

# Senate Amendment 5223

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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 before line 1 the  
1 4 following:  
1 5 <DIVISION I  
1 6 DISABILITY SERVICES DATA>  
1 7 #2. Page 1, by inserting after line 20 the  
1 8 following:  
1 9 <Sec. \_\_\_\_\_. EMERGENCY RULES. The mental health,  
1 10 mental retardation, developmental disabilities, and  
1 11 brain injury commission may adopt administrative rules  
1 12 under section 17A.4, subsection 2, and section 17A.5,  
1 13 subsection 2, paragraph "b", to implement the  
1 14 provisions of this division of this Act, and the rules  
1 15 shall become effective immediately upon filing or on a  
1 16 later effective date specified in the rules, unless  
1 17 the effective date is delayed by the administrative  
1 18 rules review committee. Any rules adopted in  
1 19 accordance with this section shall not take effect  
1 20 before the rules are reviewed by the administrative  
1 21 rules review committee. The delay authority provided  
1 22 to the administrative rules review committee under  
1 23 section 17A.4, subsection 5, and section 17A.8,  
1 24 subsection 9, shall be applicable to a delay imposed  
1 25 under this section, notwithstanding a provision in  
1 26 those sections making them inapplicable to section  
1 27 17A.5, subsection 2, paragraph "b". Any rules adopted  
1 28 in accordance with the provisions of this section  
1 29 shall also be published as notice of intended action  
1 30 as provided in section 17A.4.  
1 31 Sec. \_\_\_\_\_. USE OF CLIENT IDENTIFIER. The client  
1 32 identifier established pursuant to section 225C.6A,  
1 33 subsection 2, paragraph "c", subparagraph (2), as  
1 34 enacted by this division of this Act, shall be used  
1 35 beginning with the data for disability services  
1 36 provided in the fiscal year beginning July 1, 2005,  
1 37 that is submitted by counties in December 2006.>  
1 38 #3. Page 1, by inserting after line 20 the  
1 39 following:  
1 40 <DIVISION II  
1 41 MEDICAID ELIGIBILITY == VEHICLE DISREGARD  
1 42 Sec. \_\_\_\_\_. Section 249A.3, Code Supplement 2005, is  
1 43 amended by adding the following new subsection:  
1 44 NEW SUBSECTION. 5B. In determining eligibility  
1 45 for adults under subsection 1, paragraphs "b", "e",  
1 46 "h", "j", "k", "n", "s", and "t"; subsection 2,  
1 47 paragraphs "d", "e", "h", "i", and "j"; and subsection  
1 48 5, paragraph "b", one motor vehicle per household  
1 49 shall be disregarded.>  
1 50 #4. Page 1, by inserting after line 20 the  
2 1 following:  
2 2 <DIVISION III  
2 3 ELECTRONIC HEALTH RECORDS  
2 4 Sec. \_\_\_\_\_. NEW SECTION. 217.41A ELECTRONIC HEALTH  
2 5 RECORDS SYSTEM TASK FORCE.  
2 6 1. The department of human services shall  
2 7 establish an electronic health records system task  
2 8 force to provide a structure that enables the state to  
2 9 act in a leadership role in the development of state  
2 10 and federal standards for and in the implementation  
2 11 and use of an electronic health records system.  
2 12 2. The task force shall consist of no more than  
2 13 nine voting members, selected by the director of human  
2 14 services, who represent entities with expertise in  
2 15 developing or implementing electronic health records,  
2 16 including but not limited to the United States  
2 17 veterans administration facilities in the state,  
2 18 multifacility hospital systems in the state, Des  
2 19 Moines university, the university of Iowa hospitals  
2 20 and clinics, and the Iowa healthcare collaborative.  
2 21 In addition, two members of the senate appointed by  
2 22 the president of the senate after consultation with  
2 23 the majority leader and the minority leader of the  
2 24 senate, two members of the house of representatives

2 25 appointed by the speaker of the house after  
2 26 consultation with the majority leader and the minority  
2 27 leader of the house of representatives, and the  
2 28 commissioner of insurance shall serve as ex officio,  
2 29 nonvoting members of the task force.

2 30 3. The task force shall do all of the following:

2 31 a. Develop an electronic health records system  
2 32 that provides linkages between multiple settings that  
2 33 utilize health records and that is consistent with  
2 34 requirements for community health records and  
2 35 electronic prescribing.

2 36 b. Evaluate the economic model and the anticipated  
2 37 benefits of electronic health records.

2 38 c. Provide quarterly updates to the governor and  
2 39 the general assembly regarding progress in the  
2 40 development of national standards and the work of the  
2 41 task force.>

2 42 #5. Page 1, by inserting after line 20 the  
2 43 following:

2 44 <DIVISION IV

2 45 FOSTER PARENT TRAINING

2 46 Sec. \_\_\_\_\_. Section 237.5A, unnumbered paragraph 1,  
2 47 Code 2005, is amended to read as follows:

2 48 As a condition for initial licensure, each  
2 49 individual licensee shall complete thirty hours of  
2 50 foster parent training offered or approved by the  
3 1 department. However, if the licensee has completed  
3 2 relevant training or has a combination of completed  
3 3 relevant training and experience, and the department  
3 4 deems such training or combination to be an acceptable  
3 5 equivalent to all or a portion of the initial  
3 6 licensure training requirement, or based upon the  
3 7 circumstances of the child and the licensee the  
3 8 department finds there is other good cause, the  
3 9 department may waive all or a portion of the training  
3 10 requirement. Prior to annual renewal of licensure,

3 11 each individual licensee shall also complete six hours  
3 12 of foster parent training. The training shall include  
3 13 but is not limited to physical care, education,  
3 14 learning disabilities, referral to and receipt of  
3 15 necessary professional services, behavioral assessment  
3 16 and modification, self=assessment, self=living skills,  
3 17 and biological parent contact. An individual licensee  
3 18 may complete the training as part of an approved  
3 19 training program offered by a public or private agency  
3 20 with expertise in the provision of child foster care  
3 21 or in related subject areas. The department shall  
3 22 adopt rules to implement and enforce this training  
3 23 requirement.>

3 24 #6. Page 1, by inserting after line 20 the  
3 25 following:

3 26 <DIVISION V

3 27 PREPARATION FOR ADULT LIVING PROGRAM

3 28 Sec. \_\_\_\_\_. NEW SECTION. 234.46 PREPARATION FOR  
3 29 ADULT LIVING PROGRAM.

3 30 1. For the purposes of this section, "young adult"  
3 31 means a person who is described by all of the  
3 32 following conditions:

3 33 a. The person is a resident of this state.

3 34 b. The person is age eighteen, nineteen, or  
3 35 twenty.

3 36 c. At the time the person became age eighteen, the  
3 37 person received foster care services that were paid  
3 38 for by the state under section 234.35 and the person  
3 39 is no longer receiving such services.

3 40 d. The person enters into and participates in an  
3 41 individual self=sufficiency plan that complements the  
3 42 person's own efforts for achieving self=sufficiency  
3 43 and the plan provides for one or more of the  
3 44 following:

3 45 (1) The person attends an accredited school full=  
3 46 time pursuing a course of study leading to a high  
3 47 school diploma.

3 48 (2) The person attends an instructional program  
3 49 leading to a high school equivalency diploma.

3 50 (3) The person is enrolled in or pursuing  
4 1 enrollment in a postsecondary education or training  
4 2 program or work training.

4 3 (4) The person is employed or seeking employment.

4 4 2. The division shall establish a preparation for  
4 5 adult living program directed to young adults. The

4 6 purpose of the program is to assist persons who are  
4 7 leaving foster care services at age eighteen or older  
4 8 in making the transition to self-sufficiency. The  
4 9 department shall adopt rules necessary for  
4 10 administration of the program, including but not  
4 11 limited to eligibility criteria for young adult  
4 12 participation and the services and other support  
4 13 available under the program. The services and other  
4 14 support available under the program may include but  
4 15 are not limited to any of the following:

4 16 a. Support for the young adult continuing to  
4 17 reside with the family that provided family foster  
4 18 care to the young adult.

