

Senate File 406

H-1269

1 Amend Senate File 406, as passed by the Senate, as  
2 follows:

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

5 <DIVISION I

6 PERSONS WITH INTELLECTUAL DISABILITIES — INVOLUNTARY  
7 COMMITMENTS

8 Section 1. Section 48A.2, subsection 3, Code 2013,  
9 is amended to read as follows:

10 3. *"Person who is incompetent to vote"* means  
11 a person with an intellectual disability who has  
12 been found to lack the mental capacity to vote in a  
13 proceeding held pursuant to section 222.31 or 633.556.

14 Sec. 2. Section 222.6, Code 2013, is amended to  
15 read as follows:

16 **222.6 State districts.**

17 The administrator shall divide the state into two  
18 districts in such manner that one of the resource  
19 centers shall be located within each of the districts.  
20 Such districts may from time to time be changed. After  
21 such districts have been established, the administrator  
22 shall notify all boards of supervisors, county  
23 auditors, and clerks of the district courts of the  
24 action. Thereafter, unless the administrator otherwise  
25 orders, all admissions ~~or commitments~~ of persons with  
26 an intellectual disability from a district shall be to  
27 the resource center located within such district.

28 Sec. 3. Section 222.12, subsection 2, Code 2013, is  
29 amended to read as follows:

30 2. Notice of the death of the patient, and the  
31 cause of death, shall be sent to the county board of  
32 supervisors ~~and to the judge of the court that had~~  
33 ~~jurisdiction over a committed patient.~~ The fact of  
34 death with the time, place, and alleged cause shall be  
35 entered upon the docket of the court.

36 Sec. 4. Section 222.15, subsection 3, Code 2013, is  
37 amended by striking the subsection.

38 Sec. 5. Section 222.59, subsection 3, Code 2013, is  
39 amended by striking the subsection.

40 Sec. 6. Section 222.60, subsection 1, unnumbered  
41 paragraph 1, Code 2013, is amended to read as follows:

42 All necessary and legal expenses for the cost  
43 of admission ~~or commitment~~ or for the treatment,  
44 training, instruction, care, habilitation, support  
45 and transportation of persons with an intellectual  
46 disability, as provided for in the county management  
47 plan provisions implemented pursuant to section  
48 331.439, subsection 1, in a state resource center, or  
49 in a special unit, or any public or private facility  
50 within or without the state, approved by the director

1 of the department of human services, shall be paid by  
2 either:

3 Sec. 7. Section 222.61, Code 2013, is amended to  
4 read as follows:

5 **222.61 Legal settlement determined.**

6 When a county receives an application on behalf of  
7 any person for admission to a resource center or a  
8 special unit ~~or when a court issues an order committing~~  
9 ~~any person to a resource center or a special unit,~~ the  
10 board of supervisors shall utilize the central point  
11 of coordination process to determine and certify that  
12 the legal settlement of the person is in one of the  
13 following:

14 1. In the county in which the application is  
15 received ~~or court is located.~~

16 2. In some other county of the state.

17 3. In another state or in a foreign country.

18 4. Unknown.

19 Sec. 8. Section 222.64, Code 2013, is amended to  
20 read as follows:

21 **222.64 Foreign state or country or unknown legal**  
22 **settlement.**

23 If the legal settlement of the person is determined  
24 by the board of supervisors through the central point  
25 of coordination process to be in a foreign state or  
26 country or is determined to be unknown, the board of  
27 supervisors shall certify the determination to the  
28 administrator. The certification shall be accompanied  
29 by a copy of the evidence supporting the determination.  
30 The care of the person shall be as arranged by the  
31 board of supervisors or by an order as the court  
32 may enter. Application for admission ~~or order of~~  
33 ~~commitment~~ may be made pending investigation by the  
34 administrator.

35 Sec. 9. Section 222.67, Code 2013, is amended to  
36 read as follows:

37 **222.67 Charge on finding of settlement.**

38 If a person has been received into a resource center  
39 or a special unit as a patient whose legal settlement  
40 is supposedly outside the state or is unknown and the  
41 administrator determines that the legal settlement of  
42 the patient was at the time of admission ~~or commitment~~  
43 in a county of this state, the administrator shall  
44 certify the determination and charge all legal costs  
45 and expenses pertaining to the admission ~~or commitment~~  
46 and support of the patient to the county of legal  
47 settlement. The certification shall be sent to the  
48 county of legal settlement. The certification shall  
49 be accompanied by a copy of the evidence supporting  
50 the determination. If the person's legal settlement

1 status has been determined in accordance with section  
2 225C.8, the legal costs and expenses shall be charged  
3 to the county or as a state case in accordance with  
4 that determination. The costs and expenses shall be  
5 collected as provided by law in other cases.

6 Sec. 10. Section 222.68, Code 2013, is amended to  
7 read as follows:

8 **222.68 Costs paid in first instance.**

9 All necessary and legal expenses for the cost of  
10 admission ~~or commitment~~ of a person to a resource  
11 center or a special unit when the person's legal  
12 settlement is found to be in another county of this  
13 state shall in the first instance be paid by the county  
14 from which the person was admitted ~~or committed~~. The  
15 county of legal settlement shall reimburse the county  
16 which pays for all such expenses. Where any county  
17 fails to make such reimbursement within forty-five days  
18 following submission of a properly itemized bill to the  
19 county of legal settlement, a penalty of not greater  
20 than one percent per month on and after forty-five days  
21 from submission of the bill may be added to the amount  
22 due.

23 Sec. 11. Section 222.69, Code 2013, is amended to  
24 read as follows:

25 **222.69 Payment by state.**

26 All necessary and legal expenses for the cost of  
27 admission ~~or commitment~~ of a person to a resource  
28 center or a special unit when the person's legal  
29 settlement is outside this state or is unknown shall  
30 be paid out of any money in the state treasury not  
31 otherwise appropriated. Such payments shall be made on  
32 itemized vouchers executed by the auditor of the county  
33 from which the expenses have been paid and approved by  
34 the administrator.

