

4/5/01 Referred To: Human Res -

FILED JAN 31 '01

SENATE FILE 100  
BY COMMITTEE ON HUMAN  
RESOURCES

(SUCCESSOR TO SF 23)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to substance abuse by pregnant women by providing  
2 for civil commitment of certain chronic substance abusers.

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

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SF 100

1 Section 1. Section 125.2, subsection 4, Code 2001, is  
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. c. If pregnant, habitually lacks self-  
4 control as to the use of chemical substances to the extent  
5 that the person is likely to seriously endanger the person's  
6 health, or to physically injure the person's self, fetus, or  
7 others, if allowed to remain at liberty without treatment.

8 Sec. 2. Section 125.81, unnumbered paragraph 1, Code 2001,  
9 is amended to read as follows:

10 If a person filing an application requests that a  
11 respondent be taken into immediate custody, and the court upon  
12 reviewing the application and accompanying documentation,  
13 finds probable cause to believe that the respondent is a  
14 chronic substance abuser who is likely to injure the person or  
15 other persons if allowed to remain at liberty or if pregnant,  
16 is likely to injure the person's self, fetus, or others if  
17 allowed to remain at liberty, the court may enter a written  
18 order directing that the respondent be taken into immediate  
19 custody by the sheriff, and be detained until the commitment  
20 hearing, which shall be held no more than five days after the  
21 date of the order, except that if the fifth day after the date  
22 of the order is a Saturday, Sunday, or a holiday, the hearing  
23 may be held on the next business day. The court may order the  
24 respondent detained for the period of time until the hearing  
25 is held, and no longer except as provided in section 125.88,  
26 in accordance with subsection 1 if possible, and if not, then  
27 in accordance with subsection 2 or, only if neither of these  
28 alternatives is available in accordance with subsection 3.

29 Detention may be:

30 Sec. 3. Section 125.81, subsection 2, Code 2001, is  
31 amended to read as follows:

32 2. In a suitable hospital, the chief medical officer of  
33 which shall be informed of the reasons why immediate custody  
34 has been ordered. The hospital may provide treatment which is  
35 necessary to preserve the respondent's life, or to

1 appropriately control the respondent's behavior which is  
2 likely to result in physical injury to the person or to others  
3 if allowed to continue, or if the respondent is pregnant, to  
4 the respondent's self, fetus, or others and other treatment as  
5 deemed appropriate by the chief medical officer.

6 Sec. 4. IMPLEMENTATION OF ACT. Section 25B.2, subsection  
7 3, shall not apply to this Act.

8 EXPLANATION

9 This bill relates to substance abuse by pregnant women by  
10 providing for civil commitment of chronic substance abusers  
11 who are pregnant.

12 The bill amends the definition of "chronic substance  
13 abuser" in Code section 125.2, to include a pregnant person  
14 who habitually lacks self-control as to the use of chemical  
15 substances to the extent that the person is likely to  
16 seriously endanger the person's health, or to physically  
17 injure the person's self, fetus, or others, if allowed to  
18 remain at liberty without treatment. The bill incorporates  
19 this standard into the current definition which includes a  
20 similar standard for persons who are not pregnant as well as a  
21 requirement that the person lacks sufficient judgment to make  
22 responsible decisions with respect to the person's  
23 hospitalization or treatment. Corresponding amendments are  
24 made to Code section 125.81, relating to taking a chronic  
25 substance abuser into immediate custody for treatment.

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

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## SENATE FILE 100

S-3028

1 Amend Senate File 100 as follows:

2 1. By striking page 1, line 1 through page 2,  
3 line 5 and inserting the following:

4 "Section 1. Section 125.12, Code 2001, is amended  
5 by adding the following new subsections:

6 NEW SUBSECTION. 8. In addition to the program  
7 components listed in subsection 2, the program shall  
8 include a program of services for pregnant women and  
9 postpartum women who are substance abusers and their  
10 children. The department shall establish an office on  
11 perinatal substance abuse to implement the program of  
12 services.

13 a. The office of perinatal substance abuse may do  
14 any of the following:

15 (1) Coordinate pilot projects and planning  
16 projects funded by the state which are related to  
17 perinatal substance abuse.

18 (2) Provide technical assistance to counties,  
19 public entities, and private entities that are  
20 attempting to address the problem of perinatal  
21 substance abuse.

22 (3) Serve as a clearinghouse of information  
23 regarding strategies and programs which address  
24 perinatal substance abuse.

25 (4) Encourage innovative responses by public and  
26 private entities that are attempting to address the  
27 problem of perinatal substance abuse.

28 (5) Review proposals of, and develop proposals  
29 for, state agencies regarding the funding of programs  
30 relating to perinatal substance abuse.

31 b. The office on perinatal substance abuse shall  
32 work closely with the council on chemically exposed  
33 infants and children established in section 235C.1 in  
34 implementing the program of services and in developing  
35 a coordinated state strategy for addressing the needs  
36 of pregnant women, postpartum women, and their  
37 children for substance abuse treatment.

38 c. The coordinated state strategy shall address  
39 the special needs of pregnant women and postpartum  
40 women who are substance abusers. The special needs to  
41 be addressed may include but are not limited to all  
42 the following:

43 (1) Provision for medical services, which may  
44 include but are not limited to any of the following:

45 (a) Low-risk and high-risk prenatal care.

46 (b) Pediatric follow-up care, including preventive  
47 infant health care.

48 (c) Developmental follow-up care.

49 (d) Nutrition counseling.

50 (e) Methadone.

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- 1 (f) Testing and counseling relating to acquired  
2 immune deficiency syndrome.
- 3 (g) Monthly visits with a physician and surgeon  
4 who specializes in treating persons with chemical  
5 dependencies.
- 6 (2) Provision for nonmedical services which may  
7 include but are not limited to any of the following:
- 8 (a) Case management.
- 9 (b) Individual or group counseling sessions, which  
10 occur at least once a week.
- 11 (c) Family counseling, including counseling  
12 services for partners and children of the women.
- 13 (d) Health education services, including perinatal  
14 chemical dependency classes, addressing topics that  
15 include but are not limited to the effects of drugs on  
16 infants, acquired immune deficiency syndrome,  
17 addiction in the family, child development, nutrition,  
18 self-esteem, and responsible decision making.
- 19 (e) Parenting classes.
- 20 (f) Adequate child care for participating women.
- 21 (g) Encouragement of active participation and  
22 support by spouses, domestic partners, family members,  
23 and friends.
- 24 (h) Opportunities for a women-only treatment  
25 environment.
- 26 (i) Transportation to outpatient treatment  
27 programs.
- 28 (j) Follow-up services, which may include but are  
29 not limited to assistance with transition into housing  
30 in a drug-free environment.
- 31 (k) Child development services.
- 32 (l) Educational and vocational services for women.
- 33 (m) Weekly urine testing.
- 34 (n) Special recruitment, training, and support  
35 services for foster care parents of chemically exposed  
36 infants.
- 37 (o) Outreach which reflects the cultural and  
38 ethnic diversity of the population served.
- 39 NEW SUBSECTION. 9. A county may establish a  
40 perinatal substance abuse coordinating council which  
41 consists of persons who are experts in the areas of  
42 substance abuse, client outreach and intervention with  
43 women who are substance abusers, child welfare  
44 services, maternal and child health services,  
45 developmental services, and representatives from other  
46 community-based organizations. The county board of  
47 supervisors may select an agency or department of the  
48 county to be the lead agency for perinatal substance  
49 abuse efforts. The coordination efforts provided by  
50 the lead agency through the council may include but

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1 are not limited to the following:

- 2 a. The identification of the extent of the
- 3 perinatal substance abuse problem in the county based
- 4 on existing data.
- 5 b. The development of coordinated responses by
- 6 county health and social services agencies and
- 7 departments which address the problem of perinatal
- 8 substance abuse in the county.
- 9 c. The definition of the elements of an integrated
- 10 substance abuse recovery system for pregnant women,
- 11 postpartum women, and their children.
- 12 d. The identification of essential support
- 13 services to be included into the integrated recovery
- 14 system.
- 15 e. The promotion of communitywide understanding of
- 16 the perinatal substance abuse problem in the county
- 17 and appropriate responses.
- 18 f. The communication with policymakers at both the
- 19 state and federal level about substance abuse
- 20 prevention and treatment needs for pregnant women,
- 21 postpartum women, and their children.
- 22 g. The utilization of services which emphasize
- 23 coordination of treatment services with other health,
- 24 child welfare, child development, and education
- 25 services.

