

House Amendment 1659

PAG LIN

1 1 Amend Senate File 381, as passed by the Senate, as
1 2 follows:
1 3 #1. By striking page 1, line 27, through page 3,
1 4 line 6, and inserting the following:
1 5 <Sec. _____. Section 225C.4, subsection 1, paragraph
1 6 m, Code 2007, is amended to read as follows:
1 7 m. Provide consultation and technical assistance
1 8 to ~~patients~~ patient advocates appointed pursuant to
1 9 section 229.19, in cooperation with the judicial
1 10 branch and the resident advocate committees appointed
1 11 for health care facilities pursuant to section
1 12 135C.25.
1 13 Sec. _____. Section 226.31, Code 2007, is amended to
1 14 read as follows:
1 15 226.31 EXAMINATION BY COURT == NOTICE.
1 16 Before granting the order authorized in section
1 17 226.30 the court or judge shall investigate the
1 18 allegations of the petition and before proceeding to a
1 19 hearing on the allegations shall require notice to be
1 20 served on the attorney who represented the patient in
1 21 any prior proceedings under sections 229.6 to 229.15
1 22 or the patient advocate appointed under section
1 23 229.19, or in the case of a patient who entered the
1 24 hospital voluntarily, on any relative, friend, or
1 25 guardian of the person in question of the filing of
1 26 the application. At the hearing the court or judge
1 27 shall appoint a guardian ad litem for the person, if
1 28 the court or judge deems such action necessary to
1 29 protect the rights of the person. The guardian ad
1 30 litem shall be a practicing attorney.
1 31 Sec. _____. Section 229.2, subsection 1, paragraph
1 32 f, Code 2007, is amended to read as follows:
1 33 f. Upon approval of the admission of a minor over
1 34 the minor's objections, the juvenile court shall
1 35 appoint an individual to act as ~~an a patient~~ patient advocate
1 36 representing the interests of the minor in the same
1 37 manner as ~~an a patient~~ patient advocate representing the
1 38 interests of patients involuntarily hospitalized
1 39 ~~pursuant to section 229.19 under this chapter.~~
1 40 Sec. _____. Section 229.9A, Code 2007, is amended to
1 41 read as follows:
1 42 229.9A PATIENT ADVOCATE INFORMED.
1 43 The court shall direct the clerk to furnish the
1 44 patient advocate ~~of assigned to the respondent's~~
~~1 45 county of legal settlement~~ respondent with a copy of
1 46 the application and any order issued pursuant to
1 47 section 229.8, subsection 3. The patient advocate may
1 48 attend the hospitalization hearing of any respondent
1 49 for whom the patient advocate has received notice of a
1 50 hospitalization hearing.
2 1 Sec. _____. Section 229.12, subsection 2, Code 2007,
2 2 is amended to read as follows:
2 3 2. All persons not necessary for the conduct of
2 4 the proceeding shall be excluded, except that the
2 5 court may admit persons having a legitimate interest
2 6 in the proceeding and shall permit the patient
~~2 7 advocate from the respondent's county of legal~~
~~2 8 settlement assigned to the respondent~~ to attend the
2 9 hearing. Upon motion of the county attorney, the
2 10 judge may exclude the respondent from the hearing
2 11 during the testimony of any particular witness if the
2 12 judge determines that witness's testimony is likely to
2 13 cause the respondent severe emotional trauma.
2 14 Sec. _____. Section 229.14A, subsection 1, Code
2 15 2007, is amended to read as follows:
2 16 1. With respect to a chief medical officer's
2 17 report made pursuant to section 229.14, subsection 1,
2 18 paragraph "b", "c", or "d", or any other provision of
2 19 this chapter related to involuntary commitment for
2 20 which the court issues a placement order or a transfer
2 21 of placement is authorized, the court shall provide
2 22 notice to the respondent and the respondent's attorney
2 23 or ~~mental health~~ patient advocate appointed pursuant
2 24 to section 229.19 concerning the placement order and

2 25 the respondent's right to request a placement hearing
2 26 to determine if the order for placement or transfer of
2 27 placement is appropriate.

