

House File 2421

H-8285

1 Amend House File 2421 as follows:

2 1. By striking everything after the enacting clause
3 and inserting:

4 <Section 1. Section 80B.11, subsection 1, paragraph
5 c, Code 2011, is amended by adding the following new
6 subparagraph:

7 NEW SUBPARAGRAPH. (3) In-service training under
8 this paragraph "c" shall include the requirement
9 that all law enforcement officers complete a course
10 on mental health at least once every four years. In
11 developing the requirements for this training, the
12 director shall seek input from mental health care
13 providers and mental health care consumers.

14 Sec. 2. Section 125.91, subsection 1, Code
15 Supplement 2011, is amended to read as follows:

16 1. The procedure prescribed by this section
17 shall only be used for an intoxicated person who
18 has threatened, attempted, or inflicted physical
19 self-harm or harm on another, and is likely to
20 inflict physical self-harm or harm on another unless
21 immediately detained, or who is incapacitated by a
22 chemical substance, ~~if that person cannot be taken into~~
23 ~~immediate custody under sections 125.75 and 125.81~~
24 ~~because immediate access to the court is not possible~~
25 an application has not been filed naming the person
26 as the respondent pursuant to section 125.75 and the
27 person cannot be ordered into immediate custody and
28 detained pursuant to section 125.81.

29 Sec. 3. Section 135C.3, subsection 1, Code 2011, is
30 amended to read as follows:

31 1. A licensed nursing facility shall provide
32 an organized twenty-four-hour program of services
33 commensurate with the needs of its residents and
34 under the immediate direction of a licensed nurse.
35 Medical and nursing services must be provided
36 under the direction of either a house physician
37 or an individually selected physician. Surgery or
38 obstetrical care shall not be provided within the
39 facility. An admission to the nursing facility must
40 be based on a physician's written order certifying
41 that the individual being admitted requires no greater
42 degree of nursing care than the facility to which the
43 admission is made is licensed to provide and is capable
44 of providing. The nursing facility is not required to
45 admit an individual through court order, referral, or
46 other means without the express prior approval of the
47 administrator of the nursing facility.

48 Sec. 4. Section 135C.4, Code 2011, is amended to
49 read as follows:

50 **135C.4 Residential care facilities.**

1 1. Each facility licensed as a residential care
2 facility shall provide an organized continuous
3 twenty-four-hour program of care commensurate with
4 the needs of the residents of the home and under
5 the immediate direction of a person approved and
6 certified by the department whose combined training and
7 supervised experience is such as to ensure adequate and
8 competent care.

9 2. All admissions to residential care facilities
10 shall be based on an order written by a physician
11 certifying that the individual being admitted does
12 not require nursing services or that the individual's
13 need for nursing services can be avoided if home and
14 community-based services, other than nursing care, as
15 defined by this chapter and departmental rule, are
16 provided.

17 3. For the purposes of this section, the home
18 and community-based services to be provided shall
19 be limited to the type included under the medical
20 assistance program provided pursuant to chapter 249A,
21 shall be subject to cost limitations established by
22 the department of human services under the medical
23 assistance program, and except as otherwise provided
24 by the department of inspections and appeals with
25 the concurrence of the department of human services,
26 shall be limited in capacity to the number of licensed
27 residential care facilities and the number of licensed
28 residential care facility beds in the state as of
29 December 1, 2003.

30 4. A residential care facility is not required to
31 admit an individual through court order, referral, or
32 other means without the express prior approval of the
33 administrator of the residential care facility.

34 Sec. 5. Section 228.1, subsection 6, Code 2011, is
35 amended by striking the subsection and inserting in
36 lieu thereof the following:

37 6. "*Mental health professional*" means an individual
38 who has either of the following qualifications:

39 a. The individual meets all of the following
40 requirements:

41 (1) The individual holds at least a master's degree
42 in a mental health field, including but not limited
43 to psychology, counseling and guidance, nursing,
44 and social work, or is an advanced registered nurse
45 practitioner, a physician assistant, or a physician and
46 surgeon or an osteopathic physician and surgeon.

47 (2) The individual holds a current Iowa license if
48 practicing in a field covered by an Iowa licensure law.

49 (3) The individual has at least two years of
50 post-degree clinical experience, supervised by another

1 mental health professional, in assessing mental health
2 needs and problems and in providing appropriate mental
3 health services.

