

MAR 10 1989

HOUSE FILE 579

BY COMMITTEE ON HUMAN RESOURCES

Place On Calendar :

(SUCCESSOR TO HSB 180)

Passed House, Date 3-22-89 (p. 937) Passed Senate, Date 5-2-89
Vote: Ayes 96 Nays 0 Vote: Ayes 50 Nays 0

Approved June 1, 1989

Repassed House 5-2-89 (p. 2297) Repassed Senate 5-3-89 (p. 1858)
Ayes 98 Nays 0 A BILL FOR Ayes 49 Nays 0

- 1 An Act relating to involuntary hospitalization procedures
- 2 applicable to the mentally ill.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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HOUSE FILE 579

H-3388

- 1 Amend House File 579 as follows:
- 2 1. Page 1, line 16, by striking the word
- 3 "either".

By SPEAR of Lee

H-3388 FILED MARCH 15, 1989

adopted 3-22-89 (p. 936)

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1 Section 1. Section 229.1, subsection 2, Code 1989, is
2 amended to read as follows:

3 2. "Seriously mentally impaired" or "serious mental
4 impairment" describes the condition of a person who is
5 afflicted with mental illness and because of that illness
6 lacks sufficient judgment to make responsible decisions with
7 respect to the person's hospitalization or treatment, and who
8 because of that illness meets any of the following criteria:

9 a. Is likely to physically injure the person's self or
10 others if allowed to remain at liberty without treatment; -er,

11 b. Is likely to inflict serious emotional injury on
12 members of the person's family or others who lack reasonable
13 opportunity to avoid contact with the afflicted person if the
14 afflicted person is allowed to remain at liberty without
15 treatment.

16 c. Is unable to satisfy the person's needs for either
17 nourishment, clothing, essential medical care, or shelter so
18 that it is likely that the person will suffer substantial
19 physical injury, serious physical debilitation, or death
20 within the reasonably foreseeable future.

21 Sec. 2. NEW SECTION. 229.1A LEGISLATIVE INTENT.

22 As mental illness is often a continuing condition which is
23 subject to wide and unpredictable changes in condition and
24 fluctuations in reoccurrence and remission, this chapter shall
25 be liberally construed to give recognition to these medical
26 facts.

27 Sec. 3. Section 229.11, Code 1989, is amended by adding
28 the following new unnumbered paragraph:

29 NEW UNNUMBERED PARAGRAPH. The clerk shall furnish copies
30 of any orders to the respondent and to the applicant if the
31 applicant files a written waiver signed by the respondent.

32 Sec. 4. Section 229.12, Code 1989, is amended by adding
33 the following new subsection:

34 NEW SUBSECTION. 5. The clerk shall furnish copies of any
35 orders to the respondent and to the applicant if the applicant

1 files a written waiver signed by the respondent.

2 Sec. 5. Section 229.16, Code 1989, is amended to read as
3 follows:

4 229.16 DISCHARGE AND TERMINATION OF PROCEEDING.

5 When ~~in the opinion of the chief medical officer~~ the
6 condition of a patient who is hospitalized under section
7 229.14, subsection 2, or is receiving treatment under section
8 229.14, subsection 3, or is in full-time care and custody
9 under section 229.14, subsection 4, ~~of section 229.14~~ is such
10 that in the opinion of the chief medical officer the patient
11 no longer requires treatment or care for serious mental
12 impairment, the chief medical officer shall tentatively
13 discharge the patient and immediately report that fact to the
14 court which ordered the patient's hospitalization or care and
15 custody. The court shall thereupon issue an order confirming
16 the patient's discharge from the hospital or from care and
17 custody, as the case may be, and shall terminate the
18 proceedings pursuant to which the order was issued. Copies of
19 the order shall be sent by certified mail to the hospital, and
20 the patient, and the applicant if the applicant has filed a
21 written waiver signed by the patient.

