

**Senate Study Bill 3137 - Introduced**

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PROPOSED MENTAL HEALTH AND  
DISABILITY SERVICES STUDY  
COMMITTEE BILL)

**A BILL FOR**

1 An Act relating to persons with mental health illnesses and  
2 substance-related disorders.

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

1 Section 1. Section 80B.11, subsection 1, paragraph c, Code  
2 2011, is amended by adding the following new subparagraph:

3 NEW SUBPARAGRAPH. (3) In-service training under this  
4 paragraph "c" shall include the requirement that all law  
5 enforcement officers complete a twelve-hour course on  
6 mental health first aid at least once every three years. In  
7 developing the requirements for this training, the director  
8 shall seek input from mental health care consumers.

9 Sec. 2. Section 125.91, subsection 1, Code Supplement 2011,  
10 is amended to read as follows:

11 1. The procedure prescribed by this section shall only be  
12 used for an intoxicated person who has threatened, attempted,  
13 or inflicted physical self-harm or harm on another, and is  
14 likely to inflict physical self-harm or harm on another unless  
15 immediately detained, or who is incapacitated by a chemical  
16 substance, ~~if that person cannot be taken into immediate~~  
17 ~~custody under sections 125.75 and 125.81 because immediate~~  
18 ~~access to the court is not possible~~ an application has not been  
19 filed naming the person as the respondent pursuant to section  
20 125.75 and the person cannot be ordered into immediate custody  
21 and detained pursuant to section 125.81.

22 Sec. 3. Section 135C.4, Code 2011, is amended to read as  
23 follows:

24 **135C.4 Residential care facilities.**

25 1. Each facility licensed as a residential care facility  
26 shall provide an organized continuous twenty-four-hour program  
27 of care commensurate with the needs of the residents of the  
28 home and under the immediate direction of a person approved  
29 and certified by the department whose combined training  
30 and supervised experience is such as to ensure adequate and  
31 competent care.

32 2. All admissions to residential care facilities shall be  
33 based on an order written by a physician certifying that the  
34 individual being admitted does not require nursing services or  
35 that the individual's need for nursing services can be avoided

1 if home and community-based services, other than nursing care,  
2 as defined by this chapter and departmental rule, are provided.

3 3. For the purposes of this section, the home and  
4 community-based services to be provided shall be limited to the  
5 type included under the medical assistance program provided  
6 pursuant to chapter 249A, shall be subject to cost limitations  
7 established by the department of human services under the  
8 medical assistance program, and except as otherwise provided by  
9 the department of inspections and appeals with the concurrence  
10 of the department of human services, shall be limited in  
11 capacity to the number of licensed residential care facilities  
12 and the number of licensed residential care facility beds in  
13 the state as of December 1, 2003.

14 4. A residential care facility is not required to admit  
15 an individual through court order, referral, or other means  
16 without the express prior approval of the executive director of  
17 the residential care facility.

18 Sec. 4. Section 228.1, subsection 6, Code 2011, is amended  
19 by striking the subsection and inserting in lieu thereof the  
20 following:

21 6. "*Mental health professional*" means an individual who has  
22 either of the following qualifications:

23 a. The individual meets all of the following requirements:

24 (1) The individual holds at least a master's degree in a  
25 mental health field, including but not limited to psychology,  
26 counseling and guidance, nursing, and social work, or is an  
27 advanced registered nurse practitioner or a physician and  
28 surgeon or an osteopathic physician and surgeon.

29 (2) The individual holds a current Iowa license if  
30 practicing in a field covered by an Iowa licensure law.

31 (3) The individual has at least two years of post-degree  
32 clinical experience, supervised by another mental health  
33 professional, in assessing mental health needs and problems and  
34 in providing appropriate mental health services.

35 b. The individual holds a current Iowa license if

1 practicing in a field covered by an Iowa licensure law and is  
2 a psychiatrist, an advanced registered nurse practitioner who  
3 holds a national certification in psychiatric mental health  
4 care registered by the board of nursing, or an individual who  
5 holds a doctorate degree in psychology and is licensed by the  
6 board of psychology.