2 28 Sec. _____. Section 229.15, subsection 5, Code 2007,
2 29 is amended to read as follows:

2 30 5. Upon receipt of any report required or
2 31 authorized by this section the court shall furnish a
2 32 copy to the patient's attorney, or alternatively to
2 33 the patient advocate appointed as required by section
2 34 229.19. The court shall examine the report and take
2 35 the action ~~thereon which it on the report as the court~~
2 36 deems appropriate. Should the court fail to receive
2 37 any report required by this section or section 229.14
2 38 at the time the report is due, the court shall
2 39 investigate the reason for the failure to report and
2 40 take whatever action may be necessary in the matter.

2 41 Sec. _____. Section 229.19, Code 2007, is amended to
2 42 read as follows:

2 43 229.19 ADVOCATES == DUTIES == COMPENSATION ==
2 44 STATE AND COUNTY LIABILITY.

2 45 1. ~~The district court in each county with a~~
~~2 46 population of under three hundred thousand inhabitants~~
~~2 47 and the board of supervisors in each county with a~~
~~2 48 population of three hundred thousand or more~~
~~2 49 inhabitants For each judicial district, the chief~~
2 50 judge of the judicial district shall appoint an at
3 1 least one individual who has demonstrated by prior
3 2 activities an informed concern for the welfare and
3 3 rehabilitation of persons with mental illness, and who
3 4 is not an officer or employee of the department of
3 5 human services ~~nor or~~ of any agency or facility
3 6 providing care or treatment to persons with mental
3 7 illness, to act as patient advocate ~~representing. A~~
3 8 patient advocate shall represent the interests of
3 9 patients involuntarily hospitalized by the court, in
3 10 any matter relating to the patients' hospitalization
3 11 or treatment under section 229.14 or 229.15.

3 12 2. ~~The court or, if the advocate is appointed by~~
~~3 13 the county board of supervisors, the board shall~~
3 14 assign the patient advocate appointed from a patient's
~~3 15 county of legal settlement for each patient to~~
3 16 represent the interests of the patient. If a patient
~~3 17 has no county of legal settlement, the court or, if~~
~~3 18 the advocate is appointed by the county board of~~
~~3 19 supervisors, the board shall assign the advocate~~
~~3 20 appointed from the county where the hospital or~~
~~3 21 facility is located to represent the interests of the~~
3 22 patient.

3 23 3. The patient advocate's responsibility with
3 24 respect to ~~any~~ a patient shall begin at whatever the
3 25 time the attorney employed or appointed to represent
3 26 that patient as respondent in hospitalization
3 27 proceedings, conducted under ~~sections 229.6 to 229.13~~
3 28 this chapter, reports to the court that the attorney's
3 29 services are no longer required and requests the
3 30 court's approval to withdraw as counsel for that
3 31 patient. However, if the patient is found to be
3 32 seriously mentally impaired at the hospitalization
3 33 hearing, the attorney representing the patient shall
3 34 automatically be relieved of responsibility in the
3 35 case and ~~an a~~ patient advocate shall be assigned to
3 36 the patient at the conclusion of the hearing unless
3 37 the attorney indicates an intent to continue the
3 38 attorney's services and the court directs the attorney
3 39 to do so directs. If the court directs the attorney
3 40 to remain on the case, the attorney shall assume all
3 41 the duties of ~~an a~~ patient advocate. The clerk shall
3 42 furnish the patient advocate with a copy of the
3 43 court's order approving the withdrawal and shall
3 44 inform the patient of the name of the patient's
3 45 advocate.

3 46 4. With regard to each patient whose interests the
3 47 patient advocate is required to represent pursuant to
3 48 this section, the patient advocate's duties shall
3 49 include all of the following:

3 50 a. To review each report submitted pursuant to
4 1 sections 229.14 and 229.15.

