

Senate File 2258 - Enrolled

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AN ACT

CONCERNING CHILD WELFARE, INCLUDING PROVISIONS RELATING TO CHILDREN UNDER THE CUSTODY, CONTROL, AND SUPERVISION OF THE DEPARTMENT OF HUMAN SERVICES AND PROVISIONS RELATING TO CHILDREN WHO ARE SEX TRAFFICKING VICTIMS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 232.2, subsection 4, unnumbered paragraph 1, Code 2016, is amended to read as follows:

"Case permanency plan" means the plan, mandated by Pub. L. No. 96-272 and Pub. L. No. 105-89, as codified in 42 U.S.C. §622(b)(10), 671(a)(16), and 675(1),(5), which is designed to achieve placement in the most appropriate, least restrictive, and most family-like setting available and in close proximity to the parent's home, consistent with the best interests and special needs of the child, and which considers the placement's proximity to the school in which the child is enrolled at

the time of placement. The plan shall be developed by the department or agency involved and the child's parent, guardian, or custodian. If the child is fourteen years of age or older, the plan shall be developed in consultation with the child and, at the option of the child, with up to two persons chosen by the child to be members of the child's case planning team if such persons are not a foster parent of, or caseworker for, the child. The department may reject a person selected by a child to be a member of the child's case planning team at any time if the department has good cause to believe that the person would not act in the best interests of the child. One person selected by a child to be a member of the child's case planning team may be designated to be the child's advisor or, if necessary, the child's advocate with respect to the application of the reasonable and prudent parent standard. The plan shall specifically include all of the following:

Sec. 2. Section 232.2, subsection 4, paragraph f, Code 2016, is amended to read as follows:

f. (1) When a child is ~~sixteen~~ fourteen years of age or older, a written transition plan of services, supports, activities, and referrals to programs which, based upon an assessment of the child's needs, would assist the child in preparing for the transition from foster care to adulthood. The transition plan and needs assessment shall be developed with a focus on the services, other support, and actions necessary to facilitate the child's successful entry into adulthood. The transition plan shall be personalized at the direction of the child and shall be developed with the child present, honoring the goals and concerns of the child, and shall address the following areas of need ~~when the child becomes an adult~~ for the child's successful transition from foster care to adulthood, including but not limited to all of the following:

- (a) Education.
- (b) Employment services and other workforce support.
- (c) Health and health care coverage.
- (d) Housing and money management.
- (e) Relationships, including local opportunities to have a mentor.

(f) If the needs assessment indicates the child is reasonably likely to need or be eligible for services or other support from the adult service system upon reaching age eighteen, the transition plan shall provide for the child's application for adult services.

(2) The transition plan shall be considered a working document and shall be reviewed and updated ~~for each permanency hearing by the court or other formal case permanency plan review~~ during a periodic case review, which shall occur at a minimum of once every six months. The transition plan shall also be reviewed and updated during the ninety calendar-day period preceding the child's eighteenth birthday and during the ninety calendar-day period immediately preceding the date the child is expected to exit foster care, if the child remains in foster care after the child's eighteenth birthday. The transition plan may be reviewed and updated more frequently.

(3) The transition plan shall be developed and reviewed by the department in collaboration with a child-centered transition team. The transition team shall be comprised of the child's caseworker and persons selected by the child, persons who have knowledge of services available to the child, and any person who may reasonably be expected to be a service provider for the child when the child becomes an adult or to become responsible for the costs of services at that time. If the child is reasonably likely to need or be eligible for adult services, the transition team membership shall include representatives from the adult services system. ~~The adult services system representatives may include but are not limited to the administrator of county general relief under chapter 251 or 252 or the regional administrator of the county mental health and disability services region, as defined in section 331.388.~~ The membership of the transition team and the meeting dates for the team shall be documented in the transition plan.

(4) The final transition plan shall specifically identify how the need for housing will be addressed.

(5) If the child is interested in pursuing higher education, the transition plan shall provide for the child's participation in the college student aid commission's program of assistance in applying for federal and state aid under [section 261.2](#).

(6) If the needs assessment indicates the child is reasonably likely to need or be eligible for services or other support from the adult service system upon reaching age eighteen, the transition plan shall be reviewed and approved by the transition committee for the area in which the child resides, in accordance with [section 235.7](#), before the child reaches age seventeen and one-half. The transition committee's review and approval shall be indicated in the case permanency plan.

(7) Provision for the department or a designee of the department on or before the date the child reaches age eighteen, unless the child has been placed in foster care for less than thirty days, to provide to the child a certified copy of the child's birth certificate, and to facilitate securing a federal social security card, and driver's license or government-issued nonoperator's identification card. The fee for the certified copy of the child's birth certificate that is otherwise chargeable under [section 144.13A](#), [144.46](#), or [331.605](#) shall be waived by the state or county registrar.

