

House File 2327 - Introduced

HOUSE FILE 2327

BY LUNDGREN

A BILL FOR

1 An Act relating to behavioral health, including provisions
2 relating to involuntary commitments and hospitalizations,
3 the disclosure of mental health information to law
4 enforcement professionals, and mental health and disability
5 services.

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

1 Section 1. Section 125.80, subsection 3, Code 2018, is
2 amended to read as follows:

3 3. If the report of a court-designated licensed physician
4 or mental health professional is to the effect that the
5 respondent is not a person with a substance-related disorder,
6 the court, without taking further action, ~~may~~ shall terminate
7 the proceeding and dismiss the application on its own motion
8 and without notice.

9 Sec. 2. Section 125.81, Code 2018, is amended by adding the
10 following new subsection:

11 NEW SUBSECTION. 2A. A respondent shall be released from
12 detention prior to the commitment hearing if a licensed
13 physician or mental health professional examines the respondent
14 and determines the respondent no longer meets the criteria for
15 detention under subsection 1 and provides notification to the
16 court.

17 Sec. 3. Section 135G.6, Code 2018, is amended by striking
18 the section and inserting in lieu thereof the following:

19 **135G.6 Inspection — conditions for issuance.**

20 The department shall issue a license to an applicant under
21 this chapter if the department has ascertained that the
22 applicant's facilities and staff are adequate to provide the
23 care and services required of a subacute care facility.

24 Sec. 4. Section 228.1, Code 2018, is amended by adding the
25 following new subsection:

26 NEW SUBSECTION. 3A. "*Law enforcement professional*" means
27 a law enforcement officer as defined in section 80B.3, county
28 attorney as defined in section 331.101, probation or parole
29 officer, or jailer.

30 Sec. 5. NEW SECTION. **228.7A Disclosures to law enforcement**
31 **professionals.**

32 1. Mental health information relating to an individual
33 shall be disclosed by a mental health professional, at the
34 minimum consistent with applicable laws and standards of
35 ethical conduct, to a law enforcement professional if all of

1 the following apply:

2 a. The disclosure is made in good faith.

3 b. The disclosure is necessary to prevent or lessen a
4 serious and imminent threat to the health or safety of the
5 individual or to a clearly identifiable victim or victims.

6 c. The individual has the apparent intent and ability to
7 carry out the threat.

8 2. A mental health professional shall not be held criminally
9 or civilly liable for failure to disclose mental health
10 information relating to an individual to a law enforcement
11 professional except in circumstances where the individual has
12 communicated to the mental health professional an imminent
13 threat of physical violence against the individual's self or
14 against a clearly identifiable victim or victims.

15 3. A mental health professional discharges the
16 professional's duty to disclose pursuant to subsection 1 by
17 making reasonable efforts to communicate the threat to a law
18 enforcement professional.

19 Sec. 6. Section 229.10, subsection 3, Code 2018, is amended
20 to read as follows:

21 3. If the report of one or more of the court-designated
22 physicians or mental health professionals is to the effect
23 that the individual is not seriously mentally impaired, the
24 court ~~may~~ shall without taking further action terminate the
25 proceeding and dismiss the application on its own motion and
26 without notice.

27 Sec. 7. Section 229.11, Code 2018, is amended by adding the
28 following new subsection:

29 NEW SUBSECTION. 1A. A respondent shall be released from
30 detention prior to the hospitalization hearing if a licensed
31 physician or mental health professional examines the respondent
32 and determines the respondent no longer meets the criteria for
33 detention under subsection 1 and provides notification to the
34 court.

35 Sec. 8. Section 229.12, subsection 3, paragraph a, Code

1 2018, is amended to read as follows:

2 *a.* The respondent's welfare shall be paramount and the
3 hearing shall be conducted in as informal a manner as may be
4 consistent with orderly procedure, but consistent therewith
5 the issue shall be tried as a civil matter. The hearing may
6 be held by video conference at the discretion of the court.
7 Such discovery as is permitted under the Iowa rules of civil
8 procedure shall be available to the respondent. The court
9 shall receive all relevant and material evidence which may be
10 offered and need not be bound by the rules of evidence. There
11 shall be a presumption in favor of the respondent, and the
12 burden of evidence in support of the contentions made in the
13 application shall be upon the applicant.

14 Sec. 9. Section 229.22, subsection 2, paragraph b, Code
15 2018, is amended to read as follows:

16 *b.* If the magistrate orders that the person be detained,
17 the magistrate shall, by the close of business on the next
18 working day, file a written order with the clerk in the county
19 where it is anticipated that an application may be filed
20 under [section 229.6](#). The order may be filed by facsimile if
21 necessary. A peace officer from the law enforcement agency
22 that took the person into custody, if no request was made
23 under paragraph "a", may inform the magistrate that an arrest
24 warrant has been issued for or charges are pending against the
25 person and request that any written order issued under this
26 paragraph require the facility or hospital to notify the law
27 enforcement agency about the discharge of the person prior to
28 discharge. The order shall state the circumstances under which
29 the person was taken into custody or otherwise brought to a
30 facility or hospital, and the grounds supporting the finding
31 of probable cause to believe that the person is seriously
32 mentally impaired and likely to injure the person's self or
33 others if not immediately detained. The order shall also
34 include any law enforcement agency notification requirements if
35 applicable. The order shall confirm the oral order authorizing