4 *b.* The individual holds a current Iowa license if
5 practicing in a field covered by an Iowa licensure law
6 and is a psychiatrist, an advanced registered nurse
7 practitioner who holds a national certification in
8 psychiatric mental health care registered by the board
9 of nursing, a physician assistant practicing under the
10 supervision of a psychiatrist, or an individual who
11 holds a doctorate degree in psychology and is licensed
12 by the board of psychology.

13 Sec. 6. Section 229.1, Code Supplement 2011, is
14 amended by adding the following new subsection:

15 NEW SUBSECTION. 8A. "*Mental health professional*"
16 means the same as defined in section 228.1.

17 Sec. 7. Section 229.1, subsection 14, Code
18 Supplement 2011, is amended by striking the subsection.

19 Sec. 8. Section 229.1, subsection 16, Code
20 Supplement 2011, is amended to read as follows:

21 16. "*Serious emotional injury*" is an injury
22 which does not necessarily exhibit any physical
23 characteristics, but which can be recognized and
24 diagnosed by a licensed physician or other ~~qualified~~
25 mental health professional and which can be causally
26 connected with the act or omission of a person who is,
27 or is alleged to be, mentally ill.

28 Sec. 9. NEW SECTION. 229.5A **Preapplication**
29 **screening assessment — program.**

30 Prior to filing an application for involuntary
31 hospitalization pursuant to section 229.6, the clerk
32 of the district court or the clerk's designee shall
33 inform the interested person referred to in section
34 229.6, subsection 1, about the option of requesting
35 a preapplication screening assessment through a
36 preapplication screening assessment program. The state
37 court administrator shall prescribe practices and
38 procedures for implementation of the preapplication
39 screening assessment program.

40 Sec. 10. Section 229.6, Code 2011, is amended to
41 read as follows:

42 **229.6 Application for order of involuntary**
43 **hospitalization.**

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

1 completing the application. The application shall:
2 ~~1.~~ a. State the applicant's belief that the
3 respondent is seriously mentally impaired.
4 ~~2.~~ b. State any other pertinent facts.
5 ~~3.~~ c. Be accompanied by any of the following:
6 ~~a.~~ (1) A written statement of a licensed physician
7 in support of the application; ~~or.~~
8 ~~b.~~ (2) One or more supporting affidavits otherwise
9 corroborating the application; ~~or.~~
10 ~~c.~~ (3) Corroborative information obtained and
11 reduced to writing by the clerk or the clerk's
12 designee, but only when circumstances make it
13 infeasible to comply with, or when the clerk considers
14 it appropriate to supplement the information supplied
15 pursuant to, either paragraph "a" or paragraph "b" of
16 this subsection subparagraph (1) or (2).
17 2. Prior to the filing of an application pursuant
18 to this section, the clerk or the clerk's designee
19 shall inform the interested person referred to
20 in subsection 1 about the option of requesting a
21 preapplication screening assessment pursuant to section
22 229.5A.

23 Sec. 11. Section 229.10, subsection 1, paragraph b,
24 Code 2011, is amended to read as follows:

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

33 Sec. 12. Section 229.12, subsection 3, paragraph b,
34 Code 2011, is amended to read as follows:

35 b. The licensed physician or ~~qualified~~ mental
36 health professional who examined the respondent shall
37 be present at the hearing unless the court for good
38 cause finds that the licensed physician's or ~~qualified~~
39 mental health professional's presence or testimony
40 is not necessary. The applicant, respondent, and
41 the respondent's attorney may waive the presence or
42 the telephonic appearance of the licensed physician
43 or ~~qualified~~ mental health professional who examined
44 the respondent and agree to submit as evidence the
45 written report of the licensed physician or ~~qualified~~
46 mental health professional. The respondent's
47 attorney shall inform the court if the respondent's
48 attorney reasonably believes that the respondent, due
49 to diminished capacity, cannot make an adequately
50 considered waiver decision. "Good cause" for finding

1 that the testimony of the licensed physician or
2 ~~qualified~~ mental health professional who examined the
3 respondent is not necessary may include but is not
4 limited to such a waiver. If the court determines that
5 the testimony of the licensed physician or ~~qualified~~
6 mental health professional is necessary, the court may
7 allow the licensed physician or the ~~qualified~~ mental
8 health professional to testify by telephone.

