

the following

Amend per 2102 & Do Pass 4/28

FILED JAN 31 1980

SENATE FILE 2102

BY COMMITTEE ON JUDICIARY

Approved p. 243

(Formerly Senate Study Bill 2021)

Substituted for H. 7. 2466 3/6

Passed Senate, Date 2-6-80 (p. 335) Passed House, Date 3-6-80 (p. 191)

Vote: Ayes 46 Nays 0 Vote: Ayes 79 Nays 5

Approved May 13, 1980

*Repassed Senate per
House amendment as amended
2/27/80 (p. 117)
44-0*

*Motion to reconsider w/d 3/10
by passed House 4/10/80 125-7
97-1*

A BILL FOR

1 An Act relating to the hospitalization of mentally ill persons.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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SENATE FILE 2102

S-5076

1 Amend Senate File 2102 as follows:
2 1. Page 7, line 4, by inserting after the word
3 "located" the words "but shall not exceed thirty
4 dollars per hour".

19 S-5076 FILED & WITHDRAWN (p. 235) BY ARNE WALDSTEIN
20 FEBRUARY 6, 1980
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1 Section 1. Section two hundred twenty-nine point one
2 (229.1), subsections two (2) and six (6), Code 1979, are
3 amended to read as follows:

4 2. "Seriously mentally impaired" or "serious mental
5 impairment" with regard to an adult describes the condition
6 of a person who is afflicted with mental illness and because
7 of that illness lacks sufficient judgment to make responsible
8 decisions with respect to his or her hospitalization or
9 treatment, and who is either of the following:

10 a. ~~is-likely~~ Likely to physically injure himself or herself
11 or others if allowed to remain at liberty without treatment,
12 ex.

13 b. ~~is-likely~~ Likely to inflict serious emotional injury
14 on members of his or her family or others who lack reasonable
15 opportunity to avoid contact with the afflicted person if
16 the afflicted person is allowed to remain at liberty without
17 treatment.

18 "Seriously mentally impaired" or "serious mental impairment"
19 with regard to a minor describes the condition of a minor
20 who is afflicted with mental illness and who is any of the
21 following:

22 a. Likely to physically injure himself or herself or
23 others if allowed to remain at liberty without treatment.

24 b. Likely to inflict serious emotional injury on members
25 of his or her family or others who lack reasonable opportunity
26 to avoid contact with the minor if the minor is allowed to
27 remain at liberty without treatment.

28 c. In need of treatment to cure or alleviate serious
29 mental illness or emotional damage, as evidenced by severe
30 anxiety, severe depression, severe withdrawal or severe
31 untoward aggressive behavior toward self or others.

32 6. "Licensed physician" means an individual licensed under
33 the provisions of chapter 148 or one hundred fifty A (150A)
34 of the Code to practice medicine and surgery or osteopathic
35 medicine and surgery.

1 Sec. 2. Section two hundred twenty-nine point two (229.2),
2 subsection one (1), Code 1979, is amended to read as follows:

3 1. An application for admission to a public or private
4 hospital for observation, diagnosis, care and treatment as
5 a voluntary patient may be made by any person who is mentally
6 ill or has symptoms of mental illness. In the case of a
7 minor, the parent ~~or~~, guardian or custodian may make
8 application for admission of the minor ~~as-a-voluntary-patient,~~
9 ~~however-if-the-chief-medical-officer-of-the-hospital-to-which~~
10 ~~application-is-made-determines-that-the-admission-is~~
11 ~~appropriate-but-the-minor-objects-to-the-admission,-the-parent~~
12 ~~or-guardian-must-petition-the-juvenile-court-for-approval~~
13 ~~of-the-admission-before-the-minor-is-actually-admitted~~ pursuant
14 to sections thirteen (13) through twenty (20) of this Act.
15 ~~The-juvenile-court-shall-determine-whether-the-admission-is~~
16 ~~in-the-best-interest-of-the-minor-and-is-consistent-with-his~~
17 ~~or-her-rights.~~

18 Sec. 3. Section two hundred twenty-nine point four (229.4),
19 subsections one (1) and two (2), Code 1979, are amended to
20 read as follows:

21 1. If the patient was admitted on his or her own
22 application and the request for release is made by some other
23 person, release may be conditioned upon the agreement of the
24 patient ~~and.~~

25 2. If the patient is a minor who was admitted voluntarily
26 on the application of his or her parent ~~or~~, guardian or
27 custodian pursuant to ~~section 229.2, subsection 1~~ sections
28 thirteen (13) through twenty (20) of this Act, his or her
29 release prior to becoming eighteen years of age may be
30 conditioned upon the consent of the parent ~~or~~, guardian ~~or~~
31 ~~upon-the-approval-of-the-juvenile-court-if-the-admission-was~~
32 ~~approved-by-the-juvenile-court,-and~~ or custodian.

33 Sec. 4. Section two hundred twenty-nine point eight
34 (229.8), subsection one (1), Code 1979, is amended to read
35 as follows:

1 1. Determine whether the respondent has an attorney who
2 is able and willing to represent him or her in the
3 hospitalization proceeding, and if not, whether the respondent
4 is financially able to employ an attorney and capable of
5 meaningfully assisting in selecting one. In accordance with
6 those determinations, the court shall if necessary allow the
7 respondent to select, or shall assign to him or her, an
8 attorney. If the respondent is financially unable to pay
9 an attorney, the attorney shall be compensated in substantially
10 the manner provided by ~~sections 775-5 and 775-6~~ section eight
11 hundred fifteen point seven (815.7) of the Code, except that
12 if the county has a public defender the court may designate
13 the public defender or an attorney on his or her staff to
14 act as the respondent's attorney. If the respondent is a
15 minor, the minor's attorney shall be compensated as provided
16 in section twenty (20) of this Act.

17 Sec. 5. Section two hundred twenty-nine point ten (229.10),
18 subsection one (1), unnumbered paragraph one (1), Code 1979,
19 is amended to read as follows:

20 An examination of the respondent shall be conducted by
21 one or more licensed physicians, as required by the court's
22 order, within a reasonable time. If the respondent is ~~taken~~
23 ~~into custody under~~ detained pursuant to section 229.11,
24 subsection two (2) of the Code, the examination shall be
25 conducted within twenty-four hours. If the respondent is
26 detained pursuant to section two hundred twenty-nine point
27 eleven (229.11), subsection one (1) or three (3) of the Code,
28 the examination shall be conducted within forty-eight hours.
29 If the respondent so desires, he or she shall be entitled
30 to a separate examination by a licensed physician of his or
31 her own choice. The reasonable cost of such separate
32 examination shall, if the respondent lacks sufficient funds
33 to pay the cost, be paid from county funds upon order of the
34 court.

