

## CHAPTER 1103

## ALCOHOLISM TREATMENT

H. F. 1277

AN ACT relating to the care, maintenance and treatment pursuant to chapter one hundred twenty-five (125) of the Code of persons suffering the effects of alcohol, and providing standards for the approval and funding of programs, the approval and oversight of facilities, the procedures for assisting intoxicated persons, and the assessment, acceptance and payment, by the state and counties, of certain charges imposed by facilities for providing care, maintenance and treatment services.

*Be It Enacted by the General Assembly of the State of Iowa:*

1 SECTION 1. Section one hundred twenty-five point two (125.2), Code 1975, is  
2 amended by adding the following new subsection:

3 NEW SUBSECTION. "Residence" means the place where a person resides. For  
4 the purpose of determining which Iowa county, if any, is liable pursuant to this  
5 chapter for payment of costs attributable to its residents, the following rules shall  
6 apply:

7 a. If a person claims an Iowa homestead, then the person's residence shall be in  
8 the county where that homestead is claimed, irrespective of any other factors.

9 b. If paragraph a does not apply, and the person continuously has been  
10 provided or has maintained living quarters within any county of this state for a  
11 period of not less than one year, whether or not at the same location within that  
12 county, then the person's residence shall be in that county, irrespective of other  
13 factors. However, this paragraph shall not apply to unemancipated persons under  
14 eighteen years of age who are wards of this state.

15 c. If paragraphs a and b do not apply, or, if the person is under eighteen years  
16 of age, is unemancipated, and is a ward of this state, then the person shall be  
17 unclassified with respect to county of residence, and payment of all costs shall be  
18 made by the division as provided in this chapter.

19 d. An unemancipated person under eighteen years of age who is not a ward of  
20 the state shall be deemed to reside where the parent having legal custody, or the  
21 legal guardian, or legal custodian of that person has residence as determined  
22 according to this subsection.

23 e. The provisions of this subsection shall not be used in any case to which  
24 section one hundred twenty-five point twenty-six (125.26) of the Code is  
25 applicable.

1 SEC. 2. Section one hundred twenty-five point two (125.2), Code 1975, is  
2 amended by striking subsection eight (8).

1 SEC. 3. Section one hundred twenty-five point seven (125.7), subsection two  
2 (2), Code 1975, is amended to read as follows:

3 2. Approve the comprehensive alcoholism program, *and the funding therefor*,  
4 developed by the division pursuant to sections 125.1 to 125.26.

1 SEC. 4. Section one hundred twenty-five point nine (125.9), subsection one (1),  
2 Code 1975, is amended to read as follows:

3 1. Plan, establish and maintain treatment programs as necessary or desirable  
4 ~~with the approval of the commission~~ *in accordance with the comprehensive*  
5 *alcoholism program.*

1 SEC. 5. Section one hundred twenty-five point ten (125.10), subsections eight  
2 (8), nine (9), and eleven (11), Code 1975, are amended to read as follows:

3 8. Organize and ~~foster~~ *implement, in cooperation with local treatment programs*,  
4 training programs for all persons engaged in treatment of alcoholics and  
5 intoxicated persons.

6 9. Sponsor and ~~encourage~~ *implement, in cooperation with local treatment*  
 7 *programs*, research into the causes and nature of alcoholism and treatment of  
 8 alcoholics and intoxicated persons, and serve as a clearing house for information  
 9 relating to alcoholism.

10 11. ~~Advise the commission and the governor in the preparation of~~ *Develop and*  
 11 *implement, with the counsel and approval of the Commission*, a comprehensive plan  
 12 for treatment of alcoholics and intoxicated persons ~~for inclusion in the state's~~  
 13 ~~comprehensive health~~, *said plan to be coordinated with health systems agencies.*

1 SEC. 6. Section one hundred twenty-five point ten (125.10), subsection fifteen  
 2 (15), Code 1975, is amended to read as follows:

3 15. Encourage general hospitals and other appropriate health facilities to admit  
 4 without discrimination alcoholics and intoxicated persons and to provide them  
 5 with adequate and appropriate treatment, *and may negotiate and implement*  
 6 *contracts with hospitals and other appropriate health facilities with adequate*  
 7 *detoxification facilities.*

