

Barry, Chair
Shey
Bell

HSB 62

JUDICIARY
Succ

SENATE/HOUSE FILE 0228
BY (PROPOSED DEPARTMENT OF
PUBLIC SAFETY BILL)

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

A BILL FOR

1 An Act relating to the duties and peace officer employees of the
2 department of public safety.

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

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1 Section 1. Section 97A.6, subsection 6, paragraph c, Code
2 2001, is amended to read as follows:

3 c. Upon retirement for accidental disability on or after
4 July 1, 1998, a member shall receive an accidental disability
5 retirement allowance which shall consist of a pension in an
6 amount equal to the greater of sixty percent of the member's
7 average final compensation or the retirement allowance that
8 the member would receive under subsection 2 if the member ~~has~~
9 had attained fifty-five years of age.

10 Sec. 2. NEW SECTION. 97A.14A LIABILITY OF THIRD PARTIES
11 -- SUBROGATION.

12 1. If a member receives an injury or dies for which
13 benefits are payable under section 97A.6, subsection 3, 5, 8,
14 or 9, or section 97A.14, and if the injury or death is caused
15 under circumstances creating a legal liability for damages
16 against a third party other than the system, the system is
17 subrogated to the rights of the member or the member's
18 beneficiary entitled to receive a death benefit and may
19 maintain an action for damages against the third party for
20 lost earnings and lost earnings capacity. If the system
21 recovers damages in the action, the court shall enter judgment
22 for distribution of the recovery as follows:

23 a. A sum sufficient to repay the system for the amount of
24 such benefits actually paid by the system up to the time of
25 the entering of the judgment.

26 b. A sum sufficient to pay the system the present worth,
27 computed at the interest rate provided in section 535.3 for
28 court judgments and decrees, of the future payments of such
29 benefits, for which the system is liable, but the sum is not a
30 final adjudication of the future payments which the member is
31 entitled to receive.

32 c. A sum sufficient to repay the system for the costs and
33 expenses of maintaining the action.

34 d. Any balance remaining after the repayments provided by
35 paragraphs "a" through "c" shall be paid to the injured

1 member, or the beneficiary under section 97A.6, subsection 8
2 or 9, whichever is applicable.

3 2. If the system, after receiving written notice of the
4 third-party liability, declines in writing to maintain an
5 action against the third party or fails to maintain an action
6 within one hundred eighty days of receiving written notice of
7 the third-party liability, the member, the member's estate, or
8 the legal representative of the member or the member's estate,
9 may maintain an action for damages against the third party.

10 If such an action is commenced, the plaintiff member, estate,
11 or representative shall serve a copy of the original notice
12 upon the system not less than ten days before the trial of the
13 action, but a failure to serve the notice does not prejudice
14 the rights of the system, and the following rights and duties
15 ensue:

16 a. The system shall be indemnified out of the recovery of
17 damages to the extent of benefit payments paid or awarded by
18 the system, with legal interest, except that the plaintiff
19 member's or estate's attorney fees may be first allowed by the
20 district court. For purposes of this paragraph, "benefit
21 payments paid or awarded" means the sum of the following
22 amounts:

23 (1) The amount of benefits actually paid by the system up
24 to the time of the entering of the judgment.

25 (2) The present worth, computed at the interest rate
26 provided in section 535.3 for court judgments and decrees, of
27 the future payments of such benefits, for which the system is
28 liable, but the sum is not a final adjudication of the future
29 payments which the member is entitled to receive.

30 b. The system has a lien on the damage claim against the
31 third party and on any judgment on the damage claim for
32 benefits for which the system is liable. In order to continue
33 and preserve the lien, the system shall file a notice of the
34 lien within thirty days after receiving a copy of the original
35 notice in the office of the clerk of the district court in

1 which the action is filed.

2 3. Before a settlement is effective between the system and
3 a third party who is liable for an injury or death, the member
4 or beneficiary must consent in writing to the settlement; and
5 if the settlement is between the member or the member's estate
6 and a third party, the system must consent in writing to the
7 settlement; or on refusal to consent, in either case, the
8 district court in the county in which either the city or the
9 system is located must consent in writing to the settlement.

10 4. For purposes of subrogation under this section, a
11 payment made to an injured member, a member's estate, or the
12 legal representative of the member or member's estate, by or
13 on behalf of a third party or the third party's principal or
14 agent, who is liable for, connected with, or involved in
15 causing the injury or death of the member, shall be considered
16 paid as damages because the injury or death was caused under
17 circumstances creating a legal liability against the third
18 party, whether the payment is made under a covenant not to
19 sue, compromise settlement, denial of liability, or is
20 otherwise made.

21 Sec. 3. Section 103A.12, Code 2001, is amended to read as
22 follows:

23 103A.12 ADOPTION AND WITHDRAWAL -- PROCEDURE.

24 The state building code is applicable in each governmental
25 subdivision of the state in which the governing body has
26 enacted an ordinance accepting the applicability of the code
27 and has filed a certified copy of the ordinance in the office
28 of the commissioner ~~and-in-the-office-of-the-secretary-of~~
29 ~~state~~. The state building code becomes effective in the
30 governmental subdivision upon the date fixed by the
31 governmental subdivision ordinance, ~~if-the-date-is~~ which must
32 not be more than six months after the date of adoption of the
33 ordinance.

34 A governmental subdivision in which the state building code
35 is applicable may by ordinance, at any time after one year has

1 elapsed since the code became applicable, withdraw from the
 2 application of the code, ~~if before the ordinance is voted~~
 3 ~~upon the.~~ The local governing body ~~holds~~ shall hold a public
 4 hearing, after giving not less than four ~~nor~~ but not more than
 5 twenty days' public notice, together with written notice to
 6 the commissioner of the time, place, and purpose of the
 7 hearing, before the ordinance to withdraw is voted upon. A
 8 certified copy of the vote of the local governing body shall
 9 be transmitted within ten days after the vote is taken to the
 10 commissioner ~~and to the secretary of state for filing.~~ The
 11 ordinance becomes effective at a time to be specified in ~~it~~
 12 the ordinance, which must be not less than one hundred eighty
 13 days after the date of adoption. Upon the effective date of
 14 the ordinance, the state building code ceases to apply to the
 15 governmental subdivision except that construction of a
 16 building or structure pursuant to a permit previously issued
 17 is not affected by the withdrawal.

18 A governmental subdivision which has withdrawn from the
 19 application of the state building code may, at any time
 20 thereafter, restore the application of the code in the same
 21 manner as specified in this section.

22 Sec. 4. Section 135C.33, subsections 1 and 2, Code 2001,
 23 are amended to read as follows:

24 1. Beginning July 1, 1997, prior to employment of a person
 25 in a facility, the facility shall request that the department
 26 of public safety perform a criminal history check and the
 27 department of human services perform a dependent adult abuse
 28 record checks check of the person in this state. In addition,
 29 the facility may request that the department of human services
 30 perform a child abuse record check in this state. Beginning
 31 July 1, 1997, a facility shall inform all persons prior to
 32 employment regarding the performance of the records checks and
 33 shall obtain, from the persons, a signed acknowledgment of the
 34 receipt of the information. Additionally, a facility shall
 35 include the following inquiry in an application for

1 employment: "Do you have a record of founded child or
2 dependent adult abuse or have you ever been convicted of a
3 crime, in this state or any other state?" If the person has
4 been convicted of a crime under a law of any state or has a
5 record of founded child or dependent adult abuse, the
6 department of human services shall upon the facility's request
7 perform an evaluation to determine whether the crime or
8 founded child or dependent adult abuse warrants prohibition of
9 employment in the facility. The evaluation shall be performed
10 in accordance with procedures adopted for this purpose by the
11 department of human services. If a person owns or operates
12 more than one facility, and an employee of one of such
13 facilities is transferred to another such facility without a
14 lapse in employment, the facility is not required to request
15 additional criminal and dependent adult abuse record checks of
16 that employee.

