

Place on Calendar

HOUSE FILE 2404

Sen. Hanna
Amend 15444 to the Polk 4/27 (p 1124)

BY COMMITTEE ON HUMAN RESOURCES

HOUSE FILE 2404

(Formerly House File 2301)

Human Resources
Sister, Chairperson
Carr
Murray

Passed House, Date 4-20-78 (p 1694) Passed Senate, Date 5-1-78 (p 1125)

Vote: Ayes 81 Nays 2 Vote: Ayes 47 Nays 0

Approved 6-23-78

Revised House 5-3-78 (p 2105)
87-c

A BILL FOR

- 1 An Act relating to child abuse.
- 2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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- 4

HOUSE FILE 2404

H-6472

- 1 Amend the Senate amendment H-6464, to House File
- 2 2404, as follows:
- 3 1. Page 1, by inserting after line 2 the follow-
- 4 ing:
- 5 "1. Page 1, line 17, by striking the words "or
- 6 threatened harm"."

H-6472 FILED, LOST (p 1121) BY GENTLEMAN of Polk
MAY 3, 1978

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1 Section 1. Section two hundred thirty-five A point one
2 (235A.1), Code 1977, is amended to read as follows:

3 235A.1 LEGISLATIVE FINDINGS--PURPOSE AND POLICY. Children
4 in this state are in urgent need of protection from ~~physical~~
5 abuse. It is the purpose and policy of this chapter to provide
6 the greatest possible protection to victims or potential
7 victims of abuse through encouraging the increased reporting
8 of suspected cases of such abuse, insuring the thorough and
9 prompt investigation of these reports, and providing
10 rehabilitative services, where appropriate and whenever
11 possible to abused children and their families which will
12 stabilize the home environment so that the family can remain
13 intact without further danger to the child.

14 Sec. 2. Section two hundred thirty-five A point two
15 (235A.2), subsection two (2), Code 1977, is amended by striking
16 the subsection and inserting in lieu thereof the following:

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

19 a. Any nonaccidental physical injury, or injury which
20 is at variance with the history given of it, suffered by a
21 child as the result of the acts or omissions of a person re-
22 sponsible for the care of the child.

23 b. Maltreatment such as malnutrition, sexual acts,
24 lascivious acts, deprivation of necessities or cruel
25 punishment.

26 Sec. 3. Section two hundred thirty-five A point two
27 (235A.2), Code 1977, is amended by adding the following new
28 subsection:

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

31 a. A parent, guardian, or foster parent.

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

35 c. An employee or agent of any public or private facility

1 providing care for a child, including an institution, group
2 home, mental health center, residential treatment center,
3 shelter care facility, detention center or child care facility.

4 Sec. 4. Section two hundred thirty-five A point three
5 (235A.3), subsection one (1), Code 1977, is amended to read
6 as follows:

7 1. The following classes of persons shall make a report,
8 as provided in section 235A.4, of cases of child abuse-and
9 ~~willful-neglect-and-child-abuse-suffered-by-a-child-during~~
10 ~~the-care-or-custody-of-the-child-by-a-person-not-listed-in~~
11 ~~section-235A-2,-subsection-2:~~

12 a. Every health practitioner who examines, attends, or
13 treats a child and who ~~believes-or-has-reason-to-believe-that~~
14 ~~the-child-has-had-physical-injury-inflited-on-the-child-as~~
15 ~~a-result-of-abuse~~ reasonably suspects the child has been
16 abused. If, however, the health practitioner examines,
17 attends, or treats the child as a member of the staff of a
18 hospital or similar institution, the examining health
19 practitioner shall immediately notify and give complete
20 information to the person in charge of the institution or
21 the health practitioner's designated agent and the person
22 in charge of the institution of designated agent shall make
23 the report.

24 b. Every social worker under the jurisdiction of the
25 department of social services, any social worker employed
26 by a public or private agency or institution, public or private
27 health care facility as defined in section 135C.1, certified
28 psychologist, certificated school employee, employee of a
29 licensed day care facility, member of the staff of a mental
30 health center, or peace officer, who, in the course of
31 employment, examines, attends, counsels or treats a child
32 and ~~believes-or-has-reason-to-believe-that-the-child-has~~
33 ~~had-physical-injury-inflited-on-the-child-as-a-result-of~~
34 abuse reasonably suspects a child has suffered abuse. Whenever
35 such person is required to report under this section as a

1 member of the staff of a public or private institution, agency
2 or facility, that person shall immediately notify the person
3 in charge of such institution, agency or facility, or that
4 person's designated agent and the person in charge of the
5 institution, agency, or facility, or the designated agent
6 shall make the report.

7 Sec. 5. Section two hundred thirty-five A point three
8 (235A.3), subsection two (2), Code 1977, is amended to read
9 as follows:

10 2. Any other person who believes that ~~a-child-has-had~~
11 ~~physical-injury-inflited-upon-him-as-a-result-of-abuse~~ a
12 child has been abused may make a report as provided in section
13 235A.4.

14 Sec. 6. Section two hundred thirty-five A point five
15 (235A.5), subsection five (5), Code 1977, is amended to read
16 as follows:

17 5. The department of social services, upon completion
18 of its investigation, shall make a ~~complete-written-report~~
19 ~~of-its-investigation-of-a-report-of-suspected-abuse---A-copy~~
20 ~~of-this-report-shall-be-transmitted-to-the-juvenile-court~~
21 ~~within-ninety-six-hours-after-the-department-of-social-services~~
22 initially receives the abuse report preliminary report of
23 its investigation as required by section two hundred thirty-
24 five A point five (235A.5), subsection two (2). A copy of
25 this report shall be transmitted to juvenile court within
26 ninety-six hours after the department of social services
27 initially receives the abuse report unless the juvenile court
28 grants an extension of time for good cause shown. A complete
29 report shall be filed within ten working days of the receipt
30 of the initial report unless the juvenile court grants an
31 extension of time for good cause shown. The juvenile court
32 shall notify the registry of any action it takes with respect
33 to a suspected case of child abuse.

34 Sec. 7. Section two hundred thirty-five A point five
35 (235A.5), Code 1977, is amended by adding the following new

1 subsection:

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

17 Sec. 8. Section two hundred thirty-five A point eleven
18 (235A.11), Code 1977, is amended to read as follows:

19 235A.11 PHOTOGRAPHS AND X RAYS. Any person who is required
20 to report a case of child abuse may take or cause to be taken,
21 ~~at public expense,~~ photographs of the areas of trauma visible
22 on a child. Any health practitioner may, if medically
23 indicated, cause to be performed radiological examination
24 of the child at public expense. If the court finds that the
25 person responsible for the care of the child is guilty of
26 child abuse, the court may order that person to reimburse
27 the state for the cost of a radiological examination performed
28 pursuant to this section. Any person who takes any photographs
29 or X rays pursuant to this section shall notify the department
30 of social services that such photographs or X rays have been
31 taken, and shall retain such photographs or X rays for a
32 reasonable time thereafter. Whenever such person is required
33 to report under section 235A.3, in that person's capacity
34 as a member of the staff of a medical or other private or
35 public institution, agency or facility, that person shall

1 immediately notify the person in charge of such institution,
2 agency, or facility or that person's designated delegate of
3 the need for photographs or X rays.

4 Sec. 9. Section two hundred thirty-five A point fifteen
5 (235A.15), subsection two (2), Code 1977, is amended by adding
6 the following new paragraph:

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

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

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

18 Sec. 11. This Act is effective January 1, 1979.

19 **EXPLANATION**

20 This bill expands the definition of child abuse by setting
21 forth specific acts or omissions on the part of any person
22 responsible for the care of a child. The definition of a
23 "person responsible for the care of a child" is added. The
24 classes of persons required to report child abuse is expanded
25 to include social workers employed by public or private
26 agencies or institutions. The department of social services
27 is required to file both a preliminary and a final report
28 at the conclusion of its investigation. The bill requires
29 that a guardian ad litem be appointed to represent the child
30 in all judicial proceedings concerning child abuse.

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HOUSE FILE 2404

S-5704

- 1 Amend House File 2404, as passed by the House,
2 as follows:
3 1. Page 1, by striking lines 23 through 25 and
4 inserting in lieu thereof the following:
5 "b. The commission of any sexual abuse with or
6 to a child as defined by chapter seven hundred nine
7 (709) of the Code Supplement, as a result of the acts
8 or omissions of the person responsible for the care
9 of the child.
10 c. The failure on the part of a person responsible
11 for the care of a child to provide for the adequate
12 food, shelter, clothing or other care necessary for
13 the child's health and welfare when financially able
14 to do so or when offered financial or other reasonable
15 means to do so. A parent or guardian legitimately
16 practicing religious beliefs who does not provide
17 specified medical treatment for a child for that
18 reason alone shall not be considered abusing the
19 child, however this provision shall not preclude a
20 court from ordering that medical service be provided
21 to the child where the child's health requires it."
22 2. Page 2, line 15, by striking the word "suspects"
23 and inserting in lieu thereof the word "believes".
24 3. Page 2, line 34, by striking the word "suspects"
25 and inserting in lieu thereof the word "believes".
26 4. Page 3, line 28, by striking the word "A" and
27 inserting in lieu thereof the words "If the preliminary
28 report is not a complete report, a".
29 5. Page 3, line 30, by striking the word "initial"
30 and inserting in lieu thereof the word "abuse".
31 6. Page 4, by striking lines 21 through 28 and
32 inserting in lieu thereof the following: "at public
33 expense, photographs or X-rays of the areas of trauma
34 visible on a child. Any health practitioner may,
35 if medically indicated, cause to be performed
36 radiological examination of the child. Any person
37 who takes any photographs".
38 7. Page 5, by striking line 18.

S-5704 FILED *Adopted 4/1*
APRIL 27, 1978 *(p. 1159)*

BY COMMITTEE ON HUMAN RESOURCES
CHARLES P. MILLER, CHAIRPERSON

SENATE AMENDMENT TO
HOUSE FILE 2404

H-6464

1 Amend House File 2404, as passed by the House,
2 as follows:

3 1. Page 1, by striking lines 23 through 25 and
4 inserting in lieu thereof the following:

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

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

22 2. Page 2, line 15, by striking the word "suspects"
23 and inserting in lieu thereof the word "believes".

24 3. Page 2, line 34, by striking the word "suspects"
25 and inserting in lieu thereof the word "believes".

26 4. Page 3, line 28, by striking the word "A" and
27 inserting in lieu thereof the words "If the preliminary
28 report is not a complete report, a".

29 5. Page 3, line 30, by striking the word "initial"
30 and inserting in lieu thereof the word "abuse".

31 6. Page 4, by striking lines 21 through 28 and
32 inserting in lieu thereof the following: "at public
33 expense, photographs or X-rays of the areas of trauma
34 visible on a child. Any health practitioner may,
35 if medically indicated, cause to be performed
36 radiological examination of the child. Any person
37 who takes any photographs".

38 7. Page 5, by striking line 18.

H-6464 FILED
RECEIVED FROM SENATE
MAY 2, 1978

Amended 5/3 (p. 2124)

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

HOUSE FILE 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 ~~wilful neglect and child abuse suffered by a child during the care or custody of the child by a person not listed in section 235A.2, subsection 2:~~

- a. Every health practitioner who examines, attends, or

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.

DALE M. COCHRAN
Speaker of the House

ARTHUR A. NEU
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2404, Sixty-seventh General Assembly.

DAVID L. WRAY
Chief Clerk of the House

Approved June 23, 1978

ROBERT D. RAY
Governor