

House Amendment 1702

PAG LIN

1 1 Amend House File 825, as amended, passed, and
1 2 reprinted by the House, as follows:
1 3 #1. Page 1, line 23, by striking the figure
1 4 <2,791,522> and inserting the following: <2,792,116>.
1 5 #2. By striking page 1, line 34, through page 2,
1 6 line 1, and inserting the following:
1 7 <2. Of the funds appropriated in this section,
1 8 \$174,198 shall be>.
1 9 #3. Page 2, by inserting after line 4, the
1 10 following:
1 11 <____. Of the funds appropriated in this section,
1 12 \$61,594 shall be used by the department of elder
1 13 affairs for a statewide coordinator for the program of
1 14 all-inclusive care for the elderly as defined in
1 15 section 249H.3. The coordinator shall work in
1 16 collaboration with the department of human services in
1 17 carrying out the coordinator's duties.>
1 18 #4. Page 2, line 17, by striking the figure
1 19 <1,258,710> and inserting the following: <2,259,020>.
1 20 #5. Page 2, by inserting after line 24, the
1 21 following:
1 22 <Of the moneys appropriated in this subsection,
1 23 \$30,310 shall be used to continue to provide funding
1 24 to local communities that have previously received
1 25 funding from the centers for disease control and
1 26 prevention of the United States department of health
1 27 and human services for secondhand smoke education
1 28 initiatives.>
1 29 #6. Page 3, line 14, by striking the figure
1 30 <1,264,299> and inserting the following: <1,274,299>.
1 31 #7. Page 3, by inserting after line 19, the
1 32 following:
1 33 <Of the funds appropriated in this subsection,
1 34 \$10,000 shall be used to continue the grant to a free
1 35 clinic, as defined in section 135.24, operating in one
1 36 county to continue the partnership and test program
1 37 for a buying cooperative approach for purchasing
1 38 prescription drugs at a price less than retail. The
1 39 prescription drugs purchased through the approach
1 40 shall be provided to patients of the free clinic who
1 41 are uninsured or underinsured.>
1 42 #8. By striking page 3, line 30, through page 4,
1 43 line 1, and inserting the following:
1 44 <The amount appropriated in this subsection
1 45 includes \$150,000 in additional funding for childhood
1 46 lead poisoning prevention activities for counties not
1 47 receiving federal funding for this purpose, and of
1 48 this amount, \$50,000 is allocated for a pilot project
1 49 to address lead poisoning prevention and remediation
1 50 activities in a three-county program in north central
2 1 Iowa with a combined population of at least 50,000.>
2 2 #9. Page 4, line 13, by striking the figure
2 3 <1,044,151> and inserting the following: <1,379,258>.
2 4 #10. Page 4, line 16, by striking the figure
2 5 <335,107> and inserting the following: <670,214>.
2 6 #11. Page 4, line 18, by inserting after the
2 7 figure <135.106.> the following: <The department
2 8 shall transfer the funding allocated for the HOPES=HFI
2 9 program to the Iowa empowerment board for distribution
2 10 and shall assist the board in managing the contracting
2 11 for the funding. The funding shall be distributed to
2 12 renew the grants that were provided to the grantees
2 13 that operated the program during the fiscal year
2 14 ending June 30, 2005.>
2 15 #12. Page 4, line 26, by striking the figure
2 16 <6,820,423> and inserting the following: <6,964,033>.
2 17 #13. Page 4, by inserting after line 27 the
2 18 following:
2 19 <The office of the state medical examiner and the
2 20 commissioner of public safety shall give consideration
2 21 to a proposal offered by Polk county for the state
2 22 criminalistics laboratory to share facilities with
2 23 Polk county.>
2 24 #14. Page 4, line 32, by striking the figure

2 25 <994,442> and inserting the following: <1,124,684>.
2 26 #15. Page 4, by inserting after line 33, the
2 27 following:
2 28 <11B. SAFETY NET PROVIDERS
2 29 The purpose of this subsection is to create a
2 30 formal network of providers to preserve and expand the
2 31 health care safety net for vulnerable Iowans, to
2 32 recognize that safety net providers are the means of
2 33 access to health care for the uninsured in this state,
2 34 and to provide a mechanism to identify the extent to
2 35 which the uninsured in the state access health care
2 36 safety net providers. Of the amount appropriated in
2 37 this division of this Act for the medical assistance
2 38 program, \$1,100,000 is transferred to the
2 39 appropriation made in this subsection.
2 40 a. For provision of developmental support services
2 41 to safety net providers as provided in this
2 42 subsection:
2 43 \$ 450,000
2 44 The Iowa department of public health shall contract
2 45 with the Iowa/Nebraska primary care association to
2 46 administer a network of community health centers
2 47 (CHCs), rural health clinics (RHCs), and free clinics,
2 48 with use of the free clinics as sources of referral to
2 49 the CHCs and RHCs, to provide developmental support
2 50 services including all of the following:
3 1 (1) Promotion of the concept of quality, primary,
3 2 preventive, and ameliorative health care through a
3 3 comprehensive primary health care delivery system.
3 4 (2) Provision of a forum to allow primary care
3 5 practitioners, health care center and clinic
3 6 administrators, health department professionals, and
3 7 political and community leaders to interact and share
3 8 information.
3 9 (3) Partnering with existing relevant
3 10 organizations and associations to monitor federal and
3 11 state legislation to assure that the primary care
3 12 needs of Iowans are adequately reflected in public
3 13 policy.
3 14 (4) Partnering with existing relevant
3 15 organizations and associations to sponsor conferences,
3 16 training opportunities, and workshops on topics of
3 17 interest.
3 18 (5) Provision of a linkage between the safety net
3 19 providers and the expansion population under chapter
3 20 249J, if enacted by 2005 Iowa Acts, House File 841.
3 21 b. For incubation grants to community health
3 22 centers that receive a total score of 85 based on the
3 23 evaluation criteria of the federal health resources
3 24 and services administration:
3 25 \$ 650,000
3 26 A recipient of an incubation grant under this
3 27 paragraph "b" shall provide a local match of twenty=
3 28 five percent of the grant funds received.>
3 29 #16. Page 6, by striking line 28, and inserting
3 30 the following: <Iowa commission on volunteer service
3 31 created pursuant to chapter 15H to utilize local
3 32 veterans affairs>.
3 33 #17. Page 12, line 2, by striking the figure
3 34 <40,250,000> and inserting the following:
3 35 <40,556,413>.
3 36 #18. Page 13, line 6, by striking the figure
3 37 <524,800,000> and inserting the following:
3 38 <506,916,519>.
3 39 #19. Page 15, by striking lines 18 through 21.
3 40 #20. Page 15, by striking lines 22 through 34.
3 41 #21. By striking page 15, line 35, through page
3 42 16, line 7.
3 43 #22. Page 16, by inserting after line 28, the
3 44 following:
3 45 <____. The department shall expand coverage under
3 46 the medical assistance program to cover smoking
3 47 cessation drugs.
3 48 _____. The department shall expand coverage under
3 49 the medical assistance program to cover weight
3 50 reduction treatments and drugs.
4 1 _____. The department shall adopt rules to require
4 2 that if a product is to be considered by the
4 3 pharmaceutical and therapeutics committee established
4 4 pursuant to section 249A.20A for inclusion on the
4 5 preferred drug list, the pharmaceutical and

