

## CHAPTER 229

## HOSPITALIZATION OF PERSONS WITH MENTAL ILLNESS

Referred to in §125.75B, 228.6, 229A.1, 230.6, 230.7, 232.49, 232.51, 232.52, 235B.2, 235B.3, 235E.1, 235E.2, 237.15, 331.381, 331.394, 602.6306, 602.6405, 602.8102(41), 902.10

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**229.1 Definitions.**

As used in this chapter, unless the context clearly requires otherwise:

1. "Administrator" means the administrator of the department of human services assigned, in accordance with section 218.1, to control the state mental health institutes, or that administrator's designee.
2. "Auditor" means the county auditor or the auditor's designee.
3. "Central point of coordination process" means the same as defined in section 331.440.
4. "Chemotherapy" means treatment of an individual by use of a drug or substance which cannot legally be delivered or administered to the ultimate user without a physician's prescription or medical order.
5. "Chief medical officer" means the medical director in charge of a public or private hospital, or that individual's physician-designee. This chapter does not negate the authority

otherwise reposed by law in the respective superintendents of each of the state hospitals for persons with mental illness, established by chapter 226, to make decisions regarding the appropriateness of admissions or discharges of patients of that hospital, however it is the intent of this chapter that if the superintendent is not a licensed physician the decisions by the superintendent shall be corroborated by the chief medical officer of the hospital.

6. “*Clerk*” means the clerk of the district court.

7. “*Hospital*” means either a public hospital or a private hospital.

8. “*Licensed physician*” means an individual licensed under the provisions of chapter 148 to practice medicine and surgery or osteopathic medicine and surgery.

9. “*Mental health professional*” means the same as defined in section 228.1.

10. “*Mental illness*” means every type of mental disease or mental disorder, except that it does not refer to an intellectual disability as defined in section 4.1, or to insanity, diminished responsibility, or mental incompetency as the terms are defined and used in the Iowa criminal code or in the rules of criminal procedure, Iowa court rules.

11. “*Patient*” means a person who has been hospitalized or ordered hospitalized to receive treatment pursuant to section 229.14.

12. “*Private hospital*” means any hospital or institution not directly supported by public funds, or a part thereof, which is equipped and staffed to provide inpatient care to persons with mental illness.

13. “*Psychiatric advanced registered nurse practitioner*” means an individual currently licensed as a registered nurse under chapter 152 or 152E who holds a national certification in psychiatric mental health care and who is registered with the board of nursing as an advanced registered nurse practitioner.

14. “*Public hospital*” means:

a. A state mental health institute established by chapter 226; or

b. The state psychiatric hospital established by chapter 225; or

c. Any other publicly supported hospital or institution, or part of such hospital or institution, which is equipped and staffed to provide inpatient care to persons with mental illness, except the Iowa medical and classification center established by chapter 904.

15. “*Respondent*” means any person against whom an application has been filed under section 229.6, but who has not been finally ordered committed for full-time custody, care, and treatment in a hospital.

16. “*Serious emotional injury*” is an injury which does not necessarily exhibit any physical characteristics, but which can be recognized and diagnosed by a licensed physician or other mental health professional and which can be causally connected with the act or omission of a person who is, or is alleged to be, mentally ill.

17. “*Seriously mentally impaired*” or “*serious mental impairment*” describes the condition of a person with mental illness and because of that illness lacks sufficient judgment to make responsible decisions with respect to the person’s hospitalization or treatment, and who because of that illness meets any of the following criteria:

a. Is likely to physically injure the person’s self or others if allowed to remain at liberty without treatment.

b. Is likely to inflict serious emotional injury on members of the person’s family or others who lack reasonable opportunity to avoid contact with the person with mental illness if the person with mental illness is allowed to remain at liberty without treatment.

c. Is unable to satisfy the person’s needs for nourishment, clothing, essential medical care, or shelter so that it is likely that the person will suffer physical injury, physical debilitation, or death.

[R60, §1468; C73, §1434; C97, §2298; C24, 27, 31, 35, 39, §3580; C46, 50, 54, 58, 62, 66, §229.40; C71, 73, 75, §229.40, 229.44; C77, §229.1, 229.44; C79, 81, §229.1; 82 Acts, ch 1100, §7]

83 Acts, ch 96, §157, 159; 84 Acts, ch 1323, §2; 85 Acts, ch 21, §35; 87 Acts, ch 90, §1; 89 Acts, ch 275, §1; 95 Acts, ch 24, §1; 96 Acts, ch 1035, §12; 96 Acts, ch 1129, §57, 113; 96 Acts, ch 1183, §18; 97 Acts, ch 169, §15; 2000 Acts, ch 1112, §37; 2002 Acts, ch 1119, §107; 2004

Acts, ch 1090, §33; 2008 Acts, ch 1082, §4; 2008 Acts, ch 1088, §112; 2011 Acts, ch 121, §52, §62; 2012 Acts, ch 1019, §80; 2012 Acts, ch 1079, §6 – 8

[T] 2011 amendment to subsection 13 takes effect July 1, 2012; 2011 Acts, ch 121, §62

[T] NEW subsection 9 and former subsection 9 amended and renumbered as 10

[T] Former subsections 10 and 11 renumbered as 11 and 12

[T] Former subsection 12 amended and renumbered as 13

[T] Subsection 14 stricken and former subsection 13 renumbered as 14

[T] Subsection 16 amended

### **229.1A Legislative intent.**

As mental illness is often a continuing condition which is subject to wide and unpredictable changes in condition and fluctuations in reoccurrence and remission, this chapter shall be liberally construed to give recognition to these medical facts.

89 Acts, ch 275, §2

### **229.1B Central point of coordination process.**

Notwithstanding any provision of this chapter to the contrary, any person whose hospitalization expenses are payable in whole or in part by a county shall be subject to all requirements of the central point of coordination process.

96 Acts, ch 1183, §19; 2004 Acts, ch 1090, §33

### **229.2 Application for voluntary admission — authority to receive voluntary patients.**

1. *a.* An application for admission to a public or private hospital for observation, diagnosis, care, and treatment as a voluntary patient may be made by any person who is mentally ill or has symptoms of mental illness.

*b.* In the case of a minor, the parent, guardian, or custodian may make application for admission of the minor as a voluntary patient.

(1) Upon receipt of an application for voluntary admission of a minor, the chief medical officer shall provide separate prescreening interviews and consultations with the parent, guardian or custodian and the minor to assess the family environment and the appropriateness of the application for admission.

(2) During the interview and consultation the chief medical officer shall inform the minor orally and in writing that the minor has a right to object to the admission. If the chief medical officer of the hospital to which application is made determines that the admission is appropriate but the minor objects to the admission, the parent, guardian or custodian must petition the juvenile court for approval of the admission before the minor is actually admitted.

(3) As soon as is practicable after the filing of a petition for juvenile court approval of the admission of the minor, the juvenile court shall determine whether the minor has an attorney to represent the minor in the hospitalization proceeding, and if not, the court shall assign to the minor an attorney. If the minor is financially unable to pay for an attorney, the attorney shall be compensated by the county at an hourly rate to be established by the county board of supervisors in substantially the same manner as provided in section 815.7.

(4) The juvenile court shall determine whether the admission is in the best interest of the minor and is consistent with the minor's rights.

(5) The juvenile court shall order hospitalization of a minor, over the minor's objections, only after a hearing in which it is shown by clear and convincing evidence that:

(a) The minor needs and will substantially benefit from treatment.

(b) No other setting which involves less restriction of the minor's liberties is feasible for the purposes of treatment.

(6) Upon approval of the admission of a minor over the minor's objections, the juvenile court shall appoint an individual to act as an advocate representing the interests of the minor in the same manner as an advocate representing the interests of patients involuntarily hospitalized pursuant to section 229.19.

2. Upon receiving an application for admission as a voluntary patient, made pursuant to subsection 1:

*a.* The chief medical officer of a public hospital shall receive and may admit the person whose admission is sought, subject in cases other than medical emergencies to availability of suitable accommodations and to the provisions of sections 229.41 and 229.42.

b. The chief medical officer of a private hospital may receive and may admit the person whose admission is sought.

[R60, §1480; C73, §1399; C97, §2264; C24, 27, 31, 35, 39, §3544; C46, §229.1; C50, 54, 58, 62, 66, 71, 73, 75, §229.1, 229.41; C77, 79, 81, §229.2]

87 Acts, ch 90, §2; 99 Acts, ch 135, §17; 2009 Acts, ch 41, §263

Referred to in §222.55, 229.4, 229.6A, 229.41

#### **229.2A Dual filings.**

An application for involuntary hospitalization of a respondent under this chapter may be filed contemporaneously with an application for involuntary commitment or treatment of the respondent under chapter 125.

98 Acts, ch 1181, §22

Referred to in §222.55

#### **229.3 Discharge of voluntary patients.**

Any voluntary patient who has recovered, or whose hospitalization the chief medical officer of the hospital determines is no longer advisable, shall be discharged. Any voluntary patient may be discharged if to do so would in the judgment of the chief medical officer contribute to the most effective use of the hospital in the care and treatment of that patient and of other persons with mental illness.

[C77, 79, 81, §229.3]

96 Acts, ch 1129, §113

Referred to in §222.55, 226.19

#### **229.4 Right to release on application.**

A voluntary patient who requests release or whose release is requested, in writing, by the patient's legal guardian, parent, spouse or adult next of kin shall be released from the hospital forthwith, except that:

1. If the patient was admitted on the patient's own application and the request for release is made by some other person, release may be conditioned upon the agreement of the patient.

2. If the patient is a minor who was admitted on the application of the patient's parent, guardian or custodian pursuant to section 229.2, subsection 1, the patient's release prior to becoming eighteen years of age may be conditioned upon the consent of the parent, guardian or custodian, or upon the approval of the juvenile court if the admission was approved by the juvenile court; and

3. If the chief medical officer of the hospital, not later than the end of the next secular day on which the office of the clerk of the district court for the county in which the hospital is located is open and which follows the submission of the written request for release of the patient, files with that clerk a certification that in the chief medical officer's opinion the patient is seriously mentally impaired, the release may be postponed for the period of time the court determines is necessary to permit commencement of judicial procedure for involuntary hospitalization. That period of time may not exceed five days, exclusive of days on which the clerk's office is not open unless the period of time is extended by order of a district court judge for good cause shown. Until disposition of the application for involuntary hospitalization of the patient, if one is timely filed, the chief medical officer may detain the patient in the hospital and may provide treatment which is necessary to preserve the patient's life, or to appropriately control behavior by the patient which is likely to result in physical injury to the patient or to others if allowed to continue, but may not otherwise provide treatment to the patient without the patient's consent.

