

House File 471 - Introduced

HOUSE FILE 471
BY COMMITTEE ON HEALTH AND
HUMAN SERVICES

(SUCCESSOR TO HSB 176)

A BILL FOR

1 An Act relating to mental health and disability services
2 provided by the state and judicial procedures relating to
3 child in need of assistance proceedings, adoptions, and the
4 confinement of persons found incompetent to stand trial.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1

DIVISION I

2 STATE MENTAL HEALTH INSTITUTES — SPECIALIZATION

3 Section 1. Section 226.1, subsection 2, paragraph a,
4 subparagraph (1), Code 2023, is amended to read as follows:

5 (1) Treatment, training, care, habilitation, and support
6 of persons with mental illness ~~or a substance abuse problem~~
7 including:

8 (a) Specialized treatment of behaviorally complex youth at
a mental health institute located in Independence.

9 (b) Specialized treatment and security for adults ordered
by the court into the custody of the state for the purposes of
competency restoration, adults who have been acquitted of a
crime by reason of insanity, and similarly situated adults at a
10 mental health institute in Cherokee.

11 DIVISION II

12 CHILD IN NEED OF ASSISTANCE — SAFETY PLANS — TEMPORARY
13 REMOVAL

14 Sec. 2. Section 232.79B, subsections 1, 2, and 3, Code 2023,
15 are amended to read as follows:

16 1. For the purposes of this section, "*safety plan*" means
17 a short-term, time-limited agreement entered into between the
18 department and a child's parent or guardian designed to address
19 signs of imminent or impending danger to a child identified by
20 the department.

21 2. Upon the department's determination that potential harm
22 to a child may be mitigated by the development of a safety
23 plan, the department may enter into a safety plan with the
24 child's parent or guardian.

25 3. A safety plan shall not be construed as a removal from
26 parental or guardian custody absent a court order placing
27 the child with a person or facility other than the parent or
28 guardian who entered into the safety plan.

29 Sec. 3. Section 232.95, subsection 4, Code 2023, is amended
30 to read as follows:

31 4. If the court orders the child removed from the home

1 pursuant to subsection 2, paragraph "a" "b" or "c", the court
2 shall hold a hearing to review the removal order within six
3 months unless a dispositional hearing pursuant to section
4 232.99 has been held.

5 Sec. 4. Section 232.102, subsection 10, Code 2023, is
6 amended by striking the subsection.

7 DIVISION III

8 MENTAL HEALTH AND DISABILITY SERVICES REGIONS — GOVERNANCE —
9 CORE SERVICES — REPORT

10 Sec. 5. Section 331.390, subsection 2, Code 2023, is amended
11 by striking the subsection and inserting in lieu thereof the
12 following:

13 2. The governing board shall comply with all of the
14 following requirements:

15 a. Each member of the governing board shall have one vote.
16 b. The membership of the governing board shall not include
17 employees of the department of health and human services or a
18 nonelected employee of a county.

19 c. The membership of the governing board shall consist of
20 the following:

21 (1) Members representing the boards of supervisors of
22 counties comprising the region. Members representing the
23 boards of supervisors for a region's counties shall not exceed
24 forty-nine percent of the total membership of the governing
25 board.

26 (2) One member who is an adult person who utilizes mental
27 health and disability services or is an actively involved
28 relative of such an adult person. This member shall be
29 designated by the regional advisory committee formed by the
30 governing board pursuant to paragraph "d".

31 (3) One member representing adult service providers in
32 the region. This member shall be designated by the regional
33 advisory committee formed by the governing board pursuant to
34 paragraph "d".

35 (4) One member representing children's behavioral health

1 services providers in the region. This member shall be
2 designated by the regional children's advisory committee formed
3 by the governing board pursuant to paragraph "e".

4 (5) One member representing the education system in the
5 region. This member shall be designated by the regional
6 children's advisory committee formed by the governing board
7 pursuant to paragraph "e".

8 (6) One member who is a parent of a child who utilizes
9 children's behavioral health services or who is an actively
10 involved relative of such a child. This member shall be
11 designated by the regional children's advisory committee formed
12 by the governing board pursuant to paragraph "e".

