

**MENTAL HEALTH & DEVELOPMENTAL
DISABILITIES CODE**

[405 ILCS 5]



ILLINOIS DEPARTMENT OF HUMAN SERVICES

Includes amendments effective through January 1, 2002

01/01/02
622501

**WITH ANNOTATIONS OF FORMS REQUIRED UNDER THE
 MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES CODE
 Effective January 1, 1979
 (405 ILCS 5)
 (Formerly Ill. Rev. Stat., ch. 91½; par. 1-100 et seq.)**

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01/01/2002

PREFACE

In June 1992, the 87th General Assembly passed House Bill 3810 (P.A. 87-1005), effective September 3, 1992. This legislation required the Legislative Reference Bureau to file a compilation of the nearly 2,000 general Acts of Illinois. The compilation, known as the Illinois Compiled Statutes (ILCS), became effective January 1, 1993.

This edition of the Mental Health and Developmental Disabilities Code contains citations to both the old Illinois Revised Statutes and the new Illinois Compiled Statutes. The new citation is used to identify the Section. Immediately following each Section, in bold and enclosed in parenthesis, is the old citation. For example, beneath Section 1-100, now designated as 5/1-100, there is the notation (**Formerly Ill. Rev. Stat., ch. 91½, par. 1-100**).

Effective January 1, 1994, the Illinois Compiled Statutes are to be used exclusively.

Code forms which are to be used for a specific action have been placed at the end of the appropriate Section or subsection. The form numbers are surrounded by asterisks and are in bold face type. For example: ****MHDD-24****. In addition, an index to the Code forms referencing the appropriate Section or subsections appears at the end of this publication.

All amendments and additions to this edition of the Code made since the last published edition (effective through December 1, 1997) are indicated in bold face capital letters.

ADDED/AMENDED SECTIONS

SECTIONS (Amended)

2-108, 2-109, 2-200,
2-201, 3-206, 3-404,
3-405, 3-503, 3-504,
3-506, 3-910

PUBLIC ACT/DATE

P.A. 81-799 approved 9/16/79

SECTIONS (Added)

3-209

P.A. 81-920 added 9/22/79

SECTIONS (Amended)

3-500

P.A. 81-1497 approved 9/19/80

3-605

P.A. 81-1527, certified and
effective 12/18/80

SECTIONS (Amended)

2-102, 3-204, 3-205, 4-205

P.A. 82-205 approved 8/14/81

SECTIONS (Amended)

3-901, 3-902, 3-906,
3-907, 3-10002, 6-102

P.A. 83-706, approved and
effective 9/23/83

3-819, 3-905, 4-616, 4-617

P.A. 83-346, approved and
effective 9/14/83

3-504

P.A. 83-670, approved 9/23/83
and effective 1/1/84

3-814

P.A. 83-839, approved 9/26/83
and effective 1/1/84

5-105, 5-106, 5-108, 5-116

P.A. 83-578, approved and
effective 9/17/83

5-114

P.A. 83-388, approved and
effective 9/16/83

SECTIONS (Added)

4-309.1, 4-309.2

P.A. 83-1292, approved and effective 8/31/84

SECTIONS (Amended)

1-108

P.A. 83-1364, approved and effective 9/11/84

SECTIONS (Amended)

1-122

P.A. 84-766, approved 9/21/85 and effective 1/1/86

4-704

P.A. 84-539, approved and effective 9/17/85

5-102

P.A. 84-871, approved 9/23/85 and effective 1/1/86

SECTIONS (Added)

1-122.1

P.A. 84-766, approved 9/21/85 and effective 1/1/86

5-100A

P.A. 84-902, approved 9/23/85 and effective 1/1/86

5-107.1

P.A. 84-539, approved and effective 9/17/85

SECTIONS (Added)

3-820

P.A. 84-1305, approved and effective 8/21/86

5-118, 5-119

P.A. 84-1373, approved and effective 9/12/86

SECTIONS (Amended)

5-105

P.A. 84-1397, approved 9/18/86 and effective 1/1/87

SECTIONS (Amended)

3-507, 3-510

P.A. 85-643, approved 9/20/87 and effective 1/1/88

3-703, 3-803, 3-804

P.A. 85-558, approved 9/18/87 and effective 1/1/88

5-104

P.A. 85-336, approved 9/10/87 and

5-105

SECTIONS (Amended)

1-124, 2-101, 2-107, 2-108,
2-109, 2-111, 3-401, 3-405,
3-800, 3-812, 3-903, 3-909,
4-208, 4-605, and 5-104

SECTIONS (Added)

5-107.2

SECTIONS (Amended)

1-120, 1-122, 3-504,
3-511, 4-308

4-208, 4-605

SECTIONS (Amended)

2-108, 2-109

3-501, 3-510

SECTIONS (Added)

1-101.1, 1-117.1,
2-112, 3-210, 3-211

SECTIONS (Amended)

2-103, 2-200

SECTIONS (Added)

2-113, 2-114

SECTIONS (Amended)

2-100, 2-201, 3-200
3-910, 4-200, 4-201
4-203, 4-209, 4-300,
4-309, 5-100, 6-103

1-125, 1-126, 2-102,
2-108, 2-109, 3-504,
3-813, 3-815, 3-816

effective 1/1/88

P.A. 85-609, approved and effective
9/20/87

P.A. 85-971, certified 12/10/87 and
effective 7/1/88

P.A.; 85-971, certified 12/10/87
and effective 7/1/88

P.A. 85-1209, approved and effective
8/30/88

P.A. 85-1247 approved and effective
8/30/88

P.A. 86-1013 approved and effective
1/3/90

P.A. 86-922 approved and effective
9/12/89

P.A. 86-1013 approved and effective
1/3/90

P.A. 86-1417 approved and effective
9/11/90

P.A. 86-1417 approved and effective
9/11/90

P.A. 86-1416, approved 9/11/90
and effective 1/1/91

P.A. 86-1402, approved 9/11/90
and effective 1/1/91

SECTIONS (Added)

1-122.4, 4-201.1

P.A. 86-1416, approved 9/11/90
and effective 1/1/91

1-121.1, 2-107.2

P.A. 86-1402, approved 9/11/90
and effective 1/1/91

SECTIONS (Repealed)

5-118, 5-119

P.A. 86-1416, approved 9/11/90
and effective 1/1/91

SECTIONS (Added)

2-107.1

P.A. 87-124, approved and effective
8/13/91

SECTIONS (Amended)

5-105

PA 87-311, approved and effective
9/6/91

1-122, 2-108, 2-109, 3-503,
3-504, 3-807, 4-301, 4-402,
4-501, 4-502, 4-603, 4-604,
4-607, 4-705

P.A. 87-530, approved and effective
1/1/92

1-122, 1-125, 2-107.2, 2-108,
2-109

P.A. 87-124, approved and effective
8/13/91

SECTIONS (Amended)

2-108, 2-109

P.A. 87-895, approved and effective
8/14/92

3-605-3-819

P.A. 87-1158, approved and effective
9/18/92

SECTIONS (Amended)

5-104

P.A. 88-45, approved and effective
7/6/93

SECTIONS (Amended)

1-102, 1-107, 1-111, 1-113,
1-114, 1-119, 1-124, 1-128, . . .
2-108, 3-200, 3-202, 3-204,
3-206, 3-207, 3-300, 3-400,
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3-902, 3-903, 3-904, 3-906,
3-908, 3-909, 3-910, 3-1002,
3-1003, 4-200, 4-201, 4-302,
4-308, 4-311, 4-312, 4-400,

P.A. 88-380, approved and effective
8/20/93

5-100, 5-105, 5-107.1, 6-102,
6-103

SECTIONS (Added)

1-114.1, 1-114.2, 1-114.3,
1-114.4, 1-114.5, 3-601.1

P.A. 88-484, approved and effective
9/10/93

SECTIONS (Amended)

3-207, 3-208, 3-300, 3-400, . . .
3-405, 3-502, 3-503, 3-504, . .
3-601, 3-603, 3-606, 3-607,
3-702, 3-704, 3-706, 3-810,
3-811, 3-812, 3-902, 3-909,
5-104, 5-117

P.A. 88-484, approved and effective
9/10/93

SECTIONS (Amended)

3-300, 3-501, 3-504, 3-812

P.A. 88-670*, effective 12/2/94

SECTIONS (Amended)

2-107.1

P.A. 89-11, approved and effective
3/31/95

SECTIONS (Amended)

2-107, 5-100A

P.A. 89-427, approved and effective
12/7/95

SECTIONS (Amended)

1-121.1, 2-107, 2-107.1,
2-107.2, 3-101, 3-806, 3-902,
4-200, 4-201, 4-300, 4-309,
4-309.1, 4-309.2 and 4-610

P.A. 89-439, approved 12/15/95
and effective 6/1/96

SECTIONS (Added)

5-108.1

P.A. 89-522, approved and effective
7/26/96

SECTIONS (Amended)

1-105, 1-108, 2-202, 3-207,
3-903, 4-201, 4-201.1, 4-203,
4-209, 4-704, 5-100A, 5-103,
5-107.2 and 5-111

P.A. 89-507, approved 7/3/96 and
effective 7/1/97

SECTIONS (Amended)

2-102, 2-107, 2-107.1, 2-107.2,
2-110 and 3-800

P.A. 90-538, approved and effective
12/1/97

SECTIONS (Added)

1-121.5, 2-110.1 and

P.A. 90-538 approved and effective

3-601.2	12/1/97
SECTIONS (Amended) 3-816, 3-819, 4-613 and 4-615	P.A. 90-765, approved and effective 8/14/98
SECTIONS (Added) 2-110.5	P.A. 91-74, approved and effective 7/9/99
SECTIONS (Amended) 2-114, 3-202, 4-209, 4-210	P.A. 91-357, effective 7/29/99**
SECTIONS (Amended) 1-122, 3-814	P.A. 91-536, approved 8/13/99 and effective 1/1/2000.
SECTIONS (Added) 1-101.2	P.A. 91-536, approved 8/13/99 and effective 7/1/2000
SECTIONS (Amended) 1-119, 1-121, 2-102, 2-107, 2-107.1, 2-200, 2-201, 3-207, 3-208, 3-300, 3-400, 3-405, 3-502, 3-503, 3-504, 3-601, 3-603, 3-606, 3-607, 3-702, 3-704, 3-810, 3-811, 3-812, 3-902, 3-909, 5-104, 5-117, 6-103	P.A. 91-726, approved and effective 6/2/2000
SECTIONS (Added) 1-110.5, 1-113.5, 3-205.5	P.A. 91-726, approved and effective 6/2/2000
SECTIONS (Repealed) 1-114.2, 1-114.3, 1-114.4, 1-114.5, 3-601.1	P.A. 91-726, approved and effective 6/2/2000
SECTIONS (Amended) 1-121, 2-107.1, 3-813	P.A. 91-787, approved 6/9/2000 and effective 1/1/2001

SECTIONS (Amended)

3-608, 3-701, 3-704

P.A. 91-837, approved and effective
6/16/2000

SECTIONS (Added)

3-704.1

P.A. 91-837, approved and effective
6/16/2000

SECTIONS (Amended)

2-107.1, 3-603,3-704, 3-820

P.A. 92-16,^{***} approved and effective
6/28/2001

SECTIONS (Added)

2-115

P.A. 92-120, approved 7/20/01, 2001
and effective 1/1/02

*P.A. 88-670, effective December 2, 1994 was a revisory bill which reconciled conflicts and made technical corrections and revisions.

** Changes to Sections 4-209 and 4-210 involved punctuation.

***** P.A. 92-16, effective June 28, 2001 was a revisory bill that deleted the opening statement of the second paragraph in Section 2-107.1(a-5) (1). This same Act made technical changes to Sections 3-603, 3-704 and 3-820.**

MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES CODE

[405 ILCS 5]

AN ACT to revise the law in relation to mental health and developmental disabilities, and to repeal an Act therein named.

Be it enacted by the people of the State of Illinois, represented in the General Assembly:

CHAPTER I SHORT TITLE AND DEFINITIONS

5/1-100 Short title

§1-100. This Act shall be known and may be cited as the "Mental Health and Developmental Disabilities Code".

(Formerly Ill. Rev. Stat., ch. 91½, par. 1-100)

5/1-101 Definitions

§1-101. As used in this Act, unless the context otherwise requires, the terms defined in this Chapter have the meanings ascribed to them herein.

(Formerly Ill. Rev. Stat., ch. 91½, par. 1-101)

5/1-101.1 Abuse

§1-101.1. "Abuse" means any physical injury, sexual abuse, or mental injury inflicted on a recipient of services other than by accidental means. (Added by P.A. 86-1013, effective January 3, 1990.)

(Formerly Ill. Rev. Stat., ch. 91½, par. 1-101.1)

5/1-101.2 Adequate and humane care and services

§1-101.2 "Adequate and humane care and services" means services reasonably calculated to result in significant improvement of the condition of a recipient of services confined in an inpatient mental health facility so that he or she may be released or services reasonably calculated to prevent further decline in the clinical condition of a recipient of services so that he or she does not present an imminent danger to self or others. (Added by P.A. 91-536, effective January 1, 2000)

(Formerly Ill. Rev. Stat., ch. 91 ½, par. 1-101.2)

5/1-102 Care and custody

§1-102. "Care and custody" means authorization to an appropriate person, with his consent, to provide or arrange for proper and adequate treatment of another person who is subject to involuntary admission but does not include the authority to require hospitalization of the recipient unless such authority is expressly granted by court order pursuant to Article VII of Chapter III. (Amended by P.A. 88-380, effective August 20, 1993.)

(Formerly Ill. Rev. Stat., ch. 91½, par. 1-102)

5/1-103 Clinical psychologist

§1-103. "Clinical psychologist" means a psychologist registered with the Illinois Department of Professional Regulation who meets the following qualifications:

(a) Has a doctoral degree from a regionally accredited university, college, or professional school, and has two years of supervised experience in health services of which at least one year is post doctoral and one year is in an organized health service program; or

(b) Has a graduate degree in psychology from a regionally accredited university or college, and has not less than six years of experience as a psychologist with at least two years of supervised experience in health services. (Amended by PA 85-1209, effective August 30, 1988.)

(Formerly Ill. Rev. Stat., ch. 91½, par. 1-103)

5/1-104 Facility director

§1-104. "Facility director" means the chief officer of a mental health or developmental disabilities facility or his designee or the supervisor of a program of treatment or habilitation, or his designee. Designee may include a physician, clinical psychologist, social worker, or nurse.

(Formerly Ill. Rev. Stat., ch. 91½, par. 1-104)

5/1-105 Department

§1-105. "Department" means the Department of Human Services in its capacity as successor to the Department of Mental Health and Developmental Disabilities. Unless the context otherwise requires, director or indirect references in this Code to the programs, employees, facilities, service providers, or service recipients or the Department shall be construed to refer only to those programs, employees, facilities, service providers or service recipients of the Department that pertain to its mental health and developmental disabilities functions. (Amended by P.A. 87-507, effective July 1, 1997)

(Formerly Ill. Rev. Stat., ch. 91½, par. 1-105)

5/1-106 Developmental disability

§1-106. "Developmental disability" means the disability which is attributable to: (a) mental retardation, cerebral palsy, epilepsy or autism; or to (b) any other condition which results in impairment similar to that caused by mental retardation and which requires services similar to those required by mentally retarded persons. Such disability must originate before the age of 18 years, be expected to continue indefinitely, and constitute a substantial handicap.

(Formerly III. Rev. Stat., ch. 91½, par. 1-106)

5/1-107 Developmental disability facility

§1-107. "Developmental disability facility" means a facility or section thereof which is licensed or operated by or under contract with the State or a political subdivision thereof and which admits persons with a developmental disability for residential and habilitation services. (Amended by P.A. 88-380, effective August 20, 1993.)

(Formerly III. Rev. Stat., ch. 91½, par. 1-107)

5/1-108 Secretary

§1-108. "Secretary" means the Secretary OF Human Services. (Amended by P.A. 83-1364, effective September 11, 1984; and amended by P.A. 89-507, effective July 1, 1997.)

(Formerly III. Rev. Stat., ch. 91½, par. 1-108)

5/1-109 Discharge

§1-109. "Discharge" means the full release of any person admitted or otherwise detained under this Act from treatment, habilitation, or care and custody.

(Formerly III. Rev. Stat., ch. 91½, par. 1-109)

5/1-110 Guardian

§1-110. "Guardian" means the court appointed guardian or conservator of the person.

(Formerly III. Rev. Stat., ch. 91½, par. 1-110)

5/1-110.5 Substitute decision maker

§ 1-110.5. "Substitute decision maker" means a person who possesses the authority to make decisions under the Powers of Attorney for Health Care Law or under the Mental Health Treatment Preference Declaration Act. (Added by P.A. 91-726, effective June 2, 2000.)

5/1-111 Habilitation

§1-111. "Habilitation" means an effort directed toward the alleviation of a developmental disability or toward increasing a person with a developmental disability's level of physical, mental, social or economic functioning. Habilitation may include, but is not limited to, diagnosis, evaluation, medical services, residential care, day care, special living arrangements, training, education, sheltered employment, protective services, counseling and other services provided to persons with a developmental disability by developmental disabilities facilities. (Amended by P.A. 88-380, effective August 20, 1993.)

(Formerly III. Rev. Stat., ch. 91½, par. 1-111)

5/1-112 Hospitalization

§1-112. "Hospitalization" means the treatment of a person by a mental health facility as an inpatient.

(Formerly III. Rev. Stat., ch. 91½, par. 1-112)

5/1-113 Licensed private hospital

§1-113. "Licensed private hospital" means any privately owned home, hospital, or institution, or any section thereof which is licensed by the Department of Public Health and which provides treatment for persons with mental illness. (Amended by P.A. 88-380, effective August 20, 1993.)

(Formerly III. Rev. Stat., ch. 91½, par. 1-113)

5/1-113.5 Long-acting psychotropic medications

§ 1-113.5. "Long acting psychotropic medications" means psychotropic medications, including but not limited to haldol decanoate and prolizin deconate, that are designed so that a single dose will have an intended clinical effect for a period of at least 48 hours. (Added by P.A. 91-726, effective June 2, 2000.)

5/1-114 Mental health facility

§1-114. "Mental health facility" means any licensed private hospital, institution or facility or section thereof, and any facility, or section thereof, operated by the State or a political subdivision thereof for the treatment of persons with mental illness and includes all hospitals, institutions, clinics, evaluation facilities, and mental health centers which provide treatment for such persons. (Amended by P.A. 88-380, effective August 20, 1993.)

(Formerly III. Rev. Stat., ch. 91½, par. 1-114)

5/1-114.1 State-operated mental health facility

§1-114.1. "State-operated mental health facility" means a mental health facility operated by the Department. (Added by P.A. 88-484, effective September 10, 1993.)

(Formerly III. Rev. Stat., ch. 91½, par. 1-114.1)

5/1-114.2 Participating mental health center (Repealed by P.A. 91-726, effective June 2, 2000)

(Formerly III. Rev. Stat., ch. 91½, par. 1-114.2)

5/1-114.3 Qualified Certifier (Repealed by P.A. 91-726, effective June 2, 2000)

(Formerly III. Rev. Stat., ch. 91½, par. 1-114.3)

5/1-114.4 Community Service Area (Repealed by P.A. 91-726, effective June 2, 2000)

(Formerly III. Rev. Stat., ch. 91½, par. 1-114.4)

5/1-114.5 Service area (Repealed by P.A. 91-726, effective June 2, 2000)

(Formerly III. Rev. Stat., ch. 91½, par. 1-114.5)

5/1-115 Mental health or developmental disability services

§1-115. "Mental health or developmental disability services" or "services" means treatment or habilitation.

(Formerly III. Rev. Stat., ch. 91½, par. 1-115)

5/1-116 Mental retardation

§1-116. "Mental retardation" means significantly subaverage general intellectual functioning which exists concurrently with impairment in adaptive behavior and which originates before the age of 18 years.

(Formerly III. Rev. Stat., ch. 91½, par. 1-116)

5/1-117 Minor

§1-117. "Minor" means a person under 18 years of age.

(Formerly III. Rev. Stat., ch. 91½, par. 1-117)

5/1-117.1 Neglect

§1-117.1. "Neglect" means the failure to provide adequate medical or personal care or maintenance to a recipient of services, which failure results in physical or mental injury to a recipient or in the deterioration of a recipient's physical or mental condition. (Added by P.A. 86-103, effective January 3, 1990)

(Formerly III. Rev. Stat., ch. 91½, par. 1-117.1)

5/1-118 Peace officer

§1-118. "Peace officer" means any sheriff, police officer, or other person deputized by proper authority to serve as a peace officer.

(Formerly III. Rev. Stat., ch. 91½, par. 1-118)

5/1-119 Person subject to involuntary admission

§1-119. "Person subject to involuntary admission":

(1) A person with mental illness and who because of his or her illness is reasonably expected to inflict serious physical harm upon himself or herself or another in the near future; or

(2) A person with mental illness and who because of his or her illness is unable to provide for his or her basic physical needs so as to guard himself or herself from serious harm. (Amended by P.A. 88-380, effective August 20, 1993 and P.A. 91-726, effective June 2, 2000.)

(Formerly Ill. Rev. Stat., ch. 91½, par. 1-119)

5/1-120 Physician

§1-120. "Physician" means any person licensed by the State of Illinois to practice medicine in all its branches and includes any person holding a temporary license, as provided in the Medical Practice Act of 1987. Physician includes a psychiatrist as defined in Section 1-121.

(Formerly Ill. Rev. Stat., ch. 91½, par. 1-120)

5/1-121 Psychiatrist

§1-121. "Psychiatrist" means a physician as defined in the first sentence of Section 1-120 who has successfully completed a residency program in psychiatry accredited by either the Accreditation Council for Graduate Medical Education or the American Osteopathic Association. (Amended by P.A. 91-726, effective June 2, 2000 and P.A. 91-787, effective January 1, 2001*)

(Formerly Ill. Rev. Stat., ch. 91½, par. 1-121)

*Note: P.A. 91-726 and 91-837 made the same changes to Section 1-121.

5/1-121.1 Psychotropic medication

§1-121.1. "Psychotropic medication" means medication whose use for antipsychotic, antidepressant, antimanic, antianxiety, behavior modification or behavioral management purposes is listed in AMA Drug Evaluations, latest edition, or Physician's Desk Reference, latest edition, or which are administered for any of these purposes. For the purposes of Sections 2-107, 2-107.1, and 2-107.2 of this Act, "psychotropic medication" also includes those tests and related procedures that are essential for the safe and effective administration of a psychotropic medication. (Added by P.A. 86-1402, effective January 1, 1991 and amended by P.A. 89-439, effective June 1, 1996.)

(Formerly Ill. Rev. Stat., ch. 91½, par. 1-121.1)

5/1-121.5 Authorized involuntary treatment

§1-121.5. "Authorized involuntary treatment" means psychotropic medication or electro-convulsive therapy, including those tests and related procedures that are essential for the safe and effective administration of the treatment. (Added by P.A. 90-538, effective December 1, 1997.)

5/1-122 Qualified examiner

§1-122. "Qualified examiner" means a person who is:

(a) a clinical social worker as defined in this Act, or

(b) a registered nurse with a master's degree in psychiatric nursing who has 3 years of clinical training and experience in the evaluation and treatment of mental illness which has been acquired subsequent to any training and experience which constituted a part of the degree program, or

(c) a licensed clinical professional counselor with a master's or doctoral degree in counseling or psychology or a similar master's or doctorate program from a regionally accredited institution who has at least 3 years of supervised postmaster's clinical professional counseling experience that includes the provision of mental health services for the evaluation, treatment, and prevention of mental and emotional disorders.

A social worker who is a qualified examiner shall be a licensed clinical social worker under the Clinical Social Work and Social Work Practice Act. (Amended by P.A. 84-766, effective January 1, 1986; P.A. 85-1209, effective August 30, 1988; P.A. 87-124, effective August 13, 1991; P.A. 87-530, effective January 1, 1992; and P.A. 91-536, effective January 1, 2000.)

(Formerly III. Rev. Stat., ch. 91½, par. 1-122)

5/1-122.1 Clinical social worker

§1-122.1. "Clinical social worker" means a person who (1) has a master's or doctoral degree in social work from an accredited graduate school of social work and (2) has at least 3 years of supervised postmaster's clinical social work practice which shall include the provision of mental health services for the evaluation, treatment and prevention of mental and emotional disorders. (Added by P.A. 84-766, effective January 1, 1986.)

(Formerly III. Rev. Stat., ch. 91½, par. 1-122.1)

5/1-122.4 Qualified mental retardation professional

§1-122.4. "Qualified mental retardation professional" as used in this Act means those persons who meet this definition under Section 483.430 of Chapter 42 of the Code of Federal Regulations, subpart G. (Amended by P.A. 85-971, effective July 1, 1988.)

(Formerly III. Rev. Stat., ch. 91½, par. 1-122.4)

5/1-123 Recipient of services

§1-123. "Recipient of services" or "recipient" means a person who has received or is receiving treatment or habilitation.

(Formerly III. Rev. Stat., ch. 91½, par. 1-123)

5/1-124 Responsible relative

§1-124. "Responsible relative" means the spouse or, if the recipient is under 18 years of age, parent of a recipient or client receiving services in facilities or programs of the Department. However, if the definition of "responsible relative" in this Act is in conflict with the definition of "responsible relative" in any Federal statute and rules or regulations thereunder, under which the recipient or client is otherwise eligible to receive benefits, the definition of the Federal Act, rules, or regulations shall prevail. (Amended by P.A. 85-971, effective July 1, 1988, and P.A. 88-380, effective August 20, 1993.)

(Formerly III. Rev. Stat., ch. 91½, par. 1-124)

5/1-125 Restraint

§1-125. "Restraint" means direct restriction through mechanical means or personal physical force of the limbs, head or body of a recipient. The partial or total immobilization of a recipient for the purpose of performing a medical, surgical or dental procedure or as part of a medically prescribed procedure for the treatment of an existing physical disorder or the amelioration of a physical handicap shall not constitute restraint, provided that the duration, nature and purposes of the procedures or immobilization are properly documented in the recipient's record and, that if the procedures or immobilization are applied continuously or regularly for a period in excess of 24 hours, and for every 24 hour period thereafter during which the immobilization may continue, they are authorized in writing by a physician or dentist; and provided further, that any such immobilization which extends for more than 30 days be reviewed by a physician or dentist other than the one who originally authorized the immobilization.

Momentary periods of physical restriction by direct person-to-person contact, without the aid of material or mechanical devices, accomplished with limited force, and that are designed to prevent a recipient from completing an act that would result in potential physical harm to himself or another shall not constitute restraint, but shall be documented in the recipient's clinical record. (Amended by P.A. 86-142, effective January 1, 1991 and P.A. 87-124, effective August 13, 1991.)

(Formerly III. Rev. Stat., ch. 91½, par. 1-125)

5/1-126 Seclusion

§1-126. "Seclusion" means sequestration by placement of a recipient alone in a room which he has no means of leaving. The restriction of a recipient to a given area or room as part of a behavior modification program which has been authorized pursuant to his individual services plan shall not constitute seclusion, provided that such restriction does not exceed any continuous period in excess of two hours nor any periods which total more than four hours in any twenty-four hour period and that the duration, nature and purposes of each such restriction are promptly documented in the recipient's record. (Amended by P.A. 86-1402, effective January 1, 1991.)

(Formerly III. Rev. Stat., ch. 91½, par. 1-126)

5/1-127 Service provider

§1-127. "Service provider" means any mental health or developmental disabilities facility, or any other person which is devoted in whole or part to providing mental health or developmental disabilities services.

(Formerly III. Rev. Stat., ch. 91½, par. 1-127)

5/1-128 Treatment

§1-128. "Treatment" means an effort to accomplish an improvement in the mental condition or related behavior of a recipient. Treatment includes, but is not limited to, hospitalization, partial hospitalization, outpatient services, examination, diagnosis, evaluation, care, training, psychotherapy, pharmaceuticals, and other services provided for recipient by mental health facilities. (Amended by P.A. 88-380, effective August 20, 1993.)

(Formerly III. Rev. Stat., ch. 91½, par. 1-128)

**CHAPTER II
RIGHTS OF RECIPIENTS OF MENTAL HEALTH
AND DEVELOPMENTAL DISABILITIES SERVICES**

ARTICLE I. RIGHTS

5/2-100 Deprivation of rights, benefits, privileges or services

§2-100. (a) No recipient of services shall be deprived of any rights, benefits, or privileges guaranteed by law, the Constitution of the State of Illinois, or the Constitution of the United States solely on account of the receipt of such services.

(b) A person with a known or suspected mental illness or developmental disability shall not be denied mental health or developmental services because of age, sex, race, religious belief, ethnic origin, marital status, physical or mental disability or criminal record unrelated to present dangerousness. (Amended by P.A. 86-1416, effective January 1, 1991.)

(Formerly Ill. Rev. Stat., ch. 91½, par. 2-100)

5/2-101 Legal disability - determination

§2-101. No recipient of services shall be presumed legally disabled, nor shall such person be held legally disabled except as determined by a court. Such determination shall be separate from a judicial proceeding held to determine whether a person is subject to involuntary admission or meets the standard for judicial admission. (Amended by P.A. 85-971, effective July 1, 1988.)

(Formerly Ill. Rev. Stat., ch. 91½, par. 2-101)

5/2-102 Care and services - Psychotropic medication - Religion

§2-102. (a) A recipient of services shall be provided with adequate and humane care and services in the least restrictive environment, pursuant to an individual services plan. The plan shall be formulated and periodically reviewed with the participation of the recipient to the extent feasible and the recipient's guardian, the recipient's substitute decision maker, if any, or any other individual designated in writing by the recipient. The facility shall advise the recipient of his or her right to designate a family member or other individual to participate in the formulation and review of the treatment plan. In determining whether care and services are being provided in the least restrictive environment, the facility shall consider the views of the recipient, if any, concerning the treatment being provided. The recipient's preferences regarding emergency interventions under subsection (d) of Section 2-200 shall be noted in the recipient's treatment plan .

