

FEB 22 1994
Place On Calendar

*Substituted
for SF 2209 (P. 643)
3-14-94*

HOUSE FILE 2241
BY COMMITTEE ON JUDICIARY AND
LAW ENFORCEMENT

(SUCCESSOR TO HSB 516)

Passed House, Date March 9, 1994 (P. 504) Passed Senate, Date 4-5-94 (P. 1025)
Vote: Ayes 99 Nays 0 Vote: Ayes 50 Nays 0
Approved April 18, 1994

A BILL FOR

1 An Act to permit placement of persons for whom criminal
2 proceedings are suspended by reason of lack of mental capacity
3 in the Iowa medical and classification center.

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

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HF 2241

1 Section 1. Section 812.4, Code 1993, is amended to read as
2 follows:

3 812.4 CESSATION OF CRIMINAL PROSECUTION.

4 If, upon hearing conducted by the court, the accused is
5 found to be incapacitated in the manner described in section
6 812.3, no further proceedings shall be taken under the
7 complaint or indictment until the accused's capacity is
8 restored, and, if the accused's release will endanger the
9 public peace or safety, the court must order the accused
10 committed to the custody of the department of human services
11 or to the custody of the department of corrections for
12 placement at the Iowa medical and classification center.

13 EXPLANATION

14 This bill adds language that permits placement of persons,
15 for whom criminal proceedings are suspended on the basis of a
16 lack of capacity to appreciate the charges against them
17 because of a mental disorder, in the Iowa medical and
18 classification center. Persons placed at the center under the
19 bill would be committed to the custody of the department of
20 corrections. Currently, section 812.4 permits placement of
21 these persons only with the department of human services.

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SENATE AMENDMENT TO HOUSE FILE 2241

H-5990

1 Amend House File 2241, as passed by the House, as
2 follows:

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

5 "Sec. ____ . Section 812.5, Code 1993, is amended to
6 read as follows:

7 812.5 EFFECT OF RESTORATION OF MENTAL CAPACITY.

8 If the accused is committed to the department of
9 human services or to the department of corrections for
10 placement at the Iowa medical and classification
11 center under section 812.4, after the expiration of a
12 period not to exceed six months, the court shall upon
13 hearing review the confinement and determine whether
14 there is a substantial probability the accused will
15 regain capacity within a reasonable time. If not, the
16 state shall be directed to institute civil commitment
17 proceedings. When it thereafter appears that the
18 accused can effectively assist in the accused's
19 defense, the department shall give notice to the
20 sheriff and county attorney of the proper county of
21 such fact, and the sheriff, without delay, shall
22 receive and hold the accused in custody until the
23 accused is brought to trial or judgment, as the case
24 may be, or is legally discharged, the expense for
25 conveying and returning the accused, or any other, to
26 be paid in the first instance by the county from which
27 the accused is sent, but such county may recover the
28 same from another county or municipal body required to
29 provide for or maintain the accused elsewhere, and the
30 sheriff shall be allowed for the sheriff's services
31 the same fees as are allowed for conveying persons to
32 institutions under section 331.655."

33 2. Title page, line 3, by inserting after the
34 word "center" the following: "and providing for
35 periodic review of the commitment to determine whether
36 the persons have regained mental capacity".

37 3. By numbering and renumbering as necessary.

RECEIVED FROM THE SENATE

H-5990 FILED APRIL 6, 1994

*House Concurred 4-8-94
(P. 1318)*

HOUSE FILE 2241

S-5232

1 Amend House File 2241, as passed by the House, as
2 follows:

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

5 "Sec. ____ . Section 812.5, Code 1993, is amended to
6 read as follows:

7 812.5 EFFECT OF RESTORATION OF MENTAL CAPACITY.

8 If the accused is committed to the department of
9 human services or to the department of corrections for
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11 center under section 812.4, after the expiration of a
12 period not to exceed six months, the court shall upon
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19 defense, the department shall give notice to the
20 sheriff and county attorney of the proper county of
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22 receive and hold the accused in custody until the
23 accused is brought to trial or judgment, as the case
24 may be, or is legally discharged, the expense for
25 conveying and returning the accused, or any other, to
26 be paid in the first instance by the county from which
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28 same from another county or municipal body required to
29 provide for or maintain the accused elsewhere, and the
30 sheriff shall be allowed for the sheriff's services
31 the same fees as are allowed for conveying persons to
32 institutions under section 331.655."

33 2. Title page, line 3, by inserting after the
34 word "center" the following: "and providing for
35 periodic review of the commitment to determine whether
36 the persons have regained mental capacity".

37 3. By numbering and renumbering as necessary.

By RANDAL J. GIANNETTO
RALPH ROSENBERG

S-5232 FILED MARCH 16, 1994

*adapted 4-5-94
(p. 1025)*

HSB 516

Judiciary & Law Enforcement

SENATE/HOUSE FILE 2241
BY (PROPOSED DEPARTMENT OF
HUMAN SERVICES BILL)

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

A BILL FOR

1 An Act to permit placement of persons for whom criminal
2 proceedings are suspended by reason of lack of mental capacity
3 in the Iowa medical and classification center.

