

SENATE/HOUSE FILE _____
BY (PROPOSED ATTORNEY GENERAL
BILL)

A BILL FOR

1 An Act relating to the civil commitment of sexually violent
2 predators.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 229A.2, Code 2014, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 2A. "*Convicted*" means found guilty of,
4 pleads guilty to, or is sentenced or adjudicated delinquent
5 for an act which is an indictable offense in this state or in
6 another jurisdiction including in a federal, military, tribal,
7 or foreign court, including but not limited to a juvenile who
8 has been adjudicated delinquent, but whose juvenile court
9 records have been sealed under section 232.150, and a person
10 who has received a deferred sentence or a deferred judgment
11 or has been acquitted by reason of insanity. "*Conviction*"
12 includes the conviction of a juvenile prosecuted as an adult.
13 "*Convicted*" also includes a conviction for an attempt or
14 conspiracy to commit an offense. "*Convicted*" does not mean a
15 plea, sentence, adjudication, deferred sentence, or deferred
16 judgment which has been reversed or otherwise set aside.

17 Sec. 2. Section 229A.8, subsection 5, paragraph e, Code
18 2014, is amended to read as follows:

19 e. (1) The court shall consider all evidence presented
20 by both parties at the annual review. ~~The burden is on the~~
21 ~~committed person to prove by a preponderance of the evidence~~
22 ~~that there is relevant and reliable evidence to rebut the~~
23 ~~presumption of continued commitment, which would lead a~~
24 ~~reasonable person to believe a final hearing should be held~~
25 ~~to determine either of the following:~~ The court shall order
26 a final hearing to be held if the committed person rebuts the
27 presumption of continued commitment by providing clear and
28 convincing evidence of either of the following:

29 (a) The mental abnormality of the committed person has so
30 changed that the person is not likely to engage in predatory
31 acts constituting sexually violent offenses if discharged.

32 (b) The committed person is suitable for placement in a
33 transitional release program pursuant to section 229A.8A.

34 (2) If the committed person shows by ~~a preponderance of the~~
35 evidence clear and convincing evidence that a final hearing

1 should be held on either determination under subparagraph (1),
2 subparagraph division (a) or (b), or both, the court shall set
3 a final hearing within sixty days of the determination that a
4 final hearing be held.

5 Sec. 3. Section 229A.9A, subsection 2, Code 2014, is amended
6 to read as follows:

7 2. If release with or without supervision is ordered, the
8 department of human services shall prepare within ~~thirty~~ sixty
9 days of the order of the court a release plan addressing the
10 person's needs for counseling, medication, community support
11 services, residential services, vocational services, alcohol
12 or other drug abuse treatment, sex offender treatment, or any
13 other treatment or supervision necessary.

14 Sec. 4. Section 232.55, subsection 2, paragraph a, Code
15 2014, is amended to read as follows:

16 a. Adjudication and disposition proceedings under this
17 division are not admissible as evidence against a person in a
18 subsequent proceeding in any other court before or after the
19 person reaches majority except in a proceeding pursuant to
20 chapter 229A or in a sentencing proceeding after conviction
21 of the person for an offense other than a simple or serious
22 misdemeanor.

23 EXPLANATION

24 The inclusion of this explanation does not constitute agreement with
25 the explanation's substance by the members of the general assembly.

26 This bill relates to the civil commitment of sexually
27 violent predators.

28 For purposes of determining whether a person has previously
29 been convicted of a sexually violent offense for civil
30 commitment as a sexually violent predator, the bill defines
31 "convicted" to mean found guilty of, pleads guilty to, or is
32 sentenced or adjudicated delinquent for an act which is an
33 indictable offense in this state or in another jurisdiction
34 including in a federal, military, tribal, or foreign
35 court, including but not limited to a juvenile who has been

1 adjudicated delinquent, but whose juvenile court records have
2 been sealed under Code section 232.150, and a person who has
3 received a deferred sentence or a deferred judgment or has been
4 acquitted by reason of insanity. "Conviction" includes the
5 conviction of a juvenile prosecuted as an adult. "Convicted"
6 also includes a conviction for an attempt or conspiracy to
7 commit an offense. "Convicted" does not mean a plea, sentence,
8 adjudication, deferred sentence, or deferred judgment which has
9 been reversed or otherwise set aside.

10 A person civilly committed as a sexually violent predator
11 is entitled to an annual review of the person's progress in
12 the sexually violent predator program. The bill raises the
13 standard of proof at the annual hearing from a preponderance
14 of the evidence standard to a clear and convincing evidence
15 standard. The "clear and convincing evidence" standard is a
16 higher level of burden of persuasion than the "preponderance of
17 the evidence" standard.

18 Under the bill, the committed person is required to rebut
19 the presumption of continued commitment at the annual review
20 by providing clear and convincing evidence that the person's
21 mental abnormality has so changed that the person is not
22 likely to engage in predatory acts or that the person is
23 suitable for placement in the transitional release program. If
24 the committed person successfully rebuts the presumption of
25 continued commitment by clear and convincing evidence under
26 the bill, the court is required to order a final hearing to
27 determine the future placement status of the person.

28 The final hearing to determine the future placement status
29 of a committed person is governed by Code section 229A.8(6).

30 The bill extends the time period the department of human
31 services has to prepare a release plan for a person committed
32 as a sexually violent predator who is ordered released by
33 the court from 30 days to 60 days. Code section 229A.9A(3)
34 prohibits a committed person from being released prior to the
35 court setting a hearing on the release plan developed by the

S.F. _____ H.F. _____

1 department of human services.

2 Code section 232.55 is amended to permit the use of juvenile
3 delinquency proceedings as evidence in the civil commitment
4 proceeding of a sexually violent predator under Code chapter
5 229A.