13 (7) One member representing law enforcement in the region.

14 (8) One member representing the judicial system in the
15 region.

16 d. The governing board shall have a regional advisory
17 committee consisting of adults who utilize services or actively
18 involved relatives of such adults, service providers, and
19 regional governing board members.

20 e. The governing board shall have a regional children's
21 advisory committee consisting of parents of children who
22 utilize services or actively involved relatives of such
23 children, a member of the education system, an early childhood
24 advocate, a child welfare advocate, a children's behavioral
25 health service provider, a member of the juvenile court, a
26 pediatrician, a child care provider, a local law enforcement
27 representative, and regional governing board members.

28 Sec. 6. Section 331.397, subsection 4, Code 2023, is amended
29 by adding the following new paragraph:

30 NEW PARAGRAPH. g. Outpatient competency restoration.

31 Sec. 7. Section 331.397A, subsection 4, Code 2023, is
32 amended by adding the following new paragraph:

33 NEW PARAGRAPH. c. Outpatient competency restoration.

34 Sec. 8. Section 331.400, Code 2023, is amended to read as
35 follows:

1 331.400 ~~Quarterly~~ Annual reports.

2 Beginning with the fiscal year beginning July 1, 2022 2023,
3 the department shall deliver on a quarterly an annual basis
4 a report to the general assembly that provides a summary of
5 the status of implementing core services in each region,
6 the accessibility of core services in each region, how each
7 region is using the funding provided under **section 225C.7A**,
8 and recommendations for improvements to the mental health and
9 disability services system in order to attain the outcome
10 improvement goals set by the department consistent with the
11 goals specified in the performance-based contracts under
12 section 225C.7A, subsection 2, paragraph "c", subparagraph (5).

DIVISION IV

ADOPTION NOTICES — HEARINGS

15 Sec. 9. Section 600.11, subsection 2, paragraph a,
16 subparagraph (7), Code 2023, is amended by striking the
17 subparagraph.

18 Sec. 10. Section 600.11, subsection 2, Code 2023, is amended
19 by adding the following new paragraph:

20 NEW PARAGRAPH. *Ob.* (1) At least twenty days prior to the
21 adoption hearing, a copy of the order setting the adoption
22 hearing shall be provided to siblings of the person to be
23 adopted when either of the following applies:

24 (a) The sibling and the person to be adopted have an
25 existing relationship.

26 (b) There is a court finding that ongoing contact with
27 the person to be adopted is in the best interest of each
28 sibling and the person to be adopted was a minor child when the
29 parents of the person to be adopted had their parental rights
30 terminated subsequent to the person to be adopted having been
31 adjudicated a child in need of assistance.

32 (2) Notwithstanding subsection 3, a copy of the order
33 setting the adoption hearing may be provided to a sibling via
34 ordinary mail if the sibling's address is known. A copy of an
35 order setting an adoption hearing sent to a sibling under ten

1 years of age shall be addressed to the sibling's custodian or
2 guardian.

3 (3) This paragraph does not require a copy of the order
4 setting the adoption hearing to be provided to any of the
5 following:

6 (a) A person whose parental rights have been terminated with
7 regard to the person to be adopted.

8 (b) Siblings who are placed with the sibling to be adopted
9 at the time the court issued the order setting the adoption
10 hearing.

11 (c) A previously adopted sibling, unless the siblings were
12 the subjects of child in need of assistance or termination of
13 parental rights proceedings that occurred at the same time.

14 DIVISION V

15 CONFINEMENT OF PERSONS FOUND INCOMPETENT TO STAND TRIAL

16 Sec. 11. Section 812.6, subsection 1, Code 2023, is amended
17 to read as follows:

18 1. If the court finds the defendant does not pose a danger
19 to the public peace and safety, is otherwise qualified for
20 pretrial release, and is willing to cooperate with treatment,
21 the court shall order, as a condition of pretrial release,
22 that the defendant obtain mental health treatment designed to
23 restore the defendant to competency. The costs of treatment
24 pursuant to this subsection shall be paid by the mental
25 health and disability services region for the county of the
26 defendant's residency pursuant to chapter 225C regardless of
27 whether the defendant meets financial eligibility requirements
28 under section 225C.62 or 225C.66.

29 Sec. 12. Section 812.7, Code 2023, is amended to read as
30 follows:

31 **812.7 Mental status reports.**

32 The psychiatrist or licensed doctorate-level psychologist
33 providing evaluating the progress of the outpatient competency
34 restoration treatment to of the defendant, or the director of
35 the facility where the defendant is being held and treated

1 pursuant to a court order, shall provide a written status
2 report to the court regarding the defendant's mental disorder
3 within, methods used to restore competency to the defendant,
4 the defendant's current abilities related to competency,
5 and whether it appears the defendant's competency can be
6 restored within a reasonable amount of time. The psychiatrist,
7 psychologist, or director shall submit an initial report to
8 the court no later than thirty days of after the defendant's
9 placement pursuant to section 812.6. The report shall also
10 ~~state whether it appears that the defendant can be restored to~~
11 ~~competency in a reasonable amount of time.~~ Progress reports
12 ~~shall be provided to the court, and subsequent reports every~~
13 ~~sixty days or less thereafter after the submission of the~~
14 ~~initial report until the defendant's competency is restored or~~
15 ~~the placement of the defendant is terminated.~~

16 Sec. 13. Section 812.8, subsections 1 and 3, Code 2023, are
17 amended to read as follows:

18 1. At any time, upon a finding by a psychiatrist or licensed
19 doctorate-level psychologist that there is a substantial
20 probability that the defendant has acquired the ability
21 to appreciate the charge, understand the proceedings, and
22 effectively assist in the defendant's defense, the psychiatrist
23 or licensed doctorate-level psychologist providing evaluating
24 the progress of the defendant's outpatient treatment to the
25 ~~defendant or the director of the inpatient facility shall~~
26 immediately notify the court. After receiving notice the court
27 shall proceed as provided in subsection 4.

28 3. At any time upon a finding by ~~a treating an evaluating~~
29 psychiatrist or licensed doctorate-level psychologist that
30 there is no substantial probability that the defendant will
31 be restored to competency in a reasonable amount of time,
32 the psychiatrist or licensed doctorate-level psychologist
33 providing evaluating the defendant's outpatient treatment to
34 ~~the defendant or the director of the inpatient facility shall~~
35 immediately notify the court. Upon receiving notification, the

1 court shall proceed as provided under subsection 4.

2 DIVISION VI

3 CONFORMING CODE CHANGES

4 Sec. 14. Section 256.25, subsections 2 and 3, Code 2023, are
5 amended to read as follows:

6 2. A school district, which may collaborate and partner
7 with one or more school districts, area education agencies,
8 accredited nonpublic schools, nonprofit agencies, and
9 institutions that provide children's mental health services,
10 located in mental health and disability services regions
11 providing children's behavioral health services in accordance
12 with chapter 331 225C, subchapter III VII, ~~part 6~~, may apply
13 for a grant under this program to establish a therapeutic
14 classroom in the school district in accordance with this
15 section.

16 3. The department shall develop a grant application
17 and selection and evaluation criteria. Selection criteria
18 shall include a method for prioritizing grant applications
19 submitted by school districts. First priority shall be given
20 to applications submitted by school districts that submitted an
21 application pursuant to this section for the previous fiscal
22 year. Second priority shall be given to applications submitted
23 by school districts that, pursuant to subsection 2, are
24 collaborating and partnering with one or more school districts,
25 area education agencies, accredited nonpublic schools,
26 nonprofit agencies, or institutions that provide mental health
27 services for children. Third priority shall be given to
28 applications submitted by school districts located in mental
29 health and disability services regions providing behavioral
30 health services for children in accordance with chapter 331
31 225C, subchapter III, ~~part 6~~ VII. Grant awards shall be
32 distributed as equitably as possible among small, medium, and
33 large school districts. For purposes of this subsection, a
34 small school district is a district with an actual enrollment
35 of fewer than six hundred pupils; a medium school district is a

1 district with an actual enrollment that is at least six hundred
2 pupils, but less than two thousand five hundred pupils; and a
3 large school district is a district with an actual enrollment
4 of two thousand five hundred or more pupils.

