

2. A person does not incur legal liability by reason of releasing information to the department as required under and in compliance with this section.

3. A person who releases or discloses confidential data, records, or any other type of information in violation of this section is guilty of a serious misdemeanor.

Sec. 5. NEW SECTION. 135.112 RULEMAKING.

The department shall adopt rules pursuant to chapter 17A relating to the administration of the domestic abuse death review team and sections 135.108 through 135.111.

Sec. 6. INITIAL TERMS. Notwithstanding any contrary provision of section 135.109, as enacted by this Act, the director of public health shall designate initial terms of team members as follows: approximately one-third of the total number of members of the Iowa domestic abuse review team,² of those members first listed in section 135.109, subsection 3, as enacted by this Act, shall initially serve terms of three years; approximately one-third of the total number of members of those members next listed shall initially serve terms of two years; and approximately one-third of the total number of members of those members finally listed shall serve terms of one year.

Approved April 21, 2000

CHAPTER 1137

ACCESS TO CHILD ABUSE INFORMATION

H.F. 2377

AN ACT providing for access to certain child abuse information, making penalties and remedies applicable, and including an effective date and applicability provision.

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

Section 1. Section 135.43, subsection 3, paragraph e, Code 1999, is amended by striking the paragraph.

Sec. 2. Section 135.43, Code 1999, is amended by adding the following new subsection:
NEW SUBSECTION. 3A. The review team shall develop protocols for a child fatality review committee to be appointed by the director on an ad hoc basis to immediately review the child abuse assessments which involve the fatality of a child under age eighteen. The director shall appoint a medical examiner, a pediatrician, and a person involved with law enforcement to the committee.

a. The purpose of the review shall be to determine whether the department of human services and others involved with the case of child abuse responded appropriately. The protocols shall provide for the committee to consult with any multidisciplinary team, as defined in section 235A.13, that is operating in the area in which the fatality occurred.

b. The committee shall have access to patient records and other pertinent confidential information and subject to the restrictions in this subsection may disseminate the confidential information in the committee's report.

c. Upon completion of the review, the committee shall issue a report which shall include findings concerning the case and recommendations for changes to prevent child fatalities when similar circumstances exist. The report shall include but is not limited to the following information, subject to the restrictions listed in paragraph "d":

² Iowa domestic abuse death review team probably intended

(1) The dates, outcomes, and results of any actions taken by the department of human services and others in regard to each report and allegation of child abuse involving the child who died.

(2) The results of any review of the case performed by a multidisciplinary team, or by any other public entity that reviewed the case.

(3) Confirmation of the department of human services' receipt of any report of child abuse involving the child, including confirmation as to whether or not any assessment involving the child was performed in accordance with section 232.71B, the results of any assessment, a description of the most recent assessment and the services offered to the family, the services rendered to the family, and the basis for the department's decisions concerning the case.

d. Prior to issuing the report, the committee shall consult with the county attorney responsible for prosecution of the alleged perpetrator of the child fatality. The committee's report shall include child abuse information associated with the case and the child, but is subject to the restrictions applicable to the department of human services for release of information concerning a child fatality or near fatality in accordance with section 235A.15, subsection 9.

e. Following the completion of the trial of any alleged perpetrator of the child fatality and the appeal period for the granting of a new trial, the committee shall issue a supplemental report containing the information that was withheld, in accordance with paragraph "d", so as not to jeopardize the prosecution or the rights of the alleged perpetrator to a fair trial as described in section 235A.15, subsection 9, paragraphs "f" and "g".

f. The report and any supplemental report shall be submitted to the governor and general assembly.

Sec. 3. Section 135.43, subsection 6, paragraph b, Code 1999, is amended to read as follows:

b. A person in possession or control of medical, investigative, assessment, or other information pertaining to a child death and child abuse review shall allow the inspection and reproduction of the information by the department upon the request of the department, to be used only in the administration and for the duties of the Iowa child death review team. Information Except as provided for a report on a child fatality by an ad hoc child fatality review committee under subsection 3A and records which are confidential under section 22.7 and chapter 235A, and information or records received from the confidential records, remain confidential under this section. A person does not incur legal liability by reason of releasing information to the department as required under and in compliance with this section.

Sec. 4. Section 232.70, Code 1999, is amended by adding the following new subsection:
NEW SUBSECTION. 8. Within twenty-four hours of receiving a report from a mandatory or permissive reporter, the department shall inform the reporter, orally or by other appropriate means, whether or not the department has commenced an assessment of the allegation in the report.

