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MAR 21 1989

HOUSE FILE 690

Place On Calendar

BY COMMITTEE ON JUDICIARY AND
LAW ENFORCEMENT

(SUCCESSOR TO HF 411)

Passed House, Date 4-3-89 (p. 1191) Passed Senate, Date _____
Vote: Ayes 98 Nays 0 Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the protection of children, by modifying
2 provisions relating to a child in need of assistance, child
3 abuse, and termination of parental rights, and providing for a
4 procedure relating to courtroom testimony of children.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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3625-

HF 690

HOUSE FILE 690

H-3563

1 Amend House File 690 as follows:
2 1. Page 2, line 6, by inserting after the word
3 "child." the following: "However, "observation" of a
4 male child may include viewing the child's breast."
By SPEAR of Lee

H-3563 FILED MARCH 23, 1989 Adopted 3-28-89 (p. 1049)

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1 Section 1. Section 232.2, subsection 6, paragraphs b, c,
2 and h, Code 1989, are amended to read as follows:

3 b. Whose parent, guardian ~~or~~, other custodian, or other
4 member of the household in which the child resides has
5 physically abused or neglected the child, or is imminently
6 likely to abuse or neglect the child.

7 c. Who has suffered or is imminently likely to suffer
8 harmful effects as a result of either of the following:

9 (1) ~~Conditions-created~~ Serious emotional maltreatment
10 inflicted upon the child by the child's parent, guardian, or
11 custodian; or which results in a mental injury.

12 (2) The failure of the child's parent, guardian, or
13 custodian, or other member of the household in which the child
14 resides to exercise a reasonable degree of care in supervising
15 the child.

16 h. Who has committed a delinquent act as a result of
17 pressure, guidance, or approval from a parent, guardian, or
18 custodian, or other member of the household in which the child
19 resides.

20 Sec. 2. Section 232.2, Code 1989, is amended by adding the
21 following new subsection:

22 NEW SUBSECTION. 21A. "Imminent risk to a child's life or
23 health" means a substantial risk of harm to a child where the
24 child's safety cannot be assured.

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25 Sec. 3. Section 232.68, Code 1989, is amended by adding
26 the following new subsection 3 and renumbering the subsequent
27 subsections as necessary:

28 NEW SUBSECTION. 3. "Confidential access to a child" means
29 access to a child, during an investigation of an alleged act
30 of child abuse, who is alleged to be the victim of the child
31 abuse. The access may be accomplished by interview,
32 observation, inspection, or examination of the child. As used
33 in this subsection:

34 a. "Interview" means the verbal exchange between the
35 department investigator and the child for the purpose of

1 developing information necessary to protect the child.

2 b. "Observation" means the direct physical viewing without
3 touching the child by the department investigator, or by a
4 person acting on behalf of the investigator, limited to
5 viewing the child's body other than the genitalia, pubes,
3563 - 6 abdomen, inner thigh, groin, buttocks, or breast of the child.

7 c. "Inspection" means direct physical viewing without
8 touching the child's body by the department investigator,
9 limited to viewing the child's body other than the genitalia
10 or pubes of the child.

11 d. "Examination" means direct physical viewing, touching,
12 and medically necessary manipulation of any area of the
13 child's body by a physician licensed under chapter 148 or
14 150A.

15 Sec. 4. Section 232.68, subsection 6, Code 1989, is
16 amended by adding the following new paragraph:

17 NEW PARAGRAPH. d. Any person providing care for a child,
18 but with whom the child does not reside, without reference to
19 the duration of the care.

20 Sec. 5. Section 232.69, subsection 1, paragraphs a and b,
21 Code 1989, are amended to read as follows:

347 22 a. Every health practitioner who in the scope of
23 professional practice, examines, attends, or treats a child
24 person and who reasonably believes the a child has been
25 abused. Notwithstanding section 140.3, this provision applies
26 to a health practitioner who receives information confirming
27 that a child is infected with a sexually transmitted disease.

28 b. Every self-employed social worker, every social worker
29 under the jurisdiction of the department of human services,
30 any social worker employed by a public or private agency or
31 institution, public or private health care facility as defined
32 in section 135C.1, certified psychologist, certificated school
33 employee, employee or operator of a licensed child care center
34 or registered group day care home or registered family day
35 care home, individual licensee under chapter 237, member of

1 the staff of a mental health center, peace officer, dental
2 hygienist, counselor, paramedic, or mental health
3 professional, who, in the ~~course-of-employment~~ scope of
4 professional practice or in providing child foster care,
3647-5 examines, attends, counsels or treats a child person and
6 reasonably believes a child has suffered abuse.

7 Sec. 6. Section 232.71, subsection 1, Code 1989, is
8 amended to read as follows:

9 1. Whenever a report is determined to constitute a child
10 abuse allegation, the department of human services shall
11 promptly commence an appropriate investigation. The primary
12 purpose of this investigation shall be the protection of the
13 child named in the report. The department, within five
14 working days of commencing the investigation, shall provide
15 written notification of the investigation to the child's
16 parents. The department may provide oral notification of the
17 investigation to a person who expresses concern about the
18 child's safety to the department. However, if the department
19 shows the court to the court's satisfaction that notification
20 is likely to endanger the child or other persons, the court
21 shall issue an emergency order restraining the notification.

22 Sec. 7. Section 232.71, subsection 2, Code 1989, is
23 amended by adding the following new paragraph:

24 NEW PARAGRAPH. e. An interview of the person alleged to
25 have committed the child abuse, if the person's identity and
26 location are known, to afford the person the opportunity to
27 address the allegations of the child abuse report. The
28 interview shall be conducted, or an opportunity for an
29 interview shall be provided, prior to a determination of child
30 abuse being made. The court may waive the requirement of the
31 interview for good cause.

32 Sec. 8. Section 232.71, subsection 3, Code 1989, is
33 amended to read as follows:

34 3. The investigation may, with the consent of the parent
35 or guardian, include a visit to the home of the child ~~or with~~

~~the consent of one parent or of a facility include a visit
to the facility providing care to the child named in the
report and examination an interview, observation, or
inspection of the child may be conducted. If permission to
enter the home ~~or facility~~ and to examine interview, observe,
or inspect the child is refused, the juvenile court or
district court upon a showing of probable cause may authorize
the person making the investigation to enter the home ~~or~~
facility and examine interview, observe, or inspect the child.
The department may utilize a multidisciplinary team in
investigations of child abuse involving ~~employees or agents of~~
a ~~facility providing care for a child~~.~~

344-13 Sec. 9. Section 232.71, subsection 4, Code 1989, is
14 amended by striking the subsection and inserting in lieu
15 thereof the following:

344-16 4. The investigation may include a visit to a facility
17 providing care to the child named in the report or to any
18 public or private school subject to the authority of the
19 department of education where the child named in the report is
20 located. The administrator of a facility, or a public or
21 private school shall cooperate with the investigator by
22 providing confidential access to the child named in the report
23 for the purpose of interviewing and observing the child, and
24 shall allow the investigator confidential access to other
25 children in order to obtain information relevant to the
26 interview. The investigator shall determine who shall be
27 present during the interview or observation. The investigator
28 may inspect a child named in a report with the consent of the
29 parent, guardian, or facility or school administrator. A
30 witness shall be present during an inspection of a child. If
31 permission to inspect is refused, the juvenile or district
32 court, upon a showing of probable cause, may authorize the
33 investigator to enter the facility or school and inspect the
34 child. Facility and school administrators are under no duty
35 to report the interview, observation, or inspection of the

1 child to the child's parent or guardian. Any child age ten
2 years of age or older can terminate contact with the
3 investigator by stating or indicating the child's wish to
4 discontinue the contact. The immunity granted by section
5 232.73 applies to such administrators and their facilities or
6 school districts for cooperating in an investigation and
7 allowing confidential access to a child. The department may
8 utilize a multidisciplinary team to conduct investigations of
9 child abuse involving employees or agents of a facility
10 providing care for a child.

11 Sec. 10. Section 232.71, subsection 5, Code 1989, is
12 amended to read as follows:

13 5. The department of human services may request
14 information from any person believed to have knowledge of a
15 child abuse case. The county attorney, any law enforcement or
16 social services agency in the state, and any mandatory
17 reporter, whether or not the reporter made the specific child
18 abuse report, shall cooperate and assist in the investigation
19 upon the request of the department of human services. The
20 county attorney and appropriate law enforcement agencies shall
21 also take any other lawful action which may be necessary or
22 advisable for the protection of the child.

3644 23 Sec. 11. Section 232.71, subsection 6, Code 1989, is
24 amended by striking the subsection.

25 Sec. 12. Section 232.71, subsection 7, Code 1989, is
26 amended to read as follows:

27 7. The department, upon completion of its investigation,
28 shall make a preliminary report of its investigation as
29 required by subsection 2. A copy of this report shall be
30 transmitted to juvenile court within ~~ninety-six-hours~~ four
31 regular working days after the department initially receives
32 the abuse report unless the juvenile court grants an extension
33 of time for good cause shown. If the preliminary report is
34 not a complete report, a complete report shall be filed within
35 ten working days of the receipt of the abuse report, unless

1 the juvenile court grants an extension of time for good cause
2 shown. The department shall notify a subject of the report of
3 the result of the investigation, of the subject's right to
4 correct the information pursuant to section 235A.19, and of
5 the procedures to correct the information. The juvenile court
6 shall notify the registry of any action it takes with respect
7 to a suspected case of child abuse.

8 Sec. 13. Section 232.71, subsection 11, Code 1989, is
9 amended to read as follows:

10 11. If, upon completion of the investigation, the
11 department of human services determines that the best
12 interests of the child require juvenile court action, the
13 department shall take the appropriate action to initiate such
14 action under this chapter. The county attorney shall assist
15 the county department of human services ~~in-the-preparation-of~~
16 ~~the-necessary-papers-to-initiate-such-action-and-shall-appear~~
17 ~~and-represent-the-department-at-all-juvenile-court-proceedings~~
18 as provided under section 232.90, subsection 2.

19 Sec. 14. Section 232.71, Code 1989, is amended by adding
20 the following new subsection:

21 NEW SUBSECTION. 17. In each county or multicounty area in
22 which more than fifty child abuse reports are made per year,
23 the department shall establish a multidisciplinary team to
24 assist the department. The multidisciplinary team shall
25 assist the department in the assessment, diagnosis, and
26 disposition of a child abuse report and shall be notified by
27 the department to review any founded case of child abuse. A
28 multidisciplinary team is required to include members
29 representing professions relating to health, mental health,
30 child development, and law.

31 Sec. 15. Section 232.78, subsection 1, unnumbered
32 paragraph 1 and paragraphs a and b, Code 1989, are amended to
33 read as follows:

34 The juvenile court may enter an ex parte order directing a
35 peace officer to ~~remove-a-child-from-the-child's-home-or-a~~

1 ~~child-day-care-facility~~ take custody of a child before or
2 after the filing of a petition under this chapter provided all
3 of the following apply:

4 a. The ~~parent, guardian, legal custodian, or employee of~~
5 ~~the child-day-care-facility~~ person responsible for the care of
6 the child is absent, or though present, was asked and refused
7 to consent to the removal of the child and was informed of an
8 intent to apply for an order under this section, ~~or the~~
9 ~~parent, guardian, or legal custodian has a prior instance of~~
10 ~~flight to avoid a child abuse investigation~~ or there is
11 reasonable cause to believe that a request for consent would
12 further endanger the child, or there is reasonable cause to
13 believe that a request for consent will cause the parent,
14 guardian, or legal custodian to take flight with the child.

15 b. It appears that the child's immediate removal is
16 necessary to avoid imminent danger risk to the child's life or
17 health.

18 Sec. 16. Section 232.79, subsection 1, unnumbered
19 paragraph 1 and paragraph a, Code 1989, are amended to read as
20 follows:

21 A peace officer may ~~remove a child from the child's home or~~
22 ~~a child-day-care-facility~~ take a child into custody or a
23 physician treating a child may keep the child in custody
24 without a court order as required under section 232.78 and
25 without the consent of a parent, guardian, or custodian
26 provided that both of the following apply:

27 a. The child is in such a circumstance or condition that
28 ~~the child's continued presence in the residence or the child~~
29 ~~day-care-facility or in the care or custody of the parent,~~
30 ~~guardian, or custodian~~ presents an imminent danger risk to the
31 child's life or health.

32 Sec. 17. Section 232.90, Code 1989, is amended to read as
33 follows:

34 232.90 DUTIES OF COUNTY ATTORNEY.

