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MAR 5 1987

HOUSE FILE 412

Place On Calendar

BY COMMITTEE ON HUMAN RESOURCES

(Formerly House Study Bill 138)

Passed Senate, Date 3-10-87 (p. 571) Passed House, Date 4/20/87

Vote: Ayes 95 Nays 0 Vote: Ayes 49 Nays 0

Approved 5/27/87

A BILL FOR

1 An Act relating to child abuse.

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

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HF 412

S.F. \_\_\_\_\_

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412

1 Section 1. Section 232.68, subsection 2, unnumbered  
2 paragraph 1, Code 1987, is amended to read as follows:

3 "Child abuse" or "abuse" means ~~harm-or-threatened-harm~~  
4 ~~occurring-through~~:

5 Sec. 2. Section 232.68, Code 1987, is amended by adding  
6 the following new subsection:

7 NEW SUBSECTION. 7. "Mental health professional" means a  
8 certified psychologist or an individual holding at least a  
9 masters degree in social work or counseling and guidance.

10 Sec. 3. Section 232.69, subsection 1, paragraph b, Code  
11 1987, is amended to read as follows:

12 b. Every self-employed social worker, every social worker  
13 under the jurisdiction of the department of human services,  
14 any social worker employed by a public or private agency or  
15 institution, public or private health care facility as defined  
16 in section 135C.1, certified psychologist, certificated school  
17 employee, employee or operator of a licensed child care center  
18 or registered group day care home or registered family day  
19 care home, individual licensee under chapter 237, member of  
20 the staff of a mental health center, or peace officer, dental  
21 hygienist, counselor, or paramedic, who, in the course of  
22 employment or in providing child foster care, examines,  
23 attends, counsels or treats a child and reasonably believes a  
24 child has suffered abuse.

25 Sec. 4. Section 232.70, subsection 4, Code 1987, is  
26 amended to read as follows:

27 4. The department of human services shall:

28 a. Immediately, upon receipt of an oral report, make an  
29 ~~oral-report-to-the-registry~~ a determination as to whether the  
30 report constitutes an allegation of child abuse as defined in  
31 section 232.68;

32 b. Make a report to the central registry if the oral  
33 report has been determined to constitute a child abuse  
34 allegation;

35 c. Forward a copy of the written report to the registry;

1 and

2 e d. Notify the appropriate county attorney of the receipt  
3 of any report.

4 Sec. 5. Section 232.71, subsection 1, Code 1987, is  
5 amended to read as follows:

6 1. Whenever a report is received determined to constitute  
7 a child abuse allegation, the department of human services  
8 shall promptly commence an appropriate investigation. The  
9 primary purpose of this investigation shall be the protection  
10 of the child named in the report.

11 Sec. 6. Section 232.74, Code 1987, is amended to read as  
12 follows:

13 232.74 EVIDENCE NOT PRIVILEGED OR EXCLUDED.

14 Sections 622.9 and 622.10 and any other statute or rule of  
15 evidence which excludes or makes privileged the testimony of a  
16 husband or wife against the other or the testimony of a health  
17 practitioner or mental health professional as to confidential  
18 communications, do not apply to evidence regarding a child's  
19 injuries or the cause of the injuries in any judicial  
20 proceeding, civil or criminal, resulting from a report  
21 pursuant to this chapter or relating to the subject matter of  
22 such a report.

23 Sec. 7. Section 232.96, subsections 4 and 5, Code 1987,  
24 are amended to read as follows:

25 4. A report made to the department of human services  
26 pursuant to chapter 235A shall be admissible in evidence ~~if~~  
27 ~~the person making the report does not appear as a witness at~~  
28 ~~the hearing~~, but such a report shall not alone be sufficient  
29 to support a finding that the child is a child in need of  
30 assistance unless the attorneys for the child and the parents  
31 consent to such a finding.

32 5. Neither the privilege attaching to confidential  
33 communications between a physician health practitioner or  
34 mental health professional and patient nor the prohibition  
35 upon admissibility of communications between husband and wife

1 shall be ground for excluding evidence at an adjudicatory  
2 hearing.

3 Sec. 8. Section 235A.1, subsection 3, Code 1987, is  
4 amended to read as follows:

5 3. The child abuse prevention program advisory council is  
6 created consisting of five members appointed by and serving at  
7 the pleasure of the governor. Two members shall be appointed  
8 on the basis of expertise in the area of child abuse and  
9 neglect, and three members shall be private citizens. The  
10 council shall select its own chairperson ~~and shall serve~~  
11 ~~without compensation or reimbursement for expenses.~~ Members  
12 of the council are entitled to receive actual expenses  
13 incurred in the discharge of their duties. A member of the  
14 council may also be eligible to receive an additional expense  
15 allowance as provided in section 7E.6.

16 Sec. 9. Section 235A.13, subsection 1, unnumbered  
17 paragraph 1, Code 1985, is amended to read as follows:

18 "Child abuse information" means any or all of the following  
19 data maintained by the registry department in a manual or  
20 automated data storage system and individually identified:

21 Sec. 10. Section 235A.15, subsection 2, Code 1987, is  
22 amended by striking the subsection and inserting in lieu  
23 thereof the following:

24 2. Access to child abuse information other than unfounded  
25 child abuse information is authorized only to the following  
26 persons or entities:

27 a. Subjects of a report as follows:

28 (1) To a child named in a report as a victim of abuse or  
29 to the child's attorney or guardian ad litem.

30 (2) To a parent or the attorney for the parent of a child  
31 named in a report as a victim of abuse.

32 (3) To a guardian or legal custodian, or that person's at-  
33 torney, of a child named in a report as a victim of abuse.

34 (4) To a person or the attorney for the person named in a  
35 report as having abused a child.

1 b. Persons involved in an investigation of child abuse as  
2 follows:

3 (1) To a health practitioner or mental health professional  
4 who is examining, attending, or treating a child whom such  
5 practitioner or professional believes or has reason to believe  
6 has been the victim of abuse or to a health practitioner or  
7 mental health professional whose consultation with respect to  
8 a child believed to have been the victim of abuse is requested  
9 by the department.

10 (2) To an employee of the department of human services  
11 responsible for the investigation of a child abuse report.

12 (3) To a law enforcement officer responsible for assisting  
13 in an investigation of a child abuse allegation or for the  
14 temporary emergency removal of a child from the child's home.

15 (4) To a multidisciplinary team, if the department of  
16 human services approves the composition of the  
17 multidisciplinary team and determines that access to the team  
18 is necessary to assist the department in the investigation,  
19 diagnosis, assessment, and disposition of a child abuse case.

20 (5) In an individual case, to the mandatory reporter who  
21 reported the child abuse.

22 c. Individuals, agencies, or facilities providing care to  
23 a child as follows:

24 (1) To a licensing authority for a facility providing care  
25 to a child named in a report, if the licensing authority is  
26 notified of a relationship between facility policy and the  
27 child abuse under section 232.71, subsection 4.

28 (2) To an authorized person or agency responsible for the  
29 care or supervision of a child named in a report as a victim  
30 of abuse or a person named in a report as having abused a  
31 child, if the juvenile court or registry deems access to child  
32 abuse information by such person or agency to be necessary.

33 (3) To an employee of the department of human services re-  
34 sponsible for registering or licensing or approving the  
35 registration or licensing of an agency or facility, or to an

1 individual providing care to a child and regulated by the  
2 department.

3 (4) To an employee of the department of human services, a  
4 certified adoption investigator, or licensed child placing  
5 agency responsible for an adoptive placement.

6 d. Relating to a judicial and administrative proceedings  
7 as follows:

8 (1) To a juvenile court involved in an adjudication or  
9 disposition of a child named in a report.

10 (2) To a district court upon a finding that information is  
11 necessary for the resolution of an issue arising in any phase  
12 of a case involving child abuse.

13 (3) To a court or administrative agency hearing an appeal  
14 for correction of child abuse information as provided in  
15 section 235A.19.

16 (4) To an expert witness at any stage of an appeal  
17 necessary for correction of child abuse information as  
18 provided in section 235A.19.

19 e. Others as follows:

20 (1) To a person conducting bona fide research on child  
21 abuse, but without information identifying individuals named  
22 in a child abuse report, unless having that information open  
23 to review is essential to the research or evaluation and the  
24 authorized registry officials give prior written approval and  
25 the child, the child's guardian or guardian ad litem and the  
26 person named in a report as having abused a child give  
27 permission to release the information.