35 Sec. 6. Section two hundred twenty-nine point ten (229.10),

1 subsection two (2), unnumbered paragraph one (1), Code 1979,
2 is amended to read as follows:

3 A written report of the examination by the court-designated
4 physician or physicians shall be filed with the clerk prior
5 to the time set for hearing date. A written report of any
6 examination by a physician chosen by the respondent may be
7 similarly filed. The clerk shall immediately:

8 Sec. 7. Section two hundred twenty-nine point thirteen
9 (229.13), Code 1979, is amended to read as follows:

10 229.13 HOSPITALIZATION FOR EVALUATION. If upon completion
11 of the hearing the court finds that the contention that the
12 respondent is seriously mentally impaired has been sustained
13 by clear and convincing evidence, it shall order the respondent
14 placed in a hospital or other suitable facility as
15 expeditiously as possible for a complete psychiatric evaluation
16 and appropriate treatment. The court shall furnish to the
17 hospital or facility at the time the respondent arrives there
18 a written finding of fact setting forth the evidence on which
19 the finding is based. The chief medical officer of the
20 hospital or facility shall report to the court no more than
21 fifteen days after the individual is admitted to the hospital
22 or facility, making a recommendation for disposition of the
23 matter. An extension of time may be granted for not to exceed
24 seven days upon a showing of cause. A copy of the report
25 shall be sent to the respondent's attorney, who may contest
26 the need for an extension of time if one is requested.
27 Extension of time shall be granted upon request unless the
28 request is contested, in which case the court shall make such
29 inquiry as it deems appropriate and may either order the
30 respondent's release from the hospital or facility or grant
31 extension of time for psychiatric evaluation.

32 Sec. 8. Section two hundred twenty-nine point nineteen
33 (229.19), Code 1979, is amended to read as follows:

34 229.19 ADVOCATE APPOINTED. The district court in each
35 county shall appoint an individual who has demonstrated by

1 prior activities an informed concern for the welfare and
2 rehabilitation of the mentally ill, and who is not an officer
3 or employee of the department of social services nor of any
4 agency or facility providing care or treatment to the mentally
5 ill, to act as advocate representing the interests of all
6 patients involuntarily hospitalized by that court, in any
7 matter relating to the patients' hospitalization or treatment
8 under sections 229.14 or 229.15. The advocate's responsibility
9 with respect to any patient shall begin at whatever time the
10 attorney employed or appointed to represent that patient as
11 respondent in hospitalization proceedings, conducted under
12 sections 229.6 to 229.13, reports to the court that his or
13 her services are no longer required and requests the court's
14 approval to withdraw as counsel for that patient. However,
15 if the patient is found to be seriously mentally impaired
16 at the hospitalization hearing, the attorney representing
17 the patient shall automatically be relieved of his or her
18 responsibility in the case and an advocate shall be appointed
19 at the conclusion of the hearing unless the attorney indicates
20 an intent to continue his or her services and the court so
21 directs. If the court directs the attorney to remain on the
22 case he or she shall assume all the duties of an advocate.
23 The clerk shall furnish the advocate with a copy of the court's
24 order approving the withdrawal and shall inform the patient
25 of the name of the patient's advocate. The With regard to
26 each patient whose interests the advocate is required to
27 represent pursuant to this section, the advocate's duties
28 shall include reviewing-each-report-submitted-pursuant-to
29 sections-229-14-and-229-15-concerning-any-patient-whose
30 interests,-as-a-patient,-the-advocate-is-required-to-represent
31 under-this-section,-and-if-the-advocate-is-not-an-attorney,
32 advising-the-court-at-any-time-it-appears-that-the-services
33 of-an-attorney-are-required-to-properly-safeguard-the-patient's
34 interests. all of the following:

- 35 1. To review each report submitted pursuant to sections

1 two hundred twenty-nine point fourteen (229.14) and two hundred
2 twenty-nine point fifteen (229.15) of the Code.

3 2. If the advocate is not an attorney, to advise the court
4 at any time it appears that the services of an attorney are
5 required to properly safeguard the patient's interests.

6 3. To make himself or herself readily accessible to
7 communications from the patient and to originate communications
8 with the patient within five days of the patient's commitment.

9 4. To visit the patient within fifteen days of the
10 patient's commitment and periodically thereafter.

11 5. To communicate with medical personnel treating the
12 patient and to review the patient's medical records pursuant
13 to section two hundred twenty-nine point twenty-five (229.25)
14 of the Code.

15 6. To file with the court quarterly reports, and additional
16 reports as the advocate feels necessary or as required by
17 the court, in a form prescribed by the court. The reports
18 shall state what actions the advocate has taken with respect
19 to each patient and the amount of time spent.

20 The hospital or facility to which a patient is committed
21 shall grant all reasonable requests of the advocate to visit
22 the patient, to communicate with medical personnel treating
23 the patient and to review the patient's medical records
24 pursuant to section two hundred twenty-nine point twenty-five
25 (229.25) of the Code. An advocate shall not disseminate
26 information from a patient's medical records to any other
27 person unless done for official purposes in connection with
28 the advocate's duties pursuant to this chapter or when required
29 by law.

30 PARAGRAPH DIVIDED. The court shall from time to time
31 prescribe reasonable compensation for the services of the
32 advocate. Such compensation shall be based upon the reports
33 filed by the advocate ~~at-such-times-and-in-such-forms-as~~ with
34 ~~the court shall prescribe.~~ The report shall briefly state
35 ~~what-the-advocate-has-done-with-respect-to-each-patient-and~~

1 ~~the-amount-of-time-spent~~. The advocate's compensation shall
2 be paid on order of the court from the county mental health
3 and institutions fund of the county in which the court is
4 located.

5 Sec. 9. Section two hundred twenty-nine point twenty
6 (229.20), Code 1979, is amended to read as follows:

7 229.20 RESPONDENTS CHARGED WITH OR CONVICTED OF CRIME.

8 1. If the court orders a respondent placed in a hospital
9 or other suitable facility for psychiatric evaluation and
10 appropriate treatment at a time when the respondent has been
11 convicted of a public offense, or when there is pending against
12 the respondent an unresolved formal charge of a public offense,
13 and the respondent's liberty has therefore been restricted
14 in any manner, the finding of fact required by section 229.13
15 ~~of this Act~~ shall clearly so inform the chief medical officer
16 of the hospital where the respondent is placed.

