

CHAPTER 1181

MENTAL HEALTH, DEVELOPMENTAL DISABILITY, AND SUBSTANCE ABUSE SERVICE, COMMITMENT, AND PAYMENT

H.F. 2558

AN ACT relating to mental health, developmental disability, and substance abuse service, commitment, and payment provisions, and including an applicability provision and an effective date.

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

DIVISION I COMMUNITY MENTAL HEALTH CENTERS

Section 1. Section 230A.1, Code 1997, is amended to read as follows:

230A.1 ESTABLISHMENT AND SUPPORT OF COMMUNITY MENTAL HEALTH CENTERS.

A county or affiliated counties, by action of the board or boards of supervisors, with approval of the administrator of the division of mental health and developmental disabilities of the department of human services, may establish a community mental health center under this chapter to serve the county or counties. ~~In establishing the community mental health center, the board of supervisors of each county involved may make a single nonrecurring expenditure, in an amount determined by the board.~~ This section does not limit the authority of the board or boards of supervisors of any county or group of counties to continue to expend money to support operation of the center, and to form agreements with the board of supervisors of any additional county for that county to join in supporting and receiving services from or through the center.

Sec. 2. Section 230A.3, Code 1997, is amended to read as follows:

230A.3 FORMS OF ORGANIZATION.

Each community mental health center established or continued in operation as authorized by section 230A.1 shall be organized and administered in accordance with one of the ~~two alternative forms prescribed by this chapter.~~ The two alternative forms are following alternative forms:

1. Direct establishment of the center by the county or counties supporting it and administration of the center by an elected board of trustees, pursuant to sections 230A.4 to 230A.11.

2. Establishment of the center by a nonprofit corporation providing services to the county or counties on the basis of an agreement with the board or boards of supervisors, pursuant to sections 230A.12 and 230A.13.

3. Continued operation of a center originally established prior to July 1, 1998, under subsection 2 without an agreement with the board or boards of supervisors which originally established the center, provided the center is in compliance with the applicable standards adopted by the mental health and mental retardation commission.

Sec. 3. Section 230A.12, unnumbered paragraph 1, Code 1997, is amended to read as follows:

Each community mental health center established or continued in operation pursuant to section 230A.3, ~~subsection 2,~~ shall be organized under the Iowa nonprofit corporation Act appearing as chapter 504A, except that a community mental health center organized under chapter 504 prior to July 1, 1974, shall not be required by this chapter to adopt the Iowa nonprofit corporation Act if it is not otherwise required to do so by law. The board of directors of each such community mental health center shall enter into an agreement with the county or affiliated counties which are to be served by the center, which agreement shall include but need not be limited to the period of time for which the agreement is to be in force,

what services the center is to provide for residents of the county or counties to be served, standards the center is to follow in determining whether and to what extent persons seeking services from the center shall be considered able to pay the cost of the services received, and policies regarding availability of the center's services to persons who are not residents of the county or counties served by the center. The board of directors, in addition to exercising the powers of the board of directors of a nonprofit corporation may:

Sec. 4. Section 249A.4, Code Supplement 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 15. Establish appropriate reimbursement rates for community mental health centers that are accredited by the mental health and mental retardation commission. The reimbursement rates shall be phased-in over the three-year period beginning July 1, 1998, and ending June 30, 2001.

Sec. 5. Section 230A.3, subsection 3, as enacted by this Act, is repealed on July 1, 2001.

DIVISION II LEGAL SETTLEMENT

Sec. 6. Section 230.1, unnumbered paragraph 1, Code 1997, is amended to read as follows:

The necessary and legal costs and expenses attending the taking into custody, care, investigation, admission, commitment, and support of a person with mental illness admitted or committed to a state hospital shall be paid by a county or by the state as follows:

Sec. 7. Section 230.1, subsections 1 and 2, Code 1997, are amended to read as follows:

1. By the county in which such person has a legal settlement, ~~or if the person is eighteen years of age or older.~~

2. By the state when such person has no legal settlement in this state, ~~or when such the person's legal settlement is unknown, or if the person is under eighteen years of age.~~

Sec. 8. Section 252.16, subsection 8, Code Supplement 1997, is amended to read as follows:

8. A person receiving treatment or support services from any provider, whether organized for pecuniary profit or not or whether supported by charitable or public or private funds, that provides treatment or services for mental retardation, developmental disabilities, mental health, brain injury, or substance abuse does not acquire legal settlement in ~~the a county in which the site of the provider is located~~ unless the person continuously resides in that county for one year from the date of the last treatment or support service received by the person.

Sec. 9. LEGAL SETTLEMENT PLAN. The department of human services shall work with the Iowa state association of counties in developing proposals for legal settlement determination and for expediting resolution of legal settlement disputes. The department shall report on or before December 1, 1998, to the general assembly and the governor outlining proposals and providing other relevant recommendations.

Sec. 10. EFFECTIVE DATE AND FISCAL ESTIMATE REQUIREMENT. Sections 6 and 7 of this division of this Act, amending section 230.1, take effect July 1, 1999. The department of human services shall work with the Iowa state association of counties, legislative fiscal bureau, the behavioral managed care contractor under the medical assistance program, and other knowledgeable persons in developing a fiscal estimate as to the effect on state, county, and federal expenditures to implement the provisions of section 230.1, as amended by this Act. The state portion of the fiscal estimate shall be incorporated into the department's budget for the fiscal year beginning July 1, 1999. The department shall submit the entire fiscal estimate to the governor and general assembly on or before December 1, 1998.

DIVISION III
SUPPORTED COMMUNITY LIVING SERVICES

Sec. 11. Section 135C.6, subsection 1, Code Supplement 1997, is amended to read as follows:

1. A person or governmental unit acting severally or jointly with any other person or governmental unit shall not establish or operate a health care facility in this state without a license for the facility. A supported community, supervised apartment living arrangement service, as defined in section 225C.21, is not required to be licensed under this chapter, but is subject to approval under section 225C.21 in order to receive public funding.

Sec. 12. Section 225C.21, Code 1997, is amended to read as follows:

225C.21 ~~COMMUNITY, SUPERVISED APARTMENT~~ SUPPORTED COMMUNITY LIVING ARRANGEMENTS SERVICES.

1. As used in this section, "supported community, supervised apartment living arrangement services" means the ~~provision of a residencee services provided in a noninstitutional setting to adult persons with mental illness, mental retardation, or developmental disabilities who are capable of living semi-independently but require minimal supervision to meet the persons' daily living needs.~~

2. The department shall adopt rules pursuant to chapter 17A establishing minimum standards for the programming of supported community, supervised apartment living arrangements services. The department shall approve all supported community, supervised apartment living arrangements services which meet the minimum standards.

3. Approved supported community, supervised apartment living arrangements services may receive funding from the state, federal and state social services block grant funds, and other appropriate funding sources, consistent with state legislation and federal regulations. The funding may be provided on a per diem, per hour, or grant basis, as appropriate.

Sec. 13. Section 235B.3, subsection 2, paragraph e, subparagraph (6), Code 1997, is amended to read as follows:

(6) A member of the staff or an employee of a supported community, supervised apartment living arrangement service, sheltered workshop, or work activity center.

DIVISION IV
HOME AND COMMUNITY-BASED WAIVER SERVICES

Sec. 14. Section 135C.6, subsection 8, Code Supplement 1997, is amended to read as follows:

8. The following residential programs to which the department of human services applies accreditation, certification, or standards of review shall not be required to be licensed as a health care facility under this chapter:

a. A residential program which provides care to not more than ~~three~~ four individuals and receives moneys appropriated to the department of human services under provisions of a federally approved home and community-based waiver for persons with mental retardation or other medical assistance program under chapter 249A.

