

**Senate File 18 - Introduced**

SENATE FILE 18

BY ZAUN

**A BILL FOR**

1 An Act relating to the elimination of the certificate of need  
2 process relating to the development of a new or changed  
3 institutional health service.

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

1 Section 1. Section 68B.35, subsection 2, paragraph e, Code  
2 2019, is amended to read as follows:

3 e. Members of the state banking council, the Iowa ethics  
4 and campaign disclosure board, the credit union review board,  
5 the economic development authority, the employment appeal  
6 board, the environmental protection commission, ~~the health~~  
7 ~~facilities council,~~ the Iowa finance authority, the Iowa public  
8 employees' retirement system investment board, the board of  
9 the Iowa lottery authority, the natural resource commission,  
10 the board of parole, the petroleum underground storage tank  
11 fund board, the public employment relations board, the state  
12 racing and gaming commission, the state board of regents, the  
13 transportation commission, the office of consumer advocate, the  
14 utilities board, the Iowa telecommunications and technology  
15 commission, and any full-time members of other boards and  
16 commissions as defined under [section 7E.4](#) who receive an annual  
17 salary for their service on the board or commission. The Iowa  
18 ethics and campaign disclosure board shall conduct an annual  
19 review to determine if members of any other board, commission,  
20 or authority should file a statement and shall require the  
21 filing of a statement pursuant to rules adopted pursuant to  
22 chapter 17A.

23 Sec. 2. Section 97B.1A, subsection 8, paragraph a,  
24 subparagraph (8), Code 2019, is amended to read as follows:

25 (8) Members of the state transportation commission, and the  
26 board of parole, ~~and the state health facilities council.~~

27 Sec. 3. Section 135.131, subsection 1, paragraph a, Code  
28 2019, is amended to read as follows:

29 a. "*Birth center*" means ~~birth center as defined in section~~  
30 ~~135.61~~ a facility or institution, which is not an ambulatory  
31 surgical center or a hospital or in a hospital, in which  
32 births are planned to occur following a normal, uncomplicated,  
33 low-risk pregnancy.

34 Sec. 4. Section 135C.2, subsection 5, unnumbered paragraph  
35 1, Code 2019, is amended to read as follows:

1 The department shall establish a special classification  
2 within the residential care facility category in order to  
3 foster the development of residential care facilities which  
4 serve persons with an intellectual disability, chronic mental  
5 illness, a developmental disability, or brain injury, as  
6 described under [section 225C.26](#), and which contain five or  
7 fewer residents. ~~A facility within the special classification~~  
8 ~~established pursuant to [this subsection](#) is exempt from the~~  
9 ~~requirements of [section 135.63](#).~~ The department shall adopt  
10 rules which are consistent with rules previously developed  
11 for the waiver demonstration project pursuant to 1986 Iowa  
12 Acts, ch. 1246, §206, and which include all of the following  
13 provisions:

14 Sec. 5. Section 135H.6, subsection 1, Code 2019, is amended  
15 to read as follows:

16 1. The department shall issue a license to an applicant  
17 under [this chapter](#) if all the following conditions exist:

18 a. The department has ascertained that the applicant's  
19 medical facilities and staff are adequate to provide the care  
20 and services required of a psychiatric institution.

21 b. The proposed psychiatric institution is accredited  
22 by the joint commission on the accreditation of health  
23 care organizations, the commission on accreditation of  
24 rehabilitation facilities, the council on accreditation of  
25 services for families and children, or by any other recognized  
26 accrediting organization with comparable standards acceptable  
27 under federal regulation.

28 c. The applicant complies with applicable state rules  
29 and standards for a psychiatric institution adopted by the  
30 department in accordance with federal requirements under 42  
31 C.F.R. §441.150 - 441.156.

