

House File 626

1 Amend House File 626 as follows:

2 1. Page ____, after line ____ by inserting:

3 <DIVISION ____

4 PERSONS WITH SUBSTANCE-RELATED DISORDERS

5 AND PERSONS WITH MENTAL ILLNESS

6 Sec. ____ . Section 125.1, subsection 1, Code 2011,
7 is amended to read as follows:

8 1. That ~~substance abusers and persons suffering~~
9 ~~from chemical dependency~~ persons with substance-related
10 disorders be afforded the opportunity to receive
11 quality treatment and directed into rehabilitation
12 services which will help them resume a socially
13 acceptable and productive role in society.

14 Sec. ____ . Section 125.2, subsection 2, Code 2011,
15 is amended by striking the subsection.

16 Sec. ____ . Section 125.2, subsection 5, Code 2011,
17 is amended by striking the subsection and inserting in
18 lieu thereof the following:

19 5. "*Substance-related disorder*" means a diagnosable
20 substance abuse disorder of sufficient duration to meet
21 diagnostic criteria specified within the most current
22 diagnostic and statistical manual of mental disorders
23 published by the American psychiatric association that
24 results in a functional impairment.

25 Sec. ____ . Section 125.2, subsection 9, Code 2011,
26 is amended to read as follows:

27 9. "*Facility*" means an institution, a
28 detoxification center, or an installation providing
29 care, maintenance and treatment for ~~substance abusers~~
30 persons with substance-related disorders licensed
31 by the department under section 125.13, hospitals
32 licensed under chapter 135B, or the state mental health
33 institutes designated by chapter 226.

34 Sec. ____ . Section 125.2, subsections 13, 17, and

1 18, Code 2011, are amended by striking the subsections.

2 Sec. _____. Section 125.9, subsections 2 and 4, Code
3 2011, are amended to read as follows:

4 2. Make contracts necessary or incidental to the
5 performance of the duties and the execution of the
6 powers of the director, including contracts with public
7 and private agencies, organizations and individuals
8 to pay them for services rendered or furnished to
9 ~~substance abusers, chronic substance abusers, or~~
10 ~~intoxicated persons~~ persons with substance-related
11 disorders.

12 4. Coordinate the activities of the department and
13 cooperate with substance abuse programs in this and
14 other states, and make contracts and other joint or
15 cooperative arrangements with state, local or private
16 agencies in this and other states for the treatment
17 of ~~substance abusers, chronic substance abusers, and~~
18 ~~intoxicated persons~~ persons with substance-related
19 disorders and for the common advancement of substance
20 abuse programs.

21 Sec. _____. Section 125.10, subsections 2, 3, 4, 5,
22 7, 8, 9, 11, 13, 15, and 17, Code 2011, are amended to
23 read as follows:

24 2. Develop, encourage, and foster statewide,
25 regional and local plans and programs for the
26 prevention of substance ~~abuse~~ misuse and the treatment
27 of ~~substance abusers, chronic substance abusers, and~~
28 ~~intoxicated persons~~ persons with substance-related
29 disorders in cooperation with public and private
30 agencies, organizations and individuals, and provide
31 technical assistance and consultation services for
32 these purposes.

33 3. Coordinate the efforts and enlist the assistance
34 of all public and private agencies, organizations and

1 individuals interested in the prevention of substance
2 abuse and the treatment of ~~substance abusers, chronic~~
3 ~~substance abusers, and intoxicated persons~~ persons with
4 substance-related disorders.

5 4. Cooperate with the department of human
6 services and the Iowa department of public health
7 in establishing and conducting programs to provide
8 treatment for ~~substance abusers, chronic substance~~
9 ~~abusers, and intoxicated persons~~ persons with
10 substance-related disorders.

11 5. Cooperate with the department of education,
12 boards of education, schools, police departments,
13 courts, and other public and private agencies,
14 organizations, and individuals in establishing programs
15 for the prevention of substance abuse and the treatment
16 of ~~substance abusers, chronic substance abusers, and~~
17 ~~intoxicated persons~~ persons with substance-related
18 disorders, and in preparing relevant curriculum
19 materials for use at all levels of school education.

20 7. Develop and implement, as an integral part
21 of treatment programs, an educational program for
22 use in the treatment of ~~substance abusers, chronic~~
23 ~~substance abusers, and intoxicated persons~~ persons
24 with substance-related disorders, which program shall
25 include the dissemination of information concerning the
26 nature and effects of ~~chemical~~ substances.

27 8. Organize and implement, in cooperation with
28 local treatment programs, training programs for all
29 persons engaged in treatment of ~~substance abusers,~~
30 ~~chronic substance abusers, and intoxicated persons~~
31 persons with substance-related disorders.

32 9. Sponsor and implement research in cooperation
33 with local treatment programs into the causes and
34 nature of substance ~~abuse~~ misuse and treatment of

1 ~~substance abusers, chronic substance abusers, and~~
2 ~~intoxicated persons~~ persons with substance-related
3 disorders, and serve as a clearing house for
4 information relating to substance abuse.

5 11. Develop and implement, with the counsel and
6 approval of the board, the comprehensive plan for
7 treatment of ~~substance abusers, chronic substance~~
8 ~~abusers, and intoxicated persons~~ persons with
9 substance-related disorders in accordance with this
10 chapter.

11 13. Utilize the support and assistance of
12 interested persons in the community, particularly
13 ~~recovered substance abusers and chronic substance~~
14 ~~abusers,~~ persons who have recovered from
15 substance-related disorders to encourage ~~substance~~
16 ~~abusers and chronic substance abusers~~ persons with
17 substance-related disorders to voluntarily undergo
18 treatment.

19 15. Encourage general hospitals and other
20 appropriate health facilities to admit without
21 discrimination ~~substance abusers, chronic substance~~
22 ~~abusers, and intoxicated persons~~ persons with
23 substance-related disorders and to provide them with
24 adequate and appropriate treatment. The director may
25 negotiate and implement contracts with hospitals and
26 other appropriate health facilities with adequate
27 detoxification facilities.

