

FEB 20 1990

HOUSE FILE 2508
BY COMMITTEE ON JUDICIARY
AND LAW ENFORCEMENT

Place On Calendar

(SUCCESSOR TO HF 2311)

Passed House, Date 3/6/90 (p. 913) Passed Senate, Date _____
Vote: Ayes 93 Nays 3 Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the commitment and treatment of chronic
2 substance abusers.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2508

1 Section 1. Section 125.2, Code Supplement 1989, is amended
2 by adding the following new subsections:

3 NEW SUBSECTION. 4A. "Chronic substance abuser" means a
4 person who meets all of the following criteria:

5 a. Habitually lacks self control as to the use of chemical
6 substances to the extent that the person is likely to
7 seriously endanger the person's health, or to physically
8 injure the person's self or others, if allowed to remain at
9 liberty without treatment.

10 b. Lacks sufficient judgment to make responsible decisions
11 with respect to the person's hospitalization or treatment.

12 NEW SUBSECTION. 14A. "Substance abuse" means the use of
13 chemical substances by persons suffering from chemical
14 dependency, persons who are incapacitated by a chemical
15 substance, substance abusers, or chronic substance abusers.

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16 Sec. 2. Section 125.9, subsections 2 and 4, Code 1989, are
17 amended to read as follows:

18 2. Make contracts necessary or incidental to the
19 performance of the duties and the execution of the powers of
20 the director, including contracts with public and private
21 agencies, organizations and individuals to pay them for
22 services rendered or furnished to substance abusers, chronic
23 substance abusers, or intoxicated persons.

24 4. Co-ordinate the activities of the department and co-
25 operate with substance abuse programs in this and other
26 states, and make contracts and other joint or co-operative
27 arrangements with state, local or private agencies in this and
28 other states for the treatment of substance abusers, chronic
29 substance abusers, and intoxicated persons and for the common
30 advancement of substance abuse programs.

31 Sec. 3. Section 125.10, Code 1989, is amended to read as
32 follows:

33 125.10 DUTIES OF DIRECTOR.

34 The director shall:

35 1. Prepare and submit a state plan subject to approval by

1 the commission and in accordance with the provisions of 42
2 U.S.C. sec. 4573. The state plan shall designate the
3 department as the sole agency for supervising the
4 administration of the plan.

5 2. Develop, encourage, and foster state-wide, regional and
6 local plans and programs for the prevention of substance abuse
7 and the treatment of substance abusers, chronic substance
8 abusers, and intoxicated persons in co-operation with public
9 and private agencies, organizations and individuals, and
10 provide technical assistance and consultation services for
11 these purposes.

12 3. Co-ordinate the efforts and enlist the assistance of
13 all public and private agencies, organizations and individuals
14 interested in the prevention of substance abuse and the
15 treatment of substance abusers, chronic substance abusers, and
16 intoxicated persons.

17 4. Co-operate with the department of human services in
18 establishing and conducting programs to provide treatment for
19 substance abusers, chronic substance abusers, and intoxicated
20 persons.

21 5. Co-operate with the department of education, boards of
22 education, schools, police departments, courts, and other
23 public and private agencies, organizations, and individuals in
24 establishing programs for the prevention of substance abuse
25 and the treatment of substance abusers, chronic substance
26 abusers, and intoxicated persons, and in preparing relevant
27 curriculum materials ~~thereon~~ for use at all levels of school
28 education.

29 6. Prepare, publish, evaluate and disseminate educational
30 material dealing with the nature and effects of chemical
31 substances.

32 7. Develop and implement, as an integral part of treatment
33 programs, an educational program for use in the treatment of
34 substance abusers, chronic substance abusers, and intoxicated
35 persons, which program shall include the dissemination of

1 information concerning the nature and effects of chemical
2 substances.

3 8. Organize and implement, in co-operation with local
4 treatment programs, training programs for all persons engaged
5 in treatment of substance abusers, chronic substance abusers,
6 and intoxicated persons.

7 9. Sponsor and implement research in co-operation with
8 local treatment programs into the causes and nature of
9 substance abuse and treatment of substance abusers, chronic
10 substance abusers, and intoxicated persons, and serve as a
11 clearing house for information relating to substance abuse.

12 10. Specify uniform methods for keeping statistical
13 information by public and private agencies, organizations and
14 individuals, and collect and make available relevant
15 statistical information, including number of persons treated,
16 frequency of admission and readmission, and frequency and
17 duration of treatment.

18 11. Develop and implement, with the counsel and approval
19 of the commission, a comprehensive plan for treatment of
20 substance abusers, chronic substance abusers, and intoxicated
21 persons, ~~said plan to be co-ordinated with health systems~~
22 agencies.

23 12. Assist in the development of, and co-operate with,
24 substance abuse education and treatment programs for employees
25 of state and local governments and businesses and industries
26 in the state.

27 13. Utilize the support and assistance of interested
28 persons in the community, particularly recovered substance
29 abusers and chronic substance abusers, to encourage substance
30 abusers and chronic substance abusers to voluntarily undergo
31 treatment.

32 14. Co-operate with the commissioner of public safety in
33 establishing and conducting programs designed to deal with the
34 problem of persons operating motor vehicles while intoxicated.

35 15. Encourage general hospitals and other appropriate

1 health facilities to admit without discrimination substance
2 abusers, chronic substance abusers, and intoxicated persons
3 and to provide them with adequate and appropriate treatment,
4 and. The director may negotiate and implement contracts with
5 hospitals and other appropriate health facilities with
6 adequate detoxification facilities.

7 16. Encourage all health and disability insurance programs
8 to include substance abuse as a covered illness.

9 17. Review all state health, welfare, education and
10 treatment proposals to be submitted for federal funding under
11 federal legislation, and advise the governor on provisions to
12 be included relating to substance abuse, and substance
13 abusers, chronic substance abusers, and intoxicated persons.

14 Sec. 4. Section 125.12, subsections 1 and 3, Code 1989,
15 are amended to read as follows:

16 1. The commission shall review a comprehensive and co-
17 ordinated program for the treatment of substance abusers,
18 chronic substance abusers, intoxicated persons, and concerned
19 family members. Subject to the review of the commission, the
20 director shall divide the state into appropriate regions for
21 the conduct of the program and establish standards for the
22 development of the program on the regional level. In
23 establishing the regions, consideration shall be given to city
24 and county lines, population concentrations, and existing
25 substance abuse treatment services. In determining the
26 regions, the director is not required to follow the regional
27 map as prepared by the former office for planning and
28 programming.

29 3. The director shall provide for adequate and appropriate
30 treatment for substance abusers, chronic substance abusers,
31 intoxicated persons, and concerned family members admitted
32 under sections 125.33 and 125.34, or under section 125.75,
33 125.81, or 125.91. Treatment shall not be provided at a
34 correctional institution except for inmates.

35 Sec. 5. Section 125.13, subsection 1, unnumbered paragraph

1 1, Code Supplement 1989, is amended to read as follows:

2 Except as provided in subsection 2 ~~of this section~~, a
3 person ~~may~~ shall not maintain or conduct any chemical
4 substitutes or antagonists program, residential program, or
5 nonresidential outpatient program, the primary purpose of
6 which is the treatment and rehabilitation of substance abusers
7 or chronic substance abusers without having first obtained a
8 written license for the program from the department.

9 Sec. 6. Section 125.13, subsection 2, paragraphs a and c,
10 Code Supplement 1989, are amended to read as follows:

11 a. A hospital providing care or treatment to substance
12 abusers or chronic substance abusers licensed under chapter
13 135B which is accredited by the joint commission on the
14 accreditation of health care organizations, the commission on
15 accreditation of rehabilitation facilities, the American
16 osteopathic association, or another recognized organization
17 approved by the commission. All survey reports from the
18 accrediting or licensing body must be sent to the department.

19 c. Private institutions conducted by and for persons who
20 adhere to the faith of any well recognized church or religious
21 denomination for the purpose of providing care, treatment,
22 counseling, or rehabilitation to substance abusers or chronic
23 substance abusers and who rely solely on prayer or other
24 spiritual means for healing in the practice of religion of
25 such church or denomination.

26 Sec. 7. Section 125.32, unnumbered paragraph 1, Code 1989,
27 is amended to read as follows:

28 The department shall adopt and may amend and repeal rules
29 for acceptance of persons into the treatment program, subject
30 to chapter 17A, considering available treatment resources and
31 facilities, for the purpose of early and effective treatment
32 of substance abusers, chronic substance abusers, intoxicated
33 persons, and concerned family members. In establishing the
34 rules the department shall be guided by the following
35 standards:

1 Sec. 8. Section 125.33, subsections 1, 3, and 4, Code
2 1989, are amended to read as follows:

3 1. A substance abuser or chronic substance abuser may
4 apply for voluntary treatment or rehabilitation services
5 directly to a facility or to a licensed physician and surgeon
6 or osteopathic physician and surgeon. If the proposed patient
7 is a minor or an incompetent person, a parent, a legal
8 guardian or other legal representative may make the
9 application. The licensed physician and surgeon or
10 osteopathic physician and surgeon or any employee or person
11 acting under the direction or supervision of the physician and
12 surgeon or osteopathic physician and surgeon, or the facility
13 shall not report or disclose the name of the person or the
14 fact that treatment was requested or has been undertaken to
15 any law enforcement officer or law enforcement agency; nor
16 shall such information be admissible as evidence in any court,
17 grand jury, or administrative proceeding unless authorized by
18 the person seeking treatment. If the person seeking such
19 treatment or rehabilitation is a minor who has personally made
20 application for treatment, the fact that the minor sought
21 treatment or rehabilitation or is receiving treatment or
22 rehabilitation services shall not be reported or disclosed to
23 the parents or legal guardian of such minor without the
24 minor's consent, and the minor may give legal consent to
25 receive such treatment and rehabilitation.

26 3. A substance abuser or chronic substance abuser seeking
27 treatment or rehabilitation and who is either addicted or
28 dependent on a chemical substance may first be examined and
29 evaluated by a licensed physician and surgeon or osteopathic
30 physician and surgeon who may prescribe a proper course of
31 treatment and medication, if needed. The licensed physician
32 and surgeon or osteopathic physician and surgeon may further
33 prescribe a course of treatment or rehabilitation and
34 authorize another licensed physician and surgeon or
35 osteopathic physician and surgeon or facility to provide the

1 prescribed treatment or rehabilitation services. Treatment or
2 rehabilitation services may be provided to a person
3 individually or in a group. A facility providing or engaging
4 in treatment or rehabilitation shall not report or disclose to
5 a law enforcement officer or law enforcement agency the name
6 of any person receiving or engaged in the treatment or
7 rehabilitation; nor shall a person receiving or participating
8 in treatment or rehabilitation report or disclose the name of
9 any other person engaged in or receiving treatment or
10 rehabilitation or that the program is in existence, to a law
11 enforcement officer or law enforcement agency. Such
12 information shall not be admitted in evidence in any court,
13 grand jury, or administrative proceeding. However, a person
14 engaged in or receiving treatment or rehabilitation may
15 authorize the disclosure of the person's name and individual
16 participation.

17 4. If a patient receiving inpatient or residential care
18 leaves a facility, the patient shall be encouraged to consent
19 to appropriate outpatient or halfway house treatment. If it
20 appears to the administrator in charge of the facility that
21 the patient is a substance abuser or chronic substance abuser
22 who requires help, the director may arrange for assistance in
23 obtaining supportive services.

24 Sec. 9. Section 125.43, Code 1989, is amended to read as
25 follows:

26 125.43 FUNDING AT MENTAL HEALTH INSTITUTES.

27 Chapter 230 governs the determination of the costs and
28 payment for treatment provided to substance abusers or chronic
29 substance abusers in a mental health institute under the
30 department of human services, except that the charges are not
31 a lien on real estate owned by persons legally liable for
32 support of the substance abuser or chronic substance abuser
33 and the daily per diem shall be billed at twenty-five percent.
34 The superintendent of a state hospital shall total only those
35 expenditures which can be attributed to the cost of providing

1 inpatient treatment to substance abusers or chronic substance
2 abusers for purposes of determining the daily per diem.
3 Section 125.44 governs the determination of who is legally
4 liable for the cost of care, maintenance, and treatment of a
5 substance abuser or chronic substance abuser and of the amount
6 for which the person is liable.

7 Sec. 10. Section 125.44, Code Supplement 1989, is amended
8 to read as follows:

9 125.44 AGREEMENTS WITH FACILITIES -- LIABILITY FOR COSTS.

10 The director may, consistent with the comprehensive
11 substance abuse program, enter into written agreements with a
12 facility as defined in section 125.2 to pay for one hundred
13 percent of the cost of the care, maintenance, and treatment of
14 a substance ~~abuser~~ abusers and chronic substance abusers,
15 except when section 125.43A applies. All payments for state
16 patients shall be made in accordance with the limitations of
17 this section. Such contracts shall be for a period of no more
18 than one year.

19 The contract may be in the form and contain provisions as
20 agreed upon by the parties. The contract shall provide that
21 the facility shall admit and treat substance abusers and
22 chronic substance abusers regardless of where they have
23 residence. If one payment for care, maintenance, and
24 treatment is not made by the patient or those legally liable
25 for the patient, the payment shall be made by the department
26 directly to the facility. Payments shall be made each month
27 and shall be based upon the rate of payment for services
28 negotiated between the department and the contracting
29 facility. If a facility projects a temporary cash flow
30 deficit, the department may make cash advances at the
31 beginning of each fiscal year to the facility. The repayment
32 schedule for advances shall be part of the contract between
33 the department and the facility. This section does not
34 pertain to patients treated at the mental health institutes.
35 If the appropriation to the department is insufficient to

1 meet the requirements of this section, the department shall
2 request a transfer of funds and section 8.39 shall apply.
3 The substance abuser or chronic substance abuser is legally
4 liable to the facility for the total amount of the cost of
5 providing care, maintenance, and treatment for the substance
6 abuser or chronic substance abuser while a voluntary or
7 committed patient in a facility. This section does not
8 prohibit any individual from paying any portion of the cost of
9 treatment.

10 The department is liable for the cost of care, treatment,
11 and maintenance of a substance abuser abusers and chronic
12 substance abusers admitted to the facility voluntarily or
13 pursuant to section 125.75, 125.81, or 125.91 or section
14 321J.3 or 204.409, subsection 2 only to those facilities that
15 have a contract with the department under this section, only
16 for the amount computed according to and within the limits of
17 liability prescribed by this section, and only when the
18 substance abuser or chronic substance abuser is unable to pay
19 the costs and there is no other person, firm, corporation, or
20 insurance company bound to pay the costs.

21 The department's maximum liability for the costs of care,
22 treatment, and maintenance of substance abusers and chronic
23 substance abusers in a contracting facility is limited to the
24 total amount agreed upon by the parties and specified in the
25 contract under this section.

26 Sec. 11. Section 125.46, Code 1989, is amended to read as
27 follows:

28 125.46 COUNTY OF RESIDENCE DETERMINED.

29 The facility shall, when a substance abuser or chronic
30 substance abuser is admitted, or as soon thereafter as it
31 receives the proper information, determine and enter upon its
32 records the Iowa county of residence of the substance abuser
33 or chronic substance abuser, or that the person resides in
34 some other state or country, or that the person is
35 unclassified with respect to residence.

1 Sec. 12. Section 125.75, Code 1989, is amended to read as
2 follows:

3 125.75 INVOLUNTARY COMMITMENT OR TREATMENT -- APPLICATION.

4 Proceedings for the involuntary commitment or treatment of
5 a chronic substance abuser to a facility may be commenced by
6 the county attorney or an interested person by filing a
7 verified application with the clerk of the district court of
8 the county where the respondent is presently located or which
9 is the respondent's place of residence. The clerk or the
10 clerk's designee shall assist the applicant in completing the
11 application. The application shall:

12 1. State the applicant's belief that the respondent is a
13 chronic substance abuser.

14 2. State any other pertinent facts.

15 3. Be accompanied by one or more of the following:

16 a. A written statement of a licensed physician in support
17 of the application.

18 b. One or more supporting affidavits corroborating the
19 application.

20 c. Corroborative information obtained and reduced to
21 writing by the clerk or the clerk's designee, but only when
22 circumstances make it infeasible to obtain, or when the clerk
23 considers it appropriate to supplement, the information under
24 either paragraph "a" or paragraph "b".

25 Sec. 13. Section 125.80, subsections 3 and 4, Code 1989,
26 are amended to read as follows:

27 3. If the report of a court-designated physician is to the
28 effect that the respondent is not a chronic substance abuser,
29 the court, without taking further action, may terminate the
30 proceeding and dismiss the application on its own motion and
31 without notice.

32 4. If the report of a court-designated physician is to the
33 effect that the respondent is a chronic substance abuser, the
34 court shall schedule a commitment hearing as soon as possible.
35 The hearing shall be held not more than forty-eight hours

1 after the report is filed, excluding Saturdays, Sundays, and
2 holidays, unless an extension for good cause is requested by
3 the respondent, or as soon thereafter as possible if the court
4 considers that sufficient grounds exist for delaying the
5 hearing.

6 Sec. 14. Section 125.81, unnumbered paragraph 1, Code
7 1989, is amended to read as follows:

8 If a person filing an application requests that a
9 respondent be taken into immediate custody, and the judge upon
10 reviewing the application and accompanying documentation,
11 finds probable cause to believe that the respondent is a
12 chronic substance abuser who is likely to injure the person or
13 other persons if allowed to remain at liberty, the judge may
14 enter a written order directing that the respondent be taken
15 into immediate custody by the sheriff, and be detained until
16 the commitment hearing, which shall be held no more than five
17 days after the date of the order, except that if the fifth day
18 after the date of the order is a Saturday, Sunday, or a
19 holiday, the hearing may be held on the next business day.
20 The judge may order the respondent detained for the period of
21 time until the hearing is held, and no longer except as
22 provided in section 125.88, in accordance with subsection 1 if
23 possible, and if not, then in accordance with subsection 2 or,
24 only if neither of these alternatives is available in
25 accordance with subsection 3. Detention may be:

26 Sec. 15. Section 125.82, subsection 4, Code 1989, is
27 amended to read as follows:

28 4. The respondent's welfare is paramount, and the hearing
29 shall be tried as a civil matter and conducted in as informal
30 a manner as is consistent with orderly procedure. Discovery
31 as permitted under the Iowa rules of civil procedure is
32 available to the respondent. The court shall receive all
33 relevant and material evidence, but the court is not bound by
34 the rules of evidence. A presumption in favor of the
35 respondent exists, and the burden of evidence and support of

1 the contentions made in the application shall be upon the
2 person who filed the application. If upon completion of the
3 hearing the court finds that the contention that the
4 respondent is a chronic substance abuser has not been
5 sustained by clear and convincing evidence, the court shall
6 deny the application and terminate the proceeding.

7 Sec. 16. Section 125.83, Code 1989, is amended to read as
8 follows:

9 125.83 PLACEMENT FOR EVALUATION.