[C50, 54, 58, 62, 66, 71, 73, 75, §229.41; C77, 79, 81, §229.4]

Referred to in §222.55, 229.23

#### **229.5 Departure without notice.**

If a voluntary patient departs from the hospital without notice, and in the opinion of the chief medical officer the patient is seriously mentally impaired, the chief medical officer may file an application for involuntary hospitalization of the departed voluntary patient, and

request that an order for immediate custody be entered by the court pursuant to section 229.11.

[C77, 79, 81, §229.5]

Referred to in §222.55

**229.5A Preapplication screening assessment — program.**

Prior to filing an application for involuntary hospitalization pursuant to section 229.6, the clerk of the district court or the clerk's designee shall inform the interested person referred to in section 229.6, subsection 1, about the option of requesting a preapplication screening assessment through a preapplication screening assessment program. The state court administrator shall prescribe practices and procedures for implementation of the preapplication screening assessment program.

2012 Acts, ch 1079, §9

Referred to in §222.55, 229.6, 602.1209

[T] NEW section

**229.6 Application for order of involuntary hospitalization.**

1. Proceedings for the involuntary hospitalization of an individual may be commenced by any interested person by filing a verified application with the clerk of the district court of the county where the respondent is presently located, or which is the respondent's place of residence. The clerk, or the clerk's designee, shall assist the applicant in completing the application. The application shall:

a. State the applicant's belief that the respondent is seriously mentally impaired.

b. State any other pertinent facts.

c. Be accompanied by any of the following:

(1) A written statement of a licensed physician in support of the application.

(2) One or more supporting affidavits otherwise corroborating the application.

(3) Corroborative information obtained and reduced to writing by the clerk or the clerk's designee, but only when circumstances make it infeasible to comply with, or when the clerk considers it appropriate to supplement the information supplied pursuant to, either subparagraph (1) or (2).

2. Prior to the filing of an application pursuant to this section, the clerk or the clerk's designee shall inform the interested person referred to in subsection 1 about the option of requesting a preapplication screening assessment pursuant to section 229.5A.

[R60, §1480; C73, §1399; C97, §2264; C24, 27, 31, 35, 39, §3544; C46, 50, 54, 58, 62, 66, 71, 73, 75, §229.1; C77, 79, 81, §229.6]

2012 Acts, ch 1079, §10

Referred to in §218.92, 222.7, 222.55, 225.11, 226.31, 227.10, 227.15, 229.1, 229.5A, 229.6A, 229.19, 229.22, 229.24, 229.26, 229.27, 229.38

[P] Summary of involuntary commitment procedures available from clerk; see §229.45

[T] Section amended

**229.6A Hospitalization of minors — jurisdiction — due process.**

1. Notwithstanding section 229.11, the juvenile court has exclusive original jurisdiction in proceedings concerning a minor for whom an application for involuntary admission is filed under section 229.6 or for whom an application for voluntary admission is made under section 229.2, subsection 1, to which the minor objects. In proceedings under this chapter concerning a minor, notwithstanding section 229.11, the term "court", "judge", or "clerk" means the juvenile court, judge, or clerk.

2. The procedural requirements of this chapter are applicable to minors involved in hospitalization proceedings pursuant to subsection 1 and placement proceedings pursuant to section 229.14A.

3. It is the intent of this chapter that when a minor is involuntarily or voluntarily hospitalized or hospitalized with juvenile court approval over the minor's objection the minor's family shall be included in counseling sessions offered during the minor's stay in a hospital when feasible. Prior to the discharge of the minor the juvenile court may, after

a hearing, order that the minor's family be evaluated and therapy ordered if necessary to facilitate the return of the minor to the family setting.

87 Acts, ch 90, §3; 92 Acts, ch 1124, §2; 2001 Acts, ch 155, §29

Referred to in §218.92, 222.7, 222.55, 226.31, 227.10, 227.15, 229.19, 229.22, 229.24, 229.26, 229.38, 602.6405

### **229.7 Service of notice upon respondent.**

Upon the filing of an application for involuntary hospitalization, the clerk shall docket the case and immediately notify a district court judge, district associate judge, or magistrate who is admitted to the practice of law in this state, who shall review the application and accompanying documentation. If the application is adequate as to form, the court may set a time and place for a hearing on the application, if feasible, but the hearing shall not be held less than forty-eight hours after notice to the respondent unless the respondent waives such minimum prior notice requirement. The court shall direct the clerk to send copies of the application and supporting documentation, together with a notice informing the respondent of the procedures required by this chapter, to the sheriff or the sheriff's deputy for immediate service upon the respondent. If the respondent is taken into custody under section 229.11, service of the application, documentation and notice upon the respondent shall be made at the time the respondent is taken into custody.

[R60, §1480; C73, §1400; C97, §2265; C24, 27, 31, 35, 39, § 3545; C46, 50, 54, 58, 62, 66, 71, 73, 75, §229.2; C77, 79, 81, §229.7]

91 Acts, ch 108, §4

Referred to in §218.92, 222.7, 222.55, 226.31, 227.10, 227.15, 229.19, 229.21, 229.22, 229.24, 229.26, 229.38, 229.45, 331.653

### **229.8 Procedure after application is filed.**

As soon as practicable after the filing of an application for involuntary hospitalization, the court shall:

1. Determine whether the respondent has an attorney who is able and willing to represent the respondent in the hospitalization proceeding, and if not, whether the respondent is financially able to employ an attorney and capable of meaningfully assisting in selecting one. In accordance with those determinations, the court shall if necessary allow the respondent to select, or shall assign to the respondent, an attorney. If the respondent is financially unable to pay an attorney, the attorney shall be compensated by the county at an hourly rate to be established by the county board of supervisors in substantially the same manner as provided in section 815.7.

2. Cause copies of the application and supporting documentation to be sent to the county attorney or the county attorney's attorney-designate for review.

3. Issue a written order which shall:

a. If not previously done, set a time and place for a hospitalization hearing, which shall be at the earliest practicable time not less than forty-eight hours after notice to the respondent, unless the respondent waives such minimum prior notice requirement; and

b. Order an examination of the respondent, prior to the hearing, by one or more licensed physicians who shall submit a written report on the examination to the court as required by section 229.10.

[C73, §1400; C97, §2265; C24, 27, 31, 35, 39, §3548, 3549; C46, 50, 54, 58, 62, 66, 71, 73, 75, §229.5, 229.6; C77, 79, 81, §229.8]

99 Acts, ch 135, §18

Referred to in §218.92, 222.7, 222.55, 225C.16, 226.31, 227.10, 227.15, 229.9, 229.9A, 229.14A, 229.19, 229.21, 229.22, 229.24, 229.26, 229.38

### **229.9 Respondent's attorney informed.**

The court shall direct the clerk to furnish at once to the respondent's attorney copies of the application for involuntary hospitalization of the respondent and the supporting documentation, and of the court's order issued pursuant to section 229.8, subsection 3. If the respondent is taken into custody under section 229.11, the attorney shall also be advised of that fact. The respondent's attorney shall represent the respondent at all stages of the proceedings, and shall attend the hospitalization hearing.

[C77, 79, 81, §229.9]

Referred to in §218.92, 222.7, 222.55, 226.31, 227.10, 227.15, 229.19, 229.21, 229.22, 229.24, 229.26, 229.38

**229.9A Advocate informed.**

The court shall direct the clerk to furnish the advocate of the respondent's county of legal settlement with a copy of application and any order issued pursuant to section 229.8, subsection 3. The advocate may attend the hospitalization hearing of any respondent for whom the advocate has received notice of a hospitalization hearing.

94 Acts, ch 1027, §1

Referred to in §218.92, 222.7, 222.55, 226.31, 227.10, 227.15, 229.19, 229.21, 229.22, 229.24, 229.26, 229.38  
[SP] For future amendment to this section, effective July 1, 2013, see 2012 Acts, ch 1120, §99, 130

**229.10 Physicians' examination — report.**

1. a. An examination of the respondent shall be conducted by one or more licensed physicians, as required by the court's order, within a reasonable time. If the respondent is detained pursuant to section 229.11, subsection 1, paragraph "b", the examination shall be conducted within twenty-four hours. If the respondent is detained pursuant to section 229.11, subsection 1, paragraph "a" or "c", the examination shall be conducted within forty-eight hours. If the respondent so desires, the respondent shall be entitled to a separate examination by a licensed physician of the respondent's own choice. The reasonable cost of the examinations shall, if the respondent lacks sufficient funds to pay the cost, be paid from county funds upon order of the court.

b. Any licensed physician conducting an examination pursuant to this section may consult with or request the participation in the examination of any mental health professional, and may include with or attach to the written report of the examination any findings or observations by any mental health professional who has been so consulted or has so participated in the examination.

c. If the respondent is not taken into custody under section 229.11, but the court is subsequently informed that the respondent has declined to be examined by the licensed physician or physicians pursuant to the court order, the court may order such limited detention of the respondent as is necessary to facilitate the examination of the respondent by the licensed physician or physicians.

2. A written report of the examination by the court-designated physician or physicians shall be filed with the clerk prior to the time set for hearing. A written report of any examination by a physician chosen by the respondent may be similarly filed. The clerk shall immediately:

a. Cause the report or reports to be shown to the judge who issued the order; and

b. Cause the respondent's attorney to receive a copy of the report of the court-designated physician or physicians.

3. If the report of the court-designated physician or physicians is to the effect that the individual is not seriously mentally impaired, the court may without taking further action terminate the proceeding and dismiss the application on its own motion and without notice.

4. If the report of the court-designated physician or physicians is to the effect that the respondent is seriously mentally impaired, the court shall schedule a hearing on the application as soon as possible. The hearing shall be held not more than forty-eight hours after the report is filed, excluding Saturdays, Sundays and holidays, unless an extension for good cause is requested by the respondent, or as soon thereafter as possible if the court considers that sufficient grounds exist for delaying the hearing.

