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SENATE FILE 506
BY SZYMONIAK

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

A BILL FOR

1 An Act relating to child welfare by providing for review of child
2 deaths, providing for the use of certain forfeited property,
3 planning for a family needs assessment and services program,
4 and providing penalties.

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

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S.F. 506

1 DIVISION I -- AUTOPSIES -- FUNDING

2 Section 1. Section 331.802, subsection 3, paragraph j,
3 Code 1997, is amended to read as follows:

4 j. Death of a child under the age of ~~two~~ seven years if
5 ~~death-results-from-an-unknown-cause-or-if-the-circumstances~~
6 ~~surrounding-the-death-indicate-that-sudden-infant-death~~
7 ~~syndrome-may-be~~ unless the cause of death was a disease which
8 was attended to by a physician.

9 Sec. 2. Section 331.802, subsection 5, paragraph b, Code
10 1997, is amended to read as follows:

11 b. A summary of the findings resulting from an autopsy of
12 a child ~~under-the-age-of-two-years~~ whose death occurred in the
13 manner specified in subsection 3, paragraph "j", shall be
14 transmitted immediately by the physician who performed the
15 autopsy to the county medical examiner. The report shall be
16 forwarded to the parent, guardian, or custodian of the child
17 by the county medical examiner or a designee of the county
18 medical examiner, or through the ~~infant's~~ child's attending
19 physician. A copy of the autopsy report filed with the county
20 attorney shall be available to the parents, guardian, or
21 custodian upon request.

22 Sec. 3. Section 691.6, Code 1997, is amended by adding the
23 following new subsection:

24 NEW SUBSECTION. 4. Rules adopted under subsection 3 shall
25 require an autopsy which is performed on a child who is less
26 than seven years of age under section 331.802, subsection 3,
27 paragraph "j", to include a toxicology study. In addition,
28 the autopsy, if the child is less than one year of age, shall
29 be required to include a performance of full body X rays.

30 Sec. 4. Section 809A.17, subsection 5, Code 1997, is
31 amended by adding the following new paragraph:

32 NEW PARAGRAPH. e. Forfeited property which is money or a
33 negotiable financial instrument seized in connection with a
34 crime involving a controlled substance or a simulated,
35 counterfeit, or imitation controlled substance shall be

1 deposited with the department of public safety and shall be
2 used for expenses related to the implementation of section
3 691.6, subsection 4, in autopsies of children.

4 DIVISION II -- MOTOR VEHICLE RESTRAINTS -- CHILD ENDANGERMENT

5 Sec. 5. Section 321.446, subsections 4 and 5, Code 1997,
6 are amended to read as follows:

7 4. The Except as otherwise provided in subsection 5A, an
8 operator who violates subsection 1 or 2 is guilty of a
9 misdemeanor and subject only to the penalty provisions of
10 section 805.8, subsection 2, paragraph "x".

11 5. A Except as otherwise provided in subsection 5A, a
12 person who is first charged for a violation of subsection 1
13 and who has not purchased or otherwise acquired a child
14 restraint system shall not be convicted if the person produces
15 in court, within a reasonable time, proof that the person has
16 purchased or otherwise acquired a child restraint system which
17 meets federal motor vehicle safety standards.

18 Sec. 6. Section 321.446, Code 1997, is amended by adding
19 the following new subsection:

20 NEW SUBSECTION. 5A. If a motor vehicle accident results
21 in the death of a passenger who is less than six years old and
22 the operator of the motor vehicle is in violation of
23 subsection 1 or 2, the operator shall be charged with child
24 endangerment under section 726.6.

25 Sec. 7. Section 726.6, subsection 1, Code 1997, is amended
26 by adding the following new paragraph:

27 NEW PARAGRAPH. g. Operates a motor vehicle in violation
28 of section 321.446, subsection 1 or 2, in an accident
29 resulting in the death of a passenger who is less than six
30 years old.

31 Sec. 8. Section 726.6, Code 1997, is amended by adding the
32 following new subsection:

33 NEW SUBSECTION. 2A. A person who commits child
34 endangerment under subsection 1, paragraph "g", is guilty of a
35 serious misdemeanor.

1 DIVISION III -- LOCAL CHILD DEATH REVIEW TEAMS

2 Sec. 9. Section 135.43, Code 1997, is amended by adding
3 the following new subsection:

4 NEW SUBSECTION. 5A. a. A county or group of counties may
5 establish a local child death review team subject to the
6 provisions of this subsection. The board of supervisors of
7 the county or counties participating in the local review team
8 must authorize the establishment and existence of the local
9 review team. The membership of the local review team shall
10 substantially conform to the membership of the Iowa child
11 death review team in subsection 2 unless expanded or limited
12 by action of the board of supervisors of the county or
13 counties authorizing the local review team.

14 b. A local child death review team shall assist with any
15 investigation of the death of a child in the county or
16 counties which established the team. A local child death
17 review team shall have the same access to confidential
18 information as is provided to the Iowa child death review team
19 under this section and in accordance with rules adopted under
20 this section.

21 Sec. 10. Section 135.43, subsection 6, Code 1997, is
22 amended to read as follows:

23 6. a. The Iowa department of public health and the
24 department of human services shall adopt rules providing for
25 disclosure of information which is confidential under chapter
26 22 or any other provision of state law, to the Iowa child
27 death review team for purposes of performing its child death
28 and child abuse review responsibilities and to local child
29 death review teams for purposes of assisting in investigations
30 of child deaths.

31 b. A person in possession or control of medical,
32 investigative, or other information pertaining to a child
33 death and child abuse review shall allow the inspection and
34 reproduction of the information by the department upon the
35 request of the department, to be used only in the

1 administration and for the duties of the Iowa child death
2 review team or for a local child death review team.
3 Information and records which are confidential under section
4 22.7 and chapter 235A, and information or records received
5 from the confidential records, remain confidential under this
6 section. A person does not incur legal liability by reason of
7 releasing information to the department as required under and
8 in compliance with this section.

9 Sec. 11. Section 135.43, Code 1997, is amended by adding
10 the following new subsection:

11 NEW SUBSECTION. 7. Members of the Iowa child death review
12 team and local child death review teams and their agents are
13 immune from any liability, civil or criminal, which might
14 otherwise be incurred or imposed as a result of any act,
15 omission, proceeding, decision, or determination undertaken or
16 performed, or recommendation made as a member or agent
17 provided that the member or agent acted in good faith and
18 without malice in carrying out their official duties in their
19 official capacity. The department shall adopt rules pursuant
20 to chapter 17A to administer this subsection. A complainant
21 bears the burden of proof in establishing malice or lack of
22 good faith in an action brought against a review team member
23 involving the performance of their duties and powers under
24 this section.

25 DIVISION IV -- FAMILY NEEDS ASSESSMENT

26 Sec. 12. FAMILY NEEDS ASSESSMENT - STATEWIDE
27 IMPLEMENTATION.

28 1. It is the intent of the general assembly to consider
29 statewide implementation of a program in which there is a
30 family needs assessment and service process performed in
31 connection with the birth of a child to a family. A task
32 force consisting of representatives of the public agencies and
33 other persons listed in subsection 2 shall develop an
34 implementation plan as necessary to establish the program
35 statewide beginning July 1, 1998. The task force shall

1 consider as a model the needs assessment and home visit
2 provisions of the healthy opportunities to experience success
3 program operated under contract to the state in pilot project
4 areas. The task force shall determine how to maximize the
5 usage of medical assistance and other public and private
6 funding for health care in implementing the program statewide.
7 The task force shall submit a report to the governor and the
8 general assembly on or before December 15, 1997. In addition
9 to the implementation plan, the report shall identify the
10 public and private funding sources projected to be available
11 for the program and projections for any additional state
12 funding deemed to be necessary.

13 2. The departments of public health and human services
14 shall provide leadership and administrative services for the
15 task force. The task force membership shall include, but is
16 not limited to, representatives of the following:

- 17 a. Iowa department of public health.
- 18 b. Department of human services.
- 19 c. Department of education.
- 20 d. Judicial department juvenile court services.
- 21 e. Medical practitioners.
- 22 f. Agencies providing supportive services to families.
- 23 g. Insurance companies.
- 24 h. Other business interests.
- 25 i. Parents.
- 26 j. Members of the general assembly.

27 EXPLANATION

28 The bill includes various provisions relating to the death
29 of children.

30 Division I relates to autopsies of children. Code section
31 331.802 is amended to require an autopsy upon the death of a
32 child who is younger than age 7 unless the child died from a
33 disease which was attended to by a physician. Current law
34 only requires an autopsy following the death of a child who is
35 younger than age two when the cause of death is unknown or

1 sudden infant death syndrome is indicated.

2 Code section 691.6 is amended to require the state medical
3 examiner's rules involving autopsies to require a toxicology
4 study to be performed for autopsies of children who die before
5 the age of 7. In addition, X rays of a child's full body
6 would be required upon the death of a child younger than age
7 one. The cost of the studies and X rays is to be paid from
8 money and negotiable instruments seized in connection with
9 crimes involving possession or sale of a controlled substance
10 which are transferred to the department of public safety.

11 Division II provides that a motor vehicle operator's
12 failure, in an accident which is fatal to a child, to use a
13 proper child restraint system on the child is subject to a
14 charge of child endangerment. Code section 726.6 is amended
15 to provide that this violation is a serious misdemeanor.

16 Division III authorizes county boards of supervisors to
17 establish local child death review teams. The departments of
18 public health and human services are to adopt rules providing
19 for disclosure of confidential information to members of local
20 review teams.

21 Code section 135.43 is amended to specifically set out the
22 authority of the Iowa child death review team and local child
23 death review teams to obtain confidential records and to
24 maintain confidentiality during death reviews. The Iowa
25 department of public health is directed to adopt rules
26 extending liability immunity to members of the Iowa death
27 review team and local child death review teams in the
28 execution of their duties in their official capacity.

29 The bill directs the departments of public health and human
30 services to lead a task force in developing a plan to
31 implement statewide a family needs assessment and service
32 program in connection with the births of children to families.
33 Legislative intent is to commence statewide implementation of
34 the program beginning July 1, 1998. The implementation plan
35 is to address financing and is to be submitted to the governor

1 and general assembly by December 15, 1997.

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