (or habitual drunkard, as the case may be,) and we, being willing to be more fully satisfied of the state of the said in the premises, have appointed, and do hereby appoint, authorize, and command you, (or any two of you, if the commission be directed to three or more,) that at such certain day and place as you (or any two of you) shall think fit, you diligently inquire, by the oaths or affirmations of six good and lawful men of the county of, by whom the truth of the matter may be better known, whether the said is a lunatic (or habitual drunkard, as the case may be) or not, and if you find him to be a lunatic, then how long he hath been so, and if he enjoys lucid intervals, and what lands and tenements, goods and chattels he was seized or possessed of, or entitled to, at the time of his becoming a lunatic, and the value thereof, and whether he hath since aliened or disposed of them, or any part thereof, and to whom; (or in the case of an alleged habitual drunkard, if you find him to be so, what lands and tenements, goods and chattels he is seized or possessed of, and how much the said lands and tenements are worth by the year, and what is the value of the same goods and chattels,) and how old he is, and who are his heirs, or next of kin, and the ages of the said heirs or next of kin, respectively.

And for the purpose aforesaid, we do authorize and empower you (or any two of you) to issue, under your hand and seal, (or the hands and seals of any two of you,) all such writs of venire, subpoena, and habeas corpus, as to you (or any two of you) shall seem necessary and proper, and to enforce obedience to the same, and to all necessary orders and rules in the premises, as fully as our said court may lawfully do; and the inquisition

so to be made, you are to return to our said court, on or before the
of next, under your hand and seal, (or the hands
and seals of any two of you,) and the hands and seals of those by
whom you shall make that inquisition, and this commission; Witness
..... president, (or as the case may be,) of our
said court, at, the day of
....., A. D. 18....

Prothonotary.

§ 4. No commission shall be issued for any purpose as aforesaid, ex-
cept upon the application in writing, of a relation by blood or marriage, of
the person therein named, or of a person interested in his estate. Nor,
unless such application be accompanied by affidavits of the truth of the
facts therein stated.

§ 7, 1851, April 15, P. L. 713:

When an alleged lunatic or habitual drunkard has no relative by blood
or marriage residing within this Commonwealth, it shall be lawful for any
disinterested person of the same township, ward, or borough of the county in
which such supposed lunatic or habitual drunkard resides, to make applica-
tion to the Court of Common Pleas of said county in writing for a com-
mission to issue to inquire into the lunacy or drunkenness of such person
as is now provided by law when the application is made by a relation by
blood or marriage of such supposed lunatic or habitual drunkard, or by a
person interested in his estate.

§ 1, 1897, July 15, P. L. 301:

When an alleged lunatic or habitual drunkard is an inmate of any
soldiers' and sailors' home, almshouse, home for the friendless, or other
charitable institution in this Commonwealth, it shall be lawful for the
commander, superintendent, president or other officer in charge of any such
institution, to make application in writing to the court of common pleas of
the county in which said soldiers' and sailors' home, almshouse, home for
the friendless, or other charitable institution is located, with notice to his
next of kin, or to such other person and in such manner as the court may
direct, for a commission to inquire into the lunacy or habitual drunkenness
of any such inmate in the manner now provided by law when an application
is made by a relative by blood or marriage of such supposed lunatic or
habitual drunkard, or by a person interested in his estate: Provided, That in
all cases where the person declared to be a lunatic or an habitual drunkard
was a Union soldier or sailor in the war of the rebellion, the court shall,
if possible, appoint as the committee of such person one who was also a
Union soldier or sailor in said war.

(b) Upon receipt of any petition, after notice to the
person alleged to be mentally ill, mentally defective, epilep-

tic or inebriate and to such other persons as the court may direct, the court shall set a day for a hearing.

Source:—§ 6, 1836, June 13, P. L. 589.

It shall be the duty of the court, at the time of granting any application as aforesaid, to make such order respecting notice of the execution of the commission to the party, with respect to whom such commission shall be issued, or to some of his near relations or friends, who are not concerned in the application, as the said court shall deem advisable.

1957-2053 (c) The person for whom the guardian is requested shall be present at the hearing, unless the court is satisfied by the presentation of positive testimony that he cannot be brought into court with safety to himself.

Comment:—Cf: §§ 327 (c), 328 (a) (b) of this draft.

1957-2053 SECTION 902. *Jury Trial on Request.*—Any person in whose interest a proceeding for the appointment of a guardian of the person has been taken shall be entitled to a trial by a jury on the fact of his alleged mental illness, mental defectiveness, epilepsy or inebriety.

Source:—Cf. §§ 5, 7, 8 and 12, 1836, June 13, P. L. 589; §§ 1 and 2, 1874, May 8, P. L. 122, Act No. 55; and § 1, 1897, June 10, P. L. 137.

§ 5. It shall be lawful for the court to cause any such commission as aforesaid, to be directed or addressed to any one or more person or persons, who shall have the same powers heretofore possessed by the three, or more, commissioners in such commission named, and the inquisition made thereon by such one or more commissioners, shall be good and valid, to all intents and purposes, as if such commission had been directed or addressed to, and the inquisition returned by three or more commissioners, as heretofore.