(a-5) If the services include the administration of authorized involuntary treatment, the physician or the physician's designee shall advise the recipient, in writing, of the side effects, risks, and benefits of the treatment, as well as alternatives to the proposed treatment, to the extent such advice is consistent with the recipient's ability to understand the information communicated. The physician shall determine and state in writing whether the recipient has the capacity to make a reasoned decision about the treatment. The physician or the physician's designee shall provide to the recipient's substitute decision maker, if any, the same written information that is required to be

presented to the recipient in writing. If the recipient lacks the capacity to make a reasoned decision about the treatment, the treatment may be administered only (i) pursuant to the provisions of Section 2-107 or 2-107.1 or (ii) pursuant to a power of attorney for health care under the powers of attorney for health care law or a declaration for mental health treatment under the Mental Health Treatment Preference Declaration Act. A surrogate decision maker, other than a court appointed guardian, under the Health Care Surrogate Act may not consent to the administration of authorized involuntary treatment. A surrogate may, however, petition for administration of authorized involuntary treatment pursuant to this Act. If the recipient is under guardianship and the guardian is authorized to consent to the administration of authorized involuntary treatment pursuant to subsection (c) of Section 2-107.1 of this Code, the physician shall advise the guardian in writing of the side effects and risks of the treatment, alternatives in the proposed treatment, and the risks and benefits of the treatment. A qualified professional shall be responsible for overseeing the implementation of such plan. Such care and treatment shall make reasonable accommodation of any physical disability of the recipient, including but not limited to the regular use of sign language for any hearing impaired individual for whom sign language is a primary mode of communication. If the recipient is unable to communicate effectively in English, the facility shall make reasonable efforts to provide services to the recipient in a language that the recipient understands.

(b) A recipient of services who is an adherent or a member of any well-recognized religious denomination, the principles and tenets of which teach reliance upon services by spiritual means through prayer alone for healing by a duly accredited practitioner thereof, shall have the right to choose such services. The parent or guardian of a recipient of services who is a minor, or a guardian of a recipient of services who is not a minor, shall have the right to choose services by spiritual means through prayer for the recipient of services. (Amended by P.A. 82-205, effective January 1, 1982; P.A. 86-1402, effective January 1, 1991; P.A. 90-538, effective December 1, 1997, and P.A. 91-726, effective June 2, 2000.)

(Formerly Ill. Rev. Stat., ch. 91½, par. 2-102)

5/2-103 Mail - Telephone - Visits

§2-103. Except as provided in this Section, a recipient who resides in a mental health or developmental disabilities facility shall be permitted unimpeded, private, and uncensored communication with persons of his choice by mail, telephone and visitation.

(a) The facility director shall ensure that correspondence can be conveniently received and mailed, that telephones are reasonably accessible, and that space for visits is available. Writing materials, postage and telephone usage funds shall be provided in reasonable amounts to recipients who reside in Department facilities and who are unable to procure such items.

(b) Reasonable times and places for the use of telephones and for visits may be established in writing by the facility director.

(c) Unimpeded, private and uncensored communication by mail, telephone, and visitation may be reasonably restricted by the facility director only in order to protect the recipient or others from harm, harassment or intimidation, provided that notice of such restriction shall be given to all recipients upon admission. When communications are

restricted, the facility shall advise the recipient that he has the right to require the facility to notify the affected parties of the restrictions, and to notify such affected party when the restrictions are no longer in effect. However, all letters addressed by a recipient to the Governor, members of the General Assembly, Attorney General, judges, state's attorneys, Guardianship and Advocacy Commission, or the Agency designated pursuant to "An Act in relation to the protection and advocacy of the rights of persons with developmental disabilities, and amending Acts therein named", approved September 20, 1985, officers of the Department, or licensed attorneys at law must be forwarded at once to the persons to whom they are addressed without examination by the facility authorities. Letters in reply from the officials and attorneys mentioned above must be delivered to the recipient without examination by the facility authorities.

(d) No facility shall prevent any attorney who represents a recipient or who has been requested to do so by any relative or family member of the recipient, from visiting a recipient during normal business hours, unless that recipient refuses to meet with the attorney. (Amended by P.A. 86-1417, effective September 11, 1990.)

(Formerly III. Rev. Stat., ch. 91½, par. 2-103)

5/2-104 Personal property - Restrictions - Discharge

§2-104. Every recipient who resides in a mental health or developmental disabilities facility shall be permitted to receive, possess and use personal property and shall be provided with a reasonable amount of storage space therefor, except in the circumstances and under the conditions provided in this Section.

(a) Possession and use of certain classes of property may be restricted by the facility director when necessary to protect the recipient or others from harm, provided that notice of such restriction shall be given to all recipients upon admission.

(b) The professional responsible for overseeing the implementation of a recipient's services plan may, with the approval of the facility director, restrict the right to property when necessary to protect such recipient or others from harm.

(c) When a recipient is discharged from the mental health or developmental disabilities facility, all of his lawful personal property which is in the custody of the facility shall be returned to him.

(Formerly III. Rev. Stat., ch. 91½, par. 2-104)

5/2-105 Money - Deposits - Payees

§2-105. A recipient of services may use his money as he chooses, unless he is a minor or prohibited from doing so under a court guardianship order. A recipient may deposit or cause to be deposited money in his name with a service provider or financial institution with the approval of the provider or financial institution. Money deposited with a service provider shall not be retained by the service provider. Any earnings attributable to a recipient's money shall accrue to him.

Except where a recipient has given informed consent, no service provider nor any of its employees shall be made representative payee for his social security, pension, annuity, trust fund, or any other form of direct payment or assistance.

When a recipient is discharged from a service provider, all of his money, including earnings, shall be returned to him.

(Formerly Ill. Rev. Stat., ch. 91½, par. 2-105)

5/2-106 Labor - Wages

§2-106. A recipient of services may perform labor to which he consents for a service provider, if the professional responsible for overseeing the implementation of the services plan for such recipient determines that such labor would be consistent with such plan. A recipient who performs labor which is of any consequential economic benefit to a service provider shall receive wages which are commensurate with the value of the work performed, in accordance with applicable federal and state laws and regulations. A recipient may be required to perform tasks of a personal housekeeping nature without compensation.

Wages earned by a recipient of services shall be considered money which he is entitled to receive pursuant to Section 2-105, and such wages shall be paid by the service provider not less than once a month.

(Formerly Ill. Rev. Stat., ch. 91½, par. 2-106)

5/2-107 Refusal of services; informing of risks

§2-107. (a) An adult recipient of services or the recipient's guardian, if the recipient is under guardianship, and the recipient's substitute decision maker, if any, must be informed of the recipient's right to refuse medication. The recipient and the recipient's guardian or substitute decision maker shall be given the opportunity to refuse generally accepted mental health or developmental disability services, including but not limited to medication. If such services are refused, they shall not be given unless such services are necessary to prevent the recipient from causing serious and imminent physical harm to the recipient or others and no less restrictive alternative is available. The facility director shall inform a recipient, guardian, or substitute decision maker, if any, who refuses such services of alternate services available and the risks of such alternate services, as well as the possible consequences to the recipient of refusal of such services.

(b) Authorized involuntary treatment may be given under this section for up to 24 hours only if the circumstances leading up to the need for emergency treatment are set forth in writing in the recipient's record.

(c) Authorized involuntary treatment may not be continued unless the need for such treatment is redetermined at least every 24 hours based upon a personal examination of the recipient by a physician or a nurse under the supervision of a physician and the circumstances demonstrating that need are set forth in writing in the recipient's record.

(d) Authorized involuntary treatment may not be administered under this Section for a period in excess of 72 hours, excluding Saturdays, Sundays, and holidays, unless a petition is filed under Section 2-107.1 and the treatment continues to be necessary under subsection (a) of this Section. Once the petition has been filed, treatment may continue in compliance with subsections (a), (b), and (c) of this Section until the final outcome of the hearing on the petition.

(e) The Department shall issue rules designed to insure that in State-operated

mental health facilities authorized involuntary treatment is administered in accordance with this Section and only when appropriately authorized and monitored by a physician or a nurse under the supervision of a physician in accordance with accepted medical practice. The facility director of each mental health facility not operated by the State shall issue rules designed to insure that in that facility authorized involuntary treatment is administered in accordance with this Section and only when appropriately authorized and monitored by a physician or a nurse under the supervision of a physician in accordance with accepted medical practice. Such rules shall be available for public inspection and copying during normal business hours.

(f) The provisions of this Section with respect to the emergency administration of authorized involuntary treatment do not apply to facilities licensed under the Nursing Home Care Act.

(g) Under no circumstances may long-acting psychotropic medications be administered under this Section. (Amended by P.A. 89-427, effective December 7, 1995; P.A. 89-439, effective June 1, 1996; P.A. 90-538, effective December 1, 1997 and P.A. 91-726, effective June 2, 2000.)

(Formerly Ill. Rev. Stat., ch. 91½, par. 2-107)

5/2-107.1 Administration of authorized involuntary treatment upon application to a court

§2-107.1 Administration of authorized involuntary treatment upon application to a court.

(a) An adult recipient of services and the recipient's guardian, if the recipient is under guardianship, and the substitute decision maker, if any, shall be informed of the recipient's right to refuse medication. The recipient and the recipient's guardian or substitute decision maker shall be given the opportunity to refuse generally accepted mental health or developmental disability services, including but not limited to medication.

(a-5) Notwithstanding the provisions of Section 2-107 of this Code, authorized involuntary treatment may be administered to an adult recipient of services without the informed consent of the recipient under the following standards:

(1) Any person 18 years of age or older, including any guardian, may petition the circuit court for an order authorizing the administration of authorized involuntary treatment to a recipient of services. The petition shall state that the petitioner has made a good faith attempt to determine whether the recipient has executed a power of attorney for health care under the Powers of Attorney for Health Care Law or a declaration for mental health treatment under the Mental Health Treatment Preference Declaration Act and to obtain copies of these instruments if they exist. If either of the above-named instruments is available to the petitioner, the instrument or a copy of the instrument shall be attached to the petition as an exhibit. The petitioner shall deliver a copy of the petition, and notice of the time and place of the hearing, to the respondent, his or her attorney, any known agent or attorney-in-fact, if any, and the guardian, if any, no later than 3 days prior to the date of the hearing. Service of the petition and notice of the time and place of the hearing may be made by transmitting them via facsimile machine to the respondent or other party. Upon receipt of the petition and notice, the party served, or the person delivering the petition and notice to the party served, shall acknowledge service. If the party sending the petition and notice does not receive

acknowledgment of service within 24 hours, service must be made by personal service.

The petition may include a request that the court authorize such testing and procedures as may be essential for the safe and effective administration of the authorized involuntary treatment sought to be administered, but only where the petition sets forth the specific testing and procedures sought to be administered.

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(2) The court shall hold a hearing within 7 days of the filing of the petition. The people, the petitioner, or the respondent shall be entitled to a continuance of up to 7 days as of right. An additional continuance of not more than 7 days may be granted to any party (i) upon a showing that the continuance is needed in order to adequately prepare for or present evidence in a hearing under this Section or (ii) under exceptional circumstances. The court may grant an additional continuance not to exceed 21 days when, in its discretion, the court determines that such a continuance is necessary in order to provide the recipient with an examination pursuant to Section 3-803 and 3-804 of this Act, to provide the recipient with a trial by jury as provided in Section 3-802 of this Act, or to arrange for the substitution of counsel as provided for by the Illinois Supreme Court Rules. The hearing shall be separate from a judicial proceeding held to determine whether a person is subject to involuntary admission but may be heard immediately preceding or following such a judicial proceeding and may be heard by the same trier of fact or law as in that judicial proceeding.

(3) Unless otherwise provided herein, the procedures set forth in Article VIII of Chapter 3 of this Act, including the provisions regarding appointment of counsel, shall govern hearings held under this subsection (a-5).

(4) Authorized involuntary treatment shall not be administered to the recipient unless it has been determined by clear and convincing evidence that all of the following factors are present:

.... (A) That the recipient has a serious mental illness or developmental disability.

(B) That because of said mental illness or developmental disability, the recipient exhibits any one of the following: (i) deterioration of his or her ability to function, (ii) suffering, or (iii) threatening behavior.

(C) That the illness or disability has existed for a period marked by the continuing presence of the symptoms set forth in item (B) of this subdivision (B) or the repeated episodic occurrence of these symptoms.

(D) That the benefits of the treatment will outweigh the harm.

(E) That the recipient lacks the capacity to make a reasoned decision about the treatment.

(F) That other less restrictive services have been explored and found inappropriate.

(G) If the petition seeks authorization for testing and other procedures, that such testing and procedures are essential for the safe and effective administration of the treatment.

(5) In no event shall an order issued under this Section be effective for more than 90 days. A second 90-day period of involuntary treatment may be authorized pursuant to a hearing that complies with the standards and procedures of this subsection (a-5). Thereafter, additional 180-day periods of involuntary treatment may be authorized pursuant to the standards and procedures of this Section without limit. If a new petition to authorize the administration of authorized involuntary treatment is filed at least 15 days prior to the expiration of the prior order, and if any continuance of the hearing is agreed to by the recipient, the administration of the treatment may continue in accordance with the prior order pending the completion of a hearing under this Section.

(6) An order issued under this subsection (a-5) shall designate the persons authorized to administer the authorized involuntary treatment under the standards and procedures of this subsection (a-5). Those persons shall have complete discretion not to administer any treatment authorized under this Section. The order shall also specify the medications and the anticipated range of dosages that have been authorized.

(b) A guardian may be authorized to consent to the administration of authorized involuntary treatment to an objecting recipient under the standards and procedures of subsection (a-5).

(c) Notwithstanding any other provision of this Section, a guardian may consent to the administration of authorized involuntary treatment to a non-objecting recipient under Article XIa of the Probate Act of 1975.

(d) Nothing in this Section shall prevent the administration of authorized involuntary treatment to recipients in an emergency under Section 2-107 of this Act.

(e) Notwithstanding any of the provisions of this Section, authorized involuntary treatment may be administered pursuant to a power of attorney for health care under the Powers of Attorney for Health Care Law or a declaration for mental health treatment under the Mental Health Treatment Preference Declaration Act. (Added by P.A. 87-124, effective August 13, 1991; amended by P.A. 89-11, effective March 31, 1995; P.A. 89-439, effective June 1, 1996; P.A. 90-538, effective December 1, 1997; P.A. 91-726, effective June 2, 2000; P.A. 91-787, effective January 1, 2001; **AND P.A. 92-16, EFFECTIVE JUNE 28, 2001.**)

(Formerly III. Rev. Stat., ch. 91½, par. 2-107.1)

5/2-107.2 Review; notice

§2-107.2. (a) Whenever any recipient, who is receiving treatment in a residential mental health facility, has been receiving authorized involuntary treatment in that facility continuously or on a regular basis for a period of 3 months, and, if the treatment is continued while the recipient is a resident in that facility, every 6 months thereafter, for so long as the treatment shall continue, the facility director shall convene a treatment review panel to review the treatment.

(b) At least 7 days prior to the date of the meeting, the recipient, his or her guardian, if any, and the person designated under subsection (b) of Section 2-200 shall be given written notification of the time and place of the treatment review meeting. The notice shall also advise the recipient of his or her right to designate some person to attend the meeting and assist the recipient.

(c) If, during the course of the review, the recipient or guardian, if any, advises the

committee that he no longer agrees to continue receiving the treatment, the treatment must be discontinued except that the treatment may be administered under either Section 2-107 or 2-107.1. If the recipient and guardian, if any, continues to agree to the treatment, the treatment shall be continued if the committee determines that the recipient is receiving appropriate treatment and that the benefit to the recipient outweighs any risk or harm to the recipient.

(d)The Department shall issue rules to implement the requirements of this section. (Added by P.A. 86-1402, effective January 1, 1991; amended by P.A. 87-124, effective August 13, 1991; amended by P.A. 89-439, effective June 1, 1996; and P.A. 90-538, effective December 1, 1997.)

(Formerly Ill. Rev. Stat., ch. 91½, par. 2-107.2)

5/2-108 Use of restraint

§2-108. Use of restraint. Restraint may be used only as a therapeutic measure to prevent a recipient from causing physical harm to himself or physical abuse to others. Restraint may only be applied by a person who has been trained in the application of the particular type of restraint to be utilized. In no event shall restraint be utilized to punish or discipline a recipient, nor is restraint to be used as a convenience for the staff.

(a) Except as provided in this Section, restraint shall be employed only upon the written order of a physician, clinical psychologist, clinical social worker, or registered nurse with supervisory responsibilities. No restraint shall be ordered unless the physician, clinical psychologist, clinical social worker, or registered nurse with supervisory responsibilities, after personally observing and examining the recipient, is clinically satisfied that the use of restraint is justified to prevent the recipient from causing physical harm to himself or others. In no event may restraint continue for longer than 2 hours unless within that time period a nurse with supervisory responsibilities or a physician confirms, in writing, following a personal examination of the recipient, that the restraint does not pose an undue risk to the recipient's health in light of the recipient's physical or medical condition. The order shall state the events leading up to the need for restraint and the purposes for which restraint is employed. The order shall also state the length of time restraint is to be employed and the clinical justification for that length of time. No order for restraint shall be valid for more than 16 hours. If further restraint is required, a new order must be issued pursuant to the requirements provided in this Section.

(b) In the event there is an emergency requiring the immediate use of restraint, it may be ordered temporarily by a qualified person only where a physician, clinical psychologist, clinical social worker, or registered nurse with supervisory responsibilities is not immediately available. In that event, an order by a nurse, clinical psychologist, clinical social worker, or physician shall be obtained pursuant to the requirements of this Section as quickly as possible, and the recipient shall be examined by a physician or supervisory nurse within 2 hours after the initial employment of the emergency restraint. Whoever orders restraint in emergency situations shall document its necessity and place that documentation in the recipient's record.

(c) The person who orders restraint shall inform the facility director or his designee in writing of the use of restraint within 24 hours.

(d) The facility director shall review all restraint orders daily and shall inquire into

the reasons for the orders for restraint by any person who routinely orders them.

(e) Restraint may be employed during all or part of one 24 hour period, the period commencing with the initial application of the restraint. However, once restraint has been employed during one 24 hour period, it shall not be used again on the same recipient during the next 48 hours without the prior written authorization of the facility director.

(f) Restraint shall be employed in a humane and therapeutic manner and the person being restrained shall be observed by a qualified person as often as is clinically appropriate but in no event less than once every 15 minutes. The qualified person shall maintain a record of the observations. Specifically, unless there is an immediate danger that the recipient will physically harm himself or others, restraint shall be loosely applied to permit freedom of movement. Further, the recipient shall be permitted to have regular meals and toilet privileges free from the restraint, except when freedom of action may result in physical harm to the recipient or others.

(g) Every facility that employs restraint shall provide training in the safe and humane application of each type of restraint employed. The facility shall not authorize the use of any type of restraint by an employee who has not received training in the safe and humane application of that type of restraint. Each facility in which restraint is used shall maintain records detailing which employees have been trained and are authorized to apply restraint, the date of the training and the type of restraint that the employee was trained to use.

(h) Whenever restraint is imposed upon any recipient whose primary mode of communication is sign language, the recipient shall be permitted to have his hands free from restraint for brief periods each hour, except when freedom may result in physical harm to the recipient or others.

(i) A recipient who is restrained may only be secluded at the same time pursuant to an explicit written authorization as provided in Section 2-109 of this Code. Whenever a recipient is restrained, a member of the facility staff shall remain with the recipient at all times unless the recipient has been secluded. A recipient who is restrained and secluded shall be observed by a qualified person as often as is clinically appropriate but in no event less than every 15 minutes.

(j) Whenever restraint is used, the recipient shall be advised of his right, pursuant to Sections 2-200 and 2-201 of this Code, to have any person or his choosing, including the Guardianship and Advocacy Commission or the agency designated pursuant to the Protection and Advocacy for Developmentally Disabled Persons Act notified of the restraint. A recipient who is under guardianship may request that any person of his choosing be notified of the restraint whether or not the guardian approves the notice. Whenever the Guardianship and Advocacy Commission is notified that a recipient has been restrained, it shall contact that recipient to determine the circumstances of the restraint and whether further action is warranted. (Amended by P.A. 81-799, effective September 16, 1979; P.A. 85-971, effective July 1, 1988; P.A. 86-1013, effective January 3, 1990; P.A. 86-1402, effective January 1, 1991; P.A. 87-124, effective August 13, 1991; P.A. 87-530, effective January 1, 1992; P.A. 87-895, effective August 14, 1992 and P.A. 88-380, effective August 20, 1993.)

(Formerly Ill. Rev. Stat., ch. 91½, par. 2-108)

5/2-109 Seclusion

§2-109. Seclusion. Seclusion may be used only as a therapeutic measure to prevent a recipient from causing physical harm to himself or physical abuse to others. In no event shall seclusion be utilized to punish or discipline a recipient, nor is seclusion to be used as a convenience for the staff.

(a) Seclusion shall be employed only upon the written order of a physician, clinical psychologist, clinical social worker, or registered nurse with supervisory responsibilities. No seclusion shall be ordered unless the physician, clinical psychologist, clinical social worker, or registered nurse with supervisory responsibilities, after personally observing and examining the recipient, is clinically satisfied that the use of seclusion is justified to prevent the recipient from causing physical harm to himself or others. In no event may seclusion continue for longer than 2 hours unless within that time period a nurse with supervisory responsibilities or a physician confirms in writing, following a personal examination of the recipient, that the seclusion does not pose an undue risk to the recipient's health in light of the recipient's physical or medical condition. The order shall state the events leading up to the need for seclusion and the purposes for which seclusion is employed. The order shall also state the length of time seclusion is to be employed and the clinical justification for the length of time. No order for seclusion shall be valid for more than 16 hours. If further seclusion is required, a new order must be issued pursuant to the requirements provided in this Section.

(b) The person who orders seclusion shall inform the facility director or his designee in writing of the use of seclusion within 24 hours.

(c) The facility director shall review all seclusion orders daily and shall inquire into the reasons for the orders for seclusion by any person who routinely orders them.

(d) Seclusion may be employed during all or part of one 16 hour period, that period commencing with the initial application of the seclusion. However, once seclusion has been employed during one 16 hour period, it shall not be used again on the same recipient during the next 48 hours without the prior written authorization of the facility director.

(e) The person who ordered the seclusion shall assign a qualified person to observe the recipient at all times. A recipient who is restrained and secluded shall be observed by a qualified person as often as is clinically appropriate but in no event less than once every 15 minutes.

(f) Safety precautions shall be followed to prevent injuries to the recipient in the seclusion room. Seclusion rooms shall be adequately lighted, heated, and furnished. If a door is locked, someone with a key shall be in constant attendance nearby.

(g) Whenever seclusion is used, the recipient shall be advised of his right, pursuant to Sections 2-200 and 2-201 of this Code, to have any person of his choosing, including the Guardianship and Advocacy Commission notified of the seclusion. A person who is under guardianship may request that any person of his choosing be notified of the seclusion whether or not the guardian approves of the notice. Whenever the Guardianship and Advocacy Commission is notified that a recipient has been secluded, it shall contact that recipient to determine the circumstances of the seclusion and whether further action is warranted. (Amended by P.A. 81-799, effective September 6, 1979; P.A. 85-971, effective July 1, 1988; P.A. 86-1013, effective January 3, 1990; P.A. 86-1402, effective January 1, 1991; P.A. 87-124, effective August 13,

1991; P.A. 87-530, effective January 1, 1992 and P.A. 87-895, effective August 14, 1992.)

(Formerly Ill. Rev. Stat., ch. 91½, par. 2-109)

5/2-110 Informed consent

§2-110. No recipient of services shall be subjected to any unusual, hazardous, or experimental services or psychosurgery, without his written and informed consent.

If a recipient is a minor or is under guardianship, such recipient's parent or guardian is authorized, only with the approval of the court, to provide informed consent for participation of the ward in any such services which the guardian deems to be in the best interests of the ward. (Amended by P.A. 90-538, effective December 1, 1997.)

(Formerly Ill. Rev. Stat., ch. 91½, par. 2-110)

5/2-110.1 Reports

§2.110.1 (a) A mental hospital or facility at which electro-convulsive therapy is administered shall submit to the Department quarterly reports relating to the administration of the therapy for the purposes of reducing morbidity or mortality and improving patient care.

(b) A report shall state the following for each quarter:

(3) The number of persons who received the therapy, including

(A) The number of persons who gave informed consent to the therapy;

(B) The number of persons confined as subject to involuntary admission who gave informed consent to the therapy;

(C) The number of persons who received the therapy without informed consent pursuant to Section 2-107.1; and

(D) The number of persons who received the therapy on an emergency basis pursuant to subsection (d) of Section 2-107.1.

(2) The age, sex, and race of the recipients of the therapy.

(3) The source of the treatment payment.

(4) The average number of electro-convulsive treatments administered for each complete series of treatments, but not including maintenance treatments.

(5) The average number of maintenance electro-convulsive treatments administered per month.

(6) Any significant adverse reactions to the treatment as defined by rule.

(7) Autopsy findings if death followed within 14 days after the date of

the administration of the therapy.

(8) Any other information required by the Department by rule.

(c) The Department shall prepare and publish an annual written report summarizing the information received under this Section. The report shall not contain any information that identifies or tends to identify any facility, physician, health care provider, or patient. (Added by P.A. 90-538, effective December 1, 1997.)

5/2-110.5 Electro-convulsive therapy for minors.

§ 2-110.5 Electro-convulsive therapy for minors. If a recipient is a minor, that recipient's parent or guardian is authorized, only with the approval of the court under the procedures set out in Section 2-107.1, to provide consent for participation of the minor in electro-convulsive therapy if the parent or guardian deems it to be in the best interest of the minor. In addition to the requirements in Section 2-107.1, prior to the court entering an order approving treatment by electro-convulsive therapy, 2 licensed psychiatrists, one of which may be the minor's treating psychiatrist, who have examined the patient must concur in the determination that the minor should participate in treatment by electro-convulsive therapy. (Added by P.A. 91-74, effective July 16, 1999.)

(Formerly III. Rev. Stat., ch. 91 1/2, par. 2-110.5)

5/2-111 Medical or dental emergency - Consent

§2-111. A medical or dental emergency exists when delay for the purpose of obtaining consent would endanger the life or adversely and substantially affect the health of a recipient of services. When a medical or dental emergency exists, if a physician or licensed dentist who examines a recipient determines that the recipient is not capable of giving informed consent, essential medical or dental procedures may be performed without consent. No physician nor licensed dentist shall be liable for a non-negligent good faith determination that a medical or dental emergency exists or a non-negligent good faith determination that the recipient is not capable of giving informed consent. (Amended by P.A. 85-971, effective July 1, 1988.)

(Formerly III. Rev. Stat., ch. 91½, par. 2-111)

5/2-112 Freedom from abuse and neglect

§2-112. Freedom from abuse and neglect. Every recipient of services in a mental health or developmental disability facility shall be free from abuse and neglect. (Added by P.A. 86-1013, effective January 3, 1990.)

(Formerly III. Rev. Stat., ch. 91½, par. 2-112)

5/2-113 Notification of admission

§2-113. (a) Upon admission, the facility shall inquire of the recipient if a spouse, family member, friend or an agency is to be notified of his admission to the facility. If the recipient consents to release of information concerning his admission, the facility shall immediately attempt to make phone contact with at least two designated persons or agencies or by mail within 24 hours.

(b) Any person may request information from a developmental disability or mental health facility relating to whether an adult recipient or minor recipient admitted

pursuant to Section 3-502 has been admitted to the facility. Any parties requesting information must submit proof of identification and list their name, address, phone number, relationship to the recipient and reason for the request.

(c) The facility shall respond to the inquirer within 2 working days. If the recipient is located at the facility, the facility director shall inform the recipient of the request and shall advise the recipient that disclosure of his presence at the facility will not obligate the recipient to have contact with the inquirer. No information shall be disclosed unless the recipient consents in writing to the disclosure.

(d) If the recipient has consented to the release of information the facility shall inform the requesting party that the recipient is located at the facility. The facility shall, with the recipient's consent, tell the requesting party how to contact the recipient.

(e) When the recipient is not located at the facility or when the recipient does not consent in writing to release such information, the facility shall inform the consenting party that no information is available regarding that person.

(f) Transactions pursuant to this Section shall be noted in the recipient's record. (Added by P.A. 86-1417, effective September 11, 1990.)

(Formerly Ill. Rev. Stat., ch. 91½, par. 2-113)

5/2-114 Attorneys or advocates - Representation of recipients

§2-114. (a) Whenever an attorney or other advocate from the Guardianship and Advocacy Commission or the agency designated by the Governor under Section 1 of the Protection and Advocacy for Developmentally Disabled Persons Act or any other attorney advises a facility in which a recipient is receiving inpatient mental health services that he is presently representing the recipient, or has been appointed by any court or administrative agency to do so or has been requested to represent the recipient by a member of the recipient's family, the facility shall, subject to the provisions of Section 2-113 of this Code, disclose to the attorney or advocate whether the recipient is presently residing in the facility and, if so, how the attorney or advocate may communicate with the recipient.

(b) The facility may take reasonable precautions to identify the attorney or advocate. No further information shall be disclosed to the attorney or advocate except in conformity with the authorization procedures contained in the Mental Health and Developmental Disabilities Confidentiality Act.