1 the person's detention including any order given to transport
 2 the person to an appropriate facility or hospital. A peace
 3 officer from the law enforcement agency that took the person
 4 into custody may also request an order, separate from the
 5 written order, requiring the facility or hospital to notify the
 6 law enforcement agency about the discharge of the person prior
 7 to discharge. The clerk shall provide a copy of the written
 8 order or any separate order to the chief medical officer of the
 9 facility or hospital to which the person was originally taken,
 10 to any subsequent facility to which the person was transported,
 11 and to any law enforcement department, ~~or~~ ambulance service,
 12 or transportation service under contract with a mental health
 13 and disability services region that transported the person
 14 pursuant to the magistrate's order. A transportation service
 15 that contracts with a mental health and disability services
 16 region for purposes of this paragraph shall provide a secure
 17 transportation vehicle and shall employ staff that has received
 18 or is receiving mental health training.

19 Sec. 10. Section 331.397, Code 2018, is amended to read as
 20 follows:

21 **331.397 Regional core services.**

22 1. For the purposes of **this section**, unless the context
 23 otherwise requires, "*domain*" means a set of similar services
 24 that can be provided depending upon a person's service needs.

25 2. a. (1) A region shall work with service providers to
 26 ensure that services in the required core service domains in
 27 subsections 4 and 5 are available to residents of the region,
 28 regardless of potential payment source for the services.

29 (2) Subject to the available appropriations, the director
 30 of human services shall ensure the ~~initial~~ core service domains
 31 listed in **subsection subsections 4 and 5** are covered services
 32 for the medical assistance program under **chapter 249A** to the
 33 greatest extent allowable under federal regulations. The
 34 medical assistance program shall reimburse Medicaid enrolled
 35 providers for Medicaid covered services under subsections 4

1 and 5 when the services are medically necessary, the Medicaid
2 enrolled provider submits an appropriate claim for such
3 services, and no other third-party payer is responsible for
4 reimbursement of such services. Within funds available, the
5 region shall pay for such services for eligible persons when
6 payment through the medical assistance program or another
7 third-party payment is not available, unless the person is on a
8 waiting list for such payment or it has been determined that
9 the person does not meet the eligibility criteria for any such
10 service.

11 *b.* Until funding is designated for other service
12 populations, eligibility for the service domains listed in this
13 section shall be limited to such persons who are in need of
14 mental health or intellectual disability services. However, if
15 a county in a region was providing services to an eligibility
16 class of persons with a developmental disability other than
17 intellectual disability or a brain injury prior to formation of
18 the region, the class of persons shall remain eligible for the
19 services provided when the region is was formed, ~~provided that~~
20 ~~funds are available to continue such services without limiting~~
21 ~~or reducing core services.~~

22 *c.* It is the intent of the general assembly to address
23 the need for funding so that the availability of the service
24 domains listed in [this section](#) may be expanded to include such
25 persons who are in need of developmental disability or brain
26 injury services.

27 3. Pursuant to recommendations made by the director of human
28 services, the state commission shall adopt rules as required by
29 section 225C.6 to define the services included in the ~~initial~~
30 ~~and additional~~ core service domains listed in [this section](#).
31 The rules shall provide service definitions, service provider
32 standards, service access standards, and service implementation
33 dates, and shall provide consistency, to the extent possible,
34 with similar service definitions under the medical assistance
35 program.

1 a. The rules relating to the credentialing of a person
2 directly providing services shall require all of the following:

3 ~~a.~~ (1) The person shall provide services and represent the
4 person as competent only within the boundaries of the person's
5 education, training, license, certification, consultation
6 received, supervised experience, or other relevant professional
7 experience.

8 ~~b.~~ (2) The person shall provide services in substantive
9 areas or use intervention techniques or approaches that
10 are new only after engaging in appropriate study, training,
11 consultation, and supervision from a person who is competent in
12 those areas, techniques, or approaches.

13 ~~c.~~ (3) If generally recognized standards do not exist
14 with respect to an emerging area of practice, the person
15 shall exercise careful judgment and take responsible steps,
16 including obtaining appropriate education, research, training,
17 consultation, and supervision, in order to ensure competence
18 and to protect from harm the persons receiving the services in
19 the emerging area of practice.

20 b. The rules relating to the availability of services shall
21 provide for all of the following:

22 (1) Twenty-two assertive community treatment teams.

23 (2) Six access centers.

24 (3) Intensive residential service homes that provide
25 services to up to one hundred twenty persons statewide.

26 4. The ~~initial~~ core service domains shall include the
27 following:

28 a. Treatment designed to ameliorate a person's condition,
29 including but not limited to all of the following:

30 (1) Assessment and evaluation.

31 (2) Mental health outpatient therapy.

32 (3) Medication prescribing and management.

33 (4) Mental health inpatient treatment.

