

FEB 18 2004
JUDICIARY

HOUSE FILE 2293
BY FOEGE and MADDOX

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

A BILL FOR

1 An Act authorizing the use of public or private institutions or
2 community-based programs for treatment to restore the
3 competency of persons found to be mentally incompetent to
4 stand trial.

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

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1 Section 1. Section 226.27, Code 2003, is amended to read
2 as follows:

3 226.27 PATIENT ACCUSED OR ACQUITTED OF CRIME OR AWAITING
4 JUDGMENT.

5 If a patient was committed to a state hospital or a
6 community-based program for evaluation or treatment under
7 chapter 812 or the rules of criminal procedure, further
8 proceedings shall be ~~had~~ held under chapter 812 or the
9 applicable rule when the evaluation has been completed or the
10 patient has regained mental capacity, as the case may be.

11 Sec. 2. Section 812.4, Code 2003, is amended to read as
12 follows:

13 812.4 CESSATION OF CRIMINAL PROSECUTION.

14 If, upon hearing conducted by the court, the accused is
15 found to be incapacitated in the manner described in section
16 812.3, no further proceedings shall be taken under the
17 complaint or indictment until the accused's capacity is
18 restored, and, if the accused's release will endanger the
19 public peace or safety, the court must order the accused
20 committed for treatment to the custody of the department of
21 human services or to the custody of the department of
22 corrections for placement ~~at the Iowa medical and~~
23 ~~classification center.~~ A person committed for treatment
24 pursuant to this section shall be placed at an appropriate
25 public or private institution or community-based program.

26 Sec. 3. Section 812.5, Code 2003, is amended to read as
27 follows:

28 812.5 EFFECT OF RESTORATION OF MENTAL CAPACITY.

29 1. If the accused is committed to the department of human
30 services or to the department of corrections for placement ~~at~~
31 ~~the Iowa medical and classification center~~ under section
32 812.4, after the expiration of a period not to exceed six
33 months, the court shall upon hold a hearing to review the
34 confinement and determine whether there is a substantial
35 probability the accused will regain capacity within a

1 reasonable time. If not, the state shall be directed to
2 institute civil commitment proceedings. ~~When-it-thereafter~~ At
3 the time it appears that the accused can effectively assist in
4 the accused's defense, the department shall give notice to the
5 sheriff and county attorney of the proper county of ~~such that~~
6 ~~fact,-and-the.~~ The sheriff, without delay, shall receive and
7 hold the accused in custody until the accused is brought to
8 trial or judgment, as the case may be, or is legally
9 discharged~~-the.~~

10 2. The expense for conveying and returning the accused, or
11 any other related expense, ~~to~~ shall be paid in the first
12 instance by the county from which the accused is sent, but
13 ~~such that~~ county may recover the ~~same~~ expense from another
14 county or municipal body required to provide for or maintain
15 the accused elsewhere~~-and-the.~~ The sheriff shall be allowed
16 for the sheriff's services the same fees as are allowed for
17 conveying persons to institutions under section 331.655.

18 EXPLANATION

19 This bill authorizes the use of public or private
20 institutions or community-based programs for treatment ordered
21 under Code chapter 812 to restore the competency of persons
22 found to be mentally incompetent to stand trial.

23 Under Code chapter 812, relating to confinement of
24 dangerous persons and persons with mental incompetence, if an
25 accused individual is determined to be incompetent to stand
26 trial but there is a reasonable probability the accused can be
27 restored to competency, the court is required to order
28 commitment to the department of human services or the
29 department of corrections. The only placement option for the
30 department of corrections is the Iowa medical and
31 classification center.

32 The bill provides that if an accused is committed to the
33 department of human services or the department of corrections
34 under Code chapter 812, the person shall be placed in an
35 appropriate public or private institution or community-based

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