17 2. When a proceeding under section 229.6 and succeeding
18 sections of this chapter arises under ~~sections-783-5-or-789-8~~
19 R.Cr.P. 22(3)(c), and the respondent through his or her
20 attorney waives the hearing otherwise required by section
21 229.12, the court may immediately order the respondent placed
22 in a hospital or other suitable facility for a complete
23 psychiatric evaluation and appropriate treatment pursuant
24 to section 229.13. In such cases, the court may in its
25 discretion order or waive the physician's examination otherwise
26 required under section 229.10.

27 Sec. 10. Section two hundred twenty-nine point twenty-
28 one (229.21), subsection one (1), Code 1979, is amended to
29 read as follows:

30 1. As soon as practicable after ~~the-adoption-of-this-Act~~
31 January 1, 1976 the judges in each judicial district shall
32 meet and shall determine, individually for each county in
33 the district, whether it appears that one or more district
34 judges will be sufficiently accessible in that county to make
35 it feasible for them to perform at all times the duties

1 prescribed by sections 229.7 to 229.20 and by ~~section 229.19,~~
 2 ~~subsections 17-27-5 and 9-(1977)~~ sections two hundred twenty-
 3 nine point fifty-one (229.51) to two hundred twenty-nine point
 4 fifty-three (229.53) of the Code. If the judges find that
 5 accessibility of district court judges in any county is not
 6 sufficient for this purpose, the chief judge of the district
 7 shall appoint in that county a judicial hospitalization
 8 referee. The judges in any district may at any time review
 9 their determination, previously made under this subsection
 10 with respect to any county in the district, and pursuant to
 11 that review may authorize appointment of a judicial
 12 hospitalization referee, or abolish the office, in that county.

13 Sec. 11. Section two hundred twenty-nine point twenty-
 14 five (229.25), Code 1979, is amended to read as follows:

15 229.25 MEDICAL RECORDS TO BE CONFIDENTIAL--EXCEPTIONS.
 16 The records maintained by a hospital or other facility relating
 17 to the examination, custody, care and treatment of any person
 18 in that hospital or facility pursuant to this chapter shall
 19 be confidential, except that the chief medical officer may
 20 shall release appropriate information when under any of the
 21 following circumstances:

22 1. The information is requested by a licensed physician
 23 ~~or~~ attorney or advocate who provides the chief medical officer
 24 with a written waiver signed by the person about whom the
 25 information is sought, ~~or~~ .

26 2. The information is sought by a court order, ~~or~~ .

27 ~~3.--The information is requested for the purpose of research~~
 28 ~~into the causes, incidence, nature and treatment of mental~~
 29 ~~illness, however information shall not be provided under this~~
 30 ~~subsection in a way that discloses patients' names or which~~
 31 ~~otherwise discloses any patient's identity, or~~

32 4 3. The person who is hospitalized or that person's
 33 guardian, if the person is a minor or is not legally competent
 34 to do so, signs an informed consent to release information.
 35 Each signed consent shall designate specifically the person

1 or agency to whom the information is to be sent, and the
2 information may be sent only to that person or agency.

3 Such records may be released by the chief medical officer
4 when requested for the purpose of research into the causes,
5 incidence, nature and treatment of mental illness, however
6 information shall not be provided in a way that discloses
7 patients' names or which otherwise discloses any patient's
8 identity.

9 Sec. 12. Chapter two hundred twenty-nine (229), Code 1979,
10 is amended by adding sections thirteen (13) through twenty
11 (20) of this Act, which shall be codified as a separate
12 division of the chapter entitled HOSPITALIZATION OF MINORS.

13 Sec. 13. NEW SECTION. SCOPE OF DIVISION. All provisions
14 of this chapter shall apply to the hospitalization of minors
15 except as otherwise provided in this division.

16 Sec. 14. NEW SECTION. REBUTTABLE PRESUMPTION FOR VOLUNTARY
17 ADMISSIONS. When a request for voluntary mental health
18 services is made on behalf of a minor by a parent, guardian
19 or custodian of the minor, the following rebuttable
20 presumptions apply unless overcome at a hearing pursuant to
21 section sixteen (16) of this Act:

22 1. A minor, age fourteen years or over, is presumed capable
23 of objecting to the admission and if the minor does object,
24 may be admitted only involuntarily pursuant to section two
25 hundred twenty-nine point six (229.6) of the Code.

26 2. A minor, age thirteen years or under is presumed
27 incapable of objecting to the admission and if the chief
28 medical officer finds the request appropriate, the minor will
29 be admitted despite the minor's objection.

30 Sec. 15. NEW SECTION. PROCEDURE FOR VOLUNTARY ADMISSION
31 OF MINOR.

32 1. A minor's parent, guardian or custodian may make
33 application to a public or private hospital for admission
34 of the minor as a voluntary patient.

35 2. Upon receipt of an application for voluntary admission

1 of a minor, the chief medical officer shall provide separate
2 prescreening interviews and consultations with the parent,
3 guardian or custodian and the minor to assess the family
4 environment and the appropriateness of the application for
5 admission.

6 3. During the interview and consultation with the minor
7 and with the parent, guardian or custodian, the chief medical
8 officer shall inform each of the presumptions set forth in
9 section fourteen (14) of this Act, the meaning of the
10 presumptions and that either the minor or the parent, guardian
11 or custodian may request a court hearing to overcome the
12 presumptions.

13 Sec. 16. NEW SECTION. CAPABILITY HEARING--FILING
14 PROCEDURE.

15 1. If a parent, guardian or custodian desires to contest
16 a presumption set out in section fourteen (14) of this Act,
17 he or she may do so by filing an application pursuant to
18 subsection three (3) of this section. Upon the filing of
19 the application, the juvenile court shall appoint an attorney
20 for the minor to represent him or her in the capability
21 hearing.

22 2. If a minor desires to contest a presumption set out
23 in section fourteen (14) of this Act, the chief medical officer
24 shall notify the juvenile court at the earliest practicable
25 time. The court shall appoint an attorney to represent the
26 minor who shall counsel as soon as possible with the minor.
27 The attorney shall file an application for a capability hearing
28 pursuant to subsection three (3) of this section on behalf
29 of the minor if the minor desires the filing and there is
30 evidence to support the application.

31 3. Proceedings for a capability hearing shall be commenced
32 by filing a verified application with the clerk of the juvenile
33 court in the county of residence of the parent, guardian or
34 custodian or of the minor. The clerk shall assist the
35 applicant in completing the application, which shall include:

1 a. A statement of the applicant's objection to the
2 presumption for voluntary admission set forth in section
3 fourteen (14) of this Act.

4 b. A statement of any pertinent facts corroborating the
5 application.