4 19 b. Support for a supervised apartment living  
4 20 arrangement.

4 21 c. Support for participation in education,  
4 22 training, or employment activities.

4 23 d. Other assistance to enhance the young adult's  
4 24 ability to achieve self-sufficiency.

4 25 3. This section shall not be construed as granting  
4 26 an entitlement for any program, services, or other  
4 27 support for the persons described in this section.  
4 28 Any state obligation to provide a program, services,  
4 29 or other support pursuant to this section is limited  
4 30 to the extent of the funds appropriated for the  
4 31 purposes of the program.

4 32 Sec. \_\_\_\_ Section 249A.3, subsection 2, Code  
4 33 Supplement 2005, is amended by adding the following  
4 34 new paragraph:

4 35 NEW PARAGRAPH. k. As allowed under 42 U.S.C. }  
4 36 1396a(a)(10)(A)(ii)(XVII), individuals under twenty=  
4 37 one years of age who were in foster care under the  
4 38 responsibility of the state on the individuals'  
4 39 eighteenth birthday, and whose income is less than two  
4 40 hundred percent of the most recently revised official  
4 41 poverty guidelines published by the United States  
4 42 department of health and human services. Medical  
4 43 assistance may be provided for an individual described  
4 44 by this paragraph regardless of the individual's  
4 45 resources.>

4 46 #7. Page 1, by inserting after line 20 the  
4 47 following:

4 48 <DIVISION VI  
4 49 FAMILY SUPPORT SUBSIDY AND COMPREHENSIVE FAMILY  
4 50 SUPPORT PROGRAMS

5 1 Sec. \_\_\_\_ Section 216E.1, subsection 1, Code 2005,  
5 2 is amended to read as follows:

5 3 1. "Assistive device" means any item, piece of  
5 4 equipment, or product system which is purchased, or  
5 5 whose transfer is accepted in this state, and which is  
5 6 used to increase, maintain, or improve the functional  
5 7 capabilities of individuals with disabilities  
5 8 concerning a major life activity ~~as defined in section~~  
5 9 ~~225C.46.~~ "Assistive device" does not mean any medical  
5 10 device, surgical device, or organ implanted or  
5 11 transplanted into or attached directly to an  
5 12 individual. "Assistive device" does not mean any  
5 13 device for which a certificate of title is issued by  
5 14 the state department of transportation but does mean  
5 15 any item, piece of equipment, or product system  
5 16 otherwise meeting the definition of "assistive device"  
5 17 that is incorporated, attached, or included as a  
5 18 modification in or to such a certificated device.

5 19 Sec. \_\_\_\_ Section 216E.1, Code 2005, is amended by  
5 20 adding the following new subsection:

5 21 NEW SUBSECTION. 9A. "Major life activity"  
5 22 includes functions such as caring for one's self,  
5 23 performing manual tasks, walking, seeing, hearing,  
5 24 speaking, breathing, learning, or working.

5 25 Sec. \_\_\_\_ Section 225C.37, subsection 2, Code  
5 26 2005, is amended to read as follows:

5 27 2. Verification that the family member meets the  
5 28 definitional requirements of section 225C.35,  
5 29 subsection 3. Along with the verification, the  
5 30 application shall identify an age when the family  
5 31 member's eligibility for the family support subsidy  
5 32 under such definitional requirements will end. The  
5 33 age identified is subject to approval by the  
5 34 department.

5 35 Sec. \_\_\_\_ Section 225C.38, subsection 1,  
5 36 paragraphs b and c, Code Supplement 2005, are amended

5 37 to read as follows:

5 38 b. A family support subsidy shall be used to meet  
5 39 the special needs of the family. This subsidy is  
5 40 intended to complement but not supplant public  
5 41 assistance or social service benefits based on  
5 42 economic need, available through governmental programs  
5 43 or other means available to the family.

5 44 c. Except as provided in section 225C.41, a family  
5 45 support subsidy for a fiscal year shall be in an  
5 46 amount ~~equivalent to the monthly maximum supplemental~~  
5 47 ~~security income payment available in Iowa on July 1 of~~  
5 48 ~~that fiscal year for an adult recipient living in the~~  
5 49 ~~household of another, as formulated under federal~~  
5 50 ~~regulations. In addition, the parent or legal~~  
6 1 ~~guardian of a family member who is in an out-of-home~~  
6 2 ~~placement at the time of application may receive a~~  
6 3 ~~one-time lump-sum advance payment of twice the monthly~~  
6 4 ~~family support subsidy amount for the purpose of~~  
6 5 ~~meeting the special needs of the family in preparing~~  
6 6 ~~for in-home care determined by the department in~~  
6 7 ~~consultation with the comprehensive family support~~  
6 8 ~~council created in section 225C.48. The parent or~~  
6 9 ~~legal guardian receiving a family support subsidy may~~  
6 10 ~~elect to receive a payment amount which is less than~~  
6 11 ~~the amount determined in accordance with this~~  
6 12 ~~paragraph.~~

6 13 Sec. \_\_\_\_ Section 225C.38, subsection 2, Code  
6 14 Supplement 2005, is amended by adding the following  
6 15 new paragraph:

6 16 NEW PARAGRAPH. c. Unless there are exceptional  
6 17 circumstances and the family requests and receives  
6 18 approval from the department for an exception to  
6 19 policy, a family is not eligible to receive the family  
6 20 support subsidy if any of the following are applicable  
6 21 to the family or the family member for whom the  
6 22 application was submitted:

6 23 (1) The family member is a special needs child who  
6 24 was adopted by the family and the family is receiving  
6 25 financial assistance under section 600.17.

6 26 (2) Medical assistance home and community-based  
6 27 waiver services are provided for the family member and  
6 28 the family lives in a county in which comprehensive  
6 29 family support program services are available.

6 30 (3) Medical assistance home and community-based  
6 31 waiver services are provided for the family member  
6 32 under a consumer choices option.

6 33 Sec. \_\_\_\_ Section 225C.40, subsection 3, Code  
6 34 2005, is amended to read as follows:

6 35 3. If an application for a family support subsidy  
6 36 is denied, the family member end-of-eligibility age  
6 37 identified in the application is not approved by the  
6 38 department, or a family support subsidy is terminated  
6 39 by the department, the parent or legal guardian of the  
6 40 affected family member may request, in writing, a  
6 41 hearing before an impartial hearing officer.

6 42 Sec. \_\_\_\_ Section 225C.41, unnumbered paragraph 2,  
6 43 Code 2005, is amended to read as follows:

6 44 Notwithstanding section 8.33, funds remaining  
6 45 unexpended on June 30 of any fiscal year shall not  
6 46 revert to the general fund of the state but shall  
6 47 remain available to provide family support subsidy  
6 48 payments or to expand the comprehensive family support  
6 49 program in the succeeding fiscal year.

6 50 Sec. \_\_\_\_ Section 225C.42, subsection 1, Code  
7 1 Supplement 2005, is amended to read as follows:

7 2 1. The department shall conduct a periodic an  
7 3 annual evaluation of the family support subsidy  
7 4 program in conjunction with the comprehensive family  
7 5 support council and shall submit the evaluation report  
7 6 with recommendations to the governor and general  
7 7 assembly. The report shall be submitted on or before  
7 8 October 30 and provide an evaluation of the latest  
7 9 completed fiscal year.

7 10 Sec. \_\_\_\_ Section 225C.47, subsection 4, Code  
7 11 2005, is amended to read as follows:

7 12 4. A family may apply to the department or to a  
7 13 family support center developed pursuant to this  
7 14 section for assistance under the comprehensive family  
7 15 support program. The department or family support  
7 16 center shall determine eligibility for the program in  
7 17 accordance with the provisions of this section.

