

S- 3/28/15 Human Res.  
S- 4/5/95 Amend/Do Pass  
W/S- 3362

MAR 17 1995

Place On Calendar

HOUSE FILE 483

BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO HSB 182)

Passed House, Date 3/27/95 (p. 985) Passed Senate, Date 4/10/95 (p. 1096)  
Vote: Ayes 93 Nays 0 Vote: Ayes 49 Nays 0  
Approved April 25, 1995  
Repassed 4-18-95  
VOTE 97-0

A BILL FOR

1 An Act relating to activities of the department of human  
2 services, including provisions involving the state hospital-  
3 schools and other institutions, commitments of persons with  
4 mental retardation, and the department's public housing unit.  
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 483

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DIVISION I

PAYMENT OF WAGES TO INSTITUTIONAL RESIDENTS

Section 1. Section 218.42, Code 1995, is amended to read as follows:

218.42 WAGES OF RESIDENTS.

~~When If~~ a resident performs services for the state at an institution listed in section 218.1, the administrator in control of ~~such the~~ institution ~~may, when the administrator deems such course practicable, pay such resident such wage as it deems proper in view of the circumstances, and in view of the cost attending the maintenance of such~~ shall pay the resident a wage in accordance with federal wage and hour requirements. ~~In no case shall such~~ However, the wage amount shall not exceed the amount paid to free labor of the prevailing wage paid in the state for a like service or its equivalent.

DIVISION II

DHS PUBLIC HOUSING UNIT

Sec. 2. Section 225C.4, subsection 2, paragraph e, Code 1995, is amended to read as follows:

e. Administer a public housing unit within a bureau of the division to apply for, receive, and administer federal assistance, grants, and other public or private funds for purposes related to providing housing ~~to persons with disabilities~~ in accordance with section 225C.45.

Sec. 3. Section 225C.45, subsection 1, Code 1995, is amended to read as follows:

1. The administrator may establish a public housing unit within a bureau of the division to apply for, receive, and administer federal assistance, grants, and other public or private funds for purposes related to providing housing ~~to persons with mental illness, mental retardation or other developmental disability, or brain injury.~~

DIVISION III

SALE OF SERVICES AT DEPARTMENT OF HUMAN SERVICES' INSTITUTIONS

1     Sec. 4. Section 222.73, Code 1995, is amended by adding  
2 the following new subsection:

3     NEW SUBSECTION. 5. A superintendent of a hospital-school  
4 or special unit may enter into a contract with a person for  
5 the hospital-school or special unit to provide consultation or  
6 treatment services. The contract provisions shall include  
7 charges which reflect the actual cost of providing the  
8 services. Any income from a contract authorized under this  
9 subsection may be retained by the hospital-school or special  
10 unit to defray the costs of providing the services. Except  
11 for a contract voluntarily entered into by a county under this  
12 subsection, the costs or income associated with a contract  
13 authorized under this subsection shall not be considered in  
14 computing charges and per diem costs in accordance with the  
15 provisions of subsections 1 through 4 of this section.

16     Sec. 5. Section 230.20, Code 1995, is amended by adding  
17 the following new subsection:

18     NEW SUBSECTION. 7. A superintendent of a mental health  
19 institute may enter into a contract with a person for the  
20 mental health institute to provide consultation or treatment  
21 services. The contract provisions shall include charges which  
22 reflect the actual cost of providing the services. Any income  
23 from a contract authorized under this subsection may be  
24 retained by the mental health institute to defray the costs of  
25 providing the services. Except for a contract voluntarily  
26 entered into by a county under this subsection, the costs or  
27 income associated with a contract authorized under this  
28 subsection shall not be considered in computing charges and  
29 per diem costs in accordance with the provisions of  
30 subsections 1 through 6 of this section.

31

DIVISION IV

32     STATE HOSPITAL-SCHOOL ADMISSION AND DISCHARGE PROCEDURES

33     Sec. 6. Section 222.13, Code 1995, is amended to read as  
34 follows:

35     222.13 VOLUNTARY ADMISSIONS.

1 1. The-parent, If an adult person is believed to be a  
2 person with mental retardation, the adult person or the adult  
3 person's guardian, -or-other-person-responsible-for-any-person  
4 believed-to-be-mentally-retarded-within-the-meaning-of-this  
5 chapter may on-behalf-of-such-person request the county board  
6 of supervisors or their designated agent to apply to the  
7 superintendent of any state hospital-school for the voluntary  
8 admission of such the adult person either as an inpatient or  
9 an outpatient of the hospital-school. After determining the  
10 legal settlement of such the adult person as provided by this  
11 chapter, the board of supervisors shall, on forms prescribed  
12 by the administrator, apply to the superintendent of the  
13 hospital-school in the district for the admission of such the  
14 adult person to the hospital-school. An application for  
15 admission to a special unit of any adult person believed to be  
16 in need of any of the services provided by the special unit  
17 under section 222.88 may be made in the same manner, upon  
18 request of the parent, adult person or the adult person's  
19 guardian, -or-other-person-responsible-for-the-handicapped  
20 person. The superintendent shall accept the application  
21 providing a preadmission diagnostic evaluation confirms or  
22 establishes the need for admission, except that no an  
23 application may not be accepted if the institution does not  
24 have adequate facilities available or if the acceptance will  
25 result in an overcrowded condition.

26 2. If the hospital-school has no appropriate program for  
27 the treatment of such-persons an adult or minor person with  
28 mental retardation applying under this section or section  
29 222.13A, the board of supervisors shall arrange for the  
30 placement of the persons person in any public or private  
31 facility within or without the state, approved by the director  
32 of the department of human services, which offers appropriate  
33 services for such-persons the person.

34 3. Upon applying for admission of a an adult or minor  
35 person to a hospital-school, or a special unit, the board of

1 supervisors shall make a full investigation into the financial  
2 circumstances of that person and those liable for that  
3 person's support under section 222.78, to determine whether or  
4 not any of them are able to pay the expenses arising out of  
5 the admission of the person to a hospital-school or special  
6 treatment unit. If the board finds that the person or those  
7 legally responsible for the person are presently unable to pay  
8 such the expenses, they shall direct that the expenses be paid  
9 by the county. The board may review its finding at any  
10 subsequent time while the person remains at the hospital-  
11 school, or is otherwise receiving care or treatment for which  
12 this chapter obligates the county to pay. If the board finds  
13 upon review that ~~that~~ the person or those legally responsible  
14 for ~~that~~ the person are presently able to pay such the  
15 expenses, ~~that the~~ finding shall apply only to the charges ~~so~~  
16 incurred during the period beginning on the date of the review  
17 and continuing thereafter, unless and until the board again  
18 changes its finding. If the board finds that the person or  
19 those legally responsible for the person are able to pay the  
20 expenses, they shall direct that the charges be so paid to the  
21 extent required by section 222.78, and the county auditor  
22 shall be responsible for the collection ~~thereof~~ of the  
23 charges.

24 Sec. 7. NEW SECTION. 222.13A VOLUNTARY ADMISSIONS --  
25 MINORS.

26 1. If a minor is believed to be a person with mental  
27 retardation, the minor's parent, guardian, or custodian may  
28 request the county board of supervisors to apply for admission  
29 of the minor as a voluntary patient in a state hospital-  
30 school. If the hospital-school does not have appropriate  
31 services for the minor's treatment, the board of supervisors  
32 may arrange for the admission of the minor in a public or  
33 private facility within or without the state, approved by the  
34 director of human services, which offers appropriate services  
35 for the minor's treatment.

