



THOMAS J. VILSACK
GOVERNOR

OFFICE OF THE GOVERNOR

SALLY J. PEDERSON
LT. GOVERNOR

May 5, 2005

The Honorable Chester Culver
Secretary of State
State Capitol Building
LOCAL

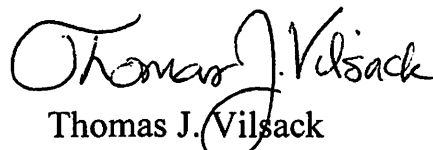
Dear Mr. Secretary:

I hereby transmit:

House File 538, an Act revising child welfare requirements involving children with mental health, behavioral or emotional disorders and providing a contingent effective date.

The above House File is hereby approved this date.

Sincerely,


Thomas J. Vilsack
Governor

TJV:jmc

cc: Secretary of the Senate
Chief Clerk of the House





HOUSE FILE 538

AN ACT

REVISING CHILD WELFARE REQUIREMENTS INVOLVING CHILDREN WITH MENTAL HEALTH, BEHAVIORAL, OR EMOTIONAL DISORDERS AND PROVIDING A CONTINGENT EFFECTIVE DATE.

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

Section 1. Section 135H.6, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 11. If a child has an emotional, behavioral, or mental health disorder, the psychiatric institution does not require court proceedings to be initiated or that a child's parent, guardian, or custodian must terminate parental rights over or transfer legal custody of the child for the purpose of obtaining treatment from the psychiatric institution for the child. Relinquishment of a child's custody shall not be a condition of the child receiving services.

Sec. 2. Section 232.2, subsection 6, paragraph f, Code 2005, is amended to read as follows:

f. Who is in need of treatment to cure or alleviate serious mental illness or disorder, or emotional damage as evidenced by severe anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others and whose parent, guardian, or custodian is unwilling ~~or unable~~ to provide such treatment.

Sec. 3. Section 234.7, Code 2005, is amended to read as follows:

234.7 DEPARTMENT DUTIES.

1. The department of human services shall comply with the following requirement associated with child foster care licensees under chapter 237:

The department shall include a child's foster parent in, and provide timely notice of, planning and review activities

associated with the child, including but not limited to permanency planning and placement review meetings, which shall include discussion of the child's rehabilitative treatment needs.

2. a. The department of human services shall submit a waiver request to the United States department of health and human services as necessary to provide coverage under the medical assistance program for not more than three hundred children at any one time who are described by both of the following:

(1) The child needs behavioral health care services and qualifies for the care level provided by a psychiatric medical institution for children licensed under chapter 135H.

(2) The child is in need of treatment to cure or alleviate serious mental illness or disorder, or emotional damage as evidenced by severe anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others and whose parent, guardian, or custodian is unable to provide such treatment.

b. The waiver request shall provide for appropriately addressing the needs of children described in paragraph "a" by implementing any of the following options: using a wraparound services approach, renegotiating the medical assistance program contract provisions for behavioral health services, or applying another approach for appropriately meeting the children's needs.

c. If federal approval of the waiver request is not received, the department shall submit options to the governor and general assembly to meet the needs of such children through a state-funded program.

Sec. 4. CONTINGENT EFFECTIVE DATE.

1. The section of this Act amending section 232.2, subsection 6, paragraph "f", shall take effect on the initial implementation date of either of the following contingencies, providing one of the contingencies is implemented:

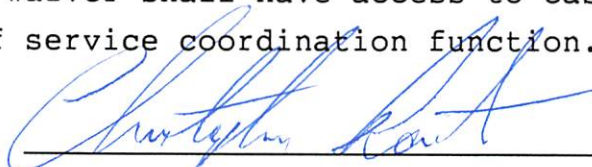
a. Federal approval is received for the waiver request submitted by the department of human services pursuant to section 234.7, subsection 2, paragraph "a", as enacted by this Act.

b. A state-funded program is implemented in lieu of the federal waiver, as described in section 234.7, subsection 2, paragraph "b", as enacted by this Act.

2. The department of human services shall notify the Code editor if either of the contingencies in subsection 1 occurs.

3. If federal approval is received for the waiver request described in subsection 1, paragraph "a", the department of human services shall convene a review committee to advise the department regarding the waiver's implementation. The committee membership may include but is not limited to juvenile judges, parents of children participating in the waiver, service providers, departmental staff, at least two members of the general assembly, and others with knowledge concerning the waiver. The committee shall be convened when there are a sufficient number of children participating in the waiver for there to be implementation issues to consider or six months following the commencement date of the waiver, whichever is sooner.

4. If federal approval is received for the waiver request described in subsection 1, paragraph "a", the child or family receiving services under the waiver shall have access to case management or another form of service coordination function.



CHRISTOPHER C. RANTS
Speaker of the House



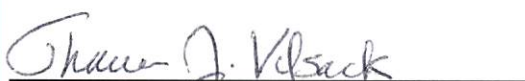
JOHN P. KIBBIE
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 538, Eighty-first General Assembly.



MARGARET THOMSON
Chief Clerk of the House

Approved May 5, 2005



THOMAS J. VILSACK
Governor