28 17. Review all state health, welfare, education and
29 treatment proposals to be submitted for federal funding
30 under federal legislation, and advise the governor on
31 provisions to be included relating to substance abuse,
32 ~~substance abusers, chronic substance abusers, and~~
33 ~~intoxicated persons~~ and persons with substance-related
34 disorders.

1 Sec. _____. Section 125.12, subsections 1 and 3, Code
2 2011, are amended to read as follows:

3 1. The board shall review the comprehensive
4 substance abuse program implemented by the department
5 for the treatment of ~~substance abusers, chronic~~
6 ~~substance abusers, intoxicated persons~~ persons with
7 substance-related disorders, and concerned family
8 members. Subject to the review of the board, the
9 director shall divide the state into appropriate
10 regions for the conduct of the program and establish
11 standards for the development of the program on
12 the regional level. In establishing the regions,
13 consideration shall be given to city and county lines,
14 population concentrations, and existing substance abuse
15 treatment services.

16 3. The director shall provide for adequate and
17 appropriate treatment for ~~substance abusers, chronic~~
18 ~~substance abusers, intoxicated persons~~ persons with
19 substance-related disorders, and concerned family
20 members admitted under sections 125.33 and 125.34, or
21 under section 125.75, 125.81, or 125.91. Treatment
22 shall not be provided at a correctional institution
23 except for inmates.

24 Sec. _____. Section 125.13, subsection 1, paragraph
25 a, Code 2011, is amended to read as follows:

26 a. Except as provided in subsection 2, a person
27 shall not maintain or conduct any chemical substitutes
28 or antagonists program, residential program, or
29 nonresidential outpatient program, the primary purpose
30 of which is the treatment and rehabilitation of
31 ~~substance abusers or chronic substance abusers~~ persons
32 with substance-related disorders without having first
33 obtained a written license for the program from the
34 department.

1 Sec. ____ . Section 125.13, subsection 2, paragraphs
2 a and c, Code 2011, are amended to read as follows:

3 a. A hospital providing care or treatment to
4 ~~substance abusers or chronic substance abusers~~ persons
5 with substance-related disorders licensed under chapter
6 135B which is accredited by the joint commission
7 on the accreditation of health care organizations,
8 the commission on accreditation of rehabilitation
9 facilities, the American osteopathic association, or
10 another recognized organization approved by the board.
11 All survey reports from the accrediting or licensing
12 body must be sent to the department.

13 c. Private institutions conducted by and
14 for persons who adhere to the faith of any well
15 recognized church or religious denomination for the
16 purpose of providing care, treatment, counseling,
17 or rehabilitation to ~~substance abusers or chronic~~
18 ~~substance abusers~~ persons with substance-related
19 disorders and who rely solely on prayer or other
20 spiritual means for healing in the practice of religion
21 of such church or denomination.

22 Sec. ____ . Section 125.15, Code 2011, is amended to
23 read as follows:

24 **125.15 Inspections.**

25 The department may inspect the facilities and review
26 the procedures utilized by any chemical substitutes
27 or antagonists program, residential program, or
28 nonresidential outpatient program that has as a
29 primary purpose the treatment and rehabilitation of
30 ~~substance abusers or chronic substance abusers~~ persons
31 with substance-related disorders, for the purpose of
32 ensuring compliance with this chapter and the rules
33 adopted pursuant to this chapter. The examination
34 and review may include case record audits and

1 interviews with staff and patients, consistent with the
2 confidentiality safeguards of state and federal law.

3 Sec. _____. Section 125.32, unnumbered paragraph 1,
4 Code 2011, is amended to read as follows:

5 The department shall adopt and may amend and repeal
6 rules for acceptance of persons into the treatment
7 program, subject to chapter 17A, considering available
8 treatment resources and facilities, for the purpose of
9 early and effective treatment of ~~substance abusers,~~
10 ~~chronic substance abusers, intoxicated persons, persons~~
11 with substance-related disorders and concerned family
12 members. In establishing the rules the department
13 shall be guided by the following standards:

14 Sec. _____. Section 125.33, subsections 1, 3, and 4,
15 Code 2011, are amended to read as follows:

16 1. A ~~substance abuser or chronic substance abuser~~
17 person with a substance-related disorder may apply
18 for voluntary treatment or rehabilitation services
19 directly to a facility or to a licensed physician and
20 surgeon or osteopathic physician and surgeon. If the
21 proposed patient is a minor or an incompetent person, a
22 parent, a legal guardian or other legal representative
23 may make the application. The licensed physician
24 and surgeon or osteopathic physician and surgeon or
25 any employee or person acting under the direction or
26 supervision of the physician and surgeon or osteopathic
27 physician and surgeon, or the facility shall not
28 report or disclose the name of the person or the fact
29 that treatment was requested or has been undertaken
30 to any law enforcement officer or law enforcement
31 agency; nor shall such information be admissible as
32 evidence in any court, grand jury, or administrative
33 proceeding unless authorized by the person seeking
34 treatment. If the person seeking such treatment or

1 rehabilitation is a minor who has personally made
2 application for treatment, the fact that the minor
3 sought treatment or rehabilitation or is receiving
4 treatment or rehabilitation services shall not be
5 reported or disclosed to the parents or legal guardian
6 of such minor without the minor's consent, and the
7 minor may give legal consent to receive such treatment
8 and rehabilitation.

9 3. ~~A substance abuser or chronic substance abuser~~
10 person with a substance-related disorder seeking
11 treatment or rehabilitation and who is either addicted
12 or dependent on a chemical substance may first be
13 examined and evaluated by a licensed physician and
14 surgeon or osteopathic physician and surgeon who may
15 prescribe a proper course of treatment and medication,
16 if needed. The licensed physician and surgeon
17 or osteopathic physician and surgeon may further
18 prescribe a course of treatment or rehabilitation
19 and authorize another licensed physician and surgeon
20 or osteopathic physician and surgeon or facility to
21 provide the prescribed treatment or rehabilitation
22 services. Treatment or rehabilitation services may
23 be provided to a person individually or in a group.
24 A facility providing or engaging in treatment or
25 rehabilitation shall not report or disclose to a law
26 enforcement officer or law enforcement agency the name
27 of any person receiving or engaged in the treatment
28 or rehabilitation; nor shall a person receiving or
29 participating in treatment or rehabilitation report
30 or disclose the name of any other person engaged in
31 or receiving treatment or rehabilitation or that the
32 program is in existence, to a law enforcement officer
33 or law enforcement agency. Such information shall
34 not be admitted in evidence in any court, grand jury,

1 or administrative proceeding. However, a person
2 engaged in or receiving treatment or rehabilitation
3 may authorize the disclosure of the person's name and
4 individual participation.