6 4. Upon the filing of the application, the clerk shall
7 docket the case and immediately notify the juvenile court
8 judge who shall review the application. If the application
9 is adequate as to form, the judge shall set a time and place
10 for a hearing not less than forty-eight hours, excluding
11 Saturdays, Sundays and holidays, after notice to the minor,
12 if the application is filed under subsection one (1) of this
13 section, or after notice to the parent, guardian or custodian
14 if the application is filed under subsection two (2) of this
15 section, unless the person to whom the notice is given waives
16 such minimum prior notice requirement. The judge shall direct
17 the clerk to send copies of the application, together with
18 notice informing the person of the procedures required by
19 this chapter, to the sheriff or his or her deputy for immediate
20 service upon the person.

21 Sec. 17. NEW SECTION. CAPABILITY HEARING--EVIDENCE.

22 1. At the capability hearing, the minor and the parent,
23 guardian or custodian shall be afforded an opportunity to
24 testify and to present and cross-examine witnesses, and the
25 court may receive the testimony of any other interested person.
26 The minor shall be present at the hearing unless the court
27 believes that his or her presence is likely to be injurious
28 to the minor. All persons not necessary for the conduct of
29 the proceeding shall be excluded, except that the court may
30 admit persons having a legitimate interest in the proceeding.
31 The minor's welfare shall be paramount and the hearing shall
32 be conducted as a civil matter in as informal a manner as
33 may be consistent with orderly procedure. The court shall
34 receive all relevant and material evidence which may be offered
35 and need not be bound by the rules of evidence.

1 2. The presumption set forth in section fourteen (14),
2 subsection one (1) of this Act may be overcome by showing
3 that the minor lacks the mental capacity and maturity exercised
4 by the average minor fourteen years of age or older.

5 3. The presumption set forth in section fourteen (14),
6 subsection two (2) of this Act may be overcome by showing
7 that the minor possesses the mental capacity and maturity
8 exercised by the average minor fourteen years of age or older.

9 Sec. 18. NEW SECTION. CAPABILITY HEARING--FINDINGS.

10 1. If, after hearing, the juvenile court finds probable
11 cause to believe that the minor is incapable of objecting
12 to the admission decision, the court shall direct the minor
13 to the chief medical officer of the hospital and shall inform
14 the chief medical officer of the decision. The chief medical
15 officer shall then admit the minor if in his or her medical
16 judgment the minor is mentally ill and can benefit from the
17 admission.

18 2. If, after hearing, the juvenile court finds probable
19 cause to believe that the minor is capable of making the
20 admission decision and the minor continues to object to the
21 admission, the court shall discharge the minor and so inform
22 the chief medical officer. The court shall further notify
23 the parent, guardian or custodian of the right to file
24 involuntary commitment proceedings pursuant to section two
25 hundred twenty-nine point six (229.6) of the Code.

26 Sec. 19. NEW SECTION. APPOINTMENT OF ADVOCATE FOR MINOR.

27 If a minor is voluntarily admitted by the minor's parent,
28 guardian or custodian without objection by the minor or is
29 admitted after being found incapable of objecting to the
30 admission, the chief medical officer shall notify the district
31 court in the county of the minor's residence by the close
32 of business on the next working day. The district court shall
33 immediately appoint an advocate for the minor who shall have
34 the powers and duties set forth in section two hundred twenty-
35 nine point nineteen (229.19) of the Code. In addition, the

1 advocate shall, within five days of the appointment,
2 investigate the reasons for the minor's admission. If the
3 advocate feels the admission is inappropriate and contrary
4 to the best interests of the minor, the advocate shall request
5 the court to appoint counsel for the minor.

6 Sec. 20. NEW SECTION. COMPENSATION OF MINOR'S ATTORNEY.
7 If the court determines, after an inquiry which includes
8 notice and reasonable opportunity to be heard that the minor's
9 parent, guardian or custodian has the ability to pay in whole
10 or in part for an attorney appointed to represent the minor
11 pursuant to this chapter, the court may order that person
12 to pay such sums as the court finds appropriate in the manner
13 and to whom the court directs. If the person so ordered fails
14 to comply with the order without good reason, the court shall
15 enter judgment against him or her.

16 Sec. 21. This Act takes effect January first following
17 its enactment.

18 EXPLANATION

19 This bill makes several miscellaneous amendments to the
20 chapter on hospitalization of the mentally ill, including
21 technical and substantive changes.

22 Perhaps of greatest significance is the addition of a new
23 division relating to the hospitalization of minors. It adds
24 additional criteria to the definition of "seriously mentally
25 impaired" or "serious mental impairment" as applied to minors.
26 It creates the presumption that a minor fourteen years of
27 age or older is capable of objecting to the minor's voluntary
28 admission to a hospital by the minor's parent, guardian or
29 custodian and conversely, the presumption that a minor under
30 fourteen years of age is incapable of such objection. Either
31 the minor or the parent, guardian or custodian may request
32 a court hearing to overcome a presumption. If a minor is
33 found capable of objecting to the admission and does object,
34 the parent, guardian or custodian must then file an application
35 for involuntary hospitalization pursuant to present code

1 provisions. If a minor is admitted without objection by the
2 minor or after having been found incapable of objecting, an
3 advocate must be appointed by the court to represent the
4 minor. If the advocate feels the admission is inappropriate
5 and contrary to the best interests of the minor, the advocate
6 shall request the court to appoint counsel for the minor.
7 The bill also adds a minor's custodian as a person who may
8 file for the minor's voluntary hospitalization. The minor's
9 parent, guardian or custodian may be required by the court
10 to pay the costs of an attorney appointed to represent the
11 child if the person is financially able.

12 Other changes to the chapter include defining "licensed
13 physician" to include osteopaths, extending some time
14 limitations and providing that psychiatric evaluations of
15 persons found to be seriously mentally impaired may take place
16 in a suitable facility other than a hospital. The powers
17 and duties of the advocate are expanded and clearly set out.
18 Incorrect internal references are corrected.

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FISCAL NOTE
 Senate File 2102
 Requested by Representative Welsh
 February 28, 1980

In compliance with a written request there is hereby submitted a Fiscal Note for Senate File 2102 pursuant to Joint Rule 16.

S.F. 2102, An Act relating to the hospitalization of the mentally ill, including technical and substantive changes. The bill, as amended and passed by the House, also shifted from counties to state 100% of the cost of advocates*, 50% of the cost for attorney and physician fees, and 20% of the cost of second examinations.

The approximate fiscal impact of S.F. 2102 as amended and passed by the House is as follows:

	Current Law		S.F. 2102 As Amended			
	County	State	FY '81		FY '82	
	County	State	County	State	County	State
Advocates	\$ 290,000*	0	145,000	145,000	0	290,000
Attorney Fees	120,000	6,000	90,000	36,000	60,000	66,000
Physician Fees	167,000	5,000	125,250	46,750	83,500	88,500
Second Exam.	2,000	0	1,800	200	1,600	400
	<u>\$ 579,000</u>	<u>11,000</u>	<u>362,050</u>	<u>227,950</u>	<u>145,100</u>	<u>444,900</u>

No inflation factor was used to arrive at the FY '81 and FY '82 estimates. It should also be noted that the Act takes effect January first following its enactment.