4 6 therapeutics committee shall respond to all inquiries
4 7 regarding the process at least 72 hours prior to a
4 8 meeting of the committee to consider inclusion of the
4 9 product. Additionally, the rules shall require that
4 10 the committee provide a pharmaceutical manufacturer of
4 11 a product with 20 days' prior written notice of
4 12 consideration of the manufacturer's product for
4 13 inclusion on the preferred drug list to allow adequate
4 14 time for preparation of appropriate materials to be
4 15 submitted to the committee for review. The rules
4 16 shall also require that adequate time be provided for
4 17 each interested individual to address the committee
4 18 regarding a product to be considered for inclusion on
4 19 the preferred drug list by the committee. A final
4 20 decision regarding inclusion of a product on the
4 21 preferred drug list shall not be made in an executive
4 22 session of the committee.>

4 23 #23. Page 18, line 29, by striking the figure
4 24 <8,350,752> and inserting the following: <17,750,752>.

4 25 #24. Page 18, line 31, by striking the figure
4 26 <7,325,228> and inserting the following: <16,325,228>.

4 27 #25. Page 19, line 6, by striking the figure
4 28 <500,000> and inserting the following: <900,000>.

4 29 #26. Page 20, line 31, by striking the figure
4 30 <76,400,000> and inserting the following:
4 31 <81,908,683>.

4 32 #27. Page 22, line 25, by striking the figure
4 33 <2,000,000> and inserting the following: <3,000,000>.

4 34 #28. Page 25, line 12, by striking the figure
4 35 <300,000> and inserting the following: <1,000,000>.

4 36 #29. Page 25, by inserting after line 26 the
4 37 following:

4 38 <____. Of the amount appropriated in this section,
4 39 the following amounts are allocated for the indicated
4 40 child welfare system improvements:

- 4 41 a. For family team meetings and other family
4 42 engagement efforts:
4 43 \$ 900,000
4 44 b. For recruiting, training, and development of
4 45 additional resource families, including but not
4 46 limited to families providing kinship, foster, and
4 47 adoptive care:
4 48 \$ 325,000
4 49 c. For field staff working with families to have
4 50 flexible funding to purchase services and other
5 1 support and to fill urgent family needs:
5 2 \$ 750,000
5 3 d. For funding of shelter care so that 15
5 4 emergency beds are available statewide for the fiscal
5 5 year within the statewide average of 288 beds
5 6 addressed in the department's shelter care plan:
5 7 \$ 200,000
5 8 e. For expansion of community partnerships to
5 9 prevent child abuse:
5 10 \$ 100,000>

5 11 #30. Page 25, by inserting after line 26, the
5 12 following:

5 13 <____. The general assembly finds that it is
5 14 important for adequate, comprehensive mental health
5 15 services to be available to the children of this
5 16 state; that Iowa is seeking to develop a coordinated
5 17 system of mental health care for children through a
5 18 redesign of the children's mental health system; that
5 19 Iowa is one of only two states that have not
5 20 participated in the comprehensive community mental
5 21 health services program for children and their
5 22 families grant offered by the substance abuse and
5 23 mental health services administration (SAMHSA) of the
5 24 United States department of health and human services;
5 25 and that implementing such an initiative requires
5 26 long-term sustainability and support. The general
5 27 assembly expresses appreciation to the department for
5 28 applying to SAMHSA for the comprehensive services
5 29 program grant to implement a six-year project located
5 30 in northeast Iowa. The purpose of the project is to
5 31 create a family-driven, coordinated system of care for
5 32 children with mental illness to serve as a model for
5 33 developing a statewide approach based on family=
5 34 provider partnerships and long-term sustainability.
5 35 The general assembly strongly supports the grant
5 36 application and implementation of the project as vital