4 2 b. If the patient advocate is not an attorney, to
4 3 advise the court at any time it appears that the
4 4 services of an attorney are required to properly
4 5 safeguard the patient's interests.

4 6 c. To ~~make the advocate be~~ readily accessible to
4 7 communications from the patient and to originate
4 8 communications with the patient within five days of
4 9 the patient's commitment.

4 10 d. To visit the patient within fifteen days of the
4 11 patient's commitment and periodically thereafter.

4 12 e. To communicate with medical personnel treating
4 13 the patient and to review the patient's medical
4 14 records pursuant to section 229.25.

4 15 f. To file with the court quarterly reports, and
4 16 additional reports as the patient advocate feels are
4 17 necessary or as required by the court, in a form
4 18 prescribed by the court. The reports shall state what
4 19 actions the patient advocate has taken with respect to
4 20 each patient and the amount of time spent.

4 21 ~~2- 5.~~ The hospital or facility to which a patient
4 22 is committed shall grant all reasonable requests of
4 23 the patient advocate to visit the patient, to
4 24 communicate with medical personnel treating the
4 25 patient, and to review the patient's medical records
4 26 pursuant to section 229.25. ~~An A~~ A patient advocate
4 27 shall not disseminate information from a patient's
4 28 medical records to any other person unless done for
4 29 official purposes in connection with the patient
4 30 advocate's duties pursuant to this chapter or ~~when as~~
4 31 required by law.

~~3- 6.~~ The supreme court or, ~~if the advocate is~~
4 33 ~~appointed by the county board of supervisors, the~~
4 34 ~~board shall prescribe reasonable compensation policies~~
4 35 ~~for the services of the advocate patient advocates.~~
4 36 The compensation shall ~~may, in part,~~ be based upon the
4 37 reports filed by the patient advocate with the court.
4 38 ~~The advocate's compensation shall be paid by the~~
4 39 ~~county in which the court is located, either on order~~
4 40 ~~of the court or, if the advocate is appointed by the~~
4 41 ~~county board of supervisors, on the direction of the~~
4 42 ~~board. If the advocate is appointed by the court, the~~
4 43 ~~advocate is an employee of the state for purposes of~~
4 44 ~~chapter 669. If the advocate is appointed by the~~
4 45 ~~county board of supervisors, the advocate is an~~
4 46 ~~employee of the county for purposes of chapter 670.~~

4 47 7. If the patient or the person who is legally
4 48 liable for the patient's support is not indigent, the
4 49 ~~board district court~~ shall recover the costs of
4 50 compensating the patient advocate from that person.

5 1 If that person has an income level as determined
5 2 pursuant to section 815.9 greater than one hundred
5 3 percent but not more than one hundred fifty percent of
5 4 the poverty guidelines, at least one hundred dollars
5 5 of the patient advocate's compensation shall be
5 6 recovered in the manner prescribed by the ~~county board~~
5 7 ~~of supervisors supreme court.~~ If that person has an
5 8 income level as determined pursuant to section 815.9
5 9 greater than one hundred fifty percent of the poverty
5 10 guidelines, at least two hundred dollars of the
5 11 patient advocate's compensation shall be recovered in
5 12 substantially the same manner prescribed ~~by the county~~
5 13 ~~board of supervisors~~ as provided in section 815.9.

5 14 Sec. _____. Section 229.25, subsection 1, Code 2007,
5 15 is amended to read as follows:

5 16 1. The information is requested by a licensed
5 17 physician, attorney, or patient advocate who provides
5 18 the chief medical officer with a written waiver signed
5 19 by the person about whom the information is sought.

5 20 Sec. _____. Section 602.1102, Code 2007, is amended
5 21 by adding the following new subsection:
5 22 NEW SUBSECTION. 6A. Patient advocates appointed
5 23 pursuant to section 229.19.>

5 24 #2. Page 5, by inserting after line 26 the
5 25 following:

5 26 <Sec. _____. ACCRUED EMPLOYEE RIGHTS.