2745

22 Sec. 6. Section 229.25, subsection 3, unnumbered paragraph
23 3, Code 1989, is amended to read as follows:

24 When the chief medical officer deems it to be in the best
25 interest of the patient and ~~the spouse~~ the patient's next of
26 kin to do so, the chief medical officer may release
27 appropriate information during a consultation which the
28 hospital or facility shall arrange with the ~~spouse~~ next of kin
29 of a voluntary or involuntary patient, if requested by a
30 spouse the patient's next of kin.

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31 EXPLANATION

32 This bill relates to the chapter for involuntary
33 hospitalization of persons with mental illness. The
34 definition of serious mental impairment is amended to include
35 an inability, because of the mental illness, to provide for

1 basic needs so that physical injury or death may result in the
2 reasonably foreseeable future. Legislative intent stating
3 reasons and a requirement that the chapter be liberally
4 construed is provided in a new section. The clerk is required
5 to provide copies of orders relating to commitment to the
6 respondent and to the applicant if the respondent has signed a
7 waiver. An exception to certain confidentiality provisions
8 for a patient's spouse is replaced with the patient's next of
9 kin.

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HOUSE FILE 579

S-3745

Amend House File 579, as passed by the House, as follows:

3873 1. Page 1, line 5, by striking the words "and
 4 because of that illness" and inserting the following:
 5 ~~"and-because-of-that-illness~~ that impairs the person's
 6 thought processes or distorts the person's perception
 7 of reality so that the person".

3864 8 2. Page 2, by inserting after line 21, the
 9 following:
 10 "Sec. ____ . Section 229.23, subsection 1, Code
 11 1989, is amended to read as follows:

3852 12 1. Prompt evaluation, emergency psychiatric
 13 services, and care and treatment ~~as indicated by sound~~
 14 medical practice in accordance with a comprehensive
 15 individualized treatment program developed by
 16 appropriately qualified mental health professionals,
 17 including a psychiatrist. The treatment program shall
 3811 18 be consistent with current standards for hospitals for
 19 psychiatric treatment planning and shall not consist
 20 solely of chemotherapy, unless that type of treatment
 21 program is supported by sufficient psychiatric and
 22 medical opinion."

23 3. Page 2, by inserting after line 30, the
 24 following:

25 "Sec. ____ . SUPREME COURT TASK FORCE.
 The supreme court is requested to establish a task
 force on involuntary hospitalization to do the
 28 following:

29 1. Recommend methods for improving the consistent
 30 application of chapters 125, 229, and 232.

31 2. Recommend educational programs, topics, and
 32 materials and determine costs associated with
 33 providing voluntary education programs to judicial
 34 hospitalization referees, patient advocates, and to
 35 members of the bar and medical community who are
 36 involved in involuntary hospitalization.

37 3. Investigate the constitutionality of section
 38 125.82, subsection 5, and section 125.83 and make
 39 appropriate recommendations.

40 4. Prepare a report describing and explaining
 41 prehearing screening and monitoring of medication
 42 programs which have been established in other states.

43 The task force shall report its findings and any
 44 recommendations to the supreme court and the
 45 legislative council by January 31, 1990. The
 46 legislative service bureau shall staff the task
 47 force."

48 4. By renumbering as necessary.

By AL STURGEON

3745 FILED APRIL 18, 1989

3745 A - withdrawn
 3745 B - Adopted 5-2-89 (p.1817)
 3745 C - " "

HOUSE AMENDMENT TO SENATE AMENDMENT TO
HOUSE FILE 579

S-4074

- 1 Amend the Senate amendment, H-4364, to House File
- 2 579, as passed by the House, as follows:
- 3 1. Page 1, line 17, by striking the word
- 4 "pharmacotherapy". and inserting the following:
- 5 "chemotherapy".

RECEIVED FROM THE HOUSE

S-4074 FILED MAY 2, 1989

Senate Concurred 5-3-89 (p.1858)

HOUSE FILE 579

S-3864

1 Amend the amendment, S-3745, to House File 579 as
2 passed by the House as follows:

3 1. Page 1, by striking lines 8 through 22 and
4 inserting the following:

5 "____. Page 2, by inserting after line 21 the
6 following:

7 "Sec. ____ . Section 229.23, subsection 1, Code
8 1989, is amended to read as follows:

9 1. Prompt evaluation, emergency necessary
10 psychiatric services, and additional care and
11 treatment as indicated by ~~sound-medical-practice~~ the
12 patient's condition. A comprehensive, individualized
13 treatment plan shall be timely developed following
14 issuance of the court order requiring involuntary
15 hospitalization. The plan shall be consistent with
16 current standards appropriate to the facility to which
17 the person has been committed and with currently
18 accepted standards for psychiatric treatment of the
19 patient's condition, including pharmacotherapy,
20 pyschotherapy, counseling and other modalities as may
21 be appropriate."