5 37 steps in redesigning the children's mental health
5 38 system.>
5 39 #31. Page 25, line 34, by striking the figure
5 40 <32,250,000> and inserting the following:
5 41 <32,275,732>.
5 42 #32. Page 27, by inserting after line 6 the
5 43 following:
5 44 <____. For continuation of the department's
5 45 minority youth and family projects under the redesign
5 46 of the child welfare system:
5 47 \$ 375,000>
5 48 #33. Page 29, line 6, by striking the figure
5 49 <12,600,000> and inserting the following:
5 50 <12,650,344>.
6 1 #34. Page 29, line 9, by striking the figure
6 2 <7,050,000> and inserting the following: <7,073,088>.
6 3 #35. Page 30, line 10, by striking the figure <1.>
6 4 #36. Page 30, line 19, by striking the figure
6 5 <10,514,619> and inserting the following:
6 6 <11,014,619>.
6 7 #37. Page 30, by striking lines 20 through 31.
6 8 #38. Page 32, by inserting after line 16 the
6 9 following:
6 10 <____. If the department has data indicating that a
6 11 geographic area has a substantial number of persons
6 12 with mental illness who are homeless and are not being
6 13 served by an existing grantee for that area under the
6 14 formula grant from the federal alcohol, drug abuse,
6 15 and mental health administration to provide mental
6 16 health services for the homeless and the existing
6 17 grantee has expressed a desire to no longer provide
6 18 services or the grantee's contract was terminated by
6 19 the department for nonperformance, the department
6 20 shall issue a request for proposals to replace the
6 21 grantee. Otherwise, the department shall maximize
6 22 available funding by continuing to contract to the
6 23 extent possible with those persons who are grantees as
6 24 of October 1, 2005. The department shall issue a
6 25 request for proposals if additional funding becomes
6 26 available for expansion to persons who are not being
6 27 served and it is not possible to utilize existing
6 28 grantees.>
6 29 #39. Page 33, line 13, by striking the figure
6 30 <53,505,000> and inserting the following:
6 31 <53,924,358>.
6 32 #40. Page 33, line 25, by striking the figure
6 33 <13,312,196> and inserting the following:
6 34 <13,342,196>.
6 35 #41. Page 33, line 26, by striking the figure
6 36 <292.00> and inserting the following: <293.00>.
6 37 #42. Page 33, by inserting after line 29, the
6 38 following:
6 39 <Of the funds appropriated in this section, \$30,000
6 40 is allocated to the department of human services for a
6 41 statewide coordinator for the program of all-inclusive
6 42 care for the elderly as defined in section 249H.3.
6 43 The coordinator shall work in collaboration with the
6 44 department of elder affairs in carrying out the
6 45 coordinator's duties.>
6 46 #43. Page 35, line 2, by striking the word <be>
6 47 and inserting the following: <not be less than>.
6 48 #44. Page 36, line 16, by striking the figure <3>
6 49 and inserting the following: <6>.
6 50 #45. Page 39, line 23, by striking the figure
7 1 <1998> and inserting the following: <2002>.
7 2 #46. Page 40, by striking lines 2 through 6.
7 3 #47. Page 40, by inserting after line 8, the
7 4 following:
7 5 <Sec. _____. SHELTER CARE REQUEST FOR PROPOSALS.
7 6 The department of human services shall amend the
7 7 request for proposals issued on April 15, 2005, for a
7 8 program to provide for the statewide availability of
7 9 emergency juvenile shelter care during the fiscal year
7 10 beginning July 1, 2005, to increase the statewide
7 11 daily average number of beds covered under the request
7 12 to 288 beds in order to include 15 unallocated beds
7 13 statewide for emergency placements. However, if the
7 14 date of enactment of this Act does not allow
7 15 sufficient time for the department to amend the
7 16 request for proposals as otherwise required by this
7 17 section, the department shall apply the requirement in

7 18 the negotiations with the program awarded the contract
7 19 and shall include the requirement in the final
7 20 contract.>
7 21 #48. Page 41, by inserting after line 25, the
7 22 following:
7 23 <Sec. _____. 2003 Iowa Acts, chapter 178, section
7 24 45, unnumbered paragraph 3, as enacted by 2004 Iowa
7 25 Acts, chapter 1175, section 160, is amended to read as
7 26 follows:
7 27 Notwithstanding section 8.33, moneys appropriated
7 28 in this section that remain unencumbered or
7 29 unobligated at the close of the fiscal year shall not
7 30 revert but shall remain available for expenditure for
7 31 the child and family services until the close of the
7 32 succeeding fiscal year beginning July 1, 2005.>
7 33 #49. Page 43, by inserting after line 29, the
7 34 following:
7 35 <_____. The provision directing the department of
7 36 human services to amend the request for proposals
7 37 issued on April 15, 2005, to provide for statewide
7 38 emergency juvenile shelter care.
7 39 _____. The provision amending 2003 Iowa Acts,
7 40 chapter 178, section 45, unnumbered paragraph 3, as
7 41 enacted by 2004 Iowa Acts, chapter 1175, section 160.>
7 42 #50. Page 45, line 15, by striking the figure
7 43 <50,200,000> and inserting the following:
7 44 <77,753,926>.
7 45 #51. Page 46, by striking lines 23 and 24, and
7 46 inserting the following: <to only those persons who
7 47 meet the nursing facility level of care for home and
7 48 community-based services waiver services as
7 49 established on or after July 1, 2005.>
7 50 #52. Page 48, line 17, by striking the figure
8 1 <14,507,362> and inserting the following:
8 2 <19,167,111>.
8 3 #53. Page 49, by inserting after line 32, the
8 4 following:
8 5 <Sec. _____. NEW SECTION. 16.184 TRANSITIONAL
8 6 HOUSING REVOLVING LOAN PROGRAM FUND.
8 7 1. A transitional housing revolving loan program
8 8 fund is created within the authority to further the
8 9 availability of affordable housing for parents that
8 10 are reuniting with their children while completing or
8 11 participating in substance abuse treatment. The
8 12 moneys in the fund are annually appropriated to the
8 13 authority to be used for the development and operation
8 14 of a revolving loan program to provide financing to
8 15 construct affordable transitional housing, including
8 16 through new construction or acquisition and
8 17 rehabilitation of existing housing. The housing
8 18 provided shall be geographically located in close
8 19 proximity to licensed substance abuse treatment
8 20 programs. Preference in funding shall be given to
8 21 projects that reunite mothers with the mothers'
8 22 children.
8 23 2. Moneys transferred by the authority for deposit
8 24 in the transitional housing revolving loan program
8 25 fund, moneys appropriated to the transitional housing
8 26 revolving loan program, and any other moneys available
8 27 to and obtained or accepted by the authority for
8 28 placement in the fund shall be deposited in the fund.
8 29 Additionally, payment of interest, recaptures of
8 30 awards, and other repayments to the transitional
8 31 housing revolving loan program fund shall be credited
8 32 to the fund. Notwithstanding section 12C.7,
8 33 subsection 2, interest or earnings on moneys in the
8 34 transitional housing revolving loan program fund shall
8 35 be credited to the fund. Notwithstanding section
8 36 8.33, moneys that remain unencumbered or unobligated
8 37 at the close of the fiscal year shall not revert but
8 38 shall remain available for the same purpose in the
8 39 succeeding fiscal year.
8 40 3. The authority shall annually allocate moneys
8 41 available in the transitional housing revolving loan
8 42 program fund for the development of affordable
8 43 transitional housing for parents that are reuniting
8 44 with the parents' children while completing or
8 45 participating in substance abuse treatment. The
8 46 authority shall develop a joint application process
8 47 for the allocation of federal low-income housing tax
8 48 credits and the funds available under this section.

