

# House Study Bill 233

## Bill Text

PAG LIN

1 1 DIVISION I  
1 2 CHILD ABUSE REGISTRY  
1 3 Section 1. Section [232.70](#), subsection 4, Code 1997, is  
1 4 amended to read as follows:  
1 5 4.

~~The~~  
~~Upon receipt of a report the department~~

~~of human~~

1 6

~~services~~

~~shall do all of the following:~~

1 7 a. Immediately, upon receipt of an oral report, make a  
1 8 determination as to whether the report constitutes an  
1 9 allegation of child abuse as defined in section 232.68

~~;~~

~~b.~~  
1 10

~~Make a report to the central registry if the oral~~

1 11

~~report has been determined to constitute a child abuse~~

1 12

~~allegation;~~

1 13

~~c. Forward a copy of the written report to the registry;~~

1 14

~~and~~

1 15

~~d.~~

~~b.~~ Notify the appropriate county attorney of the  
1 16 receipt of

~~any~~

~~the report.~~

1 17 Sec. 2. Section [232.71](#), subsections 7, 8, and 9, Code  
1 18 1997, are amended to read as follows:

1 19 7. The department, upon completion of its investigation,  
1 20 shall make a preliminary report of its investigation

~~as~~

~~required~~

~~containing the information required~~ by subsection 2.

1 22 A copy of this report shall be transmitted to juvenile court  
1 23 within four regular working days after the department  
1 24 initially receives the abuse report unless the juvenile court  
1 25 grants an extension of time for good cause shown. If the  
1 26 preliminary report is not a complete report, a complete report  
1 27 shall be filed within ten working days of the receipt of the  
1 28 abuse report, unless the juvenile court grants an extension of  
1 29 time for good cause shown. If required under section 232.71D,  
1 30 the report of the investigation shall be placed in the central  
1 31 registry. The department shall notify a subject of the report  
1 32 of the result of the investigation, of the subject's right to  
1 33 correct the information pursuant to section 235A.19, and of  
1 34 the procedures to correct the information. The juvenile court  
1 35 shall notify the

~~registry~~

~~department~~ of any action it takes

2 1 with respect to a suspected case of child abuse.

2 2

~~8. The department of human services shall transmit a copy~~

2 3

~~of the report of its investigation, including actions taken or~~

2 4

~~contemplated, to the registry. The department of human~~

2 5

~~services shall make periodic follow up reports thereafter in a~~

2 6

~~manner prescribed by the registry so that the registry is kept~~

2 7

~~up to date and fully informed concerning the handling of a~~

2 8

~~suspected case of child abuse.~~

2 9

~~9.~~  
- 8. The department

~~of human services~~

- shall also transmit

2 10 a copy of the report of its investigation to the county

2 11 attorney. The county attorney shall notify the

~~registry~~

2 12 department office which transmitted the report to the county

2 13 attorney of any actions or contemplated actions with respect

2 14 to a

~~suspected~~

- alleged case of child abuse so that the  
2 15

~~registry~~

- department office is kept up-to-date and fully  
2 16 informed concerning the handling of

~~such a~~

- the case. If the

2 17 report was placed in the central registry in accordance with  
2 18 section 232.71D, the department office shall notify the  
2 19 registry of any actions or contemplated actions by the county  
2 20 attorney concerning the report.

2 21 Sec. 3. Section [232.71](#), Code 1997, is amended by adding  
2 22 the following new subsection:

2 23 NEW SUBSECTION. 18. a. For the purposes of this  
2 24 subsection, "petechia" means a pinpoint, round, nonraised,  
2 25 purplish-red hemorrhage in the skin.

2 26 b. Unless otherwise prohibited under section 234.40 or  
2 27 280.21, the reasonable and moderate use of physical discipline  
2 28 or corporal punishment by a child's parent, guardian, or  
2 29 custodian for purposes of restraining or correcting the child  
2 30 shall not be determined to be child abuse. The age, physical  
2 31 size, and condition of the child, the location of any injury,  
2 32 and the frequency and recurrence of any injury shall be  
2 33 considered when determining whether an injury resulted from  
2 34 the reasonable and moderate use of physical discipline or  
2 35 corporal punishment by a child's parent, guardian, or  
3 1 custodian.

3 2 Unless determined to be the result of physical discipline  
3 3 or corporal punishment that was not reasonable or moderate,  
3 4 the presence of a bruise, petechia, or other superficial mark  
3 5 which does not constitute a more significant injury, even if  
3 6 the bruise, petechia, or other superficial mark exists for  
3 7 more than twenty-four hours, shall not be determined to be  
3 8 child abuse.

3 9 c. Acts of physical discipline or corporal punishment  
3 10 which are not reasonable and moderate include but are not  
3 11 limited to any of the following:

3 12 (1) Throwing, kicking, burning, biting, or cutting a  
3 13 child.

3 14 (2) Striking a child with a closed fist.

3 15 (3) Striking or other action that results in a  
3 16 nonaccidental injury to a child who is less than eighteen  
3 17 months of age.

3 18 (4) Interfering with a child's breathing.

3 19 (5) Threatening a child with a dangerous weapon.

3 20 (6) Doing any other act that is likely to cause and does  
3 21 cause bodily injury greater than transient pain.

3 22 Sec. 4. Section [232.71A](#), subsection 7, Code 1997, is  
3 23 amended by striking the subsection.

3 24 Sec. 5. NEW SECTION. 232.71D FOUNDED CHILD ABUSE -  
3 25 CENTRAL REGISTRY.

3 26 1. The requirements of this section shall apply to child  
3 27 abuse information in the report of an investigation performed  
3 28 in accordance with section 232.71 or in the report of an  
3 29 assessment performed in accordance with section 232.71A.

3 30 2. If the department determines the child suffered  
3 31 significant injury or was placed in great risk of injury, the  
3 32 name of the child and the alleged perpetrator of the child  
3 33 abuse shall be placed in the central registry as a case of  
3 34 founded child abuse. The child shall be considered to have  
3 35 suffered significant injury or was placed in great risk of  
4 1 injury and the child abuse information shall be placed in the  
4 2 central registry as founded child abuse under any of the  
4 3 following circumstances:

4 4 a. The case was referred for juvenile or criminal court

4 5 action as a result of the acts or omissions of the alleged  
4 6 perpetrator.

4 7 b. In the opinion of a health practitioner or mental  
4 8 health professional, the injury to the child was a result of  
4 9 the acts or omissions of the alleged perpetrator and required  
4 10 or should have required medical or mental health treatment.  
4 11 However, if the injury to the child was a physical injury  
4 12 resulting from the disciplinary action of the child's parent  
4 13 and the physical injury did not require medical or mental  
4 14 health treatment the injury shall not be considered to be  
4 15 founded child abuse.

4 16 c. The department receives a subsequent report and  
4 17 determines that the child suffered significant injury or was  
4 18 placed in great risk of injury due to the acts or omissions of  
4 19 the same alleged perpetrator.

4 20 d. The department determines the acts or omissions meet  
4 21 the definition of child abuse under section 232.68, subsection  
4 22 2, paragraph "c", and the alleged perpetrator of the acts or  
4 23 omissions is age fourteen or older. However, the juvenile  
4 24 court may order the removal from the central registry of the  
4 25 name of an alleged perpetrator placed in the registry pursuant  
4 26 to this paragraph who is age fourteen through seventeen upon a  
4 27 finding of good cause. The name of an alleged perpetrator who  
4 28 is less than age fourteen shall not be placed in the central  
4 29 registry pursuant to this paragraph.

4 30 e. The department determines the alleged perpetrator of  
4 31 the child abuse will continue to pose a danger to the child  
4 32 who is the subject of the report of child abuse or to another  
4 33 child with whom the alleged perpetrator may come into contact.

4 34 3. If child abuse information is placed in the central  
4 35 registry in accordance with this section, the department shall  
5 1 make periodic follow-up reports in a manner prescribed by the  
5 2 registry so that the registry is kept up-to-date and fully  
5 3 informed concerning the case.

5 4 4. In any other case, the child abuse information in the  
5 5 report of an investigation or an assessment shall not be  
5 6 placed in the central registry and notwithstanding chapter 22,  
5 7 the confidentiality of the information shall be maintained in  
5 8 accordance with chapter 235A.

5 9 Sec. 6. Section [235A.15](#), Code 1997, is amended to read as  
5 10 follows:

5 11 235A.15 AUTHORIZED ACCESS - PROCEDURES INVOLVING OTHER  
5 12 STATES.

5 13 1. Notwithstanding chapter 22, the confidentiality of all  
5 14 child abuse information shall be maintained, except as  
5 15 specifically provided by subsection 2, 3, or 4.

5 16 2. Access to child abuse information

~~other than unfounded~~

5 17

~~child abuse information~~

- is authorized only to the following

5 18 persons or entities:

5 19 a. Subjects of a report as follows:

5 20 (1) To a child named in a report as a victim of abuse or  
5 21 to the child's attorney or guardian ad litem.

5 22 (2) To a parent or the attorney for the parent of a child  
5 23 named in a report as a victim of abuse.

5 24 (3) To a guardian or legal custodian, or that person's at-  
5 25 torney, of a child named in a report as a victim of abuse.

5 26 (4) To a person or the attorney for the person named in a  
5 27 report as having abused a child.

5 28 b. Persons involved in an investigation of child abuse as  
5 29 follows:

5 30 (1) To a health practitioner or mental health professional

5 31 who is examining, attending, or treating a child whom such  
5 32 practitioner or professional believes or has reason to believe  
5 33 has been the victim of abuse or to a health practitioner or  
5 34 mental health professional whose consultation with respect to  
5 35 a child believed to have been the victim of abuse is requested  
6 1 by the department.

6 2 (2) To an employee or agent of the department of human  
6 3 services responsible for the investigation of a child abuse  
6 4 report.

6 5 (3) To a law enforcement officer responsible for assisting  
6 6 in an investigation of a child abuse allegation or for the  
6 7 temporary emergency removal of a child from the child's home.

6 8 (4) To a multidisciplinary team, if the department of  
6 9 human services approves the composition of the  
6 10 multidisciplinary team and determines that access to the team  
6 11 is necessary to assist the department in the investigation,  
6 12 diagnosis, assessment, and disposition of a child abuse case.

6 13 (5) In an individual case, to the mandatory reporter who  
6 14 reported the child abuse.

6 15 (6) To the county attorney.