17 2. If the department of public safety determines that a
18 person has committed a crime ~~or has a record of founded~~
19 ~~dependent adult abuse~~ and is to be employed in a facility
20 licensed under this chapter, the department of public safety
21 shall notify the licensee that an evaluation, if requested by
22 the facility, will be conducted by the department of human
23 services to determine whether prohibition of the person's
24 employment is warranted. If a department of human services
25 child or dependent adult abuse record records check determines
26 the person has a record of founded child or dependent adult
27 abuse, the department of human services shall inform the
28 licensee that an evaluation, if requested by the facility,
29 will be conducted to determine whether prohibition of the
30 person's employment is warranted.

31 Sec. 5. Section 235B.6, subsection 2, paragraph b,
32 subparagraph (2), Code 2001, is amended to read as follows:

33 (2) An employee or agent of the department responsible for
34 the investigation of a dependent adult abuse report or for the
35 purpose of performing record checks as required under section

1 135C.53.

2 Sec. 6. Section 235B.6, subsection 2, paragraph e,
3 subparagraph (7), Code 2001, is amended by striking the
4 subparagraph.

5 EXPLANATION

6 This bill relates to the duties and peace officer employees
7 of the department of public safety.

8 Code section 97A.6, concerning allowance on ordinary or
9 accidental disability retirement for public safety peace
10 officers, is amended. The change provides that a public
11 safety officer retiring under an accidental disability benefit
12 receive the same benefits as an officer retiring under an
13 ordinary disability benefit. Under current law an officer
14 under the age of 55 and with 22 years or more experience who
15 retires under ordinary disability would receive more benefits
16 than a similarly situated officer who retires under accidental
17 disability.

18 New Code section 97A.14A, concerning the public safety
19 peace officers' retirement, accident, and disability system,
20 is created. The new section provides that the system is
21 subrogated to the rights of a member's beneficiary or to that
22 of a member who is injured while in the performance of the
23 member's duties, and receives a death or disability benefit in
24 which a third party is liable. The new section provides that
25 the system is entitled to bring an action against a liable
26 third party for lost earnings and lost earnings capacity. The
27 section further provides that if the system recovers damages,
28 the court shall enter judgment in an amount for the system
29 sufficient to pay the system for any past and future benefits
30 for which the system is liable and to pay the system the costs
31 of the action. The remainder of any damages recovered shall
32 be awarded to the member or the member's beneficiary or
33 estate.

34 In addition, the new Code section provides that the member
35 or the member's estate may maintain an action if the system

1 declines in writing to maintain an action or fails to maintain
2 an action within 180 days of receiving notice of the potential
3 third-party liability. If the member or member's estate
4 recovers damages, the system shall be indemnified out of the
5 damages to the extent benefits were paid by the system plus
6 interest.

7 Code section 103A.12, concerning the applicability of the
8 state building code, is amended. The amended Code section
9 provides that if a governmental subdivision accepts the
10 applicability of the state building code, the governmental
11 subdivision must file a certified copy of the ordinance only
12 with the commissioner of public safety. Under current law, a
13 governmental subdivision must also file a certified copy of
14 the ordinance with the secretary of state. In addition, if a
15 governmental subdivision votes to withdraw from the
16 applicability of the state building code, the governmental
17 subdivision must file a certified copy of the vote only with
18 the commissioner of public safety. Under current law, the
19 governmental subdivision must also file a certified copy of
20 the vote with the secretary of state.

21 Code section 135C.33, concerning background checks on a
22 person seeking employment at a residential care or nursing
23 facility, is amended. The amended Code section provides that
24 the department of human services shall perform a dependent
25 adult abuse record check on a person seeking employment at
26 such a facility. The amended Code section also provides that
27 the department of human services shall notify the facility
28 about whether a person has a record of founded dependent adult
29 abuse. Under current law, the department of public safety
30 must perform and provide notice of the dependent adult abuse
31 record check.

