

3/31/93 House Judiciary
4/12/93 Do Pass

SENATE FILE 391
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 287)

Passed Senate, Date ^(P.921) 3/31/93 Passed House, Date ^(P.1645) 4/26/93
Vote: Ayes 47 Nays 1 Vote: Ayes 99 Nays 0
Approved May 3, 1993

A BILL FOR

1 An Act relating to the appointment and employment of advocates
2 for persons subject to involuntary hospitalization for mental
3 illness.

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

5
6
7
8
9
10
11
12
13
SF 391

SENATE FILE 391

H-3852

1 Amend Senate File 391, as passed by the Senate, as
2 follows:
3 1. Page 1, by striking lines 5 through 8 and
4 inserting the following:
5 "The district court in each county shall appoint an
6 individual who".
7 2. Page 1, line 16, by inserting after the figure
8 "229.15." the following: "However, if the board of
9 supervisors of a county notifies the district court
10 that the board desires to appoint an individual to act
11 as the advocate in that county, the board shall
12 appoint the advocate in that county, instead of the
13 district court."

By KREIMAN of Davis

H-3852 FILED APRIL 12, 1993

Host 4/26/93 (P.1645)

19
20
21
22
23

1 Section 1. Section 229.19, Code 1993, is amended to read
2 as follows:

3 229.19 ADVOCATES -- DUTIES -- COMPENSATION -- STATE AND
4 COUNTY LIABILITY.

5 The district court in each county with a population of
6 under three hundred thousand inhabitants and the board of
7 supervisors in each county with a population of three hundred
8 thousand or more inhabitants shall appoint an individual who
9 has demonstrated by prior activities an informed concern for
10 the welfare and rehabilitation of the mentally ill, and who is
11 not an officer or employee of the department of human services
12 nor of any agency or facility providing care or treatment to
13 the mentally ill, to act as advocate representing the
14 interests of patients involuntarily hospitalized by the court,
15 in any matter relating to the patients' hospitalization or
16 treatment under section 229.14 or 229.15. The court or, if
17 the advocate is appointed by the county board of supervisors,
18 the board shall assign the advocate appointed from the a
19 patient's county of legal settlement to represent the
20 interests of the patient,--or-if-the. If a patient has no
21 county of legal settlement, the court or, if the advocate is
22 appointed by the county board of supervisors, the board shall
23 assign the advocate appointed from the county where the
24 hospital or facility is located to represent the interests of
25 the patient. The advocate's responsibility with respect to
26 any patient shall begin at whatever time the attorney employed
27 or appointed to represent that patient as respondent in
28 hospitalization proceedings, conducted under sections 229.6 to
29 229.13, reports to the court that the attorney's services are
30 no longer required and requests the court's approval to
31 withdraw as counsel for that patient. However, if the patient
32 is found to be seriously mentally impaired at the
33 hospitalization hearing, the attorney representing the patient
34 shall automatically be relieved of responsibility in the case
35 and an advocate shall be assigned to the patient at the

1 conclusion of the hearing unless the attorney indicates an
2 intent to continue the attorney's services and the court so
3 directs. If the court directs the attorney to remain on the
4 case the attorney shall assume all the duties of an advocate.
5 The clerk shall furnish the advocate with a copy of the
6 court's order approving the withdrawal and shall inform the
7 patient of the name of the patient's advocate. With regard to
8 each patient whose interests the advocate is required to
9 represent pursuant to this section, the advocate's duties
10 shall include all of the following:

11 1. To review each report submitted pursuant to sections
12 229.14 and 229.15.

13 2. If the advocate is not an attorney, to advise the court
14 at any time it appears that the services of an attorney are
15 required to properly safeguard the patient's interests.

16 3. To make the advocate readily accessible to
17 communications from the patient and to originate
18 communications with the patient within five days of the
19 patient's commitment.

20 4. To visit the patient within fifteen days of the
21 patient's commitment and periodically thereafter.

22 5. To communicate with medical personnel treating the
23 patient and to review the patient's medical records pursuant
24 to section 229.25.

25 6. To file with the court quarterly reports, and
26 additional reports as the advocate feels necessary or as
27 required by the court, in a form prescribed by the court. The
28 reports shall state what actions the advocate has taken with
29 respect to each patient and the amount of time spent.

30 The hospital or facility to which a patient is committed
31 shall grant all reasonable requests of the advocate to visit
32 the patient, to communicate with medical personnel treating
33 the patient and to review the patient's medical records
34 pursuant to section 229.25. An advocate shall not disseminate
35 information from a patient's medical records to any other

1 person unless done for official purposes in connection with
2 the advocate's duties pursuant to this chapter or when
3 required by law.

4 The court or, if the advocate is appointed by the county
5 board of supervisors, the board shall from-time-to-time
6 prescribe reasonable compensation for the services of the
7 advocate. The compensation shall be based upon the reports
8 filed by the advocate with the court. The advocate's
9 compensation shall be paid on-order-of-the-court by the county
10 in which the court is located, either on order of the court
11 or, if the advocate is appointed by the county board of
12 supervisors, on the direction of the board. ~~The~~ If the
13 advocate is appointed by the court, the advocate is an
14 employee of the state for purposes of chapter 669. If the
15 advocate is appointed by the county board of supervisors, the
16 advocate is an employee of the county for purposes of chapter
17 670.

18 EXPLANATION

19 This bill changes the appointing authority for mental
20 health advocates in civil commitment proceedings in counties
21 with populations of 300,000 or more persons to the county
22 board of supervisors. The bill also changes the status of
23 mental health advocates in those counties from state to county
24 employees for purposes of tort claims limitations.

25 This bill may create a state mandate.

26
27
28
29
30
31
32
33
34
35

SZYMONIAK, CH.
CONNOLLY
FUHRMAN

SSB 297
JUDICIARY

SENATE FILE 391
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON STURGEON)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the appointment and employment of advocates
2 for persons subject to involuntary hospitalization for mental
3 illness.

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

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

1 Section 1. Section 229.19, Code 1993, is amended to read
2 as follows:

3 229.19 ADVOCATES -- DUTIES -- COMPENSATION -- STATE COUNTY
4 LIABILITY.

5 The ~~district-court~~ board of supervisors in each county
6 shall appoint an individual who has demonstrated by prior
7 activities an informed concern for the welfare and
8 rehabilitation of the mentally ill, and who is not an officer
9 or employee of the department of Human services nor of any
10 agency or facility providing care or treatment to the mentally
11 ill, to act as advocate representing the interests of patients
12 involuntarily hospitalized by the court, in any matter
13 relating to the patients' hospitalization or treatment under
14 section 229.14 or 229.15. The ~~court-shall-assign-the~~ advocate
15 appointed from the a patient's county of legal settlement to
16 shall represent the interests of the patient, or-if-the. If a
17 patient has no county of legal settlement, the ~~court-shall~~
18 ~~assign~~ the advocate appointed from the county where the
19 hospital or facility is located shall represent the interests
20 of the patient. The advocate's responsibility with respect to
21 any patient shall begin at whatever time the attorney employed
22 or appointed to represent that patient as respondent in
23 hospitalization proceedings, conducted under sections 229.6 to
24 229.13, reports to the court that the attorney's services are
25 no longer required and requests the court's approval to
26 withdraw as counsel for that patient. However, if the patient
27 is found to be seriously mentally impaired at the
28 hospitalization hearing, the attorney representing the patient
29 shall automatically be relieved of responsibility in the case
30 and an advocate shall be assigned to the patient at the
31 conclusion of the hearing unless the attorney indicates an
32 intent to continue the attorney's services and the court so
33 directs. If the court directs the attorney to remain on the
34 case the attorney shall assume all the duties of an advocate.
35 The clerk shall furnish the advocate with a copy of the

1 court's order approving the withdrawal and shall inform the
2 patient of the name of the patient's advocate. With regard to
3 each patient whose interests the advocate is required to
4 represent pursuant to this section, the advocate's duties
5 shall include all of the following:

6 1. To review each report submitted pursuant to sections
7 229.14 and 229.15.

8 2. If the advocate is not an attorney, to advise the court
9 at any time it appears that the services of an attorney are
10 required to properly safeguard the patient's interests.

11 3. To make the advocate readily accessible to
12 communications from the patient and to originate
13 communications with the patient within five days of the
14 patient's commitment.

15 4. To visit the patient within fifteen days of the
16 patient's commitment and periodically thereafter.

17 5. To communicate with medical personnel treating the
18 patient and to review the patient's medical records pursuant
19 to section 229.25.

20 6. To file with the court quarterly reports, and
21 additional reports as the advocate feels necessary or as
22 required by the court, in a form prescribed by the court. The
23 reports shall state what actions the advocate has taken with
24 respect to each patient and the amount of time spent.

25 The hospital or facility to which a patient is committed
26 shall grant all reasonable requests of the advocate to visit
27 the patient, to communicate with medical personnel treating
28 the patient and to review the patient's medical records
29 pursuant to section 229.25. An advocate shall not disseminate
30 information from a patient's medical records to any other
31 person unless done for official purposes in connection with
32 the advocate's duties pursuant to this chapter or when
33 required by law.

