

FILED FEB 13 '01

SENATE FILE 177
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FIEGEN, and FLYNN

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

A BILL FOR

1 An Act relating to healthy and safe families and communities in
2 Iowa by providing for prevention of and response to acts of
3 abuse, providing mental health and substance abuse treatment
4 coverage benefits, modifying the elements of assault and
5 applying penalties, and making appropriations.

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

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SP 111
APPROPRIATIONS

DIVISION I
APPROPRIATIONS

Section 1. ELDER AFFAIRS. There is appropriated from the general fund of the state to the department of elder affairs for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purposes designated, in addition to other appropriations made to the department:

For enhancing detection of dependent adult abuse, providing services for dependent adult abuse victims and for Iowans who are residents of long-term care facilities, and providing for other services administered by the department including salaries, support, maintenance, and miscellaneous purposes:

..... \$ 317,800

1. Of the amount appropriated in this section, \$217,800 is allocated for enhancing detection of dependent adult abuse and providing services for dependent adult abuse victims.

2. Of the amount appropriated in this section, \$60,000 is allocated for a long-term care resident's advocate position.

3. Of the amount appropriated in this section, \$40,000 is allocated for expansion of the retired senior volunteer program.

Sec. 2. HUMAN SERVICES. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amounts, or so much thereof as is necessary, to be used for the purposes designated, in addition to other appropriations made to the department:

1. For field operations, to be used for additional social workers and social worker supervisors in order to reduce or prevent future occurrences of child abuse, including salaries, support, maintenance, miscellaneous purposes, worker training, and reduction of caseload per worker:

..... \$ 4,994,169

2. For child and family services:

1 a. To implement a quality assurance team for child
2 protection services, including salaries, support, maintenance,
3 and miscellaneous purposes:
4 \$ 335,867

5 b. To provide training to mandatory reporters of child
6 abuse and to provide consultation services with mandatory
7 reporters to improve the appropriate reporting of child abuse:
8 \$ 282,442

9 As necessary to carry out the purposes of this section, the
10 department may transfer amounts appropriated in this section
11 to other appropriations made to the department.

12 Sec. 3. PUBLIC HEALTH. There is appropriated from the
13 general fund of the state to the Iowa department of public
14 health for the fiscal year beginning July 1, 2001, and ending
15 June 30, 2002, the following amounts, or so much thereof as is
16 necessary, to be used for the purposes designated, in addition
17 to other appropriations made to the department:

18 1. For addictive disorders, to provide additional
19 substance abuse treatment services to reduce the occurrence of
20 substance abuse:
21 \$ 1,000,000

22 2. For child and adolescent wellness, to expand the
23 activities of the child death review team and ad hoc child
24 death review committees created in accordance with section
25 135.43:
26 \$ 91,152

27 Sec. 4. CORRECTIONS.

28 1. There is appropriated from the general fund of the
29 state to the department of corrections for the fiscal year
30 beginning July 1, 2001, and ending June 30, 2002, the
31 following amount, or so much thereof as is necessary, to be
32 used for the purpose designated, in addition to other
33 appropriations made to the department:

34 For community-based corrections, in addition to other
35 appropriations, to expand sex offender mandatory supervision:

1 \$ 503,628

2 2. The amount appropriated in subsection 1 is allocated as
3 follows:

4 a. To the first judicial district:
5 \$ 83,938

6 b. To the second judicial district:
7 \$ 83,938

8 c. To the third judicial district:
9 \$ 41,969

10 d. To the fourth judicial district:
11 \$ 41,969

12 e. To the fifth judicial district:
13 \$ 125,907

14 f. To the sixth judicial district:
15 \$ 41,969

16 g. To the seventh judicial district:
17 \$ 41,969

18 h. To the eighth judicial district:
19 \$ 41,969

20 Sec. 5. JUSTICE. There is appropriated from the general
21 fund of the state to the department of justice for the fiscal
22 year beginning July 1, 2001, and ending June 30, 2002, the
23 following amount, or so much thereof as is necessary, to be
24 used for the purpose designated, in addition to other
25 appropriations made to the department:

