

Senate Study Bill 1238

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
HUMAN SERVICES BILL)

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

A BILL FOR

1 An Act relating to regulation of children's services by the
2 department of human services by increasing the age for certain
3 children receiving child care regulated by the department and
4 revising child welfare and juvenile justice service
5 provisions.

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

7 TLSB 1245DP 82

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1 1 DIVISION I
1 2 CHILD CARE SERVICES
1 3 Section 1. Section 237A.1, subsection 2, Code 2007, is
1 4 amended to read as follows:
1 5 2. "Child" means ~~either any~~ of the following:
1 6 a. A person twelve years of age or younger.
1 7 b. A person thirteen years of age or older but younger
1 8 than nineteen years of age who has a developmental disability
1 9 as defined under the federal Developmental Disabilities
1 10 Assistance and Bill of Rights Act of 2000, Pub. L. No.
1 11 106-402, as codified in 42 U.S.C. } 15002(8).
1 12 c. ~~A person thirteen years of age or older but younger~~
1 13 ~~than nineteen years of age who is living in a family setting~~
1 14 ~~in which special family circumstances exist that would place~~
1 15 ~~at risk the person's safety and well-being if the person is~~
1 16 ~~left alone in the setting.~~
1 17 Sec. 2. STATE CHILD CARE ASSISTANCE PROGRAM. The
1 18 department of human services shall revise the eligibility
1 19 provisions applicable to the state child care assistance
1 20 program under section 237A.13 in order to include eligibility,
1 21 effective July 1, 2007, for a person who is living in a family
1 22 setting in which special circumstances exist, in accordance
1 23 with the change in the definition of the term "child" made to
1 24 section 237A.1, subsection 2, paragraph "c", as enacted in
1 25 this division of this Act.

DIVISION II

INTERSTATE PLACEMENT OF CHILDREN IN FOSTER CARE

1 27 Sec. 3. Section 232.2, subsection 4, paragraph e, Code
1 28 2007, is amended to read as follows:
1 29 e. ~~To the extent the records are available and accessible,~~
1 30 ~~a summary of The most recent information available regarding~~
1 31 ~~the child's health and education records, including the date~~
1 32 ~~the records were supplied to the agency or individual who is~~
1 33 ~~the child's foster care provider.~~
1 34
1 35 Sec. 4. Section 232.2, subsection 4, paragraph i, Code
2 1 2007, is amended to read as follows:
2 2 i. A provision that a designee of the department or other
2 3 person responsible for placement of a child out of state shall
2 4 visit the child at least once every ~~twelve six~~ months.
2 5 Sec. 5. Section 232.57, subsection 1, Code 2007, is
2 6 amended to read as follows:
2 7 1. For the purposes of this division, unless the context
2 8 otherwise requires, "reasonable efforts" means the efforts
2 9 made to prevent permanent removal of a child from the child's
2 10 home and to encourage reunification of the child with the
2 11 child's parents and family. Reasonable efforts shall include
2 12 but are not limited to giving consideration, if appropriate,
2 13 to interstate placement of a child in the permanency planning
2 14 decisions involving the child and giving consideration to
2 15 in-state and out-of-state placement options at a permanency
2 16 hearing and when using concurrent planning. If a court order

2 17 includes a determination that continuation of the child in the
2 18 child's home is not appropriate or not possible, reasonable
2 19 efforts may include the efforts made in a timely manner to
2 20 finalize a permanency plan for the child.

2 21 Sec. 6. Section 232.58, subsection 2, Code 2007, is
2 22 amended to read as follows:

2 23 2. Reasonable notice shall be provided of a permanency
2 24 hearing for an out-of-home placement in which the court order
2 25 has included a determination that continuation of the child in
2 26 the child's home is contrary to the child's welfare. A
2 27 permanency hearing shall be conducted in substantial
2 28 conformance with the provisions of section 232.99. During the
2 29 hearing, the court shall consider the child's need for a
2 30 secure and permanent placement in light of any case permanency
2 31 plan or evidence submitted to the court and the reasonable
2 32 efforts made concerning the child. Upon completion of the
2 33 hearing, the court shall enter written findings identifying a
2 34 primary permanency goal for the child. If a case permanency
2 35 plan is in effect at the time of the hearing, the court shall
3 1 also make a determination as to whether reasonable progress is
3 2 being made in achieving the permanency goal and in complying
3 3 with the other provisions of that case permanency plan.

