

## CHAPTER 139

### INVOLUNTARY CIVIL COMMITMENT PROCEEDINGS — TELEVISED OR TELEPHONE APPEARANCES, TESTIMONY, AND HEARINGS

H.F. 466

**AN ACT** relating to televised testimony in involuntary commitment hearings for persons with substance-related disorders and persons with mental illness.

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

Section 1. [Section 125.82, subsection 3](#), Code 2023, is amended to read as follows:

3. The person who filed the application and a licensed physician and surgeon or osteopathic physician and surgeon, mental health professional, or certified alcohol and drug counselor certified by the nongovernmental Iowa board of substance abuse certification who has examined the respondent in connection with the commitment hearing shall be present at the hearing, unless the court for good cause finds that their presence or testimony is not necessary. The applicant, respondent, and the respondent's attorney may waive the presence, televised appearance, or telephonic appearance of the licensed physician and surgeon or osteopathic physician and surgeon, mental health professional, or certified alcohol and drug counselor who examined the respondent and agree to submit as evidence the written report of the licensed physician and surgeon or osteopathic physician and surgeon, mental health professional, or certified alcohol and drug counselor. The respondent's attorney shall inform the court if the respondent's attorney reasonably believes that the respondent, due to diminished capacity, cannot make an adequately considered waiver decision. "Good cause" for finding that the testimony of the licensed physician and surgeon or osteopathic physician and surgeon, mental health professional, or certified alcohol and drug counselor who examined the respondent is not necessary may include, but is not limited to, such a waiver. If the court determines that the testimony of the licensed physician and surgeon or osteopathic physician and surgeon, mental health professional, or certified alcohol and drug counselor is necessary, the court may allow the licensed physician and surgeon or osteopathic physician and surgeon, mental health professional, or certified alcohol and drug counselor to testify by telephone or televised means. The respondent shall be present at the hearing unless prior to the hearing the respondent's attorney stipulates in writing that the attorney has conversed with the respondent, and that in the attorney's judgment the respondent cannot make a meaningful contribution to the hearing, or that the respondent has waived the right to be present, and the basis for the attorney's conclusions. A stipulation to the respondent's absence shall be reviewed by the court before the hearing, and may be rejected if it appears that insufficient grounds are stated or that the respondent's interests would not be served by the respondent's absence.

Sec. 2. [Section 125.82, subsection 4](#), Code 2023, is amended to read as follows:

4. The respondent's welfare is paramount, and the hearing shall be tried as a civil matter and conducted in as informal a manner as is consistent with orderly procedure. The hearing may be held by video or telephone conference at the discretion of the court. Discovery as permitted under the Iowa rules of civil procedure is available to the respondent. The court shall receive all relevant and material evidence, but the court is not bound by the rules of evidence. A presumption in favor of the respondent exists, and the burden of evidence and support of the contentions made in the application shall be upon the person who filed the application. If upon completion of the hearing the court finds that the contention that the respondent is a person with a substance-related disorder has not been sustained by clear and convincing evidence, the court shall deny the application and terminate the proceeding.

Sec. 3. [Section 229.12, subsection 3](#), paragraph b, Code 2023, is amended to read as follows:

b. The licensed physician or mental health professional who examined the respondent shall be present at the hearing unless the court for good cause finds that the licensed physician's or mental health professional's presence or testimony is not necessary. The

applicant, respondent, and the respondent's attorney may waive the presence, televised appearance, or the telephonic appearance of the licensed physician or mental health professional who examined the respondent and agree to submit as evidence the written report of the licensed physician or mental health professional. The respondent's attorney shall inform the court if the respondent's attorney reasonably believes that the respondent, due to diminished capacity, cannot make an adequately considered waiver decision. "Good cause" for finding that the testimony of the licensed physician or mental health professional who examined the respondent is not necessary may include but is not limited to such a waiver. If the court determines that the testimony of the licensed physician or mental health professional is necessary, the court may allow the licensed physician or the mental health professional to testify by telephone or televised means.

Sec. 4. [Section 229.12, subsection 3](#), paragraph a, Code 2023, is amended to read as follows:

a. The respondent's welfare shall be paramount and the hearing shall be conducted in as informal a manner as may be consistent with orderly procedure, but consistent therewith the issue shall be tried as a civil matter. The hearing may be held by video or telephone conference at the discretion of the court. Such discovery as is permitted under the Iowa rules of civil procedure shall be available to the respondent. The court shall receive all relevant and material evidence which may be offered and need not be bound by the rules of evidence. There shall be a presumption in favor of the respondent, and the burden of evidence in support of the contentions made in the application shall be upon the applicant.

Approved June 1, 2023