26 For victim assistance grants, in addition to other
27 appropriations made for this purpose, in order to continue
28 efforts in domestic abuse prevention:
29 \$ 75,000

30 DIVISION II

31 HEALTH COVERAGE COSTS -- MENTAL HEALTH AND
32 SUBSTANCE ABUSE TREATMENT

33 Sec. 6. NEW SECTION. 514C.21 MENTAL HEALTH AND SUBSTANCE
34 ABUSE TREATMENT COVERAGE.

35 1. Notwithstanding the uniformity of treatment

1 requirements of section 514C.6, a group policy or contract
2 providing for third-party payment or prepayment of health or
3 medical expenses shall provide mental health and substance
4 abuse treatment coverage benefits and shall not impose
5 limitations on financial terms for coverage of services for
6 serious mental illnesses or substance abuse if similar
7 limitations are not imposed on the coverage benefits for
8 services for medical or surgical conditions.

9 2. For purposes of this section, unless the context
10 otherwise requires:

11 a. "Serious mental illness" means the following disorders,
12 as defined by the American psychiatric association's
13 diagnostic and statistical manual of mental disorders:

- 14 (1) Schizophrenia.
- 15 (2) Schizo-affective disorder.
- 16 (3) Bipolar disorder.
- 17 (4) Major depressive disorder.
- 18 (5) Obsessive-compulsive disorder.
- 19 (6) Autism.
- 20 (7) Pervasive developmental disorders.
- 21 (8) Anxiety disorders.
- 22 (9) Paranoia and other psychotic disorders.
- 23 (10) Eating disorders, including but not limited to
24 bulimia nervosa and anorexia nervosa.

25 b. "Substance abuse" means a pattern of pathological use
26 of alcohol or a drug that causes impairment in social or
27 occupational functioning, or that produces physiological
28 dependency evidenced by physical tolerance or by physical
29 symptoms when the alcohol or drug is withdrawn.

30 3. This section shall not apply to accident-only, specific
31 disease, short-term hospital or medical, hospital confinement
32 indemnity, credit, dental, vision, Medicare supplement, long-
33 term care, basic hospital and medical-surgical expense
34 coverage as defined by the commissioner, disability income
35 insurance coverage, coverage issued as a supplement to

1 liability insurance, workers' compensation or similar
2 insurance, automobile medical payment insurance, or individual
3 accident or sickness policies issued pursuant to chapter 513C.

4 4. A third-party payor may manage the benefits provided
5 through common methods including, but not limited to,
6 providing payment of benefits or providing care and treatment
7 under a capitated payment system, prospective reimbursement
8 rate system, utilization control system, incentive system for
9 the use of least restrictive and least costly levels of care,
10 a preferred provider contract limiting choice of specific
11 provider, or any other system, method, or organization
12 designed to ensure services are medically necessary and
13 clinically appropriate.

14 5. A group policy or contract covered under this section,
15 at a minimum, shall provide for thirty inpatient and sixty
16 outpatient days annually. The policy or contract may also
17 include deductibles, coinsurance, or copayments if such
18 deductibles, coinsurance, or copayments are applicable to
19 other medical or surgical services coverage under the policy
20 or contract. It is not a violation of this section if the
21 policy or contract excludes entirely from coverage benefits
22 the cost of providing the following:

- 23 a. Marital, family, educational, developmental, or
24 training services.
- 25 b. Care that is substantially custodial in nature.
- 26 c. Services and supplies that are not medically necessary
27 or clinically appropriate.
- 28 d. Experimental treatments.

29 6. The commissioner, by rule, shall increase the mental
30 health and substance abuse treatment lifetime limit in the
31 individual market guaranteed standard product to one hundred
32 thousand dollars.

33 7. A group policy is exempt from this section upon
34 submitting to the commissioner evidence demonstrating a
35 premium increase for the policy term in excess of three

1 percent as a result of the requirements of this section.

2 8. This section applies to third-party payment provider
3 contracts or policies delivered, issued for delivery,
4 continued, or renewed in this state on or after January 1,
5 2002.

6 9. This section is repealed effective July 1, 2004.

7 DIVISION III

8 CHILD PROTECTION AND DEPENDENT ADULT ABUSE STATUTORY CHANGES

9 Sec. 7. Section 232.2, subsection 6, Code 2001, is amended
10 by adding the following new paragraph:

11 NEW PARAGRAPH. p. Whose parent, guardian, or custodian
12 unlawfully manufactures a controlled substance, as defined in
13 section 124.101, in the presence of a child, or in the
14 presence of a child possesses a product containing ephedrine,
15 its salts, optical isomers, salts of optical isomers, or
16 pseudoephedrine, its salts, optical isomers, salts of optical
17 isomers, with the intent to use the product as a precursor to
18 an illegal substance or an intermediary to a controlled
19 substance.

20 For the purposes of this paragraph "p", "in the presence of
21 a child" means the physical presence of a child during the
22 manufacture or possession, the manufacture or possession
23 occurred in a child's home, or the manufacture or possession
24 occurred under other circumstances in which a reasonably
25 prudent person would know that the manufacture or possession
26 may be seen or heard by a child.

27 Sec. 8. Section 232.68, subsection 2, Code 2001, is
28 amended by adding the following new paragraph:

29 NEW PARAGRAPH. g. The person responsible for the care of
30 a child has exposed the child or has allowed the child to
31 participate in or to witness the manufacture of a controlled
32 substance as defined in section 124.101.

33 Sec. 9. Section 232.69, subsection 3, Code 2001, is
34 amended to read as follows:

35 3. A person required to make a report under subsection 1,

1 other than a physician whose professional practice does not
2 regularly involve providing primary health care to children,
3 shall complete two hours of training relating to the
4 identification and reporting of child abuse within six months
5 of initial employment or self-employment involving the
6 examination, attending, counseling, or treatment of children
7 on a regular basis. Within one month of initial employment or
8 self-employment, the person shall obtain a statement of the
9 abuse reporting requirements from the person's employer or, if
10 self-employed, from the department. The person shall complete
11 at least two hours of additional child abuse identification
12 and reporting training every ~~five~~ two years. If the person is
13 an employee of a hospital or similar institution, or of a
14 public or private institution, agency, or facility, the
15 employer shall be responsible for providing the child abuse
16 identification and reporting training. If the person is self-
17 employed, the person shall be responsible for obtaining the
18 child abuse identification and reporting training. The person
19 may complete the initial or additional training as part of a
20 continuing education program required under chapter 272C or
21 may complete the training as part of a training program
22 offered by the department of human services, the department of
23 education, an area education agency, a school district, the
24 Iowa law enforcement academy, or a similar public agency.

25 Sec. 10. Section 232.71B, subsection 11, paragraph b, Code
26 2001, is amended to read as follows:

27 b. The written assessment shall be completed within twenty
28 business days of the receipt of the report. However, if one
29 of these circumstances exist the department may delay
30 completion of the written assessment as follows:

31 (1) The county attorney requests the department not to
32 release information to the child's parent, guardian, or
33 custodian because the county attorney is considering filing
34 criminal charges against the child's parent, guardian, or
35 custodian. The department shall complete the written

1 assessment upon receiving notice from the county attorney that
2 charges will or will not be filed.

3 (2) Critical information needed to make a determination
4 regarding the safety of the child is not yet available. The
5 department shall complete the written assessment upon
6 obtaining the critical information.

7 Sec. 11. Section 235A.13, subsection 9, Code 2001, is
8 amended to read as follows:

9 9. "Near fatality" means ~~a-bodily-injury-which-involves~~
10 ~~substantial-risk-of-death,-protracted-and-obvious~~
11 ~~disfigurement,-or-protracted-loss-or-impairment-of-the~~
12 ~~function-of-a-bodily-member,-organ,-or-mental-faculty-and~~
13 ~~includes-a-serious-bodily-injury-as-described-in-section~~
14 ~~702:10~~ an act that, as certified by a physician, places a
15 child in serious or critical condition.

