

FILED APR 25 1989

unprinted

SENATE FILE 540
BY COMMITTEE ON APPROPRIATIONS

Passed Senate, Date 4-27-89 (p.1710) Passed House, Date 5-2-89 (p.2323)
Vote: Ayes 47 Nays 0 Vote: Ayes 87 Nays 12
Approved June 1, 1989

A BILL FOR

1 An Act relating to human services statutes providing for or
2 regarding substance abuse commitment of juveniles, psychiatric
3 medical institutions for children, the council on human
4 services, mentally ill juveniles, child abuse, payment for a
5 child's expenses, the costs of a child's care in a state
6 juvenile institution, child support recovery, and certain
7 administrative rules, properly related matters, providing for
8 effective dates, and providing penalties.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

SF 540

1 Section 1. NEW SECTION. 125.75A INVOLUNTARY COMMITMENT
2 OR TREATMENT OF MINORS -- JURISDICTION.

3 The juvenile court has exclusive original jurisdiction in
4 proceedings concerning a minor for whom an application for
5 involuntary commitment or treatment is filed under section
6 125.75. In proceedings under this division concerning a
7 minor's involuntary commitment or treatment, the terms
8 "court", "judge", "referee", or "clerk" mean the juvenile
9 court, judge, referee, or clerk.

10 Sec. 2. NEW SECTION. 135H.1 DEFINITIONS.

11 As used in this chapter, unless the context otherwise
12 requires:

13 1. "Department" means the department of inspections and
14 appeals.

15 2. "Direction" means authoritative policy or procedural
16 guidance for the accomplishment of a function or an activity.

17 3. "Licensee" means the holder of a license issued to
18 operate a psychiatric medical institution for children.

19 4. "Medical care plan" means a plan of care and services
20 designed to eliminate the need for inpatient care by improving
21 the condition of a child. Services must be based upon a
22 diagnostic evaluation, which includes an examination of the
23 medical, psychological, social, behavioral, and developmental
24 aspects of the child's situation, reflecting the need for
25 inpatient care.

26 5. "Nonsecure institution" means a physically
27 unrestricting institution, place, building, or agency in which
28 a child may be placed pursuant to a dispositional court order
29 made in accordance with the provisions of chapter 232.

30 6. "Nursing care" means services which are provided under
31 the direction of a physician or registered nurse.

32 7. "Physician" means a person licensed under chapter 148
33 or 150A.

34 8. "Psychiatric medical institution for children" or
35 "psychiatric institution" means a nonsecure institution

1 providing more than twenty-four hours of continuous care
2 involving long-term psychiatric services to three or more
3 children in residence for expected periods of fourteen or more
4 days for diagnosis and evaluation or for expected periods of
5 ninety days or more for treatment.

6 9. "Psychiatric services" means services provided under
7 the direction of a physician which address mental, emotional,
8 medical, or behavioral problems.

395-9 10. "Qualified mental health professional" means a
10 physician or a person who meets both of the following
11 qualifications:

12 a. Possesses a master's or doctoral degree in social work,
13 a master's or doctoral degree in psychology, or a master's
14 degree in a related counseling field.

15 b. Has had at least two years of post-degree experience in
16 a residential treatment facility.

17 11. "Rehabilitative services" means services to encourage
18 and assist restoration of a resident's optimum mental and
19 physical capabilities.

20 12. "Resident" means a person who is less than twenty-one
21 years of age and has been admitted by a physician to a
22 psychiatric medical institution for children.

23 13. "Supervision" means direct oversight and inspection of
24 the act of accomplishing a function or activity.

25 Sec. 3. NEW SECTION. 135H.2 PURPOSE.

26 The purpose of this chapter is to provide for the
27 development, establishment, and enforcement of basic standards
28 for the operation, construction, and maintenance of a
29 psychiatric medical institution for children which will ensure
30 the safe and adequate diagnosis and evaluation and treatment
31 of the residents.

32 Sec. 4. NEW SECTION. 135H.3 NATURE OF CARE.

33 A psychiatric medical institution for children shall
34 utilize a team of professionals to direct an organized program
35 of diagnostic services, psychiatric services, nursing care,

1 and rehabilitative services to meet the needs of residents in
2 accordance with a medical care plan developed for each
3 resident. Social and rehabilitative services shall be
4 provided under the direction of a qualified mental health
5 professional.

6 Sec. 5. NEW SECTION. 135H.4 LICENSURE.

7 A person shall not establish, operate, or maintain a
8 psychiatric medical institution for children unless the person
9 obtains a license for the institution under this chapter and
10 holds a license under section 237.3, subsection 2, paragraph
11 "a", subparagraph (3).

12 Sec. 6. NEW SECTION. 135H.5 APPLICATION FOR LICENSE.

13 An application for a license under this chapter shall be
14 submitted on a form requesting information required by the
15 department, which may include affirmative evidence of the
16 applicant's ability to comply with the rules for standards
17 adopted pursuant to this chapter. An application for a
18 license shall be accompanied by the required license fee which
19 shall be credited to the general fund of the state. The
20 initial and annual license fee is twenty-five dollars.

21 Sec. 7. NEW SECTION. 135H.6 INSPECTION BEFORE ISSUANCE.

22 The department shall issue a license to an applicant under
23 this chapter if all the following conditions exist:

24 1. The department has ascertained that the applicant's
25 medical facilities and staff are adequate to provide the care
26 and services required of a psychiatric institution.

27 2. The proposed psychiatric institution is accredited to
28 provide psychiatric services by the joint commission on the
29 accreditation of health care organizations under the
30 commission's consolidated standards for residential settings.

31 3. The applicant complies with applicable state rules and
32 standards for a psychiatric institution adopted by the
33 department in accordance with federal requirements under
34 C.F.R. § 441.150-441.156.

35 4. The applicant has been awarded a certificate of need

1 pursuant to chapter 135.

2 5. The department of human services has submitted written
3 approval of the application based on the department of human
4 services' determination of need. The department of human
5 services shall identify the location and number of children in
6 the state who require the services of a psychiatric medical
7 institution for children. Approval of an application shall be
8 based upon the location of the proposed psychiatric
9 institution relative to the need for services identified by
10 the department of human services and an analysis of the
11 applicant's ability to provide services and support consistent
12 with requirements under chapter 232, particularly regarding
13 community-based treatment. The department of human services
14 shall not give approval to an application which would cause
15 the total number of beds licensed under this chapter to exceed
16 three hundred sixty beds with not more than three hundred of
17 the beds licensed under chapter 237 before January 1, 1989,
18 and not more than sixty of the beds licensed under chapter 237
19 after January 1, 1989. If the proposed psychiatric
20 institution is not freestanding from a facility licensed under
21 chapter 135B or 135C, approval under this subsection shall not
22 be given unless the department of human services certifies
23 that the proposed psychiatric institution is capable of
24 providing a resident with a living environment similar to the
25 living environment provided by a licensee which is
26 freestanding from a facility licensed under chapter 135B or
27 135C. Unless a psychiatric institution was licensed prior to
28 the effective date of this Act, the department of human
29 services shall not approve an application for a license under
30 this chapter until the federal health care financing
31 administration has approved a state Title XIX plan amendment
32 to include coverage of services in a psychiatric medical
33 institution for children.

34 6. The proposed psychiatric institution is under the
35 direction of an agency which has operated a facility licensed

1 under section 237.3, subsection 2, paragraph "a", subparagraph
2 (3), for three years.

3 Sec. 8. NEW SECTION. 135H.7 PERSONNEL.

4 1. A person shall not be allowed to provide services in a
5 psychiatric institution if the person has a disease which is
6 transmissible to other persons through required contact in the
7 workplace, which presents a significant risk of infecting
8 other persons, which presents a substantial possibility of
9 harming other persons, or for which no reasonable
10 accommodation can eliminate the risk of infecting other
11 persons.

12 2. A person who has been convicted of a criminal act
13 involving a child under a law of any state or who has a record
14 of founded child abuse shall not be licensed, be employed by a
15 licensee, or reside in a licensed home unless the department
16 of human services determines that the crime or founded abuse
17 does not merit prohibition of licensure or employment. In its
18 determination, the department of human services shall consider
19 the nature and seriousness of the crime or founded abuse in
20 relation to the position sought, the time elapsed since the
21 commission of the crime or founded abuse, the circumstances
22 under which the crime or founded abuse was committed, the
23 degree of rehabilitation, and the number of crimes or founded
24 abuses committed by the person involved.

25 Sec. 9. NEW SECTION. 135H.8 DENIAL, SUSPENSION, OR
26 REVOCATION OF LICENSE.

27 The department may deny an application or suspend or revoke
28 a license if the department finds that an applicant or
29 licensee has failed or is unable to comply with this chapter
30 or the rules establishing minimum standards pursuant to this
31 chapter or if any of the following conditions apply:

32 1. It is shown that a resident is a victim of cruelty or
33 neglect due to the acts or omissions of the licensee.

34 2. The licensee has permitted, aided, or abetted in the
35 commission of an illegal act in the psychiatric institution.

1 3. An applicant or licensee acted to obtain or to retain a
2 license by fraudulent means, misrepresentation, or submitting
3 false information.

4 4. The licensee has willfully failed or neglected to
5 maintain a continuing in-service education and training
6 program for persons employed by the psychiatric institution.

7 5. The application involves a person who has failed to
8 operate a psychiatric institution in compliance with the
9 provisions of this chapter.

10 Sec. 10. NEW SECTION. 135H.9 NOTICE AND HEARINGS.

11 The procedure governing notice and hearing to deny an
12 application or suspend or revoke a license shall be in
13 accordance with rules adopted by the department pursuant to
14 chapter 17A. A full and complete record shall be kept of the
15 proceedings and of any testimony. The record need not be
16 transcribed unless judicial review is sought. A copy or
17 copies of a transcript may be obtained by an interested party
18 upon payment of the cost of preparing the transcript or
19 copies.

20 Sec. 11. NEW SECTION. 135H.10 RULES.

21 1. The department of inspections and appeals, in
22 consultation with the department of human services and
23 affected professional groups, shall adopt and enforce rules
24 setting out the standards for a psychiatric medical
25 institution for children and the rights of the residents
26 admitted to a psychiatric institution. The department of
27 inspections and appeals and the department of human services
28 shall coordinate the adoption of rules and the enforcement of
29 the rules in order to prevent duplication of effort by the
30 departments and of requirements of the licensee.

31 2. This chapter shall not be construed as prohibiting the
32 use of funds appropriated for foster care to provide payment
33 to a psychiatric medical institution for children for the
34 financial participation required of a child whose foster care
35 placement is in a psychiatric medical institution for

1 children. In accordance with established policies and
2 procedures for foster care, the department of human services
3 shall act to recover any such payment for financial
4 participation, apply to be named payee for the child's
5 unearned income, and recommend parental liability for the
6 costs of a court-ordered foster care placement in a
7 psychiatric medical institution.

8 Sec. 12. NEW SECTION. 135H.11 COMPLAINTS ALLEGING
9 VIOLATIONS -- CONFIDENTIALITY.

10 A person may request an inspection of a psychiatric medical
11 institution for children by filing with the department a
12 complaint of an alleged violation of an applicable requirement
13 of this chapter or a rule adopted pursuant to this chapter.
14 The complaint shall state in a reasonably specific manner the
15 basis of the complaint. A statement of the nature of the
16 complaint shall be delivered to the psychiatric institution
17 involved at the time of or prior to the inspection. The name
18 of the person who files a complaint with the department shall
19 be kept confidential and shall not be subject to discovery,
20 subpoena, or other means of legal compulsion for its release
21 to a person other than department employees involved in the
22 investigation of the complaint.

23 Sec. 13. NEW SECTION. 135H.12 INSPECTIONS UPON
24 COMPLAINTS.

25 1. Upon receipt of a complaint made in accordance with
26 section 135H.11, the department shall make a preliminary
27 review of the complaint. Unless the department concludes that
28 the complaint is intended to harass a psychiatric institution
29 or a licensee or is without reasonable basis, it shall within
30 twenty working days of receipt of the complaint make or cause
31 to be made an on-site inspection of the psychiatric
32 institution which is the subject of the complaint. The
33 department of inspections and appeals may refer to the
34 department of human services any complaint received by the
35 department if the complaint applies to rules adopted by the

1 department of human services. The complainant shall also be
2 notified of the name, address, and telephone number of the
3 designated protection and advocacy agency if the alleged
4 violation involves a facility with one or more residents with
5 developmental disabilities or mental illness. In any case,
6 the complainant shall be promptly informed of the result of
7 any action taken by the department in the matter.

8 2. An inspection made pursuant to a complaint filed under
9 section 135H.11 need not be limited to the matter or matters
10 referred to in the complaint; however, the inspection shall
11 not be a general inspection unless the complaint inspection
12 coincides with a scheduled general inspection. Upon arrival
13 at the psychiatric institution to be inspected, the inspector
14 shall show identification to the person in charge of the
15 psychiatric institution and state that an inspection is to be
16 made, before beginning the inspection. Upon request of either
17 the complainant or the department, the complainant or the
18 complainant's representative or both may be allowed the
19 privilege of accompanying the inspector during any on-site
20 inspection made pursuant to this section. The inspector may
21 cancel the privilege at any time if the inspector determines
22 that the privacy of a resident of the psychiatric institution
23 to be inspected would be violated. The dignity of the
24 resident shall be given first priority by the inspector and
25 others.

26 Sec. 14. NEW SECTION. 135H.13 INFORMATION CONFIDENTIAL.

27 1. The department's final findings and the survey findings
28 of the joint commission on the accreditation of health care
29 organizations regarding licensure or program accreditation
30 shall be made available to the public in a readily available
31 form and place. Other information relating to the psychiatric
32 institution is confidential and shall not be made available to
33 the public except in proceedings involving licensure, a civil
34 suit involving a resident, or an administrative action
35 involving a resident.

1 2. The name of a person who files a complaint with the
2 department shall remain confidential and is not subject to
3 discovery, subpoena, or any other means of legal compulsion
4 for release to a person other than an employee of the
5 department or an agent involved in the investigation of the
6 complaint.

7 3. Information regarding a resident who has received or is
8 receiving care shall not be disclosed directly or indirectly
9 except as authorized under section 217.30, 232.69, or 237.21.

10 Sec. 15. NEW SECTION. 135H.14 JUDICIAL REVIEW.

11 Notwithstanding the Iowa administrative procedure Act,
12 chapter 17A, a petition for judicial review of the
13 department's actions under this chapter may be filed in the
14 district court of the county in which the related psychiatric
15 medical institution for children is located or is proposed to
16 be located. The status of the petitioner or the licensee
17 shall be preserved pending final disposition of the judicial
18 review.

