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SSB - 1124  
Human Resources

Succeeded By  
SENATE/HOUSE FILE (SF/HE 458)  
BY (PROPOSED DEPARTMENT OF  
HUMAN SERVICES BILL)

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

A BILL FOR

1 An Act relating to children's program and juvenile court  
2 provisions involving the department of human services in  
3 regard to the foster home insurance fund, psychiatric medical  
4 institutions for children, group child care providers,  
5 juvenile delinquency and child in need of assistance  
6 dispositions, and termination of parental rights.

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

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DIVISION I

FOSTER HOME INSURANCE FUND

Section 1. Section 237.13, subsection 1, paragraph b, Code 2001, is amended to read as follows:

b. A guardian appointed on a voluntary petition pursuant to section 232.178, or a voluntary petition of a ward pursuant to section 633.557, or a conservator appointed on a voluntary petition of a ward pursuant to section 633.572, provided the ward has an income that does not exceed one hundred fifty percent of the current federal office of management and budget poverty guidelines and who does not have resources in excess of the criteria for resources under the federal supplemental security income program. However, the ward's ownership of one residence and one vehicle shall not be considered in determining resources.

Sec. 2. Section 237.13, subsection 5, Code 2001, is amended to read as follows:

5. Except as provided in this section, the fund shall pay, on behalf of a guardian or conservator, the reasonable and necessary legal costs incurred in defending against a suit filed by a ward or the ward's representative and the damages awarded as a result of the suit, so long as it is determined that the guardian or conservator acted in good faith in the performance of ~~their~~ the guardian's or conservator's duties. A payment shall not be made if there is evidence of intentional misconduct or a knowing violation of the law by the guardian or conservator, including, but not limited to, failure to carry out the applicable responsibilities required under chapter 232 and sections 633.633 through 633.635 and 633.641 through 633.650.

DIVISION II

PSYCHIATRIC MEDICAL INSTITUTIONS FOR CHILDREN

Sec. 3. Section 135H.10, subsection 2, Code 2001, is amended by striking the subsection.

DIVISION III

GROUP CHILD CARE PROVIDERS

1  
2 Sec. 4. Section 237A.3, subsection 2, paragraph b, Code  
3 2001, is amended to read as follows:

4 b. Except as provided in subsection 3, a group child care  
5 home shall not provide child care to more than eleven children  
6 at any one time. If there are more than six children present  
7 for a period of two hours or more, the group child care home  
8 must have at least one responsible individual who is at least  
9 fourteen years of age present to assist the group child care  
10 provider in accordance with either of the following  
11 conditions:

12 (1) If the responsible individual is a joint holder of the  
13 certificate of registration, not more than four of the  
14 children present shall be ~~less-than-twenty-four-months-of-age~~  
15 ~~and-not-more-than-ten-of-the-children-present-shall-be-twenty-~~  
16 ~~four-months-of-age-or-older-but-not-attending-school-in~~  
17 ~~kindergarten-or-a-higher-grade-level~~ infants. The total  
18 number of children present at any one time who are younger  
19 than school age, including infants, shall not exceed eleven.

20 (2) If the responsible individual is not a joint holder of  
21 the certificate of registration, but is at least fourteen  
22 years of age, not more than four of the children shall be ~~less~~  
23 ~~than-twenty-four-months-of-age~~ infants and each child in  
24 excess of six children shall be ~~attending-school-in~~  
25 ~~kindergarten-or-a-higher-grade-level~~ school age.

DIVISION IV

JUVENILE DELINQUENCY PROCEEDINGS

28 Sec. 5. Section 232.21, subsection 4, Code 2001, is  
29 amended to read as follows:

30 4. A child placed in a shelter care facility under this  
31 section shall not be held for a period in excess of forty-  
32 eight hours without an oral or written court order authorizing  
33 the shelter care. When the action is authorized by an oral  
34 court order, the court shall enter a written order before the  
35 end of the next day confirming the oral order and indicating

1 the reasons for the order. A child placed in shelter care  
2 pursuant to section 232.19, subsection 1, paragraph "c" shall  
3 not be held in excess of seventy-two hours in any event. If  
4 deemed appropriate by the court, an order authorizing shelter  
5 care placement may include a determination that continuation  
6 of the child in the child's home is contrary to the child's  
7 welfare and that reasonable efforts as defined in section  
8 232.57 have been made. The inclusion of such a determination  
9 shall not under any circumstances be deemed a prerequisite for  
10 entering an order pursuant to this section. However, the  
11 inclusion of such a finding, supported by the record, may  
12 assist the department in obtaining federal funding for the  
13 child's placement.

14 Sec. 6. Section 232.22, Code 2001, is amended by adding  
15 the following new subsection:

16 NEW SUBSECTION. 1A. If deemed appropriate by the court,  
17 an order for placement of a child in detention may include a  
18 determination that continuation of the child in the child's  
19 home is contrary to the child's welfare and that reasonable  
20 efforts as defined in section 232.57 have been made. The  
21 inclusion of such a determination shall not under any  
22 circumstances be deemed a prerequisite for entering an order  
23 pursuant to this section. However, the inclusion of such a  
24 determination, supported by the record, may assist the  
25 department in obtaining federal funding for the child's  
26 placement.

27 Sec. 7. Section 232.52, subsection 6, unnumbered paragraph  
28 1, Code 2001, is amended to read as follows:

29 When the court orders the transfer of legal custody of a  
30 child pursuant to subsection 2, paragraphs paragraph "d", "e",  
31 or "f", the order shall state that reasonable efforts as  
32 defined in section 232.57 have been made to-prevent-or  
33 eliminate-the-need-for-removal-of-the-child-from-the-child's  
34 home. If deemed appropriate by the court, the order may  
35 include a determination that continuation of the child in the

1 child's home is contrary to the child's welfare. The  
 2 inclusion of such a determination shall not under any  
 3 circumstances be deemed a prerequisite for entering an order  
 4 pursuant to this section. However, the inclusion of such a  
 5 determination, supported by the record, may be used to assist  
 6 the department in obtaining federal funding for the child's  
 7 placement.

8 Sec. 8. Section 232.53, subsection 4, Code 2001, is  
 9 amended to read as follows:

10 4. a. Any person supervising but not having custody of  
 11 the child pursuant to such an order shall file a written  
 12 report with the court at least every six months concerning the  
 13 status and progress of the child.

14 b. Any agency, facility, institution, or person to whom  
 15 custody of the child has been transferred pursuant to such  
 16 order shall file a written report with the court at least  
 17 every six months concerning the status and progress of the  
 18 child.

19 c. Any report prepared pursuant to this subsection shall  
 20 be included in the record considered by the court in a  
 21 permanency hearing conducted pursuant to section 232.58.

22 Sec. 9. NEW SECTION. 232.57 REASONABLE EFFORTS DEFINED.

23 1. For the purposes of this division, unless the context  
 24 otherwise requires, "reasonable efforts" means the efforts  
 25 made to prevent permanent removal of a child from the child's  
 26 home and to encourage reunification of the child with the  
 27 child's parents and family. If a court order includes a  
 28 determination that continuation of the child in the child's  
 29 home is not appropriate or not possible, reasonable efforts  
 30 may include the efforts made in a timely manner to finalize a  
 31 permanency plan for the child.

32 2. If the court determines aggravated circumstances exist,  
 33 with written findings of fact based upon evidence in the  
 34 record, the court may waive the requirement for making  
 35 reasonable efforts. The existence of aggravated circumstances

1 is indicated by any of the following:

2 a. The parent has abandoned the child.

3 b. The court finds the circumstances described in section  
4 232.116, subsection 1, paragraph "h", are applicable to the  
5 child.

6 c. The parent's parental rights have been terminated under  
7 section 232.116 with respect to another child who is a member  
8 of the same family, and there is clear and convincing evidence  
9 to show that the offer or receipt of services would not be  
10 likely within a reasonable period of time to correct the  
11 conditions which led to the child's removal.

12 d. The parent has been convicted of the murder of another  
13 child of the parent.

14 e. The parent has been convicted of the voluntary  
15 manslaughter of another child of the parent.

16 f. The parent has been convicted of aiding or abetting,  
17 attempting, conspiring in, or soliciting the commission of the  
18 murder or voluntary manslaughter of another child of the  
19 parent.

20 g. The parent has been convicted of a felony assault which  
21 resulted in serious bodily injury of the child or of another  
22 child of the parent.

23 3. Any order entered under this division may include  
24 findings regarding reasonable efforts.

25 Sec. 10. NEW SECTION. 232.58 PERMANENCY HEARINGS.

26 1. If an order entered pursuant to this division for an  
27 out-of-home placement of a child includes a determination that  
28 continuation of the child in the child's home is contrary to  
29 the child's welfare, the court shall review the child's  
30 continued placement by holding a permanency hearing or  
31 hearings in accordance with this section. The initial  
32 permanency hearing shall be the earlier of the following:

33 a. For an order for which the court has not waived  
34 reasonable efforts requirements, the permanency hearing shall  
35 be held within twelve months of the date the child was removed

1 from the home.

2 b. For an order in a case in which aggravated  
3 circumstances exist for which the court has waived reasonable  
4 efforts requirements, the permanency hearing shall be held  
5 within thirty days of the date the requirements were waived.

6 2. Reasonable notice shall be provided of a permanency  
7 hearing for an out-of-home placement in which the court order  
8 has included a determination that continuation of the child in  
9 the child's home is contrary to the child's welfare. A  
10 permanency hearing shall be conducted in substantial  
11 conformance with the provisions of section 232.99. During the  
12 hearing, the court shall consider the child's need for a  
13 secure and permanent placement in light of any case permanency  
14 plan or evidence submitted to the court. Upon completion of  
15 the hearing, the court shall enter written findings  
16 identifying a primary permanency goal for the child. If a  
17 case permanency plan is in effect at the time of the hearing,  
18 the court shall also make a determination as to whether  
19 reasonable progress is being made in achieving the permanency  
20 goal and in complying with the other provisions of that case  
21 permanency plan.

22 3. After a permanency hearing, the court shall do one of  
23 the following:

24 a. Enter an order pursuant to section 232.52 to return the  
25 child to the child's home.

26 b. Enter an order pursuant to section 232.52 to continue  
27 the out-of-home placement of the child for an additional six  
28 months at which time the court shall hold a hearing to  
29 consider modification of its permanency order. An order  
30 entered under this paragraph shall enumerate the specific  
31 factors, conditions, or expected behavioral changes which  
32 comprise the basis for the determination that the need for  
33 removal of the child from the child's home will no longer  
34 exist at the end of the additional six-month period.

35 c. Direct the county attorney or the attorney for the

1 child to institute proceedings to terminate the parent-child  
2 relationship.

3 d. Enter an order, pursuant to findings based upon the  
4 existence of the evidence required by subsection 4, to do one  
5 of the following:

6 (1) Transfer guardianship and custody of the child to a  
7 suitable person.

8 (2) Transfer sole custody of the child from one parent to  
9 another parent.

10 (3) Transfer custody of the child to a suitable person for  
11 the purpose of long-term care.

12 (4) If the department has documented to the court's  
13 satisfaction a compelling reason for determining that an order  
14 under the other subparagraphs of this paragraph "d" would not  
15 be in the child's best interest, order another planned  
16 permanent living arrangement for the child.

17 4. Prior to entering a permanency order pursuant to  
18 subsection 3, paragraph "d", clear and convincing evidence  
19 must exist showing that all of the following apply:

20 a. A termination of the parent-child relationship would  
21 not be in the best interest of the child.

22 b. Services were offered to the child's family to correct  
23 the situation which led to the child's removal from the home.

24 c. The child cannot be returned to the child's home.

25 5. Any permanency order may provide restrictions upon the  
26 contact between the child and the child's parent or parents,  
27 consistent with the best interest of the child.

28 6. Subsequent to the entry of a permanency order pursuant  
29 to this section, the child shall not be returned to the care,  
30 custody, or control of the child's parent or parents, over a  
31 formal objection filed by the child's attorney or guardian ad  
32 litem, unless the court finds by a preponderance of the  
33 evidence that returning the child to such custody would be in  
34 the best interest of the child.

35 7. Following an initial permanency hearing and the entry

1 of a permanency order which places a child in the custody or  
 2 guardianship of another person or agency, the court shall  
 3 retain jurisdiction and annually review the order to ascertain  
 4 whether the best interest of the child is being served. When  
 5 the order places the child in the custody of the department  
 6 for the purpose of a planned permanent living arrangement, the  
 7 review shall be in a hearing that shall not be waived or  
 8 continued beyond twelve months after the initial permanency  
 9 hearing or the last permanency review hearing. Any  
 10 modification shall be accomplished through a hearing procedure  
 11 following reasonable notice. During the hearing, all relevant  
 12 and material evidence shall be admitted and procedural due  
 13 process shall be provided to all parties.

DIVISION V

CHILD IN NEED OF ASSISTANCE PROCEEDINGS

14  
 15 Sec. 11. Section 232.78, subsection 7, Code 2001, is  
 16 amended to read as follows:

17 7. Any order entered under this section authorizing  
 18 temporary removal of a child shall must include both of the  
 19 following:  
 20

21 a. ~~A statement that the temporary removal is the result of~~  
 22 ~~a determination made by the court that continuation of the~~  
 23 ~~child remaining in the child's home would be contrary to the~~  
 24 ~~welfare of the child, and that reasonable efforts have been~~  
 25 ~~made to prevent or eliminate the need for removal of the child~~  
 26 ~~from the child's home. Such a determination must be made on a~~  
 27 ~~case-by-case basis. The grounds for the court's determination~~  
 28 ~~must be explicitly documented and stated in the order.~~  
 29 However, preserving the safety of the child must be the  
 30 court's paramount consideration. If imminent danger to the  
 31 child's life or health exists at the time of the court's  
 32 consideration, the determination shall not be a prerequisite  
 33 to the removal of the child.

34 b. A statement informing the child's parent that the  
 35 consequences of a permanent removal may include termination of

1 the parent's rights with respect to the child.

