

JAN 19 2006
HUMAN RESOURCES

HOUSE FILE 2089
BY HEATON

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to adult persons with mental retardation or other
2 developmental disabilities who pose a severe and persistent
3 threat to themselves or others by authorizing the creation of
4 an expert mobile team and specialized treatment unit,
5 establishing a commitment process for placements in the
6 specialized unit, and including a contingent effective date.

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

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HF 2089

1 Section 1. NEW SECTION. 223.1 DEFINITIONS.

2 As used in this chapter, unless the context otherwise
3 requires:

4 1. "Department" means the department of human services.

5 2. "Developmental disability" means the same as defined in
6 the federal Developmental Disabilities Assistance and Bill of
7 Rights Act of 2000, Pub. L. No. 106-402, as codified in 42
8 U.S.C. § 15002.

9 3. "Expert mobile team" means the team created by the
10 department under this chapter.

11 4. "Mental retardation" means the same as defined in
12 section 222.2.

13 5. "Person in need of specialized treatment" means an
14 adult person with mental retardation or a developmental
15 disability who needs minimal to moderate support with the
16 activities of daily living and who poses a severe and
17 persistent threat to themselves or others and is described by
18 one or more of the following conditions:

19 a. The person was committed to the department under
20 section 812.6.

21 b. The person was determined to be incompetent to stand
22 trial.

23 c. The person's behavior is frequently of a severe nature
24 such that an intensive and secure level of treatment is needed
25 to prevent serious injury to the person or to others.

26 6. "Specialized treatment unit" means the unit created by
27 the department under this chapter.

28 Sec. 2. NEW SECTION. 223.2 EXPERT MOBILE TEAM.

29 1. The department shall establish an expert mobile team to
30 assist public and private providers of services to persons
31 with mental retardation or other developmental disability in
32 managing the behavior and addressing the needs of persons who
33 may be a person in need of specialized treatment.

34 2. The team shall be multidisciplinary with members who
35 have experience and knowledge in developmental disabilities,

1 behavior analysis, or forensic services and members who are
2 trained, direct-service workers. The team members may have
3 either professional or paraprofessional skills. The team
4 shall be part of or associated with the staff for the
5 specialized treatment unit.

6 3. The purpose of the team is to provide specialized
7 training and consultation on treatment options to providers of
8 services to persons with mental retardation or other
9 developmental disability so that a person who may be in need
10 of specialized treatment may continue to receive services from
11 such providers and the need to utilize the specialized
12 treatment unit for the person may be prevented or eliminated.
13 The services offered by the team may include but are not
14 limited to the following:

15 a. Clinical evaluation and development of intensive
16 behavioral treatment programs and psychiatric services.

17 b. Time-limited supplemental staff assistance to support a
18 provider in maintaining a safe environment and in implementing
19 an intensive behavioral treatment program.

20 c. Consultation and training on a range of treatment and
21 security approaches to enhance provider capacity to manage
22 dangerous behaviors.

23 4. The department shall implement eligibility criteria for
24 providers to access team services based upon the presence of a
25 person who may be in need of specialized treatment.

26 Sec. 3. NEW SECTION. 223.3 SPECIALIZED TREATMENT UNIT.

27 1. The department shall operate or contract for the
28 operation of a specialized treatment unit for persons
29 determined by the court to be persons in need of specialized
30 treatment.

31 2. The specialized treatment unit shall provide a
32 restricted, secure setting to safely address the needs of a
33 person in need of specialized treatment.

34 3. A departmental recommendation to the court for a
35 person's admission to the specialized treatment unit shall be

1 based upon an evaluation of the person performed by the unit
2 administrator and the expert mobile team or other qualified
3 person designated by the department to determine the potential
4 benefit to the person from admission to the unit. Other
5 recommendation criteria shall include a determination of
6 whether a person's behaviors have caused or have potential to
7 cause injury to the person or others; identification of the
8 person as meeting the definition of a person in need of
9 specialized treatment; an unsuccessful attempt by the expert
10 mobile team to develop an effective treatment for the person's
11 behavior or a determination that treatment cannot be safely
12 provided except in a restricted, secure setting; and a
13 specific assessment of the level of the person's dangerousness
14 indicating a high probability of harm occurring without
15 intervention.

16 Sec. 4. NEW SECTION. 223.4 COMMITMENT ORDER.

17 1. A person shall only be admitted to the specialized
18 treatment unit pursuant to a court order.

19 2. The following procedures shall apply to a hearing for a
20 commitment order to the specialized treatment unit held under
21 this section:

22 a. The department shall initiate a hearing for a
23 commitment order by making application to the court through
24 the county attorney. The county attorney may request a
25 hearing by ex parte written motion. Upon receiving the
26 motion, the court may issue an order for detention of the
27 person, if the person is not detained at the time of the
28 motion.

29 b. An application for a commitment order under this
30 section shall indicate the reasons for the application. The
31 person and the person's attorney shall be served notice of the
32 hearing and be provided with a copy of the application and the
33 notice.

34 c. The commitment hearing shall be held immediately upon
35 the person being brought before the court for the hearing

1 unless the person or the county attorney moves for a
2 continuance. A continuance granted on motion of the person
3 shall not exceed three calendar days. A continuance on motion
4 of the county attorney shall be granted only upon good cause
5 shown and shall not exceed three calendar days. The person
6 may be detained pending the hearing.

7 d. The person is entitled to representation by counsel,
8 including appointed counsel for indigent persons, and shall be
9 entitled to the right of cross-examination and to present
10 information, to testify, and to present witnesses on the
11 person's own behalf.

