

MAR 2 2005  
Place On Calendar

HOUSE FILE 538  
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO HF 184)

Passed House, Date 4-4-05 Passed Senate, Date \_\_\_\_\_  
Vote: Ayes 99 Nays 0 Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved May 5, 2005

A BILL FOR

1 An Act revising child welfare requirements involving children  
2 with mental health, behavioral, or emotional disorders and  
3 providing a contingent effective date.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 538

TLSB 1880HV 81

jp/sh/8

1 Section 1. Section 135H.6, Code 2005, is amended by adding  
2 the following new subsection:

3 NEW SUBSECTION. 11. If a child has an emotional,  
4 behavioral, or mental health disorder, the psychiatric  
5 institution does not require court proceedings to be initiated  
6 or that a child's parent, guardian, or custodian must  
7 terminate parental rights over or transfer legal custody of  
8 the child for the purpose of obtaining treatment from the  
9 psychiatric institution for the child. Relinquishment of a  
10 child's custody shall not be a condition of the child  
11 receiving services.

12 Sec. 2. Section 232.2, subsection 6, paragraph f, Code  
13 2005, is amended to read as follows:

14 f. Who is in need of treatment to cure or alleviate  
15 serious mental illness or disorder, or emotional damage as  
16 evidenced by severe anxiety, depression, withdrawal, or  
17 untoward aggressive behavior toward self or others and whose  
18 parent, guardian, or custodian is unwilling ~~or-unable~~ to  
19 provide such treatment.

20 Sec. 3. Section 234.7, Code 2005, is amended to read as  
21 follows:

22 234.7 DEPARTMENT DUTIES.

23 1. The department of human services shall comply with the  
24 following requirement associated with child foster care  
25 licensees under chapter 237:

26 The department shall include a child's foster parent in,  
27 and provide timely notice of, planning and review activities  
28 associated with the child, including but not limited to  
29 permanency planning and placement review meetings, which shall  
30 include discussion of the child's rehabilitative treatment  
31 needs.

32 2. a. The department of human services shall submit a  
33 waiver request to the United States department of health and  
34 human services as necessary to provide coverage under the  
35 medical assistance program for not more than three hundred

1 children at any one time who are described by both of the  
2 following:

3 (1) The child needs behavioral health care services and  
4 qualifies for the care level provided by a psychiatric medical  
5 institution for children licensed under chapter 135H.

6 (2) The child is in need of treatment to cure or alleviate  
7 serious mental illness or disorder, or emotional damage as  
8 evidenced by severe anxiety, depression, withdrawal, or  
9 untoward aggressive behavior toward self or others and whose  
10 parent, guardian, or custodian is unable to provide such  
11 treatment.

12 b. If federal approval of the waiver request is granted,  
13 the department shall renegotiate the medical assistance  
14 contract provisions for behavioral health services as  
15 necessary for the contractor to address the needs of children  
16 described in paragraph "a". If federal approval is not  
17 received, the department shall present options to the governor  
18 and general assembly to meet the needs of such children  
19 through a state-funded program.

20 Sec. 4. CONTINGENT EFFECTIVE DATE.

21 1. The section of this Act amending section 232.2,  
22 subsection 6, paragraph "f", shall take effect on the initial  
23 implementation date of either of the following contingencies,  
24 providing one of the contingencies is implemented:

25 a. Federal approval is received for the waiver request  
26 submitted by the department of human services pursuant to  
27 section 234.7, subsection 2, paragraph "a", as enacted by this  
28 Act.

29 b. A state-funded program is implemented in lieu of the  
30 federal waiver, as described in section 234.7, subsection 2,  
31 paragraph "b", as enacted by this Act.

32 2. The department of human services shall notify the Code  
33 editor if either of the contingencies in subsection 1 occurs.

34 EXPLANATION

35 This bill relates to child welfare requirements involving

1 children with mental health, behavioral, or emotional  
2 disorders and the department of human services.