Sec. 3. Section 232.2, subsection 4, Code 2016, is amended by adding the following new paragraph:

NEW PARAGRAPH. *n.* Any issues relating to the application of the reasonable and prudent parent standard and the child's participation in age or developmentally appropriate activities while in foster care.

Sec. 4. Section 232.2, Code 2016, is amended by adding the following new subsection:

NEW SUBSECTION. 45A. "*Reasonable and prudent parent standard*" means the same as defined in section 237.1.

Sec. 5. Section 232.58, subsection 3, paragraph d, subparagraph (4), Code 2016, is amended to read as follows:

(4) If the child is sixteen years of age or older and the department has documented to the court's satisfaction a compelling reason for determining that an order under the other subparagraphs of this paragraph "d" would not be in the child's best interest, order another planned permanent living arrangement for the child.

Sec. 6. Section 232.58, Code 2016, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. If the court enters an order for another planned permanent living arrangement pursuant to subsection 3, paragraph "d", the court shall do all of the following:

a. Ask the child about the child's desired permanency outcome and make a judicial determination that another planned permanent living arrangement is the best permanency plan for the child.

b. Require the department to do all of the following:

(1) Document the efforts to place a child permanently with a parent, relative, or in a guardianship or adoptive placement.

(2) Document that the planned permanent living arrangement is the best permanency plan for the child and compelling reasons why it is not in the child's best interest to be placed permanently with a parent, relative, or in a guardianship or adoptive placement.

(3) Document all of the following at the permanency hearing and the six-month periodic review:

(a) The steps the department is taking to ensure that the planned permanent living arrangement follows the reasonable and prudent parent standard.

(b) Whether the child has regular opportunities to engage in age-appropriate or developmentally appropriate activities.

Sec. 7. Section 232.68, subsection 2, paragraph a, subparagraph (3), Code 2016, is amended to read as follows:

(3) The commission of a sexual offense with or to a child pursuant to [chapter 709, section 726.2](#), or section 728.12, subsection 1, as a result of the acts or omissions of the person responsible for the care of the child or of a person who resides in a home with the child. Notwithstanding section 702.5, the commission of a sexual offense under this subparagraph includes any sexual offense referred to in this subparagraph with or to a person under the age of eighteen years.

Sec. 8. Section 232.68, subsection 2, paragraph a, Code 2016, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (11) The recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a child for the purpose of commercial sexual

activity as defined in section 710A.1.

Sec. 9. Section 232.68, Code 2016, is amended by adding the following new subsections:

NEW SUBSECTION. 10. "*Sex trafficking*" means the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of commercial sexual activity as defined in section 710A.1.

NEW SUBSECTION. 11. "*Sex trafficking victim*" means a victim of sex trafficking.

Sec. 10. Section 232.70, subsections 8 and 9, Code 2016, are amended to read as follows:

~~8. If a report would be determined to constitute an allegation of child abuse as defined under section 232.68, subsection 2, paragraph "a", subparagraph (3) or (5), except that the suspected abuse resulted from the acts or omissions of a person other than a person responsible for the care of the child, the department shall refer the report to the appropriate law enforcement agency having jurisdiction to investigate the allegation. The department shall refer the report orally as soon as practicable and in writing within seventy-two hours of receiving the report. Within twenty-four hours of receiving a report from a mandatory or permissive reporter, the department shall inform the reporter, orally or by other appropriate means, whether or not the department has commenced an assessment of the allegation in the report.~~

~~9. Within twenty-four hours of receiving a report from a mandatory or permissive reporter, the department shall inform the reporter, orally or by other appropriate means, whether or not the department has commenced an assessment of the allegation in the report. If a report would be determined to constitute an allegation of child abuse as defined under section 232.68, subsection 2, paragraph "a", subparagraph (3) or (5), except that the suspected abuse resulted from the acts or omissions of a person other than a person responsible for the care of the child, the department shall refer the report to the appropriate law enforcement agency having jurisdiction to investigate the allegation. The department shall refer the report orally as soon as practicable and in writing within seventy-two hours of receiving the report.~~

Sec. 11. Section 232.70, Code 2016, is amended by adding the following new subsection:

NEW SUBSECTION. 10. If the department has reasonable cause to believe that a child under the placement, care, or supervision of the department is, or is at risk of becoming, a sex trafficking victim, the department shall do all of the following:

a. Identify the child as a sex trafficking victim or at risk of becoming a sex trafficking victim and include documentation in the child's department records.

b. Refer the child for appropriate services.

c. Refer the child identified as a sex trafficking victim, within twenty-four hours, to the appropriate law enforcement agency having jurisdiction to investigate the allegation.

