

**235A.19 Examination, requests for correction or expungement and appeal.**

1. A subject of a child abuse report, as identified in section 235A.15, subsection 2, paragraph “a”, shall have the right to examine report data and disposition data which refers to the subject. The department may prescribe reasonable hours and places of examination. A subject of a child abuse report may provide additional information to the department that is relevant to the report data and disposition data and may request that the department revise the report data and disposition data.

2. At the time the notice of the results of a child abuse assessment performed in accordance with section 232.71B is issued, the department shall provide notice to a person named in the report as having abused a child of the right to a contested case hearing and shall provide notice to subjects other than the person named in the report as having abused a child of the right to intervene in a contested case proceeding, as provided in subsection 3.

3. a. A subject of a child abuse report may file with the department within ninety days of the date of the notice of the results of a child abuse assessment performed in accordance with section 232.71B, a written statement to the effect that report data and disposition data referring to the subject is in whole or in part erroneous, and may request a correction of that data or of the findings of the child abuse assessment report.

b. The department shall provide a person named in a child abuse report as having abused a child, who has been adversely affected by a founded child abuse disposition, notwithstanding the placement of the report data in the central registry pursuant to section 232.71D, with an opportunity for a contested case hearing pursuant to chapter 17A to correct the data or the findings, unless the department corrects the data or findings as requested.

c. The department shall provide a subject of a child abuse report, other than the person named in the report as having abused a child, with an opportunity to file a motion to intervene in the contested case proceeding.

d. The department may defer the hearing until the conclusion of the adjudicatory phase of a pending juvenile or district court case relating to the data or findings. Upon request of any party to the contested case proceeding, the presiding officer may stay the hearing until the conclusion of the adjudicatory phase of a pending juvenile or district court case relating to the data or findings. An adjudication of a child in need of assistance or a criminal conviction in a district court case relating to the child abuse data or findings may be determinative in a contested case proceeding.

e. A party to a contested case proceeding shall file an appeal of the presiding officer’s proposed decision to the director within ten days of the presiding officer’s proposed decision. If an appeal is not filed within ten days from the date of a proposed decision, the proposed decision shall be the final agency action. If a party files an appeal within ten days from the date of the proposed decision, the director has forty-five days from the date of the proposed decision to issue a ruling. Upon the director’s failure to issue a ruling within forty-five days of the date of the proposed decision, the proposed decision shall be the final agency action.

f. The department shall not disclose any report data or disposition data until the conclusion of the proceeding to correct the data 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 assessment 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 assessment of child abuse.
- (8) For statutorily authorized record checks for employment of an individual by a provider of adult home care, adult health facility care, or other adult placement facility care.
- (9) For others identified in section 235A.15, subsection 2, paragraph “d”, subparagraph (7), and section 235A.15, subsection 2, paragraph “e”, subparagraphs (9) and (16).

4. A person named in a child abuse report as having abused a child, who has been adversely affected by a founded child abuse disposition, notwithstanding the placement of the report data in the central registry pursuant to section 232.71D, may appeal the decision resulting from a hearing held pursuant to subsection 3 to the district court of Polk county or

to the district court of the district in which the person named in the report as having abused a child resides. Immediately upon appeal the court shall order the department to file with the court a certified copy of the report data or disposition data. Appeal shall be taken in accordance with chapter 17A.

5. Upon the request of the appellant, the record and evidence in such cases shall be closed to all but the court and its officers, and access to the record and evidence shall be prohibited unless otherwise ordered by the court. The clerk shall maintain a separate docket for such actions. A person other than the appellant shall not permit a copy of any of the testimony or pleadings or the substance of the testimony or pleadings to be made available to any person other than a party to the action or the party's attorney. Violation of the provisions of this subsection shall be a public offense punishable under section 235A.21.

6. Whenever the department corrects or eliminates data as requested or as ordered by the court, the department shall advise all persons who have received the incorrect data of such fact. Upon application to the court and service of notice on the department, any subject of a child abuse report may request and obtain a list of all persons who have received report data or disposition data referring to the subject.

7. In the course of any proceeding provided for by this section, the identity of the person who reported the disputed data and the identity of any person who has been reported as having abused a child may be withheld upon a determination by the department that disclosure of their identities would be detrimental to their interests.

[C75, 77, 79, 81, §235A.19]

85 Acts, ch 173, §18; 89 Acts, ch 230, §21; 92 Acts, ch 1143, §5; 94 Acts, ch 1130, §10; 95 Acts, ch 49, §3; 97 Acts, ch 35, §21, 25; 97 Acts, ch 176, §12, 39, 40, 43; 98 Acts, ch 1100, §98; 2000 Acts, ch 1067, §2; 2005 Acts, ch 121, §9; 2011 Acts, ch 28, §6; 2012 Acts, ch 1082, §3 – 5; 2013 Acts, ch 115, §14, 15, 19

Referred to in §216A.136, 232.68, 232.71B, 232.71D, 235A.12, 235A.13, 235A.15

[T] 2013 amendments to subsection 2 and subsection 3, paragraph a, take effect January 1, 2014; transition to full implementation may begin prior to that date; 2013 Acts, ch 115, §19

[T] Subsection 2 amended

[T] Subsection 3, paragraph a amended