

Approved \_\_\_\_\_

Date

January 26, 84  
sh

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE

The meeting was called to order by Marvin Littlejohn at \_\_\_\_\_  
Chairperson

1:30 /a.m./p.m. on January 24, 1984 in room 423-S of the Capitol.

All members were present except:

Committee staff present:

Emalene Correll, Research  
Bill Wolff, Research  
Norm Furse, Revisor  
Sue Hill, Secy. to Committee

Conferees appearing before the committee:

Dr. Robert Harder, Social Rehabilitation Services  
Dr. Gerald T. Hannah, MAR, SRS  
Ethel May Miller, Kansas Assoc. Retarded Citizens  
Joan Strickler, Executive Director Kansas Advocacy & Protective Services.

(Attachment No. 1.), for visitor's register.

Chairman called meeting to order, and recognized Dr. Harder as conferee on HB 2695. Dr. Harder explained that his department and that of Secy. Sabol Health and Environment Department have agreed to confer and work on this bill and present one draft so that hearings can be conducted once, on one bill, rather than separate requests.

It was agreed this bill, HB 2695 will be rescheduled at a later date for hearings.

HB 2697

Dr. Harder distributed a statement from SRS in regard to this bill. See (Attachment No. 2.), for details. He spoke to their requests, and stated the position of their department in supporting the care and training act for the mentally retarded, in non-institutional environments for those who can benefit in settings less restrictive of personal freedom than provided in a state institution. Rights of mentally retarded while in residence be protected. Further, about voluntarily admitting minor children, court appointed guardians signing admissions forms, criteria by which individuals can be admitted to state institutions for the mentally retarded.

Balloon copy of HB 2697 was distributed to committee by Dr. Harder, see (Attachment No. 3.), for details. This balloon requested changes, deletions, and additions. Staff and committee then asked questions of Dr. Harder and Dr. Hannah, i.e., trying to clear the criteria of what mentally retarded is. Questions with section 9, i.e., would language therein prohibit transfer of patients for medical stabalizations, etc., rights of parents or guardians in this transfer process. Consultation with parents or guardians comes before the fact and not after transfer. Further, how regional homes are an eventual goal, budget costs, etc. Dr. Harder concluded his comments, urging committee to support this legislation as changes proposed in balloon.

Ethel May Miller of Ks. Assoc. of Mentally Retarded Citizens support of HB 2697. They support this legislation for distinct wording on clarification of admissions of mentally retarded to state institutions, - and they are happy the language is finally clear. They support the inclusion for specific rights being protected, and the regionalization of care, making it possible to have your family member being housed closer to home if possible. She urged committee to support this legislation as changes have been proposed this date.

## CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,  
room 423-S, Statehouse, at 1:30 a.m./p.m. on January 24, 19 84

HB 2697

Joan Strickler of Ks. Advocacy & Protective Services for the Developmentally Disabled spoke in support of an effort to define rights of the mentally retarded in institutions and her organization had prepared balloon copies of this bill. (Attachment No. 4.), for details shows their recommendations. She spoke to wording changes to clarify the bill more closely to their hopes, and read changes in several sections. Ms. Strickler then answered questions from committee, and staff, i.e., yes, parents can request respite care, doesn't feel a full hearing is necessary when placement is being made but feels the court should be made aware of what takes place.

HB 2698

Dr. Harder reviewed this bill saying it deals with debt collection at State Institutions hiring an outside collection agency, (See Attachment No.5.) for details, in the interest of being able to move debt collection along more efficiently. There are cases where recipients are able to pay some of their medical care costs, and this bill would allow appointment of an agency to handle the collection of same. Dr. Harder then answered questions from committee and staff in regard to:- specific dollar amounts projected to be collected, fee of the debt agency is 20%, etc. Dr. Hannah commented that staff is working on specific breakdown on collections.

Chairman then adjourned meeting at 2:38 p.m.

