

# House Study Bill 735

## Conference Committee Text

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1 1 Section 1. Section [222.78](#), Code 1995, is amended to read  
1 2 as follows:  
1 3 [222.78](#) PARENTS AND OTHERS LIABLE FOR SUPPORT.  
1 4 The father and mother of any person admitted or committed  
1 5 to a hospital-school or to a special unit, as either an  
1 6 inpatient or an outpatient, and any person, firm, or  
1 7 corporation bound by contract

~~hereafter made~~

- for support of

1 8 the person shall be and remain liable for the support of the  
1 9 person. The person and those legally bound for the support of  
1 10 the person shall be liable to the county for all sums advanced  
1 11 by the county to the state under the provisions of sections  
1 12 [222.60](#),

~~and~~

- ~~[222.77](#), [249A.12](#), and [249A.26](#)~~. The liability of

1 13 any person, other than the patient, who is legally bound for  
1 14 the support of any patient under eighteen years of age in a  
1 15 hospital-school or a special unit shall

~~in no instance~~

- ~~not~~

1 16 exceed the average minimum cost of the care of a normally  
1 17 intelligent

~~, nonhandicapped~~

- minor ~~without a disability~~ of the

1 18 same age and sex as the minor patient. The

~~administrator~~

-

1 19 county auditor shall establish the

~~scale for this purpose but~~

-

1 20

~~the scale shall not exceed the standards for personal~~

-

1 21

~~allowances established by the state division under the family~~

-

1 22

~~investment program~~

- ~~amount of liability by applying the child~~

1 23 support guidelines prescribed under section 598.21, subsection  
1 24 4.

~~Provided further that the~~

- ~~The~~ father or mother of the

1 25 person shall not be liable for the support of the person after  
1 26 the person attains the age of eighteen years and

~~that~~

- the

1 27 father or mother shall incur liability only during any period  
1 28 when the father or mother either individually or jointly  
1 29 receive a net income from whatever source, commensurate with  
1 30 that upon which they would be liable to make an income tax  
1 31 payment to this state.

~~Nothing in this~~

- This section shall not

1 32 be construed to prevent a relative or other person from  
1 33 voluntarily paying the full actual cost as established by the  
1 34 administrator for caring for the person with mental  
1 35 retardation.

2 1 Sec. 2. Section [230.15](#), unnumbered paragraph 1, Code 1995,  
2 2 is amended to read as follows:

2 3 A

~~mentally ill~~

- person with mental illness and a person

2 4 legally liable for the person's support remain liable for the  
2 5 support of the

~~mentally ill~~

- person with mental illness as

2 6 provided in this section. Persons legally liable for the  
2 7 support of a

~~mentally ill~~

- person with mental illness include

2 8 the spouse of the

~~mentally ill~~

- person with mental illness, any

2 9 person bound by contract for support of the

~~mentally ill~~

-  
2 10 person with mental illness, and, with respect to

~~mentally ill~~

-  
2 11

~~persons~~

- a person with mental illness under eighteen years of  
2 12 age only, the father and mother of the

~~mentally ill~~

- person

2 13 with mental illness. The county auditor, subject to the  
2 14 direction of the board of supervisors, shall enforce the  
2 15 obligation created in this section as to all sums advanced by  
2 16 the county. The liability to the county incurred by a  
2 17

~~mentally ill~~

- person with mental illness or a person legally

2 18 liable for the person's support under this section is limited  
2 19 to an amount equal to one hundred percent of the cost of care  
2 20 and treatment of the

~~mentally ill~~

- person with mental illness

2 21 at a state mental health institute for one hundred twenty days  
2 22 of hospitalization. This limit of liability may be reached by

2 23 payment of the cost of care and treatment of the

~~mentally ill~~

-  
2 24 person with mental illness subsequent to a single admission or  
2 25 multiple admissions to a state mental health institute or, if  
2 26 the person is not discharged as cured, subsequent to a single  
2 27 transfer or multiple transfers to a county care facility  
2 28 pursuant to section 227.11. After reaching this limit of  
2 29 liability, a