By CALVIN O. HULTMAN

S-3864 FILED APRIL 24, 1989

ADOPTED 424-89 (p.1618)

HOUSE FILE 579

S-3811

- 1 Amend amendment, S-3745, to House File 579, as
- 2 passed by the House, as follows:
- 3 1. Page 1, line 18, by striking the words "for
- 4 hospitals".

By AL STURGEON

S-3811 FILED APRIL 19, 1989

Out of Order 4-24-89 (p.1618)

HOUSE FILE 579

S-3857

- 1 Amend the amendment, S-3745, to House File 579 as
- 2 passed by the House as follows:
- 3 1. Page 1, by striking lines 3 through 22 and
- 4 inserting the following:
- 5 " ____ . Page 2, by inserting after line 21 the
- 6 following:
- 7 "Sec. ____ . Section 229.23, subsection 1, Code
- 8 1989, is amended to read as follows:
- 9 1. Prompt evaluation, emergency necessary
- 10 psychiatric services, and additional care and
- 11 treatment as indicated by sound-medical-practice the
- 12 patient's condition. A comprehensive, individualized
- 13 treatment plan shall be timely developed following
- 14 issuance of the court order requiring involuntary
- 15 hospitalization. The plan shall be consistent with
- 16 current standards appropriate to the facility to which
- 17 the person has been committed and with currently
- 18 accepted standards for psychiatric treatment of the
- 19 patient's condition, including pharmacotherapy,
- 20 pyschotherapy, counseling and other modalities as may
- 21 be appropriate."

By CALVIN O. HULTMAN

S-3857 FILED APRIL 24, 1989

RULED OUT OF ORDER *4-24-89 (p.1618)*

HOUSE FILE 579

S-3858

- 1 Amend amendment, S-3745, to House File 579, as
- 2 passed by the House, as follows:
- 3 1. Page 1, line 15, by striking the word
- 4 "program" and inserting the following: "plan".
- 5 2. Page 1, line 17, by striking the word
- 6 "program" and inserting the following: "plan".
- 7 3. Page 1, lines 18 and 19, by striking the words
- 8 "for hospitals for psychiatric treatment planning" and
- 9 inserting the following: "appropriate to the facility
- 10 to which the person has been committed".

By AL STURGEON

S-3858 FILED APRIL 24, 1989

RULED OUT OF ORDER *4-24-89 (p.1618)*

SENATE AMENDMENT TO HOUSE FILE 579

H-4364

1 Amend House File 579, as passed by the House, as
2 follows:

3 1. Page 2, by inserting after line 21 the
4 following:

5 "Sec. ____ . Section 229.23, subsection 1, Code
6 1989, is amended to read as follows:

7 1. Prompt evaluation, emergency necessary
8 psychiatric services, and additional care and
9 treatment as indicated by ~~sound-medical-practice~~ the
10 patient's condition. A comprehensive, individualized
11 treatment plan shall be timely developed following
12 issuance of the court order requiring involuntary
13 hospitalization. The plan shall be consistent with
14 current standards appropriate to the facility to which
15 the person has been committed and with currently
16 accepted standards for psychiatric treatment of the
17 patient's condition, including pharmacotherapy,
18 psychotherapy, counseling and other modalities as may
19 be appropriate."

20 2. Page 2, by inserting after line 30, the
21 following:

22 "Sec. ____ . SUPREME COURT TASK FORCE.

23 The supreme court is requested to establish a task
24 force on involuntary hospitalization to do the
25 following:

26 1. Recommend methods for improving the consistent
27 application of chapters 125, 229, and 232.

