

FILED MAR 8 1994

SENATE FILE 2311
BY COMMITTEE ON HUMAN RESOURCES

Approved 3/8/94 (p. 574)

(SUCCESSOR TO SSB 2233)

Passed Senate, ^(p. 689) Date 3-16-94 Passed House, ^(p. 1914) Date 4/19/94

Vote: Ayes 50 Nays 0 Vote: Ayes 79 Nays 20

Approved May 11, 1994

A BILL FOR

1 An Act relating to services for persons with mental illness,
2 mental retardation or other developmental disability, or brain
3 injury.

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

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SF 2311

DIVISION I

Legal Settlement -- Alternative Dispute Resolution

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

222.70 DISPUTE-BETWEEN-COUNTIES LEGAL SETTLEMENT DISPUTES.

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shall ~~in no~~ case not be filed in a county in which the district court or a judge thereof of that district court originally made the disputed finding.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

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

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

222.71 LEGAL SETTLEMENT -- FINDING BY COURT.

When If an action is filed under section 222.70, subsection 1, the court shall determine whether the legal settlement of

1 ~~said-mentally-retarded~~ the person at the time of admission or
2 commitment with mental retardation was in one of the defendant
3 counties at the time of admission or commitment. If the court
4 ~~so~~ finds the person to have legal settlement in a county,
5 judgment shall be entered against the county ~~of such~~
6 ~~settlement~~ in favor of any other county for all necessary and
7 legal expenses arising from ~~said~~ the person's admission or
8 commitment and shall be paid by said-other the county of legal
9 settlement. If any such costs have not been paid, judgment
10 shall be rendered against the county of legal settlement in
11 favor of the parties, including the state, to whom ~~said~~ the
12 costs or expenses may be due.

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

15 222.72 FINDING LEGAL SETTLEMENT OUTSIDE STATE.

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

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

29 230.12 ~~ACTION-TO-DETERMINE~~ LEGAL SETTLEMENT DISPUTES.

30 1. ~~When~~ If a dispute arises between different counties or
31 between the administrator and a county as to the legal
32 settlement of a person admitted or committed to a state
33 hospital for the mentally ill, the attorney general, at the
34 request of the administrator, shall, without the advancement
35 of fees, cause an action to be brought in the district court

1 of any county where such dispute exists, to determine the
2 person's legal settlement. This action may be brought at any
3 time when it appears that the dispute cannot be amicably
4 settled. All counties which may be the place of the legal
5 settlement, so far as known, shall be made defendants and the
6 allegation of the settlement may be in the alternative. The
7 action shall be tried as in equity.

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

17 2 3. If the an action under this section involves a
18 dispute between counties, the county determined to be the
19 county of legal settlement shall reimburse a county for the
20 amount of costs paid by that county on behalf of the person
21 and for interest on this amount in accordance with section
22 535.3. In addition, the court may order the county determined
23 to be the county of legal settlement to reimburse any other
24 county involved in the dispute for the other county's
25 reasonable legal costs related to the dispute and may tax the
26 reasonable legal costs as court costs. The court may order
27 the county determined to be the county of legal settlement to
28 pay a penalty to the other county, in an amount which does not
29 exceed twenty percent of the total amount of reimbursement and
30 interest.

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

33 230.13 JUDGMENT WHEN LEGAL SETTLEMENT FOUND WITHIN STATE.

34 ~~The~~ If an action is entered under section 230.12,
35 subsection 1, the court shall determine whether the legal

1 settlement of ~~said-mentally-ill~~ the person with mental
 2 illness, at the time of the person's admission or commitment,
 3 was in one of the defendant counties. If the court ~~so-find~~
 4 finds a county to be the county of legal settlement, judgment
 5 shall be entered against the county ~~of-such-settlement~~ in
 6 favor of any other county for all legal costs and expenses
 7 arising out of ~~said the proceedings in-mental-illness~~
 8 involving the person, and paid by ~~said-other~~ the county of
 9 legal settlement. If any such costs have not been paid,
 10 judgment shall be rendered against the county of legal
 11 settlement in favor of the parties, including the state, to
 12 whom ~~said the~~ costs or expenses may be due.

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

15 230.14 ORDER-WHEN LEGAL SETTLEMENT IN CASES INVOLVING
 16 NONRESIDENCE OR UNKNOWN SETTLEMENT APPEARS.

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

29 DIVISION II

30 Housing for Persons with Disabilities

31 Sec. 7. Section 135C.2, subsection 5, unnumbered paragraph
 32 1, Code 1993, is amended to read as follows:

33 The department shall establish a special classification
 34 within the residential care facility category in order to
 35 foster the development of residential care facilities which

1 serve persons with mental retardation, chronic mental illness,
2 or a developmental disability, or brain injury, as defined
3 described under section 225C.26, and which contain five or
4 fewer residents. A facility within the special classification
5 established pursuant to this subsection is exempt from the
6 requirements of section 135.63. The department shall adopt
7 rules which are consistent with rules previously developed for
8 the waiver demonstration project pursuant to 1986 Iowa Acts,
9 chapter 1246, section 206, and which include all of the
10 following provisions:

11 Sec. 8. Section 335.25, Code Supplement 1993, is amended
12 to read as follows:

13 335.25 ZONING FOR FAMILY HOMES.

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

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

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

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

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

35 (3) Attributable to dyslexia resulting from a disability

1 described in either subparagraph (1) or (2).

2 (4) Attributable to a mental or nervous disorder.

3 b c. "Family home" means a community-based residential
4 home which is licensed as a residential care facility under
5 chapter 135C or as a child foster care facility under chapter
6 237 to provide room and board, personal care, habilitation
7 services, and supervision in a family environment exclusively
8 for not more than eight developmentally-disabled persons with
9 a developmental disability or brain injury and any necessary
10 support personnel. However, family home does not mean an
11 individual foster family home licensed under chapter 237.

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

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

18 3. Notwithstanding the optional provision in section 335.1
19 and any other provision of this chapter to the contrary, a
20 county, county board of supervisors, or a county zoning
21 commission shall consider a family home a residential use of
22 property for the purposes of zoning and shall treat a family
23 home as a permitted use in all residential zones or districts,
24 including all single-family residential zones or districts, of
25 the county. A county, county board of supervisors, or a
26 county zoning commission shall not require that a family home,
27 its owner, or operator obtain a conditional use permit,
28 special use permit, special exception, or variance. However,
29 new family homes owned or operated by public or private
30 agencies shall be disbursed dispersed through the residential
31 zones and districts and shall not be located within contiguous
32 areas equivalent in size to city block areas. Section
33 135C.23, subsection 2, shall apply to all residents of a
34 family home.

35 4. A restriction, reservation, condition, exception, or

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

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

11 414.22 ZONING FOR FAMILY HOMES.

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

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

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

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

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

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

35 (4) Attributable to a mental or nervous disorder.

1 b c. "Family home" means a community-based residential
2 home which is licensed as a residential care facility under
3 chapter 135C or as a child foster care facility under chapter
4 237 to provide room and board, personal care, habilitation
5 services, and supervision in a family environment exclusively
6 for not more than eight developmentally-disabled persons with
7 a developmental disability or brain injury and any necessary
8 support personnel. However, family home does not mean an
9 individual foster care family home licensed under chapter 237.

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

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

16 3. Notwithstanding any provision of this chapter to the
17 contrary, a city, city council, or city zoning commission
18 shall consider a family home a residential use of property for
19 the purposes of zoning and shall treat a family home as a
20 permitted use in all residential zones or districts, including
21 all single-family residential zones or districts, of the city.
22 A city, city council, or city zoning commission shall not
23 require that a family home, its owner, or operator obtain a
24 conditional use permit, special use permit, special exception,
25 or variance. However, new family homes owned and operated by
26 public or private agencies shall be disbursed dispersed
27 throughout the residential zones and districts and shall not
28 be located within contiguous city block areas. Section
29 135C.23, subsection 2, shall apply to all residents of a
30 family home.

31 4. Any restriction, reservation, condition, exception, or
32 covenant in any subdivision plan, deed, or other instrument of
33 or pertaining to the transfer, sale, lease, or use of property
34 in a city which permits residential use of property but
35 prohibits the use of property as a family home for

1 ~~developmentally-disabled~~ persons with a developmental
2 disability or brain injury, to the extent of the prohibition,
3 is void as against the public policy of this state and shall
4 not be given legal or equitable effect.

5 DIVISION III

6 Chapter 225C Rewrite

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

9 225C.1 FINDINGS AND PURPOSE.

10 The general assembly finds that ~~community-based-care,~~
11 services to persons with mental illness, mental retardation,
12 developmental disabilities, or brain injury are provided in
13 many parts of the state by highly autonomous ~~community-mental~~
14 ~~health-and-mental-retardation~~ community-based service
15 providers working cooperatively with state ~~mental-health-and~~
16 ~~mental-retardation-facilities,-is-meeting-most-mental-health~~
17 ~~and-mental-retardation-service-needs-of-these-Iowans-to-whom~~
18 ~~this-care-is-available~~ and county officials. However, the
19 general assembly recognizes that heavy reliance on property
20 tax funding for mental health and mental retardation services
21 has restricted uniform availability of this care.
22 Consequently, greater efforts should be made to assure close
23 coordination and continuity of care for those persons
24 receiving publicly supported ~~mental-health-and-mental~~
25 ~~retardation~~ disability services in Iowa. It is the purpose of
26 this chapter to continue and to strengthen the ~~mental-health~~
27 ~~and-mental-retardation~~ services to persons with disabilities
28 now available in the state of Iowa, to make these services
29 conveniently available to all persons in this state upon a
30 reasonably uniform financial basis, and to assure the
31 continued high quality of these services.

32 It is the intent of the general assembly that the service
33 system for persons with disabilities emphasize the ability of
34 persons with disabilities to exercise their own choices about
35 the amounts and types of services received; that all levels of

1 the service system seek to empower persons with disabilities
2 to accept responsibility, exercise choices, and take risks;
3 and that services be provided in a manner which supports the
4 ability of persons with disabilities to live, learn, work, and
5 recreate in natural communities of their choice.

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

8 225C.2 DEFINITIONS.

9 As used in this chapter:

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

13 2. "Commission" means the mental health and mental
14 ~~retardation developmental disabilities~~ commission.

15 3. ~~---"Comprehensive-services"--means-the-mental-health~~
16 ~~services-delineated-in-the-annual-state-mental-health-plan,~~
17 ~~and-the-mental-retardation-services-delineated-in-the-annual~~
18 ~~state-mental-retardation-plan.~~

19 4 3. "Department" means the department of human services.

20 5 4. "Director" means the director of human services.

21 5. "Disability services" means services or other
22 assistance available to a person with mental illness, mental
23 retardation or other developmental disability, or brain
24 injury.

25 6. "Division" means the division of mental health, ~~mental~~
26 ~~retardation~~, and developmental disabilities of the department
27 of human services.

28 7. "Person with a disability" means a person with mental
29 illness, mental retardation or other developmental disability,
30 or brain injury.

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

33 225C.3 DIVISION OF MENTAL HEALTH, ~~MENTAL-RETARDATION~~, AND
34 DEVELOPMENTAL DISABILITIES -- STATE MENTAL HEALTH AUTHORITY.

35 1. The division is designated the state mental health

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

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

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

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

23 225C.4 ADMINISTRATOR'S DUTIES.

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

26 a. Prepare and administer state mental health and mental
27 retardation plans for the provision of comprehensive
28 disability services within the state and prepare and
29 administer the state developmental disabilities plan. The
30 administrator shall consult with the Iowa department of public
31 health, the state board of regents or a body designated by the
32 board for that purpose, the department of management or a body
33 designated by the director of the department for that purpose,
34 the department of education, the division of job service of
35 the department of employment services and any other

1 appropriate governmental body, in order to facilitate co-
2 ~~ordination~~ coordination of disability services provided to
3 ~~mentally-ill, mentally-retarded, and developmentally-disabled~~
4 ~~persons~~ in this state. The state mental health and mental
5 retardation plans shall be consistent with the state health
6 ~~plan, shall be prepared in consultation with the state health~~
7 ~~co-ordinating council,~~ and shall incorporate county mental
8 ~~health and mental retardation~~ disability services plans.

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

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

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

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

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

1 state hospital-schools.

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

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

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

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

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

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

25 ~~m--Advise-the-personnel-commission-on-recommended~~
26 ~~qualifications-of-all-division-employees-~~

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

32 o n. Provide consultation and technical assistance to
33 patients' advocates appointed pursuant to section 229.19, in
34 co-operation cooperation with the judicial system department
35 and the care review committees appointed for county health

1 care facilities pursuant to section 135C.25.

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

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

9 r g. Recommend and enforce minimum accreditation standards
10 for the maintenance and operation of community mental health
11 centers under section 230A.16.

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

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

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

26 2. The administrator may:

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

31 b. Establish mental health and mental retardation services
32 for all institutions under the control of the director of
33 human services and establish an autism unit, following mutual
34 planning with and consultation from the medical director of
35 the state psychiatric hospital, at an institution or a

1 facility administered by the administrator to provide
2 psychiatric and related services and other specific programs
3 to meet the needs of autistic persons as defined in section
4 331.424, subsection 1, and to furnish appropriate diagnostic
5 evaluation services.

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

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

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

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

22 225C.5 MENTAL HEALTH AND ~~MENTAL-RETARDATION~~ DEVELOPMENTAL
23 DISABILITIES COMMISSION.

24 1. A mental health and ~~mental-retardation~~ developmental
25 disabilities commission is ~~established~~ created as the state
26 policy-making body for the provision of ~~mental-health-and~~
27 ~~mental-retardation~~ services,-consisting to persons with mental
28 illness, mental retardation or other developmental
29 disabilities, or brain injury. The commission shall consist
30 of fifteen members appointed to three-year staggered terms by
31 the governor and subject to confirmation by the senate.
32 Commission members shall be appointed on the basis of interest
33 and experience in the fields of mental health, ~~or mental~~
34 retardation or other developmental disabilities, and brain
35 injury, in a manner so that, if possible, the composition of

1 the commission will comply with the requirements of the
2 Community Mental Health Centers Amendments of 1975, 42 U.S.C.
3 sec- § 2689t(a) (1976) relative to a state mental health
4 advisory council, and so as to ensure adequate representation
5 from both the mental health and mental retardation fields
6 persons with disabilities and individuals knowledgeable
7 concerning disability services. ~~Four members of the~~
8 ~~commission shall be members of county boards of supervisors at~~
9 ~~the time of their appointment to the commission:--Two members~~
10 ~~of the commission shall be members of county mental health and~~
11 ~~mental retardation co-ordinating boards at the time of their~~
12 ~~appointment to the commission:--One member of the commission~~
13 ~~shall either be an active board member of a community mental~~
14 ~~health center or an active member of the Iowa mental health~~
15 ~~association at the time of appointment to the commission:--One~~
16 ~~member of the commission shall be an active member of either a~~
17 ~~community mental retardation agency or the Iowa association~~
18 ~~for retarded citizens at the time of appointment to the~~
19 ~~commission.~~ Members of the commission shall include the
20 following persons who, at the time of appointment to the
21 commission, are active members of the indicated groups:
22 a. Four members shall be members of a county board of
23 supervisors.
24 b. Two members shall be members of a mental health and
25 developmental disabilities regional planning council.
26 c. One member shall be either an active board member of a
27 community mental health center or of a statewide association
28 of persons with mental illness or of family members of persons
29 with mental illness.
30 d. One member shall be either an active board member of an
31 agency serving persons with mental retardation or of a
32 statewide association for persons with mental retardation.
33 e. One member shall be an active member of a statewide
34 organization for persons with developmental disabilities other
35 than mental retardation.

1 f. One member shall be an active member of a statewide
2 organization for persons with brain injury.

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

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

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

17 225C.6 DUTIES OF COMMISSION.

18 1. The To the extent funding is available, the commission
19 shall perform the following duties:

20 a. Advise the administrator on administration of the
21 overall state plans for comprehensive disability services.

22 b. Adopt necessary rules pursuant to chapter 17A which
23 relate to mental-health-and-mental-retardation disability
24 programs and services.

25 c. Adopt standards for accreditation of community mental
26 health centers and comprehensive community mental health
27 programs recommended under section 230A.16.

28 d. Adopt standards for the care of and services to
29 mentally-ill-and-mentally-retarded persons with mental illness
30 and mental retardation residing in county care facilities
31 recommended under section 227.4.

32 e. Adopt standards for the delivery of mental-health-and
33 mental-retardation disability services by the division, and
34 for the maintenance and operation of public or private
35 facilities offering services to mentally-ill-or-mentally

1 ~~retarded~~ persons with disabilities, which are not subject to
2 licensure by the department or the department of inspections
3 and appeals, and review the standards employed by the
4 department or the department of inspections and appeals for
5 licensing facilities which provide services to the-mentally
6 ~~ill-or-mentally-retarded~~ persons with disabilities.

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

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

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

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

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

20 (2) Recommendations formulated by the commission for
21 changes in law ~~and-for-changes-in-the-rules-adopted-by-the~~
22 ~~auditor-of-state-under-section-225E-10~~.

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

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

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

35 (3) The cost effectiveness of programs carried out by

1 randomly selected providers receiving money from the state
2 ~~community-mental-health-and-mental-retardation-services-fund~~
3 ~~established-under-section-2256-7~~ for disability services.

4 k. Advise the administrator, the council on human
5 services, the governor, and the general assembly on budgets
6 and appropriations concerning ~~mental-health-and-mental~~
7 ~~retardation~~ disability services.

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

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

15 n. Establish standards for the structure of a service
16 coordination system for services which are not paid for under
17 medical assistance which ensures a linkage between the service
18 coordination system and individual case management services.

19 o. Identify model eligibility guidelines for disability
20 services.

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

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

28 r. Identify basic disability services for planning
29 purposes.

