

Sec. 9. The legislative council is requested to study, review, and report to the general assembly by January 15, 1990, on the state income taxation of pensions.

Sec. 10. This Act applies retroactively to January 1, 1989, for tax years beginning on or after that date.

Sec. 11. Section 7 of this Act is repealed effective January 1, 1990, for tax years beginning on or after that date.

Approved May 26, 1989

CHAPTER 229

CHILDREN IN NEED OF ASSISTANCE

H.F. 688

AN ACT relating to the protection of children, by providing for the grounds and procedures for child in need of assistance and termination of parental rights proceedings.

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

Section 1. Section 232.2, subsection 1, Code 1989, is amended to read as follows:

1. "Abandonment of a child" means the ~~permanent~~ relinquishment or surrender, without reference to any particular person, of the parental rights, duties, or privileges inherent in the parent-child relationship. Proof of abandonment must include both the intention to abandon and the acts by which the intention is evidenced. The term does not require that the relinquishment or surrender be over any particular period of time.

Sec. 2. Section 232.2, subsection 6, paragraph a, Code 1989, is amended to read as follows:

a. Whose parent, guardian or other custodian has abandoned or deserted the child.

Sec. 3. Section 232.2, subsection 6, Code 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. n. Whose parent's or guardian's mental capacity or condition, imprisonment, or drug or alcohol abuse results in the child not receiving adequate care.

Sec. 4. Section 232.2, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 6A. "Desertion" means the relinquishment or surrender for a period in excess of six months of the parental rights, duties, or privileges inherent in the parent-child relationship. Proof of desertion need not include the intention to desert, but is evidenced by the lack of attempted contact with the child or by only incidental contact with the child.

Sec. 5. Section 232.88, Code 1989, is amended to read as follows:

232.88 SUMMONS, NOTICE, SUBPOENAS AND SERVICES.

After a petition has been filed the court shall issue and serve summons, notice, subpoenas, and other process in the same manner as for adjudicatory hearings in cases of juvenile delinquency as provided in section 232.37.

Sec. 6. Section 232.104, subsection 1, unnumbered paragraph 1, Code 1989, is amended to read as follows:

If custody of a child has been ~~transferred for placement pursuant to section 232.102~~ placed in foster care for a period of twelve months, or if the prior legal custodian of a child has abandoned efforts to regain custody of the child, the court shall, on its own motion, or upon application by any interested party, including the child's foster parent if the child has been placed

with the foster parent for at least twelve months, hold a hearing to consider the issue of the establishment of permanency for the child.

Sec. 7. Section 232.116, subsection 1, paragraph b, Code 1989, is amended to read as follows:

b. The court finds that there is clear and convincing evidence that the child has been abandoned or deserted.

Sec. 8. Section 232.116, subsection 1, paragraph c, Code 1989, is amended by striking the paragraph and inserting in lieu thereof the following:

c. The court finds that both of the following have occurred:

(1) The court has previously adjudicated the child to be a child in need of assistance after finding the child to have been physically or sexually abused or neglected as the result of the acts or omissions of one or both parents, or the court has previously adjudicated a child who is a member of the same family to be a child in need of assistance after such a finding.

(2) Subsequent to the child in need of assistance adjudication, the parents were offered or received services to correct the circumstance which led to the adjudication, and the circumstance continues to exist despite the offer or receipt of services.

Sec. 9. Section 232.116, subsection 1, paragraphs d and e, Code 1989, are amended to read as follows:

d. The court finds that all of the following have occurred:

(1) The child has been adjudicated a child in need of assistance pursuant to section 232.96.

(2) The custody of the child has been transferred from the child's parents for placement pursuant to section 232.102 and the placement has lasted for a period of at least six consecutive months.

~~(3) There is clear and convincing evidence that the child cannot be returned to the custody of the child's parents as provided in section 232.102.~~

~~(4) There is clear and convincing evidence that the parents have not maintained significant and meaningful contact with the child during the previous six consecutive months and have made no reasonable efforts to resume care of the child despite being given the opportunity to do so.~~

e. The court finds that all of the following have occurred:

(1) The child is four years of age or older.