5 4. If a patient receiving inpatient or residential
6 care leaves a facility, the patient shall be encouraged
7 to consent to appropriate outpatient or halfway house
8 treatment. If it appears to the administrator in
9 charge of the facility that the patient is a ~~substance~~
10 ~~abuser or chronic substance abuser~~ person with a
11 substance-related disorder who requires help, the
12 director may arrange for assistance in obtaining
13 supportive services.

14 Sec. ____ . Section 125.34, Code 2011, is amended to
15 read as follows:

16 **125.34 Treatment and services for intoxicated**
17 ~~persons and persons incapacitated by alcohol~~ persons
18 with substance-related disorders due to intoxication and
19 substance-induced incapacitation.

20 1. ~~An intoxicated~~ A person with a substance-related
21 disorder due to intoxication or substance-induced
22 incapacitation may come voluntarily to a facility
23 for emergency treatment. A person who appears to be
24 intoxicated or incapacitated by a ~~chemical~~ substance
25 in a public place and in need of help may be taken to a
26 facility by a peace officer under section 125.91. If
27 the person refuses the proffered help, the person may
28 be arrested and charged with intoxication under section
29 123.46, if applicable.

30 2. If no facility is readily available the
31 person may be taken to an emergency medical service
32 customarily used for incapacitated persons. The
33 peace officer in detaining the person and in taking
34 the person to a facility shall make every reasonable

1 effort to protect the person's health and safety. In
2 detaining the person the detaining officer may take
3 reasonable steps for self-protection. Detaining a
4 person under section 125.91 is not an arrest and no
5 entry or other record shall be made to indicate that
6 the person who is detained has been arrested or charged
7 with a crime.

8 3. A person who arrives at a facility and
9 voluntarily submits to examination shall be examined by
10 a licensed physician, physician assistant, or advanced
11 registered nurse practitioner as soon as possible after
12 the person arrives at the facility. The person may
13 then be admitted as a patient or referred to another
14 health facility. The referring facility shall arrange
15 for transportation.

16 4. If a person is voluntarily admitted to a
17 facility, the person's family or next of kin shall be
18 notified as promptly as possible. If an adult patient
19 who is not incapacitated requests that there be no
20 notification, the request shall be respected.

21 5. A peace officer who acts in compliance with
22 this section is acting in the course of the officer's
23 official duty and is not criminally or civilly liable
24 therefor, unless such acts constitute willful malice
25 or abuse.

26 6. If the physician, physician assistant, or
27 advanced registered nurse practitioner in charge of the
28 facility determines it is for the patient's benefit,
29 the patient shall be encouraged to agree to further
30 diagnosis and appropriate voluntary treatment.

31 7. A licensed physician and surgeon or osteopathic
32 physician and surgeon, a physician assistant, an
33 advanced registered nurse practitioner, a facility
34 administrator, or an employee or a person acting as

1 or on behalf of the facility administrator, is not
2 criminally or civilly liable for acts in conformity
3 with this chapter, unless the acts constitute willful
4 malice or abuse.

5 Sec. _____. Section 125.43, Code 2011, is amended to
6 read as follows:

7 **125.43 Funding at mental health institutes.**

8 Chapter 230 governs the determination of the
9 costs and payment for treatment provided to ~~substance~~
10 ~~abusers or chronic substance abusers~~ persons with
11 substance-related disorders in a mental health
12 institute under the department of human services,
13 except that the charges are not a lien on real estate
14 owned by persons legally liable for support of the
15 ~~substance abuser or chronic substance abuser~~ person
16 with a substance-related disorder and the daily per
17 diem shall be billed at twenty-five percent. The
18 superintendent of a state hospital shall total only
19 those expenditures which can be attributed to the
20 cost of providing inpatient treatment to ~~substance~~
21 ~~abusers or chronic substance abusers~~ persons with
22 substance-related disorders for purposes of determining
23 the daily per diem. Section 125.44 governs the
24 determination of who is legally liable for the cost
25 of care, maintenance, and treatment of a ~~substance~~
26 ~~abuser or chronic substance abuser~~ person with a
27 substance-related disorder and of the amount for which
28 the person is liable.

29 Sec. _____. Section 125.43A, Code 2011, is amended to
30 read as follows:

31 **125.43A Prescreening — exception.**

32 Except in cases of medical emergency or
33 court-ordered admissions, a person shall be admitted
34 to a state mental health institute for substance

1 abuse treatment only after a preliminary intake and
2 assessment by a department-licensed treatment facility
3 or a hospital providing care or treatment for ~~substance~~
4 ~~abusers~~ persons with substance-related disorders
5 licensed under chapter 135B and accredited by the
6 joint commission on the accreditation of health care
7 organizations, the commission on accreditation of
8 rehabilitation facilities, the American osteopathic
9 association, or another recognized organization
10 approved by the board, or by a designee of a
11 department-licensed treatment facility or a hospital
12 other than a state mental health institute, which
13 confirms that the admission is appropriate to the
14 person's substance abuse service needs. A county board
15 of supervisors may seek an admission of a patient
16 to a state mental health institute who has not been
17 confirmed for appropriate admission and the county
18 shall be responsible for one hundred percent of the
19 cost of treatment and services of the patient.

20 Sec. ____ . Section 125.44, Code 2011, is amended to
21 read as follows:

22 **125.44 Agreements with facilities — liability for**
23 **costs.**

24 The director may, consistent with the comprehensive
25 substance abuse program, enter into written
26 agreements with a facility as defined in section
27 125.2 to pay for one hundred percent of the cost of
28 the care, maintenance, and treatment of ~~substance~~
29 ~~abusers and chronic substance abusers~~ persons with
30 substance-related disorders, except when section
31 125.43A applies. All payments for state patients shall
32 be made in accordance with the limitations of this
33 section. Such contracts shall be for a period of no
34 more than one year.