28 2. Recommend educational programs, topics, and
29 materials and determine costs associated with
30 providing voluntary education programs to judicial
31 hospitalization referees, patient advocates, and to
32 members of the bar and medical community who are
33 involved in involuntary hospitalization.

34 3. Investigate the constitutionality of section
35 125.82, subsection 5, and section 125.83 and make
36 appropriate recommendations.

37 4. Prepare a report describing and explaining
38 prehearing screening and monitoring of medication
39 programs which have been established in other states.

40 The task force shall report its findings and any
41 recommendations to the supreme court and the
42 legislative council by January 31, 1990. The
43 legislative service bureau shall staff the task
44 force."

45 3. By renumbering as necessary.

RECEIVED FROM THE SENATE

H-4364 FILED MAY 2, 1989

CONCURRED AS AMENDED

5-2-89 (p2296)

HOUSE FILE 579

H-4367

- 1 Amend the Senate amendment, H-4364, to House File
- 2 579, as passed by the House, as follows:
- 3 1. Page 1, line 17, by striking the word
- 4 "pharmacotherapy". and inserting the following:
- 5 "chemotherapy".

By ADAMS of Hamilton

H-4367 FILED MAY 2, 1989

ADOPTED 5-2-89 (p 2296)

HOUSE FILE 579
FISCAL NOTE

A fiscal note for **HOUSE FILE 579** is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

House File 579 is a bill which pertains to civil commitment procedures. It adds to the criteria used to determine serious mental impairment by adding the condition that the person be unable to satisfy the person's needs for nourishment, clothing, medical care or shelter. The bill requires that a copy of the discharge order from the court be given to the applicant, as well as the patient. It also changes the reference to the client's spouse to the client's next-of-kin in regard to release.

Assumptions

1. DHS cannot estimate the number of new commitments that would result from this legislation.
2. The state of Oregon has recently implemented similar language, and experienced only seven (7) new commitments.
3. DHS has historically modified the operations at the mental health institutes to accommodate for increased demand, in order to stay within the appropriated funds. Therefore, if the number of commitments increases minimally, there will be no fiscal impact.

Summary of Fiscal Impact

Because the projected number of commitments cannot be determined, no fiscal estimate can be provided.

Source: Department of Human Services

(LSB 1737hv, CAR)

FILED MARCH 17, 1989

BY DENNIS PROUTY, FISCAL DIRECTOR

*Adams, Chair
Mertz
Brown
Clark
Plasier*

NSB 180

HUMAN RESOURCES

and

HOUSE FILE 579

BY (PROPOSED CIVIL COMMITMENT
STUDY COMMITTEE BILL)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to involuntary hospitalization procedures
2 applicable to the mentally ill and substance abusers.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 229.1, subsection 2, Code 1989, is
2 amended to read as follows:

3 2. "Seriously mentally impaired" or "serious mental
4 impairment" describes the condition of a person who is
5 afflicted with mental illness and because of that illness
6 lacks sufficient judgment to make responsible decisions with
7 respect to the person's hospitalization or treatment, and who
8 meets any of the following criteria:

9 a. Is likely to physically injure the person's self or
10 others if allowed to remain at liberty without treatment; ~~or,~~

11 b. Is likely to inflict serious emotional injury on
12 members of the person's family or others who lack reasonable
13 opportunity to avoid contact with the afflicted person if the
14 afflicted person is allowed to remain at liberty without
15 treatment.

16 c. Is gravely disabled.

17 Sec. 2. Section 229.1, Code 1989, is amended by adding the
18 following new subsection:

19 NEW SUBSECTION. 15. "Gravely disabled" means the
20 condition of a person who is afflicted with mental illness,
21 and because of that illness is unable to provide for the
22 person's basic needs for food, clothing, shelter, or medical
23 care so that it is probable that serious physical harm will
24 occur to the person in the reasonably foreseeable future.

25 Sec. 3. Section 229.11, Code 1989, is amended by adding
26 the following new unnumbered paragraph:

27 NEW UNNUMBERED PARAGRAPH. The clerk shall furnish copies
28 of any orders to the respondent, to the applicant, and to the
29 respondent's immediate family, if the family's residence is
30 known.

31 Sec. 4. Section 229.12, Code 1989, is amended by adding
32 the following new subsection:

33 NEW SUBSECTION. 5. The clerk shall furnish copies of any
34 orders to the respondent, to the applicant, and to the
35 respondent's immediate family, if the family's residence is

1 known.

2 Sec. 5. Section 229.16, Code 1989, is amended to read as
3 follows:

4 229.16 DISCHARGE AND TERMINATION OF PROCEEDING.

5 When in the opinion of the chief medical officer a patient,
6 who is hospitalized under section 229.14, subsection 2, or is
7 receiving treatment under section 229.14, subsection 3, or is
8 in full-time care and custody under section 229.14, subsection
9 ~~4~~, ~~of-section-229-14~~ no longer requires treatment or care for
10 serious mental impairment, the chief medical officer shall
11 tentatively discharge the patient and immediately report that
12 fact to the court which ordered the patient's hospitalization
13 or care and custody. The court shall thereupon issue an order
14 confirming the patient's discharge from the hospital or from
15 care and custody, as the case may be, and shall terminate the
16 proceedings pursuant to which the order was issued. Copies of
17 the order shall be sent by certified mail to the hospital, the
18 applicant, the patient's immediate family if the family's
19 address is known, and the patient.

20 Sec. 6. JUDICIAL STUDY. The judicial department is
21 requested to establish a committee to study current commitment
22 laws contained in chapters 125, 229, and 232. The committee
23 shall meet and deliberate under the direction and
24 administration of the supreme court. Members of the committee
25 shall include, but are not limited to:

- 26 1. Judicial hospitalization referees.
- 27 2. Members of the bar.
- 28 3. Members of the medical community.
- 29 4. Members of the general assembly.
- 30 5. Citizen members who are advocates for the mentally ill.

31 The committee shall seek ways to minimize the
32 confrontational aspects of the commitment process. The
33 committee shall prepare recommendations to be submitted in a
34 report to the legislative council by December 1, 1989.

35 Sec. 7. CONTINUING EDUCATION RULES. The supreme court

1 shall prescribe rules relating to continuing education
2 requirements for judicial hospitalization referees and patient
3 advocates by December 1, 1989.

4 Sec. 8. PILOT PROGRAMS RELATING TO COMMITMENT PROCEDURES.

5 The supreme court shall implement pilot programs including,
6 but not limited to, the development of appropriate court
7 orders or supervision relating to the monitoring of medication
8 of persons who have been involuntarily hospitalized and the
9 development of a prehearing screening process to encourage
10 resolution of disagreements between the applicant and the
11 respondent in a potential civil commitment hearing. The pilot
12 programs shall be established in a district court for which
13 the appropriate judicial officers have agreed that the
14 district and juvenile courts will serve as the pilot program
15 site for a period of two years, beginning July 1, 1989, and
16 ending June 30, 1991. The supreme court shall make periodic
17 reports to the general assembly containing summaries of the
18 progress of the pilot programs and any recommendations for
19 proposed amendments to the civil commitment statutes.

20 EXPLANATION

21 This bill authorizes the involuntary hospitalization of
22 mentally ill persons who are gravely disabled. Gravely
23 disabled is defined as the inability of a person to provide
24 for the person's basic needs which will probably result in
25 serious physical harm to the person in the reasonably
26 foreseeable future.

27 The bill also provides for delivery of court orders
28 relating to a hospitalization proceeding to patients who are
29 the subject of the order, the applicant in a commitment
30 proceeding, and the immediate family of a patient.

31 The supreme court is requested to conduct a study of
32 current civil commitment laws and to conduct pilot programs
33 relating to various issues in current civil commitment Code
34 provisions. The supreme court is also required to prescribe
35 rules relating to continuing education requirements for

1 judicial hospitalization referees and patient advocates.

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HOUSE FILE 579

AN ACT

RELATING TO INVOLUNTARY HOSPITALIZATION PROCEDURES APPLICABLE
TO THE MENTALLY ILL.