Date: 1-24-4

GUEST REGISTER

HOUSE

PUBLIC HEALTH AND WELFARE

Please PRINT

NAME	ORGANIZATION	ADDRESS
Dr. Gerald T. Hannah	MARR/SRS	SDB, Topeka
D. W. Cauder	SRS	SDB
Jim McBride	United Way	Topeka
Janet Schalarstay	Ks. Planning Council on DD	Topeka
Ethel May Miller	Ks. Assn. Retarded Citizens	Topeka
B. J. SABOL	KDHE	"
Charles Hamm	KDHE	Topeka
Kiel A. Bascom	KDHE	QUENEMO, KS
Cathy Rooney	KDHE	Lawrence, KS
KETH R LADD/S	CHRISTIAN SCIENCE COMMITTEE ON PUBLICATION FOR KANSAS	TOPEKA
Lynelle King	Ks State NURSES' Assn	"
BARB REINERT	KS WOMEN'S POLITICAL CAUCUS	"
Eivay Harwood	Abilene CofC	Abilene, Ko.
Anne Robson	" "	" "
Janis Haugh	" "	" "
Jean Shuttle	KAPS	Manhattan
W. D. [unclear]	Majority Leader's office	Topeka
Don Miller	Assoc. Credit Bureau of Kansas	Topeka

Attn. #1.  
1-24-1984

STATE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

# 2  
1-24-4

Statement Regarding House Bill 2697

I. Care and Training Act for the Mentally Retarded

An Act pertaining to criteria for admission of persons for care and training in state institutions for the mentally retarded.

II. Background

Kansas has always pursued a policy of voluntary admissions to mental retardation facilities. Parents are able to voluntarily admit their mentally retarded minor child. The adult mentally retarded can admit themselves or, in those cases where the degree of mental retardation is so severe as to preclude obtaining consent from the individual, a parent or other responsible person must be appointed guardian and with approval of the court can sign the admissions forms on behalf of the mentally retarded person.

A recent decision of the United States Supreme Court has held that a mentally retarded person cannot be placed in an institution by a parent or guardian when, in the judgement of professionals, the person should be placed in a setting less restrictive of personal freedom. For this reason and others, it is important to define in statute the criteria by which an individual can be admitted to and continue in residence at a state institution for the mentally retarded.

III. Discussion

The intent of HB 2697, the proposed care and training act for the mentally retarded, is to specify the conditions under which a mentally retarded person can be admitted to and discharged from one of the four state institutions for the mentally retarded and to specify the rights that must be afforded a mentally retarded person while a resident of the institution. It is desirable to make sure that those admitted to institutions for the mentally retarded are only those mentally retarded individuals who are in need of the level of care and training provided in one of the four institutions. Implementation of the proposed act will not change existing procedures. It makes specific the criteria by which an individual can be admitted to, and the rights that must be protected while in residence at a state institution for the mentally retarded.

IV. SRS Position

The Department of Social & Rehabilitation Services supports the proposed care and training act for the mentally retarded. The Department wishes to promote the provision of care and training in non-institutional environments for all who can benefit from receiving care and training in settings less restrictive of personal freedom than that provided in a state institution. For this reason, systematic efforts to rule out either the availability of or appropriateness of non-institutional care and training before approving admission to a state institution is viewed as positive. Further, it is important that the rights of mentally retarded individuals while in residence at state institutions be protected. The statement in statute of the specific rights that must be afforded mentally retarded individuals while residing at a state institution for the mentally retarded also is viewed as positive.

Robert C. Harder, Secretary  
Office of the Secretary  
Social and Rehabilitation Services  
296-3271  
1/24/84

Attm. # 2.  
1-24-84

# HOUSE BILL No. 2697

By Committee on Public Health and Welfare

1-17

Attch. # 3  
1-24-4

0017 AN ACT concerning state institutions for the mentally retarded;  
0018 establishing a procedure for admission thereto; relating to the  
0019 rights of persons admitted thereto.

0020 *Be it enacted by the Legislature of the State of Kansas:*

0021 Section 1. When used in this act:

0022 (a) "Adaptive behavior" means the effectiveness or degree  
0023 with which an individual meets the standards of personal inde-  
0024 pendence and social responsibility expected of that person's age,  
0025 cultural group and community.

0026 (b) "Care" means supportive services, including, but not  
0027 limited to, provision of room and board, supervision, protection,  
0028 assistance in bathing, dressing, grooming, eating and other ac-  
0029 tivities of daily living.

0030 (c) "Commissioner" means the commissioner of mental  
0031 health and retardation services of the state department of social  
0032 and rehabilitation services.

