

Section 66-317 – Idaho State Legislature

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Idaho Statutes

TITLE 66

STATE CHARITABLE INSTITUTIONS

CHAPTER 3

HOSPITALIZATION OF MENTALLY ILL

66-317. Definitions. As used in this chapter, terms shall have the following meanings:

- (1) "Department director" means the director of the state department of health and welfare.
- (2) "Voluntary patient" means an individual admitted to a facility for evaluation pursuant to section [18-211](#) or [20-520](#), Idaho Code, or admitted to a facility for observation, diagnosis, evaluation, care or treatment pursuant to section [66-318](#), Idaho Code.
- (3) "Involuntary patient" means an individual committed pursuant to section [18-212](#), [66-329](#) or [66-1201](#), Idaho Code, or committed pursuant to section [16-1619](#) or [20-520](#), Idaho Code, and admitted to a facility for the treatment of minors.
- (4) "Licensed physician" means an individual licensed under the laws of this state to practice medicine or a medical officer of the government of the United States while in this state in the performance of his official duties.
- (5) "Designated examiner" means a psychiatrist, psychologist, psychiatric nurse, or social worker and such other mental health professionals as may be designated in accordance with rules promulgated pursuant to the provisions of [chapter 52, title 67](#), Idaho Code, by the department of health and welfare. Any person designated by the department director will be specially qualified by training and experience in the diagnosis and treatment of mental or mentally related illnesses or conditions.
- (6) "Dispositioner" means a designated examiner employed by or under contract with the department of health and welfare and designated by the department director to determine the appropriate location for care and treatment of involuntary patients.
- (7) "Facility" means any public or private hospital, sanatorium, institution, mental health center or other organization designated in accordance with rules adopted by the board of health and welfare as equipped to initially hold, evaluate, rehabilitate or to provide care or treatment, or both, for the mentally ill.
- (8) "Lacks capacity to make informed decisions about treatment" means the inability, by reason of mental illness, to achieve a rudimentary understanding after conscientious efforts at explanation of the purpose, nature, and possible significant risks and benefits of treatment.
- (9) "Inpatient treatment facility" means a facility in which an individual receives medical and mental treatment for not less than a continuous twenty-four (24) hour period.
- (10) "Supervised residential facility" means a facility, other than the individual's home, in which the individual lives and in which there lives, or are otherwise on duty during the times that the individual's presence is expected, persons who are employed to supervise, direct, treat or monitor the individual.
- (11) "Likely to injure himself or others" means either:
 - (a) A substantial risk that physical harm will be inflicted by the proposed patient upon his own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on himself; or

(b) A substantial risk that physical harm will be inflicted by the proposed patient upon another as evidenced by behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm; or

(c) The proposed patient lacks insight into his need for treatment and is unable or unwilling to comply with treatment and, based on his psychiatric history, clinical observation or other clinical evidence, if he does not receive and comply with treatment, there is a substantial risk he will continue to physically, emotionally or mentally deteriorate to the point that the person will, in the reasonably near future, inflict physical harm on himself or another person.

(12) "Mentally ill" means a person, who as a result of a substantial disorder of thought, mood, perception, orientation, or memory, which grossly impairs judgment, behavior, capacity to recognize and adapt to reality, requires care and treatment at a facility or through outpatient treatment.

(13) "Gravely disabled" means a person who, as the result of mental illness, is:

(a) In danger of serious physical harm due to the person's inability to provide for any of his own basic personal needs, such as nourishment, or essential clothing, medical care, shelter or safety; or

(b) Lacking insight into his need for treatment and is unable or unwilling to comply with treatment and, based on his psychiatric history, clinical observation or other clinical evidence, if he does not receive and comply with treatment, there is a substantial risk he will continue to physically, emotionally or mentally deteriorate to the point that the person will, in the reasonably near future, be in danger of serious physical harm due to the person's inability to provide for any of his own basic personal needs such as nourishment, essential clothing, medical care, shelter or safety.

(14) "Outpatient treatment" means mental health treatment, not involving the continuous supervision of a person in an inpatient setting, that is reasonably designed to alleviate or to reduce a person's mental illness or to maintain or prevent deterioration of the person's physical, mental or emotional functioning. Mental health services or treatment may include, but need not be limited to, taking prescribed medication, reporting to a facility to permit monitoring of the person's condition, or participating in individual or group therapy.