28 (2) To registry or department personnel when necessary to  
29 the performance of their official duties or to a person or  
30 agency under contract with the department to carry out  
31 official duties and functions of the registry.

32 (3) To the department of public safety for the sole  
33 purpose of the filing of a claim for reparation pursuant to  
34 section 910A.5A and section 912.4, subsections 3 through 5.

35 (4) To a legally constituted child protection agency of

1 another state which is investigating or treating a child named  
2 in a report as having been abused or to a public or licensed  
3 child placing agency of another state responsible for an  
4 adoptive placement.

5 (5) To the attorney for the department of human services  
6 who is responsible for representing the department.

7 (6) To the foster care review boards created pursuant to  
8 sections 237.16 and 237.19.

9 Sec. 11. Section 235A.15, subsection 3, Code 1987, is  
10 amended to read as follows:

11 3. Access to unfounded child abuse information is  
12 authorized only to those persons identified in subsection 2,  
13 paragraphs "b", "g", "h", and "j" paragraph "a", paragraph  
14 "b", subparagraphs (2) and (5), and paragraph "c",  
15 subparagraph (2).

16 Sec. 12. Section 235A.16, Code 1987, is amended by adding  
17 the following new subsection:

18 NEW SUBSECTION. 3. Subsections 1 and 2 do not apply to  
19 child abuse information that is disseminated to an employee of  
20 the department of human services, to a juvenile court, or to  
21 the attorney representing the department as authorized by  
22 section 235A.15.

23 Sec. 13. Section 235A.17, Code 1987, is amended to read as  
24 follows:

25 235A.17 REDISSEMINATION OF CHILD ABUSE INFORMATION.

26 1. A person, agency or other recipient of child abuse  
27 information authorized to receive such information shall not  
28 disseminate such information, except that dissemination  
29 shall be permitted when all of the following conditions apply:

30 1 a. The dissemination is for official purposes in  
31 connection with prescribed duties or, in the case of a health  
32 practitioner, pursuant to professional responsibilities.

33 2 b. The person to whom such information would be  
34 disseminated would have independent access to the same  
35 information under section 235A.15.

1 3 c. A written record is made of the redissemination,  
2 including the name of the recipient and the date and purpose  
3 of the redissemination.

4 4 d. The written record is forwarded to the registry  
5 within thirty days of the redissemination.

6 5 2. The department of human services ~~shall~~ may notify  
7 orally the mandatory reporter in an individual child abuse  
8 case of the results of the case investigation and of the  
9 confidentiality provisions of sections 235A.15 and 235A.21.  
10 The department ~~may~~ shall subsequently transmit a written  
11 notice to the mandatory reporter of the results and  
12 confidentiality provisions. A copy of the written notice  
13 shall be transmitted to the registry and shall be maintained  
14 by the registry as provided in section 235A.18.

15 Sec. 14. Section 235A.23, subsection 1, Code 1987, is  
16 amended to read as follows:

17 1. The registry may compile statistics, conduct research,  
18 and issue reports on child abuse, provided identifying details  
19 of the subject of child abuse reports are deleted from any  
20 report issued.

21 Sec. 15. Section 237.5, subsection 2, Code 1987, is  
22 amended to read as follows:

23 2. The director, after notice and opportunity for an  
24 evidentiary hearing, may deny an application for a license,  
25 and may suspend or revoke a license, if the applicant or  
26 licensee violates this chapter or the rules promulgated  
27 pursuant to this chapter, or knowingly makes a false statement  
28 concerning a material fact or conceals a material fact on the  
29 license application or in a report regarding operation of the  
30 facility submitted to the director.

31 Sec. 16. Section 237.8, subsection 2, Code 1987, is  
32 amended to read as follows:

33 2. A person who has been convicted of a violation under a  
34 law of any state of a crime involving mistreatment or  
35 exploitation of a child or a person with a record of founded



1 child abuse shall not be licensed, or be employed by a  
2 licensee, or reside in a licensed home unless an evaluation of  
3 the crime or founded abuse has been made by the department of  
4 human services which concludes that the crime or founded abuse  
5 does not merit prohibition of employment or licensure. In its  
6 evaluation, the department shall consider the nature and  
7 seriousness of the crime or founded abuse in relation to the  
8 position sought, the time elapsed since the commission of the  
9 crime or founded abuse, the circumstances under which the  
10 crime or founded abuse was committed, the degree of  
11 rehabilitation, and the number of crimes or founded abuse  
12 committed by the person involved.

13 Sec. 17. Section 237A.5, Code 1987, is amended by striking  
14 the section and inserting in lieu thereof the following:

15 237A.5 PERSONNEL.

16 1. All personnel in licensed or registered facilities  
17 shall have good health as evidenced by a report following a  
18 preemployment physical examination taken within six months  
19 prior to beginning employment. The examination shall include  
20 communicable disease tests by a licensed physician as defined  
21 in section 135C.1 and shall be repeated every three years  
22 after initial employment. Controlled medical conditions which  
23 would not affect the performance of the employee in the  
24 capacity employed shall not prohibit employment.

25 2. A person who has been convicted of a violation under a  
26 law of any state of a crime or a person with a record of  
27 founded child abuse shall not own or operate or be employed as  
28 a staff member, with direct responsibility for child care, of  
29 a child day care facility, as defined in section 237A.1,  
30 subsection 1, and shall not live in a child day care facility  
31 unless an evaluation of the crime or founded abuse has been  
32 made by the department of human services which concludes that  
33 the crime or founded abuse does not merit prohibition of  
34 employment licensure, or registration. In its evaluation, the  
35 department shall consider the nature and seriousness of the

1 crime or founded abuse in relation to the position sought, the  
2 time elapsed since the commission of the crime or founded  
3 abuse, the circumstances under which the crime or founded  
4 abuse was committed, the degree of rehabilitation, and the  
5 number of crimes or founded abuse committed by the person  
6 involved.

7 Sec. 18. Section 600.8, subsection 1, paragraph a, Code  
8 1987, is amended by adding the following new subparagraph:

9 NEW SUBPARAGRAPH. (3) Whether the prospective adoption  
10 petitioner has been convicted of a violation under a law of  
11 any state of a crime or has a record of founded child abuse.

12 Sec. 19. Section 600.8, subsection 2, Code 1987, is  
13 amended by adding the following new lettered paragraph as  
14 paragraph b and relettering the remaining paragraph:

15 b. The person making the investigation shall not approve a  
16 prospective adoption petitioner pursuant to subsection 1,  
17 paragraph "a", subparagraph (3) unless an evaluation has been  
18 made which considers the nature and seriousness of the crime  
19 or founded abuse in relation to the adoption, the time elapsed  
20 since the commission of the crime or founded abuse, the  
21 circumstances under which the crime or founded abuse was  
22 committed, the degree of rehabilitation, and the number of  
23 crimes or founded abuse committed by the person involved.

24 EXPLANATION

25 This bill amends the definition of child abuse so that the  
26 incident related to the abuse is the actual abuse rather than  
27 the harm or threatened harm occurring as a consequence of the  
28 incident.

29 The bill defines "mental health professional" and  
30 eliminates the privileged testimony provision for a mental  
31 health professional's testimony regarding a child's injuries  
32 or the cause of the injuries in a judicial proceeding  
33 resulting from a filed report of child abuse.

34 Dental hygienists, counselors, and paramedics are required  
35 to be mandatory reporters of child abuse.

1 After an oral report of child abuse, the department of  
2 human services is required to immediately make a determination  
3 as to whether the report constitutes an allegation of child  
4 abuse and, if so, to make a report to the central child abuse  
5 registry.

6 The bill provides that a report of child abuse made to the  
7 department of human services is admissible in evidence in a  
8 hearing involving a petition alleging a child to be a child in  
9 need of assistance, rather than having that report as  
10 admissible evidence only when the person making the report  
11 does not appear as a witness at the hearing.

12 The bill permits reimbursement of actual expenses and per  
13 diem compensation to all of the members of the child abuse  
14 prevention program advisory council.

15 The department of human services is required to maintain  
16 the relevant child abuse data rather than the child abuse  
17 registry.

18 The bill limits child abuse information access only to  
19 certain subjects of a report, persons involved in an investi-  
20 gation of child abuse, individuals, agencies, or facilities  
21 providing care to a child, and to certain other persons  
22 relating to judicial and administrative proceedings and to  
23 other purposes.

24 The department of human services is permitted, rather than  
25 required, to notify orally the actual mandatory reporter of  
26 the results of an individual child abuse case and required,  
27 rather than permitted, to notify such reporter in writing of  
28 the results.

29 The bill requires the department of human services'  
30 personnel to provide notice and an opportunity for a hearing  
31 before denying an application as a child foster care facility.

32 Changes are made regarding the limitations on child foster  
33 care personnel and licensees, relating to the criminal  
34 convictions or records of founded child abuse. Similar  
35 changes are made regarding personnel in licensed or registered

1 child day care facilities and for prospective adoption  
2 petitioners.

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SENATE AMENDMENT TO HOUSE FILE 412

H-3892

1 Amend House File 412, as amended, passed, and  
2 reprinted by the House, as follows:

3 1. Page 4, line 20, by inserting after the word  
4 "employee" the following: "or agent".

5 2. Page 5, line 8, by inserting after the word  
6 "employee" the words "or agent".

7 3. Page 5, line 13, by inserting after the word  
8 "services" the words "responsible for an adoptive  
9 placement".

H-3892 FILED APRIL 22, 1987 RECEIVED FROM THE SENATE  
*House concurs 4/24/87 (p 1673)*

HOUSE FILE 412

H-3163

1 Amend House File 412 as follows:

2 1. Page 1, by inserting after line 4, the  
3 following:

4 "Sec. \_\_\_\_ . Section 232.68, subsection 6, paragraph  
5 c, Code 1987, is amended to read as follows:

6 c. An employee or agent of any public or private  
7 facility providing care for a child, including an  
8 institution, hospital, health care facility, group  
9 home, ~~mental-health-center~~, residential treatment  
10 center, shelter care facility, detention center, or  
11 child care facility."

12 2. By renumbering as necessary.

H-3163 FILED MARCH 9, 1987 BY BUHR of Polk

*w/d 3/10/87 (p. 570)*

HOUSE FILE 412

H-3164

1 Amend House File 412 as follows:

2 1. Page 1, line 16, by inserting after the figure  
3 "135C.1," the following: "licensed or".

4 2. Page 1, line 21, by striking the words "or  
5 paramedic," and inserting the following: "paramedic,  
6 or mental health professional,".

H-3164 FILED MARCH 9, 1987 BY BUHR of Polk

*A. w/d, B. Adapted 3/10/87 (p. 571)*

HOUSE FILE 412

H-3165

1 Amend House File 412 as follows:

2 1. Page 1, by striking lines 8 and 9 and  
3 inserting the following: "person who meets the  
4 following requirements:

5 a. Holds at least a master's degree in a mental  
6 health field, including, but not limited to,  
7 psychology, counseling, nursing, or social work; or is  
8 licensed to practice medicine pursuant to chapter 148,  
9 150, or 150A.

10 b. Holds a license to practice in the appropriate  
11 profession.

12 c. Has at least two years of postdegree  
13 experience, supervised by a mental health  
14 professional, in assessing mental health problems and  
15 needs of individuals used in providing appropriate  
16 mental health services for those individuals."

H-3165 FILED MARCH 9, 1987 BY BUHR of Polk

*Adapted 3/10 (p. 570)*

House File 412

HUMAN RESOURCES: Bruner, Chair; Hannon and Corning

HOUSE FILE 412

BY COMMITTEE ON HUMAN RESOURCES

(As Amended and Passed by the House March 10, 1987)

*House* Passed Senate, Date 4-27-87 (p. 1673) *Senate* Passed House, Date 4/20/87 (p. 1394)

Vote: Ayes 93 Nays 0 Vote: Ayes 49 Nays 0

Approved May 27, 1987

**A BILL FOR**

1 An Act relating to child abuse.

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

HOUSE FILE 412

S-3465

- 1 Amend House File 412, as amended, passed, and
- 2 reprinted by the House, as follows:
- 3 1. Page 4, line 20, by inserting after the word
- 4 "employee" the following: "or agent".
- 5 2. Page 5, line 8, by inserting after the word
- 6 "employee" the words "or agent".
- 7 3. Page 5, line 13, by inserting after the word
- 8 "services" the words "responsible for an adoptive
- 9 placement".

S-3465

Filed April 8, 1987  
*(Adopted 4/14/87 (p. 1284))*

BY COMMITTEE ON HUMAN RESOURCES  
BEVERLY A. HANNON, Chairperson

HOUSE FILE 412

S-3574

- 1 Amend House Files 412 as amended, passed and
- 2 reprinted by the House:
- 3 1. Page 3, by striking lines 20 through 25 and
- 4 inserting in lieu thereof the following: "council
- 5 shall select its own chairperson and shall serve
- 6 without compensation or reimbursement for expenses."
- 7 2. Page 8, by striking line 23 through page 9,
- 8 line 16.

S-3574

Filed April 14, 1987  
*Lost 4/20/87 (p. 1394)*

BY JULIA GENTLEMAN

1 Section 1. Section 232.68, subsection 2, unnumbered  
2 paragraph 1, Code 1987, is amended to read as follows:

3 "Child abuse" or "abuse" means ~~harm-or-threatened-harm~~  
4 ~~occurring-through~~:

5 Sec. 2. Section 232.68, Code 1987, is amended by adding  
6 the following new subsection:

7 NEW SUBSECTION. 7. "Mental health professional" means a  
8 person who meets the following requirements:

9 a. Holds at least a master's degree in a mental health  
10 field, including, but not limited to, psychology, counseling,  
11 nursing, or social work; or is licensed to practice medicine  
12 pursuant to chapter 148, 150, or 150A.

13 b. Holds a license to practice in the appropriate  
14 profession.

15 c. Has at least two years of postdegree experience,  
16 supervised by a mental health professional, in assessing  
17 mental health problems and needs of individuals used in  
18 providing appropriate mental health services for those  
19 individuals.

20 Sec. 3. Section 232.69, subsection 1, paragraph b, Code  
21 1987, is amended to read as follows:

22 b. Every self-employed social worker, every social worker  
23 under the jurisdiction of the department of human services,  
24 any social worker employed by a public or private agency or  
25 institution, public or private health care facility as defined  
26 in section 135C.1, certified psychologist, certificated school  
27 employee, employee or operator of a licensed child care center  
28 or registered group day care home or registered family day  
29 care home, individual licensee under chapter 237, member of  
30 the staff of a mental health center, or peace officer, dental  
31 hygienist, counselor, paramedic, or mental health  
32 professional, who, in the course of employment or in providing  
33 child foster care, examines, attends, counsels or treats a  
34 child and reasonably believes a child has suffered abuse.

35 Sec. 4. Section 232.70, subsection 4, Code 1987, is

1 amended to read as follows:

2 4. The department of human services shall:

3 a. Immediately, upon receipt of an oral report, make an  
4 ~~oral-report-to-the-registry~~ a determination as to whether the  
5 report constitutes an allegation of child abuse as defined in  
6 section 232.68;

7 b. Make a report to the central registry if the oral  
8 report has been determined to constitute a child abuse  
9 allegation;

10 b c. Forward a copy of the written report to the registry;  
11 and

12 c d. Notify the appropriate county attorney of the receipt  
13 of any report.

14 Sec. 5. Section 232.71, subsection 1, Code 1987, is  
15 amended to read as follows:

16 1. Whenever a report is received determined to constitute  
17 a child abuse allegation, the department of human services  
18 shall promptly commence an appropriate investigation. The  
19 primary purpose of this investigation shall be the protection  
20 of the child named in the report.

21 Sec. 6. Section 232.74, Code 1987, is amended to read as  
22 follows:

23 232.74 EVIDENCE NOT PRIVILEGED OR EXCLUDED.

24 Sections 622.9 and 622.10 and any other statute or rule of  
25 evidence which excludes or makes privileged the testimony of a  
26 husband or wife against the other or the testimony of a health  
27 practitioner or mental health professional as to confidential  
28 communications, do not apply to evidence regarding a child's  
29 injuries or the cause of the injuries in any judicial  
30 proceeding, civil or criminal, resulting from a report  
31 pursuant to this chapter or relating to the subject matter of  
32 such a report.

