

FILED MAR 4 1994

SENATE FILE 2291  
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO SSB 2008)

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

A BILL FOR

1 An Act relating to access to and the use of child or dependent  
2 adult abuse information and the access to and use of criminal  
3 records in evaluating licensure and regulation of certain  
4 programs and facilities and their personnel.

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

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SF. 2291

1 Section 1. Section 125.14A, Code 1993, is amended to read  
2 as follows:

3 125.14A PERSONNEL OF A LICENSED PROGRAM ADMITTING  
4 JUVENILES.

5 1. If a person is being considered for licensure under  
6 this chapter, or for employment involving direct  
7 responsibility for a child or with access to a child when the  
8 child is alone, by a program admitting juveniles subject to  
9 licensure under this chapter, or if a person will reside in a  
10 facility utilized by such a program, and if the person has  
11 been convicted of a crime or has a record of founded child or  
12 dependent adult abuse, the department of human services and  
13 the program, for an employee of the program, shall perform an  
14 evaluation to determine whether the crime or founded child or  
15 dependent adult abuse warrants prohibition of licensure,  
16 employment, or residence in the facility. The department of  
17 human services shall conduct criminal and child and dependent  
18 adult abuse record checks in this state and may conduct these  
19 checks in other states. The evaluation shall be performed in  
20 accordance with procedures adopted for this purpose by the  
21 department of human services.

22 2. If the department of human services determines that a  
23 person has committed a crime or has a record of founded child  
24 or dependent adult abuse and is licensed, employed by a  
25 program licensed under this chapter, or resides in a licensed  
26 facility, the department shall notify the program that an  
27 evaluation will be conducted to determine whether prohibition  
28 of the person's licensure, employment, or residence is  
29 warranted.

30 3. In an evaluation, the department of human services and  
31 the program for an employee of the program shall consider the  
32 nature and seriousness of the crime or founded child or  
33 dependent adult abuse in relation to the position sought or  
34 held, the time elapsed since the commission of the crime or  
35 founded child or dependent adult abuse, the circumstances

1 under which the crime or founded child or dependent adult  
2 abuse was committed, the degree of rehabilitation, the  
3 likelihood that the person will commit the crime or founded  
4 child or dependent adult abuse again, and the number of crimes  
5 or founded child or dependent adult abuses committed by the  
6 person involved. The department of human services may permit  
7 a person who is evaluated to be licensed, employed, or to  
8 reside, or to continue to be licensed, employed, or to reside  
9 in a program, if the person complies with the department's  
10 conditions relating to the person's licensure, employment, or  
11 residence, which may include completion of additional  
12 training. For an employee of a licensee, these conditional  
13 requirements shall be developed with the licensee. The  
14 department of human services has final authority in  
15 determining whether prohibition of the person's licensure,  
16 employment, or residence is warranted and in developing any  
17 conditional requirements under this subsection.

18 4. If the department of human services determines that the  
19 person has committed a crime or has a record of founded child  
20 or dependent adult abuse which warrants prohibition of  
21 licensure, employment, or residence, the person shall not be  
22 licensed under this chapter to operate a program admitting  
23 juveniles and shall not be employed by a program or reside in  
24 a facility admitting juveniles licensed under this chapter.

25 Sec. 2. NEW SECTION. 135C.33 CHILD OR DEPENDENT ADULT  
26 ABUSE INFORMATION AND CRIMINAL RECORDS -- EVALUATIONS.

27 1. If a person is being considered for licensure under  
28 this chapter, or for employment involving direct  
29 responsibility for a resident or with access to a resident  
30 when the resident is alone, or if the person considered for  
31 licensure or employment under this chapter will reside in a  
32 facility, and if the person has been convicted of a crime  
33 under a law of any state or has a record of founded child or  
34 dependent adult abuse, the department of human services shall  
35 perform an evaluation to determine whether the crime or

1 founded child or dependent adult abuse warrants prohibition of  
2 licensure, employment, or residence in the facility. The  
3 evaluation shall be performed in accordance with procedures  
4 adopted for this purpose by the department of human services.

5 2. If the department of human services determines that a  
6 person has committed a crime or has a record of founded child  
7 or dependent adult abuse and is licensed, employed by a  
8 facility licensed under this chapter, or resides in a licensed  
9 facility, the department shall notify the licensee that an  
10 evaluation will be conducted to determine whether prohibition  
11 of the person's licensure, employment, or residence is  
12 warranted.

