

Senate File 526 - Introduced

SENATE FILE 526
BY COMMITTEE ON HUMAN
RESOURCES

(SUCCESSOR TO SSB 1234)

A BILL FOR

1 An Act relating to the emergency detention of a person
2 experiencing a mental health or substance use crisis and
3 access centers.

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

1 Section 1. Section 125.34, subsections 1, 2, 3, 4, 6, and 7,
2 Code 2021, are amended to read as follows:

3 1. A person with a substance-related disorder due to
4 intoxication or substance-induced incapacitation may come
5 voluntarily to a facility for emergency treatment. A person
6 who appears to be intoxicated or incapacitated by a substance
7 in a public place and in need of help may be taken to a facility
8 or an access center by a peace officer under [section 125.91](#).
9 If the person refuses the proffered help, the person may be
10 arrested and charged with intoxication under [section 123.46](#),
11 if applicable.

12 2. If no facility or access center is readily available
13 the person may be taken to an emergency medical service
14 customarily used for incapacitated persons. The peace officer
15 in detaining the person and in taking the person to a facility
16 or an access center shall make every reasonable effort to
17 protect the person's health and safety. In detaining the
18 person the detaining officer may take reasonable steps for
19 self-protection. Detaining a person under [section 125.91](#) is
20 not an arrest and no entry or other record shall be made to
21 indicate that the person who is detained has been arrested or
22 charged with a crime.

23 3. A person who arrives at a facility or an access center
24 and voluntarily submits to examination shall be examined by a
25 licensed physician and surgeon or osteopathic physician and
26 surgeon or mental health professional as soon as possible after
27 the person arrives at the facility or access center. The
28 person may then be admitted as a patient or referred to another
29 health facility. The referring facility or access center shall
30 arrange for transportation.

31 4. If a person is voluntarily admitted to a facility or
32 an access center, the person's family or next of kin shall be
33 notified as promptly as possible. If an adult patient who is
34 not incapacitated requests that there be no notification, the
35 request shall be respected.

1 6. If the physician and surgeon or osteopathic physician
2 and surgeon in charge of the facility or access center
3 determines it is for the patient's benefit, the patient shall
4 be encouraged to agree to further diagnosis and appropriate
5 voluntary treatment.

6 7. A licensed physician and surgeon or osteopathic
7 physician and surgeon, mental health professional, facility
8 administrator, access center administrator, or an employee or a
9 person acting as or on behalf of an access center administrator
10 or an employee or a person acting as or on behalf of the
11 facility administrator, is not criminally or civilly liable
12 for acts in conformity with [this chapter](#), unless the acts
13 constitute willful malice or abuse.

14 Sec. 2. Section 125.34, Code 2021, is amended by adding the
15 following new subsection:

16 NEW SUBSECTION. 8. For the purposes of this section,
17 "*access center*" means the same as defined in section 331.388.

18 Sec. 3. Section 125.91, subsections 2, 3, and 4, Code 2021,
19 are amended to read as follows:

20 2. a. A peace officer who has reasonable grounds to
21 believe that the circumstances described in [subsection 1](#) are
22 applicable may, without a warrant, take or cause that person
23 to be taken to the nearest available facility referred to in
24 section 125.81, subsection 2, paragraph "*b*" or "*c*", or an access
25 center. Such a person with a substance-related disorder due
26 to intoxication or substance-induced incapacitation who also
27 demonstrates a significant degree of distress or dysfunction
28 may also be delivered to a facility or an access center by
29 someone other than a peace officer upon a showing of reasonable
30 grounds. Upon delivery of the person to a facility or an
31 access center under [this section](#), the attending physician
32 and surgeon or osteopathic physician and surgeon may order
33 treatment of the person, but only to the extent necessary
34 to preserve the person's life or to appropriately control
35 the person's behavior if the behavior is likely to result

1 in physical injury to the person or others if allowed to
2 continue. The peace officer or other person who delivered the
3 person to the facility or access center shall describe the
4 circumstances of the matter to the attending physician and
5 surgeon or osteopathic physician and surgeon. If the person
6 is a peace officer, the peace officer may do so either in
7 person or by written report. If the attending physician and
8 surgeon or osteopathic physician and surgeon has reasonable
9 grounds to believe that the circumstances in subsection
10 1 are applicable, the attending physician shall at once
11 communicate with the nearest available magistrate as defined
12 in [section 801.4, subsection 10](#). The magistrate shall, based
13 upon the circumstances described by the attending physician
14 and surgeon or osteopathic physician and surgeon, give the
15 attending physician and surgeon or osteopathic physician and
16 surgeon oral instructions either directing that the person be
17 released forthwith, or authorizing the person's detention in an
18 appropriate facility or access center. The magistrate may also
19 give oral instructions and order that the detained person be
20 transported to an appropriate facility or access center.

