

**MENTAL HEALTH AND INTELLECTUAL DISABILITY ACT OF 1966**  
**Act of Oct. 20, 1966, Special Session 3, P.L. 96, No. 6 Cl. 50**

AN ACT

Relating to mental health and intellectual disability;  
authorizing county programs and amending, revising and  
changing the laws relating thereto and making an  
appropriation.

(Title amended Nov. 22, 2011, P.L.420, No.105)

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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 and Intellectual Disability Act of 1966."

(101 amended Nov. 22, 2011, P.L.420, No.105)

Section 102. Definitions.--As used in this act:

"Administrator" means the person appointed to carry out the duties specified in section 305 of this act.

"Aftercare" means services rendered to a person after his release from a facility, designed to assist such person in establishing and maintaining himself as a member of society, including foster home placement, home visiting, observation, halfway houses and outpatient care.

"Attorney for the Commonwealth" means district attorney, the Attorney General, or any attorney representing the interests of the Commonwealth.

"Benefit period" means, with respect to any individual, a period of consecutive days beginning with the first day not included in a previous benefit period on which he is furnished inpatient hospital care, and ending with the last day of the first sixty-day period thereafter during each day of which he is not an inpatient in a hospital.

"County" means a county, or a first class city.

"County program" means a mental health and intellectual disability program established by a county or two or more counties acting in concert and includes a complex of services providing a continuum of care in the community for the mentally disabled.

"Department" means the Department of Public Welfare.

"Designated facility" means a State operated facility named by the department, or other facility named by the administrator, for certain purposes or as a place of reception.

"Director" means the administrative head of a facility and includes superintendents.

"Facility" means any mental health establishment, hospital, clinic, institution, center, day care center or other organizational unit, or part thereof, which is devoted primarily to the diagnosis, treatment, care, rehabilitation or detention of mentally disabled persons.

"Inpatient services" means diagnosis, evaluation, classification, care, treatment or rehabilitation rendered to a mentally disabled person admitted or committed to a facility for a continuous period of twenty-four hours, or longer.

"Intellectual disability" means significantly subaverage general intellectual functioning that is accompanied by significant limitations in adaptive functioning in at least two of the following skill areas: communication, self-care, home living, social and interpersonal skills, use of community resources, self-direction, functional academic skills, work,

health and safety. The onset must occur before the individual's twenty-second birthday.

"Issuing authority" means any public official having the power and authority of an alderman, justice of the peace or magistrate.

"Local authorities" means the county commissioners of a county, or the city councils and the mayors of the first class cities, or two or more of these acting in concert.

"Mental disability" means any mental illness, mental impairment or mental deficiency, 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 as provided in this act. This term shall not include senility, unless mental illness or an intellectual disability is superimposed.

"Mental hospital" means a residential facility for the diagnosis, care and treatment of the mentally disabled other than those with intellectual disabilities.

"Mental retardation" (Def. deleted by amendment Nov. 22, 2011, P.L.420, No.105).

"Outpatient services" means diagnosis, evaluation, classification, counseling care, treatment or rehabilitation rendered under this act at a facility, to a mentally disabled person not admitted or committed thereto.

"Partial hospitalization" means diagnosis, evaluation, classification, care, treatment or rehabilitation rendered to a mentally disabled person admitted or committed to a facility for some portion of one or more twenty-four hour periods.

"Physician" means a physician licensed to practice in Pennsylvania.

"Psychiatrist" means a physician who by years of study, training and experience has achieved professional recognition and standing in the field of psychiatry.

"Psychologist" means a person who by years of study, training and experience has achieved professional recognition and standing in the field of clinical psychology.

"Secretary" means the Secretary of Public Welfare.

"Social worker" means a person who by years of study, training and experience has achieved professional recognition and standing in the field of social work.

(102 amended Nov. 22, 2011, P.L.420, No.105)

**Compiler's Note:** The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

The Secretary of Public Welfare, referred to in this section, was redesignated as the Secretary of Human Services by Act 132 of 2014.

**Compiler's Note:** Section 28 of Act 207 of 2004 provided that any and all references in any other law to a "district justice" or "justice of the peace" shall be deemed to be references to a magisterial district judge.

**Compiler's Note:** Section 501 of Act 143 of 1976 provided that the def. of "mental disability" is repealed except insofar as it relates to mental retardation or persons who are mentally retarded.

## ARTICLE II Responsibilities of the State

Section 201. General Powers and Duties of the Department.--The department shall have power, and its duty shall be:

(1) To assure within the State the availability and equitable provision of adequate mental health and intellectual disability services for all persons who need them, regardless of religion, race, color, national origin, settlement, residence, or economic or social status.

(2) To make, with the advice of the Advisory Committee for Mental Health and Intellectual Disability and enforce all regulations necessary and appropriate to the proper accomplishment of the mental health and intellectual disability duties and functions imposed by this act. Such regulations shall not become effective until the department shall have given the local authorities thirty days written notice of the proposed regulations and afforded the local authorities the opportunity for a hearing before the department on the proposed regulations.

(3) To consult with and assist each county in carrying out mental health and intellectual disability duties and functions and where necessary after thirty days written notice to the counties affected and an opportunity for such counties for a hearing before the department and with the advice of the Advisory Committee for Mental Health and Intellectual Disability to require two or more counties to join in establishing a program to provide the services required by this act.

(4) To adopt State-wide plans for the operation of all State operated facilities under the jurisdiction of the department and to assign to each facility or portion thereof, such duties for the care of the mentally disabled, as the secretary shall prescribe. The assignments herein referred to shall be made with due regard to geographical location and population distribution.

(5) To establish and maintain working relationships with other governmental bodies and public and private agencies, institutions and organizations so as to assure maximum utilization of services and facilities which each such governmental body and public and private agency, institution and organization may have, which may be of benefit to the mentally disabled.

(6) To appoint such regional mental health and intellectual disability boards as may be necessary to advise the department in the establishment, administration and review of mental health and intellectual disability programs.

(7) To make grants, pay subsidies, purchase service and provide reimbursement for mental health and intellectual disability services in accordance with this act.

(8) To supervise mental health and intellectual disability facilities, services and programs as provided by law.

(201 amended Nov. 22, 2011, P.L.420, No.105)

**Compiler's Note:** The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

**Compiler's Note:** Section 3 of Reorganization Plan No.4 of 1973 provided that the functions, powers and duties of the Department of Public Welfare with regard to prevention, treatment, rehabilitation, research, education and training aspects of drug and alcohol abuse and dependence problems including, but not limited to those vested in the coordinating agency, the Bureau of Drug and Alcohol Abuse Treatment as set forth in section

201 are transferred from the Department of Public Welfare to the Governor's Council on Drug and Alcohol Abuse.

Section 5 of Reorganization Plan No.4 of 1973 provided that section 201 is suspended insofar as it conflicts with Reorganization Plan No.4.

Section 202. State Facilities.--(a) The department shall operate all State facilities and shall assign such functions to each as the secretary shall prescribe.

(b) The department is hereby authorized to establish, extend, operate and maintain additional facilities and provide mental health and intellectual disability services therein. The department may also lease or otherwise acquire, through the Department of Property and Supplies, other additional facilities.

(202 amended Nov. 22, 2011, P.L.420, No.105)

Section 203. Qualifications of Directors of State Facilities.--Each State operated facility shall be in charge of a director who shall have the following qualifications:

(1) Experience in the administration of mental hospitals, other hospitals, institutions or other facilities.

(2) Ability to organize, direct and coordinate the operation of the facility and its programs.

(3) In the case where the facility is a State operated mental hospital, he shall be a physician where possible or demonstrate, through objective measurements developed by the department, knowledge and competencies in the field of mental health and illness, including community mental health, as well as in the field of health care administration. A master's degree, or appropriate equivalent thereof, shall be required. The director of the clinical program of the hospital shall be a physician who shall be responsible for planning and executing programs of treatment and therapy.

(4) The department by regulation may establish additional standards of qualification for the position of director.

(203 amended July 25, 1975, P.L.93, No.46)

### ARTICLE III Responsibilities of Counties

Section 301. General Powers and Duties of Local Authorities; Mental Health and Intellectual Disability Program and Services.--(a) The local authorities of each county separately or in concert with another county or counties, as the secretary may approve, shall establish a county mental health and intellectual disability program for the prevention of mental disability, and for the diagnosis, care, treatment, rehabilitation and detention of the mentally disabled and shall have power to make appropriations for such purposes. Such program shall conform with regulations of the department promulgated under section 202(2).

(b) To ensure the operation of a county mental health and intellectual disability program in each county, the secretary subject to the provisions of section 201(3) shall have the power to direct the local authorities of any county to join with the local authorities of any other county to establish such program or become a part of a program existing in such other county or counties.

(c) To operate such county mental health and intellectual disability program, the local authorities shall employ such personnel as are necessary. The selection, appointment and retention of such employes, and the termination of their employment shall be on the basis of a merit system which shall

conform to minimum standards established by the department with the advice of the Advisory Committee for Mental Health and Intellectual Disability. Such minimum standards shall not become effective until the department shall have given the local authorities thirty days' written notice of the proposed standards and afforded the local authorities the opportunity for a hearing before the department on the proposed minimum standards.

(d) Subject to the provisions of sections 508 and 509(5) it shall be the duty of local authorities in cooperation with the department to ensure that the following mental health and intellectual disability services are available:

(1) Short term inpatient services other than those provided by the State.

(2) Outpatient services.

(3) Partial hospitalization services.

(4) Emergency services twenty-four hours per day which shall be provided by, or available within at least one of the types of services specified heretofore in this paragraph.

(5) Consultation and education services to professional personnel and community agencies.

(6) Aftercare services for persons released from State and County facilities.

(7) Specialized rehabilitative and training services including sheltered workshops.

(8) Interim care of those with intellectual disabilities who have been removed from their homes and who having been accepted, are awaiting admission to a State operated facility.

(9) Unified procedures for intake for all county services and a central place providing referral services and information.

(e) Such local authorities shall also have the power to establish the following additional services or programs for the mentally disabled:

(1) Training of personnel.

(2) Research.

(3) Any other service or program designed to prevent mental disability or the necessity of admitting or committing the mentally disabled to a facility.

(f) Services herein required or authorized may be provided either directly or by purchase of such services, except that the services required in section 301(d)(9) shall be provided directly through the county administrator.

(g) To establish local mental health and intellectual disability boards in accordance with provisions of section 302.

(301 amended Nov. 22, 2011, P.L.420, No.105)

Section 302. Establishment of County Mental Health and Intellectual Disability Board.--(a) Except in cities of the first class, the local authorities of a county or of two or more counties participating in concert in a county mental health and intellectual disability program shall appoint a Mental Health and Intellectual Disability Board, hereinafter called the board, which shall consist of thirteen residents including, from each county, a representative of the board of county commissioners. At least two members thereof shall be physicians, and where possible one shall be a psychiatrist and the other a pediatrician. There shall also be appropriate representation drawn from:

(1) The professional fields of psychology, social work, nursing, education and religion;

(2) Local citizens' organizations active in the field of mental health;

(3) Local citizens' organizations active in the field of intellectual disability;

(4) Local health and welfare planning organizations;

(5) Local general hospitals; and

(6) Other interested community groups.

Where two or more counties are participating in concert in said program, the members of said board shall be selected substantially on a proportionate basis as to population, providing however that each county, irrespective of population, shall have at least one member on the board.

(b) Each member shall be appointed for a period of three years. The initial appointment of members of the board shall be for overlapping periods of three, two and one years. In making the initial appointments, in so far as possible, one-third of the members shall be appointed to each of the overlapping periods. Any vacancies occurring in the membership of the board shall be filled by the local authorities for the unexpired period. The local authorities may remove any member of the board during his period of service for cause only. The members shall serve without compensation other than reimbursement for travel and other actual expenses incurred in connection with called meetings of the board.

(c) A majority of the board members shall constitute a quorum. The members shall select a chairman from among themselves. Each board shall meet at least once each quarter, and may, by majority vote of the membership, establish more frequent regular meetings not exceeding one per month. Special meetings shall be held on call of the chairman, and it shall be the duty of the chairman to call a special meeting upon the written request of one-third or more of the members, not including vacancies of the board.

(d) In cities of the first class, a mental health and intellectual disability board shall be appointed, and the members shall hold office, under the provisions of the city charter.

(302 amended Nov. 22, 2011, P.L.420, No.105)

Section 303. Duties of the County Mental Health and Intellectual Disability Board.--(a) The County Mental Health and Intellectual Disability Board shall have the power and its duty shall be:

(1) To review and evaluate the county's mental health and intellectual disability needs, services, facilities and special problems in relation to the local health and welfare needs, services and programs.

(2) Except in cities of the first class, to recommend to local authorities not less than two persons for the position of administrator. Such persons shall meet the standards of professional skill and experience as the department may establish by regulation.

(3) To develop, together with the administrator, annual plans for the mental health and intellectual disability programs required by sections 301 and 509.

(4) To make recommendations to the local authorities regarding the program and any other matters relating to mental health and intellectual disability services in the county, including purchase of service contracts and the extent of funds required to implement the program.

(5) To review performance under the mental health and intellectual disability program and to recommend a system of program evaluation.

(b) The functions of this board may be performed by a multi-purpose board acting in the health and welfare field, if

the local authorities so elect with appropriate representation as specified in section 302(a), in so far as possible, and subject to the approval of the department.

(303 amended Nov. 22, 2011, P.L.420, No.105)

Section 304. County Mental Health and Intellectual Disability Administrator; Appointment.--Except in cities of the first class, where the administrator shall be appointed under the merit system, the local authorities shall appoint a county mental health and intellectual disability administrator from a list of not less than two names submitted by the County Mental Health and Intellectual Disability Board. If, thirty days after the county board has submitted a list to the local authorities, an appointment has not been made because of a tie vote or other failure of the local authorities to make such appointment, the same shall be made by the secretary after consultation with the local authorities. The appointment of the administrator, by whomever made, may be terminated by the local authorities, provided, that no appointment made by the secretary under this section shall be terminated without the approval of a majority of the County Mental Health and Intellectual Disability Board.

(304 amended Nov. 22, 2011, P.L.420, No.105)

Section 305. Duties of the Administrator.--The county mental health and intellectual disability administrator shall have the power and his duty shall be:

(1) To administer the county mental health and intellectual disability program.

(2) To insure that county mental health and intellectual disability services required by this act are available.

(3) To provide staff services to the County Mental Health and Intellectual Disability Board.

(4) To make such reports to the department in such form and containing such information as the department may require.

(5) To develop, together with the County Mental Health and Intellectual Disability Board, annual plans for the mental health and intellectual disability programs required by this act.

(6) To submit to local authorities annual plans and estimated costs for the provision of services, establishment and operation of facilities, and other related matters for review, approval and transmittal to the department.

(7) To review and evaluate facilities, and to cooperate with the department in the maintenance of established standards.

(8) To maintain effective liaison with governmental and private community health and welfare agencies and organizations and State operated facilities.

(9) To submit an annual report to the local authorities, the board and the department reporting all activities of the program and his administration thereof.

(10) To analyze and evaluate mental health and intellectual disability needs and services in the county and recommend improvements to the County Mental Health and Intellectual Disability Board and local authorities, conduct such research studies, and take such steps and adopt such measures as are necessary for the proper discharge of his duties.

(305 amended Nov. 22, 2011, P.L.420, No.105)

#### ARTICLE IV

#### General Provisions Relating to Facilities; Admissions and Commitments

Section 401. Applications for Admission or Commitment; to Whom Made.--(a) Any mentally disabled person who desires care

in a facility may make appropriate application directly to any facility willing and able to receive him, or to the administrator of the county where the person is or resides, for placement in a facility.

(b) Any person authorized by this act to do so may make application on behalf of a mentally disabled person directly to any facility willing and able to receive such person. If no such facility is available, or if public funds will or may be expended to pay all or part of the cost of care of such person under a county mental health and intellectual disability program, application shall be made to the administrator of the county where the person is or resides for placement in a facility, except that applications for detention under section 405 must be made to the administrator.

(c) Whenever a court commits any person under any provision of this act, it may commit such person directly to a facility willing and able to receive him; otherwise, the court shall commit to a designated local or State facility, or to the Veterans Administration or other agency of the United States upon receipt of a certificate that the person is eligible for such hospitalization and there is available space for his care.

(401 amended Nov. 22, 2011, P.L.420, No.105)

**Compiler's Note:** Section 501 of Act 143 of 1976 provided that section 401 is repealed except insofar as it relates to mental retardation or persons who are mentally retarded.

Section 402. Voluntary Admission; Application, Examination and Acceptance; Duration of Admission.--(a) Application for voluntary admission to a facility for examination, treatment and care may be made by:

(1) Any person over eighteen years of age.

(2) A parent, guardian or individual standing in loco parentis to the person to be admitted, if such person is eighteen years of age or younger.