7 18 Sec. \_\_\_\_\_. Section 225C.47, subsection 5,  
7 19 unnumbered paragraph 1, Code 2005, is amended to read  
7 20 as follows:

7 21 The department shall design the program in  
7 22 consultation with the ~~personal assistance and~~  
7 23 comprehensive family support ~~services~~ council created  
7 24 in section 225C.48. The department shall adopt rules  
7 25 to implement the program which provide for all of the  
7 26 following:

7 27 Sec. \_\_\_\_\_. Section 225C.47, subsection 5, paragraph  
7 28 e, Code 2005, is amended to read as follows:

7 29 e. A process is available to appeal the  
7 30 department's ~~or family support center's~~ decisions  
7 31 involving families ~~which that~~ apply for the  
7 32 comprehensive family support program and are denied  
7 33 services and support under the comprehensive family  
7 34 support program. The department shall make reasonable  
7 35 efforts to utilize telecommunications so that a family  
7 36 initiating an appeal may complete the appeal process  
7 37 in the family's local geographic area.

7 38 Sec. \_\_\_\_\_. Section 225C.47, subsection 5, paragraph  
7 39 i, Code 2005, is amended to read as follows:

7 40 i. The utilization of a voucher system for payment  
7 41 provisions for the ~~children-at-home family support~~  
7 42 center component of the program developed under  
7 43 subsection 7.

7 44 Sec. \_\_\_\_\_. Section 225C.47, subsection 7, Code  
7 45 2005, is amended to read as follows:

7 46 7. The comprehensive family support program shall  
7 47 include a ~~children-at-home family support center~~  
7 48 component developed by the department in accordance  
7 49 with this subsection. ~~A family eligible for the~~

~~7 50 comprehensive family support program may choose the~~  
8 1 ~~children-at-home component.~~ Under the ~~children-at-~~  
8 2 ~~home component,~~ a family member of an individual with  
8 3 a disability shall be assisted by ~~department staff a~~  
8 4 family support center in identifying the services and  
8 5 support to be provided to the family under the family  
8 6 support subsidy program or the comprehensive family  
8 7 support program. The identification of services and  
8 8 support shall be based upon the specific needs of the  
8 9 individual and the individual's family which are not  
8 10 met by other service programs available to the  
8 11 individual and the individual's family. ~~Based upon~~  
8 12 ~~the services and support identified, the department~~  
8 13 ~~shall develop a contract for direct payment of the~~  
8 14 ~~services and support provided to the family.~~

8 15 Sec. \_\_\_\_\_. Section 225C.48, Code 2005, is amended  
8 16 to read as follows:

8 17 225C.48 ~~PERSONAL ASSISTANCE AND COMPREHENSIVE~~  
8 18 ~~FAMILY SUPPORT SERVICES COUNCIL.~~

8 19 1. a. An eleven-member ~~personal assistance and~~  
8 20 comprehensive family support ~~services~~ council is  
8 21 created in the department. The members of the council  
8 22 shall be appointed by the following officials as  
8 23 follows: governor, five members; majority leader of  
8 24 the senate, three members; and speaker of the house,  
8 25 three members. At least three of the governor's  
8 26 appointments and one of each legislative chamber's  
8 27 appointments shall be a family member of an individual  
8 28 with a disability as defined in section 225C.47. At  
8 29 least five of the members shall be current or former  
8 30 service consumers of personal services or family  
8 31 members of such service consumers. Members shall  
8 32 serve for three-year staggered terms. A vacancy on  
8 33 the council shall be filled in the same manner as the  
8 34 original appointment.

8 35 b. The members of the council ~~shall be~~ are  
8 36 entitled to reimbursement of actual and necessary  
8 37 expenses incurred in the performance of their official  
8 38 duties. In addition, the members who are current or  
8 39 former service consumers or family members of such  
8 40 service consumers are entitled to a stipend of fifty  
8 41 dollars for each council meeting attended, subject to  
8 42 a limit of one meeting per month. The expenses and  
8 43 stipend shall be paid from the appropriation made for  
8 44 purposes of the comprehensive family support program.

8 45 c. The council shall elect officers from among the  
8 46 council's members.

