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In Judiciary

SENATE FILE 478
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 237)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the juvenile justice code and provisions
2 regarding child abuse, child in need of assistance,
3 termination of parental rights, and confidentiality of
4 information.

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

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SF 478

1 Section 1. Section 232.2, subsection 1, Code 1989, is
2 amended to read as follows:

3 1. "Abandonment of a child" means the permanent
4 relinquishment or surrender, without reference to any
5 particular person, of the parental rights, duties, or
6 privileges inherent in the parent-child relationship. Proof
7 of abandonment must include both the intention to abandon and
8 the acts by which the intention is evidenced. The term does
9 not require that the relinquishment or surrender be over any
10 particular period of time.

11 Sec. 2. Section 232.2, subsection 6, paragraph c, Code
12 1989, is amended to read as follows:

13 c. Who has suffered or is imminently likely to suffer
14 harmful effects as a result of either of the following:

15 (1) Conditions-created-by Mental injury caused by the acts
16 or omissions of the child's parent, guardian, custodian-or.

17 (2) The failure of the child's parent, guardian, or
18 custodian to exercise a reasonable degree of care in
19 supervising the child.

20 Sec. 3. Section 232.2, Code 1989, is amended by adding the
21 following new subsections:

22 NEW SUBSECTION. 6A. "Desertion" means the relinquishment
23 or surrender for a period in excess of one year of the
24 parental rights, duties, or privileges inherent in the parent-
25 child relationship. Proof of desertion need not include the
26 intention to desert, but is evidenced by the absence of
27 contact with the child or by incidental contact with the
28 child.

29 NEW SUBSECTION. 21A. "Imminent risk to a child's life or
30 health" means it is shown by a preponderance of evidence that
31 there is a substantial risk of harm to a child and the child's
32 safety cannot be assured.

33 NEW SUBSECTION. 31A. "Mental injury" means an injury to a
34 child's intellectual or psychological capacity as evidenced by
35 an observable and substantial impairment in the child's

1 ability to function within the child's normal range of
2 performance and behavior, considering the child's cultural
3 origin.

352-4 Sec. 4. Section 232.68, subsection 2, Code 1989, is
5 amended by adding the following new paragraph:

6 NEW PARAGRAPH. e. The acts or omissions of a person
7 responsible for the care of a child which result in or make it
8 extremely likely that the child will suffer a mental injury.

9 Sec. 5. Section 232.69, subsection 1, paragraph a, Code
10 1989, is amended to read as follows:

11 a. Every health practitioner who examines, attends, or
12 treats a child and who reasonably believes the child has been
13 abused. Notwithstanding section 140.3, this provision applies
14 to a health practitioner who receives information confirming
15 that a child is infected with a sexually transmitted disease.

16 Sec. 6. Section 232.71, subsection 1, Code 1989, is
17 amended to read as follows:

18 1. Whenever a report is determined to constitute a child
19 abuse allegation, the department of human services shall
20 promptly commence an appropriate investigation. The primary
21 purpose of this investigation shall be the protection of the
22 child named in the report. The department, within five
23 working days of commencing the investigation, shall provide
24 written notification of the investigation to the child's
25 parents. The department may provide oral notification of the
26 investigation to a person who expresses concern about the
27 child's safety to the department. However, if the department
28 shows the court to the court's satisfaction that notification
29 is likely to endanger the child or other persons, the court
30 shall issue an emergency order restraining the notification.

31 Sec. 7. Section 232.71, subsection 11, Code 1989, is
32 amended to read as follows:

33 11. If, upon completion of the investigation, the
34 department of human services determines that the best
35 interests of the child require juvenile court action, the

1 department shall take the appropriate action to initiate such
2 action under this chapter. The county attorney shall assist
3 the county department of human services ~~in-the-preparation-of~~
4 ~~the-necessary-papers-to-initiate-such-action-and-shall-appear~~
5 ~~and-represent-the-department-at-all-juvenile-court-proceedings~~
6 as provided under section 232.90, subsection 2.

7 Sec. 8. Section 232.71, Code 1989, is amended by adding
8 the following new subsection:

9 NEW SUBSECTION. 17. In each county or multicounty area in
10 which more than fifty child abuse reports are made per year,
11 the department shall establish a multidisciplinary team to
12 assist the department. The multidisciplinary team shall
13 assist the department in the assessment, diagnosis, and
14 disposition of a child abuse report and shall be notified by
15 the department to review any founded case of child abuse. A
3478-16 multidisciplinary team is required to include members
17 representing professions relating to health, mental health,
18 child development, and law.

19 Sec. 9. Section 232.78, subsection 1, unnumbered paragraph
20 1 and paragraphs a and b, Code 1989, are amended to read as
21 follows:

22 The juvenile court may enter an ex parte order directing a
23 peace officer to ~~remove-a-child-from-the-child's-home-or-a~~
24 ~~child-day-care-facility~~ take custody of a child before or
25 after the filing of a petition under this chapter provided all
26 of the following apply:

27 a. The parent, guardian, legal custodian, or ~~employee-of~~
28 ~~the-child-day-care-facility~~ person supervising the child is
29 absent, or though present, was asked and refused to consent to
30 the removal of the child and was informed of an intent to
31 apply for an order under this section, ~~or-the-parent,~~
32 ~~guardian,-or-legal-custodian-has-a-prior-instance-of-flight-to~~
33 ~~avoid-a-child-abuse-investigation~~ or there is reasonable cause
34 to believe that a request for consent would further endanger
35 the child, or there is reasonable cause to believe that a

1 request for consent will cause the parent, guardian, or legal
2 custodian to take flight with the child.

3 b. It appears that the child's immediate removal is
4 necessary to avoid imminent danger risk to the child's life or
5 health.

6 Sec. 10. Section 232.79, subsection 1, unnumbered
7 paragraph 1 and paragraph a, Code 1989, are amended to read as
8 follows:

9 A peace officer may ~~remove a child from the child's home or~~
10 ~~a child day care facility~~ take a child into custody or a
11 physician treating a child may keep the child in custody
12 without a court order as required under section 232.78 and
13 without the consent of a parent, guardian, or custodian
14 provided that both of the following apply:

15 a. The child is in such a circumstance or condition that
16 ~~the child's continued presence in the residence or the child~~
17 ~~day care facility or in the care or custody of the parent,~~
18 ~~guardian, or custodian~~ presents an imminent danger risk to the
19 child's life or health.

20 Sec. 11. Section 232.89, subsection 2, Code 1989, is
21 amended to read as follows:

3502-22 2. Upon the filing of a petition, the court shall appoint
23 ~~counsel and~~ a guardian ad litem for the child identified in
24 the petition as a party to the proceedings. ~~Counsel shall be~~
25 ~~appointed as follows:~~ The guardian ad litem may be either an
26 attorney or a court appointed special advocate. The guardian
27 ad litem shall be independent of all other parties to the
28 proceeding. If a court appointed special advocate is
29 appointed as the guardian ad litem, counsel shall be appointed
30 to represent the child in court. An attorney who serves as
31 guardian ad litem or who represents the child in court
32 proceedings shall be compensated pursuant to the provisions of
33 subsection 3.

34 ~~a.---If the child is represented by counsel and the court~~
35 ~~determines there is a conflict of interest between the child~~

~~1 and the child's parent, guardian or custodian and that the
2 retained counsel could not properly represent the child as a
3 result of the conflict, the court shall appoint other counsel
4 to represent the child, who shall be compensated pursuant to
5 the provisions of subsection 3.~~

~~6 b. -- If the child is not represented by counsel, the court
7 shall either order the parent, guardian or custodian to retain
8 counsel for the child or shall appoint counsel for the child,
9 who shall be compensated pursuant to the provisions of
10 subsection 3.~~

11 Sec. 12. Section 232.89, subsection 4, Code 1989, is
12 amended by striking the subsection.

13 Sec. 13. Section 232.89, subsection 5, Code 1989, is
14 amended to read as follows:

15 5. ~~The court may appoint~~ If the court appoints a special
16 advocate, ~~as defined in section 232.2, subsection 9A,~~ to act
17 as guardian ad litem. ~~The,~~ the court appointed special
18 advocate shall receive notice of and may attend all
19 depositions, hearings, and trial proceedings to support the
20 child and advocate for the protection of the child. ~~The court~~
21 ~~appointed special advocate shall not be allowed to separately~~
22 ~~introduce evidence or to directly examine or cross-examine~~
23 ~~witnesses.~~ ~~However,~~ the court appointed special advocate
24 shall file reports to the court as required by the court.

25 Sec. 14. Section 232.89, Code 1989, is amended by adding
26 the following new subsection:

27 NEW SUBSECTION. 6. The duties of a guardian ad litem,
28 whether an attorney or a court appointed special advocate,
29 include but are not limited to all of the following:

30 a. Attending each of the child's court hearings.

31 b. Reviewing each of the child's social reports,
32 examination reports, and case permanency plans.

33 c. Reviewing each of the child's reports of significant
34 developments and any reports of abuse of the child.

35 d. Representing the child's best interests.

- 1 e. Conducting further investigations.
- 2 f. Interviewing and observing the child.
- 3 g. Submitting recommendations to the court.

4 Sec. 15. Section 232.90, Code 1989, is amended to read as
5 follows:

6 232.90 DUTIES OF COUNTY ATTORNEY.

7 1. The county attorney shall represent the state in
8 proceedings arising from a petition filed under this division
9 and shall present evidence in support of the petition. The
10 county attorney shall be present at proceedings initiated by
11 petition under this division filed by an intake officer or the
12 county attorney, or if a party to the proceedings contests the
13 proceedings, or if the court determines there is a conflict of
14 interest between the child and the child's parent, guardian,
15 or custodian or if there are contested issues before the
16 court.

17 2. The county attorney shall represent the department in
18 proceedings arising under this division. However, if the
19 department or the county attorney determines that the county
20 attorney's representation of the department may create a
21 conflict of interest for the county attorney, the department
22 may request to be represented by the attorney general in place
23 of the county attorney.

24 Sec. 16. Section 232.92, Code 1989, is amended by striking
25 the section and inserting in lieu thereof the following:

26 232.92 EXCLUSION OF PUBLIC FROM HEARINGS.