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

33 t. Identify disabilities services which are eligible for
34 state payment under the mental health and developmental
35 disabilities community services fund created in section

1 225C.7.

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

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

8 225C.7 MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES
9 COMMUNITY SERVICES FUND.

10 1. A mental health and developmental disabilities
11 community services fund is established in the office of the
12 treasurer of state under the authority of the department,
13 which shall consist of the amounts appropriated to the fund by
14 the general assembly for each fiscal year. Before completion
15 of the department's budget estimate as required by section
16 8.23, the department shall determine and include in the
17 estimate the amount which should be appropriated to the fund
18 for the forthcoming fiscal period in order to implement the
19 purpose stated in section 225C.1.

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

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

29 4. If a county has not established or is not affiliated
30 with a community mental health center under chapter 230A, the
31 county shall expend a portion of the money received under this
32 appropriation to contract with a community mental health
33 center to provide mental health services to the county's
34 residents. If such a contractual relationship is unworkable
35 or undesirable, the mental health and developmental

1 disabilities commission may waive the expenditure requirement.
2 However, if the commission waives the requirement, the
3 commission shall address the specific concerns of the county
4 and shall attempt to facilitate the provision of mental health
5 services to the county's residents through an affiliation
6 agreement or other means.

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

13 b. With reference to the fiscal year beginning July 1,
14 1980, money "raised by county levy and expended for mental
15 health, mental retardation, and developmental disabilities
16 services" means the county's maintenance of effort determined
17 by using the general allocation application for the state
18 community mental health and mental retardation services fund
19 under section 225C.10, subsection 1, Code 1993. The
20 department, with the agreement of each county, shall establish
21 the actual amount expended by each county for persons with
22 mental illness, mental retardation, or a developmental
23 disability in the fiscal year which began on July 1, 1980, and
24 this amount shall be deemed each county's maintenance of
25 effort.

26 Sec. 17. NEW SECTION. 225C.18 MENTAL HEALTH AND
27 DEVELOPMENTAL DISABILITIES REGIONAL PLANNING COUNCILS.

28 1. Mental health and developmental disabilities regional
29 planning councils are established. The regions of the initial
30 planning councils shall be the same as the regions of the
31 mental illness, mental retardation, developmental
32 disabilities, and brain injury planning councils created
33 pursuant to 1993 Iowa Acts, chapter 172, section 20,
34 subsection 5. A region's planning area shall either utilize
35 the borders of a pertinent field services cluster established

1 in accordance with section 217.42 or have a population of
2 forty thousand and include counties with a historical pattern
3 of cooperation in providing disability services.

4 2. The members of a planning council shall include a
5 member of the county board of supervisors of each county
6 comprising the planning council and a sufficient number of
7 disability service providers and service consumers or family
8 members of service consumers to provide for adequate
9 representation of the providers and consumers or family
10 members. The board of supervisors of the counties comprising
11 the planning council shall determine the size and membership
12 of the planning council.

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

21 4. A planning council shall perform the following tasks:

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

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

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

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

1 functions.

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

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

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

11 Sec. 18. Section 225C.21, subsection 3, Code 1993, is
12 amended to read as follows:

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

20 Sec. 19. Section 225C.45, subsection 1, Code 1993, is
21 amended to read as follows:

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

28 DIVISION IV

29 Coordinating Amendments

30 Sec. 20. Section 135C.2, subsection 5, paragraph f,
31 subparagraph (4), Code 1993, is amended to read as follows:

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

34 Sec. 21. Section 135C.23, subsection 2, unnumbered
35 paragraph 2, Code 1993, is amended to read as follows:

1 This section does not prohibit the admission of a patient
2 with a history of dangerous or disturbing behavior to an
3 intermediate care facility for the mentally ill, intermediate
4 care facility for the mentally retarded, nursing facility, or
5 county care facility when the intermediate care facility for
6 the mentally ill, intermediate care facility for the mentally
7 retarded, nursing facility, or county care facility has a
8 program which has received prior approval from the department
9 to properly care for and manage the patient. An intermediate
10 care facility for the mentally ill, intermediate care facility
11 for the mentally retarded, nursing facility, or county care
12 facility is required to transfer or discharge a resident with
13 dangerous or disturbing behavior when the intermediate care
14 facility for the mentally ill, intermediate care facility for
15 the mentally retarded, nursing facility, or county care
16 facility cannot control the resident's dangerous or disturbing
17 behavior. The department, in coordination with the state
18 mental health and ~~mental-retardation~~ developmental
19 disabilities commission created in section 225C.5, shall adopt
20 rules pursuant to chapter 17A for programs to be required in
21 intermediate care facilities for the mentally ill,
22 intermediate care facilities for the mentally retarded,
23 nursing facilities, and county care facilities that admit
24 patients or have residents with histories of dangerous or
25 disturbing behavior.

26 Sec. 22. Section 135C.25, subsection 1, Code 1993, is
27 amended to read as follows:

28 1. Each health care facility shall have a care review
29 committee whose members shall be appointed by the director of
30 the department of elder affairs or the director's designee. A
31 person shall not be appointed a member of a care review
32 committee for a health care facility unless the person is a
33 resident of the service area where the facility is located.
34 The care review committee for any facility caring primarily
35 for persons ~~who are mentally ill, mentally retarded, or~~

1 ~~developmentally-disabled~~ with mental illness, mental
2 retardation, or a developmental disability shall only be
3 appointed after consultation with the administrator of the
4 division of mental health, ~~mental-retardation,~~ and
5 developmental disabilities of the department of human services
6 on the proposed appointments. Recommendations to the director
7 or the director's designee for membership on care review
8 committees are encouraged from any agency, organization, or
9 individual. The administrator of the facility shall not be
10 appointed to the care review committee and shall not be
11 present at committee meetings except upon request of the
12 committee.

13 Sec. 23. Section 154D.2, subsection 1, paragraph b, Code
14 1993, is amended to read as follows:

15 b. Has at least two years of supervised clinical
16 experience or its equivalent as approved by the board in
17 consultation with the mental health and ~~mental-retardation~~
18 developmental disabilities commission created in section
19 225C.5.

20 Sec. 24. Section 154D.2, subsection 2, paragraph b, Code
21 1993, is amended to read as follows:

22 b. Has at least two years of clinical experience,
23 supervised by a licensee, in assessing mental health needs and
24 problems and in providing appropriate mental health services
25 as approved by the board of behavioral science examiners in
26 consultation with the mental health and ~~mental-retardation~~
27 developmental disabilities commission created in section
28 225C.5.

29 Sec. 25. Section 217.6, unnumbered paragraph 2, Code 1993,
30 is amended to read as follows:

31 The department of human services may be initially divided
32 into the following divisions of responsibility: ~~The the~~
33 division of child and family services, the division of mental
34 health, ~~mental-retardation,~~ and developmental disabilities,
35 the division of administration, and the division of planning,

1 research and statistics.

2 Sec. 26. Section 217.10, Code 1993, is amended to read as
3 follows:

4 217.10 ADMINISTRATOR OF DIVISION OF MENTAL HEALTH, ~~MENTAL~~
5 ~~RETARDATION~~, AND DEVELOPMENTAL DISABILITIES.

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

10 Sec. 27. Section 218.3, subsection 2, Code 1993, is
11 amended to read as follows:

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

21 Sec. 28. Section 218.4, unnumbered paragraph 2, Code 1993,
22 is amended to read as follows:

23 ~~Such rules when prescribed or approved~~ Rules adopted by the
24 council shall be uniform and shall apply to all institutions
25 under the particular administrator and to all other
26 institutions under the administrator's jurisdiction and the
27 primary rules of the administrator of the division of mental
28 health and developmental disabilities for use in institutions
29 where ~~the mentally-ill~~ persons with mental illness are kept
30 served shall, unless otherwise indicated, uniformly apply to
31 county or private hospitals ~~wherein the mentally-ill~~ in which
32 persons with mental illness are kept served, but ~~such~~ the
33 rules shall not interfere with proper medical treatment
34 administered patients by competent physicians. Annually,
35 signed copies of ~~such~~ the rules shall be sent to the chief

1 executive officer of each ~~such~~ institution or hospital under
2 the control or supervision of a particular administrator and
3 copies shall also be sent to the clerk of each district court,
4 the chairperson of the board of supervisors of each county
5 and, as appropriate, to the officer in charge of institutions
6 or hospitals caring for ~~the-mentally-ill~~ persons with mental
7 illness in each county who shall be responsible for seeing
8 that the ~~same-is~~ rules are posted in each institution or
9 hospital in a prominent place. ~~Such~~ The rules shall be kept
10 current to meet the public need and shall be revised and
11 published annually.

12 Sec. 29. Section 218.9, unnumbered paragraph 1, Code 1993,
13 is amended to read as follows:

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

20 Sec. 30. Section 218.30, Code 1993, is amended to read as
21 follows:

22 218.30 INVESTIGATION OF OTHER INSTITUTIONS.

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

34 Sec. 31. Section 218.92, Code 1993, is amended to read as
35 follows:

1 218.92 DANGEROUS MENTAL PATIENTS.

2 When a patient in a state hospital-school for the mentally
3 retarded, a mental health institute, or an institution under
4 the administration of the administrator of the division of
5 mental health and developmental disabilities of the department
6 of human services, has become so mentally disturbed as to
7 constitute a danger to self, to other patients in the
8 institution, or to the public, and the institution cannot
9 provide adequate security, the administrator, ~~of mental health~~
10 with the consent of the director of the Iowa department of
11 corrections, may order the patient to be transferred to the
12 Iowa medical and classification center, if the executive head
13 of the institution from which the patient is to be
14 transferred, with the support of a majority of the medical
15 staff, recommends the transfer in the interest of the patient,
16 other patients, or the public. If the patient transferred was
17 hospitalized pursuant to sections 229.6 to 229.15, the
18 transfer shall be promptly reported to the court which
19 hospitalized the patient, as required by section 229.15,
20 subsection 4. The Iowa medical and classification center has
21 the same rights, duties, and responsibilities with respect to
22 the patient as the institution from which the patient was
23 transferred had while the patient was hospitalized there. The
24 cost of the transfer shall be paid from the funds of the
25 institution from which the transfer is made.

26 Sec. 32. Section 221.2, Code 1993, is amended to read as
27 follows:

28 221.2 ADMINISTRATOR.

29 Pursuant to the compact, the administrator of the division
30 of mental health, ~~mental-retardation~~, and developmental
31 disabilities of the department of human services shall be the
32 compact administrator. The compact administrator may ~~co-~~
33 operate cooperate with all departments, agencies and officers
34 of this state and its subdivisions in facilitating the proper
35 administration of the compact and of any supplementary

1 agreement entered into by this state under the compact.

2 Sec. 33. Section 222.2, subsection 1, Code 1993, is
3 amended to read as follows:

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

7 Sec. 34. Section 226.47, Code 1993, is amended to read as
8 follows:

9 226.47 "~~ADMINISTRATOR~~" ADMINISTRATOR DEFINED.

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

14 Sec. 35. Section 227.4, Code 1993, is amended to read as
15 follows:

16 227.4 STANDARDS FOR CARE OF ~~MENTALLY-ILL-AND-MENTALLY~~
17 ~~REPARDED~~ PERSONS WITH MENTAL ILLNESS OR MENTAL RETARDATION IN
18 COUNTY CARE FACILITIES.

19 The administrator, in ~~co-operation~~ cooperation with the
20 ~~state Iowa~~ department of health, shall recommend, and the
21 mental health and ~~mental-retardation~~ developmental
22 disabilities commission created in section 225C.5 shall adopt
23 standards for the care of and services to ~~mentally-ill-and~~
24 ~~mentally-retarded~~ persons with mental illness or mental
25 retardation residing in county care facilities. The standards
26 shall be enforced by the department of inspections and appeals
27 as a part of the licensure inspection conducted pursuant to
28 chapter 135C. The objective of the standards is to ensure
29 that ~~mentally-ill-and-mentally-retarded~~ persons with mental
30 illness or mental retardation who are residents of county care
31 facilities are not only adequately fed, clothed, and housed,
32 but are also offered reasonable opportunities for productive
33 work and recreational activities suited to their physical and
34 mental abilities and offering both a constructive outlet for
35 their energies and, if possible, therapeutic benefit. When

1 recommending standards under this section, the administrator
 2 shall designate an advisory committee representing
 3 administrators of county care facilities, county co-ordinating
 4 boards mental health and developmental disabilities regional
 5 planning councils, and county care facility care review
 6 committees to assist in the establishment of standards.

7 Sec. 36. Section 227.19, Code 1993, is amended to read as
 8 follows:

9 227.19 "~~ADMINISTRATOR~~" ADMINISTRATOR DEFINED.

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

14 Sec. 37. Section 230.34, Code 1993, is amended to read as
 15 follows:

16 230.34 "~~ADMINISTRATOR~~" ADMINISTRATOR DEFINED.

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

21 Sec. 38. Section 230A.1, Code 1993, is amended to read as
 22 follows:

23 230A.1 ESTABLISHMENT AND SUPPORT OF COMMUNITY MENTAL
 24 HEALTH CENTERS.

25 A county or affiliated counties, by action of the board or
 26 boards of supervisors, with approval of the administrator of
 27 the division of mental health, ~~mental-retardation~~, and
 28 developmental disabilities of the department of human
 29 services, may establish a community mental health center under
 30 this chapter to serve the county or counties. In establishing
 31 the community mental health center, the board of supervisors
 32 of each county involved may make a single nonrecurring
 33 expenditure, in an amount determined by the board. This
 34 section does not limit the authority of the board or boards of
 35 supervisors of any county or group of counties to continue to

1 expend money to support operation of the center, and to form
2 agreements with the board of supervisors of any additional
3 county for that county to join in supporting and receiving
4 services from or through the center.

5 Sec. 39. Section 230A.2, Code 1993, is amended to read as
6 follows:

7 230A.2 SERVICES OFFERED.

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

14 Sec. 40. Section 230A.16, unnumbered paragraph 1, Code
15 1993, is amended to read as follows:

16 The administrator of the division of mental health, ~~mental~~
17 ~~retardation~~, and developmental disabilities of the department
18 of human services shall recommend and the mental health and
19 ~~mental-retardation~~ developmental disabilities commission shall
20 adopt standards for community mental health centers and
21 comprehensive community mental health programs, with the
22 overall objective of ensuring that each center and each
23 affiliate providing services under contract with a center
24 furnishes high quality mental health services within a
25 framework of accountability to the community it serves. The
26 standards shall be in substantial conformity with those of the
27 psychiatric committee of the joint ~~committee~~ commission on
28 accreditation of ~~hospitals~~ health care organizations and other
29 recognized national standards for evaluation of psychiatric
30 facilities unless in the judgment of the administrator of the
31 division of mental health, ~~mental-retardation~~, and
32 developmental disabilities, with approval of the mental health
33 and ~~mental-retardation~~ developmental disabilities commission,
34 there are sound reasons for departing from ~~such~~ the standards.
35 When recommending standards under this section, the

1 administrator of the division of ~~mental health, mental~~
2 ~~retardation, and developmental disabilities~~ shall designate an
3 advisory committee representing boards of directors and
4 professional staff of community mental health centers to
5 assist in the formulation or revision of standards. At least
6 a simple majority of the members of the advisory committee
7 shall be lay representatives of community mental health center
8 boards of directors. At least one member of the advisory
9 committee shall be a member of a county board of supervisors.
10 The standards recommended under this section shall include
11 requirements that each community mental health center
12 established or operating as authorized by section 230A.1
13 shall:

14 Sec. 41. Section 230A.16, subsection 3, Code 1993, is
15 amended to read as follows:

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

29 Sec. 42. Section 230A.17, Code 1993, is amended to read as
30 follows:

31 230A.17 REVIEW AND EVALUATION.

32 The administrator of the division of mental health, ~~mental~~
33 ~~retardation,~~ and developmental disabilities of the department
34 of human services may review and evaluate any community mental
35 health center upon the recommendation of the mental health and

1 ~~mental-retardation~~ developmental disabilities commission, and
2 shall do so upon the written request of the center's board of
3 directors, its chief medical or administrative officer, or the
4 board of supervisors of any county from which the center
5 receives public funds. The cost of the review shall be paid
6 by the division of ~~mental-health, mental-retardation, and~~
7 ~~developmental-disabilities~~.

8 Sec. 43. Section 230A.18, Code 1993, is amended to read as
9 follows:

10 230A.18 REPORT OF REVIEW AND EVALUATION.

11 Upon completion of a review made pursuant to section
12 230A.17, the review shall be submitted to the board of
13 directors and chief medical or administrative officer of the
14 center. If the review concludes that the center fails to meet
15 any of the standards established pursuant to section 230A.16,
16 subsection 1, and that the response of the center to this
17 finding is unsatisfactory, these conclusions shall be reported
18 to the mental health and ~~mental-retardation~~ developmental
19 disabilities commission which may forward the conclusions to
20 the board of directors of the center and request an
21 appropriate response within thirty days. If no response is
22 received within thirty days, or if the response is
23 unsatisfactory, the commission may call this fact to the
24 attention of the board of supervisors of the county or
25 counties served by the center, and in doing so shall indicate
26 what corrective steps have been recommended to the center's
27 board of directors.

28 Sec. 44. Section 231.44, subsection 2, Code 1993, is
29 amended to read as follows:

30 2. The responsibilities of the care review committee are
31 in accordance with the rules adopted by the commission
32 pursuant to chapter 17A. When adopting the rules, the
33 commission shall consider the needs of residents of each
34 category of licensed health care facility as defined in
35 section 135C.1, subsection 4, and the services each facility

1 may render. The commission shall coordinate the development
2 of rules with the mental health and ~~mental-retardation~~
3 developmental disabilities commission created in section
4 225C.5 to the extent the rules would apply to a facility
5 primarily serving persons ~~who are mentally ill, mentally~~
6 ~~retarded, or developmentally disabled~~ with mental illness,
7 mental retardation, or a developmental disability. The
8 commission shall coordinate the development of appropriate
9 rules with other state agencies.