~~b. A residential program which serves not more than four individuals and is operating under provisions of a federally approved home and community-based waiver for persons with mental retardation, if all individuals residing in the program receive on-site staff supervision during the entire time period the individuals are present in the program's living unit. The need for the on-site supervision shall be reflected in each individual's program plan developed pursuant to the department of human services' rules relating to case management for persons with mental retardation. In approving a residential program under this paragraph, the department of human services shall consider the geographic location of the program so as to avoid an overconcentration of such programs in an area.~~

~~e. b.~~ A total of twenty residential care facilities for persons with mental retardation which

are licensed to serve no more than five individuals may be authorized by the department of human services to convert to operation as a residential program under the provisions of a medical assistance home and community-based services waiver for persons with mental retardation. A converted residential program is subject to the conditions stated in paragraph "b" "a" except that the program shall not serve more than five individuals. The department of human services shall allocate conversion authorizations to provide for four conversions in each of the department's five service regions. If a conversion authorization allocated to a region is not used for conversion by January 1, 1998, the department of human services may reallocate the unused conversion authorization to another region. The department of human services shall study the cost effectiveness of the conversions and provide an initial report to the general assembly no later than January 2, 1998, and a final report no later than December 15, 1998.

DIVISION V MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES

Sec. 15. Section 225C.6, subsection 1, Code 1997, is amended to read as follows:

1. To the extent funding is available, the commission shall perform the following duties:
a. Advise the administrator on the administration of the overall state ~~plans for~~ disability services system.

b. Adopt necessary rules pursuant to chapter 17A which relate to disability programs and services, including but not limited to definitions of each disability included within the term "disability services" as necessary for purposes of state, county, and regional planning, programs, and services.

c. Adopt standards for ~~accreditation of community mental health centers and comprehensive community~~ mental health centers, services, and programs as recommended under section 230A.16.

d. Adopt standards for the care of and services to persons with mental illness and mental retardation residing in county care facilities recommended under section 227.4.

e. ~~Adopt standards for the delivery of disability services by the division, and for the maintenance and operation of public or private facilities offering services to persons with disabilities, which are not subject to licensure by the department or the department of inspections and appeals, and review the standards employed by the department or the department of inspections and appeals for licensing facilities which provide services to~~ If no other person sets standards for a service available to persons with disabilities, adopt standards for that service.

f. Assure that proper appeal procedures are available to persons aggrieved by decisions, actions, or circumstances relating to accreditation.

g. ~~Award~~ Adopt necessary rules for awarding grants from the state and federal government as well as other moneys that become available to the division for grant purposes.

h. ~~Review and rank applications for federal mental health grants prior to submission to the appropriate federal agency.~~

i. h. Annually submit to the governor and the general assembly:

(1) A report concerning the activities of the commission.

(2) Recommendations formulated by the commission for changes in law.

j. i. By January 1 of each odd-numbered year, submit to the governor and the general assembly an evaluation of:

(1) The extent to which services to persons with disabilities ~~stipulated in the state plans~~ are actually available to persons in each county in the state and the quality of those services.

(2) The cost effectiveness of the services being provided by disability service providers in this state and by each of the state mental health institutes established under chapter 226 and by each of the state hospital-schools established under chapter 222.

~~(3) The cost effectiveness of programs carried out by randomly selected providers receiving money from the state for disability services.~~

