

Miller  
Boettger  
Hammond

SSB-3198

Human Resources

Succeeded By

SP/HF 2410

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
HUMAN RESOURCES BILL  
BY CHAIRPERSON BOETTGER)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

A BILL FOR

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

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

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1 Section 1. Section 2C.9, subsection 3, Code 1999, is  
2 amended to read as follows:

3 3. Request and receive from each agency assistance and  
4 information as necessary in the performance of the duties of  
5 the office. ~~Notwithstanding-section-22-77-pursuant-to-an~~  
6 ~~investigation-the~~ The citizens' aide may examine any and all  
7 records and documents of any agency unless its custodian  
8 demonstrates that the examination would violate federal law or  
9 result in the denial of federal funds to the agency.

10 Confidential documents provided to the citizens' aide by other  
11 agencies shall continue to maintain their confidential status.

12 The citizens' aide is subject to the same policies and  
13 penalties regarding the confidentiality of the document as an  
14 employee of the agency. The citizens' aide may enter and  
15 inspect premises within any agency's control and may observe  
16 proceedings and attend hearings, with the consent of the  
17 interested party, including those held under a provision of  
18 confidentiality, conducted by any agency unless the agency  
19 demonstrates that the attendance or observation would violate  
20 federal law or result in the denial of federal funds to that  
21 agency. ~~This-subsection-does-not-permit-the-examination-of~~  
22 ~~records-or-access-to-hearings-and-proceedings-which-are-the~~  
23 ~~work-product-of-an-attorney-under-section-22-77-subsection-4,~~  
24 ~~or-which-are-privileged-communications-under-section-622-10-~~

25 Sec. 2. Section 217.30, subsection 4, Code 1999, is  
26 amended by adding the following new paragraph:

27 NEW PARAGRAPH. f. An individual who is the subject of a  
28 child abuse report as identified in section 235A.15,  
29 subsection 2, paragraph "a", or who is the parent, guardian,  
30 or custodian of a child receiving services or involved in a  
31 proceeding under chapter 232, may redisseminate confidential  
32 information described in subsection 1 that the individual is  
33 allowed under law to possess. Persons authorized under this  
34 paragraph to receive such a redissemination shall be limited  
35 to those persons authorized to receive child abuse information

1 under section 235A.17, subsection 3.

2 Sec. 3. Section 228.3, Code 1999, is amended by adding the  
3 following new subsection:

4 NEW SUBSECTION. 3. An individual who is the subject of a  
5 child abuse report as identified in section 235A.15,  
6 subsection 2, paragraph "a", or who is the parent, guardian,  
7 or custodian of a child receiving services or involved in a  
8 proceeding under chapter 232, may disseminate mental health  
9 information that the individual is allowed under law to  
10 possess. Persons authorized under this subsection to receive  
11 such a dissemination shall be limited to those persons  
12 authorized to receive child abuse information under section  
13 235A.17, subsection 3.

14 Sec. 4. Section 232.147, subsection 3, Code 1999, is  
15 amended by adding the following new subsection:

16 NEW SUBSECTION. 3A. An individual who is the subject of a  
17 child abuse report as identified in section 235A.15,  
18 subsection 2, paragraph "a", or who is the parent, guardian,  
19 or custodian of a child receiving services or involved in a  
20 proceeding under this chapter, may disseminate confidential  
21 juvenile court social records and other information in  
22 official juvenile court records that the individual is allowed  
23 under this section or other law to possess. Persons  
24 authorized under this subsection to receive such a  
25 dissemination shall be limited to those persons authorized  
26 to receive child abuse information under section 235A.17,  
27 subsection 3.

28 Sec. 5. Section 232.147, subsection 5, Code 1999, is  
29 amended by adding the following new unnumbered paragraph:

30 NEW UNNUMBERED PARAGRAPH. An individual who is the subject  
31 of a child abuse report as identified in section 235A.15,  
32 subsection 2, paragraph "a", or who is the parent, guardian,  
33 or custodian of a child receiving services or involved in a  
34 proceeding under this chapter, may disseminate confidential  
35 juvenile court social records and other information in

1 official juvenile court records of cases alleging delinquency  
2 that the individual is allowed under law to possess. Persons  
3 authorized under this paragraph to receive such a  
4 redissemination shall be limited to those persons authorized  
5 to receive child abuse information under section 235A.17,  
6 subsection 3.

