

IN THE SENATE

SENATE BILL NO. 1327

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO HOSPITALIZATION OF MENTALLY ILL INDIVIDUALS; AMENDING SECTION
2 66-317, IDAHO CODE, TO DEFINE TERMS, TO REVISE DEFINITIONS, AND TO
3 REMOVE A DEFINITION; AMENDING SECTION 66-318, IDAHO CODE, TO REVISE
4 PROVISIONS REGARDING AUTHORITY TO ADMIT VOLUNTARY PATIENTS; AMEND-
5 ING SECTION 66-319, IDAHO CODE, TO REMOVE A CODE REFERENCE; AMENDING
6 SECTION 66-320, IDAHO CODE, TO REMOVE A CODE REFERENCE AND TO MAKE
7 TECHNICAL CORRECTIONS; AMENDING SECTION 66-322, IDAHO CODE, TO REVISE
8 PROVISIONS REGARDING CERTAIN JUDICIAL PROCEDURES AND TO MAKE TECHNICAL
9 CORRECTIONS; AMENDING SECTION 66-324, IDAHO CODE, TO REMOVE CODE
10 REFERENCES; AMENDING SECTION 66-326, IDAHO CODE, TO REVISE PROVISIONS
11 REGARDING DETENTIONS WITHOUT HEARING; REPEALING SECTION 66-327, IDAHO
12 CODE, RELATING TO THE RESPONSIBILITY FOR COSTS OF COMMITMENT AND CARE
13 OF PATIENTS; AMENDING CHAPTER 3, TITLE 66, IDAHO CODE, BY THE ADDITION
14 OF A NEW SECTION 66-327, IDAHO CODE, TO ESTABLISH PROVISIONS REGARD-
15 ING THE RESPONSIBILITY FOR COSTS OF COMMITMENT AND CARE OF PATIENTS;
16 AMENDING SECTION 66-329, IDAHO CODE, TO REVISE PROVISIONS REGARDING
17 COMMITMENT ORDERS; AMENDING SECTION 66-330, IDAHO CODE, TO PROVIDE THAT
18 THE DEPARTMENT OF HEALTH AND WELFARE SHALL DELIVER CERTAIN PATIENTS
19 TO A DESIGNATED FACILITY AND TO MAKE A TECHNICAL CORRECTION; AMENDING
20 SECTION 66-337, IDAHO CODE, TO REVISE PROVISIONS REGARDING TERMINATION
21 OF THE COMMITMENT OF AN INVOLUNTARY PATIENT; AMENDING SECTION 66-354,
22 IDAHO CODE, TO REVISE PROVISIONS REGARDING LIABILITY OF RELATIVES; AND
23 DECLARING AN EMERGENCY.
24

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

26 SECTION 1. That Section 66-317, Idaho Code, be, and the same is hereby
27 amended to read as follows:

28 66-317. DEFINITIONS. As used in this chapter, ~~terms shall have the~~
29 ~~following meanings:~~

30 (1) "Department director" means the director of the state department of
31 health and welfare.

32 (2) "Voluntary patient" means an individual admitted to a facility for
33 evaluation pursuant to section 18-211 ~~or 20-520~~, Idaho Code, or admitted to
34 a facility for observation, diagnosis, evaluation, care, or treatment pur-
35 suant to section 66-318, Idaho Code.

36 (3) "Involuntary patient" means an individual committed pursuant to
37 section 18-212, 66-329, or 66-1201, Idaho Code, ~~or committed pursuant to~~
38 ~~section 16-1619 or 20-520, Idaho Code, and admitted to a facility for the~~
39 ~~treatment of minors.~~

40 (4) "Licensed physician" means an individual licensed under the laws of
41 this state to practice medicine or a medical officer of the government of the
42 United States while in this state in the performance of his official duties.

1 ~~(5)~~ "Designated examiner" means a psychiatrist, psychologist, psychi-
 2 atric nurse, or social worker and such other mental health professionals as
 3 may be designated in accordance with rules promulgated pursuant to the pro-
 4 visions of chapter 52, title 67, Idaho Code, by the department of health and
 5 welfare. Any person designated by the department director or the department
 6 director's designee will be specially qualified by licensure, training, and
 7 experience in the diagnosis and treatment of mental or mentally related ill-
 8 nesses or conditions.

9 ~~(6)~~ "Dispositioner" means a designated examiner employed by or under
 10 contract with the department of health and welfare and designated by the de-
 11 partment director to determine the appropriate location for care and treat-
 12 ment of involuntary patients.

13 ~~(7)~~ "Facility" means any public or private hospital, ~~sanatorium,~~
 14 state hospital, institution, mental health center, or other organization
 15 designated in accordance with rules adopted by the board of health and wel-
 16 fare as equipped to initially hold, evaluate, rehabilitate, or ~~to~~ provide
 17 care or treatment, or both, for the mentally ill.

18 ~~(8)~~ "Lacks capacity to make informed decisions about treatment" means
 19 the inability, by reason of mental illness, to achieve a rudimentary under-
 20 standing after conscientious efforts at explanation of the purpose, nature,
 21 and possible significant risks and benefits of treatment.

22 ~~(9)~~ "Inpatient treatment facility" means a facility in which an indi-
 23 vidual receives medical and mental treatment for not less than a continuous
 24 twenty-four (24) hour period.

25 ~~(10)~~ "Supervised residential facility" means a facility, other than
 26 the individual's home, in which the individual lives and in which there ~~lives~~
 27 live, or are otherwise on duty during the times that the individual's pres-
 28 ence is expected, persons who are employed to supervise, direct, treat, or
 29 monitor the individual.

30 ~~(11)~~ "Likely to injure himself or others" means either:

31 (a) A substantial risk that physical harm will be inflicted by the pro-
 32 posed patient upon his own person, as evidenced by threats or attempts
 33 to commit suicide or inflict physical harm on himself; or

34 (b) A substantial risk that physical harm will be inflicted by the
 35 proposed patient upon another as evidenced by behavior ~~which~~ that has
 36 caused such harm or ~~which~~ that places another person or persons in rea-
 37 sonable fear of sustaining such harm; or

38 (c) The proposed patient lacks insight into his need for treatment and
 39 is unable or unwilling to comply with treatment and, based on his psy-
 40 chiatric history, clinical observation or other clinical evidence, if
 41 he does not receive and comply with treatment, there is a substantial
 42 risk he will continue to physically, emotionally or mentally deterio-
 43 rate to the point that ~~the person he~~ will, in the reasonably near future,
 44 inflict physical harm on himself or another person.

45 ~~(12)~~ "Mentally ill" means a ~~person, who as a result of condition re-~~
 46 sulting in a substantial disorder of thought, mood, perception, or orienta-
 47 tion, or memory, which that grossly impairs judgment, behavior, or capacity
 48 to recognize and adapt to reality, ~~and~~ and requires care and treatment at a fa-
 49 cility or through outpatient treatment. However, the term "mentally ill"
 50 does not include conditions discussed in section 66-329(13) (a), Idaho Code.

1 (132) "Gravely disabled" means the condition of a person who, as the re-
2 sult of mental illness, ~~is~~ has demonstrated an inability to:

3 (a) ~~In danger of serious physical harm due to the person's inability to~~
4 ~~provide for any of his own basic personal needs, such as nourishment, or~~
5 ~~essential clothing, medical care, shelter or safety; or~~ Attend to ba-
6 sic physical needs, such as medical care, food, clothing, shelter, or
7 safety;

8 (b) ~~Lacking insight into his need for treatment and is unable or un-~~
9 ~~willing to comply with treatment and, based on his psychiatric history,~~
10 ~~clinical observation or other clinical evidence, if he does not receive~~
11 ~~and comply with treatment, there is a substantial risk he will continue~~
12 ~~to physically, emotionally or mentally deteriorate to the point that~~
13 ~~the person will, in the reasonably near future, be in danger of serious~~
14 ~~physical harm due to the person's inability to provide for any of his own~~
15 ~~basic personal needs such as nourishment, essential clothing, medical~~
16 ~~care, shelter or safety. Protect himself from harm or victimization by~~
17 others;

18 (c) Exercise sufficient behavioral control to avoid serious criminal
19 justice involvement; or

20 (d) Recognize that he is experiencing symptoms of a serious mental ill-
21 ness and lacks the insight into his need for treatment, whereby the sub-
22 sequent absence of treatment may result in deterioration of his condi-
23 tion such that any of the circumstances listed in this subsection may be
24 satisfied in the near future.

25 (13) "Neurocognitive disorder" means decreased mental function due to a
26 medical disease other than a psychiatric illness, including:

27 (a) Alzheimer's disease;

28 (b) Frontotemporal lobar degeneration;

29 (c) Lewy body dementia;

30 (d) Vascular dementia;

31 (e) Traumatic brain injury;

32 (f) Inappropriate use or abuse of substances or medications;

33 (g) Infection with human immunodeficiency virus;

34 (h) Prion diseases;

35 (i) Parkinson's disease; or

36 (j) Huntington's disease.

37 (14) "Outpatient treatment" means mental health treatment, not involv-
38 ing the continuous supervision of a person in an inpatient setting, that is
39 reasonably designed to alleviate or to reduce a person's mental illness or to
40 maintain or prevent deterioration of the person's physical, mental, or emo-
41 tional functioning. Mental health services or treatment may include, but
42 need not be limited to, taking prescribed medication, reporting to a facil-
43 ity to permit monitoring of the person's condition, or participating in in-
44 dividual or group therapy.

45 (15) "Protection and advocacy system" means the agency designated by
46 the governor as the state protection and advocacy system pursuant to 42
47 U.S.C. ~~section~~ 15043 and 42 U.S.C. ~~sections~~ 10801 et seq.

48 (16) "Holding proceedings in abeyance" means an alternative to judicial
49 commitment based ~~upon~~ on an agreement entered into by all parties, includ-
50 ing the proposed patient, and agreed to by the court, providing for voluntary

1 conditions of treatment, which holds in a state of suspension or inactivity
2 the petition for involuntary commitment.

3 (17) "Senior designated examiner" means a licensed psychiatrist, li-
4 icensed psychologist, licensed physician, or any of the following who has
5 three (3) years of experience as a designated examiner and five (5) years of
6 post-master's degree experience in a mental health field and who has been
7 approved by the department director or the department director's designee to
8 act as a senior designated examiner:

9 (a) A licensed clinical social worker;

10 (b) A licensed clinical professional counselor; or

11 (c) A licensed marriage and family therapist.

12 SECTION 2. That Section 66-318, Idaho Code, be, and the same is hereby
13 amended to read as follows:

14 66-318. AUTHORITY TO ADMIT VOLUNTARY PATIENTS -- DENIAL OF ADMIS-
15 SION. (1) The director of any facility or a practitioner granted admitting
16 privileges pursuant to chapter 13, title 39, Idaho Code, may admit as a
17 voluntary patient the following persons for observation, diagnosis, evalua-
18 tion, care or treatment of mental illness:

19 (a) Any person who is eighteen (18) years of age or older;

20 (b) Any individual fourteen (14) to eighteen (18) years of age who may
21 apply to be admitted for observation, diagnosis, evaluation, care or
22 treatment and the facility director will notify the parent, parents or
23 guardian of the individual of the admission; a parent or guardian may
24 apply for the individual's release and the facility director will re-
25 lease the patient within three (3) days, excluding Saturdays, Sundays
26 and legal holidays, of the application for discharge, unless the time
27 period for diagnosis, evaluation, care or treatment is extended pur-
28 suant to section 66-320, Idaho Code;

29 (c) Any emancipated minor;

30 (d) Any individual under fourteen (14) years of age upon application of
31 the individual's parent or guardian, ~~provided that admission to an in-~~
32 ~~patient facility shall require a recommendation for admission by a des-~~
33 ~~ignated examiner;~~

34 (e) Any individual who lacks capacity to make informed decisions about
35 treatment upon application of the individual's guardian, ~~provided that~~
36 ~~admission to an inpatient facility shall require a recommendation for~~
37 ~~admission by a designated examiner; or~~

38 (f) Any individual confined for examination pursuant to section 18-211
39 or ~~20-520~~, Idaho Code.

40 (2) The director of any facility or a practitioner granted admitting
41 privileges pursuant to chapter 13, title 39, Idaho Code, must refuse admis-
42 sion to any applicant under this section whenever:

43 (a) The applicant is determined not to be in need of observation, diag-
44 nosis, evaluation, care or treatment at the facility;

45 (b) The applicant is determined to lack capacity to make informed deci-
46 sions about treatment unless the application is made by a guardian with
47 authority to consent to treatment; or

48 (c) The applicant's welfare or the welfare of society, or both, are bet-
49 ter protected by the provisions of section 66-329, Idaho Code.

