

SENATE/HOUSE FILE _____
BY (PROPOSED MENTAL HEALTH AND
DISABILITY SERVICES STUDY
COMMITTEE BILL)

A BILL FOR

1 An Act relating to terminology changes in Iowa Code references
2 to mental retardation and adult day care.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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DIVISION I

INTELLECTUAL DISABILITY

Section 1. Section 4.1, Code 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 12A. *“Intellectual disability”* means a disability of children and adults who as a result of inadequately developed intelligence have a significant impairment in ability to learn or to adapt to the demands of society, and, if a diagnosis is required, *“intellectual disability”* means a diagnosis of mental retardation as defined in the diagnostic and statistical manual of mental disorders, fourth edition, published by the American psychiatric association.

Sec. 2. Section 4.1, subsection 21A, Code 2011, is amended to read as follows:

21A. *Persons with mental illness.* The words *“persons with mental illness”* include persons with psychosis, persons who are severely depressed, and persons with any type of mental disease or mental disorder, except that mental illness does not refer to ~~mental retardation as defined in section 222.2~~ intellectual disability, or to insanity, diminished responsibility, or mental incompetency as defined and used in the Iowa criminal code or in the rules of criminal procedure, Iowa court rules. A person who is hospitalized or detained for treatment of mental illness shall not be deemed or presumed to be incompetent in the absence of a finding of incompetence made pursuant to section 229.27.

Sec. 3. Section 8A.311, subsection 16, Code Supplement 2011, is amended to read as follows:

16. A state agency shall make every effort to purchase those products produced for sale by sheltered workshops, work activity centers, and other special programs funded in whole or in part by public moneys that employ persons with ~~mental retardation~~ an intellectual disability or other developmental disabilities or mental illness if the products meet the

1 required specifications.

2 Sec. 4. Section 23A.2, subsection 10, paragraph 1,
3 subparagraph (4), Code 2011, is amended to read as follows:

4 (4) Nothing in this paragraph shall be construed to
5 prohibit a state resource center from providing a service a
6 resident needs for compliance with accreditation standards
7 for intermediate care facilities for persons with ~~mental~~
8 ~~retardation~~ intellectual disability.

9 Sec. 5. Section 48A.2, subsection 3, Code 2011, is amended
10 to read as follows:

11 3. "*Person who is incompetent to vote*" means a person
12 ~~described in section 222.2, subsection 5,~~ with an intellectual
13 disability who has been found to lack the mental capacity
14 to vote in a proceeding held pursuant to section 222.31 or
15 633.556.

16 Sec. 6. Section 126.16, subsection 2, Code 2011, is amended
17 to read as follows:

18 2. For the purpose of this chapter, advertising is false if
19 it represents a drug, device, or cosmetic to have any effect
20 in the diagnosis, prevention, or treatment of arthritis,
21 blood disorders, bone or joint diseases, kidney diseases or
22 disorders, cancer, diabetes, gall bladder disease or disorders,
23 heart and vascular disease, high blood pressure, diseases or
24 disorders of the ear, mental disease or ~~mental retardation~~
25 intellectual disability, degenerative neurological diseases,
26 paralysis, prostate gland disorders, conditions of the scalp
27 affecting hair loss, baldness, endocrine disorders, sexual
28 impotence, tumors, venereal diseases, varicose ulcers,
29 breast enlargement, purifying blood, metabolic disorders,
30 immune system disorders or conditions affecting the immune
31 system, extension of life expectancy, stress and tension,
32 brain stimulation or performance, the body's natural defense
33 mechanisms, blood flow, and depression. However, advertising
34 not in violation of subsection 1 is not false under this
35 subsection if it is disseminated only to members of the

1 medical, dental, or veterinary professions, or appears only
2 in the scientific periodicals of these professions, or is
3 disseminated only for the purpose of public health education by
4 persons not commercially interested, directly or indirectly,
5 in the sale of such drugs or devices. However, if the board
6 determines that an advance in medical science has made any
7 type of self-medication safe as to any of the diseases named
8 in this subsection, the board shall by rule authorize the
9 advertising of drugs having curative or therapeutic effect for
10 such disease, subject to the conditions and restrictions the
11 board deems necessary in the interests of the public health.
12 However, this subsection does not indicate that self-medication
13 for diseases other than those named in this subsection is safe
14 and efficacious.

15 Sec. 7. Section 135.63, subsection 1, Code 2011, is amended
16 to read as follows:

17 1. A new institutional health service or changed
18 institutional health service shall not be offered or developed
19 in this state without prior application to the department
20 for and receipt of a certificate of need, pursuant to this
21 division. The application shall be made upon forms furnished
22 or prescribed by the department and shall contain such
23 information as the department may require under this division.
24 The application shall be accompanied by a fee equivalent
25 to three-tenths of one percent of the anticipated cost of
26 the project with a minimum fee of six hundred dollars and a
27 maximum fee of twenty-one thousand dollars. The fee shall be
28 remitted by the department to the treasurer of state, who shall
29 place it in the general fund of the state. If an application
30 is voluntarily withdrawn within thirty calendar days after
31 submission, seventy-five percent of the application fee shall
32 be refunded; if the application is voluntarily withdrawn more
33 than thirty but within sixty days after submission, fifty
34 percent of the application fee shall be refunded; if the
35 application is withdrawn voluntarily more than sixty days

1 after submission, twenty-five percent of the application fee
2 shall be refunded. Notwithstanding the required payment of
3 an application fee under this subsection, an applicant for a
4 new institutional health service or a changed institutional
5 health service offered or developed by an intermediate care
6 facility for persons with ~~mental retardation~~ an intellectual
7 disability or an intermediate care facility for persons with
8 mental illness as defined pursuant to section 135C.1 is exempt
9 from payment of the application fee.

10 Sec. 8. Section 135.63, subsection 2, paragraphs f and p,
11 Code 2011, are amended to read as follows:

12 *f.* A residential care facility, as defined in section
13 135C.1, including a residential care facility for persons with
14 ~~mental retardation~~ an intellectual disability, notwithstanding
15 any provision in this division to the contrary.

16 *p.* The conversion of an existing number of beds by an
17 intermediate care facility for persons with ~~mental retardation~~
18 an intellectual disability to a smaller facility environment,
19 including but not limited to a community-based environment
20 which does not result in an increased number of beds,
21 notwithstanding any provision in this division to the contrary,
22 including subsection 4, if all of the following conditions
23 exist:

24 (1) The intermediate care facility for persons with ~~mental~~
25 ~~retardation~~ an intellectual disability reports the number
26 and type of beds to be converted on a form prescribed by the
27 department at least thirty days before the conversion.

28 (2) The intermediate care facility for persons with ~~mental~~
29 ~~retardation~~ an intellectual disability reports the conversion
30 of beds on its next annual report to the department.

31 Sec. 9. Section 135.63, subsection 4, unnumbered paragraph
32 1, Code 2011, is amended to read as follows:

33 A copy of the application shall be sent to the department
34 of human services at the time the application is submitted
35 to the Iowa department of public health. The department

1 shall not process applications for and the council shall not
2 consider a new or changed institutional health service for an
3 intermediate care facility for persons with ~~mental retardation~~
4 an intellectual disability unless both of the following
5 conditions are met:

6 Sec. 10. Section 135.63, subsection 4, paragraph a, Code
7 2011, is amended to read as follows:

8 a. The new or changed beds shall not result in an
9 increase in the total number of medical assistance certified
10 intermediate care facility beds for persons with ~~mental~~
11 ~~retardation~~ an intellectual disability in the state, exclusive
12 of those beds at the state resource centers or other state
13 institutions, beyond one thousand six hundred thirty-six beds.

14 Sec. 11. Section 135C.1, subsections 6, 9, and 13, Code
15 2011, are amended to read as follows:

16 6. "*Health care facility*" or "*facility*" means a residential
17 care facility, a nursing facility, an intermediate care
18 facility for persons with mental illness, or an intermediate
19 care facility for persons with ~~mental retardation~~ an
20 intellectual disability.

21 9. "*Intermediate care facility for persons with mental*
22 *retardation an intellectual disability*" means an institution
23 or distinct part of an institution with a primary purpose
24 to provide health or rehabilitative services to three or
25 more individuals, who primarily have ~~mental retardation~~ an
26 intellectual disability or a related condition and who are
27 not related to the administrator or owner within the third
28 degree of consanguinity, and which meets the requirements
29 of this chapter and federal standards for intermediate care
30 facilities for persons with ~~mental retardation~~ an intellectual
31 disability established pursuant to the federal Social Security
32 Act, § 1905(c)(d), as codified in 42 U.S.C. § 1936d, which are
33 contained in 42 C.F.R. pt. 483, subpt. D, § 410 - 480.

34 13. "*Nursing facility*" means an institution or a distinct
35 part of an institution housing three or more individuals not

1 related to the administrator or owner within the third degree
2 of consanguinity, which is primarily engaged in providing
3 health-related care and services, including rehabilitative
4 services, but which is not engaged primarily in providing
5 treatment or care for mental illness or ~~mental-retardation~~ an
6 intellectual disability, for a period exceeding twenty-four
7 consecutive hours for individuals who, because of a mental or
8 physical condition, require nursing care and other services in
9 addition to room and board.

10 Sec. 12. Section 135C.2, subsection 3, paragraphs b, c, and
11 d, Code 2011, are amended to read as follows:

12 b. The department may also establish by administrative
13 rule special classifications within the residential care
14 facility, intermediate care facility for persons with mental
15 illness, intermediate care facility for persons with ~~mental-~~
16 ~~retardation~~ an intellectual disability, or nursing facility
17 categories, for facilities intended to serve individuals who
18 have special health care problems or conditions in common.
19 Rules establishing a special classification shall define the
20 problem or condition to which the special classification is
21 relevant and establish requirements for an approved program of
22 care commensurate with the problem or condition. The rules
23 may grant special variances or considerations to facilities
24 licensed within the special classification.

25 c. The rules adopted for intermediate care facilities for
26 persons with ~~mental-retardation~~ an intellectual disability
27 shall be consistent with, but no more restrictive than, the
28 federal standards for intermediate care facilities for persons
29 with ~~mental-retardation~~ an intellectual disability established
30 pursuant to the federal Social Security Act, § 1905(c)(d),
31 as codified in 42 U.S.C. § 1396d, in effect on January 1,
32 1989. However, in order for an intermediate care facility for
33 persons with ~~mental-retardation~~ an intellectual disability
34 to be licensed, the state fire marshal must certify to the
35 department that the facility meets the applicable provisions

1 of the rules adopted for such facilities by the state fire
2 marshal. The state fire marshal's rules shall be based
3 upon such a facility's compliance with either the provisions
4 applicable to health care occupancies or residential board and
5 care occupancies of the life safety code of the national fire
6 protection association, 2000 edition. The department shall
7 adopt additional rules for intermediate care facilities for
8 persons with ~~mental retardation~~ an intellectual disability
9 pursuant to section 135C.14, subsection 8.

10 d. Notwithstanding the limitations set out in this
11 subsection regarding rules for intermediate care facilities for
12 persons with ~~mental retardation~~ an intellectual disability,
13 the department shall consider the federal interpretive
14 guidelines issued by the federal centers for Medicare and
15 Medicaid services when interpreting the department's rules
16 for intermediate care facilities for persons with ~~mental~~
17 ~~retardation~~ an intellectual disability. This use of the
18 guidelines is not subject to the rulemaking provisions of
19 sections 17A.4 and 17A.5, but the guidelines shall be published
20 in the Iowa administrative bulletin and the Iowa administrative
21 code.

22 Sec. 13. Section 135C.2, subsection 5, unnumbered paragraph
23 1, Code 2011, is amended to read as follows:

24 The department shall establish a special classification
25 within the residential care facility category in order
26 to foster the development of residential care facilities
27 which serve persons with ~~mental retardation~~ an intellectual
28 disability, chronic mental illness, a developmental disability,
29 or brain injury, as described under section 225C.26, and which
30 contain five or fewer residents. A facility within the special
31 classification established pursuant to this subsection is
32 exempt from the requirements of section 135.63. The department
33 shall adopt rules which are consistent with rules previously
34 developed for the waiver demonstration project pursuant to 1986
35 Iowa Acts, chapter 1246, section 206, and which include all of

1 the following provisions:

2 Sec. 14. Section 135C.2, subsection 5, paragraphs a and f,
3 Code 2011, are amended to read as follows:

4 a. A facility provider under the special classification must
5 comply with rules adopted by the department for the special
6 classification. However, a facility provider which has been
7 accredited by the accreditation council for services to persons
8 with ~~mental retardation~~ an intellectual disability and other
9 developmental disabilities shall be deemed to be in compliance
10 with the rules adopted by the department.

11 f. The facilities licensed under this subsection shall be
12 eligible for funding utilized by other licensed residential
13 care facilities for persons with ~~mental retardation~~ an
14 intellectual disability, or licensed residential care
15 facilities for persons with mental illness, including but not
16 limited to funding under or from the federal social services
17 block grant, the state supplementary assistance program, state
18 mental health and developmental disabilities services funds,
19 and county funding provisions.

20 Sec. 15. Section 135C.6, subsection 8, paragraphs a and b,
21 Code 2011, are amended to read as follows:

22 a. Residential programs providing care to not more than
23 four individuals and receiving moneys appropriated to the
24 department of human services under provisions of a federally
25 approved home and community-based services waiver for persons
26 with intellectual disabilities or other medical assistance
27 program under chapter 249A. In approving a residential program
28 under this paragraph, the department of human services shall
29 consider the geographic location of the program so as to avoid
30 an overconcentration of such programs in an area. In order
31 to be approved under this paragraph, a residential program
32 shall not be required to involve the conversion of a licensed
33 residential care facility for persons with ~~mental retardation~~
34 an intellectual disability.

35 b. Not more than forty residential care facilities for

1 persons with ~~mental-retardation~~ an intellectual disability
2 that are licensed to serve not more than five individuals may
3 be authorized by the department of human services to convert
4 to operation as a residential program under the provisions
5 of a medical assistance home and community-based services
6 waiver for persons with intellectual disabilities. A converted
7 residential program operating under this paragraph is subject
8 to the conditions stated in paragraph "a" except that the
9 program shall not serve more than five individuals.

