

L. Judiciary 3/15, Amend & No Pass (S-5422) 3/27

FEB 27 1991

HOUSE FILE 2308
BY COMMITTEE ON JUDICIARY AND
LAW ENFORCEMENT

Place On Calendar

(SUCCESSOR TO HSB 522)

Passed House, Date 3/2/92 (p. 1117) Passed Senate, Date 4/3/92 (p. 1199)
Vote: Ayes 96 Nays 0 Vote: Ayes 46 Nays 0
Approved April 28, 1992 (p. 1809)

A BILL FOR

1 An Act relating to procedures for the involuntary hospitalization
2 of chronic substance abusers and persons who are seriously
3 mentally impaired.

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

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HF 2308

1 Section 1. Section 125.81, subsection 3, Code Supplement
2 1991, is amended to read as follows:

3 3. In a the nearest facility ~~in-the-community~~ which is
4 ~~suitably-equipped-and-staffed-for-the-purpose~~ licensed to care
5 for persons with mental illness or substance abuse, provided
6 that detention in a jail or other facility intended for
7 confinement of those accused or convicted of a crime shall not
8 be ordered, except in cases of actual emergency if no other
9 secure resource is accessible, and then only for a period of
10 not more than twenty-four hours and under close supervision.

11 Sec. 2. Section 125.91, subsection 2, unnumbered paragraph
12 1 and paragraph a, Code 1991, are amended to read as follows:

13 A peace officer who has reasonable grounds to believe that
14 the circumstances described in subsection 1 are applicable,
15 may, without a warrant, take or cause that person to be taken
16 to the nearest available facility referred to in section
17 125.81, subsection 2 or 3. Such an intoxicated or
18 incapacitated person may also be delivered to a facility by
19 someone other than a peace officer upon a showing of
20 reasonable grounds. Upon delivery of the person to a facility
21 under this section, the chief medical officer may order
22 treatment of the person, but only to the extent necessary to
23 preserve the person's life or to appropriately control the
24 person's behavior if the behavior is likely to result in
25 physical injury to the person or others if allowed to
26 continue. The peace officer or other person who delivered the
27 person to the facility shall describe the circumstances of the
28 matter to the administrator. If the administrator in
29 consultation with the chief medical officer has reasonable
30 grounds to believe that the circumstances in subsection 1 are
31 applicable, the administrator shall at once communicate with
32 the nearest available magistrate as defined in section 801.4,
33 subsection 6. The magistrate shall immediately proceed to the
34 facility where the person is detained, except that if the
35 administrator's communication with the magistrate occurs

1 between the hours of midnight nine p.m. and seven a.m. of the
2 immediately succeeding day and the magistrate deems it
3 appropriate under the circumstances described by the
4 administrator, the magistrate may delay going to the facility,
5 and in that case, shall give the administrator verbal
6 instructions either directing that the person be released
7 forthwith, or authorizing the person's continued detention at
8 the facility. In the latter case, the magistrate shall:

9 a. Arrive at the facility where the person is being
10 detained as soon as possible and no later than ~~twelve o'clock~~
11 noon nine a.m. of the day immediately succeeding the day on
12 which the administrator's communication occurred, if the
13 administrator's communication occurred between nine p.m. and
14 midnight, or, if the communication occurred after midnight, by
15 nine a.m. of the same day on which the administrator's
16 communication occurred.

17 Sec. 3. Section 229.11, subsection 3, Code 1991, is
18 amended to read as follows:

19 3. In ~~a-public-or-private~~ the nearest facility in the
20 community which is ~~suitably-equipped-and-staffed-for-the~~
21 purpose licensed to care for persons with mental illness or
22 substance abuse, provided that detention in a jail or other
23 facility intended for confinement of those accused or
24 convicted of crime may not be ordered except in cases of
25 actual emergency when no other secure facility is accessible
26 and then only for a period of not more than twenty-four hours
27 and under close supervision.

28 Sec. 4. Section 229.13, Code Supplement 1991, is amended
29 to read as follows:

30 229.13 HOSPITALIZATION-FOR EVALUATION ORDER --
31 UNAUTHORIZED DEPARTURE.

32 If upon completion of the hearing the court finds that the
33 contention that the respondent is seriously mentally impaired
34 has been sustained by clear and convincing evidence, it shall
35 order the respondent placed in a hospital or ~~other-suitable a~~

1 facility licensed to care for persons with mental illness or
2 substance abuse or under the care of a facility that is
3 licensed to care for persons with mental illness or substance
4 abuse on an outpatient basis as expeditiously as possible for
5 a complete psychiatric evaluation and appropriate treatment.
6 If the respondent is ordered at the hearing to undergo
7 outpatient treatment, the outpatient treatment provider must
8 be notified and agree to provide the treatment prior to
9 placement of the respondent under the treatment provider's
10 care. The court shall furnish to the hospital or facility at
11 the time the respondent arrives there at the hospital or
12 facility a written finding of fact setting forth the evidence
13 on which the finding is based. If the respondent is ordered
14 to undergo outpatient treatment, the order shall also require
15 the respondent to cooperate with the treatment provider and
16 comply with the course of treatment. The chief medical
17 officer of the hospital or facility shall report to the court
18 no more than fifteen days after the individual is admitted to
19 or placed under the care of the hospital or facility, making a
20 recommendation for disposition of the matter. An extension of
21 time may be granted for not to exceed seven days upon a
22 showing of cause. A copy of the report shall be sent to the
23 respondent's attorney, who may contest the need for an
24 extension of time if one is requested. Extension of time
25 shall be granted upon request unless the request is contested,
26 in which case the court shall make such inquiry as it deems
27 appropriate and may either order the respondent's release from
28 the hospital or facility or grant extension of time for
29 psychiatric evaluation. If the chief medical officer fails to
30 report to the court within fifteen days after the individual
31 is admitted to or placed under the care of the hospital or
32 facility, and no extension of time has been requested, the
33 chief medical officer is guilty of contempt and shall be
34 punished under chapter 665. The court shall order a rehearing
35 on the application to determine whether the respondent should

1 continue to be held at or placed under the care of the
2 facility.

3 If, after placement and admission of a respondent in or
4 under the care of a hospital or other suitable facility, the
5 respondent departs from the hospital or facility or fails to
6 appear for treatment as ordered without prior proper
7 authorization from the chief medical officer, upon receipt of
8 notification of the respondent's departure or failure to
9 appear by the chief medical officer, a peace officer of the
10 state shall without further order of the court exercise all
11 due diligence to take the respondent into protective custody
12 and return the respondent to the hospital or facility.

13 Sec. 5. Section 229.15, subsection 4, Code 1991, is
14 amended to read as follows:

15 4. When in the opinion of the chief medical officer the
16 best interest of a patient would be served by a convalescent
17 or limited leave or by transfer to a different hospital for
18 continued full-time custody, care and treatment, the chief
19 medical officer may authorize the leave or arrange and
20 complete the transfer but shall promptly report the leave or
21 transfer to the court. The patient's attorney or advocate may
22 request a hearing on a transfer. Nothing in this section
23 shall be construed to add to or restrict the authority
24 otherwise provided by law for transfer of patients or
25 residents among various state institutions administered by the
26 department of human services. If a patient is transferred
27 under this subsection, the treatment provider to whom the
28 patient is transferred shall be provided with copies of
29 relevant court orders by the former treatment provider.

30 Sec. 6. Section 229.21, subsection 2, Code Supplement
31 1991, is amended to read as follows:

32 2. When an application for involuntary hospitalization
33 under this chapter or an application for involuntary
34 commitment or treatment of chronic substance abusers under
35 sections 125.75 to 125.94 is filed with the clerk of the

1 district court in any county for which a judicial
2 hospitalization referee has been appointed, and no district
3 judge, district associate judge, or magistrate who is admitted
4 to the practice of law in this state is accessible, the clerk
5 shall immediately notify the referee in the manner required by
6 section 229.7 or section 125.77. The referee shall discharge
7 all of the duties imposed upon the court by sections 229.7 to
8 229.22 or sections 125.75 to 125.94 in the proceeding so
9 initiated. Subject to the provisions of subsection 4, orders
10 issued by a referee, in discharge of duties imposed under this
11 section, shall have the same force and effect as if ordered by
12 a district judge. However, any commitment to a facility
13 regulated and operated under chapter 135C, shall be in
14 accordance with section 135C.23.

15 Sec. 7. Section 229.22, subsection 2, unnumbered paragraph
16 1 and paragraph b, Code 1991, are amended to read as follows:

17 In the circumstances described in subsection 1, any peace
18 officer who has reasonable grounds to believe that a person is
19 mentally ill, and because of that illness is likely to
20 physically injure the person's self or others if not
21 immediately detained, may without a warrant take or cause that
22 person to be taken to the nearest available facility as
23 defined in section 229.11, subsections 2 and 3. A person
24 believed mentally ill, and likely to injure the person's self
25 or others if not immediately detained, may be delivered to a
26 hospital by someone other than a peace officer. Upon delivery
27 of the person believed mentally ill to the hospital, the chief
28 medical officer may order treatment of that person, including
29 chemotherapy, but only to the extent necessary to preserve the
30 person's life or to appropriately control behavior by the
31 person which is likely to result in physical injury to that
32 person or others if allowed to continue. The peace officer
33 who took the person into custody, or other party who brought
34 the person to the hospital, shall describe the circumstances
35 of the matter to the chief medical officer. If the chief