32 ~~d. The applicant has been awarded a certificate of need~~  
33 ~~pursuant to [chapter 135](#), unless exempt as provided in this~~  
34 ~~section.~~

35 e. d. The department of human services has submitted

1 written approval of the application based on the department of  
 2 human services' determination of need. The department of human  
 3 services shall identify the location and number of children in  
 4 the state who require the services of a psychiatric medical  
 5 institution for children. Approval of an application shall be  
 6 based upon the location of the proposed psychiatric institution  
 7 relative to the need for services identified by the department  
 8 of human services and an analysis of the applicant's ability to  
 9 provide services and support consistent with requirements under  
 10 chapter 232, particularly regarding community-based treatment.  
 11 If the proposed psychiatric institution is not freestanding  
 12 from a facility licensed under [chapter 135B](#) or [135C](#), approval  
 13 under this paragraph shall not be given unless the department  
 14 of human services certifies that the proposed psychiatric  
 15 institution is capable of providing a resident with a living  
 16 environment similar to the living environment provided by a  
 17 licensee which is freestanding from a facility licensed under  
 18 chapter 135B or [135C](#).

19 ~~f.~~ e. The proposed psychiatric institution is under  
 20 the direction of an agency which has operated a facility  
 21 licensed under [section 237.3, subsection 2](#), paragraph "a", as  
 22 a comprehensive residential facility for children for three  
 23 years or of an agency which has operated a facility for three  
 24 years providing psychiatric services exclusively to children or  
 25 adolescents and the facility meets or exceeds requirements for  
 26 licensure under [section 237.3, subsection 2](#), paragraph "a", as a  
 27 comprehensive residential facility for children.

28 ~~g.~~ f. If a child has an emotional, behavioral, or mental  
 29 health disorder, the psychiatric institution does not require  
 30 court proceedings to be initiated or that a child's parent,  
 31 guardian, or custodian must terminate parental rights over  
 32 or transfer legal custody of the child for the purpose of  
 33 obtaining treatment from the psychiatric institution for the  
 34 child. Relinquishment of a child's custody shall not be a  
 35 condition of the child receiving services.

1     Sec. 6. Section 135H.6, subsections 3, 4, and 5, Code 2019,  
2 are amended to read as follows:

3     3. In addition to the beds authorized under [subsection 2](#),  
4 the department of human services may establish not more than  
5 thirty beds licensed under [this chapter](#) at the state mental  
6 health institute at Independence. ~~The beds shall be exempt~~  
7 ~~from the certificate of need requirement under [subsection 1](#),~~  
8 ~~paragraph "d".~~

9     4. The department of human services may give approval to  
10 conversion of beds approved under [subsection 2](#), to beds which  
11 are specialized to provide substance abuse treatment. However,  
12 the total number of beds approved under [subsection 2](#) and this  
13 subsection shall not exceed four hundred thirty. ~~Conversion~~  
14 ~~of beds under [this subsection](#) shall not require a revision of~~  
15 ~~the certificate of need issued for the psychiatric institution~~  
16 ~~making the conversion.~~ Beds for children who do not reside  
17 in this state and whose service costs are not paid by public  
18 funds in this state are not subject to the limitations on the  
19 number of beds ~~and certificate of need requirements~~ otherwise  
20 applicable under [this section](#).

21     5. A psychiatric institution licensed prior to July 1, 1999,  
22 may exceed the number of beds authorized under [subsection 2](#)  
23 if the excess beds are used to provide services funded from a  
24 source other than the medical assistance program under chapter  
25 249A. Notwithstanding [subsection 1](#), ~~paragraphs "d" and "e"~~  
26 ~~paragraph "d"~~, and [subsection 2](#), the provision of services using  
27 those excess beds does not require ~~a certificate of need or a~~  
28 review by the department of human services.

29     Sec. 7. Section 135P.1, subsection 3, Code 2019, is amended  
30 to read as follows:

31     3. "*Health facility*" means an institutional health facility  
32 ~~as defined in [section 135.61](#)~~, hospice licensed under chapter  
33 135J, home health agency as defined in [section 144D.1](#),  
34 assisted living program certified under [chapter 231C](#), clinic,  
35 or community health center, and includes any corporation,

1 professional corporation, partnership, limited liability  
2 company, limited liability partnership, or other entity  
3 comprised of such health facilities.

