

Appropriation 3/28/85

Referent

Amend (3662) + Do Case 4/9 (p. 1257)

SENATE FILE 473

BY COMMITTEE ON STATE GOVERNMENT

Formerly SSB 313

Appropriation (p. 243)

FILED MAR 18 1985

Passed Senate, Date 4-11-85 (p. 1321) Passed House, Date 5-2-85 (p. 2152)  
Vote: Ayes 32 Nays 16 Vote: Ayes 76 Nays 22

Approved May 31, 1985

Motor Vehicle Recorders (p. 1321) w/2 (p. 1322)

## A BILL FOR

1 An Act relating to the rights of a person having mental  
2 retardation, a developmental disability or chronic  
3 mental illness.

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

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87 473

1 Section 1. Chapter 225C is amended by adding sections 2  
2 through 5 as a new division.

3 Sec. 2. NEW SECTION. 225C.25 SHORT TITLE.

4 Sections 225C.25 through 225C.28 shall be known as "the  
5 bill of rights of persons with mental retardation,  
6 developmental disabilities, or chronic mental illness".

7 Sec. 3. NEW SECTION. 225C.26 SCOPE.

8 These rights apply to any person with mental retardation, a  
9 developmental disability, or chronic mental illness who  
10 receives services, which are funded in whole or in part by  
11 public funds or services which are permitted under Iowa law.

12 Sec. 4. NEW SECTION. 225C.27 PURPOSE.

13 Sections 225C.25 through 225C.28 shall be liberally  
14 construed and applied to promote their purposes and the stated  
15 rights. The division, in coordination with appropriate  
16 agencies, shall adopt rules to implement the purpose of  
17 sections 225C.25 through 225C.28 which include, but are not  
18 limited to the following:

19 1. Promotion of the human dignity and protection of the  
20 constitutional and statutory rights of persons with mental re-  
21 tardation, developmental disabilities, or chronic mental  
22 illness in the state.

23 2. Encouraging the development of the ability and poten-  
24 tial of each person with mental retardation, developmental  
25 disabilities, or chronic mental illness in the state to the  
26 fullest extent possible.

27 3. Ensuring that the recipients of services shall not be  
28 deprived of any rights, benefits, or privileges guaranteed by  
29 law, the Constitution of the State of Iowa or the Constitution  
30 of the United States solely on account of the receipt of the  
31 services.

32 Sec. 5. NEW SECTION. 225C.28 RIGHTS.

33 The rights of persons described in section 225C.26 include,  
34 but are not limited to:

35 1. Comprehensive evaluation and diagnosis. A person

1 suspected of being mentally retarded, developmentally dis-  
2 abled, or chronically mentally ill or applying for  
3 developmental disabilities services, has the right to receive  
4 a comprehensive diagnosis and evaluation adapted to the  
5 cultural background, primary language, and ethnic origin of  
6 the person.

7 2. Individual treatment, habilitation, and program plan.  
8 Persons with mental retardation, a developmental disability,  
9 or chronic mental illness who require services have the right  
10 to an individual treatment, habilitation, and program plan.

11 3. Individualized treatment, habilitation, and program  
12 services. A person with a known or suspected mental retarda-  
13 tion, developmentally disabled, or chronic mental illness  
14 condition shall not be denied treatment, habilitation, and  
15 program services because of age, sex, ethnic origin, marital  
16 status, ability to pay, criminal record, degree of disability  
17 or illness, or mental retardation condition.

18 4. Periodic review of treatment, habilitation, and  
19 program. A mentally retarded, developmentally disabled, or  
20 chronically mentally ill person receiving services has the  
21 right to a periodic, but at least annual, reevaluation and  
22 review of the individual treatment, habilitation, and program  
23 plan to measure progress, to modify objectives if necessary,  
24 and to provide guidance and remediation techniques.

25 5. Participation in the formulation of the plan. A person  
26 with mental retardation, a developmental disability, or  
27 chronic mental illness or the person's representative has the  
28 right to participate in planning the person's own treatment,  
29 habilitation, and program plan and to be informed, in writing,  
30 of progress at reasonable time intervals. Each person shall  
31 be given the opportunity to make decisions and exercise  
32 options regarding the plan, consistent with the person's  
33 capabilities.

34 6. Least restrictive environment and age-appropriate ser-  
35 vices. A person with mental retardation, a developmental

1 disability, or chronic mental illness has the right to live  
2 and receive age-appropriate services in the least restrictive  
3 setting consistent with the person's individual treatment and  
4 habilitation needs, potential, and abilities.

5 7. Vocational training and employment options. A person  
6 with mental retardation, a developmental disability, or  
7 chronic mental illness has the right to vocational training  
8 which contributes to the person's independence and employment  
9 potential.

10 8. Wage protection. A person with mental retardation, a  
11 developmental disability, or chronic mental illness engaged in  
12 work programs shall be provided with minimum wage protection  
13 and fair compensation for labor based upon commensurate wage  
14 and productivity.

15 9. Insurance protection. A person or designated group of  
16 persons shall not be denied insurance coverage by reason of  
17 mental retardation, a developmental disability, or chronic  
18 mental illness.

19 10. Due process. A person with mental retardation, a  
20 developmental disability, or chronic mental illness retains  
21 the right to citizenship in accordance with the laws of the  
22 state.

23 Sec. 6. NEW SECTION. 225C.29 COMPLIANCE.

24 The sole remedy for violation of a rule adopted by the  
25 division to enforce or implement this Act shall be by a  
26 proceeding for compliance initiated by request to the division  
27 pursuant to chapter 17A. Any decision of the division shall  
28 be in accordance with due process of law and is subject to  
29 appeal to the Iowa district court pursuant to sections 17A.19  
30 and 17A.20 by any aggrieved party. Either the division or a  
31 party in interest may apply to the Iowa district court for an  
32 order to enforce the decision of the division. Neither this  
33 Act nor any rules adopted by the division create any right,  
34 entitlement, property or liberty right or interest, or private  
35 cause of action for damages against a municipality as defined

1 in chapter 613A or for which such municipality would be  
2 responsible.

3 EXPLANATION

4 This bill is a "bill of rights" for individuals who are  
5 mentally retarded, developmentally disabled, or chronically  
6 mentally ill in areas of: evaluation and diagnosis, treatment  
7 and habilitation, environment, vocational training and  
8 employment, wage protection, insurance, and due process.

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## STATE OF IOWA

FISCAL NOTE

SENATE FILE 473

LSB No. 2813SStaff ID. SJT

In compliance with a written request received March 27, 1985, a fiscal note for SENATE FILE 473 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 473 amends Chapter 225C by adding a new division called the bill of rights for persons with mental retardation, developmental disabilities and chronic mental illness in the areas of evaluation and diagnosis, treatment and habilitation, environment, vocational training and employment, wage protection, insurance and fee process.

Summary

In FY 1984, the State expended in excess of \$57,250,000 on the mentally retarded/developmentally disabled and chronically mentally ill (MR/DD/CMI) population. SF473 would mandate a commitment from the State somewhere between \$75,000,000 and \$84,000,000 if all components were implemented in 1986.

Assumptions:

(A) The total expected expenditures for MR/DD/CMI have been separated into Mandate I, which among other things reduces the beds at the state hospital schools by 56%, and Mandate II which leaves the number of beds intact for the state hospital schools.

(B) Inflation has not been considered in the total estimated cost. Furthermore, the current open-ended funding streams (i.e. Title XIX and State Supplemental Assistance to SSI) would continue at the present federal, state and county participation rates while those funding streams with a cap (i.e. Social Services Block Grant, Title IVE and Title IVB) would need additional contributions from state and/or county funds.

(C) This fiscal note estimates the total costs of SF473 by sections of the bill which have a fiscal impact. The sections are as follows:

Section	5.1	Comprehensive Diagnosis & Evaluation
Section	5.3	Individual Treatment, Habilitation and Program Services
Section	5.6	Least Restrictive Environment/Age Approp. Services
Section	5.7	Vocational Training & Job Development
Section	4.0	Rules to Implement
Conclusion		

Section 5.1: Comprehensive Diagnosis and Evaluation:

Section 5.1 gives the right to persons suspected of being mentally retarded (MR), developmentally disabled (DD), or chronically mentally ill (CMI) or those who apply for DD services to a comprehensive diagnosis and evaluation adapted to the cultural background, primary language, and ethnic origin of the person. Of the MR/DD population in FY 1984, 633 adults at the community level and 116 persons at the institutional level were given comprehensive diagnosis and evaluation. For the CMI population, an estimated 20% of the 9,490 hours were spent on evaluations and diagnosis at both the state and community level. FY 1984 expenses are highlighted in Table A.