1 medical officer finds that there is reason to believe that the
2 person is seriously mentally impaired, and because of that
3 impairment is likely to physically injure the person's self or
4 others if not immediately detained, the chief medical officer
5 shall at once communicate with the nearest available
6 magistrate as defined in section 801.4, subsection 6. The
7 magistrate shall immediately proceed to the facility where the
8 person is detained, except that if the chief medical officer's
9 communication with the magistrate occurs between the hours of
10 midnight nine p.m. and ~~the next succeeding~~ seven o'clock a.m.
11 of the immediately succeeding day and the magistrate deems it
12 appropriate under the circumstances described by the chief
13 medical officer, the magistrate may delay going to the
14 facility and in that case shall give the chief medical officer
15 verbal instructions either directing that the person be
16 released forthwith or authorizing the person's continued
17 detention at that facility. In the latter case, the
18 magistrate shall:

19 b. Arrive at the facility where the person is being
20 detained not later than ~~eight o'clock~~ nine a.m. of the day
21 immediately succeeding the day on which the administrator's
22 communication occurred, if the administrator's communication
23 occurred between nine p.m. and midnight, or, if the
24 communication occurred after midnight, by nine a.m. of the
25 same day on which the chief medical officer's notification
26 occurs.

27 Sec. 8. NEW SECTION. 229.44 VENUE.

28 1. Venue for hospitalization proceedings shall be in the
29 county where the respondent is found, unless the matter is
30 transferred pursuant to supreme court rule 16 for the
31 involuntary hospitalization of the mentally ill, in which case
32 venue shall be in the county where the matter is transferred
33 for hearing.

34 2. After an order is entered pursuant to section 229.34,
35 the court may transfer proceedings to the court of any county

1 having venue at any further stage in the proceeding as
2 follows:

3 a. When it appears that the best interests of the
4 respondent or the convenience of the parties will be served by
5 a transfer, the court may transfer the case to the court of
6 the county of the respondent's residence.

7 b. When it appears that the best interests of the
8 respondent or the convenience of the parties will be served by
9 a transfer, the court may transfer the case to the court of
10 the county where the respondent is found.

11 3. If a proceeding is transferred, the court shall contact
12 the court in the county which is to be the recipient of the
13 transfer before entering the order to transfer the case. The
14 court shall then transfer the case by ordering a transfer of
15 the matter to the recipient county, by ordering a continuance
16 of the matter in the transferring county, and by forwarding to
17 the clerk of the receiving court a certified copy of all
18 papers filed, together with the order of transfer. The
19 referee of the receiving court may accept the filings of the
20 transferring court or may direct the filing of a new
21 application and may hear the case anew.

22 EXPLANATION

23 This bill makes changes in provisions relating to the
24 involuntary hospitalization of persons found to be chronic
25 substance abusers or seriously mentally impaired.

26 Sections 1, 3, and 4 change references to specifically
27 include facilities licensed to care for persons with mental
28 illness or substance abuse as appropriate placements in
29 hospitalization proceedings.

30 Sections 2 and 7 make changes in the hours during which a
31 magistrate does not have to be on call for purposes of
32 conducting emergency commitment hearings of persons alleged to
33 be either chronic substance abusers or seriously mentally
34 impaired. Both sections provide for a hearing by nine a.m. on
35 the day that immediately follows the end of the period during

1 which the magistrate is not on call, if information relating
2 to the individual is communicated during the hours in which
3 the magistrate is not on call.

4 Section 4 also permits judges to order at the
5 hospitalization hearing that a respondent be placed under
6 outpatient care and treatment. Section 5 provides for the
7 transfer of records and orders pertaining to an individual, if
8 the care and treatment of the individual is transferred to
9 another treatment provider by the chief medical officer of the
10 original treatment provider. Section 6 provides that a
11 referee's orders shall have the same force and effect as those
12 of a district judge, except where the commitment order has
13 been appealed. Section 6 provides a method by which venue of
14 a commitment proceeding may be transferred, if either the best
15 interests of the respondent or the convenience of the parties
16 will be served, to either the residence of the respondent or
17 the place where the respondent may be found.

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SENATE AMENDMENT TO HOUSE FILE 2308

H-5758

1 Amend House File 2308, as passed by the House, as
2 follows:

3 1. By striking page 1, line 11 through page 2,
4 line 16.