[C77, 79, 81, §229.10]

2006 Acts, ch 1116, §2; 2009 Acts, ch 41, §224; 2012 Acts, ch 1079, §11

Referred to in §218.92, 222.7, 222.55, 225.30, 226.31, 227.10, 227.15, 229.8, 229.14, 229.19, 229.21, 229.22, 229.24, 229.26, 229.38  
[T] Subsection 1, paragraph b amended

**229.11 Judge may order immediate custody.**

1. If the applicant requests that the respondent be taken into immediate custody and the judge, upon reviewing the application and accompanying documentation, finds probable cause to believe that the respondent has a serious mental impairment and is likely to injure the respondent or other persons if allowed to remain at liberty, the judge may enter a written order directing that the respondent be taken into immediate custody by the sheriff or the sheriff's deputy and be detained until the hospitalization hearing. The hospitalization

hearing shall be held no more than five days after the date of the order, except that if the fifth day after the date of the order is a Saturday, Sunday, or a holiday, the hearing may be held on the next succeeding business day. If the expenses of a respondent are payable in whole or in part by a county, for a placement in accordance with paragraph “a”, the judge shall give notice of the placement to the central point of coordination process, and for a placement in accordance with paragraph “b” or “c”, the judge shall order the placement in a hospital or facility designated through the central point of coordination process. The judge may order the respondent detained for the period of time until the hearing is held, and no longer, in accordance with paragraph “a”, if possible, and if not then in accordance with paragraph “b”, or, only if neither of these alternatives is available, in accordance with paragraph “c”. Detention may be:

a. In the custody of a relative, friend or other suitable person who is willing to accept responsibility for supervision of the respondent, and the respondent may be placed under such reasonable restrictions as the judge may order including but not limited to restrictions on or a prohibition of any expenditure, encumbrance or disposition of the respondent’s funds or property; or

b. In a suitable hospital the chief medical officer of which shall be informed of the reasons why immediate custody has been ordered and may provide treatment which is necessary to preserve the respondent’s life, or to appropriately control behavior by the respondent which is likely to result in physical injury to the respondent or to others if allowed to continue, but may not otherwise provide treatment to the respondent without the respondent’s consent; or

c. In the nearest facility in the community which is 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 shall not be ordered.

2. The clerk shall furnish copies of any orders to the respondent and to the applicant if the applicant files a written waiver signed by the respondent.

[C77, 79, 81, §229.11]

89 Acts, ch 275, §3; 92 Acts, ch 1072, §3; 92 Acts, ch 1165, §2; 96 Acts, ch 1183, §20; 2004 Acts, ch 1090, §33; 2009 Acts, ch 41, §225

Referred to in §218.92, 222.7, 222.55, 226.31, 227.10, 227.15, 229.5, 229.6A, 229.7, 229.9, 229.10, 229.12, 229.14, 229.17, 229.18, 229.19, 229.21, 229.22, 229.23, 229.24, 229.26, 229.38, 229.45, 331.653

### **229.12 Hearing procedure.**

1. At the hospitalization hearing, evidence in support of the contentions made in the application shall be presented by the county attorney. During the hearing the applicant and the respondent shall be afforded an opportunity to testify and to present and cross-examine witnesses, and the court may receive the testimony of any other interested person. The respondent has the right to be present at the hearing. If the respondent exercises that right and has been medicated within twelve hours, or such longer period of time as the court may designate, prior to the beginning of the hearing or an adjourned session thereof, the judge shall be informed of that fact and of the probable effects of the medication upon convening of the hearing.

2. All persons not necessary for the conduct of the proceeding shall be excluded, except that the court may admit persons having a legitimate interest in the proceeding and shall permit the advocate from the respondent’s county of legal settlement to attend the hearing. Upon motion of the county attorney, the judge may exclude the respondent from the hearing during the testimony of any particular witness if the judge determines that witness’s testimony is likely to cause the respondent severe emotional trauma.

3. a. The respondent’s welfare shall be paramount and the hearing shall be conducted in as informal a manner as may be consistent with orderly procedure, but consistent therewith the issue shall be tried as a civil matter. Such discovery as is permitted under the Iowa rules of civil procedure shall be available to the respondent. The court shall receive all relevant and material evidence which may be offered and need not be bound by the rules of evidence. There shall be a presumption in favor of the respondent, and the burden of evidence in support of the contentions made in the application shall be upon the applicant.

b. The licensed physician or mental health professional who examined the respondent



shall be present at the hearing unless the court for good cause finds that the licensed physician's or mental health professional's presence or testimony is not necessary. The applicant, respondent, and the respondent's attorney may waive the presence or the telephonic appearance of the licensed physician or mental health professional who examined the respondent and agree to submit as evidence the written report of the licensed physician or mental health professional. The respondent's attorney shall inform the court if the respondent's attorney reasonably believes that the respondent, due to diminished capacity, cannot make an adequately considered waiver decision. "Good cause" for finding that the testimony of the licensed physician or mental health professional who examined the respondent is not necessary may include but is not limited to such a waiver. If the court determines that the testimony of the licensed physician or mental health professional is necessary, the court may allow the licensed physician or the mental health professional to testify by telephone.

c. If upon completion of the hearing the court finds that the contention that the respondent is seriously mentally impaired has not been sustained by clear and convincing evidence, it shall deny the application and terminate the proceeding.

4. If the respondent is not taken into custody under section 229.11, but the court subsequently finds good cause to believe that the respondent is about to depart from the jurisdiction of the court, the court may order such limited detention of the respondent as is authorized by section 229.11 and is necessary to insure that the respondent will not depart from the jurisdiction of the court without the court's approval until the proceeding relative to the respondent has been concluded.

5. The clerk shall furnish copies of any orders to the respondent and to the applicant if the applicant files a written waiver signed by the respondent.

[R60, §1480; C73, §1400; C97, §2265; C24, 27, 31, 35, 39, §3547; C46, 50, 54, 58, 62, 66, 71, 73, 75, §229.4; C77, 79, 81, §229.12]

89 Acts, ch 275, §4; 94 Acts, ch 1027, §2; 2006 Acts, ch 1116, §3; 2006 Acts, ch 1159, §31; 2009 Acts, ch 41, §226; 2012 Acts, ch 1079, §12

Referred to in §218.92, 222.7, 222.55, 225.11, 226.31, 227.10, 227.15, 229.14, 229.19, 229.21, 229.22, 229.24, 229.26, 229.38, 331.756(46), 602.8103

[SP] For future amendment to subsection 2, effective July 1, 2013, see 2012 Acts, ch 1120, §100, 130

[T] Subsection 3, paragraph b amended

### **229.13 Evaluation order — treatment — unauthorized departure or failure to appear.**

1. If upon completion of the hospitalization hearing the court finds by clear and convincing evidence that the respondent has a serious mental impairment, the court shall order the respondent committed as expeditiously as possible for a complete psychiatric evaluation and appropriate treatment as follows:

a. The court shall order a respondent whose expenses are payable in whole or in part by a county placed under the care of an appropriate hospital or facility designated through the central point of coordination process on an inpatient or outpatient basis.

b. The court shall order any other respondent placed under the care of an appropriate hospital or facility licensed to care for persons with mental illness or substance abuse on an inpatient or outpatient basis.

2. The court shall provide notice to the respondent and the respondent's attorney of the placement order under subsection 1. The court shall advise the respondent and the respondent's attorney that the respondent has a right to request a placement hearing held in accordance with the requirements of section 229.14A.

3. If the respondent is ordered at a 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.

4. The court shall furnish to the chief medical officer of the hospital or facility at the time the respondent arrives at the hospital or facility for inpatient or outpatient treatment 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.

5. The chief medical officer of the hospital or facility at which the respondent is placed

shall report to the court no more than fifteen days after the respondent is placed, making a recommendation for disposition of the matter. An extension of time may be granted, 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. An 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 an extension of time for psychiatric evaluation. If the chief medical officer fails to report to the court within fifteen days after the individual is placed under the care of the hospital or facility, and an extension of time has not 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 detained at or placed under the care of the facility.

6. If, after placement of a respondent in or under the care of a hospital or other suitable facility for inpatient treatment, 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.

[R60, §1479; C73, §1401; C97, §2266; C24, 27, 31, 35, 39, §3552, 3553; C46, 50, 54, 58, 62, 66, 71, 73, 75, §229.9, 229.10; C77, 79, 81, §229.13]

90 Acts, ch 1020, §3; 91 Acts, ch 108, §5; 92 Acts, ch 1165, §3; 96 Acts, ch 1183, §21; 2001 Acts, ch 155, §30; 2004 Acts, ch 1090, §33

Referred to in §218.92, 222.7, 222.55, 225.11, 225.15, 225.17, 226.9, 226.31, 227.10, 227.15, 229.14, 229.14A, 229.14B, 229.17, 229.18, 229.19, 229.21, 229.22, 229.23, 229.24, 229.26, 229.27, 229.38, 229.44, 229.45, 230.5

#### **229.14 Chief medical officer's report.**

1. The chief medical officer's report to the court on the psychiatric evaluation of the respondent shall be made not later than the expiration of the time specified in section 229.13. At least two copies of the report shall be filed with the clerk, who shall dispose of them in the manner prescribed by section 229.10, subsection 2. The report shall state one of the four following alternative findings:

a. That the respondent does not, as of the date of the report, require further treatment for serious mental impairment. If the report so states, the court shall order the respondent's immediate release from involuntary hospitalization and terminate the proceedings.

b. That the respondent is seriously mentally impaired and in need of full-time custody, care and inpatient treatment in a hospital, and is considered likely to benefit from treatment. The report shall include the chief medical officer's recommendation for further treatment.

c. 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.

d. The respondent is seriously mentally impaired and in need of full-time custody and care, but is unlikely to benefit from further inpatient treatment in a hospital. The report shall include the chief medical officer's recommendation for an appropriate alternative placement for the respondent.

