

(P. 265) 2/10/94 Judiciary
(P. 481) 3/13/94 Original/Polen
(P. 745) 3-18-94 House w/S 5069 - Judiciary
FILED FEB 9 1994

SENATE FILE 2112
BY ROSENBERG

(P. 732)
Passed Senate, Date 3-17-94 Passed House, Date _____
Vote: Ayes 46 Nays 0 Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the procedure for civil commitment hearings,
2 establishing a time limit for the filing of the report of the
3 examining physician and providing limitations on the refiling
4 of applications which have been denied for lack of evidence.

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

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SENATE FILE 2112

S-5069

- 1 Amend Senate File 2112 as follows:
- 2 1. Page 1, line 5, by striking the word "less"
- 3 and inserting the following: "more".
- 4 2. Page 2, line 8, by striking the word "less"
- 5 and inserting the following: "more".

By COMMITTEE ON JUDICIARY
AL STURGEON, Chairperson

Adopted 3-17-94 (P. 732)

S-5069 FILED MARCH 3, 1994

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SF 2112

1 Section 1. Section 125.80, subsection 2, unnumbered
2 paragraph 1, Code 1993, is amended to read as follows:

3 A written report of the examination by a court-designated
4 physician shall be filed with the clerk ~~prior-to-the-hearing~~
5 date not less than twenty-four hours after expiration of the
6 time specified in subsection 1 for performance of the
7 examination. A written report of an examination by a
8 physician chosen by the respondent may be similarly filed.
9 The clerk shall immediately:

10 Sec. 2. Section 125.82, subsection 4, Code 1993, is
11 amended to read as follows:

12 4. The respondent's welfare is paramount, and the hearing
13 shall be tried as a civil matter and conducted in as informal
14 a manner as is consistent with orderly procedure. Discovery
15 as permitted under the Iowa rules of civil procedure is
16 available to the respondent. The court shall receive all
17 relevant and material evidence, but the court is not bound by
18 the rules of evidence. A presumption in favor of the
19 respondent exists, and the burden of evidence and support of
20 the contentions made in the application shall be upon the
21 person who filed the application. ~~If-upon-completion-of-the~~
22 ~~hearing-the-court-finds-that-the-contention-that-the~~
23 ~~respondent-is-a-chronic-substance-abuser-has-not-been~~
24 ~~sustained-by-clear-and-convincing-evidence,-the-court-shall~~
25 ~~deny-the-application-and-terminate-the-proceeding-~~

26 Sec. 3. NEW SECTION. 125.82A TERMINATION OF PROCEEDINGS.

27 1. If, upon completion of the hearing, the court finds
28 that the contention that the respondent is a chronic substance
29 abuser has not been sustained by clear and convincing
30 evidence, the court shall deny the application and terminate
31 the proceedings.

32 2. If the court has terminated proceedings regarding a
33 particular respondent under subsection 1, unless the
34 application is filed pursuant to the procedures contained in
35 either section 125.91 or 229.22, the court shall not hold a

1 hearing on any application, regarding that respondent, which
2 is filed within fourteen days of the termination of
3 proceedings under subsection 1.

4 Sec. 4. Section 229.10, subsection 2, unnumbered paragraph
5 1, Code 1993, is amended to read as follows:

6 A written report of the examination by the court-designated
7 physician or physicians shall be filed with the clerk prior-to
8 ~~the-time-set-for-hearing~~ not less than twenty-four hours after
9 expiration of the time specified in subsection 1 for
10 performance of the examination. A written report of any
11 examination by a physician chosen by the respondent may be
12 similarly filed. The clerk shall immediately:

13 Sec. 5. Section 229.12, subsection 3, Code 1993, is
14 amended to read as follows:

15 3. The respondent's welfare shall be paramount and the
16 hearing shall be conducted in as informal a manner as may be
17 consistent with orderly procedure, but consistent therewith
18 the issue shall be tried as a civil matter. Such discovery as
19 is permitted under the Iowa rules of civil procedure shall be
20 available to the respondent. The court shall receive all
21 relevant and material evidence which may be offered and need
22 not be bound by the rules of evidence. There shall be a
23 presumption in favor of the respondent, and the burden of
24 evidence in support of the contentions made in the application
25 shall be upon the applicant. ~~If-upon-completion-of-the~~
26 ~~hearing-the-court-finds-that-the-contention-that-the~~
27 ~~respondent-is-seriously-mentally-impaired-has-not-been~~
28 ~~sustained-by-clear-and-convincing-evidence,-it-shall-deny-the~~
29 ~~application-and-terminate-the-proceeding-~~

30 Sec. 6. NEW SECTION. 229.12A TERMINATION OF PROCEEDINGS.

31 1. If, upon completion of the hearing, the court finds
32 that the contention that the respondent is seriously mentally
33 impaired has not been sustained by clear and convincing
34 evidence, the court shall deny the application and terminate
35 the proceedings.

1 2. If the court has terminated proceedings regarding a
2 particular respondent under subsection 1, unless the
3 application is filed pursuant to the procedures contained in
4 either section 125.91 or 229.22, the court shall not hold a
5 hearing on any application regarding that respondent, which is
6 filed within fourteen days of the termination of proceedings
7 under subsection 1.

