

NEW SUBSECTION. 2A. Fashioning appropriate remedial relief for violations of this chapter, including but not limited to the reinstatement of employees with or without back pay and benefits.

Sec. 3. Section 20.17, subsection 1, Code Supplement 1989, is amended to read as follows:

1. The employee organization certified as the bargaining representative shall be the exclusive representative of all public employees in the bargaining unit and shall represent all public employees fairly. However, any public employee may meet and adjust individual complaints with a public employer. To sustain a claim that a certified employee organization has committed a prohibited practice by breaching its duty of fair representation, a public employee must establish by a preponderance of the evidence action or inaction by the organization which was arbitrary, discriminatory, or in bad faith.

Approved March 23, 1990

CHAPTER 1038

SMALL CLAIMS COURT JURISDICTION OVER EXECUTIONS AND GARNISHMENTS

H.F. 2471

AN ACT relating to the jurisdiction of small claims court over executions of personal property, including garnishments, and providing for the Act's applicability.

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

Section 1. Section 631.1, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The district court sitting in small claims has concurrent jurisdiction of motions and orders relating to executions against personal property, including garnishments, where the value of the property or garnished money involved is two thousand dollars or less.

Sec. 2.

This Act is applicable to all actions filed on or after the effective date of the Act.

Approved March 23, 1990

CHAPTER 1039

HEALTH CARE FACILITIES

H.F. 2489

AN ACT relating to health care facilities, providing a penalty, and providing an effective date.

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

Section 1. Section 135B.33, subsection 5, Code 1989, is amended to read as follows:

5. An analysis of community health needs, ~~specifically including long-term care needs, including intermediate care facility and skilled nursing facility care, pediatric and maternity services, and the health facilities' potential role in facilitating the provision of services to meet these needs.~~

Sec. 2. Section 135C.1, subsections 2 and 3, Code 1989, are amended by striking the subsections.

Sec. 3. Section 135C.1, subsection 4, Code 1989, is amended to read as follows:

4. "Health care facility" or "facility" means any a residential care facility, intermediate care facility, or skilled a nursing facility, an intermediate care facility for the mentally ill, or an intermediate care facility for the mentally retarded.

Sec. 4. Section 135C.1, subsection 18, Code 1989, is amended by striking the subsection and inserting in lieu thereof the following:

18. "Intermediate care facility for the mentally ill" means an institution, place, building, or agency designed to provide accommodation, board, and nursing care for a period exceeding twenty-four consecutive hours to three or more individuals, who primarily have mental illness and who are not related to the administrator or owner within the third degree of consanguinity.

Sec. 5. Section 135C.1, Code 1989, is amended by adding the following new subsections:

NEW SUBSECTION. 20. "Nursing facility" means an institution or a distinct part of an institution housing three or more individuals not related to the administrator or owner within the third degree of consanguinity, which is primarily engaged in providing health-related care and services, including rehabilitative services, but which is not engaged primarily in providing treatment or care for mental illness or mental retardation, for a period exceeding twenty-four consecutive hours for individuals who, because of a mental or physical condition, require nursing care and other services in addition to room and board.

NEW SUBSECTION. 21. "Intermediate care facility for the mentally retarded" means an institution or distinct part of an institution with a primary purpose to provide health or rehabilitative services to three or more individuals, who primarily have mental retardation or a related condition and who are not related to the administrator or owner within the third degree of consanguinity, and which meets the requirements of this chapter and federal standards for intermediate care facilities for the mentally retarded established pursuant to the federal Social Security Act, § 1905(c)(d), as codified in 42 U.S.C. § 1936d which are contained in 42 C.F.R. pt. 483, subpt. D, § 410-480.

Sec. 6. Section 135C.2, subsection 3, unnumbered paragraph 1, Code Supplement 1989, is amended to read as follows:

The department shall establish by administrative rule, within the intermediate care facility category, a special classification for facilities intended to serve mentally retarded individuals, and within the residential care facility category, a special classification for residential facilities intended to serve mentally ill individuals. The department may also establish by administrative rule other classifications within that category, or special classifications within the residential care facility, intermediate care facility for the mentally ill, intermediate care facility for the mentally retarded, or skilled nursing facility categories, for facilities intended to serve individuals who have special health care problems or conditions in common. Rules establishing a special classification shall define the problem or condition to which the special classification is relevant and establish requirements for an approved program of care commensurate with the problem or condition, and may grant special variances or considerations to facilities licensed within the special classification so established.

Sec. 7. Section 135C.3, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

135C.3 NATURE OF CARE.

1. A licensed nursing facility shall provide an organized twenty-four-hour program of services commensurate with the needs of its residents and under the immediate direction of a licensed nurse. Medical and nursing services must be provided under the direction of either a house physician or an individually selected physician. Surgery or obstetrical care shall not be provided within the facility. An admission to the nursing facility must be based on a physician's written order certifying that the individual being admitted requires no greater degree

of nursing care than the facility to which the admission is made is licensed to provide and is capable of providing.