1 SECTION 3. That Section 66-319, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 66-319. RELEASE OF VOLUNTARY INPATIENTS. The director of an inpatient
4 facility shall release any person, admitted in accordance with the procedure
5 outlined in section 66-318, Idaho Code, whose continued care or treatment is
6 no longer appropriate. If upon evaluation at the facility, it is determined
7 that the patient is mentally ill and is likely to injure himself or others
8 or is gravely disabled, the director of the facility shall institute appro-
9 priate judicial proceedings for continued care and treatment. In the case
10 of persons confined pursuant to section ~~20-520 or~~ 18-211, Idaho Code, upon
11 completion of the examination, the sheriff of the county from which the de-
12 fendant was committed shall be notified and the defendant shall continue to
13 be confined at the facility for transportation back to the county. In those
14 cases of persons admitted upon the application of a guardian, those persons
15 shall be released upon the termination of the guardian's authority to con-
16 sent to treatment.

17 SECTION 4. That Section 66-320, Idaho Code, be, and the same is hereby
18 amended to read as follows:

19 66-320. RIGHT TO RELEASE ON APPLICATION -- EXCEPTIONS. (a~~1~~) A volun-
20 tary patient admitted in accordance with the procedure outlined in section
21 66-318, Idaho Code, who requests his release or whose release is requested,
22 in writing, by his legal guardian, parent, spouse, or adult next of kin shall
23 be released except that:

24 (1~~a~~) ~~±~~If the patient was admitted on his own application and the request
25 for release is made by a person other than the patient, release may be
26 conditioned upon the agreement of the patient thereto, ~~and;~~

27 (2~~b~~) ~~±~~If the patient, by reason of his age, was admitted on the applica-
28 tion of another person, his release prior to becoming sixteen (16) years
29 of age may be conditioned upon the consent of his parent or guardian, ~~or;~~

30 (3~~c~~) ~~±~~If the director of the facility determines that the patient
31 should be hospitalized under the provisions of this chapter, the pa-
32 tient may be detained up to three (3) days, excluding Saturdays, Sundays
33 and legal holidays, for the purpose of examination by a designated exam-
34 iner and the filing of an application for continued care and treatment.

35 (b~~2~~) Notwithstanding any other provision of this chapter, judicial
36 proceedings authorized by this chapter shall not be commenced with respect
37 to a voluntary patient unless release of the patient has been requested by
38 himself or the individual who applied for his admission.

39 (e3) The date and time of any request for release under this section
40 shall be entered in the patient's clinical record. If the request for
41 release is denied, the reasons for denial also shall be entered in the pa-
42 tient's clinical record.

43 (d~~4~~) A patient admitted for examination pursuant to section ~~20-520 or~~
44 18-211, Idaho Code, may not be released except for purposes of transporta-
45 tion back to the court ordering, or party authorizing, the examination.

46 SECTION 5. That Section 66-322, Idaho Code, be, and the same is hereby
47 amended to read as follows:

1 66-322. APPOINTMENT OF GUARDIAN FOR INDIVIDUALS LACKING CAPACITY TO
 2 MAKE INFORMED DECISIONS ABOUT TREATMENT -- JUDICIAL PROCEDURE. (a~~1~~) Pro-
 3 ceedings for the appointment of a guardian of a mentally ill person may
 4 be commenced by the filing of a written petition with a court of competent
 5 jurisdiction by a friend, relative, spouse or guardian of the proposed pa-
 6 tient, by a licensed physician, licensed clinical psychologist, prosecuting
 7 attorney, or other public official of a municipality, county or of the state
 8 of Idaho, or by the director of any facility in which such patient may be.

9 (b~~2~~) The petition shall state the name and last known address of the
 10 proposed patient; the name and address of either the spouse, next of kin or
 11 friend of the proposed patient; whether a guardian of the proposed patient
 12 has been previously appointed under the laws of this or any other state and,
 13 if so, the name and address of the guardian and the circumstances of such ap-
 14 pointment; and a precise statement showing that the proposed patient is men-
 15 tally ill, that treatment is available for such illness, and that the pro-
 16 posed patient lacks capacity to make informed decisions about treatment.

17 (e~~3~~) Any such petition shall be accompanied by a certificate of a li-
 18 censed physician or licensed clinical psychologist stating that the physi-
 19 cian or psychologist has personally examined the proposed patient within the
 20 last fourteen (14) days and is of the opinion:

21 (i~~a~~) ~~That the proposed patient is mentally ill;~~

22 (i~~b~~) ~~That in the absence of treatment the immediate prognosis is for~~
 23 ~~major distress of the proposed patient which will result in serious men-~~
 24 ~~tal or physical deterioration of the proposed patient;~~

25 (i~~c~~) ~~That treatment is available which is likely to avoid serious~~
 26 ~~mental or physical deterioration of the proposed patient; and~~

27 (i~~d~~) ~~That the proposed patient lacks capacity to make informed de-~~
 28 ~~cidations about treatment; or by a written statement by the physician or~~
 29 ~~psychologist that the proposed patient has refused to submit to an exam-~~
 30 ~~ination.~~

31 (d~~4~~) Upon receipt of a petition, the court shall within forty-eight
 32 (48) hours appoint ~~another licensed physician or licensed clinical psychol-~~
 33 ~~ogist a senior designated examiner~~ to make a personal examination of the
 34 proposed patient, or if the proposed patient has not been examined, the court
 35 shall appoint two (2) ~~licensed physicians or licensed clinical psycholo-~~
 36 ~~gists senior designated examiners~~ to make individual personal examinations
 37 of the proposed patient and may order the proposed patient to submit to an
 38 immediate examination. Within seventy-two (72) hours of the signing of
 39 the order for involuntary hospitalization, the ~~physician or psychologist~~
 40 senior designated examiner shall examine the patient and file with the court
 41 certificates described in subparagraph (c) above subsection (3) of this sec-
 42 tion, if necessary.

43 (e~~5~~) Upon receipt of such petition and certificates, the court shall
 44 appoint a time and place for hearing not more than ~~seven (7)~~ five (5) days
 45 from receipt of such certificates and thereupon give written notice to the
 46 proposed patient. The notice shall include a copy of the petition and cer-
 47 tificates and notice of the proposed patient's right to be represented by an
 48 attorney, or if indigent, to be represented by a court-appointed attorney.
 49 Notice of the time and place of the hearing shall also be given to the peti-
 50 tioner.

1 (¶6) An opportunity to be represented by counsel shall be afforded to
 2 every proposed patient, and if neither the proposed patient nor others pro-
 3 vide counsel, the court shall appoint counsel in accordance with chapter 8,
 4 title 19, Idaho Code.

5 (¶7) The hearing shall be held ~~at a facility, at the home of the proposed~~
 6 ~~patient, or at any other~~ in a manner and at a suitable place not likely to have
 7 a harmful effect on the proposed patient's physical or mental health.

