

**House Study Bill 510 - Introduced**

HOUSE FILE \_\_\_\_\_

BY (PROPOSED COMMITTEE ON  
HUMAN RESOURCES BILL BY  
CHAIRPERSON MILLER)

**A BILL FOR**

1 An Act relating to child abuse reports and disposition data.

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

1 Section 1. Section 235A.18, subsection 1, paragraph a, Code  
2 Supplement 2011, is amended to read as follows:

3 a. (1) Report and disposition data relating to a particular  
4 case of alleged child abuse shall be sealed ten years after the  
5 initial placement of the data in the registry unless good cause  
6 be shown why the data should remain open to authorized access.  
7 If a subsequent report of an alleged case of child abuse  
8 involving the child named in the initial data placed in the  
9 registry as the victim of abuse or a person named in the data  
10 as having abused a child is received by the department within  
11 this ten-year period, the data shall be sealed ten years after  
12 receipt of the subsequent report unless good cause be shown why  
13 the data should remain open to authorized access. However,  
14 such report and disposition data shall be made available to  
15 the department of justice if the department requests access to  
16 the alleged child abuse records for purposes of review by the  
17 prosecutor's review committee or commitment of sexually violent  
18 predators under chapter 229A.

19 (2) Upon the department's initiative or the request of  
20 a person named as having abused a child, the department may,  
21 within its discretion and with consideration of the following  
22 factors, remove the name of a person named in the report and  
23 disposition data as having abused a child from the report and  
24 disposition data prior to the expiration of the ten-year period  
25 described in subparagraph (1). A person named in the data as  
26 having abused a child may first request that the department  
27 use its discretion under this subparagraph (2) to remove the  
28 person's name from the report and disposition data five years  
29 after the initial placement in the registry and not more than  
30 once per year. When exercising this discretion the department  
31 shall consider all of the following factors:

- 32 (a) The nature and severity of the abuse.  
33 (b) The risk of recidivism.  
34 (c) The time elapsed since the abuse.  
35 (d) Other relevant factors.

1     (3) The department shall adopt rules to implement  
2 subparagraph (2).

3     Sec. 2. Section 235A.19, Code Supplement 2011, is amended by  
4 adding the following new subsection:

5     NEW SUBSECTION. 1A. At the time the notice of the results  
6 of an assessment performed in accordance with section 232.71B  
7 is issued, the department shall provide notice to a person  
8 named in the report as having abused a child of the right to  
9 a contested case hearing and shall provide notice to subjects  
10 other than the person named in the report as having abused a  
11 child of the right to intervene in a contested case proceeding,  
12 as provided in subsection 2.

13     Sec. 3. Section 235A.19, subsections 2 and 3, Code  
14 Supplement 2011, are amended to read as follows:

15     2. *a.* A subject of a child abuse report may file with the  
16 department within ninety days of the date of the notice of the  
17 results of an assessment performed in accordance with section  
18 232.71B, a written statement to the effect that report data and  
19 disposition data referring to the subject is in whole or in  
20 part erroneous, and may request a correction of that data or of  
21 the findings of the assessment report.

22     *b.* The department shall provide ~~the subject~~ a person named  
23 in a child abuse report as having abused a child, who has  
24 been adversely affected by a founded child abuse disposition,  
25 notwithstanding the placement of the report data in the central  
26 registry pursuant to section 232.71D, with an opportunity for a  
27 contested case hearing pursuant to chapter 17A to correct the  
28 data or the findings, unless the department corrects the data  
29 or findings as requested.

30     *c.* The department shall provide a subject of a child  
31 abuse report, other than the person named in the report as  
32 having abused a child, with an opportunity to file a motion to  
33 intervene in the contested case proceeding.

34     *d.* The department may defer the hearing until the conclusion  
35 of the adjudicatory phase of a pending juvenile or district

1 court case relating to the data or findings. Upon request  
2 of any party to the contested case proceeding, the presiding  
3 officer may stay the hearing until the conclusion of the  
4 adjudicatory phase of a pending juvenile or district court case  
5 relating to the data or findings. An adjudication of a child  
6 in need of assistance or a criminal conviction in a district  
7 court case relating to the child abuse data or findings may be  
8 determinative in a contested case proceeding.

9 b. e. The department shall not disclose any report data  
10 or disposition data until the conclusion of the proceeding to  
11 correct the data or findings, except as follows:

12 (1) As necessary for the proceeding itself.

13 (2) To the parties and attorneys involved in a judicial  
14 proceeding.

15 (3) For the regulation of child care or child placement.

16 (4) Pursuant to court order.

17 (5) To the subject of an assessment or a report.

18 (6) For the care or treatment of a child named in a report  
19 as a victim of abuse.

20 (7) To persons involved in an assessment of child abuse.

21 (8) For statutorily authorized record checks for employment  
22 of an individual by a provider of adult home care, adult health  
23 facility care, or other adult placement facility care.

24 (9) For others identified in section 235A.15, subsection  
25 2, paragraph "d", subparagraph (7), and paragraph "e",  
26 subparagraphs (9) and (16).

27 3. ~~The subject of a~~ A person named in a child abuse report  
28 as having abused a child, who has been adversely affected by a  
29 founded child abuse disposition, notwithstanding the placement  
30 of the report data in the central registry pursuant to section  
31 232.71D, may appeal the decision resulting from a hearing held  
32 pursuant to subsection 2 to the district court of Polk county  
33 or to the district court of the district in which the subject  
34 of the child abuse person named in the report as having abuse a  
35 child resides. Immediately upon appeal the court shall order

1 the department to file with the court a certified copy of the  
2 report data or disposition data. Appeal shall be taken in  
3 accordance with chapter 17A.

4 Sec. 4. CHILD ABUSE REPORTS — DIFFERENTIAL RESPONSE  
5 REVIEW.

6 1. The department of human services shall conduct a  
7 comprehensive review to determine whether to recommend  
8 implementation of a differential response to child abuse  
9 reports when the initial report is received by the department  
10 pursuant to section 232.70.

11 2. "Differential response", as used in this section, means  
12 at least two discrete response options for the screening of  
13 cases constituting a child abuse allegation pursuant to the  
14 department's assessment process. One of the options shall  
15 include a voluntary, noninvestigative response.

16 3. The department shall, by December 1, 2012, submit a  
17 report of its review including findings and recommendations to  
18 the governor and general assembly.

19 Sec. 5. REPORT ON CHILD ABUSE ASSESSMENTS ADMINISTRATIVE  
20 APPEALS. The department of human services and the department  
21 of inspections and appeals shall, by December 1, 2012, submit  
22 a report to the governor and general assembly regarding the  
23 length of time for appeals of placement on the child abuse  
24 registry within the last five years. The report shall include  
25 information on the number of persons appealing, the alleged  
26 reason for the placement, and the reasons for outliers in the  
27 length of time for an appeal.

28 EXPLANATION

29 This bill amends provisions relating to the child abuse  
30 registry and child abuse reports and disposition data. The  
31 bill amends Code section 235A.18 to allow the department of  
32 human services (DHS) to remove the name of the perpetrator of  
33 abuse from the disposition data prior to the expiration of the  
34 10-year period after the person's initial placement on the  
35 central registry after considering the nature and severity of

1 the abuse, the risk of recidivism, the time elapsed, and other  
2 relevant factors. The bill also allows the person named as the  
3 perpetrator to request DHS to remove the perpetrator's name  
4 from the registry.

5 The bill amends Code section 235A.19 to require DHS to  
6 provide subjects of the child abuse report with notice of  
7 the right to appeal or intervene at the time the notice of  
8 the results of the assessment is issued. The bill requires  
9 DHS to provide only the alleged perpetrator of the abuse,  
10 regardless of whether the data is placed on the registry, with  
11 an opportunity for a contested case hearing and the right to  
12 appeal from the contested case hearing. Current law allows  
13 such rights to all subjects of a child abuse report. However,  
14 the bill also requires DHS to provide all other subjects,  
15 as defined in Code section 235A.15, subsection 2, with an  
16 opportunity to intervene into the contested case proceeding.

17 The bill further provides that upon the request of any party  
18 to the contested case proceeding, the presiding officer may  
19 stay the hearing until the conclusion of the adjudicatory phase  
20 of a juvenile case or a district court case that is related to  
21 the data or findings. The bill states that an adjudication  
22 of a child in need of assistance or a criminal conviction in  
23 district court that is related to the data or findings may be  
24 determinative in a contested case proceeding.

25 The bill also requires DHS to conduct a comprehensive  
26 review to determine whether to recommend implementation of a  
27 differential response when initially receiving a child abuse  
28 report. The bill requires DHS to submit a report of its  
29 determination to the governor and general assembly by December  
30 1, 2012.

31 The bill also requires the DHS and the department of  
32 inspections and appeals to submit a report to the governor and  
33 general assembly by December 1, 2012, regarding the length of  
34 time for appeals of placement on the child abuse registry.