(c) Whenever the location of the recipient has been disclosed to an attorney or advocate, the facility director shall inform the recipient of that fact and shall note this disclosure in the recipient's records.

(d) An attorney or advocate who receives any information under this Section may not disclose this information to anyone else without the written consent of the recipient obtained pursuant to Section 5 of the Mental Health and Developmental Disabilities Confidentiality Act. (Added by P.A. 86-1417, effective September 11, 1990 and amended by P.A. 91-357, effective July 29, 1999.)

(Formerly Ill. Rev. Stat., ch. 91½, par. 2-114)

5/2-115 PARTICIPANTS IN MENTAL HEALTH COURTS.

§2-115. PARTICIPANTS IN MENTAL HEALTH COURTS. SUBJECT TO APPROPRIATIONS, THE DEPARTMENT SHALL ESTABLISH PILOT PROGRAMS TO PROVIDE THE CLINICAL SERVICES NECESSARY TO SERVE PARTICIPANTS IN MENTAL HEALTH COURTS THAT HAVE BEEN ESTABLISHED IN ANY JUDICIAL CIRCUIT OF THIS STATE. (ADDED BY P.A. 92-120, EFFECTIVE JANUARY 1, 2002.)

ARTICLE II. PROCEDURES

5/2-200 Notice of rights

§2-200. (a) Upon commencement of services, or as soon thereafter as the condition of the recipient permits, every adult recipient, as well as the recipient's guardian or substitute decision maker, and every recipient who is 12 years of age or older and the parent or guardian of a minor or person under guardianship shall be informed orally and in writing of the rights guaranteed by this Chapter which are relevant to the nature of the recipient's services program. Every facility shall also post conspicuously in public areas a summary of the rights which are relevant to the services delivered by that facility.

(b) A recipient who is 12 years of age or older and the parent or guardian of a minor or person under guardianship at any time may designate, and upon commencement of services shall be informed of the right to designate, a person or agency to receive notice under Section 2-201 or to direct that no information about the recipient be disclosed to any person or agency.

(c) Upon commencement of services, or as soon thereafter as the condition of the recipient permits, the facility shall ask the adult recipient or minor recipient admitted pursuant to Section 3-502 whether the recipient wants the facility to contact the recipient's spouse, parents, guardian, close relatives, friends, attorney, advocate from the Guardianship and Advocacy Commission or the agency designated by the Governor under Section 1 of "An Act in relation to the protection and advocacy of the rights of persons with developmental disabilities, and amending Acts therein named", approved September 20, 1985, or others and inform them of the recipient's presence at the facility. The facility shall by phone or by mail contact at least two of those people designated by the recipient and shall inform them of the recipient's location. If the recipient so requests, the facility shall also inform them of how to contact the recipient.

(d) Upon commencement of services, or as soon thereafter as the condition of the recipient permits, the facility shall advise the recipient as to the circumstances under which the law permits the use of emergency forced medication under subsection (a) of

Section 2-107, restraint under Section 2-108, or seclusion under Section 2-109. At the same time, the facility shall inquire of the recipient which form of intervention the recipient would prefer if any of these circumstances should arise. The recipient's preference shall be noted in the recipient's record and communicated by the facility to the recipient's guardian or substitute decision maker, if any, and any other individual designated by the recipient. If any such circumstances subsequently do arise, the facility shall give due consideration to the preferences of the recipient regarding which form of intervention to use as communicated to the facility by the recipient or as stated in the recipient's advance directive. (Amended by P.A. 81-799, effective September 16, 1979; P.A. 86-1417, effective September 11, 1990 and P.A. 91-726, effective June 2, 2000.)

(Formerly Ill. Rev. Stat., ch. 91½, par. 2-200)

5/2-201 Restrictions, restraints or seclusion - Notice - Records

§2-201. (a) Whenever any rights of a recipient of services that are specified in this Chapter are restricted, the professional responsible for overseeing the implementation of the recipient's services plan shall be responsible for promptly giving notice of the restriction or use of restraint or seclusion and the reason therefor to:

(1) the recipient and, if such recipient is a minor or under guardianship, his parent or guardian;

(2) a person designated under subsection (b) of Section 2-200 upon commencement of services or at any later time to receive such notice;

(3) the facility director;

(4) the Guardianship and Advocacy Commission, or the agency designated under "An Act in relation to the protection and advocacy of the rights of persons with developmental disabilities, and amending Acts therein named", approved September 20, 1985, if either is so designated; and

(5) The recipient's substitute decision maker, if any.

The professional shall also be responsible for promptly recording such restriction or use of restraint or seclusion and the reason therefor in the recipient's record.

(b) The facility director shall maintain a file of all notices of restrictions of rights, or the use of restraint or seclusion for the past 3 years. The facility director shall allow the Guardianship and Advocacy Commission, the agency designated by the Governor under Section 1 of "An Act in relation to the protection and advocacy of the rights of persons with developmental disabilities, and amending Acts therein named," approved September 20, 1985, and the Department to examine and copy such records upon request. Records obtained under this Section shall not be further disclosed except pursuant to written authorization of the recipient under Section 5 of the Mental Health

and Developmental Disabilities Confidentiality Act. (Amended by P.A. 81-799, effective September 16, 1979, P.A. 86-1416, effective January 1, 1991, and P.A. 91-726, effective June 2, 2000.)

(Formerly III. Rev. Stat., ch. 91½, par. 2-201)

5/2-202 Policies and procedures

§2-202. The Secretary of Human Services and the facility director of each service provider shall adopt in writing such policies and procedures as are necessary to implement this Chapter. Such policies and procedures may amplify or expand, but shall not restrict or limit, the rights guaranteed to recipients by this Chapter. (Amended by P.A. 87-507, effective July 1, 1997.)

(Formerly III. Rev. Stat., ch. 91½, par. 2-202)

**CHAPTER III
ADMISSION, TRANSFER AND DISCHARGE PROCEDURES
FOR THE MENTALLY ILL**

ARTICLE I. JURISDICTION; DUTIES OF STATE'S ATTORNEY

5/3-100 Circuit courts - Jurisdiction - Involuntary admissions

§3-100. The circuit court has jurisdiction under this Chapter over persons not charged with a felony who are subject to involuntary admission. Inmates of penal institutions shall not be considered as charged with a felony within the meaning of this Chapter. Court proceedings under Article VIII of this Chapter may be instituted as to any such inmate at any time within 90 days prior to discharge of such inmate by expiration of sentence or otherwise, and if such inmate is found to be subject to involuntary admission, the order of the court ordering hospitalization or other disposition shall become effective at the time of discharge of the inmate from penal custody.

(Formerly Ill. Rev. Stat., ch. 91½, par. 3-100)

5/3-101 States' Attorneys - Representation by counsel

§3-101. The State's Attorneys of the several counties shall represent the people of the State of Illinois in court proceedings under this Chapter and in proceedings under Section 2-107.1 in their respective counties, shall attend such proceedings either in person or by assistant, and shall ensure that petitions, reports and orders are properly prepared. Nothing herein contained shall prevent any party from being represented by his own counsel. (Amended by P.A. 89-439, effective June 1, 1996.)

(Formerly Ill. Rev. Stat., ch. 91½, par. 3-101)

ARTICLE II. GENERAL PROVISIONS

5/3-200 Admissions - Transfers by Department of Corrections - Release

§3-200. (a) A person may be admitted as an inpatient to a mental health facility for treatment of mental illness only as provided in this Chapter, except that a person may be transferred by the Department of Corrections pursuant to the Unified Code of Corrections. A person transferred by the Department of Corrections in this manner may be released only as provided in the Unified Code of Corrections.

(b) No person who is diagnosed as mentally retarded or a person with a developmental disability may be admitted or transferred to a Department mental health facility or, any portion thereof, except as provided in this Chapter. However, the evaluation and placement of such persons shall be governed by Article II of Chapter 4 of this Code. (Amended by P.A. 86-1416, effective January 1, 1991 and P.A. 88-380, effective August 20, 1993.)

(Formerly Ill. Rev. Stat., ch. 91½, par. 3-200)

5/3-201 Forms

§3-201. The Department shall prescribe all forms necessary for proceedings under this Chapter, and all forms used in such proceedings shall comply substantially with the forms so prescribed. The Department shall print and furnish an initial supply of such forms to the clerks of the circuit courts.

(Formerly Ill. Rev. Stat., ch. 91½, par. 3-201)

5/3-202 Records - Persons who may admit - Court orders

§3-202. (a) Every mental health facility shall maintain adequate records which shall include the Section of this Chapter under which the recipient was admitted, any subsequent change in the recipient's status, and requisite documentation for such admission and status.

(b) Nothing contained in this Chapter shall be construed to limit or otherwise affect the power of any mental health facility to determine the qualifications of persons who may be permitted to admit recipients to such facility. This subsection shall not affect or limit the powers of any court to order hospitalization or admission to a program or alternative treatment as set forth in this Chapter. (Amended by P.A. 88-380, effective August 20, 1993 and P.A. 91-357, effective July 29, 1999.)

(Formerly Ill. Rev. Stat., ch. 91½, par. 3-202)

5/3-203 Oaths and affirmations

§3-203. Every petition, certificate and proof of service required by this Chapter shall be executed under penalty of perjury as though under oath or affirmation, but no acknowledgment is required.

(Formerly Ill. Rev. Stat., ch. 91½, par. 3-203)

5/3-204 Foreign languages - Sign language

§3-204. Whenever a statement or explanation is required to be given to a recipient under this Chapter and the recipient does not read or understand English, such statement or explanation shall be provided to him in a language which he understands. Such statement or explanation shall be communicated in sign language for any hearing impaired person for whom sign language is a primary mode of communication. When a statement or explanation is provided in a language other than English, or through the use of sign language, that fact and the name of the persons by whom it was provided shall be noted in the recipient's record. This Section does not apply to copies of petitions and court orders. (Amended by P.A. 82-205, effective January 1, 1982 and P.A. 88-380, effective August 20, 1993.)

(Formerly Ill. Rev. Stat., ch. 91½, par. 3-204)

5/3-205 Statement of rights - Foreign languages - Sign language

§3-205. Within 12 hours after the admission of a person to a mental health facility under Article VI or VII of this Chapter the facility director shall give the person a

copy of the petition and a clear and concise written statement explaining the person's legal status and his right to counsel and to a court hearing. Following admission, any changes in the person's legal status shall be fully explained to him. When an explanation required by this Chapter must be given in a language other than English, or through the use of sign language, it shall be given within a reasonable time before any hearing is held. (Amended by P.A. 82-205, effective January 1, 1982.)

(Formerly III. Rev. Stat., ch. 91½, par. 3-205)

5/3-205.5 Examination and social investigation

§ 3-205.5. When any person is first presented for admission to a mental health facility under Chapter III of this Code, within 72 hours thereafter, excluding Saturdays, Sundays, and holidays, the facility shall provide or arrange for a comprehensive physical examination, mental examination, and social investigation of that person. The examinations and social investigation shall be used to determine whether some program other than hospitalization will meet the needs of the person, with preference being given to care or treatment that will enable the person to return to his or her own home or community. (Added by P.A. 91-726, effective June 2, 2000)

5/3-206 Change in patient status - Contacting Guardianship and Advocacy Commission

§3-206. Whenever a person is admitted or objects to admission, and whenever a recipient is notified that his legal status is to be changed, the facility director of the mental health facility shall provide the person, if he is 12 or older, with the address and phone number of the Guardianship and the Advocacy Commission. If the person requests, the facility director shall assist him in contacting the Commission. (Amended by P.A. 81-799, effective September 16, 1979 and P.A. 88-380, effective August 20, 1993.)

(Formerly III. Rev. Stat., ch. 91½, par. 3-206)

5/3-207 Utilization review committee - Hearings - Review by Director

§3-207. (a) Hearings under Sections 3-405, 3-904 and 3-910 of this Chapter shall be conducted by a utilization review committee. The Secretary shall appoint a utilization review committee at each Department facility. Each such committee shall consist of a multi-disciplinary group of professional staff members who are trained and equipped to deal with the clinical and treatment needs of recipients. The recipient and the objector may be represented by persons of their choice.

(b) The Committee shall not be bound by rules of evidence or procedure but shall conduct the proceedings in a manner intended to ensure a fair hearing. The committee may make such investigation as it deems necessary. A record of the proceedings shall be made and shall be kept in the recipient's record. Within 3 days of conclusion of the hearing, the committee shall submit to the facility director its written recommendations which include its factual findings and conclusions. A copy of the recommendations shall be given to the recipient and the objector.

(c) Within 7 days of receipt of the recommendations, the facility director shall give written notice to the patient and objector of his acceptance or rejection of the recommendations and his reason therefore. If the director of the facility rejects the recommendations or if the recipient or objector requests review of the director's decision, the director shall promptly forward a copy of his decision, the recommendations, and the record of the hearing to the Secretary of the Department for final review. The decision of the director or the decision of the Secretary of the Department, if his review was requested, shall be considered a final administrative decision. (Amended by P.A. 88-380, effective August 20, 1993; P.A. 88-484, effective September 10, 1993; P.A. 89-507, effective July 1, 1997 **AND P.A. 91-726, EFFECTIVE JUNE 2, 2000.**)

(Formerly Ill. Rev. Stat., ch. 91½, par. 3-207)

5/3-208 Examinations for certification - Statement of rights

§3-208. Whenever a petition has been executed pursuant to Sections 3-507, 3-601, or 3-701, and prior to this examination for the purpose of certification of a person 12 or over, the person conducting this examination shall inform the person being examined in a simple comprehensive manner of the purpose of the examination; that he does not have to talk to the examiner; and that any statements he makes may be disclosed at a court hearing on the issue of whether he is subject to involuntary admission. If the person being examined has not been so informed, the examiner shall not be permitted to testify at any subsequent court hearing concerning the respondent's admission. (Amended by P.A. 88-484, effective September 10, 1993 and P.A. 91-726, effective June 2, 2000.)

(Formerly Ill. Rev. Stat., ch. 91½, par. 3-208)

5/3-209 Treatment plan - Review and updating

§3-209. Within three days of admission under this Chapter, a treatment plan shall be prepared for each recipient of service and entered into his or her record. The plan shall include an assessment of the recipient's treatment needs, a description of the services recommended for treatment, the goals of each type of element of service, an anticipated timetable for the accomplishment of the goals, and a designation of the qualified professional responsible for the implementation of the plan. The plan shall be reviewed and updated as the clinical condition warrants, but not less than every 30 days. (Added by P.A. 81-920, effective January 1, 1980.)

(Formerly Ill. Rev. Stat., ch. 91½, par. 3-209)

5/3-210 Employee as perpetrator of abuse

§3-210. Employee as perpetrator of abuse. When an investigation of a report of suspected abuse of a recipient of services indicates, based upon credible evidence, that an employee of a mental health or developmental disability facility is the perpetrator of

the abuse, that employee shall immediately be barred from any further contact with recipients of services of the facility, pending the outcome of any further investigation, prosecution or disciplinary action against the employee. (Added by P.A. 86-1013, effective January 3, 1990.)

(Formerly III. Rev. Stat., ch. 91½, par. 3-210)

5/3-211 Resident as perpetrator of abuse

§3-211. Resident as perpetrator of abuse. When an investigation of a report of suspected abuse of a recipient of services indicates, based upon credible evidence, that another recipient of services in a mental health or developmental disability facility is the perpetrator of the abuse, the condition of the recipient suspected of being the perpetrator shall be immediately evaluated to determine the most suitable therapy and placement, considering the safety of that recipient as well as the safety of other recipients of services and employees of the facility. (Added by P.A. 86-1013, effective January 3, 1990.)

(Formerly III. Rev. Stat., ch. 91½, par. 3-211)

ARTICLE III. INFORMAL ADMISSION

5/3-300 Admissions on request - Notice of right to discharge - Records

§3-300. (a) Any person desiring admission to a mental health facility for treatment of a mental illness may be admitted upon his request without making formal application therefor if, after examination, the facility director considers that person clinically suitable for admission upon an informal basis.

(b) Each recipient admitted under this Section shall be informed in writing and orally at the time of admission of his right to be discharged from the facility at any time during the normal daily day-shift hours of operation, which shall include but need not be limited to 9 a.m. to 5 p.m. Such right to be discharged shall commence with the first day-shift hours of operation after his admission.

(c) If the facility director decides to admit a person as a voluntary recipient, he shall state in the recipient's record the reason why informal admission is not suitable. (Amended by P.A. 88-380, effective August 20, 1993; P.A. 88-484, effective September 10, 1993; P.A. 88-670, effective December 2, 1994 and P.A. 91-726, effective June 2, 2000.)

(Formerly III. Rev. Stat., ch. 91½, par. 3-300)

ARTICLE IV. VOLUNTARY ADMISSION OF ADULTS

5/3-400 Voluntary admissions

§3-400. Any person 16 or older may be admitted to a mental health facility as a

voluntary recipient for treatment of a mental illness upon the filing of an application with the facility director of the facility if the facility director deems such person clinically suitable for admission as a voluntary recipient (Amended by P.A. 88-380, effective August 20, 1993; P.A. 88-484, effective September 10, 1993 and P.A. 91-726, effective June 2, 2000.)

(Formerly Ill. Rev. Stat., ch. 91½, par. 3-400)

5/3-401 Applications - Forms - Right to discharge

§3-401. (a) The application for admission as a voluntary recipient may be executed by:

1. The person seeking admission, if 18 or older; or
2. Any interested person, 18 or older, at the request of the person seeking admission; or
3. A minor, 16 or older, as provided in Section 3-502.

(b) The written application form shall contain in large, bold-face type a statement in simple non-technical terms that the voluntary recipient may be discharged from the facility at the earliest appropriate time, not to exceed 5 days, excluding Saturdays, Sundays and holidays, after giving a written notice of his desire to be discharged, unless within that time, a petition and 2 certificates are filed with the court asserting that the recipient is subject to involuntary admission. Upon admission the right to be discharged shall be communicated orally to the recipient and a copy of the application form shall be given to the recipient and to any parent, guardian, relative, attorney, or friend who accompanied the recipient to the facility. (Amended by P.A. 85-971, effective July 1, 1988 and P.A. 88-380, effective August 20, 1993.)

(Formerly Ill. Rev. Stat., ch. 91½, par. 3-401)

5/3-402 Involuntary admissions - Statements - Certificates

§3-402. No physician, qualified examiner, or clinical psychologist shall state to any person that involuntary admission may result if such person does not voluntarily admit himself to a mental health facility unless a physician, qualified examiner, or clinical psychologist who has examined the person is prepared to execute a certificate under Section 3-602 and the person is advised that if he is admitted upon certification, he will be entitled to a court hearing with counsel appointed to represent him at which the State will have to prove that he is subject to involuntary admission.

(Formerly Ill. Rev. Stat., ch. 91½, par. 3-402)

5/3-403 Discharge - Notice - Hearings

§3-403. A voluntary recipient shall be allowed to be discharged from the facility at the earliest appropriate time, not to exceed 5 days, excluding Saturdays, Sundays and holidays, after he gives any treatment staff person written notice of his desire to be discharged unless he either withdraws the notice in writing or unless within the 5 days period a petition and 2 certifications conforming to the requirements of paragraph (b) of Section 3-601 and Section 3-602 are filed with the court. Upon receipt of the petition, the court shall order a hearing to be held within 5 days, excluding Saturdays, Sundays and holidays, and to be conducted pursuant to Article IX of this Chapter. Hospitalization of the recipient may continue pending further order of the court. (Amended by P.A. 88-380, effective August 20, 1993.)

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(Formerly Ill. Rev. Stat., ch. 91½, par. 3-403)

5/3-404 Review of records - Reaffirmation

§3-404. Thirty days after the voluntary admission of a recipient, the facility director shall review the recipient's record and assess the need for continuing hospitalization. The facility director shall consult with the recipient if continuing hospitalization is indicated and request from the recipient an affirmation of his desire for continued treatment. The request and affirmation shall be noted in the recipient's record. Every 60 days thereafter a review shall be conducted and a reaffirmation shall be secured from the recipient for as long as the hospitalization continues. A recipient's failure to reaffirm a desire to continue treatment shall constitute notice of his desire to be discharged. (Amended by P.A. 81-799, effective September 16, 1979 and P.A. 88-380, effective August 20, 1993.)

(Formerly Ill. Rev. Stat., ch. 91½, par. 3-404)

5/3-405 Denial of admission - Review - Hearings

§3-405. (a) If the facility director of a Department mental health facility declines to admit a person seeking admission under Articles III or IV of this Chapter, a review of the denial may be requested by the person seeking admission, or, with his consent, by an interested person on his behalf. Such a request may be made on behalf of a minor presented for admission under Section 3-502, 3-503, or 3-504 by the minor's attorney, by the parent, guardian or person in loco parentis who executed the application for his admission, or by the minor himself if he is 16 years of age or older. Whenever admission to a Department facility is denied, the person seeking admission shall immediately be given written notice of the right to request review of the denial under this Section and shall be provided, if he is 12 or older, with the address and phone number of the Guardianship and Advocacy Commission. If the person requests, the facility director shall assist him in contacting the Commission. A written request for review shall be submitted to the director of the facility that denied admission to which admission is sought within 14 days of the denial. Upon receipt of the request, the facility director shall promptly schedule a hearing to be held at the denying facility within 7 days pursuant to Section 3-207.

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(b) At the hearing the Department shall have the burden of proving that the person denied admission does not meet the standard set forth in the Section under which admission is sought or that an appropriate alternative community treatment program was available to meet the person's needs and was offered. If the utilization review committee finds that the decision denying admission is based upon substantial evidence, it shall recommend that the denial of admission be upheld. However, if it finds that the facility to which admission is sought can provide adequate and appropriate treatment for the person and no appropriate community alternative treatment is available, it shall recommend that the person denied admission be admitted. If it determines that another facility can provide treatment appropriate to the clinical condition and needs of the person denied admission, it may recommend that the Department or other agency assist the person in obtaining such treatment. (Amended by P.A. 81-799, effective September 16, 1979; P.A. 85-971, effective July 1, 1988; P.A. 88-484, effective September 10, 1993 and P.A. 91-726, effective June 2, 2000.)

(Formerly III. Rev. Stat., ch. 91½, par. 3-405)

ARTICLE V. ADMISSION OF MINORS

5/3-500 Admission procedure - Restrictions

§3-500. A minor may be admitted to a mental health facility for treatment of a mental illness or emotional disturbance only as provided in this Article or as provided in Sections 3-10-5 or 5-2-4 of the Unified Code of Corrections, as now or hereafter amended. (Amended by P.A. 81-1497, effective September 19, 1980.)

(Formerly III. Rev. Stat., ch. 91½, par. 3-500)

5/3-501 Outpatient services - Consent - Costs

§3-501. (a) Any minor 12 years of age or older may request and receive counseling services or psychotherapy on an outpatient basis. The consent of his parent, guardian or person in loco parentis shall not be necessary to authorize outpatient counseling or psychotherapy. The minor's parent, guardian or person in loco parentis shall not be informed of such counseling or psychotherapy without the consent of the minor unless the facility director believes such disclosure is necessary. If the facility director intends to disclose the fact of counseling or psychotherapy, the minor shall be so informed. However, until the consent of the minor's parent, guardian or person in loco parentis has been obtained, outpatient counseling or psychotherapy provided to a minor under the age of 17 shall be limited to not more than 5 sessions, a session lasting not more than 45 minutes.

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(b) The minor's parent, guardian or person in loco parentis shall not be liable for the costs of outpatient counseling or psychotherapy which is received by the minor without the consent of the minor's parent, guardian or person in loco parentis. (Amended by P.A. 86-922, effective September 12, 1989.)

(Formerly III. Rev. Stat., ch. 91½, par. 3-501)

5/3-502 Voluntary admission on minor's application - Notice to parents or guardian

§3-502. Any minor 16 years of age or older may be admitted to a mental health facility as a voluntary recipient under Article IV of this Chapter if the minor himself executes the application. A minor so admitted shall be treated as an adult under Article IV and shall be subject to all of the provisions of that Article. The minor's parent, guardian or person in loco parentis shall be immediately informed of the admission. (Amended by P.A. 88-380, effective August 20, 1993; P.A. 88-484, effective September 10, 1993 and P.A. 91-726, effective June 2, 2000.) ****MH-2 or MHDD-18****

(Formerly Ill. Rev. Stat., ch. 91½, par. 3-502)

5/3-503 Admission on application of parent or guardian

§3-503. Admission on application of parent or guardian. (a) Any minor may be admitted to a mental health facility for inpatient treatment upon application to the facility director of the facility, if the facility director finds that the minor has a mental illness or emotional disturbance of such severity that hospitalization is necessary and that the minor is likely to benefit from inpatient treatment. Except in cases of admission under Section 3-504, prior to admission, a psychiatrist, clinical social worker, or clinical psychologist who has personally examined the minor shall state in writing that the minor meets the standard for admission. The statement shall set forth in detail the reasons for that conclusion and shall indicate what alternatives to hospitalization have been explored. ***MH-5****

(b) The application may be executed by a parent or guardian or, in the absence of a parent or guardian, by a person in loco parentis. Application may be made for a minor who is a ward of the State by the Department of Children and Family Services or by the Department of Corrections. (Amended by P.A. 81-799, effective September 16, 1979, P.A. 87-530, effective January 1, 1992; P.A. 88-484, effective September 10, 1993 and P.A. 91-726, effective June 2, 2000.) ****MH-6****

(Formerly Ill. Rev. Stat., ch. 91½, par. 3-503)

5/3-504 Minors -- Emergency admissions

§3-504. Minors; emergency admissions. (a) A minor who is eligible for admission under Section 3-503 and who is in such a condition that immediate hospitalization is necessary may be admitted upon the application of a parent or guardian, or person in loco parentis, or of an interested person 18 years of age or older when, after diligent effort, the minor's parent, guardian or person in loco parentis cannot be located or refuses to consent to admission. Following admission of the minor, the facility director of the mental health facility shall continue efforts to locate the minor's parent, guardian or person in loco parentis. If that person is located and consents in writing to the admission, the minor may continue to be hospitalized. However, upon notification of the admission, the parent, guardian or person in loco parentis may

request the minor's discharge subject to the provisions of Section 3-508.

(b) A peace officer may take a minor into custody and transport the minor to a mental health facility when, as a result of his personal observation, the peace officer has reasonable grounds to believe that the minor is eligible for admission under Section 3-503 and is in a condition that immediate hospitalization is necessary in order to protect the minor or others from physical harm. Upon arrival at the facility, the peace officer shall complete an application under Section 3-503 and shall further include a detailed statement of the reason for the assertion that immediate hospitalization is necessary, including a description of any acts or significant threats supporting the assertion, the time and place of the occurrence of those acts or threats, and the names, addresses and telephone numbers of other witnesses of those acts or threats.

(c) If no parent, guardian or person in loco parentis can be found within 3 days, excluding Saturdays, Sundays or holidays, after the admission of a minor, or if that person refuses either to consent to admission of the minor or to request his discharge, a petition shall be filed under the Juvenile Court Act of 1987 to ensure that appropriate guardianship is provided.

(d) If, however, a court finds, based on the evaluation by a psychiatrist or licensed clinical psychologist, licensed clinical social worker, or the testimony or other information offered by a parent, guardian, person acting in loco parentis or other interested adults, that it is necessary in order to complete an examination of a minor, the court may order that the minor be admitted to a mental health facility pending examination and may order a peace officer or other person to transport the minor to the facility.

(e) If a parent, guardian, or person acting in loco parentis is unable to transport a minor to a mental health facility for examination, the parent, guardian, or person acting in loco parentis may petition the court to compel a peace officer to take the minor into custody and transport the minor to a mental health facility for examination. The court may grant the order if the court finds, based on the evaluation by a psychiatrist, licensed clinical social worker, or licensed clinically psychologist or the testimony or a parent, guardian, or person acting in loco parentis that the examination is necessary and that the assistance of a peace officer is required to effectuate admission of the minor to a mental health facility.

(f) Within 24 hours after admission under this Section, a psychiatrist or clinical psychologist who has personally examined the minor shall certify in writing that the minor meets the standard for admission. If no certificate is furnished, the minor shall be discharged immediately. (Amended by P.A. 81-799, effective September 16, 1979; P.A. 83-670, effective January 1, 1984; P.A. 85-1209, effective August 30, 1988; P.A. 86-1402, effective January 1, 1991, P.A. 87-530, effective January 1, 1992; P.A. 88-484, effective September 10, 1993 and P.A. 91-726, effective June 2, 2000.)

(Formerly Ill. Rev. Stat., ch. 91½, par. 3-504)

5/3-505 Application form - Notice of rights - Copies to minor

§3-505. The application for admission under Section 3-503 or 3-504 shall contain in large, bold-face type a statement in simple nontechnical terms of the minor's objection and hearing rights under this Article. A minor 12 years of age or older shall be given a copy of the application and his right to object shall be explained to him in an understandable manner. A copy of the application shall also be given to the person who executed it, to the minor's parent, guardian or person in loco parentis, and attorney, if any, and to 2 other persons whom the minor may designate.

(Formerly Ill. Rev. Stat., ch. 91½, par. 3-505)

5/3-506 Review of records - Authorization for continued treatment

§3-506. Thirty days after the admission of a minor under Section 3-503 or 3-504, the facility director shall review the minor's record and assess the need for continuing hospitalization. The facility director shall consult with the person who executed the application for admission if continuing hospitalization is indicated and request authorization for continued treatment of the minor. The request and authorization shall be noted in the minor's record. Every 60 days thereafter a review shall be conducted and a new authorization shall be secured from the person who executed the application for as long as the hospitalization continues. Failure or refusal to authorize continued treatment shall constitute a request for the minor's discharge. (Amended by P.A. 81-799, effective September 16, 1979.)

