



# Iowa General Assembly

## 2006 Legal Updates

Legislative Services Agency – Legal Services Division

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**Purpose.** *Legal update briefings are prepared by the nonpartisan Legal Services Division of the Legislative Services Agency. A legal update briefing is intended to inform legislators, legislative staff, and other persons interested in legislative matters of recent court decisions, Attorney General Opinions, regulatory actions, federal actions, and other occurrences of a legal nature that may be pertinent to the General Assembly's consideration of a topic. Although a briefing may identify issues for consideration by the General Assembly, a briefing should not be interpreted as advocating any particular course of action.*

### **CORRECTION OF CHILD ABUSE INFORMATION - AGENCY AND JUDICIAL JURISDICTION**

Filed by the Iowa Supreme Court

Robert James Grant v. Iowa Department of Human Services No.66/04-114

July 14, 2006

[http://www.judicial.state.ia.us/Supreme\\_Court/Recent\\_Opinions/20060714/04-1114.pdf?search=04-1114#\\_1](http://www.judicial.state.ia.us/Supreme_Court/Recent_Opinions/20060714/04-1114.pdf?search=04-1114#_1)

**Overview.** The Department of Human Services (DHS) dismissed an application to correct a child abuse report on the grounds of issue preclusion. This legal doctrine means, for civil matters, that if a fact, question, or matter has been conclusively settled by judgment rendered on the merits in a court of competent jurisdiction, it is considered to be conclusively settled and cannot be relitigated in any future action. The district court affirmed the DHS decision. The Iowa Supreme Court reversed the district court judgment and remanded the case for further proceedings.

**Background Facts.** The appellant, the father in this case, was involved in a divorce and custody proceeding regarding his two children. While the marriage dissolution proceeding was pending, the children's mother requested and received a protective order providing for the children's exchange for visits with the father to be made at a neutral site. One of the children alleged he was physically abused by the father during a visitation and the incident was reported to DHS. DHS performed a comprehensive child abuse assessment and determined the incident met the definition of child abuse and DHS' report of the incident was placed in the state child abuse central registry. Based on the incident, the mother filed an application to modify the terms of the visitation to be limited to supervised visitation. The district court modified the visitation in December 2001 and found that the incident with the child "took place" and that the father demonstrated inappropriate anger that endangered the children.

In March 2002, the appellant filed a statement with DHS claiming the child abuse report and assessment were erroneous and requesting the report be changed from founded to not confirmed. DHS denied the correction request based upon the doctrine of issue preclusion and the appellant sought review through the administrative law process. The administrative law judge dismissed the request, the dismissal was adopted by DHS as a final agency action, and the district court affirmed the agency action based on issue preclusion.

#### **Analysis:**

**Appeal Claims.** The father appealed, claiming that application of the doctrine of issue preclusion was in error on three grounds. First, the father claimed there was not a connection between the modification-of-visitation proceeding in the district court and the request to the agency to correct the child abuse information. Second, he claimed that issue preclusion did not apply because a statute gave him a right to an evidentiary hearing to correct the abuse report. Finally, he claimed issue preclusion did not apply because the statute specifically granted jurisdiction to DHS to correct child abuse assessments reports.

**Jurisdiction.** The Iowa Supreme Court noted that in a previous decision involving the state Department of Transportation, the Court determined that the law provided that department with jurisdiction to revoke a driver's license due to a recognition of the department having a special competency. The Court found that the law similarly designed the child abuse statute to have DHS decide issues presented in an action to correct a child abuse assessment report even though the issues may have been previously decided in a parallel court action.

**Incorrect Application.** The Court also found that the doctrine of issue preclusion was incorrectly applied in this case because the doctrine had been applied to prevent DHS from correcting the assessment report. The Court suggested that DHS could have instead used the district court decision as an aid to assist the agency in its goal of maintaining accurate records.

**Conclusion.** The Court concluded that “legislative policies and goals are best served by allowing the DHS to correct its own assessment of a child abuse report free from the doctrine of issue preclusion. The DHS should consider all timely claims of error by those who are the subject of a child abuse report and decide all issues presented by a correction request.” Consequently, the decision of the district court was reversed and the case was remanded to DHS for a hearing on the request to correct the assessment report.

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