

FEB 16 1999
HUMAN RESOURCES

HOUSE FILE
BY FORD

288

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

A BILL FOR

1 An Act relating to foster care provisions involving placement
2 | orders, appellate review, and parental liability.

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

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1 Section 1. Section 232.1, Code 1999, is amended to read as
2 follows:

3 232.1 RULES OF CONSTRUCTION.

4 1. It is declared to be the public policy of this state
5 that making every effort to prevent or eliminate the need for
6 placement of a child outside the child's home is in the best
7 interest of children, families, and the state. This chapter
8 shall be liberally construed to the end that each child under
9 the jurisdiction of the court shall receive, preferably in the
10 child's own home, the care, guidance and control that will
11 best serve the child's welfare and the best interest of the
12 state. When a child is removed from the control of the
13 child's parents, the court shall secure for the child care as
14 nearly as possible equivalent to that which should have been
15 given by the parents. Placement of a child with a relative of
16 the child is preferred to placement of the child in foster
17 care.

18 Sec. 2. Section 232.102, subsection 5, Code 1999, is
19 amended to read as follows:

20 5. Whenever possible the court should permit the child to
21 remain at home with the child's parent, guardian, or
22 custodian. Custody of the child ~~should~~ shall not be
23 transferred for an out-of-home placement with a person other
24 than a parent who does not have physical care of the child or
25 another relative unless the court finds there is clear and
26 convincing evidence that a placement with such parent or
27 relative is not possible or is not in the best interest of the
28 child. In any case, custody of the child shall not be
29 transferred unless the court finds there is clear and
30 convincing evidence that one of the following circumstances
31 exists:

32 a. The child cannot be protected from physical abuse
33 without transfer of custody; ~~or.~~

34 b. The child cannot be protected from some harm which
35 would justify the adjudication of the child as a child in need

1 of assistance and an adequate placement is available.

2 The order shall, in addition, contain a statement that
3 removal from the home is the result of a determination that
4 continuation in the home would be contrary to the welfare of
5 the child, and shall identify the reasonable efforts that have
6 been made. An order transferring custody of the child for
7 placement with a person other than the parent who does not
8 have physical care of the child or another relative shall also
9 contain a statement of the desired results intended for the
10 placement.

11 Sec. 3. Section 232.103, Code 1999, is amended by adding
12 the following new subsection:

13 NEW SUBSECTION. 8. Termination, modification, vacation,
14 or substitution of an order which continues or results in
15 transfer of custody of the child for placement with a person
16 other than the parent who does not have physical care of the
17 child or another relative shall also contain a statement of
18 the desired results intended for the placement.

19 Sec. 4. Section 232.104, subsection 2, paragraph b, Code
20 1999, is amended to read as follows:

21 b. Enter an order pursuant to section 232.102 to continue
22 placement of the child for an additional six months at which
23 time the court shall hold a hearing to consider modification
24 of its permanency order. An order continuing the placement of
25 the child with a person other than the parent who does not
26 have physical care of the child or another relative shall
27 contain a statement of the desired results intended for the
28 placement. An order entered under this paragraph shall
29 enumerate the specific factors, conditions, or expected
30 behavioral changes which comprise the basis for the
31 determination that the need for removal of the child from the
32 child's home will no longer exist at the end of the additional
33 six-month period.

34 Sec. 5. Section 232.133, subsection 1, Code 1999, is
35 amended to read as follows:

1 1. An interested party aggrieved by an order or decree of
2 the juvenile court may appeal from the court for review of
3 questions of law or fact. However, an order adjudicating a
4 child to have committed a delinquent act, entered pursuant to
5 section 232.47, shall not be appealed until the court enters a
6 corresponding dispositional order pursuant to section 232.52.
7 The review of a child in need of assistance, family in need of
8 assistance, or termination of parental rights proceeding shall
9 be de novo.

10 Sec. 6. Section 232.141, subsection 1, Code 1999, is
11 amended to read as follows:

12 1. Except as otherwise provided by law, the court shall
13 inquire into the ability of the child or the child's parent to
14 pay expenses incurred pursuant to subsection 2 and subsection
15 4 and, after giving the parent a reasonable opportunity to be
16 heard, the court may order the parent to pay all or part of
17 the costs of the child's care, examination, treatment, legal
18 expenses, or other expenses. The court may waive all or a
19 part of a parent's obligation to pay the costs based upon the
20 court's determination of the parent's ability to pay, that the
21 payment obligation is likely to hinder the parent's ability to
22 make efforts toward reunification with the child, that payment
23 of the obligation is likely to have a negative impact upon the
24 family, or for another good reason. An order entered under
25 this section does not obligate a parent paying child support
26 under a custody decree, except that part of the monthly
27 support payment may be used to satisfy the obligations imposed
28 by the order entered pursuant to this section. If a parent
29 fails to pay as ordered, without good reason, the court may
30 proceed against the parent for contempt and may inform the
31 county attorney who shall proceed against the parent to
32 collect the unpaid amount. Any payment ordered by the court
33 shall be a judgment against each of the child's parents and a
34 lien as provided in section 624.23. If all or part of the
35 amount that the parents are ordered to pay is subsequently

1 paid by the county or state, the judgment and lien shall
2 thereafter be against each of the parents in favor of the
3 county to the extent of the county's payments and in favor of
4 the state to the extent of the state's payments.