10 Sec. 16. Section 135C.6, subsection 9, Code 2011, is amended
11 to read as follows:

12 9. Contingent upon the department of human services
13 receiving federal approval, a residential program which
14 serves not more than eight individuals and is licensed as an
15 intermediate care facility for persons with ~~mental-retardation~~
16 an intellectual disability may surrender the facility license
17 and continue to operate under a federally approved medical
18 assistance home and community-based services waiver for persons
19 with intellectual disabilities, if the department of human
20 services has approved a plan submitted by the residential
21 program.

22 Sec. 17. Section 135C.23, subsection 2, paragraph b, Code
23 2011, is amended to read as follows:

24 b. This section does not prohibit the admission of a
25 patient with a history of dangerous or disturbing behavior
26 to an intermediate care facility for persons with mental
27 illness, intermediate care facility for persons with ~~mental~~
28 ~~retardation~~ an intellectual disability, nursing facility, or
29 county care facility when the intermediate care facility for
30 persons with mental illness, intermediate care facility for
31 persons with ~~mental-retardation~~ an intellectual disability,
32 nursing facility, or county care facility has a program which
33 has received prior approval from the department to properly
34 care for and manage the patient. An intermediate care
35 facility for persons with mental illness, intermediate care

1 facility for persons with ~~mental retardation~~ an intellectual
2 disability, nursing facility, or county care facility is
3 required to transfer or discharge a resident with dangerous or
4 disturbing behavior when the intermediate care facility for
5 persons with mental illness, intermediate care facility for
6 persons with ~~mental retardation~~ an intellectual disability,
7 nursing facility, or county care facility cannot control the
8 resident's dangerous or disturbing behavior. The department,
9 in coordination with the state mental health and disability
10 services commission created in section 225C.5, shall adopt
11 rules pursuant to chapter 17A for programs to be required
12 in intermediate care facilities for persons with mental
13 illness, intermediate care facilities for persons with ~~mental~~
14 ~~retardation~~ an intellectual disability, nursing facilities, and
15 county care facilities that admit patients or have residents
16 with histories of dangerous or disturbing behavior.

17 Sec. 18. Section 135C.25, subsection 1, Code 2011, is
18 amended to read as follows:

19 1. Each health care facility shall have a resident advocate
20 committee whose members shall be appointed by the director
21 of the department on aging or the director's designee. A
22 person shall not be appointed a member of a resident advocate
23 committee for a health care facility unless the person is a
24 resident of the service area where the facility is located.
25 The resident advocate committee for any facility caring
26 primarily for persons with mental illness, ~~mental retardation~~
27 an intellectual disability, or a developmental disability shall
28 only be appointed after consultation with the administrator
29 of the division of mental health and disability services of
30 the department of human services on the proposed appointments.
31 Recommendations to the director or the director's designee for
32 membership on resident advocate committees are encouraged from
33 any agency, organization, or individual. The administrator of
34 the facility shall not be appointed to the resident advocate
35 committee and shall not be present at committee meetings except

1 upon request of the committee.

2 Sec. 19. Section 155.1, subsection 3, Code 2011, is amended
3 to read as follows:

4 3. "*Nursing home*" means an institution or facility, or
5 part of an institution or facility, whether proprietary or
6 nonprofit, licensed as a nursing facility, but not including an
7 intermediate care facility for persons with ~~mental-retardation~~
8 an intellectual disability or an intermediate care facility
9 for persons with mental illness, defined as such for licensing
10 purposes under state law or administrative rule adopted
11 pursuant to section 135C.2, including but not limited to, a
12 nursing home owned or administered by the federal or state
13 government or an agency or political subdivision of government.

14 Sec. 20. Section 217.1, Code 2011, is amended to read as
15 follows:

16 **217.1 Programs of department.**

17 There is established a department of human services to
18 administer programs designed to improve the well-being
19 and productivity of the people of the state of Iowa. The
20 department shall concern itself with the problems of
21 human behavior, adjustment, and daily living through the
22 administration of programs of family, child, and adult
23 welfare, economic assistance including costs of medical care,
24 rehabilitation toward self-care and support, delinquency
25 prevention and control, treatment and rehabilitation of
26 juvenile offenders, care and treatment of persons with mental
27 illness or ~~mental-retardation~~ an intellectual disability, and
28 other related programs as provided by law.

29 Sec. 21. Section 218.92, Code 2011, is amended to read as
30 follows:

31 **218.92 Patients with dangerous mental disturbances.**

32 When a patient in a state resource center for persons
33 with ~~mental-retardation~~ an intellectual disability, a state
34 mental health institute, or another institution under the
35 administration of the department of human services has become

1 so mentally disturbed as to constitute a danger to self, to
2 other patients or staff of the institution, or to the public,
3 and the institution cannot provide adequate security, the
4 administrator in charge of the institution, with the consent
5 of the director of the Iowa department of corrections, may
6 order the patient to be transferred to the Iowa medical and
7 classification center, if the superintendent of the institution
8 from which the patient is to be transferred, with the support
9 of a majority of the medical staff, recommends the transfer in
10 the interest of the patient, other patients, or the public. If
11 the patient transferred was hospitalized pursuant to sections
12 229.6 to 229.15, the transfer shall be promptly reported to
13 the court that ordered the hospitalization of the patient, as
14 required by section 229.15, subsection 5. The Iowa medical
15 and classification center has the same rights, duties, and
16 responsibilities with respect to the patient as the institution
17 from which the patient was transferred had while the patient
18 was hospitalized in the institution. The cost of the transfer
19 shall be paid from the funds of the institution from which the
20 transfer is made.

21 Sec. 22. Section 222.1, Code 2011, is amended to read as
22 follows:

23 **222.1 Purpose of state resource centers.**

24 1. The Glenwood state resource center and the Woodward
25 state resource center are established and shall be maintained
26 as the state's regional resource centers for the purpose of
27 providing treatment, training, instruction, care, habilitation,
28 and support of persons with ~~mental retardation~~ an intellectual
29 disability or other disabilities in this state, and providing
30 facilities, services, and other support to the communities
31 located in the region being served by a state resource center.
32 In addition, the state resource centers are encouraged to serve
33 as a training resource for community-based program staff,
34 medical students, and other participants in professional
35 education programs. A resource center may request the approval

1 of the council on human services to change the name of the
2 resource center for use in communication with the public, in
3 signage, and in other forms of communication.

4 2. A special ~~mental retardation~~ intellectual disability
5 unit may be maintained at one of the state mental health
6 institutes for the purposes set forth in sections 222.88 to
7 222.91.

8 Sec. 23. Section 222.2, subsections 5 and 6, Code 2011, are
9 amended to read as follows:

10 5. ~~"Mental retardation" or "mentally retarded"~~ "Intellectual
11 disability" means ~~a term or terms to describe children and~~
12 ~~adults who as a result of inadequately developed intelligence~~
13 ~~are significantly impaired in ability to learn or to adapt to~~
14 ~~the demands of society~~ the same as defined in section 4.1.

15 6. "Special unit" means a special ~~mental retardation~~
16 intellectual disability unit established at a state mental
17 health institute pursuant to sections 222.88 to 222.91.

18 Sec. 24. Section 222.6, Code 2011, is amended to read as
19 follows:

20 **222.6 State districts.**

21 The administrator shall divide the state into two districts
22 in such manner that one of the resource centers shall be
23 located within each of the districts. Such districts may
24 from time to time be changed. After such districts have been
25 established, the administrator shall notify all boards of
26 supervisors, county auditors, and clerks of the district courts
27 of the action. Thereafter, unless the administrator otherwise
28 orders, all admissions or commitments of persons with ~~mental~~
29 ~~retardation~~ an intellectual disability from a district shall be
30 to the resource center located within such district.

31 Sec. 25. Section 222.9, Code 2011, is amended to read as
32 follows:

33 **222.9 Unauthorized departures.**

34 If any person with ~~mental retardation~~ an intellectual
35 disability shall depart without proper authorization from a

1 resource center or a special unit, it shall be the duty of the
2 superintendent and the superintendent's assistants and all
3 peace officers of any county in which such patient may be found
4 to take and detain the patient without a warrant or order and
5 to immediately report such detention to the superintendent who
6 shall immediately provide for the return of such patient to the
7 resource center or special unit.

8 Sec. 26. Section 222.10, Code 2011, is amended to read as
9 follows:

10 **222.10 Duty of peace officer.**

11 When any person with ~~mental retardation~~ an intellectual
12 disability departs without proper authority from an institution
13 in another state and is found in this state, any peace officer
14 in any county in which such patient is found may take and
15 detain the patient without warrant or order and shall report
16 such detention to the administrator. The administrator shall
17 provide for the return of the patient to the authorities in the
18 state from which the unauthorized departure was made. Pending
19 return, such patient may be detained temporarily at one of the
20 institutions of this state governed by the administrator or by
21 the administrator of the division of child and family services
22 of the department of human services. The provisions of this
23 section relating to the administrator shall also apply to the
24 return of other nonresident persons with ~~mental retardation~~ an
25 intellectual disability having legal settlement outside the
26 state of Iowa.

27 Sec. 27. Section 222.12, subsections 1 and 3, Code 2011, are
28 amended to read as follows:

29 1. Upon the death of a patient of a resource center or
30 special unit, a preliminary investigation of the death shall be
31 conducted as required by section 218.64 by the county medical
32 examiner as provided in section 331.802. Such a preliminary
33 investigation shall also be conducted in the event of a sudden
34 or mysterious death of a patient in a private institution for
35 persons with ~~mental retardation~~ an intellectual disability.

1 The chief administrative officer of any private institution may
2 request an investigation of the death of any patient by the
3 county medical examiner.

4 3. The parent, guardian, or other person responsible for
5 the admission of a patient to a private institution for persons
6 with ~~mental retardation~~ an intellectual disability may also
7 request such a preliminary investigation by the county medical
8 examiner in the event of the death of the patient that is not
9 sudden or mysterious. The person or persons making the request
10 are liable for the expense of such preliminary investigation
11 and payment for the expense may be required in advance.

12 Sec. 28. Section 222.13, subsections 1 and 2, Code 2011, are
13 amended to read as follows:

14 1. If an adult person is believed to be a person with ~~mental~~
15 ~~retardation~~ an intellectual disability, the adult person or
16 the adult person's guardian may submit a request through the
17 central point of coordination process for the county board
18 of supervisors to apply to the superintendent of any state
19 resource center for the voluntary admission of the adult
20 person either as an inpatient or an outpatient of the resource
21 center. After determining the legal settlement of the adult
22 person as provided by this chapter, the board of supervisors
23 shall, on forms prescribed by the administrator, apply to the
24 superintendent of the resource center in the district for the
25 admission of the adult person to the resource center. An
26 application for admission to a special unit of any adult person
27 believed to be in need of any of the services provided by the
28 special unit under section 222.88 may be made in the same
29 manner, upon request of the adult person or the adult person's
30 guardian. The superintendent shall accept the application
31 providing a preadmission diagnostic evaluation, performed
32 through the central point of coordination process, confirms or
33 establishes the need for admission, except that an application
34 may not be accepted if the institution does not have adequate
35 facilities available or if the acceptance will result in an

1 overcrowded condition.

2 2. If the resource center has no appropriate program for the
3 treatment of an adult or minor person with ~~mental retardation~~
4 an intellectual disability applying under this section or
5 section 222.13A, the board of supervisors shall arrange for
6 the placement of the person in any public or private facility
7 within or without the state, approved by the director of the
8 department of human services, which offers appropriate services
9 for the person, as determined through the central point of
10 coordination process.

11 Sec. 29. Section 222.13A, subsections 1 and 2, Code 2011,
12 are amended to read as follows:

13 1. If a minor is believed to be a person with ~~mental~~
14 ~~retardation~~ an intellectual disability, the minor's parent,
15 guardian, or custodian may request the county board of
16 supervisors to apply for admission of the minor as a voluntary
17 patient in a state resource center. If the resource center
18 does not have appropriate services for the minor's treatment,
19 the board of supervisors may arrange for the admission of the
20 minor in a public or private facility within or without the
21 state, approved by the director of human services, which offers
22 appropriate services for the minor's treatment.

23 2. Upon receipt of an application for voluntary admission
24 of a minor, the board of supervisors shall provide for a
25 preadmission diagnostic evaluation of the minor to confirm
26 or establish the need for the admission. The preadmission
27 diagnostic evaluation shall be performed by a person who
28 meets the qualifications of a qualified ~~mental retardation~~
29 intellectual disability professional who is designated through
30 the central point of coordination process.

31 Sec. 30. Section 222.16, Code 2011, is amended to read as
32 follows:

33 **222.16 Petition for adjudication of ~~mental retardation~~**
34 **intellectual disability.**

35 A petition for the adjudication of ~~the mental retardation~~

1 of a person as having an intellectual disability within the
2 meaning of this chapter may, with the permission of the court,
3 be filed without fee against a person with the clerk of the
4 district court of the county or city in which the person who is
5 alleged to have ~~mental retardation~~ an intellectual disability
6 resides or is found. The petition may be filed by any relative
7 of the person, by a guardian, or by any reputable citizen of
8 the county where the person who is alleged to have ~~mental~~
9 ~~retardation~~ an intellectual disability resides or is found.

10 Commitment of a person pursuant to section 222.31 does not
11 constitute a finding or raise a presumption that the person
12 is incompetent to vote. The court shall make a separate
13 determination as to the person's competency to vote. The court
14 shall find a person incompetent to vote only upon determining
15 that the person lacks sufficient mental capacity to comprehend
16 and exercise the right to vote.

17 Sec. 31. Section 222.17, subsection 1, Code 2011, is amended
18 to read as follows:

19 1. Allege that such person ~~is mentally retarded~~ has an
20 intellectual disability within the meaning of this chapter.

21 Sec. 32. Section 222.18, Code 2011, is amended to read as
22 follows:

23 **222.18 County attorney to appear.**

24 The county attorney shall, if requested, appear on behalf
25 of any petitioner for the commitment of a person alleged to
26 ~~be mentally retarded~~ have an intellectual disability under
27 this chapter, and on behalf of all public officials and
28 superintendents in all matters pertaining to the duties imposed
29 upon them by this chapter.

30 Upon the filing of the petition, the court shall enter an
31 order directing the county attorney of the county in which
32 the person who is alleged to have ~~mental retardation~~ an
33 intellectual disability resides to make a full investigation
34 regarding the financial condition of that person and of those
35 persons legally liable for that person's support under section

1 222.78.