2 Sec. 12. Section 232.79, subsection 4, Code 2001, is  
3 amended by adding the following new paragraph:

4 NEW PARAGRAPH. c. If deemed appropriate by the court,  
5 upon being informed that there has been an emergency removal  
6 or keeping of a child without a court order, the court may  
7 enter an order in accordance with section 232.78.

8 Sec. 13. Section 232.95, subsection 2, paragraph a, Code  
9 2001, is amended to read as follows:

10 a. Remove the child from home and place the child in a  
11 shelter care facility or in the custody of a suitable person  
12 or agency pending a final order of disposition if the court  
13 finds that substantial evidence exists to believe that removal  
14 is necessary to avoid imminent risk to the child's life or  
15 health.

16 (1) If removal is ordered, the order shall court must, in  
17 addition, contain a statement that removal from the home is  
18 the result of make a determination that continuation of the  
19 child in the child's home would be contrary to the welfare of  
20 the child, and that reasonable efforts, as defined in section  
21 232.102, have been made to prevent or eliminate the need for  
22 removal of the child from the child's home.

23 (2) The court's determination regarding continuation of  
24 the child in the child's home, and regarding reasonable  
25 efforts, including those made to prevent removal and those  
26 made to finalize any permanency plan in effect, as well as any  
27 determination by the court that reasonable efforts are not  
28 required, must be made on a case-by-case basis. The grounds  
29 for each determination must be explicitly documented and  
30 stated in the court order. However, preserving the safety of  
31 the child must be the court's paramount consideration. If  
32 imminent danger to the child's life or health exists at the  
33 time of the court's consideration, the determinations  
34 otherwise required under this paragraph "a" shall not be a  
35 prerequisite for an order for removal of the child.

1 (3) The order shall also include a statement informing the  
2 child's parent that the consequences of a permanent removal  
3 may include termination of the parent's rights with respect to  
4 the child.

5 Sec. 14. Section 232.96, subsection 10, paragraph a, Code  
6 2001, is amended to read as follows:

7 ~~a. A statement that the temporary removal is the result of~~  
8 a determination that continuation of the child remaining in  
9 the child's home would be contrary to the welfare of the  
10 child, and that reasonable efforts, as defined in section  
11 232.102, have been made to prevent or eliminate the need for  
12 removal of the child from the child's home. The court's  
13 determination regarding continuation of the child in the  
14 child's home, and regarding reasonable efforts, including  
15 those made to prevent removal and those made to finalize any  
16 permanency plan in effect, as well as any determination by the  
17 court that reasonable efforts are not required, must be made  
18 on a case-by-case basis. The grounds for each determination  
19 must be explicitly documented and stated in the court order.  
20 However, preserving the safety of the child is the paramount  
21 consideration. If imminent danger to the child's life or  
22 health exists at the time of the court's consideration, the  
23 determinations otherwise required under this paragraph shall  
24 not be a prerequisite for an order for temporary removal of  
25 the child.

26 Sec. 15. Section 232.102, subsection 5, paragraph b,  
27 unnumbered paragraph 2, Code 2001, is amended to read as  
28 follows:

29 ~~The order shall, in addition, contain a statement that~~  
30 ~~removal from the home is the result of a determination that~~ In  
31 order to transfer custody of the child under this subsection,  
32 the court must make a determination that continuation of the  
33 child in the child's home would be contrary to the welfare of  
34 the child, and shall identify the reasonable efforts that have  
35 been made. The court's determination regarding continuation

1 of the child in the child's home, and regarding reasonable  
2 efforts, including those made to prevent removal and those  
3 made to finalize any permanency plan in effect, as well as any  
4 determination by the court that reasonable efforts are not  
5 required, must be made on a case-by-case basis. The grounds  
6 for each determination must be explicitly documented and  
7 stated in the court order. However, preserving the safety of  
8 the child is the paramount consideration. If imminent danger  
9 to the child's life or health exists at the time of the  
10 court's consideration, the determinations otherwise required  
11 under this paragraph shall not be a prerequisite for an order  
12 for removal of the child.

13 Sec. 16. Section 232.102, subsection 10, paragraph a,  
14 unnumbered paragraph 1, Code 2001, is amended to read as  
15 follows:

16 As used in this section division, "reasonable efforts"  
17 means the efforts made to preserve and unify a family prior to  
18 the out-of-home placement of a child in foster care or to  
19 eliminate the need for removal of the child or make it  
20 possible for the child to safely return to the family's home.  
21 If returning the child to the family's home is not appropriate  
22 or not possible, reasonable efforts shall include the efforts  
23 made in a timely manner to finalize a permanency plan for the  
24 child. A child's health and safety shall be the paramount  
25 concern in making reasonable efforts. Reasonable efforts may  
26 include intensive family preservation services or family-  
27 centered services, if the child's safety in the home can be  
28 maintained during the time the services are provided. In  
29 determining whether reasonable efforts have been made, the  
30 court shall consider both of the following:

31 Sec. 17. Section 232.103, subsection 3, Code 2001, is  
32 amended to read as follows:

33 3. A hearing shall be held on a motion to terminate or  
34 modify a dispositional order except that a hearing on a motion  
35 to terminate an order may be waived upon agreement by all

1 parties. Reasonable notice of the hearing shall be given in  
2 ~~the same manner as for adjudicatory hearings in cases of~~  
3 ~~juvenile delinquency as provided in section 232.37~~ to the  
4 parties. The hearing shall be conducted in accordance with  
5 the provisions of section 232.50.

6 Sec. 18. Section 232.104, subsection 1, paragraph c, Code  
7 2001, is amended to read as follows:

8 c. Reasonable notice of a permanency hearing ~~in a case of~~  
9 ~~juvenile delinquency~~ shall be provided pursuant to section  
10 ~~232.37~~ to the parties. A permanency hearing shall be  
11 conducted in substantial conformance with the provisions of  
12 section 232.99. During the hearing, the court shall consider  
13 the child's need for a secure and permanent placement in light  
14 of any permanency plan or evidence submitted to the court.  
15 Upon completion of the hearing, the court shall enter written  
16 findings and make a determination identifying a primary  
17 permanency goal for the child. If a permanency plan is in  
18 effect at the time of the hearing, the court shall also make a  
19 determination as to whether reasonable progress is being made  
20 in achieving the permanency goal and complying with the other  
21 provisions of that permanency plan.

22 Sec. 19. Section 232.104, subsection 2, paragraph d,  
23 subparagraph (4), Code 2001, is amended to read as follows:

24 (4) ~~Order long-term foster care placement for the child in~~  
25 ~~a licensed foster care home or facility.~~ If the department  
26 has documented to the court's satisfaction a compelling reason  
27 for determining that an order under the other subparagraphs of  
28 this paragraph "d" would not be in the child's best interest,  
29 order another planned permanent living arrangement for the  
30 child.

31 DIVISION VI

32 TERMINATION OF PARENTAL RIGHTS

33 Sec. 20. Section 232.111, subsection 2, paragraph a,  
34 subparagraph (1), Code 2001, is amended to read as follows:

35 (1) The child has been placed in foster care for fifteen

1 months or more of the most recent twenty-two-month period.  
2 The petition shall be filed by the end of the child's  
3 fifteenth month of foster care placement.

4 DIVISION VII

5 NOTICE PROVISIONS

6 Sec. 21. Section 232.45, subsection 3, Code 2001, is  
7 amended to read as follows:

8 3. A Reasonable notice that states the time, place, and  
9 purpose of the waiver hearing shall be ~~issued-and-served-in~~  
10 ~~the-same-manner-as~~ provided to the persons required to be  
11 provided notice for adjudicatory hearings ~~as-provided-in~~ under  
12 section 232.37. Summons, subpoenas, and other process may be  
13 issued and served in the same manner as for adjudicatory  
14 hearings as provided in section 232.37.

15 Sec. 22. Section 232.54, subsection 8, unnumbered  
16 paragraph 2, Code 2001, is amended to read as follows:

17 Notice requirements of this section shall be satisfied ~~in~~  
18 ~~the-same-manner-as-for~~ by providing reasonable notice to the  
19 persons required to be provided notice for adjudicatory  
20 hearings ~~as-provided-in~~ under section 232.37, except that  
21 notice shall be waived regarding a person who was notified of  
22 the adjudicatory hearing and who failed to appear. At a  
23 hearing under this section all relevant and material evidence  
24 shall be admitted.

25 Sec. 23. Section 232.88, Code 2001, is amended to read as  
26 follows:

27 232.88 SUMMONS, NOTICE, SUBPOENAS, AND SERVICE.

28 After a petition has been filed the court shall issue and  
29 serve summons, ~~notice,~~ subpoenas, and other process in the  
30 same manner as for adjudicatory hearings in cases of juvenile  
31 delinquency as provided in section 232.37. ~~In-addition~~  
32 Reasonable notice shall be provided to the persons required to  
33 be provided notice under section 232.37, except that notice  
34 shall be waived regarding a person who was notified of the  
35 adjudicatory hearing and who failed to appear. In addition,

1 reasonable notice for any hearing under this division shall be  
2 provided to the agency, facility, institution, or person,  
3 including a foster parent, relative, or an other individual  
4 providing preadoptive care, with whom a child has been placed.

5 EXPLANATION

6 This bill relates to children's provisions involving the  
7 department of human services in regard to the foster home  
8 insurance fund, psychiatric medical institutions for children,  
9 group child care providers, juvenile delinquency and child in  
10 need of assistance dispositions, and termination of parental  
11 rights.

12 Division I of the bill relates to the foster home insurance  
13 fund. Code section 237.13 is amended to add coverage under  
14 the fund for guardians appointed on a voluntary petition filed  
15 under Code chapter 232, the juvenile justice code.

16 Division II of the bill relates to psychiatric medical  
17 institutions for children (PMICs) under Code chapter 135H.  
18 The bill strikes a provision allowing moneys appropriated to  
19 the department of human services for foster care to be used to  
20 pay the costs of a child whose foster care placement is to a  
21 PMIC. The stricken language also provides for recovery of  
22 moneys used in this manner.

23 Division III of the bill relates to group child care  
24 providers under Code section 237A.3. The bill replaces  
25 language regarding children who are less than 24 months of age  
26 with the term "infant", a defined term with the same meaning.  
27 In addition, the bill strikes language applying a separate cap  
28 on the number of preschool children who may receive care from  
29 a joint group child care provider. Under the bill, such a  
30 provider would be limited to caring for up to 11 children at  
31 one time with not more than four of infant age.

32 Division IV of the bill relates to juvenile delinquency  
33 provisions under Code chapter 232, the juvenile justice code.

34 Code section 232.21, relating to placement of a child in  
35 shelter care, is amended to provide that a written court order

1 for the placement may include the determination that the child  
2 remaining in the child's home would be contrary to the child's  
3 welfare and that reasonable efforts to prevent the permanent  
4 removal of the child, as defined later in the bill in new Code  
5 section 232.57, have been made. The inclusion of such a  
6 finding is not to be deemed a prerequisite for entry of the  
7 order for shelter care placement; however, the inclusion of  
8 the finding may assist the department of human services in  
9 obtaining federal funding for the placement.

10 Similar language is inserted as a new subsection in Code  
11 section 232.22, relating to placement of a child in detention.

12 Code section 232.52, relating to the disposition of a child  
13 found to have committed a delinquent act, is amended to  
14 include a similar provision in orders providing for transfer  
15 of legal custody of a child to an adult relative, child  
16 placing agency or other private agency, department of human  
17 services for foster care or state training school placement,  
18 or juvenile court officer for placements involving a community  
19 supervised treatment program.

20 Code section 232.53, relating to the duration of  
21 depository orders under Code section 232.52, is amended in  
22 regard to the filing of written reports by persons supervising  
23 the children who are subject to the orders. The bill provides  
24 that the reports are to be made part of the record considered  
25 by the court in any delinquency permanency hearing.

26 New Code section 232.57 provides a definition of the term  
27 "reasonable efforts" that is applicable to all juvenile  
28 delinquency proceedings and other provisions of the juvenile  
29 delinquency division of the bill.

30 New Code section 232.58 lays out a process for permanency  
31 hearings for the review of those out-of-home placements of a  
32 child in which the order included the finding that the child  
33 remaining in the child's home is contrary to the child's  
34 welfare.

35 Division V of the bill relates to child in need of

1 assistance (CINA) provisions under Code chapter 232, the  
2 juvenile justice code.

3 Code section 232.78, relating to temporary removal of a  
4 child from the child's home pursuant to an ex parte court  
5 order, is amended. The bill strikes a prerequisite that  
6 reasonable efforts must have been made to prevent or eliminate  
7 the need for removal of the child. Under the bill, the court  
8 must still determine that the child remaining in the child's  
9 home would be contrary to the child's welfare. In addition,  
10 the court must make this determination on a case-by-case basis  
11 and explicitly document in the order the grounds for making  
12 the determination.

13 Code section 232.79, relating to emergency removal of a  
14 child without a court order, is amended. Under current law,  
15 the court must be informed of such an emergency removal. The  
16 bill provides that upon being informed, the court may order  
17 temporary removal of the child in accordance with Code section  
18 232.78.

19 Code section 232.95, relating to hearings concerning  
20 temporary removal of a child, is amended. Under the bill, if  
21 the court determines that a child's removal from the home is  
22 to be continued, the court must still determine that the child  
23 remaining in the child's home would be contrary to the child's  
24 welfare and that reasonable efforts have been made to prevent  
25 or eliminate the need for the removal. In addition, the court  
26 must make this determination on a case-by-case basis and  
27 explicitly document in the order the grounds for making the  
28 determination. The bill provides that preserving the child's  
29 safety is the paramount consideration and if there is imminent  
30 danger to the child's life or health at the time of the  
31 court's consideration, the court may continue the removal  
32 order without making the otherwise required determinations.

33 Code section 232.96, relating to CINA adjudicatory  
34 hearings, is amended in regard to entry of an order for  
35 temporary removal of a child made when the court has not

1 previously entered such order. If such an order is entered,  
2 current law requires the court to include a statement that the  
3 child remaining in the child's home is contrary to the child's  
4 welfare and that reasonable efforts have been made. The bill  
5 makes this language consistent with the bill's other  
6 provisions regarding determinations required of a court order  
7 for removal of a child from the child's home.

