

House Study Bill 602

Bill Text

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1 1 Section 1. Section [217.30](#), subsection 4, Code 2001, is
1 2 amended by adding the following new paragraph:

1 3 NEW PARAGRAPH. e. Information described in subsection 1,
1 4 paragraphs "a", "b", and "c", is subject to disclosure in
1 5 accordance with section 235A.15, subsection 10.

1 6 Sec. 2. Section [235A.12](#), Code 2001, is amended to read as
1 7 follows:

1 8 235A.12 LEGISLATIVE FINDINGS AND PURPOSES.

1 9 1. The general assembly finds and declares that a central
1 10 registry is required to provide a single source for the

~~state~~

1 11

~~wide~~

~~statewide~~ collection, maintenance, and dissemination of
1 12 child abuse information.

~~Such a~~

~~The existence of the central~~

1 13 registry is imperative for increased effectiveness in dealing
1 14 with the problem of child abuse. The general assembly also
1 15 finds that vigorous protection of rights of individual privacy
1 16 is an indispensable element of a fair and effective system of
1 17 collecting, maintaining and disseminating child abuse
1 18 information.

1 19 2. The purposes of this section and sections 235A.13

~~to~~

1 20

~~235A.23~~

~~through 235A.24~~ are to facilitate the identification
1 21 of victims or potential victims of child abuse by making
1 22 available a single, statewide source of child abuse data; to
1 23 facilitate research on child abuse by making available a
1 24 single, statewide source of child abuse data; and to provide
1 25 maximum safeguards against the unwarranted invasions of
1 26 privacy which such a registry might otherwise entail.

1 27 Sec. 3. Section [235A.13](#), subsection 9, Code 2001, is
1 28 amended to read as follows:

1 29 9. "Near fatality" means

~~a bodily~~

~~an injury~~

~~which involves~~

1 30

~~substantial risk of death, protracted and obvious~~

1 31

~~disfigurement, or protracted loss or impairment of the~~

1 32

~~function of a bodily member, organ, or mental faculty and~~

1 33

~~includes a serious bodily injury as described in section~~

1 34

~~702.18~~

~~to a child that, as certified by a physician, placed~~

1 35 ~~the child in serious or critical condition.~~

2 1 Sec. 4. Section [235A.15](#), subsections 7 and 8, Code

2 2 Supplement 2001, are amended to read as follows:

2 3

~~7. Upon the request of a person listed in this subsection,~~

2 4

~~child abuse information relating to a specific case of child~~

2 5

~~abuse involving a fatality or near fatality to a child and~~

2 6

~~reported to the department shall be disclosed to that person~~

2 7

~~by the director of human services. The purpose of the~~

2 8

~~disclosure is to provide for oversight of the department and~~

2 9

~~others involved with the state's child protection system in~~

2 10

~~order to improve the system. After completing a review of the~~

2 11

~~child abuse information received, an authorized requester may~~

2 12

~~issue a report to the governor regarding the specific case of~~

2 13

~~child abuse. The following persons are authorized to make a~~

2 14

~~request and receive child abuse information under this section~~

2 15

~~relating to a specific case of child abuse involving a~~

2 16

~~fatality or near fatality to a child:~~

2 17

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

2 18

~~b. The member of the senate or employee of the general~~

2 19

~~assembly designated by the majority leader or minority leader~~

2 20

~~of the senate.~~

2 21

~~c. The member of the house of representatives or employee~~

2 22

~~of the general assembly designated by the speaker or minority~~

2 23

~~leader of the house of representatives.~~

2 24 7. If the director of human services receives a written
2 25 request for information regarding a specific case of child
2 26 abuse involving a fatality or near fatality to a child from
2 27 the majority or minority leader of the senate or the speaker
2 28 or the minority leader of the house of representatives, the
2 29 director or the director's designee shall arrange for a
2 30 confidential meeting with the requestor or the requestor's
2 31 designee. In the confidential meeting the director or the
2 32 director's designee shall share all pertinent information
2 33 concerning the case, including but not limited to child abuse
2 34 information. Any written document distributed by the director
2 35 or the director's designee at the confidential meeting shall
3 1 not be removed from the meeting and a participant in the
3 2 meeting shall be subject to the restriction on redissemination
3 3 of confidential information applicable to a person under
3 4 section 235A.17, subsection 3, for confidential information
3 5 disclosed to the participant at the meeting. A participant in
3 6 the meeting may issue a report to the governor or make general
3 7 public statements concerning the department's handling of the
3 8 case of child abuse.

3 9 8. Upon the request of the governor, the department shall
3 10 disclose child abuse information to the governor or the
3 11 governor's designee relating to a specific case of child abuse
3 12 reported to the department.