(Formerly Ill. Rev. Stat., ch. 91½, par. 3-506)

5/3-507 Objections - Petition for review - Certificates

§3-507. (a) Objection may be made to the admission of a minor under Sections 3-503 or 3-504. When an objection is made, the minor shall be discharged at the earliest appropriate time, not to exceed 15 days, excluding Saturdays, Sundays and holidays, unless the objection is withdrawn in writing or unless, within that time, a petition for review of the admission and certificates are filed with the court.

MH-7, MH-5*

(b) The written objection shall be submitted to the facility director of the facility by an interested person 18 years of age or older on the minor's behalf or by the minor himself if he is 12 years of age or older. Each objection shall be noted in the minor's record.

(c) The 2 certificates which accompany the petition shall be executed pursuant to Section 3-703. Each certificate shall be based upon a personal examination and shall specify that the minor has a mental illness or an emotional disturbance of such severity that hospitalization is necessary, that he can benefit from inpatient treatment, and that a less restrictive alternative is not appropriate. If the minor is 12 years of age or older the certificate shall state whether the minor was advised of his rights under Section 3-208. (Amended by P.A. 85-643, effective January 1, 1988.)

(Formerly Ill. Rev. Stat., ch. 91½, par. 3-507)

Request for discharge - Petition for review - Certificates

§3-508. Whenever a parent, guardian, or person in loco parentis requests the discharge of a minor admitted under Section 3-503 or 3-504, the minor shall be discharged at the earliest appropriate time, not to exceed 5 days to the custody of such person unless within that time the minor, if he is 12 years of age or older, or the facility director objects to the discharge in which event he shall file with the court a petition for review of the admission accompanied by 2 certificates prepared pursuant to paragraph (c) of Section 3-507. ****MH-7, MH-5****

(Formerly III. Rev. Stat., ch. 91½, par. 3-508)

5/3-509 Petition for review - Counsel - Hearing

§3-509. Upon receipt of a petition filed pursuant to Sections 3-507 or 3-508, the court shall appoint counsel for the minor and shall set a hearing to be held within 5 days, excluding Saturdays, Sundays and holidays. The court shall direct that notice of the time and place of the hearing be served upon the minor, his attorney, the person who executed the application, the objector, and the facility director. The hearing shall be conducted pursuant to Article VIII of this Chapter. Hospitalization of the minor may continue pending further order from the court. ****MHDD-9, MHDD-10****

(Formerly III. Rev. Stat., ch. 91½, par. 3-509)

5/3-510 Discharge - Alternative treatment - Continued hospitalization

§3-510. (a) The court shall disapprove the admission and order the minor discharged if it determines that the minor does not have a mental illness or an emotional disturbance of such a severity that hospitalization is necessary, or if it determines that he cannot benefit from inpatient treatment, or if it determines that a less restrictive alternative is appropriate. If any of these 3 conditions is met, the court shall order the minor discharged from hospitalization. ****MH-8****

(b) If, however, the court finds that the minor does have a mental illness or an emotional disturbance for which the minor is likely to benefit from hospitalization, but that a less restrictive alternative is appropriate, the court may order alternative treatment pursuant to Section 3-812.

(c) Unless the court orders the discharge of the minor, the court shall authorize the continued hospitalization of the minor for the remainder of the admission period or may make such orders as it deems appropriate pursuant to Section 3-815. When the court has authorized continued hospitalization, no new objection to the hospitalization of the minor may be heard for 20 days without leave of the court. (Amended by P.A. 85-643, effective January 1, 1988 and P.A. 86-922, effective September 12, 1989.) ****MH-8****

(Formerly III. Rev. Stat., ch. 91½, par. 3-510)

5/3-511 Care or residence of minor - Grounds for refusal to discharge

§3-511. Unwillingness or inability of the minor's parent, guardian, or person in loco parentis to provide for his care or residence shall not be grounds for the court's

refusing to order the discharge of the minor. In that case, a petition may be filed under the Juvenile Court Act of 1987 to ensure that appropriate care or residence is provided. (Amended by P.A. 85-1209, effective August 30, 1988.)

(Formerly Ill. Rev. Stat., ch. 91½, par. 3-511)

ARTICLE VI. EMERGENCY ADMISSION BY CERTIFICATION

5/3-600 Involuntary admission - Immediate hospitalization

§3-600. A person 18 years of age or older who is subject to involuntary admission and in need of immediate hospitalization may be admitted to a mental health facility pursuant to this Article.

(Formerly Ill. Rev. Stat., ch. 91½, par. 3-600)

5/3-601 Involuntary admission; petition

§3-601. (a) When a person is asserted to be subject to involuntary admission and in such a condition that immediate hospitalization is necessary for the protection of such person or others from physical harm, any person 18 years of age or older may present a petition to the facility director of a mental health facility in the county where the respondent resides or is present. The petition may be prepared by the facility director of the facility. ****MHDD-5****

(b) The petition shall include all of the following:

1. a detailed statement of the reason for the assertion that the respondent is subject to involuntary admission, including the signs and symptoms of a mental illness and a description of any acts, threats, or other behavior or pattern or behavior supporting the assertion and the time and place of their occurrence.

2. The name and address of the spouse, parent, guardian, or substitute decision maker, if any, and close relative, or if none, the name and address of any known friend of the respondent whom the petitioner has reason to believe may know or have any of the other names and addresses. If the petitioner is unable to supply any such names and addresses, the petitioner shall state that diligent inquiry was made to learn this information and specify the steps taken.

3. The petitioner's relationship to the respondent and a statement as to whether the petitioner has legal or financial interest in the matter or is involved in litigation with the respondent. If the petitioner has a legal or financial interest in the matter or is involved in litigation with the respondent, a statement of why the petitioner believes it would not be practicable or possible for someone else to be the petitioner.

4. The names, addresses and phone numbers of the witnesses by which the facts asserted may be proved.

(c) Knowingly making a material false statement in the petition is a Class A

misdemeanor. (Amended by P.A. 88-484, effective September 10, 1993 and P.A. 91-726, effective June 2, 2000.)

(Formerly III. Rev. Stat., ch. 91½, par. 3-601)

5/3-601.1 Admission - appropriateness (Repealed BY P.A. 91-726, effective June 2, 2000)

(Formerly III. Rev. Stat., ch. 91½, par. 3-601.1)

5/3-601.2 Consent to admission by healthcare surrogate

§3-601.2 A surrogate decision maker under the Health Care Surrogate Act may not consent to the admission to a mental health facility of a person who lacks decision making capacity. A surrogate may, however, petition for involuntary admission pursuant to this Code. This Section does not affect the authority of a court appointed guardian. (Added by P.A. 90-538, effective December 1, 1997.)

(Formerly III. Rev. Stat., ch. 91½, par. 3-601.2)

5/3-602 Certificate of physician, qualified examiner, or clinical psychologist

§3-602. The petition shall be accompanied by a certificate executed by a physician, qualified examiner, or clinical psychologist which states that the respondent is subject to involuntary admission and requires immediate hospitalization. The certificate shall indicate that the physician, qualified examiner, or clinical psychologist personally examined the respondent not more than 72 hours prior to admission. It shall also contain the physician's, qualified examiner's, or clinical psychologist's clinical observations, other factual information relied upon in reaching a diagnosis, and a statement as to whether the respondent was advised of his rights under Section 3-208.

****MHDD-6****

(Formerly III. Rev. Stat., ch. 91½, par. 3-602)

5/3-603 Detention pending certification - Petition

§3-603. (a) If no physician, qualified examiner, or clinical psychologist is immediately available or it is not possible after a diligent effort to obtain the certificate provided for in Section 3-602, the respondent may be detained for examination in a mental health facility upon presentation of the petition alone pending the obtaining of such a certificate.

****MHDD-5****

(b) In such instance the petition shall conform to the requirements of Section 3-601 and further specify that:

1. the petitioner believes, as a result of his personal observation, that the respondent is subject to involuntary admission;
2. a diligent effort was made to obtain a certificate;
3. no physician, qualified examiner, or clinical psychologist could be found who

has examined or could examine the respondent; and

4. a diligent effort has been made to convince the respondent to appear voluntarily for examination by a physician, qualified examiner, or clinical psychologist, unless the petitioner reasonably believes that effort would impose a risk of harm to the respondent or others (Amended by P.A. 88-484, effective September 10, 1993; P.A. 91-726, effective June 2, 2000; P.A. 91-837, effective June 16, 2000.; **AND P.A. 92-16, EFFECTIVE JUNE 28, 2001.**)

(Formerly Ill. Rev. Stat., ch. 91½, par. 3-603)

5/3-604 Detention pending certificate - Limitation

§3-604. No person detained for examination under this Article on the basis of a petition alone may be held for more than 24 hours unless within that period a certificate is furnished to or by the mental health facility. If no certificate is furnished, the respondent shall be released forthwith.

(Formerly Ill. Rev. Stat., ch. 91½, par. 3-604)

5/3-605 Custody - Transportation

§3-605. (a) Upon receipt of a petition and certification prepared pursuant to this Article, the county sheriff of the county in which a respondent is found shall take a respondent into custody and transport him to a mental health facility, or may make arrangements with another public or private entity including a licensed ambulance service to transport the respondent to the mental health facility. In the event it is determined by such facility that the respondent is in need of commitment or treatment at another mental health facility, the county sheriff shall transport the respondent to the appropriate mental health facility, or the county sheriff may make arrangements with another public or private entity including a licensed ambulance service to transport the respondent to the mental health facility.

(b) The county sheriff may delegate his duties hereunder to another law enforcement body within that county if that law enforcement body agrees.

(c) The transporting authority acting in good faith and without negligence in connection with the transportation of respondents shall incur no liability, civil or criminal, by reason of such transportation.

(d) The respondent and the estate of that respondent are liable for the payment of transportation costs for transporting the respondent to a mental health facility. If the respondent is a beneficiary of a trust described in Section 15.1 of the Trusts and Trustees Act, the trust shall not be considered a part of the respondent's estate and shall not be subject to payment for transportation costs for transporting the respondent to a mental health facility under this Section except to the extent permitted under Section 15.1 of the Trusts and Trustees Act. If the respondent is unable to pay or if the estate of the respondent is insufficient, the responsible relatives are severally liable for the payment of those sums or for the balance due in case less the amount owing has

been paid. If the respondent is covered by insurance, the insurance carrier shall be liable for payment to the extent authorized by the respondent's insurance policy. (Amended by P.A. 81-1527, effective December 18, 1980 and P.A. 87-1158, effective September 18, 1992.)

(Formerly Ill. Rev. Stat., ch. 91½, par. 3-605)

5/3-606 Peace officers - Petitions

§3-606. A peace officer may take a person into custody and transport him to a mental health facility when, as a result of his personal observation, the peace officer has reasonable grounds to believe that the person is subject to involuntary admission and in need of immediate hospitalization to protect such person or others from physical harm. Upon arrival at the facility, the peace officer shall complete the petition under Section 3-601. (Amended by P.A. 88-484, effective September 10, 1993 and P.A. 91-726, effective June 2, 2000.)

(Formerly Ill. Rev. Stat., ch. 91½, par. 3-606)

5/3-607 Court ordered temporary detention and examination

§3-607. When, as a result of personal observation and testimony in open court, any court has reasonable grounds to believe that a person appearing before it is subject to involuntary admission and in need of immediate hospitalization to protect such person or others from physical harm, the court may enter an order for the temporary detention and examination of such person. The order shall set forth in detail the facts which are the basis for its conclusion. The court may order a peace officer to take the person into custody and transport him to a mental health facility. The person may be detained for examination for no more than 24 hours. If a petition and certificate, as provided in this Article are executed within the 24 hours, the person may be admitted and the provisions of this Article shall apply. If no petition or certificate is executed, the person shall be released. (Amended by P.A. 88-484, effective September 10, 1993 and P.A. 91-726, effective June 2, 2000.)

****MHDD-8, MHDD-7, MHDD-5, MHDD-6****

(Formerly Ill. Rev. Stat., ch. 91½, par. 3-607)

5/3-608 Treatment - Right to refuse - Records

§3-608. Upon completion of one certificate, the facility may begin treatment of the respondent. However, the respondent shall be informed of his right to refuse medication and if he refuses, medication shall not be given unless it is necessary to prevent the respondent from causing serious harm to himself or others. The facility shall record what treatment is given to the respondent together with the reasons therefor.

(Formerly Ill. Rev. Stat., ch. 91½, par. 3-608)

5/3-609 Right to copies of petition - Telephone calls

§3-609. Within 12 hours after his admission, the respondent shall be given a

copy of the petition and a statement as provided in Section 3-206. Not later than 24 hours, excluding Saturdays, Sundays and holidays, after admission, a copy of the petition and statement shall be given or sent to the respondent's attorney and guardian, if any. The respondent shall be asked if he desires such documents sent to any other persons, and at least 2 such persons designated by the respondent shall receive such documents. The respondent shall be allowed to complete no less than 2 telephone calls at the time of his admission to such persons as he chooses.

(Formerly Ill. Rev. Stat., ch. 91½, par. 3-609)

5/3-610 Examination by psychiatrist - Release

§3-610. As soon as possible but not later than 24 hours, excluding Saturdays, Sundays and holidays, after admission of a respondent pursuant to this Article, the respondent shall be examined by a psychiatrist. The psychiatrist may be a member of the staff of the facility but shall not be the person who executed the first certificate. If the respondent is not examined or if the psychiatrist does not execute a certificate pursuant to Section 3-602, the respondent shall be released forthwith. ****MHDD-6****

(Formerly Ill. Rev. Stat., ch. 91½, par. 3-610)

Section 3-611 Filing - Hearing date - Notice

§3-611. Within 24 hours, excluding Saturdays, Sundays, and holidays, after the respondent's admission under this Article, the facility director of the facility shall file 2 copies of the petition, the first certificate, and proof of service of the petition and statement of rights upon the respondent with the court in the county in which the facility is located. Upon completion of the second certificate, the facility director shall promptly file it with the court. The facility director shall make copies of the certificates available to the attorneys for the parties upon request.

Upon the filing of the petition and first certificate, the court shall set a hearing to be held within 5 days, excluding Saturdays, Sundays and holidays, after receipt of the petition. The court shall direct that notice of the time and place of the hearing be served upon the respondent, his responsible relatives, and the persons entitled to receive a copy of the petition pursuant to Section 3-609. ****MHDD-9, MHDD-10****

(Formerly Ill. Rev. Stat., ch. 91 1/2, par. 6-111)

ARTICLE VII. ADMISSION BY COURT ORDER

5/3-700 Involuntary admission upon court order

§3-700. A person 18 years of age or older who is subject to involuntary admission may be admitted to a mental health facility upon court order pursuant to this Article.

(Formerly Ill. Rev. Stat., ch. 91½, par. 3-700)

5/3-701 Petition for involuntary admission - Inquiry

§3-701. Any person 18 years of age or older may execute a petition asserting that another person is subject to involuntary admission. The petition shall be prepared pursuant to paragraph (b) of Section 3-601 and shall be filed with the court in the county where the respondent resides or is present. ****MHDD-5****

(b) The court may inquire of the petitioner whether there are reasonable grounds to believe that the facts stated in the petition are true and whether the respondent is subject to involuntary admission. The inquiry may proceed without notice to the respondent only if the petitioner alleges facts showing that an emergency exists such that immediate hospitalization is necessary and the petitioner testifies before the court as to the factual basis for the allegations. (Amended by P.A. 91-837, effective June 16, 2000.)

(Formerly Ill. Rev. Stat., ch. 91½, par. 3-701)

5/3-702 Certificate - Order directing examination - Hearing

§3-702. (a) The petition may be accompanied by the certificate of a physician, qualified examiner, or clinical psychologist which certifies that the respondent is subject to involuntary admission and which contains the other information specified in Section 3-602. ****MHDD-6****

(b) Upon receipt of the petition either with or without a certificate, if the court finds the documents are in order, it may make such orders pursuant to Section 3-703 as are necessary to provide for examination of the respondent. If the petition is not accompanied by 2 certificates executed pursuant to Section 3-703, the court may order the respondent to present himself for examination at a time and place designated by the court. If the petition is accompanied by 2 certificates executed pursuant to Section 3-703 and the court finds the documents are in order, it shall set the matter for hearing. (Amended by P.A. 88-484, effective September 10, 1993 and P.A. 91-726, effective June 2, 2000.) ****MHDD-8****

(Formerly Ill. Rev. Stat., ch. 91½, par. 3-702)

5/3-703 Examination - Certificate

§3-703. If no certificate was filed, the respondent shall be examined separately by a physician, or clinical psychologist, or qualified examiner and by a psychiatrist. If a certificate executed by a psychiatrist was filed, the respondent shall be examined by a physician, clinical psychologist, qualified examiner, or psychiatrist. If a certificate executed by a qualified examiner, clinical psychologist, or a physician who is not a psychiatrist was filed, the respondent shall be examined by a psychiatrist. The examining physician, clinical psychologist, qualified examiner or psychiatrist may interview by telephone or in person any witnesses or other persons listed in the petition for involuntary admission. If, as a result of an examination, a certificate is executed, the certificate shall be promptly filed with the court. If a certificate is executed, the examining physician, clinical psychologist, qualified examiner or psychiatrist may also submit for filing with the court a report in which his findings are described in detail, and may rely upon such findings for his opinion that the respondent is subject to involuntary

admission. Copies of the certificates shall be made available to the attorneys for the parties upon request prior to the hearing.

(Formerly Ill. Rev. Stat., ch. 91½, par. 3-703)

5/3-704 Examination; detention

§3-704. (a) The respondent shall be permitted to remain in his or her place of residence pending any examination. The respondent may be accompanied by one or more of his or her relatives or friends or by his or her attorney to the place of examination. If, however, the court finds that it is necessary in order to complete the examination the court may order that the person be admitted to a mental health facility pending examination and may order a peace officer or other person to transport the person there. The examination shall be conducted at a local mental health facility or hospital or, if possible, in the respondent's own place of residence. No person may be detained for examination under this Section for more than 24 hours. The person shall be released upon completion of the examination unless the physician, qualified examiner or clinical psychologist executes a certificate stating that the person is subject to involuntary admission and in need of immediate hospitalization to protect such person or others from physical harm. Upon admission under this Section treatment may be given pursuant to Section 3-608.

****MHDD-7****

(a-5) Whenever a respondent has been transported to a mental health facility for an examination, the admitting facility shall inquire, upon the respondent's arrival, whether the respondent wishes any person or persons to be notified of his or her detention at that facility. If the respondent does wish to have any person or persons notified of his or her detention at the facility, the facility must promptly make all reasonable attempts to locate the individual identified by the respondent, or at least 2 individuals identified by the respondent if more than one has been identified, and notify them of the respondent's detention at the facility for a mandatory examination pursuant to court order.

(b) Not later than 24 hours, excluding Saturdays, Sundays, and holidays, after admission under this Section, the respondent shall be asked if he desires the petition and the notice required under Section 3-206 sent to any other persons and at least 2 such persons designated by the respondent shall be sent the documents. At the time of his admission the respondent shall be allowed to complete not fewer than 2 telephone calls to such persons as he chooses. (Amended by P.A. 88-484, effective September 10, 1993; P.A. 91-726, effective June 2, 2000; P.A. 91-83 7, effective June 16, 2000 **AND P.A. 92-16, EFFECTIVE JUNE 28, 2001.**)

(Formerly Ill. Rev. Stat., ch. 91½, par. 3-704)

5/3-704.1. Task force

§ 3-704.1. (a) The Illinois Law Enforcement Training Standards Board shall convene a task force for the purpose of developing and recommending for adoption by the board a model protocol concerning the involvement of mental health professionals

when a peace officer is required to transport an individual for a mental health examination pursuant to an order entered under subsection (a) of Section 3-704. The task force in its discretion may also develop other model protocols concerning the interaction between law enforcement and individuals with mental illness. The task force shall have no more than 19 members, appointed by the executive director of the Illinois Law Enforcement Training Standards Board, and shall be comprised of the following: (i) up to 8 representatives from law enforcement, (ii) up to 8 representatives of community mental health service providers and State operated and private psychiatric hospitals, including up to 3 representatives of the Office of Mental Health, Department of Human Services, and (iii) 3 members of the general public, at least one of whom must be a primary consumer of mental health services. In establishing the task force every effort shall be made to ensure that it represents the geographic diversity of the State.

(b) The members of the task force shall serve without compensation and shall not receive reimbursement for any expense incurred in performing their duties.

(c) Prior to taking any formal action upon the recommendations of the task force, the board shall hold a public hearing to provide the opportunity for individuals with mental illness and their family members, mental health advocacy organizations, and the public at large to review, comment upon, and suggest any changes to the proposed model protocols.

(d) The board shall submit to the General Assembly, no later than March 1, 2001, whatever model protocols it has adopted under subsection (a). (Added by P.A. 91-837, effective June 16, 2000.)

5/3-705 Notice of examination

§3-705. At least 36 hours before the time of the examination fixed by the court, a copy of the petition, the order for examination, and a statement of rights as provided in Section 3-205 shall be personally delivered to the person and shall be given personally or sent by mail to his attorney and guardian, if any. If the respondent is admitted to a mental health facility for examination under Section 3-704, such notices may be delivered at the time of service of the order for admission.

(Formerly Ill. Rev. Stat., ch. 91½, par. 3-705)

5/3-706 Hearing - Notices - Personal appearances

§3-706. The court shall set a hearing to be held within 5 days, excluding Saturdays, Sundays and holidays, after its receipt of the second certificate or after the respondent is admitted to a mental health facility, whichever is earlier. The court shall direct that notice of the time and place of hearing be served upon the respondent, his attorney, and guardian, if any, his responsible relatives and the facility director of the facility. Unless the respondent is admitted pursuant to Section 3-704, he may remain at his residence pending the hearing. If, however, the court finds it necessary, it may order a peace officer or another person to have the respondent before the court at the time and place set for hearing. (Amended by P.A. 88-484, effective September 10,

1993 and P.A. 91-726, effective June 2, 2000.)

****MHDD-9, MHDD-10, MHDD-7****
(Formerly Ill. Rev. Stat., ch. 91½, par. 3-706)

ARTICLE VIII. COURT HEARINGS

5/3-800 Venue - Continuances

§3-800. (a) Unless otherwise indicated, court hearings under this Chapter shall be held pursuant to this Article. Hearings shall be held in such quarters as the court directs. To the extent practical, hearings shall be held in the mental health facility where the respondent is hospitalized. Any party may request a change of venue or transfer to any other county because of the convenience of parties or witnesses or the condition of the respondent. The respondent may request to have the proceedings transferred to the county of his residence.

(b) If the Court grants a continuance on its own motion or upon the motion of one of the parties, the respondent may continue to be detained pending further order of the court. Such continuance shall not extend beyond 15 days except to the extent that continuances are requested by the respondent. (Amended by P.A. 85-971, effective July 1, 1988.)

(c) Court hearings under this Chapter, including hearings under Section 2-107.1, shall be open to the press and public unless the respondent or some other party requests that they be closed. The court may also indicate its intention to close a hearing, including when it determines that the respondent may be unable to make a reasoned decision to request that the hearing be closed. A request that a hearing be closed shall be granted unless there is an objection to closing the hearing by a party or any other person. If an objection is made, the court shall not close the hearing unless, following a hearing, it determines that the patient's interest in having the hearing closed is compelling. The court shall support its determination with written findings of fact and conclusions of law. The court shall not close the hearing if the respondent objects to its closure. Whenever a court determines that a hearing shall be closed, access to the records of the hearing, including but not limited to transcripts and pleadings, shall be limited to the parties involved in the hearing, court personnel, and any person or agency providing mental health services that are the subject of the hearing. Access may also be granted, however, pursuant to the provisions of the Mental Health and Developmental Disabilities Confidentiality Act. (Amended by P.A. 90-538, effective December 1, 1997.)

(Formerly Ill. Rev. Stat., ch. 91½, par. 3-800)

5/3-801 Informal or voluntary admission - Dismissal

§3-801. A respondent may request admission as an informal or voluntary recipient at any time prior to an adjudication that he is subject to involuntary admission. If the facility director approves such a request, the court may dismiss the pending proceedings but may require proof that such dismissal is in the best interest of the

respondent and of the public. (Amended by P.A. 88-380, effective August 20, 1993.)
(Formerly III. Rev. Stat., ch. 91½, par. 3-801)

5/3-802 Jury

§3-802. The respondent is entitled to a jury on the question of whether he is subject to involuntary admission. The jury shall consist of 6 persons to be chosen in the same manner as are jurors in other civil proceedings.

(Formerly III. Rev. Stat., ch. 91½, par. 3-802)

5/3-803 Examiners - Appointment - Report of findings

§3-803. The court may appoint one or more physicians, qualified examiners, clinical psychologists or other experts to examine the respondent and make a detailed written report of his findings regarding the respondent's condition. Any such physician or other examiner so appointed may interview by telephone or in person any witnesses or other persons listed in the petition for involuntary admission. The report shall be filed with the court and copies shall be made available to the attorneys for the parties. (Amended by P.A. 85-558, effective January 1, 1988.)

****MHDD-8****

(Formerly III. Rev. Stat., ch. 91½, par. 3-803)

5/3-804 Independent examination - Court order - Compensation

§3-804. The respondent is entitled to secure an independent examination by a physician, qualified examiner, clinical psychologist or other expert of his choice. If the respondent is unable to obtain an examination, he may request that the court order an examination to be made by an impartial medical expert pursuant to Supreme Court Rules or by a qualified examiner, clinical psychologist or other expert. Any such physician or other examiner, whether secured by the respondent or appointed by the court, may interview by telephone or in person any witnesses or other persons listed in the petition for involuntary admission. The physician or other examiner may submit to the court a report in which his findings are described in detail. Determination of the compensation of the physician, qualified examiner, clinical psychologist or other expert and its payment shall be governed by Supreme Court Rule. (Amended by P.A. 85-558, effective January 1, 1988.)

****MHDD-8****

(Formerly III. Rev. Stat., ch. 91½, par. 3-804)

5/3-805 Counsel - Appointment - Fees

§3-805. Every respondent alleged to be subject to involuntary admission shall be represented by counsel. If the respondent is indigent or an appearance has not been entered on his behalf at the time the matter is set for hearing, the court shall appoint counsel for him. A hearing shall not proceed when a respondent is not represented by counsel unless, after conferring with counsel, the respondent requests to represent himself and the court is satisfied that the respondent has the capacity to make an informed waiver of his right to counsel. Counsel shall be allowed time for adequate preparation and shall not be prevented from conferring with the respondent at reasonable times nor from making an investigation of the matters in issue and

presenting such relevant evidence as he believes is necessary.

1. If the court determines that the respondent is unable to obtain counsel, the court shall appoint as counsel an attorney employed by or under contract with the Guardianship and Advocacy Commission, if available.

2. If an attorney from the Guardianship and Advocacy Commission is not available, the court shall appoint as counsel the public defender or, only if no public defender is available, an attorney licensed to practice law in this State.

3. Upon filing with the court of a verified statement of legal services rendered by the private attorney appointed pursuant to paragraph (2) of this Section, the court shall determine a reasonable fee for such services. If the respondent is unable to pay the fee, the court shall enter an order upon the county to pay the entire fee or such amount as the respondent is unable to pay.

(Formerly III. Rev. Stat., ch. 91½, par. 3-805)

5/3-806 Presence at hearing; Location

§3-806. (a) The respondent shall be present at any hearing held under this Act unless his attorney waives his right to be present and the court is satisfied by a clear showing that the respondent's attendance would subject him to substantial risk of serious physical or emotional harm.

(b) The court shall make reasonable accommodation of any request by the recipient's attorney concerning the location of the hearing. If the recipient's attorney advises the court that the recipient refuses to attend, the hearing may proceed in his or her absence.

(c) No inference may be drawn from the recipient's non-attendance pursuant to either subsection (a) or (b) of this section. (Amended by P.A. 89-439, effective June 1, 1996).

(Formerly III. Rev. Stat., ch. 91½, par. 3-806)

5/3-807 - Testimony of psychiatrist, clinical social worker, or clinical psychologist - Waiver

§3-807. No respondent may be found subject to involuntary admission unless at least one psychiatrist, clinical social worker, or clinical psychologist who has examined him testifies in person at the hearing. The respondent may waive the requirement of the testimony subject to the approval of the court. (Amended by P.A. 87-530, effective January 1, 1992.)

(Formerly III. Rev. Stat., ch. 91½, par. 3-807)

5/3-808 Findings - Burden of proof

§3-808. No respondent may be found subject to involuntary admission unless

that finding has been established by clear and convincing evidence.
(Formerly III. Rev. Stat., ch. 91½, par. 3-808)

5/3-809 Dismissal - Admission order - Setting aside verdict

§3-809. If the respondent is not found subject to involuntary admission, the court shall dismiss the petition and order the respondent discharged. If the respondent is found subject to involuntary admission, the court shall enter an order so specifying. If the court is not satisfied with the verdict of the jury finding the respondent subject to involuntary admission, it may set aside such verdict and order the respondent discharged or it may order another hearing. ****MHDD-11****

(Formerly III. Rev. Stat., ch. 91½, par. 3-809)

5/3-810 Report before disposition

§3-810. Before disposition is determined, the facility director or such other person as the court may direct shall prepare a written report including information on the appropriateness and availability of alternative treatment settings, a social investigation of the respondent, a preliminary treatment plan, and any other information which the court may order. The treatment plan shall describe the respondent's problems and needs, the treatment goals, the proposed treatment methods, and a projected timetable for their attainment. If the respondent is found subject to involuntary admission, the court shall consider the report in determining an appropriate disposition. (Amended by P.A. 88-484, effective September 10, 1993 and P.A. 91-726, effective June 2, 2000.)