12 e. Information stated in, or offered in connection with,
13 any order entered pursuant to this section need not conform to
14 the formal rules of evidence.

15 f. Unless the person otherwise requests in writing, the
16 district court shall conduct the hearing as a private hearing,
17 and any order entered shall remain confidential as to the
18 public generally until the conclusion of the hearing.

19 g. The matter may be heard by a judicial hospitalization
20 referee or a magistrate. An appeal from a commitment order
21 entered under this section shall be addressed in the manner
22 provided for an involuntary hospitalization order under
23 section 229.21. The person shall remain in the specialized
24 treatment unit pending outcome of the appeal.

25 h. If the court issues a commitment order for placement of
26 the person in the specialized treatment unit, it shall be
27 accompanied by written findings of fact and the reasons for
28 the commitment order.

29 3. If the department recommends commitment of a person to
30 the specialized treatment unit, the department shall provide
31 to the court a written report of an evaluation of the person
32 performed in accordance with the criteria provided in section
33 223.3.

34 4. If the court determines the person is a person in need
35 of specialized treatment, the court shall commit the person to

1 the specialized treatment unit for a period of not more than
2 eighteen months or until an evaluation indicates the person no
3 longer meets the definition of a person in need of specialized
4 services. If supported by a departmental recommendation, the
5 court may extend the initial period of commitment by up to
6 twelve months.

7 5. The department shall report to the court annually
8 concerning a person committed to the specialized treatment
9 unit and more often as required by the court.

10 6. A person committed to the department of corrections
11 under section 812.6 is not eligible for a hearing or order
12 under this chapter.

13 7. If a subsequent evaluation indicates the person no
14 longer meets the definition of a person in need of specialized
15 treatment, the department shall submit a written report of the
16 evaluation to the court. The court shall furnish a copy of
17 the report to the person's attorney. The court shall examine
18 the report and take action as the court deems appropriate.

19 8. If the court determines that the person shall be
20 released from the specialized treatment unit, the unit
21 administrator and the expert mobile team shall develop a
22 transition plan for the person. The transition plan is
23 subject to approval by the court. The transition plan shall
24 identify the services to be provided by the expert mobile team
25 in the transition which may include any service implemented
26 pursuant to section 223.2.

27 Sec. 5. NEW SECTION. 223.5 FUNDING -- CONTINGENT
28 EFFECTIVE DATE.

29 1. State or county financial responsibility for the costs
30 of services provided to a person by an expert mobile team or a
31 specialized treatment unit shall be determined in the same
32 manner as it is determined for other services provided to a
33 person with mental retardation or other developmental
34 disability, except as follows:

35 a. If the person is under the jurisdiction of the

1 department of corrections, the department of corrections is
2 responsible.

3 b. If the person is placed in a state resource center or
4 state mental health institute and has a county of legal
5 settlement, the county's responsibility shall be limited to a
6 capped amount in the manner provided in sections 222.73 and
7 230.20 with the remainder a state responsibility.

8 2. Implementation of this chapter is contingent upon
9 enactment of an appropriation for the implementation costs.
10 The department shall notify the Iowa Code editor if such an
11 appropriation is enacted. This subsection is repealed on June
12 30 immediately preceding the fiscal year for which an
13 implementation appropriation is made.

14 Sec. 6. IMPLEMENTATION OF ACT. Section 25B.2, subsection
15 3, shall not apply to this Act.

16 EXPLANATION

17 This bill relates to adult persons with a developmental
18 disability who pose a severe and persistent threat to
19 themselves or others by authorizing the department of human
20 services to create an expert mobile team and specialized
21 treatment unit and providing for a commitment process.
22 Implementation of the bill is contingent upon appropriation of
23 implementation funding.

24 The bill creates new Code chapter 223.

25 New Code section 223.1 defines the terms "department",
26 "developmental disability", "expert mobile team", "mental
27 retardation", "person in need of specialized treatment", and
28 "specialized treatment unit".

29 New Code section 223.2 requires the department to establish
30 an expert mobile team, provides a purpose for the team, and
31 lists services to be provided by the team in support of public
32 and private providers of services.

33 New Code section 223.3 directs the department to operate or
34 contract for the operation of a specialized treatment unit for
35 persons in need of specialized treatment. The unit is to be a

1 secure facility.

2 New Code section 223.4 provides that a person can only be
3 confined by a court order committing a person to the unit.
4 Procedural provisions include a requirement for the department
5 to initiate an application for a commitment order through the
6 county attorney, the application and hearing notice must be
7 provided to the person and the person's attorney, a magistrate
8 or judicial hospitalization referee may hear the matter, and
9 the person shall remain confined pending an appeal of a
10 commitment order. The duration of an initial commitment order
11 is limited to 18 months and may be extended for up to 12
12 months. If a subsequent evaluation indicates the person is no
13 longer in need of specialized treatment, the department is to
14 report to the court and the court is to act on the report. If
15 the court determines the person shall be released, the
16 specialized treatment unit and the expert mobile team are to
17 develop a transition plan for the court's approval.

18 New Code section 223.5 outlines how county and state
19 financial responsibility for the costs of the team and unit
20 are assessed to the state and counties and provides that
21 implementation of the bill is contingent upon the provision of
22 implementation funding. The department is directed to report
23 to the Iowa Code editor concerning the provision of funding.

24 The bill may include a state mandate as defined in Code
25 section 25B.3. The bill makes inapplicable Code section
26 25B.2, subsection 3, which would relieve a political
27 subdivision from complying with a state mandate if funding for
28 the cost of the state mandate is not provided or specified.
29 Therefore, political subdivisions are required to comply with
30 any state mandate included in the bill.

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