6 16 (7) To the juvenile court.

6 17 (8) To a licensing authority for a facility providing care  
6 18 to a child named in a report, if the licensing authority is  
6 19 notified of a relationship between facility policy and the  
6 20 alleged child abuse under section 232.71, subsection 4.

6 21 (9) To a person or agency responsible for the care or  
6 22 supervision of a child named in a report as a victim of abuse  
6 23 or a person named in a report as having abused a child, if the  
6 24 juvenile court or department deems access to child abuse  
6 25 information by the person or agency to be necessary.

6 26 c. Individuals, agencies, or facilities providing care to  
6 27 a child, but only with respect to disposition data for cases  
6 28 of founded child abuse placed in the central registry in  
6 29 accordance with section 232.71D as follows:  
6 30

~~(1) To a licensing authority for a facility providing care~~

~~6 31~~

~~to a child named in a report, if the licensing authority is~~

~~6 32~~

~~notified of a relationship between facility policy and the~~

~~6 33~~

~~child abuse under section 232.71, subsection 4.~~

~~6 34~~

~~(2) To an authorized person or agency responsible for the~~

~~6 35~~

~~care or supervision of a child named in a report as a victim~~

~~7 1~~

~~of abuse or a person named in a report as having abused a~~

~~7 2~~

~~child, if the juvenile court or registry deems access to child~~

~~7 3~~

~~abuse information by such person or agency to be necessary.~~

7 4

~~(3)~~

- (1) To an employee or agent of the department of human  
7 5 services responsible for registering or licensing or approving  
7 6 the registration or licensing of an agency or facility, or to  
7 7 an individual providing care to a child and regulated by the  
7 8 department.  
7 9

~~(4)~~

- (2) To an employee of the department of human services  
7 10 responsible for an adoptive placement, a certified adoption  
7 11 investigator, or licensed child placing agency responsible for  
7 12 an adoptive placement.  
7 13

~~(5)~~

- (3) To an administrator of a psychiatric medical  
7 14 institution for children licensed under chapter 135H.  
7 15

~~(6)~~

- (4) To an administrator of a child foster care  
7 16 facility licensed under chapter 237 if the information  
7 17 concerns a person employed or being considered for employment  
7 18 by the facility.  
7 19

~~(7)~~

- (5) To an administrator of a child day care facility  
7 20 registered or licensed under chapter 237A if the information  
7 21 concerns a person employed or being considered for employment  
7 22 by or living in the facility.  
7 23

~~(8)~~

- (6) To the superintendent of the Iowa braille and  
7 24 sight saving school if the information concerns a person  
7 25 employed or being considered for employment or living in the  
7 26 school.  
7 27

~~(9)~~

- (7) To the superintendent of the school for the deaf  
7 28 if the information concerns a person employed or being  
7 29 considered for employment or living in the school.  
7 30

~~(10)~~

- (8) To an administrator of a community mental health  
7 31 center accredited under chapter 230A if the information  
7 32 concerns a person employed or being considered for employment  
7 33 by the center.  
7 34

~~(11)~~

- (9) To an administrator of a facility or program  
7 35 operated by the state, a city, or a county which provides  
8 1 services or care directly to children, if the information  
8 2 concerns a person employed by or being considered for  
8 3 employment by the facility or program.  
8 4

~~(12)~~

- (10) To an administrator of an agency certified by  
8 5 the department of human services to provide services under a  
8 6 medical assistance home and community-based services waiver,  
8 7 if the information concerns a person employed by or being  
8 8 considered by the agency for employment.  
8 9

~~(13)~~

- (11) To the administrator of an agency providing  
8 10 mental health, mental retardation, or developmental disability  
8 11 services under a county management plan developed pursuant to  
8 12 section 331.439, if the information concerns a person employed  
8 13 by or being considered by the agency for employment.

8 14 d. Relating to judicial and administrative proceedings as  
8 15 follows:

8 16 (1) To a juvenile court involved in an adjudication or  
8 17 disposition of a child named in a report.

8 18 (2) To a district court upon a finding that information is  
8 19 necessary for the resolution of an issue arising in any phase  
8 20 of a case involving child abuse.

8 21 (3) To a court or administrative agency hearing an appeal  
8 22 for correction of child abuse information as provided in  
8 23 section 235A.19.

8 24 (4) To an expert witness at any stage of an appeal  
8 25 necessary for correction of child abuse information as  
8 26 provided in section 235A.19.

8 27 (5) To a probation or parole officer, juvenile court  
8 28 officer, or adult correctional officer having custody or  
8 29 supervision of, or conducting an investigation for a court or  
8 30 the board of parole regarding, a person named in a report as a  
8 31 victim of child abuse or as having abused a child.

8 32 e. Others as follows:

8 33 (1) To a person conducting bona fide research on child  
8 34 abuse, but without information identifying individuals named  
8 35 in a child abuse report, unless having that information open  
9 1 to review is essential to the research or evaluation and the  
9 2 authorized registry officials give prior written approval and  
9 3 the child, the child's guardian or guardian ad litem and the  
9 4 person named in a report as having abused a child give  
9 5 permission to release the information.

9 6 (2) To registry or department personnel when necessary to  
9 7 the performance of their official duties or to a person or  
9 8 agency under contract with the department to carry out  
9 9 official duties and functions of the registry.

9 10 (3) To the department of justice for the sole purpose of  
9 11 the filing of a claim for restitution or compensation pursuant  
9 12 to section 910A.5 and section 912.4, subsections 3 through 5.  
9 13 Information provided pursuant to this subparagraph is subject  
9 14 to the provisions of section 912.10.

9 15 (4) To a legally constituted child protection agency of  
9 16 another state which is investigating or treating a child named  
9 17 in a report as having been abused or which is investigating or  
9 18 treating a person named as having abused a child.

9 19

~~(5) To a public or licensed child placing agency of~~

-  
9 20

~~another state responsible for an adoptive or foster care~~

-  
9 21

~~preplacement or placement evaluation.~~

-  
9 22

~~(6)~~

- (5) To the attorney for the department of human  
9 23 services who is responsible for representing the department.  
9 24 f. Others but only with respect to disposition data for  
9 25 cases of founded child abuse placed in the central registry  
9 26 pursuant to section 232.71D as follows:  
9 27 (1) To a public or licensed child-placing agency of  
9 28 another state responsible for an adoptive or foster care  
9 29 preplacement or placement evaluation.  
9 30

~~(7)~~

- (2) To the state and local citizen foster care review  
9 31 boards created pursuant to sections 237.16 and 237.19.  
9 32

~~(8)~~

- (3) To an employee or agent of the department of human  
9 33 services regarding a person who is providing child day care if  
9 34 the person is not registered or licensed to operate a child  
9 35 day care facility.  
10 1

~~(9)~~

- (4) To the board of educational examiners created  
10 2 under chapter 272 for purposes of determining whether a  
10 3 practitioner's license should be denied or revoked.  
10 4

~~(10)~~

- (5) To a legally constituted child protection agency  
10 5 in another state if the agency is conducting a records check  
10 6 of a person who is providing care or has applied to provide  
10 7 care to a child in the other state.  
10 8

~~(11)~~

- (6) To the legally authorized protection and advocacy  
10 9 agency recognized in section 135C.2, if a person identified in  
10 10 the information as a victim or a perpetrator of abuse resides  
10 11 in or receives services from a facility or agency because the  
10 12 person is diagnosed as having a developmental disability or a  
10 13 mental illness.  
10 14

~~(12)~~

- (7) To the department of human services for a record  
10 15 check relating to employment or residence pursuant to section  
10 16 218.13.  
10 17

~~(13)~~

- (8) To an administrator of a child day care resource  
10 18 and referral agency which has entered into an agreement  
10 19 authorized by the department to provide child day care  
10 20 resource and referral services. Access is authorized if the  
10 21 information concerns a person providing child day care  
10 22 services or a person employed by a provider of such services  
10 23 and the agency includes the provider as a referral or the  
10 24 provider has requested to be included as a referral.  
10 25

~~(14)~~

- (9) To the Iowa board for the treatment of sexual  
10 26 abusers for purposes of certifying sex offender treatment  
10 27 providers.



~~(15)~~

~~(10)~~ To a person who submits written authorization  
10 29 from an individual allowing the person access to information  
10 30 pursuant to this subsection on behalf of the individual in  
10 31 order to verify whether the individual is named in a founded  
10 32 child abuse report as having abused a child.  
10 33

~~3. Access to unfounded child abuse information is~~

~~10 34~~

~~authorized only to those persons identified in subsection 2,~~

~~10 35~~

~~paragraph "a", paragraph "b", subparagraphs (2) and (5), and~~

~~11 1~~

~~paragraph "c", subparagraph (2), and to the department of~~

~~11 2~~

~~justice for purposes of the crime victim compensation program~~

~~11 3~~

~~in accordance with section 912.10.~~

~~11 4~~

~~4~~

3. Access to founded child abuse information placed in  
11 5 the central registry pursuant to section 232.71D is authorized  
11 6 to the department of personnel or to the personnel office of a  
11 7 public employer, as defined in section 20.3, as necessary for  
11 8 presentation in grievance or arbitration procedures provided  
11 9 for in sections 19A.14 and 20.18. Child abuse information  
11 10 introduced into a grievance or arbitration proceeding shall  
11 11 not be considered a part of the public record of a case.

11 12 4. a. If a child who is a legal resident of another state  
11 13 is present in this state and a report of child abuse is made  
11 14 concerning the child, the department shall act to ensure the  
11 15 safety of the child. The department shall contact the child's  
11 16 state of legal residency to coordinate the investigation of  
11 17 the report. If the child's state of residency refuses to  
11 18 conduct an investigation, the department shall commence an  
11 19 appropriate investigation.

11 20 b. If a report of child abuse is made concerning an  
11 21 alleged perpetrator who resides in this state and a child who  
11 22 resides in another state, the department shall assist the  
11 23 child's state of residency in conducting an investigation of  
11 24 the report. The assistance shall include but is not limited  
11 25 to an offer to interview the alleged perpetrator and any other  
11 26 relevant source. If the child's state of residency refuses to  
11 27 conduct an investigation of the report, the department shall  
11 28 commence an appropriate investigation. The department shall  
11 29 seek to develop protocols with states contiguous to this state  
11 30 for coordination in the investigation of a report of child  
11 31 abuse when a person involved with the report is a resident of  
11 32 another state.