§ 7. It shall be lawful for the commissioner or commissioners as aforesaid, in their venire to the sheriff, to require him to summon such number of persons, not less than six, nor more than twelve, upon the inquest, as the circumstances of the case may seem to them to require.

§ 8. It shall be lawful for any court of Common Pleas, if they shall be satisfied upon such application, that the party with respect to whom the proceedings are instituted, has no estate, or that his estate is so small, that the costs of the inquisition will be found an undue burthen, to direct an inquest to be impanelled, from the jurors attending the court, and that the inquisition be held by one of the judges of the court, at such convenient time and

place as shall be ordered by the said court, and the inquisition so made, shall have the like force and effect as an inquisition held by commissioners, as aforesaid.

§ 12. Every person aggrieved by any inquisition as aforesaid, may traverse the same, upon or after the return of the same, and proceed to trial thereon, and have like remedy and advantage as in other cases of traverse upon untrue inquisitions, or office found.

1874, May 8, P. L. 122:

§ 1. Every person aggrieved by any inquisition of lunacy or habitual drunkenness, may traverse the same upon or after the return of the same, and proceed to trial thereon, and have like remedy and advantage as in other cases of traverse upon untrue inquisitions found: Provided, That such traverse shall be filed in the prothonotary's office of the court in which said inquisition is found, within three months after return of the same.

§ 2. Every person having or who shall hereafter have right to traverse any such inquisition as aforesaid, within the time hereinbefore limited, and applicable to his or her case, shall be and are hereby absolutely barred of such right of traverse, unless the said court shall, under the special circumstances of the case think fit, upon a petition being presented to them for that purpose, to allow such traverse to be had or tried after the time by this act limited, in all which special cases it shall be lawful for the said court to make such orders as to them shall seem just.

1897, June 10, P. L. 137:

§ 1. In all lunacy cases now pending or which may hereafter be brought before any court in this Commonwealth, where the issue joined is to try the sanity or insanity of the alleged lunatic who has traversed the finding of a sheriff's jury returning him, a lunatic, that it shall be the duty of the prothonotaries in the said courts preparing the lists of civil cases to place all such lunacy cases first on the lists, and the courts shall proceed to try all the said cases giving them preference as they occur on the list: Providing however, That the said preference given in this act over all other cases to be tried during the terms of said courts shall not interfere with former laws already granting priority of trial to certain cases.

SECTION 903. *Appointment of Guardian; Exclu-*¹⁹⁵⁷⁻₂₀₅₃
siveness.—(a) If the court finds after hearing or trial that the appointment of a guardian of the person is necessary for the safety and well-being of the person in whose interest the petition has been presented, it shall appoint such guardian.

Source:—Cf. §§ 14 and 16, 1836, June 13, P. L. 589. § 16, as last amended, 1917, May 18, P. L. 254.

§ 14. On the return of any inquisition as aforesaid, finding that the person therein named is a lunatic or habitual drunkard, it shall be lawful

for the court to commit the custody and care of the person or estate, or both, of such lunatic or habitual drunkard, to such person or persons as they shall deem most suitable, according to the rules heretofore practised and allowed.

§ 16. The finding of a person to be a lunatic or habitual drunkard as aforesaid, in any court of common pleas of this Commonwealth having jurisdiction as aforesaid, and the appointment of a committee by the same authority, shall have (subject to the proviso hereinafter stated) the like effect in every other county in this Commonwealth as in that in which the said proceedings took place: Provided always, nevertheless, That it shall be the duty of the petitioner for the commission in lunacy, within thirty days after the filing of the report of the commissioner or commissioners, finding the alleged lunatic or habitual drunkard to be a lunatic or habitual drunkard, to cause a certified copy of said report of the commissioner or commissioners, together with the decree or order of the court confirming said report, to be filed and indexed (in the same manner as though it were an original proceeding) in the court of common pleas of every other county of this Commonwealth, in which is situate any real estate the title to which may be affected by the findings contained in said report, and unless the same be so filed and indexed, as aforesaid, within the time aforesaid, the record and record papers of such proceeding shall not be evidence in any court of this Commonwealth of any matter or thing in any proceeding, either at law or in equity, touching or concerning the title to any real estate situate in any county or counties in this Commonwealth in which such certified copy of such report has not been filed and indexed as aforesaid. This proviso to be limited to the lands and tenements found by the report of the commissioner or commissioners made in obedience to the mandate of the third section of the act, approved June thirteenth, one thousand eight hundred and thirty-six, to be property of the alleged lunatic or habitual drunkard: Provided, however, That if any such report shall have been filed prior to the tenth day of June, one thousand nine hundred and eleven, a certified copy thereof, together with the decree or order of the court confirming said report, may, at any time within sixty days from and after the passage of this act, be filed and indexed in the manner hereinbefore provided, with the same force and effect as if the report of the finding aforesaid had been filed subsequent to the tenth day of June, one thousand nine hundred and eleven: Provided, also, That if any such report shall have been filed, in any proceeding, since the tenth day of June, one thousand nine hundred and eleven, and a certified copy thereof, together with the decree or order of the court confirming said report, shall not have been filed within thirty days thereafter in every county in which the title of the real estate of the said lunatic or habitual drunkard is hereby affected, certified copies of the same may be filed and indexed in the respective counties where the said real estate is situate, at any time within sixty days after the passage of this act, with the same force and effect as if the said report and order, or decree, had been filed within the said period of thirty

days: Provided further, that all deeds, mortgages, or other instruments in writing, affecting the real estate of such lunatic or habitual drunkard, which are defective in respect to acknowledgment, or by reason of failure, of compliance with the requirements of the acts aforesaid, are hereby validated and made good in law.

(b) When a court has appointed a guardian of the person in accordance with this act, no other court shall appoint a similar guardian within the Commonwealth.

Source: § 17, 1836, June 13, P. L. 589.

The appointment of any committee, guardian, trustee or the like, by any authority out of this commonwealth, shall not authorize the person so appointed, to control the person or estate of any lunatic or habitual drunkard resident within this commonwealth, or to interfere with the real estate, situate within this commonwealth, of any lunatic or habitual drunkard, whether resident within this commonwealth, or otherwise.

SECTION 904. *Guardian for Non-Resident.*—In the case of a person residing out of this Commonwealth, and found or proved to be mentally ill, mentally defective, epileptic or inebriate, according to the laws of the place in which he resides, the court of common pleas of any county may admit authenticated copies of the proceedings in such case as sufficient proof for the appointment of a guardian of the person for him in this Commonwealth.

Source:—§ 18, 1836, June 13, P. L. 589.

SECTION 905. *Qualifications for Appointment as Guardian.*—The court shall not appoint any natural person as guardian of the person who is less than twenty-one years of age, or who is not qualified to have the care and custody of the ward. Any institution maintaining or having the care and custody of the patient may be appointed guardian of the person.

Source:—Cf. §§ 13 and 14, 1836, June 13, P. L. 589.

(b) Removal, Discharge

SECTION 911. *Grounds for Removal.*—The appointing court shall have exclusive power to remove a guardian of the person when he:

(1) Has failed to perform any duty imposed by law; or

(2) Has been adjudged mentally ill, mentally deficient, inebriate or epileptic; or

(3) Has become incompetent to discharge the duties of his office because of sickness or physical or mental incapacity; or

(4) Has removed from the Commonwealth or has ceased to have a known place of residence therein; or

(5) When, for any other reason, the interests of the person for whom he has been appointed guardian, are likely to be jeopardized by his continuance in office.

Source:—Cf. § 311, Fiduciaries Act of 1949.

§ 43, 1836, June 13, P. L. 589, (see under § 913, this draft).

SECTION 912. *Removal of Guardian.*—The court on its own motion may, and on the petition of any interested person alleging adequate grounds for removal shall order the guardian to appear and show cause why he should not be removed, or when necessary to protect the ward, may summarily remove him. Upon removal, the court may appoint a new guardian of the person for the ward. Any guardian summarily removed may apply by petition to have the decree of removal vacated and to be reinstated and if the

court vacates the decree of removal and reinstates him, it shall make any orders appropriate to accomplish the reinstatement.

Source:—Cf. § 332, Fiduciaries Act of 1949.

§ 43, 1836, June 13, P. L. 589, (see under § 913, this draft).

SECTION 913. *Discharge of Guardian.*—The appointing court shall have exclusive power to discharge, by appropriate order, any guardian of the person upon petition of and proof by the ward that he is no longer mentally ill, mentally defective, epileptic or inebriate.

Source:—§§ 43 and 63, 1836, June 13, P. L. 589, § 63, amended, 1897, June 15, P. L. 162.

§ 43. The several courts of Common Pleas, and the judges thereof respectively, shall have the like power and authority in respect to the control, removal, dismissal, and discharge of committees of the person or estate of any person found by inquisition to be a lunatic or habitual drunkard, as are now possessed by the several Orphans' Courts, and the judges thereof, in respect to guardians or minors.

§ 63. It shall be the duty of the court to which any inquisition shall have been returned, or of any court of common pleas of the county in which any alleged lunatic or habitual drunkard shall be confined or detained, or be under any restraint whatever, as an alleged lunatic or habitual drunkard, on petition of such alleged lunatic or habitual drunkard, as the case may be, setting forth that he is restored to a sound state of mind, or is now of a sound state of mind, or that he is reformed and become habitually sober, and that he demands a jury trial, to make such order respecting notice as to the said court may be advisable, and to award an issue framed to determine the question of fact involved, wherein the petitioner shall be plaintiff, and the committee of the person and estate of the petitioner, or the party or parties holding the petitioner in confinement or under restraint or under detention, shall be defendant or defendants; and such trial shall be had according to the course of the common law, and the verdict, if in favor of the petitioner, shall be conclusive; and it shall be the duty of the court to enter judgment on the verdict and to make an order setting the petitioner at liberty, and restoring to him his property, but if the verdict shall be against the petitioner, it shall be advisory only. If however, the petitioner shall not demand a jury trial, then it shall be the duty of the court to take proofs of the facts, and if satisfied of the truth of the allegations in such petition, to make an order where an inquisition shall have been returned as aforesaid, that the commission issued in such case, and the

inquisition taken thereon, and the appointment of committee, and all proceedings relating thereto be suspended or altogether superseded and determined, as the court shall decide; and the court shall have power in all cases to make an order setting the petitioner at liberty and restoring to him his property, and it shall be the duty of the court in every such trial to direct who shall pay the costs thereof, or to apportion said cost between the parties to the issue as the justice of the case shall require, and to order and direct payment accordingly: Provided, That nothing in this act shall be so construed as taking away the right of appeal as at common law.