8 49 Moneys allocated to such projects may be in the form
8 50 of loans, grants, or a combination of loans and
9 1 grants.

9 2 4. The authority shall adopt rules pursuant to
9 3 chapter 17A to administer this section.>

9 4 #54. Page 68, by inserting after line 32 the
9 5 following:

9 6 <Sec. _____. Section 154A.22, Code 2005, is amended
9 7 to read as follows:

9 8 154A.22 ~~DEPOSIT RECEIPT OF FEES.~~

9 9 1. ~~The Except as otherwise provided in subsection~~
9 10 ~~2, the~~ department shall deposit all fees collected
9 11 under the provisions of this chapter in the general
9 12 fund of the state. Compensation and travel expenses
9 13 of members and employees of the board, and other
9 14 expenses necessary for the board to administer and
9 15 carry out the provisions of this chapter shall be paid
9 16 from funds appropriated from the general fund of the
9 17 state.

9 18 2. ~~The department may retain ninety percent of the~~
9 19 ~~revenue generated from an increase in licensure and~~
9 20 ~~permit fees established pursuant to section 154A.17~~
9 21 ~~above the licensure and permit fees in effect as of~~
9 22 ~~June 30, 2005. The moneys retained by the department~~
9 23 ~~shall be used for any of the board's duties, including~~
9 24 ~~but not limited to addition of full-time equivalent~~
9 25 ~~positions for program services and investigations.~~
9 26 ~~Revenues retained by the department pursuant to this~~
9 27 ~~subsection shall be considered repayment receipts as~~
9 28 ~~defined in section 8.2.~~

9 29 Sec. _____. Section 155.6, Code 2005, is amended to
9 30 read as follows:

9 31 155.6 ~~FUND-CREATED RECEIPT OF FEES.~~

9 32 1. ~~All Except as otherwise provided in subsection~~
9 33 ~~2, all~~ fees collected under the provisions of this
9 34 chapter shall be paid to the treasurer of state who
9 35 shall deposit the fees in the general fund of the
9 36 state. Funds shall be appropriated to the board to be
9 37 used and expended by the board to pay the compensation
9 38 and travel expenses of members and employees of the
9 39 board, and other expenses necessary for the board to
9 40 administer and carry out the provisions of this
9 41 chapter.

9 42 2. ~~The board may retain ninety percent of the~~
9 43 ~~revenue generated from an increase in examination,~~
9 44 ~~licensure, and renewal of licensure fees established~~
9 45 ~~pursuant to section 155.15 above the examination,~~
9 46 ~~licensure, and renewal of licensure fees in effect as~~
9 47 ~~of June 30, 2005. The moneys retained by the board~~
9 48 ~~shall be used for any of the board's duties, including~~
9 49 ~~but not limited to addition of full-time equivalent~~
9 50 ~~positions for program services and investigations.~~
10 1 ~~Revenues retained by the department pursuant to this~~
10 2 ~~subsection shall be considered repayment receipts as~~
10 3 ~~defined in section 8.2.>~~

10 4 #55. Page 73, by inserting after line 33 the
10 5 following:

10 6 <Sec. _____. Section 227.4, Code 2005, is amended to
10 7 read as follows:

10 8 227.4 ~~STANDARDS FOR CARE OF PERSONS WITH MENTAL~~
10 9 ~~ILLNESS OR DEVELOPMENTAL DISABILITIES MENTAL~~
10 10 ~~RETARDATION IN COUNTY CARE FACILITIES.~~

10 11 The administrator, in cooperation with the
10 12 department of inspections and appeals, shall recommend
10 13 and the mental health, mental retardation,
10 14 developmental disabilities, and brain injury
10 15 commission created in section 225C.5 shall adopt
10 16 standards for the care of and services to persons with
10 17 mental illness or ~~developmental disabilities mental~~
10 18 ~~retardation~~ residing in county care facilities. The
10 19 standards shall be enforced by the department of
10 20 inspections and appeals as a part of the licensure
10 21 inspection conducted pursuant to chapter 135C. The
10 22 objective of the standards is to ensure that persons
10 23 with mental illness or ~~developmental disabilities~~
10 24 ~~mental retardation~~ who are residents of county care
10 25 facilities are not only adequately fed, clothed, and
10 26 housed, but are also offered reasonable opportunities
10 27 for productive work and recreational activities suited
10 28 to their physical and mental abilities and offering
10 29 both a constructive outlet for their energies and, if

10 30 possible, therapeutic benefit. When recommending
10 31 standards under this section, the administrator shall
10 32 designate an advisory committee representing
10 33 administrators of county care facilities, county
10 34 mental health and developmental disabilities regional
10 35 planning councils, and county care facility resident
10 36 advocate committees to assist in the establishment of
10 37 standards.>

10 38 #56. Page 74, by inserting after line 27 the
10 39 following:

10 40 <Sec. _____. NEW SECTION. 231E.1 TITLE.
10 41 This chapter shall be known and may be cited as the
10 42 "Iowa Substitute Decision Maker Act".