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Table A

	(dollars in thousands)				
	<u>Fed</u>	<u>State</u>	<u>Cnty</u>	<u>Other</u>	<u>Total</u>
<u>MR/DD</u>					
Community	\$ 100	\$ 0	\$ 90	\$ 0	\$ 190
Institutional	21	7	17	2	47
<u>CMI</u>					
Diagnosis & Evaluation	0	22	82	0	104
Current Expenses	<u>\$ 121</u>	<u>\$ 29</u>	<u>\$ 189</u>	<u>\$ 2</u>	<u>\$ 341</u>

Assuming persons 0-20 years old will receive annual evaluations through Special Education, 1,263 adults will require an evaluation which represents 10% of the moderate and 30% of the severely/profound MR population. Assuming a cost of \$300 per adult, the estimated increase equals \$384,900 annually and is funded by 55% federal and 45% county money. The CMI would need an additional 192 hours per year and at \$55/hr would equal \$10,560. This annual increase is funded by 80% county and 20% state money. Table B compiles the current and proposed funding as it relates to Section 5.1.

Table B

	(dollars in thousands)					
	<u>Mandate I</u>			<u>Mandate II</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>incr/ (Decr)</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>incr/ (Decr)</u>
Federal	\$ 121	\$ 330	\$ 209	\$ 121	\$ 330	\$ 209
State	29	31	2	29	31	2
County	189	373	184	189	373	184
Other	2	2	0	2	2	0
Total	<u>\$ 341</u>	<u>\$ 736</u>	<u>\$ 395</u>	<u>\$ 341</u>	<u>\$ 736</u>	<u>\$ 395</u>

Section 5.2: Individual Program Plan

Section 5.2 gives those MR, DD or CMI person who require services a right to an individual treatment habilitation and program plan. This activity is currently required if the person is residing in an ICF/MR, RCF/MR, MHI or is receiving vocational services, outpatient or partial hospitalization. It is not provided for clients residing in an ICF, RCF or supervised apartment. Currently the cost of providing this service has been included in that section which addresses these providers and/or services. The cost to develop plans in facilities where this service is currently not provided has been included in the services estimates in Section 3, 6 and 7.

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Section 5.3: Individual Treatment, Habilitation and Program Services

Section 5.3 gives the right to persons with or suspected of MR DD or CMI to treatment, habilitation, and program services. These services shall not be denied because of age, sex, ethnic origin, etc. The assumption made here separates those living arrangements that must co-exist with program services into Section 5.3 and those living arrangements that do not include programmatic services into Section 5.6. Current expenditures for program related living arrangements range from the most restrictive care (i.e. ICF/MR - SHS) to the least restrictive setting in a home residence that require programs at the community level. Current costs for treatment programs concerning MR are given in Table C.

Table C

	(dollars in thousands)				
	<u>Fed</u>	<u>State</u>	<u>Cnty</u>	<u>Other</u>	<u>Total</u>
<u>Treatment Programs</u>					
ICF/MR - SHS	\$24,288	\$ 3,559	\$17,552	\$1,608	\$47,007
ICF/MR - Comm. Base	5,420	256	4,856	0	10,532
RCF/MR	0	4,862	0	6,944	11,406
Foster Care Group	3,069	7,160	0	0	10,229
Social Adj. & Devl.	496	195	165	0	675
Case Management	3,695	1,989	0	0	5,684
Respite	336	87	137	0	560
Current Expenses	<u>\$37,214</u>	<u>\$17,713</u>	<u>\$22,710</u>	<u>\$8,452</u>	<u>\$86,094</u>

Treatment services for the CMI population is provided at the 4 MHI's, 33 community mental health services and through Title XIX programs at private hospitals and partial hospitalization units. Table D compiles the current costs related to the CMI population.

Table D

	(dollars in thousands)				
	<u>Fed</u>	<u>State</u>	<u>Cnty</u>	<u>Other</u>	<u>Total</u>
<u>Program/Provider</u>					
Inpatient	\$1,606	\$4,974	\$ 7,574	\$1,244	\$15,398
Outpatient	349	314	2,827	0	3,490
Emergency	10	9	94	0	103
Partial Hospitaliz.	1,670	56	3,840	0	5,565
Comm. Support Serv.	200	30	911	0	1,141
Current Expenses	<u>\$3,835</u>	<u>\$5,383</u>	<u>\$15,236</u>	<u>\$1,244</u>	<u>\$25,697</u>

\* Rounding Adjustment

There are an estimated 169,400 people who are DD, of which 53,000 require ongoing and intensive services. Of these, 11,501 are MR which leaves 41,499 in need of treatment. The average Title XIX purchased services for DD clients has been estimated at \$940 per/person per/year or \$39,009,060 annually. Purchase of services from social services block grant funding has been estimated at 44% of the total purchases or \$968,722 being attributable to the DD population. Table E compiles the funding required from sources for the DD population.

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Table E

DD Services *	thousands of dollars)				
	Fed	State	Cnty	Other	Total
Title XIX	\$20,616	\$18,393	\$ 0	\$ 0	\$39,009
Purchase of Service	548	783	138	0	969
Current Expenses	\$21,164	\$18,676	\$ 138	\$ 0	\$39,978

Table F compiles the current expenses and the proposed expenses related to Section 5.3

Table F

Treatment	(dollars in thousands)					
	Mandate I			Mandate II		
	Current Law	Proposed Law	incr/ (Decr)	Current Law	Proposed Law	incr/ (Decr)
Federal	\$ 62,213	\$ 60,491	\$ ( 1,722)	\$ 62,213	\$ 73,971	\$ 11,758
State	41,776	52,866	11,090	41,776	54,841	13,065
County	38,085	72,239	34,154	38,085	81,980	43,895
Other	9,696	15,028	5,332	9,696	15,921	6,225
Total	\$ 151,770	\$ 200,625	\$ 48,855	\$ 151,770	\$ 226,714	\$ 74,944

Summary Mandate I which reduces 56% of the beds at the state hospital schools for MR is offset by increases in community-based increases in beds by 21% at ICF/MR's, 91% at RCF/MR's and 18% in Foster Group Care. Case Management adds 240 managers while Social Adjustment increases by 12 times and Respite Care increases by 55%. For the CMI population, Inpatient services sees no decline as Outpatient Services increase 35%. Emergency Services expands by 7 times the current level of service as does Partial Hospitalization/IC, and Community Support adds 276 new case workers. Mandate II mirrors the increases in Mandate I but does not reduce the beds at the state hospital schools.

Section 5.4: Periodic Review of Program Plan

Section 5.4 gives the right to the MR, DD or CMI person who is receiving services to at least an annual reevaluation and review of the individual treatment, habilitation and program plan. Since the providers of these services review plans as an integral component of the services, no fiscal impact is shown here. These costs are included in case management and Community Support under Section 5.3 which also includes the oversight of the review process.

Section 5.5: Participation in the Formulation of the Plan

Section 5.5 gives the right to a person with MR, DD or CMI, or the person's representative, to participate in planning the person's own treatment, habilitation and program plan. While it is difficult to develop the cost of this activity by service provider, it is assumed that the cost is a part of the overall service cost in Section 5.3.

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**Section 5.6: Least Restrictive Age Appropriate Services**

Section 5.6 gives a person with MR/DD or CMI the right to live in and receive age appropriate services in the least restrictive setting consistent with the persons individual treatment and habilitation needs, potential and abilities. As mentioned in Section 5.3, these costs relate to non-programmatic living settings. Additional habilitation and treatment services purchased for these persons appear in Section 5.3. Current expenditures for MR persons are found in Table G and current expenditures for CMI are given in Table H.

Table G

(dollars in thousands)

	<u>Fed</u>	<u>State</u>	<u>Cnty</u>	<u>Other</u>	<u>Total</u>
ICF	6,193	5,179	0	0	11,372
RCF	0	4,380	0	6,570	10,950
Foster Care Group	127	296	0	0	423
Supervised Apartment	0	0	502	754	1,256
Family Life Home	0	122	0	149	271
Current Expenses	<u>\$6,320</u>	<u>\$9,977</u>	<u>\$ 502</u>	<u>\$7,473</u>	<u>\$24,272</u>

Table H

(dollars in thousands)

	<u>Fed</u>	<u>State</u>	<u>Cnty</u>	<u>Other</u>	<u>Total</u>
ICF	\$ 2,670	\$ 2,381	\$ 0	\$ 0	\$ 5,051
RCF	0	945	5,434	1,496	7,875
Supervised Apartment	0	200	0	300	500
Current Expenses	<u>\$ 2,670</u>	<u>\$ 3,526</u>	<u>\$ 5,434</u>	<u>\$ 1,796</u>	<u>\$13,426</u>

Table I details the current expenditures as shown in Table G and H and the proposed expenditures as they relate to Section 5.6.