1 SEC. 7. Section one hundred twenty-five point thirteen (125.13), Code 1975, is  
 2 amended by adding the following new subsection:

3 NEW SUBSECTION. The commission shall establish rules pursuant to chapter  
 4 seventeen A (17A) of the Code requiring facilities to use reasonable accounting  
 5 and reimbursement systems which recognize relevant cost-related factors for  
 6 alcoholism patients. No facility shall be approved nor shall any payment be made  
 7 under this chapter to a facility which fails to comply with those rules or which  
 8 does not permit inspection by the division, and an examination of all records,  
 9 including financial records, methods of administration, general and special  
 10 dietary programs, the disbursement of drugs and methods of supply, and any  
 11 other records the division deems relevant to the establishment of such a system.  
 12 However, rules issued pursuant to this paragraph shall not apply to any facility  
 13 referred to in sections one hundred twenty-five point fourteen (125.14) or one  
 14 hundred twenty-five point twenty-six (125.26) of the Code.

1 SEC. 8. Section one hundred twenty-five point seventeen (125.17), subsections  
 2 one (1), two (2), and six (6), Code 1975, are amended to read as follows:

3 1. An intoxicated person may come voluntarily to a facility for emergency  
 4 treatment. A person who appears to be intoxicated or incapacitated by alcohol in  
 5 a public place and in need of help may be taken to a facility by a peace officer ~~or~~  
 6 ~~the alcoholism service unit~~. If the person refuses the proffered help, he may be  
 7 arrested and charged with intoxication.

8 2. If no facility is readily available the person may be taken to an emergency  
 9 medical service customarily used for incapacitated persons. The peace officer ~~or~~  
 10 ~~the alcoholism service unit~~, in detaining the person and in taking him to a facility,  
 11 is taking him into protective custody and shall make every reasonable effort to  
 12 protect his health and safety. In taking the person into protective custody, the  
 13 detaining officer may take reasonable steps to protect himself. A taking into  
 14 protective custody under this section is not an arrest and no entry or other record  
 15 shall be made to indicate that the person who is taken into protective custody has  
 16 been arrested or charged with a crime.

17 6. A peace officer ~~or member of the alcoholism service unit~~ who acts in  
 18 compliance with this section is acting in the course of his official duty and is not  
 19 criminally or civilly liable therefor, unless such acts constitute willful malice or  
 20 abuse.

1 SEC. 9. Section one hundred twenty-five point eighteen (125.18), subsection  
 2 three (3), Code 1975, is amended to read as follows:

3 3. Upon approval of the application by the administrator in charge of the  
 4 facility, the person shall be brought to the facility by a peace officer, health  
 5 officer, ~~alcoholism service unit~~, the applicant for commitment, the patient's  
 6 spouse, the patient's guardian or any other interested person. The person shall be

7 retained at the facility to which he was admitted, or transferred to another  
8 facility, until discharged under subsection 5.

1 SEC. 10. Section one hundred twenty-five point nineteen (125.19), subsection  
2 five (5), Code 1975, is amended to read as follows:

3 5. A person committed under this section shall remain in the custody of the  
4 division for treatment for a period of thirty days unless sooner discharged. *This*  
5 *section shall not be construed to require the division to pay the cost of any medication*  
6 *or procedure provided the person during that period which is not necessary or*  
7 *appropriate to the specific objectives of detoxification and treatment of alcoholism.* At  
8 the end of the thirty-day period, he shall be discharged automatically unless the  
9 director before expiration of the period petitions the court for an order for his  
10 recommitment upon the grounds set forth in subsection 1 for a further period not  
11 to exceed ninety days.

1 SEC. 11. Section one hundred twenty-five point twenty-two (125.22), Code  
2 1975, is amended by striking the section and inserting in lieu thereof the  
3 following:

4 **125.22 Composition of facilities' boards—treatment plans furnished.**

5 1. In addition to other requirements established by this chapter, no facility shall  
6 be approved pursuant to section one hundred twenty-five point thirteen (125.13)  
7 of the Code unless it is either a licensed hospital or a community mental health  
8 center operating under chapter two hundred thirty A (230A) of the Code, or it is  
9 organized under the Iowa nonprofit corporation Act appearing as chapter five  
10 hundred four A (504A) of the Code. In the latter case, one-third of the  
11 membership of the board of directors shall be representatives of such government  
12 units providing funds to the facility for treatment of alcoholism.

13 2. A local governmental unit which is providing funds to a facility for  
14 treatment of alcoholism may request from the facility a treatment program plan  
15 prior to authorizing payment of any claims filed by the facility. The governing  
16 body of the local governmental unit may review the plan, but shall not impose on  
17 the facility any requirement conflicting with the comprehensive treatment  
18 program requirements of section one hundred twenty-five point twenty-eight  
19 (125.28) of the Code.

1 SEC. 12. Section one hundred twenty-five point twenty-seven (125.27),  
2 unnumbered paragraphs one (1) and two (2), Code 1975, are amended to read as  
3 follows:

4 The director ~~shall~~ *may, consistent with the comprehensive alcoholism program,*  
5 enter into written agreements with a facility as defined in section 125.2 to pay for  
6 seventy-five percent of the cost of the care, maintenance and treatment of an  
7 alcoholic. Such contracts shall be for a period of no more than one year. The  
8 commission shall review and evaluate at least once each year all such agreements  
9 and determine whether or not they shall be continued.

10 The contract may be in such form and contain provisions as agreed upon by  
11 the parties. Such contract shall provide that the facility shall admit and treat  
12 alcoholics ~~whose legal settlement is in counties other than the contracting county~~  
13 *regardless of where they have residence.* If one payment for care, maintenance, and  
14 treatment is not made by the patient or those legally liable therefor within thirty  
15 days after discharge the payment shall be made by the division directly to the  
16 facility. Payments shall be made each month and shall be based upon the  
17 facility's average daily per patient charge. Provisions of this section shall not  
18 pertain to patients treated at the mental health institutes.

1 SEC. 13. Section one hundred twenty-five point twenty-seven (125.27), Code  
2 1975, is amended by adding the following new unnumbered paragraph:

3 NEW UNNUMBERED PARAGRAPH. Contracting facilities shall deliver to each  
4 patient upon discharge a statement of the costs of the care, maintenance and  
5 treatment for which that patient is liable, and shall retain a carbon copy or other

6 similar copy of that statement for a period of not less than one year after the date  
 7 of discharge of the patient to whom the statement refers. Every payment received  
 8 by a contracting facility from or on behalf of a patient, whether received before  
 9 or after costs have been billed to the division or to a county, shall be identified by  
 10 the facility as to patient and invoice or statement, and shall be reported to the  
 11 division. A contracting facility shall allow as a credit against a future billing to  
 12 the division or to a county, payments received during each month from or on  
 13 behalf of a patient whose care, maintenance and treatment theretofore has been  
 14 billed to and paid by the division or a county. Failure by a contracting facility to  
 15 comply with this paragraph, or with rules promulgated pursuant to subsection  
 16 four (4) of section one hundred twenty-five point thirteen (125.13) of the Code  
 17 shall constitute grounds for nonrenewal of the contract.

1 SEC. 14. Section one hundred twenty-five point twenty-eight (125.28), Code  
 2 1975, as amended by Acts of the Sixty-sixth General Assembly, 1975 Session,  
 3 chapter ten (10), section four (4), is amended to read as follows:

4 **125.28 Counties to share cost.** Except as provided in section 125.26, ~~counties~~  
 5 *each county* shall pay for the remaining twenty-five percent of the cost of the care,  
 6 maintenance, and treatment *under this chapter* of ~~an alcoholic residents of that~~  
 7 *county* from the county mental health and institutions fund as provided in section  
 8 444.12. The commission shall establish guidelines for use by the counties in  
 9 estimating the amount of expense which the county will incur each year. The  
 10 facility shall certify to the county of ~~the alcoholic's legal settlement residence~~ once  
 11 each month twenty-five percent of the unpaid cost of the care, maintenance, and  
 12 treatment of an alcoholic. Such county shall pay the cost so certified to the  
 13 facility from its county mental health and institutions fund. However, the  
 14 approval of the board of supervisors shall be required before payment is made by  
 15 a county for costs incurred which exceed a total of five hundred dollars for one  
 16 year for treatment provided to any one alcoholic or intoxicated person, except  
 17 that such approval is not required for the cost of treatment provided to an  
 18 alcoholic or intoxicated person who is committed pursuant to sections 125.18 and  
 19 125.19. A facility may, upon approval of the board of supervisors, submit to a  
 20 county a billing for the aggregate amount of all care, maintenance, and treatment  
 21 of alcoholics *who are residents of that county* for each month. The board of  
 22 supervisors may demand an itemization of such billings at any time or may audit  
 23 the same.