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

Section 1. Section 229.1, subsection 2, Code 1989, is amended to read as follows:

2. "Seriously mentally impaired" or "serious mental impairment" describes the condition of a person who is afflicted with mental illness and because of that illness lacks sufficient judgment to make responsible decisions with respect to the person's hospitalization or treatment, and who because of that illness meets any of the following criteria:

a. Is likely to physically injure the person's self or others if allowed to remain at liberty without treatment; or

b. Is likely to inflict serious emotional injury on members of the person's family or others who lack reasonable opportunity to avoid contact with the afflicted person if the afflicted person is allowed to remain at liberty without treatment.

c. Is unable to satisfy the person's needs for nourishment, clothing, essential medical care, or shelter so that it is likely that the person will suffer substantial physical injury, serious physical debilitation, or death within the reasonably foreseeable future.

Sec. 2. NEW SECTION. 229.1A LEGISLATIVE INTENT.

As mental illness is often a continuing condition which is subject to wide and unpredictable changes in condition and fluctuations in reoccurrence and remission, this chapter shall be liberally construed to give recognition to these medical facts.

Sec. 3. Section 229.11, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The clerk shall furnish copies of any orders to the respondent and to the applicant if the applicant files a written waiver signed by the respondent.

Sec. 4. Section 229.12, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 5. The clerk shall furnish copies of any orders to the respondent and to the applicant if the applicant files a written waiver signed by the respondent.

Sec. 5. Section 229.16, Code 1989, is amended to read as follows:

229.16 DISCHARGE AND TERMINATION OF PROCEEDING.

When in-the-opinion-of-the-chief-medical-officer the condition of a patient who is hospitalized under section 229.14, subsection 2, or is receiving treatment under section 229.14, subsection 3, or is in full-time care and custody under section 229.14, subsection 4, of-section-229.14 is such that in the opinion of the chief medical officer the patient no longer requires treatment or care for serious mental impairment, the chief medical officer shall tentatively discharge the patient and immediately report that fact to the court which ordered the patient's hospitalization or care and custody. The court shall thereupon issue an order confirming the patient's discharge from the hospital or from care and custody, as the case may be, and shall terminate the proceedings pursuant to which the order was issued. Copies of the order shall be sent by certified mail to the hospital, and the patient, and the applicant if the applicant has filed a written waiver signed by the patient.

Sec. 6. Section 229.23, subsection 1, Code 1989, is amended to read as follows:

1. Prompt evaluation, emergency necessary psychiatric services, and additional care and treatment as indicated by sound-medical-practice the patient's condition. A

comprehensive, individualized treatment plan shall be timely developed following issuance of the court order requiring involuntary hospitalization. The plan shall be consistent with current standards appropriate to the facility to which the person has been committed and with currently accepted standards for psychiatric treatment of the patient's condition, including chemotherapy, psychotherapy, counseling and other modalities as may be appropriate.

Sec. 7. Section 229.25, subsection 3, unnumbered paragraph 3, Code 1989, is amended to read as follows:

When the chief medical officer deems it to be in the best interest of the patient and ~~the spouse the patient's next of kin~~ to do so, the chief medical officer may release appropriate information during a consultation which the hospital or facility shall arrange with the ~~spouse next of kin~~ of a voluntary or involuntary patient, if requested by a ~~spouse the patient's next of kin~~.

Sec. 8. SUPREME COURT TASK FORCE.

The supreme court is requested to establish a task force on involuntary hospitalization to do the following:

1. Recommend methods for improving the consistent application of chapters 125, 229, and 232.
2. Recommend educational programs, topics, and materials and determine costs associated with providing voluntary education programs to judicial hospitalization referees, patient advocates, and to members of the bar and medical community who are involved in involuntary hospitalization.
3. Investigate the constitutionality of section 125.82, subsection 5, and section 125.83 and make appropriate recommendations.
4. Prepare a report describing and explaining preexisting screening and monitoring of medication programs which have been established in other states.

The task force shall report its findings and any recommendations to the supreme court and the legislative

council by January 31, 1990. The legislative service bureau shall staff the task force.

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 579, Seventy-third General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved  June 1, 1989

TERRY E. BRANSTAD
Governor