(b) When an application is made, the director of the facility shall cause an examination to be made. If it is determined that the person named in the application is in need of care or observation, he may be admitted.

(c) Except where application for admission has been made under the provisions of section 402(a)(2) and the person admitted is still eighteen years of age or younger, any person voluntarily admitted shall be free to withdraw at any time. Where application has been made under the provisions of section 402(a)(2), only the applicant or his successor shall be free to withdraw the admitted person so long as the admitted person is eighteen years of age or younger.

(d) Each admission under the provisions of this section shall be reviewed at least annually by a committee, appointed by the director from the professional staff of the facility wherein the person is admitted, to determine whether continued care is necessary. Said committee shall make written recommendations to the director which shall be filed at the facility and be open to inspection and review by the department and such other persons as the secretary by regulation may permit.

Where the admission is under the provisions of section 402(a)(2), the person admitted shall be informed at least each sixty days of the voluntary nature of his status at the facility.

**Compiler's Note:** Section 501 of Act 143 of 1976 provided that section 402 is repealed except insofar as it relates to mental retardation or persons who are mentally retarded.

Section 403. Voluntary Commitment; Application, Examination and Acceptance; Duration of Commitment.--(a) Application for voluntary commitment to a facility for examination, treatment and care may be made by:

(1) Any person over eighteen years of age.

(2) A parent, guardian or individual standing in loco parentis to the person to be admitted, if such person is eighteen years of age or younger.

(b) The application shall be in writing, signed by the applicant in the presence of at least one witness. When an application is made, the director of the facility shall cause an examination to be made. If it is determined that the person named in the application is in need of care or observation, he shall be committed for a period not to exceed thirty days. Successive applications for continued voluntary commitment may be made for successive periods not to exceed thirty days each, so long as care or observation is necessary.

(c) No person voluntarily committed shall be detained for more than ten days after he has given written notice to the director of his intention or desire to leave the facility, or after the applicant or his successor has given written notice of intention or desire to remove the detained person.

(d) Each commitment under the provisions of this section shall be reviewed at least annually by a committee, appointed by the director from the professional staff of the facility wherein the person is cared for, to determine whether continued care and commitment is necessary. Said committee shall make written recommendations to the director which shall be filed at the facility and be open to inspection and review by the department and such other persons as the secretary by regulation shall permit.

Where the commitment is under the provisions of section 403(a)(2), the person committed shall be informed at least each sixty days of the voluntary nature of his status at the facility.

**Compiler's Note:** Section 501 of Act 143 of 1976 provided that section 403 is repealed except insofar as it relates to mental retardation or persons who are mentally retarded.

Section 404. Commitment on Application by Relative, etc.; Physicians' Certificates; Review.--(a) A written application for commitment to a facility may be made in the interest of any person who appears to be mentally disabled and in need of care. It may be made by a relative, guardian, friend, individual standing in loco parentis to the person to be committed, or by the executive officer or an authorized agent of a governmental or recognized nonprofit health or welfare organization or agency or any responsible person.

(b) Such application shall be accompanied by the certificates of two physicians who have examined the person whose commitment is sought, within one week of the date of the certificates, and who have found that, in their opinion, such person is mentally disabled and in need of care. In the case of a mentally retarded person, the physician's certification shall be accompanied by the report of a psychologist. No person shall be committed hereunder if any certificate is dated more than thirty days prior to the date of commitment, except that

if the mental disability consists of intellectual disability, the certificates may be dated not more than three months prior to the date of commitment. The application, certificates and the report, if any, shall be signed and sworn to or affirmed.

(c) The director may receive the person named in the application and detain him until discharge in accordance with the provisions of this act. When application is made by any person other than a relative or guardian, the director upon reception of the person named in the application shall notify the appropriate relative or guardian of such person of the commitment.

(d) Every commitment made under this section except those to the Veterans Administration or other agency of the United States Government, shall be reviewed at least annually by a committee appointed by the director from the professional staff of the facility wherein the person is detained, to determine whether continued care and commitment is necessary. Said committee shall make written recommendations to the director which shall be filed at the facility, and be open to inspection and review by the department, and such other persons as the secretary, by regulation, may permit.

(404 amended Nov. 22, 2011, P.L.420, No.105)

**Compiler's Note:** Section 501 of Act 143 of 1976 provided that section 404 is repealed except insofar as it relates to mental retardation or persons who are mentally retarded.

Section 405. Commitment for Emergency Detention.--(a) Whenever a person appears, by reason of his acts or threatened acts, to be so mentally disabled as to be dangerous to himself or others and in need of immediate care, he may be taken into custody for the purpose of examination, provided that:

(1) Only a relative, guardian, friend, individual standing in loco parentis to the person believed to be mentally disabled, executive officer or authorized agent of a governmental or recognized nonprofit agency providing health or welfare services, or a police officer may take such person into custody and then only upon written application approved by the administrator or his delegate, and

(2) The acts or threats which give cause to believe the person to be mentally disabled and in need of immediate care are over, demonstrate a clear and present danger to self or others and are set forth in the application.

(b) Immediately upon being taken into custody, such person shall be taken with the approved application for examination to a physician or designated facility for examination on an emergency basis: (i) When examination is made by a physician who determines that such person is in need of immediate emergency care in a facility, he shall so certify on the aforementioned application and upon request, local police or State police shall forthwith transport such person to such designated facility where application shall be presented, the certificate filed with the facility, and the person thereby committed for emergency care. (ii) When the examination is made at a designated facility and it is determined by an examining physician that the person is in need of immediate emergency care, the examining physician shall file the required certificate and the commitment of such person for emergency care thereby shall be effected.

(c) When the application is not made by a relative or the guardian, the director, upon reception of the person named in

the application, shall notify the appropriate relative or the guardian of the commitment of such person.

(d) If the examining physician shall determine that any person taken into custody by a police officer is not in need of immediate emergency care in a facility, and the person in custody has committed a criminal act, the police officer shall take such person to the proper issuing authority to be dealt with according to law. In all other cases such person shall be returned to the place where he was taken into custody and released.

(e) No person who proceeds under the provisions of this section shall be held civilly or criminally liable therefor, unless he acted maliciously and did not have probable cause to believe that the person taken into custody was suffering from mental disability.

(f) Any person committed under this section may be detained for a period of not more than ten days. If during this period the director finds that such person requires further care, he may admit the person on a voluntary commitment or notify the applicant (other than a police officer), or the administrator of the county of the person's residence, to make further application for such person's commitment under other provisions of this act.

**Compiler's Note:** Section 501 of Act 143 of 1976 provided that section 405 is repealed except insofar as it relates to mental retardation or persons who are mentally retarded.

Section 406. Civil Court Commitment.--(a) Whenever a person is believed to be mentally disabled, and in need of care or treatment by reason of such mental disability, and examination of such person has been made by a physician or physicians, or for any reason the examination of such person cannot be made, a petition may be presented to the court of common pleas of the county in which a person resides or is, for his immediate examination or commitment to an appropriate facility for examination, observation and diagnosis.

(1) The petition may be made by a relative, guardian, friend, individual standing in loco parentis or by the executive officer or an authorized agent of a governmental or recognized nonprofit health and welfare organization or agency or any responsible person.

(2) The petition shall set forth the facts upon which the petitioner bases his belief of mental disability and the efforts made to secure examination of the person by a physician.

(3) Said court upon consideration of such petition shall: (i) issue a warrant requiring that such person be brought before said court; (ii) fix a date for a hearing which shall be as soon as the warrant is executed, and (iii) notify the parties in interest.

(4) After hearing, said court may: (i) order an immediate examination by two physicians appointed by said court, or (ii) order the commitment of the person believed to be mentally disabled, to a facility for a period not exceeding ten days for the purpose of examination. If the examination can be accomplished by partial hospitalization said court may so direct.

(b) If, upon examination, it is determined that such person is in need of care at a facility, the examining physicians or director, as the case may be, shall immediately report to said court which may order the commitment of such person for care and treatment.

In its order of commitment, said court may permit partial hospitalization or outpatient care, or if at any time thereafter the director shall determine such partial hospitalization or outpatient care to be beneficial to the person so committed, the same may be permitted by said court upon application by the director.

**Compiler's Note:** Section 501 of Act 143 of 1976 provided that section 406 is repealed except insofar as it relates to mental retardation or persons who are mentally retarded.

Section 407. Commitment of Person Charged with Crime and Released on Bail.--(a) Whenever a person who has been charged with crime and released on bail is or becomes mentally disabled so that his admission or commitment to a facility is necessary, proceedings may be instituted under the appropriate provisions of this act, in the same manner as if he had not been so charged with crime.

(b) Upon the admission or commitment of such person to a facility, the obligation of bail shall nevertheless remain in full force and effect as to both principal and surety and the director is authorized to carry out such course of care and treatment as may be appropriate, including outpatient care or partial hospitalization.

(c) At any time after commitment of any person under the circumstances herein described, the surety may petition the court of the county where the bail has been entered to be relieved from the obligation thereof. He shall give notice of said petition to the director of the facility to which the person so charged has been committed and the director shall then detain such person in the facility until the court shall dispose of the petition, or until expiration of the commitment.

(d) Upon consideration of said petition, the court may cancel the surety's obligation as to the bail of the person who has been committed, and shall:

(1) Direct the entry of new bail upon such terms and conditions as may be appropriate, or,

(2) Order the director except those of the United States Government agency facilities to maintain custody and control of the committed person for the duration of the commitment, and/or

(3) Enter such other orders as may be necessary to protect the rights of the committed person and the interests of the Commonwealth.

**Compiler's Note:** The act of July 9, 1976, P.L.817, No.143 known as the "Mental Health Procedures Act" repealed this section except insofar as it relates to mental retardation or persons who are mentally retarded.

Section 408. Commitment of Person Charged with Crime and Detained in a Penal or Correctional Institution.--(a) Whenever a person who has been charged with crime is detained in a penal or correctional institution and he is believed to be mentally disabled so that his commitment to a facility is necessary, a petition for such commitment may be presented to the court of the county where he stands charged with crime. The petition may be made by the warden or other officer in charge of the detaining institution, a relative of the detained person, the detained person or his counsel or the attorney for the Commonwealth.

(b) To assist in determining the questions raised by the petition the court may adopt one or any combination of the following procedures:

(1) Appoint two or more physicians to examine the person in the detaining institution and make a report as to whether he is mentally disabled and whether his commitment is necessary.

(2) Appoint a commission consisting of two physicians and an attorney which shall examine such person in the detaining institution and in addition, receive any other evidence from any source bearing upon the questions of whether the person is mentally disabled and whether his commitment is necessary.

(3) Appoint an attorney to represent such person with reference to the petition.

(4) Hold a hearing which may be public or private. Appropriate notice thereof shall be given to all interested parties including the attorney for the Commonwealth. The presence of the person whose commitment is sought, may be compelled.

(c) Any physician appointed by the court to examine such person may request the court to commit such person temporarily to a facility for a period not exceeding sixty days for further examination by such physician in conjunction with the staff of the facility.

(d) After consideration of the petition and all evidence presented, the court may order the commitment of such person to a designated facility if satisfied that the person is mentally disabled and that his commitment is necessary. In making such order the court shall give due regard to the capacity of such person to understand the nature and object of the proceedings against him, to comprehend his own condition in reference to such proceedings, to understand the nature of the punishment which might be inflicted upon him, to confer with his counsel with reference to such proceedings, to make a rational defense, and the probable effect of the trial on such person's physical and mental condition.

(e) Whenever a commitment is ordered, the director shall detain the person so committed within the facility, provided, however, that if it is determined that partial hospitalization or outpatient care would be beneficial to the person so committed, such may be permitted by the court upon application therefor by the director and upon such terms and conditions as the court may direct, including the entry of bail to secure such person's return to the facility or his appearance.

**Compiler's Note:** Section 501 of Act 143 of 1976 provided that section 408 is repealed except insofar as it relates to mental retardation or persons who are mentally retarded.

Section 409. Effect of Commitment on Pending Criminal Proceedings; Duration of Commitment; Authority of Attorney for the Commonwealth.--(a) Whenever a person who has been charged with crime is committed in accordance with either section 407 or section 408 of this act, the criminal proceedings against him shall be stayed for the duration of commitment, provided however, that the Attorney for the Commonwealth may submit indictments to the grand jury involving such charge.

(b) If such person shows a sufficient improvement of condition so that his continued commitment is no longer necessary, 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.

(c) The Attorney for the Commonwealth may also at any time during the period of commitment, petition the court for a rule upon the director of the facility where such person is committed to show cause why the commitment should not be revoked and the

person so committed brought to trial if the interest of justice require prosecution of such person.

**Compiler's Note:** Section 501 of Act 143 of 1976 provided that section 409 is repealed except insofar as it relates to mental retardation or persons who are mentally retarded.

Section 410. Commitment in Lieu of Sentence of Person Adjudged Guilty of Crime.--(a) Whenever any person is adjudged guilty of a crime punishable by sentence to a penal or correctional institution, the trial court may defer sentence and order an examination of the defendant for mental disability 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 the defendant's examination at a designated facility or otherwise, by two physicians. The director or physicians shall make a written report of the findings to the court within sixty days of the date of the order, and the report shall be available to the Attorney for the Commonwealth, and counsel for the defendant.

(c) Upon receipt of a report that the defendant is so mentally disabled that it is advisable for his welfare or the protection of the community that he be committed to a facility, the court may so commit him in lieu of sentence for such period, as may be appropriate until further order of the court; but in no event for a period longer than the maximum sentence authorized for the crime of which he was adjudged guilty. If, upon expiration of such period, further care of such person is necessary, the director shall initiate appropriate proceedings under this act as if no crime had been involved.

(d) If at any time after commitment it is determined that partial hospitalization or outpatient care would be beneficial to the person so committed, such may be permitted by the court upon application therefor by the director, and upon such terms and conditions as the court may direct including the entry of bail to secure such person's return to the facility or his appearance.

(e) When a defendant is committed to a facility, 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.

**Compiler's Note:** Section 501 of Act 143 of 1976 provided that section 410 is repealed except insofar as it relates to mental retardation or persons who are mentally retarded.

Section 411. Commitment of Person Undergoing Sentence and Detained in a Penal or Correctional Institution.--(a) Whenever a person undergoing sentence and detained in a penal or correctional institution, is believed to be mentally disabled so that his commitment to a facility is necessary, a petition for such commitment may be presented to the court which imposed sentence. The petition may be made by the warden or other officer in charge of the detaining institution or counsel for the person so sentenced.

(b) To assist in determining the questions raised by the petition, the court may adopt one or any combination of the procedures set forth in section 408(b).

(c) After consideration of the petition and all the evidence presented, the court may order the commitment of such person

to a designated facility if satisfied that the person is mentally disabled and that his commitment is necessary.

(1) The time during which he is committed to a facility shall be computed as part of the term for which he was sentenced.

(2) If it is determined that a prisoner who has been committed to a facility in accordance with the provisions of this section, will need further care after the expiration of his maximum sentence or sentences, the director shall initiate appropriate proceedings under this act as if no crime had been involved.

(3) If, before the expiration of his sentence, sufficient improvement in condition results so that care in such facility is no longer necessary, the director of the facility in which he is detained shall certify such fact to the committing court and he shall be returned on order of such court to the penal or correctional institution from which he was removed.

**Compiler's Note:** Section 501 of Act 143 of 1976 provided that section 411 is repealed except insofar as it relates to mental retardation or persons who are mentally retarded.

Section 412. Transfer of State Prisoners without Court Approval; Retransfers; Further Commitments.--(a) Whenever any person who is detained in a State penal or correctional institution is believed to be mentally disabled so that his commitment to a facility is necessary or desirable, he may, without court approval, be transferred to any facility operated by the department in accordance with the following procedures:

(1) Upon request of the Bureau of Correction of the Department of Justice, the department shall examine the prisoner at the penal or correctional institution or designate a facility as the place of transfer and order the director thereof forthwith to admit the prisoner for an examination of his mental condition.

(2) A report of examination shall be transmitted to the department within sixty days. The department shall, without court approval, either direct the bureau to remove the prisoner from the examining facility if such prisoner is not in need of care in a facility or order the admission of the prisoner to a proper facility until sufficient improvement of his condition warrants his return to the custody of the bureau.

(b) The time during which said prisoner is committed to a facility shall be computed as part of the term for which he was sentenced.

(c) Whenever, prior to the expiration of the maximum term of such committed prisoner's sentence or sentences, it is determined that his care in a facility is no longer necessary he shall be retransferred to the custody of the bureau to serve his sentence in accordance with the following procedures:

(1) The department shall make request in writing to the bureau for the removal of such prisoner from the facility.

(2) Upon receipt of such request, the bureau shall, without court approval, order the retransfer of such prisoner by the bureau to such State correctional institution or correctional diagnostic and classification center, as shall be deemed appropriate, for confinement in accordance with said prisoner's sentence or sentences.