11 33 Sec. 7. Section 235A.17, subsection 2, Code 1997, is  
11 34 amended to read as follows:

11 35 2. The department of human services may notify orally the

12 1 mandatory reporter in an individual child abuse case of the  
12 2 results of the case investigation and of the confidentiality  
12 3 provisions of sections 235A.15 and 235A.21. The department  
12 4 shall subsequently transmit a written notice to the mandatory  
12 5 reporter of the results and confidentiality provisions.

~~—A~~

~~— If~~

12 6 the child abuse information has been placed in the registry as  
12 7 founded child abuse pursuant to section 232.71D, a copy of the  
12 8 written notice shall be transmitted to the registry and shall  
12 9 be maintained by the registry as provided in section 235A.18.  
12 10 Otherwise, a copy of the written notice shall be retained by  
12 11 the department with the case file.

12 12 Sec. 8. Section 235A.18, Code 1997, is amended to read as  
12 13 follows:

12 14 235A.18 SEALING AND EXPUNGEMENT OF FOUNDED CHILD ABUSE  
12 15 INFORMATION.

12 16 1. Child abuse information relating to a particular case  
12 17 of alleged abuse which has been determined to be founded child  
12 18 abuse and placed in the central registry in accordance with  
12 19 section 232.71D shall be maintained in the registry as  
12 20 follows:

12 21 a. Child abuse information relating to a particular case  
12 22 of

~~—suspected~~

~~— alleged~~ child abuse shall be sealed ten years  
12 23 after the

~~—receipt~~

~~— initial placement~~ of the

~~—initial report of~~

~~—~~  
12 24

~~—such~~

~~— child~~ abuse

~~—by~~

~~— information in~~ the registry unless good  
12 25 cause be shown why the information should remain open to  
12 26 authorized access. If a subsequent report of

~~—a suspected~~

~~— an~~

12 27 alleged case of child abuse involving the child named in the  
12 28 initial

~~—report~~

~~— child abuse information~~ as the victim of abuse  
12 29 or a person named in

~~—such report~~

~~— the information~~ as having  
12 30 abused a child is received by the

~~—registry~~

~~— department~~ within

12 31 this ten-year period, the information shall be sealed ten  
12 32 years after receipt of the subsequent report unless good cause  
12 33 be shown why the information should remain open to authorized  
12 34 access.

12 35 b.

~~—The information~~

~~- Information sealed in accordance with~~

13 1 this section shall be expunged from the central registry eight

13 2 years after the date the information was sealed.

13 3 2.

~~- Child abuse information which cannot be determined by a~~

13 4

~~- preponderance of the evidence to be founded or unfounded shall~~

13 5

~~- be sealed one year after the receipt of the initial report of~~

13 6

~~- abuse and expunged five years after the date it was sealed.~~

13 7

~~- Child abuse information which is determined by a preponderance~~

13 8

~~- of the evidence to be unfounded shall be expunged when it is~~

13 9

~~- determined to be unfounded. A report shall be determined to~~

13 10

~~- be unfounded as a result of any of the following:~~

13 11

~~- a. The investigation of a report of suspected child abuse~~

13 12

~~- by the department.~~

13 13

~~- b. A successful appeal as provided in section 235A.19.~~

13 14

~~- c. A court finding by a juvenile or district court.~~

13 15 The juvenile or district court and county attorney shall  
13 16 expunge child abuse information upon notice from the registry.

13 17 The supreme court shall prescribe rules establishing the

13 18 period of time child abuse information is retained by the

13 19 juvenile and district court. A county attorney shall not

13 20 retain child abuse information in excess of the time period

13 21 the information would be retained under the rules prescribed

13 22 by the supreme court.

13 23 3. However, if a correction of child abuse information is  
13 24 requested under section 235A.19 and the issue is not resolved

13 25 at the end of the one-year period, the information shall be

13 26 retained until the issue is resolved and if the child abuse

13 27 information is not determined to be founded, the information

13 28 shall be expunged from the central registry at the appropriate

13 29 time under subsection

~~2~~

~~1.~~

13 30 4.

~~The registry, at least once a year, shall review and~~

13 31

~~determine the current status of child abuse reports which are~~

13 32

~~transmitted or made to the registry after July 1, 1974, which~~

13 33

~~are at least one year old and in connection with which no~~

13 34

~~investigatory report has been filed by the department of human~~

13 35

~~services pursuant to section 232.71. If no such investigatory~~

14 1

~~report has been filed, the registry shall request the~~

14 2

~~department of human services to file a report. In the event a~~

14 3

~~report is not filed within ninety days subsequent to such a~~

14 4

~~request, the report and information relating thereto shall be~~

14 5

~~sealed and remain sealed unless good cause be shown why the~~

14 6

~~information should remain open to authorized access.~~

~~If~~

14 7 required by this subsection, for child abuse information in

14 8 the central registry as of July 1, 1997, the central registry

14 9 shall perform a review of the information utilizing the

14 10 requirements for referral of child abuse information to the

14 11 central registry as founded child abuse under section 232.71D.