7 Sec. 6. Section 232.70, Code 1999, is amended by adding  
8 the following new subsection:

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

14 Sec. 7. Section 235A.13, Code Supplement 1999, is amended  
15 by adding the following new subsection:

16 NEW SUBSECTION. 8A. "Near fatality" means a bodily injury  
17 which involves substantial risk of death, extreme physical  
18 pain, protracted and obvious disfigurement, or protracted loss  
19 or impairment of the function of a bodily member, organ, or  
20 mental faculty.

21 Sec. 8. Section 235A.15, subsection 1, Code Supplement  
22 1999, is amended to read as follows:

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

26 Sec. 9. Section 235A.15, subsection 2, paragraph b,  
27 subparagraph (5), Code Supplement 1999, is amended to read as  
28 follows:

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

31 Sec. 10. Section 235A.15, Code Supplement 1999, is amended  
32 by adding the following new subsections:

33 NEW SUBSECTION. 7. Upon the request of a person listed in  
34 this subsection, child abuse information relating to a  
35 specific case of child abuse involving serious bodily injury

1 to a child or a fatality or near fatality to a child and  
 2 reported to the department shall be disclosed to that person  
 3 by the director of human services. The purpose of the  
 4 disclosure is to provide for oversight of the department and  
 5 others involved with the state's child protection system in  
 6 order to improve the system. An authorized requester who is a  
 7 member of the general assembly must successfully complete a  
 8 course on child abuse and confidentiality requirements  
 9 developed by the department prior to receiving the child abuse  
 10 information. After completing review of the child abuse  
 11 information received and consulting with the county attorney  
 12 responsible for prosecution of the alleged perpetrator of the  
 13 child abuse, an authorized requester may publicly issue a  
 14 report. In determining whether or not specific child abuse  
 15 information should be included in the report, the authorized  
 16 requester shall give consideration to the potential effects of  
 17 releasing the information on the privacy and best interests of  
 18 the child, if living, and the child's siblings or other  
 19 children in the child's household, and on the privacy of the  
 20 child's parent or guardian, and on any pending or future  
 21 prosecution of an alleged perpetrator of the child abuse. The  
 22 following persons are authorized to make a request and shall  
 23 receive child abuse information under this section:

- 24 a. The governor.
- 25 b. The president, majority leader, or minority leader of
- 26 the senate.
- 27 c. The speaker, majority leader, or minority leader of the
- 28 house of representatives.

29 NEW SUBSECTION. 8. The governor or a member of the  
 30 general assembly or an employee of the general assembly  
 31 designated by the member or the governor's designee may  
 32 request and the department shall disclose child abuse  
 33 information relating to a specific case of child abuse  
 34 reported to the department. Prior to receiving information  
 35 under this subsection, a person who is a member or designated

1 employee of the general assembly or who is the governor's  
2 designee must successfully complete a course on child abuse  
3 and confidentiality requirements developed by the department.  
4 The purpose of the disclosure is for the governor or a member  
5 of the general assembly to respond to a citizen's request for  
6 an independent review of the actions of the department and  
7 others in responding to a child abuse report.

8 Sec. 11. Section 235A.17, Code 1999, is amended by adding  
9 the following new subsection:

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

27 Sec. 12. EFFECTIVE DATE -- APPLICABILITY. This Act, being  
28 deemed of immediate importance, takes effect upon enactment  
29 and is applicable to disclosures of information on or after  
30 the date of enactment related to cases of child abuse reported  
31 prior to, on, or after the effective date of this Act.

32 EXPLANATION

33 This bill provides for access to certain confidential  
34 information by the governor and the general assembly and their  
35 designees.

1 Code section 2C.9, relating to the powers of the citizens'  
 2 aide, is amended to strike language limiting access to  
 3 confidential information. The bill strikes a reference  
 4 negating the applicability of Code chapter 22, the public  
 5 records law, to an investigation by the citizens' aide. In  
 6 addition, the bill strikes a limitation that does not  
 7 authorize the citizens' aide to examine records or to have  
 8 access to hearing and proceedings that are the work product of  
 9 an attorney under the public records law or that are a  
 10 privileged communication under Code section 622.10, relating  
 11 to such communication with an attorney, physician, and various  
 12 other professionals.

13 The bill authorizes for an individual who is a subject of a  
 14 child abuse report or is the parent, guardian, or custodian of  
 15 a child receiving services or involved in a proceeding under  
 16 Code chapter 232, to redisseminate confidential information  
 17 that the individual is allowed under law to possess. The  
 18 redissemination is limited to the governor, governor's  
 19 designee, member of the general assembly, or designated  
 20 employee of the general assembly, as described later in the  
 21 bill. The bill provides this authorization in Code section  
 22 217.30, relating to various records of the department of human  
 23 services; Code section 228.3, relating to mental health and  
 24 psychological information; and Code section 232.147, relating  
 25 to confidentiality of juvenile court social records and  
 26 official juvenile court records.

27 Code section 232.70, relating to the reporting procedure  
 28 for child abuse, is amended. The bill requires the department  
 29 within 24 hours of receiving a child abuse report to notify a  
 30 mandatory or permissive reporter who made the report whether  
 31 or not the department has commenced an assessment of the  
 32 allegation in the report.

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

1 Code section 235A.15, relating to access to child abuse  
2 information, is amended to provide that confidentiality of the  
3 information shall be maintained except as provided in the Code  
4 section. "Child abuse information" is a defined term under  
5 Code section 235A.13, meaning report, assessment, and  
6 disposition data pertaining to a case of child abuse. The  
7 bill adds to access authorizations in current law to allow  
8 access by the governor or by the president, majority leader,  
9 or minority leader of the senate or the speaker, majority  
10 leader, or minority leader of the house of representatives to  
11 child abuse information relating to a specific case of child  
12 abuse involving serious bodily injury to a child or a fatality  
13 or near fatality of a child. The access authorization  
14 requires the requester, other than the governor, to have  
15 successfully completed training developed by the department on  
16 child abuse and confidentiality requirements. After reviewing  
17 the information and consulting with the county attorney  
18 responsible for prosecution of the alleged perpetrator of the  
19 abuse, an authorized requester may publicly issue a report.  
20 An authorized requester is to consider the potential effects  
21 of disclosing specific child abuse information on various  
22 parties and on the prosecution of an alleged perpetrator.

23 For specific child abuse cases for which information is  
24 requested by the governor or members of the general assembly  
25 or the members' or governor's designees, the bill directs the  
26 department to disclose child abuse information to those  
27 persons. Prior to receiving the information, authorized  
28 requesters other than the governor must have completed the  
29 department's training on child abuse and confidentiality  
30 requirements. The purpose of the disclosure is for the  
31 governor or member of the general assembly to respond to a  
32 citizen's request for an independent review of the actions of  
33 the department and others in responding to a child abuse  
34 report.

35 The bill also amends Code section 235A.15 to require the



1 department of human services to make available a written child  
2 abuse assessment to each mandatory reporter who reported the  
3 abuse.

4 The bill amends Code section 235A.17, relating to  
5 redissemination of child abuse information. The bill authorizes  
6 a subject of a child abuse report to redisseminate child abuse  
7 information received by the subject from the department or  
8 other official source, to the governor or governor's designee  
9 or to a member of the general assembly or an employee of the  
10 general assembly designated by a member. Subjects of a child  
11 abuse report include the child named in a report or the  
12 child's attorney or guardian ad litem; the parent of the child  
13 or the parent's attorney; the person who is the child's  
14 guardian or legal custodian or that person's attorney; and the  
15 person named in a report as having abused a child or the  
16 person's attorney. A person who receives confidential child  
17 abuse information redisseminated under this subsection is  
18 prohibited from further disseminating, communicating, or  
19 attempting to communicate the information to a person who is  
20 not authorized by law to have access to the information.

21 Under Code chapter 235A, a person who knowingly  
22 redisseminates child abuse information in violation of the  
23 chapter is subject to criminal misdemeanor penalties and civil  
24 remedies.

25 The bill takes effect upon enactment and is applicable to  
26 disclosure of information involving cases reported before the  
27 bill's effective date.