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1 Section 1. Section 812.4, Code 1993, is amended to read as
2 follows:

3 812.4 CESSATION OF CRIMINAL PROSECUTION.

4 If, upon hearing conducted by the court, the accused is
5 found to be incapacitated in the manner described in section
6 812.3, no further proceedings shall be taken under the
7 complaint or indictment until the accused's capacity is
8 restored, and, if the accused's release will endanger the
9 public peace or safety, the court must order the accused
10 committed to the custody of the department of human services
11 or to the custody of the department of corrections for
12 placement at the Iowa medical and classification center.

13 EXPLANATION

14 This bill adds language that permits placement of persons,
15 for whom criminal proceedings are suspended on the basis of a
16 lack of capacity to appreciate the charges against them
17 because of a mental disorder, in the Iowa medical and
18 classification center. Persons placed at the center under the
19 bill would be committed to the custody of the department of
20 corrections. Currently, section 812.4 permits placement of
21 these persons only with the department of human services.

22 BACKGROUND STATEMENT

23 SUBMITTED BY THE AGENCY

24 Some persons charged with criminal offenses have mental
25 disorders that may have an impact on their ability to
26 appreciate the nature of the charge against them and to
27 participate in their own defense. Section 812.3 indicates
28 that at any time during a criminal proceeding, when it
29 reasonably appears that the person is incapacitated then a
30 hearing must be held on that question. Prior to the hearing,
31 the person usually is admitted to a mental health institute or
32 to the Iowa medical and classification center at Oakdale for
33 an evaluation. The evaluation is then used by the court to
34 make a determination as to whether or not the person is
35 "competent" to stand trial.

1 Section 812.4 of the Code places, in the custody of the
2 department of human services, a person who is the subject of a
3 criminal proceeding where it has been determined that the
4 person is incapacitated by a mental disorder which prevents
5 the person from appreciating the charge against him or her,
6 understanding the proceedings or assisting effectively in his
7 or her defense. If, then, the decision is that the person is
8 not competent, the court's only option under the current
9 statute appears to be to place the person in the custody of
10 the department of human services. However, section 904.201,
11 subsection 3, paragraph "b", authorizes the admission of
12 "persons committed by the courts as mentally incompetent to
13 stand trial under section 812.4" to the Iowa medical and
14 classification center.

15 To make the Code consistent and to clearly give the courts
16 the option, section 812.4 should be revised to include the
17 Iowa medical and classification center as a possible
18 placement, along with commitment to the custody of the
19 department of human services.

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HOUSE FILE 2241

AN ACT

TO PERMIT PLACEMENT OF PERSONS FOR WHOM CRIMINAL PROCEEDINGS ARE SUSPENDED BY REASON OF LACK OF MENTAL CAPACITY IN THE IOWA MEDICAL AND CLASSIFICATION CENTER AND PROVIDING FOR PERIODIC REVIEW OF THE COMMITMENT TO DETERMINE WHETHER THE PERSONS HAVE REGAINED MENTAL CAPACITY.

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

Section 1. Section 812.4, Code 1993, is amended to read as follows:

812.4 CESSATION OF CRIMINAL PROSECUTION.

If, upon hearing conducted by the court, the accused is found to be incapacitated in the manner described in section 812.3, no further proceedings shall be taken under the complaint or indictment until the accused's capacity is restored, and, if the accused's release will endanger the public peace or safety, the court must order the accused committed to the custody of the department of human services or to the custody of the department of corrections for placement at the Iowa medical and classification center.

Sec. 2. Section 812.5, Code 1993, is amended to read as follows:

812.5 EFFECT OF RESTORATION OF MENTAL CAPACITY.

If the accused is committed to the department of human services or to the department of corrections for placement at the Iowa medical and classification center under section 812.4, after the expiration of a period not to exceed six months, the court shall upon hearing review the confinement and determine whether there is a substantial probability the accused will regain capacity within a reasonable time. If not, the state shall be directed to institute civil commitment proceedings. When it thereafter appears that the accused can effectively assist in the accused's defense, the department

shall give notice to the sheriff and county attorney of the proper county of such fact, and the sheriff, without delay, shall receive and hold the accused in custody until the accused is brought to trial or judgment, as the case may be, or is legally discharged, the expense for conveying and returning the accused, or any other, to be paid in the first instance by the county from which the accused is sent, but such county may recover the same from another county or municipal body required to provide for or maintain the accused elsewhere, and the sheriff shall be allowed for the sheriff's services the same fees as are allowed for conveying persons to institutions under section 331.655.

HAROLD VAN MAANEN
Speaker of the House

LEONARD L. BOSWELL
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2241, Seventy-fifth General Assembly.

ELIZABETH ISAACSON
Chief Clerk of the House

Approved April 18, 1994

TERRY E. BRANSTAD
Governor