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SENATE FILE 221
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO SSB 176)

Passed Senate, Date ^(P. 836) 3/25/93 Passed House, Date ^(P. 1310) 4-15-93
Vote: Ayes 49 Nays 0 Vote: Ayes 100 Nays 0
Approved May 3, 1992

A BILL FOR

1 An Act relating to department of human services' statutory
2 provisions involving child abuse information, dependent adult
3 abuse, and child day care and providing an effective date.

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

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SF 221

DIVISION I

CHILD ABUSE PROVISIONS

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3 Section 1. Section 235A.15, subsections 1 and 3, Code
4 1993, are amended to read as follows:

5 1. Notwithstanding chapter 22, the confidentiality of all
6 child abuse information shall be maintained, except as
7 specifically provided by subsection 2, 3, or 4, or 5.

8 3. Access to unfounded child abuse information is
9 authorized only to those persons identified in subsection 2,
10 paragraph "a", paragraph "b", subparagraphs (2) and (5), and
11 paragraph "e", subparagraph (2), to the department of justice
12 for purposes of the crime victim compensation program in
13 accordance with section 912.10, and as ordered by the juvenile
14 court pursuant to subsection 5.

15 Sec. 2. Section 235A.15, Code 1993, is amended by adding
16 the following new subsection:

17 NEW SUBSECTION. 5. The department or another person may
18 petition for a special hearing by the juvenile court which has
19 jurisdiction over a child abuse case. The hearing shall be to
20 consider the release of child abuse information specified in
21 the petition. The juvenile court may call the hearing if the
22 petition shows good cause that any of the following
23 circumstances exist: the child abuse information is important
24 for the safety of a particular child; the child abuse
25 information is important for the well-being of a particular
26 class of children; or a compelling public benefit exists in
27 the public understanding the actions taken concerning a
28 particular child abuse report. The court may order the
29 release of the specified child abuse information and shall
30 limit the release of the child abuse information as necessary
31 to avoid unacceptable harm to a child, to a reporter of
32 suspected child abuse, or to any other person named in the
33 report. The court shall not order release of the name of the
34 reporter of suspected child abuse.

35 Sec. 3. Section 235A.15, Code 1993, is amended by adding

1 the following new unnumbered paragraphs:

2 NEW UNNUMBERED PARAGRAPH. If a child who is a legal
3 resident of another state is present in this state and a
4 report of child abuse is made concerning the child, the
5 department shall act to ensure the safety of the child. The
6 department shall contact the child's state of legal residency
7 to coordinate the investigation of the report. If the child's
8 state of residency refuses to conduct an investigation, the
9 department shall commence an appropriate investigation.

10 NEW UNNUMBERED PARAGRAPH. If a report of child abuse is
11 made concerning an alleged perpetrator who resides in this
12 state and a child who resides in another state, the department
13 shall assist the child's state of residency in conducting an
14 investigation of the report. The assistance shall include but
15 is not limited to an offer to interview the alleged
16 perpetrator and any other relevant source. If the child's
17 state of residency refuses to conduct an investigation of the
18 report, the department shall commence an appropriate
19 investigation.

20 Sec. 4. Section 235A.18, subsection 2, unnumbered
21 paragraph 1, Code 1993, is amended to read as follows:

22 Child abuse information which cannot be determined by a
23 preponderance of the evidence to be founded or unfounded shall
24 be expunged sealed one year after the receipt of the initial
25 report of abuse ~~and-child.~~ Child abuse information which is
26 determined by a preponderance of the evidence to be unfounded
27 shall be ~~expunged-when-it-is-determined-to-be-unfounded,~~
28 sealed one year after the receipt of the initial report of
29 abuse. A report shall be determined to be unfounded as a
30 result of any of the following:

31 DIVISION II

32 DEPENDENT ADULT ABUSE

33 Sec. 5. Section 235B.2, subsection 5, paragraph a,
34 subparagraph (1), Code 1993, is amended to read as follows:

35 (1) Physical injury to, or injury which is at a variance

1 with the history given of the injury, or unreasonable
2 confinement, or unreasonable punishment, or assault of a
3 dependent adult.

4 DIVISION III
5 CHILD DAY CARE

6 Sec. 6. Section 237A.1, subsection 4, Code 1993, is
7 amended by adding the following new paragraph:

8 NEW PARAGRAPH. h. An instructional program administered
9 by a nonpublic school system which is not accredited by the
10 department of education or the state board of regents.

11 Sec. 7. Section 237A.1, subsection 9, paragraph b, Code
12 1993, is amended to read as follows:

13 b. "Group day care home" means a facility providing child
14 day care for more than six but less than twelve children, with
15 ~~no-more-than-six-children-at-one-time-being-less-than-six~~
16 years-of-age provided each child in excess of six children is
17 attending school full-time on a regular basis.

18 Sec. 8. NEW SECTION. 237A.28 STATE AND FEDERAL FUNDING
19 OF CHILD DAY CARE.

20 State funds and federal funds provided to the state in
21 accordance with federal requirements shall not be used to pay
22 for the care, supervision, or guidance of a child for periods
23 of less than twenty-four hours per day on a regular basis in a
24 place other than the child's home unless the care,
25 supervision, or guidance is defined as child day care as used
26 in this chapter.

27 DIVISION IV
28 EFFECTIVE DATE

29 Sec. 9. EFFECTIVE DATE. Section 2 of this Act takes
30 effect March 1, 1994.

31 EXPLANATION

32 This bill relates to department of human services
33 provisions involving child abuse information, dependent adult
34 abuse, and child day care.

35 Section 1 authorizes release of child abuse information to

1 the department of justice for use in the administration of the
2 crime victim reparation program. In addition, release may be
3 authorized by the juvenile court pursuant to a new provision
4 established in section 2 of the bill.

5 Section 2 authorizes the filing of a petition for a special
6 hearing by the juvenile court with jurisdiction over a child
7 abuse case to consider release of information relating to the
8 case. The juvenile court may order the hearing if the
9 information is important for the safety of a child, the well-
10 being of a particular class of children, or there is a
11 compelling public benefit to understand the actions taken
12 concerning a particular case. The court must limit the
13 release of the information and cannot order release of the
14 name of the reporter of suspected child abuse. This provision
15 takes effect March 1, 1994.

16 Section 3 directs the department to act to ensure the
17 safety of a child who is a resident of another state if the
18 child is in this state and a report of child abuse is made
19 concerning the child. The department is directed to either
20 cooperate with the child's state of residence in conducting an
21 investigation or to commence an appropriate investigation. If
22 child abuse is reported concerning an alleged perpetrator who
23 resides in this state and a child who lives in another state,
24 the department is directed to assist the other state in
25 conducting an investigation and to commence an appropriate
26 investigation if the other state does not do so.

27 Section 4 relates to child information which cannot be
28 determined to be founded or unfounded and to information which
29 is determined to be unfounded. Under current law, the
30 information which cannot be determined is expunged after one
31 year and under the bill the information would instead be
32 sealed. Under current law unfounded information is expunged
33 when it is determined to be unfounded and under the bill the
34 information would be sealed after one year.

35 Section 5 relates to dependent adult abuse by adding

1 assault to the list of circumstances which are part of the
2 definition of dependent adult abuse.

3 Section 6 adds a new exception to the definition of child
4 day care. An instructional program administered by a
5 nonpublic school system which is not accredited by the
6 department of education or the state board of regents would
7 not be defined as child day care.

8 Section 7 revises the definition of group day care. Under
9 current law, group day care means care for up to 11 children
10 with no more than six of the children being younger than six
11 years of age. The bill would revise the age restriction to
12 require that each child in excess of six children is attending
13 school full-time on a regular basis.