(c) Duties and Authority of Guardian

SECTION 916. *Orders for Care and Custody.*—When a court of common pleas has appointed a guardian of the person for any one found to be mentally ill, mentally defective, epileptic or inebriate, it may make and modify such orders for his care and custody as it deems necessary.

Source:—§ 13, 1836, June 13, P. L. 589.

It shall be lawful for the court after the return of the inquisition as aforesaid, notwithstanding any traverse of the same that may be pending, to make such orders touching the care and custody of the person, and the management and safe keeping of the estate of any person, so found to be a lunatic or habitual drunkard, as they shall think necessary and proper.

SECTION 917. *Filing of Inventory.*—(a) If no guardian of the estate has been appointed for the ward, the guardian of the person within forty days of his appointment, shall file in the office of the prothonotary an inventory, complete to his knowledge, of all the property of the ward, and shall file a supplemental inventory for any property which afterwards comes into his possession.

(b) A foreign guardian of the person shall file an inventory of the property of the ward within this Commonwealth.

Source:—§ 19, 1836, June 13, P. L. 589.

It shall be the duty of every such committee, within forty days after he shall have undertaken the trust, to file, in the office of Prothonotary of

the court having jurisdiction, as aforesaid, a just and true inventory of all the personal estate belonging to the lunatic or habitual drunkard, so far as the same had come to his possession or knowledge, together with a statement of the real estate, and within forty days after any other personal or real estate shall have come to his possession or knowledge, it shall be his duty to file an additional or supplemental inventory or statement, containing the same: Provided, That in case of the committee of a person found to be a lunatic or habitual drunkard, by any authority out of this commonwealth, such inventory and statement may be of the real and personal estate, within this commonwealth, of such lunatic or habitual drunkard.

SECTION 918. *Filing Account.*—Whenever a guardian of the person is appointed separately from a guardian of the estate for a person mentally ill, mentally deficient, epileptic, or inebriate, he shall settle an account of his transactions as such in the office of the prothonotary whenever the appointing court so orders.

Source:—§ 42, 1836, June 13, P. L. 589.

In every case in which a committee of the person of a lunatic or habitual drunkard, shall be appointed separately from a committee of the estate, such committee of the person shall settle an account of his transactions as such, in the office of the prothonotary, as aforesaid, whenever so required by the court.

Comment:—Cf. § 41, 1836, June 13, P. L. 589.

(d) Costs

SECTION 921. *Costs of Proceedings for Appointment, etc. of Guardian of the Person.*—(a) In every proceeding for the appointment of a guardian of the person under this act, the appointing court shall order payment of the costs of such proceeding by any of the interested parties in such proportions as it may direct.

Source:—§ 2, 1849, April 16, P. L. 663.

It shall be the duty of the court of common pleas out of which any commission, in the nature of a writ de lunatico inquirendo to inquire into the lunacy or habitual drunkenness of any person within this commonwealth, shall hereafter issue, to decide and direct who shall pay all costs attendant

upon the issuing and execution of said commission, or to apportion said costs and the payment of them among the parties interested, in such proportions as the justice of the case may require, and to order and decree payment accordingly; the witnesses before any commissioner in such case shall be allowed the same fees and mileage as if attending as witnesses in said court.

(b) Whenever in such a proceeding the court finds the petition for a guardian of the person unfounded or unnecessary, it shall order payment of all costs by the petitioner.

Source:—§ 9, 1836, June 13, P. L. 589.

If upon such inquisition, it shall be found that the party with respect to whom the application was made is not a lunatic or habitual drunkard, and it shall appear to the judge holding such inquisition, that there was not probable cause for such application, he shall ceterify the same on such inquisition, and thereupon, the party by whom such application was made, shall be liable for the costs of the proceeding, in like manner as prosecutors in criminal cases, when directed by the jury to pay the costs of prosecution.

* * * * *

ARTICLE X

REPEALS

SECTION 1001. *Specific Repeals.*—The following acts and parts of acts and all amendments and reenactments thereof are hereby repealed to the extent hereinafter specified:

(1) Acts relating to mental health generally:

Sections three, seven, ten and eleven of the act, approved the twentieth day of April, one thousand eight hundred sixty-nine (Pamphlet Laws 78), entitled "An act to provide for the admission of certain classes of the insane into hospitals for the insane in this Commonwealth, and their discharge therefrom," absolutely.