35 Sec. 12. Section 222.70, Code 2013, is amended to  
36 read as follows:

37 **222.70 Legal settlement disputes.**

38 If a dispute arises between counties or between the  
39 department and a county as to the legal settlement of a  
40 person admitted ~~or committed~~ to a resource center, a  
41 special unit, or a community-based service, the dispute  
42 shall be resolved as provided in section 225C.8.

43 Sec. 13. Section 222.78, Code 2013, is amended to  
44 read as follows:

45 **222.78 Parents and others liable for support.**

46 The father and mother of any patient admitted ~~or~~  
47 ~~committed~~ to a resource center or to a special unit,  
48 as either an inpatient or an outpatient, and any  
49 person, firm, or corporation bound by contract made  
50 for support of the patient are liable for the support

1 of the patient. The patient and those legally bound  
2 for the support of the patient shall be liable to the  
3 county for all sums advanced by the county to the state  
4 under the provisions of sections 222.60 and 222.77.  
5 The liability of any person, other than the patient,  
6 who is legally bound for the support of a patient who  
7 is under eighteen years of age in a resource center or  
8 a special unit shall not exceed the average minimum  
9 cost of the care of a normally intelligent minor  
10 without a disability of the same age and sex as the  
11 minor patient. The administrator shall establish the  
12 scale for this purpose but the scale shall not exceed  
13 the standards for personal allowances established  
14 by the state division under the family investment  
15 program. The father or mother shall incur liability  
16 only during any period when the father or mother either  
17 individually or jointly receive a net income from  
18 whatever source, commensurate with that upon which  
19 they would be liable to make an income tax payment to  
20 this state. The father or mother of a patient shall  
21 not be liable for the support of the patient upon the  
22 patient attaining eighteen years of age. Nothing in  
23 this section shall be construed to prevent a relative  
24 or other person from voluntarily paying the full actual  
25 cost as established by the administrator for caring for  
26 the patient with an intellectual disability.

27 Sec. 14. Section 222.80, Code 2013, is amended to  
28 read as follows:

29 **222.80 Liability to county.**

30 A person admitted ~~or committed~~ to a county  
31 institution or home or admitted ~~or committed~~ at  
32 county expense to a private hospital, sanitarium, or  
33 other facility for treatment, training, instruction,  
34 care, habilitation, and support as a patient with an  
35 intellectual disability shall be liable to the county  
36 for the reasonable cost of the support as provided in  
37 section 222.78.

38 Sec. 15. Section 222.91, Code 2013, is amended to  
39 read as follows:

40 **222.91 Direct referral to special unit.**

41 In addition to any other manner of referral, ~~or~~  
42 admission, ~~or commitment~~ to the special unit provided  
43 for by this chapter, persons may be referred directly  
44 to the special unit by courts, law enforcement  
45 agencies, or state penal or correctional institutions  
46 for services under ~~subsection 2 of~~ section 222.88,  
47 subsection 2, but persons so referred shall not be  
48 admitted ~~or committed~~ unless a preadmission diagnostic  
49 evaluation indicates that the person would benefit from  
50 such services, and the admission ~~or commitment~~ of the

1 person to the special unit would not cause the special  
2 unit's patient load to exceed its capacity.

3 Sec. 16. Section 232.51, Code 2013, is amended to  
4 read as follows:

5 **232.51 Disposition of child with mental illness or**  
6 **~~an intellectual disability.~~**

7 1. If the evidence received at an adjudicatory or  
8 a dispositional hearing indicates that the child is  
9 mentally ill, the court may direct the juvenile court  
10 officer or the department to initiate proceedings or to  
11 assist the child's parent or guardian to initiate civil  
12 commitment proceedings in the juvenile court and such  
13 proceedings in the juvenile court shall adhere to the  
14 requirements of chapter 229.

15 ~~2. If the evidence received at an adjudicatory or~~  
16 ~~a dispositional hearing indicates that the child has~~  
17 ~~an intellectual disability, the court may direct the~~  
18 ~~juvenile court officer or the department to initiate~~  
19 ~~proceedings or to assist the child's parent or guardian~~  
20 ~~to initiate civil commitment proceedings in the~~  
21 ~~juvenile court and such proceedings shall adhere to the~~  
22 ~~requirements of chapter 222.~~

23 ~~3.~~ 2. a. If prior to the adjudicatory or  
24 dispositional hearing on the pending delinquency  
25 petition, the child is committed as a child with a  
26 mental illness ~~or an intellectual disability~~ and is  
27 ordered into a residential facility, institution, or  
28 hospital for inpatient treatment, the delinquency  
29 proceeding shall be suspended until such time as the  
30 juvenile court either terminates the civil commitment  
31 order or the child is released from the residential  
32 facility, institution, or hospital for purposes of  
33 receiving outpatient treatment.

34 b. During any time that the delinquency proceeding  
35 is suspended pursuant to this subsection, any  
36 time limits for speedy adjudicatory hearings and  
37 continuances shall be tolled.

38 c. This subsection shall not apply to waiver  
39 hearings held pursuant to section 232.45.

40 Sec. 17. Section 331.756, subsection 42, Code 2013,  
41 is amended by striking the subsection.

42 Sec. 18. Section 602.8102, subsections 36 and 37,  
43 Code 2013, are amended by striking the subsections.

44 Sec. 19. REPEAL. Sections 222.16 through 222.33,  
45 sections 222.36 through 222.49, section 222.51,  
46 and sections 222.54 through 222.58, Code 2013, are  
47 repealed.

48 Sec. 20. EFFECTIVE DATE. This division of this Act  
49 takes effect July 1, 2014.

50 DIVISION II

1 INVOLUNTARY COMMITMENTS —  
2 SUBSTANCE-RELATED DISORDERS AND MENTAL ILLNESS  
3 Sec. 21. NEW SECTION. 125.74A Preapplication  
4 screening assessment — program.