14 Section 8 relates to state funding and federal funding
15 provided to the state for the care of children. This funding
16 could not be used for such care unless the care meets the
17 definition of child day care in accordance with law providing
18 for regulation of child day care in chapter 237A.

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SENATE FILE 221

S-3166

1 Amend Senate File 221 as follows:

2 1. Page 3, line 16, by striking the word
3 "provided" and inserting the following: "or for less
4 than sixteen children at any one time as authorized in
5 accordance with section 237A.3, subsection 2A,
6 provided".

7 2. Page 3, by inserting after line 17 the
8 following:

9 "Sec. ____ . Section 237A.3, subsection 1, Code
10 1993, is amended to read as follows:

11 1. a. A person who operates or establishes a
12 family day care home may apply to the department for
13 registration under this chapter. The department shall
14 issue a certificate of registration upon receipt of a
15 statement from the family day care home that the home
16 complies with rules adopted by the department. The
17 registration certificate shall be posted in a
18 conspicuous place in the family day care home, shall
19 state the name of the registrant, the number of
20 individuals who may be received for care at any one
21 time, and the address of the home, and shall include a
22 check list of registration compliances.

23 b. No greater number of children than is
24 authorized by the registration certificate shall be
25 kept in the family day care home at any one time.
26 However, a registered or unregistered family day care
27 home may provide care for more than six but less than
28 twelve children at any one time for a period of less
29 than two hours, provided that each child in excess of
30 six children is attending school full-time on a
31 regular basis.

32 c. A family day care home may provide care in
33 accordance with this subsection for more than six but
34 less than twelve children for two hours or more during
35 a day with inclement weather following the
36 cancellation of school classes. The home must have
37 written approval from the parent or guardian of each
38 child present in the home concerning the presence of
39 excess children in the home pursuant to this
40 paragraph. In addition, one or more of the following
41 conditions shall apply to each child present in the
42 home in excess of six children:

43 (1) The home provides care to the child on a
44 regular basis for periods of less than two hours.

45 (2) If the child was not present in the family day
46 care home, the child would be unattended.

47 (3) The home regularly provides care to a sibling
48 of the child.

49 d. In determining the number of children cared for
50 at any one time in a registered or unregistered family

S-3166

S-3166

Page 2

1 day care home, if the person who operates or
2 establishes the home is a child's parent, guardian,
3 relative, or custodian and the child is not attending
4 school full-time on a regular basis or is not
5 receiving child day care full-time on a regular basis
6 from another person, the child shall be considered to
7 be receiving child day care from the person and shall
8 be counted as one of the children cared for in the
9 home.

10 e. The registration process may be repeated on an
11 annual basis.

12 f. A child day care provider or program which is
13 not a family day care home by reason of the definition
14 of child day care in section 237A.1, subsection 4, but
15 which provides care, supervision or guidance to a
16 child may be issued a certificate of registration
17 under this chapter.

18 Sec. ____. Section 237A.3, Code 1993, is amended by
19 adding the following new subsection:

20 NEW SUBSECTION. 2A. A registered group day care
21 home may provide care in accordance with this
22 subsection for more than eleven but less than sixteen
23 children for a period of less than two hours or for a
24 period of two hours or more during a day with
25 inclement weather following the cancellation of school
26 classes. The home must have the written approval from
27 the parent or guardian of each child present in the
28 home concerning the presence of excess children in the
29 home. In addition, one or more of the following
30 conditions shall apply to each child present in the
31 home in excess of eleven children during a period of
32 inclement weather:

33 a. The group day care home provides care to the
34 child on a regular basis for periods of less than two
35 hours.

36 b. If the child was not present in the group day
37 care home, the child would be unattended.

38 c. The group day care home provides care to a
39 sibling of the child."

40 3. By renumbering as necessary.

By MERLIN E. BARTZ

S-3166 FILED MARCH 19, 1993

Adopted
3/25/93
(p. 836)

S-3165

1 Amend Senate File 221 as follows:

- A 2 1. Page 2, line 19, by inserting after the word
 3 "investigation." the following: "The department shall
 4 seek to develop protocols with states contiguous to
 5 this state for coordination in the investigation of a
 6 report of child abuse when a person involved with the
 7 report is a resident of another state."
 8 2. Page 2, by inserting after line 19 the fol-
 9 lowing:
 10 "Sec. ____ . Section 235A.18, subsection 1, Code
 11 1993, is amended to read as follows:
 12 1. Child abuse information relating to a
 13 particular case of suspected child abuse shall be
 14 sealed ten years after the receipt of the initial
 15 report of such abuse by the registry unless good cause
 16 be shown why the information should remain open to
 17 authorized access. If a subsequent report of a
 18 suspected case of child abuse involving the child
 19 named in the initial report as the victim of abuse or
 20 a person named in such report as having abused a child
 21 is received by the registry within this ten-year
 22 period, the information shall be sealed ten years
 23 after receipt of the subsequent report unless good
 24 cause be shown why the information should remain open
 25 to authorized access. The information shall be
 26 expunged eight years after the date the information
 27 was sealed."
 28 3. Page 2, line 25, by striking the words "and
 29 child" and inserting the following: "and child
 30 expunged five years after the date it was sealed".
- B 31 4. Page 2, by striking lines 27 through 29 and
 32 inserting the following: "shall be expunged when it
 33 is determined to be unfounded⁷. A report shall be
 34 determined to be unfounded as a".

By MAGGIE TINSMAN

S-3165 FILED MARCH 19, 1993
 DIV. A-ADOPTED, DIV. B-ADOPTED

SENATE FILE 221

S-3184

- 1 Amend Senate File 221 as follows:
2 1. Page 1, line 3, by striking the words and
3 figures "subsections 1 and 3" and inserting the
4 following: "subsection 3".
5 2. Page 1, line 4, by striking the word "are" and
6 inserting the following: "is".
7 3. Page 1, by striking lines 5 through 7.
8 4. Page 1, line 11, by inserting before the word
9 "to" the following: "and".
10 5. Page 1, by striking lines 13 through 34 and
11 inserting the following: "accordance with section
12 912.10."
13 6. Page 3, by striking lines 27 through 30.
14 7. Title page, line 3, by striking the words "and
15 providing an effective date".

Adopted 3/24/93 (p. 816) By RANDAL J. GIANNETTO
S-3184 FILED MARCH 22, 1993

SENATE FILE 221

S-3186

- 1 Amend Senate File 221 as follows:
2 1. Page 1, by inserting after line 2, the
3 following:
4 "Sec. ____ . Section 232.116, subsection 1,
5 paragraph 1, Code 1993, is amended to read as follows:
6 1. The court finds that both of the following have
7 occurred:
8 (1) The child has been adjudicated a child in need
9 of assistance pursuant to section 232.96 after finding
10 that the child has been physically or sexually abused
11 or neglected as a result of the acts or omissions of a
12 parent.
13 (2) The parent found to have physically or
14 sexually abused or neglected the child has been
15 convicted of a felony and imprisoned for such abuse
16 against physically or sexually abusing or neglecting
17 the child, the child's sibling, or any other child in
18 the household and the court finds it is unlikely that
19 the parent will be released within five years."

By MARY KRAMER
MERLIN E. BARTZ

S-3186 FILED MARCH 22, 1993

Adopted
3-24-93
(p. 816)

SENATE FILE 221

S-3175

- 1 Amend the amendment, S-3166, to Senate File 221 as
2 follows:
3 1. Page 1, line 37, by inserting before the word
4 "written" the following: "prior".
5 2. Page 1, line 40, by inserting after the word
6 "paragraph." the following: "The home must have a
7 responsible individual, age fourteen or older, on duty
8 to assist the home provider when more than six
9 children are present in accordance with the provisions
10 of this paragraph."
11 3. Page 2, line 26, by inserting before the word
12 "written" the following: "prior".

BY MERLIN E. BARTZ

(P. 836) adopted 3/25/93

S-3175 FILED MARCH 22, 1993

SENATE FILE 221

S-3187

- 1 Amend Senate File 221 as follows:
2 1. Page 1, by inserting before line 3 the
3 following:
4 "Section 1. Section 232.68, subsection 2, Code
5 1993, is amended by adding the following new paragraph
6 after paragraph a and relettering the succeeding
7 paragraphs:
8 NEW PARAGRAPH. b. Any mental injury to a child's
9 intellectual or psychological capacity as evidenced by
10 an observable and substantial impairment in the
11 child's ability to function within the child's normal
12 range of performance and behavior as the result of the
13 acts or omissions of a person responsible for the care
14 of the child, if the impairment is diagnosed and
15 confirmed by a licensed physician or qualified mental
16 health professional as defined in section 622.10."
17 2. Page 3, by striking lines 29 and 30 and
18 inserting the following:
19 "Sec. ____ . CONTINGENT EFFECTIVE DATE. Section 2
20 of this Act shall take effect only if the United
21 States department of health and human services finds
22 that the provisions of section 2 of this Act are in
23 compliance with the federal Child Abuse Prevention and
24 Treatment Act and the department of human services has
25 provided written notification of the finding. The
26 department of human services shall provide the
27 notification to the general assembly, the governor,
28 and the Iowa Code editor."
29 3. By renumbering and by revising internal
30 references as necessary.

By ELAINE SZYMONIAK
MAGGIE TINSMAN

S-3187 FILED MARCH 23, 1993

(P. 835) adopted 3/25/93

3/29/93 Human Res.
4/7/93 House Do Pass

SENATE FILE 221
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO SSB 176)

(AS AMENDED AND PASSED BY THE SENATE MARCH 25, 1993)

- _____ - New Language by the Senate
- * - Language Stricken by the Senate

(p.1249) Passed Senate Date 4/20/93 (p.1310) Passed House Date 4-15-93
 Vote: Ayes 50 Nays 0 Vote: Ayes 100 Nays 0
 Approved May 3, 1992

A BILL FOR

1 An Act relating to department of human services' statutory
 2 provisions involving child abuse information, dependent adult
 * 3 abuse, and child day care.

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

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S.F. 221

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DIVISION I
CHILD ABUSE PROVISIONS

Section 1. Section 232.116, subsection 1, paragraph 1, Code 1993, is amended to read as follows:

1. The court finds that both of the following have occurred:

(1) The child has been adjudicated a child in need of assistance pursuant to section 232.96 after finding that the child has been physically or sexually abused or neglected as a result of the acts or omissions of a parent.

(2) The parent found to have physically or sexually abused or neglected the child has been convicted of a felony and imprisoned for such-abuse-against physically or sexually abusing or neglecting the child, the child's sibling, or any other child in the household and-the-court-finds-it-is unlikely-that-the-parent-will-be-released-within-five-years.

Sec. 2. Section 232.68, subsection 2, Code 1993, is amended by adding the following new paragraph after paragraph a and relettering the succeeding paragraphs:

NEW PARAGRAPH. b. Any mental 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 as the result of the acts or omissions of a person responsible for the care of the child, if the impairment is diagnosed and confirmed by a licensed physician or qualified mental health professional as defined in section 622.10.

Sec. 3. Section 235A.15, subsection 3, Code 1993, is amended to read as follows:

3. Access to unfounded child abuse information is authorized only to those persons identified in subsection 2, paragraph "a", paragraph "b", subparagraphs (2) and (5), and paragraph "e", subparagraph (2), and to the department of justice for purposes of the crime victim compensation program in accordance with section 912.10.

1 Sec. 4. Section 235A.15, Code 1993, is amended by adding
2 the following new unnumbered paragraphs:

3 NEW UNNUMBERED PARAGRAPH. If a child who is a legal
4 resident of another state is present in this state and a
5 report of child abuse is made concerning the child, the
6 department shall act to ensure the safety of the child. The
7 department shall contact the child's state of legal residency
8 to coordinate the investigation of the report. If the child's
9 state of residency refuses to conduct an investigation, the
10 department shall commence an appropriate investigation.

11 NEW UNNUMBERED PARAGRAPH. If a report of child abuse is
12 made concerning an alleged perpetrator who resides in this
13 state and a child who resides in another state, the department
14 shall assist the child's state of residency in conducting an
15 investigation of the report. The assistance shall include but
16 is not limited to an offer to interview the alleged
17 perpetrator and any other relevant source. If the child's
18 state of residency refuses to conduct an investigation of the
19 report, the department shall commence an appropriate
20 investigation. The department shall seek to develop protocols
21 with states contiguous to this state for coordination in the
22 investigation of a report of child abuse when a person
23 involved with the report is a resident of another state.

24 Sec. 5. Section 235A.18, subsection 1, Code 1993, is
25 amended to read as follows:

26 1. Child abuse information relating to a particular case
27 of suspected child abuse shall be sealed ten years after the
28 receipt of the initial report of such abuse by the registry
29 unless good cause be shown why the information should remain
30 open to authorized access. If a subsequent report of a
31 suspected case of child abuse involving the child named in the
32 initial report as the victim of abuse or a person named in
33 such report as having abused a child is received by the
34 registry within this ten-year period, the information shall be
35 sealed ten years after receipt of the subsequent report unless

1 good cause be shown why the information should remain open to
2 authorized access. The information shall be expunged eight
3 years after the date the information was sealed.

4 Sec. 6. Section 235A.18, subsection 2, unnumbered
5 paragraph 1, Code 1993, is amended to read as follows:

6 Child abuse information which cannot be determined by a
7 preponderance of the evidence to be founded or unfounded shall
8 be expunged sealed one year after the receipt of the initial
9 report of abuse and child expunged five years after the date
10 it was sealed. Child abuse information which is determined by
11 a preponderance of the evidence to be unfounded shall be
12 expunged when it is determined to be unfounded. A report
13 shall be determined to be unfounded as a result of any of the
14 following:

15 DIVISION II

16 DEPENDENT ADULT ABUSE

17 Sec. 7. Section 235B.2, subsection 5, paragraph a,
18 subparagraph (1), Code 1993, is amended to read as follows:

19 (1) Physical injury to, or injury which is at a variance
20 with the history given of the injury, or unreasonable
21 confinement, or unreasonable punishment, or assault of a
22 dependent adult.

23 DIVISION III

24 CHILD DAY CARE

25 Sec. 8. Section 237A.1, subsection 4, Code 1993, is
26 amended by adding the following new paragraph:

27 NEW PARAGRAPH. h. An instructional program administered
28 by a nonpublic school system which is not accredited by the
29 department of education or the state board of regents.

30 Sec. 9. Section 237A.1, subsection 9, paragraph b, Code
31 1993, is amended to read as follows:

32 b. "Group day care home" means a facility providing child
33 day care for more than six but less than twelve children, with
34 no-more-than-six-children-at-one-time-being-less-than-six
35 years-of-age or for less than sixteen children at any one time

1 as authorized in accordance with section 237A.3, subsection
2 2A, provided each child in excess of six children is attending
3 school full-time on a regular basis.

4 Sec. 10. Section 237A.3, subsection 1, Code 1993, is
5 amended to read as follows:

6 1. a. A person who operates or establishes a family day
7 care home may apply to the department for registration under
8 this chapter. The department shall issue a certificate of
9 registration upon receipt of a statement from the family day
10 care home that the home complies with rules adopted by the
11 department. The registration certificate shall be posted in a
12 conspicuous place in the family day care home, shall state the
13 name of the registrant, the number of individuals who may be
14 received for care at any one time, and the address of the
15 home, and shall include a check list of registration
16 compliances.

