

Sec. 2. NEW SECTION. 135H.8A PROVISIONAL LICENSE.

The department may issue a provisional license, effective for not more than one year, to a licensee whose psychiatric institution does not meet the requirements of this chapter, if, prior to issuance of the license, written plans to achieve compliance with the applicable requirements are submitted to and approved by the department. The plans shall specify the deadline for achieving compliance.

Sec. 3. Section 235B.2, subsection 5, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. Sexual exploitation of a dependent adult who is a resident of a health care facility, as defined in section 135C.1, by a caretaker providing services to or employed by the health care facility, whether within the health care facility or at a location outside of the health care facility.

“Sexual exploitation” means any consensual or nonconsensual sexual conduct with a dependent adult for the purpose of arousing or satisfying the sexual desires of the caretaker or dependent adult, which includes but is not limited to kissing; touching of the clothed or unclothed inner thigh, breast, groin, buttock, anus, pubes, or genitals; or a sex act, as defined in section 702.17. Sexual exploitation does not include touching which is part of a necessary examination, treatment, or care by a caretaker acting within the scope of the practice or employment of the caretaker; the exchange of a brief touch or hug between the dependent adult and a caretaker for the purpose of reassurance, comfort or casual friendship; or touching between spouses.

Sec. 4. Section 235B.3, subsection 3, Code 1995, is amended to read as follows:

3. If a staff member or employee is required to report pursuant to this section, the person shall immediately notify the person in charge or the person’s designated agent, and the person in charge or the designated agent shall make the report by the end of the next business day.

Approved April 24, 1995

CHAPTER 52

MISCELLANEOUS CHILD SUPPORT RECOVERY PROVISIONS

S.F. 149

AN ACT relating to child support recovery.

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

Section 1. Section 234.39, subsection 1, Code 1995, is amended to read as follows:

1. For an individual to whom section 234.35, subsection 1, is applicable, a dispositional order of the juvenile court requiring the provision of foster care, or an administrative order entered pursuant to chapter 252C, or any order establishing paternity and support for a child in foster care, shall establish, after notice and a reasonable opportunity to be heard is provided to a parent or guardian, the amount of the parent’s or guardian’s support obligation for the cost of foster care provided by the department. ~~The court, or the department of human services in establishing support by administrative order, shall establish the amount of the parent’s or guardian’s support obligation and the amount of support debt accrued and accruing~~ shall be established in accordance with the child support guidelines prescribed under section 598.21, subsection 4. However, the court, or the department of

human services in establishing support by administrative order, may deviate from the prescribed obligation after considering a recommendation by the department for expenses related to goals and objectives of a case permanency plan as defined under section 237.15, and upon written findings of fact which specify the reason for deviation and the prescribed guidelines amount. Any order for support shall direct the payment of the support obligation to the collection services center for the use of the department's foster care recovery unit. The order shall be filed with the clerk of the district court in which the responsible parent or guardian resides and has the same force and effect as a judgment when entered in the judgment docket and lien index. The collection services center shall disburse the payments pursuant to the order and record the disbursements. If payments are not made as ordered, the child support recovery unit may certify a default to the court and the court may, on its own motion, proceed under section 598.22 or 598.23 or the child support recovery unit may enforce the judgment as allowed by law. An order entered under this subsection may be modified only in accordance with the guidelines prescribed under section 598.21, subsection 8.

Sec. 2. Section 252A.3A, subsection 2, unnumbered paragraph 1, Code 1995, is amended to read as follows:

~~Establishment of~~ When paternity has not been legally established, paternity may be established by affidavit under this section ~~may be used to establish paternity of~~ for the following children:

Sec. 3. Section 252C.3, subsection 1, paragraph a, Code 1995, is amended to read as follows:

a. A statement that the support obligation will be set pursuant to the child support guidelines established pursuant to section 598.21, subsection 4, and the criteria established pursuant to section 252B.7A, and that the responsible person is required to provide medical support in accordance with chapter 252E.

Sec. 4. Section 252C.3, subsection 1, paragraph c, Code 1995, is amended by striking the paragraph.

Sec. 5. Section 252D.17, unnumbered paragraph 1, Code 1995, is amended to read as follows:

The child support recovery unit or the district court shall provide notice ~~of~~ by sending a copy of the order for income withholding to the obligor's employer, trustee, or other payor of income. Notice shall be sent by regular mail, with proof of service completed according to rule of civil procedure 82 and, in. The order may be sent to the employer, trustee, or other payor of income on the same date that the order is sent to the clerk of court for filing. In addition to the amount to be withheld for payment of support, the order shall include all of the following information regarding the duties of the payor in implementing the withholding order:

Sec. 6. Section 252D.17, subsection 4, Code 1995, is amended to read as follows:

4. ~~Income~~ The income withholding order is binding on an existing or future employer, trustee, or other payor ten days after receipt of the ~~notice~~ copy of the order, and is binding whether or not the copy of the order received is file-stamped.

Sec. 7. Section 252D.23, Code 1995, is amended to read as follows:

252D.23 FILING OF WITHHOLDING ORDER – ORDER EFFECTIVE AS DISTRICT COURT ORDER.

An income withholding order entered by the child support recovery unit pursuant to this chapter shall be filed with the clerk of the district court. ~~Upon filing, for~~ For the purposes of demonstrating compliance by the employer, trustee, or other payor, the copy of the withholding order received, whether or not the copy is file-stamped, shall have all the

force, effect, and attributes of a docketed order of the district court including, but not limited to, availability of contempt of court proceedings against an employer, trustee, or other payor for noncompliance. However, any information contained in the income withholding order related to the amount of the accruing or accrued support obligation which does not reflect the correct amount of support due does not modify the underlying support judgment.

Sec. 8. Section 598.21, subsection 4A, paragraph c, Code 1995, is amended to read as follows:

c. Notwithstanding paragraph "a", in a pending dissolution action under this chapter, a prior determination of paternity by operation of law through the marriage of the established father and mother of the child may be overcome under this chapter if the following conditions are met:

(1) The established father and mother of the child submit file a written statement with the court that both parties agree that the established father is not the biological father of the child and the

(2) The court finds that it is in the best interest of the child to overcome the established paternity. In determining the best interest of the child, the court shall consider the criteria provided in section 600B.41A, subsection 3, paragraph "g".

If the court overcomes a prior determination of paternity, the previously established father shall be relieved of support obligations as specified in section 600B.41A, subsection 4. In any action to overcome paternity other than through a pending dissolution action, the provisions of section 600B.41A apply. Overcoming paternity under this paragraph does not bar subsequent actions to establish paternity if it is subsequently determined that the written statement attesting that the established father is not the biological father of the child may have been submitted erroneously, and that the person previously determined not to be the child's father during the dissolution action may actually be the child's biological father.

Sec. 9. Section 600B.41, subsection 2, Code 1995, is amended to read as follows:

2. ~~If a blood or genetic test is required, the court shall direct that inherited characteristics, including but not limited to blood types, be determined by appropriate testing procedures, and shall appoint an expert qualified as an examiner of genetic markers to analyze and interpret the results and to report to the court.~~

Approved April 24, 1995

CHAPTER 53

FAMILY INVESTMENT AND RELATED HUMAN SERVICES PROGRAMS – ADDITIONAL REQUIREMENTS S.F. 352

AN ACT relating to the family investment program and related human services programs by requiring the department of human services to apply for certain federal waivers and providing applicability provisions.

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

Section 1. WELFARE REFORM.

1. The department of human services shall submit a waiver request or requests to the United States department of health and human services as necessary to implement the