5 DIVISION VII

6 CODE EDITOR DIRECTIVE — MENTAL HEALTH AND DISABILITY SERVICES
7 CODE TRANSFERS

8 Sec. 15. CODE EDITOR DIRECTIVE.

9 1. The Code editor is directed to make the following
10 transfers:

11 a. Section 331.388 to section 225C.55.

12 b. Section 331.389 to section 225C.56.

13 c. Section 331.390, as amended in this Act, to section
14 225C.57.

15 d. Section 331.391, as amended in this Act, to section
16 225C.58.

17 e. Section 331.392 to section 225C.59.

18 f. Section 331.393 to section 225C.60.

19 g. Section 331.394 to section 225C.61.

20 h. Section 331.395 to section 225C.62.

21 i. Section 331.396 to section 225C.63.

22 j. Section 331.396A to section 225C.64.

23 k. Section 331.397, as amended in this Act, to section
24 225C.65.

25 l. Section 331.397A, as amended in this Act, to section
26 225C.66.

27 m. Section 331.398 to section 225C.67.

28 n. Section 331.399 to section 225C.68.

29 o. Section 331.400, as amended in this Act, to section
30 225C.69.

31 2. The Code editor shall correct internal references in the
32 Code and in any enacted legislation as necessary due to the
33 enactment of this section.

34 3. The Code editor may add a new subchapter to chapter
35 225C preceding section 225C.55 entitled "MENTAL HEALTH AND

1 DISABILITY SERVICES — REGIONAL SERVICE SYSTEM — CHILDREN'S
2 BEHAVIORAL HEALTH SYSTEM".

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 mental health and disability services
7 provided by the state and judicial procedures relating to
8 child in need of assistance proceedings, adoptions, and the
9 confinement of persons found incompetent to stand trial. The
10 bill is organized into divisions.

11 DIVISION I — STATE MENTAL HEALTH INSTITUTES —
12 SPECIALIZATION. The bill removes persons who solely have a
13 substance abuse problem as a population eligible to receive
14 treatment, training, care, habilitation, and support at a state
15 mental health institute.

16 The bill designates the state mental health institute
17 located in Independence, Iowa, for specialized treatment of
18 behaviorally complex youth, and designates the state mental
19 health institute located in Cherokee, Iowa, for specialized
20 treatment and security of adults ordered by the court into
21 the custody of the state for the purposes of competency
22 restoration, adults who have been acquitted of a crime by
23 reason of insanity, and similarly situated adults.

24 DIVISION II — CHILD IN NEED OF ASSISTANCE — SAFETY PLANS
25 — TEMPORARY REMOVAL. The bill allows, in a child in need
26 of assistance proceeding, a child's guardian to enter into a
27 safety plan, and prohibits a safety plan from being construed
28 as a child's removal from a guardian absent a court order
29 placing the child with a person or facility other than the
30 guardian who entered into the safety plan.

31 The bill makes a corrective change to Code section
32 232.95(2)(a) relating to hearings concerning the temporary
33 removal of a child in child in need of assistance cases.

34 The bill strikes Code section 232.102(10) relating to
35 transfer of legal custody of a child in a child in need of

1 assistance case for placement and visitation of the child by
2 the child's grandparents, great-grandparents, and certain other
3 adult relatives.

4 DIVISION III — MENTAL HEALTH AND DISABILITY SERVICES
5 REGIONS — GOVERNANCE — CORE SERVICES — REPORT. The bill
6 makes changes to the regional governance of mental health and
7 disability services (MHDS) governing boards. The bill allows
8 each member of an MHDS governing board to have a vote, limits
9 the number of representatives county boards of supervisors
10 may have on an MHDS regional governing board to 49 percent
11 of the total governing board membership, and adds a member
12 representing law enforcement and a member representing the
13 judicial system in an MHDS region as representatives on an MHDS
14 governing board.