13 3. In an evaluation, the department of human services  
14 shall consider the nature and seriousness of the crime or  
15 founded child or dependent adult abuse in relation to the  
16 position sought or held, the time elapsed since the commission  
17 of the crime or founded child or dependent adult abuse, the  
18 circumstances under which the crime or founded child or  
19 dependent adult abuse was committed, the degree of  
20 rehabilitation, the likelihood that the person will commit the  
21 crime or founded child or dependent adult abuse again, and the  
22 number of crimes or founded child or dependent adult abuses  
23 committed by the person involved. The department of human  
24 services has final authority in determining whether  
25 prohibition of the person's licensure, employment, or  
26 residence is warranted.

27 4. If the department of human services determines that the  
28 person has committed a crime or has a record of founded child  
29 or dependent adult abuse which warrants prohibition of  
30 licensure, employment, or residence, the person shall not be  
31 licensed under this chapter and shall not be employed by a  
32 facility or reside in a facility licensed under this chapter.

33 Sec. 3. Section 135H.7, subsections 2 and 3, Code 1993,  
34 are amended to read as follows:

35 2. a. If a person is being considered for licensure under

1 this chapter, or for employment involving direct  
2 responsibility for a child or with access to a child when the  
3 child is alone, by a licensed psychiatric institution, or if a  
4 person will reside in a facility utilized by a licensee, and  
5 if the person has been convicted of a crime or has a record of  
6 founded child or dependent adult abuse, the department of  
7 human services and the licensee, for an employee of the  
8 licensee, shall perform an evaluation to determine whether the  
9 crime or founded child or dependent adult abuse warrants  
10 prohibition of licensure, employment, or residence in the  
11 facility. The department of human services shall conduct  
12 criminal and child and dependent adult abuse record checks in  
13 this state and may conduct these checks in other states. The  
14 evaluation shall be performed in accordance with procedures  
15 adopted for this purpose by the department of human services.

16 b. If the department of human services determines that a  
17 person has committed a crime or has a record of founded child  
18 or dependent adult abuse and is licensed, employed by a  
19 psychiatric institution licensed under this chapter, or  
20 resides in a licensed facility, the department shall notify  
21 the program licensee that an evaluation will be conducted to  
22 determine whether prohibition of the person's licensure,  
23 employment, or residence is warranted.

24 c. In an evaluation, the department of human services and  
25 the licensee for an employee of the licensee shall consider  
26 the nature and seriousness of the crime or founded child or  
27 dependent adult abuse in relation to the position sought or  
28 held, the time elapsed since the commission of the crime or  
29 founded child or dependent adult abuse, the circumstances  
30 under which the crime or founded child or dependent adult  
31 abuse was committed, the degree of rehabilitation, the  
32 likelihood that the person will commit the crime or founded  
33 child or dependent adult abuse again, and the number of crimes  
34 or founded child or dependent adult abuses committed by the  
35 person involved. The department may permit a person who is

1 evaluated to be licensed, employed, or to reside, or to  
2 continue to be licensed, employed, or to reside in a licensed  
3 facility, if the person complies with the department's  
4 conditions relating to the person's licensure, employment, or  
5 residence, which may include completion of additional  
6 training. For an employee of a licensee, these conditional  
7 requirements shall be developed with the licensee. The  
8 department of human services has final authority in  
9 determining whether prohibition of the person's licensure,  
10 employment, or residence is warranted and in developing any  
11 conditional requirements under this paragraph.

12 3. If the department of human services determines that the  
13 person has committed a crime or has a record of founded child  
14 or dependent adult abuse which warrants prohibition of  
15 licensure, employment, or residence, the person shall not be  
16 licensed under this chapter to operate a psychiatric  
17 institution and shall not be employed by a psychiatric  
18 institution or reside in a facility licensed under this  
19 chapter.

20 Sec. 4. Section 237.8, subsection 2, Code 1993, is amended  
21 to read as follows:

22 2. a. If a person is being considered for licensure under  
23 this chapter, or for employment involving direct  
24 responsibility for a child or with access to a child when the  
25 child is alone, by a licensee under this chapter, or if a  
26 person will reside in a facility utilized by a licensee, and  
27 if the person has been convicted of a crime or has a record of  
28 founded child or dependent adult abuse, the department and the  
29 licensee for an employee of the licensee shall perform an  
30 evaluation to determine whether the crime or founded child or  
31 dependent adult abuse warrants prohibition of licensure,  
32 employment, or residence in the facility. The department  
33 shall conduct criminal and child and dependent adult abuse  
34 record checks in this state and may conduct these checks in  
35 other states. The evaluation shall be performed in accordance

1 with procedures adopted for this purpose by the department.

