

SENATE FILE 2137

BY KREIMAN

Passed Senate, Date _____ Passed House, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to treatment of a criminal defendant for a mental
2 disorder after conviction or at any stage of a criminal
3 proceeding.

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

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SF 2137
JUDICIARY

1 Section 1. Section 812.1, Code 2003, is amended to read as
2 follows:

3 812.1 WHEN DETENTION TREATMENT ALLOWED.

4 When a person is awaiting sentence after conviction of a
5 felony or following sentence of confinement is pursuing an
6 appeal in such case, and the person would be otherwise
7 eligible for release under chapter 811, but it appears by
8 clear and convincing evidence that if released the person is
9 likely to pose a danger to another person or to the property
10 of others, such person may be detained, and committed for
11 treatment to the custody of the department of corrections or
12 department of human services, or assigned to the judicial
13 district department of correctional services for treatment,
14 under the authority of this chapter.

15 Sec. 2. Section 812.2, unnumbered paragraph 1, Code 2003,
16 is amended to read as follows:

17 The following procedures shall apply to detention treatment
18 hearings held pursuant to this chapter:

19 Sec. 3. Section 812.2, subsections 1 and 2, Code 2003, are
20 amended to read as follows:

21 1. The prosecuting attorney may initiate a detention
22 treatment hearing by ex parte written motion. Upon such
23 motion, the district court may issue a warrant for the arrest
24 of the person, if the person is not in custody.

25 2. The detention treatment hearing shall be held
26 immediately upon the person being brought before the district
27 court for such hearing unless the person or the prosecuting
28 attorney moves for a continuance. A continuance granted on
29 motion of the person shall not exceed three calendar days. A
30 continuance on motion of the prosecuting attorney shall be
31 granted only upon good cause shown and shall not exceed three
32 calendar days. The person may be detained pending the
33 hearing.

34 Sec. 4. Section 812.2, subsections 7 and 8, Code 2003, are
35 amended to read as follows:

1 7. Appeals from ~~orders-of-detention~~ a treatment order
2 pursuant to this section may be taken in the manner provided
3 under section 811.2, subsection 7.

4 8. If the trial court issues ~~an~~ a treatment order of
5 ~~detention~~, it shall be accompanied by a written finding of
6 fact and the reasons for the ~~detention~~ treatment order.

7 Sec. 5. Section 812.4, Code 2003, is amended to read as
8 follows:

9 812.4 CESSATION OF CRIMINAL PROSECUTION.

10 If, upon hearing conducted by the court, the accused is
11 found to be incapacitated in the manner described in section
12 812.3, no further proceedings shall be taken under the
13 complaint or indictment until the accused's capacity is
14 restored, and, if the accused's release will endanger the
15 public peace or safety, the court must, except as otherwise
16 provided, order the accused committed for treatment to the
17 custody of the department of human services or to the custody
18 of the department of corrections for placement at the Iowa
19 medical and classification center, or the court may also
20 assign the accused to the judicial district department of
21 correctional services for treatment.

22 Sec. 6. Section 812.5, Code 2003, is amended to read as
23 follows:

24 812.5 EFFECT OF RESTORATION OF MENTAL CAPACITY.

25 If the accused is committed to the department of human
26 services or to the department of corrections ~~for placement at~~
27 ~~the Iowa medical and classification center~~, or assigned to the
28 judicial district department of correctional services under
29 section 812.4, after the expiration of a period not to exceed
30 six months, the court shall upon hearing review the
31 confinement matter and determine whether there is a
32 substantial probability the accused will regain capacity
33 within a reasonable time. If not, the state ~~shall~~ may be
34 directed to institute civil commitment proceedings. When it
35 thereafter appears that the accused can effectively assist in

1 the accused's defense, the appropriate department shall give
2 notice to the sheriff and county attorney of the proper county
3 of such fact, and the sheriff, without delay, shall receive
4 and hold the accused in custody if the accused is in custody
5 under section 812.4, until the accused is brought to trial or
6 judgment, as the case may be, or is legally discharged, the
7 expense for conveying and returning the accused, or any other,
8 to be paid in the first instance by the county from which the
9 accused is sent, but such county may recover the same from
10 another county or municipal body required to provide for or
11 maintain the accused elsewhere, and the sheriff shall be
12 allowed for the sheriff's services the same fees as are
13 allowed for conveying persons to institutions under section
14 331.655.

15 EXPLANATION

16 This bill relates to the treatment of a criminal defendant
17 after conviction or at any stage of a criminal proceeding.

18 The bill provides that a defendant may be assigned to the
19 judicial district department of correctional services for
20 treatment if the defendant is found by clear and convincing
21 evidence to pose a danger to others or to property of others,
22 or is suffering from a mental disorder. Current law provides
23 that if a defendant is found by clear and convincing evidence
24 to be a danger to others or to property of others, or to be
25 suffering from a mental disorder, the defendant must be
26 committed for treatment to the custody of the department of
27 corrections or the department of human services.

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