8 47 2. The council shall provide ongoing guidance,  
8 48 advice, and direction to the department and other

8 49 agencies working with the department in the  
8 50 development and implementation of the ~~personal~~  
9 1 ~~assistance services family support subsidy~~ program  
9 2 created in section ~~225C.46~~ 225C.36 and the  
9 3 comprehensive family support program created in  
9 4 section 225C.47. The council shall perform an annual  
9 5 evaluation of each program, and annually make  
9 6 recommendations concerning each program to the  
9 7 governor and general assembly. The evaluation and  
9 8 recommendations shall be prepared and submitted in  
9 9 conjunction with the evaluation report submitted by  
9 10 the department pursuant to section 225C.42. The  
9 11 department shall provide sufficient staff support to  
9 12 the council to enable the council to carry out its  
9 13 responsibilities.

9 14 3. The council shall perform the following duties  
9 15 in consultation with the department and any department  
9 16 staff with duties associated with the ~~personal~~  
9 17 ~~assistance services family support subsidy~~ and  
9 18 comprehensive family support programs:

9 19 a. Oversee the operations of the programs.  
9 20 b. Coordinate with the department of education and  
9 21 programs administered by the department of education  
9 22 to individuals with a disability, in providing  
9 23 information to individuals and families eligible for  
9 24 the programs ~~under sections 225C.46 and 225C.47.~~  
9 25 c. Work with the department and counties regarding  
9 26 managed care provisions utilized by the department and  
9 27 counties for services to individuals with a disability  
9 28 to advocate the inclusion of ~~personal assistance~~  
9 29 ~~services family support subsidy~~ and the comprehensive  
9 30 family support ~~program~~ programs as approved service  
9 31 provisions under managed care.  
9 32 d. Develop and oversee implementation of  
9 33 evaluation processes for the programs.  
9 34 e. Oversee statewide training of department and  
9 35 family support center staff regarding the ~~two~~  
9 36 programs.  
9 37 f. Oversee efforts to promote public awareness of  
9 38 the programs.

9 39 4. The department shall consider recommendations  
9 40 from the council in developing and implementing each  
9 41 program, including the development of administrative  
9 42 rules. The department shall regularly report to the  
9 43 council on the status of each program and any actions  
9 44 planned or taken by the department related to each  
9 45 program.

9 46 Sec. \_\_\_\_\_. Section 225C.49, subsection 3, paragraph  
9 47 b, Code 2005, is amended to read as follows:  
9 48 b. Utilize internal training resources or contract  
9 49 for additional training of staff concerning the  
9 50 information under paragraph "a" and training of  
10 1 families and individuals as necessary to ~~develop plans~~  
10 2 ~~and contracts~~ implement the family support subsidy and  
10 3 comprehensive family support programs under ~~sections~~  
10 4 ~~225C.46 and 225C.47~~ this chapter.

10 5 Sec. \_\_\_\_\_. Section 225C.49, subsection 4, Code  
10 6 2005, is amended to read as follows:  
10 7 4. The department shall designate one individual  
10 8 whose sole duties are to provide central coordination  
10 9 of the programs under sections ~~225C.46~~ 225C.36 and  
10 10 225C.47 and to work with the ~~personal assistance and~~  
10 11 comprehensive family support services council to  
10 12 oversee development and implementation of the  
10 13 programs.

10 14 Sec. \_\_\_\_\_. Section 422.11E, subsection 4, paragraph  
10 15 b, Code 2005, is amended to read as follows:  
10 16 b. "Disability" means the same as defined in  
10 17 section ~~225C.46~~ 15.102 except that it does not include  
10 18 alcoholism.

10 19 Sec. \_\_\_\_\_. Section 422.33, subsection 9, paragraph  
10 20 c, subparagraph (2), Code Supplement 2005, is amended  
10 21 to read as follows:  
10 22 (2) "Disability" means the same as defined in  
10 23 section ~~225C.46~~ 15.102, except that it does not  
10 24 include alcoholism.

10 25 Sec. \_\_\_\_\_. Section 225C.46, Code 2005, is repealed.  
10 26 Sec. \_\_\_\_\_. CODE EDITOR DIRECTIVE. The Code editor  
10 27 shall revise the headnote to section 225C.42 to change  
10 28 the word "periodic" to "annual".  
10 29 Sec. \_\_\_\_\_. TRANSITION PROVISIONS == EFFECTIVE DATE.

