

MAR 10 2004  
APPROPRIATIONS

HOUSE FILE 2535  
BY COMMITTEE ON HUMAN  
RESOURCES

(SUCCESSOR TO HSB 153)

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

**A BILL FOR**

1 An Act relating to public assistance benefits received by persons  
2 who were not entitled or eligible to receive the benefits,  
3 providing criminal and civil penalties, and appropriating  
4 certain penalties received.

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

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HF 2535

1 Section 1. NEW SECTION. 10A.404 CIVIL PENALTIES AND  
2 PAYMENT OF INVESTIGATION COSTS -- PRESUMPTION OF LIABILITY --  
3 LIMITATION OF ACTIONS.

4 1. For the purposes of this section, unless the context  
5 otherwise requires, "benefit" means a service, payment,  
6 merchandise, or other assistance. In addition to any other  
7 penalty or payment amount under law, a person is liable for  
8 the civil penalty and payment of the investigation costs  
9 listed in subsection 2 if the person receives a benefit to  
10 which the person was not entitled or for which the person was  
11 not eligible under any of the following chapters administered  
12 by the state:

13 a. Chapter 234, relating to child and family services.

14 b. Chapter 237A, relating to child care.

15 c. Chapter 239B, relating to the family investment  
16 program.

17 d. Chapter 249, relating to the state supplementary  
18 assistance program.

19 e. Chapter 249A, relating to the medical assistance  
20 program.

21 2. a. If the person liable under subsection 1 was the  
22 program benefit recipient of the benefit to which the person  
23 was not entitled or eligible under any of the chapters listed  
24 in subsection 1 and the total dollar amount of such benefit  
25 received was proven to be more than one thousand dollars, the  
26 person is liable for both of the following amounts:

27 (1) A civil penalty of not more than three times the total  
28 dollar amount of the benefit to which the person was not  
29 entitled or eligible to receive.

30 (2) Not more than five hundred dollars of the costs  
31 incurred by the department in investigating the matter.

32 b. If the person liable under subsection 1 was a provider  
33 of service, merchandise, or other assistance under any of the  
34 chapters listed in subsection 1, the person is liable for both  
35 of the following amounts:

1 (1) A civil penalty. If a provider received benefits to  
2 which the provider was not entitled with a proven dollar  
3 amount, the civil penalty shall be at least twenty-five  
4 percent of the amount of benefits to which the provider was  
5 not entitled. The court ordering payment of this civil  
6 penalty may order payment of a maximum penalty not to exceed  
7 three times the proven total dollar amount of benefits to  
8 which the provider was not entitled.

9 (2) Not more than five thousand dollars of the costs  
10 incurred by the department in investigating the matter.

11 3. Liability for the civil penalty and payment of costs of  
12 investigation under subsections 1 and 2 is separate from and  
13 cumulative with any other administrative, civil, or criminal  
14 penalty or payments ordered under federal or state law or  
15 regulation. Institution of a criminal proceeding is not a  
16 prerequisite or condition for an action to enforce subsections  
17 1 and 2.

18 4. Liability for the civil penalty and payment of costs of  
19 investigation under subsections 1 and 2 may be established by  
20 any of the following means:

21 a. Upon a criminal conviction, entry of a guilty plea, or  
22 entry of a finding of guilt in a state or federal prosecution  
23 that is directly related to a benefit administered by the  
24 state under a chapter listed in subsection 1, the sentencing  
25 court may order payment in accordance with subsections 1 and  
26 2. However, if the sentencing court fails to order the  
27 payment, a civil proceeding to enforce payment may be  
28 instituted in accordance with subsection 5.

29 b. Upon entry of a civil judgment or confession of  
30 judgment in a state or federal court proceeding that is  
31 directly related to a benefit administered by the state under  
32 a chapter listed in subsection 1, the court entering judgment  
33 may order payment in accordance with subsections 1 and 2.  
34 However, if the court ordering judgment fails to order the  
35 payment, a civil proceeding to enforce payment may be

1 instituted in accordance with subsection 5.