3 Code section 135H.6, relating to licensure requirements for  
4 psychiatric medical institutions for children (PMICs), is  
5 amended by adding a new requirement. The new requirement  
6 prohibits a PMIC from requiring a child's parent, guardian, or  
7 custodian to relinquish parental rights or custody in order  
8 for the child to receive PMIC services.

9 One of the bases in Code section 232.2 for defining a child  
10 in need of assistance is revised. Under current law, a child  
11 who is in need of treatment to cure a mental illness disorder,  
12 emotional damage, or aggressive behavior, when the child's  
13 parent, guardian, or custodian is unwilling or unable to  
14 provide the treatment is a child in need of assistance. The  
15 bill modifies this provision to provide that such a child is  
16 not a child in need of assistance if the parent, guardian, or  
17 custodian is unable to provide the treatment. The bill  
18 instead requires the department to address treatment for such  
19 children.

20 Code section 234.7, relating to requirements of the  
21 department under the child and family services Code chapter,  
22 is amended to apply a new requirement. The department is  
23 directed to apply for a federal waiver to provide coverage  
24 under the medical assistance (Medicaid) program for a child  
25 who qualifies for PMIC level of care and is in need of  
26 treatment to cure a mental illness disorder, emotional damage,  
27 or aggressive behavior and the child's parent, guardian, or  
28 custodian is unable to provide the treatment. The waiver is  
29 required to be limited to cover not more than 300 children at  
30 any one time. If the federal government approves the waiver,  
31 the department must renegotiate its contract for behavioral  
32 health services under the Medicaid program. If the federal  
33 government does not provide approval, the department is  
34 required to provide options to the governor and general  
35 assembly for a state-funded program.

1 The bill includes a contingent effective date for the  
2 bill's amendment to Code section 232.2. That amendment only  
3 takes effect provided either federal approval of the waiver  
4 request submitted pursuant to the bill is received or the  
5 waiver request is not approved and a state-funded program is  
6 implemented.

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HOUSE FILE 538  
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO HF 184)

(As Amended and Passed by the House April 4, 2005)

Re- Passed House, Date 4-21-05 Passed Senate, Date 4-19-05  
Vote: Ayes 99 Nays 0 Vote: Ayes 48 Nays 0  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act revising child welfare requirements involving children  
2 with mental health, behavioral, or emotional disorders and  
3 providing a contingent effective date.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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House Amendments \_\_\_\_\_

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**HOUSE FILE 538**

**S-3144**

1 Amend House File 538, as amended, passed, and  
2 reprinted by the House, as follows:  
3 1. Page 2, by striking lines 12 through 19, and  
4 inserting the following:  
5 "b. The waiver request shall provide for  
6 appropriately addressing the needs of children  
7 described in paragraph "a" by implementing any of the  
8 following options: using a wraparound services  
9 approach, renegotiating the medical assistance program  
10 contract provisions for behavioral health services, or  
11 applying another approach for appropriately meeting  
12 the children's needs.  
13 c. If federal approval of the waiver request is  
14 not received, the department shall submit options to  
15 the governor and general assembly to meet the needs of  
16 such children through a state-funded program."

**By** JACK HATCH  
KEITH A. KREIMAN  
MAGGIE TINSMAN

1 Section 1. Section 135H.6, Code 2005, is amended by adding  
2 the following new subsection:

3 NEW SUBSECTION. 11. If a child has an emotional,  
4 behavioral, or mental health disorder, the psychiatric  
5 institution does not require court proceedings to be initiated  
6 or that a child's parent, guardian, or custodian must  
7 terminate parental rights over or transfer legal custody of  
8 the child for the purpose of obtaining treatment from the  
9 psychiatric institution for the child. Relinquishment of a  
10 child's custody shall not be a condition of the child  
11 receiving services.

