

*Reprinted*

HOUSE FILE 2436  
BY COMMITTEE ON JUDICIARY  
AND LAW ENFORCEMENT

MAR 11 1992

Place On Calendar

(SUCCESSOR TO HSB 718)

Passed House, Date 3/23/92(p.752) Passed Senate, Date \_\_\_\_\_  
Vote: Ayes 92 Nays 5 Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

*Motion to reconsider 3/23(p.758)  
Prevalled 3/24(p.770)  
Re-passed  
Ayes 96 - Nays 0 3/24(p.770)*

**A BILL FOR**

1 An Act relating to the detention of persons alleged to be  
2 seriously mentally impaired or to be chronic substance  
3 abusers.

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

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HF 2436

1 Section 1. Section 125.85, Code 1991, is amended by adding  
2 the following new subsection:

3 NEW SUBSECTION. 5. A person who is placed for evaluation  
4 at a facility under section 125.83 or who is committed to a  
5 facility under section 125.84, subsection 2, shall remain at  
6 that facility unless discharged or otherwise permitted to  
7 leave by the court or administrator of the facility. If a  
8 person placed at a facility or committed to a facility leaves  
9 the facility without permission or without having been  
10 discharged, the administrator may notify the sheriff of the  
11 person's absence and the sheriff shall take the person into  
12 custody and return the person promptly to the facility.

13 Sec. 2. NEW SECTION. 229.14A ESCAPE FROM CUSTODY.

14 A person who is placed in a hospital or other suitable  
15 facility for evaluation under section 229.13 or who is  
16 required to remain hospitalized for treatment under section  
17 229.14, subsection 2, shall remain at that hospital or  
18 facility unless discharged or otherwise permitted to leave by  
19 the court or the chief medical officer of the hospital or  
20 facility. If a person placed at a hospital or facility or  
21 required to remain at a hospital or facility leaves the  
22 facility without permission or without having been discharged,  
23 the chief medical officer may notify the sheriff of the  
24 person's absence and the sheriff shall take the person into  
25 custody and return the person promptly to the hospital or  
26 facility.

27 EXPLANATION

28 This bill provides that a person who has been placed in a  
29 facility or hospital for evaluation prior to hearing or who  
30 has been committed to a facility or hospital, either for  
31 chronic substance abuse or serious mental impairment, and who  
32 leaves the facility or hospital without permission, can be  
33 taken into custody by the sheriff and returned to the hospital  
34 or facility. The bill also provides that the person in charge  
35 of the facility or hospital may notify the sheriff of the

1 person's absence.

2     The bill may include a state mandate as defined in section  
3 25B.3

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HOUSE FILE 2436

H-5308

1 Amend House File 2436 as follows:

2 1. Page 1, line 10, by striking the word "may"  
3 and inserting the following: "shall".

4 2. Page 1, line 23, by striking the word "may"  
5 and inserting the following: "shall".

By SPEAR of Lee

H-5308 FILED MARCH 16, 1992

*Adopted 3/23 (p. 752)*  
*Motion to reconsider 3/24 - Prevalled 3/24 (p. 170)*  
*Last amendment 3/24 (p. 170)*

HOUSE FILE 2436

H-5317

1 Amend House File 2436 as follows:

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

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

6 3. In a facility in the community which is  
7 suitably equipped and staffed for the purpose,  
8 provided that detention in a jail or other facility  
9 intended for confinement of those accused or convicted  
10 of a crime shall not be ordered ~~except in cases of~~  
11 ~~actual emergency if no other secure resource is~~  
12 ~~accessible and then only for a period of not more~~  
13 ~~than twenty-four hours and under close supervision."~~

14 2. Page 1, by inserting after line 12 the  
15 following:

16 "Sec. \_\_\_\_ . Section 229.11, subsection 3, Code  
17 1991, is amended to read as follows:

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

27 3. By numbering and renumbering as necessary.

By PONCY of Wapello

H-5317 FILED MARCH 16, 1992

*Adopted 3/23 (p. 752)*

HOUSE FILE 2436  
FISCAL NOTE

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A fiscal note for House File 2436 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.

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House File 2436 provides that a person placed in a facility or hospital for an evaluation or has been committed to a facility or hospital, and who leaves the facility or hospital without permission, can be taken into custody by the sheriff and returned to the hospital or facility.

FISCAL EFFECT: This bill has no fiscal impact upon the State. No information is currently available concerning the number of escapes or unauthorized leaves that occur in the situations covered by the bill. There may be an increase in the workload and liability exposure of county sheriffs.

Sources: Iowa State Association of Counties  
Department of Human Services  
Department of Corrections

(LSB 6233hv, JMN)

FILED MARCH 18, 1992

BY DENNIS PROUTY, FISCAL DIRECTOR

Sen Jud. 3/24, No Pass 3/24

HOUSE FILE 2436  
BY COMMITTEE ON JUDICIARY  
AND LAW ENFORCEMENT

(SUCCESSOR TO HSB 718)

(As Amended and Passed by the House March 24, 1992)

Passed House, Date 3/24/92 (p. 770) Passed Senate, Date 4-1-92 (p. 1153)  
Vote: Ayes 96 Nays 0 Vote: Ayes 49 Nays 0  
Approved April 13, 1992 (p. 1331)

**A BILL FOR**

1 An Act relating to the detention of persons alleged to be  
2 seriously mentally impaired or to be chronic substance  
3 abusers.