14 12 If the review indicates the information would not be placed in

14 13 the registry as founded child abuse under section 232.71D, the

14 14 information shall be expunged from the central registry. If

14 15 the review indicates the child abuse information would be

14 16 placed in the central registry under section 232.71D, the

14 17 information shall be subject to the provisions of subsection

14 18 1, as to the time period the information is to be retained in

14 19 the registry. A review shall be performed under any of the

14 20 following conditions:

14 21 a. The department is considering the information while

14 22 performing a registry check under section 235A.15.

14 23 b. A review is indicated under a procedure for performing

14 24 reviews adopted by the department.  
14 25 5. The department of human services shall adopt rules  
14 26 establishing the period of time child abuse information which  
14 27 is not maintained in the central registry is retained by the  
14 28 department.

14 29 Sec. 9. Section [235A.19](#), subsection 1, Code 1997, is  
14 30 amended to read as follows:

14 31 1. A subject of a child abuse report, as identified in  
14 32 section 235A.15, subsection 2, paragraph "a", shall have the  
14 33 right to examine child abuse information

~~in the registry~~

~~which~~

14 34 refers to the subject. The

~~registry~~

~~department of human~~

14 35 services may prescribe reasonable hours and places of  
15 1 examination.

15 2 Sec. 10. Section [235A.19](#), subsection 2, paragraph a, Code  
15 3 1997, is amended to read as follows:

15 4 a. A subject of a child abuse report may file with the  
15 5 department within six months of the date of the notice of the  
15 6 results of an investigation required by section 232.71,  
15 7 subsection 7, or an assessment performed in accordance with  
15 8 section 232.71A, a written statement to the effect that child  
15 9 abuse information referring to the subject is in whole or in  
15 10 part erroneous, and may request a correction of that  
15 11 information or of the findings of the investigation or  
15 12 assessment report. The department shall provide the subject  
15 13 with an opportunity for an evidentiary hearing pursuant to  
15 14 chapter 17A to correct the information or the findings, unless  
15 15 the department corrects the information or findings as  
15 16 requested.

~~The department shall delay the expungement of~~

~~15 17~~

~~information which is not determined to be founded until the~~

~~15 18~~

~~conclusion of a proceeding to correct the information or~~

~~15 19~~

~~findings.~~

~~The department may defer the hearing until the~~  
15 20 conclusion of a pending juvenile or district court case  
15 21 relating to the information or findings.

15 22 Sec. 11. Section [235A.22](#), Code 1997, is amended to read as  
15 23 follows:

15 24 [235A.22](#) EDUCATION PROGRAM.

15 25 The department of human services shall require an  
15 26 educational program for employees of the

~~registry~~

~~department~~

15 27 with access to child abuse information on the proper use and  
15 28 control of child abuse information.

15 29 Sec. 12. Section [235A.23](#), Code 1997, is amended to read as  
15 30 follows:

15 31 [235A.23](#)

~~REGISTRY~~

~~REPORTS.~~

15 32 1. The

~~registry~~

~~department of human services~~ may compile

15 33 statistics, conduct research, and issue reports on child

15 34 abuse, provided identifying details of the subject of child

15 35 abuse reports are deleted from any report issued.

16 1 2. The

~~registry~~

~~department~~ shall issue an annual report on

16 2 its administrative operation, including information as to the

16 3 number of requests for child abuse data, the proportion of

16 4 requests attributable to each type of authorized access, the

16 5 frequency and nature of irregularities, and other pertinent

16 6 matters.

16 7 Sec. 13. REGISTRY REVIEWS. A person who is a subject of a

16 8 child abuse report which, as of July 1, 1997, is included as

16 9 information in the central registry under chapter 235A may

16 10 submit a written request for review and expungement of the

16 11 information from the central registry which refers to the

16 12 person. The request must be submitted during the period

16 13 beginning July 1, 1997, and ending December 31, 1997. The

16 14 department shall perform the review in accordance with the

16 15 provisions of section 235A.18, subsection 4, as enacted by

16 16 this Act. The department shall perform a requested review and

16 17 issue a decision to the requestor in a timely manner, given

16 18 the personnel resources available to the department for

16 19 performing reviews.

16 20

#### DIVISION II

16 21

#### ASSESSMENT-BASED AMENDMENTS - REPEALS

16 22

16 23 Sec. 14. Section 232.71B, subsection 4, paragraph f, if

16 24 enacted by 1997 Iowa Acts, Senate File 230, is amended by

16 25 striking the paragraph and inserting in lieu thereof the

16 26 following:

16 27 f. For the purposes of this subsection, "petechia" means a

16 28 pinpoint, round, nonraised, purplish-red hemorrhage in the

16 29 skin. Unless otherwise prohibited under section 234.40 or

16 30 280.21, the reasonable and moderate use of physical discipline

16 31 or corporal punishment by a child's parent, guardian, or

16 32 custodian for purposes of restraining or correcting the child

16 33 shall not be determined to be child abuse. The age, physical

16 34 size, and condition of the child, the location of any injury,

16 35 and the frequency and recurrence of any injury shall be

17 1 considered when determining whether an injury resulted from

17 2 the reasonable and moderate use of physical discipline or

17 3 corporal punishment by a child's parent, guardian, or

17 4 custodian.