2. A licensed intermediate care facility for the mentally ill shall provide an organized twenty-four-hour program of services commensurate with the needs of its residents and under the immediate direction of a licensed registered nurse, who has had at least two years of recent experience in a chronic or acute psychiatric setting. Medical and nursing service must be provided under the direction of either a house physician or an individually selected physician. Surgery or obstetrical care shall not be provided within the facility. An admission to the intermediate care facility for the mentally ill must be based on a physician's written order certifying that the individual being admitted requires no greater degree of nursing care than the facility to which the admission is made is licensed to provide and is capable of providing.

Sec. 8. Section 135C.19, subsection 3, Code 1989, is amended to read as follows:

3. If the facility cited subsequently advises the department of human services that the violation has been corrected to the satisfaction of the department of ~~health~~ inspections and appeals, the department of human services must maintain this advisory in the same file with the copy of the citation. The department of human services shall not disseminate to the public any information regarding citations issued by the department of ~~health~~ inspections and appeals, but shall forward or refer such inquiries to the department of ~~health~~ inspections and appeals.

Sec. 9. Section 135C.23, subsection 2, unnumbered paragraph 2, Code 1989, 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, skilled nursing facility, or county care facility when the intermediate care facility for the mentally ill, intermediate care facility for the mentally retarded, skilled 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, skilled 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, skilled 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 commission, 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, skilled nursing facilities, and county care facilities that admit patients or have residents with histories of dangerous or disturbing behavior.

Sec. 10. Section 135C.39, unnumbered paragraph 2, Code Supplement 1989, is amended by striking the paragraph.

Sec. 11. NEW SECTION. 135C.45A NOTIFICATION PENALTY.

A person who notifies, or causes to be notified, a health care facility, of the time and date on which a survey or on-site inspection of the facility is scheduled, is subject to an administrative penalty of not less than one thousand dollars and not more than two thousand dollars.

Sec. 12. Section 135E.1, subsection 3, Code 1989, is amended to read as follows:

3. "Nursing home" means an institution or facility, or part thereof of an institution or facility, whether proprietary or nonprofit, licensed as an intermediate care facility or a skilled nursing facility, but not including an intermediate care facility for the mentally retarded or an intermediate care facility for the mentally ill, defined as such for licensing purposes under state law or pursuant to the rules for nursing homes promulgated by the state board of health, in consultation with the department of inspections and appeals, whether proprietary or nonprofit administrative rule adopted pursuant to section 135C.2, including but not limited to, a nursing homes home owned or administered by the federal or state government or an agency or political subdivision of government.

Sec. 13. Section 225C.37, unnumbered paragraph 1, Code 1989, is amended to read as follows:

A parent or legal guardian of a family member who is a resident of or being considered for placement in a state hospital-school, a ~~community-based~~ an intermediate care facility which is intended to serve for the mentally retarded individuals ~~or persons with developmental disabilities~~, a child foster care group home, a child foster care family home, or a state mental health institute may apply to the local office of the department for the family support subsidy program. The application shall include:

Sec. 14. Section 237.1, subsection 3, paragraph e, Code 1989, is amended to read as follows:

e. Care furnished in a hospital licensed under chapter 135B or care furnished in ~~an intermediate care facility or a skilled nursing facility~~ licensed under chapter 135C.

Sec. 15. Section 249A.2, subsection 5, Code Supplement 1989, is amended to read as follows:

5. "Discretionary medical assistance" means medical assistance or additional medical assistance provided to individuals whose income and resources are in excess of eligibility limitations but are insufficient to meet all of the costs of necessary medical care and services, provided that if the assistance includes services in institutions for mental diseases or intermediate care ~~facility services~~ facilities for the mentally retarded, or both, for any group of such individuals, the assistance also includes for all covered groups of such individuals at least the care and services enumerated in Title XIX of the federal Social Security Act, section 1905(a), paragraphs (1) through (5), and (17), as codified in 42 U.S.C. ~~see. § 1396d(a), pars. (1) through (5), and (17), or any seven of the care and services enumerated in Title XIX of the federal Social Security Act, section 1905(a), paragraphs (1) through (7) and (9) through (18), as codified in 42 U.S.C. see. § 1396d(a), pars. (1) through (7), and (9) through (18).~~

Sec. 16. Section 422.45, subsection 22, paragraph a, Code Supplement 1989, is amended to read as follows:

a. Residential care facilities and intermediate care facilities for the mentally retarded and residential care facilities for the mentally ill licensed by the department of ~~health~~ inspections and appeals under chapter 135C.

Sec. 17. Section 514D.5, subsection 5, Code 1989, is amended to read as follows:

5. The commissioner shall adopt rules prohibiting the advertising of forms titled as "nursing home" forms or inferring coverage for custodial care in ~~an intermediate care a nursing facility~~ as defined in section 135C.1 unless such forms provide coverage for custodial care in ~~an intermediate care a~~ nursing facility as defined in section 135C.1.

Sec. 18. Section 514E.4, subsection 5, Code 1989, is amended to read as follows:

5. Services of a ~~skilled nursing facility~~ as defined in section 135C.1, ~~subsection 3, or services in an intermediate care facility~~ as defined in section 135C.1, ~~subsection 2, to the same extent as the services would be paid in a skilled nursing facility, for not more than one hundred eighty days in a calendar year.~~

Sec. 19. 1989 Iowa Acts, chapter 241, section 7, is repealed.

Sec. 20. EFFECTIVE DATE.

This Act takes effect October 1, 1990.

Approved March 23, 1990