

If a building is owned or leased by a school district or accredited nonpublic school building and complies with standards adopted by the state fire marshal for school buildings under chapter 100, the building is considered appropriate for use by a child day care facility caring for school age children. The rules adopted by the administrator under this section shall not require the facility to comply with building requirements which differ from requirements for use of the building as a school.

Standards and requirements set by a city or county for a school building which is owned or leased by a school district or accredited nonpublic school and used as a child day care facility as an adjunct to the primary purpose of the building shall take into consideration that children are received for temporary care only and shall not differ from standards and requirements set for the primary purpose use of the building as a school.

Approved April 28, 1994

## CHAPTER 1130

### CHILD ABUSE AND DEPENDENT ADULT ABUSE

*H.F. 2261*

**AN ACT** relating to child abuse provisions involving child abuse definitions, mandatory reporters, investigation procedures, and correction of child abuse information, and providing an effective date.

*Be It Enacted by the General Assembly of the State of Iowa:*

#### DIVISION I CHILD ABUSE DEFINITIONS

Section 1. Section 232.68, subsection 2, paragraph f, Code Supplement 1993, is amended to read as follows:

f. An illegal drug is present in a child's body as a direct and foreseeable consequence of the acts or omissions of the child's parent, guardian, or custodian person responsible for the care of the child.

Sec. 2. Section 232.68, subsection 7, paragraph b, Code Supplement 1993, is amended to read as follows:

b. A relative or any other person with whom the child resides and who assumes care or supervision of the child, without reference to the length of time or continuity of such residence.

#### DIVISION II MANDATORY REPORTERS OF CHILD ABUSE

Sec. 3. Section 232.69, subsection 1, paragraph b, Code 1993, is amended to read as follows:

b. Any of the following persons who, in the scope of professional practice or in their employment responsibilities, examines, attends, counsels, or treats a child and reasonably believes a child has suffered abuse:

- (1) Every A self-employed social worker, every.
- (2) A social worker under the jurisdiction of the department of human services, any.
- (3) A social worker employed by a public or private agency or institution,.
- (4) An employee or operator of a public or private health care facility as defined in section 135C.1,.
- (5) A certified psychologist,.
- (6) A licensed school employee,.

(7) An employee or operator of a licensed child care center or registered group day care home or registered family day care home, individual licensee under chapter 237, member of the staff.

(8) An employee or operator of a substance abuse program or facility licensed under chapter 125.

(9) An employee of a department of human services institution listed in section 218.1.

(10) An employee or operator of a juvenile detention or juvenile shelter care facility approved under section 232.142.

(11) An employee or operator of a foster care facility licensed or approved under chapter 237.

(12) An employee or operator of a mental health center,.

(13) A peace officer,.

(14) A dental hygienist,.

(15) A counselor, or mental health professional, who, in the scope of professional practice or in providing child foster care, examines, attends, counsels or treats a child and reasonably believes a child has suffered abuse.

### DIVISION III CHILD ABUSE INVESTIGATIONS

Sec. 4. Section 232.71, subsection 1, Code Supplement 1993, is amended to read as follows:

1. If a report is determined to constitute a child abuse allegation, the department of human services shall promptly commence an appropriate investigation. The primary purpose of this investigation shall be the protection of the child named in the report. The department, within five working days of commencing the investigation, shall provide written notification of the investigation to the child's parents. However, if the department shows the court to the court's satisfaction that notification is likely to endanger the child or other persons, the court shall issue an emergency order restraining the notification orally direct the department to withhold notification. Within one working day of issuing an oral directive, the court shall issue a written order restraining the notification. If a report is determined to not constitute a child abuse allegation, but a criminal act harming a child is alleged, the department shall immediately refer the matter to the appropriate law enforcement agency.

Sec. 5. Section 232.71, subsection 2, paragraph d, Code Supplement 1993, is amended to read as follows:

d. An evaluation of the home environment, and relationship of If protective concerns are identified, the department shall evaluate the child named in the report and any other children in the same home as the parents or other persons responsible for their care.

Sec. 6. Section 232.77, subsection 1, Code Supplement 1993, is amended to read as follows:

1. Any A person who is required to report a case of child abuse may take or cause to be taken, at public expense, photographs, or X rays, or other physical examinations or tests of the areas of trauma visible on a child which would provide medical indication of allegations arising from a child abuse investigation. Any A health practitioner may, if medically indicated, cause to be performed radiological examination, physical examination, or other medical tests of the child. Any A person who takes any photographs or X rays or performs physical examinations or other tests pursuant to this section shall notify the department of human services that such the photographs or X rays have been taken, and or the examinations or other tests have been performed. The person who made notification shall retain such the photographs or X rays or examination or test findings for a reasonable time thereafter following the notification. Whenever such the person is required to report under section 232.69, in that person's capacity as a member of the staff of a medical or other private or public institution, agency or facility, that person shall immediately notify the person in charge of such the institution, agency, or facility or that person's designated delegate of the need for photographs or X rays or examinations or other tests.

Sec. 7. 1993 Iowa Acts, chapter 172, sections 32, 33, 38, and 39, are repealed.

Sec. 8. EFFECTIVE DATE. Section 7 of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION IV  
CHILD ABUSE INFORMATION

Sec. 9. Section 235A.18, subsection 2, unnumbered paragraph 1, Code Supplement 1993, is amended to read as follows:

Child abuse information which cannot be determined by a preponderance of the evidence to be founded or unfounded shall be sealed one year after the receipt of the initial report of abuse and expunged five years after the date it was sealed. Child abuse information which is determined by a preponderance of the evidence to be unfounded shall be expunged ~~when~~ six months after the date it is determined to be unfounded. During the six-month period the information shall be sealed and is accessible only through a court order. A report shall be determined to be unfounded as a result of any of the following:

Sec. 10. Section 235A.19, subsections 1, 2, and 3, Code 1993, are amended to read as follows:

1. ~~Any person or that person's attorney~~ A subject of a child abuse report, as identified in section 235A.15, subsection 2, paragraph "a", shall have the right to examine child abuse information in the registry which refers to ~~that person the subject.~~ The registry may prescribe reasonable hours and places of examination.

2. a. ~~A person~~ subject of a child abuse report may file with the department within six months of the date of the notice of the results of an investigation required by section 232.71, subsection 7, a written statement to the effect that child abuse information referring to the ~~person~~ subject is in whole or in part erroneous, and may request a correction of that information or of the findings of the investigation report. The department shall provide the ~~person~~ subject with an opportunity for an evidentiary hearing pursuant to chapter 17A to correct the information or the findings, unless the department corrects the information or findings as requested. The department shall delay the expungement of information which is not determined to be founded until the conclusion of a proceeding to correct the information or findings. The department may defer the hearing until the conclusion of a pending juvenile or district court case relating to the information or findings.

b. The department shall not disclose any child abuse information until the conclusion of the proceeding to correct the information or findings, except as follows:

- (1) As necessary for the proceeding itself.
- (2) To the parties and attorneys involved in a judicial proceeding.
- (3) For the regulation of child care or child placement.
- (4) Pursuant to court order.
- (5) To the subject of an investigation or a report.
- (6) For the care or treatment of a child named in a report as a victim of abuse.
- (7) To persons involved in an investigation of child abuse.

3. ~~The subject of a child abuse report may appeal the decision resulting from the a hearing may be appealed held pursuant to subsection 2 to the district court of Polk county by the person requesting the correction or to the district court of the district in which the person subject of the child abuse report resides.~~ Immediately upon appeal the court shall order the department to file with the court a certified copy of the child abuse information. Appeal shall be taken in accordance with chapter 17A.

DIVISION V  
CHILD OR DEPENDENT ADULT ABUSE  
INFORMATION – USE AND ACCESS

Sec. 11. Section 125.14A, Code 1993, is amended by adding the following new subsections:  
NEW SUBSECTION. 5. In addition to the record checks required under this section, the department of human services may conduct dependent adult abuse record checks in this state and may conduct these checks in other states, on a random basis. The provisions of this

section, relative to an evaluation following a determination that a person has been convicted of a crime or has a record of founded child abuse, shall also apply to a random check conducted under this subsection.

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

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

**Sec. 12. NEW SECTION. 135C.33 CHILD OR DEPENDENT ADULT ABUSE INFORMATION AND CRIMINAL RECORDS — EVALUATIONS.**

1. On or after July 1, 1994, with regard to new applicants for licensure or employment, if a person is being considered for licensure under this chapter, or for employment involving direct responsibility for a resident or with access to a resident when the resident is alone, or if the person considered for licensure or employment under this chapter will reside in a facility, the facility may request that the department of human services conduct criminal and child and dependent adult abuse record checks in this state and in other states, on a random basis. Beginning July 1, 1994, a facility shall inform all new applicants for employment of the possibility of the performance of a record check and shall obtain, from the applicant, a signed acknowledgment of the receipt of the information. Additionally, on or after July 1, 1994, a facility shall include the following inquiry in an application for employment: "Do you have a record of founded child or dependent adult abuse or have you ever been convicted of a crime, in this state or any other state?" If the person has been convicted of a crime under a law of any state or has a record of founded child or dependent adult abuse, the department of human services shall perform an evaluation to determine whether the crime or founded child or dependent adult abuse warrants prohibition of licensure, employment, or residence in the facility. The evaluation shall be performed in accordance with procedures adopted for this purpose by the department of human services.

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

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

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

**Sec. 13. Section 135H.7, Code 1993, is amended by adding the following new subsections:**

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

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

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

Sec. 14. Section 237.8, Code 1993, is amended by adding the following new subsections:

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

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

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

Sec. 15. Section 237A.5, Code 1993, is amended by adding the following new subsections:

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

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

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

Sec. 16. Section 692.2, subsection 1, paragraph c, Code Supplement 1993, is amended to read as follows:

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

Sec. 17. Section 692.2, subsection 1, Code Supplement 1993, is amended by adding the following new paragraph:

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

Sec. 18. Section 692.3, subsection 2, Code 1993, is amended to read as follows:

2. Notwithstanding subsection 1, paragraph "a", the department of human services may disseminate criminal history data obtained pursuant to section 692.2, subsection 1, paragraph "c", to persons licensed, registered, or certified under chapters 135C, 237, 237A, 238 and 600 for the purposes of section 135C.33, section 237.8, subsection 2 and section 237A.5. A person who receives information pursuant to this subsection shall not use the information other than for purposes of section 135C.33, section 237.8, subsection 2, section 237A.5, or section 600.8, subsections 1 and 2. A person who receives criminal history data pursuant to this subsection who uses the information for purposes other than those permitted by this subsection or who communicates the information to another person except for the purposes permitted by this subsection is guilty of an aggravated misdemeanor.

Sec. 19. CHILD PROTECTION TASK FORCE. The legislative council is requested to establish a task force for the 1994 interim to review federal and state laws, regulations, and policies regarding child protection, including the central child abuse registry, and to make recommendations for changes in the child protection system. The task force members shall include legislators, individuals knowledgeable concerning child protection and prevention of child abuse, and other interested persons. The task force shall submit a report of its findings and recommendations to the general assembly on or before January 9, 1995. The department of human services shall seek federal or private funding for the costs of the task force.

Sec. 20. EFFECTIVE DATE. Section 9 of this Act takes effect July 1, 1995.

Approved April 28, 1994

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## CHAPTER 1131

### SAFETY IN SCHOOLS

*H.F. 2383*

**AN ACT** relating to safety in schools.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. NEW SECTION. 256.11C CHARACTER EDUCATION POLICY — PILOT PROGRAM.

1. It is the policy of the general assembly that Iowa's schools be the best and safest possible. To that end, each school is encouraged to instill the highest character and academic excellence in each student, in close cooperation with the student's parents, and with input from the community and educators.

Schools should make every effort, formally and informally, to stress character qualities that will maintain a safe and orderly learning environment, and that will ultimately equip students to be model citizens. These qualities include but are not limited to honesty; responsibility; respect and care for the person and property of others; self-discipline; understanding of, respect for, and obedience to law and citizenship; courage, initiative, commitment, and perseverance; kindness, compassion, service, and loyalty; fairness, moderation, and patience; and the dignity and necessity of hard work.

The department of education shall assist schools in accessing financial and curricular resources to implement programs stressing these character qualities. Schools are encouraged to use their existing resources to implement programs stressing these qualities.

2. The department of education shall establish a character education pilot program to evaluate methods for incorporating positive character qualities into all levels of the existing educational program. Schools involved in the pilot program may use phase III funds in the establishment of the program.

3. The department of education shall report to the state board and to the general assembly regarding the success of any pilot programs prior to the completion of the third year of a program.

Sec. 2. Section 279.9, Code 1993, is amended to read as follows:

279.9 USE OF TOBACCO.

~~Sueh~~ The rules shall prohibit the use of tobacco and the use or possession of alcoholic liquor, wine, or beer or any controlled substance as defined in section 124.101, subsection 5, by any student of ~~sueh~~ the schools and the board may suspend or expel ~~any~~ a student for ~~any~~ a violation of ~~sueh~~ a rule under this section.