3 4 Sec. 7. Section 232.102, subsection 10, paragraph a,
3 5 unnumbered paragraph 1, Code 2007, is amended to read as
3 6 follows:

3 7 As used in this division, "reasonable efforts" means the
3 8 efforts made to preserve and unify a family prior to the
3 9 out-of-home placement of a child in foster care or to
3 10 eliminate the need for removal of the child or make it
3 11 possible for the child to safely return to the family's home.
3 12 Reasonable efforts shall include but are not limited to giving
3 13 consideration, if appropriate, to interstate placement of a
3 14 child in the permanency planning decisions involving the child
3 15 and giving consideration to in-state and out-of-state
3 16 placement options at a permanency hearing and when using

3 17 concurrent planning. If returning the child to the family's
3 18 home is not appropriate or not possible, reasonable efforts
3 19 shall include the efforts made in a timely manner to finalize
3 20 a permanency plan for the child. A child's health and safety
3 21 shall be the paramount concern in making reasonable efforts.
3 22 Reasonable efforts may include intensive family preservation
3 23 services or family-centered services, if the child's safety in
3 24 the home can be maintained during the time the services are
3 25 provided. In determining whether reasonable efforts have been
3 26 made, the court shall consider both of the following:

3 27 Sec. 8. Section 232.104, subsection 1, paragraph c, Code
3 28 2007, is amended to read as follows:

3 29 c. Reasonable notice of a permanency hearing shall be
3 30 provided to the parties. A permanency hearing shall be
3 31 conducted in substantial conformance with the provisions of
3 32 section 232.99. During the hearing, the court shall consider
3 33 the child's need for a secure and permanent placement in light
3 34 of any permanency plan or evidence submitted to the court and
3 35 the reasonable efforts made concerning the child. Upon

4 1 completion of the hearing, the court shall enter written
4 2 findings and make a determination identifying a primary
4 3 permanency goal for the child. If a permanency plan is in
4 4 effect at the time of the hearing, the court shall also make a
4 5 determination as to whether reasonable progress is being made
4 6 in achieving the permanency goal and complying with the other
4 7 provisions of that permanency plan.

4 8 DIVISION III

4 9 CHILD WELFARE FAMILY-CENTERED AND 4 10 FAMILY PRESERVATION SERVICES

4 11 Sec. 9. Section 225C.49, subsection 1, unnumbered
4 12 paragraph 1, Code 2007, is amended to read as follows:

4 13 The department shall provide coordination of the programs
4 14 administered by the department which serve individuals with a
4 15 disability and the individuals' families, including but not
4 16 limited to the following juvenile justice and child welfare
4 17 services: family-centered ~~and intensive family preservation~~
4 18 services described under section 232.102, decategorization of
4 19 child welfare funding provided for under section 232.188, and
4 20 foster care services paid under section 234.35, subsection 3.
4 21 The department shall regularly review administrative rules
4 22 associated with such programs and make recommendations to the
4 23 council on human services, governor, and general assembly for
4 24 revisions to remove barriers to the programs for individuals
4 25 with a disability and the individuals' families including the
4 26 following:

4 27 Sec. 10. Section 232.102, subsection 10, Code 2007, is

4 28 amended to read as follows:

4 29 10. a. As used in this division, "reasonable efforts"
4 30 means the efforts made to preserve and unify a family prior to
4 31 the out-of-home placement of a child in foster care or to
4 32 eliminate the need for removal of the child or make it
4 33 possible for the child to safely return to the family's home.
4 34 If returning the child to the family's home is not appropriate
4 35 or not possible, reasonable efforts shall include the efforts
5 1 made in a timely manner to finalize a permanency plan for the
5 2 child. A child's health and safety shall be the paramount
5 3 concern in making reasonable efforts. Reasonable efforts may
5 4 include ~~intensive family preservation services or but are not~~
5 5 limited to family-centered services, if the child's safety in
5 6 the home can be maintained during the time the services are
5 7 provided. In determining whether reasonable efforts have been
5 8 made, the court shall consider both of the following:

5 9 (1) The type, duration, and intensity of services or
5 10 support offered or provided to the child and the child's
5 11 family. If ~~intensive family preservation~~ family-centered
5 12 services were not provided, the court record shall enumerate
5 13 the reasons the services were not provided, including but not
5 14 limited to whether the services were not available, not
5 15 accepted by the child's family, judged to be unable to protect
5 16 the child and the child's family during the time the services
5 17 would have been provided, judged to be unlikely to be
5 18 successful in resolving the problems which would lead to
5 19 removal of the child, or other services were found to be more
5 20 appropriate.

5 21 (2) The relative risk to the child of remaining in the
5 22 child's home versus removal of the child.

