

**CHAPTER 1164****COUNTY JAIL SPACE AND SPACE FOR DISTRICT COURT***H.F. 2195*

**AN ACT** providing that certain counties need not maintain a county jail or space for the district court.

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

Section 1. Section 331.381, subsection 17, Code 1991, is amended to read as follows:

17. a. Furnish a place for the confinement of prisoners as required in section 903.4, and in accordance with chapter 356 or 356A.

b. Notwithstanding paragraph "a", after consulting with and obtaining the approval of the chief judge of the judicial district, the board of a county with a population of less than fifteen thousand according to the 1990 census may enter into an agreement with a contiguous county to share costs and to provide space for the county's prisoners and space for the district court.

Sec. 2. Section 602.1303, Code 1991, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** If a county board of supervisors, with the approval of the supreme court, elects not to maintain space for the district court, the county may enter into an agreement with a contiguous county in the same judicial district to share the costs under subsections 1 through 8. For the purposes of this subsection, two counties are contiguous if they share a common boundary, including a corner.

Sec. 3. Section 602.6103, Code 1991, is amended to read as follows:

**602.6103 COURT IN CONTINUOUS SESSION.**

The district court of each judicial district shall be in continuous session in for all of the several counties comprising the district.

Sec. 4. Section 602.6105, subsection 1, Code 1991, is amended to read as follows:

1. Courts shall be held at the places in each county maintaining space for the district court as designated by the chief judge of the judicial district, except that the determination of actions, special proceedings, and other matters not requiring a jury may be done at some other place in the district with the consent of the parties. For the purposes of this subsection, contiguous counties which have entered into an agreement to share costs pursuant to section 331.381, subsection 17, paragraph "b", shall be considered as one unit for the purpose of conducting all matters except as otherwise provided in this subsection.

Approved April 28, 1992

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**CHAPTER 1165****PROCEDURES FOR INVOLUNTARY HOSPITALIZATION***H.F. 2308*

**AN ACT** relating to procedures for the involuntary hospitalization of chronic substance abusers and persons who are seriously mentally impaired.

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

Section 1. Section 125.81, subsection 3, Code Supplement 1991, is amended to read as follows:

3. In a the nearest facility in the community which is suitably equipped and staffed for the purpose licensed to care for persons with mental illness or substance abuse, provided that detention in a jail or other facility intended for confinement of those accused or convicted of a crime

shall not be ordered, except in cases of actual emergency if no other secure resource is accessible, and then only for a period of not more than twenty-four hours and under close supervision.

Sec. 2. Section 229.11, subsection 3, Code 1991, is amended to read as follows:

3. In a ~~public or private~~ the nearest facility in the community which is suitably equipped and staffed for the purpose licensed to care for persons with mental illness or substance abuse, provided that detention in a jail or other facility intended for confinement of those accused or convicted of crime may not be ordered except in cases of actual emergency when no other secure facility is accessible and then only for a period of not more than twenty-four hours and under close supervision.

Sec. 3. Section 229.13, Code Supplement 1991, is amended to read as follows:

229.13 HOSPITALIZATION FOR EVALUATION ORDER — UNAUTHORIZED DEPARTURE.

If upon completion of the hearing the court finds that the contention that the respondent is seriously mentally impaired has been sustained by clear and convincing evidence, it shall order the respondent placed in a hospital or ~~other suitable~~ a facility licensed to care for persons with mental illness or substance abuse or under the care of a facility that is licensed to care for persons with mental illness or substance abuse on an outpatient basis as expeditiously as possible for a complete psychiatric evaluation and appropriate treatment. If the respondent is ordered at the hearing to undergo outpatient treatment, the outpatient treatment provider must be notified and agree to provide the treatment prior to placement of the respondent under the treatment provider's care. The court shall furnish to the hospital or facility at the time the respondent arrives ~~there at the hospital or facility~~ a written finding of fact setting forth the evidence on which the finding is based. If the respondent is ordered to undergo outpatient treatment, the order shall also require the respondent to cooperate with the treatment provider and comply with the course of treatment. The chief medical officer of the hospital or facility shall report to the court no more than fifteen days after the individual is admitted to or placed under the care of the hospital or facility, making a recommendation for disposition of the matter. An extension of time may be granted for not to exceed seven days upon a showing of cause. A copy of the report shall be sent to the respondent's attorney, who may contest the need for an extension of time if one is requested. Extension of time shall be granted upon request unless the request is contested, in which case the court shall make such inquiry as it deems appropriate and may either order the respondent's release from the hospital or facility or grant extension of time for psychiatric evaluation. If the chief medical officer fails to report to the court within fifteen days after the individual is admitted to or placed under the care of the hospital or facility, and no extension of time has been requested, the chief medical officer is guilty of contempt and shall be punished under chapter 665. The court shall order a rehearing on the application to determine whether the respondent should continue to be held at or placed under the care of the facility.

If, after placement and admission of a respondent in or under the care of a hospital or other suitable facility, the respondent departs from the hospital or facility or fails to appear for treatment as ordered without prior proper authorization from the chief medical officer, upon receipt of notification of the respondent's departure or failure to appear by the chief medical officer, a peace officer of the state shall without further order of the court exercise all due diligence to take the respondent into protective custody and return the respondent to the hospital or facility.

