

# Iowa Department of Human Services

Terry E. Branstad  
Governor

Kim Reynolds  
Lt. Governor

Charles M. Palmer  
Director

November 30, 2012

Michael Marshall  
Secretary of the Senate  
State Capitol Building  
LOCAL

Carmine Boal  
Chief Clerk of the House  
State Capitol Building  
LOCAL

Dear Mr. Marshall and Ms. Boal:

Enclosed please find the Judicial Workgroup report regarding the recommendations for consolidation of process for involuntary commitment for persons with substance-related disorders under chapter 125, for intellectual disability under chapter 222, and for serious mental illness under chapter 229 and recommendations for the feasibility of establishing an independent statewide patient advocate program for persons suffering from mental illness, intellectual disability, or a substance-related disorder and involuntarily committed by the court and also patients found not guilty by reason of insanity.

The report was prepared pursuant to the directive contained in SF 2312.

This report is also available on the Department of Human Services website at <http://www.dhs.iowa.gov/Partners/Reports/LegislativeReports/LegisReports.html>.

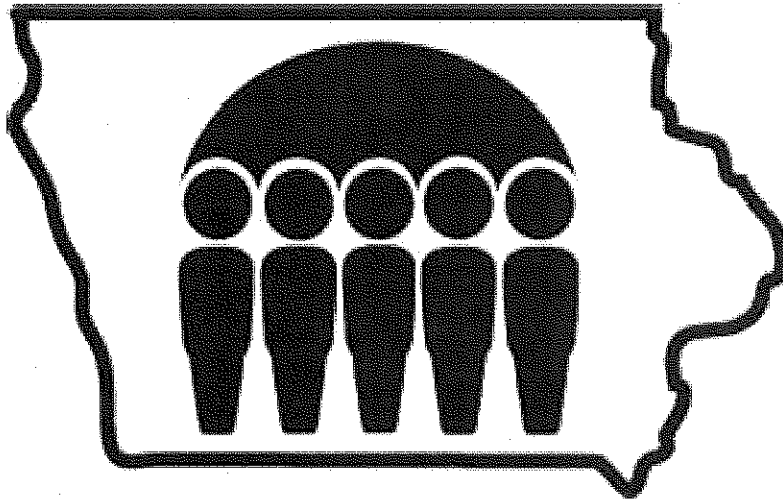
Sincerely,

Jennifer Davis Harbison  
Policy Advisor

Enclosure

cc: Governor Terry E. Branstad  
Senator Jack Hatch  
Senator David Johnson  
Representative David Heaton  
Representative Lisa Heddens  
Legislative Services Agency  
Kris Bell, Senate Majority Staff  
Josh Bronsink, Senate Minority Staff  
Carrie Kobrinetz, House Majority Staff  
Zeke Furlong, House Minority Staff

# Iowa Department of Human Services



## Judicial Workgroup Final Report

November 30, 2012

## **Introduction**

The Judicial Workgroup consists of 25 members representing judges, district court administrators, clerks of court, private agencies, the Office of Citizens' Aide/Ombudsman, the Department of Human Services, mental health institutes, Iowa Hospital Association, Department of Corrections, community mental health centers, county central point of coordination coordinators, chief jailers, office of the attorney general, Olmstead Consumer Task Force, residential care facilities, community based services, and mental health advocates. Two new members from the Iowa Department of Public Health and Disability Rights Iowa joined the workgroup. David Boyd, State Court Administrator for the Judicial Branch, and Karalyn Kuhns, Department of Human Services, co-chaired the workgroup.

Between August and November of 2012, the workgroup met four times from 10:00 am until 3:00 pm and again in November for a conference call. Required reading for each meeting was posted on the redesign website. Speakers and presenters included consumers, judicial advocates, a rural magistrate, and representatives from substance abuse treatment service providers and mental health treatment service providers in both urban and rural settings.

During each workgroup meeting there were two public comment sections, and over the course of the meetings, nearly 25 different members of the public attended the workgroup meetings and shared comments that were documented in workgroup meeting minutes and posted on the redesign website. These public comments were also considered by the workgroup members in the final recommendations.

Senate File 2312 presented the Judicial Workgroup with a focus on two main areas and the workgroup makes the following recommendations.

## **Charge of SF 2312**

The workgroup is to study and make recommendations to consolidate the processes for involuntary commitment found in Iowa Code chapters 125 Substance-Related Disorders, 222 Persons with Intellectual Disability and 229 Hospitalization of Persons with Mental Illness.

The workgroup shall also study and make recommendations concerning the feasibility of establishing an independent statewide patient advocate program for qualified persons representing the interests of patients suffering from mental illness, intellectual disability, or a substance-related disorder and involuntary commitment by the court, in any matter relating to the patients' hospitalization or treatment under chapters 125, 222 and 229,

and shall also include recommendations for a patient advocate representing the interests of patients found not guilty of a crime by reason of insanity. The workgroup shall also consider the implementation of consistent reimbursement standards for patient advocates supported by a state-funded system and shall also consider the role of the advocate for persons who have been diagnosed with a co-occurring mental illness and substance-related disorder. The workgroup shall solicit input from current mental health advocates and mental health and substance-related disorder care providers and individuals receiving services whose interests would be represented by an independent statewide advocate program.

## **Workgroup Recommendations**

The Judicial Workgroup makes the following recommendations:

- 1. Modify application for involuntary commitment so it is the same for chapter 125 Substance-Related Disorders and chapter 229 Hospitalization of Persons with Mental Illness. The workgroup had no further recommendations for consolidation of chapters 125, 222 Persons with an Intellectual Disability and 229.**

The application submitted to the clerk of court would state:

- a. Danger to self or others;
- b. Lack of judgmental capacity; and
- c. Due to serious mental illness and/or substance induced disorder.

Facts are to be provided for all three elements with a statement as to the presumptive primary issue being serious mental illness or substance induced disorder if one is identifiable. Persons need to be trained to not simply check both.

If the applicant seeks immediate custody, the court shall decide whether initial placement is at a psychiatric hospital or a substance induced disorder facility. The default will be the hospital and the court, at its discretion, can place the person at a substance-induced disorder facility if indicated in the facts of the application.

Discussion points: The unresolved issue includes where to hold the person who is under immediate custody until a placement can be found, locating placement for the individual and being able to locate providers who offer co-occurring services. It needs to be determined if all initial evaluations need to evaluate for both serious mental illness and substance induced disorder.

The 23 co-occurring capable providers in Iowa's 99 counties are available with treatment beds. All are available to conduct assessments for substance induced disorders. However, there is no statewide requirement or consistent methodology

to pay them for services related to co-occurring commitments as funding for mental health commitment is not the same as for substance induced disorders.

**2. Require the offer of a precommitment screen for all respondents before filing an application under chapters 229 Hospitalization of Persons with Mental Illness and 125 Substance-Related Disorders.**

Prior to completing an application for involuntary hospitalization the clerk of the district court or the clerks' designee is required to inform the interested person about the option of requesting a preapplication screening assessment. Participation in the precommitment screening assessment is voluntary. Service availability will be identified.

Discussion points

The same opportunity for a preapplication screening assessment required in chapter 229 should be available for chapter 125 cases.

The same issue of payment for the assessment as identified in Recommendation 1 exists, as funding for mental health commitment is not the same as for substance induced disorders.

**3. Sunset involuntary commitment process of chapter 222 Persons with an Intellectual Disability.**

Discussion points

Recognizing that the involuntary commitments under chapter 222 are infrequent, and that many are served through guardianship, the involuntary commitment process in chapter 222 is not necessary.

Also recognizing that there are some cases without guardianship or guardianship that may be unresponsive, allow one year planning for the change, then terminate the chapter 222 commitment process and utilize the probate system. The judicial branch will provide the names and contact information of the persons currently under 222 commitments to the regional administrator or their designee so that the persons do not have an interruption of service.

**4. Modify involuntary commitment code sections in chapters 125 Substance-Related Disorders and 229 Hospitalization of Persons with Mental Illness to reflect community based service language.**

Discussion points

The current code predominantly references an institutional system and does not take into consideration changes towards a community based service system.

- 5. The statewide mental health advocacy program should be an attached unit of the Department of Inspections and Appeals (DIA) with a director presiding over the unit who has administrative authority and accountability.**

Discussion points

The DIA is a statewide, independent entity. It would be the responsibility of the unit director to hire, train and supervise the advocates and provide consistent compensation across the state.

- 6. Consider assignment of advocates for substance induced disorders after the state-wide system and oversight is in place for advocates for mental health and co-occurring disorders.**

Discussion points

Before adding additional assignments to a system that is changing, it would be reasonable to first accomplish the change in oversight and payment, and then look to add advocates for other involuntary commitments other than mental health and co-occurring disorders.

- 7. Consider assignment of advocates for those found not guilty by reason of insanity after the state-wide system and oversight is in place for advocates for mental health and co-occurring disorders.**

Discussion points

Advocates may need additional training to serve the needs of those found not guilty by reason of insanity.

In addition to completing the tasks identified in SF 2312, the Judicial Workgroup submits the following recommendations for consideration by the Legislature.

- 1. Funding must accompany the recommendations made so that the system can improve.**

Without adequate funding the recommendations are not meaningful. In addition, the workgroup has identified that the recommendations could actually provide better outcomes with an overall costs savings. For example, one precommitment screening at a community mental health center is estimated to cost \$300 and could identify an appropriate referral in the community that would not occupy a hospital bed for up to five days at a cost of \$4,000. This was shown to be the case in Warren County in 2010, with a decrease of over 50 percent of involuntary commitments when precommitment screenings were provided.

**2. A system of identification of available beds for involuntary commitment is needed.**

Iowa's Public Health Advanced Capacity Tracking System (I-PHACTS), or something similar, needs to be explored for statewide bed location. The hospitals in the state need to be an integral part of this process.

**3. Justice involved services needs to be a core service.**

This includes:

- A. Implementation of a mental health court including both diversion and conditions of sentencing models; and
- B. Implementation of a jail diversion program.

**4. A qualified professional workforce is necessary to provide needed services to persons with mental health and substance induced disorders, both in rural and urban areas of Iowa.**

**5. Adopt the following recommendations from the Judicial Advocates for Persons with Mental Illness (JAMI):**

- a. Advocate appointments be from where the respondent resides or the court of commitment.
- b. The Iowa Supreme Court adopts the physician reporting forms being piloted in the 4<sup>th</sup> and 7<sup>th</sup> judicial districts.
- c. Clarify Iowa code 229.19(c) that advocates may attend hearings and receive compensation for attending.
- d. Amend 229.19(1a) to include "preferred qualification are a bachelor's degree or related post-secondary education coursework in a social science, education, nursing or other related area and at least one year of work experience in a mental health treatment related position."

## Appendix A: Judicial Workgroup Members

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