1869

The act, approved the twenty-seventh day of April, one thousand eight hundred seventy-four, (Pamphlet Laws 114), entitled "An act to make appropriations for the Pennsylvania State Lunatic Hospital at Harrisburg," absolutely. 1874

The act, approved the twenty-third day of March, one thousand eight hundred seventy-six (Pamphlet Laws 8), entitled "A further supplement to an act to provide for the admission of certain classes of the insane into hospitals for the insane in this Commonwealth, and their discharge therefrom, approved April twentieth, Anno Domini one thousand eight hundred and sixty-nine," absolutely. 1876 1869

The act, approved the eighth day of May, one thousand eight hundred eighty-nine (Pamphlet Laws 127), entitled "A supplement to the act of April twentieth, one thousand eight hundred and sixty-nine, entitled 'An act to provide for the admission of certain classes of the insane into hospitals for the insane in this Commonwealth, and their discharge therefrom,' fixing the amount of compensation to be paid to the commissioners appointed under section six of said act, and declaring who shall be liable therefor, and for the costs of proceedings under said section," absolutely. 1889

The act, approved the twenty-first day of May, one thousand eight hundred eighty-nine (Pamphlet Laws 258), entitled "A supplement to an act, 'to provide for the care and treatment of the indigent insane of the several counties of the Commonwealth, in State hospitals for the insane,' approved the thirteenth day of June, Anno Domini one thousand eight hundred and eighty-three," absolutely. 1889 1883

1895 The act, approved the twenty-fifth day of June, one thousand eight hundred ninety-five, (Pamphlet Laws 270), entitled "An act to define who shall be responsible for the maintenance of patients placed in hospitals for the insane by courts and judges in the different counties of this Commonwealth," absolutely.

1901 Sections two and three of the act, approved the eighteenth day of July, one thousand nine hundred one, (Pamphlet Laws 674) entitled "An act to carry out the provisions of acts of Assembly relating to the care and treatment of the indigent insane, approved the thirteenth day of June, one thousand eight hundred and eighty-three, and the twenty-second day of June, one thousand eight hundred and ninety-one, and the twenty-sixth day of June, one thousand eight hundred and ninety-five, and the twenty-fifth day of May, one thousand eight hundred and ninety-seven, and the tenth day of May, one thousand eight hundred and ninety-nine, and making an appropriation therefor; and providing for an additional appropriation for the care and detention of chronic insane, under the provisions of the act approved the twenty-second day of June, one thousand eight hundred and ninety-one, during the two fiscal years beginning June first, one thousand nine hundred and one," absolutely.

1903 The act, approved the sixteenth day of April, one thousand nine hundred three (Pamphlet Laws 211), entitled "An act to authorize and provide for the commitment of persons habitually addicted to the use of alcoholic drink or intoxicating drugs to a proper hospital or asylum, for restraint, care and treatment," absolutely.

The act, approved the twenty-eighth day of May, one thousand nine hundred seven (Pamphlet Laws 290), entitled "An act to provide for the employment of the insane, feeble-minded, and epileptic persons confined in institutions, wholly or in part maintained by the State, for the care and treatment of the insane, feeble-minded, and epileptic persons; and providing for the distribution of the supplies, manufactured articles, goods, and products made in State institutions for the care of the insane, feeble-minded, and epileptic persons," absolutely. 1907

The act approved, the twentieth day of June, one thousand nine hundred eleven (Pamphlet Laws 1076), entitled "An act permitting in certain cases imposition of costs upon the proper county, in proceedings for the commitment of an alleged insane person," absolutely. 1911

The act approved, the twenty-fifth day of July, one thousand nine hundred thirteen, (Pamphlet Laws 1306), entitled "An act to provide for the selection of a site and the erection of a State institution for the detention, care and treatment of inebriates, or persons habitually addicted to the use of alcoholic drink or intoxicating drugs, to be called the State Institution for Inebriates, and making an appropriation therefor," absolutely. 1913

Sections one through six and section eight of the act, approved the fourteenth day of April, one thousand nine hundred fifteen, (Pamphlet Laws 120) entitled "An act relating to persons habitually addicted to the use of alcohol or drugs, and providing for the care and treatment of such persons at the expense of the county and State, if indigent," absolutely. 1915

1915 The act, approved the first day of June, one thousand nine hundred fifteen (Pamphlet Laws 661), entitled "An act relating to the maintenance of insane, feeble-minded, and other persons, confined in the various institutions of the Commonwealth; fixing liability for their support; providing for the collection of the moneys due the Commonwealth therefor, and for proceedings relating thereto," in so far as inconsistent with the provisions of this act.

1917 The act, approved the twenty-sixth day of April, one thousand nine hundred seventeen, (Pamphlet Laws 106), entitled "An act authorizing trustees of the insane, or directors or overseers of the poor, to provide a building or rooms for the care, treatment, and maintenance of persons temporarily mentally deranged," absolutely.

1917 Section two of the act, approved the twenty-fifth day of July, one thousand nine hundred seventeen, (Pamphlet Laws 1212), entitled "A supplement to an act approved the twenty-fifth day of July, one thousand nine hundred and thirteen, entitled 'An act to provide for the selection of a site and the erection of a State institution for the detention, care, and treatment of inebriates, or persons habitually addicted to the use of alcoholic drink or intoxicating drugs, to be called the State Institution for Inebriates, and making an appropriation therefor;' making an appropriation, and providing for the admission of patients to said institution and providing for the payment of the costs and fees of hearings and of maintenance of patients by the respective counties," absolutely.