2 c. Upon an administrative finding in a state or federal  
3 proceeding that is directly related to a benefit administered  
4 by the state under a chapter listed in subsection 1, a civil  
5 proceeding to enforce payment may be instituted in accordance  
6 with subsection 5.

7 5. A civil proceeding to enforce payment under this  
8 section shall be instituted in the district court of the  
9 county in which the person received under a chapter listed in  
10 subsection 1 a benefit to which the person was not entitled or  
11 for which the person under rule was not eligible. The office  
12 of the attorney general or the county attorney may institute  
13 the civil proceeding, which may commence after or at the same  
14 time as any related state or federal criminal, civil, or  
15 administrative proceeding directly related to a benefit under  
16 a chapter listed in subsection 1 to which the person was not  
17 entitled or eligible to receive.

18 6. A rebuttable presumption arises that a person is liable  
19 for the civil penalty and payment of costs of investigation  
20 under subsections 1 and 2. The presumption may only be  
21 rebutted by clear and convincing evidence that the person was  
22 properly entitled to or eligible to receive such benefit under  
23 a chapter listed in subsection 1. The rebuttable presumption  
24 arises after any of the following occurs in a state or federal  
25 criminal, civil, or administrative proceeding that is directly  
26 related to payment or collection of payments received by a  
27 person for a service or benefit administered by the state  
28 under a chapter listed in subsection 1:

29 a. Entry of a criminal conviction, plea of guilty, or  
30 finding of guilt.

31 b. Entry of a judgment or confession of judgment in a  
32 civil proceeding.

33 c. Entry of an administrative finding adverse to the  
34 person or establishing the person's liability.

35 7. The departments of human services and inspections and

1 appeals shall cooperate in adopting rules pursuant to chapter  
2 17A as necessary for administration, collection, and  
3 allocation of civil penalties described in subsection 2. The  
4 department of inspections and appeals shall adopt rules  
5 pursuant to chapter 17A as necessary for the administration,  
6 collection, and allocation of costs of investigation described  
7 in subsection 2.

8 8. An action under this section shall not be instituted  
9 more than five years after the date the state discovered that  
10 a person received a benefit under a chapter listed in  
11 subsection 1 to which the person was not entitled or for which  
12 the person under rule was not eligible.

13 9. a. This section shall be applicable in circumstances  
14 when a person receiving the benefit or a portion thereof to  
15 which the person was not entitled or eligible for knowingly  
16 did any of the following:

17 (1) Presented, caused to be presented, or acquiesced in  
18 the presentation of false claims or false information.

19 (2) Made or caused to be made, or used false records or  
20 statements.

21 (3) Committed fraud or conspired to commit fraud.

22 (4) Failed to provide information or failed to disclose  
23 material facts, including but not limited to property  
24 interests and resources.

25 b. This section shall not be applicable in circumstances  
26 when a person, through no fault of their own, receives a  
27 benefit or a portion thereof to which the person or provider  
28 was not entitled or eligible for, and when the benefit or a  
29 portion thereof was the result of error, improper application,  
30 interpretation, or implementation of the program rules or  
31 policies specific to the chapter under which the benefits were  
32 received.

33 10. The collection of penalties or investigation costs  
34 under this section shall not occur until the person assessed  
35 the penalties or investigation costs has exhausted all appeal

1 rights.

2 Sec. 2. NEW SECTION. 234.13A CIVIL PENALTIES -- PAYMENT  
3 OF INVESTIGATION COSTS.

4 If a person receives under this chapter a service, payment,  
5 merchandise, or other assistance to which the person was not  
6 entitled or for which the person was not eligible, the  
7 person's liability for civil penalties and investigation costs  
8 shall be determined in accordance with section 10A.404.

9 Sec. 3. NEW SECTION. 237A.14 FRAUDULENT PRACTICES --  
10 RECOVERY OF OVERPAYMENTS.

11 1. An individual who receives, or attempts to receive, or  
12 aids or abets an individual in receiving, by means of a  
13 willfully false statement or representation, by knowingly  
14 failing to disclose a material fact, or by impersonation, or  
15 through any fraudulent device, any assistance, payment, or  
16 other benefit under this chapter to which the individual is  
17 not entitled, commits a fraudulent practice.

18 2. An individual who commits a fraudulent practice under  
19 this section is personally liable for the amount of  
20 assistance, payment, or other benefit fraudulently received.  
21 The amount of the assistance, payment, or other benefit may be  
22 recovered from the offender or the offender's estate in an  
23 action brought or by claim filed in the name of the state and  
24 the recovered funds are appropriated to the department to be  
25 used for state child care assistance under section 237A.13.  
26 The action or claim filed in the name of the state shall not  
27 be considered an election of remedies to the exclusion of  
28 other remedies.

29 3. The department shall adopt rules pursuant to chapter  
30 17A as necessary to recover overpayments of assistance,  
31 payments, and benefits provided under this chapter. The  
32 recovery methods shall include but are not limited to reducing  
33 the amount of assistance, payments, or benefits provided.

34 Sec. 4. NEW SECTION. 237A.15 CIVIL PENALTIES -- PAYMENT  
35 OF INVESTIGATION COSTS.

1 If a person receives under this chapter assistance,  
2 payment, or other benefit to which the person was not entitled  
3 or for which the person was not eligible, the person's  
4 liability for civil penalties and investigation costs shall be  
5 determined in accordance with section 10A.404.

6 Sec. 5. NEW SECTION. 239B.14A CIVIL PENALTIES -- PAYMENT  
7 OF INVESTIGATION COSTS.

8 If a person receives under this chapter assistance or  
9 another benefit to which the person was not entitled or for  
10 which the person was not eligible, the person's liability for  
11 civil penalties and investigation costs shall be determined in  
12 accordance with section 10A.404.

13 Sec. 6. NEW SECTION. 249.11A CIVIL PENALTIES -- PAYMENT  
14 OF INVESTIGATION COSTS.

15 If a person receives under this chapter payment to which  
16 the person was not entitled or for which the person was not  
17 eligible, the person's liability for civil penalties and  
18 investigation costs shall be determined in accordance with  
19 section 10A.404.

20 Sec. 7. NEW SECTION. 249A.8A CIVIL PENALTIES -- PAYMENT  
21 OF INVESTIGATION COSTS.

22 If a person receives under this chapter assistance or  
23 payment for medical assistance or payment for services or  
24 merchandise under this chapter to which the person was not  
25 entitled or for which the person was not eligible, the  
26 person's liability for civil penalties and investigation costs  
27 shall be determined in accordance with section 10A.404.

28 EXPLANATION

29 This bill relates to public assistance benefits received by  
30 persons who were not entitled or eligible to receive the  
31 benefits. The bill includes requirements for establishing  
32 liability for civil penalties and recovery of investigation  
33 costs from such persons under the following Code chapters:  
34 chapter 234, relating to child and family services, including  
35 child welfare services and food programs; chapter 237A,

1 relating to child care services; chapter 239B, relating to the  
2 family investment program; chapter 249, relating to state  
3 supplementary assistance; and chapter 249A, relating to the  
4 medical assistance program.

5 In new Code section 10A.404, the bill provides authority as  
6 applicable under each of these chapters to establish liability  
7 for a person who receives a benefit, defined as a service,  
8 payment, merchandise, or other assistance to which the person  
9 was not entitled or for which the person by rule was not  
10 eligible, in addition to any other penalty or payment under  
11 law. The liability has two components: a civil penalty and  
12 the costs of the investigation concerning the matter incurred  
13 by the department of inspections and appeals.

14 The threshold for applying this liability to a recipient is  
15 whether the recipient received more than \$1,000 of benefits to  
16 which the recipient was not entitled or eligible. The civil  
17 liability limit for a recipient is three times the value of  
18 such benefit and the liability for investigation costs is  
19 limited to \$500. If a provider received benefits to which the  
20 provider was not entitled with a proven dollar amount, the  
21 civil penalty shall be at least 25 percent of the amount of  
22 benefits to which the provider was not entitled.

23 The liability may be established by a state or federal  
24 court in a criminal or civil proceeding or pursuant to an  
25 administrative finding. Otherwise the office of the attorney  
26 general or county attorney is authorized to initiate the  
27 proceedings in the county in which the person received the  
28 benefit.

29 If a judgment or finding is issued in a criminal, civil, or  
30 administrative proceeding that involves benefit programs  
31 administered by the state, a rebuttable presumption arises  
32 that the person is liable for the civil penalties and costs of  
33 investigation. The presumption may be rebutted by showing  
34 clear and convincing evidence that the person was eligible for  
35 what was received.



1 The departments of human services and inspections and  
2 appeals are authorized to adopt rules to implement the bill's  
3 provisions.

4 In addition, new Code section 237A.14 establishes a  
5 fraudulent practice crime involving persons obtaining child  
6 care assistance, payments, or benefits. The state is  
7 authorized to recover moneys to compensate for the  
8 fraudulently obtained assistance, payment, or benefit, and  
9 recovered moneys are appropriated to the department of human  
10 services for the state child care assistance program.

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*Boddicker  
Berry  
Neaton*

Succeeded By  
SF **02535**

**HSB 153**

**HUMAN RESOURCES**

SENATE/HOUSE FILE \_\_\_\_\_

BY (PROPOSED DEPARTMENT OF  
INSPECTIONS AND APPEALS BILL)

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

**A BILL FOR**

1 An Act relating to public assistance benefits received by persons  
2 who were not entitled or eligible to receive the benefits,  
3 providing criminal and civil penalties, and appropriating  
4 certain penalties received.

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

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1 Section 1. NEW SECTION. 10A.404 CIVIL PENALTIES AND  
2 PAYMENT OF INVESTIGATION COSTS -- PRESUMPTION OF LIABILITY --  
3 LIMITATION OF ACTIONS.

4 1. For the purposes of this section, unless the context  
5 otherwise requires, "benefit" means a service, payment,  
6 merchandise, or other assistance. In addition to any other  
7 penalty or payment amount under law, a person is liable for  
8 the civil penalty and payment of the investigation costs  
9 listed in subsection 2 if the person receives a benefit to  
10 which the person was not entitled or for which the person was  
11 not eligible under any of the following chapters administered  
12 by the state:

13 a. Chapter 234, relating to child and family services.

14 b. Chapter 237A, relating to child care.

15 c. Chapter 239B, relating to the family investment  
16 program.

17 d. Chapter 249, relating to the state supplementary  
18 assistance program.

19 e. Chapter 249A, relating to the medical assistance  
20 program.

21 2. a. If the person liable under subsection 1 was the  
22 program benefit recipient of the benefit to which the person  
23 was not entitled or eligible under any of the chapters listed  
24 in subsection 1 and the total dollar amount of such benefit  
25 received was proven to be more than one thousand dollars, the  
26 person is liable for both of the following amounts:

27 (1) A civil penalty of not more than three times the total  
28 dollar amount of the benefit to which the person was not  
29 entitled or eligible to receive.

30 (2) Not more than five hundred dollars of the costs  
31 incurred by the department in investigating the matter.

32 b. If the person liable under subsection 1 was a provider  
33 of service, merchandise, or other assistance under any of the  
34 chapters listed in subsection 1, the person is liable for both  
35 of the following amounts:

1 (1) A civil penalty. If a provider received benefits to  
2 which the provider was not entitled with a proven total dollar  
3 amount of twenty thousand dollars or less, the minimum civil  
4 penalty shall be five thousand dollars. If the provider  
5 received benefits to which the provider was not entitled with  
6 a proven total dollar amount in excess of twenty thousand  
7 dollars, the civil penalty shall be at least twenty-five  
8 percent of the amount of the benefits to which the provider  
9 was not entitled. Notwithstanding the proven total dollar  
10 amount of benefits to which the provider was not entitled, the  
11 court ordering payment of this civil penalty may order payment  
12 of a maximum penalty not to exceed three times the proven  
13 total dollar amount of benefits to which the provider was not  
14 entitled.

