

FEB 21 1995

HUMAN RESOURCES

HOUSE FILE 191

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

A BILL FOR

1 An Act creating a child abuse registry review council.  
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 191

1 Section 1. Section 232.71, subsection 7, Code 1995, is  
2 amended to read as follows:

3 7. The department, upon completion of its investigation,  
4 shall make a preliminary report of its investigation as  
5 required by subsection 2. A copy of this report shall be  
6 transmitted to juvenile court within four regular working days  
7 after the department initially receives the abuse report  
8 unless the juvenile court grants an extension of time for good  
9 cause shown. If the preliminary report is not a complete  
10 report, a complete report shall be filed within ten working  
11 days of the receipt of the abuse report, unless the juvenile  
12 court grants an extension of time for good cause shown. The  
13 department shall notify a subject of the report of the result  
14 of the investigation, of the department's registry status  
15 decision if child abuse is founded and the requirements for a  
16 review hearing, of the subject's right to correct the  
17 information pursuant to section 235A.19, and of the procedures  
18 to correct the information. This notification of a subject of  
19 a report shall be sent by restricted certified mail. The  
20 juvenile court shall notify the registry of any action it  
21 takes with respect to a suspected case of child abuse.

22 Sec. 2. Section 235A.13, Code 1995, is amended by adding  
23 the following new subsections:

24 NEW SUBSECTION. 1A. "Child abuse registry council" or  
25 "registry council" means the child abuse registry council  
26 created in section 235A.14.

27 NEW SUBSECTION. 10. "Subject of a child abuse report"  
28 means a person identified in section 235A.15, subsection 2,  
29 paragraph "a".

30 Sec. 3. Section 235A.14, Code 1995, is amended by adding  
31 the following new subsection:

32 NEW SUBSECTION. 7. a. The child abuse registry review  
33 council is created as an independent council of state  
34 government. The council may hear contested cases but shall  
35 not adopt administrative rules. Administrative and support

1 services for the registry council shall be provided by the  
2 department of inspections and appeals.

3     b. The council shall consist of three members appointed by  
4 the governor and confirmed by the senate. Members shall be  
5 knowledgeable concerning child abuse. A term shall be for a  
6 three-year period and terms shall be staggered and begin and  
7 end as provided in section 69.19. Sections 69.16 and 69.16A  
8 apply to the membership of the council. A vacancy on the  
9 council shall be filled for the unexpired period of the term.  
10 Members shall be eligible for reimbursement of actual expenses  
11 incurred in the performance of their official duties. The  
12 council shall elect a chairperson and other officers as deemed  
13 necessary by the council. The council may meet monthly, upon  
14 the motion of a majority of its members, upon the request of  
15 the director of human services, or upon the call of the  
16 chairperson.

17     c. The council shall perform the following duties:

18     (1) Consider appeals from a subject of a child abuse  
19 report in accordance with section 235A.19, subsection 1A.

20     (2) Consider appeals from a subject of a child abuse  
21 report concerning the observation status of founded child  
22 abuse information in the central registry in accordance with  
23 section 235A.19, subsection 1B.

24     Sec. 4. Section 235A.15, subsection 2, paragraph e, sub-  
25 paragraph (2), Code 1995, is amended to read as follows:

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

31     Sec. 5. Section 235A.18, subsection 1, Code 1995, is  
32 amended to read as follows:

33     1. Child Except as otherwise provided in subsection 1A for  
34 information regarding child abuse information which is in  
35 observation status, child abuse information relating to a

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

14 Sec. 6. Section 235A.18, Code 1995, is amended by adding  
15 the following new subsection:

16 NEW SUBSECTION. 1A. Child abuse information placed on ob-  
17 servation status pursuant to section 235A.19 shall remain in  
18 the registry open to authorized access for a period of two  
19 years after receipt of the initial report of the abuse by the  
20 registry. If no further report is received during the two-  
21 year observation status period, the information shall be  
22 expunged at the end of the two-year period. If a further  
23 report is received regarding child abuse information in  
24 observation status, the child abuse information shall be  
25 removed from observation status and the time periods and other  
26 requirements of subsection 1 regarding founded child abuse  
27 information shall apply.

28 Sec. 7. Section 235A.19, Code 1995, is amended by adding  
29 the following new subsections:

30 NEW SUBSECTION. 1A. a. The subject of a child abuse  
31 report may file with the department within ten business days  
32 of receiving the notification of the result of the  
33 investigation pursuant to section 232.71, subsection 7, a  
34 written statement to the effect that child abuse information  
35 referring to the subject is in whole or part erroneous and

1 request correction of that information or of the findings of  
2 the investigation report. If the department does not correct  
3 the information or findings as requested, the child abuse  
4 information concerning the subject shall not be placed in the  
5 registry until the subject has a hearing before the child  
6 abuse registry council. The purpose of the hearing is to  
7 review the information and the department's findings  
8 concerning the subject. The registry council and the subject  
9 of the report shall make reasonable efforts to hold the  
10 hearing within three months of the date the subject of the  
11 report was notified. If the hearing is not held within the  
12 three-month period, information about the subject shall be  
13 placed in the child abuse registry on observation status until  
14 the hearing is held.

15 b. In performing its review, the registry council may  
16 consider any child abuse information concerning the report in  
17 question, testimony or information submitted by a subject of a  
18 child abuse report, and additional information submitted by  
19 the department. In reviewing a finding, the registry council  
20 shall use the criteria used by the department to initially  
21 determine that child abuse was founded. The registry council  
22 shall determine whether to correct the information or whether  
23 the alleged child abuse is founded, undetermined, or  
24 unfounded. A registry council decision to correct information  
25 or to correct a determination shall replace the department's  
26 decision regarding the information or determination of child  
27 abuse. If child abuse information is determined to be founded  
28 by the registry council, the registry council shall also  
29 determine whether the information is placed on observation  
30 status in accordance with subsection 1B. If a subject  
31 disagrees with the registry council's decision or findings,  
32 the department shall provide the subject with an opportunity  
33 for an evidentiary hearing pursuant to chapter 17A to correct  
34 the information or the findings.

35 NEW SUBSECTION. 1B. a. Upon receipt of disposition data

1 indicating that a child abuse report was determined to be  
2 founded child abuse, the department shall determine whether  
3 the child abuse information warrants evaluation for  
4 observation status. Founded reports of child sexual abuse,  
5 child abuse in which the department determines that the best  
6 interest of a child named in a child abuse report requires  
7 juvenile court action, and child abuse which has been referred  
8 for district court action shall not be placed on observation  
9 status. An evaluation shall consider the nature and serious-  
10 ness of the founded child abuse, the time elapsed since the  
11 commission of the founded child abuse, the circumstances under  
12 which the founded child abuse was committed, the degree of  
13 rehabilitation of the alleged perpetrator, the likelihood that  
14 the alleged perpetrator will commit the founded child abuse  
15 again, and the number of founded child abuses committed by the  
16 alleged perpetrator.

17 b. If the evaluation indicates that the founded child  
18 abuse was not serious and the perpetrator is unlikely to  
19 commit further child abuse, the child abuse information shall  
20 be placed in the central registry on observation status.  
21 Notice of the department's decision concerning the registry  
22 status shall be included in the notice of a child abuse  
23 investigation sent to a subject of a child abuse report in  
24 accordance with section 232.71.

25 c. The subject of a child abuse report who objects to the  
26 department's initial decision concerning observation status  
27 may appeal the decision to the department. The appeal must be  
28 filed with the department within six months of receiving the  
29 notification of the result of the investigation pursuant to  
30 section 232.71, subsection 7. If the department does not  
31 change its decision as requested, the subject shall be  
32 provided a hearing with the child abuse registry council.

33 d. The purpose of the hearing is to either affirm or re-  
34 verse the department's decision concerning placement or non-  
35 placement status of the information. The registry council and

1 the subject of the report shall make reasonable efforts to  
2 hold the hearing within three months of the date the subject  
3 of the report was notified. If the hearing is not held within  
4 the three-month period, information about the subject shall be  
5 placed in the child abuse registry on observation status until  
6 the hearing is held.

7 e. In making its decision, the registry council may con-  
8 sider any child abuse information concerning the report in  
9 question, testimony, or information submitted by a subject of  
10 a child abuse report, and additional information submitted by  
11 the department. The decision shall be based upon the criteria  
12 listed in paragraph "a". The department shall comply with the  
13 registry council's decision. If a subject disagrees with the  
14 registry council's decision, the department shall provide the  
15 subject with an opportunity for an evidentiary hearing pur-  
16 suant to chapter 17A to affirm or reverse the registry  
17 council's decision.

18 Sec. 8. Section 235A.19, subsections 2 and 3, Code 1995,  
19 are amended to read as follows:

20 2. a. A subject of a child abuse report who does not file  
21 a written statement under subsection 1A may file with the  
22 department within six months of the date of the notice of the  
23 results of an investigation required by section 232.71,  
24 subsection 7, a written statement to the effect that child  
25 abuse information referring to the subject is in whole or in  
26 part erroneous, and may request a correction of that  
27 information or of the findings of the investigation report.  
28 The department shall provide the subject with an opportunity  
29 for an evidentiary hearing pursuant to chapter 17A to correct  
30 the information or the findings, unless the department  
31 corrects the information or findings as requested. The  
32 department shall delay the expungement of information which is  
33 not determined to be founded until the conclusion of a  
34 proceeding to correct the information or findings. The  
35 department may defer the hearing until the conclusion of a

1 pending juvenile or district court case relating to the  
2 information or findings.