The act, approved the eleventh day of July, one thousand nine hundred twenty-three (Pamphlet Laws 998), entitled "An act for the prevention and treatment of mental diseases, mental defect, epilepsy, and inebriety; regulating the admission and commitment of mental patients to hospitals for mental diseases and institutions for mental defectives and epileptics; governing the transfer, discharge, interstate rendition, and deportation of mental patients; providing for the payment by individuals, counties, or the Commonwealth of the cost of the admission, care and discharge of mental patients; and imposing penalties," absolutely. 1923

The act, approved the eleventh day of April, one thousand nine hundred twenty-nine (Pamphlet Laws 487), entitled "An act authorizing the Department of Welfare to determine the legal residence of indigent, insane, feeble-minded and epileptic persons, returned to this Commonwealth by the authorities of another State or transferred from one poor district to another by the department, and requiring the proper district to pay the costs of the care and treatment of such persons in accordance with the laws relating to indigent insane persons," absolutely. 1929

The act, approved the twenty-sixth day of March, one thousand nine hundred thirty-one (Pamphlet Laws 8), entitled "An act empowering courts to order the release of criminal insane for deportation by the United States," absolutely. 1931

The act, approved the second day of May, one thousand nine hundred thirty-three, (Pamphlet Laws 224), entitled "An act providing for the deferring of 1933

sentences in certain cases pending the mental examination of defendants; authorizing trial judges to require psychiatrists employed by the Department of Welfare or county or State mental hospitals to examine certain such defendants without additional compensation, except expenses payable by counties; providing for the commitment of defendants to certain institutions where the reports show the same to be advisable; and providing for the payment by individuals, counties, or the Commonwealth of the cost of admission, care and discharge of such defendants," absolutely.

1935- The act, approved the fifteenth day of July, one thousand nine hundred thirty-five (Pamphlet Laws 1005), entitled "An act requiring authorities in charge of State, State-aid, or county institutions, offering treatment to mental patients, to furnish certain information to the Department of Military Affairs," absolutely.

1938 Sections 2 through 8.1 inclusive of the act, approved the twenty-ninth day of September, one thousand nine hundred thirty-eight, (Pamphlet Laws 53), entitled "An act relating to institutions of counties, cities and institution districts for the care, maintenance and treatment of mental patients; providing for the transfer of such institutions to the Commonwealth; providing for the management and operation or closing and abandonment thereof, and the maintenance of mental patients therein, including the collection of maintenance in certain cases; providing for the retransfer of certain property to institution districts under certain circumstances; conferring and imposing upon the Governor, the Department of Welfare, the courts of common pleas and counties, cities, and institution dis-

tricts certain powers and duties; prohibiting cities, counties and institution districts from maintaining and operating institutions, in whole or in part, for the care and treatment of mental patients; and repealing inconsistent laws," absolutely.

The act, approved the eighteenth day of May, one thousand nine hundred forty-five (Pamphlet Laws 815),¹⁹⁴⁵ entitled "An act authorizing the Department of Welfare, with the approval of the Governor, to establish additional institutions or to relocate present institutions for the care and treatment of persons afflicted with mental disorders, or for the detention of persons sentenced by the courts; authorizing the Department of Property and Supplies to acquire by purchase or condemnation certain sites for such institutions and to improve or erect buildings thereon; providing for the administration of, relocated or new institutions; and empowering the Board of Commissioners of Public Grounds and Buildings to dispose of institutions no longer used," in so far as it relates to institutions for the care of persons afflicted with mental disorders.

The act, approved the twenty-ninth day of May, one thousand nine hundred forty-five (Pamphlet Laws 1190),¹⁹⁴⁵ entitled "An act authorizing the transferring to the Commonwealth of the properties and possessions of corporations formed for the support of a hospital for the insane, and the disposition of unexpended moneys theretofore appropriated to such corporations," absolutely.

The act, approved the twenty-third day of May, one thousand nine hundred forty-seven, (Pamphlet Laws 293),¹⁹⁴⁷ entitled "An act permitting certain per-

sonnel of State-owned mental hospitals to certify as to the condition of mental patients in lieu of attendance in person before any court in certain cases," absolutely.

(2) Acts relating to the appointment, etc. of a guardian of the person for persons mentally ill, mentally defective, epileptic or inebriate:

1836
Sections one through fourteen, sixteen through nineteen, forty-one, forty-two and sixty-three through sixty-seven, of the act, approved the thirteenth day of June, one thousand eight hundred thirty-six (Pamphlet Laws 589), entitled "An act relating to lunatics and habitual drunkards," in so far as inconsistent with the provisions of this act.

1849
Section 2 of the act, approved the sixteenth day of April, one thousand eight hundred forty-nine (Pamphlet Laws 663), entitled "A supplement to the act relating to lunatics and habitual drunkards; to punish aldermen and justices of the peace for misdemeanor; relating to arbitrations in the district court in the city and county of Philadelphia; relative to deeds of assignment; relative to judgment liens; relating to limitation of actions; and relating to liens and terre tenants; and for the more effectual punishment of the crime of arson," absolutely.

1857
Section seven of the act, approved the fifteenth day of April, one thousand eight hundred fifty-one (Pamphlet Laws 713), entitled "An act to annul the marriage contract between William Mead and Eliza his wife, to the uniformed militia of Perry and Luzerne counties, to the Cumberland Valley Railroad, to the sale of the real estate of John Berge, deceased, to luna-

tics and habitual drunkards, and to the Susquehanna Canal Company," absolutely.

The act, approved the eighth day of May, one thousand eight hundred seventy-four (Pamphlet Laws 122 (Act No. 55)), entitled "An act limiting the time within which inquisitions of lunacy or habitual drunkenness may be traversed," absolutely. 1874

The act, approved the tenth day of June, one thousand eight hundred ninety-seven (Pamphlet Laws 137), entitled "An act giving priority in the trial of lunacy cases traversing inquisitions of sheriff's juries in the courts of this Commonwealth," absolutely. 1897

The act, approved the fifteenth day of July, one thousand eight hundred ninety-seven (Pamphlet Laws 301 (Act No. 234)), entitled "An act regulating applications for commissions to inquire into the lunacy or habitual drunkenness of inmates of any soldiers' and sailors' home, almshouse, home for the friendless, or other charitable institutions," absolutely. 1897

(3) Acts relating to the several State institutions:

The act, approved the fourth day of March, one thousand eight hundred forty-one (Pamphlet Laws 57), entitled "An act to establish an Asylum for the Insane of this Commonwealth," absolutely. 1841

Sections two through seventeen, of the act, approved the fourteenth day of April, one thousand eight hundred forty-five, (Pamphlet Laws 440), entitled "An act to establish an asylum for the insane poor of this commonwealth, to be called 'The Pennsylvania State Lunatic Hospital and Union Asylum for the Insane,'" absolutely. 1845

1848 The act, approved the eleventh day of April, one thousand eight hundred forty-eight, (Pamphlet Laws 535) entitled "A supplement to the act to establish an asylum for the insane poor of this commonwealth, passed April fourteenth, one thousand eight hundred and forty-five," absolutely.

1849 The act, approved the seventh day of April, one thousand eight hundred forty-nine, (Pamphlet Laws 462), entitled "A further supplement to the act relative to the Pennsylvania State lunatic hospital, passed April fourteenth, one thousand eight hundred and forty-five," absolutely.

1861 Section five, of the act approved the eighth day of April, one thousand eight hundred sixty-one, (Pamphlet Laws 248), entitled "A supplement to the several acts of Assembly relative to the Pennsylvania State Lunatic Hospital," absolutely.

1873 The act, approved the twenty-seventh day of March, one thousand eight hundred seventy-three (Pamphlet Laws 54), entitled "An act to organize the State Hospital for the insane at Danville, and provide for the government and management of the same," absolutely.

1876 Section one, two, and four through twelve, of the act, approved the fifth day of May, one thousand eight hundred seventy-six (Pamphlet Laws 121), entitled "An act to provide for the selection of a site and the erection of a state hospital for the insane for the city and county of Philadelphia, and the counties of Bucks, Montgomery, Delaware, Chester, Northampton and Lehigh, to be called the State Hospital for the Insane

for the South-eastern District of Pennsylvania, and for the management of the same," absolutely.

The act, approved the eighth day of June, one thousand eight hundred eighty-one (Pamphlet Laws 83), entitled "An act to organize the state hospital for the insane at Warren, Pennsylvania," absolutely. 1891

Sections one, two and four through seventeen, of the act, approved the twenty-second day of June, one thousand eight hundred ninety-one (Pamphlet Laws 379) entitled "An act to provide for the selection of a site and the erection of a State asylum for the chronic insane, to be called the State asylum for the chronic insane of Pennsylvania, and making an appropriation therefor," absolutely. 1891

Sections one, two, four through ten, seventeen through twenty, of the act, approved the third day of June, one thousand eight hundred ninety-three (Pamphlet Laws 289) entitled "An act to provide for the selection of a site and the erection of a State institution for the feeble minded, to be called the Western Pennsylvania State Institution for the Feeble Minded, and making an appropriation therefor," absolutely. 1893

Sections one, two, four through twelve, of the act, approved the eighteenth day of July, one thousand nine hundred one (Pamphlet Laws 737), entitled "An act to provide for the selection of a site and the erection of a State Hospital, for the treatment of the insane under homeopathic management, to be called the Homeopathic State Hospital for the Insane, and making an appropriation therefor," absolutely. 1891

Sections one, two, four through nine, sixteen, eighteen, nineteen of the act, approved the fifteenth day 1893

of May, one thousand nine hundred three (Pamphlet Laws 446), entitled "An act to provide for the selection of a site and the erection of a State Institution for the Feeble-Minded and Epileptic, to be called The Eastern Pennsylvania State Institution for the Feeble-Minded and Epileptic, and making an appropriation therefore," absolutely.

1905 Sections one, two, four through thirteen of the act, approved the eleventh day of May, one thousand nine hundred five (Pamphlet Laws 400) entitled "An act to provide for the selection of a site and the erection of a State Hospital for the treatment and care of the criminal insane, to be called the State Hospital for the Criminal Insane, and making an appropriation therefor," absolutely.

1911 The act, approved the twentieth day of June, one thousand nine hundred eleven (Pamphlet Laws 1090), entitled "An act supplementing an act, approved the fifteenth day of May, Anno Domini one thousand nine hundred and three, entitled 'An act to provide for the selection of a site and the erection of a State Institution for the Feeble-Minded and Epileptic, to be called the Eastern Pennsylvania State Institution for the Feeble-Minded and Epileptic, and making an appropriation therefor,' by abolishing the commission therein established; providing for the completion of said institution; regulating the powers of the board of trustees; and repealing the tenth and seventeenth sections thereof," absolutely.

