

*Reprinted*

FILED MAR 18 1991

SENATE FILE 412  
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO SSB 156)

Passed Senate, Date 4/2/91 (p. 980) Passed House, Date 4/18/91 (P. 1377)  
Vote: Ayes 50 Nays 0 Vote: Ayes 95 Nays 0  
Approved May 6, 1991

**A BILL FOR**

1 An Act relating to the department of inspections and appeals by  
2 expanding its investigatory authority, providing that certain  
3 information regarding health care facilities be available to  
4 the public, relating to health care facilities under  
5 receivership, providing additional grounds for suspension and  
6 revocation of certain licenses issued by the department,  
7 increasing criminal penalties for wanton neglect of a resident  
8 of a health care facility, and providing an effective date.

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

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1 Section 1. Section 10A.402, subsection 7, Code 1991, is  
2 amended to read as follows:

3 7. Investigations relative to the administration of the  
4 state supplemental assistance program, the state medical  
5 assistance program, the food stamp program, ~~and~~ the aid to  
6 dependent children program and any other state or federal  
7 benefit assistance program.

8 Sec. 2. Section 135B.12, Code 1991, is amended to read as  
9 follows:

10 135B.12 CONFIDENTIALITY.

11 The department's final findings or the final survey  
12 findings of the joint commission on the accreditation of  
13 health care organizations or the American osteopathic  
14 association with respect to compliance by a hospital with  
15 requirements for licensing or accreditation shall be made  
16 available to the public in a readily available form and place.  
17 Other information relating to a hospital obtained by the  
18 department which does not constitute the department's findings  
19 from an inspection of the hospital or the final survey  
20 findings of the joint commission on the accreditation of  
21 health care organizations or the American osteopathic  
22 association shall not be made available to the public, except  
23 in proceedings involving the denial, suspension, or revocation  
24 of a license under this chapter. The name of a person who  
25 files a complaint with the department shall remain  
26 confidential and shall not be subject to discovery, subpoena,  
27 or other means of legal compulsion for its release to a person  
28 other than department employees or agents involved in the  
29 investigation of the complaint.

30 Sec. 3. Section 135C.30, subsection 4, paragraph d,  
31 unnumbered paragraph 1, Code 1991, is amended to read as  
32 follows:

33 Expenses incurred by the facility in the ordinary course of  
34 business, such as employees' salaries and accounts ~~receivable~~  
35 payable.

1 Sec. 4. Section 135C.37, unnumbered paragraph 2, Code  
2 1991, is amended by striking the paragraph.

3 Sec. 5. Section 135C.38, subsection 1, Code 1991, is  
4 amended by striking the subsection and inserting in lieu  
5 thereof the following:

6 1. a. Upon receipt of a complaint made in accordance with  
7 section 135C.37, the department or care review committee shall  
8 make a preliminary review of the complaint. Unless the  
9 department or committee concludes that the complaint is  
10 intended to harass a facility or a licensee or is without  
11 reasonable basis, it shall within twenty working days of  
12 receipt of the complaint make or cause to be made an on-site  
13 inspection of the health care facility which is the subject of  
14 the complaint.

15 b. The complaint investigation shall include, at a  
16 minimum, an interview with the complainant, the alleged  
17 perpetrator, and the victim of the alleged violation, if the  
18 victim is able to communicate, if the complainant, alleged  
19 perpetrator, or victim is identifiable, and if the  
20 complainant, alleged perpetrator, or victim is available.  
21 Additionally, witnesses who have knowledge of facts related to  
22 the complaint shall be interviewed, if identifiable and  
23 available. The names of witnesses may be obtained from the  
24 complainant or the victim. The files of the facility may be  
25 reviewed to ascertain the names of staff persons on duty at  
26 the time relevant to the complaint. The department shall  
27 apply a preponderance of the evidence standard in determining  
28 whether or not a complaint is substantiated. For the purposes  
29 of this subsection, "a preponderance of the evidence standard"  
30 means that the evidence, considered and compared with the  
31 evidence opposed to it, produces the belief in a reasonable  
32 mind that the allegations are more likely true than not true.  
33 "A preponderance of the evidence standard" does not require  
34 that the investigator personally witnessed the alleged  
35 violation.

1 c. The department may refer to the care review committee  
2 of a facility any complaint received by the department  
3 regarding that facility, for initial evaluation and  
4 appropriate action by the committee.

5 Sec. 6. Section 135C.38, Code 1991, is amended by adding  
6 the following new subsection:

7 NEW SUBSECTION. 1A. a. The complainant shall be promptly  
8 informed of the result of any action taken by the department  
9 or committee in the matter. The complainant shall also be  
10 notified of the name, address, and telephone number of the  
11 designated protection and advocacy agency if the alleged  
12 violation involves a facility with one or more residents with  
13 developmental disabilities or mental illness.

14 b. Upon conclusion of the investigation, the department  
15 shall notify the complainant of the results. The notification  
16 shall include a statement of the factual findings as  
17 determined by the investigator, the statutory or regulatory  
18 provisions alleged to have been violated, and a summary of the  
19 reasons for which the complaint was or was not substantiated.

20 c. The department shall mail the notification to the  
21 complainant without charge. Upon the request of the  
22 complainant, the department shall mail to the complainant,  
23 without charge, a copy of the most recent final findings  
24 regarding compliance with licensing requirements by the  
25 facility against which the complaint was filed.

26 d. A person who is dissatisfied with any aspect of the  
27 department's handling of the complaint may contact the long-  
28 term care resident's advocate, established pursuant to section  
29 249D.42, or may contact the protection and advocacy agency  
30 designated pursuant to section 135C.2 if the complaint relates  
31 to a resident with a developmental disability or a mental  
32 illness.

33 Sec. 7. Section 137A.9, Code 1991, is amended by striking  
34 the section and inserting in lieu thereof the following:

35 137A.9 SUSPENSION OR REVOCATION OF LICENSES.

1 The department may suspend or revoke a license issued to a  
2 person under this chapter if any of the following occurs:

3 1. The person's food establishment does not conform to a  
4 provision of this chapter or a rule adopted pursuant to this  
5 chapter.

6 2. The person violates a provision of this chapter or a  
7 rule adopted pursuant to this chapter.

8 Sec. 8. NEW SECTION. 137A.21 CRIMINAL ACTIVITY.

9 A food establishment shall not be used to conduct an  
10 activity constituting a criminal offense. However, this  
11 section does not apply to or prohibit the operation of a food  
12 establishment if the person licensed to operate the  
13 establishment is unable to prevent the conduct, or the person  
14 does not know of the conduct and a reasonable person licensed  
15 to operate a similar establishment also would not have known  
16 of the conduct.

17 Sec. 9. NEW SECTION. 137B.11 SUSPENSION OR REVOCATION OF  
18 LICENSES.

19 The department may suspend or revoke a license issued to a  
20 person under this chapter if any of the following occurs:

21 1. The person's food service establishment does not  
22 conform to a provision of this chapter or a rule adopted  
23 pursuant to this chapter.

24 2. The person violates a provision of this chapter or a  
25 rule adopted pursuant to this chapter.

26 Sec. 10. NEW SECTION. 137B.17 CRIMINAL ACTIVITY.

27 A food service establishment shall not be used to conduct  
28 an activity constituting a criminal offense. However, this  
29 section does not apply to or prohibit the operation of a food  
30 service establishment if the person licensed to operate the  
31 establishment is unable to prevent the conduct, or the person  
32 does not know of the conduct and a reasonable person licensed  
33 to operate a similar establishment also would not have known  
34 of the conduct.

35 Sec. 11. Section 137C.10, Code 1991, is amended by

1 striking the section and inserting in lieu thereof the  
2 following:

3 137C.10 SUSPENSION OR REVOCATION OF LICENSES.

4 A regulatory authority may suspend or revoke a license  
5 issued to a person under the Iowa hotel sanitation code if any  
6 of the following occurs:

7 1. The person's hotel does not conform to a provision of  
8 the Iowa hotel sanitation code or a rule adopted pursuant to  
9 this chapter.

10 2. The person violates a provision of the Iowa hotel  
11 sanitation code or a rule adopted pursuant to this chapter.

12 Sec. 12. NEW SECTION. 137C.13 CRIMINAL ACTIVITY.

13 A hotel shall not be used to conduct an activity  
14 constituting a criminal offense. However, this section does  
15 not apply to or prohibit the operation of a hotel if the  
16 person licensed to operate the hotel is unable to prevent the  
17 conduct, or the person does not know of the conduct and a  
18 reasonable person licensed to operate a similar hotel also  
19 would not have known of the conduct.

20 Sec. 13. NEW SECTION. 137D.7 CRIMINAL ACTIVITY.

21 A home food establishment shall not be used to conduct an  
22 activity constituting a criminal offense. However, this  
23 section does not apply to or prohibit the operation of a home  
24 food establishment if the person licensed to operate the  
25 establishment is unable to prevent the conduct, or the person  
26 does not know of the conduct and a reasonable person licensed  
27 to operate a similar establishment also would not have known  
28 of the conduct.

29 Sec. 14. NEW SECTION. 137D.8 SUSPENSION OR REVOCATION OF  
30 LICENSES.

31 The department may suspend or revoke a license issued to a  
32 person under this chapter if any of the following occurs:

33 1. The person's home food establishment does not conform  
34 to a provision of this chapter or a rule adopted pursuant to  
35 this chapter.

1 2. The person violates a provision of this chapter or a  
2 rule adopted pursuant to this chapter.

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3 Sec. 15. Section 726.7, Code 1991, is amended to read as  
4 follows:

5 726.7 WANTON NEGLECT OF A RESIDENT OF A HEALTH CARE  
6 FACILITY.

7 1. A person commits wanton neglect of a resident of a  
8 health care facility when the person knowingly acts in a  
9 manner likely to be injurious to the physical, or mental or  
10 mo~~ra~~t welfare of a resident of a health care facility as  
11 defined in section 135C.1. ~~Wanton-neglect-of-a-resident-of-a~~  
12 health-care-facility-is-a-serious-misdemeanor.

13 2. A person who commits wanton neglect resulting in  
14 serious injury to a resident of a health care facility is  
15 guilty of a class "C" felony.

16 3. A person who commits wanton neglect not resulting in  
17 serious injury to a resident of a health care facility is  
18 guilty of an aggravated misdemeanor.

19 Sec. 16. Sections 1 and 2 of this Act, being deemed of  
20 immediate importance, take effect upon enactment.

21 EXPLANATION

22 Section 1 of the bill allows the department of inspections  
23 and appeals to conduct investigations of state and federal  
24 benefit assistance programs in addition to those currently  
25 conducted. This section becomes effective upon enactment.

26 Section 2 provides that the final survey findings of  
27 hospitals accredited by the American osteopathic association  
28 are available to the public. This section is effective upon  
29 enactment.

30 Section 3 provides that payment of expenses of a health  
31 care facility under receivership, including accounts payable  
32 rather than receivable as currently provided in the Code, is  
33 the responsibility of the facility unless a court directs  
34 otherwise.

35 Section 4 deletes conflicting language relating to

1 information provided to a person filing a complaint against a  
2 health care facility.

3 Section 5 reorganizes existing language in the Code  
4 regarding the department's procedure upon receipt of a  
5 complaint about a health care facility.

6 Section 6 reorganizes existing language in the Code  
7 regarding information available to a person filing a complaint  
8 against a health care facility which provides that the  
9 department shall mail notification of the factual findings of  
10 the department's investigator, the statutory or regulatory  
11 provisions alleged to have been violated, and a summary of the  
12 reasons for which the complaint was or was not substantiated.  
13 This section provides that the department shall mail the  
14 notification to the complainant without charge, and upon  
15 request of the complainant shall mail without charge a copy of  
16 the most recent final findings regarding compliance with  
17 licensing requirements by the facility.

18 Sections 7 through 14 relate to chapters 137A through 137D  
19 which provide for the regulation of commercial establishments,  
20 including food establishments, food service establishments,  
21 hotels, and home food establishments. Persons operating these  
22 establishments are required to be licensed by the department  
23 of inspections and appeals. The department, and in some cases  
24 local regulatory authorities are responsible for enforcing the  
25 provisions of these chapters. Chapters 137A and 137C provide  
26 that a license of a person operating a food establishment or a  
27 hotel may be revoked for cause. This bill provides that the  
28 license of a person operating any one of these four commercial  
29 establishments may be suspended or revoked. The bill also  
30 prohibits the use of an establishment to conduct criminal  
31 activity. The prohibition does not affect the license of a  
32 person who is not able to prevent the criminal activity, or of  
33 a person who is unaware of the activity if a reasonable person  
34 operating a similar establishment would not have been aware of  
35 the activity.

1 Section 15 increases the penalty for wanton neglect of a  
2 resident of a health care facility from a serious misdemeanor  
3 to a class "C" felony if neglect results in serious injury,  
4 and an aggravated misdemeanor if the neglect does not result  
5 in serious injury. The section also deletes acts likely to be  
6 injurious to the moral welfare of the patient from the  
7 definition of wanton neglect.

8 Section 16 provides effective dates for sections 1 and 2 of  
9 the bill.

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1 Section 1. Section 10A.402, subsection 7, Code 1991, is  
2 amended to read as follows:

3 7. Investigations relative to the administration of the  
4 state supplemental assistance program, the state medical  
5 assistance program, the food stamp program, and the aid to  
6 dependent children program and any other state or federal  
7 benefit assistance program.

8 Sec. 2. Section 135B.12, Code 1991, is amended to read as  
9 follows:

10 135B.12 CONFIDENTIALITY.

11 The department's final findings or the final survey  
12 findings of the joint commission on the accreditation of  
13 health care organizations or the American osteopathic  
14 association with respect to compliance by a hospital with  
15 requirements for licensing or accreditation shall be made  
16 available to the public in a readily available form and place.  
17 Other information relating to a hospital obtained by the  
18 department which does not constitute the department's findings  
19 from an inspection of the hospital or the final survey  
20 findings of the joint commission on the accreditation of  
21 health care organizations or the American osteopathic  
22 association shall not be made available to the public, except  
23 in proceedings involving the denial, suspension, or revocation  
24 of a license under this chapter. The name of a person who  
25 files a complaint with the department shall remain  
26 confidential and shall not be subject to discovery, subpoena,  
27 or other means of legal compulsion for its release to a person  
28 other than department employees or agents involved in the  
29 investigation of the complaint.

30 3062? Sec. 3. Section 135C.30, subsection 4, paragraph d,  
31 unnumbered paragraph 1, Code 1991, is amended to read as  
32 follows:

33 Expenses incurred by the facility in the ordinary course of  
34 business, such as employees' salaries and accounts receivable  
35 payable.

1 Sec. 4. Section 135C.37, unnumbered paragraph 2, Code  
2 1991, is amended by striking the paragraph.

3 Sec. 5. Section 135C.38, subsection 1, Code 1991, is  
4 amended by striking the subsection and inserting in lieu  
5 thereof the following:

6 1. a. Upon receipt of a complaint made in accordance with  
7 section 135C.37, the department or care review committee shall  
8 make a preliminary review of the complaint. Unless the  
9 department or committee concludes that the complaint is  
10 intended to harass a facility or a licensee or is without  
11 reasonable basis, it shall within twenty working days of  
12 receipt of the complaint make or cause to be made an on-site  
13 inspection of the health care facility which is the subject of  
14 the complaint.

15 b. The complaint investigation shall include, at a  
16 minimum, an interview with the complainant, the alleged  
17 perpetrator, and the victim of the alleged violation, if the  
18 victim is able to communicate, if the complainant, alleged  
19 perpetrator, or victim is identifiable, and if the  
20 complainant, alleged perpetrator, or victim is available.  
21 Additionally, witnesses who have knowledge of facts related to  
22 the complaint shall be interviewed, if identifiable and  
23 available. The names of witnesses may be obtained from the  
24 complainant or the victim. The files of the facility may be  
25 reviewed to ascertain the names of staff persons on duty at  
26 the time relevant to the complaint. The department shall  
27 apply a preponderance of the evidence standard in determining  
28 whether or not a complaint is substantiated. For the purposes  
29 of this subsection, "a preponderance of the evidence standard"  
30 means that the evidence, considered and compared with the  
31 evidence opposed to it, produces the belief in a reasonable  
32 mind that the allegations are more likely true than not true.  
33 "A preponderance of the evidence standard" does not require  
34 that the investigator personally witnessed the alleged  
35 violation.

1 c. The department may refer to the care review committee  
2 of a facility any complaint received by the department  
3 regarding that facility, for initial evaluation and  
4 appropriate action by the committee.

5 Sec. 6. Section 135C.38, Code 1991, is amended by adding  
6 the following new subsection:

7 NEW SUBSECTION. 1A. a. The complainant shall be promptly  
8 informed of the result of any action taken by the department  
9 or committee in the matter. The complainant shall also be  
10 notified of the name, address, and telephone number of the  
11 designated protection and advocacy agency if the alleged  
12 violation involves a facility with one or more residents with  
13 developmental disabilities or mental illness.

14 b. Upon conclusion of the investigation, the department  
15 shall notify the complainant of the results. The notification  
16 shall include a statement of the factual findings as  
17 determined by the investigator, the statutory or regulatory  
18 provisions alleged to have been violated, and a summary of the  
19 reasons for which the complaint was or was not substantiated.

20 c. The department shall mail the notification to the  
21 complainant without charge. Upon the request of the  
22 complainant, the department shall mail to the complainant,  
23 without charge, a copy of the most recent final findings  
24 regarding compliance with licensing requirements by the  
25 facility against which the complaint was filed.

26 d. A person who is dissatisfied with any aspect of the  
27 department's handling of the complaint may contact the long-  
28 term care resident's advocate, established pursuant to section  
29 249D.42, or may contact the protection and advocacy agency  
30 designated pursuant to section 135C.2 if the complaint relates  
31 to a resident with a developmental disability or a mental  
32 illness.

33 Sec. 7. Section 137A.9, Code 1991, is amended by striking  
34 the section and inserting in lieu thereof the following:

35 137A.9 SUSPENSION OR REVOCATION OF LICENSES.

1 The department may suspend or revoke a license issued to a  
2 person under this chapter if any of the following occurs:

3 1. The person's food establishment does not conform to a  
4 provision of this chapter or a rule adopted pursuant to this  
5 chapter.

6 2. The person violates a provision of this chapter or a  
7 rule adopted pursuant to this chapter.

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8 Sec. 8. NEW SECTION. 137A.21 CRIMINAL ACTIVITY.

9 A food establishment shall not be used to conduct an  
10 activity constituting a criminal offense. However, this  
11 section does not apply to or prohibit the operation of a food  
12 establishment if the person licensed to operate the  
13 establishment is unable to prevent the conduct, or the person  
14 does not know of the conduct and a reasonable person licensed  
15 to operate a similar establishment also would not have known  
16 of the conduct.

17 Sec. 9. NEW SECTION. 137B.11 SUSPENSION OR REVOCATION OF  
18 LICENSES.

19 The department may suspend or revoke a license issued to a  
20 person under this chapter if any of the following occurs:

21 1. The person's food service establishment does not  
22 conform to a provision of this chapter or a rule adopted  
23 pursuant to this chapter.

24 2. The person violates a provision of this chapter or a  
25 rule adopted pursuant to this chapter.

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26 Sec. 10. NEW SECTION. 137B.17 CRIMINAL ACTIVITY.

27 A food service establishment shall not be used to conduct  
28 an activity constituting a criminal offense. However, this  
29 section does not apply to or prohibit the operation of a food  
30 service establishment if the person licensed to operate the  
31 establishment is unable to prevent the conduct, or the person  
32 does not know of the conduct and a reasonable person licensed  
33 to operate a similar establishment also would not have known  
34 of the conduct.

35 Sec. 11. Section 137C.10, Code 1991, is amended by

1 striking the section and inserting in lieu thereof the  
2 following:

3 137C.10 SUSPENSION OR REVOCATION OF LICENSES.

4 A regulatory authority may suspend or revoke a license  
5 issued to a person under the Iowa hotel sanitation code if any  
6 of the following occurs:

7 1. The person's hotel does not conform to a provision of  
8 the Iowa hotel sanitation code or a rule adopted pursuant to  
9 this chapter.

10 2. The person violates a provision of the Iowa hotel  
11 sanitation code or a rule adopted pursuant to this chapter.

359/12 Sec. 12. NEW SECTION. 137C.13 CRIMINAL ACTIVITY.

13 A hotel shall not be used to conduct an activity  
14 constituting a criminal offense. However, this section does  
15 not apply to or prohibit the operation of a hotel if the  
16 person licensed to operate the hotel is unable to prevent the  
17 conduct, or the person does not know of the conduct and a  
18 reasonable person licensed to operate a similar hotel also  
19 would not have known of the conduct.

20 Sec. 13. NEW SECTION. 137D.7 CRIMINAL ACTIVITY.

21 A home food establishment shall not be used to conduct an  
22 activity constituting a criminal offense. However, this  
23 section does not apply to or prohibit the operation of a home  
24 food establishment if the person licensed to operate the  
25 establishment is unable to prevent the conduct, or the person  
26 does not know of the conduct and a reasonable person licensed  
27 to operate a similar establishment also would not have known  
28 of the conduct.

29 Sec. 14. NEW SECTION. 137D.8 SUSPENSION OR REVOCATION OF  
30 LICENSES.

31 The department may suspend or revoke a license issued to a  
32 person under this chapter if any of the following occurs:

33 1. The person's home food establishment does not conform  
34 to a provision of this chapter or a rule adopted pursuant to  
35 this chapter.

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1 2. The person violates a provision of this chapter or a  
2 rule adopted pursuant to this chapter.

3 Sec. 15. Section 249A.2, Code 1991, is amended by adding  
4 the following new subsection:

5 NEW SUBSECTION. 7A. "Provider" means an individual, firm,  
6 corporation, association, or institution which is providing or  
7 has been approved to provide medical assistance to recipients  
8 under this chapter.

9 Sec. 16. NEW SECTION. 249A.8 FRAUDULENT PRACTICE.

10 A person who knowingly makes or causes to be made false  
11 statements or misrepresentations of material facts in  
12 application for payment of services or merchandise rendered or  
13 purportedly rendered by a provider participating in the  
14 medical assistance program under this chapter is guilty of a  
15 fraudulent practice.

16 Sec. 17. Section 726.7, Code 1991, is amended to read as  
17 follows:

18 726.7 WANTON NEGLECT OF A RESIDENT OF A HEALTH CARE  
19 FACILITY.

20 1. A person commits wanton neglect of a resident of a  
21 health care facility when the person knowingly acts in a  
22 manner likely to be injurious to the physical, or mental or  
23 moral welfare of a resident of a health care facility as  
24 defined in section 135C.1. ~~Wanton-neglect-of-a-resident-of-a~~  
25 ~~health-care-facility-is-a-serious-misdemeanor.~~

26 2. A person who commits wanton neglect resulting in  
27 serious injury to a resident of a health care facility is  
28 guilty of a class "C" felony.

29 3. A person who commits wanton neglect not resulting in  
30 serious injury to a resident of a health care facility is  
31 guilty of an aggravated misdemeanor.

32 Sec. 18. Sections 1 and 2 of this Act, being deemed of  
33 immediate importance, take effect upon enactment.

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SENATE FILE 412

H-3591

1 Amend Senate File 412, as amended, passed, and  
2 reprinted by the Senate, as follows:

3 1. Page 4, by inserting after line 7 the  
4 following:

5 "3. The person conducts an activity constituting a  
6 criminal offense in the food establishment and is  
7 convicted of a serious misdemeanor or a more serious  
8 offense as a result."

9 2. Page 4, by striking lines 8 through 16.

10 3. Page 4, by inserting after line 25 the  
11 following:

12 "3. The person conducts an activity constituting a  
13 criminal offense in the food service establishment and  
14 is convicted of a serious misdemeanor or a more  
15 serious offense as a result."

16 4. Page 4, by striking lines 26 through 34.

17 5. Page 5, by inserting after line 11 the  
18 following:

19 "3. The person conducts an activity constituting a  
20 criminal offense in the hotel and is convicted of a  
21 serious misdemeanor or a more serious offense as a  
22 result."

23 6. Page 5, by striking lines 12 through 28.

24 7. Page 6, by inserting after line 2 the  
25 following:

26 "3. The person conducts an activity constituting a  
27 criminal offense in the home food establishment and is  
28 convicted of a serious misdemeanor or a more serious  
29 offense as a result."

30 8. By renumbering as necessary.

By COMMITTEE ON HUMAN RESOURCES  
HAVERLAND of Polk, Chairperson

H-3591 FILED APRIL 11, 1991

*Adopted 4/13/91 (p. 1274)*

SENATE FILE 412

B-3662

1 Amend Senate File 412, as passed and reprinted by  
2 the Senate, as follows:  
3 1. Page 1, by inserting after line 29 the fol-  
4 lowing:  
5 "Sec. \_\_\_\_\_, Section 135C.14, subsection 8,  
6 unnumbered paragraph 1, Code 1991, is amended to read  
7 as follows:  
8 Facility policies and procedures regarding the  
9 treatment, care, and rights of residents. The rules  
10 shall apply the federal resident's rights contained in  
11 the federal Omnibus Budget Reconciliation Act of 1987,  
12 Pub. L. No. 100-203, and the regulations adopted  
13 pursuant to the Act and contained in 42 C.F.R. §  
14 483.10, 483.12, 483.13, and 483.15, as amended to  
15 February 2, 1989, to all health care facilities as  
16 defined in this chapter and shall include procedures  
17 for implementing and enforcing the federal rules.  
18 Rules regarding the posting of annual surveys of a  
19 facility shall require that the survey, in order to be  
20 readily accessible to the residents, be placed at eye  
21 level in a central, public place in the facility which  
22 is frequently visited by the majority of the residents  
23 and by the public. The rules shall also require that  
24 the results of all revisits and investigations of  
25 complaints regarding the facility which occur before  
26 the next annual survey be posted in the same manner as  
27 annual surveys. The department shall also adopt rules  
28 relating to the following:  
29 2. Title page, line 4, by inserting after the  
30 word "public," the following: "providing for  
31 accessibility of the department's annual surveys of  
32 and complaint resolutions regarding health care  
33 facilities,".  
34 3. By renumbering as necessary.

By NIEUSEN of Sinn  
MURPHY of Dubuque

B-3662 FILED APRIL 17, 1991

*Filed next year 4/18/91 (B 1577)*

HOUSE AMENDMENT TO  
SENATE FILE 412

S-3520

- 1 Amend Senate File 412, as amended, passed, and  
2 reprinted by the Senate, as follows:  
3 1. Page 4, by inserting after line 7 the  
4 following:  
5 "3. The person conducts an activity constituting a  
6 criminal offense in the food establishment and is  
7 convicted of a serious misdemeanor or a more serious  
8 offense as a result."  
9 2. Page 4, by striking lines 8 through 16.  
10 3. Page 4, by inserting after line 25 the  
11 following:  
12 "3. The person conducts an activity constituting a  
13 criminal offense in the food service establishment and  
14 is convicted of a serious misdemeanor or a more  
15 serious offense as a result."  
16 4. Page 4, by striking lines 26 through 34.  
17 5. Page 5, by inserting after line 11 the  
18 following:  
19 "3. The person conducts an activity constituting a  
20 criminal offense in the hotel and is convicted of a  
21 serious misdemeanor or a more serious offense as a  
22 result."  
23 6. Page 5, by striking lines 12 through 28.  
24 7. Page 6, by inserting after line 2 the  
25 following:  
26 "3. The person conducts an activity constituting a  
27 criminal offense in the home food establishment and is  
28 convicted of a serious misdemeanor or a more serious  
29 offense as a result."  
30 8. By renumbering as necessary.

RECEIVED FROM THE HOUSE

S-3520 FILED APRIL 22, 1991

*Senate received 4/23/91 (A 1415)*

Riordan, Ch.  
Hannon  
Kramer

SSB 156  
Human Resources

SENATE/HOUSE FILE 412  
BY (PROPOSED DEPARTMENT OF  
INSPECTIONS AND APPEALS  
BILL)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to the department of inspections and appeals by  
2 expanding its investigatory authority, providing that certain  
3 information regarding health care facilities be available to  
4 the public, relating to health care facilities under  
5 receivership, providing additional grounds for suspension and  
6 revocation of certain licenses issued by the department,  
7 increasing criminal penalties for wanton neglect of a resident  
8 of a health care facility, and providing an effective date.

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

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1 Section 1. Section 10A.402, subsection 7, Code 1991, is  
2 amended to read as follows:

3 7. Investigations relative to the administration of the  
4 state supplemental assistance program, the state medical  
5 assistance program, the food stamp program, and the aid to  
6 dependent children program and any other state or federal  
7 benefit assistance program.

8 Sec. 2. Section 135B.12, Code 1991, is amended to read as  
9 follows:

10 135B.12 CONFIDENTIALITY.

11 The department's final findings or the final survey  
12 findings of the joint commission on the accreditation of  
13 health care organizations or the American osteopathic  
14 association with respect to compliance by a hospital with  
15 requirements for licensing or accreditation shall be made  
16 available to the public in a readily available form and place.  
17 Other information relating to a hospital obtained by the  
18 department which does not constitute the department's findings  
19 from an inspection of the hospital or the final survey  
20 findings of the joint commission on the accreditation of  
21 health care organizations or the American osteopathic  
22 association shall not be made available to the public, except  
23 in proceedings involving the denial, suspension, or revocation  
24 of a license under this chapter. The name of a person who  
25 files a complaint with the department shall remain  
26 confidential and shall not be subject to discovery, subpoena,  
27 or other means of legal compulsion for its release to a person  
28 other than department employees or agents involved in the  
29 investigation of the complaint.

30 Sec. 3. Section 135C.30, subsection 4, paragraph d,  
31 unnumbered paragraph 1, Code 1991, is amended to read as  
32 follows:

33 Expenses incurred by the facility in the ordinary course of  
34 business, such as employees' salaries and accounts receivable  
35 payable.

1 Sec. 4. Section 135C.37, unnumbered paragraph 2, Code  
2 1991, is amended by striking the paragraph.

3 Sec. 5. Section 135C.38, subsection 1, Code 1991, is  
4 amended by striking the subsection and inserting in lieu  
5 thereof the following:

6 1. a. Upon receipt of a complaint made in accordance with  
7 section 135C.37, the department or care review committee shall  
8 make a preliminary review of the complaint. Unless the  
9 department or committee concludes that the complaint is  
10 intended to harass a facility or a licensee or is without  
11 reasonable basis, it shall within twenty working days of  
12 receipt of the complaint make or cause to be made an on-site  
13 inspection of the health care facility which is the subject of  
14 the complaint.

15 b. The complaint investigation shall include, at a  
16 minimum, an interview with the complainant, the alleged  
17 perpetrator, and the victim of the alleged violation, if the  
18 victim is able to communicate, if the complainant, alleged  
19 perpetrator, or victim is identifiable, and if the  
20 complainant, alleged perpetrator, or victim is available.  
21 Additionally, witnesses who have knowledge of facts related to  
22 the complaint shall be interviewed, if identifiable and  
23 available. The names of witnesses may be obtained from the  
24 complainant or the victim. The files of the facility may be  
25 reviewed to ascertain the names of staff persons on duty at  
26 the time relevant to the complaint. The department shall  
27 apply a preponderance of the evidence standard in determining  
28 whether or not a complaint is substantiated. For the purposes  
29 of this subsection, "a preponderance of the evidence standard"  
30 means that the evidence, considered and compared with the  
31 evidence opposed to it, produces the belief in a reasonable  
32 mind that the allegations are more likely true than not true.  
33 "A preponderance of the evidence standard" does not require  
34 that the investigator personally witnessed the alleged  
35 violation.

1 c. The department may refer to the care review committee  
2 of a facility any complaint received by the department  
3 regarding that facility, for initial evaluation and  
4 appropriate action by the committee.

5 Sec. 6. Section 135C.38, Code 1991, is amended by adding  
6 the following new subsection:

7 NEW SUBSECTION. 1A. a. The complainant shall be promptly  
8 informed of the result of any action taken by the department  
9 or committee in the matter. The complainant shall also be  
10 notified of the name, address, and telephone number of the  
11 designated protection and advocacy agency if the alleged  
12 violation involves a facility with one or more residents with  
13 developmental disabilities or mental illness.

14 b. Upon conclusion of the investigation, the department  
15 shall notify the complainant of the results. The notification  
16 shall include a statement of the factual findings as  
17 determined by the investigator, the statutory or regulatory  
18 provisions alleged to have been violated, and a summary of the  
19 reasons for which the complaint was or was not substantiated.

20 c. The department shall mail the notification to the  
21 complainant without charge. Upon the request of the  
22 complainant, the department shall mail to the complainant,  
23 without charge, a copy of the most recent final findings  
24 regarding compliance with licensing requirements by the  
25 facility against which the complaint was filed.

26 d. A person who is dissatisfied with any aspect of the  
27 department's handling of the complaint may contact the long-  
28 term care resident's advocate, established pursuant to section  
29 249D.42, or may contact the protection and advocacy agency  
30 designated pursuant to section 135C.2 if the complaint relates  
31 to a resident with a developmental disability or a mental  
32 illness.

33 Sec. 7. Section 137A.9, Code 1991, is amended by striking  
34 the section and inserting in lieu thereof the following:

35 137A.9 SUSPENSION OR REVOCATION OF LICENSES.

1 The department may suspend or revoke a license issued to a  
2 person under this chapter if any of the following occurs:

3 1. The person's food establishment does not conform to a  
4 provision of this chapter or a rule adopted pursuant to this  
5 chapter.

6 2. The person violates a provision of this chapter or a  
7 rule adopted pursuant to this chapter.

8 Sec. 8. NEW SECTION. 137A.21 CRIMINAL ACTIVITY.

9 A food establishment shall not be used to conduct an  
10 activity constituting a criminal offense. However, this  
11 section does not apply to or prohibit the operation of a food  
12 establishment if the person licensed to operate the  
13 establishment is unable to prevent the conduct, or the person  
14 does not know of the conduct and a reasonable person licensed  
15 to operate a similar establishment also would not have known  
16 of the conduct.

17 Sec. 9. NEW SECTION. 137B.11 SUSPENSION OR REVOCATION OF  
18 LICENSES.

19 The department may suspend or revoke a license issued to a  
20 person under this chapter if any of the following occurs:

21 1. The person's food service establishment does not  
22 conform to a provision of this chapter or a rule adopted  
23 pursuant to this chapter.

24 2. The person violates a provision of this chapter or a  
25 rule adopted pursuant to this chapter.

26 Sec. 10. NEW SECTION. 137B.17 CRIMINAL ACTIVITY.

27 A food service establishment shall not be used to conduct  
28 an activity constituting a criminal offense. However, this  
29 section does not apply to or prohibit the operation of a food  
30 service establishment if the person licensed to operate the  
31 establishment is unable to prevent the conduct, or the person  
32 does not know of the conduct and a reasonable person licensed  
33 to operate a similar establishment also would not have known  
34 of the conduct.

35 Sec. 11. Section 137C.10, Code 1991, is amended by

1 striking the section and inserting in lieu thereof the  
2 following:

3 137C.10 SUSPENSION OR REVOCATION OF LICENSES.

4 A regulatory authority may suspend or revoke a license  
5 issued to a person under the Iowa hotel sanitation code if any  
6 of the following occurs:

7 1. The person's hotel does not conform to a provision of  
8 the Iowa hotel sanitation code or a rule adopted pursuant to  
9 this chapter.

10 2. The person violates a provision of the Iowa hotel  
11 sanitation code or a rule adopted pursuant to this chapter.

12 Sec. 12. NEW SECTION. 137C.13 CRIMINAL ACTIVITY.

13 A hotel shall not be used to conduct an activity  
14 constituting a criminal offense. However, this section does  
15 not apply to or prohibit the operation of a hotel if the  
16 person licensed to operate the hotel is unable to prevent the  
17 conduct, or the person does not know of the conduct and a  
18 reasonable person licensed to operate a similar hotel also  
19 would not have known of the conduct.

20 Sec. 13. NEW SECTION. 137D.7 CRIMINAL ACTIVITY.

21 A home food establishment shall not be used to conduct an  
22 activity constituting a criminal offense. However, this  
23 section does not apply to or prohibit the operation of a home  
24 food establishment if the person licensed to operate the  
25 establishment is unable to prevent the conduct, or the person  
26 does not know of the conduct and a reasonable person licensed  
27 to operate a similar establishment also would not have known  
28 of the conduct.

29 Sec. 14. NEW SECTION. 137D.8 SUSPENSION OR REVOCATION OF  
30 LICENSES.

31 The department may suspend or revoke a license issued to a  
32 person under this chapter if any of the following occurs:

33 1. The person's home food establishment does not conform  
34 to a provision of this chapter or a rule adopted pursuant to  
35 this chapter.

1 2. The person violates a provision of this chapter or a  
2 rule adopted pursuant to this chapter.

3 Sec. 15. Section 726.7, Code 1991, is amended to read as  
4 follows:

5 726.7 WANTON NEGLECT OF A RESIDENT OF A HEALTH CARE  
6 FACILITY.

7 1. A person commits wanton neglect of a resident of a  
8 health care facility when the person knowingly acts in a  
9 manner likely to be injurious to the physical, or mental or  
10 moral welfare of a resident of a health care facility as  
11 defined in section 135C.1. ~~Wanton-neglect-of-a-resident-of-a~~  
12 ~~health-care-facility-is-a-serious-misdemeanor.~~

13 2. A person who commits wanton neglect resulting in  
14 serious injury to a resident of a health care facility is  
15 guilty of a class "C" felony.

16 3. A person who commits wanton neglect not resulting in  
17 serious injury to a resident of a health care facility is  
18 guilty of an aggravated misdemeanor.

19 4. Wanton neglect of a resident of a health care facility  
20 is not a lesser included offense of any other offense and may  
21 be charged in addition to any other offense that may be  
22 alleged to have been committed in connection with the facts  
23 and circumstances surrounding the neglect.

24 Sec. 16. Sections 1 and 2 of this Act, being deemed of  
25 immediate importance, take effect upon enactment.

26

#### EXPLANATION

27 Section 1 of the bill allows the department of inspections  
28 and appeals to conduct investigations of state and federal  
29 benefit assistance programs in addition to those currently  
30 conducted. This section becomes effective upon enactment.

31 Section 2 provides that the final survey findings of  
32 hospitals accredited by the American osteopathic association  
33 are available to the public. This section is effective upon  
34 enactment.

35 Section 3 provides that payment of expenses of a health

1 care facility under receivership, including accounts payable  
2 rather than receivable as currently provided in the Code, is  
3 the responsibility of the facility unless a court directs  
4 otherwise.

5 Section 4 deletes conflicting language relating to  
6 information provided to a person filing a complaint against a  
7 health care facility.

8 Section 5 reorganizes existing language in the Code  
9 regarding the department's procedure upon receipt of a  
10 complaint about a health care facility.

11 Section 6 reorganizes existing language in the Code  
12 regarding information available to a person filing a complaint  
13 against a health care facility which provides that the  
14 department shall mail notification of the factual findings of  
15 the department's investigator, the statutory or regulatory  
16 provisions alleged to have been violated, and a summary of the  
17 reasons for which the complaint was or was not substantiated.  
18 This section provides that the department shall mail the  
19 notification to the complainant without charge, and upon  
20 request of the complainant shall mail without charge a copy of  
21 the most recent final findings regarding compliance with  
22 licensing requirements by the facility.

23 Sections 7 through 14 relate to chapters 137A through 137D  
24 which provide for the regulation of commercial establishments,  
25 including food establishments, food service establishments,  
26 hotels, and home food establishments. Persons operating these  
27 establishments are required to be licensed by the department  
28 of inspections and appeals. The department, and in some cases  
29 local regulatory authorities are responsible for enforcing the  
30 provisions of these chapters. Chapters 137A and 137C provide  
31 that a license of a person operating a food establishment or a  
32 hotel may be revoked for cause. This bill provides that the  
33 license of a person operating any one of these four commercial  
34 establishments may be suspended or revoked. The bill also  
35 prohibits the use of an establishment to conduct criminal

1 activity. The prohibition does not affect the license of a  
2 person who is not able to prevent the criminal activity, or of  
3 a person who is unaware of the activity if a reasonable person  
4 operating a similar establishment would not have been aware of  
5 the activity.

6 Section 15 increases the penalty for wanton neglect of a  
7 resident of a health care facility from a serious misdemeanor  
8 to a class "C" felony if neglect results in serious injury,  
9 and an aggravated misdemeanor if the neglect does not result  
10 in serious injury. The section also provides that wanton  
11 neglect is not a lesser included offense to any other offense  
12 and may be charged in addition to any other offense committed  
13 in connection with the facts and circumstances surrounding the  
14 neglect. The section also deletes acts likely to be injurious  
15 to the moral welfare of the patient from the definition of  
16 wanton neglect.

17 Section 16 provides effective dates for sections 1 and 2 of  
18 the bill.

19 BACKGROUND STATEMENT

20 SUBMITTED BY THE AGENCY

21 This bill allows the department to conduct additional  
22 investigations, clarifies which information is confidential  
23 and public related to hospitals and health care facilities,  
24 makes technical corrections, provides the department with  
25 additional authority in revoking licenses of food-related  
26 establishments, and increases penalties for wanton neglect of  
27 health care facility residents.

28 The bill allows the department to conduct investigations of  
29 state and federal benefit assistance programs, in addition to  
30 those they currently conduct. The department has been  
31 approached about conducting investigations for a federal  
32 agency. The current law does not appear to allow the conduct  
33 of these investigations even through a chapter 28E agreement.  
34 This language would allow the department to enter into chapter  
35 28E agreements to conduct investigations of state or federal

1 benefit assistance programs. This language would become  
2 effective upon enactment.

3 The bill clarifies which information is available to the  
4 public relating to hospital surveys. Final survey findings of  
5 hospitals accredited by the American osteopathic association  
6 were inadvertently omitted in previous legislation. This  
7 language would become effective upon enactment.

8 The bill adds language to include the alleged perpetrator  
9 of a complaint in the interview process of a complaint  
10 investigation if the alleged perpetrator is identifiable and  
11 available. This is current departmental policy.

12 The bill clarifies what information is available to  
13 complainants under chapter 135C. Current language under  
14 section 135C.37 allowed for information to be given to a  
15 complainant that was unavailable and was in conflict with  
16 language under section 135C.38. The new language clarifies  
17 what information is available, while still providing for this  
18 information at no cost to the complainant.

19 The bill allows for the suspension or revocation of an  
20 establishment's license if the establishment is used to engage  
21 in criminal activity, such as drug dealing, fencing stolen  
22 merchandise, or food stamp violations. The suspension or  
23 revocation would only occur following the conviction of  
24 criminal activities. The establishments affected are food  
25 establishments, food service establishments, home food  
26 establishments, and hotels and motels. Currently, the law  
27 only provides for the revocation of an establishment's license  
28 if sanitation standards are not met. If criminal activity is  
29 occurring in an establishment, government has a duty to its  
30 citizens to protect their health and safety from being  
31 jeopardized by this activity. Suspension of a license is  
32 being added to provide additional disciplinary options.

33 The bill amends chapter 726 to increase the criminal  
34 penalties for wanton neglect of a resident of a health care  
35 facility. The increase penalties are the same as the

1 penalties for child endangerment. The department believes  
2 that residents of health care facilities are as important as  
3 children, and thus, the penalties should be the same.

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SENATE FILE 412

AN ACT

RELATING TO THE DEPARTMENT OF INSPECTIONS AND APPEALS BY EXPANDING ITS INVESTIGATORY AUTHORITY, PROVIDING THAT CERTAIN INFORMATION REGARDING HEALTH CARE FACILITIES BE AVAILABLE TO THE PUBLIC, RELATING TO HEALTH CARE FACILITIES UNDER RECEIVERSHIP, PROVIDING ADDITIONAL GROUNDS FOR SUSPENSION AND REVOCATION OF CERTAIN LICENSES ISSUED BY THE DEPARTMENT, INCREASING CRIMINAL PENALTIES FOR WANTON NEGLIGENCE OF A RESIDENT OF A HEALTH CARE FACILITY, AND PROVIDING AN EFFECTIVE DATE AND A PENALTY.

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

Section 1. Section 10A.402, subsection 7, Code 1991, is amended to read as follows:

7. Investigations relative to the administration of the state supplemental assistance program, the state medical assistance program, the food stamp program, and the aid to dependent children program and any other state or federal benefit assistance program.

Sec. 2. Section 135B.12, Code 1991, is amended to read as follows:

135B.12 CONFIDENTIALITY.

The department's final findings or the final survey findings of the joint commission on the accreditation of health care organizations or the American osteopathic association with respect to compliance by a hospital with requirements for licensing or accreditation shall be made available to the public in a readily available form and place. Other information relating to a hospital obtained by the department which does not constitute the department's findings from an inspection of the hospital or the final survey findings of the joint commission on the accreditation of health care organizations or the American osteopathic association shall not be made available to the public, except in proceedings involving the denial, suspension, or revocation of a license under this chapter. The name of a person who files a complaint with the department shall remain confidential and shall not be subject to discovery, subpoena, or other means of legal compulsion for its release to a person other than department employees or agents involved in the investigation of the complaint.

Sec. 3. Section 135C.30, subsection 4, paragraph d, unnumbered paragraph 1, Code 1991, is amended to read as follows:

Expenses incurred by the facility in the ordinary course of business, such as employees' salaries and accounts receivable payable.

Sec. 4. Section 135C.37, unnumbered paragraph 2, Code 1991, is amended by striking the paragraph.

Sec. 5. Section 135C.38, subsection 1, Code 1991, is amended by striking the subsection and inserting in lieu thereof the following:

1. a. Upon receipt of a complaint made in accordance with section 135C.37, the department or care review committee shall

make a preliminary review of the complaint. Unless the department or committee concludes that the complaint is intended to harass a facility or a licensee or is without reasonable basis, it shall within twenty working days of receipt of the complaint make or cause to be made an on-site inspection of the health care facility which is the subject of the complaint.

b. The complaint investigation shall include, at a minimum, an interview with the complainant, the alleged perpetrator, and the victim of the alleged violation, if the victim is able to communicate, if the complainant, alleged perpetrator, or victim is identifiable, and if the complainant, alleged perpetrator, or victim is available. Additionally, witnesses who have knowledge of facts related to the complaint shall be interviewed, if identifiable and available. The names of witnesses may be obtained from the complainant or the victim. The files of the facility may be reviewed to ascertain the names of staff persons on duty at the time relevant to the complaint. The department shall apply a preponderance of the evidence standard in determining whether or not a complaint is substantiated. For the purposes of this subsection, "a preponderance of the evidence standard" means that the evidence, considered and compared with the evidence opposed to it, produces the belief in a reasonable mind that the allegations are more likely true than not true. "A preponderance of the evidence standard" does not require that the investigator personally witnessed the alleged violation.

c. The department may refer to the care review committee of a facility any complaint received by the department regarding that facility, for initial evaluation and appropriate action by the committee.

Sec. 6. Section 135C.38, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. a. The complainant shall be promptly informed of the result of any action taken by the department or committee in the matter. The complainant shall also be notified of the name, address, and telephone number of the designated protection and advocacy agency if the alleged violation involves a facility with one or more residents with developmental disabilities or mental illness.

b. Upon conclusion of the investigation, the department shall notify the complainant of the results. The notification shall include a statement of the factual findings as determined by the investigator, the statutory or regulatory provisions alleged to have been violated, and a summary of the reasons for which the complaint was or was not substantiated.

c. The department shall mail the notification to the complainant without charge. Upon the request of the complainant, the department shall mail to the complainant, without charge, a copy of the most recent final findings regarding compliance with licensing requirements by the facility against which the complaint was filed.

d. A person who is dissatisfied with any aspect of the department's handling of the complaint may contact the long-term care resident's advocate, established pursuant to section 249D.42, or may contact the protection and advocacy agency designated pursuant to section 135C.2 if the complaint relates to a resident with a developmental disability or a mental illness.

Sec. 7. Section 137A.9, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

137A.9 SUSPENSION OR REVOCATION OF LICENSES.

The department may suspend or revoke a license issued to a person under this chapter if any of the following occurs:

1. The person's food establishment does not conform to a provision of this chapter or a rule adopted pursuant to this chapter.

2. The person violates a provision of this chapter or a rule adopted pursuant to this chapter.

3. The person conducts an activity constituting a criminal offense in the food establishment and is convicted of a serious misdemeanor or a more serious offense as a result.

Sec. 8. NEW SECTION. 137B.11 SUSPENSION OR REVOCATION OF LICENSES.

The department may suspend or revoke a license issued to a person under this chapter if any of the following occurs:

1. The person's food service establishment does not conform to a provision of this chapter or a rule adopted pursuant to this chapter.

2. The person violates a provision of this chapter or a rule adopted pursuant to this chapter.

3. The person conducts an activity constituting a criminal offense in the food service establishment and is convicted of a serious misdemeanor or a more serious offense as a result.

Sec. 9. Section 137C.10, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

137C.10 SUSPENSION OR REVOCATION OF LICENSES.

A regulatory authority may suspend or revoke a license issued to a person under the Iowa hotel sanitation code if any of the following occurs:

1. The person's hotel does not conform to a provision of the Iowa hotel sanitation code or a rule adopted pursuant to this chapter.

2. The person violates a provision of the Iowa hotel sanitation code or a rule adopted pursuant to this chapter.

3. The person conducts an activity constituting a criminal offense in the hotel and is convicted of a serious misdemeanor or a more serious offense as a result.

Sec. 10. NEW SECTION. 137D.8 SUSPENSION OR REVOCATION OF LICENSES.

The department may suspend or revoke a license issued to a person under this chapter if any of the following occurs:

1. The person's home food establishment does not conform to a provision of this chapter or a rule adopted pursuant to this chapter.

2. The person violates a provision of this chapter or a rule adopted pursuant to this chapter.

3. The person conducts an activity constituting a criminal offense in the home food establishment and is convicted of a serious misdemeanor or a more serious offense as a result.

Sec. 11. Section 249A.2, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 7A. "Provider" means an individual, firm, corporation, association, or institution which is providing or has been approved to provide medical assistance to recipients under this chapter.

Sec. 12. NEW SECTION. 249A.8 FRAUDULENT PRACTICE.

A person who knowingly makes or causes to be made false statements or misrepresentations of material facts in application for payment of services or merchandise rendered or purportedly rendered by a provider participating in the medical assistance program under this chapter is guilty of a fraudulent practice.

Sec. 13. Section 726.7, Code 1991, is amended to read as follows:

726.7 WANTON NEGLECT OF A RESIDENT OF A HEALTH CARE FACILITY.

1. A person commits wanton neglect of a resident of a health care facility when the person knowingly acts in a manner likely to be injurious to the physical, or mental or moral welfare of a resident of a health care facility as defined in section 135C.1. Wanton-neglect-of-a-resident-of-a-health-care-facility-is-a-serious-misdemeanor.

2. A person who commits wanton neglect resulting in serious injury to a resident of a health care facility is guilty of a class "C" felony.

3. A person who commits wanton neglect not resulting in serious injury to a resident of a health care facility is guilty of an aggravated misdemeanor.

Sec. 14. Sections 1 and 2 of this Act, being deemed of immediate importance, take effect upon enactment.

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JOE J. WELSH  
President of the Senate

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ROBERT C. ARNOULD  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 412, Seventy-fourth General Assembly.

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JOHN F. DWYER  
Secretary of the Senate

Approved Moyle, 1991

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TERRY E. BRANSTAD  
Governor