

HOUSE FILE 2336

BY HEATON

A BILL FOR

1 An Act relating to mental health and substance abuse

2 requirements and services.

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

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DIVISION I
MENTAL HEALTH AND SUBSTANCE ABUSE
COMMITMENT PROCESS

Section 1. NEW SECTION. 229.1C Joint workgroup.

1. The general assembly finds that regular communication among persons who are involved with individuals experiencing a mental health crisis before, during, and after an involuntary commitment is essential for improving the involuntary commitment process and the provision of associated services.

2. The department of human services and the judicial branch shall jointly facilitate one or more meetings each year of a workgroup to discuss the involuntary commitment process under this chapter and chapter 125, and the services provided before, during, and after the process. To the extent relevant to the discussion, representatives of all of the following shall be involved in the workgroup:

- a. District judges, district associate judges, judicial hospitalization referees, and associate juvenile judges.
- b. County central point of coordination administrators.
- c. County attorneys.
- d. Public defenders and private attorneys.
- e. County sheriffs.
- f. Clerks of court.
- g. Community mental health centers and alternative providers, hospitals, and qualified mental health professionals.
- h. Department of human services, department of public health, and other state agencies.
- i. Mental health advocates appointed under this chapter.
- j. Persons who have been involuntarily committed for serious mental impairment or as a chronic substance abuser or family members of such person.
- k. Advocates for persons with serious mental impairments or who are chronic substance abusers.

3. The workgroup shall annually report findings and

1 recommendations to the governor and general assembly.
2 Initially the workgroup shall analyze the roles performed in
3 the civil commitment process to identify areas of improvement
4 and how to improve consistency in the process across the state.

5 Sec. 2. NEW SECTION. **229.1D Evaluation before application.**

6 To the extent possible within available funding, the
7 department of human services shall work with appropriate
8 parties to incrementally implement pilot projects and other
9 measures to provide, prior to a voluntary or involuntary
10 application being filed under this chapter or chapter 125,
11 a mental health evaluation of children and adults who are
12 experiencing a mental health crisis.

13 DIVISION II

14 LAW ENFORCEMENT AGENCY CONTACT

15 Sec. 3. Section 125.34, subsection 2, Code 2009, is amended
16 to read as follows:

17 2. If no facility is readily available the person may
18 be taken to an emergency medical service customarily used
19 for incapacitated persons. The peace officer in detaining
20 the person and in taking the person to a facility shall make
21 every reasonable effort to protect the person's health and
22 safety. In detaining the person the detaining officer may take
23 reasonable steps for self-protection. Detaining a person under
24 section 125.91 is not an arrest and no entry or other record
25 shall be made to indicate that the person who is detained has
26 been arrested or charged with a crime except for an entry
27 or other record relating to an arrest upon discharge that is
28 permissible under section 125.91.

29 Sec. 4. Section 125.91, subsection 2, Code Supplement 2009,
30 is amended by adding the following new paragraph:

31 NEW PARAGRAPH. *aa.* In circumstances where a peace officer
32 delivers a person to the facility and the peace officer
33 notifies the facility, in writing, that the person is to
34 be arrested upon discharge, the facility shall notify the
35 law enforcement agency that employs the peace officer by

1 telephone or electronic mail at least six hours prior to the
2 planned discharge of the person from the facility. If the law
3 enforcement agency does not retrieve the person prior to the
4 time of the planned discharge, the person may be discharged as
5 planned.

6 Sec. 5. Section 229.22, subsection 2, paragraph a, Code
7 Supplement 2009, is amended to read as follows:

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

1 physician, give the examining physician oral instructions
2 either directing that the person be released forthwith or
3 authorizing the person's detention in an appropriate facility.
4 The magistrate may also give oral instructions and order that
5 the detained person be transported to an appropriate facility.

6 Sec. 6. Section 229.22, subsection 2, Code Supplement 2009,
7 is amended by adding the following new paragraph:

8 NEW PARAGRAPH. *aa.* In circumstances where a peace officer
9 delivers a person to the hospital and the peace officer
10 notifies the hospital, in writing, that the person is to be
11 arrested upon discharge or release, the hospital shall notify
12 the law enforcement agency that employs the peace officer by
13 telephone or electronic mail at least six hours prior to the
14 planned discharge or release of the person from the hospital.
15 If the law enforcement agency does not retrieve the person
16 prior to the time of the planned discharge or release, the
17 person may be discharged or released as planned.

18 EXPLANATION

19 This bill relates to mental health and substance abuse
20 requirements and services. The bill is divided into divisions.

21 CODE CHAPTER 229. This division adds two new Code sections
22 to Code chapter 229, relating to hospitalization of persons
23 with mental illness.

24 New Code section 229.1C states legislative findings
25 regarding the need for regular communication among those
26 involved with the involuntary commitment process and requires
27 the department of human services and judicial branch to
28 convene a workgroup to meet one or more times annually.
29 Representatives of various parties who are normally engaged
30 before, during, or after the involuntary commitment process are
31 listed to be a part of the workgroup. An annual report to the
32 governor and general assembly is required.

33 New Code section 229.1D requires the department of human
34 services to work with appropriate parties to incrementally
35 implement pilot projects and other measures to provide,

1 prior to a voluntary or involuntary application being filed
2 under Code chapter 125 or 229, a mental health evaluation
3 of children and adults who are experiencing a mental health
4 crisis. Implementation is limited to the extent of the funding
5 available.

6 LAW ENFORCEMENT AGENCY CONTACT. This division relates
7 to the emergency detention or hospitalization of a person
8 incapacitated by a chemical substance or with a serious mental
9 impairment.

10 The division applies to persons who are not under arrest but
11 who will be placed under arrest upon discharge or release from
12 the facility or hospital treating the person.

13 If a peace officer delivers a person to a facility for
14 detention due to incapacitation from a chemical substance,
15 and the peace officer indicates the person is to be arrested
16 upon discharge from the facility, the facility is required
17 to contact the law enforcement agency that employs the peace
18 officer by telephone or electronic mail at least six hours
19 prior to the planned discharge of the person from the facility.
20 If the law enforcement agency does not retrieve the person
21 prior to the time of the planned discharge, the person may be
22 discharged as planned.

23 If a peace officer delivers a person to a hospital for
24 emergency hospitalization for a serious mental impairment, and
25 the peace officer indicates the person is to be arrested upon
26 discharge or release from the hospital, the hospital shall
27 contact the law enforcement agency that employs the peace
28 officer by telephone or electronic mail at least six hours
29 prior to the planned discharge or release of the person from
30 the hospital. If the law enforcement agency does not retrieve
31 the person prior to the time of the planned discharge or
32 release, the person may be discharged or released as planned.