

approved by the joint 911 service board and by the service area referendum, and that collection of the surcharge is to begin within one hundred days.

Sec. 6. Section 477B.7, subsection 1, Code 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. The surcharge shall terminate at the end of twenty-four months if the joint E911 service plan has not been approved by the administrator within eighteen months of the original notice to the provider to impose the surcharge, and shall not be reimposed until a service plan is approved by the administrator and the administrator gives providers notice as required by paragraph "a", subparagraphs (1) and (2).

Sec. 7. APPLICABILITY. Section 3 of this Act is applicable to all referendums approved by either a county board of supervisors or a joint 911 service board, or both, on or after July 1, 1989. Section 3 is not applicable to a referendum approved prior to July 1, 1989, notwithstanding that the actual referendum election or balloting is conducted on or after July 1, 1989.

Sec. 8. This Act, being deemed of immediate importance, is effective upon enactment.

Approved May 15, 1989

CHAPTER 169

VOLUNTARY FOSTER CARE PLACEMENT

H.F. 402

AN ACT relating to foster care by establishing certain provisions regarding voluntary foster care placements.

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

Section 1. Section 232.2, Code 1989, is amended by adding the following new subsection:
NEW SUBSECTION. 52A. "Voluntary placement" means a foster care placement in which the department provides foster care services to a child according to a signed placement agreement between the department and the child's parent or guardian.

Sec. 2. NEW SECTION. 232.175 PURPOSE AND POLICY.

It is the purpose and policy of this division to provide court oversight for placements that involve a handicapped child placed voluntarily in foster care by the child's parent or guardian, through review of the voluntary placements every six months by the department's foster care review committees or by a local foster care review board. It is the purpose and policy of this division to assure the additional safeguard of court oversight as required by Pub. L. No. 96-272, as codified in 42 U.S.C. § 671(a)(16), 627(a)(2)(B), and 675(1),(5), while maintaining parental decision-making authority.

Sec. 3. NEW SECTION. 232.176 JURISDICTION.

The court shall have exclusive jurisdiction over voluntary placement proceedings.

Sec. 4. NEW SECTION. 232.177 VENUE.

Venue for voluntary placement proceedings shall be determined in accordance with section 232.62.

Sec. 5. NEW SECTION. 232.178 PETITION.

1. The department shall file a petition to initiate a voluntary placement proceeding in accordance with criteria established pursuant to the Child Welfare Act of 1980, Pub. L. No. 96-272, as codified in 42 U.S.C. § 627(a).

2. The petition and subsequent court documents shall be entitled "In the interests of , a child".

3. The petition shall state the names and residence of the child and the child's living parents, guardian, custodian, and guardian ad litem, if any; the age of the child; and the length of time the child has been in foster care.

4. The petition shall allege that the child is placed in foster care on the basis of a signed voluntary placement agreement between the department and the child's parent or guardian; that the child has an emotional, physical, or intellectual handicap which requires care and treatment; that the child's parent or guardian has demonstrated a willingness to fulfill responsibilities to the child as defined in the case permanency plan; and that the voluntary placement is in the child's best interests.

Sec. 6. NEW SECTION. 232.179 APPOINTMENT OF COUNSEL AND GUARDIAN AD LITEM.

Upon the filing of a petition, the court shall appoint a guardian ad litem to represent the best interests of the child unless the court determines that the child already has a guardian ad litem who represents the child's best interests. If the child's parent, guardian, or custodian desires counsel but cannot pay the counsel's expenses, the court may appoint counsel.

Sec. 7. NEW SECTION. 232.180 DUTIES OF COUNTY ATTORNEY.

Upon the filing of a petition and the request of the department, the county attorney shall represent the state in all adversary proceedings arising under this division and shall present evidence in support of the petition as provided under section 232.90.

Sec. 8. NEW SECTION. 232.181 SOCIAL REPORT.

Upon the filing of a petition, the department shall submit a social report. The report shall include the child's handicap, the case permanency plan, a description of the foster care placement, and a description of parental participation in developing the child's case permanency plan and the parent's compliance with responsibilities to the child as defined in the plan.

Sec. 9. NEW SECTION. 232.182 INITIAL DETERMINATION.

1. Upon the filing of a petition, the court shall fix a time for an initial determination hearing and give notice of the hearing to the child's parent, guardian, or custodian, counsel or guardian ad litem, and the department.

2. A parent who does not have custody of the child may petition the court to be made a party to proceedings under this division.

3. An initial determination hearing is open to the public unless the court, on the motion of any of the parties or upon the court's own motion, excludes the public. The court shall exclude the public from a hearing only if the court determines that the possibility of damage or harm to the child outweighs the public's interest in having an open hearing. Upon closing the hearing to the public, the court may admit those persons who have direct interest in the case or in the work of the court.

4. The hearing shall be informal and all relevant and material evidence shall be admitted.

5. After the hearing is concluded, the court shall make and file written findings as to whether the voluntary foster care placement is in the child's best interests. The court shall determine that voluntary foster care placement is in the child's best interests if the court finds that both of the following conditions exist:

a. The child has an emotional, physical, or intellectual handicap which requires care and treatment.

b. The child's parent or guardian has demonstrated a willingness to fulfill responsibilities to the child as defined in the case permanency plan.

6. The hearing may be waived and the court may issue the findings required under subsection 5 on the basis of the department's written report if all parties agree to the hearing's waiver.

Sec. 10. NEW SECTION. 232.183 DISPOSITIONAL HEARING.

1. Following an entry of an initial determination order pursuant to section 232.182, the court shall hold a dispositional hearing in order to determine the future status of the child based on the child's best interests. Notice of the hearing shall be given to the child and the child's parent, guardian, or custodian, and the department.

2. The dispositional hearing shall be held within eighteen months of the date the child was placed in foster care. The dispositional hearing may be held in conjunction with the initial determination hearing.

3. A dispositional hearing is open to the public unless the court, on the motion of any of the parties or upon the court's own motion, excludes the public. The court shall exclude the public from a hearing if the court determines that the possibility of damage or harm to the child outweighs the public's interest in having an open hearing. Upon closing the hearing to the public, the court may admit those persons who have direct interest in the case or in the work of the court.

4. The hearing shall be informal and all relevant and material evidence shall be admitted.

5. Following the hearing, the court shall issue a dispositional order. The dispositional orders which the court may enter subject to its continuing jurisdiction are as follows:

a. An order that the child's voluntary placement shall be terminated.

b. An order that the child's voluntary placement may continue if the department and the child's parent or guardian continue to agree to the voluntary placement.

c. An order that the child remain in foster care and that the county attorney or department file, within three days, a petition alleging the child to be a child in need of assistance.

6. With respect to each child whose placement was approved pursuant to subsection 5, the court shall continue to hold periodic dispositional hearings. The hearings shall not be waived or continued beyond eighteen months following the last dispositional hearing. After a dispositional hearing, the court shall enter one of the dispositional orders authorized under subsection 5.

7. A dispositional hearing is not required if the court has approved either the local foster care review board review or the department's administrative review procedure as defined under section 234.42, and all parties agree. This provision does not eliminate the initial judicial determination required under section 232.182.

Sec. 11. CODIFICATION. The Code editor shall codify this Act as a new division XI of chapter 232, unless the Code editor determines that a different codification is preferable.

Approved May 15, 1989

CHAPTER 170

THEFT OF TELEPHONE SERVICE

H.F. 513

AN ACT prohibiting the theft of telephone service, and making penalties applicable.

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

Section 1. Section 714.1, subsection 7, Code 1989, is amended to read as follows: