

becomes due. Failure to timely report or remit any of the tax when due shall result in a penalty and interest being imposed on the tax due pursuant to sections 423.18 and 423.23.

2. The amount subject to tax shall be computed on each separate lease transaction by multiplying the number of months of the lease by the monthly taking the total of the lease payments, plus the down payment, less any manufacturer's rebate and excluding all of the following:

- a. Title fee.
- b. Registration fees.
- c. Vehicle lease tax pursuant to this section.
- d. Federal excise taxes attributable to the sale of the vehicle to the owner or to the lease of the vehicle by the owner.
- e. Optional service or warranty contracts subject to tax pursuant to section 422.43, subsection 6.
- f. Insurance.
- g. Manufacturer's rebate.
- h. Refundable deposit.
- i. Finance charges, if any, on items listed in paragraphs "a" through "h".

If any or all of the items in paragraphs "a" through "i" are excluded from the taxable lease price, the owner shall maintain adequate records of the amounts of those items. If the parties to a lease enter into an agreement providing that the tax imposed under this statute is to be paid by the lessee or included in the monthly lease payments to be paid by the lessee, the total cost of the tax shall not be included in the computation of lease price for the purpose of taxation under this section. The county treasurer ~~or~~, the state department of transportation, or the department of revenue and finance shall require every applicant for a registration receipt for a vehicle subject to tax under this section to supply information as the county treasurer or director deems necessary as to the date of the lease transaction, the lease price, and other information relative to the lease of the vehicle.

4. If the lease is terminated prior to the termination date contained in the lease agreement, no refund shall be allowed for tax previously paid ~~on the monthly rental payments~~ under this section, except as provided in section 322G.4.

Approved April 18, 1997

CHAPTER 35

CHILD ABUSE ASSESSMENTS

S.F. 230

AN ACT relating to child abuse provisions involving assessments performed by the department of human services in response to reports of child abuse and providing effective dates.

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

DIVISION I

EXPANSION OF PILOT PROJECTS

Section 1. Section 232.71A, subsection 1, Code 1997, is amended to read as follows:

1. The department shall develop an assessment-based approach to respond to child abuse reports in accordance with the provisions of this section. The assessment-based approach shall be utilized on a pilot project basis in ~~not more than five~~ not more than five areas of the state, ~~each of which~~

~~is at least the size of a departmental county cluster, selected by the department. The pilot projects shall be selected in a manner so the pilot projects are in both rural and urban areas. During the period beginning with the effective date of this division of this Act and ending June 30, 1998, the department shall incrementally expand the pilot projects areas in a manner so as to ensure the assessment-based approach is used throughout the state as of July 1, 1998. The department shall adopt rules to implement the provisions of this subsection.~~

Sec. 2. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION II STATEWIDE USE OF ASSESSMENTS

Sec. 3. Section 232.67, Code 1997, is amended to read as follows:

232.67 LEGISLATIVE FINDINGS — PURPOSE AND POLICY.

Children in this state are in urgent need of protection from abuse. It is the purpose and policy of this part 2 of division III to provide the greatest possible protection to victims or potential victims of abuse through encouraging the increased reporting of suspected cases of such abuse, ~~insuring~~ ensuring the thorough and prompt ~~investigation~~ assessment of these reports, and providing rehabilitative services, where appropriate and whenever possible to abused children and their families which will stabilize the home environment so that the family can remain intact without further danger to the child.

Sec. 4. Section 232.68, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. "Child protection worker" means an individual designated by the department to perform an assessment in response to a report of child abuse.

Sec. 5. Section 232.68, subsection 3, Code 1997, is amended to read as follows:

3. "Confidential access to a child" means access to a child, during an ~~investigation~~ assessment of an alleged act of child abuse, who is alleged to be the victim of the child abuse. The access may be accomplished by interview, observation, or examination of the child. As used in this subsection and this part:

a. "Interview" means the verbal exchange between the ~~department investigator~~ child protection worker and the child for the purpose of developing information necessary to protect the child. A ~~department investigator~~ child protection worker is not precluded from recording visible evidence of abuse.

