

Boddicker, Chair
Carroll
Foegen

HSB 662

HUMAN RESOURCES

HOUSE FILE SF/HF 237

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
HUMAN RESOURCES BILL
BY CHAIRPERSON BODDICKER)

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

A BILL FOR

1 An Act providing for access to certain child abuse information by
2 the governor and the general assembly, making penalties and
3 remedies applicable, and including an effective date and
4 applicability provision.

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

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1 Section 1. Section 235A.15, subsection 1, Code Supplement
2 1999, is amended to read as follows:

3 1. Notwithstanding chapter 22, the confidentiality of all
4 child abuse information shall be maintained, except as
5 specifically provided by ~~subsection-27-37-or-4~~ this section.

6 Sec. 2. Section 235A.15, Code Supplement 1999, is amended
7 by adding the following new subsection:

8 NEW SUBSECTION. 7. Upon the request of a person listed in
9 this subsection, child abuse information relating to a
10 specific case of child abuse involving serious injury to a
11 child or a fatality or near fatality to a child and reported
12 to the department shall be disclosed to that person by the
13 director of human services. The purpose of the disclosure is
14 to provide for oversight of the department and others involved
15 with the state's child protection system in order to improve
16 the system. The following persons are authorized to make a
17 request and receive child abuse information under this
18 section:

19 a. The governor or the governor's designee.

20 b. A member of the senate or employee of the general
21 assembly designated by the majority leader or minority leader
22 of the senate.

23 c. A member of the house of representatives or employee of
24 the general assembly designated by the speaker or minority
25 leader of the house of representatives.

26 Sec. 3. Section 235A.17, Code 1999, is amended by adding
27 the following new subsection:

28 NEW SUBSECTION. 3. An individual who is the subject of a
29 child abuse report, as identified in section 235A.15,
30 subsection 2, paragraph "a", may redisseminate to the governor
31 or the governor's designee or to a member of the general
32 assembly or an employee of the general assembly designated by
33 the member, child abuse information that was disseminated to
34 the individual by the department or other official source. A
35 person who receives confidential child abuse information

1 redisseminated under this subsection shall not further
2 disseminate, communicate, or attempt to communicate the
3 information to a person who is not authorized by law to have
4 access to the information.

5 Sec. 4. EFFECTIVE DATE -- RETROACTIVE APPLICABILITY. This
6 Act, being deemed of immediate importance, takes effect upon
7 enactment and is retroactively applicable to disclosures of
8 information on or after the date of enactment related to cases
9 of child abuse reported prior to the effective date of this
10 Act.

11 EXPLANATION

12 This bill provides for access to certain child abuse
13 information by the governor and the general assembly for
14 purposes of providing oversight of the department of human
15 services and others involved with the state's child protection
16 system in order to improve the system.

17 Code section 235A.15, relating to access to child abuse
18 information, is amended to provide that confidentiality of the
19 information shall be maintained except as provided in the Code
20 section. The bill adds to access authorizations in current
21 law to allow access by the governor or designee of the
22 governor or by a member or employee of the general assembly
23 designated by the senate majority or minority leader or
24 speaker or minority leader of the house of representatives to
25 child abuse information relating to a specific case of child
26 abuse involving serious injury to a child or a fatality or
27 near fatality of a child. "Child abuse information" is a
28 defined term under Code section 235A.13, meaning report,
29 assessment, and disposition data pertaining to a case of child
30 abuse.

31 The bill also amends Code section 235A.17, relating to
32 redissemination of child abuse information. The bill authorizes
33 a subject of a child abuse report to redisseminate child abuse
34 information received by the subject from the department or
35 other official source, to the governor or governor's designee

1 or to a member of the general assembly or an employee of the
2 general assembly designated by a member. Subjects of a child
3 abuse report include the child named in a report or the
4 child's attorney or guardian ad litem; the parent of the child
5 or the parent's attorney; the person who is the child's
6 guardian or legal custodian or that person's attorney; and the
7 person named in a report as having abused a child or the
8 person's attorney. A person who receives confidential child
9 abuse information redisseminated under this subsection is
10 prohibited from further disseminating, communicating, or
11 attempting to communicate the information to a person who is
12 not authorized by law to have access to the information.

13 Under Code chapter 235A, knowing redissemination of child
14 abuse information in violation of the chapter is subject to
15 criminal misdemeanor penalties and civil remedies.

16 The bill takes effect upon enactment and is retroactively
17 applicable to disclosure of information involving cases
18 reported before the bill's effective date.

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FEB 22 2000

Place On Calendar

HOUSE FILE

2377

BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO HSB 662)

Passed House, ^(P.529) Date 3/2/00

Passed Senate, ^(P.952) Date 3/30/00

Vote: Ayes 98 Nays 0

Vote: Ayes 46 Nays 0

Approved 4-21-00

A BILL FOR

1 An Act providing for access to certain child abuse information by
2 the governor and the general assembly, making penalties and
3 remedies applicable, and including an effective date and
4 applicability provision.

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

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HF 2377

1 Section 1. Section 235A.13, Code Supplement 1999, is
2 amended by adding the following new subsection:

3 NEW SUBSECTION. 8A. "Near fatality" means a bodily injury
4 which involves substantial risk of death, protracted and
5 obvious disfigurement, or protracted loss or impairment of the
6 function of a bodily member, organ, or mental faculty.

7 Sec. 2. Section 235A.15, subsection 1, Code Supplement
8 1999, is amended to read as follows:

9 1. Notwithstanding chapter 22, the confidentiality of all
10 child abuse information shall be maintained, except as
11 specifically provided by ~~subsection-27-37-or-4~~ this section.

12 Sec. 3. Section 235A.15, subsection 2, paragraph b,
13 subparagraph (5), Code Supplement 1999, is amended to read as
14 follows:

15 (5) In an individual case, to the each mandatory reporter
16 who reported the child abuse.

17 Sec. 4. Section 235A.15, Code Supplement 1999, is amended
18 by adding the following new subsection:

19 NEW SUBSECTION. 7. Upon the request of a person listed in
20 this subsection, child abuse information relating to a
21 specific case of child abuse involving a fatality or near
22 fatality to a child and reported to the department shall be
23 disclosed to that person by the director of human services.
24 The purpose of the disclosure is to provide for oversight of
25 the department and others involved with the state's child
26 protection system in order to improve the system. An
27 authorized requester who is a member or designated employee of
28 the general assembly or who is the governor's designee must
29 successfully complete a course on child abuse and
30 confidentiality requirements developed by the department prior
31 to receiving the child abuse information. After completing a
32 review of the child abuse information received, an authorized
33 requester may issue a report to the governor regarding the
34 specific case of child abuse. The following persons are
35 authorized to make a request and receive child abuse

1 information under this section:

2 a. The governor or the governor's designee.

3 b. A member of the senate or employee of the general
4 assembly designated by the majority leader or minority leader
5 of the senate.

6 c. A member of the house of representatives or employee of
7 the general assembly designated by the speaker or minority
8 leader of the house of representatives.

9 Sec. 5. Section 235A.17, Code 1999, is amended by adding
10 the following new subsection:

11 NEW SUBSECTION. 3. An individual who is the subject of a
12 child abuse report, as identified in section 235A.15,
13 subsection 2, paragraph "a", may redisseminate to the governor
14 or the governor's designee or to a member of the general
15 assembly or an employee of the general assembly designated by
16 the member, child abuse information that was disseminated to
17 the individual by the department or other official source.
18 Prior to receiving information from an individual under this
19 subsection, a person who is a member or designated employee of
20 the general assembly or who is the governor's designee must
21 successfully complete a course on child abuse and
22 confidentiality requirements developed by the department. A
23 person who receives confidential child abuse information
24 redisseminated under this subsection shall not further
25 disseminate, communicate, or attempt to communicate the
26 information to a person who is not authorized by this section
27 or other provision of law to have access to the information.

28 Sec. 6. EFFECTIVE DATE -- RETROACTIVE APPLICABILITY. This
29 Act, being deemed of immediate importance, takes effect upon
30 enactment and is retroactively applicable to disclosures of
31 information on or after the date of enactment related to cases
32 of child abuse reported during the ten-year period prior to
33 the effective date of this Act.

34 EXPLANATION

35 This bill provides for access to certain child abuse

1 information by the governor and the general assembly for
2 purposes of providing oversight of the department of human
3 services and others involved with the state's child protection
4 system in order to improve the system.

5 Code section 235A.13, relating to definitions for the child
6 abuse registry chapter, is amended to add a definition of
7 "near fatality".