Table I

(dollars in thousands)

	Mandate I			Mandate II		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Incr/ (Decr)</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Incr/ (Decr)</u>
Federal	\$ 8,990	\$ 3,993	\$ ( 4,997)	\$ 8,990	\$ 8,990	\$ 0
State	13,504	20,453	6,949	13,504	27,979	14,475
County	5,936	16,098	10,162	5,936	16,098	10,162
Other	9,269	98,036	88,767	9,269	103,047	93,778
Total	<u>\$ 37,699</u>	<u>\$ 138,580</u>	<u>\$ 100,881</u>	<u>\$ 37,699</u>	<u>\$ 156,114</u>	<u>\$ 118,415</u>

**Summary**

Mandate I reduces beds for the MR population at ICF's by 57% and 76% at RCF's. Specialized Foster Family Care expands 3 1/2 times the current level of services and Family Home

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expenditures increases over 7 times beyond the current level of service. The ICF's for the CMI population has no change from the current level of service while the RCF's increase over 2 times the number of available beds currently and supervised apartments expands 25 times over the current level of service.

Mandate II mirrors the increases of Mandate I but has no reductions.

Section 5.7: Vocational Training and Employment Options

Section 5.7 gives a person with MR/DD the right to vocational training which contributes to the person's independence and employment potential. For MR/DD, DHS currently funds sheltered workshops and work activity centers for vocational services. Table J shows the current expenditures for vocational training for the MR/DD population.

Table J

(dollars in thousands)

	<u>Fed</u>	<u>State</u>	<u>Cnty</u>	<u>Other</u>	<u>Total</u>
MR/DD					
Sheltered Workshops	\$2,182	\$ 564	\$ 891	\$ 0	\$ 3,637
Work Activity	5,338	1,379	2,180	0	8,897
Current Expenses	<u>\$7,520</u>	<u>\$1,943</u>	<u>\$3,071</u>	<u>\$ 0</u>	<u>\$12,534</u>

The Department of Human Services funds Sheltered Work and Work Activity Centers which serve a small proportion of the CMI population. Current funding is compiled in Table K.

Table K

(dollars in thousands)

	<u>Fed</u>	<u>State</u>	<u>Cnty</u>	<u>Other</u>	<u>Total</u>
CMI					
Sheltered Workshops	\$ 276	\$ 24	\$ 96	\$ 0	\$ 396
Work Activity	224	17	93	0	334
Current Expenses	<u>\$ 500</u>	<u>\$ 41</u>	<u>\$ 189</u>	<u>\$ 0</u>	<u>\$ 730</u>

Table L compiles the current funding of vocational training for the MR and CMI populations and the proposed expenses related to Section 5.7.

Table L

(dollars in thousands)

	Mandate I			Mandate II		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>incr/ (Decr)</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>incr/ (Decr)</u>
Federal	\$ 8,020	\$ 8,020	\$ 0	\$ 8,020	\$ 8,020	\$ 0
State	1,984	1,984	0	1,984	1,984	0
County	3,261	43,593	40,332	3,261	43,593	40,332
Other	0	0	0	0	0	0
Total	<u>\$ 13,265</u>	<u>\$ 53,597</u>	<u>\$ 40,332</u>	<u>\$ 13,265</u>	<u>\$ 53,597</u>	<u>\$ 40,332</u>

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Summary

Mandate I for the MR population increases Work Activity by 86% and expands the Sheltered Workshops to almost 3 times the current level of service. For the CMI population Mandate I expands Work Activity by 3 times the current level of service and expands Sheltered Workshops by 44 times the level of current service. There is no difference between Mandate I and Mandate II for Section 5.7.

Section 5.8: Wage Protection

Section 5.8 gives a person with MR, DD or CMI engaged in work programs the right to be provided with minimum wage protection and fair compensation for labor. This Section serves to provide a state statute corresponding to the federal statute on wage protection which bases pay rates on productivity. These practices are currently being followed in Sheltered Workshops and the costs have been included in the Tables in Section 5.7.

Section 5.9: Insurance Coverage

This section is beyond the scope of DHS and is assumed not to have a significant fiscal impact.

Section 4: Rules to Implement

The fiscal and administrative service costs and the related FTE's to formulate standards and develop program plans cannot be reasonably estimated. Since implementation is assumed over an undefined number of years, the Department of Human Services no reasonable basis from which to project these costs and consequently the fiscal impact is unknown. The division of MR/DD under Section 4 would have to adopt and implement rules and standards for adult day care, supervised apartments and some group homes and sheltered work/work activity centers. It is also estimated that an additional 48 facilities would need to be evaluated. Staff and support for standards development and implementation is estimated at \$101,746 (4.0 FTE).

Conclusion

Except for additional services to the DD population and new FTE and support costs to the Department of Human Services, both of which cannot be currently estimated, the following table compiles the fiscal impact of SF473 to the following providers of funding.

Fiscal Impact

(Dollars in thousands)

	Mandate I			Mandate II		
	Current Law	Proposed Law	incr/ (Decr)	Current Law	Proposed Law	incr/ (Decr)
Federal	\$ 79,345	\$ 72,835	\$ ( 6,510)	\$ 79,345	\$ 91,313	\$ 11,968
State	57,292	75,436	18,144	57,292	34,936	27,644
County	47,471	132,303	84,832	47,471	142,044	94,573
Other	18,966	113,066	94,100	18,966	118,969	100,003
<b>Total</b>	<b>\$ 203,074</b>	<b>\$ 393,640</b>	<b>\$ 190,566</b>	<b>\$ 203,074</b>	<b>\$ 437,263</b>	<b>\$ 234,189</b>

SOURCE: Dept. of Human Services, Dept. of Health  
Department of Public Instruction

(LSB 28135, SJT)

*William C. Prouty*  
Fiscal Director

Legislative Fiscal Bureau

Date: 4/10/85

1 Amend Senate File 473 as follows:  
 2 1. Page 4, by inserting after line 2, the  
 3 following:  
 4 "Sec. 7. NEW SECTION. 225C.30 ADDITIONAL COSTS.  
 5 Additional costs incurred under this Act which a  
 6 county is obligated to pay under the provision of  
 7 section 222.49, 222.60, 222.77, 229.42, or 230.1,  
 8 chapter 252, or section 331.424, subsection 1,  
 9 paragraph "a", subparagraph (1), (2), or (3), or  
 10 paragraph "b", "c", "d", "e", "f", "g", or "h" shall  
 11 be paid by the state from funds not otherwise  
 12 appropriated. The counties shall apply for  
 13 reimbursement to the division, which shall prescribe  
 14 rules and forms to implement this section. The  
 15 division shall notify the state comptroller of the  
 16 reimbursement and the state comptroller shall  
 17 reimburse the county the amount designated."

S-3462 Filed March 22, 1985 By DIELEMAN & RIFE  
*Placed out of order 4/10/85 (p. 1296)*

1 Amend Senate File 473 as follows:  
 2 1. Page 3, line 15, by striking the word "A" and  
 3 inserting the following: "Pursuant to section 507B.4,  
 4 subsection 7, a".  
 5 2. Page 3, line 24, by striking the word "The"  
 6 and inserting the following: "Except for a violation  
 7 of section 225C.28, subsection 9, the".  
 8 3. Page 4, line 2, by inserting after the word  
 9 "responsible." the following: "Any violation of  
 10 section 225C.28, subsection 9 shall be subject to the  
 11 ~~enforcement by the commissioner of insurance and~~  
 12 ~~penalties granted by chapter 507B for a violation of~~  
 13 section 507B.4, subsection 7."

S-3548 Filed March 28, 1985 By MURPHY & PALMER  
*Adopted 4/10 (p. 1297)*

1 Amend Senate File 473 as follows:  
 2 1. Page 3, by striking lines 12 and 13 and  
 3 inserting the following: "work programs shall be  
 4 paid wages commensurate with the going rate for  
 5 comparable work".