19 Sec. 16. NEW SECTION. 135H.15 PENALTIES.

20 A person who establishes, operates, or manages a
21 psychiatric medical institution for children without obtaining
22 a license under this chapter commits a serious misdemeanor.
23 Each day of continuing violation following conviction shall be
24 considered a separate offense.

25 Sec. 17. NEW SECTION. 135H.16 INJUNCTION.

26 Notwithstanding the existence or pursuit of another remedy,
27 the department may maintain an action for injunction or other
28 process to restrain or prevent the establishment, operation,
29 or management of a psychiatric medical institution for
30 children without a license.

31 Sec. 18. Section 217.3, subsection 4, Code 1989, is
32 amended to read as follows:

33 4. Approve the budget of the department of human services
34 prior to submission to the governor. Within two weeks of the
35 date the budget is approved, the council shall publicize and

1 hold a public hearing to provide explanations and hear
2 questions, opinions, and suggestions regarding the budget.
3 Invitations to the hearing shall be extended to the governor,
4 the governor-elect, the director of the department of
5 management, and other persons deemed by the council as
6 integral to the budget process.

7 Sec. 19. Section 225C.20, Code 1989, is amended to read as
8 follows:

9 225C.20 RESPONSIBILITIES OF COUNTIES FOR INDIVIDUAL CASE
10 MANAGEMENT SERVICES.

11 Individual case management services shall be provided by
12 the department except when a county or a consortium of
13 counties contracts with the department to provide the
14 services. A county or consortium of counties may contract to
15 be the provider at any time and the department shall agree to
16 the contract so long as the contract meets the standards for
17 case management adopted by the department. The county or
18 consortium of counties may subcontract for the provision of
19 case management services so long as the subcontract meets the
20 same standards. A mental health, mental retardation, and
21 developmental disabilities coordinating board which-intends-to
22 may change the provider of individual case management services
23 at any time. If the current or proposed contract is with the
24 department, the coordinating board shall provide written
25 notification of a proposed change to the department on or
26 before August 15 and written notification of an approved
27 change on or before October 15 in the fiscal year which
28 precedes the fiscal year in which the change will take effect.

29 Sec. 20. NEW SECTION. 226.9A CUSTODY OF JUVENILE
30 PATIENTS.

31 Effective January 1, 1991, a juvenile who is committed to a
32 state mental health institute shall not be placed in a secure
33 ward with adults.

34 Sec. 21. Section 232.71, Code 1989, is amended by adding
35 the following new subsection:

1 NEW SUBSECTION. 17. In each county or multicounty area in
2 which more than fifty child abuse reports are made per year,
3 the department shall establish a multidisciplinary team, as
4 defined in section 235A.13, subsection 9. Upon the
5 department's request, a multidisciplinary team shall assist
6 the department in the assessment, diagnosis, and disposition
7 of a child abuse report.

8 Sec. 22. Section 232.141, Code 1989, is amended by
9 striking the section and inserting in lieu thereof the
10 following:

11 232.141 EXPENSES

12 1. Except as otherwise provided by law, the court shall
13 inquire into the ability of the child or the child's parent to
14 pay expenses incurred pursuant to subsection 2 and subsection
15 4 and, after giving the parent a reasonable opportunity to be
16 heard, the court may order the parent to pay all or part of
17 the costs of the child's care, examination, treatment, legal
18 expenses, or other expenses. An order entered under this
19 section does not obligate a parent paying child support under
20 a custody decree, except that part of the monthly support
21 payment may be used to satisfy the obligations imposed by the
22 order entered pursuant to this section. If a parent fails to
23 pay as ordered, without good reason, the court may proceed
24 against the parent for contempt and may inform the county
25 attorney who shall proceed against the parent to collect the
26 unpaid amount. Any payment ordered by the court shall be a
27 judgment against each of the child's parents and a lien as
28 provided in section 624.23. If all or part of the amount that
29 the parents are ordered to pay is subsequently paid by the
30 county or state, the judgment and lien shall thereafter be
31 against each of the parents in favor of the county to the
32 extent of the county's payments and in favor of the state to
33 the extent of the state's payments.

34 2. Upon certification of the court, all of the following
35 expenses are a charge upon the county in which the proceedings

1 are held, to the extent provided in subsection 3:

2 a. The fees and mileage of witnesses and the expenses of
3 officers serving notices and subpoenas.

4 b. Reasonable compensation for an attorney appointed by
5 the court to serve as counsel or guardian ad litem.

6 3. Costs incurred under subsection 2 shall be paid as
7 follows:

8 a. A county shall be required to pay for the fiscal year
9 beginning July 1, 1989, an amount equal to the county's base
10 cost for witness and mileage fees and attorney fees
11 established pursuant to section 232.141, subsection 8,
12 paragraph "d", Code 1989, for the fiscal year beginning July
13 1, 1988, plus an amount equal to the percentage rate of change
14 in the consumer price index as tabulated by the federal bureau
15 of labor statistics for the current year times the county's
16 base cost.

17 b. A county's base cost for a fiscal year plus the
18 percentage rate of change amount as computed in paragraph "a"
19 is the county's base cost for the succeeding fiscal year. The
20 amount to be paid in the succeeding year by the county shall
21 be computed as provided in paragraph "a".

22 c. Costs incurred under subsection 2 which are not paid by
23 the county under paragraphs "a" and "b" shall be reimbursed by
24 the state. A county shall apply for reimbursement to the
25 judicial department which shall prescribe rules and forms to
26 implement this subsection.

27 4. Upon certification of the court, all of the following
28 expenses are a charge upon the state to the extent provided in
29 subsection 5:

30 a. The expenses of transporting a child to or from a place
31 designated by the court for the purpose of care or treatment.

32 b. Expenses for mental or physical examinations of a child
33 if ordered by the court.

34 c. The expenses of care or treatment ordered by the court.

35 5. If no other provision of law requires the county to

1 reimburse costs incurred pursuant to subsection 4, the
2 department shall reimburse the costs as follows:

3 a. The department shall prescribe by administrative rule
4 all services eligible for reimbursement pursuant to subsection
5 4 and shall establish an allowable rate of reimbursement for
6 each service.

7 b. The department shall receive billings for services
8 provided and, after determining allowable costs, shall
9 reimburse providers at a rate which is not greater than
10 allowed by administrative rule. Reimbursement paid to a
11 provider by the department shall be considered reimbursement
12 in full unless a county voluntarily agrees to pay any
13 difference between the reimbursement amount and the actual
14 cost. When there are specific program regulations prohibiting
15 supplementation those regulations shall be applied to
16 providers requesting supplemental payments from a county.
17 Billings for services not listed in administrative rule shall
18 not be paid. However, if the court orders a service not
19 currently listed in administrative rule, the department shall
20 review the order and, if reimbursement for the service of the
21 department is not in conflict with other law or administrative
22 rule, and meets the criteria of subsection 4, the department
23 shall reimburse the provider.

24 6. If a child is given physical or mental examinations or
25 treatment relating to a child abuse investigation with the
26 consent of the child's parent, guardian, or legal custodian
27 and no other provision of law otherwise requires payment for
28 the costs of the examination and treatment, the costs shall be
29 paid by the state. Reimbursement for costs of services
30 described in this subsection is subject to subsection 5.

31 7. A county charged with the costs and expenses under
32 subsections 2 and 3 may recover the costs and expenses from
33 the county where the child has legal settlement by filing
34 verified claims which are payable as are other claims against
35 the county. A detailed statement of the facts upon which a

1 claim is based shall accompany the claim. Any dispute
2 involving the legal settlement of a child for which the court
3 has ordered payment under this section shall be settled
4 pursuant to sections 252.22 and 252.23.

5 Sec. 23. Section 232.89, subsection 3, Code 1989, is
6 amended to read as follows:

7 3. The court shall determine, after giving the parent,
8 guardian, or custodian an opportunity to be heard, whether
9 such the person has the ability to pay in whole or in part for
10 counsel appointed for the child. If the court determines that
11 such the person possesses sufficient financial ability, the
12 court shall then consult with the department of human
13 services, the juvenile probation office, or other authorized
14 agency or individual regarding the likelihood of impairment of
15 the relationship between the child and the child's parent,
16 guardian or custodian as a result of ordering the parent,
17 guardian, or custodian to pay for the child's counsel. If
18 impairment is deemed unlikely, the court shall order that
19 person to pay ~~such-sums-as~~ an amount the court finds
20 appropriate in the manner and to whom the court directs. If
21 the person ~~se-ordered~~ fails to comply with the order without
22 good reason, the court shall enter judgment against the
23 person. If impairment is deemed likely or if the court
24 determines that the parent, guardian, or custodian cannot pay
25 any part of the expenses of counsel appointed to represent the
26 child, counsel shall be reimbursed pursuant to section
27 232.141, subsection ~~1~~ 2, paragraph "b".

28 Sec. 24. Section 235A.15, subsection 2, paragraph c, Code
29 1989, is amended by adding the following new subparagraph:

30 NEW SUBPARAGRAPH. (5) To an administrator of a
31 psychiatric medical institution for children licensed under
32 chapter 135H.

33 Sec. 25. Section 237.3, subsection 2, paragraph a, Code
34 1989, is amended by striking the paragraph and inserting in
35 lieu thereof the following:

1 a. Types of facilities which include but are not limited
2 to all of the following:

- 3 (1) A community residential facility.
- 4 (2) A community residential facility for mentally retarded
5 children.
- 6 (3) A comprehensive residential facility for children.
- 7 (4) A comprehensive residential facility for mentally
8 retarded children.
- 9 (5) A foster family home.
- 10 (6) A group living foster care facility.

11 Sec. 26. Section 237.8, subsection 1, Code 1989, is
12 amended by striking the subsection and inserting in lieu
13 thereof the following:

14 1. A person shall not be allowed to provide services in a
15 facility if the person has a disease which is transmissible to
16 other persons through required contact in the workplace, which
17 presents a significant risk of infecting other persons, which
18 presents a substantial possibility of harming other persons,
19 or for which no reasonable accommodation can eliminate the
20 risk of infecting other persons.

21 Sec. 27. Section 237A.15, Code 1989, is amended by adding
22 the following new subsection:

23 NEW SUBSECTION. 4. Adopt rules relating to the purchase
24 of child day care services which authorize payment for up to
25 twenty-five days per year for days an individual child is not
26 in attendance at the child day care facility.

27 Sec. 28. NEW SECTION. 242.17 COST OF CARE.

28 If a child receives unearned income, the department shall
29 reserve a portion of the unearned income for the use of the
30 child as a personal allowance and apply the remaining portion
31 to the cost of the child's custody, care, and maintenance
32 provided pursuant to this chapter.

33 Sec. 29. NEW SECTION. 244.16 COST OF CARE.

34 If a child receives unearned income, the department shall
35 reserve a portion of the unearned income for the use of the

1 child as a personal allowance and apply the remaining portion
2 equally to the state and county liability for the cost of the
3 child's support and maintenance provided pursuant to this
4 chapter.

5 Sec. 30. Section 252B.9, Code 1989, is amended to read as
6 follows:

7 252B.9 AVAILABILITY OF RECORDS.

8 The director may request from state, county and local
9 agencies, information and assistance deemed necessary to carry
10 out the provisions of this chapter. State, county and local
11 agencies, officers and employees shall co-operate with the
12 unit in locating absent parents of children on whose behalf
13 public assistance is being provided and shall on request
14 supply the department with available information relative to
15 the location, income and property holdings of the absent
16 parent, notwithstanding any provisions of law making such
17 information confidential.

18 Information recorded by the department pursuant to this
19 section shall be available only to the unit, attorneys
20 prosecuting a case in which the unit may participate according
21 to sections 252B.5 and 252B.6, courts having jurisdiction in
22 support or abandonment proceedings, and agencies in other
23 states charged with support collection and paternity
24 determination responsibilities, and a resident parent, legal
25 guardian, attorney, or agent of a child who is not receiving
26 assistance under Title IV-A of the federal Social Security Act
27 as determined by the rules of the department and the
28 provisions of Title IV of the United States Social Security
29 Act.

30 Sec. 31. Section 692.2, subsection 1, Code 1989, is
31 amended by adding the following new paragraph:

32 NEW PARAGRAPH. g. A psychiatric medical institution for
33 children licensed under chapter 135H for the purposes of
34 section 237.8, subsection 2 and section 600.8, subsections 1
35 and 2.

1 Sec. 32. 1988 Iowa Acts, chapter 1249, section 21, is
2 amended to read as follows:

3 SEC. 21. Beginning July 1, 1988, the department of
4 inspections and appeals shall issue provisional licenses to
5 ~~specialized psychiatric hospitals~~ medical institutions for
6 ~~children and-adolescents~~ for those facilities institutions
7 which are providing residential nonsecure inpatient
8 psychiatric services to children and adolescents, which are
9 accredited by the joint commission on the accreditation of
10 health care organizations under the commission's consolidated
11 standards for residential settings, which are in compliance
12 with all applicable state rules and standards regarding the
13 operation of comprehensive residential-facilities institutions
14 for children, and which have been awarded a certificate of
15 need. Each applicant shall submit a copy of the applicant's
16 accreditation, and a copy of the certificate of need, and a
17 statement-of-approval-from-the-state-fire-marshal to the
18 department of inspections and appeals. Notwithstanding the
19 provisions of section 237.1, subsection 3, paragraph "e", care
20 furnished by these facilities institutions shall continue to
21 be considered foster care.

22 The department of inspections and appeals, with the
23 approval of the state board of health, shall adopt permanent
24 standards for the licensure, of specialized psychiatric
25 ~~hospitals~~ medical institutions for children and-adolescents
26 ~~under chapter-135B.~~ The rules shall take effect immediately
27 upon filing, no later than July 1, 1989. Effective September
28 1, 1989, the maximum reimbursement rate for a psychiatric
29 medical institution for children shall be the group foster
30 care reimbursement rate unless the federal health care
31 financing administration approves a state Title XIX plan
32 amendment to include coverage of services in a psychiatric
33 medical institution for children. If the state Title XIX plan
34 amendment is approved, the department of human services shall
35 reimburse a licensed psychiatric medical institution for

1 children at the rate established under the medical assistance
2 program retroactively to the effective date of the plan
3 amendment or the date the psychiatric institution was enrolled
4 in the medical assistance program, whichever is later.

