

FEB 2 2005
HUMAN RESOURCES

HOUSE FILE 184
BY HEDDENS and HEATON

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

A BILL FOR

1 An Act revising child welfare requirements involving children
2 with mental health, behavioral, or emotional disorders and
3 providing a contingent effective date.

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

HF 184

1 Section 1. Section 135H.6, Code 2005, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 11. If a child has an emotional,
4 behavioral, or mental health disorder, the psychiatric
5 institution does not require court proceedings to be initiated
6 or that a child's parent, guardian, or custodian must
7 terminate parental rights over or transfer legal custody of
8 the child for the purpose of obtaining treatment from the
9 psychiatric institution for the child. Relinquishment of a
10 child's custody shall not be a condition of the child
11 receiving services.

12 Sec. 2. Section 232.2, subsection 6, paragraph f, Code
13 2005, is amended to read as follows:

14 f. Who is in need of treatment to cure or alleviate
15 serious mental illness or disorder, or emotional damage as
16 evidenced by severe anxiety, depression, withdrawal, or
17 untoward aggressive behavior toward self or others and whose
18 parent, guardian, or custodian is unwilling ~~or-unable~~ to
19 provide such treatment.

20 Sec. 3. Section 234.7, Code 2005, is amended to read as
21 follows:

22 234.7 DEPARTMENT DUTIES.

23 1. The department of human services shall comply with the
24 following requirement associated with child foster care
25 licensees under chapter 237:

26 The department shall include a child's foster parent in,
27 and provide timely notice of, planning and review activities
28 associated with the child, including but not limited to
29 permanency planning and placement review meetings, which shall
30 include discussion of the child's rehabilitative treatment
31 needs.

32 2. a. The department of human services shall submit a
33 waiver request to the United States department of health and
34 human services as necessary to provide limited coverage under
35 the medical assistance program for children who are described

1 by any of the following:

2 (1) The child needs behavioral health care services and
3 qualifies for the care level provided by a psychiatric medical
4 institution for children licensed under chapter 135H.

5 (2) The child is in need of treatment to cure or alleviate
6 serious mental illness or disorder, or emotional damage as
7 evidenced by severe anxiety, depression, withdrawal, or
8 untoward aggressive behavior toward self or others and whose
9 parent, guardian, or custodian is unable to provide such
10 treatment.

11 b. If federal approval of the waiver request is granted,
12 the department shall renegotiate the medical assistance
13 contract provisions for behavioral health services as
14 necessary for the contractor to address the needs of children
15 described in paragraph "a". If federal approval is not
16 received, the department shall present options to the governor
17 and general assembly to meet the needs of such children
18 through a state-funded program.

19 Sec. 4. CONTINGENT EFFECTIVE DATE.

20 1. The section of this Act amending section 232.2,
21 subsection 6, paragraph "f", shall take effect on the initial
22 implementation date of either of the following contingencies,
23 providing one of the contingencies is implemented:

24 a. Federal approval is received for the waiver request
25 submitted by the department of human services pursuant to
26 section 234.7, subsection 2, paragraph "a", as enacted by this
27 Act.

28 b. A state-funded program is implemented in lieu of the
29 federal waiver, as described in section 234.7, subsection 2,
30 paragraph "b", as enacted by this Act.

31 2. The department of human services shall notify the Code
32 editor if either of the contingencies in subsection 1 occurs.

33 EXPLANATION

34 This bill relates to child welfare requirements involving
35 children with mental health, behavioral, or emotional

1 disorders and the department of human services.

2 Code section 135H.6, relating to licensure requirements for
3 psychiatric medical institutions for children (PMICs), is
4 amended by adding a new requirement. The new requirement
5 prohibits a PMIC from requiring a child's parent, guardian, or
6 custodian to relinquish parental rights or custody in order
7 for the child to receive PMIC services.

8 One of the bases in Code section 232.2 for defining a child
9 in need of assistance is revised. Under current law, a child
10 who is in need of treatment to cure a mental illness disorder,
11 emotional damage, or aggressive behavior, when the child's
12 parent, guardian, or custodian is unwilling or unable to
13 provide the treatment is a child in need of assistance. The
14 bill modifies this provision to provide that such a child is
15 not a child in need of assistance if the parent, guardian, or
16 custodian is unable to provide the treatment. The bill
17 instead requires the department to address treatment for such
18 children.

19 Code section 234.7, relating to requirements of the
20 department under the child and family services Code chapter,
21 is amended to apply a new requirement. The department is
22 directed to apply for a federal waiver to provide limited
23 coverage under the medical assistance (Medicaid) program for a
24 child who qualifies for PMIC level of care or is in need of
25 treatment to cure a mental illness disorder, emotional damage,
26 or aggressive behavior and the child's parent, guardian, or
27 custodian is unable to provide the treatment. If the federal
28 government approves the waiver, the department must
29 renegotiate its contract for behavioral health services under
30 the Medicaid program. If the federal government does not
31 provide approval, the department is required to provide
32 options to the governor and general assembly for a state-
33 funded program.

34 The bill includes a contingent effective date for the
35 bill's amendment to Code section 232.2. That amendment only

1 takes effect provided either federal approval of the waiver
2 request submitted pursuant to the bill is received or the
3 waiver request is not approved and a state-funded program is
4 implemented.

- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28
- 29
- 30
- 31
- 32
- 33
- 34
- 35