S-3567 Filed April 1, 1985  
*Adopted 4/10 (p. 1297)*

By WALDSTEIN

SENATE 9  
MARCH 27, 1985

S-3494

SENATE FILE 473

1 Amend Senate File 473 as follows:  
2 1. Page 1, by inserting before line 1 the  
3 following:  
4 "Section 1. Section 225C.10, subsection 2,  
5 paragraph a, Code 1985, is amended by adding the  
6 following new subparagraph:  
7 NEW SUBPARAGRAPH. (4) Includes a study of  
8 identification of needed services and a plan to  
9 implement the services based on phased-in timeliness,  
10 pursuant to section 225C.100."  
11 2. Page 2, line 17, by inserting after the word  
12 "condition" the following: "in compliance with the  
13 standards adopted pursuant to section 225C.100".  
14 3. Page 3, line 4, by inserting after the word  
15 "abilities" the following: "in compliance with the  
16 standards adopted pursuant to section 225C.100".  
17 4. Page 3, line 9, by inserting after the word  
18 "potential" the following: "in compliance with the  
19 standards adopted pursuant to section 225C.100".  
20 5. Page 4, by inserting after line 2 the  
21 following:  
22 "Sec. \_\_\_\_\_. NEW SECTION. 225C.100 RULES FOR  
23 STANDARDS.  
24 The mental health and mental retardation commission  
25 shall identify specific core services to assist  
26 counties to implement services to comply with sections  
27 225C.25 through 225C.29. The commission shall adopt  
28 minimum standards for individualized treatment,  
29 habilitation, and program services; least restrictive  
30 environment and age-appropriate services; and  
31 vocational training and employment options, pursuant  
32 to section 225C.28. The standards shall permit  
33 implementation of the services on a phased-in basis.  
34 The commission shall convene an advisory committee of  
35 county, provider, and advocacy representation to  
36 advise the commission with the adoption of the minimum  
37 standards pursuant to this section."  
38 6. By renumbering as necessary.

S-3494 Filed March 26, 1985

By GENTLEMAN

*Placed out of order 4/10 (p. 1296)*

S-3672

SENATE FILE 473

1 Amend the amendment S-3668 to Senate File 473 as  
2 follows:  
3 1. Page 1, by striking lines 33 through 35, and  
4 inserting the following: "the Iowa state association  
5 of counties; and two state senators, one of each  
6 political party, and two state representatives, one  
7 of each political party, appointed by the legislative  
8 council. The".

S-3672 Filed April 9, 1985  
*Adopted 4/10/85 (p. 1294)*

By MURPHY

S-3682

SENATE FILE 473

1 Amend the amendment S-3668 to Senate File 473 as  
2 follows:  
3 1. Page 1, by striking lines 2 and 3, and  
4 inserting the following:  
5 "1. By striking page 1, line 1 through page 4  
6 line 2, and inserting the following:".

S-3682 Filed April 10, 1985  
*W/P 4/10 (p. 1294)*

By RITSEMA & SMALL

S-3681

SENATE FILE 473

1 Amend the amendment S-3668 to Senate File 473 as  
2 follows:  
3 1. Page 3, by striking lines 4 through 18.  
4 2. Page 1, line 19, by striking the word "Sec."  
5 and inserting the following: ""Sec.".

S-3681 Filed April 10, 1985  
*Adopted 4/10 (p. 1294)*

By CARR

S-3680

SENATE FILE 473

1 Amend amendment S-3668 to Senate File 473 as  
2 follows:  
3 1. Page 1, line 29, by inserting after the word  
4 "council" the following: ", all of which shall be  
5 designated by their respective bodies".

S-3680 Filed April 10, 1985  
*Adopted 4/10 (p. 1294)*

By CARR

S-3684

SENATE FILE 473

1 Amend the amendment, S-3668, to Senate File 473 as  
2 follows:  
3 1. Page 1, line 43, by inserting after the word  
4 "assessments." the following: "The mental health and  
5 mental retardation commission shall identify specific  
6 core services to assist counties to implement services  
7 to comply with sections 225C.25 through 225C.29. The  
8 commission shall adopt minimum standards for  
9 individualized treatment, habilitation, and program  
10 services; least restrictive environment and age-  
11 appropriate services; and vocational training and  
12 employment options, pursuant to section 225C.28."

S-3684 Filed April 10, 1985 By GENTLEMAN

*Adopted 4/10/85 (p. 1294)*

S-3703

SENATE FILE 473

1 Amend Senate File 473 as follows:  
2 1. Page 3, line 35, by inserting after the word  
3 "damages" the following: "or for injunctive relief  
4 requiring the provision of a service or program".  
5 2. Page 4, line 1, by inserting after the figure  
6 "613A" the following: "or the state".  
7 3. Page 4, line 1, by inserting after the word  
8 "municipality" the following: "or the state".

S-3703 Filed April 11, 1985 By TAYLOR

*Adopted 4/11 (p. 1320)*  
*Taylor*

S-3668

SENATE FILE 473

1 Amend Senate File 473 as follows:

2 1. Page 4, by inserting after line 2 the  
3 following:

4 "Sec. \_\_\_\_ . NEW SECTION. 225C.30 ADDITIONAL  
5 COSTS.

6 Additional costs incurred under this Act which a  
7 county is obligated to pay under the provision of  
8 section 222.49, 222.60, 222.77, 229.42, or 230.1,  
9 chapter 252, or section 331.424, subsection 1,  
10 paragraph "a", subparagraph (1), (2), or (3), or  
11 paragraph "b", "c", "d", "e", "f", "g", or "h" shall  
12 be paid by the state from funds not otherwise  
13 appropriated. The counties shall apply for  
14 reimbursement to the division, which shall prescribe  
15 rules and forms to implement this section. The  
16 division shall notify the state comptroller of the  
17 reimbursement and the state comptroller shall  
18 reimburse the county the amount designated.

19 Sec. \_\_\_\_ . The commissioner of human services shall  
20 create an advisory committee to develop a bill of  
21 rights implementation plan and process for individuals  
22 pursuant to section 225C.28. The advisory committee  
23 shall include no more than twenty members, including  
24 representatives of the association for retarded  
25 citizens of Iowa, the Iowa association of  
26 rehabilitation and residential facilities, the mental  
27 health association of Iowa, the mental health centers  
28 association of Iowa, and the state developmental  
29 disabilities planning council; state departments and  
30 agencies affected by the bill of rights, including but  
31 not limited to, the department of public instruction,  
32 the department of health, and the university of Iowa;  
33 the Iowa state association of counties; and one state  
34 representative and one senator who are members of the  
35 human services joint appropriations subcommittee. The  
36 advisory committee shall advise the mental health and  
37 mental retardation commission and the council on human  
38 services regarding proposed rules or standards  
39 relating to implementation of the bill of rights.

40 The implementation plan and process shall include  
41 establishing definitions of the services system, the  
42 defining of individual assessment, a service  
43 inventory, and uniform individual assessments. The  
44 commissioner may require completion of an individual  
45 assessment form by known providers or caretakers for  
46 individuals covered under this Act served by the  
47 provider or caretaker since July 1, 1984 and  
48 individual assessments for clients currently entering  
49 into the delivery system. The commissioner may take  
50 appropriate action in the event of noncompliance of

1 the requirement. Confidentiality rules pursuant to  
2 section 217.30 shall apply to this section.

3 The director of the division of mental health,  
4 mental retardation, and developmental disabilities is  
5 responsible for the completion of the implementation  
6 plan and process. The director may utilize available  
7 services and publicly-funded agencies for the purpose  
8 of carrying out the uniform individual assessment  
9 process. It is the intent of the general assembly  
10 that additional expense will not be incurred when  
11 publicly funded agencies are carrying out their normal  
12 evaluation and assessment function. The director  
13 shall submit a report to the general assembly by April  
14 1, 1986 regarding the results of the implementation  
15 plan and process, establishing the level of function  
16 and specific appropriate services of the receiving  
17 populations and selected subgroups thereof, the  
18 estimated costs to implement the services, and  
19 required legislation.

20 As appropriate, the council on human services, the  
21 mental health and mental retardation commission, the  
22 department of health, and other appropriate agencies  
23 shall develop rules by January 1, 1987 to implement  
24 the services pursuant to section 225C.28. The rules  
25 may permit implementation of the services on a phased-  
26 in basis.

27 The legislative council shall establish a two-year  
28 interim study committee beginning during the 1985  
29 interim to review and monitor actions taken by the  
30 commissioner of human services, department of human  
31 services, mental health and mental retardation  
32 commission, council on human services, division of  
33 mental health, mental retardation, and developmental  
34 disabilities, the advisory committee, and other  
35 agencies affected by this Act regarding the bill of  
36 rights pursuant to sections 225C.25 through 225C.28.

37 Sec. \_\_\_\_\_. There is appropriated from the general  
38 fund of the state to the department of human services  
39 for each fiscal year for the fiscal period beginning  
40 July 1, 1985 and ending June 30, 1987, the sum of one  
41 hundred nine thousand (109,000) dollars, or so much  
42 thereof as is necessary, for five full time equivalent  
43 positions, to carry out the intent of this Act.