5434 10 If upon completion of the commitment hearing, the court
11 finds that the contention that the respondent is a chronic
12 substance abuser has been sustained by clear and convincing
13 evidence, the court shall order the respondent placed at a
14 facility as expeditiously as possible for a complete
15 evaluation and appropriate treatment. The court shall furnish
16 to the facility at the time of admission, a written statement
17 of facts setting forth the evidence on which the finding is
18 based. The administrator of the facility shall report to the
19 court no more than fifteen days after the individual is
20 admitted to the facility, which shall include the chief
21 medical officer's recommendation concerning substance abuse
22 treatment. An extension of time may be granted for a period
23 not to exceed seven days upon a showing of good cause. A copy
24 of the report shall be sent to the respondent's attorney who
25 may contest the need for an extension of time if one is
26 requested. If the request is contested, the court shall make
27 an inquiry as it deems appropriate and may either order the
28 respondent released from the facility or grant extension of
29 time for further evaluation.

30 Sec. 17. Section 125.84, subsections 2, 3, and 4, Code
31 1989, are amended to read as follows:

32 2. That the respondent is a chronic substance abuser who
33 is in need of full-time custody, care, and treatment in a
34 facility, and is considered likely to benefit from treatment.
35 If the report so states, the court may order the respondent's

1 continued placement and commitment to a facility for
2 appropriate treatment.

3 3. That the respondent is a chronic substance abuser who
4 is in need of treatment, but does not require full-time
5 placement in a facility. If the report so states, the report
6 shall include the chief medical officer's recommendation for
7 treatment of the respondent on an outpatient or other
8 appropriate basis, and the court may enter an order directing
9 the respondent to submit to the recommended treatment. The
10 order shall provide that if the respondent fails or refuses to
11 submit to treatment, as directed by the court's order, the
12 court may order that the respondent be taken into immediate
13 custody as provided by section 125.81 and, following notice
14 and hearing held in accordance with the procedures of sections
15 125.77 and 125.82, may order the respondent treated as a
16 patient requiring full-time custody, care, and treatment as
17 provided in subsection 2, and may order the respondent
18 involuntarily committed to a facility.

19 4. That the respondent is a chronic substance abuser who
20 is in need of treatment, but in the opinion of the chief
21 medical officer is not responding to the treatment provided.
22 If the report so states, the report shall include the facility
23 administrator's recommendation for alternative placement, and
24 the court may order the respondent's transfer to the
25 recommended placement or to another placement after
26 consultation with respondent's attorney and the facility
27 administrator who made the report under this subsection.

28 Sec. 18. Section 125.91, subsection 3, Code 1989, is
29 amended to read as follows:

30 3. Upon arrival at the facility, the magistrate shall at
31 once review the validity of the detention. Unless convinced
32 upon initial inquiry that there are no grounds for further
33 detention of the person, the magistrate shall ensure that the
34 person has or is provided legal counsel at the earliest
35 practical time in the manner prescribed by section 125.78,

1 subsection 1, and shall arrange for the counsel to be present,
2 if practical, before proceeding further under this subsection.
3 The magistrate shall immediately notify counsel of the
4 respondent's emergency detention. Counsel shall be afforded
5 an opportunity to visit the respondent and to make appropriate
6 preparations before or after the magistrate's order is issued.
7 If the magistrate finds, upon review of the information
8 presented by the administrator under subsection 2 and of other
9 information or evidence the magistrate deems relevant, that
10 there is probable cause to believe that the circumstances
11 described in subsection 1 are applicable, the magistrate shall
12 enter a written order detaining the person at the facility,
13 or, if the facility where the person is at the time is not an
14 appropriate facility, detaining and transporting the person to
15 an appropriate facility. The magistrate's order shall state
16 the circumstances under which the person was detained or
17 otherwise delivered to a facility, and the grounds supporting
18 the finding of probable cause to believe that person is a
19 chronic substance abuser likely to physically injure the
20 person or others if not detained. The order shall be filed
21 with the clerk in the county where it is anticipated that an
22 application will be filed under section 125.75, and a
23 certified copy of the order shall be delivered to the
24 administrator of the facility where the person is detained, at
25 the earliest practical time.

26 Sec. 19. Section 229.21, subsections 3 and 4, Code 1989,
27 are amended to read as follows:

28 3. When an application for involuntary hospitalization
29 under this chapter or an application for involuntary
30 commitment or treatment of chronic substance abusers under
31 sections 125.75 to 125.94 is filed with the clerk of the
32 district court in any county for which a judicial
33 hospitalization referee has been appointed, and no district
34 judge is accessible in the county, the clerk shall immediately
35 notify the referee in the manner required by section 229.7 or

1 section 125.77. The referee shall discharge all of the duties
2 imposed upon judges of the district court or magistrates by
3 sections 229.7 to 229.19 or sections 125.75 to 125.94 in the
4 proceeding so initiated. If an emergency hospitalization
5 proceeding is initiated under section 229.22 a judicial
6 hospitalization referee may perform the duties imposed upon a
7 magistrate by that section. However, any commitment to a
8 facility regulated and operated under chapter 135C, shall be
9 in accordance with section 135C.23.

10 4. Any respondent with respect to whom the judicial
11 hospitalization referee has found the contention that the
12 respondent is seriously mentally impaired or a chronic
13 substance abuser sustained by clear and convincing evidence
14 presented at a hearing held under section 229.12 or section
15 125.82, may appeal from the referee's finding to a judge of
16 the district court by giving the clerk notice in writing,
17 within seven days after the referee's finding is made, that an
18 appeal therefrom is taken. The appeal may be signed by the
19 respondent or by the respondent's next friend, guardian or
20 attorney. When so appealed, the matter shall stand for trial
21 de novo. Upon appeal, the court shall schedule a
22 hospitalization or commitment hearing before a district judge
23 at the earliest practicable time.

24 Sec. 20. Section 230.15, unnumbered paragraph 2, Code
25 1989, is amended to read as follows:

26 A substance abuser or chronic substance abuser is legally
27 liable for the total amount of the cost of providing care,
28 maintenance, and treatment for the substance abuser or chronic
29 substance abuser while a voluntary or committed patient. When
30 a portion of the cost is paid by a county, the substance
31 abuser or chronic substance abuser is legally liable to the
32 county for the amount paid. The substance abuser or chronic
33 substance abuser shall assign any claim for reimbursement
34 under any contract of indemnity, by insurance or otherwise,
35 providing for the abuser's care, maintenance, and treatment in

1 a state hospital to the state. Any payments received by the
2 state from or on behalf of a substance abuser or chronic
3 substance abuser shall be in part credited to the county in
4 proportion to the share of the costs paid by the county.
5 Nothing in this section shall be construed to prevent a
6 relative or other person from voluntarily paying the full
7 actual cost or any portion of the care and treatment of any
8 mentally ill person, or substance abuser, or chronic substance
9 abuser as established by the department of human services.

10

EXPLANATION

11 This bill adds the definition of chronic substance abuser
12 to section 125.2 to require that a person must be a danger to
13 the person's self or others and lack sufficient judgment to
14 make responsible treatment decisions as the result of the
15 habitual use of chemical substances, in order to be
16 involuntarily hospitalized under chapter 125. The bill also
17 adds the term chronic substance abuser to numerous other Code
18 provisions to correspond to the addition of the term to
19 chapter 125.

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HOUSE FILE 2508

H-5434

- 1 Amend House File 2508 as follows:
- 2 1. Page 12, line 14, by inserting after the word
- 3 "facility" the following: "or under the care of a
- 4 suitable facility on an outpatient basis".
- 5 2. Page 12, line 16, by inserting after the word
- 6 "admission" the following: "or outpatient placement".
- 7 3. Page 12, line 20, by inserting after the word
- 8 "to" the following: "or placed under the care of".

By SHEARER of Louisa

H-5434 FILED FEBRUARY 28, 1990

Adopted 3/6 (p. 913)

HOUSE FILE 2508

H-5544

- 1 Amend House File 2508 as follows:
- 2 1. Page 1, by inserting after line 15, the
- 3 following:
- 4 "Sec. ____ . Section 125.2, subsections 2 and 11,
- 5 Code Supplement 1989, are amended to read as follows:
- 6 2. "Chemical substance" means alcohol, wine,
- 7 spirits, and beer as defined in chapter 123 and drugs
- 8 controlled substances as defined in section 203B:2
- 9 204.101~~7~~-subsection-7, which when used improperly
- 10 could result in chemical dependency.
- x 11 11. "Interested person" means a person who ~~7~~ in the
- 12 discretion of the court, is legitimately concerned
- 13 that a respondent receive substance abuse treatment
- 14 services is a member of the respondent's family or
- 15 household, is a law enforcement officer, or is an
- 16 official or employee of the department of human
- 17 services."

By LUNDBY of Linn

H-5544 FILED MARCH 5, 1990

Adopted as amended by 5549 3/6 (p. 913)

HOUSE FILE 2508

H-5549

- 1 Amend H-5544, to House File 2508, as follows:
- 2 1. Page 1, by striking lines 11 through 17.

By LUNDBY of Linn

H-5549 FILED MARCH 6, 1990

2 ADOPTED BY UNANIMOUS CONSENT *(p. 913)*

Am. Judiciary 3/7 Do Pass 3/12 (y. 987)

HOUSE FILE 2508
BY COMMITTEE ON JUDICIARY
AND LAW ENFORCEMENT

(SUCCESSOR TO HF 2311)

(As Amended and Passed by the House March 6, 1990)

Passed House, Date 3/6/90 (p. 913) Passed Senate, Date 3/15/90 (p. 1114)
Vote: Ayes 93 Nays 3 Vote: Ayes 41 Nays 0
Approved March 27, 1990

A BILL FOR

1 An Act relating to the commitment and treatment of chronic
2 substance abusers.

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

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House Amendments _____

1 Section 1. Section 125.2, Code Supplement 1989, is amended
2 by adding the following new subsections:

3 NEW SUBSECTION. 4A. "Chronic substance abuser" means a
4 person who meets all of the following criteria:

5 a. Habitually lacks self control as to the use of chemical
6 substances to the extent that the person is likely to
7 seriously endanger the person's health, or to physically
8 injure the person's self or others, if allowed to remain at
9 liberty without treatment.