0033 (d) "Institution" means a state institution for the mentally  
0034 retarded including the following institutions: Kansas neurologi-  
0035 cal institute, Norton state hospital, Parsons state hospital and  
0036 training center and Winfield state hospital and training center.

0037 (e) "Mental retardation" means significantly subaverage  
0038 general intellectual functioning existing concurrently with defi-  
0039 cits in adaptive behavior and manifested during the period from  
0040 conception to age 18.

delete

birth

0041 (f) "Respite care" means temporary, short-term care not ex-  
0042 ceeding 90 days per calendar year to provide relief from the daily  
0043 pressures involved in caring for a mentally retarded person.

0044 (g) "Restraint" means the use of a totally enclosed crib or any  
0045 material to restrict or inhibit the free movement of one or more

Attch. 3

0046 limbs of a person except medical devices which limit movement  
0047 for examination, treatment or to insure the healing process.

0048 (h) "Seclusion" means being placed alone in a locked room  
0049 where the individual's freedom to leave is thereby restricted and  
0050 where such placement is not under continuous observation.

0051 (i) "Secretary" means the secretary of social and rehabilita-  
0052 tion services.

0053 (j) "Significantly subaverage general intellectual function-  
0054 ing" means performance which is two or more standard devia-  
0055 tions from the mean score on a standardized intelligence test  
0056 specified by the commissioner.

0057 (k) "Superintendent" means the chief administrative officer  
0058 of the institution.

0059 (l) "Training" means the provision of specific environmental,  
0060 physical, mental, social and educational interventions and  
0061 therapies for the purpose of halting, controlling or reversing  
0062 processes that cause, aggravate or complicate malfunctions or  
0063 dysfunctions of development.

0064 Sec. 2. The admission of a mentally retarded person to an  
0065 institution shall be at the discretion of the commissioner or the  
0066 commissioner's designee.

0067 Sec. 3. The commissioner or the commissioner's designee  
0068 shall not admit a person to an institution except for the purpose  
0069 of diagnosis and evaluation unless the superintendent or the  
0070 superintendent's designee has found such person to be mentally  
0071 retarded, in need of care and training and that placement in the  
0072 institution is the least restrictive alternative available. An ad-  
0073 mission for respite care shall not require a finding that a person is  
0074 in need of training.

0075 Sec. 4. A person shall not be admitted to an institution ex-  
0076 cept as set forth in subsection (a)(6) of K.S.A. 59-3010 and  
0077 amendments thereto until a court has determined the legal status  
0078 of the person under the act for obtaining a guardian or conserva-  
0079 tor, or both, if in the opinion of the superintendent or the  
0080 superintendent's designee the person meets the definition of  
0081 "disabled person" as set forth in K.S.A. 59-3002 and amendments  
0082 thereto.



0083 Sec. 5. The court shall not approve placement of a ward in an  
0084 institution pursuant to subsection (g) of K.S.A. 59-3018 and  
0085 amendments thereto except for the purpose of diagnosis and  
0086 evaluation unless the court finds that the criteria set forth in  
0087 section 3 is met.

0088 Sec. 6. The superintendent or the superintendent's designee  
0089 shall periodically review a person's status to insure that the  
0090 criteria set forth in section 3 is still being met. A review shall be  
0091 conducted at the end of 90 days, 180 days and one year from the  
0092 date of admission and annually thereafter. A copy of the review  
0093 report shall be furnished to the court, guardian or parent as  
0094 appropriate.

0095 Sec. 7. A person shall be discharged from an institution  
0096 whenever (a) the superintendent or the superintendent's desig-  
0097 nee finds that at least one of the criteria set forth in section 3 is no  
0098 longer being met, or (b) a person, guardian or parent of a minor  
0099 requests discharge from an institution. A discharge of a minor or  
0100 disabled person pursuant to (b) shall require the consent of a  
0101 parent or guardian as appropriate except as set forth in section 8.

0102 Sec. 8. If a disabled person requests release from an institu-  
0103 tion and the guardian <sup>or</sup> and the superintendent or the superin-  
0104 tendent's designee do not concur with such request, the matter  
0105 shall be referred to the court having jurisdiction over the guard-  
0106 ianship for disposition. The court shall not approve continued  
0107 placement in the institution unless the court finds that the  
0108 criteria set forth in section 3 is still being met.

0109 Sec. 9. The commissioner may transfer a person from one  
0110 institution to another institution whenever the commissioner is  
0111 of the opinion that the transfer is in the best interests of the  
0112 person.

0113 Sec. 10. Restraint or seclusion shall not be applied to a  
0114 person unless it is determined by a member of the medical staff  
0115 to be required to prevent substantial bodily injury to such person  
0116 or others. The extent of restraint or seclusion applied to the  
0117 person shall be the least restrictive measure necessary to prevent  
0118 injury to the person or others, and the use of restraint or seclu-  
0119 sion shall not exceed three hours without medical reevaluation,

If applicable, the commissioner shall consult with a person's guardian or parent prior to any transfer under this section.

0120 except that such medical reevaluation shall not be required,  
0121 unless necessary, between the hours of 12 o'clock midnight and  
0122 8 a.m. A member of the medical staff shall sign a statement  
0123 explaining the medical necessity for the use of any restraint and  
0124 seclusion and shall make such statement a part of the medical  
0125 record of such person.

0126 Sec. 11. Except as limited by this act, a person shall not lose  
0127 rights as a citizen, property rights or legal capacity by reason of  
0128 being admitted to an institution, except that the superintendent  
0129 of an institution may adopt reasonable policies concerning the  
0130 exercise of such rights by persons admitted to the institution.

0131 Sec. 12. (a) Every person admitted to an institution, in addi-  
0132 tion to all other rights preserved by the provisions of this act,  
0133 shall have the following rights:

0134 (1) To be fully informed of all rights and responsibilities  
0135 available to or required of persons admitted to the institution;

0136 ~~(2)~~ to be fully informed of and offered the opportunity to  
0137 participate in an individual plan of care and training;

0138 ~~(3)~~ to communicate by letter with the secretary, commis-  
0139 sioner, superintendent of the institution, any court, physician,  
0140 attorney, natural guardian or guardian, and all such communica-  
0141 tion shall be forwarded at once to the addressee without exami-  
0142 nation and communications from such persons shall be delivered  
0143 to the person without examination;

0144 ~~(4)~~ to manage personal and financial affairs to the extent  
0145 possible;

0146 ~~(5)~~ to be free from mental and physical abuse;

0147 ~~(6)~~ not to be subject to such procedures as psychosurgery,  
0148 electroshock therapy, experimental medication, aversion therapy  
0149 or hazardous treatment procedures without the written consent  
0150 of the person or the written consent, as appropriate, of a parent or  
0151 guardian;

0152 ~~(7)~~ to be treated with respect and full recognition of dignity  
0153 and individuality including privacy and confidentiality;

0154 ~~(8)~~ to be free from involuntary labor and to be paid for any  
0155 work performed other than personal housekeeping;

0156 ~~(9)~~ to be free to communicate, associate and meet privately

(2) to have the person's parent or guardian fully informed of all rights and responsibilities available to or required of persons admitted to the institution;

(3)

(4)

(5)

(6)

(7)

(8)

(9)

(10)



0157 with individuals of choice including sending and receiving mail  
0158 unopened;

(11)

0159 ~~(10)~~ to participate in social, religious and community group  
0160 activities to the extent possible; and

(12)

0161 ~~(11)~~ to retain and use personal possessions and clothing.

0162 (b) The superintendent of an institution may, for good cause  
0163 only, restrict a person's rights under this section, except that the  
0164 rights enumerated in subsections (a) (1), (2), (3), ~~(5) and (7),~~ and  
0165 the right to mail any correspondence which does not violate  
0166 postal regulations, shall not be restricted by the superintendent  
0167 of an institution under any circumstances. A statement explain-  
0168 ing the reasons for any restriction of a person's rights shall be  
0169 immediately entered on such person's medical record and copies  
0170 of such statement shall be available to the person and the natural  
0171 guardian or guardian of the person.

delete

(4), (6) and (8),

0172 (c) Each institution shall adopt policies governing the con-  
0173 duct of all persons receiving care and training in such institution,  
0174 which policies shall be consistent with the provisions of this  
0175 section.

0176 (d) Any person willfully depriving any person of the rights  
0177 protected by this section, except for the restriction of such rights  
0178 in accordance with the provisions of subsection (b), shall be  
0179 guilty of a class C misdemeanor.