7 Sec. 5. Section 229.1, subsection 14, Code Supplement 2011,  
8 is amended by striking the subsection.

9 Sec. 6. Section 229.1, subsection 16, Code Supplement 2011,  
10 is amended to read as follows:

11 16. "*Serious emotional injury*" is an injury which does not  
12 necessarily exhibit any physical characteristics, but which can  
13 be recognized and diagnosed by a licensed physician ~~or other~~  
14 ~~qualified mental health professional~~ and which can be causally  
15 connected with the act or omission of a person who is, or is  
16 alleged to be, mentally ill.

17 Sec. 7. NEW SECTION. **229.5A Preapplication screening**  
18 **assessment — program.**

19 Prior to filing an application for involuntary  
20 hospitalization pursuant to section 229.6, the clerk of  
21 the district court or the clerk's designee shall inform  
22 the interested person referred to in section 229.6,  
23 subsection 1, about the option of requesting a preapplication  
24 screening assessment through a preapplication screening  
25 assessment program. The state court administrator shall  
26 prescribe practices and procedures for implementation of the  
27 preapplication screening assessment program.

28 Sec. 8. Section 229.6, Code 2011, is amended to read as  
29 follows:

30 **229.6 Application for order of involuntary hospitalization.**

31 1. Proceedings for the involuntary hospitalization of an  
32 individual may be commenced by any interested person by filing  
33 a verified application with the clerk of the district court of  
34 the county where the respondent is presently located, or which  
35 is the respondent's place of residence. The clerk, or the

1 clerk's designee, shall assist the applicant in completing the  
2 application. The application shall:

3 ~~1.~~ a. State the applicant's belief that the respondent is  
4 seriously mentally impaired.

5 ~~2.~~ b. State any other pertinent facts.

6 ~~3.~~ c. Be accompanied by any of the following:

7 ~~a.~~ (1) A written statement of a licensed physician in  
8 support of the application; ~~or.~~

9 ~~b.~~ (2) One or more supporting affidavits otherwise  
10 corroborating the application; ~~or.~~

11 ~~c.~~ (3) Corroborative information obtained and reduced to  
12 writing by the clerk or the clerk's designee, but only when  
13 circumstances make it infeasible to comply with, or when the  
14 clerk considers it appropriate to supplement the information  
15 supplied pursuant to, either ~~paragraph "a" or paragraph "b" of~~  
16 ~~this subsection~~ subparagraph (1) or (2).

17 2. Prior to the filing of an application pursuant to this  
18 section, the clerk or the clerk's designee shall inform the  
19 interested person referred to in subsection 1 about the option  
20 of requesting a preapplication screening assessment pursuant  
21 to section 229.5A.

22 Sec. 9. Section 229.10, subsection 1, paragraph b, Code  
23 2011, is amended by striking the paragraph.

24 Sec. 10. Section 229.12, subsection 3, paragraph b, Code  
25 2011, is amended to read as follows:

26 b. The licensed physician ~~or qualified mental health~~  
27 ~~professional~~ who examined the respondent shall be present at  
28 the hearing unless the court for good cause finds that the  
29 licensed physician's ~~or qualified mental health professional's~~  
30 presence or testimony is not necessary. The applicant,  
31 respondent, and the respondent's attorney may waive the  
32 presence or the telephonic appearance of the licensed physician  
33 ~~or qualified mental health professional~~ who examined the  
34 respondent and agree to submit as evidence the written  
35 report of the licensed physician ~~or qualified mental health~~

1 ~~professional~~. The respondent's attorney shall inform the  
2 court if the respondent's attorney reasonably believes that  
3 the respondent, due to diminished capacity, cannot make an  
4 adequately considered waiver decision. "Good cause" for finding  
5 that the testimony of the licensed physician ~~or qualified~~  
6 ~~mental health professional~~ who examined the respondent is not  
7 necessary may include but is not limited to such a waiver.  
8 If the court determines that the testimony of the licensed  
9 physician ~~or qualified mental health professional~~ is necessary,  
10 the court may allow the licensed physician ~~or the qualified~~  
11 ~~mental health professional~~ to testify by telephone.

12 Sec. 11. Section 229.19, subsection 1, paragraph d, Code  
13 2011, is amended by adding the following new subparagraph:

14 NEW SUBPARAGRAPH. (7) To utilize the related best practices  
15 for the duties identified in this paragraph "d" developed and  
16 promulgated by the judicial council.

