

**Senate Study Bill 1234 - Introduced**

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
HUMAN RESOURCES BILL BY  
CHAIRPERSON EDLER)

**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.