Sec. 5. Section 235A.13, Code Supplement 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 8A. "Near fatality" means a bodily injury which involves substantial risk of death, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty and includes a serious bodily injury as described in section 702.18.

Sec. 6. Section 235A.15, subsection 1, Code Supplement 1999, is amended to read as follows:

1. Notwithstanding chapter 22, the confidentiality of all child abuse information shall be maintained, except as specifically provided by ~~subsection 2, 3, or 4~~ this section.

Sec. 7. Section 235A.15, subsection 2, paragraph b, subparagraph (5), Code Supplement 1999, is amended to read as follows:

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

Sec. 8. Section 235A.15, subsection 2, paragraph f, Code Supplement 1999, is amended to read as follows:

f. ~~The following, but only~~ Only with respect to disposition data for cases of founded child abuse subject to placement in the central registry pursuant to section 232.71D:

(1) ~~To~~ to a person who submits written authorization from an individual allowing the person access to data pursuant to this subsection on behalf of the individual in order to verify whether the individual is named in a founded child abuse report as having abused a child.

(2) ~~To an individual who is requesting information on a specific case of child abuse which resulted in a child fatality or near fatality.~~

Sec. 9. Section 235A.15, Code Supplement 1999, is amended by adding the following new subsections:

NEW SUBSECTION. 7. Upon the request of a person listed in this subsection, child abuse information relating to a specific case of child abuse involving a fatality or near fatality to a child and reported to the department shall be disclosed to that person by the director of human services. The purpose of the disclosure is to provide for oversight of the department and others involved with the state's child protection system in order to improve the system. After completing a review of the child abuse information received, an authorized requester may issue a report to the governor regarding the specific case of child abuse. The following persons are authorized to make a request and receive child abuse information under this section relating to a specific case of child abuse involving a fatality or near fatality to a child:

a. The governor or the governor's designee.

b. The member of the senate or employee of the general assembly designated by the majority leader or minority leader of the senate.

c. The member of the house of representatives or employee of the general assembly designated by the speaker or minority leader of the house of representatives.

NEW SUBSECTION. 8. Upon the request of the governor, the department shall disclose child abuse information to the governor relating to a specific case of child abuse reported to the department.

NEW SUBSECTION. 9. If the department receives a request for child abuse information relating to a case of a fatality or near fatality to a child, within five business days of receiving the request the director of human services or the director's designee shall consult with the county attorney responsible for prosecution of any alleged perpetrator of the fatality or near fatality and shall disclose child abuse information relating to the case and the child in accordance with this subsection. The director or the director's designee shall release all child abuse information associated with the case and the child, except for the following:

a. The substance or content of any mental health or psychological information that is confidential under chapter 228.

b. Information that constitutes the substance or contains the content of an attorney work product or is a privileged communication under section 622.10.

c. Information pertaining to the child, the child's family, or any other person that is not directly related to the cause of the fatality or near fatality.

d. Information that would reveal the identity of any individual who provided information relating to a report of child abuse or an assessment of such a report involving the child.

e. Information that the director or the director's designee reasonably believes is likely to cause mental or physical harm to a sibling of the child or to another child residing in the child's household.

f. Information that the director or the director's designee reasonably believes is likely to jeopardize the prosecution of any alleged perpetrator of the fatality or near fatality.

g. Information that the director or the director's designee reasonably believes is likely to jeopardize the rights of any alleged perpetrator of the fatality or near fatality to a fair trial.

h. Information that the director or the director's designee reasonably believes is likely to undermine an ongoing or future criminal investigation.

i. Information, the release of which is a violation of federal law or regulation.

Sec. 10. Section 235A.17, Code 1999, is amended by adding the following new subsection: **NEW SUBSECTION.** 3. For the purposes of this subsection, "subject of a child abuse report" means any individual listed in section 235A.15, subsection 2, paragraph "a", other than the attorney or guardian ad litem of such individual. An individual who is the subject of a child abuse report may disseminate to the governor or the governor's designee or to a member of the general assembly or an employee of the general assembly designated by the member, child abuse information that was disseminated to the individual by the department or other official source. The child abuse information may also include the following related information that the individual is allowed under law to possess: department of human services information described in section 217.30, subsection 1, mental health information as defined in section 228.1, and juvenile court social records and other information in official juvenile court records described in section 232.147. A person who receives confidential child abuse information and related information disseminated under this subsection shall not further disseminate, communicate, or attempt to communicate the information to a person who is not authorized by this section or other provision of law to have access to the information.