(d) Whenever it is believed that a prisoner who has been committed to a facility in accordance with the provisions of this section will need further care after the expiration of his maximum sentence or sentences, the director shall initiate

appropriate proceedings under this act as if no crime had been involved.

(e) Transportation of such prisoner from a penal or correctional institution to a facility or his return to prison shall be effected by the bureau, at the bureau's cost.

**Compiler's Note:** Section 501 of Act 164 of 1980 provided that the powers and duties of the Attorney General and/or the Department of Justice contained in section 412 are transferred to the Office of General Counsel.

**Compiler's Note:** Section 501 of Act 143 of 1976 provided that section 412 is repealed except insofar as it relates to mental retardation or persons who are mentally retarded.

Section 413. 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 or the court as the case may be, shall state such reason for acquittal in its verdict.

(b) In such event, the court may direct the attorney for the Commonwealth to act as petitioner to initiate commitment proceedings under section 406.

**Compiler's Note:** Section 501 of Act 143 of 1976 provided that section 413 is repealed except insofar as it relates to mental retardation or persons who are mentally retarded.

Section 414. Deportation of Persons Charged with or Sentenced for Crime.--Whenever any person is detained in a facility 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, upon the petition of the director of such facility, may enter an order releasing such person from detention into the custody of an agent of the United States for the purposes of deportation.

Section 415. Commitment or Transfers to Facilities of the United States Government or of Another State; Reciprocal Agreements.--(a) Except when a person has been charged with or sentenced for crime, if proceedings for his admission or commitment have been effected he may be committed or transferred to the Veterans Administration or any other agency of the United States Government or to another state for care therein.

(b) It shall be the duty of the department to take such steps and adopt such measures as are necessary to accomplish such commitment or transfer. For such purpose the department, subject to the approval of the Attorney General, is hereby authorized to enter into reciprocal agreements with any agency of the United States government and with corresponding State agencies of other states regarding the intrastate and interstate transportation or transfer of persons with mental disability to such Federal or State agency and to arrange with the proper officials in this State for the acceptance, transfer and support of persons who are residents of this State but who are temporarily detained or who are receiving care for mental disability in public facilities of the Federal government, or of other states in accordance with the terms of such agreements. This paragraph shall be so interpreted and construed as to effectuate its general purpose and to make uniform the laws of those jurisdictions and states which have enacted similar legislation.

(c) If the jurisdiction of the court has attached, such court must consent to the transfer. Where it appears that said transfer cannot be accomplished solely because the person whose transfer is sought stands charged with crime, the court having jurisdiction of the charge may dismiss the same upon condition that the transfer is accomplished if the interests of the Commonwealth do not require prosecution.

(d) The consent of the person whose transfer is sought must also be obtained, except where any portion of the cost of his care is borne by the Commonwealth or any political subdivision.

(e) The provisions of this section are intended to be supplemental to the provisions of the Interstate Compact on Mental Health, act of July 25, 1961 (P.L.860).

**Compiler's Note:** Section 501 of Act 164 of 1980 provided that the powers and duties of the Attorney General and/or the Department of Justice contained in section 415 are transferred to the Office of General Counsel.

Section 416. Transfers between Facilities.--(a) The department may, upon application by the director of any state operated facility, transfer a mentally disabled person to any other state operated facility under its jurisdiction. The administrator may, upon application by the director of any local facility, transfer a mentally disabled person to any other local facility under his jurisdiction.

(b) The administrator may make application to the department for transfer of a mentally disabled person from a local facility to such State facility as the department shall designate for care, treatment, diagnosis, training or for any other purpose, whenever the best interests of such mentally disabled person require such transfer.

(c) The department may make application to the administrator for transfer of a mentally disabled person from a State operated facility to such local facility as the administrator shall designate for diagnosis, care, treatment, or aftercare, or for any other purpose whenever the best interests of such mentally disabled person require such transfer.

(d) Whenever such mentally disabled person has been committed by a court under this act, transfers from local to State facilities or State to local facilities, shall be approved by the committing court.

(e) A facility transferring a mentally disabled person shall give notice of the transfer to the person designated in the application for admission or commitment or court order, to receive such notice. If possible, the notice shall be given prior to transfer.

(f) All costs of transfer under this section shall be chargeable to and paid by the facility or jurisdiction requesting it.

**Compiler's Note:** Section 501 of Act 143 of 1976 provided that section 416 is repealed except insofar as it relates to mental retardation or persons who are mentally retarded.

Section 417. Power and Duties of Directors.--(a) The director of any facility shall be in charge of all services afforded to any person admitted or committed to such facility including all maintenance services, custody, and employment of such persons, and shall also be in charge of the diagnosis, treatment and care to be given such person by reason of mental or physical disability. If the director is not a physician, a physician shall be in charge of all medical diagnosis, treatment and care to be rendered such persons.

(b) The director of any facility, in his discretion, may allow any person admitted or committed to be treated or counseled by his family or personal psychiatrist, physician, or other medical practitioner, psychologist, social worker or other person. If such personal treatment or counseling is allowed, the same shall be subject to the supervision of the physician bearing medical responsibility for the facility, if any. Where such physician is not necessary to the operation of the facility, such personal treatment or counseling shall be under the supervision of the director.

(c) The director of any facility may in his discretion by and with the advice of two physicians not employed by the facility, determine when elective surgery should be performed upon any mentally disabled person admitted or committed to such facility where such person does not have a living parent, spouse, issue, next of kin or legal guardian as fully and to the same effect as if said director had been appointed guardian and had applied to and received the approval of an appropriate court therefor.

Section 418. Duration of Admission or Commitment; in General.--Any admission or commitment of a person under this act, shall be valid and authorize the detention of such person only for the period specified in the section under which he was admitted or committed, or, where authorized, for such period as a court may specify in its order of commitment. If no period is specified in a commitment, the person may be detained until care or treatment is no longer necessary, whereupon he shall be discharged, or otherwise dealt with in accordance with the provisions of this act.

**Compiler's Note:** Section 501 of Act 143 of 1976 provided that section 418 is repealed except insofar as it relates to mental retardation or persons who are mentally retarded.

Section 419. Leaves of Absence.--(a) The director of any facility, in his discretion, may allow a leave of absence to any person admitted or committed whose condition is such as to warrant the action, for a period not exceeding one year, and upon such terms and conditions as he may prescribe consistent with regulations of the department and the director may renew or extend a leave of absence for an additional period or periods not exceeding one year for each such renewal or extension.

(b) Leaves of absence may be terminated by the director who may, if necessary, authorize the apprehension and return of the person to whom the leave was granted, by any sheriff, constable or police officer who shall apprehend and return such person.

(c) Whenever a leave of absence is granted or extended to a period of three years and such leave is not terminated by the director as aforesaid, upon the expiration of such three year period, the person admitted or committed shall be deemed to be discharged.

**Compiler's Note:** Section 501 of Act 143 of 1976 provided that section 419 is repealed except insofar as it relates to mental retardation or persons who are mentally retarded.

Section 420. Discharge by Department.--The department may review any commitment made under this act other than a criminal commitment and the secretary may order the discharge of any person so committed whenever he finds that such committed person is no longer in need of care and treatment in a facility. The department may also review criminal commitments and the

secretary may make recommendation to the court which committed such person that he be discharged or returned to a penal or correctional institution.

**Compiler's Note:** Section 501 of Act 143 of 1976 provided that section 420 is repealed except insofar as it relates to mental retardation or persons who are mentally retarded.

Section 421. Transportation of Mentally Disabled Persons.--Whenever the transportation of a mentally disabled person from one place to another is necessary to effect admission to, commitment in, or transfer between facilities and circumstances permit, such person shall be accompanied by a relative or other suitable person of the same sex.

(421 repealed insofar as inconsistent Oct. 4, 1978, P.L.909, No.173)

**Compiler's Note:** Section 9(b)(4) of Act 173 of 1978 provided that section 421 is repealed insofar as it is inconsistent with Act 173.

Section 422. Mechanical Restraints Prohibited; Exceptions.--Mechanical restraints shall not be used or applied to a mentally disabled person, except:

(1) When necessary to prevent such person from harming himself or others when being transported as provided in sections 405 or 421, or

(2) Whenever the director of a facility or his designee determined that such are required by the medical needs of such person admitted or committed, in which case the same may be used or applied only in accordance with regulations of the department.

