

FILED MAR 12 '03

SENATE FILE 361
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1099)

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

A BILL FOR

1 An Act relating to emergency procedures for the temporary
2 detention and treatment of persons who are incapacitated or
3 impaired due to substance abuse or mental health problems.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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██████████ SENATE FILE 361 ██████████
S-3071

1 Amend Senate File 361 as follows:
2 1. Page 1, by striking line 7 and inserting the
3 following: "section 125.81, subsection 2 or 3. Such
4 an intoxicated or".
5 2. Page 3, by striking line 7 and inserting the
6 following: "defined in section 229.11, subsections 2
7 and 3. A".

By MAGGIE TINSMAN

S-3071 FILED MARCH 20, 2003
ADOPTED 3/20/03

SF 361

1 Section 1. Section 125.91, subsection 2, Code 2003, is
2 amended to read as follows:

3 2. a. A peace officer who has reasonable grounds to
4 believe that the circumstances described in subsection 1 are
5 applicable, may, without a warrant, take or cause that person
6 to be taken to the nearest available facility referred to in
7 section 125.81, subsection 2 ~~or-3~~. Such an intoxicated or
8 incapacitated person may also be delivered to a facility by
9 someone other than a peace officer upon a showing of
10 reasonable grounds. Upon delivery of the person to a facility
11 under this section, the ~~chief-medical-officer~~ examining
12 physician may order treatment of the person, but only to the
13 extent necessary to preserve the person's life or to
14 appropriately control the person's behavior if the behavior is
15 likely to result in physical injury to the person or others if
16 allowed to continue. The peace officer or other person who
17 delivered the person to the facility shall describe the
18 circumstances of the matter to the administrator examining
19 physician. If the person is a peace officer, the peace
20 officer may do so either in person or by written report. If
21 the ~~administrator-in-consultation-with-the-chief-medical~~
22 officer examining physician has reasonable grounds to believe
23 that the circumstances in subsection 1 are applicable, the
24 administrator examining physician shall at once communicate
25 with the nearest available magistrate as defined in section
26 801.4, subsection 10. The magistrate shall immediately
27 ~~proceed-to-the-facility-where-the-person-is-detained,-except~~
28 ~~that-if-the-administrator's-communication-with-the-magistrate~~
29 ~~occurs-between-the-hours-of-midnight-and-seven-a.m.-and-the~~
30 ~~magistrate-deems-it-appropriate-under-the-circumstances~~
31 ~~described-by-the-administrator,-the-magistrate-may-delay-going~~
32 ~~to-the-facility,-and-in-that-case,-shall,~~ based upon the
33 circumstances described by the examining physician, give the
34 administrator examining physician verbal oral instructions
35 either directing that the person be released forthwith, or

1 authorizing the person's continued detention at-the in an
2 appropriate facility. The magistrate may also give oral
3 instructions and order that the detained person be transported
4 to an appropriate facility. In-the-latter-case, the
5 magistrate shall:

6 a. ~~---Arrive-at-the-facility-where-the-person-is-being~~
7 ~~detained-as-soon-as-possible-and-no-later-than-twelve-o'clock~~
8 ~~noon-of-the-same-day-on-which-the-administrator's~~
9 ~~communication-occurred.~~

10 b. ~~By-the-close-of-business-on-the-next-working-day-file~~
11 ~~with-the-clerk-a-written-report-stating-the-substance-of-the~~
12 ~~communication-with-the-administrator-on-which-the-person's~~
13 ~~continued-detention-was-ordered. If the magistrate orders~~
14 that the person be detained, the magistrate shall, by the
15 close of business on the next working day, file a written
16 order with the clerk in the county where it is anticipated
17 that an application may be filed under section 125.75. The
18 order may be filed by facsimile if necessary. The order shall
19 state the circumstances under which the person was taken into
20 custody or otherwise brought to a facility and the grounds
21 supporting the finding of probable cause to believe that the
22 person is a chronic substance abuser likely to result in
23 physical injury to the person or others if not detained. The
24 order shall confirm the oral order authorizing the person's
25 detention including any order given to transport the person to
26 an appropriate facility. The clerk shall provide a copy of
27 that order to the chief medical officer of the facility to
28 which the person was originally taken, any subsequent facility
29 to which the person was transported, and to any law
30 enforcement department or ambulance service that transported
31 the person pursuant to the magistrate's order.