10 b. Lacks sufficient judgment to make responsible decisions
11 with respect to the person's hospitalization or treatment.

12 NEW SUBSECTION. 14A. "Substance abuse" means the use of
13 chemical substances by persons suffering from chemical
14 dependency, persons who are incapacitated by a chemical
15 substance, substance abusers, or chronic substance abusers.

16 Sec. 2. Section 125.2, subsection 2, Code Supplement 1989,
17 is amended to read as follows:

18 2. "Chemical substance" means alcohol, wine, spirits, and
19 beer as defined in chapter 123 and drugs controlled substances
20 as defined in section 203B-2 204.1017-subsection-77-which-when
21 used-improperly-could-result-in-chemical-dependency.

22 Sec. 3. Section 125.9, subsections 2 and 4, Code 1989, are
23 amended to read as follows:

24 2. Make contracts necessary or incidental to the
25 performance of the duties and the execution of the powers of
26 the director, including contracts with public and private
27 agencies, organizations and individuals to pay them for
28 services rendered or furnished to substance abusers, chronic
29 substance abusers, or intoxicated persons.

30 4. Co-ordinate the activities of the department and co-
31 operate with substance abuse programs in this and other
32 states, and make contracts and other joint or co-operative
33 arrangements with state, local or private agencies in this and
34 other states for the treatment of substance abusers, chronic
35 substance abusers, and intoxicated persons and for the common

1 advancement of substance abuse programs.

2 Sec. 4. Section 125.10, Code 1989, is amended to read as
3 follows:

4 125.10 DUTIES OF DIRECTOR.

5 The director shall:

6 1. Prepare and submit a state plan subject to approval by
7 the commission and in accordance with the provisions of 42
8 U.S.C. sec. 4573. The state plan shall designate the
9 department as the sole agency for supervising the
10 administration of the plan.

11 2. Develop, encourage, and foster state-wide, regional and
12 local plans and programs for the prevention of substance abuse
13 and the treatment of substance abusers, chronic substance
14 abusers, and intoxicated persons in co-operation with public
15 and private agencies, organizations and individuals, and
16 provide technical assistance and consultation services for
17 these purposes.

18 3. Co-ordinate the efforts and enlist the assistance of
19 all public and private agencies, organizations and individuals
20 interested in the prevention of substance abuse and the
21 treatment of substance abusers, chronic substance abusers, and
22 intoxicated persons.

23 4. Co-operate with the department of human services in
24 establishing and conducting programs to provide treatment for
25 substance abusers, chronic substance abusers, and intoxicated
26 persons.

27 5. Co-operate with the department of education, boards of
28 education, schools, police departments, courts, and other
29 public and private agencies, organizations, and individuals in
30 establishing programs for the prevention of substance abuse
31 and the treatment of substance abusers, chronic substance
32 abusers, and intoxicated persons, and in preparing relevant
33 curriculum materials ~~thereon~~ for use at all levels of school
34 education.

35 6. Prepare, publish, evaluate and disseminate educational

1 material dealing with the nature and effects of chemical
2 substances.

3 7. Develop and implement, as an integral part of treatment
4 programs, an educational program for use in the treatment of
5 substance abusers, chronic substance abusers, and intoxicated
6 persons, which program shall include the dissemination of
7 information concerning the nature and effects of chemical
8 substances.

9 8. Organize and implement, in co-operation with local
10 treatment programs, training programs for all persons engaged
11 in treatment of substance abusers, chronic substance abusers,
12 and intoxicated persons.

13 9. Sponsor and implement research in co-operation with
14 local treatment programs into the causes and nature of
15 substance abuse and treatment of substance abusers, chronic
16 substance abusers, and intoxicated persons, and serve as a
17 clearing house for information relating to substance abuse.

18 10. Specify uniform methods for keeping statistical
19 information by public and private agencies, organizations and
20 individuals, and collect and make available relevant
21 statistical information, including number of persons treated,
22 frequency of admission and readmission, and frequency and
23 duration of treatment.

24 11. Develop and implement, with the counsel and approval
25 of the commission, a comprehensive plan for treatment of
26 substance abusers, chronic substance abusers, and intoxicated
27 persons, ~~said plan to be co-ordinated with health systems~~
28 agencies.

29 12. Assist in the development of, and co-operate with,
30 substance abuse education and treatment programs for employees
31 of state and local governments and businesses and industries
32 in the state.

33 13. Utilize the support and assistance of interested
34 persons in the community, particularly recovered substance
35 abusers and chronic substance abusers, to encourage substance

1 abusers and chronic substance abusers to voluntarily undergo
2 treatment.

3 14. Co-operate with the commissioner of public safety in
4 establishing and conducting programs designed to deal with the
5 problem of persons operating motor vehicles while intoxicated.

6 15. Encourage general hospitals and other appropriate
7 health facilities to admit without discrimination substance
8 abusers, chronic substance abusers, and intoxicated persons
9 and to provide them with adequate and appropriate treatment,
10 and. The director may negotiate and implement contracts with
11 hospitals and other appropriate health facilities with
12 adequate detoxification facilities.

13 16. Encourage all health and disability insurance programs
14 to include substance abuse as a covered illness.

15 17. Review all state health, welfare, education and
16 treatment proposals to be submitted for federal funding under
17 federal legislation, and advise the governor on provisions to
18 be included relating to substance abuse, and substance
19 abusers, chronic substance abusers, and intoxicated persons.

20 Sec. 5. Section 125.12, subsections 1 and 3, Code 1989,
21 are amended to read as follows:

22 1. The commission shall review a comprehensive and co-
23 ordinated program for the treatment of substance abusers,
24 chronic substance abusers, intoxicated persons, and concerned
25 family members. Subject to the review of the commission, the
26 director shall divide the state into appropriate regions for
27 the conduct of the program and establish standards for the
28 development of the program on the regional level. In
29 establishing the regions, consideration shall be given to city
30 and county lines, population concentrations, and existing
31 substance abuse treatment services. In determining the
32 regions, the director is not required to follow the regional
33 map as prepared by the former office for planning and
34 programming.

35 3. The director shall provide for adequate and appropriate

1 treatment for substance abusers, chronic substance abusers,
2 intoxicated persons, and concerned family members admitted
3 under sections 125.33 and 125.34, or under section 125.75,
4 125.81, or 125.91. Treatment shall not be provided at a
5 correctional institution except for inmates.

6 Sec. 6. Section 125.13, subsection 1, unnumbered paragraph
7 1, Code Supplement 1989, is amended to read as follows:

8 Except as provided in subsection 2 ~~of this section~~, a
9 person ~~may~~ shall not maintain or conduct any chemical
10 substitutes or antagonists program, residential program, or
11 nonresidential outpatient program, the primary purpose of
12 which is the treatment and rehabilitation of substance abusers
13 or chronic substance abusers without having first obtained a
14 written license for the program from the department.

15 Sec. 7. Section 125.13, subsection 2, paragraphs a and c,
16 Code Supplement 1989, are amended to read as follows:

17 a. A hospital providing care or treatment to substance
18 abusers or chronic substance abusers licensed under chapter
19 135B which is accredited by the joint commission on the
20 accreditation of health care organizations, the commission on
21 accreditation of rehabilitation facilities, the American
22 osteopathic association, or another recognized organization
23 approved by the commission. All survey reports from the
24 accrediting or licensing body must be sent to the department.

25 c. Private institutions conducted by and for persons who
26 adhere to the faith of any well recognized church or religious
27 denomination for the purpose of providing care, treatment,
28 counseling, or rehabilitation to substance abusers or chronic
29 substance abusers and who rely solely on prayer or other
30 spiritual means for healing in the practice of religion of
31 such church or denomination.

32 Sec. 8. Section 125.32, unnumbered paragraph 1, Code 1989,
33 is amended to read as follows:

34 The department shall adopt and may amend and repeal rules
35 for acceptance of persons into the treatment program, subject

1 to chapter 17A, considering available treatment resources and
2 facilities, for the purpose of early and effective treatment
3 of substance abusers, chronic substance abusers, intoxicated
4 persons, and concerned family members. In establishing the
5 rules the department shall be guided by the following
6 standards:

7 Sec. 9. Section 125.33, subsections 1, 3, and 4, Code
8 1989, are amended to read as follows:

9 1. A substance abuser or chronic substance abuser may
10 apply for voluntary treatment or rehabilitation services
11 directly to a facility or to a licensed physician and surgeon
12 or osteopathic physician and surgeon. If the proposed patient
13 is a minor or an incompetent person, a parent, a legal
14 guardian or other legal representative may make the
15 application. The licensed physician and surgeon or
16 osteopathic physician and surgeon or any employee or person
17 acting under the direction or supervision of the physician and
18 surgeon or osteopathic physician and surgeon, or the facility
19 shall not report or disclose the name of the person or the
20 fact that treatment was requested or has been undertaken to
21 any law enforcement officer or law enforcement agency; nor
22 shall such information be admissible as evidence in any court,
23 grand jury, or administrative proceeding unless authorized by
24 the person seeking treatment. If the person seeking such
25 treatment or rehabilitation is a minor who has personally made
26 application for treatment, the fact that the minor sought
27 treatment or rehabilitation or is receiving treatment or
28 rehabilitation services shall not be reported or disclosed to
29 the parents or legal guardian of such minor without the
30 minor's consent, and the minor may give legal consent to
31 receive such treatment and rehabilitation.