Sec. 12. Section 232.71B, subsection 1, paragraph a, subparagraph (1), Code 2016, is amended to read as follows:

(1) Upon acceptance of a report of child abuse, the department shall commence a child abuse assessment when the report alleges child abuse as defined in section 232.68, subsection 2, paragraph "a", subparagraphs (1) through (3) and subparagraphs (5) through ~~(10)~~ (11), or which alleges child abuse as defined in [section 232.68, subsection 2](#), paragraph "a", subparagraph (4), that also alleges imminent danger, death, or injury to a child.

Sec. 13. Section 232.71B, subsection 3, Code 2016, is amended to read as follows:

3. *Involvement of law enforcement.*

a. The department shall apply protocols, developed with the local child protection assistance team established pursuant to section 915.35, to prioritize the actions taken in response to a child abuse assessment and shall work jointly with child protection assistance teams and law enforcement agencies in performing assessment and investigative processes for child abuse assessments in which a criminal act harming a child is alleged. The county attorney and appropriate law enforcement agencies shall also take any other lawful action which may be necessary or advisable for the protection of the child.

b. If a report is determined not to constitute a child abuse allegation or if the child abuse report is accepted

but assessed under the family assessment, but a criminal act harming a child is alleged, the department shall immediately refer the matter to the appropriate law enforcement agency.

c. If the department has reasonable cause to believe that a child under the placement, care, or supervision of the department is, or is at risk of becoming, a sex trafficking victim, the department shall do all of the following:

(1) Identify the child as a sex trafficking victim or at risk of becoming a sex trafficking victim and include documentation in the child's department records.

(2) Refer the child for appropriate services.

(3) Refer the child identified as a sex trafficking victim, within twenty-four hours, to the appropriate law enforcement agency having jurisdiction to investigate the allegation.

d. The department shall report a child under the placement, care, or supervision of the department who is reported as missing or abducted to law enforcement and to the national center for missing and exploited children within twenty-four hours of receipt of the report.

Sec. 14. Section 232.102, subsection 1, paragraph a, subparagraph (3), Code 2016, is amended to read as follows:

(3) The department of human services. If the child is placed in a juvenile shelter care home or with an individual or agency as defined in section 237.1, the department shall assign decision-making authority to the juvenile shelter care home, individual, or agency for the purpose of applying the reasonable and prudent parent standard during the child's placement.

Sec. 15. Section 232.102, Code 2016, is amended by adding the following new subsection:

NEW SUBSECTION. 5A. A child placed in foster care may participate in age or developmentally appropriate extracurricular, enrichment, cultural, and social activities subject to the approval of the child's foster parents or the appropriate licensed foster care facility staff. A court shall make a finding at all review hearings to address the child's participation in such activities and how barriers to participation are being addressed.

Sec. 16. Section 232.104, subsection 2, paragraph d,

subparagraph (4), Code 2016, is amended to read as follows:

(4) If the child is sixteen years of age or older and the department has documented to the court's satisfaction a compelling reason for determining that an order under the other subparagraphs of this paragraph "d" would not be in the child's best interest, order another planned permanent living arrangement for the child.

Sec. 17. Section 232.104, Code 2016, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. If the court enters an order for another planned permanent living arrangement pursuant to subsection 2, paragraph "d", the court shall do all of the following:

a. Ask the child about the child's desired permanency outcome and make a judicial determination that another planned permanent living arrangement is the best permanency plan for the child.

b. Require the department to do all of the following:

(1) Document the efforts to place a child permanently with a parent, relative, or in a guardianship or adoptive placement.

(2) Document that the planned permanent living arrangement is the best permanency plan for the child and compelling reasons why it is not in the child's best interest to be placed permanently with a parent, relative, or in a guardianship or adoptive placement.

(3) Document all of the following at the permanency hearing and the six-month periodic review:

(a) The steps the department is taking to ensure that the planned permanent living arrangement follows the reasonable and prudent parent standard.

(b) Whether the child has regular opportunities to engage in age-appropriate or developmentally appropriate activities.

Sec. 18. Section 232.127, subsection 10, Code 2016, is amended to read as follows:

10. If the child is ~~sixteen~~ fourteen years of age or older and an order for an out-of-home placement is entered, the order shall specify the services needed to assist the child in preparing for the transition from foster care to adulthood. If the child has a case permanency plan, the court shall consider

the written transition plan of services and needs assessment developed for the child's case permanency plan. If the child does not have a case permanency plan containing the transition plan and needs assessment at the time the order is entered, the written transition plan and needs assessment shall be developed and submitted for the court's consideration no later than six months from the date of the transfer order. The court shall modify the initial transfer order as necessary to specify the services needed to assist the child in preparing for the transition from foster care to adulthood. If the transition plan identifies services or other support needed to assist the child ~~when the child becomes an adult~~ in transitioning from foster care to adulthood and the court deems it to be beneficial to the child, the court may authorize the individual who is the child's guardian ad litem or court appointed special advocate to continue a relationship with and provide advice to the child for a period of time beyond the child's eighteenth birthday.