5 Prior to filing an application pursuant to section  
6 125.75, the clerk of the district court or the  
7 clerk's designee shall inform the interested person  
8 referred to in section 125.75 about the option of  
9 requesting a preapplication screening assessment  
10 through a preapplication screening assessment program,  
11 if available. The state court administrator shall  
12 prescribe practices and procedures for implementation  
13 of the preapplication screening assessment program.

14 Sec. 22. Section 125.75, Code 2013, is amended to  
15 read as follows:

16 ~~125.75 Involuntary commitment or treatment —~~  
17 application Application.

18 1. Proceedings for the involuntary commitment or  
19 treatment of a person with a substance-related disorder  
20 to a facility pursuant to this chapter or for the  
21 involuntary hospitalization of a person pursuant to  
22 chapter 229 may be commenced by the county attorney  
23 ~~or an~~ any interested person by filing a verified  
24 application with the clerk of the district court of  
25 the county where the respondent is presently located  
26 or which is the respondent's place of residence.  
27 The clerk or the clerk's designee shall assist the  
28 applicant in completing the application.

29 2. The application shall:

30 ~~1. a.~~ a. State the applicant's belief that the  
31 respondent is a person with a substance-related  
32 disorder, who presents a danger to self or others  
33 and lacks judgmental capacity due to either of the  
34 following:

35 (1) A substance-related disorder as defined in  
36 section 125.2.

37 (2) A serious mental impairment as defined in  
38 section 229.1.

39 ~~2. b.~~ State any other pertinent facts in support  
40 of each belief described in paragraph "a".

41 ~~3. c.~~ Be accompanied by one or more of the  
42 following:

43 ~~a.~~ (1) A written statement of a licensed physician  
44 in support of the application.

45 ~~b.~~ (2) One or more supporting affidavits  
46 corroborating the application.

47 ~~c.~~ (3) Corroborative information obtained and  
48 reduced to writing by the clerk or the clerk's  
49 designee, but only when circumstances make it  
50 infeasible to obtain, or when the clerk considers it

1 appropriate to supplement, the information under either  
2 ~~paragraph "a" subparagraph (1) or paragraph "b" (2).~~

3 3. Prior to the filing of an application pursuant  
4 to this section, the clerk or the clerk's designee  
5 shall inform the interested person referred to  
6 in subsection 1 about the option of requesting a  
7 preapplication screening assessment pursuant to section  
8 125.74A.

9 4. The supreme court shall prescribe rules  
10 and establish forms as necessary to carry out the  
11 provisions of this section.

12 Sec. 23. Section 125.75A, Code 2013, is amended to  
13 read as follows:

14 **125.75A Involuntary ~~commitment or treatment of~~**  
15 **proceedings — minors — jurisdiction.**

16 The juvenile court has exclusive original  
17 jurisdiction in proceedings concerning a minor for whom  
18 an application ~~for involuntary commitment or treatment~~  
19 is filed under section 125.75. In proceedings under  
20 this division concerning a minor's involuntary  
21 commitment or treatment, the term "*court*", "*judge*", or  
22 "*clerk*" means the juvenile court, judge, or clerk.

23 Sec. 24. Section 125.77, Code 2013, is amended to  
24 read as follows:

25 **125.77 Service of notice.**

26 Upon the filing of an application ~~for involuntary~~  
27 ~~commitment pursuant to section 125.75~~, the clerk shall  
28 docket the case and immediately notify a district court  
29 judge, a district associate judge, or magistrate who  
30 is admitted to the practice of law in this state,  
31 who shall review the application and accompanying  
32 documentation. The clerk shall send copies of the  
33 application and supporting documentation, together  
34 with the notice informing the respondent of the  
35 procedures required by this division, to the sheriff,  
36 for immediate service upon the respondent. If the  
37 respondent is taken into custody under section 125.81,  
38 service of the application, documentation, and notice  
39 upon the respondent shall be made at the time the  
40 respondent is taken into custody.

41 Sec. 25. Section 125.78, unnumbered paragraph 1,  
42 Code 2013, is amended to read as follows:

43 As soon as practical after the filing of an  
44 application ~~for involuntary commitment or treatment~~  
45 pursuant to section 125.75, the court shall:

46 Sec. 26. Section 125.79, Code 2013, is amended to  
47 read as follows:

48 **125.79 Respondent's attorney informed.**

49 The court shall direct the clerk to furnish at once  
50 to the respondent's attorney, copies of the application

1 ~~for involuntary commitment of the respondent pursuant~~  
2 ~~to section 125.75 and the supporting documentation,~~  
3 ~~and of the court's order issued pursuant to section~~  
4 ~~125.78, subsection 3. If the respondent is taken into~~  
5 ~~custody under section 125.81, the attorney shall also~~  
6 ~~be advised of that fact. The respondent's attorney~~  
7 ~~shall represent the respondent at all stages of the~~  
8 ~~proceedings and shall attend the commitment hearing.~~

9 Sec. 27. Section 229.5, Code 2013, is amended to  
10 read as follows:

11 **229.5 Departure without notice.**

12 If a voluntary patient departs from the hospital  
13 without notice, and in the opinion of the chief medical  
14 officer the patient is seriously mentally impaired,  
15 the chief medical officer may file an application  
16 ~~for involuntary hospitalization of~~ on the departed  
17 voluntary patient pursuant to section 229.6, and  
18 request that an order for immediate custody be entered  
19 by the court pursuant to section 229.11.