5 2. Page 4, by inserting after line 12 the
6 following:

7 "Sec. ____ . Section 229.14, subsection 3, Code
8 Supplement 1991, is amended to read as follows:

9 3. That the respondent is seriously mentally
10 impaired and in need of treatment, but does not
11 require full-time hospitalization. If the report so
12 states it shall include the chief medical officer's
13 recommendation for treatment of the respondent on an
14 outpatient or other appropriate basis, and the court
15 shall enter an order which may direct the respondent
16 to submit to the recommended treatment. The order
17 shall provide that if the respondent fails or refuses
18 to submit to treatment as directed by the court's
19 order, the court may order that the respondent be
20 taken into immediate custody as provided by section
21 229.11 and, following notice and hearing held in
22 accordance with the procedures of section 229.12, may
23 order the respondent treated as a patient requiring
24 full-time custody, care and treatment in a hospital
25 until such time as the chief medical officer reports
26 that the respondent does not require further treatment
27 for serious mental impairment or has indicated the
28 respondent is willing to submit to treatment on
29 another basis as ordered by the court. If a patient
30 is transferred for treatment to another provider under
31 this subsection, the treatment provider who will be
32 providing the outpatient or other appropriate
33 treatment shall be provided with relevant court orders
34 by the former treatment provider."

35 3. By striking page 5, line 15 through page 6,
36 line 26.

37 4. By renumbering, relettering, or redesignating
38 and correcting internal references as necessary.

RECEIVED FROM THE SENATE

H-5758 FILED APRIL 7, 1992

HOUSE FILE 2308

S-5422

1 Amend House File 2308, as passed by the House, as
2 follows:

3 1. By striking page 1, line 11 through page 2,
4 line 16.

5 2. By striking page 5, line 15 through page 6,
6 line 26.

7 3. By renumbering as necessary.

By COMMITTEE ON JUDICIARY
AL STURGEON, Chairperson

S-5422 FILED MARCH 27, 1992

Adopted 4/3 (p. 1199)

HOUSE FILE 2308

S-5456

1 Amend House File 2308, as passed by the House, as
2 follows:

3 1. Page 4, by inserting after line 12 the
4 following:

5 "Sec. ____ Section 229.14, subsection 3, Code
6 Supplement 1991, is amended to read as follows:

7 3. That the respondent is seriously mentally
8 impaired and in need of treatment, but does not
9 require full-time hospitalization. If the report so
10 states it shall include the chief medical officer's
11 recommendation for treatment of the respondent on an
12 outpatient or other appropriate basis, and the court
13 shall enter an order which may direct the respondent
14 to submit to the recommended treatment. The order
15 shall provide that if the respondent fails or refuses
16 to submit to treatment as directed by the court's
17 order, the court may order that the respondent be
18 taken into immediate custody as provided by section
19 229.11 and, following notice and hearing held in
20 accordance with the procedures of section 229.12, may
21 order the respondent treated as a patient requiring
22 full-time custody, care and treatment in a hospital
23 until such time as the chief medical officer reports
24 that the respondent does not require further treatment
25 for serious mental impairment or has indicated the
26 respondent is willing to submit to treatment on
27 another basis as ordered by the court. If a patient
28 is transferred for treatment to another provider under
29 this subsection, the treatment provider who will be
30 providing the outpatient or other appropriate
31 treatment shall be provided with relevant court orders
32 by the former treatment provider."

33 2. By numbering and renumbering as necessary.

By RALPH ROSENBERG

S-5456 FILED MARCH 31, 1992

Adopted 4/3 (p. 1199)

SENATE/HOUSE FILE 2308
BY (PROPOSED JUDICIAL DEPARTMENT
BILL)

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

A BILL FOR

1 An Act relating to procedures for the involuntary hospitalization
2 of chronic substance abusers and persons who are seriously
3 mentally impaired.

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

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SUB COMMITTEE ASSIGNMENTS
CHAIR: *Peterson*
COMMITTEE: *Judiciary*
1-22-92

1 Section 1. Section 125.91, subsection 2, unnumbered
2 paragraph 1 and paragraph a, Code 1991, are amended to read as
3 follows:

4 A peace officer who has reasonable grounds to believe that
5 the circumstances described in subsection 1 are applicable,
6 may, without a warrant, take or cause that person to be taken
7 to the nearest available facility referred to in section
8 125.81, subsection 2 or 3. Such an intoxicated or
9 incapacitated person may also be delivered to a facility by
10 someone other than a peace officer upon a showing of
11 reasonable grounds. Upon delivery of the person to a facility
12 under this section, the chief medical officer may order
13 treatment of the person, but only to the extent necessary to
14 preserve the person's life or to appropriately control the
15 person's behavior if the behavior is likely to result in
16 physical injury to the person or others if allowed to
17 continue. The peace officer or other person who delivered the
18 person to the facility shall describe the circumstances of the
19 matter to the administrator. If the administrator in
20 consultation with the chief medical officer has reasonable
21 grounds to believe that the circumstances in subsection 1 are
22 applicable, the administrator shall at once communicate with
23 the nearest available magistrate as defined in section 801.4,
24 subsection 6. The magistrate shall immediately proceed to the
25 facility where the person is detained, except that if the
26 administrator's communication with the magistrate occurs
27 between the hours of midnight nine p.m. and seven a.m. of the
28 immediately succeeding day and the magistrate deems it
29 appropriate under the circumstances described by the
30 administrator, the magistrate may delay going to the facility,
31 and in that case, shall give the administrator verbal
32 instructions either directing that the person be released
33 forthwith, or authorizing the person's continued detention at
34 the facility. In the latter case, the magistrate shall:
35 a. Arrive at the facility where the person is being

1 detained as soon as possible and no later than ~~twelve o'clock~~
2 noon nine a.m. of the day immediately succeeding the day on
3 which the administrator's communication occurred, if the
4 administrator's communication occurred between nine p.m. and
5 midnight, or, if the communication occurred after midnight, by
6 nine a.m. of the same day on which the administrator's
7 communication occurred.

8 Sec. 2. Section 229.13, Code Supplement 1991, is amended
9 to read as follows:

10 229.13 ~~HOSPITALIZATION-FOR~~ EVALUATION ORDER --UNAUTHORIZED
11 DEPARTURE.

12 If upon completion of the hearing the court finds that the
13 contention that the respondent is seriously mentally impaired
14 has been sustained by clear and convincing evidence, it shall
15 order the respondent placed in a hospital or other suitable
16 facility or under the care of a suitable facility on an
17 outpatient basis as expeditiously as possible for a complete
18 psychiatric evaluation and appropriate treatment. If the
19 respondent is ordered at the hearing to undergo outpatient
20 treatment, the outpatient treatment provider must be notified
21 and agree to provide the treatment prior to placement of the
22 respondent under the treatment provider's care. The court
23 shall furnish to the hospital or facility at the time the
24 respondent arrives there at the hospital or facility a written
25 finding of fact setting forth the evidence on which the
26 finding is based. If the respondent is ordered to undergo
27 outpatient treatment, the order shall also require the
28 respondent to cooperate with the treatment provider and comply
29 with the course of treatment. The chief medical officer of
30 the hospital or facility shall report to the court no more
31 than fifteen days after the individual is admitted to or
32 placed under the care of the hospital or facility, making a
33 recommendation for disposition of the matter. An extension of
34 time may be granted for not to exceed seven days upon a
35 showing of cause. A copy of the report shall be sent to the

1 respondent's attorney, who may contest the need for an
2 extension of time if one is requested. Extension of time
3 shall be granted upon request unless the request is contested,
4 in which case the court shall make such inquiry as it deems
5 appropriate and may either order the respondent's release from
6 the hospital or facility or grant extension of time for
7 psychiatric evaluation. If the chief medical officer fails to
8 report to the court within fifteen days after the individual
9 is admitted to or placed under the care of the hospital or
10 facility, and no extension of time has been requested, the
11 chief medical officer is guilty of contempt and shall be
12 punished under chapter 665. The court shall order a rehearing
13 on the application to determine whether the respondent should
14 continue to be held at or placed under the care of the
15 facility.

16 If, after placement and admission of a respondent in or
17 under the care of a hospital or other suitable facility, the
18 respondent departs from the hospital or facility or fails to
19 appear for treatment as ordered without prior proper
20 authorization from the chief medical officer, upon receipt of
21 notification of the respondent's departure or failure to
22 appear by the chief medical officer, a peace officer of the
23 state shall without further order of the court exercise all
24 due diligence to take the respondent into protective custody
25 and return the respondent to the hospital or facility.

26 Sec. 3. Section 229.15, subsection 4, Code 1991, is
27 amended to read as follows:

28 4. When in the opinion of the chief medical officer the
29 best interest of a patient would be served by a convalescent
30 or limited leave or by transfer to a different hospital for
31 continued full-time custody, care and treatment, the chief
32 medical officer may authorize the leave or arrange and
33 complete the transfer but shall promptly report the leave or
34 transfer to the court. The patient's attorney or advocate may
35 request a hearing on a transfer. Nothing in this section

1 shall be construed to add to or restrict the authority
 2 otherwise provided by law for transfer of patients or
 3 residents among various state institutions administered by the
 4 department of human services. If a patient is transferred
 5 under this subsection, the treatment provider to whom the
 6 patient is transferred shall be provided with copies of
 7 relevant court orders by the former treatment provider.

8 Sec. 4. Section 229.21, subsection 2, Code Supplement
 9 1991, is amended to read as follows:

10 2. When an application for involuntary hospitalization
 11 under this chapter or an application for involuntary
 12 commitment or treatment of chronic substance abusers under
 13 sections 125.75 to 125.94 is filed with the clerk of the
 14 district court in any county for which a judicial
 15 hospitalization referee has been appointed, and no district
 16 judge, district associate judge, or magistrate who is admitted
 17 to the practice of law in this state is accessible, the clerk
 18 shall immediately notify the referee in the manner required by
 19 section 229.7 or section 125.77. The referee shall discharge
 20 all of the duties imposed upon the court by sections 229.7 to
 21 229.22 or sections 125.75 to 125.94 in the proceeding so
 22 initiated. Subject to the provisions of subsection 4, orders
 23 issued by a referee, in discharge of duties imposed under this
 24 section, shall have the same force and effect as if ordered by
 25 a district judge. However, any commitment to a facility
 26 regulated and operated under chapter 135C, shall be in
 27 accordance with section 135C.23.

28 Sec. 5. Section 229.22, subsection 2, unnumbered paragraph
 29 1 and paragraph b, Code 1991, are amended to read as follows:

30 In the circumstances described in subsection 1, any peace
 31 officer who has reasonable grounds to believe that a person is
 32 mentally ill, and because of that illness is likely to
 33 physically injure the person's self or others if not
 34 immediately detained, may without a warrant take or cause that
 35 person to be taken to the nearest available facility as

S.F. _____ H.F. _____

1 defined in section 229.11, subsections 2 and 3. A person
2 believed mentally ill, and likely to injure the person's self
3 or others if not immediately detained, may be delivered to a
4 hospital by someone other than a peace officer. Upon delivery
5 of the person believed mentally ill to the hospital, the chief
6 medical officer may order treatment of that person, including
7 chemotherapy, but only to the extent necessary to preserve the
8 person's life or to appropriately control behavior by the
9 person which is likely to result in physical injury to that
10 person or others if allowed to continue. The peace officer
11 who took the person into custody, or other party who brought
12 the person to the hospital, shall describe the circumstances
13 of the matter to the chief medical officer. If the chief
14 medical officer finds that there is reason to believe that the
15 person is seriously mentally impaired, and because of that
16 impairment is likely to physically injure the person's self or
17 others if not immediately detained, the chief medical officer
18 shall at once communicate with the nearest available
19 magistrate as defined in section 801.4, subsection 6. The
20 magistrate shall immediately proceed to the facility where the
21 person is detained, except that if the chief medical officer's
22 communication with the magistrate occurs between the hours of
23 midnight nine p.m. and the next succeeding seven o'clock a.m.
24 of the immediately succeeding day and the magistrate deems it
25 appropriate under the circumstances described by the chief
26 medical officer, the magistrate may delay going to the
27 facility and in that case shall give the chief medical officer
28 verbal instructions either directing that the person be
29 released forthwith or authorizing the person's continued
30 detention at that facility. In the latter case, the
31 magistrate shall:

32 b. Arrive at the facility where the person is being
33 detained not later than eight-o'clock nine a.m. of the day
34 immediately succeeding the day on which the administrator's
35 communication occurred, if the administrator's communication

1 occured between nine p.m. and midnight, or, if the
2 communication occured after midnight, by nine a.m. of the same
3 day on which the chief medical officer's notification occurs.

4 Sec. 6. NEW SECTION. 229.44 VENUE.

5 1. Venue for hospitalization proceedings shall be in the
6 county where the respondent is found, unless the matter is
7 transferred pursuant to supreme court rule 16 for the
8 involuntary hospitalization of the mentally ill, in which case
9 venue shall be in the county where the matter is transferred
10 for hearing.

11 2. After an order is entered pursuant to section 229.34,
12 the court may transfer proceedings to the court of any county
13 having venue at any further stage in the proceeding as
14 follows:

15 a. When it appears that the best interests of the
16 respondent or the convenience of the parties will be served by
17 a transfer, the court may transfer the case to the court of
18 the county of the respondent's residence.

19 b. When it appears that the best interests of the
20 respondent or the convenience of the parties will be served by
21 a transfer, the court may transfer the case to the court of
22 the county where the respondent is found.

23 3. If a proceeding is transferred, the court shall contact
24 the court in the county which is to be the recipient of the
25 transfer before entering the order to transfer the case. The
26 court shall then transfer the case by ordering a transfer of
27 the matter to the recipient county, by ordering a continuance
28 of the matter in the transferring county, and by forwarding to
29 the clerk of the receiving court a certified copy of all
30 papers filed, together with the order of transfer. The
31 referee of the receiving court may accept the filings of the
32 transferring court or may direct the filing of a new
33 application and may hear the case anew.

34 EXPLANATION

35 This bill makes changes in provisions relating to the

1 involuntary hospitalization of persons found to be chronic
2 substance abusers or seriously mentally impaired.

3 Sections 1 and 5 make changes in the hours during which a
4 magistrate does not have to be on call for purposes of
5 conducting emergency commitment hearings of persons alleged to
6 be either chronic substance abusers or seriously mentally
7 impaired. Both sections provide for a hearing by nine a.m. on
8 the day that immediately follows the end of the period during
9 which the magistrate is not on call, if information relating
10 to the individual is communicated during the hours in which
11 the magistrate is not on call.

12 Section 2 permits judges to order at the hospitalization
13 hearing that a respondent be placed under outpatient care and
14 treatment. Section 3 provides for the transfer of records and
15 orders pertaining to an individual, if the care and treatment
16 of the individual is transferred to another treatment provider
17 by the chief medical officer of the original treatment
18 provider. Section 4 provides that a referee's orders shall
19 have the same force and effect as those of a district judge,
20 except where the commitment order has been appealed. Section
21 6 provides a method by which venue of a commitment proceeding
22 may be transferred, if either the best interests of the
23 respondent or the convenience of the parties will be served,
24 to either the residence of the respondent or the place where
25 the respondent may be found.

26 BACKGROUND STATEMENT

27 SUBMITTED BY THE AGENCY

28 These amendments are to facilitate proceedings for
29 involuntary commitment and clarify certain sections. Section
30 1 changes the time a magistrate is on call for emergency
31 proceedings for involuntary hospitalization of chronic
32 substance abusers. Section 2 provides the court with
33 authority to immediately order outpatient care. Section 3
34 requires an institution to provide copies of relevant orders
35 and report to a facility where a patient has been transferred.

1 Section 4 clarifies that orders of a referee have the force
 2 and effect of orders of the district court. Section 5 changes
 3 the time a magistrate is on call for emergency proceedings
 4 under chapter 229. Section 6 creates a new section providing
 5 for circumstances for authorizing change of venue.

6 All of these changes to the Code were recommended by the
 7 supreme court task force on involuntary commitments.

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HOUSE FILE 2308

AN ACT

RELATING TO PROCEDURES FOR THE INVOLUNTARY HOSPITALIZATION
OF CHRONIC SUBSTANCE ABUSERS AND PERSONS WHO ARE SERIOUSLY
MENTALLY IMPAIRED.

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

Section 1. Section 125.81, subsection 3, Code Supplement 1991, is amended to read as follows:

3. In ~~a the nearest facility in the community which is suitably equipped and staffed for the purpose licensed to care for persons with mental illness or substance abuse,~~ provided that detention in a jail or other facility intended for confinement of those accused or convicted of a crime shall not be ordered, except in cases of actual emergency if no other secure resource is accessible, and then only for a period of not more than twenty-four hours and under close supervision.

Sec. 2. Section 229.11, subsection 3, Code 1991, is amended to read as follows:

3. In ~~a public or private the nearest facility in the community which is suitably equipped and staffed for the purpose licensed to care for persons with mental illness or substance abuse,~~ provided that detention in a jail or other facility intended for confinement of those accused or convicted of crime may not be ordered except in cases of actual emergency when no other secure facility is accessible and then only for a period of not more than twenty-four hours and under close supervision.

Sec. 3. Section 229.13, Code Supplement 1991, is amended to read as follows:

229.13 HOSPITALIZATION FOR EVALUATION ORDER --
UNAUTHORIZED DEPARTURE.

If upon completion of the hearing the court finds that the contention that the respondent is seriously mentally impaired has been sustained by clear and convincing evidence, it shall order the respondent placed in a hospital or ~~other suitable a~~ facility licensed to care for persons with mental illness or substance abuse or under the care of a facility that is licensed to care for persons with mental illness or substance abuse on an outpatient basis as expeditiously as possible for a complete psychiatric evaluation and appropriate treatment. If the respondent is ordered at the hearing to undergo outpatient treatment, the outpatient treatment provider must be notified and agree to provide the treatment prior to placement of the respondent under the treatment provider's care. The court shall furnish to the hospital or facility at the time the respondent arrives there at the hospital or facility a written finding of fact setting forth the evidence on which the finding is based. If the respondent is ordered to undergo outpatient treatment, the order shall also require the respondent to cooperate with the treatment provider and comply with the course of treatment. The chief medical officer of the hospital or facility shall report to the court no more than fifteen days after the individual is admitted to or placed under the care of the hospital or facility, making a recommendation for disposition of the matter. An extension of time may be granted for not to exceed seven days upon a showing of cause. A copy of the report shall be sent to the respondent's attorney, who may contest the need for an extension of time if one is requested. Extension of time shall be granted upon request unless the request is contested, in which case the court shall make such inquiry as it deems appropriate and may either order the respondent's release from the hospital or facility or grant extension of time for psychiatric evaluation. If the chief medical officer fails to report to the court within fifteen days after the individual is admitted to or placed under the care of the hospital or

facility, and no extension of time has been requested, the chief medical officer is guilty of contempt and shall be punished under chapter 665. The court shall order a re-hearing on the application to determine whether the respondent should continue to be held at or placed under the care of the facility.

If, after placement and admission of a respondent in or under the care of a hospital or other suitable facility, the respondent departs from the hospital or facility or fails to appear for treatment as ordered without prior proper authorization from the chief medical officer, upon receipt of notification of the respondent's departure or failure to appear by the chief medical officer, a peace officer of the state shall without further order of the court exercise all due diligence to take the respondent into protective custody and return the respondent to the hospital or facility.

Sec. 4. Section 229.14, subsection 3, Code Supplement 1991, is amended to read as follows:

3. That the respondent is seriously mentally impaired and in need of treatment, but does not require full-time hospitalization. If the report so states it shall include the chief medical officer's recommendation for treatment of the respondent on an outpatient or other appropriate basis, and the court shall enter an order which may direct 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 229.11 and, following notice and hearing held in accordance with the procedures of section 229.12, may order the respondent treated as a patient requiring full-time custody, care and treatment in a hospital until such time as the chief medical officer reports that the respondent does not require further treatment for serious mental impairment or has indicated the respondent is willing to submit to treatment on

another basis as ordered by the court. If a patient is transferred for treatment to another provider under this subsection, the treatment provider who will be providing the outpatient or other appropriate treatment shall be provided with relevant court orders by the former treatment provider.

Sec. 5. Section 229.15, subsection 4, Code 1991, is amended to read as follows:

4. When in the opinion of the chief medical officer the best interest of a patient would be served by a convalescent or limited leave or by transfer to a different hospital for continued full-time custody, care and treatment, the chief medical officer may authorize the leave or arrange and complete the transfer but shall promptly report the leave or transfer to the court. The patient's attorney or advocate may request a hearing on a transfer. Nothing in this section shall be construed to add to or restrict the authority otherwise provided by law for transfer of patients or residents among various state institutions administered by the department of human services. If a patient is transferred under this subsection, the treatment provider to whom the patient is transferred shall be provided with copies of relevant court orders by the former treatment provider.

Sec. 6. Section 229.21, subsection 2, Code Supplement 1991, is amended to read as follows:

2. 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, district associate judge, or magistrate who is admitted to the practice of law in this state is accessible, 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 the court by sections 229.7 to

229.22 or sections 125.75 to 125.94 in the proceeding so initiated. Subject to the provisions of subsection 4, orders issued by a referee, in discharge of duties imposed under this section, shall have the same force and effect as if ordered by a district judge. However, any commitment to a facility regulated and operated under chapter 135C, shall be in accordance with section 135C.23.

Sec. 7. NEW SECTION. 229.44 VENUK.

1. Venue for hospitalization proceedings shall be in the county where the respondent is found, unless the matter is transferred pursuant to supreme court rule 16 for the involuntary hospitalization of the mentally ill, in which case venue shall be in the county where the matter is transferred for hearing.

2. After an order is entered pursuant to section 229.34, the court may transfer proceedings to the court of any county having venue at any further stage in the proceeding as follows:

a. When it appears that the best interests of the respondent or the convenience of the parties will be served by a transfer, the court may transfer the case to the court of the county of the respondent's residence.

b. When it appears that the best interests of the respondent or the convenience of the parties will be served by a transfer, the court may transfer the case to the court of the county where the respondent is found.

3. If a proceeding is transferred, the court shall contact the court in the county which is to be the recipient of the transfer before entering the order to transfer the case. The court shall then transfer the case by ordering a transfer of the matter to the recipient county, by ordering a continuance of the matter in the transferring county, and by forwarding to the clerk of the receiving court a certified copy of all papers filed, together with the order of transfer. The referee of the receiving court may accept the filings of the

transferring court or may direct the filing of a new application and may hear the case anew.

ROBERT C. ARNOULD
Speaker of the House

MICHAEL E. GRONSTAL
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2308, Seventy-fourth General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved April 28, 1992

TERRY E. BRANSTAD
Governor