34 b. Basic crisis response provisions, including but not
35 limited to all of the following:

- 1 (1) Twenty-four-hour access to crisis response.
- 2 (2) Evaluation.
- 3 (3) Personal emergency response system.
- 4 *c.* Support for community living, including but not limited
- 5 to all of the following:
 - 6 (1) Home health aide.
 - 7 (2) Home and vehicle modifications.
 - 8 (3) Respite.
 - 9 (4) Supportive community living.
- 10 *d.* Support for employment or for activities leading to
- 11 employment providing an appropriate match with an individual's
- 12 abilities based upon informed, person-centered choices made
- 13 from an array of options, including but not limited to all of
- 14 the following:
 - 15 (1) Day habilitation.
 - 16 (2) Job development.
 - 17 (3) Supported employment.
 - 18 (4) Prevocational services.
- 19 *e.* Recovery services, including but not limited to all of
- 20 the following:
 - 21 (1) Family support.
 - 22 (2) Peer support.
- 23 *f.* Service coordination including coordinating physical
- 24 health and primary care, including but not limited to all of
- 25 the following:
 - 26 (1) Case management.
 - 27 (2) Health homes.
- 28 5. a. To the extent federal matching funds are available
- 29 under the Iowa health and wellness plan pursuant to chapter
- 30 249N, the following intensive mental health services in
- 31 strategic locations throughout the state shall be provided
- 32 within the following core service domains:
 - 33 (1) Access centers that are located in crisis residential
 - 34 and subacute residential settings with sixteen beds or fewer
 - 35 that provide immediate, short-term assessments for persons with

1 serious mental illness or substance use disorders who do not
2 need inpatient psychiatric hospital treatment, but who do need
3 significant amounts of supports and services not available in
4 the persons' homes or communities.

5 (2) Assertive community treatment services.

6 (3) Comprehensive facility and community-based crisis
7 services, including all of the following:

8 (a) Mobile response.

9 (b) Twenty-three-hour crisis observation and holding.

10 (c) Crisis stabilization community-based services.

11 (d) Crisis stabilization residential services.

12 (4) Subacute services provided in facility and
13 community-based settings.

14 (5) Intensive residential service homes for persons
15 with severe and persistent mental illness in scattered site
16 community-based residential settings that provide intensive
17 services and that operate twenty-four hours a day.

18 b. The department shall accept arrangements between multiple
19 regions sharing intensive mental health services under this
20 subsection.

21 ~~5.~~ 6. A region shall ensure that access is available
22 to providers of core services that demonstrate competencies
23 necessary for all of the following:

24 a. Serving persons with co-occurring conditions.

25 b. Providing evidence-based services.

26 c. Providing trauma-informed care that recognizes the
27 presence of trauma symptoms in persons receiving services.

28 ~~6.~~ 7. A region shall ensure that services within the
29 following additional core service domains are available
30 to persons not eligible for the medical assistance program
31 under [chapter 249A](#) or receiving other third-party payment for
32 the services, when public funds are made available for such
33 services:

34 ~~a. Comprehensive facility and community-based crisis~~
35 ~~services, including but not limited to all of the following:~~

1 ~~(1) Twenty-four-hour crisis hotline.~~

2 ~~(2) Mobile response.~~

3 ~~(3) Twenty-three-hour crisis observation and holding, and~~
4 ~~crisis stabilization facility and community-based services.~~

5 ~~(4) Crisis residential services.~~

6 ~~b. Subacute services provided in facility and~~
7 ~~community-based settings.~~

8 ~~c.~~ a. Justice system-involved services, including but not
9 limited to all of the following:

10 (1) Jail diversion.

11 (2) Crisis intervention training.

12 (3) Civil commitment prescreening.

13 ~~d.~~ b. Advances in the use of evidence-based treatment,
14 including but not limited to all of the following:

15 (1) Positive behavior support.

16 ~~(2) Assertive community treatment.~~

17 ~~(3)~~ (2) Peer self-help drop-in centers.

18 ~~7.~~ 8. A regional service system may provide funding for
19 other appropriate services or other support and may implement
20 demonstration projects for an initial period of up to three
21 years to model the use of research-based practices. In
22 considering whether to provide such funding, a region may
23 consider the following criteria for research-based practices:

24 a. Applying a person-centered planning process to identify
25 the need for the services or other support.

26 b. The efficacy of the services or other support is
27 recognized as an evidence-based practice, is deemed to be an
28 emerging and promising practice, or providing the services is
29 part of a demonstration and will supply evidence as to the
30 services' effectiveness.

31 c. A determination that the services or other support
32 provides an effective alternative to existing services that
33 have been shown by the evidence base to be ineffective, to not
34 yield the desired outcome, or to not support the principles
35 outlined in *Olmstead v. L.C.*, 527 U.S. 581 (1999).

1 Sec. 11. Section 331.424A, subsection 9, Code 2018, is
2 amended to read as follows:

3 9. a. For the fiscal year beginning July 1, 2017, and each
4 subsequent fiscal year, the county budgeted amount determined
5 for each county shall be the amount necessary to meet the
6 county's financial obligations for the payment of services
7 provided under the regional service system management plan
8 approved pursuant to [section 331.393](#), not to exceed an amount
9 equal to the product of the regional per capita expenditure
10 target amount multiplied by the county's population, ~~and, for~~
11 ~~fiscal years beginning on or after July 1, 2021, reduced by~~
12 ~~the amount of the county's cash flow reduction amount for the~~
13 ~~fiscal year calculated under [subsection 4](#), if applicable.~~

14 b. If a county officially joins a different region, the
15 county's budgeted amount shall be the amount necessary to meet
16 the county's financial obligations for payment of services
17 provided under the new region's regional service system
18 management plan approved pursuant to section 331.393, not to
19 exceed an amount equal to the product of the new region's
20 regional per capita expenditure target amount multiplied by the
21 county's population.