10 Sec. 45. Section 249A.25, subsection 3, Code 1993, is
11 amended to read as follows:

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

27 Sec. 46. Section 249A.25, subsection 4, paragraph d, Code
28 1993, is amended to read as follows:

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

33 Sec. 47. Section 249A.25, subsection 4, paragraph f, Code
34 1993, is amended to read as follows:

35 f. Recommend action regarding variations from the

1 budgeted, appropriated, and identified expenditures and
2 projected expenditure offsets to the council on human services
3 and the ~~state~~ mental health and ~~mental-retardation~~
4 developmental disabilities commission.

5 Sec. 48. Section 249A.25, subsection 4, paragraph h, Code
6 1993, is amended to read as follows:

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

11 Sec. 49. Section 262.70, Code 1993, is amended to read as
12 follows:

13 262.70 EDUCATION, PREVENTION, AND RESEARCH PROGRAMS IN
14 MENTAL HEALTH AND MENTAL RETARDATION.

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

24 Sec. 50. Section 331.424, subsection 1, paragraph g, Code
25 1993, is amended to read as follows:

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

1 Sec. 51. Section 331.756, subsection 45, Code Supplement
2 1993, is amended to read as follows:

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

10 Sec. 52. REPEAL. Sections 225C.8, 225C.9, 225C.10, and
11 225C.11, Code 1993, are repealed.

12

EXPLANATION

13 The bill relates to services for persons with mental
14 illness, mental retardation or other developmental disability,
15 or brain injury.

16 Division I authorizes usage of alternative dispute
17 resolution processes in resolving conflicts concerning
18 establishment of an individual's legal settlement under
19 chapter 222, relating to the state hospital schools, and
20 chapter 230, relating to the state mental health institutes.

21 Division II includes persons with brain injury in various
22 statutory provisions relating to residential housing for
23 persons with disabilities and to zoning of such housing.

24 Division III rewrites chapter 225C which relates to persons
25 with disabilities. Various definitions and responsibilities
26 are broadened to address persons with developmental
27 disabilities other than mental retardation and persons with
28 brain injury. The name of the division of the department of
29 human services created in that chapter is changed to the
30 division of mental health and developmental disabilities. The
31 name of the mental health and mental retardation commission is
32 changed to the mental health and developmental disabilities
33 commission and the membership is revised to include
34 representation from persons with a developmental disability
35 other than mental retardation and persons with brain injury

1 and mental health and developmental disability regional
2 planning councils. Responsibilities of the division and of
3 the commission are also broadened but fulfillment of the
4 responsibilities is made contingent upon the availability of
5 funding.

6 Division III also revises the responsibilities of the
7 commission to encourage greater uniformity in the disability
8 service delivery system. The commission is to adopt rules to
9 identify for planning purposes basic services for persons with
10 a disability, and to identify model guidelines for disability
11 services eligibility, purchase, and reimbursement
12 methodologies.

13 In Division III, mental health and developmental
14 disabilities regional planning councils are established in the
15 Code. The planning councils were initially created in the
16 fiscal year 1992-1993 human services appropriations bill. The
17 bill provides criteria for the commission to authorize
18 counties to change their regional planning council membership.
19 The planning councils are assigned various duties to plan and
20 make recommendations for the provision of disability services
21 in their region.

22 Division III also includes repeals of the state community
23 mental health and mental retardation services fund and
24 replaces the fund with the mental health and developmental
25 disabilities community services fund. The fund is to provide
26 disability services funding to counties and includes
27 requirements for county usage of community mental health
28 centers and for financial maintenance of effort which were
29 required for the fund that is replaced by the bill.

30 Division IV provides coordinating amendments for the name
31 changes of the division of mental health, mental retardation,
32 and developmental disabilities and the mental health and
33 mental retardation commission. In addition, the division
34 includes the repeal of the community mental health and mental
35 retardation fund provisions previously described in this

1 explanation.

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SENATE FILE 2311

S-5224

1 Amend Senate File 2311 as follows:

2 1. Page 17, line 24, by inserting after the word
3 "services" the following: "including but not
4 limited to definitions of each disability included
5 within the term "disability services" as necessary for
6 purposes of state and regional planning, programs, and
7 services".

8 2. Page 19, lines 16 and 17, by striking the
9 words "for services which are not paid for under
10 medical assistance".

11 3. Page 21, by inserting after line 25 the
12 following:

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

15 225C.13 AUTHORITY OF ADMINISTRATOR TO LEASE
16 FACILITIES.

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

27 Sec. ____ . Section 225C.14, subsection 1, Code
28 1993, is amended to read as follows:

29 1. Except in cases of medical emergency, a person
30 shall be admitted to a state mental health institute
31 as an inpatient only after a preliminary diagnostic
32 evaluation by a community mental health center or by
33 an alternative diagnostic facility has confirmed that
34 the admission is appropriate to the person's mental
35 health needs, and that no suitable alternative method
36 of providing the needed services in a less restrictive
37 setting or in or nearer to the person's home community
38 is currently available. The policy established by
39 this section shall be implemented in the manner and to
40 the extent prescribed by sections 225C.15, 225C.16 and
41 225C.17. ~~However, notwithstanding the mandatory~~
42 ~~language requiring preliminary diagnostic evaluations~~
43 ~~in this section and sections 225C.15, 225C.16 and~~
44 ~~225C.17, preliminary diagnostic evaluations shall not~~
45 ~~be required until the fiscal year for which the~~
46 ~~general assembly has appropriated moneys to the state~~
47 ~~community mental health and mental retardation~~
48 ~~services fund under section 225C.7."~~

49 4. Page 36, by inserting after line 11 the
50 following:

S-5224

S-5224

Page 2

1 "DIVISION
2 AMENDMENT OF ADMINISTRATIVE RULES -- SERVICE FACILITY
3 REGULATORY REQUIREMENTS.
4 Sec. ____ . ADMINISTRATIVE RULES. The department of
5 human services shall not amend an administrative rule
6 solely for the purpose of making the changes in the
7 names of the mental health and mental retardation
8 commission and the division of mental health, mental
9 retardation, and developmental disabilities required
10 by this Act.
11 Sec. ____ . REGULATORY REQUIREMENTS. The director
12 of human services shall convene a task force which
13 includes mental retardation service consumers and
14 family members, community-based providers, advocates,
15 representatives of the Iowa state association of
16 counties and the department of inspections and
17 appeals, and other appropriate persons or entities.
18 The task force shall review outcome-based performance
19 standards for facilities and services directed to
20 persons with mental retardation and assess the impact
21 of state and federal rules and regulations upon the
22 efficiency and effectiveness of the facilities and
23 services. The task force shall identify outcome-based
24 performance standards, and rules and regulations which
25 if waived, would improve the efficiency and
26 effectiveness of the facilities and services. Based
27 upon the findings of the task force, the director may
28 request federal waivers to implement demonstration
29 projects in which the outcome-based performance
30 standards are applied and the identified rules and
31 regulations are waived. The task force shall make a
32 progress report to the governor and the general
33 assembly in January 1995. The director shall not
34 implement demonstration projects in a manner which
35 would require additional funding."
36 5. By renumbering as necessary.

By MAGGIE TINSMAN

S-5224 FILED MARCH 15, 1994

*Adopted
3-16-94
(P. 689)*

(P. 679) 3-17-94 ~~Small~~ - ^{House} Human Resources

(P. 927) 3/28/94 ^{Amend/No Pass} ~~Small~~ - ^{W/ H-572}

4/14/94 Motion to R/C
4-19-94 Motion R/C prevailed

SENATE FILE **2311**
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO SSB 2233)

(AS AMENDED AND PASSED BY THE SENATE MARCH 16, 1994)

_____ - New Language by the Senate

* - Language Stricken by the Senate

Passed Senate, ^(P. 1372) Date 4/19/94 Passed House, ^(P. 1914) Date 4/19/94

Vote: Ayes 45 Nays 0 Vote: Ayes 79 Nays 20

Approved May 11, 1994 Passed 4/19/94
vote 100-0 ^(P. 1946)

A BILL FOR

1 An Act relating to services for persons with mental illness,
2 mental retardation or other developmental disability, or brain
3 injury.

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

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SF. 2311

DIVISION I

Legal Settlement -- Alternative Dispute Resolution

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

222.70 ~~DISPUTE-BETWEEN-COUNTIES~~ LEGAL SETTLEMENT DISPUTES.

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

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

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

222.71 LEGAL SETTLEMENT -- FINDING BY COURT.

The If an action is filed under section 222.70, subsection 1, the court shall determine whether the legal settlement of

1 ~~said-mentally-retarded~~ the person at-the-time-of-admission-or
2 commitment with mental retardation was in one of the defendant
3 counties at the time of admission or commitment. If the court
4 ~~so~~ finds the person to have legal settlement in a county,
5 judgment shall be entered against the county ~~of-such~~
6 ~~settlement~~ in favor of any other county for all necessary and
7 legal expenses arising from ~~said~~ the person's admission or
8 commitment and shall be paid by said-other the county of legal
9 settlement. If any such costs have not been paid, judgment
10 shall be rendered against the county of legal settlement in
11 favor of the parties, including the state, to whom ~~said~~ the
12 costs or expenses may be due.

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

15 222.72 FINDING LEGAL SETTLEMENT OUTSIDE STATE.

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

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

29 230.12 ACTION-~~TO~~-DETERMINE LEGAL SETTLEMENT DISPUTES.

30 1. When If a dispute arises between different counties or
31 between the administrator and a county as to the legal
32 settlement of a person admitted or committed to a state
33 hospital for the mentally ill, the attorney general, at the
34 request of the administrator, shall, without the advancement
35 of fees, cause an action to be brought in the district court

1 of any county where such dispute exists, to determine the
2 person's legal settlement. This action may be brought at any
3 time when it appears that the dispute cannot be amicably
4 settled. All counties which may be the place of the legal
5 settlement, so far as known, shall be made defendants and the
6 allegation of the settlement may be in the alternative. The
7 action shall be tried as in equity.

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

17 2 3. If the an action under this section involves a
18 dispute between counties, the county determined to be the
19 county of legal settlement shall reimburse a county for the
20 amount of costs paid by that county on behalf of the person
21 and for interest on this amount in accordance with section
22 535.3. In addition, the court may order the county determined
23 to be the county of legal settlement to reimburse any other
24 county involved in the dispute for the other county's
25 reasonable legal costs related to the dispute and may tax the
26 reasonable legal costs as court costs. The court may order
27 the county determined to be the county of legal settlement to
28 pay a penalty to the other county, in an amount which does not
29 exceed twenty percent of the total amount of reimbursement and
30 interest.

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

33 230.13 JUDGMENT WHEN LEGAL SETTLEMENT FOUND WITHIN STATE.

34 The If an action is entered under section 230.12,
35 subsection 1, the court shall determine whether the legal

1 settlement of ~~said-mentally-ill~~ the person with mental
 2 illness, at the time of the person's admission or commitment,
 3 was in one of the defendant counties. If the court ~~so-find~~
 4 finds a county to be the county of legal settlement, judgment
 5 shall be entered against the county ~~of-such-settlement~~ in
 6 favor of any other county for all legal costs and expenses
 7 arising out of ~~said the proceedings in-mental-illness~~
 8 involving the person, and paid by ~~said-other~~ the county of
 9 legal settlement. If any such costs have not been paid,
 10 judgment shall be rendered against the county of legal
 11 settlement in favor of the parties, including the state, to
 12 whom ~~said the~~ costs or expenses may be due.

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

15 230.14 ORDER-WHEN LEGAL SETTLEMENT IN CASES INVOLVING
 16 NONRESIDENCE OR UNKNOWN SETTLEMENT APPEARS.

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

29

DIVISION II

30

Housing for Persons with Disabilities

31 Sec. 7. Section 135C.2, subsection 5, unnumbered paragraph
 32 1, Code 1993, is amended to read as follows:

33 The department shall establish a special classification
 34 within the residential care facility category in order to
 35 foster the development of residential care facilities which

1 serve persons with mental retardation, chronic mental illness,
2 or a developmental disability, or brain injury, as defined
3 described under section 225C.26, and which contain five or
4 fewer residents. A facility within the special classification
5 established pursuant to this subsection is exempt from the
6 requirements of section 135.63. The department shall adopt
7 rules which are consistent with rules previously developed for
8 the waiver demonstration project pursuant to 1986 Iowa Acts,
9 chapter 1246, section 206, and which include all of the
10 following provisions:

11 Sec. 8. Section 335.25, Code Supplement 1993, is amended
12 to read as follows:

13 335.25 ZONING FOR FAMILY HOMES.

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

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

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

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

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

35 (3) Attributable to dyslexia resulting from a disability

1 described in either subparagraph (1) or (2).

2 (4) Attributable to a mental or nervous disorder.

3 b c. "Family home" means a community-based residential
4 home which is licensed as a residential care facility under
5 chapter 135C or as a child foster care facility under chapter
6 237 to provide room and board, personal care, habilitation
7 services, and supervision in a family environment exclusively
8 for not more than eight developmentally-disabled persons with
9 a developmental disability or brain injury and any necessary

10 support personnel. However, family home does not mean an
11 individual foster family home licensed under chapter 237.

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

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

18 3. Notwithstanding the optional provision in section 335.1
19 and any other provision of this chapter to the contrary, a
20 county, county board of supervisors, or a county zoning
21 commission shall consider a family home a residential use of
22 property for the purposes of zoning and shall treat a family
23 home as a permitted use in all residential zones or districts,
24 including all single-family residential zones or districts, of
25 the county. A county, county board of supervisors, or a
26 county zoning commission shall not require that a family home,
27 its owner, or operator obtain a conditional use permit,
28 special use permit, special exception, or variance. However,
29 new family homes owned or operated by public or private
30 agencies shall be ~~disbursed~~ dispersed through the residential
31 zones and districts and shall not be located within contiguous
32 areas equivalent in size to city block areas. Section
33 135C.23, subsection 2, shall apply to all residents of a
34 family home.

35 4. A restriction, reservation, condition, exception, or

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

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

11 414.22 ZONING FOR FAMILY HOMES.

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

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

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

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

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

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

35 (4) Attributable to a mental or nervous disorder.

1 b c. "Family home" means a community-based residential
2 home which is licensed as a residential care facility under
3 chapter 135C or as a child foster care facility under chapter
4 237 to provide room and board, personal care, habilitation
5 services, and supervision in a family environment exclusively
6 for not more than eight developmentally-disabled persons with
7 a developmental disability or brain injury and any necessary
8 support personnel. However, family home does not mean an
9 individual foster care family home licensed under chapter 237.

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

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

16 3. Notwithstanding any provision of this chapter to the
17 contrary, a city, city council, or city zoning commission
18 shall consider a family home a residential use of property for
19 the purposes of zoning and shall treat a family home as a
20 permitted use in all residential zones or districts, including
21 all single-family residential zones or districts, of the city.
22 A city, city council, or city zoning commission shall not
23 require that a family home, its owner, or operator obtain a
24 conditional use permit, special use permit, special exception,
25 or variance. However, new family homes owned and operated by
26 public or private agencies shall be ~~disbursed~~ dispersed
27 throughout the residential zones and districts and shall not
28 be located within contiguous city block areas. Section
29 135C.23, subsection 2, shall apply to all residents of a
30 family home.

31 4. Any restriction, reservation, condition, exception, or
32 covenant in any subdivision plan, deed, or other instrument of
33 or pertaining to the transfer, sale, lease, or use of property
34 in a city which permits residential use of property but
35 prohibits the use of property as a family home for

1 ~~developmentally-disabled~~ persons with a developmental
2 disability or brain injury, to the extent of the prohibition,
3 is void as against the public policy of this state and shall
4 not be given legal or equitable effect.

5 DIVISION III

6 Chapter 225C Rewrite

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

9 225C.1 FINDINGS AND PURPOSE.

10 The general assembly finds that ~~community-based-care,~~
11 services to persons with mental illness, mental retardation,
12 developmental disabilities, or brain injury are provided in
13 many parts of the state by highly autonomous ~~community-mental~~
14 ~~health-and-mental-retardation~~ community-based service
15 providers working cooperatively with state ~~mental-health-and~~
16 ~~mental-retardation-facilities,-is-meeting-most-mental-health~~
17 ~~and-mental-retardation-service-needs-of-those-Iowans-to-whom~~
18 ~~this-care-is-available~~ and county officials. However, the
19 general assembly recognizes that heavy reliance on property
20 tax funding for mental health and mental retardation services
21 has restricted uniform availability of this care.
22 Consequently, greater efforts should be made to assure close
23 coordination and continuity of care for those persons
24 receiving publicly supported ~~mental-health-and-mental~~
25 ~~retardation~~ disability services in Iowa. It is the purpose of
26 this chapter to continue and to strengthen the ~~mental-health~~
27 ~~and-mental-retardation~~ services to persons with disabilities
28 now available in the state of Iowa, to make these services
29 conveniently available to all persons in this state upon a
30 reasonably uniform financial basis, and to assure the
31 continued high quality of these services.

32 It is the intent of the general assembly that the service
33 system for persons with disabilities emphasize the ability of
34 persons with disabilities to exercise their own choices about
35 the amounts and types of services received; that all levels of

1 the service system seek to empower persons with disabilities
2 to accept responsibility, exercise choices, and take risks;
3 and that services be provided in a manner which supports the
4 ability of persons with disabilities to live, learn, work, and
5 recreate in natural communities of their choice.

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

8 225C.2 DEFINITIONS.

9 As used in this chapter:

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

13 2. "Commission" means the mental health and ~~mental~~
14 ~~retardation~~ developmental disabilities commission.