17 b. No greater number of children than is authorized by the
18 registration certificate shall be kept in the family day care
19 home at any one time. However, a registered or unregistered
20 family day care home may provide care for more than six but
21 less than twelve children at any one time for a period of less
22 than two hours, provided that each child in excess of six
23 children is attending school full-time on a regular basis.

24 c. A family day care home may provide care in accordance
25 with this subsection for more than six but less than twelve
26 children for two hours or more during a day with inclement
27 weather following the cancellation of school classes. The
28 home must have prior written approval from the parent or
29 guardian of each child present in the home concerning the
30 presence of excess children in the home pursuant to this
31 paragraph. The home must have a responsible individual, age
32 fourteen or older, on duty to assist the home provider when
33 more than six children are present in accordance with the
34 provisions of this paragraph. In addition, one or more of the
35 following conditions shall apply to each child present in the

1 home in excess of six children:

2 (1) The home provides care to the child on a regular basis
3 for periods of less than two hours.

4 (2) If the child was not present in the family day care
5 home, the child would be unattended.

6 (3) The home regularly provides care to a sibling of the
7 child.

8 d. In determining the number of children cared for at any
9 one time in a registered or unregistered family day care home,
10 if the person who operates or establishes the home is a
11 child's parent, guardian, relative, or custodian and the child
12 is not attending school full-time on a regular basis or is not
13 receiving child day care full-time on a regular basis from
14 another person, the child shall be considered to be receiving
15 child day care from the person and shall be counted as one of
16 the children cared for in the home.

17 e. The registration process may be repeated on an annual
18 basis.

19 f. A child day care provider or program which is not a
20 family day care home by reason of the definition of child day
21 care in section 237A.1, subsection 4, but which provides care,
22 supervision or guidance to a child may be issued a certificate
23 of registration under this chapter.

24 Sec. 11. Section 237A.3, Code 1993, is amended by adding
25 the following new subsection:

26 NEW SUBSECTION. 2A. A registered group day care home may
27 provide care in accordance with this subsection for more than
28 eleven but less than sixteen children for a period of less
29 than two hours or for a period of two hours or more during a
30 day with inclement weather following the cancellation of
31 school classes. The home must have the prior written approval
32 from the parent or guardian of each child present in the home
33 concerning the presence of excess children in the home. In
34 addition, one or more of the following conditions shall apply
35 to each child present in the home in excess of eleven children

1 during a period of inclement weather:

2 a. The group day care home provides care to the child on a
3 regular basis for periods of less than two hours.

4 b. If the child was not present in the group day care
5 home, the child would be unattended.

6 c. The group day care home provides care to a sibling of
7 the child.

8 Sec. 12. NEW SECTION. 237A.28 STATE AND FEDERAL FUNDING
9 OF CHILD DAY CARE.

10 State funds and federal funds provided to the state in
11 accordance with federal requirements shall not be used to pay
12 for the care, supervision, or guidance of a child for periods
13 of less than twenty-four hours per day on a regular basis in a
14 place other than the child's home unless the care,
15 supervision, or guidance is defined as child day care as used
16 in this chapter.

17 Sec. 13. CONTINGENT EFFECTIVE DATE. Section 2 of this Act
18 shall take effect only if the United States department of
19 health and human services finds that the provisions of section
20 2 of this Act are in compliance with the federal Child Abuse
21 Prevention and Treatment Act and the department of human
22 services has provided written notification of the finding.
23 The department of human services shall provide the
24 notification to the general assembly, the governor, and the
25 Iowa Code editor.

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SENATE FILE 221

-3980

1 Amend Senate File 221, as amended, passed, and re-
2 printed by the Senate, as follows:

3 1. Page 6, by inserting after line 16 the
4 following:

"DIVISION

JUVENILE SHELTER CARE

5
6 Sec. ____ . Section 232.141, subsection 8, Code
7 1993, is amended by striking the subsection and
8 inserting in lieu thereof the following:
9
10 8. This subsection applies only to placements in a
11 juvenile shelter care home which is publicly owned,
12 operated as a county or multicounty shelter care home,
13 organized under a chapter 28E agreement, or operated
14 by a private juvenile shelter care home. If the
15 actual and allowable costs of a child's shelter care
16 placement exceed the amount the department is
17 authorized to pay in accordance with law and
18 administrative rule, the unpaid costs may be recovered
19 from the child's county of legal settlement. However,
20 the maximum amount of the unpaid costs which may be
21 recovered under this subsection is limited to the
22 difference between the amount the department is
23 authorized to pay and the statewide average of the
24 cost reports submitted to the department on or before
25 May 1 of the preceding fiscal year for reimbursement
26 of juvenile shelter care homes. In no case shall the
27 home be reimbursed for more than the home's actual and
28 allowable costs. The unpaid costs are payable
29 pursuant to filing of verified claims against the
30 county of legal settlement. A detailed statement of
31 the facts upon which a claim is based shall accompany
32 the claim. Any dispute between counties arising from
33 filings of claims pursuant to this subsection shall be
34 settled in the manner provided to determine legal
35 settlement in section 230.12."

36 2. Title page, line 3, by striking the words "and
37 child day care" and inserting the following: "child
38 day care, and juvenile shelter care".

39 3. By renumbering as necessary.

By HAMMOND of Story
HESTER of Pottawattamie

Adopted 4/15/93 (p.1310)
H-3980 FILED APRIL 14, 1993

SENATE FILE 221

H-3763

1 Amend Senate File 221, as amended, passed, and re-
2 printed by the Senate, as follows:

3 1. Page 6, by striking lines 17 through 25.

By MARTIN of Scott

H-3763 FILED APRIL 6, 1993

Adopted 4-15-93 (p.1310)

SENATE FILE 221

H-4002

1 Amend the amendment, H-3980, to Senate File 221, as
2 amended, passed, and reprinted by the Senate, as
3 follows:

4 1. Page 1, by striking lines 24 and 25 and
5 inserting the following: "actual and allowable rates
6 in effect in May of the preceding fiscal year for
7 reimbursement"

Adopted 4/15/93 (P. 1310)

By HAMMOND of Story
HESTER of Pottawattamie

H-4002 FILED APRIL 15, 1993

SENATE FILE 221

H-3969

1 Amend Senate File 221, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 6, by inserting after line 16 the
4 following:

"DIVISION

HOME AND COMMUNITY-BASED WAIVER

7 Sec. ____ HOME AND COMMUNITY-BASED WAIVER PROGRAM.

8 The department of human services shall authorize
9 residential programs serving not more than five
10 individuals to provide services and receive
11 reimbursement under the provisions of the medical
12 assistance home and community-based waiver program for
13 persons with mental retardation.

14 Sec. ____ Section 135C.6, subsection 8, paragraph
15 b, Code 1993, is amended to read as follows:

16 b. A residential program which serves not more
17 than four five individuals and is operating under
18 provisions of a federally approved home and community-
19 based waiver for persons with mental retardation, if
20 all individuals residing in the program receive on-
21 site staff supervision during the entire time period
22 the individuals are present in the program's living
23 unit. The need for the on-site supervision shall be
24 reflected in each individual's program plan developed
25 pursuant to the department of human services' rules
26 relating to case management for persons with mental
27 retardation. In approving a residential program under
28 this paragraph, the department of human services shall
29 consider the geographic location of the program so as
30 to avoid an overconcentration of such programs in an
31 area.