8 Code section 235A.15, relating to access to child abuse
9 information, is amended to provide that confidentiality of the
10 information shall be maintained except as provided in the Code
11 section. The bill adds to access authorizations in current
12 law to allow access by the governor or designee of the
13 governor or by a member or employee of the general assembly
14 designated by the senate majority or minority leader or
15 speaker or minority leader of the house of representatives to
16 child abuse information relating to a specific case of child
17 abuse involving a fatality or near fatality of a child. Prior
18 to receiving the information, authorized recipients other than
19 the governor must complete a course on confidentiality and
20 child abuse requirements developed by the department of human
21 services. "Child abuse information" is a defined term under
22 Code section 235A.13, meaning report, assessment, and
23 disposition data pertaining to a case of child abuse.

24 The bill also amends Code section 235A.15 to require the
25 department of human services to make available a written child
26 abuse assessment to each mandatory reporter who reported the
27 abuse.

28 The bill also amends Code section 235A.17, relating to
29 redissemination of child abuse information. The bill authorizes
30 a subject of a child abuse report to redisseminate child abuse
31 information received by the subject from the department or
32 other official source, to the governor or governor's designee
33 or to a member of the general assembly or an employee of the
34 general assembly designated by a member. Prior to receiving
35 the information, authorized recipients other than the governor

1 must complete a course on confidentiality and child abuse
2 requirements developed by the department of human services.
3 Subjects of a child abuse report include the child named in a
4 report or the child's attorney or guardian ad litem; the
5 parent of the child or the parent's attorney; the person who
6 is the child's guardian or legal custodian or that person's
7 attorney; and the person named in a report as having abused a
8 child or the person's attorney. A person who receives
9 confidential child abuse information redisseminated under this
10 subsection is prohibited from further disseminating,
11 communicating, or attempting to communicate the information to
12 a person who is not authorized by law to have access to the
13 information.

14 Under Code chapter 235A, knowing redissemination of child
15 abuse information in violation of the chapter is subject to
16 criminal misdemeanor penalties and civil remedies.

17 The bill takes effect upon enactment and is retroactively
18 applicable to disclosure of information involving cases
19 reported in the 10-year period preceding the bill's effective
20 date.

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HOUSE FILE 2377

H-8065

1 Amend House File 2377 as follows:

2 1. Page 2, by striking lines 3 through 8 and
3 inserting the following:

4 "b. The chairperson or ranking member of the
5 standing committee on human resources of the senate or
6 of the house of representatives or an employee of the
7 general assembly designated by such a chairperson or
8 ranking member.

9 c. A cochairperson or ranking member of the
10 general assembly's joint appropriations subcommittee
11 on human services or an employee of the general
12 assembly designated by such a cochairperson or ranking
13 member."

By BRUNKHORST of Bremer

H-8065 FILED FEBRUARY 28, 2000

0/0 3/2/00 (p. 528)

HOUSE FILE 2377

H-8068

1 Amend House File 2377 as follows:

2 1. Page 1, line 31, by inserting after the word
3 "information." the following: "The course completion
4 requirement is not applicable to an individual who has
5 comparable training or experience as a mandatory
6 reporter of child abuse, officer of the juvenile
7 court, or other professional position."

By KREIMAN of Davis

H-8068 FILED FEBRUARY 28, 2000

*W/D
3/3/00 (p. 528)*

HOUSE FILE 2377

H-8071

1 Amend House File 2377 as follows:

2 1. Page 1, line 6, by inserting after the word
3 "faculty" the following: "and includes a serious
4 bodily injury as described in section 702.18".

By KREIMAN of Davis

H-8071 FILED FEBRUARY 28, 2000

Adapted 5/2/00 (p. 528)

HOUSE FILE 2377

H-8089

- 1 Amend House File 2377 as follows:
- 2 1. Page 1, line 31, by inserting after the word
- 3 "information." the following: "The course completion
- 4 requirement is not applicable to an individual who has
- 5 comparable training or experience as a mandatory
- 6 reporter of child abuse or officer of the juvenile
- 7 court."

By KREIMAN of Davis

H-8089 FILED FEBRUARY 29, 2000

w/d
3/2/00 (p. 528)

HOUSE FILE 2377

H-8090

- 1 Amend House File 2377 as follows:
- 2 1. Page 1, line 26, by inserting after the word
- 3 "system." the following: "The disclosure shall only
- 4 include identifying information that is necessary to
- 5 fulfill the purpose of the disclosure."

By KREIMAN of Davis

H-8090 FILED FEBRUARY 29, 2000

w/d
3/2/00 (p. 528)

HOUSE FILE 2377

H-8106

- 1 Amend House File 2377 as follows:
- 2 1. Page 1, line 31, by inserting after the word
- 3 "information." the following: "The course completion
- 4 requirement is not applicable to an individual who has
- 5 comparable training or experience as a mandatory
- 6 reporter of child abuse or officer of the juvenile
- 7 court."
- 8 2. Page 2, line 22, by inserting after the word
- 9 "department." the following: "The course completion
- 10 requirement is not applicable to an individual who has
- 11 comparable training or experience as a mandatory
- 12 reporter of child abuse or officer of the juvenile
- 13 court."

By KREIMAN of Davis

H-8106 FILED FEBRUARY 29, 2000

w/d *3/2/00 p. 528*

HOUSE FILE 2377

H-8080

- 1 Amend House File 2377 as follows:
2 1. By striking page 1, line 17, through page 2,
3 line 8 and inserting the following:
4 "Sec. ____ Section 235A.15, Code Supplement 1999,
5 is amended by adding the following new subsections:
6 NEW SUBSECTION. 7. Upon the request of the
7 governor, the department shall disclose child abuse
8 information to the governor relating to a specific
9 case of child abuse reported to the department.
10 NEW SUBSECTION. 8. If the department receives a
11 request for child abuse information relating to a case
12 of a fatality or near fatality to a child, within five
13 business days of receiving the request the director of
14 human services or the director's designee shall
15 consult with the county attorney responsible for
16 prosecution of any alleged perpetrator of the fatality
17 or near fatality and shall disclose child abuse
18 information relating to the case and the child in
19 accordance with this subsection. The director or the
20 director's designee shall release all child abuse
21 information associated with the case and the child,
22 except for the following:
23 a. The substance or content of any mental health
24 or psychological information that is confidential
25 under chapter 228.
26 b. Information pertaining to the child or the
27 child's family that is not directly related to the
28 cause of the fatality or near fatality.
29 c. Information that would reveal the identity of
30 any individual who provided information relating to a
31 report of child abuse or an assessment of such a
32 report involving the child.
33 d. Information that the director or the director's
34 designee reasonably believes is likely to cause mental
35 or physical harm to a sibling of the child or to
36 another child residing in the child's household.
37 e. Information that the director or the director's
38 designee reasonably believes is likely to jeopardize
39 the prosecution of any alleged perpetrator of the
40 fatality or near fatality.
41 f. Information that the director or the director's
42 designee reasonably believes is likely to jeopardize
43 the rights of any alleged perpetrator of the fatality
44 or near fatality to a fair trial.
45 g. Information that the director or the director's
46 designee reasonably believes is likely to undermine an
47 ongoing or future criminal investigation.
48 h. Information that is not authorized to be
49 released under federal law or regulation."
50 2. By renumbering as necessary.

By MURPHY of Dubuque

H-8080 FILED FEBRUARY 29, 2000

W/D 3/2/00
(P. 528)

HOUSE FILE 2377

H-8112

1 Amend House File 2377 as follows:

2 1. Page 1, by striking lines 27 through 31 and
3 inserting the following: "authorized requestor
4 designated by a legislative leader or the governor
5 must be a mandatory reporter of child abuse listed in
6 section 232.69, subsection 1. After completing a".

7 2. Page 2, by striking lines 18 through 22 and
8 inserting the following: "In order to receive
9 information under this section, a person other than
10 the governor must be a mandatory reporter of child
11 abuse listed in section 232.69, subsection 1. The
12 secretary of the senate and chief clerk of the house
13 shall maintain a listing of members and employees of
14 the general assembly who are mandatory reporters. A".

By FORD of Polk

H-8112 FILED FEBRUARY 29, 2000

w/p₂
3/2/00
(p. 528)

HOUSE FILE 2377

H-8114

1 Amend House File 2377 as follows:

2 1. Page 1, by striking lines 17 and 18, and
3 inserting the following:

4 "Sec. ____ . Section 235A.15, Code Supplement 1999,
5 is amended by adding the following new subsections:".

6 2. Page 2, by inserting after line 8 the
7 following:

8 "NEW SUBSECTION. 8. If the department receives a
9 request for child abuse information relating to a case
10 of a fatality or near fatality to a child, within five
11 business days of receiving the request the director of
12 human services or the director's designee shall
13 consult with the county attorney responsible for
14 prosecution of any alleged perpetrator of the fatality
15 or near fatality and shall disclose child abuse
16 information relating to the case and the child in
17 accordance with this subsection. The director or the
18 director's designee shall release all child abuse
19 information associated with the case and the child,
20 except for the following:

21 a. The substance or content of any mental health
22 or psychological information that is confidential
23 under chapter 228.

24 b. Information pertaining to the child or the
25 child's family that is not directly related to the
26 cause of the fatality or near fatality.

27 c. Information that would reveal the identity of
28 any individual who provided information relating to a
29 report of child abuse or an assessment of such a
30 report involving the child.

31 d. Information that the director or the director's
32 designee reasonably believes is likely to cause mental
33 or physical harm to a sibling of the child or to
34 another child residing in the child's household.

35 e. Information that the director or the director's
36 designee reasonably believes is likely to jeopardize
37 the prosecution of any alleged perpetrator of the
38 fatality or near fatality.

39 f. Information that the director or the director's
40 designee reasonably believes is likely to jeopardize
41 the rights of any alleged perpetrator of the fatality
42 or near fatality to a fair trial.

43 g. Information that the director or the director's
44 designee reasonably believes is likely to undermine an
45 ongoing or future criminal investigation.

46 h. Information that is not authorized to be
47 released under federal law or regulation."

48 3. By renumbering as necessary.

By STEVENS of Dickinson

H-8114 FILED FEBRUARY 29, 2000

W/19 3/3/00 (p. 528)

HOUSE FILE 2377

H-8118

1 Amend House File 2377 as follows:

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

4 "Section 1. Section 135.43, subsection 3,
5 paragraph e, Code 1999, is amended by striking the
6 paragraph.

7 Sec. _____. Section 135.43, Code 1999, is amended by
8 adding the following new subsection:

9 NEW SUBSECTION. 3A. The review team shall develop
10 protocols for a committee to be appointed by the
11 director on an ad hoc basis to immediately review the
12 child abuse assessments which involve the death of a
13 child under age eighteen. The director shall appoint
14 a medical examiner, a pediatrician, and a person
15 involved with law enforcement to the committee.

16 a. The purpose of the review shall be to determine
17 whether the department of human services and others
18 involved with the case of child abuse responded
19 appropriately. The protocols shall provide for the
20 committee to consult with any multidisciplinary team,
21 as defined in section 235A.13, that is operating in
22 the area in which the death occurred.

23 b. The committee shall have access to patient
24 records and other pertinent confidential information
25 and subject to the restrictions in this subsection may
26 disseminate the confidential information in the
27 committee's report.

28 c. Upon completion of the review, the committee
29 shall issue a report which shall include findings
30 concerning the case and recommendations for changes to
31 prevent child deaths when similar circumstances exist.
32 The report shall include but is not limited to the
33 following information, subject to the restrictions
34 listed in paragraph "d":

35 (1) The dates, outcomes, and results of any
36 actions taken by the department of human services and
37 others in regard to the report of child abuse.

38 (2) The results of any review of the case
39 performed by a multidisciplinary team, or by any other
40 public entity that reviewed the case.

41 (3) Confirmation of the department of human
42 services' receipt of any report of child abuse
43 involving the child, including confirmation as to
44 whether or not any assessment involving the child was
45 performed in accordance with section 232.71B, the
46 results of any assessment, a description of the most
47 recent assessment and the services offered to the
48 family, the services rendered to the family, and the
49 basis for the department's decisions concerning the
50 case.

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1 d. Prior to issuing the report, the committee
2 shall consult with the county attorney responsible for
3 prosecution of the alleged perpetrator of the child
4 death. The committee's report shall include child
5 abuse information associated with the case and the
6 child, except for the following:

7 (1) The substance or content of any mental health
8 or psychological information that is confidential
9 under chapter 228.

10 (2) Information pertaining to the child or the
11 child's family that is not directly related to the
12 cause of the fatality or near fatality.

13 (3) Information that would reveal the identity of
14 any individual who provided information relating to a
15 report of child abuse or an assessment of such a
16 report involving the child.

17 (4) Information that the committee reasonably
18 believes is likely to cause mental or physical harm to
19 a sibling of the child or to another child residing in
20 the child's household.

21 (5) Information that the committee reasonably
22 believes is likely to jeopardize the prosecution of
23 any alleged perpetrator of the fatality or near
24 fatality.

25 (6) Information that the committee reasonably
26 believes is likely to jeopardize the rights of any
27 alleged perpetrator of the fatality or near fatality
28 to a fair trial.

29 (7) Information that the committee reasonably
30 believes is likely to undermine an ongoing or future
31 criminal investigation.

32 (8) Information that is not authorized to be
33 released under federal law or regulation.

34 e. Following the completion of the trial of any
35 alleged perpetrator of the child death, the committee
36 shall issue a supplemental report containing the
37 information that was withheld, in accordance with
38 paragraph "d", so as not to jeopardize the prosecution
39 or the rights of the alleged perpetrator to a fair
40 trial.

41 f. The report shall be submitted to the governor
42 and general assembly.

43 Sec. ____ . Section 135.43, subsection 6, paragraph
44 b, Code 1999, is amended to read as follows:

45 b. A person in possession or control of medical,
46 investigative, assessment, or other information
47 pertaining to a child death and child abuse review
48 shall allow the inspection and reproduction of the
49 information by the department upon the request of the
50 department, to be used only in the administration and

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Page 3

1 for the duties of the Iowa child death review team.
2 information Except as provided for a report on a child
3 death by a committee of the team under subsection 3A
4 and records which are confidential under section 22.7
5 and chapter 235A, and information or records received
6 from the confidential records, remain confidential
7 under this section. A person does not incur legal
8 liability by reason of releasing information to the
9 department as required under and in compliance with
10 this section."

11 2. Page 1, by striking lines 17 and 18 and
12 inserting the following:

13 "Sec. ____ . Section 235A.15, Code Supplement 1999,
14 is amended by adding the following new subsections:"

15 3. Page 2, by striking lines 1 through 8 and
16 inserting the following: "information under this
17 section relating to a specific case of child abuse
18 involving a fatality or near fatality to a child:

19 a. The governor or the governor's designee.

20 b. The member of the senate or employee of the
21 general assembly designated by the majority leader or
22 minority leader of the senate.

23 c. The member of the house of representatives or
24 employee of the general assembly designated by the
25 speaker or minority leader of the house of
26 representatives.

27 NEW SUBSECTION. 8. Upon the request of the
28 governor, the department shall disclose child abuse
29 information to the governor relating to a specific
30 case of child abuse reported to the department."

31 4. Page 2, by inserting after line 27 the
32 following:

33 "Sec. ____ . Section 235A.18, subsection 2, Code
34 Supplement 1999, is amended to read as follows:

35 2. The juvenile or district court and county
36 attorney shall expunge child abuse information upon
37 notice from the registry. The supreme court shall
38 prescribe rules establishing the period of time child
39 abuse information is retained by the juvenile and
40 district courts. A county attorney shall not retain
41 child abuse information in excess of the time period
42 the information would be retained under the rules
43 prescribed by the supreme court. Child abuse
44 information relating to a particular case of child
45 abuse placed in the central registry that a juvenile
46 or district court determines is unfounded in a written
47 finding based upon a preponderance of evidence shall
48 be expunged from the central registry."

49 5. By renumbering as necessary.

By BODDICKER of Cedar
FOEGE of Linn

H-8118 FILED MARCH 1, 2000

W/D
3/03/00
(P. 522)

HOUSE FILE 2377

H-8151

1 Amend House File 2377 as follows:

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

4 "Section 1. Section 135.43, subsection 3,
5 paragraph e, Code 1999, is amended by striking the
6 paragraph.

7 Sec. _____. Section 135.43, Code 1999, is amended by
8 adding the following new subsection:

9 NEW SUBSECTION. 3A. The review team shall develop
10 protocols for a committee to be appointed by the
11 director on an ad hoc basis to immediately review the
12 child abuse assessments which involve the death of a
13 child under age eighteen. The director shall appoint
14 a medical examiner, a pediatrician, and a person
15 involved with law enforcement to the committee.

16 a. The purpose of the review shall be to determine
17 whether the department of human services and others
18 involved with the case of child abuse responded
19 appropriately. The protocols shall provide for the
20 committee to consult with any multidisciplinary team,
21 as defined in section 235A.13, that is operating in
22 the area in which the death occurred.

23 b. The committee shall have access to patient
24 records and other pertinent confidential information
25 and subject to the restrictions in this subsection may
26 redisseminate the confidential information in the
27 committee's report.

28 c. Upon completion of the review, the committee
29 shall issue a report which shall include findings
30 concerning the case and recommendations for changes to
31 prevent child deaths when similar circumstances exist.
32 The report shall include but is not limited to the
33 following information, subject to the restrictions
34 listed in paragraph "d":

35 (1) The dates, outcomes, and results of any
36 actions taken by the department of human services and
37 others in regard to the report of child abuse.

38 (2) The results of any review of the case
39 performed by a multidisciplinary team, or by any other
40 public entity that reviewed the case.

41 (3) Confirmation of the department of human
42 services' receipt of any report of child abuse
43 involving the child, including confirmation as to
44 whether or not any assessment involving the child was
45 performed in accordance with section 232.71B, the
46 results of any assessment, a description of the most
47 recent assessment and the services offered to the
48 family, the services rendered to the family, and the
49 basis for the department's decisions concerning the
50 case.

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1 d. Prior to issuing the report, the committee
2 shall consult with the county attorney responsible for
3 prosecution of the alleged perpetrator of the child
4 death. The committee's report shall include child
5 abuse information associated with the case and the
6 child, but is subject to the restrictions applicable
7 to the department of human services for release of
8 information concerning a child fatality or near
9 fatality in accordance with section 235A.15,
10 subsection 9.

11 e. Following the completion of the trial of any
12 alleged perpetrator of the child death, the committee
13 shall issue a supplemental report containing the
14 information that was withheld, in accordance with
15 paragraph "d", so as not to jeopardize the prosecution
16 or the rights of the alleged perpetrator to a fair
17 trial as described in section 235A.15, subsection 9,
18 paragraphs "f" and "g".

19 f. The report shall be submitted to the governor
20 and general assembly.

21 Sec. _____. Section 135.43, subsection 6, paragraph
22 b, Code 1999, is amended to read as follows:

23 b. A person in possession or control of medical,
24 investigative, assessment, or other information
25 pertaining to a child death and child abuse review
26 shall allow the inspection and reproduction of the
27 information by the department upon the request of the
28 department, to be used only in the administration and
29 for the duties of the Iowa child death review team.
30 Information Except as provided for a report on a child
31 death by a committee of the team under subsection 3A
32 and records which are confidential under section 22.7
33 and chapter 235A, and information or records received
34 from the confidential records, remain confidential
35 under this section. A person does not incur legal
36 liability by reason of releasing information to the
37 department as required under and in compliance with
38 this section."

39 2. Page 1, by striking lines 17 and 18 and
40 inserting the following:

41 "Sec. _____. Section 235A.15, Code Supplement 1999,
42 is amended by adding the following new subsections:"

43 3. Page 1, line 31, by inserting after the word
44 "information." the following: "The course completion
45 requirement is not applicable to an individual who has
46 comparable training or experience as a mandatory
47 reporter of child abuse or officer of the juvenile
48 court."

49 4. Page 2, by striking lines 1 through 8 and
50 inserting the following: "information under this

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Page 3

1 section relating to a specific case of child abuse
2 involving a fatality or near fatality to a child:
3 a. The governor or the governor's designee.
4 b. The member of the senate or employee of the
5 general assembly designated by the majority leader or
6 minority leader of the senate.
7 c. The member of the house of representatives or
8 employee of the general assembly designated by the
9 speaker or minority leader of the house of
10 representatives.

11 NEW SUBSECTION. 8. Upon the request of the
12 governor, the department shall disclose child abuse
13 information to the governor relating to a specific
14 case of child abuse reported to the department.

15 NEW SUBSECTION. 9. If the department receives a
16 request for child abuse information relating to a case
17 of a fatality or near fatality to a child, within five
18 business days of receiving the request the director of
19 human services or the director's designee shall
20 consult with the county attorney responsible for
21 prosecution of any alleged perpetrator of the fatality
22 or near fatality and shall disclose child abuse
23 information relating to the case and the child in
24 accordance with this subsection. The director or the
25 director's designee shall release all child abuse
26 information associated with the case and the child,
27 except for the following:

28 a. The substance or content of any mental health
29 or psychological information that is confidential
30 under chapter 228.

31 b. Information that constitutes the substance or
32 contains the content of an attorney work product or is
33 a privileged communication under section 622.10.

34 c. Information pertaining to the child, the
35 child's family, or any other person that is not
36 directly related to the cause of the fatality or near
37 fatality.

38 d. Information that would reveal the identity of
39 any individual who provided information relating to a
40 report of child abuse or an assessment of such a
41 report involving the child.

42 e. Information that the director or the director's
43 designee reasonably believes is likely to cause mental
44 or physical harm to a sibling of the child or to
45 another child residing in the child's household.

46 f. Information that the director or the director's
47 designee reasonably believes is likely to jeopardize
48 the prosecution of any alleged perpetrator of the
49 fatality or near fatality.

50 g. Information that the director or the director's

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1 designee reasonably believes is likely to jeopardize
2 the rights of any alleged perpetrator of the fatality
3 or near fatality to a fair trial.

4 h. Information that the director or the director's
5 designee reasonably believes is likely to undermine an
6 ongoing or future criminal investigation.

7 i. Information that is not authorized to be
8 released under federal law or regulation."

9 5. Page 2, by striking lines 11 through 13 and
10 inserting the following:

11 "NEW SUBSECTION. 3. For the purposes of this
12 subsection, "subject of a child abuse report" means
13 any individual listed in section 235A.15, subsection
14 2, paragraph "a", other than the attorney or guardian
15 ad litem of such individual. An individual who is the
16 subject of a child abuse report may disseminate to
17 the governor".

18 6. Page 2, line 22, by inserting after the word
19 "department." the following: "The course completion
20 requirement is not applicable to an individual who has
21 comparable training or experience as a mandatory
22 reporter of child abuse or officer of the juvenile
23 court."

24 7. Page 2, by inserting after line 27 the
25 following:

26 "Sec. ____ . Section 235A.18, subsection 2, Code
27 Supplement 1999, is amended to read as follows:

28 2. The juvenile or district court and county
29 attorney shall expunge child abuse information upon
30 notice from the registry. The supreme court shall
31 prescribe rules establishing the period of time child
32 abuse information is retained by the juvenile and
33 district courts. A county attorney shall not retain
34 child abuse information in excess of the time period
35 the information would be retained under the rules
36 prescribed by the supreme court. Child abuse
37 information relating to a particular case of child
38 abuse placed in the central registry that a juvenile
39 or district court determines is unfounded in a written
40 finding based upon a preponderance of evidence shall
41 be expunged from the central registry."

42 8. Page 2, by inserting before line 28 the
43 following:

44 "Sec. ____ . NEW SECTION. 235A.25 ORDER FOR
45 DISCLOSURE OF CHILD ABUSE INFORMATION.

46 A person whose request for child abuse information
47 under section 235A.15, subsection 9, is denied may
48 apply to the juvenile court for an order compelling
49 disclosure of the information. The application shall
50 state in reasonable detail the factors in support of

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1 the application. The juvenile court shall have
 2 jurisdiction to issue the order. A hearing shall be
 3 set immediately upon filing of an application under
 4 this section and subsequent proceedings shall be
 5 accorded priority by other courts. After the court
 6 has reviewed the child abuse information relating to
 7 the case in camera, unless the court finds that a
 8 restriction listed in section 235A.15, subsection 9,
 9 is applicable, the court shall issue an order
 10 compelling disclosure of the child abuse information."

11 9. By renumbering as necessary.

Adopted 3/3/00 (p. 528) By CARROLL of Poweshiek
 FOEGE of Linn

H-8151 FILED MARCH 1, 2000

HOUSE FILE 2377

H-8157

1 Amend the amendment, H-8080, to House File 2377 as
2 follows:

3 1. Page 1, by striking lines 3 through 49 and
 4 inserting the following: "line 8."