16 Sec. 12. Section 235A.24, Code 2001, is amended to read as
17 follows:

18 235A.24 ORDER FOR DISCLOSURE OF CHILD ABUSE INFORMATION.

19 A person whose request for child abuse information under
20 section 235A.15, subsection 9, is denied may apply to the
21 juvenile court for an order compelling disclosure of the
22 information. The application shall state in reasonable detail
23 the factors in support of the application. The juvenile court
24 shall have jurisdiction to issue the order. A hearing shall
25 be set immediately upon filing of an application under this
26 section and subsequent proceedings shall be accorded priority
27 by other courts. In any proceeding held under this section,
28 the child victim of the fatality or near fatality or a
29 guardian ad litem or other advocate for the child, the child's
30 sibling, and the child's parent, guardian, or custodian shall
31 be parties to and shall have the right to counsel in
32 connection with the proceeding. If that person desires but is
33 financially unable to retain counsel, the court shall appoint
34 counsel. After the court has reviewed the child abuse
35 information relating to the case in camera, unless the court

1 finds that a restriction listed in section 235A.15, subsection
2 9, is applicable, the court shall issue an order compelling
3 disclosure of the child abuse information.

4 Sec. 13. Section 235B.16, subsection 5, unnumbered
5 paragraph 1, Code 2001, is amended to read as follows:

6 A person required to report cases of dependent adult abuse
7 pursuant to section 235B.3, other than a physician whose
8 professional practice does not regularly involve providing
9 primary health care to adults, shall complete two hours of
10 training relating to the identification and reporting of
11 dependent adult abuse within six months of initial employment
12 or self-employment which involves the examination, attending,
13 counseling, or treatment of adults on a regular basis. Within
14 one month of initial employment or self-employment, the person
15 shall obtain a statement of the abuse reporting requirements
16 from the person's employer or, if self-employed, from the
17 department. The person shall complete at least two hours of
18 additional dependent adult abuse identification and reporting
19 training every ~~five~~ two years.

20 DIVISION IV

21 OTHER STATUTORY CHANGES

22 Sec. 14. Section 708.1, subsection 2, Code 2001, is
23 amended to read as follows:

24 2. Any act which is intended to place another in fear of
25 ~~immediate~~ imminent physical contact which will be painful,
26 injurious, insulting, or offensive, coupled with the apparent
27 ability to execute the act.

28 EXPLANATION

29 This bill relates to prevention of and response to abuse
30 involving dependent adult abuse, child abuse, substance abuse,
31 sexual offenders, victim services, and third-party payment of
32 health coverage costs for mental health and substance abuse
33 treatment and makes appropriations.

34 Division I of the bill makes appropriations to the
35 departments of elder affairs, human services, public health,

1 corrections, and justice for fiscal year 2001-2002 for abuse
2 prevention and response programs and purposes.

3 Division II of the bill creates new Code section 514C.21
4 and provides that a group policy or contract providing for
5 third-party payment or prepayment of health or medical
6 expenses shall provide coverage benefits for treatment of a
7 serious mental illness and substance abuse. The bill
8 prohibits a group policy or contract from imposing limitations
9 on the financial terms for coverage of services for serious
10 mental illnesses or substance abuse if similar limitations are
11 not imposed on the coverage benefits for services for medical
12 or surgical conditions.

13 Division II of the bill defines "serious mental illness" as
14 schizophrenia, schizo-affective disorder, bipolar disorder,
15 major depressive disorder, obsessive-compulsive disorder,
16 autism, pervasive developmental disorders, anxiety disorders,
17 paranoia and other psychotic disorders, and eating disorders,
18 including, but not limited to, bulimia nervosa and anorexia
19 nervosa. The bill defines "substance abuse" as a pattern of
20 pathological use of alcohol or a drug that causes impairment
21 in social or occupational functioning, or that produces
22 physiological dependency evidenced by physical tolerance or by
23 physical symptoms when the alcohol or drug is withdrawn.