DIVISION

JUVENILE SHELTER CARE

34 Sec. ____ Section 232.141, Code 1993, is amended
35 by adding the following new subsection:

36 NEW SUBSECTION. 9. This subsection applies only
37 to placements in a juvenile shelter care home which is
38 publicly owned, operated as a county or multicounty
39 shelter care home, organized under a chapter 28E
40 agreement, or operated by a private juvenile shelter
41 care home. If the allowable costs of a child's
42 shelter care placement exceeds the amount the
43 department is authorized to pay in accordance with law
44 and administrative rule, the unpaid costs may be
45 recovered from the child's county of legal settlement.
46 The unpaid costs are payable pursuant to filing of
47 verified claims against the county of legal
48 settlement. A detailed statement of the facts upon
49 which a claim is based shall accompany the claim. Any
50 dispute between counties arising from filings of

H-3969

H-3969

Page 2

1 claims pursuant to this subsection shall be settled in
2 the manner provided to determine legal settlement in
3 section 230.12."

4 2. Title page, line 3, by striking the words "and
5 child day care" and inserting the following: "child
6 day care, medical assistance home and community-based
7 waiver, and juvenile shelter care".

8 3. By renumbering as necessary.

By BELL of Jasper
BLACK of Jasper

H-3969 FILED APRIL 14, 1993

WITHDRAWN 4-15-93

SENATE FILE 221

H-3970

1 Amend Senate File 221, as amended, passed, and
2 reprinted by the Senate, as follows:

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

5 "Sec. 100. Section 237A.27, Code 1993, is amended
6 to read as follows:

7 237A.27 CRISIS CHILD CARE.

8 The department shall establish a special child care
9 registration or licensure classification for crisis
10 child care which is provided on a temporary emergency
11 basis to a child when there is reason to believe that
12 the child may be subject to abuse or neglect. The
13 special classification is not subject to the
14 definitional restrictions of child day care in this
15 chapter relating to the provision of child day care
16 for a period of less than twenty-four hours per day on
17 a regular basis. However, the provision of crisis
18 child care shall be limited to a period of not more
19 than seventy-two hours for a child during any single
20 stay. A person providing crisis child care must be
21 registered or licensed under this chapter and must be
22 participating or have previously participated in the
23 federal crisis nursery pilot project. The department
24 shall adopt rules pursuant to chapter 17A to implement
25 this section."

26 2. Page 6, by inserting after line 16 the
27 following:

28 "Sec. ____ . EMERGENCY RULES. The department of
29 human services shall adopt administrative rules under
30 section 17A.4, subsection 2, and section 17A.5,
31 subsection 2, paragraph "b", to implement the
32 provisions of section 100 of this Act by July 1, 1993.
33 Any rules adopted in accordance with the provisions of
34 this section shall also be published as a notice of
35 intended action as provided in section 17A.4."

36 3. By renumbering as necessary.

By PETERSON of Carroll

H-3970 FILED APRIL 14, 1993

Adopted
4-15-93
(209)

HOUSE AMENDMENT TO
SENATE FILE 221

S-3513

1 Amend Senate File 221, as amended, passed, and re-
2 printed by the Senate, as follows:

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

5 "Sec. 100. Section 237A.27, Code 1993, is amended
6 to read as follows:

7 237A.27 CRISIS CHILD CARE.

8 The department shall establish a special child care
9 registration or licensure classification for crisis
10 child care which is provided on a temporary emergency
11 basis to a child when there is reason to believe that
12 the child may be subject to abuse or neglect. The
13 special classification is not subject to the
14 definitional restrictions of child day care in this
15 chapter relating to the provision of child day care
16 for a period of less than twenty-four hours per day on
17 a regular basis. However, the provision of crisis
18 child care shall be limited to a period of not more
19 than seventy-two hours for a child during any single
20 stay. A person providing crisis child care must be
21 registered or licensed under this chapter and must be
22 participating or have previously participated in the
23 federal crisis nursery pilot project. The department
24 shall adopt rules pursuant to chapter 17A to implement
25 this section."

26 2. Page 6, by inserting after line 16 the
27 following:

28 "Sec. ____ . EMERGENCY RULES. The department of
29 human services shall adopt administrative rules under
30 section 17A.4, subsection 2, and section 17A.5,
31 subsection 2, paragraph "b", to implement the
32 provisions of section 100 of this Act by July 1, 1993.
33 Any rules adopted in accordance with the provisions of
34 this section shall also be published as a notice of
35 intended action as provided in section 17A.4."

36 3. Page 6, by inserting after line 16 the
37 following:

38 "DIVISION ____
39 JUVENILE SHELTER CARE

40 Sec. ____ . Section 232.141, subsection 8, Code
41 1993, is amended by striking the subsection and
42 inserting in lieu thereof the following:

43 8. This subsection applies only to placements in a
44 juvenile shelter care home which is publicly owned,
45 operated as a county or multicounty shelter care home,
46 organized under a chapter 28E agreement, or operated
47 by a private juvenile shelter care home. If the
48 actual and allowable costs of a child's shelter care
49 placement exceed the amount the department is
50 authorized to pay in accordance with law and

S-3513

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Page 2

1 administrative rule, the unpaid costs may be recovered
2 from the child's county of legal settlement. However,
3 the maximum amount of the unpaid costs which may be
4 recovered under this subsection is limited to the
5 difference between the amount the department is
6 authorized to pay and the statewide average of the
7 actual and allowable rates in effect in May of the
8 preceding fiscal year for reimbursement of juvenile
9 shelter care homes. In no case shall the home be
10 reimbursed for more than the home's actual and
11 allowable costs. The unpaid costs are payable
12 pursuant to filing of verified claims against the
13 county of legal settlement. A detailed statement of
14 the facts upon which a claim is based shall accompany
15 the claim. Any dispute between counties arising from
16 filings of claims pursuant to this subsection shall be
17 settled in the manner provided to determine legal
18 settlement in section 230.12."

19 4. Page 6, by striking lines 17 through 25.

20 5. Title page, line 3, by striking the words "and
21 child day care" and inserting the following: "child
22 day care, and juvenile shelter care".

23 6. By renumbering, relettering, or redesignating
24 and correcting internal references as necessary.

RECEIVED FROM THE HOUSE

S-3513 FILED APRIL 19, 1993

*Senate
Concurred
4/20/93 (P. 1249)*

KRAMER, CH
SZYMONIAK
RORBAJ

SSB 176
HUMAN RESOURCES

SENATE/HOUSE FILE 221
BY (PROPOSED DEPARTMENT OF
HUMAN SERVICES BILL)

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

A BILL FOR

1 An Act relating to department of human services' statutory
2 provisions involving child abuse information, dependent adult
3 abuse, and child day care and providing an effective date.

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

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DIVISION I

CHILD ABUSE PROVISIONS

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3 Section 1. Section 235A.15, subsections 1 and 3, Code
4 1993, are amended to read as follows:

5 1. Notwithstanding chapter 22, the confidentiality of all
6 child abuse information shall be maintained, except as
7 specifically provided by subsection 2, 3, or 4, or 5.

8 3. Access to unfounded child abuse information is
9 authorized only to those persons identified in subsection 2,
10 paragraph "a", paragraph "b", subparagraphs (2) and (5), and
11 paragraph "e", subparagraph (2), to the department of justice
12 for purposes of the crime victim compensation program in
13 accordance with section 912.10, and as ordered by the juvenile
14 court pursuant to subsection 5.

15 Sec. 2. Section 235A.15, Code 1993, is amended by adding
16 the following new subsection:

17 NEW SUBSECTION. 5. The department or another person may
18 petition for a special hearing by the juvenile court which has
19 jurisdiction over a child abuse case. The hearing shall be to
20 consider the release of child abuse information specified in
21 the petition. The juvenile court may call the hearing if the
22 petition shows good cause that any of the following
23 circumstances exist: the child abuse information is important
24 for the safety of a particular child; the child abuse
25 information is important for the well-being of a particular
26 class of children; or a compelling public benefit exists in
27 the public understanding the actions taken concerning a
28 particular child abuse report. The court may order the
29 release of the specified child abuse information and shall
30 limit the release of the child abuse information as necessary
31 to avoid unacceptable harm to a child, to a reporter of
32 suspected child abuse, or to any other person named in the
33 report. The court shall not order release of the name of the
34 reporter of suspected child abuse.

35 Sec. 3. Section 235A.15, Code 1993, is amended by adding

1 the following new unnumbered paragraphs:

2 NEW UNNUMBERED PARAGRAPH. If a child who is a legal
3 resident of another state is present in this state and a
4 report of child abuse is made concerning the child, the
5 department shall act to ensure the safety of the child. The
6 department shall contact the child's state of legal residency
7 to coordinate the investigation of the report. If the child's
8 state of residency refuses to conduct an investigation, the
9 department shall commence an appropriate investigation.

10 NEW UNNUMBERED PARAGRAPH. If a report of child abuse is
11 made concerning an alleged perpetrator who resides in this
12 state and a child who resides in another state, the department
13 shall assist the child's state of residency in conducting an
14 investigation of the report. The assistance shall include but
15 is not limited to an offer to interview the alleged
16 perpetrator and any other relevant source. If the child's
17 state of residency refuses to conduct an investigation of the
18 report, the department shall commence an appropriate
19 investigation.

20 Sec. 4. Section 235A.18, subsection 2, unnumbered
21 paragraph 1, Code 1993, is amended to read as follows:

22 Child abuse information which cannot be determined by a
23 preponderance of the evidence to be founded or unfounded shall
24 be expunged sealed one year after the receipt of the initial
25 report of abuse ~~and-child.~~ Child abuse information which is
26 determined by a preponderance of the evidence to be unfounded
27 shall be ~~expunged-when-it-is-determined-to-be-unfounded,~~
28 sealed one year after the receipt of the initial report of
29 abuse. A report shall be determined to be unfounded as a
30 result of any of the following:

31 DIVISION II

32 DEPENDENT ADULT ABUSE

33 Sec. 5. Section 235B.2, subsection 5, paragraph a,
34 subparagraph (1), Code 1993, is amended to read as follows:

35 (1) Physical injury to, or injury which is at a variance

1 with the history given of the injury, or unreasonable
2 confinement, or unreasonable punishment, or assault of a
3 dependent adult.

4 DIVISION III

5 CHILD DAY CARE

6 Sec. 6. Section 237A.1, subsection 4, Code 1993, is
7 amended by adding the following new paragraph:

8 NEW PARAGRAPH. h. An instructional program administered
9 by a nonpublic school system which is not accredited by the
10 department of education or the state board of regents.

11 Sec. 7. Section 237A.1, subsection 9, paragraph b, Code
12 1993, is amended to read as follows:

13 b. "Group day care home" means a facility providing child
14 day care for more than six but less than twelve children, with
15 ~~no-more-than-six-children-at-one-time-being-less-than-six~~
16 years-of-age provided each child in excess of six children is
17 attending school full-time on a regular basis.

18 Sec. 8. NEW SECTION. 237A.28 STATE AND FEDERAL FUNDING
19 OF CHILD DAY CARE.

20 State funds and federal funds provided to the state in
21 accordance with federal requirements shall not be used to pay
22 for the care, supervision, or guidance of a child for periods
23 of less than twenty-four hours per day on a regular basis in a
24 place other than the child's home unless the care,
25 supervision, or guidance is defined as child day care as used
26 in this chapter.

27 DIVISION IV

28 EFFECTIVE DATE

29 Sec. 9. EFFECTIVE DATE. Section 2 of this Act takes
30 effect March 1, 1994.

31 EXPLANATION

32 This bill relates to department of human services
33 provisions involving child abuse information, dependent adult
34 abuse, and child day care.

35 Section 1 authorizes release of child abuse information to

1 the department of justice for use in the administration of the
2 crime victim reparation program. In addition, release may be
3 authorized by the juvenile court pursuant to a new provision
4 established in section 2 of the bill.

5 Section 2 authorizes the filing of a petition for a special
6 hearing by the juvenile court with jurisdiction over a child
7 abuse case to consider release of information relating to the
8 case. The juvenile court may order the hearing if the
9 information is important for the safety of a child, the well-
10 being of a particular class of children, or there is a
11 compelling public benefit to understand the actions taken
12 concerning a particular case. The court must limit the
13 release of the information and cannot order release of the
14 name of the reporter of suspected child abuse. This provision
15 takes effect March 1, 1994.

16 Section 3 directs the department to act to ensure the
17 safety of a child who is a resident of another state if the
18 child is in this state and a report of child abuse is made
19 concerning the child. The department is directed to either
20 cooperate with the child's state of residence in conducting an
21 investigation or to commence an appropriate investigation. If
22 child abuse is reported concerning an alleged perpetrator who
23 resides in this state and a child who lives in another state,
24 the department is directed to assist the other state in
25 conducting an investigation and to commence an appropriate
26 investigation if the other state does not do so.

27 Section 4 relates to child information which cannot be
28 determined to be founded or unfounded and to information which
29 is determined to be unfounded. Under current law, the
30 information which cannot be determined is expunged after one
31 year and under the bill the information would instead be
32 sealed. Under current law unfounded information is expunged
33 when it is determined to be unfounded and under the bill the
34 information would be sealed after one year.

35 Section 5 relates to dependent adult abuse by adding

1 assault to the list of circumstances which are part of the
2 definition of dependent adult abuse.

3 Section 6 adds a new exception to the definition of child
4 day care. An instructional program administered by a
5 nonpublic school system which is not accredited by the
6 department of education or the state board of regents would
7 not be defined as child day care.

8 Section 7 revises the definition of group day care. Under
9 current law, group day care means care for up to 11 children
10 with no more than six of the children being younger than six
11 years of age. The bill would revise the age restriction to
12 require that each child in excess of six children is attending
13 school full-time on a regular basis.

14 Section 8 relates to state funding and federal funding
15 provided to the state for the care of children. This funding
16 could not be used for such care unless the care meets the
17 definition of child day care in accordance with law providing
18 for regulation of child day care in chapter 237A.

19 BACKGROUND STATEMENT
20 SUBMITTED BY THE AGENCY

21 Sections 1 and 2 relate to release of child abuse
22 information. At the present time, the Iowa Code severely
23 limits any release of child abuse information. Although this
24 practice serves children and families well in the vast
25 majority of cases, there are some instances when the public's
26 right to know supersedes confidentiality of information. An
27 example of this is when persons have been identified by the
28 media as having been "victimized" by a child abuse
29 investigation, or when a child is seriously harmed and the
30 investigatory system is publicly blamed. Many times, these
31 media reports are inaccurate and do little to promote public
32 awareness and acceptance of the need for a mechanism to
33 investigate allegations of child abuse. Many times,
34 confidentiality in these cases has been lost through the
35 actions of families which our confidentiality statutes are

1 designed to protect. A study of the state's child abuse
2 system conducted by the Kempe center in 1988 recommended that
3 these types of cases be addressed by enacting legislation
4 which allows, in some cases, the release of information
5 relative to a child abuse report. Because this issue has not
6 been successfully addressed by any state, legislation
7 regarding release of child abuse information, even in limited
8 circumstances, must be analyzed by federal authorities to
9 ensure that federal funding sources are not jeopardized.