5 The department of human services shall adopt rules to
6 expand coverage under the medical assistance program to
7 include services provided by specialized psychiatric hospitals
8 medical institutions for children and-adolescents which are
9 licensed by the department of inspections and appeals. The
10 rules shall take effect no later than July 1, 1988, contingent
11 upon the facilities-meeting institution certifying that the
12 facility is in accordance with the federal requirements for-a
13 hospital as outlined in 42 C.F.R., subpart-D § 441.150-
14 441.156. Initially, the rules shall provide that the medical
15 assistance reimbursement rate for the specialized-hospitals
16 psychiatric medical institutions for children shall be one
17 hundred twenty dollars per day or the actual audited costs,
18 whichever are is less. The department shall develop adopt a
19 permanent reimbursement methodology for the-specialized
20 hospitals-to-be-effective-on-or-before psychiatric medical
21 institutions for children in rules which are effective
22 immediately upon filing no later than July 1, 1989.

23 The health facilities council shall expedite the process by
24 ruling on a certificate of need application under pursuant to
25 this section within seventy-five days of the application and
26 shall give primary consideration in this expedited process to
27 those issues related to meeting the conditions set out in this
28 section, provided that either of the following conditions
29 apply:

30 a. The hospital psychiatric medical institution for
31 children was accredited by the joint commission on the
32 accreditation of health care organizations prior to the
33 effective date of this Act and has been providing psychiatric
34 treatment services for adolescents and children as a licensed
35 foster care facility prior to the effective date of this Act

1 and the provisional license will not increase the capacity of
2 the facility.

3 b. ~~The hospital had sought accreditation by the joint~~
4 ~~commission on the accreditation of health care organizations~~
5 ~~prior to January 17, 1988, and has been providing psychiatric~~
6 ~~treatment services for adolescents and children as a licensed~~
7 ~~foster care facility prior to the effective date of this Act~~
8 ~~and the provisional license will not increase the capacity of~~
9 ~~the facility~~ psychiatric medical facility for children is
10 accredited by the joint commission on the accreditation of
11 health care organizations, complies with any applicable state
12 rule or standard regarding the operation of a comprehensive
13 institution for children licensed under section 237.3,
14 subsection 2, paragraph "a", subparagraph (1) or (3), has been
15 awarded a certificate of need, and has received the
16 department's written approval.

17 Sec. 33. EMERGENCY RULES.

18 1. The department of inspection and appeals shall adopt
19 rules to implement the requirements of this Act and the rules
20 shall be filed without notice and shall be effective
21 immediately upon filing. The rules must be published as
22 notice of intended action as provided in section 17A.4. The
23 rules shall include and be in accordance with the provisions
24 of regulations and rules provided under each of the following
25 sources:

26 a. Regulations pursuant to 42 C.F.R., § 441.150-441.156.

27 b. Rules for community residential facilities or
28 comprehensive residential facilities for children licensed
29 pursuant to section 237.3, subsection 2, paragraph "a",
30 subparagraph (1) or (3).

31 2. The department of human services, in consultation with
32 the department of inspections and appeals and affected
33 professional groups, shall adopt rules to expand medical
34 assistance coverage under chapter 249A to include eligibility
35 for and services provided by licensed psychiatric medical

1 institutions for children and the rules shall be filed without
2 notice and shall be effective immediately upon filing. The
3 rules must be published as notice of intended action as
4 provided in section 17A.4. The rules shall provide that the
5 initial reimbursement rate paid to a psychiatric medical
6 institution for children under the medical assistance program
7 shall be one hundred twenty dollars per day or the actual
8 audited costs, whichever is less. The initial reimbursement
9 rate is subject to modification pursuant to laws appropriating
10 funding which affect the rate. The department of human
11 services shall develop a permanent reimbursement methodology
12 which shall be effective on or before July 1, 1989.

13 Sec. 34. INITIAL LICENSURE. A specialized psychiatric
14 hospital for children which is offering services at the time
15 rules under this Act are adopted shall receive a provisional
16 license to operate as a psychiatric medical institution for
17 children. A recipient of a provisional license under this
18 section must comply with the rules and standards within one
19 year of receiving the provisional license in order to obtain a
20 permanent license under chapter 135H.

21 Sec. 35. NEEDS ASSESSMENT REQUIRED. Pursuant to section
22 135H.6, subsection 5, the department of human services shall
23 conduct a needs assessment to determine the location and
24 number of children in the state who require the services of a
25 psychiatric medical institution for children. The department
26 shall report the results of the needs assessment with
27 recommendations as to whether the limit on the number of
28 psychiatric medical institution for children beds in the state
29 should be modified. A report on the needs assessment and
30 recommendations shall be submitted to the general assembly on
31 or before January 1, 1990.

32 Sec. 36. EFFECTIVE DATE. Sections 2 through 17, 24
33 through 26, and 31 through 35 of this Act, being deemed of
34 immediate importance, take effect upon enactment.

35

EXPLANATION

1 This bill relates to human services statutes providing for
2 certain services. The juvenile court is granted exclusive
3 original jurisdiction in proceedings concerning the substance
4 abuse commitment of a minor.

5 The bill establishes a new Code chapter for psychiatric
6 medical institutions for children and contains coordinating
7 provisions with comprehensive residential facilities for
8 children and prior law establishing psychiatric hospitals for
9 children.

10 The council of human services is required to hold a public
11 hearing regarding the department of human services' budget. A
12 time frame for the hearing is provided and certain persons are
13 required to be invited.

14 A county or consortium of counties which provides or con-
15 tracts to provide case management services to persons with
16 mental retardation, developmental disabilities, or chronic
17 mental illness is no longer required to notify the department
18 of changes in the provider of the services unless the
19 department is the current or proposed contractor.

20 Effective January 1, 1991, a juvenile who is committed to a
21 state mental health institute cannot be placed in a secure
22 ward with adults.

23 The department of human services is required to establish a
24 multidisciplinary team to provide assistance in any county or
25 multicounty area in which there has been fifty or more child
26 abuse reports in a year. Duties of a multidisciplinary team
27 are specified.

28 The bill amends section 252.141 to eliminate the "county
29 case" formula for shared payment of costs for transportation,
30 mental and physical examinations, and care and treatment
31 services. The state would assume responsibility for payment
32 of those costs. The department of human services would be
33 required to prescribe by rule all services eligible for
34 reimbursement and the maximum rates of reimbursement for each
35 service. The state would not pay in excess of those maximum

1 rates; however, in the absence of specific program regu-
2 lations, a county may supplement the state reimbursement rate.
3 When the court orders a service which is not listed in
4 administrative rules, the department shall reimburse the
5 provider if there is no conflict with law or rule. The
6 "county base" formula for legal services would remain
7 unchanged but the state court administrator would be
8 responsible by law for the administration of those funds. The
9 court would be required to determine parental liability for
10 costs and after doing so, may order payment to the county or
11 the state, depending upon ability to pay.

12 This bill requires the department of human services to
13 adopt rules relating to the purchase of service for child day
14 care, which will provide for payment of the costs of day care
15 for an individual child when the child is not in attendance at
16 the child day care facility, up to a maximum of twenty-five
17 days per year. Currently, administrative rules for purchase
18 of service only permit payment for actual services used.

19 If a child receives unearned income, the department is
20 required to apply the income toward the costs of a child's
21 care at either of the state juvenile institutions after
22 reserving a portion for the child's personal allowance.

23 Certain information relating to child support recovery is
24 made available to a resident parent, legal guardian, attorney,
25 or agent of a child who is not receiving assistance under
26 Title IV-A of the federal Social Security Act.

27 The department of inspections and appeals and the
28 department of human services are required to adopt emergency
29 rules relating to the psychiatric medical institutions for
30 children. The department of human services is required to
31 conduct a study relating to the need for psychiatric medical
32 institutions for children in the state and report the results
33 to the general assembly by January 1, 1990. The provisions
34 relating to the psychiatric medical institutions for children
35 are effective upon enactment.

1 This bill may contain a state mandate pursuant to chapter
2 25B.

3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

SENATE FILE 540

S-3925

1 Amend Senate File 540 as follows:
2 1. Page 2, by striking lines 9 through 16 and
3 inserting the following:
4 "10. "Mental health professional" means an
5 individual who has all of the following
6 qualifications:
7 a. The individual holds at least a master's degree
8 in a mental health field, including but not limited
9 to, psychology, counseling and guidance, nursing, and
10 social work, or the individual is a physician.
11 b. The individual holds a current Iowa license if
12 practicing in a field covered by an Iowa licensure
13 law.
14 c. The individual has at least two years of post-
15 degree clinical experience, supervised by another
16 mental health professional, in assessing mental health
17 needs and problems and in providing appropriate mental
18 health services."
19 2. Page 9, by striking lines 11 and 12 and
20 inserting the following:
21 "Judicial review of the action of the department
22 may be sought pursuant to the Iowa Administrative
23 Procedure Act, chapter 17A. Notwithstanding the Iowa
24 Administrative Procedure Act, a petition for judicial
25 review of the".

By CHARLES BRUNER

S-3925 FILED APRIL 26, 1989

Adopted 4-27-89 (p. 1710)

House Approps -

DO PASS PER amend - 4378 (p.2311) @ 52-89

SENATE FILE 540

BY COMMITTEE ON APPROPRIATIONS

(AS AMENDED AND PASSED BY THE SENATE APRIL 27, 1989)

~~_____~~ - New Language by the Senate

R 2 Passed Senate, Date 53-89 (p.1893) Passed House, Date 52-89 (p.2323)
Vote: Ayes 48 Nays 0 Vote: Ayes 87 Nays 12
Approved June 1, 1989

Repassed by House 54-89
(p.2417)
Ayes 94 Nays 0

A BILL FOR

1 An Act relating to human services statutes providing for or
2 regarding substance abuse commitment of juveniles, psychiatric
3 medical institutions for children, the council on human
4 services, mentally ill juveniles, child abuse, payment for a
5 child's expenses, the costs of a child's care in a state
6 juvenile institution, child support recovery, and certain
7 administrative rules, properly related matters, providing for
8 effective dates, and providing penalties.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

10
11
12
13
14
15
16
17
18
19
20
21
22
23

S.F. 540

1 Section 1. NEW SECTION. 125.75A INVOLUNTARY COMMITMENT
2 OR TREATMENT OF MINORS -- JURISDICTION.

3 The juvenile court has exclusive original jurisdiction in
4 proceedings concerning a minor for whom an application for
5 involuntary commitment or treatment is filed under section
6 125.75. In proceedings under this division concerning a
7 minor's involuntary commitment or treatment, the terms
8 "court", "judge", "referee", or "clerk" mean the juvenile
9 court, judge, referee, or clerk.

10 Sec. 2. NEW SECTION. 135H.1 DEFINITIONS.

11 As used in this chapter, unless the context otherwise
12 requires:

- 13 1. "Department" means the department of inspections and
14 appeals.
- 15 2. "Direction" means authoritative policy or procedural
16 guidance for the accomplishment of a function or an activity.
- 17 3. "Licensee" means the holder of a license issued to
18 operate a psychiatric medical institution for children.
- 19 4. "Medical care plan" means a plan of care and services
20 designed to eliminate the need for inpatient care by improving
21 the condition of a child. Services must be based upon a
22 diagnostic evaluation, which includes an examination of the
23 medical, psychological, social, behavioral, and developmental
24 aspects of the child's situation, reflecting the need for
25 inpatient care.
- 26 5. "Nonsecure institution" means a physically
27 unrestricting institution, place, building, or agency in which
28 a child may be placed pursuant to a dispositional court order
29 made in accordance with the provisions of chapter 232.
- 30 6. "Nursing care" means services which are provided under
31 the direction of a physician or registered nurse.
- 32 7. "Physician" means a person licensed under chapter 148
33 or 150A.
- 34 8. "Psychiatric medical institution for children" or
35 "psychiatric institution" means a nonsecure institution

1 providing more than twenty-four hours of continuous care
2 involving long-term psychiatric services to three or more
3 children in residence for expected periods of fourteen or more
4 days for diagnosis and evaluation or for expected periods of
5 ninety days or more for treatment.

6 9. "Psychiatric services" means services provided under
7 the direction of a physician which address mental, emotional,
8 medical, or behavioral problems.

9 10. "Mental health professional" means an individual who
10 has all of the following qualifications:

11 a. The individual holds at least a master's degree in a
12 mental health field, including but not limited to, psychology,
13 counseling and guidance, nursing, and social work, or the
14 individual is a physician.

15 b. The individual holds a current Iowa license if
16 practicing in a field covered by an Iowa licensure law.

17 c. The individual has at least two years of post-degree
18 clinical experience, supervised by another mental health
19 professional, in assessing mental health needs and problems
20 and in providing appropriate mental health services.

21 11. "Rehabilitative services" means services to encourage
22 and assist restoration of a resident's optimum mental and
23 physical capabilities.

24 12. "Resident" means a person who is less than twenty-one
25 years of age and has been admitted by a physician to a
26 psychiatric medical institution for children.

27 13. "Supervision" means direct oversight and inspection of
28 the act of accomplishing a function or activity.

29 Sec. 3. NEW SECTION. 135H.2 PURPOSE.

30 The purpose of this chapter is to provide for the
31 development, establishment, and enforcement of basic standards
32 for the operation, construction, and maintenance of a
33 psychiatric medical institution for children which will ensure
34 the safe and adequate diagnosis and evaluation and treatment
35 of the residents.

1 Sec. 4. NEW SECTION. 135H.3 NATURE OF CARE.

2 A psychiatric medical institution for children shall
3 utilize a team of professionals to direct an organized program
4 of diagnostic services, psychiatric services, nursing care,
5 and rehabilitative services to meet the needs of residents in
6 accordance with a medical care plan developed for each
7 resident. Social and rehabilitative services shall be
8 provided under the direction of a qualified mental health
9 professional.

10 Sec. 5. NEW SECTION. 135H.4 LICENSURE.

11 A person shall not establish, operate, or maintain a
12 psychiatric medical institution for children unless the person
13 obtains a license for the institution under this chapter and
14 holds a license under section 237.3, subsection 2, paragraph
15 "a", subparagraph (3).

16 Sec. 6. NEW SECTION. 135H.5 APPLICATION FOR LICENSE.

17 An application for a license under this chapter shall be
18 submitted on a form requesting information required by the
19 department, which may include affirmative evidence of the
20 applicant's ability to comply with the rules for standards
21 adopted pursuant to this chapter. An application for a
22 license shall be accompanied by the required license fee which
23 shall be credited to the general fund of the state. The
24 initial and annual license fee is twenty-five dollars.

25 Sec. 7. NEW SECTION. 135H.6 INSPECTION BEFORE ISSUANCE.

26 The department shall issue a license to an applicant under
27 this chapter if all the following conditions exist:

28 1. The department has ascertained that the applicant's
29 medical facilities and staff are adequate to provide the care
30 and services required of a psychiatric institution.

31 2. The proposed psychiatric institution is accredited to
32 provide psychiatric services by the joint commission on the
33 accreditation of health care organizations under the
34 commission's consolidated standards for residential settings.

35 3. The applicant complies with applicable state rules and

1 standards for a psychiatric institution adopted by the
2 department in accordance with federal requirements under 42
3 C.F.R. § 441.150-441.156.

4 4. The applicant has been awarded a certificate of need
5 pursuant to chapter 135.

6 5. The department of human services has submitted written
7 approval of the application based on the department of human
8 services' determination of need. The department of human
9 services shall identify the location and number of children in
10 the state who require the services of a psychiatric medical
11 institution for children. Approval of an application shall be
12 based upon the location of the proposed psychiatric
13 institution relative to the need for services identified by
14 the department of human services and an analysis of the
15 applicant's ability to provide services and support consistent
16 with requirements under chapter 232, particularly regarding
17 community-based treatment. The department of human services
18 shall not give approval to an application which would cause
19 the total number of beds licensed under this chapter to exceed
20 three hundred sixty beds with not more than three hundred of
21 the beds licensed under chapter 237 before January 1, 1989,
22 and not more than sixty of the beds licensed under chapter 237
23 after January 1, 1989. If the proposed psychiatric
24 institution is not freestanding from a facility licensed under
25 chapter 135B or 135C, approval under this subsection shall not
26 be given unless the department of human services certifies
27 that the proposed psychiatric institution is capable of
28 providing a resident with a living environment similar to the
29 living environment provided by a licensee which is
30 freestanding from a facility licensed under chapter 135B or
437831 135C. Unless a psychiatric institution was licensed prior to
32 the effective date of this Act, the department of human
33 services shall not approve an application for a license under
34 this chapter until the federal health care financing
35 administration has approved a state Title XIX plan amendment

1 to include coverage of services in a psychiatric medical
2 institution for children.

3 6. The proposed psychiatric institution is under the
4 direction of an agency which has operated a facility licensed
5 under section 237.3, subsection 2, paragraph "a", subparagraph
6 (3), for three years.

7 Sec. 8. NEW SECTION. 135H.7 PERSONNEL.

8 1. A person shall not be allowed to provide services in a
9 psychiatric institution if the person has a disease which is
10 transmissible to other persons through required contact in the
11 workplace, which presents a significant risk of infecting
12 other persons, which presents a substantial possibility of
13 harming other persons, or for which no reasonable
14 accommodation can eliminate the risk of infecting other
15 persons.

16 2. A person who has been convicted of a criminal act
17 involving a child under a law of any state or who has a record
18 of founded child abuse shall not be licensed, be employed by a
19 licensee, or reside in a licensed home unless the department
20 of human services determines that the crime or founded abuse
21 does not merit prohibition of licensure or employment. In its
22 determination, the department of human services shall consider
23 the nature and seriousness of the crime or founded abuse in
24 relation to the position sought, the time elapsed since the
25 commission of the crime or founded abuse, the circumstances
26 under which the crime or founded abuse was committed, the
27 degree of rehabilitation, and the number of crimes or founded
28 abuses committed by the person involved.

29 Sec. 9. NEW SECTION. 135H.8 DENIAL, SUSPENSION, OR
30 REVOCATION OF LICENSE.

31 The department may deny an application or suspend or revoke
32 a license if the department finds that an applicant or
33 licensee has failed or is unable to comply with this chapter
34 or the rules establishing minimum standards pursuant to this
35 chapter or if any of the following conditions apply:

1 1. It is shown that a resident is a victim of cruelty or
2 neglect due to the acts or omissions of the licensee.

3 2. The licensee has permitted, aided, or abetted in the
4 commission of an illegal act in the psychiatric institution.

5 3. An applicant or licensee acted to obtain or to retain a
6 license by fraudulent means, misrepresentation, or submitting
7 false information.

8 4. The licensee has willfully failed or neglected to
9 maintain a continuing in-service education and training
10 program for persons employed by the psychiatric institution.

11 5. The application involves a person who has failed to
12 operate a psychiatric institution in compliance with the
13 provisions of this chapter.

14 Sec. 10. NEW SECTION. 135H.9 NOTICE AND HEARINGS.

15 The procedure governing notice and hearing to deny an
16 application or suspend or revoke a license shall be in
17 accordance with rules adopted by the department pursuant to
18 chapter 17A. A full and complete record shall be kept of the
19 proceedings and of any testimony. The record need not be
20 transcribed unless judicial review is sought. A copy or
21 copies of a transcript may be obtained by an interested party
22 upon payment of the cost of preparing the transcript or
23 copies.

24 Sec. 11. NEW SECTION. 135H.10 RULES.

25 1. The department of inspections and appeals, in
26 consultation with the department of human services and
27 affected professional groups, shall adopt and enforce rules
28 setting out the standards for a psychiatric medical
29 institution for children and the rights of the residents
30 admitted to a psychiatric institution. The department of
31 inspections and appeals and the department of human services
32 shall coordinate the adoption of rules and the enforcement of
33 the rules in order to prevent duplication of effort by the
34 departments and of requirements of the licensee.

35 2. This chapter shall not be construed as prohibiting the

1 use of funds appropriated for foster care to provide payment
2 to a psychiatric medical institution for children for the
3 financial participation required of a child whose foster care
4 placement is in a psychiatric medical institution for
5 children. In accordance with established policies and
6 procedures for foster care, the department of human services
7 shall act to recover any such payment for financial
8 participation, apply to be named payee for the child's
9 unearned income, and recommend parental liability for the
10 costs of a court-ordered foster care placement in a
11 psychiatric medical institution.

12 Sec. 12. NEW SECTION. 135H.11 COMPLAINTS ALLEGING
13 VIOLATIONS -- CONFIDENTIALITY.

14 A person may request an inspection of a psychiatric medical
15 institution for children by filing with the department a
16 complaint of an alleged violation of an applicable requirement
17 of this chapter or a rule adopted pursuant to this chapter.
18 The complaint shall state in a reasonably specific manner the
19 basis of the complaint. A statement of the nature of the
20 complaint shall be delivered to the psychiatric institution
21 involved at the time of or prior to the inspection. The name
22 of the person who files a complaint with the department shall
23 be kept confidential and shall not be subject to discovery,
24 subpoena, or other means of legal compulsion for its release
25 to a person other than department employees involved in the
26 investigation of the complaint.

27 Sec. 13. NEW SECTION. 135H.12 INSPECTIONS UPON
28 COMPLAINTS.

29 1. Upon receipt of a complaint made in accordance with
30 section 135H.11, the department shall make a preliminary
31 review of the complaint. Unless the department concludes that
32 the complaint is intended to harass a psychiatric institution
33 or a licensee or is without reasonable basis, it shall within
34 twenty working days of receipt of the complaint make or cause
35 to be made an on-site inspection of the psychiatric

1 institution which is the subject of the complaint. The
2 department of inspections and appeals may refer to the
3 department of human services any complaint received by the
4 department if the complaint applies to rules adopted by the
5 department of human services. The complainant shall also be
6 notified of the name, address, and telephone number of the
7 designated protection and advocacy agency if the alleged
8 violation involves a facility with one or more residents with
9 developmental disabilities or mental illness. In any case,
10 the complainant shall be promptly informed of the result of
11 any action taken by the department in the matter.

12 2. An inspection made pursuant to a complaint filed under
13 section 135H.11 need not be limited to the matter or matters
14 referred to in the complaint; however, the inspection shall
15 not be a general inspection unless the complaint inspection
16 coincides with a scheduled general inspection. Upon arrival
17 at the psychiatric institution to be inspected, the inspector
18 shall show identification to the person in charge of the
19 psychiatric institution and state that an inspection is to be
20 made, before beginning the inspection. Upon request of either
21 the complainant or the department, the complainant or the
22 complainant's representative or both may be allowed the
23 privilege of accompanying the inspector during any on-site
24 inspection made pursuant to this section. The inspector may
25 cancel the privilege at any time if the inspector determines
26 that the privacy of a resident of the psychiatric institution
27 to be inspected would be violated. The dignity of the
28 resident shall be given first priority by the inspector and
29 others.

30 Sec. 14. NEW SECTION. 135H.13 INFORMATION CONFIDENTIAL.

31 1. The department's final findings and the survey findings
32 of the joint commission on the accreditation of health care
33 organizations regarding licensure or program accreditation
34 shall be made available to the public in a readily available
35 form and place. Other information relating to the psychiatric

1 institution is confidential and shall not be made available to
2 the public except in proceedings involving licensure, a civil
3 suit involving a resident, or an administrative action
4 involving a resident.

5 2. The name of a person who files a complaint with the
6 department shall remain confidential and is not subject to
7 discovery, subpoena, or any other means of legal compulsion
8 for release to a person other than an employee of the
9 department or an agent involved in the investigation of the
10 complaint.

11 3. Information regarding a resident who has received or is
12 receiving care shall not be disclosed directly or indirectly
13 except as authorized under section 217.30, 232.69, or 237.21.

14 Sec. 15. NEW SECTION. 135H.14 JUDICIAL REVIEW.

15 Judicial review of the action of the department may be
16 sought pursuant to the Iowa Administrative Procedure Act,
17 chapter 17A. Notwithstanding the Iowa Administrative
18 Procedure Act, a petition for judicial review of the
19 department's actions under this chapter may be filed in the
20 district court of the county in which the related psychiatric
21 medical institution for children is located or is proposed to
22 be located. The status of the petitioner or the licensee
23 shall be preserved pending final disposition of the judicial
24 review.

25 Sec. 16. NEW SECTION. 135H.15 PENALTIES.

26 A person who establishes, operates, or manages a
27 psychiatric medical institution for children without obtaining
28 a license under this chapter commits a serious misdemeanor.
29 Each day of continuing violation following conviction shall be
30 considered a separate offense.

31 Sec. 17. NEW SECTION. 135H.16 INJUNCTION.

32 Notwithstanding the existence or pursuit of another remedy,
33 the department may maintain an action for injunction or other
34 process to restrain or prevent the establishment, operation,
35 or management of a psychiatric medical institution for

1 children without a license.

2 Sec. 18. Section 217.3, subsection 4, Code 1989, is
3 amended to read as follows:

4 4. Approve the budget of the department of human services
5 prior to submission to the governor. Within two weeks of the
6 date the budget is approved, the council shall publicize and
7 hold a public hearing to provide explanations and hear
8 questions, opinions, and suggestions regarding the budget.
9 Invitations to the hearing shall be extended to the governor,
10 the governor-elect, the director of the department of
11 management, and other persons deemed by the council as
12 integral to the budget process.

13 Sec. 19. Section 225C.20, Code 1989, is amended to read as
14 follows:

15 225C.20 RESPONSIBILITIES OF COUNTIES FOR INDIVIDUAL CASE
16 MANAGEMENT SERVICES.

17 Individual case management services shall be provided by
18 the department except when a county or a consortium of
19 counties contracts with the department to provide the
20 services. A county or consortium of counties may contract to
21 be the provider at any time and the department shall agree to
22 the contract so long as the contract meets the standards for
23 case management adopted by the department. The county or
24 consortium of counties may subcontract for the provision of
25 case management services so long as the subcontract meets the
26 same standards. A mental health, mental retardation, and
27 developmental disabilities coordinating board ~~which-intends-to~~
28 may change the provider of individual case management services
29 at any time. If the current or proposed contract is with the
30 department, the coordinating board shall provide written
31 notification of a proposed change to the department on or
32 before August 15 and written notification of an approved
33 change on or before October 15 in the fiscal year which
34 precedes the fiscal year in which the change will take effect.

35 Sec. 20. NEW SECTION. 226.9A CUSTODY OF JUVENILE

1 PATIENTS.

2 Effective January 1, 1991, a juvenile who is committed to a
3 state mental health institute shall not be placed in a secure
4 ward with adults.

5 Sec. 21. Section 232.71, Code 1989, is amended by adding
6 the following new subsection:

7 NEW SUBSECTION. 17. In each county or multicounty area in
8 which more than fifty child abuse reports are made per year,
9 the department shall establish a multidisciplinary team, as
10 defined in section 235A.13, subsection 9. Upon the
11 department's request, a multidisciplinary team shall assist
12 the department in the assessment, diagnosis, and disposition
13 of a child abuse report.

14 Sec. 22. Section 232.141, Code 1989, is amended by
15 striking the section and inserting in lieu thereof the
16 following:

17 232.141 EXPENSES

18 1. Except as otherwise provided by law, the court shall
19 inquire into the ability of the child or the child's parent to
20 pay expenses incurred pursuant to subsection 2 and subsection
21 4 and, after giving the parent a reasonable opportunity to be
22 heard, the court may order the parent to pay all or part of
23 the costs of the child's care, examination, treatment, legal
24 expenses, or other expenses. An order entered under this
25 section does not obligate a parent paying child support under
26 a custody decree, except that part of the monthly support
27 payment may be used to satisfy the obligations imposed by the
28 order entered pursuant to this section. If a parent fails to
29 pay as ordered, without good reason, the court may proceed
30 against the parent for contempt and may inform the county
31 attorney who shall proceed against the parent to collect the
32 unpaid amount. Any payment ordered by the court shall be a
33 judgment against each of the child's parents and a lien as
34 provided in section 624.23. If all or part of the amount that
35 the parents are ordered to pay is subsequently paid by the

1 county or state, the judgment and lien shall thereafter be
2 against each of the parents in favor of the county to the
3 extent of the county's payments and in favor of the state to
4 the extent of the state's payments.

5 2. Upon certification of the court, all of the following
6 expenses are a charge upon the county in which the proceedings
7 are held, to the extent provided in subsection 3:

8 a. The fees and mileage of witnesses and the expenses of
9 officers serving notices and subpoenas.

10 b. Reasonable compensation for an attorney appointed by
11 the court to serve as counsel or guardian ad litem.

12 3. Costs incurred under subsection 2 shall be paid as
13 follows:

14 a. A county shall be required to pay for the fiscal year
15 beginning July 1, 1989, an amount equal to the county's base
16 cost for witness and mileage fees and attorney fees
17 established pursuant to section 232.141, subsection 8,
18 paragraph "d", Code 1989, for the fiscal year beginning July
19 1, 1988, plus an amount equal to the percentage rate of change
20 in the consumer price index as tabulated by the federal bureau
21 of labor statistics for the current year times the county's
22 base cost.

23 b. A county's base cost for a fiscal year plus the
24 percentage rate of change amount as computed in paragraph "a"
25 is the county's base cost for the succeeding fiscal year. The
26 amount to be paid in the succeeding year by the county shall
27 be computed as provided in paragraph "a".

28 c. Costs incurred under subsection 2 which are not paid by
29 the county under paragraphs "a" and "b" shall be reimbursed by
30 the state. A county shall apply for reimbursement to the
31 judicial department which shall prescribe rules and forms to
32 implement this subsection.