10 43 Sec. _____. NEW SECTION. 231E.2 OFFICE OF
10 44 SUBSTITUTE DECISION MAKER == FINDINGS AND INTENT.

10 45 1. a. The general assembly finds that many adults
10 46 in this state are unable to meet essential
10 47 requirements to maintain their physical health or to
10 48 manage essential aspects of their financial resources
10 49 and are in need of substitute decision-making
10 50 services. However, a willing and responsible person
11 1 may not be available to serve as a private substitute
11 2 decision maker or the adult may not have adequate
11 3 income or resources to compensate a private substitute
11 4 decision maker.

11 5 b. The general assembly further finds that a
11 6 process should exist to assist individuals in finding
11 7 alternatives to substitute decision-making services
11 8 and less intrusive means of assistance before an
11 9 individual's independence or rights are limited.

11 10 c. The general assembly further finds that a
11 11 substitute decision maker may be necessary to finalize
11 12 a person's affairs after death when there is no
11 13 willing and appropriate person available to serve as
11 14 the person's personal representative.

11 15 2. a. It is, therefore, the intent of the general
11 16 assembly to establish a state office of substitute
11 17 decision maker and authorize the establishment of
11 18 local offices of substitute decision maker to provide
11 19 substitute decision-making services to adults and
11 20 their estates after their deaths, when no private
11 21 substitute decision maker is available.

11 22 b. It is also the intent of the general assembly
11 23 that the office of substitute decision maker provide
11 24 assistance to both public and private substitute
11 25 decision makers throughout the state in securing
11 26 necessary services for their wards, principals,
11 27 clients, and decedents and to assist substitute
11 28 decision makers, wards, principals, clients, courts,
11 29 and attorneys in the orderly and expeditious handling
11 30 of substitute decision-making proceedings.

11 31 Sec. _____. NEW SECTION. 231E.3 DEFINITIONS.

11 32 As used in this chapter, unless the context
11 33 otherwise requires:

11 34 1. "Client" means an individual for whom a
11 35 representative payee is appointed.

11 36 2. "Commission" means the commission of elder
11 37 affairs.

11 38 3. "Conservator" means conservator as defined in
11 39 section 633.3.

11 40 4. "Court" means court as defined in section
11 41 633.3.

11 42 5. "Decedent" means the individual for whom an
11 43 estate is administered or executed.

11 44 6. "Department" means the department of elder
11 45 affairs established in section 231.21.

11 46 7. "Director" means the director of the department
11 47 of elder affairs.

11 48 8. "Estate" means estate as defined in section
11 49 633.3.

11 50 9. "Guardian" means guardian as defined in section
12 1 633.3.

12 2 10. "Incompetent" means incompetent as defined in
12 3 section 633.3.

12 4 11. "Local office" means a local office of
12 5 substitute decision maker.

12 6 12. "Local substitute decision maker" means an
12 7 individual under contract with the department to act
12 8 as a substitute decision maker.

12 9 13. "Personal representative" means personal
12 10 representative as defined in section 633.3.

12 11 14. "Planning and service area" means a geographic
12 12 area of the state designated by the commission for the
12 13 purpose of planning, developing, delivering, and
12 14 administering services for elders.

12 15 15. "Power of attorney" means a durable power of
12 16 attorney for health care as defined in section 144B.1
12 17 or a power of attorney that becomes effective upon the
12 18 disability of the principal as described in section
12 19 633.705.

12 20 16. "Principal" means an individual for whom a
12 21 power of attorney is established.

12 22 17. "Representative payee" means an individual
12 23 appointed by a government entity to receive funds on
12 24 behalf of a client pursuant to federal regulation.

12 25 18. "State agency" means any executive department,
12 26 commission, board, institution, division, bureau,
12 27 office, agency, or other executive entity of state
12 28 government.

12 29 19. "State office" means the state office of
12 30 substitute decision maker.

12 31 20. "State substitute decision maker" means the
12 32 administrator of the state office of substitute
12 33 decision maker.

12 34 21. "Substitute decision maker" means a guardian,
12 35 conservator, representative payee, attorney in fact
12 36 under a power of attorney, or personal representative.

12 37 22. "Substitute decision making" or "substitute
12 38 decision-making services" means the provision of
12 39 services of a guardian, conservator, representative
12 40 payee, attorney in fact under a power of attorney, or
12 41 personal representative.

12 42 23. "Ward" means the individual for whom a
12 43 guardianship or conservatorship is established.

12 44 Sec. ____ NEW SECTION. 231E.4 STATE OFFICE OF
12 45 SUBSTITUTE DECISION MAKER == ESTABLISHED == DUTIES ==
12 46 DEPARTMENT RULES.

12 47 1. A state office of substitute decision maker is
12 48 established within the department to create and
12 49 administer a statewide network of substitute decision
12 50 makers who provide substitute decision-making services
13 1 if other substitute decision makers are not available
13 2 to provide the services.

13 3 2. The director shall appoint an administrator of
13 4 the state office who shall serve as the state
13 5 substitute decision maker. The state substitute
13 6 decision maker shall be qualified for the position by
13 7 training and expertise in substitute decision-making
13 8 law. The state substitute decision maker shall also
13 9 have knowledge of social services available to meet
13 10 the needs of persons adjudicated incompetent or in
13 11 need of substitute decision making.

13 12 3. The state office shall do all of the following:
13 13 a. Select persons through a request for proposals
13 14 process to establish local offices of substitute
13 15 decision maker in each of the planning and service
13 16 areas. Local offices shall be established statewide
13 17 on or before July 1, 2015.

13 18 b. Monitor and terminate contracts with local
13 19 offices based on criteria established by rule of the
13 20 department.