35 1. The county attorney shall represent the state in

1 proceedings arising from a petition filed under this division
2 and shall present evidence in support of the petition. The
3 county attorney shall be present at proceedings initiated by
4 petition under this division filed by an intake officer or the
5 county attorney, or if a party to the proceedings contests the
6 proceedings, or if the court determines there is a conflict of
7 interest between the child and the child's parent, guardian,
8 or custodian or if there are contested issues before the
9 court.

10 2. The county attorney shall represent the department in
11 proceedings arising under this division. However, if the
12 perspective of the department and county attorney differ, the
13 department may request to be represented by the attorney
14 general in place of the county attorney.

15 Sec. 18. Section 232.92, Code 1989, is amended by striking
16 the section and inserting in lieu thereof the following:

17 232.92 EXCLUSION OF PUBLIC FROM HEARINGS.

18 Hearings held under this division are open to the public
19 unless the court, on the motion of any of the parties or upon
20 the court's own motion, excludes the public. The court shall
21 exclude the public from a hearing if the court determines that
22 the possibility of damage or harm to the child outweighs the
23 public's interest in having an open hearing. Upon closing the
24 hearing to the public, the court may admit those persons who
25 have direct interest in the case or in the work of the court.

26 Sec. 19. Section 232.114, Code 1989, is amended to read as
27 follows:

28 232.114 DUTIES OF COUNTY ATTORNEY.

29 1. Upon the filing of a petition the county attorney shall
30 represent the state in all adversary proceedings arising under
31 this division and shall present evidence in support of the
32 petition.

33 2. The county attorney shall represent the department in
34 proceedings arising under this division. However, if the
35 perspective of the department and county attorney differ, the

1 department may request to be represented by the attorney
2 general in place of the county attorney.

3 Sec. 20. Section 232.117, Code 1989, is amended by adding
4 the following new subsection:

5 NEW SUBSECTION. 8. Hearings held under this division are
6 open to the public unless the court, on the motion of any of
7 the parties or upon the court's own motion, excludes the
8 public. The court shall exclude the public from a hearing if
9 the court determines that the possibility of damage or harm to
10 the child outweighs the public's interest in having a public
11 hearing. Upon closing the hearing, the court may admit
12 persons who have a direct interest in the case or in the work
13 of the court.

14 Sec. 21. Section 235A.15, subsection 2, paragraph c, Code
15 1989, is amended by adding the following new subparagraphs:

16 NEW SUBPARAGRAPH. (5) To an employee of an educational
17 institution who is responsible for the education of the child.

18 NEW SUBPARAGRAPH. (6) To a person developing or
19 implementing a case permanency plan for a child or the child's
20 family, including the child's foster parents.

21 NEW SUBPARAGRAPH. (7) To a person providing health care
22 or treatment to the child or members of the child's family.

23 NEW SUBPARAGRAPH. (8) To the citizens' aide.

24 NEW SUBPARAGRAPH. (9) To a person providing public health
25 services to a child or the child's family.

3626 Sec. 22. Section 235A.18, subsection 2, unnumbered
27 paragraph 1, Code 1989, is amended to read as follows:

28 Child abuse information which cannot be determined by a
29 preponderance of the evidence to be founded or unfounded shall
30 be expunged one year after the receipt of the initial report
31 of abuse, and child abuse information which is determined by a
32 preponderance of the evidence to be unfounded shall be
33 expunged six-months thirty days after ~~the receipt of the~~
34 ~~initial report of abuse~~ determination, as a result of any of
35 the following:

1 Sec. 23. Section 235A.18, subsection 2, Code 1989, is
2 amended by adding the following new unnumbered paragraph
3 following paragraph c:

4 NEW UNNUMBERED PARAGRAPH. The juvenile or district court
5 and county attorney shall expunge child abuse information upon
6 notice from the registry.

7 Sec. 24. Section 235A.19, subsection 2, Code 1989, is
8 amended to read as follows:

9 2. a. A person may file with the department within six
10 months of the date of the notice of the results of an
11 investigation required by section 232.71, subsection 7, a
12 written statement to the effect that child abuse information
13 referring to the person is in whole or in part erroneous, and
14 may request a correction of that information or of the
15 findings of the investigation report. The department shall
16 provide the person with an opportunity for an evidentiary
17 hearing pursuant to chapter 17A to correct the information or
18 the findings, unless the department corrects the information
19 or findings as requested. The department shall delay the
20 expungement of information which is not determined to be
21 founded until the conclusion of a proceeding to correct the
22 information or findings. The department may defer the hearing
23 until the conclusion of a pending juvenile or district court
24 case relating to the information or findings.

25 b. The department shall not disclose any child abuse
26 information until the conclusion of the proceeding to correct
27 the information or findings, except as follows:

28 (1) As necessary for the proceeding itself.

29 (2) To the parties and attorneys involved in a judicial
30 proceeding.

31 (3) For the regulation of child care or child placement.

32 (4) Pursuant to court order.

33 (5) To the subject of an investigation.

34 (6) For the care or treatment of a child named in a report
35 as a victim of abuse.

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1 Sec. 25. Section 910A.14, subsection 2, Code 1989, is
2 amended to read as follows:

3 2. The court may, upon its own motion, upon motion of a
4 party, or at the request of the victim, after hearing upon
5 notice to all parties, may order that the testimony of a
6 victim or witness who is a child, as defined in section 702.5,
7 be taken by recorded stenographic or videotape deposition for
8 use at trial,--pursuant-to-rule-of-criminal-procedure-12(2)(b).

9 The order shall include specific findings of fact and be based
10 upon specific behavioral indicators exhibited by the child
11 that the child will either refuse to testify in open court,
12 will be unable to communicate because of extreme fear or
13 failure of memory, or that a substantial likelihood exists
14 that the child will suffer serious emotional trauma if
15 compelled to testify in open court.

16 The factors that the court may consider include, but are
17 not limited to, the child's age, level of development, and
18 general health; the nature of the events relating to the
19 testimony; the child's custodial situation, attitude of other
20 household members concerning the testimony, and relationship
21 to those involved in the case; the child's behavior at
22 previous interviews; the child's belief regarding the
23 consequences of the testimony; the child's manifestations of
24 posttraumatic stress behaviors; the number of proceedings
25 during which the testimony may be required; and whether the
26 testimony will be inherently unreliable if compelled in open
27 court.

28 Only the judge, parties, counsel, persons necessary to
29 record the deposition, and any person whose presence in the
30 opinion of the court would contribute to the welfare and well-
31 being of the child may be present in the room with the child
32 during the deposition. The court may order that the defendant
33 be situated so that the child cannot see or hear the defendant
34 if the court, after making a specific finding of fact, finds
35 that requiring the child to hear and see the defendant

1 presents a substantial risk of trauma to the child which would
2 make the child unable to testify or suffer serious emotional
3 trauma.

4 If the stenographic or videotape recording is admitted at
5 trial, the child need not but may testify in court upon
6 application of either party, and order of court.

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EXPLANATION

8 This bill amends the definition of child in need of
9 assistance by including mental injury resulting from serious
10 emotional maltreatment, and including "imminent risk to a
11 child's life or health" to the list of definitions of terms
12 used in Code chapter 232. "Confidential access to a child" is
13 included in the provisions relating to child in need of
14 assistance proceedings. Four types of access are delineated.

15 The bill expands the definition of persons responsible for
16 the care of the child to include those delegated temporary
17 care for the child, but with whom the child does not reside.
18 The bill imposes greater responsibilities on mandatory
19 reporters, including the obligation to report infection of a
20 child with sexually transmitted diseases.

21 The bill provides that the department of human services
22 shall provide notice to certain persons of the commencement of
23 a child abuse investigation, unless the notice is waived by
24 the court. A person alleged to have committed child abuse is
25 to be interviewed, or allowed an opportunity to be
26 interviewed, prior to a determination of child abuse is made.

27 The bill provides for visiting the child's home, a faculty
28 providing care to the child, or the child's school for
29 purposes of conducting the investigation of alleged child
30 abuse. A mandatory reporter's responsibility to cooperate
31 with the department in the investigation of a child abuse case
32 is clarified.

33 The bill extends the filing period for preliminary child
34 abuse reports from ninety-six hours to four working days, and
35 amends the duties of the county attorney to assist the

1 department.

2 The bill establishes a multidisciplinary team to assist the
3 department in investigating child abuse in certain geographic
4 areas. A peace officer is granted authority to take custody
5 of a child under certain circumstances in order to protect the
6 child. The court is empowered to exclude the public from
7 child abuse hearings.

8 The bill expands persons allowed access to child abuse
9 information, requires the expungement of founded and unfounded
10 child abuse information at certain time intervals, and limits
11 the disclosure of certain child abuse information.

12 The bill provides for the out-of-court deposition testimony
13 of children witnesses and victims.

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HOUSE FILE 690

H-3626

- 1 Amend House File 690 as follows:
- 2 1. Page 9, by striking lines 26 through 35.
- 3 2. Renumber as necessary.

By BENNETT of Ida

H-3626 FILED MARCH 27, 1989

adopted 3-28-89 (p. 1049)

HOUSE FILE 690

H-3623

- 1 Amend House File 690 as follows:
- 2 1. Page 1, by inserting after line 24 the
- 3 following:
- 4 "Sec. ____ . Section 232.2, Code 1989, is amended by
- 5 adding the following new subsection:
- 6 NEW SUBSECTION. 44A. "Serious mental injury"
- 7 means a psychological condition as determined by a
- 8 psychiatrist, licensed psychologist, pediatrician, or
- 9 licensed mental health professional and which does
- 10 either of the following:
- 11 a. Renders the child chronically and severely
- 12 anxious, agitated, depressed, socially withdrawn,
- 13 psychotic, or in reasonable fear that his or her
- 14 safety is threatened.
- 15 b. Seriously interferes with the child's ability
- 16 to accomplish appropriate developmental milestones,
- 17 peer relationships, or school, and community tasks."
- 18 2. By renumbering as necessary.

By CLARK of Cerro Gordo

H-3623 FILED MARCH 27, 1989

Adopted 3-28-89 (p. 1047)

HOUSE FILE 690

H-3739

1 Amend the amendment, H-3647, to House File 690, as
2 follows:

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

5 "_____. Page 1, by striking lines 20 through 24."

6 2. Page 1, by inserting after line 7 the
7 following:

8 "_____. Page 3, by striking lines 16 through 18 and
9 inserting the following: "parents. However, if the
10 department".

11 _____ By striking page 4, line 20 through page 5,
12 line 4 and inserting the following: "located for the
13 purpose of conducting an interview, observation, or
14 inspection of the child. If permission to interview,
15 observe, or inspect the child while at the facility or
16 school is refused by the child's parent or guardian,
17 the juvenile or district court upon a showing of
18 probable cause that the child has been abused, may
19 authorize the investigator to enter the facility or
20 school and interview, observe, or inspect the child.
21 However, the investigator may proceed directly to the
22 court for an order authorizing the interview,
23 observation, or inspection of the child without first
24 contacting the child's parent or guardian. If an
25 inspection of the child is consented to by the child's
26 parent or guardian or authorized by the court, a
27 witness shall be present during the inspection. The
28 immunity granted by section".

29 3. By renumbering as necessary.

By ROSENBERG of Story

H-3739 FILED MARCH 31, 1989

Alger 4-3-89 (P4196)

Alger 4-3-89 (P4196)

HOUSE FILE 690

H-3625

1 Amend House File 690 as follows:

2 1. Page 1, by inserting after line 24 the
3 following:

4 "Sec. ____ . Section 232.68, subsection 2, paragraph
5 c, Code 1989, is amended to read as follows:

6 c. The failure on the part of a person responsible
7 for the care of a child to provide for the adequate
8 food, shelter, clothing or other care necessary for
9 the child's health and welfare when financially able
10 to do so or when offered financial or other reasonable
11 means to do so. ~~A-parent-or-guardian-legitimately
12 practicing-religious-beliefs-who-does-not-provide
13 specified-medical-treatment-for-a-child-for-that
14 reason-alone-shall-not-be-considered-abusing-the
15 child,-however-this-provision-shall-not-preclude-a
16 court-from-ordering-that-medical-service-be-provided
17 to-the-child-where-the-child's-health-requires-it."~~

18 2. Page 11, by inserting before line 1 the
19 following:

20 "Sec. ____ . Section 235B.1, subsection 2, paragraph
21 a, Code 1989, is amended by striking the paragraph.

22 Sec. ____ . Section 281.8, unnumbered paragraph 3,
23 Code 1989, is amended to read as follows:

24 ~~No-provision-of-this~~ This chapter shall not be
25 construed to require or compel any person a parent or
26 guardian who is a member of a well-recognized church
27 or religious denomination and whose religious
28 convictions, in accordance with the tenets or
29 principles of the person's church or religious
30 denomination, are opposed to medical or surgical
31 treatment for disease ~~to-take-or-follow-a-course-of
32 physical-therapy,-or-submit-to-medical-treatment,-nor
33 shall-any-parent-or-guardian-who-is-a-member-of-such
34 church-or-religious-denomination-and-who-has-such
35 religious-convictions-be-required~~ to enroll a child in
36 any course or instruction which utilizes medical or
37 surgical treatment for disease.

38 Sec. ____ . Section 726.6, subsection 1, paragraph
39 d, Code 1989, is amended to read as follows:

40 d. Willfully deprives a child or minor of
41 necessary food, clothing, shelter, health care or
42 supervision appropriate to the child or minor's age,
43 when the person is reasonably able to make the
44 necessary provisions and which deprivation
45 substantially harms the child or minor's physical,
46 mental or emotional health. ~~For-purposes-of-this
47 paragraph,-the-failure-to-provide-specific-medical
48 treatment-shall-not-for-that-reason-alone-be
49 considered-willful-deprivation-of-health-care-if-the
50 person-can-show-that-such-treatment-would-conflict~~

H-3625

Page 2

1 with-the-tenets-and-practice-of-a-recognized-religious
2 denomination-of-which-the-person-is-an-adherent-or
3 member.--This-exception-does-not-in-any-manner
4 restrict-the-right-of-an-interested-party-to-petition
5 the-court-on-behalf-of-the-best-interest-of-the-child
6 or-minor."

7 3. Page 12, by inserting after line 6 the
8 following:

9 "Sec. ____ . Section 255.10, Code 1989, is
10 repealed."

11 4. Title page, by striking line 3 and inserting
12 the following: "abuse, termination of parental
13 rights, religious exemptions regarding children, and
14 providing for a".

15 5. By renumbering as necessary.

By SHONING of Woodbury
BISIGNANO of Polk
JOCHUM of Dubuque

H-3625 FILED MARCH 27, 1989

adopted 3-28-89 (p.1049)

HOUSE FILE 690

H-3647

3739 1 Amend House File 690 as follows:

2 1. Page 2, by striking lines 23 and 24 and
3 inserting the following: "professional practice,
4 examines, attends, or treats a child and who
5 reasonably believes the child has been".

6 2. Page 3, line 5 by striking the words "child
3739 7 person" and inserting the following: "child".

By BRAMMER of Linn

H-3647 FILED MARCH 28, 1989

Adopted 4-3-89 (p.1190)

HOUSE FILE 690

H-3644

1 Amend House File 690 as follows:

2 1. Page 4, line 13, by striking the numeral "4"
3 and inserting the numeral "6".

4 2. Page 4, line 16, by striking the numeral "4"
5 and inserting the numeral "6".

6 3. Page 5, by striking lines 23 and 24.

By CLARK of Cerro Gordo

H-3644 FILED MARCH 28, 1989

ADOPTED BY UNANIMOUS CONSENT

3-28-89 (p.1049)

Sen Judiciary
Amend. 4 DO PASSED 7-7-89 (p. 1261)
per amend. 3588

HOUSE FILE 690
BY COMMITTEE ON JUDICIARY AND
LAW ENFORCEMENT

(SUCCESSOR TO HF 411)

(As Amended and Passed by the House April 3, 1989)

Passed House, Date 5/6/89 (p. 2722) Passed Senate, Date 5/6/89 (p. 2056)
Vote: Ayes 95 Nays 0 Vote: Ayes 43 Nays 5
Approved May 26, 1989

A BILL FOR

~~3588~~ 1 An Act relating to the protection of children, by modifying
2 provisions relating to a child in need of assistance, child
3 abuse, termination of parental rights, religious exemptions
4 regarding children, and providing for a procedure relating to
4/855 courtroom testimony of children.

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

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House Amendments _____
Deleted Language *

1 Section 1. Section 232.2, subsection 6, paragraphs b, c,
2 and h, Code 1989, are amended to read as follows:

3 b. Whose parent, guardian or, other custodian, or other
4 member of the household in which the child resides has
5 physically abused or neglected the child, or is imminently
6 likely to abuse or neglect the child.

7 c. Who has suffered or is imminently likely to suffer
8 harmful effects as a result of either of the following:

3832-9 (1) Conditions-created Serious emotional maltreatment
4031 10 inflicted upon the child by the child's parent, guardian, or
11 custodian, or which results in a mental injury.

12 (2) The failure of the child's parent, guardian, or
13 custodian, or other member of the household in which the child
14 resides to exercise a reasonable degree of care in supervising
15 the child.

16 h. Who has committed a delinquent act as a result of
17 pressure, guidance, or approval from a parent, guardian, or
18 custodian, or other member of the household in which the child
19 resides.

* 20 Sec. 2. Section 232.2, Code 1989, is amended by adding the
3832-21 following new subsection:

4031 22 NEW SUBSECTION. 44A. "Serious mental injury" means a
23 psychological condition as determined by a psychiatrist,
24 licensed psychologist, pediatrician, or licensed mental health
25 professional and which does either of the following:

26 a. Renders the child chronically and severely anxious,
27 agitated, depressed, socially withdrawn, psychotic, or in
28 reasonable fear that his or her safety is threatened.

29 b. Seriously interferes with the child's ability to
30 accomplish appropriate developmental milestones, peer
31 relationships, or school, and community tasks.

388-32 Sec. 3. Section 232.68, subsection 2, paragraph c, Code
33 1989, is amended to read as follows:

34 c. The failure on the part of a person responsible for the
35 care of a child to provide for the adequate food, shelter,

1 clothing or other care necessary for the child's health and
 2 welfare when financially able to do so or when offered
 3 financial or other reasonable means to do so. A-parent-or
 4 guardian-legitimately-practicing-religious-beliefs-who-does
 5 not-provide-specified-medical-treatment-for-a-child-for-that
 6 reason-alone-shall-not-be-considered-abusing-the-child,
 7 however-this-provision-shall-not-preclude-a-court-from
 8 ordering-that-medical-service-be-provided-to-the-child-where
 9 the-child's-health-requires-it.

10 Sec. 4. Section 232.68, Code 1989, is amended by adding
 11 the following new subsection 3 and renumbering the subsequent
 12 subsections as necessary:

4631 13 NEW SUBSECTION. 3. "Confidential access to a child" means
 14 access to a child, during an investigation of an alleged act
 15 of child abuse, who is alleged to be the victim of the child
 16 abuse. The access may be accomplished by interview,

853 17 observation, inspection, or examination of the child. As used
 18 in this subsection:

19 a. "Interview" means the verbal exchange between the
 20 department investigator and the child for the purpose of
 21 developing information necessary to protect the child.

8532 22 b. "Observation" means the direct physical viewing without
 23 touching the child by the department investigator, or by a
 24 person acting on behalf of the investigator, limited to
 25 viewing the child's body other than the genitalia, pubes,
 26 abdomen, inner thigh, groin, buttocks, or breast of the child.
 27 However, "observation" of a male child may include viewing the
 28 child's breast.

29 c. "Inspection" means direct physical viewing without
 30 touching the child's body by the department investigator,
 31 limited to viewing the child's body other than the genitalia
 32 or pubes of the child.

33 d. "Examination" means direct physical viewing, touching,
 34 and medically necessary manipulation of any area of the
 35 child's body by a physician licensed under chapter 148 or

1 150A.

2 Sec. 5. Section 232.68, subsection 6, Code 1989, is
3 amended by adding the following new paragraph:

4 NEW PARAGRAPH. d. Any person providing care for a child,
5 but with whom the child does not reside, without reference to
6 the duration of the care.

7 Sec. 6. Section 232.69, subsection 1, paragraphs a and b,
8 Code 1989, are amended to read as follows:

9 a. Every health practitioner who in the scope of
10 professional practice, examines, attends, or treats a child
11 and who reasonably believes the child has been abused.
12 Notwithstanding section 140.3, this provision applies to a
13 health practitioner who receives information confirming that a
14 child is infected with a sexually transmitted disease.

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

29 Sec. 7. Section 232.71, subsection 1, Code 1989, is
30 amended to read as follows:

403/31 1. Whenever a report is determined to constitute a child
32 abuse allegation, the department of human services shall
33 promptly commence an appropriate investigation. The primary
34 purpose of this investigation shall be the protection of the
35 child named in the report. The department, within five

1 working days of commencing the investigation, shall provide
 2 written notification of the investigation to the child's
 3330-3 parents. The department may provide oral notification of the
 4 investigation to a person who expresses concern about the
 5 child's safety to the department. However, if the department
 6 shows the court to the court's satisfaction that notification
 7 is likely to endanger the child or other persons, the court
 8 shall issue an emergency order restraining the notification.

9 Sec. 8. Section 232.71, subsection 2, Code 1989, is
 10 amended by adding the following new paragraph:

11 NEW PARAGRAPH. e. An interview of the person alleged to
 12 have committed the child abuse, if the person's identity and
 13 location are known, to afford the person the opportunity to
 14 address the allegations of the child abuse report. The
 15 interview shall be conducted, or an opportunity for an
 16 interview shall be provided, prior to a determination of child
 17 abuse being made. The court may waive the requirement of the
 18 interview for good cause.

19 Sec. 9. Section 232.71, subsection 3, Code 1989, is
 20 amended to read as follows:

21 3. The investigation may, with the consent of the parent
 22 or guardian, include a visit to the home of the child ~~or with~~
 23 ~~the consent of the administrator of a facility include a visit~~
 24 ~~to the facility providing care to the child~~ named in the
 25 report and ~~examination~~ an interview, observation, or
 26 inspection of the child may be conducted. If permission to
 27 enter the home ~~or facility and~~ to ~~examine~~ interview, observe,
 28 or inspect the child is refused, the juvenile court or
 29 district court upon a showing of probable cause may authorize
 30 the person making the investigation to enter the home ~~or~~
 4051 31 ~~facility and~~ examine interview, observe, or inspect the child.
 32 The department may utilize a multidisciplinary team in
 33 investigations of child abuse ~~involving employees or agents of~~
 34 ~~a facility providing care for a child.~~

35 Sec. 10. Section 232.71, subsection 6, Code 1989, is

1 amended by striking the subsection and inserting in lieu
2 thereof the following:

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3 6. The investigation may include a visit to a facility
4 providing care to the child named in the report or to any
5 public or private school subject to the authority of the
6 department of education where the child named in the report is
7 located. The administrator of a facility, or a public or
8 private school shall cooperate with the investigator by
9 providing confidential access to the child named in the report
10 for the purpose of interviewing and observing the child, and
11 shall allow the investigator confidential access to other
12 children in order to obtain information relevant to the
13 interview. The investigator shall determine who shall be
14 present during the interview or observation. The investigator
15 may inspect a child named in a report with the consent of the
16 parent, guardian, or facility or school administrator. A
17 witness shall be present during an inspection of a child. If
18 permission to inspect is refused, the juvenile or district
19 court, upon a showing of probable cause, may authorize the
20 investigator to enter the facility or school and inspect the
21 child. Facility and school administrators are under no duty
22 to report the interview, observation, or inspection of the
23 child to the child's parent or guardian. Any child age ten
24 years of age or older can terminate contact with the
25 investigator by stating or indicating the child's wish to
26 discontinue the contact. The immunity granted by section
27 232.73 applies to such administrators and their facilities or
28 school districts for cooperating in an investigation and
29 allowing confidential access to a child. The department may
30 utilize a multidisciplinary team to conduct investigations of
31 child abuse involving employees or agents of a facility
32 providing care for a child.

33 Sec. 11. Section 232.71, subsection 5, Code 1989, is
34 amended to read as follows:

35 5. The department of human services may request

1 information from any person believed to have knowledge of a
2 child abuse case. The county attorney, any law enforcement or
3 social services agency in the state, and any mandatory
4 reporter, whether or not the reporter made the specific child
5 abuse report, shall cooperate and assist in the investigation
6 upon the request of the department of human services. The
7 county attorney and appropriate law enforcement agencies shall
8 also take any other lawful action which may be necessary or
9 advisable for the protection of the child.

10 Sec. 12. Section 232.71, subsection 7, Code 1989, is
11 amended to read as follows:

12 7. The department, upon completion of its investigation,
13 shall make a preliminary report of its investigation as
14 required by subsection 2. A copy of this report shall be
15 transmitted to juvenile court within ~~ninety-six-hours~~ four
16 regular working days after the department initially receives
17 the abuse report unless the juvenile court grants an extension
18 of time for good cause shown. If the preliminary report is
19 not a complete report, a complete report shall be filed within
20 ten working days of the receipt of the abuse report, unless
21 the juvenile court grants an extension of time for good cause
22 shown. The department shall notify a subject of the report of
23 the result of the investigation, of the subject's right to
24 correct the information pursuant to section 235A.19, and of
25 the procedures to correct the information. The juvenile court
26 shall notify the registry of any action it takes with respect
27 to a suspected case of child abuse.