5 23 b. As used in this section+

5 24 ~~(1) "Family-centered, "family-centered services" means~~
5 25 ~~services which utilize a comprehensive approach to addressing~~
5 26 ~~the problems of individual family members, whether or not the~~
5 27 ~~problems are integrally related to the family, within the~~
5 28 ~~context of the family and other support intended to safely~~
5 29 ~~maintain a child with the child's family or with a relative,~~
5 30 ~~to safely and in a timely manner return a child to the home of~~
5 31 ~~the child's parent or relative, or to promote achievement of~~
5 32 ~~concurrent planning goals by identifying and helping the child~~
5 33 ~~secure placement for adoption, with a guardian, or with other~~
5 34 ~~alternative permanent family connections. Family-centered~~
5 35 ~~services are adapted to the individual needs of a family in~~
6 1 ~~the regard to the specific services and other support provided~~
6 2 ~~to the child's family and the intensity and duration of~~
6 3 ~~service delivery and. Family-centered services are intended~~
6 4 ~~to preserve a child's connections to the child's neighborhood,~~
6 5 ~~community, and family and to improve the overall capacity of~~
6 6 ~~the child's family functioning to provide for the needs of the~~
6 7 ~~children in the family.~~

6 8 ~~(2) "Intensive family preservation services" means~~
6 9 ~~services provided to a family with a child who is at imminent~~
6 10 ~~risk of out-of-home placement. The services are designed to~~
6 11 ~~address any problem creating the need for out-of-home~~
6 12 ~~placement and have the following characteristics: are~~
6 13 ~~persistently offered but provided at the family's option; are~~
6 14 ~~provided in the family's home; are available twenty-four hours~~
6 15 ~~per day; provide a response within twenty-four hours of the~~
6 16 ~~initial contact for assistance; have worker caseloads of not~~
6 17 ~~more than two through four families per worker at any one~~
6 18 ~~time; are provided for a period of four to six weeks; and~~
6 19 ~~provide funding in order to meet the special needs of a~~
6 20 ~~family.~~

6 21 Sec. 11. Section 234.6, subsection 6, paragraph c, Code
6 22 2007, is amended to read as follows:

6 23 ~~c. Intensive family preservation services and~~
6 24 ~~family-centered~~ Family-centered services, as defined in
6 25 section 232.102, subsection 10, paragraph "b".

DIVISION IV

CHILD=PLACING AGENCY INSPECTIONS

6 28 Sec. 12. Section 238.20, Code 2007, is amended to read as
6 29 follows:

6 30 238.20 MINIMUM INSPECTION == RECORD.

6 31 Authorized employees of the department of inspections and
6 32 appeals shall visit and inspect the premises of licensed
6 33 child=placing agencies at least once every ~~six~~ twelve months
6 34 and make and preserve written reports of the conditions found.

DIVISION V

LICENSED FOSTER CARE == RECORD CHECKS

7 1 Sec. 13. Section 237.8, subsection 2, paragraph a,
7 2 subparagraph (1), Code 2007, is amended to read as follows:

7 4 (1) If a person is being considered for licensure under
7 5 this chapter, or for employment involving direct
7 6 responsibility for a child or with access to a child when the
7 7 child is alone, by a licensee under this chapter, or if a
7 8 person will reside in a facility utilized by a licensee, and
7 9 if the person has been convicted of a crime or has a record of
7 10 founded child abuse, the department and the licensee for an
7 11 employee of the licensee shall perform an evaluation to
7 12 determine whether the crime or founded child abuse warrants
7 13 prohibition of licensure, employment, or residence in the
7 14 facility. The department shall conduct criminal and child
7 15 abuse record checks in this state and ~~may conduct these checks~~
7 16 in other states. The criminal record checks shall include but
7 17 are not limited to a fingerprint-based check made through the
7 18 databases of the national crime information center of the
7 19 United States department of justice, federal bureau of
7 20 investigation. The evaluation shall be performed in
7 21 accordance with procedures adopted for this purpose by the
7 22 department.

7 23
7 24 EXPLANATION

7 25 This bill relates to regulation of children's services by
7 26 the department of human services by increasing the age for
7 27 certain children receiving child care and revising child
7 28 welfare and juvenile justice service provisions. The bill is
7 29 organized into divisions.

7 30 CHILD CARE SERVICES. This division amends the definition
7 31 of child used in Code chapter 237A, relating to child care
7 32 regulated by the department of human services. Current law
7 33 provides that a child, for purposes of regulation under the
7 34 chapter, either is age 12 or younger or is age 13 through 18
7 35 and has a developmental disability. The bill adds a third
8 1 category of a person who is age 13 through 18 and is living in
8 2 a family setting in which special family circumstances exist
8 3 that would place at risk the person's safety and well-being if
8 4 the person is left alone in the setting.

8 5 The department is required to revise the eligibility
8 6 provisions for the state child care assistance program to
8 7 include eligibility for the new category effective July 1,
8 8 2007.