2. Following receipt of the chief medical officer's report under subsection 1, paragraph "b", "c", or "d", the court shall issue an order for appropriate treatment as follows:

a. For a respondent whose expenses are payable in whole or in part by a county, placement as designated through the central point of coordination process in the care of an appropriate hospital or facility on an inpatient or outpatient basis, or other appropriate treatment, or in an appropriate alternative placement.

b. For any other respondent, placement in the care of an appropriate hospital or facility on an inpatient or outpatient basis, or other appropriate treatment, or an appropriate alternative placement.

c. For a respondent who is an inmate in the custody of the department of corrections, the court may order the respondent to receive mental health services in a correctional program.

d. If the court orders treatment of the respondent on an outpatient or other appropriate basis as described in the chief medical officer's report pursuant to subsection 1, paragraph "c", the order shall provide that, should the respondent fail or refuse to submit to treatment in accordance with 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 on an inpatient basis 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 paragraph, the treatment provider who will be providing the outpatient or other appropriate treatment shall be provided with copies of relevant court orders by the former treatment provider.

[C77, 79, 81, §229.14; 82 Acts, ch 1228, §1]

90 Acts, ch 1020, §4; 91 Acts, ch 219, §2; 92 Acts, ch 1165, §4; 2001 Acts, ch 155, §31; 2002 Acts, ch 1119, §32; 2004 Acts, ch 1090, §33

Referred to in §218.92, 222.7, 222.55, 225.15, 225.17, 225.27, 226.26, 226.31, 226.33, 227.15, 229.1, 229.14A, 229.14B, 229.15, 229.16, 229.17, 229.19, 229.21, 229.23, 229.26, 229.27, 229.28, 229.38, 229.44

#### **229.14A Placement order — notice and hearing.**

1. With respect to a chief medical officer's report made pursuant to section 229.14, subsection 1, paragraph "b", "c", or "d", or any other provision of this chapter related to involuntary commitment for which the court issues a placement order or a transfer of placement is authorized, the court shall provide notice to the respondent and the respondent's attorney or mental health advocate pursuant to section 229.19 concerning the placement order and the respondent's right to request a placement hearing to determine if the order for placement or transfer of placement is appropriate.

2. The notice shall provide that a request for a placement hearing must be in writing and filed with the clerk within seven days of issuance of the placement order.

3. A request for a placement hearing may be signed by the respondent, the respondent's next friend, guardian, or attorney.

4. The court, on its own motion, may order a placement hearing to be held.

5. a. A placement hearing shall be held no sooner than four days and no later than seven days after the request for the placement hearing is filed unless otherwise agreed to by the parties.

b. The respondent may be transferred to the placement designated by the court's placement order and receive treatment unless a request for hearing is filed prior to the transfer. If the request for a placement hearing is filed prior to the transfer, the court shall determine where the respondent shall be detained and treated until the date of the hearing.

c. If the respondent's attorney has withdrawn pursuant to section 229.19, the court shall appoint an attorney for the respondent in the manner described in section 229.8, subsection 1.

6. Time periods shall be calculated for the purposes of this section excluding weekends and official holidays.

7. If a respondent's expenses are payable in whole or in part by a county through the central point of coordination process, notice of a placement hearing shall be provided to the county attorney and the county's central point of coordination process administrator. At the hearing, the county may present evidence regarding appropriate placement.

8. In a placement hearing, the court shall determine a placement for the respondent in accordance with the requirements of section 229.23, taking into consideration the evidence presented by all the parties.

9. A placement made pursuant to an order entered under section 229.13 or 229.14 or this section shall be considered to be authorized through the central point of coordination process.

2001 Acts, ch 155, §33, 40; 2004 Acts, ch 1090, §33

Referred to in §218.92, 222.7, 222.55, 225.15, 225.17, 226.31, 227.11, 227.15, 229.6A, 229.13, 229.15, 229.17, 229.21, 229.26, 229.38

**229.14B Escape from custody.**

A person who is placed in a hospital or other suitable facility for evaluation under section 229.13 or who is required to remain hospitalized for treatment under section 229.14 shall remain at that hospital or facility unless discharged or otherwise permitted to leave by the court or the chief medical officer of the hospital or facility. If a person placed at a hospital or facility or required to remain at a hospital or facility leaves the facility without permission or without having been discharged, the chief medical officer may notify the sheriff of the person's absence and the sheriff shall take the person into custody and return the person promptly to the hospital or facility.

92 Acts, ch 1072, §4

C93, §229.14A

2001 Acts, ch 155, §32, 40

CS2001, §229.14B

Referred to in §218.92, 222.7, 222.55, 225.15, 225.17, 226.31, 227.15, 229.17, 229.21, 229.26, 229.38

**229.15 Periodic reports required.**

1. Not more than thirty days after entry of an order for continued hospitalization of a patient under section 229.14, subsection 1, paragraph "b", and thereafter at successive intervals of not more than sixty days continuing so long as involuntary hospitalization of the patient continues, the chief medical officer of the hospital shall report to the court which entered the order. The report shall be submitted in the manner required by section 229.14, shall state whether the patient's condition has improved, remains unchanged, or has deteriorated, and shall indicate if possible the further length of time the patient will be required to remain at the hospital. The chief medical officer may at any time report to the court a finding as stated in section 229.14, subsection 1, and the court shall act upon the finding as required by section 229.14, subsection 2.

2. Not more than sixty days after the entry of a court order for treatment of a patient pursuant to a report issued under section 229.14, subsection 1, paragraph "c", and thereafter at successive intervals as ordered by the court but not to exceed ninety days so long as that court order remains in effect, the medical director of the facility or the psychiatrist or psychiatric advanced registered nurse practitioner treating the patient shall report to the court which entered the order. The report shall state whether the patient's condition has improved, remains unchanged, or has deteriorated, and shall indicate if possible the further length of time the patient will require treatment by the facility. If at any time the patient without good cause fails or refuses to submit to treatment as ordered by the court, the medical director shall at once so notify the court, which shall order the patient hospitalized as provided by section 229.14, subsection 2, paragraph "d", unless the court finds that the failure or refusal was with good cause and that the patient is willing to receive treatment as provided in the court's order, or in a revised order if the court sees fit to enter one. If at any time the medical director reports to the court that in the director's opinion the patient requires full-time custody, care, and treatment in a hospital, and the patient is willing to be admitted voluntarily to the hospital for these purposes, the court may enter an order approving hospitalization for appropriate treatment upon consultation with the chief medical officer of the hospital in which the patient is to be hospitalized. If the patient is unwilling to be admitted voluntarily to the hospital, the procedure for determining involuntary hospitalization, as set out in section 229.14, subsection 2, paragraph "d", shall be followed.

3. a. A psychiatric advanced registered nurse practitioner treating a patient previously hospitalized under this chapter may complete periodic reports pursuant to this section on the patient if the patient has been recommended for treatment on an outpatient or other appropriate basis pursuant to section 229.14, subsection 1, paragraph "c".

b. An advanced registered nurse practitioner who is not certified as a psychiatric advanced registered nurse practitioner but who meets the qualifications set forth in the definition of a mental health professional in section 228.1 on July 1, 2008, may complete periodic reports pursuant to paragraph "a".

4. When a patient has been placed in an alternative facility other than a hospital pursuant to a report issued under section 229.14, subsection 1, paragraph "d", a report on the patient's

condition and prognosis shall be made to the court which placed the patient, at least once every six months, unless the court authorizes annual reports. If an evaluation of the patient is performed pursuant to section 227.2, subsection 4, a copy of the evaluation report shall be submitted to the court within fifteen days of the evaluation's completion. The court may in its discretion waive the requirement of an additional report between the annual evaluations. If the administrator exercises the authority to remove residents from a county care facility or other county or private institution under section 227.6, the administrator shall promptly notify each court which placed in that facility any resident so removed.

5. a. When in the opinion of the chief medical officer the best interest of a patient would be served by a convalescent or limited leave, the chief medical officer may authorize the leave and, if authorized, shall promptly report the leave to the court. When in the opinion of the chief medical officer the best interest of a patient would be served by a transfer to a different hospital for continued full-time custody, care, and treatment, the chief medical officer shall promptly send a report to the court. The court shall act upon the report in accordance with section 229.14A.

b. This subsection shall not 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.

6. Upon receipt of any report required or authorized by this section the court shall furnish a copy to the patient's attorney, or alternatively to the advocate appointed as required by section 229.19. The court shall examine the report and take the action thereon which it deems appropriate. Should the court fail to receive any report required by this section or section 229.14 at the time the report is due, the court shall investigate the reason for the failure to report and take whatever action may be necessary in the matter.

[C77, 79, 81, §229.15; 81 Acts, ch 78, §20, 37; 82 Acts, ch 1228, §2]

83 Acts, ch 96, §157, 159; 92 Acts, ch 1165, §5; 2000 Acts, ch 1112, §38; 2001 Acts, ch 155, §34, 35; 2008 Acts, ch 1082, §5, 6; 2009 Acts, ch 133, §85; 2011 Acts, ch 121, §53, 62

Referred to in §218.92, 222.7, 222.55, 225.15, 225.17, 226.23, 226.31, 227.10, 227.11, 227.15, 229.17, 229.19, 229.21, 229.26, 229.29, 229.38, 229.43

[T] 2011 amendment to subsection 3, paragraph a, takes effect July 1, 2012; 2011 Acts, ch 121, §62

[T] Subsection 3, paragraph a amended

### **229.16 Discharge and termination of proceeding.**

When the condition of a patient who is hospitalized pursuant to a report issued under section 229.14, subsection 1, paragraph "b", or is receiving treatment pursuant to a report issued under section 229.14, subsection 1, paragraph "c", or is in full-time care and custody pursuant to a report issued under section 229.14, subsection 1, paragraph "d", is such that in the opinion of the chief medical officer the patient no longer requires treatment or care for serious mental impairment, the chief medical officer shall tentatively discharge the patient and immediately report that fact to the court which ordered the patient's hospitalization or care and custody. Upon receiving the report, the court shall issue an order confirming the patient's discharge from the hospital or from care and custody, as the case may be, and shall terminate the proceedings pursuant to which the order was issued. Copies of the order shall be sent by regular mail to the hospital, the patient, and the applicant if the applicant has filed a written waiver signed by the patient.

[C77, 79, 81, §229.16]

89 Acts, ch 275, §5; 99 Acts, ch 144, §2; 2001 Acts, ch 155, §36

Referred to in §225.15, 225.17, 225.27, 226.18, 226.19, 229.17, 229.21, 229.26

### **229.17 Status of respondent during appeal.**

If a respondent appeals to the supreme court from a finding that the contention the respondent is seriously mentally impaired has been sustained, and the respondent was previously ordered taken into immediate custody under section 229.11 or has been hospitalized for psychiatric evaluation and appropriate treatment under section 229.13 before the court is informed of intent to appeal its finding, the respondent shall remain

in custody as previously ordered by the court, the time limit stated in section 229.11 notwithstanding, or shall remain in the hospital subject to compliance by the hospital with sections 229.13 to 229.16, as the case may be, unless the supreme court orders otherwise. If a respondent appeals to the supreme court regarding a placement order, the respondent shall remain in placement unless the supreme court orders otherwise.

[C77, 79, 81, §229.17]

2001 Acts, ch 155, §37

Referred to in §229.21, 229.26

#### **229.18 Status of respondent if hospitalization is delayed.**

When the court directs that a respondent who was previously ordered taken into immediate custody under section 229.11 be placed in a hospital for psychiatric evaluation and appropriate treatment under section 229.13, and no suitable hospital can immediately admit the respondent, the respondent shall remain in custody as previously ordered by the court, the time limit stated in section 229.11 notwithstanding, until a suitable hospital can admit the respondent. The court shall take appropriate steps to expedite the admission of the respondent to a suitable hospital at the earliest feasible time.

[R60, §1436; C73, §1403; C97, §2271; S13, §2271; C24, 27, 31, 35, 39, §3564; C46, 50, 54, 58, 62, 66, 71, 73, 75, §229.24; C77, 79, 81, §229.18]

Referred to in §229.21, 229.26

#### **229.19 Advocates — duties — compensation — state and county liability.**

1. a. In each county with a population of three hundred thousand or more inhabitants the board of supervisors shall appoint an individual who has demonstrated by prior activities an informed concern for the welfare and rehabilitation of persons with mental illness, and who is not an officer or employee of the department of human services nor of any agency or facility providing care or treatment to persons with mental illness, to act as an advocate representing the interests of patients involuntarily hospitalized by the court, in any matter relating to the patients' hospitalization or treatment under section 229.14 or 229.15. In each county with a population of under three hundred thousand inhabitants, the chief judge of the judicial district encompassing the county shall appoint the advocate.

b. The court or, if the advocate is appointed by the county board of supervisors, the board shall assign the advocate appointed from a patient's county of legal settlement to represent the interests of the patient. If a patient has no county of legal settlement, the court or, if the advocate is appointed by the county board of supervisors, the board shall assign the advocate appointed from the county where the hospital or facility is located to represent the interests of the patient.

c. The advocate's responsibility with respect to any patient shall begin at whatever time the attorney employed or appointed to represent that patient as respondent in hospitalization proceedings, conducted under sections 229.6 to 229.13, reports to the court that the attorney's services are no longer required and requests the court's approval to withdraw as counsel for that patient. However, if the patient is found to be seriously mentally impaired at the hospitalization hearing, the attorney representing the patient shall automatically be relieved of responsibility in the case and an advocate shall be assigned to the patient at the conclusion of the hearing unless the attorney indicates an intent to continue the attorney's services and the court so directs. If the court directs the attorney to remain on the case, the attorney shall assume all the duties of an advocate. The clerk shall furnish the advocate with a copy of the court's order approving the withdrawal and shall inform the patient of the name of the patient's advocate.

d. With regard to each patient whose interests the advocate is required to represent pursuant to this section, the advocate's duties shall include all of the following:

- (1) To review each report submitted pursuant to sections 229.14 and 229.15.
- (2) If the advocate is not an attorney, to advise the court at any time it appears that the services of an attorney are required to properly safeguard the patient's interests.
- (3) To be readily accessible to communications from the patient and to originate communications with the patient within five days of the patient's commitment.

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

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

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

(7) To utilize the related best practices for the duties identified in this paragraph "d" developed and promulgated by the judicial council.

e. An advocate may also be appointed pursuant to this section for an individual who has been diagnosed with a co-occurring mental illness and substance-related disorder.

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

3. The court or, if the advocate is appointed by the county board of supervisors, the board shall prescribe reasonable compensation for the services of the advocate. The compensation shall be based upon the reports filed by the advocate with the court. The advocate's compensation shall be paid by the county in which the court is located, either on order of the court or, if the advocate is appointed by the county board of supervisors, on the direction of the board. If the advocate is appointed by the court, the advocate is an employee of the state for purposes of chapter 669. If the advocate is appointed by the county board of supervisors, the advocate is an employee of the county for purposes of chapter 670. If the patient or the person who is legally liable for the patient's support is not indigent, the board shall recover the costs of compensating the advocate from that person. If that person has an income level as determined pursuant to section 815.9 greater than one hundred percent but not more than one hundred fifty percent of the poverty guidelines, at least one hundred dollars of the advocate's compensation shall be recovered in the manner prescribed by the county board of supervisors. If that person has an income level as determined pursuant to section 815.9 greater than one hundred fifty percent of the poverty guidelines, at least two hundred dollars of the advocate's compensation shall be recovered in substantially the same manner prescribed by the county board of supervisors as provided in section 815.9.

[C77, 79, 81, §229.19]

83 Acts, ch 96, §157, 159; 83 Acts, ch 123, §85, 209; 85 Acts, ch 62, §1; 87 Acts, ch 57, §1; 93 Acts, ch 83, §1; 94 Acts, ch 1173, §10; 96 Acts, ch 1129, §113; 99 Acts, ch 135, §19; 2006 Acts, ch 1030, §22; 2007 Acts, ch 22, §53, 54; 2007 Acts, ch 86, §3; 2012 Acts, ch 1079, §13, 14

Referred to in §225C.4, 226.31, 229.2, 229.14A, 229.15, 229.21, 229.26

[SP] For future amendment to subsection 1, paragraph b, effective July 1, 2013, see 2012 Acts, ch 1120, §101, 130

[T] Subsection 1, paragraph d, NEW subparagraph (7)

[T] Subsection 1, NEW paragraph e

**229.20** Repealed by 84 Acts, ch 1323, § 7.

**229.21 Judicial hospitalization referee — appeals to district court.**

1. The chief judge of each judicial district may appoint at least one judicial hospitalization referee for each county within the district. The judicial hospitalization referee shall be an attorney, licensed to practice law in this state, who shall be chosen with consideration to any training, experience, interest, or combination of those factors, which are pertinent to the duties of the office. The referee shall hold office at the pleasure of the chief judge of the judicial district and receive compensation at a rate fixed by the supreme court. If the referee expects to be absent for any significant length of time, the referee shall inform the chief judge who may appoint a temporary substitute judicial hospitalization referee having the qualifications set forth in this subsection.

2. When an application for involuntary hospitalization under this chapter or an

application for involuntary commitment or treatment of persons with substance-related disorders 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.

3. a. Any respondent with respect to whom the magistrate or judicial hospitalization referee has found the contention that the respondent is seriously mentally impaired or a person with a substance-related disorder sustained by clear and convincing evidence presented at a hearing held under section 229.12 or section 125.82, may appeal from the magistrate's or referee's finding to a judge of the district court by giving the clerk notice in writing, within ten days after the magistrate's or referee's finding is made, that an appeal is taken. The appeal may be signed by the respondent or by the respondent's next friend, guardian, or attorney.

b. An order of a magistrate or judicial hospitalization referee with a finding that the respondent is seriously mentally impaired or a person with a substance-related disorder shall include the following notice, located conspicuously on the face of the order:

NOTE: The respondent may appeal from this order to a judge of the district court by giving written notice of the appeal to the clerk of the district court within ten days after the date of this order. The appeal may be signed by the respondent or by the respondent's next friend, guardian, or attorney. For a more complete description of the respondent's appeal rights, consult section 229.21 of the Code of Iowa or an attorney.

c. When appealed, the matter shall stand for trial de novo. Upon appeal, the court shall schedule a hospitalization or commitment hearing before a district judge at the earliest practicable time.

d. Any respondent with respect to whom the magistrate or judicial hospitalization referee has held a placement hearing and has entered a placement order may appeal the order to a judge of the district court. The request for appeal must be given to the clerk in writing within ten days of the entry of the magistrate's or referee's order. The request for appeal shall be signed by the respondent, or the respondent's next friend, guardian, or attorney.

4. If the appellant is in custody under the jurisdiction of the district court at the time of service of the notice of appeal, the appellant shall be discharged from custody unless an order that the appellant be taken into immediate custody has previously been issued under section 229.11 or section 125.81, in which case the appellant shall be detained as provided in that section until the hospitalization or commitment hearing before the district judge. If the appellant is in the custody of a hospital or facility at the time of service of the notice of appeal, the appellant shall be discharged from custody pending disposition of the appeal unless the chief medical officer, not later than the end of the next secular day on which the office of the clerk is open and which follows service of the notice of appeal, files with the clerk a certification that in the chief medical officer's opinion the appellant is seriously mentally ill or a person with a substance-related disorder. In that case, the appellant shall remain in custody of the hospital or facility until the hospitalization or commitment hearing before the district court.

5. The hospitalization or commitment hearing before the district judge shall be held, and the judge's finding shall be made and an appropriate order entered, as prescribed by sections 229.12 and 229.13 or sections 125.82 and 125.83. If the judge orders the appellant hospitalized



or committed for a complete psychiatric or substance abuse evaluation, jurisdiction of the matter shall revert to the judicial hospitalization referee.

[C97, §2267, 2268; C24, 27, 31, 35, 39, §3560, 3561; C46, 50, 54, 58, 62, 66, 71, 73, 75, §229.17, 229.18; C77, 79, 81, §229.21; 82 Acts, ch 1212, §27]

85 Acts, ch 195, §25; 87 Acts, ch 190, §2; 90 Acts, ch 1085, §20; 91 Acts, ch 108, §6; 92 Acts, ch 1165, §6; 98 Acts, ch 1181, §23; 99 Acts, ch 144, §3, 4; 2001 Acts, ch 155, §38; 2011 Acts, ch 121, §54 – 56, 62

Referred to in §97B.1A, 125.90, 222.16A

[T] 2011 amendments to this section take effect July 1, 2012; 2011 Acts, ch 121, §62

[T] Subsection 2 amended

[T] Subsection 3, paragraphs a and b amended

[T] Subsection 4 amended

### **229.22 Hospitalization — emergency procedure.**

1. The procedure prescribed by this section shall be used when it appears that a person should be immediately detained due to serious mental impairment, but an application has not been filed naming the person as the respondent pursuant to section 229.6, and the person cannot be ordered into immediate custody and detained pursuant to section 229.11.

