

Senate File 2351 - Introduced

SENATE FILE 2351
BY COMMITTEE ON HUMAN
RESOURCES

(SUCCESSOR TO SF 2252)

A BILL FOR

1 An Act relating to mental health and mental health and
2 disability services and funding.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 135G.6, Code 2018, is amended by striking
2 the section and inserting in lieu thereof the following:

3 **135G.6 Inspection — conditions for issuance.**

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

8 Sec. 2. Section 229.1, subsection 20, Code 2018, is amended
9 by adding the following new paragraph:

10 NEW PARAGRAPH. *d.* Has a history of lack of compliance with
11 treatment and any of the following apply:

12 (1) Lack of compliance has been a significant factor in the
13 need for emergency hospitalization.

14 (2) Lack of compliance has resulted in one or more acts of
15 serious physical injury to the person's self or others or an
16 attempt to physically injure the person's self or others.

17 Sec. 3. Section 229.13, subsection 7, paragraph a,
18 subparagraphs (2) and (3), Code 2018, are amended to read as
19 follows:

20 (2) Once in protective custody, the respondent shall be
21 given the choice of being treated by the appropriate medication
22 which may include the use of oral medicine or injectable
23 antipsychotic medicine by a mental health professional acting
24 within the scope of the mental health professional's practice
25 at an outpatient psychiatric clinic, hospital, or other
26 suitable facility or being placed for treatment under the
27 care of a hospital or other suitable facility for inpatient
28 treatment.

29 (3) If the respondent chooses to be treated by the
30 appropriate medication which may include the use of oral
31 medicine or injectable antipsychotic medicine but the mental
32 health professional acting within the scope of the mental
33 health professional's practice at the outpatient psychiatric
34 clinic, hospital, or other suitable facility determines that
35 the respondent's behavior continues to be likely to result in

1 physical injury to the respondent's self or others if allowed
2 to continue, the mental health professional acting within
3 the scope of the mental health professional's practice shall
4 comply with the provisions of subparagraph (1) and, following
5 notice and hearing held in accordance with the procedures in
6 section 229.12, the court may order the respondent treated
7 on an inpatient basis requiring full-time custody, care, and
8 treatment in a hospital until such time as the chief medical
9 officer reports that the respondent does not require further
10 treatment for serious mental impairment or has indicated the
11 respondent is willing to submit to treatment on another basis
12 as ordered by the court.

13 Sec. 4. Section 229.13, subsection 7, paragraph b, Code
14 2018, is amended to read as follows:

15 b. A region shall contract with mental health professionals
16 to provide the appropriate treatment including treatment by
17 the use of oral medicine or injectable antipsychotic medicine
18 pursuant to [this section](#).

19 Sec. 5. Section 331.391, subsection 4, Code 2018, is amended
20 by striking the subsection and inserting in lieu thereof the
21 following:

22 4. For the fiscal years beginning on or after July 1,
23 2018, if a region is meeting the financial obligations for
24 implementation of its regional service system management plan
25 for a fiscal year and residual funding is anticipated, the
26 regional administrator shall reserve an adequate amount for
27 cash flow of expenditure obligations in the next fiscal year.
28 The cash flow amount shall not exceed thirty percent of the
29 gross expenditures budgeted for the combined account or for all
30 regional accounts for the fiscal year in progress. Residual
31 funding remaining after the cash flow amount is reserved shall
32 be used to expand the region's core services under section
33 331.397, subsections 4 and 5, and then to make additional
34 core service domains available in the region as enumerated in
35 section 331.397, subsection 7.

1 Sec. 6. Section 331.393, subsection 3, Code 2018, is amended
2 to read as follows:

3 3. a. Each region shall submit an annual report to the
4 department on or before December 1. The annual report shall
5 provide information on the actual numbers of persons served,
6 moneys expended, and outcomes achieved.

7 b. Each region shall submit a quarterly report to the
8 department. Each quarterly report shall provide information
9 on the accessibility of intensive mental health services
10 described in section 331.397, subsection 5, and the progress
11 the region has made in meeting the region's milestones for
12 compliance with such service requirements, using forms and
13 procedures established by the department. If a region fails
14 to meet the milestones in the region's plan for compliance
15 with access requirements for intensive mental health services
16 described in section 331.397, subsection 5, the department
17 shall require the region to submit a plan of correction to
18 the department to address deficiencies in the region's plan.
19 The department shall ensure the region's plan of correction
20 addresses deficiencies in the region's plan. The department
21 shall combine and analyze the quarterly reports and make the
22 results of the reports public within thirty days of receipt of
23 all reports on a quarterly basis.