32 Sec. 2. Section 125.91, subsection 3, Code 2003, is
33 amended by striking the subsection.

34 Sec. 3. Section 229.22, subsection 2, Code 2003, is
35 amended to read as follows:

1 2. In the circumstances described in subsection 1, any
2 peace officer who has reasonable grounds to believe that a
3 person is mentally ill, and because of that illness is likely
4 to physically injure the person's self or others if not
5 immediately detained, may without a warrant take or cause that
6 person to be taken to the nearest available facility as
7 defined in section 229.11, subsections subsection 2 and-3. A
8 person believed mentally ill, and likely to injure the
9 person's self or others if not immediately detained, may be
10 delivered to a hospital by someone other than a peace officer.
11 Upon delivery of the person believed mentally ill to the
12 hospital, the ~~chief-medical-officer~~ examining physician may
13 order treatment of that person, including chemotherapy, but
14 only to the extent necessary to preserve the person's life or
15 to appropriately control behavior by the person which is
16 likely to result in physical injury to that person or others
17 if allowed to continue. The peace officer who took the person
18 into custody, or other party who brought the person to the
19 hospital, shall describe the circumstances of the matter to
20 the ~~chief-medical-officer~~ examining physician. If the person
21 is a peace officer, the peace officer may do so either in
22 person or by written report. If the ~~chief-medical-officer~~
23 examining physician finds that there is reason to believe that
24 the person is seriously mentally impaired, and because of that
25 impairment is likely to physically injure the person's self or
26 others if not immediately detained, the ~~chief-medical-officer~~
27 examining physician shall at once communicate with the nearest
28 available magistrate as defined in section 801.4, subsection
29 10. The magistrate shall, based upon the circumstances
30 described by the ~~chief-medical-officer~~ examining physician,
31 give the ~~chief-medical-officer~~ examining physician verbal oral
32 instructions either directing that the person be released
33 forthwith or authorizing the person's continued detention at
34 that in an appropriate facility. The magistrate may also give
35 oral instructions and order that the detained person be

1 transported to an appropriate facility. In the latter case,
2 the magistrate shall:

3 a. ~~By the close of business on the next working day, file~~
4 ~~with the clerk a written report stating the substance of the~~
5 ~~information on the basis of which the person's continued~~
6 ~~detention was ordered, and~~

7 b. ~~Proceed to the facility where the person is being~~
8 ~~detained within twenty-four hours of giving instructions that~~
9 ~~the person be detained. If the magistrate orders that the~~
10 person be detained, the magistrate shall, by the close of
11 business on the next working day, file a written order with
12 the clerk in the county where it is anticipated that an
13 application may be filed under section 229.6. The order may
14 be filed by facsimile if necessary. The order shall state the
15 circumstances under which the person was taken into custody or
16 otherwise brought to a facility, and the grounds supporting
17 the finding of probable cause to believe that the person is
18 seriously mentally impaired and likely to injure the person's
19 self or others if not immediately detained. The order shall
20 confirm the oral order authorizing the person's detention
21 including any order given to transport the person to an
22 appropriate facility. The clerk shall provide a copy of that
23 order to the chief medical officer of the facility to which
24 the person was originally taken, to any subsequent facility to
25 which the person was transported, and to any law enforcement
26 department or ambulance service that transported the person
27 pursuant to the magistrate's order.

28 Sec. 4. Section 229.22, subsection 3, Code 2003, is
29 amended by striking the subsection.

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EXPLANATION

31 This bill relates to emergency procedures for the temporary
32 detention and treatment of persons who are incapacitated or
33 impaired due to substance abuse or mental health problems.

34 The bill removes references to the chief medical officer
35 and substitutes the examining physician as the person who is

1 authorized to determine the treatment needs of a person who
2 has been temporarily detained. The bill also eliminates the
3 requirement that the judge or magistrate travel to the
4 facility where the patient is being detained. The bill
5 further requires that the judge or magistrate follow up by
6 filing with the clerk of court a written order before the
7 close of the next business day.

