

House File 386 - Introduced

HOUSE FILE 386

BY HANUSA

A BILL FOR

1 An Act relating to the provision and financing of long-term
2 care services in subacute mental health care facilities for
3 persons with serious and persistent mental illness.

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

1 Section 1. Section 229.13, subsection 7, paragraph a,
2 subparagraph (1), Code 2017, is amended to read as follows:

3 (1) (a) The respondent's mental health professional acting
4 within the scope of the mental health professional's practice
5 shall notify the committing court, with preference given to
6 the committing judge, if available, in the appropriate county
7 and the court shall enter a written order directing that the
8 respondent be taken into immediate protective custody by the
9 appropriate sheriff or sheriff's deputy. The appropriate
10 sheriff or sheriff's deputy shall exercise all due diligence
11 in taking the respondent into protective custody to a hospital
12 or other suitable facility. The court's written order shall
13 include a statement that the respondent has not been compliant
14 with the committing court's outpatient treatment order. The
15 clerk of the district court shall enter notice of the court's
16 order into the Iowa criminal justice information system or the
17 national crime information center system, and shall send a copy
18 of the order to the outpatient treatment facility at which
19 the respondent was previously ordered to undergo outpatient
20 treatment.

21 (b) If the respondent's mental health professional is
22 unable to contact the committing court during regular business
23 hours, the mental health professional shall notify the
24 appropriate sheriff or sheriff's deputy who shall take the
25 respondent into immediate protective custody. The respondent's
26 mental health professional shall provide notice of such action
27 to the committing court on the next business day and the
28 committing court shall proceed as provided in subparagraph
29 division (a). The respondent's mental health professional
30 shall also provide such notice to the outpatient treatment
31 facility at which the respondent was previously ordered to
32 undergo outpatient treatment.

33 (c) If charges are pending against the respondent,
34 the respondent may be detained in protective custody in a
35 hospital or other suitable facility for a period not to exceed

1 seventy-two hours from the time the respondent is taken into
2 protective custody for crisis observation and treatment before
3 formal charges can be filed against the respondent.

4 Sec. 2. Section 229.13, subsection 7, paragraph a,
5 subparagraph (3), Code 2017, is amended to read as follows:

6 (3) If the respondent chooses to be treated by the
7 appropriate medication which may include the use of injectable
8 antipsychotic medicine but the mental health professional
9 acting within the scope of the mental health professional's
10 practice at the outpatient psychiatric clinic, hospital, or
11 other suitable facility determines, or a family member of the
12 respondent provides sufficient information to the mental health
13 professional or any of the respondent's outpatient treatment
14 providers to the mental health professional or outpatient
15 treatment provider to conclude that the respondent's behavior
16 continues to be likely to result in physical injury to the
17 respondent's self or others if allowed to continue, the mental
18 health professional acting within the scope of the mental
19 health professional's practice shall comply with the provisions
20 of subparagraph (1) and, following notice and hearing held in
21 accordance with the procedures in [section 229.12](#), the court may
22 order the respondent treated on an inpatient basis requiring
23 full-time custody, care, and treatment in a hospital or other
24 suitable facility until such time as the chief medical officer
25 reports that the respondent does not require further treatment
26 for serious mental impairment or has indicated the respondent
27 is willing to submit to treatment on another basis as ordered
28 by the court.

29 Sec. 3. Section 229.13, subsection 7, Code 2017, is amended
30 by adding the following new paragraph:

31 NEW PARAGRAPH. c. For the purposes of this subsection,
32 "*other suitable facility*" may include an appropriate subacute
33 care facility licensed under chapter 135G but shall not include
34 a jail or other correctional facility.

35 Sec. 4. DEPARTMENT OF INSPECTIONS AND APPEALS — RULES.

1 1. The department of inspections and appeals shall
2 adopt rules pursuant to chapter 17A relating to eligibility
3 requirements for the receipt of individualized subacute mental
4 health services in subacute care facilities licensed under
5 chapter 135G to allow for the care and treatment of a person
6 with a serious and persistent mental illness on a long-term
7 basis if the person is in court-ordered outpatient treatment
8 and any of the following applies:

9 a. The person is not complying with the court-ordered
10 outpatient treatment.

11 b. The person's outpatient mental health professional
12 is not available for appointments and follow up necessary to
13 assist the person in remaining compliant with the outpatient
14 court-ordered treatment.

15 c. The person has visited a hospital emergency room or
16 emergency clinic multiple times but has not been admitted to
17 the hospital as an inpatient, or the person has been admitted
18 to a hospital as an inpatient but, based upon information
19 received from family members or mental health professionals,
20 the person continues to be noncompliant with the court-ordered
21 outpatient treatment.

22 d. Protective treatment in a hospital or other suitable
23 facility is not available.

24 e. Pursuant to section 229.13, subsection 7, the person
25 has been taken into custody by the county sheriff for
26 noncompliance with the court-ordered outpatient treatment, and
27 protective treatment in a hospital or other suitable facility
28 is available.

29 2. For the purposes of this section, "other suitable
30 facility" shall not include a jail or other correctional
31 facility.

32 Sec. 5. DEPARTMENT OF HUMAN SERVICES — RULES.

33 1. The department of human services, in coordination with
34 regional administrators of county mental health and disability
35 services regions, the state mental health and disability

1 services commission, service providers, and other stakeholders,
2 shall develop a methodology to establish appropriate medical
3 assistance program reimbursement rates for the actual cost
4 of mental health treatment services and associated room and
5 board costs in a subacute mental health facility licensed under
6 chapter 135G for eligible persons pursuant to this Act.

7 2. The department of human services shall adopt rules
8 pursuant to chapter 17A to administer the provisions of this
9 Act.

10 Sec. 6. CITATION. This Act may, along with its formal
11 citation, be cited as "Jackie's Law".

12 EXPLANATION

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

15 This bill relates to the provision and financing of
16 long-term care services in subacute care mental health care
17 facilities for persons with serious and persistent mental
18 illness.

19 The bill amends Code section 229.13 relating to a person
20 (respondent) who is under a court order to undergo outpatient
21 treatment for mental illness upon the conclusion of an
22 involuntary hospitalization proceeding. Under current law,
23 if the respondent is ordered to undergo outpatient treatment
24 and the respondent's failure to comply with the course of
25 treatment results in behavior by the respondent which, in
26 the opinion of the respondent's mental health professional,
27 is likely to result in physical injury to the respondent's
28 self or others if allowed to continue, the respondent may be
29 taken into protective custody. Once in protective custody,
30 the respondent shall be given the choice of being treated
31 by the appropriate medication at an outpatient psychiatric
32 clinic, hospital, or other suitable facility or being placed
33 for treatment under the care of a hospital or other suitable
34 facility for inpatient treatment. If the respondent chooses to
35 be treated by the appropriate medication but the mental health

1 professional at the outpatient psychiatric clinic, hospital,
2 or other suitable facility determines that the respondent's
3 behavior continues to be likely to result in physical injury
4 to the respondent's self or others if allowed to continue, the
5 mental health professional is required to notify the committing
6 court, and after proper notice and hearing, the court may
7 order the respondent treated on an inpatient basis requiring
8 full-time custody, care, and treatment in a hospital until it
9 is determined that the respondent does not require further
10 treatment for serious mental impairment or has indicated
11 the respondent is willing to submit to other court-ordered
12 treatment.

13 The bill provides that the court's written order shall
14 include a statement that the respondent has not been compliant
15 with the committing court's outpatient treatment order. The
16 clerk of the district court shall enter notice of the court's
17 order into the Iowa criminal justice information system or
18 the national crime information center system, and shall send
19 a copy of the order to the outpatient treatment facility
20 at which the respondent was previously ordered to undergo
21 outpatient treatment. If the respondent's mental health
22 professional is unable to contact the committing court during
23 regular business hours, the mental health professional shall
24 notify the appropriate sheriff or sheriff's deputy who shall
25 take the respondent into immediate protective custody. The
26 respondent's mental health professional shall provide notice of
27 such action to the committing court on the next business day
28 and the committing court shall proceed as provided in the bill.
29 The respondent's mental health professional shall also provide
30 such notice to the outpatient treatment facility at which
31 the respondent was previously ordered to undergo outpatient
32 treatment. If charges are pending against the respondent, the
33 respondent may be detained in protective custody in a hospital
34 or other suitable facility for a 72-hour period for crisis
35 observation and treatment before formal charges can be filed

1 against the respondent.

2 The bill allows a family member of the respondent to provide
3 information to the mental health professional or any of the
4 respondent's outpatient treatment providers from which the
5 mental health professional or outpatient treatment provider
6 may conclude that the respondent's behavior continues to be
7 likely to result in physical injury to the respondent's self
8 or others. The bill then provides that the court may order the
9 respondent treated on an inpatient basis in a suitable facility
10 in addition to a hospital. The bill defines other suitable
11 facility to include an appropriate subacute care facility
12 licensed under Code chapter 135G but excludes a jail or other
13 correctional facility.

14 The bill requires the department of inspections and appeals
15 to adopt rules relating to eligibility requirements for
16 individualized subacute mental health services in subacute care
17 facilities licensed under Code chapter 135G to allow for the
18 treatment of a person with a serious and persistent mental
19 illness that requires inpatient care on a long-term basis if
20 the person is in court-ordered outpatient treatment and certain
21 circumstances apply.

22 The department of human services, in coordination with
23 regional administrators of county mental health and disability
24 services regions, the state mental health and disability
25 services commission, service providers, and other stakeholders,
26 is required to develop a methodology to establish appropriate
27 medical assistance program reimbursement rates for the actual
28 cost of mental health treatment services and associated room
29 and board costs in a subacute care facility licensed under
30 Code chapter 135G for eligible persons under the bill. The
31 department is required to adopt rules pursuant to chapter 17A
32 to administer the provisions of the bill.