20 Sec. 28. Section 229.5A, Code 2013, is amended to  
21 read as follows:

22 **229.5A Preapplication screening assessment —**  
23 **program.**

24 Prior to filing an application ~~for involuntary~~  
25 ~~hospitalization~~ pursuant to section 229.6, the clerk  
26 of the district court or the clerk's designee shall  
27 inform the interested person referred to in section  
28 229.6, subsection 1, about the option of requesting  
29 a preapplication screening assessment through a  
30 preapplication screening assessment program, if  
31 available. The state court administrator shall  
32 prescribe practices and procedures for implementation  
33 of the preapplication screening assessment program.

34 Sec. 29. Section 229.6, Code 2013, is amended to  
35 read as follows:

36 **229.6 Application for order of involuntary**  
37 **hospitalization.**

38 1. Proceedings for the involuntary hospitalization  
39 of an individual pursuant to this chapter or for the  
40 involuntary commitment or treatment of a person with a  
41 substance-related disorder to a facility pursuant to  
42 chapter 125 may be commenced by any interested person  
43 by filing a verified application with the clerk of  
44 the district court of the county where the respondent  
45 is presently located, or which is the respondent's  
46 place of residence. The clerk, or the clerk's  
47 designee, shall assist the applicant in completing the  
48 application.

49 2. The application shall:

50 a. State the applicant's belief that the respondent



1 ~~is seriously mentally impaired.~~ a person who presents a  
2 danger to self or others and lacks judgmental capacity  
3 due to either of the following:

4 (1) A substance-related disorder as defined in  
5 section 125.2.

6 (2) A serious mental impairment as defined in  
7 section 229.1.

8 ~~b. State any other pertinent facts in support of~~  
9 ~~each belief described in paragraph "a".~~

10 c. Be accompanied by any of the following:

11 (1) A written statement of a licensed physician in  
12 support of the application.

13 (2) One or more supporting affidavits otherwise  
14 corroborating the application.

15 (3) Corroborative information obtained and reduced  
16 to writing by the clerk or the clerk's designee, but  
17 only when circumstances make it infeasible to comply  
18 with, or when the clerk considers it appropriate to  
19 supplement the information supplied pursuant to, either  
20 subparagraph (1) or (2).

21 ~~2-~~ 3. Prior to the filing of an application  
22 pursuant to this section, the clerk or the clerk's  
23 designee shall inform the interested person referred  
24 to in subsection 1 about the option of requesting a  
25 preapplication screening assessment pursuant to section  
26 229.5A.

27 4. The supreme court shall prescribe rules  
28 and establish forms as necessary to carry out the  
29 provisions of this section.

30 Sec. 30. Section 229.6A, subsection 1, Code 2013,  
31 is amended to read as follows:

32 1. Notwithstanding section 229.11, the juvenile  
33 court has exclusive original jurisdiction in  
34 proceedings concerning a minor for whom an application  
35 ~~for involuntary admission~~ is filed under section 229.6  
36 or for whom an application for voluntary admission  
37 is made under section 229.2, subsection 1, to which  
38 the minor objects. In proceedings under this chapter  
39 concerning a minor, notwithstanding section 229.11, the  
40 term "*court*", "*judge*", or "*clerk*" means the juvenile  
41 court, judge, or clerk.

42 Sec. 31. Section 229.7, Code 2013, is amended to  
43 read as follows:

44 **229.7 Service of notice upon respondent.**

45 Upon the filing of an application ~~for involuntary~~  
46 ~~hospitalization~~ pursuant to section 229.6, the clerk  
47 shall docket the case and immediately notify a district  
48 court judge, district associate judge, or magistrate  
49 who is admitted to the practice of law in this state,  
50 who shall review the application and accompanying

1 documentation. If the application is adequate as to  
2 form, the court may set a time and place for a hearing  
3 on the application, if feasible, but the hearing shall  
4 not be held less than forty-eight hours after notice  
5 to the respondent unless the respondent waives such  
6 minimum prior notice requirement. The court shall  
7 direct the clerk to send copies of the application  
8 and supporting documentation, together with a notice  
9 informing the respondent of the procedures required by  
10 this chapter, to the sheriff or the sheriff's deputy  
11 for immediate service upon the respondent. If the  
12 respondent is taken into custody under section 229.11,  
13 service of the application, documentation and notice  
14 upon the respondent shall be made at the time the  
15 respondent is taken into custody.

16 Sec. 32. Section 229.8, unnumbered paragraph 1,  
17 Code 2013, is amended to read as follows:

18 As soon as practicable after the filing of an  
19 application ~~for involuntary hospitalization~~ pursuant to  
20 section 229.6, the court shall:

21 Sec. 33. Section 229.9, Code 2013, is amended to  
22 read as follows:

23 **229.9 Respondent's attorney informed.**

24 The court shall direct the clerk to furnish at  
25 once to the respondent's attorney copies of the  
26 application ~~for involuntary hospitalization of the~~  
27 respondent filed pursuant to section 229.6 and the  
28 supporting documentation, and of the court's order  
29 issued pursuant to section 229.8, subsection 3. If the  
30 respondent is taken into custody under section 229.11,  
31 the attorney shall also be advised of that fact. The  
32 respondent's attorney shall represent the respondent  
33 at all stages of the proceedings, and shall attend the  
34 hospitalization hearing.

35 Sec. 34. Section 229.21, subsection 2, Code 2013,  
36 is amended to read as follows:

37 2. When an application for involuntary  
38 hospitalization ~~under this chapter or an application~~  
39 for involuntary commitment or treatment of persons with  
40 substance-related disorders under ~~sections~~ section  
41 229.6 or 125.75 to 125.94 is filed with the clerk of  
42 the district court in any county for which a judicial  
43 hospitalization referee has been appointed, and no  
44 district judge, district associate judge, or magistrate  
45 who is admitted to the practice of law in this state  
46 is accessible, the clerk shall immediately notify the  
47 referee in the manner required by section 229.7 or  
48 section 125.77. The referee shall discharge all of  
49 the duties imposed upon the court by sections 229.7 to  
50 229.22 or sections 125.75 to 125.94 in the proceeding

1 so initiated. Subject to the provisions of subsection  
2 4, orders issued by a referee, in discharge of duties  
3 imposed under this section, shall have the same force  
4 and effect as if ordered by a district judge. However,  
5 any commitment to a facility regulated and operated  
6 under chapter 135C shall be in accordance with section  
7 135C.23.