1 SEC. 15. Section one hundred twenty-five point twenty-nine (125.29), Code  
 2 1975, is amended to read as follows:

3 **125.29 Legal settlement County of residence determined.** The facility shall,  
 4 when an alcoholic is admitted, or as soon thereafter as it receives the proper  
 5 information, determine and enter upon its records ~~whether the legal settlement~~  
 6 *Iowa county of residence* of such alcoholic is ~~in the county where the facility is~~  
 7 ~~located, or in some other county, state, or country, or is unknown, or that the~~  
 8 *person resides in some other state or country, or that the person is unclassified with*  
 9 *respect to residence.*

1 SEC. 16. Section one hundred twenty-five point thirty (125.30), Code 1975, is  
 2 amended to read as follows:

3 **125.30 Disputed settlement Disputes over payment.** In the event any county  
 4 to which certification of the cost of care, maintenance, and treatment of an  
 5 alcoholic is made, disputes that such alcoholic has his ~~legal settlement residence~~  
 6 in that county, it shall immediately notify the facility that such dispute exists. The  
 7 director shall immediately investigate the facts and determine in which county the  
 8 patient has ~~legal settlement residence~~. The director shall certify his determination  
 9 to the county, *if any*, wherein it is found the patient has ~~legal settlement residence~~  
 10 and to the facility. ~~The A county certified by the director to be the county of legal~~  
 11 ~~settlement residence~~ shall reimburse the facility as provided in this chapter. If the

12 director finds that the ~~legal settlement~~ residence of an alcoholic at the time of  
 13 admission was in another state or country or ~~was unknown~~ that the person is  
 14 unclassified with respect to residence, then the division shall pay for that portion of  
 15 his care, maintenance, and treatment that his county of ~~legal settlement~~ residence  
 16 would have been liable to pay. For purposes of this section, a "facility" does not  
 17 include a mental health institute under the control of the department of social  
 18 services.

1 SEC. 17. Section one hundred twenty-five point thirty-one (125.31), Code  
 2 1975, is amended to read as follows:

3 **125.31 Legal liability for care.** The alcoholic and any person, firm,  
 4 corporation, or insurance company bound by contract to provide support,  
 5 hospitalization, or medical services for the alcoholic shall be legally liable to the  
 6 county of the alcoholic's ~~legal settlement~~ residence for twenty-five percent of the  
 7 total amount and to the division for seventy-five percent of the total amount of  
 8 the cost of providing care, maintenance, and treatment for the alcoholic while a  
 9 voluntary or committed patient in a facility, except when the state pays the total  
 10 cost of care in which case liability of one hundred percent shall be to the state.  
 11 Nothing in this section shall prohibit any individual from paying any portion of  
 12 the cost of treatment.

13 *The estate of each nonresident person provided care, maintenance or treatment*  
 14 *while a voluntary or committed patient in a facility, and all persons legally bound for*  
 15 *the support of such a person, shall be legally liable to the state for reasonable costs*  
 16 *paid by the division under this chapter for the care, maintenance and treatment of the*  
 17 *person in a facility. The certificate of the director of the division showing the amounts*  
 18 *paid or due to be paid by the division for such care, maintenance and treatment shall*  
 19 *be presumptive evidence of the reasonableness of the costs of the care, maintenance*  
 20 *and treatment provided.*

1 SEC. 18. Section one hundred twenty-five point thirty-three (125.33), Code  
 2 1975, is amended to read as follows:

3 **125.33 County auditor to keep accounts.** The auditor of each county shall  
 4 keep an accurate account of the total cost to the county of the care, maintenance,  
 5 and treatment of any alcoholic and shall keep an index of the names of the  
 6 alcoholics ~~admitted from such county~~ for whose benefit county funds are expended  
 7 pursuant to section one hundred twenty-five point twenty-eight (125.28) of the Code  
 8 for those services.