15 3. ~~---"Comprehensive services" means the mental health~~
16 ~~services delineated in the annual state mental health plan,~~
17 ~~and the mental retardation services delineated in the annual~~
18 ~~state mental retardation plan.~~

19 4 3. "Department" means the department of human services.

20 5 4. "Director" means the director of human services.

21 5. "Disability services" means services or other
22 assistance available to a person with mental illness, mental
23 retardation or other developmental disability, or brain
24 injury.

25 6. "Division" means the division of mental health, ~~mental~~
26 ~~retardation~~, and developmental disabilities of the department
27 of human services.

28 7. "Person with a disability" means a person with mental
29 illness, mental retardation or other developmental disability,
30 or brain injury.

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

33 225C.3 DIVISION OF MENTAL HEALTH, ~~MENTAL RETARDATION~~, AND
34 DEVELOPMENTAL DISABILITIES -- STATE MENTAL HEALTH AUTHORITY.

35 1. The division is designated the state mental health

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

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

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

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

23 225C.4 ADMINISTRATOR'S DUTIES.

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

26 a. Prepare and administer state mental health and mental
27 retardation plans for the provision of comprehensive
28 disability services within the state and prepare and
29 administer the state developmental disabilities plan. The
30 administrator shall consult with the Iowa department of public
31 health, the state board of regents or a body designated by the
32 board for that purpose, the department of management or a body
33 designated by the director of the department for that purpose,
34 the department of education, the division of job service of
35 the department of employment services and any other

1 appropriate governmental body, in order to facilitate co-
2 ordination coordination of disability services provided to
3 ~~mentally-ill, mentally-retarded, and developmentally-disabled~~
4 persons in this state. The state mental health and mental
5 retardation plans shall be consistent with the state health
6 plan, ~~shall be prepared in consultation with the state health~~
7 ~~co-ordinating council,~~ and shall incorporate county mental
8 ~~health and mental retardation~~ disability services plans.

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

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

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

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

34 f. Promote co-ordination coordination of community-based
35 services with those of the state mental health institutes and

1 state hospital-schools.

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

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

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

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

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

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

25 ~~m---Advise-the-personnel-commission-on-recommended~~
26 ~~qualifications-of-all-division-employees-~~

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

32 o n. Provide consultation and technical assistance to
33 patients' advocates appointed pursuant to section 229.19, in
34 co-operation cooperation with the judicial system department
35 and the care review committees appointed for county health

1 care facilities pursuant to section 135C.25.

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

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

9 r g. Recommend and enforce minimum accreditation standards
10 for the maintenance and operation of community mental health
11 centers under section 230A.16.

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

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

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

26 2. The administrator may:

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

31 b. Establish mental health and mental retardation services
32 for all institutions under the control of the director of
33 human services and establish an autism unit, following mutual
34 planning with and consultation from the medical director of
35 the state psychiatric hospital, at an institution or a

1 facility administered by the administrator to provide
2 psychiatric and related services and other specific programs
3 to meet the needs of autistic persons as defined in section
4 331.424, subsection 1, and to furnish appropriate diagnostic
5 evaluation services.

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

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

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

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

22 225C.5 MENTAL HEALTH AND ~~MENTAL-RETARDATION~~ DEVELOPMENTAL
23 DISABILITIES COMMISSION.

24 1. A mental health and ~~mental-retardation~~ developmental
25 disabilities commission is ~~established~~ created as the state
26 policy-making body for the provision of ~~mental-health-and~~
27 ~~mental-retardation~~ services, consisting to persons with mental
28 illness, mental retardation or other developmental
29 disabilities, or brain injury. The commission shall consist
30 of fifteen members appointed to three-year staggered terms by
31 the governor and subject to confirmation by the senate.
32 Commission members shall be appointed on the basis of interest
33 and experience in the fields of mental health, ~~or mental~~
34 retardation or other developmental disabilities, and brain
35 injury, in a manner so that, if possible, the composition of

1 the commission will comply with the requirements of the
2 Community Mental Health Centers Amendments of 1975, 42 U.S.C.
3 sec- § 2689t(a) (1976) relative to a state mental health
4 advisory council, and so as to ensure adequate representation
5 ~~from both the mental health and mental retardation fields~~
6 persons with disabilities and individuals knowledgeable
7 concerning disability services. ~~Four members of the~~
8 ~~commission shall be members of county boards of supervisors at~~
9 ~~the time of their appointment to the commission.~~ ~~Two members~~
10 ~~of the commission shall be members of county mental health and~~
11 ~~mental retardation co-ordinating boards at the time of their~~
12 ~~appointment to the commission.~~ ~~One member of the commission~~
13 ~~shall either be an active board member of a community mental~~
14 ~~health center or an active member of the Iowa mental health~~
15 ~~association at the time of appointment to the commission.~~ ~~One~~
16 ~~member of the commission shall be an active member of either a~~
17 ~~community mental retardation agency or the Iowa association~~
18 ~~for retarded citizens at the time of appointment to the~~
19 ~~commission.~~ Members of the commission shall include the
20 following persons who, at the time of appointment to the
21 commission, are active members of the indicated groups:
22 a. Four members shall be members of a county board of
23 supervisors.
24 b. Two members shall be members of a mental health and
25 developmental disabilities regional planning council.
26 c. One member shall be either an active board member of a
27 community mental health center or of a statewide association
28 of persons with mental illness or of family members of persons
29 with mental illness.
30 d. One member shall be either an active board member of an
31 agency serving persons with mental retardation or of a
32 statewide association for persons with mental retardation.
33 e. One member shall be an active member of a statewide
34 organization for persons with developmental disabilities other
35 than mental retardation.

1 f. One member shall be an active member of a statewide
2 organization for persons with brain injury.

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

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

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

17 225C.6 DUTIES OF COMMISSION.

18 1. The To the extent funding is available, the commission
19 shall perform the following duties:

20 a. Advise the administrator on administration of the
21 overall state plans for comprehensive disability services.

22 b. Adopt necessary rules pursuant to chapter 17A which
23 relate to mental-health-and-mental-retardation disability
24 programs and services, including but not limited to
25 definitions of each disability included within the term
26 "disability services" as necessary for purposes of state and
27 regional planning, programs, and services.

28 c. Adopt standards for accreditation of community mental
29 health centers and comprehensive community mental health
30 programs recommended under section 230A.16.

31 d. Adopt standards for the care of and services to
32 mentally-ill-and-mentally-retarded persons with mental illness
33 and mental retardation residing in county care facilities
34 recommended under section 227.4.

35 e. Adopt standards for the delivery of mental-health-and

1 ~~mental-retardation~~ disability services by the division, and
2 for the maintenance and operation of public or private
3 facilities offering services to ~~mentally-ill-or-mentally~~
4 ~~retarded~~ persons with disabilities, which are not subject to
5 licensure by the department or the department of inspections
6 and appeals, and review the standards employed by the
7 department or the department of inspections and appeals for
8 licensing facilities which provide services to ~~the-mentally~~
9 ~~ill-or-mentally-retarded~~ persons with disabilities.

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

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

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

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

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

23 (2) Recommendations formulated by the commission for
24 changes in law ~~and-for-changes-in-the-rules-adopted-by-the~~
25 ~~auditor-of-state-under-section-225E-10.~~

26 j. ~~Beginning-not-later-than~~ By January 17-1985, ~~and~~
27 ~~continuing-once-every-two-years-thereafter~~ of each odd-
28 numbered year, submit to the governor and the general assembly
29 an evaluation of:

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

34 (2) The cost effectiveness of the services being provided
35 by each of the state mental health institutes established

1 under chapter 226 and state hospital-schools established under
2 chapter 222.

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

7 k. Advise the administrator, the council on human
8 services, the governor, and the general assembly on budgets
9 and appropriations concerning ~~mental-health-and-mental~~
10 ~~retardation~~ disability services.

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

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

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

22 o. Identify model eligibility guidelines for disability
23 services.

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

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

31 r. Identify basic disability services for planning
32 purposes.

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

1 t. Identify disabilities services which are eligible for
2 state payment under the mental health and developmental
3 disabilities community services fund created in section
4 225C.7.

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

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

11 225C.7 MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES
12 COMMUNITY SERVICES FUND.

13 1. A mental health and developmental disabilities
14 community services fund is established in the office of the
15 treasurer of state under the authority of the department,
16 which shall consist of the amounts appropriated to the fund by
17 the general assembly for each fiscal year. Before completion
18 of the department's budget estimate as required by section
19 8.23, the department shall determine and include in the
20 estimate the amount which should be appropriated to the fund
21 for the forthcoming fiscal period in order to implement the
22 purpose stated in section 225C.1.

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

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

32 4. If a county has not established or is not affiliated
33 with a community mental health center under chapter 230A, the
34 county shall expend a portion of the money received under this
35 appropriation to contract with a community mental health

1 center to provide mental health services to the county's
2 residents. If such a contractual relationship is unworkable
3 or undesirable, the mental health and developmental
4 disabilities commission may waive the expenditure requirement.
5 However, if the commission waives the requirement, the
6 commission shall address the specific concerns of the county
7 and shall attempt to facilitate the provision of mental health
8 services to the county's residents through an affiliation
9 agreement or other means.

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

16 b. With reference to the fiscal year beginning July 1,
17 1980, money "raised by county levy and expended for mental
18 health, mental retardation, and developmental disabilities
19 services" means the county's maintenance of effort determined
20 by using the general allocation application for the state
21 community mental health and mental retardation services fund
22 under section 225C.10, subsection 1, Code 1993. The
23 department, with the agreement of each county, shall establish
24 the actual amount expended by each county for persons with
25 mental illness, mental retardation, or a developmental
26 disability in the fiscal year which began on July 1, 1980, and
27 this amount shall be deemed each county's maintenance of
28 effort.

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

31 225C.13 AUTHORITY OF ADMINISTRATOR TO LEASE FACILITIES.

32 The administrator may enter into agreements under which a
33 facility or portion of a facility administered by the
34 administrator is leased to a department or division of state
35 government, a county or group of counties, or a private

1 nonprofit corporation organized under chapter 504A. A lease
2 executed under this section shall require that the lessee use
3 the leased premises to deliver either comprehensive disability
4 services or other services normally delivered by the lessee.

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

7 1. Except in cases of medical emergency, a person shall be
8 admitted to a state mental health institute as an inpatient
9 only after a preliminary diagnostic evaluation by a community
10 mental health center or by an alternative diagnostic facility
11 has confirmed that the admission is appropriate to the
12 person's mental health needs, and that no suitable alternative
13 method of providing the needed services in a less restrictive
14 setting or in or nearer to the person's home community is
15 currently available. The policy established by this section
16 shall be implemented in the manner and to the extent
17 prescribed by sections 225C.15, 225C.16 and 225C.17. However,
18 ~~notwithstanding the mandatory language requiring preliminary~~
19 ~~diagnostic evaluations in this section and sections 225C.15,~~
20 ~~225C.16 and 225C.17, preliminary diagnostic evaluations shall~~
21 ~~not be required until the fiscal year for which the general~~
22 ~~assembly has appropriated moneys to the state community mental~~
23 ~~health and mental retardation services fund under section~~
24 ~~225C.7.~~

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

27 1. Mental health and developmental disabilities regional
28 planning councils are established. The regions of the initial
29 planning councils shall be the same as the regions of the
30 mental illness, mental retardation, developmental
31 disabilities, and brain injury planning councils created
32 pursuant to 1993 Iowa Acts, chapter 172, section 20,
33 subsection 5. A region's planning area shall either utilize
34 the borders of a pertinent field services cluster established
35 in accordance with section 217.42 or have a population of

1 forty thousand and include counties with a historical pattern
2 of cooperation in providing disability services.

3 2. The members of a planning council shall include a
4 member of the county board of supervisors of each county
5 comprising the planning council and a sufficient number of
6 disability service providers and service consumers or family
7 members of service consumers to provide for adequate
8 representation of the providers and consumers or family
9 members. The board of supervisors of the counties comprising
10 the planning council shall determine the size and membership
11 of the planning council.

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

20 4. A planning council shall perform the following tasks:

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

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

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

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

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

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

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

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

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

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

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

27 DIVISION IV

28 Coordinating Amendments

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

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

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

35 This section does not prohibit the admission of a patient

1 with a history of dangerous or disturbing behavior to an
2 intermediate care facility for the mentally ill, intermediate
3 care facility for the mentally retarded, nursing facility, or
4 county care facility when the intermediate care facility for
5 the mentally ill, intermediate care facility for the mentally
6 retarded, nursing facility, or county care facility has a
7 program which has received prior approval from the department
8 to properly care for and manage the patient. An intermediate
9 care facility for the mentally ill, intermediate care facility
10 for the mentally retarded, nursing facility, or county care
11 facility is required to transfer or discharge a resident with
12 dangerous or disturbing behavior when the intermediate care
13 facility for the mentally ill, intermediate care facility for
14 the mentally retarded, nursing facility, or county care
15 facility cannot control the resident's dangerous or disturbing
16 behavior. The department, in coordination with the state
17 mental health and ~~mental-retardation~~ developmental
18 disabilities commission created in section 225C.5, shall adopt
19 rules pursuant to chapter 17A for programs to be required in
20 intermediate care facilities for the mentally ill,
21 intermediate care facilities for the mentally retarded,
22 nursing facilities, and county care facilities that admit
23 patients or have residents with histories of dangerous or
24 disturbing behavior.

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

27 1. Each health care facility shall have a care review
28 committee whose members shall be appointed by the director of
29 the department of elder affairs or the director's designee. A
30 person shall not be appointed a member of a care review
31 committee for a health care facility unless the person is a
32 resident of the service area where the facility is located.
33 The care review committee for any facility caring primarily
34 for persons ~~who are mentally ill, mentally retarded, or~~
35 developmentally-disabled with mental illness, mental

1 retardation, or a developmental disability shall only be
2 appointed after consultation with the administrator of the
3 division of mental health, ~~mental-retardation~~, and
4 developmental disabilities of the department of human services
5 on the proposed appointments. Recommendations to the director
6 or the director's designee for membership on care review
7 committees are encouraged from any agency, organization, or
8 individual. The administrator of the facility shall not be
9 appointed to the care review committee and shall not be
10 present at committee meetings except upon request of the
11 committee.

12 Sec. 25. Section 154D.2, subsection 1, paragraph b, Code
13 1993, is amended to read as follows:

14 b. Has at least two years of supervised clinical
15 experience or its equivalent as approved by the board in
16 consultation with the mental health and ~~mental-retardation~~
17 developmental disabilities commission created in section
18 225C.5.

19 Sec. 26. Section 154D.2, subsection 2, paragraph b, Code
20 1993, is amended to read as follows:

21 b. Has at least two years of clinical experience,
22 supervised by a licensee, in assessing mental health needs and
23 problems and in providing appropriate mental health services
24 as approved by the board of behavioral science examiners in
25 consultation with the mental health and ~~mental-retardation~~
26 developmental disabilities commission created in section
27 225C.5.

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

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

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

3 217.10 ADMINISTRATOR OF DIVISION OF MENTAL HEALTH~~7-MENTAL~~
4 ~~RETARDATION~~7 AND DEVELOPMENTAL DISABILITIES.

5 The administrator of the division of mental health~~7-mental~~
6 ~~retardation~~7 and developmental disabilities shall be qualified
7 as provided in section 225C.3, subsection 3. The
8 administrator's duties are enumerated in section 225C.4.

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

11 2. The administrator of the division of mental health~~7~~
12 ~~mental-retardation~~7 and developmental disabilities of the
13 department of human services has primary authority and
14 responsibility relative to the following institutions:
15 Glenwood state hospital-school, Woodward state hospital-
16 school, mental health institute, Cherokee, Iowa, mental health
17 institute, Clarinda, Iowa, mental health institute,
18 Independence, Iowa and mental health institute, Mount
19 Pleasant, Iowa.

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

22 ~~Such-rules-when-prescribed-or-approved~~ Rules adopted by the
23 council shall be uniform and shall apply to all institutions
24 under the particular administrator and to all other
25 institutions under the administrator's jurisdiction and the
26 primary rules of the administrator of the division of mental
27 health and developmental disabilities for use in institutions
28 where ~~the-mentally-ill~~ persons with mental illness are kept
29 served shall, unless otherwise indicated, uniformly apply to
30 county or private hospitals ~~wherein-the-mentally-ill~~ in which
31 persons with mental illness are kept served, but ~~such the~~
32 rules shall not interfere with proper medical treatment
33 administered patients by competent physicians. Annually,
34 signed copies of ~~such the~~ rules shall be sent to the chief
35 executive officer of each ~~such~~ institution or hospital under

1 the control or supervision of a particular administrator and
2 copies shall also be sent to the clerk of each district court,
3 the chairperson of the board of supervisors of each county
4 and, as appropriate, to the officer in charge of institutions
5 or hospitals caring for ~~the mentally-ill~~ persons with mental
6 illness in each county who shall be responsible for seeing
7 that the ~~same-is~~ rules are posted in each institution or
8 hospital in a prominent place. ~~Such~~ The rules shall be kept
9 current to meet the public need and shall be revised and
10 published annually.

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

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

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

21 218.30 INVESTIGATION OF OTHER INSTITUTIONS.

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

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

35 218.92 DANGEROUS MENTAL PATIENTS.

1 When a patient in a state hospital-school for the mentally
2 retarded, a mental health institute, or an institution under
3 the administration of the administrator of the division of
4 mental health and developmental disabilities of the department
5 of human services, has become so mentally disturbed as to
6 constitute a danger to self, to other patients in the
7 institution, or to the public, and the institution cannot
8 provide adequate security, the administrator, ~~of mental health~~
9 with the consent of the director of the Iowa department of
10 corrections, may order the patient to be transferred to the
11 Iowa medical and classification center, if the executive head
12 of the institution from which the patient is to be
13 transferred, with the support of a majority of the medical
14 staff, recommends the transfer in the interest of the patient,
15 other patients, or the public. If the patient transferred was
16 hospitalized pursuant to sections 229.6 to 229.15, the
17 transfer shall be promptly reported to the court which
18 hospitalized the patient, as required by section 229.15,
19 subsection 4. The Iowa medical and classification center has
20 the same rights, duties, and responsibilities with respect to
21 the patient as the institution from which the patient was
22 transferred had while the patient was hospitalized there. The
23 cost of the transfer shall be paid from the funds of the
24 institution from which the transfer is made.