8 Sec. 35. Section 229.22, subsection 3, Code 2013,  
9 is amended to read as follows:

10 3. The chief medical officer of the facility or  
11 hospital shall examine and may detain and care for  
12 the person taken into custody under the magistrate's  
13 order for a period not to exceed forty-eight hours from  
14 the time such order is dated, excluding Saturdays,  
15 Sundays and holidays, unless the order is sooner  
16 dismissed by a magistrate. The facility or hospital  
17 may provide treatment which is necessary to preserve  
18 the person's life, or to appropriately control behavior  
19 by the person which is likely to result in physical  
20 injury to the person's self or others if allowed to  
21 continue, but may not otherwise provide treatment to  
22 the person without the person's consent. The person  
23 shall be discharged from the facility or hospital and  
24 released from custody not later than the expiration of  
25 that period, unless an application ~~for the person's~~  
26 ~~involuntary hospitalization~~ is sooner filed with  
27 the clerk pursuant to section 229.6. Prior to such  
28 discharge the facility or hospital shall, if required  
29 by this section, notify the law enforcement agency  
30 requesting such notification about the discharge of  
31 the person. The law enforcement agency shall retrieve  
32 the person no later than six hours after notification  
33 from the facility or hospital but in no circumstances  
34 shall the detention of the person exceed the period  
35 of time prescribed for detention by this subsection.  
36 The detention of any person by the procedure and not  
37 in excess of the period of time prescribed by this  
38 section shall not render the peace officer, physician,  
39 facility, or hospital so detaining that person liable  
40 in a criminal or civil action for false arrest or  
41 false imprisonment if the peace officer, physician,  
42 facility, or hospital had reasonable grounds to believe  
43 the person so detained was mentally ill and likely to  
44 physically injure the person's self or others if not  
45 immediately detained, or if the facility or hospital  
46 was required to notify a law enforcement agency by this  
47 section, and the law enforcement agency requesting  
48 notification prior to discharge retrieved the person no  
49 later than six hours after the notification, and the  
50 detention prior to the retrieval of the person did not

1 exceed the period of time prescribed for detention by  
2 this subsection.

3 Sec. 36. Section 229.24, subsection 1, Code 2013,  
4 is amended to read as follows:

5 1. All papers and records pertaining to any  
6 involuntary hospitalization or application ~~for~~  
7 ~~involuntary hospitalization pursuant to section 229.6~~  
8 of any person under this chapter, whether part of the  
9 permanent record of the court or of a file in the  
10 department of human services, are subject to inspection  
11 only upon an order of the court for good cause shown.

12 Sec. 37. Section 229.27, subsection 2, Code 2013,  
13 is amended to read as follows:

14 2. The applicant may, in initiating a petition ~~for~~  
15 ~~involuntary hospitalization of a person~~ under section  
16 229.6 or at any subsequent time prior to conclusion  
17 of the involuntary hospitalization proceeding, also  
18 petition the court for a finding that the person is  
19 incompetent by reason of mental illness. The test  
20 of competence for the purpose of this section shall  
21 be whether the person possesses sufficient mind to  
22 understand in a reasonable manner the nature and effect  
23 of the act in which the person is engaged; the fact  
24 that a person is mentally ill and in need of treatment  
25 for that illness but because of the illness lacks  
26 sufficient judgment to make responsible decisions with  
27 respect to the person's hospitalization or treatment  
28 does not necessarily mean that that person is incapable  
29 of transacting business on any subject.

30 Sec. 38. Section 602.1209, subsection 16, Code  
31 2013, is amended to read as follows:

32 16. Prescribe practices and procedures for the  
33 implementation of the preapplication screening  
34 assessment program referred to in ~~section~~ sections  
35 125.75A and 229.5A.

36 Sec. 39. REPEAL. Sections 125.75B and 229.2A, Code  
37 2013, are repealed.

38 Sec. 40. STUDY — BED AVAILABILITY TRACKING  
39 SYSTEM. The department of human services shall  
40 conduct a study regarding the possible development  
41 of a hospital bed tracking system in order to most  
42 efficiently and effectively serve the needs of persons  
43 suffering from mental illness. The department shall  
44 submit a report of the study and make recommendations  
45 to the governor and the general assembly by December  
46 16, 2013.

#### 47 DIVISION III

#### 48 DEPARTMENT OF HUMAN RIGHTS RESPONSIBILITY FOR MENTAL

#### 49 HEALTH ADVOCATES

50 Sec. 41. NEW SECTION. 216A.171 Definitions.

1 As used in this subchapter, unless the context  
2 otherwise requires:

3 1. "Administrator" means the administrator of the  
4 office of mental health advocate of the department of  
5 human rights.

6 2. "Office" means the office of mental health  
7 advocate of the department of human rights.

8 Sec. 42. NEW SECTION. 216A.172 Duties of  
9 administrator.

10 The administrator shall administer the office's  
11 conduct of the mental health advocate program as  
12 provided by section 229.19 and other applicable law.  
13 The administrator's duties may include but are not  
14 limited to all of the following:

15 1. Appointing persons to serve as mental health  
16 advocates and other office staff and identifying  
17 qualifications for persons serving as a mental health  
18 advocate. The minimum qualifications for a mental  
19 health advocate whose initial appointment commences on  
20 or after July 1, 2013, shall be a bachelor's degree  
21 from an accredited school, college, or university in  
22 social work, counseling, human services, health, or  
23 nursing and one year of experience in the provision of  
24 mental health services. A person who is a licensed  
25 registered nurse pursuant to chapter 152 who is current  
26 with applicable continuing education requirements  
27 shall be deemed to have met the minimum experience  
28 requirement.