8 (¶8) The proposed patient and the petitioner shall be afforded an
 9 opportunity to appear at the hearing, to testify, and to present and
 10 cross-examine witnesses. At the hearing, any existing provision of law
 11 prohibiting the disclosure of confidential communications between the
 12 ~~examining physician or psychologist~~ senior designated examiner and the pro-
 13 posed patient shall not apply and the ~~physicians or psychologists~~ senior
 14 designated examiner who examined the proposed patient shall be a competent
 15 witnesses witness to testify as to the proposed patient's condition. The
 16 proposed patient shall be required to be present at the hearing, and be free
 17 from drugs likely to impair the proposed patient's ability to communicate
 18 with counsel or understand the proceedings, unless the right to be present or
 19 free from drugs is knowingly and voluntarily waived by the patient or unless
 20 the presence of the patient at the hearing would unduly disrupt the judicial
 21 proceedings. A record of the proceedings shall be made as for other civil
 22 hearings. The hearing shall be conducted in as informal a manner as may be
 23 consistent with orderly procedure and the rules of evidence.

24 (¶9) (a) The court shall appoint a person other than the treating pro-
 25 fessional to act in the proposed patient's best interest with authority
 26 to consent to treatment, if, upon completion of the hearing and consid-
 27 eration of the record, the court finds by clear and convincing evidence
 28 that:

29 (1i) The proposed patient has a severe and reliably diagnosable
 30 mental illness;

31 (2ii) Without treatment, the immediate prognosis is for major
 32 distress resulting in serious mental or physical deterioration of
 33 the proposed patient;

34 (3iii) Treatment is available for such illness;

35 (4iv) The proposed patient lacks capacity to make informed deci-
 36 sions about treatment; and

37 (5v) The relative risks and benefits of treatment or nontreatment
 38 are such that a reasonable person would consent to treatment.

39 (b) The court shall consider appointing persons to give consent in the
 40 following priority: the proposed patient's spouse, next of kin, friend
 41 or if the proposed patient's spouse, next of kin or friend are unable or
 42 unwilling, another appropriate person not associated with the facility
 43 where the person is being, or shall be treated.

44 (¶10) The appointed person shall have authority to consent to treat-
 45 ment, including treatment at a facility. Upon approval of the court, the
 46 appointed person may pay the costs of treatment from the patient's money
 47 and tangible property deliverable to or received by the patient during the
 48 period of the appointed person's authority, and may apply for any benefits
 49 to which the patient is entitled. In the exercise of his powers, the ap-
 50 pointed person is to act as a fiduciary and shall observe the standards of

1 care applicable to trustees as described by section 15-7-302, Idaho Code.
 2 The appointment shall continue for a period of seven (7) weeks or until the
 3 court determines that the patient no longer lacks capacity to make informed
 4 decisions about treatment, whichever is shorter.

5 (~~¶~~11) Upon petition of the appointed person, authority to consent may
 6 be continued for an additional seven (7) week period, if the court again
 7 enters the findings required by ~~subparagraph (i) above~~ subsection (9) of
 8 this section. The petition for continued authority shall be accompanied
 9 by the certificate of the treating professional meeting the requirements
 10 of ~~subparagraph (c) above~~ subsection (3) of this section. The petition for
 11 continued authority and physician's certificate shall be served upon the
 12 patient and the patient's attorney. If the proposed patient objects to the
 13 continued authority, the court shall conduct a hearing, following notice of
 14 the time and place of such hearing to the petitioner, the proposed patient
 15 and the proposed patient's attorney.

16 (~~¶~~12) Proceedings for appointment of a person with authority to consent
 17 under this section may be consolidated with proceedings for the involuntary
 18 care of the proposed patient under section 66-329, Idaho Code, provided,
 19 however, that appointment of a person with authority to consent under this
 20 section shall terminate the proceedings for the involuntary care under sec-
 21 tion 66-329, Idaho Code.

22 (~~¶~~13) No more than two (2) petitions with authority to consent shall be
 23 granted under subsection (~~¶~~9) of this section within any twelve (12) month
 24 period, provided that other proceedings under this chapter or the Uniform
 25 Probate Code shall be permitted.

26 (~~¶~~14) The person with authority to consent appointed pursuant to this
 27 section shall not be personally responsible for the cost of care or treat-
 28 ment rendered the mentally ill individual, simply by reason of the authority
 29 granted by this section.

30 SECTION 6. That Section 66-324, Idaho Code, be, and the same is hereby
 31 amended to read as follows:

32 66-324. AUTHORITY TO RECEIVE INVOLUNTARY PATIENTS. The director of
 33 any facility, or a practitioner granted admitting privileges pursuant to
 34 chapter 13, title 39, Idaho Code, is authorized to receive in the facility
 35 for observation, diagnosis, evaluation, care or treatment any individual:

- 36 (1) Committed to the department director pursuant to section ~~16-1619,~~
 37 ~~20-520,~~ 18-212 or 66-329, Idaho Code;
 38 (2) Transferred pursuant to section 66-1201, Idaho Code; or
 39 (3) Detained or transferred pursuant to section 66-326, Idaho Code.

40 SECTION 7. That Section 66-326, Idaho Code, be, and the same is hereby
 41 amended to read as follows:

42 66-326. DETENTION WITHOUT HEARING. (1) No person shall be taken into
 43 custody or detained as an alleged emergency patient for observation, diag-
 44 nosis, evaluation, care or treatment of mental illness unless and until the
 45 court has ordered such apprehension and custody under the provisions out-
 46 lined in section 66-329, Idaho Code; provided, however, that a person may be
 47 taken into custody by a peace officer and placed in a facility, or the per-

1 son may be detained at a hospital at which the person presented or was brought
2 to receive medical or mental health care, if the peace officer or a physician
3 medical staff member of such hospital or a physician's assistant or advanced
4 practice registered nurse practicing in such hospital has reason to believe
5 that the person is gravely disabled due to mental illness or the person's
6 continued liberty poses an imminent danger to that person or others, as ev-
7 idenced by a threat of substantial physical harm; provided, under no circum-
8 stances shall the proposed patient be detained in a nonmedical unit used for
9 the detention of individuals charged with or convicted of penal offenses.
10 For purposes of this section, the term "peace officer" shall include state
11 probation and parole officers exercising their authority to supervise pro-
12 bationers and parolees. Whenever a person is taken into custody or detained
13 under this section without court order, the evidence supporting the claim of
14 grave disability due to mental illness or imminent danger must be presented
15 to a duly authorized court within twenty-four (24) hours from the time the
16 individual was placed in custody or detained.