Sec. 4. Section 229.14, subsection 3, Code Supplement 1991, is amended to read as follows:

3. That the respondent is seriously mentally impaired and in need of treatment, but does not require full-time hospitalization. If the report so states it shall include the chief medical officer's recommendation for treatment of the respondent on an outpatient or other appropriate basis, and the court shall enter an order which may direct the respondent to submit to the recommended treatment. The order shall provide that if the respondent fails or refuses

to submit to treatment as directed by the court's order, the court may order that the respondent be taken into immediate custody as provided by section 229.11 and, following notice and hearing held in accordance with the procedures of section 229.12, may order the respondent treated as a patient requiring full-time custody, care and treatment in a hospital until such time as the chief medical officer reports that the respondent does not require further treatment for serious mental impairment or has indicated the respondent is willing to submit to treatment on another basis as ordered by the court. If a patient is transferred for treatment to another provider under this subsection, the treatment provider who will be providing the outpatient or other appropriate treatment shall be provided with relevant court orders by the former treatment provider.

Sec. 5. Section 229.15, subsection 4, Code 1991, is amended to read as follows:

4. When in the opinion of the chief medical officer the best interest of a patient would be served by a convalescent or limited leave or by transfer to a different hospital for continued full-time custody, care and treatment, the chief medical officer may authorize the leave or arrange and complete the transfer but shall promptly report the leave or transfer to the court. The patient's attorney or advocate may request a hearing on a transfer. Nothing in this section shall be construed to add to or restrict the authority otherwise provided by law for transfer of patients or residents among various state institutions administered by the department of human services. If a patient is transferred under this subsection, the treatment provider to whom the patient is transferred shall be provided with copies of relevant court orders by the former treatment provider.

Sec. 6. Section 229.21, subsection 2, Code Supplement 1991, is amended to read as follows:

2. When an application for involuntary hospitalization under this chapter or an application for involuntary commitment or treatment of chronic substance abusers under sections 125.75 to 125.94 is filed with the clerk of the district court in any county for which a judicial hospitalization referee has been appointed, and no district judge, district associate judge, or magistrate who is admitted to the practice of law in this state is accessible, the clerk shall immediately notify the referee in the manner required by section 229.7 or section 125.77. The referee shall discharge all of the duties imposed upon the court by sections 229.7 to 229.22 or sections 125.75 to 125.94 in the proceeding so initiated. Subject to the provisions of subsection 4, orders issued by a referee, in discharge of duties imposed under this section, shall have the same force and effect as if ordered by a district judge. However, any commitment to a facility regulated and operated under chapter 135C, shall be in accordance with section 135C.23.

Sec. 7. NEW SECTION. 229.44 VENUE.

1. Venue for hospitalization proceedings shall be in the county where the respondent is found, unless the matter is transferred pursuant to supreme court rule 16 for the involuntary hospitalization of the mentally ill, in which case venue shall be in the county where the matter is transferred for hearing.

2. After an order is entered pursuant to section 229.34, the court may transfer proceedings to the court of any county having venue at any further stage in the proceeding as follows:

a. When it appears that the best interests of the respondent or the convenience of the parties will be served by a transfer, the court may transfer the case to the court of the county of the respondent's residence.

b. When it appears that the best interests of the respondent or the convenience of the parties will be served by a transfer, the court may transfer the case to the court of the county where the respondent is found.

3. If a proceeding is transferred, the court shall contact the court in the county which is to be the recipient of the transfer before entering the order to transfer the case. The court shall then transfer the case by ordering a transfer of the matter to the recipient county, by ordering a continuance of the matter in the transferring county, and by forwarding to the clerk of the receiving court a certified copy of all papers filed, together with the order of transfer. The

referee of the receiving court may accept the filings of the transferring court or may direct the filing of a new application and may hear the case anew.

Approved April 28, 1992

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## CHAPTER 1166

### ELECTRIC UTILITIES — REQUIRED PURCHASE OF POWER

*H.F. 2330*

**AN ACT** relating to the required purchase by electric utilities of megawatts of power.

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

Section 1. Section 476.44, subsection 2, Code 1991, is amended by striking the subsection and inserting in lieu thereof the following:

2. An electric utility subject to this division, except a utility which elects rate regulation pursuant to section 476.1A, shall not be required to purchase, at any one time, more than its share of one hundred five megawatts of power from alternative energy production facilities or small hydro facilities at the rates established pursuant to section 476.43. The board shall allocate the one hundred five megawatts based upon each utility's percentage of the total Iowa retail peak demand, for the year beginning January 1, 1990, of all utilities subject to this section. If a utility undergoes reorganization as defined in section 476.76, the board shall combine the allocated purchases of power for each utility involved in the reorganization.

Notwithstanding the one hundred five megawatt maximum, the board may increase the amount of power that a utility is required to purchase at the rates established pursuant to section 476.43 if the board finds that a utility, including a reorganized utility, exceeds its 1990 Iowa retail peak demand by twenty percent and the additional power the utility is required to purchase will encourage the development of alternate energy production facilities and small hydro facilities. The increase shall not exceed the utility's increase in peak demand multiplied by the ratio of the utility's share of the one hundred five megawatt maximum to its 1990 Iowa retail peak demand.

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