

CHAPTER 1170**MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES***S.F. 2311*

AN ACT relating to services for persons with mental illness, mental retardation or other developmental disability, or brain injury.

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

DIVISION I**Legal Settlement — Alternative Dispute Resolution**

Section 1. Section 222.70, Code 1993, is amended to read as follows:

222.70 DISPUTE BETWEEN COUNTIES LEGAL SETTLEMENT DISPUTES.

1. ~~When~~ If a dispute arises between counties or between the administrator and a county as to the legal settlement of a person admitted or committed to a hospital-school, ~~or~~ a special unit, ~~or~~ a community-based service, the attorney general at the request of the administrator shall without advancement of fees cause an action to be brought in the district court of any county where ~~such~~ the dispute exists. The action shall be brought to determine ~~such~~ the person's legal settlement, except that ~~such~~ action shall in ~~no~~ case not be filed in a county in which the district court or a judge thereof of ~~that~~ district court originally made the disputed finding. ~~Said~~ The action may be brought at any time when it appears that the dispute cannot be amicably settled. All counties which may be the county of ~~such~~ the person's legal settlement, so far as known, shall be made defendants and the allegation of settlement may be in the alternative. ~~Said~~ The action shall be tried as in equity.

2. In lieu of an action filed under subsection 1, the parties to a dispute concerning a person's legal settlement or a payment for a community-based service may settle the dispute through an alternative dispute resolution process agreed to by the parties. The alternative dispute resolution process may include but is not limited to mediation, binding arbitration, or other mutually agreeable form of resolution. A resolution of the dispute agreed to by the parties shall be stipulated to and filed in the office of the clerk of the district court.

Sec. 2. Section 222.71, Code 1993, is amended to read as follows:

222.71 LEGAL SETTLEMENT — FINDING BY COURT.

~~The~~ If an action is filed under section 222.70, subsection 1, the court shall determine whether the legal settlement of ~~said~~ mentally retarded the person at the time of admission or commitment with mental retardation was in one of the defendant counties at the time of admission or commitment. If the court ~~so~~ finds the person to have legal settlement in a county, judgment shall be entered against the county of ~~such~~ settlement in favor of any other county for all necessary and legal expenses arising from ~~said~~ the person's admission or commitment and ~~shall be paid by said~~ other the county of legal settlement. If any such costs have not been paid, judgment shall be rendered against the county of legal settlement in favor of the parties, including the state, to whom ~~said~~ the costs or expenses may be due.

Sec. 3. Section 222.72, Code 1993, is amended to read as follows:

222.72 FINDING LEGAL SETTLEMENT OUTSIDE STATE.

If an alternative dispute resolution of the dispute filed under section 222.70 stipulates or the court finds pursuant to section 222.70 or 222.71 that the legal settlement of ~~said~~ mentally retarded the person with mental retardation, at the time of admission or commitment was outside the state or was unknown an order shall be entered that the mentally retarded person shall be maintained in the hospital-school, ~~or~~ the special unit, ~~or~~ a community-based service at the expense of the state. In such case, the state shall refund to any county all necessary and legal expenses for the cost of said admission or commitment paid by a county. A decision by the court shall be final.

Sec. 4. Section 230.12, Code 1993, is amended to read as follows:

230.12 ACTION TO DETERMINE LEGAL SETTLEMENT DISPUTES.

1. ~~When~~ If a dispute arises between different counties or between the administrator and a county as to the legal settlement of a person admitted or committed to a state hospital for the mentally ill, the attorney general, at the request of the administrator, shall, without the advancement of fees, cause an action to be brought in the district court of any county where such dispute exists, to determine the person's legal settlement. This action may be brought at any time when it appears that the dispute cannot be amicably settled. All counties which may be the place of the legal settlement, so far as known, shall be made defendants and the allegation of the settlement may be in the alternative. The action shall be tried as in equity.

2. In lieu of an action filed under subsection 1, the parties to a dispute concerning a person's legal settlement may settle the dispute through an alternative dispute resolution process agreed to by the parties. The alternative dispute resolution process may include but is not limited to mediation, binding arbitration, or other mutually agreeable form of resolution. A resolution of the dispute agreed to by the parties shall be stipulated to and filed in the office of the clerk of the district court.

~~23.~~ 3. If ~~the an~~ an action under this section involves a dispute between counties, the county determined to be the county of legal settlement shall reimburse a county for the amount of costs paid by that county on behalf of the person and for interest on this amount in accordance with section 535.3. In addition, the court may order the county determined to be the county of legal settlement to reimburse any other county involved in the dispute for the other county's reasonable legal costs related to the dispute and may tax the reasonable legal costs as court costs. The court may order the county determined to be the county of legal settlement to pay a penalty to the other county, in an amount which does not exceed twenty percent of the total amount of reimbursement and interest.

Sec. 5. Section 230.13, Code 1993, is amended to read as follows:

230.13 JUDGMENT WHEN LEGAL SETTLEMENT FOUND WITHIN STATE.

~~The~~ If an action is entered under section 230.12, subsection 1, the court shall determine whether the legal settlement of said ~~mentally ill~~ the person with mental illness, at the time of the person's admission or commitment, was in one of the defendant counties. If the court ~~so find~~ finds a county to be the county of legal settlement, judgment shall be entered against the county of such settlement in favor of any other county for all legal costs and expenses arising out of said the proceedings in mental illness involving the person, and paid by said ~~other~~ the county of legal settlement. If any such costs have not been paid, judgment shall be rendered against the county of legal settlement in favor of the parties, including the state, to whom said the costs or expenses may be due.

Sec. 6. Section 230.14, Code 1993, is amended to read as follows:

230.14 ~~ORDER WHEN~~ LEGAL SETTLEMENT IN CASES INVOLVING NONRESIDENCE OR UNKNOWN SETTLEMENT APPEARS.

If an alternative dispute resolution of the dispute filed under section 230.12, subsection 2, stipulates or the court finds that the legal settlement of said ~~mentally ill~~ the person with mental illness, at the time of admission or commitment, was in a foreign state or country, or was unknown, an order shall be entered that said ~~mentally ill~~ the person shall be maintained in the hospital for the mentally ill at the expense of the state. In such case the state shall refund to any county, with interest, all legal costs and expenses arising out of said ~~proceedings in mental illness~~ the legal settlement dispute and paid by said a county. Any stipulation filed or decision by the court shall be final.

DIVISION II

Housing for Persons with Disabilities

Sec. 7. Section 135C.2, subsection 5, unnumbered paragraph 1, Code 1993, is amended to read as follows:

The department shall establish a special classification within the residential care facility category in order to foster the development of residential care facilities which serve persons with mental retardation, chronic mental illness, ~~or~~ a developmental disability, or brain injury, as defined ~~described~~ under section 225C.26, and which contain five or fewer residents. A facility within the special classification established pursuant to this subsection is exempt from the requirements of section 135.63. The department shall adopt rules which are consistent with rules previously developed for the waiver demonstration project pursuant to 1986 Iowa Acts, chapter 1246, section 206, and which include all of the following provisions:

Sec. 8. Section 335.25, Code Supplement 1993, is amended to read as follows:
335.25 ZONING FOR FAMILY HOMES.