1 2. Upon receipt of an application for voluntary admission  
2 of a minor, the board of supervisors shall provide for a  
3 preadmission diagnostic evaluation of the minor to confirm or  
4 establish the need for the admission. The preadmission  
5 diagnostic evaluation shall be performed by a person who meets  
6 the qualifications of a qualified mental retardation  
7 professional.

8 3. During the preadmission diagnostic evaluation, the  
9 minor shall be informed both orally and in writing that the  
10 minor has the right to object to the voluntary admission. If  
11 the preadmission diagnostic evaluation determines that the  
12 voluntary admission is appropriate but the minor objects to  
13 the admission, the minor shall not be admitted to the state  
14 hospital-school unless the court approves of the admission. A  
15 petition for approval of the minor's admission may be  
16 submitted to the juvenile court by the minor's parent,  
17 guardian, or custodian.

18 4. As soon as practicable after the filing of a petition  
19 for approval of the voluntary admission, the court shall  
20 determine whether the minor has an attorney to represent the  
21 minor in the proceeding. If the minor does not have an  
22 attorney, the court shall assign to the minor an attorney. If  
23 the minor is unable to pay for an attorney, the attorney shall  
24 be compensated in substantially the same manner as provided in  
25 section 815.7.

26 5. The court shall order the admission of a minor who  
27 objects to the admission, only after a hearing in which it is  
28 shown by clear and convincing evidence that both of the  
29 following circumstances exist:

30 a. The minor needs and will substantially benefit from  
31 treatment or habilitation.

32 b. A placement which involves less restriction of the  
33 minor's liberties for the purposes of treatment or  
34 habilitation is not feasible.

35 Sec. 8. Section 222.15, Code 1995, is amended to read as

1 follows:

2 222.15 DISCHARGE OF VOLUNTARY PATIENTS ADMITTED  
3 VOLUNTARILY.

4 ~~The parent, guardian, or any other person responsible for~~  
5 ~~the voluntary admission of any person to a hospital, school, or~~  
6 ~~a special unit may, upon ten days' notice, obtain the~~  
7 ~~discharge of such person by giving to the superintendent of~~  
8 ~~the institution and the county board of supervisors of the~~  
9 ~~county from which such person was admitted written notice of~~  
10 ~~the desire for such discharge. This section applies to any~~  
11 person who was voluntarily admitted to a state hospital, school  
12 or other facility in accordance with the provisions of section  
13 222.13 or 222.13A. Except as otherwise provided by this  
14 section, if the person or the person's parent, guardian, or  
15 custodian submits a written request for the person's release,  
16 the person shall be immediately released.

17 1. If the person is an adult and was admitted pursuant to  
18 an application by the person or the person's guardian and the  
19 request for release is made by a different person, the release  
20 is subject to the agreement of the person voluntarily admitted  
21 or the person's guardian, if the guardian submitted the  
22 application.

23 2. If the person is a minor who was admitted pursuant to  
24 the provisions of section 222.13A, the person's release prior  
25 to becoming eighteen years of age is subject to the consent of  
26 the person's parent, guardian, or custodian, or to the  
27 approval of the court if the admission was approved by the  
28 court.

29 3. a. If the administrator of the facility in which the  
30 patient is admitted certifies that in the administrator's  
31 opinion the release of the person would be contrary to the  
32 safety of the person or the community, the release may be  
33 postponed by a court order. The administrator's certification  
34 shall be filed with the clerk of the district court for the  
35 county in which the facility is located no later than one day

1 following the submission of the written request for release.  
2 The period of postponement shall be the period of time the  
3 court determines necessary to permit the commencement of  
4 judicial proceedings for the person's involuntary commitment.  
5 The period of postponement shall not exceed five days unless  
6 the period of postponement is extended by court order for good  
7 cause shown.

8     b. If a petition for the person's involuntary commitment  
9 is timely filed, the administrator may detain the person in  
10 the facility and provide treatment until disposition of the  
11 petition. The treatment shall be limited to that necessary to  
12 preserve the person's life or to appropriately control  
13 behavior by the person which is likely to result in physical  
14 injury to the person or to others if allowed to continue. The  
15 administrator shall not otherwise provide treatment to the  
16 person without the person's consent.

17     Sec. 9. NEW SECTION. 222.16A JUDICIAL PROCEEDINGS.

18     1. The chief judge of a judicial district may appoint one  
19 or more judicial hospitalization referees for each county in  
20 the district to discharge the duties imposed on the court by  
21 this chapter. The judicial hospitalization qualification  
22 provisions of section 229.21 shall apply to referees appointed  
23 under this section in performing duties pursuant to this  
24 chapter. An order or findings by a referee pursuant to this  
25 chapter may be appealed to a judge of the district court by  
26 filing notice with the clerk of the district court within  
27 seven days after the findings or order is made, and hearing by  
28 the district court shall be de novo. The court shall schedule  
29 a hearing before a district judge at the earliest practicable  
30 time.

31     2. The juvenile court has exclusive original jurisdiction  
32 in any court proceedings concerning a minor pursuant to this  
33 chapter.

34     Sec. 10. Section 222.59, Code 1995, is amended by striking  
35 the section and inserting in lieu thereof the following:



1 222.59 ALTERNATIVE TO STATE HOSPITAL-SCHOOL PLACEMENT.

2 1. Upon receiving a request from an authorized requester,  
3 the superintendent of a state hospital-school shall assist the  
4 requester in identifying available community-based services as  
5 an alternative to continued placement of a patient in the  
6 state hospital-school. For the purposes of this section,  
7 "authorized requester" means the parent, guardian, or  
8 custodian of a minor patient, the guardian of an adult  
9 patient, or an adult patient who does not have a guardian.  
10 The assistance shall identify alternatives to continued  
11 placement which are appropriate to the patient's needs and  
12 shall include but are not limited to any of the following:

13 a. Providing information on currently available services  
14 that are an alternative to residence in the state hospital-  
15 school.

16 b. Referring the patient to an appropriate case management  
17 agency or other provider of service.

18 2. If a patient was admitted pursuant to section 222.13 or  
19 section 222.13A and the patient wishes to be placed outside of  
20 the state hospital-school, the discharge for the placement  
21 shall be made in accordance with the provisions of section  
22 222.15.

23 3. If a patient was involuntarily committed, a petition  
24 for approval of a proposed placement outside the state  
25 hospital-school shall be filed, by the authorized requester or  
26 the superintendent of the state hospital-school where the  
27 patient is placed, with the court which made the commitment  
28 with either of the following recommendations for the court's  
29 consideration:

30 a. That the patient's commitment is no longer necessary  
31 and should be discontinued.

32 b. That the patient's commitment is still appropriate but  
33 the patient should be transferred to another public or private  
34 facility in accordance with the provisions of section 222.31,  
35 subsection 1.

1 Sec. 11. Section 225C.4, subsection 1, paragraph o, Code  
2 1995, is amended by striking the paragraph.

3 EXPLANATION

4 This bill relates to department of human services'  
5 provisions involving the state hospital-schools and other  
6 institutions and the department's public housing unit.

7 Division I relates to wages paid to residents of  
8 institutions under the control of the department of human  
9 services. These institutions include the two state hospital-  
10 schools, the four mental health institutes, the state training  
11 school at Eldora, and the state juvenile home at Toledo.