24 Sec. 7. Section 331.397, Code 2018, is amended to read as
25 follows:

26 **331.397 Regional core services.**

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

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

34 (2) Subject to the available appropriations, the director
35 of human services shall ensure the ~~initial~~ core service domains

1 listed in subsection subsections 4 and 5 are covered services
2 for the medical assistance program under chapter 249A to the
3 greatest extent allowable under federal regulations. The
4 medical assistance program shall reimburse Medicaid enrolled
5 providers for Medicaid covered services under subsections 4
6 and 5 when the services are medically necessary, no other
7 third-party payer is responsible for reimbursement of such
8 services, and the Medicaid enrolled provider submits an
9 appropriate claim for such services. Within funds available,
10 the region shall pay for such services for eligible persons
11 when payment through the medical assistance program or another
12 third-party payment is not available, unless the person is on a
13 waiting list for such payment or it has been determined that
14 the person does not meet the eligibility criteria for any such
15 service.

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

27 *c.* It is the intent of the general assembly to address
28 the need for funding so that the availability of the service
29 domains listed in this section may be expanded to include such
30 persons who are in need of developmental disability or brain
31 injury services.

32 3. Pursuant to recommendations made by the director of human
33 services, the state commission shall adopt rules as required by
34 section 225C.6 to define the services included in the ~~initial~~
35 ~~and additional~~ core service domains listed in this section.

1 The rules shall provide service definitions, service provider
2 standards, service access standards, and service implementation
3 dates, and shall provide consistency, to the extent possible,
4 with similar service definitions under the medical assistance
5 program.

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

8 a. (1) The person shall provide services and represent the
9 person as competent only within the boundaries of the person's
10 education, training, license, certification, consultation
11 received, supervised experience, or other relevant professional
12 experience.

13 b. (2) The person shall provide services in substantive
14 areas or use intervention techniques or approaches that
15 are new only after engaging in appropriate study, training,
16 consultation, and supervision from a person who is competent in
17 those areas, techniques, or approaches.

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

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

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

28 (2) Six access centers.

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

31 4. The ~~initial~~ core service domains shall include the
32 following:

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

35 (1) Assessment and evaluation.

- 1 (2) Mental health outpatient therapy.
2 (3) Medication prescribing and management.
3 (4) Mental health inpatient treatment.
4 *b.* Basic crisis response provisions, including but not
5 limited to all of the following:
6 (1) Twenty-four-hour access to crisis response.
7 (2) Evaluation.
8 (3) Personal emergency response system.
9 *c.* Support for community living, including but not limited
10 to all of the following:
11 (1) Home health aide.
12 (2) Home and vehicle modifications.
13 (3) Respite.
14 (4) Supportive community living.
15 *d.* Support for employment or for activities leading to
16 employment providing an appropriate match with an individual's
17 abilities based upon informed, person-centered choices made
18 from an array of options, including but not limited to all of
19 the following:
20 (1) Day habilitation.
21 (2) Job development.
22 (3) Supported employment.
23 (4) Prevocational services.
24 *e.* Recovery services, including but not limited to all of
25 the following:
26 (1) Family support.
27 (2) Peer support.
28 *f.* Service coordination including coordinating physical
29 health and primary care, including but not limited to all of
30 the following:
31 (1) Case management.
32 (2) Health homes.
33 5. a. To the extent federal matching funds are available
34 under the Iowa health and wellness plan pursuant to chapter
35 249N, the following intensive mental health core services shall

1 be provided in strategic locations throughout the state no
2 later than July 1, 2021, within the following core service
3 domains:

4 (1) Access centers that are located in crisis residential
5 and subacute residential settings with sixteen beds or fewer
6 that provide immediate, short-term assessments for persons with
7 serious mental illness or substance use disorders who do not
8 need inpatient psychiatric hospital treatment, but who do need
9 significant amounts of supports and services not available in
10 the persons' homes or communities.

11 (2) Assertive community treatment services.

