

Reprinted

FEB 20 1990

HOUSE FILE 2504
BY COMMITTEE ON HUMAN RESOURCES

Place On Calendar

(SUCCESSOR TO HSB 734)

Passed House, Date 2/28/90 (p. 702) Passed Senate, Date _____
Vote: Ayes 98 Nays 0 Vote: Ayes _____ Nays _____
Approved April 30, 1990

A BILL FOR

1 An Act relating to criminal and child abuse record checks
2 concerning facilities providing care to children.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2504

1 Section 1. NEW SECTION. 125.14A PERSONNEL OF A LICENSED
2 PROGRAM ADMITTING JUVENILES.

3 1. A person who has been convicted of a crime under a law
4 of any state or a person with a record of founded child abuse
5 shall not be employed with direct responsibility for a child
6 or with access to a child when the child is alone by a program
7 admitting juveniles which is licensed under this chapter and
8 shall not reside in a facility utilized by the program, unless
9 it is determined by the department of human services and the
10 licensed program for an employee of the program, that the
11 crime or founded abuse does not warrant prohibition of
12 employment or licensure.

13 2. If a person employed by a program licensed under this
14 chapter is found to have committed a crime or child abuse, the
15 department of human services shall notify the program that an
16 evaluation will be conducted to determine whether prohibition
17 of the person's employment is warranted.

18 3. In an evaluation, the department of human services and
19 the program for an employee of the program shall consider the
20 nature and seriousness of the crime or founded abuse in
21 relation to the position sought, the time elapsed since the
22 commission of the crime or founded abuse, the circumstances
23 under which the crime or founded abuse was committed, the
24 degree of rehabilitation, the likelihood that the person will
25 commit the crime or founded abuse again, and the number of
26 crimes or founded abuses committed by the person involved.
27 The department of human services has final authority in
28 determining whether prohibition of the person's employment is
29 warranted.

30 Sec. 2. Section 135H.7, subsection 2, Code Supplement
31 1989, is amended to read as follows:

32 2. a. A person who has been convicted of a criminal act
33 ~~involving a child~~ under a law of any state or who has a record
34 of founded child abuse shall not be licensed, be employed by a
35 licensee with direct responsibility for a child or with access

1 to a child when the child is alone, or and shall not reside in
2 a licensed home psychiatric institution unless the department
3 of human services and the licensee for an employee of the
4 licensee, determines that the crime or founded abuse does not
5 merit warrant prohibition of licensure or employment.

6 b. If a person employed by a licensee is found to have
7 committed a crime or child abuse, the department of human
8 services shall notify the licensee that an evaluation will be
9 conducted to determine whether prohibition of employment is
10 warranted.

11 c. In its-determination an evaluation, the department of
12 human services and the licensee for an employee of the
13 licensee shall consider the nature and seriousness of the
14 crime or founded abuse in relation to the position sought, the
15 time elapsed since the commission of the crime or founded
16 abuse, the circumstances under which the crime or founded
17 abuse was committed, the degree of rehabilitation, the
18 likelihood that the person will commit the crime or founded
19 abuse again, and the number of crimes or founded abuses
20 committed by the person involved. The department of human
21 services has final authority in determining whether
22 prohibition of the person's employment or licensure is
23 warranted.

24 Sec. 3. Section 235A.15, subsection 2, paragraph c, Code
25 Supplement 1989, is amended by adding the following new
26 subparagraphs:

27 NEW SUBPARAGRAPH. (6) To an administrator of a child
28 foster care facility licensed under chapter 237 if the
29 information concerns a person employed by the facility.

30 NEW SUBPARAGRAPH. (7) To an administrator of a child day
31 care facility registered or licensed under chapter 237A if the
32 information concerns a person employed by or living in the
33 facility.

34 Sec. 4. Section 235A.15, subsection 2, paragraph e, Code
35 Supplement 1989, is amended by adding the following new

1 subparagraph:

2 NEW SUBPARAGRAPH. (7) To a legally constituted child
3 protection agency in another state if the agency is conducting
4 a records check of a person who is providing care to a child
5 in the other state.

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6 Sec. 5. Section 237.8, subsection 2, Code Supplement 1989,
7 is amended to read as follows:

8 2. a. A person who has been convicted of a crime under a
9 law of any state or a person with a record of founded child
10 abuse shall not be licensed, be employed with direct
11 responsibility for a child or with access to a child when the
12 child is alone by a licensee, or and shall not reside in a
13 licensed home unless an evaluation of the crime or founded
14 abuse has been made by the department of human services and
15 the licensee for an employee of the licensee, which concludes
16 that the crime or founded abuse does not merit warrant
17 prohibition of employment or licensure.

18 b. If a person employed by a licensee is found to have
19 committed a crime or child abuse, the department shall notify
20 the licensee that an evaluation will be conducted to determine
21 whether prohibition of the person's employment is warranted.

22 c. In its an evaluation, the department and the licensee
23 for an employee of the licensee, shall consider the nature and
24 seriousness of the crime or founded abuse in relation to the
25 position sought, the time elapsed since the commission of the
26 crime or founded abuse, the circumstances under which the
27 crime or founded abuse was committed, the degree of
28 rehabilitation, the likelihood that the person will commit the
29 crime or founded abuse again, and the number of crimes or
30 founded abuses committed by the person involved. The
31 department has final authority in determining whether
32 prohibition of the person's employment or licensure is
33 warranted.

34 Sec. 6. Section 237A.5, subsection 2, Code 1989, is
35 amended to read as follows:

1 administrator of a licensed foster care facility if the
2 information concerns a person employed by the facility. Child
3 abuse information is authorized to be released to an
4 administrator of a licensed or registered child day care
5 facility if the information concerns a person employed by or
6 living in the child day care facility. Information may also
7 be released to a child protection agency in another state if
8 the agency is conducting a records check of a person providing
9 care to a child in the other state.

10 When an employee of a licensed substance program,
11 psychiatric medical institution for children, licensed foster
12 care facility, or child day care facility has been found to
13 have committed a crime or child abuse, the department of human
14 services is required to notify the facility that it is
15 conducting an evaluation to determine whether the crime or
16 abuse warrants prohibition of employment. The employer also
17 performs the evaluation if it concerns an employee, however,
18 the department retains authority to determine whether
19 prohibition of employment is warranted. The evaluation is
20 required to consider the likelihood that the person will
21 commit the crime or founded abuse again, in addition to
22 existing criteria for performing the evaluation.

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HOUSE FILE 2504

H-5377

1 Amend House File 2504 as follows:

2 1. Page 3, by inserting after line 5 the
3 following:

4 "Sec. ____ . Section 235A.18, subsection 2,
5 unnumbered paragraph 1, Code Supplement 1989, is
6 amended to read as follows:

7 Child abuse information which cannot be determined
8 by a preponderance of the evidence to be founded or
9 unfounded shall be expunged one year after the receipt
10 of the initial report of abuse and child abuse
11 information which is determined by a preponderance of
12 the evidence to be unfounded shall be expunged ~~six~~
13 ~~months-after-the-receipt-of-the-initial-report-of~~
14 ~~abuse~~ when it is determined to be unfounded, as a
15 result of any of the following:

16 Sec. ____ . Section 235A.18, subsection 3, Code
17 Supplement 1989, is amended to read as follows:

18 3. However, if a correction of child abuse
19 information is requested under section 235A.19 and the
20 issue is not resolved at the end of the one-year or
21 ~~six-month~~ period, the information shall be retained
22 until the issue is resolved and if the child abuse
23 information is not determined to be founded, the
24 information shall be expunged at the appropriate time
25 under subsection 2."

By TEAFORD of Black Hawk
HAMMOND of Story
HARPER of Black Hawk

H-5377 FILED FEBRUARY 27, 1990

Adopted 2/28 (p. 702)

See Human Resources 3/2 To Pass 3/2 (p. 903)

HOUSE FILE 2504
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO HSB 734)

(As Amended and Passed by the House February 28, 1990)

Re Passed House, <sup>a/w
6/93</sup> Date 4/8/90 (p. 2331) Passed Senate, Date 4/1/90 (p. 1709)
Vote: Ayes 91 Nays 0 Vote: Ayes 48 Nays 0
Approved April 30, 1990

A BILL FOR

1 An Act relating to criminal and child abuse record checks
2 concerning facilities providing care to children.

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

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House Amendments _____

1 Section 1. NEW SECTION. 125.14A PERSONNEL OF A LICENSED
2 PROGRAM ADMITTING JUVENILES.

3 1. A person who has been convicted of a crime under a law
4 of any state or a person with a record of founded child abuse
5 shall not be employed with direct responsibility for a child
6 or with access to a child when the child is alone by a program
7 admitting juveniles which is licensed under this chapter and
8 shall not reside in a facility utilized by the program, unless
9 it is determined by the department of human services and the
10 licensed program for an employee of the program, that the
11 crime or founded abuse does not warrant prohibition of
12 employment or licensure.

13 2. If a person employed by a program licensed under this
14 chapter is found to have committed a crime or child abuse, the
15 department of human services shall notify the program that an
16 evaluation will be conducted to determine whether prohibition
17 of the person's employment is warranted.

18 3. In an evaluation, the department of human services and
19 the program for an employee of the program shall consider the
20 nature and seriousness of the crime or founded abuse in
21 relation to the position sought, the time elapsed since the
22 commission of the crime or founded abuse, the circumstances
23 under which the crime or founded abuse was committed, the
24 degree of rehabilitation, the likelihood that the person will
25 commit the crime or founded abuse again, and the number of
26 crimes or founded abuses committed by the person involved.
27 The department of human services has final authority in
28 determining whether prohibition of the person's employment is
29 warranted.

30 Sec. 2. Section 135H.7, subsection 2, Code Supplement
31 1989, is amended to read as follows:

32 2. a. A person who has been convicted of a criminal act
33 ~~involving a child~~ under a law of any state or who has a record
34 of founded child abuse shall not be licensed, be employed by a
35 licensee with direct responsibility for a child or with access

1 to a child when the child is alone, or and shall not reside in
2 a licensed home psychiatric institution unless the department
3 of human services and the licensee for an employee of the
4 licensee, determines that the crime or founded abuse does not
5 merit warrant prohibition of licensure or employment.

6 b. If a person employed by a licensee is found to have
7 committed a crime or child abuse, the department of human
8 services shall notify the licensee that an evaluation will be
9 conducted to determine whether prohibition of employment is
10 warranted.

11 c. In its-determination an evaluation, the department of
12 human services and the licensee for an employee of the
13 licensee shall consider the nature and seriousness of the
14 crime or founded abuse in relation to the position sought, the
15 time elapsed since the commission of the crime or founded
16 abuse, the circumstances under which the crime or founded
17 abuse was committed, the degree of rehabilitation, the
18 likelihood that the person will commit the crime or founded
19 abuse again, and the number of crimes or founded abuses
20 committed by the person involved. The department of human
21 services has final authority in determining whether
22 prohibition of the person's employment or licensure is
23 warranted.

24 Sec. 3. Section 235A.15, subsection 2, paragraph c, Code
25 Supplement 1989, is amended by adding the following new
26 subparagraphs:

27 NEW SUBPARAGRAPH. (6) To an administrator of a child
28 foster care facility licensed under chapter 237 if the
29 information concerns a person employed by the facility.

30 NEW SUBPARAGRAPH. (7) To an administrator of a child day
31 care facility registered or licensed under chapter 237A if the
32 information concerns a person employed by or living in the
33 facility.

34 Sec. 4. Section 235A.15, subsection 2, paragraph e, Code
35 Supplement 1989, is amended by adding the following new

1 subparagraph:

2 NEW SUBPARAGRAPH. (7) To a legally constituted child
3 protection agency in another state if the agency is conducting
4 a records check of a person who is providing care to a child
5 in the other state.

6 Sec. 5. Section 235A.18, subsection 2, unnumbered
7 paragraph 1, Code Supplement 1989, is amended to read as
8 follows:

9 Child abuse information which cannot be determined by a
10 preponderance of the evidence to be founded or unfounded shall
11 be expunged one year after the receipt of the initial report
12 of abuse and child abuse information which is determined by a
13 preponderance of the evidence to be unfounded shall be
14 expunged ~~six-months-after-the-receipt-of-the-initial-report-of~~
15 abuse when it is determined to be unfounded, as a result of
16 any of the following:

17 Sec. 6. Section 235A.18, subsection 3, Code Supplement
18 1989, is amended to read as follows:

19 3. However, if a correction of child abuse information is
20 requested under section 235A.19 and the issue is not resolved
21 at the end of the one-year ~~or-six-month~~ period, the
22 information shall be retained until the issue is resolved and
23 if the child abuse information is not determined to be
24 founded, the information shall be expunged at the appropriate
25 time under subsection 2.

26 Sec. 7. Section 237.8, subsection 2, Code Supplement 1989,
27 is amended to read as follows:

28 2. a. A person who has been convicted of a crime under a
29 law of any state or a person with a record of founded child
30 abuse shall not be licensed, be employed with direct
31 responsibility for a child or with access to a child when the
32 child is alone by a licensee, ~~or~~ and shall not reside in a
33 licensed home unless an evaluation of the crime or founded
34 abuse has been made by the department of human services and
35 the licensee for an employee of the licensee, which concludes

1 that the crime or founded abuse does not merit warrant
2 prohibition of employment or licensure.

3 b. If a person employed by a licensee is found to have
4 committed a crime or child abuse, the department shall notify
5 the licensee that an evaluation will be conducted to determine
6 whether prohibition of the person's employment is warranted.

7 c. In its an evaluation, the department and the licensee
8 for an employee of the licensee, shall consider the nature and
9 seriousness of the crime or founded abuse in relation to the
10 position sought, the time elapsed since the commission of the
11 crime or founded abuse, the circumstances under which the
12 crime or founded abuse was committed, the degree of
13 rehabilitation, the likelihood that the person will commit the
14 crime or founded abuse again, and the number of crimes or
15 founded abuses committed by the person involved. The
16 department has final authority in determining whether
17 prohibition of the person's employment or licensure is
18 warranted.

19 Sec. 8. Section 237A.5, subsection 2, Code 1989, is
20 amended to read as follows:

21 2. a. A person who has been convicted of a crime under a
22 law of any state or a person with a record of founded child
23 abuse shall not own or operate or be employed as-a-staff
24 member, with direct responsibility for child care or with
25 access to a child when the child is alone, of a child day care
26 facility, as defined in section 237A:17-subsection-10, and
27 shall not live reside in a child day care facility unless an
28 evaluation of the crime or founded abuse has been made by the
29 department of human services and the facility for an employee
30 of the facility which concludes that the crime or founded
31 abuse does not merit warrant prohibition of employment,
32 licensure, or registration.

33 b. If a person employed by a facility is found to have
34 committed a crime or child abuse, the department shall notify
35 the facility that an evaluation will be conducted to determine

1 whether prohibition of the person's employment is warranted.
2 c. In its an evaluation, the department and the facility
3 for an employee of the facility shall consider the nature and
4 seriousness of the crime or founded abuse in relation to the
5 position sought, the time elapsed since the commission of the
6 crime or founded abuse, the circumstances under which the
7 crime or founded abuse was committed, the degree of
8 rehabilitation, the likelihood that the person will commit the
9 crime or founded abuse again, and the number of crimes or
10 founded abuses committed by the person involved. The
11 department has final authority in determining whether
12 prohibition of the person's employment, licensure, or
13 registration is warranted.

14 Sec. 9. RULES.

15 The department of human services shall adopt rules pursuant
16 to chapter 17A to implement the provisions of this Act.

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HOUSE FILE 2504

S-5783

1 Amend House File 2504, as amended, passed, and
2 reprinted by the House, as follows:

3 1. By striking everything after the enacting
4 clause and inserting the following:

5 "Section 1. NEW SECTION. 125.14A PERSONNEL OF A
6 LICENSED PROGRAM ADMITTING JUVENILES.

7 1. If a person is being considered for licensure
8 under this chapter, or for employment involving direct
9 responsibility for a child or with access to a child
10 when the child is alone, by a program admitting
11 juveniles subject to licensure under this chapter, or
12 if a person will reside in a facility utilized by such
13 a program, and if the person has been convicted of a
14 crime under a law of any state or has a record of
15 founded child abuse, the department of human services
16 and the program for an employee of the program shall
17 perform an evaluation to determine whether the crime
18 or founded child abuse warrants prohibition of
19 licensure, employment, or residence in the facility.
20 The evaluation shall be performed in accordance with
21 procedures adopted for this purpose by the department
22 of human services.

23 2. If the department of human services determines
24 that a person has committed a crime or has a record of
25 founded child abuse and is licensed, employed by a
26 program licensed under this chapter, or resides in a
27 licensed facility the department shall notify the
28 program that an evaluation will be conducted to
29 determine whether prohibition of the person's
30 licensure, employment, or residence is warranted.

31 3. In an evaluation, the department of human
32 services and the program for an employee of the
33 program shall consider the nature and seriousness of
34 the crime or founded child abuse in relation to the
35 position sought or held, the time elapsed since the
36 commission of the crime or founded child abuse, the
37 circumstances under which the crime or founded child
38 abuse was committed, the degree of rehabilitation, the
39 likelihood that the person will commit the crime or
40 founded child abuse again, and the number of crimes or
41 founded child abuses committed by the person involved.
42 The department of human services has final authority
43 in determining whether prohibition of the person's
44 licensure, employment, or residence is warranted.

45 4. If the department of human services determines
46 that the person has committed a crime or has a record
47 of founded child abuse which warrants prohibition of
48 licensure, employment, or residence, the person shall
49 not be licensed under this chapter to operate a
50 program admitting juveniles and shall not be employed

S-5783

Page 2

1 by a program or reside in a facility admitting
2 juveniles licensed under this chapter.

3 Sec. 2. Section 135H.7, subsection 2, Code
4 Supplement 1989, is amended by striking the subsection
5 and inserting in lieu thereof the following:

6 2. a. If a person is being considered for
7 licensure under this chapter, or for employment
8 involving direct responsibility for a child or with
9 access to a child when the child is alone, by a
10 licensed psychiatric institution, or if a person will
11 reside in a facility utilized by a licensee, and if
12 the person has been convicted of a crime under a law
13 of any state or has a record of founded child abuse,
14 the department of human services and the licensee for
15 an employee of the licensee shall perform an
16 evaluation to determine whether the crime or founded
17 child abuse warrants prohibition of licensure,
18 employment, or residence in the facility. The
19 evaluation shall be performed in accordance with
20 procedures adopted for this purpose by the department
21 of human services.

22 b. If the department of human services determines
23 that a person has committed a crime or has a record of
24 founded child abuse and is licensed, employed by a
25 psychiatric institution licensed under this chapter,
26 or resides in a licensed facility the department shall
27 notify the program that an evaluation will be
28 conducted to determine whether prohibition of the
29 person's licensure, employment, or residence is
30 warranted.

31 c. In an evaluation, the department of human
32 services and the licensee for an employee of the
33 licensee shall consider the nature and seriousness of
34 the crime or founded child abuse in relation to the
35 position sought or held, the time elapsed since the
36 commission of the crime or founded child abuse, the
37 circumstances under which the crime or founded child
38 abuse was committed, the degree of rehabilitation, the
39 likelihood that the person will commit the crime or
40 founded child abuse again, and the number of crimes or
41 founded child abuses committed by the person involved.
42 The department of human services has final authority
43 in determining whether prohibition of the person's
44 licensure, employment, or residence is warranted.

45 4. If the department of human services determines
46 that the person has committed a crime or has a record
47 of founded child abuse which warrants prohibition of
48 licensure, employment, or residence, the person shall
49 not be licensed under this chapter to operate a
50 psychiatric institution and shall not be employed by a

S-5783

Page 3

1 psychiatric institution or reside in a facility
2 licensed under this chapter.

3 Sec. 3. Section 235A.15, subsection 2, paragraph
4 c, Code Supplement 1989, is amended by adding the
5 following new subparagraphs:

6 NEW SUBPARAGRAPH. (6) To an administrator of a
7 child foster care facility licensed under chapter 237
8 if the information concerns a person employed or being
9 considered for employment by the facility.

10 NEW SUBPARAGRAPH. (7) To an administrator of a
11 child day care facility registered or licensed under
12 chapter 237A if the information concerns a person
13 employed or being considered for employment by or
14 living in the facility.

15 NEW SUBPARAGRAPH. (8) To the superintendent of
16 the Iowa Braille and sight-saving school if the
17 information concerns a person employed or being
18 considered for employment or living in the school.

19 NEW SUBPARAGRAPH. (9) To the superintendent of
20 the school for the deaf if the information concerns a
21 person employed or being considered for employment or
22 living in the school.

23 Sec. 4. Section 235A.15, subsection 2, paragraph
24 e, Code Supplement 1989, is amended by adding the
25 following new subparagraph:

26 NEW SUBPARAGRAPH. (7) To a legally constituted
27 child protection agency in another state if the agency
28 is conducting a records check of a person who is
29 providing care to a child in the other state.

30 Sec. 5. Section 235A.18, subsection 2, unnumbered
31 paragraph 1, Code Supplement 1989, is amended to read
32 as follows:

33 Child abuse information which cannot be determined
34 by a preponderance of the evidence to be founded or
35 unfounded shall be expunged one year after the receipt
36 of the initial report of abuse and child abuse
37 information which is determined by a preponderance of
38 the evidence to be unfounded shall be expunged ~~six~~
39 ~~months-after-the-receipt-of-the-initial-report-of~~
40 ~~abuse when it is determined to be unfounded,~~ as a
41 result of any of the following:

42 Sec. 6. Section 235A.18, subsection 3, Code
43 Supplement 1989, is amended to read as follows:

44 3. However, if a correction of child abuse
45 information is requested under section 235A.19 and the
46 issue is not resolved at the end of the one-year ~~or~~
47 ~~six-month~~ period, the information shall be retained
48 until the issue is resolved and if the child abuse
49 information is not determined to be founded, the
50 information shall be expunged at the appropriate time

S-5783

Page 4

1 under subsection 2.

2 Sec. 7. Section 237.8, subsection 2, Code
3 Supplement 1989, is amended by striking the subsection
4 and inserting in lieu thereof the following:

5 2. a. If a person is being considered for
6 licensure under this chapter, or for employment
7 involving direct responsibility for a child or with
8 access to a child when the child is alone, by a
9 licensee under this chapter, or if a person will
10 reside in a facility utilized by a licensee, and if
11 the person has been convicted of a crime under a law
12 of any state or has a record of founded child abuse,
13 the department and the licensee for an employee of the
14 licensee shall perform an evaluation to determine
15 whether the crime or founded child abuse warrants
16 prohibition of licensure, employment, or residence in
17 the facility. The evaluation shall be performed in
18 accordance with procedures adopted for this purpose by
19 the department.

20 b. If the department determines that a person has
21 committed a crime or has a record of founded child
22 abuse and is licensed, employed by a licensee, or
23 resides in a licensed facility the department shall
24 notify the licensee that an evaluation will be
25 conducted to determine whether prohibition of the
26 person's licensure, employment, or residence is
27 warranted.

28 c. In an evaluation, the department and the
29 licensee for an employee of the licensee shall
30 consider the nature and seriousness of the crime or
31 founded child abuse in relation to the position sought
32 or held, the time elapsed since the commission of the
33 crime or founded child abuse, the circumstances under
34 which the crime or founded child abuse was committed,
35 the degree of rehabilitation, the likelihood that the
36 person will commit the crime or founded child abuse
37 again, and the number of crimes or founded child
38 abuses committed by the person involved. The
39 department has final authority in determining whether
40 prohibition of the person's licensure, employment, or
41 residence is warranted.

42 d. If the department determines that the person
43 has committed a crime or has a record of founded child
44 abuse which warrants prohibition of licensure,
45 employment, or residence, the person shall not be
46 licensed under this chapter and shall not be employed
47 by a licensee or reside in a licensed facility.

48 Sec. 8. Section 237A.5, subsection 2, Code 1989,
49 is amended by striking the subsection and inserting in
50 lieu thereof the following:

S-5783

Page 5

1 2. a. If a person is being considered for
2 licensure or registration under this chapter, or for
3 employment involving direct responsibility for a child
4 or with access to a child when the child is alone, by
5 a child day care facility subject to licensure or
6 registration under this chapter, or if a person will
7 reside in a facility, and if the person has been
8 convicted of a crime under a law of any state or has a
9 record of founded child abuse, the department and the
10 licensee or registrant for an employee of the licensee
11 or registrant shall perform an evaluation to determine
12 whether the crime or founded child abuse warrants
13 prohibition of licensure, registration, employment, or
14 residence in the facility. The evaluation shall be
15 performed in accordance with procedures adopted for
16 this purpose by the department.

17 b. If the department determines that a person has
18 committed a crime or has a record of founded child
19 abuse and is licensed, employed by a licensee or
20 registrant or registered under this chapter, or
21 resides in a licensed or registered facility the
22 department shall notify the licensee or registrant
23 that an evaluation will be conducted to determine
24 whether prohibition of the person's licensure,
25 registration, employment, or residence is warranted.

26 c. In an evaluation, the department and the
27 licensee or registrant for an employee of the licensee
28 or registrant shall consider the nature and
29 seriousness of the crime or founded child abuse in
30 relation to the position sought or held, the time
31 elapsed since the commission of the crime or founded
32 child abuse, the circumstances under which the crime
33 or founded child abuse was committed, the degree of
34 rehabilitation, the likelihood that the person will
35 commit the crime or founded child abuse again, and the
36 number of crimes or founded child abuses committed by
37 the person involved. The department has final
38 authority in determining whether prohibition of the
39 person's licensure, registration, employment, or
40 residence is warranted.

41 d. If the department determines that the person
42 has committed a crime or has a record of founded child
43 abuse which warrants prohibition of licensure,
44 registration, employment, or residence, the person
45 shall not be licensed or registered under this chapter
46 to operate a child day care facility and shall not be
47 employed by a licensee or registrant or reside in a
48 facility licensed or registered under this chapter.

49 Sec. 9. RULES.

50 The department of human services shall adopt rules

S-5783

Page 6

1 pursuant to chapter 17A to implement the provisions of
2 this Act."

By RICHARD VARN

S-5783 FILED MARCH 29, 1990

Adopted as amended by 5787 4/7 (p.1709)

HOUSE FILE 2504

S-5787

1 Amend the amendment, S-5783, to House File 2504, as
2 amended, passed, and reprinted by the House, as
3 follows:

4 1. Page 3, line 25, by striking the word
5 "subparagraph" and inserting the following:

6 "subparagraphs".

7 2. Page 3, by inserting after line 29 the
8 following:

9 "NEW SUBPARAGRAPH. (8) To the legally authorized
10 protection and advocacy agency recognized in section
11 135C.2, if a person identified in the information as a
12 victim or a perpetrator of abuse resides in or
13 receives services from a facility or agency because
14 the person is diagnosed as having a developmental
15 disability or a mental illness."

By LARRY MURPHY
CHARLES BRUNER

S-5787 FILED MARCH 29, 1990

Adopted 4/7 (p.1708)

SENATE AMENDMENT TO HOUSE FILE 2504

H-6193

1 Amend House File 2504, as amended, passed, and
2 reprinted by the House, as follows:

3 1. By striking everything after the enacting
4 clause and inserting the following:

5 "Section 1. NEW SECTION. 125.14A PERSONNEL OF A
6 LICENSED PROGRAM ADMITTING JUVENILES.

7 1. If a person is being considered for licensure
8 under this chapter, or for employment involving direct
9 responsibility for a child or with access to a child
10 when the child is alone, by a program admitting
11 juveniles subject to licensure under this chapter, or
12 if a person will reside in a facility utilized by such
13 a program, and if the person has been convicted of a
14 crime under a law of any state or has a record of
15 founded child abuse, the department of human services
16 and the program for an employee of the program shall
17 perform an evaluation to determine whether the crime
18 or founded child abuse warrants prohibition of
19 licensure, employment, or residence in the facility.
20 The evaluation shall be performed in accordance with
21 procedures adopted for this purpose by the department
22 of human services.

23 2. If the department of human services determines
24 that a person has committed a crime or has a record of
25 founded child abuse and is licensed, employed by a
26 program licensed under this chapter, or resides in a
27 licensed facility the department shall notify the
28 program that an evaluation will be conducted to
29 determine whether prohibition of the person's
30 licensure, employment, or residence is warranted.

31 3. In an evaluation, the department of human
32 services and the program for an employee of the
33 program shall consider the nature and seriousness of
34 the crime or founded child abuse in relation to the
35 position sought or held, the time elapsed since the
36 commission of the crime or founded child abuse, the
37 circumstances under which the crime or founded child
38 abuse was committed, the degree of rehabilitation, the
39 likelihood that the person will commit the crime or
40 founded child abuse again, and the number of crimes or
41 founded child abuses committed by the person involved.
42 The department of human services has final authority
43 in determining whether prohibition of the person's
44 licensure, employment, or residence is warranted.

45 4. If the department of human services determines
46 that the person has committed a crime or has a record
47 of founded child abuse which warrants prohibition of
48 licensure, employment, or residence, the person shall
49 not be licensed under this chapter to operate a
50 program admitting juveniles and shall not be employed

H-6193

Page 2

1 by a program or reside in a facility admitting
2 juveniles licensed under this chapter.

3 Sec. 2. Section 135H.7, subsection 2, Code
4 Supplement 1989, is amended by striking the subsection
5 and inserting in lieu thereof the following:

6 2. a. If a person is being considered for
7 licensure under this chapter, or for employment
8 involving direct responsibility for a child or with
9 access to a child when the child is alone, by a
10 licensed psychiatric institution, or if a person will
11 reside in a facility utilized by a licensee, and if
12 the person has been convicted of a crime under a law
13 of any state or has a record of founded child abuse,
14 the department of human services and the licensee for
15 an employee of the licensee shall perform an
16 evaluation to determine whether the crime or founded
17 child abuse warrants prohibition of licensure,
18 employment, or residence in the facility. The
19 evaluation shall be performed in accordance with
20 procedures adopted for this purpose by the department
21 of human services.

22 b. If the department of human services determines
23 that a person has committed a crime or has a record of
24 founded child abuse and is licensed, employed by a
25 psychiatric institution licensed under this chapter,
26 or resides in a licensed facility the department shall
27 notify the program that an evaluation will be
28 conducted to determine whether prohibition of the
29 person's licensure, employment, or residence is
30 warranted.

31 c. In an evaluation, the department of human
32 services and the licensee for an employee of the
33 licensee shall consider the nature and seriousness of
34 the crime or founded child abuse in relation to the
35 position sought or held, the time elapsed since the
36 commission of the crime or founded child abuse, the
37 circumstances under which the crime or founded child
38 abuse was committed, the degree of rehabilitation, the
39 likelihood that the person will commit the crime or
40 founded child abuse again, and the number of crimes or
41 founded child abuses committed by the person involved.
42 The department of human services has final authority
43 in determining whether prohibition of the person's
44 licensure, employment, or residence is warranted.

45 4. If the department of human services determines
46 that the person has committed a crime or has a record
47 of founded child abuse which warrants prohibition of
48 licensure, employment, or residence, the person shall
49 not be licensed under this chapter to operate a
50 psychiatric institution and shall not be employed by a

H-6193

Page 3

1 psychiatric institution or reside in a facility

2 licensed under this chapter.

3 Sec. 3. Section 235A.15, subsection 2, paragraph

4 c, Code Supplement 1989, is amended by adding the

5 following new subparagraphs:

6 NEW SUBPARAGRAPH. (6) To an administrator of a
7 child foster care facility licensed under chapter 237
8 if the information concerns a person employed or being
9 considered for employment by the facility.

10 NEW SUBPARAGRAPH. (7) To an administrator of a
11 child day care facility registered or licensed under
12 chapter 237A if the information concerns a person
13 employed or being considered for employment by or
14 living in the facility.

15 NEW SUBPARAGRAPH. (8) To the superintendent of
16 the Iowa Braille and sight-saving school if the
17 information concerns a person employed or being
18 considered for employment or living in the school.

19 NEW SUBPARAGRAPH. (9) To the superintendent of
20 the school for the deaf if the information concerns a
21 person employed or being considered for employment or
22 living in the school.

23 Sec. 4. Section 235A.15, subsection 2, paragraph
24 e, Code Supplement 1989, is amended by adding the
25 following new subparagraphs:

26 NEW SUBPARAGRAPH. (7) To a legally constituted
27 child protection agency in another state if the agency
28 is conducting a records check of a person who is
29 providing care to a child in the other state.

30 NEW SUBPARAGRAPH. (8) To the legally authorized
31 protection and advocacy agency recognized in section
32 135C.2, if a person identified in the information as a
33 victim or a perpetrator of abuse resides in or
34 receives services from a facility or agency because
35 the person is diagnosed as having a developmental
36 disability or a mental illness.

37 Sec. 5. Section 235A.18, subsection 2, unnumbered
38 paragraph 1, Code Supplement 1989, is amended to read
39 as follows:

40 Child abuse information which cannot be determined
41 by a preponderance of the evidence to be founded or
42 unfounded shall be expunged one year after the receipt
43 of the initial report of abuse and child abuse
44 information which is determined by a preponderance of
45 the evidence to be unfounded shall be expunged six
46 ~~months after the receipt of the initial report of~~
47 abuse when it is determined to be unfounded, as a
48 result of any of the following:

49 Sec. 6. Section 235A.18, subsection 3, Code
50 Supplement 1989, is amended to read as follows:

H-6193

Page 4

1 3. However, if a correction of child abuse
2 information is requested under section 235A.19 and the
3 issue is not resolved at the end of the one-year or
4 ~~six-month~~ period, the information shall be retained
5 until the issue is resolved and if the child abuse
6 information is not determined to be founded, the
7 information shall be expunged at the appropriate time
8 under subsection 2.

9 Sec. 7. Section 237.8, subsection 2, Code
10 Supplement 1989, is amended by striking the subsection
11 and inserting in lieu thereof the following:

12 2. a. If a person is being considered for
13 licensure under this chapter, or for employment
14 involving direct responsibility for a child or with
15 access to a child when the child is alone, by a
16 licensee under this chapter, or if a person will
17 reside in a facility utilized by a licensee, and if
18 the person has been convicted of a crime under a law
19 of any state or has a record of founded child abuse,
20 the department and the licensee for an employee of the
21 licensee shall perform an evaluation to determine
22 whether the crime or founded child abuse warrants
23 prohibition of licensure, employment, or residence in
24 the facility. The evaluation shall be performed in
25 accordance with procedures adopted for this purpose by
26 the department.

27 b. If the department determines that a person has
28 committed a crime or has a record of founded child
29 abuse and is licensed, employed by a licensee, or
30 resides in a licensed facility the department shall
31 notify the licensee that an evaluation will be
32 conducted to determine whether prohibition of the
33 person's licensure, employment, or residence is
34 warranted.

35 c. In an evaluation, the department and the
36 licensee for an employee of the licensee shall
37 consider the nature and seriousness of the crime or
38 founded child abuse in relation to the position sought
39 or held, the time elapsed since the commission of the
40 crime or founded child abuse, the circumstances under
41 which the crime or founded child abuse was committed,
42 the degree of rehabilitation, the likelihood that the
43 person will commit the crime or founded child abuse
44 again, and the number of crimes or founded child
45 abuses committed by the person involved. The
46 department has final authority in determining whether
47 prohibition of the person's licensure, employment, or
48 residence is warranted.

49 d. If the department determines that the person
50 has committed a crime or has a record of founded child

H-6193

Page 5

1 abuse which warrants prohibition of licensure,
2 employment, or residence, the person shall not be
3 licensed under this chapter and shall not be employed
4 by a licensee or reside in a licensed facility.

5 Sec. 8. Section 237A.5, subsection 2, Code 1989,
6 is amended by striking the subsection and inserting in
7 lieu thereof the following:

8 2. a. If a person is being considered for
9 licensure or registration under this chapter, or for
10 employment involving direct responsibility for a child
11 or with access to a child when the child is alone, by
12 a child day care facility subject to licensure or
13 registration under this chapter, or if a person will
14 reside in a facility, and if the person has been
15 convicted of a crime under a law of any state or has a
16 record of founded child abuse, the department and the
17 licensee or registrant for an employee of the licensee
18 or registrant shall perform an evaluation to determine
19 whether the crime or founded child abuse warrants
20 prohibition of licensure, registration, employment, or
21 residence in the facility. The evaluation shall be
22 performed in accordance with procedures adopted for
23 this purpose by the department.

24 b. If the department determines that a person has
25 committed a crime or has a record of founded child
26 abuse and is licensed, employed by a licensee or
27 registrant or registered under this chapter, or
28 resides in a licensed or registered facility the
29 department shall notify the licensee or registrant
30 that an evaluation will be conducted to determine
31 whether prohibition of the person's licensure,
32 registration, employment, or residence is warranted.

33 c. In an evaluation, the department and the
34 licensee or registrant for an employee of the licensee
35 or registrant shall consider the nature and
36 seriousness of the crime or founded child abuse in
37 relation to the position sought or held, the time
38 elapsed since the commission of the crime or founded
39 child abuse, the circumstances under which the crime
40 or founded child abuse was committed, the degree of
41 rehabilitation, the likelihood that the person will
42 commit the crime or founded child abuse again, and the
43 number of crimes or founded child abuses committed by
44 the person involved. The department has final
45 authority in determining whether prohibition of the
46 person's licensure, registration, employment, or
47 residence is warranted.

48 d. If the department determines that the person
49 has committed a crime or has a record of founded child
50 abuse which warrants prohibition of licensure,

H-6193

Page 6

1 registration, employment, or residence, the person
2 shall not be licensed or registered under this chapter
3 to operate a child day care facility and shall not be
4 employed by a licensee or registrant or reside in a
5 facility licensed or registered under this chapter.

6 Sec. 9. RULES.

7 The department of human services shall adopt rules
8 pursuant to chapter 17A to implement the provisions of
9 this Act."

RECEIVED FROM THE SENATE

H-6193 FILED APRIL 7, 1990CONCURRED (*p. 2331*)

Child Protection

Teaford, Chair

Nielsen
Haverland
Kistler
Spenner

HOUSE FILE 2504

BY (PROPOSED COMMITTEE ON
HUMAN RESOURCES BILL BY
CHAIRPERSON FEY)

Passed House, Date _____

Passed Senate, Date _____

Vote: Ayes _____ Nays _____

Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to criminal and child abuse record checks
2 concerning facilities providing care to children.

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

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1 Section 1. NEW SECTION. 125.14A PERSONNEL OF A LICENSED
2 PROGRAM ADMITTING JUVENILES.

3 1. If the crime or child abuse activity is contained in
4 the listing adopted by the department of human services
5 pursuant to section 237.8, a person who has been convicted of
6 such a crime under a law of any state or a person with a
7 record of such founded child abuse shall not be employed with
8 direct responsibility for children by a program admitting
9 juveniles which is licensed under this chapter and shall not
10 reside in a facility utilized by the program, unless it is
11 determined by the department of human services, with the
12 assistance of the licensed program, that the crime or founded
13 abuse does not merit prohibition of employment or licensure.

14 2. If a person employed by a program licensed under this
15 chapter is found to have committed such a crime or such child
16 abuse, the department of human services shall notify the
17 program that an evaluation will be conducted to determine
18 whether prohibition of the person's employment is merited.

19 3. In its evaluation, the department of human services
20 shall consider the nature and seriousness of the crime or
21 founded abuse in relation to the position sought, the time
22 elapsed since the commission of the crime or founded abuse,
23 the circumstances under which the crime or founded abuse was
24 committed, the degree of rehabilitation, and the number of
25 crimes or founded abuses committed by the person involved.

26 Sec. 2. Section 135H.7, subsection 2, Code Supplement
27 1989, is amended to read as follows:

28 2. a. A If the crime or child abuse activity is contained
29 in the listing adopted by the department of human services
30 pursuant to section 237.8, a person who has been convicted of
31 such a criminal act involving a child under a law of any state
32 or who has a record of such founded child abuse shall not be
33 licensed, be employed by a licensee with direct responsibility
34 for children, or reside in a licensed home psychiatric
35 institution unless the department of human services, with the

1 assistance of the licensee for an employee of the licensee,
2 determines that the crime or founded abuse does not merit
3 prohibition of licensure or employment.

4 b. If a person employed by a licensee is found to have
5 committed such a crime or such child abuse, the department of
6 human services shall notify the licensee that an evaluation
7 will be conducted to determine whether prohibition of em-
8 ployment is merited.

9 c. In its determination, the department of human services
10 shall consider the nature and seriousness of the crime or
11 founded abuse in relation to the position sought, the time
12 elapsed since the commission of the crime or founded abuse,
13 the circumstances under which the crime or founded abuse was
14 committed, the degree of rehabilitation, and the number of
15 crimes or founded abuses committed by the person involved.

16 Sec. 3. Section 232.71, Code Supplement 1989, is amended
17 by adding the following new subsection:

18 NEW SUBSECTION. 18. The department shall establish a
19 unit, which is independently administered from other units of
20 the department which license and regulate facilities listed in
21 this subsection, to perform child abuse investigations
22 concerning employees of the facilities listed in this
23 subsection:

24 a. An agency, as defined in section 237.1, which is
25 licensed to provide foster care.

26 b. A health care facility licensed under chapter 135C.

27 c. A juvenile detention home or juvenile shelter home
28 approved by the director of the department of human services
29 pursuant to section 232.142.

30 d. A hospital licensed under chapter 135B.

31 e. A state juvenile institution.

32 f. A psychiatric medical institution for children licensed
33 under chapter 135H.

34 g. A substance abuse treatment program or facility
35 licensed under chapter 125.

1 Sec. 4. Section 235A.15, subsection 2, paragraph c, Code
2 Supplement 1989, is amended by adding the following new
3 subparagraphs:

4 NEW SUBPARAGRAPH. (6) To an administrator of a child
5 foster care facility licensed under chapter 237 if the
6 information concerns a person employed by the facility.

7 NEW SUBPARAGRAPH. (7) To an administrator of a child day
8 care facility registered or licensed under chapter 237A if the
9 information concerns a person employed by or living in the
10 facility.

11 Sec. 5. Section 235A.15, subsection 2, paragraph e, Code
12 Supplement 1989, is amended by adding the following new
13 subparagraph:

14 NEW SUBPARAGRAPH. (7) To a legally constituted child
15 protection agency in another state if the agency is conducting
16 a records check of a person who is providing care to a child
17 in the other state.

18 Sec. 6. Section 237.8, subsection 2, Code Supplement 1989,
19 is amended to read as follows:

20 2. a. A person who has been convicted of a crime under a
21 law of any state or a person with a record of founded child
22 abuse shall not be licensed, be employed with direct
23 responsibility for children by a licensee, or reside in a
24 licensed home unless an evaluation of the crime or founded
25 abuse has been made by the department of human services, with
26 the assistance of the licensee for an employee of the
27 licensee, which concludes that the crime or founded abuse does
28 not merit prohibition of employment or licensure. The
29 department shall adopt rules pursuant to chapter 17A listing
30 the specific crimes and founded child abuse activities which
31 require evaluation in order to determine whether prohibition
32 of a person's employment or licensure is merited.

33 b. If a person employed by a licensee is found to have
34 committed such a crime or such child abuse, the department
35 shall notify the licensee that an evaluation will be conducted

1 to determine whether prohibition of the person's employment is
2 merited.

3 c. In its evaluation, the department shall consider the
4 nature and seriousness of the crime or founded abuse in
5 relation to the position sought, the time elapsed since the
6 commission of the crime or founded abuse, the circumstances
7 under which the crime or founded abuse was committed, the
8 degree of rehabilitation, and the number of crimes or founded
9 abuses committed by the person involved.

10 Sec. 7. Section 237A.5, subsection 2, Code 1989, is
11 amended to read as follows:

12 2. a. If the crime or child abuse activity is contained
13 in the listing adopted by the department of human services
14 pursuant to section 237.8, a person who has been convicted of
15 such a crime under a law of any state or a person with a
16 record of such founded child abuse shall not own or operate or
17 be employed as a staff member, with direct responsibility for
18 child care, of a child day care facility,--as-defined-in
19 section-237A:17-subsection-107, and shall not live in a child
20 day care facility unless an evaluation of the crime or founded
21 abuse has been made by the department of human services, with
22 the assistance of the facility for an employee of the
23 facility, which concludes that the crime or founded abuse does
24 not merit prohibition of employment, licensure, or
25 registration.

26 b. If a person employed by a facility is found to have
27 committed such a crime or such child abuse, the department
28 shall notify the facility that an evaluation will be conducted
29 to determine whether prohibition of the person's employment is
30 merited.

31 c. In its evaluation, the department shall consider the
32 nature and seriousness of the crime or founded abuse in
33 relation to the position sought, the time elapsed since the
34 commission of the crime or founded abuse, the circumstances
35 under which the crime or founded abuse was committed, the

1 degree of rehabilitation, and the number of crimes or founded
2 abuses committed by the person involved.

3 Sec. 8. RULES.

4 The department of human services shall adopt rules pursuant
5 to chapter 17A to implement the provisions of sections 2
6 through 7 of this Act.

7 EXPLANTATION

8 This bill relates to criminal and child abuse record checks
9 concerning facilities providing care to children. The
10 department of human services is required to establish a unit
11 within the department which is separately administered from
12 other units of the department, to license and regulate certain
13 agencies providing care to children. The unit is to conduct
14 child abuse investigations concerning staff of those agencies.

15 Child abuse information is authorized to be released to an
16 administrator of a licensed foster care facility if the
17 information concerns a person employed by the facility. Child
18 abuse information is authorized to be released to an
19 administrator of a licensed or registered child day care
20 facility if the information concerns a person employed by or
21 living in the child day care facility. Information may also
22 be released to a child protection agency in another state if
23 the agency is conducting a records check of a person providing
24 care to a child in the other state.

25 When an employee of a licensed substance program,
26 psychiatric medical institution for children, licensed foster
27 care facility, or child day care facility has been found to
28 have committed a crime or child abuse, the department of human
29 services is required to notify the facility that it is
30 conducting an evaluation to determine whether the crime or
31 abuse merits prohibition of employment. The employer may
32 assist with the evaluation, however, the department retains
33 authority to determine whether employment is prohibited. The
34 department is required to adopt rules specifying crimes or
35 child abuse activities which should result in prohibition of

1 employment, and otherwise implementing the bill.

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HOUSE FILE 2504

AN ACT
RELATING TO CRIMINAL AND CHILD ABUSE RECORD CHECKS CONCERNING
FACILITIES PROVIDING CARE TO CHILDREN.

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

Section 1. NEW SECTION. 125.14A PERSONNEL OF A LICENSED
PROGRAM ADMITTING JUVENILES.

1. If a person is being considered for licensure under this chapter, or for employment involving direct responsibility for a child or with access to a child when the child is alone, by a program admitting juveniles subject to licensure under this chapter, or if a person will reside in a facility utilized by such a program, and if the person has been convicted of a crime under a law of any state or has a record of founded child abuse, the department of human services and the program for an employee of the program shall perform an evaluation to determine whether the crime or founded child abuse warrants prohibition of licensure, employment, or residence in the facility. The evaluation shall be performed in accordance with procedures adopted for this purpose by the department of human services.

2. If the department of human services determines that a person has committed a crime or has a record of founded child abuse and is licensed, employed by a program licensed under this chapter, or resides in a licensed facility the department shall notify the program that an evaluation will be conducted to determine whether prohibition of the person's licensure, employment, or residence is warranted.

3. In an evaluation, the department of human services and the program for an employee of the program shall consider the nature and seriousness of the crime or founded child abuse in relation to the position sought or held, the time elapsed since the commission of the crime or founded child abuse, the

circumstances under which the crime or founded child abuse was committed, the degree of rehabilitation, the likelihood that the person will commit the crime or founded child abuse again, and the number of crimes or founded child abuses committed by the person involved. The department of human services has final authority in determining whether prohibition of the person's licensure, employment, or residence is warranted.

4. If the department of human services determines that the person has committed a crime or has a record of founded child abuse which warrants prohibition of licensure, employment, or residence, the person shall not be licensed under this chapter to operate a program admitting juveniles and shall not be employed by a program or reside in a facility admitting juveniles licensed under this chapter.