(Formerly III. Rev. Stat., ch. 91½, par. 3-810)

5/3-811 Involuntary admission; alternative mental health facilities

§3-811. Involuntary admission; alternative mental health facilities. If any person is found subject to involuntary admission, the court shall consider alternative mental health facilities which are appropriate for and available to the respondent, including but not limited to hospitalization. The court may order the respondent to undergo a program of hospitalization in a mental health facility designated by the Department, in a licensed private hospital or private mental health facility if it agrees, or in a facility of the United States Veterans Administration if it agrees; or the court may order the respondent to undergo a program of alternative treatment; or the court may place the respondent in the care and custody of a relative or other person willing and able to properly care for him or her. The court shall order the least restrictive alternative for treatment which is appropriate. (Amended by P.A. 88-484, effective September 10, 1993 and P.A. 91-726, effective June 2, 2000) ****MH-8****

(Formerly III. Rev. Stat., ch. 91½, par. 3-811)

5/3-812 Court-ordered alternative treatment; modification; revocation

§3-812. (a) Alternative treatment shall not be ordered unless the program being considered is capable of providing adequate and humane treatment in the least

restricted setting which is appropriate to the respondent's condition.

****MH-8****

The court shall have continuing authority to modify an order for alternative treatment if the recipient fails to comply with the order or is otherwise found unsuitable for alternative treatment. Prior to modifying such an order, the court shall receive a report from the facility director of the program specifying why the alternative treatment is unsuitable. The recipient shall be notified and given an opportunity to respond when modification of the order for alternative treatment is considered.

(b) If the court revokes an order for alternative treatment and orders a recipient hospitalized, it may order a peace officer to take the recipient into custody and transport him to the facility. The court may order the recipient to undergo a program of hospitalization at a licensed private hospital or private mental health facility, or a facility of the United States Veterans Administration, if such private or Veterans Administration facility agrees to such placement, or at a mental health facility designated by the Department (Amended by P.A. 85-971, effective July 1, 1988, P.A. 88-380, effective August 20, 1993; P.A. 88-484, effective September 10, 1993 and P.A. 91-726, effective June 2, 2000.)

(Formerly III. Rev. Stat., ch. 91½, par. 3-812)

5/3-813 Court orders - Duration - Additional periods of treatment

§3-813. (a) An initial order for hospitalization shall be for a period not to exceed 90 days. Prior to the expiration of the initial order if the facility director believes that the recipient continues to be subject to involuntary admission, a new petition and 2 new certificates may be filed with the court. If a petition is filed, the facility director shall file with the court a current treatment plan which includes an evaluation of the recipient's progress and the extent to which he is benefiting from treatment. If no petition is filed prior to the expiration of the initial order, the recipient shall be discharged. Following a hearing, the court may order a second period of hospitalization not to exceed 90 days only if it finds that the recipient continues to be subject to involuntary admission.

****MHDD-5, MHDD-6, MH-8****

(b) Additional 180 day periods of treatment may be sought pursuant to the procedures set out in this Section for so long as the recipient continues to be subject to involuntary admission. The provisions of this Chapter which apply whenever an initial order is sought shall apply whenever an additional period of treatment is sought. If the patient has been ordered committed to the facility after he has been found not guilty by reason of insanity, the treatment plan and its review shall be subject to the provisions of Section 5-2-4 of the Unified Code of Corrections. (Amended by P.A. 86-1402, effective January 1, 1991; P.A. 88-380, effective August 20, 1993, and amended by P.A. 91-787, effective January 1, 2001)

(Formerly III. Rev. Stat., ch. 91½, par. 3-813)

5/3-814 Treatment plan

§3-814. (a) Not more than 30 days after admission under this Article, the facility director shall file a current treatment plan which shall include all the requirements listed in Section 3-209, an evaluation of the recipient's progress and the extent to which he is benefiting from treatment, the criteria which form the basis for the determination that the patient is subject to involuntary admission as defined in Section 1-119, and the specific behaviors or conditions that demonstrate that the recipient meets these criteria for continued confinement. If the facility director is unable to determine any of the required information, the treatment plan shall include an explanation of why the facility director is unable to make this determination, what the facility director is doing to enable himself or herself to determine the information, and the date by which the facility director expects to be able to make this determination. The facility director shall forward a copy of the plan to the State's Attorney, the recipient's attorney, if the recipient is represented by counsel, the recipient, and any guardian of the recipient.

(b) The purpose of the filing, forwarding, and review of treatment plans and treatment is to assure that the recipient is receiving adequate and humane care and services as defined in Section 1-101.2 and to ensure that the recipient continues to meet the standards for involuntary confinement.

(c) On request of the recipient or an interested person on his behalf, or on the court's own initiative, the court shall review the current treatment plan to determine whether its contents comply with the requirements of this Section and Section 3-209. A request to review the current treatment plan may be made by the recipient, or by an interested person on his behalf, 30 days after initial commitment under Section 3-813, 90 days after the initial commitment, and 90 days after each additional period of commitment under subsection (b) of Section 3-813. If the court determines that any of the information required by this Section or Section 3-209 to be included in the treatment plan is not in the treatment plan or that the treatment plan does not contain information from which the court can determine whether the recipient continues to meet the criteria for continued confinement, the court shall indicate what is lacking and order the facility director to revise the current treatment plan to comply with this Section and Section 3-209. If the recipient has been ordered committed to the facility after he has been found not guilty by reason of insanity, the treatment plan and its review shall be subject to the provisions of Section 5-2-4 of the Unified Code of Corrections.

(d) The recipient or an interested person on his or her behalf may request a hearing or the court on its own motion may order a hearing to review the treatment being received by the recipient. The court, the recipient, or the State's Attorney may call witnesses at the hearing. The court may order any public agency, officer, or employee to render such information, cooperation, and assistance as is within its legal authority and as may be appropriate to achieve the objectives of this Section. The court may order an independent examination on its own initiative and shall order such an evaluation if either the recipient or the State's Attorney so requests and has demonstrated to the court that the plan cannot be effectively reviewed by the court without such an examination. Under no circumstances shall the court be required to order an independent examination pursuant to this Section more than once each year.

The examination shall be conducted by persons authorized to conduct independent examinations under Section 3-804. If the court is satisfied that the recipient is benefiting from treatment, it may continue the original order for the remainder of the admission period. If the court is not so satisfied, it may modify its original order or it may order the recipient discharged.

(e) In lieu of a treatment plan, the facility director may file a typed summary of the treatment plan which contains the information required under Section 3-209 and subsection (a) of this Section. (Amended by P.A. 83-839, effective January 1, 1984; P.A. 88-380, effective August 20, 1993; and P.A. 91-536, effective January 1, 2000.)

****MHDD-12****

(Formerly Ill. Rev. Stat., ch. 91½, par. 3-814)

5/3-815 Care and custody orders - Durations - Custodians

§3-815. (a) An order placing any person in care and custody shall be valid for not more than 180 days. Additional 180 day periods of care and custody may be sought pursuant to the procedures of Section 3-813. If, for any reason, a custodian becomes unable or unwilling to adequately fulfill his duties, the court may terminate the appointment and may appoint another person as a successor custodian for the duration of the order.

(b) Any order appointing a custodian shall specify the authority of the custodian, not inconsistent with this Chapter. The custodian shall apply to the court for permission to do any act not recited in the order. A custodian may require the hospitalization of the person in his custody only if authorized to do so by the court order. Any order which authorizes a custodian to arrange for the hospitalization of a person shall specify the name of the facility in which the custodian may arrange such hospitalization. The recipient may not be transferred to another facility except by further order of the court. (Amended by P.A. 86-1402, effective January 1, 1991.)

(Formerly Ill. Rev. Stat., ch. 91½, par. 3-815)

5/3-816 Final orders; copies; Appeals

§3-816. (a) Every final order entered by the court under this Act shall be in writing and shall be accompanied by a statement on the record of the court's findings of fact and conclusions of law. A copy of such order shall be promptly given to the recipient or his or her attorney and to the facility director of the facility or alternative treatment to which the recipient is admitted or to the person in whose care and custody the recipient is placed.

(b) An appeal from a final order may be taken in the same manner as in other civil cases. Upon entry of a final order, the court shall notify the recipient orally and in writing of his or her right to appeal and, if he or she is indigent, of his or her right to a free transcript and counsel. The cost of the transcript shall be paid pursuant to subsection (c) of Section 3-818 and subsection (c) of Section 4-615 of this Code. If the

recipient wishes to appeal and is unable to obtain counsel, counsel shall be appointed pursuant to Section 3-805. (Amended by P.A. 86-1402, effective January 1, 1991; P.A. 88-380, effective August 20, 1993; and P.A. 90-765, effective August 14, 1998.)

(Formerly Ill. Rev. Stat., ch. 91½, par. 3-816)

5/3-817 Record of hearings

§3-817. A verbatim record shall be made of all judicial hearings held pursuant to this Chapter.

(Formerly Ill. Rev. Stat., ch. 91½, par. 3-817)

5/3-818 Fees - Costs

§3-818. (a) Fees for jury service, witnesses and service and execution of process are the same as for similar services in civil proceedings.

(b) Except as provided under subsection (c) of this Section, the court may assess costs of the proceedings against the parties. If the respondent is not a resident of the county in which the hearing is held and the party against whom the court would otherwise assess costs has insufficient funds to pay the costs, the court may enter an order upon the State to pay the cost of the proceedings, from funds appropriated by the General Assembly for that purpose.

(c) If the respondent is a party against whom the court would otherwise assess costs and that respondent is determined by the court to have insufficient funds to pay the cost of transcripts for the purpose of appeal, the court shall enter an order upon the State to pay the cost of one original and one copy of a transcript of proceedings established under this Code. Payment of transcript costs authorized under this subsection (c) shall be paid from funds appropriated by the General Assembly to the Administrative Office of the Illinois Courts. (Amended by P.A. 90-765, effective August 14, 1998.)

(Formerly Ill. Rev. Stat., ch. 91½, par. 3-818)

5/3-819 Transportation to facility - Receipt for personal property

§3-819. (a) When a recipient is hospitalized upon court order, the order may authorize a relative or friend of the recipient to transport the recipient to the facility if such person is able to do so safely and humanely. When the Department indicates that it has transportation to the facility available, the order may authorize the Department to transport the recipient there. The court may order the sheriff of the county in which such proceedings are held to transport the recipient to the facility. When a recipient is hospitalized upon court order, and the recipient has been transported to a mental health facility, other than a State-operated mental health facility, and it is determined by the facility that the recipient is in need of commitment or treatment at another mental health facility, the court shall determine whether a relative or friend of the recipient or the Department is authorized to transport the recipient between facilities, or whether the

county sheriff is responsible for transporting the recipient between facilities. The sheriff may make arrangements with another public or private entity including a licensed ambulance service to transport the recipient to the facility. The transporting entity acting in good faith and without negligence in connection with the transportation of recipients shall incur no liability, civil or criminal, by reason of such transportation.

****MH-8****

(b) The court may authorize the transporting entity to bill the recipient, the estate of the recipient, legally responsible relatives, or insurance carrier for the cost of providing transportation of the recipient to a mental health facility. The recipient and the estate of the recipient are liable for the payment of transportation costs for transporting the recipient to a mental health facility. If the recipient is a beneficiary of a trust described in Section 15.1 of the Trusts and Trustees Act, the trust shall not be considered a part of the recipient's estate and shall not be subject to payment for transportation costs for transporting the recipient to a mental health facility under this Section, except to the extent permitted under Section 15.1 of the Trusts and Trustees Act. If the recipient is unable to pay or if the estate of the recipient is insufficient, the responsible relatives are severally liable for the payment of those sums or for the balance due in case less than the amount owing has been paid. If the recipient is covered by insurance, the insurance carrier shall be liable for the payment to the extent authorized by the recipient's insurance policy.

(c) Upon the delivery of a recipient to a facility, in accordance with the procedure set forth in this Article, the facility director of the facility shall sign a receipt acknowledging custody of the recipient and for any personal property belonging to him, which receipt shall be filed with the clerk of the court entering the hospitalization order. (Amended by P.A. 83-346, effective September 14, 1983, P.A. 87-1158, effective September 18, 1992 and P.A. 88-380, effective August 20, 1993.)

(Formerly Ill. Rev. Stat., ch. 91½, par. 3-819)

5/3-820 Domestic violence - Order of protection

§3-820. Domestic violence: Order of protection. An order of protection, as defined in the Illinois Domestic Violence Act of 1986, may be issued in conjunction with a proceeding for involuntary commitment if the petition for an order of protection alleges that a person who is party to or the subject of the proceeding has been abused by or has abused a family or household member. The Illinois Domestic Violence Act of 1986 shall govern the issuance, enforcement, and recording of **ORDERS** of protection issued under this Section. (Added by P.A. 84-1305, effective August 21, 1986; **AMENDED BY P.A.92-16, EFFECTIVE JUNE 28, 2001.**)

(Formerly Ill. Rev. Stat., ch. 91½, par. 3-820)

ARTICLE IX. DISCHARGE RESTORATION TRANSFER

5/3-900 Petition for discharge - Contents

§3-900. (a) Any person hospitalized or admitted to alternative treatment or care and custody as having mental illness on court order under this Chapter or under any prior statute or any person on his behalf may file a petition for discharge at any time in the court of the county where the recipient resides or is found.

****MHDD-21****

(b) The petition shall set forth: (1) the name of the recipient; (2) the underlying circumstances and date of the order; (3) a request for discharge from the order; and (4) the reasons for such request. (Amended by P.A. 88-380, effective August 20, 1993.)

(Formerly III. Rev. Stat., ch. 91½, par. 3-900)

5/3-901 Hearings - Orders

§3-901. (a) Upon the filing of a petition under Section 3-900 or Section 3-906, the court shall set the matter for hearing to be held within 5 days, excluding Saturdays, Sundays, and holidays. The court shall direct that notice of the time and place of the hearing be given to the recipient, his attorney, his guardian, the facility director, the person having care and custody of the recipient, and to at least 2 persons whom the patient may designate.

****MHDD-9****

(b) Article VIII of this Chapter applies to hearings held under this Section. If the court finds that the recipient is not subject to involuntary admission, the court shall enter an order so finding and discharging the recipient. If the court orders the discharge of a recipient who was adjudicated as having mental illness pursuant to any prior statute of this State or who was otherwise adjudicated to be under legal disability, the court shall also enter an order restoring the recipient to legal status without disability, unless the court finds that the recipient continues to be under legal disability. A copy of any order discharging the recipient shall be given to the recipient and to the facility director.

****MHDD-17****

c) If the court determines that the recipient continues to be subject to involuntary admission, the court may continue or modify its original order in accordance with this Act. Thereafter, no new petition for discharge may be filed without leave of court. (Amended by P.A. 83-706, effective September 23, 1983 and P.A. 88-380, effective August 20, 1993.)

(Formerly III. Rev. Stat., ch. 91½, par. 3-901)

5/3-902 Director initiated discharge

§3-902. (a) The facility director may at any time discharge an informal, voluntary, or minor recipient who is clinically suitable for discharge.

(b) The facility director shall discharge a recipient admitted upon court order under this Chapter or any prior statute where he is no longer subject to involuntary admission. If the facility director believes that continuing treatment is advisable for such recipient, he shall inform the recipient of his right to remain as an informal or voluntary recipient.

(c) When a facility director discharges or changes the status of a recipient pursuant to this Section he shall promptly notify the clerk of the court which entered the original order of the discharge or change in status. Upon receipt of such notice, the clerk of the court shall note the action taken in the court record. If the person being discharged is a person under legal disability, the facility director shall also submit a certificate regarding his legal status without disability pursuant to Section 3-907.

MHDD-20*

(d) When the facility director determines that discharge is appropriate for a recipient pursuant to this Section or Section 3-403 he or she shall notify the state's attorney of the county in which the recipient resided immediately prior to his admission to a mental health facility and the state's attorney of the county where the last petition for commitment was filed at least 48 hours prior to the discharge when either state's attorney has requested in writing such notification on that individual recipient or when the facility director regards a recipient as a continuing threat to the peace and safety of the community. Upon receipt of such notice, the state's attorney may take any court action or notify such peace officers that he deems appropriate.

(e) The facility director may grant a temporary release to a recipient whose condition is not considered appropriate for discharge where such release is considered to be clinically appropriate, provided that the release does not endanger the public safety. (Amended by P.A. 83-706, effective September 23, 1983, P.A. 88-380, effective August 20, 1993, P.A. 88-484, effective September 10 1993; P.A. 89-439, effective June 1, 1996 and P.A. 91-726, effective June 2, 2000.)

(Formerly Ill. Rev. Stat., ch. 91½, par. 3-902)

5/3-903 Notice of discharge - Hearing on objections - Burden of proof

§3-903. (a) The facility director shall give written notice of discharge from a Department mental health facility to the recipient, his attorney, and guardian, if any, or in the case of a minor, to his attorney, to the parent, guardian, or person in loco parentis who executed the application for admission, to the resident school district when appropriate, and to the minor if he is 12 years of age or older. The notice, except that to the school district, shall include the reason for discharge and a statement of the right to object. Whenever possible, this notice shall be given at least 7 days prior to the date of intended discharge.

****MHDD-22****

(b) A recipient may object to his discharge or his attorney or guardian may object on his behalf. In the case of a minor, his attorney, the person who executed the application or the minor himself if he is 12 years of age or older may object to the discharge. Prior to discharge a written objection shall be submitted to the facility director of the mental health facility where the recipient is located. Upon receipt of an objection, the facility director shall promptly schedule a hearing to be held within 7 days at the facility pursuant to Section 3-207. No discharge shall proceed pending hearing on an objection, unless the person objecting to the discharge consents to discharge pending the outcome of the hearing.

(c) At the hearing the Department shall have the burden of proving that the recipient meets the standard for discharge under this Chapter and under Section 15 of the Mental Health and Developmental Disabilities Administrative Act. If the utilization review committee finds that the Department sustained its burden and that the proposed discharge is based upon substantial evidence, it shall recommend that the discharge proceed. If the utilization review committee does not so find, it shall recommend that the recipient not be discharged but it may recommend that the recipient be transferred to another mental health facility which can provide treatment appropriate to the clinical condition and needs of the recipient. It may recommend that the Department or other agency assist the person in obtaining such appropriate treatment. (Amended by P.A. 85-971, effective July 1, 1988; P.A. 88-380, effective August 20, 1993; and P.A. 89-507, effective July 1, 1997.)

(Formerly III. Rev. Stat., ch. 91½, par. 3-903)

5/3-904 Prior law - Discharge

§3-904. Any person with mental illness admitted to a facility or placed in the care and custody of another person under any prior statute of this State is subject to this Chapter and may be discharged in accordance with its provisions. (Amended by P.A. 88-380, effective August 20, 1993.)

(Formerly III. Rev. Stat., ch. 91½, par. 3-904)

5/3-905 Habeas corpus - Benefit of relief

§3-905. Nothing in this Chapter shall deprive any person of the benefits of relief by habeas corpus. If the court issuing the order of habeas corpus grants relief, a copy of the order shall be sent to the court which entered the order of admission and the clerk of the court shall file the order in the court record. (Amended by P.A. 83-346, effective September 14, 1983.)

(Formerly III. Rev. Stat., ch. 91½, par. 3-905)

5/3-906 Restoration to legal status without disability

§3-906. (a) Any person who has been adjudicated to be a person under legal disability in any proceedings under any prior mental health statute of this State or any person on his behalf may file at any time a petition for modification of the guardianship order of the court or for restoration to legal status without disability. The petition may be filed in the court which adjudicated the person to be under legal disability or in the court of the county where he resides or is present. The petition may be accompanied by a certificate of a physician, qualified examiner, or clinical psychologist or by a notice of discharge issued pursuant to this Chapter. The certificate shall indicate the extent to which the recipient is capable of managing his person and estate. If no certificate accompanies the petition, the court may appoint a physician, qualified examiner, or clinical psychologist to examine the recipient and prepare a certificate regarding his competence.

****MHDD-15, MHDD-16, MHDD-8****

(b) The procedures for conduct of hearings set forth in Article VIII of this Chapter

apply to hearings held under this Section. (Amended by P.A. 83-706, effective September 23, 1983 and P.A. 88-380, effective August 20, 1993.)

(Formerly III. Rev. Stat., ch. 91½, par. 3-906)

5/3-907 Pre-1964 orders - Restoration to status without legal disability

§3-907. Any person who is under legal disability solely by reason of a court order adjudicating him mentally ill entered prior to January 1, 1964, shall be deemed to be a person under no legal disability 180 days from the effective date of this Act unless, prior to that date, a hearing is held pursuant to the provisions of the Probate Act of 1975, approved August 7, 1975, as now or hereafter amended, and a guardian is appointed. (Amended by P.A. 83-706, effective September 23, 1983.)

(Formerly III. Rev. Stat., ch. 91½, par. 3-907)

5/3-908 Transfer between Department facilities

§3-908. The facility director of any Department facility may transfer a recipient to another Department facility if he determines the transfer to be clinically advisable and consistent with the treatment needs of the recipient. (Amended by P.A. 88-380, effective August 20, 1993.)

(Formerly III. Rev. Stat., ch. 91½, par. 3-908)

5/3-909 Alternative treatment

§3-909. Any recipient hospitalized or admitted to alternative treatment or care and custody under Article VIII of this Chapter may at any time petition the court for transfer to a different facility or program of alternative treatment, to care and custody, or to the care and custody of a different person. His attorney, guardian, custodian, or responsible relative may file such a petition on his behalf. If the recipient is in a private facility, the facility may also petition for transfer. Recipients in private facilities or United States Veterans Administration facilities may petition for transfer to a mental health facility designated by the Department. Recipients may petition for transfer to a program of alternative treatment, or to care and custody. Recipients in private facilities may also petition for transfer to United States Veterans Administration facilities. Recipients in United States Veterans Administration facilities may also petition for transfer to private facilities. Recipients in Department facilities may petition for transfer to a private mental health facility, a United States Veterans Administration facility, a program of alternative treatment, or to care and custody. Admission to a United States Veterans Administration facility shall be governed by Article X of this Chapter 3. No transfers between Department facilities or between units of the same facility may be ordered under this Section. An order for hospitalization shall not be entered under this Section if the original order did not authorize hospitalization unless a hearing is held pursuant to Article VIII of this Chapter. (Amended by P.A. 85-971, effective July 1, 1988, P.A. 88-380, effective August 20, 1993; P.A. 88-484, effective September 10, 1993 and P.A. 91-726, effective June 2, 2000)

****MHDD-13****

(Formerly III. Rev. Stat., ch. 91½, par. 3-909)

5/3-910 Notice of transfer - Hearing on objections - Burden of proof

§3-910. (a) Whenever a recipient who has been in a Department facility for more than 7 days is to be transferred to another facility under Section 3-908, the facility director of the facility shall give written notice at least 14 days before the transfer to the recipient, his attorney, guardian, if any, and responsible relative. In the case of a minor, notice shall be given to his attorney, to the parent, guardian, or person in loco parentis who executed the application for his admission, and to the minor himself if he is 12 years of age or older. The notice shall include the reasons for transfer, a statement of the right to object and the address and phone number of the Guardianship and Advocacy Commission. If the recipient requests, the facility director shall assist him in contacting the Commission.

(b) In an emergency, when the health of the recipient or the physical safety of the recipient or others is imminently imperiled and appropriate care is not available where the recipient is located, a recipient may be immediately transferred to another facility provided that notice of the transfer is given as soon as possible but not more than 48 hours after transfer. The reason for the emergency shall be noted in the recipient's record and specified in the notice.

(c) A recipient may object to his transfer or his attorney, guardian, or responsible relative may object on his behalf. In the case of a minor, his attorney, the person who executed the application for admission, or the minor himself if he is 12 years of age or older, may object to the transfer. Prior to transfer or within 14 days after an emergency transfer, a written objection shall be submitted to the facility director of the facility where the recipient is located. Upon receipt of an objection, the facility director shall promptly schedule a hearing to be held within 7 days pursuant to Section 3-207. The hearing shall be held at the transferring facility except that when an emergency transfer has taken place the hearing may be held at the receiving facility. Except in an emergency, no transfer shall proceed pending hearing on an objection.

(d) At the hearing the Department shall have the burden of proving that the standard for transfer under Section 3-908 is met. If the transfer is to a facility which is substantially more physically restrictive than the transferring facility, the Department shall also prove that the transfer is reasonably required for the safety of the recipient or others. If the utilization review committee finds that the Department has sustained its burden and the decision to transfer is based upon substantial evidence, it shall recommend that the transfer proceed. If it does not so find, it shall recommend that the recipient not be transferred. (Amended by P.A. 81-799, effective September 16, 1979, P.A. 86-1416, effective January 1, 1991 and P.A. 88-380, effective August 20, 1993.)

(Formerly Ill. Rev. Stat., ch. 91½, par. 3-910)

ARTICLE X. VETERANS ADMINISTRATION FACILITIES

5/3-1000 Admission - Powers of chief officer - Physicians

§3-1000. (a) A person may be admitted pursuant to any of the provisions of this Chapter to a mental health facility of the United States government when the facility

determines that services for the person are available and that the person is eligible to receive them. A person so admitted is subject to the rules and regulations of the Veterans Administration or other agency of the United States government which operates the facility in which such treatment is provided.

(b) The chief officer of such facility has with respect to a person admitted under this Chapter, the same powers and duties as the facility director.

(c) A person employed by the Veterans Administration as a physician may perform the functions of a physician under this Act insofar as relates to a person who is or is proposed to be admitted to a Veterans Administration facility.

(Formerly III. Rev. Stat., ch. 91½, par. 3-1000)

5/3-1001 Jurisdiction of state courts

§3-1001. The courts of this State retain jurisdiction over persons admitted under this Article for purposes of enforcing the provisions of this Act.

(Formerly III. Rev. Stat., ch. 91½, par. 3-1001)

5/3-1002 Rating of no legal disability - Restoration to legal status without disability

§3-1002. Whenever any person who is a veteran and who has been previously adjudicated as having a mental illness or under legal disability is subsequently rated as being under no legal disability by the Veterans Administration, the Director of the Veterans Administration Regional Office which has so rated the veteran may notify the court which found that the person has a mental illness or under no legal disability of such rating. The court may restore the person to legal status without disability on the basis of the documents filed or may order a hearing. (Amended by P.A. 83-706, effective September 23, 1983 and P.A. 88-380, effective August 20, 1993.)

(Formerly III. Rev. Stat., ch. 91½, par. 3-1002)

5/3-1003 Transfers - Notice to court

§3-1003. The Veterans Administration or other agency of the United States government may transfer any recipient admitted to it under this Article, to any other facility of the Veterans Administration or any other agency of the United States government, to any licensed private hospital which has agreed to accept the recipient or, subject to the approval of the Department, to a Department facility. The Department may transfer any recipient admitted to a Department facility, to a facility of the Veterans Administration or other appropriate agency of the United States government, subject to eligibility and the prior approval of the agency. If a recipient transferred under this Section was admitted upon a court order, the transferring facility or agency shall give notice of the transfer to the court which entered the order of admission, and such order of admission shall continue in effect. (Amended by P.A. 88-380, effective August 20, 1993.)

(Formerly III. Rev. Stat., ch. 91½, par. 3-1003)

**CHAPTER IV
ADMISSION, TRANSFER, AND DISCHARGE PROCEDURES
FOR THE DEVELOPMENTALLY DISABLED**

**ARTICLE I. JURISDICTION;
DUTIES OF STATE'S ATTORNEY**

5/4-100 Jurisdiction - Inmates of penal institutions

§4-100. The circuit court has jurisdiction under this Chapter over persons not charged with a felony who meet the standard for judicial admission. Inmates of penal institutions shall not be considered as charged with a felony within the meaning of this Chapter. Court proceedings under Article VI of this Chapter may be instituted as to any such inmate at any time within 90 days prior to discharge of such inmate by expiration of sentence or otherwise, and if such inmate is found to meet the standard for judicial admission, the order of the court ordering hospitalization or other disposition shall become effective at the time of discharge of the inmate from penal custody.

(Formerly Ill. Rev. Stat., ch. 91½, par. 4-100)

5/4-101 State's Attorneys - Counsel

§4-101. The State's Attorneys of the several counties shall represent the people of the State of Illinois in court proceedings under this Chapter in their respective counties, shall attend such proceedings either in person or by assistant, and shall ensure that petitions, reports and orders are properly prepared. Nothing herein contained shall prevent any party from being represented by his own counsel.

(Formerly Ill. Rev. Stat., ch. 91½, par. 4-101)

ARTICLE II. GENERAL PROVISIONS

5/4-200 Admissions and transfers by Department of Corrections - Release - Provision of services

§4-200. (a) A person with a developmental disability may be admitted to a facility for residential and habilitation services only as provided in this Chapter, except that a person may be transferred by the Department of Corrections pursuant to the Unified Code of Corrections, as now or hereafter amended. A person transferred by the Department of Corrections in this manner may be released only as provided in the Unified Code of Corrections.

(b) Persons shall be admitted to Department facilities based on an assessment of their current individual needs and not solely on the basis of inclusion in a particular diagnostic category, identification by subaverage intelligence test score, or consideration of a past history of hospitalization or residential placement.

(c) In all cases, the Department shall provide services to persons identified as having a developmental disability in the least restrictive environment as required by

subsection (a) of Section 2-102 of this Code.

(d) Except as provided in Article VI of this Chapter, nothing in this Chapter shall govern or prohibit the admission of a person with a developmental disability to nonresidential services. (Amended by P.A. 86-1416, effective January 1, 1991; P.A. 88-380, effective August 20, 1993, and P.A. 89-439 effective June 1, 1996.)