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1 Section 1. Section 125.91, subsection 2, Code 2003, is
2 amended to read as follows:

3 2. a. A peace officer who has reasonable grounds to
4 believe that the circumstances described in subsection 1 are
5 applicable, may, without a warrant, take or cause that person
6 to be taken to the nearest available facility referred to in
7 section 125.81, subsection 2 or 3. Such an intoxicated or
8 incapacitated person may also be delivered to a facility by
9 someone other than a peace officer upon a showing of
10 reasonable grounds. Upon delivery of the person to a facility
11 under this section, the ~~chief-medical-officer~~ examining
12 physician may order treatment of the person, but only to the
13 extent necessary to preserve the person's life or to
14 appropriately control the person's behavior if the behavior is
15 likely to result in physical injury to the person or others if
16 allowed to continue. The peace officer or other person who
17 delivered the person to the facility shall describe the
18 circumstances of the matter to the ~~administrator~~ examining
19 physician. If the person is a peace officer, the peace
20 officer may do so either in person or by written report. If
21 the ~~administrator-in-consultation-with-the-chief-medical~~
22 ~~officer~~ examining physician has reasonable grounds to believe
23 that the circumstances in subsection 1 are applicable, the
24 ~~administrator~~ examining physician shall at once communicate
25 with the nearest available magistrate as defined in section
26 801.4, subsection 10. The magistrate shall ~~immediately~~
27 ~~proceed-to-the-facility-where-the-person-is-detained, except~~
28 ~~that-if-the-administrator's-communication-with-the-magistrate~~
29 ~~occurs-between-the-hours-of-midnight-and-seven-a.m.-and-the~~
30 ~~magistrate-deems-it-appropriate-under-the-circumstances~~
31 ~~described-by-the-administrator, the magistrate may delay going~~
32 ~~to-the-facility, and in that case, shall,~~ based upon the
33 circumstances described by the examining physician, give the
34 ~~administrator~~ examining physician verbal oral instructions
35 either directing that the person be released forthwith, or

1 authorizing the person's continued detention at the in an
2 appropriate facility. The magistrate may also give oral
3 instructions and order that the detained person be transported
4 to an appropriate facility. In the latter case, the
5 magistrate shall:

6 a. Arrive at the facility where the person is being
7 detained as soon as possible and no later than twelve o'clock
8 noon of the same day on which the administrator's
9 communication occurred.

10 b. By the close of business on the next working day file
11 with the clerk a written report stating the substance of the
12 communication with the administrator on which the person's
13 continued detention was ordered. If the magistrate orders
14 that the person be detained, the magistrate shall, by the
15 close of business on the next working day, file a written
16 order with the clerk in the county where it is anticipated
17 that an application may be filed under section 125.75. The
18 order may be filed by facsimile if necessary. The order shall
19 state the circumstances under which the person was taken into
20 custody or otherwise brought to a facility and the grounds
21 supporting the finding of probable cause to believe that the
22 person is a chronic substance abuser likely to result in
23 physical injury to the person or others if not detained. The
24 order shall confirm the oral order authorizing the person's
25 detention including any order given to transport the person to
26 an appropriate facility. The clerk shall provide a copy of
27 that order to the chief medical officer of the facility to
28 which the person was originally taken, any subsequent facility
29 to which the person was transported, and to any law
30 enforcement department or ambulance service that transported
31 the person pursuant to the magistrate's order.