32 3. A substance abuser or chronic substance abuser seeking
33 treatment or rehabilitation and who is either addicted or
34 dependent on a chemical substance may first be examined and
35 evaluated by a licensed physician and surgeon or osteopathic

1 physician and surgeon who may prescribe a proper course of
2 treatment and medication, if needed. The licensed physician
3 and surgeon or osteopathic physician and surgeon may further
4 prescribe a course of treatment or rehabilitation and
5 authorize another licensed physician and surgeon or
6 osteopathic physician and surgeon or facility to provide the
7 prescribed treatment or rehabilitation services. Treatment or
8 rehabilitation services may be provided to a person
9 individually or in a group. A facility providing or engaging
10 in treatment or rehabilitation shall not report or disclose to
11 a law enforcement officer or law enforcement agency the name
12 of any person receiving or engaged in the treatment or
13 rehabilitation; nor shall a person receiving or participating
14 in treatment or rehabilitation report or disclose the name of
15 any other person engaged in or receiving treatment or
16 rehabilitation or that the program is in existence, to a law
17 enforcement officer or law enforcement agency. Such
18 information shall not be admitted in evidence in any court,
19 grand jury, or administrative proceeding. However, a person
20 engaged in or receiving treatment or rehabilitation may
21 authorize the disclosure of the person's name and individual
22 participation.

23 4. If a patient receiving inpatient or residential care
24 leaves a facility, the patient shall be encouraged to consent
25 to appropriate outpatient or halfway house treatment. If it
26 appears to the administrator in charge of the facility that
27 the patient is a substance abuser or chronic substance abuser
28 who requires help, the director may arrange for assistance in
29 obtaining supportive services.

30 Sec. 10. Section 125.43, Code 1989, is amended to read as
31 follows:

32 125.43 FUNDING AT MENTAL HEALTH INSTITUTES.

33 Chapter 230 governs the determination of the costs and
34 payment for treatment provided to substance abusers or chronic
35 substance abusers in a mental health institute under the

1 department of human services, except that the charges are not
2 a lien on real estate owned by persons legally liable for
3 support of the substance abuser or chronic substance abuser
4 and the daily per diem shall be billed at twenty-five percent.
5 The superintendent of a state hospital shall total only those
6 expenditures which can be attributed to the cost of providing
7 inpatient treatment to substance abusers or chronic substance
8 abusers for purposes of determining the daily per diem.

9 Section 125.44 governs the determination of who is legally
10 liable for the cost of care, maintenance, and treatment of a
11 substance abuser or chronic substance abuser and of the amount
12 for which the person is liable.

13 Sec. 11. Section 125.44, Code Supplement 1989, is amended
14 to read as follows:

15 125.44 AGREEMENTS WITH FACILITIES -- LIABILITY FOR COSTS.

16 The director may, consistent with the comprehensive
17 substance abuse program, enter into written agreements with a
18 facility as defined in section 125.2 to pay for one hundred
19 percent of the cost of the care, maintenance, and treatment of
20 a substance ~~abuser~~ abusers and chronic substance abusers,
21 except when section 125.43A applies. All payments for state
22 patients shall be made in accordance with the limitations of
23 this section. Such contracts shall be for a period of no more
24 than one year.

25 The contract may be in the form and contain provisions as
26 agreed upon by the parties. The contract shall provide that
27 the facility shall admit and treat substance abusers and
28 chronic substance abusers regardless of where they have
29 residence. If one payment for care, maintenance, and
30 treatment is not made by the patient or those legally liable
31 for the patient, the payment shall be made by the department
32 directly to the facility. Payments shall be made each month
33 and shall be based upon the rate of payment for services
34 negotiated between the department and the contracting
35 facility. If a facility projects a temporary cash flow

1 deficit, the department may make cash advances at the
2 beginning of each fiscal year to the facility. The repayment
3 schedule for advances shall be part of the contract between
4 the department and the facility. This section does not
5 pertain to patients treated at the mental health institutes.

6 If the appropriation to the department is insufficient to
7 meet the requirements of this section, the department shall
8 request a transfer of funds and section 8.39 shall apply.

9 The substance abuser or chronic substance abuser is legally
10 liable to the facility for the total amount of the cost of
11 providing care, maintenance, and treatment for the substance
12 abuser or chronic substance abuser while a voluntary or
13 committed patient in a facility. This section does not
14 prohibit any individual from paying any portion of the cost of
15 treatment.

16 The department is liable for the cost of care, treatment,
17 and maintenance of a substance abuser abusers and chronic
18 substance abusers admitted to the facility voluntarily or
19 pursuant to section 125.75, 125.81, or 125.91 or section
20 321J.3 or 204.409, subsection 2 only to those facilities that
21 have a contract with the department under this section, only
22 for the amount computed according to and within the limits of
23 liability prescribed by this section, and only when the
24 substance abuser or chronic substance abuser is unable to pay
25 the costs and there is no other person, firm, corporation, or
26 insurance company bound to pay the costs.

27 The department's maximum liability for the costs of care,
28 treatment, and maintenance of substance abusers and chronic
29 substance abusers in a contracting facility is limited to the
30 total amount agreed upon by the parties and specified in the
31 contract under this section.

32 Sec. 12. Section 125.46, Code 1989, is amended to read as
33 follows:

34 125.46 COUNTY OF RESIDENCE DETERMINED.

35 The facility shall, when a substance abuser or chronic

1 substance abuser is admitted, or as soon thereafter as it
2 receives the proper information, determine and enter upon its
3 records the Iowa county of residence of the substance abuser
4 or chronic substance abuser, or that the person resides in
5 some other state or country, or that the person is
6 unclassified with respect to residence.

7 Sec. 13. Section 125.75, Code 1989, is amended to read as
8 follows:

9 125.75 INVOLUNTARY COMMITMENT OR TREATMENT -- APPLICATION.

10 Proceedings for the involuntary commitment or treatment of
11 a chronic substance abuser to a facility may be commenced by
12 the county attorney or an interested person by filing a
13 verified application with the clerk of the district court of
14 the county where the respondent is presently located or which
15 is the respondent's place of residence. The clerk or the
16 clerk's designee shall assist the applicant in completing the
17 application. The application shall:

18 1. State the applicant's belief that the respondent is a
19 chronic substance abuser.

20 2. State any other pertinent facts.

21 3. Be accompanied by one or more of the following:

22 a. A written statement of a licensed physician in support
23 of the application.

24 b. One or more supporting affidavits corroborating the
25 application.

26 c. Corroborative information obtained and reduced to
27 writing by the clerk or the clerk's designee, but only when
28 circumstances make it infeasible to obtain, or when the clerk
29 considers it appropriate to supplement, the information under
30 either paragraph "a" or paragraph "b".

31 Sec. 14. Section 125.80, subsections 3 and 4, Code 1989,
32 are amended to read as follows:

33 3. If the report of a court-designated physician is to the
34 effect that the respondent is not a chronic substance abuser,
35 the court, without taking further action, may terminate the

1 proceeding and dismiss the application on its own motion and
2 without notice.

3 4. If the report of a court-designated physician is to the
4 effect that the respondent is a chronic substance abuser, the
5 court shall schedule a commitment hearing as soon as possible.
6 The hearing shall be held not more than forty-eight hours
7 after the report is filed, excluding Saturdays, Sundays, and
8 holidays, unless an extension for good cause is requested by
9 the respondent, or as soon thereafter as possible if the court
10 considers that sufficient grounds exist for delaying the
11 hearing.

12 Sec. 15. Section 125.81, unnumbered paragraph 1, Code
13 1989, is amended to read as follows:

14 If a person filing an application requests that a
15 respondent be taken into immediate custody, and the judge upon
16 reviewing the application and accompanying documentation,
17 finds probable cause to believe that the respondent is a
18 chronic substance abuser who is likely to injure the person or
19 other persons if allowed to remain at liberty, the judge may
20 enter a written order directing that the respondent be taken
21 into immediate custody by the sheriff, and be detained until
22 the commitment hearing, which shall be held no more than five
23 days after the date of the order, except that if the fifth day
24 after the date of the order is a Saturday, Sunday, or a
25 holiday, the hearing may be held on the next business day.
26 The judge may order the respondent detained for the period of
27 time until the hearing is held, and no longer except as
28 provided in section 125.88, in accordance with subsection 1 if
29 possible, and if not, then in accordance with subsection 2 or,
30 only if neither of these alternatives is available in
31 accordance with subsection 3. Detention may be:

32 Sec. 16. Section 125.82, subsection 4, Code 1989, is
33 amended to read as follows:

34 4. The respondent's welfare is paramount, and the hearing
35 shall be tried as a civil matter and conducted in as informal

1 a manner as is consistent with orderly procedure. Discovery
2 as permitted under the Iowa rules of civil procedure is
3 available to the respondent. The court shall receive all
4 relevant and material evidence, but the court is not bound by
5 the rules of evidence. A presumption in favor of the
6 respondent exists, and the burden of evidence and support of
7 the contentions made in the application shall be upon the
8 person who filed the application. If upon completion of the
9 hearing the court finds that the contention that the
10 respondent is a chronic substance abuser has not been
11 sustained by clear and convincing evidence, the court shall
12 deny the application and terminate the proceeding.

13 Sec. 17. Section 125.83, Code 1989, is amended to read as
14 follows:

15 125.83 PLACEMENT FOR EVALUATION.

16 If upon completion of the commitment hearing, the court
17 finds that the contention that the respondent is a chronic
18 substance abuser has been sustained by clear and convincing
19 evidence, the court shall order the respondent placed at a
20 facility or under the care of a suitable facility on an
21 outpatient basis as expeditiously as possible for a complete
22 evaluation and appropriate treatment. The court shall furnish
23 to the facility at the time of admission or outpatient
24 placement, a written statement of facts setting forth the
25 evidence on which the finding is based. The administrator of
26 the facility shall report to the court no more than fifteen
27 days after the individual is admitted to or placed under the
28 care of the facility, which shall include the chief medical
29 officer's recommendation concerning substance abuse treatment.
30 An extension of time may be granted for a period not to exceed
31 seven days upon a showing of good cause. A copy of the report
32 shall be sent to the respondent's attorney who may contest the
33 need for an extension of time if one is requested. If the
34 request is contested, the court shall make an inquiry as it
35 deems appropriate and may either order the respondent released

1 from the facility or grant extension of time for further
2 evaluation.

3 Sec. 18. Section 125.84, subsections 2, 3, and 4, Code
4 1989, are amended to read as follows:

5 2. That the respondent is a chronic substance abuser who
6 is in need of full-time custody, care, and treatment in a
7 facility, and is considered likely to benefit from treatment.
8 If the report so states, the court may order the respondent's
9 continued placement and commitment to a facility for
10 appropriate treatment.

11 3. That the respondent is a chronic substance abuser who
12 is in need of treatment, but does not require full-time
13 placement in a facility. If the report so states, the report
14 shall include the chief medical officer's recommendation for
15 treatment of the respondent on an outpatient or other
16 appropriate basis, and the court may enter an order directing
17 the respondent to submit to the recommended treatment. The
18 order shall provide that if the respondent fails or refuses to
19 submit to treatment, as directed by the court's order, the
20 court may order that the respondent be taken into immediate
21 custody as provided by section 125.81 and, following notice
22 and hearing held in accordance with the procedures of sections
23 125.77 and 125.82, may order the respondent treated as a
24 patient requiring full-time custody, care, and treatment as
25 provided in subsection 2, and may order the respondent
26 involuntarily committed to a facility.

27 4. That the respondent is a chronic substance abuser who
28 is in need of treatment, but in the opinion of the chief
29 medical officer is not responding to the treatment provided.
30 If the report so states, the report shall include the facility
31 administrator's recommendation for alternative placement, and
32 the court may order the respondent's transfer to the
33 recommended placement or to another placement after
34 consultation with respondent's attorney and the facility
35 administrator who made the report under this subsection.

1 Sec. 19. Section 125.91, subsection 3, Code 1989, is
2 amended to read as follows:

3 3. Upon arrival at the facility, the magistrate shall at
4 once review the validity of the detention. Unless convinced
5 upon initial inquiry that there are no grounds for further
6 detention of the person, the magistrate shall ensure that the
7 person has or is provided legal counsel at the earliest
8 practical time in the manner prescribed by section 125.78,
9 subsection 1, and shall arrange for the counsel to be present,
10 if practical, before proceeding further under this subsection.
11 The magistrate shall immediately notify counsel of the
12 respondent's emergency detention. Counsel shall be afforded
13 an opportunity to visit the respondent and to make appropriate
14 preparations before or after the magistrate's order is issued.
15 If the magistrate finds, upon review of the information
16 presented by the administrator under subsection 2 and of other
17 information or evidence the magistrate deems relevant, that
18 there is probable cause to believe that the circumstances
19 described in subsection 1 are applicable, the magistrate shall
20 enter a written order detaining the person at the facility,
21 or, if the facility where the person is at the time is not an
22 appropriate facility, detaining and transporting the person to
23 an appropriate facility. The magistrate's order shall state
24 the circumstances under which the person was detained or
25 otherwise delivered to a facility, and the grounds supporting
26 the finding of probable cause to believe that person is a
27 chronic substance abuser likely to physically injure the
28 person or others if not detained. The order shall be filed
29 with the clerk in the county where it is anticipated that an
30 application will be filed under section 125.75, and a
31 certified copy of the order shall be delivered to the
32 administrator of the facility where the person is detained, at
33 the earliest practical time.

34 Sec. 20. Section 229.21, subsections 3 and 4, Code 1989,
35 are amended to read as follows:

1 3. When an application for involuntary hospitalization
2 under this chapter or an application for involuntary
3 commitment or treatment of chronic substance abusers under
4 sections 125.75 to 125.94 is filed with the clerk of the
5 district court in any county for which a judicial
6 hospitalization referee has been appointed, and no district
7 judge is accessible in the county, the clerk shall immediately
8 notify the referee in the manner required by section 229.7 or
9 section 125.77. The referee shall discharge all of the duties
10 imposed upon judges of the district court or magistrates by
11 sections 229.7 to 229.19 or sections 125.75 to 125.94 in the
12 proceeding so initiated. If an emergency hospitalization
13 proceeding is initiated under section 229.22 a judicial
14 hospitalization referee may perform the duties imposed upon a
15 magistrate by that section. However, any commitment to a
16 facility regulated and operated under chapter 135C, shall be
17 in accordance with section 135C.23.

18 4. Any respondent with respect to whom the judicial
19 hospitalization referee has found the contention that the
20 respondent is seriously mentally impaired or a chronic
21 substance abuser sustained by clear and convincing evidence
22 presented at a hearing held under section 229.12 or section
23 125.82, may appeal from the referee's finding to a judge of
24 the district court by giving the clerk notice in writing,
25 within seven days after the referee's finding is made, that an
26 appeal therefrom is taken. The appeal may be signed by the
27 respondent or by the respondent's next friend, guardian or
28 attorney. When so appealed, the matter shall stand for trial
29 de novo. Upon appeal, the court shall schedule a
30 hospitalization or commitment hearing before a district judge
31 at the earliest practicable time.

32 Sec. 21. Section 230.15, unnumbered paragraph 2, Code
33 1989, is amended to read as follows:

34 A substance abuser or chronic substance abuser is legally
35 liable for the total amount of the cost of providing care,

1 maintenance, and treatment for the substance abuser or chronic
2 substance abuser while a voluntary or committed patient. When
3 a portion of the cost is paid by a county, the substance
4 abuser or chronic substance abuser is legally liable to the
5 county for the amount paid. The substance abuser or chronic
6 substance abuser shall assign any claim for reimbursement
7 under any contract of indemnity, by insurance or otherwise,
8 providing for the abuser's care, maintenance, and treatment in
9 a state hospital to the state. Any payments received by the
10 state from or on behalf of a substance abuser or chronic
11 substance abuser shall be in part credited to the county in
12 proportion to the share of the costs paid by the county.
13 Nothing in this section shall be construed to prevent a
14 relative or other person from voluntarily paying the full
15 actual cost or any portion of the care and treatment of any
16 mentally ill person, or substance abuser, or chronic substance
17 abuser as established by the department of human services.

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HOUSE FILE 2508

AN ACT

RELATING TO THE COMMITMENT AND TREATMENT OF CHRONIC SUBSTANCE ABUSERS.

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

Section 1. Section 125.2, Code Supplement 1989, is amended by adding the following new subsections:

NEW SUBSECTION. 4A. "Chronic substance abuser" means a person who meets all of the following criteria:

a. Habitually lacks self control as to the use of chemical substances to the extent that the person is likely to seriously endanger the person's health, or to physically injure the person's self or others, if allowed to remain at liberty without treatment.

b. Lacks sufficient judgment to make responsible decisions with respect to the person's hospitalization or treatment.

NEW SUBSECTION. 14A. "Substance abuse" means the use of chemical substances by persons suffering from chemical dependency, persons who are incapacitated by a chemical substance, substance abusers, or chronic substance abusers.

Sec. 2. Section 125.2, subsection 2, Code Supplement 1989, is amended to read as follows:

2. "Chemical substance" means alcohol, wine, spirits, and beer as defined in chapter 123 and drugs controlled substances as defined in section ~~203B:2~~ 204.1017-subsection-77, which when used improperly could result in chemical dependency.

Sec. 3. Section 125.9, subsections 2 and 4, Code 1989, are amended to read as follows:

2. Make contracts necessary or incidental to the performance of the duties and the execution of the powers of the director, including contracts with public and private agencies, organizations and individuals to pay them for services rendered or furnished to substance abusers, chronic substance abusers, or intoxicated persons.

4. Co-ordinate the activities of the department and co-operate with substance abuse programs in this and other states, and make contracts and other joint or co-operative arrangements with state, local or private agencies in this and other states for the treatment of substance abusers, chronic substance abusers, and intoxicated persons and for the common advancement of substance abuse programs.

Sec. 4. Section 125.10, Code 1989, is amended to read as follows:

125.10 DUTIES OF DIRECTOR.

The director shall:

1. Prepare and submit a state plan subject to approval by the commission and in accordance with the provisions of 42 U.S.C. sec. 4573. The state plan shall designate the department as the sole agency for supervising the administration of the plan.

2. Develop, encourage, and foster state-wide, regional and local plans and programs for the prevention of substance abuse and the treatment of substance abusers, chronic substance abusers, and intoxicated persons in co-operation with public and private agencies, organizations and individuals, and

provide technical assistance and consultation services for these purposes.

3. Co-ordinate the efforts and enlist the assistance of all public and private agencies, organizations and individuals interested in the prevention of substance abuse and the treatment of substance abusers, chronic substance abusers, and intoxicated persons.

4. Co-operate with the department of human services in establishing and conducting programs to provide treatment for substance abusers, chronic substance abusers, and intoxicated persons.

5. Co-operate with the department of education, boards of education, schools, police departments, courts, and other public and private agencies, organizations, and individuals in establishing programs for the prevention of substance abuse and the treatment of substance abusers, chronic substance abusers, and intoxicated persons, and in preparing relevant curriculum materials thereon for use at all levels of school education.

6. Prepare, publish, evaluate and disseminate educational material dealing with the nature and effects of chemical substances.

7. Develop and implement, as an integral part of treatment programs, an educational program for use in the treatment of substance abusers, chronic substance abusers, and intoxicated persons, which program shall include the dissemination of information concerning the nature and effects of chemical substances.

8. Organize and implement, in co-operation with local treatment programs, training programs for all persons engaged in treatment of substance abusers, chronic substance abusers, and intoxicated persons.

9. Sponsor and implement research in co-operation with local treatment programs into the causes and nature of substance abuse and treatment of substance abusers, chronic

substance abusers, and intoxicated persons, and serve as a clearing house for information relating to substance abuse.

10. Specify uniform methods for keeping statistical information by public and private agencies, organizations and individuals, and collect and make available relevant statistical information, including number of persons treated, frequency of admission and readmission, and frequency and duration of treatment.

11. Develop and implement, with the counsel and approval of the commission, a comprehensive plan for treatment of substance abusers, chronic substance abusers, and intoxicated persons, ~~said plan to be co-ordinated with health systems agencies.~~

12. Assist in the development of, and co-operate with, substance abuse education and treatment programs for employees of state and local governments and businesses and industries in the state.

13. Utilize the support and assistance of interested persons in the community, particularly recovered substance abusers and chronic substance abusers, to encourage substance abusers and chronic substance abusers to voluntarily undergo treatment.

14. Co-operate with the commissioner of public safety in establishing and conducting programs designed to deal with the problem of persons operating motor vehicles while intoxicated.

15. Encourage general hospitals and other appropriate health facilities to admit without discrimination substance abusers, chronic substance abusers, and intoxicated persons and to provide them with adequate and appropriate treatment, and. The director may negotiate and implement contracts with hospitals and other appropriate health facilities with adequate detoxification facilities.

16. Encourage all health and disability insurance programs to include substance abuse as a covered illness.

17. Review all state health, welfare, education and treatment proposals to be submitted for federal funding under federal legislation, and advise the governor on provisions to be included relating to substance abuse, and substance abusers, chronic substance abusers, and intoxicated persons.

Sec. 5. Section 125.12, subsections 1 and 3, Code 1989, are amended to read as follows:

1. The commission shall review a comprehensive and coordinated program for the treatment of substance abusers, chronic substance abusers, intoxicated persons, and concerned family members. Subject to the review of the commission, the director shall divide the state into appropriate regions for the conduct of the program and establish standards for the development of the program on the regional level. In establishing the regions, consideration shall be given to city and county lines, population concentrations, and existing substance abuse treatment services. In determining the regions, the director is not required to follow the regional map as prepared by the former office for planning and programming.

3. The director shall provide for adequate and appropriate treatment for substance abusers, chronic substance abusers, intoxicated persons, and concerned family members admitted under sections 125.33 and 125.34, or under section 125.75, 125.81, or 125.91. Treatment shall not be provided at a correctional institution except for inmates.

Sec. 6. Section 125.13, subsection 1, unnumbered paragraph 1, Code Supplement 1989, is amended to read as follows:

Except as provided in subsection 2 of this section, a person may shall not maintain or conduct any chemical substitutes or antagonists program, residential program, or nonresidential outpatient program, the primary purpose of which is the treatment and rehabilitation of substance abusers or chronic substance abusers without having first obtained a written license for the program from the department.

Sec. 7. Section 125.13, subsection 2, paragraphs a and c, Code Supplement 1989, are amended to read as follows:

a. A hospital providing care or treatment to substance abusers or chronic substance abusers licensed under chapter 135B which is accredited by the joint commission on the accreditation of health care organizations, the commission on accreditation of rehabilitation facilities, the American osteopathic association, or another recognized organization approved by the commission. All survey reports from the accrediting or licensing body must be sent to the department.

c. Private institutions conducted by and for persons who adhere to the faith of any well recognized church or religious denomination for the purpose of providing care, treatment, counseling, or rehabilitation to substance abusers or chronic substance abusers and who rely solely on prayer or other spiritual means for healing in the practice of religion of such church or denomination.

Sec. 8. Section 125.32, unnumbered paragraph 1, Code 1989, is amended to read as follows:

The department shall adopt and may amend and repeal rules for acceptance of persons into the treatment program, subject to chapter 17A, considering available treatment resources and facilities, for the purpose of early and effective treatment of substance abusers, chronic substance abusers, intoxicated persons, and concerned family members. In establishing the rules the department shall be guided by the following standards:

Sec. 9. Section 125.33, subsections 1, 3, and 4, Code 1989, are amended to read as follows:

1. A substance abuser or chronic substance abuser may apply for voluntary treatment or rehabilitation services directly to a facility or to a licensed physician and surgeon or osteopathic physician and surgeon. If the proposed patient is a minor or an incompetent person, a parent, a legal guardian or other legal representative may make the

application. The licensed physician and surgeon or osteopathic physician and surgeon or any employee or person acting under the direction or supervision of the physician and surgeon or osteopathic physician and surgeon, or the facility shall not report or disclose the name of the person or the fact that treatment was requested or has been undertaken to any law enforcement officer or law enforcement agency; nor shall such information be admissible as evidence in any court, grand jury, or administrative proceeding unless authorized by the person seeking treatment. If the person seeking such treatment or rehabilitation is a minor who has personally made application for treatment, the fact that the minor sought treatment or rehabilitation or is receiving treatment or rehabilitation services shall not be reported or disclosed to the parents or legal guardian of such minor without the minor's consent, and the minor may give legal consent to receive such treatment and rehabilitation.

3. A substance abuser or chronic substance abuser seeking treatment or rehabilitation and who is either addicted or dependent on a chemical substance may first be examined and evaluated by a licensed physician and surgeon or osteopathic physician and surgeon who may prescribe a proper course of treatment and medication, if needed. The licensed physician and surgeon or osteopathic physician and surgeon may further prescribe a course of treatment or rehabilitation and authorize another licensed physician and surgeon or osteopathic physician and surgeon or facility to provide the prescribed treatment or rehabilitation services. Treatment or rehabilitation services may be provided to a person individually or in a group. A facility providing or engaging in treatment or rehabilitation shall not report or disclose to a law enforcement officer or law enforcement agency the name of any person receiving or engaged in the treatment or rehabilitation; nor shall a person receiving or participating in treatment or rehabilitation report or disclose the name of

any other person engaged in or receiving treatment or rehabilitation or that the program is in existence, to a law enforcement officer or law enforcement agency. Such information shall not be admitted in evidence in any court, grand jury, or administrative proceeding. However, a person engaged in or receiving treatment or rehabilitation may authorize the disclosure of the person's name and individual participation.

4. If a patient receiving inpatient or residential care leaves a facility, the patient shall be encouraged to consent to appropriate outpatient or halfway house treatment. If it appears to the administrator in charge of the facility that the patient is a substance abuser or chronic substance abuser who requires help, the director may arrange for assistance in obtaining supportive services.

Sec. 10. Section 125.43, Code 1989, is amended to read as follows:

125.43 FUNDING AT MENTAL HEALTH INSTITUTES.

Chapter 230 governs the determination of the costs and payment for treatment provided to substance abusers or chronic substance abusers in a mental health institute under the department of human services, except that the charges are not a lien on real estate owned by persons legally liable for support of the substance abuser or chronic substance abuser and the daily per diem shall be billed at twenty-five percent. The superintendent of a state hospital shall total only those expenditures which can be attributed to the cost of providing inpatient treatment to substance abusers or chronic substance abusers for purposes of determining the daily per diem. Section 125.44 governs the determination of who is legally liable for the cost of care, maintenance, and treatment of a substance abuser or chronic substance abuser and of the amount for which the person is liable.

Sec. 11. Section 125.44, Code Supplement 1989, is amended to read as follows:

125.44 AGREEMENTS WITH FACILITIES -- LIABILITY FOR COSTS.

The director may, consistent with the comprehensive substance abuse program, enter into written agreements with a facility as defined in section 125.2 to pay for one hundred percent of the cost of the care, maintenance, and treatment of a substance abuser abusers and chronic substance abusers, except when section 125.43A applies. All payments for state patients shall be made in accordance with the limitations of this section. Such contracts shall be for a period of no more than one year.

The contract may be in the form and contain provisions as agreed upon by the parties. The contract shall provide that the facility shall admit and treat substance abusers and chronic substance abusers regardless of where they have residence. If one payment for care, maintenance, and treatment is not made by the patient or those legally liable for the patient, the payment shall be made by the department directly to the facility. Payments shall be made each month and shall be based upon the rate of payment for services negotiated between the department and the contracting facility. If a facility projects a temporary cash flow deficit, the department may make cash advances at the beginning of each fiscal year to the facility. The repayment schedule for advances shall be part of the contract between the department and the facility. This section does not pertain to patients treated at the mental health institutes.

If the appropriation to the department is insufficient to meet the requirements of this section, the department shall request a transfer of funds and section 8.39 shall apply.

The substance abuser or chronic substance abuser is legally liable to the facility for the total amount of the cost of providing care, maintenance, and treatment for the substance abuser or chronic substance abuser while a voluntary or committed patient in a facility. This section does not prohibit any individual from paying any portion of the cost of treatment.

The department is liable for the cost of care, treatment, and maintenance of a substance abuser abusers and chronic substance abusers admitted to the facility voluntarily or pursuant to section 125.75, 125.81, or 125.91 or section 321J.3 or 204.409, subsection 2 only to those facilities that have a contract with the department under this section, only for the amount computed according to and within the limits of liability prescribed by this section, and only when the substance abuser or chronic substance abuser is unable to pay the costs and there is no other person, firm, corporation, or insurance company bound to pay the costs.

The department's maximum liability for the costs of care, treatment, and maintenance of substance abusers and chronic substance abusers in a contracting facility is limited to the total amount agreed upon by the parties and specified in the contract under this section.

Sec. 12. Section 125.46, Code 1989, is amended to read as follows:

125.46 COUNTY OF RESIDENCE DETERMINED.

The facility shall, when a substance abuser or chronic substance abuser is admitted, or as soon thereafter as it receives the proper information, determine and enter upon its records the Iowa county of residence of the substance abuser or chronic substance abuser, or that the person resides in some other state or country, or that the person is unclassified with respect to residence.

Sec. 13. Section 125.75, Code 1989, is amended to read as follows:

125.75 INVOLUNTARY COMMITMENT OR TREATMENT -- APPLICATION.

Proceedings for the involuntary commitment or treatment of a chronic substance abuser to a facility may be commenced by the county attorney or an interested person by filing a verified application with the clerk of the district court of the county where the respondent is presently located or which is the respondent's place of residence. The clerk or the

clerk's designee shall assist the applicant in completing the application. The application shall:

1. State the applicant's belief that the respondent is a chronic substance abuser.
2. State any other pertinent facts.
3. Be accompanied by one or more of the following:
 - a. A written statement of a licensed physician in support of the application.
 - b. One or more supporting affidavits corroborating the application.
 - c. Corroborative information obtained and reduced to writing by the clerk or the clerk's designee, but only when circumstances make it infeasible to obtain, or when the clerk considers it appropriate to supplement, the information under either paragraph "a" or paragraph "b".

Sec. 14. Section 125.80, subsections 3 and 4, Code 1989, are amended to read as follows:

3. If the report of a court-designated physician is to the effect that the respondent is not a chronic substance abuser, the court, without taking further action, may terminate the proceeding and dismiss the application on its own motion and without notice.

4. If the report of a court-designated physician is to the effect that the respondent is a chronic substance abuser, the court shall schedule a commitment hearing as soon as possible. The hearing shall be held not more than forty-eight hours after the report is filed, excluding Saturdays, Sundays, and holidays, unless an extension for good cause is requested by the respondent, or as soon thereafter as possible if the court considers that sufficient grounds exist for delaying the hearing.

Sec. 15. Section 125.81, unnumbered paragraph 1, Code 1989, is amended to read as follows:

If a person filing an application requests that a respondent be taken into immediate custody, and the judge upon

reviewing the application and accompanying documentation, finds probable cause to believe that the respondent is a chronic substance abuser who is likely to injure the person or other persons if allowed to remain at liberty, the judge may enter a written order directing that the respondent be taken into immediate custody by the sheriff, and be detained until the commitment hearing, which shall be held no more than five days after the date of the order, except that if the fifth day after the date of the order is a Saturday, Sunday, or a holiday, the hearing may be held on the next business day. The judge may order the respondent detained for the period of time until the hearing is held, and no longer except as provided in section 125.88, in accordance with subsection 1 if possible, and if not, then in accordance with subsection 2 or, only if neither of these alternatives is available in accordance with subsection 3. Detention may be:

Sec. 16. Section 125.82, subsection 4, Code 1989, is amended to read as follows:

4. The respondent's welfare is paramount, and the hearing shall be tried as a civil matter and conducted in as informal a manner as is consistent with orderly procedure. Discovery as permitted under the Iowa rules of civil procedure is available to the respondent. The court shall receive all relevant and material evidence, but the court is not bound by the rules of evidence. A presumption in favor of the respondent exists, and the burden of evidence and support of the contentions made in the application shall be upon the person who filed the application. If upon completion of the hearing the court finds that the contention that the respondent is a chronic substance abuser has not been sustained by clear and convincing evidence, the court shall deny the application and terminate the proceeding.

Sec. 17. Section 125.83, Code 1989, is amended to read as follows:

125.83 PLACEMENT FOR EVALUATION.

If upon completion of the commitment hearing, the court finds that the contention that the respondent is a chronic substance abuser has been sustained by clear and convincing evidence, the court shall order the respondent placed at a facility or under the care of a suitable facility on an outpatient basis as expeditiously as possible for a complete evaluation and appropriate treatment. The court shall furnish to the facility at the time of admission or outpatient placement, a written statement of facts setting forth the evidence on which the finding is based. The administrator of the facility shall report to the court no more than fifteen days after the individual is admitted to or placed under the care of the facility, which shall include the chief medical officer's recommendation concerning substance abuse treatment. An extension of time may be granted for a period not to exceed seven days upon a showing of good 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. If the request is contested, the court shall make an inquiry as it deems appropriate and may either order the respondent released from the facility or grant extension of time for further evaluation.

Sec. 18. Section 125.84, subsections 2, 3, and 4, Code 1989, are amended to read as follows:

2. That the respondent is a chronic substance abuser who is in need of full-time custody, care, and treatment in a facility, and is considered likely to benefit from treatment. If the report so states, the court may order the respondent's continued placement and commitment to a facility for appropriate treatment.

3. That the respondent is a chronic substance abuser who is in need of treatment, but does not require full-time placement in a facility. If the report so states, the report shall include the chief medical officer's recommendation for treatment of the respondent on an outpatient or other

appropriate basis, and the court may enter an order directing the respondent to submit to the recommended treatment. The order shall provide that if the respondent fails or refuses to submit to treatment, as directed by the court's order, the court may order that the respondent be taken into immediate custody as provided by section 125.81 and, following notice and hearing held in accordance with the procedures of sections 125.77 and 125.82, may order the respondent treated as a patient requiring full-time custody, care, and treatment as provided in subsection 2, and may order the respondent involuntarily committed to a facility.

4. That the respondent is a chronic substance abuser who is in need of treatment, but in the opinion of the chief medical officer is not responding to the treatment provided. If the report so states, the report shall include the facility administrator's recommendation for alternative placement, and the court may order the respondent's transfer to the recommended placement or to another placement after consultation with respondent's attorney and the facility administrator who made the report under this subsection.

Sec. 19. Section 125.91, subsection 3, Code 1989, is amended to read as follows:

3. Upon arrival at the facility, the magistrate shall at once review the validity of the detention. Unless convinced upon initial inquiry that there are no grounds for further detention of the person, the magistrate shall ensure that the person has or is provided legal counsel at the earliest practical time in the manner prescribed by section 125.78, subsection 1, and shall arrange for the counsel to be present, if practical, before proceeding further under this subsection. The magistrate shall immediately notify counsel of the respondent's emergency detention. Counsel shall be afforded an opportunity to visit the respondent and to make appropriate preparations before or after the magistrate's order is issued. If the magistrate finds, upon review of the information

presented by the administrator under subsection 2 and of other information or evidence the magistrate deems relevant, that there is probable cause to believe that the circumstances described in subsection 1 are applicable, the magistrate shall enter a written order detaining the person at the facility, or, if the facility where the person is at the time is not an appropriate facility, detaining and transporting the person to an appropriate facility. The magistrate's order shall state the circumstances under which the person was detained or otherwise delivered to a facility, and the grounds supporting the finding of probable cause to believe that person is a chronic substance abuser likely to physically injure the person or others if not detained. The order shall be filed with the clerk in the county where it is anticipated that an application will be filed under section 125.75, and a certified copy of the order shall be delivered to the administrator of the facility where the person is detained, at the earliest practical time.

Sec. 20. Section 229.21, subsections 3 and 4, Code 1989, are amended to read as follows:

3. When an application for involuntary hospitalization under this chapter or an application for involuntary commitment or treatment of chronic substance abusers under sections 125.75 to 125.94 is filed with the clerk of the district court in any county for which a judicial hospitalization referee has been appointed, and no district judge is accessible in the county, the clerk shall immediately notify the referee in the manner required by section 229.7 or section 125.77. The referee shall discharge all of the duties imposed upon judges of the district court or magistrates by sections 229.7 to 229.19 or sections 125.75 to 125.94 in the proceeding so initiated. If an emergency hospitalization proceeding is initiated under section 229.22 a judicial hospitalization referee may perform the duties imposed upon a magistrate by that section. However, any commitment to a

facility regulated and operated under chapter 135C, shall be in accordance with section 135C.23.

4. Any respondent with respect to whom the judicial hospitalization referee has found the contention that the respondent is seriously mentally impaired or a chronic substance abuser sustained by clear and convincing evidence presented at a hearing held under section 229.12 or section 125.82, may appeal from the referee's finding to a judge of the district court by giving the clerk notice in writing, within seven days after the referee's finding is made, that an appeal therefrom is taken. The appeal may be signed by the respondent or by the respondent's next friend, guardian or attorney. When so appealed, the matter shall stand for trial de novo. Upon appeal, the court shall schedule a hospitalization or commitment hearing before a district judge at the earliest practicable time.

Sec. 21. Section 230.15, unnumbered paragraph 2, Code 1989, is amended to read as follows:

A substance abuser or chronic substance abuser is legally liable for the total amount of the cost of providing care, maintenance, and treatment for the substance abuser or chronic substance abuser while a voluntary or committed patient. When a portion of the cost is paid by a county, the substance abuser or chronic substance abuser is legally liable to the county for the amount paid. The substance abuser or chronic substance abuser shall assign any claim for reimbursement under any contract of indemnity, by insurance or otherwise, providing for the abuser's care, maintenance, and treatment in a state hospital to the state. Any payments received by the state from or on behalf of a substance abuser or chronic substance abuser shall be in part credited to the county in proportion to the share of the costs paid by the county. Nothing in this section shall be construed to prevent a relative or other person from voluntarily paying the full actual cost or any portion of the care and treatment of any

mentally ill person, or substance abuser, or chronic substance abuser as established by the department of human services.

DONALD D. AVENSON
Speaker of the House

JO ANN ZIMMERMAN
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2508, Seventy-third General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved March 27, 1990

TERRY E. BRANSTAD
Governor

HF 2508