2 Sec. 33. Section 222.19, unnumbered paragraph 1, Code 2011,
3 is amended to read as follows:

4 The following persons, in addition to the person alleged to
5 ~~be mentally retarded~~ have an intellectual disability, shall be
6 made party respondents if the persons reside in this state and
7 their names and residences are known:

8 Sec. 34. Section 222.21, Code 2011, is amended to read as
9 follows:

10 **222.21 Order requiring attendance.**

11 If the person alleged to have ~~mental retardation~~ an
12 intellectual disability is not before the court, the court may
13 issue an order requiring the person who has the care, custody,
14 and control of the person who is alleged to have ~~mental~~
15 ~~retardation~~ an intellectual disability to bring the person into
16 court at the time and place stated in the order.

17 Sec. 35. Section 222.22, Code 2011, is amended to read as
18 follows:

19 **222.22 Time of appearance.**

20 The time of appearance shall not be less than five days
21 after completed service unless the court orders otherwise.
22 Appearance on behalf of the person who is alleged to have
23 ~~mental retardation~~ an intellectual disability may be made by
24 any citizen of the county or by any relative. The district
25 court shall assign counsel for the person who is alleged to
26 have ~~mental retardation~~ an intellectual disability. Counsel
27 shall prior to proceedings personally consult with the person
28 who is alleged to have ~~mental retardation~~ an intellectual
29 disability unless the judge appointing counsel certifies that
30 in the judge's opinion, consultation shall serve no useful
31 purpose. The certification shall be made a part of the record.
32 An attorney assigned by the court shall be compensated by the
33 county at an hourly rate to be established by the county board
34 of supervisors in substantially the same manner as provided in
35 section 815.7.

1 Sec. 36. Section 222.25, Code 2011, is amended to read as
2 follows:

3 **222.25 Custody pending hearing.**

4 Pending final hearing, the court may at any time after
5 the filing of the petition and on satisfactory showing that
6 it is in the best interest of the person who is alleged to
7 have ~~mental retardation~~ an intellectual disability and of the
8 community that the person be at once taken into custody, or
9 that service of notice will be ineffectual if the person is not
10 taken into custody, issue an order for the immediate production
11 of the person before the court. In such case, the court may
12 make any proper order for the custody or confinement of the
13 person as will protect the person and the community and insure
14 the presence of the person at the hearing. The person shall
15 not be confined with those accused or convicted of crime.

16 Sec. 37. Section 222.27, Code 2011, is amended to read as
17 follows:

18 **222.27 Hearing in public.**

19 Hearings shall be public, unless otherwise requested by the
20 parent, guardian, or other person having the custody of the
21 person with ~~mental retardation~~ an intellectual disability,
22 or if the judge considers, a closed hearing in the best
23 interests of the person with ~~mental retardation~~ an intellectual
24 disability.

25 Sec. 38. Section 222.28, Code 2011, is amended to read as
26 follows:

27 **222.28 Commission to examine.**

28 The court may, at or prior to the final hearing, appoint
29 a commission of one qualified physician and one qualified
30 psychologist, designated through the central point of
31 coordination process, who shall make a personal examination of
32 the person alleged to ~~be mentally retarded~~ have an intellectual
33 disability for the purpose of determining the mental condition
34 of the person.

35 Sec. 39. Section 222.31, subsection 1, unnumbered paragraph

1 1, Code 2011, is amended to read as follows:

2 If in the opinion of the court, or of a commission as
3 authorized in section 222.28, the person ~~is mentally retarded~~
4 has an intellectual disability within the meaning of this
5 chapter and the court determines that it will be conducive
6 to the welfare of that person and of the community to commit
7 the person to a proper institution for treatment, training,
8 instruction, care, habilitation, and support, and that services
9 or support provided to the family of such a person who is a
10 child will not enable the family to continue to care for the
11 child in the child's home, the court shall by proper order:

12 Sec. 40. Section 222.34, Code 2011, is amended to read as
13 follows:

14 **222.34 Guardianship proceedings.**

15 If a guardianship is proposed for a person with ~~mental~~
16 ~~retardation~~ an intellectual disability, guardianship
17 proceedings shall be initiated and conducted as provided in
18 chapter 633.

19 Sec. 41. Section 222.38, Code 2011, is amended to read as
20 follows:

21 **222.38 Delivery of person to institution, resource center, or**
22 **special unit.**

23 The court may, for the purpose of committing a person
24 direct the clerk to authorize the employment of one or
25 more assistants. If a person with ~~mental retardation~~ an
26 intellectual disability is taken to an institution, resource
27 center, or special unit, at least one attendant shall be of the
28 same sex.

29 Sec. 42. Section 222.43, subsection 1, paragraphs a, b, and
30 c, Code 2011, are amended to read as follows:

31 a. That the person adjudged to be ~~mentally retarded~~ is not
32 mentally retarded have an intellectual disability does not have
33 an intellectual disability.

34 b. That the person adjudged to be ~~mentally retarded~~ have an
35 intellectual disability has improved as to be capable of self

1 ~~care~~ self-care.

2 c. That the relatives or friends of the person with ~~mental~~
3 ~~retardation~~ an intellectual disability are able and willing
4 to support and care for the person with ~~mental-retardation~~ an
5 intellectual disability and request the person's discharge,
6 and in the judgment of the superintendent of the institution
7 or resource center having charge of the person, no harmful
8 consequences are likely to follow such discharge.

9 Sec. 43. Section 222.45, Code 2011, is amended to read as
10 follows:

11 **222.45 Power of court.**

12 On the hearing, the court may discharge the person with
13 ~~mental-retardation~~ an intellectual disability from all
14 supervision, control, and care, or may transfer the person
15 from a public institution to a private institution, or vice
16 versa, or transfer the person from a special unit to a resource
17 center, or vice versa, as the court deems appropriate under
18 all the circumstances. If the person has been determined to
19 lack the mental capacity to vote, the court shall include in
20 its order a finding that this determination remains in force
21 or is revoked.

22 Sec. 44. Section 222.47, Code 2011, is amended to read as
23 follows:

24 **222.47 Penalty for false petition of commitment.**

25 Any person who shall maliciously seek to have any person
26 adjudged ~~mentally-retarded~~ as a person with an intellectual
27 disability, knowing that such person is ~~not mentally-retarded~~
28 does not have an intellectual disability, shall be guilty of
29 a fraudulent practice.

30 Sec. 45. Section 222.49, Code 2011, is amended to read as
31 follows:

32 **222.49 Costs paid.**

33 The costs of proceedings shall be defrayed from the county
34 treasury unless otherwise ordered by the court. When the
35 person alleged to be ~~mentally-retarded~~ have an intellectual

1 disability is found not to ~~be mentally retarded~~ have an
2 intellectual disability, the court shall render judgment for
3 such costs against the person filing the petition except when
4 the petition is filed by order of court.

5 Sec. 46. Section 222.50, Code 2011, is amended to read as
6 follows:

7 **222.50 County of legal settlement to pay.**

8 When the proceedings are instituted in a county in which
9 the person who is alleged to have ~~mental retardation~~ an
10 intellectual disability was found but which is not the county
11 of legal settlement of the person, and the costs are not taxed
12 to the petitioner, the county which is the legal settlement of
13 the person shall, on presentation of a properly itemized bill
14 for such costs, repay the costs to the former county. When the
15 person's legal settlement is outside the state or is unknown,
16 the costs shall be paid out of money in the state treasury not
17 otherwise appropriated, itemized on vouchers executed by the
18 auditor of the county which paid the costs, and approved by the
19 administrator.

20 Sec. 47. Section 222.51, Code 2011, is amended to read as
21 follows:

22 **222.51 Costs collected.**

23 Costs incident to the hearings and commitment of a
24 person with ~~mental retardation~~ an intellectual disability
25 to an institution, a resource center, or a special unit
26 may be collected from the person with ~~mental retardation~~ an
27 intellectual disability and from all persons legally chargeable
28 with the support of the person with ~~mental retardation~~ an
29 intellectual disability.

30 Sec. 48. Section 222.52, Code 2011, is amended to read as
31 follows:

32 **222.52 Proceedings against delinquent — hearing on**
33 ~~retardation~~ intellectual disability.

34 When in proceedings against an alleged delinquent or
35 dependent child, the court is satisfied from any evidence that

1 such child ~~is mentally retarded~~ has an intellectual disability,
2 the court may order a continuance of such proceeding, and may
3 direct an officer of the court or some other proper person
4 to file a petition against such child permitted under the
5 provisions of this chapter. Pending hearing of the petition
6 the court may by order provide proper custody for the child.

7 Sec. 49. Section 222.53, Code 2011, is amended to read as
8 follows:

9 **222.53 Conviction — suspension.**

10 If on the conviction in the district court of any person
11 for any crime or for any violation of any municipal ordinance,
12 or if on the determination in ~~said courts~~ the court that a
13 child is dependent, neglected, or delinquent and it appears
14 from any evidence presented to the court before sentence,
15 that such person ~~is mentally retarded~~ has an intellectual
16 disability within the meaning of this chapter, the court may
17 suspend sentence or order, and may order any officer of the
18 court or some other proper person to file a petition permitted
19 under the provisions of this chapter against ~~said~~ such person.
20 Pending hearing of the petition, the court shall provide for
21 the custody of ~~said~~ such person as directed in section 222.52.

22 Sec. 50. Section 222.54, Code 2011, is amended to read as
23 follows:

24 **222.54 Procedure after hearing.**

25 Should it be found under sections 222.52 and 222.53 that
26 ~~said such person is not mentally retarded~~ does not have an
27 intellectual disability, the court shall proceed with the
28 original proceedings as though no petition had been filed.

29 Sec. 51. Section 222.56, Code 2011, is amended to read as
30 follows:

31 **222.56 Transfer to institution for persons with mental**
32 **~~retardation~~ an intellectual disability.**

33 When the mental condition of a person in a private
34 institution for persons with mental illness is found to be such
35 that the patient should be transferred to an institution for

1 persons with ~~mental-retardation~~ an intellectual disability, the
2 person may be proceeded against under this chapter.

3 Sec. 52. Section 222.58, Code 2011, is amended to read as
4 follows:

5 **222.58 Administrator to keep record.**

6 The administrator shall keep a record of all persons
7 adjudged to be ~~mentally-retarded~~ have an intellectual
8 disability and of the orders respecting such persons by the
9 courts throughout the state. Copies of such orders shall be
10 furnished by the clerk of the court without the administrator's
11 application therefor.

12 Sec. 53. Section 222.60, subsection 1, unnumbered paragraph
13 1, Code 2011, is amended to read as follows:

14 All necessary and legal expenses for the cost of admission or
15 commitment or for the treatment, training, instruction, care,
16 habilitation, support and transportation of persons with ~~mental-~~
17 ~~retardation~~ an intellectual disability, as provided for in
18 the county management plan provisions implemented pursuant to
19 section 331.439, subsection 1, in a state resource center, or
20 in a special unit, or any public or private facility within or
21 without the state, approved by the director of the department
22 of human services, shall be paid by either:

23 Sec. 54. Section 222.60, subsection 2, paragraph a, Code
24 2011, is amended to read as follows:

25 a. Prior to a county of legal settlement approving the
26 payment of expenses for a person under this section, the county
27 may require that the person be diagnosed to determine if the
28 person has ~~mental-retardation~~ an intellectual disability or
29 that the person be evaluated to determine the appropriate level
30 of services required to meet the person's needs relating to
31 ~~mental-retardation~~ an intellectual disability. The diagnosis
32 and the evaluation may be performed concurrently and shall
33 be performed by an individual or individuals approved by the
34 county who are qualified to perform the diagnosis or the
35 evaluation. Following the initial approval for payment of

1 expenses, the county of legal settlement may require that an
2 evaluation be performed at reasonable time periods.

3 Sec. 55. Section 222.60, subsection 3, Code 2011, is amended
4 to read as follows:

5 3. a. A diagnosis of ~~mental retardation~~ an intellectual
6 disability under this section shall be made only when the onset
7 of the person's condition was prior to the age of eighteen
8 years and shall be based on an assessment of the person's
9 intellectual functioning and level of adaptive skills. The
10 diagnosis shall be made by an individual who is a psychologist
11 or psychiatrist who is professionally trained to administer
12 the tests required to assess intellectual functioning and to
13 evaluate a person's adaptive skills.

14 b. A diagnosis of ~~mental retardation~~ an intellectual
15 disability shall be made in accordance with the criteria
16 provided in the diagnostic and statistical manual of
17 mental disorders, ~~fourth edition~~, published by the American
18 psychiatric association, as provided in the definition of
19 intellectual disability in section 4.1.

20 Sec. 56. Section 222.66, Code 2011, is amended to read as
21 follows:

22 **222.66 Transfers — expenses.**

23 The transfer to a resource center or a special unit or to the
24 place of legal settlement of a person with ~~mental retardation~~
25 an intellectual disability who has no legal settlement in this
26 state or whose legal settlement is unknown, shall be made
27 in accordance with such directions as shall be prescribed
28 by the administrator and when practicable by employees of
29 the state resource center or the special unit. The actual
30 and necessary expenses of such transfers shall be paid on
31 itemized vouchers sworn to by the claimants and approved by
32 the administrator from any funds in the state treasury not
33 otherwise appropriated.

34 Sec. 57. Section 222.78, Code 2011, is amended to read as
35 follows:

1 **222.78 Parents and others liable for support.**

2 The father and mother of any patient admitted or committed to
3 a resource center or to a special unit, as either an inpatient
4 or an outpatient, and any person, firm, or corporation bound
5 by contract made for support of the patient are liable for the
6 support of the patient. The patient and those legally bound
7 for the support of the patient shall be liable to the county
8 for all sums advanced by the county to the state under the
9 provisions of sections 222.60 and 222.77. The liability of
10 any person, other than the patient, who is legally bound for
11 the support of a patient who is under eighteen years of age
12 in a resource center or a special unit shall not exceed the
13 average minimum cost of the care of a normally intelligent
14 minor without a disability of the same age and sex as the
15 minor patient. The administrator shall establish the scale
16 for this purpose but the scale shall not exceed the standards
17 for personal allowances established by the state division
18 under the family investment program. The father or mother
19 shall incur liability only during any period when the father
20 or mother either individually or jointly receive a net income
21 from whatever source, commensurate with that upon which they
22 would be liable to make an income tax payment to this state.
23 The father or mother of a patient shall not be liable for the
24 support of the patient upon the patient attaining eighteen
25 years of age. Nothing in this section shall be construed to
26 prevent a relative or other person from voluntarily paying
27 the full actual cost as established by the administrator for
28 caring for the patient with ~~mental retardation~~ an intellectual
29 disability.