2. *a.* In the circumstances described in subsection 1, any peace officer who has reasonable grounds to believe that a person is mentally ill, and because of that illness is likely to physically injure the person's self or others if not immediately detained, may without a warrant take or cause that person to be taken to the nearest available facility or hospital as defined in section 229.11, subsection 1, paragraphs "b" and "c". A person believed mentally ill, and likely to injure the person's self or others if not immediately detained, may be delivered to a facility or hospital by someone other than a peace officer. Upon delivery of the person believed mentally ill to the facility or hospital, the examining physician may order treatment of that person, including chemotherapy, but only to the extent necessary to preserve the person's life or to appropriately control behavior by the person which is likely to result in physical injury to that person or others if allowed to continue. The peace officer who took the person into custody, or other party who brought the person to the facility or hospital, shall describe the circumstances of the matter to the examining physician. If the person is a peace officer, the peace officer may do so either in person or by written report. If the examining physician finds that there is reason to believe that the person is seriously mentally impaired, and because of that impairment is likely to physically injure the person's self or others if not immediately detained, the examining physician shall at once communicate with the nearest available magistrate as defined in section 801.4, subsection 10. The magistrate shall, based upon the circumstances described by the examining physician, give the examining physician oral instructions either directing that the person be released forthwith or authorizing the person's detention in an appropriate facility. A peace officer from the law enforcement agency that took the person into custody, if available, during the communication with the magistrate, may inform the magistrate that an arrest warrant has been issued for or charges are pending against the person and request that any oral or written order issued under this subsection require the facility or hospital to notify the law enforcement agency about the discharge of the person prior to discharge. The magistrate may also give oral instructions and order that the detained person be transported to an appropriate facility.

*b.* If the magistrate orders that the person be detained, the magistrate shall, by the close of business on the next working day, file a written order with the clerk in the county where it is anticipated that an application may be filed under section 229.6. The order may be filed by facsimile if necessary. A peace officer from the law enforcement agency that took the person into custody, if no request was made under paragraph "a", may inform the magistrate that an arrest warrant has been issued for or charges are pending against the person and request that any written order issued under this paragraph require the facility or hospital to notify the law enforcement agency about the discharge of the person prior to discharge. The order shall state the circumstances under which the person was taken into custody or otherwise brought to a facility or hospital, and the grounds supporting the finding of probable cause to believe that the person is seriously mentally impaired and likely to injure the person's self or others if not immediately detained. The order shall also include any law enforcement agency

notification requirements if applicable. The order shall confirm the oral order authorizing the person's detention including any order given to transport the person to an appropriate facility. A peace officer from the law enforcement agency that took the person into custody may also request an order, separate from the written order, requiring the facility or hospital to notify the law enforcement agency about the discharge of the person prior to discharge. The clerk shall provide a copy of the written order or any separate order to the chief medical officer of the facility or hospital to which the person was originally taken, to any subsequent facility to which the person was transported, and to any law enforcement department or ambulance service that transported the person pursuant to the magistrate's order.

c. If an arrest warrant has been issued for or charges are pending against the person, but no court order exists requiring notification to a law enforcement agency under paragraph "a" or "b", and if the peace officer delivers the person to a facility or hospital and the peace officer notifies the facility or hospital in writing on a form prescribed by the department of public safety that the facility or hospital notify the law enforcement agency about the discharge of the person prior to discharge, the facility or hospital shall do all of the following:

(1) Notify the dispatch of the law enforcement agency that employs the peace officer by telephone prior to the discharge of the person from the facility or hospital.

(2) Notify the law enforcement agency that employs the peace officer by electronic mail prior to the discharge of the person from the facility or hospital.

3. The chief medical officer of the facility or hospital shall examine and may detain and care for the person taken into custody under the magistrate's order for a period not to exceed forty-eight hours from the time such order is dated, excluding Saturdays, Sundays and holidays, unless the order is sooner dismissed by a magistrate. The facility or hospital may provide treatment which is necessary to preserve the person's life, or to appropriately control behavior by the person which is likely to result in physical injury to the person's self or others if allowed to continue, but may not otherwise provide treatment to the person without the person's consent. The person shall be discharged from the facility or hospital and released from custody not later than the expiration of that period, unless an application for the person's involuntary hospitalization is sooner filed with the clerk pursuant to section 229.6. Prior to such discharge the facility or hospital shall, if required by this section, notify the law enforcement agency requesting such notification about the discharge of the person. The law enforcement agency shall retrieve the person no later than six hours after notification from the facility or hospital but in no circumstances shall the detention of the person exceed the period of time prescribed for detention by this subsection. The detention of any person by the procedure and not in excess of the period of time prescribed by this section shall not render the peace officer, physician, facility, or hospital so detaining that person liable in a criminal or civil action for false arrest or false imprisonment if the peace officer, physician, facility, or hospital had reasonable grounds to believe the person so detained was mentally ill and likely to physically injure the person's self or others if not immediately detained, or if the facility or hospital was required to notify a law enforcement agency by this section, and the law enforcement agency requesting notification prior to discharge retrieved the person no later than six hours after the notification, and the detention prior to the retrieval of the person did not exceed the period of time prescribed for detention by this subsection.

4. The cost of hospitalization at a public hospital of a person detained temporarily by the procedure prescribed in this section shall be paid in the same way as if the person had been admitted to the hospital by the procedure prescribed in sections 229.6 to 229.13.

5. The department of public safety shall prescribe the form to be used when a law enforcement agency desires notification under this section from a facility or hospital prior to discharge of a person admitted to the facility or hospital and for whom an arrest warrant has been issued or against whom charges are pending. The form shall be consistent with all laws, regulations, and rules relating to the confidentiality or privacy of personal information or medical records, including but not limited to the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, and regulations promulgated in accordance with that Act and published in 45 C.F.R. pts. 160-64.

6. A facility or hospital, which has been notified by a peace officer or a law enforcement agency by delivery of a form as prescribed by the department of public safety indicating that

an arrest warrant has been issued for or charges are pending against a person admitted to the facility or hospital, that does not notify the law enforcement agency about the discharge of the person as required by subsection 2, paragraph “c”, shall pay a civil penalty as provided in section 805.8C, subsection 8.

[C77, 79, 81, §229.22]

95 Acts, ch 24, §2; 2003 Acts, ch 68, §3, 4; 2009 Acts, ch 41, §227; 2010 Acts, ch 1103, §1, 2; 2011 Acts, ch 34, §55; 2012 Acts, ch 1079, §15

Referred to in §229.21, 229.23, 229.24, 602.6405, 805.8C(8)

[T] Subsection 1 amended

### **229.23 Rights and privileges of hospitalized persons.**

Every person who is hospitalized or detained under this chapter shall have the right to:

1. Prompt evaluation, necessary psychiatric services, and additional care and treatment as indicated by the patient’s condition. A comprehensive, individualized treatment plan shall be timely developed following issuance of the court order requiring involuntary hospitalization. The plan shall be consistent with current standards appropriate to the facility to which the person has been committed and with currently accepted standards for psychiatric treatment of the patient’s condition, including chemotherapy, psychotherapy, counseling and other modalities as may be appropriate.

2. The right to refuse treatment by shock therapy or chemotherapy, unless the use of these treatment modalities is specifically consented to by the patient’s next of kin or guardian. The patient’s right to refuse treatment by chemotherapy shall not apply during any period of custody authorized by section 229.4, subsection 3, section 229.11 or section 229.22, but this exception shall extend only to chemotherapy treatment which is, in the chief medical officer’s judgment, necessary to preserve the patient’s life or to appropriately control behavior by the person which is likely to result in physical injury to that person or others if allowed to continue. The patient’s right to refuse treatment by chemotherapy shall also not apply during any period of custody authorized by the court pursuant to section 229.13 or 229.14. In any other situation in which, in the chief medical officer’s judgment, chemotherapy is appropriate for the patient but the patient refuses to consent thereto and there is no next of kin or guardian to give consent, the chief medical officer may request an order authorizing treatment of the patient by chemotherapy from the district court which ordered the patient’s hospitalization.

3. In addition to protection of the person’s constitutional rights, enjoyment of other legal, medical, religious, social, political, personal and working rights and privileges which the person would enjoy if the person were not so hospitalized or detained, so far as is possible consistent with effective treatment of that person and of the other patients of the hospital. If the patient’s rights are restricted, the physician’s direction to that effect shall be noted on the patient’s record. The department of human services shall, in accordance with chapter 17A establish rules setting forth the specific rights and privileges to which persons so hospitalized or detained are entitled under this section, and the exceptions provided by section 17A.2, subsection 11, paragraphs “a” and “k”, shall not be applicable to the rules so established. The patient or the patient’s next of kin or friend shall be advised of these rules and be provided a written copy upon the patient’s admission to or arrival at the hospital.

[C77, 79, 81, §229.23]

83 Acts, ch 96, §157, 159; 89 Acts, ch 275, §6

Referred to in §229.14A

### **229.24 Records of involuntary hospitalization proceeding to be confidential.**

1. All papers and records pertaining to any involuntary hospitalization or application for involuntary hospitalization of any person under this chapter, whether part of the permanent record of the court or of a file in the department of human services, are subject to inspection only upon an order of the court for good cause shown.

2. If authorized in writing by a person who has been the subject of any proceeding or report under sections 229.6 to 229.13 or section 229.22, or by the parent or guardian of that person, information regarding that person which is confidential under subsection 1 may be released to any designated person.

