

**CHAPTER 1059****POSSESSION AND ADMINISTRATION OF  
ASTHMA OR OTHER AIRWAY CONSTRICTING DISEASE MEDICATION***S.F. 2177*

**AN ACT** relating to the possession and self-administration of asthma or other airway constricting disease medication by public and accredited nonpublic school students.

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

Section 1. **NEW SECTION.** 280.16 SELF-ADMINISTRATION OF ASTHMA OR OTHER AIRWAY CONSTRICTING DISEASE MEDICATION.

1. DEFINITIONS. For purposes of this section:

a. "Medication" means a drug that meets the definition provided in section 126.2, subsection 8, has an individual prescription label, is prescribed by a physician for a student, and pertains to the student's asthma or other airway constricting disease.

b. "Physician" means a person licensed under chapter 148, 150, or 150A, or a physician's assistant, advanced registered nurse practitioner, or other person licensed or registered to distribute or dispense a prescription drug or device in the course of professional practice in this state in accordance with section 147.107, or a person licensed by another state in a health field in which, under Iowa law, licensees in this state may legally prescribe drugs.

c. "Self-administration" means a student's discretionary use of medication prescribed by a physician for the student.

2. The board of directors of a school district and the authorities in charge of an accredited nonpublic school shall permit the self-administration of medication by a student with asthma or other airway constricting disease if the following conditions are met:

a. The student's parent or guardian provides to the school written authorization for the self-administration of medication.

b. The student's parent or guardian provides to the school a written statement from the student's physician containing the following information:

(1) The name and purpose of the medication.

(2) The prescribed dosage.

(3) The times at which or the special circumstances under which the medication is to be administered.

c. The parent or guardian and the school meet the requirements of subsection 3.

3. The school district or accredited nonpublic school shall notify the parent or guardian of the student, in writing, that the school district or accredited nonpublic school and its employees are to incur no liability, except for gross negligence, as a result of any injury arising from self-administration of medication by the student. The parent or guardian of the student shall sign a statement acknowledging that the school district or nonpublic school is to incur no liability, except for gross negligence, as a result of self-administration of medication by the student. A school district or accredited nonpublic school and its employees acting reasonably and in good faith shall incur no liability for any improper use of medication as defined in this section or for supervising, monitoring, or interfering with a student's self-administration of medication as defined in this section.

4. The permission for self-administration of medication is effective for the school year for which it is granted and shall be renewed each subsequent school year upon fulfillment of the requirements of this section. However, the parent or guardian shall immediately notify the school of any changes in the conditions listed under subsection 2.

5. Provided that the requirements of this section are fulfilled, a student with asthma or other airway constricting disease may possess and use the student's medication while in school, at school-sponsored activities, under the supervision of school personnel, and before or after normal school activities, such as while in before-school or after-school care on school-operated property. If the student misuses this privilege, the privilege may be withdrawn.

6. Information provided to the school under subsection 2 shall be kept on file in the office of the school nurse or, in the absence of a school nurse, the school's administrator.

7. The Iowa braille and sight saving school, the state school for the deaf, and the institutions under the control of the department of human services as provided in section 218.1 are exempt from the provisions of this section.

Approved April 12, 2004

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## CHAPTER 1060

### SEXUALLY VIOLENT OFFENSES — INSANITY OF DEFENDANT — CIVIL COMMITMENT

S.F. 2193

**AN ACT** relating to the civil commitment of sexually violent predators.

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

Section 1. Section 229A.7, subsection 1, Code 2003, is amended to read as follows:

1. If the person charged with a sexually violent offense has been found incompetent to stand trial and the person is about to be released pursuant to section 812.5, or ~~the person has been found not guilty of a sexually violent offense by reason of insanity~~, if a petition has been filed seeking the person's commitment under this chapter, the court shall first hear evidence and determine whether the person did commit the act or acts charged. At the hearing on this issue, the rules of evidence applicable in criminal cases shall apply, and all constitutional rights available to defendants at criminal trials, other than the right not to be tried while incompetent, shall apply. After hearing evidence on this issue, the court shall make specific findings on whether the person did commit the act or acts charged, the extent to which the person's incompetence ~~or insanity~~ affected the outcome of the hearing, including its effect on the person's ability to consult with and assist counsel and to testify on the person's own behalf, the extent to which the evidence could be reconstructed without the assistance of the person, and the strength of the prosecution's case. If after the conclusion of the hearing on this issue, the court finds, beyond a reasonable doubt, that the person did commit the act or acts charged, the court shall enter a final order, appealable by the person, on that issue, and may proceed to consider whether the person should be committed pursuant to this chapter.

Sec. 2. Section 229A.7, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. If a person has been found not guilty by reason of insanity, the court shall determine whether the acts charged were proven as a matter of law. If as a matter of law, the finding of not guilty by reason of insanity requires a finding that the underlying elements of the charged offense were proven, then no further fact-finding is required. If as a matter of law, the finding of not guilty by reason of insanity does not require a finding that the underlying elements of the charged offense be proven, the case shall proceed in the same manner as if the person were found to be incompetent to stand trial as provided in subsection 1.

Approved April 12, 2004