12 Sec. 2. Section 232.2, subsection 6, paragraph f, Code  
13 2005, is amended to read as follows:

14 f. Who is in need of treatment to cure or alleviate  
15 serious mental illness or disorder, or emotional damage as  
16 evidenced by severe anxiety, depression, withdrawal, or  
17 untoward aggressive behavior toward self or others and whose  
18 parent, guardian, or custodian is unwilling ~~or-unable~~ to  
19 provide such treatment.

20 Sec. 3. Section 234.7, Code 2005, is amended to read as  
21 follows:

22 234.7 DEPARTMENT DUTIES.

23 1. The department of human services shall comply with the  
24 following requirement associated with child foster care  
25 licensees under chapter 237:

26 The department shall include a child's foster parent in,  
27 and provide timely notice of, planning and review activities  
28 associated with the child, including but not limited to  
29 permanency planning and placement review meetings, which shall  
30 include discussion of the child's rehabilitative treatment  
31 needs.

32 2. a. The department of human services shall submit a  
33 waiver request to the United States department of health and  
34 human services as necessary to provide coverage under the  
35 medical assistance program for not more than three hundred

1 children at any one time who are described by both of the  
2 following:

3 (1) The child needs behavioral health care services and  
4 qualifies for the care level provided by a psychiatric medical  
5 institution for children licensed under chapter 135H.

6 (2) The child is in need of treatment to cure or alleviate  
7 serious mental illness or disorder, or emotional damage as  
8 evidenced by severe anxiety, depression, withdrawal, or  
9 untoward aggressive behavior toward self or others and whose  
10 parent, guardian, or custodian is unable to provide such  
11 treatment.

12 b. If federal approval of the waiver request is granted,  
13 the department shall renegotiate the medical assistance  
14 contract provisions for behavioral health services as  
15 necessary for the contractor to address the needs of children  
16 described in paragraph "a". If federal approval is not  
17 received, the department shall present options to the governor  
18 and general assembly to meet the needs of such children  
19 through a state-funded program.

20 Sec. 4. CONTINGENT EFFECTIVE DATE.

21 1. The section of this Act amending section 232.2,  
22 subsection 6, paragraph "f", shall take effect on the initial  
23 implementation date of either of the following contingencies,  
24 providing one of the contingencies is implemented:

25 a. Federal approval is received for the waiver request  
26 submitted by the department of human services pursuant to  
27 section 234.7, subsection 2, paragraph "a", as enacted by this  
28 Act.

29 b. A state-funded program is implemented in lieu of the  
30 federal waiver, as described in section 234.7, subsection 2,  
31 paragraph "b", as enacted by this Act.

32 2. The department of human services shall notify the Code  
33 editor if either of the contingencies in subsection 1 occurs.

34 3. If federal approval is received for the waiver request  
35 described in subsection 1, paragraph "a", the department of

1 human services shall convene a review committee to advise the  
2 department regarding the waiver's implementation. The  
3 committee membership may include but is not limited to  
4 juvenile judges, parents of children participating in the  
5 waiver, service providers, departmental staff, at least two  
6 members of the general assembly, and others with knowledge  
7 concerning the waiver. The committee shall be convened when  
8 there are a sufficient number of children participating in the  
9 waiver for there to be implementation issues to consider or  
10 six months following the commencement date of the waiver,  
11 whichever is sooner.

12 4. If federal approval is received for the waiver request  
13 described in subsection 1, paragraph "a", the child or family  
14 receiving services under the waiver shall have access to case  
15 management or another form of service coordination function.

**SENATE AMENDMENT TO  
HOUSE FILE 538**

**H-1425**

1 Amend House File 538, as amended, passed, and  
2 reprinted by the House, as follows:  
3 1. Page 2, by striking lines 12 through 19, and  
4 inserting the following:  
5 "b. The waiver request shall provide for  
6 appropriately addressing the needs of children  
7 described in paragraph "a" by implementing any of the  
8 following options: using a wraparound services  
9 approach, renegotiating the medical assistance program  
10 contract provisions for behavioral health services, or  
11 applying another approach for appropriately meeting  
12 the childrer's needs.  
13 c. If federal approval of the waiver request is  
14 not received, the department shall submit options to  
15 the governor and general assembly to meet the needs of  
16 such children through a state-funded program."