(Formerly Ill. Rev. Stat., ch. 91½, par. 4-200)

5/4-201 Facilities for the mentally retarded - Admissions and transfers - Evaluation - Certification - Compliance

§4-201. (a) A mentally retarded person shall not reside in a Department mental health facility unless the person is evaluated and is determined to be a person with mental illness and the facility director determines that appropriate treatment and habilitation are available and will be provided to such person on the unit. In all such cases the Department mental health facility director shall certify in writing within 30 days of the completion of the evaluation and every 30 days thereafter, that the person has been appropriately evaluated, that services specified in the treatment and habilitation plan are being provided, that the setting in which services are being provided is appropriate to the person's needs, and that provision of such services fully complies with all applicable federal statutes and regulations concerning the provision of services to persons with a developmental disability. Those regulations shall include, but not be limited to the regulations which govern the provision of services to the persons with developmental disabilities in facilities certified under the Social Security Act for federal financial participation, whether or not the facility or portion thereof in which the recipient has been placed is presently certified under the Social Security Act or would be eligible for such certification under applicable federal regulations. The certifications shall be filed in the recipient's record and with the office of the Secretary of the Department. A copy of the certification shall be given to the person, an attorney or advocate who is representing the person and the person's guardian.

(b) Any person admitted to a Department mental health facility who is reasonably suspected of being mildly or moderately mentally retarded, including those who also have a mental illness, shall be evaluated by a multidisciplinary team which includes a qualified mental retardation professional designated by the Department facility director. The evaluation shall be consistent with Section 4-300 of Article III in this Chapter, and shall include: (1) a written assessment of whether the person needs a habilitation plan and, if so, (2) a written habilitation plan consistent with Section 4-309, and (3) a written determination whether the admitting facility is capable of providing the specified habilitation services. This evaluation shall occur within a reasonable period of time, but in no case shall that period exceed 14 days after admission. In all events, a treatment plan shall be prepared for the person within 3 days of admission, and reviewed and updated every 30 days, consistent with Section 3-209 of this Code.

(c) Any person admitted to a Department mental health facility with an admitting diagnosis of severe or profound mental retardation shall be transferred to an appropriate facility or unit for persons with a developmental disability within 72 hours of admission unless transfer is contraindicated by the person's medical condition documented by appropriate medical personnel. Any person diagnosed as severely or

profoundly mentally retarded while in a Department mental health facility shall be transferred to an appropriate facility or unit for persons with a developmental disability within 72 hours of such diagnosis unless transfer is contraindicated by the person's medical condition documented by appropriate medical personnel.

(d) The Secretary of the Department shall designate a qualified mental retardation professional in each of its mental health facilities who has responsibility for insuring compliance with the provisions of Sections 4-201 and 4-201.1. (Amended by P.A. 86-1416, effective January 1, 1991; P.A. 88-380, effective August 20, 1993, P.A. 89-439, effective June 1, 1996; and P.A. 89-507, effective July 1, 1997.)

(Formerly Ill. Rev. Stat., ch. 91½, par. 4-201)

5/4-201.1 Objections - Utilization review - Notice - Attorneys' fees

§4-201.1. (a) A person residing in a Department mental health facility who is evaluated as being mildly or moderately mentally retarded, an attorney or advocate representing the person, or a guardian of such person may object to the Department facility director's certification required in Section 4-201, the treatment and habilitation plan, or appropriateness of setting, and obtain an administrative decision requiring revision of a treatment or habilitation plan or change of setting, by utilization review as provided in Sections 3-207 and 4-209 of this Code. As part of this utilization review, the Committee shall include as one of its members a qualified mental retardation professional.

(b) The mental health facility director shall give written notice to each person evaluated as being mildly or moderately mentally retarded, the person's attorney and guardian, if any, or in the case of a minor, to his or her attorney, to the parent, guardian or person in loco parentis and to the minor if 12 years of age or older, of the person's right to request a review of the facility director's initial or subsequent determination that such person is appropriately placed or is receiving appropriate services. The notice shall also provide the address and phone number of the Legal Advocacy Service of the Guardianship and Advocacy Commission, which the person or guardian can contact for legal assistance. If requested, the facility director shall assist the person or guardian in contacting the Legal Advocacy Service. This notice shall be given within 24 hours of Department's evaluation that the person is mildly or moderately mentally retarded.

(c) Any recipient of services who successfully challenges a final decision of the Secretary of the Department (or his or her designee) reviewing an objection to the certification required under Section 4-201, the treatment and habilitation plan, or the appropriateness of the setting shall be entitled to recover reasonable attorney's fees incurred in that challenge, unless the Department's position was substantially justified. (Added by P.A. 86-1416, effective January 1, 1991; and amended by P.A. 89-507, effective July 1, 1997.)

(Formerly Ill. Rev. Stat., ch. 91½, par. 4-202.1)

5/4-202 Forms

§4-202. The Department shall prescribe all forms necessary for proceedings under this Chapter, and all forms used in such proceedings shall comply substantially with the forms so prescribed. The Department shall print and furnish an initial supply of such forms to the clerks of the circuit courts.

(Formerly III. Rev. Stat., ch. 91½, par. 4-202)

5/4-203 Records and reports - Persons qualified to admit - Court orders

§4-203. (a) Every developmental disabilities facility shall maintain adequate records which shall include the Section of this Act under which the client was admitted, any subsequent change in the client's status, and requisite documentation for such admission and status.

(b) The Department shall ensure that a monthly report is maintained for each Department mental health facility, and each unit of a Department developmental disability facility for dually diagnosed persons, which lists (1) initials of persons admitted to, residing at, or discharged from a Department mental health facility or unit for dually diagnosed persons of Department developmental disability facility during that month with a primary or secondary diagnosis of mental retardation, (2) the date and facility and unit of admission or continuing care, (3) the legal admission status, (4) the recipient's diagnosis, (5) the date and facility and unit of transfer or discharge, (6) whether or not there is a public or private guardian, (7) whether the facility director has certified that appropriate treatment and habilitation are available for and being provided to such person pursuant to Section 4-203 of this Chapter, and (8) whether the person or a guardian has requested review as provided in Section 4-209 of this Chapter and, if so, the outcome of the review. The Secretary of the Department shall furnish a copy of each monthly report upon request to the Guardianship and Advocacy Commission and the agency designated by the Governor under Section 1 of "An Act in relation to the protection and advocacy of the rights of persons with developmental disabilities, and amending certain Acts therein named", approved September 20, 1985, and under Section 1 of "An Act for the protection and advocacy of mentally ill persons", approved September 20, 1987.

(c) Nothing contained in this Chapter shall be construed to limit or otherwise affect the power of any developmental disabilities facility to determine the qualifications of persons permitted to admit clients to such facility. This subsection shall not affect or limit the powers of any court to order admission to a developmental disabilities facility as set forth in this Chapter. (Amended by P.A. 86-1416, effective January 1, 1991; amended by P.A. 89-507, effective July 1, 1997.)

(Formerly III. Rev. Stat., ch. 91½, par. 4-203)

5/4-204 Oaths and affirmations

§4-204. Every petition, certificate, and proof of service required by this Chapter shall be executed under penalty of perjury as though under oath or affirmation, but no

acknowledgment is required.

(Formerly III. Rev. Stat., ch. 91½, par. 4-204)

5/4-205 Statements and explanations - Comprehensible language - Foreign language - Sign language

§4-205. Whenever a statement or explanation is required to be given to the persons specified in Section 4-206, every effort shall be made to furnish such statement or explanation in a comprehensible language and in a manner calculated to ensure understanding. Such statement or explanation shall be communicated in sign language for any hearing impaired person for whom sign language is a primary mode of communication. When a statement or explanation is provided in a language other than English, or through the use of sign language, that fact and the name of the person providing it shall be noted in the client's record. This Section does not apply to copies of petitions and court orders. (Amended by P.A. 82-205, effective January 1, 1982.)

(Formerly III. Rev. Stat., ch. 91½, par. 4-205)

5/4-206 Notice - Minors - Incapacity

§4-206. Unless otherwise indicated, whenever notice is required under this Chapter, it shall be given pursuant to this Section. If a client is under 18 years of age, notice shall be given to his parent, guardian or person in loco parentis. If the client is 18 years of age or older, notice shall be given to the client, his guardian, if any, and any 2 other persons whom the client may designate. If the client is 18 or older but lacks sufficient capacity to understand and consent to the designation of persons to receive notice, notice shall also be sent to his nearest adult relative. ****MHDD-18****

(Formerly III. Rev. Stat., ch. 91½, par. 4-206)

5/4-207 Minors - Appointment of guardian

§4-207. (a) Six months prior to the eighteenth birthday of a client who is resident in a facility, the client shall be evaluated by the facility to determine whether he has the capacity to consent to administrative admission. If the client does not have such capacity or otherwise requires a guardian, his parent or another interested person shall be so notified and requested to file a petition for the appointment of a guardian. If no petition is filed, the facility director of the facility shall file such a petition.

(b) Six months prior to the eighteenth birthday of a client who is receiving nonresidential services provided by or under contract with the Department, the client's parent or another interested person shall be notified by the facility providing the services or by the Department of the possible need and procedures for the appointment of a guardian. If such person so requests, the client shall be evaluated by the facility or the Department for the purpose of determining whether he requires a guardian and a report of the evaluation shall be provided to such person. If the report indicates that the client requires a guardian but no petition is filed by the time the client reaches 18, the facility or the Department shall file such a petition.

(Formerly III. Rev. Stat., ch. 91½, par. 4-207)

5/4-208 Developmental Disabilities Advocacy Authority - Notice to client

§4-208. Whenever a person is admitted, is denied admission, or objects to admission to a facility and whenever a client is notified that he is to be transferred or discharged or that his legal status is to be changed, the facility director of the facility shall provide the persons specified in Section 4-206 with the address and phone number of the Guardianship and Advocacy Commission. If any person so notified requests, the facility director shall assist him in contacting the Commission. (Amended by P.A. 85-971, effective July 1, 1988 and P.A. 85-1247, effective August 30, 1988.)

****MHDD-18****

(Formerly Ill. Rev. Stat., ch. 91½, par. 4-208)

5/4-209 Utilization review committees - Hearings - Review

§4-209. (a) Hearings under Sections 4-201.1, 4-312, 4-704 and 4-709 of this Chapter shall be conducted by a utilization review committee. The Secretary shall appoint a utilization review committee at each Department facility. Each such committee shall consist of multi-disciplinary professional staff members who are trained and equipped to deal with the habilitation needs of clients. At least one member of the committee shall be a qualified mental retardation professional. The client and the objector may be represented by persons of their choice.

(b) The utilization review committee shall not be bound by rules of evidence or procedure but shall conduct the proceedings in a manner intended to ensure a fair hearing. The committee may make such investigation as it deems necessary. It may administer oaths and compel by subpoena, testimony and the production of records. A stenographic or audio recording of the proceedings shall be made and shall be kept in the client's record. Within 3 days of conclusion of the hearing, the committee shall submit to the facility director its written recommendations which include its factual findings and conclusions. A copy of the recommendations shall be given to the client and the objector.

(c) Within 7 days of receipt of the recommendations, the facility director shall give written notice to the client and objector of his acceptance or rejection of the recommendations and his reason therefor. If the facility director rejects the recommendations or if the client or objector requests review of the facility director's decision, the facility director shall promptly forward a copy of his decision, the recommendations, and the record of the hearing to the Secretary of the Department for final review. The review of the facility director's decision shall be decided by the Secretary or his or her designee, within 30 days of the receipt of a request for final review. The decision of the facility director, or the decision of the Secretary (or his or her designee), if the review was requested, shall be considered a final administrative decision, and shall be subject to review under and in accordance with Article III of the Code of Civil Procedure. The decision of the facility director or the decision of the Secretary (or his or her designee), if his review was requested, shall be considered a final administrative decision. (Amended by P.A. 86-1416, effective January 1, 1991; P.A. 89-507, effective July 1, 1997 and P.A. 91-357, effective July 29, 1999*.)

(Formerly Ill. Rev. Stat., ch. 91½, par. 4-209)

5/4-210 Examination for certification - Informing of rights - Failure to inform

§4-210. Whenever a petition has been executed pursuant to Sections 4-401 or 4-501, and prior to the examination for the purpose of certification, the person conducting this examination shall inform the person being examined in a simple comprehensible manner that he is entitled to consult with a relative, friend, or attorney before the examination and that an attorney will be appointed for him if he desires; that he will be evaluated to determine if he meets the standard for judicial or emergency admission; that he does not have to talk to the examiner; and that any statement made by him may be disclosed at a court hearing on the issue of whether he meets the standard for judicial admission. If the respondent is not so informed, the examiner shall not be permitted to testify at any subsequent court hearing concerning the respondent's admission. (Amended by P.A.91-357, effective July 29, 1999*)

(Formerly III. Rev. Stat., ch. 91½, par. 4-210)

*Note: Changes involved punctuation.

**ARTICLE III. ADMINISTRATIVE AND TEMPORARY
ADMISSION OF THE DEVELOPMENTALLY DISABLED**

5/4-300 Diagnostic evaluation - Foreign language

§4-300. (a) No person may be administratively admitted to any facility including Chester Mental Health Center, unless an adequate diagnostic evaluation of his current condition has been conducted to determine his suitability for admission. Prior to an administrative admission, the person may be admitted to a facility for not more than 14 days for such evaluation.

(b) The evaluation shall include current psychological, physical, neurological, social, educational or vocational, and developmental evaluations. It shall be conducted under the supervision of qualified professionals including at least one physician and either one clinical psychologist or one clinical social worker. Any tests which require language familiarity shall be conducted in the person's primary language. (Amended by P.A. 1416, effective January 1, 1991, and P.A. 89-439, effective June 1, 1996.)

(Formerly III. Rev. Stat., ch. 91½, par. 4-300)

5/4-301 Report and recommendation

§4-301. Report and recommendation. (a) A report of the evaluation results shall include a description of the person's disability and need for services, if any; a description of the methods of evaluation used; an evaluation of the ability of the family to meet the needs of the person and a recommendation as to the supportive services the family may need; a recommendation as to the least restrictive living arrangement appropriate for the person; and the names and positions of the persons who conducted the evaluations.

(b) The report shall be signed by at least one clinical psychologist or clinical social worker and one physician who have personally examined the person to be admitted. If the report does not recommend admission to a residential facility or to the facility to which admission is sought, a written explanation of the reasons therefor shall be included. A summary of the report shall be given to the person who executed the application. (Amended by P.A. 87-530, effective January 1, 1992.)

(Formerly Ill. Rev. Stat., ch. 91½, par. 4-301)

5/4-302 Administrative admission upon application

§4-302. A person with a developmental disability may be administratively admitted to a facility upon application if the facility director of the facility determines that he is suitable for admission. A person 18 years of age or older, if he has the capacity, or his guardian, if he is authorized by the guardianship order of the circuit court, may execute an application for administrative admission. Application may be executed for a person under 18 years of age by his parent, guardian, or person in loco parentis. (Amended by P.A. 88-380, effective August 20, 1993.)

****DD-1****

(Formerly Ill. Rev. Stat., ch. 91½, par. 4-302)

5/4-303 Application - Contents - Statement or rights

§4-303. (a) The application shall include the name and address of the person to be admitted; the name and address of his spouse, nearest adult relative, and guardian, or if none, friend; the name and address of the person executing the application and his relationship to the person to be admitted; and a short statement explaining the reason for the application.

(b) The application form shall contain in large type and simple language the substance of Sections 4-302, 4-305, 4-306 and 4-700. The rights set forth in the application shall be explained to the person to be admitted if he is 12 or older and to the person who executed the application.

(Formerly Ill. Rev. Stat., ch. 91½, par. 4-303)

5/4-304 Admission on recommendation of diagnostic report - Statement of rights - Notice

§4-304. A person may be admitted pursuant to the recommendation of the diagnostic report. At the time of admission, a clear written statement and oral explanation of the procedures for discharge, transfer and objection to admission shall be given to the person if he is 12 years of age or older and to the person who executed the application. Within 3 days of the admission, notice of the admission and an explanation of the objection procedure shall be sent or given to the persons specified in Section 4-206.

****MHDD-18****

(Formerly Ill. Rev. Stat., ch. 91½, par. 4-304)

5/4-305 Objections - Writing

§4-305. (a) Any interested person on behalf of a client or a client himself, if he is 12 years of age or older, may object to an administrative, diagnostic or temporary admission under this Article. An objection may be made at any time following the admission, but once an objection has been heard, no subsequent objection may be made for 6 months without leave of the court.

(b) An objection shall be submitted in writing to the facility director of the facility.
(Formerly Ill. Rev. Stat., ch. 91½, par. 4-305)

5/4-306 Discharge - Hearing - Petition for review

§4-306. (a) A client 18 years of age or over, who is not under guardianship, shall be allowed to be discharged from the facility at the earliest appropriate time, not to exceed 5 days, excluding Saturdays, Sundays and holidays, after he submits a written objection to the facility director, unless he either withdraws the objection in writing or unless within the 5 day period a petition and certificate conforming to the requirements of Section 4-501 are filed with the court. Upon receipt of the petition, the court shall order a hearing to be held within 5 days, excluding Saturdays, Sundays and holidays, and to be conducted pursuant to Article VI of this Chapter. Admission of the client may continue pending further order of the court. In all other objections to admission under this Article, paragraph (b) of this Section and Sections 4-307 and 4-308 shall apply.

****MHDD-5, MHDD-6, MHDD-9****

(b) Unless the objection is withdrawn in writing or the client is discharged, the facility director shall file a petition for review of the admission with the court within 5 days of submission of the objection, excluding Saturdays, Sundays and holidays as provided in Sections 4-307 and 4-308. The facility director shall also file the report of the client's diagnostic evaluation and current habilitation plan with the court.

(Formerly Ill. Rev. Stat., ch. 91½, par. 4-306)

5/4-307 Hearing - Notice - Service

§4-307. Upon the filing of the petition, the court shall set a hearing to be held within 5 days, excluding Saturdays, Sundays and holidays. The court shall direct that notice of the time and place of the hearing be served upon the client, his attorney, the objector, the person who executed the application, and the facility director of the facility. The hearing shall be conducted pursuant to Article VI of this Chapter. (Amended by P.A. 86-820, effective September 1, 1998)
(Formerly Ill. Rev. Stat., ch. 91½, par. 4-307) MHDD-9, MHDD-10**

5/4-308 Discharge or transfer - Care and residence

§4-308. (a) If the court finds that the client is not a person with a developmental disability, that he is not in need of the services which are available at the facility, or that a less restrictive alternative is appropriate, it shall disapprove the admission and order the client discharged. If the client is in a Department facility and the court finds that he

or she is a person with a developmental disability but that he is not in need of the services which are available at the facility or that a less restrictive alternative is appropriate, the court may order him transferred to a more appropriate Department facility. If the person who executed the application for admission objects to the transfer, the court shall order the client discharged. ****DD-2****

(b) Unless the court orders the discharge or transfer of the client, the facility may continue to provide the client with residential and habilitation services.

(c) Unwillingness or inability of the client's parent, guardian or person in loco parentis to provide for his care or residence shall not be grounds for the court's refusing to order discharge. In that event, a petition may be filed under the Juvenile Court Act of 1987 or the Probate Act of 1975, approved August 7, 1975, as now or hereafter amended, to ensure that appropriate care and residence are provided. (Amended by P.A. 86-820, effective September 7, 1989 and P.A. 88-380, effective August 20, 1993.)

(Formerly Ill. Rev. Stat., ch. 91½, par. 4-308)

5/4-309 Habilitation plan.

§4-309. (a) Within 14 days of admission, the facility shall prepare a written habilitation plan consistent with the client's diagnosis and needs. The Department shall fully implement habilitation plans. Every reasonable effort shall be made to involve the client and his family in the preparation and implementation of the plans.

(b) The habilitation plan shall describe the habilitation goals; a projected timetable for their attainment; the services to be provided; the role of the family in the implementation of the plan; and the name of the person responsible for supervising the habilitation plan.

(c) The habilitation plan shall be reviewed regularly, but at least once every calendar month, by the person responsible for its supervision. They shall be modified when necessary. The client and the persons specified in Section 4-206 shall be informed regularly of the client's progress. (Amended by P.A. 86-1416, effective January 1, 1991, and P.A. 89-439 effective June 1, 1996.)

(Formerly Ill. Rev. Stat., ch. 91½, par. 4-309)

5/4-309.1 Habilitation and incentives

§4-309.1. In accordance with Departmental powers and duties, facilities may offer incentives, including cash, to residents in connection with their habilitation plan. (Added by P.A. 83-1292, effective August 31, 1984.) (Added by P.A. 83-1292, effective August 31, 1984, and amended by P.A. 89-439, effective June 1, 1996.)

(Formerly Ill. Rev. Stat., ch. 91½, par. 4-309.1)

5/4-309.2 Habilitation; incentives; disbursements

§4-309.2. The Department may advance monies from its appropriations to facility directors for disbursement to residents in accordance with Section 4-309.1. The facility directors may maintain these monies in a locally held account prior to disbursements. (Added by P.A. 82-1292, effective August 31, 1984 and amended by P.A. 89-439, effective June 1, 1996.)

(Formerly Ill. Rev. Stat., ch. 91½, par. 4-309.2)

5/4-310 Annual evaluation - Authorization for continued residence

§4-310. At least once annually the client shall be evaluated to determine his need for continued residential services. If need for continued residence is indicated, the facility director of the facility shall consult with the person who made application for the admission and shall request authorization for continued residence of the client. The request and authorization shall be noted in the client's record.

(Formerly Ill. Rev. Stat., ch. 91½, par. 4-310)

5/4-311 Temporary admission

§4-311. (a) A person with a developmental disability may be temporarily admitted to a facility for respite care intended for the benefit of the parent or guardian, or in the event of a crisis, care where immediate temporary residential services are necessary, upon application by a person empowered to make application for administrative admission, if the facility director determines that the individual is suitable for temporary admission. The application shall describe the person's developmental disability and shall conform with the provisions of paragraph (a) of Section 4-301.

****DD-1****

(b) A temporary admission may continue for not more than 30 days. A client admitted on a temporary basis shall be provided with such services as are determined by mutual agreement between the facility director, the client, and the person executing the application.

(c) Upon temporary admission, a clear written statement and oral explanation of the objection procedure shall be given to the client if he is 12 years of age or older. Within 3 days of a temporary admission, notice of the admission and an explanation of the objection procedure shall be sent to the persons specified in Section 4-206. An objection to temporary admission may be made and heard in the same manner as an objection to administrative admission.

****MHDD-18****

(Formerly Ill. Rev. Stat., ch. 91½, par. 4-311)

5/4-312 Denial of admission - Review - Burden of proof

§4-312. (a) If the facility director of a Department facility declines to admit a person seeking administrative or temporary admission under this Article, a review of the denial may be requested by the person who executed the application for admission or by the attorney or guardian of the developmentally disabled person with a developmental disability. Whenever admission to a Department facility is denied, the person seeking admission shall immediately be given written notice of the right to request review of the denial under this Section. A written request for review shall be submitted to the facility director of the facility to which admission is sought within 14 days of the denial. Upon receipt of the request, the facility director shall promptly schedule a hearing to be held at the facility within 7 days pursuant to Section 4-209.

****MHDD-19****

(b) At the hearing the Department shall have the burden of proving that the person denied admission does not meet the standard for administrative admission. If the utilization review committee finds that the decision denying admission is based upon substantial evidence, it shall recommend that the denial of admission be upheld.

However, if it finds that the facility to which admission is sought can provide adequate and appropriate habilitation for the person, it shall recommend that the person denied admission be admitted. If it determines that another facility can provide habilitation appropriate to the condition and needs of the person denied admission, it may recommend that the Department or other agency assist the person in obtaining such appropriate habilitation. (Amended by P.A. 88-380, effective August 20, 1993.)

(Formerly Ill. Rev. Stat., ch. 91½, par. 4-312)

ARTICLE IV. EMERGENCY ADMISSION OF THE MENTALLY RETARDED

5/4-400 Determination - Minors - Persons under guardianship

§4-400. (a) A person 18 years of age or older may be admitted on an emergency basis to a facility under this Article if the facility director of the facility determines: (1) that he is mentally retarded; (2) that he is reasonably expected to inflict serious physical harm upon himself or another in the near future; and (3) that immediate admission is necessary to prevent such harm.

(b) persons with a developmental disability under 18 years of age and persons with a developmental disability 18 years of age or over who are under guardianship or who are seeking admission on their own behalf may be admitted for emergency care under Section 4-311. (Amended by P.A. 88-380, effective August 20, 1993.)

(Formerly Ill. Rev. Stat., ch. 91½, par. 4-400)

5/4-401 Petition - Contents

§4-401. (a) A petition for emergency admission may be submitted to the facility director of a facility by any interested person 18 years of age or older. The petition shall include a detailed statement of the basis for the assertion that the respondent meets the criteria of Section 4-400 including a description of any act or significant threat supporting the assertion; the name and address of the spouse, parent, guardian, and close relative or, if none, any known friend of the respondent; a statement of the petitioner's relationship to the respondent and interest in the matter; the name, address and phone number of any witness by which the facts asserted may be proved. The petition may be prepared by the facility director of a facility. (Amended by P.A. 81-1509, effective September 26, 1980.)

****MHDD-5****

(Formerly Ill. Rev. Stat., ch. 91½, par. 4-401)

5/4-402 Examination - Certificate

§4-402. Examination; certificate. (a) No person may be detained at a facility for more than 24 hours pending admission under this Article unless within that time a clinical psychologist, clinical social worker, or physician examines the respondent and certifies that he meets the standard for emergency admission. ****MHDD-6****

(b) The certificate shall contain the examiner's observations, other factual information relied upon, and a statement as to whether the respondent was advised of his rights under Section 4-503. If no certificate is executed, the respondent shall be released immediately. (Amended by P.A. 87-530, effective January 1, 1992.)

(Formerly III. Rev. Stat., ch. 91½, par. 4-402)

5/4-403 Custody and transportation

§4-403. Upon receipt of a petition and certificate prepared pursuant to this Article, a peace officer shall take a respondent into custody and transport him to a developmental disabilities facility. ****MHDD-5, MHDD-6****

(Formerly III. Rev. Stat., ch. 91½, par. 4-403)

5/4-404 Peace officers - Petitions

§4-404. A peace officer may take a person into custody and transport him to a facility when, as a result of his personal observation, the peace officer has reasonable grounds to believe that the person meets the standard for emergency admission. Upon arrival at the facility, the peace officer shall complete a petition for emergency admission.

(Formerly III. Rev. Stat., ch. 91½, par. 4-404)

5/4-405 Court orders - Detention for examination

§4-405. When, as a result of personal observation and testimony in open court, any court has reasonable grounds to believe that a person appearing before it meets the standard for emergency admission, the court may enter an order for the temporary detention and examination of such person. The order shall set forth in detail the facts which are the basis for the court's conclusion. The court may order a peace officer to take the person into custody and transport him to a facility. The person may be detained for examination for no more than 24 hours. If a petition and certificate, as provided in this Article, are executed within the 24 hours, the person may be admitted and the provisions of this Article shall apply. If no petition or certificate is executed, the person shall be released. ****MHDD-8, MHDD-5, MHDD-6****

(Formerly III. Rev. Stat., ch. 91½, par. 4-405)

5/4-406 Copy of petition - Explanation of rights - Telephone calls

§4-406. Within 12 hours after admission, the respondent shall be given a copy of the petition and an explanation of his hearing rights under Article VI of this Chapter. Within 24 hours after admission, excluding Saturdays, Sundays and holidays, a copy of

the petition shall be given personally or mailed to the persons specified in Section 4-206. The respondent shall be allowed to complete no fewer than 2 telephone calls at the time of his admission to such persons as he chooses.

(Formerly III. Rev. Stat., ch. 91½, par. 4-406)

5/4-407 Filing - Order setting hearing

§4-407. (a) Within 24 hours, excluding Saturdays, Sundays and holidays, after the respondent's admission under this Article, the facility director of the facility shall file with the court 2 copies of the petition and certificate and proof of service of the petition and explanation of rights. ****MHDD-9****

(b) Upon admission under this Article, the respondent shall be evaluated pursuant to the provisions of paragraph (b) of Section 4-300. A report of the evaluation prepared pursuant to Section 4-301 shall be filed with the court not more than 7 days after the admission. Upon receipt of the report, the court shall set a hearing pursuant to Section 4-505 to determine whether the respondent meets the standard for judicial admission.

(Formerly III. Rev. Stat., ch. 91½, par. 4-407)

5/4-408 Habilitation - Right to refuse medication

§4-408. A respondent admitted on an emergency basis shall receive habilitation appropriate to his condition. However, the respondent shall be informed of his right to refuse medication and if he refuses, medication shall not be given unless it is necessary to prevent the respondent from causing serious harm to himself or others. The facility shall record what habilitation is given to the respondent together with the reasons therefor.

(Formerly III. Rev. Stat., ch. 91½, par. 4-408)

ARTICLE V. JUDICIAL ADMISSION FOR THE MENTALLY RETARDED

5/4-500 Determination

§4-500. A person 18 years of age or older may be admitted to a facility upon court order under this Article if the court determines: (1) that he is mentally retarded; and (2) that he is reasonably expected to inflict serious physical harm upon himself or another in the near future.

