

H. 3/29/95 *Hammer* *Revised*
H. 4/10/95 *Amended/Do Pass* with
#-3814

FILED MAR 20 1995

SENATE FILE **436**
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO SSB 294)

Passed Senate, Date 3/28/95 (p.900) Passed House, Date 4-13-95 (p.1545)
Vote: Ayes 48 Nays 0 Vote: Ayes 98 Nays 0
Approved April 26, 1995

Re-passed Senate 4/17/95 (p.1229)
Ayes 45 Nays 0
A BILL FOR

1 An Act relating to the child abuse registry by providing access
2 for purposes of certifying sex offender treatment providers,
3 for certain publicly operated facilities or programs, and for
4 certain purposes of public employers.

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

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S.F. 436

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

4 NEW SUBPARAGRAPH. (13) To the Iowa board for the
5 treatment of sexual abusers for purposes of certifying sex
6 offender treatment providers.

7 Sec. 2. Section 235A.15, subsection 2, paragraph c, Code
8 1995, is amended by adding the following new subparagraph:

9 NEW SUBPARAGRAPH. (11) To an administrator of a facility
10 or program operated by the state, a city, or a county which
11 provides services or care directly to children, if the
12 information concerns a person employed by or being considered
13 for employment by the facility or program.

14 Sec. 3. Section 235A.15, subsection 4, unnumbered
15 paragraph 1, Code 1995, is amended to read as follows:

16 Access to founded child abuse information ~~only~~ is
17 authorized to the department of personnel or to the personnel
18 office of a public employer, as defined in section 20.3, as
19 necessary for presentation in grievance or arbitration
20 procedures provided for in sections 19A.14 and 20.18. Child
21 abuse information introduced into a grievance or arbitration
22 proceeding shall not be considered a part of the public record
23 of a case.

24 EXPLANATION

25 This bill relates to the child abuse registry by providing
26 access to registry information to various entities.

27 Section 235A.15, subsection 2, lists entities with
28 authorized access to child abuse information, other than
29 unfounded child abuse information, maintained by the
30 department of human services. The bill amends these
31 provisions to authorize access to the Iowa board for the
32 treatment of sexual abusers for purposes of certifying sex
33 offender treatment providers and to an administrator of a
34 facility or program operated by the state or a city or county
35 which provides services or care directly to children, if the

1 information concerns a person employed by or being considered
2 for employment by the facility or program.

3 Section 235A.15, subsection 4, provides for access to
4 founded child abuse information only to the department of
5 personnel as necessary for grievance or arbitration procedures
6 or proceedings under sections 19A.14 and 20.18. The bill
7 extends the access for the same purposes to personnel offices
8 of the state and its boards, commissions, departments, and its
9 political subdivisions, including school districts and other
10 special purpose districts.

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SENATE FILE 436

H-3814

1 Amend Senate File 436, as passed by the Senate, as
2 follows:
3 1. Page 1, line 8, by striking the word
4 "subparagraph" and inserting the following:
5 "subparagraphs".
6 2. Page 1, by inserting after line 13 the
7 following:
8 "NEW SUBPARAGRAPH. (12) To an administrator of an
9 agency certified by the department of human services
10 to provide services under a medical assistance home
11 and community-based services waiver, if the
12 information concerns a person employed by or being
13 considered by the agency for employment."
14 3. Page 1, by inserting after line 23 the
15 following:
16 "Sec. _____. Section 235B.6, subsection 2, paragraph
17 c, Code 1995, is amended by adding the following new
18 subparagraph:
19 NEW SUBPARAGRAPH. (5) To an administrator of an
20 agency certified by the department of human services
21 to provide services under a medical assistance home
22 and community-based services waiver, if the
23 information concerns a person employed by or being
24 considered by the agency for employment.
25 Sec. _____. NEW SECTION. 249A.29 HOME AND
26 COMMUNITY-BASED SERVICES WAIVER PROVIDERS -- RECORDS
27 CHECKS.
28 1. For purposes of this section unless the context
29 otherwise requires:
30 a. "Consumer" means an individual approved by the
31 department to receive services under a waiver.
32 b. "Provider" means an agency certified by the
33 department to provide services under a waiver.
34 c. "Waiver" means a home and community-based
35 services waiver approved by the federal government and
36 implemented under the medical assistance program.
37 2. If a person is being considered by a provider
38 for employment involving direct responsibility for a
39 consumer or with access to a consumer when the
40 consumer is alone, and if the person has been
41 convicted of a crime or has a record of founded child
42 or dependent adult abuse, the department shall perform
43 an evaluation to determine whether the crime or
44 founded abuse warrants prohibition of employment by
45 the provider. The department shall conduct criminal
46 and child and dependent adult abuse record checks of
47 the person in this state and may conduct these checks
48 in other states. The record checks and evaluations
49 required by this section shall be performed in
50 accordance with procedures adopted for this purpose by

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Page 2

1 the department.

2 3. If the department determines that a person
3 employed by a provider has committed a crime or has a
4 record of founded abuse, the department shall perform
5 an evaluation to determine whether prohibition of the
6 person's employment is warranted.

