

## CHAPTER 238

## CHILD-PLACING AGENCIES

Referred to in §232B.9, 422.9

[P]

Child and family services, see chapter 234

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**238.1 Definitions.**

For the purpose of this chapter unless the context otherwise requires:

1. “*Administrator*” means the administrator of the division of child and family services of the department of human services.
2. “*Child*” means the same as defined in section 234.1.
3. “*Child-placing agency*” means any agency, whether public, semipublic, or private, which represents that the agency places children permanently or temporarily in private family homes or receives children for placement in private family homes, or which actually engages for gain or otherwise in the placement of children in private family homes.
4. “*Person*” or “*agency*” shall include individuals, institutions, partnerships, voluntary associations, and corporations, other than institutions under the management or control of any division or any administrator of the department of human services.
5. “*State division*” means the same as defined in section 234.1.

[C27, 31, 35, §3661-a58; C39, §3661.072; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §238.1]

83 Acts, ch 96, §157, 159; 84 Acts, ch 1279, §41; 94 Acts, ch 1046, §8; 96 Acts, ch 1034, §14; 2009 Acts, ch 133, §95

Referred to in §238.17, 600A.2, 600A.6B

**238.2 “Child-placing agency” defined.** Repealed by 2009 Acts, ch 133, § 191.**238.3 Authority to license.**

The administrator may grant a license under this chapter for the period specified in section 238.9 for the conduct of any child-placing agency in this state.

[C27, 31, 35, §3661-a60; C39, §3661.074; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §238.3]

2002 Acts, ch 1102, §5

**238.4 Granting of license conditional.**

No such license shall be issued unless the person applying shall have shown that the person and the person’s agents are properly equipped by training and experience to find and select

suitable temporary or permanent homes for children and to supervise such homes when children are placed in them, to the end that the health, morality, and general well-being of children placed by them shall be properly safeguarded.

[C27, 31, 35, §3661-a61; C39, §3661.075; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §238.4]

#### **238.5 License required.**

No person shall conduct a child-placing agency or solicit or receive funds for its support without an unrevoked license issued by the administrator within the twelve months preceding to conduct such agency.

[C27, 31, 35, §3661-a62; C39, §3661.076; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §238.5]

#### **238.6 Form of license.**

The license shall state the name of the licensee and the particular premises in which the business may be carried on.

[C27, 31, 35, §3661-a63; C39, §3661.077; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §238.6]

#### **238.7 Posting of license.**

Such license shall be kept posted in a conspicuous place on the licensed premises.

[C27, 31, 35, §3661-a64; C39, §3661.078; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §238.7]

#### **238.8 Record of license.**

A record of the licenses so issued shall be kept by the administrator.

[C27, 31, 35, §3661-a65; C39, §3661.079; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §238.8]

#### **238.9 Term of license.**

A license granted under this chapter shall be valid for three years from the date of issuance unless the license is revoked in accordance with section 238.10.

[C27, 31, 35, §3661-a66; C39, §3661.080; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §238.9]

2002 Acts, ch 1102, §6

Referred to in §238.3

#### **238.10 Revocation of license.**

The administrator may, after due notice and hearing, revoke the license:

1. In case the person to whom the same is issued violates any provision of this chapter.
2. When in the opinion of the administrator such agency is maintained in such a way as to waste or misuse funds contributed by the public or without due regard to sanitation or hygiene or to the health, comfort, or well-being of the child cared for or placed by the agency.
3. In case of violation by the licensee or the licensee's agents of any law of the state in a manner disclosing moral turpitude or unfitness to maintain such agency.
4. In case any such agency is conducted by a person of ill repute or bad moral character.
5. In case said agency operates in persistent violation of the reasonable regulations of the administrator governing such agencies.

[S13, §3260-k; C24, §3663; C27, 31, 35, §3661-a67; C39, §3661.081; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §238.10]

Referred to in §238.9

#### **238.11 Written charges — findings — notice.**

Written charges against the licensee shall be served upon the licensee at least ten days before hearing shall be had thereon and a written copy of the findings and decisions of the

administrator upon hearing shall be served upon the licensee in the manner prescribed for the service of original notice in civil actions.

[C27, 31, 35, §3661-a68; C39, §3661.082; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §238.11]

[P] Service of notice, R.C.P. 1.302 – 1.315

#### **238.12 Appeal — judicial review.**

Any licensee feeling aggrieved by any decision of the administrator revoking the licensee's license may appeal to the council on human services in the manner of form prescribed by such council. The council shall, upon receipt of such an appeal give the licensee reasonable notice and opportunity for a fair hearing before such council or its duly authorized representative or representatives. Following such hearing the council on human services shall take its final action and notify the licensee in writing.

Judicial review of the actions of the council may be sought in accordance with the terms of the Iowa administrative procedure Act, chapter 17A.

[C27, 31, 35, §3661-a69; C39, §3661.083; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §238.12]

83 Acts, ch 96, §157, 159; 2003 Acts, ch 44, §114

**238.13 through 238.15** Repealed by 74 Acts, ch 1090, § 211.

#### **238.16 Rules and regulations.**

It shall be the duty of the administrator to provide such general regulations and rules for the conduct of all such agencies as shall be necessary to effect the purposes of this chapter and of all other laws of the state relating to children so far as the same are applicable, and to safeguard the well-being of children placed or cared for by such agencies.

[C27, 31, 35, §3661-a73; C39, §3661.087; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §238.16]

#### **238.17 Forms for registration and record — preservation.**

1. The administrator shall prescribe forms for the registration and record of persons cared for by any child-placing agency licensed under this chapter and for reports required by said administrator from the agencies.

2. If, for any reason, a child-placing agency as defined by section 238.1 shall cease to exist, all records of registration and placement and all other records of any kind and character kept by such child-placing agency shall be turned over to the administrator, for preservation, to be kept by the said administrator as a permanent record.

[C27, 31, 35, §3661-a74; C39, §3661.088; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §238.17]

2009 Acts, ch 133, §233

#### **238.18 Duty of licensee.**

A child-placing agency licensed under this chapter shall keep a record and make reports in the form to be prescribed by the administrator. For a child being placed by the agency, the agency's duties shall include compliance with the requirements of section 232.108 relating to visitation or ongoing interaction between the child and the child's siblings.

[C27, 31, 35, §3661-a75; C39, §3661.089; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §238.18]

2007 Acts, ch 67, §6

#### **238.19 Inspection generally.**

Authorized employees of the department of inspections and appeals may inspect the premises and conditions of the agency at any time and examine every part of the agency;

and may inquire into all matters concerning the agency and the children in the care of the agency.

[S13, §3260-j; C24, §3669, 3684; C27, 31, 35, §3661-a76; C39, §3661.090; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §238.19]

90 Acts, ch 1204, §55

#### **238.20 Minimum inspection — record.**

Authorized employees of the department of inspections and appeals shall visit and inspect the premises of licensed child-placing agencies at least once every twelve months and make and preserve written reports of the conditions found.

[C27, 31, 35, §3661-a77; C39, §3661.091; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §238.20]

90 Acts, ch 1204, §56; 2007 Acts, ch 172, §11

#### **238.21 Other inspecting agencies.**

Authorized agents of the local board of health in whose jurisdiction a licensed child-placing agency is located may make inspection of the premises.

[C27, 31, 35, §3661-a78; C39, §3661.092; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §238.21]

90 Acts, ch 1204, §57

#### **238.22 Licensee to aid inspection.**

The licensees shall give all reasonable information to such inspectors and afford them every reasonable facility for obtaining pertinent information.

[C27, 31, 35, §3661-a79; C39, §3661.093; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §238.22]

**238.23** Repealed by 2002 Acts, ch 1102, § 8.

#### **238.24 Information confidential — exceptions.**

1. Except as authorized by this section, a person who acquires under this chapter or from the records provided for in this chapter, information relative to any agency or relative to any individual cared for by the agency or relative to any relative of the individual, shall not directly or indirectly disclose the information.