1. It is the intent of this section to assist in improving the quality of life of developmentally disabled persons with a developmental disability or brain injury by integrating them into the mainstream of society by making available to them community residential opportunities in the residential areas of this state. In order to implement this intent, this section shall be liberally construed.

2. a. "Brain injury" means brain injury as defined in section 135.22.

b. "Developmental disability" or "developmentally disabled" means a disability of a person which has continued or can be expected to continue indefinitely and which is one of the following:

(1) Attributable to mental retardation, cerebral palsy, epilepsy, or autism.

(2) Attributable to any other condition found to be closely related to mental retardation because the condition results in impairment of general intellectual functioning or adaptive behavior similar to that of mentally retarded persons or requires treatment and services similar to those required for the persons.

(3) Attributable to dyslexia resulting from a disability described in either subparagraph (1) or (2).

(4) Attributable to a mental or nervous disorder.

b c. "Family home" means a community-based residential home which is licensed as a residential care facility under chapter 135C or as a child foster care facility under chapter 237 to provide room and board, personal care, habilitation services, and supervision in a family environment exclusively for not more than eight developmentally disabled persons with a developmental disability or brain injury and any necessary support personnel. However, family home does not mean an individual foster family home licensed under chapter 237.

e d. "Permitted use" means a use by right which is authorized in all residential zoning districts.

d e. "Residential" means regularly used by its occupants as a permanent place of abode, which is made one's home as opposed to one's place of business and which has housekeeping and cooking facilities for its occupants only.

3. Notwithstanding the optional provision in section 335.1 and any other provision of this chapter to the contrary, a county, county board of supervisors, or a county zoning commission shall consider a family home a residential use of property for the purposes of zoning and shall treat a family home as a permitted use in all residential zones or districts, including all single-family residential zones or districts, of the county. A county, county board of supervisors, or a county zoning commission shall not require that a family home, its owner, or operator obtain a conditional use permit, special use permit, special exception, or variance. However, new family homes owned or operated by public or private agencies shall be disbursed dispersed through the residential zones and districts and shall not be located within contiguous areas equivalent in size to city block areas. Section 135C.23, subsection 2, shall apply to all residents of a family home.

4. A restriction, reservation, condition, exception, or covenant in a subdivision plan, deed, or other instrument of or pertaining to the transfer, sale, lease, or use of property in a county which permits residential use of property but prohibits the use of property as a family home for developmentally disabled persons with a developmental disability or brain injury, to the extent of the prohibition, is void as against the public policy of this state and shall not be given legal or equitable effect.

Sec. 9. Section 414.22, Code Supplement 1993, is amended to read as follows:

414.22 ZONING FOR FAMILY HOMES.

1. It is the intent of this section to assist in improving the quality of life of ~~developmentally disabled~~ persons with a developmental disability or brain injury by integrating them into the mainstream of society by making available to them community residential opportunities in the residential areas of this state. In order to implement this intent, this section shall be liberally construed.

2. a. "Brain injury" means brain injury as defined in section 135.22.

b. "~~Developmental disability~~" or "~~developmentally disabled~~" means a disability of a person which has continued or can be expected to continue indefinitely and which is one of the following:

(1) Attributable to mental retardation, cerebral palsy, epilepsy, or autism.

(2) Attributable to any other condition found to be closely related to mental retardation because the condition results in impairment of general intellectual functioning or adaptive behavior similar to that of mentally retarded persons or requires treatment and services similar to those required for the persons.

(3) Attributable to dyslexia resulting from a disability described in either subparagraph (1) or (2).

(4) Attributable to a mental or nervous disorder.

b.c. "Family home" means a community-based residential home which is licensed as a residential care facility under chapter 135C or as a child foster care facility under chapter 237 to provide room and board, personal care, habilitation services, and supervision in a family environment exclusively for not more than eight ~~developmentally disabled~~ persons with a developmental disability or brain injury and any necessary support personnel. However, family home does not mean an individual foster care family home licensed under chapter 237.

e.d. "Permitted use" means a use by right which is authorized in all residential zoning districts.

d.e. "Residential" means regularly used by its occupants as a permanent place of abode, which is made one's home as opposed to one's place of business and which has housekeeping and cooking facilities for its occupants only.

3. Notwithstanding any provision of this chapter to the contrary, a city, city council, or city zoning commission shall consider a family home a residential use of property for the purposes of zoning and shall treat a family home as a permitted use in all residential zones or districts, including all single-family residential zones or districts, of the city. A city, city council, or city zoning commission shall not require that a family home, its owner, or operator obtain a conditional use permit, special use permit, special exception, or variance. However, new family homes owned and operated by public or private agencies shall be disbursed dispersed throughout the residential zones and districts and shall not be located within contiguous city block areas. Section 135C.23, subsection 2, shall apply to all residents of a family home.

4. Any restriction, reservation, condition, exception, or covenant in any subdivision plan, deed, or other instrument of or pertaining to the transfer, sale, lease, or use of property in a city which permits residential use of property but prohibits the use of property as a family home for ~~developmentally disabled~~ persons with a developmental disability or brain injury, to the extent of the prohibition, is void as against the public policy of this state and shall not be given legal or equitable effect.

DIVISION III

Chapter 225C Rewrite

Sec. 10. Section 225C.1, Code 1993, is amended to read as follows:

225C.1 FINDINGS AND PURPOSE.

The general assembly finds that ~~community-based care, services to persons with mental illness, mental retardation, developmental disabilities, or brain injury~~ are provided in many parts

of the state by highly autonomous ~~community mental health and mental retardation~~ community-based service providers working cooperatively with state mental health and mental retardation facilities, is meeting most mental health and mental retardation service needs of those Iowans to whom this care is available and county officials. However, the general assembly recognizes that heavy reliance on property tax funding for mental health and mental retardation services has restricted uniform availability of this care. Consequently, greater efforts should be made to assure close coordination and continuity of care for those persons receiving publicly supported ~~mental health and mental retardation~~ disability services in Iowa. It is the purpose of this chapter to continue and to strengthen the ~~mental health and mental retardation~~ services to persons with disabilities now available in the state of Iowa, to make these services conveniently available to all persons in this state upon a reasonably uniform financial basis, and to assure the continued high quality of these services.

It is the intent of the general assembly that the service system for persons with disabilities emphasize the ability of persons with disabilities to exercise their own choices about the amounts and types of services received; that all levels of the service system seek to empower persons with disabilities to accept responsibility, exercise choices, and take risks; and that services be provided in a manner which supports the ability of persons with disabilities to live, learn, work, and recreate in natural communities of their choice.

Sec. 11. Section 225C.2, Code 1993, is amended to read as follows:

225C.2 DEFINITIONS.