10 The public's acceptance and attitude regarding the
11 department's duty to investigate child abuse complaints may be
12 improved by providing information regarding child abuse cases,
13 particularly in situation where the media is obtaining
14 misinformation from other sources who are not bound by
15 confidentiality laws. It is anticipated that there would be
16 few cases in which the department would request a full, or
17 limited release of child abuse information, so the fiscal
18 impact of this Code change would be minimal.

19 Section 2 also relates to release of child abuse
20 information to the department of justice. Presently Iowa Code
21 allows dissemination of founded and undetermined child abuse
22 reports to the department of justice for the sole purpose of
23 the filing of a claim for reparation for victims. In order to
24 pay for victims' bills, the crime victim's assistance (CVA)
25 program must verify that a child abuse report was, in fact,
26 made to the department. They do not need additional details
27 about the report itself. Current law allows the department to
28 confirm only reports which are founded or undetermined. This
29 practice prevents CVA funds from assisting potential victims
30 in cases which are unfounded. This proposal has been reviewed
31 and approved by the director of the CVA program.

32 Section 3 relates to child abuse investigations. Iowa Code
33 addresses jurisdiction for child abuse cases as "ordinarily"
34 referring to the county or local office which serves the
35 county in which the child's home is located. Although the

1 Code does not specifically prohibit investigations in cases
2 where the child is not a legal resident of Iowa, or in cases
3 where the perpetrator resides in Iowa, but the victim does
4 not, these situations are not addressed, causing confusion
5 regarding the department's role in such cases. This is
6 especially crucial in areas of Iowa which border other states.
7 Some of these states have different jurisdictional
8 requirements than Iowa, which could possibly result in neither
9 state having jurisdiction to accept a case for investigation.
10 Since the primary purpose of conducting child abuse
11 investigations is to safeguard the child victim and other
12 potential victims, it is critical that department workers have
13 clear authority to conduct investigations in cases where a
14 child may not legally reside within Iowa, but is physically
15 present in the state or when the alleged perpetrator resides
16 within the state.

17 Section 4 relates to expungement and sealing of child abuse
18 reports. Iowa Code currently requires unfounded child abuse
19 reports to be expunged upon determination that an
20 investigation is unfounded. This results in the destruction
21 of the child abuse investigation record, and related
22 materials, within ten days of the completion of the report.
23 At times, having access to unfounded reports would assist the
24 department in safeguarding children and in reviewing case
25 decisions made during an investigation, particularly when a
26 child is harmed following an unfounded report. The Kempe
27 center study, completed in 1988, recommended that Iowa
28 implement a "sealing" of child abuse records, rather than
29 expungement. This would allow access to unfounded and
30 undetermined reports, under the court's approval, in cases
31 where review of this information is necessary to safeguard a
32 child. Iowa Code also requires expungement of undetermined
33 child abuse reports within one year of receipt of the report.
34 In keeping with the Kempe center recommendations, "sealing"
35 rather than expunging these reports would provide improved

1 safeguards to children named in undetermined reports.

2 Implementation would require additional staff time to
3 maintain accurate records of sealed unfounded and undetermined
4 reports, and to transfer such records to microfiche.

5 Unfounded reports would be subject to review, in certain
6 instances, thus allowing for a more complete review of
7 problematic cases. Access to these records may, on occasion,
8 promote child safety.

9 Section 5 relates to dependent adult abuse. The department
10 does not believe this change will have any impact on the
11 outcome of dependent adult abuse reports. There will,
12 however, probably be an increase in the number of noncaretaker
13 assault referrals, which would not be acceptable as dependent
14 adult abuse situations. These would be appropriate referrals
15 to local law enforcement agencies, because assault is a
16 criminal offense. The net result of this legislative change
17 will be more referrals DHS will not accept because the alleged
18 perpetrator is not a caretaker and a significant increase in
19 letters and phone calls complaining about this program. The
20 department of inspections and appeals has requested this
21 change.

22 Section 6 would specifically exempt from licensing any
23 instructional program administered by a nonpublic school
24 system which is not accredited by the department of education.
25 A recent clarification by an assistant attorney general states
26 that nonaccredited nonpublic schools do not fall under the
27 department of education, but meet the definition of child day
28 care, and therefore, should be licensed by our department as
29 such. We do not feel that the responsibility for the
30 instructional program is most appropriately placed within our
31 department. The exact number of nonaccredited nonpublic-
32 schools is unknown, so it is impossible to estimate the cost
33 of licensing these facilities if this change is not approved.

34 Section 7 is intended to eliminate the confusion caused by
35 the difference in definitions between family day care home and

1 group day care home. The difference between describing a
2 family day care home caring for six children not attending
3 school full-time on a regular basis, and a group day care home
4 caring for six children less than six years of age creates
5 confusion. Also, the providers wish a change because a five-
6 year-old can be attending school full-time on a regular basis,
7 but still have to be considered a preschooler in a group day
8 care home. This change will simply make the two definitions
9 the same for ease of understanding and enforcement. There is
10 no fiscal impact estimated at state level.

11 Section 8 would prohibit any program specifically exempt
12 from licensing or registration from receiving reimbursement
13 for child day care. A program which is specifically exempt
14 from licensing or registration is not subject to any
15 guidelines for health or safety of children, and is not
16 permitted by law to run criminal records checks or child abuse
17 registry checks on caregivers. This means the department has
18 no possible way of assuring even minimum health and safety
19 conditions. To require the department to reimburse exempt
20 facilities seems to place the department in the position of
21 paying for potentially harmful situations, in programs which
22 do not even meet the definition of child day care.

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SENATE FILE 221

AN ACT

RELATING TO DEPARTMENT OF HUMAN SERVICES' STATUTORY PROVISIONS INVOLVING CHILD ABUSE INFORMATION, DEPENDENT ADULT ABUSE, CHILD DAY CARE, AND JUVENILE SHELTER CARE.

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

DIVISION I
CHILD ABUSE PROVISIONS

Section 1. Section 232.68, subsection 2, Code 1993, is amended by adding the following new paragraph after paragraph a and relettering the succeeding paragraphs:

NEW PARAGRAPH. b. Any mental 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 as the result of the acts or omissions of a person responsible for the care of the child, if the impairment is diagnosed and confirmed by a licensed physician or qualified mental health professional as defined in section 622.10.

Sec. 2. Section 232.116, subsection 1, paragraph 1, Code 1993, is amended to read as follows:

1. The court finds that both of the following have occurred:

(1) The child has been adjudicated a child in need of assistance pursuant to section 232.96 after finding that the child has been physically or sexually abused or neglected as a result of the acts or omissions of a parent.

(2) The parent found to have physically or sexually abused or neglected the child has been convicted of a felony and imprisoned for such abuse against physically or sexually abusing or neglecting the child, the child's sibling, or any other child in the household and the court finds it is

~~unlikely that the parent will be released within five years.~~

Sec. 3. Section 235A.15, subsection 3, Code 1993, is amended to read as follows:

3. Access to unfounded child abuse information is authorized only to those persons identified in subsection 2, paragraph "a", paragraph "b", subparagraphs (2) and (5), and paragraph "e", subparagraph (2), and to the department of justice for purposes of the crime victim compensation program in accordance with section 912.10.

Sec. 4. Section 235A.15, Code 1993, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. If a child who is a legal resident of another state is present in this state and a report of child abuse is made concerning the child, the department shall act to ensure the safety of the child. The department shall contact the child's state of legal residency to coordinate the investigation of the report. If the child's state of residency refuses to conduct an investigation, the department shall commence an appropriate investigation.