b. "Observation" means direct physical viewing of a child under the age of four by the ~~department investigator~~ child protection worker where the viewing is limited to the child's body other than the genitalia and pubes. "Observation" also means direct physical viewing of a child age four or older by the ~~department investigator~~ child protection worker without touching the child or removing an article of the child's clothing, and doing so without the consent of the child's parent, custodian, or guardian. A ~~department investigator~~ child protection worker is not precluded from recording evidence of abuse obtained as a result of a child's voluntary removal of an article of clothing without inducement by the ~~investigator~~ child protection worker. However, if prior consent of the child's parent or guardian, or an ex parte court order, is obtained, "observation" may include viewing the child's unclothed body other than the genitalia and pubes.

c. "~~Examination~~" "Physical examination" means direct physical viewing, touching, and medically necessary manipulation of any area of the child's body by a physician licensed under chapter 148 or 150A.

Sec. 6. NEW SECTION. 232.71B DUTIES OF THE DEPARTMENT UPON RECEIPT OF REPORT.

1. COMMENCEMENT OF ASSESSMENT — PURPOSE.

a. If the department determines a report constitutes a child abuse allegation, the department shall promptly commence an appropriate assessment within twenty-four hours of receiving the report.

b. The primary purpose of the assessment shall be the protection of the child named in the report. The secondary purpose of the assessment shall be to engage the child's family in services to enhance family strengths and to address needs.

2. NOTIFICATION OF PARENTS. The department, within five working days of commencing the assessment, shall provide written notification of the assessment to the child's parents. However, if the department shows the court to the court's satisfaction that notification is likely to endanger the child or other persons, the court shall orally direct the department to withhold notification. Within one working day of issuing an oral directive, the court shall issue a written order restraining the notification. The department shall not reveal in the written notification to the parents or otherwise the identity of the reporter of child abuse to a subject of a child abuse report listed in section 235A.15, subsection 2, paragraph "a".

3. INVOLVEMENT OF LAW ENFORCEMENT. The department shall apply a protocol, developed with representatives of law enforcement agencies at the local level, to work jointly with law enforcement agencies in performing assessment and investigative processes for child abuse reports in which a criminal act harming a child is alleged. The county attorney and appropriate law enforcement agencies shall also take any other lawful action which may be necessary or advisable for the protection of the child. If a report is determined not to constitute a child abuse allegation, but a criminal act harming a child is alleged, the department shall immediately refer the matter to the appropriate law enforcement agency.

4. ASSESSMENT PROCESS. The assessment is subject to all of the following:

a. Identification of the nature, extent, and cause of the injuries, if any, to the child named in the report.

b. Identification of the person or persons responsible for the alleged child abuse.

c. A description of the name, age, and condition of other children in the same home as the child named in the report.

d. An evaluation of the home environment. If concerns regarding protection of children are identified by the child protection worker, the child protection worker shall evaluate the child named in the report and any other children in the same home as the parents or other persons responsible for their care.

e. An interview of the person alleged to have committed the child abuse, if the person's identity and location are known, to afford the person the opportunity to address the allegations of the child abuse report. The interview shall be conducted, or an opportunity for an interview shall be provided, prior to a determination of child abuse being made. The court may waive the requirement of the interview for good cause.

f. Unless otherwise prohibited under section 234.40 or 280.21, the use of corporal punishment by the person responsible for the care of a child which does not result in a physical injury to the child shall not be considered child abuse.

5. HOME VISIT. The assessment may, with the consent of the parent or guardian, include a visit to the home of the child named in the report and an interview or observation of the child may be conducted. If permission to enter the home to interview or observe the child is refused, the juvenile court or district court upon a showing of probable cause may authorize the person making the assessment to enter the home and interview or observe the child.

6. FACILITY OR SCHOOL VISIT. The assessment may include a visit to a facility providing care to the child named in the report or to any public or private school subject to the authority of the department of education where the child named in the report is located. The administrator of a facility, or a public or private school shall cooperate with the child protection worker by providing confidential access to the child named in the report for the purpose of interviewing the child, and shall allow the child protection worker confidential access to

other children for the purpose of conducting interviews in order to obtain relevant information. The child protection worker may observe a child named in a report in accordance with the provisions of section 232.68, subsection 3, paragraph "b". A witness shall be present during an observation of a child. Any child age ten years of age or older can terminate contact with the child protection worker by stating or indicating the child's wish to discontinue the contact. The immunity granted by section 232.73 applies to acts or omissions in good faith of administrators and their facilities or school districts for cooperating in an assessment and allowing confidential access to a child.