By MURPHY of Dubuque

H-8157 FILED MARCH 2, 2000

*o/o 3/3/00
 (p. 529)*

HOUSE FILE 2377

H-8158

1 Amend the amendment, H-8151, to House File 2377 as
2 follows:

3 1. By striking page 2, line 43, through page 3,
 4 line 10, and inserting the following:

A

5 "_____. By striking page 1, line 19, through page
 6 2, line 8."

7 2. Page 4, by striking lines 9 through 24 and
 8 inserting the following:

B

9 "_____. Page 2, by striking lines 9 through 27.
 10 "_____. Page 2, by inserting before line 28 the."

By FORD of Polk

H-8158, FILED MARCH 2, 2000

*A. ~~adoption~~ 3/3/00 (p. 528)
 B. w/d 3/3/00 (p. 528)*

W/ 55154
S. 3/23/00 Unfinished Business
Calendar

HOUSE FILE 2377
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO HSB 662)

(As Amended and Passed by the House, March 2, 2000)

Passed House, Date (P. 1229) 4-5-00 Passed Senate, Date (P. 952) 3/30/00
Vote: Ayes 94 Nays 0 Vote: Ayes 46 Nays 0
Approved 4-21-00

A BILL FOR

1 An Act providing for access to certain child abuse information by
2 the governor and the general assembly, making penalties and
3 remedies applicable, and including an effective date and
4 applicability provision.

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

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House Amendments _____

1 Section 1. Section 135.43, subsection 3, paragraph e, Code
2 1999, is amended by striking the paragraph.

3 Sec. 2. Section 135.43, Code 1999, is amended by adding
4 the following new subsection:

5 NEW SUBSECTION. 3A. The review team shall develop
6 protocols for a committee to be appointed by the director on
7 an ad hoc basis to immediately review the child abuse
8 assessments which involve the death of a child under age
9 eighteen. The director shall appoint a medical examiner, a
10 pediatrician, and a person involved with law enforcement to
11 the committee.

12 a. The purpose of the review shall be to determine whether
13 the department of human services and others involved with the
14 case of child abuse responded appropriately. The protocols
15 shall provide for the committee to consult with any
16 multidisciplinary team, as defined in section 235A.13, that is
17 operating in the area in which the death occurred.

18 b. The committee shall have access to patient records and
19 other pertinent confidential information and subject to the
20 restrictions in this subsection may disseminate the
21 confidential information in the committee's report.

22 c. Upon completion of the review, the committee shall
23 issue a report which shall include findings concerning the
24 case and recommendations for changes to prevent child deaths
25 when similar circumstances exist. The report shall include
26 but is not limited to the following information, subject to
27 the restrictions listed in paragraph "d":

28 (1) The dates, outcomes, and results of any actions taken
29 by the department of human services and others in regard to
30 the report of child abuse.

31 (2) The results of any review of the case performed by a
32 multidisciplinary team, or by any other public entity that
33 reviewed the case.

34 (3) Confirmation of the department of human services'
35 receipt of any report of child abuse involving the child,

1 including confirmation as to whether or not any assessment
2 involving the child was performed in accordance with section
3 232.71B, the results of any assessment, a description of the
4 most recent assessment and the services offered to the family,
5 the services rendered to the family, and the basis for the
6 department's decisions concerning the case.

7 d. Prior to issuing the report, the committee shall
8 consult with the county attorney responsible for prosecution
9 of the alleged perpetrator of the child death. The
10 committee's report shall include child abuse information
11 associated with the case and the child, but is subject to the
12 restrictions applicable to the department of human services
13 for release of information concerning a child fatality or near
14 fatality in accordance with section 235A.15, subsection 9.

15 e. Following the completion of the trial of any alleged
16 perpetrator of the child death, the committee shall issue a
17 supplemental report containing the information that was
18 withheld, in accordance with paragraph "d", so as not to
19 jeopardize the prosecution or the rights of the alleged
20 perpetrator to a fair trial as described in section 235A.15,
21 subsection 9, paragraphs "f" and "g".

22 f. The report shall be submitted to the governor and
23 general assembly.

24 Sec. 3. Section 135.43, subsection 6, paragraph b, Code
25 1999, is amended to read as follows:

26 b. A person in possession or control of medical,
27 investigative, assessment, or other information pertaining to
28 a child death and child abuse review shall allow the
29 inspection and reproduction of the information by the
30 department upon the request of the department, to be used only
31 in the administration and for the duties of the Iowa child
32 death review team. Information Except as provided for a
33 report on a child death by a committee of the team under
34 subsection 3A and records which are confidential under section
35 22.7 and chapter 235A, and information or records received

1 from the confidential records, remain confidential under this
2 section. A person does not incur legal liability by reason of
3 releasing information to the department as required under and
4 in compliance with this section.

5 Sec. 4. Section 235A.13, Code Supplement 1999, is amended
6 by adding the following new subsection:

7 NEW SUBSECTION. 8A. "Near fatality" means a bodily injury
8 which involves substantial risk of death, protracted and
9 obvious disfigurement, or protracted loss or impairment of the
10 function of a bodily member, organ, or mental faculty and
11 includes a serious bodily injury as described in section
12 702.18.

13 Sec. 5. Section 235A.15, subsection 1, Code Supplement
14 1999, is amended to read as follows:

15 1. Notwithstanding chapter 22, the confidentiality of all
16 child abuse information shall be maintained, except as
17 specifically provided by ~~subsection-27-37-or-4~~ this section.

18 Sec. 6. Section 235A.15, subsection 2, paragraph b,
19 subparagraph (5), Code Supplement 1999, is amended to read as
20 follows:

21 (5) In an individual case, to ~~the~~ each mandatory reporter
22 who reported the child abuse.

23 Sec. 7. Section 235A.15, Code Supplement 1999, is amended
24 by adding the following new subsections:

25 NEW SUBSECTION. 7. Upon the request of a person listed in
26 this subsection, child abuse information relating to a
27 specific case of child abuse involving a fatality or near
28 fatality to a child and reported to the department shall be
29 disclosed to that person by the director of human services.
30 The purpose of the disclosure is to provide for oversight of
31 the department and others involved with the state's child
32 protection system in order to improve the system. An
33 authorized requester who is a member or designated employee of
34 the general assembly or who is the governor's designee must
35 successfully complete a course on child abuse and

1 confidentiality requirements developed by the department prior
2 to receiving the child abuse information. The course
3 completion requirement is not applicable to an individual who
4 has comparable training or experience as a mandatory reporter
5 of child abuse or officer of the juvenile court. After
6 completing a review of the child abuse information received,
7 an authorized requester may issue a report to the governor
8 regarding the specific case of child abuse. The following
9 persons are authorized to make a request and receive child
10 abuse information under this section relating to a specific
11 case of child abuse involving a fatality or near fatality to a
12 child:

13 a. The governor or the governor's designee.

14 b. The member of the senate or employee of the general
15 assembly designated by the majority leader or minority leader
16 of the senate.

17 c. The member of the house of representatives or employee
18 of the general assembly designated by the speaker or minority
19 leader of the house of representatives.

20 NEW SUBSECTION. 8. Upon the request of the governor, the
21 department shall disclose child abuse information to the
22 governor relating to a specific case of child abuse reported
23 to the department.

24 NEW SUBSECTION. 9. If the department receives a request
25 for child abuse information relating to a case of a fatality
26 or near fatality to a child, within five business days of
27 receiving the request the director of human services or the
28 director's designee shall consult with the county attorney
29 responsible for prosecution of any alleged perpetrator of the
30 fatality or near fatality and shall disclose child abuse
31 information relating to the case and the child in accordance
32 with this subsection. The director or the director's designee
33 shall release all child abuse information associated with the
34 case and the child, except for the following:

35 a. The substance or content of any mental health or

1 psychological information that is confidential under chapter
2 228.

3 b. Information that constitutes the substance or contains
4 the content of an attorney work product or is a privileged
5 communication under section 622.10.

6 c. Information pertaining to the child, the child's
7 family, or any other person that is not directly related to
8 the cause of the fatality or near fatality.

9 d. Information that would reveal the identity of any
10 individual who provided information relating to a report of
11 child abuse or an assessment of such a report involving the
12 child.

13 e. Information that the director or the director's
14 designee reasonably believes is likely to cause mental or
15 physical harm to a sibling of the child or to another child
16 residing in the child's household.

17 f. Information that the director or the director's
18 designee reasonably believes is likely to jeopardize the
19 prosecution of any alleged perpetrator of the fatality or near
20 fatality.

21 g. Information that the director or the director's
22 designee reasonably believes is likely to jeopardize the
23 rights of any alleged perpetrator of the fatality or near
24 fatality to a fair trial.

25 h. Information that the director or the director's
26 designee reasonably believes is likely to undermine an ongoing
27 or future criminal investigation.

28 i. Information that is not authorized to be released under
29 federal law or regulation.

30 Sec. 8. Section 235A.17, Code 1999, is amended by adding
31 the following new subsection:

32 NEW SUBSECTION. 3. For the purposes of this subsection,
33 "subject of a child abuse report" means any individual listed
34 in section 235A.15, subsection 2, paragraph "a", other than
35 the attorney or guardian ad litem of such individual. An

1 individual who is the subject of a child abuse report may
2 redisseminate to the governor or the governor's designee or to
3 a member of the general assembly or an employee of the general
4 assembly designated by the member, child abuse information
5 that was disseminated to the individual by the department or
6 other official source. Prior to receiving information from an
7 individual under this subsection, a person who is a member or
8 designated employee of the general assembly or who is the
9 governor's designee must successfully complete a course on
10 child abuse and confidentiality requirements developed by the
11 department. The course completion requirement is not
12 applicable to an individual who has comparable training or
13 experience as a mandatory reporter of child abuse or officer
14 of the juvenile court. A person who receives confidential
15 child abuse information redisseminated under this subsection
16 shall not further disseminate, communicate, or attempt to
17 communicate the information to a person who is not authorized
18 by this section or other provision of law to have access to
19 the information.

20 Sec. 9. Section 235A.18, subsection 2, Code Supplement
21 1999, is amended to read as follows:

22 2. The juvenile or district court and county attorney
23 shall expunge child abuse information upon notice from the
24 registry. The supreme court shall prescribe rules
25 establishing the period of time child abuse information is
26 retained by the juvenile and district courts. A county
27 attorney shall not retain child abuse information in excess of
28 the time period the information would be retained under the
29 rules prescribed by the supreme court. Child abuse
30 information relating to a particular case of child abuse
31 placed in the central registry that a juvenile or district
32 court determines is unfounded in a written finding based upon
33 a preponderance of evidence shall be expunged from the central
34 registry.

35 Sec. 10. NEW SECTION. 235A.25 ORDER FOR DISCLOSURE OF

1 CHILD ABUSE INFORMATION.

2 A person whose request for child abuse information under
3 section 235A.15, subsection 9, is denied may apply to the
4 juvenile court for an order compelling disclosure of the
5 information. The application shall state in reasonable detail
6 the factors in support of the application. The juvenile court
7 shall have jurisdiction to issue the order. A hearing shall
8 be set immediately upon filing of an application under this
9 section and subsequent proceedings shall be accorded priority
10 by other courts. After the court has reviewed the child abuse
11 information relating to the case in camera, unless the court
12 finds that a restriction listed in section 235A.15, subsection
13 9, is applicable, the court shall issue an order compelling
14 disclosure of the child abuse information.

15 Sec. 11. EFFECTIVE DATE -- RETROACTIVE APPLICABILITY.

16 This Act, being deemed of immediate importance, takes effect
17 upon enactment and is retroactively applicable to disclosures
18 of information on or after the date of enactment related to
19 cases of child abuse reported during the ten-year period prior
20 to the effective date of this Act.

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HOUSE FILE 2377

S-5311

1 Amend House File 2377, as amended, passed, and
2 reprinted by the House, as follows:
3 1. Page 4, line 20, by inserting after the word
4 "governor" the following: "or a member of the general
5 assembly".
6 2. Page 4, line 22, by inserting after the word
7 "governor" the following: "or the member of the
8 general assembly".
9 3. Page 4, line 23, by inserting after the word
10 "department." the following: "The disclosure shall
11 include all information obtained by the department in
12 the course of responding to the report of child abuse,
13 including but not limited to department of human
14 services' information described in section 217.30,
15 subsection 1, mental health information as defined in
16 section 228.1, and juvenile court social records and
17 other information in official juvenile court records
18 described in section 232.147. The purpose of the
19 disclosure is for the governor or member of the
20 general assembly to respond to a citizen's request for
21 an independent review of the actions of the department
22 and others in responding to a report of child abuse.
23 The governor or member of the general assembly may
24 designate a staff person to receive the disclosure and
25 to respond on the governor's or member's behalf. A
26 person other than the governor who receives a
27 disclosure under this subsection must be an officer of
28 the court or must have completed training as a
29 reporter of child abuse or comparable training before
30 receiving the disclosure. A person who receives
31 confidential information disseminated under this
32 section shall not further disseminate, communicate, or
33 attempt to communicate the information to a person who
34 is not authorized by this chapter or other provision
35 of law to have access to the information."

By STEVE KING

S-5311 FILED MARCH 30, 2000

LOST

HOUSE FILE 2377

S-5154

1 Amend House File 2377, as amended, passed, and
2 reprinted by the House, as follows:
3 1. Page 1, line 6, by inserting before the word
4 "committee" the following: "child fatality review".
5 2. Page 1, line 8, by striking the word "death"
6 and inserting the following: "fatality".
7 3. Page 1, line 17, by striking the word "death"
8 and inserting the following: "fatality".
9 4. Page 1, line 24, by striking the word "deaths"
10 and inserting the following: "fatalities".
11 5. Page 2, line 9, by striking the word "death"
12 and inserting the following: "fatality".
13 6. Page 2, line 16, by striking the word "death"
14 and inserting the following: "fatality".
15 7. Page 2, by striking line 33 and inserting the
16 following: "report on a child fatality by an ad hoc
17 child fatality review committee under".
18 8. Page 3, by inserting after line 4 the
19 following:
20 "Sec. _____. Section 232.70, Code 1999, is amended
21 by adding the following new subsection:
22 NEW SUBSECTION. 8. Within twenty-four hours of
23 receiving a report from a mandatory or permissive
24 reporter, the department shall inform the reporter,
25 orally or by other appropriate means, whether or not
26 the department has commenced an assessment of the
27 allegation in the report."
28 9. Page 3, by inserting after line 22 the
29 following:
30 "Sec. _____. Section 235A.15, subsection 2,
31 paragraph f, Code Supplement 1999, is amended to read
32 as follows:
33 f. ~~The following, but only~~ Only with respect to
34 disposition data for cases of founded child abuse
35 subject to placement in the central registry pursuant
36 to section 232.71D:
37 ~~(1)--To~~ to a person who submits written
38 authorization from an individual allowing the person
39 access to data pursuant to this subsection on behalf
40 of the individual in order to verify whether the
41 individual is named in a founded child abuse report as
42 having abused a child.
43 ~~(2)--To an individual who is requesting information~~
44 ~~on a specific case of child abuse which resulted in a~~
45 ~~child fatality or near fatality."~~
46 10. By striking page 3, line 32 through page 4,
47 line 5 and inserting the following: "protection
48 system in order to improve the system. After".
49 11. Page 6, by striking lines 6 through 15 and
50 inserting the following: "other official source. The

S-5154

-1-

S-5154

Page 2

1 child abuse information may also include the following
2 related information that the individual is allowed
3 under law to possess: department of human services
4 information described in section 217.30, subsection 1,
5 mental health information as defined in section 228.1,
6 and juvenile court social records and other
7 information in official juvenile court records
8 described in section 232.147. A person who receives
9 confidential child abuse information and related
10 information redisseminated under this subsection".

11 12. Page 7, by inserting after line 14 the
12 following:

13 "Sec. ____ . STUDY OF ACCESS TO CONFIDENTIAL
14 INFORMATION. The legislative council is requested to
15 establish a study committee for the 2000 interim to
16 review state policy regarding confidential information
17 in the area of child abuse and other human services-
18 related programs. The study shall include
19 consideration of the review of the child abuse program
20 performed by independent experts retained by the
21 department of human services, approaches used in other
22 states, policy regarding privileged information, and
23 access to agency and other information by the office
24 of the citizens' aide."

25 13. Page 7, by striking lines 15 through 20 and
26 inserting the following:

27 "Sec. ____ . EFFECTIVE DATE -- APPLICABILITY. This
28 Act, being deemed of immediate importance, takes
29 effect upon enactment and is applicable to disclosures
30 of information on or after the date of enactment
31 related to cases of child abuse reported prior to, on,
32 or after the effective date of this Act."

33 14. Title page, by striking lines 1 and 2 and
34 inserting the following: "An Act providing for access
35 to certain child abuse information, making penalties
36 and".