30 Sec. 58. Section 222.80, Code 2011, is amended to read as
31 follows:

32 **222.80 Liability to county.**

33 A person admitted or committed to a county institution
34 or home or admitted or committed at county expense to a
35 private hospital, sanitarium, or other facility for treatment,

1 training, instruction, care, habilitation, and support as a
2 patient with ~~mental-retardation~~ an intellectual disability
3 shall be liable to the county for the reasonable cost of the
4 support as provided in section 222.78.

5 Sec. 59. Section 222.88, Code 2011, is amended to read as
6 follows:

7 **222.88 Special ~~mental-retardation~~ intellectual disability**
8 **unit.**

9 The director of human services may organize and establish a
10 special ~~mental-retardation~~ intellectual disability unit at an
11 existing institution which may provide:

12 1. Psychiatric and related services to children with ~~mental-~~
13 ~~retardation~~ an intellectual disability and adults who are also
14 emotionally disturbed or otherwise mentally ill.

15 2. Specific programs to meet the needs of such other special
16 categories of persons with ~~mental-retardation~~ an intellectual
17 disability as may be designated by the director.

18 3. Appropriate diagnostic evaluation services.

19 Sec. 60. Section 225C.1, subsection 1, Code 2011, is amended
20 to read as follows:

21 1. The general assembly finds that services to persons with
22 mental illness, ~~mental-retardation~~ an intellectual disability,
23 developmental disabilities, or brain injury are provided in
24 many parts of the state by highly autonomous community-based
25 service providers working cooperatively with state and county
26 officials. However, the general assembly recognizes that
27 heavy reliance on property tax funding for mental health and
28 ~~mental-retardation~~ an intellectual disability services has
29 enabled many counties to exceed minimum state standards for the
30 services resulting in an uneven level of services around the
31 state. Consequently, greater efforts should be made to assure
32 close coordination and continuity of care for those persons
33 receiving publicly supported disability services in Iowa. It
34 is the purpose of this chapter to continue and to strengthen
35 the services to persons with disabilities now available in

1 the state of Iowa, to make disability services conveniently
2 available to all persons in this state upon a reasonably
3 uniform financial basis, and to assure the continued high
4 quality of these services.

5 Sec. 61. Section 225C.2, subsections 6 and 8, Code 2011, are
6 amended to read as follows:

7 6. "*Disability services*" means services and other support
8 available to a person with mental illness, ~~mental-retardation~~
9 an intellectual disability or other developmental disability,
10 or brain injury.

11 8. "*Person with a disability*" means a person with mental
12 illness, ~~mental-retardation~~ an intellectual disability or other
13 developmental disability, or brain injury.

14 Sec. 62. Section 225C.3, subsections 1 and 3, Code 2011, are
15 amended to read as follows:

16 1. The division is designated the state mental health
17 authority as defined in 42 U.S.C. § 201(m) (1976) for the
18 purpose of directing the benefits of the National Mental
19 Health Act, 42 U.S.C. § 201 et seq. This designation does not
20 preclude the board of regents from authorizing or directing any
21 institution under its jurisdiction to carry out educational,
22 prevention, and research activities in the areas of mental
23 health and ~~mental-retardation~~ intellectual disability. The
24 division may contract with the board of regents or any
25 institution under the board's jurisdiction to perform any of
26 these functions.

27 3. The division is administered by the administrator.
28 The administrator of the division shall be qualified in the
29 general field of mental health, ~~mental-retardation~~ intellectual
30 disability, or other disability services, and preferably in
31 more than one field. The administrator shall have at least
32 five years of experience as an administrator in one or more of
33 these fields.

34 Sec. 63. Section 225C.4, subsection 1, paragraphs a, c, g,
35 and q, Code 2011, are amended to read as follows:

1 *a.* Prepare and administer the comprehensive mental
2 health and disability services plan as provided in section
3 225C.6B, including state mental health and ~~mental-retardation~~
4 intellectual disability plans for the provision of disability
5 services within the state and the state developmental
6 disabilities plan. The administrator shall consult with the
7 Iowa department of public health, the state board of regents or
8 a body designated by the board for that purpose, the department
9 of management or a body designated by the director of the
10 department for that purpose, the department of education, the
11 department of workforce development and any other appropriate
12 governmental body, in order to facilitate coordination of
13 disability services provided in this state. The state mental
14 health and ~~mental-retardation~~ intellectual disability plans
15 shall be consistent with the state health plan, and shall
16 incorporate county disability services plans.

17 *c.* Emphasize the provision of outpatient services by
18 community mental health centers and local ~~mental-retardation~~
19 intellectual disability providers as a preferable alternative
20 to inpatient hospital services.

21 *g.* Administer state programs regarding the care, treatment,
22 and supervision of persons with mental illness or ~~mental~~
23 ~~retardation~~ an intellectual disability, except the programs
24 administered by the state board of regents.

25 *q.* In cooperation with the department of inspections and
26 appeals, recommend minimum standards under section 227.4 for
27 the care of and services to persons with mental illness and
28 ~~mental-retardation~~ an intellectual disability residing in
29 county care facilities.

30 Sec. 64. Section 225C.5, subsection 1, unnumbered paragraph
31 1, Code Supplement 2011, is amended to read as follows:

32 A mental health and disability services commission is
33 created as the state policy-making body for the provision of
34 services to persons with mental illness, ~~mental-retardation~~ an
35 intellectual disability, or other developmental disabilities,

1 or brain injury. The commission's voting members shall be
2 appointed to three-year staggered terms by the governor and
3 are subject to confirmation by the senate. Commission members
4 shall be appointed on the basis of interest and experience in
5 the fields of mental health, ~~mental-retardation~~ intellectual
6 disability, or other developmental disabilities, and brain
7 injury, in a manner so as to ensure adequate representation
8 from persons with disabilities and individuals knowledgeable
9 concerning disability services. The department shall provide
10 staff support to the commission, and the commission may utilize
11 staff support and other assistance provided to the commission
12 by other persons. The commission shall meet at least four
13 times per year. The membership of the commission shall consist
14 of the following persons who, at the time of appointment to the
15 commission, are active members of the indicated groups:

16 Sec. 65. Section 225C.7, subsections 2 and 4, Code 2011, are
17 amended to read as follows:

18 2. Moneys appropriated to the fund shall be allocated
19 to counties for funding of community-based mental health,
20 ~~mental-retardation~~ intellectual disability, developmental
21 disabilities, and brain injury services in the manner
22 provided in the appropriation to the fund. If the allocation
23 methodology includes a population factor, the most recent
24 population estimates issued by the United States bureau of the
25 census shall be applied.

26 4. a. A county is entitled to receive money from the
27 fund if that county raised by county levy and expended for
28 mental health, ~~mental-retardation~~ intellectual disability,
29 and developmental disabilities services, in the preceding
30 fiscal year, an amount of money at least equal to the amount so
31 raised and expended for those purposes during the fiscal year
32 beginning July 1, 1980.

33 b. With reference to the fiscal year beginning July 1, 1980,
34 money *raised by county levy and expended for mental health,*
35 *~~mental-retardation~~ intellectual disability, and developmental*

1 *disabilities services*" means the county's maintenance of effort
2 determined by using the general allocation application for the
3 state community mental health and mental retardation services
4 fund under section 225C.10, subsection 1, Code 1993. The
5 department, with the agreement of each county, shall establish
6 the actual amount expended by each county for persons with
7 mental illness, ~~mental retardation~~ an intellectual disability,
8 or a developmental disability in the fiscal year which began
9 on July 1, 1980, and this amount shall be deemed each county's
10 maintenance of effort.

11 Sec. 66. Section 225C.12, subsection 2, Code 2011, is
12 amended to read as follows:

13 2. A county may claim reimbursement by filing with the
14 administrator a claim in a form prescribed by the administrator
15 by rule. Claims may be filed on a quarterly basis, and when
16 received shall be verified as soon as reasonably possible
17 by the administrator. The administrator shall certify to
18 the director of the department of administrative services
19 the amount to which each county claiming reimbursement is
20 entitled, and the director of the department of administrative
21 services shall issue warrants to the respective counties
22 drawn upon funds appropriated by the general assembly for
23 the purpose of this section. A county shall place funds
24 received under this section in the county mental health,
25 ~~mental retardation~~ intellectual disability, and developmental
26 disabilities services fund created under section 331.424A. If
27 the appropriation for a fiscal year is insufficient to pay
28 all claims arising under this section, the director of the
29 department of administrative services shall prorate the funds
30 appropriated for that year among the claimant counties so that
31 an equal proportion of each county's claim is paid in each
32 quarter for which proration is necessary.

33 Sec. 67. Section 225C.13, subsection 2, Code 2011, is
34 amended to read as follows:

35 2. The division administrator may work with the appropriate

1 administrator of the department's institutions to establish
2 mental health and ~~mental-retardation~~ intellectual disability
3 services for all institutions under the control of the director
4 of human services and to establish an autism unit, following
5 mutual planning and consultation with the medical director of
6 the state psychiatric hospital, at an institution or a facility
7 administered by the department to provide psychiatric and
8 related services and other specific programs to meet the needs
9 of autistic persons, and to furnish appropriate diagnostic
10 evaluation services.

11 Sec. 68. Section 225C.21, subsection 1, Code 2011, is
12 amended to read as follows:

13 1. As used in this section, "*supported community living*
14 *services*" means services provided in a noninstitutional setting
15 to adult persons with mental illness, ~~mental-retardation~~ an
16 intellectual disability, or developmental disabilities to meet
17 the persons' daily living needs.

18 Sec. 69. Section 225C.25, Code 2011, is amended to read as
19 follows:

20 **225C.25 Short title.**

21 Sections 225C.25 through 225C.28B shall be known as "the
22 bill of rights and service quality standards of persons with
23 ~~mental-retardation~~ an intellectual disability, developmental
24 disabilities, brain injury, or chronic mental illness".

25 Sec. 70. Section 225C.26, Code 2011, is amended to read as
26 follows:

27 **225C.26 Scope.**

28 These rights and service quality standards apply to any
29 person with ~~mental-retardation~~ an intellectual disability,
30 a developmental disability, brain injury, or chronic mental
31 illness who receives services which are funded in whole or in
32 part by public funds or services which are permitted under Iowa
33 law.

34 Sec. 71. Section 225C.28A, unnumbered paragraph 1, Code
35 2011, is amended to read as follows:

1 As the state participates more fully in funding services
2 and other support to persons with ~~mental-retardation~~ an
3 intellectual disability, developmental disabilities, brain
4 injury, or chronic mental illness, it is the intent of the
5 general assembly that the state shall seek to attain the
6 following quality standards in the provision of the services:

7 Sec. 72. Section 225C.28B, Code 2011, is amended to read as
8 follows:

9 **225C.28B Rights of persons with ~~mental-retardation~~ an**
10 **intellectual disability, developmental disabilities, brain**
11 **injury, or chronic mental illness.**

12 All of the following rights shall apply to a person with
13 ~~mental-retardation~~ an intellectual disability, a developmental
14 disability, brain injury, or chronic mental illness:

15 1. *Wage protection.* A person with ~~mental-retardation~~ an
16 intellectual disability, a developmental disability, brain
17 injury, or chronic mental illness engaged in work programs
18 shall be paid wages commensurate with the going rate for
19 comparable work and productivity.

20 2. *Insurance protection.* Pursuant to section 507B.4,
21 subsection 7, a person or designated group of persons shall not
22 be denied insurance coverage by reason of ~~mental-retardation~~
23 an intellectual disability, a developmental disability, brain
24 injury, or chronic mental illness.

25 3. *Due process.* A person with ~~mental-retardation~~ an
26 intellectual disability, a developmental disability, brain
27 injury, or chronic mental illness retains the right to
28 citizenship in accordance with the laws of the state.

29 4. *Participation in planning activities.* If an individual
30 treatment, habilitation, and program plan is developed for a
31 person with ~~mental-retardation~~ an intellectual disability,
32 a developmental disability, brain injury, or chronic mental
33 illness, the person has the right to participate in the
34 formulation of the plan.

35 Sec. 73. Section 225C.32, Code 2011, is amended to read as

1 follows:

2 **225C.32 Plan appeals process.**

3 The department shall establish an appeals process by which a
4 mental health, ~~mental retardation~~ intellectual disability, and
5 developmental disabilities coordinating board or an affected
6 party may appeal a decision of the department or of the
7 coordinating board.

8 Sec. 74. Section 225C.52, subsection 1, Code 2011, is
9 amended to read as follows:

10 1. Establishing a comprehensive community-based mental
11 health services system for children and youth is part of
12 fulfilling the requirements of the division and the commission
13 to facilitate a comprehensive, continuous, and integrated state
14 mental health and disability services plan in accordance with
15 sections 225C.4, 225C.6, and 225C.6A, and other provisions
16 of this chapter. The purpose of establishing the children's
17 system is to improve access for children and youth with
18 serious emotional disturbances and youth with other qualifying
19 mental health disorders to mental health treatment, services,
20 and other support in the least restrictive setting possible
21 so the children and youth can live with their families and
22 remain in their communities. The children's system is also
23 intended to meet the needs of children and youth who have
24 mental health disorders that co-occur with substance abuse,
25 ~~mental retardation~~ intellectual disability, developmental
26 disabilities, or other disabilities. The children's system
27 shall emphasize community-level collaborative efforts between
28 children and youth and the families and the state's systems
29 of education, child welfare, juvenile justice, health care,
30 substance abuse, and mental health.

31 Sec. 75. Section 226.8, Code 2011, is amended to read as
32 follows:

33 **226.8 Persons with ~~mental retardation~~ an intellectual**
34 **disability not receivable — exception.**

35 **No A person who is ~~mentally retarded~~ has an intellectual**

1 disability, as defined by in section ~~222.2~~ 4.1, shall not
2 be admitted, or transferred pursuant to section 222.7, to a
3 state mental health institute unless a professional diagnostic
4 evaluation indicates that such person will benefit from
5 psychiatric treatment or from some other specific program
6 available at the mental health institute to which it is
7 proposed to admit or transfer the person. Charges for the
8 care of any person with ~~mental retardation~~ an intellectual
9 disability admitted to a state mental health institute shall
10 be made by the institute in the manner provided by chapter
11 230, but the liability of any other person to any county for
12 the cost of care of such person with ~~mental retardation~~ an
13 intellectual disability shall be as prescribed by section
14 222.78.