0180 Sec. 13. This act shall take effect and be in force from and  
0181 after its publication in the statute book.

# Kansas Advocacy & Protective Services for the Developmentally Disabled, Inc.

# 4  
1-24-4

kaps

Suite 2, the Denholm Bldg.  
513 Leavenworth  
Manhattan, KS 66502  
(913) 776-1541

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Wichita

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**W. H. Weber**  
Topeka

**Liaison to the Governor**  
Robert Epps

**Executive Director**  
Joan Strickler

**TO:** The House Committee on  
Public Health & Welfare  
Representative Marvin Littlejohn, Chairperson

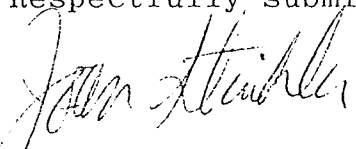
**FROM:** Kansas Advocacy & Protective Services  
R.C. Loux, Chairperson

**RE:** House Bill 2697

**DATE:** January 24, 1984

KAPS is in support of this effort to define the rights of the mentally retarded persons in our state institutions. The attached amendments are suggested in an effort to clarify and strengthen language in the bill.

Respectfully submitted,

  
Joan Strickler  
Executive Director

JS/jc

Attm. #4  
1-24-1984

# HOUSE BILL No. 2697

By Committee on Public Health and Welfare

1-17

0017 AN ACT concerning state institutions for the mentally retarded;  
0018 establishing a procedure for admission thereto; relating to the  
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0027 limited to, provision of room and board, supervision, protection,  
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0034 ~~retarded including the following institutions:~~ Kansas neurologi-  
0035 cal institute, Norton state hospital, Parsons state hospital and  
0036 training center and Winfield state hospital and training center.

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0038 general intellectual functioning existing concurrently with defi-  
0039 cits in adaptive behavior and manifested during the period from  
0040 conception to age 18.

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0042 ceeding 90 days per calendar year to provide relief from the daily  
0043 pressures involved in caring for a mentally retarded person.

0044 (g) "Restraint" means the use of a totally enclosed crib or any

delete... add instead

any of the four state institutions  
for the mentally retarded:

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0058 of the institution.

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0065 institution shall be at the discretion of the commissioner or the  
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0067 ~~Sec. 3. The commissioner or the commissioner's designee~~  
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0069 ~~of diagnosis and evaluation unless the superintendent or the~~  
0070 ~~superintendent's designee has found such person to be mentally~~  
0071 ~~retarded, in need of care and training and that placement in the~~  
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0074 ~~in need of training.~~

0075 Sec. 4. A person shall not be admitted to an institution ex-  
0076 cept as set forth in subsection (a)(6) of K.S.A. 59-3010 and  
0077 amendments thereto until a court has determined the legal status  
0078 of the person under the act for obtaining a guardian or conserva-  
0079 tor, or both, if in the opinion of the superintendent or the  
0080 superintendent's designee the person meets the definition of  
0081 "disabled person" as set forth in K.S.A. 59-3002 and amendments

delete - add / instead

The commissioner or the commissioner's designee may admit a minor or an adult to a state MR institution for one or more of the following purposes: (a) diagnosis and evaluation; (b) respite care, which admission shall not require a finding that the person is in need of training; or (c) care and training. When admission for care and training is requested by the guardian of a minor or of a disabled adult, the commissioner or the commissioner's designee shall require the guardian to present approval from the court that the requested placement is the least restrictive alternative currently available for the welfare of the ward. When admission for care and training is requested by the parent or person in loco parentis to the minor, the request shall be found by the superintendent or the superintendent's designee to be the least restrictive alternative available for the welfare of the minor.

delete - add, instead

lacks the capacity to give informed consent and could be determined by the court to meet

0083 Sec. 5. The court shall not approve placement of a ward in an  
0084 institution pursuant to subsection (g) of K.S.A. 59-3018 and  
0085 amendments thereto except for the purpose of diagnosis and  
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0110 institution to another institution whenever the commissioner is  
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0112 person.

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0114 person unless it is determined by a member of the medical staff  
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0116 or others. The extent of restraint or seclusion applied to the  
0117 person shall be the least restrictive measure necessary to prevent  
0118 injury to the person or others, and the use of restraint or seclu-  
0119 sion shall not exceed three hours without medical reevaluation.