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3/20/00 Referred back to Nominations

FILED FEB 29 '00

2410

SENATE FILE  
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO SSB 3198)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to access to and disclosure of certain  
2 confidential information by the governor and the general  
3 assembly and their designees, the citizens' aide, and child  
4 death review teams, making penalties and remedies applicable,  
5 and including an effective date and applicability provision.  
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 2C.9, subsection 3, Code 1999, is  
2 amended to read as follows:

3 3. Request and receive from each agency assistance and  
4 information as necessary in the performance of the duties of  
5 the office. ~~Notwithstanding section 22.77, pursuant to an~~  
6 ~~investigation the~~ The citizens' aide may examine any and all  
7 records and documents of any agency unless its custodian  
8 demonstrates that the examination would violate federal law or  
9 result in the denial of federal funds to the agency.  
10 Confidential documents provided to the citizens' aide by other  
11 agencies shall continue to maintain their confidential status.  
12 The citizens' aide is subject to the same policies and  
13 penalties regarding the confidentiality of the document as an  
14 employee of the agency. The citizens' aide may enter and  
15 inspect premises within any agency's control and may observe  
16 proceedings and attend hearings, with the consent of the  
17 interested party, including those held under a provision of  
18 confidentiality, conducted by any agency unless the agency  
19 demonstrates that the attendance or observation would violate  
20 federal law or result in the denial of federal funds to that  
21 agency. ~~This subsection does not permit the examination of~~  
22 ~~records or access to hearings and proceedings which are the~~  
23 ~~work product of an attorney under section 22.77, subsection 4,~~  
24 ~~or which are privileged communications under section 622.10.~~

25 Sec. 2. Section 135.43, subsection 3, paragraph e, Code  
26 1999, is amended to read as follows:

27 e. Develop protocols for ~~and establish~~ a committee to be  
28 appointed by the director on an ad hoc basis to immediately  
29 review the child abuse investigations assessments which  
30 involve the death of a child age six or younger. The director  
31 shall appoint a medical examiner, a pediatrician, and a person  
32 involved with law enforcement to the committee.

33 (1) The purpose of the review shall be to determine  
34 whether the department of human services and others involved  
35 with the case of child abuse responded appropriately. The

1 protocols shall provide for the committee to consult with any  
2 multidisciplinary investigation and prosecution team operating  
3 in the area in which the death occurred.

4 (2) The committee shall have access to patient records and  
5 other pertinent confidential information and subject to the  
6 restrictions in this paragraph "e" may redisseminate the  
7 confidential information in the committee's report.

8 (3) Upon completion of the review, the committee shall  
9 issue a report which shall include findings concerning the  
10 case and recommendations for changes to prevent child deaths  
11 when similar circumstances exist. Prior to issuing the  
12 report, the committee shall consult with the county attorney  
13 responsible for prosecution of the alleged perpetrator of the  
14 child death. The committee shall be subject to the  
15 restrictions applicable to the director of human services for  
16 release of information concerning a child fatality or near  
17 fatality in accordance with section 235A.15, subsection 8.

18 (4) The report shall be submitted to the governor and  
19 general assembly.

20 Sec. 3. Section 135.43, subsection 6, paragraph b, Code  
21 1999, is amended to read as follows:

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

1 section.

2 Sec. 4. Section 217.30, subsection 4, Code 1999, is  
3 amended by adding the following new paragraph:

4 NEW PARAGRAPH. f. An individual who is the subject of a  
5 child abuse report as identified in section 235A.15,  
6 subsection 2, paragraph "a", or who is the parent, guardian,  
7 or custodian of a child receiving services or involved in a  
8 proceeding under chapter 232, may disseminate confidential  
9 information described in subsection 1 that the individual is  
10 allowed under law to possess. Persons authorized under this  
11 paragraph to receive such a dissemination shall be limited  
12 to those persons authorized to receive child abuse information  
13 under section 235A.17, subsection 3.

14 Sec. 5. Section 228.3, Code 1999, is amended by adding the  
15 following new subsection:

16 NEW SUBSECTION. 3. An individual who is the subject of a  
17 child abuse report as identified in section 235A.15,  
18 subsection 2, paragraph "a", or who is the parent, guardian,  
19 or custodian of a child receiving services or involved in a  
20 proceeding under chapter 232, may disseminate mental health  
21 information that the individual is allowed under law to  
22 possess. Persons authorized under this subsection to receive  
23 such a dissemination shall be limited to those persons  
24 authorized to receive child abuse information under section  
25 235A.17, subsection 3.

26 Sec. 6. Section 232.70, Code 1999, is amended by adding  
27 the following new subsection:

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

33 Sec. 7. Section 232.147, subsection 3, Code 1999, is  
34 amended by adding the following new subsection:

35 NEW SUBSECTION. 3A. An individual who is the subject of a

1 child abuse report as identified in section 235A.15,  
2 subsection 2, paragraph "a", or who is the parent, guardian,  
3 or custodian of a child receiving services or involved in a  
4 proceeding under this chapter, may disseminate confidential  
5 juvenile court social records and other information in  
6 official juvenile court records that the individual is allowed  
7 under this section or other law to possess. Persons  
8 authorized under this subsection to receive such a  
9 dissemination shall be limited to those persons authorized  
10 to receive child abuse information under section 235A.17,  
11 subsection 3.