29 2. Training and supervising office staff.

30 3. Implementing procedures for appointing,  
31 dismissing, and supervising advocates.

32 4. Administering program additions and expansions,  
33 including providing advocate services for persons with  
34 a substance-related disorder and persons found not  
35 guilty by reason of insanity, if such additions or  
36 expansions are authorized and funded.

37 5. Developing and implementing a case weight system  
38 for use in appointing and compensating advocates.

39 6. Administering case reviews and audits.

40 Sec. 43. TRANSITION.

41 1. The department of human rights shall commence  
42 organizational activities during the fiscal year  
43 beginning July 1, 2013, as necessary to fully implement  
44 this division and assume responsibility for mental  
45 health advocates as provided in this division and  
46 division II of this Act on July 1, 2014.

47 2. If necessary for the purposes of subsection  
48 1, the department of human rights may adopt emergency  
49 rules under section 17A.4, subsection 3, and section  
50 17A.5, subsection 2, paragraph "b", to implement the

1 provisions of division II of this Act on July 1, 2014,  
2 and the rules shall be effective immediately upon  
3 filing unless a later date is specified in the rules.  
4 Any rules adopted in accordance with this section shall  
5 also be published as a notice of intended action as  
6 provided in section 17A.4.

#### 7 DIVISION IV

#### 8 IMPLEMENTATION — MENTAL HEALTH ADVOCATES

9 Sec. 44. Section 225C.4, subsection 1, paragraph m,  
10 Code 2013, is amended to read as follows:

11 *m.* Provide consultation and technical assistance to  
12 ~~patients'~~ mental health advocates appointed pursuant  
13 to section 229.19, in cooperation with the judicial  
14 branch and the department of human rights, and to the  
15 resident advocate committees appointed for health care  
16 facilities pursuant to section 135C.25.

17 Sec. 45. Section 226.31, Code 2013, is amended to  
18 read as follows:

#### 19 **226.31 Examination by court — notice.**

20 Before granting the order authorized in section  
21 226.30 the court or judge shall investigate the  
22 allegations of the petition and before proceeding to a  
23 hearing on the allegations shall require notice to be  
24 served on the attorney who represented the patient in  
25 any prior proceedings under sections 229.6 to 229.15  
26 ~~or the~~ and to any mental health advocate appointed for  
27 the patient under section 229.19, or in the case of a  
28 patient who entered the hospital voluntarily, on any  
29 relative, friend, or guardian of the person in question  
30 of the filing of the application. At the hearing the  
31 court or judge shall appoint a guardian ad litem for  
32 the person, if the court or judge deems such action  
33 necessary to protect the rights of the person. The  
34 guardian ad litem shall be a practicing attorney.

35 Sec. 46. Section 229.2, subsection 1, paragraph  
36 b, subparagraph (6), Code 2013, is amended to read as  
37 follows:

38 (6) Upon approval of the admission of a minor  
39 over the minor's objections, the juvenile court shall  
40 notify the office of mental health advocate of the  
41 department of human rights and the office shall appoint  
42 an individual to act as an the mental health advocate  
43 ~~representing the interests of for the minor in the~~  
44 ~~same manner as an advocate representing the interests~~  
45 ~~of patients involuntarily hospitalized pursuant to in~~  
46 accordance with section 229.19.

47 Sec. 47. Section 229.9A, Code 2013, is amended to  
48 read as follows:

49 **229.9A Advocate Mental health advocate informed —**  
50 **hearings.**

1 The court shall direct the clerk to furnish  
2 the office of the mental health advocate of the  
3 ~~respondent's county of legal settlement designated~~  
4 ~~for the court by the department of human rights with~~  
5 ~~a copy of application and any order issued pursuant~~  
6 ~~to section 229.8, subsection 3. The mental health~~  
7 ~~advocate designated for the court may attend the~~  
8 ~~hospitalization any court hearing of any involving the~~  
9 ~~respondent for whom the advocate has received notice of~~  
10 ~~a hospitalization hearing.~~

11 Sec. 48. Section 229.12, subsection 2, Code 2013,  
12 is amended to read as follows:

13 2. All persons not necessary for the conduct of  
14 the proceeding shall be excluded, except that the  
15 court may admit persons having a legitimate interest  
16 in the proceeding and shall permit the mental health  
17 ~~advocate from the respondent's county of legal~~  
18 ~~settlement designated for the court by the department~~  
19 ~~of human rights to attend the hearing. Upon motion~~  
20 ~~of the county attorney, the judge may exclude the~~  
21 ~~respondent from the hearing during the testimony of~~  
22 ~~any particular witness if the judge determines that~~  
23 ~~witness's testimony is likely to cause the respondent~~  
24 ~~severe emotional trauma.~~

25 Sec. 49. Section 229.14A, subsection 1, Code 2013,  
26 is amended to read as follows:

27 1. With respect to a chief medical officer's  
28 report made pursuant to section 229.14, subsection 1,  
29 paragraph "b", "c", or "d", or any other provision of  
30 this chapter related to involuntary commitment for  
31 which the court issues a placement order or a transfer  
32 of placement is authorized, the court shall provide  
33 notice to the respondent, ~~and the respondent's attorney~~  
34 ~~or, and any~~ mental health advocate appointed for the  
35 respondent pursuant to section 229.19 concerning the  
36 placement order and the respondent's right to request  
37 a placement hearing to determine if the order for  
38 placement or transfer of placement is appropriate.