2 b. If the department determines that a person has  
3 committed a crime or has a record of founded child or  
4 dependent adult abuse and is licensed, employed by a licensee,  
5 or resides in a licensed facility, the department shall notify  
6 the licensee that an evaluation will be conducted to determine  
7 whether prohibition of the person's licensure, employment, or  
8 residence is warranted.

9 c. In an evaluation, the department and the licensee for  
10 an employee of the licensee shall consider the nature and  
11 seriousness of the crime or founded child or dependent adult  
12 abuse in relation to the position sought or held, the time  
13 elapsed since the commission of the crime or founded child or  
14 dependent adult abuse, the circumstances under which the crime  
15 or founded child or dependent adult abuse was committed, the  
16 degree of rehabilitation, the likelihood that the person will  
17 commit the crime or founded child or dependent adult abuse  
18 again, and the number of crimes or founded child or dependent  
19 adult abuses committed by the person involved. The department  
20 may permit a person who is evaluated to be licensed, employed,  
21 or to reside, or to continue to be licensed, employed, or to  
22 reside in a licensed facility, if the person complies with the  
23 department's conditions relating to the person's licensure,  
24 employment, or residence, which may include completion of  
25 additional training. For an employee of a licensee, these  
26 conditional requirements shall be developed with the licensee.  
27 The department has final authority in determining whether  
28 prohibition of the person's licensure, employment, or  
29 residence is warranted and in developing any conditional  
30 requirements under this paragraph.

31 d. If the department determines that the person has  
32 committed a crime or has a record of founded child or  
33 dependent adult abuse which warrants prohibition of licensure,  
34 employment, or residence, the person shall not be licensed  
35 under this chapter and shall not be employed by a licensee or

1 reside in a licensed facility.

2 Sec. 5. Section 237A.5, subsection 2, Code 1993, is  
3 amended to read as follows:

4 2. a. If a person is being considered for licensure or  
5 registration under this chapter, or for employment involving  
6 direct responsibility for a child or with access to a child  
7 when the child is alone, by a child day care facility subject  
8 to licensure or registration under this chapter, or if a  
9 person will reside in a facility, and if the person has been  
10 convicted of a crime or has a record of founded child or  
11 dependent adult abuse, the department and the licensee or  
12 registrant for an employee of the licensee or registrant shall  
13 perform an evaluation to determine whether the crime or  
14 founded child or dependent adult abuse warrants prohibition of  
15 licensure, registration, employment, or residence in the  
16 facility. The department shall conduct criminal and child and  
17 dependent adult abuse record checks in this state and may  
18 conduct these checks in other states. The evaluation shall be  
19 performed in accordance with procedures adopted for this  
20 purpose by the department.

21 b. If the department determines that a person has  
22 committed a crime or has a record of founded child or  
23 dependent adult abuse and is licensed, employed by a licensee  
24 or registrant or registered under this chapter, or resides in  
25 a licensed or registered facility, the department shall notify  
26 the licensee or registrant that an evaluation will be  
27 conducted to determine whether prohibition of the person's  
28 licensure, registration, employment, or residence is  
29 warranted.

30 c. In an evaluation, the department and the licensee or  
31 registrant for an employee of the licensee or registrant shall  
32 consider the nature and seriousness of the crime or founded  
33 child or dependent adult abuse in relation to the position  
34 sought or held, the time elapsed since the commission of the  
35 crime or founded child or dependent adult abuse, the

1 circumstances under which the crime or founded child or  
2 dependent adult abuse was committed, the degree of  
3 rehabilitation, the likelihood that the person will commit the  
4 crime or founded child or dependent adult abuse again, and the  
5 number of crimes or founded child or dependent adult abuses  
6 committed by the person involved. The department may permit a  
7 person who is evaluated to be licensed, registered, employed,  
8 or to reside, or to continue to be licensed, registered,  
9 employed, or to reside in a licensed facility, if the person  
10 complies with the department's conditions relating to the  
11 person's licensure, registration, employment, or residence,  
12 which may include completion of additional training. For an  
13 employee of a licensee or registrant, these conditional  
14 requirements shall be developed with the licensee or  
15 registrant. The department has final authority in determining  
16 whether prohibition of the person's licensure, registration,  
17 employment, or residence is warranted and in developing any  
18 conditional requirements under this paragraph.

19 d. If the department determines that the person has  
20 committed a crime or has a record of founded child or  
21 dependent adult abuse which warrants prohibition of licensure,  
22 registration, employment, or residence, the person shall not  
23 be licensed or registered under this chapter to operate a  
24 child day care facility and shall not be employed by a  
25 licensee or registrant or reside in a facility licensed or  
26 registered under this chapter.

27 Sec. 6. Section 692.2, subsection 1, paragraph c, Code  
28 Supplement 1993, is amended to read as follows:

29 c. The department of human services for the purposes of  
30 section 135C.33, section 218.13, section 232.71, subsection  
31 16, section 232.142, section 237.8, subsection 2, section  
32 237A.5, section 237A.20, and section 600.8, subsections 1 and  
33 2.

34 EXPLANATION

35 This bill provides for access to and use of dependent adult

1 abuse information by the department of human services in  
2 considering licensure of programs or facilities which provide  
3 care or services to children or dependent adults. It adds a  
4 new section to chapter 135C providing for record checks and  
5 evaluations relating to criminal convictions and founded child  
6 and dependent adult abuse information in connection with the  
7 licensure and regulation of health care facilities and their  
8 personnel.

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## SENATE FILE 2291

S-5292

1 Amend Senate File 2291 as follows:

2 1. By striking page 1, line 1 through page 2,  
3 line 24, and inserting the following:

4 "Section 1. Section 125.14A, Code 1993, is amended  
5 by adding the following new subsections:

6 NEW SUBSECTION. 5. In addition to the record  
7 checks required under this section, the department of  
8 human services may conduct dependent adult abuse  
9 record checks in this state and may conduct these  
10 checks in other states, on a random basis. The  
11 provisions of this section, relative to an evaluation  
12 following a determination that a person has been  
13 convicted of a crime or has a record of founded child  
14 abuse, shall also apply to a random check conducted  
15 under this subsection.

16 NEW SUBSECTION. 6. Beginning July 1, 1994, a  
17 program or facility shall inform all new applicants  
18 for employment of the possibility of the performance  
19 of a record check and shall obtain, from the  
20 applicant, a signed acknowledgment of the receipt of  
21 the information.

22 NEW SUBSECTION. 7. On or after July 1, 1994, a  
23 program or facility shall include the following  
24 inquiry in an application for employment: "Do you  
25 have a record of founded child or dependent adult  
26 abuse or have you ever been convicted of a crime in  
27 this state or any other state?"

28 2. Page 2, by striking lines 27 through 32, and  
29 inserting the following:

30 "1. On or after July 1, 1994, with regard to new  
31 applicants for licensure or employment, if a person is  
32 being considered for licensure under this chapter, or  
33 for employment involving direct responsibility for a  
34 resident or with access to a resident when the  
35 resident is alone, or if the person considered for  
36 licensure or employment under this chapter will reside  
37 in a facility, the facility may request that the  
38 department of human services conduct criminal and  
39 child and dependent adult abuse record checks in this  
40 state and in other states, on a random basis.

41 Beginning July 1, 1994, a facility shall inform all  
42 new applicants for employment of the possibility of  
43 the performance of a record check and shall obtain,  
44 from the applicant, a signed acknowledgment of the  
45 receipt of the information. Additionally, on or after  
46 July 1, 1994, a facility shall include the following  
47 inquiry in an application for employment: "Do you  
48 have a record of founded child or dependent adult  
49 abuse or have you ever been convicted of a crime, in  
50 this state or any other state?" If the person has

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1 been convicted of a crime".

2 3. By striking page 3, line 33 through page 5,  
3 line 19 and inserting the following:

4 "Sec. \_\_\_\_ . Section 135H.7, Code 1993, is amended  
5 by adding the following new subsections:

6 NEW SUBSECTION. 4. In addition to the record  
7 checks required under subsection 2, the department of  
8 human services may conduct dependent adult abuse  
9 record checks in this state and may conduct these  
10 checks in other states, on a random basis. The  
11 provisions of subsections 2 and 3, relative to an  
12 evaluation following a determination that a person has  
13 been convicted of a crime or has a record of founded  
14 child abuse, shall also apply to a random dependent  
15 adult abuse record check conducted under this  
16 subsection.

17 NEW SUBSECTION. 5. Beginning July 1, 1994, a  
18 licensee shall inform all new applicants for  
19 employment of the possibility of the performance of a  
20 record check and shall obtain, from the applicant, a  
21 signed acknowledgment of the receipt of the  
22 information.

23 NEW SUBSECTION. 6. On or after July 1, 1994, a  
24 licensee shall include the following inquiry in an  
25 application for employment: "Do you have a record of  
26 founded child or dependent adult abuse or have you  
27 ever been convicted of a crime, in this state or any  
28 other state?"