As used in this chapter:

1. "Administrator" means the administrator of the division of mental health, ~~mental retardation~~, and developmental disabilities of the department of human services.
2. "Commission" means the mental health and ~~mental retardation~~ developmental disabilities commission.
3. "~~Comprehensive services~~" means the mental health services delineated in the annual state mental health plan, and the ~~mental retardation services delineated in the annual state mental retardation plan.~~
- 4 3. "Department" means the department of human services.
- 5 4. "Director" means the director of human services.
5. "Disability services" means services or other assistance available to a person with mental illness, mental retardation or other developmental disability, or brain injury.
6. "Division" means the division of mental health, ~~mental retardation~~, and developmental disabilities of the department of human services.
7. "Person with a disability" means a person with mental illness, mental retardation or other developmental disability, or brain injury.

Sec. 12. Section 225C.3, Code 1993, is amended to read as follows:

225C.3 DIVISION OF MENTAL HEALTH, ~~MENTAL RETARDATION~~, AND DEVELOPMENTAL DISABILITIES — STATE MENTAL HEALTH AUTHORITY.

1. The division is designated the state mental health authority as defined in 42 U.S.C. ~~see~~ § 201(m) (1976) for the purpose of directing the benefits of the National Mental Health Act, 42 U.S.C. ~~see~~ § 201 et seq. This designation does not preclude the board of regents from authorizing or directing any institution under its jurisdiction to carry out educational, prevention, and research activities in the areas of mental health and mental retardation. The division may contract with the board of regents or any institution under the board's jurisdiction to perform any of these functions.

2. The division is designated the state developmental disabilities agency for the purpose of directing the benefits of the Developmental Disabilities Services and Facilities Construction Act, 42 U.S.C. ~~see~~ § 6001 et seq.

3. The division is administered by the administrator. The administrator of the division shall be qualified in the general field of mental health, ~~or mental retardation, or other disability services, and preferably in both fields more than one field.~~ The administrator shall have at least five years of experience as an administrator in one or ~~both~~ more of these fields.

Sec. 13. Section 225C.4, Code 1993, is amended to read as follows:

225C.4 ADMINISTRATOR'S DUTIES.

1. ~~The~~ To the extent funding is available, the administrator shall perform the following duties:

a. Prepare and administer state mental health and mental retardation plans for the provision of ~~comprehensive~~ disability services within the state and prepare and administer the state developmental disabilities plan. The administrator shall consult with the Iowa department of public health, the state board of regents or a body designated by the board for that purpose, the department of management or a body designated by the director of the department for that purpose, the department of education, the division of job service of the department of employment services and any other appropriate governmental body, in order to facilitate ~~co-~~ordination coordination of disability services provided to ~~mentally ill, mentally retarded, and developmentally disabled persons~~ in this state. The state mental health and mental retardation plans shall be consistent with the state health plan, ~~shall be prepared in consultation with the state health co-ordinating council,~~ and shall incorporate county ~~mental health and mental retardation~~ disability services plans.

b. Assist county ~~co-ordinating boards of supervisors and mental health and developmental disabilities regional planning councils in developing a program planning for community mental health and mental retardation~~ community-based disability services within the state based on the need for ~~comprehensive services, and the services offered by existing public and private facilities, with the goal of providing comprehensive services to all persons in this state who need them.~~

c. Emphasize the provision of outpatient services by community mental health centers and local mental retardation providers as a preferable alternative to inpatient hospital services.

d. Encourage and facilitate ~~co-~~ordination coordination of ~~disability services with the objective of developing and maintaining in the state a mental health and mental retardation~~ disability service delivery system to provide ~~comprehensive~~ disability services to all persons in this state who need ~~them~~ the services, regardless of the place of residence or economic circumstances of those persons.

e. Encourage and facilitate applied research and preventive educational activities related to causes and appropriate treatment for ~~mental illness and mental retardation~~ disabilities. The administrator may designate, or enter into agreements with, private or public agencies to carry out this function.

f. Promote ~~co-~~ordination coordination of community-based services with those of the state mental health institutes and state hospital-schools.

g. Administer state programs regarding the care, treatment, and supervision of ~~mentally ill or mentally retarded persons with mental illness or mental retardation~~, except the programs administered by the state board of regents.

h. Administer and control the operation of the state institutions established by chapters 222 and 226, and any other state institutions or facilities providing care, treatment, and supervision to ~~mentally ill or mentally retarded persons with mental illness or mental retardation~~, except the institutions and facilities of the state board of regents.

i. Administer ~~the state community mental health and mental retardation appropriations to the mental health and developmental disabilities~~ community services fund established by section 225C.7.

j. Act as compact administrator with power to effectuate the purposes of interstate compacts on mental health.

k. Establish and maintain a data collection and management information system oriented to the needs of patients, providers, the department, and other programs or facilities.

l. Prepare a division budget and reports of the division's activities.

m. Advise the ~~personnel commission on recommended qualifications of all division employees.~~

n. Establish suitable agreements with other state agencies to encourage appropriate care and to facilitate the ~~co-~~ordination of mental health, mental retardation, and developmental disabilities coordination of disability services.

~~o~~ n. Provide consultation and technical assistance to patients' advocates appointed pursuant to section 229.19, in ~~co-operation~~ cooperation with the ~~judicial system department~~ and the care review committees appointed for ~~county~~ health care facilities pursuant to section 135C.25.

~~p~~ o. Provide consultation and technical assistance to patients' advocates appointed pursuant to section 222.59.

~~q~~ p. Provide technical assistance to agencies and organizations, to aid them in meeting standards which are established, or with which compliance is required, under statutes administered by the administrator, including but not limited to chapters 227 and 230A.

~~r~~ q. Recommend and enforce minimum accreditation standards for the maintenance and operation of community mental health centers under section 230A.16.

~~s~~ r. In ~~co-operation~~ cooperation with the department of inspections and appeals, recommend minimum standards under section 227.4 for the care of and services to ~~mentally ill and mentally retarded persons with mental illness and mental retardation~~ residing in county care facilities.

~~t~~ s. In ~~co-operation~~ cooperation with the Iowa department of public health, recommend minimum standards for the maintenance and operation of public or private facilities offering disability services to mentally ill or mentally retarded persons, which are not subject to licensure by the department or the department of inspections and appeals.

t. Provide technical assistance concerning disability services and funding to counties and mental health and developmental disabilities regional planning councils.

2. The administrator may:

a. Apply for, receive, and administer federal aids, grants, and gifts for purposes relating to ~~mental health, mental retardation, and developmental disabilities~~ disability services or programs.

b. Establish mental health and mental retardation services for all institutions under the control of the director of human services and establish an autism unit, following mutual planning with and consultation from the medical director of the state psychiatric hospital, at an institution or a facility administered by the administrator to provide psychiatric and related services and other specific programs to meet the needs of autistic persons as defined in section 331.424, subsection 1, and to furnish appropriate diagnostic evaluation services.

c. Establish and supervise suitable standards of care, treatment, and supervision for ~~mentally ill and mentally retarded persons with disabilities~~ in all institutions under the control of the director of human services.

d. Appoint professional consultants to furnish advice on any matters pertaining to ~~mental health and mental retardation~~ disability services. The consultants shall be paid as provided by an appropriation of the general assembly.

e. Administer a public housing unit within a bureau of the division to apply for, receive, and administer federal assistance, grants, and other public or private funds for purposes related to providing housing to persons with ~~mental illness, mental retardation, or a developmental disability~~ disabilities in accordance with section 225C.45.

Sec. 14. Section 225C.5, Code 1993, is amended to read as follows:

225C.5 MENTAL HEALTH AND MENTAL RETARDATION DEVELOPMENTAL DISABILITIES COMMISSION.

1. A mental health and ~~mental retardation~~ developmental disabilities commission is ~~established~~ created as the state policy-making body for the provision of ~~mental health and mental retardation services, consisting to persons with mental illness, mental retardation or other developmental disabilities, or brain injury.~~ The commission shall consist of fifteen members appointed to three-year staggered terms by the governor and subject to confirmation by the senate. Commission members shall be appointed on the basis of interest and experience in the fields of mental health, or mental retardation or other developmental disabilities, and brain injury, in a manner so that, if possible, the composition of the commission will comply with the requirements of the Community Mental Health Centers Amendments of 1975, 42 U.S.C. sec. § 2689t(a) (1976) relative to a state mental health advisory council, and so as to ensure

adequate representation from both the mental health and mental retardation fields persons with disabilities and individuals knowledgeable concerning disability services. Four members of the commission shall be members of county boards of supervisors at the time of their appointment to the commission. Two members of the commission shall be members of county mental health and mental retardation co-ordinating boards at the time of their appointment to the commission. One member of the commission shall either be an active board member of a community mental health center or an active member of the Iowa mental health association at the time of appointment to the commission. One member of the commission shall be an active member of either a community mental retardation agency or the Iowa association for retarded citizens at the time of appointment to the commission. Members of the commission shall include the following persons who, at the time of appointment to the commission, are active members of the indicated groups:

- a. Four members shall be members of a county board of supervisors.
- b. Two members shall be members of a mental health and developmental disabilities regional planning council.
- c. One member shall be either an active board member of a community mental health center or of a statewide association of persons with mental illness or of family members of persons with mental illness.
- d. One member shall be either an active board member of an agency serving persons with mental retardation or of a statewide association for persons with mental retardation.
- e. One member shall be an active member of a statewide organization for persons with developmental disabilities other than mental retardation.
- f. One member shall be an active member of a statewide organization for persons with brain injury.

2. The three-year terms shall begin and end as provided in section 69.19. Vacancies on the commission shall be filled as provided in section 2.32. A member shall not be appointed for more than two consecutive three-year terms.

3. Members of the commission shall qualify by taking the oath of office prescribed by law for state officers. At its first meeting of each year, the commission shall organize by electing a chairperson and a vice chairperson for terms of one year. Commission members are entitled to a per diem as specified in section 7E.6 and reimbursement for actual and necessary expenses incurred while engaged in their official duties, to be paid from funds appropriated to the department.

Sec. 15. Section 225C.6, Code 1993, is amended to read as follows:

225C.6 DUTIES OF COMMISSION.

1. To the extent funding is available, the commission shall perform the following duties:
 - a. Advise the administrator on administration of the overall state plans for comprehensive disability services.
 - b. Adopt necessary rules pursuant to chapter 17A which relate to mental health and mental retardation disability programs and services, including but not limited to definitions of each disability included within the term "disability services" as necessary for purposes of state and regional planning, programs, and services.
 - c. Adopt standards for accreditation of community mental health centers and comprehensive community mental health programs recommended under section 230A.16.
 - d. Adopt standards for the care of and services to mentally ill and mentally retarded persons with mental illness and mental retardation residing in county care facilities recommended under section 227.4.
 - e. Adopt standards for the delivery of mental health and mental retardation disability services by the division, and for the maintenance and operation of public or private facilities offering services to mentally ill or mentally retarded persons with disabilities, which are not subject to licensure by the department or the department of inspections and appeals, and review the standards employed by the department or the department of inspections and appeals for licensing facilities which provide services to the mentally ill or mentally retarded persons with disabilities.

f. Assure that proper appeal procedures are available to persons aggrieved by decisions, actions, or circumstances relating to accreditation.

g. Award grants from the special allocation of the state community mental health and mental retardation services fund pursuant to section 225C.11, state and federal government as well as other moneys that become available to the division for grant purposes.

h. Review and rank applications for federal mental health grants prior to submission to the appropriate federal agency.

i. Annually submit to the governor and the general assembly:

(1) A report concerning the activities of the commission.

(2) Recommendations formulated by the commission for changes in law and for changes in the rules adopted by the auditor of state under section 225C.10.

j. Beginning not later than By January 1, 1985, and continuing once every two years thereafter of each odd-numbered year, submit to the governor and the general assembly an evaluation of:

(1) The extent to which mental health and mental retardation services to persons with disabilities stipulated in the state plans are actually available to persons in each county in the state.

(2) The cost effectiveness of the services being provided by each of the state mental health institutes established under chapter 226 and state hospital-schools established under chapter 222.

(3) The cost effectiveness of programs carried out by randomly selected providers receiving money from the state community mental health and mental retardation services fund established under section 225C.7 for disability services.

k. Advise the administrator, the council on human services, the governor, and the general assembly on budgets and appropriations concerning mental health and mental retardation disability services.

l. Meet Consult with the state developmental disabilities Iowa governor's planning council for developmental disabilities at least twice a year for the purpose of co-ordinating mental health, mental retardation, and developmental disabilities planning and funding.

m. Establish standards for the provision under medical assistance of individual case management services.

n. Establish standards for the structure of a service coordination system which ensures a linkage between the service coordination system and individual case management services.

o. Identify model eligibility guidelines for disability services.

p. Identify model guidelines for purchase of disability services and for disability service reimbursement methodologies.

q. Prepare, for mental health and developmental disabilities regional planning councils, advance estimates of state and, to the extent possible, federal funds available to counties for purchase of disability services.

r. Identify basic disability services for planning purposes.

s. Prepare five-year plans based upon the plans developed by mental health and developmental disabilities regional planning councils.

t. Identify disabilities services which are eligible for state payment under the mental health and developmental disabilities community services fund created in section 225C.7.

2. Notwithstanding section 217.3, subsection 6, the commission may adopt the rules authorized by subsection 1, pursuant to chapter 17A, without prior review and approval of those rules by the council on human services.

Sec. 16. Section 225C.7, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

225C.7 MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES COMMUNITY SERVICES FUND.

1. A mental health and developmental disabilities community services fund is established in the office of the treasurer of state under the authority of the department, which shall consist of the amounts appropriated to the fund by the general assembly for each fiscal year. Before completion of the department's budget estimate as required by section 8.23, the department

shall determine and include in the estimate the amount which should be appropriated to the fund for the forthcoming fiscal period in order to implement the purpose stated in section 225C.1.