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

14 (a) A single statewide twenty-four-hour crisis hotline.

15 (b) A mobile response.

16 (c) Twenty-three-hour crisis observation and holding.

17 (d) Crisis stabilization community-based services.

18 (e) Crisis stabilization residential services.

19 (f) Warmline services.

20 (4) Subacute services provided in facility and
21 community-based settings.

22 (5) Intensive residential service homes for persons
23 with severe and persistent mental illness in scattered site
24 community-based residential settings.

25 b. The department shall accept arrangements between multiple
26 regions sharing intensive mental health services under this
27 subsection when determining compliance to access standards for
28 such services.

29 ~~5.~~ 6. A region shall ensure that access is available
30 to providers of core services that demonstrate competencies
31 necessary for all of the following:

32 a. Serving persons with co-occurring conditions.

33 b. Providing evidence-based services.

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

1 ~~6.~~ 7. A region shall ensure that services within the
2 following additional core service domains are available
3 to persons not eligible for the medical assistance program
4 under [chapter 249A](#) or receiving other third-party payment for
5 the services, when public funds are made available for such
6 services:

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

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

10 ~~(2) Mobile response.~~

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

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

14 ~~b. Subacute services provided in facility and
15 community-based settings.~~

16 ~~e.~~ a. Justice system-involved services, including but not
17 limited to all of the following:

18 (1) Jail diversion.

19 (2) Crisis intervention training.

20 (3) Civil commitment prescreening.

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

23 (1) Positive behavior support.

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

25 ~~(3)~~ (2) Peer self-help drop-in centers.

26 ~~7.~~ 8. A regional service system may provide funding for
27 other appropriate services or other support and may implement
28 demonstration projects for an initial period of up to three
29 years to model the use of research-based practices. In
30 considering whether to provide such funding, a region may
31 consider the following criteria for research-based practices:

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

34 b. The efficacy of the services or other support is
35 recognized as an evidence-based practice, is deemed to be an

1 emerging and promising practice, or providing the services is
2 part of a demonstration and will supply evidence as to the
3 services' effectiveness.

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

9 Sec. 8. Section 331.424A, subsection 1, paragraph b, Code
10 2018, is amended by striking the paragraph.

11 Sec. 9. Section 331.424A, subsection 4, Code 2018, is
12 amended by striking the subsection and inserting in lieu
13 thereof the following:

14 4. An amount of unobligated and unencumbered funds, as
15 specified in the regional governance agreement entered into
16 by the county under section 331.392, shall be reserved in the
17 county services fund to address cash flow obligations.

18 Sec. 10. Section 331.424A, subsection 9, Code 2018, is
19 amended to read as follows:

20 9. a. For the fiscal year beginning July 1, 2017, and each
21 subsequent fiscal year, the county budgeted amount determined
22 for each county shall be the amount necessary to meet the
23 county's financial obligations for the payment of services
24 provided under the regional service system management plan
25 approved pursuant to [section 331.393](#), not to exceed an amount
26 equal to the product of the regional per capita expenditure
27 target amount multiplied by the county's population, ~~and, for~~
28 ~~fiscal years beginning on or after July 1, 2021, reduced by~~
29 ~~the amount of the county's cash flow reduction amount for the~~
30 ~~fiscal year calculated under [subsection 4](#), if applicable.~~

31 b. If a county officially joins a different region, the
32 county's budgeted amount shall be the amount necessary to meet
33 the county's financial obligations for payment of services
34 provided under the new region's regional service system
35 management plan approved pursuant to section 331.393, not to

1 exceed an amount equal to the product of the new region's
2 regional per capita expenditure target amount multiplied by the
3 county's population.

4 Sec. 11. MENTAL HEALTH AND DISABILITY SERVICES REGIONS —
5 FY 2018 ANNUAL REPORTS. Each mental health and disability
6 services region's annual report due to the department of human
7 services on or before December 1, 2018, pursuant to section
8 331.393, subsection 3, paragraph "a", shall include a plan
9 that identifies milestones for meeting intensive mental health
10 service requirements described in section 331.397, subsection
11 5, no later than July 1, 2021. The plan shall, at a minimum,
12 include information relating to processes, implementation time
13 frames, plans for collaboration with other regions and the
14 Medicaid program, and the region's associated budget plan.

