

F I N A L R E P O R T

CHILD PROTECTION SUBCOMMITTEE

January, 1984

The Interim Subcommittee on Child Protection of the Senate and House Standing Committees on Human Resources was established by the Legislative Council to study the concerns of foster care, child day care, child abuse, children and families in need of assistance, and other concerns relating to the protection of children.

Members of the Subcommittee were:

Senator Hurley Hall, Co-chairperson
Representative Janet Carl, Co-chairperson
Senator Joe Brown
Senator Arthur Gratias
Senator Jack Hester
Senator Charles Miller
Representative Sue Mullins
Representative Arthur Ollie
Representative Harlan Van Gerpen
Representative JoAnn Zimmerman

The Subcommittee met September 21, November 2, and December 7.

The members of the Subcommittee heard an explanation of current law in Iowa relating to child abuse, children in need of assistance, and foster care from the staff of the Legislative Service Bureau at the first meeting. In addition, representatives of the Department of Human Services explained various programs within the Department relating to children, and a panel composed of a counselor from a children's guidance center, a juvenile judge, an assistant county attorney, a law enforcement officer, a youth law center director, a foster parent, and a representative from the Department of Human Services answered questions of the members of the Subcommittee.

At the second meeting the Subcommittee heard testimony relating to child day care from representatives of the Department of Human Services, the Governor's Child Care Task Force, the Iowa Council for Children and Families, the Iowa Family Day Care Association, Child Watch, the Des Moines Independent School District, Amana Public Schools, the Child Care Resource and Referral Center, the Department of Transportation and the Legislative Extended Assistance Group. Discussion was held regarding the rules and regulations of day care facilities, recommendations to improve day care in Iowa, extended day care provided by school districts, on-site day care, and child care tax credits.

The third meeting of the Subcommittee was spent reviewing proposed bill drafts sponsored by members of the Subcommittee

relating to foster care, missing children, training for mandatory reporters of child abuse, child day care, children in need of assistance, and child care tax credits.

The Subcommittee approved four bill drafts which are attached to this report. The first bill draft requires the incremental registration and annual visits over a period of two years of all family day care homes, establishes annual licensing and registration fees, extends certain penalties and injunctive authority to family day care homes, allows family and group day care homes to receive child care financial assistance funds, requires family and group day care providers to report child abuse, requires the department of human services to provide local lists of child day care facilities and to acknowledge founded child abuse at a facility or licensing or registration suspension or revocation, allows family day care homes to care for two additional children at the same time on a part-time basis, and allows a peace officer to remove a child from a child day care facility in an emergency situation.

The second bill draft adopts the federal child and dependent care tax credit for the purpose of computing Iowa income taxes.

The third bill draft amends the definition of child abuse and creates criminal penalties for child abuse, uses the term founded child abuse and requires expungement of child abuse information which is determined by a preponderance of the evidence not to be founded or unfounded after one year, requires the appointment of a separate guardian ad litem for certain children in need of assistance who are 14 years of age or older, expands the authority and responsibility of the guardian ad litem with respect to judicial proceeding, social reports, and counseling, requires maintenance and tracking of all court records relating to a child in need of assistance with dissemination of certain records to foster care providers, and requires multiple foster care placements to the same provider if feasible.

Also attached to this report is a letter to the respective chairpersons of the Senate Committee on Judiciary and the House Committee on Judiciary and Law Enforcement requesting the use of the family impact statement in evaluating the provisions of the third bill draft.

The fourth bill draft creates a state registry of missing children to aid law enforcement and child protection officials in recovering missing children and to allow cooperation with the federal government in dealing with missing children.

The House members separately approved two additional bills relating to training for mandatory child abuse reporters and foster parent training and one additional provision prohibiting local zoning restrictions on family and group day care homes. The bills and provisions are not included in the jointly recommended bill drafts.

Child Protection Subcommittee
January, 1984
Page 3

Copies of the information received at the three meetings of the Subcommittee are on file with the Legislative Service Bureau.

12/83
Child Protection/24

PROPOSED
IOWA FAMILY POLICY STATEMENT

By the Legislative Policy on the Family Subcommittee of the
House and Senate Committees on Human Resources

It is in the interest of the people of Iowa that a family policy be adopted which promotes the stability and well-being of Iowa families in order that those families may carry out their responsibilities to family members of protection, providing for their physical and emotional care and support, and guiding their education and moral development. The actions of government may affect the ability of families to perform these important responsibilities. It is our intent that the actions of government in Iowa will be directed at strengthening families. The constitutional rights of individual family members must also be guaranteed.

It is proposed that the General Assembly adopt the following principles during the 1981 legislative session in regard to legislation affecting families which is referred to the House and Senate Human Resources Committees:

1. The state recognizes the primary nature of the family as a unit and its responsibility for the physical and emotional care of its members.

2. The state recognizes and respects the diversity of contexts within which families may exist.

3. The policies of state government shall be directed at enhancing the integrity and stability of the family.

4. When the family finds it difficult to perform some of its responsibilities, the policy of the state shall be directed at providing support in those areas where the family is having difficulty. The state's policy shall be to encourage the family to perform as many of its supportive functions as possible. Families themselves shall be included in determining the solutions to the problems affecting them.

