

MAP 5 2001

JUDICIARY

HOUSE FILE 501
BY HORBACH

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

A BILL FOR

1 An Act providing magistrates who are not licensed to practice law
2 in Iowa with the authority to review applications for
3 involuntary hospitalization and applications for involuntary
4 commitment or treatment of chronic substance abusers and
5 making conforming changes.

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

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HF 501

1 Section 1. Section 125.77, Code 2001, is amended to read
2 as follows:

3 125.77 SERVICE OF NOTICE.

4 Upon the filing of an application for involuntary
5 commitment, the clerk shall docket the case and immediately
6 notify a district court judge, a district associate judge, or
7 magistrate ~~who-is-admitted-to-the-practice-of-law-in-this~~
8 ~~state~~, who shall review the application and accompanying
9 documentation. The clerk shall send copies of the application
10 and supporting documentation, together with the notice
11 informing the respondent of the procedures required by this
12 division, to the sheriff, for immediate service upon the
13 respondent. If the respondent is taken into custody under
14 section 125.81, service of the application, documentation, and
15 notice upon the respondent shall be made at the time the
16 respondent is taken into custody.

17 Sec. 2. Section 229.7, Code 2001, is amended to read as
18 follows:

19 229.7 SERVICE OF NOTICE UPON RESPONDENT.

20 Upon the filing of an application for involuntary
21 hospitalization, the clerk shall docket the case and
22 immediately notify a district court judge, district associate
23 judge, or magistrate ~~who-is-admitted-to-the-practice-of-law-in~~
24 ~~this-state~~, who shall review the application and accompanying
25 documentation. If the application is adequate as to form, the
26 court may set a time and place for a hearing on the
27 application, if feasible, but the hearing shall not be held
28 less than forty-eight hours after notice to the respondent
29 unless the respondent waives such minimum prior notice
30 requirement. The court shall direct the clerk to send copies
31 of the application and supporting documentation, together with
32 a notice informing the respondent of the procedures required
33 by this chapter, to the sheriff or the sheriff's deputy for
34 immediate service upon the respondent. If the respondent is
35 taken into custody under section 229.11, service of the

1 application, documentation and notice upon the respondent
2 shall be made at the time the respondent is taken into
3 custody.

4 Sec. 3. Section 229.21, subsection 2, Code 2001, is
5 amended to read as follows:

6 2. When an application for involuntary hospitalization
7 under this chapter or an application for involuntary
8 commitment or treatment of chronic substance abusers under
9 sections 125.75 to 125.94 is filed with the clerk of the
10 district court in any county for which a judicial
11 hospitalization referee has been appointed, and no district
12 judge, district associate judge, or magistrate ~~who-is-admitted~~
13 ~~to-the-practice-of-law-in-this-state~~ is accessible, the clerk
14 shall immediately notify the referee in the manner required by
15 section 229.7 or section 125.77. The referee shall discharge
16 all of the duties imposed upon the court by sections 229.7 to
17 229.22 or sections 125.75 to 125.94 in the proceeding so
18 initiated. Subject to the provisions of subsection 4, orders
19 issued by a referee, in discharge of duties imposed under this
20 section, shall have the same force and effect as if ordered by
21 a district judge. However, any commitment to a facility
22 regulated and operated under chapter 135C, shall be in
23 accordance with section 135C.23.

24 Sec. 4. Section 602.6405, subsection 1, Code 2001, is
25 amended to read as follows:

26 1. Magistrates have jurisdiction of simple misdemeanors,
27 including traffic and ordinance violations, and preliminary
28 hearings, search warrant proceedings, county and municipal
29 infractions, and small claims. Magistrates have jurisdiction
30 to determine the disposition of livestock or another animal,
31 as provided in sections 717.5 and 717B.4, if the magistrate
32 determines the value of the livestock or animal is less than
33 ten thousand dollars. Magistrates have jurisdiction to
34 exercise the powers specified in sections 556F.2 and 556F.12,
35 and to hear complaints or preliminary informations, issue

1 warrants, order arrests, make commitments, and take bail.
2 Magistrates have jurisdiction over violations of section
3 123.49, subsection 2, paragraph "h". Magistrates who are
4 admitted to the practice of law in this state have
5 jurisdiction over all proceedings for the involuntary
6 commitment, treatment, or hospitalization of individuals under
7 chapters 125 and 229, except as otherwise provided under
8 ~~section 229.6A; nonlawyer magistrates have jurisdiction over~~
9 ~~emergency detention and hospitalization proceedings under~~
10 ~~sections 125.91 and 229.22.~~ Magistrates who are not admitted
11 to practice law in this state have jurisdiction to review
12 applications for involuntary hospitalizations pursuant to
13 chapters 125 and 229. Magistrates have jurisdiction to
14 conduct hearings authorized under section 809.4.

15 EXPLANATION

16 This bill provides magistrates who are not licensed to
17 practice law in Iowa with the authority to review applications
18 for involuntary hospitalizations pursuant to Code chapters 125
19 and 229. Current law restricts this authority to magistrates
20 who are licensed to practice law in Iowa.

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