17 Sec. 12. Section 229.19, subsection 1, Code 2011, is amended  
18 by adding the following new paragraph:

19 NEW PARAGRAPH. e. An advocate may also be appointed  
20 pursuant to this section for an individual who has  
21 been diagnosed with a co-occurring mental illness and  
22 substance-related disorder.

23 Sec. 13. Section 229.22, subsection 1, Code Supplement  
24 2011, is amended to read as follows:

25 1. The procedure prescribed by this section shall ~~not~~ be  
26 used ~~unless~~ when it appears that a person should be immediately  
27 detained due to serious mental impairment, but ~~that person~~  
28 ~~cannot be immediately detained by the procedure prescribed~~  
29 ~~in sections 229.6 and 229.11 because there is no means of~~  
30 ~~immediate access to the district court~~ an application has not  
31 been filed naming the person as the respondent pursuant to  
32 section 229.6, and the person cannot be ordered into immediate  
33 custody and detained pursuant to section 229.11.

34 Sec. 14. Section 602.1209, Code 2011, is amended by adding  
35 the following new subsection:

1 NEW SUBSECTION. 15A. Prescribe practices and procedures  
2 for the implementation of the preapplication screening  
3 assessment program referred to in section 229.5A.

4 Sec. 15. CONTINUATION OF WORKGROUP BY JUDICIAL BRANCH AND  
5 DEPARTMENT OF HUMAN SERVICES — CONSOLIDATION OF SERVICES —  
6 PATIENT ADVOCATE. The judicial branch and department of human  
7 services shall continue the workgroup implemented pursuant to  
8 2010 Iowa Acts, chapter 1192, section 24, subsection 2, and  
9 extended pursuant to 2011 Iowa Acts, chapter 121, section 2, to  
10 study and make recommendations relating to the consolidation  
11 of the processes for involuntary commitment for persons with  
12 substance-related disorders under chapter 125, for intellectual  
13 disability under chapter 222, and for serious mental illness  
14 under chapter 229. The workgroup shall also study and make  
15 recommendations concerning the feasibility of establishing an  
16 independent statewide patient advocate program for qualified  
17 persons representing the interests of patients suffering from  
18 mental illness, intellectual disability, or a substance-related  
19 disorder and involuntarily committed by the court, in any  
20 matter relating to the patients' hospitalization or treatment  
21 under chapters 125, 222, and 229. The workgroup shall also  
22 consider the implementation of consistent reimbursement  
23 standards for patient advocates supported by a state-funded  
24 system and shall also consider the role of the advocate for  
25 a person who has been diagnosed with a co-occurring mental  
26 illness and substance-related disorder. The workgroup  
27 shall solicit input from current mental health advocates and  
28 mental health and substance-related disorder care providers  
29 and individuals receiving services whose interests would be  
30 represented by an independent statewide advocate program and  
31 shall submit a report on the study and make recommendations to  
32 the governor and the general assembly by December 1, 2012.

33 Sec. 16. COMPREHENSIVE JAIL DIVERSION PROGRAM — MENTAL  
34 HEALTH COURTS — STUDY. The division of criminal and juvenile  
35 justice planning of the department of human rights shall

1 conduct a study regarding the possible establishment of a  
2 comprehensive statewide jail diversion program, including the  
3 establishment of mental health courts, for nonviolent criminal  
4 offenders who suffer from mental illness. The division  
5 shall solicit input from the department of human services,  
6 the department of corrections, and other members of the  
7 criminal justice system including but not limited to judges,  
8 prosecutors, and defense counsel, and mental health treatment  
9 providers and consumers. The division shall establish the  
10 duties, scope, and membership of the study commission and shall  
11 also consider the feasibility of establishing a demonstration  
12 mental health court. The division shall submit a report on the  
13 study and make recommendations to the governor and the general  
14 assembly by December 1, 2012.

15 EXPLANATION

16 This bill relates to persons with mental health illnesses  
17 and substance-related disorders.

18 MENTAL HEALTH TRAINING — LAW ENFORCEMENT. The bill  
19 requires the director of the law enforcement academy, subject  
20 to the approval of the Iowa law enforcement council, to adopt  
21 rules relating to in-service mental health first-aid training  
22 for law enforcement officers, with input from mental health  
23 care consumers.

24 RESIDENTIAL CARE FACILITIES — ADMITTANCE. The bill  
25 provides that a residential care facility is not required to  
26 admit an individual through court order, referral, or other  
27 means without the express prior approval of the executive  
28 director of the residential care facility.