7. INFORMATION REQUESTS.

a. The department may request information from any person believed to have knowledge of a child abuse case. The county attorney, any law enforcement or social services agency in the state, and any mandatory reporter, whether or not the reporter made the specific child abuse report, shall cooperate and assist in the assessment upon the request of the department.

b. In performing an assessment, the department may request criminal history data from the department of public safety on any person believed to be responsible for an injury to a child which, if confirmed, would constitute child abuse. The department shall establish procedures for determining when a criminal history records check is necessary.

8. PHYSICAL EXAMINATION. If the department refers a child to a physician for a physical examination, the department shall contact the physician regarding the examination within twenty-four hours of making the referral. If the physician who performs the examination upon referral by the department reasonably believes the child has been abused, the physician shall report to the department within twenty-four hours of performing the examination.

9. MULTIDISCIPLINARY TEAM. In each county or multicounty area in which more than fifty child abuse reports are made per year, the department shall establish a multidisciplinary team, as defined in section 235A.13, subsection 7. Upon the department's request, a multidisciplinary team shall assist the department in the assessment, diagnosis, and disposition of a child abuse report.

10. FACILITY PROTOCOL. The department shall apply a protocol, developed in consultation with facilities providing care to children, for conducting an assessment of reports of abuse of children allegedly caused by employees of facilities providing care to children. As part of such an assessment, the department shall notify the licensing authority for the facility, the governing body of the facility, and the administrator in charge of the facility of any of the following:

- a. A violation of facility policy noted in the assessment.
- b. An instance in which facility policy or lack of facility policy may have contributed to the reported incident of alleged child abuse.
- c. An instance in which general practice in the facility appears to differ from the facility's written policy.

The licensing authority, the governing body, and the administrator in charge of the facility shall take any lawful action which may be necessary or advisable to protect children receiving care.

11. ASSESSMENT REPORT. The department, upon completion of the assessment, shall make a written report of the assessment, in accordance with all of the following:

- a. The written assessment shall incorporate the information required by subsection 4.
- b. The written assessment shall be completed within twenty business days of the receipt of the report.
- c. The written assessment shall include a description of the child's condition, identification of the injury or risk to which the child was exposed, the circumstances which led to the injury or risk to the child, and the identity of any person alleged to be responsible for the injury or risk to the child.
- d. The written assessment shall identify the strengths and needs of the child, and of the child's parent, home, and family.

e. The written assessment shall identify services available from the department and informal and formal services and other support available in the community to address the strengths and needs identified in the assessment.

f. Upon completion of the assessment, the department shall consult with the child's family in offering services to the child and the child's family to address strengths and needs identified in the assessment.

12. COURT-ORDERED AND VOLUNTARY SERVICES. The department shall provide or arrange for and monitor services for abused children and their families on a voluntary basis or under a final or intermediate order of the juvenile court.

13. COUNTY ATTORNEY — JUVENILE COURT. The department shall provide the juvenile court and the county attorney with a copy of the portion of the written assessment pertaining to the child abuse report. The juvenile court and the county attorney shall notify the department of any action taken concerning an assessment provided by the department.

14. FALSE REPORTS. If a fourth report is received from the same person who made three earlier reports which identified the same child as a victim of child abuse and the same person responsible for the child as the alleged abuser and which were determined by the department to be entirely false or without merit, the department may determine that the report is again false or without merit due to the report's spurious or frivolous nature and may in its discretion terminate its assessment of the report.

Sec. 7. NEW SECTION. 232.71C COURT ACTION FOLLOWING CHILD ABUSE ASSESSMENT — GUARDIAN AD LITEM.

1. If, upon completion of an assessment performed under section 232.71B, the department determines that the best interests of the child require juvenile court action, the department shall act appropriately to initiate the action. If at any time during the assessment process the department believes court action is necessary to safeguard a child, the department shall act appropriately to initiate the action. The county attorney shall assist the department as provided under section 232.90, subsection 2.

2. The department shall assist the juvenile court or district court during all stages of court proceedings involving an alleged child abuse case in accordance with the purposes of this chapter.