17 (2) If the court finds the individual to be gravely disabled due to men-
18 tal illness or imminently dangerous under subsection (1) of this section,
19 the court shall issue a temporary custody order requiring the person to be
20 held in a facility, and requiring an examination of the person by a desig-
21 nated examiner within twenty-four (24) hours of the entry of the order of the
22 court. Under no circumstances shall the proposed patient be detained in a
23 nonmedical unit used for the detention of individuals charged with or con-
24 victed of penal offenses.

25 (3) Where an examination is required under subsection (2) of this sec-
26 tion, the designated examiner shall make his findings and report to the court
27 within twenty-four (24) hours of the examination.

28 (4) If the designated examiner finds, in his examination under this
29 section, that the person is mentally ill, and either is likely to injure him-
30 self or others or is gravely disabled due to mental illness, the prosecuting
31 attorney shall file, within twenty-four (24) hours of the examination of the
32 person, a petition with the court requesting the patient's detention pend-
33 ing commitment proceedings pursuant to the provisions of section 66-329,
34 Idaho Code. Upon the receipt of such a petition, the court shall order his
35 detention to await hearing which shall be within five (5) days (including
36 Saturdays, Sundays and legal holidays) of the detention order. If no pe-
37 tition is filed within twenty-four (24) hours of the designated examiner's
38 examination of the person, the person shall be released from the facility.

39 (5) Any person held in custody under the provisions of this section
40 shall have the same protection and rights ~~which that~~ are guaranteed to a per-
41 son already committed to the department director. Upon taking a person into
42 custody, ~~notice shall be given~~ a good faith effort shall be made to provide
43 notice to the person's immediate relatives legal guardian, parent, spouse,
44 or adult next-of-kin of the person's physical whereabouts and the reasons
45 for ~~detaining or~~ taking the person into custody.

46 (6) Nothing in this section shall preclude a hospital from transferring
47 a person who has been detained under this section to another facility that
48 is willing to accept the transferred individual for purposes of observation,
49 diagnosis, evaluation, care or treatment.

1 SECTION 8. That Section 66-327, Idaho Code, be, and the same is hereby
2 repealed.

3 SECTION 9. That Chapter 3, Title 66, Idaho Code, be, and the same is
4 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
5 ignated as Section 66-327, Idaho Code, and to read as follows:

6 66-327. RESPONSIBILITY FOR COSTS OF COMMITMENT AND CARE OF PA-
7 TIENTS. (1) For purposes of this section:

8 (a) "Commitment period" begins when a court of competent jurisdiction
9 enters an order committing a person to the custody of the department of
10 health and welfare pursuant to section 66-329, Idaho Code, and ends when
11 the commitment is terminated.

12 (b) "Extraordinary medical care" means emergency or extraordinary med-
13 ical treatment, including but not limited to a neurological evaluation,
14 a computed tomography scan, or surgery.

15 (c) "Precommitment period" begins when a person is taken into custody
16 or detained as allowed by section 66-326, Idaho Code, or when an appli-
17 cation for involuntary care and treatment is filed with a court pursuant
18 to section 66-329, Idaho Code, whichever occurs first, and ends when the
19 person is released from a facility as described in section 66-326(4),
20 Idaho Code, or when, in a proceeding under section 66-329, Idaho Code,
21 the court dismisses the application or enters an order committing the
22 person to the custody of the department director.

23 (d) "Psychiatric care" includes psychological and psychiatric ex-
24 amination and testing, group and individual therapy, and psychiatric
25 treatment and medication.

26 (e) "Routine medical care" includes care that can be provided at a fa-
27 cility of the department of health and welfare and hospital costs, in-
28 cluding routine board, room, and support services.

29 (f) "Third-party applicant" means a person other than a patient who
30 completes, signs, and files an application for medicaid on behalf of the
31 patient. A third-party applicant may be an adult who is a member of the
32 patient's family or household, the patient's authorized representa-
33 tive, or, if the patient is incapacitated, someone, including an agent
34 of a facility, who is acting responsibly for the patient.

35 (2) Costs associated with the precommitment period and commitment pe-
36 riod shall be the responsibility of the person committed or being considered
37 for commitment, subject to the department of health and welfare's determina-
38 tion of the person's ability to pay all or any part of such costs. During the
39 precommitment period, the department shall:

40 (a) Use the state-approved fee determination form and sliding fee
41 schedule described in rules promulgated by the department to determine
42 the person's ability to pay;

43 (b) Inquire to determine if the person has insurance, including medical
44 assistance provided under the state plan for medicaid as authorized by
45 title XIX of the social security act, as amended; and

46 (c) Report its findings to the court.

47 (3) The court may order a person to pay costs consistent with this sec-
48 tion.

1 (4) To the extent possible, psychiatric costs and the costs of routine
2 and extraordinary medical care incurred during precommitment and commitment
3 periods shall be assigned to a person's health insurance, including medi-
4 cal assistance provided under the state plan for medicaid as authorized by
5 title XIX of the social security act, as amended. If a person may be eligi-
6 ble for medicaid but has not applied, a third-party applicant, including an
7 agent at a facility where a person is taken into custody or detained under
8 section 66-326, Idaho Code, or dispositioned following an order under sec-
9 tion 66-329, Idaho Code, may submit a medicaid application to the department
10 of health and welfare.

11 (5) Remaining costs for psychiatric care, routine medical care, and ex-
12 traordinary medical care shall be apportioned as follows:

13 (a) Costs of psychiatric care. The department of health and welfare
14 shall pay providers of psychiatric care, both precommitment and during
15 commitment, at the rate established by medicaid or its managed care or-
16 ganization.

17 (i) If, based on the department of health and welfare's determi-
18 nation under subsection (2) of this section, the person is able to
19 pay a portion of the psychiatric care costs, the person shall reim-
20 burse the department consistent with the department's sliding fee
21 schedule.

22 (ii) If a person is admitted to a state facility, the department
23 of health and welfare may apply rules promulgated pursuant to its
24 authority under section 56-1007, Idaho Code, to collect fees at
25 state facilities and may seek reimbursement for postcommitment
26 psychiatric costs from the person's relatives consistent with
27 section 66-354, Idaho Code.

28 (b) Medical costs incurred during the precommitment period shall be
29 paid pursuant to chapter 35, title 31, Idaho Code.

30 (c) Costs for routine medical care during the commitment period will
31 be paid by the department of health and welfare, consistent with the
32 process described in paragraph (a) of this subsection.

33 (6) The department of health and welfare shall pay fees of designated
34 examiners, including witness fees and expenses for court appearances.

