

CHAPTER 1064
CHARITABLE DEVICES

S. F. 437

AN ACT to repeal the limitation on charitable devises.

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

Section 1. Section two hundred twenty-nine point twenty-seven (229.27), subsection one (1), Code 1979, is amended to read as follows:

1. Hospitalization of any person under this chapter, either voluntarily or involuntarily, shall not be deemed to constitute a finding of or to equate with nor raise a presumption of incompetency, or to cause the person so hospitalized to be deemed a ~~lunatic~~, a person of unsound mind, or a person under legal disability for any purpose including but not limited to any circumstances to which sections 447.7, 472.15, 545.2, subsection 13, 545.11, subsection 7, 545.36, 567.7, 595.3, 597.6, 598.29, 614.8, 614.19, 614.22, 614.24, 614.27, 622.6, 633.244, ~~633.266~~, ~~subsection 4~~, and 675.21 are applicable.

Sec. 2. Section six hundred thirty-three point two hundred sixty-six (633.266), Code 1979, is repealed.

Sec. 3. This Act is effective January first following its enactment.

Approved February 21, 1980

1065

CHILD FOSTER CARE FACILITIES

S. F. 432

AN ACT relating to licensing and regulation of child foster care facilities, and prescribing penalties.

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

Section 1. NEW SECTION. DEFINITION. As used in this Act:

1. "Agency" means a person, as defined in section four point one (4.1), subsection thirteen (13) of the Code, which provides child foster care and which does not meet the definition of an individual in subsection seven (7) of this section.

2. "Child" means child as defined in section two hundred thirty-four point one (234.1), subsection four (4), of the Code.

3. "Child foster care" means the provision of parental nurturing, including but not limited to the furnishing of food, lodging, training, education, supervision, treatment or other care, to a child on a full-time basis by a person other than a relative or guardian of the child, but does not include:

a. Care furnished by an individual person who receives the child of a personal friend as an occasional and personal guest in the individual person's home, free of charge and not as a business.

b. Care furnished by an individual person with whom a child has been placed for lawful adoption, unless that adoption is not completed within two years after placement.

c. Care furnished by a private boarding school subject to approval by the state board of public instruction pursuant to section two hundred fifty-seven point twenty-five (257.25) of the Code.

4. "Department" means the department of social services.

5. "Director" means the director of that division of the department designated by the commissioner of social services to administer this Act or the director's designee.

6. "Facility" means the personnel, program, physical plant, and equipment of a licensee.

7. "Individual" means an individual person or a married couple who provides child foster care in a single-family home environment and which does not meet the definition of an agency in subsection one (1) of this section.

8. "Licensee" means an individual or an agency licensed by the director under this Act.

Sec. 2. NEW SECTION. PURPOSE. It is the policy of this state to provide appropriate protection for children who are separated from the direct personal care of their parents, relatives, or guardians and, as a result, are subject to difficulty in achieving appropriate physical, mental, emotional, educational, or social development. This Act shall be construed and administered to further that policy by assuring that child foster care is adequately provided by competently staffed and well-equipped child foster care facilities, including but not limited to residential treatment centers, group homes, and foster family homes.

Sec. 3. NEW SECTION. RULES.

1. Except as otherwise provided by subsections three (3) and four (4) of this section, the director shall promulgate, after their adoption by the council on social services, and enforce in accordance with chapter seventeen A (17A) of the Code, administrative rules necessary to implement this Act. Formulation of the rules shall include consultation with representatives of child foster care providers, and other persons affected by this Act. The rules shall encourage the provision of child foster care in a single-family, home environment, exempting the single-family, home facility from inappropriate rules.

2. Rules applicable to licensees shall include but are not limited to:

a. Types of facilities, including but not limited to single-family, home facilities with child foster care provided by individuals and other public and private facilities with child foster care provided by agencies, and other categories of child foster care for which licenses are issued.

b. The number, qualifications, character, and parenting ability of personnel necessary to assure the health, safety and welfare of children receiving child foster care.

c. Programs for education and in-service training of personnel.

d. The physical environment of a facility.

e. Policies for intake, assessment, admission and discharge.

f. Housing, health, safety, and medical-care policies for children receiving child foster care.

g. The adequacy of programs available to children receiving child foster care provided by agencies, including but not limited to:

(1) Dietary services.

(2) Social services.

(3) Activity programs.

(4) Behavior management procedures.

(5) Educational programs, including special education as defined in section two hundred eighty-one point two (281.2), subsection two (2) of the Code where appropriate, which are approved by the state board of public instruction.

The department shall not promulgate rules which regulate individual licensees in the subject areas enumerated in this paragraph.

h. Policies for involvement of natural parents.

i. Records a licensee is required to keep, and reports a licensee is required to make to the director.

j. Prior to the licensing of an individual as a foster family home, a required, written social assessment of the quality of the living situation in the home of the individual, and a required compilation of personal references for the individual other than those references given by the individual.

3. Rules governing fire safety in facilities with child foster care provided by agencies shall be promulgated by the state fire marshal pursuant to section one hundred point one (100.1), subsection five (5) of the Code after consultation with the director.

4. Rules governing sanitation, water and waste disposal standards for facilities shall be promulgated by the state department of health pursuant to section one hundred thirty-five point eleven (135.11), subsection fifteen (15) of the Code after consultation with the director.

5. In case of a conflict between rules promulgated pursuant to subsections three (3) and four (4) of this section and local rules, the more stringent requirement applies.

6. Rules of the department shall not prohibit the licensing, as foster family homes, of individuals who are departmental employees not directly engaged in the administration of the child foster care program pursuant to this Act.

Sec. 4. NEW SECTION. LICENSE REQUIRED. An individual or an agency, as defined in section one (1) of this Act, shall not provide child foster care unless the individual or agency obtains a license issued by the director under this Act. However, a license is not required of the following:

1. An individual providing child foster care for a total of not more than twenty days in one calendar year.

2. A hospital licensed under chapter one hundred thirty-five B (135B) of the Code.

3. A health care facility licensed under chapter one hundred thirty-five C (135C) of the Code.

4. A juvenile detention home or juvenile shelter care home approved under section two hundred thirty-two point one hundred forty-two (232.142) of the Code.

5. An institution listed in section two hundred eighteen point one (218.1) of the Code.

6. An individual providing child care as a babysitter for one or more children, up to a maximum of six children simultaneously, not overnight, at the request of a parent, guardian or relative having lawful custody of the child provided that foster children shall not be counted in determining the maximum number of children allowed.

Sec. 5. NEW SECTION. LICENSE APPLICATION AND ISSUANCE--DENIAL, SUSPENSION OR REVOCATION--PROVISIONAL LICENSES.

1. An individual or an agency shall apply for a license by completing an application to the director upon forms furnished by the director. The director shall issue or reissue a license if the director determines that the applicant or licensee is or upon commencing operation will provide child foster care in compliance with this Act. A license is valid for one year from the date of issuance. The license shall state on its face the name of the licensee, the type of facility, the particular premises for which the license is issued, and the number of children who may be cared for by the facility on the premises at one time. The license shall be posted in a conspicuous place in the physical plant of the facility, except that if the facility is in a single-family home the license may be kept where it is readily available for examination upon request.

2. The director may deny an application for a license, and may suspend or revoke a license, if the applicant or licensee violates this Act or the rules promulgated pursuant to this Act, or knowingly makes a false statement concerning a material fact or conceals a material fact on the license application or in a report regarding operation of the facility submitted to the director.

3. The director may issue a provisional license for not more than one year to a licensee whose facility does not meet the requirements of this Act, if written plans to bring the facility into compliance with the applicable requirements are submitted to and approved by the director. The plans shall state a specific time when compliance will be achieved. Only one provisional license shall be issued for a facility by reason of the same deficiency.

Sec. 6. NEW SECTION. RESTRICTED USE OF FACILITY. A licensee shall not furnish child foster care in a building or on premises not designated in the license. A licensee shall not furnish child foster care to a greater number of children than is designated in the license, unless the director so authorizes. Multiple licenses authorizing separate and distinct parts of a facility to provide different categories of child foster care may be issued.

Sec. 7. NEW SECTION. INSPECTIONS. The director may require submission of reports by a licensee, and shall cause at least one annual unannounced

inspection of each facility to assess the quality of the living situation and to determine compliance with applicable requirements and standards. The director may examine records of a licensee, including but not limited to corporate records and board minutes, and may inquire into matters concerning a licensee and its employees relating to requirements and standards for child foster care under this Act.

Sec. 8. NEW SECTION. PERSONNEL.

1. Personnel of a licensee shall be in good health and free of communicable disease, as certified by a physician as defined by section one hundred thirty-five point one (135.1), subsection five (5) of the Code. In the case of an initial application for a license or a new employee of a licensee, the certification shall be based on a physical examination conducted no more than six months before employment begins, or before application for licensure. The director may annually require reasonable evidence of continuing good health and freedom from communicable disease of the personnel.

2. A person who has been convicted of a crime involving mistreatment or exploitation of a child shall not be licensed or be employed by a licensee.

Sec. 9. NEW SECTION. CONFIDENTIAL INFORMATION. A person who receives information from or through the department concerning a child who has received or is receiving child foster care, a relative or guardian of the child, a single-family, home licensee, or an individual employee of a licensee, shall not disclose that information directly or indirectly, except as authorized by section two hundred seventeen point thirty (217.30) of the Code, or as authorized or required by section two hundred thirty-two point sixty-nine (232.69) of the Code.

Sec. 10. NEW SECTION. A facility licensed under this Act or a facility subject to the licensing requirements of chapter two hundred thirty-seven A (237A) of the Code, if providing child day care, shall be exempt for a period of two hours or less in any day from the limitation of simultaneously providing child day care for a maximum of six children.

Sec. 11. NEW SECTION. PENALTY. An individual or an agency who provides child foster care without obtaining a license under this Act or who knowingly violates this Act or the rules promulgated pursuant to this Act is guilty of a serious misdemeanor.

Sec. 12. NEW SECTION. INJUNCTIVE RELIEF. An individual or an agency who provides child foster care without obtaining a license under this Act or who knowingly violates this Act or the rules promulgated pursuant to this Act may be temporarily or permanently enjoined by a court in an action brought by the state, a political subdivision of the state or an interested person.

Sec. 13. Chapter two hundred thirty-seven (237), Code 1979, is repealed.

Sec. 14. This Act is effective January first following its enactment.