CHAPTER 11

Organization and Control of State Mental Health Facilities

**SECTION 44‑11‑10.** Facilities which must maintained; purposes.

 The following facilities shall continue in existence and shall be maintained for the following purposes:

 (1) those inpatient facilities as authorized by the Department of Mental Health and funded by legislative appropriations, including facilities for the evaluation and treatment of mentally ill persons, facilities for the evaluation and treatment of chemically dependent persons, and long‑term care facilities; and

 (2) the mental health clinics for the diagnosis, treatment, and prevention of mental illness.

HISTORY: 1962 Code Section 32‑931; 1952 Code Section 32‑957; 1942 Code Section 6226; 1932 Code Section 6226; Civ. C. ‘22 Section 5078; 1920 (31) 704; 1952 (47) 2042; 1954 (48) 1732; 1958 (50) 1634; 1964 (53) 1873; 1965 (54) 600; 1967 (55) 317; 1969 (56) 716; 1995 Act No. 145, Part II, Section 76; 2000 Act No. 253, Section 3.

CROSS REFERENCES

Authorization for establishment of local mental health programs and clinics, see Section 44‑15‑10.

Certificates, applications, records and reports made for purposes of this chapter to remain confidential, with certain exceptions, see Section 44‑22‑100.

Guardians ad litem, see SC Rules of Civil Procedure, Rule 17(c), (d).

Jurisdiction of persons mentally incompetent, generally, see SC Const Art. V, Section 12.

Local mental health programs, boards and centers, see Sections 44‑15‑10 et seq.

Service of process on minors, incompetents and persons confined, see SC Rules of Civil Procedure, Rule 4(d).

Library References

Mental Health 31.

Westlaw Topic No. 257A.

C.J.S. Mental Health Sections 49, 51 to 52, 59.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Mental Health Section 16, Teaching Hospital.

NOTES OF DECISIONS

In general 1

1. In general

Assuming that South Carolina State Hospital is a legal entity which can be sued, the lower court correctly decided that it is immune from suit in an action ex delicto. It is clear that it is a public institution operated by the State under the Constitution and laws of the State to provide and care for the mentally ill. It is clearly nothing more than an agency, instrumentality or subdivision of the State government itself and, hence, cannot be sued in an action in tort in the absence of express legislative consent. Jones v. Jones (S.C. 1964) 243 S.C. 600, 135 S.E.2d 233.

**SECTION 44‑11‑30.** Establishment, purpose, and admission requirements of South Carolina Veterans Home.

 The South Carolina Mental Health Commission, in mutual agreement with the authorities of the United States Veterans Administration, may establish South Carolina veterans homes to be located on grounds owned by the Department of Mental Health. The purpose of these homes is to provide treatment for South Carolina veterans who are mentally ill or whose physical condition requires long‑term nursing care. Admission requirements to these homes are the same as any other facility operated by the department except that the patients at these facilities must be South Carolina veterans. The South Carolina Mental Health Commission is designated as the agency of the State to apply for and to accept gifts, grants, and other contributions from the federal government or from any other governmental unit for the operation and construction of South Carolina veterans homes. The South Carolina Mental Health Commission shall consult with the Division of Veterans Affairs, Office of the Governor, concerning the policies, management, and operation of the South Carolina veterans homes.

HISTORY: 1962 Code Section 32‑1008; 1969 (56) 215; 1977 Act No. 41 Section 1; 1996 Act No. 350, Section 1.

CROSS REFERENCES

Certificates, applications, records and reports made for purposes of this chapter to remain confidential, with certain exceptions, see Section 44‑22‑100.

Library References

Mental Health 31.

Westlaw Topic No. 257A.

C.J.S. Mental Health Sections 49, 51 to 52, 59.

**SECTION 44‑11‑40.** “South Carolina veterans” defined.

 For the purpose of Section 44‑11‑30 “South Carolina veterans” means any ex‑service South Carolina citizen who was discharged under other than dishonorable conditions and who served in any branch of the military or naval service of the United States.