~~(2) The child has been adjudicated a child in need of assistance pursuant to section 232.96.~~

~~(3) The custody of the child has been transferred from the child's parents for placement pursuant to section 232.102 for at least twelve of the last eighteen months, or for the last twelve consecutive months and any trial period at home has been less than thirty days.~~

~~(4) There is clear and convincing evidence that at the present time the child cannot be returned to the custody of the child's parents as provided in section 232.102.~~

Sec. 10. Section 232.116, subsection 1, paragraph f, subparagraph (3), Code 1989, is amended by striking the subparagraph.

Sec. 11. Section 232.116, subsection 1, Code 1989, is amended by adding the following new paragraphs:

NEW PARAGRAPH. g. The court finds that all of the following have occurred:

(1) The child is three years of age or younger.

(2) The child has been adjudicated a child in need of assistance pursuant to section 232.96.

(3) The custody of the child has been transferred from the child's parents for placement pursuant to section 232.102 for at least six months of the last twelve months, or for the last six consecutive months and any trial period at home has been less than thirty days.

(4) There is clear and convincing evidence that the child cannot be returned to the custody of the child's parents as provided in section 232.102 at the present time.

NEW PARAGRAPH. h. The court finds that both of the following have occurred:

(1) The child meets the definition of child in need of assistance based on a finding of physical or sexual abuse or neglect as a result of the acts or omissions of one or both parents.

(2) There is clear and convincing evidence that the circumstances surrounding the abuse or neglect of the child, despite the receipt of services, constitutes imminent danger to the child.

NEW PARAGRAPH. i. The court finds that both of the following have occurred:

(1) The child has been adjudicated a child in need of assistance pursuant to section 232.96 and custody has been transferred from the child's parents for placement pursuant to section 232.102.

(2) The parent has been imprisoned for a crime against the child, the child's sibling, or another child in the household, or the parent has been imprisoned and it is unlikely that the parent will be released from prison for a period of five or more years.

NEW PARAGRAPH. j. The court finds that all of the following have occurred:

(1) The child has been adjudicated a child in need of assistance pursuant to section 232.96 and custody has been transferred from the child's parents for placement pursuant to section 232.102.

(2) The parent has a chronic mental illness and has been repeatedly institutionalized for mental illness, and presents a danger to self or others as evidenced by prior acts.

(3) There is clear and convincing evidence that the parent's prognosis indicates that the child will not be able to be returned to the custody of the parent within a reasonable period of time considering the child's age and need for a permanent home.

NEW PARAGRAPH. k. The court finds that all of the following have occurred:

(1) The child has been adjudicated a child in need of assistance pursuant to section 232.96 and custody has been transferred from the child's parents for placement pursuant to section 232.102.

(2) The parent has a severe, chronic substance abuse problem, and presents a danger to self or others as evidenced by prior acts.

(3) There is clear and convincing evidence that the parent's prognosis indicates that the child will not be able to be returned to the custody of the parent within a reasonable period of time considering the child's age and need for a permanent home.

Sec. 12. Section 232.116, subsection 2, Code 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. For a child who has been placed in foster family care, any relevant testimony or written statement provided by the child's foster parents.

Sec. 13. Section 232.117, subsection 5, Code 1989, is amended to read as follows:

5. If the court orders the termination of parental rights and transfers guardianship and custody under subsection 3, the ~~department of human services or the agency responsible for the placement~~ guardian shall submit a case permanency plan to the court and shall make every effort to establish a stable placement for the child by adoption or other permanent placement. Within forty-five days of receipt of the termination order, and every forty-five days thereafter until the court determines such reports are no longer necessary, the guardian shall report to the court regarding efforts made to place the child for adoption or providing the rationale as to why adoption would not be in the child's best interest.

Approved May 26, 1989