~~mentally ill~~

- person with mental illness or a  
2 30 person legally liable for the person's support is liable to  
2 31 the county for the care and treatment of the mentally ill  
2 32 person at a state mental health institute or, if transferred  
2 33 but not discharged as cured, at a county care facility in an  
2 34 amount

~~not in excess of~~

- determined by the county auditor. The

2 35 county auditor shall determine the amount for an individual  
3 1 with no support obligation by considering all income and  
3 2 resources available to the individual in the same manner as a  
3 3 financial obligation is determined for an individual residing  
3 4 in a residential care facility and receiving medical  
3 5 assistance. The county auditor shall determine the amount for  
3 6 an individual with a support obligation in an amount which  
3 7 does not exceed the

~~average minimum cost of the maintenance of~~

-  
3 8

~~a physically and mentally healthy individual residing in the~~

-  
3 9

~~individual's own home, which standard shall be established and~~

-  
3 10 amount determined by applying the child support guidelines  
3 11 prescribed under section 598.21, subsection 4, to the person  
3 12 legally liable for the support of the person. This amount may  
3 13

~~from time to time~~

- be revised periodically by the

~~department of~~

-  
3 14

~~human services~~

- county auditor to conform with a revision in

3 15 the child support guidelines prescribed under section 598.21,  
3 16 subsection 4. In either case, the individual shall be  
3 17 permitted to retain a personal needs allowance equal to the  
3 18 amount permitted for an individual residing in a residential  
3 19 care facility and receiving medical assistance. A lien  
3 20 imposed by section 230.25 shall not exceed the amount of the  
3 21 liability which may be incurred under this section on account  
3 22 of any

~~mentally ill~~

- person with mental illness.

3 23 Sec. 3. APPLICABILITY. This Act applies to services  
3 24 provided in a state hospital-school or special unit, state

3 25 mental health institute, or county care facility on or after  
3 26 July 1, 1996.

3 27

EXPLANATION

3 28 This bill relates to the amount of liability for the cost  
3 29 of services provided to a person with mental retardation or  
3 30 mental illness.

3 31 Section 222.78 provides for the amount of financial  
3 32 liability of a parent or other person liable for the support  
3 33 of a person admitted or committed to a state hospital-school  
3 34 or special unit. Under current law, the liability is limited  
3 35 to an amount equivalent to a comparable allowance for a  
4 1 recipient under the family investment program as determined  
4 2 according to a scale developed by the department of human  
4 3 services. Under the bill, the liability amount would instead  
4 4 be determined by the county auditor by applying the child  
4 5 support guidelines prescribed by the supreme court.

4 6 Section 230.15 relates to liability for the costs to  
4 7 support a person with mental illness at a state mental health  
4 8 institute or county care facility. Under current law, the  
4 9 liability is for the full cost of the first 120 days of care,  
4 10 after which liability is limited to the cost to maintain a  
4 11 person without a disability in the person's own home, as  
4 12 established by the department of human services. The bill  
4 13 authorizes the county auditor to establish the liability  
4 14 amount after the first 120 days. In establishing the  
4 15 liability amount for an individual without a support  
4 16 obligation, the county auditor must consider income and  
4 17 resources in the same manner as used for an individual living  
4 18 in a residential care facility (RCF) and receiving medical  
4 19 assistance. For an individual with a support obligation, the  
4 20 amount of the obligation would be based upon the supreme  
4 21 court's child support guidelines. In either case, the  
4 22 individual would be entitled to retain a personal needs  
4 23 allowance equal to the amount available to an individual  
4 24 living in an RCF and receiving medical assistance.

4 25 The provisions of the bill are applicable to services  
4 26 provided in a state hospital-school, state mental health  
4 27 institute, or county care facility on or after July 1, 1996.

4 28 LSB 4387HC 76

4 29 jp/cf/24