

FEB 18 1998

JUDICIARY

HOUSE FILE
BY HEATON

2328

WITHDRAWN

3/24/98
(p. 866)

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

A BILL FOR

1 An Act relating to procedures applicable to civil commitment, and
2 including an implementation provision.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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WITHDRAWN

HF 2328

1 Section 1. NEW SECTION. 125.75B / DUAL FILINGS.

2 An application for involuntary commitment or treatment of a
3 respondent under this chapter may be filed contemporaneously
4 with an application for involuntary hospitalization of the
5 respondent under chapter 229.

6 Sec. 2. Section 125.82, subsections 1 and 2, Code 1997,
7 are amended to read as follows:

8 1. At a commitment hearing, evidence in support of the
9 contentions made in the application shall be presented by the
10 ~~applicant, or by an attorney for the applicant, or by the~~
11 ~~county attorney if the county attorney is the applicant.~~

12 During the hearing the ~~applicant and the~~ respondent shall be
13 afforded an opportunity to testify and the county attorney and
14 the respondent shall have the opportunity to present and
15 cross-examine witnesses, and the court may receive the
16 testimony of ~~other~~ interested persons. If the respondent is
17 present at the hearing, as provided in subsection 3, and has
18 been medicated within twelve hours, or a longer period of time
19 as the court may designate, prior to the beginning of the
20 hearing or a session of the hearing, the court shall be
21 informed of that fact and of the probable effects of the
22 medication upon convening of the hearing.

23 2. A person not necessary for the conduct of the hearing
24 shall be excluded, except that the court may admit a person
25 having a legitimate interest in the hearing. Upon motion of
26 the ~~applicant~~ county attorney, the court may exclude the
27 respondent from the hearing during the testimony of a witness
28 if the court determines that the witness' testimony is likely
29 to cause the respondent severe emotional trauma.

30 Sec. 3. NEW SECTION. 229.2A DUAL FILINGS.

31 An application for involuntary hospitalization of a
32 respondent under this chapter may be filed contemporaneously
33 with an application for involuntary commitment or treatment of
34 the respondent under chapter 125.

35 Sec. 4. Section 229.21, subsection 3, Code 1997, is

1 amended to read as follows:

2 3. a. Any respondent with respect to whom the judicial
3 hospitalization referee has found the contention that the
4 respondent is seriously mentally impaired or a chronic
5 substance abuser sustained by clear and convincing evidence
6 presented at a hearing held under section 229.12 or section
7 125.82, may appeal from the referee's finding to a judge of
8 the district court by giving the clerk notice in writing,
9 within seven ten days after the referee's finding is made,
10 that an appeal therefrom is taken. The appeal may be signed
11 by the respondent or by the respondent's next friend, guardian
12 or attorney.

13 b. An order of a judicial hospitalization referee with a
14 finding that the respondent is seriously mentally impaired or
15 a chronic substance abuser shall include the following notice,
16 located conspicuously on the face of the order:

17 "NOTE: The respondent may appeal from this order to a
18 judge of the district court by giving written notice of the
19 appeal to the clerk of the district court within ten days
20 after the date of this order. The appeal may be signed by the
21 respondent or by the respondent's next friend, guardian, or
22 attorney. For a more complete description of the respondent's
23 appeal rights, consult section 229.21 of the Code of Iowa or
24 an attorney."

25 c. When ~~so~~ appealed, the matter shall stand for trial de
26 novo. Upon appeal, the court shall schedule a hospitalization
27 or commitment hearing before a district judge at the earliest
28 practicable time.

29 Sec. 5. Section 229.27, subsection 4, Code 1997, is
30 amended by striking the subsection.

31 Sec. 6. IMPLEMENTATION OF ACT. Section 25B.2, subsection
32 3, shall not apply to this Act.

33

EXPLANATION

34 This bill modifies procedures pertaining to civil
35 commitment of chronic substance abusers under Code chapter 125

1 and seriously mentally impaired persons under Code chapter
2 229. The bill amends both Code chapters 125 and 229 to
3 provide for contemporaneous filings under either chapter for a
4 single respondent. The bill also provides that the county
5 attorney shall present the evidence in support of applications
6 for hospitalization of chronic substance abusers, rather than
7 the applicant or the applicant's attorney.

8 The bill amends Code section 229.21 to extend the time from
9 seven to 10 days during which a person may appeal the finding
10 of a judicial hospitalization referee under Code chapter 125
11 or 229. This section also requires that a notice regarding
12 the procedure and time limit for initiating an appeal of the
13 referee's finding be printed on the face of the order.

14 The bill strikes Code section 229.27, subsection 4,
15 relating to the appointment of a conservator in proceedings
16 under Code chapter 229.

17 This bill may include a state mandate as defined in Code
18 section 25B.3. The bill makes inapplicable Code section
19 25B.2, subsection 3, which would relieve a political
20 subdivision from complying with a state mandate if funding for
21 the costs of the state mandate is not provided or specified.
22 Therefore, political subdivisions are required to comply with
23 any state mandate included in this bill.

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