12 Under current law, the superintendent of an institution may  
13 pay wages to residents for services to the state, if deemed  
14 practicable, in an amount based upon consideration of the  
15 costs of the resident's care. The bill requires payment for  
16 services to the state in accordance with federal wage and hour  
17 requirements.

18 Division II relates to statutory authority for the division  
19 of mental health and developmental disabilities to establish a  
20 public housing unit. The bill removes a codified restriction  
21 limiting the unit's scope to persons with mental illness,  
22 mental retardation or other developmental disability, or brain  
23 injury.

24 Division III authorizes the state hospital-schools and  
25 state mental health institutes to contract with a person (the  
26 term "person" is defined in section 4.1 to include an  
27 individual, corporation, political subdivision, or other legal  
28 entity) to provide consultation or treatment services. The  
29 contract must include charges reflecting the actual costs of  
30 providing the services. Any income may be retained by the  
31 institution. The provisions are incorporated into the Code  
32 sections which detail computation of charges to counties for  
33 services in the institutions. Any income or expense  
34 associated with a contract cannot be included in the  
35 computation of the charges unless a county is a party to the

1 contract.

2 Division IV relates to placements at the state hospital-  
3 schools and related facilities by applying procedural  
4 requirements to placements at these institutions. Current law  
5 in section 222.13, providing for voluntary placement of an  
6 individual by the individual's parent, guardian, or custodian,  
7 is modified by restricting voluntary placement of an adult to  
8 the individual or the individual's guardian and by  
9 establishing a separate procedure for minors. In new section  
10 222.13A, procedures for a juvenile court hearing are provided  
11 in the event a minor objects to a voluntary placement  
12 initiated by the minor's parent, guardian, or custodian.

13 Division IV also strikes and rewrites section 222.15,  
14 relating to discharge of state hospital-school or other  
15 facility residents who were voluntarily admitted. Procedural  
16 provisions are established in the event the person or the  
17 person's guardian makes a written request for the person's  
18 release. If a person was admitted pursuant to the person's  
19 own request or a guardian's request, the person requesting  
20 admission must also approve the request for release. If the  
21 person is a minor, the minor's legal agent must approve of the  
22 release, as must the juvenile court if the court was involved  
23 with the placement. In addition, there are procedures to  
24 prohibit release of the person in the event the placement  
25 agency believes the person's or the community's safety would  
26 be affected by the release.

27 Division IV also creates a new section 222.16A which  
28 authorizes a district court judge to appoint county judicial  
29 hospitalization referees to fulfill the court's duties  
30 regarding involuntary commitments of persons with mental  
31 retardation. A petitioner may appeal a referee's finding or  
32 commitment order to a district court judge. This section also  
33 specifies that the juvenile court has jurisdiction over cases  
34 of minors with mental retardation.

35 Division IV also strikes and rewrites section 222.59. In

1 current law, this section provides for superintendents of  
2 hospital-schools or special units to transfer or release  
3 patients. Current law provides for advance planning, written  
4 records, notice of affected parties, and continuing  
5 responsibility for patient welfare. The rewritten section  
6 provides for the resident or the resident's legal agent to  
7 request a superintendent's assistance in locating alternative  
8 services or placement. The assistance can either be with  
9 information or a referral. If the resident was voluntarily  
10 admitted and an alternative placement is desired, the bill's  
11 provisions in section 222.15 apply. If the resident was  
12 involuntarily admitted, court authorization is required to  
13 change the placement. Section 225C.4 is amended to remove a  
14 responsibility for the administrator of the division of mental  
15 health and developmental disabilities to provide consultation  
16 to patients' advocates appointed pursuant to section 222.59.  
17 The rewritten section 222.59 no longer refers to patients'  
18 advocates.

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S-3362

1 Amend House File 483, as passed by the House, as  
2 follows:

3 1. Page 2, by inserting after line 32 the  
4 following:

5 "Sec. \_\_\_\_ . Section 222.1, unnumbered paragraph 1,  
6 Code 1995, is amended to read as follows:

7 The Glenwood state hospital-school and the Woodward  
8 state hospital-school shall be maintained for the  
9 purpose of providing treatment, training, instruction,  
10 care, habilitation, and support of mentally-retarded  
11 persons with mental retardation or other disabilities  
12 in this state."

13 2. Page 8, by inserting after line 35 the  
14 following:

15 "Sec. \_\_\_\_ . Section 222.60, unnumbered paragraph 1,  
16 Code 1995, is amended to read as follows:

17 All necessary and legal expenses for the cost of  
18 admission or commitment or for the treatment,  
19 training, instruction, care, habilitation, support and  
20 transportation of patients persons with mental  
21 retardation in a state hospital-school for-the  
22 mentally-retarded, or in a special unit, or any public  
23 or private facility within or without the state,  
24 approved by the director of the department of human  
25 services, shall be paid by either:"

*adopted 4/10/95 (p.1095)* By COMMITTEE ON HUMAN RESOURCES  
ELAINE SZYMONIAK, Chairperson

S-3362 FILED APRIL 5, 1995

## SENATE AMENDMENT TO HOUSE FILE 483

H-3837

1 Amend House File 483, as passed by the House, as  
2 follows:

3 1. Page 2, by inserting after line 32 the  
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5 "Sec. \_\_\_\_ . Section 222.1, unnumbered paragraph 1,  
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11 persons with mental retardation or other disabilities  
12 in this state."

13 2. Page 8, by inserting after line 35 the  
14 following:

15 "Sec. \_\_\_\_ . Section 222.60, unnumbered paragraph 1,  
16 Code 1995, is amended to read as follows:

17 All necessary and legal expenses for the cost of  
18 admission or commitment or for the treatment,  
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20 transportation of patients persons with mental  
21 retardation in a state hospital-school for-the  
22 mentally-retarded, or in a special unit, or any public  
23 or private facility within or without the state,  
24 approved by the director of the department of human  
25 services, shall be paid by either:"

RECEIVED FROM THE SENATE

H-3837 FILED APRIL 10, 1995

*House Concurred 4-18-95 (p.1621)*

Carroll, Chr

HSB 182

HUMAN RESOURCES

Succeeded

Lord  
Hammitt  
Witt  
Myers

SENATE/HOUSE FILE 483  
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 relating to activities of the department of human  
2 services, including provisions involving the state hospital-  
3 schools and other institutions, commitments of persons with  
4 mental retardation, and the department's public housing unit.

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

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DIVISION I

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PAYMENT OF WAGES TO INSTITUTIONAL RESIDENTS

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Section 1. Section 218.42, Code 1995, is amended to read as follows:

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218.42 WAGES OF RESIDENTS.

6

When If a resident performs services for the state at an institution listed in section 218.1, the administrator in control of such the institution ~~may, when the administrator deems such course practicable, pay such resident such wage as it deems proper in view of the circumstances, and in view of the cost attending the maintenance of such~~ shall pay the resident a wage in accordance with federal wage and hour requirements. ~~In no case shall such~~ However, the wage amount shall not exceed the amount paid to free labor of the prevailing wage paid in the state for a like service or its equivalent.

17

DIVISION II

18

DHS PUBLIC HOUSING UNIT

19

Sec. 2. Section 225C.4, subsection 2, paragraph e, Code 1995, is amended to read as follows:

21

e. Administer a public housing unit within a bureau of the division to apply for, receive, and administer federal assistance, grants, and other public or private funds for purposes related to providing housing ~~to persons with disabilities~~ in accordance with section 225C.45.