2. Moneys appropriated to the fund shall be allocated to counties for funding of community-based mental health, mental retardation, developmental disabilities, and brain injury services in the manner provided in the appropriation to the fund.

3. Provision of moneys from the fund is contingent upon a county participating in the county's mental health and developmental disabilities regional planning council established under section 225C.18.

4. If a county has not established or is not affiliated with a community mental health center under chapter 230A, the county shall expend a portion of the money received under this appropriation to contract with a community mental health center to provide mental health services to the county's residents. If such a contractual relationship is unworkable or undesirable, the mental health and developmental disabilities commission may waive the expenditure requirement. However, if the commission waives the requirement, the commission shall address the specific concerns of the county and shall attempt to facilitate the provision of mental health services to the county's residents through an affiliation agreement or other means.

5. a. A county is entitled to receive money from the fund if that county raised by county levy and expended for mental health, mental retardation, and developmental disabilities services, in the preceding fiscal year, an amount of money at least equal to the amount so raised and expended for those purposes during the fiscal year beginning July 1, 1980.

b. With reference to the fiscal year beginning July 1, 1980, money "raised by county levy and expended for mental health, mental retardation, and developmental disabilities services" means the county's maintenance of effort determined by using the general allocation application for the state community mental health and mental retardation services fund under section 225C.10, subsection 1, Code 1993. The department, with the agreement of each county, shall establish the actual amount expended by each county for persons with mental illness, mental retardation, or a developmental disability in the fiscal year which began on July 1, 1980, and this amount shall be deemed each county's maintenance of effort.

Sec. 17. Section 225C.13, Code 1993, is amended to read as follows:

225C.13 AUTHORITY OF ADMINISTRATOR TO LEASE FACILITIES.

The administrator may enter into agreements under which a facility or portion of a facility administered by the administrator is leased to a department or division of state government, a county or group of counties, or a private nonprofit corporation organized under chapter 504A. A lease executed under this section shall require that the lessee use the leased premises to deliver either ~~comprehensive~~ disability services or other services normally delivered by the lessee.

Sec. 18. Section 225C.14, subsection 1, Code 1993, is amended to read as follows:

1. Except in cases of medical emergency, a person shall be admitted to a state mental health institute as an inpatient only after a preliminary diagnostic evaluation by a community mental health center or by an alternative diagnostic facility has confirmed that the admission is appropriate to the person's mental health needs, and that no suitable alternative method of providing the needed services in a less restrictive setting or in or nearer to the person's home community is currently available. The policy established by this section shall be implemented in the manner and to the extent prescribed by sections 225C.15, 225C.16 and 225C.17. ~~However, notwithstanding the mandatory language requiring preliminary diagnostic evaluations in this section and sections 225C.15, 225C.16 and 225C.17, preliminary diagnostic evaluations shall not be required until the fiscal year for which the general assembly has appropriated moneys to the state community mental health and mental retardation services fund under section 225C.7.~~

Sec. 19. NEW SECTION. 225C.18 MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES REGIONAL PLANNING COUNCILS.

1. Mental health and developmental disabilities regional planning councils are established. The regions of the initial planning councils shall be the same as the regions of the

mental illness, mental retardation, developmental disabilities, and brain injury planning councils created pursuant to 1993 Iowa Acts, chapter 172, section 20, subsection 5. A region's planning area shall either utilize the borders of a pertinent field services cluster established in accordance with section 217.42 or have a population of forty thousand and include counties with a historical pattern of cooperation in providing disability services.

2. The members of a planning council shall include a member of the county board of supervisors of each county comprising the planning council and a sufficient number of disability service providers and service consumers or family members of service consumers to provide for adequate representation of the providers and consumers or family members. The board of supervisors of the counties comprising the planning council shall determine the size and membership of the planning council.

3. A county may request that the mental health and developmental disabilities commission approve the county to shift its membership in a regional planning council to a different planning council. In considering a request, the commission shall review geographic distance, natural market areas, tax structure, population factors, and other factors raised by the requestor and other affected counties concerning the planning council regions affected by the request.

4. A planning council shall perform the following tasks:

a. Develop a planning process and plan for services to persons with disabilities residing in the region. Planning shall encompass a five-year time span and shall be annually updated. The plans shall be submitted to the boards of supervisors of the counties in the region and to the commission.

b. Recommend the expenditure of all state and county funds, and to the extent possible, federal funds for disability services within the region.

c. Provide for input into the planning process by the public and service consumers, providers, and funders.

d. Work with staff assigned to the planning council to perform needs assessments, plan development, and to work with consumers, providers, and funders, and fulfill other necessary functions.

e. Make recommendations to the county boards of supervisors associated with the planning area and to the commission, concerning disability services and related budget issues.

f. Perform other duties at the request of the counties comprising the region and of the commission.

5. The requirements of this section relating to services to persons with disabilities are not intended as and shall not be construed as a requirement to provide services.

Sec. 20. Section 225C.21, subsection 3, Code 1993, is amended to read as follows:

3. Approved community, supervised apartment living arrangements may receive funding from the state ~~community mental health and mental retardation services fund~~, federal and state social services block grant funds, and other appropriate funding sources, consistent with state legislation and federal regulations. The funding may be provided on a per diem, per hour, or grant basis, as appropriate.

Sec. 21. Section 225C.45, subsection 1, Code 1993, is amended to read as follows:

1. The administrator may establish a public housing unit within a bureau of the division to apply for, receive, and administer federal assistance, grants, and other public or private funds for purposes related to providing housing to persons with mental illness, mental retardation; or a other developmental disability, or brain injury.

DIVISION IV Coordinating Amendments

Sec. 22. Section 135C.2, subsection 5, paragraph f, subparagraph (4), Code 1993, is amended to read as follows:

(4) The mental health and ~~mental retardation~~ developmental disabilities commission created in section 225C.5.

Sec. 23. Section 135C.23, subsection 2, unnumbered paragraph 2, Code 1993, is amended to read as follows:

This section does not prohibit the admission of a patient with a history of dangerous or disturbing behavior to an intermediate care facility for the mentally ill, intermediate care facility for the mentally retarded, nursing facility, or county care facility when the intermediate care facility for the mentally ill, intermediate care facility for the mentally retarded, nursing facility, or county care facility has a program which has received prior approval from the department to properly care for and manage the patient. An intermediate care facility for the mentally ill, intermediate care facility for the mentally retarded, nursing facility, or county care facility is required to transfer or discharge a resident with dangerous or disturbing behavior when the intermediate care facility for the mentally ill, intermediate care facility for the mentally retarded, nursing facility, or county care facility cannot control the resident's dangerous or disturbing behavior. The department, in coordination with the state mental health and ~~mental retardation~~ developmental disabilities commission created in section 225C.5, shall adopt rules pursuant to chapter 17A for programs to be required in intermediate care facilities for the mentally ill, intermediate care facilities for the mentally retarded, nursing facilities, and county care facilities that admit patients or have residents with histories of dangerous or disturbing behavior.