By COMMITTEE ON HUMAN RESOURCES
NANCY BOETTGER, Chairperson

S-5154 FILED MARCH 15, 2000

adopted
3-30-00
(P.948)

HOUSE FILE 2377

S-5186

- 1 Amend House File 2377, as amended, passed, and
- 2 reprinted by the House, as follows:
- 3 1. Page 1, by striking line 30 and inserting the
- 4 following: "each report and allegation of child abuse
- 5 involving the child who died."
- 6 2. Page 2, line 16, by inserting before the words
- 7 ", the committee" the following: "and the appeal
- 8 period for the granting of a new trial".
- 9 3. Page 2, line 22, by inserting after the word
- 10 "report" the following: "and any supplemental
- 11 report".
- 12 4. Page 5, by striking lines 28 and 29 and
- 13 inserting the following:
- 14 "i. Information, the release of which is a
- 15 violation of federal law or regulation."

By DAVID MILLER

S-5186 FILED MARCH 21, 2000

adopted
3/30/00
(p.948)

HOUSE FILE 2377

S-5311

1 Amend House File 2377, as amended, passed, and
2 reprinted by the House, as follows:

3 1. Page 4, line 20, by inserting after the word
4 "governor" the following: "or a member of the general
5 assembly".

6 2. Page 4, line 22, by inserting after the word
7 "governor" the following: "or the member of the
8 general assembly".

9 3. Page 4, line 23, by inserting after the word
10 "department." the following: "The disclosure shall
11 include all information obtained by the department in
12 the course of responding to the report of child abuse,
13 including but not limited to department of human
14 services' information described in section 217.30,
15 subsection 1, mental health information as defined in
16 section 228.1, and juvenile court social records and
17 other information in official juvenile court records
18 described in section 232.147. The purpose of the
19 disclosure is for the governor or member of the
20 general assembly to respond to a citizen's request for
21 an independent review of the actions of the department
22 and others in responding to a report of child abuse.
23 The governor or member of the general assembly may
24 designate a staff person to receive the disclosure and
25 to respond on the governor's or member's behalf. A
26 person other than the governor who receives a
27 disclosure under this subsection must be an officer of
28 the court or must have completed training as a
29 reporter of child abuse or comparable training before
30 receiving the disclosure. A person who receives
31 confidential information disseminated under this
32 section shall not further disseminate, communicate, or
33 attempt to communicate the information to a person who
34 is not authorized by this chapter or other provision
35 of law to have access to the information."

By STEVE KING

S-5311 FILED MARCH 30, 2000

LOST

(p. 952)

SENATE AMENDMENT TO HOUSE FILE 2377

H-8672

1 Amend House File 2377, as amended, passed, and
2 reprinted by the House, as follows:
3 1. Page 1, line 6, by inserting before the word
4 "committee" the following: "child fatality review".
5 2. Page 1, line 8, by striking the word "death"
6 and inserting the following: "fatality".
7 3. Page 1, line 17, by striking the word "death"
8 and inserting the following: "fatality".
9 4. Page 1, line 24, by striking the word "deaths"
10 and inserting the following: "fatalities".
11 5. Page 1, by striking line 30 and inserting the
12 following: "each report and allegation of child abuse
13 involving the child who died."
14 6. Page 2, line 9, by striking the word "death"
15 and inserting the following: "fatality".
16 7. Page 2, line 16, by striking the word "death"
17 and inserting the following: "fatality".
18 8. Page 2, line 16, by inserting before the words
19 ", the committee" the following: "and the appeal
20 period for the granting of a new trial".
21 9. Page 2, line 22, by inserting after the word
22 "report" the following: "and any supplemental
23 report".
24 10. Page 2, by striking line 33 and inserting the
25 following: "report on a child fatality by an ad hoc
26 child fatality review committee under".
27 11. Page 3, by inserting after line 4 the
28 following:
29 "Sec. _____. Section 232.70, Code 1999, is amended
30 by adding the following new subsection:
31 NEW SUBSECTION. 8. Within twenty-four hours of
32 receiving a report from a mandatory or permissive
33 reporter, the department shall inform the reporter,
34 orally or by other appropriate means, whether or not
35 the department has commenced an assessment of the
36 allegation in the report."
37 12. Page 3, by inserting after line 22 the
38 following:
39 "Sec. _____. Section 235A.15, subsection 2,
40 paragraph f, Code Supplement 1999, is amended to read
41 as follows:
42 f. ~~The following, but only~~ Only with respect to
43 disposition data for cases of founded child abuse
44 subject to placement in the central registry pursuant
45 to section 232.71D:
46 ~~(+)--To~~ to a person who submits written
47 authorization from an individual allowing the person
48 access to data pursuant to this subsection on behalf
49 of the individual in order to verify whether the
50 individual is named in a founded child abuse report as
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Page 2

1 having abused a child.

2 ~~(2)--To-an-individual-who-is-requesting-information~~
3 ~~on-a-specific-case-of-child-abuse-which-resulted-in-a~~
4 ~~child-fatality-or-near-fatality."~~

5 13. By striking page 3, line 32 through page 4,
6 line 5 and inserting the following: "protection
7 system in order to improve the system. After".

8 14. Page 5, by striking lines 28 and 29 and
9 inserting the following:

10 "i. Information, the release of which is a
11 violation of federal law or regulation."

12 15. Page 6, by striking lines 6 through 15 and
13 inserting the following: "other official source. The
14 child abuse information may also include the following
15 related information that the individual is allowed
16 under law to possess: department of human services
17 information described in section 217.30, subsection 1,
18 mental health information as defined in section 228.1,
19 and juvenile court social records and other
20 information in official juvenile court records
21 described in section 232.147. A person who receives
22 confidential child abuse information and related
23 information redisseminated under this subsection".

24 16. Page 7, by inserting after line 14 the
25 following:

26 "Sec. ____ . STUDY OF ACCESS TO CONFIDENTIAL
27 INFORMATION. The legislative council is requested to
28 establish a study committee for the 2000 interim to
29 review state policy regarding confidential information
30 in the area of child abuse and other human services-
31 related programs. The study shall include
32 consideration of the review of the child abuse program
33 performed by independent experts retained by the
34 department of human services, approaches used in other
35 states, policy regarding privileged information, and
36 access to agency and other information by the office
37 of the citizens' aide."

38 17. Page 7, by striking lines 15 through 20 and
39 inserting the following:

40 "Sec. ____ . EFFECTIVE DATE -- APPLICABILITY. This
41 Act, being deemed of immediate importance, takes
42 effect upon enactment and is applicable to disclosures
43 of information on or after the date of enactment
44 related to cases of child abuse reported prior to, on,
45 or after the effective date of this Act."

46 18. Title page, by striking lines 1 and 2 and
47 inserting the following: "An Act providing for access
48 to certain child abuse information, making penalties
49 and".

50 19. By renumbering, relettering, or redesignating

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Page 3

1 and correcting internal references as necessary.

RECEIVED FROM THE SENATE

H-8672 FILED MARCH 30, 2000

*House
Concerned
4-5-00
(p. 1229)*

HOUSE FILE 2377

AN ACT

PROVIDING FOR ACCESS TO CERTAIN CHILD ABUSE INFORMATION,
MAKING PENALTIES AND REMEDIES APPLICABLE, AND INCLUDING AN
EFFECTIVE DATE AND APPLICABILITY PROVISION.

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

Section 1. Section 135.43, subsection 3, paragraph e, Code 1999, is amended by striking the paragraph.

Sec. 2. Section 135.43, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. The review team shall develop protocols for a child fatality review committee to be appointed by the director on an ad hoc basis to immediately review the child abuse assessments which involve the fatality of a child under age eighteen. The director shall appoint a medical examiner, a pediatrician, and a person involved with law enforcement to the committee.

a. The purpose of the review shall be to determine whether the department of human services and others involved with the case of child abuse responded appropriately. The protocols shall provide for the committee to consult with any multidisciplinary team, as defined in section 235A.13, that is operating in the area in which the fatality occurred.

b. The committee shall have access to patient records and other pertinent confidential information and subject to the restrictions in this subsection may redisseminate the confidential information in the committee's report.

c. Upon completion of the review, the committee shall issue a report which shall include findings concerning the case and recommendations for changes to prevent child fatalities when similar circumstances exist. The report shall include but is not limited to the following information, subject to the restrictions listed in paragraph "d":

(1) The dates, outcomes, and results of any actions taken by the department of human services and others in regard to each report and allegation of child abuse involving the child who died.

