

MAR 6 1995

JUDICIARY

HOUSE FILE 261  
BY MARTIN

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

A BILL FOR

1 An Act relating to custody and visitation of a child designated a  
2 child in need of assistance.

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

4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

HF  
261

1 Section 1. Section 232.82, Code 1995, is amended to read  
2 as follows:

3 232.82 REMOVAL OF ~~SEXUAL-OFFENDERS-AND-PHYSICAL~~ CHILD  
4 ABUSERS FROM THE RESIDENCE PURSUANT TO COURT ORDER.

5 1. Notwithstanding section 561.15, if it is alleged by a  
6 person authorized to file a petition under section 232.87,  
7 subsection 2, or by the court on its own motion, that a  
8 parent, guardian, custodian, or an adult member of the  
9 household in which a child resides has committed ~~a-sexual~~  
10 ~~offense-with-or-against-the-child,-pursuant-to-chapter-709-or~~  
11 ~~section-726.27-or-a-physical-abuse-as-defined-by-section~~  
12 ~~232.27-subsection-42~~ child abuse as defined in section 232.68,  
13 subsection 2, the juvenile court may enter an ex parte order  
14 requiring the alleged ~~sexual-offender-or-physical~~ child abuser  
15 to vacate the child's residence upon a showing that probable  
16 cause exists to believe that the ~~sexual-offense-or-physical~~  
17 child abuse has occurred and that substantial evidence exists  
18 to believe that the presence of the alleged ~~sexual-offender-or~~  
19 ~~physical~~ child abuser in the child's residence presents a  
20 danger to the child's life or physical, emotional, or mental  
21 health.

22 2. If an order is entered under subsection 1 and a  
23 petition has not yet been filed under this chapter, the  
24 petition shall be filed under section 232.87 by the county  
25 attorney, the department of human services, or a juvenile  
26 court officer within three days of the entering of the order.

27 3. The juvenile court may order on its own motion, or  
28 shall order upon the request of the alleged ~~sexual-offender-or~~  
29 ~~physical~~ child abuser, a hearing to determine whether the  
30 order to vacate the residence should be upheld, modified, or  
31 vacated. The juvenile court may in any later child in need of  
32 assistance proceeding uphold, modify, or vacate the order to  
33 vacate the residence.

34 Sec. 2. Section 232.103, Code 1995, is amended by adding  
35 the following new subsection:

1 NEW SUBSECTION. 8. The court may terminate an order and  
2 place custody of the child with a parent, guardian, or  
3 custodian and issue a temporary or permanent injunction  
4 prohibiting contact between the child and a person who  
5 committed child abuse or neglect upon the child and who has  
6 been offered or received services to correct the circumstance  
7 which led to the adjudication and the circumstance continues  
8 to exist despite the offer or receipt of services. A  
9 temporary injunction shall be reviewed annually.

10 Sec. 3. Section 232.104, subsection 1, unnumbered  
11 paragraph 1, Code 1995, is amended to read as follows:

12 ~~If a child has been placed in foster care~~ custody of a  
13 child has been transferred for purposes of placement pursuant  
14 to section 232.102 for a period of twelve months, or if the  
15 prior legal custodian of a child has abandoned efforts to  
16 regain custody of the child, the court shall, on its own  
17 motion, or upon application by any interested party, including  
18 the child's foster parent if the child has been placed with  
19 the foster parent for at least twelve months, hold a hearing  
20 to consider the issue of the establishment of permanency for  
21 the child.

22 Sec. 4. Section 232.104, subsection 2, paragraph d,  
23 subparagraph (1), Code 1995, is amended to read as follows:

24 (1) Transfer guardianship and custody of the child to a  
25 suitable person. A guardianship established under this  
26 subparagraph shall be governed by sections 633.168 and  
27 633.174.

28 Sec. 5. Section 232.104, subsection 2, paragraph d,  
29 subparagraph (2), Code 1995, is amended to read as follows:

30 (2) Transfer sole custody of the child from one parent to  
31 another parent. Notwithstanding section 598.2, the court,  
32 when entering an order pursuant to this subparagraph, may  
33 modify an order establishing joint custody or joint physical  
34 care. If the court transfers custody under this subparagraph,  
35 it may order either parent or both parents to pay an amount

1 reasonable and necessary to support the child in accordance  
2 with section 598.21.

3 Sec. 6. Section 232.104, subsection 4, Code 1995, is  
4 amended to read as follows:

5 4. Any permanency order may provide restrictions upon the  
6 contact between the child and the child's parent or parents,  
7 consistent with the best interest of the child. The court may  
8 temporarily or permanently prohibit contact between the child  
9 and a person who has committed child abuse or neglect upon the  
10 child and who has been offered or received services to correct  
11 the circumstance which led to the abuse or neglect and the  
12 circumstance continues to exist despite the offer or receipt  
13 of services. A temporary injunction shall be reviewed  
14 annually.

15 Sec. 7. Section 232.104, subsection 6, Code 1995, is  
16 amended to read as follows:

17 6. Following the entry of a permanency order which places  
18 a child in the custody or guardianship of another person or  
19 agency, the court shall retain jurisdiction and annually  
20 review the order to ascertain whether the best interest of the  
21 child is being served. When such order places the child in  
22 the custody of the department for the purpose of long-term  
23 foster care placement in a facility, the review shall be in a  
24 hearing that shall not be waived or continued beyond twelve  
25 months after the permanency hearing or the last review  
26 hearing. When such order places the child in the custody of  
27 the department for the purpose of long-term placement in  
28 family foster care, the review shall be in a hearing that  
29 shall not be waived or continued beyond twelve months after  
30 the permanency hearing or the last review hearing. Any  
31 modification shall be accomplished through a hearing procedure  
32 following reasonable notice. During the hearing, all relevant  
33 and material evidence shall be admitted and procedural due  
34 process shall be provided to all parties.

35

EXPLANATION

1 This bill provides the juvenile court with the authority to  
2 remove a person who commits child abuse or neglect from the  
3 home to protect the child who was abused. The bill amends  
4 section 232.82 to substitute "child abuse", as defined in  
5 section 232.68, for "sexual abuse" or "physical abuse". Both  
6 those acts are contained in the definition of child abuse.

7 The bill also provides that the juvenile court may enter a  
8 protective order which prohibits contact between a child and a  
9 person who committed child abuse or neglect against the child  
10 and terminate the court's continuing jurisdiction in the case.

11 In addition, the bill provides that the juvenile court may  
12 establish a permanent placement for a juvenile who has been  
13 adjudicated a child in need of assistance in cases where the  
14 juvenile has been in an out-of-home placement for more than 12  
15 months and attempts at reunification of the juvenile and the  
16 juvenile's family have failed. Further, the bill provides  
17 that the judicial review of placement in family foster care  
18 shall not take place later than 12 months after placement and  
19 provides that the court may restrict or prohibit contact  
20 between a juvenile and a person who committed child abuse upon  
21 the juvenile. The bill also provides that the juvenile court  
22 may modify an order establishing joint, or joint physical,  
23 custody when transferring custody of a juvenile between  
24 parents and may require either or both parents to pay child  
25 support. Finally, the bill provides the juvenile court the  
26 authority to establish a guardianship for a juvenile and  
27 subjects the guardian to the oath and bond requirements of  
28 fiduciaries and guardians in the probate code.

29

30

31

32

33

34

35