NEW UNNUMBERED PARAGRAPH. If a report of child abuse is made concerning an alleged perpetrator who resides in this state and a child who resides in another state, the department shall assist the child's state of residency in conducting an investigation of the report. The assistance shall include but is not limited to an offer to interview the alleged perpetrator and any other relevant source. If the child's state of residency refuses to conduct an investigation of the report, the department shall commence an appropriate investigation. The department shall seek to develop protocols with states contiguous to this state for coordination in the investigation of a report of child abuse when a person involved with the report is a resident of another state.

Sec. 5. Section 235A.18, subsection 1, Code 1993, is amended to read as follows:

1. Child abuse information relating to a particular case of suspected child abuse shall be sealed ten years after the receipt of the initial report of such abuse by the registry unless good cause be shown why the information should remain open to authorized access. If a subsequent report of a suspected case of child abuse involving the child named in the initial report as the victim of abuse or a person named in such report as having abused a child is received by the registry within this ten-year period, the information shall be sealed ten years after receipt of the subsequent report unless good cause be shown why the information should remain open to authorized access. The information shall be expunged eight years after the date the information was sealed.

Sec. 6. Section 235A.18, subsection 2, unnumbered paragraph 1, Code 1993, is amended to read as follows:

Child abuse information which cannot be determined by a preponderance of the evidence to be founded or unfounded shall be expunged sealed one year after the receipt of the initial report of abuse and child expunged five years after the date it was sealed. Child abuse information which is determined by a preponderance of the evidence to be unfounded shall be expunged when it is determined to be unfounded. A report shall be determined to be unfounded as a result of any of the following:

DIVISION II
DEPENDENT ADULT ABUSE

Sec. 7. Section 235B.2, subsection 5, paragraph a, subparagraph (1), Code 1993, is amended to read as follows:

(1) Physical injury to, or injury which is at a variance with the history given of the injury, or unreasonable confinement, or unreasonable punishment, or assault of a dependent adult.

DIVISION III
CHILD DAY CARE

Sec. 8. Section 237A.1, subsection 4, Code 1993, is amended by adding the following new paragraph:

NEW PARAGRAPH. h. An instructional program administered by a nonpublic school system which is not accredited by the department of education or the state board of regents.

Sec. 9. Section 237A.1, subsection 9, paragraph b, Code 1993, is amended to read as follows:

b. "Group day care home" means a facility providing child day care for more than six but less than twelve children, with no more than six children at one time being less than six years of age or for less than sixteen children at any one time as authorized in accordance with section 237A.3, subsection 2A, provided each child in excess of six children is attending school full-time on a regular basis.

Sec. 10. Section 237A.3, subsection 1, Code 1993, is amended to read as follows:

1. a. A person who operates or establishes a family day care home may apply to the department for registration under this chapter. The department shall issue a certificate of registration upon receipt of a statement from the family day care home that the home complies with rules adopted by the department. The registration certificate shall be posted in a conspicuous place in the family day care home, shall state the name of the registrant, the number of individuals who may be received for care at any one time, and the address of the home, and shall include a check list of registration compliances.

b. No greater number of children than is authorized by the registration certificate shall be kept in the family day care home at any one time. However, a registered or unregistered family day care home may provide care for more than six but less than twelve children at any one time for a period of less than two hours, provided that each child in excess of six children is attending school full-time on a regular basis.

c. A family day care home may provide care in accordance with this subsection for more than six but less than twelve children for two hours or more during a day with inclement weather following the cancellation of school classes. The home must have prior written approval from the parent or guardian of each child present in the home concerning the presence of excess children in the home pursuant to this paragraph. The home must have a responsible individual, age fourteen or older, on duty to assist the home provider when more than six children are present in accordance with the provisions of this paragraph. In addition, one or more of the following conditions shall apply to each child present in the home in excess of six children:

(1) The home provides care to the child on a regular basis for periods of less than two hours.

(2) If the child was not present in the family day care home, the child would be unattended.

(3) The home regularly provides care to a sibling of the child.

d. In determining the number of children cared for at any one time in a registered or unregistered family day care home, if the person who operates or establishes the home is a child's parent, guardian, relative, or custodian and the child is not attending school full-time on a regular basis or is not receiving child day care full-time on a regular basis from another person, the child shall be considered to be receiving child day care from the person and shall be counted as one of the children cared for in the home.

e. The registration process may be repeated on an annual basis.

f. A child day care provider or program which is not a family day care home by reason of the definition of child day care in section 237A.1, subsection 4, but which provides care, supervision or guidance to a child may be issued a certificate of registration under this chapter.

Sec. 11. Section 237A.3, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. A registered group day care home may provide care in accordance with this subsection for more than eleven but less than sixteen children for a period of less than two hours or for a period of two hours or more during a day with inclement weather following the cancellation of school classes. The home must have the prior written approval from the parent or guardian of each child present in the home concerning the presence of excess children in the home. In addition, one or more of the following conditions shall apply to each child present in the home in excess of eleven children during a period of inclement weather:

a. The group day care home provides care to the child on a regular basis for periods of less than two hours.

b. If the child was not present in the group day care home, the child would be unattended.

c. The group day care home provides care to a sibling of the child.

Sec. 12. Section 237A.27, Code 1993, is amended to read as follows:

237A.27 CRISIS CHILD CARE.

The department shall establish a special child care registration or licensure classification for crisis child care which is provided on a temporary emergency basis to a child when there is reason to believe that the child may be subject to abuse or neglect. The special classification is not subject to the definitional restrictions of child day care in this chapter relating to the provision of child day care for a period of less than twenty-four hours per day on a regular basis. However, the provision of crisis child care shall be limited to a period of not more than seventy-two hours for a child during any single stay. A person providing crisis child care must be registered or licensed under this chapter and must be participating or have previously participated in the

federal crisis nursery pilot project. The department shall adopt rules pursuant to chapter 17A to implement this section.

Sec. 13. NEW SECTION. 237A.28 STATE AND FEDERAL FUNDING OF CHILD DAY CARE.

State funds and federal funds provided to the state in accordance with federal requirements shall not be used to pay for the care, supervision, or guidance of a child for periods of less than twenty-four hours per day on a regular basis in a place other than the child's home unless the care, supervision, or guidance is defined as child day care as used in this chapter.

Sec. 14. EMERGENCY RULES. The department of human services shall adopt administrative rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", to implement the provisions of section 12 of this Act by July 1, 1993. Any rules adopted in accordance with the provisions of this section shall also be published as a notice of intended action as provided in section 17A.4.

DIVISION IV
JUVENILE SHELTER CARE

Sec. 15. Section 232.141, subsection 8, Code 1993, is amended by striking the subsection and inserting in lieu thereof the following:

8. This subsection applies only to placements in a juvenile shelter care home which is publicly owned, operated as a county or multicounty shelter care home, organized under a chapter 28E agreement, or operated by a private juvenile shelter care home. If the actual and allowable costs of a child's shelter care placement exceed the amount the department is authorized to pay in accordance with law and administrative rule, the unpaid costs may be recovered from the child's county of legal settlement. However, the maximum amount of the unpaid costs which may be recovered under this subsection is limited to the difference between the amount the department is authorized to pay and the statewide average of

the actual and allowable rates in effect in May of the preceding fiscal year for reimbursement of juvenile shelter care homes. In no case shall the home be reimbursed for more than the home's actual and allowable costs. The unpaid costs are payable pursuant to filing of verified claims against the county of legal settlement. A detailed statement of the facts upon which a claim is based shall accompany the claim. Any dispute between counties arising from filings of claims pursuant to this subsection shall be settled in the manner provided to determine legal settlement in section 230.12.

LEONARD L. BOSWELL
President of the Senate

HAROLD VAN MAANEN
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 221, Seventy-fifth General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved *May 3*, 1993

TERRY E. BRANSTAD
Governor