1 The contract may be in the form and contain
2 provisions as agreed upon by the parties. The contract
3 shall provide that the facility shall admit and
4 ~~treat substance abusers and chronic substance abusers~~
5 persons with substance-related disorders regardless
6 of where they have residence. If one payment for
7 care, maintenance, and treatment is not made by the
8 patient or those legally liable for the patient, the
9 payment shall be made by the department directly to
10 the facility. Payments shall be made each month and
11 shall be based upon the rate of payment for services
12 negotiated between the department and the contracting
13 facility. If a facility projects a temporary cash flow
14 deficit, the department may make cash advances at the
15 beginning of each fiscal year to the facility. The
16 repayment schedule for advances shall be part of the
17 contract between the department and the facility. This
18 section does not pertain to patients treated at the
19 mental health institutes.

20 If the appropriation to the department is
21 insufficient to meet the requirements of this section,
22 the department shall request a transfer of funds and
23 section 8.39 shall apply.

24 The ~~substance abuser or chronic substance abuser~~
25 person with a substance-related disorder is legally
26 liable to the facility for the total amount of the cost
27 of providing care, maintenance, and treatment for the
28 ~~substance abuser or chronic substance abuser~~ person
29 with a substance-related disorder while a voluntary or
30 committed patient in a facility. This section does not
31 prohibit any individual from paying any portion of the
32 cost of treatment.

33 The department is liable for the cost of
34 care, treatment, and maintenance of ~~substance~~

1 ~~abusers and chronic substance abusers~~ persons with
2 substance-related disorders admitted to the facility
3 voluntarily or pursuant to section 125.75, 125.81,
4 or 125.91 or section 321J.3 or 124.409 only to those
5 facilities that have a contract with the department
6 under this section, only for the amount computed
7 according to and within the limits of liability
8 prescribed by this section, and only when the ~~substance~~
9 ~~abuser or chronic substance abuser~~ person with a
10 substance-related disorder is unable to pay the costs
11 and there is no other person, firm, corporation, or
12 insurance company bound to pay the costs.

13 The department's maximum liability for the costs
14 of care, treatment, and maintenance of ~~substance~~
15 ~~abusers and chronic substance abusers~~ persons with
16 substance-related disorders in a contracting facility
17 is limited to the total amount agreed upon by the
18 parties and specified in the contract under this
19 section.

20 Sec. _____. Section 125.46, Code 2011, is amended to
21 read as follows:

22 **125.46 County of residence determined.**

23 The facility shall, when a ~~substance abuser~~
24 ~~or chronic substance abuser~~ person with a
25 substance-related disorder is admitted, or as
26 soon thereafter as it receives the proper information,
27 determine and enter upon its records the Iowa county of
28 residence of the ~~substance abuser or chronic substance~~
29 ~~abuser~~ person with a substance-related disorder, or
30 that the person resides in some other state or country,
31 or that the person is unclassified with respect to
32 residence.

33 Sec. _____. Section 125.75, unnumbered paragraph 1,
34 Code 2011, is amended to read as follows:

1 Proceedings for the involuntary commitment or
2 treatment of a ~~chronic substance abuser~~ person with
3 a substance-related disorder to a facility may be
4 commenced by the county attorney or an interested
5 person by filing a verified application with the
6 clerk of the district court of the county where
7 the respondent is presently located or which is
8 the respondent's place of residence. The clerk or
9 the clerk's designee shall assist the applicant in
10 completing the application. The application shall:

11 Sec. _____. Section 125.75, subsection 1, Code 2011,
12 is amended to read as follows:

13 1. State the applicant's belief that the
14 respondent is a ~~chronic substance abuser~~ person with a
15 substance-related disorder.

16 Sec. _____. Section 125.80, subsections 3 and 4, Code
17 2011, are amended to read as follows:

18 3. If the report of a court-designated physician
19 is to the effect that the respondent is not a ~~chronic~~
20 ~~substance abuser~~ person with a substance-related
21 disorder, the court, without taking further action, may
22 terminate the proceeding and dismiss the application on
23 its own motion and without notice.

24 4. If the report of a court-designated physician
25 is to the effect that the respondent is a ~~chronic~~
26 ~~substance abuser~~ person with a substance-related
27 disorder, the court shall schedule a commitment
28 hearing as soon as possible. The hearing shall be
29 held not more than forty-eight hours after the report
30 is filed, excluding Saturdays, Sundays, and holidays,
31 unless an extension for good cause is requested by
32 the respondent, or as soon thereafter as possible if
33 the court considers that sufficient grounds exist for
34 delaying the hearing.

1 Sec. _____. Section 125.81, subsection 1, Code 2011,
2 is amended to read as follows:

3 1. If a person filing an application requests that
4 a respondent be taken into immediate custody, and the
5 court upon reviewing the application and accompanying
6 documentation, finds probable cause to believe that the
7 respondent is a ~~chronic substance abuser~~ person with
8 a substance-related disorder who is likely to injure
9 the person or other persons if allowed to remain at
10 liberty, the court may enter a written order directing
11 that the respondent be taken into immediate custody
12 by the sheriff, and be detained until the commitment
13 hearing, which shall be held no more than five days
14 after the date of the order, except that if the fifth
15 day after the date of the order is a Saturday, Sunday,
16 or a holiday, the hearing may be held on the next
17 business day. The court may order the respondent
18 detained for the period of time until the hearing is
19 held, and no longer except as provided in section
20 125.88, in accordance with subsection 2, paragraph
21 "a", if possible, and if not, then in accordance with
22 subsection 2, paragraph "b", or, only if neither of
23 these alternatives is available in accordance with
24 subsection 2, paragraph "c".