5 | Sec. 7. Section 234.8, Code 1999, is amended to read as
6 follows:

7 | 234.8 FEES FOR CHILD WELFARE SERVICES.

8 | The department of human services may charge a fee for child
9 welfare services to a person liable for the cost of the
10 services. The fee shall not exceed the reasonable cost of the
11 services. The fee shall be waived or reduced based upon the
12 person's ability to pay and consideration of the fee's impact
13 upon the liable person's family and the goals identified in
14 the case permanency plan. The department may assess the
15 liable person for the fee and the means of recovery shall
16 include a setoff against an amount owed by a state agency to
17 the person assessed pursuant to section 421.17, subsection 29.
18 In addition the department may establish an administrative
19 process to recover the assessment through automatic income
20 withholding. The department shall adopt rules pursuant to
21 chapter 17A to implement the provisions of this section. This
22 section does not apply to court-ordered services provided to
23 juveniles which are a charge upon the state pursuant to
24 section 232.141 and services for which the department has
25 established a support obligation pursuant to section 234.39.

26 | Sec. 8. Section 234.39, subsection 1, Code 1999, is
27 amended to read as follows:

28 | 1. For an individual to whom section 234.35, subsection 1,
29 is applicable, a dispositional order of the juvenile court
30 requiring the provision of foster care, or an administrative
31 order entered pursuant to chapter 252C, or any order
32 establishing paternity and support for a child in foster care,
33 shall establish, after notice and a reasonable opportunity to
34 be heard is provided to a parent or guardian, the amount of
35 the parent's or guardian's support obligation for the cost of

1 foster care provided by the department. The amount of the
2 parent's or guardian's support obligation and the amount of
3 support debt accrued and accruing shall be established in
4 accordance with the child support guidelines prescribed under
5 section 598.21, subsection 4. However, the court, or the
6 department of human services in establishing support by
7 administrative order, may deviate from the prescribed
8 obligation after considering a recommendation by the
9 department for expenses related to goals and objectives of a
10 case permanency plan as defined under section 237.15, after
11 considering information submitted by the parent as to whether
12 the support amount will hinder the parent's ability to make
13 efforts toward reunification with the child, and upon written
14 findings of fact which specify the reason for deviation and
15 the prescribed guidelines amount. Any order for support shall
16 direct the payment of the support obligation to the collection
17 services center for the use of the department's foster care
18 recovery unit. The order shall be filed with the clerk of the
19 district court in which the responsible parent or guardian
20 resides and has the same force and effect as a judgment when
21 entered in the judgment docket and lien index. The collection
22 services center shall disburse the payments pursuant to the
23 order and record the disbursements. If payments are not made
24 as ordered, the child support recovery unit may certify a
25 default to the court and the court may, on its own motion,
26 proceed under section 598.22 or 598.23 or the child support
27 recovery unit may enforce the judgment as allowed by law. An
28 order entered under this subsection may be modified only in
29 accordance with the guidelines prescribed under section
30 598.21, subsection 8, or under chapter 252H, or upon receipt
31 of information from the parent that a change in financial
32 circumstances has occurred or the support amount is hindering
33 the parent's ability to make efforts toward reunification with
34 the child.

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EXPLANATION

1 This bill relates to foster care provisions involving
2 placement orders, appellate review, and parental liability.

3 Code section 232.1, relating to the rules of construction
4 for the juvenile justice code, is amended with new language.
5 The new language provides that making every effort to prevent
6 or eliminate the need for placement of a child outside the
7 child's home is in the best interest of children, families,
8 and the state. A statement that placement of a child with a
9 relative is preferred to foster care is added.

10 Code section 232.102, relating to placements following a
11 child in need of assistance (CINA) adjudication, is amended to
12 apply new standards for placement. The new standards provide
13 that custody of the child shall not be transferred for an out-
14 of-home placement unless the court finds by clear and
15 convincing evidence that placement with the parent who does
16 not have physical care of the child or another relative is not
17 possible or is not in the best interest of the child. In
18 addition, if such an out-of-home placement is ordered, the
19 order is to contain a statement of the desired results
20 intended for the placement.

21 Code section 232.103, relating to termination,
22 modification, or substitution of order for transfer of custody
23 and placement of a child, is amended with new language. The
24 new language provides that if such order is made for an out-
25 of-home placement other than with the parent who does not have
26 physical custody or with another relative, the order is to
27 contain a statement of the desired results intended for the
28 placement.

29 Code section 232.133, relating to appeals for review of
30 juvenile justice proceedings, is amended. The amendment
31 provides that appeals of CINA, family in need of assistance,
32 or termination of parental rights proceedings are to be
33 reviewed de novo or as though the cases had not been heard
34 before.

35 Code section 232.141, relating to the costs for services

1 and treatment ordered by the court, is amended to authorize
2 the court to waive all or part of a parent's obligation to pay
3 the costs. The court is to consider various criteria in
4 making the determination, including the parent's ability to
5 pay. Similar amendments are made to Code section 234.8,
6 relating to fees for child welfare services, and to Code
7 section 234.39, relating to responsibility for the costs of
8 foster care services.

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