32 Sec. 2. Section 125.91, subsection 3, Code 2003, is
33 amended by striking the subsection.

34 Sec. 3. Section 229.22, subsection 2, Code 2003, is
35 amended to read as follows:

1 2. In the circumstances described in subsection 1, any
2 peace officer who has reasonable grounds to believe that a
3 person is mentally ill, and because of that illness is likely
4 to physically injure the person's self or others if not
5 immediately detained, may without a warrant take or cause that
6 person to be taken to the nearest available facility as
7 defined in section 229.11, subsections 2 and 3. A person
8 believed mentally ill, and likely to injure the person's self
9 or others if not immediately detained, may be delivered to a
10 hospital by someone other than a peace officer. Upon delivery
11 of the person believed mentally ill to the hospital, the chief
12 medical-officer examining physician may order treatment of
13 that person, including chemotherapy, but only to the extent
14 necessary to preserve the person's life or to appropriately
15 control behavior by the person which is likely to result in
16 physical injury to that person or others if allowed to
17 continue. The peace officer who took the person into custody,
18 or other party who brought the person to the hospital, shall
19 describe the circumstances of the matter to the chief-medical
20 officer examining physician. If the person is a peace
21 officer, the peace officer may do so either in person or by
22 written report. If the chief-medical-officer examining
23 physician finds that there is reason to believe that the
24 person is seriously mentally impaired, and because of that
25 impairment is likely to physically injure the person's self or
26 others if not immediately detained, the chief-medical-officer
27 examining physician shall at once communicate with the nearest
28 available magistrate as defined in section 801.4, subsection
29 10. The magistrate shall, based upon the circumstances
30 described by the chief-medical-officer examining physician,
31 give the chief-medical-officer examining physician verbal oral
32 instructions either directing that the person be released
33 forthwith or authorizing the person's continued detention at
34 that in an appropriate facility. The magistrate may also give
35 oral instructions and order that the detained person be

1 transported to an appropriate facility. In the latter case,
2 the magistrate shall:

3 a:--By the close of business on the next working day, file
4 with the clerk a written report stating the substance of the
5 information on the basis of which the person's continued
6 detention was ordered; and

7 b:--Proceed to the facility where the person is being
8 detained within twenty-four hours of giving instructions that
9 the person be detained. If the magistrate orders that the
10 person be detained, the magistrate shall, by the close of
11 business on the next working day, file a written order with
12 the clerk in the county where it is anticipated that an
13 application may be filed under section 229.6. The order may
14 be filed by facsimile if necessary. The order shall state the
15 circumstances under which the person was taken into custody or
16 otherwise brought to a facility, and the grounds supporting
17 the finding of probable cause to believe that the person is
18 seriously mentally impaired and likely to injure the person's
19 self or others if not immediately detained. The order shall
20 confirm the oral order authorizing the person's detention
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22 appropriate facility. The clerk shall provide a copy of that
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27 pursuant to the magistrate's order.

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Tinsman
Boettger
Quimbach

Judiciary

SSB 1099
Succ
SF 361

SENATE/HOUSE FILE
BY (PROPOSED JUDICIAL
BRANCH BILL)

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

A BILL FOR

1 An Act relating to emergency procedures for the temporary
2 detention and treatment of persons who are incapacitated or
3 impaired due to substance abuse or mental health problems.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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2 amended to read as follows:

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4 believe that the circumstances described in subsection 1 are
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7 section 125.81, subsection 2 or 3. Such an intoxicated or
8 incapacitated person may also be delivered to a facility by
9 someone other than a peace officer upon a showing of
10 reasonable grounds. Upon delivery of the person to a facility
11 under this section, the ~~chief-medical-officer~~ examining
12 physician may order treatment of the person, but only to the
13 extent necessary to preserve the person's life or to
14 appropriately control the person's behavior if the behavior is
15 likely to result in physical injury to the person or others if
16 allowed to continue. The peace officer or other person who
17 delivered the person to the facility shall describe the
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20 officer may do so either in person or by written report. If
21 the ~~administrator-in-consultation-with-the-chief-medical~~
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23 that the circumstances in subsection 1 are applicable, the
24 administrator examining physician shall at once communicate
25 with the nearest available magistrate as defined in section
26 801.4, subsection 10. The magistrate shall ~~immediately~~
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32 ~~to-the-facility, and in that case, shall,~~ based upon the
33 circumstances described by the examining physician, give the
34 administrator examining physician verbal oral instructions
35 either directing that the person be released forthwith, or

1 authorizing the person's continued detention at-the in an
2 appropriate facility. The magistrate may also give oral
3 instructions and order that the detained person be transported
4 to an appropriate facility. In-the-latter-case, the
5 magistrate shall:

6 a. Arrive-at-the-facility-where-the-person-is-being
7 detained-as-soon-as-possible-and-no-later-than-twelve-o'clock
8 noon-of-the-same-day-on-which-the-administrator's
9 communication-occurred.

