

messenger when transporting such a drug or medicine in the same unbroken package in which the drug or medicine was delivered to that person for transportation.

Sec. 8. Section 155.26, unnumbered paragraph 2, Code 1985, is amended to read as follows:

This section ~~shall~~ does not apply to the possession by a certified licensed optometrist or therapeutically certified optometrist of those diagnostic or therapeutic agents which are authorized for use by certified licensed optometrists or therapeutically certified optometrists pursuant to section 154.1. The dispensing by pharmacists to certified licensed optometrists or therapeutically certified optometrists of those diagnostic or therapeutic agents which are authorized for their use by ~~certified licensed optometrists~~ pursuant to section 154.1 shall be permitted.

Approved May 31, 1985

## CHAPTER 249

### MENTALLY RETARDED, ILL OR DEVELOPMENTALLY DISABLED — RIGHTS

*S.F. 473*

**AN ACT** relating to the rights of a person having mental retardation, a developmental disability or chronic mental illness and providing an effective date and an appropriation.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Chapter 225C is amended by adding sections 2 through 5\* as a new division.

Sec. 2. **NEW SECTION. 225C.25 SHORT TITLE.**

Sections 225C.25 through 225C.28 shall be known as "the bill of rights of persons with mental retardation, developmental disabilities, or chronic mental illness".

Sec. 3. **NEW SECTION. 225C.26 SCOPE.**

These rights apply to any person with mental retardation, a developmental disability, or chronic mental illness who receives services, which are funded in whole or in part by public funds or services which are permitted under Iowa law.

Sec. 4. **NEW SECTION. 225C.27 PURPOSE.**

Sections 225C.25 through 225C.28 shall be liberally construed and applied to promote their purposes and the stated rights. The division, in coordination with appropriate agencies, shall adopt rules to implement the purpose of sections 225C.25 through 225C.28 which include, but are not limited to the following:

1. Promotion of the human dignity and protection of the constitutional and statutory rights of persons with mental retardation, developmental disabilities, or chronic mental illness in the state.

2. Encouraging the development of the ability and potential of each person with mental retardation, developmental disabilities, or chronic mental illness in the state to the fullest extent possible.

3. Ensuring that the recipients of services shall not be deprived of any rights, benefits, or privileges guaranteed by law, the Constitution of the State of Iowa or the Constitution of the United States solely on account of the receipt of the services.

\*6 probably intended

Sec. 5. NEW SECTION. 225C.28 RIGHTS.

The rights of persons described in section 225C.26 include, but are not limited to:

1. Comprehensive evaluation and diagnosis. A person suspected of being mentally retarded, developmentally disabled, or chronically mentally ill or applying for developmental disabilities services, has the right to receive a comprehensive diagnosis and evaluation adapted to the cultural background, primary language, and ethnic origin of the person.

2. Individual treatment, habilitation, and program plan. Persons with mental retardation, a developmental disability, or chronic mental illness who require services have the right to an individual treatment, habilitation, and program plan.

3. Individualized treatment, habilitation, and program services. A person with a known or suspected mental retardation, developmentally disabled, or chronic mental illness condition shall not be denied treatment, habilitation, and program services because of age, sex, ethnic origin, marital status, ability to pay, criminal record, degree of disability or illness, or mental retardation condition.

4. Periodic review of treatment, habilitation, and program. A mentally retarded, developmentally disabled, or chronically mentally ill person receiving services has the right to a periodic, but at least annual, reevaluation and review of the individual treatment, habilitation, and program plan to measure progress, to modify objectives if necessary, and to provide guidance and remediation techniques.

5. Participation in the formulation of the plan. A person with mental retardation, a developmental disability, or chronic mental illness or the person's representative has the right to participate in planning the person's own treatment, habilitation, and program plan and to be informed, in writing, of progress at reasonable time intervals. Each person shall be given the opportunity to make decisions and exercise options regarding the plan, consistent with the person's capabilities.

6. Least restrictive environment and age-appropriate services. A person with mental retardation, a developmental disability, or chronic mental illness has the right to live and receive age-appropriate services in the least restrictive setting consistent with the person's individual treatment and habilitation needs, potential, and abilities.

7. Vocational training and employment options. A person with mental retardation, a developmental disability, or chronic mental illness has the right to vocational training which contributes to the person's independence and employment potential.

8. Wage protection. A person with mental retardation, a developmental disability, or chronic mental illness engaged in work programs shall be paid wages commensurate with the going rate for comparable work and productivity.

9. Insurance protection. Pursuant to section 507B.4, subsection 7, a person or designated group of persons shall not be denied insurance coverage by reason of mental retardation, a developmental disability, or chronic mental illness.

10. Due process. A person with mental retardation, a developmental disability, or chronic mental illness retains the right to citizenship in accordance with the laws of the state.

Sec. 6. NEW SECTION. 225C.29 COMPLIANCE.

Except for a violation of section 225C.28, subsection 9, the sole remedy for violation of a rule adopted by the division to enforce or implement this Act shall be by a proceeding for compliance initiated by request to the division pursuant to chapter 17A. Any decision of the division shall be in accordance with due process of law and is subject to appeal to the Iowa district court pursuant to sections 17A.19 and 17A.20 by any aggrieved party. Either the division or a party in interest may apply to the Iowa district court for an order to enforce the decision of the

division. Neither this Act nor any rules adopted by the division create any right, entitlement, property or liberty right or interest, or private cause of action for damages against a municipality as defined in chapter 613A or for which such municipality would be responsible. Any violation of section 225C.28, subsection 9 shall be subject to the enforcement by the commissioner of insurance and penalties granted by chapter 507B for a violation of section 507B.4, subsection 7.

