

of the institution or if the thing of value is an intercollegiate athletic award approved or administered by that institution.

(2) An immediate family member of the student athlete.

c. A person who engages in conduct knowing or having reason to know that the conduct violates this subsection commits a serious misdemeanor.

Approved May 14, 1988

## CHAPTER 1249

### HUMAN SERVICES PROGRAMS

*H.F. 2456*

**AN ACT** relating to programs for which appropriations to the department of human services are required, providing an effective date, and providing penalties.

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

Section 1. Section 135B.9, Code 1987, is amended to read as follows:

**135B.9 INSPECTIONS AND CONSULTATIONS — PROTECTION AND ADVOCACY AGENCY INVESTIGATIONS.**

The department of inspections and appeals shall make or cause to be made such inspections as it may deem necessary. The state Iowa department of public health shall, with the advice of the hospital licensing board, prescribe by regulations that any licensee or applicant for license desiring to make specified types of alteration or addition to its facilities or to construct new facilities shall before commencing such alteration, addition or new construction, submit plans and specifications therefor to the department of inspections and appeals for preliminary inspection and approval or recommendations with respect to compliance with the regulations and standards herein authorized.

In the state hospital-schools and state mental health institutes operated by the department of human services, the designated protection and advocacy agency as provided in section 135C.2, subsection 4, shall have the authority to investigate all complaints of abuse and neglect of persons with developmental disabilities or mental illnesses if the complaints are reported to the protection and advocacy agency or if there is probable cause to believe that the abuse has occurred. Such authority shall include the examination of all records pertaining to the care provided to the residents and contact or interview with any resident, employee, or any other person who might have knowledge about the operation of the institution.

Sec. 2. Section 135B.12, Code 1987, is amended to read as follows:

**135B.12 INFORMATION CONFIDENTIAL.**

Information received by the department of inspections and appeals and the protection and advocacy agency through filed reports, inspection, or as otherwise authorized under this chapter, shall not be disclosed publicly in such manner as to identify individuals or hospitals, except in a proceeding involving the question of licensure or the denial, suspension or revocation of a license or civil suit or administrative action by or on behalf of a patient.

Sec. 3. Section 135C.2, subsection 4, Code Supplement 1987, is amended to read as follows:

4. The protection and advocacy agency designated in the state, under Pub. L. No. 98-527, the developmental disabilities Act of 1984, and Pub. L. No. 99-319, the protection and advocacy for mentally ill individuals Act of 1986, and Pub. L. No. 100-146, the federal Developmental

Disabilities Assistance and Bill of Rights Act Amendments of 1987, is recognized as an agency legally authorized and constituted to ensure the implementation of the purposes of this chapter for populations under its authority and in the manner designated by Pub. L. No. 98-527, and Pub. L. No. 99-319, and Pub. L. No. 100-146 and in the assurances of the governor of the state.

Sec. 4. Section 217.20, Code 1987, is amended to read as follows:  
217.20 TRIPS TO OTHER STATES.

No authority shall be granted to any person to travel to another state except by approval of the commissioner ~~and~~ under guidelines established by the executive council.

Sec. 5. Section 218.78, subsection 1, Code 1987, is amended to read as follows:

1. All institutional receipts of the department of human services, including funds received from client participation at the state hospital-schools under section 222.78 and at the state mental health institutes under section 230.20, shall be deposited in the general fund except for reimbursements for services provided to another institution or state agency, for receipts deposited in the revolving farm fund under section 246.706, for deposits into the medical assistance fund under section 249A.11, and rentals charged to employees or others for room, apartment, or house and meals, which shall be available to the institutions.

Sec. 6. Section 222.73, subsection 2, Code 1987, is amended to read as follows:

2. The superintendent shall certify to the director of revenue and finance the billings to each county for services provided to patients chargeable to the county during the preceding calendar quarter. The county billings shall be based on the average daily patient charge and outpatient treatment charges computed pursuant to subsection 1, and the number of inpatient days and outpatient treatment service units chargeable to the county. ~~The county billing for a patient shall be reduced by an amount received for the patient's care from any source other than state appropriated funds.~~ The billings to a county of legal settlement are subject to adjustment for all of the following circumstances:

a. The county billing for a patient shall be reduced by the amount received for the patient's care from a source other than state appropriated funds.

b. If more than twenty percent of the cost of a patient's care is initially paid from a source other than state appropriated funds, the amount paid shall be subtracted from the average per-patient-per-day cost of that patient's care and the patient's county shall be billed for the full balance of the cost so computed.

c. The county of a patient who is eligible for reimbursement under the medical assistance program shall be responsible for the costs which are not reimbursed by the medical assistance program, regardless of the level of care provided to the patient.

d. A county shall be responsible for eighty percent of the cost of care of a patient who is not eligible for reimbursement under the medical assistance program.

e. The billings for counties shall be credited with one hundred percent of the client participation for patients eligible for medical assistance in the calculation of the per diem rate for patients.

The per diem costs billed to each county shall not exceed the per diem costs in effect on July 1, 1988. However, the per diem costs may be adjusted annually to the extent of the adjustment in the consumer price index published annually in the federal register by the federal department of labor, bureau of labor statistics.

Sec. 7. Section 225C.10, subsection 2, paragraph a, subparagraph (1), Code 1987, is amended to read as follows:

(1) Indicates that the services for which the county or counties intend to use general allocation money are comprehensive services or other services mandated or authorized by law, and in accordance with rules adopted by the commission, are offered by accredited or licensed

providers where accreditation or licensure standards are applicable, and do not include major maintenance or capital expenditure projects.

Sec. 8. Section 225C.10, subsection 3, Code 1987, is amended to read as follows:

3. Each application shall be for a period of at least one year and shall be acted upon as soon as reasonably possible by the director, who shall notify the applicant county or counties of the action on the application no later than December 1 of the year in which the application is submitted. Money from the general allocation shall be disbursed on a quarterly basis to the counties entitled to the money under section 225C.9 and this section. Counties receiving the money shall submit quarterly financial and plan status reports at least annually at the time and in the manner prescribed by the director.

Sec. 9. Section 230.20, subsection 1, paragraph a, Code Supplement 1987, is amended by adding the following new subparagraphs:

NEW SUBPARAGRAPH. (4) The costs of the psychiatric residency program.

NEW SUBPARAGRAPH. (5) The costs of the chaplain intern program.

Sec. 10. Section 232.21, subsection 2, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Placement shall be made in the least restrictive facility available consistent with the best interests and special needs of the child. Foster family care shall be used for a child unless the child has problems requiring specialized service or supervision which cannot be provided in a family living arrangement.

Sec. 11. Section 232.21, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 6. A child twelve years of age or younger shall not be placed in a group shelter care home, unless there have been reasonable but unsuccessful efforts to place the child in an emergency foster family home which is able to meet the needs of the child. The efforts shall be documented at the shelter care hearing.

Sec. 12. Section 232.52, subsection 2, paragraph d, subparagraph (3), Code 1987, is amended to read as follows:

(3) The department of human services for purposes of foster care and prescribing the type of placement which will serve the best interests of the child and the means by which the placement shall be monitored by the court. The court shall consider ordering placement in family foster care as an alternative to group foster care.

Sec. 13. Section 232.52, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 7. If the court orders the transfer of the custody of the child to the department of human services or to another agency for placement in foster group care, the department or agency shall make every reasonable effort to place the child within the state, in the least restrictive setting available and in close proximity to the parents' home, consistent with the child's best interests and special needs.

Sec. 14. Section 232.102, subsection 6, Code Supplement 1987, is amended to read as follows:

6. In any order transferring custody to the department or an agency, or in orders pursuant to a custody order, the court shall specify the nature and category of disposition which will serve the best interests of the child, and shall prescribe the means by which the placement shall be monitored by the court. If the court orders the transfer of the custody of the child to the department of human services or other agency for placement, the department or agency shall submit a case permanency plan to the court and shall make every effort to return the child to the child's home as quickly as possible consistent with the best interest of the child. When the child is not returned to the child's home and if the child has been previously

placed in a licensed foster care facility, the department or agency shall consider placing the child in the same licensed foster care facility. If the court orders the transfer of custody to a relative or other suitable person, the court may direct the department or other agency to provide services to the child's parent, guardian or custodian in order to enable them to resume custody of the child. If the court orders the transfer of custody to the department of human services or to another agency for placement in foster group care, the department or agency shall make every reasonable effort to place the child within Iowa, in the least restrictive setting available, and in close proximity to the parents' home, consistent with the child's best interests and special needs.

Sec. 15. NEW SECTION. 232.167 PENALTY.

A person or agency which violates or aids and abets in the violation of any of the provisions of sections 232.158 through 232.166 commits a fraudulent practice.

Sec. 16. NEW SECTION. 239.21 TRANSITIONAL CHILD CARE ASSISTANCE.