39 Sec. 50. Section 229.14A, subsection 5, paragraph  
40 c, Code 2013, is amended to read as follows:

41 c. If the respondent's attorney has withdrawn  
42 ~~pursuant to section 229.19, the court shall appoint an~~  
43 ~~attorney for the respondent in the manner described in~~  
44 ~~section 229.8, subsection 1.~~

45 Sec. 51. Section 229.15, subsection 6, Code 2013,  
46 is amended to read as follows:

47 6. Upon receipt of any report required or  
48 authorized by this section the court shall furnish a  
49 copy to the patient's attorney, ~~or alternatively and~~  
50 ~~to the~~ mental health ~~advocate appointed as required~~

1 ~~by section 229.19 for the patient.~~ The court shall  
2 examine the report and take the action thereon which  
3 it deems appropriate. Should the court fail to  
4 receive any report required by this section or section  
5 229.14 at the time the report is due, the court shall  
6 investigate the reason for the failure to report and  
7 take whatever action may be necessary in the matter.

8 Sec. 52. Section 229.19, Code 2013, is amended to  
9 read as follows:

10 **229.19 Advocates Mental health advocates — duties**  
11 **— compensation — state and county liability.**

12 1. ~~a.~~ In each county with a population of three  
13 hundred thousand or more inhabitants the board of  
14 supervisors shall appoint an individual who has  
15 demonstrated by prior activities an informed concern  
16 for the welfare and rehabilitation of persons with  
17 mental illness, and who is not an officer or employee  
18 of the department of human services nor of any agency  
19 or facility providing care or treatment to persons with  
20 mental illness, to act as an advocate representing  
21 the interests of patients involuntarily hospitalized  
22 by the court, in any matter relating to the patients'  
23 hospitalization or treatment under section 229.14 or  
24 229.15. In each county with a population of under  
25 three hundred thousand inhabitants, the chief judge  
26 of the judicial district encompassing the county  
27 shall appoint the advocate. For the purposes of this  
28 section, "office" means the office of mental health  
29 advocate of the department of human rights.

30 ~~b.~~ The court or, if the advocate is appointed by  
31 the county board of supervisors, the board shall assign  
32 the advocate appointed from a patient's county of legal  
33 settlement to represent the interests of the patient.  
34 If a patient has no county of legal settlement, the  
35 court or, if the advocate is appointed by the county  
36 board of supervisors, the board shall assign the  
37 advocate appointed from the county where the hospital  
38 or facility is located to represent the interests of  
39 the patient.

40 ~~c.~~ The advocate's responsibility with respect to  
41 any patient shall begin at whatever time the attorney  
42 employed or appointed to represent that patient as  
43 respondent in hospitalization proceedings, conducted  
44 under sections 229.6 to 229.13, reports to the court  
45 that the attorney's services are no longer required and  
46 requests the court's approval to withdraw as counsel  
47 for that patient. However, if

48 b. If the patient is found to be seriously mentally  
49 impaired at the hospitalization hearing, the attorney  
50 representing the patient shall automatically be



1 ~~relieved of responsibility in the case and an a mental~~  
2 ~~health advocate shall be assigned to appointed for~~  
3 ~~the patient at the conclusion of the hearing unless~~  
4 ~~the attorney indicates an intent to continue the~~  
5 ~~attorney's services and.~~ The court shall notify the  
6 office of the court's finding and the office shall  
7 appoint an advocate for the patient. The advocate's  
8 responsibility with respect to a patient shall begin  
9 when the advocate is appointed for the patient. The  
10 attorney representing the patient shall automatically  
11 be relieved of responsibility at the conclusion of  
12 the hearing unless the attorney requests to continue  
13 representation and the court ~~so directs~~ authorizes the  
14 attorney to remain on the case. If the court directs  
15 the attorney to remain on the case, the attorney shall  
16 ~~assume all the duties of an advocate~~ cooperate with  
17 the advocate appointed for the patient. The clerk  
18 shall furnish the advocate with a copy of the court's  
19 order approving the withdrawal or continuation of the  
20 attorney and shall inform the patient of the name of  
21 the patient's advocate.

22 ~~d. c.~~ With regard to each patient ~~whose interests~~  
23 ~~the for whom a mental health advocate is required to~~  
24 ~~represent~~ appointed pursuant to this section, the  
25 advocate's duties shall include all of the following:

26 (1) To review each report submitted pursuant to  
27 sections 229.14 and 229.15.

28 (2) ~~If the advocate is not an attorney, to To~~  
29 advise the court at any time it appears that the  
30 services of an attorney are required to properly  
31 safeguard the patient's interests.

32 (3) To be readily accessible to communications from  
33 the patient and to originate communications with the  
34 patient within five days of the patient's commitment.

35 (4) To visit the patient within fifteen days of the  
36 patient's commitment and periodically thereafter.

37 (5) To communicate with medical personnel treating  
38 the patient and to review the patient's medical records  
39 pursuant to section 229.25.

40 (6) To file with the court and the office quarterly  
41 reports, and additional reports as the advocate feels  
42 necessary or as required by the ~~court~~ office, in a form  
43 prescribed by the ~~court~~ office. The reports shall  
44 state what actions the advocate has taken with respect  
45 to each patient and the amount of time spent.

46 (7) To utilize the related best practices for the  
47 duties identified in this paragraph ~~"d"~~ "c" developed  
48 and promulgated by the judicial council.

49 ~~e. d.~~ An Subject to the availability of funding  
50 appropriated for this purpose, a mental health advocate

1 may also be appointed pursuant to this section for an  
2 individual who has been diagnosed with a co-occurring  
3 mental illness and ~~substance-related~~ substance-related  
4 disorder.

5 2. The hospital or facility to which a patient is  
6 committed shall grant all reasonable requests of the  
7 patient's mental health advocate to visit the patient,  
8 to communicate with medical personnel treating the  
9 patient, and to review the patient's medical records  
10 pursuant to section 229.25. An advocate shall not  
11 disseminate information from a patient's medical  
12 records to any other person unless done for official  
13 purposes in connection with the advocate's duties  
14 pursuant to this chapter or when required by law.