26 Sec. \_\_\_\_ REPORT. The office on perinatal  
27 substance abuse created in this Act, in consultation  
28 with the council on chemically exposed infants and  
29 children, shall evaluate the effectiveness of the  
30 coordinated state strategy for addressing the needs of  
31 pregnant women, postpartum women, and their children  
32 for substance abuse treatment and shall report its  
33 findings to the general assembly on or before July 1,  
34 2003."

35 2. Title page, by striking line 2 and inserting  
36 the following: "for treatment services".

37 3. By renumbering as necessary.

By PATRICIA HARPER

**S-3028 FILED FEBRUARY 13, 2001**

**SENATE FILE 100**

**S-3031**

1 Amend Senate File 100 as follows:

2 1. Page 2, by striking lines 6 and 7 and  
3 inserting the following:

4 "Sec. \_\_\_\_ CONTINGENT EFFECTIVENESS. This Act  
5 shall not take effect unless an appropriation is  
6 enacted or the state's share of the cost of this Act  
7 is specified in accordance with section 25B.2,  
8 subsection 3."

9 2. By renumbering as necessary.

By JOHNIE HAMMOND

## SENATE FILE 100

S-3067

1 Amend Senate File 100 as follows:

2 1. Page 2, line 5, by inserting after the word  
3 "officer." the following: "The respondent shall not  
4 be released until the treatment to preserve the  
5 respondent's life or to appropriately control the  
6 respondent's behavior has been satisfactorily  
7 completed."

By ROBERT E. DVORSKY

S-3067 FILED FEBRUARY 14, 2001

## SENATE FILE 100

S-3068

1 Amend Senate File 100 as follows:

2 1. Page 1, line 34, by striking the word "may"  
3 and inserting the following: "may shall"

By ROBERT E. DVORSKY  
JOHNIE HAMMOND

S-3068 FILED FEBRUARY 14, 2001

## SENATE FILE 100

S-3069

- 1 Amend Senate File 100 as follows:
- 2 1. Page 1, line 2, by striking the word
- 3 "paragraph" and inserting the following:
- 4 "paragraphs".
- 5 2. Page 1, by inserting after line 7 the
- 6 following:
- 7 "d. If the person is alleged or claims to be the
- 8 biological father of an unborn child of a pregnant
- 9 woman with whom the person is cohabitating, the person
- 10 has a history of substance abuse or domestic abuse,
- 11 and habitually lacks self-control as to the use of
- 12 chemical substances to the extent that the person is
- 13 likely to seriously endanger the person's health, or
- 14 to physically injure the person's self, the pregnant
- 15 woman, the pregnant woman's fetus, or others, if
- 16 allowed to remain at liberty without treatment."
- 17 3. Page 1, line 15, by striking the word "or" and
- 18 inserting the following: "or,".
- 19 4. Page 1, line 17, by inserting after the word
- 20 "liberty," the following: "or if a person
- 21 cohabitating with a pregnant woman as described in
- 22 section 125.2, subsection 4, paragraph "d", is likely
- 23 to injure the person's self, the pregnant woman, the
- 24 pregnant woman's fetus, or others, if allowed to
- 25 remain at liberty,".
- 26 5. Page 2, line 3, by striking the word "or" and
- 27 inserting the following: "or,".
- 28 6. Page 2, line 4 by inserting after the word
- 29 "others" the following: ", or if a person
- 30 cohabitating with a pregnant woman, as described in
- 31 section 125.2, subsection 4, paragraph "d", to the
- 32 respondent's self, the pregnant woman, the pregnant
- 33 woman's fetus, or others,".

By ROBERT E. DVORSKY  
JOHNIE HAMMOND

S-3069 FILED FEBRUARY 14, 2001

**SENATE FILE 100**  
**FISCAL NOTE**

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A fiscal note for **Senate File 100** is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

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Senate File 100 relates to substance abuse by pregnant women by providing for civil commitment of chronic substance abusers who are pregnant.

**ASSUMPTIONS**

1. Under current law, some costs of committing a pregnant substance abuser may already be incurred. However, due to insufficient data, the current cost, the number of pregnant women civilly-committed, and the level of treatment provided cannot be determined.
2. The estimate establishes a range for the number of cases from 100 to 500.
3. Each pregnant woman committed would receive three days of inpatient treatment at a cost of \$375 per day.
4. Pregnant women committed under the proposed legislation for causing injury to the fetus would require more intensive treatment than a non-pregnant person committed under current law. The type and length of treatment is difficult to determine until the individual is assessed. Therefore two treatment options will be included. Under option number one, each pregnant woman committed would receive a staged treatment program of seven weeks (for an average total treatment length of 60 days). The associated costs of the staged treatment program (based on Medicaid rates) are as follows:  
Residential Treatment - 2 weeks at \$155 per day  
Day Treatment - 2 weeks at \$100 per day  
Out Patient Treatment - 3 weeks at \$145 per week

Under option number two, each pregnant woman committed would be placed in a medically-managed residential treatment facility at a cost of \$155 per day for half of her pregnancy (20 weeks). Treatment programs of long duration however, would be more difficult to implement due to capacity limitations. Community-based treatment programs are currently operating at full capacity.

5. Total treatment costs for option number one, including all types of treatment, would be approximately \$5,100 per case.
6. Total treatment costs for option number two, would be approximately \$22,800 per case.
7. The estimates do not include the cost of obstetrical care for the women while they are in treatment, or the cost of child care for women in treatment who have children, or any court costs associated with the commitment. The estimates also do not include any potential savings from fewer low-birthweight infants, which would be an expected result of the civilly-committed women receiving substance abuse treatment and obstetrical care during their pregnancies.
8. The Bill does not identify who is responsible for paying costs associated

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with this proposal. The Bill may include a State mandate.

9. The following costs may be incurred:

Sheriff's Transportation	- \$ 100 per case
Matron's Expense	- \$ 100 per case
Sheriff's fees	- \$ 25 per case
Defense Attorney	- \$ 150 per case
Hospital Pre-hearing (5 days)	- \$2,500 per case

10. Total cost incurred for the commitment process would be approximately \$2,900 per case. This estimate does not include costs associated with treatment. Additional treatment costs could be incurred if the individual is committed to either a mental health institution or a treatment facility that does not contract with the Iowa Department of Public Health.

#### CORRECTIONAL IMPACT

There is no correctional impact of the proposed legislation.

#### FISCAL IMPACT

The estimated fiscal impact of Senate File 100 is provided as follows:

##### Option #1

Based on the estimated case costs of \$5,100, the following range is provided for the FY 2002 impact of Senate File 100:

Total treatment costs	Total civil commitment costs
\$ 510,000 for 100 cases	\$ 290,000 for 100 cases
\$1,020,000 for 200 cases	\$ 580,000 for 200 cases
\$1,530,000 for 300 cases	\$ 870,000 for 300 cases
\$2,040,000 for 400 cases	\$1,160,000 for 400 cases
\$2,550,000 for 500 cases	\$1,450,000 for 500 cases

##### Option #2

Based on the estimated case costs of \$22,800, the following range is provided for the FY 2002 impact of Senate File 100:

Total treatment costs	Total civil commitment costs
\$ 2,280,000 for 100 cases	\$ 290,000 for 100 cases
\$ 4,560,000 for 200 cases	\$ 580,000 for 200 cases
\$ 6,840,000 for 300 cases	\$ 870,000 for 300 cases
\$ 9,120,000 for 400 cases	\$1,160,000 for 400 cases
\$11,400,000 for 500 cases	\$1,450,000 for 500 cases

Adjustments for costs incurred under current law for similar cases has not been made to the above estimates, due to insufficient information on the number of cases, level of treatment, and the associated costs.

SOURCES

Department of Public Health  
Department of Human Services  
Iowa State Association of Counties

(LSB 1419SV, RIT)

FILED FEBRUARY 15, 2001

BY DENNIS PROUTY, FISCAL DIRECTOR