15 The bill adds outpatient competency restoration as a core
16 service for both adult and children's MHDS regions.

17 The bill requires the department of health and human
18 services (HHS) to deliver a report on an annual basis to the
19 general assembly that provides a summary of the status of
20 implementing core services in each region, the accessibility
21 of core services in each region, how each region is using the
22 funding provided to MHDS regions, and recommendations for
23 improvements to the MHDS system in order to attain the outcome
24 improvement goals set by HHS. Under current law, HHS is
25 required to give such a report on a quarterly basis.

26 DIVISION IV — ADOPTION NOTICES — HEARINGS. The bill
27 requires an adoption petitioner to provide a copy of the order
28 setting the adoption hearing to siblings of a person to be
29 adopted at least 20 days prior to the adoption hearing when
30 there is either an existing relationship or a court finding
31 that ongoing contact with the person to be adopted is in the
32 best interests of each sibling and the person to be adopted was
33 a minor child when the parents of the person to be adopted had
34 their parental rights terminated subsequent to the person to be
35 adopted having been adjudicated a child in need of assistance.

1 The bill allows a copy of the order setting the adoption
2 hearing to be provided to a sibling via ordinary mail if the
3 sibling's address is known. A copy of an order setting an
4 adoption hearing sent to a sibling under 10 years of age shall
5 be addressed to the sibling's custodian or guardian.

6 The bill does not require a copy of the order setting the
7 adoption hearing to be provided to a person whose parental
8 rights have been terminated with regard to the person to be
9 adopted; siblings who are placed with the sibling to be adopted
10 at the time the court issued the order setting the adoption
11 hearing; or a previously adopted sibling, unless the siblings
12 were the subjects of child in need of assistance or termination
13 of parental rights proceedings that occurred at the same time.

14 DIVISION V — CONFINEMENT OF PERSONS FOUND INCOMPETENT TO
15 STAND TRIAL. The bill requires the MHDS region for the county
16 of a defendant's residency to pay for the costs of mental
17 health treatment the defendant receives as a condition of
18 pretrial release.

19 The bill allows a psychiatrist or licensed doctorate-level
20 psychologist evaluating the progress of a defendant's
21 outpatient competency restoration treatment, or the director
22 of the facility where the defendant is being held and treated
23 pursuant to a court order, to provide a written status report
24 to the court regarding the defendant's mental disorder. Under
25 current law, only the psychiatrist or licensed doctorate
26 level psychologist providing the defendant's treatment or the
27 director of the facility where the defendant is being held and
28 treated can provide the written status report.

29 The bill requires a written status report prepared for an
30 incompetent defendant to include the methods used to restore
31 competency to the defendant, the defendant's current abilities
32 related to competency, and whether it appears the defendant's
33 competency can be restored within a reasonable amount of time.
34 The bill requires a psychiatrist, psychologist, or director to
35 submit an initial report to the court no later than 30 days

1 after the defendant's placement by the court for treatment, and
2 subsequent reports every 60 days or less after submission of
3 the initial report until the defendant's competency is restored
4 or the placement of the defendant is terminated.

5 The bill requires a psychiatrist or licensed doctorate-level
6 psychologist evaluating the progress of a defendant's
7 outpatient competency restoration treatment, or the director
8 of the facility where the defendant is being held and treated
9 pursuant to a court order, to notify a court if there is a
10 substantial probability or is no substantial probability that
11 a defendant formerly deemed incompetent either has acquired
12 the ability to appreciate the charge against the defendant,
13 understand the proceedings, and effectively assist in the
14 defendant's defense or will be restored to competency in
15 a reasonable amount of time. Under current law, only the
16 psychiatrist or licensed doctorate-level psychologist providing
17 the defendant's treatment or the director of the facility where
18 the defendant is being held and treated could provide such
19 notice to a court.

20 DIVISION VI — CONFORMING CODE CHANGE. The bill makes a
21 conforming change to Code section 256.25 (therapeutic classroom
22 incentive grant program — fund).

23 DIVISION VII — CODE TRANSFERS. The bill transfers Code
24 sections 331.388 through 331.400 (mental health and disability
25 services — regional service system — children's behavioral
26 health system) to Code sections 225C.55 through 225C.69 and
27 directs the Code editor to make conforming changes.