Sec. 24. Section 135C.25, subsection 1, Code 1993, is amended to read as follows:

1. Each health care facility shall have a care review committee whose members shall be appointed by the director of the department of elder affairs or the director's designee. A person shall not be appointed a member of a care review committee for a health care facility unless the person is a resident of the service area where the facility is located. The care review committee for any facility caring primarily for persons ~~who are mentally ill, mentally retarded, or developmentally disabled~~ with mental illness, mental retardation, or a developmental disability shall only be appointed after consultation with the administrator of the division of mental health, ~~mental retardation~~, and developmental disabilities of the department of human services on the proposed appointments. Recommendations to the director or the director's designee for membership on care review committees are encouraged from any agency, organization, or individual. The administrator of the facility shall not be appointed to the care review committee and shall not be present at committee meetings except upon request of the committee.

Sec. 25. Section 154D.2, subsection 1, paragraph b, Code 1993, is amended to read as follows:

b. Has at least two years of supervised clinical experience or its equivalent as approved by the board in consultation with the mental health and ~~mental retardation~~ developmental disabilities commission created in section 225C.5.

Sec. 26. Section 154D.2, subsection 2, paragraph b, Code 1993, is amended to read as follows:

b. Has at least two years of clinical experience, supervised by a licensee, in assessing mental health needs and problems and in providing appropriate mental health services as approved by the board of behavioral science examiners in consultation with the mental health and ~~mental retardation~~ developmental disabilities commission created in section 225C.5.

Sec. 27. Section 217.6, unnumbered paragraph 2, Code 1993, is amended to read as follows:

The department of human services may be initially divided into the following divisions of responsibility: ~~The the~~ the division of child and family services, the division of mental health, ~~mental retardation~~, and developmental disabilities, the division of administration, and the division of planning, research and statistics.

Sec. 28. Section 217.10, Code 1993, is amended to read as follows:

217.10 ADMINISTRATOR OF DIVISION OF MENTAL HEALTH, ~~MENTAL RETARDATION~~, AND DEVELOPMENTAL DISABILITIES.

The administrator of the division of mental health, ~~mental retardation~~, and developmental disabilities shall be qualified as provided in section 225C.3, subsection 3. The administrator's duties are enumerated in section 225C.4.

Sec. 29. Section 218.3, subsection 2, Code 1993, is amended to read as follows:

2. The administrator of the division of mental health, ~~mental retardation~~, and developmental disabilities of the department of human services has primary authority and responsibility relative to the following institutions: Glenwood state hospital-school, Woodward state hospital-school, mental health institute, Cherokee, Iowa, mental health institute, Clarinda, Iowa, mental health institute, Independence, Iowa and mental health institute, Mount Pleasant, Iowa.

Sec. 30. Section 218.4, unnumbered paragraph 2, Code 1993, is amended to read as follows:

~~Such rules when prescribed or approved~~ Rules adopted by the council shall be uniform and shall apply to all institutions under the particular administrator and to all other institutions under the administrator's jurisdiction and the primary rules of the administrator of the division of mental health and developmental disabilities for use in institutions where ~~the mentally ill persons with mental illness are kept served~~ shall, unless otherwise indicated, uniformly apply to county or private hospitals ~~wherein the mentally ill in which persons with mental illness are kept served~~, but ~~such the~~ rules shall not interfere with proper medical treatment administered patients by competent physicians. Annually, signed copies of ~~such the~~ rules shall be sent to the chief executive officer of each ~~such~~ institution or hospital under the control or supervision of a particular administrator and copies shall also be sent to the clerk of each district court, the chairperson of the board of supervisors of each county and, as appropriate, to the officer in charge of institutions or hospitals caring for ~~the mentally ill persons with mental illness~~ in each county who shall be responsible for seeing that the ~~same is~~ rules are posted in each institution or hospital in a prominent place. ~~Such The~~ rules shall be kept current to meet the public need and shall be revised and published annually.

Sec. 31. Section 218.9, unnumbered paragraph 1, Code 1993, is amended to read as follows:

The administrator of the division of mental health, ~~mental retardation~~, and developmental disabilities of the department of human services, subject to the approval of the director of the department, shall appoint the superintendents of the state hospital-schools ~~for the mentally retarded~~ and the state mental health institutes.

Sec. 32. Section 218.30, Code 1993, is amended to read as follows:

218.30 INVESTIGATION OF OTHER INSTITUTIONS.

The administrators of the department of human services to whom control of state institutions has been delegated, or their authorized officers or employees, may investigate charges of abuse, neglect, or mismanagement on the part of any officer or employee of any private institution which is subject to ~~such the~~ administrator's particular supervision or control. The administrator of the division of mental health and developmental disabilities, or the administrator's authorized officer or employee, shall ~~likewise~~ also investigate charges concerning county care facilities in which mentally ill persons with mental illness are kept served.

Sec. 33. Section 218.92, Code 1993, is amended to read as follows:

218.92 DANGEROUS MENTAL PATIENTS.

When a patient in a state hospital-school for the mentally retarded, a mental health institute, or an institution under the administration of the administrator of the division of mental health and developmental disabilities of the department of human services, has become so mentally disturbed as to constitute a danger to self, to other patients in the institution, or to the public, and the institution cannot provide adequate security, the administrator, ~~of mental health~~ with the consent of the director of the Iowa department of corrections, may order the patient to be transferred to the Iowa medical and classification center, if the executive head of the institution from which the patient is to be transferred, with the support of a majority of the medical staff, recommends the transfer in the interest of the patient, other patients, or the public. If the patient transferred was hospitalized pursuant to sections 229.6 to 229.15, the transfer shall be promptly reported to the court which hospitalized the patient, as required by section 229.15, subsection 4. The Iowa medical and classification center has the same rights, duties, and responsibilities with respect to the patient as the institution from which the patient

was transferred had while the patient was hospitalized there. The cost of the transfer shall be paid from the funds of the institution from which the transfer is made.

Sec. 34. Section 221.2, Code 1993, is amended to read as follows:

221.2 ADMINISTRATOR.

Pursuant to the compact, the administrator of the division of mental health, ~~mental retardation~~, and developmental disabilities of the department of human services shall be the compact administrator. The compact administrator may ~~co-operate~~ cooperate with all departments, agencies and officers of this state and its subdivisions in facilitating the proper administration of the compact and of any supplementary agreement entered into by this state under the compact.

Sec. 35. Section 222.2, subsection 1, Code 1993, is amended to read as follows:

1. "Administrator" means the administrator of the division of mental health, ~~mental retardation~~, and developmental disabilities of the department of human services.

Sec. 36. Section 226.47, Code 1993, is amended to read as follows:

226.47 "ADMINISTRATOR" ADMINISTRATOR DEFINED.

For the purpose of this chapter, "administrator" means the administrator of the division of mental health, ~~mental retardation~~, and developmental disabilities of the department of human services.

