

3-21-95 Do Pass
4/10/95 Referred to Judiciary
1-11-96 Do Pass
5-1/23/96 Judiciary

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JUDICIARY

HOUSE FILE 16
BY MILLAGE

Passed House, Date ^(R.107) 1/23/96
Vote: Ayes 92 Nays 0
Approved _____

Passed Senate, Date _____
Vote: Ayes _____ Nays _____

A BILL FOR

1 An Act relating to certain minors' rights to object to voluntary
2 commitment and providing for surrogate decision making by
3 parents, legal guardians, or other legal representatives under
4 certain circumstances.

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

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HF 16

1 Section 1. Section 125.33, subsections 1 and 5, Code 1995,
2 are amended to read as follows:

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

30 5. If a patient leaves a facility, with or against the
31 advice of the administrator in charge of the facility, the
32 director may make reasonable provisions for the patient's
33 transportation to another facility or to the patient's home.
34 If the patient has no home the patient shall be assisted in
35 obtaining shelter. If the patient is a minor who is less than

1 fourteen years of age or an incompetent person and the patient
2 was not the original applicant the request for discharge from
3 an inpatient facility shall be made by a parent, legal
4 guardian, or other legal representative ~~or-by-the-minor-or~~
5 ~~incompetent-if.~~ If the patient was the original applicant and
6 is an incompetent person or if the patient is a minor who is
7 fourteen years of age or older the request for discharge from
8 an inpatient facility may also be made by the incompetent
9 person or the minor.

10 Sec. 2. Section 229.2, subsection 1, paragraphs b, c, e,
11 and f, Code 1995, are amended to read as follows:

12 b. During the interview and consultation, if the minor is
13 fourteen years of age or older, the chief medical officer
14 shall inform the minor orally and in writing that the minor
15 has a right to object to the admission. If the chief medical
16 officer of the hospital to which application is made
17 determines that the admission is appropriate but the minor is
18 fourteen years of age or older and objects to the admission,
19 the parent, guardian, or custodian must petition the juvenile
20 court for approval of the admission before the minor is
21 actually admitted.

22 c. As soon as is practicable after the filing of a
23 petition for juvenile court approval of the admission of the
24 minor who is fourteen years of age or older, the juvenile
25 court shall determine whether the minor has an attorney to
26 represent the minor in the hospitalization proceeding, and if
27 not, the court shall assign to the minor an attorney. If the
28 minor is financially unable to pay for an attorney, the
29 attorney shall be compensated in substantially the manner
30 provided by section 815.7.

31 e. The juvenile court shall order hospitalization of a
32 minor who is fourteen years of age or older, over the minor's
33 objections, only after a hearing in which it is shown by clear
34 and convincing evidence that:

35 (1) The minor needs and will substantially benefit from

1 treatment.

2 (2) No other setting which involves less restriction of
3 the minor's liberties is feasible for the purposes of
4 treatment.

5 f. Upon approval of the admission of a minor who is
6 fourteen years of age or older over the minor's objections,
7 the juvenile court shall appoint an individual to act as an
8 advocate representing the interests of the minor in the same
9 manner as an advocate representing the interests of patients
10 involuntarily hospitalized pursuant to section 229.19.

11 Sec. 3. Section 229.6A, subsection 1, Code 1995, is
12 amended to read as follows:

13 1. Notwithstanding section 229.11, the juvenile court has
14 exclusive original jurisdiction in proceedings concerning a
15 minor for whom an application for involuntary admission is
16 filed under section 229.6 ~~or~~ and in proceedings concerning a
17 minor who is fourteen years of age or older and for whom an
18 application for voluntary admission is made under section
19 229.2, subsection 1, to which the minor objects. In
20 proceedings under this chapter concerning a minor,
21 notwithstanding section 229.11, the term "court", "judge", or
22 "clerk" means the juvenile court, judge, or clerk.

23 EXPLANATION

24 This bill requires that minors must have at least reached
25 the age of 14 before the minor may object to voluntary com-
26 mitment for substance abuse or mental illness treatment.
27 Currently a minor of any age may object to a voluntary
28 commitment, may withdraw consent to treatment and
29 rehabilitation, and cannot be forced to undergo treatment
30 without first being involuntarily committed. The bill
31 provides for the giving of consent to voluntary treatment for
32 mental illness of minors under the age of 14 by the minor's
33 parent or parents, guardian, or custodian or, in the case of
34 substance abuse treatment, by the minor's parent, legal
35 guardian, or other legal representative.