3 13 Sec. 5. Section [235A.15](#), subsection 9, unnumbered
3 14 paragraph 1, Code Supplement 2001, is amended to read as
3 15 follows:

3 16 If, apart from a request made pursuant to subsection 7 or
3 17 8, the department receives from a member of the public a
3 18 request for

~~child abuse~~

~~information relating to a case of~~

3 19 founded child abuse involving a fatality or near fatality to a
3 20 child, the response to the request shall be made in accordance
3 21 with this subsection and subsections 10 and 11. If the
3 22 request is received before or during performance of an
3 23 assessment of the case in accordance with section 232.71B, the
3 24 director of human services or the director's designee shall
3 25 initially disclose whether or not the assessment will be or is
3 26 being performed. Otherwise, within five business days of
3 27 receiving the request or completing the assessment, whichever
3 28 is later, the director of human services or the director's
3 29 designee shall consult with the county attorney responsible
3 30 for prosecution of any alleged perpetrator of the fatality or
3 31 near fatality and shall disclose

~~child abuse~~

~~information,~~

3 32 including but not limited to child abuse information, relating
3 33 to the case

~~and the child in accordance with this subsection.~~

3 34

~~The director or the director's designee shall release all~~

3 35

~~child abuse information associated with the case and the~~

4 1

~~child~~

~~, except for the following:~~

4 2 Sec. 6. Section [235A.15](#), subsection 9, paragraph c, Code
4 3 Supplement 2001, is amended by striking the paragraph.

4 4 Sec. 7. Section [235A.15](#), Code Supplement 2001, is amended
4 5 by adding the following new subsections:

4 6 NEW SUBSECTION. 10. The information released by the
4 7 director of human services or the director's designee pursuant
4 8 to a request made under subsection 9 relating to a case of
4 9 founded child abuse involving a fatality or near fatality to a
4 10 child shall be a summary of all of the following, unless such
4 11 information is excepted from disclosure under subsection 9:

4 12 a. Any relevant child abuse report data concerning the
4 13 child or the child's family and the department's response and
4 14 findings concerning the report data, including but not limited
4 15 to assessment and disposition data.

4 16 b. Any relevant information concerning social services,
4 17 except for financial or medical assistance, provided to the
4 18 child or the child's family that would otherwise be
4 19 confidential under section 217.30.

4 20 c. Any recommendations made by the department to the
4 21 county attorney or the juvenile court.

4 22 d. If applicable, an evaluation of the department's
4 23 responses in the case.

4 24 NEW SUBSECTION. 11. If a person who made a request for
4 25 information under subsection 9 does not believe the department
4 26 has substantially complied with the request, the person may
4 27 apply to the juvenile court under section 235A.24 for an order
4 28 for disclosure of additional information.

4 29 NEW SUBSECTION. 12. If an individual who is the subject
4 30 of a child abuse report listed in subsection 2, paragraph "a",
4 31 or another party involved in a child abuse assessment under
4 32 section 232.71B releases in a public forum or to the media
4 33 information concerning a case of child abuse including but not
4 34 limited to child abuse information which would otherwise be
4 35 confidential, the director of human services, or the

5 1 director's designee, may disseminate relevant information
5 2 concerning the case of child abuse that was the subject of the
5 3 release. Prior to such dissemination, the director or the
5 4 director's designee shall consult with the child's parent or
5 5 guardian, guardian ad litem, or if deemed appropriate by the
5 6 director or the director's designee, the juvenile court.
5 7 Sec. 8. Section 235A.24, Code 2001, is amended to read as
5 8 follows:
5 9 235A.24 ORDER FOR DISCLOSURE OF CHILD ABUSE INFORMATION.
5 10

~~A person whose~~

~~If a person's request for~~

~~child abuse~~

5 11 information relating to a case of founded child abuse under
5 12 section 235A.15, subsection 9, is denied or such person does
5 13 not believe the department has substantially complied with the
5 14 request and seeks additional information, the person may apply
5 15 to the juvenile court for an order compelling disclosure of
5 16 the information. The application shall state in reasonable
5 17 detail the factors in support of the application. The
5 18 juvenile court shall have jurisdiction to issue the order. A
5 19 hearing shall be set immediately upon filing of an application
5 20 under this section and subsequent proceedings shall be
5 21 accorded priority by other courts. In considering the
5 22 application, the court shall weigh the public's interest and
5 23 right to know the information against the privacy rights of
5 24 the victim of the child abuse and other individuals who may be
5 25 affected by the release of the information relating to the
5 26 case of child abuse. After the court has reviewed the

~~child~~

5 27

~~abuse~~

~~information relating to the case in camera, unless the~~
5 28 ~~court finds that a restriction listed in section 235A.15,~~
5 29 ~~subsection 9, is applicable, the court~~

~~shall~~

~~may issue an~~
5 30 ~~order compelling disclosure of the~~

~~child abuse~~

~~information~~
5 31 ~~relating to the case.~~

5 32

EXPLANATION

5 33 This bill relates to child protection confidentiality
5 34 requirements involving the department of human services.
5 35 Code section 217.30, relating to confidentiality of
6 1 department records, is amended to allow an exception for
6 2 disclosure of information as provided by the bill for certain
6 3 cases of child abuse involving a child fatality or near
6 4 fatality. The information subject to disclosure includes
6 5 names and addresses of individuals receiving services or
6 6 assistance from the department, the types of services or
6 7 amounts of assistance provided, information concerning the
6 8 social or economic conditions or circumstances of particular
6 9 individuals who are receiving or have received services or
6 10 assistance from the department, and agency evaluations of
6 11 information about a particular individual.
6 12 Code section 235A.12, relating to legislative findings and
6 13 purposes for the child abuse information registry, is amended
6 14 to include a reference to a related Code section and to make

6 15 technical changes.

6 16 Code section 235A.13, providing definitions for the child
6 17 abuse registry Code chapter, is amended to revise the term
6 18 "near fatality". The revision provides that "near fatality"
6 19 means an injury to a child that, as certified by a physician,
6 20 placed the child in serious or critical condition.

6 21 Code section 235A.15, relating to authorized access to
6 22 confidential child abuse information, is significantly
6 23 amended. Existing law provides a procedure for the governor
6 24 and legislative designees to receive disclosure of
6 25 confidential information on child abuse cases involving a
6 26 fatality or near fatality to a child. The bill provides a
6 27 procedure for sharing of such information through a
6 28 confidential meeting with the legislative leader or a person
6 29 designated by a legislative leader. The bill prohibits
6 30 removal of written materials distributed at the meeting and
6 31 redissemination of confidential information disclosed at the
6 32 meeting. The prohibition against redissemination is the same
6 33 as exists in current law in Code section 235A.17, prohibiting
6 34 a person who receives confidential information about a child
6 35 abuse case from further disseminating, communicating, or
7 1 attempting to communicate the information to an unauthorized
7 2 person. In addition to issuing a report to the governor as is
7 3 allowed under current law, the bill allows a participant in
7 4 the meeting to make general public statements concerning the
7 5 department's handling of the case of child abuse.

7 6 Current law authorizes the governor to request and receive
7 7 disclosure of confidential information concerning any specific
7 8 case of child abuse. The bill expands this authority to
7 9 include the governor's designee.

7 10 Existing law allowing any person to request and receive
7 11 information concerning a case of child abuse involving a
7 12 fatality or near fatality to a child is amended to allow
7 13 release of other confidential information in addition to child
7 14 abuse information. If the request is received before or
7 15 during performance of a child abuse assessment of the case,
7 16 initially the director of human services or director's
7 17 designee must inform the requestor whether or not the
7 18 assessment will be or is being performed. Otherwise, within
7 19 five days of receiving the request or completing the
7 20 assessment, whichever is later, the director or designee must
7 21 release the information. The additional information to be
7 22 released by the department is specified to be a summary of the
7 23 department's response and findings, social services
7 24 information, recommendations made by the department to the
7 25 county attorney or juvenile court, and an evaluation of the
7 26 department's responses.

7 27 Existing law for information releases in cases involving a
7 28 child fatality or near fatality includes a list of information
7 29 items that are restricted from release. This list is also
7 30 applicable to the report issued by a special child fatality
7 31 review committee appointed by the director of public health.
7 32 The bill removes the restriction against the release of
7 33 information pertaining to the child, the child's family, or
7 34 any other person that is not directly related to the cause of
7 35 the fatality or near fatality.

8 1 If a subject of a child abuse report or another party
8 2 involved in a child abuse assessment releases information
8 3 concerning a case of child abuse that would otherwise be
8 4 confidential concerning the case, the bill allows discretion
8 5 for the director of human services or the director's designee
8 6 to disseminate relevant information regarding that case.
8 7 Consultation with the child's parent, guardian, or guardian ad
8 8 litem, or, if deemed appropriate, the juvenile court, is
8 9 required prior to the dissemination.

8 10 Existing law in Code section 235A.24 allows a requestor of
8 11 information regarding a case involving a child fatality or

8 12 near fatality whose request is denied by the department of
8 13 human services to seek relief from the court. The bill also
8 14 allows relief if the requestor does not believe the department
8 15 has substantially complied with the request.
8 16 LSB 5552XL 79
8 17 jp/sh/8.2