33 4. Upon certification of the court, all of the following
34 expenses are a charge upon the state to the extent provided in
35 subsection 5:

1 a. The expenses of transporting a child to or from a place
2 designated by the court for the purpose of care or treatment.

3 b. Expenses for mental or physical examinations of a child
4 if ordered by the court.

5 c. The expenses of care or treatment ordered by the court.

6 5. If no other provision of law requires the county to
7 reimburse costs incurred pursuant to subsection 4, the
8 department shall reimburse the costs as follows:

9 a. The department shall prescribe by administrative rule
10 all services eligible for reimbursement pursuant to subsection
11 4 and shall establish an allowable rate of reimbursement for
12 each service.

13 b. The department shall receive billings for services
14 provided and, after determining allowable costs, shall
15 reimburse providers at a rate which is not greater than
16 allowed by administrative rule. Reimbursement paid to a
17 provider by the department shall be considered reimbursement
18 in full unless a county voluntarily agrees to pay any
19 difference between the reimbursement amount and the actual
20 cost. When there are specific program regulations prohibiting
21 supplementation those regulations shall be applied to
22 providers requesting supplemental payments from a county.
23 Billings for services not listed in administrative rule shall
24 not be paid. However, if the court orders a service not
25 currently listed in administrative rule, the department shall
26 review the order and, if reimbursement for the service of the
27 department is not in conflict with other law or administrative
28 rule, and meets the criteria of subsection 4, the department
29 shall reimburse the provider.

30 6. If a child is given physical or mental examinations or
31 treatment relating to a child abuse investigation with the
32 consent of the child's parent, guardian, or legal custodian
33 and no other provision of law otherwise requires payment for
34 the costs of the examination and treatment, the costs shall be
35 paid by the state. Reimbursement for costs of services

1 described in this subsection is subject to subsection 5.

2 7. A county charged with the costs and expenses under
3 subsections 2 and 3 may recover the costs and expenses from
4 the county where the child has legal settlement by filing
5 verified claims which are payable as are other claims against
6 the county. A detailed statement of the facts upon which a
7 claim is based shall accompany the claim. Any dispute
8 involving the legal settlement of a child for which the court
9 has ordered payment under this section shall be settled
10 pursuant to sections 252.22 and 252.23.

11 Sec. 23. Section 232.89, subsection 3, Code 1989, is
12 amended to read as follows:

13 3. The court shall determine, after giving the parent,
14 guardian, or custodian an opportunity to be heard, whether
15 ~~such~~ the person has the ability to pay in whole or in part for
16 counsel appointed for the child. If the court determines that
17 ~~such~~ the person possesses sufficient financial ability, the
18 court shall then consult with the department of human
19 services, the juvenile probation office, or other authorized
20 agency or individual regarding the likelihood of impairment of
21 the relationship between the child and the child's parent,
22 guardian or custodian as a result of ordering the parent,
23 guardian, or custodian to pay for the child's counsel. If
24 impairment is deemed unlikely, the court shall order that
25 person to pay ~~such-sums-as~~ an amount the court finds
26 appropriate in the manner and to whom the court directs. If
27 the person ~~so-ordered~~ fails to comply with the order without
28 good reason, the court shall enter judgment against the
29 person. If impairment is deemed likely or if the court
30 determines that the parent, guardian, or custodian cannot pay
31 any part of the expenses of counsel appointed to represent the
32 child, counsel shall be reimbursed pursuant to section
33 232.141, subsection ~~±~~ 2, paragraph "b".

34 Sec. 24. Section 235A.15, subsection 2, paragraph c, Code
35 1989, is amended by adding the following new subparagraph:

1 NEW SUBPARAGRAPH. (5) To an administrator of a
2 psychiatric medical institution for children licensed under
3 chapter 135H.

4 Sec. 25. Section 237.3, subsection 2, paragraph a, Code
5 1989, is amended by striking the paragraph and inserting in
6 lieu thereof the following:

7 a. Types of facilities which include but are not limited
8 to all of the following:

9 (1) A community residential facility.

10 (2) A community residential facility for mentally retarded
11 children.

12 (3) A comprehensive residential facility for children.

13 (4) A comprehensive residential facility for mentally
14 retarded children.

15 (5) A foster family home.

16 (6) A group living foster care facility.

17 Sec. 26. Section 237.8, subsection 1, Code 1989, is
18 amended by striking the subsection and inserting in lieu
19 thereof the following:

20 i. A person shall not be allowed to provide services in a
21 facility if the person has a disease which is transmissible to
22 other persons through required contact in the workplace, which
23 presents a significant risk of infecting other persons, which
24 presents a substantial possibility of harming other persons,
25 or for which no reasonable accommodation can eliminate the
26 risk of infecting other persons.

27 Sec. 27. Section 237A.15, Code 1989, is amended by adding
28 the following new subsection:

437829 NEW SUBSECTION. 4. Adopt rules relating to the purchase
30 of child day care services which authorize payment for up to
31 twenty-five days per year for days an individual child is not
32 in attendance at the child day care facility.

33 Sec. 28. NEW SECTION. 242.17 COST OF CARE.

34 If a child receives unearned income, the department shall
35 reserve a portion of the unearned income for the use of the

1 child as a personal allowance and apply the remaining portion
2 to the cost of the child's custody, care, and maintenance
3 provided pursuant to this chapter.

4 Sec. 29. NEW SECTION. 244.16 COST OF CARE.

5 If a child receives unearned income, the department shall
6 reserve a portion of the unearned income for the use of the
7 child as a personal allowance and apply the remaining portion
8 equally to the state and county liability for the cost of the
9 child's support and maintenance provided pursuant to this
10 chapter.

4372

11 Sec. 30. Section 252B.9, Code 1989, is amended to read as
12 follows:

13 252B.9 AVAILABILITY OF RECORDS.

14 The director may request from state, county and local
15 agencies, information and assistance deemed necessary to carry
16 out the provisions of this chapter. State, county and local
17 agencies, officers and employees shall co-operate with the
18 unit in locating absent parents of children on whose behalf
19 public assistance is being provided and shall on request
20 supply the department with available information relative to
21 the location, income and property holdings of the absent
22 parent, notwithstanding any provisions of law making such
23 information confidential.

24 Information recorded by the department pursuant to this
25 section shall be available only to the unit, attorneys
26 prosecuting a case in which the unit may participate according
27 to sections 252B.5 and 252B.6, courts having jurisdiction in
28 support or abandonment proceedings, and agencies in other
29 states charged with support collection and paternity
30 determination responsibilities, and a resident parent, legal
31 guardian, attorney, or agent of a child who is not receiving
32 assistance under Title IV-A of the federal Social Security Act
33 as determined by the rules of the department and the
34 provisions of Title IV of the United States Social Security
35 Act.

1 Sec. 31. Section 692.2, subsection 1, Code 1989, is
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. g. A psychiatric medical institution for
4 children licensed under chapter 135H for the purposes of
5 section 237.8, subsection 2 and section 600.8, subsections 1
6 and 2.

7 Sec. 32. 1988 Iowa Acts, chapter 1249, section 21, is
8 amended to read as follows:

9 SEC. 21. Beginning July 1, 1988, the department of
10 inspections and appeals shall issue provisional licenses to
11 specialized psychiatric ~~hospitals~~ medical institutions for
12 children ~~and-adolescents~~ for those ~~facilities~~ institutions
13 which are providing ~~residential~~ nonsecure inpatient
14 psychiatric services to children and adolescents, which are
15 accredited by the joint commission on the accreditation of
16 health care organizations under the commission's consolidated
17 standards for residential settings, which are in compliance
18 with all applicable state rules and standards regarding the
19 operation of comprehensive ~~residential-facilities~~ institutions
20 for children, and which have been awarded a certificate of
21 need. Each applicant shall submit a copy of the applicant's
22 accreditation, and a copy of the certificate of need, ~~and-a~~
23 ~~statement-of-approval-from-the-state-fire-marshal~~ to the
24 department of inspections and appeals. Notwithstanding the
25 provisions of section 237.1, subsection 3, paragraph "e", care
26 furnished by these ~~facilities~~ institutions shall continue to
27 be considered foster care.

28 The department of inspections and appeals, with the
29 approval of the state board of health, shall adopt permanent
30 standards for the licensure, of specialized psychiatric
31 ~~hospitals~~ medical institutions for children ~~and-adolescents~~
32 ~~under-chapter-135B~~. The rules shall take effect immediately
33 upon filing, no later than July 1, 1989. Effective September
34 1, 1989, the maximum reimbursement rate for a psychiatric
35 medical institution for children shall be the group foster

1 care reimbursement rate unless the federal health care
2 financing administration approves a state Title XIX plan
3 amendment to include coverage of services in a psychiatric
4 medical institution for children. If the state Title XIX plan
5 amendment is approved, the department of human services shall
6 reimburse a licensed psychiatric medical institution for
7 children at the rate established under the medical assistance
8 program retroactively to the effective date of the plan
9 amendment or the date the psychiatric institution was enrolled
10 in the medical assistance program, whichever is later.

11 The department of human services shall adopt rules to
12 expand coverage under the medical assistance program to
13 include services provided by specialized psychiatric hospitals
14 medical institutions for children and-adolescents which are
15 licensed by the department of inspections and appeals. The
16 rules shall take effect no later than July 1, 1988, contingent
17 upon the facilities-meeting institution certifying that the
18 facility is in accordance with the federal requirements for-a
19 hospital as outlined in 42 C.F.R., subpart-B § 441.150-
20 441.156. Initially, the rules shall provide that the medical
21 assistance reimbursement rate for the specialized-hospitals
22 psychiatric medical institutions for children shall be one
23 hundred twenty dollars per day or the actual audited costs,
24 whichever are is less. The department shall develop adopt a
25 permanent reimbursement methodology for the-specialized
26 hospitals-to-be-effective-on-or-before psychiatric medical
27 institutions for children in rules which are effective
28 immediately upon filing no later than July 1, 1989.

29 The health facilities council shall expedite the process by
30 ruling on a certificate of need application under pursuant to
31 this section within seventy-five days of the application and
32 shall give primary consideration in this expedited process to
33 those issues related to meeting the conditions set out in this
34 section, provided that either of the following conditions
35 apply:

1 a. The hospital psychiatric medical institution for
2 children was accredited by the joint commission on the
3 accreditation of health care organizations prior to the
4 effective date of this Act and has been providing psychiatric
5 treatment services for adolescents and children as a licensed
6 foster care facility prior to the effective date of this Act
7 and the provisional license will not increase the capacity of
8 the facility.

9 b. ~~The hospital had sought accreditation by the joint~~
10 ~~commission on the accreditation of health care organizations~~
11 ~~prior to January 17, 1988, and has been providing psychiatric~~
12 ~~treatment services for adolescents and children as a licensed~~
13 ~~foster care facility prior to the effective date of this Act~~
14 ~~and the provisional license will not increase the capacity of~~
15 the facility psychiatric medical facility for children is
16 accredited by the joint commission on the accreditation of
17 health care organizations, complies with any applicable state
18 rule or standard regarding the operation of a comprehensive
19 institution for children licensed under section 237.3,
20 subsection 2, paragraph "a", subparagraph (1) or (3), has been
21 awarded a certificate of need, and has received the
22 department's written approval.

23 Sec. 33. EMERGENCY RULES.

24 1. The department of inspection and appeals shall adopt
25 rules to implement the requirements of this Act and the rules
26 shall be filed without notice and shall be effective
27 immediately upon filing. The rules must be published as
28 notice of intended action as provided in section 17A.4. The
29 rules shall include and be in accordance with the provisions
30 of regulations and rules provided under each of the following
31 sources:

32 a. Regulations pursuant to 42 C.F.R., § 441.150-441.156.

33 b. Rules for community residential facilities or
34 comprehensive residential facilities for children licensed
35 pursuant to section 237.3, subsection 2, paragraph "a",

1 subparagraph (1) or (3).

2 2. The department of human services, in consultation with
3 the department of inspections and appeals and affected
4 professional groups, shall adopt rules to expand medical
5 assistance coverage under chapter 249A to include eligibility
6 for and services provided by licensed psychiatric medical
7 institutions for children and the rules shall be filed without
8 notice and shall be effective immediately upon filing. The
9 rules must be published as notice of intended action as
10 provided in section 17A.4. The rules shall provide that the
11 initial reimbursement rate paid to a psychiatric medical
12 institution for children under the medical assistance program
13 shall be one hundred twenty dollars per day or the actual
14 audited costs, whichever is less. The initial reimbursement
15 rate is subject to modification pursuant to laws appropriating
16 funding which affect the rate. The department of human
17 services shall develop a permanent reimbursement methodology
18 which shall be effective on or before July 1, 1989.

19 Sec. 34. INITIAL LICENSURE. A specialized psychiatric
20 hospital for children which is offering services at the time
21 rules under this Act are adopted shall receive a provisional
22 license to operate as a psychiatric medical institution for
23 children. A recipient of a provisional license under this
24 section must comply with the rules and standards within one
25 year of receiving the provisional license in order to obtain a
26 permanent license under chapter 135H.

27 Sec. 35. NEEDS ASSESSMENT REQUIRED. Pursuant to section
28 135H.6, subsection 5, the department of human services shall
29 conduct a needs assessment to determine the location and
30 number of children in the state who require the services of a
31 psychiatric medical institution for children. The department
32 shall report the results of the needs assessment with
33 recommendations as to whether the limit on the number of
34 psychiatric medical institution for children beds in the state
35 should be modified. A report on the needs assessment and

1 recommendations shall be submitted to the general assembly on
2 or before January 1, 1990.

4.382 3 Sec. 36. EFFECTIVE DATE. Sections 2 through 17, 24
4 through 26, and 31 through 35 of this Act, being deemed of
5 immediate importance, take effect upon enactment.

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

SENATE FILE 540

H-4378

1 Amend Senate File 540, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 4, line 31, by striking the word
4 "licensed" and inserting the following: "accredited
5 to provide psychiatric services by the joint
6 commission on the accreditation of health care
7 organizations under the commission's consolidated
8 standards for residential settings".

9 2. Page 15, by striking line 31 and inserting the
10 following: "four days per month for days an
11 individual child is not".

12 3. Page 15, by inserting after line 32, the
13 following:

14 "Sec. ____ . Section 239.5, Code 1989, is amended by
15 adding the following new subsection and renumbering
16 the subsequent subsection:

17 NEW SUBSECTION. 7. a. The schedule of basic
18 needs in effect on July 1, 1989, is established as the
19 base schedule of basic needs.

20 b. For the fiscal year beginning July 1, 1990, the
21 schedule of basic needs shall be the base schedule of
22 basic needs plus an amount equal to the annual
23 percentage rate of change in the consumer price index
24 as tabulated by the federal bureau of labor statistics
25 for the current fiscal year times the base schedule of
26 basic needs.