3. In every case involving child abuse which results in a child protective judicial proceeding, whether or not the proceeding arises under this chapter, a guardian ad litem shall be appointed by the court to represent the child in the proceedings. Before a guardian ad litem is appointed pursuant to this section, the court shall require the person responsible for the care of the child to complete under oath a detailed financial statement. If, on the basis of that financial statement, the court determines that the person responsible for the care of the child is able to bear the cost of the guardian ad litem, the court shall so order. In cases where the person responsible for the care of the child is unable to bear the cost of the guardian ad litem, the expense shall be paid out of the county treasury.

Sec. 8. Section 232.72, Code 1997, is amended to read as follows:

232.72 JURISDICTION — TRANSFER.

1. ~~Department~~ For the purposes of this division, the terms "department of human services", "department", or "county attorney" ordinarily refer to the regional or local or county office of the department of human services or of the county attorney's office serving the county in which the child's home is located.

2. However, if the person making ~~the a~~ report of child abuse pursuant to this chapter does not know where the child's home is located, or if the child's home is not located in the service area where the health practitioner examines, attends, or treats the child, the report may be made to the ~~state department of human services~~ or to the local office serving the county where the person making the report resides or the county where the health practitioner examines, attends, or treats the child. These agencies shall promptly proceed as provided in section ~~232-71~~ 232.71B, unless the matter is transferred as provided in this section.

3. If the child's home is located in a county not served by the office receiving the report, the

department shall promptly transfer the matter by transmitting a copy of the report of injury and any other pertinent information to the office and the county attorney serving the other county. They shall promptly proceed as provided in section ~~232.71~~ 232.71B.

Sec. 9. Section 232.73, unnumbered paragraph 1, Code 1997, is amended to read as follows:

A person participating in good faith in the making of a report, photographs, or X rays, or in the performance of a medically relevant test pursuant to this chapter, or aiding and assisting in an ~~investigation~~ assessment of a child abuse report pursuant to section ~~232.71~~ 232.71B, shall have immunity from any liability, civil or criminal, which might otherwise be incurred or imposed. The person shall have the same immunity with respect to participation in good faith in any judicial proceeding resulting from the report or relating to the subject matter of the report.

Sec. 10. Section 232.77, Code 1997, is amended to read as follows:

232.77 PHOTOGRAPHS, X RAYS, AND MEDICALLY RELEVANT TESTS.

1. A person who is required to report a case of child abuse may take or cause to be taken, at public expense, photographs, X rays, or other physical examinations or tests of a child which would provide medical indication of allegations arising from a child abuse ~~investigation~~ assessment. A health practitioner may, if medically indicated, cause to be performed radiological examination, physical examination, or other medical tests of the child. A person who takes any photographs or X rays or performs physical examinations or other tests pursuant to this section shall notify the department of ~~human services~~ that the photographs or X rays have been taken or the examinations or other tests have been performed. The person who made notification shall retain the photographs or X rays or examination or test findings for a reasonable time following the notification. Whenever the person is required to report under section 232.69, in that person's capacity as a member of the staff of a medical or other private or public institution, agency or facility, that person shall immediately notify the person in charge of the institution, agency, or facility or that person's designated delegate of the need for photographs or X rays or examinations or other tests.

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~~ assessment pursuant to section ~~232.71~~ 232.71B 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. 11. Section 232.78, subsection 4, unnumbered paragraph 1, Code 1997, is amended to read as follows:

The juvenile court, before or after the filing of a petition under this chapter, may enter an ex parte order authorizing a physician or hospital to conduct an outpatient physical examination or authorizing a physician, a psychologist certified under section 154B.7, or a community mental health center accredited pursuant to chapter 230A to conduct an outpatient mental examination of a child if necessary to identify the nature, extent, and cause of injuries to the child as required by section ~~232.71, subsection 2~~ 232.71B, provided all of the following apply:

Sec. 12. Section 232.141, subsection 6, Code 1997, is amended to read as follows:

6. If a child is given physical or mental examinations or treatment relating to a child abuse ~~investigation~~ assessment with the consent of the child's parent, guardian, or legal

custodian and no other provision of law otherwise requires payment for the costs of the examination and treatment, the costs shall be paid by the state. Reimbursement for costs of services described in this subsection is subject to subsection 5.

Sec. 13. Section 235A.13, subsection 3, paragraph a, Code 1997, is amended to read as follows:

a. Any intermediate or ultimate opinion or decision reached by investigative assessment personnel.

