

LEGISLATIVE BILL 264

Approved by the Governor February 9, 1982

Introduced by Public Health and Welfare Committee, Cullan, 49, Chpn.; Fenger, 45; Wesely, 26; R. Peterson, 21; Barrett, 39; Higgins, 9; R. Maresh, 32

AN ACT to amend section 83-383, Reissue Revised Statutes of Nebraska, 1943, and section 83-388, Revised Statutes Supplement, 1981, relating to residential facilities for the mentally retarded; to change provisions on age as it relates to admission and continued residence applications; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 83-383, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-383. (1) An application for admission shall be made in writing by one of the following persons:

(a) If the person applying for admission has a court appointed guardian, the application shall be made by the guardian; and

(b) If the person applying for admission does not have a court appointed guardian and has not reached twenty-years-of-age the age of majority, as established by section 38-101, as such section may from time to time be amended, the application shall be made by both parents if they are living together, or by the parent having custody of such person if both parents are not then living or are not then living together.

(2) The county court of the county of residence of any mentally retarded person or the county court of the county in which a state residential facility is located shall have authority to appoint a guardian for any mentally retarded person upon the petition of the husband, wife, parent, person standing in loco parentis to the mentally retarded person, a county attorney, or any official of the Department of Public Institutions authorized by the director. If the guardianship proceedings are initiated by an official of the Department of Public Institutions, the costs thereof may be taxed to and paid by the Department of Public Institutions if the mentally retarded person is without means to pay the costs. The Department of Public

Institutions shall pay such costs upon presentation of a proper claim by the judge of the county court in which the proceedings were initiated. The costs of such proceedings shall include court costs, attorneys' fees, sheriffs' fees, psychiatric fees, and other necessary expenses of the guardianship.

Sec. 2. That section 83-388, Revised Statutes Supplement, 1981, be amended to read as follows:

83-388. No person admitted to a residential facility upon the application of his or her parent or parents shall be detained in a residential facility after attaining the age of majority as established by section 33-101, as such section may from time to time be amended, unless a guardian for such person makes an application for continued residence for such person in the facility under section 83-383 or such person is committed pursuant to sections 83-444 to 83-449 as provided by law for involuntary commitments.

Sec. 3. That original section 83-383, Reissue Revised Statutes of Nebraska, 1943, and section 83-388, Revised Statutes Supplement, 1981, are repealed.