27 c. The base schedule of basic needs plus the
28 percentage rate of change amount as computed in
29 paragraph "b" shall become the base schedule of basic
30 needs for the succeeding fiscal year. The percentage
31 rate of change amount shall continue to be applied in
32 each fiscal year until the schedule of basic needs is
33 equal to the schedule of living costs utilized by the
34 department. If applying the full percentage change
35 amount would cause the schedule of basic needs to
36 exceed the schedule of living costs, the schedule of
37 basic needs shall only be increased by an amount that
38 would cause the schedule of basic needs to equal the
39 schedule of living costs."

40 4. Page 16, by inserting after line 10 the
41 following:

42 "Sec. ____ . Section 249C.1, Code 1989, is amended
43 by adding the following new subsection:

44 NEW SUBSECTION. 6. "Unemployed parent-community
45 work experience program" means a program which
46 requires primary wage earners of families receiving
47 aid to dependent children-unemployed parent assistance
48 to perform community work at public or nonprofit
49 organizations.

50 Sec. ____ . Section 249C.9, Code 1989, is amended to

H-4378

Page 2

1 read as follows:

2 249C.9 WORKERS' COMPENSATION LAW APPLICABLE.

3 Each eligible person, with respect to work
4 performed under this chapter, shall be covered by the
5 workers' compensation law or shall otherwise be
6 provided with comparable protection.

7 Notwithstanding the provisions of chapter 85, a
8 participant in a work and training program established
9 pursuant to section 249C.5, subsection 3, shall be
10 considered an employee for purposes of workers'
11 compensation insurance.

12 Notwithstanding the provisions of chapter 85, the
13 work site organization to which a participant is
14 assigned to perform work and which is in charge of
15 that participant's work in a work and training program
16 established pursuant to section 249C.5, subsection 3,
17 shall be considered the employer for purposes of
18 workers' compensation insurance.

19 Notwithstanding the provisions of chapter 87, where
20 the eligible person is performing work as a
21 participant in an unemployed parent-community work
22 experience program, the public or nonprofit
23 organization operating the program shall provide
24 workers' compensation insurance. The insurance
25 liability policy shall identify the work site to which
26 the eligible person is assigned as the insured
27 employer for workers' compensation purposes.

28 Notwithstanding the minimum benefit provisions of
29 chapter 85, a person entitled to benefits pursuant to
30 this section is entitled to receive a minimum weekly
31 benefit amount for a permanent partial disability
32 under section 85.34, subsection 2, or for a permanent
33 total disability under section 85.34, subsection 3,
34 equal to the weekly benefit amount of a person whose
35 gross weekly earnings are thirty-five percent of the
36 statewide average weekly wage computed pursuant to
37 section 96.3 and in effect at the time of the injury."

38 5. Title page, by striking lines 5 and 6 and
39 inserting the following: "child's expenses, the
40 schedule of basic needs under the aid to dependent
41 children program, the costs of a child's care in a
42 state juvenile institution, applicability of the
43 workers' compensation law to certain recipients of
44 public assistance, child support recovery, and
45 certain".

46 6. By renumbering as necessary.

By COMMITTEE ON APPROPRIATIONS

JOCHUM of Dubuque, Chairperson

H-4378 FILED MAY 2, 1989

ADOPTED

52-89 (p. 2322)

SENATE FILE 540

H-4382

- 1 Amend Senate File 540, as amended, passed, and
- 2 reprinted by the Senate, as follows:
- 3 1. Page 21, by inserting before line 3 the
- 4 following:
- 5 "Sec. ____ COUNTY OBLIGATION LIMITED.
- 6 Notwithstanding any other provision in law, a county
- 7 is not obligated to fund a program mandated by state
- 8 law unless the state's share of the funding is
- 9 available during the entire fiscal year in which the
- 10 program operates."
- 11 2. By renumbering as necessary.

By HALVORSON of Clayton
HARBOR of Mills

H-4382 FILED MAY 2, 1989

LOST

5-2-89 (p. 2323)

SENATE AMENDMENT TO HOUSE AMENDMENT TO SENATE FILE 540
H-4410

1 Amend the House amendment, S-4077, to Senate File
2 540, as amended, passed, and reprinted by the Senate,
3 as follows:

4 1. Page 1, by inserting after line 8 the
5 following:

6 "_____. Page 10, by inserting after line 12 the
7 following:

8 "Sec. _____. Section 217.11, Code 1989, is amended
9 by adding the following new subsection:

10 NEW SUBSECTION. 10. The director of the
11 department of education or the director's designee."

12 2. Page 1, by striking lines 12 through 39.

13 3. By striking page 1, line 40 through page 2,
14 line 37.

15 4. Page 2, by inserting after line 37 the
16 following:

17 "_____. Page 18, line 4, by insertng after the word
18 "children." the following: "A psychiatric medical
19 institution for children licensed before May 1, 1989,
20 shall be reimbursed at the rate established under the
21 medical assistance program until September 1, 1989. A
22 psychiatric medical institution for children licensed
23 on or after May 1, 1989, may bill the department of
24 human services for actual audited costs up to one
25 hundred twenty dollars per day, but shall be initially
26 reimbursed at the group foster care rate."

27 _____. Page 21, by inserting after line 2 the
28 following:

29 "Sec. _____. ADOLESCENT RECIPIENTS OF AID TO
30 DEPENDENT CHILDREN -- INFORMATION. The department of
31 human services shall identify the number of adolescent
32 recipients under the aid to dependent children program
33 who have not completed high school or have not
34 received a high school equivalency diploma under
35 chapter 259A by county and by high school attendance
36 area. The department shall cooperate with the
37 department of education in studying the impact upon
38 high schools of adolescent recipients returning to
39 school, the high school needs for additional or
40 alternative programming, and needs for infant and
41 child care within or near the high schools. The
42 department shall report its findings to the general
43 assembly by January 1, 1990, and the report shall
44 include recommendations regarding measures necessary
45 to improve the success of adolescent recipients under
46 the aid to dependent children program in completing
47 high school or obtaining a high school equivalency
48 diploma.""

49 5. Page 2, by striking lines 42 through 44 and
50 inserting the following: "state juvenile institution,
Page 2

1 child support recovery, and".

2 6. By renumbering, relettering, or redesignating
3 and correcting internal references as necessary.

RECEIVED FROM THE SENATE

H-4410 FILED MAY 4, 1989

CONCURRED 5-4-89 (p 2417)

HOUSE AMENDMENT TO
SENATE FILE 540

S-4077

1 Amend Senate File 540, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 4, line 31, by striking the word
4 "licensed" and inserting the following: "accredited
5 to provide psychiatric services by the joint
6 commission on the accreditation of health care
7 organizations under the commission's consolidated
8 standards for residential settings".

4683 9 2. Page 15, by striking line 31 and inserting the
10 following: "four days per month for days an
11 individual child is not".

4684 12 3. Page 15, by inserting after line 32, the
13 following:

14 "Sec. ____ . Section 239.5, Code 1989, is amended by
15 adding the following new subsection and renumbering
16 the subsequent subsection:

17 NEW SUBSECTION. 7. a. The schedule of basic
18 needs in effect on July 1, 1989, is established as the
19 base schedule of basic needs.

20 b. For the fiscal year beginning July 1, 1990, the
21 schedule of basic needs shall be the base schedule of
22 basic needs plus an amount equal to the annual
23 percentage rate of change in the consumer price index
24 as tabulated by the federal bureau of labor statistics
25 for the current fiscal year times the base schedule of
26 basic needs.

27 c. The base schedule of basic needs plus the
28 percentage rate of change amount as computed in
29 paragraph "b" shall become the base schedule of basic
30 needs for the succeeding fiscal year. The percentage
31 rate of change amount shall continue to be applied in
32 each fiscal year until the schedule of basic needs is
33 equal to the schedule of living costs utilized by the
34 department. If applying the full percentage change
35 amount would cause the schedule of basic needs to
36 exceed the schedule of living costs, the schedule of
37 basic needs shall only be increased by an amount that
38 would cause the schedule of basic needs to equal the
39 schedule of living costs."

40 4. Page 16, by inserting after line 10 the
41 following:

42 "Sec. ____ . Section 249C.1, Code 1989, is amended
43 by adding the following new subsection:

44 NEW SUBSECTION. 6. "Unemployed parent-community
45 work experience program" means a program which
46 requires primary wage earners of families receiving
47 aid to dependent children-unemployed parent assistance
48 to perform community work at public or nonprofit
49 organizations.

50 Sec. ____ . Section 249C.9, Code 1989, is amended to

S-4077

Page 2

1 read as follows:

2 249C.9 WORKERS' COMPENSATION LAW APPLICABLE.

3 Each eligible person, with respect to work
4 performed under this chapter, shall be covered by the
5 workers' compensation law or shall otherwise be
6 provided with comparable protection.

7 Notwithstanding the provisions of chapter 85, a
8 participant in a work and training program established
9 pursuant to section 249C.5, subsection 3, shall be
10 considered an employee for purposes of workers'
11 compensation insurance.

12 Notwithstanding the provisions of chapter 85, the
13 work site organization to which a participant is
14 assigned to perform work and which is in charge of
15 that participant's work in a work and training program
16 established pursuant to section 249C.5, subsection 3,
17 shall be considered the employer for purposes of
18 workers' compensation insurance.

19 Notwithstanding the provisions of chapter 87, where
20 the eligible person is performing work as a
21 participant in an unemployed parent-community work
22 experience program, the public or nonprofit
23 organization operating the program shall provide
24 workers' compensation insurance. The insurance
25 liability policy shall identify the work site to which
26 the eligible person is assigned as the insured
27 employer for workers' compensation purposes.

28 Notwithstanding the minimum benefit provisions of
29 chapter 85, a person entitled to benefits pursuant to
30 this section is entitled to receive a minimum weekly
31 benefit amount for a permanent partial disability
32 under section 85.34, subsection 2, or for a permanent
33 total disability under section 85.34, subsection 3,
34 equal to the weekly benefit amount of a person whose
35 gross weekly earnings are thirty-five percent of the
36 statewide average weekly wage computed pursuant to
37 section 96.3 and in effect at the time of the injury."

4080 38 5. Title page, by striking lines 5 and 6 and
39 inserting the following: "child's expenses, the
40 schedule of basic needs under the aid to dependent
41 children program, the costs of a child's care in a
42 state juvenile institution, applicability of the
43 workers' compensation law to certain recipients of
44 public assistance, child support recovery, and
45 certain".

46 6. By renumbering as necessary.

RECEIVED FROM THE HOUSE

S-4077 FILED MAY 3, 1989

ADOPTED

5389 (p. 1892) concurred

SENATE FILE 540

S-4080

1 Amend the House amendment, S-4077, to Senate File
2 540 as amended, passed and repinted by the Senate as
3 follows:

4 1. By striking page 1, line 40 through page 2,
5 line 37.

6 2. Page 2, by striking lines 42 through 44 and
7 inserting the following: "state juvenile institution,
8 child support recovery, and".

By CALVIN O. HULTMAN

S-4080 FILED MAY 3, 1989

ADOPTED

5-3-89 (P. 189A)

SENATE FILE 540

S-4094

1 Amend the House amendment, S-4077, to Senate File
2 540, as amended, passed, and reprinted by the Senate,
3 as follows:

4 1. Page 1, by striking lines 12 through 39.

By JOE WELSH

DALE L. TIEDEN

S-4094 FILED MAY 3, 1989

ADOPTED

SENATE FILE 540

S-4093

1 Amend the House amendment, S-4077, to Senate File
2 540, as amended, passed, and reprinted by the Senate,
3 as follows:

4 1. Page 1, by inserting after line 8 the
5 following:

6 " ____ . Page 10, by inserting after line 12 the
7 following:

8 "Sec. ____ . Section 217.11, Code 1989, is amended
9 by adding the following new subsection:

10 NEW SUBSECTION. 10. The director of the
11 department of education or the director's designee."

12 2. Page 2, by inserting after line 37 the
13 following:

14 " ____ . Page 18, line 4, by insertng after the word
15 "children." the following: "A psychiatric medical
16 institution for children licensed before May 1, 1989,
17 shall be reimbursed at the rate established under the
18 medical assistance program until September 1, 1989. A
19 psychiatric medical institution for children licensed
20 on or after May 1, 1989, may bill the department of
21 human services for actual audited costs up to one
22 hundred twenty dollars per day, but shall be initially
23 reimbursed at the group foster care rate."

24 ____ . Page 21, by inserting after line 2 the
25 following:

26 "Sec. ____ . ADOLESCENT RECIPIENTS OF AID TO
27 DEPENDENT CHILDREN -- INFORMATION. The department of
28 human services shall identify the number of adolescent
29 recipients under the aid to dependent children program
30 who have not completed high school or have not
31 received a high school equivalency diploma under
32 chapter 259A by county and by high school attendance
33 area. The department shall cooperate with the
34 department of education in studying the impact upon
35 high schools of adolescent recipients returning to
36 school, the high school needs for additional or
37 alternative programming, and needs for infant and
38 child care within or near the high schools. The
39 department shall report its findings to the general
40 assembly by January 1, 1990, and the report shall
41 include recommendations regarding measures necessary
42 to improve the success of adolescent recipients under
43 the aid to dependent children program in completing
44 high school or obtaining a high school equivalency
45 diploma."

By CHARLES BRUNER

S-4093 FILED MAY 3, 1989

ADOPTED

53-89 (p. 1892)

SENATE FILE 540

AN ACT

RELATING TO HUMAN SERVICES STATUTES PROVIDING FOR OR REGARDING
SUBSTANCE ABUSE COMMITMENT OF JUVENILES, PSYCHIATRIC MEDICAL
INSTITUTIONS FOR CHILDREN, THE COUNCIL ON HUMAN SERVICES,
MENTALLY ILL JUVENILES, CHILD ABUSE, PAYMENT FOR A CHILD'S
EXPENSES, THE SCHEDULE OF BASIC NEEDS UNDER THE AID TO DE-
PENDENT CHILDREN PROGRAM, THE COSTS OF A CHILD'S CARE IN A
STATE JUVENILE INSTITUTION, CHILD SUPPORT RECOVERY, AND
CERTAIN ADMINISTRATIVE RULES, PROPERLY RELATED MATTERS,
PROVIDING FOR EFFECTIVE DATES, AND PROVIDING PENALTIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. 125.75A INVOLUNTARY COMMITMENT
OR TREATMENT OF MINORS -- JURISDICTION.

The juvenile court has exclusive original jurisdiction in
proceedings concerning a minor for whom an application for
involuntary commitment or treatment is filed under section
125.75. In proceedings under this division concerning a
minor's involuntary commitment or treatment, the terms
"court", "judge", "referee", or "clerk" mean the juvenile
court, judge, referee, or clerk.

Sec. 2. NEW SECTION. 135H.1 DEFINITIONS.

As used in this chapter, unless the context otherwise
requires:

1. "Department" means the department of inspections and
appeals.
2. "Direction" means authoritative policy or procedural
guidance for the accomplishment of a function or an activity.

3. "Licensee" means the holder of a license issued to
operate a psychiatric medical institution for children.

4. "Medical care plan" means a plan of care and services
designed to eliminate the need for inpatient care by improving
the condition of a child. Services must be based upon a
diagnostic evaluation, which includes an examination of the
medical, psychological, social, behavioral, and developmental
aspects of the child's situation, reflecting the need for
inpatient care.

5. "Nonsecure institution" means a physically
unrestricting institution, place, building, or agency in which
a child may be placed pursuant to a dispositional court order
made in accordance with the provisions of chapter 232.

6. "Nursing care" means services which are provided under
the direction of a physician or registered nurse.

7. "Physician" means a person licensed under chapter 148
or 150A.

8. "Psychiatric medical institution for children" or
"psychiatric institution" means a nonsecure institution
providing more than twenty-four hours of continuous care
involving long-term psychiatric services to three or more
children in residence for expected periods of fourteen or more
days for diagnosis and evaluation or for expected periods of
ninety days or more for treatment.

9. "Psychiatric services" means services provided under
the direction of a physician which address mental, emotional,
medical, or behavioral problems.

10. "Mental health professional" means an individual who
has all of the following qualifications:

- a. The individual holds at least a master's degree in a
mental health field, including but not limited to, psychology,
counseling and guidance, nursing, and social work, or the
individual is a physician.
- b. The individual holds a current Iowa license if
practicing in a field covered by an Iowa licensure law.

c. The individual has at least two years of post-degree clinical experience, supervised by another mental health professional, in assessing mental health needs and problems and in providing appropriate mental health services.

11. "Rehabilitative services" means services to encourage and assist restoration of a resident's optimum mental and physical capabilities.

12. "Resident" means a person who is less than twenty-one years of age and has been admitted by a physician to a psychiatric medical institution for children.

13. "Supervision" means direct oversight and inspection of the act of accomplishing a function or activity.

Sec. 3. NEW SECTION. 135H.2 PURPOSE.

The purpose of this chapter is to provide for the development, establishment, and enforcement of basic standards for the operation, construction, and maintenance of a psychiatric medical institution for children which will ensure the safe and adequate diagnosis and evaluation and treatment of the residents.

Sec. 4. NEW SECTION. 135H.3 NATURE OF CARE.

A psychiatric medical institution for children shall utilize a team of professionals to direct an organized program of diagnostic services, psychiatric services, nursing care, and rehabilitative services to meet the needs of residents in accordance with a medical care plan developed for each resident. Social and rehabilitative services shall be provided under the direction of a qualified mental health professional.

Sec. 5. NEW SECTION. 135H.4 LICENSURE.

A person shall not establish, operate, or maintain a psychiatric medical institution for children unless the person obtains a license for the institution under this chapter and holds a license under section 237.3, subsection 2, paragraph "d", subparagraph (3).

Sec. 6. NEW SECTION. 135H.5 APPLICATION FOR LICENSE.

An application for a license under this chapter shall be submitted on a form requesting information required by the department, which may include affirmative evidence of the applicant's ability to comply with the rules for standards adopted pursuant to this chapter. An application for a license shall be accompanied by the required license fee which shall be credited to the general fund of the state. The initial and annual license fee is twenty-five dollars.

Sec. 7. NEW SECTION. 135H.6 INSPECTION BEFORE ISSUANCE.

The department shall issue a license to an applicant under this chapter if all the following conditions exist:

1. The department has ascertained that the applicant's medical facilities and staff are adequate to provide the care and services required of a psychiatric institution.

2. The proposed psychiatric institution is accredited to provide psychiatric services by the joint commission on the accreditation of health care organizations under the commission's consolidated standards for residential settings.

3. The applicant complies with applicable state rules and standards for a psychiatric institution adopted by the department in accordance with federal requirements under 42 C.P.R. § 441.150-441.156.

4. The applicant has been awarded a certificate of need pursuant to chapter 135.

5. The department of human services has submitted written approval of the application based on the department of human services' determination of need. The department of human services shall identify the location and number of children in the state who require the services of a psychiatric medical institution for children. Approval of an application shall be based upon the location of the proposed psychiatric institution relative to the need for services identified by the department of human services and an analysis of the applicant's ability to provide services and support consistent with requirements under chapter 232, particularly regarding community-based treatment. The department of human services

shall not give approval to an application which would cause the total number of beds licensed under this chapter to exceed three hundred sixty beds with not more than three hundred of the beds licensed under chapter 237 before January 1, 1989, and not more than sixty of the beds licensed under chapter 237 after January 1, 1989. If the proposed psychiatric institution is not freestanding from a facility licensed under chapter 135B or 135C, approval under this subsection shall not be given unless the department of human services certifies that the proposed psychiatric institution is capable of providing a resident with a living environment similar to the living environment provided by a licensee which is freestanding from a facility licensed under chapter 135B or 135C. Unless a psychiatric institution was accredited to provide psychiatric services by the joint commission on the accreditation of health care organizations under the commission's consolidated standards for residential settings prior to the effective date of this Act, the department of human services shall not approve an application for a license under this chapter until the federal health care financing administration has approved a state Title XIX plan amendment to include coverage of services in a psychiatric medical institution for children.

6. The proposed psychiatric institution is under the direction of an agency which has operated a facility licensed under section 237.3, subsection 2, paragraph "a", subparagraph (3), for three years.

Sec. 8. NEW SECTION. 135H.7 PERSONNEL.

1. A person shall not be allowed to provide services in a psychiatric institution if the person has a disease which is transmissible to other persons through required contact in the workplace, which presents a significant risk of infecting other persons, which presents a substantial possibility of harming other persons, or for which no reasonable accommodation can eliminate the risk of infecting other persons.

2. A person who has been convicted of a criminal act involving a child under a law of any state or who has a record of founded child abuse shall not be licensed, be employed by a licensee, or reside in a licensed home unless the department of human services determines that the crime or founded abuse does not merit prohibition of licensure or employment. In its determination, the department of human services shall consider the nature and seriousness of the crime or founded abuse in relation to the position sought, the time elapsed since the commission of the crime or founded abuse, the circumstances under which the crime or founded abuse was committed, the degree of rehabilitation, and the number of crimes or founded abuses committed by the person involved.

Sec. 9. NEW SECTION. 135H.8 DENIAL, SUSPENSION, OR REVOCATION OF LICENSE.

The department may deny an application or suspend or revoke a license if the department finds that an applicant or licensee has failed or is unable to comply with this chapter or the rules establishing minimum standards pursuant to this chapter or if any of the following conditions apply:

1. It is shown that a resident is a victim of cruelty or neglect due to the acts or omissions of the licensee.
2. The licensee has permitted, aided, or abetted in the commission of an illegal act in the psychiatric institution.
3. An applicant or licensee acted to obtain or to retain a license by fraudulent means, misrepresentation, or submitting false information.
4. The licensee has willfully failed or neglected to maintain a continuing in-service education and training program for persons employed by the psychiatric institution.
5. The application involves a person who has failed to operate a psychiatric institution in compliance with the provisions of this chapter.

Sec. 10. NEW SECTION. 135H.9 NOTICE AND HEARINGS.

The procedure governing notice and hearing to deny an application or suspend or revoke a license shall be in

accordance with rules adopted by the department pursuant to chapter 17A. A full and complete record shall be kept of the proceedings and of any testimony. The record need not be transcribed unless judicial review is sought. A copy or copies of a transcript may be obtained by an interested party upon payment of the cost of preparing the transcript or copies.

Sec. 11. NEW SECTION. 135H.10 RULES.

1. The department of inspections and appeals, in consultation with the department of human services and affected professional groups, shall adopt and enforce rules setting out the standards for a psychiatric medical institution for children and the rights of the residents admitted to a psychiatric institution. The department of inspections and appeals and the department of human services shall coordinate the adoption of rules and the enforcement of the rules in order to prevent duplication of effort by the departments and of requirements of the licensee.

2. This chapter shall not be construed as prohibiting the use of funds appropriated for foster care to provide payment to a psychiatric medical institution for children for the financial participation required of a child whose foster care placement is in a psychiatric medical institution for children. In accordance with established policies and procedures for foster care, the department of human services shall act to recover any such payment for financial participation, apply to be named payee for the child's unearned income, and recommend parental liability for the costs of a court-ordered foster care placement in a psychiatric medical institution.

Sec. 12. NEW SECTION. 135H.11 COMPLAINTS ALLEGING VIOLATIONS -- CONFIDENTIALITY.

A person may request an inspection of a psychiatric medical institution for children by filing with the department a complaint of an alleged violation of an applicable requirement of this chapter or a rule adopted pursuant to this chapter.

The complaint shall state in a reasonably specific manner the basis of the complaint. A statement of the nature of the complaint shall be delivered to the psychiatric institution involved at the time of or prior to the inspection. The name of the person who files a complaint with the department shall be kept confidential and shall not be subject to discovery, subpoena, or other means of legal compulsion for its release to a person other than department employees involved in the investigation of the complaint.

Sec. 13. NEW SECTION. 135H.12 INSPECTIONS UPON COMPLAINTS.

1. Upon receipt of a complaint made in accordance with section 135H.11, the department shall make a preliminary review of the complaint. Unless the department concludes that the complaint is intended to harass a psychiatric institution or a licensee or is without reasonable basis, it shall within twenty working days of receipt of the complaint make or cause to be made an on-site inspection of the psychiatric institution which is the subject of the complaint. The department of inspections and appeals may refer to the department of human services any complaint received by the department if the complaint applies to rules adopted by the department of human services. The complainant shall also be notified of the name, address, and telephone number of the designated protection and advocacy agency if the alleged violation involves a facility with one or more residents with developmental disabilities or mental illness. In any case, the complainant shall be promptly informed of the result of any action taken by the department in the matter.

2. An inspection made pursuant to a complaint filed under section 135H.11 need not be limited to the matter or matters referred to in the complaint; however, the inspection shall not be a general inspection unless the complaint inspection coincides with a scheduled general inspection. Upon arrival at the psychiatric institution to be inspected, the inspector shall show identification to the person in charge of the

psychiatric institution and state that an inspection is to be made, before beginning the inspection. Upon request of either the complainant or the department, the complainant or the complainant's representative or both may be allowed the privilege of accompanying the inspector during any on-site inspection made pursuant to this section. The inspector may cancel the privilege at any time if the inspector determines that the privacy of a resident of the psychiatric institution to be inspected would be violated. The dignity of the resident shall be given first priority by the inspector and others.

Sec. 14. NEW SECTION. 135H.13 INFORMATION CONFIDENTIAL.

1. The department's final findings and the survey findings of the joint commission on the accreditation of health care organizations regarding licensure or program accreditation shall be made available to the public in a readily available form and place. Other information relating to the psychiatric institution is confidential and shall not be made available to the public except in proceedings involving licensure, a civil suit involving a resident, or an administrative action involving a resident.

2. The name of a person who files a complaint with the department shall remain confidential and is not subject to discovery, subpoena, or any other means of legal compulsion for release to a person other than an employee of the department or an agent involved in the investigation of the complaint.

3. Information regarding a resident who has received or is receiving care shall not be disclosed directly or indirectly except as authorized under section 217.30, 232.69, or 237.21.

Sec. 15. NEW SECTION. 135H.14 JUDICIAL REVIEW.

Judicial review of the action of the department may be sought pursuant to the Iowa Administrative Procedure Act, chapter 17A. Notwithstanding the Iowa Administrative Procedure Act, a petition for judicial review of the department's actions under this chapter may be filed in the

district court of the county in which the related psychiatric medical institution for children is located or is proposed to be located. The status of the petitioner or the licensee shall be preserved pending final disposition of the judicial review.

Sec. 16. NEW SECTION. 135H.15 PENALTIES.

A person who establishes, operates, or manages a psychiatric medical institution for children without obtaining a license under this chapter commits a serious misdemeanor. Each day of continuing violation following conviction shall be considered a separate offense.

Sec. 17. NEW SECTION. 135H.16 INJUNCTION.

Notwithstanding the existence or pursuit of another remedy, the department may maintain an action for injunction or other process to restrain or prevent the establishment, operation, or management of a psychiatric medical institution for children without a license.

Sec. 18. Section 217.3, subsection 4, Code 1989, is amended to read as follows:

4. Approve the budget of the department of human services prior to submission to the governor. Within two weeks of the date the budget is approved, the council shall publicize and hold a public hearing to provide explanations and hear questions, opinions, and suggestions regarding the budget. Invitations to the hearing shall be extended to the governor, the governor-elect, the director of the department of management, and other persons deemed by the council as integral to the budget process.

Sec. 19. Section 217.11, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 10. The director of the department of education or the director's designee.

Sec. 20. Section 225C.20, Code 1989, is amended to read as follows:

225C.20 RESPONSIBILITIES OF COUNTIES FOR INDIVIDUAL CASE MANAGEMENT SERVICES.

Individual case management services shall be provided by the department except when a county or a consortium of counties contracts with the department to provide the services. A county or consortium of counties may contract to be the provider at any time and the department shall agree to the contract so long as the contract meets the standards for case management adopted by the department. The county or consortium of counties may subcontract for the provision of case management services so long as the subcontract meets the same standards. A mental health, mental retardation, and developmental disabilities coordinating board ~~which intends to~~ may change the provider of individual case management services at any time. If the current or proposed contract is with the department, the coordinating board shall provide written notification of a proposed change to the department on or before August 15 and written notification of an approved change on or before October 15 in the fiscal year which precedes the fiscal year in which the change will take effect.

Sec. 21. NEW SUBSECTION. 226.9A CUSTODY OF JUVENILE PATIENTS.

Effective January 1, 1991, a juvenile who is committed to a state mental health institute shall not be placed in a secure ward with adults.

Sec. 22. Section 232.71, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 17. In each county or multicounty area in which more than fifty child abuse reports are made per year, the department shall establish a multidisciplinary team, as defined in section 235A.13, subsection 9. Upon the department's request, a multidisciplinary team shall assist the department in the assessment, diagnosis, and disposition of a child abuse report.