5. The rights of individuals to mental, emotional and physical well-being shall be safeguarded.

6. It shall be the policy of the state to enable and encourage neighborhood, church and local community-based resources wherever possible to provide preventive and supplementary support to the family.

The following criteria will be used when examining legislation affecting families which is referred to the House and Senate Committees on Human Resources:

1. If this measure is directed toward a particular family context or responsibility, what is it (i.e., what is its focus and what are its limits)?

2. To what extent will this measure enhance or detract from the family's responsibilities of acculturating children and protecting and providing for the care and support of its members?

3. To what extent does this measure promote the stability of the family or promote the separation or fragmentation of family ties?

4. If the measure promotes the separation or fragmentation of family ties, how is it designed to protect the rights of individual family members to mental, emotional and physical well-being.

5. To what extent does this measure support, supplement, or substitute the performance of family responsibilities by the state?

6. When government intervenes, what provisions does this measure include for utilizing the family's strengths in performing the responsibilities of which it remains capable and returning full performance of the supplemented function to the family?

7. When government intervention is necessary, to what extent does this measure encourage the use of neighborhood, church or other local community-based resources?

8. What provisions does this measure include to insure equal involvement of family members with the other parties responsible for making decisions regarding the family unit?

9. What provisions does this measure include to insure coordination of efforts of various public and private agencies?

10. Are the funding implications of the measure consistent with the principles of the family policy statement?

PROPOSED SENATE/HOUSE FILE _____

BY (PROPOSED INTERIM SUBCOMMITTEE
ON CHILD PROTECTION BILL)

Passed Senate, Date _____ Passed House, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to child day care by requiring family or group
2 day care providers to report child abuse, permitting a
3 peace officer to remove a child from a child day care fa-
4 cility under certain circumstances, permitting child care
5 financial assistance funds to go to group day care homes
6 and family day care homes, requiring the department of
7 human services to acknowledge certain child abuse viola-
8 tions and violations of registration or licensure by a
9 day care facility and to compile lists of facilities in a
10 local area, amending the definition of a family day care
11 home, requiring registration of family day care homes but
12 maintaining current standards, requiring annual inspections
13 or visits to group and family day care homes, expanding
14 injunctive authority to family day care homes, and estab-
15 lishing fees and penalties.

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

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1 Section 1. Section 232.69, subsection 1, paragraph b,
2 Code Supplement 1983, is amended to read as follows:

3 b. Every social worker under the jurisdiction of the
4 department of human services, any social worker employed by
5 a public or private agency or institution, public or private
6 health care facility as defined in section 135C.1, certified
7 psychologist, certificated school employee, employee or
8 operator of a licensed day-care-facility, child care center
9 or registered group day care home or registered family day
10 care home, member of the staff of a mental health center,
11 or peace officer, who, in the course of employment, examines,
12 attends, counsels or treats a child and reasonably believes
13 a child has suffered abuse. ~~Whenever-such~~ If a person is
14 required to report under this section as a member of the staff
15 of a public or private institution, agency or facility, that
16 person shall immediately notify the person in charge of ~~such~~
17 the institution, agency or facility, or that person's
18 designated agent, and the person in charge of the institution,
19 agency, or facility, or the designated agent shall make the
20 report.

21 Sec. 2. Section 232.78, subsections 1 and 2, Code 1983,
22 are amended to read as follows:

23 1. The juvenile court may enter an ex parte order directing
24 a peace officer to remove a child from ~~his-or-her~~ the child's
25 home or a child day care facility before or after the filing
26 of a petition under this chapter provided all of the following
27 apply:

28 a. The parent, guardian, ~~or~~ legal custodian, or employee
29 of the child day care facility is absent, or though present,
30 was asked and refused to consent to the removal of the child
31 and was informed of an intent to apply for an order under
32 this section, ~~-and.~~

33 b. It appears that the child's immediate removal is
34 necessary to avoid imminent danger to the child's life or
35 health, ~~-and.~~

1 c. There is not enough time to file a petition and hold
2 a hearing under section 232.95.

3 2. The order shall specify the facility to which the child
4 is to be brought. Except for good cause shown or unless the
5 child is sooner returned to the place where ~~he-or-she~~ the
6 child was residing or permitted to return to the child day
7 care facility, a petition shall be filed under this chapter
8 within three days of the issuance of the order.

9 Sec. 3. Section 232.79, subsection 1, Code Supplement
10 1983, is amended to read as follows:

11 1. A peace officer may remove a child from ~~his-or-her~~
12 the child's home or a child day care facility or a physician
13 treating a child may keep the child in custody without a court
14 order as required under section 232.78 and without the consent
15 of a parent, guardian, or custodian provided that both of
16 the following apply:

17 a. The child is in such circumstance or condition that
18 ~~his-or-her~~ the child's continued presence in the residence
19 or the child day care facility or in the care or custody of
20 the parent, guardian, or custodian presents an imminent danger
21 to the child's life or health, ~~and~~.

22 b. There is not enough time to apply for an order under
23 section 232.78.

24 Sec. 4. Section 234.11, Code Supplement 1983, is amended
25 to read as follows:

26 234.11 DUTIES OF THE COUNTY BOARD--FOOD STAMP PROGRAM.
27 The county board ~~shall-be-vested-with-the-authority-to~~ may
28 direct emergency relief with only ~~such~~ the powers and duties
29 ~~as-are~~ prescribed in the laws relating thereto and shall
30 determine the allocation of funds to child day care ~~centers~~
31 facilities pursuant to sections 237A.14 to 237A.18. The board
32 shall act in an advisory capacity on programs within the
33 jurisdiction of the department of human services. The board
34 shall review policies and procedures of the local departments
35 of human services and make recommendations for changes to

1 insure that effective services are provided in their respective
2 communities. The county board may also make recommendations
3 for new programs which it is believed would meet needs in
4 the community. The state department shall establish a
5 procedure to insure that county board recommendations receive
6 appropriate review at the level of policy determination.

7 Sec. 5. Section 235A.15, Code Supplement 1983, is amended
8 by adding the following new subsection:

9 NEW SUBSECTION. 3. Each local office maintained by the
10 department shall compile and make available without cost a
11 list, updated monthly, of registered and licensed facilities
12 located in the counties governed by the local office to a
13 person upon request, except where governmental subdivisions
14 or private agencies compile and make available a list of
15 registered and licensed facilities. The department shall
16 acknowledge the existence of a child abuse case determined
17 to be founded and not to be expunged under section 235A.18,
18 subsection 2, and the date of the abuse against an employee
19 of a child day care facility and shall acknowledge the
20 suspension or revocation of a license or certificate of
21 registration and the date of the suspension or revocation
22 upon the request of a parent, guardian, or legal custodian
23 of a child attending the facility or any other person. The
24 department's local list of registered and licensed facilities
25 shall include the acknowledgement of the founded child abuse
26 or suspension or revocation.

27 Sec. 6. Section 237A.1, subsection 9, paragraph a, Code
28 Supplement 1983, is amended by striking the paragraph and
29 inserting in lieu thereof the following:

30 a. "Family day care home" means a facility which provides
31 child care for up to eight children at any one time, of whom
32 not more than six children each attend more than thirty hours
33 per week and two children each attend less than thirty hours
34 per week but does not include the provision of care to children
35 related to the operator of the home by blood or marriage,

1 to children from only one other family, or to children for
2 less than thirty days in any twelve-month period is not
3 required to obtain a certificate of registration from the
4 department pursuant to section 237A.3, subsection 1.

5 Sec. 7. Section 237A.3, subsection 1, Code 1983, is amended
6 to read as follows:

7 1. A person who operates or establishes a family day care
8 home ~~may~~ shall apply to the department for registration under
9 this chapter. The department shall issue a certificate of
10 registration upon receipt of a statement from the family day
11 care home that the home complies with rules adopted by the
12 department. The registration certificate shall be posted
13 in a conspicuous place in the family day care home, shall
14 state the name of the registrant, the number of individuals
15 who may be received for care at any one time and the address
16 of the home, and shall include a check list of registration
17 compliances. No greater number of children than is authorized
18 by the certificate shall be kept in the family day care home
19 at any one time. The registration process ~~may~~ for a family
20 day care home shall be repeated on an annual basis. A facility
21 which is not a family day care home by reason of the definition
22 of child day care in section 237A.1, subsection 7 or the
23 definition of a family day care home in section 237A.1,
24 subsection 9, but which provides care, supervision or guidance
25 to a child may be issued a certificate of registration under
26 this chapter if the facility complies with rules adopted by
27 the department.

28 Sec. 8. Section 237A.3, Code 1983, is amended by adding
29 the following new subsection:

30 NEW SUBSECTION. 4. The parent or guardian of a child
31 being provided care at a family day care home for less than
32 thirty hours per week, pursuant to section 237A.1, subsection
33 9, paragraph a, shall provide notarized verification to the
34 registrant that the child attends less than thirty hours per
35 week.

1 Sec. 9. Section 237A.4, Code 1983, is amended to read
2 as follows:

3 237A.4 INSPECTION AND EVALUATION. The local boards of
4 health shall make ~~periodic~~ annual inspections of licensed
5 centers to insure compliance with licensing requirements
6 ~~provided~~ in this chapter. ~~In these instances where no~~ If
7 a local board of health exists then does not exist the director
8 ~~may~~ shall make ~~periodic~~ annual inspections of licensed centers
9 as necessary to ~~carry out the provisions of~~ implement this
10 chapter. The director may inspect records maintained by a
11 licensed center and may inquire into matters concerning these
12 centers and the persons in charge. The director shall require
13 that the center be inspected by the state fire marshal or
14 a designee for compliance with rules relating to fire safety
15 before a license is granted or renewed. The director or a
16 designee ~~may periodically~~ shall annually visit registered
17 family day care homes and group day care homes for the purpose
18 of evaluation of an inquiry into matters concerning compliance
19 with rules promulgated under section 237A.12. Evaluation
20 of family day care homes and group day care homes under this
21 section may include consultative services provided pursuant
22 to section 237A.6.

23 Sec. 10. Section 237A.13, unnumbered paragraph 1, Code
24 Supplement 1983, is amended to read as follows:

25 Funds appropriated to the department to assist child day
26 ~~care centers~~ facilities shall be apportioned among the counties
27 as follows:

28 Sec. 11. Section 237A.14, Code 1983, is amended to read
29 as follows:

30 237A.14 ALLOCATION BY THE COUNTY. The county board shall
31 determine how the funds received by that county under this
32 chapter shall be allocated among existing or planned child
33 day care centers facilities in the county on the basis of
34 the following factors as applied to each child day care center
35 facility considered for financial assistance under this

1 chapter:

2 1. The demonstrated need for child care services in the
3 community served by the ~~center~~ facility.

4 2. The proportion of low-income families among all families
5 served by the ~~center~~ facility.

6 3. The demonstrated need of the ~~center~~ facility for
7 additional equipment, and improvement, enlargement or
8 relocation of the ~~center's~~ facility's physical facilities
9 designed to bring the ~~center~~ facility into compliance with
10 local health, fire and zoning laws.

11 4. The manner in which the ~~center~~ facility derives its
12 support, other than funds made available to it under this
13 chapter, and in particular the extent to which it is supported
14 from sources other than tuition or fees paid by the parents
15 or guardians of the children served by the ~~center~~ facility.

16 Sec. 12. Section 237A.15, subsections 1 and 2, Code 1983,
17 are amended to read as follows:

18 1. Prescribe forms for use by licensed ~~centers~~ or
19 registered facilities in applying to their respective county
20 boards for funds appropriated by the general assembly.

21 2. Establish a procedure by which a licensed ~~center~~ or
22 registered facility aggrieved by a decision of a county board
23 under section 237A.17 may appeal the decision to the
24 commissioner or ~~his~~ the commissioner's designee, however,
25 the judgment of the county board on the merits of any an
26 application shall not be overturned in the absence of a
27 determination that the county board has misinterpreted any
28 of the provisions of this chapter, has acted arbitrarily or
29 capriciously, or both.

30 Sec. 13. Section 237A.16, Code 1983, is amended to read
31 as follows:

32 237A.16 USE OF FUNDS. A child day care ~~center~~ facility
33 may use funds received pursuant to this chapter only for the
34 following purposes:

35 1. To acquire or improve physical facilities to house

1 the ~~center~~ facility.

2 2. To acquire recreational or educational equipment or
3 supplies.

4 3. To purchase assistance to child day care ~~centers~~
5 facilities for program development and staff development in
6 meeting standards for child day care ~~centers~~ facilities
7 established under this chapter.

8 Sec. 14. Section 237A.17, Code 1983, is amended to read
9 as follows:

10 237A.17 DISTRIBUTION. The county board shall consider
11 all applications which are submitted by child day care ~~centers~~
12 facilities in the county for funds allocated to the county
13 under this chapter, and shall determine the distribution of
14 the funds. Each child day care ~~center~~ facility submitting
15 an application shall indicate the amount of money requested
16 and the intended use of the money. The county board may
17 establish a deadline for submission of applications, which
18 shall not be earlier than thirty days after it is notified
19 by the department of the amount initially allocated to the
20 county pursuant to section 237A.13.

21 Sec. 15. Section 237A.18, Code 1983, is amended to read
22 as follows:

23 237A.18 RESTRICTIONS ON FUNDING. Funds shall be
24 distributed only to licensed ~~centers~~ or registered facilities
25 which serve primarily low-income families and which do not
26 prohibit admission of children on the basis of race, creed,
27 religion, sex, or national origin.

28 Sec. 16. Section 237A.19, unnumbered paragraph 2, Code
29 1983, is amended to read as follows:

30 A person who establishes, conducts, manages, or operates
31 a group day care home or family day care home without
32 registering under this chapter is guilty of a simple
33 misdemeanor. Each day of continuing violation after
34 conviction, or notice from the department by certified mail
35 of the violation, is a separate offense. A single charge

1 alleging continuing violation may be made in lieu of filing
2 charges for each day of violation.

3 Sec. 17. Section 237A.19, Code 1983, is amended by adding
4 the following new unnumbered paragraph:

5 NEW UNNUMBERED PARAGRAPH. A person who establishes,
6 conducts, manages, or operates a family day care home without
7 notarized verification from a parent or guardian of a child
8 who attends the home less than thirty hours per week as
9 required under section 237A.3, subsection 4, is guilty of
10 a simple misdemeanor.

11 Sec. 18. Section 237A.20, Code Supplement 1983, is amended
12 to read as follows:

13 237A.20 INJUNCTION. A person who establishes, conducts,
14 manages, or operates a center without a license or a group
15 day care home or family day care home without a certificate
16 of registration may be restrained by temporary or permanent
17 injunction. The action may be instituted by the state, a
18 political subdivision of the state, or an interested person.

19 Sec. 19. NEW SECTION. 237A.23 LICENSING FEE. A person
20 who applies for a license, renewal of a license, a certificate
21 of registration or a renewal of a certificate to operate a
22 child day care facility shall submit a fee with the application
23 to defray the costs of the inspection or visit. A local board
24 of health shall receive the fee from the department when an
25 inspection or visit is made by the board pursuant to section
26 237A.4. Otherwise the fees collected shall be deposited in
27 the general fund of the state.

28 The annual fee shall be as follows:

- 29 1. Family day care home \$12.00
- 30 2. Group day care home \$22.00
- 31 3. Child care center \$40.00

32 Sec. 20. NEW SECTION. 237A.24 STANDARDS FOR FAMILY DAY
33 CARE HOMES. The standards adopted by the department for a
34 registered family day care home shall be the same standards
35 adopted by the department for a registered family day care

1 home prior to January 1, 1984.

2 Sec. 21. Notwithstanding section 237A.3, a family day
3 care home which provides child day care for five or six
4 children shall be registered within six months after the
5 effective date of this Act, a family day care home which
6 provides child day care for three or four children shall be
7 registered by July 1, 1985, and a family day care home which
8 provides child day care for one or two children shall be
9 registered by July 1, 1986.

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EXPLANATION

11 This bill permits a peace officer to remove a child from
12 a child day care facility under certain circumstances. The
13 bill includes an employee or operator of a group or family
14 day care home as a mandatory reporter of child abuse.

15 The bill permits child care financial assistance funds
16 to be distributed to group day care homes and family day care
17 homes. Present law provides for the funds to be distributed
18 to only child day care centers.

19 The bill requires that the department of human services
20 provide acknowledgement of founded child abuse or the
21 suspension or revocation of licensure or registration of a
22 day care facility upon request. It also requires the
23 department to provide a listing of registered and licensed
24 facilities in a local area.

25 The bill amends the definition of a family day care home
26 to include two spaces for any number of children who are each
27 provided care at the home less than thirty hours a week with
28 no more than eight children present at the home at one time.
29 It requires notarized verification from a parent of a child
30 being provided care at a family day care home for less than
31 thirty hours per week. A penalty for an operator of a family
32 day care home who does not obtain notarized verification from
33 a parent or guardian of a child who attends less than thirty
34 hours per week is included.

35 The bill requires the incremental registration of all

1 family day care homes over a two-year period and establishes
2 a penalty for operating a home without registration.

3 The bill requires annual inspections of licensed day care
4 centers and annual visits to registered family day care homes
5 and group day care homes. An inspection or visitation fee
6 for family day care homes, group day care homes, and child
7 care centers is established.

8 The bill expands the injunctive authority in section 237A.20
9 to family day care homes.

10 The bill prohibits the department of human services from
11 changing the standards for a registered family day care home
12 after January 1, 1984.

13 The bill creates new sections 237A.23 and 237A.24.

14 The bill takes effect July 1 following its enactment.

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PROPOSED SENATE/HOUSE FILE _____

BY (PROPOSED INTERIM SUBCOMMITTEE
ON CHILD PROTECTION BILL)

Passed Senate, Date _____ Passed House, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act adopting the federal child and dependent care tax
2 credit for the purpose of computing Iowa income taxes.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 422.12, subsection 2, unnumbered
2 paragraph 1, Code Supplement 1983, is amended to read as
3 follows:

4 A child and dependent care credit equal to ~~ten-percent~~
5 of the amount of qualifying employment-related expenses allowed
6 under section 44A of the Internal Revenue Code of 1954 and
7 subject to the ~~same~~ limitations ~~provided-by-section-44A-of~~
8 ~~the-internal-revenue-code-of-1954~~ in that section.

9 EXPLANATION

10 The bill amends the child and dependent care credit relating
11 to Iowa income tax to equal the deduction allowed by the
12 federal government.

13 The bill takes effect July 1 following its enactment.

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PROPOSED SENATE/HOUSE FILE _____

BY (PROPOSED CHILD PROTECTION
SUBCOMMITTEE BILL)

Passed Senate, Date _____ Passed House, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to the protection of children by amending
2 Iowa's child abuse and child-in-need-of-assistance laws.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 232.68, subsection 2, paragraph b,
2 Code 1983, is amended to read as follows:

3 b. The commission of any sexual offense with or to a child
4 pursuant to chapter 709, ~~or~~ section 726.2, or section 728.12,
5 subsection 1, as a result of the acts or omissions of the
6 person responsible for the care of the child.

7 Sec. 2. Section 232.68, subsection 2, Code 1983, is amended
8 by adding the following new lettered paragraph:

9 NEW LETTERED PARAGRAPH. d. The acts or omissions of a
10 person responsible for the care of a child which allow, per-
11 mit, or encourage the child to engage in prostitution pur-
12 suant to section 725.1.

13 Sec. 3. Section 232.71, subsections 9 and 13, Code
14 Supplement 1983, are amended to read as follows:

15 9. If, upon completion of the investigation, the department
16 of human services determines that the best interests of the
17 child require juvenile court action, the department shall
18 take the appropriate action to initiate such action under
19 this chapter. The county attorney shall assist the county
20 department of human services in the preparation of the
21 necessary papers to initiate such action and shall appear
22 and represent the department at all juvenile court proceedings.

23 13. If a fourth report is received from the same person
24 who made three earlier unsubstantiated unfounded reports which
25 identified the same child as the abused child and the same
26 person responsible for the child as the alleged abuser, the
27 department may determine that the report is ~~spurious,~~ again
28 unfounded, due to the report's spurious or frivolous nature
29 and may in its discretion terminate its investigation.

30 Sec. 4. Section 232.89, subsection 4, Code 1983, is amended
31 to read as follows:

32 4. The same person may serve both as the child's counsel
33 and as guardian ad litem. However, separate legal counsel
34 and guardian ad litem shall be appointed if the child is
35 fourteen years of age or older and the child's wishes are

1 not compatible with the best interests of the child as
2 determined by the guardian ad litem.

3 Sec. 5. Section 232.91, Code 1983, is amended to read
4 as follows:

5 232.91 PRESENCE OF PARENTS AND GUARDIAN AD LITEM AT
6 HEARINGS. Any hearings or proceedings under this division
7 subsequent to the filing of a petition shall not take place
8 without the presence of the child's parent, guardian, ~~or~~
9 custodian, or guardian ad litem in accordance with and subject
10 to ~~the provisions of~~ section 232.38. A parent without custody
11 may petition the court to be made a party to proceedings under
12 this division.

13 Sec. 6. NEW SECTION. 232.94A Juvenile court records,
14 social records, and the material required to be recorded
15 pursuant to section 232.94 shall be maintained and shall be
16 a part of each hearing relating to the child so long as and
17 whenever the child is a child in need of assistance.

18 Sec. 7. Section 232.96, subsection 6, Code 1983, is amended
19 to read as follows:

20 6. A report, study, record, or other writing made by the
21 department of social services, a juvenile probation officer,
22 a peace officer, or guardian ad litem, or a hospital relating
23 to a child in a proceeding under this division ~~shall be~~ is
24 admissible notwithstanding any objection to hearsay statements
25 contained ~~therein~~ in it provided it is relevant and material
26 and provided its probative value substantially outweighs the
27 danger of unfair prejudice to the child's parent, guardian,
28 or custodian. The circumstances of the making of the report,
29 study, record or other writing, including the maker's lack
30 of personal knowledge, may be proved to affect its weight.

31 Sec. 8. Section 232.97, subsections 1 and 3, Code 1983,
32 are amended to read as follows:

33 1. The court shall not make any a disposition of the
34 petition until a social report has been submitted to and
35 considered by the court. The court may direct either the

1 probation officer, or the department of human services or
2 any other agency licensed by the state to conduct a social
3 investigation and to prepare a social report which shall
4 include any evidence provided by an individual providing
5 foster care for the child. A report prepared shall include
6 any founded charges of child abuse against the parent.

7 3. The social report shall not be disclosed except as
8 provided in this section and except as otherwise provided
9 in this chapter. Prior to the hearing at which the disposition
10 is determined, the court shall permit counsel for the child,
11 and counsel for the child's parent, guardian or custodian,
12 and the guardian ad litem to inspect any social report to
13 be considered by the court. The court may in its discretion
14 order ~~such~~ counsel not to disclose parts of the report to
15 the child, or to the parent, guardian or custodian if
16 disclosure would seriously harm the treatment or rehabilitation
17 of the child or would violate a promise of confidentiality
18 given to a source of information.

19 Sec. 9. Section 232.98, subsection 1, unnumbered paragraph
20 5, Code 1983, is amended to read as follows:

21 The child's parent, guardian, or custodian shall be included
22 in counseling sessions offered during the child's stay in
23 a hospital, facility, or institution when feasible, and when
24 in the best interests of the child and the child's parent,
25 guardian, or custodian. If separate counseling sessions are
26 conducted for the child and the child's parent, guardian,
27 or custodian, a joint counseling session shall be offered
28 prior to the release of the child from the hospital, facility,
29 or institution. The court shall inform the child's guardian
30 ad litem whether the counseling took place and the participants
31 and general information relating to the results of the
32 counseling sessions unless disclosure of the information would
33 seriously harm the treatment or rehabilitation of the child.

34 Sec. 10. Section 232.102, subsections 5 and 6, Code 1983,
35 are amended to read as follows:

1 5. In ~~any~~ an order transferring custody to the department
2 or an agency, or in orders pursuant to a custody order, the
3 court shall specify the nature and category of disposition
4 which will serve the best interests of the child, and shall
5 prescribe the means by which the placement shall be monitored
6 by the court. If the court orders the transfer of the custody
7 of the child to the department of social services or other
8 agency for placement, the department or agency shall submit
9 to the court a specific plan for placement of the child and
10 shall make every effort to return the child to ~~his-or-her~~
11 the child's home as quickly as possible. When the child is
12 not returned to the child's home and if the child has been
13 previously placed in a licensed foster care facility, the
14 department or agency shall place the child in the same licensed
15 foster care facility unless the licensee informs the department
16 or agency in writing that such placement is not feasible.
17 If the court orders the transfer of custody to a relative
18 or other suitable person, the court may direct the department
19 or other agency to provide services to the child's parent,
20 guardian or custodian in order to enable them to resume custody
21 of the child.

22 6. The duration of any placement made after an order
23 pursuant to this section shall be for an initial period of
24 six months. At the expiration of that period, the court shall
25 hold a hearing and review the placement in order to determine
26 whether the child should be returned home, an extension of
27 the placement should be made, or a termination of the parent-
28 child relationship proceeding should be instituted. The
29 placement ~~should~~ shall be terminated and the child returned
30 to ~~his-or-her~~ the child's home if the court finds by a
31 preponderance of the evidence that the child will not suffer
32 harm in the manner specified in section 232.2, subsection
33 5. If the placement is extended, the court ~~should~~ shall
34 determine whether additional services are necessary to
35 facilitate the return of the child to ~~his-or-her~~ the child's

1 home, and if the court determines ~~such~~ the services are needed,
2 the court shall order the provision of ~~such~~ the services.
3 When the child is not returned to the child's home and if
4 the child has been previously placed in a licensed foster
5 care facility, the department or agency responsible for the
6 placement of the child shall place the child in the same
7 licensed foster care facility unless the licensee informs
8 the department or agency in writing that such placement is
9 not feasible.

10 Sec. 11. Section 232.116, subsection 4, paragraphs b and
11 d, Code 1983, are amended to read as follows:

12 b. The custody of the child has been transferred from
13 ~~his-or-her~~ the child's parents for placement pursuant to
14 section 232.102 and ~~such~~ the placement has lasted for a period
15 of at least six consecutive months, but less than twelve
16 consecutive months; and

17 d. There is clear and convincing evidence that the parents
18 have not maintained contact with the child during the previous
19 six consecutive months and have made no reasonable efforts
20 to resume care of the child despite being given the opportunity
21 to do so.

22 Sec. 12. Section 232.116, subsection 5, paragraph b, Code
23 1983, is amended to read as follows:

24 b. The custody of the child has been transferred from
25 ~~his-or-her~~ the child's parents for placement pursuant to
26 section 232.102 for at least twelve consecutive months; and

27 Sec. 13. Section 235A.18, subsection 2, Code 1983, is
28 amended to read as follows:

29 2. Child abuse information ~~may~~ shall be expunged ~~where~~
30 ~~the-prebative-value-of-the-information-is-so-doubtful-as-to~~
31 ~~outweigh-its-validity~~ one year after the receipt of the initial
32 report of such abuse if the information cannot be determined
33 by a preponderance of the evidence to be founded or unfounded.
34 Child abuse information shall be expunged if ~~it~~ the information
35 is determined to be unfounded as a result of any of the

1 following:

2 a. The investigation of a report of suspected child abuse
3 by the department.

4 b. A successful appeal as provided in section 235A.19.

5 c. A court adjudication.

6 Sec. 14. NEW SECTION. 726.8 CHILD ABUSE.

7 1. As used in this section:

8 a. "Child" means a person under the age of eighteen years.

9 b. "Child abuse" means child abuse as defined in section
10 232.68, subsection 2.

11 c. "Physical injury" means the impairment of a physical
12 condition including, but not limited to, a contusion of the
13 skin, laceration, failure to thrive, malnutrition, burn, bone
14 fracture, subdural hematoma, injury to an internal organ,
15 injury causing bleeding, or any other physical condition which
16 imperils a child's health or welfare.

17 d. "Serious emotional injury" means an injury which does
18 not necessarily exhibit a physical characteristic, but which
19 is evidenced by severe anxiety, depression, withdrawal, or
20 untoward aggressive behavior toward self or others and can
21 be recognized and diagnosed by a licensed physician, qualified
22 mental health professional, or other professional in the area
23 of child development.

24 e. "Serious physical injury" means a physical injury which
25 creates a permanent disfigurement, protracted loss or impair-
26 ment of a function of a body member, limb, or organ, or sub-
27 stantial risk of death.

28 2. A person responsible for the care of a child who in-
29 tentiously commits or fails to prevent an act of child abuse
30 is guilty of a simple misdemeanor.

31 3. A person responsible for the care of a child who in-
32 tentiously commits or fails to prevent an act of child abuse
33 resulting in physical injury is guilty of a serious
34 misdemeanor.

35 4. A person responsible for the care of a child who in-

1 tentionally commits or fails to prevent an act of child abuse
2 resulting in serious emotional injury or serious physical
3 injury is guilty of an aggravated misdemeanor.

4 Sec. 15. NEW SECTION. 237.13 CASE HISTORY PROVIDED.

5 The department of human services shall provide all licensed
6 foster care facilities providing foster care for a child and
7 all employees of the department assigned to a child receiving
8 foster care with a detailed history of previous placements
9 of the child, previous court orders relating to the placements
10 of the child, and founded charges of child abuse against the
11 parent of the child.

12 EXPLANATION

13 Section 1 of this bill adds sexual exploitation of children
14 to the definition of child abuse.

15 Section 2 adds child prostitution to the definition of
16 child abuse.

17 Section 3 clarifies that the county attorney is to assist
18 in the preparation of certain juvenile court actions and
19 substitutes the term "unfounded" for "unsubstantiated" in
20 identifying reports for which an investigation may be
21 terminated.

22 Section 4 requires the appointment of a separate legal
23 counsel and guardian ad litem in a child-in-need-of-assistance
24 case where the wishes of a child, 14 or older, are not
25 compatible with the best interests of the child.

26 Sections 5, 7, 8, and 9 permit the guardian ad litem of
27 a child in need of assistance to be present at judicial
28 proceedings relating to the child, to submit a report relating
29 to the child to the court, to inspect a social report
30 considered by the court with permission by the court and to
31 be informed of the results of the counseling sessions offered
32 for a child in need of assistance. Section 8 also permits
33 evidence from an individual providing foster care for the
34 child to be included in the social report prepared for the
35 court.

1 Section 6 requires that certain court records be maintained
2 and be a part of each hearing relating to a child in need
3 of assistance.

4 Section 10 requires the department of human services or
5 other agency responsible for placement to place a child in
6 the same foster care facility if the child was previously
7 placed in the facility.

8 Sections 8 and 15 require the department of human services
9 to include founded charges of child abuse against a parent
10 of a child in need of assistance in a social report for the
11 court and to notify applicable licensed foster care facilities
12 and employees of the department of such charges and detailed
13 histories of previous placements of the child.

14 Sections 11 and 12 stipulate that the monthly requirements
15 regarding termination of the parent-child relationship are
16 consecutive.

17 Section 13 requires the expungement of child abuse informa-
18 tion after one year if the information cannot be determined
19 by a preponderance of the evidence to be founded or unfounded.

20 Section 14 provides criminal penalties for acts or omissions
21 which constitute child abuse. The general penalty provided
22 is a simple misdemeanor, however, if physical injury results
23 the penalty is a serious misdemeanor, and if serious physical
24 or emotional injury results the penalty is an aggravated mis-
25 demeanor.

26 The bill takes effect July 1 following enactment.

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December 13, 1983

The Honorable Don Doyle, Chairperson
Senate Committee on Judiciary

The Honorable Dan Jay, Chairperson
House Committee on Judiciary and Law Enforcement

Dear Senator Doyle and Representative Jay:

The Child Protection Subcommittee established in 1983 by the Legislative Council respectfully requests that your respective committees use the family impact statement, drafted by the House Committee on Human Resources, in evaluating the attached bill draft relating to the protection of children by amending Iowa's child abuse and child-in-need-of-assistance laws (LSB 3883S/H 8.1).

Sincerely,

Senator Hurley Hall
Co-chairperson

Representative Janet Carl
Co-Chairperson

HH/JC/RJ/dg

PROPOSED SENATE/HOUSE FILE _____

BY (PROPOSED INTERIM SUBCOMMITTEE
ON CHILD PROTECTION BILL)

Passed Senate, Date _____ Passed House, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act establishing a missing children registry within the
2 bureau of criminal identification of the department of
3 public safety.

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

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1 Section 1. NEW SECTION. 690.5 MISSING CHILDREN REGISTRY-
2 -DEFINITION--ESTABLISHMENT--CONFIDENTIALITY--PERMANENT OUT-
3 OF-HOME PLACEMENTS.

4 1. As used in this section, "missing child" means a person
5 under the age of eighteen years who is missing from the child's
6 home environment or out-of-home placement facility for any
7 reason and whose whereabouts cannot be determined by the
8 person responsible for the child's care.

9 2. The state bureau of criminal identification shall
10 establish a statewide central registry for children. The
11 registry shall contain:

12 a. Data identifying a child, such as fingerprints, which
13 is voluntarily submitted by the parent or legal guardian of
14 the child or submitted under subsection 4, paragraph "a".

15 b. Data identifying a child reported as missing by the
16 person responsible for the child's care.

17 c. Dates and circumstances relating to a request for or
18 receipt of information from the registry.

19 d. Other information, including but not limited to blood
20 types and photographs, necessary for the identification of
21 children.

22 3. Notwithstanding chapter 68A, information contained
23 in the registry is confidential and only the following persons
24 or agencies shall be granted access to the information:

25 a. A police or law enforcement agency investigating a
26 report of a missing child.

27 b. An agency having the responsibility or authorization
28 to care for, treat, or supervise a child who is the subject
29 of an out-of-home placement or an adoption proceeding.

30 c. A court, upon a finding that access to the records
31 may be necessary for the determination of an issue before
32 the court.

33 d. The attorney general or a county attorney.

34 e. A person engaged in bona fide research, if approved
35 by the head of the bureau of criminal identification, provided

1 individual identifying information is deleted.

2 4. The department of human services, a child-placing
3 agency as defined in section 238.2, or an independent person
4 facilitating the permanent out-of-home placement or adoption
5 of a child, other than a stepparent adoption, shall:

6 a. Ensure that the child is fingerprinted if the child
7 is one year of age or older, and footprinted if under one
8 year of age, and that such information, together with any
9 other pertinent information, which may include blood type
10 and photograph, is filed with the central registry.

11 b. File a written request with the bureau of criminal
12 identification for a search of the central registry for
13 children and any existing federal registry providing similar
14 information to ensure that the child is not listed as a missing
15 child.

16 EXPLANATION

17 This bill establishes a statewide registry for missing
18 children to authorize the central collection of data
19 identifying children and to facilitate the recovery of missing
20 children. Parents and legal guardians may submit identifying
21 data to the registry. Registry information is confidential
22 and access is granted only to law enforcement agencies, child
23 protection or adoption agencies, the court, or a prosecuting
24 attorney, or for bona fide research. Child protection and
25 adoption agencies and persons making independent adoption
26 placements are required to ensure that identifying information
27 is filed with and retrieved from the registry concerning
28 children being permanently placed by them.

29 The bill takes effect July 1 following enactment.

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