33 Sec. 7. Section 232.96, subsections 4 and 5, Code 1987,  
34 are amended to read as follows:

35 4. A report made to the department of human services



1 pursuant to chapter 235A shall be admissible in evidence if  
2 ~~the person making the report does not appear as a witness at~~  
3 ~~the hearing~~, but such a report shall not alone be sufficient  
4 to support a finding that the child is a child in need of  
5 assistance unless the attorneys for the child and the parents  
6 consent to such a finding.

7 5. Neither the privilege attaching to confidential  
8 communications between a physician health practitioner or  
9 mental health professional and patient nor the prohibition  
10 upon admissibility of communications between husband and wife  
11 shall be ground for excluding evidence at an adjudicatory  
12 hearing.

13 Sec. 8. Section 235A.1, subsection 3, Code 1987, is  
14 amended to read as follows:

15 3. The child abuse prevention program advisory council is  
16 created consisting of five members appointed by and serving at  
17 the pleasure of the governor. Two members shall be appointed  
18 on the basis of expertise in the area of child abuse and  
19 neglect, and three members shall be private citizens. The  
20 council shall select its own chairperson ~~and shall serve~~  
21 ~~without compensation or reimbursement for expenses.~~ Members  
22 of the council are entitled to receive actual expenses  
23 incurred in the discharge of their duties. A member of the  
24 council may also be eligible to receive an additional expense  
25 allowance as provided in section 7E.6.

26 Sec. 9. Section 235A.13, subsection 1, unnumbered  
27 paragraph 1, Code 1985, is amended to read as follows:

28 "Child abuse information" means any or all of the following  
29 data maintained by the registry department in a manual or  
30 automated data storage system and individually identified:

31 Sec. 10. Section 235A.15, subsection 2, Code 1987, is  
32 amended by striking the subsection and inserting in lieu  
33 thereof the following:

34 2. Access to child abuse information other than unfounded  
35 child abuse information is authorized only to the following

1 persons or entities:

2 a. Subjects of a report as follows:

3 (1) To a child named in a report as a victim of abuse or  
4 to the child's attorney or guardian ad litem.

5 (2) To a parent or the attorney for the parent of a child  
6 named in a report as a victim of abuse.

7 (3) To a guardian or legal custodian, or that person's at-  
8 torney, of a child named in a report as a victim of abuse.

9 (4) To a person or the attorney for the person named in a  
10 report as having abused a child.

11 b. Persons involved in an investigation of child abuse as  
12 follows:

13 (1) To a health practitioner or mental health professional  
14 who is examining, attending, or treating a child whom such  
15 practitioner or professional believes or has reason to believe  
16 has been the victim of abuse or to a health practitioner or  
17 mental health professional whose consultation with respect to  
18 a child believed to have been the victim of abuse is requested  
19 by the department.

20 (2) To an employee of the department of human services  
21 responsible for the investigation of a child abuse report.

22 (3) To a law enforcement officer responsible for assisting  
23 in an investigation of a child abuse allegation or for the  
24 temporary emergency removal of a child from the child's home.

25 (4) To a multidisciplinary team, if the department of  
26 human services approves the composition of the  
27 multidisciplinary team and determines that access to the team  
28 is necessary to assist the department in the investigation,  
29 diagnosis, assessment, and disposition of a child abuse case.

30 (5) In an individual case, to the mandatory reporter who  
31 reported the child abuse.

32 c. Individuals, agencies, or facilities providing care to  
33 a child as follows:

34 (1) To a licensing authority for a facility providing care  
35 to a child named in a report, if the licensing authority is

1 notified of a relationship between facility policy and the  
2 child abuse under section 232.71, subsection 4.

3 (2) To an authorized person or agency responsible for the  
4 care or supervision of a child named in a report as a victim  
5 of abuse or a person named in a report as having abused a  
6 child, if the juvenile court or registry deems access to child  
7 abuse information by such person or agency to be necessary.

8 (3) To an employee of the department of human services re-  
9 sponsible for registering or licensing or approving the  
10 registration or licensing of an agency or facility, or to an  
11 individual providing care to a child and regulated by the  
12 department.

13 (4) To an employee of the department of human services, a  
14 certified adoption investigator, or licensed child placing  
15 agency responsible for an adoptive placement.

16 d. Relating to a judicial and administrative proceedings  
17 as follows:

18 (1) To a juvenile court involved in an adjudication or  
19 disposition of a child named in a report.

20 (2) To a district court upon a finding that information is  
21 necessary for the resolution of an issue arising in any phase  
22 of a case involving child abuse.

23 (3) To a court or administrative agency hearing an appeal  
24 for correction of child abuse information as provided in  
25 section 235A.19.

26 (4) To an expert witness at any stage of an appeal  
27 necessary for correction of child abuse information as  
28 provided in section 235A.19.

29 e. Others as follows:

30 (1) To a person conducting bona fide research on child  
31 abuse, but without information identifying individuals named  
32 in a child abuse report, unless having that information open  
33 to review is essential to the research or evaluation and the  
34 authorized registry officials give prior written approval and  
5 the child, the child's guardian or guardian ad litem and the

1 person named in a report as having abused a child give  
2 permission to release the information.

3 (2) To registry or department personnel when necessary to  
4 the performance of their official duties or to a person or  
5 agency under contract with the department to carry out  
6 official duties and functions of the registry.

7 (3) To the department of public safety for the sole  
8 purpose of the filing of a claim for reparation pursuant to  
9 section 910A.5A and section 912.4, subsections 3 through 5.

10 (4) To a legally constituted child protection agency of  
11 another state which is investigating or treating a child named  
12 in a report as having been abused or to a public or licensed  
13 child placing agency of another state responsible for an  
14 adoptive placement.

15 (5) To the attorney for the department of human services  
16 who is responsible for representing the department.

17 (6) To the foster care review boards created pursuant to  
18 sections 237.16 and 237.19.

19 Sec. 11. Section 235A.15, subsection 3, Code 1987, is  
20 amended to read as follows:

21 3. Access to unfounded child abuse information is  
22 authorized only to those persons identified in subsection 2,  
23 paragraphs "b", "g", "h", and "j" paragraph "a", paragraph  
24 "b", subparagraphs (2) and (5), and paragraph "c",  
25 subparagraph (2).

26 Sec. 12. Section 235A.16, Code 1987, is amended by adding  
27 the following new subsection:

28 NEW SUBSECTION. 3. Subsections 1 and 2 do not apply to  
29 child abuse information that is disseminated to an employee of  
30 the department of human services, to a juvenile court, or to  
31 the attorney representing the department as authorized by  
32 section 235A.15.

33 Sec. 13. Section 235A.17, Code 1987, is amended to read as  
34 follows:

35 235A.17 REDISSEMINATION OF CHILD ABUSE INFORMATION.

1     1. A person, agency or other recipient of child abuse  
2 information authorized to receive such information shall not  
3 redisseminate such information, except that redissemination  
4 shall be permitted when all of the following conditions apply:

5     1 a. The redissemination is for official purposes in  
6 connection with prescribed duties or, in the case of a health  
7 practitioner, pursuant to professional responsibilities.

8     2 b. The person to whom such information would be  
9 redisseminated would have independent access to the same  
10 information under section 235A.15.

11     3 c. A written record is made of the redissemination,  
12 including the name of the recipient and the date and purpose  
13 of the redissemination.

14     4 d. The written record is forwarded to the registry  
15 within thirty days of the redissemination.

16     5 2. The department of human services ~~shall~~ may notify  
17 orally the mandatory reporter in an individual child abuse  
18 case of the results of the case investigation and of the  
19 confidentiality provisions of sections 235A.15 and 235A.21.

20 The department may shall subsequently transmit a written  
21 notice to the mandatory reporter of the results and  
22 confidentiality provisions. A copy of the written notice  
23 shall be transmitted to the registry and shall be maintained  
24 by the registry as provided in section 235A.18.

25     Sec. 14. Section 235A.23, subsection 1, Code 1987, is  
26 amended to read as follows:

27     1. The registry may compile statistics, conduct research,  
28 and issue reports on child abuse, provided identifying details  
29 of the subject of child abuse reports are deleted from any  
30 report issued.

31     Sec. 15. Section 237.5, subsection 2, Code 1987, is  
32 amended to read as follows:

33     2. The director, after notice and opportunity for an  
34 evidentiary hearing, may deny an application for a license,  
35 and may suspend or revoke a license, if the applicant or

1 licensee violates this chapter or the rules promulgated  
2 pursuant to this chapter, or knowingly makes a false statement  
3 concerning a material fact or conceals a material fact on the  
4 license application or in a report regarding operation of the  
5 facility submitted to the director.