- ~~k. j.~~ Advise the administrator, the council on human services, the governor, and the general assembly on budgets and appropriations concerning disability services.
- ~~l. k.~~ Consult Coordinate activities with the Iowa governor's planning council for developmental disabilities ~~at least twice a year.~~
- ~~m. l.~~ Establish standards for the provision under medical assistance of individual case management services.
- ~~n.~~ Establish standards for the structure of a service coordination system which ensures a linkage between the service coordination system and individual case management services.
- ~~o. m.~~ Identify model eligibility guidelines for disability services.
- ~~p.~~ Identify model guidelines for purchase of disability services and for disability service reimbursement methodologies.
- ~~q.~~ Prepare, for mental health and developmental disabilities regional planning councils, advance estimates of state and, to the extent possible, federal funds available to counties for purchase of disability services.
- ~~r. n.~~ Identify basic disability services for planning purposes.
- ~~s. o.~~ Prepare five-year plans based upon the county management plans developed by mental health and developmental disabilities regional planning councils pursuant to section 331.439.
- ~~t.~~ Identify disability services which are eligible for state payment under the mental health and developmental disabilities community services fund created in section 225C.7.
- ~~p.~~ Work with other state agencies on coordinating, collaborating, and communicating concerning activities involving persons with disabilities.

Sec. 16. ACCREDITATION OR CERTIFICATION OF SERVICE PROVIDERS. Effective July 1, 1998, the department of human services shall include persons with Prader-Willi syndrome, who, due to their disability, experience limitations in three or more of the major life activities as defined in the federal Developmental Disability Assistance and Bill of Rights Act, Pub. L. No. 101-496, in the definition of "persons with developmental disabilities" used in the department's rules for accreditation or certification of providers of services to persons with mental illness, mental retardation, and developmental disabilities, in 441 IAC 24.

DIVISION VI COUNTY MANAGEMENT PLANS

Sec. 17. COUNTY MANAGEMENT PLAN PROCESS. The state-county management committee shall review the requirements in law and rule applicable to county management plans for mental health, mental retardation, and development disability services. The review shall include, but is not limited to, options for allowing a plan to apply to a three-year period with annual opportunities for public input and amendment and other proposals for streamlining the county management plan process. The committee shall include the results of the review in the committee's annual report.

Sec. 18. Section 331.439, subsection 8, Code Supplement 1997, is amended by striking the subsection and inserting in lieu thereof the following:

8. A county's management plans submitted under this section shall provide for services to children from community mental health centers and other mental health service providers accredited under chapter 225C.

Sec. 19. 1997 Iowa Acts, chapter 169, section 25, is repealed.

Sec. 20. EFFECTIVE DATE — APPLICABILITY. Sections 18 and 19 of this division of this Act, amending section 331.439, subsection 8, and repealing a 1997 Iowa Acts provision, being deemed of immediate importance, take effect upon enactment. A county's compliance with any amendment to the county's management plan submitted by the county pursuant to 1997 Iowa Acts, chapter 169, sections 24 and 25, shall be at the county's option or as required under other applicable law.

DIVISION VII
DUAL CIVIL COMMITMENTS

Sec. 21. NEW SECTION. 125.75B DUAL FILINGS.

An application for involuntary commitment or treatment of a respondent under this chapter may be filed contemporaneously with an application for involuntary hospitalization of the respondent under chapter 229.

Sec. 22. NEW SECTION. 229.2A DUAL FILINGS.

An application for involuntary hospitalization of a respondent under this chapter may be filed contemporaneously with an application for involuntary commitment or treatment of the respondent under chapter 125.

Sec. 23. Section 229.21, subsection 3, Code 1997, is amended to read as follows:

3. a. Any respondent with respect to whom the judicial hospitalization referee has found the contention that the respondent is seriously mentally impaired or a chronic substance abuser sustained by clear and convincing evidence presented at a hearing held under section 229.12 or section 125.82, may appeal from the referee's finding to a judge of the district court by giving the clerk notice in writing, within ~~seven~~ ten days after the referee's finding is made, that an appeal ~~therefrom~~ is taken. The appeal may be signed by the respondent or by the respondent's next friend, guardian or attorney.

b. An order of a judicial hospitalization referee with a finding that the respondent is seriously mentally impaired or a chronic substance abuser shall include the following notice, located conspicuously on the face of the order:

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

c. When so appealed, the matter shall stand for trial de novo. Upon appeal, the court shall schedule a hospitalization or commitment hearing before a district judge at the earliest practicable time.