8 Code section 232.102, relating to transfer of legal custody  
9 of a child and placement, is amended. Under current law,  
10 custody of a child should not be transferred unless the child  
11 cannot be protected from physical abuse without the transfer  
12 or cannot be protected from some harm which would justify  
13 adjudication of the child as a CINA. The bill adds to those  
14 requirements the same set of requirements to make  
15 determinations as is added to Code section 232.95.

16 The Code section 232.102 definition of "reasonable efforts"  
17 is made applicable to the entire child in need of assistance  
18 division of Code chapter 232.

19 Code section 232.103, relating to termination,  
20 modification, vacation, and substitution of dispositional  
21 orders, is amended in regard to notice of hearings. Under  
22 current law, notice must be provided by personal service  
23 unless the court orders it to be provided by certified mail.  
24 The bill provides instead that reasonable notice of this type  
25 of hearing is to be provided to the parties.

26 Code section 232.104, relating to permanency hearings under  
27 the CINA division, is amended. First, the bill strikes a  
28 reference to permanency hearings for juvenile delinquency to  
29 conform with the permanency hearing provisions included in the  
30 bill for juvenile delinquency. In addition, the notice of the  
31 permanency hearings is to be reasonable rather than by  
32 personal service or certified mail. Second, current law  
33 authorizing the court to order long-term foster care placement  
34 in a home or facility as an option is modified. In lieu of  
35 long-term foster care placement, the court may order a

1 "planned permanent living arrangement" for the child, provided  
 2 the department of human services has documented to the court's  
 3 satisfaction a compelling reason that none of these other  
 4 options is in the child's best interest: transfer to the  
 5 custody of another suitable person, transfer custody from one  
 6 parent to another parent, or transfer custody to a suitable  
 7 person for the purpose of long-term care.

8 Division VI of the bill amends Code section 232.111,  
 9 relating to a directive for the county attorney to petition  
 10 for termination of parental rights. Under current law, unless  
 11 certain conditions exist, the county attorney must file a  
 12 petition if a child has been placed in foster care for 15  
 13 months or more of the most recent 22-month period. The bill  
 14 provides that the petition must be filed by the end of the  
 15 15th month.

16 Division VII of the bill relates to notice provisions for  
 17 various hearings under the juvenile justice code. The bill  
 18 amends Code section 232.88 to includes a relative with whom a  
 19 child is placed in the list of those who receive notice of a  
 20 child in need of assistance judicial proceeding concerning the  
 21 child. For hearings that are held following an adjudicatory  
 22 hearing, the bill provides that reasonable notice must be  
 23 provided to the persons who were required to be notified of  
 24 the original adjudicatory hearing, except those who were  
 25 notified and failed to appear.

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THOMAS J. VILSACK, GOVERNOR  
SALLY J. PEDERSON, LT. GOVERNOR

DEPARTMENT OF HUMAN SERVICES  
JESSIE K. RASMUSSEN, DIRECTOR

January 31, 2001

TO: Members of the General Assembly

FROM: Karla Fultz McHenry/Kate Walton

The Iowa Department of Human Services (DHS) is proposing legislation relating to:

Division I. This proposal is designed to improve permanency for children in foster care. It would extend foster home insurance coverage to persons who are appointed by the Juvenile Court to serve as guardian for a child in foster care. The lack of insurance coverage is a disincentive to foster parents to assume guardianship of an older child who would otherwise grow up in foster care. While the Governor's budget request does not include state funds for subsidized guardianship, we are applying for a waiver to use federal funds for guardianship. If we get federal approval for a waiver, this change would enable more children to achieve permanency through guardianship. We do not expect this change to have a fiscal impact.

Division II. This proposal would incorporate Federal Medicaid requirements governing "client participation" in psychiatric medical institutions for children (PMIC's).

Division III. This Division would clarify the number of infants and preschool age children that a registered "group-joint" child care home can care for. It does not change the statutory maximum of 11 children. It would also allow counties to request to participate in the four-level child care home registration pilot.

Division IV. The changes in this Division would incorporate requirements under Title IV-E that were issued by the federal Department of Health and Human Services last year. This Division would apply to youth that are adjudicated delinquent.

Division V. The changes in this Division would also incorporate requirements under Title IV-E that were issued by the federal Department of Health and Human Services last year. The changes in this Division would apply to children who are adjudicated as "child in need of assistance".

Division VI. The change in this Division would also incorporate requirements under Title IV-E that were issued by the federal Department of Health and Human Services last year. The change in this Division would apply to the time frame for the state to file a termination of parental rights.

Division VII. The change in this Division would require the Juvenile Court to provide notice to a relative with whom a child is placed. This notice is also required under regulations issued by the federal Department of Health

For additional information regarding this proposal, or other questions, please contact Karla McHenry, Legislative Liaison, at 281-4848 or e-mail at [kmchenr@dhs.state.ia.us](mailto:kmchenr@dhs.state.ia.us).

Substitute for HF 456  
4-17-01

(P. 1197)

FILED MAR 15 '01

SENATE FILE **458**  
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO SSB 1124)

Passed Senate, Date <sup>(P. 733)</sup> 2/20/01 Passed House, Date <sup>(P. 1201)</sup> 4-17-01  
Vote: Ayes 49 Nays 0 Vote: Ayes 98 Nays 0

<sup>(P. 1377)</sup> Re-Passed <sup>Approved</sup> 5/16/01 <sup>Repassed</sup> 5/1/01  
Vote 47-0 Vote 97-0  
<sup>(P. 1697)</sup>

**A BILL FOR**

1 An Act relating to children's program and juvenile court  
2 provisions involving the department of human services in  
3 regard to the foster home insurance fund, group child care  
4 providers, juvenile delinquency and child in need of  
5 assistance dispositions, and termination of parental rights.  
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

**SENATE FILE 458**

**H-1441**

1 Amend Senate File 458, passed by the Senate, as  
2 follows:  
3 1. Page 5, line 17, by inserting after the word  
4 "determines" the following: "by clear and convincing  
5 evidence that".  
6 2. Page 12, by inserting after line 15 the  
7 following:  
8 "Sec. \_\_\_\_ . Section 232.102, subsection 12,  
9 unnumbered paragraph 1, Code 2001, is amended to read  
10 as follows:  
11 If the court determines by clear and convincing  
12 evidence that aggravated circumstances exist, with  
13 written findings of fact based upon evidence in the  
14 record, the court may waive the requirement for making  
15 reasonable efforts. The existence of aggravated  
16 circumstances is indicated by any of the following:"  
17 3. By renumbering as necessary.

By KREIMAN of Davis

**H-1441** FILED APRIL 5, 2001

*adopted*  
4-17-01 (P. 1198)

SF 458

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DIVISION I

FOSTER HOME INSURANCE FUND

Section 1. Section 237.13, subsection 1, paragraph b, Code 2001, is amended to read as follows:

b. A guardian appointed on a voluntary petition pursuant to section 232.178, or a voluntary petition of a ward pursuant to section 633.557, or a conservator appointed on a voluntary petition of a ward pursuant to section 633.572, provided the ward has an income that does not exceed one hundred fifty percent of the current federal office of management and budget poverty guidelines and who does not have resources in excess of the criteria for resources under the federal supplemental security income program. However, the ward's ownership of one residence and one vehicle shall not be considered in determining resources.

Sec. 2. Section 237.13, subsection 5, Code 2001, is amended to read as follows:

5. Except as provided in this section, the fund shall pay, on behalf of a guardian or conservator, the reasonable and necessary legal costs incurred in defending against a suit filed by a ward or the ward's representative and the damages awarded as a result of the suit, so long as it is determined that the guardian or conservator acted in good faith in the performance of ~~their~~ the guardian's or conservator's duties. A payment shall not be made if there is evidence of intentional misconduct or a knowing violation of the law by the guardian or conservator, including, but not limited to, failure to carry out the applicable responsibilities required under chapter 232 and sections 633.633 through 633.635 and 633.641 through 633.650.

DIVISION II

CHILD CARE PROVIDERS

Sec. 3. Section 237A.3, subsection 2, paragraph b, Code 2001, is amended to read as follows:

b. Except as provided in subsection 3, a group child care

1 home shall not provide child care to more than eleven children  
2 at any one time. If there are more than six children present  
3 for a period of two hours or more, the group child care home  
4 must have at least one responsible individual who is at least  
5 fourteen years of age present to assist the group child care  
6 provider in accordance with either of the following  
7 conditions:

8 (1) If the responsible individual is a joint holder of the  
9 certificate of registration, not more than four of the  
10 children present shall be ~~less than twenty-four months of age~~  
11 ~~and not more than ten of the children present shall be twenty-~~  
12 ~~four months of age or older but not attending school in~~  
13 ~~kindergarten or a higher grade level~~ infants. The total  
14 number of children present at any one time who are younger  
15 than school age, including infants, shall not exceed eleven.

16 (2) If the responsible individual is not a joint holder of  
17 the certificate of registration, but is at least fourteen  
18 years of age, not more than four of the children shall be ~~less~~  
19 ~~than twenty-four months of age~~ infants and each child in  
20 excess of six children shall be ~~attending school in~~  
21 ~~kindergarten or a higher grade level~~ school age.

22 Sec. 4. Section 237A.3A, subsection 1, Code 2001, is  
23 amended to read as follows:

24 1. PILOT PROJECT. The department shall implement a pilot  
25 project applying the provisions of this section to registered  
26 family or group child care homes located in one county of this  
27 state. The provisions of this section shall not apply to  
28 unregistered family child care homes located in the pilot  
29 project county. The county selected for the pilot project  
30 shall be a rural county where there is interest among child  
31 care providers and consumers in implementing the pilot  
32 project. During the fiscal year beginning July 1, 1999, the  
33 department shall implement the pilot project in one county in  
34 each of the department's regions where there is interest in  
35 implementing the pilot project. In addition, the department

1 may implement the pilot project in one other county in each of  
2 the department's regions where there is interest in  
3 implementing the pilot project. Commencing with the fiscal  
4 year beginning July 1, 2001, the department may implement the  
5 pilot project in other counties where there is an interest in  
6 implementing the pilot project. If a definition in section  
7 237A.1, a provision in section 237A.3, or an administrative  
8 rule adopted under this chapter is in conflict with this  
9 section, this section and the rules adopted to implement this  
10 section shall apply to the pilot project.

11 DIVISION III

12 JUVENILE DELINQUENCY PROCEEDINGS

13 Sec. 5. Section 232.21, subsection 4, Code 2001, is  
14 amended to read as follows:

15 4. A child placed in a shelter care facility under this  
16 section shall not be held for a period in excess of forty-  
17 eight hours without an oral or written court order authorizing  
18 the shelter care. When the action is authorized by an oral  
19 court order, the court shall enter a written order before the  
20 end of the next day confirming the oral order and indicating  
21 the reasons for the order. A child placed in shelter care  
22 pursuant to section 232.19, subsection 1, paragraph "c", shall  
23 not be held in excess of seventy-two hours in any event. If  
24 deemed appropriate by the court, an order authorizing shelter  
25 care placement may include a determination that continuation  
26 of the child in the child's home is contrary to the child's  
27 welfare and that reasonable efforts as defined in section  
28 232.57 have been made. The inclusion of such a determination  
29 shall not under any circumstances be deemed a prerequisite for  
30 entering an order pursuant to this section. However, the  
31 inclusion of such a finding, supported by the record, may  
32 assist the department in obtaining federal funding for the  
33 child's placement.

34 Sec. 6. Section 232.22, Code 2001, is amended by adding  
35 the following new subsection:

1 NEW SUBSECTION. 1A. If deemed appropriate by the court,  
2 an order for placement of a child in detention may include a  
3 determination that continuation of the child in the child's  
4 home is contrary to the child's welfare and that reasonable  
5 efforts as defined in section 232.57 have been made. The  
6 inclusion of such a determination shall not under any  
7 circumstances be deemed a prerequisite for entering an order  
8 pursuant to this section. However, the inclusion of such a  
9 determination, supported by the record, may assist the  
10 department in obtaining federal funding for the child's  
11 placement.

12 Sec. 7. Section 232.52, subsection 6, unnumbered paragraph  
13 1, Code 2001, is amended to read as follows:

14 When the court orders the transfer of legal custody of a  
15 child pursuant to subsection 2, ~~paragraphs~~ paragraph "d", "e",  
16 or "f", the order shall state that reasonable efforts as  
17 defined in section 232.57 have been made ~~to-prevent-or~~  
18 ~~eliminate-the-need-for-removal-of-the-child-from-the-child's~~  
19 ~~home.~~ If deemed appropriate by the court, the order may  
20 include a determination that continuation of the child in the  
21 child's home is contrary to the child's welfare. The  
22 inclusion of such a determination shall not under any  
23 circumstances be deemed a prerequisite for entering an order  
24 pursuant to this section. However, the inclusion of such a  
25 determination, supported by the record, may be used to assist  
26 the department in obtaining federal funding for the child's  
27 placement.

28 Sec. 8. Section 232.53, subsection 4, Code 2001, is  
29 amended to read as follows:

30 4. a. Any person supervising but not having custody of  
31 the child pursuant to such an order shall file a written  
32 report with the court at least every six months concerning the  
33 status and progress of the child.

34 b. Any agency, facility, institution, or person to whom  
35 custody of the child has been transferred pursuant to such

1 order shall file a written report with the court at least  
2 every six months concerning the status and progress of the  
3 child.

4 c. Any report prepared pursuant to this subsection shall  
5 be included in the record considered by the court in a  
6 permanency hearing conducted pursuant to section 232.58.

7 Sec. 9. NEW SECTION. 232.57 REASONABLE EFFORTS DEFINED.

8 1. For the purposes of this division, unless the context  
9 otherwise requires, "reasonable efforts" means the efforts  
10 made to prevent permanent removal of a child from the child's  
11 home and to encourage reunification of the child with the  
12 child's parents and family. If a court order includes a  
13 determination that continuation of the child in the child's  
14 home is not appropriate or not possible, reasonable efforts  
15 may include the efforts made in a timely manner to finalize a  
16 permanency plan for the child.

17 2. If the court determines aggravated circumstances exist,  
18 with written findings of fact based upon evidence in the  
19 record, the court may waive the requirement for making  
20 reasonable efforts. The existence of aggravated circumstances  
21 is indicated by any of the following:

22 a. The parent has abandoned the child.

23 b. The court finds the circumstances described in section  
24 232.116, subsection 1, paragraph "h", are applicable to the  
25 child.

26 c. The parent's parental rights have been terminated under  
27 section 232.116 with respect to another child who is a member  
28 of the same family, and there is clear and convincing evidence  
29 to show that the offer or receipt of services would not be  
30 likely within a reasonable period of time to correct the  
31 conditions which led to the child's removal.

32 d. The parent has been convicted of the murder of another  
33 child of the parent.

34 e. The parent has been convicted of the voluntary  
35 manslaughter of another child of the parent.

1 f. The parent has been convicted of aiding or abetting,  
2 attempting, conspiring in, or soliciting the commission of the  
3 murder or voluntary manslaughter of another child of the  
4 parent.

5 g. The parent has been convicted of a felony assault which  
6 resulted in serious bodily injury of the child or of another  
7 child of the parent.

8 3. Any order entered under this division may include  
9 findings regarding reasonable efforts.

10 Sec. 10. NEW SECTION. 232.58 PERMANENCY HEARINGS.

11 1. If an order entered pursuant to this division for an  
12 out-of-home placement of a child includes a determination that  
13 continuation of the child in the child's home is contrary to  
14 the child's welfare, the court shall review the child's  
15 continued placement by holding a permanency hearing or  
16 hearings in accordance with this section. The initial  
17 permanency hearing shall be the earlier of the following:

18 a. For an order for which the court has not waived  
19 reasonable efforts requirements, the permanency hearing shall  
20 be held within twelve months of the date the child was removed  
21 from the home.

22 b. For an order in a case in which aggravated  
23 circumstances exist for which the court has waived reasonable  
24 efforts requirements, the permanency hearing shall be held  
25 within thirty days of the date the requirements were waived.

26 2. Reasonable notice shall be provided of a permanency  
27 hearing for an out-of-home placement in which the court order  
28 has included a determination that continuation of the child in  
29 the child's home is contrary to the child's welfare. A  
30 permanency hearing shall be conducted in substantial  
31 conformance with the provisions of section 232.99. During the  
32 hearing, the court shall consider the child's need for a  
33 secure and permanent placement in light of any case permanency  
34 plan or evidence submitted to the court. Upon completion of  
35 the hearing, the court shall enter written findings

1 identifying a primary permanency goal for the child. If a  
2 case permanency plan is in effect at the time of the hearing,  
3 the court shall also make a determination as to whether  
4 reasonable progress is being made in achieving the permanency  
5 goal and in complying with the other provisions of that case  
6 permanency plan.

7 3. After a permanency hearing, the court shall do one of  
8 the following:

9 a. Enter an order pursuant to section 232.52 to return the  
10 child to the child's home.

11 b. Enter an order pursuant to section 232.52 to continue  
12 the out-of-home placement of the child for an additional six  
13 months at which time the court shall hold a hearing to  
14 consider modification of its permanency order. An order  
15 entered under this paragraph shall enumerate the specific  
16 factors, conditions, or expected behavioral changes which  
17 comprise the basis for the determination that the need for  
18 removal of the child from the child's home will no longer  
19 exist at the end of the additional six-month period.

20 c. Direct the county attorney or the attorney for the  
21 child to institute proceedings to terminate the parent-child  
22 relationship.

23 d. Enter an order, pursuant to findings based upon the  
24 existence of the evidence required by subsection 4, to do one  
25 of the following:

26 (1) Transfer guardianship and custody of the child to a  
27 suitable person.

28 (2) Transfer sole custody of the child from one parent to  
29 another parent.

30 (3) Transfer custody of the child to a suitable person for  
31 the purpose of long-term care.

32 (4) If the department has documented to the court's  
33 satisfaction a compelling reason for determining that an order  
34 under the other subparagraphs of this paragraph "d" would not  
35 be in the child's best interest, order another planned

1 permanent living arrangement for the child.

2 4. Prior to entering a permanency order pursuant to  
3 subsection 3, paragraph "d", clear and convincing evidence  
4 must exist showing that all of the following apply:

5 a. A termination of the parent-child relationship would  
6 not be in the best interest of the child.

7 b. Services were offered to the child's family to correct  
8 the situation which led to the child's removal from the home.

9 c. The child cannot be returned to the child's home.

10 5. Any permanency order may provide restrictions upon the  
11 contact between the child and the child's parent or parents,  
12 consistent with the best interest of the child.

13 6. Subsequent to the entry of a permanency order pursuant  
14 to this section, the child shall not be returned to the care,  
15 custody, or control of the child's parent or parents, over a  
16 formal objection filed by the child's attorney or guardian ad  
17 litem, unless the court finds by a preponderance of the  
18 evidence that returning the child to such custody would be in  
19 the best interest of the child.

20 7. Following an initial permanency hearing and the entry  
21 of a permanency order which places a child in the custody or  
22 guardianship of another person or agency, the court shall  
23 retain jurisdiction and annually review the order to ascertain  
24 whether the best interest of the child is being served. When  
25 the order places the child in the custody of the department  
26 for the purpose of a planned permanent living arrangement, the  
27 review shall be in a hearing that shall not be waived or  
28 continued beyond twelve months after the initial permanency  
29 hearing or the last permanency review hearing. Any  
30 modification shall be accomplished through a hearing procedure  
31 following reasonable notice. During the hearing, all relevant  
32 and material evidence shall be admitted and procedural due  
33 process shall be provided to all parties.

34 DIVISION IV

35 CHILD IN NEED OF ASSISTANCE PROCEEDINGS

1 Sec. 11. Section 232.78, subsection 7, Code 2001, is  
2 amended to read as follows:

3 7. Any order entered under this section authorizing  
4 temporary removal of a child ~~shall~~ must include both of the  
5 following:

6 a. ~~A statement that the temporary removal is the result of~~  
7 a determination made by the court that continuation of the  
8 child remaining in the child's home would be contrary to the  
9 welfare of the child, and that reasonable efforts have been  
10 made to prevent or eliminate the need for removal of the child  
11 from the child's home. Such a determination must be made on a  
12 case-by-case basis. The grounds for the court's determination  
13 must be explicitly documented and stated in the order.  
14 However, preserving the safety of the child must be the  
15 court's paramount consideration. If imminent danger to the  
16 child's life or health exists at the time of the court's  
17 consideration, the determination shall not be a prerequisite  
18 to the removal of the child.

19 b. A statement informing the child's parent that the  
20 consequences of a permanent removal may include termination of  
21 the parent's rights with respect to the child.

22 Sec. 12. Section 232.79, subsection 4, Code 2001, is  
23 amended by adding the following new paragraph:

24 NEW PARAGRAPH. c. If deemed appropriate by the court,  
25 upon being informed that there has been an emergency removal  
26 or keeping of a child without a court order, the court may  
27 enter an order in accordance with section 232.78.

28 Sec. 13. Section 232.95, subsection 2, paragraph a, Code  
29 2001, is amended to read as follows:

30 a. Remove the child from home and place the child in a  
31 shelter care facility or in the custody of a suitable person  
32 or agency pending a final order of disposition if the court  
33 finds that substantial evidence exists to believe that removal  
34 is necessary to avoid imminent risk to the child's life or  
35 health.

1     (1) If removal is ordered, the ~~order shall~~ court must, in  
2 addition, ~~contain a statement that removal from the home is~~  
3 ~~the result of~~ make a determination that continuation of the  
4 child in the child's home would be contrary to the welfare of  
5 the child, and that reasonable efforts, as defined in section  
6 232.102, have been made to prevent or eliminate the need for  
7 removal of the child from the child's home.

8     (2) The court's determination regarding continuation of  
9 the child in the child's home, and regarding reasonable  
10 efforts, including those made to prevent removal and those  
11 made to finalize any permanency plan in effect, as well as any  
12 determination by the court that reasonable efforts are not  
13 required, must be made on a case-by-case basis. The grounds  
14 for each determination must be explicitly documented and  
15 stated in the court order. However, preserving the safety of  
16 the child must be the court's paramount consideration. If  
17 imminent danger to the child's life or health exists at the  
18 time of the court's consideration, the determinations  
19 otherwise required under this paragraph "a" shall not be a  
20 prerequisite for an order for removal of the child.

21     (3) The order shall also include a statement informing the  
22 child's parent that the consequences of a permanent removal  
23 may include termination of the parent's rights with respect to  
24 the child.

25     Sec. 14. Section 232.96, subsection 10, paragraph a, Code  
26 2001, is amended to read as follows:

27     a. ~~A statement that the temporary removal is the result of~~  
28 a determination that continuation of the child remaining in  
29 the child's home would be contrary to the welfare of the  
30 child, and that reasonable efforts, as defined in section  
31 232.102, have been made to prevent or eliminate the need for  
32 removal of the child from the child's home. The court's  
33 determination regarding continuation of the child in the  
34 child's home, and regarding reasonable efforts, including  
35 those made to prevent removal and those made to finalize any

1 permanency plan in effect, as well as any determination by the  
2 court that reasonable efforts are not required, must be made  
3 on a case-by-case basis. The grounds for each determination  
4 must be explicitly documented and stated in the court order.  
5 However, preserving the safety of the child is the paramount  
6 consideration. If imminent danger to the child's life or  
7 health exists at the time of the court's consideration, the  
8 determinations otherwise required under this paragraph shall  
9 not be a prerequisite for an order for temporary removal of  
10 the child.

11 Sec. 15. Section 232.102, subsection 5, paragraph b,  
12 unnumbered paragraph 2, Code 2001, is amended to read as  
13 follows:

14 ~~The order shall, in addition, contain a statement that~~  
15 ~~removal from the home is the result of a determination that~~ In  
16 order to transfer custody of the child under this subsection,  
17 the court must make a determination that continuation of the  
18 child in the child's home would be contrary to the welfare of  
19 the child, and shall identify the reasonable efforts that have  
20 been made. The court's determination regarding continuation  
21 of the child in the child's home, and regarding reasonable  
22 efforts, including those made to prevent removal and those  
23 made to finalize any permanency plan in effect, as well as any  
24 determination by the court that reasonable efforts are not  
25 required, must be made on a case-by-case basis. The grounds  
26 for each determination must be explicitly documented and  
27 stated in the court order. However, preserving the safety of  
28 the child is the paramount consideration. If imminent danger  
29 to the child's life or health exists at the time of the  
30 court's consideration, the determinations otherwise required  
31 under this paragraph shall not be a prerequisite for an order  
32 for removal of the child.

33 Sec. 16. Section 232.102, subsection 10, paragraph a,  
34 unnumbered paragraph 1, Code 2001, is amended to read as  
35 follows:

1 As used in this ~~section~~ division, "reasonable efforts"  
2 means the efforts made to preserve and unify a family prior to  
3 the out-of-home placement of a child in foster care or to  
4 eliminate the need for removal of the child or make it  
5 possible for the child to safely return to the family's home.  
6 If returning the child to the family's home is not appropriate  
7 or not possible, reasonable efforts shall include the efforts  
8 made in a timely manner to finalize a permanency plan for the  
9 child. A child's health and safety shall be the paramount  
10 concern in making reasonable efforts. Reasonable efforts may  
11 include intensive family preservation services or family-  
12 centered services, if the child's safety in the home can be  
13 maintained during the time the services are provided. In  
14 determining whether reasonable efforts have been made, the  
15 court shall consider both of the following:

16 Sec. 17. Section 232.103, subsection 3, Code 2001, is  
17 amended to read as follows:

18 3. A hearing shall be held on a motion to terminate or  
19 modify a dispositional order except that a hearing on a motion  
20 to terminate an order may be waived upon agreement by all  
21 parties. Reasonable notice of the hearing shall be given ~~in~~  
22 ~~the-same-manner-as-for-adjudicatory-hearings-in-cases-of~~  
23 ~~juvenile-delinquency-as-provided-in-section-232-37~~ to the  
24 parties. The hearing shall be conducted in accordance with  
25 the provisions of section 232.50.

26 Sec. 18. Section 232.104, subsection 1, paragraph c, Code  
27 2001, is amended to read as follows:

28 c. Reasonable notice of a permanency hearing ~~in-a-case-of~~  
29 ~~juvenile-delinquency~~ shall be provided ~~pursuant-to-section~~  
30 ~~232-37~~ to the parties. A permanency hearing shall be  
31 conducted in substantial conformance with the provisions of  
32 section 232.99. During the hearing, the court shall consider  
33 the child's need for a secure and permanent placement in light  
34 of any permanency plan or evidence submitted to the court.  
35 Upon completion of the hearing, the court shall enter written

1 findings and make a determination identifying a primary  
2 permanency goal for the child. If a permanency plan is in  
3 effect at the time of the hearing, the court shall also make a  
4 determination as to whether reasonable progress is being made  
5 in achieving the permanency goal and complying with the other  
6 provisions of that permanency plan.

7 Sec. 19. Section 232.104, subsection 2, paragraph d,  
8 subparagraph (4), Code 2001, is amended to read as follows:

9 (4) ~~Order-long-term-foster-care-placement-for-the-child-in~~  
10 ~~a-licensed-foster-care-home-or-facility.~~ If the department  
11 has documented to the court's satisfaction a compelling reason  
12 for determining that an order under the other subparagraphs of  
13 this paragraph "d" would not be in the child's best interest,  
14 order another planned permanent living arrangement for the  
15 child.

16 DIVISION V

17 TERMINATION OF PARENTAL RIGHTS

18 Sec. 20. Section 232.111, subsection 2, paragraph a,  
19 subparagraph (1), Code 2001, is amended to read as follows:

20 (1) The child has been placed in foster care for fifteen  
21 months ~~or-more~~ of the most recent twenty-two-month period.  
22 The petition shall be filed by the end of the child's  
23 fifteenth month of foster care placement.