Section 423. Rights of Persons Admitted or Committed.--Every person admitted, committed or detained in any facility shall have the right:

(1) To communicate with and to be alone at any interview with his counsel or representative of the department, and to send sealed communications to the director, any member of his family, the department, the court, if any, which committed him, and the Governor.

(2) To religious freedom, and to be visited by a clergyman. Religious ministrations rendered by a clergyman shall be personal to the person desiring the same and shall not interfere with the established order of religious services available in the institution. In the discretion of the director, he may exclude any particular minister or prohibit any religious ministrations or service, if such interferes with the administration or security of the facility, or with the general welfare, care and treatment of any person admitted or committed.

(3) To be employed at a useful occupation in so far as the condition of the patient may benefit therefrom and the facility is able to furnish useful employment to such person.

(4) In the discretion of the director, to sell articles, the product of such person's 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 director, for communicating with any person outside of the institution. Communications shall be stamped and mailed.

(6) To be released as soon as care and treatment in a facility is no longer necessary.

(7) To request the department to arrange for the examination of such person's mental condition by a physician not associated with the department. The department may refuse to grant such request only when it is made sooner than six months after such person's admission or commitment or sooner than one year after a previous examination hereunder.

Section 424. Funds of Persons Admitted or Committed to State Operated Facilities.--Where no guardian has been appointed for a mentally disabled person admitted or committed to a State operated facility all money and other personal property of such person shall be handled in the following manner, unless the director determines that such person's recovery or well-being will be promoted by his own handling of such money or personal property:

(1) The authorized agent of the Department of Revenue shall, without application to any court, take custody of, receive and manage in accordance with this section any money or other personal property in such person's possession at the time he is admitted to a facility and any gifts, legacies, pensions, insurance payments, retirement benefits or payments, old age and survivors' insurance, or any other benefits or payments to which such person covered by the provisions of this act may be entitled.

(2) The revenue agent shall, upon the director's request, turn over to the director the sum of one hundred dollars (\$100) to be used as such person's petty cash fund. Funds so held by the director shall be disbursed at his discretion to promote the welfare of such person. The revenue agent shall, upon the director's request, restore the balance in each such person's petty cash fund to one hundred dollars (\$100). For special purposes, the director may request funds for such person up to five hundred dollars (\$500).

(3) Unless a guardian has been appointed and qualified, the revenue agent shall hold, apply and dispose of all funds in accordance with regulations promulgated by the department.

(4) Whenever the money and other personal property of such person exceeds two thousand five hundred dollars (\$2,500) in value, the revenue agent shall request the Department of Justice to apply for the appointment of a guardian of such person's estate in accordance with the act of February 28, 1956 (P.L.1154), known as the "Incompetents' Estates Act of 1955."

(5) When such guardian has been appointed and qualified pursuant to this section or in any other manner, he shall be entitled to receive from the revenue agent all money and other personal property in the custody of such revenue agent belonging to the person for whom he has been appointed guardian. All funds transmitted to the guardian shall be accompanied by a statement certified as true and correct and setting forth, in detail, a full accounting of such person's funds.

(6) Whenever such money and other personal property exceed two thousand five hundred dollars (\$2,500) in value and the court rules that a guardianship is not appropriate, then such money and other personal property shall be handled in accordance with this section.

(7) The revenue agent and the director each shall at all times have on file with the Secretary of the Commonwealth a bond at least equal to the total value of all such money and other personal property in his possession.

(8) The revenue agent and the director shall each open interest bearing accounts in federally insured banks, banking institutions, trust companies or savings and loan associations and shall deposit therein all such moneys in their possession.

Amounts on deposit in such accounts shall not exceed the amount of Federal insurance coverage. All interest earned on such accounts less costs of administering such accounts shall be allocated to each individual person's account in the same proportion that said account bears to the total of all accounts at the time the interest is calculated.

(9) All moneys and other personal property of any mentally disabled person admitted or committed to a State operated facility which is held by the director or revenue agent at the time this act becomes effective shall be managed in accordance with the provisions of this section after said date. This paragraph shall not apply to interest that is accrued on such person's funds prior to the effective date of this act.

(10) Upon the death of any such person the director shall transfer to the revenue agent all money and other personal property belonging to such person. The revenue agent shall continue to serve as provided in this section, with respect to any sums due such person as of the date of his death, or as burial allowances. After the payment of burial expenses and satisfaction of such person's obligation to the Commonwealth, the balance of such funds, if any, shall be disposed of in accordance with existing statutes governing decedents' estates except those veterans' benefits which by Federal law are to be returned to the United States.

Section 425. Escapes.--(a) Whenever any committed person who may be dangerous to the safety of the public or himself escapes from a facility, it shall be the duty of the director to promptly notify the local, county and State law enforcement officers.

(b) Upon receipt of such notice, it shall be the duty of the local, county and State law enforcement officers to direct an officer to apprehend the escapee.

(c) Any patient who escapes from an institution may be apprehended and returned thereto by any sheriff, constable or police officer, or by any officer or employe of the facility.

(d) Any person being charged with crime who is detained in a facility under order of court pursuant to section 407, or commitment pursuant to sections 408 or 410 who escapes from such facility or otherwise departs therefrom in violation of the commitment or any order of court relating to such detention is guilty of prison breach and upon conviction thereof shall be sentenced to pay a fine not exceeding one thousand dollars (\$1,000) or undergo imprisonment not exceeding two years or both.

(e) Any person who has been sentenced for crime who is detained in a facility pursuant to sections 411 or 412 who escapes from such facility is guilty of prison breach and upon conviction thereof shall be sentenced in accordance with section 309 of the act of June 24, 1939 (P.L.872), known as "The Penal Code."

Section 426. Habeas Corpus; Discharge by Order of Court.--(a) Every person committed or detained in a facility by reason of the provisions of this act or anyone acting on his behalf, may at any time, petition for a writ of Habeas Corpus and, except as hereinafter provided, said petition shall be filed in accordance with the provisions of the act of May 25, 1951 (P.L.415).

(b) Said petition may be based upon the following grounds:

(1) The insufficiency or illegality of the proceedings leading to such person's commitment, or,

(2) Although the commitment proceedings were proper, such person's continued detention or hospitalization is not warranted

by reason of mental disability. Where the petition is based on this ground: (i) it shall be accompanied by the affidavit of a physician stating that he has examined the person and is of the opinion that such person is not mentally disabled, or that such mental disability does not require care or treatment in a facility, and (ii) the burden of proof shall rest upon the director responsible for such person's continued detention.

(c) Jurisdiction and venue is hereby conferred upon the several courts of the Commonwealth to issue writs of Habeas Corpus filed under this act as follows:

(1) A petition filed under section 426(b)(1) may be filed: (i) where committed by a court, only in the same court, or (ii) where committed under sections 404 or 405 of this act, only in the court of the county where the application for commitment was made.

(2) A petition filed under section 426(b)(2) may be filed: (i) in the court which committed such person or the court of common pleas of the county where he is detained if a civil commitment was ordered, or (ii) where a criminal charge is pending, in the court having jurisdiction of the charge or which committed him or the court of the county where he is detained, or (iii) where committed by a court where a criminal act was in any way otherwise involved in the proceedings leading to commitment, only in the same court which committed such person.

(3) If any petition under section 426(b)(2) is filed in a court other than the court of the county in which the person is detained, the petition may be transferred for disposition by the court in which it was filed to the appropriate court of the county in which the person is detained.

**Compiler's Note:** Section 501 of Act 143 of 1976 provided that section 426 is repealed except insofar as it relates to mental retardation or persons who are mentally retarded.

## ARTICLE V

### Financial Obligations; Liabilities and Payments

Section 501. Liability of Mentally Disabled Persons.--Whenever public funds are expended under any provision of this act on behalf of a mentally disabled person, the governmental body expending such funds may recover the same from such person subject to the regulations of the department and for this purpose liability is hereby imposed upon such person admitted, committed or otherwise receiving any service or benefit under this act for all costs, payments or expenditures with reference thereto, including but not being limited to the costs of admission or commitment, transportation, treatment, training, maintenance, complete care, partial care or aftercare and discharge.

Section 502. Liability of Persons Owing a Legal Duty to Support.--Except as provided in this section and in section 504, whenever any person under eighteen years of age admitted, committed or otherwise receiving any service or benefit under this act shall be unable to discharge the obligation imposed upon him by section 501, such liability is hereby imposed upon any person owing a legal duty to support the person admitted, committed or otherwise receiving services or benefits under this act. Upon the mentally disabled person attaining the age of eighteen, or any mentally disabled person over eighteen years of age on the effective date of this act, the liability under the act of the persons owing a legal duty to support him shall

cease: Provided, however, That spouses shall remain liable for each other regardless of age except for periods of continuous inpatient care in excess of one hundred and twenty days. Continuous inpatient care for the purposes of this section shall be any in-hospital stay not interrupted by more than one hundred and twenty days. Nothing in this section 502 shall relieve any private, nonprofit or governmental health insurer for liability to pay for such care under any contract of insurance or group insurance plan.

(502 amended July 16, 1975, P.L.55, No.33)

Section 503. Contingent Liability of State and Local Government; Intention of Act.--(a) Neither the State nor a county shall be required to expend public funds under this act on behalf of a mentally disabled person until such person, who has been admitted or committed or is receiving services or benefits under this act, shall have exhausted his eligibility and receipt of benefits under all other existing or future, private, public, local, State or Federal programs.

(b) Upon exhaustion of such eligibility as aforesaid, the Commonwealth and the counties shall share the financial obligations accruing under this act, to the extent such obligations are not borne by the Federal government, or any private person or agency.

(c) It is the intention of this act that its provisions be construed so as to maintain and not decrease or destroy any eligibility of any person, any facility or the State or any political subdivision to receive any Federal assistance, grants or funds.

Section 504. Powers of Secretary to Determine Liability and Establish Criteria.--(a) Whenever any person receives a service or benefit at any facility under this act wholly or in part at public expense, the secretary is hereby authorized and shall have the power, subject to the approval of the Attorney General, to determine the extent of liability imposed under sections 501 or 502, and to abate, modify, compromise or discharge the liability so imposed provided:

(1) He is satisfied that the imposition of such liability would: (i) result in the loss of financial payments or other benefits from any public or private source which a mentally disabled person would receive, would be eligible to receive or which would be expended on his behalf except for such liability, or (ii) result in a substantial hardship upon the mentally disabled person, a person owing a legal duty to support such person or the family of either, or (iii) result in a greater financial burden upon the people of the Commonwealth, or (iv) create such a financial burden upon such mentally disabled person as to nullify the results of care, treatment, service or other benefits afforded to such person under any provision of this act.

(2) Proceedings to recover such costs or discharge such liability including legal fees would not be in the best interest of the Commonwealth.

(b) If the secretary exercises the power conferred in sections 501 or 504(a) with reference to any person upon whom liability is imposed by sections 501 or 502, the department shall reimburse the county to the extent such person is relieved of any obligation to pay the county for services or benefits received by him under this act and paid for by the county on his behalf.

(c) The liability of a mentally disabled person or of anyone legally responsible for his support shall be the amount fixed or charged by the secretary and the payment of the amount so

fixed or so charged shall relieve such person of all further liability for payment of the maintenance of the mentally disabled person.

(d) In exercising the powers herein conferred, the secretary by regulation, approved by the Governor, shall establish criteria by which the extent of such liability shall be determined except that wherever possible any real estate which constitutes the home residence of the mentally disabled person or his spouse, or a person owing a legal duty to support shall not be considered.

(e) The secretary may call upon the Secretary of Revenue for assistance in establishing said criteria, and in determining the financial ability of any person to discharge liability imposed upon him under this act.

(f) The secretary and the Secretary of Revenue shall jointly promulgate regulations, subject to the approval of the Attorney General, as to the duties of revenue agents and other personnel of each department with reference to the investigation and determination of any person's financial ability as aforesaid.

Section 505. Liability of County.--(a) ((a) repealed June 18, 1997, P.L.179, No.18)

(b) Whenever any person is committed for observation in connection with any proceedings with reference to a criminal act, liability for the costs of his observation, transportation, maintenance and care shall be imposed upon the county from which he was committed for the period of observation only, which shall not exceed ninety days.

(c) Any moneys expended by a county by reason of provisions of this section may be recovered only from the mentally disabled person or the person owing a legal duty to support such mentally disabled person upon whom liability is hereby imposed.

**Compiler's Note:** Section 7 of Act 18 of 1997, which repealed section 505(a), provided that all liability of counties under section 505(a) in existence on the effective date of Act 18 is discharged.

Section 506. Collection of Costs.--(a) The primary responsibility for collecting the cost of care and treatment provided at a facility not operated by the State, or by an individual, because of any liability imposed by this act, shall rest with the facility or such individual, as the case may be, providing such care and treatment.

(b) All moneys due the Commonwealth by reason of any liability imposed by this act for care and treatment at a State operated facility shall be collected by the Department of Revenue as collection agency for the Commonwealth.

(c) All moneys due by reason of any liability imposed by this act upon any person for care and treatment for which the county makes an expenditure shall be collected by the county.

(d) Where there are moneys due both the Commonwealth and the county by reason of any liability imposed by this act upon any person, and the assets thereof are insufficient to discharge the liability in full, the assets shall be applied to the Commonwealth and county on a prorata basis in proportion to their respective claims.

(e) For amounts due the Commonwealth by reason of liability imposed under section 505, the Department of Revenue, after the last day of each calendar month shall promptly transmit to the local authorities of the respective counties, a certified account of the moneys due the Commonwealth from the county involved by reason of such liability, together with an order, payable to the Department of Revenue, drawn on the local

authorities of the county, who shall accept and promptly pay the same to the Department of Revenue.

Section 507. Liability of the Commonwealth.--(a) Except as provided in sections 501, 502, and 505, the Commonwealth shall pay for the following:

(1) Diagnosis, evaluation and care in State operated facilities, or in a facility with which the State may contract.

(2) Such other obligations as may arise under any new program established by the department.

(3) Payments for inpatient care not exceeding sixty days per benefit period, and partial hospitalization not exceeding one hundred twenty days, per year, for persons financially ineligible for such care under the Public Assistance Law.

(4) Interim care of mentally retarded persons, who have been removed from their homes and who, having been accepted, are awaiting admission to a State facility.

Section 508. Relief of County from Obligation to Insure Service; State's Obligation; Liability in Such Cases.--(a) If local authorities cannot insure the availability of any of the services required by section 301, or if they assert that it would be economically unsound to do so, such authorities may make application to the department to be relieved for the period of one year from the duty to insure their availability.

(1) Such application shall specify: (i) the service or services involved and (ii) facts upon which it seeks relief.

(b) If the department after consideration of the application and such independent investigation as it shall deem appropriate determines that the application is justified, it may approve the same, in which event, the department may insure the availability of the service or services specified in the application, for the year specified in the application.

(c) When the department provides said service or services under this section, the liability shall be apportioned in accordance with the appropriate formula determined in accordance with section 509(1).

(d) Local authorities may make successive application hereunder.

Section 509. State and County Grants and Payments.--The department, subject to the provisions of section 503, shall have the power, and its duty shall be:

(1) From State and Federal funds, to make annual grants to counties to defray part of the cost of county programs authorized by this act and approved by the department, in the amount of ninety percent of the excess of all such approved expenditures for such programs over the amount paid for the same purpose from any public or private source directly to participating counties, facilities or individuals.

(2) To prescribe the time at which the counties shall submit to the department annual plans and annual estimates of expenditures, and revisions thereof, to carry out mental health and intellectual disability programs. Such plans and estimates shall contain such information as the secretary by regulation shall prescribe.

(3) Upon approval of an annual plan and the estimated expenditures for a mental health and intellectual disability program, to compute an annual grant in accordance with the formula established in clause (1) of this section.

(4) To pay the annual grant in four quarterly installments. The moneys received in any quarter may be used at any time during the year. The first installment shall be for the quarter beginning July 1 and ending September 30; the second installment shall be for the quarter beginning October 1 and ending December

31; the third installment shall be for the quarter beginning January 1 and ending March 31; and the fourth installment shall be for the quarter beginning April 1 and ending June 30. Each installment shall be paid at the beginning of the quarter only if the department is satisfied that the county is complying with the regulations of the department prescribing minimum mental health and intellectual disability services, minimum standards of performance of mental health and intellectual disability services and minimum standards of mental health and intellectual disability personnel administration on a merit basis.

(5) In the event that sufficient funds to pay the full amount of the grants to which the counties may be entitled under the provisions of this section have not been appropriated, to distribute State funds among the counties by a formula reasonably designed to achieve the objectives of this act, provided however, that in such event the counties' financial obligations under this act shall be reduced in accordance with the same formula and the counties shall be required to provide only those services for which sufficient funds are available.

(6) To review grants against actual expenditures at any time and to make appropriate adjustments in subsequent grants. If a grant overpayment cannot be recovered through such an adjustment for any reason, the department shall effect a refund of such overpayment from the county.

