

House File 590 - Reprinted

HOUSE FILE 590
BY COMMITTEE ON HUMAN
RESOURCES

(SUCCESSOR TO HF 415)

(As Amended and Passed by the House April 1, 2013)

A BILL FOR

1 An Act relating to child abuse reporting, assessment
2 procedures, and placement on the central registry for
3 child abuse, and including effective date and applicability
4 provisions.

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

1 Section 1. Section 232.68, Code 2013, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 4A. *“Differential response”* means an
4 assessment system in which there are two discrete pathways
5 to respond to accepted reports of child abuse, a child
6 abuse assessment and a family assessment. The child abuse
7 assessment pathway shall require a determination of abuse and a
8 determination of whether criteria for placement on the central
9 abuse registry are met. As used in this subsection and this
10 part:

11 a. *“Assessment”* means the process by which the department
12 responds to all accepted reports of alleged child abuse. An
13 *“assessment”* addresses child safety, family functioning,
14 culturally competent practice, and identifies the family
15 strengths and needs, and engages the family in services if
16 needed. The department’s assessment process occurs either
17 through a child abuse assessment or a family assessment.

18 b. *“Child abuse assessment”* means an assessment process by
19 which the department responds to all accepted reports of child
20 abuse which allege child abuse as defined in subsection 2,
21 paragraph “a”, subparagraphs (1) through (3) and subparagraphs
22 (5) through (10), or which allege child abuse as defined in
23 subsection 2, paragraph “a”, subparagraph (4), that also
24 allege imminent danger, death, or injury to a child. A *“child*
25 *abuse assessment”* results in a disposition and a determination
26 of whether a case meets the definition of child abuse and a
27 determination of whether criteria for placement on the registry
28 are met.

29 c. *“Family assessment”* means an assessment process by which
30 the department responds to all accepted reports of child abuse
31 which allege child abuse as defined in subsection 2, paragraph
32 “a”, subparagraph (4), but do not allege imminent danger, death,
33 or injury to a child. A *“family assessment”* does not include a
34 determination of whether a case meets the definition of child
35 abuse and does not include a determination of whether criteria

1 for placement on the registry are met.

2 Sec. 2. Section 232.70, subsection 5, Code 2013, is amended
3 to read as follows:

4 5. Upon receipt of a report, the department shall do all of
5 the following:

6 a. ~~Immediately, upon receipt of an oral report,~~ make
7 a determination as to whether the report constitutes an
8 allegation of child abuse as defined in section 232.68.

9 b. Notify the appropriate county attorney of the receipt of
10 the report.

11 Sec. 3. Section 232.71B, subsections 1, 3, 4, 10, 12, 13,
12 and 14, Code 2013, are amended to read as follows:

13 1. *Commencement of assessment — differential response —*
14 *purpose.*

15 a. If the department determines a report constitutes a child
16 abuse allegation, the department shall promptly commence an
17 appropriate either a child abuse assessment within twenty-four
18 hours of receiving the report or a family assessment within
19 seventy-two hours of receiving the report.

20 (1) Upon acceptance of a report of child abuse, the
21 department shall commence a child abuse assessment when the
22 report alleges child abuse as defined in section 232.68,
23 subsection 2, paragraph "a", subparagraphs (1) through (3) and
24 subparagraphs (5) through (10), or which alleges child abuse
25 as defined in section 232.68, subsection 2, paragraph "a",
26 subparagraph (4), that also alleges imminent danger, death, or
27 injury to a child.

28 (2) Upon acceptance of a report of child abuse, the
29 department shall commence a family assessment when the report
30 alleges child abuse as defined in section 232.68, subsection 2,
31 paragraph "a", subparagraph (4), but does not allege imminent
32 danger, death, or injury to a child.

33 b. The primary purpose of either the child abuse assessment
34 or the family assessment shall be the protection of the child
35 named in the report. The secondary purpose of ~~the assessment~~

1 either type of assessment shall be to engage the child's family
2 in services to enhance family strengths and to address needs.

3 3. *Involvement of law enforcement.* The department shall
4 apply protocols, developed with the local child protection
5 assistance team established pursuant to section 915.35, to
6 prioritize the actions taken in response to a child abuse
7 reports assessment and to shall work jointly with child
8 protection assistance teams and law enforcement agencies in
9 performing assessment and investigative processes for child
10 abuse reports assessments in which a criminal act harming a
11 child is alleged. The county attorney and appropriate law
12 enforcement agencies shall also take any other lawful action
13 which may be necessary or advisable for the protection of the
14 child. If a report is determined not to constitute a child
15 abuse allegation or if the child abuse report is accepted
16 but assessed under the family assessment, but a criminal act
17 harming a child is alleged, the department shall immediately
18 refer the matter to the appropriate law enforcement agency.

19 4. *Assessment process.* The

20 a. A child abuse assessment is subject to or family
21 assessment shall include all of the following:

22 (1) A safety assessment and risk assessment. If at any
23 time during a family assessment, a child is determined unsafe
24 or in imminent danger, it appears that the immediate safety or
25 well-being of a child is endangered, it appears that the family
26 may flee or the child may disappear, or the facts otherwise
27 warrant, the department shall immediately commence a child
28 abuse assessment.

29 (2) An evaluation of the home environment. If concerns
30 regarding protection of children are identified by the child
31 protection worker, the child protection worker shall evaluate
32 the child named in the report and any other children in the
33 same home as the parents or other persons responsible for their
34 care.

35 b. In addition to the requirements of paragraph "a", a child

1 abuse assessment shall include the following:

2 ~~a.~~ (1) Identification of the nature, extent, and cause of
3 the injuries, if any, to the child named in the report.

4 ~~b.~~ (2) Identification of the person or persons responsible
5 for the alleged child abuse.

6 ~~c.~~ (3) A description of the name, age, and condition of
7 other children in the same home as the child named in the
8 report.

9 ~~d.~~ ~~An evaluation of the home environment. If concerns~~
10 ~~regarding protection of children are identified by the child~~
11 ~~protection worker, the child protection worker shall evaluate~~
12 ~~the child named in the report and any other children in the~~
13 ~~same home as the parents or other persons responsible for their~~
14 ~~care.~~

15 ~~e.~~ (4) An interview of the person alleged to have committed
16 the child abuse, if the person's identity and location are
17 known. The offer of an interview shall be made to the person
18 prior to any consideration or determination being made that
19 the person committed the alleged abuse. The person shall be
20 informed of the complaint or allegation made regarding the
21 person. The person shall be informed in a manner that protects
22 the confidentiality rights of the individual who reported the
23 child abuse or provided information as part of the assessment
24 process. The purpose of the interview shall be to provide the
25 person with the opportunity to explain or rebut the allegations
26 of the child abuse report or other allegations made during
27 the assessment. The court may waive the requirement to offer
28 the interview only for good cause. The person offered an
29 interview, or the person's attorney on the person's behalf, may
30 decline the offer of an interview of the person.

31 ~~f.~~ ~~Unless otherwise prohibited under section 234.40~~
32 ~~or 280.21, the use of corporal punishment by the person~~
33 ~~responsible for the care of a child which does not result in~~
34 ~~a physical injury to the child shall not be considered child~~
35 ~~abuse.~~

1 10. *Multidisciplinary team.* In each county or multicounty
2 area in which more than fifty child abuse reports are made
3 per year, the department shall establish a multidisciplinary
4 team, as defined in section 235A.13, subsection 8. Upon the
5 department's request, a multidisciplinary team shall assist the
6 department in the assessment, diagnosis, and disposition of a
7 child abuse ~~report~~ assessment.

8 12. *Assessment Written assessment report.*

9 a. The department, upon completion of the child abuse
10 assessment or the family assessment, shall make a written
11 report of the assessment, in accordance with all of the
12 following:

13 ~~a.~~ (1) The written assessment report shall incorporate the
14 information required by subsection 4, paragraph "a".

15 ~~b.~~ (2) The A written child abuse assessment report shall
16 be completed within twenty business days of the receipt of the
17 child abuse report. A written family assessment report shall
18 be completed within ten business days of the receipt of the
19 child abuse report.

20 ~~c.~~ ~~The written assessment shall include a description of~~
21 ~~the child's condition, identification of the injury or risk to~~
22 ~~which the child was exposed, the circumstances which led to the~~
23 ~~injury or risk to the child, and the identity of any person~~
24 ~~alleged to be responsible for the injury or risk to the child.~~

25 ~~d.~~ (3) The written assessment report shall identify the
26 strengths and needs of the child, and of the child's parent,
27 home, and family.

28 ~~e.~~ (4) The written assessment report shall identify
29 services available from the department and informal and formal
30 services and other support available in the community to
31 address the strengths and needs identified in the assessment.

32 ~~f.~~ (5) Upon completion of the assessment, the department
33 shall consult with the child's family in offering services to
34 the child and the child's family to address strengths and needs
35 identified in the assessment.

1 b. In addition to the requirements of paragraph "a",
 2 a written child abuse assessment report shall include a
 3 description of the child's condition, identification of
 4 the injury or risk to which the child was exposed, the
 5 circumstances which led to the injury or risk to the child, and
 6 the identity of any person alleged to be responsible for the
 7 injury or risk to the child.

8 ~~g.~~ c. The Following a child abuse assessment, the
 9 department shall notify each subject of the child abuse report,
 10 as identified in section 235A.15, subsection 2, paragraph "a",
 11 of the results of the child abuse assessment, of the subject's
 12 right, pursuant to section 235A.19, to correct the report data
 13 or disposition data which refers to the subject, and of the
 14 procedures to correct the data.

15 d. Following a family assessment, the department shall
 16 notify the parent or guardian of each child listed in the
 17 report of suspected child abuse of the completion of the family
 18 assessment and any service recommendations. For cases assessed
 19 pursuant to a family assessment, there shall be no right to a
 20 contested case hearing pursuant to chapter 17A.

21 ~~h.~~ e. If after completing the assessment process the child
 22 protection worker determines, with the concurrence of the
 23 worker's supervisor and the department's area administrator,
 24 that a report of suspected child abuse is a spurious report or
 25 that protective concerns are not present, the portions of the
 26 written assessment report described under paragraphs "d" and "e"
 27 paragraph "a", subparagraphs (3) and (4) shall not be required.

28 13. Court-ordered and voluntary services. The In cases where
 29 abuse has been determined founded during the course of a child
 30 abuse assessment, the department shall provide or arrange for
 31 and monitor services for abused children and their families on
 32 a voluntary basis or under a final or intermediate order of the
 33 juvenile court. The department may arrange for services for
 34 children and families during and at the conclusion of a family
 35 assessment.

1 14. *County attorney — juvenile court.* The department shall
2 provide the juvenile court and the county attorney with a copy
3 of the ~~portion of the~~ written child abuse assessment pertaining
4 ~~to the child abuse report,~~ the written family assessment report
5 for cases in which the department requests a child in need of
6 assistance petition, or other reports for cases in which the
7 department requests a child in need of assistance petition.
8 The juvenile court and the county attorney shall notify
9 the department of any action taken concerning an assessment
10 provided by the department.

11 Sec. 4. Section 232.71B, Code 2013, is amended by adding the
12 following new subsections:

13 NEW SUBSECTION. 4A. *Child abuse determination.* Unless
14 otherwise prohibited under section 234.40 or 280.21, the use of
15 corporal punishment by the person responsible for the care of a
16 child which does not result in a physical injury to the child
17 shall not be considered child abuse.

18 NEW SUBSECTION. 16. *Rules.* The department shall adopt
19 rules regarding the intake process, assessment process,
20 assessment reports, contact with juvenile court or the county
21 attorney, involvement with law enforcement, case record
22 retention, and dissemination of records for both child abuse
23 assessments and family assessments.

24 Sec. 5. Section 232.71C, Code 2013, is amended to read as
25 follows:

26 **232.71C Court action following ~~child abuse assessment~~ —**
27 **guardian ad litem.**

28 1. If, upon completion of an assessment performed under
29 section 232.71B, the department determines that the best
30 interests of the child require juvenile court action, the
31 department shall act appropriately to initiate the action.
32 If at any time during the assessment process the department
33 believes court action is necessary to safeguard a child, the
34 department shall act appropriately to initiate the action. The
35 county attorney shall assist the department as provided under

1 section 232.90, subsection 2.

2 2. The department shall assist the juvenile court or
3 district court during all stages of court proceedings involving
4 an alleged child abuse case in accordance with the purposes of
5 this chapter.

6 3. In every case involving child abuse which results in
7 a child protective judicial proceeding, whether or not the
8 proceeding arises under this chapter, a guardian ad litem
9 shall be appointed by the court to represent the child in the
10 proceedings. Before a guardian ad litem is appointed pursuant
11 to this section, the court shall require the person responsible
12 for the care of the child to complete under oath a detailed
13 financial statement. If, on the basis of that financial
14 statement, the court determines that the person responsible for
15 the care of the child is able to bear the cost of the guardian
16 ad litem, the court shall so order. In cases where the person
17 responsible for the care of the child is unable to bear the
18 cost of the guardian ad litem, the expense shall be paid out of
19 the county treasury.

20 Sec. 6. Section 232.71D, subsection 1, Code 2013, is amended
21 to read as follows:

22 1. The requirements of this section shall apply to child
23 abuse information relating to a report of child abuse and to ~~an~~
24 a child abuse assessment performed in accordance with section
25 232.71B.

26 Sec. 7. Section 232.71D, subsection 3, paragraph b,
27 subparagraph (2), Code 2013, is amended to read as follows:

28 (2) The department determines the acts or omissions of the
29 alleged perpetrator meet the definition of child abuse and the
30 department has previously determined within the ~~eighteen-month~~
31 five-year period preceding the issuance of the department's
32 report that the acts or omissions of the alleged perpetrator in
33 a prior case met the definition of child abuse.

34 Sec. 8. Section 232.71D, subsection 6, paragraph a, Code
35 2013, is amended by adding the following new subparagraph:

1 NEW SUBPARAGRAPH. (03) Information pertaining to a report
2 of suspected child abuse for which there was an assessment
3 performed but no determination was made as to whether the
4 definition of child abuse was met.

5 Sec. 9. Section 232.77, subsection 1, Code 2013, is amended
6 to read as follows:

7 1. A person who is required to report ~~a case of~~ suspected
8 child abuse may take or cause to be taken, at public expense,
9 photographs, X rays, or other physical examinations or
10 tests of a child which would provide medical indication of
11 allegations arising from ~~a child abuse~~ an assessment. A
12 health practitioner may, if medically indicated, cause to be
13 performed radiological examination, physical examination,
14 or other medical tests of the child. A person who takes
15 any photographs or X rays or performs physical examinations
16 or other tests pursuant to this section shall notify the
17 department that the photographs or X rays have been taken or
18 the examinations or other tests have been performed. The
19 person who made notification shall retain the photographs or
20 X rays or examination or test findings for a reasonable time
21 following the notification. Whenever the person is required
22 to report under section 232.69, in that person's capacity as
23 a member of the staff of a medical or other private or public
24 institution, agency or facility, that person shall immediately
25 notify the person in charge of the institution, agency, or
26 facility or that person's designated delegate of the need for
27 photographs or X rays or examinations or other tests.

28 Sec. 10. Section 232.141, subsection 6, Code 2013, is
29 amended to read as follows:

30 6. If a child is given physical or mental examinations or
31 treatment relating to ~~a child abuse~~ an assessment performed
32 pursuant to section 232.71B with the consent of the child's
33 parent, guardian, or legal custodian and no other provision
34 of law otherwise requires payment for the costs of the
35 examination and treatment, the costs shall be paid by the

1 state. Reimbursement for costs of services described in this
2 subsection is subject to subsection 5.

3 Sec. 11. Section 235A.14, subsection 1, Code 2013, is
4 amended to read as follows:

5 1. There is created within the state department of
6 human services a central registry for certain child abuse
7 information. The department shall organize and staff the
8 registry and adopt rules for its operation.

9 Sec. 12. Section 235A.15, subsection 12, Code 2013, is
10 amended to read as follows:

11 12. If an individual who is the subject of a child abuse
12 report listed in subsection 2, paragraph "a", or another
13 party involved in ~~a child abuse~~ an assessment under section
14 232.71B releases in a public forum or to the media information
15 concerning a case of child abuse including but not limited to
16 child abuse information which would otherwise be confidential,
17 the director of human services, or the director's designee, may
18 respond with relevant information concerning the case of child
19 abuse that was the subject of the release. Prior to releasing
20 the response, the director or the director's designee shall
21 consult with the child's parent or guardian, or the child's
22 guardian ad litem, and apply to the court under section 235A.24
23 requesting a review of the information proposed for release and
24 an order authorizing release of the information.

25 Sec. 13. Section 235A.18, subsection 1, paragraph a, Code
26 2013, is amended to read as follows:

27 a. (1) Report and disposition data relating to a particular
28 case of alleged child abuse shall be sealed ten years after
29 the initial placement of the data in the registry unless good
30 cause be shown why the data should remain open to authorized
31 access. If a subsequent report of an alleged case of child
32 abuse involving the child named in the initial data placed in
33 the registry as the victim of abuse or a person named in the
34 data as having abused a child is received by the department
35 within this ten-year period, or within the period in which

1 the person's name is in the central registry, the data shall
2 be sealed ten years after receipt of the subsequent report
3 unless good cause be shown why the data should remain open to
4 authorized access. However, a person named in the initial data
5 placed in the registry as having abused a child shall have the
6 person's name removed from the registry if that person has
7 not had a subsequent case of alleged abuse which resulted in
8 the person's name being placed in the registry as the person
9 responsible for the abuse within the ten-year period. Report
10 and disposition data shall be made available to the department
11 of justice if the department requests access to the alleged
12 child abuse records for purposes of review by the prosecutor's
13 review committee or commitment of sexually violent predators
14 under chapter 229A.