Sec. 11. Section 235A.18, subsection 2, Code Supplement 1999, is amended to read as follows:

2. The juvenile or district court and county attorney shall expunge child abuse information upon notice from the registry. The supreme court shall prescribe rules establishing the period of time child abuse information is retained by the juvenile and district courts. A county attorney shall not retain child abuse information in excess of the time period the information would be retained under the rules prescribed by the supreme court. Child abuse information relating to a particular case of child abuse placed in the central registry that a juvenile or district court determines is unfounded in a written finding based upon a preponderance of evidence shall be expunged from the central registry.

Sec. 12. **NEW SECTION.** 235A.25 ORDER FOR DISCLOSURE OF CHILD ABUSE INFORMATION.

A person whose request for child abuse information under section 235A.15, subsection 9, is denied may apply to the juvenile court for an order compelling disclosure of the information. The application shall state in reasonable detail the factors in support of the application. The juvenile court shall have jurisdiction to issue the order. A hearing shall be set immediately upon filing of an application under this section and subsequent proceedings shall be accorded priority by other courts. After the court has reviewed the child abuse information relating to the case in camera, unless the court finds that a restriction listed in section 235A.15, subsection 9, is applicable, the court shall issue an order compelling disclosure of the child abuse information.

Sec. 13. **STUDY OF ACCESS TO CONFIDENTIAL INFORMATION.** The legislative council is requested to establish a study committee for the 2000 interim to review state policy regarding confidential information in the area of child abuse and other human services-related programs. The study shall include consideration of the review of the child abuse program performed by independent experts retained by the department of human services, approaches used in other states, policy regarding privileged information, and access to agency and other information by the office of the citizens' aide.

Sec. 14. EFFECTIVE DATE — APPLICABILITY. This Act, being deemed of immediate importance, takes effect upon enactment and is applicable to disclosures of information on or after the date of enactment related to cases of child abuse reported prior to, on, or after the effective date of this Act.

Approved April 21, 2000

CHAPTER 1138
DRINKING DRIVER RESTRICTIONS
H.F. 2511

AN ACT relating to drinking driver restrictions by providing for the issuance of temporary restricted permits or licenses under certain circumstances, by providing that the course for drinking drivers shall be taught by community colleges or licensed substance abuse programs, and by providing for parental and school notification of certain violations by persons under eighteen years of age.

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

Section 1. Section 123.46, Code 1999, is amended by adding the following new subsection:
NEW SUBSECTION. 3A. a. A peace officer shall make a reasonable effort to identify a person under the age of eighteen who violates this section, and if the person is not referred to juvenile court, the law enforcement agency of which the peace officer is an employee shall make a reasonable attempt to notify the person's custodial parent or legal guardian of the violation, whether or not the person is taken into custody, unless the officer has reasonable grounds to believe that notification is not in the best interests of the person or will endanger that person.

b. The peace officer shall also make a reasonable effort to identify the elementary or secondary school which the person attends if the person is enrolled in elementary or secondary school and to notify the superintendent or the superintendent's designee of the school which the person attends, or the authorities in charge of the nonpublic school which the person attends, of the violation. If the person is taken into custody, the peace officer shall notify a juvenile court officer who shall make a reasonable effort to identify the elementary or secondary school the person attends, if any, and to notify the superintendent of the school district or the superintendent's designee, or the authorities in charge of the nonpublic school, of the violation. A reasonable attempt to notify the person includes, but is not limited to, a telephone call or notice by first-class mail.

Sec. 2. Section 321.560, Code 1999, is amended to read as follows:
321.560 PERIOD OF REVOCATION.

1. A license to operate a motor vehicle in this state shall not be issued to any person declared to be a habitual offender under section 321.555, subsection 1, for a period of not less than two years nor more than six years from the date of the final decision of the department under section 17A.19 or the date on which the district court upholds the final decision of the department, whichever occurs later.

a. ~~However, a~~ A temporary restricted permit may be issued pursuant to section 321.215, subsection 2, to a person declared to be a habitual offender under section 321.555, subsection 1, paragraph "c"; ~~pursuant to section 321.215, subsection 2.~~