7 4. In an evaluation, the department shall consider
8 the nature and seriousness of the crime or founded
9 abuse in relation to the position sought or held, the
10 time elapsed since the commission of the crime or
11 founded abuse, the circumstances under which the crime
12 or founded abuse was committed, the degree of
13 rehabilitation, the likelihood that the person will
14 commit the crime or founded abuse again, and the
15 number of crimes or founded abuses committed by the
16 person involved. The department may permit a person
17 who is evaluated to be employed or to continue to be
18 employed by the provider if the person complies with
19 the department's conditions relating to the
20 employment, which may include completion of additional
21 training.

22 5. If the department determines that the person
23 has committed a crime or has a record of founded abuse
24 which warrants prohibition of employment, the person
25 shall not be employed by a provider."

26 4. Title page, line 1, by striking the words "the
27 child abuse registry" and inserting the following:
28 "certification and employment provisions involving
29 state abuse registries".

30 5. Title page, line 3, by striking the word
31 "and".

32 6. Title page, line 4, by inserting after the
33 word "employers" the following: ", and requiring
34 records checks for purposes of employment by certain
35 medical assistance program service providers".

By COMMITTEE ON HUMAN RESOURCES
DAGGETT of Union, Chairperson

(P. 1545) H-3814 FILED APRIL 10, 1995

Adopted 4-13-95

SENATE FILE 436

H-3826

1 Amend Senate File 436, as passed by the Senate, as
2 follows:

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

5 "NEW SUBPARAGRAPH. (14) To a member of the Iowa
6 house of representatives or the Iowa senate, if the
7 member is asked to review the child abuse information
8 by a resident of the member's district who is a
9 subject of a child abuse report identified in
10 paragraph "a" and the child abuse report is part of
11 the child abuse information to be reviewed."

12 2. By renumbering as necessary.

By FALLON of Polk

H-3826 FILED APRIL 10, 1995

(P. 1545) 3/13/95

WITHDRAWN

HOUSE AMENDMENT TO
SENATE FILE 436

S-3414

1 Amend Senate File 436, as passed by the Senate, as
2 follows:
3 1. Page 1, line 8, by striking the word
4 "subparagraph" and inserting the following:
5 "subparagraphs".
6 2. Page 1, by inserting after line 13 the
7 following:
8 "NEW SUBPARAGRAPH. (12) To an administrator of an
9 agency certified by the department of human services
10 to provide services under a medical assistance home
11 and community-based services waiver, if the
12 information concerns a person employed by or being
13 considered by the agency for employment."
14 3. Page 1, by inserting after line 23 the
15 following:
16 "Sec. ____ . Section 235B.6, subsection 2, paragraph
17 c, Code 1995, is amended by adding the following new
18 subparagraph:
19 NEW SUBPARAGRAPH. (5) To an administrator of an
20 agency certified by the department of human services
21 to provide services under a medical assistance home
22 and community-based services waiver, if the
23 information concerns a person employed by or being
24 considered by the agency for employment.
25 Sec. ____ . NEW SECTION. 249A.29 HOME AND
26 COMMUNITY-BASED SERVICES WAIVER PROVIDERS -- RECORDS
27 CHECKS.
28 1. For purposes of this section unless the context
29 otherwise requires:
30 a. "Consumer" means an individual approved by the
31 department to receive services under a waiver.
32 b. "Provider" means an agency certified by the
33 department to provide services under a waiver.
34 c. "Waiver" means a home and community-based
35 services waiver approved by the federal government and
36 implemented under the medical assistance program.
37 2. If a person is being considered by a provider
38 for employment involving direct responsibility for a
39 consumer or with access to a consumer when the
40 consumer is alone, and if the person has been
41 convicted of a crime or has a record of founded child
42 or dependent adult abuse, the department shall perform
43 an evaluation to determine whether the crime or
44 founded abuse warrants prohibition of employment by
45 the provider. The department shall conduct criminal
46 and child and dependent adult abuse record checks of
47 the person in this state and may conduct these checks
48 in other states. The record checks and evaluations
49 required by this section shall be performed in
50 accordance with procedures adopted for this purpose by

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Page 2

1 the department.

2 3. If the department determines that a person
3 employed by a provider has committed a crime or has a
4 record of founded abuse, the department shall perform
5 an evaluation to determine whether prohibition of the
6 person's employment is warranted.

7 4. In an evaluation, the department shall consider
8 the nature and seriousness of the crime or founded
9 abuse in relation to the position sought or held, the
10 time elapsed since the commission of the crime or
11 founded abuse, the circumstances under which the crime
12 or founded abuse was committed, the degree of
13 rehabilitation, the likelihood that the person will
14 commit the crime or founded abuse again, and the
15 number of crimes or founded abuses committed by the
16 person involved. The department may permit a person
17 who is evaluated to be employed or to continue to be
18 employed by the provider if the person complies with
19 the department's conditions relating to the
20 employment, which may include completion of additional
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23 has committed a crime or has a record of founded abuse
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25 shall not be employed by a provider."

26 4. Title page, line 1, by striking the words "the
27 child abuse registry" and inserting the following:
28 "certification and employment provisions involving
29 state abuse registries".

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31 "and".

32 6. Title page, line 4, by inserting after the
33 word "employers" the following: ", and requiring
34 records checks for purposes of employment by certain
35 medical assistance program service providers".

RECEIVED FROM THE HOUSE

S-3414 FILED APRIL 13, 1995

Senate concurred 4/17/95 (p. 1229)

Vilsack
Szymoniak
Tinsman

SSB-294

Human Resources

Succeeded By

SENATE FILE SF/HF 436

BY (PROPOSED COMMITTEE ON HUMAN
RESOURCES BILL BY CHAIR-
PERSON SZYMONIAK)

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

A BILL FOR

1 An Act relating to the child abuse registry by providing access
2 for purposes of certifying sex offender treatment providers.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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

4 NEW SUBPARAGRAPH. (13) To the Iowa board for the
5 treatment of sexual abusers for purposes of certifying sex
6 offender treatment providers.

7 EXPLANATION

8 This bill relates to the child abuse registry by providing
9 access to registry information to the Iowa board for the
10 treatment of sexual abusers for purposes of certifying sex
11 offender treatment providers.

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SENATE FILE 436

AN ACT

RELATING TO CERTIFICATION AND EMPLOYMENT PROVISIONS INVOLVING STATE ABUSE REGISTRIES BY PROVIDING ACCESS FOR PURPOSES OF CERTIFYING SEX OFFENDER TREATMENT PROVIDERS, FOR CERTAIN PUBLICLY OPERATED FACILITIES OR PROGRAMS, FOR CERTAIN PURPOSES OF PUBLIC EMPLOYERS, AND REQUIRING RECORDS CHECKS FOR PURPOSES OF EMPLOYMENT BY CERTAIN MEDICAL ASSISTANCE PROGRAM SERVICE PROVIDERS.

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

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

NEW SUBPARAGRAPH. (13) To the Iowa board for the treatment of sexual abusers for purposes of certifying sex offender treatment providers.

Sec. 2. Section 235A.15, subsection 2, paragraph c, Code 1995, is amended by adding the following new subparagraphs:

NEW SUBPARAGRAPH. (11) To an administrator of a facility or program operated by the state, a city, or a county which provides services or care directly to children, if the information concerns a person employed by or being considered for employment by the facility or program.

NEW SUBPARAGRAPH. (12) To an administrator of an agency certified by the department of human services to provide services under a medical assistance home and community-based services waiver, if the information concerns a person employed by or being considered by the agency for employment.

Sec. 3. Section 235A.15, subsection 4, unnumbered paragraph 1, Code 1995, is amended to read as follows:

Access to founded child abuse information ~~only~~ is authorized to the department of personnel or to the personnel office of a public employer, as defined in section 20.3, as necessary for presentation in grievance or arbitration procedures provided for in sections 19A.14 and 20.18. Child abuse information introduced into a grievance or arbitration proceeding shall not be considered a part of the public record of a case.

Sec. 4. Section 235B.6, subsection 2, paragraph c, Code 1995, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (5) To an administrator of an agency certified by the department of human services to provide services under a medical assistance home and community-based services waiver, if the information concerns a person employed by or being considered by the agency for employment.

Sec. 5. NEW SECTION. 249A.29 HOME AND COMMUNITY-BASED SERVICES WAIVER PROVIDERS -- RECORDS CHECKS.

1. For purposes of this section unless the context otherwise requires:

a. "Consumer" means an individual approved by the department to receive services under a waiver.

b. "Provider" means an agency certified by the department to provide services under a waiver.

c. "Waiver" means a home and community-based services waiver approved by the federal government and implemented under the medical assistance program.

2. If a person is being considered by a provider for employment involving direct responsibility for a consumer or with access to a consumer when the consumer is alone, and if the person has been convicted of a crime or has a record of founded child or dependent adult abuse, the department shall perform an evaluation to determine whether the crime or founded abuse warrants prohibition of employment by the provider. The department shall conduct criminal and child and dependent adult abuse record checks of the person in this state and may conduct these checks in other states. The record checks and evaluations required by this section shall be performed in accordance with procedures adopted for this purpose by the department.

3. If the department determines that a person employed by a provider has committed a crime or has a record of founded abuse, the department shall perform an evaluation to determine whether prohibition of the person's employment is warranted.

4. In an evaluation, the department shall consider the nature and seriousness of the crime or founded abuse in relation to the position sought or held, the time elapsed since the commission of the crime or founded abuse, the circumstances under which the crime or founded abuse was committed, the degree of rehabilitation, the likelihood that the person will commit the crime or founded abuse again, and the number of crimes or founded abuses committed by the person involved. The department may permit a person who is evaluated to be employed or to continue to be employed by the provider if the person complies with the department's conditions relating to the employment, which may include completion of additional training.

5. If the department determines that the person has committed a crime or has a record of founded abuse which

warrants prohibition of employment, the person shall not be employed by a provider.

LEONARD L. BOSWELL
President of the Senate

RON J. CORBETT
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 436, Seventy-sixth General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved April 26, 1995

TERRY E. BRANSTAD
Governor