6 Sec. 16. Section 237.8, subsection 2, Code 1987, is  
7 amended to read as follows:

8 2 A person who has been convicted of a violation under a  
9 law of any state of a crime involving mistreatment or  
10 exploitation of a child or a person with a record of founded  
11 child abuse shall not be licensed, or be employed by a  
12 licensee, or reside in a licensed home unless an evaluation of  
13 the crime or founded abuse has been made by the department of  
14 human services which concludes that the crime or founded abuse  
15 does not merit prohibition of employment or licensure. In its  
16 evaluation, the department shall consider the nature and  
17 seriousness of the crime or founded abuse in relation to the  
18 position sought, the time elapsed since the commission of the  
19 crime or founded abuse, the circumstances under which the  
20 crime or founded abuse was committed, the degree of  
21 rehabilitation, and the number of crimes or founded abuse  
22 committed by the person involved.

23 Sec. 17. Section 237A.5, Code 1987, is amended by striking  
24 the section and inserting in lieu thereof the following:

25 237A.5 PERSONNEL.

26 1. All personnel in licensed or registered facilities  
27 shall have good health as evidenced by a report following a  
28 preemployment physical examination taken within six months  
29 prior to beginning employment. The examination shall include  
30 communicable disease tests by a licensed physician as defined  
31 in section 135C.1 and shall be repeated every three years  
32 after initial employment. Controlled medical conditions which  
33 would not affect the performance of the employee in the  
34 capacity employed shall not prohibit employment.

35 2. A person who has been convicted of a violation under a

1 law of any state of a crime or a person with a record of  
2 founded child abuse shall not own or operate or be employed as  
3 a staff member, with direct responsibility for child care, of  
4 a child day care facility, as defined in section 237A.1,  
5 subsection 1, and shall not live in a child day care facility  
6 unless an evaluation of the crime or founded abuse has been  
7 made by the department of human services which concludes that  
8 the crime or founded abuse does not merit prohibition of  
9 employment licensure, or registration. In its evaluation, the  
10 department shall consider the nature and seriousness of the  
11 crime or founded abuse in relation to the position sought, the  
12 time elapsed since the commission of the crime or founded  
13 abuse, the circumstances under which the crime or founded  
14 abuse was committed, the degree of rehabilitation, and the  
15 number of crimes or founded abuse committed by the person  
16 involved.

17 Sec. 18. Section 600.8, subsection 1, paragraph a, Code  
18 1987, is amended by adding the following new subparagraph:

19 NEW SUBPARAGRAPH. (3) Whether the prospective adoption  
20 petitioner has been convicted of a violation under a law of  
21 any state of a crime or has a record of founded child abuse.

22 Sec. 19. Section 600.8, subsection 2, Code 1987, is  
23 amended by adding the following new lettered paragraph as  
24 paragraph b and relettering the remaining paragraph:

25 b. The person making the investigation shall not approve a  
26 prospective adoption petitioner pursuant to subsection 1,  
27 paragraph "a", subparagraph (3) unless an evaluation has been  
28 made which considers the nature and seriousness of the crime  
29 or founded abuse in relation to the adoption, the time elapsed  
30 since the commission of the crime or founded abuse, the  
31 circumstances under which the crime or founded abuse was  
32 committed, the degree of rehabilitation, and the number of  
33 crimes or founded abuse committed by the person involved.

34  
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*Handwritten initials*

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PREFILED DEPARTMENT OF  
HUMAN SERVICES BILL)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

A BILL FOR

1 An Act relating to child abuse.  
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SUB COMMITTEE ASSIGNMENTS  
CHAIR: *Leaford*  
COMMITTEE: *Human Resources*  
*2/19/87*



1 Section 1. Section 232.68, subsection 2, unnumbered  
2 paragraph 1, Code 1987, is amended to read as follows:

3 "Child abuse" or "abuse" means ~~harm-or-threatened-harm~~  
4 ~~occurring-through~~:

5 Sec. 2. Section 232.68, Code 1987, is amended by adding  
6 the following new subsection:

7 NEW SUBSECTION. 7. "Mental health professional" means a  
8 certified psychologist or an individual holding at least a  
9 masters degree in social work or counseling and guidance.

10 Sec. 3. Section 232.69, subsection 1, paragraph b, Code  
11 1987, is amended to read as follows:

12 b. Every self-employed social worker, every social worker  
13 under the jurisdiction of the department of human services,  
14 any social worker employed by a public or private agency or  
15 institution, public or private health care facility as defined  
16 in section 135C.1, certified psychologist, certificated school  
17 employee, employee or operator of a licensed child care center  
18 or registered group day care home or registered family day  
19 care home, individual licensee under chapter 237, member of  
20 the staff of a mental health center, or peace officer, dental  
21 hygienist, counselor, or paramedic, who, in the course of  
22 employment or in providing child foster care, examines,  
23 attends, counsels or treats a child and reasonably believes a  
24 child has suffered abuse.

25 Sec. 4. Section 232.70, subsection 4, Code 1987, is  
26 amended to read as follows:

27 4. The department of human services shall:

28 a. Immediately, upon receipt of an oral report, make an  
29 oral-report-to-the-registry a determination as to whether the  
30 report constitutes an allegation of child abuse as defined in  
31 section 232.68;

32 b. Make a report to the central registry if the oral  
33 report has been determined to constitute a child abuse  
34 allegation;

35 c. Forward a copy of the written report to the registry;

1 and

2 e d. Notify the appropriate county attorney of the receipt  
3 of any report.

4 Sec. 5. Section 232.71, subsection 1, Code 1987, is  
5 amended to read as follows:

6 1. Whenever a report is received determined to constitute  
7 a child abuse allegation, the department of human services  
8 shall promptly commence an appropriate investigation. The  
9 primary purpose of this investigation shall be the protection  
10 of the child named in the report.

11 Sec. 6. Section 232.74, Code 1987, is amended to read as  
12 follows:

13 232.74 EVIDENCE NOT PRIVILEGED OR EXCLUDED.

14 Sections 622.9 and 622.10 and any other statute or rule of  
15 evidence which excludes or makes privileged the testimony of a  
16 husband or wife against the other or the testimony of a health  
17 practitioner or mental health professional as to confidential  
18 communications, do not apply to evidence regarding a child's  
19 injuries or the cause of the injuries in any judicial  
20 proceeding, civil or criminal, resulting from a report  
21 pursuant to this chapter or relating to the subject matter of  
22 such a report.

23 Sec. 7. Section 232.96, subsections 4 and 5, Code 1987,  
24 are amended to read as follows:

25 4. A report made to the department of human services  
26 pursuant to chapter 235A shall be admissible in evidence ~~if~~  
27 ~~the person making the report does not appear as a witness at~~  
28 ~~the hearing~~, but such a report shall not alone be sufficient  
29 to support a finding that the child is a child in need of  
30 assistance unless the attorneys for the child and the parents  
31 consent to such a finding.

32 5. Neither the privilege attaching to confidential  
33 communications between a physician health practitioner or  
34 mental health professional and patient nor the prohibition  
35 upon admissibility of communications between husband and wife

1 shall be ground for excluding evidence at an adjudicatory  
2 hearing.

3 Sec. 8. Section 235A.1, subsection 3, Code 1987, is  
4 amended to read as follows:

5 3. The child abuse prevention program advisory council is  
6 created consisting of ~~five~~ seven members appointed by and  
7 serving at the pleasure of the governor. ~~Two~~ Three members  
8 shall be appointed on the basis of expertise in the area of  
9 child abuse and neglect, and ~~three~~ four members shall be  
10 private citizens. The council shall select its own  
11 chairperson ~~and shall serve without compensation or~~  
12 ~~reimbursement for expenses.~~ Members of the council are  
13 entitled to receive actual expenses incurred in the discharge  
14 of their duties. A member of the council may also be eligible  
15 to receive an additional expense allowance as provided in  
16 section 7E.6.

17 Sec. 9. Section 235A.13, subsection 1, unnumbered  
18 paragraph 1, Code 1985, is amended to read as follows:

19 "Child abuse information" means any or all of the following  
20 data maintained by the registry department in a manual or  
21 automated data storage system and individually identified:

22 Sec. 10. Section 235A.15, subsection 2, Code 1987, is  
23 amended by striking the subsection and inserting in lieu  
24 thereof the following:

25 2. Access to child abuse information other than unfounded  
26 child abuse information is authorized only to the following  
27 persons or entities:

28 a. Subjects of a report as follows:

29 (1) To a child named in a report as a victim of abuse or  
30 to the child's attorney or guardian ad litem.

31 (2) To a parent or the attorney for the parent of a child  
32 named in a report as a victim of abuse.

33 (3) To a guardian or legal custodian, or that person's at-  
34 torney, of a child named in a report as a victim of abuse.

35 (4) To a person or the attorney for the person named in a

1 report as having abused a child.

2 b. Persons involved in an investigation of child abuse as  
3 follows:

4 (1) To a health practitioner or mental health professional  
5 who is examining, attending, or treating a child whom such  
6 practitioner or professional believes or has reason to believe  
7 has been the victim of abuse or to a health practitioner or  
8 mental health professional whose consultation with respect to  
9 a child believed to have been the victim of abuse is requested  
10 by the department.

11 (2) To an employee of the department of human services  
12 responsible for the investigation of a child abuse report.

13 (3) To a law enforcement officer responsible for assisting  
14 in an investigation of a child abuse allegation or for the  
15 temporary emergency removal of a child from the child's home.

16 (4) To a multidisciplinary team, if the department of  
17 human services approves the composition of the  
18 multidisciplinary team and determines that access to the team  
19 is necessary to assist the department in the investigation,  
20 diagnosis, assessment, and disposition of a child abuse case.

21 (5) In an individual case, to the mandatory reporter who  
22 reported the child abuse.

23 c. Individuals, agencies, or facilities providing care to  
24 a child as follows:

25 (1) To a licensing authority for a facility providing care  
26 to a child named in a report, if the licensing authority is  
27 notified of a relationship between facility policy and the  
28 child abuse under section 232.71, subsection 4.

29 (2) To an authorized person or agency responsible for the  
30 care or supervision of a child named in a report as a victim  
31 of abuse or a person named in a report as having abused a  
32 child, if the juvenile court or registry deems access to child  
33 abuse information by such person or agency to be necessary.

34 (3) To an employee of the department of human services re-  
35 sponsible for registering or licensing or approving the

1 registration or licensing of an agency or facility, or to an  
2 individual providing care to a child and regulated by the  
3 department.

4 (4) To an employee of the department of human services, a  
5 certified adoption investigator, or licensed child placing  
6 agency responsible for an adoptive placement.

7 d. Relating to a judicial and administrative proceedings  
8 as follows:

9 (1) To a juvenile court involved in an adjudication or  
10 disposition of a child named in a report.

11 (2) To a district court upon a finding that information is  
12 necessary for the resolution of an issue arising in any phase  
13 of a case involving child abuse.

14 (3) To a court or administrative agency hearing an appeal  
15 for correction of child abuse information as provided in  
16 section 235A.19.

17 (4) To an expert witness at any stage of an appeal  
18 necessary for correction of child abuse information as  
19 provided in section 235A.19.

20 e. Others as follows:

21 (1) To a person conducting bona fide research on child  
22 abuse, but without information identifying individuals named  
23 in a child abuse report, unless having that information open  
24 to review is essential to the research or evaluation and the  
25 authorized registry officials give prior written approval and  
26 the child's guardian or guardian ad litem and the person named  
27 in a report as having abused a child give permission to  
28 release the information.

29 (2) To registry or department personnel when necessary to  
30 the performance of their official duties or to a person or  
31 agency under contract with the department to carry out  
32 official duties and functions of the registry.

33 (3) To the department of public safety for the sole  
34 purpose of the filing of a claim for reparation pursuant to  
35 section 910A.5A and section 912.4, subsections 3 through 5.

1 (4) To a legally constituted child protection agency of  
2 another state which is investigating or treating a child named  
3 in a report as having been abused or to a public or licensed  
4 child placing agency of another state responsible for an  
5 adoptive placement.

6 (5) To the attorney for the department of human services  
7 who is responsible for representing the department.

8 (6) To the foster care review boards created pursuant to  
9 sections 237.16 and 237.19.

10 Sec. 11. Section 235A.15, subsection 3, Code 1987, is  
11 amended to read as follows:

12 3. Access to unfounded child abuse information is  
13 authorized only to those persons identified in subsection 2,  
14 paragraphs "b", "g", "h", and "j" paragraph "a", paragraph  
15 "b", subparagraphs (2) and (5), and paragraph "c",  
16 subparagraph (2).

17 Sec. 12. Section 235A.16, Code 1987, is amended by adding  
18 the following new subsection:

19 NEW SUBSECTION. 3. Subsections 1 and 2 do not apply to  
20 child abuse information that is disseminated to an employee of  
21 the department of human services, to a juvenile court, or to  
22 the attorney representing the department as authorized by  
23 section 235A.15.

24 Sec. 13. Section 235A.17, Code 1987, is amended to read as  
25 follows:

26 235A.17 REDISSEMINATION OF CHILD ABUSE INFORMATION.

27 1. A person, agency or other recipient of child abuse  
28 information authorized to receive such information shall not  
29 disseminate such information, except that dissemination  
30 shall be permitted when all of the following conditions apply:

31 1 a. The dissemination is for official purposes in  
32 connection with prescribed duties or, in the case of a health  
33 practitioner, pursuant to professional responsibilities.

34 2 b. The person to whom such information would be  
35 disseminated would have independent access to the same

1 information under section 235A.15.

2 3 c. A written record is made of the redissemination,  
3 including the name of the recipient and the date and purpose  
4 of the redissemination.

5 4 d. The written record is forwarded to the registry  
6 within thirty days of the redissemination.

7 5 2. The department of human services ~~shall~~ may notify  
8 orally the mandatory reporter in an individual child abuse  
9 case of the results of the case investigation and of the  
10 confidentiality provisions of sections 235A.15 and 235A.21.  
11 The department may shall subsequently transmit a written  
12 notice to the mandatory reporter of the results and  
13 confidentiality provisions. A copy of the written notice  
14 shall be transmitted to the registry and shall be maintained  
15 by the registry as provided in section 235A.18.

16 Sec. 14. Section 235A.23, subsection 1, Code 1987, is  
17 amended to read as follows:

18 1. The registry may compile statistics, conduct research,  
19 and issue reports on child abuse, provided identifying details  
20 of the subject of child abuse reports are deleted from any  
21 report issued.

22 Sec. 15. Section 237.5, subsection 2, Code 1987, is  
23 amended to read as follows:

24 2. The director, after notice and opportunity for an  
25 evidentiary hearing, may deny an application for a license,  
26 and may suspend or revoke a license, if the applicant or  
27 licensee violates this chapter or the rules promulgated  
28 pursuant to this chapter, or knowingly makes a false statement  
29 concerning a material fact or conceals a material fact on the  
30 license application or in a report regarding operation of the  
31 facility submitted to the director.

32 Sec. 16. Section 237.8, subsection 2, Code 1987, is  
33 amended to read as follows:

34 2. A person who has been convicted of a violation under a  
35 law of any state of a crime involving mistreatment or

1 ~~exploitation-of-a-child~~ or a person with a record of founded  
2 child abuse shall not be licensed, or be employed by a  
3 licensee, or reside in a licensed home unless an evaluation of  
4 the crime or founded abuse has been made by the department of  
5 human services which concludes that the crime or founded abuse  
6 does not merit prohibition of employment or licensure. In its  
7 evaluation, the department shall consider the nature and  
8 seriousness of the crime or founded abuse in relation to the  
9 position sought, the time elapsed since the commission of the  
10 crime or founded abuse, the circumstances under which the  
11 crime or founded abuse was committed, the degree of  
12 rehabilitation, and the number of crimes or founded abuse  
13 committed by the person involved.

14 Sec. 17. Section 237A.5, Code 1987, is amended by striking  
15 the section and inserting in lieu thereof the following:

16 237A.5 PERSONNEL.

17 1. All personnel in licensed or registered facilities  
18 shall have good health as evidenced by a report following a  
19 preemployment physical examination taken within six months  
20 prior to beginning employment, including communicable disease  
21 tests by a licensed physician as defined in section 135C.1, at  
22 the time of initial employment and every three years after  
23 initial employment.