Sec. 14. Section 235A.15, subsection 2, paragraph b, Code 1997, is amended to read as follows:

b. Persons involved in an investigation assessment 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 assessment of a child abuse report.

(3) To a law enforcement officer responsible for assisting in an investigation assessment 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.

Sec. 15. Section 235A.15, subsection 2, paragraph c, subparagraph (1), Code 1997, is amended to read 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 4 232.71B.

Sec. 16. Section 235A.15, subsection 4, unnumbered paragraphs 2 and 3, Code 1997, are amended to read as follows:

If a child who is a legal resident of another state is present in this state and a report of child abuse is made concerning the child, the department shall act to ensure the safety of the child. The department shall contact the child's state of legal residency to coordinate the investigation assessment of the report. If the child's state of residency refuses to conduct an investigation, the department shall commence an appropriate investigation assessment.

If a report of child abuse is made concerning an alleged perpetrator who resides in this state and a child who resides in another state, the department shall assist the child's state of residency in conducting an investigation assessment of the report. The assistance shall include but is not limited to an offer to interview the alleged perpetrator and any other relevant source. If the child's state of residency refuses to conduct an investigation of the report, the department shall commence an appropriate investigation assessment. The department shall seek to develop protocols with states contiguous to this state for coordination in the investigation or assessment of a report of child abuse when a person involved with the report is a resident of another state.

Sec. 17. Section 235A.17, subsection 2, Code 1997, is amended to read as follows:

2. The department of human services may notify orally the mandatory reporter in an individual child abuse case of the results of the case investigation assessment and of the confidentiality provisions of sections 235A.15 and 235A.21. The department 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. 18. Section 235A.18, subsection 2, paragraph a, Code 1997, is amended to read as follows:

a. The ~~investigation~~ assessment of a report of suspected child abuse by the department.

Sec. 19. Section 235A.18, subsection 4, Code 1997, is amended to read as follows:

4. The registry, at least once a year, shall review and determine the current status of child abuse reports which are transmitted or made to the registry after July 1, 1974, which are at least one year old and in connection with which no ~~investigatory~~ assessment report has been filed by the department of human services pursuant to section ~~232.71~~ 232.71B. If no such ~~investigatory~~ assessment report has been filed, the registry shall request the department of human services to file a report. In the event a report is not filed within ninety days subsequent to ~~such a~~ the request, the report and information relating ~~thereto to the report and information~~ shall be sealed and remain sealed unless good cause be shown why the information should remain open to authorized access.

Sec. 20. Section 235A.19, subsection 2, paragraph a, Code 1997, is amended to read as follows:

a. A subject of a child abuse report may file with the department within six months of the date of the notice of the results of an ~~investigation~~ assessment required by section ~~232.71, subsection 7~~ 232.71B, a written statement to the effect that child abuse information referring to the subject is in whole or in part erroneous, and may request a correction of that information or of the findings of the ~~investigation~~ assessment report. The department shall provide the subject with an opportunity for an evidentiary hearing pursuant to chapter 17A to correct the information or the findings, unless the department corrects the information or findings as requested. The department shall delay the expungement of information which is not determined to be founded until the conclusion of a proceeding to correct the information or findings. The department may defer the hearing until the conclusion of a pending juvenile or district court case relating to the information or findings.

Sec. 21. Section 235A.19, subsection 2, paragraph b, subparagraph (7), Code 1997, is amended to read as follows:

(7) To persons involved in an ~~investigation~~ assessment of child abuse.

Sec. 22. Section 331.424, subsection 1, paragraph b, Code 1997, is amended to read as follows:

b. Foster care and related services provided under court order to a child who is under the jurisdiction of the juvenile court, including court-ordered costs for a guardian ad litem under section ~~232.71~~ 232.71C.

Sec. 23. Section 331.653, subsection 24, Code 1997, is amended to read as follows:

24. Carry out duties relating to the ~~investigation~~ assessment of reported child abuse cases and the protection of abused children as provided in section ~~232.71~~ 232.71B.

Sec. 24. Sections 232.71 and 232.71A, Code 1997, are repealed.

Sec. 25. EFFECTIVE DATE. This division of this Act takes effect July 1, 1998.

Approved April 18, 1997