RECEIVED FROM THE SENATE

**H-1425 FILED APRIL 19, 2005**

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HOUSE FILE 538

AN ACT

REVISING CHILD WELFARE REQUIREMENTS INVOLVING CHILDREN WITH MENTAL HEALTH, BEHAVIORAL, OR EMOTIONAL DISORDERS AND PROVIDING A CONTINGENT EFFECTIVE DATE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 135H.6, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 11. If a child has an emotional, behavioral, or mental health disorder, the psychiatric institution does not require court proceedings to be initiated or that a child's parent, guardian, or custodian must terminate parental rights over or transfer legal custody of the child for the purpose of obtaining treatment from the psychiatric institution for the child. Relinquishment of a child's custody shall not be a condition of the child receiving services.

Sec. 2. Section 232.2, subsection 6, paragraph f, Code 2005, is amended to read as follows:

f. Who is in need of treatment to cure or alleviate serious mental illness or disorder, or emotional damage as

evidenced by severe anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others and whose parent, guardian, or custodian is unwilling or unable to provide such treatment.

Sec. 3. Section 234.7, Code 2005, is amended to read as follows:

234.7 DEPARTMENT DUTIES.

1. The department of human services shall comply with the following requirement associated with child foster care licensees under chapter 237:

The department shall include a child's foster parent in, and provide timely notice of, planning and review activities associated with the child, including but not limited to permanency planning and placement review meetings, which shall include discussion of the child's rehabilitative treatment needs.

2. a. The department of human services shall submit a waiver request to the United States department of health and human services as necessary to provide coverage under the medical assistance program for not more than three hundred children at any one time who are described by both of the following:

(1) The child needs behavioral health care services and qualifies for the care level provided by a psychiatric medical institution for children licensed under chapter 135H.

(2) The child is in need of treatment to cure or alleviate serious mental illness or disorder, or emotional damage as evidenced by severe anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others and whose parent, guardian, or custodian is unable to provide such treatment.

b. The waiver request shall provide for appropriately addressing the needs of children described in paragraph "a" by implementing any of the following options: using a wraparound

services approach, renegotiating the medical assistance program contract provisions for behavioral health services, or applying another approach for appropriately meeting the children's needs.

c. If federal approval of the waiver request is not received, the department shall submit options to the governor and general assembly to meet the needs of such children through a state-funded program.

Sec. 4. CONTINGENT EFFECTIVE DATE.

1. The section of this Act amending section 232.2, subsection 6, paragraph "f", shall take effect on the initial implementation date of either of the following contingencies, providing one of the contingencies is implemented:

a. Federal approval is received for the waiver request submitted by the department of human services pursuant to section 234.7, subsection 2, paragraph "a", as enacted by this Act.

b. A state-funded program is implemented in lieu of the federal waiver, as described in section 234.7, subsection 2, paragraph "b", as enacted by this Act.

2. The department of human services shall notify the Code editor if either of the contingencies in subsection 1 occurs.

3. If federal approval is received for the waiver request described in subsection 1, paragraph "a", the department of human services shall convene a review committee to advise the department regarding the waiver's implementation. The committee membership may include but is not limited to juvenile judges, parents of children participating in the waiver, service providers, departmental staff, at least two members of the general assembly, and others with knowledge concerning the waiver. The committee shall be convened when there are a sufficient number of children participating in the waiver for there to be implementation issues to consider or six months following the commencement date of the waiver, whichever is sooner.

4. If federal approval is received for the waiver request described in subsection 1, paragraph "a", the child or family receiving services under the waiver shall have access to case management or another form of service coordination function.

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CHRISTOPHER C. RANTS  
Speaker of the House

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JOHN P. KIBBIE  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 538, Eighty-first General Assembly.

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MARGARET THOMSON  
Chief Clerk of the House

Approved 5/5, 2005

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THOMAS J. VILSACK  
Governor