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EXPLANATION

9 Sections 1 and 4 provide for the filing of the report of
10 the examining physician, in a civil commitment proceeding, not
11 less than 24 hours after the expiration of the time for
12 examination of the person alleged to be a chronic substance
13 abuser or seriously mentally impaired. Currently, a person
14 who is the subject of a civil commitment hearing must be
15 examined within 24 hours, if the person is in custody and was
16 detained in a hospital, or within 48 hours if the person was
17 either placed under the custody of a relative, friend, or
18 other person, or was placed in a licensed mental health
19 facility in the community.

20 The bill also provides for a 14 day waiting period before a
21 petition alleging that a person is seriously mentally impaired
22 or is a chronic substance abuser, if a petition for
23 involuntary commitment was filed against the same person and
24 dismissed for lack of evidence.

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SENATE FILE **2112**
BY ROSENBERG

(AS AMENDED AND PASSED BY THE SENATE MARCH 17, 1994)

~~_____~~ - New Language by the Senate

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

A BILL FOR

1 An Act relating to the procedure for civil commitment hearings,
2 establishing a time limit for the filing of the report of the
3 examining physician and providing limitations on the refiling
4 of applications which have been denied for lack of evidence.

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

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S.F. 2112

1 Section 1. Section 125.80, subsection 2, unnumbered
2 paragraph 1, Code 1993, is amended to read as follows:

3 A written report of the examination by a court-designated
4 physician shall be filed with the clerk ~~prior-to-the-hearing~~
5 date not more than twenty-four hours after expiration of the
6 time specified in subsection 1 for performance of the
7 examination. A written report of an examination by a
8 physician chosen by the respondent may be similarly filed.
9 The clerk shall immediately:

10 Sec. 2. Section 125.82, subsection 4, Code 1993, is
11 amended to read as follows:

12 4. The respondent's welfare is paramount, and the hearing
13 shall be tried as a civil matter and conducted in as informal
14 a manner as is consistent with orderly procedure. Discovery
15 as permitted under the Iowa rules of civil procedure is
16 available to the respondent. The court shall receive all
17 relevant and material evidence, but the court is not bound by
18 the rules of evidence. A presumption in favor of the
19 respondent exists, and the burden of evidence and support of
20 the contentions made in the application shall be upon the
21 person who filed the application. ~~if-upon-completion-of-the~~
22 ~~hearing-the-court-finds-that-the-contention-that-the~~
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24 ~~sustained-by-clear-and-convincing-evidence,-the-court-shall~~
25 ~~deny-the-application-and-terminate-the-proceeding-~~

26 Sec. 3. NEW SECTION. 125.82A TERMINATION OF PROCEEDINGS.

27 1. If, upon completion of the hearing, the court finds
28 that the contention that the respondent is a chronic substance
29 abuser has not been sustained by clear and convincing
30 evidence, the court shall deny the application and terminate
31 the proceedings.

32 2. If the court has terminated proceedings regarding a
33 particular respondent under subsection 1, unless the
34 application is filed pursuant to the procedures contained in
35 either section 125.91 or 229.22, the court shall not hold a

1 hearing on any application, regarding that respondent, which
2 is filed within fourteen days of the termination of
3 proceedings under subsection 1.

4 Sec. 4. Section 229.10, subsection 2, unnumbered paragraph
5 1, Code 1993, is amended to read as follows:

6 A written report of the examination by the court-designated
7 physician or physicians shall be filed with the clerk ~~prior to~~
8 ~~the time set for hearing not more than twenty-four hours after~~
9 expiration of the time specified in subsection 1 for
10 performance of the examination. A written report of any
11 examination by a physician chosen by the respondent may be
12 similarly filed. The clerk shall immediately:

13 Sec. 5. Section 229.12, subsection 3, Code 1993, is
14 amended to read as follows:

15 3. The respondent's welfare shall be paramount and the
16 hearing shall be conducted in as informal a manner as may be
17 consistent with orderly procedure, but consistent therewith
18 the issue shall be tried as a civil matter. Such discovery as
19 is permitted under the Iowa rules of civil procedure shall be
20 available to the respondent. The court shall receive all
21 relevant and material evidence which may be offered and need
22 not be bound by the rules of evidence. There shall be a
23 presumption in favor of the respondent, and the burden of
24 evidence in support of the contentions made in the application
25 shall be upon the applicant. ~~If upon completion of the~~
26 ~~hearing the court finds that the contention that the~~
27 ~~respondent is seriously mentally impaired has not been~~
28 ~~sustained by clear and convincing evidence, it shall deny the~~
29 ~~application and terminate the proceeding.~~

30 Sec. 6. NEW SECTION. 229.12A TERMINATION OF PROCEEDINGS.

31 1. If, upon completion of the hearing, the court finds
32 that the contention that the respondent is seriously mentally
33 impaired has not been sustained by clear and convincing
34 evidence, the court shall deny the application and terminate
35 the proceedings.

1 2. If the court has terminated proceedings regarding a
2 particular respondent under subsection 1, unless the
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