Sec. 24. Section 229.27, subsection 4, Code 1997, is amended by striking the subsection.

Sec. 25. IMPLEMENTATION OF ACT. Section 25B.2, subsection 3, shall not apply to this division of this Act.

DIVISION VIII
SEXUALLY VIOLENT PREDATORS

Sec. 26. Section 229A.12, if enacted by 1998 Iowa Acts, Senate File 2398,* section 12, is amended to read as follows:

229A.12 DIRECTOR OF HUMAN SERVICES — RESPONSIBILITY FOR COSTS — DUTIES — REIMBURSEMENT.

The director of human services shall be responsible for all costs relating to the evaluation and treatment of persons committed to the director's custody under any provision of this chapter. Reimbursement may be obtained by the director from the patient and any person legally liable or bound by contract for the support of the patient for the cost of care and treatment provided. As used in this section, "any person legally liable" does not include a political subdivision.

Approved May 6, 1998

* Chapter 1171 herein

CHAPTER 1182**AIRCRAFT REGISTRATION FEES AND SALES TAX EXEMPTIONS***H.F. 2560*

AN ACT relating to aircraft registration fees and sales tax exemptions.

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

Section 1. Section 328.21, unnumbered paragraph 1, Code 1997, is amended to read as follows:

There An annual registration fee for each aircraft shall be paid to the department at the time of ~~such registration an annual registration fee for each such aircraft~~, to be computed as follows:

Sec. 2. Section 328.21, subsection 1, Code 1997, is amended to read as follows:

1. Unless otherwise provided in this section, for the first registration, a sum equal to one ~~and one-half~~ percent of the manufacturer's list price of the aircraft, not to exceed five thousand dollars.

Sec. 3. Section 328.21, subsection 2, Code 1997, is amended to read as follows:

2. The second year's registration fee is seventy-five hundredths of one percent of the ~~rate fixed for the first registration~~ manufacturer's list price of the aircraft; the third year's fee is fifty hundredths of one percent; and the fourth and subsequent year's fee is twenty-five hundredths of one percent; however, When an aircraft other than a new aircraft is registered in Iowa, the registration fee shall be based upon the number of years the aircraft was previously registered. However, an aircraft shall not be registered for a fee of less than thirty-five dollars or more than five thousand dollars.

Sec. 4. Section 328.26, Code 1997, is amended to read as follows:

328.26 APPLICATION FOR REGISTRATION.

Every application for registration pursuant to sections 328.19 ~~to 328.22~~ and 328.20 shall be made upon such forms, and shall contain such information, as the department may prescribe, and every application shall be accompanied by the full amount of the registration fee.

When an aircraft is registered to a person for the first time the fee submitted to the department shall include the tax imposed by section 422.43 or section 423.2 or evidence of the exemption of the aircraft from the tax imposed under section 422.43 or 423.2.

Sec. 5. Section 422.45, Code Supplement 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 38B. The gross receipts from the sale or rental of tangible personal property permanently affixed or attached as a component part of the aircraft, including but not limited to repair or replacement materials or parts; and the gross receipts of all services used for aircraft repair, remodeling, and maintenance services when such services are performed on aircraft, aircraft engines, or aircraft component materials or parts. For the purposes of this exemption, "aircraft" means aircraft used in nonscheduled interstate federal aviation administration-certified air carrier operation operating under 14 C.F.R. ch. 1, pt. 135.

Sec. 6. Section 422.45, Code Supplement 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 38C. The gross receipts from the sale of aircraft to an aircraft dealer who in turn rents or leases the aircraft if all of the following apply:

- a. The aircraft is kept in the inventory of the dealer for sale at all times.
- b. The dealer reserves the right to immediately take the aircraft from the renter or lessee when a buyer is found.