

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 40

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO HOSPITALIZATION OF THE MENTALLY ILL; AMENDING SECTION 66-337,  
2 IDAHO CODE, TO REVISE PROVISIONS REGARDING NOTICE OF A PATIENT'S RE-  
3 LEASE FROM AN INPATIENT FACILITY AND TO MAKE TECHNICAL CORRECTIONS.  
4

5 Be It Enacted by the Legislature of the State of Idaho:

6 SECTION 1. That Section 66-337, Idaho Code, be, and the same is hereby  
7 amended to read as follows:

8 66-337. REVIEW, TERMINATION OF COMMITMENT AND DISCHARGE OF PA-  
9 TIENTS. (a) The department director or his designee shall as frequently as  
10 practicable but at least once at the end of the first ninety (90) days examine  
11 or cause to be examined every patient committed to his custody or admitted to  
12 an inpatient facility of the state of Idaho, and determine whether to con-  
13 ditionally release, discharge or terminate the commitment of the patient.  
14 If the patient has not been conditionally released, discharged, or had the  
15 commitment terminated, a similar review shall be conducted every one hundred  
16 twenty (120) days thereafter. A report of each review and determination  
17 regarding an involuntary patient shall be sent to the committing court,  
18 prosecuting attorney of the county of commitment, if any, the patient's at-  
19 torney, and either the patient's spouse, guardian, next of kin or friend.

20 (b) The commitment of an involuntary patient shall be terminated if the  
21 patient is no longer mentally ill or is no longer likely to injure himself  
22 or others or is no longer gravely disabled; provided, that patients admitted  
23 under section 18-214, Idaho Code, acquitted of criminal charges filed prior  
24 to July 1, 1982, on grounds of mental disease or defect, or committed pur-  
25 suant to sections 18-212(4) and 66-329, Idaho Code, as unfit to proceed, may  
26 not be released from an inpatient facility unless ~~thirty seven~~ (307) days be-  
27 fore such release, the department director or his designee shall notify the  
28 committing court and prosecuting attorney of the contemplated release.

29 (c) Upon notification of intention to release from an inpatient facil-  
30 ity either a patient admitted under section 18-214, Idaho Code, acquitted of  
31 criminal charges filed prior to July 1, 1982, on grounds of mental disease or  
32 defect, or committed pursuant to sections 18-212(4) and 66-329, Idaho Code,  
33 as unfit to proceed, and upon motion of an interested party or the court on  
34 its own motion, the court shall determine whether the conditions justifying  
35 such release exist. In making such determination, the court may order an in-  
36 dependent examination of the patient. The cost of such independent examina-  
37 tion must be borne by the party making the motion or, if indigent, the county  
38 having jurisdiction of the case. If no motion is made, the patient may be re-  
39 leased according to the notice.

40 (d) Section 18-214, Idaho Code, shall remain in full force and effect  
41 for every individual previously acquitted pursuant to section 18-213, Idaho  
42 Code. Section 18-214, Idaho Code, as last amended by section 2, chapter 13,

1 laws of 1977, which is placed here for reference only and is not a reenactment  
2 of section 18-214, Idaho Code, and reads as follows:

3 18-214. Commitment of acquitted defendant -- Conditional release --  
4 Revocation of release within five years. (1) When a defendant is acquitted  
5 on the ground of mental disease or defect excluding responsibility, the  
6 court shall order him to be committed to the custody of the director of the  
7 department of health and welfare to be placed in an appropriate institution  
8 for custody, care and treatment.

9 (2) If the director of the department of health and welfare is of the  
10 view that a person committed to his custody, pursuant to paragraph (1) of  
11 this section, may be discharged or released on condition without danger to  
12 himself or to others, he shall make application for the discharge or release  
13 of such person in a report to the court by which such person was committed  
14 and shall transmit a copy of such application and report to the prosecuting  
15 attorney of the county from which the defendant was committed. The court  
16 shall thereupon appoint at least two (2) qualified psychiatrists to exam-  
17 ine such person and to report within sixty (60) days, or such longer period  
18 as the court determines to be necessary for the purpose, their opinion as to  
19 his mental condition. To facilitate such examination and the proceedings  
20 thereon, the court may cause such person to be confined in any institution  
21 located near the place where the court sits, which may hereafter be desig-  
22 nated by the director of the department of health and welfare as suitable for  
23 the temporary detention of irresponsible persons.

24 (3) If the court is satisfied by the report filed pursuant to paragraph  
25 (2) of this section and such testimony of the reporting psychiatrists as  
26 the court deems necessary that the committed person may be discharged or  
27 released on condition without danger to himself or others, the court shall  
28 order his discharge or his release on such conditions as the court determines  
29 to be necessary. If the court is not so satisfied, it shall promptly order  
30 a hearing to determine whether such person may safely be discharged or re-  
31 leased. Any such hearing shall be deemed a civil proceeding and the burden  
32 shall be upon the committed person to prove that he may safely be discharged  
33 or released. According to the determination of the court upon the hearing,  
34 the committed person shall thereupon be discharged or released on such con-  
35 ditions as the court determines to be necessary, or shall be recommitted to  
36 the custody of the director of the department of health and welfare, subject  
37 to discharge or release only in accordance with the procedure prescribed  
38 above for a first hearing.

39 (4) If, within five (5) years after the conditional release of a com-  
40 mitted person, the court shall determine, after hearing evidence, that the  
41 conditions of release have not been fulfilled and that for the safety of such  
42 person or for the safety of others his conditional release should be revoked,  
43 the court shall forthwith order him to be recommitted to the custody of the  
44 director of the department of health and welfare subject to discharge or  
45 release only in accordance with the procedure prescribed above for a first  
46 hearing.

47 (5) A committed person may make application for his discharge or re-  
48 lease to the court by which he was committed, and the procedure to be followed  
49 upon such application shall be the same as that prescribed above in the case  
50 of an application by the director of the department of health and welfare.

1 However, no such application by a committed person need be considered until  
2 he has been confined for a period of not less than six (6) months from the date  
3 of the order of commitment and if the determination of the court be adverse to  
4 the application, such person shall not be permitted to file a further appli-  
5 cation until one (1) year has elapsed from the date of any preceding hearing  
6 on an application for his release or discharge.

7 (6) If a defendant escapes from custody during his confinement, the  
8 director shall immediately notify the court from which committed, the pros-  
9 ecuting attorney and the sheriff of the county from which committed. The  
10 court shall forthwith issue an order authorizing any health officer, peace  
11 officer, or the director of the institution from which the defendant es-  
12 caped, to take the defendant into custody and immediately return him to his  
13 place of confinement.