25 Sec. _____. Section 125.82, subsection 4, Code 2011,
26 is amended to read as follows:

27 4. The respondent's welfare is paramount, and the
28 hearing shall be tried as a civil matter and conducted
29 in as informal a manner as is consistent with orderly
30 procedure. Discovery as permitted under the Iowa rules
31 of civil procedure is available to the respondent. The
32 court shall receive all relevant and material evidence,
33 but the court is not bound by the rules of evidence.
34 A presumption in favor of the respondent exists, and

1 the burden of evidence and support of the contentions
2 made in the application shall be upon the person who
3 filed the application. If upon completion of the
4 hearing the court finds that the contention that the
5 respondent is a ~~chronic substance abuser~~ person with a
6 substance-related disorder has not been sustained by
7 clear and convincing evidence, the court shall deny the
8 application and terminate the proceeding.

9 Sec. _____. Section 125.83, Code 2011, is amended to
10 read as follows:

11 **125.83 Placement for evaluation.**

12 If upon completion of the commitment hearing,
13 the court finds that the contention that the
14 respondent is a ~~chronic substance abuser~~ person with
15 a substance-related disorder has been sustained by
16 clear and convincing evidence, the court shall order
17 the respondent placed at a facility or under the
18 care of a suitable facility on an outpatient basis as
19 expeditiously as possible for a complete evaluation
20 and appropriate treatment. The court shall furnish to
21 the facility at the time of admission or outpatient
22 placement, a written statement of facts setting forth
23 the evidence on which the finding is based. The
24 administrator of the facility shall report to the court
25 no more than fifteen days after the individual is
26 admitted to or placed under the care of the facility,
27 which shall include the chief medical officer's
28 recommendation concerning substance abuse treatment.
29 An extension of time may be granted for a period not
30 to exceed seven days upon a showing of good cause. A
31 copy of the report shall be sent to the respondent's
32 attorney who may contest the need for an extension of
33 time if one is requested. If the request is contested,
34 the court shall make an inquiry as it deems appropriate

1 and may either order the respondent released from
2 the facility or grant extension of time for further
3 evaluation. If the administrator fails to report to
4 the court within fifteen days after the individual is
5 admitted to the facility, and no extension of time has
6 been requested, the administrator is guilty of contempt
7 and shall be punished under chapter 665. The court
8 shall order a rehearing on the application to determine
9 whether the respondent should continue to be held at
10 the facility.

11 Sec. _____. Section 125.83A, subsection 1, Code 2011,
12 is amended to read as follows:

13 1. If upon completion of the commitment hearing,
14 the court finds that the contention that the
15 respondent is a ~~chronic substance abuser~~ person with a
16 substance-related disorder has been sustained by clear
17 and convincing evidence, and the court is furnished
18 evidence that the respondent is eligible for care
19 and treatment in a facility operated by the United
20 States department of veterans affairs or another
21 agency of the United States government and that the
22 facility is willing to receive the respondent, the
23 court may so order. The respondent, when so placed in
24 a facility operated by the United States department
25 of veterans affairs or another agency of the United
26 States government within or outside of this state,
27 shall be subject to the rules of the United States
28 department of veterans affairs or other agency, but
29 shall not lose any procedural rights afforded the
30 respondent by this chapter. The chief officer of the
31 facility shall have, with respect to the respondent
32 so placed, the same powers and duties as the chief
33 medical officer of a hospital in this state would
34 have in regard to submission of reports to the court,

1 retention of custody, transfer, convalescent leave, or
2 discharge. Jurisdiction is retained in the court to
3 maintain surveillance of the respondent's treatment and
4 care, and at any time to inquire into the respondent's
5 condition and the need for continued care and custody.

6 Sec. _____. Section 125.84, subsections 2, 3, and 4,
7 Code 2011, are amended to read as follows:

8 2. That the respondent is a ~~chronic substance~~
9 ~~abuser~~ person with a substance-related disorder who
10 is in need of full-time custody, care, and treatment
11 in a facility, and is considered likely to benefit
12 from treatment. If the report so states, the court
13 shall enter an order which may require the respondent's
14 continued placement and commitment to a facility for
15 appropriate treatment.

16 3. That the respondent is a ~~chronic substance~~
17 ~~abuser~~ person with a substance-related disorder who is
18 in need of treatment, but does not require full-time
19 placement in a facility. If the report so states,
20 the report shall include the chief medical officer's
21 recommendation for treatment of the respondent on an
22 outpatient or other appropriate basis, and the court
23 shall enter an order which may direct the respondent to
24 submit to the recommended treatment. The order shall
25 provide that if the respondent fails or refuses to
26 submit to treatment, as directed by the court's order,
27 the court may order that the respondent be taken into
28 immediate custody as provided by section 125.81 and,
29 following notice and hearing held in accordance with
30 the procedures of sections 125.77 and 125.82, may order
31 the respondent treated as a patient requiring full-time
32 custody, care, and treatment as provided in subsection
33 2, and may order the respondent involuntarily committed
34 to a facility.

1 4. That the respondent is a ~~chronic substance~~
2 ~~abuser~~ person with a substance-related disorder who is
3 in need of treatment, but in the opinion of the chief
4 medical officer is not responding to the treatment
5 provided. If the report so states, the report shall
6 include the facility administrator's recommendation
7 for alternative placement, and the court shall enter
8 an order which may direct the respondent's transfer
9 to the recommended placement or to another placement
10 after consultation with respondent's attorney and the
11 facility administrator who made the report under this
12 subsection.

13 Sec. _____. Section 125.91, subsections 1, 2, and 3,
14 Code 2011, are amended to read as follows:

15 1. The procedure prescribed by this section
16 shall only be used for ~~an intoxicated~~ a person with
17 a substance-related disorder due to intoxication or
18 substance-induced incapacitation who has threatened,
19 attempted, or inflicted physical self-harm or harm on
20 another, and is likely to inflict physical self-harm or
21 harm on another unless immediately detained, or who is
22 incapacitated by a ~~chemical~~ substance, if that person
23 cannot be taken into immediate custody under sections
24 125.75 and 125.81 because immediate access to the court
25 is not possible.

