

CHAPTER 1092
ILLEGAL DRUGS IN PARENTS AND CHILDREN
S.F. 2410

AN ACT relating to juvenile justice chapter provisions involving medically relevant tests for the presence of illegal drugs in a child or parent, parent visitations with a child who has been removed from the child's home, voiding related administrative rules, and providing an effective date.

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

Section 1. Section 232.2, subsection 6, paragraph o, Code Supplement 1995, is amended to read as follows:

o. ~~Who is described by any other paragraph of this subsection and in~~ In whose body there is an illegal drug present as a direct and foreseeable consequence of the acts or omissions of the child's parent, guardian, or custodian ~~which a reasonable and prudent person knew or should have known is likely to lead to the drug's presence in the child's body.~~ The presence of the drug shall be determined in accordance with a medically relevant test as defined in section 232.73.

Sec. 2. Section 232.68, subsection 2, paragraph f, Code Supplement 1995, is amended to read as follows:

f. An illegal drug is present in a child's body as a direct and foreseeable consequence of the acts or omissions of the person responsible for the care of the child ~~which a reasonable and prudent person knew or should have known is likely to lead to the drug's presence in the child's body.~~

Sec. 3. Section 232.73, unnumbered paragraph 2, Code Supplement 1995, is amended to read as follows:

As used in this section and section 232.77, "medically relevant test" means a test that produces reliable results of exposure to cocaine, heroin, amphetamine, methamphetamine, or other illegal drugs, or combinations or derivatives thereof, including a drug urine screen test. ~~The Iowa department of public health, in consultation with the department of human services and the council on chemically exposed infants and children created in chapter 235C, shall adopt rules specifying minimum standards for reliable results of medically relevant tests. The rules shall include but are not limited to standards which minimize the incidence of false positive test results. The Iowa department of public health shall maintain a list of laboratories which are approved to perform medically relevant tests in accordance with the standards adopted in administrative rules.~~

Sec. 4. Section 232.77, subsection 2, Code 1995, is amended to read as follows:

2. If a health practitioner discovers in a child physical or behavioral symptoms of the effects of exposure to cocaine, heroin, amphetamine, methamphetamine, or other illegal drugs, or combinations or derivatives thereof, which were not prescribed by a health practitioner, or if the health practitioner has determined through examination of the natural mother of the child that the child was exposed in utero, the health practitioner may perform or cause to be performed a medically relevant test, as defined in section 232.73, on the child. The practitioner shall report any positive results of such a test on the child to the department. The department shall begin an investigation pursuant to section 232.71 upon receipt of such a report. A positive test result obtained prior to the birth of a child shall not be used for the criminal prosecution of a parent for acts and omissions resulting in intrauterine exposure of the child to an illegal drug.

Sec. 5. Section 232.106, subsection 2, Code Supplement 1995, is amended to read as follows:

2. If a parent, guardian, or custodian is required to have a chemical test of blood or urine for the purpose of determining the presence of an illegal drug, the test shall be a

medically relevant test as defined in section 232.73. ~~The parent, guardian, or custodian may select the laboratory which processes the test from among the laboratories approved pursuant to section 232.73. A positive test result shall not be used for the criminal prosecution of a parent, guardian, or custodian for the presence of an illegal drug.~~

Sec. 6. NEW SECTION. 232.107 PARENT VISITATION.

If a child is removed from the child's home in accordance with an order entered under this division based upon evidence indicating the presence of an illegal drug in the child's body, unless the court finds that substantial evidence exists to believe that reasonable visitation or supervised visitation would cause an imminent risk to the child's life or health, the order shall allow the child's parent reasonable visitation or supervised visitation with the child.

Sec. 7. ADMINISTRATIVE RULES VOID. Administrative rules adopted by the Iowa department of public health pursuant to section 232.73, unnumbered paragraph 2, Code Supplement 1995, are void on the effective date of this Act.

Sec. 8. PARENTAL SUBSTANCE ABUSE STUDY. The director of public health shall utilize the commission on substance abuse to study the effects of fetal alcohol syndrome on children and the issues associated with removal of a child from the child's home based upon substance abuse by the child's parent. The process used to perform the study shall include statewide hearings and consultation with the maternal and child health division of the Iowa department of public health, the council on chemically exposed infants and children, the departments of human services and education, and juvenile court judges and other juvenile court officials. The director shall present the findings of the study to the legislative council and to any legislative interim committee which reviews substance abuse issues and shall submit a written report to the general assembly on or before January 2, 1997.

Sec. 9. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 15, 1996

CHAPTER 1093
BURIAL TRUST FUNDS
S.F. 2101

AN ACT relating to the disbursement of the remaining funds in a nonguaranteed irrevocable burial trust fund following satisfaction of payment in accordance with an agreement for funeral merchandise and funeral services.

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

Section 1. Section 523A.8, subsection 1, paragraph k, Code Supplement 1995, is amended to read as follows:

k. State that if, after all payments are made in accordance with the conditions and terms of the agreement for funeral merchandise or funeral services, any funds ~~remaining~~ remain in ~~an~~ the nonguaranteed irrevocable burial trust fund ~~from which the costs of funeral merchandise and funeral services are paid shall be returned to the estate of the deceased individual for purposes of probate pursuant to chapter 633 or if the estate is not~~