

Amended Senate File 2175 (cf 2175)

SENATE FILE 2175
BY CORNING

(COMPANION TO LSB 7638H BY
VAN MAANEN)

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

A BILL FOR

1 An Act relating to juvenile justice by amending Code provisions
2 regarding department of human services records, children in
3 need of assistance, the child abuse information registry, and
4 adoption.

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

SENATE FILE 2175
FISCAL NOTE

A fiscal note for Senate File 2175 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 2175 increases the number of persons who have access to confidential information, to include persons conducting research for the purpose of evaluating or improving service delivery. The bill also expands the definition of child in need of assistance (CINA) to include a child who is imminently likely to be sexually abused. The Department of Human Services is required to make every reasonable effort to return a child in custody to the child's home as quickly as possible, consistent with the best interests of the child. The Department or County Attorney is authorized to request that the Attorney-General represent the Department in place of the County Attorney.

Fiscal Impact:
Senate File 2175 is estimated to have a minimal fiscal impact. There will be a small increase in time spent by Department of Human Services staff on releasing confidential information. Most juvenile courts are already granting CINA petitions on children in imminent danger of sexual abuse. The Attorney-General has been representing the Department upon request under existing statutes. Courts are already interpreting current law as requiring reasonable efforts; further clarifying this as the standard may move children into adoption status earlier, thereby reducing foster care expenses.

Source: Department of Human Services (LSB 7638H, MN)

FILED FEBRUARY 22, 1990 BY DENNIS PROUTY, FISCAL DIRECTOR

SE 2175

1 Section 1. Section 217.30, subsection 2, Code 1989, is
2 amended to read as follows:

3 2. Information described in subsection 1 shall not be
4 disclosed to or used by any person or agency except for
5 purposes of administration of the programs of services or
6 assistance, and shall not in any case, except as otherwise
7 provided in subsection 4, ~~paragraph~~ paragraphs "b" and "e", be
8 disclosed to or used by persons or agencies outside the
9 department unless they are subject to standards of
10 confidentiality comparable to those imposed on the department
11 by this division.

12 Sec. 2. Section 217.30, subsection 4, Code 1989, is
13 amended by adding the following new paragraph:

14 NEW PARAGRAPH. e. Confidential information described in
15 subsection 1 may be disclosed pursuant to section 232.147 to a
16 person conducting research for the purpose of evaluating or
17 improving service delivery by the department.

18 Sec. 3. Section 232.2, subsection 6, paragraph d, Code
19 Supplement 1989, is amended to read as follows:

20 d. Who has been or is imminently likely to be sexually
21 abused by the child's parent, guardian, custodian or other
22 member of the household in which the child resides.

23 Sec. 4. Section 232.78, subsection 1, paragraph a, Code
24 Supplement 1989, is amended by striking the paragraph.

25 Sec. 5. Section 232.90, subsection 2, Code Supplement
26 1989, is amended to read as follows:

27 2. The county attorney shall represent the department in
28 proceedings arising under this division. ~~However, if there is~~
29 ~~disagreement between the department and the county attorney~~
30 ~~regarding the appropriate action to be taken~~ at the request of
31 the county attorney or the department, the department may
32 ~~request to be represented by the attorney general in place of~~
33 the county attorney.

34 Sec. 6. Section 232.102, subsection 6, Code 1989, is
35 amended to read as follows:

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

27 Sec. 7. Section 232.114, subsection 2, Code Supplement
28 1989, is amended to read as follows:

29 2. The county attorney shall represent the department in
30 proceedings arising under this division. However, ~~if there is~~
31 ~~disagreement between the department and the county attorney~~
32 ~~regarding the appropriate action to be taken~~ at the request of
33 the county attorney or the department, the department may
34 ~~request to be represented by the attorney general in place of~~
35 the county attorney.

1 Sec. 8. Section 232.147, Code 1989, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 7. The court may issue an order
4 authorizing a juvenile court officer or the department to
5 discuss the contents of a child's official juvenile court
6 record or the child's or family's social report with a person
7 not otherwise authorized to receive such information. The
8 court may issue such an order without a hearing if the child's
9 parent, guardian, or custodian, and guardian ad litem have
10 signed a release of information and if the court knows of no
11 reason that such disclosure would be harmful to the child.
12 The person to whom the information is disclosed shall not
13 redisclose the information, unless the court order authorizes
14 redisclosure. The department shall adopt administrative rules
15 to implement this subsection as it relates to department
16 records.

17 Sec. 9. Section 235A.15, subsection 2, paragraph c, Code
18 Supplement 1989, is amended by adding the following new
19 subparagraph:

20 NEW SUBPARAGRAPH. (6) To an employee of an educational
21 institution who is a designated investigator identified in the
22 procedures prescribed pursuant to section 280.17.

23 Sec. 10. Section 235A.15, subsection 2, paragraph e, Code
24 Supplement 1989, is amended by adding the following new
25 subparagraphs:

26 NEW SUBPARAGRAPH. (7) To a person named in an ex parte
27 court order issued pursuant to section 232.147, subsection 7.

28 NEW SUBPARAGRAPH. (8) To the citizens' aide pursuant to
29 chapter 501G.

30 Sec. 11. Section 235A.15, subsection 3, Code Supplement
31 1989, is amended to read as follows:

32 3. Access to unfounded child abuse information is
33 authorized only to those persons identified in subsection 2,
34 paragraph "a", paragraph "b", subparagraphs (2) and (5), and
35 paragraph "e", subparagraph subparagraphs (2) and (7).

1 Sec. 12. Section 235A.17, subsection 1, unnumbered
2 paragraph 1, Code 1989, is amended to read as follows:

3 A person, agency or other recipient of child abuse
4 information authorized to receive such information shall not
5 disseminate such information, except that dissemination
6 shall be permitted pursuant to section 232.147 or when all of
7 the following conditions apply:

8 Sec. 13. Section 600.16, subsection 1, Code Supplement
9 1989, is amended to read as follows:

10 1. Any information compiled under section 600.8,
11 subsection 1, ~~paragraph "c", subparagraphs (1) and (2)~~ shall
12 be made available at any time by the clerk of the court, the
13 department, or any agency which made the placement to:

14 a. The adopting parents.

15 b. The adopted person, provided that person is an adult at
16 the time the request for information is made.

17 c. Any person approved by the department if the person
18 uses this information solely for the purposes of conducting a
19 legitimate research project or of treating a patient in a
20 medical facility.

21 d. Any person authorized to receive such information by a
22 court order issued pursuant to section 232.147, subsection 7.

23 Information regarding an adopted person's existing medical
24 and developmental history and family medical history, which
25 meets the definition of background information in section
26 600.8, subsection 1, paragraph "c", but which was compiled
27 prior to July 1, 1976, shall be made available as provided in
28 this subsection. However, the identity of the adopted
29 person's natural parents shall not be disclosed.

30 Sec. 14. Section 600.24, Code 1989, is amended to read as
31 follows:

32 600.24 ACCESS TO RECORDS.

33 The department may allow access to adoption records held by
34 ~~it~~ the department or an agency if all of following apply:

35 a. ~~The records were compiled prior to January 17, 1977;~~

1 person gaining access to the records uses them only for the
2 purpose of conducting a legitimate research project.

3 b. ~~The identity-of-the-natural-parents-of-the-adopted~~
4 ~~person-is-concealed-from-the-person-gaining-access-to-the~~
5 ~~records,-and,-~~ person conducting research agrees in writing to
6 be bound by the confidentiality standards to which the
7 department is bound.

8 c. ~~The person gaining-access-to-the-records-uses-them~~
9 ~~solely-for-the-purposes-of-conducting-a-legitimate-research~~
10 ~~project-or-of-treating-a-patient-in-a-medical-facility~~
11 conducting research agrees in writing not to contact the
12 natural parents.

13 EXPLANATION

14 This bill amends several Code provisions relating to the
15 department of human services and its functions.

16 Sections 1 and 2 amend provisions relating to
17 confidentiality of department records by allowing the release
18 of certain information to persons conducting research for the
19 purpose of evaluating or improving service delivery by the
20 department.

21 Section 3 amends the definition of child in need of
22 assistance to include a child who is imminently likely to be
23 sexually abused.

24 Section 4 amends a provision which allows the temporary
25 removal of a child pursuant to an ex parte court order when
26 immediate removal is necessary to avoid imminent danger to the
27 child's life or health and there is not time for a hearing, by
28 removing the requirement that permission to remove the child
29 be requested of the child's caretaker, parent, guardian, or
30 custodian.

31 Sections 5 and 7 amend provisions relating to department
32 representation in child in need of assistance or termination
33 proceedings by providing that either the county attorney or
34 the department can request that the attorney general represent
35 the department in place of the county attorney.

1 Section 6 provides that the department should make every
2 reasonable effort to return a child in its custody to the
3 child's home as quickly as possible, consistent with the best
4 interest of the child.

5 Sections 8, 11, and 12 provide that the juvenile court can
6 issue an order allowing a court officer or the department to
7 discuss a child's juvenile court record or the family's social
8 report with a person not otherwise authorized to receive such
9 information pursuant to a signed release of information from
10 the child's parent, guardian, or custodian and guardian ad
11 litem, and a finding by the court that the disclosure would
12 not be harmful to the child.

13 Sections 9 and 10 authorize the release of child abuse
14 information, other than unfounded information to specified
15 persons.

16 Section 13 allows adopting parents, an adult person who was
17 adopted, a person approved by the department who is conducting
18 research or treating a patient in a medical facility, and a
19 person authorized by an order of a juvenile court to have
20 access to investigation reports conducted before and after a
21 child's placement in an adoptive home, and to a background
22 investigation report of a child's medical and developmental
23 history and the child's natural family's medical history.

24 Section 14 allows the department to release adoption
25 information to persons conducting research. Such researchers
26 are bound by department confidentiality standards and cannot
27 contact a child's natural parents.

28
29
30
31
32
33
34
35

SENATE FILE 2175

S-5127

- 1 Amend Senate File 2175 as follows:
2 1. Page 3, by striking lines 5 through 13, and
3 inserting the following: "provide a written summary
4 of the case plans, reports, or narrative found in a
5 child's official juvenile court record or the child's
6 or family's social report to a person not otherwise
7 authorized to receive such information. The court may
8 issue such an order without a hearing if the child's
9 parent, guardian, custodian, attorney, court-appointed
10 special advocate, and guardian ad litem have signed a
11 release of information and if such disclosure would be
12 in the child's best interest. The court may authorize
13 the person to whom the written summary is disclosed to
14 redisclose the information within the written summary,
15 if such redisclosure would be in the child's best
16 interest. The person to whom the written summary is
17 disclosed shall not redisclose any information within
18 the written summary, unless the court order authorizes
19 such".
20 2. Page 3, by striking line 26 and inserting the
21 following:
22 "NEW SUBPARAGRAPH. (7) To a person named in a".
23 3. Page 3, by striking lines 28 through 29.
24 4. Page 4, by striking lines 8 through 29.
25 5. By striking page 4, line 30, through page 5,
26 line 12.
27 6. By renumbering as necessary.

By BY COMMITTEE ON HUMAN RESOURCES,
BEVERLY A. HANNON, Chairperson

S-5127 FILED FEBRUARY 19, 1990

SENATE FILE 2175

S-541~~2~~

- 1 Amend Senate File 2175 as follows:
2 1. Page 3, line 34, by inserting after the figure
3 "(5)," the following: "paragraph "d", subparagraph
4 (2),".

By RAY TAYLOR

S-541~~2~~ FILED MARCH 7, 1990

DELUHERY, W.
HORN
NESTER

SSB 2231
JUDICIARY

SENATE FILE 2175
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 juvenile justice by amending Code provisions
2 regarding department of human services records, children in
3 need of assistance, the child abuse information registry, and
4 adoption.

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

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 Section 1. Section 217.30, subsection 2, Code 1989, is
2 amended to read as follows:

3 2. Information described in subsection 1 shall not be
4 disclosed to or used by any person or agency except for
5 purposes of administration of the programs of services or
6 assistance, and shall not in any case, except as otherwise
7 provided in subsection 4, paragraph paragraphs "b" and "e", be
8 disclosed to or used by persons or agencies outside the
9 department unless they are subject to standards of
10 confidentiality comparable to those imposed on the department
11 by this division.

12 Sec. 2. Section 217.30, subsection 4, Code 1989, is
13 amended by adding the following new paragraph:

14 NEW PARAGRAPH. e. Confidential information described in
15 subsection 1 may be disclosed pursuant to section 232.147 to a
16 person conducting research for the purpose of evaluating or
17 improving service delivery by the department.

18 Sec. 3. Section 232.2, subsection 6, paragraph d, Code
19 Supplement 1989, is amended to read as follows:

20 d. Who has been or is imminently likely to be sexually
21 abused by the child's parent, guardian, custodian or other
22 member of the household in which the child resides.

23 Sec. 4. Section 232.78, subsection 1, paragraph a, Code
24 Supplement 1989, is amended by striking the paragraph.

25 Sec. 5. Section 232.90, subsection 2, Code Supplement
26 1989, is amended to read as follows:

27 2. The county attorney shall represent the department in
28 proceedings arising under this division. However, ~~if there is~~
29 ~~disagreement between the department and the county attorney~~
30 ~~regarding the appropriate action to be taken~~ at the request of
31 the county attorney or the department, the department may
32 ~~request to be represented by the attorney general in place of~~
33 the county attorney.

34 Sec. 6. Section 232.102, subsection 6, Code 1989, is
35 amended to read as follows:

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

27 Sec. 7. Section 232.114, subsection 2, Code Supplement
28 1989, is amended to read as follows:

29 2. The county attorney shall represent the department in
30 proceedings arising under this division. However, ~~if there is~~
31 ~~disagreement between the department and the county attorney~~
32 ~~regarding the appropriate action to be taken~~ at the request of
33 the county attorney or the department, the department may
34 ~~request to be represented by the attorney general in place of~~
35 the county attorney.

1 Sec. 8. Section 232.147, Code 1989, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 7. The court may issue an order
4 authorizing a juvenile court officer or the department to
5 discuss the contents of a child's official juvenile court
6 record or the child's or family's social report with a person
7 not otherwise authorized to receive such information. The
8 court may issue such an order without a hearing if the child's
9 parent, guardian, or custodian, and guardian ad litem have
10 signed a release of information and if the court knows of no
11 reason that such disclosure would be harmful to the child.
12 The person to whom the information is disclosed shall not
13 redisclose the information, unless the court order authorizes
14 redisclosure. The department shall adopt administrative rules
15 to implement this subsection as it relates to department
16 records.

17 Sec. 9. Section 235A.15, subsection 2, paragraph c, Code
18 Supplement 1989, is amended by adding the following new
19 subparagraph:

20 NEW SUBPARAGRAPH. (6) To an employee of an educational
21 institution who is a designated investigator identified in the
22 procedures prescribed pursuant to section 280.17.

23 Sec. 10. Section 235A.15, subsection 2, paragraph e, Code
24 Supplement 1989, is amended by adding the following new
25 subparagraphs:

26 NEW SUBPARAGRAPH. (7) To a person named in an ex parte
27 court order issued pursuant to section 232.147, subsection 7.

28 NEW SUBPARAGRAPH. (8) To the citizens' aide pursuant to
29 chapter 601G.

30 Sec. 11. Section 235A.15, subsection 3, Code Supplement
31 1989, is amended to read as follows:

32 3. Access to unfounded child abuse information is
33 authorized only to those persons identified in subsection 2,
34 paragraph "a", paragraph "b", subparagraphs (2) and (5), and
35 paragraph "e", subparagraph subparagraphs (2) and (7).

1 Sec. 12. Section 235A.17, subsection 1, unnumbered
2 paragraph 1, Code 1989, is amended to read as follows:

3 A person, agency or other recipient of child abuse
4 information authorized to receive such information shall not
5 disseminate such information, except that dissemination
6 shall be permitted pursuant to section 232.147 or when all of
7 the following conditions apply:

8 Sec. 13. Section 600.16, subsection 1, Code Supplement
9 1989, is amended to read as follows:

10 1. Any information compiled under section 600.8,
11 subsection 1, ~~paragraph "e", subparagraphs (1) and (2)~~ shall
12 be made available at any time by the clerk of the court, the
13 department, or any agency which made the placement to:

14 a. The adopting parents.

15 b. The adopted person, provided that person is an adult at
16 the time the request for information is made.

17 c. Any person approved by the department if the person
18 uses this information solely for the purposes of conducting a
19 legitimate research project or of treating a patient in a
20 medical facility.

21 d. Any person authorized to receive such information by a
22 court order issued pursuant to section 232.147, subsection 7.

23 Information regarding an adopted person's existing medical
24 and developmental history and family medical history, which
25 meets the definition of background information in section
26 600.8, subsection 1, paragraph "c", but which was compiled
27 prior to July 1, 1976, shall be made available as provided in
28 this subsection. However, the identity of the adopted
29 person's natural parents shall not be disclosed.

30 Sec. 14. Section 600.24, Code 1989, is amended to read as
31 follows:

32 600.24 ACCESS TO RECORDS.

33 The department may allow access to adoption records held by
34 it the department or an agency if all of following apply:

35 a. ~~The records were compiled prior to January 17, 1977~~

1 person gaining access to the records uses them only for the
2 purpose of conducting a legitimate research project.

3 b. ~~The identity of the natural parents of the adopted~~
4 ~~person is concealed from the person gaining access to the~~
5 records, and, person conducting research agrees in writing to
6 be bound by the confidentiality standards to which the
7 department is bound.

8 c. ~~The person gaining access to the records uses them~~
9 ~~solely for the purposes of conducting a legitimate research~~
10 ~~project or of treating a patient in a medical facility~~
11 conducting research agrees in writing not to contact the
12 natural parents.

13 EXPLANATION

14 This bill amends several Code provisions relating to the
15 department of human services and its functions.

16 Sections 1 and 2 amend provisions relating to
17 confidentiality of department records by allowing the release
18 of certain information to persons conducting research for the
19 purpose of evaluating or improving service delivery by the
20 department.

21 Section 3 amends the definition of child in need of
22 assistance to include a child who is imminently likely to be
23 sexually abused.

24 Section 4 amends a provision which allows the temporary
25 removal of a child pursuant to an ex parte court order when
26 immediate removal is necessary to avoid imminent danger to the
27 child's life or health and there is not time for a hearing, by
28 removing the requirement that permission to remove the child
29 be requested of the child's caretaker, parent, guardian, or
30 custodian.

31 Sections 5 and 7 amend provisions relating to department
32 representation in child in need of assistance or termination
33 proceedings by providing that either the county attorney or
34 the department can request that the attorney general represent
35 the department in place of the county attorney.

1 Section 6 provides that the department should make every
2 reasonable effort to return a child in its custody to the
3 child's home as quickly as possible, consistent with the best
4 interest of the child.

5 Sections 8, 11, and 12 provide that the juvenile court can
6 issue an order allowing a court officer or the department to
7 discuss a child's juvenile court record or the family's social
8 report with a person not otherwise authorized to receive such
9 information pursuant to a signed release of information from
10 the child's parent, guardian, or custodian and guardian ad
11 litem, and a finding by the court that the disclosure would
12 not be harmful to the child.

13 Sections 9 and 10 authorize the release of child abuse
14 information, other than unfounded information to specified
15 persons.

16 Section 13 allows adopting parents, an adult person who was
17 adopted, a person approved by the department who is conducting
18 research or treating a patient in a medical facility, and a
19 person authorized by an order of a juvenile court to have
20 access to investigation reports conducted before and after a
21 child's placement in an adoptive home, and to a background
22 investigation report of a child's medical and developmental
23 history and the child's natural family's medical history.

24 Section 14 allows the department to release adoption
25 information to persons conducting research. Such researchers
26 are bound by department confidentiality standards and cannot
27 contact a child's natural parents.

28
29
30
31
32
33
34
35