

Revisions to Chapter 232

Department of Human Services 2022 Legislative Proposal

Background

The federal Family First Prevention Services Act (Family First) was signed into law in February 2018. Family First provides new directives on services eligible for Title IV-E reimbursement by shifting funding traditionally used to support foster care placements into prevention services to reduce entry into foster care through evidence-based family preservation services, increase the use of family-based placements, decrease the use of congregate care settings, and improve access to high-quality residential care for children and youth who have acute mental and behavioral needs that prevent them from living safely in a home environment.

Under Family First, when a child must be removed from their home to ensure safety, placement priority should be given to a relative or fictive kin. For states to receive federal payments for foster care and adoption assistance, federal law under Title IV-E of the Social Security Act requires that the state consider giving preference to an adult relative over a nonrelated caregiver when determining a placement for the child, provided that the relative caregiver meets all relevant state child protection standards (42 U.S.C. §671(a)(19)). Additionally, placements with relatives and fictive kin are included in the federal definition of foster care.

Iowa was the 11th state in the nation with an approved Family First Prevention Plan and implementation of Family First in policy and practice in the state has successfully resulted in significantly fewer children entering foster care, more children in family-based settings with relatives or fictive kin, and fewer children and youth placed in Iowa's congregate care settings.

The proposed revisions are intended to align Chapter 232 with Family First, with additional federal regulations, and with case law as well as to create consistency throughout the various sections of 232 and to assist in clarifying roles. The proposed revisions fit into the following three categories: technical changes, Family First related changes, and substantive changes. These are outlined below.

Technical Changes

- Revises the definition of "*Child in Need of Assistance*" by citing the grounds for adjudication listed in 232.96A. **232.2(6)**
- Revises the definition of "*Court Appointed Special Advocate*" by citing the duties of a CASA in 237.24. **232.2(9)**
- Creates a definition of "*Fictive Kin.*" **232.2(20A)**
- Creates a definition of "*Foster Care*" that includes placement with an adult relative or fictive kin of the child. **232.2(20B)**
- Creates a definition of "*Neglect.*" **232.2(35A)**

- Modifies definition of “*Physical Abuse*” to mean a nonaccidental physical injury, but separates out “neglect” for standalone definition. **232.2(42)**
- Creates a definition of “*Relative*.” Excludes a parent from being considered a “relative” of a child if the parent’s parental rights were previously terminated. **232.2(46A)**
- Modifications about guardianship process due to passage of 232D. **232.3(1)**
- Removes language about “county runaway treatment plans and assessment centers.” **232.19(1)(c)**
- Changes requirement to serve summons/notices in person by allowing publication for service. **232.37(4)** and **232.112(3)**
- Allows for “reasonable efforts” to be waived if the parent has been convicted of serious crimes against a child, but no longer requires that child to have been a child of the parent. **232.57(2)(d) – (g)**
- Creates a new section to describe conditions under which a CINA adjudication can occur. **(232.96A)**
- Allows for reports from the child protection center to be admitted into evidence at an adjudicatory hearing. **232.96(6)**
- Clarifies that the department, CASA and counsel for the state are allowed to receive social reports via the court. **232.97**
- Makes *Reasonable Efforts* its own section. **232.102A**
- Court appointed counsel in the juvenile matter shall be compensated for reasonable work done related to a Bridge Order. **232.103A(8)**
- Allows for the termination of parental rights if a child has been adjudicated and there has been a finding of sexual abuse or neglect but does not require a nonaccidental injury. **232.116(1)(d)(1)**
- Clarifies standards for TPR as it pertains to a parent with a severe substance-related disorder. **232.116(1)(L)(1) – (2)**
- Added standards for removing a guardian in accordance with standards already established by case law. **232.118**
- Removes requirement for service area group foster care budget targets. **232.52; 234.35**
- Gives Decat projects three fiscal years in carryover funding. **232.188**