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

27 221.2 ADMINISTRATOR.

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

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

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

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

8 226.47 "ADMINISTRATOR" ADMINISTRATOR DEFINED.

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

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

15 227.4 STANDARDS FOR CARE OF ~~MENTALLY-ILL-AND-MENTALLY~~
16 ~~RETARDED~~ PERSONS WITH MENTAL ILLNESS OR MENTAL RETARDATION IN
17 COUNTY CARE FACILITIES.

18 The administrator, in ~~co-operation~~ cooperation with the
19 ~~state Iowa~~ department of health, shall recommend, and the
20 mental health and ~~mental-retardation~~ developmental
21 disabilities commission created in section 225C.5 shall adopt
22 standards for the care of and services to ~~mentally-ill-and~~
23 ~~mentally-retarded~~ persons with mental illness or mental
24 retardation residing in county care facilities. The standards
25 shall be enforced by the department of inspections and appeals
26 as a part of the licensure inspection conducted pursuant to
27 chapter 135C. The objective of the standards is to ensure
28 that ~~mentally-ill-and-mentally-retarded~~ persons with mental
29 illness or mental retardation who are residents of county care
30 facilities are not only adequately fed, clothed, and housed,
31 but are also offered reasonable opportunities for productive
32 work and recreational activities suited to their physical and
33 mental abilities and offering both a constructive outlet for
34 their energies and, if possible, therapeutic benefit. When
35 recommending standards under this section, the administrator

1 shall designate an advisory committee representing
2 administrators of county care facilities, county co-ordinating
3 boards mental health and developmental disabilities regional
4 planning councils, and county care facility care review
5 committees to assist in the establishment of standards.

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

8 227.19 "~~ADMINISTRATOR~~" ADMINISTRATOR DEFINED.

9 For the purpose of this chapter, "administrator" means the
10 administrator of the division of mental health~~7-mental~~
11 ~~retardation~~7, and developmental disabilities of the department
12 of human services.

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

15 230.34 "~~ADMINISTRATOR~~" ADMINISTRATOR DEFINED.

16 As used in this chapter, "administrator" means the
17 administrator of the division of mental health~~7-mental~~
18 ~~retardation~~7, and developmental disabilities of the department
19 of human services.

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

22 230A.1 ESTABLISHMENT AND SUPPORT OF COMMUNITY MENTAL
23 HEALTH CENTERS.

24 A county or affiliated counties, by action of the board or
25 boards of supervisors, with approval of the administrator of
26 the division of mental health~~7-mental-retardation~~7, and
27 developmental disabilities of the department of human
28 services, may establish a community mental health center under
29 this chapter to serve the county or counties. In establishing
30 the community mental health center, the board of supervisors
31 of each county involved may make a single nonrecurring
32 expenditure, in an amount determined by the board. This
33 section does not limit the authority of the board or boards of
34 supervisors of any county or group of counties to continue to
35 expend money to support operation of the center, and to form

1 agreements with the board of supervisors of any additional
2 county for that county to join in supporting and receiving
3 services from or through the center.

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

6 230A.2 SERVICES OFFERED.

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

13 Sec. 42. Section 230A.16, unnumbered paragraph 1, Code
14 1993, is amended to read as follows:

15 The administrator of the division of mental health~~7-mental~~
16 ~~retardation7~~ and developmental disabilities of the department
17 of human services shall recommend and the mental health and
18 ~~mental-retardation~~ developmental disabilities commission shall
19 adopt standards for community mental health centers and
20 comprehensive community mental health programs, with the
21 overall objective of ensuring that each center and each
22 affiliate providing services under contract with a center
23 furnishes high quality mental health services within a
24 framework of accountability to the community it serves. The
25 standards shall be in substantial conformity with those of the
26 psychiatric committee of the joint ~~committee~~ commission on
27 accreditation of ~~hospitals~~ health care organizations and other
28 recognized national standards for evaluation of psychiatric
29 facilities unless in the judgment of the administrator of the
30 division of mental health~~7-mental-retardation7~~ and
31 developmental disabilities, with approval of the mental health
32 and ~~mental-retardation~~ developmental disabilities commission,
33 there are sound reasons for departing from ~~such~~ the standards.
34 When recommending standards under this section, the
35 administrator of the division ~~of-mental-health7-mental~~

1 ~~retardation, and developmental disabilities~~ shall designate an
2 advisory committee representing boards of directors and
3 professional staff of community mental health centers to
4 assist in the formulation or revision of standards. At least
5 a simple majority of the members of the advisory committee
6 shall be lay representatives of community mental health center
7 boards of directors. At least one member of the advisory
8 committee shall be a member of a county board of supervisors.
9 The standards recommended under this section shall include
10 requirements that each community mental health center
11 established or operating as authorized by section 230A.1
12 shall:

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

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

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

30 230A.17 REVIEW AND EVALUATION.

31 The administrator of the division of mental health, ~~mental~~
32 ~~retardation,~~ and developmental disabilities of the department
33 of human services may review and evaluate any community mental
34 health center upon the recommendation of the mental health and
35 ~~mental-retardation~~ developmental disabilities commission, and

1 shall do so upon the written request of the center's board of
2 directors, its chief medical or administrative officer, or the
3 board of supervisors of any county from which the center
4 receives public funds. The cost of the review shall be paid
5 by the division of ~~mental health, mental retardation, and~~
6 ~~developmental disabilities~~.

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

9 230A.18 REPORT OF REVIEW AND EVALUATION.

10 Upon completion of a review made pursuant to section
11 230A.17, the review shall be submitted to the board of
12 directors and chief medical or administrative officer of the
13 center. If the review concludes that the center fails to meet
14 any of the standards established pursuant to section 230A.16,
15 subsection 1, and that the response of the center to this
16 finding is unsatisfactory, these conclusions shall be reported
17 to the mental health and ~~mental retardation~~ developmental
18 disabilities commission which may forward the conclusions to
19 the board of directors of the center and request an
20 appropriate response within thirty days. If no response is
21 received within thirty days, or if the response is
22 unsatisfactory, the commission may call this fact to the
23 attention of the board of supervisors of the county or
24 counties served by the center, and in doing so shall indicate
25 what corrective steps have been recommended to the center's
26 board of directors.

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

29 2. The responsibilities of the care review committee are
30 in accordance with the rules adopted by the commission
31 pursuant to chapter 17A. When adopting the rules, the
32 commission shall consider the needs of residents of each
33 category of licensed health care facility as defined in
34 section 135C.1, subsection 4, and the services each facility
35 may render. The commission shall coordinate the development

1 of rules with the mental health and ~~mental-retardation~~
2 developmental disabilities commission created in section
3 225C.5 to the extent the rules would apply to a facility
4 primarily serving persons ~~who-are-mentally-ill,-mentally~~
5 ~~retarded,-or-developmentally-disabled~~ with mental illness,
6 mental retardation, or a developmental disability. The
7 commission shall coordinate the development of appropriate
8 rules with other state agencies.

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

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

26 Sec. 48. Section 249A.25, subsection 4, paragraph d, Code
27 1993, is amended to read as follows:

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

32 Sec. 49. Section 249A.25, subsection 4, paragraph f, Code
33 1993, is amended to read as follows:

34 f. Recommend action regarding variations from the
35 budgeted, appropriated, and identified expenditures and

1 projected expenditure offsets to the council on human services
2 and the ~~state~~ mental health and ~~mental-retardation~~
3 developmental disabilities commission.

4 Sec. 50. Section 249A.25, subsection 4, paragraph h, Code
5 1993, is amended to read as follows:

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

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

12 262.70 EDUCATION, PREVENTION, AND RESEARCH PROGRAMS IN
13 MENTAL HEALTH AND MENTAL RETARDATION.

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

23 Sec. 52. Section 331.424, subsection 1, paragraph g, Code
24 1993, is amended to read as follows:

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

35 Sec. 53. Section 331.756, subsection 45, Code Supplement

1 1993, is amended to read as follows:

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

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

11 DIVISION V

12 AMENDMENT OF ADMINISTRATIVE RULES -- SERVICE FACILITY
13 REGULATORY REQUIREMENTS.

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

20 Sec. 56. REGULATORY REQUIREMENTS. The director of human
21 services shall convene a task force which includes mental
22 retardation service consumers and family members, community-
23 based providers, advocates, representatives of the Iowa state
24 association of counties and the department of inspections and
25 appeals, and other appropriate persons or entities. The task
26 force shall review outcome-based performance standards for
27 facilities and services directed to persons with mental
28 retardation and assess the impact of state and federal rules
29 and regulations upon the efficiency and effectiveness of the
30 facilities and services. The task force shall identify
31 outcome-based performance standards, and rules and regulations
32 which if waived, would improve the efficiency and
33 effectiveness of the facilities and services. Based upon the
34 findings of the task force, the director may request federal
35 waivers to implement demonstration projects in which the

1 outcome-based performance standards are applied and the
2 identified rules and regulations are waived. The task force
3 shall make a progress report to the governor and the general
4 assembly in January 1995. The director shall not implement
5 demonstration projects in a manner which would require
6 additional funding.

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SENATE FILE 2311

H-5721

1 Amend Senate File 2311, as amended, passed, and
2 reprinted by the Senate as follows:

3 1. Page 1, by inserting after line 2 the
4 following:

5 "Sec. ____ . Section 222.67, Code 1993, is amended
6 to read as follows:

7 222.67 CHARGE ON FINDING OF SETTLEMENT.

8 Where If a person has-been is received into a
9 hospital-school, or a special unit, or a community-
10 based program as a patient whose and the person's
11 legal settlement is supposedly outside the state or is
12 unknown and the administrator finds that the legal
13 settlement of the patient was at the time of admission
14 or commitment in a county of this state, the
15 administrator shall charge all legal costs and
16 expenses pertaining to the admission or commitment and
17 support of the patient to the county of such legal
18 settlement. The costs and expenses shall be collected
19 as provided by law in other cases.

20 Sec. ____ . Section 222.68, Code 1993, is amended to
21 read as follows:

22 222.68 COSTS PAID IN FIRST INSTANCE.

23 All necessary and legal expenses for the cost of
24 admission or commitment of a person to a hospital-
25 school, or a special unit, or a community-based
26 program when the person's legal settlement is found to
27 be in another county of this state shall in the first
28 instance be paid by the county from which the person
29 was admitted or committed. The county of legal
30 settlement shall reimburse the county so paying for
31 all such expenses. Where-any If a county fails to
32 make such reimbursement within sixty days following
33 submission of a properly itemized bill to the county
34 of legal settlement, a penalty of not greater than one
35 percent per month on and after sixty days from
36 submission of the bill may be added to the amount due.

37 Sec. ____ . Section 222.69, Code 1993, is amended to
38 read as follows:

39 222.69 PAYMENT BY STATE.

40 All necessary and legal expenses for the cost of
41 admission or commitment of a person to a hospital-
42 school, or a special unit, or a community-based
43 program when the person's legal settlement is outside
44 this state or is unknown shall be paid out of any
45 money in the state treasury not otherwise
46 appropriated. Such payments shall be made on itemized
47 vouchers executed by the auditor of the county from
48 which the expenses have been paid and approved by the
49 administrator."

50 2. Page 1, by striking line 8 and inserting the
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Page 2

1 following: "person committed to a hospital-school, or
2 a special unit, or a community-based program, the".

3 3. Page 2, lines 22 and 23, by striking the words
4 "hospital-school or the special unit" and inserting
5 the following: "hospital-school, or the special unit,
6 or a community-based program".

7 4. Page 2, by inserting after line 26 the
8 following:

9 "Sec. ____ . Section 230.1, unnumbered paragraph 1,
10 Code 1993, is amended to read as follows:

11 The necessary and legal costs and expenses
12 attending the taking into custody, care,
13 investigation, admission, commitment, and support of a
14 ~~mentally-ill~~ person with mental illness admitted or
15 committed to a state hospital or a community-based
16 program shall be paid:

17 Sec. ____ . Section 230.10, Code 1993, is amended to
18 read as follows:

19 230.10 PAYMENT OF COSTS.

20 All legal costs and expenses attending the taking
21 into custody, care, investigation, and admission or
22 commitment of a person to a state hospital for the
23 mentally ill or a community-based program for persons
24 with mental illness under a finding that such person
25 has a legal settlement in another county of this
26 state, shall be charged against the county of legal
27 settlement.

28 Sec. ____ . Section 230.11, Code 1993, is amended to
29 read as follows:

30 230.11 RECOVERY OF COSTS FROM STATE.

31 Costs and expenses attending the taking into
32 custody, care, and investigation of a person who has
33 been admitted or committed to a state hospital,
34 veterans administration hospital or other agency of
35 the United States government, or a community-based
36 program, for the mentally ill and who has no legal
37 settlement in this state or whose legal settlement is
38 unknown, including cost of commitment, if any, shall
39 be paid out of any money in the state treasury not
40 otherwise appropriated, on itemized vouchers executed
41 by the auditor of the county which has paid them, and
42 approved by the administrator."

43 5. Page 2, line 33, by inserting after the word
44 "ill" the following: "or a community-based program
45 for persons with mental illness".

46 6. Page 4, line 23, by inserting after the word
47 "ill" the following: "or a community-based program
48 for persons with mental illness".

49 7. Page 30, line 19, by striking the words "Iowa
50 department of health" and inserting the following:

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-2-

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Page 3

- 1 "department of health inspections and appeals".
 2 8. Page 37, line 29, by striking the word
 3 "effectiveness" and inserting the following: "cost-
 4 effectiveness".
 5 9. Page 37, line 33, by striking the word
 6 "effectiveness" and inserting the following: "cost-
 7 effectiveness".
 8 10. Page 37, line 35, by inserting after the word
 9 "projects" the following: "serving persons with
 10 mental retardation".
 11 11. Page 38, line 6, by inserting after the word
 12 "funding" the following: "on the part of the state or
 13 counties".

By COMMITTEE ON HUMAN RESOURCES
 PLASIER of Sioux

H-5721 FILED MARCH 28, 1994

adopted 4/19/94 (p. 1913)

SENATE FILE 2311

H-6070

- 1 Amend the amendment, H-5721, to Senate File 2311,
 2 as amended, passed, and reprinted by the Senate, as
 3 follows:
 4 1. Page 1, by striking lines 3 through 49.
 5 2. Page 2, line 1, by inserting after the word
 6 "person" the following: "admitted or".
 7 3. Page 2, line 2, by striking the word "program"
 8 and inserting the following: "service".
 9 4. Page 2, by inserting after line 2 the
 10 following:
 11 "_____. Page 1, line 23, by inserting after the
 12 word "settlement" the following: "or a payment for a
 13 community-based service".
 14 5. Page 2, line 6, by striking the word "program"
 15 and inserting the following: "service".
 16 6. Page 2, by striking lines 7 through 42.
 17 7. Page 2, line 44, by striking the word
 18 "program" and inserting the following: "service".
 19 8. Page 2, by inserting after line 45 the
 20 following:
 21 "_____. Page 3, line 9, by inserting after the word
 22 "settlement" the following: "or a payment for a
 23 community-based service".
 24 9. Page 2, line 47, by striking the word
 25 "program" and inserting the following: "service".

By HOUSER of Pottawattamie
 GRUNDBERG of Polk

H-6070 FILED APRIL 8, 1994

WITHDRAWN

4/19/94

SENATE FILE 2311

H-6112

- 1 Amend Senate File 2311, as amended, passed, and
2 reprinted by the Senate, as follows:
3 1. Page 38, by inserting after line 6 the
4 following:
5 "Sec. ____ . BRAIN INJURY SERVICES WAIVER. The
6 department of human services shall not propose or
7 implement a medical assistance home and community-
8 based waiver for services to persons with brain injury
9 which would require provision of county funding
10 relating to the services or matching of the federal
11 funding."
12 2. By renumbering as necessary.

By HOUSER of Pottawattamie

H-6112 FILED APRIL 12, 1994

*adopted 4/19/94 (p. 1914) — now withdrawn
4-1994 (p. 1946)*

SENATE FILE 2311

H-6235

- 1 Amend the amendment, H-5721, to Senate File 2311,
2 as amended, passed, and reprinted by the Senate, as
3 follows:
4 1. Page 1, by striking lines 3 through 49.
5 2. Page 2, line 1, by inserting after the word
6 "person" the following: "admitted or".
7 3. Page 2, line 2, by striking the word "program"
8 and inserting the following: "service".
9 4. Page 2, by inserting after line 2 the
10 following:
11 "____. Page 1, line 23, by inserting after the
12 word "settlement" the following: "or a payment for a
13 community-based service."
14 5. Page 2, line 6, by striking the word "program"
15 and inserting the following: "service".
16 6. Page 2, by striking lines 7 through 48.

By GRUNDBERG of Polk

HOUSER of Pottawattamie

H-6235 FILED APRIL 15, 1994

adopted 4/19/94 (p. 1913)

HOUSE AMENDMENT TO
SENATE FILE 2311

S-5758

- 1 Amend Senate File 2311, as amended, passed, and
2 reprinted by the Senate as follows:
- 3 1. Page 1, by striking line 8 and inserting the
4 following: "person admitted or committed to a
5 hospital-school, or a special unit, or a community-
6 based service, the".
- 7 2. Page 1, line 23, by inserting after the word
8 "settlement" the following: "or a payment for a
9 community-based service".
- 10 3. Page 2, lines 22 and 23, by striking the words
11 "hospital-school or the special unit" and inserting
12 the following: "hospital-school, or the special unit,
13 or a community-based service".
- 14 4. Page 30, line 19, by striking the words "Iowa
15 department of health" and inserting the following:
16 "department of health inspections and appeals".
- 17 5. Page 37, line 29, by striking the word
18 "effectiveness" and inserting the following: "cost-
19 effectiveness".
- 20 6. Page 37, line 33, by striking the word
21 "effectiveness" and inserting the following: "cost-
22 effectiveness".
- 23 7. Page 37, line 35, by inserting after the word
24 "projects" the following: "serving persons with
25 mental retardation".
- 26 8. Page 38, line 6, by inserting after the word
27 "funding" the following: "on the part of the state or
28 counties".
- 29 9. Page 38, by inserting after line 6 the
30 following:
31 "Sec. ____ . BRAIN INJURY SERVICES WAIVER. The
32 department of human services shall not propose or
33 implement a medical assistance home and community-
34 based waiver for services to persons with brain injury
35 in a manner which would require provision of county
36 funding relating to the services or matching of the
37 federal funding. However, the department may propose
38 or implement such a waiver in a manner which would
39 permit the optional financial participation of
40 counties."
- 41 10. By renumbering as necessary.

RECEIVED FROM THE HOUSE

S-5758 FILED APRIL 19, 1994
CONCURRED

SENATE FILE 2311

H-6321

1 Amend Senate File 2311, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 38, by inserting after line 6 the
4 following:

5 "Sec. _____. BRAIN INJURY SERVICES WAIVER. The
6 department of human services shall not propose or
7 implement a medical assistance home and community-
8 based waiver for services to persons with brain injury
9 in a manner which would require provision of county
10 funding relating to the services or matching of the
11 federal funding. However, the department may propose
12 or implement such a waiver in a manner which would
13 permit the optional financial participation of
14 counties."

15 2. By renumbering as necessary.

By HOUSER of Pottawattamie
WITT of Black Hawk
HAMMOND of Story

DICKINSON of Jackson
MUNDIE of Webster
MYERS of Johnson

H-6321 FILED APRIL 19, 1994

*adopted 4-19-94
(P. 1946)*

Tinsman - Chair
Szymoniak
Dvorsky

SSB-2233
Human Resources

SENATE FILE *2311*
BY (PROPOSED COMMITTEE ON
HUMAN RESOURCES BILL BY
CHAIRPERSON SZYMONIAK)

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

A BILL FOR

1 An Act relating to services for persons with mental illness,
2 mental retardation or other developmental disability, or brain
3 injury.

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

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DIVISION I

Legal Settlement -- Alternative Dispute Resolution

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

222.70 DISPUTE-BETWEEN-COUNTIES LEGAL SETTLEMENT DISPUTES.

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

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

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

222.71 LEGAL SETTLEMENT -- FINDING BY COURT.

The If an action is filed under section 222.70, subsection 1, the court shall determine whether the legal settlement of

1 ~~said-mentally-retarded~~ the person at the time of admission or
2 commitment with mental retardation was in one of the defendant
3 counties at the time of admission or commitment. If the court
4 ~~so finds~~ a county to have legal settlement, judgment shall be
5 entered against the county ~~of such settlement~~ in favor of any
6 other county for all necessary and legal expenses arising from
7 ~~said~~ the person's admission or commitment and shall be paid by
8 ~~said other~~ the county of legal settlement. If any such costs
9 have not been paid, judgment shall be rendered against the
10 county of legal settlement in favor of the parties, including
11 the state, to whom ~~said~~ the costs or expenses may be due.

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

14 222.72 FINDING LEGAL SETTLEMENT OUTSIDE STATE.

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

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

28 230.12 ~~ACTION-TO-DETERMINE~~ LEGAL SETTLEMENT DISPUTES.

29 1. When If a dispute arises between different counties or
30 between the administrator and a county as to the legal
31 settlement of a person admitted or committed to a state
32 hospital for the mentally ill, the attorney general, at the
33 request of the administrator, shall, without the advancement
34 of fees, cause an action to be brought in the district court
35 of any county where such dispute exists, to determine the

1 person's legal settlement. This action may be brought at any
2 time when it appears that the dispute cannot be amicably
3 settled. All counties which may be the place of the legal
4 settlement, so far as known, shall be made defendants and the
5 allegation of the settlement may be in the alternative. The
6 action shall be tried as in equity.

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

16 2 3. If the an action under this section involves a
17 dispute between counties, the county determined to be the
18 county of legal settlement shall reimburse a county for the
19 amount of costs paid by that county on behalf of the person
20 and for interest on this amount in accordance with section
21 535.3. In addition, the court may order the county determined
22 to be the county of legal settlement to reimburse any other
23 county involved in the dispute for the other county's
24 reasonable legal costs related to the dispute and may tax the
25 reasonable legal costs as court costs. The court may order
26 the county determined to be the county of legal settlement to
27 pay a penalty to the other county, in an amount which does not
28 exceed twenty percent of the total amount of reimbursement and
29 interest.

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

32 230.13 JUDGMENT WHEN LEGAL SETTLEMENT FOUND WITHIN STATE.

33 The If an action is entered under section 230.12,
34 subsection 1, the court shall determine whether the legal
35 settlement of ~~said-mentally-ill~~ the person with mental

1 illness, at the time of the person's admission or commitment,
2 was in one of the defendant counties. If the court ~~so find~~
3 finds a county to be the county of legal settlement, judgment
4 shall be entered against the county ~~of such settlement~~ in
5 favor of any other county for all legal costs and expenses
6 arising out of ~~said the proceedings in mental illness~~
7 involving the person, and paid by ~~said other~~ the county of
8 legal settlement. If any such costs have not been paid,
9 judgment shall be rendered against the county of legal
10 settlement in favor of the parties, including the state, to
11 whom ~~said the~~ costs or expenses may be due.

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

14 230.14 ORDER-WHEN LEGAL SETTLEMENT IN CASES INVOLVING
15 NONRESIDENCE OR UNKNOWN SETTLEMENT APPEARS.

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

28 DIVISION II

29 Housing for Persons with Disabilities

30 Sec. 7. Section 135C.2, subsection 5, unnumbered paragraph
31 1, Code 1993, is amended to read as follows:

32 The department shall establish a special classification
33 within the residential care facility category in order to
34 foster the development of residential care facilities which
35 serve persons with mental retardation, chronic mental illness,

1 or a developmental disability, or brain injury, as defined
2 described under section 225C.26, and which contain five or
3 fewer residents. A facility within the special classification
4 established pursuant to this subsection is exempt from the
5 requirements of section 135.63. The department shall adopt
6 rules which are consistent with rules previously developed for
7 the waiver demonstration project pursuant to 1986 Iowa Acts,
8 chapter 1246, section 206, and which include all of the
9 following provisions:

10 Sec. 8. Section 335.25, Code Supplement 1993, is amended
11 to read as follows:

12 335.25 ZONING FOR FAMILY HOMES.

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

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

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

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

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

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

1 (4) Attributable to a mental or nervous disorder.

2 b c. "Family home" means a community-based residential
3 home which is licensed as a residential care facility under
4 chapter 135C or as a child foster care facility under chapter
5 237 to provide room and board, personal care, habilitation
6 services, and supervision in a family environment exclusively
7 for not more than eight developmentally-disabled persons with
8 a developmental disability or brain injury and any necessary
9 support personnel. However, family home does not mean an
10 individual foster family home licensed under chapter 237.

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

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

17 3. Notwithstanding the optional provision in section 335.1
18 and any other provision of this chapter to the contrary, a
19 county, county board of supervisors, or a county zoning
20 commission shall consider a family home a residential use of
21 property for the purposes of zoning and shall treat a family
22 home as a permitted use in all residential zones or districts,
23 including all single-family residential zones or districts, of
24 the county. A county, county board of supervisors, or a
25 county zoning commission shall not require that a family home,
26 its owner, or operator obtain a conditional use permit,
27 special use permit, special exception, or variance. However,
28 new family homes owned or operated by public or private
29 agencies shall be ~~disbursed~~ dispersed through the residential
30 zones and districts and shall not be located within contiguous
31 areas equivalent in size to city block areas. Section
32 135C.23, subsection 2, shall apply to all residents of a
33 family home.

34 4. A restriction, reservation, condition, exception, or
35 covenant in a subdivision plan, deed, or other instrument of

1 or pertaining to the transfer, sale, lease, or use of property
2 in a county which permits residential use of property but
3 prohibits the use of property as a family home for
4 developmentally-disabled persons with a developmental
5 disability or brain injury, to the extent of the prohibition,
6 is void as against the public policy of this state and shall
7 not be given legal or equitable effect.

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

10 414.22 ZONING FOR FAMILY HOMES.

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

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

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

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

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

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

34 (4) Attributable to a mental or nervous disorder.

35 b c. "Family home" means a community-based residential

1 home which is licensed as a residential care facility under
2 chapter 135C or as a child foster care facility under chapter
3 237 to provide room and board, personal care, habilitation
4 services, and supervision in a family environment exclusively
5 for not more than eight developmentally-disabled persons with
6 a developmental disability or brain injury and any necessary
7 support personnel. However, family home does not mean an
8 individual foster care family home licensed under chapter 237.

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

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

15 3. Notwithstanding any provision of this chapter to the
16 contrary, a city, city council, or city zoning commission
17 shall consider a family home a residential use of property for
18 the purposes of zoning and shall treat a family home as a
19 permitted use in all residential zones or districts, including
20 all single-family residential zones or districts, of the city.
21 A city, city council, or city zoning commission shall not
22 require that a family home, its owner, or operator obtain a
23 conditional use permit, special use permit, special exception,
24 or variance. However, new family homes owned and operated by
25 public or private agencies shall be disbursed dispersed
26 throughout the residential zones and districts and shall not
27 be located within contiguous city block areas. Section
28 135C.23, subsection 2, shall apply to all residents of a
29 family home.

30 4. Any restriction, reservation, condition, exception, or
31 covenant in any subdivision plan, deed, or other instrument of
32 or pertaining to the transfer, sale, lease, or use of property
33 in a city which permits residential use of property but
34 prohibits the use of property as a family home for
35 developmentally-disabled persons with a developmental

1 disability or brain injury, to the extent of the prohibition,
2 is void as against the public policy of this state and shall
3 not be given legal or equitable effect.

4

DIVISION III

5

Chapter 225C Rewrite

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

8

225C.1 FINDINGS AND PURPOSE.

9

The general assembly finds that community-based-care,
10 services to persons with mental illness, mental retardation,
11 developmental disabilities, or brain injury are provided in
12 many parts of the state by highly autonomous community-mental
13 health-and-mental-retardation community-based service
14 providers working cooperatively with state mental-health-and
15 mental-retardation-facilities, ~~is-meeting-most-mental-health~~
16 ~~and-mental-retardation-service-needs-of-those-Iowans-to-whom~~
17 ~~this-care-is-available~~ and county officials. However, the
18 general assembly recognizes that heavy reliance on property
19 tax funding for mental health and mental retardation services
20 has restricted uniform availability of this care.
21 Consequently, greater efforts should be made to assure close
22 coordination and continuity of care for those persons
23 receiving publicly supported mental-health-and-mental
24 retardation disability services in Iowa. It is the purpose of
25 this chapter to continue and to strengthen the mental-health
26 and-mental-retardation services to persons with disabilities
27 now available in the state of Iowa, to make these services
28 conveniently available to all persons in this state upon a
29 reasonably uniform financial basis, and to assure the
30 continued high quality of these services.

31 It is the intent of the general assembly that the service
32 system for persons with disabilities emphasize the ability of
33 persons with disabilities to exercise their own choices about
34 the amounts and types of services received; that all levels of
35 the service system seek to empower persons with disabilities

1 to accept responsibility, exercise choices, and take risks;
2 and that services be provided in a manner which supports the
3 ability of persons with disabilities to live, learn, work, and
4 recreate in natural communities of their choice.

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

7 225C.2 DEFINITIONS.

8 As used in this chapter:

9 1. "Administrator" means the administrator of the division
10 of mental health~~7-mental-retardation7~~ and developmental
11 disabilities of the department of human services.

12 2. "Commission" means the mental health and mental~~7~~
13 retardation developmental disabilities commission.

14 3. "Comprehensive services" means the mental health
15 services delineated in the annual state mental health plan,
16 and the mental retardation services delineated in the annual
17 state mental retardation plan.

18 4. "Disability services" means services or other
19 assistance available to a person with mental illness, mental
20 retardation or other developmental disability, or brain
21 injury.

22 4 5. "Department" means the department of human services.

23 5 6. "Director" means the director of human services.

24 6 7. "Division" means the division of mental health~~7~~
25 ~~mental-retardation7~~ and developmental disabilities of the
26 department of human services.

27 8. "Person with a disability" means a person with mental
28 illness, mental retardation or other developmental disability,
29 or brain injury.

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

32 225C.3 DIVISION OF MENTAL HEALTH~~7-MENTAL-RETARDATION7~~ AND
33 DEVELOPMENTAL DISABILITIES -- STATE MENTAL HEALTH AUTHORITY.

34 1. The division is designated the state mental health
35 authority as defined in 42 U.S.C. sec: § 201(m) (1976) for the

1 purpose of directing the benefits of the National Mental
2 Health Act, 42 U.S.C. sec. § 201 et seq. This designation
3 does not preclude the board of regents from authorizing or
4 directing any institution under its jurisdiction to carry out
5 educational, prevention, and research activities in the areas
6 of mental health and mental retardation. The division may
7 contract with the board of regents or any institution under
8 the board's jurisdiction to perform any of these functions.

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

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

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

22 225C.4 ADMINISTRATOR'S DUTIES.

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

25 a. Prepare and administer state mental health and mental
26 retardation plans for the provision of comprehensive services
27 within the state and prepare and administer the state
28 developmental disabilities plan. The administrator shall
29 consult with the Iowa department of public health, the state
30 board of regents or a body designated by the board for that
31 purpose, the department of management or a body designated by
32 the director of the department for that purpose, the
33 department of education, the division of job service of the
34 department of employment services and any other appropriate
35 governmental body, in order to facilitate co-ordination

1 coordination of disability services provided to-mentally-ill,
2 mentally-retarded,-and-developmentally-disabled-persons in
3 this state. The state mental health and mental retardation
4 plans shall be consistent with the state health plan, shall be
5 prepared in consultation with the state health co-ordinating
6 coordinating council, and shall incorporate county mental
7 health-and-mental-retardation disability services plans.

8 b. Assist county co-ordinating boards of supervisors and
9 regional planning councils in developing a program for
10 community community-based mental health and mental retardation
11 services within the state based on the need for comprehensive
12 services, and the services offered by existing public and
13 private facilities, with the goal of providing comprehensive
14 services to all persons in this state who need them the
15 services.

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

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

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

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

- 1 g. Administer state programs regarding the care,
2 treatment, and supervision of ~~mentally-ill-or-mentally~~
3 retarded persons with mental illness or mental retardation,
4 except the programs administered by the state board of
5 regents.
- 6 h. Administer and control the operation of the state
7 institutions established by chapters 222 and 226, and any
8 other state institutions or facilities providing care,
9 treatment, and supervision to ~~mentally-ill-or-mentally~~
10 retarded persons with mental illness or mental retardation,
11 except the institutions and facilities of the state board of
12 regents.
- 13 i. Administer the state ~~community-mental-health-and-mental~~
14 retardation appropriations for community-based disability
15 services fund-established-by-section-2256-7.
- 16 j. Act as compact administrator with power to effectuate
17 the purposes of interstate compacts on mental health.
- 18 k. Establish and maintain a data collection and management
19 information system oriented to the needs of patients,
20 providers, the department, and other programs or facilities.
- 21 l. Prepare a division budget and reports of the division's
22 activities.
- 23 ~~m--Advise-the-personnel-commission-on-recommended~~
24 ~~qualifications-of-all-division-employees-~~
- 25 n m. Establish suitable agreements with other state
26 agencies to encourage appropriate care and to facilitate the
27 ~~co-ordination-of-mental-health, mental-retardation, and~~
28 developmental-disabilities coordination of disability
29 services.
- 30 o n. Provide consultation and technical assistance to
31 patients' advocates appointed pursuant to section 229.19, in
32 co-operation cooperation with the judicial system department
33 and the care review committees appointed for county health
34 care facilities which care primarily for persons with
35 disabilities pursuant to section 135C.25.

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

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

8 r g. Recommend and enforce minimum accreditation standards
9 for the maintenance and operation of community mental health
10 centers under section 230A.16.

11 s r. In ~~co-operation~~ cooperation with the department of
12 inspections and appeals, recommend minimum standards under
13 section 227.4 for the care of and services to ~~mentally-ill-and~~
14 ~~mentally-retarded~~ persons with disabilities residing in county
15 care facilities.

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

22 t. Provide technical assistance concerning disability
23 services and services funding to counties and regional
24 planning councils.

25 2. The administrator may:

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

30 b. Establish mental health and mental retardation services
31 for all institutions under the control of the director of
32 human services and establish an autism unit, following mutual
33 planning with and consultation from the medical director of
34 the state psychiatric hospital, at an institution or a
35 facility administered by the administrator to provide

1 psychiatric and related services and other specific programs
2 to meet the needs of autistic persons as defined in section
3 331.424, subsection 1, and to furnish appropriate diagnostic
4 evaluation services.

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

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

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

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

21 225C.5 MENTAL HEALTH AND ~~MENTAL-RETARDATION~~ DEVELOPMENTAL
22 DISABILITIES COMMISSION.

