CHAPTER 28

CHILD ABUSE ASSESSMENT AND REGISTRY CHANGES

H.F. 562

AN ACT relating to the child abuse registry administered by the department of human services.

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

Section 1. Section 232.68, subsection 2, paragraph d, Code 2011, is amended to read as follows:

d. (1) The failure on the part of a person responsible for the care of a child to provide for the adequate food, shelter, clothing, medical or mental health treatment, supervision, 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.

(2) For the purposes of subparagraph (1), failure to provide for the adequate supervision of a child means the person failed to provide proper supervision of a child that a reasonable and prudent person would exercise under similar facts and circumstances and the failure resulted in direct harm or created a risk of harm to the child.

(3) 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. 2. Section 232.68, subsection 2, Code 2011, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. *"Child abuse"* or *"abuse"* shall not be construed to hold a victim responsible for failing to prevent a crime against the victim.

Sec. 3. Section 232.71D, subsections 2 and 3, Code 2011, are amended to read as follows:

2. ~~If~~ Except as otherwise provided in subsections 3 and 3A, if the department issues a finding that the alleged child abuse meets the definition of child abuse under section 232.68, subsection 2, ~~paragraph "a" or "d", and the department determines the injury or risk of harm to the child was minor and isolated and is unlikely to reoccur,~~ the names of the child and the alleged perpetrator of the alleged child abuse and any other child abuse information shall ~~not~~ be placed in the central registry as a case of founded child abuse.

3. *a.* Unless any of the circumstances listed in paragraph *"b"* are applicable, cases to which any of the following circumstances apply shall not be placed on [1] the central registry:

(1) A finding of physical abuse in which the department has determined the injury resulting from the abuse was minor, isolated, and unlikely to reoccur.

(2) A finding of abuse by failure to provide adequate supervision or by failure to provide adequate clothing, in which the department has determined the risk from the abuse to the child's health and welfare was minor, isolated, and unlikely to reoccur.

b. ~~Except as otherwise provided in section 232.68, subsection 2, paragraph "d", regarding parents legitimately practicing religious beliefs,~~ If any of the following circumstances apply in addition to those listed in paragraph *"a"*, the names of the child and the alleged perpetrator of the alleged child abuse and ~~the report data and disposition data~~ any other child abuse information shall be placed in the central registry as a case of founded child abuse ~~under any of the following circumstances~~:

~~*a.*~~ (1) The case was referred for juvenile or criminal court action as a result of the acts or omissions of the alleged perpetrator or a criminal or juvenile court action was initiated by the county attorney or juvenile court within twelve months of the date of the department's report concerning the case, in which the alleged perpetrator was convicted of a crime involving the child or there was a delinquency or child in need of assistance adjudication.

[1] See chapter 131, §57, 158 herein

~~*b.* The department determines the acts or omissions of the alleged perpetrator meet the definition of child abuse under section 232.68, subsection 2, paragraph "*a*", involving nonaccidental physical injury suffered by the child and the injury was not minor or was not isolated or is likely to reoccur.~~

~~*c.*~~ (2) The department determines the acts or omissions of the alleged perpetrator meet the definition of child abuse and the department has previously determined within the eighteen-month period preceding the issuance of the department's report that the acts or omissions of the alleged perpetrator in a prior case met the definition of child abuse.

~~*d.* The department determines the acts or omissions of the alleged perpetrator meet the definition of child abuse under section 232.68, subsection 2, paragraph "*b*", involving mental injury.~~

~~*e.* The department determines the acts or omissions meet the definition of child abuse under section 232.68, subsection 2, paragraph "*c*", and the alleged perpetrator of the acts or omissions is age fourteen or older. However, the juvenile court may order the removal from the central registry of the name of an alleged perpetrator placed in the registry pursuant to this paragraph who is age fourteen through seventeen upon a finding of good cause. The name of an alleged perpetrator who is less than age fourteen shall not be placed in the central registry pursuant to this paragraph.~~

~~*f.* The department determines the acts or omissions of the alleged perpetrator meet the definition of child abuse under section 232.68, subsection 2, paragraph "*d*", involving failure to provide care necessary for the child's health and welfare, and any injury to the child or risk to the child's health and welfare was not minor or was not isolated or is likely to reoccur, in any of the following ways:~~

~~(1) Failure to provide adequate food and nutrition.~~

~~(2) Failure to provide adequate shelter.~~

~~(3) Failure to provide adequate health care.~~

~~(4) Failure to provide adequate mental health care.~~

~~(5) Gross failure to meet emotional needs.~~

~~(6) Failure to respond to an infant's life-threatening condition.~~

~~*g.* The department determines the acts or omissions of the alleged perpetrator meet the definition of child abuse under section 232.68, subsection 2, paragraph "*e*", involving prostitution.~~

~~*h.* The department determines the acts or omissions of the alleged perpetrator meet the definition of child abuse under section 232.68, subsection 2, paragraph "*f*", involving the presence of an illegal drug.~~

~~*i.*~~ (3) The department determines the alleged perpetrator of the child abuse will continue to pose a danger to the child who is the subject of the report of child abuse or to another child with whom the alleged perpetrator may come into contact.

Sec. 4. Section 232.71D, Code 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. Cases of alleged child abuse to which any of the following circumstances apply shall be placed in the central registry as follows:

a. A finding of sexual abuse in which the alleged perpetrator of the abuse is age thirteen or younger. However, the name of the alleged perpetrator shall be withheld from the registry.

b. A finding of sexual abuse in which the alleged perpetrator of the abuse is age fourteen through seventeen and the court has found there is good cause for the name of the alleged perpetrator to be removed from the central registry. Only the name of the alleged perpetrator shall be removed from the registry.

Sec. 5. Section 235A.18, subsection 3, Code 2011, is amended by striking the subsection.

Sec. 6. Section 235A.19, subsection 2, paragraph a, Code 2011, is amended to read as follows:

a. A subject of a child abuse report may file with the department within ~~six months~~ ninety days of the date of the notice of the results of an assessment performed in accordance with section 232.71B, a written statement to the effect that report data and disposition data referring to the subject is in whole or in part erroneous, and may request a correction of that

data or of the findings of the assessment report. The department shall provide the subject with an opportunity for ~~an evidentiary~~ a contested case hearing pursuant to chapter 17A to correct the data or the findings, unless the department corrects the data or findings as requested. The department may defer the hearing until the conclusion of the adjudicatory phase of a pending juvenile or district court case relating to the data or findings.

Sec. 7. CHILD PROTECTION SYSTEM IMPROVEMENTS.

1. The department of human services shall continue working with the office of the attorney general, department of inspections and appeals, office of the citizens' aide, prevent child abuse Iowa, Iowa civil liberties union, and other stakeholders to develop and implement improvements in the child abuse assessment and registry processes and other child protection system provisions as outlined in this section in order to ensure the due process rights of persons alleged to have committed child abuse are addressed in a more timely manner while also ensuring that children are protected from abuse.

2. The department shall implement near-term solutions that can be initiated without legislation, which may include but are not limited to all of the following:

a. Shifting financial resources to expand the positions in the office of the attorney general involved with child abuse appeals.

b. Improving the training of child protection workers regarding evidence standards, confirmed child abuse, and founded child abuse.

c. Expediting process for the director of human services' review and response to administrative law judge decisions.

3. The department shall propose options to address long-term issues with the child protection system, including but not limited to all of the following:

a. Considering changes to registry placement provisions to verify that registry placement applies to the persons who have posed a consequential risk to the health and safety of the child found to have been abused and unwarranted placement is limited or eliminated.

b. Providing a differential response to child abuse allegations based upon the severity of the allegation.

c. Allowing for reconsideration of founded abuse findings or registry placement status based upon the rehabilitation of the alleged perpetrator.

d. Providing a differential approach as to the duration of registry placement based upon the severity of the child abuse finding.

4. The department shall report to the members of the general assembly's standing committees on human resources and the legislative services agency providing statistics and other information concerning improvements implemented, improvements planned, and improvements recommended. The report shall be submitted on or before December 15, 2011.

Approved April 6, 2011