26 2. a. A peace officer who has reasonable
27 grounds to believe that the circumstances described
28 in subsection 1 are applicable may, without a
29 warrant, take or cause that person to be taken to the
30 nearest available facility referred to in section
31 125.81, subsection 2, paragraph "b" or "c". Such
32 ~~an intoxicated or incapacitated~~ a person with a
33 substance-related disorder due to intoxication or
34 substance-induced incapacitation who also demonstrates

1 a significant degree of distress or dysfunction may
2 also be delivered to a facility by someone other
3 than a peace officer upon a showing of reasonable
4 grounds. Upon delivery of the person to a facility
5 under this section, the examining physician, physician
6 assistant, or advanced registered nurse practitioner
7 may order treatment of the person, but only to the
8 extent necessary to preserve the person's life or to
9 appropriately control the person's behavior if the
10 behavior is likely to result in physical injury to the
11 person or others if allowed to continue. The peace
12 officer or other person who delivered the person to
13 the facility shall describe the circumstances of the
14 matter to the examining physician, physician assistant,
15 or advanced registered nurse practitioner. If the
16 person is a peace officer, the peace officer may do
17 so either in person or by written report. If the
18 examining physician, physician assistant, or advanced
19 registered nurse practitioner has reasonable grounds
20 to believe that the circumstances in subsection 1
21 are applicable, the examining physician, physician
22 assistant, or advanced registered nurse practitioner
23 shall at once communicate with the nearest available
24 magistrate as defined in section 801.4, subsection 10.
25 The magistrate shall, based upon the circumstances
26 described by the examining physician, physician
27 assistant, or advanced registered nurse practitioner
28 give the examining physician, physician assistant,
29 or advanced registered nurse practitioner oral
30 instructions either directing that the person be
31 released forthwith, or authorizing the person's
32 detention in an appropriate facility. The magistrate
33 may also give oral instructions and order that the
34 detained person be transported to an appropriate

1 facility.

2 *b.* If the magistrate orders that the person be
3 detained, the magistrate shall, by the close of
4 business on the next working day, file a written order
5 with the clerk in the county where it is anticipated
6 that an application may be filed under section 125.75.
7 The order may be filed by facsimile if necessary. The
8 order shall state the circumstances under which the
9 person was taken into custody or otherwise brought to
10 a facility and the grounds supporting the finding of
11 probable cause to believe that the person is a ~~chronic~~
12 ~~substance abuser~~ person with a substance-related
13 disorder likely to result in physical injury to the
14 person or others if not detained. The order shall
15 confirm the oral order authorizing the person's
16 detention including any order given to transport the
17 person to an appropriate facility. The clerk shall
18 provide a copy of that order to the ~~chief medical~~
19 ~~officer of the facility~~ attending physician, physician
20 assistant, or advanced registered nurse practitioner to
21 which the person was originally taken, any subsequent
22 facility to which the person was transported, and
23 to any law enforcement department or ambulance
24 service that transported the person pursuant to the
25 magistrate's order.

26 3. The ~~chief medical officer of the facility~~
27 attending physician, physician assistant, or advanced
28 registered nurse practitioner shall examine and may
29 detain the person pursuant to the magistrate's order
30 for a period not to exceed forty-eight hours from
31 the time the order is dated, excluding Saturdays,
32 Sundays, and holidays, unless the order is dismissed
33 by a magistrate. The facility may provide treatment
34 which is necessary to preserve the person's life or

1 to appropriately control the person's behavior if the
2 behavior is likely to result in physical injury to the
3 person or others if allowed to continue or is otherwise
4 deemed medically necessary by the ~~chief medical officer~~
5 attending physician, physician assistant, or advanced
6 registered nurse practitioner, but shall not otherwise
7 provide treatment to the person without the person's
8 consent. The person shall be discharged from the
9 facility and released from detention no later than the
10 expiration of the forty-eight-hour period, unless an
11 application for involuntary commitment is filed with
12 the clerk pursuant to section 125.75. The detention
13 of a person by the procedure in this section, and not
14 in excess of the period of time prescribed by this
15 section, shall not render the peace officer, attending
16 physician, physician assistant, or advanced registered
17 nurse practitioner, or facility detaining the person
18 liable in a criminal or civil action for false arrest
19 or false imprisonment if the peace officer, physician,
20 or facility had reasonable grounds to believe that
21 the circumstances described in subsection 1 were
22 applicable.

23 Sec. ____ . NEW SECTION. 125.95 **Advocates — duties**
24 **— compensation — state and county liability.**

25 1. a. In each county with a population of three
26 hundred thousand or more inhabitants, the board
27 of supervisors shall appoint an individual who has
28 demonstrated by prior activities an informed concern
29 for the welfare and rehabilitation of persons with
30 substance-related disorders, and who is not an officer
31 or employee of the department of public health nor
32 of any agency or facility providing care or treatment
33 to persons with substance-related disorders, to act
34 as an advocate representing the interests of persons

1 involuntarily committed by the court, in any matter
2 relating to the persons' commitment for treatment
3 under section 125.84 or 125.86. In each county with a
4 population of under three hundred thousand inhabitants,
5 the chief judge of the judicial district encompassing
6 the county shall appoint the advocate.

7 *b.* The court or, if the advocate is appointed
8 by the county board of supervisors, the board shall
9 assign the advocate appointed from the person's county
10 of legal settlement to represent the interests of the
11 person. If a person has no county of legal settlement,
12 the court or, if the advocate is appointed by the
13 county board of supervisors, the board shall assign the
14 advocate appointed from the county where the treatment
15 facility is located to represent the interests of the
16 person.

17 *c.* The advocate's responsibility with respect to
18 any person shall begin at whatever time the attorney
19 employed or appointed to represent that person as
20 respondent in commitment proceedings, conducted under
21 sections 125.75 to 125.83, reports to the court that
22 the attorney's services are no longer required and
23 requests the court's approval to withdraw as counsel
24 for that person. However, if the person is found
25 to be a person with a substance-related disorder at
26 the commitment hearing, the attorney representing
27 the person shall automatically be relieved of
28 responsibility in the case and an advocate shall be
29 assigned to the person at the conclusion of the hearing
30 unless the attorney indicates an intent to continue the
31 attorney's services and the court so directs. If the
32 court directs the attorney to remain on the case, the
33 attorney shall assume all the duties of an advocate.
34 The clerk shall furnish the advocate with a copy of the

1 court's order approving the withdrawal and shall inform
2 the person of the name of the person's advocate.

3 d. With regard to each person whose interests the
4 advocate is required to represent pursuant to this
5 section, the advocate's duties shall include all of the
6 following:

7 (1) To review each report submitted pursuant to
8 sections 125.84 and 125.86.

9 (2) If the advocate is not an attorney, to advise
10 the court at any time it appears that the services
11 of an attorney are required to properly safeguard the
12 person's interests.

13 (3) To be readily accessible to communications from
14 the person and to originate communications with the
15 patient within five days of the person's commitment.

16 (4) To visit the person within fifteen days of the
17 person's commitment and periodically thereafter.

18 (5) To communicate with medical personnel treating
19 the person and to review the person's medical records
20 pursuant to section 125.93.

21 (6) To file with the court quarterly reports, and
22 additional reports as the advocate feels necessary
23 or as required by the court, in a form prescribed by
24 the court. The reports shall state what actions the
25 advocate has taken with respect to each person and the
26 amount of time spent.

27 2. The treatment facility to which a person is
28 committed shall grant all reasonable requests of the
29 advocate to visit the person, to communicate with
30 medical personnel treating the person, and to review
31 the person's medical records pursuant to section
32 125.93. An advocate shall not disseminate information
33 from a person's medical records to any other person
34 unless done for official purposes in connection with

1 the advocate's duties pursuant to this chapter or when
2 required by law.

3 3. The court or, if the advocate is appointed
4 by the county board of supervisors, the board shall
5 prescribe reasonable compensation for the services of
6 the advocate. The compensation shall be based upon
7 the reports filed by the advocate with the court. The
8 advocate's compensation shall be paid by the county
9 in which the court is located, either on order of the
10 court or, if the advocate is appointed by the county
11 board of supervisors, on the direction of the board.
12 If the advocate is appointed by the court, the advocate
13 is an employee of the state for purposes of chapter
14 669. If the advocate is appointed by the county board
15 of supervisors, the advocate is an employee of the
16 county for purposes of chapter 670. If the person or
17 another person who is legally liable for the person's
18 support is not indigent, the board shall recover the
19 costs of compensating the advocate from that other
20 person. If that other person has an income level as
21 determined pursuant to section 815.9 greater than
22 one hundred percent but not more than one hundred
23 fifty percent of the poverty guidelines, at least
24 one hundred dollars of the advocate's compensation
25 shall be recovered in the manner prescribed by the
26 county board of supervisors. If that other person
27 has an income level as determined pursuant to section
28 815.9 greater than one hundred fifty percent of the
29 poverty guidelines, at least two hundred dollars of
30 the advocate's compensation shall be recovered in
31 substantially the same manner prescribed by the county
32 board of supervisors as provided in section 815.9.

33 Sec. _____. Section 229.1, subsection 14, Code 2011,
34 is amended by striking the subsection and inserting in

1 lieu thereof the following:

2 14. "*Mental health professional*" means the same as
3 defined in section 228.1.

4 Sec. _____. Section 229.1, subsection 16, Code 2011,
5 is amended to read as follows:

6 16. "*Serious emotional injury*" is an injury
7 which does not necessarily exhibit any physical
8 characteristics, but which can be recognized and
9 diagnosed by a licensed physician or other ~~qualified~~
10 mental health professional and which can be causally
11 connected with the act or omission of a person who is,
12 or is alleged to be, mentally ill.

13 Sec. _____. Section 229.10, subsection 1, paragraphs
14 b and c, Code 2011, are amended to read as follows:

15 *b.* Any licensed physician conducting an examination
16 pursuant to this section may consult with or request
17 the participation in the examination of any ~~qualified~~
18 mental health professional, and may include with or
19 attach to the written report of the examination any
20 findings or observations by any ~~qualified~~ mental
21 health professional who has been so consulted or has so
22 participated in the examination.

23 *c.* If the respondent is not taken into custody
24 under section 229.11, but the court is subsequently
25 informed that the respondent has declined to be
26 examined by the licensed physician or physicians
27 pursuant to the court order, the court may order
28 ~~such limited detention of that~~ that the respondent ~~as is~~
29 necessary be detained for a twenty-three-hour period
30 to facilitate the examination of the respondent by
31 the licensed physician or physicians or other mental
32 health professionals. Except as otherwise provided,
33 the court may also order that payment be made to the
34 appropriate provider for services associated with

1 the twenty-three-hour detention period under this
2 paragraph.

3 Sec. _____. Section 229.12, subsection 3, paragraph
4 b, Code 2011, is amended to read as follows:

5 b. The licensed physician or ~~qualified~~ mental
6 health professional who examined the respondent shall
7 be present at the hearing unless the court for good
8 cause finds that the licensed physician's or ~~qualified~~
9 mental health professional's presence or testimony
10 is not necessary. The applicant, respondent, and
11 the respondent's attorney may waive the presence or
12 the telephonic appearance of the licensed physician
13 or ~~qualified~~ mental health professional who examined
14 the respondent and agree to submit as evidence the
15 written report of the licensed physician or ~~qualified~~
16 mental health professional. The respondent's
17 attorney shall inform the court if the respondent's
18 attorney reasonably believes that the respondent, due
19 to diminished capacity, cannot make an adequately
20 considered waiver decision. "Good cause" for finding
21 that the testimony of the licensed physician or
22 ~~qualified~~ mental health professional who examined the
23 respondent is not necessary may include but is not
24 limited to such a waiver. If the court determines that
25 the testimony of the licensed physician or ~~qualified~~
26 mental health professional is necessary, the court may
27 allow the licensed physician or the ~~qualified~~ mental
28 health professional to testify by telephone.