15 Sec. 76. Section 226.9C, subsection 2, paragraph a, Code
16 Supplement 2011, is amended to read as follows:

17 a. A county may split the charges between the county's
18 mental health, ~~mental retardation~~ intellectual disability, and
19 developmental disabilities services fund created pursuant to
20 section 331.424A and the county's budget for substance abuse
21 expenditures.

22 Sec. 77. Section 227.2, subsections 1, 2, and 4, Code 2011,
23 are amended to read as follows:

24 1. The director of inspections and appeals shall make,
25 or cause to be made, at least one licensure inspection each
26 year of every county care facility. Either the administrator
27 of the division or the director of inspections and appeals,
28 in cooperation with each other, upon receipt of a complaint
29 or for good cause, may make, or cause to be made, a review
30 of a county care facility or of any other private or county
31 institution where persons with mental illness or ~~mental~~
32 ~~retardation~~ an intellectual disability reside. A licensure
33 inspection or a review shall be made by a competent and
34 disinterested person who is acquainted with and interested in
35 the care of persons with mental illness and persons with ~~mental~~

1 ~~retardation~~ an intellectual disability. The objective of a
2 licensure inspection or a review shall be an evaluation of the
3 programming and treatment provided by the facility. After each
4 licensure inspection of a county care facility, the person who
5 made the inspection shall consult with the county authorities
6 on plans and practices that will improve the care given
7 patients and shall make recommendations to the administrator of
8 the division and the director of public health for coordinating
9 and improving the relationships between the administrators of
10 county care facilities, the administrator of the division, the
11 director of public health, the superintendents of state mental
12 health institutes and resource centers, community mental health
13 centers, and other cooperating agencies, to cause improved
14 and more satisfactory care of patients. A written report of
15 each licensure inspection of a county care facility under this
16 section shall be filed with the administrator of the division
17 and the director of public health and shall include:

- 18 *a.* The capacity of the institution for the care of
19 residents.
- 20 *b.* The number, sex, ages, and primary diagnoses of the
21 residents.
- 22 *c.* The care of residents, their food, clothing, treatment
23 plan, employment, and opportunity for recreational activities
24 and for productive work intended primarily as therapeutic
25 activity.
- 26 *d.* The number, job classification, sex, duties, and salaries
27 of all employees.
- 28 *e.* The cost to the state or county of maintaining residents
29 in a county care facility.
- 30 *f.* The recommendations given to and received from county
31 authorities on methods and practices that will improve the
32 conditions under which the county care facility is operated.
- 33 *g.* Any failure to comply with standards adopted under
34 section 227.4 for care of persons with mental illness and
35 persons with ~~mental retardation~~ an intellectual disability in

1 county care facilities, which is not covered in information
2 submitted pursuant to paragraphs "a" to "f", and any other
3 matters which the director of public health, in consultation
4 with the administrator of the division, may require.

5 2. A copy of the written report prescribed by subsection
6 1 shall be furnished to the county board of supervisors, to
7 the county mental health and ~~mental-retardation~~ intellectual
8 disability coordinating board or to its advisory board if
9 the county board of supervisors constitutes ex officio the
10 coordinating board, to the administrator of the county care
11 facility inspected and to its resident advocate committee, and
12 to the department on aging.

13 4. In addition to the licensure inspections required or
14 authorized by this section, the administrator of the division
15 shall cause to be made an evaluation of each person cared for
16 in a county care facility at least once each year by one or
17 more qualified mental health, ~~mental-retardation~~ intellectual
18 disability, or medical professionals, whichever is appropriate.

19 a. It is the responsibility of the state to secure the
20 annual evaluation for each person who is on convalescent leave
21 or who has not been discharged from a state mental health
22 institute. It is the responsibility of the county to secure
23 the annual evaluation for all other persons with mental illness
24 in the county care facility.

25 b. It is the responsibility of the state to secure the
26 annual evaluation for each person who is on leave and has
27 not been discharged from a state resource center. It is the
28 responsibility of the county to secure the annual evaluation
29 for all other persons with ~~mental-retardation~~ an intellectual
30 disability in the county care facility.

31 c. It is the responsibility of the county to secure an
32 annual evaluation of each resident of a county care facility to
33 whom neither paragraph "a" nor paragraph "b" is applicable.

34 Sec. 78. Section 227.4, Code 2011, is amended to read as
35 follows:

1 **227.4 Standards for care of persons with mental illness or**
2 **~~mental retardation~~ an intellectual disability in county care**
3 **facilities.**

4 The administrator, in cooperation with the department of
5 inspections and appeals, shall recommend and the mental health
6 and disability services commission created in section 225C.5
7 shall adopt standards for the care of and services to persons
8 with mental illness or ~~mental retardation~~ an intellectual
9 disability residing in county care facilities. The standards
10 shall be enforced by the department of inspections and appeals
11 as a part of the licensure inspection conducted pursuant to
12 chapter 135C. The objective of the standards is to ensure
13 that persons with mental illness or ~~mental retardation~~ an
14 intellectual disability who are residents of county care
15 facilities are not only adequately fed, clothed, and housed,
16 but are also offered reasonable opportunities for productive
17 work and recreational activities suited to their physical and
18 mental abilities and offering both a constructive outlet for
19 their energies and, if possible, therapeutic benefit. When
20 recommending standards under this section, the administrator
21 shall designate an advisory committee representing
22 administrators of county care facilities, county mental health
23 and developmental disabilities regional planning councils, and
24 county care facility resident advocate committees to assist in
25 the establishment of standards.

26 Sec. 79. Section 227.6, Code 2011, is amended to read as
27 follows:

28 **227.6 Removal of residents.**

29 If a county care facility fails to comply with rules and
30 standards adopted under this chapter, the administrator may
31 remove all persons with mental illness and all persons with
32 ~~mental retardation~~ an intellectual disability cared for in the
33 county care facility at public expense, to the proper state
34 mental health institute or resource center, or to some private
35 or county institution or hospital for the care of persons

1 with mental illness or ~~mental-retardation~~ an intellectual
2 disability that has complied with the rules prescribed by the
3 administrator. Residents being transferred to a state mental
4 health institute or resource center shall be accompanied by an
5 attendant or attendants sent from the institute or resource
6 center. If a resident is transferred under this section,
7 at least one attendant shall be of the same sex. If the
8 administrator finds that the needs of residents with mental
9 illness and residents with ~~mental-retardation~~ an intellectual
10 disability of any other county or private institution are not
11 being adequately met, those residents may be removed from that
12 institution upon order of the administrator.

13 Sec. 80. Section 229.1, subsection 9, Code Supplement 2011,
14 is amended to read as follows:

15 9. "*Mental illness*" means every type of mental disease
16 or mental disorder, except that it does not refer to
17 ~~mental-retardation~~ intellectual disability as defined in
18 section ~~222.2, subsection 5~~ 4.1, or to insanity, diminished
19 responsibility, or mental incompetency as the terms are defined
20 and used in the Iowa criminal code or in the rules of criminal
21 procedure, Iowa court rules.

22 Sec. 81. Section 229.26, Code 2011, is amended to read as
23 follows:

24 **229.26 Exclusive procedure for involuntary hospitalization.**

25 Sections 229.6 through 229.19 constitute the exclusive
26 procedure for involuntary hospitalization of persons by reason
27 of serious mental impairment in this state, except that this
28 chapter does not negate the provisions of section 904.503
29 relating to transfer of prisoners with mental illness to state
30 hospitals for persons with mental illness and does not apply
31 to commitments of persons under chapter 812 or the rules of
32 criminal procedure, Iowa court rules, or negate the provisions
33 of section 232.51 relating to disposition of children
34 with mental illness or ~~mental-retardation~~ an intellectual
35 disability.

1 Sec. 82. Section 230.33, Code 2011, is amended to read as
2 follows:

3 **230.33 Reciprocal agreements.**

4 The administrator may enter into agreements with other
5 states, through their duly constituted authorities, to effect
6 the reciprocal return of persons with mental illness and
7 persons with ~~mental retardation~~ an intellectual disability
8 to the contracting states, and to effect the reciprocal
9 supervision of persons on convalescent leave.

10 Provided that in the case of a proposed transfer of
11 a person with mental illness or ~~mental retardation~~ an
12 intellectual disability from this state that no final action
13 be taken without the approval either of the commission of
14 hospitalization, or of the district court, of the county of
15 admission or commitment.

16 Sec. 83. Section 231.4, subsection 1, paragraph m, Code
17 Supplement 2011, is amended to read as follows:

18 *m.* "Resident" means a resident or tenant of a long-term
19 care facility, assisted living program, or elder group home,
20 excluding facilities licensed primarily to serve persons
21 with ~~mental retardation~~ an intellectual disability or mental
22 illness.

23 Sec. 84. Section 231.42, subsection 2, paragraph a, Code
24 2011, is amended to read as follows:

25 *a.* Establish and implement a statewide confidential
26 uniform reporting system for receiving, analyzing, referring,
27 investigating, and resolving complaints about administrative
28 actions and the health, safety, welfare, and rights of
29 residents or tenants of long-term care facilities, assisted
30 living programs, and elder group homes, excluding facilities
31 licensed primarily to serve persons with ~~mental retardation~~ an
32 intellectual disability or mental illness.

33 Sec. 85. Section 232.51, subsection 2, Code Supplement
34 2011, is amended to read as follows:

35 2. If the evidence received at an adjudicatory or a

1 dispositional hearing indicates that the child ~~is mentally~~
2 ~~retarded~~ has an intellectual disability, the court may direct
3 the juvenile court officer or the department to initiate
4 proceedings or to assist the child's parent or guardian to
5 initiate civil commitment proceedings in the juvenile court and
6 such proceedings shall adhere to the requirements of chapter
7 222.

8 Sec. 86. Section 232.51, subsection 3, paragraph a, Code
9 Supplement 2011, is amended to read as follows:

10 a. If prior to the adjudicatory or dispositional hearing
11 on the pending delinquency petition, the child is committed
12 as a child with a mental illness or ~~mental retardation~~ an
13 intellectual disability and is ordered into a residential
14 facility, institution, or hospital for inpatient treatment,
15 the delinquency proceeding shall be suspended until such time
16 as the juvenile court either terminates the civil commitment
17 order or the child is released from the residential facility,
18 institution, or hospital for purposes of receiving outpatient
19 treatment.

20 Sec. 87. Section 232.175, Code 2011, is amended to read as
21 follows:

22 **232.175 Placement oversight.**

23 Placement oversight shall be provided pursuant to this
24 division when the parent, guardian, or custodian of a child
25 with ~~mental retardation~~ an intellectual disability or other
26 developmental disability requests placement of the child
27 in foster family care for a period of more than thirty
28 days. The oversight shall be provided through review of
29 the placement every six months by the department's foster
30 care review committees or by a local citizen foster care
31 review board. Court oversight shall be provided prior to the
32 initial placement and at periodic intervals which shall not
33 exceed twelve months. It is the purpose and policy of this
34 division to assure the existence of oversight safeguards as
35 required by the federal Child Welfare Act of 1980, Pub. L. No.

1 96-272, as codified in 42 U.S.C. § 671(a)(16), 627(a)(2)(B),
2 and 675(1),(5), while maintaining parental decision-making
3 authority.

4 Sec. 88. Section 232.178, subsection 4, Code 2011, is
5 amended to read as follows:

6 4. The petition shall describe the child's emotional,
7 physical, or intellectual disability which requires care and
8 treatment; the reasonable efforts to maintain the child in
9 the child's home; the department's request to the family of
10 a child with ~~mental retardation~~ an intellectual disability,
11 other developmental disability, or organic mental illness to
12 determine if any services or support provided to the family
13 will enable the family to continue to care for the child in the
14 child's home; and the reason the child's parent, guardian, or
15 custodian has requested a foster family care placement. The
16 petition shall also describe the commitment of the parent,
17 guardian, or custodian in fulfilling the responsibilities
18 defined in the case permanency plan and how the placement will
19 serve the child's best interests.

20 Sec. 89. Section 232.182, subsection 5, paragraph a,
21 subparagraph (4), Code 2011, is amended to read as follows:

22 (4) A determination that services or support provided to
23 the family of a child with ~~mental retardation~~ an intellectual
24 disability, other developmental disability, or organic mental
25 illness will not enable the family to continue to care for the
26 child in the child's home.

27 Sec. 90. Section 233A.14, Code 2011, is amended to read as
28 follows:

29 **233A.14 Transfers to other institutions.**

30 The administrator may transfer to the schools minor wards of
31 the state from any institution under the administrator's charge
32 but no person shall be so transferred who is mentally ill or
33 ~~mentally retarded~~ has an intellectual disability. Any child
34 in the schools who is mentally ill or ~~mentally retarded~~ has an
35 intellectual disability may be transferred by the administrator

1 to the proper state institution.

2 Sec. 91. Section 233B.5, Code 2011, is amended to read as
3 follows:

4 **233B.5 Transfers.**

5 The administrator may transfer to the home minor wards of the
6 state from any institution under the administrator's charge or
7 under the charge of any other administrator of the department
8 of human services; but no person shall be so transferred who
9 is a person with mental illness or ~~mental retardation~~ an
10 intellectual disability, or who is incorrigible, or has any
11 vicious habits, or whose presence in the home would be inimical
12 to the moral or physical welfare of the other children within
13 the home, and any such child in the home may be transferred to
14 the proper state institution.

15 Sec. 92. Section 234.6, subsection 6, paragraph f, Code
16 2011, is amended to read as follows:

17 *f.* Services or support provided to a child with ~~mental~~
18 ~~retardation~~ an intellectual disability or other developmental
19 disability or to the child's family.

20 Sec. 93. Section 235.1, subsection 3, Code 2011, is amended
21 to read as follows:

22 3. "*Child welfare services*" means social welfare services
23 for the protection and care of children who are homeless,
24 dependent or neglected, or in danger of becoming delinquent, or
25 who have a mental illness or ~~mental retardation~~ an intellectual
26 disability or other developmental disability, including, when
27 necessary, care and maintenance in a foster care facility.
28 Child welfare services are designed to serve a child in the
29 child's home whenever possible. If not possible, and the child
30 is placed outside the child's home, the placement should be in
31 the least restrictive setting available and in close proximity
32 to the child's home.