* Currently there are 67 counties who have an advocate program. If all counties had an active program, the estimated annual cost would be approximately \$525,000.

Source: Department of Social Services

FILED MARCH 13, 1980

BY GERRY D. RANKIN
 Legislative Fiscal Bureau

SENATE FILE 2102

(Please discard amendment H-5334 which appeared in the
Feb. 29, 1980 clip sheet and substitute new H-5334)
H-5334 (CORRECTED)

1 Amend Senate File 2102 as follows:

2 1. Page 1, by striking lines 2 through 31 and
3 inserting in lieu thereof the words and figures
4 "(229.1), subsection six (6), Code 1979, is amended
5 to read as follows:".

6 2. Page 1, line 33, by inserting after the figure
7 "148" the words and figure "one hundred fifty (150)".

8 3. Page 1, line 34, by inserting after the word
9 "surgery" the word "osteopathy".

10 4. Page 2, by striking lines 3 through 17 and
11 inserting in lieu thereof the following:

12 "1. An application for admission to a public or
13 private hospital for observation, diagnosis, care
14 and treatment as a voluntary patient may be made by
15 any person who is mentally ill or has symptoms of
16 mental illness. In the case of a minor, the parent
17 or guardian or custodian may make application for
18 admission of the minor as a voluntary patient, ~~however~~
19 ~~if~~. Upon receipt of an application for voluntary
20 admission of a minor, the chief medical officer shall
21 provide separate prescreening interviews and
22 consultations with the parent, guardian or custodian
23 and the minor to assess the family environment and
24 the appropriateness of the application for admission.
25 If the chief medical officer of the hospital to which
26 application is made determines that the admission
27 is appropriate but the minor objects to the admission,
28 the parent or guardian or custodian must petition
29 the juvenile court for approval of the admission
30 before the minor is actually admitted. The juvenile
31 court shall determine whether the admission is in
32 the best interest of the minor and is consistent with
33 his or her rights."

34 5. Page 2, by striking lines 25 through 32 and
35 inserting in lieu thereof the following:

36 "2. If the patient is a minor who was admitted
37 on the application of his or her parent or guardian
38 or custodian pursuant to section 229.2, subsection
39 1, his or her release prior to becoming eighteen years
40 of age may be conditioned upon the consent of the
41 parent or guardian or custodian, or upon the approval
42 of the juvenile court if the admission was approved
43 by the juvenile court; and".

44 6. Page 3, by striking lines 31 through 34 and
45 inserting in lieu thereof the words "her own choice.
46 ~~The reasonable cost of such separate examination~~
47 ~~shall, if the respondent lacks sufficient funds to~~
48 ~~pay the cost, be paid from county funds upon order~~
49 ~~of the court.~~ If the respondent is a resident of
50 the state and lacks sufficient funds to pay the cost

H-5334 (CORRECTED)
H-5334

1 of the separate examination, eighty percent of the
2 reasonable cost of the examination shall be paid from
3 county funds and twenty percent shall be paid from
4 state funds upon order of the court. However, if
5 the respondent is not a resident of the state and
6 lacks sufficient funds to pay the cost of the separate
7 examination, the state shall pay the entire reasonable
8 cost of the examination upon order of the court."

- 9 7. Page 9, by striking lines 9 through 35.
- 10 8. By striking pages 10 and 11.
- 11 9. Page 12, by striking lines 1 through 25.
- 12 10. Page 12, by striking lines 26 through 30 and
- 13 inserting in lieu thereof the following:
- 14 "Sec. ____ Chapter two hundred twenty-nine (229),
- 15 Code 1979, is amended by adding the following new
- 16 section:
- 17 NEW SECTION. APPOINTMENT OF ADVOCATE FOR MINOR.
- 18 If a minor is voluntarily admitted by the minor's
- 19 parent, guardian or custodian, the chief medical
- 20 officer shall notify the district".
- 21 11. By changing section numbers as made necessary
- 22 by this amendment.

H-5334 FILED *Adopted 3/6*
MARCH 5, 1980 (*p. 759*)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT
SHIMANEK, Chair

SENATE FILE 2102

H-5348

- 1 Amend Senate File 2102 as follows:
- 2 1. Page 12, by striking line 26 through page 13,
- 3 line 5.
- 4 2. By renumbering sections as made necessary by
- 5 this amendment.

H-5348 FILED
MARCH 3, 1980

BY WELSH of Dubuque

*Placed out of order upon
adoption of H-5354 3/6 (p. 759)*

SENATE FILE 2102

H-5350

- 1 Amend Senate File 2102 as follows:
- 2 1. Page 4, by striking lines 23 through 31 and
- 3 inserting in lieu thereof the words "matter. An
- 4 ~~extension-of-time-may-be-granted-for-not-to-exceed~~
- 5 ~~seven-days-upon-a-showing-of-cause--A-copy-of-the~~
- 6 ~~report-shall-be-sent-to-the-respondent's-attorney,~~
- 7 ~~who-may-contest-the-need-for-an-extension-of-time~~
- 8 ~~if-one-is-requested--Extension-of-time-shall-be~~
- 9 ~~granted-upon-request-unless-the-request-is-contested,~~
- 10 ~~in-which-case-the-court-shall-make-such-inquiry-as~~
- 11 ~~it-deems-appropriate-and-may-either-order-the~~
- 12 ~~respondent's-release-from-the-hospital-or-grant~~
- 13 ~~extension-of-time-for-psychiatric-evaluation."~~

H-5350 FILED *Loss 3/6 (p. 791)*
MARCH 3, 1980

BY WELSH of Dubuque

SENATE FILE 2102

H-5335

- 1 Amend Senate File 2102 as follows:
2 1. Page 13, by inserting after line 15 the
3 following new section:
4 "Sec. ____ . Section two hundred forty-six point
5 seventeen (246.17), Code 1979, is repealed."
6 2. By renumbering sections as made necessary by
7 this amendment.

