

House Amendment 8570

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1 1 Amend Senate File 2217, as amended, passed, and
1 2 reprinted by the Senate, as follows:
1 3 #1. Page 1, by inserting after line 20 the
1 4 following:

1 5 <DIVISION ____

1 6 INVOLUNTARY HOSPITALIZATION PROCEEDINGS

1 7 Sec. ____ Section 125.82, subsection 3, Code 2005,
1 8 as amended by 2006 Iowa Acts, Senate File 2362,
1 9 section 1, if enacted, is amended to read as follows:

1 10 3. The person who filed the application and a
1 11 licensed physician or qualified mental health
1 12 professional as defined in section 229.1 who has
1 13 examined the respondent in connection with the
1 14 commitment hearing shall be present at the hearing,
1 15 unless ~~prior to the hearing~~ the court for good cause
1 16 finds that their presence or testimony is not
1 17 necessary. The applicant, respondent, and the
1 18 respondent's attorney may waive the presence or
1 19 telephonic appearance of the licensed physician or
1 20 qualified mental health professional who examined the
1 21 respondent and agree to submit as evidence the written
1 22 report of the licensed physician or qualified mental
1 23 health professional. The respondent's attorney shall
1 24 inform the court if the respondent's attorney
1 25 reasonably believes that the respondent, due to
1 26 diminished capacity, cannot make an adequately
1 27 considered waiver decision. "Good cause" for finding
1 28 that the testimony of the licensed physician or
1 29 qualified mental health professional who examined the
1 30 respondent is not necessary may include, but is not
1 31 limited to, such a waiver. If the court determines
1 32 that the testimony of the licensed physician or
1 33 qualified mental health professional is necessary, the
1 34 court may allow the licensed physician or qualified
1 35 mental health professional to testify by telephone.
1 36 The respondent shall be present at the hearing unless
1 37 prior to the hearing the respondent's attorney
1 38 stipulates in writing that the attorney has conversed
1 39 with the respondent, and that in the attorney's
1 40 judgment the respondent cannot make a meaningful
1 41 contribution to the hearing, or that the respondent
1 42 has waived the right to be present, and the basis for
1 43 the attorney's conclusions. A stipulation to the
1 44 respondent's absence shall be reviewed by the court
1 45 before the hearing, and may be rejected if it appears
1 46 that insufficient grounds are stated or that the
1 47 respondent's interests would not be served by the
1 48 respondent's absence.

1 49 Sec. ____ Section 229.12, subsection 3, Code 2005,
1 50 as amended by 2006 Iowa Acts, Senate File 2362,
2 1 section 3, if enacted is amended to read as follows:
2 2 3. The respondent's welfare shall be paramount and
2 3 the hearing shall be conducted in as informal a manner
2 4 as may be consistent with orderly procedure, but
2 5 consistent therewith the issue shall be tried as a
2 6 civil matter. Such discovery as is permitted under
2 7 the Iowa rules of civil procedure shall be available
2 8 to the respondent. The court shall receive all
2 9 relevant and material evidence which may be offered
2 10 and need not be bound by the rules of evidence. There
2 11 shall be a presumption in favor of the respondent, and
2 12 the burden of evidence in support of the contentions
2 13 made in the application shall be upon the applicant.
2 14 The licensed physician or qualified mental health
2 15 professional who examined the respondent shall be
2 16 present at the hearing unless ~~prior to the hearing~~ the
2 17 court for good cause finds that the licensed
2 18 physician's or qualified mental health professional's
2 19 presence or testimony is not necessary. The
2 20 applicant, respondent, and the respondent's attorney
2 21 may waive the presence or the telephonic appearance of
2 22 the licensed physician or qualified mental health
2 23 professional who examined the respondent and agree to
2 24 submit as evidence the written report of the licensed

2 25 physician or qualified mental health professional.
2 26 The respondent's attorney shall inform the court if
2 27 the respondent's attorney reasonably believes that the
2 28 respondent, due to diminished capacity, cannot make an
2 29 adequately considered waiver decision. "Good cause"
2 30 for finding that the testimony of the licensed
2 31 physician or qualified mental health professional who
2 32 examined the respondent is not necessary may include,
2 33 but is not limited to, such a waiver. If the court
2 34 determines that the testimony of the licensed
2 35 physician or qualified mental health professional is
2 36 necessary, the court may allow the licensed physician
2 37 or the qualified mental health professional to testify
2 38 by telephone. If upon completion of the hearing the
2 39 court finds that the contention that the respondent is
2 40 seriously mentally impaired has not been sustained by
2 41 clear and convincing evidence, it shall deny the
2 42 application and terminate the proceeding.>
2 43 #2. Title page, line 4, by inserting after the
2 44 word <data> the following: <, and involuntary
2 45 hospitalization proceedings>.
2 46 #3. By renumbering as necessary.
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2 49 _____
2 50 CARROLL of Poweshiek
3 1
3 2
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3 4 _____
3 4 EICHHORN of Hamilton
3 5 SF 2217.303 81
3 6 rh/cf/3879