10 30 1. If a family that adopted a special needs child  
10 31 receives the family support subsidy under section  
10 32 225C.38 and also receives financial assistance under  
10 33 section 600.17 for the same child as of July 1, 2006,  
10 34 the department of human services shall provide notice  
10 35 to the family that effective January 1, 2007, the  
10 36 family will no longer be eligible for the family  
10 37 support subsidy. The department shall notify the  
10 38 families affected by this subsection on before July 1,  
10 39 2006. This subsection, being deemed of immediate  
10 40 importance, takes effect upon enactment.

10 41 2. If a family that receives the family support  
10 42 subsidy under section 225C.38 as of July 1, 2006, also  
10 43 receives medical assistance home and community-based  
10 44 waiver services and lives in a county in which the  
10 45 comprehensive family support program services are  
10 46 available, effective January 1, 2007, the family is  
10 47 not eligible to receive the family support subsidy.  
10 48 The department of human services shall notify the  
10 49 families affected by this subsection on or before July  
10 50 1, 2006. This subsection, being deemed of immediate  
11 1 importance, takes effect upon enactment.

11 2 3. a. The provision of this division of this Act  
11 3 enacting section 225C.38, subsection 2, paragraph "c",  
11 4 subparagraph (3), relating to medical assistance home  
11 5 and community-based waiver services provided under a  
11 6 consumer choices option, is contingent upon receipt of  
11 7 federal approval of a waiver authorizing utilization  
11 8 of the consumer choices option. The department of  
11 9 human services shall notify the Code editor regarding  
11 10 the receipt of the federal approval and the  
11 11 implementation date.

11 12 b. A family receiving family support services that  
11 13 also receives medical assistance home and community=  
11 14 based waiver services and resides in an area in which  
11 15 the consumer choices option is available under the  
11 16 waiver is ineligible to receive the family support  
11 17 subsidy. The department shall notify a family  
11 18 affected by this subsection six months prior to  
11 19 terminating the family support subsidy.

11 20 c. This subsection, being deemed of immediate  
11 21 importance, takes effect upon enactment.

11 22 4. Any savings generated by the requirements of  
11 23 this section and the program changes implemented  
11 24 pursuant to this Act during the fiscal year beginning  
11 25 July 1, 2006, shall be used by the department of human  
11 26 services to provide eligibility for families on the  
11 27 waiting list for the family support subsidy program.  
11 28 If the waiting list is eliminated, any remaining funds  
11 29 shall be used to expand the comprehensive family  
11 30 support program during that fiscal year.>

11 31 #8. Page 1, by inserting after line 20 the  
11 32 following:

11 33 <DIVISION \_\_\_\_

11 34 INVOLUNTARY HOSPITALIZATION PROCEEDINGS

11 35 Sec. \_\_\_\_ Section 125.82, subsection 3, Code 2005,  
11 36 as amended by 2006 Iowa Acts, Senate File 2362,  
11 37 section 1, if enacted, is amended to read as follows:

11 38 3. The person who filed the application and a  
11 39 licensed physician or qualified mental health  
11 40 professional as defined in section 229.1 who has  
11 41 examined the respondent in connection with the  
11 42 commitment hearing shall be present at the hearing,  
11 43 ~~unless prior to the hearing~~ the court for good cause  
11 44 finds that their presence or testimony is not  
11 45 necessary. The applicant, respondent, and the  
11 46 respondent's attorney may waive the presence or  
11 47 telephonic appearance of the licensed physician or  
11 48 qualified mental health professional who examined the  
11 49 respondent and agree to submit as evidence the written  
11 50 report of the licensed physician or qualified mental  
12 1 health professional. The respondent's attorney shall  
12 2 inform the court if the respondent's attorney  
12 3 reasonably believes that the respondent, due to  
12 4 diminished capacity, cannot make an adequately  
12 5 considered waiver decision. "Good cause" for finding  
12 6 that the testimony of the licensed physician or  
12 7 qualified mental health professional who examined the  
12 8 respondent is not necessary may include, but is not  
12 9 limited to, such a waiver. If the court determines  
12 10 that the testimony of the licensed physician or