15 (2) Not more than five thousand dollars of the costs  
16 incurred by the department in investigating the matter.

17 3. Liability for the civil penalty and payment of costs of  
18 investigation under subsections 1 and 2 is separate from and  
19 cumulative with any other administrative, civil, or criminal  
20 penalty or payments ordered under federal or state law or  
21 regulation. Institution of a criminal proceeding is not a  
22 prerequisite or condition for an action to enforce subsections  
23 1 and 2.

24 4. Liability for the civil penalty and payment of costs of  
25 investigation under subsections 1 and 2 may be established by  
26 any of the following means:

27 a. Upon a criminal conviction, entry of a guilty plea, or  
28 entry of a finding of guilt in a state or federal prosecution  
29 that is directly related to a benefit administered by the  
30 state under a chapter listed in subsection 1, the sentencing  
31 court may order payment in accordance with subsections 1 and  
32 2. However, if the sentencing court fails to order the  
33 payment, a civil proceeding to enforce payment may be  
34 instituted in accordance with subsection 5.

35 b. Upon entry of a civil judgment or confession of

1 judgment in a state or federal court proceeding that is  
2 directly related to a benefit administered by the state under  
3 a chapter listed in subsection 1, the court entering judgment  
4 may order payment in accordance with subsections 1 and 2.  
5 However, if the court ordering judgment fails to order the  
6 payment, a civil proceeding to enforce payment may be  
7 instituted in accordance with subsection 5.

8 c. Upon an administrative finding in a state or federal  
9 proceeding that is directly related to a benefit administered  
10 by the state under a chapter listed in subsection 1, a civil  
11 proceeding to enforce payment may be instituted in accordance  
12 with subsection 5.

13 5. A civil proceeding to enforce payment under this  
14 section shall be instituted in the district court of the  
15 county in which the person received under a chapter listed in  
16 subsection 1 a benefit to which the person was not entitled or  
17 for which the person under rule was not eligible. The office  
18 of the attorney general or the county attorney may institute  
19 the civil proceeding, which may commence after or at the same  
20 time as any related state or federal criminal, civil, or  
21 administrative proceeding directly related to a benefit under  
22 a chapter listed in subsection 1 to which the person was not  
23 entitled or eligible to receive.

24 6. A rebuttable presumption arises that a person is liable  
25 for the civil penalty and payment of costs of investigation  
26 under subsections 1 and 2. The presumption may only be  
27 rebutted by clear and convincing evidence that the person was  
28 properly entitled to or eligible to receive such benefit under  
29 a chapter listed in subsection 1. The rebuttable presumption  
30 arises after any of the following occurs in a state or federal  
31 criminal, civil, or administrative proceeding that is directly  
32 related to payment or collection of payments received by a  
33 person for a service or benefit administered by the state  
34 under a chapter listed in subsection 1:

35 a. Entry of a criminal conviction, plea of guilty, or

1 finding of guilt.

2 b. Entry of a judgment or confession of judgment in a  
3 civil proceeding.

4 c. Entry of an administrative finding adverse to the  
5 person or establishing the person's liability.

6 7. The departments of human services and inspections and  
7 appeals shall cooperate in adopting rules pursuant to chapter  
8 17A as necessary for administration, collection, and  
9 allocation of civil penalties described in subsection 2. The  
10 department of inspections and appeals shall adopt rules  
11 pursuant to chapter 17A as necessary for the administration,  
12 collection, and allocation of costs of investigation described  
13 in subsection 2.

14 8. An action under this section shall not be instituted  
15 more than five years after the date the state discovered that  
16 a person received a benefit under a chapter listed in  
17 subsection 1 to which the person was not entitled or for which  
18 the person under rule was not eligible.