12 Sec. 8. Section 232.147, subsection 5, Code 1999, is  
13 amended by adding the following new unnumbered paragraph:

14 NEW UNNUMBERED PARAGRAPH. An individual who is the subject  
15 of a child abuse report as identified in section 235A.15,  
16 subsection 2, paragraph "a", or who is the parent, guardian,  
17 or custodian of a child receiving services or involved in a  
18 proceeding under this chapter, may disseminate confidential  
19 juvenile court social records and other information in  
20 official juvenile court records of cases alleging delinquency  
21 that the individual is allowed under law to possess. Persons  
22 authorized under this paragraph to receive such a  
23 dissemination shall be limited to those persons authorized  
24 to receive child abuse information under section 235A.17,  
25 subsection 3.

26 Sec. 9. Section 235A.13, Code Supplement 1999, is amended  
27 by adding the following new subsection:

28 NEW SUBSECTION. 8A. "Near fatality" means a bodily injury  
29 which involves substantial risk of death, extreme physical  
30 pain, protracted and obvious disfigurement, or protracted loss  
31 or impairment of the function of a bodily member, organ, or  
32 mental faculty.

33 Sec. 10. Section 235A.15, subsection 1, Code Supplement  
34 1999, is amended to read as follows:

35 1. Notwithstanding chapter 22, the confidentiality of all

1 child abuse information shall be maintained, except as  
2 specifically provided by ~~subsection-27-37-or-4~~ this section.

3 Sec. 11. Section 235A.15, subsection 2, paragraph b,  
4 subparagraph (5), Code Supplement 1999, is amended to read as  
5 follows:

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

8 Sec. 12. Section 235A.15, subsection 2, paragraph f,  
9 subparagraph (2), Code Supplement 1999, is amended to read as  
10 follows:

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

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

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

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

24 NEW SUBSECTION. 7. Upon the request of the governor, the  
25 department shall disclose child abuse information to the  
26 governor relating to a specific case of child abuse reported  
27 to the department.

28 NEW SUBSECTION. 8. If the department receives a request  
29 for child abuse information relating to a case of a fatality  
30 or near fatality to a child, within five business days of  
31 receiving the request the director of human services or the  
32 director's designee shall consult with the county attorney  
33 responsible for prosecution of any alleged perpetrator of the  
34 fatality or near fatality and shall disclose child abuse  
35 information relating to the case and the child in accordance

1 with this subsection. The director or the director's designee  
2 shall release all child abuse information associated with the  
3 case and the child, except for the following:

4 a. The substance or content of any mental health or  
5 psychological information that is confidential under chapter  
6 228.

7 b. Information pertaining to the child or the child's  
8 family that is not directly related to the cause of the  
9 fatality or near fatality.

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

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

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

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

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

29 h. Information that is not authorized to be released under  
30 federal law or regulation.

31 NEW SUBSECTION. 9. If it is alleged in a public meeting,  
32 public forum, or a publicly accessible media that the  
33 department has inappropriately, inadequately, or  
34 unsatisfactorily responded to a report of child abuse, the  
35 director of human services or the director's designee may



1 publicly respond to the allegation. The public response may  
2 disclose child abuse information relating to the case which is  
3 otherwise required under this chapter to be kept confidential.  
4 However, the response shall not disclose any information that  
5 the director or the director's designee reasonably believes  
6 would cause mental or physical harm to the child or the  
7 child's family or any information that is not directly related  
8 to the allegation. In addition, the disclosure is subject to  
9 the restrictions applicable for release of information under  
10 subsection 8 as though the case of child abuse involves a  
11 child fatality or near fatality.

12 Sec. 14. Section 235A.17, Code 1999, is amended by adding  
13 the following new subsection:

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

31 Sec. 15. EFFECTIVE DATE -- APPLICABILITY. This Act, being  
32 deemed of immediate importance, takes effect upon enactment  
33 and is applicable to disclosures of information on or after  
34 the date of enactment related to cases of child abuse reported  
35 prior to, on, or after the effective date of this Act.

1 EXPLANATION

2 This bill provides for access to and disclosure of certain  
3 confidential information by the governor and the general  
4 assembly and their designees.

5 Code section 2C.9, relating to the powers of the citizens'  
6 aide, is amended to strike language limiting access to  
7 confidential information. The bill strikes a reference  
8 negating the applicability of Code chapter 22, the public  
9 records law, to an investigation by the citizens' aide. In  
10 addition, the bill strikes a restriction on the citizens'  
11 aide's authority to examine records or to have access to  
12 hearing and proceedings that are the work product of an  
13 attorney under the public records law or that are a privileged  
14 communication under Code section 622.10, relating to such  
15 communication with an attorney, physician, and various other  
16 professionals.

17 Code section 135.43, relating to the child death review  
18 team, is amended. Current law directs the team to develop  
19 protocols for and establish a committee to review child abuse  
20 investigations which involve the death of a child. The bill  
21 provides for the team to develop protocols for committees  
22 appointed by the director of public health on an adhoc basis  
23 to immediately review child abuse assessments which involve  
24 the death of a child age six or younger. The bill provides  
25 for committee membership, purpose of the review, authority to  
26 access records, and issuance of a report to the governor and  
27 general assembly. The bill includes authorization to include  
28 confidential information in the report, subject to the  
29 restrictions provided later in the bill for the director of  
30 human services' disclosure of information regarding child  
31 abuse cases involving a fatality or near fatality of a child.

32 The bill authorizes an individual, who is a subject of a  
33 child abuse report or is the parent, guardian, or custodian of  
34 a child receiving services or involved in a proceeding under  
35 Code chapter 232, to disseminate confidential information

1 that the individual is allowed under law to possess. The  
2 redissemination is limited to the governor, governor's  
3 designee, member of the general assembly, or designated  
4 employee of the general assembly, as described later in the  
5 bill. The bill provides this authorization in Code section  
6 217.30, relating to various records of the department of human  
7 services; Code section 228.3, relating to mental health and  
8 psychological information; and Code section 232.147, relating  
9 to confidentiality of juvenile court social records and  
10 official juvenile court records.

11 Code section 232.70, relating to the reporting procedure  
12 for child abuse, is amended. The bill requires the department  
13 within 24 hours of receiving a child abuse report to notify a  
14 mandatory or permissive reporter who made the report whether  
15 or not the department has commenced an assessment of the  
16 allegation in the report.

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

20 Code section 235A.15, relating to access to child abuse  
21 information, is amended to provide that confidentiality of the  
22 information shall be maintained except as provided in the Code  
23 section. "Child abuse information" is a defined term under  
24 Code section 235A.13, meaning report, assessment, and  
25 disposition data pertaining to a case of child abuse.

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

30 Code section 235A.15 is also amended to strike current law  
31 authorizing access to dispositional child abuse information  
32 only to an individual who is requesting information on a  
33 specific case of child abuse which resulted in a child  
34 fatality or near fatality. The bill directs the department of  
35 human services to provide to the governor any child abuse

1 information concerning a specific case.

2 In addition, the bill directs the director of human  
3 services or the director's designee, upon receiving a request  
4 for child abuse information on a case of fatality or near  
5 fatality of a child, within five business days, to consult  
6 with the county attorney responsible for prosecuting any  
7 alleged perpetrator of the abuse and to disclose information  
8 relating to the case. The information release is subject to  
9 exceptions for confidential mental health or psychological  
10 information, information pertaining to the child or child's  
11 family that is not directly related to the fatality or near  
12 fatality, information that would reveal the identity of  
13 persons who reported the child abuse or provided information  
14 during the assessment, information that may cause mental or  
15 physical harm to the abused child or another child residing in  
16 the household, information that may jeopardize the prosecution  
17 of an alleged perpetrator, information that may jeopardize the  
18 rights of a perpetrator to a fair trial, information that may  
19 undermine a criminal investigation, and information that is  
20 not authorized to be released under federal law or regulation.

21 If it is publicly alleged that the department  
22 inappropriately, inadequately, or unsatisfactorily responded  
23 to a report of child abuse, the director or the director's  
24 designee is authorized to disclose confidential information in  
25 publicly responding to the allegation. The disclosure is  
26 subject to the same restrictions as the disclosure in cases  
27 involving a fatality or near fatality.

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

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

11 Under Code chapter 235A, a person who knowingly  
12 redisseminates child abuse information in violation of the  
13 chapter is subject to criminal misdemeanor penalties and civil  
14 remedies.

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

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