21 *b.* If the magistrate orders that the person be detained, the
22 magistrate shall, by the close of business on the next working
23 day, file a written order with the clerk in the county where it
24 is anticipated that an application may be filed under section
25 125.75. The order may be filed by facsimile if necessary. The
26 order shall state the circumstances under which the person
27 was taken into custody or otherwise brought to a facility or
28 an access center and the grounds supporting the finding of
29 probable cause to believe that the person is a person with
30 a substance-related disorder likely to result in physical
31 injury to the person or others if not detained. The order
32 shall confirm the oral order authorizing the person's detention
33 including any order given to transport the person to an
34 appropriate facility or access center. The clerk shall provide
35 a copy of that order to the attending physician and surgeon or

1 osteopathic physician and surgeon at the facility or access
2 center to which the person was originally taken, any subsequent
3 facility or access center to which the person was transported,
4 and to any law enforcement department or ambulance service that
5 transported the person pursuant to the magistrate's order.

6 3. The attending physician and surgeon or osteopathic
7 physician and surgeon shall examine and may detain the person
8 pursuant to the magistrate's order for a period not to exceed
9 forty-eight hours from the time the order is dated, excluding
10 Saturdays, Sundays, and holidays, unless the order is dismissed
11 by a magistrate. The facility or access center may provide
12 treatment which is necessary to preserve the person's life or
13 to appropriately control the person's behavior if the behavior
14 is likely to result in physical injury to the person or
15 others if allowed to continue or is otherwise deemed medically
16 necessary by the attending physician and surgeon or osteopathic
17 physician and surgeon or mental health professional, but shall
18 not otherwise provide treatment to the person without the
19 person's consent. The person shall be discharged from the
20 facility or access center and released from detention no later
21 than the expiration of the forty-eight-hour period, unless
22 an application for involuntary commitment is filed with the
23 clerk pursuant to [section 125.75](#). The detention of a person
24 by the procedure in [this section](#), and not in excess of the
25 period of time prescribed by [this section](#), shall not render the
26 peace officer, attending physician and surgeon or osteopathic
27 physician and surgeon, ~~or~~ facility, or access center detaining
28 the person liable in a criminal or civil action for false
29 arrest or false imprisonment if the peace officer, attending
30 physician and surgeon or osteopathic physician and surgeon,
31 mental health professional, ~~or~~ facility, or access center had
32 reasonable grounds to believe that the circumstances described
33 in [subsection 1](#) were applicable.

34 4. The cost of detention in a facility or an access center
35 under the procedure prescribed in [this section](#) shall be paid

1 in the same way as if the person had been committed to the
2 facility or access center pursuant to an application filed
3 under section 125.75.

4 Sec. 4. Section 125.91, Code 2021, is amended by adding the
5 following new subsection:

6 NEW SUBSECTION. 5. For the purposes of this section,
7 "access center" means the same as defined in section 331.388.

8 Sec. 5. Section 229.22, subsections 2, 3, 5, and 6, Code
9 2021, are amended to read as follows:

10 2. a. (1) In the circumstances described in subsection
11 1, any peace officer who has reasonable grounds to believe
12 that a person is mentally ill, and because of that illness is
13 likely to physically injure the person's self or others if
14 not immediately detained, may without a warrant take or cause
15 that person to be taken to the nearest available facility or
16 hospital as ~~defined~~ referred to in section 229.11, subsection
17 1, paragraphs "b" and "c", or an access center. A person
18 believed mentally ill, and likely to injure the person's self
19 or others if not immediately detained, may be delivered to a
20 facility or hospital or an access center by someone other than
21 a peace officer.

22 (2) Upon delivery of the person believed mentally ill to
23 the facility, ~~or~~ hospital, or access center, the examining
24 physician, examining physician assistant, examining mental
25 health professional, or examining psychiatric advanced
26 registered nurse practitioner may order treatment of that
27 person, including chemotherapy, but only to the extent
28 necessary to preserve the person's life or to appropriately
29 control behavior by the person which is likely to result
30 in physical injury to that person or others if allowed to
31 continue.

32 (3) The peace officer who took the person into custody,
33 or other party who brought the person to the facility, ~~or~~
34 hospital, or access center, shall describe the circumstances
35 of the matter to the examining physician, examining physician

1 assistant, examining mental health professional, or examining
2 psychiatric advanced registered nurse practitioner. If the
3 person is a peace officer, the peace officer may do so either
4 in person or by written report.

5 (4) If the examining physician, examining physician
6 assistant, examining mental health professional, or examining
7 psychiatric advanced registered nurse practitioner finds
8 that there is reason to believe that the person is seriously
9 mentally impaired, and because of that impairment is likely
10 to physically injure the person's self or others if not
11 immediately detained, the examining physician, examining
12 physician assistant, examining mental health professional, or
13 examining psychiatric advanced registered nurse practitioner
14 shall at once communicate with the nearest available magistrate
15 as defined in [section 801.4, subsection 10](#).

16 (5) The magistrate shall, based upon the circumstances
17 described by the examining physician, examining physician
18 assistant, examining mental health professional, or examining
19 psychiatric advanced registered nurse practitioner, give the
20 examining physician, examining physician assistant, examining
21 mental health professional, or examining psychiatric advanced
22 registered nurse practitioner oral instructions either
23 directing that the person be released forthwith or authorizing
24 the person's detention in an appropriate facility or access
25 center. A peace officer from the law enforcement agency
26 that took the person into custody, if available, during the
27 communication with the magistrate, may inform the magistrate
28 that an arrest warrant has been issued for or charges are
29 pending against the person and request that any oral or written
30 order issued under [this subsection](#) require the facility, ~~or~~
31 hospital, or access center to notify the law enforcement agency
32 about the discharge of the person prior to discharge. The
33 magistrate may also give oral instructions and order that the
34 detained person be transported to an appropriate facility.
35 *b.* If the magistrate orders that the person be detained,

1 the magistrate shall, by the close of business on the next
2 working day, file a written order with the clerk in the county
3 where it is anticipated that an application may be filed
4 under [section 229.6](#). The order may be filed by facsimile if
5 necessary. A peace officer from the law enforcement agency
6 that took the person into custody, if no request was made
7 under paragraph "a", may inform the magistrate that an arrest
8 warrant has been issued for or charges are pending against
9 the person and request that any written order issued under
10 this paragraph require the facility, ~~or~~ hospital, or access
11 center to notify the law enforcement agency about the discharge
12 of the person prior to discharge. The order shall state the
13 circumstances under which the person was taken into custody
14 or otherwise brought to a facility or hospital or an access
15 center, and the grounds supporting the finding of probable
16 cause to believe that the person is seriously mentally impaired
17 and likely to injure the person's self or others if not
18 immediately detained. The order shall also include any law
19 enforcement agency notification requirements if applicable.
20 The order shall confirm the oral order authorizing the person's
21 detention including any order given to transport the person
22 to an appropriate facility, ~~or~~ hospital, or access center. A
23 peace officer from the law enforcement agency that took the
24 person into custody may also request an order, separate from
25 the written order, requiring the facility, ~~or~~ hospital, or
26 access center to notify the law enforcement agency about the
27 discharge of the person prior to discharge. The clerk shall
28 provide a copy of the written order or any separate order to
29 the chief medical officer of the facility, ~~or~~ hospital, or
30 access center to which the person was originally taken, to
31 any subsequent facility to which the person was transported,
32 and to any law enforcement department, ambulance service, or
33 transportation service under contract with a mental health
34 and disability services region that transported the person
35 pursuant to the magistrate's order. A transportation service

1 that contracts with a mental health and disability services
2 region for purposes of this paragraph shall provide a secure
3 transportation vehicle and shall employ staff that has received
4 or is receiving mental health training.

5 c. If an arrest warrant has been issued for or charges are
6 pending against the person, but no court order exists requiring
7 notification to a law enforcement agency under paragraph "a"
8 or "b", and if the peace officer delivers the person to a
9 facility or hospital or an access center and the peace officer
10 notifies the facility, ~~or hospital,~~ or access center in writing
11 on a form prescribed by the department of public safety that
12 the facility, ~~or hospital,~~ or access center notify the law
13 enforcement agency about the discharge of the person prior to
14 discharge, the facility, ~~or hospital,~~ or access center shall
15 do all of the following:

16 (1) Notify the dispatch of the law enforcement agency that
17 employs the peace officer by telephone prior to the discharge
18 of the person from the facility, ~~or hospital,~~ or access center.

19 (2) Notify the law enforcement agency that employs the peace
20 officer by electronic mail prior to the discharge of the person
21 from the facility, ~~or hospital,~~ or access center.

22 3. The chief medical officer of the facility, ~~or hospital,~~
23 or access center shall examine and may detain and care for the
24 person taken into custody under the magistrate's order for a
25 period not to exceed forty-eight hours from the time such order
26 is dated, excluding Saturdays, Sundays and holidays, unless
27 the order is sooner dismissed by a magistrate. The facility,
28 ~~or hospital,~~ or access center may provide treatment which is
29 necessary to preserve the person's life, or to appropriately
30 control behavior by the person which is likely to result in
31 physical injury to the person's self or others if allowed to
32 continue, but may not otherwise provide treatment to the person
33 without the person's consent. The person shall be discharged
34 from the facility, ~~or hospital,~~ or access center and released
35 from custody not later than the expiration of that period,

