

Amended to House 4/17/88

Reprinted 2/88

FILED JAN 25 1988

SENATE FILED 2075
BY BRUNER

Passed Senate, Date 3/15/88 (p. 1207) Passed House, Date 3/30/88 (p. 1207)
Vote: Ayes 42 Nays 2 Vote: Ayes 95 Nays 0
Approved 7/15/88

A BILL FOR

5097 1 An Act relating to child abuse by expanding the definition of
2 child in need of assistance, by requiring departmental
3 coordination in cases of child abuse, and by expanding the
4 definition of indecent contact with a child.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 2075

1 Section 1. Section 232.2, subsection 6, paragraph d, Code
2 Supplement 1987, is amended to read as follows:

3 d. Who has been sexually abused by ~~the child's parent,~~
4 ~~guardian, custodian or other member of the household in which~~
5 ~~the child resides.~~

6 Sec. 2. Section 232.71, Code Supplement 1987, is amended
7 by adding the following new subsection:

8 NEW SUBSECTION. 16. The division of criminal
9 investigation of the department of public safety shall
10 cooperate with the investigators by making available
11 information regarding the criminal history data of a person
12 believed to be responsible for the injury to the child if the
13 person is not responsible for the care of the child. The
14 information may relate to, but is not limited to, a conviction
15 for a crime under a law of any state involving mistreatment of
16 a child or violence against a person, or a person with a
17 record of forced child sexual abuse or a record of multiple
18 incidents of any other type of forced child abuse.

19 Sec. 3. Section 232.68, subsection 2, paragraph b, Code
20 Supplement 1987, is amended to read as follows:

21 b. The commission of a sexual offense with or to a child
22 pursuant to chapter 709, section 726.2, or section 728.12,
23 ~~subsection 1, as a result of the acts or omissions of the~~
24 ~~person responsible for the care of the child.~~ Notwithstanding
25 section 702.5, the commission of a sexual offense under this
26 paragraph includes any sexual offense referred to in this
27 paragraph with or to a person under the age of eighteen years.

28 Sec. 4. Section 692.2, subsection 1, paragraph c, Code
29 Supplement 1987, is amended to read as follows:

30 c. The department of human services for the purposes of
31 section 232.71, subsection 16, section 237.8, subsection 2,
32 and section 237A.5.

33 Sec. 5. Section 709.12, Code 1987, is amended by adding
34 the following new unnumbered paragraph:

35 NEW UNNUMBERED PARAGRAPH. The provisions of this section

1 shall also apply to a person sixteen or seventeen years of age
2 who commits any of the enumerated acts with a child who is at
3 least five years the person's junior, in which case the
4 juvenile court shall have jurisdiction under chapter 232.

5 EXPLANATION

6 This bill expands the definition of child in need of
7 assistance to include a child who has been sexually abused by
8 a person who is not the child's parent, guardian, custodian,
9 or other member of the household in which the child resides.
10 The bill also provides that the definition of child abuse
11 include sexual offenses by persons not responsible for the
12 care of the child, allows for dissemination of criminal data
13 through the department of public safety or the division of
14 criminal investigation for the purposes of investigation of
15 child abuse, and requires that the division of criminal
16 investigation and the department of human services cooperate
17 in investigation of child abuse reports involving persons not
18 responsible for the care of the child in question. The bill
19 also amends the criminal elements of indecent contact with a
20 child to include offenders sixteen or seventeen years of age
21 if the act is committed with a child at least five years the
22 offenders' junior, and places jurisdiction over such offenders
23 with the juvenile court.

24 COMPANION TO LSB 7158H 72

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SENATE FILE 2075

S-5344

1 Amend Senate File 2075 as follows:

2 1. Page 1, by striking lines 1 through 5.

3 2. Page 1, lines 12 and 13, by striking the words
4 "if the person is not responsible for the care of the
5 child".

6 3. Page 1, by striking line 14 and inserting the
7 following: "information released to the department
8 shall be limited to a conviction".

9 4. Page 1, line 18, by inserting after the word
10 "abuse." the following: "The department shall
11 establish procedures for determining when a records
12 check under this section is necessary."

13 5. Page 1, by striking lines 19 through 27, and
14 inserting the following:

15 "Sec. ____ . NEW SECTION. 232.83 CHILD SEXUAL
16 ABUSE INVOLVING A PERSON NOT RESPONSIBLE FOR THE CARE
17 OF THE CHILD.

18 1. A complaint related to circumstances involving
19 a child who is alleged to be a victim of an offense
20 defined in chapter 709, 726, or 728 and an alleged
21 offender who is not a person responsible for the care
22 of the child shall be handled pursuant to section
23 232.81.