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

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House Amendments \_\_\_\_\_

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

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

10 Sec. 2. Section 125.85, Code 1991, is amended by adding  
11 the following new subsection:

12 NEW SUBSECTION. 5. A person who is placed for evaluation  
13 at a facility under section 125.83 or who is committed to a  
14 facility under section 125.84, subsection 2, shall remain at  
15 that facility unless discharged or otherwise permitted to  
16 leave by the court or administrator of the facility. If a  
17 person placed at a facility or committed to a facility leaves  
18 the facility without permission or without having been  
19 discharged, the administrator may notify the sheriff of the  
20 person's absence and the sheriff shall take the person into  
21 custody and return the person promptly to the facility.

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

24 3. In a public or private facility in the community which  
25 is suitably equipped and staffed for the purpose, provided  
26 that detention in a jail or other facility intended for  
27 confinement of those accused or convicted of crime may shall  
28 not be ordered except in cases of actual emergency when no  
29 other secure facility is accessible and then only for a period  
30 of not more than twenty-four hours and under close  
31 supervision.

32 Sec. 4. NEW SECTION. 229.14A ESCAPE FROM CUSTODY.

33 A person who is placed in a hospital or other suitable  
34 facility for evaluation under section 229.13 or who is  
35 required to remain hospitalized for treatment under section

1 229.14, subsection 2, shall remain at that hospital or  
2 facility unless discharged or otherwise permitted to leave by  
3 the court or the chief medical officer of the hospital or  
4 facility. If a person placed at a hospital or facility or  
5 required to remain at a hospital or facility leaves the  
6 facility without permission or without having been discharged,  
7 the chief medical officer may notify the sheriff of the  
8 person's absence and the sheriff shall take the person into  
9 custody and return the person promptly to the hospital or  
10 facility.

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HSB 718

Judiciary & Law Enforcement

*Now*

HOUSE FILE 2436

BY (PROPOSED COMMITTEE ON  
JUDICIARY AND LAW  
ENFORCEMENT BILL)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act to prohibit the detention of persons alleged to be  
2 seriously mentally impaired or to be chronic substance abusers  
3 in jails or local correctional facilities.

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

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**SUB COMMITTEE ASSIGNMENTS**

CHAIR: *Toney*

COMMITTEE: *Judiciary*  
*3-5-92*

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

3 3. In a facility in the community which is suitably  
4 equipped and staffed for the purpose, provided that detention  
5 in a jail or other facility intended for confinement of those  
6 accused or convicted of a crime shall not be ordered~~7-except~~  
7 ~~in-cases-of-actual-emergency-if-no-other-secure-resource-is~~  
8 ~~accessible7-and-then-only-for-a-period-of-not-more-than~~  
9 ~~twenty-four-hours-and-under-close-supervision.~~

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

12 3. In a public or private facility in the community which  
13 is suitably equipped and staffed for the purpose, provided  
14 that detention in a jail or other facility intended for  
15 confinement of those accused or convicted of crime may shall  
16 not be ordered ~~except-in-cases-of-actual-emergency-when-no~~  
17 ~~other-secure-facility-is-accessible-and-then-only-for-a-period~~  
18 ~~of-not-more-than-twenty-four-hours-and-under-close~~  
19 supervision.

20 EXPLANATION

21 This bill prohibits the detention of persons alleged to be  
22 chronic substance abusers or to be seriously mentally impaired  
23 in a jail or other facility that is intended for the  
24 confinement of persons accused or convicted of a crime.

25 The bill may create a state mandate under chapter 25B.

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HOUSE FILE 2436

AN ACT

RELATING TO THE DETENTION OF PERSONS ALLEGED TO BE  
SERIOUSLY MENTALLY IMPAIRED OR TO BE CHRONIC  
SUBSTANCE ABUSERS.

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 facility in the community which is suitably equipped and staffed for the purpose, 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 125.85, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 5. A person who is placed for evaluation at a facility under section 125.83 or who is committed to a facility under section 125.84, subsection 2, shall remain at that facility unless discharged or otherwise permitted to leave by the court or administrator of the facility. If a person placed at a facility or committed to a facility leaves the facility without permission or without having been discharged, the administrator may notify the sheriff of the person's absence and the sheriff shall take the person into custody and return the person promptly to the facility.

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

3. In a public or private facility in the community which is suitably equipped and staffed for the purpose, provided that detention in a jail or other facility intended for confinement of those accused or convicted of crime may shall 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. 4. NEW SECTION. 229.14A ESCAPE FROM CUSTODY.

A person who is placed in a hospital or other suitable facility for evaluation under section 229.13 or who is required to remain hospitalized for treatment under section 229.14, subsection 2, shall remain at that hospital or facility unless discharged or otherwise permitted to leave by the court or the chief medical officer of the hospital or facility. If a person placed at a hospital or facility or required to remain at a hospital or facility leaves the facility without permission or without having been discharged, the chief medical officer may notify the sheriff of the person's absence and the sheriff shall take the person into

custody and return the person promptly to the hospital or facility.

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ROBERT C. ARNOULD  
Speaker of the House

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MICHAEL E. GRONSTAL  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2436, Seventy-fourth General Assembly.

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JOSEPH O'HERN  
Chief Clerk of the House

Approved April 13, 1992

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TERRY E. BRANSTAD  
Governor