34 The court board of supervisors shall from-time-to-time
35 prescribe reasonable compensation for the services of the

1 advocate. The compensation shall be based upon the reports
2 filed by the advocate with the court. The advocate's
3 compensation shall be paid ~~on-order-of-the-court~~ by the county
4 in which the court is located. The advocate is an employee of
5 the state county for purposes of chapter 669 670.

6

EXPLANATION

7 This bill changes the appointing authority for mental
8 health advocates in civil commitment proceedings from the
9 court to the county board of supervisors. The bill also
10 changes the status of mental health advocates from state to
11 county employees for purposes of tort claims limitations.

12 This bill may create a state mandate.

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 391

AN ACT

RELATING TO THE APPOINTMENT AND EMPLOYMENT OF ADVOCATES FOR
PERSONS SUBJECT TO INVOLUNTARY HOSPITALIZATION FOR MENTAL
ILLNESS.

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

Section 1. Section 229.19, Code 1993, is amended to read
as follows:

229.19 ADVOCATES -- DUTIES -- COMPENSATION -- STATE AND
COUNTY LIABILITY.

The district court in each county with a population of
under three hundred thousand inhabitants and the board of
supervisors in each county with a population of three hundred
thousand or more inhabitants shall appoint an individual who
has demonstrated by prior activities an informed concern for
the welfare and rehabilitation of the mentally ill, and who is
not an officer or employee of the department of human services
nor of any agency or facility providing care or treatment to
the mentally ill, to act as advocate representing the
interests of patients involuntarily hospitalized by the court,

in any matter relating to the patients' hospitalization or
treatment under section 229.14 or 229.15. The court or, if
the advocate is appointed by the county board of supervisors,
the board shall assign the advocate appointed from the a
patient's county of legal settlement to represent the
interests of the patient, or if the. If a patient has no
county of legal settlement, the court or, if the advocate is
appointed by the county board of supervisors, the board shall
assign the advocate appointed from the county where the
hospital or facility is located to represent the interests of
the patient. The advocate's responsibility with respect to
any patient shall begin at whatever time the attorney employed
or appointed to represent that patient as respondent in
hospitalization proceedings, conducted under sections 229.6 to
229.13, reports to the court that the attorney's services are
no longer required and requests the court's approval to
withdraw as counsel for that patient. However, if the patient
is found to be seriously mentally impaired at the
hospitalization hearing, the attorney representing the patient
shall automatically be relieved of responsibility in the case
and an advocate shall be assigned to the patient at the
conclusion of the hearing unless the attorney indicates an
intent to continue the attorney's services and the court so
directs. If the court directs the attorney to remain on the
case the attorney shall assume all the duties of an advocate.
The clerk shall furnish the advocate with a copy of the
court's order approving the withdrawal and shall inform the
patient of the name of the patient's advocate. With regard to
each patient whose interests the advocate is required to
represent pursuant to this section, the advocate's duties
shall include all of the following:

1. To review each report submitted pursuant to sections
229.14 and 229.15.
2. If the advocate is not an attorney, to advise the court
at any time it appears that the services of an attorney are
required to properly safeguard the patient's interests.

3. To make the advocate readily accessible to communications from the patient and to originate communications with the patient within five days of the patient's commitment.

4. To visit the patient within fifteen days of the patient's commitment and periodically thereafter.

5. To communicate with medical personnel treating the patient and to review the patient's medical records pursuant to section 229.25.

6. To file with the court quarterly reports, and additional reports as the advocate feels necessary or as required by the court, in a form prescribed by the court. The reports shall state what actions the advocate has taken with respect to each patient and the amount of time spent.

The hospital or facility to which a patient is committed shall grant all reasonable requests of the advocate to visit the patient, to communicate with medical personnel treating the patient and to review the patient's medical records pursuant to section 229.25. An advocate shall not disseminate information from a patient's medical records to any other person unless done for official purposes in connection with the advocate's duties pursuant to this chapter or when required by law.

The court or, if the advocate is appointed by the county board of supervisors, the board shall from-time-to-time prescribe reasonable compensation for the services of the advocate. The compensation shall be based upon the reports filed by the advocate with the court. The advocate's compensation shall be paid on order-of-the-court by the county in which the court is located, either on order of the court or, if the advocate is appointed by the county board of supervisors, on the direction of the board. The If the advocate is appointed by the court, the advocate is an employee of the state for purposes of chapter 669. If the advocate is appointed by the county board of supervisors, the

advocate is an employee of the county for purposes of chapter 670.

LEONARD L. BOSWELL
President of the Senate

HAROLD VAN MAANEN
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 391, Seventy-fifth General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved May 3, 1993

TERRY E. BRANSTAD
Governor