23 1. A mental health and ~~mental-retardation~~ developmental
24 disabilities commission is ~~established~~ created as the state
25 policy-making body for the provision of ~~mental-health-and~~
26 ~~mental-retardation services,-consisting to persons with mental~~
27 illness, mental retardation or other developmental
28 disabilities, or brain injury. The commission shall consist
29 of fifteen members appointed to three-year staggered terms by
30 the governor and subject to confirmation by the senate.
31 Commission members shall be appointed on the basis of interest
32 and experience in the fields of mental health, ~~or mental~~
33 retardation or other developmental disabilities, and brain
34 injury, in a manner so that, if possible, the composition of
35 the commission will comply with the requirements of the

1 Community Mental Health Centers Amendments of 1975, 42 U.S.C.
2 sec- § 2689t(a) (1976) relative to a state mental health
3 advisory council, and so as to ensure adequate representation
4 from both-the-mental-health-and-mental-retardation-fields
5 persons with disabilities and individuals knowledgeable
6 concerning disability services. Four-members-of-the
7 ~~commission-shall-be-members-of-county-boards-of-supervisors-at~~
8 ~~the-time-of-their-appointment-to-the-commission;--Two-members~~
9 ~~of-the-commission-shall-be-members-of-county-mental-health-and~~
10 ~~mental-retardation-co-ordinating-boards-at-the-time-of-their~~
11 ~~appointment-to-the-commission;--One-member-of-the-commission~~
12 ~~shall-either-be-an-active-board-member-of-a-community-mental~~
13 ~~health-center-or-an-active-member-of-the-Iowa-mental-health~~
14 ~~association-at-the-time-of-appointment-to-the-commission;--One~~
15 ~~member-of-the-commission-shall-be-an-active-member-of-either-a~~
16 ~~community-mental-retardation-agency-or-the-Iowa-association~~
17 ~~for-retarded-citizens-at-the-time-of-appointment-to-the~~
18 ~~commission.~~ Members of the commission shall include the
19 following:

20 a. Four members shall be members of a county board of
21 supervisors.

22 b. Two members shall be members of a mental health and
23 developmental disabilities regional planning council.

24 c. One member shall be either an active board member of a
25 community mental health center or of a statewide association
26 of persons with mental illness.

27 d. One member shall be either an active board member of an
28 agency serving persons with mental retardation or of a
29 statewide association for persons with mental retardation.

30 e. One member shall be an active member of a statewide
31 organization for persons with developmental disabilities other
32 than mental retardation.

33 f. One member shall be an active member of a statewide
34 organization for persons with brain injury.

35 2. The three-year terms shall begin and end as provided in

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

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

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

14 225C.6 DUTIES OF COMMISSION.

15 1. The To the extent funding is available, the commission
16 shall perform the following duties:

17 a. Advise the administrator on administration of the
18 overall state plans for comprehensive services and for other
19 disability services.

20 b. Adopt necessary rules pursuant to chapter 17A which
21 relate to ~~mental-health-and-mental-retardation~~ disability
22 programs and services.

23 c. Adopt standards for accreditation of community mental
24 health centers and comprehensive community mental health
25 programs recommended under section 230A.16.

26 d. Adopt standards for the care of and services to
27 ~~mentally-ill-and-mentally-retarded~~ persons with disabilities
28 residing in county care facilities recommended under section
29 227.4.

30 e. Adopt standards for the delivery of ~~mental-health-and~~
31 ~~mental-retardation~~ disability services by the division, and
32 for the maintenance and operation of public or private
33 facilities offering services to ~~mentally-ill-or-mentally~~
34 ~~retarded~~ persons with disabilities, which are not subject to
35 licensure by the department or the department of inspections

1 and appeals, and review the standards employed by the
2 department or the department of inspections and appeals for
3 licensing facilities which provide services to the-mentally
4 ~~iii-or-mentally-retarded~~ persons with disabilities.

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

8 g. Award grants from the ~~special-allocation-of-the-state~~
9 ~~community-mental-health-and-mental-retardation-services-fund~~
10 ~~pursuant-to-section-225E-11;~~ state and federal government as
11 well as other moneys that become available to the division for
12 grant purposes.

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

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

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

18 (2) Recommendations formulated by the commission for
19 changes in law ~~and-for-changes-in-the-rules-adopted-by-the~~
20 ~~auditor-of-state-under-section-225E-10~~.

21 j. Beginning-not-later-than By January 17-1987-and
22 ~~continuing-once-every-two-years-thereafter~~ of each odd-
23 numbered year, submit to the governor and the general assembly
24 an evaluation of:

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

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

33 (3) The cost effectiveness of programs carried out by
34 randomly selected providers receiving money from the state
35 ~~community-mental-health-and-mental-retardation-services-fund~~

- 1 ~~established under section 225C.7~~ for disability services.
2 k. Advise the administrator, the council on human
3 services, the governor, and the general assembly on budgets
4 and appropriations concerning ~~mental health and mental~~
5 ~~retardation~~ disability services.
6 l. Meet Consult with the state developmental disabilities
7 Iowa governor's planning council for developmental
8 disabilities at least twice a year for the purpose of co-
9 ordinating mental health, mental retardation, and
10 developmental disabilities planning and funding.
11 m. Establish standards for the provision under medical
12 assistance of individual case management services.
13 n. Establish standards for the structure of a service
14 coordination system for services which are not paid for under
15 medical assistance which ensures a linkage between the service
16 coordination system and individual case management services.
17 o. Identify model eligibility guidelines for disability
18 services.
19 p. Identify model guidelines for purchase of disability
20 services and for disability service reimbursement
21 methodologies.
22 q. Prepare, for mental health and developmental
23 disabilities regional planning councils, advance estimates of
24 state and, to the extent possible, federal funds available to
25 counties for purchase of disability services.
26 r. Identify basic disability services which for planning
27 purposes are intended to be available to any person with a
28 disability who is a resident of this state.
29 s. Prepare five-year plans based upon the plans developed
30 by mental health and developmental disabilities regional
31 planning councils.
32 t. Identify contemporary services for persons with
33 disabilities for purposes of the mental illness, mental
34 retardation, developmental disabilities, and brain injury
35 community services fund created in section 225C.7.

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

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

7 225C.7 MENTAL HEALTH, MENTAL RETARDATION, DEVELOPMENTAL
8 DISABILITIES, AND BRAIN INJURY COMMUNITY SERVICES FUND.

9 1. A mental health, mental retardation, developmental
10 disabilities, and brain injury community services fund is
11 established in the office of the treasurer of state under the
12 authority of the department, which shall consist of the
13 amounts appropriated to the fund by the general assembly for
14 each fiscal year. Before completion of the department's
15 budget estimate as required by section 8.23, the department
16 shall determine and include in the estimate the amount which
17 should be appropriated to the fund for the forthcoming fiscal
18 period in order to implement the purpose stated in section
19 225C.1.

20 2. Moneys appropriated to the fund shall be allocated to
21 counties for funding of community-based mental health, mental
22 retardation, developmental disabilities, and brain injury
23 services. The moneys shall be allocated to a county as
24 follows:

25 a. Fifty percent based upon the county's proportion of the
26 state's population of persons with an annual income which is
27 equal to or less than the poverty guideline established by the
28 federal office of management and budget.

29 b. Fifty percent based upon the county's proportion of the
30 state's general population.

31 3. a. A county shall utilize the funding the county
32 receives from the fund for services provided to persons with
33 mental illness, mental retardation, developmental disability,
34 or brain injury. However, no more than fifty percent of the
35 funding shall be used for services provided to any one of the

1 service populations.

2 b. A county shall use at least fifty percent of the
3 funding the county receives from the fund for services
4 provided to persons with disabilities which are identified by
5 the mental health and developmental disabilities commission.

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

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

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

29 b. With reference to the fiscal year beginning July 1,
30 1980, money "raised by county levy and expended for mental
31 health, mental retardation, and developmental disabilities
32 services" means the county's maintenance of effort determined
33 by using the general allocation application for the state
34 community mental health and mental retardation services fund
35 under section 225C.10, subsection 1, Code 1993. The

1 department, with the agreement of each county, shall establish
2 the actual amount expended by each county for persons with
3 mental illness, mental retardation, or a developmental
4 disability in the fiscal year which began on July 1, 1980, and
5 this amount shall be deemed each county's maintenance of
6 effort.

7 Sec. 17. NEW SECTION. 225C.18 MENTAL HEALTH AND
8 DEVELOPMENTAL DISABILITIES REGIONAL PLANNING COUNCILS.

9 1. Mental health and developmental disabilities regional
10 planning councils are established. The regions of the initial
11 planning councils shall be the same as the regions of the
12 mental illness, mental retardation, developmental
13 disabilities, and brain injury planning councils created
14 pursuant to 1993 Iowa Acts, chapter 172, section 20,
15 subsection 5. A region's planning area shall either utilize
16 the borders of a pertinent field services cluster established
17 in accordance with section 217.42 or have a population of
18 forty thousand and include counties with a historical pattern
19 of cooperation in providing disability services.

20 2. The members of a planning council shall include a
21 member of the county board of supervisors of each county
22 comprising the planning council and a sufficient number of
23 disabilities service providers and service consumers or family
24 members of service consumers to provide for adequate
25 representation of the providers and consumers or family
26 members. The board of supervisors of the counties comprising
27 the planning council shall determine the size and membership
28 of the planning council.

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

1 the planning council regions affected by the request.

2 4. A planning council shall perform the following tasks:

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

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

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

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

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

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

24 Sec. 18. Section 225C.21, subsection 3, Code 1993, is
25 amended to read as follows:

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

33 Sec. 19. Section 225C.45, subsection 1, Code 1993, is
34 amended to read as follows:

35 1. The administrator may establish a public housing unit

1 within a bureau of the division to apply for, receive, and
2 administer federal assistance, grants, and other public or
3 private funds for purposes related to providing housing to
4 persons with mental illness, mental retardation, or a other
5 developmental disability, or brain injury.

6 DIVISION IV

7 Coordinating Amendments

8 Sec. 20. Section 135C.2, subsection 5, paragraph f,
9 subparagraph (4), Code 1993, is amended to read as follows:

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

12 Sec. 21. Section 135C.23, subsection 2, unnumbered
13 paragraph 2, Code 1993, is amended to read as follows:

14 This section does not prohibit the admission of a patient
15 with a history of dangerous or disturbing behavior to an
16 intermediate care facility for the mentally ill, intermediate
17 care facility for the mentally retarded, nursing facility, or
18 county care facility when the intermediate care facility for
19 the mentally ill, intermediate care facility for the mentally
20 retarded, nursing facility, or county care facility has a
21 program which has received prior approval from the department
22 to properly care for and manage the patient. An intermediate
23 care facility for the mentally ill, intermediate care facility
24 for the mentally retarded, nursing facility, or county care
25 facility is required to transfer or discharge a resident with
26 dangerous or disturbing behavior when the intermediate care
27 facility for the mentally ill, intermediate care facility for
28 the mentally retarded, nursing facility, or county care
29 facility cannot control the resident's dangerous or disturbing
30 behavior. The department, in coordination with the state
31 mental health and ~~mental-retardation~~ developmental
32 disabilities commission created in section 225C.5, shall adopt
33 rules pursuant to chapter 17A for programs to be required in
34 intermediate care facilities for the mentally ill,
35 intermediate care facilities for the mentally retarded,

1 nursing facilities, and county care facilities that admit
2 patients or have residents with histories of dangerous or
3 disturbing behavior.

4 Sec. 22. Section 135C.25, subsection 1, Code 1993, is
5 amended to read as follows:

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

26 Sec. 23. Section 154D.2, subsection 1, paragraph b, Code
27 1993, is amended to read as follows:

28 b. Has at least two years of supervised clinical
29 experience or its equivalent as approved by the board in
30 consultation with the mental health and ~~mental retardation~~
31 developmental disabilities commission created in section
32 225C.5.

33 Sec. 24. Section 154D.2, subsection 2, paragraph b, Code
34 1993, is amended to read as follows:

35 b. Has at least two years of clinical experience,

1 supervised by a licensee, in assessing mental health needs and
2 problems and in providing appropriate mental health services
3 as approved by the board of behavioral science examiners in
4 consultation with the mental health and ~~mental-retardation~~
5 developmental disabilities commission created in section
6 225C.5.

7 Sec. 25. Section 217.6, unnumbered paragraph 2, Code 1993,
8 is amended to read as follows:

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

15 Sec. 26. Section 217.10, Code 1993, is amended to read as
16 follows:

17 217.10 ADMINISTRATOR OF DIVISION OF MENTAL HEALTH~~7~~-MENTAL
18 ~~RETARDATION~~~~7~~ AND DEVELOPMENTAL DISABILITIES.

19 The administrator of the division of mental health~~7~~-~~mental~~
20 ~~retardation~~~~7~~ and developmental disabilities shall be qualified
21 as provided in section 225C.3, subsection 3. The
22 administrator's duties are enumerated in section 225C.4.

23 Sec. 27. Section 218.3, subsection 2, Code 1993, is
24 amended to read as follows:

25 2. The administrator of the division of mental health~~7~~
26 ~~mental-retardation~~~~7~~ and developmental disabilities of the
27 department of human services has primary authority and
28 responsibility relative to the following institutions:
29 Glenwood state hospital-school, Woodward state hospital-
30 school, mental health institute, Cherokee, Iowa, mental health
31 institute, Clarinda, Iowa, mental health institute,
32 Independence, Iowa and mental health institute, Mount
33 Pleasant, Iowa.

34 Sec. 28. Section 218.4, unnumbered paragraph 2, Code 1993,
35 is amended to read as follows:

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

25 Sec. 29. Section 218.9, unnumbered paragraph 1, Code 1993,
26 is amended to read as follows:

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

33 Sec. 30. Section 218.30, Code 1993, is amended to read as
34 follows:

35 218.30 INVESTIGATION OF OTHER INSTITUTIONS.

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

12 Sec. 31. Section 218.92, Code 1993, is amended to read as
13 follows:

14 218.92 DANGEROUS MENTAL PATIENTS.

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

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

4 Sec. 32. Section 221.2, Code 1993, is amended to read as
5 follows:

6 221.2 ADMINISTRATOR.

7 Pursuant to the compact, the administrator of the division
8 of mental health~~7-mental-retardation7~~ and developmental
9 disabilities of the department of human services shall be the
10 compact administrator. The compact administrator may ~~co-~~
11 ~~operate~~ cooperate with all departments, agencies and officers
12 of this state and its subdivisions in facilitating the proper
13 administration of the compact and of any supplementary
14 agreement entered into by this state under the compact.

15 Sec. 33. Section 222.2, subsection 1, Code 1993, is
16 amended to read as follows:

17 1. "Administrator" means the administrator of the division
18 of mental health~~7-mental-retardation7~~ and developmental
19 disabilities of the department of human services.

20 Sec. 34. Section 226.47, Code 1993, is amended to read as
21 follows:

22 226.47 "~~ADMINISTRATOR~~" ADMINISTRATOR DEFINED.

23 For the purpose of this chapter, "administrator" means the
24 administrator of the division of mental health~~7-mental-~~
25 ~~retardation7~~ and developmental disabilities of the department
26 of human services.

27 Sec. 35. Section 227.4, Code 1993, is amended to read as
28 follows:

29 227.4 STANDARDS FOR CARE OF MENTALLY-~~ILL-AND-MENTALLY~~
30 RETARDED PERSONS WITH MENTAL ILLNESS OR MENTAL RETARDATION IN
31 COUNTY CARE FACILITIES.

32 The administrator, in ~~co-operation~~ cooperation with the
33 state Iowa department of health, shall recommend, and the
34 mental health and ~~mental-retardation~~ developmental
35 disabilities commission created in section 225C.5 shall adopt

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

20 Sec. 36. Section 227.19, Code 1993, is amended to read as
 21 follows:

22 227.19 "~~ADMINISTRATOR~~" ADMINISTRATOR DEFINED.

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

27 Sec. 37. Section 230.34, Code 1993, is amended to read as
 28 follows:

29 230.34 "~~ADMINISTRATOR~~" ADMINISTRATOR DEFINED.

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

34 Sec. 38. Section 230A.1, Code 1993, is amended to read as
 35 follows:

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

3 A county or affiliated counties, by action of the board or
4 boards of supervisors, with approval of the administrator of
5 the division of mental health, ~~mental-retardation~~, and
6 developmental disabilities of the department of human
7 services, may establish a community mental health center under
8 this chapter to serve the county or counties. In establishing
9 the community mental health center, the board of supervisors
10 of each county involved may make a single nonrecurring
11 expenditure, in an amount determined by the board. This
12 section does not limit the authority of the board or boards of
13 supervisors of any county or group of counties to continue to
14 expend money to support operation of the center, and to form
15 agreements with the board of supervisors of any additional
16 county for that county to join in supporting and receiving
17 services from or through the center.

18 Sec. 39. Section 230A.2, Code 1993, is amended to read as
19 follows:

20 230A.2 SERVICES OFFERED.

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

27 Sec. 40. Section 230A.16, unnumbered paragraph 1, Code
28 1993, is amended to read as follows:

29 The administrator of the division of mental health, ~~mental-~~
30 ~~retardation~~, and developmental disabilities of the department
31 of human services shall recommend and the mental health and
32 ~~mental-retardation~~ developmental disabilities commission shall
33 adopt standards for community mental health centers and
34 comprehensive community mental health programs, with the
35 overall objective of ensuring that each center and each

1 affiliate providing services under contract with a center
2 furnishes high quality mental health services within a
3 framework of accountability to the community it serves. The
4 standards shall be in substantial conformity with those of the
5 psychiatric committee of the joint committee commission on
6 accreditation of ~~hospitals~~ health care organizations and other
7 recognized national standards for evaluation of psychiatric
8 facilities unless in the judgment of the administrator of the
9 division of mental health, ~~mental-retardation~~, and
10 developmental disabilities, with approval of the mental health
11 and ~~mental-retardation~~ developmental disabilities commission,
12 there are sound reasons for departing from such the standards.
13 When recommending standards under this section, the
14 administrator of the division of ~~mental-health~~, ~~mental~~
15 ~~retardation~~, ~~and~~ ~~developmental-disabilities~~ shall designate an
16 advisory committee representing boards of directors and
17 professional staff of community mental health centers to
18 assist in the formulation or revision of standards. At least
19 a simple majority of the members of the advisory committee
20 shall be lay representatives of community mental health center
21 boards of directors. At least one member of the advisory
22 committee shall be a member of a county board of supervisors.
23 The standards recommended under this section shall include
24 requirements that each community mental health center
25 established or operating as authorized by section 230A.1
26 shall:

27 Sec. 41. Section 230A.16, subsection 3, Code 1993, is
28 amended to read as follows:

29 3. Arrange for the financial condition and transactions of
30 the community mental health center to be audited once each
31 year by the auditor of state. However, in lieu of an audit by
32 state accountants, the local governing body of a community
33 mental health center organized under this chapter may contract
34 with or employ certified public accountants to conduct the
35 audit, pursuant to the applicable terms and conditions

1 prescribed by sections 11.6 and 11.19 and audit format
2 prescribed by the auditor of state. Copies of each audit
3 shall be furnished by the accountant to the administrator of
4 the division of mental health~~7-mental-retardation~~, and
5 developmental disabilities, and the board of supervisors
6 supporting the audited community mental health center.

