

NEW SECTION. FRAUDULENT PRACTICES RELATING TO FOOD PROGRAMS. A person is guilty of a fraudulent practice if that person:

1. With intent to gain financial assistance to which that person is not entitled, knowingly makes or causes to be made a false statement or representation or knowingly fails to report to an employee of the department of social services any change in income, resources or other circumstances affecting that person's entitlement to such financial assistance; or

2. As a beneficiary of the food programs, transfers any food stamp coupons or an authorization-to-purchase card to any other individual with intent that such coupons or card be used for the benefit of someone other than persons within the beneficiary's food stamp household as certified by the department of social services; or

3. Knowingly acquires, uses or attempts to use any food stamp coupon or authorization-to-purchase card not issued for the benefit of that person's food stamp household by the department of social services, or by an agency administering food programs in another state.

Approved May 16, 1978

CHAPTER 1090

CHILD ABUSE

H. F. 2404

AN ACT relating to child abuse.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section two hundred thirty-five A point one (235A.1), Code 1977, is amended to read as follows:

235A.1 LEGISLATIVE FINDINGS--PURPOSE AND POLICY. Children in this state are in urgent need of protection from **physical** abuse. It is the purpose and policy of this chapter to provide the greatest possible protection to victims or potential victims of abuse through encouraging the increased reporting of suspected cases of such abuse, insuring the thorough and prompt investigation of these reports, and providing rehabilitative services, where appropriate and whenever possible to abused children and their families which will stabilize the home environment so that the family can remain

intact without further danger to the child.

Sec. 2. Section two hundred thirty-five A point two (235A.2), subsection two (2), Code 1977, is amended by striking the subsection and inserting in lieu thereof the following:

2. "Child abuse" or "abuse" means harm or threatened harm occurring through:

a. Any nonaccidental physical injury, or injury which is at variance with the history given of it, suffered by a child as the result of the acts or omissions of a person responsible for the care of the child.

b. The commission of any sexual abuse with or to a child as defined by chapter seven hundred nine (709) of the Code Supplement, as a result of the acts or omissions of the person responsible for the care of the child.

c. The failure on the part of a person responsible for the care of a child to provide for the adequate food, shelter, clothing or other care necessary for the child's health and welfare when financially able to do so or when offered financial or other reasonable means to do so. A parent or guardian legitimately practicing religious beliefs who does not provide specified medical treatment for a child for that reason alone shall not be considered abusing the child, however this provision shall not preclude a court from ordering that medical service be provided to the child where the child's health requires it.

Sec. 3. Section two hundred thirty-five A point two (235A.2), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. "Person responsible for the care of a child" means:

a. A parent, guardian, or foster parent.

b. A relative or any other person with whom the child resides, without reference to the length of time or continuity of such residence.

c. An employee or agent of any public or private facility providing care for a child, including an institution, group home, mental health center, residential treatment center, shelter care facility, detention center or child care facility.

Sec. 4. Section two hundred thirty-five A point three (235A.3), subsection one (1), Code 1977, is amended to read as follows:

1. The following classes of persons shall make a report, as provided in section 235A.4, of cases of child abuse and ~~willful-neglect-and-child-abuse-suffered-by-a-child-during~~

~~the-care-or-custody-of-the-child-by-a-person-not-listed-in section-235A.27-subsection-2:~~

a. Every health practitioner who examines, attends, or treats a child and who ~~believes-or-has-reason-to-believe-that the-child-has-had-physical-injury-inflicted-on-the-child-as-a-result-of-abuse~~ reasonably believes the child has been abused. If, however, the health practitioner examines, attends, or treats the child as a member of the staff of a hospital or similar institution, the examining health practitioner shall immediately notify and give complete information to the person in charge of the institution or the health practitioner's designated agent and the person in charge of the institution of designated agent shall make the report.

b. Every social worker under the jurisdiction of the department of social services, any social worker employed by a public or private agency or institution, public or private health care facility as defined in section 135C.1, certified psychologist, certificated school employee, employee of a licensed day care facility, member of the staff of a mental health center, or peace officer, who, in the course of employment, examines, attends, counsels or treats a child and ~~believes-or-has-reason-to-believe-that-the-child-has-had physical-injury-inflicted-on-the-child-as-a-result-of-abuse~~ reasonably believes a child has suffered abuse. Whenever such person is required to report under this section as a member of the staff of a public or private institution, agency or facility, that person shall immediately notify the person in charge of such institution, agency or facility, or that person's designated agent and the person in charge of the institution, agency, or facility, or the designated agent shall make the report.

Sec. 5. Section two hundred thirty-five A point three (235A.3), subsection two (2), Code 1977, is amended to read as follows:

2. Any other person who believes that ~~a-child-has-had physical-injury-inflicted-upon-him-as-a-result-of-abuse~~ a child has been abused may make a report as provided in section 235A.4.

Sec. 6. Section two hundred thirty-five A point five (235A.5), subsection five (5), Code 1977, is amended to read as follows:

5. The department of social services, upon completion of its investigation, shall make a ~~complete-written-report~~

~~of its investigation of a report of suspected abuse. A copy of this report shall be transmitted to the juvenile court within ninety-six hours after the department of social services initially receives the abuse report~~ preliminary report of its investigation as required by section two hundred thirty-five A point five (235A.5), subsection two (2). A copy of this report shall be transmitted to juvenile court within ninety-six hours after the department of social services initially receives the abuse report unless the juvenile court grants an extension of time for good cause shown. If the preliminary report is not a complete report, a complete report shall be filed within ten working days of the receipt of the abuse report unless the juvenile court grants an extension of time for good cause shown. The juvenile court shall notify the registry of any action it takes with respect to a suspected case of child abuse.

Sec. 7. Section two hundred thirty-five A point five (235A.5), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. In every case involving child abuse which results in a child protective judicial proceeding, whether or not the proceeding arises under this chapter, a guardian ad litem shall be appointed by the court to represent the child in such proceedings. Before a guardian ad litem is appointed pursuant to the provisions of this Act, the court shall require the person responsible for the care of the child to complete under oath a detailed financial statement. If, on the basis of that financial statement, the court deems that the person responsible for the care of the child is able to bear the cost of the guardian ad litem, the court shall so order. In cases where the person responsible for the care of the child is unable to bear the cost of the guardian ad litem, the expense shall be paid out of the court expense fund.

Sec. 8. Section two hundred thirty-five A point eleven (235A.11), Code 1977, is amended to read as follows:

235A.11 PHOTOGRAPHS AND X RAYS. Any person who is required to report a case of child abuse may take or cause to be taken, at public expense, photographs or X rays of the areas of trauma visible on a child. Any health practitioner may, if medically indicated, cause to be performed radiological examination of the child. Any person who takes any photographs or X rays pursuant to this section shall notify the department of social services that such photographs or X rays have been

taken, and shall retain such photographs or X rays for a reasonable time thereafter. Whenever such person is required to report under section 235A.3, in that person's capacity as a member of the staff of a medical or other private or public institution, agency or facility, that person shall immediately notify the person in charge of such institution, agency, or facility or that person's designated delegate of the need for photographs or X rays.

Sec. 9. Section two hundred thirty-five A point fifteen (235A.15), subsection two (2), Code 1977, is amended by adding the following new paragraph:

NEW PARAGRAPH. In an individual case, to the mandatory reporter who reported the child abuse.

Sec. 10. Section two hundred thirty-five A point fifteen (235A.15), subsection two (2), paragraph e, Code 1977, is amended to read as follows:

e. To an authorized person or agency having responsibility for the care or supervision of a child named in a report as a victim of abuse or a person named in a report as having abused a child, if the juvenile court or the registry deems access to child abuse information by such person or agency to be necessary.

Approved June 23, 1978

CHAPTER 1091

REFORMATORY INMATES SENTENCES

S. F. 2202

AN ACT specifying that good and honor time earned and not forfeited shall apply to reduce a mandatory minimum sentence and providing for consecutive sentences.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section two hundred forty-six point thirty-eight (246.38), Code 1977, is amended to read as follows:

246.38 TIME TO BE SERVED--CREDIT. No ~~convict~~ inmate shall be discharged from the penitentiary or the men's or women's reformatory until he or she has served the full term for which he the inmate was sentenced, less good time earned and not forfeited, unless he-be the inmate is pardoned or otherwise legally released. He Any provision to the contrary notwithstanding, good time earned and not forfeited shall apply to reduce a mandatory minimum sentence being served