26

Sec. 3. Section 225C.45, subsection 1, Code 1995, is amended to read as follows:

28

1. The administrator may establish a public housing unit within a bureau of the division to apply for, receive, and administer federal assistance, grants, and other public or private funds for purposes related to providing housing ~~to persons with mental illness, mental retardation or other developmental disability, or brain injury.~~

34

DIVISION III

35

SALE OF SERVICES AT DEPARTMENT OF HUMAN SERVICES' INSTITUTIONS

1      Sec. 4. Section 222.73, Code 1995, is amended by adding  
2 the following new subsection:

3      NEW SUBSECTION. 5. A superintendent of a hospital-school  
4 or special unit may enter into a contract with a person for  
5 the hospital-school or special unit to provide consultation or  
6 treatment services. The contract provisions shall include  
7 charges which reflect the actual cost of providing the  
8 services. Any income from a contract authorized under this  
9 subsection may be retained by the hospital-school or special  
10 unit to defray the costs of providing the services. Except  
11 for a contract voluntarily entered into by a county under this  
12 subsection, the costs or income associated with a contract  
13 authorized under this subsection shall not be considered in  
14 computing charges and per diem costs in accordance with the  
15 provisions of subsections 1 through 4 of this section.

16      Sec. 5. Section 230.20, Code 1995, is amended by adding  
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18      NEW SUBSECTION. 7. A superintendent of a mental health  
19 institute may enter into a contract with a person for the  
20 mental health institute to provide consultation or treatment  
21 services. The contract provisions shall include charges which  
22 reflect the actual cost of providing the services. Any income  
23 from a contract authorized under this subsection may be  
24 retained by the mental health institute to defray the costs of  
25 providing the services. Except for a contract voluntarily  
26 entered into by a county under this subsection, the costs or  
27 income associated with a contract authorized under this  
28 subsection shall not be considered in computing charges and  
29 per diem costs in accordance with the provisions of  
30 subsections 1 through 6 of this section.

31

DIVISION IV

32      STATE HOSPITAL-SCHOOL ADMISSION AND DISCHARGE PROCEDURES

33      Sec. 6. Section 222.13, Code 1995, is amended to read as  
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35      222.13 VOLUNTARY ADMISSIONS.



1 1. The-parent, If an adult person is believed to be a  
2 person with mental retardation, the adult person or the adult  
3 person's guardian, or other person responsible for any person  
4 believed to be mentally retarded within the meaning of this  
5 chapter may on behalf of such person request the county board  
6 of supervisors or their designated agent to apply to the  
7 superintendent of any state hospital-school for the voluntary  
8 admission of such the adult person either as an inpatient or  
9 an outpatient of the hospital-school. After determining the  
10 legal settlement of such the adult person as provided by this  
11 chapter, the board of supervisors shall, on forms prescribed  
12 by the administrator, apply to the superintendent of the  
13 hospital-school in the district for the admission of such the  
14 adult person to the hospital-school. An application for  
15 admission to a special unit of any adult person believed to be  
16 in need of any of the services provided by the special unit  
17 under section 222.88 may be made in the same manner, upon  
18 request of the parent, adult person or the adult person's  
19 guardian, or other person responsible for the handicapped  
20 person. The superintendent shall accept the application  
21 providing a preadmission diagnostic evaluation confirms or  
22 establishes the need for admission, except that no an  
23 application may not be accepted if the institution does not  
24 have adequate facilities available or if the acceptance will  
25 result in an overcrowded condition.

26 2. If the hospital-school has no appropriate program for  
27 the treatment of such persons an adult or minor person with  
28 mental retardation applying under this section or section  
29 222.13A, the board of supervisors shall arrange for the  
30 placement of the persons person in any public or private  
31 facility within or without the state, approved by the director  
32 of the department of human services, which offers appropriate  
33 services for such persons the person.

34 3. Upon applying for admission of a an adult or minor  
35 person to a hospital-school, or a special unit, the board of

1 supervisors shall make a full investigation into the financial  
2 circumstances of that person and those liable for that  
3 person's support under section 222.78, to determine whether or  
4 not any of them are able to pay the expenses arising out of  
5 the admission of the person to a hospital-school or special  
6 treatment unit. If the board finds that the person or those  
7 legally responsible for the person are presently unable to pay  
8 such the expenses, they shall direct that the expenses be paid  
9 by the county. The board may review its finding at any  
10 subsequent time while the person remains at the hospital-  
11 school, or is otherwise receiving care or treatment for which  
12 this chapter obligates the county to pay. If the board finds  
13 upon review that ~~that~~ the person or those legally responsible  
14 for ~~that~~ the person are presently able to pay such the  
15 expenses, ~~that~~ the finding shall apply only to the charges ~~so~~  
16 incurred during the period beginning on the date of the review  
17 and continuing thereafter, unless and until the board again  
18 changes its finding. If the board finds that the person or  
19 those legally responsible for the person are able to pay the  
20 expenses, they shall direct that the charges be so paid to the  
21 extent required by section 222.78, and the county auditor  
22 shall be responsible for the collection thereof of the  
23 charges.

24 Sec. 7. NEW SECTION. 222.13A VOLUNTARY ADMISSIONS --  
25 MINORS.

26 1. If a minor is believed to be a person with mental  
27 retardation, the minor's parent, guardian, or custodian may  
28 request the county board of supervisors to apply for admission  
29 of the minor as a voluntary patient in a state hospital-  
30 school. If the hospital-school does not have appropriate  
31 services for the minor's treatment, the board of supervisors  
32 may arrange for the admission of the minor in a public or  
33 private facility within or without the state, approved by the  
34 director of human services, which offers appropriate services  
35 for the minor's treatment.

1 2. Upon receipt of an application for voluntary admission  
2 of a minor, the board of supervisors shall provide for a  
3 preadmission diagnostic evaluation of the minor to confirm or  
4 establish the need for the admission. The preadmission  
5 diagnostic evaluation shall be performed by a person who meets  
6 the qualifications of a qualified mental retardation  
7 professional.

8 3. During the preadmission diagnostic evaluation, the  
9 minor shall be informed both orally and in writing that the  
10 minor has the right to object to the voluntary admission. If  
11 the preadmission diagnostic evaluation determines that the  
12 voluntary admission is appropriate but the minor objects to  
13 the admission, the minor shall not be admitted to the state  
14 hospital-school unless the court approves of the admission. A  
15 petition for approval of the minor's admission may be  
16 submitted to the juvenile court by the minor's parent,  
17 guardian, or custodian.

18 4. As soon as practicable after the filing of a petition  
19 for approval of the voluntary admission, the court shall  
20 determine whether the minor has an attorney to represent the  
21 minor in the proceeding. If the minor does not have an  
22 attorney, the court shall assign to the minor an attorney. If  
23 the minor is unable to pay for an attorney, the attorney shall  
24 be compensated in substantially the same manner as provided in  
25 section 815.7.

26 5. The court shall order the admission of a minor who  
27 objects to the admission, only after a hearing in which it is  
28 shown by clear and convincing evidence that both of the  
29 following circumstances exist:

30 a. The minor needs and will substantially benefit from  
31 treatment or habilitation.

32 b. A placement which involves less restriction of the  
33 minor's liberties for the purposes of treatment or  
34 habilitation is not feasible.

35 Sec. 8. Section 222.15, Code 1995, is amended to read as

1 follows:

2 222.15 DISCHARGE OF VOLUNTARY PATIENTS ADMITTED  
3 VOLUNTARILY.

4 ~~The parent, guardian, or any other person responsible for~~  
5 ~~the voluntary admission of any person to a hospital school or~~  
6 ~~a special unit may, upon ten days' notice, obtain the~~  
7 ~~discharge of such person by giving to the superintendent of~~  
8 ~~the institution and the county board of supervisors of the~~  
9 ~~county from which such person was admitted written notice of~~  
10 ~~the desire for such discharge. This section applies to any~~  
11 person who was voluntarily admitted to a state hospital school  
12 or other facility in accordance with the provisions of section  
13 222.13 or 222.13A. Except as otherwise provided by this  
14 section, if the person or the person's parent, guardian, or  
15 custodian submits a written request for the person's release,  
16 the person shall be immediately released.

17 1. If the person is an adult and was admitted pursuant to  
18 an application by the person or the person's guardian and the  
19 request for release is made by a different person, the release  
20 is subject to the agreement of the person voluntarily admitted  
21 or the person's guardian, if the guardian submitted the  
22 application.

23 2. If the person is a minor who was admitted pursuant to  
24 the provisions of section 222.13A, the person's release prior  
25 to becoming eighteen years of age is subject to the consent of  
26 the person's parent, guardian, or custodian, or to the  
27 approval of the court if the admission was approved by the  
28 court.

29 3. a. If the administrator of the facility in which the  
30 patient is admitted certifies that in the administrator's  
31 opinion the release of the person would be contrary to the  
32 safety of the person or the community, the release may be  
33 postponed by a court order. The administrator's certification  
34 shall be filed with the clerk of the district court for the  
35 county in which the facility is located no later than one day

1 following the submission of the written request for release.  
2 The period of postponement shall be the period of time the  
3 court determines necessary to permit the commencement of  
4 judicial proceedings for the person's involuntary commitment.  
5 The period of postponement shall not exceed five days unless  
6 the period of postponement is extended by court order for good  
7 cause shown.

8 b. If a petition for the person's involuntary commitment  
9 is timely filed, the administrator may detain the person in  
10 the facility and provide treatment until disposition of the  
11 petition. The treatment shall be limited to that necessary to  
12 preserve the person's life or to appropriately control  
13 behavior by the person which is likely to result in physical  
14 injury to the person or to others if allowed to continue. The  
15 administrator shall not otherwise provide treatment to the  
16 person without the person's consent.

17 Sec. 9. NEW SECTION. 222.16A JUDICIAL PROCEEDINGS.

18 1. The chief judge of a judicial district may appoint one  
19 or more judicial hospitalization referees for each county in  
20 the district to discharge the duties imposed on the court by  
21 this chapter. The judicial hospitalization qualification  
22 provisions of section 229.21 shall apply to referees appointed  
23 under this section in performing duties pursuant to this  
24 chapter. An order or findings by a referee pursuant to this  
25 chapter may be appealed to a judge of the district court by  
26 filing notice with the clerk of the district court within  
27 seven days after the findings or order is made, and hearing by  
28 the district court shall be de novo. The court shall schedule  
29 a hearing before a district judge at the earliest practicable  
30 time.

31 2. The juvenile court has exclusive original jurisdiction  
32 in any court proceedings concerning a minor pursuant to this  
33 chapter.

34 Sec. 10. Section 222.59, Code 1995, is amended by striking  
35 the section and inserting in lieu thereof the following:

1 222.59 ALTERNATIVE TO STATE HOSPITAL-SCHOOL PLACEMENT.

2 1. Upon receiving a request from an authorized requester,  
3 the superintendent of a state hospital-school shall assist the  
4 requester in identifying available community-based services as  
5 an alternative to continued placement of a patient in the  
6 state hospital-school. For the purposes of this section,  
7 "authorized requester" means the parent, guardian, or  
8 custodian of a minor patient, the guardian of an adult  
9 patient, or an adult patient who does not have a guardian.

10 The assistance shall identify alternatives to continued  
11 placement which are appropriate to the patient's needs and  
12 shall include but are not limited to any of the following:

13 a. Providing information on currently available services  
14 that are an alternative to residence in the state hospital-  
15 school.

16 b. Referring the patient to an appropriate case management  
17 agency or other provider of service.

18 2. If a patient was admitted pursuant to section 222.13 or  
19 section 222.13A and the patient wishes to be placed outside of  
20 the state hospital-school, the discharge for the placement  
21 shall be made in accordance with the provisions of section  
22 222.15.

23 3. If a patient was involuntarily committed, a petition  
24 for approval of a proposed placement outside the state  
25 hospital-school shall be filed, by the authorized requester or  
26 the superintendent of the state hospital-school where the  
27 patient is placed, with the court which made the commitment  
28 with either of the following recommendations for the court's  
29 consideration:

30 a. That the patient's commitment is no longer necessary  
31 and should be discontinued.

32 b. That the patient's commitment is still appropriate but  
33 the patient should be transferred to another public or private  
34 facility in accordance with the provisions of section 222.31,  
35 subsection 1.

1 Sec. 11. Section 225C.4, subsection 1, paragraph o, Code  
2 1995, is amended by striking the paragraph.

3 EXPLANATION

4 This bill relates to department of human services'  
5 provisions involving the state hospital-schools and other  
6 institutions and the department's public housing unit.

7 Division I relates to wages paid to residents of  
8 institutions under the control of the department of human  
9 services. These institutions include the two state hospital-  
10 schools, the four mental health institutes, the state training  
11 school at Eldora, and the state juvenile home at Toledo.  
12 Under current law, the superintendent of an institution may  
13 pay wages to residents for services to the state, if deemed  
14 practicable, in an amount based upon consideration of the  
15 costs of the resident's care. The bill requires payment for  
16 services to the state in accordance with federal wage and hour  
17 requirements.

18 Division II relates to statutory authority for the division  
19 of mental health and developmental disabilities to establish a  
20 public housing unit. The bill removes a codified restriction  
21 limiting the unit's scope to persons with mental illness,  
22 mental retardation or other developmental disability, or brain  
23 injury.

24 Division III authorizes the state hospital-schools and  
25 state mental health institutes to contract with a person (the  
26 term "person" is defined in section 4.1 to include an  
27 individual, corporation, political subdivision, or other legal  
28 entity) to provide consultation or treatment services. The  
29 contract must include charges reflecting the actual costs of  
30 providing the services. Any income may be retained by the  
31 institution. The provisions are incorporated into the Code  
32 sections which detail computation of charges to counties for  
33 services in the institutions. Any income or expense  
34 associated with a contract cannot be included in the  
35 computation of the charges unless a county is a party to the

1 contract.

2 Division IV relates to placements at the state hospital-  
3 schools and related facilities by applying procedural  
4 requirements to placements at these institutions. Current law  
5 in section 222.13, providing for voluntary placement of an  
6 individual by the individual's parent, guardian, or custodian,  
7 is modified by restricting voluntary placement of an adult to  
8 the individual or the individual's guardian and by  
9 establishing a separate procedure for minors. In new section  
10 222.13A, procedures for a juvenile court hearing are provided  
11 in the event a minor objects to a voluntary placement  
12 initiated by the minor's parent, guardian, or custodian.

13 Division IV also strikes and rewrites section 222.15,  
14 relating to discharge of state hospital-school or other  
15 facility residents who were voluntarily admitted. Procedural  
16 provisions are established in the event the person or the  
17 person's guardian makes a written request for the person's  
18 release. If a person was admitted pursuant to the person's  
19 own request or a guardian's request, the person requesting  
20 admission must also approve the request for release. If the  
21 person is a minor, the minor's legal agent must approve of the  
22 release, as must the juvenile court if the court was involved  
23 with the placement. In addition, there are procedures to  
24 prohibit release of the person in the event the placement  
25 agency believes the person's or the community's safety would  
26 be affected by the release.

27 Division IV also creates a new section 222.16A which  
28 authorizes a district court judge to appoint county judicial  
29 hospitalization referees to fulfill the court's duties  
30 regarding involuntary commitments of persons with mental  
31 retardation. A petitioner may appeal a referee's finding or  
32 commitment order to a district court judge. This section also  
33 specifies that the juvenile court has jurisdiction over cases  
34 of minors with mental retardation.

35 Division IV also strikes and rewrites section 222.59. In



1 current law, this section provides for superintendents of  
2 hospital-schools or special units to transfer or release  
3 patients. Current law provides for advance planning, written  
4 records, notice of affected parties, and continuing  
5 responsibility for patient welfare. The rewritten section  
6 provides for the resident or the resident's legal agent to  
7 request a superintendent's assistance in locating alternative  
8 services or placement. The assistance can either be with  
9 information or a referral. If the resident was voluntarily  
10 admitted and an alternative placement is desired, the bill's  
11 provisions in section 222.15 apply. If the resident was  
12 involuntarily admitted, court authorization is required to  
13 change the placement. Section 225C.4 is amended to remove a  
14 responsibility for the administrator of the division of mental  
15 health and developmental disabilities to provide consultation  
16 to patients' advocates appointed pursuant to section 222.59.  
17 The rewritten section 222.59 no longer refers to patients'  
18 advocates.

19 **BACKGROUND STATEMENT**

20 **SUBMITTED BY THE AGENCY**

21 Division I relates to payment of wages to institutional  
22 residents.

23 Iowa Code section 218.42 establishes guidelines for paying  
24 wages to institutional residents. The language does not  
25 conform with current wage and hour laws. The language should  
26 be changed to require that when an institutional resident  
27 works for the institution that payment of their wages be in  
28 conformance with the federal wage and hour laws.

29 Current state law does not conform with federal law. In  
30 the consent decree for Conner v. Branstad, No. 4-86-CV-30871  
31 (S.D. Iowa, July 15, 1994) (a recent federal district court  
32 case involving placement, care, and treatment procedures at  
33 the state hospital-schools), the department of human services  
34 (DHS) agreed to comply with federal regulations governing  
35 intermediate care facilities for the mentally retarded

1 (ICF/MR) at the state hospital-schools. Those regulations  
2 require compliance with federal wage and hour laws. The  
3 institutions already are in compliance.

4 Division II relates to statutory provisions authorizing the  
5 department's division of mental health and developmental  
6 disabilities to establish a public housing unit.

7 The current law's language does not comply with federal  
8 government guidelines. This language originally took effect  
9 July 1, 1992, enabling the division of mental health and  
10 developmental disabilities to pursue approval from the federal  
11 department of housing and urban development (HUD) as a public  
12 housing unit. All public housing authorities (units) must  
13 have HUD authorization and approval to operate.

14 Section 225C.45, as currently written, would permit housing  
15 activities for persons with mental illness, mental  
16 retardation, or a developmental disability. After a thorough  
17 review of this language by HUD's public housing and legal  
18 staff, DHS was notified in December of 1993 that federal law  
19 will not permit a public housing entity to restrict housing  
20 assistance to a designated group, in this case, persons with  
21 disabilities. New public housing entities must be given HUD  
22 approval to operate in a general sense, to assist persons  
23 using income guidelines as the primary criteria. After  
24 receiving HUD's approval to be a public housing authority in a  
25 general sense, public housing entities can be selective in the  
26 funds sought, such as HUD funds that are available on behalf  
27 of designated groups of people (persons with AIDS, persons  
28 with disabilities, the elderly, and similar groups). In this  
29 way the division would be able to seek HUD funds that are  
30 intended for persons with disabilities and the division would  
31 not intend to operate on behalf of all persons who may be  
32 eligible for HUD assistance.

33 Between December 1993 and February 1994 DHS discussed Code  
34 language variations with HUD that still included "persons with  
35 ... disabilities." HUD's response was that the approach still

1 appeared to be discriminatory and HUD recommended removing any  
2 restrictive language.

3 No change to the current fiscal situation is anticipated  
4 under the bill, because the situation will be no different  
5 after the change than when the language was first added in  
6 1992. No change to the current operational situation is  
7 anticipated under the bill because operations will be no  
8 different after the change than when the language was first  
9 added in 1992.

10 Division III relates to institutional contracts where the  
11 institution is selling goods or services.

12 When an institution contracts to provide services, all the  
13 income from the contract may not be paid until after the end  
14 of a fiscal year. Under current legislation, income received  
15 after the end of the fiscal year is not available to pay the  
16 associated contract costs during the fiscal year the costs  
17 were incurred. To avoid the need to write negative charges or  
18 pay such contract costs out of appropriated funds, the  
19 institutions need the authority to have temporary funding  
20 available to cover year-end contract costs.

21 As the size of the state institutions decreases, the state  
22 is working with local communities to make the resources of the  
23 institution available to the local community for economic  
24 development. As a result, the institutions are leasing campus  
25 space for alternative purposes. These leases provide an  
26 opportunity for both local economic development and make the  
27 institution campus more economically efficient for the state.  
28 Some of the leases also include contracting with the  
29 institution for staff and support services. Glenwood state  
30 hospital-school is currently working with the local community  
31 to lease space for a head injury program. In addition to  
32 space, the proposal calls for Glenwood to sell the program  
33 food, maintenance, and some professional services. The income  
34 from the contract would be used to reimburse the "up front"  
35 expenditures by Glenwood. At year's end, not all of the

1 income will be available and "temporary" funding will need to  
2 be available so that the institution does not have to support  
3 the contract out of its appropriation. DHS anticipates that  
4 the institutions will be entering into more of these  
5 arrangements in future years, so that an appropriate method  
6 for handling the funding of contracts is needed.

7 This change will not increase costs. The change will allow  
8 for more appropriate accounting of contract costs and  
9 revenues. The change will also add an incentive to  
10 institutions to increase the alternative uses of their  
11 campuses which then would spread overhead costs over a larger  
12 base.

13 Division IV relates to admission and discharge procedures  
14 for the state hospital-schools (SHSs) contained in Iowa Code  
15 chapter 222.

16 The procedures for admissions and discharges would be  
17 changed to conform more with the same procedures found in  
18 chapter 229 for persons with mental illness. The current  
19 language basically assumes that persons with mental  
20 retardation are not capable of making any decisions and  
21 removes their rights to make decisions about their lives  
22 without the appropriate due process protections.

23 Sections 222.13 and 222.13A -- Current law permits the  
24 parent of an adult person with mental retardation to sign the  
25 person into placement. By policy, the division of mental  
26 health and developmental disabilities (MH/DD) has approved  
27 voluntary admissions only if signed by the person to be  
28 admitted or a guardian. Without either of those approvals,  
29 DHS requires a court commitment. The law needs to be changed  
30 to conform with the department's policy. The change would  
31 clarify that a guardian has to seek the approval of the court  
32 in order to place the person in a more restrictive setting.  
33 In the case of a minor, language requiring court approval if  
34 the minor objects is included.