24 2. A person who has been convicted of a violation under a  
25 law of any state of a crime or a person with a record of  
26 founded child abuse shall not own or operate or be employed as  
27 a staff member, with direct responsibility for child care, of  
28 a child day care facility, as defined in section 237A.1,  
29 subsection 1, and shall not live in a child day care facility  
30 unless an evaluation of the crime or founded abuse has been  
31 made by the department of human services which concludes that  
32 the crime or founded abuse does not merit prohibition of  
33 employment licensure, or registration. In its evaluation, the  
34 department shall consider the nature and seriousness of the  
35 crime or founded abuse in relation to the position sought, the



1 time elapsed since the commission of the crime or founded  
2 abuse, the circumstances under which the crime or founded  
3 abuse was committed, the degree of rehabilitation, and the  
4 number of crimes or founded abuse committed by the person  
5 involved.

6 Sec. 18. Section 600.8, subsection 1, paragraph a, Code  
7 1987, is amended by adding the following new subparagraph:

8 NEW SUBPARAGRAPH. (3) Whether the prospective adoption  
9 petitioner has been convicted of a violation under a law of  
10 any state of a crime or has a record of founded child abuse.

11 Sec. 19. Section 600.8, subsection 2, Code 1987, is  
12 amended by adding the following new lettered paragraph as  
13 paragraph b and relettering the remaining paragraph:

14 b. The person making the investigation shall not approve a  
15 prospective adoption petitioner pursuant to subsection 1,  
16 paragraph "a", subparagraph (3) unless an evaluation has been  
17 made which considers the nature and seriousness of the crime  
18 or founded abuse in relation to the adoption, the time elapsed  
19 since the commission of the crime or founded abuse, the  
20 circumstances under which the crime or founded abuse was  
21 committed, the degree of rehabilitation, and the number of  
22 crimes or founded abuse committed by the person involved.

23 Sec. 20. ADVISORY COUNCIL MEMBERSHIP.

24 The governor shall appoint two additional members to the  
25 child abuse prevention program advisory council.

26 EXPLANATION

27 This bill amends the definition of child abuse so that the  
28 incident related to the abuse is the actual abuse rather than  
29 the harm or threatened harm occurring as a consequence of the  
30 incident.

31 The bill defines "mental health professional" and  
32 eliminates the privileged testimony provision for a mental  
33 health professional's testimony regarding a child's injuries  
34 or the cause of the injuries in a judicial proceeding  
35 resulting from a filed report of child abuse.

1 Dental hygienists, counselors, and paramedics are required  
2 to be mandatory reporters of child abuse.

3 After an oral report of child abuse, the department of  
4 human services is required to immediately make a determination  
5 as to whether the report constitutes an allegation of child  
6 abuse and, if so, to make a report to the central child abuse  
7 registry.

8 The bill provides that a report of child abuse made to the  
9 department of human services is admissible in evidence in a  
10 hearing involving a petition alleging a child to be a child in  
11 need of assistance, rather than having that report as  
12 admissible evidence only when the person making the report  
13 does not appear as a witness at the hearing.

14 The bill adds two members to the child abuse prevention  
15 program advisory council and permits reimbursement of actual  
16 expenses and per diem compensation to all of the members.

17 The department of human services is required to maintain  
18 the relevant child abuse data rather than the child abuse  
19 registry.

20 The bill limits child abuse information access only to  
21 certain subjects of a report, persons involved in an investi-  
22 gation of child abuse, individuals, agencies, or facilities  
23 providing care to a child, and to certain other persons  
24 relating to judicial and administrative proceedings and to  
25 other purposes.

26 The department of human services is permitted, rather than  
27 required, to notify orally the actual mandatory reporter of  
28 the results of an individual child abuse case and required,  
29 rather than permitted, to notify such reporter in writing of  
30 the results.

31 The bill requires the department of human services'  
32 personnel to provide notice and an opportunity for a hearing  
33 before denying an application as a child foster care facility.

34 Changes are made regarding the limitations on child foster  
35 care personnel and licensees, relating to the criminal

1 convictions or records of founded child abuse. Similar  
2 changes are made regarding personnel in licensed or registered  
3 child day care facilities and for prospective adoption  
4 petitioners.

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HOUSE FILE 412

AN ACT

RELATING TO CHILD ABUSE.

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

Section 1. Section 232.68, subsection 2, unnumbered paragraph 1, Code 1987, is amended to read as follows:

"Child abuse" or "abuse" means harm-or-threatened-harm occurring-through:

Sec. 2. Section 232.68, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 7. "Mental health professional" means a person who meets the following requirements:

a. Holds at least a master's degree in a mental health field, including, but not limited to, psychology, counseling, nursing, or social work; or is licensed to practice medicine pursuant to chapter 148, 150, or 150A.

b. Holds a license to practice in the appropriate profession.

c. Has at least two years of postdegree experience, supervised by a mental health professional, in assessing mental health problems and needs of individuals used in providing appropriate mental health services for those individuals.

Sec. 3. Section 232.69, subsection 1, paragraph b, Code 1987, is amended to read as follows:

b. Every self-employed social worker, every social worker under the jurisdiction of the department of human services, any social worker employed by a public or private agency or institution, public or private health care facility as defined in section 135C.1, certified psychologist, certificated school employee, employee or operator of a licensed child care center or registered group day care home or registered family day

care home, individual licensee under chapter 237, member of the staff of a mental health center, or peace officer, dental hygienist, counselor, paramedic, or mental health professional, who, in the course of employment or in providing child foster care, examines, attends, counsels or treats a child and reasonably believes a child has suffered abuse.

Sec. 4. Section 232.70, subsection 4, Code 1987, is amended to read as follows:

4. The department of human services shall:

a. Immediately, upon receipt of an oral report, make an oral-report-to-the-registry a determination as to whether the report constitutes an allegation of child abuse as defined in section 232.68;

b. Make a report to the central registry if the oral report has been determined to constitute a child abuse allegation;

b c. Forward a copy of the written report to the registry; and

c d. Notify the appropriate county attorney of the receipt of any report.

Sec. 5. Section 232.71, subsection 1, Code 1987, is amended to read as follows:

1. Whenever a report is received determined to constitute a child abuse allegation, the department of human services shall promptly commence an appropriate investigation. The primary purpose of this investigation shall be the protection of the child named in the report.

Sec. 6. Section 232.74, Code 1987, is amended to read as follows:

232.74 EVIDENCE NOT PRIVILEGED OR EXCLUDED.

Sections 622.9 and 622.10 and any other statute or rule of evidence which excludes or makes privileged the testimony of a husband or wife against the other or the testimony of a health practitioner or mental health professional as to confidential communications, do not apply to evidence regarding a child's

injuries or the cause of the injuries in any judicial proceeding, civil or criminal, resulting from a report pursuant to this chapter or relating to the subject matter of such a report.

Sec. 7. Section 232.96, subsections 4 and 5, Code 1987, are amended to read as follows:

4. A report made to the department of human services pursuant to chapter 233A shall be admissible in evidence if ~~the person making the report does not appear as a witness at the hearing,~~ but such a report shall not alone be sufficient to support a finding that the child is a child in need of assistance unless the attorneys for the child and the parents consent to such a finding.

5. Neither the privilege attaching to confidential communications between a physician health practitioner or mental health professional and patient nor the prohibition upon admissibility of communications between husband and wife shall be ground for excluding evidence at an adjudicatory hearing.

Sec. 8. Section 235A.1, subsection 3, Code 1987, is amended to read as follows:

3. The child abuse prevention program advisory council is created consisting of five members appointed by and serving at the pleasure of the governor. Two members shall be appointed on the basis of expertise in the area of child abuse and neglect, and three members shall be private citizens. The council shall select its own chairperson and ~~shall serve without compensation or reimbursement for expenses.~~ Members of the council are entitled to receive actual expenses incurred in the discharge of their duties. A member of the council may also be eligible to receive an additional expense allowance as provided in section 7E.6.

Sec. 9. Section 235A.13, subsection 1, unnumbered paragraph 1, Code 1987, is amended to read as follows:

"Child abuse information" means any or all of the following data maintained by the registry department in a manual or automated data storage system and individually identified:

Sec. 10. Section 235A.15, subsection 2, Code 1987, is amended by striking the subsection and inserting in lieu thereof the following:

2. Access to child abuse information other than unfounded child abuse information is authorized only to the following persons or entities:

a. Subjects of a report as follows:

- (1) To a child named in a report as a victim of abuse or to the child's attorney or guardian ad litem.
- (2) To a parent or the attorney for the parent of a child named in a report as a victim of abuse.