8 9 INTERSTATE PLACEMENT OF CHILDREN IN FOSTER CARE. This
8 10 division makes changes to the term "reasonable efforts" used
8 11 in Code chapter 232, relating to juvenile justice and child
8 12 welfare. The term refers to the efforts made to preserve and
8 13 unify a family prior to the out-of-home placement of a child
8 14 in foster care or to eliminate the need for removal of the
8 15 child or make it possible for the child to safely return to
8 16 the family's home. The changes are to comply with the federal
8 17 Safe and Timely Interstate Placement of Foster Care Children
8 18 Act of 2006.

8 19 Code section 232.2, providing the definitions used in the
8 20 Code chapter, is amended to revise the requirements in the
8 21 case permanency plan definition for a child who is subject to
8 22 an out-of-home placement. The bill replaces the current
8 23 requirement to provide a summary of the child's health and
8 24 education records to the extent the records are available with
8 25 a requirement to include the most recent information available
8 26 regarding the records. The current requirement for making a
8 27 visit to a child in an out-of-state placement at least every
8 28 12 months is changed to at least every six months.

8 29 The reasonable efforts provisions are addressed in Code
8 30 section 232.57, relating to delinquency proceedings, and in
8 31 Code section 232.102, relating to child in need of assistance
8 32 proceedings. The bill provides that such efforts include
8 33 giving consideration, if appropriate, to interstate placement
8 34 of a child in the permanency planning decisions involving the
8 35 child and giving consideration to in-state and out-of-state
9 1 placement options at a permanency hearing and when using
9 2 concurrent planning. Concurrent planning means that the
9 3 planning to place a child for adoption or with a guardian can
9 4 be performed at the same time as planning to return the child
9 5 to the child's home.

9 6 Code sections 232.58 and 232.104, relating to the
9 7 permanency hearings held concerning a child subject to an
9 8 order for an out-of-home placement, are amended to require the
9 9 court to consider the reasonable efforts made concerning the
9 10 child.

9 11 CHILD WELFARE FAMILY-CENTERED AND FAMILY PRESERVATION
9 12 SERVICES. This division addresses child welfare
9 13 family-centered and family preservation services administered
9 14 by the department of human services.

9 15 Code section 232.102, relating to juvenile court
9 16 dispositional orders when a child has been found to be a child
9 17 in need of assistance, is amended. When the court orders
9 18 transfer of custody from the child's parent, current law
9 19 requires identification of the "reasonable efforts" that have
9 20 been made to preserve and unify a family prior to the
9 21 out-of-home placement of a child in foster care or to
9 22 eliminate the need for removal of the child or make it
9 23 possible for the child to safely return to the family's home.
9 24 The bill eliminates references to the term "intensive
9 25 family preservation services" as a form of reasonable efforts
9 26 and expands the scope of the term "family-centered services"
9 27 as a form of reasonable efforts. The existing focus of
9 28 family-centered services as a comprehensive approach to
9 29 addressing the problems of individual family members within
9 30 the context of the family is eliminated. Instead, the bill
9 31 provides that family-centered services means services and
9 32 other support intended to safely maintain a child with the
9 33 child's family or with a relative, to safely and in a timely
9 34 manner return a child to the home of the child's parent or
9 35 relative, or to promote achievement of concurrent planning
10 1 goals by identifying and helping the child secure placement
10 2 for adoption, with a guardian, or with other alternative
10 3 permanent family connections. Furthermore, these services are
10 4 to be adapted to individual family needs and are intended to
10 5 preserve a child's existing connections and improve the
10 6 capacity of the child's family to provide for the needs of the
10 7 children of the family.
10 8 The bill makes conforming amendments to Code sections
10 9 225C.49, relating to department of human services duties
10 10 involving individuals with a disability, and 234.6, relating
10 11 to the duties of the department of human services child
10 12 welfare administrator, to eliminate references to intensive
10 13 family preservation services.
10 14 CHILD=PLACING AGENCY INSPECTIONS. This division amends
10 15 Code section 238.20 to change the minimum period within which
10 16 the department of inspections and appeals is required to visit
10 17 and inspect the premises of a licensed child placing agency
10 18 from six months to 12 months. These agencies are engaged in
10 19 placing children permanently or temporarily in private family
10 20 homes for adoption or foster care or in receiving children for
10 21 such placement. The agencies are licensed by the department
10 22 of human services.
10 23 LICENSED FOSTER CARE == RECORD CHECKS. This division
10 24 amends Code section 237.8, relating to requirements for foster
10 25 care licensing. Existing law authorizes the department of
10 26 human services to conduct criminal and child abuse record
10 27 checks in other states. The bill requires the checks to be
10 28 made in other states. In addition, the bill requires the
10 29 criminal record checks to include a fingerprint-based check
10 30 made through the databases of the national crime information
10 31 center of the United States department of justice, federal
10 32 bureau of investigation.
10 33 LSB 1245DP 82
10 34 jp:nh/je/5.2