29 Sec. _____. Section 229.21, subsection 2, Code 2011,
30 is amended to read as follows:

31 2. When an application for involuntary
32 hospitalization under this chapter or an application
33 for involuntary commitment or treatment of ~~chronic~~
34 ~~substance abusers~~ persons with substance-related

1 disorders under sections 125.75 to 125.94 is filed with
2 the clerk of the district court in any county for which
3 a judicial hospitalization referee has been appointed,
4 and no district judge, district associate judge, or
5 magistrate who is admitted to the practice of law in
6 this state is accessible, the clerk shall immediately
7 notify the referee in the manner required by section
8 229.7 or section 125.77. The referee shall discharge
9 all of the duties imposed upon the court by sections
10 229.7 to 229.22 or sections 125.75 to 125.94 in the
11 proceeding so initiated. Subject to the provisions of
12 subsection 4, orders issued by a referee, in discharge
13 of duties imposed under this section, shall have the
14 same force and effect as if ordered by a district
15 judge. However, any commitment to a facility regulated
16 and operated under chapter 135C, shall be in accordance
17 with section 135C.23.

18 Sec. ____ . Section 229.21, subsection 3, paragraphs
19 a and b, Code 2011, are amended to read as follows:

20 a. Any respondent with respect to whom the
21 magistrate or judicial hospitalization referee has
22 found the contention that the respondent is seriously
23 mentally impaired or a ~~chronic substance abuser~~ person
24 with a substance-related disorder sustained by clear
25 and convincing evidence presented at a hearing held
26 under section 229.12 or section 125.82, may appeal from
27 the magistrate's or referee's finding to a judge of the
28 district court by giving the clerk notice in writing,
29 within ten days after the magistrate's or referee's
30 finding is made, that an appeal is taken. The appeal
31 may be signed by the respondent or by the respondent's
32 next friend, guardian, or attorney.

33 b. An order of a magistrate or judicial
34 hospitalization referee with a finding that the

1 respondent is seriously mentally impaired or a ~~chronic~~
2 ~~substance-abuser~~ person with a substance-related
3 disorder shall include the following notice, located
4 conspicuously on the face of the order:

5 NOTE: The respondent may appeal from this order to a
6 judge of the district court by giving written notice of
7 the appeal to the clerk of the district court within
8 ten days after the date of this order. The appeal may
9 be signed by the respondent or by the respondent's next
10 friend, guardian, or attorney. For a more complete
11 description of the respondent's appeal rights, consult
12 section 229.21 of the Code of Iowa or an attorney.

13 Sec. _____. Section 229.21, subsection 4, Code 2011,
14 is amended to read as follows:

15 4. If the appellant is in custody under the
16 jurisdiction of the district court at the time
17 of service of the notice of appeal, the appellant
18 shall be discharged from custody unless an order
19 that the appellant be taken into immediate custody
20 has previously been issued under section 229.11 or
21 section 125.81, in which case the appellant shall
22 be detained as provided in that section until the
23 hospitalization or commitment hearing before the
24 district judge. If the appellant is in the custody of
25 a hospital or facility at the time of service of the
26 notice of appeal, the appellant shall be discharged
27 from custody pending disposition of the appeal unless
28 the chief medical officer, not later than the end of
29 the next secular day on which the office of the clerk
30 is open and which follows service of the notice of
31 appeal, files with the clerk a certification that in
32 the chief medical officer's opinion the appellant is
33 seriously mentally ill or a ~~substance-abuser~~ person
34 with a substance-related disorder. In that case, the

1 appellant shall remain in custody of the hospital
2 or facility until the hospitalization or commitment
3 hearing before the district court.

4 Sec. _____. Section 230.15, unnumbered paragraph 2,
5 Code 2011, is amended to read as follows:

6 A ~~substance abuser or chronic substance abuser~~
7 person with a substance-related disorder is legally
8 liable for the total amount of the cost of providing
9 care, maintenance, and treatment for the ~~substance~~
10 ~~abuser or chronic substance abuser~~ person with a
11 substance-related disorder while a voluntary or
12 committed patient. When a portion of the cost is paid
13 by a county, the ~~substance abuser or chronic substance~~
14 ~~abuser~~ person with a substance-related disorder is
15 legally liable to the county for the amount paid.
16 The ~~substance abuser or chronic substance abuser~~
17 person with a substance-related disorder shall assign
18 any claim for reimbursement under any contract of
19 indemnity, by insurance or otherwise, providing for
20 the ~~abuser's~~ person's care, maintenance, and treatment
21 in a state hospital to the state. Any payments
22 received by the state from or on behalf of a ~~substance~~
23 ~~abuser or chronic substance abuser~~ person with a
24 substance-related disorder shall be in part credited
25 to the county in proportion to the share of the costs
26 paid by the county. Nothing in this section shall be
27 construed to prevent a relative or other person from
28 voluntarily paying the full actual cost or any portion
29 of the care and treatment of any person with mental
30 illness, ~~substance abuser, or chronic substance abuser~~
31 or a substance-related disorder as established by the
32 department of human services.

33 Sec. _____. Section 232.116, subsection 1, paragraph
34 1, subparagraph (2), Code 2011, is amended to read as

1 follows:

2 (2) The parent has a severe, ~~chronic substance~~
3 ~~abuse problem,~~ substance-related disorder and presents
4 a danger to self or others as evidenced by prior acts.>

5 2. Page 3, after line 24 by inserting:

6 <Sec. _____. Section 600A.8, subsection 8, paragraph
7 a, Code 2011, is amended to read as follows:

8 a. The parent has been determined to be a ~~chronic~~
9 ~~substance abuser~~ person with a substance-related
10 disorder as defined in section 125.2 and the parent has
11 committed a second or subsequent domestic abuse assault
12 pursuant to section 708.2A.

13 Sec. _____. Section 602.4201, subsection 3, paragraph
14 h, Code 2011, is amended to read as follows:

15 h. Involuntary commitment or treatment of ~~substance~~
16 ~~abusers~~ persons with a substance-related disorders.

17 Sec. _____. CONFORMING PROVISIONS. The legislative
18 services agency shall prepare a study bill for
19 consideration by the committee on human resources
20 of the senate and the house of representatives for
21 the 2012 legislative session, providing any addition
22 necessary conforming Code changes for implementation of
23 the provisions of this division of this Act.

24 Sec. _____. EFFECTIVE DATE. This division of this
25 Act takes effect July 1, 2012.>

26 3. Title page, by striking line 1 and inserting <An
27 Act relating to mental>

28 4. By renumbering as necessary.