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

(16) "Holding proceedings in abeyance" means an alternative to judicial commitment based upon an agreement entered into by all parties, including the proposed patient, and agreed to by the court, providing for voluntary conditions of treatment, which holds in a state of suspension or inactivity the petition for involuntary commitment.

History:

[66-317, added 1951, ch. 290, sec. 1, p. 622; am. 1959, ch. 207, sec. 1, p. 439; am. 1969, ch. 187, sec. 1, p. 552; am. 1972, ch. 44, sec. 1, p. 67; am. 1973, ch. 173, sec. 1, p. 363; am. 1974, ch. 165, sec. 5, p. 1405; am. 1981, ch. 114, sec. 9, p. 174; am. 1982, ch. 59, sec. 6, p. 95; am. 1986, ch. 84, sec. 1, p. 243; am. 1998, ch. 90, sec. 1, p. 315; am. 2001, ch. 107, sec. 21, p. 370; am. 2002, ch. 128, sec. 1, p. 357; am. 2003, ch. 249, sec. 2, p. 643; am. 2004, ch. 315, sec. 1, p. 885; am. 2005, ch. 391, sec. 59, p. 1315; am. 2006, ch. 214, sec. 2, p. 645; am. 2008, ch. 331, sec. 1, p. 910.]

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Section 66-326 – Idaho State Legislature

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Idaho Statutes

TITLE 66

STATE CHARITABLE INSTITUTIONS

CHAPTER 3

HOSPITALIZATION OF MENTALLY ILL

66-326. Detention without hearing. (1) No person shall be taken into custody or detained as an alleged emergency patient for observation, diagnosis, evaluation, care or treatment of mental illness unless and until the court has ordered such apprehension and custody under the provisions outlined in section [66-329](#), Idaho Code; provided, however, that a person may be taken into custody by a peace officer and placed in a facility, or the person may be detained at a hospital at which the person presented or was brought to receive medical or mental health care, if the peace officer or a physician medical staff member of such hospital or a physician's assistant or advanced practice registered nurse practicing in such hospital has reason to believe that the person is gravely disabled due to mental illness or the person's continued liberty poses an imminent danger to that person or others, as evidenced by a threat of substantial physical harm; provided, under no circumstances shall the proposed patient be detained in a nonmedical unit used for the detention of individuals charged with or convicted of penal offenses. For purposes of this section, the term "peace officer" shall include state probation and parole officers exercising their authority to supervise probationers and parolees. Whenever a person is taken into custody or detained under this section without court order, the evidence supporting the claim of grave disability due to mental illness or imminent danger must be presented to a duly authorized court within twenty-four (24) hours from the time the individual was placed in custody or detained.

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

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

(4) If the designated examiner finds, in his examination under this section, that the person is mentally ill, and either is likely to injure himself or others or is gravely disabled due to mental illness, the prosecuting attorney shall file, within twenty-four (24) hours of the examination of the person, a petition with the court requesting the patient's detention pending commitment proceedings pursuant to the provisions of section [66-329](#), Idaho Code. Upon the receipt of such a petition, the court shall order his detention to await hearing which shall be within five (5) days (including Saturdays, Sundays and legal holidays) of the detention order. If no petition is filed within twenty-four (24) hours of the designated examiner's examination of the person, the person shall be released from the facility.

(5) Any person held in custody under the provisions of this section shall have the same protection and rights which are guaranteed to a person already committed to the department director. Upon taking a

person into custody, notice shall be given to the person's immediate relatives of the person's physical whereabouts and the reasons for detaining or taking the person into custody.

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

History:

[(66-326) 1976, ch. 365, sec. 1, p. 1200; am. and redesign. 1981, ch. 114, sec. 19, p. 185; am. 1991, ch. 210, sec. 1, p. 494; am. 1998, ch. 341, sec. 1, p. 1089; am. 2006, ch. 91, sec. 1, p. 265; am. 2006, ch. 214, sec. 5, p. 648.; am. 2013, ch. 293, sec. 2, p. 771.]

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