15 3. ~~The court or, if the advocate is appointed by~~  
16 ~~the county board of supervisors, the board office shall~~  
17 ~~prescribe provide~~ reasonable compensation for the  
18 services of the advocate in accordance with section  
19 216A.172. ~~The compensation shall be based upon the~~  
20 ~~reports filed by the advocate with the court. The~~  
21 ~~advocate's compensation shall be paid by the county~~  
22 ~~in which the court is located, either on order of the~~  
23 ~~court or, if the advocate is appointed by the county~~  
24 ~~board of supervisors, on the direction of the board.~~  
25 ~~If the advocate is appointed by the court, the advocate~~  
26 ~~is an employee of the state for purposes of chapter~~  
27 ~~669. If the advocate is appointed by the county~~  
28 ~~board of supervisors, the advocate is an employee~~  
29 ~~of the county for purposes of chapter 670. If the~~  
30 ~~patient or the person who is legally liable for the~~  
31 ~~patient's support is not indigent, the board office~~  
32 ~~shall recover the costs of compensating the advocate~~  
33 ~~from that person. If that person has an income level~~  
34 ~~as determined pursuant to section 815.9 greater than~~  
35 ~~one hundred percent but not more than one hundred~~  
36 ~~fifty percent of the poverty guidelines, at least~~  
37 ~~one hundred dollars of the advocate's compensation~~  
38 ~~shall be recovered in the manner prescribed by the~~  
39 ~~county board of supervisors. If that person has~~  
40 ~~an income level as determined pursuant to section~~  
41 ~~815.9 greater than one hundred fifty percent of the~~  
42 ~~poverty guidelines, at least two hundred dollars of~~  
43 ~~the advocate's compensation shall be recovered in~~  
44 ~~substantially the same manner prescribed by the county~~  
45 ~~board of supervisors as provided in section 815.9.~~

46 Sec. 53. Section 229.25, subsection 1, paragraph  
47 a, subparagraph (1), Code 2013, is amended to read as  
48 follows:

49 (1) The information is requested by a licensed  
50 physician, attorney, or the mental health advocate

1 ~~who provides~~ appointed for the person. The requester  
2 ~~must provide~~ the chief medical officer with a written  
3 ~~waiver signed by the person about whom the information~~  
4 ~~is sought.~~

5 Sec. 54. TRANSITION OF EMPLOYEE RIGHTS OF FORMER  
6 COUNTY EMPLOYEES.

7 1. If appointed by the administrator of the office  
8 of mental health advocate of the department of human  
9 rights pursuant to section 216A.172, county employees  
10 paid for mental health advocate services under section  
11 229.19 shall become employees of the department of  
12 human rights effective July 1, 2014, and the department  
13 shall assume all costs associated with the functions  
14 of the employees on that date. Employees who were  
15 paid salaries by the counties immediately prior to  
16 becoming state employees as a result of this Act shall  
17 not forfeit accrued vacation, accrued sick leave, or  
18 benefits related to longevity of service, except as  
19 provided in this section.

20 2. The department of human rights, after consulting  
21 with the department of administrative services, shall  
22 adopt rules to provide for the following:

23 a. A person referred to in subsection 1 shall have  
24 to the person's credit as a state employee commencing  
25 on the date of becoming a state employee the number of  
26 accrued vacation days that was credited to the person  
27 as a county employee as of the end of the day prior to  
28 becoming a state employee.

29 b. Each person referred to in subsection 1 shall  
30 have to the person's credit as a state employee  
31 commencing on the date of becoming a state employee the  
32 number of accrued days of sick leave that was credited  
33 to the person as a county employee as of the end of the  
34 day prior to becoming a state employee. However, the  
35 number of days of sick leave credited to a person under  
36 this subsection and eligible to be taken when sick  
37 or eligible to be received upon retirement shall not  
38 respectively exceed the maximum number of days, if any,  
39 or the maximum dollar amount as provided in section  
40 70A.23 that state employees generally are entitled to  
41 accrue or receive according to rules in effect as of  
42 the date the person becomes a state employee.

43 c. Commencing on the date of becoming a state  
44 employee, each person referred to in subsection 1 is  
45 entitled to claim the person's most recent continuous  
46 period of service in full-time county employment as  
47 full-time state employment for purposes of determining  
48 the number of days of vacation which the person is  
49 entitled to earn each year. The actual vacation  
50 benefit, including the limitation on the maximum

1 accumulated vacation leave, shall be determined  
2 as provided in section 70A.1 according to rules in  
3 effect for state employees of comparable longevity,  
4 irrespective of any greater or lesser benefit as a  
5 county employee.

6 3. Persons referred to in subsection 1 who were  
7 covered by county employee life insurance and accident  
8 and health insurance plans prior to becoming state  
9 employees in accordance with this section shall be  
10 permitted to apply prior to becoming state employees  
11 for life insurance and health and accident insurance  
12 plans that are available to state employees so that  
13 those persons do not suffer a lapse of insurance  
14 coverage as a result of this section. The department  
15 of human rights, after consulting with the department  
16 of administrative services, shall prescribe rules and  
17 distribute application forms and take other actions  
18 as necessary to enable those persons to elect to  
19 have insurance coverage that is in effect on the date  
20 of becoming state employees. The actual insurance  
21 coverage available to a person shall be determined  
22 by the plans that are available to state employees,  
23 irrespective of any greater or lesser benefits that may  
24 have been available to the person as a county employee.

25 4. Commencing on the date of becoming a state  
26 employee, each person referred to in subsection 1 is  
27 entitled to claim the person's most recent continuous  
28 period of service in full-time county employment as  
29 full-time state employment for purposes of determining  
30 disability benefits as provided in section 70A.20  
31 according to rules in effect for state employees of  
32 comparable longevity, irrespective of any greater or  
33 lesser benefit that may have been available to the  
34 person as a county employee.

35 Sec. 55. EFFECTIVE DATE. This division of this Act  
36 takes effect July 1, 2014.>

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M. SMITH of Marshall