

2/22/96 Judiciary

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SENATE FILE 2257  
BY BISIGNANO

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Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act requiring a child day care provider who has been found to  
2 have committed child abuse to register with the state and  
3 related provisions, making an appropriation, and providing  
4 penalties.

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

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S.F. 2257

1 Section 1. Section 235A.15, subsection 2, paragraph e,  
2 Code Supplement 1995, is amended by adding the following new  
3 subparagraph:

4 NEW SUBPARAGRAPH. (15) To employees of the department of  
5 human services as necessary to perform child abuse-child care  
6 registry duties under chapter 235D.

7 Sec. 2. Section 235A.17, Code 1995, is amended by adding  
8 the following new subsection:

9 NEW SUBSECTION. 3. An employee of the department of human  
10 services authorized to receive child abuse information for  
11 purposes of the child abuse-child care registry pursuant to  
12 section 235A.15, subsection 2, paragraph "e", subparagraph  
13 (15) may redisseminate the information in accordance with the  
14 provisions of chapter 235D.

15 Sec. 3. NEW SECTION. 235D.1 DEFINITIONS.

16 As used in this chapter, unless the context otherwise  
17 requires:

18 1. "Central child abuse registry" or "central registry"  
19 means the central child abuse registry created in chapter  
20 235A.

21 2. "Child abuse-child care registry" means the central  
22 child abuse-child care registry created by the department  
23 pursuant to section 235D.9.

24 3. "Child day care" means the same as defined in section  
25 237A.1.

26 4. "Department" means the department of human services.

27 5. "Founded child abuse report" means a child abuse report  
28 determined by the department to be child abuse and placed in  
29 the central child abuse registry as founded child abuse.

30 Sec. 4. NEW SECTION. 235D.2 PERSONS REQUIRED TO  
31 REGISTER.

32 1. A person who provides child day care and who is named  
33 as having abused a child in a founded child abuse report,  
34 shall register as provided in this chapter for a period of  
35 time equivalent to the period of time the report is maintained

1 on the central child abuse registry.

2 2. The registration requirements of this section do not  
3 apply to any of the following:

4 a. A person for whom the department has performed an  
5 evaluation pursuant to section 237A.5, subsection 2, and has  
6 permitted the person to be licensed, registered, employed, or  
7 to reside in a child day care facility, if the person complies  
8 with the department's conditions established in section  
9 237A.5, subsection 2, paragraph "c".

10 b. A person who was named as having abused a child in a  
11 founded child abuse report in which the information concerning  
12 the person was determined to be unfounded and was corrected or  
13 eliminated pursuant to section 235A.19, subsection 5.

14 Sec. 5. NEW SECTION. 235D.3 REGISTRATION PROCESS.

15 All of the following applies to a person who is required to  
16 register with the department, pursuant to section 235D.2:

17 1. The person shall register at the department office in  
18 the county of the person's residence prior to providing child  
19 day care. However, if the person is providing child day care  
20 at the time the founded child abuse report is entered in the  
21 central registry, the person shall register within ten days of  
22 the date the person is notified of the duty to register under  
23 section 235D.5.

24 2. Within ten days of changing residence within a county  
25 in this state, notify the department office in the county in  
26 which the person is registered of the change of address and  
27 any changes in the person's telephone number. The  
28 notification shall be in writing on a form provided by the  
29 department.

30 3. Within ten days of changing residence to a location  
31 outside the county in which the person was registered, the  
32 person shall register with the department office in the county  
33 in which the person's residence has been newly established and  
34 notify the department of the county in which the person was  
35 previously registered. The registration shall be in writing

1 on a form provided by the department and shall include the  
2 person's change of address and any changes to the person's  
3 telephone number.

4 4. Within ten days of changing residence to a location  
5 outside of this state, the person shall notify the department  
6 office in the county in which the person is registered of the  
7 new residence address, and any changes in telephone number.

8 If the person is required to register under the laws of the  
9 other state, the person shall register in the other state.

10 Sec. 6. NEW SECTION. 235D.4 VERIFICATION OF ADDRESS.

11 The address of a person required to register with the  
12 department pursuant to section 235D.2 shall be verified by the  
13 department as follows:

14 1. Annually, during the month in which the person was  
15 initially required to register, the department shall mail a  
16 verification form to the last reported address of the person.  
17 A verification form shall not be forwarded to the person if  
18 the person no longer resides at the address, but shall be  
19 returned to the department.

20 2. The person shall complete and mail the verification to  
21 the department within ten days of receipt of the form.

22 3. The verification form shall be signed by the person,  
23 and state the address at which the person resides. If the  
24 person is in the process of changing residence, the person  
25 shall state that fact as well as the old and new addresses of  
26 places of residence.

27 Sec. 7. NEW SECTION. 235D.5 DUTY TO FACILITATE REGIS-  
28 TRATION.

29 1. If a founded child abuse report is entered in the  
30 central registry which would cause a person to be required to  
31 register with the department pursuant to section 235D.2, the  
32 department shall do the following at the time a founded child  
33 abuse report is entered in the central registry:

34 a. Inform the person of the duty to register.

35 b. Inform the person that, within ten days of changing

1 residence, registration with the department in the county in  
2 which residence is established is required, if the new  
3 residence is within the state.

4 c. Inform the person that if the person changes residence  
5 to another state, the person must give the person's new  
6 address to the department in the county of the person's old  
7 residence within ten days of changing addresses, and that, if  
8 the other state has a registration requirement, the person is  
9 also required to register in the new state of residence.

10 d. Require the person to read and sign a form stating that  
11 the duty of the person to register under this chapter has been  
12 explained. If the person cannot read, is unable to write, or  
13 refuses to cooperate, the duty and the form shall be explained  
14 orally and a written record maintained by the person  
15 explaining the duty and the form.

16 2. The child abuse-child care registry shall send the  
17 initial registration information to the department office in  
18 the county where the person required to register resides  
19 within three business days of completing the initial  
20 registration.

21 Sec. 8. NEW SECTION. 235D.6 REGISTRATION FEES FOR  
22 OFFENDERS.

23 At the time of filing an initial registration, or a change  
24 of registration with the department of the county of  
25 residence, a person who is required to register pursuant to  
26 section 235D.2 shall pay a fee of one hundred twenty-five  
27 dollars to the department. If, at the time of registration,  
28 the person who is required to register is unable to pay the  
29 fee, the department may allow the person time to pay the fee,  
30 permit the payment of the fee in installments, or waive  
31 payment of the fee for good cause. Fees paid to the  
32 department shall be used to defray the costs of duties related  
33 to the registration of persons under this chapter.

34 Sec. 9. NEW SECTION. 235D.7 FAILURE TO COMPLY --  
35 PENALTY.

1 A person who willfully fails to register as required under  
2 this chapter commits a serious misdemeanor for a first offense  
3 and an aggravated misdemeanor for a second or subsequent  
4 offense. However, a person who willfully fails to register as  
5 required under this chapter and who, during the period in  
6 which the person has willfully failed to register, commits a  
7 criminal offense against a child under chapter 709, 709A, 710,  
8 725, 726, or 728, commits a class "D" felony. The court shall  
9 not defer judgment or sentence for any violation of the  
10 registration requirements of this chapter.

11 Sec. 10. NEW SECTION. 235D.8 REGISTRATION AND DISCLOSURE  
12 PROCESS.

13 1. The department shall prepare registration forms. The  
14 forms shall include the registrant's name, social security  
15 number, current address, and, if applicable, telephone number.  
16 In addition, the registration form shall include the names,  
17 addresses, and telephone numbers of the children for which the  
18 registrant is providing child day care as well as this  
19 information for the children's parent, guardian, or custodian.  
20 The forms may provide for the reporting of additional relevant  
21 information, including but not limited to, residents in the  
22 household of the person required to register, but shall not  
23 include information identifying the victim of the child abuse  
24 which the registrant was found to have committed. Forms shall  
25 be available to any person upon request to the department.

26 2. a. The department shall prepare disclosure forms which  
27 shall be made available to a registrant. The disclosure form  
28 shall provide for a written acknowledgment by the parent or  
29 guardian of each child for which the registrant provides child  
30 day care that the registrant is required to register with the  
31 child care-child abuse registry by reason of having been named  
32 as having abused a child in a founded child abuse report. The  
33 form shall also provide instructions regarding the parent's,  
34 guardian's, or custodian's access to information maintained in  
35 the child abuse-child care registry.

1 b. The disclosure form shall be signed by the parent or  
2 guardian of each child for which the registrant provides child  
3 day care, acknowledging that the parent or guardian has read  
4 the form. A disclosure form shall be filed with the  
5 department for each child in the registrant's child day care  
6 as part of the registration requirements.

7 Sec. 11. NEW SECTION. 235D.9 DEPARTMENT DUTIES --  
8 REGISTRY.

9 The department shall perform all of the following duties:

10 1. Develop and disseminate the standard forms for  
11 registering and verifying addresses of persons required to  
12 register pursuant to section 235D.2, and for understanding of  
13 registration requirements by the persons. The materials used  
14 to verify addresses of the persons required to register shall  
15 contain a warning against forwarding of the form and of the  
16 requirement to return the form if the person to whom the form  
17 is directed no longer resides at the address listed on the  
18 form or the mailing.

19 2. Maintain a central registry of information collected  
20 from persons required to register under this chapter, which  
21 shall be known as the child abuse-child care registry.

22 3. Adopt rules under chapter 17A as necessary to do all of  
23 the following:

24 a. Ensure compliance with registration and verification  
25 requirements of this chapter.

26 b. Provide guidelines for persons required to assist in  
27 obtaining registry information.

28 c. Provide a procedure for the dissemination of  
29 information contained in the child abuse-child care registry.

30 The procedure for the dissemination of information shall  
31 include, but is not limited to, practical guidelines for use  
32 by agencies in determining when public release of information  
33 contained in the registry is appropriate and a requirement  
34 that if a member of the general public requests information  
35 regarding a specific individual in the manner provided in

1 section 235D.11, the information shall be released. The  
2 department, in developing the procedure, shall consult with  
3 associations which represent the interests of law enforcement  
4 officers. Rules adopted shall also include a procedure for  
5 removal of information from the registry upon a determination  
6 that the information concerning the person in the founded  
7 child abuse report which caused the person to register under  
8 this chapter was unfounded and was corrected or eliminated  
9 pursuant to section 235A.19, subsection 5.

10 Sec. 12. NEW SECTION. 235D.10 CHILD ABUSE-CHILD CARE  
11 REGISTRY FUND.

12 A child abuse-child care registry fund is established as a  
13 separate fund within the state treasury under the control of  
14 the department. The fund shall consist of moneys received  
15 from fees received under section 235D.6 and other funds allo-  
16 cated for purposes of establishing and maintaining the child  
17 abuse-child care registry, conducting research and analysis  
18 related to child abuse-child care issues, and to perform other  
19 duties required under this chapter. Notwithstanding section  
20 8.33, unencumbered or unobligated moneys and any interest  
21 remaining in the fund on June 30 of any fiscal year shall not  
22 revert to the general fund of the state, but shall remain  
23 available for expenditure in subsequent fiscal years. Moneys  
24 in the fund are appropriated to the department to be used only  
25 for the purposes delineated in this section and are not  
26 subject to transfer pursuant to section 8.39.

27 Sec. 13. NEW SECTION. 235D.11 AVAILABILITY OF RECORDS.

28 Notwithstanding chapter 22, the confidentiality of  
29 information in the child abuse-child care registry shall be  
30 maintained except as specifically provided as follows:

31 1. As authorized in section 235A.15.

32 2. The department shall release information regarding a  
33 specific person who is required to register under this chapter  
34 to a member of the general public if the person requesting the  
35 information gives the person's name and address in writing,



1 states the person's reason for requesting the information, and  
2 provides the department with the name and address of the  
3 person about whom the information is sought. The department  
4 shall maintain a record of persons requesting information from  
5 the registry. The confidentiality of the record of a person  
6 requesting information from the registry shall be maintained,  
7 unless the person requesting the information from the registry  
8 requests that the record of the information request be a  
9 public record.

10 3. Information shall not be released which would identify  
11 the victim's name or location in the founded child abuse  
12 report which is a part of the child abuse-child care registry  
13 record.

14 Sec. 14. NEW SECTION. 235D.12 COOPERATION WITH REGIS-  
15 TRATION.

16 Each agency of state and local government which possesses  
17 information relevant to requirements that a person register  
18 under this chapter shall provide that information to the de-  
19 partment upon request. Any confidential record provided pur-  
20 suant to this section shall only be released pursuant to  
21 section 235D.11.

22 Sec. 15. NEW SECTION. 235D.13 IMMUNITY FOR GOOD FAITH  
23 CONDUCT.

24 A person is immune from civil or criminal liability for  
25 acts or omissions arising from a good faith effort to comply  
26 with this chapter.

27 EXPLANATION

28 This bill requires a child day care provider who has been  
29 found to have committed child abuse to register with the  
30 department of human services and provides penalties.

31 Sections 235A.15 and 235A.17 are amended to authorize  
32 department of human services employees access to the central  
33 child abuse registry information and to permit redissemination  
34 of the information for purposes of the child abuse-child care  
35 registry requirements established in the bill.

1 The remainder of the bill establishes a new chapter  
2 tentatively numbered 235D creating child abuse-child care  
3 registry requirements.

4 New section 235D.1 provides definitions based upon the  
5 definitions in chapter 235A, relating to child abuse  
6 information and 237A, relating to child day care regulation.

7 New section 235D.2 establishes a registration requirement  
8 for a person who provides child day care and who has been  
9 named as having abused a child in a founded child abuse  
10 report. Exceptions are provided for persons who have been  
11 evaluated by the department of human services and permitted to  
12 provide care, and for persons for which the child abuse  
13 information was later corrected or expunged.

14 New section 235D.3 establishes a registration process and  
15 time frames for the process.

16 New section 235D.4 requires annual address verification of  
17 those required to be registered.

18 New section 235D.5 requires the department of human  
19 services to notify a person who is subject to registration of  
20 the registration requirements. The notification requirements  
21 are triggered at the time the department of human services  
22 notifies the person of the registration requirement following  
23 entry of a founded child abuse report which would cause the  
24 person to be required to register.

25 New section 235D.6 establishes a fee of \$125 for initial  
26 registration or for change of registration. The department is  
27 permitted to waive the fee or allow the fee to be paid in  
28 installments under certain circumstances.

29 New section 235D.7 establishes criminal penalties for  
30 persons who willfully fail to register as required and  
31 increases penalties for a person who willfully fails to  
32 register and commits any of the following criminal offenses  
33 against a child: sexual abuse, contributing to juvenile  
34 delinquency, kidnapping, vice, abandonment, neglect, child  
35 endangerment, and obscenity.

1 New section 235D.8 delineates requirements for the forms to  
2 be developed by the department. The forms include a  
3 registration form for registrants and a disclosure form for  
4 the signature of the parent, guardian, or custodian of a child  
5 receiving child day care from a required registrant. The  
6 disclosure form is a written acknowledgment by the parent,  
7 guardian, or custodian that the registrant is required to  
8 register for having been named as a perpetrator in a founded  
9 child abuse report.

10 New section 235D.9 requires the department to develop and  
11 disseminate forms, establish and maintain a central child  
12 abuse-child care registry, and adopt administrative rules  
13 providing for the maintenance and release of information in  
14 the registry.

15 New section 235D.10 creates the child abuse-child care fund  
16 under the control of the department. Fees and other moneys  
17 associated with the registry program are to be deposited to  
18 the fund, and a standing appropriation of the moneys in the  
19 fund is made to the department.

20 New section 235D.11 establishes confidentiality  
21 requirements for information contained in the child abuse-  
22 child care registry.

23 New section 235D.12 requires state and local governments to  
24 provide information relevant to the registration requirements.

25 New section 235D.13 provides liability immunity for persons  
26 acting in good faith to comply with the chapter.

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