13 21 c. Retain oversight responsibilities for all local
13 22 substitute decision makers.

13 23 d. Act as substitute decision maker if a local
13 24 office is not available to so act.

13 25 e. Work with the department of human services, the
13 26 Iowa department of public health, the governor's
13 27 developmental disabilities council, and other agencies
13 28 to establish a referral system for the provision of
13 29 substitute decision-making services.

13 30 f. Develop and maintain a current listing of
13 31 public and private services and programs available to
13 32 assist wards, principals, clients, personal
13 33 representatives, and their families and establish and
13 34 maintain relationships with public and private
13 35 entities to assure the availability of effective
13 36 substitute decision-making services for wards,
13 37 principals, clients, and estates.

13 38 g. Provide information and referrals to the public
13 39 regarding substitute decision-making services.

13 40 h. Provide personal representatives for estates
13 41 where a person is not available for that purpose.

13 42 i. Maintain statistical data on the local offices
13 43 including various methods of funding, the types of
13 44 services provided, and the demographics of the wards,
13 45 principals, clients, and decedents and report to the
13 46 general assembly on or before November 1, annually,
13 47 regarding the local offices and recommend any
13 48 appropriate legislative action.

13 49 j. Develop, in cooperation with the judicial
13 50 council as established in section 602.1202, a
14 1 substitute decision-maker education and training
14 2 program. The program may be offered to both public
14 3 and private substitute decision makers. The state
14 4 office shall establish a curriculum committee, which
14 5 includes but is not limited to probate judges, to
14 6 develop the education and training program.

14 7 4. The state office may do any of the following:
14 8 a. Accept and receive gifts, grants, or donations
14 9 from any public or private entity in support of the
14 10 state office.
14 11 b. Accept the services of individual volunteers
14 12 and volunteer organizations.
14 13 c. Employ staff necessary to administer the state
14 14 office and enter into contracts as necessary.

14 15 5. The department shall provide administrative
14 16 support to the state office.
14 17 6. The department shall adopt rules in accordance
14 18 with chapter 17A necessary to create and administer
14 19 the state and local offices, relating to but not
14 20 limited to all of the following:
14 21 a. An application and intake process and standards
14 22 for receipt of substitute decision-making services
14 23 from the state or a local office.
14 24 b. A process for the removal or termination of the
14 25 state or a local substitute decision maker.
14 26 c. An ideal range of staff-to-client ratios for
14 27 the state and local substitute decision makers.
14 28 d. Minimum training and experience requirements
14 29 for professional staff and volunteers.
14 30 e. A fee schedule. The department may establish
14 31 by rule a schedule of reasonable fees for the costs of
14 32 substitute decision-making services provided under
14 33 this chapter. The fee schedule established may be
14 34 based upon the ability of the ward, principal, client,
14 35 or estate to pay for the services but shall not exceed
14 36 the actual cost of providing the services. The state
14 37 office or a local office may waive collection of a fee
14 38 upon a finding that collection is not economically
14 39 feasible. The rules may provide that the state office
14 40 or a local office may investigate the financial status
14 41 of a ward, principal, or client who, or an estate that
14 42 requests substitute decision-making services or for
14 43 whom or which the state or a local substitute decision
14 44 maker has been appointed for the purpose of
14 45 determining the fee to be charged by requiring the
14 46 ward, principal, client, or estate to provide any
14 47 written authorizations necessary to provide access to
14 48 records of public or private sources, otherwise
14 49 confidential, needed to evaluate the individual's or
14 50 estate's financial eligibility. The rules may also
15 1 provide that the state or a local substitute decision
15 2 maker may, upon request and without payment of fees
15 3 otherwise required by law, obtain information
15 4 necessary to evaluate the individual's or estate's
15 5 financial eligibility from any office of the state or
15 6 of a political subdivision or agency of the state that
15 7 possesses public records. In estate proceedings, the
15 8 state or local decision maker shall be compensated
15 9 pursuant to chapter 633, division III, part 8.

15 10 f. Standards and performance measures for
15 11 evaluation of local offices.
15 12 g. Recordkeeping and accounting procedures to
15 13 ensure that the state office and local offices
15 14 maintain confidential, accurate, and up-to-date
15 15 financial, case, and statistical records. The rules
15 16 shall require each local office to file with the state
15 17 office, on an annual basis, an account of all public
15 18 and private funds received and a report regarding the
15 19 operations of the local office for the preceding
15 20 fiscal year.
15 21 h. Procedures for the sharing of records held by
15 22 the court or a state agency with the state office,

15 23 which are necessary to evaluate the state office or
15 24 local offices, to assess the need for additional
15 25 substitute decision makers, or to develop required
15 26 reports.

15 27 Sec. ____ NEW SECTION. 231E.5 LOCAL OFFICE OF
15 28 SUBSTITUTE DECISION MAKER.

15 29 1. The state substitute decision maker shall
15 30 select persons to provide local substitute decision=
15 31 making services in each of the planning and service
15 32 areas, based upon a request for proposals process
15 33 developed by the department.

15 34 2. The local office shall comply with all
15 35 requirements established for the local office by the
15 36 department and shall do all of the following:

15 37 a. Maintain a staff of professionally qualified
15 38 individuals to carry out the substitute decision=
15 39 making functions.

15 40 b. Identify client needs and local resources to
15 41 provide necessary support services to recipients of
15 42 substitute decision-making services.

15 43 c. Collect program data as required by the state
15 44 office.

15 45 d. Meet standards established for the local
15 46 office.

15 47 e. Comply with minimum staffing requirements and
15 48 caseload restrictions.

15 49 f. Conduct background checks on employees and
15 50 volunteers.

16 1 g. With regard to a proposed ward, the local
16 2 office shall do all of the following:

16 3 (1) Determine the most appropriate form of
16 4 substitute decision making needed, if any, giving
16 5 preference to the least restrictive alternative.