- (3) To a guardian or legal custodian, or that person's attorney, of a child named in a report as a victim of abuse.

- (4) To a person or the attorney for the person named in a report as having abused a child.

b. Persons involved in an investigation of child abuse as follows:

- (1) To a health practitioner or mental health professional who is examining, attending, or treating a child whom such practitioner or professional believes or has reason to believe has been the victim of abuse or to a health practitioner or mental health professional whose consultation with respect to a child believed to have been the victim of abuse is requested by the department.

- (2) To an employee or agent of the department of human services responsible for the investigation of a child abuse report.

- (3) To a law enforcement officer responsible for assisting in an investigation of a child abuse allegation or for the temporary emergency removal of a child from the child's home.

- (4) To a multidisciplinary team, if the department of human services approves the composition of the

multidisciplinary team and determines that access to the team is necessary to assist the department in the investigation, diagnosis, assessment, and disposition of a child abuse case.

(5) In an individual case, to the mandatory reporter who reported the child abuse.

c. Individuals, agencies, or facilities providing care to a child as follows:

(1) To a licensing authority for a facility providing care to a child named in a report, if the licensing authority is notified of a relationship between facility policy and the child abuse under section 232.71, subsection 4.

(2) To an authorized person or agency responsible for the care or supervision of a child named in a report as a victim of abuse or a person named in a report as having abused a child, if the juvenile court or registry deems access to child abuse information by such person or agency to be necessary.

(3) To an employee or agent of the department of human services responsible for registering or licensing or approving the registration or licensing of an agency or facility, or to an individual providing care to a child and regulated by the department.

(4) To an employee of the department of human services responsible for an adoptive placement, a certified adoption investigator, or licensed child placing agency responsible for an adoptive placement.

d. Relating to a judicial and administrative proceedings as follows:

(1) To a juvenile court involved in an adjudication or disposition of a child named in a report.

(2) To a district court upon a finding that information is necessary for the resolution of an issue arising in any phase of a case involving child abuse.

(3) To a court or administrative agency hearing an appeal for correction of child abuse information as provided in section 235A.19.

(4) To an expert witness at any stage of an appeal necessary for correction of child abuse information as provided in section 235A.19.

e. Others as follows:

(1) To a person conducting bona fide research on child abuse, but without information identifying individuals named in a child abuse report, unless having that information open to review is essential to the research or evaluation and the authorized registry officials give prior written approval and the child, the child's guardian or guardian ad litem and the person named in a report as having abused a child give permission to release the information.

(2) To registry or department personnel when necessary to the performance of their official duties or to a person or agency under contract with the department to carry out official duties and functions of the registry.

(3) To the department of public safety for the sole purpose of the filing of a claim for reparation pursuant to section 910A.5A and section 912.4, subsections 3 through 5.

(4) To a legally constituted child protection agency of another state which is investigating or treating a child named in a report as having been abused or to a public or licensed child placing agency of another state responsible for an adoptive placement.

(5) To the attorney for the department of human services who is responsible for representing the department.

(6) To the foster care review boards created pursuant to sections 237.16 and 237.19.

Sec. 11. Section 235A.15, subsection 3, Code 1987, is amended to read as follows:

3. Access to unfounded child abuse information is authorized only to those persons identified in subsection 2, paragraphs "b", "g", "h", and "j", paragraph "a", paragraph "b", subparagraphs (2) and (5), and paragraph "c", subparagraph (2).

Sec. 12. Section 235A.16, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Subsections 1 and 2 do not apply to child abuse information that is disseminated to an employee of the department of human services, to a juvenile court, or to the attorney representing the department as authorized by section 235A.15.

Sec. 13. Section 235A.17, Code 1987, is amended to read as follows:

235A.17 REDISSEMINATION OF CHILD ABUSE INFORMATION.

1. A person, agency or other recipient of child abuse information authorized to receive such information shall not redisseminate such information, except that redissemination shall be permitted when all of the following conditions apply:

1 a. The redissemination is for official purposes in connection with prescribed duties or, in the case of a health practitioner, pursuant to professional responsibilities.

2 b. The person to whom such information would be redisseminated would have independent access to the same information under section 235A.15.

3 c. A written record is made of the redissemination, including the name of the recipient and the date and purpose of the redissemination.

4 d. The written record is forwarded to the registry within thirty days of the redissemination.

5 e. The department of human services ~~shall~~ may notify orally the mandatory reporter in an individual child abuse case of the results of the case investigation and of the confidentiality provisions of sections 235A.15 and 235A.21. The department ~~may~~ shall subsequently transmit a written notice to the mandatory reporter of the results and confidentiality provisions. A copy of the written notice shall be transmitted to the registry and shall be maintained by the registry as provided in section 235A.18.

Sec. 14. Section 235A.23, subsection 1, Code 1987, is amended to read as follows:

1. The registry may compile statistics, conduct research, and issue reports on child abuse, provided identifying details of the subject of child abuse reports are deleted from any report issued.

Sec. 15. Section 237.5, subsection 2, Code 1987, is amended to read as follows:

2. The director, after notice and opportunity for an evidentiary hearing, may deny an application for a license, and may suspend or revoke a license, if the applicant or licensee violates this chapter or the rules promulgated pursuant to this chapter, or knowingly makes a false statement concerning a material fact or conceals a material fact on the license application or in a report regarding operation of the facility submitted to the director.

Sec. 16. Section 237.8, subsection 2, Code 1987, is amended to read as follows:

2. A person who has been convicted of a violation under a law of any state of a crime involving mistreatment or exploitation of a child or a person with a record of founded child abuse shall not be licensed, or be employed by a licensee, or reside in a licensed home unless an evaluation of the crime or founded abuse has been made by the department of human services which concludes that the crime or founded abuse does not merit prohibition of employment or licensure. In its evaluation, the department shall consider the nature and seriousness of the crime or founded abuse in relation to the position sought, the time elapsed since the commission of the crime or founded abuse, the circumstances under which the crime or founded abuse was committed, the degree of rehabilitation, and the number of crimes or founded abuse committed by the person involved.

Sec. 17. Section 237A.5, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

237A.5 PERSONNEL.

1. All personnel in licensed or registered facilities shall have good health as evidenced by a report following a preemployment physical examination taken within six months prior to beginning employment. The examination shall include communicable disease tests by a licensed physician as defined in section 1350.1 and shall be repeated every three years after initial employment. Controlled medical conditions which would not affect the performance of the employee in the capacity employed shall not prohibit employment.

2. A person who has been convicted of a violation under a law of any state of a crime or a person with a record of founded child abuse shall not own or operate or be employed as a staff member, with direct responsibility for child care, of a child day care facility, as defined in section 237A.1, subsection 1, and shall not live in a child day care facility unless an evaluation of the crime or founded abuse has been made by the department of human services which concludes that the crime or founded abuse does not merit prohibition of employment licensure, or registration. In its evaluation, the department shall consider the nature and seriousness of the crime or founded abuse in relation to the position sought, the time elapsed since the commission of the crime or founded abuse, the circumstances under which the crime or founded abuse was committed, the degree of rehabilitation, and the number of crimes or founded abuse committed by the person involved.

Sec. 18. Section 600.8, subsection 1, paragraph a, Code 1987, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (3) Whether the prospective adoption petitioner has been convicted of a violation under a law of any state of a crime or has a record of founded child abuse.

Sec. 19. Section 600.8, subsection 2, Code 1987, is amended by adding the following new lettered paragraph as paragraph b and relettering the remaining paragraphs:

b. The person making the investigation shall not approve a prospective adoption petitioner pursuant to subsection 1, paragraph "a", subparagraph (3) unless an evaluation has been made which considers the nature and seriousness of the crime or founded abuse in relation to the adoption, the time elapsed since the commission of the crime or founded abuse, the circumstances under which the crime or founded abuse was committed, the degree of rehabilitation, and the number of crimes or founded abuse committed by the person involved.

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DONALD D. AVENSON  
Speaker of the House

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JO ANN ZIMMERMAN  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 412, Seventy-second General Assembly.

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JOSEPH O'HERN  
Chief Clerk of the House

Approved May 27, 1987

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PERRY E. BRANSTAD  
Governor

H. F. 412