(2) The results of any review of the case performed by a multidisciplinary team, or by any other public entity that reviewed the case.

(3) Confirmation of the department of human services' receipt of any report of child abuse involving the child, including confirmation as to whether or not any assessment involving the child was performed in accordance with section 232.71B, the results of any assessment, a description of the most recent assessment and the services offered to the family, the services rendered to the family, and the basis for the department's decisions concerning the case.

d. Prior to issuing the report, the committee shall consult with the county attorney responsible for prosecution of the alleged perpetrator of the child fatality. The committee's report shall include child abuse information associated with the case and the child, but is subject to the restrictions applicable to the department of human services for release of information concerning a child fatality or near fatality in accordance with section 235A.15, subsection 9.

e. Following the completion of the trial of any alleged perpetrator of the child fatality and the appeal period for the granting of a new trial, the committee shall issue a supplemental report containing the information that was withheld, in accordance with paragraph "d", so as not to jeopardize the prosecution or the rights of the alleged perpetrator to a fair trial as described in section 235A.15, subsection 9, paragraphs "f" and "g".

f. The report and any supplemental report shall be submitted to the governor and general assembly.

Sec. 3. Section 135.43, subsection 6, paragraph b, Code 1999, is amended to read as follows:

b. A person in possession or control of medical, investigative, assessment, or other information pertaining to

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a child death and child abuse review shall allow the inspection and reproduction of the information by the department upon the request of the department, to be used only in the administration and for the duties of the Iowa child death review team. Information Except as provided for a report on a child fatality by an ad hoc child fatality review committee under subsection 3A and records which are confidential under section 22.7 and chapter 235A, and information or records received from the confidential records, remain confidential under this section. A person does not incur legal liability by reason of releasing information to the department as required under and in compliance with this section.

Sec. 4. Section 232.70, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 8. Within twenty-four hours of receiving a report from a mandatory or permissive reporter, the department shall inform the reporter, orally or by other appropriate means, whether or not the department has commenced an assessment of the allegation in the report.

Sec. 5. Section 235A.13, Code Supplement 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 8A. "Near fatality" means a bodily injury which involves substantial risk of death, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty and includes a serious bodily injury as described in section 702.18.

Sec. 6. Section 235A.15, subsection 1, Code Supplement 1999, is amended to read as follows:

1. Notwithstanding chapter 22, the confidentiality of all child abuse information shall be maintained, except as specifically provided by ~~subsection 27-37-or-4~~ this section.

Sec. 7. Section 235A.15, subsection 2, paragraph b, Subparagraph (5), Code Supplement 1999, is amended to read as follows:

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

Sec. 8. Section 235A.15, subsection 2, paragraph f, Code Supplement 1999, is amended to read as follows:

f. ~~The following, but only~~ Only with respect to disposition data for cases of founded child abuse subject to placement in the central registry pursuant to section 232.71D+

~~(1)--To~~ to a person who submits written authorization from an individual allowing the person access to data pursuant to this subsection on behalf of the individual in order to verify whether the individual is named in a founded child abuse report as having abused a child.

~~(2)--To an individual who is requesting information on a specific case of child abuse which resulted in a child fatality or near fatality.~~

Sec. 9. Section 235A.15, Code Supplement 1999, is amended by adding the following new subsections:

NEW SUBSECTION. 7. Upon the request of a person listed in this subsection, child abuse information relating to a specific case of child abuse involving a fatality or near fatality to a child and reported to the department shall be disclosed to that person by the director of human services. The purpose of the disclosure is to provide for oversight of the department and others involved with the state's child protection system in order to improve the system. After completing a review of the child abuse information received, an authorized requester may issue a report to the governor regarding the specific case of child abuse. The following persons are authorized to make a request and receive child abuse information under this section relating to a specific case of child abuse involving a fatality or near fatality to a child:

- a. The governor or the governor's designee.
- b. The member of the senate or employee of the general assembly designated by the majority leader or minority leader of the senate.

c. The member of the house of representatives or employee of the general assembly designated by the speaker or minority leader of the house of representatives.

NEW SUBSECTION. 8. Upon the request of the governor, the department shall disclose child abuse information to the governor relating to a specific case of child abuse reported to the department.

NEW SUBSECTION. 9. If the department receives a request for child abuse information relating to a case of a fatality or near fatality to a child, within five business days of receiving the request the director of human services or the director's designee shall consult with the county attorney responsible for prosecution of any alleged perpetrator of the fatality or near fatality and shall disclose child abuse information relating to the case and the child in accordance with this subsection. The director or the director's designee shall release all child abuse information associated with the case and the child, except for the following:

a. The substance or content of any mental health or psychological information that is confidential under chapter 228.

b. Information that constitutes the substance or contains the content of an attorney work product or is a privileged communication under section 622.10.

c. Information pertaining to the child, the child's family, or any other person that is not directly related to the cause of the fatality or near fatality.

d. Information that would reveal the identity of any individual who provided information relating to a report of child abuse or an assessment of such a report involving the child.

e. Information that the director or the director's designee reasonably believes is likely to cause mental or physical harm to a sibling of the child or to another child residing in the child's household.

f. Information that the director or the director's designee reasonably believes is likely to jeopardize the

prosecution of any alleged perpetrator of the fatality or near fatality.

g. Information that the director or the director's designee reasonably believes is likely to jeopardize the rights of any alleged perpetrator of the fatality or near fatality to a fair trial.

h. Information that the director or the director's designee reasonably believes is likely to undermine an ongoing or future criminal investigation.

i. Information, the release of which is a violation of federal law or regulation.

Sec. 10. Section 235A.17, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 3. For the purposes of this subsection, "subject of a child abuse report" means any individual listed in section 235A.15, subsection 2, paragraph "a", other than the attorney or guardian ad litem of such individual. An individual who is the subject of a child abuse report may redisseminate to the governor or the governor's designee or to a member of the general assembly or an employee of the general assembly designated by the member, child abuse information that was disseminated to the individual by the department or other official source. The child abuse information may also include the following related information that the individual is allowed under law to possess: department of human services information described in section 217.30, subsection 1, mental health information as defined in section 228.1, and juvenile court social records and other information in official juvenile court records described in section 232.147. A person who receives confidential child abuse information and related information redisseminated under this subsection shall not further disseminate, communicate, or attempt to communicate the information to a person who is not authorized by this section or other provision of law to have access to the information.

Sec. 11. Section 235A.18, subsection 2, Code Supplement 1999, is amended to read as follows:

2. The juvenile or district court and county attorney shall expunge child abuse information upon notice from the registry. The supreme court shall prescribe rules establishing the period of time child abuse information is retained by the juvenile and district courts. A county attorney shall not retain child abuse information in excess of the time period the information would be retained under the rules prescribed by the supreme court. Child abuse information relating to a particular case of child abuse placed in the central registry that a juvenile or district court determines is unfounded in a written finding based upon a preponderance of evidence shall be expunged from the central registry.

Sec. 12. NEW SECTION. 235A.25 ORDER FOR DISCLOSURE OF CHILD ABUSE INFORMATION.

A person whose request for child abuse information under section 235A.15, subsection 9, is denied may apply to the juvenile court for an order compelling disclosure of the information. The application shall state in reasonable detail the factors in support of the application. The juvenile court shall have jurisdiction to issue the order. A hearing shall be set immediately upon filing of an application under this section and subsequent proceedings shall be accorded priority by other courts. After the court has reviewed the child abuse information relating to the case in camera, unless the court finds that a restriction listed in section 235A.15, subsection 9, is applicable, the court shall issue an order compelling disclosure of the child abuse information.

Sec. 13. STUDY OF ACCESS TO CONFIDENTIAL INFORMATION. The legislative council is requested to establish a study committee for the 2000 interim to review state policy regarding confidential information in the area of child abuse and other human services-related programs. The study shall include consideration of the review of the child abuse program performed by independent experts retained by the department of human services, approaches used in other states, policy regarding privileged information, and access to agency and other information by the office of the citizens' aide.

Sec. 14. EFFECTIVE DATE -- APPLICABILITY. This Act, being deemed of immediate importance, takes effect upon enactment and is applicable to disclosures of information on or after the date of enactment related to cases of child abuse reported prior to, on, or after the effective date of this Act.

BRENT SIEGRIST
Speaker of the House

MARY E. KRAMER
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2377, Seventy-eighth General Assembly.

ELIZABETH ISAACSON
Chief Clerk of the House

Approved 4/21, 2000

THOMAS J. VILSACK
Governor