2. Disclosure of information acquired under this chapter or from the records provided for in this chapter is authorized under any of the following circumstances:

a. Disclosure made upon inquiry before a court of law, or before some other tribunal, or for the information of the governor, general assembly, medical examiners, administrator, Iowa department of public health, or the local board of health in the jurisdiction where the agency is located.

b. Disclosure may be made by the administrator to proper persons as may be in the interest of a child cared for by the agency or in the interest of the child's parents or foster parents and not inimical to the child, or as may be necessary to protect the interests of the child's prospective foster parents. However, disclosure of termination and adoption records shall be governed by the provisions of sections 600.16 and 600.16A.

c. Disclosure for purposes of statistical analysis performed by duly authorized persons of data collected under this chapter or the publication of the results of such analysis in such manner as will not disclose confidential information.

[C27, 31, 35, §3661-a81; C39, §3661.095; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §238.24]

92 Acts, ch 1196, §2; 2002 Acts, ch 1102, §7

**238.25 through 238.29** Repealed by 76 Acts, ch 1229, § 38.

**238.30** Repealed by 97 Acts, ch 99, § 10.

**238.31 Inspection of foster homes.**

The administrator shall be satisfied that each licensed child-placing agency is maintaining proper standards in its work, and said administrator may at any time cause the child and home in which the child has been placed to be visited by the administrator's agents for the purpose of ascertaining whether the home is a suitable one for the child, and may continue to visit and inspect the foster home and the conditions therein as they affect said child.

[C27, 31, 35, §3661-a88; C39, §3661.102; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §238.31]

**238.32 Authority to agencies.**

Any institution incorporated under the laws of this state or maintained for the purpose of caring for, placing out for adoption, or otherwise improving the condition of unfortunate children may, under the conditions specified in this chapter and when licensed in accordance with the provisions of this chapter:

1. Receive children in need of assistance, or delinquent children who are under eighteen years of age, under commitment from the juvenile court, and control and dispose of them subject to the provisions of chapter 232 and chapter 600A.

2. Receive, control, and dispose of all minor children voluntarily surrendered to such institutions.

[S13, §254-a22, 3260-b; C24, §3662; C27, 31, 35, §3661-a89; C39, §3661.103; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §238.32]

[P] Transferring legal custody of a child, §232.102, 232.103

**238.33 through 238.41** Transferred to § 232.158 – 232.166; 85 Acts, ch 173, § 30.**238.42 Agreement in child placements.**

Every agency placing a child in a foster home shall enter into a written agreement with the person taking the child, which agreement shall provide that the agency placing the child shall have access at all reasonable times to such child and to the home in which the child is living, and for the return of the child by the person taking the child whenever, in the opinion of the agency placing such child, or in the opinion of the administrator, the best interests of the child shall require it.

[C27, 31, 35, §3661-a97; C39, §3661.111; C46, 50, 54, 58, 62, 66, §238.40; C71, 73, 75, 77, 79, 81, §238.42]

Referred to in §238.43

**238.43 Exceptions.**

The provisions of section 238.42 shall not apply to children who have been legally adopted.

[C27, 31, 35, §3661-a98; C39, §3661.112; C46, 50, 54, 58, 62, 66, §238.41; C71, 73, 75, 77, 79, 81, §238.43]

**238.44 Contracts for services — liability for costs.**

An agency which enters into a contract with a referral agency to provide child placement services is liable for the costs of services which are paid prior to the provision of services, if the services are not subsequently provided.

94 Acts, ch 1174, §5

**238.45 Penalty.**

Every person who violates any of the provisions of this chapter or who intentionally shall make any false statements or reports to the administrator with reference to the matters contained herein, shall be guilty of a fraudulent practice.

[C27, 31, 35, §3661-a100; C39, §3661.114; C46, 50, 54, 58, 62, 66, §238.43; C71, 73, 75, 77, 79, 81, §238.45]