(Formerly III. Rev. Stat., ch. 91½, par. 4-500)

5/4-501 Petition - Certificate

§4-501. Petition; certificate. (a) Any person 18 years of age or older may file a petition with the court asserting that the respondent meets the standard for judicial admission as set out in Section 4-500. The petition shall be prepared according to the form specified in Section 4-401. The court may inquire of the petitioner whether there

are reasonable grounds to believe that the facts presented petition are true and whether the respondent meets the standard for judicial admission. ****MHDD-5****

(b) The petition may be accompanied by the certificate of a clinical psychologist, clinical social worker, or physician in indicating that the respondent was examined not more than 72 hours prior to the filing of the petition and certifying that he meets the standard for judicial admission. The certificate shall also set out the examiner's observations, other factual information relied upon, and a statement as to whether the respondent was advised of his rights under Section 4-210. (Amended by P.A. 87-530, effective January 1, 1992.) ****MHDD-6****

(Formerly Ill. Rev. Stat., ch. 91½, par. 4-501)

5/4-502 Orders - Examinations

§4-502. Orders; examination; setting for hearing. (a) When no certificate is filed with the petition, if the court finds that the petition is in order and that there is a valid reason why no certificate has been filed, it may make any orders as are necessary to provide for an examination of the respondent by a clinical psychologist, clinical social worker, or physician. If, as a result of the examination, a certificate is executed, the certificate shall be promptly filed with the court.

(b) When a certificate is filed with the petition or is filed pursuant to this Section, if the court finds that the documents are in order, it may make any orders as are necessary to provide for a diagnostic evaluation of the respondent pursuant to paragraph (b) of Section 4-300 of this Chapter. ****MHDD-8****

(c) Upon receipt of the diagnostic report prepared pursuant to Section 4-301, the court shall set the matter for hearing pursuant to Section 4-505. (Amended by P.A. 87-530, effective January 1, 1992.) ****MHDD-9****

(Formerly Ill. Rev. Stat., ch. 91½, par. 4-502)

5/4-503 Service

§4-503. A copy of the petition, any order for examination or evaluation, and a statement of the respondent's hearing rights under Article VI of this Chapter shall be personally served upon the respondent and shall be given or mailed to the persons specified in Section 4-206 at least 24 hours before the court ordered examination or evaluation.

(Formerly Ill. Rev. Stat., ch. 91½, par. 4-503)

5/4-504 Place of examination - Transportation - Detention

§4-504. The respondent shall be permitted to remain in his place of residence pending any examination for certification or diagnostic evaluation. He may be accompanied by one or more of his relatives, or friends, or by his attorney to the place of examination. If, however, the court finds that it is necessary in order to complete the examination the court may order that the person be admitted to a developmental

disabilities facility pending examination and may order a peace officer or other person to transport him there. Whenever possible, the examination shall be conducted at a local developmental disabilities facility. No persons may be detained for examination for certification for more than 24 hours and for a diagnostic evaluation for more than 7 days.

****MHDD-7****

(Formerly Ill. Rev. Stat., ch. 91½, par. 4-504)

5/4-505 Hearing on diagnostic report - Notice

§4-505. The court shall set a hearing to be held within 5 days, excluding Saturdays, Sundays and holidays, after it receives the diagnostic report. The court shall direct that notice of the time and place of the hearing be given or sent to the respondent, his attorney, the facility director of the facility, and the persons specified in Section 4-206. The facility director shall make copies of the certificate and the diagnostic report available to the attorneys for the parties upon request.

****MHDD-9, MHDD-**

10**

(Formerly Ill. Rev. Stat., ch. 92½, par. 4-505)

5/4-506 Presence at hearing

§4-506. The respondent may remain at his place of residence pending the hearing. If the court finds it necessary, it may order a peace officer or other person to have the respondent before the court at the time of the hearing.

(Formerly Ill. Rev. Stat., ch. 91½, par. 4-506)

ARTICLE VI. COURT HEARINGS

5/4-600 Venue - Continuances

§4-600. (a) Unless otherwise indicated, hearings under this Chapter shall be held pursuant to this Article. Hearings shall be held in such quarters as the court directs. To the extent practical, hearings shall be held at the developmental disabilities facility where the respondent is located. Any party may request a change of venue transfer to any other county because of the convenience of parties or witnesses or the condition of the respondent. The respondent may have the proceedings transferred to the county of his residence.

(b) If the court grants a continuance on its own motion or upon the motion of one of the parties, the respondent may continue to be detained pending further order of the court. Such continuance shall not extend beyond 15 days except to the extent that continuances are requested by the respondent.

(Formerly Ill. Rev. Stat., ch. 91½, par. 4-600)

5/4-601 Administrative admission - Requests - Dismissal

§4-601. A respondent may request administrative admission at any time prior to a court order for judicial admission. If the facility director approves such a request, the court may dismiss the pending proceedings but may require proof that such dismissal is in the best interest of the respondent and of the public.

(Formerly Ill. Rev. Stat., ch. 91½, par. 4-601)

5/4-602 Jury

§4-602. The respondent is entitled to a jury on the question of whether he meets the standard for judicial admission. The jury shall consist of 6 persons to be chosen in the same manner as are jurors in other civil proceedings.

(Formerly III. Rev. Stat., ch. 91½, par. 4-602)

5/4-603 Appointment of examiners - Report

§4-603. Appointment of examiners; report. The court may appoint one or more clinical psychologists, clinical social workers, physicians, or other experts to examine the respondent and make a detailed written report of his or their findings regarding the respondent's condition. The report shall be filed with the court and copies shall be made available to the attorneys for the parties. (Amended by P.A. 87-530, effective January 1, 1992.)

(Formerly III. Rev. Stat., ch. 91½, par. 4-603)

5/4-604 Independent examination

§4-604. Independent examination. The respondent is entitled to secure an independent examination by a physician, clinical psychologist, clinical social worker, or other expert of his choice. If the respondent is unable to obtain an examination, he may request that the court order an examination to be made by an impartial medical expert pursuant to Supreme Court Rules or by a clinical psychologist, clinical social worker, or other expert. Determination of the compensation of the physician, clinical psychologist, clinical social worker, or other expert and its payment shall be governed by Supreme Court Rule. (Amended by P.A. 87-530, effective January 1, 1992.)

MHDD-8*

(Formerly III. Rev. Stat., ch. 91½, par. 4-604)

5/4-605 Counsel - Appointment - Fees

§4-605. Every respondent alleged to meet the standard for judicial admission shall be represented by counsel. If the respondent is indigent or an appearance has not been entered on his behalf at the time the matter is set for hearing, the court shall appoint counsel for him. A hearing shall not proceed when a respondent is not represented by counsel unless, after conferring with counsel, the respondent requests to represent himself and the court is satisfied that the respondent has the capacity to make an informed waiver of his right to counsel. Counsel shall be allowed time for adequate preparation and shall not be prevented from conferring with the respondent at reasonable times nor from making an investigation of the matters in issue and presenting such relevant evidence as he believes is necessary.

1. If the court determines that the respondent is unable to obtain counsel, the court shall appoint as counsel an attorney employed by or under contract with the Guardianship and Advocacy Commission, if available.

2. If an attorney from the Guardianship and Advocacy Commission is not available, the court shall appoint as counsel the public defender or, only if no public defender is available, an attorney licensed to practice law in this State.

3. Upon filing with the court of a verified statement of legal services rendered by the private attorney appointed pursuant to paragraph (2) of this Section, the court shall determine a reasonable fee for such services. If the respondent is unable to pay the fee, the court shall enter an order upon the county to pay the entire fee or such amount as the respondent is unable to pay. (Amended by P.A. 85-971, effective July 1, 1988 and P.A. 85-1247, effective August 30, 1988.)

(Formerly III. Rev. Stat., ch. 91½, par. 4-605)

5/4-606 Presence at hearing - Waiver

§4-606. The respondent shall be present at any hearing held under this Act unless his attorney waives his right to be present and the court is satisfied by a clear showing that the respondent's attendance would subject him to substantial risk of serious physical or emotional harm.

(Formerly III. Rev. Stat., ch. 91½, par. 4-606)

5/4-607 Expert testimony - Waiver

§4-607. Expert testimony; waiver. No respondent may be found to meet the standard for judicial admission unless at least one clinical psychologist, clinical social worker, or physician who has examined him testifies in person at the hearing. The respondent may waive the requirement of this testimony subject to the approval of the court. (Amended by P.A. 87-530, effective January 1, 1992.)

Formerly III. Rev. Stat., ch. 91½, par. 4-607)

5/4-608 Burden of proof

§4-608. No respondent may be found to meet the standard for judicial admission unless that finding has been established by clear and convincing evidence.

(Formerly III. Rev. Stat., ch. 91½, par. 4-608)

5/4-609 Dismissal - Disposition - Setting aside verdict

§4-690. (a) In a hearing for judicial admission, if the respondent is not found to meet the standard for judicial admission, the court shall dismiss the petition and order the respondent discharged.

****DD-2****

(a) If it is found that the respondent meets the standard for judicial admission, the court may order him admitted to a developmental disabilities facility designated by the Department; to a private facility, if it agrees; or to a program of nonresidential habilitation. If the court is not satisfied with the verdict of the jury finding that the respondent meets the standard for judicial admission, it may set aside such verdict and order the respondent discharged or it may order another hearing. Before disposition is

determined, the court shall consider the diagnostic report and its recommendations and shall select the least restrictive alternative which is consistent with the respondent's needs. ****DD-2, MHDD-11****

(Formerly Ill. Rev. Stat., ch. 91½, par. 4-609)

5/4-610 Nonresidential habilitation; orders; modification and revocation

§4-610. (a) Prior to ordering admission to a program of nonresidential habilitation, the court shall ascertain that the program is capable of providing adequate and humane habilitation appropriate to the respondent's condition.

(b) The court shall have continuing authority to modify an order for nonresidential habilitation if the respondent fails to comply with it or is otherwise found unsuitable for such habilitation. Prior to modifying such an order, the court must receive a report from the facility director specifying why the habilitation is unsuitable. The respondent shall be notified and given an opportunity to respond when modification is considered.

(c) If the court revokes an order for nonresidential habilitation and orders admission of the respondent to a developmental disabilities facility, it may order a peace officer or other person to transport the respondent to the facility. (Amended by P.A. 89-439, effective June 1, 1996.) ****DD-2****

(Formerly Ill. Rev. Stat., ch. 91½, par. 6-610)

5/4-611 Admission orders - Duration - Additional periods

§4-611. (a) An order for admission to a developmental disabilities facility or to a program of nonresidential habilitation shall be for a period not to exceed 180 days. Prior to the expiration of the order, if the facility director of the facility or program believes that the client continues to meet the standard for judicial admission, a new petition and certificate may be filed with the court. In the event that a new petition is filed, the facility director of the facility shall file with the court a current habilitation plan which includes an evaluation of the respondent's progress and the extent to which he is benefiting from habilitation. If no petition is filed prior to expiration of the order, the client shall be discharged. Following a hearing on the petition, the court may order an additional 180 day period of admission to a facility or to a program of nonresidential habilitation only if the client continues to meet the standard for judicial admission.

****MHDD-5, MHDD-6****

(b) Additional 180 day periods of judicial admission may be sought pursuant to the procedures set out in this Section for so long as the client continues to meet the standard for judicial admission. The provisions of this article which apply whenever an initial order is sought shall apply whenever an additional period of admission is sought.

(Formerly Ill. Rev. Stat., ch. 91½, par. 4-611)

5/4-612 Habilitation plan - Filing - Review

§4-612. Not more than 60 days after any admission under this Article, the facility

director of the facility shall file a current habilitation plan with the court which includes an evaluation of the client's progress and the extent to which he is benefiting from habilitation. The court shall review the habilitation plan. The court may order any public agency, officer, or employee to render such information, cooperation, and assistance as is within its legal authority and as may be necessary to achieve the objectives of this Section. The client or any person on his behalf may request a hearing to review the habilitation plan or the court on its own motion may order such a hearing. If the court is satisfied that the client is benefiting from habilitation, it may continue the original order for the remainder of the admission period. If the court is not so satisfied, it may modify its original order or it may order the client discharged. **MHDD-12**

(Formerly Ill. Rev. Stat., ch. 91½, par. 4-612)

5/4-613 Final orders; Notice; Appeals

§4-613. (a) Every final order of the court shall be in writing and shall be accompanied by a statement on the record of the court's findings of fact and conclusions of law. A copy of such order shall be promptly given to the client, his or her attorney, and the facility director of the developmental disabilities facility or program to which the respondent is admitted.

(b) An appeal from a final order may be taken in the same manner as in other civil cases. Upon entry of a final order, the court shall notify the client of his or her right to appeal and, if he or she is indigent, of his or her right to a free transcript and counsel. The cost of the transcript shall be paid pursuant to subsection (c) of Section 3-818 and subsection (c) of Section 4-615 of this Code. If the client wishes to appeal and is unable to obtain counsel, counsel shall be appointed pursuant to the provisions of Section 4-605. (Amended by P.A. 90-765, effective August 14, 1998)

(Formerly Ill. Rev. Stat., ch. 91½, par. 4-613)

5/4-614 Record

§4-614. A verbatim record shall be made of all judicial hearings held pursuant to this Chapter.

(Formerly Ill. Rev. Stat., ch. 91½, par. 4-614)

5/4-615 Fees; Costs; State funds

§4-615. (a) Fees for jury service, witnesses and service and execution of process are the same as for similar services in civil proceedings.

(b) Except as provided under subsection (c) of this Section, the court may assess costs of the proceedings against the parties. If the respondent is not a resident of the county in which the hearing is held and the party against whom the court would otherwise assess costs has insufficient funds to pay the costs, the court may enter an order upon the State to pay the cost of the proceedings, from funds appropriated by the General Assembly for that purpose.

(c) If the respondent is a party against whom the court would otherwise assess costs and that respondent is determined by the court to have insufficient funds to pay the cost of transcripts for the purpose of appeal, the court shall enter an order upon the State to pay the cost of one original and one copy of a transcript of proceedings established under this Code. Payment of transcript costs authorized under this subsection (c) shall be paid from funds appropriated by the General Assembly to the Administrative Office of the Illinois Courts. (Amended by P.A. 90-65, effective August 14, 1998.)

(Formerly Ill. Rev. Stat., ch. 91½, par. 4-615)

5/4-616 Transportation to facility - Receipt for personal property

§4-616. (a) When a client is admitted upon court order, the order may authorize a relative or friend of the client to transport the client to the developmental disabilities facility if such person is able to do so safely and humanely. When the Department indicates that it has transportation to the facility available, the order may authorize the Department to transport the client there. The court may order the sheriff of the county in which such proceedings are held to transport the client to the facility. ****DD-2****

(b) Upon the delivery of a client to a facility, in accordance with the procedures set forth in this Article, the facility director of the facility shall sign a receipt acknowledging custody of the client and for any personal property belonging to him or her, which receipt shall be filed with the clerk of the court which entered the admission order. (Amended by P.A. 83-346, effective September 14, 1983.)

(Formerly Ill. Rev. Stat., ch. 91½, par. 4-616)

5/4-617 Habeas corpus - Order

§4-617. Nothing in this Chapter shall deprive any person of the benefits of relief by habeas corpus. If the court issuing the order of habeas corpus grants a relief, a copy of the order shall be sent to the court which entered the order of admission and the clerk of the court shall file the order in the court record.

(Formerly Ill. Rev. Stat., ch. 91½, par. 4-617)

ARTICLE VII. DISCHARGE AND TRANSFER

5/4-700 Request for discharge

§4-700. The person who executed the application for administrative or temporary admission may request discharge of the client so admitted at any time. The client shall be discharged within 3 days of receipt of a written request by the facility director of the developmental disabilities facility.

(Formerly Ill. Rev. Stat., ch. 91½, par. 4-700)

5/4-701 Determination by facility director - Discharge or change of status - Notices

§4-701. (a) Any client admitted to a developmental disabilities facility under this Chapter may be discharged whenever the facility director determines that he is suitable for discharge.

(b) Any client admitted to a facility or program of nonresidential services upon court order under Article V of this Chapter or admitted upon court order as mentally retarded or mentally deficient under any prior statute shall be discharged whenever the facility director determines that he no longer meets the standard for judicial admission. When the facility director believes that continued residence is advisable for such a client, he shall inform the client and his guardian, if any, that the client may remain at the facility on administrative admission status. When a facility director discharges or changes the status of such client, he shall promptly notify the clerk of the court who shall note the action in the court record. ****MHDD-20****

(c) When the facility director discharges a client pursuant to subsection (b) of this Section, he shall promptly notify the State's Attorney of the county in which the client resided immediately prior to his admission to a developmental disabilities facility. Upon receipt of such notice, the State's Attorney may notify such peace officers that he deems appropriate. ****MHDD-20****

(d) The facility director may grant a temporary release to any client when such release is appropriate and consistent with the habilitation needs of the client.

(Formerly III. Rev. Stat., ch. 91½, par. 4-701)

5/4-702 Conditional discharge - Duration - Readmission

§4-702. (a) Conditional discharge means the placement of a client out of a facility for continuing habilitation provided under supervision of the discharging developmental disabilities facility or of the Department if he was in a Department facility. The facility director may grant a conditional discharge to a client when he determines that conditional discharge is appropriate and consistent with the habilitation needs of the client.

(b) A conditional discharge shall terminate within one year unless it is extended for one additional year. Written notice of the extension shall be given to the persons specified in Section 4-206 and to the facility, if any, where the client is residing.

(c) A conditionally discharged client may be readmitted to the facility if the facility director determines that such readmission is consistent with the client's habilitation needs and if the court, in the event that the client was judicially admitted, or the person who executed the application for administrative admission, consents thereto.

(Formerly III. Rev. Stat., ch. 91½, par. 4-702)

5/4-703 Post-discharge plan - Evaluation for guardianship

§4-703. (a) Prior to discharge under Sections 4-701 or 4-702, the facility director

shall prepare a post-discharge plan which is consistent with the client's habilitation goals. To the extent possible, the client and his family shall be consulted in the preparation and implementation of the plan.

(b) Prior to discharge if the client is 18 years of age or older and does not have a guardian, he shall be evaluated to determine whether he requires one. If it is determined that the client requires a guardian, his parent or another interested person shall be notified and requested to file a petition for the appointment of a guardian. If no petition is filed, the facility director of the facility may file such a petition.

(Formerly III. Rev. Stat., ch. 91½, par. 4-703)

5/4-704 Notice of discharge - Objections - Burden of proof

§4-704. (a) At least 14 days prior to the discharge of a client from a Department developmental disabilities facility under Sections 4-701 or 4-702, the facility director shall give written notice of the discharge to the client, if he is 12 years of age or older, to his attorney and guardian, if any, to the person who executed the application for admission and to the resident school district when appropriate. The notice, except that to the school district, shall include the reason for the discharge and a statement of the right to object.

****MHDD-22****

(b) The client, if he is 12 years of age or older, may object to his discharge or the attorney or guardian of a client or the person who executed the application may object on behalf of a client. Prior to discharge a written objection shall be submitted to the facility director of the facility where the client is located. Upon receipt of an objection, the facility director shall promptly schedule a hearing to be held at the facility within 7 days pursuant to Section 4-209. No discharge shall proceed pending hearing on an objection, unless the person objecting to the discharge consents to discharge pending the hearing.

(c) At the hearing the Department shall have the burden of proving that the client meets the standard for discharge under this Chapter and under Section 15 of the Mental Health and Developmental Disabilities Administrative Act. If the utilization review committee finds that the Department has sustained its burden and that the proposed discharge is based upon substantial evidence, it shall recommend that the discharge proceed. If the utilization review committee does not so find, it shall recommend that the client not be discharged, but it may recommend that the client be transferred to another facility which can provide habilitation appropriate to the condition and needs of the client. It may recommend that the Department or other agency assist the person in obtaining such appropriate habilitation. (Amended by P.A. 84-539, effective September 17, 1985; and P.A. 89-507, effective July 1, 1997.)

(Formerly III. Rev. Stat., ch. 91½, par. 4-704)

5/4-705 Petition for discharge - Examination

§4-705. Petition for discharge; examination. (a) At any time a person admitted

by court order under Article V of this Chapter or under any prior statute or any person 18 years of age or older on his behalf may file a petition for discharge with the court.

****MHDD-21****

(b) The petition shall set forth: (1) the name of the client; (2) the events that precipitated the admission and the date of the admission order; and (3) a request for discharge and the reasons for the request. The petition shall be accompanied by the certificate of a clinical psychologist, clinical social worker, or physician stating that the client no longer meets the standard for judicial admission and specifying the reasons for that conclusion.

****MHDD-6****

(c) If the petition is not accompanied by a certificate, the court shall appoint a clinical psychologist, clinical social worker, or physician to examine the client. If the clinical psychologist, clinical social worker, or physician determines that the client does not meet the standard for judicial admission, he shall execute a certificate so stating. The client is also entitled to an independent examination pursuant to Section 4-605. (Amended by P.A. 87-530, effective January 1, 1992.)

****MHDD-8****

(Formerly Ill. Rev. Stat., ch. 91½, par. 4-705)

5/4-706 Hearing - Notice - Disposition - Subsequent petitions

§4-706. (a) Upon receipt of a petition for discharge, the court shall set a hearing to be held within 7 days. The court shall direct that notice of the time and place of the hearing be given to the client, the persons specified in Section 4-206, and to the facility director. Article VI of this Chapter shall apply to hearings held under this Section.

****MHDD-9, MHDD-10****

(b) If the court finds that the client does not meet the standard for judicial admission, the court shall enter an order so finding and shall order the client discharged. If the court determines that the client continues to meet the standard for judicial admission, the court may continue or modify its original order. Thereafter, no new petition for discharge may be filed for 60 days without leave of the court.

(Formerly Ill. Rev. Stat., ch. 91½, par. 4-706)

5/4-707 Transfer between facilities - Proximity to client's residence

§4-707. The facility director of any Department facility may transfer a client to another Department facility if he determines that the transfer is appropriate and consistent with the habilitation needs of the client. An appropriate facility which is close to the client's place of residence shall be preferred unless the client requests otherwise or unless compelling reasons exist for preferring another facility.

(Formerly Ill. Rev. Stat., ch. 91½, par. 4-707)

5/4-708 Petition for transfer - Order for admission

§4-708. Any client admitted to a facility or to a program of nonresidential

habilitation under Article V of this Chapter or his guardian, attorney, or nearest adult relative on his behalf may at any time petition the court for transfer to a different facility or program of nonresidential services. If the client is in a private facility, the facility may also petition for transfer. An order for admission to a facility shall not be entered under this Section if the original order did not authorize such admission unless a hearing is held pursuant to Article VI of this Chapter. ****MHDD-13****

(Formerly III. Rev. Stat., ch. 91½, par. 4-708)

5/4-709 Notice of transfer - Objections - Burden of proof

§4-709. (a) Whenever a client who has been in a Department facility for more than 7 days is to be transferred to another facility under Section 4-707, the facility director of the facility shall give written notice at least 14 days before transfer to the client's attorney and to the persons specified in Section 4-206 of the reasons for the transfer and of the right to object. In an emergency, when the health of the client or the physical safety of the client or others is imminently imperiled and appropriate care and services are not available where the client is located, a client may be immediately transferred to another facility provided that notice is given as soon as possible but not more than 48 hours after the transfer. The reason for the emergency shall be noted in the client's record and specified in the notice. ****MHDD-14****

(b) A client may object to his transfer or his attorney or any person receiving notice under Section 4-206 may object on his behalf. Prior to transfer or within 14 days after an emergency transfer, a written objection shall be submitted to the facility director of the facility where the client is located. Upon receipt of an objection, the facility director shall promptly schedule a hearing to be held within 7 days pursuant to the procedures in Section 4-209. The hearing shall be held at the transferring facility except that when an emergency transfer has taken place, the hearing may be held at the receiving facility. Except in an emergency, no transfer shall proceed pending hearing on an objection.

(c) At the hearing the Department shall have the burden of proving that the standard for transfer under Section 4-707 is met. If the transfer is to a facility which is substantially more physically restrictive than the transferring facility, the Department shall also prove that the transfer is reasonably required for the safety of the client or others. If the utilization review committee finds that the Department has sustained its burden and the decision to transfer is based upon substantial evidence, it shall recommend that the transfer proceed. If it does not so find, it shall recommend that the client not be transferred.

(Formerly III. Rev. Stat., ch. 91½, par. 4-709)

CHAPTER V GENERAL PROVISIONS

5/5-100 Death - Notice - Inquest - Fees

§5-100. Written notice of the death of a recipient of services which occurs at a mental health or developmental disabilities facility, or the death of a recipient of services who has not been discharged from a mental health or developmental disabilities facility but whose death occurs elsewhere, shall within 10 days of the death of a recipient be mailed to the Department of Public Health which, for the primary purpose of monitoring patterns of abuse and neglect of recipients of services, shall make such notices available to the Guardianship and Advocacy Commission and to the agency designated by the Governor under Section 1 of "An Act in relation to the protection and advocacy of the rights of persons with developmental disabilities, and amending Acts therein named", approved September 20, 1985. Such notice shall include the name of the recipient, the name and address of the facility at which the death occurred, the recipient's age, the nature of the recipient's condition, including any evidence of the previous injuries or disabilities, or relevant medical conditions or any other information which might be helpful in establishing the cause of death. Written notice of the death of a recipient of services who was admitted by court order, and the cause thereof shall, in all cases be mailed by the facility director to the court entering the original admission order, and if possible, to the same judge, and the time, place and alleged cause of such deaths shall be entered upon the docket. Such notice must be mailed within 10 days following the death of the recipient. ****MHDD-20****

In the event of a sudden or mysterious death of any recipient of services at any public or private facility, a coroner's inquest shall be held as provided by law in other cases.

In cases where the deceased person was a recipient or client of any state facility, and the fees for holding an inquest cannot be collected out of his estate, such fees shall be paid by the Department. (Amended by P.A. 86-1416, effective January 1, 1991 and P.A. 88-380, effective August 20, 1993.)

(Formerly Ill. Rev. State., ch. 91½, par. 5-100)

5/5-100A Review Board

§5-100A. (a) There is created the Mental Health and Developmental Disabilities Medical Review Board, hereinafter referred to as the Board, consisting of 5 members appointed by the Governor, who shall be physicians licensed to practice medicine in all its branches, including specialists in psychiatry and primary care. Members shall serve at the pleasure of the Governor and shall receive no compensation but may be reimbursed for actual and necessary expenses incurred in the performance of their duties. The terms of members appointed before the effective date of this amendatory Act of 1995 shall expire on the effective date of this amendatory Act of 1995. As soon as possible after the effective date of this amendatory Act of 1995, the governor shall appoint new board members.

The Governor shall designate one member as chairman. The chairman shall appoint an executive secretary and such other officers and employees as may be necessary to perform the functions of the Board. The chairman may appoint one or more committees of Board members and delegate in writing to any such committee the authority to perform any of the Board's functions and duties and to exercise any of its powers. Any reports of such committees shall be forwarded to the chairman for review and forwarding to the Secretary. The chairman may also seek consultation from consultants, including but not limited to specialists in forensic pathology and forensic psychiatry.

(b) The director or chief officer of every mental health or developmental disabilities facility licensed or operated by the Department shall immediately report the death of any recipient of services at the facility to the Board in a manner and form prescribed by the Board, but in any case within 3 working days of the death.

(c) The Board's functions shall include the following:

(1) investigation of any death that occurs within 24 hours after admission;

(2) investigation of the causes and circumstances of such unusual deaths or deaths from other than natural causes;

(3) expert consultation with the inspector general on suspected abuse and neglect investigations that the inspector general determines required independent medical review;

(4) investigation of all suspected cases of neglect concerning delivery of medical services, including investigations by the inspector general;

(5) visitation and inspection of any facility operated by the Department in which such a death has occurred;

(6) reporting upon its review of the cause and circumstances of the death of any recipient to the Secretary and his or her designee and, when appropriate, making recommendations to those individuals and to the facility director to prevent similar deaths; and

(7) reporting by April 1 of each year to the Governor and the Legislature concerning its work during the preceding year and reporting more frequently to the Governor or the Legislature as such bodies shall direct or as it shall deem advisable.

(d) All records of the Board's proceedings and deliberations and any testimony given before it are protected from disclosure under Section 8-2101 of the Code of Civil Procedure and are subject to the Mental Health and Developmental Disabilities Confidentiality Act.

(e) Notwithstanding any report by the facility director or chief officer to the Board and any subsequent investigation by the Board, the facility director or chief officer shall also report such incidents to other agencies or entities as may be required by law or policies and procedures of the Department with respect to deaths. Investigations by the Board are not to be in lieu of or to replace those lawful duties of other agencies or entities.

(f) If the report by the Board to the Secretary contains a conclusion of misconduct or criminal acts, such facts shall be forwarded by the Secretary to the appropriate law enforcement or disciplinary entity. (Added by P.A. 84-902, effective January 1, 1986 and amended by P.A. 89-427, effective December 7, 1995; and PA. 89-507, effective July 1, 1997.)

(Formerly III. Rev. Stat., ch. 91½, par. 5-100A)

5/5-101 Unauthorized absence - Apprehension - Costs

§5-101. If any recipient of services leaves a facility without being duly discharged or being free to do so, as provided in this Act, or if any resident is placed on conditional discharge or temporarily released from the facility and if such recipient is considered by the facility director to be in such condition as to require immediate detention for the protection of such recipient or other persons, then upon the request of the facility director of the facility, any peace officer shall apprehend such recipient and return him to the nearest Department facility which provides residential services. The Department shall then arrange for the return of the recipient to the appropriate facility. The cost of returning a recipient whose absence from a private facility or a Veterans Administration facility is unauthorized shall be paid by such facility. If the unauthorized absence is from a facility of the Department, such cost shall be paid by the Department in accordance with the fee schedule set forth in Section 19 of "An Act concerning fees and salaries, and to classify the several counties of the state with reference thereto", approved March 29, 1872, as now or hereafter amended.

(Formerly III. Rev. Stat., ch. 91½, par. 5-101)

5/5-102 Nonresidents - Admissions - Reciprocal agreements

§5-102. Persons who are not residents of this State may not be detained in any facility unless admitted thereto in accordance with the laws of this state, or of the state having jurisdiction of such persons.

A person who is not a resident of this State and who is admitted to a Department facility for services may be returned by the Department to the state of which he is a resident, but no such person may be returned unless arrangements to receive him have been made in the state to which he is to be returned.

The Department, subject to the approval of the Attorney General, may enter into reciprocal agreements with corresponding agencies of other states regarding the interstate transportation or transfer of recipients and may arrange with the proper officials for the acceptance, transfer and support of persons who are residents of this State but who are temporarily detained or who are receiving services in public facilities

of other states in accordance with the terms of such agreements. In the case of persons brought to this State under any agreements authorized under this Section, local peace officers may upon request of the Department receive and arrange for admission of such persons pursuant to this Act. (Amended by P.A. 84-871, effective January 1, 1986.)

(Formerly Ill. Rev. Stat., ch. 91½, par. 5-102)

5/5-103 Inquiries - Investigations - Confidential communications

§5-103. The Department, or any health officer of this State or any municipality where any person subject to involuntary admission or who meets the standard for judicial admission may be, may inquire into the manner in which any such person who is not a recipient of services in a State facility is cared for and maintained. Whenever the Department has reason to believe that any person asserted or adjudged to be subject to involuntary admission or to meet the standard for judicial admission is confined and may be wrongfully deprived of his liberty, or is cruelly, negligently, or improperly treated, or that inadequate provision is made for his care, supervision and safekeeping, it may ascertain the facts or may order an investigation of the facts. The Department or any duly authorized representative of the Department may at any time visit and examine the persons in any place to ascertain if persons subject to involuntary admission or who meet the standard for judicial admission are kept therein. The Secretary, or any duly authorized representative of the Department conducting the investigation, may administer oaths and issue subpoenas requiring the attendance of and the giving of testimony by witnesses and subpoenas duces tecum requiring the production of books, papers, records, or memoranda. All subpoenas issued under this Act may be served by any person 18 years of age or older. The fees of witnesses for attendance and travel are the same as the fees of witnesses before the circuit courts of this State. Such fees are to be paid when the witness is excused from further attendance. When the witness is subpoenaed at the instance of the Department or any officer or employee thereof, such fees shall be paid in the same manner as other expenses of the Department, and when the witness is subpoenaed at the instance of any other party to any such proceeding the Department may require that the cost of service of the subpoena and the fee of the witness be borne by such party. In such case the Department, in its discretion, may require a deposit to cover the cost of such service and witness fees. A subpoena issued under this Section must be served in the same manner as a subpoena issued out of a court.

Any court of this State, upon the application of the Department or any officer or employee thereof may compel the attendance of witnesses, the production of books, papers, records, or memoranda and the giving of testimony before the Department or any officer or employee thereof conducting an investigation or holding a hearing authorized by this Act, by an attachment for contempt, or otherwise, in the same manner as production of evidence may be compelled before that court. The Department or any officer or employee thereof, or any party interested in an investigation or hearing before the Department, may cause the depositions of witnesses residing within or without the State to be taken in the manner prescribed by law for like

depositions in civil actions in courts of this State and, to that end, compel the attendance of witnesses and the production of books, papers, records or memoranda.

Whenever the Department undertakes an investigation into the general management and administration of any facility, it may give notice to the Attorney General who shall appear personally or by an assistant and examine witnesses who may be in attendance and otherwise represent the Department in such investigation.

Any recipient's records or confidential communications disclosed under this Section or under proceedings pursuant thereto shall not lose their confidential and privileged character as established by the "Mental Health and Developmental Disabilities Confidentiality Act", enacted by the 80th General Assembly; such records or confidential communications shall not be utilized for any other purpose nor be redisclosed or otherwise discoverable except in connection with such investigation and proceedings pursuant thereto. (Amended by P.A. 89-507, effective July 1, 1997.)

(Formerly Ill. Rev. Stat., ch. 91½, par. 5-103)

5/5-104 Rules and regulations - Administrative procedure

§5-104. The Department may prescribe and publish rules and regulations to carry out the purposes of this Act and to enforce the provisions of this Act and may alter, amend and supplement such rules and regulations relating to this Act; but any person affected adversely by any order or ruling of the Department is entitled to review as provided in Section 6-100 of this Act. Pending final decision on such review, the acts, orders and rulings of the Department shall remain in full force and effect unless modified or suspended by order of court pending final judicial decision thereto.

The provisions of The Illinois Administrative Procedure Act are hereby expressly adopted and shall apply to all administrative rules and procedures of the Department under this Act, except that in case of conflict between The Illinois Administrative Procedure Act and this Act, the provisions of this Act shall control, and except that Section 5-35 of The Illinois Administrative Procedure Act relating to procedures for rule-making does not apply to the adoption of any rule required by federal law in connection with which the Department is precluded by law from exercising any discretion.

As part of such rules and regulations, the Department shall require that any State operated facility and any community agency, whether public or private, which provides mental health or developmental disabilities services to any person shall, with respect to such person, use a uniform case opening form approved by the Department. The form shall require that such person's Social Security number be obtained and stated among other information requested. The facility or agency may assign a case number to each recipient of its services, and that number shall be provided to the Department on any reports requested by the Department. (Amended by P.A. 85-336, effective January 1, 1988; P.A. 85-971, effective July 1, 1988; P.A. 85-1209, effective August 30, 1988; P.A. 88-45, effective July 6, 1993; P.A. 88-484, effective September 10, 1993 **AND P.A. 91-726, EFFECTIVE JUNE 2, 2000.**)

(Formerly Ill. Rev. Stat., ch. 91½, par. 5-104)

5/5-105 Liability for charges - Responsible relatives - Exemptions

§5-105. Each recipient of services provided directly or funded by the Department and the estate of that recipient is liable for the payment of sums representing charges for services to the recipient at a rate to be determined by the Department in accordance with this Act. If a recipient is a beneficiary of a trust described in Section 15.1 of the Trusts and Trustees Act, the trust shall not be considered a part of the recipient's estate and shall not be subject to payment for services to the recipient under this Section except to the extent permitted under Section 15.1 of the Trusts and Trustees Act. If the recipient is unable to pay or if the estate of the recipient is insufficient, the responsible relatives are severally liable for the payment of those sums or for the balance due in case less than the amount prescribed under this Act has been paid. If the recipient is under the age of 18, the recipient and responsible relative shall be liable for medical costs on a case-by-case basis for services for the diagnosis and treatment of conditions other than the child's handicapping condition. The liability shall be the lesser of the cost of medical care or the amount of responsible relative liability established by the Department under Section 5-116. Any person 18 through 21 years of age who is receiving services under the Education for All Handicapped Children Act of 1975 (Public Law 94-142) or that person's responsible relative shall only be liable for medical costs on a case-by-case basis for services for the diagnosis and treatment of conditions other than the person's handicapping condition. The liability shall be the lesser of the cost of medical care of the amount of responsible relative liability established by the Department under Section 5-116. In the case of any person who has received residential services from the Department, whether directly from the Department or through a public or private agency or entity funded by the Department, the liability shall be the same regardless of the source of services. The maximum services charges for each recipient assessed against responsible relatives collectively may not exceed financial liability determined from income in accordance with Section 5-116. Where the recipient is placed in a nursing home or other facility outside the Department, the Department may pay the actual cost of services in that facility and may collect reimbursement for the entire amount paid from the recipient, or an amount not to exceed those amounts determined under Section 5-116 from responsible relatives according to their proportionate ability to contribute to those charges. The liability of each responsible relative for payment of services charges ceases when payments on the basis of financial ability have been made for a total of 12 years for any recipient, and any portion of that 12 year period during which a responsible relative has been determined by the Department to be financially unable to pay any services charges must be included in fixing the total period of liability. No child is liable under this Act for services to a parent. No spouse is liable under this Act for the services to the other spouse who willfully failed to contribute to the spouse's support for a period of 5 years immediately preceding his or her admission. Any spouse claiming exemption because of willful failure to support during any such 5 year period must furnish the Department with clear and convincing evidence substantiating the claim. No parent is liable under this Act for the services charges incurred by a child after the child reaches the age of majority. Nothing in this Section shall preclude the Department from applying federal benefits that are specifically provided for the care and treatment of a disabled person

toward the cost of care provided by a State facility or private agency. (Amended by P.A. 83-578, effective September 17, 1982; P.A. 84-1397, effective January 1, 1987; P.A. 85-609, effective September 20, 1987; P.A. 87-311, effective September 6, 1991 and P.A. 88-380, effective August 20, 1993.)

(Formerly Ill. Rev. Stat., ch. 91½, par. 5-105)

5/5-106 Rates and charges - Contributions - State expenditures

§5-106. The rate at which sums for the services to recipients in a mental health or developmental disabilities program of the Department is calculated by the Department is the average per capita cost of the services to all such recipients, such cost to be computed by the Department on the general average per capita cost of operation of all State facilities for the fiscal year immediately preceding the period of State care for which the rate is being calculated, except the Department may, in its discretion, set the rate at a lesser amount than such average per capita cost. The Department in its rules and regulations may establish a maximum rate not to exceed the rate set by the Office of Health Finance for the cost of services furnished to persons in mental health or developmental disabilities programs involving residential care. If a recipient is placed in a residential program or facility outside the Department, the ability of responsible relatives to pay these costs shall be determined under Section 5-116 of this Act. The Department may supplement the contribution of these persons to private facilities after all other sources of income have been utilized, provided responsible relatives do not contribute to actual cost of services in excess of amounts charged to responsible relatives as established under Section 5-116 of this Act. The Department shall make an annual report to the Commission on Mental Health and Developmental Disabilities setting forth proposed changes in rules and regulations relating to Sections 5-105 through 5-115 and summarizing all amounts expended by the Department on behalf of recipients in private facilities. The Department may pay the actual costs of services or maintenance in such facility and may collect reimbursement for the entire amount paid from the recipient, or an amount not to exceed the amount listed in Section 5-106 of this Act from responsible relatives according to their proportionate ability to contribute to such charges. Lesser or greater amounts may be accepted by the Department when conditions warrant such action or when offered by persons not liable under this Act. The amounts so received shall be deposited with the State Treasurer and placed in the Mental Health Fund. (Amended by P.A. 83-578, effective September 17, 1983.)

(Formerly Ill. Rev. Stat., ch. 92½, par. 5-106)

5/5-107 Deposits - Social Security payments - Audits

§5-107. Remittances from intermediary agencies under Title XVIII of the Federal Social Security Act for services to persons in State facilities shall be deposited with the State Treasurer and placed in the Mental Health Fund. Payments received from the Department of Public Aid under Title XIX of the Federal Social Security Act for services to persons in State facilities shall be deposited with the State Treasurer and shall be placed in the General Revenue Fund.

The Auditor General shall audit or cause to be audited all amounts collected by the Department.

(Formerly III. Rev. Stat., ch. 91½, par. 5-107)

5/5-107.1 Deposits - Mental Health Fund

§5-107.1. Remittances from or on behalf of licensed long-term care facilities through Department of Public Aid reimbursement and monies from other funds for Day Training Programs for clients with a developmental disability shall be deposited with the State Treasurer and placed in the Mental Health Fund. (Added by P.A. 84-539, effective September 17, 1985.)

The Auditor General shall audit or cause to be audited all amounts collected by the Department. (Added by P.A. 84-539, effective September 17, 1985.)

(Formerly III. Rev. Stat., ch. 91½, par. 5-107.1)

5/5-107.2 Cost of providing intergovernmental services

§5-107.2. The Department shall charge, collect and receive fees or money equivalent to the cost of providing Department personnel, equipment, commodities and services to other agencies and branches of state government, units of local government or the federal government, on such terms and conditions as in the judgment of the Secretary are in the best interest of the State.

All services provided by the Department shall be conducted pursuant to contracts in accordance with the Intergovernmental Cooperation Act. (Added by P.A. 85-971, effective July 1, 1988; and amended by P.A. 89-507, effective July 1, 1997.)

(Formerly III. Rev. Stat., ch. 91½, par. 5-107.2)

5/5-108 Ability to pay - Statements - Insurance

§5-108. The Department may investigate the financial condition of each person liable under this Act, may make determinations of the ability of each such person to pay sums representing services charges, and for such purposes may set a standard as a basis of judgment of ability to pay under Section 5-116 of this Act. The Department shall by rule make provisions for unusual and exceptional circumstances in the application of such standard. The Department may issue to any person liable under this Act a statement of amount due as treatment charges requiring him to pay monthly, quarterly, or otherwise as may be arranged, an amount not exceeding that required under this Act, plus fees to which the Department may be entitled under this Act.

a) Whenever an individual is covered, in part or in whole, under any type of insurance arrangement, private or public for services provided by the Department, the proceeds from such insurance shall be considered as part of the individual's ability to pay, notwithstanding that the insurance contract was entered into by a person other than the individual or notwithstanding that the premiums for such insurance were paid

for by a person other than the individual. (Amended by P.A. 81-1509, effective September 26, 1980 and P.A. 83-578, effective September 17, 1983.)

(Formerly Ill. Rev. Stat., ch. 91½, par. 5-108)

5/5-108.1 Exemption from charges

§ 5-108.1. Exemption from charges. Any recipient of services who is participating in a research program conducted by the Psychiatric Institute located at 1601 West Taylor Street, Chicago, Illinois, under an intergovernmental agreement between the Board of Trustees of the University of Illinois and the Department shall not be liable for any charges as set forth in Sections 5-105, 5-106, and 5-107 of this Act. This exemption shall apply only to those charges incurred for services rendered at the Psychiatric Institute located at 1601 West Taylor Street, Chicago, Illinois. (Added by P.A. 89-522, effective June 26, 1996.)

5/5-109 Admissions - Ability to pay

§5-109. No admission of a recipient in a State facility may be limited or conditioned in any manner by the financial status or ability to pay of the recipient, the estate of the recipient, or any responsible relative of the recipient.

(Formerly Ill. Rev. Stat., ch. 91½, par. 5-109)

5/5-110 Effective date of charges - Discharge or liability

§5-110. Services charges against responsible relatives take effect on the date of admission or acceptance of the recipient for services or as soon thereafter as each responsible relative's financial ability during the period which the recipient receives services subjects him to liability for charges as required under this Act. Payment in full by a responsible relative of established services charges as provided in this Act constitutes full discharge of the liability of such responsible relative, unless there has been material misrepresentation in revealing the extent of financial resources.

(Formerly Ill. Rev. Stat., ch. 91½, par. 5-110)

5/5-111 Notice of determination of sums due - Hearing - Review

§5-111. Any person who has been issued a Notice of Determination of sums due as services charges may petition the Department for a review of that determination. The petition must be in writing and filed with the Department within 90 days from the date of the Notice of Determination. The Department shall provide for a hearing to be held on the charges for the period covered by the petition. The Department may after such hearing, cancel, modify or increase such former determination to an amount not to exceed the maximum provided for such person by this Act. The Department at its expense shall take testimony and preserve a record of all proceedings at the hearing upon any petition for a release from or modification of such determination. The petition and other documents in the nature of pleadings and motions filed in the case, a transcript of testimony, findings of the Department, and orders of the Secretary constitute the record. The Secretary shall furnish a transcript of such record to any

person upon payment therefor of 75¢ per page for each original transcript and 25¢ per page for each copy thereof. Any person aggrieved by the decision of the Department upon such hearing may, within 30 days thereafter, file a petition with the Department for review of such decision by the Board of Reimbursement Appeals. The Board of Reimbursement Appeals may approve action taken by the Department or may remand the case to the Secretary with recommendation for redetermination of charges. (Amended by P.A. 89-507, effective July 1, 1997.)

(Formerly Ill. Rev. Stat., ch. 91½, par. 5-111)

5/5-112 Board of Reimbursement Appeals - Creation

§5-112. A Board of Reimbursement Appeals, consisting of 3 persons appointed by the Governor, is created to review decisions of the Department under Sections 5-105 through 5-115 of this Act. Board members shall serve for terms of 3 years commencing January 1 of the year their appointment becomes effective and continuing until their successors are appointed and qualified. All Board members appointed under law prior to the effective date of this Act shall serve until the expiration of the terms for which they were appointed and until their successors are appointed and qualified. All Board members shall take and subscribe to the constitutional oath of office and file it with the Secretary of State. They shall receive no compensation but the Department shall reimburse them for expenses necessarily incurred in the performance of their duties. Persons appointed as Board members may have no other connection or duties with the Department.

(Formerly Ill. Rev. Stat., ch. 91½, par. 5-112)

5/5-113 Decision on petition for review - Actions by State's Attorneys - Orders

§5-113. Upon receiving a petition for review under Section 5-111, the Department shall thereupon notify the Board of Reimbursement Appeals which shall render its decision thereon within 30 days after the petition is filed and certify such decision to the Department. Concurrence of a majority of the Board is necessary in any such decision. Upon request of the Department, the State's Attorney of the county in which a responsible relative or a recipient who is liable under this Act for payment of sums representing services charges resides, shall institute appropriate legal action against any such responsible relative, or the recipient, or within the time provided by law shall file a claim against the estate of such recipient who fails or refuses to pay those charges. The court shall order the payment of sums due for services charges for such period or periods of time as the circumstances require, except that no responsible relative may be held liable for charges for services furnished to a recipient if such charges were assessed more than 5 years prior to the time the action is filed; but such 5 year limitation does not apply to the liability of a recipient or recipient's estate. Such order may be entered against any or all such defendants and may be based upon the proportionate ability of each defendant to contribute to the payment of sums representing services charges including the actual charges for services in facilities outside the Department where the Department has paid such charges. Orders for the payment of money may be enforced by attachment as for contempt against the persons

of the defendants and, in addition, as other judgments for the payment of money, and costs may be adjudged against the defendants and apportioned among them.

(Formerly Ill. Rev. Stat., ch. 91½, par. 5-113)

5/5-114 Claims against estate - Duties of representatives

§5-114. A decedent's representative who has actual knowledge that the decedent has been a recipient in a State facility shall notify the Department of the death of the decedent and, if the representative has been appointed by a court, shall furnish the Department with a copy of his letters of office. Within the time allowed by law for the filing of claims, the Department may file a claim against the decedent's estate for any balance due for services charges by the decedent while a recipient. Such claim shall be allowed and paid as other lawful claims against the estate. Nothing contained in this Section imposes upon the legal representative any personal liability for the payment of any amount so due or claimed to be due.

As used in this Section, "representative" means executor or administrator of the decedent's estate or anyone holding assets of the decedent. (Amended by P.A. 83-388, effective September 16, 1983.)

(Formerly Ill. Rev. Stat., ch. 91½, par. 5-114)

5/5-115 Inability to pay - State and county funds - Exemptions from liability

§5-115. In case any recipient, the estate of any recipient, or the responsible relatives of such recipient are unable to pay the services charges for the recipient provided for by this Act, then the cost of services of such recipient shall be borne by the State, but the cost of clothing, transportation and other incidental expenses not constituting any part of the services shall be defrayed at the expense of the recipient, or the estate of the recipient, or the responsible relatives of the recipient, or of the county of his residence, except that the county is not required to defray expense of clothing. No child is liable under this Act for clothing, transportation or other incidental expenses of a parent and no spouse is liable under this Act for clothing, transportation or other incidental expenses of a spouse who willfully failed to contribute to the spouse's support for a period of 5 years immediately preceding the maintenance, such spouse being in need of support or maintenance for hospitalization, however. No parent is liable under this Act for the services charges incurred by a child after such child reaches the age of majority.

(Formerly Ill. Rev. Stat., ch. 91½, par. 5-115)

5/5-116 Standard and regulations for determining ability to support

§5-116. Standard and Regulations for Determining Ability to Support. The Department shall establish a standard by which shall be measured the ability of responsible relatives to provide support, and shall implement the standard by rules governing its application. The standard and the rules shall take into account the buying and consumption patterns of self-supporting persons of modest income, present or future contingencies having direct bearing on maintenance of the relative's self-support status and fulfillment of his obligations to his immediate family, and any unusual or

exceptional circumstances including estrangement or other personal or social factors, that have a bearing on family relationships and the relative's ability to meet his support obligations. The standard shall be recomputed periodically to reflect changes in the cost of living and other pertinent factors. (Amended by P.A. 83-578, effective September 17, 1983 .)

(Formerly III. Rev. Stat., ch. 91½, par. 5-116)

5/5-117 Actions against Department and agents - Duties of Attorney General

§5-117. The Attorney General shall defend all civil actions and proceedings against any employee or agent of the Department arising out of official duties in connection with the apprehension, transportation, examination, services, detention or discharge of any individual under this Act, in any of the courts of this State or in federal court. (Amended by P.A. 88-484, effective September 10, 1993 **AND P.A. 91-726, EFFECTIVE JUNE 2, 2000.**)

(Formerly III. Rev. Stat., ch. 91½, par. 5-117)

5/5-118 and 5/5-119 - Repealed by P.A. 86-1416, effective January 1, 1991.

**CHAPTER VI
MISCELLANEOUS PROVISIONS**

5/6-100 Civil Practice

§6-100. Judicial proceedings conducted pursuant to this Act shall be conducted in accordance with the "Civil Practice Law", except to the extent the provisions of this Act indicate to the contrary or are inconsistent, in which case this Act governs. (Amended by P.A. 82-783, effective July 13, 1982.)

(Formerly Ill. Rev. Stat., ch. 91½, par. 6-100)

5/6-101 Review under Administrative Review Law

§6-101. Any person affected by a final administrative decision of the Department or the Board of Reimbursement Appeals, pursuant to this Act, may have such decisions reviewed only under and in accordance with the Administrative Review Law, as now or hereafter amended. The Administrative Review Law, as amended, and the rules adopted pursuant thereto, apply to and govern all proceedings for the judicial review of final administrative decisions of the Department hereunder. The term "administrative decision" is defined as in Section 3-101 of the Code of Civil Procedure. (Amended by P.A. 82-783, effective July 13, 1982.)

(Formerly Ill. Rev. Stat., ch. 91½, par. 6-101)

5/6-102 Class A misdemeanors

§6-102. Any person who conspires unlawfully to cause, or unlawfully causes, any person to be adjudicated as subject to involuntary or judicial admission or as a person under legal disability or to be detained at, or admitted to any mental health facility or developmental disabilities facility, or any person who receives or detains a person with mental illness or person with a developmental disability, contrary to this Act, or any person who maltreats a person with mental illness or person with a developmental disability, or any person who knowingly aids, abets or assists or encourages any a person with mental illness or person with a developmental disability to be absent without permission from any facility or custodian in which or by whom such person is lawfully detained, or any person who violates any provision contained in this Act or rule or regulation of the Department issued under this Act commits a Class A misdemeanor. (Amended by P.A. 83-706, effective September 23, 1983 and P.A. 88-380, effective August 20, 1993.)

(Formerly Ill. Rev. Stat., ch. 91½, par. 6-102)

5/6-103 Good faith - Exemption from liability

§6-103. (a) All persons acting in good faith and without negligence in connection with the preparation of applications, petitions, certificates or other documents, for the apprehension, transportation, examination, treatment, habilitation, detention or discharge of an individual under the provisions of this Act incur no liability, civil or criminal, by reason of such acts.

(b) There shall be no liability on the part of, and no cause of action shall arise against, any person who is a physician, clinical psychologist, or qualified examiner

based upon that person's failure to warn of and protect from a recipient's threatened or actual violent behavior except where the recipient has communicated to the person a serious threat of physical violence against a reasonably identifiable victim or victims. Nothing in this Section shall relieve any employee or director of any residential mental health or developmental disabilities facility from any duty he may have to protect the residents of such a facility from any other resident.

(c) Any duty which any person may owe to anyone other than a resident of a mental health and developmental disabilities facility shall be discharged by that person making a reasonable effort to communicate the threat to the victim and to a law enforcement agency, or by a reasonable effort to obtain the hospitalization of the recipient.

(d) An act of omission or commission by a peace officer acting in good faith in rendering emergency assistance or otherwise enforcing this Code does not impose civil liability on the peace officer or his or her supervisor or employer unless the act is a result of willful or wanton misconduct. (Amended by P.A. 86-1416, effective January 1, 1991; P.A. 88-380, effective August 20, 1993 and P.A. 91-726, effective June 2, 2000.)

(Formerly III. Rev. Stat., ch. 91½, par. 6-103)

5/6-104 Construction with other law - Application of prior law

§6-104. Unless otherwise specifically provided elsewhere by law, nothing contained in this Act or in any Act amendatory thereof affects or impairs the validity of any act done or right accruing, accrued, acquired, or any order, judgment or status established prior to the enactment of this Act or prior to the enactment of any Act amendatory thereof, and, as to any persons admitted or committed pursuant to any Act in effect prior to the effective date of this Act, the provisions of any such prior Act shall continue to govern, except where there are express provisions in this Act relating to such persons. **(Formerly III. Rev. Stat., ch. 91½, par. 6-104)**

5/6-105 Saving clause

§6-105. The provisions for repeal contained in this Act do not in any way affect an offense committed, an act done, a penalty, punishment or forfeiture incurred, or a claim, right, power or remedy accrued under any law in force prior to the effective date of this Act. **(Formerly III. Rev. Stat., ch. 91½, par. 6-105)**

5/6-106 Repealer

§6-106. The "Mental Health Code of 1967", approved August 14, 1967, as amended, is repealed. **(Formerly III. Rev. Stat., ch. 91½, par. 6-106)**

5/6-107 Effective date

§6-107. This Act takes effect January 1, 1979. **(Formerly III. Rev. Stat., ch. 91½, par. 6-107)**

CODE FORMS AND REFERENCES

MHDD-1	Rights of Individuals Receiving Mental Health and Disabilities Services (§ 2-200, 2-103(e))	IL462-2001]
MHDD-4	Notice Regarding Restricted Rights of Recipient (§ 2-201, 2-103, 2-104, 2-107, 2-108, 2-109)	[IL462-2004]
MHDD-5	Petition for Involuntary/Judicial Admission (§ 3-403, 3-404, 3-600, 3-601, 3-607, 3-609, 3-700, 3-701, 3-813, 4-306, 4-310, 4-400, 4-401, 4-403, 4- 405, 4-500, 4-501, 4-611)	[IL462-2005]
MHDD-6	Certificate (§ 3-403, 3-602, 3-607, 3-610, 3-702, 3-813, 4-306, 4-402, 4- 403, 4-405, 4-501, 4-611, 4-705)	[IL462-2006]
MHDD-7	Writ for Detention, Examination and Appearance Before Court (§ 3-607, 3-704, 3-706, 4-504, 4-506)	[IL462-2007]
MHDD-8	Order for Detention, Examination, Diagnostic Evaluation (§ 3-607, 3- 702(b), 3-803, 3-804, 3-906, 4-405, 4-502(b), 4-603, 4-604, 4-705(e))	[IL462-2008]
MHDD-9	Order for Hearing (§ 3-403, 3-509, 3-811, 3-901, 4-306, 4-307, 4-407, 4- 502(e), 4-505)	[IL462-2009]
MHDD-10	Notice of Hearing (§ 3-509, 3-411, 3-706, 3-901(a), 4-307, 4-505, 4-706)	[IL462-2010]
MHDD-11	Verdict of Jury (§ 3-809, 4-609)	[IL462-2011]
MHDD-12	Request for Treatment/Habilitation Plan Review (§ 3-814, 4-612)	[IL462-2012]
MHDD-13	Petition for Transfer (§ 3-909, 4-708)	[IL462-2013]
MHDD-14	Notice of Transfer (§ 3-910, 4-206, 4-709)	[IL462-2014]
MHDD-15	Petition for Restoration of Legal Competence (§ 3-906)	[IL462-2015]
MHDD-16	Physician's Report/Certificate (§ 3-906)	[IL462-2016]
MHDD-17	Order for Restoration to Legal Competence (§ 3-901(b), 3-1002)	[IL462-2017]
MHDD-18	Notice of Admission (§ 3-502, 4-206, 4-208, 4-304, 4-311(c))	[IL462-2018]
MHDD-19	Notice of Denial of Admission and Right to Request Review (§ 3-312(a), 3-405(a), 4-206, 4,208)	[IL462-2019]

MHDD-20	Notice of Change of Status (§ 3-902(c) (d), 3-1003,4-701(b) (c), 5-100)	[IL462-2020]
MHDD-21	Petition for Discharge (§ 3-900(a), 4-705(a))	[IL462-2021]
MHDD-22	Notice of Discharge (§ 3-303(a), 4-206, 4-704(a))	[IL462-2022]
MHDD-23	Notice of Facility Director's Decision (§ 3-207(a), 3-405(a), 3-903(a), 3-910, 4-209(c), 4-312(a), 4-709, 4-704(a))	[IL462-2023]
MHDD-24	Order for Administration of Authorized Involuntary Treatment (§ 2-107.1)	[IL462-2024]
MHDD-25	Petition for Administration of Authorized Involuntary Treatment (§ 2-107)	[IL462-2025]
DD-1	Application for Administrative Admission (§ 4-302, 4-311)	[IL462-2001D]
DD-2	Order for Habilitation or Release (§ 4-308(a), 4-609, 4-610, 4-616)	[IL462-2002D]
MH-1	Rights of Informal Admittee (§ 3-300)	[IL462-2201M]
MH-2	Application for Voluntary Admission (§ 3-400, 3-502)	[IL462-2202M]
MH-4	Outpatient Application for Minors 14 and Over (§ 3-501)	[IL462-2204M]
MH-5	Examination of Minor for Admission or Continued Hospitalization (§ 3-503, 3-507, 3-508)	[IL462-2205M]
MH-6	Application by an Adult for the Admission of a Minor (§3-503, 3-504)	[IL462-2206M]
MH-7	Petition for Review of Voluntary Admission of a Minor (§ 3-507(a), 3-508)	[IL462-2207M]
MH-8	Order for Treatment or Discharge (§ 3-510, 3-811, 3-812(a), 3-813(a), 3-819(a))	[IL462-2208M]

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