*add*

at least

*add*

Subject to the provisions of the act for obtaining a guardian or conservator (KSA 59-3002 et. seq.)

*delete - add instead*

or

*add*

Subject to the provisions of the act for obtaining a guardian or conservator (KSA 59-3002 et. seq.)

0157 with individuals of choice including sending and receiving mail  
0158 unopened;  
0159 (10) to participate in social, religious and community group  
0160 activities to the extent possible; and  
0161 (11) to retain and use personal possessions and clothing.  
0162 (b) The superintendent of an institution may, for good cause  
0163 only, restrict a person's rights under this section, except that the  
0164 rights enumerated in subsections (a) (1), (2), (3), (5) and (7), and  
0165 the right to mail any correspondence which does not violate  
0166 postal regulations, shall not be restricted by the superintendent  
0167 of an institution under any circumstances. A statement explain-  
0168 ing the reasons for any restriction of a person's rights shall be  
0169 immediately entered on such person's medical record and copies  
0170 of such statement shall be ~~available to the person and the natural~~  
0171 guardian or guardian of the person.  
0172 (c) Each institution shall adopt policies governing the con-  
0173 duct of all persons receiving care and training in such institution,  
0174 which policies shall be consistent with the provisions of this  
0175 section.  
0176 (d) Any person willfully depriving any person of the rights  
0177 protected by this section, except for the restriction of such rights  
0178 in accordance with the provisions of subsection (b), shall be  
0179 guilty of a class C misdemeanor.  
0180 Sec. 13. This act shall take effect and be in force from and  
0181 after its publication in the statute book.

*delete - add instead*  
sent

#5  
1-24-4

STATE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

Statement Regarding House Bill 2698

I. Short Title of Bill

An act concerning the support of patients at certain state hospitals; requiring periodic demands; authorizing contracts with debt collection agencies; amending K.S.A. 59-2006.

II. Background and Discussion

This bill amends K.S.A. 59-2006 in the following three areas: (1) a technical change that changes reference to patients from "his or her" to "such patient"; (2) the requirement for an annual demand is changed to periodic demands that will be made not less than once per fiscal year; (3) authorization is provided to permit contracting with a debt collection agency.

Present statutory language about an annual demand is a holdover from a time when patients and relatives were not provided with monthly or quarterly statements billing them for amounts due. The annual demand was to inform responsible parties about charges that had accrued during the year. Now that monthly or quarterly statements are provided for responsible parties, the former requirement is not necessary to keep persons informed.

State hospitals encounter a number of patient accounts that they are unable to collect and do not qualify for legal pursuit. A private collection agency that is tied to national collection networks is better equipped to collect these problem accounts. The amendment would authorize the Secretary of SRS to contract with a collection agency on a commission basis.

Following are examples of cases where the services of a professional collection agency most likely would be utilized if statutory authority were granted.

1. Cases owing relatively small amounts (less than \$500) but the hospital reimbursement offices were unable to collect for various reasons.
2. Cases owing larger amounts that have been reviewed by the Department Legal Section and where assistance is necessary because the responsible person has moved or other circumstances that make legal action undesirable or impossible.

The amounts referred to a collection agency would be that part of the total charges determined to be within the patients'/relatives' ability to pay after considering income, assets, liabilities and number of dependents. The determination of the amount a patient/relative is to pay is a part of the payment plan developed for each patient. While we

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want to collect all that is coming to us, we wish to do it in an ethical and professional manner by soliciting proposals, investigating applicants and instituting all necessary safeguards to protect our patients as well as the good name of the department and the state.

Authority to use collection agencies will be an incentive to study the service and to develop packages suitable to our needs. They would be helpful in skip tracing, out-of-state delinquent accounts, uncooperative responsible parties such as representative payees, guardians, conservators, etc.

The usage of collection agencies may also free our legal department to pursue true legal actions. Since its staff is not fully assigned to collections activities, more often than not they are drawn away for other purposes.

III. SRS Position

SRS supports passage of this legislation.

Robert C. Harder, Secretary  
Office of the Secretary  
Social and Rehabilitation Services  
296-3271  
January 20, 1984