H-5335 FILED *H/D 3/6* BY RITSEMA of Sioux
FEBRUARY 28, 1980 (*p. 771*)

SENATE FILE 2102

H-5368

- 1 Amend Senate File 2102 as follows:
2 1. Page 3, line 12, by striking the word "if"
3 and inserting in lieu thereof the words "if the county
4 and the state shall each pay fifty percent of the
5 total compensation. If".
6 2. Page 3, by inserting after line 28 the words
7 "The county and the state shall each pay fifty percent
8 of the cost of the examination."
9 3. Page 7, by striking lines 2 through 4 and
10 inserting in lieu thereof the words "be paid on order
11 of the court from ~~the county mental health and~~
12 ~~institutions fund of the county in which the court~~
13 ~~is located~~ state funds."
14 4. Page 12, line 34, by inserting after the
15 word "duties" the words "and be compensated as".
16 5. Page 13, line 15, by inserting after the word
17 "her." the words "The county and the state shall each
18 pay fifty percent of the amount the parent, guardian
19 or custodian is unable to pay for the minor's
20 attorney."

BY DANKER of Pottawattamie
LAGESCHULTE of Bremer
WELSH of Dubuque
BINNEBOESE of Plymouth
GETTINGS of Wapello
CONNOLLY of Dubuque
OXLEY of Linn
DOYLE of Woodbury
CLARK of Cerro Gordo

BRANSTAD of Winnebago
JOHNSON of Howard
TOFTE of Winneshiek
JOHNSON of Linn
SMALLEY of Polk
CLARK of Lee
HULLINGER of Decatur
HOWELL of Floyd
DIELEMAN of Marion

H-5368 FILED
MARCH 5, 1980

Adopted 3/6 (p. 790)

HOUSE AMENDMENT TO SENATE FILE 2102

S-5345

- 1 Amend Senate File 2102 as follows:
- 2 1. Page 1, by striking lines 2 through 31 and
3 inserting in lieu thereof the words and figures
4 "(229.1), subsection six (6), Code 1979, is amended
5 to read as follows:".
- 6 2. Page 1, line 33, by inserting after the figure
7 "148" the words and figure "one hundred fifty (150)".
- 8 3. Page 1, line 34, by inserting after the word
9 "surgery" the word "osteopathy".
- 10 4. Page 2, by striking lines 3 through 17 and
11 inserting in lieu thereof the following:
- 12 "1. An application for admission to a public or
13 private hospital for observation, diagnosis, care
14 and treatment as a voluntary patient may be made by
15 any person who is mentally ill or has symptoms of
16 mental illness. In the case of a minor, the parent
17 er, guardian or custodian may make application for
18 admission of the minor as a voluntary patient, ~~however~~
19 if. Upon receipt of an application for voluntary
20 admission of a minor, the chief medical officer shall
21 provide separate prescreening interviews and
22 consultations with the parent, guardian or custodian
23 and the minor to assess the family environment and
24 the appropriateness of the application for admission.
25 If the chief medical officer of the hospital to which
26 application is made determines that the admission
27 is appropriate but the minor objects to the admission,
28 the parent er, guardian or custodian must petition
29 the juvenile court for approval of the admission
30 before the minor is actually admitted. The juvenile
31 court shall determine whether the admission is in
32 the best interest of the minor and is consistent with
33 his or her rights."
- 34 5. Page 2, by striking lines 25 through 32 and
35 inserting in lieu thereof the following:
- 36 "2. If the patient is a minor who was admitted
37 on the application of his or her parent er, guardian
38 or custodian pursuant to section 229.2, subsection
39 1, his or her release prior to becoming eighteen years
40 of age may be conditioned upon the consent of the
41 parent er, guardian or custodian, or upon the approval
42 of the juvenile court if the admission was approved
43 by the juvenile court; and".
- 44 6. Page 3, line 12, by striking the word "if"
45 and inserting in lieu thereof the words "if the county
46 and the state shall each pay fifty percent of the
47 total compensation. If".
- 48 7. Page 3, by inserting after line 28 the words
49 "The county and the state shall each pay fifty percent
50 of the cost of the examination."

1 8. Page 3, by striking lines 31 through 34 and
2 inserting in lieu thereof the words "her own choice."
3 ~~The reasonable cost of such separate examination~~
4 ~~shall, if the respondent lacks sufficient funds to~~
5 ~~pay the cost, be paid from county funds upon order~~
6 ~~of the court. If the respondent is a resident of~~
7 ~~the state and lacks sufficient funds to pay the cost~~
8 ~~of the separate examination, eighty percent of the~~
9 ~~reasonable cost of the examination shall be paid from~~
10 ~~county funds and twenty percent shall be paid from~~
11 ~~state funds upon order of the court. However, if~~
12 ~~the respondent is not a resident of the state and~~
13 ~~lacks sufficient funds to pay the cost of the separate~~
14 ~~examination, the state shall pay the entire reasonable~~
15 ~~cost of the examination upon order of the court."~~

16 9. Page 7, by striking lines 2 through 4 and
17 inserting in lieu thereof the words "be paid on order
18 of the court from the ~~county mental health and~~
19 ~~institutions fund of the county in which the court~~
20 ~~is located state funds."~~

21 10. Page 9, by striking lines 9 through 35.

22 11. Striking pages 10 and 11.

23 12. Page 12, by striking lines 1 through 25.

24 13. Page 12, by striking lines 26 through 30 and
25 inserting in lieu thereof the following:

26 "Sec. ____ Chapter two hundred twenty-nine (229),
27 Code 1979, is amended by adding the following new
28 section:

29 NEW SECTION. APPOINTMENT OF ADVOCATE FOR MINOR.

30 If a minor is voluntarily admitted by the minor's
31 parent, guardian or custodian, the chief medical
32 officer shall notify the district".

33 14. Page 12, line 34, by inserting after the word
34 "duties" the words "and be compensated as".

35 15. Page 13, line 15, by inserting after the word
36 "her." the words "The county and the state shall each
37 pay fifty percent of the amount the parent, guardian
38 or custodian is unable to pay for the minor's
39 attorney."

40 16. Renumbering section numbers as made necessary
41 by this amendment.

S-5345 FILED
MARCH 11, 1980

RECEIVED FROM THE HOUSE

*Senate amended (5383 & 5530) &
Concurred 2/27 (p. 1116)*

SENATE FILE 2102

S-5383

1 Amend House Amendment S-5345 to Senate File 2102
2 as follows:
3 1. Page 1, by striking lines 44 through 50 and
4 inserting in lieu thereof the following:
5 "6. Page 2, by striking lines 33 through 35.
6 7. Page 3, by striking lines 1 through 16."
7 2. Page 2, by striking lines 1 through 20.
8 3. Page 2, by striking lines 24 through 39 and
9 inserting in lieu thereof the following:
10 "____. By striking, page 12, line 26 through page
11 13, line 15."
12 4. Renumbering section numbers as necessary.

