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FILED FEB 25 1998

SENATE FILE 2345

BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO SSB 2125)

Passed Senate, Date 3-12-98

Passed House, Date 4/17/98

Vote: Ayes 44 Nays 0

Vote: Ayes 88 Nays 0

Approved May 14, 1998

A BILL FOR

1 An Act relating to juvenile justice system provisions involving
2 foster care, termination of parental rights, and adoption
3 preplacement investigations.

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

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S.F. 2345

1 Section 1. Section 232.2, Code Supplement 1997, is amended
2 by adding the following new subsection before subsection 1 and
3 renumbering the succeeding subsection:

4 NEW SUBSECTION. 0A. "Abandoned infant" is a child who is
5 less than twelve months of age whose parent has not had
6 significant or meaningful contact with the child during the
7 previous three months and has not made meaningful efforts to
8 gain or regain custody of, or to have regular visitation with,
9 the child despite being given the opportunity to do so.

10 Sec. 2. Section 232.2, subsection 21, unnumbered paragraph
11 1, Code Supplement 1997, is amended to read as follows:

12 "Guardian" means a person who is not the parent of a child,
13 but who has been appointed by a court or juvenile court having
14 jurisdiction over the child, to have a permanent self-
15 sustaining relationship with the child and to make important
16 decisions which have a permanent effect on the life and
17 development of that child and to promote the general welfare
18 of that child. A guardian may be a court or a juvenile court.
19 Guardian does not mean conservator, as defined in section
20 633.3, although a person who is appointed to be a guardian may
21 also be appointed to be a conservator.

22 Sec. 3. Section 232.2, subsection 21, Code Supplement
23 1997, is amended by adding the following new paragraph:

24 NEW PARAGRAPH. f. To make other decisions involving
25 protection, education, and care and control of the child.

26 Sec. 4. Section 232.102, subsection 5, unnumbered
27 paragraph 2, Code Supplement 1997, is amended to read as
28 follows:

29 The order shall, in addition, contain a statement that
30 removal from the home is the result of a determination that
31 continuation therein in the home would be contrary to the
32 welfare of the child, and that reasonable efforts have been
33 ~~made to prevent or eliminate the need for removal of the child~~
34 ~~from the child's home.~~

35 Sec. 5. Section 232.102, subsection 8, paragraphs a, b,

1 and c, Code Supplement 1997, are amended to read as follows:

2 a. The initial dispositional review hearing shall not be
3 waived or continued beyond six months after the date of the
4 dispositional hearing.

5 b. ~~Subsequent~~ Any subsequent dispositional review
6 ~~hearings~~ hearing shall not be ~~waived-or-continued-beyond~~
7 ~~twelve-months-after-the-date-of-the-most-recent-dispositional~~
8 ~~review-hearing~~ a permanency hearing in accordance with section
9 232.104.

10 c. For purposes of this subsection, a hearing held
11 pursuant to section 232.103 ~~or-232-104~~ satisfies the
12 requirements for initial dispositional review or subsequent
13 ~~dispositional-review~~ permanency hearing.

14 Sec. 6. Section 232.102, subsection 9, paragraph a,
15 unnumbered paragraph 1, Code Supplement 1997, is amended to
16 read as follows:

17 As used in this section, "reasonable efforts" means the
18 efforts made to ~~prevent~~ preserve and unify a family prior to
19 the out-of-home placement of a child in foster care or to
20 eliminate the need for removal of a the child from or make it
21 possible for the child to safely return to the child's
22 family's home. A child's health and safety shall be the
23 paramount concern in making reasonable efforts. Reasonable
24 efforts may include intensive family preservation services or
25 family-centered services, if the child's safety in the home
26 can be maintained during the time the services are provided.
27 In determining whether reasonable efforts have been made, the
28 court shall consider both of the following:

29 Sec. 7. Section 232.102, Code Supplement 1997, is amended
30 by adding the following new subsections:

31 NEW SUBSECTION. 10. The performance of reasonable efforts
32 to place a child for adoption or with a guardian may be made
33 concurrently with making reasonable efforts as defined in this
34 section.

35 NEW SUBSECTION. 11. If the court determines aggravated

1 circumstances exist, with written findings of fact based upon
2 evidence in the record, the court may waive the requirement
3 for making reasonable efforts. The existence of aggravated
4 circumstances may be indicated by but is not limited to
5 consideration of any of the following:

6 a. The parent has abandoned the child.

7 b. The parent has subjected the child, a sibling of the
8 child, or another child within the household where the child
9 resides to any of the following, and there is a preponderance
10 of evidence to show that the offer or receipt of services
11 would not be likely within a reasonable period of time to
12 correct the conditions which led to the abuse or neglect:

13 (1) Abuse or neglect which posed a significant risk to the
14 life of the child who was abused or neglected.

15 (2) Abuse or neglect which posed an imminent danger to the
16 life or health of the child who was abused or neglected.

17 c. The parent has inflicted chronic abuse or torture of
18 the child, a sibling of the child, or another child within the
19 household where the child resides, and there is a
20 preponderance of evidence to show that the offer or receipt of
21 services would not be likely within a reasonable period of
22 time to correct the conditions which led to the abuse or
23 neglect. The presence of chronic abuse or torture is
24 indicated by abuse described in the definition of a child in
25 need of assistance in section 232.2, subsection 6, paragraph
26 "b" or "d", which has occurred on multiple occasions and which
27 shows a pattern of strong disregard for the child's well-
28 being.

29 d. There has been an adjudication that the parent has
30 sexually abused or has aided in the sexual abuse of the child,
31 or another child within the household where the child resides,
32 and there is a preponderance of evidence to show that the
33 offer or receipt of services would not be likely within a
34 reasonable period of time to correct the conditions which led
35 to the adjudication.

1 e. The parent's parental rights have been terminated under
2 section 232.116 with respect to another child who is a member
3 of the same family, and there is a preponderance of evidence
4 to show that the offer or receipt of services would not be
5 likely within a reasonable period of time to correct the
6 conditions which led to the child's removal.

7 f. The parent has been convicted of the murder of another
8 child of the parent.

9 g. The parent has been convicted of the voluntary
10 manslaughter of another child of the parent.

11 h. The parent has aided or abetted, attempted, conspired
12 in, or solicited the commission of the murder or voluntary
13 manslaughter of another child of the parent.

14 i. The parent has been convicted of a felony assault which
15 resulted in serious bodily injury of the child or of another
16 child of the parent.

17 Sec. 8. Section 232.104, subsection 1, Code 1997, is
18 amended to read as follows:

19 1. a. if-a-child-has-been-placed-in-foster-care-for-a
20 period-of-twelve-months,-or-if-the-prior-legal-custodian-of-a
21 child-has-abandoned-efforts-to-regain-custody-of-the-child,
22 the-court-shall,-on-its-own-motion,-or-upon-application-by-any
23 interested-party,-including-the-child's-foster-parent-if-the
24 child-has-been-placed-with-the-foster-parent-for-at-least
25 twelve-months,-hold-a-hearing-to-consider-the-issue-of-the
26 establishment-of-permanency-for-the-child. The time for the
27 initial permanency hearing for a child subject to out-of-home
28 placement shall be the earlier of the following:

29 (1) For a temporary removal order entered under section
30 232.78, 232.95, or 232.96, or for a child who was removed
31 without a court order under section 232.79, the permanency
32 hearing shall be held within fourteen months of the date the
33 child was removed from the home.

34 (2) For an order entered under section 232.102, for which
35 the court has not waived reasonable efforts requirements, the

1 permanency hearing shall be held within twelve months of the
2 date of the dispositional order.

3 (3) For an order entered under section 232.102, for which
4 the court has waived reasonable efforts requirements under
5 section 232.102, subsection 11, the permanency hearing shall
6 be held within thirty days of the date the requirements were
7 waived.

8 b. Such-a The permanency hearing may be held concurrently
9 with a hearing under section 232.103 to review, modify,
10 substitute, vacate, or terminate a dispositional order.

11 c. Reasonable notice of a permanency hearing in a case of
12 juvenile delinquency shall be provided pursuant to section
13 232.37. A permanency hearing shall be conducted in
14 substantial conformance with the provisions of section 232.99.
15 During the hearing the court shall consider the child's need
16 for a secure and permanent placement in light of any
17 permanency plan or evidence submitted to the court. Upon
18 completion of the hearing the court shall enter written
19 findings and make a determination based upon the permanency
20 plan which will best serve the child's individual interests at
21 that time.

22 Sec. 9. Section 232.104, subsection 6, Code 1997, is
23 amended to read as follows:

24 6. Following an initial permanency hearing and the entry
25 of a permanency order which places a child in the custody or
26 guardianship of another person or agency, the court shall
27 retain jurisdiction and annually review the order to ascertain
28 whether the best interest of the child is being served. When
29 ~~such-order-places-the-child-in-the-custody-of-the-department~~
30 ~~for-the-purpose-of-long-term-foster-care-placement-in-a~~
31 ~~facility,~~-the The review shall be in a hearing that shall not
32 be waived or continued beyond twelve months after the initial
33 permanency hearing or the last permanency review hearing. Any
34 modification shall be accomplished through a hearing procedure
35 following reasonable notice. During the hearing, all relevant

1 and material evidence shall be admitted and procedural due
2 process shall be provided to all parties.

3 Sec. 10. Section 232.111, Code 1997, is amended by adding
4 the following new subsection:

5 NEW SUBSECTION. 1A. a. Unless any of the circumstances
6 described in paragraph "b" exist, the county attorney shall
7 file a petition for termination of the parent-child
8 relationship and parental rights with respect to a child or if
9 a petition has been filed, join in the petition, under any of
10 the following circumstances:

11 (1) The child has been placed in foster care for fifteen
12 months or more of the most recent twenty-two-month period.

13 (2) The child has been judicially determined to be an
14 abandoned infant.

15 (3) A court has determined the parent committed the murder
16 or the voluntary manslaughter of another child of the parent.

17 (4) A court has determined the child's parent has aided or
18 abetted, attempted, conspired in, or solicited the commission
19 of the murder or voluntary manslaughter of another child of
20 the parent.

21 b. If any of the following conditions exist, the county
22 attorney is not required to file a petition or join in an
23 existing petition as provided in paragraph "a":

24 (1) At the option of the department or by order of the
25 court, the child is being cared for by a relative.

26 (2) The department or a state agency has documented in the
27 child's case permanency plan provided or available to the
28 court a compelling reason for determining that filing the
29 petition would not be in the best interest of the child.

30 (3) The department has not provided the child's family,
31 consistent with the time frames outlined in the child's case
32 permanency plan, with those services the state deems necessary
33 for the safe return of the child to the child's home, and the
34 limited extension of time necessary to complete the services
35 is clearly documented in the case permanency plan.

1 Sec. 11. Section 232.116, subsection 2, unnumbered
2 paragraph 1, Code 1997, is amended to read as follows:

3 In considering whether to terminate the rights of a parent
4 under this section, the court shall give primary consideration
5 to the safety and to the physical, mental, and emotional
6 condition and needs of the child. ~~Such~~ This consideration may
7 include any of the following:

8 Sec. 12. Section 232.119, subsection 4, Code 1997, is
9 amended to read as follows:

10 4. The exchange shall include a matching service for
11 children registered or listed in the adoption photo-listing
12 book and prospective adoptive families listed on the exchange.
13 The department shall register a child with the national
14 electronic exchange and electronic photolisting system if the
15 child has not been placed for adoption after three months on
16 the exchange established pursuant to this section.

17 Sec. 13. Section 232.189, unnumbered paragraph 1, Code
18 1997, is amended to read as follows:

19 Based upon a model reasonable efforts family court
20 initiative, the director of human services and the chief
21 justice of the supreme court or their designees shall jointly
22 establish and implement a statewide protocol for reasonable
23 ~~efforts to prevent or eliminate the need for placement of a~~
24 child outside the child's home, as defined in section 232.102.

25 In addition, the director and the chief justice shall design
26 and implement a system for judicial and departmental
27 reasonable efforts education for deployment throughout the
28 state. The system for reasonable efforts education shall be
29 developed in a manner which addresses the particular needs of
30 rural areas and shall include but is not limited to all of the
31 following topics:

32 Sec. 14. Section 237.8, subsection 2, paragraphs a and b,
33 Code 1997, are amended to read as follows:

34 a. (1) If a person is being considered for licensure
35 under this chapter, or for employment involving direct

1 responsibility for a child or with access to a child when the
2 child is alone, by a licensee under this chapter, or if a
3 person will reside in a facility utilized by a licensee, and
4 if the person has been convicted of a crime or has a record of
5 founded child abuse, the department and the licensee for an
6 employee of the licensee shall perform an evaluation to
7 determine whether the crime or founded child abuse warrants
8 prohibition of licensure, employment, or residence in the
9 facility. The department shall conduct criminal and child
10 abuse record checks in this state and may conduct these checks
11 in other states. The evaluation shall be performed in
12 accordance with procedures adopted for this purpose by the
13 department.

14 (2) An individual applying to be a foster parent licensee
15 shall not be granted a license and an evaluation shall not be
16 performed under this subsection if the individual has been
17 convicted of any of the following felony offenses:

18 (a) Within the five-year period preceding the application
19 date, physical assault, battery, or a drug-related offense.

20 (b) Child abuse or neglect.

21 (c) Domestic abuse.

22 (d) A crime against a child, including but not limited to
23 child pornography.

24 (e) A crime involving violence, including but not limited
25 to rape, sexual assault, or homicide.

26 b. ff Except as otherwise provided in paragraph "a", if
27 the department determines that a person has committed a crime
28 or has a record of founded child abuse and is licensed,
29 employed by a licensee, or resides in a licensed facility the
30 department shall notify the licensee that an evaluation will
31 be conducted to determine whether prohibition of the person's
32 licensure, employment, or residence is warranted.

33 Sec. 15. Section 600.8, subsection 2, paragraph b, Code
34 1997, is amended to read as follows:

35 b. (1) The person making the investigation shall not

1 approve a prospective adoption petitioner pursuant to
2 subsection 1, paragraph "a", subparagraph (3), and an
3 evaluation shall not be performed under subparagraph (2), if
4 the petitioner has been convicted of any of the following
5 felony offenses:

6 (a) Within the five-year period preceding the petition
7 date, physical assault, battery, or a drug-related offense.

8 (b) Child abuse or neglect.

9 (c) Domestic abuse.

10 (d) A crime against a child, including but not limited to
11 child pornography.

12 (e) A crime involving violence, including but not limited
13 to rape, sexual assault, or homicide.

14 (2) The person making the investigation shall not approve
15 a prospective adoption petitioner pursuant to subsection 1,
16 paragraph "a", subparagraph (3), unless an evaluation has been
17 made which considers the nature and seriousness of the crime
18 or founded abuse in relation to the adoption, the time elapsed
19 since the commission of the crime or founded abuse, the
20 circumstances under which the crime or founded abuse was
21 committed, the degree of rehabilitation, and the number of
22 crimes or founded abuse committed by the person involved.

23 EXPLANATION

24 This bill relates to juvenile justice system provisions
25 involving foster care, termination of parental rights, and
26 adoption preplacement investigations.

27 Code section 232.2, relating to the definitions for the
28 juvenile justice code, is amended to add a new definition of
29 "abandoned infant" and to revise the definition of "guardian".
30 The bill contains a provision using the abandoned infant
31 definition as part of a requirement for filing a petition for
32 termination of parental rights.

33 Code section 232.102, relating to transfer of legal custody
34 of a child and placement, is amended to revise the definition
35 of reasonable efforts to prevent or eliminate the need for

1 removal of a child from the child's home. The change involves
2 language for preserving and unifying a family prior to out-of-
3 home placement of a child and for making the child's health
4 and safety the paramount concern in making reasonable efforts.
5 The performance of the reasonable efforts to prevent out-of-
6 home placement may be made concurrently with reasonable
7 efforts to place a child for adoption or with a guardian. The
8 language in the requirement for dispositional review hearings
9 is revised to refer to permanency hearings under Code section
10 232.104. The bill authorizes the court to waive the
11 requirement to make reasonable efforts if various conditions
12 exist.

13 Code section 232.104, relating to permanency hearings, is
14 amended to revise the time limits for holding the hearings.
15 Under the bill, the initial hearing for a child removed under
16 an ex parte court order, without a court order, or under
17 temporary removal orders must be held within 14 months of the
18 removal. For removal orders under Code section 232.102, in
19 which the court has not waived the requirements for reasonable
20 efforts, the hearing must be held within 12 months of the
21 initial order. For removal orders under Code section 232.102,
22 in which the court has waived the requirements for reasonable
23 efforts, the hearing must be held within 30 days of the
24 waiver.

25 In addition, the bill amends Code section 232.104 to
26 provide that following an initial permanency hearing which
27 places a child in the custody or guardianship of another
28 person or agency, subsequent permanency review hearings are to
29 be held annually. The review hearing cannot be waived or
30 continued beyond 12 months after the initial hearing or last
31 permanency review hearing.

32 Code section 232.111, relating to the filing of a petition
33 for termination of parental rights, is amended to require the
34 county attorney to file the petition if certain circumstances
35 exist. Exceptions to the requirement are provided.

1 Code section 232.116, relating to the grounds for
2 termination of parental rights, is amended to require the
3 court to consider the safety of the child along with the
4 existing criteria for determining whether to terminate the
5 rights.

6 Code section 232.119, relating to the adoption exchange
7 established in the department of human services, is amended to
8 revise a reference to the national exchange to refer to
9 electronic capabilities.

10 Code section 232.189, relating to requirements for the
11 director of human services and the chief justice of the
12 supreme court to implement a reasonable efforts protocol, is
13 amended to refer to the revised definition of "reasonable
14 efforts".

15 Code section 237.8, relating to records checks of persons
16 licensed to provide foster care, is amended to prohibit foster
17 parent licensing of individuals who have committed certain
18 crimes such as child abuse, domestic abuse, and murder.

19 Code section 600.8, relating to preadoption investigations
20 of individuals, is amended to prohibit approval of individuals
21 to be adoptive parents who have committed certain crimes such
22 as child abuse, domestic abuse, and murder.

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**SENATE FILE 2345
FISCAL NOTE**

A fiscal note for Senate File 2345 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 2345 amends portions of Chapters 232 and 600 of the Code of Iowa and Code Supplement 1997 to comply with the federal Adoption Assistance and Safe Families Act of 1997. The federal Act took effect November 1, 1997, and permits the State to phase-in compliance over an 18-month period. Senate File 2345 requires county attorneys to file petitions for termination of parental rights for children who have resided in foster care for 15 or more months in a 22-month period. The Bill also accelerates the time limits for holding permanency hearings. Present law requires that a permanency hearing be scheduled, but not necessarily held, after a child has been placed out of the home for 12 or more months. Senate File 2345 mandates that a permanency hearing be held within 14 months of the child's removal from the home. In addition, the Bill requires that permanency hearings be held in cases of children in the custody of someone other than the Department of Human Services (DHS). At present, most judges do not hold hearings in such cases.

ASSUMPTIONS

1. Approximately 1,300 children in Iowa have resided in foster care for 15 of the previous 22 months. Approximately 50.0% of these cases (650 cases) will require the filing of a termination of parental rights petition pursuant to the provisions of SF 2345.
2. Two-thirds of the petitions will be heard in FY 1999, and one-third of the petitions will be heard in FY 2000.
3. Sixty-five percent of the petitions (422 cases) will be contested.
4. State costs of a contested termination of parental rights case total approximately \$1,615 per case.
5. Thirty-five percent of the petitions (228 cases) will be uncontested.
6. State costs of an uncontested termination of parental rights case total approximately \$315 per case.
7. Approximately 11.0 judges and corresponding support staff will need to be hired to hear additional cases for children not placed with the DHS and to accelerate the time limit for permanency hearings. Using typical judge to staff ratios, the annual cost of hiring 11.0 judges and support staff totals \$1.7 million.

FISCAL IMPACT

The estimated State General Fund impact of SF 2345 is \$2.2 million in FY 1999, \$2.0 million in FY 2000, and \$1.7 million in subsequent years. The FY 1999 cost estimate includes \$502,000 to process termination of parental rights petitions for two-thirds of the 625 cases of children who have resided in foster care for 15 of the last 22 months. The FY 2000 cost estimate includes \$251,000 to process petitions for the remaining one-third of such children.

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The federal Adoption and Safe Families Act of 1997 specifies that a state is not eligible for Title IV-E funding if a state fails to pass legislation to conform to the Act during the first legislative session following the Act's enactment. Because the federal Act was enacted in November 1997, it is anticipated that Iowa will lose an estimated \$40.0 million in federal Title IV-E funds during FY 1999 if the Iowa General Assembly does not enact legislation during the current Session to comply with the federal statute.

The federal Act also provides a bonus of \$4,000 for each foster child adoption that exceeds the base number of adoptions for a specified time period plus an additional \$2,000 for each special needs child that is adopted above the base number. The base year has not yet been specified, however, if state FY 1998 is selected as the base year, it is estimated that the DHS will increase adoptions by 334 cases over the base amount. This will result in federal payments of \$2.0 million in FY 1999.

SOURCES

Department of Human Services
Judicial Department

(LSB 3517SV, DAA)

FILED MARCH 12, 1998

BY DENNIS PROUTY, FISCAL DIRECTOR

SENATE FILE 2345

S-5236

1 Amend Senate File 2345 as follows:

2 1. Page 1, by inserting after line 9 the
3 following:

4 "Sec. ____ . Section 232.2, subsection 4, Code
5 Supplement 1997, is amended by adding the following
6 new paragraph:

7 NEW PARAGRAPH. h. If reasonable efforts to place
8 a child for adoption or with a guardian are made
9 concurrently with reasonable efforts as defined in
10 section 232.102, the concurrent goals and timelines
11 may be identified. Concurrent case permanency plan
12 goals for reunification, and for adoption or for other
13 permanent out-of-home placement of a child shall not
14 be considered inconsistent in that the goals reflect
15 divergent possible outcomes for a child in an out-of-
16 home placement."

17 2. Page 1, by inserting after line 25 the
18 following:

19 "Sec. ____ . Section 232.78, subsection 5, Code
20 1997, is amended to read as follows:

21 5. Any person who may file a petition under this
22 chapter may apply for, or the court on its own motion
23 may issue, an order for temporary removal under this
24 section. An appropriate person designated by the
25 court shall confer with a person seeking the removal
26 order, shall make every reasonable effort to inform
27 the parent or other person legally responsible for the
28 child's care of the application, and shall make such
29 inquiries as will aid the court in disposing of such
30 application. Any order entered under this section
31 authorizing temporary removal of a child shall include
32 a statement informing the child's parent that the
33 consequences of a permanent removal may include
34 termination of the parent's rights with respect to the
35 child.

36 Sec. ____ . Section 232.91, Code Supplement 1997, is
37 amended by adding the following new subsection:

38 NEW SUBSECTION. 3. Any person who is entitled
39 under section 232.88 to receive notice of a hearing
40 concerning a child shall be given the opportunity to
41 be heard in any other review or hearing involving the
42 child.

43 Sec. ____ . Section 232.95, subsection 2, paragraph
44 a, unnumbered paragraph 2, Code 1997, is amended to
45 read as follows:

46 If removal is ordered, the order shall, in
47 addition, contain a statement that removal from the
48 home is the result of a determination that
49 continuation therein would be contrary to the welfare
50 of the child, and that reasonable efforts have been

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1 made to prevent or eliminate the need for removal of
2 the child from the child's home. The order shall also
3 include a statement informing the child's parent that
4 the consequences of a permanent removal may include
5 termination of the parent's rights with respect to the
6 child.

7 Sec. _____. Section 232.96, subsection 10, Code
8 1997, is amended to read as follows:

9 10. If the court enters an order adjudicating the
10 child to be a child in need of assistance, the court,
11 if it has not previously done so, may issue an order
12 authorizing temporary removal of the child from the
13 child's home as set forth in section 232.95,
14 subsection 2, paragraph "a", pending a final order of
15 disposition. The order shall include a statement
16 informing the child's parent that the consequences of
17 a permanent removal may include termination of the
18 parent's rights with respect to the child."

19 3. Page 1, by inserting after line 34 the
20 following:

21 "Sec. _____. Section 232.102, Code Supplement 1997,
22 is amended by adding the following new subsection:

23 NEW SUBSECTION. 7A. Any order transferring
24 custody to the department or an agency shall include a
25 statement informing the child's parent that the
26 consequences of a permanent removal may include the
27 termination of the parent's rights with respect to the
28 child."

29 4. By striking page 1, line 35, through page 2,
30 line 9 and inserting the following:

31 "Sec. _____. Section 232.102, subsection 8,
32 paragraph c, Code Supplement 1997, is amended to read
33 as follows:"

34 5. Page 4, line 30, by striking the words "or
35 for" and inserting the following: "for".

36 6. Page 4, line 31, by inserting after the figure
37 "232.79," the following: "or for an order entered
38 under section 232.102, for which the court has not
39 waived reasonable efforts requirements,".

40 7. Page 4, line 32, by striking the word
41 "fourteen" and inserting the following: "twelve".

42 8. By striking page 4, line 34, through page 5,
43 line 2.

44 9. Page 5, line 3, by striking the figure "(3)"
45 and inserting the following: "(2)".

46 10. Page 5, lines 28 through 31, by striking the
47 words "When-such-order-places-the-child-in-the-custody
48 of-the-department-for-the-purpose-of-long-term-foster
49 care-placement-in-a-facility,-the The" and inserting
50 the following: "When such the order places the child

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Page 3

1 in the custody of the department for the purpose of
2 long-term foster care placement in a facility, the".
3 11. Page 7, by inserting after line 7 the
4 following:

5 "Sec. _____. Section 232.117, subsection 4, Code
6 1997, is amended to read as follows:

7 4. If after a hearing the court does not order the
8 termination of parental rights but finds that there is
9 clear and convincing evidence that the child is a
10 child in need of assistance, under section 232.2,
11 subsection 6, due to the acts or omissions of one or
12 both of the child's parents the court may adjudicate
13 the child to be a child in need of assistance and may
14 enter an order in accordance with the provisions of
15 sections section 232.100, 232.101, or 232.102, or
16 232.104."

17 12. By renumbering as necessary.

By NEAL SCHUERER

S-5236 FILED MARCH 12, 1998

ADOPTED

3/12/98

(p. 683)

SENATE FILE **2345**
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO SSB 2125)

(AS AMENDED AND PASSED BY THE SENATE MARCH 12, 1998)

- _____ - New Language by the Senate
- * - Language Stricken by the Senate

Passed Senate, Date 4/20/98 (P. 1390) Passed House, Date 4-17-98 (P. 1766)
 Vote: Ayes 48 Nays 0 Vote: Ayes 88 Nays 0
 Approved May 14, 1998

A BILL FOR (P. 1898) *Passed 4/21/98*
Vote 98-0

- 1 An Act relating to juvenile justice system provisions involving
- 2 foster care, termination of parental rights, and adoption
- 3 preplacement investigations.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

SENATE FILE 2345

H-8867

- 1 Amend Senate File 2345, as amended, passed, and
- 2 reprinted by the Senate, as follows:
- 3 1. Page 10, line 11, by striking the words
- 4 "physical assault, battery, or".
- 5 2. Page 10, line 15, by striking the words "child
- 6 pornography" and inserting the following: "sexual
- 7 exploitation of a minor".
- 8 3. Page 10, by striking lines 16 and 17 and
- 9 inserting the following:
- 10 "(e) A forcible felony."
- 11 4. Page 10, line 34, by striking the words
- 12 "physical assault, battery, or".
- 13 5. Page 11, line 3, by striking the words "child
- 14 pornography" and inserting the following: "sexual
- 15 exploitation of a minor".
- 16 6. Page 11, by striking lines 4 and 5 and
- 17 inserting the following:
- 18 "(e) A forcible felony."

By BODDICKER of Cedar
MORELAND of Wapello

H-8867 FILED APRIL 1, 1998

adopted 4-17-98 (P. 1766)

S.F. 2345

1 Section 1. Section 232.2, Code Supplement 1997, is amended
2 by adding the following new subsection before subsection 1 and
3 renumbering the succeeding subsection:

4 NEW SUBSECTION. 0A. "Abandoned infant" is a child who is
5 less than twelve months of age whose parent has not had
6 significant or meaningful contact with the child during the
7 previous three months and has not made meaningful efforts to
8 gain or regain custody of, or to have regular visitation with,
9 the child despite being given the opportunity to do so.

10 Sec. 2. Section 232.2, subsection 4, Code Supplement 1997,
11 is amended by adding the following new paragraph:

12 NEW PARAGRAPH. h. If reasonable efforts to place a child
13 for adoption or with a guardian are made concurrently with
14 reasonable efforts as defined in section 232.102, the
15 concurrent goals and timelines may be identified. Concurrent
16 case permanency plan goals for reunification, and for adoption
17 or for other permanent out-of-home placement of a child shall
18 not be considered inconsistent in that the goals reflect
19 divergent possible outcomes for a child in an out-of-home
20 placement.

21 Sec. 3. Section 232.2, subsection 21, unnumbered paragraph
22 1, Code Supplement 1997, is amended to read as follows:

23 "Guardian" means a person who is not the parent of a child,
24 but who has been appointed by a court or juvenile court having
25 jurisdiction over the child, to have a permanent self-
26 sustaining relationship with the child and to make important
27 decisions which have a permanent effect on the life and
28 development of that child and to promote the general welfare
29 of that child. A guardian may be a court or a juvenile court.
30 Guardian does not mean conservator, as defined in section
31 633.3, although a person who is appointed to be a guardian may
32 also be appointed to be a conservator.

33 Sec. 4. Section 232.2, subsection 21, Code Supplement
34 1997, is amended by adding the following new paragraph:

35 NEW PARAGRAPH. f. To make other decisions involving

1 protection, education, and care and control of the child.

2 Sec. 5. Section 232.78, subsection 5, Code 1997, is
3 amended to read as follows:

4 5. Any person who may file a petition under this chapter
5 may apply for, or the court on its own motion may issue, an
6 order for temporary removal under this section. An
7 appropriate person designated by the court shall confer with a
8 person seeking the removal order, shall make every reasonable
9 effort to inform the parent or other person legally
10 responsible for the child's care of the application, and shall
11 make such inquiries as will aid the court in disposing of such
12 application. Any order entered under this section authorizing
13 temporary removal of a child shall include a statement
14 informing the child's parent that the consequences of a
15 permanent removal may include termination of the parent's
16 rights with respect to the child.

17 Sec. 6. Section 232.91, Code Supplement 1997, is amended
18 by adding the following new subsection:

19 NEW SUBSECTION. 3. Any person who is entitled under
20 section 232.88 to receive notice of a hearing concerning a
21 child shall be given the opportunity to be heard in any other
22 review or hearing involving the child.

23 Sec. 7. Section 232.95, subsection 2, paragraph a,
24 unnumbered paragraph 2, Code 1997, is amended to read as
25 follows:

26 If removal is ordered, the order shall, in addition,
27 contain a statement that removal from the home is the result
28 of a determination that continuation therein would be contrary
29 to the welfare of the child, and that reasonable efforts have
30 been made to prevent or eliminate the need for removal of the
31 child from the child's home. The order shall also include a
32 statement informing the child's parent that the consequences
33 of a permanent removal may include termination of the parent's
34 rights with respect to the child.

35 Sec. 8. Section 232.96, subsection 10, Code 1997, is

1 amended to read as follows:

2 10. If the court enters an order adjudicating the child to
3 be a child in need of assistance, the court, if it has not
4 previously done so, may issue an order authorizing temporary
5 removal of the child from the child's home as set forth in
6 section 232.95, subsection 2, paragraph "a", pending a final
7 order of disposition. The order shall include a statement
8 informing the child's parent that the consequences of a
9 permanent removal may include termination of the parent's
10 rights with respect to the child.

11 Sec. 9. Section 232.102, subsection 5, unnumbered
12 paragraph 2, Code Supplement 1997, is amended to read as
13 follows:

14 The order shall, in addition, contain a statement that
15 removal from the home is the result of a determination that
16 continuation therein in the home would be contrary to the
17 welfare of the child, and that reasonable efforts have been
18 ~~made to prevent or eliminate the need for removal of the child~~
19 ~~from the child's home.~~

20 Sec. 10. Section 232.102, Code Supplement 1997, is amended
21 by adding the following new subsection:

22 NEW SUBSECTION. 7A. Any order transferring custody to
23 the department or an agency shall include a statement
24 informing the child's parent that the consequences of a
25 permanent removal may include the termination of the parent's
26 rights with respect to the child.

27 Sec. 11. Section 232.102, subsection 8, paragraph c, Code
28 Supplement 1997, is amended to read as follows:

29 c. For purposes of this subsection, a hearing held
30 pursuant to section 232.103 ~~or 232.104~~ satisfies the
31 requirements for initial dispositional review or subsequent
32 ~~dispositional-review~~ permanency hearing.

33 Sec. 12. Section 232.102, subsection 9, paragraph a,
34 unnumbered paragraph 1, Code Supplement 1997, is amended to
35 read as follows:

1 As used in this section, "reasonable efforts" means the
2 efforts made to prevent preserve and unify a family prior to
3 the out-of-home placement of a child in foster care or to
4 eliminate the need for removal of a the child from or make it
5 possible for the child to safely return to the child's
6 family's home. A child's health and safety shall be the
7 paramount concern in making reasonable efforts. Reasonable
8 efforts may include intensive family preservation services or
9 family-centered services, if the child's safety in the home
10 can be maintained during the time the services are provided.
11 In determining whether reasonable efforts have been made, the
12 court shall consider both of the following:

13 Sec. 13. Section 232.102, Code Supplement 1997, is amended
14 by adding the following new subsections:

15 NEW SUBSECTION. 10. The performance of reasonable efforts
16 to place a child for adoption or with a guardian may be made
17 concurrently with making reasonable efforts as defined in this
18 section.

19 NEW SUBSECTION. 11. If the court determines aggravated
20 circumstances exist, with written findings of fact based upon
21 evidence in the record, the court may waive the requirement
22 for making reasonable efforts. The existence of aggravated
23 circumstances may be indicated by but is not limited to
24 consideration of any of the following:

- 25 a. The parent has abandoned the child.
- 26 b. The parent has subjected the child, a sibling of the
27 child, or another child within the household where the child
28 resides to any of the following, and there is a preponderance
29 of evidence to show that the offer or receipt of services
30 would not be likely within a reasonable period of time to
31 correct the conditions which led to the abuse or neglect:

32 (1) Abuse or neglect which posed a significant risk to the
33 life of the child who was abused or neglected.

34 (2) Abuse or neglect which posed an imminent danger to the
35 life or health of the child who was abused or neglected.

1 c. The parent has inflicted chronic abuse or torture of
2 the child, a sibling of the child, or another child within the
3 household where the child resides, and there is a
4 preponderance of evidence to show that the offer or receipt of
5 services would not be likely within a reasonable period of
6 time to correct the conditions which led to the abuse or
7 neglect. The presence of chronic abuse or torture is
8 indicated by abuse described in the definition of a child in
9 need of assistance in section 232.2, subsection 6, paragraph
10 "b" or "d", which has occurred on multiple occasions and which
11 shows a pattern of strong disregard for the child's well-
12 being.

13 d. There has been an adjudication that the parent has
14 sexually abused or has aided in the sexual abuse of the child,
15 or another child within the household where the child resides,
16 and there is a preponderance of evidence to show that the
17 offer or receipt of services would not be likely within a
18 reasonable period of time to correct the conditions which led
19 to the adjudication.

20 e. The parent's parental rights have been terminated under
21 section 232.116 with respect to another child who is a member
22 of the same family, and there is a preponderance of evidence
23 to show that the offer or receipt of services would not be
24 likely within a reasonable period of time to correct the
25 conditions which led to the child's removal.

26 f. The parent has been convicted of the murder of another
27 child of the parent.

28 g. The parent has been convicted of the voluntary
29 manslaughter of another child of the parent.

30 h. The parent has aided or abetted, attempted, conspired
31 in, or solicited the commission of the murder or voluntary
32 manslaughter of another child of the parent.

33 i. The parent has been convicted of a felony assault which
34 resulted in serious bodily injury of the child or of another
35 child of the parent.

1 Sec. 14. Section 232.104, subsection 1, Code 1997, is
2 amended to read as follows:

3 1. a. ~~if a child has been placed in foster care for a~~
4 ~~period of twelve months, or if the prior legal custodian of a~~
5 ~~child has abandoned efforts to regain custody of the child,~~
6 ~~the court shall, on its own motion, or upon application by any~~
7 ~~interested party, including the child's foster parent if the~~
8 ~~child has been placed with the foster parent for at least~~
9 ~~twelve months, hold a hearing to consider the issue of the~~
10 ~~establishment of permanency for the child. The time for the~~
11 initial permanency hearing for a child subject to out-of-home
12 placement shall be the earlier of the following:

13 (1) For a temporary removal order entered under section
14 232.78, 232.95, or 232.96, for a child who was removed without
15 a court order under section 232.79, or for an order entered
16 under section 232.102, for which the court has not waived
17 reasonable efforts requirements, the permanency hearing shall
18 be held within twelve months of the date the child was removed
19 from the home.

* 20 (2) For an order entered under section 232.102, for which
21 the court has waived reasonable efforts requirements under
22 section 232.102, subsection 11, the permanency hearing shall
23 be held within thirty days of the date the requirements were
24 waived.

25 b. ~~Such a~~ The permanency hearing may be held concurrently
26 with a hearing under section 232.103 to review, modify,
27 substitute, vacate, or terminate a dispositional order.

28 c. Reasonable notice of a permanency hearing in a case of
29 juvenile delinquency shall be provided pursuant to section
30 232.37. A permanency hearing shall be conducted in
31 substantial conformance with the provisions of section 232.99.
32 During the hearing the court shall consider the child's need
33 for a secure and permanent placement in light of any
34 permanency plan or evidence submitted to the court. Upon
35 completion of the hearing the court shall enter written

1 findings and make a determination based upon the permanency
2 plan which will best serve the child's individual interests at
3 that time.

4 Sec. 15. Section 232.104, subsection 6, Code 1997, is
5 amended to read as follows:

6 6. Following an initial permanency hearing and the entry
7 of a permanency order which places a child in the custody or
8 guardianship of another person or agency, the court shall
9 retain jurisdiction and annually review the order to ascertain
10 whether the best interest of the child is being served. When
11 such the order places the child in the custody of the
12 department for the purpose of long-term foster care placement
13 in a facility, the review shall be in a hearing that shall not
14 be waived or continued beyond twelve months after the initial
15 permanency hearing or the last permanency review hearing. Any
16 modification shall be accomplished through a hearing procedure
17 following reasonable notice. During the hearing, all relevant
18 and material evidence shall be admitted and procedural due
19 process shall be provided to all parties.

20 Sec. 16. Section 232.111, Code 1997, is amended by adding
21 the following new subsection:

22 NEW SUBSECTION. 1A. a. Unless any of the circumstances
23 described in paragraph "b" exist, the county attorney shall
24 file a petition for termination of the parent-child
25 relationship and parental rights with respect to a child or if
26 a petition has been filed, join in the petition, under any of
27 the following circumstances:

28 (1) The child has been placed in foster care for fifteen
29 months or more of the most recent twenty-two-month period.

30 (2) The child has been judicially determined to be an
31 abandoned infant.

32 (3) A court has determined the parent committed the murder
33 or the voluntary manslaughter of another child of the parent.

34 (4) A court has determined the child's parent has aided or
35 abetted, attempted, conspired in, or solicited the commission

1 of the murder or voluntary manslaughter of another child of
2 the parent.

3 b. If any of the following conditions exist, the county
4 attorney is not required to file a petition or join in an
5 existing petition as provided in paragraph "a":

6 (1) At the option of the department or by order of the
7 court, the child is being cared for by a relative.

8 (2) The department or a state agency has documented in the
9 child's case permanency plan provided or available to the
10 court a compelling reason for determining that filing the
11 petition would not be in the best interest of the child.

12 (3) The department has not provided the child's family,
13 consistent with the time frames outlined in the child's case
14 permanency plan, with those services the state deems necessary
15 for the safe return of the child to the child's home, and the
16 limited extension of time necessary to complete the services
17 is clearly documented in the case permanency plan.

18 Sec. 17. Section 232.116, subsection 2, unnumbered
19 paragraph 1, Code 1997, is amended to read as follows:

20 In considering whether to terminate the rights of a parent
21 under this section, the court shall give primary consideration
22 to the safety and to the physical, mental, and emotional
23 condition and needs of the child. Such This consideration may
24 include any of the following:

25 Sec. 18. Section 232.117, subsection 4, Code 1997, is
26 amended to read as follows:

27 4. If after a hearing the court does not order the
28 termination of parental rights but finds that there is clear
29 and convincing evidence that the child is a child in need of
30 assistance, under section 232.2, subsection 6, due to the acts
31 or omissions of one or both of the child's parents the court
32 may adjudicate the child to be a child in need of assistance
33 and may enter an order in accordance with the provisions of
34 sections section 232.100, 232.101, or 232.102, or 232.104.

35 Sec. 19. Section 232.119, subsection 4, Code 1997, is

1 amended to read as follows:

2 4. The exchange shall include a matching service for
3 children registered or listed in the adoption photo-listing
4 book and prospective adoptive families listed on the exchange.
5 The department shall register a child with the national
6 electronic exchange and electronic photolisting system if the
7 child has not been placed for adoption after three months on
8 the exchange established pursuant to this section.

9 Sec. 20. Section 232.189, unnumbered paragraph 1, Code
10 1997, is amended to read as follows:

11 Based upon a model reasonable efforts family court
12 initiative, the director of human services and the chief
13 justice of the supreme court or their designees shall jointly
14 establish and implement a statewide protocol for reasonable
15 ~~efforts to prevent or eliminate the need for placement of a~~
16 ~~child outside the child's home~~, as defined in section 232.102.
17 In addition, the director and the chief justice shall design
18 and implement a system for judicial and departmental
19 reasonable efforts education for deployment throughout the
20 state. The system for reasonable efforts education shall be
21 developed in a manner which addresses the particular needs of
22 rural areas and shall include but is not limited to all of the
23 following topics:

24 Sec. 21. Section 237.8, subsection 2, paragraphs a and b,
25 Code 1997, are amended to read as follows:

26 a. (1) If a person is being considered for licensure
27 under this chapter, or for employment involving direct
28 responsibility for a child or with access to a child when the
29 child is alone, by a licensee under this chapter, or if a
30 person will reside in a facility utilized by a licensee, and
31 if the person has been convicted of a crime or has a record of
32 founded child abuse, the department and the licensee for an
33 employee of the licensee shall perform an evaluation to
34 determine whether the crime or founded child abuse warrants
35 prohibition of licensure, employment, or residence in the

1 facility. The department shall conduct criminal and child
2 abuse record checks in this state and may conduct these checks
3 in other states. The evaluation shall be performed in
4 accordance with procedures adopted for this purpose by the
5 department.

6 (2) An individual applying to be a foster parent licensee
7 shall not be granted a license and an evaluation shall not be
8 performed under this subsection if the individual has been
9 convicted of any of the following felony offenses:

10 (a) Within the five-year period preceding the application
11 date, physical assault, battery, or a drug-related offense.

12 (b) Child abuse or neglect.

13 (c) Domestic abuse.

14 (d) A crime against a child, including but not limited to
15 child pornography.

16 (e) A crime involving violence, including but not limited
17 to rape, sexual assault, or homicide.

18 b. If Except as otherwise provided in paragraph "a", if
19 the department determines that a person has committed a crime
20 or has a record of founded child abuse and is licensed,
21 employed by a licensee, or resides in a licensed facility the
22 department shall notify the licensee that an evaluation will
23 be conducted to determine whether prohibition of the person's
24 licensure, employment, or residence is warranted.

25 Sec. 22. Section 600.8, subsection 2, paragraph b, Code
26 1997, is amended to read as follows:

27 b. (1) The person making the investigation shall not
28 approve a prospective adoption petitioner pursuant to
29 subsection 1, paragraph "a", subparagraph (3), and an
30 evaluation shall not be performed under subparagraph (2), if
31 the petitioner has been convicted of any of the following
32 felony offenses:

33 (a) Within the five-year period preceding the petition
34 date, physical assault, battery, or a drug-related offense.

35 (b) Child abuse or neglect.

1 (c) Domestic abuse.

2 (d) A crime against a child, including but not limited to
3 child pornography.

4 (e) A crime involving violence, including but not limited
5 to rape, sexual assault, or homicide.

6 (2) The person making the investigation shall not approve
7 a prospective adoption petitioner pursuant to subsection 1,
8 paragraph "a", subparagraph (3), unless an evaluation has been
9 made which considers the nature and seriousness of the crime
10 or founded abuse in relation to the adoption, the time elapsed
11 since the commission of the crime or founded abuse, the
12 circumstances under which the crime or founded abuse was
13 committed, the degree of rehabilitation, and the number of
14 crimes or founded abuse committed by the person involved.

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SENATE FILE 2345

H-9173

- 1 Amend Senate File 2345, as amended, passed, and
2 reprinted by the Senate, as follows:
- 3 1. Page 1, by striking lines 1 through 9.
4 2. Page 2, line 12, by inserting after the word
5 "application." the following: "If the court does not
6 designate an appropriate person who performs the
7 required duties, notwithstanding section 234.39 or any
8 other provision of law, the child's parent shall not
9 be responsible for paying the cost of care and
10 services for the duration of the removal order."
- 11 3. Page 2, line 28, by striking the word
12 "therein" and inserting the following: "therein in
13 the home".
- 14 4. Page 4, by striking lines 23 and 24 and
15 inserting the following: "circumstances is indicated
16 by any of the following:"
- 17 5. By striking page 4, line 26, through page 5,
18 line 19, and inserting the following:
19 "___ . The court finds the circumstances described
20 in section 232.116, subsection 1, paragraph "h", are
21 applicable to the child."
- 22 6. Page 5, line 22, by striking the words "a
23 preponderance of" and inserting the following: "clear
24 and convincing".
- 25 7. Page 5, by striking lines 30 and 31 and
26 inserting the following:
27 "___ . The parent has been convicted of aiding or
28 abetting, attempting, conspiring in, or soliciting the
29 commission of the murder or voluntary".
- 30 8. Page 7, by striking lines 30 and 31 and
31 inserting the following:
32 "(2) A court has determined aggravated
33 circumstances exist and has waived the requirement for
34 making reasonable efforts under section 232.102
35 because the court has found the circumstances
36 described in section 232.116, subsection 1, paragraph
37 "h", are applicable to the child.
- 38 (3) The child is less than twelve months of age
39 and has been judicially determined to meet the
40 definition of abandonment of a child."
- 41 9. Page 7, by striking line 32 and inserting the
42 following:
43 "(4) The parent has been convicted of the murder".
- 44 10. Page 7, by striking lines 34 and 35 and
45 inserting the following:
46 "(5) The parent has been convicted of aiding or
47 abetting, attempting, conspiring in, or soliciting the
48 commission".
- 49 11. Page 8, by inserting after line 2 the
50 following:

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Page 2

1 "(6) The parent has been convicted of a felony
2 assault which resulted in serious bodily injury of the
3 child or of another child of the parent."

4 12. Page 8, by inserting after line 17 the
5 following:

6 "Sec. ____ . Section 232.112, subsection 1, Code
7 1997, is amended to read as follows:

8 1. Persons listed in section 232.111, subsection
9 3, shall be necessary parties to a termination of
10 parent-child relationship proceeding and are entitled
11 to receive notice and an opportunity to be heard,
12 except that notice may be dispensed with in the case
13 of any such person whose name or whereabouts the court
14 determines is unknown and cannot be ascertained by
15 reasonably diligent search. In addition to the
16 persons who are necessary parties who may be parties
17 under section 232.111, notice for any hearing under
18 this division shall be provided to the child's foster
19 parent, an individual providing preadoptive care for
20 the child, or a relative providing care for the
21 child."

22 13. Page 8, by striking lines 22 through 24 and
23 inserting the following: "to the child's safety, to
24 the best placement for furthering the long-term
25 nurturing and growth of the child, and to the
26 physical, mental, and emotional condition and needs of
27 the child. Such This consideration may include any of
28 the following:"

29 14. Page 10, by striking line 12 and inserting
30 the following:

31 "(b) Child endangerment or neglect or abandonment
32 of a dependent person."

33 15. Page 10, by striking line 35 and inserting
34 the following:

35 "(b) Child endangerment or neglect or abandonment
36 of a dependent person."

37 16. Page 11, by inserting after line 14 the
38 following:

39 "Sec. ____ . PRESERVATION OF REASONABLE PARENTING.
40 Nothing in this Act is intended to disrupt the family
41 unnecessarily or to intrude inappropriately into
42 family life, to prohibit the use of reasonable methods
43 of parental discipline, or to prescribe a particular
44 method of parenting."

45 17. By renumbering as necessary.

By BODDICKER of Cedar

H-9173 FILED APRIL 14, 1998

*Adopted
4-14-98
/P. 1760)*

SENATE FILE 2345

H-9204

1 Amend Senate File 2345, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 9, by inserting after line 8 the
4 following:

5 "Sec. _____. Section 232.147, subsection 3, Code
6 Supplement 1997, is amended by adding the following
7 new paragraph:

8 NEW PARAGRAPH. h. If authorized by a subject of a
9 child abuse report as identified in section 235A.15,
10 subsection 2, paragraph "a", or by the parent,
11 guardian, or custodian of a child receiving services
12 or involved in a proceeding under this chapter, to a
13 statewide elected official, as defined in section
14 68B.2, a member of the general assembly, or a designee
15 of the statewide elected official or member of the
16 general assembly. The purpose of the disclosure shall
17 be for the elected official, member of the general
18 assembly, or designee to monitor compliance of state
19 agencies, officials, and employees with requirements
20 under law and the adequacy of the requirements. The
21 authorization under this paragraph shall encompass
22 information in the record which is subject to section
23 217.30 or 228.3 and relates to the person providing
24 the authorization or to a child of the person. The
25 penalties applicable to violations of section 217.30
26 or 228.3 are applicable to unauthorized disclosures of
27 information which are subject to section 217.30 or
28 228.3.

29 Sec. _____. Section 232.147, subsection 5, Code
30 Supplement 1997, is amended by adding the following
31 new unnumbered paragraph:

32 NEW UNNUMBERED PARAGRAPH. An individual authorized
33 under subsection 3, paragraph "h", to inspect official
34 juvenile court records, may inspect social records and
35 the contents of the records and the official juvenile
36 court records of cases alleging delinquency shall be
37 disclosed to such individual for the purposes
38 described in subsection 3, paragraph "h". The
39 authorization under this paragraph shall encompass
40 information in the record which is subject to section
41 217.30 or 228.3 and relates to the person providing
42 the authorization or to a child of the person. The
43 penalties applicable to violations of section 217.30
44 or 228.3 are applicable to unauthorized disclosures of
45 information which are subject to section 217.30 or
46 228.3."

47 2. Page 9, by inserting after line 23 the
48 following:

49 "Sec. _____. Section 235A.15, subsection 2,
50 paragraph d, Code Supplement 1997, is amended by

H-9204

H-9204

Page 2

1 adding the following new subparagraph:

2 NEW SUBPARAGRAPH. (6) If authorized by a subject
 3 of a child abuse report as identified in paragraph
 4 "a", to a statewide elected official as defined in
 5 section 68B.2, a member of the general assembly, or a
 6 designee of a statewide elected official or member of
 7 the general assembly, to the maximum extent access to
 8 the information is available to any other person
 9 authorized under this lettered paragraph. The purpose
 10 of the access shall be to monitor compliance of state
 11 agencies, officials, and employees with requirements
 12 under the law and the adequacy of the requirements.
 13 The authorization under this subparagraph shall
 14 encompass child abuse information which is subject to
 15 section 217.30 or 228.3 and relates to the person
 16 providing the authorization or to a child of the
 17 person. The penalties applicable to violations of
 18 section 217.30 or 228.3 are applicable to unauthorized
 19 disclosures of information which are subject to
 20 section 217.30 or 228.3.

21 Sec. ____ . Section 235A.19, subsection 2, paragraph
 22 b, Code Supplement 1997, is amended by adding the
 23 following new subparagraph:

24 NEW SUBPARAGRAPH. (8) To a statewide elected
 25 official, a member of the general assembly, or a
 26 designee of a statewide elected official or member of
 27 the general assembly authorized under section 235A.15,
 28 subsection 2, paragraph "d". The authorization under
 29 this subparagraph shall encompass child abuse
 30 information which is subject to section 217.30 or
 31 228.3 and relates to the person providing the
 32 authorization or to a child of the person. The
 33 penalties applicable to violations of section 217.30
 34 or 228.3 are applicable to unauthorized disclosures of
 35 information which are subject to section 217.30 or
 36 228.3."

37 3. By renumbering as necessary.

By BODDICKER of Cedar
 FALLON of Polk

H-9204 FILED APRIL 15, 1998

*Not Germane
 Motion to Suspend
 4-17-98
 (p. 1765)*

SENATE FILE 2345

H-9209

1 Amend Senate File 2345, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 2, by inserting after line 1 the
4 following:

5 "Sec. ____ . Section 232.78, subsection 1, Code
6 1997, is amended by adding the following new
7 paragraph:

8 NEW PARAGRAPH. d. The application for the order
9 includes a statement of the facts to support the
10 findings specified in paragraphs "a", "b", and "c".

11 2. Page 2, by inserting before line 2 the
12 following:

13 "Sec. ____ . Section 232.78, Code 1997, is amended
14 by adding the following new subsections:

15 NEW SUBSECTION. 1A. If the allegations contained
16 in the application for an order under this section are
17 not otherwise verified, the presentation of the
18 application to the juvenile court shall be deemed to
19 be a certificate in accordance with rule of civil
20 procedure 80.

21 NEW SUBSECTION. 1B. The person making the
22 application for an order shall assert facts showing
23 there is reasonable cause to believe that the child
24 cannot either be returned to the place where the child
25 was residing or placed with the parent who does not
26 have physical care of the child."

27 3. Page 2, line 12, by inserting after the word
28 "application." the following: "The person designated
29 by the court shall file with the court a complete
30 written report providing all details of the designee's
31 conference with the person seeking the removal order,
32 the designee's efforts to inform the parents or other
33 person legally responsible for the child's care of the
34 application, any inquiries made by the designee to aid
35 the court in disposing of the application, and all
36 information the designee communicated to the court.
37 The report shall be filed within three days of the
38 date of the application and shall be included as part
39 of the court record."

40 4. Page 2, by inserting after line 16 the
41 following:

42 "Sec. ____ . Section 232.91, subsection 1, Code
43 Supplement 1997, is amended to read as follows:

44 1. Any hearings or proceedings under this division
45 subsequent to the filing of a petition shall not take
46 place without the presence of the child's parent,
47 guardian, custodian, or guardian ad litem in
48 accordance with and subject to section 232.38. If
49 evidence alleging abuse of a child is presented at an
50 adjudicatory hearing under this division, the person

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1 alleged to have committed the abuse shall be party to
2 the hearing. A parent without custody may petition
3 the court to be made a party to proceedings under this
4 division."

5 5. Page 2, by striking line 29 and inserting the
6 following: "to the welfare of the child, and that
7 shall identify the reasonable efforts that have".

8 6. Page 3, by striking line 17 and inserting the
9 following: "welfare of the child, and that shall
10 identify the reasonable efforts that have been".

11 7. Page 7, by inserting after line 19 the
12 following:

13 "Sec. ____ . NEW SECTION. 232.105 DISPOSITIONAL
14 AND PERMANENCY HEARINGS -- BURDEN OF PROOF.

15 In any dispositional or permanency hearing under
16 this division, the state shall have the burden of
17 proving by clear and convincing evidence that the
18 child cannot either be returned to the child's home or
19 placed with the parent who does not have physical care
20 of the child."

21 8. Page 8, by inserting before line 18 the
22 following:

23 "Sec. ____ . Section 232.111, subsection 3, Code
24 1997, is amended by adding the following new paragraph
25 after paragraph d and renumbering the subsequent
26 paragraph:

27 NEW PARAGRAPH. e. A complete list of the services
28 which have been offered to preserve the family and a
29 statement specifying the service provider's actions to
30 address the reasons stated in any order for removal or
31 in any dispositional or permanency order which did not
32 return the child to the child's home."

33 9. Page 8, by inserting after line 24 the
34 following:

35 "Sec. ____ . Section 232.116, Code 1997, is amended
36 by adding the following new subsection:

37 NEW SUBSECTION. 2A. Termination of parental rights
38 shall not be considered to be in the best interest of
39 the child if there is competent evidence that, as a
40 result of services provided pursuant to court order to
41 a party to the petition, the child may be returned to
42 the child's parent within six months of the date of
43 the hearing under this section."

44 10. Page 8, by inserting before line 25 the
45 following:

46 "Sec. ____ . Section 232.116, Code 1997, is amended
47 by adding the following new subsection:

48 NEW SUBSECTION. 5. The sufficiency of the
49 services listed in the petition may be challenged in
50 the hearing under this section."

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1 11. By renumbering, relettering, or redesignating
2 and correcting internal references as necessary.

By BODDICKER of Cedar
FALLON of Polk

W/D
4-17-98
(p. 1760)

SENATE FILE 2345

H-9259

1 Amend Senate File 2345, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 2, by inserting after line 1 the
4 following:

5 "Sec. _____. Section 232.78, subsection 1, Code
6 1997, is amended by adding the following new
7 paragraph:

8 NEW PARAGRAPH. d. The application for the order
9 includes a statement of the facts to support the
10 findings specified in paragraphs "a", "b", and "c".

11 2. Page 2, by inserting before line 2 the
12 following:

13 "Sec. _____. Section 232.78, Code 1997, is amended
14 by adding the following new subsection:

15 NEW SUBSECTION. 1A. The person making the
16 application for an order shall assert facts showing
17 there is reasonable cause to believe that the child
18 cannot either be returned to the place where the child
19 was residing or placed with the parent who does not
20 have physical care of the child."

21 3. Page 2, line 12, by inserting after the word
22 "application." the following: "The person designated
23 by the court shall file with the court a complete
24 written report providing all details of the designee's
25 conference with the person seeking the removal order,
26 the designee's efforts to inform the parents or other
27 person legally responsible for the child's care of the
28 application, and any inquiries made by the designee to
29 aid the court in disposing of the application."

30 4. Page 3, by inserting after line 10 the
31 following:

32 "Sec. _____. Section 232.99, Code 1997, is amended
33 by adding the following new subsection:

34 NEW SUBSECTION. 2A. In the initial dispositional
35 hearing, any hearing held under section 232.103, and
36 any dispositional review or permanency hearing, the
37 court shall inquire of the parties as to the
38 sufficiency of the services being provided and whether
39 additional services are needed to facilitate the safe
40 return of the child to the child's home. If the court
41 determines such services are needed, the court shall
42 order the services to be provided. The court shall
43 advise the parties that failure to identify a
44 deficiency in services or to request additional
45 services may preclude the party from challenging the
46 sufficiency of the services in a termination of
47 parent-child relationship proceeding.

48 Sec. _____. Section 232.102, subsection 1, paragraph
49 a, Code Supplement 1997, is amended to read as
50 follows:

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1 a. A parent who does not have physical care of the
2 child, other relative, or other suitable person."

3 5. Page 3, by striking line 17 and inserting the
4 following: "welfare of the child, and that shall
5 identify the reasonable efforts that have been".

6 6. Page 3, by inserting after line 19 the
7 following:

8 "Sec. ____ . Section 232.102, subsection 7, Code
9 Supplement 1997, is amended to read as follows:

10 7. In any order transferring custody to the
11 department or an agency, or in orders pursuant to a
12 custody order, the court shall specify the nature and
13 category of disposition which will serve the best
14 interests of the child, and shall prescribe the means
15 by which the placement shall be monitored by the
16 court. If the court orders the transfer of the
17 custody of the child to the department of human
18 services or other agency for placement, the department
19 or agency shall submit a case permanency plan to the
20 court and shall make every reasonable effort to return
21 the child to the child's home as quickly as possible
22 consistent with the best interest of the child. When
23 the child is not returned to the child's home and if
24 the child has been previously placed in a licensed
25 foster care facility, the department or agency shall
26 consider placing the child in the same licensed foster
27 care facility. If the court orders the transfer of
28 custody to a parent who does not have physical care of
29 the child, other relative, or other suitable person,
30 the court may direct the department or other agency to
31 provide services to the child's parent, guardian, or
32 custodian in order to enable them to resume custody of
33 the child. If the court orders the transfer of
34 custody to the department of human services or to
35 another agency for placement in foster group care, the
36 department or agency shall make every reasonable
37 effort to place the child within Iowa, in the least
38 restrictive, most family-like, and most appropriate
39 setting available, and in close proximity to the
40 parents' home, consistent with the child's best
41 interests and special needs, and shall consider the
42 placement's proximity to the school in which the child
43 is enrolled at the time of placement."

44 7. Page 8, line 11, by inserting after the word
45 "child." the following: "A compelling reason shall
46 include but is not limited to documentation in the
47 child's case permanency plan indicating it is
48 reasonably likely the completion of the services being
49 received in accordance with the permanency plan will
50 eliminate the need for removal of the child or make it

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1 possible for the child to safely return to the
2 family's home within six months."

3 8. Page 8, by inserting before line 18 the
4 following:

5 "Sec. _____. Section 232.111, subsection 3, Code
6 1997, is amended by adding the following new paragraph
7 after paragraph d and renumbering the subsequent
8 paragraph:

9 NEW PARAGRAPH. e. A complete list of the services
10 which have been offered to preserve the family and a
11 statement specifying the services provided to address
12 the reasons stated in any order for removal or in any
13 dispositional or permanency order which did not return
14 the child to the child's home."

15 9. Page 8, by inserting before line 25 the
16 following:

17 "Sec. _____. Section 232.117, subsection 3,
18 paragraph c, Code 1997, is amended to read as follows:

19 c. A parent who does not have physical care of the
20 child, other relative, or other suitable person."

21 10. By renumbering, relettering, or redesignating
22 and correcting internal references as necessary.

By BODDICKER of Cedar
FALLON of Polk

H-9259 FILED APRIL 17, 1998

adopted 4-17-98 (P. 1763)

SENATE FILE 2345

H-9283

1 Amend the amendment, H-9259, to Senate File 2345,
2 as amended, passed, and reprinted by the Senate, as
3 follows:

4 1. Page 1, line 29, by inserting after the word
5 "application." the following: "The report shall be
6 filed within five days of the date of the removal
7 order."

By KREIMAN of Davis
BODDICKER of Cedar

BRAND of Tama
MURPHY of Dubuque

H-9283 FILED APRIL 17, 1998

adopted
4-17-98
(P. 1763)

SENATE AMENDMENT TO
HOUSE AMENDMENT TO
SENATE FILE 2345

H-9324

1 Amend the House amendment, S-5761, to Senate File
2 2345, as amended, passed, and reprinted by the Senate,
3 as follows:

4 1. Page 1, line 36, by striking the word "and".
5 2. Page 1, line 37, by inserting after the word
6 "application" the following: ", and all information
7 the designee communicated to the court".

8 3. Page 4, by inserting after line 48 the
9 following:

10 "____. Page 9, by inserting after line 8 the
11 following:

12 "Sec. ____ . NEW SECTION. 232.120 PREADOPTIVE CARE
13 -- CONTINUED PLACEMENT.

14 If a foster parent is providing preadoptive care to
15 a child for whom a termination of parental rights
16 petition has been filed, the placement of the child
17 with that foster parent shall continue through the
18 termination of parental rights proceeding unless the
19 court orders otherwise based upon the best interests
20 of the child."

21 4. Page 5, by inserting after line 24, the
22 following:

23 "Sec. ____ . Section 600.12A, if enacted by the 1998
24 Iowa Acts, Senate File 2338, is amended by adding the
25 following new subsection:

26 NEW SUBSECTION. 1A. If the person to be adopted
27 dies following termination of the parental rights of
28 the person's biological parents but prior to the
29 filing of an adoption petition, the person who was the
30 guardian or custodian of the person to be adopted
31 prior to the person's death or the person who was in a
32 parent-child relationship with the person to be
33 adopted prior to the person's death may file an
34 adoption petition and the court in the interest of
35 justice may waive any other procedures or requirements
36 related to the adoption, proceed to the adoption
37 hearing, and issue a final adoption decree, unless any
38 person to whom notice is to be provided pursuant to
39 section 600.11 objects to the adoption."

40 5. By renumbering, relettering, or redesignating
41 and correcting internal references as necessary.

RECEIVED FROM THE SENATE

H-9324 FILED APRIL 20, 1998

House Concurred
4/21/98 (p. 1899)

HOUSE AMENDMENT TO
SENATE FILE 2345

S-5761

1 Amend Senate File 2345, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 1, by striking lines 1 through 9.

4 2. Page 2, by inserting after line 1 the
5 following:

6 "Sec. _____. Section 232.78, subsection 1, Code
7 1997, is amended by adding the following new
8 paragraph:

9 NEW PARAGRAPH. d. The application for the order
10 includes a statement of the facts to support the
11 findings specified in paragraphs "a", "b", and "c".

12 3. Page 2, by inserting before line 2 the
13 following:

14 "Sec. _____. Section 232.78, Code 1997, is amended
15 by adding the following new subsection:

16 NEW SUBSECTION. 1A. The person making the
17 application for an order shall assert facts showing
18 there is reasonable cause to believe that the child
19 cannot either be returned to the place where the child
20 was residing or placed with the parent who does not
21 have physical care of the child."

22 4. Page 2, line 12, by inserting after the word
23 "application." the following: "If the court does not
24 designate an appropriate person who performs the
25 required duties, notwithstanding section 234.39 or any
26 other provision of law, the child's parent shall not
27 be responsible for paying the cost of care and
28 services for the duration of the removal order."

29 5. Page 2, line 12, by inserting after the word
30 "application." the following: "The person designated
31 by the court shall file with the court a complete
32 written report providing all details of the designee's
33 conference with the person seeking the removal order,
34 the designee's efforts to inform the parents or other
35 person legally responsible for the child's care of the
36 application, and any inquiries made by the designee to
37 aid the court in disposing of the application. The
38 report shall be filed within five days of the date of
39 the removal order."

40 6. Page 2, line 28, by striking the word
41 "therein" and inserting the following: "therein in
42 the home".

43 7. Page 3, by inserting after line 10 the
44 following:

45 "Sec. _____. Section 232.99, Code 1997, is amended
46 by adding the following new subsection:

47 NEW SUBSECTION. 2A. In the initial dispositional
48 hearing, any hearing held under section 232.103, and
49 any dispositional review or permanency hearing, the
50 court shall inquire of the parties as to the

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1 sufficiency of the services being provided and whether
2 additional services are needed to facilitate the safe
3 return of the child to the child's home. If the court
4 determines such services are needed, the court shall
5 order the services to be provided. The court shall
6 advise the parties that failure to identify a
7 deficiency in services or to request additional
8 services may preclude the party from challenging the
9 sufficiency of the services in a termination of
10 parent-child relationship proceeding.

11 Sec. _____. Section 232.102, subsection 1, paragraph
12 a, Code Supplement 1997, is amended to read as
13 follows:

14 a. A parent who does not have physical care of the
15 child, other relative, or other suitable person."

16 8. Page 3, by striking line 17 and inserting the
17 following: "welfare of the child, and that shall
18 identify the reasonable efforts that have been".

19 9. Page 3, by inserting after line 19 the
20 following:

21 "Sec. _____. Section 232.102, subsection 7, Code
22 Supplement 1997, is amended to read as follows:

23 7. In any order transferring custody to the
24 department or an agency, or in orders pursuant to a
25 custody order, the court shall specify the nature and
26 category of disposition which will serve the best
27 interests of the child, and shall prescribe the means
28 by which the placement shall be monitored by the
29 court. If the court orders the transfer of the
30 custody of the child to the department of human
31 services or other agency for placement, the department
32 or agency shall submit a case permanency plan to the
33 court and shall make every reasonable effort to return
34 the child to the child's home as quickly as possible
35 consistent with the best interest of the child. When
36 the child is not returned to the child's home and if
37 the child has been previously placed in a licensed
38 foster care facility, the department or agency shall
39 consider placing the child in the same licensed foster
40 care facility. If the court orders the transfer of
41 custody to a parent who does not have physical care of
42 the child, other relative, or other suitable person,
43 the court may direct the department or other agency to
44 provide services to the child's parent, guardian, or
45 custodian in order to enable them to resume custody of
46 the child. If the court orders the transfer of
47 custody to the department of human services or to
48 another agency for placement in foster group care, the
49 department or agency shall make every reasonable
50 effort to place the child within Iowa, in the least

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1 restrictive, most family-like, and most appropriate
2 setting available, and in close proximity to the
3 parents' home, consistent with the child's best
4 interests and special needs, and shall consider the
5 placement's proximity to the school in which the child
6 is enrolled at the time of placement."

7 10. Page 4, by striking lines 23 and 24 and
8 inserting the following: "circumstances is indicated
9 by any of the following:"

10 11. By striking page 4, line 26, through page 5,
11 line 19, and inserting the following:

12 " . The court finds the circumstances described
13 in section 232.116, subsection 1, paragraph "h", are
14 applicable to the child."

15 12. Page 5, line 22, by striking the words "a
16 preponderance of" and inserting the following: "clear
17 and convincing".

18 13. Page 5, by striking lines 30 and 31 and
19 inserting the following:

20 " . The parent has been convicted of aiding or
21 abetting, attempting, conspiring in, or soliciting the
22 commission of the murder or voluntary".

23 14. Page 7, by striking lines 30 and 31 and
24 inserting the following:

25 "(2) A court has determined aggravated
26 circumstances exist and has waived the requirement for
27 making reasonable efforts under section 232.102
28 because the court has found the circumstances
29 described in section 232.116, subsection 1, paragraph
30 "h", are applicable to the child.

31 (3) The child is less than twelve months of age
32 and has been judicially determined to meet the
33 definition of abandonment of a child."

34 15. Page 7, by striking line 32 and inserting the
35 following:

36 "(4) The parent has been convicted of the murder".

37 16. Page 7, by striking lines 34 and 35 and
38 inserting the following:

39 "(5) The parent has been convicted of aiding or
40 abetting, attempting, conspiring in, or soliciting the
41 commission".

42 17. Page 8, by inserting after line 2 the
43 following:

44 "(6) The parent has been convicted of a felony
45 assault which resulted in serious bodily injury of the
46 child or of another child of the parent."

47 18. Page 8, line 11, by inserting after the word
48 "child." the following: "A compelling reason shall
49 include but is not limited to documentation in the
50 child's case permanency plan indicating it is

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1 reasonably likely the completion of the services being
2 received in accordance with the permanency plan will
3 eliminate the need for removal of the child or make it
4 possible for the child to safely return to the
5 family's home within six months."

6 19. Page 8, by inserting after line 17 the
7 following:

8 "Sec. ____ . Section 232.112, subsection 1, Code
9 1997, is amended to read as follows:

10 1. Persons listed in section 232.111, subsection
11 3, shall be necessary parties to a termination of
12 parent-child relationship proceeding and are entitled
13 to receive notice and an opportunity to be heard,
14 except that notice may be dispensed with in the case
15 of any such person whose name or whereabouts the court
16 determines is unknown and cannot be ascertained by
17 reasonably diligent search. In addition to the
18 persons who are necessary parties who may be parties
19 under section 232.111, notice for any hearing under
20 this division shall be provided to the child's foster
21 parent, an individual providing preadoptive care for
22 the child, or a relative providing care for the
23 child."

24 20. Page 8, by inserting before line 18 the
25 following:

26 "Sec. ____ . Section 232.111, subsection 3, Code
27 1997, is amended by adding the following new paragraph
28 after paragraph d and renumbering the subsequent
29 paragraph:

30 NEW PARAGRAPH. e. A complete list of the services
31 which have been offered to preserve the family and a
32 statement specifying the services provided to address
33 the reasons stated in any order for removal or in any
34 dispositional or permanency order which did not return
35 the child to the child's home."

36 21. Page 8, by striking lines 22 through 24 and
37 inserting the following: "to the child's safety, to
38 the best placement for furthering the long-term
39 nurturing and growth of the child, and to the
40 physical, mental, and emotional condition and needs of
41 the child. ~~Such~~ This consideration may include any of
42 the following:"

43 22. Page 8, by inserting before line 25 the
44 following:

45 "Sec. ____ . Section 232.117, subsection 3,
46 paragraph c, Code 1997, is amended to read as follows:

47 c. A parent who does not have physical care of the
48 child, other relative, or other suitable person."

49 23. Page 10, line 11, by striking the words
50 "physical assault, battery, or".

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Page 5

1 24. Page 10, by striking line 12 and inserting
2 the following:

3 "(b) Child endangerment or neglect or abandonment
4 of a dependent person."

5 25. Page 10, line 15, by striking the words
6 "child pornography" and inserting the following:
7 "sexual exploitation of a minor".

8 26. Page 10, by striking lines 16 and 17 and
9 inserting the following:

10 "(e) A forcible felony."

11 27. Page 10, line 34, by striking the words
12 "physical assault, battery, or".

13 28. Page 10, by striking line 35 and inserting
14 the following:

15 "(b) Child endangerment or neglect or abandonment
16 of a dependent person."

17 29. Page 11, line 3, by striking the words "child
18 pornography" and inserting the following: "sexual
19 exploitation of a minor".

20 30. Page 11, by striking lines 4 and 5 and
21 inserting the following:

22 "(e) A forcible felony."

23 31. Page 11, by inserting after line 14 the
24 following:

25 "Sec. ____ . PRESERVATION OF REASONABLE PARENTING.

26 Nothing in this Act is intended to disrupt the family
27 unnecessarily or to intrude inappropriately into
28 family life, to prohibit the use of reasonable methods
29 of parental discipline, or to prescribe a particular
30 method of parenting."

31 32. By renumbering, relettering, or redesignating
32 and correcting internal references as necessary.

RECEIVED FROM THE HOUSE

S-5761 FILED APRIL 20, 1998

CONCURRED

(P. 1389)

SENATE FILE 2345

S-5770

1 Amend the House amendment, S-5761, to Senate File
2 2345, as amended, passed, and reprinted by the Senate,
3 as follows:

4 1. Page 5, by inserting after line 24, the
5 following:

6 "Sec. ____ . Section 600.12A, if enacted by the 1998
7 Iowa Acts, Senate File 2338, is amended by adding the
8 following new subsection:

9 NEW SUBSECTION. 1A. If the person to be adopted
10 dies following termination of the parental rights of
11 the person's biological parents but prior to the
12 filing of an adoption petition, the person who was the
13 guardian or custodian of the person to be adopted
14 prior to the person's death or the person who was in a
15 parent-child relationship with the person to be
16 adopted prior to the person's death may file an
17 adoption petition and the court in the interest of
18 justice may waive any other procedures or requirements
19 related to the adoption, proceed to the adoption
20 hearing, and issue a final adoption decree, unless any
21 person to whom notice is to be provided pursuant to
22 section 600.11 objects to the adoption."

23 2. By renumbering as necessary.

By NEAL SCHUERER
ROBERT E. DVORSKY

S-5770 FILED APRIL 20, 1998
ADOPTED

(P. 1389)

SENATE FILE 2345 -

S-5768

1 Amend the House amendment, S-5761, to Senate File
2 2345, as amended, passed, and reprinted by the Senate,
3 as follows:

4 1. Page 4, by inserting after line 48 the
5 following:

6 "____. Page 9, by inserting after line 8 the
7 following:

8 "Sec. ____ Section 232.147, subsection 3, Code
9 Supplement 1997, is amended by adding the following
10 new paragraph:

11 NEW PARAGRAPH. h. If authorized by a subject of a
12 child abuse report as identified in section 235A.15,
13 subsection 2, paragraph "a", or by the parent,
14 guardian, or custodian of a child receiving services
15 or involved in a proceeding under this chapter, to a
16 statewide elected official, as defined in section
17 68B.2, a member of the general assembly, or a designee
18 of the statewide elected official or member of the
19 general assembly. The purpose of the disclosure shall
20 be for the elected official, member of the general
21 assembly, or designee to monitor compliance of state
22 agencies, officials, and employees with requirements
23 under law and the adequacy of the requirements. The
24 authorization under this paragraph shall encompass
25 information in the record which is subject to section
26 217.30 or 228.3 and relates to the person providing
27 the authorization or to a child of the person. The
28 penalties applicable to violations of section 217.30
29 or 228.3 are applicable to unauthorized disclosures of
30 information which are subject to section 217.30 or
31 228.3.

32 Sec. ____ Section 232.147, subsection 5, Code
33 Supplement 1997, is amended by adding the following
34 new unnumbered paragraph:

35 NEW UNNUMBERED PARAGRAPH. An individual authorized
36 under subsection 3, paragraph "h", to inspect official
37 juvenile court records, may inspect social records and
38 the contents of the records and the official juvenile
39 court records of cases alleging delinquency shall be
40 disclosed to such individual for the purposes
41 described in subsection 3, paragraph "h". The
42 authorization under this paragraph shall encompass
43 information in the record which is subject to section
44 217.30 or 228.3 and relates to the person providing
45 the authorization or to a child of the person. The
46 penalties applicable to violations of section 217.30
47 or 228.3 are applicable to unauthorized disclosures of
48 information which are subject to section 217.30 or
49 228.3."

50 ____ Page 9, by inserting after line 23 the

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1 following:

2 "Sec. ____ . Section 235A.15, subsection 2,
 3 paragraph d, Code Supplement 1997, is amended by
 4 adding the following new subparagraph:
 5 NEW SUBPARAGRAPH. (6) If authorized by a subject
 6 of a child abuse report as identified in paragraph
 7 "a", to a statewide elected official as defined in
 8 section 68B.2, a member of the general assembly, or a
 9 designee of a statewide elected official or member of
 10 the general assembly, to the maximum extent access to
 11 the information is available to any other person
 12 authorized under this lettered paragraph. The purpose
 13 of the access shall be to monitor compliance of state
 14 agencies, officials, and employees with requirements
 15 under the law and the adequacy of the requirements.
 16 The authorization under this subparagraph shall
 17 encompass child abuse information which is subject to
 18 section 217.30 or 228.3 and relates to the person
 19 providing the authorization or to a child of the
 20 person. The penalties applicable to violations of
 21 section 217.30 or 228.3 are applicable to unauthorized
 22 disclosures of information which are subject to
 23 section 217.30 or 228.3.

24 Sec. ____ . Section 235A.19, subsection 2, paragraph
 25 b, Code Supplement 1997, is amended by adding the
 26 following new subparagraph:

27 NEW SUBPARAGRAPH. (8) To a statewide elected
 28 official, a member of the general assembly, or a
 29 designee of a statewide elected official or member of
 30 the general assembly authorized under section 235A.15,
 31 subsection 2, paragraph "d". The authorization under
 32 this subparagraph shall encompass child abuse
 33 information which is subject to section 217.30 or
 34 228.3 and relates to the person providing the
 35 authorization or to a child of the person. The
 36 penalties applicable to violations of section 217.30
 37 or 228.3 are applicable to unauthorized disclosures of
 38 information which are subject to section 217.30 or
 39 228.3."

40 2. By renumbering as necessary.

By STEVE KING

S-5768 FILED APRIL 20, 1998
 RULED OUT OF ORDER

(P. 1387)

SENATE FILE 2345

S-5763

1 Amend the House amendment, S-5761, to Senate File
2 2345, as amended, passed, and reprinted by the Senate,
3 as follows:

4 1. Page 4, by inserting after line 48 the
5 following:

6 "____. Page 9, by inserting after line 8 the
7 following:

8 "Sec. ____ . NEW SECTION. 232.120 PREADOPTIVE CARE
9 -- CONTINUED PLACEMENT.

10 If a foster parent is providing preadoptive care to
11 a child for whom a termination of parental rights
12 petition has been filed, the placement of the child
13 with that foster parent shall continue through the
14 termination of parental rights proceeding unless the
15 court orders otherwise based upon the best interests
16 of the child.""

17 2. By renumbering as necessary.

By JOHN REDWINE

S-5763 FILED APRIL 20, 1998

ADOPTED (P.1387)

SENATE FILE 2345

S-5767

1 Amend the House amendment, S-5761, to Senate File
2 2345, as amended, passed, and reprinted by the Senate,
3 as follows:

4 1. Page 1, line 36, by striking the word "and".

5 2. Page 1, line 37, by inserting after the word
6 "application" the following: ", and all information
7 the designee communicated to the court".

By STEVE KING

S-5767 FILED APRIL 20, 1998

ADOPTED

(P.1386)

Schuerer
Behn
Harper

SSB 2125
Human Resources
SENATE FILE Commit 2345
BY (PROPOSED COMMITTEE ON HUMAN
RESOURCES BILL BY CHAIRPERSON
BOETTGER)

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

A BILL FOR

1 An Act relating to juvenile justice system provisions involving
2 foster care, termination of parental rights, and adoption
3 preplacement investigations.

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

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1 Section 1. Section 232.2, Code Supplement 1997, is amended
2 by adding the following new subsection before subsection 1 and
3 renumbering the succeeding subsection:

4 NEW SUBSECTION. 0A. "Abandoned infant" is a child who is
5 less than twelve months of age whose parent has not had
6 significant or meaningful contact with the child during the
7 previous three months and has not made meaningful efforts to
8 gain or regain custody of, or to have regular visitation with,
9 the child despite being given the opportunity to do so.

10 Sec. 2. Section 232.2, subsection 21, unnumbered paragraph
11 1, Code Supplement 1997, is amended to read as follows:

12 "Guardian" means a person who is not the parent of a child,
13 but who has been appointed by a court or juvenile court having
14 jurisdiction over the child, to have a permanent self-
15 sustaining relationship with the child and to make important
16 decisions which have a permanent effect on the life and
17 development of that child and to promote the general welfare
18 of that child. A guardian may be a court or a juvenile court.
19 Guardian does not mean conservator, as defined in section
20 633.3, although a person who is appointed to be a guardian may
21 also be appointed to be a conservator.

22 Sec. 3. Section 232.2, subsection 21, Code Supplement
23 1997, is amended by adding the following new paragraph:

24 NEW PARAGRAPH. f. To make other decisions involving
25 protection, education, and care and control of the child.

26 Sec. 4. Section 232.102, subsection 5, unnumbered
27 paragraph 2, Code Supplement 1997, is amended to read as
28 follows:

29 The order shall, in addition, contain a statement that
30 removal from the home is the result of a determination that
31 continuation therein in the home would be contrary to the
32 welfare of the child, and that reasonable efforts have been
33 ~~made to prevent or eliminate the need for removal of the child~~
34 ~~from the child's home.~~

35 Sec. 5. Section 232.102, subsection 8, paragraphs a, b,

1 and c, Code Supplement 1997, are amended to read as follows:

2 a. The initial dispositional review hearing shall not be
3 waived or continued beyond six months after the date of the
4 dispositional hearing.

5 b. Subsequent Any subsequent dispositional review
6 hearings hearing shall not be waived-or-continued-beyond
7 twelve-months-after-the-date-of-the-most-recent-dispositional
8 review-hearing a permanency hearing in accordance with section
9 232.104.

10 c. For purposes of this subsection, a hearing held
11 pursuant to section 232.103 ~~or-232.104~~ satisfies the
12 requirements for initial dispositional review or subsequent
13 dispositional-review permanency hearing.

14 Sec. 6. Section 232.102, subsection 9, paragraph a,
15 unnumbered paragraph 1, Code Supplement 1997, is amended to
16 read as follows:

17 As used in this section, "reasonable efforts" means the
18 efforts made to prevent preserve and unify a family prior to
19 the out-of-home placement of a child in foster care or to
20 eliminate the need for removal of a the child from or make it
21 possible for the child to safely return to the child's
22 family's home. A child's health and safety shall be the
23 paramount concern in making reasonable efforts. Reasonable
24 efforts may include intensive family preservation services or
25 family-centered services, if the child's safety in the home
26 can be maintained during the time the services are provided.
27 In determining whether reasonable efforts have been made, the
28 court shall consider both of the following:

29 Sec. 7. Section 232.102, Code Supplement 1997, is amended
30 by adding the following new subsections:

31 NEW SUBSECTION. 10. The performance of reasonable efforts
32 to place a child for adoption or with a guardian may be made
33 concurrently with making reasonable efforts as defined in this
34 section.

35 NEW SUBSECTION. 11. If the court determines aggravated

1 circumstances exist, with written findings of fact based upon
2 evidence in the record, the court may waive the requirement
3 for making reasonable efforts. The existence of aggravated
4 circumstances may be indicated by but is not limited to
5 consideration of any of the following:

6 a. The parent has abandoned the child.

7 b. The parent has subjected the child, a sibling of the
8 child, or another child within the household where the child
9 resides to any of the following, and there is a preponderance
10 of evidence to show that the offer or receipt of services
11 would not be likely within a reasonable period of time to
12 correct the conditions which led to the abuse or neglect:

13 (1) Abuse or neglect which posed a significant risk to the
14 life of the child who was abused or neglected.

15 (2) Abuse or neglect which posed an imminent danger to the
16 life or health of the child who was abused or neglected.

17 c. The parent has inflicted chronic abuse or torture of
18 the child, a sibling of the child, or another child within the
19 household where the child resides, and there is a
20 preponderance of evidence to show that the offer or receipt of
21 services would not be likely within a reasonable period of
22 time to correct the conditions which led to the abuse or
23 neglect. The presence of chronic abuse or torture is
24 indicated by abuse described in the definition of a child in
25 need of assistance in section 232.2, subsection 6, paragraph
26 "b" or "d", which has occurred on multiple occasions and which
27 shows a pattern of strong disregard for the child's well-
28 being.

29 d. There has been an adjudication that the parent has
30 sexually abused or has aided in the sexual abuse of the child,
31 or another child within the household where the child resides,
32 and there is a preponderance of evidence to show that the
33 offer or receipt of services would not be likely within a
34 reasonable period of time to correct the conditions which led
35 to the adjudication.

1 e. The parent's parental rights have been terminated under
2 section 232.116 with respect to another child who is a member
3 of the same family, and there is a preponderance of evidence
4 to show that the offer or receipt of services would not be
5 likely within a reasonable period of time to correct the
6 conditions which led to the child's removal.

7 f. The parent has been convicted of the murder of another
8 child of the parent.

9 g. The parent has been convicted of the voluntary
10 manslaughter of another child of the parent.

11 h. The parent has aided or abetted, attempted, conspired
12 in, or solicited the commission of the murder or voluntary
13 manslaughter of another child of the parent.

14 i. The parent has been convicted of a felony assault which
15 resulted in serious bodily injury of the child or of another
16 child of the parent.

17 Sec. 8. Section 232.104, subsection 1, Code 1997, is
18 amended to read as follows:

19 1. ~~a. If a child has been placed in foster care for a~~
20 ~~period of twelve months, or if the prior legal custodian of a~~
21 ~~child has abandoned efforts to regain custody of the child,~~
22 ~~the court shall, on its own motion, or upon application by any~~
23 ~~interested party, including the child's foster parent if the~~
24 ~~child has been placed with the foster parent for at least~~
25 ~~twelve months, hold a hearing to consider the issue of the~~
26 ~~establishment of permanency for the child. The time for the~~
27 initial permanency hearing for a child subject to out-of-home
28 placement shall be the earlier of the following:

29 (1) For a temporary removal order entered under section
30 232.78, 232.95, or 232.96, or for a child who was removed
31 without a court order under section 232.79, the permanency
32 hearing shall be held within fourteen months of the date the
33 child was removed from the home.

34 (2) For an order entered under section 232.102, for which
35 the court has not waived reasonable efforts requirements, the

1 permanency hearing shall be held within twelve months of the
2 date of the dispositional order.

3 (3) For an order entered under section 232.102, for which
4 the court has waived reasonable efforts requirements under
5 section 232.102, subsection 11, the permanency hearing shall
6 be held within thirty days of the date the requirements were
7 waived.

8 b. Such-a The permanency hearing may be held concurrently
9 with a hearing under section 232.103 to review, modify,
10 substitute, vacate, or terminate a dispositional order.

11 c. Reasonable notice of a permanency hearing in a case of
12 juvenile delinquency shall be provided pursuant to section
13 232.37. A permanency hearing shall be conducted in
14 substantial conformance with the provisions of section 232.99.
15 During the hearing the court shall consider the child's need
16 for a secure and permanent placement in light of any
17 permanency plan or evidence submitted to the court. Upon
18 completion of the hearing the court shall enter written
19 findings and make a determination based upon the permanency
20 plan which will best serve the child's individual interests at
21 that time.

22 Sec. 9. Section 232.104, subsection 6, Code 1997, is
23 amended to read as follows:

24 6. Following an initial permanency hearing and the entry
25 of a permanency order which places a child in the custody or
26 guardianship of another person or agency, the court shall
27 retain jurisdiction and annually review the order to ascertain
28 whether the best interest of the child is being served. ~~When~~
29 ~~such-order-places-the-child-in-the-custody-of-the-department~~
30 ~~for-the-purpose-of-long-term-foster-care-placement-in-a~~
31 ~~facility,~~ The review shall be in a hearing that shall not
32 be waived or continued beyond twelve months after the initial
33 permanency hearing or the last permanency review hearing. Any
34 modification shall be accomplished through a hearing procedure
35 following reasonable notice. During the hearing, all relevant

1 and material evidence shall be admitted and procedural due
2 process shall be provided to all parties.

3 Sec. 10. Section 232.111, Code 1997, is amended by adding
4 the following new subsection:

5 NEW SUBSECTION. 1A. a. Unless any of the circumstances
6 described in paragraph "b" exist, the county attorney shall
7 file a petition for termination of the parent-child
8 relationship and parental rights with respect to a child or if
9 a petition has been filed, join in the petition, under any of
10 the following circumstances:

11 (1) The child has been placed in foster care for fifteen
12 months or more of the most recent twenty-two-month period.

13 (2) The child has been judicially determined to be an
14 abandoned infant.

15 (3) A court has determined the parent committed the murder
16 or the voluntary manslaughter of another child of the parent.

17 (4) A court has determined the child's parent has aided or
18 abetted, attempted, conspired in, or solicited the commission
19 of the murder or voluntary manslaughter of another child of
20 the parent.

21 b. If any of the following conditions exist, the county
22 attorney is not required to file a petition or join in an
23 existing petition as provided in paragraph "a":

24 (1) At the option of the department or by order of the
25 court, the child is being cared for by a relative.

26 (2) The department or a state agency has documented in the
27 child's case permanency plan provided or available to the
28 court a compelling reason for determining that filing the
29 petition would not be in the best interest of the child.

30 (3) The department has not provided the child's family,
31 consistent with the time frames outlined in the child's case
32 permanency plan, with those services the state deems necessary
33 for the safe return of the child to the child's home, and the
34 limited extension of time necessary to complete the services
35 is clearly documented in the case permanency plan.

1 Sec. 11. Section 232.116, subsection 2, unnumbered
2 paragraph 1, Code 1997, is amended to read as follows:

3 In considering whether to terminate the rights of a parent
4 under this section, the court shall give primary consideration
5 to the safety and to the physical, mental, and emotional
6 condition and needs of the child. Such This consideration may
7 include any of the following:

8 Sec. 12. Section 232.119, subsection 4, Code 1997, is
9 amended to read as follows:

10 4. The exchange shall include a matching service for
11 children registered or listed in the adoption photo-listing
12 book and prospective adoptive families listed on the exchange.
13 The department shall register a child with the national
14 electronic exchange and electronic photolisting system if the
15 child has not been placed for adoption after three months on
16 the exchange established pursuant to this section.

17 Sec. 13. Section 232.189, unnumbered paragraph 1, Code
18 1997, is amended to read as follows:

19 Based upon a model reasonable efforts family court
20 initiative, the director of human services and the chief
21 justice of the supreme court or their designees shall jointly
22 establish and implement a statewide protocol for reasonable
23 ~~efforts to prevent or eliminate the need for placement of a~~
24 child-outside-the-child's-home, as defined in section 232.102.

25 In addition, the director and the chief justice shall design
26 and implement a system for judicial and departmental
27 reasonable efforts education for deployment throughout the
28 state. The system for reasonable efforts education shall be
29 developed in a manner which addresses the particular needs of
30 rural areas and shall include but is not limited to all of the
31 following topics:

32 Sec. 14. Section 237.8, subsection 2, paragraphs a and b,
33 Code 1997, are amended to read as follows:

34 a. (1) If a person is being considered for licensure
35 under this chapter, or for employment involving direct

1 responsibility for a child or with access to a child when the
 2 child is alone, by a licensee under this chapter, or if a
 3 person will reside in a facility utilized by a licensee, and
 4 if the person has been convicted of a crime or has a record of
 5 founded child abuse, the department and the licensee for an
 6 employee of the licensee shall perform an evaluation to
 7 determine whether the crime or founded child abuse warrants
 8 prohibition of licensure, employment, or residence in the
 9 facility. The department shall conduct criminal and child
 10 abuse record checks in this state and may conduct these checks
 11 in other states. The evaluation shall be performed in
 12 accordance with procedures adopted for this purpose by the
 13 department.

14 (2) An individual applying to be a foster parent licensee
 15 shall not be granted a license and an evaluation shall not be
 16 performed under this subsection if the individual has been
 17 convicted of any of the following felony offenses:

18 (a) Within the five-year period preceding the application
 19 date, physical assault, battery, or a drug-related offense.

20 (b) Child abuse or neglect.

21 (c) Domestic abuse.

22 (d) A crime against a child, including but not limited to
 23 child pornography.

24 (e) A crime involving violence, including but not limited
 25 to rape, sexual assault, or homicide.

26 b. If Except as otherwise provided in paragraph "a", if
 27 the department determines that a person has committed a crime
 28 or has a record of founded child abuse and is licensed,
 29 employed by a licensee, or resides in a licensed facility the
 30 department shall notify the licensee that an evaluation will
 31 be conducted to determine whether prohibition of the person's
 32 licensure, employment, or residence is warranted.

33 Sec. 15. Section 600.8, subsection 2, paragraph b, Code
 34 1997, is amended to read as follows:

35 b. (1) The person making the investigation shall not

1 approve a prospective adoption petitioner pursuant to
2 subsection 1, paragraph "a", subparagraph (3), and an
3 evaluation shall not be performed under subparagraph (2), if
4 the petitioner has been convicted of any of the following
5 felony offenses:

6 (a) Within the five-year period preceding the petition
7 date, physical assault, battery, or a drug-related offense.

8 (b) Child abuse or neglect.

9 (c) Domestic abuse.

10 (d) A crime against a child, including but not limited to
11 child pornography.

12 (e) A crime involving violence, including but not limited
13 to rape, sexual assault, or homicide.

14 (2) The person making the investigation shall not approve
15 a prospective adoption petitioner pursuant to subsection 1,
16 paragraph "a", subparagraph (3), unless an evaluation has been
17 made which considers the nature and seriousness of the crime
18 or founded abuse in relation to the adoption, the time elapsed
19 since the commission of the crime or founded abuse, the
20 circumstances under which the crime or founded abuse was
21 committed, the degree of rehabilitation, and the number of
22 crimes or founded abuse committed by the person involved.

23 EXPLANATION

24 This bill relates to juvenile justice system provisions
25 involving foster care, termination of parental rights, and
26 adoption preplacement investigations.

27 Code section 232.2, relating to the definitions for the
28 juvenile justice code, is amended to add a new definition of
29 "abandoned infant" and to revise the definition of "guardian".
30 The bill contains a provision using the abandoned infant
31 definition as part of a requirement for filing a petition for
32 termination of parental rights.

33 Code section 232.102, relating to transfer of legal custody
34 of a child and placement, is amended to revise the definition
35 of reasonable efforts to prevent or eliminate the need for

1 removal of a child from the child's home. The change involves
 2 language for preserving and unifying a family prior to out-of-
 3 home placement of a child and for making the child's health
 4 and safety the paramount concern in making reasonable efforts.
 5 The performance of the reasonable efforts to prevent out-of-
 6 home placement may be made concurrently with reasonable
 7 efforts to place a child for adoption or with a guardian. The
 8 language in the requirement for dispositional review hearings
 9 is revised to refer to permanency hearings under Code section
 10 232.104. The bill authorizes the court to waive the
 11 requirement to make reasonable efforts if various conditions
 12 exist.

13 Code section 232.104, relating to permanency hearings, is
 14 amended to revise the time limits for holding the hearings.
 15 Under the bill, the initial hearing for a child removed under
 16 an ex parte court order, without a court order, or under
 17 temporary removal orders must be held within 14 months of the
 18 removal. For removal orders under Code section 232.102, in
 19 which the court has not waived the requirements for reasonable
 20 efforts, the hearing must be held within 12 months of the
 21 initial order. For removal orders under Code section 232.102,
 22 in which the court has waived the requirements for reasonable
 23 efforts, the hearing must be held within 30 days of the
 24 waiver.

25 In addition, the bill amends Code section 232.104 to
 26 provide that following an initial permanency hearing which
 27 places a child in the custody or guardianship of another
 28 person or agency, subsequent permanency review hearings are to
 29 be held annually. The review hearing cannot be waived or
 30 continued beyond 12 months after the initial hearing or last
 31 permanency review hearing.

32 Code section 232.111, relating to the filing of a petition
 33 for termination of parental rights, is amended to require the
 34 county attorney to file the petition if certain circumstances
 35 exist. Exceptions to the requirement are provided.

1 Code section 232.116, relating to the grounds for
2 termination of parental rights, is amended to require the
3 court to consider the safety of the child along with the
4 existing criteria for determining whether to terminate the
5 rights.

6 Code section 232.119, relating to the adoption exchange
7 established in the department of human services, is amended to
8 revise a reference to the national exchange to refer to
9 electronic capabilities.

10 Code section 232.189, relating to requirements for the
11 director of human services and the chief justice of the
12 supreme court to implement a reasonable efforts protocol, is
13 amended to refer to the revised definition of "reasonable
14 efforts".

15 Code section 237.8, relating to records checks of persons
16 licensed to provide foster care, is amended to prohibit foster
17 parent licensing of individuals who have committed certain
18 crimes such as child abuse, domestic abuse, and murder.

19 Code section 600.8, relating to preadoption investigations
20 of individuals, is amended to prohibit approval of individuals
21 to be adoptive parents who have committed certain crimes such
22 as child abuse, domestic abuse, and murder.

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SENATE FILE 2345

AN ACT

RELATING TO JUVENILE JUSTICE SYSTEM PROVISIONS INVOLVING
FOSTER CARE, TERMINATION OF PARENTAL RIGHTS, AND ADOPTION
PREPLACEMENT INVESTIGATIONS.

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

Section 1. Section 232.2, subsection 4, Code Supplement
1997, is amended by adding the following new paragraph:

NEW PARAGRAPH. h. If reasonable efforts to place a child
for adoption or with a guardian are made concurrently with
reasonable efforts as defined in section 232.102, the
concurrent goals and timelines may be identified. Concurrent
case permanency plan goals for reunification, and for adoption
or for other permanent out-of-home placement of a child shall
not be considered inconsistent in that the goals reflect
divergent possible outcomes for a child in an out-of-home
placement.

Sec. 2. Section 232.2, subsection 21, unnumbered paragraph
1, Code Supplement 1997, is amended to read as follows:

"Guardian" means a person who is not the parent of a child,
but who has been appointed by a court or juvenile court having
jurisdiction over the child, to have a permanent self-

sustaining relationship with the child and to make important
decisions which have a permanent effect on the life and
development of that child and to promote the general welfare
of that child. A guardian may be a court or a juvenile court.
Guardian does not mean conservator, as defined in section
633.3, although a person who is appointed to be a guardian may
also be appointed to be a conservator.

Sec. 3. Section 232.2, subsection 21, Code Supplement
1997, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. To make other decisions involving
protection, education, and care and control of the child.

Sec. 4. Section 232.78, subsection 1, Code 1997, is
amended by adding the following new paragraph:

NEW PARAGRAPH. d. The application for the order includes
a statement of the facts to support the findings specified in
paragraphs "a", "b", and "c".

Sec. 5. Section 232.78, Code 1997, is amended by adding
the following new subsection:

NEW SUBSECTION. 1A. The person making the application for
an order shall assert facts showing there is reasonable cause
to believe that the child cannot either be returned to the
place where the child was residing or placed with the parent
who does not have physical care of the child.

Sec. 6. Section 232.78, subsection 5, Code 1997, is
amended to read as follows:

5. Any person who may file a petition under this chapter
may apply for, or the court on its own motion may issue, an
order for temporary removal under this section. An
appropriate person designated by the court shall confer with a
person seeking the removal order, shall make every reasonable
effort to inform the parent or other person legally
responsible for the child's care of the application, and shall
make such inquiries as will aid the court in disposing of such
application. The person designated by the court shall file
with the court a complete written report providing all details

of the designee's conference with the person seeking the removal order, the designee's efforts to inform the parents or other person legally responsible for the child's care of the application, any inquiries made by the designee to aid the court in disposing of the application, and all information the designee communicated to the court. The report shall be filed within five days of the date of the removal order. If the court does not designate an appropriate person who performs the required duties, notwithstanding section 234.39 or any other provision of law, the child's parent shall not be responsible for paying the cost of care and services for the duration of the removal order. Any order entered under this section authorizing temporary removal of a child shall include a statement informing the child's parent that the consequences of a permanent removal may include termination of the parent's rights with respect to the child.

Sec. 7. Section 232.91, Code Supplement 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Any person who is entitled under section 232.88 to receive notice of a hearing concerning a child shall be given the opportunity to be heard in any other review or hearing involving the child.

Sec. 8. Section 232.95, subsection 2, paragraph a, unnumbered paragraph 2, Code 1997, is amended to read as follows:

If removal is ordered, the order shall, in addition, contain a statement that removal from the home is the result of a determination that continuation therein in the home would be contrary to the welfare of the child, and that reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home. The order shall also include a statement informing the child's parent that the consequences of a permanent removal may include termination of the parent's rights with respect to the child.

Sec. 9. Section 232.96, subsection 10, Code 1997, is amended to read as follows:

10. If the court enters an order adjudicating the child to be a child in need of assistance, the court, if it has not previously done so, may issue an order authorizing temporary removal of the child from the child's home as set forth in section 232.95, subsection 2, paragraph "a", pending a final order of disposition. The order shall include a statement informing the child's parent that the consequences of a permanent removal may include termination of the parent's rights with respect to the child.

Sec. 10. Section 232.99, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. In the initial dispositional hearing, any hearing held under section 232.103, and any dispositional review or permanency hearing, the court shall inquire of the parties as to the sufficiency of the services being provided and whether additional services are needed to facilitate the safe return of the child to the child's home. If the court determines such services are needed, the court shall order the services to be provided. The court shall advise the parties that failure to identify a deficiency in services or to request additional services may preclude the party from challenging the sufficiency of the services in a termination of parent-child relationship proceeding.

Sec. 11. Section 232.102, subsection 1, paragraph a, Code Supplement 1997, is amended to read as follows:

a. A parent who does not have physical care of the child, other relative, or other suitable person.

Sec. 12. Section 232.102, subsection 5, unnumbered paragraph 2, Code Supplement 1997, is amended to read as follows:

The order shall, in addition, contain a statement that removal from the home is the result of a determination that continuation therein in the home would be contrary to the

welfare of the child, and that shall identify the reasonable efforts that have been made to prevent or eliminate the need for removal of the child from the child's home.

Sec. 13. Section 232.102, subsection 7, Code Supplement 1997, is amended to read as follows:

7. In any order transferring custody to the department or an agency, or in orders pursuant to a custody order, the court shall specify the nature and category of disposition which will serve the best interests of the child, and shall prescribe the means by which the placement shall be monitored by the court. If the court orders the transfer of the custody of the child to the department of human services or other agency for placement, the department or agency shall submit a case permanency plan to the court and shall make every reasonable effort to return the child to the child's home as quickly as possible consistent with the best interest of the child. When the child is not returned to the child's home and if the child has been previously placed in a licensed foster care facility, the department or agency shall consider placing the child in the same licensed foster care facility. If the court orders the transfer of custody to a parent who does not have physical care of the child, other relative, or other suitable person, the court may direct the department or other agency to provide services to the child's parent, guardian, or custodian in order to enable them to resume custody of the child. If the court orders the transfer of custody to the department of human services or to another agency for placement in foster group care, the department or agency shall make every reasonable effort to place the child within Iowa, in the least restrictive, most family-like, and most appropriate setting available, and in close proximity to the parents' home, consistent with the child's best interests and special needs, and shall consider the placement's proximity to the school in which the child is enrolled at the time of placement.

Sec. 14. Section 232.102, Code Supplement 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 7A. Any order transferring custody to the department or an agency shall include a statement informing the child's parent that the consequences of a permanent removal may include the termination of the parent's rights with respect to the child.

Sec. 15. Section 232.102, subsection 8, paragraph c, Code Supplement 1997, is amended to read as follows:

c. For purposes of this subsection, a hearing held pursuant to section 232.103 ~~or 232.104~~ satisfies the requirements for initial dispositional review or subsequent ~~dispositional review~~ permanency hearing.

Sec. 16. Section 232.102, subsection 9, paragraph a, unnumbered paragraph 1, Code Supplement 1997, is amended to read as follows:

As used in this section, "reasonable efforts" means the efforts made to prevent preserve and unify a family prior to the out-of-home placement of a child in foster care or to eliminate the need for removal of a the child from or make it possible for the child to safely return to the child's family's home. A child's health and safety shall be the paramount concern in making reasonable efforts. Reasonable efforts may include intensive family preservation services or family-centered services, if the child's safety in the home can be maintained during the time the services are provided. In determining whether reasonable efforts have been made, the court shall consider both of the following:

Sec. 17. Section 232.102, Code Supplement 1997, is amended by adding the following new subsections:

NEW SUBSECTION. 10. The performance of reasonable efforts to place a child for adoption or with a guardian may be made concurrently with making reasonable efforts as defined in this section.

NEW SUBSECTION. 11. If the court determines aggravated circumstances exist, with written findings of fact based upon evidence in the record, the court may waive the requirement for making reasonable efforts. The existence of aggravated circumstances is indicated by any of the following:

- a. The parent has abandoned the child.
- b. The court finds the circumstances described in section 232.116, subsection 1, paragraph "h", are applicable to the child.
- c. The parent's parental rights have been terminated under section 232.116 with respect to another child who is a member of the same family, and there is clear and convincing evidence to show that the offer or receipt of services would not be likely within a reasonable period of time to correct the conditions which led to the child's removal.
- d. The parent has been convicted of the murder of another child of the parent.
- e. The parent has been convicted of the voluntary manslaughter of another child of the parent.
- f. The parent has been convicted of aiding or abetting, attempting, conspiring in, or soliciting the commission of the murder or voluntary manslaughter of another child of the parent.
- g. The parent has been convicted of a felony assault which resulted in serious bodily injury of the child or of another child of the parent.

Sec. 18. Section 232.104, subsection 1, Code 1997, is amended to read as follows:

1. a. ~~If a child has been placed in foster care for a period of twelve months, or if the prior legal custodian of a child has abandoned efforts to regain custody of the child, the court shall, on its own motion, or upon application by any interested party, including the child's foster parent if the child has been placed with the foster parent for at least twelve months, hold a hearing to consider the issue of the~~

~~establishment of permanency for the child.~~ The time for the initial permanency hearing for a child subject to out-of-home placement shall be the earlier of the following:

(1) For a temporary removal order entered under section 232.78, 232.95, or 232.96, for a child who was removed without a court order under section 232.79, or for an order entered under section 232.102, for which the court has not waived reasonable efforts requirements, the permanency hearing shall be held within twelve months of the date the child was removed from the home.

(2) For an order entered under section 232.102, for which the court has waived reasonable efforts requirements under section 232.102, subsection 11, the permanency hearing shall be held within thirty days of the date the requirements were waived.

b. ~~Such a~~ The permanency hearing may be held concurrently with a hearing under section 232.103 to review, modify, substitute, vacate, or terminate a dispositional order.

c. Reasonable notice of a permanency hearing in a case of juvenile delinquency shall be provided pursuant to section 232.37. A permanency hearing shall be conducted in substantial conformance with the provisions of section 232.99. During the hearing the court shall consider the child's need for a secure and permanent placement in light of any permanency plan or evidence submitted to the court. Upon completion of the hearing the court shall enter written findings and make a determination based upon the permanency plan which will best serve the child's individual interests at that time.

Sec. 19. Section 232.104, subsection 6, Code 1997, is amended to read as follows:

6. Following an initial permanency hearing and the entry of a permanency order which places a child in the custody or guardianship of another person or agency, the court shall retain jurisdiction and annually review the order to ascertain

whether the best interest of the child is being served. When such the order places the child in the custody of the department for the purpose of long-term foster care placement in a facility, the review shall be in a hearing that shall not be waived or continued beyond twelve months after the initial permanency hearing or the last permanency review hearing. Any modification shall be accomplished through a hearing procedure following reasonable notice. During the hearing, all relevant and material evidence shall be admitted and procedural due process shall be provided to all parties.

Sec. 20. Section 232.111, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. a. Unless any of the circumstances described in paragraph "b" exist, the county attorney shall file a petition for termination of the parent-child relationship and parental rights with respect to a child or if a petition has been filed, join in the petition, under any of the following circumstances:

(1) The child has been placed in foster care for fifteen months or more of the most recent twenty-two-month period.

(2) A court has determined aggravated circumstances exist and has waived the requirement for making reasonable efforts under section 232.102 because the court has found the circumstances described in section 232.116, subsection 1, paragraph "h", are applicable to the child.

(3) The child is less than twelve months of age and has been judicially determined to meet the definition of abandonment of a child.

(4) The parent has been convicted of the murder or the voluntary manslaughter of another child of the parent.

(5) The parent has been convicted of aiding or abetting, attempting, conspiring in, or soliciting the commission of the murder or voluntary manslaughter of another child of the parent.

(6) The parent has been convicted of a felony assault which resulted in serious bodily injury of the child or of another child of the parent.

b. If any of the following conditions exist, the county attorney is not required to file a petition or join in an existing petition as provided in paragraph "a":

(1) At the option of the department or by order of the court, the child is being cared for by a relative.

(2) The department or a state agency has documented in the child's case permanency plan provided or available to the court a compelling reason for determining that filing the petition would not be in the best interest of the child. A compelling reason shall include but is not limited to documentation in the child's case permanency plan indicating it is reasonably likely the completion of the services being received in accordance with the permanency plan will eliminate the need for removal of the child or make it possible for the child to safely return to the family's home within six months.

(3) The department has not provided the child's family, consistent with the time frames outlined in the child's case permanency plan, with those services the state deems necessary for the safe return of the child to the child's home, and the limited extension of time necessary to complete the services is clearly documented in the case permanency plan.

Sec. 21. Section 232.111, subsection 3, Code 1997, is amended by adding the following new paragraph after paragraph d and renumbering the subsequent paragraph:

NEW PARAGRAPH. e. A complete list of the services which have been offered to preserve the family and a statement specifying the services provided to address the reasons stated in any order for removal or in any dispositional or permanency order which did not return the child to the child's home.

Sec. 22. Section 232.112, subsection 1, Code 1997, is amended to read as follows:

1. Persons listed in section 232.111, subsection 3, shall be necessary parties to a termination of parent-child relationship proceeding and are entitled to receive notice and an opportunity to be heard, except that notice may be dispensed with in the case of any such person whose name or whereabouts the court determines is unknown and cannot be ascertained by reasonably diligent search. In addition to the persons who are necessary parties who may be parties under section 232.111, notice for any hearing under this division shall be provided to the child's foster parent, an individual providing preadoptive care for the child, or a relative providing care for the child.

Sec. 23. Section 232.116, subsection 2, unnumbered paragraph 1, Code 1997, is amended to read as follows:

In considering whether to terminate the rights of a parent under this section, the court shall give primary consideration to the child's safety, to the best placement for furthering the long-term nurturing and growth of the child, and to the physical, mental, and emotional condition and needs of the child. Such This consideration may include any of the following:

Sec. 24. Section 232.117, subsection 3, paragraph c, Code 1997, is amended to read as follows:

c. A parent who does not have physical care of the child, other relative, or other suitable person.

Sec. 25. Section 232.117, subsection 4, Code 1997, is amended to read as follows:

4. If after a hearing the court does not order the termination of parental rights but finds that there is clear and convincing evidence that the child is a child in need of assistance, under section 232.2, subsection 6, due to the acts or omissions of one or both of the child's parents the court may adjudicate the child to be a child in need of assistance and may enter an order in accordance with the provisions of sections section 232.100, 232.101, or 232.102, or 232.104.

Sec. 26. Section 232.119, subsection 4, Code 1997, is amended to read as follows:

4. The exchange shall include a matching service for children registered or listed in the adoption photo-listing book and prospective adoptive families listed on the exchange. The department shall register a child with the national electronic exchange and electronic photolisting system if the child has not been placed for adoption after three months on the exchange established pursuant to this section.

Sec. 27. NEW SECTION. 232.120 PREADOPTIVE CARE -- CONTINUED PLACEMENT.

If a foster parent is providing preadoptive care to a child for whom a termination of parental rights petition has been filed, the placement of the child with that foster parent shall continue through the termination of parental rights proceeding unless the court orders otherwise based upon the best interests of the child.

Sec. 28. Section 232.189, unnumbered paragraph 1, Code 1997, is amended to read as follows:

Based upon a model reasonable efforts family court initiative, the director of human services and the chief justice of the supreme court or their designees shall jointly establish and implement a statewide protocol for reasonable efforts ~~to prevent or eliminate the need for placement of a child outside the child's home, as defined in section 232.102.~~ In addition, the director and the chief justice shall design and implement a system for judicial and departmental reasonable efforts education for deployment throughout the state. The system for reasonable efforts education shall be developed in a manner which addresses the particular needs of rural areas and shall include but is not limited to all of the following topics:

Sec. 29. Section 237.8, subsection 2, paragraphs a and b, Code 1997, are amended to read as follows:

a. (1) If a person is being considered for licensure under this chapter, or for employment involving direct responsibility for a child or with access to a child when the child is alone, by a licensee under this chapter, or if a person will reside in a facility utilized by a licensee, and if the person has been convicted of a crime or has a record of founded child abuse, the department and the licensee for an employee of the licensee shall perform an evaluation to determine whether the crime or founded child abuse warrants prohibition of licensure, employment, or residence in the facility. The department shall conduct criminal and child abuse record checks in this state and may conduct these checks in other states. The evaluation shall be performed in accordance with procedures adopted for this purpose by the department.

(2) An individual applying to be a foster parent licensee shall not be granted a license and an evaluation shall not be performed under this subsection if the individual has been convicted of any of the following felony offenses:

(a) Within the five-year period preceding the application date, a drug-related offense.

(b) Child endangerment or neglect or abandonment of a dependent person.

(c) Domestic abuse.

(d) A crime against a child, including but not limited to sexual exploitation of a minor.

(e) A forcible felony.

b. If Except as otherwise provided in paragraph "a", if the department determines that a person has committed a crime or has a record of founded child abuse and is licensed, employed by a licensee, or resides in a licensed facility the department shall notify the licensee that an evaluation will be conducted to determine whether prohibition of the person's licensure, employment, or residence is warranted.

Sec. 30. Section 600.8, subsection 2, paragraph b, Code 1997, is amended to read as follows:

b. (1) The person making the investigation shall not approve a prospective adoption petitioner pursuant to subsection 1, paragraph "a", subparagraph (3), and an evaluation shall not be performed under subparagraph (2), if the petitioner has been convicted of any of the following felony offenses:

(a) Within the five-year period preceding the petition date, a drug-related offense.

(b) Child endangerment or neglect or abandonment of a dependent person.

(c) Domestic abuse.

(d) A crime against a child, including but not limited to sexual exploitation of a minor.

(e) A forcible felony.

(2) The person making the investigation shall not approve a prospective adoption petitioner pursuant to subsection 1, paragraph "a", subparagraph (3), unless an evaluation has been made which considers the nature and seriousness of the crime or founded abuse in relation to the adoption, 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, and the number of crimes or founded abuse committed by the person involved.

Sec. 31. Section 600.12A, if enacted by the 1998 Iowa Acts, Senate File 2338, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. If the person to be adopted dies following termination of the parental rights of the person's biological parents but prior to the filing of an adoption petition, the person who was the guardian or custodian of the person to be adopted prior to the person's death or the person who was in a parent-child relationship with the person to be adopted prior to the person's death may file an adoption

petition and the court in the interest of justice may waive any other procedures or requirements related to the adoption, proceed to the adoption hearing, and issue a final adoption decree, unless any person to whom notice is to be provided pursuant to section 600.11 objects to the adoption.

Sec. 32. PRESERVATION OF REASONABLE PARENTING. Nothing in this Act is intended to disrupt the family unnecessarily or to intrude inappropriately into family life, to prohibit the use of reasonable methods of parental discipline, or to prescribe a particular method of parenting.

MARY E. KRAMER
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 2345, Seventy-seventh General Assembly.

MARY PAT GUNDERSON
Secretary of the Senate

Approved May 14, 1998

TERRY E. BRANSTAD
Governor