27 Hearings held under this division are open to the public
28 unless the court, on the motion of any of the parties or upon
29 the court's own motion, excludes the public. The court shall
30 exclude the public from a hearing if the court determines that
31 the possibility of damage or harm to the child outweighs the
32 public's interest in having an open hearing. Upon closing the
33 hearing to the public, the court may admit those persons who
34 have direct interest in the case or in the work of the court.

35 Sec. 17. Section 232.102, subsection 1, Code 1989, is

1 amended to read as follows:

2 1. After a dispositional hearing the court may enter an
3 order transferring the legal custody of the child to one
4 either of the following for purposes of placement:

5 a. A relative or other suitable person for the purpose of
6 living with that person.

7 ~~b.--A-child-placing-agency-or-other-suitable-private~~
8 ~~agency,-facility-or-institution-which-is-licensed-or-otherwise~~
9 ~~authorized-by-law-to-receive-and-provide-care-for-the-child.~~

10 e b. The department of human services for the purpose of
11 foster care placement.

12 Sec. 18. Section 232.102, subsection 4, Code 1989, is
13 amended to read as follows:

14 4. Whenever possible the court should permit the child to
15 remain at home with the child's parent, guardian, or
16 custodian. Custody of the child should not be transferred
17 unless the court finds there is clear and convincing evidence
18 that either of the following conditions exist:

19 a. The child cannot be protected from physical abuse
20 without transfer of custody~~-er.~~

21 b. The child cannot be protected from some harm which
22 would justify the adjudication of the child as a child in need
23 of assistance and an adequate placement is available.

24 The order shall~~-in-addition,~~ contain a statement that
25 removal from the home is the result of a determination that
26 continuation ~~therein~~ in the home would be contrary to the
27 welfare of the child, ~~and~~ that reasonable efforts have been
28 made to prevent or eliminate the need for removal of the child
29 from the child's home, and that the removal proceedings may
30 result in a termination of parental rights.

31 Sec. 19. Section 232.102, subsection 6, Code 1989, is
32 amended to read as follows:

347833 6. In any order transferring custody to the department or
34 an-agency, or in orders pursuant to a custody order, the court
35 shall specify the nature and category of disposition which

1 will serve the best interests of the child, and shall
2 prescribe the means by which the placement shall be monitored
3 by the court. If the court orders the transfer of the custody
4 of the child to the department of human services ~~or other~~
5 ~~agency~~ for placement, the department ~~or agency~~ shall submit a
6 case permanency plan to the court and shall make ~~every effort~~
7 reasonable efforts to eliminate the causes for the removal of
8 the child and return the child to the child's home as quickly
9 as possible consistent with the best ~~interest~~ interests of the
10 child. ~~When~~ If the child is not returned to the child's home
11 and if the child has been previously placed in a licensed
12 foster care facility, the department ~~or agency~~ shall consider
13 placing the child in the same licensed foster care facility.
14 If the court orders the transfer of custody to a relative or
15 other suitable person, the court may direct the department ~~or~~
16 ~~other agency~~ to provide services to the child's parent,
17 guardian, or custodian in order to enable them to resume
18 custody of the child. If the court orders the transfer of
19 custody to the department of human services ~~or to another~~
20 ~~agency~~ for placement in foster group care, the department ~~or~~
21 ~~agency~~ shall make every reasonable effort to place the child
22 within Iowa, in the least restrictive setting available, and
23 in close proximity to the parents' home, consistent with the
24 child's best interests and special needs.

25 Sec. 20. Section 232.102, subsection 7, unnumbered
26 paragraph 1, Code 1989, is amended to read as follows:

27 ~~An agency, facility, institution,~~ The department or person
28 to whom custody of the child has been transferred pursuant to
29 this section shall file a written report with the court at
30 least every six months concerning the status and progress of
31 the child. The court shall hold a periodic dispositional
32 review hearing for each child in placement pursuant to this
33 section in order to determine whether the child should be
34 returned home, an extension of the placement should be made, a
35 permanency hearing should be held, or a termination of the

1 parent-child relationship proceeding should be instituted.
2 The placement shall be terminated and the child returned to
3 the child's home if the court finds by a preponderance of the
4 evidence that the child will not suffer harm in the manner
5 specified in section 232.2, subsection 6. If the placement is
6 extended, the court shall determine whether additional
7 services are necessary to facilitate the return of the child
8 to the child's home, and if the court determines such services
9 are needed, the court shall order the provision of such
10 services. When the child is not returned to the child's home
11 and if the child has been previously placed in a licensed
12 foster care facility, the department ~~or agency responsible for~~
13 ~~the placement of the child~~ shall consider placing the child in
14 the same licensed foster care facility.

15 Sec. 21. Section 232.103, subsection 2, paragraph e, Code
16 1989, is amended to read as follows:

17 e. ~~An agency, facility, institution or~~ A person to whom
18 legal custody has been transferred pursuant to a dispositional
19 order.

20 Sec. 22. Section 232.104, unnumbered paragraph 1, Code
21 1989, is amended to read as follows:

22 If ~~custody of~~ a child has been ~~transferred for placement~~
23 ~~pursuant to section 232.102~~ placed in foster care for a period
24 of twelve months, or if the prior legal custodian of a child
25 has abandoned efforts to regain custody of the child, the
26 court shall, on its own motion, or upon application by any
27 interested party, including the child's foster parent if the
28 child has been placed with the foster parent for at least
29 twelve months, hold a hearing to consider the issue of the
30 establishment of permanency for the child.

31 Sec. 23. NEW SECTION. 232.105 HEARING REGARDING RELEASE
32 OF INFORMATION.

33 1. The court shall have jurisdiction over a hearing held
34 in the public interest regarding the release of information
35 relating to a child in need of assistance case.

1 2. A hearing shall be held if a petition is filed alleging
2 that information should be released to the public to affect
3 the safety of a particular child or to affect the well-being
4 of a particular class of children. A petition may be filed by
5 an interested person.

6 3. Upon the filing of a petition, the court shall fix a
7 time for a hearing and give notice of the hearing to the
8 department, the child, and the child's parent, guardian, and
9 guardian ad litem.

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

12 5. The court shall rule on whether or not to release
13 information based on consideration of the following factors:

14 a. The extent of anticipated harm to an individual based
15 on the known facts.

16 b. The significance of the public's need for the
17 information regarding the performance of entities responsible
18 for child protection.

19 c. Whether there has been a waiver of confidentiality by
20 the speech or conduct of a parent or the child's counsel.

21 6. Notwithstanding sections 217.30, 232.147, and 237.9,
22 and chapter 235A, the court may release all or portions of the
23 following information following the hearing:

24 a. Records of the department of human services.

25 b. Records of the court.

26 c. Records of a private agency providing care or treatment
27 to the child or family.

28 d. Records of the department of inspections and appeals.

29 e. A summary of information from any of the records
30 identified under this subsection.

31 Sec. 24. Section 232.112, subsection 2, Code 1989, is
32 amended to read as follows:

33 2. Prior to the service of notice on the necessary
34 parties, the juvenile court shall appoint a guardian ad litem
35 for a child if the child does not have a guardian-or guardian

1 ~~ad litem or if the interests of the guardian or guardian ad~~
2 ~~litem conflict with the interests of the child.~~ The guardian
3 ad litem shall be independent of any other party to the
4 proceeding. ~~Such~~ The guardian ad litem shall be a necessary
5 party under subsection 1. The duties of the guardian ad litem
6 shall be in accordance with and subject to the provisions of
7 section 232.89.

8 Sec. 25. Section 232.113, subsection 2, Code 1989, is
9 amended by striking the subsection and inserting in lieu
10 thereof the following:

3502-11 2. Upon the filing of a petition the court shall appoint a
12 guardian ad litem for the child identified in the petition as
13 a party to the proceedings. The guardian ad litem may be
14 either an attorney or a court appointed special advocate. The
15 guardian ad litem shall be independent of all other parties to
16 the proceeding. If a court appointed special advocate is
17 appointed as the guardian ad litem, counsel shall be appointed
18 to represent the child in court.

19 Sec. 26. Section 232.114, Code 1989, is amended to read as
20 follows:

21 232.114 DUTIES OF COUNTY ATTORNEY.

22 1. Upon the filing of a petition the county attorney shall
23 represent the state in all adversary proceedings arising under
24 this division and shall present evidence in support of the
25 petition.

26 2. The county attorney shall represent the department in
27 proceedings arising under this division. However, if the
28 department or the county attorney determines that the county
29 attorney's representation of the department may create a
30 conflict of interest for the county attorney, the department
31 may request to be represented by the attorney general in place
32 of the county attorney.

33 Sec. 27. Section 232.116, subsection 1, paragraph c, Code
34 1989, is amended by striking the paragraph and inserting in
35 lieu thereof the following:

1 c. The court finds that both of the following have
2 occurred:

3 (1) The court has previously adjudicated the child to be a
4 child in need of assistance after finding the child to have
5 been physically or sexually abused or neglected as the result
6 of the acts or omissions of one or both parents, or the court
7 has previously adjudicated a child who is a member of the same
8 family to be a child in need of assistance after such a
9 finding.

10 (2) Subsequent to the child in need of assistance
11 adjudication, the parents were offered or received services to
12 correct the circumstance which led to the adjudication, and
13 the child is found to have been subsequently physically or
14 sexually abused or neglected as the result of the acts or
15 omissions of one or both parents.

16 Sec. 28. Section 232.116, subsection 1, paragraphs d and
17 e, Code 1989, are amended to read as follows:

18 d. The court finds that all of the following have
19 occurred:

20 (1) The child has been adjudicated a child in need of
21 assistance pursuant to section 232.96.

22 (2) The custody of the child has been transferred from the
23 child's parents for placement pursuant to section 232.102 and
24 the placement has lasted for a period of at least six
25 consecutive months.

26 ~~(3) -- There is clear and convincing evidence that the child~~
27 ~~cannot be returned to the custody of the child's parents as~~
28 ~~provided in section 232.102.~~

29 (4 3) There is clear and convincing evidence that the
30 parents have not maintained significant and meaningful contact
31 with the child during the previous six consecutive months and
32 have made no reasonable efforts to resume care of the child
33 despite being given the opportunity to do so.

34 e. The court finds that all of the following have
35 occurred:

1 (1) The child is four years of age or older.

2 (~~2~~) The child has been adjudicated a child in need of
3 assistance pursuant to section 232.96.

4 (~~2~~ 3) The custody of the child has been transferred from
5 the child's parents for placement pursuant to section 232.102
6 for at least twelve of the last eighteen months, or for the
7 last twelve consecutive months and any trial period at home
8 has been less than thirty days.

9 (~~3~~ 4) There is clear and convincing evidence that at the
10 present time the child cannot be returned to the custody of
11 the child's parents as provided in section 232.102.

12 Sec. 29. Section 232.116, subsection 1, paragraph f,
13 subparagraph (3), Code 1989, is amended by striking the
14 subparagraph.

15 Sec. 30. Section 232.116, subsection 1, Code 1989, is
16 amended by adding the following new paragraphs:

17 NEW PARAGRAPH. g. The court finds that all of the
18 following have occurred:

19 (1) The child is three years of age or younger.

20 (2) The child has been adjudicated a child in need of
21 assistance pursuant to section 232.96.

22 (3) The custody of the child has been transferred from the
23 child's parents for placement pursuant to section 232.102 for
24 at least six months of the last twelve months, or for the last
25 six consecutive months and any trial period at home has been
26 less than thirty days.

27 (4) There is clear and convincing evidence that the child
28 cannot be returned to the custody of the child's parents as
29 provided in section 232.102 at the present time.

30 NEW PARAGRAPH. h. The court finds that both of the
31 following have occurred:

302-32 (1) The child meets the definition of child in need of
33 assistance based on a finding of physical or sexual abuse or
34 neglect as a result of the acts or omissions of one or both
35 parents.

1 (2) There is clear and convincing evidence that the abuse
2 or neglect of the child is so severe, extreme, or repeated
3 that provision of services would present an unacceptable risk
4 to the child.

5 NEW PARAGRAPH. i. The court finds that both of the
6 following have occurred:

7 (1) The child has been adjudicated a child in need of
8 assistance pursuant to section 232.96 and custody has been
9 transferred from the child's parents for placement pursuant to
10 section 232.102.

11 (2) The parent has been imprisoned for a felony or a crime
12 against the child, the child's sibling, or another child in
13 the household, or the parent has been imprisoned and it is
14 unlikely that the parent will be released from prison for a
15 period of five or more years.

16 NEW PARAGRAPH. j. The court finds that all of the
17 following have occurred:

18 (1) The child has been adjudicated a child in need of
19 assistance pursuant to section 232.96 and custody has been
20 transferred from the child's parents for placement pursuant to
21 section 232.102.

22 (2) The parent has a chronic mental illness and has been
23 repeatedly institutionalized.

24 (3) There is clear and convincing evidence that the
25 parent's prognosis indicates that the child will not be able
26 to be returned to the custody of the parent within a
27 reasonable period of time considering the child's age and need
28 for a permanent home.

29 NEW PARAGRAPH. k. The court finds that all of the
30 following have occurred:

31 (1) The child has been adjudicated a child in need of
32 assistance pursuant to section 232.96 and custody has been
33 transferred from the child's parents for placement pursuant to
34 section 232.102.

35 (2) The parent has a severe, chronic substance abuse

1 problem.

2 (3) There is clear and convincing evidence that the
3 parent's prognosis indicates that the child will not be able
4 to be returned to the custody of the parent within a
5 reasonable period of time considering the child's age and need
6 for a permanent home.

7 Sec. 31. Section 232.116, subsection 2, unnumbered
8 paragraph 1, Code 1989, is amended to read as follows:

9 In considering whether to terminate the rights of a parent
10 under this section, the court shall give primary consideration
11 to the physical, mental, and emotional condition and needs of
12 the child:--~~Such consideration may include~~, including but not
13 limited to any of the following:

14 Sec. 32. Section 232.116, subsection 3, Code 1989, is
15 amended by adding the following new paragraphs:

16 NEW PARAGRAPH. f. A secure and appropriate placement is
17 available to the child without terminating the relationship
18 between the parent and child.

19 NEW PARAGRAPH. g. It is in the best interest of the
20 child.

21 Sec. 33. Section 232.117, subsection 5, Code 1989, is
22 amended to read as follows:

23 5. If the court orders the termination of parental rights
24 and transfers guardianship and custody under subsection 3, the
25 ~~department of human services or the agency responsible for the~~
26 placement guardian shall submit a case permanency plan to the
27 court and shall make every effort to establish a stable
28 placement for the child by adoption or other permanent
29 placement. Within forty-five days of the termination order,
30 the guardian shall report to the court regarding efforts made
31 to place the child for adoption or providing the rationale as
32 to why adoption would not be in the child's best interest.

33 Sec. 34. Section 232.117, Code 1989, is amended by adding
34 the following new subsection:

35 NEW SUBSECTION. 8. Hearings held under this division are

1 open to the public unless the court, on the motion of any of
2 the parties or upon the court's own motion, excludes the
3 public. The court shall exclude the public from a hearing
4 only if the court determines that the possibility of damage or
5 harm to the child outweighs the public's interest in having a
6 public hearing. Upon closing the hearing, the court may admit
7 persons who have a direct interest in the case or in the work
8 of the court.

9 Sec. 35. NEW SECTION. 232.120 PUBLIC INFORMATION.

10 Information pertaining to a termination of parental rights
11 case under this division shall be released to the public
12 according to the provisions of section 232.105.

13 Sec. 36. Section 234.36, Code 1989, is amended to read as
14 follows:

15 234.36 WHEN COUNTY TO PAY FOSTER CARE COSTS.

16 Each county shall pay the cost of foster care for a child
17 placed by a court as provided in section 232.50 ~~er-section~~
18 ~~232-99~~. However, in any fiscal year for which the general
19 assembly appropriates state funds to pay for foster care for
20 children placed by courts under ~~sections~~ section 232.50 and
21 ~~232-99~~, the county is responsible for these costs only when
22 the funds so appropriated to the department for that fiscal
23 year have been exhausted. The rate of payment by the county
24 or the state under this section shall be that fixed by the
25 department of human services pursuant to section 234.38.

26 Sec. 37. Section 235A.15, subsection 2, paragraph c, Code
27 1989, is amended to read as follows:

28 c. Individuals, agencies, or facilities providing care to
29 a child ~~as follows~~ that have a need to know the circumstances
30 of the abuse of the child which includes but is not limited to
31 any of the following situations:

32 Sec. 38. Section 235A.15, subsection 2, paragraph c, Code
33 1989, is amended by adding the following new subparagraphs:

34 NEW SUBPARAGRAPH. (5) To an employee of an educational
35 institution who is responsible for the education of the child.

1 NEW SUBPARAGRAPH. (6) To a person developing or
2 implementing a case permanency plan for a child or the child's
3 family, including the child's foster parents.

4 NEW SUBPARAGRAPH. (7) To a person providing health care
5 or treatment to the child or members of the child's family.

6 NEW SUBPARAGRAPH. (8) To the citizens' aide.

7 NEW SUBPARAGRAPH. (9) To a person providing public health
8 services to a child or the child's family.

9 Sec. 39. Section 600A.2, subsection 16, Code 1989, is
10 amended to read as follows:

11 16. "To abandon a minor child" means to permanently
12 relinquish or surrender, without reference to any particular
13 person, the parental rights, duties, or privileges inherent in
14 the parent-child relationship. The term includes both the
15 intention to abandon and the acts by which the intention is
16 evidenced. The term does not require that the relinquishment
17 or surrender be over any particular period of time.

18 EXPLANATION

19 This bill relates to child protection provisions of the
20 juvenile justice chapter and related chapters.

21 The definition of "abandonment of a child" is amended to
22 remove the requirement that abandonment be permanent. A new
23 definition of "desertion" refers to relinquishment or
24 surrender of parental rights, duties, or privileges and
25 supplies standards for proof.

26 A new definition of "imminent risk to a child's life or
27 health" refers to a situation in which the preponderance of
28 evidence shows there is a substantial risk of harm to a child
29 and the child's safety cannot be assured.

30 A definition of the term "mental injury" means an injury to
31 a child's intellectual or psychological capacity as indicated
32 by certain evidence. The definition of a child in need of
33 assistance is amended by inserting mental injury caused by the
34 acts or omissions of the child's parent, guardian, or
35 custodian in place of unspecified conditions.

1 An exception is made relating to confidentiality provisions
2 for sexually transmitted disease reporting by requiring a
3 health care practitioner who receives information confirming
4 that a child is infected with a sexually transmitted disease
5 and believes the child has been abused to report to the
6 department of human services. Within five working days of
7 commencing a child abuse investigation, the department is
8 required to notify the child's parents and may notify other
9 persons who express concern about the safety of the child
10 unless an emergency court order is obtained by a showing that
11 notification will endanger the child or others.

12 A requirement that the county attorney represent the
13 department is made subject to an exception.

14 A multidisciplinary team is required to be established by
15 the department of human services in each county or multicounty
16 area in which there are 50 or more child abuse reports per
17 year. The team is to assist the department in assessment,
18 diagnosis, and disposition relating to child abuse reports and
19 to review cases in which the department finds abuse has
20 occurred. Professionals in occupations pertaining to children
21 are specified to be members of a team.

22 A provision is amended which required certain procedures
23 relating to notification and consent of persons with authority
24 over a child when an ex parte order to temporarily remove the
25 child is requested to permit the removal of the child when it
26 can be shown that requesting consent for removal may endanger
27 the child or cause the person responsible for the child to
28 flee with the child. The term "imminent danger" in the
29 standard for removal is changed to "imminent risk". A related
30 provision permitting a peace officer or a physician treating
31 the child to remove the child to ensure the child's safety is
32 amended by changing the term "remove" to "take into custody"
33 and striking limitations on locations from which the child may
34 be removed.

35 Provisions relating to the court's appointment of a

1 guardian ad litem, counsel, and a court appointed special
2 advocate (CASA) in child in need of assistance proceedings are
3 amended. Either an attorney or a CASA may be appointed as the
4 child's guardian ad litem, but if a CASA is appointed, counsel
5 is required to be appointed to represent the child. A
6 guardian ad litem is required to be independent of all other
7 parties to the proceeding. A provision requiring the court to
8 appoint both counsel and a guardian ad litem for the child
9 when the same person cannot represent the child's legal
10 interests and best interests simultaneously is stricken. A
11 provision relating to the court appointed special advocate is
12 amended to strike an unnecessary citation. Duties of a
13 guardian ad litem are specified.

14 The provision requiring the county attorney to represent
15 the state in child in need of assistance proceedings is
16 amended to include representation of the department of human
17 services. The department or the county attorney is permitted
18 to request that the department be represented by the attorney
19 general if either determines that the department's
20 representation will create a conflict of interest for the
21 county attorney.

22 The options available to the court when transferring the
23 legal custody of the child are amended to limit the options to
24 a relative or other suitable person with whom the child will
25 live or the department of human services. Under current law
26 the court can also transfer custody to a person with whom the
27 child will not live, a child placing agency, or other suitable
28 private agency, facility, or institution which is licensed or
29 otherwise authorized by law to receive and provide care for
30 the child.

31 After a dispositional hearing to transfer legal custody of
32 a child, an order is required to contain a statement that the
33 proceedings may result in a termination of parental rights.
34 When custody is transferred to the department of human
35 services, the current requirement to make "every effort" to

1 return the child to the child's home is amended to be
2 "reasonable efforts" and include reasonable efforts to
3 eliminate the causes for the child's removal.

4 The provision for a hearing to establish permanency for a
5 child is amended to provide that an interested party who can
6 request such a hearing includes the child's foster parent if
7 the child has been placed with the foster parent for at least
8 12 months.

9 The juvenile court is given jurisdiction over release of
10 confidential information in the public interest regarding a
11 CINA case. Standards are provided for types of cases to be
12 heard, notice to interested parties, hearing requirements,
13 bases for decision making, and access to confidential
14 information.

15 Coordinating provisions with amendments in this bill under
16 the CINA division relating to appointment and duties of
17 counsel, the guardian ad litem, the court appointed special
18 advocate, and the county attorney are also provided in the
19 division regarding the termination of parental rights.

20 Grounds for termination of parental rights when physical or
21 sexual abuse of the child has been found are amended by adding
22 neglect to the standard and the requirement for clear and
23 convincing evidence that the parents either refused services
24 to correct the abusive situation or the services failed to
25 correct the situation is replaced by a showing that services
26 were offered or received and abuse and neglect has occurred
27 again.

28 Grounds for termination of parental rights when the child
29 has been adjudicated as a CINA, custody of the child has been
30 transferred for more than six months, and the parents have not
31 maintained contact for six months is amended. The parental
32 contact standard is narrowed to require "significant and
33 meaningful contact" and a requirement for clear and convincing
34 evidence that the child cannot be returned to the custody of
35 the child's parents is stricken.

1 Grounds for termination of parental rights when the child
2 has been adjudicated as a CINA, custody of the child has been
3 transferred from the parents for at least 12 of the preceding
4 18 months, and there is clear and convincing evidence that the
5 child cannot be returned to the parents are amended to require
6 that the child be at least four years of age to add an
7 additional time frame of the preceding 12 months as long as
8 any home trial period has been less than 30 days.

9 Grounds for termination of parental rights when the child
10 has been adjudicated as a CINA, the court previously
11 terminated parental rights for a child who is a member of the
12 same family, and there is clear and convincing evidence that
13 the parent does not or cannot respond to corrective services
14 and permitting additional time would not correct the situation
15 are amended by striking the requirement that there be clear
16 and convincing evidence that the child cannot be returned or
17 placed in the custody of the child's parents.

18 Additional grounds for termination of parental rights are
19 provided. Parental rights could be terminated if the child
20 has been adjudicated as a CINA, is less than four years old,
21 has been placed away from the parent for six of the last
22 twelve months or for the last six months, as long as any home
23 trial period has been less than 30 days, and there is clear
24 and convincing evidence that the child cannot be returned to
25 the parent's custody at the present time; if the child meets
26 the criteria to be found a CINA based on a finding of physical
27 or sexual abuse or neglect and there is clear and convincing
28 evidence that the abuse or neglect is so severe, extreme, or
29 repeated that providing corrective services would be an
30 unacceptable risk to the child; if the child has been
31 adjudicated as a CINA and custody transferred, and the parent
32 has been imprisoned for a felony or a crime against the child
33 or another child in the household or the parent is imprisoned
34 and is unlikely to be released for five years or more; if the
35 child has been adjudicated as a CINA and custody transferred,

1 the parent has a chronic mental illness and has been
2 repeatedly institutionalized, and there is clear and
3 convincing evidence that the parent's prognosis will not
4 permit the child's return within a reasonable period of time;
5 if the child has been adjudicated as a CINA and custody
6 transferred, the parent has a severe, chronic substance abuse
7 problem, and there is clear and convincing evidence that a
8 parent's prognosis indicates that the child cannot return to
9 the parent within a reasonable period of time.

10 Additional reasons for not terminating parental rights are
11 provided when the court finds that a secure and appropriate
12 placement is available without terminating parental rights or
13 that not terminating parental rights is in the best interests
14 of the child.

15 Following the termination of parental rights and transfer
16 of guardianship, the guardian is required to report to the
17 court within 45 days regarding the guardian's efforts to place
18 the child for adoption or the reasons as to why the adoption
19 would not be in the child's best interest.

20 Termination of parental rights hearings are required to be
21 open to the public unless the court determines according to
22 specified criteria that a hearing should be closed. If the
23 hearing is closed, the court may admit certain persons. A
24 provision is added which states that termination of parental
25 rights information is subject to the new provisions regarding
26 release of child in need of assistance information.

27 A reference to child in need of assistance dispositions is
28 stricken in the county payment of foster care costs section.

29 Certain provisions relating to child abuse reports are
30 amended. Language authorizing access to child abuse
31 information is broadened to include persons who were providing
32 care to a victim of child abuse and others not enumerated.
33 New provisions specifically include certain employees of
34 education institutions; certain persons involved with a
35 child's case permanency plan, including the child's foster

1 parents; certain health care providers; the Iowa citizen's
2 aide; and a person providing public health services to the
3 child or the child's family.

4 The definition of the term "to abandon a minor child" in
5 the termination of parental rights chapter (chapter 600A) is
6 amended to strike the requirement that the relinquishment of
7 parental rights, duties, or privileges be permanent.

8 This bill may impose a state mandate as specified in
9 chapter 25B.

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SENATE FILE 478

S-3502

1 Amend Senate File 478 as follows:

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

4 "Sec. ____ . Section 232.39, Code 1989, is amended
5 by striking the section and inserting in lieu thereof
6 the following:

7 232.39 EXCLUSION OF PUBLIC FROM HEARINGS.

8 Hearings held under this division are open to the
9 public unless the court, on the motion of any of the
10 parties or upon the court's own motion, excludes the
11 public. The court shall exclude the public from a
12 hearing if the court determines that the possibility
13 of damage or harm to the child outweighs the public's
14 interest in having an open hearing. Upon closing the
15 hearing to the public, the court may admit those
16 persons who have direct interest in the case or in the
17 work of the court."

18 2. Page 4, by striking lines 22 through 33 and
19 inserting the following:

20 "2. Upon the filing of a petition, the court shall
21 appoint counsel and a guardian ad litem for the child
22 identified in the petition as a party to the
23 proceedings. ~~Counsel shall be appointed as follows:~~
24 The guardian ad litem may be either an attorney or a
25 court appointed special advocate. The guardian ad
26 litem shall be independent of all other parties to the
27 proceeding. The same person may serve as both counsel
28 and guardian ad litem. If counsel and the guardian ad
29 litem are not the same person, the guardian ad litem
30 shall submit a report to counsel prior to any court
31 proceeding. An attorney who serves as counsel or
32 guardian ad litem shall be compensated pursuant to the
33 provisions of subsection 3."

34 3. Page 11, by striking lines 11 through 18 and
35 inserting the following:

36 "2. Upon the filing of a petition the court shall
37 appoint counsel and a guardian ad litem for the child
38 identified in the petition as a party to the
39 proceedings. The guardian ad litem may be either an
40 attorney or a court appointed special advocate. The
41 guardian ad litem shall be independent of all other
42 parties to the proceeding. The same person may serve
43 as both counsel and guardian ad litem. If counsel and
44 the guardian ad litem are not the same person, the
45 guardian ad litem shall submit a report to counsel
46 prior to any court proceeding."

47 4. Page 13, by striking lines 32 through 35 and
48 inserting the following:

49 "(1) The child has been adjudicated as a child in
50 need of assistance pursuant to section 232.96."

S-3502

Page 2

- 1 5. Page 16, line 4, by striking the word "only".
- 2 6. By renumbering as necessary.

By TOM MANN, Jr.

S-3502 FILED MARCH 31, 1989

SENATE FILE 478

S-3478

1 Amend Senate File 478 as follows:

2 1. Page 3, line 16, by inserting after the word
3 "include" the following: "a juvenile court officer
4 and".

5 2. By striking page 6, line 35 through page 7,
6 line 11 and inserting the following:

7 "Sec. ____ . Section 232.102, subsection 1,
8 paragraphs a, b, and c, Code 1989, are amended to read
9 as follows:

10 a. A relative or other suitable person for the
11 purpose of living with that person.

12 b. A child placing agency or other suitable
13 private agency, facility or institution which is
14 licensed or otherwise authorized by law to receive and
15 provide care for the child.

16 c. The department of human services or a juvenile
17 court officer for the purpose of foster care
18 placement."

19 3. Page 7, by striking lines 33 and 34 and
20 inserting the following:

21 "6. In any order transferring custody to the
22 department, juvenile court officer, or an agency
23 licensed by the department of human services or
24 department of public health to provide residential
25 treatment, or in orders pursuant to a custody order,
26 the court".

27 4. Page 8, by striking lines 4 and 5 and
28 inserting the following: "of the child to the
29 department of human services, juvenile court officer,
30 or other agency licensed by the department of human
31 services or department of public health to provide
32 residential treatment, for placement, the department,
33 juvenile court officer, or agency licensed by the
34 department of human services or department of public
35 health to provide residential treatment shall submit
36 a".

37 5. Page 8, by striking line 12, and inserting the
38 following: "foster care facility, the department,
39 juvenile court officer, or agency licensed by the
40 department of human services or department of public
41 health to provide residential treatment shall
42 consider".

43 6. Page 8, by striking lines 15 and 16, and
44 inserting the following: "other suitable person, the
45 court may direct the department, juvenile court
46 officer, or other agency licensed by the department of
47 human services or department of public health to
48 provide residential treatment to provide services to
49 the child's parent,".

50 7. Page 8, by striking lines 19 through 21 and

S-3478

Page 2

1 inserting the following: "custody to the department
2 of human services, juvenile court officer, or to
3 another agency licensed by the department of human
4 services or department of public health to provide
5 residential treatment for placement in foster group
6 care, the department, juvenile court officer, or
7 agency licensed by the department of human services or
8 department of public health to provide residential
9 treatment shall make every reasonable effort to place
10 the child".

11 8. Page 8, line 27, by inserting after the word
12 "department" the following: ", juvenile court
13 officer, or agency licensed by the department of human
14 services or department of public health to provide
15 residential treatment,".

16 9. Page 9, by striking lines 12 and 13 and
17 inserting the following: "foster care facility, the
18 department, or juvenile court officer, or agency
19 licensed by the department of human services or
20 department of public health to provide residential
21 treatment which is responsible for the placement of
22 the child shall consider placing the child in".

23 10. Renumber as necessary.

By DONALD V. DOYLE
TOM MANN, Jr.
EMIL HUSAK

S-3478 FILED MARCH 29, 1989

GENTLEMAN, CH.
HORN
MANN

SSB 237
JUDICIARY

SENATE FILE 472
BY (PROPOSED GOVERNOR'S BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the juvenile justice code and provisions
2 regarding child abuse, child in need of assistance,
3 termination of parental rights, and confidentiality of
4 information.

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

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1 Section 1. Section 232.2, subsection 1, Code 1989, is
2 amended to read as follows:

3 1. "Abandonment of a child" means the permanent
4 relinquishment or surrender, without reference to any
5 particular person, of the parental rights, duties, or
6 privileges inherent in the parent-child relationship. Proof
7 of abandonment must include both the intention to abandon and
8 the acts by which the intention is evidenced. The term does
9 not require that the relinquishment or surrender be over any
10 particular period of time. The term includes but is not
11 limited to a situation in which reasonable efforts over a two-
12 month period of time to locate a child's parent are shown to
13 be unsuccessful and a situation in which it is shown that a
14 child's parent has displayed gross or extreme parental
15 disinterest in the child during a reasonable period of time.

16 Sec. 2. Section 232.2, subsection 6, paragraph c, Code
17 1989, is amended to read as follows:

18 c. Who has suffered or is imminently likely to suffer
19 harmful effects as a result of either of the following:

20 (1) ~~Conditions-created-by~~ Mental injury caused by the acts
21 or omissions of the child's parent, guardian, custodian, or

22 (2) The failure of the child's parent, guardian, or
23 custodian to exercise a reasonable degree of care in
24 supervising the child.

25 Sec. 3. Section 232.2, Code 1989, is amended by adding the
26 following new subsections:

27 NEW SUBSECTION. 21A. "Imminent risk to a child's life or
28 health" means a substantial risk of harm to a child and
29 includes but is not limited to a situation in which a child
30 has suffered or is likely to suffer any of the following
31 occurrences and the child's safety cannot be assured:

- 32 a. A life threatening or permanently disabling event.
33 b. Abandonment.
34 c. Adult human bite marks.
35 d. Choking.

- 1 e. Head trauma.
- 2 f. Involuntary confinement or injury from confinement.
- 3 g. Multiple cigarette burns.
- 4 h. Multiple inflicted bruises or lacerations.
- 5 i. Poisoning.
- 6 j. Second or third degree burns.
- 7 k. Sexual abuse.
- 8 l. Shooting.
- 9 m. Skeletal injury.
- 10 n. Stabbing.
- 11 o. Terrorism.

12 NEW SUBSECTION. 31A. "Mental injury" means an injury to a
13 child's intellectual or psychological capacity as evidenced by
14 an observable and substantial impairment in the child's
15 ability to function within the child's normal range of
16 performance and behavior, considering the child's cultural
17 origin.

18 Sec. 4. Section 232.68, subsection 2, Code 1989, is
19 amended by adding the following new paragraph:

20 NEW PARAGRAPH. e. The acts or omissions of a person
21 responsible for the care of a child which result in or make it
22 extremely likely that the child will suffer a mental injury.

23 Sec. 5. Section 232.69, subsection 1, paragraph a, Code
24 1989, is amended to read as follows:

25 a. Every health practitioner who examines, attends, or
26 treats a child and who reasonably believes the child has been
27 abused. Notwithstanding section 140.3, this provision applies
28 to a health practitioner who receives information confirming
29 that a child is infected with a sexually transmitted disease.

30 Sec. 6. Section 232.71, subsection 1, Code 1989, is
31 amended to read as follows:

32 1. Whenever a report is determined to constitute a child
33 abuse allegation, the department of human services shall
34 promptly commence an appropriate investigation. The primary
35 purpose of this investigation shall be the protection of the

1 child named in the report. The department, within five
2 working days of commencing the investigation, shall provide
3 written notification of the investigation to the child's
4 parents. The department may provide oral notification of the
5 investigation to a person who expresses concern about the
6 child's safety to the department. However, if the department
7 shows the court to the court's satisfaction that notification
8 is likely to endanger the child or other persons, the court
9 shall issue an emergency order restraining the notification.

10 Sec. 7. Section 232.71, subsection 11, Code 1989, is
11 amended to read as follows:

12 11. If, upon completion of the investigation, the
13 department of human services determines that the best
14 interests of the child require juvenile court action, the
15 department shall take the appropriate action to initiate such
16 action under this chapter. The county attorney shall assist
17 the county department of human services ~~in-the-preparation-of~~
18 ~~the-necessary-papers-to-initiate-such-action-and-shall-appear~~
19 ~~and-represent-the-department-at-all-juvenile-court-proceedings~~
20 as provided under section 232.90, subsection 2.

21 Sec. 8. Section 232.71, Code 1989, is amended by adding
22 the following new subsection:

23 NEW SUBSECTION. 17. In each county or multicounty area in
24 which more than fifty child abuse reports are made per year,
25 the department shall establish a multidisciplinary team to
26 assist the department. The multidisciplinary team shall
27 assist the department in the assessment, diagnosis, and
28 disposition of a child abuse report and shall be notified by
29 the department to review any founded case of child abuse. A
30 multidisciplinary team is required to include members
31 representing professions relating to health, mental health,
32 child development, and law.

33 Sec. 9. Section 232.78, subsection 1, unnumbered paragraph
34 1 and paragraphs a and b, Code 1989, are amended to read as
35 follows:

1 The juvenile court may enter an ex parte order directing a
2 peace officer to ~~remove-a-child-from-the-child's-home-or-a~~
3 ~~child-day-care-facility~~ take custody of a child before or
4 after the filing of a petition under this chapter provided all
5 of the following apply:

6 a. The parent, guardian, legal custodian, or employee of
7 the child day care facility is absent, or though present, was
8 asked and refused to consent to the removal of the child and
9 was informed of an intent to apply for an order under this
10 section, ~~or-the-parent,-guardian,-or-legal-custodian-has-a~~
11 ~~prior-instance-of-flight-to-avoid-a-child-abuse-investigation~~
12 or there is reasonable cause to believe that a request for
13 consent would further endanger the child, or there is
14 reasonable cause to believe that a request for consent will
15 cause the parent, guardian, or legal custodian to take flight
16 with the child.

17 b. It appears that the child's immediate removal is
18 necessary to avoid imminent danger risk to the child's life or
19 health.

20 Sec. 10. Section 232.79, subsection 1, unnumbered
21 paragraph 1 and paragraph a, Code 1989, are amended to read as
22 follows:

23 A peace officer may ~~remove-a-child-from-the-child's-home-or~~
24 ~~a-child-day-care-facility~~ take a child into custody or a
25 physician treating a child may keep the child in custody
26 without a court order as required under section 232.78 and
27 without the consent of a parent, guardian, or custodian
28 provided that both of the following apply:

29 a. The child is in such a circumstance or condition that
30 ~~the-child's-continued-presence-in-the-residence-or-the-child~~
31 ~~day-care-facility-or-in-the-care-or-custody-of-the-parent,-~~
32 ~~guardian,-or-custodian~~ presents an imminent danger risk to the
33 child's life or health.

34 Sec. 11. Section 232.89, subsection 2, Code 1989, is
35 amended to read as follows:

1 2. Upon the filing of a petition, the court shall appoint
2 ~~counsel and~~ a guardian ad litem for the child identified in
3 the petition as a party to the proceedings. ~~Counsel shall be~~
4 ~~appointed as follows:~~ The guardian ad litem may be either an
5 attorney or a court appointed special advocate. The guardian
6 ad litem shall be independent of all other parties to the
7 proceeding. If a court appointed special advocate is
8 appointed as the guardian ad litem, counsel shall be appointed
9 to represent the child in court. An attorney who serves as
10 guardian ad litem or who represents the child in court
11 proceedings shall be compensated pursuant to the provisions of
12 subsection 3.

13 ~~a.---If the child is represented by counsel and the court~~
14 ~~determines there is a conflict of interest between the child~~
15 ~~and the child's parent, guardian or custodian and that the~~
16 ~~retained counsel could not properly represent the child as a~~
17 ~~result of the conflict, the court shall appoint other counsel~~
18 ~~to represent the child, who shall be compensated pursuant to~~
19 ~~the provisions of subsection 3.~~

20 ~~b.---If the child is not represented by counsel, the court~~
21 ~~shall either order the parent, guardian or custodian to retain~~
22 ~~counsel for the child or shall appoint counsel for the child,~~
23 ~~who shall be compensated pursuant to the provisions of~~
24 ~~subsection 3.~~

25 Sec. 12. Section 232.89, subsection 4, Code 1989, is
26 amended by striking the subsection.

27 Sec. 13. Section 232.89, subsection 5, Code 1989, is
28 amended to read as follows:

29 5. ~~The court may appoint~~ If the court appoints a special
30 ~~advocate, as defined in section 232.2, subsection 9A,~~ to act
31 as guardian ad litem:--The, the court appointed special
32 advocate shall receive notice of and may attend all
33 depositions, hearings, and trial proceedings to support the
34 child and advocate for the protection of the child. The court
35 ~~appointed special advocate shall not be allowed to separately~~

1 ~~introduce-evidence-or-to-directly-examine-or-cross-examine~~
2 ~~witnesses---~~However, the court appointed special advocate
3 shall file reports to the court as required by the court.

4 Sec. 14. Section 232.89, Code 1989, is amended by adding
5 the following new subsection:

6 NEW SUBSECTION. 6. The duties of a guardian ad litem,
7 whether an attorney or a court appointed special advocate,
8 include but are not limited to all of the following:

- 9 a. Attending each of the child's court hearings.
- 10 b. Reviewing each of the child's social reports,
11 examination reports, and case permanency plans.
- 12 c. Reviewing each of the child's reports of significant
13 developments and any reports of abuse of the child.
- 14 d. Representing the child's best interests.
- 15 e. Conducting further investigations.
- 16 f. Interviewing and observing the child.
- 17 g. Submitting recommendations to the court.

18 Sec. 15. Section 232.90, Code 1989, is amended to read as
19 follows:

20 232.90 DUTIES OF COUNTY ATTORNEY.

21 1. The county attorney shall represent the state in
22 proceedings arising from a petition filed under this division
23 and shall present evidence in support of the petition. The
24 county attorney shall be present at proceedings initiated by
25 petition under this division filed by an intake officer or the
26 county attorney, or if a party to the proceedings contests the
27 proceedings, or if the court determines there is a conflict of
28 interest between the child and the child's parent, guardian,
29 or custodian or if there are contested issues before the
30 court.

31 2. The county attorney shall represent the department in
32 proceedings arising under this division. However, if the
33 department or the county attorney determines that the
34 interests of the department differ from the interests of the
35 state, the department may request to be represented by the

1 attorney general in place of the county attorney.

2 Sec. 16. Section 232.92, Code 1989, is amended by striking
3 the section and inserting in lieu thereof the following:

4 232.92 EXCLUSION OF PUBLIC FROM HEARINGS.

5 Hearings held under this division are open to the public
6 unless the court, on the motion of any of the parties or upon
7 the court's own motion, excludes the public. The court shall
8 exclude the public from a hearing only if the court determines
9 that the possibility of damage or harm to the child outweighs
10 the public's interest in having an open hearing. Upon closing
11 the hearing to the public, the court may admit those persons
12 who have direct interest in the case or in the work of the
13 court.

14 Sec. 17. Section 232.102, subsection 1, Code 1989, is
15 amended to read as follows:

16 1. After a dispositional hearing the court may enter an
17 order transferring the legal custody of the child to one
18 either of the following for purposes of placement:

19 a. A relative or other suitable person for the purpose of
20 living with that person.

21 ~~b. A child-placing-agency-or-other-suitable-private~~
22 ~~agency,-facility-or-institution-which-is-licensed-or-otherwise~~
23 ~~authorized-by-law-to-receive-and-provide-care-for-the-child-~~

24 e b. The department of human services for the purpose of
25 foster care placement.

26 Sec. 18. Section 232.102, subsection 4, Code 1989, is
27 amended to read as follows:

28 4. Whenever possible the court should permit the child to
29 remain at home with the child's parent, guardian, or
30 custodian. Custody of the child should not be transferred
31 unless the court finds there is clear and convincing evidence
32 that either of the following conditions exist:

33 a. The child cannot be protected from physical abuse
34 without transfer of custody~~-or.~~

35 b. The child cannot be protected from some harm which

1 would justify the adjudication of the child as a child in need
2 of assistance and an adequate placement is available.

3 The order shall ~~in addition~~, contain a statement that
4 removal from the home is the result of a determination that
5 continuation therein in the home would be contrary to the
6 welfare of the child, and that reasonable efforts have been
7 made to prevent or eliminate the need for removal of the child
8 from the child's home, and that the removal proceedings may
9 result in a termination of parental rights.

10 Sec. 19. Section 232.102, subsection 6, Code 1989, is
11 amended to read as follows:

12 6. In any order transferring custody to the department or
13 ~~an agency~~, or in orders pursuant to a custody order, the court
14 shall specify the nature and category of disposition which
15 will serve the best interests of the child, and shall
16 prescribe the means by which the placement shall be monitored
17 by the court. If the court orders the transfer of the custody
18 of the child to the department of human services ~~or other~~
19 ~~agency~~ for placement, the department ~~or agency~~ shall submit a
20 case permanency plan to the court and shall make ~~every effort~~
21 reasonable efforts to eliminate the causes for the removal of
22 the child and return the child to the child's home as quickly
23 as possible consistent with the best ~~interest~~ interests of the
24 child. ~~When~~ If the child is not returned to the child's home
25 and if the child has been previously placed in a licensed
26 foster care facility, the department ~~or agency~~ shall consider
27 placing the child in the same licensed foster care facility.
28 If the court orders the transfer of custody to a relative or
29 other suitable person, the court may direct the department or
30 ~~other agency~~ to provide services to the child's parent,
31 guardian, or custodian in order to enable them to resume
32 custody of the child. If the court orders the transfer of
33 custody to the department of human services ~~or to another~~
34 ~~agency~~ for placement in foster group care, the department or
35 agency shall make every reasonable effort to place the child

1 within Iowa, in the least restrictive setting available, and
2 in close proximity to the parents' home, consistent with the
3 child's best interests and special needs.

4 Sec. 20. Section 232.102, subsection 7, unnumbered
5 paragraph 1, Code 1989, is amended to read as follows:

6 ~~An-agency, facility, institution,~~ The department or person
7 to whom custody of the child has been transferred pursuant to
8 this section shall file a written report with the court at
9 least every six months concerning the status and progress of
10 the child. The court shall hold a periodic dispositional
11 review hearing for each child in placement pursuant to this
12 section in order to determine whether the child should be
13 returned home, an extension of the placement should be made, a
14 permanency hearing should be held, or a termination of the
15 parent-child relationship proceeding should be instituted.
16 The placement shall be terminated and the child returned to
17 the child's home if the court finds by a preponderance of the
18 evidence that the child will not suffer harm in the manner
19 specified in section 232.2, subsection 6. If the placement is
20 extended, the court shall determine whether additional
21 services are necessary to facilitate the return of the child
22 to the child's home, and if the court determines such services
23 are needed, the court shall order the provision of such
24 services. When the child is not returned to the child's home
25 and if the child has been previously placed in a licensed
26 foster care facility, the ~~department or agency responsible for~~
27 ~~the placement of the child~~ shall consider placing the child in
28 the same licensed foster care facility.

29 Sec. 21. Section 232.103, subsection 2, paragraph e, Code
30 1989, is amended to read as follows:

31 e. ~~An-agency, facility, institution or~~ A person to whom
32 legal custody has been transferred pursuant to a dispositional
33 order.

34 Sec. 22. Section 232.104, unnumbered paragraph 1, Code
35 1989, is amended to read as follows:

1 If custody-of a child has been transferred-for-placement
2 pursuant-to-section-232-102 placed in foster care for a period
3 of twelve months, or if the prior legal custodian of a child
4 has abandoned efforts to regain custody of the child, the
5 court shall, on its own motion, or upon application by any
6 interested party, including the child's foster parent if the
7 child has been placed with the foster parent for at least
8 twelve months, hold a hearing to consider the issue of the
9 establishment of permanency for the child.

10 Sec. 23. NEW SECTION. 232.105 CHILD IN NEED OF
11 ASSISTANCE REVIEW COMMITTEE.

12 1. The governor may establish a temporary committee to
13 review a child in need of assistance case in which the media
14 or a party to the case has publicly questioned the actions of
15 the department in the case.

16 2. The governor shall appoint members who have expertise
17 regarding child protective services and representatives of the
18 public.

19 3. The members of the committee shall appoint a
20 chairperson and a vice chairperson and other officers as the
21 committee deems necessary. Members of the committee shall
22 receive actual expenses for their services.

23 4. Notwithstanding sections 217.30, 232.147, and 237.9,
24 and chapter 235A, the committee shall have access to the
25 records of the court, the department, and other persons in
26 regard to a case reviewed by the committee.

27 5. The committee shall publicly issue a report on a case
28 which the committee reviews. The committee may release
29 information that will assist the public in understanding the
30 actions of the department regarding the case. However, the
31 information shall not identify a particular individual or
32 person and shall not be likely to be harmful to the emotional
33 health or welfare of a child related to the case. The
34 committee may recommend to the court pursuant to section
35 232.106 that confidential information be released.

1 Sec. 24. NEW SECTION. 232.106 HEARING REGARDING RELEASE
2 OF INFORMATION.

3 1. The court shall have jurisdiction over a hearing held
4 in the public interest regarding the release of information
5 relating to a child in need of assistance case.

6 2. A hearing shall be held if a petition is filed alleging
7 that information should be released to the public to affect
8 the safety of a particular child or to affect the well-being
9 of a particular class of children. A petition may be filed by
10 an interested person.

11 3. Upon the filing of a petition, the court shall fix a
12 time for a hearing and give notice of the hearing to the
13 department, the child, and the child's parent, guardian, and
14 guardian ad litem.

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

17 5. The court shall rule on whether or not to release
18 information based on consideration of the following factors:

19 a. The extent of anticipated harm to an individual based
20 on the known facts.

21 b. The significance of the public's need for the
22 information regarding the performance of entities responsible
23 for child protection.

24 c. Whether there has been a waiver of confidentiality by
25 the speech or conduct of a parent or the child's counsel.

26 6. Notwithstanding sections 217.30, 232.147, and 237.9,
27 and chapter 235A, the court may release all or portions of the
28 following information following the hearing:

29 a. Records of the department of human services.

30 b. Records of the court.

31 c. Records of a private agency providing care or treatment
32 to the child or family.

33 d. Records of the department of inspections and appeals.

34 e. A summary of information from any of the records
35 identified under this subsection.

1 Sec. 25. Section 232.112, subsection 2, Code 1989, is
2 amended to read as follows:

3 2. Prior to the service of notice on the necessary
4 parties, the juvenile court shall appoint a guardian ad litem
5 for a child if the child does not have a ~~guardian or guardian~~
6 ~~ad litem or if the interests of the guardian or guardian ad~~
7 ~~litem conflict with the interests of the child.~~ The guardian
8 ad litem shall be independent of any other party to the
9 proceeding. Such The guardian ad litem shall be a necessary
10 party under subsection 1. The duties of the guardian ad litem
11 shall be in accordance with and subject to the provisions of
12 section 232.89.

13 Sec. 26. Section 232.113, subsection 2, Code 1989, is
14 amended by striking the subsection and inserting in lieu
15 thereof the following:

16 2. Upon the filing of a petition the court shall appoint a
17 guardian ad litem for the child identified in the petition as
18 a party to the proceedings. The guardian ad litem may be
19 either an attorney or a court appointed special advocate. The
20 guardian ad litem shall be independent of all other parties to
21 the proceeding. If a court appointed special advocate is
22 appointed as the guardian ad litem, counsel shall be appointed
23 to represent the child in court.

24 Sec. 27. Section 232.114, Code 1989, is amended to read as
25 follows:

26 232.114 DUTIES OF COUNTY ATTORNEY.

27 1. Upon the filing of a petition the county attorney shall
28 represent the state in all adversary proceedings arising under
29 this division and shall present evidence in support of the
30 petition.

31 2. The county attorney shall represent the department in
32 proceedings arising under this division. However, if the
33 department or the county attorney determines that the
34 interests of the department differ from the interests of the
35 state, the department may request to be represented by the

1 attorney general in place of the county attorney.

2 Sec. 28. Section 232.116, subsection 1, paragraph c, Code
3 1989, is amended by striking the paragraph and inserting in
4 lieu thereof the following:

5 c. The court finds that both of the following have
6 occurred:

7 (1) The court has previously adjudicated the child to be a
8 child in need of assistance after finding the child to have
9 been physically or sexually abused or neglected as the result
10 of the acts or omissions of one or both parents, or the court
11 has previously adjudicated a child who is a member of the same
12 family to be a child in need of assistance after such a
13 finding.

14 (2) Subsequent to the child in need of assistance
15 adjudication, the parents were offered or received services to
16 correct the circumstance which led to the adjudication, and
17 the child is found to have been subsequently physically or
18 sexually abused or neglected as the result of the acts or
19 omissions of one or both parents.

20 Sec. 29. Section 232.116, subsection 1, paragraphs d and
21 e, Code 1989, are amended to read as follows:

22 d. The court finds that all of the following have
23 occurred:

24 (1) The child has been adjudicated a child in need of
25 assistance pursuant to section 232.96.

26 (2) The custody of the child has been transferred from the
27 child's parents for placement pursuant to section 232.102 and
28 the placement has lasted for a period of at least six
29 consecutive months.

30 ~~(3) -- There is clear and convincing evidence that the child~~
31 ~~cannot be returned to the custody of the child's parents as~~
32 ~~provided in section 232.102.~~

33 (4 3) There is clear and convincing evidence that the
34 parents have not maintained significant and meaningful contact
35 with the child during the previous six consecutive months and

1 have made no reasonable efforts to resume care of the child
2 despite being given the opportunity to do so.

3 e. The court finds that all of the following have
4 occurred:

5 (1) The child is four years of age or older.

6 (2) The child has been adjudicated a child in need of
7 assistance pursuant to section 232.96.

8 (3) The custody of the child has been transferred from
9 the child's parents for placement pursuant to section 232.102
10 for at least twelve of the last eighteen months, or for the
11 last twelve consecutive months and any trial period at home
12 has been less than thirty days.

13 (4) There is clear and convincing evidence that at the
14 present time the child cannot be returned to the custody of
15 the child's parents as provided in section 232.102.

16 Sec. 30. Section 232.116, subsection 1, paragraph f,
17 subparagraph (3), Code 1989, is amended by striking the
18 subparagraph.

19 Sec. 31. Section 232.116, subsection 1, Code 1989, is
20 amended by adding the following new paragraphs:

21 NEW PARAGRAPH. g. The court finds that all of the
22 following have occurred:

23 (1) The child is three years of age or younger.

24 (2) The child has been adjudicated a child in need of
25 assistance pursuant to section 232.96.

26 (3) The custody of the child has been transferred from the
27 child's parents for placement pursuant to section 232.102 for
28 at least six months of the last twelve months, or for the last
29 six consecutive months and any trial period at home has been
30 less than thirty days.

31 (4) There is clear and convincing evidence that the child
32 cannot be returned to the custody of the child's parents as
33 provided in section 232.102 at the present time.

34 NEW PARAGRAPH. h. The court finds that both of the
35 following have occurred:

1 (1) The child meets the definition of child in need of
2 assistance based on a finding of physical or sexual abuse or
3 neglect as a result of the acts or omissions of one or both
4 parents.

5 (2) There is clear and convincing evidence that the abuse
6 or neglect of the child is so severe, extreme, or repeated
7 that provision of services would present an unacceptable risk
8 to the child.

9 NEW PARAGRAPH. i. The court finds that both of the
10 following have occurred:

11 (1) The child has been adjudicated a child in need of
12 assistance pursuant to section 232.96 and custody has been
13 transferred from the child's parents for placement pursuant to
14 section 232.102.

15 (2) The parent has been imprisoned for a felony or a crime
16 against the child, the child's sibling, or another child in
17 the household, or the parent has been imprisoned and it is
18 unlikely that the parent will be released from prison for a
19 period of five or more years.

20 NEW PARAGRAPH. j. The court finds that all of the
21 following have occurred:

22 (1) The child has been adjudicated a child in need of
23 assistance pursuant to section 232.96 and custody has been
24 transferred from the child's parents for placement pursuant to
25 section 232.102.

26 (2) The parent has a chronic mental illness and has been
27 repeatedly institutionalized.

28 (3) There is clear and convincing evidence that the
29 parent's prognosis indicates that the child will not be able
30 to be returned to the custody of the parent within a
31 reasonable period of time considering the child's age and need
32 for a permanent home.

33 NEW PARAGRAPH. k. The court finds that all of the
34 following have occurred:

35 (1) The child has been adjudicated a child in need of

1 assistance pursuant to section 232.96 and custody has been
2 transferred from the child's parents for placement pursuant to
3 section 232.102.

4 (2) The parent has a severe, chronic substance abuse
5 problem.

6 (3) There is clear and convincing evidence that the
7 parent's prognosis indicates that the child will not be able
8 to be returned to the custody of the parent within a
9 reasonable period of time considering the child's age and need
10 for a permanent home.

11 Sec. 32. Section 232.116, subsection 2, unnumbered
12 paragraph 1, Code 1989, is amended to read as follows:

13 In considering whether to terminate the rights of a parent
14 under this section, the court shall give primary consideration
15 to the physical, mental, and emotional condition and needs of
16 the child--~~Such consideration may include, including but not~~
17 limited to any of the following:

18 Sec. 33. Section 232.116, subsection 3, Code 1989, is
19 amended by adding the following new paragraphs:

20 NEW PARAGRAPH. f. A secure and appropriate placement is
21 available to the child without terminating the relationship
22 between the parent and child.

23 NEW PARAGRAPH. g. It is in the best interest of the
24 child.

25 Sec. 34. Section 232.117, subsection 5, Code 1989, is
26 amended to read as follows:

27 5. If the court orders the termination of parental rights
28 and transfers guardianship and custody under subsection 3, the
29 ~~department of human services or the agency responsible for the~~
30 placement guardian shall submit a case permanency plan to the
31 court and shall make every effort to establish a stable
32 placement for the child by adoption or other permanent
33 placement. Within forty-five days of the termination order,
34 the guardian shall report to the court regarding efforts made
35 to place the child for adoption or providing the rationale as

1 to why adoption would not be in the child's best interest.

2 Sec. 35. Section 232.117, Code 1989, is amended by adding
3 the following new subsection:

4 NEW SUBSECTION. 8. Hearings held under this division are
5 open to the public unless the court, on the motion of any of
6 the parties or upon the court's own motion, excludes the
7 public. The court shall exclude the public from a hearing
8 only if the court determines that the possibility of damage or
9 harm to the child outweighs the public's interest in having a
10 public hearing. Upon closing the hearing, the court may admit
11 persons who have a direct interest in the case or in the work
12 of the court.

13 Sec. 36. NEW SECTION. 232.120 PUBLIC INFORMATION.

14 Information pertaining to a termination of parental rights
15 case under this division shall be released to the public
16 according to the provisions of sections 232.105 and 232.106.

17 Sec. 37. Section 234.36, Code 1989, is amended to read as
18 follows:

19 234.36 WHEN COUNTY TO PAY FOSTER CARE COSTS.

20 Each county shall pay the cost of foster care for a child
21 placed by a court as provided in section 232.50 ~~or section~~
22 ~~232-99~~. However, in any fiscal year for which the general
23 assembly appropriates state funds to pay for foster care for
24 children placed by courts under ~~sections~~ section 232.50 and
25 ~~232-99~~, the county is responsible for these costs only when
26 the funds so appropriated to the department for that fiscal
27 year have been exhausted. The rate of payment by the county
28 or the state under this section shall be that fixed by the
29 department of human services pursuant to section 234.38.

30 Sec. 38. Section 235A.15, subsection 2, paragraph c, Code
31 1989, is amended to read as follows:

32 c. Individuals, agencies, or facilities providing care to
33 a child ~~as follows~~ that have a need to know the circumstances
34 of the abuse of the child which includes but is not limited to
35 any of the following situations:

1 Sec. 39. Section 235A.15, subsection 2, paragraph c, Code
2 1989, is amended by adding the following new subparagraphs:

3 NEW SUBPARAGRAPH. (5) To an employee of an educational
4 institution who is responsible for the education of the child.

5 NEW SUBPARAGRAPH. (6) To a person developing or
6 implementing a case permanency plan for a child or the child's
7 family, including the child's foster parents.

8 NEW SUBPARAGRAPH. (7) To a person providing health care
9 or treatment to the child or members of the child's family.

10 NEW SUBPARAGRAPH. (8) To the citizens' aide.

11 NEW SUBPARAGRAPH. (9) To a child in need of assistance
12 review committee created under section 232.105.

13 NEW SUBPARAGRAPH. (10) To a person providing public
14 health services to a child or the child's family.

15 Sec. 40. Section 600A.2, subsection 16, Code 1989, is
16 amended to read as follows:

17 16. "To abandon a minor child" means to permanently
18 relinquish or surrender, without reference to any particular
19 person, the parental rights, duties, or privileges inherent in
20 the parent-child relationship. The term includes both the
21 intention to abandon and the acts by which the intention is
22 evidenced. The term does not require that the relinquishment
23 or surrender be over any particular period of time.

24 EXPLANATION

25 This bill relates to child protection provisions of the
26 juvenile justice chapter and related chapters.

27 The definition of "abandonment of a child" is amended to
28 remove the requirement that abandonment be permanent and to
29 include a two-month time period of unsuccessful search for a
30 parent or parents or a showing that a parent or parents have
31 displayed gross or extreme disinterest in the child over a
32 reasonable period of time.

33 A new definition of "imminent risk to a child's life or
34 health" includes certain specific acts of child abuse which a
35 child has suffered or is likely to suffer in cases where the

1 child's safety cannot be assured.

2 A definition of the term "mental injury" means an injury to
3 a child's intellectual or psychological capacity as indicated
4 by certain evidence. The definition of a child in need of
5 assistance is amended by inserting mental injury caused by the
6 acts or omissions of the child's parent, guardian, or
7 custodian in place of unspecified conditions.

8 An exception is made relating to confidentiality provisions
9 for sexually transmitted disease reporting by requiring a
10 health care practitioner who receives information confirming
11 that a child is infected with a sexually transmitted disease
12 and believes the child has been abused to report to the
13 department of human services. Within five working days of
14 commencing a child abuse investigation, the department is
15 required to notify the child's parents and may notify other
16 persons who express concern about the safety of the child
17 unless an emergency court order is obtained by a showing that
18 notification will endanger the child or others.

19 A requirement that the county attorney represent the
20 department is made subject to an exception.

21 A multidisciplinary team is required to be established by
22 the department of human services in each county or multicounty
23 area in which there are 50 or more child abuse reports per
24 year. The team is to assist the department in assessment,
25 diagnosis, and disposition relating to child abuse reports and
26 to review cases in which the department finds abuse has
27 occurred. Professionals in occupations pertaining to children
28 are specified to be members of a team.

29 A provision is amended which required certain procedures
30 relating to notification and consent of persons with authority
31 over a child when an ex parte order to temporarily remove the
32 child is requested to permit the removal of the child when it
33 can be shown that requesting consent for removal may endanger
34 the child or cause the person responsible for the child to
35 flee with the child. The term "imminent danger" in the

1 standard for removal is changed to "imminent risk". A related
2 provision permitting a peace officer or a physician treating
3 the child to remove the child to ensure the child's safety is
4 amended by changing the term "remove" to "take into custody"
5 and striking limitations on locations from which the child may
6 be removed.

7 Provisions relating to the court's appointment of a
8 guardian ad litem, counsel, and a court appointed special
9 advocate (CASA) in child in need of assistance proceedings are
10 amended. Either an attorney or a CASA may be appointed as the
11 child's guardian ad litem, but if a CASA is appointed, counsel
12 is required to be appointed to represent the child. A
13 guardian ad litem is required to be independent of all other
14 parties to the proceeding. A provision requiring the court to
15 appoint both counsel and a guardian ad litem for the child
16 when the same person cannot represent the child's legal
17 interests and best interests simultaneously is stricken. A
18 provision relating to the court appointed special advocate is
19 amended to strike an unnecessary citation. Duties of a
20 guardian ad litem are specified.

21 The provision requiring the county attorney to represent
22 the state in child in need of assistance proceedings is
23 amended to include representation of the department of human
24 services. The department or the county attorney is permitted
25 to request that the department be represented by the attorney
26 general if either determines that the interests of the
27 department differ from the interests of the state.

28 The options available to the court when transferring the
29 legal custody of the child are amended to limit the options to
30 a relative or other suitable person with whom the child will
31 live or the department of human services. Under current law
32 the court can also transfer custody to a person with whom the
33 child will not live, a child placing agency, or other suitable
34 private agency, facility, or institution which is licensed or
35 otherwise authorized by law to receive and provide care for

1 the child.

2 After a dispositional hearing to transfer legal custody of
3 a child, an order is required to contain a statement that the
4 proceedings may result in a termination of parental rights.
5 When custody is transferred to the department of human
6 services, the current requirement to make "every effort" to
7 return the child to the child's home is amended to be
8 "reasonable efforts" and include reasonable efforts to
9 eliminate the causes for the child's removal.

10 The provision for a hearing to establish permanency for a
11 child is amended to provide that an interested party who can
12 request such a hearing includes the child's foster parent if
13 the child has been placed with the foster parent for at least
14 12 months.

15 The governor may appoint a temporary child in need of
16 assistance review committee to review a CINA case in which the
17 actions of the department have been publicly questioned.
18 Specifications are provided for members, access to
19 confidential records, reporting requirements, and public
20 release of information which is nonidentifying.

21 The juvenile court is given jurisdiction over release of
22 confidential information in the public interest regarding a
23 CINA case. Standards are provided for types of cases to be
24 heard, notice to interested parties, hearing requirements,
25 bases for decision making, and access to confidential
26 information.

27 Coordinating provisions relating to appointment and duties
28 of counsel, the guardian ad litem, the court appointed special
29 advocate, and the county attorney are provided in the division
30 regarding the termination of parental rights.

31 Grounds for termination of parental rights when physical or
32 sexual abuse of the child has been found are amended by adding
33 neglect to the standard and the requirement for clear and
34 convincing evidence that the parents either refused services
35 to correct the abusive situation or the services failed to

1 correct the situation is replaced by a showing that services
2 were offered or received and abuse and neglect has occurred
3 again.

4 Grounds for termination of parental rights when the child
5 has been adjudicated as a CINA, custody of the child has been
6 transferred for more than six months, and the parents have not
7 maintained contact for six months is amended. The parental
8 contact standard is narrowed to require "significant and
9 meaningful contact" and a requirement for clear and convincing
10 evidence that the child cannot be returned to the custody of
11 the child's parents is stricken.

12 Grounds for termination of parental rights when the child
13 has been adjudicated as a CINA, custody of the child has been
14 transferred from the parents for at least 12 of the preceding
15 18 months, and there is clear and convincing evidence that the
16 child cannot be returned to the parents are amended to require
17 that the child be at least four years of age to add an
18 additional time frame of the preceding 12 months as long as
19 any home trial period has been less than 30 days.

20 Grounds for termination of parental rights when the child
21 has been adjudicated as a CINA, the court previously
22 terminated parental rights for a child who is a member of the
23 same family, and there is clear and convincing evidence that
24 the parent does not or cannot respond to corrective services
25 and permitting additional time would not correct the situation
26 are amended by striking the requirement that there be clear
27 and convincing evidence that the child cannot be returned or
28 placed in the custody of the child's parents.

29 Additional grounds for termination of parental rights are
30 provided. Parental rights could be terminated if the child
31 has been adjudicated as a CINA, is less than four years old,
32 has been placed away from the parent for six of the last
33 twelve months or for the last six months, as long as any home
34 trial period has been less than 30 days, and there is clear
35 and convincing evidence that the child cannot be returned to

1 the parent's custody at the present time; if the child meets
2 the criteria to be found a CINA based on a finding of physical
3 or sexual abuse or neglect and there is clear and convincing
4 evidence that the abuse or neglect is so severe, extreme, or
5 repeated that providing corrective services would be an
6 unacceptable risk to the child; if the child has been
7 adjudicated as a CINA and custody transferred, and the parent
8 has been imprisoned for a felony or a crime against the child
9 or another child in the household or the parent is imprisoned
10 and is unlikely to be released for five years or more; if the
11 child has been adjudicated as a CINA and custody transferred,
12 the parent has a chronic mental illness and has been
13 repeatedly institutionalized, and there is clear and
14 convincing evidence that the parent's prognosis will not
15 permit the child's return within a reasonable period of time;
16 if the child has been adjudicated as a CINA and custody
17 transferred, the parent has a severe, chronic substance abuse
18 problem, and there is clear and convincing evidence that a
19 parent's prognosis indicates that the child cannot return to
20 the parent within a reasonable period of time.

21 Additional reasons for not terminating parental rights are
22 provided when the court finds that a secure and appropriate
23 placement is available without terminating parental rights or
24 that not terminating parental rights is in the best interests
25 of the child.

26 Following the termination of parental rights and transfer
27 of guardianship, the guardian is required to report to the
28 court within 45 days regarding the guardian's efforts to place
29 the child for adoption or the reasons as to why the adoption
30 would not be in the child's best interest.

31 Termination of parental rights hearings are required to be
32 open to the public unless the court determines according to
33 specified criteria that a hearing should be closed. If the
34 hearing is closed, the court may admit certain persons. A
35 provision is added which states that termination of parental

1 rights information is subject to the new provisions regarding
2 release of child in need of assistance information.

3 A reference to child in need of assistance dispositions is
4 stricken in the county payment of foster care costs section.

5 Certain provisions relating to child abuse reports are
6 amended. Language authorizing access to child abuse
7 information is broadened to include persons who were providing
8 care to a victim of child abuse and others not enumerated.

9 New provisions specifically include certain employees of
10 education institutions; certain persons involved with a
11 child's case permanency plan, including the child's foster
12 parents; certain health care providers; the Iowa citizen's
13 aide; a child in need of assistance review committee; and a
14 person providing public health services to the child or the
15 child's family.

16 The definition of the term "to abandon a minor child" in
17 the termination of parental rights chapter (chapter 600A) is
18 amended to strike the requirement that the relinquishment of
19 parental rights, duties, or privileges be permanent.

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