

MAR 10 1995
HUMAN RESOURCES

HOUSE FILE 348
BY WISE

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

A BILL FOR

1 An Act relating to the initial procedures applicable to a
2 probable cause finding for the emergency hospitalization of
3 persons alleged to be seriously mentally impaired or to be
4 chronic substance abusers.

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

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HF 348

1 Section 1. Section 125.91, subsection 2, Code 1995, is
2 amended to read as follows:

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

34 a. ~~Arrive-at~~ Proceed to the facility where the person is
35 being detained ~~as-soon-as-possible-and-no-later-than-twelve~~

1 ~~at~~ ~~clock-noon-of-the-same-day-on-which-the-administrator's~~
2 ~~communication-occurred~~ within forty-eight hours of giving
3 instructions that the person be detained.

4 b. By the close of business on the next working day file
5 with the clerk a written report stating the substance of the
6 communication with the administrator on which the person's
7 continued detention was ordered.

8 Sec. 2. Section 229.22, subsection 2, Code 1995, is
9 amended to read as follows:

10 2. In the circumstances described in subsection 1, any
11 peace officer who has reasonable grounds to believe that a
12 person is mentally ill, and because of that illness is likely
13 to physically injure the person's self or others if not
14 immediately detained, may without a warrant take or cause that
15 person to be taken to the nearest available facility as
16 defined in section 229.11, subsections 2 and 3. A person
17 believed mentally ill, and likely to injure the person's self
18 or others if not immediately detained, may be delivered to a
19 hospital by someone other than a peace officer. Upon delivery
20 of the person believed mentally ill to the hospital, the chief
21 medical officer may order treatment of that person, including
22 chemotherapy, but only to the extent necessary to preserve the
23 person's life or to appropriately control behavior by the
24 person which is likely to result in physical injury to that
25 person or others if allowed to continue. The peace officer
26 who took the person into custody, or other party who brought
27 the person to the hospital, shall describe the circumstances
28 of the matter to the chief medical officer. If the chief
29 medical officer finds that there is reason to believe that the
30 person is seriously mentally impaired, and because of that
31 impairment is likely to physically injure the person's self or
32 others if not immediately detained, the chief medical officer
33 shall at once communicate with the nearest available
34 magistrate as defined in section 801.4, subsection 10. The
35 magistrate shall ~~immediately-proceed-to-the-facility-where-the~~

1 ~~person is detained, except that if the chief medical officer's~~
2 ~~communication with the magistrate occurs between the hours of~~
3 ~~midnight and the next succeeding seven o'clock a.m. and the~~
4 ~~magistrate deems it appropriate under, based upon the~~
5 circumstances described by the chief medical officer, the
6 ~~magistrate may delay going to the facility and in that case~~
7 shall give the chief medical officer verbal instructions
8 either directing that the person be released forthwith or
9 authorizing the person's continued detention at that facility.

10 In the latter case, the magistrate shall:

11 a. By the close of business on the next working day, file
12 with the clerk a written report stating the substance of the
13 information on the basis of which the person's continued
14 detention was ordered; and

15 b. ~~Arrive at~~ Proceed to the facility where the person is
16 being detained ~~not later than eight o'clock a.m. of the same~~
17 ~~day on which the chief medical officer's notification occurs~~
18 within forty-eight hours of giving instructions that the
19 person be detained.

20 EXPLANATION

21 This bill changes the procedure applicable to the holding
22 of the probable cause hearing regarding emergency procedures
23 for the hospitalization of persons alleged to be seriously
24 mentally impaired or chronic substance abusers. Currently,
25 upon notification by the chief medical officer of a medical
26 facility that a person whom the chief medical officer believes
27 to be seriously mentally impaired, or a person that the
28 administrator in consultation with the chief medical officer
29 believes to be a chronic substance abuser, is being held in
30 the medical facility, a magistrate is required to immediately
31 proceed to the facility and hold a probable cause hearing,
32 unless the notification occurs between the hours of midnight
33 and 7:00 a.m., in which case the hearing may be delayed.
34 Under current law, if the hearing is delayed, the magistrate
35 shall file a report with the clerk, stating the basis for the

1 person's continued detention, by the close of the next
2 business day, and arrive at the facility not later than 8:00
3 a.m. of the same day on which notification was received that a
4 person may be seriously mentally impaired or not later than
5 12:00 noon of the same day on which notification that a person
6 may be a chronic substance abuser was received.

7 The bill provides that, upon notification by the chief
8 medical officer or, in the case of chronic substance abusers,
9 the administrator in consultation with the chief medical
10 officer, the magistrate shall give the chief medical officer
11 verbal instructions on whether to detain or release the person
12 from the facility. If the magistrate does not instruct the
13 chief medical officer to release the person, the magistrate is
14 to file a report stating the basis for the person's continued
15 detention, by the close of the next business day, and proceed
16 to the facility within 48 hours.

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35