10 b. By-the-close-of-business-on-the-next-working-day-file
11 with-the-clerk-a-written-report-stating-the-substance-of-the
12 communication-with-the-administrator-on-which-the-person's
13 continued-detention-was-ordered. If the magistrate orders
14 that the person be detained, the magistrate shall, by the
15 close of business on the next working day, file a written
16 order with the clerk in the county where it is anticipated
17 that an application may be filed under section 125.75. The
18 order may be filed by facsimile if necessary. The order shall
19 state the circumstances under which the person was taken into
20 custody or otherwise brought to a facility and the grounds
21 supporting the finding of probable cause to believe that the
22 person is a chronic substance abuser likely to result in
23 physical injury to the person or others if not detained. The
24 order shall confirm the oral order authorizing the person's
25 detention including any order given to transport the person to
26 an appropriate facility. The clerk shall provide a copy of
27 that order to the chief medical officer of the facility to
28 which the person was originally taken, any subsequent facility
29 to which the person was transported, and to any law
30 enforcement department or ambulance service that transported
31 the person pursuant to the magistrate's order.

32 Sec. 2. Section 125.91, subsection 3, Code 2003, is
33 amended by striking the subsection.

34 Sec. 3. Section 229.22, subsection 2, Code 2003, is
35 amended to read as follows:

1 2. In the circumstances described in subsection 1, any
2 peace officer who has reasonable grounds to believe that a
3 person is mentally ill, and because of that illness is likely
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5 immediately detained, may without a warrant take or cause that
6 person to be taken to the nearest available facility as
7 defined in section 229.11, ~~subsections~~ subsection 2 and-3. A
8 person believed mentally ill, and likely to injure the
9 person's self or others if not immediately detained, may be
10 delivered to a hospital by someone other than a peace officer.
11 Upon delivery of the person believed mentally ill to the
12 hospital, the ~~chief-medical-officer~~ examining physician may
13 order treatment of that person, including chemotherapy, but
14 only to the extent necessary to preserve the person's life or
15 to appropriately control behavior by the person which is
16 likely to result in physical injury to that person or others
17 if allowed to continue. The peace officer who took the person
18 into custody, or other party who brought the person to the
19 hospital, shall describe the circumstances of the matter to
20 the ~~chief-medical-officer~~ examining physician. If the person
21 is a peace officer, the peace officer may do so either in
22 person or by written report. If the ~~chief-medical-officer~~
23 examining physician finds that there is reason to believe that
24 the person is seriously mentally impaired, and because of that
25 impairment is likely to physically injure the person's self or
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27 examining physician shall at once communicate with the nearest
28 available magistrate as defined in section 801.4, subsection
29 10. The magistrate shall, based upon the circumstances
30 described by the ~~chief-medical-officer~~ examining physician,
31 give the ~~chief-medical-officer~~ examining physician verbal oral
32 instructions either directing that the person be released
33 forthwith or authorizing the person's continued detention at
34 that in an appropriate facility. The magistrate may also give
35 oral instructions and order that the detained person be

1 transported to an appropriate facility. In the latter case,
2 the magistrate shall:

3 a. ~~By the close of business on the next working day, file~~
4 ~~with the clerk a written report stating the substance of the~~
5 ~~information on the basis of which the person's continued~~
6 ~~detention was ordered, and~~

7 b. ~~Proceed to the facility where the person is being~~
8 ~~detained within twenty-four hours of giving instructions that~~
9 ~~the person be detained. If the magistrate orders that the~~
10 person be detained, the magistrate shall, by the close of
11 business on the next working day, file a written order with
12 the clerk in the county where it is anticipated that an
13 application may be filed under section 229.6. The order may
14 be filed by facsimile if necessary. The order shall state the
15 circumstances under which the person was taken into custody or
16 otherwise brought to a facility, and the grounds supporting
17 the finding of probable cause to believe that the person is
18 seriously mentally impaired and likely to injure the person's
19 self or others if not immediately detained. The order shall
20 confirm the oral order authorizing the person's detention
21 including any order given to transport the person to an
22 appropriate facility. The clerk shall provide a copy of that
23 order to the chief medical officer of the facility to which
24 the person was originally taken, to any subsequent facility to
25 which the person was transported, and to any law enforcement
26 department or ambulance service that transported the person
27 pursuant to the magistrate's order.

28 Sec. 4. Section 229.22, subsection 3, Code 2003, is
29 amended by striking the subsection.

30 EXPLANATION

31 This bill relates to emergency procedures for the temporary
32 detention and treatment of persons who are incapacitated or
33 impaired due to substance abuse or mental health problems.

34 The bill removes references to the chief medical officer
35 and substitutes the examining physician as the person who is

1 authorized to determine the treatment needs of a person who
2 has been temporarily detained. The bill also eliminates the
3 requirement that the judge or magistrate travel to the
4 facility where the patient is being detained. The bill
5 further requires that the judge or magistrate follow up by
6 filing with the clerk of court a written order before the
7 close of the next business day.

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MEMORANDUM

TO: MEMBERS OF THE GENERAL ASSEMBLY

FROM: IOWA JUDICIAL BRANCH

DATE: FEBRUARY 5, 2003

RE: TLSB 1211DP

The purpose of this bill is to amend the procedures for the temporary detention and treatment of persons who are likely to injure themselves or others due to mental health or substance abuse problems, so that the procedures conform to the practices of most hospitals and treatment facilities and the emergency nature of the procedures.

The proposed amendment deletes references to the chief medical officer and substitutes the phrase "examining physician." This is because often a chief medical officer is not available during the weekend and holidays when emergency procedures are used.

Emergency proceedings should be viewed in the very limited context that they are meant to serve as a stopgap measure until appropriate individuals or institutions can comply with the formal procedure. The proposed bill eliminates the requirement that the judge or magistrate travel to the facility where the patient is being detained. Many respondents are transported far away for treatment and detention. Typically, magistrates and judges rely on the opinion of the examining physician when deciding whether or not to detain a person. Traveling to the facility for this purpose is unnecessary when the information can be easily obtained over the telephone. Likewise, the judge or magistrate can provide oral instructions over the telephone concerning treatment and detention.

The bill requires that the judge or magistrate follow-up with a written order before the close of the next business day.

SENATE FILE 361

AN ACT

RELATING TO EMERGENCY PROCEDURES FOR THE TEMPORARY DETENTION
AND TREATMENT OF PERSONS WHO ARE INCAPACITATED OR IMPAIRED
DUE TO SUBSTANCE ABUSE OR MENTAL HEALTH PROBLEMS.

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

Section 1. Section 125.91, subsection 2, Code 2003, is amended to read as follows:

2. a. A peace officer who has reasonable grounds to believe that the circumstances described in subsection 1 are applicable, may, without a warrant, take or cause that person to be taken to the nearest available facility referred to in section 125.81, subsection 2 or 3. Such an intoxicated or incapacitated person may also be delivered to a facility by someone other than a peace officer upon a showing of reasonable grounds. Upon delivery of the person to a facility under this section, the ~~chief-medical-officer~~ examining physician may order treatment of the person, but only to the extent necessary to preserve the person's life or to appropriately control the person's behavior if the behavior is likely to result in physical injury to the person or others if allowed to continue. The peace officer or other person who delivered the person to the facility shall describe the circumstances of the matter to the ~~administrator~~ examining physician. If the person is a peace officer, the peace officer may do so either in person or by written report. ~~If the administrator-in-consultation-with-the-chief-medical-officer~~ examining physician has reasonable grounds to believe that the circumstances in subsection 1 are applicable, the ~~administrator~~ examining physician shall at once communicate

with the nearest available magistrate as defined in section 801.4, subsection 10. The magistrate shall immediately ~~proceed-to-the-facility-where-the-person-is-detained, except that-if-the-administrator's-communication-with-the-magistrate occurs-between-the-hours-of-midnight-and-seven-a.m.-and-the magistrate-deems-it-appropriate-under-the-circumstances described-by-the-administrator, the magistrate may delay going to-the-facility, and-in-that-case, shall, based upon the circumstances described by the examining physician, give the ~~administrator~~ examining physician verbal oral instructions either directing that the person be released forthwith, or authorizing the person's continued detention at the in an appropriate facility. The magistrate may also give oral instructions and order that the detained person be transported to an appropriate facility. ~~In-the-latter-case, the magistrate shall:~~~~

~~a. Arrive-at-the-facility-where-the-person-is-being detained-as-soon-as-possible-and-no-later-than-twelve-o'clock noon-of-the-same-day-on-which-the-administrator's communication-occurred;~~

~~b. By-the-close-of-business-on-the-next-working-day-file with-the-clerk-a-written-report-stating-the-substance-of-the communication-with-the-administrator-on-which-the-person's continued-detention-was-ordered. If the magistrate orders that the person be detained, the magistrate shall, by the close of business on the next working day, file a written order with the clerk in the county where it is anticipated that an application may be filed under section 125.75. The order may be filed by facsimile if necessary. The order shall state the circumstances under which the person was taken into custody or otherwise brought to a facility and the grounds supporting the finding of probable cause to believe that the person is a chronic substance abuser likely to result in physical injury to the person or others if not detained. The order shall confirm the oral order authorizing the person's~~

detention including any order given to transport the person to an appropriate facility. The clerk shall provide a copy of that order to the chief medical officer of the facility to which the person was originally taken, any subsequent facility to which the person was transported, and to any law enforcement department or ambulance service that transported the person pursuant to the magistrate's order.

Sec. 2. Section 125.91, subsection 3, Code 2003, is amended by striking the subsection.

Sec. 3. Section 229.22, subsection 2, Code 2003, is amended to read as follows:

2. In the circumstances described in subsection 1, any peace officer who has reasonable grounds to believe that a person is mentally ill, and because of that illness is likely to physically injure the person's self or others if not immediately detained, may without a warrant take or cause that person to be taken to the nearest available facility as defined in section 229.11, subsections 2 and 3. A person believed mentally ill, and likely to injure the person's self or others if not immediately detained, may be delivered to a hospital by someone other than a peace officer. Upon delivery of the person believed mentally ill to the hospital, the chief medical officer examining physician may order treatment of that person, including chemotherapy, but only to the extent necessary to preserve the person's life or to appropriately control behavior by the person which is likely to result in physical injury to that person or others if allowed to continue. The peace officer who took the person into custody, or other party who brought the person to the hospital, shall describe the circumstances of the matter to the chief medical officer examining physician. If the person is a peace officer, the peace officer may do so either in person or by written report. If the chief medical officer examining physician finds that there is reason to believe that the person is seriously mentally impaired, and because of that

impairment is likely to physically injure the person's self or others if not immediately detained, the chief medical officer examining physician shall at once communicate with the nearest available magistrate as defined in section 801.4, subsection 10. The magistrate shall, based upon the circumstances described by the chief medical officer examining physician, give the chief medical officer examining physician verbal oral instructions either directing that the person be released forthwith or authorizing the person's continued detention at that in an appropriate facility. The magistrate may also give oral instructions and order that the detained person be transported to an appropriate facility. In the latter case, the magistrate shall:

a. ~~By the close of business on the next working day, file with the clerk a written report stating the substance of the information on the basis of which the person's continued detention was ordered, and~~

b. ~~Proceed to the facility where the person is being detained within twenty-four hours of giving instructions that the person be detained. If the magistrate orders that the person be detained, the magistrate shall, by the close of business on the next working day, file a written order with the clerk in the county where it is anticipated that an application may be filed under section 229.6. The order may be filed by facsimile if necessary. The order shall state the circumstances under which the person was taken into custody or otherwise brought to a facility, and the grounds supporting the finding of probable cause to believe that the person is seriously mentally impaired and likely to injure the person's self or others if not immediately detained. The order shall confirm the oral order authorizing the person's detention including any order given to transport the person to an appropriate facility. The clerk shall provide a copy of that order to the chief medical officer of the facility to which the person was originally taken, to any subsequent facility to~~

which the person was transported, and to any law enforcement department or ambulance service that transported the person pursuant to the magistrate's order.

Sec. 4. Section 229.22, subsection 3, Code 2003, is amended by striking the subsection.

MARY E. KRAMER
President of the Senate

CHRISTOPHER C. RANTS
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 361, Eightieth General Assembly.

MICHAEL E. MARSHALL
Secretary of the Senate

Approved _____, 2003

THOMAS J. VILSACK
Governor