A recipient who loses eligibility for assistance under this chapter because of an increase in earned income is eligible to receive transitional child care assistance for a period of twelve months following the loss of assistance. The department shall deliver the transitional child care assistance through a vendor voucher payment or purchase of service system which requires the recipient to contribute to the cost of the assistance in accordance with a sliding-scale fee established by rule.

Sec. 17. NEW SECTION. 249A.17 TRANSITIONAL MEDICAL ASSISTANCE.

The department shall provide transitional medical coverage comparable to medical assistance provided under this chapter, for twelve months or for the maximum period permitted under federal regulations, whichever is greater, for the family of a recipient who has lost eligibility for public assistance under aid to families with dependent children pursuant to chapter 239 because of an increase in earned income.

Sec. 18. NEW SECTION. 249C.18 EDUCATIONAL INCENTIVES.

A person who receives assistance under chapter 239 may participate or cooperate in a program to attain a certificate of general educational development, high school diploma, or adult basic literacy where the person has not previously received such certification. The department shall provide incentives to encourage such participation.

Sec. 19. Section 692.2, subsection 1, paragraph c, Code Supplement 1987, is amended to read as follows:

c. The department of human services for the purposes of section 237.8, subsection 2, and section 237A.5, and section 600.8, subsections 1 and 2.

Sec. 20. Section 692.3, subsection 2, Code Supplement 1987, is amended to read as follows:

2. Notwithstanding subsection 1, paragraph "a", the department of human services ~~shall~~ may disseminate criminal history data obtained pursuant to section 692.2, subsection 1, paragraph "c", to persons licensed, ~~or registered, or certified~~ under chapters 237, and 237A, 238 and 600 for the purposes of section 237.8, subsection 2 and section 237A.5. ~~Licensees and registrants under either chapter 237 or chapter 237A~~ A person who receives information pursuant to this subsection shall not use the information other than for purposes of section 237.8, subsection 2, ~~or section 237A.5, or section 600.8, subsections 1 and 2.~~ A licensee or registrant person who receives criminal history data pursuant to this subsection who uses the information for other purposes other than those permitted by this subsection or who communicates the information to another person except for the purposes of section 237.8, subsection 2 or section 237A.5 permitted by this subsection is guilty of an aggravated misdemeanor.

Sec. 21. Beginning July 1, 1988, the department of inspections and appeals shall issue provisional licenses to specialized psychiatric hospitals for children and adolescents for those facilities which are providing residential psychiatric services to children and adolescents, which are accredited by the joint commission on the accreditation of health care organizations, which are in compliance with all applicable state rules and standards regarding the operation of comprehensive residential facilities for children, and which have been awarded a certificate of need. Each applicant shall submit a copy of the applicant's accreditation, a copy of the certificate of need, and a statement of approval from the state fire marshal to the department of inspections and appeals. Notwithstanding the provisions of section 237.1, subsection 3, paragraph "e", care furnished by these facilities shall continue to be considered foster care.

The department of inspections and appeals, with the approval of the state board of health, shall adopt permanent standards for the licensure, of specialized psychiatric hospitals for children and adolescents under chapter 135B. The rules shall take effect no later than July 1, 1989.

The department of human services shall adopt rules to expand coverage under the medical assistance program to include services provided by specialized psychiatric hospitals for children and adolescents which are licensed by the department of inspections and appeals. The rules shall take effect no later than July 1, 1988, contingent upon the facilities meeting the federal requirements for a hospital as outlined in 42 C.F.R., subpart D. Initially, the rules shall provide that the medical assistance reimbursement rate for the specialized hospitals shall be one hundred twenty dollars per day or the actual audited costs, whichever are less. The department shall develop a permanent reimbursement methodology for the specialized hospitals to be effective on or before July 1, 1989.

The health facilities council shall expedite the process by ruling on a certificate of need application under this section within seventy-five days of the application and shall give primary consideration in this expedited process to those issues related to meeting the conditions set out in this section, provided that either of the following conditions apply:

a. The hospital was accredited by the joint commission on the accreditation of health care organizations prior to the effective date of this Act and has been providing psychiatric treatment services for adolescents and children as a licensed foster care facility prior to the effective date of this Act and the provisional license will not increase the capacity of the facility.

b. The hospital had sought accreditation by the joint commission on the accreditation of health care organizations prior to January 1, 1988, and has been providing psychiatric treatment services for adolescents and children as a licensed foster care facility prior to the effective date of this Act and the provisional license will not increase the capacity of the facility.

Sec. 22. EFFECTIVE DATE. Section 21 of this Act takes effect upon enactment.

Approved May 14, 1988