16 6 (2) Determine whether the needs of the proposed
16 7 ward require the appointment of guardian or
16 8 conservator.

16 9 (3) Assess the financial resources of the proposed
16 10 ward based on the information supplied to the local
16 11 office at the time of the determination.

16 12 (4) Inquire and, if appropriate, search to
16 13 determine whether any other person may be willing and
16 14 able to serve as the proposed ward's guardian or
16 15 conservator.

16 16 (5) Determine the form of guardianship or
16 17 conservatorship to request of a court, if any, giving
16 18 preference to the least restrictive form.

16 19 (6) If determined necessary, file a petition for
16 20 the appointment of a guardian or conservator pursuant
16 21 to chapter 633.

16 22 h. With regard to an estate, the local office may
16 23 appoint a personal representative to file a petition
16 24 to open an estate who shall do all of the following:

16 25 (1) Retain legal counsel as described in section
16 26 231E.12 to be compensated from the proceeds of the
16 27 estate pursuant to chapter 633, division III, part 8.

16 28 (2) Liquidate all assets of the estate.

16 29 (3) Distribute the assets of the estate pursuant
16 30 to chapter 633, division VII, parts 7 and 8, and other
16 31 applicable provisions of law.

16 32 3. A local office may do any of the following:

16 33 a. Contract for or arrange for provision of
16 34 services necessary to carry out the duties of a local
16 35 substitute decision maker.

16 36 b. Accept the services of volunteers or
16 37 consultants and reimburse them for necessary expenses.

16 38 c. Employ staff and delegate to members of the
16 39 staff the powers and duties of the local substitute
16 40 decision maker. However, the local office shall
16 41 retain responsibility for the proper performance of
16 42 the delegated powers and duties. All delegations
16 43 shall be to persons who meet the eligibility
16 44 requirements of the specific type of substitute
16 45 decision maker.

16 46 4. An individual acting as the state or a local
16 47 substitute decision maker shall comply with applicable
16 48 requirements for guardians, conservators, or personal
16 49 representatives pursuant to chapter 633, attorneys in
16 50 fact under a power of attorney pursuant to chapter 633
17 1 or a durable power of attorney for health care
17 2 pursuant to chapter 144B, or representative payees
17 3 pursuant to federal law and regulations.

17 4 5. Notwithstanding any provision to the contrary,
17 5 an individual acting as the state or a local
17 6 substitute decision maker shall not be subject to the
17 7 posting of a bond pursuant to chapter 633. An
17 8 individual acting as the state or a local substitute
17 9 decision maker shall complete at least eight hours of
17 10 training annually as certified by the department.
17 11 Sec. _____. NEW SECTION. 231E.6 COURT=INITIATED OR
17 12 PETITION=INITIATED APPOINTMENT OF STATE OR LOCAL
17 13 SUBSTITUTE DECISION MAKER == GUARDIANSHIP OR
17 14 CONSERVATORSHIP == DISCHARGE.
17 15 The court may appoint on its own motion or upon
17 16 petition of any person, the state office or local
17 17 office of substitute decision maker, to serve as
17 18 guardian or conservator for any proposed ward in cases
17 19 in which the court determines that the proceeding will
17 20 establish the least restrictive form of substitute
17 21 decision making suitable for the proposed ward and if
17 22 the proposed ward meets all of the following criteria:
17 23 1. Is a resident of the planning and service area
17 24 in which the local office is located from which
17 25 services would be provided or is a resident of the
17 26 state, if the state office would provide the services.
17 27 2. Is eighteen years of age or older.
17 28 3. Does not have suitable family or another
17 29 appropriate entity willing and able to serve as
17 30 guardian or conservator.
17 31 4. Is incompetent.
17 32 5. Is an individual for whom guardianship or
17 33 conservatorship services are the least restrictive
17 34 means of meeting the individual's needs.
17 35 Sec. _____. NEW SECTION. 231E.7 SUBSTITUTE
17 36 DECISION MAKER=INITIATED APPOINTMENT.
17 37 The state office or local office may on its own
17 38 motion or at the request of the court intervene in a
17 39 guardianship or conservatorship proceeding if the
17 40 state office or local office or the court considers
17 41 the intervention to be justified because of any of the
17 42 following:
17 43 1. An appointed guardian or conservator is not
17 44 fulfilling prescribed duties or is subject to removal
17 45 under section 633.65.
17 46 2. A willing and qualified guardian or conservator
17 47 is not available.
17 48 3. The best interests of the ward require the
17 49 intervention.
17 50 Sec. _____. NEW SECTION. 231E.8 PROVISIONS
18 1 APPLICABLE TO ALL APPOINTMENTS AND DESIGNATIONS ==
18 2 DISCHARGE.
18 3 1. The court shall only appoint or intervene on
18 4 its own motion or act upon the petition of any person
18 5 under section 231E.6 or 231E.7 if such appointment or
18 6 intervention would comply with staffing ratios
18 7 established by the department and if sufficient
18 8 resources are available to the state office or local
18 9 office. Notice of the proposed appointment shall be
18 10 provided to the state office or local office prior to
18 11 the granting of such appointment.
18 12 2. The state office or local office shall maintain
18 13 reasonable personal contact with each ward, principal,
18 14 or client for whom the state office or local office is
18 15 appointed or designated in order to monitor the
18 16 ward's, principal's, or client's care and progress.
18 17 For any estates in which the state office or local
18 18 office is involved, the state office or local office
18 19 shall move estate proceedings forward in a reasonable
18 20 and expeditious manner and shall monitor the progress
18 21 of any legal counsel retained on a regular basis.
18 22 3. Notwithstanding any provision of law to the
18 23 contrary, the state office or local office appointed
18 24 by the court or designated under a power of attorney
18 25 document may access all confidential records
18 26 concerning the ward or principal for whom the state
18 27 office or local office is appointed or designated,
18 28 including medical records and abuse reports.
18 29 4. In any proceeding in which the state or local
18 30 office is appointed or is acting as guardian or
18 31 conservator, the court shall waive court costs or
18 32 filing fees, if the state office or local office
18 33 certifies to the court that the state office or local
18 34 office has waived its fees in their entirety based