7 Sec. 42. Section 230A.17, Code 1993, is amended to read as
8 follows:

9 230A.17 REVIEW AND EVALUATION.

10 The administrator of the division of mental health~~7-mental~~
11 ~~retardation~~, and developmental disabilities of the department
12 of human services may review and evaluate any community mental
13 health center upon the recommendation of the mental health and
14 ~~mental-retardation~~ developmental disabilities commission, and
15 shall do so upon the written request of the center's board of
16 directors, its chief medical or administrative officer, or the
17 board of supervisors of any county from which the center
18 receives public funds. The cost of the review shall be paid
19 by the division of ~~mental-health~~~~7-mental-retardation~~~~7-and~~
20 ~~developmental-disabilities~~.

21 Sec. 43. Section 230A.18, Code 1993, is amended to read as
22 follows:

23 230A.18 REPORT OF REVIEW AND EVALUATION.

24 Upon completion of a review made pursuant to section
25 230A.17, the review shall be submitted to the board of
26 directors and chief medical or administrative officer of the
27 center. If the review concludes that the center fails to meet
28 any of the standards established pursuant to section 230A.16,
29 subsection 1, and that the response of the center to this
30 finding is unsatisfactory, these conclusions shall be reported
31 to the mental health and ~~mental-retardation~~ developmental
32 disabilities commission which may forward the conclusions to
33 the board of directors of the center and request an
34 appropriate response within thirty days. If no response is
35 received within thirty days, or if the response is

1 unsatisfactory, the commission may call this fact to the
2 attention of the board of supervisors of the county or
3 counties served by the center, and in doing so shall indicate
4 what corrective steps have been recommended to the center's
5 board of directors.

6 Sec. 44. Section 231.44, subsection 2, Code 1993, is
7 amended to read as follows:

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

23 Sec. 45. Section 249A.25, subsection 3, Code 1993, is
24 amended to read as follows:

25 3. The oversight committee shall have nine members. Two
26 members shall be designated by the fiscal committee of the
27 legislative council and are subject to approval by the
28 governor. The director of human services and the
29 administrator of the division of mental health, ~~mental~~
30 ~~retardation,~~ and developmental disabilities or their designees
31 shall be members. Three members shall be designated by the
32 Iowa state association of counties. One member shall be
33 designated by the state mental health and ~~mental-retardation~~
34 developmental disabilities commission. One member shall be
35 designated by the Iowa governor's planning council on

1 developmental disabilities. Members shall serve staggered
2 three-year terms and vacancies shall be filled in the same
3 manner as the initial appointment. Members are entitled to
4 actual and necessary expenses.

5 Sec. 46. Section 249A.25, subsection 4, paragraph d, Code
6 1993, is amended to read as follows:

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

11 Sec. 47. Section 249A.25, subsection 4, paragraph f, Code
12 1993, is amended to read as follows:

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

18 Sec. 48. Section 249A.25, subsection 4, paragraph h, Code
19 1993, is amended to read as follows:

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

24 Sec. 49. Section 262.70, Code 1993, is amended to read as
25 follows:

26 262.70 EDUCATION, PREVENTION, AND RESEARCH PROGRAMS IN
27 MENTAL HEALTH AND MENTAL RETARDATION.

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

1 appropriate entity under the board's jurisdiction.

2 Sec. 50. Section 331.424, subsection 1, paragraph g, Code
3 1993, is amended to read as follows:

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

14 Sec. 51. Section 331.756, subsection 45, Code Supplement
15 1993, is amended to read as follows:

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

23 Sec. 52. REPEAL. Sections 225C.8, 225C.9, 225C.10, and
24 225C.11, Code 1993, are repealed.

25 EXPLANATION

26 The bill relates to services for persons with mental
27 illness, mental retardation or other developmental disability,
28 or brain injury.

29 Division I authorizes usage of alternative dispute
30 resolution processes in resolving conflicts concerning
31 establishment of an individual's legal settlement under
32 chapter 222, relating to the state hospital schools, and
33 chapter 230, relating to the state mental health institutes.

34 Division II includes persons with brain injury in various
35 statutory provisions relating to residential housing for

1 persons with disabilities and to zoning of such housing.
2 Division III rewrites chapter 225C which relates to persons
3 with disabilities. Various definitions and responsibilities
4 are broadened to address persons with developmental
5 disabilities other than mental retardation and persons with
6 brain injury. The name of the division of the department of
7 human services created in that chapter is changed to the
8 division of mental health and developmental disabilities. The
9 name of the mental health and mental retardation commission is
10 changed to the mental health and developmental disabilities
11 commission and the membership is revised to include
12 representation from persons with a developmental disability
13 and persons with brain injury and regional planning councils.
14 Responsibilities of the division and of the commission are
15 also broadened but fulfillment of the responsibilities is made
16 contingent upon the availability of funding.

17 Division III also revises the responsibilities of the
18 commission to encourage greater uniformity in the disability
19 service delivery system. The commission is to adopt rules to
20 identify basic services intended to be available for all
21 persons with a disability, and to identify model guidelines
22 for disability services eligibility, purchase, and
23 reimbursement methodologies.

24 In Division III, mental health and developmental
25 disabilities regional planning councils are established in the
26 Code. The planning councils were initially created in the
27 fiscal year 1992-1993 human services appropriations bill. The
28 bill provides criteria for the commission to authorize
29 counties to change their regional planning council membership.
30 The planning councils are assigned various duties to plan and
31 make recommendations for the provision of disability services
32 in their region.

33 Division III also includes repeals of the state community
34 mental health and mental retardation services fund and
35 replaces the fund with the mental health, mental retardation,

1 developmental disabilities, and brain injury community
2 services fund. The bill provides a formula for distribution
3 of the fund.

4 Division IV provides coordinating amendments for the name
5 changes of the division of mental health, mental retardation,
6 and developmental disabilities and the mental health and
7 mental retardation commission. In addition, the division
8 includes the repeal of the community mental health and mental
9 retardation fund provisions previously described in this
10 explanation.

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SENATE FILE 2311

AN ACT

RELATING TO SERVICES FOR PERSONS WITH MENTAL ILLNESS, MENTAL
RETARDATION OR OTHER DEVELOPMENTAL DISABILITY, OR BRAIN
INJURY.

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

DIVISION I

Legal Settlement -- Alternative Dispute Resolution

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

222.70 ~~DISPUTE-BETWEEN-COUNTIES~~ LEGAL SETTLEMENT DISPUTES.

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

counties which may be the county of such the person's legal
settlement, so far as known, shall be made defendants and the
allegation of settlement may be in the alternative. Said The
action shall be tried as in equity.

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

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

222.71 LEGAL SETTLEMENT -- PENDING BY COURT.

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

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

222.72 FINDING LEGAL SETTLEMENT OUTSIDE STATE.

If an alternative dispute resolution of the dispute filed
under section 222.70 stipulates or the court finds pursuant to

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

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

230.12 ACTION-TO-DETERMINE LEGAL SETTLEMENT DISPUTES.

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

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

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

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

230.13 JUDGMENT WHEN LEGAL SETTLEMENT FOUND WITHIN STATE.

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

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

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

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

DIVISION II

Housing for Persons with Disabilities

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

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

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

335.25 ZONING FOR FAMILY HOMES.

1. It is the intent of this section to assist in improving the quality of life of developmentally-disabled persons with a developmental disability or brain injury by integrating them

into the mainstream of society by making available to them community residential opportunities in the residential areas of this state. In order to implement this intent, this section shall be liberally construed.

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

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

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

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

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

(4) Attributable to a mental or nervous disorder.

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

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

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

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

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

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

414.22 ZONING FOR FAMILY HOMES.

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

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

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

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

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

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

(4) Attributable to a mental or nervous disorder.

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

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

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

3. Notwithstanding any provision of this chapter to the contrary, a city, city council, or city zoning commission shall consider a family home a residential use of property for

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

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

DIVISION III

Chapter 225C Rewrite

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

225C.1 FINDINGS AND PURPOSE.

The general assembly finds that community-based-care services to persons with mental illness, mental retardation, developmental disabilities, or brain injury are provided in many parts of the state by highly autonomous community-mental health-and-mental-retardation community-based service providers working cooperatively with state mental-health-and-mental-retardation-facilities; is meeting most mental-health and-mental-retardation-service-needs-of-those-Iowans-to-whom this-care-is-available and county officials. However, the

general assembly recognizes that heavy reliance on property tax funding for mental health and mental retardation services has restricted uniform availability of this care. Consequently, greater efforts should be made to assure close coordination and continuity of care for those persons receiving publicly supported ~~mental-health-and-mental-retardation~~ disability services in Iowa. It is the purpose of this chapter to continue and to strengthen the ~~mental-health and-mental-retardation services to persons with disabilities~~ now available in the state of Iowa, to make these services conveniently available to all persons in this state upon a reasonably uniform financial basis, and to assure the continued high quality of these services.

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

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

225C.2 DEFINITIONS.

As used in this chapter:

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

2. "Commission" means the mental health and ~~mental-retardation~~ developmental disabilities commission.

3. ~~"Comprehensive-services" means the mental-health services delineated in the annual state mental-health plan; and the mental-retardation-services delineated in the annual state mental-retardation plan.~~

4. "Department" means the department of human services.

5 4. "Director" means the director of human services.

5. "Disability services" means services or other assistance available to a person with mental illness, mental retardation or other developmental disability, or brain injury.

6. "Division" means the division of mental health, ~~mental retardation~~ and developmental disabilities of the department of human services.

7. "Person with a disability" means a person with mental illness, mental retardation or other developmental disability, or brain injury.

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

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

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

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

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

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

225C.4 ADMINISTRATOR'S DUTIES.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

t. In co-operation cooperation with the Iowa department of public health, recommend minimum standards for the maintenance and operation of public or private facilities

offering ~~disability~~ services to ~~mentally-ill-or-mentally~~ retarded persons, which are not subject to licensure by the department or the department of inspections and appeals.

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

2. The administrator may:

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

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

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

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

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

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

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

1. A mental health and mental-retardation developmental disabilities commission is established created as the state policy-making body for the provision of ~~mental-health-and~~ ~~mental-retardation~~ services, consisting to persons with mental illness, mental retardation or other developmental disabilities, or brain injury. The commission shall consist of fifteen members appointed to three-year staggered terms by the governor and subject to confirmation by the senate. Commission members shall be appointed on the basis of interest and experience in the fields of mental health, or mental retardation or other developmental disabilities, and brain injury, in a manner so that, if possible, the composition of the commission will comply with the requirements of the Community Mental Health Centers Amendments of 1975, 42 U.S.C. sec. § 2689t(a) (1976) relative to a state mental health advisory council, and so as to ensure adequate representation from ~~both-the-mental-health-and-mental-retardation-fields~~ persons with disabilities and individuals knowledgeable concerning disability services. ~~Four members of the commission shall be members of county boards of supervisors at the time of their appointment to the commission;--Two members of the commission shall be members of county mental health and mental-retardation co-ordinating boards at the time of their appointment to the commission;--One member of the commission shall either be an active board member of a community mental health center or an active member of the Iowa mental health association at the time of appointment to the commission;--One member of the commission shall be an active member of either a community mental-retardation agency or the Iowa association for retarded citizens at the time of appointment to the commission;--~~ Members of the commission shall include the

following persons who, at the time of appointment to the commission, are active members of the indicated groups:

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

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

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

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

225C.6 DUTIES OF COMMISSION.

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

a. Advise the administrator on administration of the overall state plans for comprehensive disability services.

b. Adopt necessary rules pursuant to chapter 17A which relate to mental-health-and-mental-retardation disability programs and services, including but not limited to definitions of each disability included within the term "disability services" as necessary for purposes of state and regional planning, programs, and services.

c. Adopt standards for accreditation of community mental health centers and comprehensive community mental health programs recommended under section 230A.16.

d. Adopt standards for the care of and services to mentally-ill-and-mentally-retarded persons with mental illness and mental retardation residing in county care facilities recommended under section 227.4.

e. Adopt standards for the delivery of mental-health-and-mental-retardation disability services by the division, and for the maintenance and operation of public or private facilities offering services to mentally-ill-or-mentally-retarded persons with disabilities, which are not subject to licensure by the department or the department of inspections and appeals, and review the standards employed by the department or the department of inspections and appeals for licensing facilities which provide services to the-mentally-ill-or-mentally-retarded persons with disabilities.

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

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

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

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

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

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

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

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

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

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

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

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

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

n. Establish standards for the structure of a service coordination system which ensures a linkage between the

service coordination system and individual case management services.

o. Identify model eligibility guidelines for disability services.

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

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

r. Identify basic disability services for planning purposes.

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

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

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

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

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

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

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

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

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

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

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

b. With reference to the fiscal year beginning July 1, 1980, money "raised by county levy and expended for mental health, mental retardation, and developmental disabilities services" means the county's maintenance of effort determined

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

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

225C.13 AUTHORITY OF ADMINISTRATOR TO LEASE FACILITIES.

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

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

1. Except in cases of medical emergency, a person shall be admitted to a state mental health institute as an inpatient only after a preliminary diagnostic evaluation by a community mental health center or by an alternative diagnostic facility has confirmed that the admission is appropriate to the person's mental health needs, and that no suitable alternative method of providing the needed services in a less restrictive setting or in or nearer to the person's home community is currently available. The policy established by this section shall be implemented in the manner and to the extent prescribed by sections 225C.15, 225C.16 and 225C.17. ~~However, notwithstanding the mandatory language requiring preliminary diagnostic evaluations in this section and sections 225C.15,~~

~~225C.16 and 225C.17 preliminary diagnostic evaluations shall not be required until the fiscal year for which the general assembly has appropriated moneys to the state community mental health and mental retardation services fund under section 225C.7.~~

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

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

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

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

4. A planning council shall perform the following tasks:

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

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

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

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

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

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

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

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

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

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

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

DIVISION IV

Coordinating Amendments

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

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

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

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

intermediate care facilities for the mentally retarded, nursing facilities, and county care facilities that admit patients or have residents with histories of dangerous or disturbing behavior.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

218.30 INVESTIGATION OF OTHER INSTITUTIONS.

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

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

218.92 DANGEROUS MENTAL PATIENTS.

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

subsection 4. The Iowa medical and classification center has the same rights, duties, and responsibilities with respect to the patient as the institution from which the patient was transferred had while the patient was hospitalized there. The cost of the transfer shall be paid from the funds of the institution from which the transfer is made.

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

221.2 ADMINISTRATOR.

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

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

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

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

226.47 "ADMINISTRATOR" ADMINISTRATOR DEFINED.

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

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

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

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

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

227.19 "ADMINISTRATOR" ADMINISTRATOR DEFINED.

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

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

230.34 "ADMINISTRATOR" ADMINISTRATOR DEFINED.

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

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

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

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

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

230A.2 SERVICES OFFERED.

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

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

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

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

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

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

230A.17 REVIEW AND EVALUATION.

The administrator of the division of mental health, ~~mental retardation~~, and developmental disabilities of the department of human services may review and evaluate any community mental health center upon the recommendation of the mental health and ~~mental-retardation developmental disabilities~~ commission, and shall do so upon the written request of the center's board of directors, its chief medical or administrative officer, or the board of supervisors of any county from which the center receives public funds. The cost of the review shall be paid by the division of ~~mental-health, mental-retardation, and developmental disabilities~~.

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

230A.18 REPORT OF REVIEW AND EVALUATION.

Upon completion of a review made pursuant to section 230A.17, the review shall be submitted to the board of directors and chief medical or administrative officer of the center. If the review concludes that the center fails to meet any of the standards established pursuant to section 230A.16,

subsection 1, and that the response of the center to this finding is unsatisfactory, these conclusions shall be reported to the mental health and ~~mental-retardation~~ developmental disabilities commission which may forward the conclusions to the board of directors of the center and request an appropriate response within thirty days. If no response is received within thirty days, or if the response is unsatisfactory, the commission may call this fact to the attention of the board of supervisors of the county or counties served by the center, and in doing so shall indicate what corrective steps have been recommended to the center's board of directors.

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

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

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

3. The oversight committee shall have nine members. Two members shall be designated by the fiscal committee of the legislative council and are subject to approval by the governor. The director of human services and the

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

DIVISION V

Amendment of Administrative Rules -- Service Facility
Regulatory Requirements

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

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

Sec. 57. BRAIN INJURY SERVICES WAIVER. The department of human services shall not propose or implement a medical assistance home and community-based waiver for services to persons with brain injury in a manner which would require provision of county funding relating to the services or matching of the federal funding. However, the department may

propose or implement such a waiver in a manner which would permit the optional financial participation of counties.

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 2311, Seventy-fifth General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved May 11, 1994

TERRY E. BRANSTAD
Governor