32 Additionally, the amended Code section provides that if a
33 person is to be employed at the facility and the person has a
34 founded child or dependent adult abuse record, or has a
35 criminal history, the department of human services shall only

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1 conduct an evaluation of the employability of the person, if
2 the facility requests such an evaluation. Under current law,
3 if a person has a founded child or dependent adult abuse
4 record or has a criminal history, and the person is to be
5 employed by the facility, the facility is not required to
6 request an evaluation of the employability of the person from
7 the department of human services but the department is
8 required to conduct the evaluation.

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Thomas J. Vilsack
GOVERNOR
Sally J. Pederson
LT. GOVERNOR



Department of Public Safety
STATE OF IOWA

TO: Members of the General Assembly
FROM: Betsy Dittmore, Legislative Liaison
DATE: 08/03/00 10:26 AM
SUBJECT: Department of Public Safety Technical Amendments

Division I

Section 1: This change is brings the accidental disability provision of the Peace Officers Retirement plan (POR) in line with the ordinary disability provision in section 97A.6, subsection 4, paragraph b, in relation to credit for service over 22 years but prior to age 55. The existing language has been interpreted to provide that retirement benefits to an officer retiring under accidental disability prior to age 55 would be limited to 60 percent, while an officer retiring under ordinary disability could get credit for years of service over 22 years prior to age 55. The unintended result is that an officer retiring under ordinary disability could receive more in benefits than an officer retiring under accidental benefit, if the officer was under age 55 at time of retirement but had 22 or more years of service. This change has been recommended by the Peace Officers Retirement Board (POR). The disability law was changed in 1998 and there has been no impact to date since that time.

Section 2. This language would provide that the Peace Officer's Retirement Accident and Disability System be compensated by third party settlements where actions of the third party resulted in benefits being payable under the retirement system. This is the same language found in chapter 411. If a member is injured in the line of duty and the third party is liable, this would allow the system to recover the costs from the third party

Division II

Section 3. Certified copies of building code ordinances have never been filed in the office of the Secretary of State, as required by current code. Other language clarifies the procedures for a political subdivision to withdraw from the provisions of the state building code, except where the code remains applicable. Areas where the state building code provisions apply regardless of whether the political subdivision has adopted it include the handicapped accessibility requirements, handicapped parking requirements, energy review requirements, and Life Cycle Cost analysis.

Division III

Section 4: When criminal history and dependent adult abuse record checks were first mandated for employees in nursing homes, the Department of Human Services dependent adult abuse registry was not computerized and checks needed to be conducted by the Department of Public Safety. DHS dependent adult abuse record checks may now be accessed directly through DHS. DPS discontinued performing dependent adult abuse record checks July 1, 2000. DHS now conducts these checks. The department of human services has requested that the evaluation language reflect current practice, which is to perform an evaluation only if the employer requests.

cc: Commissioner E.A. "Penny" Westfall

FEB 8 2001
Place On Calendar

HOUSE FILE 228
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 62)

Passed House, ^(p.459) Date 2/21/01 Passed Senate, ^(p.814) Date 3-26-01
Vote: Ayes 98 Nays 0 Vote: Ayes 46 Nays 0
Approved March 30, 2001

A BILL FOR

1 An Act relating to the duties of the department of public safety.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 228

1 Section 1. Section 103A.12, Code 2001, is amended to read
2 as follows:

3 103A.12 ADOPTION AND WITHDRAWAL -- PROCEDURE.

4 The state building code is applicable in each governmental
5 subdivision of the state in which the governing body has
6 enacted an ordinance accepting the applicability of the code
7 and has filed a certified copy of the ordinance in the office
8 of the commissioner ~~and in the office of the secretary of~~
9 ~~state~~. The state building code becomes effective in the
10 governmental subdivision upon the date fixed by the
11 governmental subdivision ordinance, ~~if the date is~~ which must
12 not be more than six months after the date of adoption of the
13 ordinance.

14 A governmental subdivision in which the state building code
15 is applicable may by ordinance, at any time after one year has
16 elapsed since the code became applicable, withdraw from the
17 application of the code ~~if before the ordinance is voted~~
18 ~~upon the~~. The local governing body holds shall hold a public
19 hearing, after giving not less than four ~~nor~~ but not more than
20 twenty days' public notice, together with written notice to
21 the commissioner of the time, place, and purpose of the
22 hearing, before the ordinance to withdraw is voted upon. A
23 certified copy of the vote of the local governing body shall
24 be transmitted within ten days after the vote is taken to the
25 commissioner ~~and to the secretary of state for filing~~. The
26 ordinance becomes effective at a time to be specified in it
27 the ordinance, which must be not less than one hundred eighty
28 days after the date of adoption. Upon the effective date of
29 the ordinance, the state building code ceases to apply to the
30 governmental subdivision except that construction of a
31 building or structure pursuant to a permit previously issued
32 is not affected by the withdrawal.

33 A governmental subdivision which has withdrawn from the
34 application of the state building code may, at any time
35 thereafter, restore the application of the code in the same

1 manner as specified in this section.

2 Sec. 2. Section 135C.33, subsections 1 and 2, Code 2001,
3 are amended to read as follows:

4 1. Beginning July 1, 1997, prior to employment of a person
5 in a facility, the facility shall request that the department
6 of public safety perform a criminal history check and the
7 department of human services perform a dependent adult abuse
8 record checks check of the person in this state. In addition,
9 the facility may request that the department of human services
10 perform a child abuse record check in this state. Beginning
11 July 1, 1997, a facility shall inform all persons prior to
12 employment regarding the performance of the records checks and
13 shall obtain, from the persons, a signed acknowledgment of the
14 receipt of the information. Additionally, a facility shall
15 include the following inquiry in an application for
16 employment: "Do you have a record of founded child or
17 dependent adult abuse or have you ever been convicted of a
18 crime, in this state or any other state?" If the person has
19 been convicted of a crime under a law of any state or has a
20 record of founded child or dependent adult abuse, the
21 department of human services shall upon the facility's request
22 perform an evaluation to determine whether the crime or
23 founded child or dependent adult abuse warrants prohibition of
24 employment in the facility. The evaluation shall be performed
25 in accordance with procedures adopted for this purpose by the
26 department of human services. If a person owns or operates
27 more than one facility, and an employee of one of such
28 facilities is transferred to another such facility without a
29 lapse in employment, the facility is not required to request
30 additional criminal and dependent adult abuse record checks of
31 that employee.

32 2. If the department of public safety determines that a
33 person has committed a crime ~~or-has-a-record-of-founded~~
34 ~~dependent-adult-abuse~~ and is to be employed in a facility
35 licensed under this chapter, the department of public safety

1 shall notify the licensee that an evaluation, if requested by
2 the facility, will be conducted by the department of human
3 services to determine whether prohibition of the person's
4 employment is warranted. If a department of human services
5 child or dependent adult abuse record records check determines
6 the person has a record of founded child or dependent adult
7 abuse, the department of human services shall inform the
8 licensee that an evaluation, if requested by the facility,
9 will be conducted to determine whether prohibition of the
10 person's employment is warranted.

11 Sec. 3. Section 235B.6, subsection 2, paragraph b,
12 subparagraph (2), Code 2001, is amended to read as follows:

13 (2) An employee or agent of the department responsible for
14 the investigation of a dependent adult abuse report or for the
15 purpose of performing record checks as required under section
16 135C.33.

17 Sec. 4. Section 235B.6, subsection 2, paragraph e,
18 subparagraph (7), Code 2001, is amended by striking the
19 subparagraph.

20 EXPLANATION

21 This bill relates to the duties of the department of public
22 safety.

23 Code section 103A.12, concerning the applicability of the
24 state building code, is amended. The amended Code section
25 provides that if a governmental subdivision accepts the
26 applicability of the state building code, the governmental
27 subdivision must file a certified copy of the ordinance only
28 with the commissioner of public safety. Under current law, a
29 governmental subdivision must also file a certified copy of
30 the ordinance with the secretary of state. In addition, if a
31 governmental subdivision votes to withdraw from the
32 applicability of the state building code, the governmental
33 subdivision must file a certified copy of the vote only with
34 the commissioner of public safety. Under current law, the
35 governmental subdivision must also file a certified copy of

1 the vote with the secretary of state.

2 Code section 135C.33, concerning background checks on a
3 person seeking employment at a residential care or nursing
4 facility, is amended. The amended Code section provides that
5 the department of human services shall perform a dependent
6 adult abuse record check on a person seeking employment at
7 such a facility. The amended Code section also provides that
8 the department of human services shall notify the facility
9 about whether a person has a record of founded dependent adult
10 abuse. Under current law, the department of public safety
11 must perform and provide notice of the dependent adult abuse
12 record check.

13 Additionally, the amended Code section provides that if a
14 person is to be employed at the facility and the person has a
15 founded child or dependent adult abuse record, or has a
16 criminal history, the department of human services shall only
17 conduct an evaluation of the employability of the person, if
18 the facility requests such an evaluation. Under current law,
19 if a person has a founded child or dependent adult abuse
20 record or has a criminal history, and the person is to be
21 employed by the facility, the facility is not required to
22 request an evaluation of the employability of the person from
23 the department of human services but the department is
24 required to conduct the evaluation.

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HOUSE FILE 228

H-1050

1 Amend House File 228 as follows:

2 1. Page 3, by inserting after line 10 the
3 following:

4 "Sec. ____ . Section 135C.33, subsection 4, Code
5 2001, is amended to read as follows:

6 4. A person shall not be employed in a facility
7 licensed under this chapter unless an evaluation has
8 been performed by the department of human services.

9 If the department of human services determines from
10 the evaluation that the person has committed a crime
11 or has a record of founded child or dependent adult
12 abuse which warrants prohibition of employment, the
13 person shall not be employed in a facility licensed
14 under this chapter."

15 2. By renumbering as necessary.

By BARRY of Harrison
KREIMAN of Davis

adopted 2/21/01 (P.459)

H-1050 FILED FEBRUARY 13, 2001

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S-3/12/01 Do Pass

HOUSE FILE 228
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 62)

(As Amended and Passed by the House February 21, 2001)

Passed House, Date _____ Passed Senate, ^(P.814) Date 3-26-01
Vote: Ayes _____ Nays _____ Vote: Ayes 46 Nays 0
Approved March 30, 2001

A BILL FOR

1 An Act relating to the duties of the department of public safety.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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House Amendments _____

1 Section 1. Section 103A.12, Code 2001, is amended to read
2 as follows:

3 103A.12 ADOPTION AND WITHDRAWAL -- PROCEDURE.

4 The state building code is applicable in each governmental
5 subdivision of the state in which the governing body has
6 enacted an ordinance accepting the applicability of the code
7 and has filed a certified copy of the ordinance in the office
8 of the commissioner ~~and-in-the-office-of-the-secretary-of~~
9 ~~state~~. The state building code becomes effective in the
10 governmental subdivision upon the date fixed by the
11 governmental subdivision ordinance, ~~if-the-date-is~~ which must
12 not be more than six months after the date of adoption of the
13 ordinance.

14 A governmental subdivision in which the state building code
15 is applicable may by ordinance, at any time after one year has
16 elapsed since the code became applicable, withdraw from the
17 application of the code, ~~if-before-the-ordinance-is-voted~~
18 ~~upon, the~~. The local governing body holds shall hold a public
19 hearing, after giving not less than four ~~nor~~ but not more than
20 twenty days' public notice, together with written notice to
21 the commissioner of the time, place, and purpose of the
22 hearing, before the ordinance to withdraw is voted upon. A
23 certified copy of the vote of the local governing body shall
24 be transmitted within ten days after the vote is taken to the
25 commissioner ~~and-to-the-secretary-of-state-for-filing~~. The
26 ordinance becomes effective at a time to be specified in ~~it~~
27 the ordinance, which must be not less than one hundred eighty
28 days after the date of adoption. Upon the effective date of
29 the ordinance, the state building code ceases to apply to the
30 governmental subdivision except that construction of a
31 building or structure pursuant to a permit previously issued
32 is not affected by the withdrawal.

33 A governmental subdivision which has withdrawn from the
34 application of the state building code may, at any time
35 thereafter, restore the application of the code in the same

1 manner as specified in this section.

2 Sec. 2. Section 135C.33, subsections 1 and 2, Code 2001,
3 are amended to read as follows:

4 1. Beginning July 1, 1997, prior to employment of a person
5 in a facility, the facility shall request that the department
6 of public safety perform a criminal history check and the
7 department of human services perform a dependent adult abuse
8 record checks check of the person in this state. In addition,
9 the facility may request that the department of human services
10 perform a child abuse record check in this state. Beginning
11 July 1, 1997, a facility shall inform all persons prior to
12 employment regarding the performance of the records checks and
13 shall obtain, from the persons, a signed acknowledgment of the
14 receipt of the information. Additionally, a facility shall
15 include the following inquiry in an application for
16 employment: "Do you have a record of founded child or
17 dependent adult abuse or have you ever been convicted of a
18 crime, in this state or any other state?" If the person has
19 been convicted of a crime under a law of any state or has a
20 record of founded child or dependent adult abuse, the
21 department of human services shall upon the facility's request
22 perform an evaluation to determine whether the crime or
23 founded child or dependent adult abuse warrants prohibition of
24 employment in the facility. The evaluation shall be performed
25 in accordance with procedures adopted for this purpose by the
26 department of human services. If a person owns or operates
27 more than one facility, and an employee of one of such
28 facilities is transferred to another such facility without a
29 lapse in employment, the facility is not required to request
30 additional criminal and dependent adult abuse record checks of
31 that employee.

32 2. If the department of public safety determines that a
33 person has committed a crime ~~or has a record of founded~~
34 ~~dependent-adult-abuse~~ and is to be employed in a facility
35 licensed under this chapter, the department of public safety

1 shall notify the licensee that an evaluation, if requested by
2 the facility, will be conducted by the department of human
3 services to determine whether prohibition of the person's
4 employment is warranted. If a department of human services
5 child or dependent adult abuse record records check determines
6 the person has a record of founded child or dependent adult
7 abuse, the department of human services shall inform the
8 licensee that an evaluation, if requested by the facility,
9 will be conducted to determine whether prohibition of the
10 person's employment is warranted.

11 Sec. 3. Section 135C.33, subsection 4, Code 2001, is
12 amended to read as follows:

13 4. A person shall not be employed in a facility licensed
14 under this chapter unless an evaluation has been performed by
15 the department of human services. If the department of human
16 services determines from the evaluation that the person has
17 committed a crime or has a record of founded child or
18 dependent adult abuse which warrants prohibition of
19 employment, the person shall not be employed in a facility
20 licensed under this chapter.

21 Sec. 4. Section 235B.6, subsection 2, paragraph b,
22 subparagraph (2), Code 2001, is amended to read as follows:

23 (2) An employee or agent of the department responsible for
24 the investigation of a dependent adult abuse report or for the
25 purpose of performing record checks as required under section
26 135C.33.

27 Sec. 5. Section 235B.6, subsection 2, paragraph e,
28 subparagraph (7), Code 2001, is amended by striking the
29 subparagraph.

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HOUSE FILE 228

AN ACT

RELATING TO THE DUTIES OF THE DEPARTMENT OF PUBLIC SAFETY.

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

Section 1. Section 103A.12, Code 2001, is amended to read as follows:

103A.12 ADOPTION AND WITHDRAWAL -- PROCEDURE.

The state building code is applicable in each governmental subdivision of the state in which the governing body has enacted an ordinance accepting the applicability of the code and has filed a certified copy of the ordinance in the office of the commissioner ~~and-in-the-office-of-the-secretary-of-state~~. The state building code becomes effective in the governmental subdivision upon the date fixed by the governmental subdivision ordinance, ~~if-the-date-is~~ which must not be more than six months after the date of adoption of the ordinance.

A governmental subdivision in which the state building code is applicable may by ordinance, at any time after one year has elapsed since the code became applicable, withdraw from the application of the code ~~if-before-the-ordinance-is-voted-upon-the~~. The local governing body holds shall hold a public hearing, ~~after giving not less than four nor~~ but not more than twenty days' public notice, together with written notice to the commissioner of the time, place, and purpose of the hearing, before the ordinance to withdraw is voted upon. A certified copy of the vote of the local governing body shall be transmitted within ten days after the vote is taken to the commissioner ~~and-to-the-secretary-of-state-for-filing~~. The ordinance becomes effective at a time to be specified in it

the ordinance, which must be not less than one hundred eighty days after the date of adoption. Upon the effective date of the ordinance, the state building code ceases to apply to the governmental subdivision except that construction of a building or structure pursuant to a permit previously issued is not affected by the withdrawal.

A governmental subdivision which has withdrawn from the application of the state building code may, at any time thereafter, restore the application of the code in the same manner as specified in this section.

Sec. 2. Section 135C.33, subsections 1 and 2, Code 2001, are amended to read as follows:

1. Beginning July 1, 1997, prior to employment of a person in a facility, the facility shall request that the department of public safety perform a criminal history check and the department of human services perform a dependent adult abuse record checks check of the person in this state. In addition, the facility may request that the department of human services perform a child abuse record check in this state. Beginning July 1, 1997, a facility shall inform all persons prior to employment regarding the performance of the records checks and shall obtain, from the persons, a signed acknowledgment of the receipt of the information. Additionally, a facility shall include the following inquiry in an application for employment: "Do you have a record of founded child or dependent adult abuse or have you ever been convicted of a crime, in this state or any other state?" If the person has been convicted of a crime under a law of any state or has a record of founded child or dependent adult abuse, the department of human services shall upon the facility's request perform an evaluation to determine whether the crime or founded child or dependent adult abuse warrants prohibition of employment in the facility. The evaluation shall be performed in accordance with procedures adopted for this purpose by the department of human services. If a person owns or operates

more than one facility, and an employee of one of such facilities is transferred to another such facility without a lapse in employment, the facility is not required to request additional criminal and dependent adult abuse record checks of that employee.

2. If the department of public safety determines that a person has committed a crime ~~or has a record of founded dependent-adult-abuse~~ and is to be employed in a facility licensed under this chapter, the department of public safety shall notify the licensee that an evaluation, if requested by the facility, will be conducted by the department of human services to determine whether prohibition of the person's employment is warranted. If a department of human services child or dependent adult abuse record records check determines the person has a record of founded child or dependent adult abuse, the department of human services shall inform the licensee that an evaluation, if requested by the facility, will be conducted to determine whether prohibition of the person's employment is warranted.

Sec. 3. Section 135C.33, subsection 4, Code 2001, is amended to read as follows:

4. A person shall not be employed in a facility licensed under this chapter unless an evaluation has been performed by the department of human services. If the department of human services determines from the evaluation that the person has committed a crime or has a record of founded child or dependent adult abuse which warrants prohibition of employment, the person shall not be employed in a facility licensed under this chapter.

Sec. 4. Section 235B.6, subsection 2, paragraph b, subparagraph (2), Code 2001, is amended to read as follows:

(2) An employee or agent of the department responsible for the investigation of a dependent adult abuse report or for the purpose of performing record checks as required under section 135C.33.

Sec. 5. Section 235B.6, subsection 2, paragraph e, subparagraph (7), Code 2001, is amended by striking the subparagraph.

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 228, Seventy-ninth General Assembly.

MARGARET THOMSON
Chief Clerk of the House

Approved March 30, 2001

THOMAS J. VILSACK
Governor