

3/20/02 Rereferred To: Judiciary

SEE 2002
Place on Calendar

HOUSE FILE 2564
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 2385)

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

A BILL FOR

1 An Act relating to appeals from involuntary commitment for
2 chronic substance abuse or mental illness.

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

- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23

HF 2564

1 Section 1. Section 229.21, subsection 3, paragraph c, Code
2 Supplement 2001, is amended to read as follows:

3 c. When appealed, the matter shall stand ~~for-trial-de-novo~~
4 on the record made at the hearing. ~~Upon-appeal,-the~~ The court
5 shall schedule ~~a-hospitalization-or-commitment-hearing~~ the
6 appeal before a district judge ~~at-the-earliest-practicable~~
7 time within fourteen days of the filing of the appeal.

8 Sec. 2. Section 229.21, subsection 4, Code Supplement
9 2001, is amended to read as follows:

10 4. If the appellant is in custody under the jurisdiction
11 of the district court at the time of service of the notice of
12 appeal, the appellant shall be discharged from custody unless
13 an order that the appellant be taken into immediate custody
14 has previously been issued under section 229.11 or section
15 125.81, in which case the appellant shall be detained as
16 provided in that section until the ~~hospitalization-or~~
17 ~~commitment-hearing~~ appeal on the record before the district
18 judge. If the appellant is in the custody of a hospital or
19 facility at the time of service of the notice of appeal, the
20 appellant shall be discharged from custody pending disposition
21 of the appeal unless the chief medical officer, not later than
22 the end of the next secular day on which the office of the
23 clerk is open and which follows service of the notice of
24 appeal, files with the clerk a certification that in the chief
25 medical officer's opinion the appellant is seriously mentally
26 ill or a substance abuser. In that case, the appellant shall
27 remain in custody of the hospital or facility until the
28 ~~hospitalization-or-commitment-hearing~~ appeal before the
29 district court.

30 Sec. 3. Section 229.21, subsection 5, Code Supplement
31 2001, is amended to read as follows:

32 5. ~~The-hospitalization-or-commitment-hearing-before-the~~
33 ~~district-judge-shall-be-held,-and-the-judge's-finding-shall-be~~
34 ~~made-and-an-appropriate-order-entered,-as-prescribed-by~~
35 ~~sections-229.12-and-229.13-or-sections-125.82-and-125.83.~~ If,

1 upon appeal, the judge orders the appellant hospitalized or
2 committed for a complete psychiatric or substance abuse
3 evaluation, jurisdiction of the matter shall revert to the
4 judicial hospitalization referee.

5 EXPLANATION

6 This bill relates to appeals from involuntary commitment
7 for chronic substance abuse and mental illness.

8 The bill provides that an appeal to a district judge from a
9 finding that a person is a chronic substance abuser and in
10 need of involuntary commitment or treatment or an appeal from
11 a finding that a person is mentally ill and in need of
12 involuntary hospitalization shall be based upon the record,
13 and further provides that the appeal in such cases shall be
14 held within 14 days of the filing of the appeal. Current law
15 requires appeals in such cases to be conducted based upon a de
16 novo standard of review at the earliest practicable time.

17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

HOUSE FILE 2564

H-8253

1 Amend the amendment, H-8245, to House File 2564 as
2 follows:

3 1. Page 1, by striking lines 36 through 38, and
4 inserting the following:

5 "c. If a hearing held under section 229.12 or
6 section 125.82 was tried by a district judge, the
7 appeal shall be decided by a different district judge.
8 If the hearing was tried by a district associate
9 judge, the appeal shall be decided by a district
10 judge. If".

By TREMMEL of Wapello

H-8253 FILED MARCH 12, 2002

HOUSE FILE 2564

H-8245

1 Amend House File 2564 as follows:

2 1. By striking everything after the enacting
3 clause and inserting the following:

4 "Section 1. Section 229.21, subsections 3, 4, and
5 5, Code Supplement 2001, are amended to read as
6 follows:

7 3. a. Any respondent with respect to whom the
8 district judge, district associate judge, magistrate,
9 or judicial hospitalization referee has found the
10 contention that the respondent is seriously mentally
11 impaired or a chronic substance abuser sustained by
12 clear and convincing evidence presented at a hearing
13 held under section 229.12 or section 125.82, may
14 appeal from the district judge's, district associate
15 judge's, magistrate's, or referee's finding to a judge
16 of the district court by giving the clerk notice in
17 writing, within ten days after the ~~magistrate's or~~
18 ~~referee's~~ finding is made, that an appeal is taken.
19 The appeal may be signed by the respondent or by the
20 respondent's next friend, guardian, or attorney.