19 9. This section shall not be applicable in circumstances  
20 when a person, through no fault of their own, receives a  
21 benefit or a portion thereof to which the person or provider  
22 was not entitled or eligible for, and when the benefit or a  
23 portion thereof was the result of error, improper application,  
24 interpretation, or implementation of the program rules or  
25 policies specific to the chapter under which the benefits were  
26 received.

27 Sec. 2. NEW SECTION. 234.13A CIVIL PENALTIES -- PAYMENT  
28 OF INVESTIGATION COSTS.

29 If a person receives under this chapter a service, payment,  
30 merchandise, or other assistance to which the person was not  
31 entitled or for which the person was not eligible, the  
32 person's liability for civil penalties and investigation costs  
33 shall be determined in accordance with section 10A.404.

34 Sec. 3. NEW SECTION. 237A.14 FRAUDULENT PRACTICES --  
35 RECOVERY OF OVERPAYMENTS.

1 1. An individual who receives, or attempts to receive, or  
2 aids or abets an individual in receiving, by means of a  
3 willfully false statement or representation, by knowingly  
4 failing to disclose a material fact, or by impersonation, or  
5 through any fraudulent device, any assistance, payment, or  
6 other benefit under this chapter to which the individual is  
7 not entitled, commits a fraudulent practice.

8 2. An individual who commits a fraudulent practice under  
9 this section is personally liable for the amount of  
10 assistance, payment, or other benefit fraudulently received.  
11 The amount of the assistance, payment, or other benefit may be  
12 recovered from the offender or the offender's estate in an  
13 action brought or by claim filed in the name of the state and  
14 the recovered funds are appropriated to the department to be  
15 used for state child care assistance under section 237A.13.  
16 The action or claim filed in the name of the state shall not  
17 be considered an election of remedies to the exclusion of  
18 other remedies.

19 3. The department shall adopt rules pursuant to chapter  
20 17A as necessary to recover overpayments of assistance,  
21 payments, and benefits provided under this chapter. The  
22 recovery methods shall include but are not limited to reducing  
23 the amount of assistance, payments, or benefits provided.

24 Sec. 4. NEW SECTION. 237A.15 CIVIL PENALTIES -- PAYMENT  
25 OF INVESTIGATION COSTS.

26 If a person receives under this chapter assistance,  
27 payment, or other benefit to which the person was not entitled  
28 or for which the person was not eligible, the person's  
29 liability for civil penalties and investigation costs shall be  
30 determined in accordance with section 10A.404.

31 Sec. 5. NEW SECTION. 239B.14A CIVIL PENALTIES -- PAYMENT  
32 OF INVESTIGATION COSTS.

33 If a person receives under this chapter assistance or  
34 another benefit to which the person was not entitled or for  
35 which the person was not eligible, the person's liability for

1 civil penalties and investigation costs shall be determined in  
2 accordance with section 10A.404.

3 Sec. 6. NEW SECTION. 249.11A CIVIL PENALTIES -- PAYMENT  
4 OF INVESTIGATION COSTS.

5 If a person receives under this chapter payment to which  
6 the person was not entitled or for which the person was not  
7 eligible, the person's liability for civil penalties and  
8 investigation costs shall be determined in accordance with  
9 section 10A.404.

10 Sec. 7. NEW SECTION. 249A.8A CIVIL PENALTIES -- PAYMENT  
11 OF INVESTIGATION COSTS.

12 If a person receives under this chapter assistance or  
13 payment for medical assistance or payment for services or  
14 merchandise under this chapter to which the person was not  
15 entitled or for which the person was not eligible, the  
16 person's liability for civil penalties and investigation costs  
17 shall be determined in accordance with section 10A.404.