18 35 upon the ability of the ward to pay for the services
18 36 of the state office or local office. In any estate
18 37 proceeding, the court costs shall be paid in
18 38 accordance with chapter 633, division VII, part 7.
18 39 5. The state or a local substitute decision maker
18 40 shall be subject to discharge or removal, by the
18 41 court, on the grounds and in the manner in which other
18 42 guardians, conservators, or personal representatives
18 43 are discharged or removed pursuant to chapter 633.
18 44 Sec. _____. NEW SECTION. 231E.9 FEES ==
18 45 APPROPRIATED.
18 46 Fees received by the state office and by local
18 47 offices for services provided as state or local
18 48 substitute decision maker shall be deposited in the
18 49 general fund of the state and the amounts received are
18 50 appropriated to the department for the purposes of
19 1 administering this chapter.
19 2 Sec. _____. NEW SECTION. 231E.10 CONFLICTS OF
19 3 INTEREST == LIMITATIONS.
19 4 Notwithstanding section 633.63 or any other
19 5 provision to the contrary, a local substitute decision
19 6 maker shall not provide direct services to or have an
19 7 actual or the appearance of any conflict of interest
19 8 relating to any individual for whom the local
19 9 substitute decision maker acts in a substitute
19 10 decision-making capacity unless such provision of
19 11 direct services or the appearance of a conflict of
19 12 interest is approved and monitored by the state office
19 13 in accordance with rules adopted by the department.
19 14 Sec. _____. NEW SECTION. 231E.11 DUTY OF ATTORNEY
19 15 GENERAL, COUNTY ATTORNEY, OR OTHER COUNSEL.
19 16 1. The attorney general shall advise the state
19 17 office on legal matters and represent the state office
19 18 in legal proceedings.
19 19 2. Upon the request of the attorney general, a
19 20 county attorney may represent the state office or a
19 21 local office in connection with the filing of a
19 22 petition for appointment as guardian or conservator
19 23 and with routine, subsequent appearances.
19 24 3. A local attorney experienced in probate matters
19 25 may represent the personal representative for all
19 26 routine matters associated with probating an estate.
19 27 Sec. _____. NEW SECTION. 231E.12 LIABILITY.
19 28 All employees and volunteers of the state office
19 29 and local offices operating under this chapter and
19 30 other applicable chapters and pursuant to rules
19 31 adopted under this and other applicable chapters are
19 32 considered employees of the state and state volunteers
19 33 for the purposes of chapter 669 and shall be afforded
19 34 protection under section 669.21 or 669.24, as
19 35 applicable. This section does not relieve a guardian
19 36 or conservator from performing duties prescribed under
19 37 chapter 633.
19 38 Sec. _____. NEW SECTION. 231E.13 IMPLEMENTATION.
19 39 Implementation of this chapter is subject to
19 40 availability of funding as determined by the
19 41 department. The department shall notify the Code
19 42 editor upon implementation of this chapter.>
19 43 #57. Page 74, by inserting after line 34 the
19 44 following:
19 45 <Sec. _____. Section 232.107, Code 2005, is amended
19 46 by adding the following new unnumbered paragraph:
19 47 NEW UNNUMBERED PARAGRAPH. If a breastfeeding
19 48 infant is removed from the child's home in accordance
19 49 with an order entered under this division, unless the
19 50 court finds that substantial evidence exists to
20 1 believe that reasonable visitation or supervised
20 2 visitation would cause an imminent risk to the
20 3 infant's life or health, the order shall allow the
20 4 infant's mother reasonable visitation or supervised
20 5 visitation for purposes of breastfeeding the infant.
20 6 The department or other person with custody of the
20 7 infant shall make every reasonable effort to comply
20 8 with the order.>
20 9 #58. Page 76, by inserting before line 3 the
20 10 following:
20 11 <Sec. _____. Section 235B.6, subsection 2, paragraph
20 12 e, Code 2005, is amended by adding the following new
20 13 subparagraph:
20 14 NEW SUBPARAGRAPH. (11) The state office or a
20 15 local office of substitute decision maker as defined

20 16 in section 231E.3, appointed by the court as a
20 17 guardian or conservator of the adult named in a report
20 18 as the victim of abuse or the person designated to be
20 19 responsible for performing or obtaining protective
20 20 services on behalf of a dependent adult pursuant to
20 21 section 235B.18.>
20 22 #59. Page 86, by inserting after line 3 the
20 23 following:
20 24 <Sec. _____. Section 633.63, subsection 3, Code
20 25 2005, is amended to read as follows:
20 26 3. A private nonprofit corporation organized under
20 27 chapter 504, Code 1989, or current chapter 504 or 504A
20 28 is qualified to act as a guardian, as defined in
20 29 section 633.3, ~~subsection 20,~~ or a conservator, as
20 30 defined in section 633.3, ~~subsection 7, where the~~
~~20 31 assets subject to the conservatorship at the time when~~
~~20 32 such corporation is appointed conservator are less~~
~~20 33 than or equal to seventy-five thousand dollars and if~~
20 34 the corporation does not possess a proprietary or
20 35 legal interest in an organization which provides
20 36 direct services to the individual.
20 37 Sec. _____. Section 633.63, Code 2005, is amended by
20 38 adding the following new subsection:
20 39 NEW SUBSECTION. 4. The state or a local
20 40 substitute decision maker as defined in section 231E.3
20 41 is authorized to act in a fiduciary capacity in this
20 42 state in accordance with chapter 231E.>
20 43 #60. By renumbering, relettering, or redesignating
20 44 and correcting internal references as necessary.
20 45 HF 825.S
20 46 pf/cc/26