9 Sec. 13. Section 229.19, subsection 1, paragraph
10 d, Code 2011, is amended by adding the following new
11 subparagraph:

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

15 Sec. 14. Section 229.19, subsection 1, Code 2011,
16 is amended by adding the following new paragraph:

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

21 Sec. 15. Section 229.22, subsection 1, Code
22 Supplement 2011, is amended to read as follows:

23 1. The procedure prescribed by this section shall
24 ~~not be used unless~~ when it appears that a person
25 should be immediately detained due to serious mental
26 impairment, ~~but that person cannot be immediately~~
27 ~~detained by the procedure prescribed in sections 229.6~~
28 ~~and 229.11 because there is no means of immediate~~
29 ~~access to the district court~~ an application has not
30 been filed naming the person as the respondent pursuant
31 to section 229.6, and the person cannot be ordered into
32 immediate custody and detained pursuant to section
33 229.11.

34 Sec. 16. Section 602.1209, Code 2011, is amended by
35 adding the following new subsection:

36 NEW SUBSECTION. 15A. Prescribe practices and
37 procedures for the implementation of the preapplication
38 screening assessment program referred to in section
39 229.5A.

40 Sec. 17. CONTINUATION OF WORKGROUP BY JUDICIAL
41 BRANCH AND DEPARTMENT OF HUMAN SERVICES —
42 CONSOLIDATION OF SERVICES — PATIENT ADVOCATE. The
43 judicial branch and department of human services
44 shall continue the workgroup implemented pursuant
45 to 2010 Iowa Acts, chapter 1192, section 24,
46 subsection 2, and extended pursuant to 2011 Iowa
47 Acts, chapter 121, section 2, to study and make
48 recommendations relating to the consolidation of
49 the processes for involuntary commitment for persons
50 with substance-related disorders under chapter 125,

1 for intellectual disability under chapter 222, and
2 for serious mental illness under chapter 229. The
3 workgroup shall also include representatives from
4 the department of public health. The workgroup shall
5 also study and make recommendations concerning the
6 feasibility of establishing an independent statewide
7 patient advocate program for qualified persons
8 representing the interests of patients suffering
9 from mental illness, intellectual disability, or a
10 substance-related disorder and involuntarily committed
11 by the court, in any matter relating to the patients'
12 hospitalization or treatment under chapters 125, 222,
13 and 229, and shall also include recommendations for a
14 patient advocate representing the interests of patients
15 found not guilty of a crime by reason of insanity.
16 The workgroup shall also consider the implementation
17 of consistent reimbursement standards for patient
18 advocates supported by a state-funded system and shall
19 also consider the role of the advocate for a person who
20 has been diagnosed with a co-occurring mental illness
21 and substance-related disorder. The workgroup shall
22 solicit input from current mental health advocates
23 and mental health and substance-related disorder care
24 providers and individuals receiving services whose
25 interests would be represented by an independent
26 statewide advocate program and shall submit a report on
27 the study and make recommendations to the governor and
28 the general assembly by December 1, 2012.

29 Sec. 18. COMPREHENSIVE JAIL DIVERSION PROGRAM
30 — MENTAL HEALTH COURTS — STUDY. The division
31 of criminal and juvenile justice planning of the
32 department of human rights shall conduct a study
33 regarding the possible establishment of a comprehensive
34 statewide jail diversion program, including the
35 establishment of mental health courts, for nonviolent
36 criminal offenders who suffer from mental illness.
37 The division shall solicit input from the department
38 of human services, the department of corrections, and
39 other members of the criminal justice system including
40 but not limited to judges, prosecutors, and defense
41 counsel, and mental health treatment providers and
42 consumers. The division shall establish the duties,
43 scope, and membership of the study commission and
44 shall also consider the feasibility of establishing a
45 demonstration mental health court. The division shall
46 submit a report on the study and make recommendations
47 to the governor and the general assembly by December
48 1, 2012.

49 Sec. 19. PRIOR LAW ENFORCEMENT MENTAL HEALTH
50 TRAINING. A law enforcement officer who has completed

1 academy-approved mental health training within the
2 twelve-month period prior to the effective date of this
3 Act, either through in-service or academy-approved
4 basic training, shall be considered to have met the
5 first four-year mental health training requirement
6 of section 80B.11, subsection 1, paragraph "c",
7 subparagraph (3), as enacted in this Act.>

SCHULTE of Linn