44 Sec. \_\_\_\_\_. This Act takes effect July 1, 1985  
45 except section 5 which takes effect July 1, 1987."

46 2. Title page, line 3, by inserting after the  
47 word "illness" the following: "and providing an  
48 effective date and an appropriation".

1 Amend Senate File 473 as follows:

2 Page 4, by inserting after line 2 the  
3 following:

4 "Sec. \_\_\_\_ . The commissioner of human services  
5 shall create an advisory committee to develop a bill  
6 of rights implementation plan and process for  
7 individuals pursuant to section 225C.28. The advisory  
8 committee shall include no more than twenty members,  
9 including representatives of the association for  
10 retarded citizens of Iowa, the Iowa association of  
11 rehabilitation and residential facilities, the mental  
12 health association of Iowa, the mental health centers  
13 association of Iowa, and the state developmental  
14 disabilities planning council; state departments and  
15 agencies affected by the bill of rights, including but  
16 not limited to, the department of public instruction,  
17 the department of health, and the university of Iowa;  
18 the Iowa state association of counties; and one state  
19 representative and one senator who are members of the  
20 human services joint appropriations subcommittee. The  
21 advisory committee shall advise the mental health and  
22 mental retardation commission and the council on human  
23 services regarding proposed rules or standards  
24 relating to implementation of the bill of rights.

25 The implementation plan and process shall include  
26 establishing definitions of the services system, the  
27 defining of individual assessment, a service  
28 inventory, and uniform individual assessments. The  
29 commissioner may require completion of an individual  
30 assessment form by known providers or caretakers for  
31 individuals covered under this Act served by the  
32 provider or caretaker since July 1, 1984 and  
33 individual assessments for clients currently entering  
34 into the delivery system. The commissioner may take  
35 appropriate action in the event of noncompliance of  
36 the requirement. Confidentiality rules pursuant to  
37 section 217.20 shall apply to this section.

38 The director of the division of mental health,  
39 mental retardation, and developmental disabilities is  
40 responsible for the completion of the implementation  
41 plan and process. The director may utilize available  
42 services and publicly-funded agencies for the purpose  
43 of carrying out the uniform individual assessment  
44 process. It is the intent of the general assembly  
45 that additional expense will not be incurred when  
46 publicly funded agencies are carrying out their normal  
47 evaluation and assessment function. The director  
48 shall submit a report to the general assembly by April  
49 1, 1986 regarding the results of the implementation  
50 plan and process, establishing the level of function

S-3660 page 2

1 and specific appropriate services of the receiving  
2 populations and selected subgroups thereof, the  
3 estimated costs to implement the services, and  
4 required legislation.

5 As appropriate, the council on human services, the  
6 mental health and mental retardation commission, the  
7 department of health, and other appropriate agencies  
8 shall develop rules by January 1, 1987 to implement  
9 the services pursuant to section 225C.28. The rules  
10 may permit implementation of the services on a phased-  
11 in basis.

12 The legislative council shall establish a two-year  
13 interim study committee beginning during the 1985  
14 interim to review and monitor actions taken by the  
15 commissioner of human services, department of human  
16 services, mental health and mental retardation  
17 commission, council on human services, division of  
18 mental health, mental retardation, and developmental  
19 disabilities, the advisory committee, and other  
20 agencies affected by this Act regarding the bill of  
21 rights pursuant to sections 225C.25 through 225C.28.

22 Sec. \_\_\_\_\_. There is appropriated from the general  
23 fund of the state to the department of human services  
24 for each fiscal year for the fiscal period beginning  
25 July 1, 1985 and ending June 30, 1987, the sum of one  
26 hundred nine thousand (109,000) dollars, or so much  
27 thereof as is necessary, for five full time equivalent  
28 positions, to carry out the intent of this Act.

29 Sec. \_\_\_\_\_. This Act takes effect July 1, 1985  
30 except section 5 which takes effect July 1, 1987."

31 2. Title page, line 3, by inserting after the  
32 word "illness" the following: "and providing an  
33 effective date and an appropriation".

S-3660 Filed April 8, 1985

By MURPHY

*Placed into of arch 4/10 (p. 1296)*

STATE OF IOWA

FISCAL NOTELSB No. 2813S3Staff ID. SJTSENATE FILE 473

In compliance with a written request received April 9, 1985, a fiscal note for COMMITTEE AMENDMENT S-3660 to Senate File 473 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Committee Amendment S-3660 to Senate File 473 directs the Commissioner of Human Services to create an advisory committee to develop a bill of rights implementation plan and process. The Commissioner may require completion of an individual assessment form by known providers for individuals covered under this act. The Director of the Division of Mental Health, Mental Retardation, and Developmental Disabilities is responsible for the completion of the implementation plan and process. The Director is required to submit a report to the General Assembly by April 1, 1986 regarding the results of the implementation plan and process, among other topics. The Council on Human Services, the Department of Health, and other appropriate agencies shall develop rules by January 1, 1987 to implement the services pursuant to Section 225C.28 and may permit implementation on a phased-in basis. A two-year interim study committee shall be established during the 1985 interim to review and monitor actions taken by agencies affected by this act pursuant to Sections 225C.25 through 225C.28. An appropriation for \$109,000 is made to the Department of Human Services for five FTE's to carry out the intent of this act. This act takes effect July 1, 1985 except Section 5 which takes effect on July 1, 1987.

**Fiscal Impact**

Senate File 473 as Amended by S-3660 appropriates \$109,000 for each fiscal year for the fiscal period beginning July 1, 1985 and ending June 30, 1987 to carry out the intent of this act. The advisory committee created by this act will have one state representative and one state senator as members. The per diem rate, currently at \$40 per day, travel and subsistence pay, food and lodging, while difficult to estimate is not expected to have a significant fiscal impact. Therefore, Senate File 473 as amended by S-3660 is estimated to cost \$109,000 in FY 1986 and \$109,000 in FY 1987 notwithstanding legislation in FY 1987 to implement the intent of Section 225C.28.

Source: Department of Human Services

(LSB 2813S.3, SJT)



Fiscal Director

Legislative Fiscal Bureau

Date. 4/16/85

**FISCAL NOTE**  
SENATE FILE 473

USB No 2813S 2  
Staff ID SJT

In compliance with a written request received April 9, 1985, a fiscal note for COMMITTEE AMENDMENT S 3462 to Senate File 473 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Amendment S-3462 to Senate File 473 serves to transfer the the additional costs that would be incurred by the counties under Senate File 473 to the state by requiring that counties apply to the Division, which shall prescribe rules and forms for reimbursement of any additional costs.

**Fiscal Impact**

	Current Law _____	Proposed Law _____
County	\$ 84,832,000	\$ 0
State	0	\$ 84,832,000
Total	\$ 84,832,000	\$ 84,832,000

**Assumptions**

This assumes that the additional county money required to fund Senate File 473 relates to Mandate I. If Mandate II under Senate File 473 became law, then the amount would be \$94,573,000.

(USB 2813S 2, SJT)

*Richard C. ...*  
Fiscal Director  
Legislative Fiscal Bureau  
Date 4/10/85



1 Section 1. Chapter 225C is amended by adding sections 2  
2 through 5 as a new division.

3 Sec. 2. NEW SECTION. 225C.25 SHORT TITLE.

4 Sections 225C.25 through 225C.28 shall be known as "the  
5 bill of rights of persons with mental retardation,  
6 developmental disabilities, or chronic mental illness".

7 Sec. 3. NEW SECTION. 225C.26 SCOPE.

8 These rights apply to any person with mental retardation, a  
9 developmental disability, or chronic mental illness who  
10 receives services, which are funded in whole or in part by  
11 public funds or services which are permitted under Iowa law.

12 Sec. 4. NEW SECTION. 225C.27 PURPOSE.

13 Sections 225C.25 through 225C.28 shall be liberally  
14 construed and applied to promote their purposes and the stated  
15 rights. The division, in coordination with appropriate  
16 agencies, shall adopt rules to implement the purpose of  
17 sections 225C.25 through 225C.28 which include, but are not  
18 limited to the following:

19 1. Promotion of the human dignity and protection of the  
20 constitutional and statutory rights of persons with mental re-  
21 tardation, developmental disabilities, or chronic mental  
22 illness in the state.

23 2. Encouraging the development of the ability and poten-  
24 tial of each person with mental retardation, developmental  
25 disabilities, or chronic mental illness in the state to the  
26 fullest extent possible.

27 3. Ensuring that the recipients of services shall not be  
28 deprived of any rights, benefits, or privileges guaranteed by  
29 law, the Constitution of the State of Iowa or the Constitution  
30 of the United States solely on account of the receipt of the  
31 services.

