

FILED FEB 23 2005

JUDICIARY

SENATE FILE 198
BY WARNSTADT

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

A BILL FOR

1 An Act relating to the transportation of a respondent in a
2 substance abuse or mental health commitment or treatment
3 proceeding.

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

5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

SF 198 JUDICIARY

1 Section 1. Section 125.78, Code 2005, is amended to read
2 as follows:

3 125.78 PROCEDURE AFTER APPLICATION.

4 1. As soon as practical after the filing of an application
5 for involuntary commitment or treatment, the court shall:

6 ~~1-~~ a. Determine whether the respondent has an attorney
7 who is able and willing to represent the respondent in the
8 commitment proceeding, and if not, whether the respondent is
9 financially able to employ an attorney and capable of
10 meaningfully assisting in selecting an attorney. In
11 accordance with those determinations, the court shall allow
12 the respondent to select an attorney or shall assign an
13 attorney to the respondent. If the respondent is financially
14 unable to pay an attorney, the county shall compensate the
15 attorney at an hourly rate to be established by the county
16 board of supervisors in substantially the same manner as
17 provided in section 815.7.

18 ~~2-~~ b. If the application includes a request for a court-
19 appointed attorney for the applicant and the court is
20 satisfied that a court-appointed attorney is necessary to
21 assist the applicant in a meaningful presentation of the
22 evidence, and that the applicant is financially unable to
23 employ an attorney, the court shall appoint an attorney to
24 represent the applicant and the county shall compensate the
25 attorney at an hourly rate to be established by the county
26 board of supervisors in substantially the same manner as
27 provided in section 815.7.

28 ~~3-~~ c. Issue a written order:

29 ~~a-~~ (1) Scheduling a tentative time and place for a
30 hearing, subject to the findings of the report required under
31 section 125.80, subsections 3 and 4, but not less than forty-
32 eight hours after notice to the respondent, unless the
33 respondent waives the forty-eight-hour notice requirement.

34 ~~b-~~ (2) Requiring an examination of the respondent, prior
35 to the hearing, by one or more licensed physicians who shall

1 submit a written report of the examination to the court as
2 required by section 125.80.

3 2. The court may enter a written order after the filing of
4 an application for involuntary commitment or treatment
5 directing the sheriff to transport the respondent to court
6 hearings and to a hospital or other appropriate facility for
7 evaluation, treatment, or placement.

8 Sec. 2. Section 229.8, Code 2005, is amended to read as
9 follows:

10 229.8 PROCEDURE AFTER APPLICATION IS FILED.

11 1. As soon as practicable after the filing of an
12 application for involuntary hospitalization, the court shall:

13 ~~1-~~ a. Determine whether the respondent has an attorney
14 who is able and willing to represent the respondent in the
15 hospitalization proceeding, and if not, whether the respondent
16 is financially able to employ an attorney and capable of
17 meaningfully assisting in selecting one. In accordance with
18 those determinations, the court shall if necessary allow the
19 respondent to select, or shall assign to the respondent, an
20 attorney. If the respondent is financially unable to pay an
21 attorney, the attorney shall be compensated by the county at
22 an hourly rate to be established by the county board of
23 supervisors in substantially the same manner as provided in
24 section 815.7.

25 ~~2-~~ b. Cause copies of the application and supporting
26 documentation to be sent to the county attorney or the county
27 attorney's attorney-designate for review.

28 ~~3-~~ c. Issue a written order which shall:

29 ~~a-~~ (1) If not previously done, set a time and place for a
30 hospitalization hearing, which shall be at the earliest
31 practicable time not less than forty-eight hours after notice
32 to the respondent, unless the respondent waives such minimum
33 prior notice requirement; and

34 ~~b-~~ (2) Order an examination of the respondent, prior to
35 the hearing, by one or more licensed physicians who shall

1 submit a written report on the examination to the court as
2 required by section 229.10.

3 2. The court may enter a written order after the filing
4 of an application for involuntary hospitalization directing
5 the sheriff to transport the respondent to court hearings and
6 to a hospital or other appropriate facility for evaluation,
7 treatment, or placement.

8 **EXPLANATION**

9 This bill allows the court to enter a written order after
10 the filing of an application for involuntary commitment or
11 treatment in a substance abuse proceeding or for involuntary
12 hospitalization in a mental health proceeding directing the
13 sheriff to transport the respondent to court hearings and to a
14 hospital or other appropriate facility for evaluation,
15 treatment, or placement. "Respondent" means a person against
16 whom an application for involuntary commitment or treatment or
17 hospitalization has been filed under Code section 125.75 or
18 229.6.

19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35