

(P. 95) 3/23/93 Little State Court
(P. 1218) 4/19/93 Little State Court

MAR 11 1993

HOUSE FILE 484
BY COMMITTEE ON STATE GOVERNMENT

Place On Calendar

(SUCCESSOR TO HSB 179)

Passed House, ^(P. 746) Date 3/23/93 Passed Senate, ^(P. 1218) Date 4/19/93
Vote: Ayes 98 Nays 0 Vote: Ayes 49 Nays 0
Approved April 27, 1993

A BILL FOR

1 An Act relating to the authority of the department of inspections
2 and appeals by providing for the collection of debts owed to
3 the department of human services, by providing for the
4 licensure of certain facilities as psychiatric medical
5 institutions for children, by authorizing access to criminal
6 histories to certain tribal gaming officials, and by providing
7 an effective date.

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

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DIVISION I
RECOVERY OF DEBT

Section 1. Section 10A.104, subsection 6, Code 1993, is amended to read as follows:

6. Issue subpoenas and distress warrants, administer oaths, and take depositions in connection with audits, appeals, investigations, inspections, and hearings conducted by the department. If a person refuses to obey a subpoena or distress warrant issued by the department or otherwise fails to cooperate in proceedings of the department, the director may enlist the assistance of a court of competent jurisdiction in requiring the person's compliance. Failure to obey orders of the court renders the person in contempt of the court and subject to penalties provided for that offense.

Sec. 2. Section 10A.402, subsection 5, Code 1993, is amended to read as follows:

5. Investigations and collections relative to the liquidation of overpayment debts owed to the department of human services. Collection methods include but are not limited to small claims filings, debt setoff, distress warrants, and repayment agreements, and are subject to approval by the department of human services.

Sec. 3. Section 626.29, Code 1993, is amended to read as follows:

626.29 DISTRESS WARRANT BY DIRECTOR OF REVENUE AND FINANCE, DIRECTOR OF INSPECTIONS AND APPEALS, OR JOB SERVICE COMMISSIONER.

In the service of a distress warrant issued by the director of revenue and finance for the collection of income tax, sales tax, motor vehicle fuel tax, freight line and equipment car tax, hotel and motel tax, or use tax, in the service of a distress warrant issued by the director of inspections and appeals for the collection of overpayment debts owed to the department of human services, or in the service of a distress warrant issued by the job service commissioner of the

1 department of employment services for the collection of
2 employment security contributions, the property of the
3 taxpayer or the employer in the possession of another, or
4 debts due the taxpayer or the employer, may be reached by
5 garnishment.

6 Sec. 4. Section 626.30, Code 1993, is amended to read as
7 follows:

8 626.30 EXPIRATION OR RETURN OF DISTRESS WARRANT.

9 Proceedings by garnishment under a distress warrant issued
10 by the Iowa director of revenue and finance or the director of
11 inspections and appeals shall not be affected by its
12 expiration or its return.

13 Sec. 5. Section 626.31, Code 1993, is amended to read as
14 follows:

15 626.31 RETURN OF GARNISHMENT -- ACTION DOCKETED --
16 DISTRESS ACTION.

17 Where parties have been garnished under a distress warrant
18 issued by the director of revenue and finance or the director
19 of inspections and appeals, the officer shall make return
20 thereof to the court in the county where the garnishee lives,
21 if the garnishee lives in Iowa, otherwise in the county where
22 the taxpayer resides, if the taxpayer lives in Iowa; and if
23 neither the garnishee nor the taxpayer lives in Iowa, then to
24 the district court in Polk county, Iowa; the officer shall
25 make return in the same manner as a return is made on a
26 garnishment made under a writ of execution so far as they
27 relate to garnishments, and the clerk of the district court
28 shall docket an action thereon without fee the same as if a
29 judgment had been recovered against the taxpayer in the county
30 where the return is made, an execution issued thereon, and
31 garnishment made thereunder, and thereafter the proceedings
32 shall conform to proceedings in garnishment under attachments
33 as nearly as may be.

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DIVISION II

35

PSYCHIATRIC HOSPITAL FOR CHILDREN

1 Sec. 6. Section 135H.4, Code 1993, is amended to read as
2 follows:

3 135H.4 LICENSURE.

4 A person shall not establish, operate, or maintain a
5 psychiatric medical institution for children unless the person
6 obtains a license for the institution under this chapter and
7 holds either a license under section 237.3, subsection 2,
8 paragraph "a", subparagraph (3) or, for facilities which
9 provide substance abuse treatment, a license under section
10 125.13.

11 Sec. 7. Section 135H.6, subsection 2, Code 1993, is
12 amended to read as follows:

13 2. The proposed psychiatric institution is accredited to
14 ~~provide-psychiatric-services~~ by the joint commission on the
15 accreditation of health care organizations ~~under-the~~
16 ~~commission's-consolidated-standards-for-residential-settings.~~

17 DIVISION III

18 GAMING

19 Sec. 8. Section 692.2, subsection 1, Code 1993, is amended
20 by adding the following new lettered paragraph:

21 NEW PARAGRAPH. j. To tribal officials, tribal gaming
22 commissions, or tribal regulatory agency members of a
23 federally recognized Indian tribe engaged in gaming within the
24 state, who are directly responsible for authorized gaming
25 background investigations or licensing pursuant to the Iowa
26 gaming compact.

27 Sec. 9. EFFECTIVE DATE. Section 8 and this section of
28 this Act, being deemed of immediate importance, take effect
29 upon enactment.

30 EXPLANATION

31 Sections 1 through 5 establish the authority and provide
32 procedures for the collection of overpayment debts owed to the
33 department of human services. The department of inspections
34 and appeals may issue distress warrants to garnish the income
35 of a person who is indebted to the department of human

1 services.

