

House Study Bill 160 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
HUMAN RESOURCES BILL BY
CHAIRPERSON MILLER)

A BILL FOR

1 An Act relating to interstate contracts for substance abuse and
2 mental health care and treatment.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 331.910 Interstate contracts for
2 mental health and substance-related disorder treatment.

3 1. *Purpose.* The purpose of this section is to enable
4 appropriate care and treatment to be provided to a person
5 with a substance-related disorder or a mental illness, across
6 state lines from the person's state of residence, in qualified
7 hospitals, centers, and facilities that are closer to the
8 person's home than are hospitals, centers, and facilities
9 available in the person's home state.

10 2. *Definitions.* For the purposes of this section:

11 a. "*Bordering state*" means Illinois, Minnesota, Missouri,
12 Nebraska, South Dakota, or Wisconsin.

13 b. "*County*" mean a county that has been exempted by the
14 director of the department of human services from being
15 required to be part of a region.

16 c. "*Receiving agency*" means a public or private hospital,
17 mental health center, substance abuse treatment and
18 rehabilitation facility, or detoxification center, which
19 provides substance abuse or mental health care and treatment to
20 a person from a state other than the state in which a hospital,
21 center, or facility is located.

22 d. "*Receiving state*" means the state in which a receiving
23 agency is located.

24 e. "*Region*" means a mental health and disability services
25 region formed in accordance with section 331.389.

26 f. "*Sending agency*" means a state or county agency located
27 in a state which sends a person to a bordering state for
28 substance abuse or mental health care and treatment under this
29 section.

30 g. "*Sending state*" means the state in which a sending agency
31 is located.

32 3. *Voluntary commitments.*

33 a. A region or county may contract with a receiving agency
34 in a bordering state to secure substance abuse or mental health
35 care and treatment under this subsection for persons who

1 receive substance abuse or mental health care and treatment
2 pursuant to section 125.33 or 229.2 through a region or county.

3 *b.* This subsection shall not apply to a person who is any
4 of the following:

5 (1) Serving a criminal sentence.

6 (2) On probation or parole.

7 (3) The subject of a presentence investigation.

8 *c.* A region or county may contract with a sending agency
9 in a bordering state to provide care and treatment under this
10 subsection for residents of the bordering state in approved
11 substance abuse and mental health care and treatment hospitals,
12 centers, and facilities in this state, except that care and
13 treatment shall not be provided for residents of the bordering
14 state who are involved in criminal proceedings substantially
15 similar to the involvement described in paragraph "b".

16 4. *Involuntary commitments.*

17 *a.* A person who is detained, committed, or placed on an
18 involuntary basis under section 125.75 or 229.6 may be confined
19 and treated in another state pursuant to a contract under this
20 section.

21 *b.* A person who is detained, committed, or placed on
22 an involuntary basis under the civil commitment laws of a
23 bordering state substantially similar to section 125.75 or
24 229.6 may be confined and treated in this state pursuant to a
25 contract under this section.

26 *c.* A law enforcement officer acting under the authority of a
27 sending state may transport a person to a receiving agency that
28 provides substance abuse or mental health care and treatment
29 pursuant to a contract under this subsection and may transport
30 the person back to the sending state under the laws of the
31 sending state.

32 *d.* Court orders valid under the law of the sending state
33 are granted recognition and reciprocity in the receiving state
34 for a person covered by a contract under this subsection to
35 the extent that the court orders relate to confinement for

1 substance abuse or mental health care and treatment. Such care
2 and treatment may include care and treatment for co-occurring
3 substance-related and mental health disorders. Such court
4 orders are not subject to legal challenge in the courts of the
5 receiving state.

6 *e.* A person who is detained, committed, or placed under the
7 laws of a sending state and who is transferred to a receiving
8 state under this section shall be considered to be in the legal
9 custody of the authority responsible for the person under the
10 laws of the sending state. Except in an emergency, such a
11 person shall not be transferred, removed, or furloughed from a
12 hospital, center, or facility of the receiving agency without
13 the specific approval of the authority responsible for the
14 person under the laws of the sending state.

15 *f.* While in the receiving state pursuant to a contract
16 under this subsection, a person shall be subject to all laws
17 and regulations applicable to persons detained, committed,
18 or placed pursuant to the corresponding laws and regulations
19 of the receiving state, except those laws and regulations
20 of the receiving state relating to length of confinement,
21 reexaminations, and extensions of confinement. A person shall
22 not be sent to a receiving state pursuant to a contract under
23 this section until the receiving state has enacted a law
24 recognizing the validity and applicability of this subsection.

25 *g.* If a person receiving care and treatment pursuant to
26 a contract under this subsection escapes from the receiving
27 agency and the person at the time of the escape is subject
28 to involuntary confinement under the laws of the sending
29 state, the receiving agency shall use all reasonable means to
30 recapture the escapee. The receiving agency shall immediately
31 report the escape of the person to the sending agency. The
32 receiving state has the primary responsibility for, and the
33 authority to direct, the pursuit, retaking, and prosecution of
34 escaped persons within its borders and is liable for the cost
35 of such action to the extent that it would be liable for costs

1 if its own resident escaped.