22 Sec. 12. DEPARTMENT OF HUMAN SERVICES — CIVIL COMMITMENT
23 PRESCREENING ASSESSMENTS — RULES. The department of human
24 services, in coordination with the mental health and disability
25 services commission, shall adopt rules pursuant to chapter 17A
26 relating to civil commitment prescreening assessments provided
27 by a mental health and disability services region or an entity
28 contracting with a mental health and disability service region.
29 The rules shall provide for all of the following:

30 1. The provision of civil commitment prescreening
31 assessments by a licensed physician or mental health
32 professional within four hours of an emergency detention of
33 an individual believed to be mentally ill to determine if
34 inpatient psychiatric hospitalization is necessary.

35 2. The coordination of appropriate levels of care

1 to include securing an inpatient psychiatric bed when
2 inpatient psychiatric hospitalization is needed and
3 utilizing community-based resources and services such as
4 crisis observation and crisis stabilization services and
5 subacute care and detoxification centers and facilitating
6 outpatient treatment appointments when inpatient psychiatric
7 hospitalization is not needed.

8 3. The provision of ongoing consultations by a licensed
9 physician or mental health professional while the individual
10 remains in the emergency room.

11 4. Requiring appropriate documentation and reports to be
12 submitted by a licensed physician or mental health professional
13 to a treating hospital and the court as necessary.

14 Sec. 13. PROGRAM IMPLEMENTATION — ADOPTION OF
15 ADMINISTRATIVE RULES.

16 1. The core services specified in this Act shall be
17 implemented and the department of human services shall adopt
18 rules pursuant to chapter 17A relating to the administration of
19 such core services no later than October 1, 2018.

20 2. The provisions of this Act and rules adopted in
21 accordance with this Act shall not be interpreted to delay
22 or disrupt services or plans for the implementation of such
23 services in effect on July 1, 2018.

24 3. The rules adopted by the department relating to access
25 centers shall provide for all of the following:

26 a. The access centers shall meet all of the following
27 criteria:

28 (1) An access center shall serve individuals with a
29 serious mental health or substance use disorder need who are
30 otherwise medically stable, who are not in need of an inpatient
31 psychiatric level of care, and who do not have alternative,
32 safe, effective services immediately available.

33 (2) Access center services shall be provided on a no reject,
34 no eject basis.

35 (3) An access center shall accept and serve individuals who

1 are court-ordered to participate in mental health or substance
2 use disorder treatment.

3 (4) Access center providers shall be accredited under 441
4 IAC 24 to provide crisis stabilization residential services and
5 shall be licensed to provide subacute mental health services as
6 defined in section 135G.1

7 (5) An access center shall be licensed as a substance abuse
8 treatment program pursuant to chapter 125 or have a cooperative
9 agreement with and immediate access to licensed substance abuse
10 treatment services or medical care that incorporates withdrawal
11 management.

12 (6) An access center shall provide person-centered mental
13 health and substance use disorder assessments by appropriately
14 licensed or credentialed professionals and peer support
15 services based on a comprehensive assessment.

16 (7) An access center shall provide or arrange to provide
17 necessary physical health services.

18 (8) An access center shall ensure short stays by providing
19 individuals with care coordination that provides successful
20 navigation and warm handoffs to the next service provider
21 as well as linkages to needed services including housing,
22 employment, and shelter services.

23 b. The rules shall include access center designation
24 criteria and standards that allow and encourage multiple
25 mental health and disability services regions to strategically
26 locate and share access center services, including bill-back
27 provisions to provide for reimbursement of a region when the
28 resident of another region utilizes an access center located
29 in that region.

30 c. The rules shall direct Medicaid managed care
31 organizations, mental health and disability services regions,
32 and law enforcement to jointly select, develop, and implement
33 six access centers strategically located throughout the state
34 by December 31, 2019. Regions may enter into chapter 28E
35 agreements to provide such services.

1 d. The rules shall require that Medicaid managed care
2 organizations reimburse Medicaid services provided at access
3 centers by Medicaid providers based on the reimbursement rate
4 floor established for the covered Medicaid service. The rules
5 shall also require mental health and disability services
6 regions to provide start-up funding for the establishment of
7 access centers jointly selected by mental health and disability
8 services regions and Medicaid managed care organizations and
9 to provide funding for non-Medicaid covered services provided
10 by the access centers.

11 4. The rules relating to assertive community treatment
12 (ACT) shall provide for all of the following:

13 a. The department shall establish uniform, statewide
14 accreditation standards for ACT based on national accreditation
15 standards, including allowances for nationally recognized small
16 team standards. The statewide standards shall require that ACT
17 teams meet fidelity to practice nationally recognized standards
18 as determined by an independent review of each team that
19 includes peer review. The rules shall provide that Medicaid
20 managed care organization utilization management requirements
21 do not exceed the accreditation standards developed by the
22 department and that Medicaid managed care organizations
23 reimburse ACT teams for each day of care provided including for
24 admissions and ongoing treatment provided on weekends.

25 b. The rules shall require mental health and disability
26 services regions and Medicaid managed care organizations to
27 jointly agree on all of the following:

28 (1) Strategically located geographic areas in which ACT
29 teams should be developed upon consideration of all of the
30 following:

31 (a) Recommendations for locations included in the complex
32 service needs workgroup report published by the department of
33 human services on December 15, 2017.

34 (b) A review of known individuals with diagnoses that would
35 benefit from ACT.

1 (c) Hospital inpatient psychiatric readmission rates.

2 (d) The interest and readiness of a provider and community
3 partners to form ACT.

4 (e) The availability of psychiatric providers interested
5 in the model.

6 (2) How to accomplish independent review of fidelity to
7 practice established standards.

8 c. The rules shall direct Medicaid managed care
9 organizations to enter into contracts with jointly selected ACT
10 teams. Reimbursement of ACT teams shall be provided based on
11 the reimbursement rate floor established for such services to
12 Medicaid covered members who have a demonstrated need for ACT.
13 The rules shall allow mental health and disability services
14 regions to enter into chapter 28E agreements to provide ACT
15 services and shall also include bill-back provisions to allow
16 for reimbursement of a region when the resident of another
17 region utilizes an ACT team located in that region.

18 d. The rules shall require mental health and disability
19 services regions to provide start-up funding for the ACT teams
20 that are not established prior to July 1, 2018, including for
21 assistance in achieving fidelity to practice standards and
22 technical assistance.

23 e. The rules shall require that mental health and disability
24 services regions ensure the efficient and effective operation
25 of ACT teams and provide funding for general operations based
26 on guidance provided by the department.

27 5. The rules relating to intensive residential service
28 homes (IRSH) shall provide for all of the following:

29 a. That an intensive residential service home be enrolled
30 with the Iowa Medicaid enterprise as a section 1915(i) home and
31 community-based services habilitation waiver or intellectual
32 disability waiver-supported community living provider.

33 b. That an intensive residential service home have adequate
34 staffing that includes appropriate specialty training including
35 applied behavior analysis as appropriate; adequate direct

1 care staffing rations; swift access to additional staffing
2 if serious incidents occur; and adequate pay and paid time
3 off commensurate with the increased intensity of the services
4 provided.

5 c. Coordination with the individual's clinical
6 mental health and physical health treatment including
7 ensuring treatment plans are developed by a comprehensive
8 interdisciplinary team selected by the individual that develops
9 and implements the individual's person-centered plan; ensuring
10 access to active medication management and outpatient therapy
11 including evidence-based therapy approaches; establishing a
12 fully coordinated care plan; accessing assertive community
13 treatment if there is a demonstrated need; and developing a
14 thorough wellness recovery action plan, as appropriate.

15 d. Be licensed as a substance abuse treatment program
16 pursuant to chapter 125 or have a cooperative agreement
17 with and timely access to licensed substance abuse treatment
18 services for those with a demonstrated need.

19 e. Accept court-ordered commitments.

20 f. Have a high tolerance for serious behavioral issues.

21 g. Have a no reject, no eject policy for an individual
22 referred to the home based on the severity of the individual's
23 mental health or co-occurring needs.

24 h. Be smaller in size, preferably providing services to
25 four or fewer individuals and no more than sixteen individuals,
26 and be located in a neighborhood setting to maximize community
27 integration and natural supports.

28 i. Determine length of stay based on an individual basis
29 using person-centered planning and objective utilization
30 review criteria with the goal for the individual to live in
31 the most integrated setting practicable. Individuals expected
32 to have a longer stay shall be provided the protections of the
33 landlord-tenant relationship pursuant to chapter 562A.

34 j. Require Medicaid managed care organizations and mental
35 health and disability services regions to jointly select and

1 mutually agree upon the strategic geographic locations of
2 IRSHs. Any existing section 1915(i) home and community-based
3 services habilitation waiver or intellectual disability
4 waiver-supported community living providers that meet IRSH
5 criteria shall be considered in the selection process.
6 Medicaid managed care organizations and mental health and
7 disability services regions shall also work with the state
8 mental health institutes, Broadlawns, the university of Iowa
9 hospitals and clinics, and other interested hospitals with
10 inpatient psychiatric programs to operate or affiliate with
11 one IRSH each as an integral part of the mental health and
12 disability services provided by a region.

13 k. Direct Medicaid managed care organizations to enter
14 into contracts with jointly selected IRSHs. Reimbursement of
15 IRSH shall be provided based on the reimbursement rate floor
16 established for such services provided to Medicaid covered
17 members who have a demonstrated need for IRSH. The rules shall
18 allow mental health and disability services regions to enter
19 into chapter 28E agreements to provide IRSH services. The
20 rules shall also include bill-back provisions to allow for
21 reimbursement of a region when the resident of another region
22 utilizes an IRSH located in that region.

23 l. Require mental health and disability services regions to
24 provide start-up funding for an IRSH that is not established
25 prior to July 1, 2018. Regions shall also provide funding as
26 necessary for non-Medicaid covered services provided by the
27 IRSH.

28 m. Require contracts entered into between the regions and
29 the Medicaid managed care organizations to include objective
30 utilization review criteria.

31 6. The department of human services and the department of
32 public health shall provide a single statewide twenty-four-hour
33 crisis hotline that incorporates warmline services which may be
34 provided through expansion of the YourLifeIowa platform.

35 Sec. 14. COMMITMENT PROCESS REVIEW. The department of

1 human services, in cooperation with the department of public
2 health, representatives of the mental health institutes, Iowa
3 hospital association, Iowa health care association, managed
4 care organizations, the national alliance on mental illness,
5 and other affected or interested stakeholders shall review
6 the commitment processes under chapters 125 and 229 and shall
7 report recommendations for improvements in the processes
8 and any amendments to law to increase efficiencies and more
9 appropriately utilize the array of mental health and disability
10 services available based upon an individual's needs to the
11 governor and the general assembly by December 31, 2018.

12 Sec. 15. TERTIARY CARE PSYCHIATRIC HOSPITALS. The
13 departments of human services and public health and other
14 affected or interested stakeholders shall review the role of
15 tertiary care psychiatric hospitals in the array of mental
16 health services and shall report recommendations for providing
17 tertiary psychiatric services to the governor and the general
18 assembly by November 30, 2018. The recommendations shall
19 address the role and responsibilities of tertiary care
20 psychiatric hospitals in the mental health array of services
21 in the state, the viability of utilizing the mental health
22 institutes as tertiary care psychiatric hospitals, any
23 potential sustainable funding, and admissions criteria.

24 Sec. 16. DEPARTMENT OF HUMAN SERVICES. The department of
25 human services shall adopt rules pursuant to chapter 17A to
26 administer this Act.

27

EXPLANATION

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

30 This bill relates to behavioral health, including provisions
31 relating to involuntary commitments and hospitalizations, the
32 disclosure of mental health information to law enforcement
33 professionals, and mental health and disability services.

34 Under current law, if the report of a court-designated
35 licensed physician or mental health professional indicates

1 that a respondent who is the subject of an application
2 for involuntary commitment or treatment due to the
3 respondent's substance-related disorder is not a person
4 with a substance-related disorder, the court, without taking
5 further action, may terminate the proceeding and dismiss
6 the application on its own motion and without notice. The
7 bill amends current law to provide that the court, under the
8 same circumstances and without taking further action, shall
9 terminate such a proceeding and dismiss the application on its
10 own motion and without notice.

11 The bill provides that a respondent who is the subject of an
12 application for involuntary commitment for a substance-related
13 disorder and who is taken into immediate custody shall be
14 released from custody prior to a commitment hearing if a
15 licensed physician or mental health professional examines the
16 respondent and determines that the respondent no longer meets
17 the criteria for custody and provides notification to the
18 court.

19 Under current law, the department of inspections and appeals
20 is required to issue a license to an applicant for a subacute
21 mental health care facility if the department of inspections
22 and appeals has ascertained that the applicant's facilities and
23 staff are adequate to provide the care and services required
24 of a subacute care facility. The bill strikes additional
25 conditions for licensure requiring the department of human
26 services to submit written approval of the application based
27 upon the process used by the department of human services
28 to identify the best qualified providers, prohibiting the
29 department of human services from approving an application
30 which would cause the number of publicly funded subacute
31 care facility beds to exceed 75 beds, and requiring that the
32 subacute care facility beds identified be new beds located in
33 hospitals and facilities licensed as a subacute care facility
34 under Code chapter 135G.

35 Under Code chapter 228, a mental health professional, data

1 collector, or employee or agent thereof, is prohibited from
2 disclosing or allowing the disclosure of an individual's
3 mental health information without the individual's consent or
4 written authorization. However, disclosure of such mental
5 health information without the individual's consent or written
6 authorization is allowed under certain circumstances, including
7 for certain administrative disclosures to other mental health
8 providers for administrative and professional services to
9 the individual and to meet certain compulsory disclosure
10 requirements pursuant to state or federal law. In addition,
11 the disclosure of certain limited mental health information is
12 allowed to authorized family members without the individual's
13 consent or written authorization in some circumstances.

14 The bill provides that a mental health professional shall
15 disclose mental health information, at the minimum consistent
16 with applicable laws and standards of ethical conduct, relating
17 to an individual without the individual's consent or written
18 permission to a law enforcement professional if the disclosure
19 is made in good faith, is necessary to prevent or lessen a
20 serious and imminent threat to the health or safety of the
21 individual or to a clearly identifiable victim or victims,
22 and the individual has the apparent intent and ability to
23 carry out the threat. The bill provides that a mental health
24 professional shall not be held criminally or civilly liable
25 for failure to disclose mental health information relating
26 to an individual to a law enforcement professional except in
27 circumstances where the individual has communicated to the
28 mental health professional an imminent threat of physical
29 violence against the individual's self or against a clearly
30 identifiable victim or victims. The bill provides that a
31 mental health professional discharges the professional's duty
32 to disclose under the bill by making reasonable efforts to
33 communicate the threat to a law enforcement professional.

