

is guilty of a misdemeanor and upon conviction thereof, may be fined an amount not to exceed \$5,000, or imprisoned for a period not to exceed one year or both.

(c) In addition to the penalties hereinabove specified, any person admitted or retained against his will by any facility while its license is suspended or revoked, or if it is not licensed, may recover civil damages for such admission or retention from the facility and from any person who knowingly participates in such admission or retention.

### *Financing of Services for the Mentally Retarded*

#### *24. General Policy of Financing.*

*It is the intent of this subtitle to require all mentally retarded persons financially able to do so to pay for services received by them. Such obligations extend to not only the mentally retarded persons, but also to those legally responsible for them. Where such mentally retarded persons or their responsible relatives or guardians are unable to pay for their care, it is the intent of this subtitle that the cost of services for the mentally retarded be financed in the manner provided by the Legislature.*

#### *25. Determination of Cost of Care.*

(a) *The Department shall fix a rate to be charged to all mentally retarded persons admitted to public facilities, not to exceed the actual cost of care, per capita, of such persons. The cost per capita shall be determined annually prior to the beginning of the fiscal year, by the Department and the Secretary of the State Department of Budget and Fiscal Planning.*

(b) *In the case of mentally retarded persons who have been continuously hospitalized for a period in excess of thirty months, in any one or more public facilities, the rate to be charged to the responsible relatives ~~or guardians~~ of the mentally retarded person, where payment has been made for the first thirty months' hospitalization, shall thereafter not exceed 25% of the per capita cost. Continuous hospitalization shall mean and include all hospitalization where successive periods of inpatient care are not separated by absences in excess of one year.*

#### *26. Time and Amount of Payments.*

(a) *Payments shall be made by the mentally retarded person or his responsible relative or guardian. Liability for such payment shall be joint and several.*

(b) *The Department shall specify the time and amount of payments. It may from time to time, modify its orders as to payments, as circumstances may warrant. In setting the amounts of payments, the Department shall consider the financial means of abilities of the mentally retarded person and responsible relatives or guardian, and may agree to accept less than the per capita cost of care.*

(c) *The Department may, when appropriate, set the rate of payments retroactively, for a period of not more than six months. The retroactivity may be set for a greater period if the retarded person, his responsible relatives, personal representative or other person hav-*