



THOMAS J. VILSACK
GOVERNOR

OFFICE OF THE GOVERNOR

SALLY J. PEDERSON
LT. GOVERNOR

April 25, 2003

The Honorable Chester Culver
Secretary of State
State Capitol Building
LOCAL

Dear Mr. Secretary:

I hereby transmit:

Senate File 361, an Act relating to emergency procedures for the temporary detention and treatment of persons who are incapacitated or impaired due to substance abuse or mental health problems.

The above Senate File is hereby approved this date.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas J. Vilsack".

Thomas J. Vilsack
Governor

TJV:jmc

cc: Secretary of the Senate
Chief Clerk of the House





SENATE FILE 361

AN ACT

RELATING TO EMERGENCY PROCEDURES FOR THE TEMPORARY DETENTION
AND TREATMENT OF PERSONS WHO ARE INCAPACITATED OR IMPAIRED
DUE TO SUBSTANCE ABUSE OR MENTAL HEALTH PROBLEMS.

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

Section 1. Section 125.91, subsection 2, Code 2003, is amended to read as follows:

2. a. A peace officer who has reasonable grounds to believe that the circumstances described in subsection 1 are applicable, may, without a warrant, take or cause that person to be taken to the nearest available facility referred to in section 125.81, subsection 2 or 3. Such an intoxicated or incapacitated person may also be delivered to a facility by someone other than a peace officer upon a showing of reasonable grounds. Upon delivery of the person to a facility under this section, the ~~chief-medical-officer~~ examining physician may order treatment of the person, but only to the

extent necessary to preserve the person's life or to appropriately control the person's behavior if the behavior is likely to result in physical injury to the person or others if allowed to continue. The peace officer or other person who delivered the person to the facility shall describe the circumstances of the matter to the administrator examining physician. If the person is a peace officer, the peace officer may do so either in person or by written report. If the ~~administrator-in-consultation-with-the-chief-medical officer~~ examining physician has reasonable grounds to believe that the circumstances in subsection 1 are applicable, the administrator examining physician shall at once communicate with the nearest available magistrate as defined in section 801.4, subsection 10. The magistrate shall ~~immediately proceed-to-the-facility-where-the-person-is-detained,-except that-if-the-administrator's-communication-with-the-magistrate occurs-between-the-hours-of-midnight-and-seven-a.m.-and-the magistrate-deems-it-appropriate-under-the-circumstances described-by-the-administrator,-the-magistrate-may-delay-going-to-the-facility,-and-in-that-case,-shall,~~ based upon the circumstances described by the examining physician, give the administrator examining physician verbal oral instructions either directing that the person be released forthwith, or authorizing the person's continued detention at the in an appropriate facility. The magistrate may also give oral instructions and order that the detained person be transported to an appropriate facility. ~~In-the-latter-case,-the magistrate-shall-~~

~~a.---Arrive-at-the-facility-where-the-person-is-being detained-as-soon-as-possible-and-no-later-than-twelve-o'clock noon-of-the-same-day-on-which-the-administrator's communication-occurred-~~

~~b. By-the-close-of-business-on-the-next-working-day-file with-the-clerk-a-written-report-stating-the-substance-of-the communication-with-the-administrator-on-which-the-person's continued-detention-was-ordered-~~ If the magistrate orders that the person be detained, the magistrate shall, by the close of business on the next working day, file a written order with the clerk in the county where it is anticipated that an application may be filed under section 125.75. The

order may be filed by facsimile if necessary. The order shall state the circumstances under which the person was taken into custody or otherwise brought to a facility and the grounds supporting the finding of probable cause to believe that the person is a chronic substance abuser likely to result in physical injury to the person or others if not detained. The order shall confirm the oral order authorizing the person's detention including any order given to transport the person to an appropriate facility. The clerk shall provide a copy of that order to the chief medical officer of the facility to which the person was originally taken, any subsequent facility to which the person was transported, and to any law enforcement department or ambulance service that transported the person pursuant to the magistrate's order.

Sec. 2. Section 125.91, subsection 3, Code 2003, is amended by striking the subsection.

Sec. 3. Section 229.22, subsection 2, Code 2003, is amended to read as follows:

2. In the circumstances described in subsection 1, any peace officer who has reasonable grounds to believe that a person is mentally ill, and because of that illness is likely to physically injure the person's self or others if not immediately detained, may without a warrant take or cause that person to be taken to the nearest available facility as defined in section 229.11, subsections 2 and 3. A person believed mentally ill, and likely to injure the person's self or others if not immediately detained, may be delivered to a hospital by someone other than a peace officer. Upon delivery of the person believed mentally ill to the hospital, the ~~chief medical-officer~~ examining physician may order treatment of that person, including chemotherapy, but only to the extent necessary to preserve the person's life or to appropriately control behavior by the person which is likely to result in physical injury to that person or others if allowed to continue. The peace officer who took the person into custody, or other party who brought the person to the hospital, shall describe the circumstances of the matter to the ~~chief-medical-officer~~ examining physician. If the person is a peace officer, the peace officer may do so either in person or by written report. If the ~~chief-medical-officer~~ examining

physician finds that there is reason to believe that the person is seriously mentally impaired, and because of that impairment is likely to physically injure the person's self or others if not immediately detained, the ~~chief-medical-officer~~ examining physician shall at once communicate with the nearest available magistrate as defined in section 801.4, subsection 10. The magistrate shall, based upon the circumstances described by the ~~chief-medical-officer~~ examining physician, give the ~~chief-medical-officer~~ examining physician ~~verbal~~ oral instructions either directing that the person be released forthwith or authorizing the person's ~~continued~~ detention at that in an appropriate facility. The magistrate may also give oral instructions and order that the detained person be transported to an appropriate facility. ~~In-the-latter-case, the-magistrate-shall:~~

~~a.--By-the-close-of-business-on-the-next-working-day,-file with-the-clerk-a-written-report-stating-the-substance-of-the information-on-the-basis-of-which-the-person's-continued detention-was-ordered,-and~~

~~b.--Proceed-to-the-facility-where-the-person-is-being detained-within-twenty-four-hours-of-giving-instructions-that the-person-be-detained.~~ If the magistrate orders that the person be detained, the magistrate shall, by the close of business on the next working day, file a written order with the clerk in the county where it is anticipated that an application may be filed under section 229.6. The order may be filed by facsimile if necessary. The order shall state the circumstances under which the person was taken into custody or otherwise brought to a facility, and the grounds supporting the finding of probable cause to believe that the person is seriously mentally impaired and likely to injure the person's self or others if not immediately detained. The order shall confirm the oral order authorizing the person's detention including any order given to transport the person to an appropriate facility. The clerk shall provide a copy of that order to the chief medical officer of the facility to which the person was originally taken, to any subsequent facility to which the person was transported, and to any law enforcement department or ambulance service that transported the person pursuant to the magistrate's order.

Sec. 4. Section 229.22, subsection 3, Code 2003, is amended by striking the subsection.



MARY E. KRAMER

President of the Senate



CHRISTOPHER C. RANTS

Speaker of the House

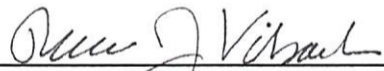
I hereby certify that this bill originated in the Senate and is known as Senate File 361, Eightieth General Assembly.



MICHAEL E. MARSHALL

Secretary of the Senate

Approved April 25, 2003



THOMAS J. VILSACK

Governor