34 The bill defines "law enforcement professional" to mean
35 a law enforcement officer as defined in Code section 80B.3

1 (an officer appointed by the director of the department of
2 natural resources, a member of the police force or other
3 agency or department of the state, county, city, or tribal
4 government regularly employed as such and who is responsible
5 for the prevention and detection of crime and the enforcement
6 of the criminal laws of this state and all individuals, as
7 determined by the council, who by the nature of their duties
8 may be required to perform the duties of a peace officer),
9 county attorney as defined in Code section 331.101 (the
10 county attorney, a deputy county attorney or an assistant
11 county attorney designated by the county attorney), probation
12 or parole officer, or jailer. "Mental health information"
13 is defined in Code section 228.1 to mean oral, written,
14 or recorded information which indicates the identity of an
15 individual receiving professional services and which relates to
16 the diagnosis, course, or treatment of the individual's mental
17 or emotional condition.

18 Under current law, a respondent who is the subject of
19 a petition for involuntary hospitalization due to the
20 respondent's serious mental impairment shall be examined by
21 one or more licensed physician or mental health professionals
22 within a reasonable time and a report shall be submitted to the
23 court. If the report of one or more of the court-designated
24 physicians or mental health professionals indicates that the
25 person is not seriously mentally impaired, the court, without
26 taking further action, may terminate the proceeding and dismiss
27 the application on its own motion and without notice. The
28 bill amends current law to provide that the court, under the
29 same circumstances and without taking further action, shall
30 terminate the proceeding and dismiss the application on its own
31 motion and without notice.

32 The bill provides that a respondent who is the subject of
33 an application for involuntary hospitalization for a serious
34 mental impairment and who is taken into immediate custody shall
35 be released from custody prior to the hospitalization hearing

1 if a licensed physician or mental health professional examines
2 the respondent and determines the respondent no longer meets
3 the criteria for custody and provides notification to the
4 court.

5 Under current law, during a hospitalization hearing for a
6 respondent with a serious mental impairment, the respondent's
7 welfare is paramount and the hearing shall be conducted in as
8 informal a manner as may be consistent with orderly procedure.
9 The bill provides that such a hearing may be held by video
10 conference at the discretion of the court.

11 Under current law, if a magistrate orders that a person with
12 mental illness be detained, the appropriate clerk of court
13 shall provide a copy of the written order or any separate
14 order to the chief medical officer of the facility or hospital
15 to which the person was originally taken, to any subsequent
16 facility to which the person was transported, and to any law
17 enforcement department or ambulance service that transported
18 the person pursuant to the magistrate's order. The bill
19 amends current law to provide that the clerk of court shall
20 also provide a copy of the written order or any separate order
21 to a transportation service under contract with a mental
22 health and disability services region that transported the
23 person pursuant to the magistrate's order. The bill provides
24 that a transportation service that contracts with a mental
25 health and disability services region shall provide a secure
26 transportation vehicle and shall employ staff that has received
27 or is receiving mental health training.

28 Under current law, each mental health and disability
29 services region is required to submit an annual report to the
30 department of human services on or before December 1. The
31 annual report is required to provide information on the actual
32 numbers of persons served, moneys expended, and outcomes
33 achieved. The bill provides each region shall additionally
34 submit a quarterly report to the department. Each quarterly
35 report shall provide information on the accessibility of

1 core services using forms and procedures established by the
2 department. The department shall combine and analyze the
3 reports and make the results public within 30 days of receipt
4 of all reports.

5 Under current law, subject to available appropriations,
6 the director of human services shall ensure that a mental
7 health and disability services region's core service domains
8 are covered services for the medical assistance program
9 under Code chapter 249A to the greatest extent allowable
10 under federal regulations. The bill provides the medical
11 assistance program shall reimburse Medicaid enrolled providers
12 for Medicaid covered core services when the services are
13 medically necessary, the Medicaid enrolled provider submits an
14 appropriate claim for such services, and no other third-party
15 payer is responsible for reimbursement of such services.

16 The bill provides that the administrative rules of the state
17 mental health and disability services commission relating to
18 the availability of mental health and disability services
19 shall, in addition to other mental health and disability
20 service requirements, provide for 22 assertive community
21 treatment teams, six access centers, and intensive residential
22 service homes that serve up to 120 persons statewide.

23 The bill provides that, to the extent matching federal
24 funding is available under the Iowa health and wellness plan,
25 intensive mental health services placed in strategic locations
26 throughout the state shall be provided within certain core
27 service domains including access centers that are located
28 in crisis residential and subacute residential settings,
29 assertive community treatment services, comprehensive facility
30 and community-based crisis services, subacute services, and
31 intensive residential service homes.

32 The bill directs the department of human services, in
33 coordination with the mental health and disability services
34 commission, to adopt rules pursuant to Code chapter 17A
35 relating to civil commitment prescreening assessments provided

1 by a mental health and disability services region or an entity
2 contracting with a mental health and disability services
3 region. The rules shall provide for the provision of civil
4 commitment prescreening assessments, ongoing consultations,
5 and appropriate documentation and reports by a licensed
6 physician or mental health professional and the coordination
7 of appropriate levels of care.