(7) For the purpose of this act, the contribution with respect to services, equivalent to the employer's tax established by the Federal Social Security Act shall be the first obligation against any State funds received by the counties for their use or authorized under this act and shall first be paid therefrom.

(509 amended Nov. 22, 2011, P.L.420, No.105)

Section 510. Supplemental Grants.--The department may make additional grants to any county participating in an approved mental health and intellectual disability plan to assist in establishing the services provided for in such plan, for the first three years of operation of such plan. Said grant shall be supplemental to grants authorized by section 509 but shall not exceed in any one year, ten percent of the grant made under that section.

(510 amended Nov. 22, 2011, P.L.420, No.105)

Section 511. Interim Grants for Mental Health and Intellectual Disability Services.--(a) From State and Federal funds, the department may make grants to any county, or combination of counties, or to any facility for all or part of the cost of services designed to carry out the provisions of article III of this act.

(b) Such grants, whose amounts shall be calculated in accordance with a formula to be determined by the department, shall terminate with respect to a particular county, or combination of counties, on the approval of the initial plan for a mental health and intellectual disability program or on the deadline for the establishment of all such programs, as provided in section 512, whichever is earlier.

(511 amended Nov. 22, 2011, P.L.420, No.105)

Section 512. Deadline for Establishment of County Mental Health and Intellectual Disability Program; Failure to Comply with Minimum Standards; Penalties.--(a) Each county acting alone or in participation with other counties as provided in section 301 shall, by January 1, 1969, submit to the department for approval a plan for a county mental health and intellectual disability program. The information and material upon which

such plan shall be formulated for submission to the department shall be published and distributed to the counties by the Advisory Committee for Mental Health and Intellectual Disability on or before August 1, 1968.

(b) If, by July 1, 1969, any county has not submitted any plan or if although it shall have submitted a plan, it has not made such alterations or additions to such plan as to secure approval by the department, the department shall provide mental health and intellectual disability services for such county.

(c) If at any time after the approval of a plan, the department determines, after hearing, that such county or combination of participating counties is not complying with regulations promulgated under section 202(2) and that, as a result, the needs of the mentally disabled persons are not being adequately met, the department shall provide mental health and intellectual disability services for such county or counties.

(d) When in pursuance of this section, the department shall provide the mental health and intellectual disability services of a county or counties, such county or counties shall be charged and shall pay the county share computed in accordance with section 509, and, to compensate the State for its expenses incident to the administration of the county program, an additional fifteen percent of the net cost to the Commonwealth for the county program. The amount due the Commonwealth shall be paid by the county or counties within twelve months after receipt of the department's notice of the amount due. All sums collected from the county under this section, in whatever manner such collections are made, shall be paid into the State Treasury and shall be credited to the current appropriations to the department to carry out State obligations under this section.

(e) The department shall relinquish the administration of the mental health and intellectual disability program of the county upon establishment or reinstatement as the case may be, of an approved county mental health and intellectual disability program in compliance with this act and thereafter grants and payments authorized herein may be made by the department.

(512 amended Nov. 22, 2011, P.L.420, No.105)

## ARTICLE VI Miscellaneous Provisions

Section 601. Forms to be Used under This Act.--The secretary may develop suggested forms to be used in carrying out the provisions of this act. By regulation, he may require the use of any form so developed.

Section 602. Records of Persons Admitted or Committed.--(a) Whenever a person is admitted or committed to any facility or receives services or benefits at a facility under any provision of this act, a complete record pertaining to such person shall be maintained by the facility. Such record shall include, if available, but need not be limited to, applications, petitions, affidavits, orders of court, reports of physicians, psychiatrists, psychologists, nurses, social workers, police records, financial records, and all clinical records or a full abstract thereof containing all essential particulars, including results of physical examinations, examinations for mental disability, laboratory tests, and any other material with reference to such person.

(b) Whenever he is transferred to any other facility pursuant to any provision of this act a copy of all pertinent records pertaining to such person shall accompany him.

(c) Whenever a person who has previously received services or benefits at a facility is later given services or benefits at another facility the first facility shall, upon request from the subsequent facility, furnish a copy of all pertinent records pertaining to such person.

(d) Any record, or portion thereof, so maintained shall be open to inspection and examination only to those persons designated by the director of a facility at which such person has been admitted or committed or at which he is receiving services or benefits, and as to those facilities under the control of the Commonwealth of Pennsylvania or local authorities to such other persons as the secretary by regulation may determine.

Section 603. Immunities.--No person and no governmental or recognized nonprofit health or welfare organization or agency shall be held civilly or criminally liable for any diagnosis, opinion, report or any thing done pursuant to the provisions of this act if he acted in good faith and not falsely, corruptly, maliciously or without reasonable cause; provided, however, that causes of action based upon gross negligence or incompetence shall not be affected by the immunities granted by this section.

**Compiler's Note:** Section 802(b) of Act 330 of 1978 provided that section 603 is repealed insofar as it is inconsistent with Act 330.

**Compiler's Note:** Section 4 of Act 152 of 1978 provided that section 603 is repealed insofar as it waives or purports to waive sovereign immunity inconsistent with the Act 152 of 1978 but was saved from repeal insofar as it provides defenses or immunities from suit.

Section 604. Report of Psychological Examination.--Whenever a preliminary examination required by this act indicates that the person examined is mentally retarded, the report of a psychologist shall accompany the physician's report or certificate.

Section 605. Penalties.--The following acts are hereby declared to be crimes and any person found guilty thereof shall be guilty of a misdemeanor and upon conviction thereof shall be sentenced to pay a fine not exceeding one thousand dollars (\$1,000), or to undergo imprisonment not exceeding one year, or both, except that if such acts shall be committed by a corporation, partnership or association, the officers and directors of such corporation or the members of such partnership or association, its agents and employes who knowingly participated in such acts shall also be guilty of a misdemeanor and upon conviction thereof, shall be punished as hereinbefore provided:

(1) It shall be unlawful for any person to deliver or cause to be delivered any alcoholic or other intoxicating or narcotic substance to any person in a facility without the knowledge or consent of the director thereof.

(2) It shall be unlawful for anyone to directly or indirectly, sell, give or furnish to any person admitted, committed or detained in a facility, any weapon or other instrument which may be used to inflict injury unless the instrument is a tool of the activity in which the person has permission to engage.

(3) It shall be unlawful for any person to aid or assist any person committed in any facility to make or attempt to make his escape therefrom, or connive in any way at such escape or attempt at escape.

(4) It shall be unlawful for any person, corporation, partnership or association to wilfully cause or conspire with or assist another to cause the unwarranted detention or commitment of any person under the provisions of this act, or the denial to any person of any of the rights accorded to him under the provisions of this act.

(5) It shall be unlawful for any person to disclose without authority the contents of any records or reports touching upon any matter concerning a person who has been admitted, committed or detained pursuant to the provisions of this act.

(6) It shall be unlawful for any physician to knowingly make any false statement, certificate or report which aids in or causes a person to be admitted, committed or detained pursuant to the provisions of this act.

Section 606. Administrative Agency Law to Apply.--The provisions of this act shall be subject to the provisions of the Administrative Agency Law of 1945 (P.L.1388), as amended.

#### ARTICLE VII

#### Repeals; Interim Powers; Appropriation; Effective Date

Section 701. Repeals.--(a) The act of June 12, 1951 (P.L.533), known as "The Mental Health Act of 1951," is repealed absolutely, effective July 1, 1969. ((a) amended June 28, 1968, P.L.280, No.135)

(b) All other acts and parts of acts are repealed in so far as they are inconsistent herewith.

Section 702. Interim Powers of the Department.--(a) Between the effective date of this act and July 1, 1969, or until such time between said dates as the local authorities shall carry out the responsibilities imposed upon them by Article III, the department shall have the general power to do all things necessary to act for the State or in place of local authorities or their appointees in the designation of facilities and the furnishing of mental health and mental retardation services to the mentally disabled. ((a) amended June 28, 1968, P.L.280, No.135)

(b) In discharging its interim duties, the department may utilize either the provisions of this act or the provisions of the act of June 12, 1951 (P.L.533), known as "The Mental Health Act of 1951," whichever act provides the most convenient, or the least costly procedure.

Section 703. Appropriation.--The sum of six million dollars (\$6,000,000), or as much thereof as may be necessary, is hereby appropriated to the Department of Public Welfare for the fiscal year 1966-67 for the purpose of carrying out the provisions of this act.

**Compiler's Note:** The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

Section 704. Effective Date.--This act shall take effect January 1, 1967.