33 Sec. 94. Section 235A.15, subsection 2, paragraph c,
34 subparagraph (9), Code Supplement 2011, is amended to read as
35 follows:

1 (9) To the administrator of an agency providing mental
2 health, ~~mental-retardation~~ intellectual disability, or
3 developmental disability services under a county management
4 plan developed pursuant to section 331.439, if the data
5 concerns a person employed by or being considered by the agency
6 for employment.

7 Sec. 95. Section 235B.6, subsection 2, paragraph c,
8 subparagraph (6), Code Supplement 2011, is amended to read as
9 follows:

10 (6) To the administrator of an agency providing mental
11 health, ~~mental-retardation~~ intellectual disability, or
12 developmental disability services under a county management
13 plan developed pursuant to section 331.439, if the information
14 concerns a person employed by or being considered by the agency
15 for employment.

16 Sec. 96. Section 249A.2, subsection 4, Code 2011, is amended
17 to read as follows:

18 4. "*Discretionary medical assistance*" means medical
19 assistance or additional medical assistance provided to
20 individuals whose income and resources are in excess of
21 eligibility limitations but are insufficient to meet all of the
22 costs of necessary medical care and services, provided that if
23 the assistance includes services in institutions for mental
24 diseases or intermediate care facilities for persons with
25 ~~mental-retardation~~ an intellectual disability, or both, for any
26 group of such individuals, the assistance also includes for
27 all covered groups of such individuals at least the care and
28 services enumerated in Tit. XIX of the federal Social Security
29 Act, section 1905(a), paragraphs (1) through (5), and (17),
30 as codified in 42 U.S.C. § 1396d(a), pars. (1) through (5),
31 and (17), or any seven of the care and services enumerated in
32 Tit. XIX of the federal Social Security Act, section 1905(a),
33 paragraphs (1) through (7) and (9) through (18), as codified in
34 42 U.S.C. § 1396d(a), pars. (1) through (7), and (9) through
35 (18).

1 Sec. 97. Section 249A.5, subsection 2, unnumbered paragraph
2 1, Code 2011, is amended to read as follows:

3 The provision of medical assistance to an individual who
4 is fifty-five years of age or older, or who is a resident of
5 a nursing facility, intermediate care facility for persons
6 with ~~mental retardation~~ an intellectual disability, or mental
7 health institute, who cannot reasonably be expected to be
8 discharged and return to the individual's home, creates a
9 debt due the department from the individual's estate for all
10 medical assistance provided on the individual's behalf, upon
11 the individual's death.

12 Sec. 98. Section 249A.5, subsection 2, paragraph f,
13 subparagraph (1), Code 2011, is amended to read as follows:

14 (1) If a debt is due under this subsection from the estate
15 of a recipient, the administrator of the nursing facility,
16 intermediate care facility for persons with ~~mental retardation~~
17 an intellectual disability, or mental health institute in which
18 the recipient resided at the time of the recipient's death, and
19 the personal representative of the recipient, if applicable,
20 shall report the death to the department within ten days of the
21 death of the recipient.

22 Sec. 99. Section 249A.12, subsection 1, Code 2011, is
23 amended to read as follows:

24 1. Assistance may be furnished under this chapter to an
25 otherwise eligible recipient who is a resident of a health
26 care facility licensed under chapter 135C and certified as an
27 intermediate care facility for persons with ~~mental retardation~~
28 an intellectual disability.

29 Sec. 100. Section 249A.12, subsection 4, paragraphs a and c,
30 Code 2011, are amended to read as follows:

31 a. Effective July 1, 1995, the state shall be responsible
32 for all of the nonfederal share of the costs of intermediate
33 care facility for persons with ~~mental retardation~~ an
34 intellectual disability services provided under medical
35 assistance to minors. Notwithstanding subsection 2 and

1 contrary provisions of section 222.73, effective July 1, 1995,
2 a county is not required to reimburse the department and shall
3 not be billed for the nonfederal share of the costs of such
4 services provided to minors.

5 c. Effective February 1, 2002, the state shall be
6 responsible for all of the nonfederal share of the costs of
7 intermediate care facility for persons with ~~mental retardation~~
8 an intellectual disability services provided under medical
9 assistance attributable to the assessment fee for intermediate
10 care facilities for individuals with ~~mental retardation~~ an
11 intellectual disability imposed pursuant to section 249A.21.
12 Notwithstanding subsection 2, effective February 1, 2003, a
13 county is not required to reimburse the department and shall
14 not be billed for the nonfederal share of the costs of such
15 services attributable to the assessment fee.

16 Sec. 101. Section 249A.12, subsection 5, Code 2011, is
17 amended to read as follows:

18 5. a. The mental health and disability services commission
19 shall recommend to the department the actions necessary to
20 assist in the transition of individuals being served in an
21 intermediate care facility for persons with ~~mental retardation~~
22 an intellectual disability, who are appropriate for the
23 transition, to services funded under a medical assistance
24 home and community-based services waiver for persons with
25 intellectual disabilities in a manner which maximizes the use
26 of existing public and private facilities. The actions may
27 include but are not limited to submitting any of the following
28 or a combination of any of the following as a request for a
29 revision of the medical assistance home and community-based
30 services waiver for persons with intellectual disabilities:

31 (1) Allow for the transition of intermediate care
32 facilities for persons with ~~mental retardation~~ an intellectual
33 disability licensed under chapter 135C, to services funded
34 under the medical assistance home and community-based services
35 waiver for persons with intellectual disabilities. The request

1 shall be for inclusion of additional persons under the waiver
2 associated with the transition.

3 (2) Allow for reimbursement under the waiver for day program
4 or other service costs.

5 (3) Allow for exception provisions in which an intermediate
6 care facility for persons with ~~mental retardation~~ an
7 intellectual disability which does not meet size and other
8 facility-related requirements under the waiver in effect on
9 June 30, 1996, may convert to a waiver service for a set period
10 of time such as five years. Following the set period of time,
11 the facility would be subject to the waiver requirements
12 applicable to services which were not operating under the
13 exception provisions.

14 b. In implementing the provisions of this subsection, the
15 mental health and disability services commission shall consult
16 with other states. The waiver revision request or other action
17 necessary to assist in the transition of service provision
18 from intermediate care facilities for persons with ~~mental~~
19 ~~retardation~~ an intellectual disability to alternative programs
20 shall be implemented by the department in a manner that can
21 appropriately meet the needs of individuals at an overall
22 lower cost to counties, the federal government, and the state.
23 In addition, the department shall take into consideration
24 significant federal changes to the medical assistance program
25 in formulating the department's actions under this subsection.
26 The department shall consult with the mental health and
27 disability services commission in adopting rules for oversight
28 of facilities converted pursuant to this subsection. A
29 transition approach described in paragraph "a" may be modified
30 as necessary to obtain federal waiver approval.

31 Sec. 102. Section 249A.12, subsection 6, paragraphs a and d,
32 Code 2011, are amended to read as follows:

33 a. The provisions of the home and community-based services
34 waiver for persons with an intellectual disabilities disability
35 shall include adult day care, prevocational, and transportation

1 services. Transportation shall be included as a separately
2 payable service.

3 d. The county of legal settlement shall pay for one hundred
4 percent of the nonfederal share of the costs of care provided
5 for adults which is reimbursed under a home and community-based
6 services waiver that would otherwise be approved for provision
7 in an intermediate care facility for persons with ~~mental~~
8 ~~retardation~~ an intellectual disability provided under the
9 medical assistance program.

10 Sec. 103. Section 249A.12, subsections 7 and 8, Code 2011,
11 are amended to read as follows:

12 7. When paying the necessary and legal expenses for
13 intermediate care facility for persons with ~~mental-retardation~~
14 an intellectual disability services, the cost requirements of
15 section 222.60 shall be considered fulfilled when payment is
16 made in accordance with the medical assistance payment rates
17 established by the department for intermediate care facilities
18 for persons with ~~mental-retardation~~ an intellectual disability,
19 and the state or a county of legal settlement shall not be
20 obligated for any amount in excess of the rates.

21 8. If a person with ~~mental-retardation~~ an intellectual
22 disability has no legal settlement or the legal settlement is
23 unknown so that the person is deemed to be a state case and
24 services associated with the ~~mental-retardation~~ intellectual
25 disability can be covered under a medical assistance home and
26 community-based services waiver or other medical assistance
27 program provision, the nonfederal share of the medical
28 assistance program costs for such coverage shall be paid from
29 the appropriation made for the medical assistance program.

30 Sec. 104. Section 249A.21, subsections 1 and 6, Code 2011,
31 are amended to read as follows:

32 1. The department may assess intermediate care facilities
33 for persons with ~~mental-retardation~~ an intellectual disability,
34 as defined in section 135C.1, a fee in an amount not to exceed
35 six percent of the total annual revenue of the facility for the

1 preceding fiscal year.

2 6. The department may adopt administrative rules under
3 section 17A.4, subsection 3, and section 17A.5, subsection 2,
4 paragraph "b", to implement this section, and any fee assessed
5 pursuant to this section against an intermediate care facility
6 for persons with ~~mental retardation~~ an intellectual disability
7 that is operated by the state may be made retroactive to
8 October 1, 2003.

9 Sec. 105. Section 249A.26, subsection 2, paragraph a, Code
10 2011, is amended to read as follows:

11 a. Except as provided for disallowed costs in section
12 249A.27, the county of legal settlement shall pay for fifty
13 percent of the nonfederal share of the cost and the state
14 shall have responsibility for the remaining fifty percent of
15 the nonfederal share of the cost of case management provided
16 to adults, day treatment, and partial hospitalization provided
17 under the medical assistance program for persons with ~~mental~~
18 ~~retardation~~ an intellectual disability, a developmental
19 disability, or chronic mental illness. For purposes of
20 this section, persons with mental disorders resulting from
21 Alzheimer's disease or substance abuse shall not be considered
22 chronically mentally ill. To the maximum extent allowed under
23 federal law and regulations, the department shall consult with
24 and inform a county of legal settlement's central point of
25 coordination process, as defined in section 331.440, regarding
26 the necessity for and the provision of any service for which
27 the county is required to provide reimbursement under this
28 subsection.

29 Sec. 106. Section 249A.26, subsections 3, 7, and 9, Code
30 2011, are amended to read as follows:

31 3. To the maximum extent allowed under federal law and
32 regulations, a person with mental illness or ~~mental retardation~~
33 an intellectual disability shall not be eligible for any
34 service which is funded in whole or in part by a county share of
35 the nonfederal portion of medical assistance funds unless the

1 person is referred through the central point of coordination
2 process, as defined in section 331.440. However, to the
3 extent federal law allows referral of a medical assistance
4 recipient to a service without approval of the central point of
5 coordination process, the county of legal settlement shall be
6 billed for the nonfederal share of costs for any adult person
7 for whom the county would otherwise be responsible.

8 7. Unless a county has paid or is paying for the nonfederal
9 share of the costs of a person's home and community-based
10 waiver services or placement in an intermediate care
11 facility for persons with ~~mental retardation~~ an intellectual
12 disability under the county's mental health, ~~mental retardation~~
13 intellectual disability, and developmental disabilities
14 services fund, or unless a county of legal settlement would
15 become liable for the costs of services for a person at the
16 level of care provided in an intermediate care facility for
17 persons with ~~mental retardation~~ an intellectual disability due
18 to the person reaching the age of majority, the state shall pay
19 for the nonfederal share of the costs of an eligible person's
20 services under the home and community-based services waiver for
21 persons with brain injury.

22 9. Notwithstanding section 8.39, the department may
23 transfer funds appropriated for the medical assistance program
24 to a separate account established in the department's case
25 management unit in an amount necessary to pay for expenditures
26 required to provide case management for mental health,
27 ~~mental retardation~~ intellectual disability, and developmental
28 disabilities services under the medical assistance program
29 which are jointly funded by the state and county, pending final
30 settlement of the expenditures. Funds received by the case
31 management unit in settlement of the expenditures shall be used
32 to replace the transferred funds and are available for the
33 purposes for which the funds were originally appropriated.

34 Sec. 107. Section 249A.30A, Code Supplement 2011, is
35 amended to read as follows:

1 **249A.30A Medical assistance — personal needs allowance.**

2 The personal needs allowance under the medical assistance
3 program, which may be retained by a person who is a resident of
4 a nursing facility, an intermediate care facility for persons
5 with ~~mental retardation~~ an intellectual disability, or an
6 intermediate care facility for persons with mental illness, as
7 defined in section 135C.1, or a person who is a resident of
8 a psychiatric medical institution for children as defined in
9 section 135H.1, shall be fifty dollars per month. A resident
10 who has income of less than fifty dollars per month shall
11 receive a supplement from the state in the amount necessary to
12 receive a personal needs allowance of fifty dollars per month,
13 if funding is specifically appropriated for this purpose.

14 Sec. 108. Section 249A.31, subsection 1, Code 2011, is
15 amended to read as follows:

16 1. Providers of individual case management services for
17 persons with ~~mental retardation~~ an intellectual disability,
18 a developmental disability, or chronic mental illness shall
19 receive cost-based reimbursement for one hundred percent of
20 the reasonable costs for the provision of the services in
21 accordance with standards adopted by the mental health and
22 disability services commission pursuant to section 225C.6.

23 Sec. 109. Section 252.16, subsection 6, paragraph c, Code
24 2011, is amended to read as follows:

25 c. A blind person who is an inpatient or resident of, is
26 supported by, or is receiving treatment or support services
27 from a state resource center created under chapter 222, a
28 state mental health institute created under chapter 226, the
29 Iowa braille and sight saving school administered by the state
30 board of regents, or any community-based provider of treatment
31 or services for ~~mental retardation~~ intellectual disability,
32 developmental disabilities, mental health, or substance abuse,
33 does not acquire legal settlement in the county in which the
34 institution, facility, or provider is located, unless the blind
35 person has resided in the county in which the institution,

1 facility, or provider is located for a period of six months
2 prior to the date of commencement of receipt of assistance
3 under the laws of this state or for a period of six months
4 subsequent to the date of termination of assistance under the
5 laws of this state.

6 Sec. 110. Section 252.16, subsection 8, Code 2011, is
7 amended to read as follows:

8 8. A person receiving treatment or support services from
9 any provider, whether organized for pecuniary profit or not or
10 whether supported by charitable or public or private funds,
11 that provides treatment or services for ~~mental retardation~~
12 intellectual disability, developmental disabilities, mental
13 health, brain injury, or substance abuse does not acquire legal
14 settlement in a county unless the person continuously resides
15 in that county for one year from the date of the last treatment
16 or support service received by the person.