32 Sec. 5. NEW SECTION. 225C.28 RIGHTS.

33 The rights of persons described in section 225C.26 include,  
34 but are not limited to:

35 1. Comprehensive evaluation and diagnosis. A person

1 suspected of being mentally retarded, developmentally dis-  
2 abled, or chronically mentally ill or applying for  
3 developmental disabilities services, has the right to receive  
4 a comprehensive diagnosis and evaluation adapted to the  
5 cultural background, primary language, and ethnic origin of  
6 the person.

7 2. Individual treatment, habilitation, and program plan.  
8 Persons with mental retardation, a developmental disability,  
9 or chronic mental illness who require services have the right  
10 to an individual treatment, habilitation, and program plan.

11 3. Individualized treatment, habilitation, and program  
12 services. A person with a known or suspected mental retarda-  
13 tion, developmentally disabled, or chronic mental illness  
14 condition shall not be denied treatment, habilitation, and  
15 program services because of age, sex, ethnic origin, marital  
16 status, ability to pay, criminal record, degree of disability  
17 or illness, or mental retardation condition.

18 4. Periodic review of treatment, habilitation, and  
19 program. A mentally retarded, developmentally disabled, or  
20 chronically mentally ill person receiving services has the  
21 right to a periodic, but at least annual, reevaluation and  
22 review of the individual treatment, habilitation, and program  
23 plan to measure progress, to modify objectives if necessary,  
24 and to provide guidance and remediation techniques.

25 5. Participation in the formulation of the plan. A person  
26 with mental retardation, a developmental disability, or  
27 chronic mental illness or the person's representative has the  
28 right to participate in planning the person's own treatment,  
29 habilitation, and program plan and to be informed, in writing,  
30 of progress at reasonable time intervals. Each person shall  
31 be given the opportunity to make decisions and exercise  
32 options regarding the plan, consistent with the person's  
33 capabilities.

34 6. Least restrictive environment and age-appropriate ser-  
35 vices. A person with mental retardation, a developmental

1 disability, or chronic mental illness has the right to live  
2 and receive age-appropriate services in the least restrictive  
3 setting consistent with the person's individual treatment and  
4 habilitation needs, potential, and abilities.

5 7. Vocational training and employment options. A person  
6 with mental retardation, a developmental disability, or  
7 chronic mental illness has the right to vocational training  
8 which contributes to the person's independence and employment  
9 potential.

10 8. Wage protection. A person with mental retardation, a  
11 developmental disability, or chronic mental illness engaged in  
12 work programs shall be paid wages commensurate with the going  
13 rate for comparable work and productivity.

14 9. Insurance protection. Pursuant to section 507B.4,  
15 subsection 7, a person or designated group of persons shall  
16 not be denied insurance coverage by reason of mental  
17 retardation, a developmental disability, or chronic mental  
18 illness.

19 10. Due process. A person with mental retardation, a  
20 developmental disability, or chronic mental illness retains  
21 the right to citizenship in accordance with the laws of the  
22 state.

23 Sec. 6. NEW SECTION. 225C.29 COMPLIANCE.

24 Except for a violation of section 225C.28, subsection 9,  
25 the sole remedy for violation of a rule adopted by the  
26 division to enforce or implement this Act shall be by a  
27 proceeding for compliance initiated by request to the division  
28 pursuant to chapter 17A. Any decision of the division shall  
29 be in accordance with due process of law and is subject to  
30 appeal to the Iowa district court pursuant to sections 17A.19  
31 and 17A.20 by any aggrieved party. Either the division or a  
32 party in interest may apply to the Iowa district court for an  
33 order to enforce the decision of the division. Neither this  
34 Act nor any rules adopted by the division create any right,  
35 entitlement, property or liberty right or interest, or private

1 cause of action for damages against a municipality as defined  
2 in chapter 613A or for which such municipality would be  
3 responsible. Any violation of section 225C.28, subsection 9  
4 shall be subject to the enforcement by the commissioner of  
5 insurance and penalties granted by chapter 507B for a  
6 violation of section 507B.4, subsection 7.

\* 7 Sec. 7. The commissioner of human services shall create an  
8 advisory committee to develop a bill of rights implementation  
9 plan and process for individuals pursuant to section 225C.28.  
10 The advisory committee shall include no more than twenty  
11 members, including representatives of the association for  
12 retarded citizens of Iowa, the Iowa association of  
13 rehabilitation and residential facilities, the mental health  
14 association of Iowa, the mental health centers association of  
15 Iowa, and the state developmental disabilities planning  
16 council, all of which shall be designated by their respective  
17 bodies; state departments and agencies affected by the bill of  
18 rights, including but not limited to, the department of public  
19 instruction, the department of health, and the university of  
20 Iowa; the Iowa state association of counties; and two state  
21 senators, one of each political party, and two state  
22 representatives, one of each political party, appointed by the  
23 legislative council. The advisory committee shall advise the  
24 mental health and mental retardation commission and the  
25 council on human services regarding proposed rules or  
26 standards relating to implementation of the bill of rights.

27 The implementation plan and process shall include  
28 establishing definitions of the services system, the defining  
29 of individual assessment, a service inventory, and uniform  
30 individual assessments. The mental health and mental  
31 retardation commission shall identify specific core services  
32 to assist counties to implement services to comply with  
33 sections 225C.25 through 225C.29. The commission shall adopt  
34 minimum standards for individualized treatment, habilitation,  
35 and program services; least restrictive environment and age-

1 appropriate services; and vocational training and employment  
2 options, pursuant to section 225C.28. The commissioner may  
3 require completion of an individual assessment form by known  
4 providers or caretakers for individuals covered under this Act  
5 served by the provider or caretaker since July 1, 1984 and  
6 individual assessments for clients currently entering into the  
7 delivery system. The commissioner may take appropriate action  
8 in the event of noncompliance of the requirement.

9 Confidentiality rules pursuant to section 217.30 shall apply  
10 to this section.

11 The director of the division of mental health, mental  
12 retardation, and developmental disabilities is responsible for  
13 the completion of the implementation plan and process. The  
14 director may utilize available services and publicly-funded  
15 agencies for the purpose of carrying out the uniform  
16 individual assessment process. It is the intent of the  
17 general assembly that additional expense will not be incurred  
18 when publicly funded agencies are carrying out their normal  
19 evaluation and assessment function. The director shall submit  
20 a report to the general assembly by April 1, 1986 regarding  
21 the results of the implementation plan and process,  
22 establishing the level of function and specific appropriate  
23 services of the receiving populations and selected subgroups  
24 thereof, the estimated costs to implement the services, and  
25 required legislation.

26 As appropriate, the council on human services, the mental  
27 health and mental retardation commission, the department of  
28 health, and other appropriate agencies shall develop rules by  
29 January 1, 1987 to implement the services pursuant to section  
30 225C.28. The rules may permit implementation of the services  
31 on a phased-in basis.

32 The legislative council shall establish a two-year interim  
33 study committee beginning during the 1985 interim to review  
34 and monitor actions taken by the commissioner of human  
35 services, department of human services, mental health and

1 mental retardation commission, council on human services,  
2 division of mental health, mental retardation, and  
3 developmental disabilities, the advisory committee, and other  
4 agencies affected by this Act regarding the bill of rights  
5 pursuant to sections 225C.25 through 225C.28.

6 Sec. 8. There is appropriated from the general fund of the  
7 state to the department of human services for each fiscal year  
8 for the fiscal period beginning July 1, 1985 and ending June  
9 30, 1987, the sum of one hundred nine thousand (109,000)  
10 dollars, or so much thereof as is necessary, for five full  
11 time equivalent positions, to carry out the intent of this  
12 Act.

13 Sec. 9. This Act takes effect July 1, 1985 except section  
14 5 which takes effect July 1, 1987.

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HOUSE AMENDMENT TO  
SENATE FILE 473

1 Amend Senate File 473 as amended, passed and  
2 reprinted by the Senate as follows:  
3 1. Page 6, line 5, by inserting after the figure  
4 "225C.28" the following: ", and to review and propose  
5 alternatives to the present funding methods for the  
6 mandated services".  
7 2. Page 6, line 14, by inserting after the figure  
8 "1987" the following: ", providing that legislation  
9 is enacted by the general assembly before July 1,  
10 1987, which provides a fair and equitable funding  
11 formula for the implementation of section 5 of this  
12 Act".