1 SEC. 19. Section three hundred twenty-one point two hundred eighty-three  
 2 (321.283), subsection three (3), Code 1975, is amended to read as follows:

3 3. Referred on conviction. After any conviction for operating a motor vehicle  
 4 while under the influence of an alcoholic beverage under section 321.281, the  
 5 court may refer the defendant for treatment at a facility as defined in sections  
 6 125.1 to 125.26 and designated by the division on alcoholism. The court may  
 7 prescribe the length of time for treatment or it may be left to the discretion of the  
 8 facility to which the defendant was referred. A person referred under this section  
 9 shall be considered a state patient, and charges and costs for treatment shall be  
 10 paid for in the manner provided for payment for treatment of alcoholics who  
 11 have no legal residence in this state.

1 SEC. 20. Section three hundred thirty-two point three (332.3), Code 1975, is  
 2 amended by adding the following new subsection:

3 **NEW SUBSECTION.** To require that any person, agency or organization which is  
 4 not a part of the county government, but which is receiving funds from the  
 5 county to pay in whole or in part for services furnished to third parties, must  
 6 submit to audit by auditors assigned or employed for the purpose by the board.  
 7 Upon request by the board, the person, agency or organization to be audited  
 8 under this subsection shall make available all pertinent books, records and  
 9 documents needed for the audit.

1 SEC. 21. Section one hundred twenty-five point twenty-two (125.22), Code  
2 1975, is repealed.\*

Approved June 26, 1976

\*See also §11 hereof

## CHAPTER 1104

### LIABILITY FOR INSTITUTIONAL CARE

H. F. 292

AN ACT to abolish certain liens and provide procedures for determining liability for payment of charges for care and treatment at certain institutions or facilities.

*Be It Enacted by the General Assembly of the State of Iowa:*

1 SECTION 1. Section one hundred twenty-five point twenty-eight (125.28), Code  
2 1975, is amended by adding the following new unnumbered paragraph:

3 NEW UNNUMBERED PARAGRAPH. The board of supervisors shall upon receipt  
4 of the list of persons treated at any facility make a determination whether each  
5 such person or the persons legally liable for his or her support are able to pay the  
6 charges for the care and treatment at the facility. If the board finds such a person  
7 or the persons legally liable for his or her support are presently unable to pay for  
8 the treatment, it shall direct the auditor not to index the name of that person, as  
9 would otherwise be required by section one hundred twenty-five point thirty-three  
10 (125.33) of the Code. However the board may review its finding with respect to  
11 any person at any subsequent time at which another similar list is certified upon  
12 which that person's name appears. If the board finds upon review that that person  
13 or those legally liable for his or her support are presently able to pay for the  
14 treatment, that finding shall apply only to charges stated upon the list then before  
15 the board and any subsequent charges similarly certified, unless and until the  
16 board again changes its findings.

1 SEC. 2. Section one hundred twenty-five point thirty-two (125.32), Code 1975,  
2 is amended to read as follows:

3 **125.32 Transfer from institutional fund.** The county auditor upon receipt of  
4 ~~such~~ certification by the facility *as required by section one hundred twenty-five point*  
5 *twenty-eight (125.28) of the Code* shall enter the same to the credit of the facility  
6 and issue a notice ~~to~~ *authorizing* the county treasurer, ~~authorizing him~~ to transfer  
7 the amount from the county mental health and institutions fund to the ~~state~~  
8 ~~general fund~~ *credit of the facility*, which notice shall be filed by the treasurer as ~~his~~  
9 authority for making such transfer, and ~~shall include~~ the amount transferred ~~in~~  
10 ~~his~~ *shall be included in the auditor's* next remittance to the facility.

1 SEC. 3. Section one hundred twenty-five point thirty-three (125.33), Code  
2 1975, is amended to read as follows:

3 **125.33 County auditor to keep accounts.** The auditor of each county shall  
4 keep an accurate account of the total cost *to the county* of the care, maintenance,  
5 and treatment of any alcoholic and keep an index of the names of the alcoholics  
6 admitted from such county.

1 SEC. 4. Section one hundred twenty-five point thirty-four (125.34), Code 1975,  
2 is amended to read as follows: