

**CHAPTER 159****PUBLIC HEALTH — MISCELLANEOUS PROVISIONS***H.F. 335*

**AN ACT** relating to public health issues under the purview of the Iowa department of public health, including vital statistics, chemical substance abuse, the board of nursing examiners, the board of dental examiners, lead poisoning, the immunization registry, the child death review team, plumbing provisions and fees, and providing a penalty and a contingent effective date.

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

Section 1. Section 22.7, subsection 2, Code 1997, is amended to read as follows:

2. Hospital records, medical records, and professional counselor records of the condition, diagnosis, care, or treatment of a patient or former patient or a counselee or former counselee, including outpatient. However, confidential communications between a crime victim and the victim's counselor are not subject to disclosure except as provided in section 236A.1. However, the Iowa department of public health shall adopt rules which provide for the sharing of information among agencies and providers concerning the maternal and child health program including but not limited to the statewide child immunization information system, while maintaining an individual's confidentiality.

Sec. 2. **NEW SECTION.** 125.83A PLACEMENT IN CERTAIN FEDERAL FACILITIES.

\*If upon completion of the commitment hearing, the court finds that the contention that the respondent is a chronic substance abuser has been sustained by clear and convincing evidence, and the court is furnished evidence that the respondent is eligible for care and treatment in a facility operated by the veterans administration or another agency of the United States government and that the facility is willing to receive the respondent, the court may so order. The respondent, when so placed in a facility operated by the veterans administration or another agency of the United States government within or outside of this state, shall be subject to the rules of the veterans administration or other agency, but shall not lose any procedural rights afforded the respondent by this chapter. The chief officer of the facility shall have, with respect to the respondent so placed, the same powers and duties as the chief medical officer of a hospital in this state would have in regard to submission of reports to the court, retention of custody, transfer, convalescent leave or discharge. Jurisdiction is retained in the court to maintain surveillance of the respondent's treatment and care, and at any time to inquire into the respondent's condition and the need for continued care and custody.

2. Upon receipt of a certificate stating that a respondent placed under this chapter is eligible for care and treatment in a facility operated by the veterans administration or another agency of the United States government which is willing to receive the respondent without charge to the state of Iowa or any county in the state, the chief medical officer may transfer the respondent to that facility. Upon so doing, the chief medical officer shall notify the court which ordered the respondent's placement in the same manner as would be required in the case of a transfer under section 125.86, subsection 2, and the respondent transferred shall be entitled to the same rights as the respondent would have under that subsection. No respondent shall be transferred under this section who is confined pursuant to conviction of a public offense or whose placement was ordered upon contention of incompetence to stand trial by reason of mental illness, without prior approval of the court which ordered that respondent's placement.

3. A judgment or order of commitment by a court of competent jurisdiction of another state or the District of Columbia, under which any person is hospitalized or placed in a facility operated by the veterans administration or another agency of the United States government, shall have the same force and effect with respect to that person while the

\* "1." probably intended at beginning of paragraph

person is in this state as the judgment or order would have if the person were in the jurisdiction of the court which issued it. That court shall be deemed to have retained jurisdiction of the person so placed for the purpose of inquiring into that person's condition and the need for continued care and custody, as do courts in this state under this section. Consent is given to the application of the law of the state or district in which the court is situated which issued the judgment or order as regards authority of the chief officer of any facility, operated in this state by the veterans administration or another agency of the United States government, to retain custody, transfer, place on convalescent leave or discharge the person so committed.

Sec. 3. Section 135.43, subsection 6, Code 1997, is amended to read as follows:

6. a. The Iowa department of public health and the department of human services shall adopt rules providing for disclosure of information which is confidential under chapter 22 or any other provision of state law, to the review team for purposes of performing its child death and child abuse review responsibilities.

b. A person in possession or control of medical, investigative or other information pertaining to a child death and child abuse review shall allow the inspection and reproduction of the information by the department upon the request of the department, to be used only in the administration and for the duties of the Iowa child death review team. Information and records which are confidential under section 22.7 and chapter 235A, and information or records received from the confidential records, remain confidential under this section. A person does not incur legal liability by reason of releasing information to the department as required under and in compliance with this section.

Sec. 4. Section 135.43, Code 1997, is amended by adding the following new subsections:

NEW SUBSECTION. 7. Review team members and their agents are immune from any liability, civil or criminal, which might otherwise be incurred or imposed as a result of any act, omission, proceeding, decision, or determination undertaken or performed, or recommendation made as a review team member or agent provided that the review team members or agents acted in good faith and without malice in carrying out their official duties in their official capacity. The department shall adopt rules pursuant to chapter 17A to administer this subsection. A complainant bears the burden of proof in establishing malice or lack of good faith in an action brought against review team members involving the performance of their duties and powers under this section.

NEW SUBSECTION. 8. A person who releases or discloses confidential data, records, or any other type of information in violation of this section is guilty of a serious misdemeanor.

Sec. 5. Section 135.105A, Code 1997, is amended to read as follows:

135.105A LEAD INSPECTOR AND LEAD ABATER TRAINING AND CERTIFICATION ESTABLISHED — CIVIL PENALTY.

1. The department shall establish a program for the training and certification of lead inspectors and lead abaters ~~who provide inspections and abatement for monetary compensation.~~ The department shall maintain a listing, available to the public and to city and county health departments, of lead inspectors and lead abaters who have successfully completed the training program and have been certified by the department. A person may be certified as both a lead inspector and a lead abater. However, a person who is certified as both a lead inspector and a lead abater shall not provide both inspection and abatement services at the same site unless a written consent or waiver, following full disclosure by the person, is obtained from the owner or manager of the site.

2. The department shall also establish a program for the training of painting, demolition, and remodeling contractors and those who provide mitigation control services ~~for monetary compensation.~~ The training shall be completed on a voluntary basis.

3. A person who owns ~~or manages~~ real property which includes a residential dwelling and who performs lead inspection or lead abatement of the residential dwelling is not required to obtain certification to perform ~~mitigation control or abatement~~ these measures of property which the person owns or manages, unless the residential dwelling is occupied by

a person other than the owner or a member of the owner's immediate family while the measures are being performed. However, the department shall encourage property owners and managers who are not required to be certified to complete the training course to ensure the use of appropriate and safe mitigation and abatement procedures.

4. A person shall not perform lead abatement or lead inspections ~~for compensation~~ unless the person has completed a training program approved by the department and has obtained certification. A person who violates this section is subject to a civil penalty not to exceed five thousand dollars for each offense.

Sec. 6. **NEW SECTION. 135.105C RENOVATION, REMODELING AND REPAINTING — LEAD HAZARD NOTIFICATION PROCESS ESTABLISHED.**

1. A person who performs renovation, remodeling, or repainting services of targeted housing for compensation shall provide an approved lead hazard information pamphlet to the owner and occupant of the housing prior to commencing the services.

2. For the purpose of this section, "targeted housing" means housing constructed prior to 1978 with the exception of housing for the elderly or for persons with disabilities, unless at least one child, six years of age or less, resides or is expected to reside in the housing, and housing which does not contain a bedroom. The department shall adopt rules to implement the renovation, remodeling, and repainting lead hazard notification process.

Sec. 7. Section 144.1, subsections 5, 9, and 10, Code 1997, are amended to read as follows:

5. "Fetal death" means death prior to the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy. Death is indicated by the fact that after expulsion or extraction the fetus does not breathe or show any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles. In determining a fetal death, heartbeats shall be distinguished from transient cardiac contractions, and respirations shall be distinguished from fleeting respiratory efforts or gasps.

9. "Live birth" means the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy, which, after such expulsion or extraction, breathes or shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached. In determining a live birth, heartbeats shall be distinguished from transient cardiac contractions, and respirations shall be distinguished from fleeting respiratory efforts or gasps.

10. "Registration" means ~~the acceptance by the division and the incorporation in its official records of certificates, reports, or other records, provided for in this chapter, of births, deaths, fetal deaths, adoptions, marriages, divorces, or annulments process by which vital statistic records are completed, filed, and incorporated by the division in the division's official records.~~

Sec. 8. Section 144.5, subsection 4, Code 1997, is amended to read as follows:

4. Prescribe, print, and distribute the forms required by this chapter and prescribe any other means for transmission of data, as necessary to accomplish complete, accurate reporting.

Sec. 9. Section 144.12, Code 1997, is amended to read as follows:

144.12 FORMS UNIFORM.

In order to promote and maintain uniformity in the system of vital statistics, the forms of certificates, reports, and other returns shall include as a minimum the items recommended by the federal agency responsible for national vital statistics, subject to approval and modification by the department. Forms shall be furnished by the department. The forms or other recording methods ~~used by county registrars to record copies of register records made re-~~ quired under this chapter shall be prescribed by the department.

Sec. 10. Section 144.13, subsection 1, paragraphs a, b, and c, Code 1997, are amended to read as follows:

a. A certificate of birth for each live birth which occurs in this state shall be filed ~~with the county as directed by the state registrar of the county in which the birth occurs~~ within ten seven days after the birth and shall be registered by the county registrar if it has been completed and filed in accordance with this chapter. ~~However, when a birth occurs in a moving conveyance, a birth certificate shall be filed in the county in which the child was first removed from the conveyance.~~

b. When a birth occurs in an institution or en route to an institution, the person in charge of the institution or the person's designated representative, shall obtain the personal data, prepare the certificate, ~~secure the signatures required by the certificate,~~ and file the certificate with the county as directed by the state registrar. The physician in attendance or the person in charge of the institution or the person's designee shall certify to the facts of birth either by signature or as otherwise authorized by rule and provide the medical information required by the certificate within ~~six~~ seven days after the birth.

c. When a birth occurs outside an institution and not en route to an institution, the certificate shall be prepared and filed by one of the following in the indicated order of priority:

- (1) The physician in attendance at or immediately after the birth.
- (2) Any other person in attendance at or immediately after the birth.
- (3) The father or the mother.
- (4) The person in charge of the premises where the birth occurred. The state registrar shall establish by rule, the evidence required to establish the facts of birth.

Sec. 11. Section 144.13, subsection 2, Code 1997, is amended to read as follows:

2. If the mother was married ~~either~~ at the time of conception ~~or~~, birth, or at any time during the period between conception and birth, the name of the husband shall be entered on the certificate as the father of the child unless paternity has been determined otherwise by a court of competent jurisdiction, in which case the name of the father as determined by the court shall be entered by the department.

Sec. 12. Section 144.13, subsection 3, Code 1997, is amended to read as follows:

3. If the mother was not married ~~either~~ at the time of conception ~~or~~, birth, and at any time during the period between conception and birth, the name of the father shall not be entered on the certificate of birth ~~without the written consent of the mother and the person to be named as the father~~, unless a determination of paternity has been made pursuant to section 252A.3, in which case the name of the father as established shall be entered by the department. If the father is not named on the certificate of birth, no other information about the father shall be entered on the certificate.

Sec. 13. Section 144.15, unnumbered paragraph 1, Code 1997, is amended to read as follows:

When the birth of a person born in this state has not been registered, a certificate may be filed in accordance with regulations. The certificate shall be registered subject to evidentiary requirements prescribed to substantiate the alleged facts of birth. Certificates of birth registered one year or more after the date of occurrence shall be marked "delayed" and shall show on their face the date of the delayed registration. A summary statement of the evidence submitted in support of the delayed registration shall be endorsed on the certificate. A delayed certificate of birth shall not be registered for a deceased person.

Sec. 14. Section 144.26, Code 1997, is amended to read as follows:

144.26 DEATH CERTIFICATE.

1. A death certificate for each death which occurs in this state shall be filed ~~with the county as directed by the state registrar of the county in which the death occurs~~, within three days after the death and prior to final disposition, and shall be registered by the county

registrar if it has been completed and filed in accordance with this chapter. A death certificate shall include the social security number, if provided, of the deceased person. All information including the certifying physician's name shall be typewritten.

2. All information included on a death certificate may be provided as mutually agreed upon by the division and the child support recovery unit, including by automated exchange.

3. If the place of death is unknown, a death certificate shall be filed in the county in which a dead body is found within three days after the body is found. The county in which a dead body is found is the county of death. If death occurs in a moving conveyance, ~~a death certificate shall be filed in the county in which the dead body is first removed from the conveyance~~ is the county of death.

~~If a person dies outside of the county of the person's residence, the state registrar shall send a copy of the death certificate to the county registrar of the county of the decedent's residence. The county registrar shall record the death certificate in the same records in which death certificates of persons who died within the county are recorded.~~

Sec. 15. Section 144.27, Code 1997, is amended to read as follows:

144.27 FUNERAL DIRECTOR'S DUTY.

The funeral director who first assumes custody of a dead body shall file the death certificate, obtain the personal data from the next of kin or the best qualified person or source available and obtain the medical certification of cause of death from the person responsible for ~~issuing and signing~~ completing the certification. When a person other than a funeral director assumes custody of a dead body, the person shall be responsible for carrying out the provisions of this section.

Sec. 16. Section 144.28, Code 1997, is amended to read as follows:

144.28 MEDICAL CERTIFICATE.

1. The medical certification shall be completed and signed within twenty-four hours after death by the physician in charge of the patient's care for the illness or condition which resulted in death except when inquiry is required by the county medical examiner. When inquiry is required by the county medical examiner, the medical examiner shall investigate the cause of death and shall complete and sign the medical certification within twenty-four hours after taking charge of the case.

2. The person completing the medical certification of cause of death shall attest to its accuracy either by signature or by an electronic process approved by rule.

Sec. 17. Section 144.29, Code 1997, is amended to read as follows:

144.29 FETAL DEATHS.

A fetal death certificate for each fetal death which occurs in this state after a gestation period of twenty completed weeks or greater, or for a fetus with a weight of three hundred fifty grams or more shall be filed with the county as directed by the state registrar of the county in which the delivery of the dead fetus occurs, within three days after delivery and prior to final disposition of the fetus. The certificate shall be registered if it has been completed and filed in accordance with this chapter.

~~If the place of delivery of a dead fetus is unknown, a fetal death certificate shall be filed in the~~ The county in which a dead fetus is found, is the county of death. The certificate shall be filed within three days after the fetus is found. If a fetal death occurs in a moving conveyance, ~~a fetal death certificate shall be filed in the county in which the fetus is first removed from the conveyance~~ is the county of death.

Sec. 18. Section 144.30, Code 1997, is amended to read as follows:

144.30 FUNERAL DIRECTOR'S DUTY — FETAL DEATH CERTIFICATE.

The funeral director who first assumes custody of a fetus shall file the fetal death certificate. In the absence of such a person, the physician or other person in attendance at or after the delivery shall file the certificate of fetal death. The person filing the certificate shall obtain the personal data from the next of kin or the best qualified person or source available

and shall obtain the medical certification of cause of death from the person responsible for ~~issuing and signing~~ completing the certification. When a person other than a funeral director assumes custody of a fetus, the person shall be responsible for carrying out the provisions of this section.

Sec. 19. Section 144.31, Code 1997, is amended to read as follows:

144.31 MEDICAL CERTIFICATE — FETAL DEATH.

The medical certification shall be completed ~~and signed~~ within twenty-four hours after delivery by the physician in attendance at or after delivery except when inquiry is required by the county medical examiner.

When a fetal death occurs without medical attendance upon the mother at or after delivery or when inquiry is required by the county medical examiner, the medical examiner shall investigate the cause of fetal death and shall complete ~~and sign~~ the medical certification within twenty-four hours after taking charge of the case. The person completing the medical certification of cause of fetal death shall attest to its accuracy either by signature or as authorized by rule.

Sec. 20. Section 144.32, unnumbered paragraph 1, Code 1997, is amended to read as follows:

If a person other than a funeral director, medical examiner, or emergency medical service assumes custody of a dead body or fetus, the person shall secure a burial-transit permit. To be valid, the burial-transit permit must be issued by the county medical examiner, a funeral director, or the county registrar of the county where the certificate of death or fetal death was filed. The permit shall be obtained prior to the removal of the body or fetus from the place of death and the permit shall accompany the body or fetus to the place of final disposition.

Sec. 21. Section 144.43, Code 1997, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A public record shall not be withheld from the public because it is combined with data processing software. The state registrar shall not implement any electronic data processing system for the storage, manipulation, or retrieval of vital records that would impair a county registrar's ability to permit the examination of a public record and the copying of a public record, as established by rule. If it is necessary to separate a public record from data processing software in order to permit the examination of the public record, the county registrar shall periodically generate a written log available for public inspection which contains the public record.

Sec. 22. NEW SECTION. 152.12 EXAMINATION INFORMATION.

Notwithstanding subsection\* 147.21, subsection 3, individual pass or fail examination results made available from the authorized national testing agency may be disclosed to the appropriate licensing authority in another state, the District of Columbia, or a territory or county, and the board-approved education program, for purposes of verifying accuracy of national data and determining program approval.

Sec. 23. Section 153.36, Code 1997, is amended to read as follows:

153.36 STATUTES NOT APPLICABLE TO DENTISTRY.

1. Sections 147.44 to 147.71, except 147.57 and sections 147.87 to 147.92, shall not apply to the practice of dentistry.

2. In addition to the provisions of section 272C.2, subsection 4, a person licensed by the board of dental examiners shall also be deemed to have complied with continuing education requirements of this state if, during periods that the person practiced the profession in another state or district, the person met all of the continuing education and other requirements of that state or district for the practice of the occupation or profession.

3. Notwithstanding the panel composition provisions in section 272C.6, subsection 1, the board of dental examiners' disciplinary hearing panels shall be comprised of three board

\* The word "section" probably intended

members, at least two of which are licensed in the profession.

Sec. 24. CONTINGENT EFFECTIVE DATE. Section 6 of this Act relating to the renovation, remodeling, and repainting lead hazard notification process takes effect only upon receipt by the Iowa department of public health of authorization from the United States environmental protection agency for state implementation of the lead inspection and abatement certification program.

Sec. 25. Section 135.15, Code 1997, is repealed.

Approved May 19, 1997

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## CHAPTER 160

### TEMPORARY ORDERS FOR SUPPORT, CUSTODY, OR VISITATION

H.F. 371

**AN ACT** relating to the issuing of temporary orders for support, custody, or visitation of a child born outside of marriage.

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

Section 1. **NEW SECTION.** 600B.40A TEMPORARY ORDERS — SUPPORT, CUSTODY, OR VISITATION OF A CHILD.

Upon petition of either parent in a proceeding involving support, custody, or visitation of a child for whom paternity has been established and whose mother and father have not been and are not married to each other at the time of filing of the petition, the court may issue a temporary order for support, custody, or visitation of the child. The temporary orders shall be made in accordance with the provisions relating to issuance of and changes in temporary orders for support, custody, or visitation of a child by the court in a dissolution of marriage proceeding pursuant to chapter 598.

Approved May 19, 1997

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## CHAPTER 161

### TERMINATION OF PARENTAL RIGHTS — GROUNDS — PUTATIVE FATHER

H.F. 453

**AN ACT** relating to the grounds for termination of parental rights of a putative father.

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

Section 1. Section 600A.2, subsection 18, Code 1997, is amended by striking the subsection and inserting in lieu thereof the following:

18. "To abandon a minor child" means that a parent, putative father, custodian, or guardian rejects the duties imposed by the parent-child relationship, guardianship, or custodianship, which may be evinced by the person, while being able to do so, making no provision or