35 Section 222.15 -- The procedures for discharge of a person

1 admitted voluntarily need to be updated to conform with the  
2 proposed revisions to section 222.13. In the case of an  
3 adult, a person who voluntarily requested admission could  
4 leave or if signed in by a guardian, then the guardian could  
5 remove the person.

6 Section 222.16A -- The provisions for involuntary admission  
7 need to be revised to permit a hospitalization referee to act  
8 on the application as is currently done in chapter 229 for  
9 persons with mental illness. Currently only a district court  
10 judge can act in a chapter 222 involuntary procedure.

11 Section 222.59 -- The provisions for placing a person out  
12 of an SHS need to be updated. The current language places  
13 most of the responsibility and authority with the  
14 superintendent. The section should be changed to clearly give  
15 the guardian the legal responsibility and to provide that  
16 adult residents without a guardian can make a decision about  
17 placement.

18 Chapter 222 is antiquated and does not reflect current  
19 thinking on the rights of persons with mental retardation.  
20 The whole chapter probably should be rewritten but these  
21 proposals at least protect the basic rights of individuals to  
22 due process when it comes to restricting their freedoms. In  
23 the Conner case consent decree, the state agreed to look at  
24 possible legislation that would strengthen the development of  
25 community supports for the class members, and assure  
26 protection of their basic constitutional rights is a step in  
27 that direction.

28 No fiscal impact is anticipated because of these changes.

29 On voluntary admissions, the department is already by  
30 policy trying to follow the proposed changes. Permitting the  
31 hospitalization referee to act on involuntary applications  
32 would speed up the process and save time of county and local  
33 staff in trying to get an application in front of a district  
34 court judge. No internal resources would be needed to  
35 implement these changes.

HOUSE FILE 483

AN ACT

RELATING TO ACTIVITIES OF THE DEPARTMENT OF HUMAN SERVICES,  
INCLUDING PROVISIONS INVOLVING THE STATE HOSPITAL-SCHOOLS  
AND OTHER INSTITUTIONS, COMMITMENTS OF PERSONS WITH MENTAL  
RETARDATION, AND THE DEPARTMENT'S PUBLIC HOUSING UNIT.

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

DIVISION I

PAYMENT OF WAGES TO INSTITUTIONAL RESIDENTS

Section 1. Section 218.42, Code 1995, is amended to read  
as follows:

218.42 WAGES OF RESIDENTS.

When if a resident performs services for the state at an  
institution listed in section 218.1, the administrator in  
control of such the institution may~~when the administrator  
deems such course practicable, pay such resident such wage as  
it deems proper in view of the circumstances, and in view of  
the cost attending the maintenance of such~~ shall pay the  
resident a wage in accordance with federal wage and hour  
requirements. ~~In no case shall such~~ However, the wage amount  
shall not exceed the amount paid to free labor of the  
prevailing wage paid in the state for a like service or its  
equivalent.

DIVISION II

DHS PUBLIC HOUSING UNIT

Sec. 2. Section 225C.4, subsection 2, paragraph e, Code  
1995, is amended to read as follows:

e. Administer a public housing unit within a bureau of the  
division to apply for, receive, and administer federal  
assistance, grants, and other public or private funds for  
purposes related to providing housing ~~to persons with  
disabilities~~ in accordance with section 225C.45.

Sec. 3. Section 225C.45, subsection 1, Code 1995, is  
amended to read as follows:

1. The administrator may establish a public housing unit  
within a bureau of the division to apply for, receive, and  
administer federal assistance, grants, and other public or  
private funds for purposes related to providing housing ~~to  
persons with mental illness, mental retardation or other  
developmental disability, or brain injury.~~

DIVISION III

SALE OF SERVICES AT DEPARTMENT OF HUMAN SERVICES' INSTITUTIONS

Sec. 4. Section 222.73, Code 1995, is amended by adding  
the following new subsection:

NEW SUBSECTION. 5. A superintendent of a hospital-school  
or special unit may enter into a contract with a person for  
the hospital-school or special unit to provide consultation or  
treatment services. The contract provisions shall include  
charges which reflect the actual cost of providing the  
services. Any income from a contract authorized under this  
subsection may be retained by the hospital-school or special  
unit to defray the costs of providing the services. Except  
for a contract voluntarily entered into by a county under this  
subsection, the costs or income associated with a contract  
authorized under this subsection shall not be considered in  
computing charges and per diem costs in accordance with the  
provisions of subsections 1 through 4 of this section.

Sec. 5. Section 230.20, Code 1995, is amended by adding  
the following new subsection:

**NEW SUBSECTION.** 7. A superintendent of a mental health institute may enter into a contract with a person for the mental health institute to provide consultation or treatment services. The contract provisions shall include charges which reflect the actual cost of providing the services. Any income from a contract authorized under this subsection may be retained by the mental health institute to defray the costs of providing the services. Except for a contract voluntarily entered into by a county under this subsection, the costs or income associated with a contract authorized under this subsection shall not be considered in computing charges and per diem costs in accordance with the provisions of subsections 1 through 6 of this section.

## DIVISION IV

## STATE HOSPITAL-SCHOOL ADMISSION AND DISCHARGE PROCEDURES

Sec. 6. Section 222.1, unnumbered paragraph 1, Code 1995, is amended to read as follows:

The Glenwood state hospital-school and the Woodward state hospital-school shall be maintained for the purpose of providing treatment, training, instruction, care, habilitation, and support of mentally-retarded persons with mental retardation or other disabilities in this state.

Sec. 7. Section 222.13, Code 1995, is amended to read as follows:

## 222.13 VOLUNTARY ADMISSIONS.

1. ~~The parent; If an adult person is believed to be a person with mental retardation, the adult person or the adult person's guardian, or other person responsible for any person believed to be mentally-retarded within the meaning of this chapter may on behalf of such person~~ request the county board of supervisors or their designated agent to apply to the superintendent of any state hospital-school for the voluntary admission of such the adult person either as an inpatient or an outpatient of the hospital-school. After determining the legal settlement of such the adult person as provided by this

chapter, the board of supervisors shall, on forms prescribed by the administrator, apply to the superintendent of the hospital-school in the district for the admission of such the adult person to the hospital-school. An application for admission to a special unit of any adult person believed to be in need of any of the services provided by the special unit under section 222.88 may be made in the same manner, upon request of the parent, adult person or the adult person's guardian, or other person responsible for the handicapped person. The superintendent shall accept the application providing a preadmission diagnostic evaluation confirms or establishes the need for admission, except that no an application may not be accepted if the institution does not have adequate facilities available or if the acceptance will result in an overcrowded condition.

2. If the hospital-school has no appropriate program for the treatment of such persons an adult or minor person with mental retardation applying under this section or section 222.13A, the board of supervisors shall arrange for the placement of the persons person in any public or private facility within or without the state, approved by the director of the department of human services, which offers appropriate services for such persons the person.

3. Upon applying for admission of a an adult or minor person to a hospital-school, or a special unit, the board of supervisors shall make a full investigation into the financial circumstances of that person and those liable for that person's support under section 222.78, to determine whether or not any of them are able to pay the expenses arising out of the admission of the person to a hospital-school or special treatment unit. If the board finds that the person or those legally responsible for the person are presently unable to pay such the expenses, they shall direct that the expenses be paid by the county. The board may review its finding at any subsequent time while the person remains at the hospital-

school, or is otherwise receiving care or treatment for which this chapter obligates the county to pay. If the board finds upon review that that the person or those legally responsible for that the person are presently able to pay such the expenses, that the finding shall apply only to the charges so incurred during the period beginning on the date of the review and continuing thereafter, unless and until the board again changes its finding. If the board finds that the person or those legally responsible for the person are able to pay the expenses, they shall direct that the charges be so paid to the extent required by section 222.78, and the county auditor shall be responsible for the collection thereof of the charges.

Sec. 8. NEW SECTION. 222.13A VOLUNTARY ADMISSIONS -- MINORS.

1. If a minor is believed to be a person with mental retardation, the minor's parent, guardian, or custodian may request the county board of supervisors to apply for admission of the minor as a voluntary patient in a state hospital-school. If the hospital-school does not have appropriate services for the minor's treatment, the board of supervisors may arrange for the admission of the minor in a public or private facility within or without the state, approved by the director of human services, which offers appropriate services for the minor's treatment.

2. Upon receipt of an application for voluntary admission of a minor, the board of supervisors shall provide for a preadmission diagnostic evaluation of the minor to confirm or establish the need for the admission. The preadmission diagnostic evaluation shall be performed by a person who meets the qualifications of a qualified mental retardation professional.

3. During the preadmission diagnostic evaluation, the minor shall be informed both orally and in writing that the minor has the right to object to the voluntary admission. If

the preadmission diagnostic evaluation determines that the voluntary admission is appropriate but the minor objects to the admission, the minor shall not be admitted to the state hospital-school unless the court approves of the admission. A petition for approval of the minor's admission may be submitted to the juvenile court by the minor's parent, guardian, or custodian.

4. As soon as practicable after the filing of a petition for approval of the voluntary admission, the court shall determine whether the minor has an attorney to represent the minor in the proceeding. If the minor does not have an attorney, the court shall assign to the minor an attorney. If the minor is unable to pay for an attorney, the attorney shall be compensated in substantially the same manner as provided in section 815.7.

5. The court shall order the admission of a minor who objects to the admission, only after a hearing in which it is shown by clear and convincing evidence that both of the following circumstances exist:

a. The minor needs and will substantially benefit from treatment or habilitation.

b. A placement which involves less restriction of the minor's liberties for the purposes of treatment or habilitation is not feasible.

Sec. 9. Section 222.15, Code 1995, is amended to read as follows:

222.15 DISCHARGE OF VOLUNTARY PATIENTS ADMITTED VOLUNTARILY.

~~The parent, guardian, or any other person responsible for the voluntary admission of any person to a hospital-school or a special unit may, upon ten days' notice, obtain the discharge of such person by giving to the superintendent of the institution and the county board of supervisors of the county from which such person was admitted written notice of the desire for such discharge. This section applies to any~~



person who was voluntarily admitted to a state hospital-school or other facility in accordance with the provisions of section 222.13 or 222.13A. Except as otherwise provided by this section, if the person or the person's parent, guardian, or custodian submits a written request for the person's release, the person shall be immediately released.

1. If the person is an adult and was admitted pursuant to an application by the person or the person's guardian and the request for release is made by a different person, the release is subject to the agreement of the person voluntarily admitted or the person's guardian, if the guardian submitted the application.

2. If the person is a minor who was admitted pursuant to the provisions of section 222.13A, the person's release prior to becoming eighteen years of age is subject to the consent of the person's parent, guardian, or custodian, or to the approval of the court if the admission was approved by the court.

3. a. If the administrator of the facility in which the patient is admitted certifies that in the administrator's opinion the release of the person would be contrary to the safety of the person or the community, the release may be postponed by a court order. The administrator's certification shall be filed with the clerk of the district court for the county in which the facility is located no later than one day following the submission of the written request for release. The period of postponement shall be the period of time the court determines necessary to permit the commencement of judicial proceedings for the person's involuntary commitment. The period of postponement shall not exceed five days unless the period of postponement is extended by court order for good cause shown.

b. If a petition for the person's involuntary commitment is timely filed, the administrator may detain the person in the facility and provide treatment until disposition of the

petition. The treatment shall be limited to that necessary to preserve the person's life or to appropriately control behavior by the person which is likely to result in physical injury to the person or to others if allowed to continue. The administrator shall not otherwise provide treatment to the person without the person's consent.

Sec. 10. NEW SECTION. 222.16A JUDICIAL PROCEEDINGS.

1. The chief judge of a judicial district may appoint one or more judicial hospitalization referees for each county in the district to discharge the duties imposed on the court by this chapter. The judicial hospitalization qualification provisions of section 229.21 shall apply to referees appointed under this section in performing duties pursuant to this chapter. An order or findings by a referee pursuant to this chapter may be appealed to a judge of the district court by filing notice with the clerk of the district court within seven days after the findings or order is made, and hearing by the district court shall be de novo. The court shall schedule a hearing before a district judge at the earliest practicable time.

2. The juvenile court has exclusive original jurisdiction in any court proceedings concerning a minor pursuant to this chapter.

Sec. 11. Section 222.59, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

222.59 ALTERNATIVE TO STATE HOSPITAL-SCHOOL PLACEMENT.

1. Upon receiving a request from an authorized requester, the superintendent of a state hospital-school shall assist the requester in identifying available community-based services as an alternative to continued placement of a patient in the state hospital-school. For the purposes of this section, "authorized requester" means the parent, guardian, or custodian of a minor patient, the guardian of an adult patient, or an adult patient who does not have a guardian. The assistance shall identify alternatives to continued

placement which are appropriate to the patient's needs and shall include but are not limited to any of the following:

- a. Providing information on currently available services that are an alternative to residence in the state hospital-school.
  - b. Referring the patient to an appropriate case management agency or other provider of service.
2. If a patient was admitted pursuant to section 222.13 or section 222.13A and the patient wishes to be placed outside of the state hospital-school, the discharge for the placement shall be made in accordance with the provisions of section 222.15.

3. If a patient was involuntarily committed, a petition for approval of a proposed placement outside the state hospital-school shall be filed, by the authorized requester or the superintendent of the state hospital-school where the patient is placed, with the court which made the commitment with either of the following recommendations for the court's consideration:

- a. That the patient's commitment is no longer necessary and should be discontinued.
- b. That the patient's commitment is still appropriate but the patient should be transferred to another public or private facility in accordance with the provisions of section 222.31, subsection 1.

Sec. 12. Section 222.60, unnumbered paragraph 1, Code 1995, is amended to read as follows:

All necessary and legal expenses for the cost of admission or commitment or for the treatment, training, instruction, care, habilitation, support and transportation of patients persons with mental retardation in a state hospital-school ~~for the-mentally-retarded~~, or in a special unit, or any public or private facility within or without the state, approved by the director of the department of human services, shall be paid by either:

Sec. 13. Section 225C.4, subsection 1, paragraph o, Code 1995, is amended by striking the paragraph.

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RON J. CORBETT  
Speaker of the House

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LEONARD L. BOSWELL  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 483, Seventy-sixth General Assembly.

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ELIZABETH ISAACSON  
Chief Clerk of the House

Approved April 25, 1995

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TERRY E. BRANSTAD  
Governor