24 Division II of the bill requires that a third-party payor
25 may manage the benefits provided through common methods
26 including, but not limited to, providing payment of benefits
27 or providing care and treatment under a capitated payment
28 system, prospective reimbursement rate system, utilization
29 control system, incentive system for the use of least
30 restrictive and least costly levels of care, a preferred
31 provider contract limiting choice of specific provider, or any
32 other system, method, or organization designed to ensure
33 services are medically necessary and clinically appropriate.

34 Division II of the bill requires the commissioner, by rule,
35 to increase the mental health and substance abuse lifetime

1 limit in the individual market guaranteed standard product to
2 \$100,000.

3 Division II of the bill provides that a group policy is
4 exempt from the requirements of the new Code section upon
5 submitting to the commissioner evidence demonstrating a
6 premium increase for the policy term in excess of 3 percent as
7 a result of the requirements of the new Code section.

8 Division II of the bill provides that the new Code section
9 applies to third-party payment provider contracts or policies
10 delivered, issued for delivery, continued, or renewed in this
11 state on or after January 1, 2002. The new Code section is
12 repealed effective July 1, 2004.

13 Division III of the bill amends child protection provisions
14 in the juvenile justice code and in the child abuse registry
15 Code chapter.

16 Code section 232.2, relating to the definition of child in
17 need of assistance, is amended. Under the bill, the
18 definition would include an unmarried child in whose presence
19 the parent, guardian, or custodian: unlawfully manufactures a
20 controlled substance as defined in the controlled substances
21 chapter, or possesses ephedrine, pseudoephedrine, or chemical
22 derivatives of those substances with the intent to use the
23 substances as a precursor to an illegal substance or
24 intermediary to a controlled substance. The term "in the
25 presence of a child" is defined to include manufacture or
26 possession occurring in the physical presence of a child, in
27 the home of a child, or under circumstances in which a
28 reasonably prudent person would know that the manufacture or
29 possession may be heard or seen by a child.

30 Code section 232.68, relating to child abuse definitions,
31 is amended. The bill includes in the definition of child
32 abuse, circumstances in which a person responsible for the
33 care of the child has exposed the child to or allowed the
34 child to participate in or witness the manufacture of a
35 controlled substance.

1 Code section 232.69, relating to mandatory reporters of
2 child abuse, is amended to change the frequency of training
3 required for mandatory reports from every five years to every
4 two years.

5 Under Code section 232.71B, the department of human
6 services is required to complete within 20 business days a
7 written child abuse assessment in response to a report of
8 child abuse. The bill allows this time period to be extended
9 if the county attorney requests withholding of information
10 because the county attorney is considering filing charges
11 against the child's parent, guardian, or custodian, or if
12 critical information needed to make a determination regarding
13 the child's safety is not available.

14 The bill amends the definition of "near fatality" used in
15 Code section 235A.13 regarding the public disclosure of
16 information to the governor and the public in cases of child
17 fatality or near fatality. The new language matches a
18 definition in federal law in 42 U.S.C. § 5106a(b)(4).

19 The bill also amends Code section 235A.24 by providing that
20 in legal proceedings regarding the public disclosure of
21 information in cases of a child fatality or near fatality, the
22 child victim or guardian ad litem or another advocate for that
23 child, siblings of the victim, and the child's parent,
24 guardian, or custodian are parties to the proceedings and have
25 the right to counsel. If the person is financially unable to
26 employ counsel, the court is required to appoint counsel.

27 The bill amends Code section 235B.16, relating to dependent
28 adult abuse, to change the frequency of training required for
29 mandatory reporters of such abuse from every five years to
30 every two years.

31 Division IV of the bill amends the definition of assault
32 contained in Code section 708.1 by changing the phrase "place
33 another in fear of immediate physical contact" to "place
34 another in fear of imminent physical contact".

35