

3/4/96 amend/Do Pass w/H.S. 144
3/25/96 Human Res.

FEB 21 1996

HUMAN RESOURCES

HOUSE FILE **2285**
BY HARRISON

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

A BILL FOR

1 An Act requiring disclosure regarding child day care providers,
2 employees, or residents who have committed a crime or have a
3 record of founded child abuse and providing civil liability
4 and a penalty.

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

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HF 2285

1 Section 1. Section 237A.5, Code 1995, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 6. a. If a person providing child day
4 care has committed a crime or has a record of founded child
5 abuse, the person shall disclose the existence of the crime or
6 record of founded child abuse to the parent, guardian, or
7 custodian of each child for whom the person provides care.
8 The provisions of this subsection apply to any person
9 providing child day care, whether unregistered, registered, or
10 licensed under this chapter.

11 b. If a person known by the person who owns or operates a
12 child day care facility to have committed a crime or have a
13 record of founded child abuse is employed by, has access to a
14 child when the child is alone, or resides in the facility, the
15 owner or operator shall disclose the existence of the crime or
16 record of founded child abuse to the parent, guardian, or
17 custodian of each child for which the facility provides care.

18 c. A record of a disclosure made under this subsection
19 shall be maintained by the person or facility owner or
20 operator required to make the disclosure for a period of at
21 least three years from the date of the disclosure.

22 d. A person or owner or operator required to make a
23 disclosure under this section who willfully fails to do so
24 commits a serious misdemeanor.

25 e. A person or owner or operator required to make a
26 disclosure under this section who knowingly fails to do so is
27 civilly liable for damages proximately caused by the failure
28 to make the disclosure.

29 EXPLANATION

30 This bill amends the child day care chapter by requiring
31 disclosure regarding a child day care provider, employee, or
32 resident who has committed a crime or has a record of founded
33 child abuse. The disclosure is required to be provided to the
34 parent, guardian, or custodian of each child receiving child
35 day care. A record of making the disclosure must be made by

1 the person or facility required to make the disclosure and the
2 record must be retained for at least three years. Willful
3 failure to make the required disclosure is a serious
4 misdemeanor. A knowing failure to make the disclosure creates
5 a civil liability for damages directly resulting from the
6 failure to make the disclosure.

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HOUSE FILE 2285

H-5311

1 Amend House File 2285 as follows:

2 1. Page 1, by striking lines 1 through 28 and
3 inserting the following:

4 "Sec. ____ . Section 237A.5, subsection 2, Code
5 1995, is amended to read as follows:

6 2. a. If a person is being considered for
7 licensure or registration under this chapter, or for
8 employment involving direct responsibility for a child
9 or with access to a child when the child is alone, by
10 a child day care facility subject to licensure or
11 registration under this chapter or by an unregistered
12 family day care home, a person is an unregistered
13 provider of child day care, or if a person will reside
14 in a facility or an unregistered family day care home,
15 and if the person has been convicted of a crime or has
16 a record of founded child abuse, the department and
17 the licensee, or registrant, or unregistered family
18 day care home for an employee of the licensee or,
19 registrant, or unregistered family day care home shall
20 perform an evaluation to determine whether the crime
21 or founded child abuse warrants prohibition of
22 licensure, registration, operation as an unregistered
23 provider of child day care, employment, or residence
24 in the facility or unregistered family day care home.
25 The department shall conduct criminal and child abuse
26 record checks in this state and may conduct these
27 checks in other states. The evaluation shall be
28 performed in accordance with procedures adopted for
29 this purpose by the department.

30 b. If the department determines that a person has
31 committed a crime or has a record of founded child
32 abuse and is licensed, is employed by a licensee or,
33 registrant, or unregistered family day care home, is
34 an unregistered provider of child day care, or is
35 registered under this chapter, or resides in a
36 licensed or registered facility or an unregistered
37 family day care home, the department shall notify the
38 licensee or, registrant, or unregistered family day
39 care home that an evaluation will be conducted to
40 determine whether prohibition of the person's
41 licensure, registration, employment, or residence, or
42 operation as an unregistered provider of child day
43 care is warranted.

44 c. In an evaluation, the department and the
45 licensee or, registrant, or unregistered provider of
46 child day care for an employee of the licensee or,
47 registrant, or unregistered family day care home shall
48 consider the nature and seriousness of the crime or
49 founded child abuse in relation to the position sought
50 or held, the time elapsed since the commission of the

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1 crime or founded child abuse, the circumstances under
2 which the crime or founded child abuse was committed,
3 the degree of rehabilitation, the likelihood that the
4 person will commit the crime or founded child abuse
5 again, and the number of crimes or founded child
6 abuses committed by the person involved. The
7 department may permit a person who is evaluated to be
8 licensed, registered, employed, or to reside, or to
9 continue to be licensed, registered, or employed, to
10 operate as an unregistered provider of child day care,
11 or to reside in a licensed facility or unregistered
12 family day care home, if the person complies with the
13 department's conditions relating to the person's
14 licensure, registration, employment, operation as an
15 unregistered provider of child day care, or residence,
16 which may include completion of additional training.
17 For an employee of a licensee or, registrant, or
18 unregistered family day care home, these conditional
19 requirements shall be developed with the licensee or,
20 registrant, or unregistered family day care home. The
21 department has final authority in determining whether
22 prohibition of the person's licensure, registration,
23 employment, operation as an unregistered provider of
24 child day care, or residence is warranted and in
25 developing any conditional requirements under this
26 paragraph.

27 d. If the department determines that the person
28 has committed a crime or has a record of founded child
29 abuse which warrants prohibition of licensure,
30 registration, employment, operation as an unregistered
31 provider of child day care, or residence, the person
32 shall not be licensed or registered under this chapter
33 to operate a child day care facility, shall not
34 operate as an unregistered provider of child day care,
35 and shall not be employed by a licensee or registrant
36 or reside in a facility licensed or registered under
37 this chapter, or in an unregistered family day care
38 home.

39 Sec. ____. Section 237A.5, subsections 4 and 5,
40 Code 1995, are amended to read as follows:

41 4. On or after July 1, 1994, a licensee or,
42 registrant, or unregistered provider of child day care
43 shall inform all new applicants for employment of the
44 possibility of the performance of a record check and
45 shall obtain, from the applicant, a signed
46 acknowledgment of the receipt of the information.

47 5. On or after July 1, 1994, a licensee or,
48 registrant, or unregistered provider of child day care
49 shall include the following inquiry in an application
50 for employment: "Do you have a record of founded

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1 child or dependent adult abuse or have you ever been
2 convicted of a crime, in this state or any other
3 state?"

4 2. Title page, by striking lines 1 through 4 and
5 inserting the following: "An Act requiring criminal
6 records and abuse registry checks of unregistered
7 providers of child day care."

8 3. By renumbering as necessary.

By MURPHY of Dubuque

H-5311 FILED MARCH 12, 1996

HOUSE FILE 2285

H-5144

1 Amend House File 2285 as follows:

2 1. Page 1, line 3, by inserting before the word
3 "If" the following: "For the purposes of this
4 subsection, "crime" means a criminal offense involving
5 a child under chapter 709, 709A, 710, 725, 726, or
6 728."

7 2. Page 1, by striking lines 9 and 10 and
8 inserting the following: "providing child day care
9 under this chapter who is not registered or licensed."

10 3. Page 1, line 12 by striking the words "child
11 day care facility" and inserting the following:
12 "family day care home".

13 4. Page 1, line 14, by striking the word
14 "facility" and inserting the following: "home".

15 5. Page 1, line 17, by striking the word
16 "facility" and inserting the following: "home".

17 6. Page 1, lines 19 and 20, by striking the words
18 "or facility owner or operator".

19 7. Page 1, line 22, by striking the words "or
20 owner or operator".

21 8. Page 1, line 25, by striking the words "or
22 owner or operator".

By COMMITTEE ON HUMAN RESOURCES
DAGGETT of Union, Chairperson

H-5144 FILED MARCH 4, 1996