S-5383 FILED
MARCH 13, 1980

BY JOHN S. MURRAY
LUCAS DE KOSTER

Adopted 3/27 (p. 1116)

SENATE FILE 2102

S-5530

1 Amend House Amendment S-5345 to Senate File 2102
2 as follows:
3 1. Page 2, by inserting after line 20, the
4 following:
5 "____. Page 7, by striking lines 27 through 31
6 and inserting in lieu thereof the following:
7 "Sec. 10. Section two hundred twenty-nine point
8 twenty-one (229.21), subsection one (1), Code 1979,
9 as amended by section thirty (30) of House File 687,
10 Sixty-eighth General Assembly, 1980 Session, is amended
11 to read as follows:
12 1. ~~As seen as practicable after the adoption of~~
13 ~~this Act the~~ The judges in each judicial district
14 shall".

S-5530 FILED
MARCH 26, 1980

BY LUCAS J. DeKOSTER

Adopted 3/27 (p. 1116)

SENATE AMENDMENT TO HOUSE AMENDMENT
TO SENATE FILE 2102

H-5776

- 1 Amend the House amendment, S-5345, to Senate File
2 2102 as follows:
- 3 1. Page 1, by striking lines 44 through 50 and
4 inserting in lieu thereof the following:
5 "6. Page 2, by striking lines 33 through 35.
6 7. Page 3, by striking lines 1 through 16."
7 2. Page 2, by striking lines 1 through 20.
8 3. Page 2, by inserting before line 21, the
9 following:
10 "_____. Page 7, by striking lines 27 through 31
11 and inserting in lieu thereof the following:
12 "Sec. 10. Section two hundred twenty-nine point
13 twenty-one (229.21), subsection one (1), Code 1979,
14 as amended by section thirty (30) of House File 687,
15 Sixty-eighth General Assembly, 1980 Session, is amended
16 to read as follows:
17 1. ~~As seen as practicable after the adoption of~~
18 ~~this Act the~~ The judges in each judicial district
19 shall".
20 4. Page 2, by striking lines 24 through 39 and
21 inserting in lieu thereof the following:
22 "_____. By striking page 12, line 26 through page
23 13, line 15."
24 5. Renumbering section numbers as necessary.

H-5776 FILED
MARCH 31, 1980

RECEIVED FROM THE SENATE

House concurred 4/16/80 p. 1221

SENATE FILE 2102

AN ACT
RELATING TO THE HOSPITALIZATION OF MENTALLY ILL PERSONS.

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

Section 1. Section two hundred twenty-nine point one (229.1), subsection six (6), Code 1979, is amended to read as follows:

6. "Licensed physician" means an individual licensed under the provisions of chapter 148, one hundred fifty (150) or one hundred fifty A (150A) of the Code to practice medicine and surgery, osteopathy or osteopathic medicine and surgery.

Sec. 2. Section two hundred twenty-nine point two (229.2), subsection one (1), Code 1979, is amended to read as follows:

1. An application for admission to a public or private hospital for observation, diagnosis, care and treatment as a voluntary patient may be made by any person who is mentally ill or has symptoms of mental illness. In the case of a minor, the parent ~~or~~ guardian or custodian may make application for admission of the minor as a voluntary patient; ~~however-if.~~ Upon receipt of an application for voluntary admission of a minor, the chief medical officer shall provide separate prescreening interviews and consultations with the parent, guardian or custodian and the minor to assess the family environment and the appropriateness of the application for admission. If the chief medical officer of the hospital to which application is made determines that the admission is appropriate but the minor objects to the admission, the parent ~~or~~ guardian or custodian must petition the juvenile court for approval of the admission before the minor is actually admitted. The juvenile court shall determine whether the admission is in the best interest of the minor and is consistent with his or her rights.

Sec. 3. Section two hundred twenty-nine point four (229.4), subsections one (1) and two (2), Code 1979, are amended to read as follows:

1. If the patient was admitted on his or her own application and the request for release is made by some other person, release may be conditioned upon the agreement of the patient; ~~and.~~

2. If the patient is a minor who was admitted on the application of his or her parent ~~or~~ guardian or custodian pursuant to section 229.2, subsection 1, his or her release prior to becoming eighteen years of age may be conditioned upon the consent of the parent ~~or~~ guardian or custodian, or upon the approval of the juvenile court if the admission was approved by the juvenile court; and

Sec. 4. Section two hundred twenty-nine point ten (229.10), subsection one (1), unnumbered paragraph one (1), Code 1979, is amended to read as follows:

An examination of the respondent shall be conducted by one or more licensed physicians, as required by the court's order, within a reasonable time. If the respondent is ~~taken into custody-under detained~~ detained pursuant to section 229.11, subsection two (2) of the Code, the examination shall be conducted within twenty-four hours. If the respondent is detained pursuant to section two hundred twenty-nine point eleven (229.11), subsection one (1) or three (3) of the Code, the examination shall be conducted within ~~forty-eight hours.~~ If the respondent so desires, he or she shall be entitled to a separate examination by a licensed physician of his or her own choice. The reasonable cost of such separate examination shall, if the respondent lacks sufficient funds to pay the cost, be paid from county funds upon order of the court.

Sec. 5. Section two hundred twenty-nine point ten (229.10), subsection two (2), unnumbered paragraph one (1), Code 1979, is amended to read as follows:

A written report of the examination by the court-designated physician or physicians shall be filed with the clerk prior to the time set for hearing date. A written report of any examination by a physician chosen by the respondent may be similarly filed. The clerk shall immediately:

Sec. 6. Section two hundred twenty-nine point thirteen (229.13), Code 1979, is amended to read as follows:

229.13 HOSPITALIZATION FOR EVALUATION. If upon completion of the hearing the court finds that the contention that the respondent is seriously mentally impaired has been sustained by clear and convincing evidence, it shall order the respondent placed in a hospital or other suitable facility as expeditiously as possible for a complete psychiatric evaluation and appropriate treatment. The court shall furnish to the hospital or facility at the time the respondent arrives there a written finding of fact setting forth the evidence on which the finding is based. The chief medical officer of the hospital or facility shall report to the court no more than fifteen days after the individual is admitted to the hospital or facility, making a recommendation for disposition of the matter. An extension of time may be granted for not to exceed seven days upon a showing of cause. A copy of the report shall be sent to the respondent's attorney, who may contest the need for an extension of time if one is requested. Extension of time shall be granted upon request unless the request is contested, in which case the court shall make such inquiry as it deems appropriate and may either order the respondent's release from the hospital or facility or grant extension of time for psychiatric evaluation.