Sec. 7. The commissioner of human services shall create an advisory committee to develop a bill of rights implementation plan and process for individuals pursuant to section 225C.28. The advisory committee shall include no more than twenty members, including representatives of the association for retarded citizens of Iowa, the Iowa association of rehabilitation and residential facilities, the mental health association of Iowa, the mental health centers association of Iowa, and the state developmental disabilities planning council, all of which shall be designated by their respective bodies; state departments and agencies affected by the bill of rights, including but not limited to, the department of public instruction, the department of health, and the university of Iowa; the Iowa state association of counties; and two state senators, one of each political party, and two state representatives, one of each political party, appointed by the legislative council. The advisory committee shall advise the mental health and mental retardation commission and the council on human services regarding proposed rules or standards relating to implementation of the bill of rights.

The implementation plan and process shall include establishing definitions of the services system, the defining of individual assessment, a service inventory, and uniform individual assessments. The mental health and mental retardation commission shall identify specific core services to assist counties to implement services to comply with sections 225C.25 through 225C.29. The commission shall adopt minimum standards for individualized treatment, habilitation, and program services; least restrictive environment and age-appropriate services; and vocational training and employment options, pursuant to section 225C.28. The commissioner may require completion of an individual assessment form by known providers or caretakers for individuals covered under this Act served by the provider or caretaker since July 1, 1984 and individual assessments for clients currently entering into the delivery system. The commissioner may take appropriate action in the event of noncompliance of the requirement. Confidentiality rules pursuant to section 217.30 shall apply to this section.

The director of the division of mental health, mental retardation, and developmental disabilities is responsible for the completion of the implementation plan and process. The director may utilize available services and publicly-funded agencies for the purpose of carrying out the uniform individual assessment process. It is the intent of the general assembly that additional expense will not be incurred when publicly funded agencies are carrying out their normal evaluation and assessment function. The director shall submit a report to the general assembly by April 1, 1986 regarding the results of the implementation plan and process, establishing the level of function and specific appropriate services of the receiving populations and selected subgroups thereof, the estimated costs to implement the services, and required legislation.

As appropriate, the council on human services, the mental health and mental retardation commission, the department of health, and other appropriate agencies shall develop rules by January 1, 1987 to implement the services pursuant to section 225C.28. The rules may permit implementation of the services on a phased-in basis.

The legislative council shall establish a two-year interim study committee beginning during the 1985 interim to review and monitor actions taken by the commissioner of human services, department of human services, mental health and mental retardation commission, council on human services, division of mental health, mental retardation, and developmental disabilities, the advisory committee, and other agencies affected by this Act regarding the bill of rights pursuant to sections 225C.25 through 225C.28, and to review and propose alternatives to the present funding methods for the mandated services.

Sec. 8. There is appropriated from the general fund of the state to the department of human services for each fiscal year for the fiscal period beginning July 1, 1985 and ending June 30, 1987, the sum of one hundred nine thousand (109,000) dollars, or so much thereof as is necessary, for five full-time equivalent positions, to carry out the intent of this Act.

Sec. 9. This Act takes effect July 1, 1985 except section 5 which takes effect July 1, 1987, providing that legislation is enacted by the general assembly before July 1, 1987, which provides a fair and equitable funding formula for the implementation of section 5 of this Act.

Approved May 31, 1985

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**CHAPTER 250**  
**REAL ESTATE FORECLOSURE**  
*S.F. 459*

**AN ACT** relating to real property which is subject to foreclosure.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 654.15, Code 1985, is amended to read as follows:  
**654.15 MORATORIUM CONTINUANCE.**

1. In all actions for the foreclosure of real estate mortgages, deeds of trust of real property, and contracts for the purchase of real estate, when the owner or owners enter enters an appearance and file files an answer admitting some indebtedness and breach of the terms of the above designated instrument, (which admissions cannot be withdrawn or denied after a continuance is granted hereunder, be withdrawn or denied) such, the owner or owners may apply for a continuance of the foreclosure action when and where if the default or inability of such party or parties the owner to pay or perform is mainly due or brought about by reason of drought, flood, heat, hail, storm, or other climatic conditions or by reason of the infestation of pests which affect the land in controversy, or when the governor of the state of Iowa by reason of a depression shall have by proclamation declared a state of emergency to exist within this state. Said applications The application must be in writing and filed at or before final decree. Upon the filing of such the application the court shall set a day for hearing of on the same application and provide by order for notice, to be given to the plaintiff, of the time fixed for said the hearing. If the court shall on said hearing find finds that the application is made in good faith, and the same is supported by competent evidence showing that default in payment or inability to pay is due to drought, flood, heat, hail, storm, or other climatic conditions or due to infestation of pests or when the governor of the state of Iowa by reason of a depression shall have by proclamation declared a state of emergency to exist within this state, the court may in its discretion continue said the foreclosure proceeding or proceedings as follows: