

CHAPTER 153**CHILD ABUSE***H.F.412*

AN ACT relating to child abuse.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 232.68, subsection 2, unnumbered paragraph 1, Code 1987, is amended to read as follows:

"Child abuse" or "abuse" means ~~harm or threatened harm occurring through:~~

Sec. 2. Section 232.68, Code 1987, is amended by adding the following new subsection:
NEW SUBSECTION. 7. "Mental health professional" means a person who meets the following requirements:

a. Holds at least a master's degree in a mental health field, including, but not limited to, psychology, counseling, nursing, or social work; or is licensed to practice medicine pursuant to chapter 148, 150, or 150A.

b. Holds a license to practice in the appropriate profession.

c. Has at least two years of postdegree experience, supervised by a mental health professional, in assessing mental health problems and needs of individuals used in providing appropriate mental health services for those individuals.

Sec. 3. Section 232.69, subsection 1, paragraph b, Code 1987, is amended to read as follows:

b. Every self-employed social worker, every social worker under the jurisdiction of the department of human services, any social worker employed by a public or private agency or institution, public or private health care facility as defined in section 135C.1, certified psychologist, certificated school employee, employee or operator of a licensed child care center or registered group day care home or registered family day care home, individual licensee under chapter 237, member of the staff of a mental health center, ~~or peace officer, dental hygienist, counselor, paramedic, or mental health professional,~~ who, in the course of employment or in providing child foster care, examines, attends, counsels or treats a child and reasonably believes a child has suffered abuse.

Sec. 4. Section 232.70, subsection 4, Code 1987, is amended to read as follows:

4. The department of human services shall:

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

b. Make a report to the central registry if the oral report has been determined to constitute a child abuse allegation;

~~b~~ c. Forward a copy of the written report to the registry; and

e d. Notify the appropriate county attorney of the receipt of any report.

Sec. 5. Section 232.71, subsection 1, Code 1987, is amended to read as follows:

1. ~~Whenever a report is received~~ determined to constitute a child abuse allegation, the department of human services shall promptly commence an appropriate investigation. The primary purpose of this investigation shall be the protection of the child named in the report.

Sec. 6. Section 232.74, Code 1987, is amended to read as follows:

232.74 EVIDENCE NOT PRIVILEGED OR EXCLUDED.

Sections 622.9 and 622.10 and any other statute or rule of evidence which excludes or makes privileged the testimony of a husband or wife against the other or the testimony of a health practitioner or mental health professional as to confidential communications, do not apply to evidence regarding a child's injuries or the cause of the injuries in any judicial proceeding,

civil or criminal, resulting from a report pursuant to this chapter or relating to the subject matter of such a report.

Sec. 7. Section 232.96, subsections 4 and 5, Code 1987, are amended to read as follows:

4. A report made to the department of human services pursuant to chapter 235A shall be admissible in evidence if the person making the report does not appear as a witness at the hearing, but such a report shall not alone be sufficient to support a finding that the child is a child in need of assistance unless the attorneys for the child and the parents consent to such a finding.

5. Neither the privilege attaching to confidential communications between a physician health practitioner or mental health professional and patient nor the prohibition upon admissibility of communications between husband and wife shall be ground for excluding evidence at an adjudicatory hearing.

Sec. 8. Section 235A.1, subsection 3, Code 1987, is amended to read as follows:

3. The child abuse prevention program advisory council is created consisting of five members appointed by and serving at the pleasure of the governor. Two members shall be appointed on the basis of expertise in the area of child abuse and neglect, and three members shall be private citizens. The council shall select its own chairperson ~~and shall serve without compensation or reimbursement for expenses.~~ Members of the council are entitled to receive actual expenses incurred in the discharge of their duties. A member of the council may also be eligible to receive an additional expense allowance as provided in section 7E.6.

Sec. 9. Section 235A.13, subsection 1, unnumbered paragraph 1, Code 1987, is amended to read as follows:

“Child abuse information” means any or all of the following data maintained by the ~~registry~~ department in a manual or automated data storage system and individually identified:

Sec. 10. Section 235A.15, subsection 2, Code 1987, is amended by striking the subsection and inserting in lieu thereof the following:

2. Access to child abuse information other than unfounded child abuse information is authorized only to the following persons or entities:

a. Subjects of a report as follows:

(1) To a child named in a report as a victim of abuse or to the child’s attorney or guardian ad litem.

(2) To a parent or the attorney for the parent of a child named in a report as a victim of abuse.

(3) To a guardian or legal custodian, or that person’s attorney, of a child named in a report as a victim of abuse.

(4) To a person or the attorney for the person named in a report as having abused a child.

b. Persons involved in an investigation of child abuse as follows:

(1) To a health practitioner or mental health professional who is examining, attending, or treating a child whom such practitioner or professional believes or has reason to believe has been the victim of abuse or to a health practitioner or mental health professional whose consultation with respect to a child believed to have been the victim of abuse is requested by the department.

(2) To an employee or agent of the department of human services responsible for the investigation of a child abuse report.

(3) To a law enforcement officer responsible for assisting in an investigation of a child abuse allegation or for the temporary emergency removal of a child from the child’s home.

(4) To a multidisciplinary team, if the department of human services approves the composition of the multidisciplinary team and determines that access to the team is necessary to assist the department in the investigation, diagnosis, assessment, and disposition of a child abuse case.

(5) In an individual case, to the mandatory reporter who reported the child abuse.

c. Individuals, agencies, or facilities providing care to a child as follows:

(1) To a licensing authority for a facility providing care to a child named in a report, if the licensing authority is notified of a relationship between facility policy and the child abuse under section 232.71, subsection 4.

(2) To an authorized person or agency responsible for the care or supervision of a child named in a report as a victim of abuse or a person named in a report as having abused a child, if the juvenile court or registry deems access to child abuse information by such person or agency to be necessary.

(3) To an employee or agent of the department of human services responsible for registering or licensing or approving the registration or licensing of an agency or facility, or to an individual providing care to a child and regulated by the department.

(4) To an employee of the department of human services responsible for an adoptive placement, a certified adoption investigator, or licensed child placing agency responsible for an adoptive placement.

d. Relating to a judicial and administrative proceedings as follows:

(1) To a juvenile court involved in an adjudication or disposition of a child named in a report.

(2) To a district court upon a finding that information is necessary for the resolution of an issue arising in any phase of a case involving child abuse.

(3) To a court or administrative agency hearing an appeal for correction of child abuse information as provided in section 235A.19.

(4) To an expert witness at any stage of an appeal necessary for correction of child abuse information as provided in section 235A.19.

e. Others as follows:

(1) To a person conducting bona fide research on child abuse, but without information identifying individuals named in a child abuse report, unless having that information open to review is essential to the research or evaluation and the authorized registry officials give prior written approval and the child, the child's guardian or guardian ad litem and the person named in a report as having abused a child give permission to release the information.

(2) To registry or department personnel when necessary to the performance of their official duties or to a person or agency under contract with the department to carry out official duties and functions of the registry.

(3) To the department of public safety for the sole purpose of the filing of a claim for reparation pursuant to section 910A.5A and section 912.4, subsections 3 through 5.

(4) To a legally constituted child protection agency of another state which is investigating or treating a child named in a report as having been abused or to a public or licensed child placing agency of another state responsible for an adoptive placement.

(5) To the attorney for the department of human services who is responsible for representing the department.

(6) To the foster care review boards created pursuant to sections 237.16 and 237.19.

Sec. 11. Section 235A.15, subsection 3, Code 1987, is amended to read as follows:

3. Access to unfounded child abuse information is authorized only to those persons identified in subsection 2, paragraphs "b", "g", "h", and "j" paragraph "a", paragraph "b", subparagraphs (2) and (5), and paragraph "c", subparagraph (2).

Sec. 12. Section 235A.16, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Subsections 1 and 2 do not apply to child abuse information that is disseminated to an employee of the department of human services, to a juvenile court, or to the attorney representing the department as authorized by section 235A.15.

Sec. 13. Section 235A.17, Code 1987, is amended to read as follows:

235A.17 REDISSEMINATION OF CHILD ABUSE INFORMATION.

1. A person, agency or other recipient of child abuse information authorized to receive such information shall not disseminate such information, except that dissemination shall be permitted when all of the following conditions apply:

1 a. The redissemination is for official purposes in connection with prescribed duties or, in the case of a health practitioner, pursuant to professional responsibilities.

2 b. The person to whom such information would be redisseminated would have independent access to the same information under section 235A.15.

3 c. A written record is made of the redissemination, including the name of the recipient and the date and purpose of the redissemination.

4 d. The written record is forwarded to the registry within thirty days of the redissemination.

5 2. The department of human services shall may notify orally the mandatory reporter in an individual child abuse case of the results of the case investigation and of the confidentiality provisions of sections 235A.15 and 235A.21. The department ~~may~~ shall subsequently transmit a written notice to the mandatory reporter of the results and confidentiality provisions. A copy of the written notice shall be transmitted to the registry and shall be maintained by the registry as provided in section 235A.18.

Sec. 14. Section 235A.23, subsection 1, Code 1987, is amended to read as follows:

1. The registry may compile statistics, conduct research, and issue reports on child abuse, provided identifying details of the subject of child abuse reports are deleted from any report issued.

Sec. 15. Section 237.5, subsection 2, Code 1987, is amended to read as follows:

2. The director, after notice and opportunity for an evidentiary hearing, may deny an application for a license, and may suspend or revoke a license, if the applicant or licensee violates this chapter or the rules promulgated pursuant to this chapter, or knowingly makes a false statement concerning a material fact or conceals a material fact on the license application or in a report regarding operation of the facility submitted to the director.

Sec. 16. Section 237.8, subsection 2, Code 1987, is amended to read as follows:

2. A person who has been convicted of a violation under a law of any state of a crime involving mistreatment or exploitation of a child or a person with a record of founded child abuse shall not be licensed, ~~or~~ be employed by a licensee, or reside in a licensed home unless an evaluation of the crime or founded abuse has been made by the department of human services which concludes that the crime or founded abuse does not merit prohibition of employment or licensure. In its evaluation, the department shall consider the nature and seriousness of the crime or founded abuse in relation to the position sought, the time elapsed since the commission of the crime or founded abuse, the circumstances under which the crime or founded abuse was committed, the degree of rehabilitation, and the number of crimes or founded abuse committed by the person involved.

Sec. 17. Section 237A.5, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

237A.5 PERSONNEL.

1. All personnel in licensed or registered facilities shall have good health as evidenced by a report following a preemployment physical examination taken within six months prior to beginning employment. The examination shall include communicable disease tests by a licensed physician as defined in section 135C.1 and shall be repeated every three years after initial employment. Controlled medical conditions which would not affect the performance of the employee in the capacity employed shall not prohibit employment.

2. A person who has been convicted of a violation under a law of any state of a crime or a person with a record of founded child abuse shall not own or operate or be employed as a staff member, with direct responsibility for child care, of a child day care facility, as defined in section 237A.1, subsection 1, and shall not live in a child day care facility unless an evaluation of the crime or founded abuse has been made by the department of human services which

concludes that the crime or founded abuse does not merit prohibition of employment licensure, or registration. In its evaluation, the department shall consider the nature and seriousness of the crime or founded abuse in relation to the position sought, the time elapsed since the commission of the crime or founded abuse, the circumstances under which the crime or founded abuse was committed, the degree of rehabilitation, and the number of crimes or founded abuse committed by the person involved.

Sec. 18. Section 600.8, subsection 1, paragraph a, Code 1987, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (3) Whether the prospective adoption petitioner has been convicted of a violation under a law of any state of a crime or has a record of founded child abuse.

Sec. 19. Section 600.8, subsection 2, Code 1987, is amended by adding the following new lettered paragraph as paragraph b and relettering the remaining paragraph:

b. The person making the investigation shall not approve a prospective adoption petitioner pursuant to subsection 1, paragraph "a", subparagraph (3) unless an evaluation has been made which considers the nature and seriousness of the crime or founded abuse in relation to the adoption, the time elapsed since the commission of the crime or founded abuse, the circumstances under which the crime or founded abuse was committed, the degree of rehabilitation, and the number of crimes or founded abuse committed by the person involved.

Approved May 27, 1987

CHAPTER 154

DOMESTIC ABUSE AND OTHER ASSAULTS

H.F. 591

AN ACT relating to domestic abuse, assaults involving an act of domestic abuse, and court orders issued or enforced pursuant to the domestic abuse law, and providing penalties.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 236.2, subsection 1, paragraph b, Code 1987, is amended to read as follows:

b. The assault is between separated spouses or persons divorced from each other and not residing together at the time of the assault.

Sec. 2. Section 236.5, subsection 2, Code 1987, is amended by adding the following new paragraph:

NEW PARAGRAPH. The order shall state whether a person is to be taken into custody by a peace officer for a violation of the terms stated in the order.

Sec. 3. Section 236.5, subsection 4, Code 1987, is amended to read as follows:

4. A certified copy of any order or approved consent agreement shall be issued to the plaintiff, the defendant and law enforcement agencies having jurisdiction to enforce the order or consent agreement, and the twenty-four hour dispatcher for the law enforcement agencies. Any subsequent amendment or revocation of an order or consent agreement shall be forwarded by the clerk to all individuals and agencies previously notified.

Sec. 4. Section 236.8, Code 1987, is amended to read as follows:

236.8 CONTEMPT.

The court may hold a party in contempt for a violation of an order issued pursuant to this chapter or for violation of a court-approved consent agreement entered under this chapter, for violation of a temporary or permanent protective order or order to vacate the homestead under chapter 598, or for violation of any order that establishes conditions of release or is a