15 Sec. 12. EMERGENCY RULES. If specifically authorized
16 by a provision of this Act, the department of human services
17 or the mental health and disability services commission may
18 adopt administrative rules under section 17A.4, subsection 3,
19 and section 17A.5, subsection 2, paragraph "b", to implement
20 provisions of this Act and the rules shall become effective
21 immediately upon filing or on a later effective date specified
22 in the rules, unless the effective date of the rules is
23 delayed or the applicability of the rules is suspended by the
24 administrative rules review committee. Any rules adopted in
25 accordance with this section shall not take effect before
26 the rules are reviewed by the administrative rules review
27 committee. The delay authority provided to the administrative
28 rules review committee under section 17A.4, subsection 7, and
29 section 17A.8, subsection 9, shall be applicable to a delay
30 imposed under this section, notwithstanding a provision in
31 those sections making them inapplicable to section 17A.5,
32 subsection 2, paragraph "b". Any rules adopted in accordance
33 with the provisions of this section shall also be published as
34 a notice of intended action as provided in section 17A.4.

35

EXPLANATION

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

3 This bill relates to mental health and disability services
4 and funding.

5 Under current law, the department of inspections and appeals
6 is required to issue a license to an applicant for a subacute
7 mental health care facility if the department of inspections
8 and appeals has ascertained that the applicant's facilities and
9 staff are adequate to provide the care and services required
10 of a subacute care facility. The bill strikes additional
11 conditions for licensure requiring the department of human
12 services to submit written approval of the application based
13 upon the process used by the department of human services
14 to identify the best qualified providers, prohibiting the
15 department of human services from approving an application
16 which would cause the number of publicly funded subacute
17 care facility beds to exceed 75 beds, and requiring that the
18 subacute care facility beds identified be new beds located in
19 hospitals and facilities licensed as a subacute care facility
20 under Code chapter 135G.

21 Under Code chapter 229 (hospitalization of persons with
22 mental illness), a person may be committed for treatment
23 if the person is seriously mentally impaired. A person
24 is seriously mentally impaired if the person has a mental
25 illness, and because of that illness lacks sufficient judgment
26 to make responsible decisions with respect to the person's
27 hospitalization or treatment, and because of that illness is
28 likely to physically injure the person's self or others, is
29 likely to seriously emotionally injure others, or is unable
30 to satisfy the person's basic needs. The bill expands the
31 definition of seriously mentally impaired to include a person
32 who has a mental illness, because of that illness lacks
33 sufficient judgment to make responsible decisions with respect
34 to the person's hospitalization or treatment, and who because
35 of that illness has a history of a lack of compliance with

1 treatment and the lack of compliance has been a significant
2 factor in the need for emergency hospitalization or resulted
3 in one or more acts of serious physical injury to the person's
4 self or others or an attempt to seriously physically injure the
5 person's self or others.

6 Under current law, if a respondent has been ordered to
7 undergo outpatient treatment and fails to comply, and the
8 failure to comply is likely to result in physical injury,
9 a court shall order the person to be taken into physical
10 custody. A respondent may choose to be treated by the
11 appropriate medication which may include the use of injectable
12 antipsychotic medicine. The bill provides that appropriate
13 medication may also include the use of oral medicine.

14 Under current law, each mental health and disability
15 services region is required to submit an annual report to the
16 department of human services on or before December 1. The
17 annual report is required to provide information on the actual
18 numbers of persons served, moneys expended, and outcomes
19 achieved. The bill provides each region shall additionally
20 submit a quarterly report to the department. Each quarterly
21 report shall provide information on the accessibility of
22 intensive mental health services and the progress the region
23 has made in meeting the region's milestones for compliance
24 with such service requirements using forms and procedures
25 established by the department. If a region fails to meet the
26 milestones in the region's plan for compliance with such access
27 requirements, the department shall require the region to submit
28 a plan of correction to the department to address deficiencies
29 in the region's plan. The department shall ensure the region's
30 plan of correction addresses deficiencies in the region's plan.
31 The department shall combine and analyze the quarterly reports
32 and make the results of the reports public within 30 days of
33 receipt of all reports on a quarterly basis.