21 b. An order of a district judge, district
22 associate judge, magistrate, or judicial
23 hospitalization referee with a finding that the
24 respondent is seriously mentally impaired or a chronic
25 substance abuser shall include the following notice,
26 located conspicuously on the face of the order:

27 "NOTE: The respondent may appeal from this order
28 to a judge of the district court by giving written
29 notice of the appeal to the clerk of the district
30 court within ten days after the date of this order.
31 The appeal may be signed by the respondent or by the
32 respondent's next friend, guardian, or attorney. For
33 a more complete description of the respondent's appeal
34 rights, consult section 229.21 of the Code of Iowa or
35 an attorney."

36 c. If a hearing held under section 229.12 was
37 tried by a district judge or district associate judge,
38 the appeal shall be decided by a district judge. If
39 the hearing was tried by a judicial magistrate or a
40 judicial hospitalization referee, the appeal shall be
41 decided by a district judge or a district associate
42 judge. When appealed, the matter shall stand for
43 trial de novo on the record made at the hearing. Upon
44 appeal, the court shall schedule a ~~hospitalization or~~
45 ~~commitment~~ hearing before a district judge ~~at the~~
46 ~~earliest practicable time~~ or district associate judge
47 to be held within fourteen days of the filing of the
48 appeal. If the record, in the opinion of the judge,
49 is inadequate for the purpose of rendering a judgment
50 on appeal, the judge may order that additional

H-8245

H-8245

Page 2

1 evidence be presented relative to one or more issues,
2 and may enter any other order which is necessary to
3 protect the rights of the parties. The judge shall
4 take minutes of any additional evidence, but the
5 hearing shall not be reported by a certified court
6 reporter.

7 d. Any respondent with respect to whom the
8 district judge, district associate judge, magistrate,
9 or judicial hospitalization referee has held a
10 placement hearing and has entered a placement order
11 may appeal the order to a judge of the district court.
12 The appeal shall be taken and decided in the same
13 manner as described in paragraph "c". The request for
14 appeal must be given to the clerk in writing within
15 ten days of the entry of the ~~magistrate's or referee's~~
16 order. The request for appeal shall be signed by the
17 respondent, or the respondent's next friend, guardian,
18 or attorney.

19 4. If the appellant is in custody under the
20 jurisdiction of the district court at the time of
21 service of the notice of appeal, the appellant shall
22 be discharged from custody unless an order that the
23 appellant be taken into immediate custody has
24 previously been issued under section 229.11 or section
25 125.81, in which case the appellant shall be detained
26 ~~as provided in that section until the hospitalization~~
27 ~~or commitment hearing before the~~ an order is entered
28 by the district judge or district associate judge. If
29 the appellant is in the custody of a hospital or
30 facility at the time of service of the notice of
31 appeal, the appellant shall be discharged from custody
32 pending disposition of the appeal unless the chief
33 medical officer, not later than the end of the next
34 secular day on which the office of the clerk is open
35 and which follows service of the notice of appeal,
36 files with the clerk a certification that in the chief
37 medical officer's opinion the appellant is seriously
38 mentally ill or a substance abuser. In that case, the
39 appellant shall remain in custody of the hospital or
40 facility until the hospitalization or commitment
41 hearing before the district court.

42 5. ~~The hospitalization or commitment hearing~~
43 ~~before the district judge shall be held, and the~~
44 ~~judge's finding shall be made and an appropriate order~~
45 ~~entered, as prescribed by sections 229.12 and 229.13~~
46 ~~or sections 125.82 and 125.83.~~ If upon appeal, the
47 judge orders the appellant hospitalized or committed
48 for a complete psychiatric or substance abuse
49 evaluation, jurisdiction of the matter shall revert to
50 the judicial hospitalization referee."

By TREMMEL of Wapello

H-8245 FILED MARCH 11, 2002