1913 Section one of the act, approved the twelfth day of June, one thousand nine hundred thirteen (Pamphlet Laws 494) entitled "An act supplementing and amending an act, entitled 'An act to provide for the selection

of a site and the erection of a State Institution for the Feeble-Minded and Epileptic, to be called the Eastern Pennsylvania State Institution for the Feeble-Minded and Epileptic, and making an appropriation therefor,' approved the fifteenth day of May, Anno Domini one thousand nine hundred and three; prescribing the purposes of said institution; amending the ninth and thirteenth sections of said act, so as to extend the powers of the trustees of said institution and provide for the method of admission to said institution and of discharge therefrom; providing that the court may make orders for the payment for the care and maintenance of certain inmates; providing for the payment for the care and maintenance of indigent inmates of said institution by the Commonwealth, and the payment of the costs of all committals thereto by the several counties; authorizing transfers of idiotic, feeble-minded, and epileptic persons to and from said institution; and repealing the eleventh, twelfth, fourteenth, and fifteenth sections of said act; and repealing section two of an act, entitled 'An act supplementing an act, approved the fifteenth day of May, Anno Domini one thousand nine hundred and three, entitled "An act to provide for the selection of a site and the erection of a State Institution for the Feeble-Minded and Epileptic, to be called the Eastern Pennsylvania State Institution for the Feeble-Minded and Epileptic, and making an appropriation therefor," by abolishing the commission therein established; providing for the completion of said institution; regulating the powers of the board of trustees; and repealing the tenth and seventeenth sections thereof,' approved the twentieth day of June, Anno Domini one thousand nine hundred and eleven," absolutely.

1913 Sections one, two, four through eleven, of the act, approved the twenty-fifth day of July, one thousand nine hundred thirteen (Pamphlet Laws 1319) entitled "An act to establish a State village for feeble-minded women; providing for the appointment of a board of managers to select a tract of land for that purpose in the State forest reserve, and to erect and furnish buildings on the same, and to manage said institution; and providing for the commitment thereto of feeble-minded females between the ages of sixteen and forty-five years; defining the powers and duties of the board of managers; and making an appropriation for the purposes aforesaid, also for the expenses of maintenance until June one, one thousand nine hundred and fifteen," absolutely.

1915 Sections two through fourteen of the act, approved the eighteenth day of June, one thousand nine hundred fifteen (Pamphlet Laws 1055), entitled "An act to provide for the selection of a site and the erection of buildings for a State Hospital for the Insane, to be erected west of the Allegheny Mountains, and to be known as the Western State Hospital for the Insane; providing for the management of the same, and making an appropriation for the purchase of said site and the preparation of plans for the construction of buildings for the said hospital," absolutely.

1917 Sections two through fourteen of the act, approved the twenty-fifth day of July, one thousand nine hundred seventeen (Pamphlet Laws 1206), entitled "An act to provide for the selection of a site and the erection of buildings for a State Hospital for the Insane, to be erected east of the Allegheny Mountains, and to be

known as the Eastern State Hospital for the Insane; providing for the management of the same, and making an appropriation for the purchase of said site and the preparation of plans for the construction of buildings for the said hospital," absolutely.

The act, approved the eleventh day of May, one thousand nine hundred twenty-one (Pamphlet Laws 502) entitled "A supplement to an act, entitled 'An act to establish an asylum for the insane poor of this Commonwealth to be called "The Pennsylvania State Lunatic Hospital and Union Asylum for the Insane,"' approved the fourteenth day of April, Anno Domini one thousand eight hundred and forty-five (Pamphlet Laws, page four hundred and forty)," absolutely. 1921

The act, approved the fifth day of March, one thousand nine hundred twenty-five (Pamphlet Laws 22), entitled "An act ratifying and confirming the action of the Department of Welfare in classifying the Wernersville State Hospital as a hospital for the care and treatment of the indigent insane," absolutely. 1925

Section two of the act, approved the twenty-third day of June, one thousand nine hundred thirty-one (Pamphlet Laws 1199), entitled "An act for the acceptance of a site from the University of Pittsburgh, and for surveys and the preparation of preliminary plans and estimates for a Western State Psychiatric Hospital; providing for the erection, construction, and equipment of said hospital when appropriations are made available, and for its management by the Department of Welfare," in so far as inconsistent. 1931

Sections one and six, of the act, approved the eighteenth day of April, one thousand nine hundred forty-nine (Pamphlet Laws 599) (Act No. 126), en- 1949

titled "An act establishing within the limits of Philadelphia, the Eastern Pennsylvania Psychiatric Institute as a State institution; providing for a board of trustees and a medical advisory board therefor; conferring powers and imposing duties upon the Department of Property and Supplies, the Department of Welfare, the board of trustees and the medical advisory board," in so far as inconsistent.

1949
Sections one and two of the act, approved the twentieth day of May, one thousand nine hundred forty-nine (Pamphlet Laws 1643) entitled "An act authorizing the Department of Property and Supplies to lease to the University of Pittsburgh, the Western State Psychiatric Institute and Clinic, in Allegheny County, and providing for the management thereof by the University of Pittsburgh," in so far as inconsistent.

SECTION 1002. *General Repeal.*—All other acts and parts of acts in so far as they are inconsistent with the provisions of this act are hereby repealed.