Sec. 37. Section 227.4, Code 1993, is amended to read as follows:

227.4 STANDARDS FOR CARE OF MENTALLY ILL AND MENTALLY RETARDED PERSONS WITH MENTAL ILLNESS OR MENTAL RETARDATION IN COUNTY CARE FACILITIES.

The administrator, in ~~co-operation~~ cooperation with the state department of health inspections and appeals, shall recommend, and the mental health and ~~mental retardation~~ developmental disabilities commission created in section 225C.5 shall adopt standards for the care of and services to mentally ill and mentally retarded persons with mental illness or mental retardation residing in county care facilities. The standards shall be enforced by the department of inspections and appeals as a part of the licensure inspection conducted pursuant to chapter 135C. The objective of the standards is to ensure that mentally ill and mentally retarded persons with mental illness or mental retardation who are residents of county care facilities are not only adequately fed, clothed, and housed, but are also offered reasonable opportunities for productive work and recreational activities suited to their physical and mental abilities and offering both a constructive outlet for their energies and, if possible, therapeutic benefit. When recommending standards under this section, the administrator shall designate an advisory committee representing administrators of county care facilities, county ~~co-ordinating~~ boards mental health and developmental disabilities regional planning councils, and county care facility care review committees to assist in the establishment of standards.

Sec. 38. Section 227.19, Code 1993, is amended to read as follows:

227.19 "ADMINISTRATOR" ADMINISTRATOR DEFINED.

For the purpose of this chapter, "administrator" means the administrator of the division of mental health, ~~mental retardation~~, and developmental disabilities of the department of human services.

Sec. 39. Section 230.34, Code 1993, is amended to read as follows:

230.34 "ADMINISTRATOR" ADMINISTRATOR DEFINED.

As used in this chapter, "administrator" means the administrator of the division of mental health, ~~mental retardation~~, and developmental disabilities of the department of human services.

Sec. 40. Section 230A.1, Code 1993, is amended to read as follows:

230A.1 ESTABLISHMENT AND SUPPORT OF COMMUNITY MENTAL HEALTH CENTERS.

A county or affiliated counties, by action of the board or boards of supervisors, with approval of the administrator of the division of mental health, ~~mental retardation~~, and developmental disabilities of the department of human services, may establish a community mental health

center under this chapter to serve the county or counties. In establishing the community mental health center, the board of supervisors of each county involved may make a single nonrecurring expenditure, in an amount determined by the board. This section does not limit the authority of the board or boards of supervisors of any county or group of counties to continue to expend money to support operation of the center, and to form agreements with the board of supervisors of any additional county for that county to join in supporting and receiving services from or through the center.

Sec. 41. Section 230A.2, Code 1993, is amended to read as follows:

230A.2 SERVICES OFFERED.

A community mental health center established or operating as authorized by section 230A.1 may offer to residents of the county or counties it serves any or all of the mental health services defined by the mental health and ~~mental retardation~~ developmental disabilities commission in the state mental health plan.

Sec. 42. Section 230A.16, unnumbered paragraph 1, Code 1993, is amended to read as follows:

The administrator of the division of mental health, ~~mental retardation~~, and developmental disabilities of the department of human services shall recommend and the mental health and ~~mental retardation~~ developmental disabilities commission shall adopt standards for community mental health centers and comprehensive community mental health programs, with the overall objective of ensuring that each center and each affiliate providing services under contract with a center furnishes high quality mental health services within a framework of accountability to the community it serves. The standards shall be in substantial conformity with those of the psychiatric committee of the joint ~~committee~~ commission on accreditation of ~~hospitals~~ health care organizations and other recognized national standards for evaluation of psychiatric facilities unless in the judgment of the administrator of the division of mental health, ~~mental retardation~~, and developmental disabilities, with approval of the mental health and ~~mental retardation~~ developmental disabilities commission, there are sound reasons for departing from ~~such~~ the standards. When recommending standards under this section, the administrator of the division of ~~mental health, mental retardation, and developmental disabilities~~ shall designate an advisory committee representing boards of directors and professional staff of community mental health centers to assist in the formulation or revision of standards. At least a simple majority of the members of the advisory committee shall be lay representatives of community mental health center boards of directors. At least one member of the advisory committee shall be a member of a county board of supervisors. The standards recommended under this section shall include requirements that each community mental health center established or operating as authorized by section 230A.1 shall:

Sec. 43. Section 230A.16, subsection 3, Code 1993, is amended to read as follows:

3. Arrange for the financial condition and transactions of the community mental health center to be audited once each year by the auditor of state. However, in lieu of an audit by state accountants, the local governing body of a community mental health center organized under this chapter may contract with or employ certified public accountants to conduct the audit, pursuant to the applicable terms and conditions prescribed by sections 11.6 and 11.19 and audit format prescribed by the auditor of state. Copies of each audit shall be furnished by the accountant to the administrator of the division of mental health, ~~mental retardation~~, and developmental disabilities, and the board of supervisors supporting the audited community mental health center.

Sec. 44. Section 230A.17, Code 1993, is amended to read as follows:

230A.17 REVIEW AND EVALUATION.

The administrator of the division of mental health, ~~mental retardation~~, and developmental disabilities of the department of human services may review and evaluate any community mental health center upon the recommendation of the mental health and ~~mental retardation~~ developmental disabilities commission, and shall do so upon the written request of the center's board

of directors, its chief medical or administrative officer, or the board of supervisors of any county from which the center receives public funds. The cost of the review shall be paid by the division of mental health, mental retardation, and developmental disabilities.

Sec. 45. Section 230A.18, Code 1993, is amended to read as follows:

230A.18 REPORT OF REVIEW AND EVALUATION.

Upon completion of a review made pursuant to section 230A.17, the review shall be submitted to the board of directors and chief medical or administrative officer of the center. If the review concludes that the center fails to meet any of the standards established pursuant to section 230A.16, subsection 1, and that the response of the center to this finding is unsatisfactory, these conclusions shall be reported to the mental health and ~~mental retardation~~ developmental disabilities commission which may forward the conclusions to the board of directors of the center and request an appropriate response within thirty days. If no response is received within thirty days, or if the response is unsatisfactory, the commission may call this fact to the attention of the board of supervisors of the county or counties served by the center, and in doing so shall indicate what corrective steps have been recommended to the center's board of directors.

Sec. 46. Section 231.44, subsection 2, Code 1993, is amended to read as follows:

2. The responsibilities of the care review committee are in accordance with the rules adopted by the commission pursuant to chapter 17A. When adopting the rules, the commission shall consider the needs of residents of each category of licensed health care facility as defined in section 135C.1, subsection 4, and the services each facility may render. The commission shall coordinate the development of rules with the mental health and ~~mental retardation~~ developmental disabilities commission created in section 225C.5 to the extent the rules would apply to a facility primarily serving persons ~~who are mentally ill, mentally retarded, or developmentally disabled with mental illness, mental retardation, or a developmental disability~~. The commission shall coordinate the development of appropriate rules with other state agencies.