29 4. By striking page 5, line 20 through page 7,  
30 line 1, and inserting the following:

31 "Sec. \_\_\_\_ . Section 237.8, Code 1993, is amended by  
32 adding the following new subsections:

33 NEW SUBSECTION. 3. In addition to the record  
34 checks required under subsection 2, the department of  
35 human services may conduct dependent adult abuse  
36 record checks in this state and may conduct these  
37 checks in other states, on a random basis. The  
38 provisions of subsection 2, relative to an evaluation  
39 following a determination that a person has been  
40 convicted of a crime or has a record of founded child  
41 abuse, shall also apply to a random check conducted  
42 under this subsection.

43 NEW SUBSECTION. 4. On or after July 1, 1994, a  
44 licensee shall inform all new applicants for  
45 employment of the possibility of the performance of a  
46 record check and shall obtain, from the applicant, a  
47 signed acknowledgment of the receipt of the  
48 information.

49 NEW SUBSECTION. 5. On or after July 1, 1994, a  
50 licensee shall include the following inquiry in an

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1 application for employment: "Do you have a record of  
2 founded child or dependent adult abuse or have you  
3 ever been convicted of a crime, in this state or any  
4 other state?"

5 5. By striking page 7, line 2, through page 8,  
6 line 26 and inserting the following:

7 "Sec. \_\_\_\_\_. Section 237A.5, Code 1993, is amended  
8 by adding the following new subsections:

9 NEW SUBSECTION. 3. In addition to the record  
10 checks required under subsection 2, the department of  
11 human services may conduct dependent adult abuse  
12 record checks in this state and may conduct these  
13 checks in other states, on a random basis. The  
14 provisions of subsection 2, relative to an evaluation  
15 following a determination that a person has been  
16 convicted of a crime or has a record of founded child  
17 abuse, shall also apply to a random dependent adult  
18 abuse record check conducted under this subsection.

19 NEW SUBSECTION. 4. On or after July 1, 1994, a  
20 licensee or registrant shall inform all new applicants  
21 for employment of the possibility of the performance  
22 of a record check and shall obtain, from the  
23 applicant, a signed acknowledgment of the receipt of  
24 the information.

25 NEW SUBSECTION. 5. On or after July 1, 1994, a  
26 licensee or registrant shall include the following  
27 inquiry in an application for employment: "Do you  
28 have a record of founded child or dependent adult  
29 abuse or have you ever been convicted of a crime, in  
30 this state or any other state?"

31 6. Page 8, by inserting after line 33 the  
32 following:

33 "Sec. \_\_\_\_\_. Section 692.2, subsection 1, Code  
34 Supplement 1993, is amended by adding the following  
35 new paragraph:

36 NEW PARAGRAPH. 1. Health care facilities licensed  
37 pursuant to chapter 135C for the purposes of section  
38 135C.33.

39 Sec. \_\_\_\_\_. Section 692.3, subsection 2, Code 1993,  
40 is amended to read as follows:

41 2. Notwithstanding subsection 1, paragraph "a",  
42 the department of human services may disseminate  
43 criminal history data obtained pursuant to section  
44 692.2, subsection 1, paragraph "c", to persons  
45 licensed, registered, or certified under chapters  
46 135C, 237, 237A, 238 and 600 for the purposes of  
47 section 135C.33, section 237.8, subsection 2 and  
48 section 237A.5. A person who receives information  
49 pursuant to this subsection shall not use the  
50 information other than for purposes of section

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1 135C.33, section 237.8, subsection 2, section 237A.5,  
2 or section 600.8, subsections 1 and 2. A person who  
3 receives criminal history data pursuant to this  
4 subsection who uses the information for purposes other  
5 than those permitted by this subsection or who  
6 communicates the information to another person except  
7 for the purposes permitted by this subsection is  
8 guilty of an aggravated misdemeanor."  
9 7. By renumbering as necessary.

By MARY E. KRAMER

S-5292 FILED MARCH 24, 1994

Kramer. Chair  
Judge  
Rittner

SSB - 2008  
Human Resources

SENATE FILE <sup>New</sup> 2291  
BY (PROPOSED COMMITTEE ON HUMAN  
RESOURCES BILL BY CHAIRPERSON  
SZYMONIAK)

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

A BILL FOR

1 An Act relating to access to and the use of child or dependent  
2 adult abuse information and the access to and use of criminal  
3 records in evaluating licensure and regulation of certain  
4 programs and facilities and their personnel.

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

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1 Section 1. Section 125.14A, Code 1993, is amended to read  
2 as follows:

3 125.14A PERSONNEL OF A LICENSED PROGRAM ADMITTING  
4 JUVENILES.

5 1. If a person is being considered for licensure under  
6 this chapter, or for employment involving direct  
7 responsibility for a child or with access to a child when the  
8 child is alone, by a program admitting juveniles subject to  
9 licensure under this chapter, or if a person will reside in a  
10 facility utilized by such a program, and if the person has  
11 been convicted of a crime or has a record of founded child or  
12 dependent adult abuse, the department of human services and  
13 the program, for an employee of the program, shall perform an  
14 evaluation to determine whether the crime or founded child or  
15 dependent adult abuse warrants prohibition of licensure,  
16 employment, or residence in the facility. The department of  
17 human services shall conduct criminal and child and dependent  
18 adult abuse record checks in this state and may conduct these  
19 checks in other states. The evaluation shall be performed in  
20 accordance with procedures adopted for this purpose by the  
21 department of human services.

22 2. If the department of human services determines that a  
23 person has committed a crime or has a record of founded child  
24 or dependent adult abuse and is licensed, employed by a  
25 program licensed under this chapter, or resides in a licensed  
26 facility, the department shall notify the program that an  
27 evaluation will be conducted to determine whether prohibition  
28 of the person's licensure, employment, or residence is  
29 warranted.

30 3. In an evaluation, the department of human services and  
31 the program for an employee of the program shall consider the  
32 nature and seriousness of the crime or founded child or  
33 dependent adult abuse in relation to the position sought or  
34 held, the time elapsed since the commission of the crime or  
35 founded child or dependent adult abuse, the circumstances

1 under which the crime or founded child or dependent adult  
2 abuse was committed, the degree of rehabilitation, the  
3 likelihood that the person will commit the crime or founded  
4 child or dependent adult abuse again, and the number of crimes  
5 or founded child or dependent adult abuses committed by the  
6 person involved. The department of human services may permit  
7 a person who is evaluated to be licensed, employed, or to  
8 reside, or to continue to be licensed, employed, or to reside  
9 in a program, if the person complies with the department's  
10 conditions relating to the person's licensure, employment, or  
11 residence, which may include completion of additional  
12 training. For an employee of a licensee, these conditional  
13 requirements shall be developed with the licensee. The  
14 department of human services has final authority in  
15 determining whether prohibition of the person's licensure,  
16 employment, or residence is warranted and in developing any  
17 conditional requirements under this subsection.

18 4. If the department of human services determines that the  
19 person has committed a crime or has a record of founded child  
20 or dependent adult abuse which warrants prohibition of  
21 licensure, employment, or residence, the person shall not be  
22 licensed under this chapter to operate a program admitting  
23 juveniles and shall not be employed by a program or reside in  
24 a facility admitting juveniles licensed under this chapter.

25 Sec. 2. NEW SECTION. 135C.33 CHILD OR DEPENDENT ADULT  
26 ABUSE INFORMATION AND CRIMINAL RECORDS -- EVALUATIONS.

27 1. If a person is being considered for licensure under  
28 this chapter, or for employment involving direct  
29 responsibility for a resident or with access to a resident  
30 when the resident is alone, or if the person considered for  
31 licensure or employment under this chapter will reside in a  
32 facility, and if the person has been convicted of a crime  
33 under a law of any state or has a record of founded child or  
34 dependent adult abuse, the department of human services shall  
35 perform an evaluation to determine whether the crime or

1 founded child or dependent adult abuse warrants prohibition of  
2 licensure, employment, or residence in the facility. The  
3 evaluation shall be performed in accordance with procedures  
4 adopted for this purpose by the department of human services.

5 2. If the department of human services determines that a  
6 person has committed a crime or has a record of founded child  
7 or dependent adult abuse and is licensed, employed by a  
8 facility licensed under this chapter, or resides in a licensed  
9 facility, the department shall notify the licensee that an  
10 evaluation will be conducted to determine whether prohibition  
11 of the person's licensure, employment, or residence is  
12 warranted.

13 3. In an evaluation, the department of human services  
14 shall consider the nature and seriousness of the crime or  
15 founded child or dependent adult abuse in relation to the  
16 position sought or held, the time elapsed since the commission  
17 of the crime or founded child or dependent adult abuse, the  
18 circumstances under which the crime or founded child or  
19 dependent adult abuse was committed, the degree of  
20 rehabilitation, the likelihood that the person will commit the  
21 crime or founded child or dependent adult abuse again, and the  
22 number of crimes or founded child or dependent adult abuses  
23 committed by the person involved. The department of human  
24 services has final authority in determining whether  
25 prohibition of the person's licensure, employment, or  
26 residence is warranted.

27 4. If the department of human services determines that the  
28 person has committed a crime or has a record of founded child  
29 or dependent adult abuse which warrants prohibition of  
30 licensure, employment, or residence, the person shall not be  
31 licensed under this chapter and shall not be employed by a  
32 facility or reside in a facility licensed under this chapter.

33 Sec. 3. Section 135H.7, subsections 2 and 3, Code 1993,  
34 are amended to read as follows:

35 2. a. If a person is being considered for licensure under

1 this chapter, or for employment involving direct  
2 responsibility for a child or with access to a child when the  
3 child is alone, by a licensed psychiatric institution, or if a  
4 person will reside in a facility utilized by a licensee, and  
5 if the person has been convicted of a crime or has a record of  
6 founded child or dependent adult abuse, the department of  
7 human services and the licensee, for an employee of the  
8 licensee, shall perform an evaluation to determine whether the  
9 crime or founded child or dependent adult abuse warrants  
10 prohibition of licensure, employment, or residence in the  
11 facility. The department of human services shall conduct  
12 criminal and child and dependent adult abuse record checks in  
13 this state and may conduct these checks in other states. The  
14 evaluation shall be performed in accordance with procedures  
15 adopted for this purpose by the department of human services.

16 b. If the department of human services determines that a  
17 person has committed a crime or has a record of founded child  
18 or dependent adult abuse and is licensed, employed by a  
19 psychiatric institution licensed under this chapter, or  
20 resides in a licensed facility, the department shall notify  
21 the program licensee that an evaluation will be conducted to  
22 determine whether prohibition of the person's licensure,  
23 employment, or residence is warranted.

24 c. In an evaluation, the department of human services and  
25 the licensee for an employee of the licensee shall consider  
26 the nature and seriousness of the crime or founded child or  
27 dependent adult abuse in relation to the position sought or  
28 held, the time elapsed since the commission of the crime or  
29 founded child or dependent adult abuse, the circumstances  
30 under which the crime or founded child or dependent adult  
31 abuse was committed, the degree of rehabilitation, the  
32 likelihood that the person will commit the crime or founded  
33 child or dependent adult abuse again, and the number of crimes  
34 or founded child or dependent adult abuses committed by the  
35 person involved. The department may permit a person who is

1 evaluated to be licensed, employed, or to reside, or to  
2 continue to be licensed, employed, or to reside in a licensed  
3 facility, if the person complies with the department's  
4 conditions relating to the person's licensure, employment, or  
5 residence, which may include completion of additional  
6 training. For an employee of a licensee, these conditional  
7 requirements shall be developed with the licensee. The  
8 department of human services has final authority in  
9 determining whether prohibition of the person's licensure,  
10 employment, or residence is warranted and in developing any  
11 conditional requirements under this paragraph.

12 3. If the department of human services determines that the  
13 person has committed a crime or has a record of founded child  
14 or dependent adult abuse which warrants prohibition of  
15 licensure, employment, or residence, the person shall not be  
16 licensed under this chapter to operate a psychiatric  
17 institution and shall not be employed by a psychiatric  
18 institution or reside in a facility licensed under this  
19 chapter.

20 Sec. 4. Section 237.8, subsection 2, Code 1993, is amended  
21 to read as follows:

22 2. a. If a person is being considered for licensure under  
23 this chapter, or for employment involving direct  
24 responsibility for a child or with access to a child when the  
25 child is alone, by a licensee under this chapter, or if a  
26 person will reside in a facility utilized by a licensee, and  
27 if the person has been convicted of a crime or has a record of  
28 founded child or dependent adult abuse, the department and the  
29 licensee for an employee of the licensee shall perform an  
30 evaluation to determine whether the crime or founded child or  
31 dependent adult abuse warrants prohibition of licensure,  
32 employment, or residence in the facility. The department  
33 shall conduct criminal and child and dependent adult abuse  
34 record checks in this state and may conduct these checks in  
35 other states. The evaluation shall be performed in accordance

1 with procedures adopted for this purpose by the department.

2 b. If the department determines that a person has  
3 committed a crime or has a record of founded child or  
4 dependent adult abuse and is licensed, employed by a licensee,  
5 or resides in a licensed facility, the department shall notify  
6 the licensee that an evaluation will be conducted to determine  
7 whether prohibition of the person's licensure, employment, or  
8 residence is warranted.

9 c. In an evaluation, the department and the licensee for  
10 an employee of the licensee shall consider the nature and  
11 seriousness of the crime or founded child or dependent adult  
12 abuse in relation to the position sought or held, the time  
13 elapsed since the commission of the crime or founded child or  
14 dependent adult abuse, the circumstances under which the crime  
15 or founded child or dependent adult abuse was committed, the  
16 degree of rehabilitation, the likelihood that the person will  
17 commit the crime or founded child or dependent adult abuse  
18 again, and the number of crimes or founded child or dependent  
19 adult abuses committed by the person involved. The department  
20 may permit a person who is evaluated to be licensed, employed,  
21 or to reside, or to continue to be licensed, employed, or to  
22 reside in a licensed facility, if the person complies with the  
23 department's conditions relating to the person's licensure,  
24 employment, or residence, which may include completion of  
25 additional training. For an employee of a licensee, these  
26 conditional requirements shall be developed with the licensee.  
27 The department has final authority in determining whether  
28 prohibition of the person's licensure, employment, or  
29 residence is warranted and in developing any conditional  
30 requirements under this paragraph.

31 d. If the department determines that the person has  
32 committed a crime or has a record of founded child or  
33 dependent adult abuse which warrants prohibition of licensure,  
34 employment, or residence, the person shall not be licensed  
35 under this chapter and shall not be employed by a licensee or

1 reside in a licensed facility.

2 Sec. 5. Section 237A.5, subsection 2, Code 1993, is  
3 amended to read as follows:

4 2. a. If a person is being considered for licensure or  
5 registration under this chapter, or for employment involving  
6 direct responsibility for a child or with access to a child  
7 when the child is alone, by a child day care facility subject  
8 to licensure or registration under this chapter, or if a  
9 person will reside in a facility, and if the person has been  
10 convicted of a crime or has a record of founded child or  
11 dependent adult abuse, the department and the licensee or  
12 registrant for an employee of the licensee or registrant shall  
13 perform an evaluation to determine whether the crime or  
14 founded child or dependent adult abuse warrants prohibition of  
15 licensure, registration, employment, or residence in the  
16 facility. The department shall conduct criminal and child and  
17 dependent adult abuse record checks in this state and may  
18 conduct these checks in other states. The evaluation shall be  
19 performed in accordance with procedures adopted for this  
20 purpose by the department.

21 b. If the department determines that a person has  
22 committed a crime or has a record of founded child or  
23 dependent adult abuse and is licensed, employed by a licensee  
24 or registrant or registered under this chapter, or resides in  
25 a licensed or registered facility, the department shall notify  
26 the licensee or registrant that an evaluation will be  
27 conducted to determine whether prohibition of the person's  
28 licensure, registration, employment, or residence is  
29 warranted.

30 c. In an evaluation, the department and the licensee or  
31 registrant for an employee of the licensee or registrant shall  
32 consider the nature and seriousness of the crime or founded  
33 child or dependent adult abuse in relation to the position  
34 sought or held, the time elapsed since the commission of the  
35 crime or founded child or dependent adult abuse, the

1 circumstances under which the crime or founded child or  
2 dependent adult abuse was committed, the degree of  
3 rehabilitation, the likelihood that the person will commit the  
4 crime or founded child or dependent adult abuse again, and the  
5 number of crimes or founded child or dependent adult abuses  
6 committed by the person involved. The department may permit a  
7 person who is evaluated to be licensed, registered, employed,  
8 or to reside, or to continue to be licensed, registered,  
9 employed, or to reside in a licensed facility, if the person  
10 complies with the department's conditions relating to the  
11 person's licensure, registration, employment, or residence,  
12 which may include completion of additional training. For an  
13 employee of a licensee or registrant, these conditional  
14 requirements shall be developed with the licensee or  
15 registrant. The department has final authority in determining  
16 whether prohibition of the person's licensure, registration,  
17 employment, or residence is warranted and in developing any  
18 conditional requirements under this paragraph.

19 d. If the department determines that the person has  
20 committed a crime or has a record of founded child or  
21 dependent adult abuse which warrants prohibition of licensure,  
22 registration, employment, or residence, the person shall not  
23 be licensed or registered under this chapter to operate a  
24 child day care facility and shall not be employed by a  
25 licensee or registrant or reside in a facility licensed or  
26 registered under this chapter.

27 Sec. 6. Section 692.2, subsection 1, paragraph c, Code  
28 Supplement 1993, is amended to read as follows:

29 c. The department of human services for the purposes of  
30 section 135C.33, section 218.13, section 232.71, subsection  
31 16, section 232.142, section 237.8, subsection 2, section  
32 237A.5, section 237A.20, and section 600.8, subsections 1 and  
33 2.

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#### EXPLANATION

35 This bill provides for access to and use of dependent adult

1 abuse information by the department of human services in  
2 considering licensure of programs or facilities which provide  
3 care or services to children or dependent adults. It adds a  
4 new section to chapter 135C providing for record checks and  
5 evaluations relating to criminal convictions and founded child  
6 and dependent adult abuse information in connection with the  
7 licensure and regulation of health care facilities and their  
8 personnel.

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