Sec. 7. Section two hundred twenty-nine point nineteen (229.19), Code 1979, is amended to read as follows:

229.19 ADVOCATE APPOINTED. The district court in each county shall appoint an individual who has demonstrated by prior activities an informed concern for the welfare and rehabilitation of the mentally ill, and who is not an officer

or employee of the department of social services nor of any agency or facility providing care or treatment to the mentally ill, to act as advocate representing the interests of all patients involuntarily hospitalized by that court, in any matter relating to the patients' hospitalization or treatment under sections 229.14 or 229.15. The advocate's responsibility with respect to any patient shall begin at whatever time the attorney employed or appointed to represent that patient as respondent in hospitalization proceedings, conducted under sections 229.6 to 229.13, reports to the court that his or her services are no longer required and requests the court's approval to withdraw as counsel for that patient. However, if the patient is found to be seriously mentally impaired at the hospitalization hearing, the attorney representing the patient shall automatically be relieved of his or her responsibility in the case and an advocate shall be appointed at the conclusion of the hearing unless the attorney indicates an intent to continue his or her services and the court so directs. If the court directs the attorney to remain on the case he or she shall assume all the duties of an advocate. The clerk shall furnish the advocate with a copy of the court's order approving the withdrawal and shall inform the patient of the name of the patient's advocate. With regard to each patient whose interests the advocate is required to represent pursuant to this section, the advocate's duties shall include reviewing each report submitted pursuant to sections 229.14 and 229.15 concerning any patient whose interests, as a patient, the advocate is required to represent under this section, and if the advocate is not an attorney, advising the court at any time it appears that the services of an attorney are required to properly safeguard the patient's interests, all of the following:

1. To review each report submitted pursuant to sections two hundred twenty-nine point fourteen (229.14) and two hundred twenty-nine point fifteen (229.15) of the Code.

2. If the advocate is not an attorney, to advise the court at any time it appears that the services of an attorney are required to properly safeguard the patient's interests.

3. To make himself or herself readily accessible to communications from the patient and to originate communications with the patient within five days of the patient's commitment.

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

5. To communicate with medical personnel treating the patient and to review the patient's medical records pursuant to section two hundred twenty-nine point twenty-five (229.25) of the Code.

6. To file with the court quarterly reports, and additional reports as the advocate feels necessary or as required by the court, in a form prescribed by the court. The reports shall state what actions the advocate has taken with respect to each patient and the amount of time spent.

The hospital or facility to which a patient is committed shall grant all reasonable requests of the advocate to visit the patient, to communicate with medical personnel treating the patient and to review the patient's medical records pursuant to section two hundred twenty-nine point twenty-five (229.25) of the Code. An advocate shall not disseminate information from a patient's medical records to any other person unless done for official purposes in connection with the advocate's duties pursuant to this chapter or when required by law.

PARAGRAPH DIVIDED. The court shall from time to time prescribe reasonable compensation for the services of the advocate. Such compensation shall be based upon the reports filed by the advocate ~~at such times and in such forms as with the court shall prescribe. The report shall briefly state what the advocate has done with respect to each patient and the amount of time spent.~~ The advocate's compensation shall be paid on order of the court from the county mental health

and institutions fund of the county in which the court is located.

Sec. 8. Section two hundred twenty-nine point twenty (229.20), Code 1979, is amended to read as follows:

229.20 RESPONDENTS CHARGED WITH OR CONVICTED OF CRIME.

1. If the court orders a respondent placed in a hospital or other suitable facility for psychiatric evaluation and appropriate treatment at a time when the respondent has been convicted of a public offense, or when there is pending against the respondent an unresolved formal charge of a public offense, and the respondent's liberty has therefore been restricted in any manner, the finding of fact required by section 229.13 ~~of this Act~~ shall clearly so inform the chief medical officer of the hospital where the respondent is placed.

2. When a proceeding under section 229.6 and succeeding sections of this chapter arises under ~~sections 229.6 and succeeding sections of this chapter~~ R.C.P. 22(3)(c), and the respondent through his or her attorney waives the hearing otherwise required by section 229.12, the court may immediately order the respondent placed in a hospital or other suitable facility for a complete psychiatric evaluation and appropriate treatment pursuant to section 229.13. In such cases, the court may in its discretion order or waive the physician's examination otherwise required under section 229.10.

Sec. 9. Section two hundred twenty-nine point twenty-one (229.21), subsection one (1), Code 1979, as amended by section thirty (30) of House File 687, Sixty-eighth General Assembly, 1980 Session, is amended to read as follows:

1. ~~As soon as practicable after the adoption of this Act~~ The judges in each judicial district shall meet and shall determine, individually for each county in the district, whether it appears that one or more district judges will be sufficiently accessible in that county to make it feasible for them to perform at all times the duties prescribed by sections 229.7 to 229.20 and by ~~sections 229.7 to 229.20 and by sections 229.7 to 229.20~~

~~17-27-5-444-9-(1977)~~ sections two hundred twenty-nine point fifty-one (229.51) to two hundred twenty-nine point fifty-three (229.53) of the Code. If the judges find that accessibility of district court judges in any county is not sufficient for this purpose, the chief judge of the district shall appoint in that county a judicial hospitalization referee. The judges in any district may at any time review their determination, previously made under this subsection with respect to any county in the district, and pursuant to that review may authorize appointment of a judicial hospitalization referee, or abolish the office, in that county.

Sec. 10. Section two hundred twenty-nine point twenty-five (229.25), Code 1979, is amended to read as follows:

229.25 MEDICAL RECORDS TO BE CONFIDENTIAL--EXCEPTIONS.

The records maintained by a hospital or other facility relating to the examination, custody, care and treatment of any person in that hospital or facility pursuant to this chapter shall be confidential, except that the chief medical officer may shall release appropriate information when under any of the following circumstances:

1. The information is requested by a licensed physician ~~or~~, attorney or advocate who provides the chief medical officer with a written waiver signed by the person about whom the information is sought, ~~or~~.

2. The information is sought by a court order, ~~or~~.

~~3--The information is requested for the purpose of research into the causes, incidence, nature and treatment of mental illness, however information shall not be provided under this subsection in a way that discloses patients' names or which otherwise discloses any patient's identity, or~~

4 3. The person who is hospitalized or that person's guardian, if the person is a minor or is not legally competent to do so, signs an informed consent to release information. Each signed consent shall designate specifically the person or agency to whom the information is to be sent, and the information may be sent only to that person or agency.

Such records may be released by the chief medical officer when requested for the purpose of research into the causes, incidence, nature and treatment of mental illness, however information shall not be provided in a way that discloses patients' names or which otherwise discloses any patient's identity.

Sec. 11. This Act takes effect January first following its enactment.

TERRY E. BRANSTAD
President of the Senate

WILLIAM H. HARBOR
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2102, Sixty-eighth General Assembly.

FRANK J. STORK
Secretary of the Senate

Approved May 13, 1980

ROBERT D. RAY
Governor