24 2. Anyone authorized to conduct a preliminary
25 investigation in response to a complaint may apply
26 for, or the court on its own motion may enter an ex
27 parte order authorizing a physician or hospital to
28 conduct an outpatient physical examination or
29 authorizing a physician, a psychologist certified
30 under section 154B.7, or a community mental health
31 center accredited pursuant to chapter 230A to conduct
32 an outpatient mental examination of a child if
33 necessary to identify the nature, extent, and causes
34 of any injuries, emotional damage, or other such needs
35 of a child as specified in section 232.2, subsection
36 6, paragraphs "c", "e", or "f", provided that all of
37 the following apply:

38 a. The parent, guardian, or legal custodian is
39 absent, or though present, was asked and refused to
40 authorize the examination.

41 b. There is not enough time to file a petition and
42 hold a hearing under this chapter.

43 c. The parent, guardian, or legal custodian has
44 not provided care and treatment related to their
45 child's alleged victimization."

46 6. Page 2, by inserting after line 4 the
47 following:

48 "Sec. ____ . NEW SECTION. 709.13 CHILD IN NEED OF
49 ASSISTANCE COMPLAINTS.

50 During or following an investigation into

1 allegations of violations of this chapter or of
2 chapter 726 or 728 involving an alleged victim under
3 the age of eighteen and an alleged offender who is not
4 a person responsible for the care of the child, anyone
5 with knowledge of the alleged offense may file a
6 complaint pursuant to section 232.83 alleging the
7 child to be a child in need of assistance. In all
8 cases, the complaint shall be filed by any peace
9 officer with knowledge of the investigation when the
10 peace officer has reason to believe that the alleged
11 victim may require treatment as a result of the
12 alleged offense and that the child's parent, guardian,
13 or custodian will be unwilling or unable to provide
14 the treatment."

15 7. Title page, lines 1 and 2, by striking the
16 words "by expanding the definition of child in need of
17 assistance,".

18 8. Title page, line 3, by inserting after the
19 word "abuse," the following: "by providing for
20 examination of a child, by providing for filing
21 complaints of alleged child sexual abuse;".

22 9. By renumbering as necessary.

S-5344

Filed March 14, 1988

Adopted 3/15 (7:30)

BY CHARLES BRUNER
TOM MANN, Jr.
, DONALD DOYLE

SENATE FILE 1075

S-5364

1 Amend Senate File 2075 as follows:

2 1. Page 1, by inserting after line 5 the
3 following:

4 "Sec. ____ . Section 232.2, subsection 6, Code
5 Supplement 1987, is amended by adding the following
6 new lettered paragraph:

7 NEW LETTERED PARAGRAPH. n. Who is a chronic
8 runaway. As used in this paragraph, "chronic runaway"
9 means a child who is voluntarily absent without
10 permission from the child's home or placement for a
11 period of time exceeding one week, or who is
12 voluntarily absent without permission from the child's
13 home or placement for a period of time exceeding
14 twelve hours on each of three or more separate
15 occasions in a twelve-month period, and whose health,
16 safety, and welfare are at risk."

S-5364

Filed March 15, 1988 OUT OF ORDER

(7:30)

BY AL STURGEON
RAY TAYLOR
JOE WELSH
LEE W. HOLT

Amended for 5894, L. Pass 3/25 (p. 1023)

SENATE FILE 2075
BY BRUNER

(AS AMENDED AND PASSED BY THE SENATE MARCH 15, 1988)

- _____ - New Language by the Senate
- * - Language Stricken by the Senate

Passed Senate, Date 4/15/88 (p. 1646) Passed House, Date 3/30/88 (p. 1207)
 Vote: Ayes 37 Nays 9 Vote: Ayes 95 Nays 0
 Approved May 15, 1988
 Proposed House 4/15/88 (p. 2045)
59-0

A BILL FOR

* 1 An Act relating to child abuse by providing for examination of a
 2 child, by providing for filing complaints of alleged child
 3 sexual abuse, by requiring departmental coordination in cases
 4 of child abuse, and by expanding the definition of indecent
 5 contact with a child.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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* 1 Section 1. Section 232.71, Code Supplement 1987, is
2 amended by adding the following new subsection:

3 NEW SUBSECTION. 16. The division of criminal
4 investigation of the department of public safety shall
5 cooperate with the investigators by making available
6 information regarding the criminal history data of a person
* 7 believed to be responsible for the injury to the child. The
8 information released to the department shall be limited to a
9 conviction for a crime under a law of any state involving
10 mistreatment of a child or violence against a person, or a
11 person with a record of forced child sexual abuse or a record
12 of multiple incidents of any other type of forced child abuse.
13 The department shall establish procedures for determining when
14 a records check under this section is necessary.

15 Sec. 2. NEW SECTION. 232.83 CHILD SEXUAL ABUSE INVOLVING
16 A PERSON NOT RESPONSIBLE FOR THE CARE OF THE CHILD.

17 1. A complaint related to circumstances involving a child
18 who is alleged to be a victim of an offense defined in chapter
19 709, 726, or 728 and an alleged offender who is not a person
20 responsible for the care of the child shall be handled
21 pursuant to section 232.81.

22 2. Anyone authorized to conduct a preliminary
23 investigation in response to a complaint may apply for, or the
24 court on its own motion may enter an ex parte order
25 authorizing a physician or hospital to conduct an outpatient
26 physical examination or authorizing a physician, a
27 psychologist certified under section 154B.7, or a community
28 mental health center accredited pursuant to chapter 230A to
29 conduct an outpatient mental examination of a child if
30 necessary to identify the nature, extent, and causes of any
31 injuries, emotional damage, or other such needs of a child as
32 specified in section 232.2, subsection 6, paragraphs "c", "e",
33 or "f", provided that all of the following apply:

34 a. The parent, guardian, or legal custodian is absent, or
35 though present, was asked and refused to authorize the

1 examination.

2 b. There is not enough time to file a petition and hold a
3 hearing under this chapter.

4 c. The parent, guardian, or legal custodian has not
5 provided care and treatment related to their child's alleged
6 victimization.

7 Sec. 3. Section 692.2, subsection 1, paragraph c, Code
8 Supplement 1987, is amended to read as follows:

9 c. The department of human services for the purposes of
10 section 232.71, subsection 16, section 237.8, subsection 2,
11 and section 237A.5.

12 Sec. 4. Section 709.12, Code 1987, is amended by adding
13 the following new unnumbered paragraph:

14 NEW UNNUMBERED PARAGRAPH. The provisions of this section
15 shall also apply to a person sixteen or seventeen years of age
16 who commits any of the enumerated acts with a child who is at
17 least five years the person's junior, in which case the
18 juvenile court shall have jurisdiction under chapter 232.

19 Sec. 5. NEW SECTION. 709.13 CHILD IN NEED OF ASSISTANCE
20 COMPLAINTS.

21 During or following an investigation into allegations of
22 violations of this chapter or of chapter 726 or 728 involving
23 an alleged victim under the age of eighteen and an alleged
24 offender who is not a person responsible for the care of the
25 child, anyone with knowledge of the alleged offense may file a
26 complaint pursuant to section 232.83 alleging the child to be
27 a child in need of assistance. In all cases, the complaint
28 shall be filed by any peace officer with knowledge of the
29 investigation when the peace officer has reason to believe
30 that the alleged victim may require treatment as a result of
31 the alleged offense and that the child's parent, guardian, or
32 custodian will be unwilling or unable to provide the
33 treatment.

34 COMPANION TO LSB 7158H 72

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SENATE FILE 2075

H-5898

1 Amend Senate File 2075, as amended, passed, and
2 reprinted, by the Senate, as follows:

3 1. Page 1, by striking lines 3 through 14 and
4 inserting the following:

5 "NEW SUBSECTION. 16. The department may request
6 criminal history data from the department of public
7 safety on any person believed to be responsible for an
8 injury to a child which, if confirmed, would
9 constitute child abuse. The department shall
10 establish procedures for determining when a criminal
11 history records check under this subsection is
12 necessary."

13 2. Page 2, by striking lines 7 through 11 and in-
14 serting the following:

15 "Sec. _____. Section 692.2, subsection 1, paragraph
16 c, Code Supplement 1987, is amended to read as
17 follows:

18 c. The department of human services for the
19 purposes of section 232.71, subsection 16, section
20 237.8, subsection 2, and section 237A.5, and section
21 600.8, subsections 1 and 2.

22 Sec. _____. Section 692.3, subsection 2, Code
23 Supplement 1987, is amended to read as follows:

24 2. Notwithstanding subsection 1, paragraph "a",
25 the department of human services ~~shall~~ may
26 disseminate criminal history data obtained pursuant
27 to section 692.2, subsection 1, paragraph "c", to
28 persons licensed, or registered, or certified under
29 chapters 237, and 237A, ~~for the purposes of section~~
30 ~~237.8, subsection 2 and section 237A.5~~ 238 and 600.
31 ~~bicensees and registrants under either chapter 237 or~~
32 ~~chapter 237A~~ Persons who receive information pursuant
33 to this subsection shall not use the this information
34 other than for purposes of section 237.8, subsection
35 2, or section 237A.5, or section 600.8, subsections 1
36 and 2. A licensee or registrant person who receives
37 criminal history data pursuant to this subsection and
38 who uses the information for other purposes any
39 purpose other than those permitted by this subsection
40 or who communicates the information to another person
41 except for the purposes of section 237.8, subsection 2
42 or section 237A.5 permitted by this subsection is
43 guilty of an aggravated misdemeanor."

44 3. Page 2, by inserting after line 33 the
45 following:

46 "Sec. _____. Notwithstanding section 7, subsection
47 4, paragraph "a", of Senate File 2314, the department
48 of public safety is authorized to use revenues
49 generated from the fee authorized in section 692.2,
50 subsection 6, to employ sufficient clerical personnel

H-5898

Page 2

1 to process criminal history checks for nonlaw
2 enforcement purposes."

3 4. Title page, line 4, by inserting after the
4 word "abuse," the following: "by providing for the
5 application of a penalty to persons who improperly use
6 criminal history information obtained in the course of
7 an investigation, by allowing the department of public
8 safety the use of certain revenues generated by
9 fees,".

10 5. By renumbering as necessary.

By COMMITTEE ON JUDICIARY AND
LAW ENFORCEMENT

JAY of Appanoose, Chairperson

H-5898 FILED MARCH 25, 1988

Adopted 3/30 (p 1201)

HOUSE AMENDMENT TO
SENATE FILE 2075

740

1 Amend Senate File 2075, as amended, passed, and
2 reprinted, by the Senate, as follows:

3 1. Page 1, by striking lines 3 through 14 and
4 inserting the following:

5 "NEW SUBSECTION. 16. The department may request
6 criminal history data from the department of public
7 safety on any person believed to be responsible for an
8 injury to a child which, if confirmed, would
9 constitute child abuse. The department shall
10 establish procedures for determining when a criminal
11 history records check under this subsection is
12 necessary."

13 2. Page 2, by striking lines 7 through 11 and in-
14 serting the following:

15 "Sec. _____. Section 692.2, subsection 1, paragraph
16 c, Code Supplement 1987, is amended to read as
17 follows:

18 c. The department of human services for the
19 purposes of section 232.71, subsection 16, section
20 237.8, subsection 2, and section 237A.5, and section
21 600.8, subsections 1 and 2.

22 Sec. _____. Section 692.3, subsection 2, Code
23 Supplement 1987, is amended to read as follows:

24 2. Notwithstanding subsection 1, paragraph "a",
25 the department of human services ~~shall~~ may
26 disseminate criminal history data obtained pursuant
27 to section 692.2, subsection 1, paragraph "c", to
28 persons licensed, or registered, or certified under
29 chapters 237, and 237A, ~~for the purposes of section~~
30 ~~237.8, subsection 2 and section 237A.5~~ 238 and 600.
31 ~~bicensees and registrants under either chapter 237 or~~
32 ~~chapter 237A~~ Persons who receive information pursuant
33 to this subsection shall not use ~~the~~ this information
34 other than for purposes of section 237.8, subsection
35 2, or section 237A.5, or section 600.8, subsections 1
36 and 2. A licensee or registrant person who receives
37 criminal history data pursuant to this subsection and
38 who uses the information for other purposes any
39 purpose other than those permitted by this subsection
40 or who communicates the information to another person
41 except for the purposes of section 237.8, subsection 2
42 or section 237A.5 permitted by this subsection is
43 guilty of an aggravated misdemeanor."

44 3. Page 2, by inserting after line 33 the
45 following:

46 "Sec. _____. Notwithstanding section 7, subsection
47 4, paragraph "a", of Senate File 2314, the department
48 of public safety is authorized to use revenues
49 generated from the fee authorized in section 692.2,
50 subsection 6, to employ sufficient clerical personnel

S-5740 Page 2

- 1 to process criminal history checks for nonlaw
- 2 enforcement purposes."
- 3 4. Title page, line 4, by inserting after the
- 4 word "abuse," the following: "by providing for the
- 5 application of a penalty to persons who improperly use
- 6 criminal history information obtained in the course of
- 7 an investigation, by allowing the department of public
- 8 safety the use of certain revenues generated by
- 9 fees,".
- 10 5. By renumbering as necessary.

S-5740

Filed April 4, 1988

RECEIVED FROM THE HOUSE

Amend. referred to committee on 4/6 (p. 1276)
Motion to reconsider on 4/12/88
Reconsidered & adopted on 4/15 (p. 1280)

SENATE FILE 2075

S-6036

- 1 Amend House amendment S-5740 to Senate File
- 2 2075, as amended, passed, and reprinted by the
- 3 Senate, as follows:
- 4 1. Page 1, by striking lines 22 through 43.

S-6036

Filed April 15, 1988

ADOPTED

BY CHARLES BRUNER

(p. 1280)

TOM MANN

SENATE AMENDMENT TO HOUSE AMENDMENT TO
SENATE FILE 2075

H-6515

- 1 Amend House amendment S-5740 to Senate File
- 2 2075, as amended, passed, and reprinted by the
- 3 Senate as follows:
- 4 1. Page 1, by striking lines 22 through 43.

RECEIVED FROM THE SENATE

H-6515 FILED APRIL 15, 1988

CONCURRED *(p. 2034)*

SENATE FILE 2075

AN ACT

RELATING TO CHILD ABUSE BY PROVIDING FOR EXAMINATION OF A CHILD, BY PROVIDING FOR FILING COMPLAINTS OF ALLEGED CHILD SEXUAL ABUSE, BY REQUIRING DEPARTMENTAL COORDINATION IN CASES OF CHILD ABUSE, BY PROVIDING FOR THE APPLICATION OF A PENALTY TO PERSONS WHO IMPROPERLY USE CRIMINAL HISTORY INFORMATION OBTAINED IN THE COURSE OF AN INVESTIGATION, BY ALLOWING THE DEPARTMENT OF PUBLIC SAFETY THE USE OF CERTAIN REVENUES GENERATED BY FEES, AND BY EXPANDING THE DEFINITION OF INDECENT CONTACT WITH A CHILD.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 232.71, Code Supplement 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 16. The department may request criminal history data from the department of public safety on any person believed to be responsible for an injury to a child which, if confirmed, would constitute child abuse. The department shall establish procedures for determining when a criminal history records check under this subsection is necessary.

Sec. 2. NEW SECTION. 232.83 CHILD SEXUAL ABUSE INVOLVING A PERSON NOT RESPONSIBLE FOR THE CARE OF THE CHILD.

1. A complaint related to circumstances involving a child who is alleged to be a victim of an offense defined in chapter 709, 726, or 728 and an alleged offender who is not a person responsible for the care of the child shall be handled pursuant to section 232.81.

2. Anyone authorized to conduct a preliminary investigation in response to a complaint may apply for, or the court on its own motion may enter an ex parte order authorizing a physician or hospital to conduct an outpatient physical examination or authorizing a physician, a

psychologist certified under section 154B.7, or a community mental health center accredited pursuant to chapter 230A to conduct an outpatient mental examination of a child if necessary to identify the nature, extent, and causes of any injuries, emotional damage, or other such needs of a child as specified in section 232.2, subsection 6, paragraph "c", "e", or "f", provided that all of the following apply:

a. The parent, guardian, or legal custodian is absent, or though present, was asked and refused to authorize the examination.

b. There is not enough time to file a petition and hold a hearing under this chapter.

c. The parent, guardian, or legal custodian has not provided care and treatment related to their child's alleged victimization.

Sec. 3. Section 692.2, subsection 1, paragraph c, Code Supplement 1987, is amended to read as follows:

c. The department of human services for the purposes of section 232.71, subsection 16, section 237.8, subsection 2, and section 237A.5, and section 600.8, subsections 1 and 2.

Sec. 4. Section 709.12, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The provisions of this section shall also apply to a person sixteen or seventeen years of age who commits any of the enumerated acts with a child who is at least five years the person's junior, in which case the juvenile court shall have jurisdiction under chapter 232.

Sec. 5. NEW SECTION. 709.13 CHILD IN NEED OF ASSISTANCE COMPLAINTS.

During or following an investigation into allegations of violations of this chapter or of chapter 726 or 728 involving an alleged victim under the age of eighteen and an alleged offender who is not a person responsible for the care of the child, anyone with knowledge of the alleged offense may file a complaint pursuant to section 232.83 alleging the child to be a child in need of assistance. In all cases, the complaint

shall be filed by any peace officer with knowledge of the investigation when the peace officer has reason to believe that the alleged victim may require treatment as a result of the alleged offense and that the child's parent, guardian, or custodian will be unwilling or unable to provide the treatment.

Sec. 6. Notwithstanding section 7, subsection 4, paragraph "a", of Senate File 2314, the department of public safety is authorized to use revenues generated from the fee authorized in section 692.2, subsection 6, to employ sufficient clerical personnel to process criminal history checks for non-law-enforcement purposes.

JO ANN ZIMMERMAN
President of the Senate

DONALD D. AVENSON
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2075, Seventy-second General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved May 15, 1988

TERRY E. BRANSTAD
Governor