

Senate Study Bill 1099

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:
5 TLSB 1211DP 80
6 rh/sh/8

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1 1 Section 1. Section 125.91, subsection 2, Code 2003, is
1 2 amended to read as follows:
1 3 2. a. A peace officer who has reasonable grounds to
1 4 believe that the circumstances described in subsection 1 are
1 5 applicable, may, without a warrant, take or cause that person
1 6 to be taken to the nearest available facility referred to in
1 7 section 125.81, subsection 2 ~~or 3~~. Such an intoxicated or
1 8 incapacitated person may also be delivered to a facility by
1 9 someone other than a peace officer upon a showing of
1 10 reasonable grounds. Upon delivery of the person to a facility
1 11 under this section, the ~~chief medical officer~~ examining
1 12 physician may order treatment of the person, but only to the
1 13 extent necessary to preserve the person's life or to
1 14 appropriately control the person's behavior if the behavior is
1 15 likely to result in physical injury to the person or others if
1 16 allowed to continue. The peace officer or other person who
1 17 delivered the person to the facility shall describe the
1 18 circumstances of the matter to the ~~administrator~~ examining
1 19 physician. If the person is a peace officer, the peace
1 20 officer may do so either in person or by written report. If
1 21 the administrator in consultation with the chief medical
1 22 officer examining physician has reasonable grounds to believe
1 23 that the circumstances in subsection 1 are applicable, the
1 24 administrator examining physician shall at once communicate
1 25 with the nearest available magistrate as defined in section
1 26 801.4, subsection 10. The magistrate shall immediately
1 27 proceed to the facility where the person is detained, except
1 28 that if the administrator's communication with the magistrate
1 29 occurs between the hours of midnight and seven a.m. and the
1 30 magistrate deems it appropriate under the circumstances
1 31 described by the administrator, the magistrate may delay going
1 32 to the facility, and in that case, shall, based upon the
1 33 circumstances described by the examining physician, give the
1 34 administrator examining physician verbal oral instructions
2 1 either directing that the person be released forthwith, or
2 2 authorizing the person's continued detention at the in an
2 3 appropriate facility. The magistrate may also give oral
2 4 instructions and order that the detained person be transported
2 5 to an appropriate facility. In the latter case, the
2 6 magistrate shall:
2 7 a. Arrive at the facility where the person is being
2 8 detained as soon as possible and no later than twelve o'clock
2 9 noon of the same day on which the administrator's
2 10 communication occurred.
2 11 b. By the close of business on the next working day file
2 12 with the clerk a written report stating the substance of the
2 13 communication with the administrator on which the person's
2 14 continued detention was ordered. If the magistrate orders
2 15 that the person be detained, the magistrate shall, by the
2 16 close of business on the next working day, file a written
2 17 order with the clerk in the county where it is anticipated
2 18 that an application may be filed under section 125.75. The
2 19 order may be filed by facsimile if necessary. The order shall
2 20 state the circumstances under which the person was taken into
2 21 custody or otherwise brought to a facility and the grounds
2 22 supporting the finding of probable cause to believe that the
2 23 person is a chronic substance abuser likely to result in

~~2 23 physical injury to the person or others if not detained. The
2 24 order shall confirm the oral order authorizing the person's
2 25 detention including any order given to transport the person to
2 26 an appropriate facility. The clerk shall provide a copy of
2 27 that order to the chief medical officer of the facility to
2 28 which the person was originally taken, any subsequent facility
2 29 to which the person was transported, and to any law
2 30 enforcement department or ambulance service that transported
2 31 the person pursuant to the magistrate's order.~~

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

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

3 1 2. In the circumstances described in subsection 1, any
3 2 peace officer who has reasonable grounds to believe that a
3 3 person is mentally ill, and because of that illness is likely
3 4 to physically injure the person's self or others if not
3 5 immediately detained, may without a warrant take or cause that
3 6 person to be taken to the nearest available facility as
3 7 defined in section 229.11, ~~subsections subsection 2 and 3.~~ A
3 8 person believed mentally ill, and likely to injure the
3 9 person's self or others if not immediately detained, may be
3 10 delivered to a hospital by someone other than a peace officer.
3 11 Upon delivery of the person believed mentally ill to the
3 12 hospital, the ~~chief medical officer~~ examining physician may
3 13 order treatment of that person, including chemotherapy, but
3 14 only to the extent necessary to preserve the person's life or
3 15 to appropriately control behavior by the person which is
3 16 likely to result in physical injury to that person or others
3 17 if allowed to continue. The peace officer who took the person
3 18 into custody, or other party who brought the person to the
3 19 hospital, shall describe the circumstances of the matter to
3 20 the ~~chief medical officer~~ examining physician. ~~If the person
3 21 is a peace officer, the peace officer may do so either in~~

~~3 22 person or by written report. If the chief medical officer
3 23 examining physician finds that there is reason to believe that
3 24 the person is seriously mentally impaired, and because of that
3 25 impairment is likely to physically injure the person's self or
3 26 others if not immediately detained, the chief medical officer
3 27 examining physician shall at once communicate with the nearest
3 28 available magistrate as defined in section 801.4, subsection
3 29 10. The magistrate shall, based upon the circumstances
3 30 described by the chief medical officer examining physician,
3 31 give the chief medical officer examining physician verbal oral
3 32 instructions either directing that the person be released
3 33 forthwith or authorizing the person's continued detention at
3 34 that in an appropriate facility. The magistrate may also give
3 35 oral instructions and order that the detained person be~~

~~4 1 transported to an appropriate facility. In the latter case,
4 2 the magistrate shall:~~

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

~~4 7 b. Proceed to the facility where the person is being
4 8 detained within twenty-four hours of giving instructions that
4 9 the person be detained. If the magistrate orders that the
4 10 person be detained, the magistrate shall, by the close of
4 11 business on the next working day, file a written order with
4 12 the clerk in the county where it is anticipated that an
4 13 application may be filed under section 229.6. The order may
4 14 be filed by facsimile if necessary. The order shall state the
4 15 circumstances under which the person was taken into custody or
4 16 otherwise brought to a facility, and the grounds supporting
4 17 the finding of probable cause to believe that the person is
4 18 seriously mentally impaired and likely to injure the person's
4 19 self or others if not immediately detained. The order shall
4 20 confirm the oral order authorizing the person's detention
4 21 including any order given to transport the person to an
4 22 appropriate facility. The clerk shall provide a copy of that
4 23 order to the chief medical officer of the facility to which
4 24 the person was originally taken, to any subsequent facility to
4 25 which the person was transported, and to any law enforcement
4 26 department or ambulance service that transported the person
4 27 pursuant to the magistrate's order.~~

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

4 30 EXPLANATION

4 31 This bill relates to emergency procedures for the temporary
4 32 detention and treatment of persons who are incapacitated or
4 33 impaired due to substance abuse or mental health problems.

4 34 The bill removes references to the chief medical officer
4 35 and substitutes the examining physician as the person who is
5 1 authorized to determine the treatment needs of a person who
5 2 has been temporarily detained. The bill also eliminates the
5 3 requirement that the judge or magistrate travel to the
5 4 facility where the patient is being detained. The bill
5 5 further requires that the judge or magistrate follow up by
5 6 filing with the clerk of court a written order before the
5 7 close of the next business day.
5 8 LSB 1211DP 80
5 9 rh/sh/8