Sec. 23. Section 232.141, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

232.141 EXPENSES.

1. Except as otherwise provided by law, the court shall inquire into the ability of the child or the child's parent to pay expenses incurred pursuant to subsection 2 and subsection 4 and, after giving the parent a reasonable opportunity to be heard, the court may order the parent to pay all or part of the costs of the child's care, examination, treatment, legal expenses, or other expenses. An order entered under this section does not obligate a parent paying child support under a custody decree, except that part of the monthly support payment may be used to satisfy the obligations imposed by the order entered pursuant to this section. If a parent fails to pay as ordered, without good reason, the court may proceed against the parent for contempt and may inform the county attorney who shall proceed against the parent to collect the unpaid amount. Any payment ordered by the court shall be a judgment against each of the child's parents and a lien as provided in section 624.23. If all or part of the amount that the parents are ordered to pay is subsequently paid by the county or state, the judgment and lien shall thereafter be against each of the parents in favor of the county to the extent of the county's payments and in favor of the state to the extent of the state's payments.

2. Upon certification of the court, all of the following expenses are a charge upon the county in which the proceedings are held, to the extent provided in subsection 3:

a. The fees and mileage of witnesses and the expenses of officers serving notices and subpoenas.

b. Reasonable compensation for an attorney appointed by the court to serve as counsel or guardian ad litem.

3. Costs incurred under subsection 2 shall be paid as follows:

a. A county shall be required to pay for the fiscal year beginning July 1, 1989, an amount equal to the county's base cost for witness and mileage fees and attorney fees established pursuant to section 232.141, subsection 8, paragraph "d", Code 1989, for the fiscal year beginning July

1, 1988, plus an amount equal to the percentage rate of change in the consumer price index as tabulated by the federal bureau of labor statistics for the current year times the county's base cost.

b. A county's base cost for a fiscal year plus the percentage rate of change amount as computed in paragraph "a" is the county's base cost for the succeeding fiscal year. The amount to be paid in the succeeding year by the county shall be computed as provided in paragraph "a".

c. Costs incurred under subsection 2 which are not paid by the county under paragraphs "a" and "b" shall be reimbursed by the state. A county shall apply for reimbursement to the judicial department which shall prescribe rules and forms to implement this subsection.

4. Upon certification of the court, all of the following expenses are a charge upon the state to the extent provided in subsection 5:

a. The expenses of transporting a child to or from a place designated by the court for the purpose of care or treatment.

b. Expenses for mental or physical examinations of a child if ordered by the court.

c. The expenses of care or treatment ordered by the court.

5. If no other provision of law requires the county to reimburse costs incurred pursuant to subsection 4, the department shall reimburse the costs as follows:

a. The department shall prescribe by administrative rule all services eligible for reimbursement pursuant to subsection 4 and shall establish an allowable rate of reimbursement for each service.

b. The department shall receive billings for services provided and, after determining allowable costs, shall reimburse providers at a rate which is not greater than allowed by administrative rule. Reimbursement paid to a provider by the department shall be considered reimbursement in full unless a county voluntarily agrees to pay any difference between the reimbursement amount and the actual

cost. When there are specific program regulations prohibiting supplementation those regulations shall be applied to providers requesting supplemental payments from a county. Billings for services not listed in administrative rule shall not be paid. However, if the court orders a service not currently listed in administrative rule, the department shall review the order and, if reimbursement for the service of the department is not in conflict with other law or administrative rule, and meets the criteria of subsection 4, the department shall reimburse the provider.

6. If a child is given physical or mental examinations or treatment relating to a child abuse investigation with the consent of the child's parent, guardian, or legal custodian and no other provision of law otherwise requires payment for the costs of the examination and treatment, the costs shall be paid by the state. Reimbursement for costs of services described in this subsection is subject to subsection 5.

7. A county charged with the costs and expenses under subsections 2 and 3 may recover the costs and expenses from the county where the child has legal settlement by filing verified claims which are payable as are other claims against the county. A detailed statement of the facts upon which a claim is based shall accompany the claim. Any dispute involving the legal settlement of a child for which the court has ordered payment under this section shall be settled pursuant to sections 252.22 and 252.23.

Sec. 24. Section 232.09, subsection 3, Code 1989, is amended to read as follows:

3. The court shall determine, after giving the parent, guardian, or custodian an opportunity to be heard, whether such the person has the ability to pay in whole or in part for counsel appointed for the child. If the court determines that such the person possesses sufficient financial ability, the court shall then consult with the department of human services, the juvenile probation office, or other authorized agency or individual regarding the likelihood of impairment of

the relationship between the child and the child's parent, guardian or custodian as a result of ordering the parent, guardian, or custodian to pay for the child's counsel. If impairment is deemed unlikely, the court shall order that person to pay ~~such sums as~~ an amount the court finds appropriate in the manner and to whom the court directs. If the person so-ordered fails to comply with the order without good reason, the court shall enter judgment against the person. If impairment is deemed likely or if the court determines that the parent, guardian, or custodian cannot pay any part of the expenses of counsel appointed to represent the child, counsel shall be reimbursed pursuant to section 232.141, subsection ~~2~~ 2, paragraph "b".

Sec. 25. Section 235A.15, subsection 2, paragraph c, Code 1989, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (5) To an administrator of a psychiatric medical institution for children licensed under chapter 135H.

Sec. 26. Section 237.3, subsection 2, paragraph a, Code 1989, is amended by striking the paragraph and inserting in lieu thereof the following:

a. Types of facilities which include but are not limited to all of the following:

- (1) A community residential facility.
- (2) A community residential facility for mentally retarded children.
- (3) A comprehensive residential facility for children.
- (4) A comprehensive residential facility for mentally retarded children.
- (5) A foster family home.
- (6) A group living foster care facility.

Sec. 27. Section 237.8, subsection 1, Code 1989, is amended by striking the subsection and inserting in lieu thereof the following:

1. A person shall not be allowed to provide services in a facility if the person has a disease which is transmissible to

other persons through required contact in the workplace, which presents a significant risk of infecting other persons, which presents a substantial possibility of harming other persons, or for which no reasonable accommodation can eliminate the risk of infecting other persons.

Sec. 28. Section 237A.15, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 4. Adopt rules relating to the purchase of child day care services which authorize payment for up to four days per month for days an individual child is not in attendance at the child day care facility.

Sec. 29. NEW SECTION. 242.17 COST OF CARE.

If a child receives unearned income, the department shall reserve a portion of the unearned income for the use of the child as a personal allowance and apply the remaining portion to the cost of the child's custody, care, and maintenance provided pursuant to this chapter.

Sec. 30. NEW SECTION. 244.16 COST OF CARE.

If a child receives unearned income, the department shall reserve a portion of the unearned income for the use of the child as a personal allowance and apply the remaining portion equally to the state and county liability for the cost of the child's support and maintenance provided pursuant to this chapter.

Sec. 31. Section 252B.9, Code 1989, is amended to read as follows:

252B.9 AVAILABILITY OF RECORDS.

The director may request from state, county and local agencies, information and assistance deemed necessary to carry out the provisions of this chapter. State, county and local agencies, officers and employees shall co-operate with the unit in locating absent parents of children on whose behalf public assistance is being provided and shall on request supply the department with available information relative to the location, income and property holdings of the absent parent, notwithstanding any provisions of law making such information confidential.

Information recorded by the department pursuant to this section shall be available only to the unit, attorneys prosecuting a case in which the unit may participate according to sections 252B.5 and 252B.6, courts having jurisdiction in support or abandonment proceedings, and agencies in other states charged with support collection and paternity determination responsibilities, and a resident parent, legal guardian, attorney, or agent of a child who is not receiving assistance under Title IV-A of the federal Social Security Act as determined by the rules of the department and the provisions of Title IV of the United States Social Security Act.

Sec. 32. Section 692.2, subsection 1, Code 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. A psychiatric medical institution for children licensed under chapter 135H for the purposes of section 237.8, subsection 2 and section 600.8, subsections 1 and 2.

Sec. 33. 1988 Iowa Acts, chapter 1249, section 21, is amended to read as follows:

SEC. 21. Beginning July 1, 1988, the department of inspections and appeals shall issue provisional licenses to specialized psychiatric hospitals medical institutions for children and-adolescents for those facilities institutions which are providing residential nonsecure inpatient psychiatric services to children and adolescents, which are accredited by the joint commission on the accreditation of health care organizations under the commission's consolidated standards for residential settings, which are in compliance with all applicable state rules and standards regarding the operation of comprehensive residential-facilities institutions for children, and which have been awarded a certificate of need. Each applicant shall submit a copy of the applicant's accreditation, and a copy of the certificate of need, and a statement of approval from the state fire marshal to the department of inspections and appeals. Notwithstanding the

provisions of section 237.1, subsection 3, paragraph "e", care furnished by these facilities institutions shall continue to be considered foster care.

The department of inspections and appeals, with the approval of the state board of health, shall adopt permanent standards for the licensure, of specialized psychiatric hospitals medical institutions for children and-adolescents under chapter 135B. The rules shall take effect immediately upon filing, no later than July 1, 1989. Effective September 1, 1989, the maximum reimbursement rate for a psychiatric medical institution for children shall be the group foster care reimbursement rate unless the federal health care financing administration approves a state Title XIX plan amendment to include coverage of services in a psychiatric medical institution for children. A psychiatric medical institution for children licensed before May 1, 1989, shall be reimbursed at the rate established under the medical assistance program until September 1, 1989. A psychiatric medical institution for children licensed on or after May 1, 1989, may bill the department of human services for actual audited costs up to one hundred twenty dollars per day, but shall be initially reimbursed at the group foster care rate. If the state Title XIX plan amendment is approved, the department of human services shall reimburse a licensed psychiatric medical institution for children at the rate established under the medical assistance program retroactively to the effective date of the plan amendment or the date the psychiatric institution was enrolled in the medical assistance program, whichever is later.

The department of human services shall adopt rules to expand coverage under the medical assistance program to include services provided by specialized psychiatric hospitals medical institutions for children and-adolescents which are licensed by the department of inspections and appeals. The rules shall take effect no later than July 1, 1988, contingent upon the facilities meeting institution certifying that the

facility is in accordance with the federal requirements for a hospital as outlined in 42 C.F.R., subpart-B § 441.150-441.156. Initially, the rules shall provide that the medical assistance reimbursement rate for the specialized-hospitals psychiatric medical institutions for children shall be one hundred twenty dollars per day or the actual audited costs, whichever are is less. The department shall develop adopt a permanent reimbursement methodology for the specialized hospitals-to-be-effective-on-or-before psychiatric medical institutions for children in rules which are effective immediately upon filing no later than July 1, 1989.

The health facilities council shall expedite the process by ruling on a certificate of need application under pursuant to this section within seventy-five days of the application and shall give primary consideration in this expedited process to those issues related to meeting the conditions set out in this section, provided that either of the following conditions apply:

a. The hospital psychiatric medical institution for children was accredited by the joint commission on the accreditation of health care organizations prior to the effective date of this Act and has been providing psychiatric treatment services for adolescents and children as a licensed foster care facility prior to the effective date of this Act and the provisional license will not increase the capacity of the facility.

b. The hospital-had-sought-accreditation-by-the-joint commission-on-the-accreditation-of-health-care-organizations prior-to-January-17-1987-and-has-been-providing-psychiatric treatment-services-for-adolescents-and-children-as-a-licensed foster-care-facility-prior-to-the-effective-date-of-this-Act and-the-provisional-license-will-not-increase-the-capacity-of-the-facility psychiatric medical facility for children is accredited by the joint commission on the accreditation of health care organizations, complies with any applicable state rule or standard regarding the operation of a comprehensive

institution for children licensed under section 237.3, subsection 2, paragraph "a", subparagraph (1) or (3), has been awarded a certificate of need, and has received the department's written approval.

Sec. 34. EMERGENCY RULES.

1. The department of inspection and appeals shall adopt rules to implement the requirements of this Act and the rules shall be filed without notice and shall be effective immediately upon filing. The rules must be published as notice of intended action as provided in section 17A.4. The rules shall include and be in accordance with the provisions of regulations and rules provided under each of the following sources:

- a. Regulations pursuant to 42 C.F.R., § 441.150-441.156.
- b. Rules for community residential facilities or comprehensive residential facilities for children licensed pursuant to section 237.3, subsection 2, paragraph "a", subparagraph (1) or (3).

2. The department of human services, in consultation with the department of inspections and appeals and affected professional groups, shall adopt rules to expand medical assistance coverage under chapter 249A to include eligibility for and services provided by licensed psychiatric medical institutions for children and the rules shall be filed without notice and shall be effective immediately upon filing. The rules must be published as notice of intended action as provided in section 17A.4. The rules shall provide that the initial reimbursement rate paid to a psychiatric medical institution for children under the medical assistance program shall be one hundred twenty dollars per day or the actual audited costs, whichever is less. The initial reimbursement rate is subject to modification pursuant to laws appropriating funding which affect the rate. The department of human services shall develop a permanent reimbursement methodology which shall be effective on or before July 1, 1989.

Sec. 35. INITIAL LICENSURE. A specialized psychiatric hospital for children which is offering services at the time rules under this Act are adopted shall receive a provisional license to operate as a psychiatric medical institution for children. A recipient of a provisional license under this section must comply with the rules and standards within one year of receiving the provisional license in order to obtain a permanent license under chapter 135H.

Sec. 36. NEEDS ASSESSMENT REQUIRED. Pursuant to section 135H.6, subsection 5, the department of human services shall conduct a needs assessment to determine the location and number of children in the state who require the services of a psychiatric medical institution for children. The department shall report the results of the needs assessment with recommendations as to whether the limit on the number of psychiatric medical institution for children beds in the state should be modified. A report on the needs assessment and recommendations shall be submitted to the general assembly on or before January 1, 1990.

Sec. 37. ADOLESCENT RECIPIENTS OF AID TO DEPENDENT CHILDREN -- INFORMATION. The department of human services shall identify the number of adolescent recipients under the aid to dependent children program who have not completed high school or have not received a high school equivalency diploma under chapter 259A by county and by high school attendance area. The department shall cooperate with the department of education in studying the impact upon high schools of adolescent recipients returning to school, the high school needs for additional or alternative programming, and needs for infant and child care within or near the high schools. The department shall report its findings to the general assembly by January 1, 1990, and the report shall include recommendations regarding measures necessary to improve the success of adolescent recipients under the aid to dependent children program in completing high school or obtaining a high school equivalency diploma.

Sec. 38. EFFECTIVE DATE. Sections 2 through 17, 25 through 27, and 32 through 36 of this Act, being deemed of immediate importance, take effect upon enactment.

JO ANN ZIMMERMAN
President of the Senate

DONALD D. AVENSON
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 540, Seventy-third General Assembly.

JOHN F. DWYER
Secretary of the Senate
Approved *June 1*, 1989

TERRY E. BRANSTAD
Governor