28 Sec. 13. Section 232.71, subsection 11, Code 1989, is
29 amended to read as follows:

30 11. If, upon completion of the investigation, the
31 department of human services determines that the best
32 interests of the child require juvenile court action, the
33 department shall take the appropriate action to initiate such
34 action under this chapter. The county attorney shall assist
35 the county department of human services ~~in-the-preparation-of~~

1 ~~the-necessary-papers-to-initiate-such-action-and-shall-appear~~
2 ~~and-represent-the-department-at-all-juvenile-court-proceedings~~
3 as provided under section 232.90, subsection 2.

4 Sec. 14. Section 232.71, Code 1989, is amended by adding
5 the following new subsection:

6 NEW SUBSECTION. 17. In each county or multicounty area in
7 which more than fifty child abuse reports are made per year,
8 the department shall establish a multidisciplinary team to
9 assist the department. The multidisciplinary team shall
10 assist the department in the assessment, diagnosis, and
11 disposition of a child abuse report and shall be notified by
12 the department to review any founded case of child abuse. A
13 multidisciplinary team is required to include members
14 representing professions relating to health, mental health,
15 child development, and law.

16 Sec. 15. Section 232.78, subsection 1, unnumbered
4031 17 paragraph 1 and paragraphs a and b, Code 1989, are amended to
18 read as follows:

19 The juvenile court may enter an ex parte order directing a
20 peace officer to ~~remove-a-child-from-the-child's-home-or-a~~
21 ~~child-day-care-facility~~ take custody of a child before or
22 after the filing of a petition under this chapter provided all
23 of the following apply:

24 a. The ~~parent, guardian, legal custodian, or employee of~~
25 ~~the child-day-care-facility~~ person responsible for the care of
26 the child is absent, or though present, was asked and refused
27 to consent to the removal of the child and was informed of an
28 intent to apply for an order under this section, ~~or the~~
29 ~~parent, guardian, or legal custodian has a prior instance of~~
30 ~~flight-to-avoid-a-child-abuse-investigation~~ or there is
31 reasonable cause to believe that a request for consent would
32 further endanger the child, or there is reasonable cause to
33 believe that a request for consent will cause the parent,
34 guardian, or legal custodian to take flight with the child.

35 b. It appears that the child's immediate removal is

1 necessary to avoid imminent danger risk to the child's life or
2 health.

3 Sec. 16. Section 232.79, subsection 1, unnumbered
4 paragraph 1 and paragraph a, Code 1989, are amended to read as
5 follows:

6 A peace officer may ~~remove-a-child-from-the-child's-home-or~~
7 ~~a-child-day-care-facility~~ take a child into custody or a
8 physician treating a child may keep the child in custody
9 without a court order as required under section 232.78 and
10 without the consent of a parent, guardian, or custodian
11 provided that both of the following apply:

12 a. The child is in such a circumstance or condition that
13 ~~the-child's-continued-presence-in-the-residence-or-the-child~~
14 ~~day-care-facility-or-in-the-care-or-custody-of-the-parent,~~
403/15 ~~guardian,or-custodian~~ presents an imminent danger risk to the
16 child's life or health.

17 Sec. 17. Section 232.90, Code 1989, is amended to read as
18 follows:

19 232.90 DUTIES OF COUNTY ATTORNEY.

20 1. The county attorney shall represent the state in
21 proceedings arising from a petition filed under this division
22 and shall present evidence in support of the petition. The
23 county attorney shall be present at proceedings initiated by
24 petition under this division filed by an intake officer or the
25 county attorney, or if a party to the proceedings contests the
26 proceedings, or if the court determines there is a conflict of
27 interest between the child and the child's parent, guardian,
28 or custodian or if there are contested issues before the
29 court.

403/30 2. The county attorney shall represent the department in
31 proceedings arising under this division. However, if the
32 perspective of the department and county attorney differ, the
33 department may request to be represented by the attorney
34 general in place of the county attorney.

35 Sec. 18. Section 232.92, Code 1989, is amended by striking

1 the section and inserting in lieu thereof the following:

2 232.92 EXCLUSION OF PUBLIC FROM HEARINGS.

3 Hearings held under this division are open to the public
4 unless the court, on the motion of any of the parties or upon
5 the court's own motion, excludes the public. The court shall
6 exclude the public from a hearing if the court determines that
7 the possibility of damage or harm to the child outweighs the
8 public's interest in having an open hearing. Upon closing the
9 hearing to the public, the court may admit those persons who
10 have direct interest in the case or in the work of the court.

11 Sec. 19. Section 232.114, Code 1989, is amended to read as
12 follows:

13 232.114 DUTIES OF COUNTY ATTORNEY.

14 1. Upon the filing of a petition the county attorney shall
15 represent the state in all adversary proceedings arising under
16 this division and shall present evidence in support of the
17 petition.

18 2. The county attorney shall represent the department in
19 proceedings arising under this division. However, if the
20 perspective of the department and county attorney differ, the
21 department may request to be represented by the attorney
22 general in place of the county attorney.

23 Sec. 20. Section 232.117, Code 1989, is amended by adding
24 the following new subsection:

25 NEW SUBSECTION. 8. Hearings held under this division are
26 open to the public unless the court, on the motion of any of
27 the parties or upon the court's own motion, excludes the
28 public. The court shall exclude the public from a hearing if
29 the court determines that the possibility of damage or harm to
30 the child outweighs the public's interest in having a public
31 hearing. Upon closing the hearing, the court may admit
32 persons who have a direct interest in the case or in the work
33 of the court.

332-34 Sec. 21. Section 235A.15, subsection 2, paragraph c, Code
4031 35 1989, is amended by adding the following new subparagraphs:

1 NEW SUBPARAGRAPH. (5) To an employee of an educational
2 institution who is responsible for the education of the child.

3 NEW SUBPARAGRAPH. (6) To a person developing or
4 implementing a case permanency plan for a child or the child's
5 family, including the child's foster parents.

6 NEW SUBPARAGRAPH. (7) To a person providing health care
7 or treatment to the child or members of the child's family.

8 NEW SUBPARAGRAPH. (8) To the citizens' aide.

9 NEW SUBPARAGRAPH. (9) To a person providing public health
10 services to a child or the child's family.

11 Sec. 22. Section 235A.18, subsection 2, Code 1989, is
12 amended by adding the following new unnumbered paragraph
13 following paragraph c:

14 NEW UNNUMBERED PARAGRAPH. The juvenile or district court
15 and county attorney shall expunge child abuse information upon
16 notice from the registry.

17 Sec. 23. Section 235A.19, subsection 2, Code 1989, is
18 amended to read as follows:

19 2. a. A person may file with the department within six
20 months of the date of the notice of the results of an
21 investigation required by section 232.71, subsection 7, a
22 written statement to the effect that child abuse information
23 referring to the person is in whole or in part erroneous, and
24 may request a correction of that information or of the
25 findings of the investigation report. The department shall
26 provide the person with an opportunity for an evidentiary
27 hearing pursuant to chapter 17A to correct the information or
28 the findings, unless the department corrects the information
29 or findings as requested. The department shall delay the
30 expungement of information which is not determined to be
31 founded until the conclusion of a proceeding to correct the
32 information or findings. The department may defer the hearing
33 until the conclusion of a pending juvenile or district court
34 case relating to the information or findings.

35 b. The department shall not disclose any child abuse

1 information until the conclusion of the proceeding to correct
2 the information or findings, except as follows:

3 (1) As necessary for the proceeding itself.

4 (2) To the parties and attorneys involved in a judicial
5 proceeding.

6 (3) For the regulation of child care or child placement.

7 (4) Pursuant to court order.

8 (5) To the subject of an investigation.

9 (6) For the care or treatment of a child named in a report
10 as a victim of abuse.

3588-11 Sec. 24. Section 235B.1, subsection 2, paragraph a, Code
12 1989, is amended by striking the paragraph.

13 Sec. 25. Section 281.8, unnumbered paragraph 3, Code 1989,
14 is amended to read as follows:

15 ~~No-provision-of-this~~ This chapter shall not be construed to
16 require or compel ~~any-person~~ a parent or guardian who is a
17 member of a well-recognized church or religious denomination
18 and whose religious convictions, in accordance with the tenets
19 or principles of the person's church or religious
20 denomination, are opposed to medical or surgical treatment for
21 disease ~~to-take-or-follow-a-course-of-physical-therapy,-or~~
22 ~~submit-to-medical-treatment,-nor-shall-any-parent-or-guardian~~
23 ~~who-is-a-member-of-such-church-or-religious-denomination-and~~
24 ~~who-has-such-religious-convictions-be-required~~ to enroll a
25 child in any course or instruction which utilizes medical or
26 surgical treatment for disease.

27 Sec. 26. Section 726.6, subsection 1, paragraph d, Code
28 1989, is amended to read as follows:

29 d. Willfully deprives a child or minor of necessary food,
30 clothing, shelter, health care or supervision appropriate to
31 the child or minor's age, when the person is reasonably able
32 to make the necessary provisions and which deprivation
33 substantially harms the child or minor's physical, mental or
34 emotional health. ~~For-purposes-of-this-paragraph,-the-failure~~
35 ~~to-provide-specific-medical-treatment-shall-not-for-that~~

1 reason-alone-be-considered-willful-deprivation-of-health-care
2 if-the-person-can-show-that-such-treatment-would-conflict-with
3 the-tenets-and-practice-of-a-recognized-religious-denomination
4 of-which-the-person-is-an-adherent-or-member,--This-exception
5 does-not-in-any-manner-restrict-the-right-of-an-interested
6 party-to-petition-the-court-on-behalf-of-the-best-interest-of
7 the-child-or-minor;

463 8 Sec. 27. Section 910A.14, subsection 2, Code 1989, is
9 amended to read as follows:

10 2. The court may, upon its own motion, upon motion of a
11 party, or at the request of the victim, after hearing upon
12 notice to all parties, may order that the testimony of a
13 victim or witness who is a child, as defined in section 702.5,
14 be taken by recorded stenographic or videotape deposition for
15 use at trial,--pursuant-to-rule-of-criminal-procedure-12(2)(b).
16 The order shall include specific findings of fact and be based
17 upon specific behavioral indicators exhibited by the child
18 that the child will either refuse to testify in open court,
19 will be unable to communicate because of extreme fear or
20 failure of memory, or that a substantial likelihood exists
21 that the child will suffer serious emotional trauma if
22 compelled to testify in open court.

23 The factors that the court may consider include, but are
24 not limited to, the child's age, level of development, and
25 general health; the nature of the events relating to the
26 testimony; the child's custodial situation, attitude of other
27 household members concerning the testimony, and relationship
28 to those involved in the case; the child's behavior at
29 previous interviews; the child's belief regarding the
30 consequences of the testimony; the child's manifestations of
31 posttraumatic stress behaviors; the number of proceedings
32 during which the testimony may be required; and whether the
33 testimony will be inherently unreliable if compelled in open
34 court.

35 Only the judge, parties, counsel, persons necessary to

1 record the deposition, and any person whose presence in the
2 opinion of the court would contribute to the welfare and well-
3 being of the child may be present in the room with the child
4 during the deposition. The court may order that the defendant
5 be situated so that the child cannot see or hear the defendant
6 if the court, after making a specific finding of fact, finds
7 that requiring the child to hear and see the defendant
8 presents a substantial risk of trauma to the child which would
9 make the child unable to testify or suffer serious emotional
10 trauma.

11 If the stenographic or videotape recording is admitted at
12 trial, the child need not but may testify in court upon
13 application of either party, and order of court.

3588-14 Sec. 28. Section 255.10, Code 1989, is repealed.

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S-3832

Page 2

1 "Sec. ____ . Section 910A.14, subsection 1,
 2 unnumbered paragraph 2, Code 1989, is amended by
 3 striking the paragraph.
 4 Sec. ____ . Section 910A.14, subsection 2, Code
 5 1989, is amended to read as follows:
 6 2. The court may, upon its own motion or upon
 7 motion of a party, order that the testimony of a
 8 child, as defined in section 702.5, be taken by
 9 recorded deposition for use at trial, pursuant to rule
 10 of criminal procedure 12(2)(b). In addition to
 11 requiring that such testimony be recorded by
 12 stenographic means, the court may on motion and
 13 hearing, and upon a finding that the child is
 14 unavailable as provided in Iowa rules of evidence
 15 804(a), order the videotaping of the child's testimony
 16 for viewing in the courtroom by the court. The
 17 videotaping shall comply with the provisions of rule
 18 of criminal procedure 12(2)(b), and shall be
 19 admissible as evidence in the trial of the cause."
 20 14. By renumbering and relettering as necessary.