34 Under current law, subject to available appropriations,
35 the director of human services shall ensure that a mental

1 health and disability services region's core service domains
2 are covered services for the medical assistance program under
3 Code chapter 249A to the greatest extent allowable under
4 federal regulations. The bill provides the medical assistance
5 program shall reimburse Medicaid enrolled providers for
6 Medicaid covered core services when the services are medically
7 necessary, and the Medicaid enrolled provider submits an
8 appropriate claim for such services. No other third-party
9 payer is responsible for reimbursement of such services.

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

17 The bill provides that, to the extent matching federal
18 funding is available under the Iowa health and wellness plan,
19 intensive mental health core services shall be provided in
20 strategic locations throughout the state on or before July 1,
21 2021, within certain core service domains including access
22 centers that are located in crisis residential and subacute
23 residential settings, assertive community treatment services,
24 comprehensive facility and community-based crisis services,
25 subacute services, and intensive residential service homes.
26 The bill provides the department of human services shall
27 accept arrangements between multiple regions sharing intensive
28 mental health services when determining compliance with access
29 standards for such services.

30 Current Code section 331.391 establishes requirements
31 related to the permissible amount of cash flow for each mental
32 health and disability services region. For fiscal years
33 beginning July 1, 2017, July 1, 2018, and July 1, 2019, that
34 portion of each region's cash flow amount that exceeds 25
35 percent of the gross expenditures from the region's combined

1 account or from all separate county accounts under the control
2 of the governing board in the fiscal year preceding the fiscal
3 year in progress are required to be used in whole or in part
4 to fund the payment of mental health and disabilities services
5 provided under the regional service system management plan.
6 Current law also imposes similar requirements for the amount of
7 unobligated and unencumbered funds that are reserved in each
8 county's county services fund to address cash flow obligations
9 in the next fiscal year, imposes annual reporting requirements
10 for region and county cash flow amounts, and imposes, for
11 fiscal years beginning on or after July 1, 2021, either a 20
12 or 25 percent limitation on each county or region's cash flow
13 amount based on the region's population. Current law also
14 requires that for fiscal years beginning on or after July 1,
15 2021, of a county's cash flow amount maintained in the county
16 services fund or of the region's cash flow amount attributable
17 to the county, the county budgeted amount, used to limit the
18 amount of property taxes levied by the county, is reduced
19 by the county's cash flow reduction amount. The cash flow
20 reduction amount is equal to the amount of the county's cash
21 flow in excess of the permissible percentage limits based on
22 population of the region.

23 The bill strikes the requirement for fiscal years beginning
24 July 1, 2017, July 1, 2018, and July 1, 2019, that the portion
25 of each county's or region's cash flow amount that exceeds
26 the 25 percent limitation be used in whole or in part to fund
27 the payment of mental health and disability services provided
28 under a region's regional service system management plan. The
29 bill also strikes the reporting requirements for counties and
30 regions and eliminates the reduction in a county's budgeted
31 amount due to the county's cash flow reduction amount for
32 fiscal years beginning on or after July 1, 2021. The bill
33 establishes a limitation on the cash flow amount of a region
34 equal to 30 percent of the gross expenditures budgeted for
35 the fiscal year in progress for the combined account of the

1 region or for all regional accounts and requires residual
2 funding remaining in excess of such limitation to be used to
3 expand the region's core services and then make additional core
4 services available. The bill also provides that an amount of
5 unobligated or unencumbered funds, as specified in the regional
6 governance agreement, is required to be reserved in each
7 county's county services fund to address cash flow obligations.

8 Under the bill, if a county officially joins a different
9 mental health and disability services region, that county's
10 budgeted amount shall be the amount necessary to meet the
11 county's financial obligations for payment of services provided
12 under the new region's regional service system management
13 plan, not to exceed an amount equal to the product of the
14 new region's regional per capita expenditure target amount
15 multiplied by the county's population.

16 The bill provides that each mental health and disability
17 services region, in the region's annual report due to the
18 department of human services on or before December 1, 2018,
19 shall include a plan that identifies milestones for meeting
20 intensive mental health service requirements described in Code
21 section 331.397(5), no later than July 1, 2021. The plan
22 shall, at a minimum, include information relating to processes,
23 implementation time frames, plans for collaboration with other
24 regions and the Medicaid program, and the region's associated
25 budget plan.

26 The bill provides that the department of human services or
27 the mental health and disability services commission may adopt
28 emergency rules to implement the provisions of the bill.