5 27 1. Patient advocates appointed pursuant to section
5 28 229.19, as amended by this Act, shall become employees
5 29 of the judicial branch effective July 1, 2007, and the
5 30 judicial branch shall assume all costs associated with
5 31 the functions of the patient advocates on that date.
5 32 Patient advocates who were paid salaries by the
5 33 counties immediately prior to becoming state employees
5 34 as a result of this Act shall not forfeit accrued
5 35 vacation, accrued sick leave, or longevity, except as
5 36 provided in this section.

5 37 2. The supreme court, after consulting with the
5 38 department of administrative services, shall prescribe
5 39 rules to provide for the following:
5 40 a. A person referred to in subsection 1 shall have
5 41 to the person's credit as a state employee commencing
5 42 on the date of becoming a state employee the number of
5 43 accrued vacation days that was credited to the person
5 44 as a county employee as of the end of the day prior to
5 45 becoming a state employee.
5 46 b. Each person referred to in subsection 1 shall
5 47 have to the person's credit as a state employee
5 48 commencing on the date of becoming a state employee
5 49 the number of accrued days of sick leave that was
5 50 credited to the person as a county employee as of the
6 1 end of the day prior to becoming a state employee.
6 2 However, the number of days of sick leave credited to
6 3 a person under this subsection and eligible to be
6 4 taken when sick or eligible to be received upon
6 5 retirement shall not respectively exceed the maximum
6 6 number of days, if any, or the maximum dollar amount
6 7 as provided in section 70A.23 that state employees
6 8 generally are entitled to accrue or receive according
6 9 to rules in effect as of the date the person becomes a
6 10 state employee, except as otherwise provided in
6 11 section 602.1401.
6 12 c. Commencing on the date of becoming a state
6 13 employee, each person referred to in subsection 1 is
6 14 entitled to claim the person's most recent continuous
6 15 period of service in full-time county employment as
6 16 full-time state employment for purposes of determining
6 17 the number of days of vacation which the person is
6 18 entitled to earn each year. The actual vacation
6 19 benefit, including the limitation on the maximum
6 20 accumulated vacation leave, shall be determined as
6 21 provided in section 70A.1 according to rules in effect
6 22 for state employees of comparable longevity,
6 23 irrespective of any greater or lesser benefit as a
6 24 county employee.
6 25 3. Persons referred to in subsection 1 who were
6 26 covered by county employee life insurance and health
6 27 and accident insurance plans prior to becoming state
6 28 employees as a result of this Act shall be permitted
6 29 to apply prior to becoming state employees for life
6 30 insurance and health and accident insurance plans that
6 31 are available to state employees so that those persons
6 32 do not suffer a lapse of insurance coverage as a
6 33 result of this Act. The supreme court, after
6 34 consulting with the department of administrative
6 35 services, shall prescribe rules and distribute
6 36 application forms and take other actions as necessary
6 37 to enable those persons to elect to have insurance
6 38 coverage that is in effect on the date of becoming
6 39 state employees. The actual insurance coverage
6 40 available to a person shall be determined by the plans
6 41 that are available to state employees, irrespective of
6 42 any greater or lesser benefits as a county employee.
6 43 4. Commencing on the date of becoming a state
6 44 employee, each person referred to in subsection 1 is
6 45 entitled to claim the person's most recent continuous
6 46 period of service in full-time county employment as
6 47 full-time state employment for purposes of determining
6 48 disability benefits as provided in section 70A.20
6 49 according to rules in effect for state employees of
6 50 comparable longevity, irrespective of any greater or
7 1 lesser benefit as a county employee.>
7 2 #3. By renumbering as necessary.
7 3
7 4
7 5
7 6 _____
7 6 GRANZOW of Hardin
7 7
7 8
7 9
7 10 _____
7 10 TOMENGA of Polk
7 11 SF 381.201 82
7 12 jp/es/8630