2 Sections 6 and 7 of this bill authorize facilities which
3 provide substance abuse treatment and are licensed under
4 section 125.13, to be licensed as a psychiatric medical
5 institution for children.

6 Section 8 of this bill provides tribal gaming officials
7 with access to criminal histories for the purposes of making
8 background investigations related to gaming. This section
9 will also become effective upon enactment.

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Tyrell, chair
Kenken
Trake
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Larkin

HSB 179

STATE GOVERNMENT

SENATE/HOUSE FILE 484

BY (PROPOSED DEPARTMENT OF
INSPECTIONS AND APPEALS BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

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Sec. 2. Section 10A.402, subsection 5, Code 1993, is amended to read as follows:

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18 GAMING

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8 background investigations related to gaming. This section
9 will also become effective upon enactment.

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BACKGROUND STATEMENT

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SUBMITTED BY THE AGENCY

12 Division I of this proposed legislation is intended to
13 achieve a more expeditious process for garnishment of a
14 proposed debtor's income for debts owed the department of
15 human services and collected by the department of inspections
16 and appeals.

17 Currently, department of inspections and appeals has to
18 transmit garnishment requests to the attorney general. Based
19 on the attorney general's time availability, garnishment
20 notices may not be served in a timely manner. During this
21 time lapse, debtors often change jobs or residences. This
22 change forces the department of inspections and appeals to
23 reinvent the whole process for resubmission to the attorney
24 general for garnishment action.

25 The change in the job or address of a debtor also creates
26 difficulties for sheriffs' departments in attempting to serve
27 the notices. The return of service has to be paid by the
28 department of inspections and appeals even if the service
29 attempt is not completed.

30 Because of the time-consuming effort, there is a waste of
31 energy, time, and money for all persons involved in the
32 process. To preclude this "revolving door effect", the
33 department of inspections and appeals needs a legal base to
34 execute garnishments by its own authority in a timely manner.

35 The attorney general's representative responsible for

1 currently processing the garnishment actions has acknowledged
2 that allowing the department of inspections and appeals to
3 pursue this legal base would be of mutual benefit to the
4 department of human services, the attorney general, and the
5 department of inspections and appeals.

6 During fiscal year 1992, the department of inspections and
7 appeals transmitted an estimated 100 garnishment requests to
8 the attorney general. With direct authority, the department
9 of inspections and appeals estimates 200 garnishment requests
10 could be processed.

11 Section 6 expands the facilities eligible for licensure as
12 a psychiatric medical institution for children (PMIC).
13 Currently persons applying for a PMIC license must also hold a
14 license issued by the department of human services for
15 comprehensive facilities. This language would allow persons
16 applying for a license to hold a license issued by the
17 department of public health for substance abuse facilities in
18 lieu of the department of human services license.

19 The standards used for conducting reviews for the
20 department of human service and department of public health
21 licenses are similar. Because of the similarity, there is no
22 need for both departments to conduct inspections of a
23 facility. The duplications of inspections and time and energy
24 spent by facility staff is without great benefit for children.
25 By eliminating this inspection duplication and reducing the
26 time and energy spent by facility staff, the public benefits
27 by reduced overall inspection expenditures and by increased
28 time that staff has to spend treating children. The
29 department of human services and public health are in support
30 of this proposed legislation, as are facilities currently
31 licensed.

32 Section 7 is an amendment which is necessary to become
33 consistent with federal language. The joint commission on the
34 accreditation of health care organizations determines which
35 standards to use. Consolidated standards are outdated and no

1 longer in use.

2 Section 8 provides tribal gaming authorities with access to
3 criminal history information. Currently it is only allowed
4 for those persons specifically designated in section 692.2.
5 The federally recognized Indian tribes currently conducting
6 gambling operations in Iowa under the negotiated compact are
7 not allowed criminal history access. In order for persons
8 required by the Iowa gaming compact to conduct background
9 investigations of tribal gaming commission members or tribal
10 regulatory agency members or to conduct background
11 investigations for the purpose of licensing gaming officials,
12 access to criminal history information is needed. This
13 legislation will provide that access.

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HOUSE FILE 484

AN ACT

RELATING TO THE AUTHORITY OF THE DEPARTMENT OF INSPECTIONS AND APPEALS BY PROVIDING FOR THE COLLECTION OF DEBTS OWED TO THE DEPARTMENT OF HUMAN SERVICES, BY PROVIDING FOR THE LICENSURE OF CERTAIN FACILITIES AS PSYCHIATRIC MEDICAL INSTITUTIONS FOR CHILDREN, BY AUTHORIZING ACCESS TO CRIMINAL HISTORIES TO CERTAIN TRIBAL GAMING OFFICIALS, AND BY PROVIDING AN EFFECTIVE DATE.

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2. The proposed psychiatric institution is accredited to ~~provide psychiatric services by the joint commission on the accreditation of health care organizations under the commission's consolidated standards for residential settings.~~

DIVISION III
GAMING

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NEW PARAGRAPH. j. To tribal officials, tribal gaming commissions, or tribal regulatory agency members of a

federally recognized Indian tribe engaged in gaming within the state, who are directly responsible for authorized gaming background investigations or licensing pursuant to the Iowa gaming compact.

Sec. 9. EFFECTIVE DATE. Section 8 and this section of this Act, being deemed of immediate importance, take effect upon enactment.

HAROLD VAN MAANEN
Speaker of the House

LEONARD L. BOSWELL
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 484, Seventy-fifth General Assembly.

ELIZABETH ISAACSON
Chief Clerk of the House

Approved  April 27, 1993

TERRY E. BRANSTAD
Governor