HISTORY: 1962 Code Section 32‑1009; 1969 (56) 215; 1977 Act No. 41 Section 2.

**SECTION 44‑11‑60.** Establishment of mental health clinics.

 The Mental Health Commission shall establish mental health clinics throughout the State and shall supervise them.

HISTORY: 1962 Code Section 32‑935; 1952 (47) 2042.

CROSS REFERENCES

Certificates, applications, records and reports made for purposes of this chapter to remain confidential, with certain exceptions, see Section 44‑22‑100.

Library References

Mental Health 31.

Westlaw Topic No. 257A.

C.J.S. Mental Health Sections 49, 51 to 52, 59.

**SECTION 44‑11‑70.** Employment and powers of law enforcement officers for facilities.

 The Department of Mental Health may employ law enforcement officers as may be necessary to maintain the security of state mental health facilities. The law enforcement officers must be vested with all the powers and charged with all the duties of police officers generally. They may, without warrant, arrest persons guilty of disorderly conduct or of trespass on state mental health facilities and have them tried in any court of competent jurisdiction.

HISTORY: 1962 Code Section 32‑937; 1952 Code Section 32‑979; 1942 Code Section 6243; 1932 Code Section 6243; Civ. C. ‘22 Section 5104; Civ. C. ‘12 Section 3371; Civ. C. ‘02 Section 2260; 1894 (21) 835; 1920 (31) 704; 1952 (47) 2042; 2016 Act No. 227 (H.4124), Section 1, eff June 3, 2016.

CROSS REFERENCES

Authority of employee appointed pursuant to this section to take into custody involuntarily committed patient who is absent without proper authorization, see Section 44‑17‑870.

Department of Mental Health regulations, see S.C. Code of Regulations R. 87‑1 et seq.

Library References

Mental Health 31.

Westlaw Topic No. 257A.

C.J.S. Mental Health Sections 49, 51 to 52, 59.

**SECTION 44‑11‑75.** Entering or refusing to leave state mental health facility following warning or request; penalty.

 (A) It is unlawful for a person without legal cause or good excuse to enter on the premises of a state mental health facility after having been warned by the facility director or, in his absence, by the director’s representative, in writing, within the six months preceding not to enter on the premises.

 (B) It is unlawful for a person without legal cause or good excuse to fail or refuse immediately to leave the premises of a state mental health facility upon being ordered or requested to leave by the facility director or, in his absence, by the facility director’s representative.

 (C) A person violating subsection (A) or (B), upon conviction, must be fined not more than two hundred dollars or imprisoned not more than thirty days.

 (D) A municipal court or magistrate’s court has jurisdiction over violations of this section occurring within the respective limits of the municipality or magisterial district.

HISTORY: 1994 Act No. 351, Section 1.

Library References

Mental Health 31.

Westlaw Topic No. 257A.

C.J.S. Mental Health Sections 49, 51 to 52, 59.

**SECTION 44‑11‑110.** Easements and rights‑of‑way on grounds of facilities.

 The Mental Health Commission may, by resolution recorded on the minutes of its meetings, grant easements, permits or rights of way on, over or under the grounds of the facilities, but none may be granted unless approved in writing by the Attorney General before delivery.

HISTORY: 1962 Code Section 32‑941; 1952 Code Sections 32‑981, 32‑982; 1942 Code Section 6245; 1932 Code Section 6245; Civ. C. ‘22 Section 5107; Civ. C. ‘12 Section 3372; Civ. C. ‘02 Section 2261; 1894 (21) 835; 1920 (31) 704; 1941 (42) 188; 1942 (42) 1685; 1952 (47) 2042.

Library References

Mental Health 31.

Westlaw Topic No. 257A.

C.J.S. Mental Health Sections 49, 51 to 52, 59.