18 EXPLANATION

19 This bill relates to public assistance benefits received by  
20 persons who were not entitled or eligible to receive the  
21 benefits. The bill includes requirements for establishing  
22 liability for civil penalties and recovery of investigation  
23 costs from such persons under the following Code chapters:  
24 chapter 234, relating to child and family services, including  
25 child welfare services and food programs; chapter 237A,  
26 relating to child care services; chapter 239B, relating to the  
27 family investment program; chapter 249, relating to state  
28 supplementary assistance; and chapter 249A, relating to the  
29 medical assistance program.

30 In new Code section 10A.404, the bill provides authority as  
31 applicable under each of these chapters to establish liability  
32 for a person who receives a benefit, defined as a service,  
33 payment, merchandise, or other assistance to which the person  
34 was not entitled or for which the person by rule was not  
35 eligible, in addition to any other penalty or payment under



1 law. The liability has two components: a civil penalty and  
2 the costs of the investigation concerning the matter incurred  
3 by the department of inspections and appeals.

4 The threshold for applying this liability to a recipient is  
5 whether the recipient received more than \$1,000 of benefits to  
6 which the recipient was not entitled or eligible. The civil  
7 liability limit for a recipient is three times the value of  
8 such benefit and the liability for investigation costs is  
9 limited to \$500. The civil penalty for a provider of service,  
10 merchandise, or other assistance who received a benefit to  
11 which the provider was not entitled or eligible for is a  
12 minimum of \$5,000 for a provider who received unentitled  
13 benefits of \$20,000 or less. If the provider received  
14 benefits the provider was not entitled to in excess of  
15 \$20,000, the civil penalty is at least 25 percent of the  
16 amount of the benefits the provider was not entitled to, not  
17 to exceed three times the value of such benefit.

18 The liability may be established by a state or federal  
19 court in a criminal or civil proceeding or pursuant to an  
20 administrative finding. Otherwise the office of the attorney  
21 general or county attorney is authorized to initiate the  
22 proceedings in the county in which the person received the  
23 benefit.

24 If a judgment or finding is issued in a criminal, civil, or  
25 administrative proceeding that involves benefit programs  
26 administered by the state, a rebuttable presumption arises  
27 that the person is liable for the civil penalties and costs of  
28 investigation. The presumption may be rebutted by showing  
29 clear and convincing evidence that the person was eligible for  
30 what was received.

31 The departments of human services and inspections and  
32 appeals are authorized to adopt rules to implement the bill's  
33 provisions.

34 In addition, new Code section 237A.14 establishes a  
35 fraudulent practice crime involving persons obtaining child

1 care assistance, payments, or benefits. The state is  
2 authorized to recover moneys to compensate for the  
3 fraudulently obtained assistance, payment, or benefit, and  
4 recovered moneys are appropriated to the department of human  
5 services for the state child care assistance program.

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# Memo

To: Members of the 80<sup>th</sup> General Assembly  
From: Steve Young, Director  
Date: December 2, 2002  
Re: Proposed Investigations Division Legislation

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The Department of Inspections and Appeals (DIA) proposes legislation to provide for civil penalties and payment of investigation costs in those cases where a person receives a benefit to which the person was not entitled or for which the person was not eligible.

The legislation covers benefits relating to child and family services under Chapter 234, child care under Chapter 237A, the family investment program under chapter 239B, the state supplementary assistance program under chapter 249 and the medical assistance program under chapter 249A.

The legislation provides for the imposition of a civil penalty and the payment of investigative costs in the event of a criminal conviction, civil judgment or administrative finding related to the above-mentioned chapters.

The legislation is not applicable in those circumstances where a person, through no fault of their own, receives benefits and where the benefit was the result of error or improper application, interpretation or implementation of the program rules or policies of the benefit program.

This legislation is intended to address the issue of establishing a civil penalty and establishing responsibility for the costs of investigations in those cases where a person receives benefits to which they are not entitled.

If you have any questions regarding this legislation, please contact Beverly Zylstra, Legislative Liaison, at 515-281-6442 or via e-mail at [bzylstra@dia.state.ia.us](mailto:bzylstra@dia.state.ia.us).