12 11 qualified mental health professional is necessary, the  
12 12 court may allow the licensed physician or qualified  
12 13 mental health professional to testify by telephone.  
12 14 The respondent shall be present at the hearing unless  
12 15 prior to the hearing the respondent's attorney  
12 16 stipulates in writing that the attorney has conversed  
12 17 with the respondent, and that in the attorney's  
12 18 judgment the respondent cannot make a meaningful  
12 19 contribution to the hearing, or that the respondent  
12 20 has waived the right to be present, and the basis for  
12 21 the attorney's conclusions. A stipulation to the  
12 22 respondent's absence shall be reviewed by the court  
12 23 before the hearing, and may be rejected if it appears  
12 24 that insufficient grounds are stated or that the  
12 25 respondent's interests would not be served by the  
12 26 respondent's absence.

12 27 Sec. \_\_\_\_\_. Section 229.12, subsection 3, Code 2005,  
12 28 as amended by 2006 Iowa Acts, Senate File 2362,  
12 29 section 3, if enacted is amended to read as follows:

12 30 3. The respondent's welfare shall be paramount and  
12 31 the hearing shall be conducted in as informal a manner  
12 32 as may be consistent with orderly procedure, but  
12 33 consistent therewith the issue shall be tried as a  
12 34 civil matter. Such discovery as is permitted under  
12 35 the Iowa rules of civil procedure shall be available  
12 36 to the respondent. The court shall receive all  
12 37 relevant and material evidence which may be offered  
12 38 and need not be bound by the rules of evidence. There  
12 39 shall be a presumption in favor of the respondent, and  
12 40 the burden of evidence in support of the contentions  
12 41 made in the application shall be upon the applicant.  
12 42 The licensed physician or qualified mental health  
12 43 professional who examined the respondent shall be  
12 44 present at the hearing unless ~~prior to the hearing~~ the  
12 45 court for good cause finds that the licensed  
12 46 physician's or qualified mental health professional's  
12 47 presence or testimony is not necessary. The  
12 48 applicant, respondent, and the respondent's attorney  
12 49 may waive the presence or the telephonic appearance of  
12 50 the licensed physician or qualified mental health  
13 1 professional who examined the respondent and agree to  
13 2 submit as evidence the written report of the licensed  
13 3 physician or qualified mental health professional.  
13 4 The respondent's attorney shall inform the court if  
13 5 the respondent's attorney reasonably believes that the  
13 6 respondent, due to diminished capacity, cannot make an  
13 7 adequately considered waiver decision. "Good cause"

13 8 for finding that the testimony of the licensed  
13 9 physician or qualified mental health professional who  
13 10 examined the respondent is not necessary may include,  
13 11 but is not limited to, such a waiver. If the court  
13 12 determines that the testimony of the licensed  
13 13 physician or qualified mental health professional is  
13 14 necessary, the court may allow the licensed physician  
13 15 or the qualified mental health professional to testify  
13 16 by telephone. If upon completion of the hearing the  
13 17 court finds that the contention that the respondent is  
13 18 seriously mentally impaired has not been sustained by  
13 19 clear and convincing evidence, it shall deny the  
13 20 application and terminate the proceeding.>

13 21 #9. Title page, by striking line 1 and inserting  
13 22 the following: <An Act relating to health and human  
13 23 services programs and procedures involving>.

13 24 #10. Title page, line 4, by inserting after the  
13 25 word <data> the following: <, medical assistance  
13 26 program eligibility, creation of an electronic health  
13 27 records system task force, foster parent training,  
13 28 young adults transitioning from foster care, and  
13 29 persons with a developmental disability or other  
13 30 special need and the person's families>.

13 31 #11. Title page, line 4, by inserting after the  
13 32 word <data> the following: <, and involuntary  
13 33 hospitalization proceedings>.

13 34 #12. By renumbering, relettering, or redesignating  
13 35 and correcting internal references as necessary.

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