3 b. The department shall not disclose any child abuse  
4 information until the conclusion of the an appeal under  
5 subsection 1A or a proceeding to correct the information or  
6 findings under this subsection, except as follows:

7 (1) As necessary for the proceeding itself.

8 (2) To the parties and attorneys involved in a judicial  
9 proceeding.

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

11 (4) Pursuant to court order.

12 (5) To the subject of an investigation or a report.

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

15 (7) To persons involved in an investigation of child  
16 abuse.

17 3. The subject of a child abuse report may appeal the  
18 decision resulting from a an evidentiary hearing held pursuant  
19 to subsection subsections 1A, 1B, or 2 to the district court  
20 of Polk county or to the district court of the district in  
21 which the subject of the child abuse report resides.

22 Immediately upon appeal the court shall order the department  
23 to file with the court a certified copy of the child abuse  
24 information. Appeal shall be taken in accordance with chapter  
25 17A.

26 Sec. 9. INITIAL APPOINTMENTS. The governor shall make the  
27 initial appointments to the child abuse registry council  
28 created in section 235A.14 as follows: one member to a term  
29 of one year, one member to a term of two years, and one member  
30 to a term of three years.

31 EXPLANATION

32 This bill creates a child abuse registry council in the  
33 department of human services.

34 Section 232.71 is amended to require the department of  
35 human services to notify a subject of a child abuse report of



1 investigation results by restricted certified mail. Section  
2 618.15 defines restricted certified mail to indicate delivery  
3 to addressee only, and for which the post office provides a  
4 return receipt showing the date of delivery, the place of  
5 delivery, and the person to whom delivered.

6 Section 235A.13 is amended to add new definitions to the  
7 child abuse registry law. The new definitions refer to the  
8 child abuse registry council and the current list of subjects  
9 of a child abuse report.

10 Section 235A.14 is amended to create a three-member child  
11 abuse registry council to review the department's child abuse  
12 findings and registry decisions. The council is appointed by  
13 the governor and confirmed by the senate. The council is an  
14 independent council of state government with administrative  
15 and support services to be provided by the department of  
16 inspections and appeals.

17 Section 235A.15 is amended to provide the registry council  
18 access to unfounded, undetermined, and founded child abuse  
19 information.

20 Section 235A.18 is amended to create a new category for  
21 founded child abuse information. The new category is termed  
22 "observation status" and such information is maintained on the  
23 registry for two years and then expunged. Information  
24 concerning founded child abuse not placed on observation  
25 status remains under current law which provides for 10 years  
26 on the registry, then sealing for eight years, followed by  
27 expungement.

28 Section 235A.19 is amended to add two new subsections. The  
29 first, new subsection 1A, permits a subject of child abuse to  
30 file a request for correction of child abuse information or  
31 findings within 10 business days of receiving the report  
32 notice. If the department does not correct the information or  
33 findings, the subject is entitled to a review hearing with the  
34 child abuse registry council. The child abuse information  
35 concerning the subject is withheld from the registry pending

1 the hearing. The council may consider the record as well as  
2 new information and testimony and issue a decision for  
3 correction of information or findings. A subject who still  
4 disagrees can have an administrative hearing.

5 New subsection 1B outlines criteria for the department to  
6 confer observation status on founded child abuse information.  
7 Founded child abuse information involving sexual abuse, or  
8 juvenile or district court action, cannot be placed in  
9 observation status. The criteria specified for deciding  
10 whether founded child abuse is placed in observation status is  
11 similar to criteria in current law for the department to  
12 evaluate and authorize employment of a person with a criminal  
13 or founded child abuse record. A subject of a child abuse  
14 report who disagrees with the department's decision can appeal  
15 to the child abuse registry council. A subject who disagrees  
16 with the council's decision can have an administrative  
17 hearing.

18 Section 235A.19, subsections 2 and 3, are amended to  
19 conform with new subsections 1A and 1B. Current law providing  
20 a process for a subject of a child abuse report to request  
21 correction of child abuse information or findings within six  
22 months of the notice of the initial report is amended to  
23 permit this request if the person did not file the request  
24 within 10 days of the notice provided by the bill. Current  
25 law providing for a district court appeal of an administrative  
26 hearing is amended to provide for appeal of administrative  
27 hearings held following the child abuse registry council  
28 decisions.

29 The bill includes a provision for staggering the terms of  
30 the initial members of the child abuse registry council.

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