Sec. 2. Section 135H.7, subsection 2, Code Supplement 1989, is amended by striking the subsection and inserting in lieu thereof the following:

2. a. If a person is being considered for licensure under this chapter, or for employment involving direct responsibility for a child or with access to a child when the child is alone, by a licensed psychiatric institution, or if a person will reside in a facility utilized by a licensee, and if the person has been convicted of a crime under a law of any state or has a record of founded child abuse, the department of human services and the licensee for an employee of the licensee shall perform an evaluation to determine whether the crime or founded child abuse warrants prohibition of licensure, employment, or residence in the facility. The evaluation shall be performed in accordance with procedures adopted for this purpose by the department of human services.

b. If the department of human services determines that a person has committed a crime or has a record of founded child abuse and is licensed, employed by a psychiatric institution licensed under this chapter, or resides in a licensed facility the department shall notify the program that an evaluation will be conducted to determine whether prohibition of the person's licensure, employment, or residence is warranted.

c. In an evaluation, the department of human services and the licensee for an employee of the licensee shall consider the nature and seriousness of the crime or founded child abuse in relation to the position sought or held, the time elapsed since the commission of the crime or founded child abuse, the circumstances under which the crime or founded child abuse was committed, the degree of rehabilitation, the likelihood that the person will commit the crime or founded child abuse again, and the number of crimes or founded child abuses committed by the person involved. The department of human services has final authority in determining whether prohibition of the person's licensure, employment, or residence is warranted.

3. If the department of human services determines that the person has committed a crime or has a record of founded child abuse which warrants prohibition of licensure, employment, or residence, the person shall not be licensed under this chapter to operate a psychiatric institution and shall not be employed by a psychiatric institution or reside in a facility licensed under this chapter.

Sec. 3. Section 235A.15, subsection 2, paragraph c, Code Supplement 1989, is amended by adding the following new subparagraphs:

NEW SUBPARAGRAPH. (6) To an administrator of a child foster care facility licensed under chapter 237 if the information concerns a person employed or being considered for employment by the facility.

NEW SUBPARAGRAPH. (7) To an administrator of a child day care facility registered or licensed under chapter 237A if the information concerns a person employed or being considered for employment by or living in the facility.

NEW SUBPARAGRAPH. (8) To the superintendent of the Iowa Braille and sight-saving school if the information concerns a person employed or being considered for employment or living in the school.

NEW SUBPARAGRAPH. (9) To the superintendent of the school for the deaf if the information concerns a person employed or being considered for employment or living in the school.

Sec. 4. Section 235A.15, subsection 2, paragraph e, Code Supplement 1989, is amended by adding the following new subparagraphs:

NEW SUBPARAGRAPH. (7) To a legally constituted child protection agency in another state if the agency is conducting a records check of a person who is providing care to a child in the other state.

NEW SUBPARAGRAPH. (8) To the legally authorized protection and advocacy agency recognized in section 135C.2, if a person identified in the information as a victim or a perpetrator of abuse resides in or receives services from a facility or agency because the person is diagnosed as having a developmental disability or a mental illness.

Sec. 5. Section 235A.18, subsection 2, unnumbered paragraph 1, Code Supplement 1989, is amended to read as follows:

Child abuse information which cannot be determined by a preponderance of the evidence to be founded or unfounded shall be expunged one year after the receipt of the initial report of abuse and child abuse information which is determined by a preponderance of the evidence to be unfounded shall be ~~expunged six-months-after-the-receipt-of-the-initial-report-of~~ expunged when it is determined to be unfounded, as a result of any of the following:

Sec. 6. Section 235A.18, subsection 3, Code Supplement 1989, is amended to read as follows:

3. However, if a correction of child abuse information is requested under section 235A.19 and the issue is not resolved at the end of the one-year or six-month period, the information shall be retained until the issue is resolved and if the child abuse information is not determined to be founded, the information shall be expunged at the appropriate time under subsection 2.

Sec. 7. Section 237.8, subsection 2, Code Supplement 1989, is amended by striking the subsection and inserting in lieu thereof the following:

2. a. If a person is being considered for licensure under this chapter, or for employment involving direct responsibility for a child or with access to a child when the child is alone, by a licensee under this chapter, or if a person will reside in a facility utilized by a licensee, and if the person has been convicted of a crime under a law of any state or has a record of founded child abuse, the department and the licensee for an employee of the licensee shall perform an evaluation to determine whether the crime or founded child abuse warrants prohibition of licensure, employment, or residence in the facility. The evaluation shall be performed in accordance with procedures adopted for this purpose by the department.

b. If the department determines that a person has committed a crime or has a record of founded child abuse and is licensed, employed by a licensee, or resides in a licensed facility the department shall notify the licensee that an evaluation will be conducted to determine whether prohibition of the person's licensure, employment, or residence is warranted.

c. In an evaluation, the department and the licensee for an employee of the licensee shall consider the nature and seriousness of the crime or founded child abuse in relation to the position sought or held, the time elapsed since the commission of the crime or founded child abuse, the circumstances under which the crime or founded child abuse was committed, the degree of rehabilitation, the likelihood that the person will commit the crime or founded child abuse again, and the number of crimes or founded child abuses committed by the person involved. The department has final authority in determining whether prohibition of the person's licensure, employment, or residence is warranted.

d. If the department determines that the person has committed a crime or has a record of founded child abuse which warrants prohibition of licensure, employment, or residence, the person shall not be licensed under this chapter and shall not be employed by a licensee or reside in a licensed facility.

Sec. 8. Section 237A.5, subsection 2, Code 1989, is amended by striking the subsection and inserting in lieu thereof the following:

2. a. If a person is being considered for licensure or registration under this chapter, or for employment involving direct responsibility for a child or with access to a child when the child is alone, by a child day care facility subject to licensure or registration under this chapter, or if a person will reside in a facility, and if the person has been convicted of a crime under a law of any state or has a record of founded child abuse, the department and the licensee or registrant for an employee of the licensee or registrant shall perform an evaluation to determine whether the crime or founded child abuse warrants prohibition of licensure, registration, employment, or residence in the facility. The evaluation shall be performed in accordance with procedures adopted for this purpose by the department.

b. If the department determines that a person has committed a crime or has a record of founded child abuse and is licensed, employed by a licensee or registrant or registered under this chapter, or resides in a licensed or registered facility the department shall notify the licensee or registrant that an evaluation will be conducted to determine whether prohibition of the person's licensure, registration, employment, or residence is warranted.

c. In an evaluation, the department and the licensee or registrant for an employee of the licensee or registrant shall consider the nature and seriousness of the crime or founded child abuse in relation to the position sought or held, the time elapsed since the commission of the crime or founded child abuse, the circumstances under which the crime or founded child abuse was committed, the degree of rehabilitation, the likelihood that the person will commit the crime or founded child abuse again, and the number of crimes or founded child abuses committed by the person involved. The department has final authority in determining whether prohibition of the person's licensure, registration, employment, or residence is warranted.

d. If the department determines that the person has committed a crime or has a record of founded child abuse which warrants prohibition of licensure, registration, employment, or residence, the person shall not be licensed or registered under this chapter to operate a child day care facility and shall not be employed by a licensee or registrant or reside in a facility licensed or registered under this chapter.

Sec. 9. RULES.

The department of human services shall adopt rules pursuant to chapter 17A to implement the provisions of this Act.

DONALD D. AVENSON
Speaker of the House

JO ANN ZIMMERMAN
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2504, Seventy-third General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved April 30, 1990

TERRY E. BRANSTAD
Governor