17 5 Unless determined to be the result of physical discipline

17 6 or corporal punishment which was not reasonable or moderate,

17 7 the presence of a bruise, petechia, or other superficial mark

17 8 which does not constitute a more significant injury, even if

17 9 the bruise, petechia, or other, superficial mark exists for

17 10 more than twenty-four hours, shall not be determined to be

17 11 child abuse. Acts of physical discipline or corporal

17 12 punishment which are not reasonable and moderate include but

17 13 are not limited to any of the following:

17 14 (1) Throwing, kicking, burning, biting, or cutting a

17 15 child.

17 16 (2) Striking a child with a closed fist.

17 17 (3) Striking or other action that results in a

17 18 nonaccidental injury to a child who is less than eighteen

17 19 months of age.

17 20 (4) Interfering with a child's breathing.

17 21 (5) Threatening a child with a dangerous weapon.

17 22 (6) Doing any other act that is likely to cause and does

17 23 cause bodily injury greater than transient pain.

17 23 Sec. 15. Section 232.71B, subsection 11, if enacted by  
17 24 1997 Iowa Acts, Senate File 230, is amended by adding the  
17 25 following new paragraph:

17 26 NEW PARAGRAPH. g. The department shall notify the  
17 27 subjects of the child abuse report, as identified in section  
17 28 235A.15, subsection 2, paragraph "a", of the results of the  
17 29 assessment, of the subject's right, pursuant to section  
17 30 235A.19, to correct the child abuse information which refers  
17 31 to the subject, and of the procedures to correct the  
17 32 information.

17 33 Sec. 16. Section 232.71D, subsection 1, as enacted by this  
17 34 Act, is amended by striking the words "in the report of an  
17 35 investigation performed in accordance with section 232.71 or".

18 1 Sec. 17. Section 232.71D, subsection 4, as enacted by this  
18 2 Act, is amended by striking the words "an investigation or".

18 3 Sec. 18. EFFECTIVE DATE. Enactment of this division of  
18 4 this Act is contingent upon the enactment of 1997 Iowa Acts,  
18 5 Senate File 230. If Senate File 230 is enacted, this division  
18 6 of this Act takes effect July 1, 1998.

18 7 EXPLANATION

18 8 This bill relates to the central registry for child abuse  
18 9 information in the department of human services by providing  
18 10 criteria for the types of information to be placed in the  
18 11 registry and providing for the time period information is  
18 12 maintained.

18 13 Code section 232.70, relating to the reporting procedure  
18 14 for child abuse, is amended to provide that upon receipt of a  
18 15 child abuse report, the department does not automatically  
18 16 forward the report to the central child abuse registry.

18 17 Code section 232.71, relating to child abuse  
18 18 investigations, is amended to provide that only serious cases  
18 19 of child abuse are placed in the central registry following an  
18 20 investigation, as provided in new Code section 232.71D which  
18 21 appears later in the bill. Requirements for provision of  
18 22 follow-up information when a report is placed in the central  
18 23 registry are shifted to new Code section 232.71D.

18 24 Code section 232.71 is amended with a new subsection  
18 25 outlining the process to be used by the department in  
18 26 conducting an investigation in response to a child abuse  
18 27 report. The new language instructs the department that unless  
18 28 prohibited by law, reasonable or moderate use of physical  
18 29 discipline or corporal punishment by a child's parent,  
18 30 guardian, or custodian for purposes of restraining or  
18 31 correcting the child shall not be determined to be child  
18 32 abuse. The bill includes a list of acts which are not to be  
18 33 considered as reasonable or moderate use of physical  
18 34 discipline or corporal punishment. In division II of the bill  
18 35 the same language replaces language in new Code section  
19 1 232.71B, in Senate File 230, if enacted. Under Senate File  
19 2 230, if enacted, section 232.71 will be repealed July 1, 1998.  
19 3 The replaced provision instructed the department that corporal  
19 4 punishment by the person responsible for the care of a child  
19 5 which does not result in a physical injury to the child shall  
19 6 not be considered child abuse.

19 7 Code section 232.71A, relating to assessments performed by  
19 8 the department in response to a report of child abuse, is  
19 9 amended to strike the subsection relating to placement of  
19 10 founded child abuse information in the central child abuse  
19 11 registry. The stricken language is replaced in new Code  
19 12 section 232.71D.

19 13 Code section 234.40 prohibits the use of corporal  
19 14 punishment by a foster parent and Code section 280.21  
19 15 prohibits the use of corporal punishment by school employees.

19 16 New Code section 232.71D provides that following either an  
19 17 investigation or an assessment, if the department determines a  
19 18 child suffered significant injury or was placed in great risk  
19 19 of injury, the child abuse information is transmitted to the

19 20 central child abuse registry. For any of the following, the  
19 21 child shall be considered to have suffered significant injury  
19 22 or was placed in great risk of injury: referral of the case  
19 23 for juvenile or criminal court action, the injury to the child  
19 24 required or should have required medical or mental health  
19 25 treatment, a subsequent report is made and the department  
19 26 determines the child suffered significant injury or was placed  
19 27 in great risk of significant injury, the alleged child abuse  
19 28 was sexual abuse, or the alleged perpetrator will continue to  
19 29 pose a risk to the child or to another child with whom the  
19 30 alleged perpetrator may come into contact. In any other case  
19 31 the child abuse information is not placed in the central  
19 32 registry.

19 33 The bill makes various amendments to Code chapter 235A,  
19 34 relating to the central child abuse registry and to child  
19 35 abuse information confidentiality and access requirements.

20 1 Code chapter 235A addresses confidentiality for all  
20 2 components of the child protection system: child abuse  
20 3 reports, investigations, and dispositions. Under current law,  
20 4 Code section 235A.15 provides for access to all types of child  
20 5 abuse information and lists who has access to the various  
20 6 types of information. The bill revises the access  
20 7 requirements.

20 8 Code section 235A.15, subsection 2, paragraph "b", is  
20 9 amended so that the list of persons involved in an  
20 10 investigation retain access to all types of information but  
20 11 the list is expanded to include situations where licensing  
20 12 authorities are notified concerning policies of a facility  
20 13 providing care to a child named in a report and to agencies,  
20 14 persons, and alleged abusers if the juvenile court or  
20 15 department deems the access as necessary. In addition, the  
20 16 county attorney and juvenile court are included in the list of  
20 17 persons with authorized access.

20 18 Code section 235A.15, subsection 2, paragraph "c", is  
20 19 amended so that licensing authorities and persons deemed  
20 20 necessary added above are stricken from the list of persons  
20 21 providing care to a child. The bill also amends that  
20 22 paragraph "c" to restrict access to child abuse information by  
20 23 individuals, agencies, or facilities providing care to a child  
20 24 to only disposition data for cases of founded child abuse  
20 25 placed on the central registry in accordance with new Code  
20 26 section 232.71D.

20 27 Code section 235A.15, subsection 2, paragraph "e", is  
20 28 amended to remove child placing agencies in other states from  
20 29 the list of persons with access to all types of child abuse  
20 30 information. Instead, such agencies would have access only to  
20 31 founded disposition data placed in the central registry in  
20 32 accordance with new Code section 232.71D.

20 33 Code section 235A.15, subsection 2, is amended with a new  
20 34 paragraph "f", which restricts an extensive list of persons  
20 35 who currently have general registry access to have access only  
21 1 to founded child abuse information placed in the central  
21 2 registry in accordance with section 232.71D.

21 3 Code section 235A.17 relates to redissemination of child  
21 4 abuse information in the registry. The bill amends references  
21 5 to the registry in provisions relating to notification of  
21 6 investigation results to the mandatory reporter who reported  
21 7 child abuse.

21 8 Code section 235A.18 relates to sealing and expungement of  
21 9 child abuse information in the registry. Under current law  
21 10 there are three possible findings resulting from a child abuse  
21 11 investigation: founded, undetermined, and unfounded. This  
21 12 Code section then provides for the length of time child abuse  
21 13 information is retained in the registry, depending upon the  
21 14 finding. Under the bill, only founded information referred to  
21 15 the registry under Code section 232.71D will be placed in the  
21 16 registry. Consequently, the bill eliminates the registry's



21 17 records retention requirements for the undetermined and  
21 18 unfounded categories.

21 19 Code section 235A.18 provides for the registry to review  
21 20 and remove information placed in the registry under the law in  
21 21 effect prior to July 1, 1997, if the information would not be  
21 22 placed in the registry under the criteria established in the  
21 23 bill in new Code section 232.71D.

21 24 The supreme court is to prescribe rules for the period of  
21 25 time child abuse information is to be retained by the court.  
21 26 The county attorney is to abide by the time periods applicable  
21 27 to the court for retaining child abuse information. The  
21 28 department of human services is to adopt rules for the same  
21 29 purpose for child abuse information which is not placed in the  
21 30 registry.

21 31 Code section 235A.19 relates to examination of records and  
21 32 requests for correction or expungement and appeals by a  
21 33 subject of a child abuse report. This section is amended to  
21 34 provide for review and appeal of child abuse information by a  
21 35 subject, whether or not the information is placed in the  
22 1 registry. In addition, the bill deletes a reference to  
22 2 expungement of unfounded information.

22 3 Code section 235A.22 which requires education of registry  
22 4 employees concerning use of control of child abuse information  
22 5 is amended to apply to the department's employees with access  
22 6 to child abuse information.

22 7 Code section 235A.23, relating to registry reports, is  
22 8 expanded to apply to the overall department of human services.

22 9 Division I includes a temporary law provision authorizing  
22 10 subjects of child abuse information placed in the central  
22 11 registry as founded child abuse to request a review of the  
22 12 information referring to the subject. The request must be  
22 13 submitted during the period of July 1, 1997, through December  
22 14 31, 1997. The review is to be performed utilizing the  
22 15 criteria contained in new Code section 232.71D included in the  
22 16 bill.

22 17 In division II of the bill, in addition to the instructions  
22 18 regarding physical discipline or corporal punishment  
22 19 previously described, the bill further amends Senate File 230.  
22 20 The amendment reinserts language in current law requiring the  
22 21 department of human services to notify a subject of a child  
22 22 abuse report concerning the results of an assessment and of  
22 23 the subject's right to correct child abuse information which  
22 24 refers to the subject.

22 25 Division II strikes references to the investigation-based  
22 26 approach from new Code section 232.71D which is in the bill.

22 27 Division II only takes effect in the event Senate File 230  
22 28 is enacted. If Senate File 230 is enacted, division II of  
22 29 this bill takes effect July 1, 1998.

22 30 LSB 2120HC 77  
22 31 jp/jj/8.1