29 EMERGENCY DETENTION AND HOSPITALIZATION — PERSONS WITH  
30 SUBSTANCE-RELATED DISORDERS AND MENTAL HEALTH ILLNESSES.  
31 The bill amends Code sections 125.91 and 229.22 relating to  
32 after-hours access to emergency detention and hospitalization  
33 procedures for an intoxicated person who has threatened,  
34 attempted, or inflicted physical self-harm or harm on another,  
35 and is likely to inflict physical self-harm or harm on another



1 unless immediately detained, or who is incapacitated by a  
2 chemical substance, or for a seriously mentally impaired  
3 person. Current law provides for the immediate custody of such  
4 persons in an emergency situation only after an application  
5 for involuntary commitment or hospitalization has been filed,  
6 which is an option only during regular court hours. The bill  
7 amends the current emergency detention and hospitalization  
8 procedures available for such persons to apply only when there  
9 is no immediate access to the district court to allow access to  
10 emergency detention and treatment services, at all times, even  
11 if an application for involuntary commitment or hospitalization  
12 has not been filed.

13 QUALIFIED MENTAL HEALTH PROFESSIONAL. The bill eliminates  
14 the definition of "qualified mental health professional" in  
15 Code chapter 229 (hospitalization of persons with mental  
16 illness) and all references to this definition (talk about  
17 where this are eliminated). The bill amends the definition of  
18 "mental health professional" in Code chapter 228 (relating to  
19 the disclosure of mental health and psychological information).

20 PREAPPLICATION SCREENING ASSESSMENT. The bill provides that  
21 prior to filing an application for involuntary hospitalization  
22 pursuant to Code section 229.6, the clerk of the district court  
23 or the clerk's designee is required to inform the interested  
24 person referred to in Code section 229.6, subsection 1,  
25 about the option of requesting a preapplication screening  
26 assessment through a preapplication screening assessment  
27 program. The bill requires the state court administrator to  
28 prescribe practices and procedures for implementation of the  
29 preapplication screening assessment program.

30 A conforming change is made to Code section 229.6 requiring  
31 the district court clerk or the clerk's designee to inform  
32 the interested person about the option of requesting a  
33 preapplication screening assessment of the proposed respondent  
34 prior to the filing of an application for involuntary  
35 commitment. A conforming change is also made to Code

1 section 602.1209 relating to the duties of the state court  
2 administrator.

3 MENTAL HEALTH ADVOCATE. The bill provides that a mental  
4 health advocate shall utilize the related best practices for  
5 the mental health advocate's duties identified in Code section  
6 229.19 developed and promulgated by the judicial council.  
7 The bill allows a mental health advocate to be appointed by  
8 the appropriate appointing authority for an individual who  
9 has been diagnosed with a co-occurring mental illness and  
10 substance-related disorder.

11 CONTINUATION OF WORKGROUP BY JUDICIAL BRANCH AND DEPARTMENT  
12 OF HUMAN SERVICES — CONSOLIDATION OF SERVICES — PATIENT  
13 ADVOCATE. The bill requires the judicial branch and department  
14 of human services to continue the workgroup implemented  
15 pursuant to 2010 Iowa Acts, chapter 1192, section 24,  
16 subsection 2, and extended pursuant to 2011 Iowa Acts, chapter  
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18 the consolidation of the processes for involuntary commitment  
19 for persons with substance-related disorders under Code chapter  
20 125, for intellectual disability under Code chapter 222,  
21 and for serious mental illness under Code chapter 229. The  
22 workgroup shall also study and make recommendations concerning  
23 the feasibility of establishing an independent statewide  
24 patient advocate program for qualified persons representing  
25 the interests of patients suffering from mental illness,  
26 intellectual disability, or a substance-related disorder and  
27 involuntarily committed by the court. The workgroup shall  
28 also consider the implementation of consistent reimbursement  
29 standards for patient advocates and the role of the advocate  
30 for a person who has been diagnosed with a co-occurring mental  
31 illness and substance-related disorder. The workgroup shall  
32 submit a report on the study and make recommendations to the  
33 governor and the general assembly by December 1, 2012.

34 COMPREHENSIVE JAIL DIVERSION PROGRAM — MENTAL HEALTH  
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1 juvenile justice planning of the department of human rights  
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