Sec. 19. Section 232.183, subsection 5, paragraph d, Code 2016, is amended to read as follows:

d. If the child is ~~sixteen~~ fourteen years of age or older, the order shall specify the services needed to assist the child in preparing for the transition from foster care to adulthood. If the child has a case permanency plan, the court shall consider the written transition plan of services and needs assessment developed for the child's case permanency plan. If the child does not have a case permanency plan containing the transition plan and needs assessment at the time the order is entered, the transition plan and needs assessment shall be developed and submitted for the court's consideration no later than six months from the date of the transfer order. The court shall modify the initial transfer order as necessary to specify the services needed to assist the child in preparing for the transition from foster care to adulthood. If the transition plan identifies services or other support needed to assist the child ~~when the child becomes an adult~~ in transitioning from foster care to adulthood and the court deems it to be beneficial to the child, the court may authorize the individual who is the child's guardian ad litem or court appointed special

advocate to continue a relationship with and provide advice to the child for a period of time beyond the child's eighteenth birthday.

Sec. 20. Section 237.1, Code 2016, is amended by adding the following new subsection:

NEW SUBSECTION. 9. *"Reasonable and prudent parent standard"* means the standard characterized by careful and sensible parenting decisions that maintain the health, safety, and best interests of a child, while at the same time encouraging the emotional and developmental growth of a child, that a caregiver shall use when determining whether to allow a child in foster care under the placement, care, or supervision of the department to participate in extracurricular, enrichment, cultural, or social activities. For the purposes of this subsection, *"caregiver"* means an individual or an agency licensed under this chapter with which a child in foster care has been placed or a juvenile shelter care home approved under chapter 232 in which a child in foster care has been placed.

Sec. 21. NEW SECTION. 237.14A **Reasonable and prudent parent standard — immunity from liability.**

The department, or any individual, agency, or juvenile shelter care home that applies the reasonable and prudent parent standard reasonably and in good faith in regard to a child in foster care shall have immunity from civil or criminal liability which might otherwise be incurred or imposed. This section shall not remove or limit any existing liability protection afforded under any other law.

Sec. 22. **DRUG ENDANGERED CHILDREN WORKGROUP.**

1. The governor's office of drug control policy shall convene a stakeholder workgroup to meet during the 2016 legislative interim to examine issues and develop policy recommendations relating to the protection and safety of drug endangered children for purposes of child in need of assistance and child abuse proceedings. The workgroup shall request relevant data and outcome measures relating to drug endangered children from workgroup member organizations and from state departments and agencies, including but not limited to the departments of human services and public safety, the juvenile court, the judicial branch, and other appropriate

organizations. The workgroup shall comprehensively review and analyze such information and propose a statutory definition of a drug endangered child for purposes of child in need of assistance and child abuse proceedings.

2. The workgroup shall be composed of all of the following members:

a. Four members of the general assembly appointed to serve in an ex officio, nonvoting capacity. The legislative members shall be selected, one member each, by the majority leader of the senate, the minority leader of the senate, the speaker of the house of representatives, and the minority leader of the house of representatives.

b. Fifteen voting members to include all of the following:

(1) One representative from each of the following:

(a) The division of criminal and juvenile justice planning in the department of human rights.

(b) The department of human services.

(c) The child advocacy board.

(d) The department of justice.

(e) The judicial branch.

(f) The governor's office of drug control policy.

(g) The Iowa alliance for drug endangered children.

(h) The Iowa county attorneys association.

(i) The Iowa state sheriffs' and deputies' association.

(j) A child welfare service provider group.

(k) A health care provider group.

(l) A mental health care provider group.

(m) A substance abuse provider group.

(n) A peace officer group.

(2) A child abuse prevention advocate.

3. The workgroup shall meet up to two times during the 2016 legislative interim and shall submit findings and recommendations in a report to the general assembly by December 15, 2016.

4. If possible, workgroup members and workgroup member organizations shall pay any costs incurred by members in attending workgroup meetings. The governor's office of drug control policy shall not be responsible for payment of per diem and other expenses of workgroup members but may pay any

additional costs associated with the workgroup, not to exceed one thousand dollars, from the operating budget of the office.

PAM JOCHUM
President of the Senate

LINDA UPMEYER
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2258, Eighty-sixth General Assembly.

MICHAEL E. MARSHALL
Secretary of the Senate

Approved _____, 2016

TERRY E. BRANSTAD
Governor