Sec. 47. Section 249A.25, subsection 3, Code 1993, is amended to read as follows:

3. The oversight committee shall have nine members. Two members shall be designated by the fiscal committee of the legislative council and are subject to approval by the governor. The director of human services and the administrator of the division of mental health, ~~mental retardation~~, and developmental disabilities or their designees shall be members. Three members shall be designated by the Iowa state association of counties. One member shall be designated by the state mental health and ~~mental retardation~~ developmental disabilities commission. One member shall be designated by the Iowa governor's planning council on developmental disabilities. Members shall serve staggered three-year terms and vacancies shall be filled in the same manner as the initial appointment. Members are entitled to actual and necessary expenses.

Sec. 48. Section 249A.25, subsection 4, paragraph d, Code 1993, is amended to read as follows:

d. Review and make recommendations regarding the county case management implementation plan and budget to the state mental health and ~~mental retardation~~ developmental disabilities commission.

Sec. 49. Section 249A.25, subsection 4, paragraph f, Code 1993, is amended to read as follows:

f. Recommend action regarding variations from the budgeted, appropriated, and identified expenditures and projected expenditure offsets to the council on human services and the state mental health and ~~mental retardation~~ developmental disabilities commission.

Sec. 50. Section 249A.25, subsection 4, paragraph h, Code 1993, is amended to read as follows:

h. Recommend rules, or amendments to existing rules, which implement the provisions of this section, to the council on human services and the state mental health and ~~mental retardation~~ developmental disabilities commission.

Sec. 51. Section 262.70, Code 1993, is amended to read as follows:

262.70 EDUCATION, PREVENTION, AND RESEARCH PROGRAMS IN MENTAL HEALTH AND MENTAL RETARDATION.

The division of mental health, ~~mental retardation~~, and developmental disabilities of the department of human services may contract with the board of regents or any institution under the board's jurisdiction to establish and maintain programs of education, prevention, and research in the fields of mental health and mental retardation. The board may delegate responsibility for these programs to the state psychiatric hospital, the university hospital, or any other appropriate entity under the board's jurisdiction.

Sec. 52. Section 331.424, subsection 1, paragraph g, Code 1993, is amended to read as follows:

g. Amounts budgeted by the board for mental health services or mental retardation services furnished to persons on either an outpatient or inpatient basis, to a school or other public agency, or to the community at large, by a community mental health center or other suitable facility located in or reasonably near the county, provided that services meet the standards of the mental health and ~~mental retardation~~ developmental disabilities commission created in section 225C.5 and are consistent with the annual plan for services approved by the board.

Sec. 53. Section 331.756, subsection 45, Code Supplement 1993, is amended to read as follows:

45. Appear on behalf of the ~~director~~ administrator of the division of mental health and developmental disabilities of the department of human services in support of an application to transfer a mentally ill person with mental illness who becomes incorrigible and dangerous from a state hospital for the mentally ill to the Iowa medical and classification center as provided in section 226.30.

Sec. 54. REPEAL. Sections 225C.8, 225C.9, 225C.10, and 225C.11, Code 1993, are repealed.

DIVISION V

Amendment of Administrative Rules — Service Facility Regulatory Requirements

Sec. 55. ADMINISTRATIVE RULES. The department of human services shall not amend an administrative rule solely for the purpose of making the changes in the names of the mental health and mental retardation commission and the division of mental health, mental retardation, and developmental disabilities required by this Act.

Sec. 56. REGULATORY REQUIREMENTS. The director of human services shall convene a task force which includes mental retardation service consumers and family members, community-based providers, advocates, representatives of the Iowa state association of counties and the department of inspections and appeals, and other appropriate persons or entities. The task force shall review outcome-based performance standards for facilities and services directed to persons with mental retardation and assess the impact of state and federal rules and regulations upon the efficiency and cost-effectiveness of the facilities and services. The task force shall identify outcome-based performance standards, and rules and regulations which if waived, would improve the efficiency and cost-effectiveness of the facilities and services. Based upon the findings of the task force, the director may request federal waivers to implement demonstration projects serving persons with mental retardation in which the outcome-based performance standards are applied and the identified rules and regulations are waived. The task force shall make a progress report to the governor and the general assembly in January 1995. The director shall not implement demonstration projects in a manner which would require additional funding on the part of the state or counties.

Sec. 57. BRAIN INJURY SERVICES WAIVER. The department of human services shall not propose or implement a medical assistance home and community-based waiver for services

to persons with brain injury in a manner which would require provision of county funding relating to the services or matching of the federal funding. However, the department may propose or implement such a waiver in a manner which would permit the optional financial participation of counties.

Approved May 11, 1994

CHAPTER 1171

CHILD SUPPORT, PATERNITY, AND RELATED MATTERS

H.F. 2410

AN ACT relating to child support recovery including paternity establishment provisions, making a penalty applicable, and providing effective date and retroactive applicability provisions.

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

Section 1. Section 85.59, unnumbered paragraph 2, Code Supplement 1993, is amended to read as follows:

For purposes of this section, "inmate" includes a person who is performing unpaid community service under the direction of the district court, board of parole, or judicial district department of correctional services, or an inmate providing services pursuant to a chapter 28E agreement entered into pursuant to section 904.703, or who is performing a work assignment of value to the state or to the public under chapter 232. For purposes of this section, "unpaid community service under the direction of the district court" includes but is not limited to community service ordered and performed pursuant to section 598.23A.

Sec. 2. Section 144.13, subsection 1, paragraph e, Code Supplement 1993, is amended to read as follows:

e. In the case of a child born out of wedlock, if an affidavit of paternity is obtained directly from the county registrar and is filed pursuant to section 252A.3A shall be filed directly with the county registrar shall forward the original affidavit to the state registrar.

Sec. 3. Section 144.13, subsection 4, Code Supplement 1993, is amended to read as follows:

4. The division shall make all of the following available to the child support recovery unit, upon request, a:

- a. A copy of a child's birth certificate, the
- b. The social security numbers of the mother and the father, and a
- c. A copy of the affidavit of paternity if provided filed pursuant to section 252A.3A.
- d. Information, other than information for medical and health use only, identified on a child's birth certificate or on an affidavit of paternity filed pursuant to section 252A.3A. The information may be provided as mutually agreed upon by the division and the child support recovery unit, including by automated exchange.

Sec. 4. Section 144.40, Code Supplement 1993, is amended to read as follows:

144.40 PATERNITY OF CHILDREN OUT OF WEDLOCK — BIRTH CERTIFICATES.

Upon request and receipt of a sworn acknowledgment of paternity of a child born out of wedlock signed by both parents including an affidavit of paternity completed and filed pursuant to section 252A.3A, or a certified copy or notification by the clerk of court of a court or administrative order establishing paternity, the state registrar shall amend a certificate of birth to show paternity if paternity is not shown on the birth certificate. Upon written request of the parents, the surname of the child may be changed on the certificate to that of the father. The certificate shall not be marked "amended".