By JULIA B. GENTLEMAN

S-3832 FILED APRIL 19, 1989

Placed o/a 5/6 (f. 2056)

HOUSE FILE 690

S-3588

1 Amend House File 690, as amended, passed, and
 2 reprinted by the House, as follows:
 3 1. By striking page 1, line 32 through page 2,
 4 line 9.
 5 2. By striking page 11, line 11 through page 12,
 6 line 7.
 7 3. Page 13, by striking line 14.
 8 4. Title page, lines 3 and 4 by striking the
 9 words "religious exemptions regarding children,".
 10 5. By renumbering as necessary.

By COMMITTEE ON JUDICIARY
DONALD V. DOYLE, Chairperson

S-3588 FILED APRIL 7, 1989

Adopted 5/6 (f. 2056)

HOUSE FILE 690

S-3832

- 1 Amend House File 690, as amended, passed, and
2 reprinted by the House, as follows:
- 3 1. Page 1, by striking lines 9 through 11 and
4 inserting the following:
5 "(1) Conditions-created-by Serious mental injury
6 caused by the acts of the child's parent, guardian, or
7 custodian;-or."
- 8 2. Page 1, by striking lines 21 through 31 and
9 inserting the following: "following new subsections:
10 NEW SUBSECTION. 21A. "Imminent risk to a child's
11 life or health" means it is shown by a preponderance
12 of evidence that there is a substantial risk of harm
13 to a child and the child's safety cannot be assured.
14 Imminent risk may be determined from existing injuries
15 inflicted upon the child, or by the likelihood of
16 future injury to the child.
- 17 NEW SUBSECTION. 44A. "Serious mental injury"
18 means an injury to a child's intellectual or
19 psychological capacity as evidenced by an observable
20 and substantial impairment in the child's ability to
21 function within the child's normal range of
22 performance and behavior origin."
- 23 3. Page 2, line 17 by striking the word
24 "observation,".
- 25 4. Page 2, by striking lines 22 through 28.
- 26 5. Page 4, by striking lines 3 through 5 and
27 inserting the following: "parents. However, if the
28 department".
- 29 6. Page 4, by striking lines 25 through 28 and
30 inserting the following: "report and examination an
31 interview or inspection of the child may be conducted.
32 If permission to enter the home or-facility-and to
33 examine interview or inspect the child is refused, the
34 juvenile court or".
- 35 7. Page 4, by striking line 31 and inserting the
36 following: "facility and examine interview or inspect
37 the child."
- 38 8. Page 5, line 10 by striking the words "and
39 observing".
- 40 9. Page 5, line 14 by striking the words "or
41 observation".
- 42 10. Page 5, line 22, by striking the word "
43 observation,".
- 44 11. Page 7, by striking lines 11 through 15 and
45 inserting the following: "disposition of a child
46 abuse report."
- 47 12. By striking page 9, line 34, through page 10,
48 line 10.
- 49 13. By striking page 12, line 8, through page 13,
50 line 13, and inserting the following:

HOUSE FILE 690

S-3861

- 1 Amend the amendment, S-3832, to House File 690, as
- 2 amended, passed and reprinted by the House as follows:
- 3 1. Page 1, lines 11 and 12, by striking the words
- 4 "it is shown by a preponderance of evidence".
- 5 2. Page 1, line 22, by striking the word
- 6 "origin".

By JULIA GENTLEMAN

S-3861 FILED APRIL 24, 1989

Placed o/o 5/6 (j. 2056)

HOUSE FILE 690

S-3868

- 1 Amend House File 690, as amended, passed, and
- 2 reprinted by the House, as follows:
- 3 1. Page 7, line 8, by striking the word "to".
- 4 2. Page 7, by striking lines 9 through 15 and
- 5 inserting in lieu thereof the following: ", as
- 6 defined in section 235A.13, subsection 9. Upon
- 7 the department's request, a multidisciplinary
- 8 team shall assist the department in the assessment,
- 9 diagnosis, and disposition of a child abuse report."

By CHARLES BRUNER

S-3868 FILED APRIL 24, 1989

Placed o/o 5/6 (j. 2056)

**HOUSE FILE 690
FISCAL NOTE**

A fiscal note for **HOUSE FILE 690** is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

House File 690 makes change in the statutes pertaining to child protection. The sections of the bill that are estimated to have fiscal impact are:

1. Section 1: expands grounds for declaring a child in need of assistance.
2. Section 6: requires written notification of child abuse investigations to parents and allows oral notification to a person who expresses concern about a child's safety.
3. Section 14: mandates the establishment of multidisciplinary teams in areas in which more than 50 child abuse reports are made per year. The teams are required to include members representing professions relating to health, mental health, child development and law.
4. Section 17: permits the Department of Human Services to request to be represented by the Attorney-General in place of the County Attorney, if the perspective of the Department and County Attorney differ.

FISCAL IMPACT:

Section 1 is estimated to significantly increase family centered services and foster care expenditures. This increase will be less during FY 1990 and greater in succeeding years, due to phase-in time. Also, it is likely that the Department of Human Services would become involved with these families at a later time under current law; early intervention may actually reduce costs. The estimated cost of this section is between \$250,000 and \$750,000.

Section 6 is estimated to increase Department of Human Services postage expenditures by \$8,000 annually.

Section 14 is estimated to increase Department of Human Services staffing and training expenditures by \$200,000 annually.

Section 16 is estimated to increase Attorney-General expenditures by \$227,000 annually.

SUMMARY: The total fiscal impact of this bill is estimated to be an increase in expenditures of between \$435,000 and \$1,185,000 annually.

Source: Department of Human Services

(LSB 224lhv, JMN)

FILED APRIL 19, 1989

BY DENNIS PROUTY, FISCAL DIRECTOR

HOUSE FILE 690

S-4031

1 Amend House File 690, as amended, passed, and
2 reprinted by the House, as follows:

3 1. Page 1, by striking lines 9 through 11 and
4 inserting the following:

5 "(1) Conditions-created-by Mental injury caused by
6 the acts of the child's parent, guardian, or
7 custodian, or."

8 2. Page 1, by striking lines 22 through 31 and
9 inserting the following:

10 "NEW SUBSECTION. 31A. "Mental injury" means a
11 nonorganic injury to a child's intellectual or
12 psychological capacity as evidenced by an observable
13 and substantial impairment in the child's ability to
14 function within the child's normal range of
15 performance and behavior, considering the child's
16 cultural origin."

17 3. Page 2, line 17 by striking the word
18 "inspection,".

19 4. Page 2, by striking lines 22 through 32 and
20 inserting the following:

21 "b. "Observation" means direct physical viewing of
22 the child by the department investigator without
23 touching the child or removing an article of the
24 child's clothing, and doing so without the consent of
25 the child's parent, custodian, or guardian. However,
26 if prior consent of the child's parent or guardian is
27 obtained, "observation" may include viewing the
28 child's unclothed body other than the genitalia and
29 pubes."

30 5. Page 4, by striking lines 3 through 5 and
31 inserting the following: "parents. However, if the
32 department".

33 6. Page 4, by striking lines 25 through 28 and
34 inserting the following: "report and examination an
35 interview or observation of the child may be
36 conducted. If permission to enter the home or
37 facility and to examine interview or observe the child
38 is refused, the juvenile court or".

39 7. Page 4, by striking line 31 and inserting the
40 following: "facility and examine interview or observe
41 the child".

42 8. Page 5, line 10, by striking the words "and
43 observing".

44 9. Page 5, by striking lines 12 through 23 and
45 inserting the following: "children for the purpose of
46 conducting interviews in order to obtain relevant
47 information. The investigator may observe a child
48 named in a report with the consent of the child's
49 parent or guardian, or by juvenile court order upon a
50 showing of reasonable cause to believe that the child

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all

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- 1 has been abused. A witness shall be present during an
2 observation of a child. Any child age ten".
3 10. Page 7, by striking lines 11 through 15 and
4 inserting the following: "disposition of a child
5 abuse report."
6 11. Page 7, line 17, by striking the words
7 "paragraphs "a" and "b"" and inserting the following:
8 "paragraph "a".
9 12. By striking page 7, line 35 through page 8,
10 line 2.
11 13. Page 8, by striking line 15 and inserting the
12 following: "~~guardian, or custodian~~ presents an
13 imminent danger to the".
14 14. Page 8, by striking lines 31 and 32 and
15 inserting the following: "proceedings arising under
16 this division. However, if there is disagreement
17 between the department and the county attorney
18 regarding the appropriate action to be taken, the".
19 15. Page 9, by striking lines 19 and 20 and
20 inserting the following: "proceedings arising under
21 this division. However, if there is disagreement
22 between the department and the county attorney
23 regarding the appropriate action to be taken, the".
24 16. By striking page 9, line 34, through page 10,
25 line 10.
26 17. By striking page 12, line 8, through page 13,
27 line 13, and inserting the following:
28 "Sec. ____ . Section 910A.14, subsection 1,
29 unnumbered paragraph 2, Code 1989, is amended by
30 striking the paragraph.
31 Sec. ____ . Section 910A.14, subsection 2, Code
32 1989, is amended to read as follows:
33 2. The court may, upon its own motion or upon
34 motion of a party, order that the testimony of a
35 child, as defined in section 702.5, be taken by
36 recorded deposition for use at trial, pursuant to rule
37 of criminal procedure 12(2)(b). In addition to
38 requiring that such testimony be recorded by
39 stenographic means, the court may on motion and
40 hearing, and upon a finding that the child is
41 unavailable as provided in Iowa rules of evidence
42 804(a), order the videotaping of the child's testimony
43 for viewing in the courtroom by the court. The
44 videotaping shall comply with the provisions of rule
45 of criminal procedure 12(2)(b), and shall be
46 admissible as evidence in the trial of the cause."
47 18. By renumbering and relettering as necessary.

S-4031

FILED May 1, 1989

Adopted as amended (p.2056)

BY JULIA B. GENTLEMAN
TOM MANN, JR.
DONALD V. DOYLE

HOUSE FILE 690

S-4129

1 Amend the amendment, S-4031, to House File 690, as
2 amended, passed, and reprinted by the House, as
3 follows:
4 1. By striking page 1, line 3 through page 2,
5 line 47 and inserting the following:
6 " . Page 1, by striking lines 9 through 11 and
7 inserting the following:
8 "~~(1) Conditions-created-by~~ Mental injury caused by
9 the acts of the child's parent, guardian, or
10 custodian, or."
11 . Page 1, by striking lines 22 through 31 and
12 inserting the following:
13 "NEW SUBSECTION. 31A. "Mental injury" means a
14 nonorganic injury to a child's intellectual or
15 psychological capacity as evidenced by an observable
16 and substantial impairment in the child's ability to
17 function within the child's normal range of
18 performance and behavior, considering the child's
19 cultural origin."
20 . Page 2, line 17 by striking the word
21 "inspection,".
22 . Page 2, line 21, by inserting after the word
23 "child." the following: "A department investigator is
24 not precluded from recording visible evidence of
25 abuse."
26 . Page 2, by striking lines 22 through 32 and
27 inserting the following:
28 "b. "Observation" means direct physical viewing of
29 a child under the age of four by the department
30 investigator where the viewing is limited to the
31 child's body other than the genitalia and pubes.
32 "Observation" also means direct physical viewing of a
33 child age four or older by the department investigator
34 without touching the child or removing an article of
35 the child's clothing, and doing so without the consent
36 of the child's parent, custodian, or guardian. A
37 department investigator is not precluded from
38 recording evidence of abuse obtained as a result of a
39 child's voluntary removal of an article of clothing
40 without inducement by the investigator. However, if
41 prior consent of the child's parent or guardian, or an
42 ex parte court order, is obtained, "observation" may
43 include viewing the child's unclothed body other than
44 the genitalia and pubes."
45 . Page 4, by striking lines 3 through 5 and
46 inserting the following: "parents. However, if the
47 department".
48 . Page 4, by striking lines 25 through 28 and
49 inserting the following: "report and examination an
50 interview or observation of the child may be

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1 conducted. If permission to enter the home or
2 ~~facility~~ and to examine interview or observe the child
3 is refused, the juvenile court or".

4 _____. Page 4, by striking line 31 and inserting
5 the following: "facility and examine interview or
6 observe the child."

7 _____. Page 5, line 10, by striking the words "and
8 observing".

9 _____. Page 5, by striking lines 12 through 23 and
10 inserting the following: "children for the purpose of
11 conducting interviews in order to obtain relevant
12 information. The investigator may observe a child
13 named in a report in accordance with the provisions of
14 section 232.68, subsection 3, paragraph "b". A
15 witness shall be present during an observation of a
16 child. Any child age ten".

17 _____. Page 5, line 27, by inserting after the word
18 "to" the following: "acts or omissions in good faith
19 of".

20 _____. Page 5, line 29, by inserting after the word
21 "child." the following: "'Acts or omissions in good
22 faith" means, for purposes of section 232.73, that the
23 acts or omissions from which a claim for damages may
24 arise were objectively reasonable and that the acts or
25 omissions did not violate clearly established
26 statutory rights or other rights of a person of which
27 a reasonable person would know or should have known."

28 _____. Page 7, by striking lines 11 through 15 and
29 inserting the following: "disposition of a child
30 abuse report."

31 _____. Page 7, line 17, by striking the words
32 "paragraphs "a" and "b"" and inserting the following:
33 "paragraph "a"".

34 _____. By striking page 7, line 35 through page 8,
35 line 2.

36 _____. Page 8, by striking line 15 and inserting
37 the following: "guardian or custodian presents an
38 imminent danger to the".

39 _____. Page 8, by striking lines 31 and 32 and
40 inserting the following: "proceedings arising under
41 this division. However, if there is disagreement
42 between the department and the county attorney
43 regarding the appropriate action to be taken, the".

44 _____. Page 9, by striking lines 19 and 20 and
45 inserting the following: "proceedings arising under
46 this division. However, if there is disagreement
47 between the department and the county attorney
48 regarding the appropriate action to be taken, the".

49 _____. By striking page 9, line 34, through page
50 10, line 10.

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1 _____ . Page 11, line 16, by striking the words "or
2 guardian".

3 _____ . Page 11, by inserting after line 26, the
4 following:

5 "Sec. ____ . Section 622.84, Code 1989, is amended
6 to read as follows:

7 622.84 SUBPOENAS -- ENFORCING OBEDIENCE.

8 1. When, by the laws of this or any other state or
9 country, testimony may be taken in the form of
10 depositions to be used in any of the courts thereof,
11 the person authorized to take such the depositions may
12 issue subpoenas for witnesses, which must be served by
13 the same officers and returned in the same manner as
14 is required in district court, and obedience ~~thereto~~
15 to the subpoenas may be enforced in the same way and
16 to the same extent, or the person may report the
17 matter to the district court who may enforce obedience
18 as though the action was pending in ~~said the~~ district
19 court.

20 2. If a witness is located in any other state or
21 country and refuses to voluntarily submit to the
22 deposition, the court of jurisdiction in this state
23 may, upon the application of any party, petition the
24 court of competent jurisdiction in the foreign
25 jurisdiction where the witness is located to issue
26 subpoenas or make other appropriate orders to compel
27 the witness' attendance at the deposition."

28 _____ . By striking page 12, line 8, through page
29 13, line 13, and inserting the following:

30 "Sec. ____ . Section 910A.14, subsection 1,
31 unnumbered paragraph 2, Code 1989, is amended by
32 striking the paragraph.

33 Sec. ____ . Section 910A.14, subsection 2, Code
34 1989, is amended to read as follows:

35 2. The court may, upon its own motion or upon
36 motion of a party, order that the testimony of a
37 child, as defined in section 702.5, be taken by
38 recorded deposition for use at trial, pursuant to rule
39 of criminal procedure 12(2)(b). In addition to
40 requiring that such testimony be recorded by
41 stenographic means, the court may on motion and
42 hearing, and upon a finding that the child is
43 unavailable as provided in Iowa rules of evidence
44 804(a), order the videotaping of the child's testimony
45 for viewing in the courtroom by the court. The
46 videotaping shall comply with the provisions of rule
47 of criminal procedure 12(2)(b), and shall be
48 admissible as evidence in the trial of the cause."

49 2. Title page, line 5, by inserting after the
50 word "children" the following: "in this state and the

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deposition testimony of witnesses in a foreign
jurisdiction".

3. By renumbering and relettering as necessary.

By TOM MANN, Jr.

HOUSE FILE 690

S-4036

1 Amend amendment, S-4031, to House File 690, as
2 amended, passed, and reprinted by the House, as
3 follows:

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

6 " ". Page 5, line 27, by inserting after the
7 word "to" the following: "acts or omissions in good
8 faith of".

9 " ". Page 5, line 29, by inserting after the word
10 "child." the following: "Acts or omissions in good
11 faith" means, for purposes of section 232.73, that
12 the acts or omissions from which a claim for damages
13 may arise were objectively reasonable and that the
14 acts or omissions did not violate clearly established
15 statutory rights or other rights of a person of which
16 a reasonable person would know or should have known."

17 2. By renumbering as necessary.

S-4036

FILED MAY 1, 1989

Placed o/o 5/6 (p. 2656)

BY TOM MANN, JR.

HOUSE FILE 690

S-4183

1 Amend the amendment, S-4031, to House File 690, as
2 amended, passed, and reprinted by the House, as
3 follows:
4 1. By striking page 1, line 3 through page 2,
5 line 47 and inserting the following:
6 "_____. Page 1, by striking lines 9 through 11 and
7 inserting the following:
8 "(1) Conditions-created-by Mental injury caused by
9 the acts of the child's parent, guardian, or
10 custodian, -or."
11 _____. Page 1, by striking lines 22 through 31 and
12 inserting the following:
13 "NEW SUBSECTION. 31A. "Mental injury" means a
14 nonorganic injury to a child's intellectual or
15 psychological capacity as evidenced by an observable
16 and substantial impairment in the child's ability to
17 function within the child's normal range of
18 performance and behavior, considering the child's
19 cultural origin."
20 _____. Page 2, line 17 by striking the word
21 "inspection,".
22 _____. Page 2, line 21, by inserting after the word
23 "child." the following: "A department investigator is
24 not precluded from recording visible evidence of
25 abuse."
26 _____. Page 2, by striking lines 22 through 32 and
27 inserting the following:
28 "b. "Observation" means direct physical viewing of
29 a child under the age of four by the department
30 investigator where the viewing is limited to the
31 child's body other than the genitalia and pubes.
32 "Observation" also means direct physical viewing of a
33 child age four or older by the department investigator
34 without touching the child or removing an article of
35 the child's clothing, and doing so without the consent
36 of the child's parent, custodian, or guardian. A
37 department investigator is not precluded from
38 recording evidence of abuse obtained as a result of a
39 child's voluntary removal of an article of clothing
40 without inducement by the investigator. However, if
41 prior consent of the child's parent or guardian, or an
42 ex parte court order, is obtained, "observation" may
43 include viewing the child's unclothed body other than
44 the genitalia and pubes."
45 _____. Page 4, by striking lines 3 through 5 and
46 inserting the following: "parents. However, if the
47 department".
48 _____. Page 4, by striking lines 25 through 28 and
49 inserting the following: "report and examination an
50 interview or observation of the child may be

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Page 2

1 conducted. If permission to enter the home or
2 ~~facility~~ and to examine interview or observe the child
3 is refused, the juvenile court or".

4 _____. Page 4, by striking line 31 and inserting
5 the following: "facility and examine interview or
6 observe the child."

7 _____. Page 5, line 10, by striking the words "and
8 observing".

9 _____. Page 5, by striking lines 12 through 23 and
10 inserting the following: "children for the purpose of
11 conducting interviews in order to obtain relevant
12 information. The investigator may observe a child
13 named in a report in accordance with the provisions of
14 section 232.68, subsection 3, paragraph "b". A
15 witness shall be present during an observation of a
16 child. Any child age ten".

17 _____. Page 5, line 27, by inserting after the word
18 "to" the following: "acts or omissions in good faith
19 of".

20 _____. Page 7, by striking lines 11 through 15 and
21 inserting the following: "disposition of a child
22 abuse report."

23 _____. Page 7, line 17, by striking the words
24 "paragraphs "a" and "b"" and inserting the following:
25 "paragraph "a"".

26 _____. By striking page 7, line 35 through page 8,
27 line 2.

28 _____. Page 8, by striking line 15 and inserting
29 the following: "guardian, or custodian presents an
30 imminent danger to the".

31 _____. Page 8, by striking lines 31 and 32 and
32 inserting the following: "proceedings arising under
33 this division. However, if there is disagreement
34 between the department and the county attorney
35 regarding the appropriate action to be taken, the".

36 _____. Page 9, by striking lines 19 and 20 and
37 inserting the following: "proceedings arising under
38 this division. However, if there is disagreement
39 between the department and the county attorney
40 regarding the appropriate action to be taken, the".

41 _____. By striking page 9, line 34, through page
42 10, line 10.

43 _____. Page 11, by inserting after line 26, the
44 following:

45 "Sec. _____. Section 622.84, Code 1989, is amended
46 to read as follows:

47 622.84 SUBPOENAS -- ENFORCING OBEDIENCE.

48 1. When, by the laws of this or any other state or
49 country, testimony may be taken in the form of
50 depositions to be used in any of the courts thereof,

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1 the person authorized to take such the depositions may
2 issue subpoenas for witnesses, which must be served by
3 the same officers and returned in the same manner as
4 is required in district court, and obedience thereto
5 to the subpoenas may be enforced in the same way and
6 to the same extent, or the person may report the
7 matter to the district court who may enforce obedience
8 as though the action was pending in said the district
9 court.

10 2. If a witness is located in any other state or
11 country and refuses to voluntarily submit to the
12 deposition, the court of jurisdiction in this state
13 may, upon the application of any party, petition the
14 court of competent jurisdiction in the foreign
15 jurisdiction where the witness is located to issue
16 subpoenas or make other appropriate orders to compel
17 the witness' attendance at the deposition."

18 _____. By striking page 12, line 8, through page
19 13, line 13, and inserting the following:

20 "Sec. _____. Section 910A.14, subsection 1,
21 unnumbered paragraph 2, Code 1989, is amended by
22 striking the paragraph.

23 Sec. _____. Section 910A.14, subsection 2, Code
24 1989, is amended to read as follows:

25 2. The court may, upon its own motion or upon
26 motion of a party, order that the testimony of a
27 child, as defined in section 702.5, be taken by
28 recorded deposition for use at trial, pursuant to rule
29 of criminal procedure 12(2)(b). In addition to
30 requiring that such testimony be recorded by
31 stenographic means, the court may on motion and
32 hearing, and upon a finding that the child is
33 unavailable as provided in Iowa rules of evidence
34 804(a), order the videotaping of the child's testimony
35 for viewing in the courtroom by the court. The
36 videotaping shall comply with the provisions of rule
37 of criminal procedure 12(2)(b), and shall be
38 admissible as evidence in the trial of the cause."

39 2. Title page, line 5, by inserting after the
40 word "children" the following: "in this state and the
41 deposition testimony of witnesses in a foreign
42 jurisdiction".

43 3. By renumbering and relettering as necessary.

By TOM MANN, Jr.

JULIA GENTLEMAN

S-4183 FILED MAY 6, 1989

RULED OUT OF ORDER (7 2056)

HOUSE FILE 690

S-4185

1 Amend the amendment, S-4031, to House File 690, as
2 amended, passed, and reprinted by the House, as
3 follows:
4 1. By striking page 1, line 3 through page 2,
5 line 47 and inserting the following:
6 "____. Page 1, by striking lines 9 through 11 and
7 inserting the following:
8 "(1) Conditions-created-by Mental injury caused by
9 the acts of the child's parent, guardian, or
10 custodian, or."
11 _____. Page 1, by striking lines 22 through 31 and
12 inserting the following:
13 "NEW SUBSECTION. 31A. "Mental injury" means a
14 nonorganic injury to a child's intellectual or
15 psychological capacity as evidenced by an observable
16 and substantial impairment in the child's ability to
17 function within the child's normal range of
18 performance and behavior, considering the child's
19 cultural origin."
20 _____. Page 2, line 17 by striking the word
21 "inspection,".
22 _____. Page 2, line 21, by inserting after the word
23 "child." the following: "A department investigator is
24 not precluded from recording visible evidence of
25 abuse."
26 _____. Page 2, by striking lines 22 through 32 and
27 inserting the following:
28 "b. "Observation" means direct physical viewing of
29 a child under the age of four by the department
30 investigator where the viewing is limited to the
31 child's body other than the genitalia and pubes.
32 "Observation" also means direct physical viewing of a
33 child age four or older by the department investigator
34 without touching the child or removing an article of
35 the child's clothing, and doing so without the consent
36 of the child's parent, custodian, or guardian. A
37 department investigator is not precluded from
38 recording evidence of abuse obtained as a result of a
39 child's voluntary removal of an article of clothing
40 without inducement by the investigator. However, if
41 prior consent of the child's parent or guardian, or an
42 ex parte court order, is obtained, "observation" may
43 include viewing the child's unclothed body other than
44 the genitalia and pubes."
45 _____. Page 4, by striking lines 3 through 5 and
46 inserting the following: "parents. However, if the
47 department".
48 _____. Page 4, by striking lines 25 through 28 and
49 inserting the following: "report and examination an
50 interview or observation of the child may be

11 conducting interviews in order to obtain relevant
12 information. The investigator may observe a child
13 named in a report in accordance with the provisions of
14 section 232.68, subsection 3, paragraph "b". A
15 witness shall be present during an observation of a
16 child. Any child age ten".

17 _____. Page 5, line 27, by inserting after the word
18 "to" the following: "acts or omissions in good faith
19 of".

20 _____. Page 7, by striking lines 11 through 15 and
21 inserting the following: "disposition of a child
22 abuse report."

23 _____. Page 7, line 17, by striking the words
24 "paragraphs "a" and "b"" and inserting the following:
25 "paragraph "a"".

26 _____. By striking page 7, line 35 through page 8,
27 line 2.

28 _____. Page 8, by striking line 15 and inserting
29 the following: "~~guardian, or custodian~~ presents an
30 imminent danger to the".

31 _____. Page 8, by striking lines 31 and 32 and
32 inserting the following: "proceedings arising under
33 this division. However, if there is disagreement
34 between the department and the county attorney
35 regarding the appropriate action to be taken, the".

36 _____. Page 9, by striking lines 19 and 20 and
37 inserting the following: "proceedings arising under
38 this division. However, if there is disagreement
39 between the department and the county attorney
40 regarding the appropriate action to be taken, the".

41 _____. By striking page 9, line 34, through page
42 10, line 10.

43 _____. Page 11, by inserting after line 10, the
44 following:

45 "Sec. _____. Section 622.84, Code 1989, is amended
46 to read as follows:

47 622.84 SUBPOENAS -- ENFORCING OBEDIENCE.

48 1. When, by the laws of this or any other state or
49 country, testimony may be taken in the form of
50 depositions to be used in any of the courts thereof,

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1 the person authorized to take such the depositions may
2 issue subpoenas for witnesses, which must be served by
3 the same officers and returned in the same manner as
4 is required in district court, and obedience thereto
5 to the subpoenas may be enforced in the same way and
6 to the same extent, or the person may report the
7 matter to the district court who may enforce obedience
8 as though the action was pending in said the district
9 court.

10 2. If a witness is located in any other state or
11 country and refuses to voluntarily submit to the
12 deposition, the court of jurisdiction in this state
13 may, upon the application of any party, petition the
14 court of competent jurisdiction in the foreign
15 jurisdiction where the witness is located to issue
16 subpoenas or make other appropriate orders to compel
17 the witness' attendance at the deposition."

18 . By striking page 12, line 8, through page
19 13, line 13, and inserting the following:

20 "Sec. ____ . Section 910A.14, subsection 1,
21 unnumbered paragraph 2, Code 1989, is amended by
22 striking the paragraph.

23 Sec. ____ . Section 910A.14, subsection 2, Code
24 1989, is amended to read as follows:

25 2. The court may, upon its own motion or upon
26 motion of a party, order that the testimony of a
27 child, as defined in section 702.5, be taken by
28 recorded deposition for use at trial, pursuant to rule
29 of criminal procedure 12(2)(b). In addition to
30 requiring that such testimony be recorded by
31 stenographic means, the court may on motion and
32 hearing, and upon a finding that the child is
33 unavailable as provided in Iowa rules of evidence
34 804(a), order the videotaping of the child's testimony
35 for viewing in the courtroom by the court. The
36 videotaping shall comply with the provisions of rule
37 of criminal procedure 12(2)(b), and shall be
38 admissible as evidence in the trial of the cause."

39 2. Title page, line 5, by inserting after the
40 word "children" the following: "in this state and the
41 deposition testimony of witnesses in a foreign
42 jurisdiction".

43 3. By renumbering and relettering as necessary.

By TOM MANN, Jr.

JULIA GENTLEMAN

HOUSE FILE 690

S-4186

- 1 Amend House File 690, as amended, passed, and
- 2 reprinted by the House, as follows:
- 3 1. Page 7, line 8, by striking the word "to".
- 4 2. Page 7, by striking line 9 and inserting the
- 5 following: ", as defined in section 235A.13, subsection 9.
- 6 Upon the department's request, a multidisciplinary team
- 7 shall".

By CHARLES BRUNER

S-4186 FILED MAY 6, 1989

ADOPTED (p. 2056)

SENATE AMENDMENT TO HOUSE FILE 690

H-4490

- 1 Amend House File 690, as amended, passed, and
2 reprinted by the House, as follows:
- 3 1. Page 1, by striking lines 9 through 11 and
4 inserting the following:
5 "(1) Conditions-created-by Mental injury caused by
6 the acts of the child's parent, guardian, or
7 custodian;-or."
- 8 2. Page 1, by striking lines 22 through 31 and
9 inserting the following:
10 "NEW SUBSECTION. 31A. "Mental injury" means a
11 nonorganic injury to a child's intellectual or
12 psychological capacity as evidenced by an observable
13 and substantial impairment in the child's ability to
14 function within the child's normal range of
15 performance and behavior, considering the child's
16 cultural origin."
- 17 3. By striking page 1, line 32 through page 2,
18 line 9.
- 19 4. Page 2, line 17 by striking the word
20 "inspection,".
- 21 5. Page 2, line 21, by inserting after the word
22 "child." the following: "A department investigator is
23 not precluded from recording visible evidence of
24 abuse."
- 25 6. Page 2, by striking lines 22 through 32 and
26 inserting the following:
27 "b. "Observation" means direct physical viewing of
28 a child under the age of four by the department
29 investigator where the viewing is limited to the
30 child's body other than the genitalia and pubes.
31 "Observation" also means direct physical viewing of a
32 child age four or older by the department investigator
33 without touching the child or removing an article of
34 the child's clothing, and doing so without the consent
35 of the child's parent, custodian, or guardian. A
36 department investigator is not precluded from
37 recording evidence of abuse obtained as a result of a
38 child's voluntary removal of an article of clothing
39 without inducement by the investigator. However, if
40 prior consent of the child's parent or guardian, or an
41 ex parte court order, is obtained, "observation" may
42 include viewing the child's unclothed body other than
43 the genitalia and pubes."
- 44 7. Page 4, by striking lines 3 through 5 and
45 inserting the following: "parents. However, if the
46 department".
- 47 8. Page 4, by striking lines 25 through 28 and
48 inserting the following: "report and examination an
49 interview or observation of the child may be
50 conducted. If permission to enter the home or

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Page 2

1 ~~facility~~-and to examine interview or observe the child
2 is refused, the juvenile court or".

3 9. Page 4, by striking line 31 and inserting the
4 following: "facility and examine interview or observe
5 the child."

6 10. Page 5, line 10, by striking the words "and
7 observing".

8 11. Page 5, by striking lines 12 through 23 and
9 inserting the following: "children for the purpose of
10 conducting interviews in order to obtain relevant
11 information. The investigator may observe a child
12 named in a report in accordance with the provisions of
13 section 232.68, subsection 3, paragraph "b". A
14 witness shall be present during an observation of a
15 child. Any child age ten".

16 12. Page 5, line 27, by inserting after the word
17 "to" the following: "acts or omissions in good faith
18 of".

19 13. Page 7, line 8, by striking the word "to".

20 14. Page 7, by striking line 9 and inserting the
21 following: ", as defined in section 235A.13,
22 subsection 9. Upon the department's request, a
23 multidisciplinary team shall".

24 15. Page 7, by striking lines 11 through 15 and
25 inserting the following: "disposition of a child
26 abuse report."

27 16. Page 7, line 17, by striking the words
28 "paragraphs "a" and "b" and inserting the following:
29 "paragraph "a"".

30 17. By striking page 7, line 35 through page 8,
31 line 2.

32 18. Page 8, by striking line 15 and inserting the
33 following: "guardian, or-custodian presents an
34 imminent danger to the".

35 19. Page 8, by striking lines 31 and 32 and
36 inserting the following: "proceedings arising under
37 this division. However, if there is disagreement
38 between the department and the county attorney
39 regarding the appropriate action to be taken, the".

40 20. Page 9, by striking lines 19 and 20 and
41 inserting the following: "proceedings arising under
42 this division. However, if there is disagreement
43 between the department and the county attorney
44 regarding the appropriate action to be taken, the".

45 21. By striking page 9, line 34, through page 10,
46 line 10.

47 22. Page 11, by inserting after line 10, the
48 following:

49 "Sec. ____ . Section 622.84, Code 1989, is amended
50 to read as follows:

1 622.84 SUBPOENAS -- ENFORCING OBEDIENCE.
 2 1. When, by the laws of this or any other state or
 3 country, testimony may be taken in the form of
 4 depositions to be used in any of the courts thereof,
 5 the person authorized to take such the depositions may
 6 issue subpoenas for witnesses, which must be served by
 7 the same officers and returned in the same manner as
 8 is required in district court, and obedience ~~thereto~~
 9 to the subpoenas may be enforced in the same way and
 10 to the same extent, or the person may report the
 11 matter to the district court who may enforce obedience
 12 as though the action was pending in said the district
 13 court.

14 2. If a witness is located in any other state or
 15 country and refuses to voluntarily submit to the
 16 deposition, the court of jurisdiction in this state
 17 may, upon the application of any party, petition the
 18 court of competent jurisdiction in the foreign
 19 jurisdiction where the witness is located to issue
 20 subpoenas or make other appropriate orders to compel
 21 the witness' attendance at the deposition."

22 23. By striking page 11, line 11 through page 12,
 23 line 7.

24 24. By striking page 12, line 8, through page 13,
 25 line 13, and inserting the following:

26 "Sec. ____ . Section 910A.14, subsection 1,
 27 unnumbered paragraph 2, Code 1989, is amended by
 28 striking the paragraph.

29 Sec. ____ . Section 910A.14, subsection 2, Code
 30 1989, is amended to read as follows:

31 2. The court may, upon its own motion or upon
 32 motion of a party, order that the testimony of a
 33 child, as defined in section 702.5, be taken by
 34 recorded deposition for use at trial, pursuant to rule
 35 of criminal procedure 12(2)(b). In addition to
 36 requiring that such testimony be recorded by
 37 stenographic means, the court may on motion and
 38 hearing, and upon a finding that the child is
 39 unavailable as provided in Iowa rules of evidence
 40 804(a), order the videotaping of the child's testimony
 41 for viewing in the courtroom by the court. The
 42 videotaping shall comply with the provisions of rule
 43 of criminal procedure 12(2)(b), and shall be
 44 admissible as evidence in the trial of the cause."

45 25. Page 13, by striking line 14.

46 26. Title page, lines 3 and 4 by striking the
 47 words "religious exemptions regarding children,".

48 27. Title page, line 5, by inserting after the
 49 word "children" the following: "in this state and the
 50 deposition testimony of witnesses in a foreign

1 jurisdiction".

2 28. By renumbering, relettering, or redesignating
 3 and correcting internal references as necessary.

RECEIVED FROM THE SENATE

HOUSE FILE 690

AN ACT

RELATING TO THE PROTECTION OF CHILDREN, BY MODIFYING PROVISIONS RELATING TO A CHILD IN NEED OF ASSISTANCE, CHILD ABUSE, TERMINATION OF PARENTAL RIGHTS, AND PROVIDING FOR A PROCEDURE RELATING TO COURTROOM TESTIMONY OF CHILDREN IN THIS STATE AND THE DEPOSITION TESTIMONY OF WITNESSES IN A FOREIGN JURISDICTION.

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

Section 1. Section 232.2, subsection 6, paragraphs b, c, and h, Code 1989, are amended to read as follows:

b. Whose parent, guardian or, other custodian, or other member of the household in which the child resides has physically abused or neglected the child, or is imminently likely to abuse or neglect the child.

c. Who has suffered or is imminently likely to suffer harmful effects as a result of either of the following:

(1) ~~Conditions created by mental injury caused by the acts of the child's parent, guardian, or custodian or,~~

(2) The failure of the child's parent, guardian, or custodian, or other member of the household in which the child resides to exercise a reasonable degree of care in supervising the child.

h. Who has committed a delinquent act as a result of pressure, guidance, or approval from a parent, guardian, or custodian, or other member of the household in which the child resides.

Sec. 2. Section 232.2, Code 1989, is amended by adding the following new subsections:

NEW SUBSECTION. 3A. "Mental injury" means a nonorganic injury to a child's intellectual or psychological capacity as evidenced by an observable and substantial impairment in the

child's ability to function within the child's normal range of performance and behavior, considering the child's cultural origin.

Sec. 3. Section 232.68, Code 1989, is amended by adding the following new subsection 3 and renumbering the subsequent subsections as necessary:

NEW SUBSECTION. 3. "Confidential access to a child" means access to a child, during an investigation of an alleged act of child abuse, who is alleged to be the victim of the child abuse. The access may be accomplished by interview, observation, or examination of the child. As used in this subsection:

a. "Interview" means the verbal exchange between the department investigator and the child for the purpose of developing information necessary to protect the child. A department investigator is not precluded from recording visible evidence of abuse.

b. "Observation" means direct physical viewing of a child under the age of four by the department investigator where the viewing is limited to the child's body other than the genitalia and pubes. "Observation" also means direct physical viewing of a child age four or older by the department investigator without touching the child or removing an article of the child's clothing, and doing so without the consent of the child's parent, custodian, or guardian. A department investigator is not precluded from recording evidence of abuse obtained as a result of a child's voluntary removal of an article of clothing without inducement by the investigator. However, if prior consent of the child's parent or guardian, or an ex parte court order, is obtained, "observation" may include viewing the child's unclotted body other than the genitalia and pubes.

c. "Examination" means direct physical viewing, touching, and medically necessary manipulation of any area of the child's body by a physician licensed under chapter 148 or 150A.

Sec. 4. Section 232.68, subsection 6, Code 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. Any person providing care for a child, but with whom the child does not reside, without reference to the duration of the care.

Sec. 5. Section 232.69, subsection 1, paragraphs a and b, Code 1989, are amended to read as follows:

a. Every health practitioner who in the scope of professional practice, examines, attends, or treats a child and who reasonably believes the child has been abused. Notwithstanding section 140.3, this provision applies to a health practitioner who receives information confirming that a child is infected with a sexually transmitted disease.

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, peace officer, dental hygienist, counselor, paramedic, or mental health professional, who, in the course-of-employment scope of professional practice or in providing child foster care, examines, attends, counsels or treats a child and reasonably believes a child has suffered abuse.

Sec. 6. Section 232.71, subsection 1, Code 1989, is amended to read as follows:

1. Whenever a report is 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. The department, within five working days of commencing the investigation, shall provide written notification of the investigation to the child's

parents. However, if the department shows the court to the court's satisfaction that notification is likely to endanger the child or other persons, the court shall issue an emergency order restraining the notification.

Sec. 7. Section 232.71, subsection 2, Code 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. An interview of the person alleged to have committed the child abuse, if the person's identity and location are known, to afford the person the opportunity to address the allegations of the child abuse report. The interview shall be conducted, or an opportunity for an interview shall be provided, prior to a determination of child abuse being made. The court may waive the requirement of the interview for good cause.

Sec. 8. Section 232.71, subsection 3, Code 1989, is amended to read as follows:

3. The investigation may, with the consent of the parent or guardian, include a visit to the home of the child ~~or with the consent of the administrator of a facility include a visit to the facility providing care to the child~~ named in the report and examination an interview or observation of the child may be conducted. If permission to enter the home or ~~facility and to examine~~ interview or observe the child is refused, the juvenile court or district court upon a showing of probable cause may authorize the person making the investigation to enter the home ~~or facility and examine~~ interview or observe the child. The department may utilize a multidisciplinary team in investigations of child abuse ~~involving employees or agents of a facility providing care for a child.~~

Sec. 9. Section 232.71, subsection 6, Code 1989, is amended by striking the subsection and inserting in lieu thereof the following:

6. The investigation may include a visit to a facility providing care to the child named in the report or to any public or private school subject to the authority of the

department of education where the child named in the report is located. The administrator of a facility, or a public or private school shall cooperate with the investigator by providing confidential access to the child named in the report for the purpose of interviewing the child, and shall allow the investigator confidential access to other children for the purpose of conducting interviews in order to obtain relevant information. The investigator may observe a child named in a report in accordance with the provisions of section 232.68, subsection 3, paragraph "b". A witness shall be present during an observation of a child. Any child age ten years of age or older can terminate contact with the investigator by stating or indicating the child's wish to discontinue the contact. The immunity granted by section 232.73 applies to acts or omissions in good faith of such administrators and their facilities or school districts for cooperating in an investigation and allowing confidential access to a child. The department may utilize a multidisciplinary team to conduct investigations of child abuse involving employees or agents of a facility providing care for a child.

Sec. 10. Section 232.71, subsection 5, Code 1989, is amended to read as follows:

5. The department of human services may request information from any person believed to have knowledge of a child abuse case. The county attorney, any law enforcement or social services agency in the state, and any mandatory reporter, whether or not the reporter made the specific child abuse report, shall cooperate and assist in the investigation upon the request of the department of human services. The county attorney and appropriate law enforcement agencies shall also take any other lawful action which may be necessary or advisable for the protection of the child.

Sec. 11. Section 232.71, subsection 7, Code 1989, is amended to read as follows:

7. The department, upon completion of its investigation, shall make a preliminary report of its investigation as

required by subsection 2. A copy of this report shall be transmitted to juvenile court within ~~ninety-six hours~~ four regular working days after the department initially receives the abuse report unless the juvenile court grants an extension of time for good cause shown. If the preliminary report is not a complete report, a complete report shall be filed within ten working days of the receipt of the abuse report, unless the juvenile court grants an extension of time for good cause shown. The department shall notify a subject of the report of the result of the investigation, of the subject's right to correct the information pursuant to section 235A.19, and of the procedures to correct the information. The juvenile court shall notify the registry of any action it takes with respect to a suspected case of child abuse.

Sec. 12. Section 232.71, subsection 11, Code 1989, is amended to read as follows:

11. If, upon completion of the investigation, the department of human services determines that the best interests of the child require juvenile court action, the department shall take the appropriate action to initiate such action under this chapter. The county attorney shall assist the county department of human services ~~in the preparation of the necessary papers to initiate such action and shall appear and represent the department at all juvenile court proceedings as provided under section 232.90, subsection 2.~~

Sec. 13. Section 232.71, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 17. In each county or multicounty area in which more than fifty child abuse reports are made per year, the department shall establish a multidisciplinary team, as defined in section 235A.13, subsection 9. Upon the department's request, a multidisciplinary team shall assist the department in the assessment, diagnosis, and disposition of a child abuse report.

Sec. 14. Section 232.78, subsection 1, unnumbered paragraph 1 and paragraph 4, Code 1989, are amended to read as follows:

The juvenile court may enter an ex parte order directing a peace officer to ~~remove a child from the child's home or a child day care facility~~ take custody of a child before or after the filing of a petition under this chapter provided all of the following apply:

a. ~~The parent, guardian, legal custodian, or employee of the child day care facility~~ person responsible for the care of the child is absent, or though present, was asked and refused to consent to the removal of the child and was informed of an intent to apply for an order under this section, ~~or the parent, guardian, or legal custodian has a prior instance of flight to avoid a child abuse investigation or there is reasonable cause to believe that a request for consent would further endanger the child, or there is reasonable cause to believe that a request for consent will cause the parent, guardian, or legal custodian to take flight with the child.~~

Sec. 15. Section 232.79, subsection 1, unnumbered paragraph 1 and paragraph a, Code 1989, are amended to read as follows:

A peace officer may ~~remove a child from the child's home or a child day care facility~~ take a child into custody or a physician treating a child may keep the child in custody without a court order as required under section 232.78 and without the consent of a parent, guardian, or custodian provided that both of the following apply:

a. The child is in such a circumstance or condition that ~~the child's continued presence in the residence or the child day care facility or in the care or custody of the parent, guardian, or custodian presents an imminent danger to the child's life or health.~~

Sec. 16. Section 232.90, Code 1989, is amended to read as follows:

232.90 DUTIES OF COUNTY ATTORNEY.

1. The county attorney shall represent the state in proceedings arising from a petition filed under this division and shall present evidence in support of the petition. The

county attorney shall be present at proceedings initiated by petition under this division filed by an intake officer or the county attorney, or if a party to the proceedings contests the proceedings, or if the court determines there is a conflict of interest between the child and the child's parent, guardian, or custodian or if there are contested issues before the court.

2. The county attorney shall represent the department in proceedings arising under this division. However, if there is disagreement between the department and the county attorney regarding the appropriate action to be taken, the department may request to be represented by the attorney general in place of the county attorney.

Sec. 17. Section 232.92, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

232.92 EXCLUSION OF PUBLIC FROM HEARINGS.

Hearings held under this division are open to the public unless the court, on the motion of any of the parties or upon the court's own motion, excludes the public. The court shall exclude the public from a hearing if the court determines that the possibility of damage or harm to the child outweighs the public's interest in having an open hearing. Upon closing the hearing to the public, the court may admit those persons who have direct interest in the case or in the work of the court.

Sec. 18. Section 232.114, Code 1989, is amended to read as follows:

232.114 DUTIES OF COUNTY ATTORNEY.

1. Upon the filing of a petition the county attorney shall represent the state in all adversary proceedings arising under this division and shall present evidence in support of the petition.

2. The county attorney shall represent the department in proceedings arising under this division. However, if there is disagreement between the department and the county attorney regarding the appropriate action to be taken, the department may request to be represented by the attorney general in place of the county attorney.

Sec. 19. Section 232.117, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 8. Hearings held under this division are open to the public unless the court, on the motion of any of the parties or upon the court's own motion, excludes the public. The court shall exclude the public from a hearing if the court determines that the possibility of damage or harm to the child outweighs the public's interest in having a public hearing. Upon closing the hearing, the court may admit persons who have a direct interest in the case or in the work of the court.

Sec. 20. Section 235A.18, subsection 2, Code 1989, is amended by adding the following new unnumbered paragraph following paragraph c:

NEW UNNUMBERED PARAGRAPH. The juvenile or district court and county attorney shall exchange child abuse information upon notice from the registry.

Sec. 21. Section 235A.19, subsection 2, Code 1989, is amended to read as follows:

2. a. A person may file with the department within six months of the date of the notice of the results of an investigation required by section 232.71, subsection 7, a written statement to the effect that child abuse information referring to the person is in whole or in part erroneous, and may request a correction of that information or of the findings of the investigation report. The department shall provide the person with an opportunity for an evidentiary hearing pursuant to chapter 17A to correct the information or the findings, unless the department corrects the information or findings as requested. The department shall delay the expungement of information which is not determined to be founded until the conclusion of a proceeding to correct the information or findings. The department may defer the hearing until the conclusion of a pending juvenile or district court case relating to the information or findings.

b. The department shall not disclose any child abuse information until the conclusion of the proceeding to correct the information or findings, except as follows:

- (1) As necessary for the proceeding itself.
- (2) To the parties and attorneys involved in a judicial proceeding.
- (3) For the regulation of child care or child placement.
- (4) Pursuant to court order.
- (5) To the subject of an investigation.
- (6) For the care or treatment of a child named in a report as a victim of abuse.

Sec. 22. Section 622.84, Code 1989, is amended to read as follows:

622.84 SUBPOENAS - ENFORCING OBEDIENCE.

1. When, by the laws of this or any other state or country, testimony may be taken in the form of depositions to be used in any of the courts thereof, the person authorized to take such depositions may issue subpoenas for witnesses, which must be served by the same officers and returned in the same manner as is required in district court, and obedience thereto to the subpoenas may be enforced in the same way and to the same extent, or the person may report the matter to the district court who may enforce obedience as though the action was pending in said the district court.

2. If a witness is located in any other state or country and refuses to voluntarily submit to the deposition, the court of jurisdiction in this state may, upon the application of any party, petition the court of competent jurisdiction in the foreign jurisdiction where the witness is located to issue subpoenas or make other appropriate orders to compel the witness' attendance at the deposition.

Sec. 23. Section 910A.14, subsection 1, unnumbered paragraph 2, Code 1989, is amended by striking the paragraph.

Sec. 24. Section 910A.14, subsection 2, Code 1989, is amended to read as follows:

2. The court may, upon its own motion or upon motion of a party, order that the testimony of a child, as defined in section 702.5, be taken by recorded deposition for use at trial, pursuant to rule of criminal procedure 12(2)(b). In addition to requiring that such testimony be recorded by stenographic means, the court may on motion and hearing, and upon a finding that the child is unavailable as provided in Iowa rules of evidence 804(a), order the videotaping of the child's testimony for viewing in the courtroom by the court. The videotaping shall comply with the provisions of rule of criminal procedure 12(2)(b), and shall be admissible as evidence in the trial of the cause.

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 690, Seventy-third General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved May 26, 1989

TERRY E. BRANSTAD
Governor