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No. 22 of 1999

Fourth Session Fifth Parliament Republic of Trinidad
and Tobago

SENATE

BILL

AN ACT to amend the Mental Health Act,
Chap. 28:02

THE MENTAL HEALTH (AMENDMENT) BILL, 1999

Explanatory Note

(These notes form no part of the Bill but are intended only to indicate its general purport)

This Bill seeks to amend certain provisions of the Mental Health Act, so as to allow the next-of-kin of a non-institutionalised mentally ill patient to apply to the Court for an Order allowing him to manage the patient's affairs and property.

Clauses 1 and 2 of the Bill would provide the short title of the Act and the interpretation of certain words used in the Bill.

Clause 3 would amend the definition of the word "patient" to widen it so that it would not only provide for institutionalised persons but also non-institutionalised persons.

Clause 4 would amend section 36 of the Act to now allow a next-of-kin of an institutionalised patient to make an application to the Court in order to exercise control over that patient's property and affairs. This clause would also allow a next-of-kin of a patient, who is not institutionalised but who is by reason of mental disorder incapable of managing his affairs, to make an application to the Court in order to exercise control over that patient's property and affairs.

Clause 5 would amend section 37 of the Act permitting the certificate of a qualified psychiatrist, as to the patient's mental condition, to be submitted to the Court. The Clause would also require that the applicant furnish the Court with a statement giving a detailed description of the patient's property and its value. This clause makes it mandatory that the Court be satisfied that service of the summons was effected on at least one of the patient's next-of-kin when the application is not made by a next-of-kin.

Clause 6 would introduce a new section 37A which would require that periodic medical certificates be filed stating the medical condition of the patient and the duration of the disorder. Under this clause the High Court would have the authority to continue or discharge the committee.

Clauses 7 and 8 would contain consequential amendments.

Clause 9 would repeal section 48 of the Act which restricted the application of this part of the Act.

BILL

AN ACT to amend the Mental Health Act,
Chap. 28:02

[, 1999]

ENACTED by the Parliament of Trinidad and Tobago as Enactment
follows:—

1. This Act may be cited as the Mental Health Short title
(Amendment) Act, 1999.

Interpretation
Chap. 28:02

2. In this Act “the Act” means the Mental Health Act.

Section 2 amended

3. Section 2 of the Act is amended in the definition of the word “patient” by deleting all the words after the word “subnormal”.

Section 36 amended

4. Section 36 of the Act is amended by—

(a) deleting subsection (1) and substituting the following:

“ 36. (1) The High Court may, subject to this part, on application by originating summons from—

(a) a public officer; or

(b) a next-of-kin of the patient,

exercise control over the property and affairs of such patient who has been admitted to a hospital or psychiatric ward, an approved home or a private hospital.”;

(b) inserting the following new subsections:

“ (3) The High Court may, subject to this part on application by the next-of-kin of any patient, by originating summons exercise control over the property and affairs of such patient.

(4) An application made under subsections (1) and (3) shall be supported by an affidavit to the effect that the patient is incapable, by reason of mental disorder, of managing and administering his property and affairs.”.

Section 37 amended

5. Section 37 of the Act is amended—

(a) by deleting the words “36(1)” occurring in line one and substituting the word “36”;

- (b) in subsection (1), by deleting in paragraph (a) the words “Director or a duly authorised medical officer” and substituting the words “Director, a duly authorised medical officer or qualified psychiatrist”;
- (c) in subsection (1), by deleting paragraph (b) and substituting the following paragraph:
 “(b) a statement by the applicant giving a detailed description of the patient’s property and the value thereof;”
- (d) in subsection (2) by—
- (i) deleting the word “Prior” and substituting the words “Where the applicant is not the next-of-kin referred to in section 36, prior”;
 - (ii) deleting the word “must” in line two and substituting the word “shall”.

6. The Act is amended by inserting the following New section inserted
new section:

“Medical certificate to be produced

37A. (1) Notwithstanding the certificate produced under section 37(1)(a), the High Court may require the person appointed as the committee of the patient’s property, to file periodic medical certificates issued by the relevant persons referred to in section 37(1)(a), stating the mental condition of the patient and if necessary the probable duration of the disorder.

(2) The High Court shall on production of such medical certificate referred to in subsection (1), decide whether to continue with or discharge the committee of the patient’s property appointed under section 37.”

Section 38 amended **7.** Section 38(1) of the Act is amended by deleting the words “36 and 32” and substituting the words “36, 37 and 37A”.

Section 44 amended **8.** Section 44(1) of the Act is amended by inserting after the word “patient” the following words “who has been admitted to a hospital, psychiatric ward, an approved home or a private hospital”.

Section 48 repealed **9.** The Act is amended by repealing section 48.

Passed in the Senate this day of , 1999.

Clerk of the Senate

I confirm the above.

President of the Senate

Passed in the House of Representatives this day
of , 1999.

Clerk of the House

I confirm the above.

Speaker

No. 22 of 1999

FOURTH SESSION

FIFTH PARLIAMENT

REPUBLIC OF
TRINIDAD AND TOBAGO

BILL

AN ACT to amend the Mental Health Act,
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Received and read the

First time.....

Second time.....

Third time.....