Family First-related Changes

- “Rules of Construction” requires the court to secure the least restrictive care and preferences placement with the child’s family whenever a child is removed from their parents. **232.1**
- Creates a definition of “*Putative father*.” **232.2(45A)**
- Creates a definition of “*Sibling*” that includes recognizes siblings as being a blood relative even after termination of parental rights. **232.2(52)**
- Adds language that acknowledges that removing a child from the child’s family causes harm and must be weighed against the potential harm in allowing a child to remain with the child’s family. **232.67; 232.78(1)(b); 232.78(7)(b); 232.95(5)(a); 232.96(10)**
- When a child is removed from the home and placed in out-of-home case, relatives should be the preferred placement because such placement maintains the child’s connections with his/her family, consistent with Family First. Federal law under Title IV-E of the Social Security Act requires that the state consider giving preference to an adult relative over a nonrelated caregiver when determining a placement for the child, provided that the relative caregiver meets all relevant state child protection standards.

First consideration must be child's other parent, then adult relative and fictive kin, before transferring to DHS or JCS for appropriate placement. Requires the court to make a specific finding that placement with a relative is not in the child's best interest. **232.78(8) Temporary custody to ex part court order; 232.95(2)(a) Hearing concerning temporary removal; 232.96(10)(c) Adjudicatory Hearing; 232.102 Transfer of legal custody and placement; 232.104 Permanency hearing; 232.117 Termination;**

- Make every reasonable effort to place the child with an adult relative of the child or a fictive kin. **232.79 Custody without a court order.**
- Clarifies that notifying relatives occurs after the transfer of custody – even if the custody is not transferred to DHS. **232.84(2)**
- Also gives DHS explicit permission to share information necessary to explore a potential placement of the child with any relatives who received notice **232.84(4)**
- Allows Putative Fathers to have legal representation. **232.89(1)(1)**
- Makes a parent without custody a party to court proceedings. **232.91(1)**
- Relatives and fictive kin may petition the court and be made party to a proceeding. **232.91(2)**
- Family interactions shall be continued regardless of the parent's failure to comply with requirements of the court or the department absent a finding that such action would be detrimental to the child. **232.102A**
- Allows for a parent, guardian or custodian to file a motion every 60 days, instead of every 6 months. **232.103(2)(b)**
- After the termination of parental rights, the court shall order ongoing contact between the siblings if the court finds that visitation is in the best interest of each sibling. **232.117(4)**

Substantive Changes

- Definition of GAL is modified to require the GAL to be an attorney, not a CASA. Adds requirements to complete a court report that uses "objective criteria" in making recommendations. Includes a requirement to assess the need for a dual role (best interest vs. what a child/youth wants). **232.2(22)(a) – (b)**
- Requires the reported abuse incidents for Denial of Critical Care to have occurred within the last 5 years. **232.68(4)(a)**
- Requires the reported incident of Dangerous Substance to have occurred within 5 years of the child abuse report. **232.68(7)**
- Remove requirement for mandatory reporters to make written reports. **232.70**
- Allows for multidisciplinary teams to assist the department in the assessment, diagnoses and provision of services after an assessment closes. **232.71B(11)**
- Clarifies that a safety plan is not a removal but is an agreement between the department and the parent. **232.79B**
- Allows for the removal of "domestic abusers" from the residence pursuant to court order. **232.82**
- Presumption that it is in the best interest of children 10yo and older to attend court. **232.91(3) – (4)**
- Allows DHS to base pay to shelters on the difference between the statewide average of actual and allowable rates (cost reports), but strikes that the SWAA is in effect by May. **232.141(8)**

- Transfers oversight and authority of Juvenile Detention Home Funds to the Department of Human Rights beginning in July 2023. **232.142 (3) – (6)**
- Transfers oversight and responsibility of Graduated Sanctions (Early Intervention) to JCS beginning in July 2023. **232.191**

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