8 The bill provides the core services specified in the bill
9 shall be implemented and the department of human services
10 (department) shall adopt rules pursuant to Code chapter 17A
11 relating to the administration of such core services no later
12 than October 1, 2018. The provisions of the bill and rules
13 adopted in accordance with the bill shall not be interpreted to
14 delay or disrupt services or plans for the implementation of
15 such services in effect on July 1, 2018.

16 The bill requires rules adopted by the department relating
17 to access centers to meet certain criteria; include access
18 center designation criteria and standards that allow and
19 encourage multiple mental health and disability services
20 regions to strategically locate and share access center
21 services, including bill-back provisions to provide for
22 reimbursement of a region when the resident of another
23 region utilizes an access center located in that region;
24 direct Medicaid managed care organizations, regions, and law
25 enforcement to jointly select, develop, and implement six
26 access centers strategically located throughout the state
27 by December 31, 2019; require that Medicaid managed care
28 organizations reimburse Medicaid services provided at access
29 centers by Medicaid providers based on the reimbursement rate
30 floor established for the covered Medicaid service; and require
31 regions to provide start-up funding for the establishment of
32 the access centers jointly selected by the regions and Medicaid
33 managed care organizations and funding for non-Medicaid covered
34 services provided by the access centers.

35 The bill provides rules relating to assertive community

1 treatment (ACT) shall provide for certain statewide
2 accreditation standards for ACT based on national accreditation
3 standards, including allowances for nationally recognized
4 small team standards; require regions and Medicaid managed
5 care organizations to jointly agree on strategically located
6 geographic areas in which ACT teams should be developed upon
7 consideration of certain factors; direct Medicaid managed care
8 organizations to enter into contracts with jointly selected ACT
9 teams; require regions to provide start-up funding for the ACT
10 teams that are not established prior to July 1, 2018, including
11 for assistance in achieving fidelity to practice standards
12 and technical assistance; and require that mental health and
13 disability services regions ensure the efficient and effective
14 operation of ACT teams and provide funding for general
15 operations based on guidance provided by the department.

16 The bill provides the rules relating to intensive
17 residential service homes (IRSH) shall provide that an
18 intensive residential service home be enrolled with the Iowa
19 Medicaid enterprise as a 1915(i) home and community-based
20 services habilitation waiver or intellectual disability
21 waiver-supported community living provider; that an IRSH have
22 adequate staffing that includes appropriate specialty training
23 including applied behavior analysis as appropriate, adequate
24 direct care staffing rations, swift access to additional
25 staffing if serious incidents occur, and adequate pay and
26 paid time off commensurate with the increased intensity
27 of the services provided; coordinate with the individual's
28 clinical mental health and physical health treatment including
29 ensuring treatment plans are developed by a comprehensive
30 interdisciplinary team selected by the individual that develops
31 and implements the individual's person-centered plan, ensuring
32 access to active medication management and outpatient therapy
33 including evidence-based therapy approaches; establishing a
34 fully coordinated care plan, accessing assertive community
35 treatment if there is a demonstrated need, and developing a

1 thorough wellness recovery action plan, as appropriate; be
2 licensed as a substance abuse treatment program pursuant to
3 Code chapter 125 or have a cooperative agreement with and
4 timely access to licensed substance abuse treatment services
5 for those with a demonstrated need.

6 The bill provides the rules for an IRSH shall require an
7 IRSH to accept court-ordered commitments; have a high tolerance
8 for serious behavioral issues; have a no reject, no eject
9 policy for an individual referred to the home based on the
10 severity of the individual's mental health or co-occurring
11 needs; be smaller in size; determine length of stay based
12 on an individual basis using person-centered planning and
13 objective utilization review criteria; require Medicaid managed
14 care organizations and regions to jointly select and mutually
15 agree upon the strategic geographic locations of IRSHs; direct
16 Medicaid managed care organizations to enter into contracts
17 with jointly selected IRSHs; require regions to provide the
18 start-up funding for an IRSH that is not established prior
19 to July 1, 2018; and that contracts entered into between the
20 regions and the Medicaid managed care organizations shall
21 include objective utilization review criteria. The bill
22 also provides that the department of human services and the
23 department of public health shall provide a single statewide
24 24-hour crisis hotline that incorporates warmline services.

25 The bill directs the department of human services,
26 in cooperation with the department of public health,
27 representatives of the mental health institutes, Iowa hospital
28 association, Iowa health care association, managed care
29 organizations, the national alliance on mental illness,
30 and other affected or interested stakeholders to review the
31 commitment processes under Code chapters 125 and 229 and shall
32 report recommendations for improvements in the processes
33 and any amendments to law to increase efficiencies and more
34 appropriately utilize the array of mental health and disability
35 services available based upon an individual's needs to the

1 governor and the general assembly by December 31, 2018.

2 The bill directs the department of human services,
3 department of public health, and other affected or interested
4 stakeholders to review the role of tertiary care psychiatric
5 hospitals in the array of mental health services and shall
6 report recommendations for providing tertiary psychiatric
7 services to the governor and the general assembly by November
8 30, 2018.

9 The bill directs the department of human services to adopt
10 administrative rules to administer the bill.