4 Sec. 8. Section 135P.1, Code 2019, is amended by adding the  
5 following new subsection:

6 NEW SUBSECTION. 3A. "*Institutional health facility*" means  
7 any of the following, without regard to whether the facilities  
8 referred to are publicly or privately owned or are organized  
9 for profit or not or whether the facilities are part of or  
10 sponsored by a health maintenance organization:

- 11 a. A hospital.
- 12 b. A health care facility.
- 13 c. An organized outpatient health facility.
- 14 d. An outpatient surgical facility.
- 15 e. A community mental health facility.
- 16 f. A birth center.

17 Sec. 9. Section 231C.3, subsection 2, Code 2019, is amended  
18 to read as follows:

19 2. Each assisted living program operating in this state  
20 shall be certified by the department. If an assisted living  
21 program is voluntarily accredited by a recognized accrediting  
22 entity, the department shall certify the assisted living  
23 program on the basis of the voluntary accreditation. An  
24 assisted living program that is certified by the department on  
25 the basis of voluntary accreditation shall not be subject to  
26 payment of the certification fee prescribed in [section 231C.18](#),  
27 but shall be subject to an administrative fee as prescribed by  
28 rule. ~~An assisted living program certified under this section~~  
29 ~~is exempt from the requirements of [section 135.63](#) relating to~~  
30 ~~certificate of need requirements.~~

31 Sec. 10. Section 249K.2, subsection 6, Code 2019, is amended  
32 to read as follows:

33 6. "*New construction*" means the construction of a new  
34 nursing facility which does not replace an existing licensed  
35 and certified facility ~~and requires the provider to obtain a~~

1 ~~certificate of need pursuant to chapter 135, division VI.~~

2 Sec. 11. Section 505.27, subsection 5, paragraph a, Code  
3 2019, is amended to read as follows:

4 a. *"Health care provider"* means ~~the same as defined in~~  
5 section 135.61, a person licensed or certified under chapter  
6 147, 148, 148A, 148C, 149, 151, 152, 153, 154, 154B, 154F,  
7 or 155A to provide in this state professional health care  
8 service to an individual during that individual's medical care,  
9 treatment, or confinement; a hospital licensed pursuant to  
10 chapter 135B; or a health care facility licensed pursuant to  
11 chapter 135C.

12 Sec. 12. Section 708.3A, subsection 5, paragraph d, Code  
13 2019, is amended to read as follows:

14 d. *"Health care provider"* means an emergency medical care  
15 provider as defined in chapter 147A or a person licensed  
16 or registered under chapter 148, 148C, 148D, or 152 who is  
17 providing or who is attempting to provide emergency medical  
18 services, as defined in section 147A.1, or who is providing  
19 or who is attempting to provide health services ~~as defined~~  
20 ~~in section 135.61~~ in a hospital. A person who commits an  
21 assault under this section against a health care provider in  
22 a hospital, or at the scene or during out-of-hospital patient  
23 transportation in an ambulance, is presumed to know that the  
24 person against whom the assault is committed is a health care  
25 provider.

26 Sec. 13. Section 708.3A, subsection 5, Code 2019, is amended  
27 by adding the following new paragraph:

28 NEW PARAGRAPH. *oe.* *"Health services"* means clinically  
29 related diagnostic, curative, or rehabilitative services, and  
30 includes alcoholism, drug abuse, and mental health services.

31 Sec. 14. REPEAL. Sections 135.61 through 135.73, and  
32 section 135B.5A, Code 2019, are repealed.

33 Sec. 15. CODE EDITOR DIRECTIVE. The Code editor is  
34 directed to modify the title of chapter 135, division VI, as  
35 "Hospital and health care facility reporting, data, analyses,

1 and studies" and to correct internal references in the Code as  
2 necessary due to enactment of this Act.

3 EXPLANATION

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

6 This bill eliminates the certificate of need (CON) process  
7 required prior to the offering or development of a new or  
8 changed institutional health service and makes conforming  
9 changes throughout the Code.