3. If all or part of the costs associated with hospitalization of an individual under this

chapter are chargeable to a county of legal settlement, the clerk of the district court shall provide to the county of legal settlement and to the county in which the hospitalization order is entered the following information pertaining to the individual which would be confidential under subsection 1:

- a. Administrative information, as defined in section 228.1.
  - b. An evaluation order under this chapter and the location of the individual's placement under the order.
  - c. A hospitalization or placement order under this chapter and the location of the individual's placement under the order.
  - d. The date, location, and disposition of any hearing concerning the individual held under this chapter.
  - e. Any payment source available for the costs of the individual's care.
4. This section shall not prohibit any of the following:
- a. A hospital from complying with the requirements of this chapter and of chapter 230 relative to financial responsibility for the cost of care and treatment provided a patient in that hospital or from properly billing any responsible relative or third-party payer for such care or treatment.
  - b. A court or the department of public safety from forwarding to the federal bureau of investigation information that a person has been disqualified from possessing, shipping, transporting, or receiving a firearm pursuant to section 724.31.

[C77, 79, 81, §229.24]

83 Acts, ch 96, §157, 159; 95 Acts, ch 120, §3; 96 Acts, ch 1183, §22; 2002 Acts, ch 1146, §4; 2004 Acts, ch 1090, §8; 2010 Acts, ch 1031, §362; 2010 Acts, ch 1178, §1, 2, 19

Referred to in §228.6, 230.20

[SP] 2010 amendments amending subsection 1 and adding new subsection 4 take effect January 1, 2011; 2010 Acts, ch 1178, §19

[SP] For future amendment to subsection 3, unnumbered paragraph 1, effective July 1, 2013, see 2012 Acts, ch 1120, §102, 130

**229.25 Medical records to be confidential — exceptions.**

1. a. The records maintained by a hospital or other facility relating to the examination, custody, care and treatment of any person in that hospital or facility pursuant to this chapter shall be confidential, except that the chief medical officer shall release appropriate information under any of the following circumstances:

(1) The information is requested by a licensed physician, attorney or advocate who provides the chief medical officer with a written waiver signed by the person about whom the information is sought.

(2) The information is sought by a court order.

(3) The person who is hospitalized or that person's guardian, if the person is a minor or is not legally competent to do so, signs an informed consent to release information. Each signed consent shall designate specifically the person or agency to whom the information is to be sent, and the information may be sent only to that person or agency.

b. Such records may be released by the chief medical officer when requested for the purpose of research into the causes, incidence, nature and treatment of mental illness, however information shall not be provided in a way that discloses patients' names or which otherwise discloses any patient's identity.

2. When the chief medical officer deems it to be in the best interest of the patient and the patient's next of kin to do so, the chief medical officer may release appropriate information during a consultation which the hospital or facility shall arrange with the next of kin of a voluntary or involuntary patient, if requested by the patient's next of kin.

[C77, 79, 81, §229.25; 82 Acts, ch 1135, §1]

89 Acts, ch 275, §7; 2009 Acts, ch 41, §263

Referred to in §228.6, 229.19

**229.26 Exclusive procedure for involuntary hospitalization.**

Sections 229.6 through 229.19 constitute the exclusive procedure for involuntary hospitalization of persons by reason of serious mental impairment in this state, except that this chapter does not negate the provisions of section 904.503 relating to transfer of prisoners with mental illness to state hospitals for persons with mental illness and does not

apply to commitments of persons under chapter 812 or the rules of criminal procedure, Iowa court rules, or negate the provisions of section 232.51 relating to disposition of children with mental illness or an intellectual disability.

[C77, 79, 81, §229.26]

84 Acts, ch 1323, §3; 85 Acts, ch 21, §36; 87 Acts, ch 90, §4; 88 Acts, ch 1134, §45; 96 Acts, ch 1129, §58; 2002 Acts, ch 1119, §108; 2003 Acts, ch 108, §125, 132; 2012 Acts, ch 1019, §81

[T] Section amended

**229.27 Hospitalization not to equate with incompetency — procedure for finding incompetency due to mental illness.**

1. Hospitalization of a person under this chapter, either voluntarily or involuntarily, does not constitute a finding of nor equate with nor raise a presumption of incompetency, nor cause the person so hospitalized to be deemed a person of unsound mind nor a person under legal disability for any purpose, including but not limited to any circumstances to which sections 6B.15, 447.7, section 488.603, subsection 6, paragraph “c”, sections 488.704, 597.6, 600B.21, 614.8, 614.19, 614.22, 614.24, 614.27, and 633.244 are applicable.

2. The applicant may, in initiating a petition for involuntary hospitalization of a person under section 229.6 or at any subsequent time prior to conclusion of the involuntary hospitalization proceeding, also petition the court for a finding that the person is incompetent by reason of mental illness. The test of competence for the purpose of this section shall be whether the person possesses sufficient mind to understand in a reasonable manner the nature and effect of the act in which the person is engaged; the fact that a person is mentally ill and in need of treatment for that illness but because of the illness lacks sufficient judgment to make responsible decisions with respect to the person’s hospitalization or treatment does not necessarily mean that that person is incapable of transacting business on any subject.

3. A hearing limited to the question of the person’s competence and conducted in substantially the manner prescribed in sections 633.552 to 633.556 shall be held when:

a. The court is petitioned or proposes upon its own motion to find incompetent by reason of mental illness a person whose involuntary hospitalization has been ordered under section 229.13 or 229.14, and who contends that the person is not incompetent; or

b. A person previously found incompetent by reason of mental illness under subsection 2 petitions the court for a finding that the person is no longer incompetent and, after notice to the applicant who initiated the petition for hospitalization of the person and to any other party as directed by the court, an objection is filed with the court. The court may order a hearing on its own motion before acting on a petition filed under this paragraph. A petition by a person for a finding that the person is no longer incompetent may be filed at any time without regard to whether the person is at that time hospitalized for treatment of mental illness.

4. Nothing in this chapter shall preclude use of any other procedure authorized by law for declaring any person legally incompetent for reasons which may include mental illness, without regard to whether that person is or has been hospitalized for treatment of mental illness.

[C77, 79, 81, §229.27; 82 Acts, ch 1103, §1109]

91 Acts, ch 93, §1; 96 Acts, ch 1034, §9; 98 Acts, ch 1181, §24; 2004 Acts, ch 1175, §368, 400; 2004 Acts, ch 1021, §118, 119; 2004 Acts, ch 1175, §369, 400

Referred to in §4.1, 218.95, 229.39

**229.28 Hospitalization in certain federal facilities.**

1. When a court finds that the contention that a respondent is seriously mentally impaired has been sustained or proposes to order continued hospitalization of any person, or an alternative placement, as described under section 229.14, subsection 1, paragraph “b” or “d”, and the court is furnished evidence that the respondent or patient is eligible for care and treatment in a facility operated by the United States department of veterans affairs or another agency of the United States government and that the facility is willing to receive the respondent or patient, the court may so order.

a. The respondent or patient, when so hospitalized or placed in a facility operated by the United States department of veterans affairs or another agency of the United States

government within or outside of this state, shall be subject to the rules of the United States department of veterans affairs or other agency, but shall not thereby lose any procedural rights afforded the respondent or patient by this chapter.

b. The chief officer of the facility shall have, with respect to the person so hospitalized or placed, the same powers and duties as the chief medical officer of a hospital in this state would have in regard to submission of reports to the court, retention of custody, transfer, convalescent leave or discharge.

2. Jurisdiction is retained in the court to maintain surveillance of the person's treatment and care, and at any time to inquire into that person's mental condition and the need for continued hospitalization or care and custody.

[C27, 31, 35, §3562-b1; C39, §3562.1; C46, 50, 54, 58, 62, 66, 71, 73, 75, §229.20; C77, 79, 81, §229.28]

2001 Acts, ch 155, §39; 2009 Acts, ch 26, §10

Referred to in §229.30

### **229.29 Transfer to certain federal facilities.**

1. Upon receipt of a certificate stating that any person involuntarily hospitalized under this chapter is eligible for care and treatment in a facility operated by the United States department of veterans affairs or another agency of the United States government which is willing to receive the person without charge to the state of Iowa or any county in the state, the chief medical officer may transfer the person to that facility. Upon so doing, the chief medical officer shall notify the court which ordered the person's hospitalization in the same manner as would be required in the case of a transfer under section 229.15, subsection 5, and the person transferred shall be entitled to the same rights as the person would have under that subsection.

2. No person shall be transferred under this section who is confined pursuant to conviction of a public offense or whose hospitalization was ordered upon contention of incompetence to stand trial by reason of mental illness, without prior approval of the court which ordered that person's hospitalization.

[C27, 31, 35, §3562-b1; C39, §3562.1; C46, 50, 54, 58, 62, 66, 71, 73, 75, §229.20; C77, 79, 81, §229.29]

2009 Acts, ch 26, §11

### **229.30 Orders of courts in other states.**

A judgment or order of hospitalization or commitment by a court of competent jurisdiction of another state or the District of Columbia, under which any person is hospitalized or placed in a facility operated by the United States department of veterans affairs or another agency of the United States government, shall have the same force and effect with respect to that person while the person is in this state as the judgment or order would have if the person were in the jurisdiction of the court which issued it. That court shall be deemed to have retained jurisdiction of the person so hospitalized or placed for the purpose of inquiring into that person's mental condition and the need for continued hospitalization or care and custody, as do courts in this state under section 229.28. Consent is hereby given to the application of the law of the state or district in which is situated the court which issued the judgment or order as regards authority of the chief officer of any facility, operated in this state by the United States department of veterans affairs or another agency of the United States government, to retain custody, transfer, place on convalescent leave or discharge the person so hospitalized or committed.

[C27, 31, 35, §3562-b1; C39, §3562.1; C46, 50, 54, 58, 62, 66, 71, 73, 75, §229.20; C77, 79, 81, §229.30]

2009 Acts, ch 26, §12

### **229.31 Commission of inquiry.**

A sworn complaint, alleging that a named person is not seriously mentally impaired and is unjustly deprived of liberty in any hospital in the state, may be filed by any person with the clerk of the district court of the county in which such named person is so confined, or

of the county in which such named person has a legal settlement, and thereupon a judge of said court shall appoint a commission of not more than three persons to inquire into the truth of said allegations. One of said commissioners shall be a physician and if additional commissioners are appointed, one of such commissioners shall be a lawyer.

[C73, §1442; C97, §2304; C24, 27, 31, 35, 39, §3571; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §229.31]

Referred to in §229.36

[SP] For future amendment to this section, effective July 1, 2013, see 2012 Acts, ch 1120, §103, 130

### **229.32 Duty of commission.**

Said commission shall at once proceed to the place where said person is confined and make a thorough and discreet examination for the purpose of determining the truth of said allegations and shall promptly report its findings to said judge in writing. Said report shall be accompanied by a written statement of the case signed by the chief medical officer of the hospital in which the person is confined.