2 *h.* Responsibility for payment for the cost of care and
3 treatment under this subsection shall remain with the sending
4 agency.

5 5. A contract entered into under this section shall, at a
6 minimum, meet all of the following requirements:

7 *a.* Describe the care and treatment to be provided.

8 *b.* Establish responsibility for the costs of the care and
9 treatment, except as otherwise provided in subsection 4.

10 *c.* Establish responsibility for the costs of transporting
11 individuals receiving care and treatment under this section.

12 *d.* Specify the duration of the contract.

13 *e.* Specify the means of terminating the contract.

14 *f.* Specify the terms and conditions for refusal to admit or
15 detain a person.

16 *g.* Identify the goals to be accomplished by the placement
17 of a person under this section.

18 6. This section shall apply to all of the following:

19 *a.* Detoxification services that are unrelated to substance
20 abuse or mental health care and treatment regardless of
21 whether the care and treatment are provided on a voluntary or
22 involuntary basis.

23 *b.* Substance abuse and mental health care and treatment
24 contracts that include emergency care and treatment provided to
25 a resident of this state in a bordering state.

26 EXPLANATION

27 The inclusion of this explanation does not constitute agreement with
28 the explanation's substance by the members of the general assembly.

29 This bill relates to interstate contracts for substance
30 abuse and mental health care and treatment.

31 CONTRACTS FOR INVOLUNTARY COMMITMENTS. The bill provides
32 that a region or county as defined in the bill may contract
33 with a public or private agency in a bordering state to secure
34 substance abuse or mental health care and treatment for persons
35 who may receive substance abuse or mental health care and

1 treatment pursuant to Code section 125.33 or 229.2 through
2 a region or county in Iowa. Similarly, a region or county
3 may contract with a public or private agency in a bordering
4 state to provide such care and treatment for residents of
5 the bordering state in approved substance abuse or mental
6 health treatment facilities in this state. A person serving
7 a criminal sentence, who is on probation or parole, or who is
8 the subject of a presentence investigation is not eligible to
9 receive such care and treatment. The bill defines "bordering
10 state" to mean Illinois, Minnesota, Missouri, Nebraska, South
11 Dakota, or Wisconsin, "county" to mean a county that has been
12 exempted by the director of the department of human services
13 from being required to be part of a regional mental health
14 and disability services system, and "region" to mean a mental
15 health and disability services region formed in accordance with
16 Code section 331.389.

17 CONTRACTS FOR INVOLUNTARY COMMITMENTS. The bill provides
18 that a person who is detained, committed, or placed on an
19 involuntary basis under Code section 125.75 or 229.6 may
20 be confined and treated in another state pursuant to a
21 contract executed under the bill and a person who is detained,
22 committed, or placed on an involuntary basis under the civil
23 commitment laws of a bordering state substantially similar to
24 Code section 125.75 or 229.6 may be confined and treated in
25 this state pursuant to a contract executed under the bill.
26 Court orders valid under the law of the sending state are
27 granted recognition and reciprocity in the receiving state for
28 a person covered by an involuntary commitment contract under
29 the bill. A person who is detained, committed, or placed
30 under the laws of a sending state and who is transferred to a
31 receiving state is considered to be in the legal custody of
32 the authority responsible for the person under the laws of the
33 sending state. Except in an emergency, such a person shall not
34 be transferred, removed, or furloughed from a hospital, center,
35 or facility of the receiving agency without the specific

1 approval of the authority responsible for the person under the
2 laws of the sending state.

3 While in the receiving state pursuant to an involuntary
4 commitment contract executed under the bill, a person is
5 subject to all laws and regulations applicable to persons
6 detained, committed, or placed pursuant to the corresponding
7 laws of the receiving state, except those laws and regulations
8 of the receiving state relating to length of confinement,
9 reexaminations, and extensions of confinement.

10 If a person receiving care and treatment pursuant to an
11 involuntary commitment contract under the bill escapes from
12 the receiving agency and the person at the time of the escape
13 is subject to involuntary confinement under the laws of the
14 sending state, the receiving agency shall use all reasonable
15 means to recapture the escapee. The receiving agency shall
16 immediately report the escape to the sending agency. The
17 receiving state has the primary responsibility for, and the
18 authority to direct, the pursuit, retaking, and prosecution of
19 escaped persons within its borders and is liable for the cost
20 of such action to the extent that it would be liable for costs
21 if its own resident escaped.

22 MISCELLANEOUS. The bill specifies minimum requirements
23 for contracts entered into under the bill. The bill applies
24 to detoxification services unrelated to substance abuse or
25 mental health care and treatment regardless of whether provided
26 on a voluntary or involuntary basis and to substance abuse
27 and mental health care and treatment contracts that include
28 emergency care and treatment.