S-4202 Filed May 2, 1985

RECEIVED FROM THE HOUSE

*Senate concurred 5/2/85 (p 1844)*

SENATE FILE 473

H-4097

- 1 Amend Senate File 473 as amended, passed, and  
2 reprinted by the Senate as follows:  
3 1. Page 3, by inserting after line 22, the  
4 following:  
5 "Sec. \_\_\_\_ . NEW SECTION. 225C.28A ADDITIONAL  
6 COSTS.  
7 Additional costs incurred under this Act which a  
8 county is obligated to pay under state law shall be  
9 paid by the state from funds not otherwise  
10 appropriated. The counties shall apply for  
11 reimbursement to the division, which shall prescribe  
12 rules and forms to implement this section. The  
13 division shall notify the state comptroller of the  
14 reimbursement and the state comptroller shall  
15 reimburse the county in the amount designated."  
16 2. By renumbering as necessary.

H-4097 FILED APRIL 29, 1985 BY COMMITTEE ON APPROPRIATIONS

*H/O 5/2 (p 2151)*

SENATE FILE 473

H-4132

- 1 Amend Senate File 473, as amended, passed, and  
2 reprinted by the Senate, as follows:  
3 1. Page 4, line 1, by inserting after the word  
4 "damages" the following: "or for injunctive relief  
5 requiring the provision of a service or program".  
6 2. Page 4, line 2, by inserting after the figure  
7 "613A" the following: "or a state agency".  
8 3. Page 4, line 2, by inserting after the word  
9 "municipality" the following: "or state agency".

H-4132 FILED APRIL 30, 1985 BY WELDEN of Hardin

*H/O 5/2 (p 2151)*

SENATE FILE 473

H-4134

- 1 Amend Senate File 473 as amended, passed and  
2 reprinted by the Senate as follows:  
3 1. Page 6, line 5, by inserting after the figure  
4 "225C.28" the following: ", and to review and propose  
5 alternatives to the present funding methods for the  
6 mandated services".  
7 2. Page 6, line 14, by inserting after the figure  
8 "1987" the following: ", providing that legislation  
9 is enacted by the general assembly before July 1,  
10 1987, which provides a fair and equitable funding  
11 formula for the implementation of section 5 of this  
12 Act".

BY LLOYD-JONES of Johnson

JOCHUM of Dubuque

HALVORSON of Webster

MULLINS of Kossuth

H-4134 FILED APRIL 30, 1985

*Adopted 5/2/85 (p 2151)*

PEICK of Linn

VARN of Johnson

SHOULTZ of Black Hawk

TEAFORD of Black Hawk

SENATE FILE 473

H-4188

1 Amend Senate File 473, as amended, passed and  
2 reprinted by the Senate, as follows:  
3 L. Page 4, by striking lines 1 and 2 and insert-  
4 ing in lieu thereof the following: "cause of action  
5 for damages or injunctive relief against a municipal-  
6 ity as defined in chapter 613A or a state agency  
7 requiring a new or additional service or program  
8 not provided by such municipality or state agency  
9 for which such municipality or state agency would  
10 be".

H-4188 FILED MAY 1, 1985

BY WELDEN of Hardin

*W/D 5/2 (p. 2151)*

SSB 313  
State Gov't.

SSB 313

STATE GOVERNMENT: Carr, Chair; Bruner and Nystrom

*New  
SF 478*

SENATE FILE \_\_\_\_\_

BY (PROPOSED COMMITTEE ON  
STATE GOVERNMENT BILL)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to the rights of a person having mental  
2 retardation, a developmental disability or chronic  
3 mental illness.

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

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1 Section 1. Chapter 225C is amended by adding sections 2  
2 through 5 as a new division.

3 Sec. 2. NEW SECTION. 225C.25 SHORT TITLE.

4 Sections 225C.25 through 225C.28 shall be known as "the  
5 bill of rights of persons with mental retardation,  
6 developmental disabilities, or chronic mental illness".

7 Sec. 3. NEW SECTION. 225C.26 SCOPE.

8 These rights apply to any person with mental retardation, a  
9 developmental disability, or chronic mental illness who  
10 receives services, which are funded in whole or in part by  
11 public funds or services which are permitted under Iowa law.

12 Sec. 4. NEW SECTION. 225C.27 PURPOSE.

13 Sections 225C.25 through 225C.28 shall be liberally  
14 construed and applied to promote their purposes and the stated  
15 rights. The division, in coordination with appropriate  
16 agencies, shall adopt rules to implement the purpose of  
17 sections 225C.25 through 225C.28 which include, but are not  
18 limited to the following:

19 1. Promotion of the human dignity and protection of the  
20 constitutional and statutory rights of persons with mental re-  
21 tardation, developmental disabilities, or chronic mental  
22 illness in the state.

23 2. Encouraging the development of the ability and poten-  
24 tial of each person with mental retardation, developmental  
25 disabilities, or chronic mental illness in the state to the  
26 fullest extent possible.

27 3. Ensuring that the recipients of services shall not be  
28 deprived of any rights, benefits, or privileges guaranteed by  
29 law, the Constitution of the State of Iowa or the Constitution  
30 of the United States solely on account of the receipt of the  
31 services.

32 Sec. 5. NEW SECTION. 225C.28 RIGHTS.

33 The rights of persons described in section 225C.26 include,  
34 but are not limited to:

35 1. Comprehensive evaluation and diagnosis. A person

1 suspected of being mentally retarded, developmentally dis-  
2 abled, or chronically mentally ill or applying for  
3 developmental disabilities services, has the right to receive  
4 a comprehensive diagnosis and evaluation adapted to the  
5 cultural background, primary language, and ethnic origin of  
6 the person.

7 2. Individual treatment, habilitation, and program plan.  
8 Persons with mental retardation, a developmental disability,  
9 or chronic mental illness who require services have the right  
10 to an individual treatment, habilitation, and program plan.

11 3. Individualized treatment, habilitation, and program  
12 services. A person with a known or suspected mental retarda-  
13 tion, developmentally disabled, or chronic mental illness  
14 condition shall not be denied treatment, habilitation, and  
15 program services because of age, sex, ethnic origin, marital  
16 status, ability to pay, criminal record, degree of disability  
17 or illness, or mental retardation condition.

18 4. Periodic review of treatment, habilitation, and  
19 program. A mentally retarded, developmentally disabled, or  
20 chronically mentally ill person receiving services has the  
21 right to a periodic, but at least annual, reevaluation and  
22 review of the individual treatment, habilitation, and program  
23 plan to measure progress, to modify objectives if necessary,  
24 and to provide guidance and remediation techniques.

25 5. Participation in the formulation of the plan. A person  
26 with mental retardation, a developmental disability, or  
27 chronic mental illness or the person's representative has the  
28 right to participate in planning the person's own treatment,  
29 habilitation, and program plan and to be informed, in writing,  
30 of progress at reasonable time intervals. Each person shall  
31 be given the opportunity to make decisions and exercise  
32 options regarding the plan, consistent with the person's  
33 capabilities.

34 6. Least restrictive environment and age-appropriate ser-  
35 vices. A person with mental retardation, a developmental

1 disability, or chronic mental illness has the right to live  
2 and receive age-appropriate services in the least restrictive  
3 setting consistent with the person's individual treatment and  
4 habilitation needs, potential, and abilities.

5 7. Vocational training and employment options. A person  
6 with mental retardation, a developmental disability, or  
7 chronic mental illness has the right to vocational training  
8 which contributes to the person's independence and employment  
9 potential.

10 8. Wage protection. A person with mental retardation, a  
11 developmental disability, or chronic mental illness engaged in  
12 work programs shall be provided with minimum wage protection  
13 and fair compensation for labor based upon commensurate wage  
14 and productivity.

15 9. Insurance protection. A person or designated group of  
16 persons shall not be denied insurance coverage by reason of  
17 mental retardation, a developmental disability, or chronic  
18 mental illness.

19 10. Due process. A person with mental retardation, a  
20 developmental disability, or chronic mental illness retains  
21 the right to citizenship in accordance with the laws of the  
22 state.

23 Sec. 6. NEW SECTION. 225C.29 COMPLIANCE.

24 The sole remedy for violation of a rule adopted by the  
25 division to enforce or implement this Act shall be by a  
26 proceeding for compliance initiated by request to the division  
27 pursuant to chapter 17A. Any decision of the division shall  
28 be in accordance with due process of law and is subject to  
29 appeal to the Iowa district court pursuant to sections 17A.19  
30 and 17A.20 by any aggrieved party. Either the division or a  
31 party in interest may apply to the Iowa district court for an  
32 order to enforce the decision of the division. Neither this  
33 Act nor any rules adopted by the division create any right,  
34 entitlement, property or liberty right or interest, or private  
35 cause of action for damages against a municipality as defined

1 in chapter 613A or for which such municipality would be  
2 responsible.

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EXPLANATION

This bill is a "bill of rights" for individuals who are  
mentally retarded, developmentally disabled, or chronically  
mentally ill in areas of: evaluation and diagnosis, treatment  
and habilitation, environment, vocational training and  
employment, wage protection, insurance, and due process.

SENATE FILE 473

AN ACT

RELATING TO THE RIGHTS OF A PERSON HAVING MENTAL RETARDATION,  
A DEVELOPMENTAL DISABILITY OR CHRONIC MENTAL ILLNESS AND  
PROVIDING AN EFFECTIVE DATE AND AN APPROPRIATION.

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

Section 1. Chapter 225C is amended by adding sections 2 through 5 as a new division.

Sec. 2. NEW SECTION. 225C.25 SHORT TITLE.

Sections 225C.25 through 225C.28 shall be known as "the bill of rights of persons with mental retardation, developmental disabilities, or chronic mental illness".

Sec. 3. NEW SECTION. 225C.26 SCOPE.

These rights apply to any person with mental retardation, a developmental disability, or chronic mental illness who receives services, which are funded in whole or in part by public funds or services which are permitted under Iowa law.

Sec. 4. NEW SECTION. 225C.27 PURPOSE.

Sections 225C.25 through 225C.28 shall be liberally construed and applied to promote their purposes and the stated rights. The division, in coordination with appropriate agencies, shall adopt rules to implement the purpose of sections 225C.25 through 225C.28 which include, but are not limited to the following:

1. Promotion of the human dignity and protection of the constitutional and statutory rights of persons with mental retardation, developmental disabilities, or chronic mental illness in the state.

2. Encouraging the development of the ability and potential of each person with mental retardation, developmental disabilities, or chronic mental illness in the state to the fullest extent possible.

3. Ensuring that the recipients of services shall not be deprived of any rights, benefits, or privileges guaranteed by law, the Constitution of the State of Iowa or the Constitution of the United States solely on account of the receipt of the services.

Sec. 5. NEW SECTION. 225C.28 RIGHTS.

The rights of persons described in section 225C.26 include, but are not limited to:

1. Comprehensive evaluation and diagnosis. A person suspected of being mentally retarded, developmentally disabled, or chronically mentally ill or applying for developmental disabilities services, has the right to receive a comprehensive diagnosis and evaluation adapted to the cultural background, primary language, and ethnic origin of the person.

2. Individual treatment, habilitation, and program plan. Persons with mental retardation, a developmental disability, or chronic mental illness who require services have the right to an individual treatment, habilitation, and program plan.

3. Individualized treatment, habilitation, and program services. A person with a known or suspected mental retarda-

tion, developmentally disabled, or chronic mental illness condition shall not be denied treatment, habilitation, and program services because of age, sex, ethnic origin, marital status, ability to pay, criminal record, degree of disability or illness, or mental retardation condition.

4. Periodic review of treatment, habilitation, and program. A mentally retarded, developmentally disabled, or chronically mentally ill person receiving services has the right to a periodic, but at least annual, reevaluation and review of the individual treatment, habilitation, and program plan to measure progress, to modify objectives if necessary, and to provide guidance and remediation techniques.

5. Participation in the formulation of the plan. A person with mental retardation, a developmental disability, or chronic mental illness or the person's representative has the right to participate in planning the person's own treatment, habilitation, and program plan and to be informed, in writing, of progress at reasonable time intervals. Each person shall be given the opportunity to make decisions and exercise options regarding the plan, consistent with the person's capabilities.

6. Least restrictive environment and age-appropriate services. A person with mental retardation, a developmental disability, or chronic mental illness has the right to live and receive age-appropriate services in the least restrictive setting consistent with the person's individual treatment and habilitation needs, potential, and abilities.

7. Vocational training and employment options. A person with mental retardation, a developmental disability, or chronic mental illness has the right to vocational training which contributes to the person's independence and employment potential.

8. Wage protection. A person with mental retardation, a developmental disability, or chronic mental illness engaged in work programs shall be paid wages commensurate with the going rate for comparable work and productivity.

9. Insurance protection. Pursuant to section 507B.4, subsection 7, a person or designated group of persons shall not be denied insurance coverage by reason of mental retardation, a developmental disability, or chronic mental illness.

10. Due process. A person with mental retardation, a developmental disability, or chronic mental illness retains the right to citizenship in accordance with the laws of the state.

Sec. 6. NEW SECTION. 225C.29 COMPLIANCE.

Except for a violation of section 225C.28, subsection 9, the sole remedy for violation of a rule adopted by the division to enforce or implement this Act shall be by a proceeding for compliance initiated by request to the division pursuant to chapter 17A. Any decision of the division shall be in accordance with due process of law and is subject to appeal to the Iowa district court pursuant to sections 17A.19 and 17A.20 by any aggrieved party. Either the division or a party in interest may apply to the Iowa district court for an order to enforce the decision of the division. Neither this Act nor any rules adopted by the division create any right, entitlement, property or liberty right or interest, or private cause of action for damages against a municipality as defined in chapter 613A or for which such municipality would be responsible. Any violation of section 225C.28, subsection 9 shall be subject to the enforcement by the commissioner of insurance and penalties granted by chapter 507B for a violation of section 507B.4, subsection 7.

Sec. 7. The commissioner of human services shall create an advisory committee to develop a bill of rights implementation plan and process for individuals pursuant to section 225C.28. The advisory committee shall include no more than twenty members, including representatives of the association for retarded citizens of Iowa, the Iowa association of rehabilitation and residential facilities, the mental health

association of Iowa, the mental health centers association of Iowa, and the state developmental disabilities planning council, all of which shall be designated by their respective bodies; state departments and agencies affected by the bill of rights, including but not limited to, the department of public instruction, the department of health, and the university of Iowa; the Iowa state association of counties; and two state senators, one of each political party, and two state representatives, one of each political party, appointed by the legislative council. The advisory committee shall advise the mental health and mental retardation commission and the council on human services regarding proposed rules or standards relating to implementation of the bill of rights.

The implementation plan and process shall include establishing definitions of the services system, the defining of individual assessment, a service inventory, and uniform individual assessments. The mental health and mental retardation commission shall identify specific core services to assist counties to implement services to comply with sections 225C.25 through 225C.29. The commission shall adopt minimum standards for individualized treatment, habilitation, and program services; least restrictive environment and age-appropriate services; and vocational training and employment options, pursuant to section 225C.28. The commissioner may require completion of an individual assessment form by known providers or caretakers for individuals covered under this Act served by the provider or caretaker since July 1, 1984 and individual assessments for clients currently entering into the delivery system. The commissioner may take appropriate action in the event of noncompliance of the requirement. Confidentiality rules pursuant to section 217.30 shall apply to this section.

The director of the division of mental health, mental retardation, and developmental disabilities is responsible for the completion of the implementation plan and process. The

director may utilize available services and publicly-funded agencies for the purpose of carrying out the uniform individual assessment process. It is the intent of the general assembly that additional expense will not be incurred when publicly funded agencies are carrying out their normal evaluation and assessment function. The director shall submit a report to the general assembly by April 1, 1986 regarding the results of the implementation plan and process, establishing the level of function and specific appropriate services of the receiving populations and selected subgroups thereof, the estimated costs to implement the services, and required legislation.

As appropriate, the council on human services, the mental health and mental retardation commission, the department of health, and other appropriate agencies shall develop rules by January 1, 1987 to implement the services pursuant to section 225C.28. The rules may permit implementation of the services on a phased-in basis.

The legislative council shall establish a two-year interim study committee beginning during the 1985 interim to review and monitor actions taken by the commissioner of human services, department of human services, mental health and mental retardation commission, council on human services, division of mental health, mental retardation, and developmental disabilities, the advisory committee, and other agencies affected by this Act regarding the bill of rights pursuant to sections 225C.25 through 225C.28, and to review and propose alternatives to the present funding methods for the mandated services.

Sec. 8. There is appropriated from the general fund of the state to the department of human services for each fiscal year for the fiscal period beginning July 1, 1985 and ending June 30, 1987, the sum of one hundred nine thousand (109,000) dollars, or so much thereof as is necessary, for five full-time equivalent positions, to carry out the intent of this Act.

Sec. 9. This Act takes effect July 1, 1985 except section 5 which takes effect July 1, 1987, providing that legislation is enacted by the general assembly before July 1, 1987, which provides a fair and equitable funding formula for the implementation of section 5 of this Act.

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ROBERT T. ANDERSON  
President of the Senate

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DONALD D. AVENSON  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 473, Seventy-first General Assembly.

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K. MARIE THAYER  
Secretary of the Senate

Approved May 31, 1985

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TERRY E. BRANSTAD  
Governor

**S.F. 473**