1 unless an application is sooner filed with the clerk pursuant
 2 to [section 229.6](#). Prior to such discharge, the facility, ~~or~~
 3 hospital, or access center shall, if required by [this section](#),
 4 notify the law enforcement agency requesting such notification
 5 about the discharge of the person. The law enforcement
 6 agency shall retrieve the person no later than six hours after
 7 notification from the facility, ~~or hospital, or access center~~
 8 but in no circumstances shall the detention of the person
 9 exceed the period of time prescribed for detention by this
 10 subsection. The detention of any person by the procedure
 11 and not in excess of the period of time prescribed by this
 12 section shall not render the peace officer, physician, mental
 13 health professional, facility, ~~or hospital, or access center~~
 14 so detaining that person liable in a criminal or civil action
 15 for false arrest or false imprisonment if the peace officer,
 16 physician, mental health professional, facility, ~~or hospital,~~
 17 or access center had reasonable grounds to believe the person
 18 so detained was mentally ill and likely to physically injure
 19 the person's self or others if not immediately detained, or
 20 if the facility, ~~or hospital, or access center~~ was required
 21 to notify a law enforcement agency by [this section](#), and
 22 the law enforcement agency requesting notification prior to
 23 discharge retrieved the person no later than six hours after
 24 the notification, and the detention prior to the retrieval of
 25 the person did not exceed the period of time prescribed for
 26 detention by [this subsection](#).

27 5. The department of public safety shall prescribe the form
 28 to be used when a law enforcement agency desires notification
 29 under [this section](#) from a facility or hospital or an access
 30 center prior to discharge of a person admitted to the facility,
 31 ~~or hospital, or access center~~ and for whom an arrest warrant
 32 has been issued or against whom charges are pending. The
 33 form shall be consistent with all laws, regulations, and
 34 rules relating to the confidentiality or privacy of personal
 35 information or medical records, including but not limited to

1 the federal Health Insurance Portability and Accountability Act
2 of 1996, Pub. L. No. 104-191, and regulations promulgated in
3 accordance with that Act and published in 45 C.F.R. pts. 160
4 - 164.

5 6. A facility or hospital or an access center, which has
6 been notified by a peace officer or a law enforcement agency by
7 delivery of a form as prescribed by the department of public
8 safety indicating that an arrest warrant has been issued
9 for or charges are pending against a person admitted to the
10 facility, ~~or~~ hospital, or access center that does not notify
11 the law enforcement agency about the discharge of the person
12 as required by [subsection 2](#), paragraph "c", shall pay a civil
13 penalty as provided in [section 805.8C, subsection 9](#).

14 Sec. 6. Section 229.22, Code 2021, is amended by adding the
15 following new subsection:

16 NEW SUBSECTION. 7. For the purposes of this section,
17 "access center" means the same as defined in section 331.388.

18 Sec. 7. Section 331.388, Code 2021, is amended by adding the
19 following new subsection:

20 NEW SUBSECTION. 01. "Access center" means the coordinated
21 provision of intake assessment, screening for co-occurring
22 conditions, care coordination, crisis stabilization residential
23 services, subacute mental health services, and substance abuse
24 treatment for persons experiencing a mental health or substance
25 use crisis who do not need inpatient psychiatric hospital
26 treatment, but who do need significant amounts of supports
27 and services not available in other home and community-based
28 settings.

29 Sec. 8. Section 331.397, subsection 5, paragraph a,
30 subparagraph (1), Code 2021, is amended to read as follows:

31 (1) Access centers that are located in crisis residential
32 and subacute residential settings with sixteen beds or fewer
33 ~~that provide immediate, short-term assessments for persons with~~
34 ~~serious mental illness or substance use disorders who do not~~
35 ~~need inpatient psychiatric hospital treatment, but who do need~~

1 ~~significant amounts of supports and services not available in~~
2 ~~the persons' homes or communities.~~

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 relates to the emergency detention of a person
7 experiencing a mental health or substance use crisis and access
8 centers.

9

The bill amends Code sections 124.34 (treatment and
10 services for persons with substance-related disorders due to
11 intoxication and substance-induced incapacitation), 125.91
12 (emergency detention for persons with substance-related
13 disorders), and 229.22 (emergency hospitalization for persons
14 with a serious mental impairment) to allow emergency detention
15 and treatment services in an access center for persons
16 experiencing a mental health or substance use crisis.

17 The bill defines an "access center" as the coordinated
18 provision of intake assessment, screening for co-occurring
19 conditions, care coordination, crisis stabilization residential
20 services, subacute mental health services, and substance abuse
21 treatment for persons experiencing a mental health or substance
22 use crisis who do not need inpatient psychiatric hospital
23 treatment, but who do need significant amounts of supports
24 and services not available in other home and community-based
25 settings.

26

The bill makes a conforming change to Code section 331.397
27 relating to intensive mental health services provided in mental
28 health and disability services regions.