[C73, §1442; C97, §2304; C24, 27, 31, 35, 39, §3572; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §229.32]

Referred to in §229.36

### **229.33 Hearing.**

If, on such report and statement, and the hearing of testimony if any is offered, the judge shall find that such person is not seriously mentally impaired, the judge shall order the person's discharge; if the contrary, the judge shall so state, and authorize the continued detention of the person, subject to all applicable requirements of this chapter.

[C73, §1442; C97, §2304; C24, 27, 31, 35, 39, §3573; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §229.33]

97 Acts, ch 23, §17

Referred to in §229.36

### **229.34 Finding and order filed.**

The finding and order of the judge, with the report and other papers, shall be filed in the office of the clerk of the court where the complaint was filed. Said clerk shall enter a memorandum thereof on the appropriate record, and forthwith notify the chief medical officer of the hospital of the finding and order of the judge, and the chief medical officer shall carry out the order.

[C73, §1442; C97, §2304; C24, 27, 31, 35, 39, §3574; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §229.34]

Referred to in §229.36

### **229.35 Compensation — payment.**

Said commissioners shall be entitled to their necessary expenses and a reasonable compensation, to be allowed by the judge, who shall certify the same to the director of the department of administrative services who shall thereupon draw the proper warrants on any funds in the state treasury not otherwise appropriated. The applicant shall pay said costs and expenses if the judge shall so order on a finding that the complaint was filed without probable cause.

[C73, §1442; C97, §2304; C24, 27, 31, 35, 39, §3575; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §229.35]

2003 Acts, ch 145, §286

Referred to in §8.59, 229.36

[P] Appropriation limited for fiscal years beginning on or after July 1, 1993; see §8.59

**229.36 Limitation on proceedings.**

The proceeding authorized in sections 229.31 to 229.35, inclusive, shall not be had more often than once in six months regarding the same person; nor regarding any patient within six months after the patient's admission to the hospital.

[C73, §1443; C97, §2305; C24, 27, 31, 35, 39, §3576; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §229.36]

2005 Acts, ch 3, §52

**229.37 Habeas corpus.**

All persons confined as seriously mentally impaired shall be entitled to the benefit of the writ of habeas corpus, and the question of serious mental impairment shall be decided at the hearing. If the judge shall decide that the person is seriously mentally impaired, such decision shall be no bar to the issuing of the writ a second time, whenever it shall be alleged that such person is no longer seriously mentally impaired.

[R60, §1441; C73, §1444; C97, §2306; C24, 27, 31, 35, 39, §3577; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §229.37]

[P] Constitutional provision, Iowa Constitution, Art. I, §13

[P] Habeas corpus, chapter 663

**229.38 Cruelty or official misconduct.**

If any person having the care of a person with mental illness who has voluntarily entered a hospital or other facility for treatment or care, or who is responsible for psychiatric examination care, treatment, and maintenance of any person involuntarily hospitalized under sections 229.6 to 229.15, whether in a hospital or elsewhere, with or without proper authority, shall treat such patient with unnecessary severity, harshness, or cruelty, or in any way abuse the patient or if any person unlawfully detains or deprives of liberty any person with mental illness or any person who is alleged to have mental illness, or if any officer required by the provisions of this chapter and chapters 226 and 227, to perform any act shall willfully refuse or neglect to perform the same, the offending person shall, unless otherwise provided, be guilty of a serious misdemeanor.

[C73, §1415, 1416, 1440, 1445; C97, §2307; C24, 27, 31, 35, 39, §3578; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §229.38]

96 Acts, ch 1129, §59

**229.39 Status of persons hospitalized under former law.**

1. Each person admitted or committed to a hospital for treatment of mental illness on or before December 31, 1975 who remained so hospitalized, or was on convalescent leave or was receiving care in another facility on transfer from such hospitalization, on or after January 1, 1976 shall be considered to have been hospitalized under this chapter, and its provisions shall apply to each such person on and after the effective date of this section, except as otherwise provided by subsection 3.

2. Hospitalization of a person for treatment of mental illness, either voluntary or involuntary, on or before December 31, 1975 does not constitute a finding nor equate with nor raise a presumption of incompetency, nor cause the person hospitalized to be deemed a person of unsound mind nor a person under legal disability for any purpose, including but not limited to the circumstances enumerated in section 229.27, subsection 1. This subsection does not invalidate any specific declaration of incompetence of a person hospitalized if the declaration was made pursuant to a separate procedure authorized by law for that purpose, and did not result automatically from the person's hospitalization.

3. Where a person was hospitalized involuntarily for treatment of mental illness on or before December 31, 1975 and remained so hospitalized, or was on convalescent leave or was receiving care in another facility on transfer from such hospitalization, on or after January 1, 1976, but was subsequently discharged prior to July 1, 1978, this section shall not be construed to require:

a. The filing after July 1, 1978, of any report relative to that person's status which would have been required to be filed prior to said date if that person had initially been hospitalized under this chapter as amended by 1975 Iowa Acts, ch. 139, sections 1 to 30.



b. That legal proceedings be taken under this chapter, as so amended, to clarify the status of the person so hospitalized, unless that person or the district court considers such proceedings necessary in a particular case to appropriately conclude the matter.

[C79, 81, §229.39]

2011 Acts, ch 34, §56

#### **229.40 Rules for proceedings.**

Proceedings under this chapter are subject to rules prescribed by the supreme court under section 602.4201.

[C79, 81, §229.40]

83 Acts, ch 186, §10053, 10201

[P] Rules adopted by the Supreme Court are published in the compilation "Iowa Court Rules"

#### **229.41 Voluntary admission.**

Persons making application pursuant to section 229.2 on their own behalf or on behalf of another person who is under eighteen years of age, if the person whose admission is sought is received for observation and treatment on the application, shall be required to pay the costs of hospitalization at rates established by the administrator. The costs may be collected weekly in advance and shall be payable at the business office of the hospital. The collections shall be remitted to the department of human services monthly to be credited to the general fund of the state.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §229.41]

2000 Acts, ch 1112, §39; 2001 Acts, ch 155, §21

Referred to in §225C.16, 229.2, 229.42

#### **229.42 Costs paid by county.**

If a person wishing to make application for voluntary admission to a mental hospital established by chapter 226 is unable to pay the costs of hospitalization or those responsible for the person are unable to pay the costs, application for authorization of voluntary admission must be made through a central point of coordination process before application for admission is made to the hospital. The person's county of legal settlement shall be determined through the central point of coordination process and if the admission is approved through the central point of coordination process, the person's admission to a mental health hospital shall be authorized as a voluntary case. The authorization shall be issued on forms provided by the administrator. The costs of the hospitalization shall be paid by the county of legal settlement to the department of human services and credited to the general fund of the state, provided that the mental health hospital rendering the services has certified to the county auditor of the county of legal settlement the amount chargeable to the county and has sent a duplicate statement of the charges to the department of human services. A county shall not be billed for the cost of a patient unless the patient's admission is authorized through the central point of coordination process. The mental health institute and the county shall work together to locate appropriate alternative placements and services, and to educate patients and family members of patients regarding such alternatives.

All the provisions of chapter 230 shall apply to such voluntary patients so far as is applicable.

The provisions of this section and of section 229.41 shall apply to all voluntary inpatients or outpatients receiving mental health services either away from or at the institution.

If a county fails to pay the billed charges within forty-five days from the date the county auditor received the certification statement from the superintendent, the department of human services shall charge the delinquent county the penalty of one percent per month on and after forty-five days from the date the county received the certification statement until paid. The penalties received shall be credited to the general fund of the state.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §229.42]

96 Acts, ch 1183, §23; 97 Acts, ch 169, §6; 98 Acts, ch 1218, §73; 2001 Acts, ch 155, §22; 2002 Acts, ch 1050, §21; 2004 Acts, ch 1090, §33

Referred to in §225C.16, 229.2, 331.381, 331.502

[SP] For future amendment to this section, effective July 1, 2013, see 2012 Acts, ch 1120, §104, 130

**229.43 Nonresidents or no-settlement patients.**

The administrator may place patients of mental health institutes who have no county of legal settlement, who are nonresidents, or whose legal settlement is unknown on convalescent leave to a private sponsor or in a health care facility licensed under chapter 135C, when in the opinion of the administrator the placement is in the best interests of the patient and the state of Iowa. If the patient was involuntarily hospitalized, the district court which ordered hospitalization of the patient must be informed when the patient is placed on convalescent leave, as required by section 229.15, subsection 5.

[C24, 27, 31, 35, 39, §3446; C46, 50, 54, 58, 62, §222.36; C66, 71, 73, 75, 77, 79, 81, §229.43] 2000 Acts, ch 1112, §40

[SP] For future amendment to this section, effective July 1, 2013, see 2012 Acts, ch 1120, §105, 130

**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 Iowa court rule 12.15 for the involuntary hospitalization of persons with mental illness, 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 229.13 or 229.14, 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.

92 Acts, ch 1165, §7; 96 Acts, ch 1079, §9; 96 Acts, ch 1129, §113

**229.45 Provision of summary of procedures to applicant in involuntary commitment.**

The department of human services, in consultation with the office of attorney general, shall develop a summary of the procedures involved in an involuntary commitment and information concerning the participation of an applicant in the proceedings. The summary shall be provided by the department, at the department's expense, to the clerks of the district court who shall make the summary available to all applicants prior to the filing of a verified application, or to any other person upon request, and who shall attach a copy of the summary to the notice of hearing which is served upon the respondent under section 125.77 or 229.7. The summary may include, but is not limited to, the following:

1. The statutory criteria for ordering that a person be involuntarily committed under chapter 125 or sections 229.11 and 229.13.

2. A description of the hearing process.

3. An explanation of the applicant's right to testify and examples of the kinds of relevant information which may be introduced at the hearing.

4. An explanation of the duties of the county attorney in civil commitment proceedings.

94 Acts, ch 1024, §1

**229.46 through 229.49** Reserved.

**229.50 through 229.53** Repealed by 82 Acts, ch 1212, § 28.