24 DIVISION VI

25 NOTICE PROVISIONS

26 Sec. 21. Section 232.45, subsection 3, Code 2001, is  
27 amended to read as follows:

28 3. A Reasonable notice that states the time, place, and  
29 purpose of the waiver hearing shall be ~~issued-and-served-in~~  
30 ~~the-same-manner-as~~ provided to the persons required to be  
31 provided notice for adjudicatory hearings ~~as-provided-in~~ under  
32 section 232.37. Summons, subpoenas, and other process may be  
33 issued and served in the same manner as for adjudicatory  
34 hearings as provided in section 232.37.

35 Sec. 22. Section 232.54, subsection 8, unnumbered

1 paragraph 2, Code 2001, is amended to read as follows:

2 Notice requirements of this section shall be satisfied in  
3 ~~the same manner as for~~ by providing reasonable notice to the  
4 persons required to be provided notice for adjudicatory  
5 hearings ~~as provided in~~ under section 232.37, except that  
6 notice shall be waived regarding a person who was notified of  
7 the adjudicatory hearing and who failed to appear. At a  
8 hearing under this section all relevant and material evidence  
9 shall be admitted.

10 Sec. 23. Section 232.88, Code 2001, is amended to read as  
11 follows:

12 232.88 SUMMONS, NOTICE, SUBPOENAS, AND SERVICE.

13 After a petition has been filed the court shall issue and  
14 serve summons, ~~notice,~~ subpoenas, and other process in the  
15 same manner as for adjudicatory hearings in cases of juvenile  
16 delinquency as provided in section 232.37. ~~In addition~~  
17 Reasonable notice shall be provided to the persons required to  
18 be provided notice under section 232.37, except that notice  
19 shall be waived regarding a person who was notified of the  
20 adjudicatory hearing and who failed to appear. In addition,  
21 reasonable notice for any hearing under this division shall be  
22 provided to the agency, facility, institution, or person,  
23 including a foster parent, relative, or an other individual  
24 providing preadoptive care, with whom a child has been placed.

25 EXPLANATION

26 This bill relates to children's provisions involving the  
27 department of human services in regard to the foster home  
28 insurance fund, psychiatric medical institutions for children,  
29 group child care providers, juvenile delinquency and child in  
30 need of assistance dispositions, and termination of parental  
31 rights.

32 Division I of the bill relates to the foster home insurance  
33 fund. Code section 237.13 is amended to add coverage under  
34 the fund for guardians appointed on a voluntary petition filed  
35 under Code chapter 232, the juvenile justice code.

1 Division II of the bill relates to child care providers  
2 under Code section 237A.3. The bill replaces language  
3 regarding children who are less than 24 months of age with the  
4 term "infant", a defined term with the same meaning. In  
5 addition, the bill strikes language applying a separate cap on  
6 the number of preschool children who may receive care from a  
7 joint group child care provider. Under the bill, such a  
8 provider would be limited to caring for up to 11 children at  
9 one time with not more than four of infant age.

10 In addition, under current law in Code section 237A.3A, the  
11 department is operating a pilot project that combines  
12 registered family child care homes and group child care homes  
13 into a single registered child care home classification with  
14 four levels. The pilot project is currently operating in up  
15 to two counties in each of the department's five regions. The  
16 bill authorizes the department to implement the pilot project  
17 in other counties where there is an interest.

18 Division III of the bill relates to juvenile delinquency  
19 provisions under Code chapter 232, the juvenile justice code.

20 Code section 232.21, relating to placement of a child in  
21 shelter care, is amended to provide that a written court order  
22 for the placement may include the determination that the child  
23 remaining in the child's home would be contrary to the child's  
24 welfare and that reasonable efforts to prevent the permanent  
25 removal of the child, as defined later in the bill in new Code  
26 section 232.57, have been made. The inclusion of such a  
27 finding is not to be deemed a prerequisite for entry of the  
28 order for shelter care placement; however, the inclusion of  
29 the finding may assist the department of human services in  
30 obtaining federal funding for the placement.

31 Similar language is inserted as a new subsection in Code  
32 section 232.22, relating to placement of a child in detention.

33 Code section 232.52, relating to the disposition of a child  
34 found to have committed a delinquent act, is amended to  
35 include a similar provision in orders providing for transfer

1 of legal custody of a child to an adult relative, child  
2 placing agency or other private agency, department of human  
3 services for foster care or state training school placement,  
4 or juvenile court officer for placements involving a community  
5 supervised treatment program.

6 Code section 232.53, relating to the duration of  
7 depositional orders under Code section 232.52, is amended in  
8 regard to the filing of written reports by persons supervising  
9 the children who are subject to the orders. The bill provides  
10 that the reports are to be made part of the record considered  
11 by the court in any delinquency permanency hearing.

12 New Code section 232.57 provides a definition of the term  
13 "reasonable efforts" that is applicable to all juvenile  
14 delinquency proceedings and other provisions of the juvenile  
15 delinquency division of the bill.

16 New Code section 232.58 lays out a process for permanency  
17 hearings for the review of those out-of-home placements of a  
18 child in which the order included the finding that the child  
19 remaining in the child's home is contrary to the child's  
20 welfare.

21 Division IV of the bill relates to child in need of  
22 assistance (CINA) provisions under Code chapter 232, the  
23 juvenile justice code.

24 Code section 232.78, relating to temporary removal of a  
25 child from the child's home pursuant to an ex parte court  
26 order, is amended. The bill strikes a prerequisite that  
27 reasonable efforts must have been made to prevent or eliminate  
28 the need for removal of the child. Under the bill, the court  
29 must still determine that the child remaining in the child's  
30 home would be contrary to the child's welfare. In addition,  
31 the court must make this determination on a case-by-case basis  
32 and explicitly document in the order the grounds for making  
33 the determination.

34 Code section 232.79, relating to emergency removal of a  
35 child without a court order, is amended. Under current law,

1 the court must be informed of such an emergency removal. The  
2 bill provides that upon being informed, the court may order  
3 temporary removal of the child in accordance with Code section  
4 232.78.

5 Code section 232.95, relating to hearings concerning  
6 temporary removal of a child, is amended. Under the bill, if  
7 the court determines that a child's removal from the home is  
8 to be continued, the court must still determine that the child  
9 remaining in the child's home would be contrary to the child's  
10 welfare and that reasonable efforts have been made to prevent  
11 or eliminate the need for the removal. In addition, the court  
12 must make this determination on a case-by-case basis and  
13 explicitly document in the order the grounds for making the  
14 determination. The bill provides that preserving the child's  
15 safety is the paramount consideration and if there is imminent  
16 danger to the child's life or health at the time of the  
17 court's consideration, the court may continue the removal  
18 order without making the otherwise required determinations.

19 Code section 232.96, relating to CINA adjudicatory  
20 hearings, is amended in regard to entry of an order for  
21 temporary removal of a child made when the court has not  
22 previously entered such order. If such an order is entered,  
23 current law requires the court to include a statement that the  
24 child remaining in the child's home is contrary to the child's  
25 welfare and that reasonable efforts have been made. The bill  
26 makes this language consistent with the bill's other  
27 provisions regarding determinations required of a court order  
28 for removal of a child from the child's home.

29 Code section 232.102, relating to transfer of legal custody  
30 of a child and placement, is amended. Under current law,  
31 custody of a child should not be transferred unless the child  
32 cannot be protected from physical abuse without the transfer  
33 or cannot be protected from some harm which would justify  
34 adjudication of the child as a CINA. The bill adds to those  
35 requirements the same set of requirements to make

1 determinations as is added to Code section 232.95.

2 The Code section 232.102 definition of "reasonable efforts"  
3 is made applicable to the entire child in need of assistance  
4 division of Code chapter 232.

5 Code section 232.103, relating to termination,  
6 modification, vacation, and substitution of dispositional  
7 orders, is amended in regard to notice of hearings. Under  
8 current law, notice must be provided by personal service  
9 unless the court orders it to be provided by certified mail.  
10 The bill provides instead that reasonable notice of this type  
11 of hearing is to be provided to the parties.

12 Code section 232.104, relating to permanency hearings under  
13 the CINA division, is amended. First, the bill strikes a  
14 reference to permanency hearings for juvenile delinquency to  
15 conform with the permanency hearing provisions included in the  
16 bill for juvenile delinquency. In addition, the notice of the  
17 permanency hearings is to be reasonable rather than by  
18 personal service or certified mail. Second, current law  
19 authorizing the court to order long-term foster care placement  
20 in a home or facility as an option is modified. In lieu of  
21 long-term foster care placement, the court may order a  
22 "planned permanent living arrangement" for the child, provided  
23 the department of human services has documented to the court's  
24 satisfaction a compelling reason that none of these other  
25 options is in the child's best interest: transfer to the  
26 custody of another suitable person, transfer custody from one  
27 parent to another parent, or transfer custody to a suitable  
28 person for the purpose of long-term care.

29 Division V of the bill amends Code section 232.111,  
30 relating to a directive for the county attorney to petition  
31 for termination of parental rights. Under current law, unless  
32 certain conditions exist, the county attorney must file a  
33 petition if a child has been placed in foster care for 15  
34 months or more of the most recent 22-month period. The bill  
35 provides that the petition must be filed by the end of the

**SENATE FILE 458****H-1484**

- 1 Amend Senate File 458, as passed by the Senate, as  
 2 follows:  
 3 1. Page 14, by inserting after line 24 the  
 4 following:  
 5 "DIVISION  
 6 PSYCHIATRIC MEDICAL INSTITUTIONS FOR CHILDREN  
 7 Sec. \_\_\_\_ . Section 135H.10, Code 2001, is amended  
 8 by adding the following new subsection:  
 9 NEW SUBSECTION. 4. Unless expressly authorized in  
 10 statute, the department of human services shall not  
 11 include services provided by psychiatric medical  
 12 institutions for children in any managed care  
 13 contract."  
 14 2. Title page, line 5, by inserting after the  
 15 word "dispositions," the following: "psychiatric  
 16 medical institutions for children,".  
 17 3. By renumbering as necessary.

By DE BOEF of Mahaska  
 FOEGE of Linn  
 HEATON of Henry

**H-1484** FILED APRIL 11, 2001

*Adopted*  
 4-17-01 (p.1200)

**SENATE FILE 458**

**H-1485**

- 1 Amend Senate File 458, as passed by the Senate, as  
 2 follows:  
 3 1. Page 14, by inserting after line 24 the  
 4 following:  
 5 "DIVISION  
 6 PSYCHIATRIC MEDICAL INSTITUTIONS FOR CHILDREN  
 7 Sec. \_\_\_\_ . Section 135H.10, Code 2001, is amended  
 8 by adding the following new subsection:  
 9 NEW SUBSECTION. 3. a. The department of human  
 10 services and any other state agency shall not require  
 11 a psychiatric medical institution for children to  
 12 collect client payments or otherwise enforce client  
 13 financial participation for the services provided by  
 14 the psychiatric institution.  
 15 b. The first two thousand dollars in income earned  
 16 by a child residing at a psychiatric medical  
 17 institution for children shall be disregarded in  
 18 determining the child's financial eligibility or  
 19 amount of client financial responsibility for services  
 20 at the psychiatric institution."  
 21 2. Title page, line 5, by inserting after the  
 22 word "dispositions," the following: "psychiatric  
 23 medical institutions for children,".  
 24 3. By renumbering as necessary.

By DE BOEF of Mahaska  
 FOEGE of Linn

*W/D 4/17/01 (p.1200)*

**SENATE AMENDMENT TO HOUSE AMENDMENT TO  
SENATE FILE 458**

**H-1754**

1 Amend the House amendment, S-3377, to Senate File  
2 458, as passed by the Senate, as follows:  
3 1. Page 2, by striking lines 42 through 49, and  
4 inserting the following:  
5 "Sec. \_\_\_\_ CLIENT FINANCIAL PARTICIPATION. The  
6 department of human services shall work with private  
7 providers of psychiatric medical institution for  
8 children (PMIC) services to eliminate or substantially  
9 reduce the requirement that PMIC providers must  
10 collect client financial participation in the cost of  
11 services and during fiscal year 2001-2002 shall submit  
12 to the governor and general assembly proposals to  
13 achieve this purpose."  
14 2. Page 3, by striking lines 2 through 6, and  
15 inserting the following:  
16 "NEW SUBSECTION. 3. Except for those psychiatric  
17 medical institutions for children which are  
18 specialized to provide substance abuse treatment,  
19 unless expressly authorized in statute, the department  
20 of human services shall not include services provided  
21 by psychiatric medical institutions for children in  
22 any managed care contract.""  
23 3. By renumbering as necessary.

RECEIVED FROM THE SENATE

**H-1754** FILED APRIL 30, 2001

*House Concurred*  
*5/1/01 (P 1697)*

SENATE FILE 458

H-1474

1 Amend Senate File 458, as passed by the Senate, as  
2 follows:

3 1. Page 13, by inserting after line 15 the  
4 following:

5 "Sec. 100. REHABILITATIVE TREATMENT SERVICES STAFF  
6 REQUIREMENTS.

7 1. Subject to federal requirements, the department  
8 of human services shall act to change the staff  
9 qualification requirements for rehabilitative  
10 treatment services provided under the medical  
11 assistance program that are applicable to those staff  
12 providing therapy and counseling services, and  
13 psychosocial evaluation and behavioral management  
14 services for children in therapeutic foster care.  
15 Under the change, such staff who have graduated from  
16 an accredited four-year college, institute, or  
17 university with a bachelor's degree in social work in  
18 a program that is accredited by the council on social  
19 work education shall not be required to have full-time  
20 experience in social work or experience in the  
21 delivery of human services in a public or private  
22 area.

23 2. If necessary to implement the change required  
24 by this section, the department shall submit a plan  
25 amendment or otherwise request authorization from the  
26 United States health care financing administration.  
27 In addition, as necessary to quickly implement the  
28 change, the department may adopt emergency rules under  
29 section 17A.4, subsection 2, and section 17A.5,  
30 subsection 2, paragraph "b", to implement the  
31 provisions of this section and the rules shall be  
32 effective immediately upon filing unless a later date  
33 is specified in the rules. Any rules adopted in  
34 accordance with this section shall also be published  
35 as a notice of intended action as provided in section  
36 17A.4.

37 Sec. \_\_\_\_ EFFECTIVE DATE. Section 100, of this  
38 division of this Act, relating to rehabilitative  
39 treatment services staff requirements, being deemed of  
40 immediate importance, takes effect upon enactment."

41 2. Title page, line 5, by inserting after the  
42 word "rights" the following: ", and providing an  
43 effective date".

44 3. By renumbering as necessary.

By HEATON of Henry BRUNKHORST of Bremer  
FOEGE of Linn HOVERSTEN of Woodbury  
JOHNSON of Osceola ARNOLD of Lucas  
HOUSER of Pottawattamie BROERS of Cerro Gordo

H-1474 FILED APRIL 10, 2001

*Adopted*  
*4-17-01*  
*(P. 1199)*

**SENATE FILE 458****H-1484**

1 Amend Senate File 458, as passed by the Senate, as  
2 follows:

3 1. Page 14, by inserting after line 24 the  
4 following:

5 "DIVISION  
6 PSYCHIATRIC MEDICAL INSTITUTIONS FOR CHILDREN  
7 Sec. \_\_\_\_ . Section 135H.10, Code 2001, is amended  
8 by adding the following new subsection:  
9 NEW SUBSECTION. 4. Unless expressly authorized in  
10 statute, the department of human services shall not  
11 include services provided by psychiatric medical  
12 institutions for children in any managed care  
13 contract."

14 2. Title page, line 5, by inserting after the  
15 word "dispositions," the following: "psychiatric  
16 medical institutions for children,".

17 3. By renumbering as necessary.

By DE BOEF of Mahaska  
FOEGE of Linn  
HEATON of Henry

**H-1484** FILED APRIL 11, 2001

*Adopted*  
*4-17-01 (P.1200)*

**SENATE FILE 458****H-1485**

1 Amend Senate File 458, as passed by the Senate, as  
2 follows:

3 1. Page 14, by inserting after line 24 the  
4 following:

5 "DIVISION  
6 PSYCHIATRIC MEDICAL INSTITUTIONS FOR CHILDREN  
7 Sec. \_\_\_\_ . Section 135H.10, Code 2001, is amended  
8 by adding the following new subsection:  
9 NEW SUBSECTION. 3. a. The department of human  
10 services and any other state agency shall not require  
11 a psychiatric medical institution for children to  
12 collect client payments or otherwise enforce client  
13 financial participation for the services provided by  
14 the psychiatric institution.

15 b. The first two thousand dollars in income earned  
16 by a child residing at a psychiatric medical  
17 institution for children shall be disregarded in  
18 determining the child's financial eligibility or  
19 amount of client financial responsibility for services  
20 at the psychiatric institution."

21 2. Title page, line 5, by inserting after the  
22 word "dispositions," the following: "psychiatric  
23 medical institutions for children,".

24 3. By renumbering as necessary.

By DE BOEF of Mahaska  
FOEGE of Linn  
HEATON of Henry

*W/D 4/17/01 (P.1200)*

**H-1485** FILED APRIL 11, 2001

**SENATE FILE 458  
FISCAL NOTE**

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A fiscal note for **Senate File 458** is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

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Senate File 458 relates to the child welfare system and services provided by the Department of Human Services and related Judicial Branch action.

Division I adds foster care insurance coverage for homes in the future providing subsidized guardianship. During FY 2000, the Subsidized Guardianship Program was delayed in the implementation process. If the Program would be reinitiated, the estimated additional insurance premium cost is \$1,300.

Division II relates to child care. The Bill redefines "infant," specifies the number of children served at one time by a Joint Group Child Care Provider be 11, with no more than 4 within the "infant" age category. The Bill also allows expansion of a pilot project relating to registered family or group child care homes. There is no fiscal impact related to Division II.

Divisions III through VI relate to various provisions of the Juvenile Justice Code.

Division III provisions:

1. Permitting court orders regarding placement of a child in shelter care to include a determination that continuation of the child in the child's home is contrary to the child's welfare and that "reasonable efforts" have been made to prevent permanent removal of a child from the child's home and to encourage reunification of the child with the child's parents and family.
2. Permitting court orders regarding placement of a child in detention to include the same determination and same "reasonable efforts" as in the provision for shelter care placement.
3. Permitting court orders regarding the transfer of legal custody of a child to include the same determination and same "reasonable efforts" as in the provision for shelter care placement.
4. Specifying that the currently required six-month report regarding the status and progress of a child under a dispositional court order be included in the permanency hearing record.
5. Requires the court to hold a permanency hearing when an order relating to juvenile delinquency for an out-of-home placement includes a determination that continuation of the child in the child's home is contrary to the child's welfare. Reasonable notice is required. The Bill specifies options for the court to choose from regarding the placement or custody of the child. Annual reviews of the court order are required under certain conditions. Current law specifies that if permanency is needed for delinquent youth, a petition can be filed under Child in Need of Assistance (CINA) provisions. Except for the permanency hearing, the court is permitted to make the determination regarding the use of

"reasonable efforts." It is not possible to estimate the number of permanency hearings which may take place due to Division III of the Bill, which relate to juvenile delinquency. This may also result in additional costs to the Indigent Defense Program within the Department of Inspections and Appeals for representation of indigent parents in the permanency hearing.

Division IV of the Bill relates to Child in Need of Assistance (CINA) provisions, including:

1. Reflecting federal language regarding a case-by-case determination by the court for the removal of a child from a child's home.
2. Permits a court to enter an order for temporary custody in an emergency removal of a child.
3. Federal language regarding case-by-case determination by the court for temporary removal of a child from a child's home unless the child's life or health is in imminent danger.
4. Federal language regarding case-by-case determination by the court for Child in Need of Assistance adjudicatory hearings.
5. Federal language regarding case-by-case determination of the transfer of legal custody of a child.
6. Striking requirements regarding the method of notice by the court for orders such as termination and modification of dispositional orders to eliminate a certified mail requirement.
7. Amends juvenile delinquency permanency hearing provisions for Child in Need of Assistance cases, method of notice by the court regarding the hearing, and changes to the existing long-term planned living arrangement for a child.
8. Most of the language changes are to reflect wording required by federal law, The National Adoption and Safe Families Act. The method of notice for certain court orders may provide a minimal savings to the court. Other changes are expected to have a minimal cost impact.

Division V requires a county attorney to file a termination of parental rights petition by the fifteenth month of foster care placement instead of the twenty-second month. This may result in additional children being adopted instead of remaining in foster care. The financial assistance to the foster care parent or to the adoptive parent is similar, therefore, the financial impact is negligible. The initial year of the change regarding the compaction of months for which a termination of parental rights may be filed by a county attorney may result in additional costs to the counties. After the first year of implementation, the process may reflect time frames that are similar to those under current law, except in counties experiencing greater numbers of long-term temporary placements. Contested termination of parental rights petitions typically involve three to five days of judge time at \$390 per day, as well as a court reporter and a court attendant for an additional \$300 per day. Uncontested termination of parental rights petitions usually involve one-half day of judge and staff time.

Division VI relates to the provisions of notice for various Juvenile Justice Code hearings. The financial impact is negligible.

-3-

**FISCAL IMPACT**

The impact of SF 458 is expected to be minimal. However, costs may be dependent upon the number of permanency hearings for juvenile delinquency hearings which may result in expenditures to the juvenile court system. Information to develop a reliable estimate is not available. Federal funds under Title IV-E may be available to offset a portion of these expenditures. For FY 2001, SF 2435 (FY 2001 Human Services Appropriations Act) specifies that Title IV-E funds received as a result of the improvements made in the claiming process for federal Title IV-E funds by the Judicial Branch are to be used for court-ordered services relating to foster care.

Changes resulting from the foster care insurance provisions and the day care provisions do not result in a financial impact.

**SOURCES**

Department of Human Services  
Judicial Branch  
County Attorneys Association

(LSB 1079sv, SLL)

FILED APRIL 10, 2001

BY DENNIS PROUTY, FISCAL DIRECTOR

**SENATE FILE 458  
FISCAL NOTE**

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A fiscal note for **Amendment H-1485 to SF 458** is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

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Amendment H-1485 to SF 458 prohibits the Department of Human Services or any other State agency from requiring a Psychiatric Medical Institution for Children (PMIC) to collect client payments or force client financial participation for the costs related to care and services for a child. The Amendment also disregards \$2,000 in earned income for determining Medical Assistance (Medicaid) eligibility.

**ASSUMPTIONS**

1. There is no impact regarding the Psychiatric Medical Institutions for Children (PMIC) not collecting client payments.
2. Federal law requires income available to a client of a Psychiatric Medical Institution for Children (PMIC) to be used in the calculation to determine eligibility for Medicaid. With the specified exemption of the Amendment, federal financial participation (federal matching funds) would not be available for the \$2,000 of income being exempted from the calculation. Without the federal match, State funds would increase to replace the federal match.
3. The average loss of federal funds would be \$640 per client admission.
4. The average number of admissions to Psychiatric Medical Institutions for Children (PMICS) per year which result in Medicaid eligibility at some time during the stay is 474.

**FISCAL IMPACT**

Amendment H-1485 to SF 458 would result in additional State General Fund expenditures of \$303,000 annually, based upon FY 2001 admission and cost data.

**SOURCE**

Department of Human Services

(LSB 1079SV.2, SLL)

FILED APRIL 16, 2001

BY DENNIS PROUTY, FISCAL DIRECTOR

HOUSE AMENDMENT TO  
SENATE FILE 458

S-3377

1 Amend Senate File 458, passed by the Senate, as  
2 follows:

3 1. Page 5, line 17, by inserting after the word  
4 "determines" the following: "by clear and convincing  
5 evidence that".

6 2. Page 8, by inserting after line 35, the  
7 following:

8 "Sec. \_\_\_\_\_. Section 232.73, unnumbered paragraph 2,  
9 Code 2001, is amended to read as follows:

10 As used in this section and ~~section~~ in sections  
11 232.77 and 232.78, "medically relevant test" means a  
12 test that produces reliable results of exposure to  
13 cocaine, heroin, amphetamine, methamphetamine, or  
14 other illegal drugs, or combinations or derivatives  
15 ~~thereof~~ of the illegal drugs, including a drug urine  
16 screen test.

17 Sec. \_\_\_\_\_. Section 232.78, subsection 1, paragraph  
18 b, Code 2001, is amended to read as follows:

19 b. It appears that the child's immediate removal  
20 is necessary to avoid imminent danger to the child's  
21 life or health. The circumstances or conditions  
22 indicating the presence of such imminent danger shall  
23 include but are not limited to any of the following:

24 (1) The refusal or failure of the person  
25 responsible for the care of the child to comply with  
26 the request of a peace officer, juvenile court  
27 officer, or child protection worker for such person to  
28 obtain and provide to the requester the results of a  
29 physical or mental examination of the child. The  
30 request for a physical examination of the child may  
31 specify the performance of a medically relevant test.

32 (2) The refusal or failure of the person  
33 responsible for the care of the child or a person  
34 present in the person's home to comply with a request  
35 of a peace officer, juvenile court officer, or child  
36 protection worker for such a person to submit to and  
37 provide to the requester the results of a medically  
38 relevant test of the person."

39 3. Page 12, by inserting after line 15 the  
40 following:

41 "Sec. \_\_\_\_\_. Section 232.102, subsection 12,  
42 unnumbered paragraph 1, Code 2001, is amended to read  
43 as follows:

44 If the court determines by clear and convincing  
45 evidence that aggravated circumstances exist, with  
46 written findings of fact based upon evidence in the  
47 record, the court may waive the requirement for making  
48 reasonable efforts. The existence of aggravated  
49 circumstances is indicated by any of the following:"

50 4. Page 13, by inserting after line 15 the

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-1-

EJECT

1 following:

2 "Sec. 100. REHABILITATIVE TREATMENT SERVICES STAFF  
3 REQUIREMENTS.

4 1. Subject to federal requirements, the department  
5 of human services shall act to change the staff  
6 qualification requirements for rehabilitative  
7 treatment services provided under the medical  
8 assistance program that are applicable to those staff  
9 providing therapy and counseling services, and  
10 psychosocial evaluation and behavioral management  
11 services for children in therapeutic foster care.  
12 Under the change, such staff who have graduated from  
13 an accredited four-year college, institute, or  
14 university with a bachelor's degree in social work in  
15 a program that is accredited by the council on social  
16 work education shall not be required to have full-time  
17 experience in social work or experience in the  
18 delivery of human services in a public or private  
19 area.

20 2. If necessary to implement the change required  
21 by this section, the department shall submit a plan  
22 amendment or otherwise request authorization from the  
23 United States health care financing administration.  
24 In addition, as necessary to quickly implement the  
25 change, the department may adopt emergency rules under  
26 section 17A.4, subsection 2, and section 17A.5,  
27 subsection 2, paragraph "b", to implement the  
28 provisions of this section and the rules shall be  
29 effective immediately upon filing unless a later date  
30 is specified in the rules. Any rules adopted in  
31 accordance with this section shall also be published  
32 as a notice of intended action as provided in section  
33 17A.4.

34 Sec. \_\_\_\_ EFFECTIVE DATE. Section 100, of this  
35 division of this Act, relating to rehabilitative  
36 treatment services staff requirements, being deemed of  
37 immediate importance, takes effect upon enactment."

38 5. Page 14, by inserting after line 24 the  
39 following:

40 "DIVISION

41 PSYCHIATRIC MEDICAL INSTITUTIONS FOR CHILDREN

42 Sec. \_\_\_\_ Section 135H.10, Code 2001, is amended  
43 by adding the following new subsection:

44 NEW SUBSECTION. 3. The department of human  
45 services and any other state agency shall not require  
46 a psychiatric medical institution for children to  
47 collect client payments or otherwise enforce client  
48 financial participation for the services provided by  
49 the psychiatric institution.

50 Sec. \_\_\_\_ Section 135H.10, Code 2001, is amended

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Page 3

1 by adding the following new subsection:

2 NEW SUBSECTION. 4. Unless expressly authorized in  
 3 statute, the department of human services shall not  
 4 include services provided by psychiatric medical  
 5 institutions for children in any managed care  
 6 contract."

7 6. Title page, line 5, by inserting after the  
 8 word "dispositions," the following: "psychiatric  
 9 medical institutions for children,".

10 7. Title page, line 5, by inserting after the  
 11 word "rights" the following: ", and providing an  
 12 effective date".

13 8. By renumbering, relettering, or redesignating  
 14 and correcting internal references as necessary.

*Senate Consumed 4/27/01* RECEIVED FROM THE HOUSE  
 (P. 1377)

**S-3377** FILED APRIL 17, 2001**SENATE FILE 458****S-3534**

1 Amend the House amendment, S-3377, to Senate File  
 2 458, as passed by the Senate, as follows:

3 1. Page 2, by striking lines 42 through 49, and  
 4 inserting the following:

5 "Sec. \_\_\_\_ . CLIENT FINANCIAL PARTICIPATION. The  
 6 department of human services shall work with private  
 7 providers of psychiatric medical institution for  
 8 children (PMIC) services to eliminate or substantially  
 9 reduce the requirement that PMIC providers must  
 10 collect client financial participation in the cost of  
 11 services and during fiscal year 2001-2002 shall submit  
 12 to the governor and general assembly proposals to  
 13 achieve this purpose."

14 2. Page 3, by striking lines 2 through 6, and  
 15 inserting the following:

16 "NEW SUBSECTION. 3. Except for those psychiatric  
 17 medical institutions for children which are  
 18 specialized to provide substance abuse treatment,  
 19 unless expressly authorized in statute, the department  
 20 of human services shall not include services provided  
 21 by psychiatric medical institutions for children in  
 22 any managed care contract.""

23 3. By renumbering as necessary.

By MERLIN E. BARTZ

*Adopted 4/27/01 (R.1377)*  
**S-3534** FILED APRIL 26, 2001

**SENATE FILE 458****H-1557**

1 Amend Senate File 458, as passed by the Senate, as  
2 follows:

3 1. Page 14, by inserting after line 24 the  
4 following:

5 "DIVISION

6 PSYCHIATRIC MEDICAL INSTITUTIONS FOR CHILDREN

7 Sec. \_\_\_\_ . Section 135H.10, Code 2001, is amended

8 by adding the following new subsection:

9 NEW SUBSECTION. 3. The department of human  
10 services and any other state agency shall not require  
11 a psychiatric medical institution for children to  
12 collect client payments or otherwise enforce client  
13 financial participation for the services provided by  
14 the psychiatric institution."

15 2. Title page, line 5, by inserting after the  
16 word "dispositions," the following: "psychiatric  
17 medical institutions for children,".

18 3. By renumbering as necessary.

**By** DE BOEF of Mahaska

FOEGE of Linn

HEATON of Henry

**H-1557 FILED APRIL 17, 2001**

*Adopted*

*4-17-01*

*(P1201)*

## SENATE FILE 458

H-1559

1 Amend Senate File 458, as passed by the Senate, as  
2 follows:

3 1. Page 8, by inserting after line 35, the  
4 following:

5 "Sec. \_\_\_\_ . Section 232.73, unnumbered paragraph 2,  
6 Code 2001, is amended to read as follows:

7 As used in this section and ~~section~~ in sections  
8 232.77 and 232.78, "medically relevant test" means a  
9 test that produces reliable results of exposure to  
10 cocaine, heroin, amphetamine, methamphetamine, or  
11 other illegal drugs, or combinations or derivatives  
12 ~~thereof~~ of the illegal drugs, including a drug urine  
13 screen test.

14 Sec. \_\_\_\_ . Section 232.78, subsection 1, paragraph  
15 b, Code 2001, is amended to read as follows:

16 b. It appears that the child's immediate removal  
17 is necessary to avoid imminent danger to the child's  
18 life or health. The circumstances or conditions  
19 indicating the presence of such imminent danger shall  
20 include but are not limited to any of the following:

21 (1) The refusal or failure of the person  
22 responsible for the care of the child to comply with  
23 the request of a peace officer, juvenile court  
24 officer, or child protection worker for such person to  
25 obtain and provide to the requester the results of a  
26 physical or mental examination of the child. The  
27 request for a physical examination of the child may  
28 specify the performance of a medically relevant test.

29 (2) The refusal or failure of the person  
30 responsible for the care of the child or a person  
31 present in the person's home to comply with a request  
32 of a peace officer, juvenile court officer, or child  
33 protection worker for such a person to submit to and  
34 provide to the requester the results of a medically  
35 relevant test of the person."

36 2. By renumbering as necessary.

By SHOULTZ of Black Hawk  
BODDICKER of Cedar

H-1559 FILED APRIL 17, 2001

*adopted*  
*4-17-01*  
*(P. 1198)*

SENATE FILE 458

AN ACT

RELATING TO CHILDREN'S PROGRAM AND JUVENILE COURT PROVISIONS INVOLVING THE DEPARTMENT OF HUMAN SERVICES IN REGARD TO THE FOSTER HOME INSURANCE FUND, GROUP CHILD CARE PROVIDERS, JUVENILE DELINQUENCY AND CHILD IN NEED OF ASSISTANCE DISPOSITIONS, PSYCHIATRIC MEDICAL INSTITUTIONS FOR CHILDREN, AND TERMINATION OF PARENTAL RIGHTS, AND PROVIDING AN EFFECTIVE DATE.

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

DIVISION I

FOSTER HOME INSURANCE FUND

Section 1. Section 237.13, subsection 1, paragraph b, Code 2001, is amended to read as follows:

b. A guardian appointed on a voluntary petition pursuant to section 232.17B, or a voluntary petition of a ward pursuant to section 633.557, or a conservator appointed on a voluntary petition of a ward pursuant to section 633.572, provided the ward has an income that does not exceed one hundred fifty percent of the current federal office of management and budget poverty guidelines and who does not have resources in excess of the criteria for resources under the federal supplemental security income program. However, the ward's ownership of one residence and one vehicle shall not be considered in determining resources.

Sec. 2. Section 237.13, subsection 5, Code 2001, is amended to read as follows:

5. Except as provided in this section, the fund shall pay, on behalf of a guardian or conservator, the reasonable and necessary legal costs incurred in defending against a suit filed by a ward or the ward's representative and the damages awarded as a result of the suit, so long as it is determined

that the guardian or conservator acted in good faith in the performance of their the guardian's or conservator's duties. A payment shall not be made if there is evidence of intentional misconduct or a knowing violation of the law by the guardian or conservator, including, but not limited to, failure to carry out the applicable responsibilities required under chapter 232 and sections 633.633 through 633.635 and 633.641 through 633.650.

DIVISION II

CHILD CARE PROVIDERS

Sec. 3. Section 237A.3, subsection 2, paragraph b, Code 2001, is amended to read as follows:

b. Except as provided in subsection 3, a group child care home shall not provide child care to more than eleven children at any one time. If there are more than six children present for a period of two hours or more, the group child care home must have at least one responsible individual who is at least fourteen years of age present to assist the group child care provider in accordance with either of the following conditions:

(1) If the responsible individual is a joint holder of the certificate of registration, not more than four of the children present shall be less-than-twenty-four-months-of-age and-not-more-than-ten-of-the-children-present-shall-be-twenty-four-months-of-age-or-older-but-not-attending-school-in-kindergarten-or-a-higher-grade-level infants. The total number of children present at any one time who are younger than school age, including infants, shall not exceed eleven.

(2) If the responsible individual is not a joint holder of the certificate of registration, but is at least fourteen years of age, not more than four of the children shall be less-than-twenty-four-months-of-age infants and each child in excess of six children shall be attending-school-in-kindergarten-or-a-higher-grade-level school age.

Sec. 4. Section 237A.3A, subsection 1, Code 2001, is amended to read as follows:

1. PILOT PROJECT. The department shall implement a pilot project applying the provisions of this section to registered family or group child care homes located in one county of this state. The provisions of this section shall not apply to unregistered family child care homes located in the pilot project county. The county selected for the pilot project shall be a rural county where there is interest among child care providers and consumers in implementing the pilot project. During the fiscal year beginning July 1, 1999, the department shall implement the pilot project in one county in each of the department's regions where there is interest in implementing the pilot project. In addition, the department may implement the pilot project in one other county in each of the department's regions where there is interest in implementing the pilot project. Commencing with the fiscal year beginning July 1, 2001, the department may implement the pilot project in other counties where there is an interest in implementing the pilot project. If a definition in section 237A.1, a provision in section 237A.3, or an administrative rule adopted under this chapter is in conflict with this section, this section and the rules adopted to implement this section shall apply to the pilot project.

## DIVISION III

## JUVENILE DELINQUENCY PROCEEDINGS

Sec. 5. Section 232.21, subsection 4, Code 2001, is amended to read as follows:

4. A child placed in a shelter care facility under this section shall not be held for a period in excess of forty-eight hours without an oral or written court order authorizing the shelter care. When the action is authorized by an oral court order, the court shall enter a written order before the end of the next day confirming the oral order and indicating the reasons for the order. A child placed in shelter care pursuant to section 232.19, subsection 1, paragraph "c", shall not be held in excess of seventy-two hours in any event. If deemed appropriate by the court, an order authorizing shelter

care placement may include a determination that continuation of the child in the child's home is contrary to the child's welfare and that reasonable efforts as defined in section 232.57 have been made. The inclusion of such a determination shall not under any circumstances be deemed a prerequisite for entering an order pursuant to this section. However, the inclusion of such a finding, supported by the record, may assist the department in obtaining federal funding for the child's placement.

Sec. 6. Section 232.22, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. If deemed appropriate by the court, an order for placement of a child in detention may include a determination that continuation of the child in the child's home is contrary to the child's welfare and that reasonable efforts as defined in section 232.57 have been made. The inclusion of such a determination shall not under any circumstances be deemed a prerequisite for entering an order pursuant to this section. However, the inclusion of such a determination, supported by the record, may assist the department in obtaining federal funding for the child's placement.

Sec. 7. Section 232.52, subsection 6, unnumbered paragraph 1, Code 2001, is amended to read as follows:

When the court orders the transfer of legal custody of a child pursuant to subsection 2, paragraphs paragraph "d", "e", or "f", the order shall state that reasonable efforts as defined in section 232.57 have been made to prevent or eliminate the need for removal of the child from the child's home. If deemed appropriate by the court, the order may include a determination that continuation of the child in the child's home is contrary to the child's welfare. The inclusion of such a determination shall not under any circumstances be deemed a prerequisite for entering an order pursuant to this section. However, the inclusion of such a determination, supported by the record, may be used to assist

the department in obtaining federal funding for the child's placement.

Sec. 8. Section 232.53, subsection 4, Code 2001, is amended to read as follows:

4. a. Any person supervising but not having custody of the child pursuant to such an order shall file a written report with the court at least every six months concerning the status and progress of the child.

b. Any agency, facility, institution, or person to whom custody of the child has been transferred pursuant to such order shall file a written report with the court at least every six months concerning the status and progress of the child.

c. Any report prepared pursuant to this subsection shall be included in the record considered by the court in a permanency hearing conducted pursuant to section 232.58.

Sec. 9. NEW SECTION. 232.57 REASONABLE EFFORTS DEFINED.

1. For the purposes of this division, unless the context otherwise requires, "reasonable efforts" means the efforts made to prevent permanent removal of a child from the child's home and to encourage reunification of the child with the child's parents and family. If a court order includes a determination that continuation of the child in the child's home is not appropriate or not possible, reasonable efforts may include the efforts made in a timely manner to finalize a permanency plan for the child.

2. If the court determines by clear and convincing evidence that aggravated circumstances exist, with written findings of fact based upon evidence in the record, the court may waive the requirement for making reasonable efforts. The existence of aggravated circumstances is indicated by any of the following:

a. The parent has abandoned the child.

b. The court finds the circumstances described in section 232.116, subsection 1, paragraph "h", are applicable to the child.

c. The parent's parental rights have been terminated under section 232.116 with respect to another child who is a member of the same family, and there is clear and convincing evidence to show that the offer or receipt of services would not be likely within a reasonable period of time to correct the conditions which led to the child's removal.

d. The parent has been convicted of the murder of another child of the parent.

e. The parent has been convicted of the voluntary manslaughter of another child of the parent.

f. The parent has been convicted of aiding or abetting, attempting, conspiring in, or soliciting the commission of the murder or voluntary manslaughter of another child of the parent.

g. The parent has been convicted of a felony assault which resulted in serious bodily injury of the child or of another child of the parent.

3. Any order entered under this division may include findings regarding reasonable efforts.

Sec. 10. NEW SECTION. 232.58 PERMANENCY HEARINGS.

1. If an order entered pursuant to this division for an out-of-home placement of a child includes a determination that continuation of the child in the child's home is contrary to the child's welfare, the court shall review the child's continued placement by holding a permanency hearing or hearings in accordance with this section. The initial permanency hearing shall be the earlier of the following:

a. For an order for which the court has not waived reasonable efforts requirements, the permanency hearing shall be held within twelve months of the date the child was removed from the home.

b. For an order in a case in which aggravated circumstances exist for which the court has waived reasonable efforts requirements, the permanency hearing shall be held within thirty days of the date the requirements were waived.

2. Reasonable notice shall be provided of a permanency hearing for an out-of-home placement in which the court order has included a determination that continuation of the child in the child's home is contrary to the child's welfare. A permanency hearing shall be conducted in substantial conformance with the provisions of section 232.99. During the hearing, the court shall consider the child's need for a secure and permanent placement in light of any case permanency plan or evidence submitted to the court. Upon completion of the hearing, the court shall enter written findings identifying a primary permanency goal for the child. If a case permanency plan is in effect at the time of the hearing, the court shall also make a determination as to whether reasonable progress is being made in achieving the permanency goal and in complying with the other provisions of that case permanency plan.

3. After a permanency hearing, the court shall do one of the following:

a. Enter an order pursuant to section 232.52 to return the child to the child's home.

b. Enter an order pursuant to section 232.52 to continue the out-of-home placement of the child for an additional six months at which time the court shall hold a hearing to consider modification of its permanency order. An order entered under this paragraph shall enumerate the specific factors, conditions, or expected behavioral changes which comprise the basis for the determination that the need for removal of the child from the child's home will no longer exist at the end of the additional six-month period.

c. Direct the county attorney or the attorney for the child to institute proceedings to terminate the parent-child relationship.

d. Enter an order, pursuant to findings based upon the existence of the evidence required by subsection 4, to do one of the following:

(1) Transfer guardianship and custody of the child to a suitable person.

(2) Transfer sole custody of the child from one parent to another parent.

(3) Transfer custody of the child to a suitable person for the purpose of long-term care.

(4) If the department has documented to the court's satisfaction a compelling reason for determining that an order under the other subparagraphs of this paragraph "d" would not be in the child's best interest, order another planned permanent living arrangement for the child.

4. Prior to entering a permanency order pursuant to subsection 3, paragraph "d", clear and convincing evidence must exist showing that all of the following apply:

a. A termination of the parent-child relationship would not be in the best interest of the child.

b. Services were offered to the child's family to correct the situation which led to the child's removal from the home.

c. The child cannot be returned to the child's home.

5. Any permanency order may provide restrictions upon the contact between the child and the child's parent or parents, consistent with the best interest of the child.

6. Subsequent to the entry of a permanency order pursuant to this section, the child shall not be returned to the care, custody, or control of the child's parent or parents, over a formal objection filed by the child's attorney or guardian ad litem, unless the court finds by a preponderance of the evidence that returning the child to such custody would be in the best interest of the child.

7. Following an initial permanency hearing and the entry of a permanency order which places a child in the custody or guardianship of another person or agency, the court shall retain jurisdiction and annually review the order to ascertain whether the best interest of the child is being served. When the order places the child in the custody of the department for the purpose of a planned permanent living arrangement, the

review shall be in a hearing that shall not be waived or continued beyond twelve months after the initial permanency hearing or the last permanency review hearing. Any modification shall be accomplished through a hearing procedure following reasonable notice. During the hearing, all relevant and material evidence shall be admitted and procedural due process shall be provided to all parties.

## DIVISION IV

## CHILD IN NEED OF ASSISTANCE PROCEEDINGS

Sec. 11. Section 232.73, unnumbered paragraph 2, Code 2001, is amended to read as follows:

As used in this section and section in sections 232.77 and 232.78, "medically relevant test" means a test that produces reliable results of exposure to cocaine, heroin, amphetamine, methamphetamine, or other illegal drugs, or combinations or derivatives thereof of the illegal drugs, including a drug urine screen test.

Sec. 12. Section 232.78, subsection 1, paragraph b, Code 2001, is amended to read as follows:

b. It appears that the child's immediate removal is necessary to avoid imminent danger to the child's life or health. The circumstances or conditions indicating the presence of such imminent danger shall include but are not limited to any of the following:

(1) The refusal or failure of the person responsible for the care of the child to comply with the request of a peace officer, juvenile court officer, or child protection worker for such person to obtain and provide to the requester the results of a physical or mental examination of the child. The request for a physical examination of the child may specify the performance of a medically relevant test.

(2) The refusal or failure of the person responsible for the care of the child or a person present in the person's home to comply with a request of a peace officer, juvenile court officer, or child protection worker for such a person to submit to and provide to the requester the results of a medically relevant test of the person.

Sec. 13. Section 232.78, subsection 7, Code 2001, is amended to read as follows:

7. Any order entered under this section authorizing temporary removal of a child shall must include both of the following:

a. A statement that the temporary removal is the result of a determination made by the court that continuation of the child remaining in the child's home would be contrary to the welfare of the child, and that reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home. Such a determination must be made on a case-by-case basis. The grounds for the court's determination must be explicitly documented and stated in the order. However, preserving the safety of the child must be the court's paramount consideration. If imminent danger to the child's life or health exists at the time of the court's consideration, the determination shall not be a prerequisite to the removal of the child.

b. A statement informing the child's parent that the consequences of a permanent removal may include termination of the parent's rights with respect to the child.

Sec. 14. Section 232.79, subsection 4, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. If deemed appropriate by the court, upon being informed that there has been an emergency removal or keeping of a child without a court order, the court may enter an order in accordance with section 232.78.

Sec. 15. Section 232.95, subsection 2, paragraph a, Code 2001, is amended to read as follows:

a. Remove the child from home and place the child in a shelter care facility or in the custody of a suitable person or agency pending a final order of disposition if the court finds that substantial evidence exists to believe that removal is necessary to avoid imminent risk to the child's life or health.

(1) If removal is ordered, the order shall court must, in addition, contain a statement that removal from the home is the result of make a determination that continuation of the child in the child's home would be contrary to the welfare of the child, and that reasonable efforts, as defined in section 232.102, have been made to prevent or eliminate the need for removal of the child from the child's home.

(2) The court's determination regarding continuation of the child in the child's home, and regarding reasonable efforts, including those made to prevent removal and those made to finalize any permanency plan in effect, as well as any determination by the court that reasonable efforts are not required, must be made on a case-by-case basis. The grounds for each determination must be explicitly documented and stated in the court order. However, preserving the safety of the child must be the court's paramount consideration. If imminent danger to the child's life or health exists at the time of the court's consideration, the determinations otherwise required under this paragraph "a" shall not be a prerequisite for an order for removal of the child.

(3) The order shall also include a statement informing the child's parent that the consequences of a permanent removal may include termination of the parent's rights with respect to the child.

Sec. 16. Section 232.96, subsection 10, paragraph a, Code 2001, is amended to read as follows:

a. A statement that the temporary removal is the result of a determination that continuation of the child remaining in the child's home would be contrary to the welfare of the child, and that reasonable efforts, as defined in section 232.102, have been made to prevent or eliminate the need for removal of the child from the child's home. The court's determination regarding continuation of the child in the child's home, and regarding reasonable efforts, including those made to prevent removal and those made to finalize any permanency plan in effect, as well as any determination by the

court that reasonable efforts are not required, must be made on a case-by-case basis. The grounds for each determination must be explicitly documented and stated in the court order. However, preserving the safety of the child is the paramount consideration. If imminent danger to the child's life or health exists at the time of the court's consideration, the determinations otherwise required under this paragraph shall not be a prerequisite for an order for temporary removal of the child.

Sec. 17. Section 232.102, subsection 5, paragraph b, unnumbered paragraph 2, Code 2001, is amended to read as follows:

The order shall, in addition, contain a statement that removal from the home is the result of a determination that in order to transfer custody of the child under this subsection, the court must make a determination that continuation of the child in the child's home would be contrary to the welfare of the child, and shall identify the reasonable efforts that have been made. The court's determination regarding continuation of the child in the child's home, and regarding reasonable efforts, including those made to prevent removal and those made to finalize any permanency plan in effect, as well as any determination by the court that reasonable efforts are not required, must be made on a case-by-case basis. The grounds for each determination must be explicitly documented and stated in the court order. However, preserving the safety of the child is the paramount consideration. If imminent danger to the child's life or health exists at the time of the court's consideration, the determinations otherwise required under this paragraph shall not be a prerequisite for an order for removal of the child.

Sec. 18. Section 232.102, subsection 10, paragraph a, unnumbered paragraph 1, Code 2001, is amended to read as follows:

As used in this section division, "reasonable efforts" means the efforts made to preserve and unify a family prior to

the out-of-home placement of a child in foster care or to eliminate the need for removal of the child or make it possible for the child to safely return to the family's home. If returning the child to the family's home is not appropriate or not possible, reasonable efforts shall include the efforts made in a timely manner to finalize a permanency plan for the child. A child's health and safety shall be the paramount concern in making reasonable efforts. Reasonable efforts may include intensive family preservation services or family-centered services, if the child's safety in the home can be maintained during the time the services are provided. In determining whether reasonable efforts have been made, the court shall consider both of the following:

Sec. 19. Section 232.102, subsection 12, unnumbered paragraph 1, Code 2001, is amended to read as follows:

If the court determines by clear and convincing evidence that aggravated circumstances exist, with written findings of fact based upon evidence in the record, the court may waive the requirement for making reasonable efforts. The existence of aggravated circumstances is indicated by any of the following:

Sec. 20. Section 232.103, subsection 3, Code 2001, is amended to read as follows:

3. A hearing shall be held on a motion to terminate or modify a dispositional order except that a hearing on a motion to terminate an order may be waived upon agreement by all parties. Reasonable notice of the hearing shall be given in the same manner as for adjudicatory hearings in cases of juvenile delinquency as provided in section 232.37 to the parties. The hearing shall be conducted in accordance with the provisions of section 232.50.

Sec. 21. Section 232.104, subsection 1, paragraph c, Code 2001, is amended to read as follows:

c. Reasonable notice of a permanency hearing in a case of juvenile delinquency shall be provided pursuant to section 232.37 to the parties. A permanency hearing shall be

conducted in substantial conformance with the provisions of section 232.99. During the hearing, the court shall consider the child's need for a secure and permanent placement in light of any permanency plan or evidence submitted to the court. Upon completion of the hearing, the court shall enter written findings and make a determination identifying a primary permanency goal for the child. If a permanency plan is in effect at the time of the hearing, the court shall also make a determination as to whether reasonable progress is being made in achieving the permanency goal and complying with the other provisions of that permanency plan.

Sec. 22. Section 232.104, subsection 2, paragraph d, subparagraph (4), Code 2001, is amended to read as follows:

(4) ~~Order long-term foster care placement for the child in a licensed foster care home or facility.~~ If the department has documented to the court's satisfaction a compelling reason for determining that an order under the other subparagraphs of this paragraph "d" would not be in the child's best interest, order another planned permanent living arrangement for the child.

Sec. 23. REHABILITATIVE TREATMENT SERVICES STAFF REQUIREMENTS.

1. Subject to federal requirements, the department of human services shall act to change the staff qualification requirements for rehabilitative treatment services provided under the medical assistance program that are applicable to those staff providing therapy and counseling services, and psychosocial evaluation and behavioral management services for children in therapeutic foster care. Under the change, such staff who have graduated from an accredited four-year college, institute, or university with a bachelor's degree in social work in a program that is accredited by the council on social work education shall not be required to have full-time experience in social work or experience in the delivery of human services in a public or private area.

2. If necessary to implement the change required by this section, the department shall submit a plan amendment or otherwise request authorization from the United States health care financing administration. In addition, as necessary to quickly implement the change, the department may adopt emergency rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", to implement the provisions of this section and the rules shall be effective immediately upon filing unless a later date is specified in the rules. Any rules adopted in accordance with this section shall also be published as a notice of intended action as provided in section 17A.4.

Sec. 24. EFFECTIVE DATE. Section 23, of this division of this Act, relating to rehabilitative treatment services staff requirements, being deemed of immediate importance, takes effect upon enactment.

#### DIVISION V

##### TERMINATION OF PARENTAL RIGHTS

Sec. 25. Section 232.111, subsection 2, paragraph a, subparagraph (1), Code 2001, is amended to read as follows:

(1) The child has been placed in foster care for fifteen months or more of the most recent twenty-two-month period. The petition shall be filed by the end of the child's fifteenth month of foster care placement.

#### DIVISION VI

##### NOTICE PROVISIONS

Sec. 26. Section 232.45, subsection 3, Code 2001, is amended to read as follows:

3. A Reasonable notice that states the time, place, and purpose of the waiver hearing shall be ~~issued and served in the same manner as provided to the persons required to be provided notice~~ for adjudicatory hearings ~~as provided in under~~ section 232.37. Summons, subpoenas, and other process may be issued and served in the same manner as for adjudicatory hearings as provided in section 232.37.

Sec. 27. Section 232.54, subsection 8, unnumbered paragraph 2, Code 2001, is amended to read as follows:

Notice requirements of this section shall be satisfied ~~in the same manner as for~~ by providing reasonable notice to the persons required to be provided notice for adjudicatory hearings ~~as provided in under~~ section 232.37, except that notice shall be waived regarding a person who was notified of the adjudicatory hearing and who failed to appear. At a hearing under this section all relevant and material evidence shall be admitted.

Sec. 28. Section 232.88, Code 2001, is amended to read as follows:

##### 232.88 SUMMONS, NOTICE, SUBPOENAS, AND SERVICE.

After a petition has been filed the court shall issue and serve summons, notice subpoenas, and other process in the same manner as for adjudicatory hearings in cases of juvenile delinquency as provided in section 232.37. In addition Reasonable notice shall be provided to the persons required to be provided notice under section 232.37, except that notice shall be waived regarding a person who was notified of the adjudicatory hearing and who failed to appear. In addition, reasonable notice for any hearing under this division shall be provided to the agency, facility, institution, or person, including a foster parent, relative, or an other individual providing preadoptive care, with whom a child has been placed.

#### DIVISION VII

##### PSYCHIATRIC MEDICAL INSTITUTIONS FOR CHILDREN

Sec. 29. CLIENT FINANCIAL PARTICIPATION. The department of human services shall work with private providers of psychiatric medical institution for children (PMIC) services to eliminate or substantially reduce the requirement that PMIC providers must collect client financial participation in the cost of services and during fiscal year 2001-2002 shall submit to the governor and general assembly proposals to achieve this purpose.

Sec. 30. Section 135H.10, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Except for those psychiatric medical institutions for children which are specialized to provide substance abuse treatment, unless expressly authorized in statute, the department of human services shall not include services provided by psychiatric medical institutions for children in any managed care contract.

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MARY E. KRAMER  
President of the Senate

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BRENT SIEGRIST  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 458, Seventy-ninth General Assembly.

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MICHAEL E. MARSHALL  
Secretary of the Senate

Approved 5/16/01, 2001

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THOMAS J. VILSACK  
Governor