35 (7) Transportation costs during the precommitment period shall be paid
36 by the county of the person's residence for purposes of chapter 35, title 31,
37 Idaho Code. The department shall pay all transportation costs during the
38 commitment period.

39 (8) An order of commitment pursuant to the provisions of this section
40 shall be sufficient to require the release of all pertinent information re-
41 lated to the committed person to the court and obligated county, within the
42 restrictions of all applicable federal and state laws.

43 SECTION 10. That Section 66-329, Idaho Code, be, and the same is hereby
44 amended to read as follows:

45 66-329. COMMITMENT TO DEPARTMENT DIRECTOR UPON COURT ORDER -- JUDI-
46 CIAL PROCEDURE. (1) Proceedings for the involuntary care and treatment of
47 mentally ill persons by the department of health and welfare may be commenced
48 by the filing of a written application with a court of competent jurisdiction
49 by a friend, relative, spouse or guardian of the proposed patient, by a li-

1 censed physician, by a physician assistant or advanced practice registered
2 nurse practicing in a hospital, by a prosecuting attorney or other public of-
3 ficial of a municipality, county or of the state of Idaho, or by the director
4 of any facility in which such patient may be.

5 (2) The application shall state the name and last known address of the
6 proposed patient; the name and address of the spouse, guardian, next of kin,
7 or friend of the proposed patient; whether the proposed patient can be cared
8 for privately in the event commitment is not ordered; whether the proposed
9 patient is, at the time of the application, a voluntary patient; whether the
10 proposed patient has applied for release pursuant to section 66-320, Idaho
11 Code; and a simple and precise statement of the facts showing that the pro-
12 posed patient is mentally ill and either likely to injure himself or others
13 or is gravely disabled due to mental illness.

14 (3) Any such application shall be accompanied by a certificate of a des-
15 ignated examiner stating that he has personally examined the proposed pa-
16 tient within the last fourteen (14) days and is of the opinion that the pro-
17 posed patient is: (i) mentally ill; (ii) likely to injure himself or oth-
18 ers or is gravely disabled due to mental illness; and (iii) lacks capacity to
19 make informed decisions about treatment;
20 or a written statement by the applicant that the proposed patient has refused
21 to submit to examination by a designated examiner.

22 (4) Upon receipt of an application for commitment, the court shall,
23 within forty-eight (48) hours, appoint another designated examiner to make
24 a personal examination of the proposed patient, or if the proposed patient
25 has not been examined, the court shall appoint two (2) designated examiners
26 to make individual personal examinations of the proposed patient and may
27 order the proposed patient to submit to an immediate examination. If neither
28 designated examiner is a physician, the court shall order a physical exami-
29 nation of the proposed patient. At least one (1) designated examiner shall
30 be a ~~psychiatrist, licensed physician or licensed psychologist~~ senior des-
31 ignated examiner. The designated examiners shall report to the court their
32 findings within the following seventy-two (72) hours as to the mental con-
33 dition of the proposed patient and his need for custody, care, or treatment
34 by a facility. The reports shall be in the form of written certificates that
35 shall be filed with the court. The court may terminate the proceedings and
36 dismiss the application without taking any further action in the event the
37 reports of the designated examiners are to the effect that the proposed pa-
38 tient is not mentally ill or, although mentally ill, is not likely to injure
39 himself or others or is not gravely disabled due to mental illness. If the
40 proceedings are terminated, the proposed patient shall be released immedi-
41 ately.

42 (5) If the designated examiner's certificate states a belief that the
43 proposed patient is mentally ill and either likely to injure himself or oth-
44 ers or is gravely disabled due to mental illness, the judge of such court
45 shall issue an order authorizing any health officer, peace officer, or di-
46 rector of a facility to take the proposed patient to a facility in the com-
47 munity in which the proposed patient is residing or to the nearest facility
48 to await the hearing, and for good cause may authorize treatment during such
49 period subject to the provisions of section 66-346(a) (4), Idaho Code. Under
50 no circumstances shall the proposed patient be detained in a nonmedical unit

1 used for the detention of individuals charged with or convicted of penal of-
2 fenses.

3 (6) Upon receipt of such application and designated examiners' re-
4 ports, the court shall appoint a time and place for a hearing not more than
5 seven (7) days from the receipt of such designated examiners' reports and
6 thereupon give written notice of such time and place of such hearing, to-
7 gether with a copy of the application, designated examiner's certificates,
8 and notice of the proposed patient's right to be represented by an attor-
9 ney or, if indigent, to be represented by a court-appointed attorney, to
10 the applicant, to the proposed patient, to the proposed patient's spouse,
11 guardian, next of kin, or friend. With the consent of the proposed patient
12 and his attorney, the hearing may be held immediately. Upon motion of the
13 petitioner, or upon motion of the proposed patient and attorney, and for good
14 cause shown, the court may continue the hearing up to an additional seven
15 (7) days during which time, for good cause shown, the court may authorize
16 treatment.

17 (7) An opportunity to be represented by counsel shall be afforded to ev-
18 ery proposed patient, and, if neither the proposed patient nor others pro-
19 vide counsel, the court shall appoint counsel in accordance with chapter 8,
20 title 19, Idaho Code, no later than the time the application is received by
21 the court.

22 (8) If the involuntary detention was commenced under this section, the
23 hearing shall be held ~~at a facility, at the home of the proposed patient, or~~
24 ~~at any other~~ in a manner and at a suitable place not likely to have a harmful
25 effect on the proposed patient's physical or mental health. Venue for the
26 hearing shall be in the county of residence of the proposed patient or in the
27 county where the proposed patient was found immediately prior to commence-
28 ment of such proceedings.

29 (9) In all proceedings under this section, any existing provision of
30 the law prohibiting the disclosure of confidential communications between
31 the designated examiner and proposed patient shall not apply and any desig-
32 nated examiner who shall have examined the proposed patient shall be a compe-
33 tent witness to testify as to the proposed patient's condition.

34 (10) The proposed patient, the applicant, and any other persons to whom
35 notice is required to be given shall be afforded an opportunity to appear at
36 the hearing, to testify, and to present and cross-examine witnesses. The
37 proposed patient ~~shall be required to be present at the hearing unless the~~
38 ~~court determines that may, after consulting with his attorney, waive his~~
39 presence at court. The court may waive the presence of a proposed patient if
40 the mental or physical state of the proposed patient is such that his pres-
41 ence at the hearing would be detrimental to the proposed patient's health
42 or would unduly disrupt the proceedings. A record of the proceedings shall
43 be made as for other civil hearings. The hearing shall be conducted in as
44 informal a manner as may be consistent with orderly procedure. The court
45 shall receive all relevant and material evidence consistent with the rules
46 of evidence.