15 (2) Notwithstanding subparagraph (1), a person named in the
16 initial data placed in the registry as having abused a child
17 shall have the person's name removed from the registry after
18 ten years, if not previously removed from the registry pursuant
19 to the other provisions of this subsection, if that person has
20 not had a subsequent case of alleged abuse which resulted in
21 the person's name being placed in the registry as the person
22 responsible for the abuse within the ten-year period.

23 (3) (a) A person named in the initial data placed in the
24 registry as having abused a child shall have the person's name
25 removed from the registry after five years if the department
26 determined in the report and disposition data that the person
27 committed child abuse as defined in section 232.68, subsection
28 2, paragraph "a", subparagraph (1), (4), (6), or (7).

29 (b) Subparagraph division (a) shall not apply, and the
30 name of a person named in the initial data as having abused a
31 child shall remain in the registry as described in subparagraph
32 (1), if the department determined in the initial report and
33 disposition data the person committed child abuse as defined in
34 section 232.68, subsection 2, paragraph "a", subparagraph (1),
35 (4), (6), or (7) and the child abuse resulted in the child's

1 death or a serious injury.

2 Sec. 14. Section 235A.19, subsection 2, Code 2013, is
3 amended to read as follows:

4 2. At the time the notice of the results of ~~an~~ a child
5 abuse assessment performed in accordance with section 232.71B
6 is issued, the department shall provide notice to a person
7 named in the report as having abused a child of the right to
8 a contested case hearing and shall provide notice to subjects
9 other than the person named in the report as having abused a
10 child of the right to intervene in a contested case proceeding,
11 as provided in subsection 3.

12 Sec. 15. Section 235A.19, subsection 3, paragraph a, Code
13 2013, is amended to read as follows:

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

22 Sec. 16. Section 915.35, subsection 4, paragraph b, Code
23 2013, is amended to read as follows:

24 b. A child protection assistance team may also consult
25 with or include juvenile court officers, medical and mental
26 health professionals, physicians or other hospital-based health
27 professionals, court-appointed special advocates, guardians ad
28 litem, and members of a multidisciplinary team created by the
29 department of human services for child abuse investigations.
30 A child protection assistance team may work cooperatively
31 with the early childhood Iowa area board established under
32 chapter 256I. The child protection assistance team shall
33 work with the department of human services in accordance with
34 section 232.71B, subsection 3, in developing the protocols
35 for prioritizing the actions taken in response to child abuse

1 ~~reports~~ assessments and for law enforcement agencies working
2 jointly with the department at the local level in processes for
3 child abuse ~~reports~~ assessments. The department of justice may
4 provide training and other assistance to support the activities
5 of a child protection assistance team.

6 Sec. 17. RULES. The department of human services shall
7 adopt rules to implement this Act.

8 Sec. 18. EFFECTIVE UPON ENACTMENT. The following
9 provision or provisions of this Act, being deemed of immediate
10 importance, take effect upon enactment:

11 1. The section of this Act requiring the department of human
12 services to adopt rules.

13 Sec. 19. EFFECTIVE DATE AND IMPLEMENTATION. The following
14 provision or provisions of this Act take effect January
15 1, 2014, except that the department of human services may
16 begin implementation prior to January 1, 2014, to the extent
17 necessary to transition to full implementation of these
18 provisions of this Act:

19 1. The sections of this Act amending sections 232.68,
20 232.70, 232.71B, 232.71C, 232.71D, 232.77, 232.141, 235A.14,
21 235A.15, 235A.18, 235A.19, and 915.35.

22 Sec. 20. APPLICABILITY.

23 1. The section of this Act amending section 232.71D,
24 subsection 3, relating to the placement of the names of the
25 child and the alleged perpetrator of the alleged child abuse
26 and any other child abuse information on the central registry
27 for child abuse information due to a prior case in which the
28 department determined the case met the definition of child
29 abuse, applies to cases in which the prior case which met the
30 definition of child abuse occurred on or after the effective
31 date of that section of this Act.

32 2. The section of this Act amending section 235A.18,
33 subsection 1, paragraph "a", relating to removal of the name
34 of a person named in the initial data placed in the central
35 registry for child abuse information as having abused a child,

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1 shall apply to the name of an alleged perpetrator of the
2 alleged child abuse which is placed in the central registry
3 pursuant to section 232.71D on or after the effective date of
4 that section of this Act.