17 Sec. 111. Section 262.70, Code 2011, is amended to read as
18 follows:

19 **262.70 Education, prevention, and research programs in mental**
20 **health and disability services.**

21 The division of mental health and disability services of
22 the department of human services may contract with the board
23 of regents or any institution under the board's jurisdiction
24 to establish and maintain programs of education, prevention,
25 and research in the fields of mental health, ~~mental retardation~~
26 intellectual disability, developmental disabilities, and
27 brain injury. The board may delegate responsibility for these
28 programs to the state psychiatric hospital, the university
29 hospital, or any other appropriate entity under the board's
30 jurisdiction.

31 Sec. 112. Section 263.11, subsection 2, Code 2011, is
32 amended to read as follows:

33 2. Persons who are not eligible for admission to the schools
34 already established for persons with ~~mental retardation~~ an
35 intellectual disability or epilepsy or persons who are deaf or

1 blind.

2 Sec. 113. Section 331.381, subsection 4, Code 2011, is
3 amended to read as follows:

4 4. Comply with chapter 222, including but not limited to
5 sections 222.13, 222.14, and 222.59 to 222.82, in regard to
6 the care of persons with ~~mental-retardation~~ an intellectual
7 disability.

8 Sec. 114. Section 331.424A, subsections 1, 2, and 5, Code
9 Supplement 2011, are amended to read as follows:

10 1. For the purposes of this chapter, unless the context
11 otherwise requires, "*services fund*" means the county mental
12 health, ~~mental-retardation~~ intellectual disability, and
13 developmental disabilities services fund created in subsection
14 2. The county finance committee created in section 333A.2
15 shall consult with the state commission in adopting rules and
16 prescribing forms for administering the services fund.

17 2. For the fiscal year beginning July 1, 1996, and
18 succeeding fiscal years, county revenues from taxes and other
19 sources designated for mental health, ~~mental-retardation~~
20 intellectual disability, and developmental disabilities
21 services shall be credited to the mental health, ~~mental-~~
22 ~~retardation~~ intellectual disability, and developmental
23 disabilities services fund of the county. The board shall make
24 appropriations from the fund for payment of services provided
25 under the county management plan approved pursuant to section
26 331.439. The county may pay for the services in cooperation
27 with other counties by pooling appropriations from the fund
28 with other counties or through county regional entities
29 including but not limited to the county's mental health and
30 developmental disabilities regional planning council created
31 pursuant to section 225C.18.

32 5. Appropriations specifically authorized to be made from
33 the mental health, ~~mental-retardation~~ intellectual disability,
34 and developmental disabilities services fund shall not be made
35 from any other fund of the county.

1 Sec. 115. Section 331.432, subsection 3, Code Supplement
2 2011, is amended to read as follows:

3 3. Except as authorized in section 331.477, transfers of
4 moneys between the county mental health, ~~mental-retardation~~
5 intellectual disability, and developmental disabilities
6 services fund and any other fund are prohibited.

7 Sec. 116. Section 331.438, subsection 1, paragraphs a and b,
8 Code Supplement 2011, are amended to read as follows:

9 a. "*Base year expenditures*" means the amount selected by a
10 county and reported to the county finance committee pursuant
11 to this paragraph. The amount selected shall be equal to the
12 amount of net expenditures made by the county for qualified
13 mental health, ~~mental-retardation~~ intellectual disability, and
14 developmental disabilities services provided in one of the
15 following:

16 (1) The actual amount reported to the state on October 15,
17 1994, for the fiscal year beginning July 1, 1993.

18 (2) The net expenditure amount contained in the county's
19 final budget certified in accordance with chapter 24 for the
20 fiscal year beginning July 1, 1995, and reported to the county
21 finance committee.

22 b. "*Qualified mental health, ~~mental-retardation~~ intellectual*
23 *disability, and developmental disabilities services*" means the
24 services specified in the rules adopted by the state commission
25 for administering the services fund, pursuant to section
26 331.424A.

27 Sec. 117. Section 331.438, subsection 4, paragraph a, Code
28 Supplement 2011, is amended to read as follows:

29 a. The state commission shall make recommendations and take
30 actions for joint state and county planning, implementing,
31 and funding of mental health, ~~mental-retardation~~ intellectual
32 disability or other developmental disabilities, and brain
33 injury services, including but not limited to developing and
34 implementing fiscal and accountability controls, establishing
35 management plans, and ensuring that eligible persons have

1 access to appropriate and cost-effective services.

2 Sec. 118. Section 331.438, subsection 4, paragraph b,
3 subparagraph (6), Code Supplement 2011, is amended to read as
4 follows:

5 (6) Consider recommendations for measuring and improving
6 the quality of state and county mental health, ~~mental~~
7 ~~retardation~~ intellectual disability, and developmental
8 disabilities services and other support.

9 Sec. 119. Section 331.439, subsection 1, paragraphs a, b,
10 and f, Code Supplement 2011, are amended to read as follows:

11 a. The county accurately reported by December 1 the county's
12 expenditures for mental health, ~~mental retardation~~ intellectual
13 disability, and developmental disabilities services and the
14 information required under section 225C.6A, subsection 3,
15 paragraph "c", for the previous fiscal year in accordance with
16 rules adopted by the state commission. If the department
17 determines good cause exists, the department may extend a
18 deadline otherwise imposed under this chapter, chapter 225C, or
19 chapter 426B for a county's reporting concerning mental health,
20 ~~mental retardation~~ intellectual disability, or developmental
21 disabilities services or related revenues and expenditures.

22 b. The county developed and implemented a county management
23 plan for the county's mental health, ~~mental retardation~~
24 intellectual disability, and developmental disabilities
25 services system in accordance with the provisions of this
26 paragraph "b". The plan shall comply with the administrative
27 rules adopted for this purpose by the state commission and is
28 subject to the approval of the director of human services in
29 consultation with the state commission. The plan shall include
30 a description of the county's service management provision for
31 mental health, ~~mental retardation~~ intellectual disability, and
32 developmental disabilities services. For ~~mental retardation~~
33 intellectual disability and developmental disabilities service
34 management, the plan shall describe the county's development
35 and implementation of a system of cost-effective individualized

1 services and shall comply with the provisions of paragraph
2 "f". The goal of this part of the plan shall be to assist
3 the individuals served to be as independent, productive,
4 and integrated into the community as possible. The service
5 management provisions for mental health shall comply with the
6 provisions of paragraph "e". A county is subject to all of the
7 following provisions in regard to the county's services system
8 management plan and planning process:

9 (1) The county shall have in effect an approved policies and
10 procedures manual for the county's services fund. The county
11 management plan shall be defined in the manual. The manual
12 submitted by the county as part of the county's management plan
13 for the fiscal year beginning July 1, 2000, as approved by the
14 director of human services, shall remain in effect, subject to
15 amendment. An amendment to the manual shall be submitted to
16 the department of human services at least forty-five days prior
17 to the date of implementation. Prior to implementation of any
18 amendment to the manual, the amendment must be approved by
19 the director of human services in consultation with the state
20 commission.

21 (2) For informational purposes, the county shall submit a
22 management plan review to the department of human services by
23 December 1 of each year. The annual review shall incorporate
24 an analysis of the data associated with the services system
25 managed during the preceding fiscal year by the county or by
26 a private entity on behalf of the county. The annual review
27 shall also identify measurable outcomes and results showing
28 the county's progress in fulfilling the purposes listed
29 in paragraph "c", and in achieving the disability services
30 outcomes and indicators identified by the commission pursuant
31 to section 225C.6.

32 (3) For informational purposes, every three years the
33 county shall submit to the department of human services
34 a three-year strategic plan. The strategic plan shall
35 describe how the county will proceed to attain the plan's

1 goals and objectives, and the measurable outcomes and results
2 necessary for moving the county's services system toward
3 an individualized, community-based focus in accordance
4 with paragraph "c". The three-year strategic plan shall be
5 submitted by April 1, 2000, and by April 1 of every third year
6 thereafter.

7 *f.* For ~~mental retardation~~ intellectual disability and
8 developmental disabilities services management, the county must
9 either develop and implement a system of care which addresses a
10 full array of appropriate services and cost-effective delivery
11 of services by contracting directly with service providers
12 or by contracting with a state-approved private entity to
13 manage the county services system. The county services system
14 shall incorporate a central point of coordination and clinical
15 assessment process developed in accordance with the provisions
16 of section 331.440. The elements of a county services system
17 shall be specified in rules developed by the department of
18 human services in consultation with and adopted by the state
19 commission.

20 Sec. 120. Section 331.439, subsection 3, paragraph a, Code
21 Supplement 2011, is amended to read as follows:

22 *a.* For the fiscal year beginning July 1, 1996, and
23 succeeding fiscal years, the county's mental health, ~~mental~~
24 ~~retardation~~ intellectual disability, and developmental
25 disabilities service expenditures for a fiscal year are limited
26 to a fixed budget amount. The fixed budget amount shall be
27 the amount identified in the county's management plan and
28 budget for the fiscal year. The county shall be authorized an
29 allowed growth factor adjustment as established by statute for
30 services paid from the county's services fund under section
31 331.424A which is in accordance with the county's management
32 plan and budget, implemented pursuant to this section. The
33 statute establishing the allowed growth factor adjustment shall
34 establish the adjustment for the fiscal year which commences
35 two years from the beginning date of the fiscal year in

1 progress at the time the statute is enacted.

2 Sec. 121. Section 331.439, subsection 6, Code Supplement
3 2011, is amended to read as follows:

4 6. The director's approval of a county's mental health,
5 ~~mental retardation~~ intellectual disability, and developmental
6 disabilities services management plan shall not be construed to
7 constitute certification of the county's budget.

8 Sec. 122. Section 331.440, subsection 1, paragraphs a and b,
9 Code Supplement 2011, are amended to read as follows:

10 a. For the purposes of this section, unless the context
11 otherwise requires, "*central point of coordination process*"
12 means a central point of coordination process established
13 by a county or consortium of counties for the delivery of
14 mental health, ~~mental retardation~~ intellectual disability, and
15 developmental disabilities services which are paid for in whole
16 or in part by county funds. The central point of coordination
17 process may include but is not limited to reviewing a person's
18 eligibility for services, determining the appropriateness of
19 the type, level, and duration of services, and performing
20 periodic review of the person's continuing eligibility and
21 need for services. Any recommendations developed concerning
22 a person's plan of services shall be consistent with the
23 person's unique strengths, circumstances, priorities, concerns,
24 abilities, and capabilities. For those services funded
25 under the medical assistance program, the central point of
26 coordination process shall be used to assure that the person
27 is aware of the appropriate service options available to the
28 person.

29 b. The central point of coordination process may include
30 a clinical assessment process to identify a person's service
31 needs and to make recommendations regarding the person's plan
32 for services. The clinical assessment process shall utilize
33 qualified mental health professionals and qualified ~~mental~~
34 ~~retardation~~ intellectual disability professionals.

35 Sec. 123. Section 331.440, subsection 2, paragraph d, Code

1 Supplement 2011, is amended to read as follows:

2 *d.* "State case services and other support" means the mental
3 health, ~~mental-retardation~~ intellectual disability, and
4 developmental disabilities services and other support paid for
5 under the rules and requirements in effect prior to October 1,
6 2006, from the annual appropriation made to the department of
7 human services for such services and other support provided
8 to persons who have no established county of legal settlement
9 or the legal settlement is unknown so that the person is
10 deemed to be a state case. Such services and other support do
11 not include medical assistance program services or services
12 provided in a state institution.

13 Sec. 124. Section 331.502, subsection 11, Code 2011, is
14 amended to read as follows:

15 11. Carry out duties relating to the determination of legal
16 settlement, collection of funds due the county, and support of
17 persons with ~~mental-retardation~~ an intellectual disability as
18 provided in sections 222.13, 222.50, 222.61 to 222.66, 222.69,
19 and 222.74.

20 Sec. 125. Section 331.756, subsections 42 and 43, Code
21 Supplement 2011, are amended to read as follows:

22 42. Carry out duties relating to the commitment of a person
23 with ~~mental-retardation~~ an intellectual disability as provided
24 in section 222.18.

25 43. Proceed to collect, as requested by the county,
26 the reasonable costs for the care, treatment, training,
27 instruction, and support of a person with ~~mental-retardation~~
28 an intellectual disability from parents or other persons who
29 are legally liable for the support of the person with ~~mental~~
30 ~~retardation~~ an intellectual disability as provided in section
31 222.82.

32 Sec. 126. Section 335.25, subsection 2, paragraph b,
33 subparagraphs (1) and (2), Code 2011, are amended to read as
34 follows:

35 (1) Attributable to ~~mental-retardation~~ an intellectual

1 disability, cerebral palsy, epilepsy, or autism.

2 (2) Attributable to any other condition found to be closely
3 related to ~~mental retardation~~ an intellectual disability
4 because the condition results in impairment of general
5 intellectual functioning or adaptive behavior similar to that
6 of persons with ~~mental retardation~~ an intellectual disability
7 or requires treatment and services similar to those required
8 for the persons.

9 Sec. 127. Section 347.9A, subsection 3, Code 2011, is
10 amended to read as follows:

11 3. This section does not prohibit a licensed health
12 care practitioner from serving as a hospital trustee if the
13 practitioner's sole use of the county hospital is to provide
14 health care service to an individual with ~~mental retardation~~ an
15 intellectual disability as defined in section ~~222.2~~ 4.1.

16 Sec. 128. Section 414.22, subsection 2, paragraph b,
17 subparagraphs (1) and (2), Code 2011, are amended to read as
18 follows:

19 (1) Attributable to ~~mental retardation~~ an intellectual
20 disability, cerebral palsy, epilepsy, or autism.

21 (2) Attributable to any other condition found to be closely
22 related to ~~mental retardation~~ an intellectual disability
23 because the condition results in impairment of general
24 intellectual functioning or adaptive behavior similar to that
25 of persons with ~~mental retardation~~ an intellectual disability
26 or requires treatment and services similar to those required
27 for the persons.

28 Sec. 129. Section 422.7, subsection 12, paragraph c,
29 subparagraph (1), Code Supplement 2011, is amended to read as
30 follows:

31 (1) "*Physical or mental impairment*" means any physiological
32 disorder or condition, cosmetic disfigurement, or anatomical
33 loss affecting one or more of the body systems or any mental
34 or psychological disorder, including ~~mental retardation~~
35 intellectual disability, organic brain syndrome, emotional or

1 mental illness and specific learning disabilities.

2 Sec. 130. Section 422.35, subsection 6, paragraph c,
3 subparagraph (1), Code Supplement 2011, is amended to read as
4 follows:

5 (1) "*Physical or mental impairment*" means any physiological
6 disorder or condition, cosmetic disfigurement, or anatomical
7 loss affecting one or more of the body systems or any mental
8 or psychological disorder, including ~~mental retardation~~
9 intellectual disability, organic brain syndrome, emotional or
10 mental illness, and specific learning disabilities.

11 Sec. 131. Section 423.3, subsection 18, paragraphs a and c,
12 Code Supplement 2011, are amended to read as follows:

13 a. Residential care facilities and intermediate care
14 facilities for persons with ~~mental retardation~~ an intellectual
15 disability and residential care facilities for persons with
16 mental illness licensed by the department of inspections and
17 appeals under chapter 135C.

18 c. Rehabilitation facilities that provide accredited
19 rehabilitation services to persons with disabilities which are
20 accredited by the commission on accreditation of rehabilitation
21 facilities or the accreditation council for services for
22 persons with ~~mental retardation~~ an intellectual disability
23 and other persons with developmental disabilities and adult
24 day care services approved for reimbursement by the state
25 department of human services.

26 Sec. 132. Section 426B.2, subsection 3, paragraph b, Code
27 2011, is amended to read as follows:

28 b. Any replacement generation tax in the property tax relief
29 fund as of May 1 shall be paid to the county treasurers in July
30 and January of the fiscal year beginning the following July 1.
31 The department of management shall determine the amount each
32 county will be paid pursuant to this lettered paragraph for
33 the following fiscal year. The department shall reduce by the
34 determined amount the amount of each county's certified budget
35 to be raised by property tax for that fiscal year which is to

1 be expended for mental health, ~~mental-retardation~~ intellectual
2 disability, and developmental disabilities services and
3 shall revise the rate of taxation as necessary to raise the
4 reduced amount. The department of management shall report
5 the reduction in the certified budget and the revised rate of
6 taxation to the county auditors by June 15.

7 Sec. 133. Section 426B.3, subsection 1, Code 2011, is
8 amended to read as follows:

9 1. The county auditor shall reduce the certified budget
10 amount received from the board of supervisors for the
11 succeeding fiscal year for the county mental health, ~~mental-~~
12 ~~retardation~~ intellectual disability, and developmental
13 disabilities services fund created in section 331.424A by an
14 amount equal to the amount the county will receive from the
15 property tax relief fund pursuant to section 426B.2, for the
16 succeeding fiscal year and the auditor shall determine the rate
17 of taxation necessary to raise the reduced amount. On the tax
18 list, the county auditor shall compute the amount of taxes due
19 and payable on each parcel before and after the amount received
20 from the property tax relief fund is used to reduce the county
21 budget. The director of human services shall notify the county
22 auditor of each county of the amount of moneys the county will
23 receive from the property tax relief fund pursuant to section
24 426B.2, for the succeeding fiscal year.

25 Sec. 134. Section 426B.5, subsection 1, paragraph d,
26 subparagraph (1), subparagraph divisions (a) and (b), Code
27 Supplement 2011, are amended to read as follows:

28 (a) The county is levying the maximum amount allowed for
29 the county's mental health, ~~mental-retardation~~ intellectual
30 disability, and developmental disabilities services fund under
31 section 331.424A for the fiscal year in which the funding is
32 distributed.

33 (b) In the latest fiscal year reported in accordance with
34 section 331.403, the county's mental health, ~~mental-retardation~~
35 intellectual disability, and developmental disabilities

1 services fund ending balance under generally accepted
2 accounting principles was equal to or less than twenty-five
3 percent of the county's actual gross expenditures for that
4 fiscal year.

5 Sec. 135. Section 426B.5, subsection 2, paragraph a, Code
6 Supplement 2011, is amended to read as follows:

7 a. For the purposes of this subsection, unless the context
8 otherwise requires, "*services fund*" means a county's mental
9 health, ~~mental-retardation~~ intellectual disability, and
10 developmental disabilities services fund created in section
11 331.424A.

12 Sec. 136. Section 514E.7, subsection 2, paragraph a,
13 subparagraph (1), Code 2011, is amended to read as follows:

14 (1) Incapable of self-sustaining employment by reason
15 of ~~mental-retardation~~ an intellectual disability or physical
16 disability.

17 Sec. 137. Section 602.8102, subsections 36 and 37, Code
18 2011, are amended to read as follows:

19 36. Carry out duties relating to the commitment of a person
20 with ~~mental-retardation~~ an intellectual disability as provided
21 in sections 222.37 through 222.40.

22 37. Keep a separate docket of proceedings of cases relating
23 to persons with ~~mental-retardation~~ an intellectual disability
24 as provided in section 222.57.

25 Sec. 138. Section 633.556, subsection 1, Code 2011, is
26 amended to read as follows:

27 1. If the allegations of the petition as to the status of
28 the proposed ward and the necessity for the appointment of
29 a guardian are proved by clear and convincing evidence, the
30 court may appoint a guardian. If the court appoints a guardian
31 based upon mental incapacity of the proposed ward because
32 the proposed ward is a person ~~described in section 222.2,~~
33 ~~subsection 5~~ with an intellectual disability, as defined in
34 section 4.1, the court shall make a separate determination as
35 to the ward's competency to vote. The court shall find a ward

1 incompetent to vote only upon determining that the person lacks
2 sufficient mental capacity to comprehend and exercise the right
3 to vote.

4 Sec. 139. Section 633C.1, subsection 4, Code 2011, is
5 amended to read as follows:

6 4. "*Maximum monthly medical assistance payment rate for*
7 *services in an intermediate care facility for persons with mental*
8 *retardation an intellectual disability*" means the allowable
9 rate established by the department of human services and as
10 published in the Iowa administrative bulletin.

11 Sec. 140. Section 633C.3, subsection 3, paragraph a, Code
12 2011, is amended to read as follows:

13 a. For a beneficiary who meets the medical assistance level
14 of care requirements for services in an intermediate care
15 facility for persons with ~~mental retardation~~ an intellectual
16 disability and who either resides in an intermediate care
17 facility for persons with ~~mental retardation~~ an intellectual
18 disability or is eligible for services under the medical
19 assistance home and community-based services waiver except
20 that the beneficiary's income exceeds the allowable maximum,
21 the applicable rate is the maximum monthly medical assistance
22 payment rate for services in an intermediate care facility for
23 persons with ~~mental retardation~~ an intellectual disability.

24 Sec. 141. Section 904.108, subsection 1, paragraph d, Code
25 2011, is amended to read as follows:

26 d. Establish and maintain acceptable standards of treatment,
27 training, education, and rehabilitation in the various
28 state penal and corrective institutions which shall include
29 habilitative services and treatment for offenders with ~~mental~~
30 ~~retardation~~ an intellectual disability. For the purposes of
31 this paragraph, "*habilitative services and treatment*" means
32 medical, mental health, social, educational, counseling,
33 and other services which will assist a person with ~~mental~~
34 ~~retardation~~ an intellectual disability to become self-reliant.
35 However, the director may also provide rehabilitative treatment

1 and services to other persons who require the services.
2 The director shall identify all individuals entering the
3 correctional system who are persons with ~~mental retardation~~
4 an intellectual disability, as defined in section ~~222.2,~~
5 ~~subsection 5~~ 4.1. Identification shall be made by a qualified
6 professional in the area of ~~mental retardation~~ intellectual
7 disability. In assigning an offender with ~~mental retardation~~
8 an intellectual disability, or an offender with an inadequately
9 developed intelligence or with impaired mental abilities, to
10 a correctional facility, the director shall consider both the
11 program needs and the security needs of the offender. The
12 director shall consult with the department of human services
13 in providing habilitative services and treatment to offenders
14 with mental illness or ~~mental retardation~~ an intellectual
15 disability. The director may enter into agreements with
16 the department of human services to utilize mental health
17 institutions and share staff and resources for purposes of
18 providing habilitative services and treatment, as well as
19 providing other special needs programming. Any agreement to
20 utilize mental health institutions and to share staff and
21 resources shall provide that the costs of the habilitative
22 services and treatment shall be paid from state funds. Not
23 later than twenty days prior to entering into any agreement
24 to utilize mental health institution staff and resources,
25 other than the use of a building or facility, for purposes of
26 providing habilitative services and treatment, as well as other
27 special needs programming, the directors of the departments
28 of corrections and human services shall each notify the
29 chairpersons and ranking members of the joint appropriations
30 subcommittees that last handled the appropriation for their
31 respective departments of the pending agreement. Use of a
32 building or facility shall require approval of the general
33 assembly if the general assembly is in session or, if the
34 general assembly is not in session, the legislative council
35 may grant temporary authority, which shall be subject to final

1 approval of the general assembly during the next succeeding
2 legislative session.

3 Sec. 142. Section 904.205, Code 2011, is amended to read as
4 follows:

5 **904.205 Clarinda correctional facility.**

6 The state correctional facility at Clarinda shall be
7 utilized as a secure men's correctional facility primarily
8 for offenders with chemical dependence, ~~mental retardation~~ an
9 intellectual disability, or mental illness.

10 Sec. 143. Section 915.38, subsections 1 and 2, Code 2011,
11 are amended to read as follows:

12 1. Upon its own motion or upon motion of any party, a court
13 may protect a minor, as defined in section 599.1, from trauma
14 caused by testifying in the physical presence of the defendant
15 where it would impair the minor's ability to communicate, by
16 ordering that the testimony of the minor be taken in a room
17 other than the courtroom and be televised by closed-circuit
18 equipment for viewing in the courtroom. However, such an order
19 shall be entered only upon a specific finding by the court that
20 such measures are necessary to protect the minor from trauma.
21 Only the judge, prosecuting attorney, defendant's attorney,
22 persons necessary to operate the equipment, and any person
23 whose presence, in the opinion of the court, would contribute
24 to the welfare and well-being of the minor may be present in
25 the room with the minor during the minor's testimony. The
26 judge shall inform the minor that the defendant will not be
27 present in the room in which the minor will be testifying
28 but that the defendant will be viewing the minor's testimony
29 through closed-circuit television.

30 During the minor's testimony the defendant shall remain in
31 the courtroom and shall be allowed to communicate with the
32 defendant's counsel in the room where the minor is testifying
33 by an appropriate electronic method.

34 In addition, upon a finding of necessity, the court may
35 allow the testimony of a victim or witness with a mental

1 illness, ~~mental retardation~~ an intellectual disability, or
2 other developmental disability to be taken as provided in this
3 subsection, regardless of the age of the victim or witness.

4 2. The court may, upon its own motion or upon motion of
5 a party, order that the testimony of a minor, as defined in
6 section 599.1, be taken by recorded deposition for use at
7 trial, pursuant to rule of criminal procedure 2.13(2)(b).
8 In addition to requiring that such testimony be recorded by
9 stenographic means, the court may on motion and hearing, and
10 upon a finding that the minor is unavailable as provided
11 in rule of evidence 5.804(a), order the videotaping of the
12 minor's testimony for viewing in the courtroom by the court.
13 The videotaping shall comply with the provisions of rule
14 of criminal procedure 2.13(2)(b), and shall be admissible
15 as evidence in the trial. In addition, upon a finding of
16 necessity, the court may allow the testimony of a victim
17 or witness with a mental illness, ~~mental retardation~~ an
18 intellectual disability, or other developmental disability to
19 be taken as provided in this subsection, regardless of the age
20 of the victim or witness.

21 DIVISION II

22 ADULT LIVING SERVICES

23 Sec. 144. Section 105.11, subsection 11, Code Supplement
24 2011, is amended to read as follows:

25 11. Prohibit an owner or operator of a health care facility
26 licensed pursuant to chapter 135C, assisted living center
27 licensed pursuant to chapter 231C, hospital licensed pursuant
28 to chapter 135B, adult ~~day-care~~ living services center licensed
29 pursuant to chapter 231D, or a retirement facility certified
30 pursuant to chapter 523D from performing work on the facility
31 or requiring such owner or operator to be licensed under this
32 chapter; except for projects that exceed the dollar amount
33 specified as the competitive bid threshold in section 26.3.

34 Sec. 145. Section 249A.12, subsection 6, paragraph a, Code
35 2011, is amended to read as follows:

1 a. The provisions of the home and community-based services
2 waiver for persons with an intellectual disabilities disability
3 shall include adult ~~day-care~~ living services, prevocational,
4 and transportation services. Transportation shall be included
5 as a separately payable service.

6 Sec. 146. Section 249K.5, subsection 2, paragraph b,
7 subparagraph (4), Code 2011, is amended to read as follows:

8 (4) The service is adult ~~day-care~~ living services, consumer
9 directed attendant care, assisted living, day habilitation,
10 home delivered meals, personal emergency response, or respite.

11 Sec. 147. Section 423.3, subsection 18, paragraph c, Code
12 Supplement 2011, is amended to read as follows:

13 c. Rehabilitation facilities that provide accredited
14 rehabilitation services to persons with disabilities which are
15 accredited by the commission on accreditation of rehabilitation
16 facilities or the accreditation council for services for
17 persons with mental retardation and other persons with
18 developmental disabilities and adult ~~day-care~~ living services
19 approved for reimbursement by the state department of human
20 services.

21 EXPLANATION

22 This bill replaces the terms "mental retardation" and
23 "mentally retarded" with the term "intellectual disability"
24 throughout the Iowa Code.

25 The bill defines "intellectual disability" for the entire
26 Iowa Code as a disability of children and adults who as
27 a result of inadequately developed intelligence have a
28 significant impairment in ability to learn or to adapt to
29 the demands of society. This is the current definition of
30 "mental retardation" in Code chapter 222. The bill also
31 provides for the entire Iowa Code that if a diagnosis is
32 required, "intellectual disability" means a diagnosis of mental
33 retardation as defined in the diagnostic and statistical manual
34 of mental disorders, fourth edition, published by the American
35 psychiatric association. This language currently exists in

1 Code section 222.60.

2 The bill replaces the term "adult day care" with "adult
3 living services".

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