47 (11) If, upon completion of the hearing and consideration of the record,
48 and after consideration of reasonable alternatives including, but not lim-
49 ited to, holding the proceedings in abeyance for a period of up to thirty (30)

1 days, the court finds by clear and convincing evidence that the proposed pa-
2 tient:

3 (a) Is mentally ill; and

4 (b) Is, because of such condition, likely to injure himself or others,
5 or is gravely disabled due to mental illness;

6 the court shall order the proposed patient committed to the custody of the
7 department director for observation, care, and treatment for an indeter-
8 minate period of time not to exceed one (1) year. The department director,
9 through his dispositioner, shall determine within twenty-four (24) hours
10 the least restrictive available facility or outpatient treatment, con-
11 sistent with the needs of each patient committed under this section for
12 observation, care, and treatment.

13 (12) The commitment order constitutes a continuing authorization for
14 the department of health and welfare, law enforcement, or director of a fa-
15 cility, upon request of the director of the outpatient facility, the physi-
16 cian, or the department director through his dispositioner, to transport a
17 committed patient to designated outpatient treatment for the purpose of mak-
18 ing reasonable efforts to obtain the committed patient's compliance with the
19 terms and conditions of outpatient treatment. If the director of the outpa-
20 tient facility, the treating physician, or the department director through
21 his dispositioner determines any of the following:

22 (a) The patient is failing to adhere to the terms and conditions of
23 outpatient treatment or the patient refuses outpatient treatment after
24 reasonable efforts at compliance have been made; or

25 (b) Outpatient treatment is not effective after reasonable efforts
26 have been made;

27 the department director through his dispositioner shall cause the commit-
28 ted patient to be transported by the department of health and welfare, law
29 enforcement, or director of a facility to the least restrictive available
30 facility for observation, care, and treatment on an inpatient basis. Within
31 forty-eight (48) hours of a committed patient's transfer from outpatient
32 treatment to a facility for inpatient treatment, the department director
33 through his dispositioner shall notify the court that originally ordered the
34 commitment, the committed patient's attorney, and the committed patient's
35 spouse, guardian, adult next of kin, or friend of the change in disposi-
36 tion and provide a detailed affidavit reciting the facts and circumstances
37 supporting the transfer from outpatient treatment to inpatient treatment
38 at a facility. The court shall conduct an ex parte review of the notice and
39 affidavit within forty-eight (48) hours of filing and determine whether the
40 change in disposition from outpatient treatment to inpatient treatment at a
41 facility is supported by probable cause. In no event shall the calculation
42 of forty-eight (48) hours provided for in this subsection include holidays
43 formally recognized and observed by the state of Idaho, nor shall the cal-
44 culation include weekends. If the court determines that probable cause
45 exists, the department director through his dispositioner shall continue
46 with care and treatment on an inpatient basis at the least restrictive avail-
47 able facility. Within twenty-four (24) hours of a finding of probable cause,
48 the court shall issue an order to show cause why the patient does not meet
49 the conditions in paragraph (a) or (b) of this subsection. The order shall
50 be served on the committed patient, the committed patient's attorney and the

1 committed patient's spouse, guardian, adult next of kin, or friend. The pa-
 2 tient shall have fifteen (15) days to present evidence that the conditions in
 3 paragraph (a) or (b) of this subsection have not been met. In no event shall
 4 the calculation of twenty-four (24) hours provided for in this subsection
 5 include holidays formally recognized and observed by the state of Idaho,
 6 nor shall the calculation include weekends. If the court determines that
 7 a change in disposition from outpatient treatment to inpatient treatment
 8 does not meet the conditions in paragraph (a) or (b) of this subsection, the
 9 department director through his dispositioner will continue with outpatient
 10 treatment on the same or modified terms and conditions. Nothing provided
 11 in this section shall limit the authority of any law enforcement officer to
 12 detain a patient pursuant to the emergency authority conferred by section
 13 66-326, Idaho Code.

14 (13) Nothing in this chapter or in any rule adopted pursuant thereto
 15 shall be construed to authorize the detention or involuntary admission to a
 16 hospital or other facility of an individual who:

17 (a) Has ~~epilepsy~~, a neurological disorder, a neurocognitive disorder,
 18 a developmental disability as defined in section 66-402, Idaho
 19 Code, a physical disability, an intellectual disability, is impaired
 20 by chronic alcoholism or drug abuse, or aged, or any medical disorder
 21 that includes psychiatric symptomology or is primarily impaired by
 22 substance use, unless in addition to such condition, such person is men-
 23 mentally ill;

24 (b) Is a patient under treatment by spiritual means alone, through
 25 prayer, in accordance with the tenets and practices of a recognized
 26 church or religious denomination by a duly accredited practitioner
 27 thereof and who asserts to any authority attempting to detain him that
 28 he is under such treatment and who gives the name of a practitioner so
 29 treating him to such authority; or

30 (c) Can be ~~properly~~ cared for privately with the help of willing and
 31 able family or friends, ~~and~~ in such a way as to no longer present sub-
 32 stantial risk to himself or others, provided that such person may be
 33 detained or involuntarily admitted if such person is mentally ill and
 34 presents a substantial risk of injury to himself or others if allowed to
 35 remain at liberty such care is not adequate.

36 (14) The order of commitment shall state whether the proposed patient
 37 lacks capacity to make informed decisions about treatment, the name and ad-
 38 dress of the patient's attorney and the patient's spouse, guardian, adult
 39 next of kin, or friend.

40 (15) If the patient has no spouse or guardian and if the patient has
 41 property that may not be cared for pursuant to chapter 5, title 66, Idaho
 42 Code, or by the patient while confined at a facility, the court shall appoint
 43 a guardian ad litem for the purpose of preserving the patient's estate, pend-
 44 ing further guardianship or conservatorship proceedings.

45 (16) The commitment shall continue until terminated and shall be unaf-
 46 fected by the patient's conditional release or change in disposition.

47 SECTION 11. That Section 66-330, Idaho Code, be, and the same is hereby
 48 amended to read as follows:

1 66-330. TRANSPORTATION -- TEMPORARY DETENTION -- NOTICE. (a~~1~~) After
 2 the dispositioner has designated the place of treatment, he shall notify the
 3 facility director of the disposition and of any medical, security, or behav-
 4 ioral needs of the committed patient. The ~~county~~ department of health and
 5 welfare shall deliver the patient within forty-eight (48) hours to the des-
 6 ignated facility. Whenever practicable, the individual may be accompanied
 7 by one (1) or more of his friends or relatives.

8 (b~~2~~) Pending his removal to the designated place of treatment, a pa-
 9 tient taken into custody or ordered to be committed to the custody of the
 10 department director pursuant to this chapter may be detained in his home, a
 11 licensed foster home, or any other suitable facility under such reasonable
 12 conditions as the dispositioner may fix, but he shall not be detained in a
 13 nonmedical facility used for the detention of individuals charged with or
 14 convicted of penal offenses. The dispositioner shall take such reasonable
 15 measures, to secure proper mental health care and treatment of an individual
 16 temporarily detained pursuant to this chapter.

17 (e~~3~~) The dispositioner shall notify the court, the patient's attorney
 18 and either the patient's spouse, guardian, adult next of kin or friend, of
 19 the facility to which the patient has been dispositioned.

20 SECTION 12. That Section 66-337, Idaho Code, be, and the same is hereby
 21 amended to read as follows:

22 66-337. REVIEW, TERMINATION OF COMMITMENT AND DISCHARGE OF PA-
 23 TIENTS. (a~~1~~) The department director or his designee shall as frequently as
 24 practicable but at least once at the end of the first ninety (90) days examine
 25 or cause to be examined every patient committed to his custody or admitted to
 26 an inpatient facility of the state of Idaho, and determine whether to con-
 27 ditionally release, discharge or terminate the commitment of the patient.
 28 If the patient has not been conditionally released, discharged, or had the
 29 commitment terminated a similar review shall be conducted every one hundred
 30 twenty (120) days thereafter. A report of each review and determination
 31 regarding an involuntary patient shall be sent to the committing court,
 32 prosecuting attorney of the county of commitment, if any, the patient's at-
 33 torney, and either the patient's spouse, guardian, next of kin or friend.

34 (b~~2~~) The commitment of an involuntary patient shall be terminated if
 35 the patient ~~is no longer mentally ill or is no longer likely to injure him-~~
 36 ~~self or others or is no longer gravely disabled~~ no longer meets criteria un-
 37 der section 66-329, Idaho Code; provided, that patients admitted under sec-
 38 tion 18-214, Idaho Code, acquitted of criminal charges filed prior to July 1,
 39 1982, on grounds of mental disease or defect, or committed pursuant to sec-
 40 tions 18-212(4) and 66-329, Idaho Code, as unfit to proceed, may not be re-
 41 leased from an inpatient facility unless ~~thirty (30)~~ seven (7) days before
 42 such release, the department director or his designee shall notify the com-
 43 mitting court and prosecuting attorney of the contemplated release.

44 (e~~3~~) Upon notification of intention to release from an inpatient facil-
 45 ity either a patient admitted under section 18-214, Idaho Code, acquitted of
 46 criminal charges filed prior to July 1, 1982, on grounds of mental disease or
 47 defect, or committed pursuant to sections 18-212(4) and 66-329, Idaho Code,
 48 as unfit to proceed, and upon motion of an interested party or the court on
 49 its own motion, the court shall determine whether the conditions justifying

1 such release exist. In making such determination, the court may order an in-
2 dependent examination of the patient. The cost of such independent examina-
3 tion must be borne by the party making the motion or, if indigent, the county
4 having jurisdiction of the case. If no motion is made, the patient may be re-
5 leased according to the notice.

6 (d4) Section 18-214, Idaho Code, shall remain in full force and effect
7 for every individual previously acquitted pursuant to section 18-213, Idaho
8 Code. Section 18-214, Idaho Code, as last amended by section 2, chapter 13,
9 laws of 1977, which is placed here for reference only and is not a reenactment
10 of section 18-214, Idaho Code, and reads as follows:

11 18-214. Commitment of acquitted defendant -- Conditional release --
12 Revocation of release within five years. (1) When a defendant is acquitted
13 on the ground of mental disease or defect excluding responsibility, the
14 court shall order him to be committed to the custody of the director of the
15 department of health and welfare to be placed in an appropriate institution
16 for custody, care and treatment.

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

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

47 (4) If, within five (5) years after the conditional release of a com-
48 mitted person, the court shall determine, after hearing evidence, that the
49 conditions of release have not been fulfilled and that for the safety of such
50 person or for the safety of others his conditional release should be revoked,

1 the court shall forthwith order him to be recommitted to the custody of the
2 director of the department of health and welfare subject to discharge or
3 release only in accordance with the procedure prescribed above for a first
4 hearing.

5 (5) A committed person may make application for his discharge or re-
6 lease to the court by which he was committed, and the procedure to be followed
7 upon such application shall be the same as that prescribed above in the case
8 of an application by the director of the department of health and welfare.
9 However, no such application by a committed person need be considered until
10 he has been confined for a period of not less than six (6) months from the date
11 of the order of commitment and if the determination of the court be adverse to
12 the application, such person shall not be permitted to file a further appli-
13 cation until one (1) year has elapsed from the date of any preceding hearing
14 on an application for his release or discharge.

15 (6) If a defendant escapes from custody during his confinement, the
16 director shall immediately notify the court from which committed, the pros-
17 ecuting attorney and the sheriff of the county from which committed. The
18 court shall forthwith issue an order authorizing any health officer, peace
19 officer, or the director of the institution from which the defendant es-
20 caped, to take the defendant into custody and immediately return him to his
21 place of confinement.

22 SECTION 13. That Section 66-354, Idaho Code, be, and the same is hereby
23 amended to read as follows:

24 66-354. MENTALLY ILL PERSON WITH ASSETS SUFFICIENT TO PAY EXPENSES --
25 LIABILITY OF RELATIVES. (a~~1~~) When a mentally ill person has been admitted to
26 a state facility voluntarily or involuntarily, the director of the facility
27 may cause an inquiry to be made as to the financial circumstances of such per-
28 son and of the relatives of such person legally liable for his or her support,
29 and if it is found that such person or said relatives, legally liable for the
30 support of the patient, are able to pay the expenses for commitment proceed-
31 ings and the charges for the care and treatment of the patient in the facil-
32 ity, in whole or in part, it shall be the duty of the director of the facil-
33 ity to collect such expenses and such charges, and if necessary to institute
34 in the name of the state, a civil suit against the person or persons liable
35 therefor.

36 (b~~2~~) The following relatives shall be bound by law to provide for the
37 expenses and charges for the commitment, care, and treatment of such men-
38 tally ill person referred to in this ~~act~~ chapter: ~~husband for the wife, and~~
39 ~~the wife for the husband;~~ a spouse, the parent for his or her minor child or
40 minor children, and the adult children for their parents.

41 SECTION 14. An emergency existing therefor, which emergency is hereby
42 declared to exist, this act shall be in full force and effect on and after its
43 passage and approval.