

CHAPTER 1153DISCLOSURE OF DEPARTMENT OF HUMAN SERVICES
RECORDS AND INFORMATION

H.F. 2328

AN ACT relating to child protection confidentiality requirements involving the department of human services.

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

Section 1. Section 217.30, subsection 4, Code 2003, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. Information described in subsection 1, paragraphs “a”, “b”, and “c”, is subject to disclosure in accordance with section 235A.15, subsection 10.

Sec. 2. Section 235A.12, Code 2003, is amended to read as follows:

235A.12 LEGISLATIVE FINDINGS AND PURPOSES.

1. The general assembly finds and declares that a central registry is required to provide a single source for the state-wide statewide collection, maintenance, and dissemination of child abuse information. ~~Such a~~ The existence of the central registry is imperative for increased effectiveness in dealing with the problem of child abuse. The general assembly also finds that vigorous protection of rights of individual privacy is an indispensable element of a fair and effective system of collecting, maintaining and disseminating child abuse information.

2. The purposes of this section and sections 235A.13 to 235A.23 through 235A.24 are to facilitate the identification of victims or potential victims of child abuse by making available a single, statewide source of child abuse data; to facilitate research on child abuse by making available a single, statewide source of child abuse data; and to provide maximum safeguards against the unwarranted invasions of privacy which such a registry might otherwise entail.

Sec. 3. Section 235A.13, subsection 9, Code Supplement 2003, is amended to read as follows:

~~9. “Near fatality” means a bodily an 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 to a child that, as certified by a physician, placed the child in serious or critical condition.~~

Sec. 4. Section 235A.15, subsections 7 and 8, Code Supplement 2003, are amended to read as follows:

~~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.~~

7. If the director of human services receives a written request for information regarding a specific case of child abuse involving a fatality or near fatality to a child from the majority or minority leader of the senate or the speaker or the minority leader of the house of representatives, the director or the director's designee shall arrange for a confidential meeting with the requestor or the requestor's designee. In the confidential meeting the director or the director's designee shall share all pertinent information concerning the case, including but not limited to child abuse information. Any written document distributed by the director or the director's designee at the confidential meeting shall not be removed from the meeting and a participant in the meeting shall be subject to the restriction on redissemination of confidential information applicable to a person under section 235A.17, subsection 3, for confidential information disclosed to the participant at the meeting. A participant in the meeting may issue a report to the governor or make general public statements concerning the department's handling of the case of child abuse.

8. Upon the request of the governor, the department shall disclose child abuse information to the governor or the governor's designee relating to a specific case of child abuse reported to the department.

Sec. 5. Section 235A.15, subsection 9, unnumbered paragraph 1, Code Supplement 2003, is amended to read as follows:

If, apart from a request made pursuant to subsection 7 or 8, the department receives from a member of the public a request for child abuse information relating to a case of founded child abuse involving a fatality or near fatality to a child, the response to the request shall be made in accordance with this subsection and subsections 10 and 11. If the request is received before or during performance of an assessment of the case in accordance with section 232.71B, the director of human services or the director's designee shall initially disclose whether or not the assessment will be or is being performed. Otherwise, within five business days of receiving the request or completing the assessment, whichever is later, 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, including but not limited to 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:

Sec. 6. Section 235A.15, subsection 9, paragraph c, Code Supplement 2003, is amended by striking the paragraph.

Sec. 7. Section 235A.15, Code Supplement 2003, is amended by adding the following new subsections:

NEW SUBSECTION. 10. The information released by the director of human services or the director's designee pursuant to a request made under subsection 9 relating to a case of founded child abuse involving a fatality or near fatality to a child shall be a summary of all of the following, unless such information is excepted from disclosure under subsection 9:

a. Any relevant child abuse report data concerning the child or the child's family and the department's response and findings concerning the report data, including but not limited to assessment and disposition data.

b. Information, that would otherwise be confidential under section 217.30, as to whether or not the child or a member of the child's family was utilizing social services provided by the department at the time of the child fatality or near fatality or within the five-year period preceding the fatality or near fatality.

c. Any recommendations made by the department to the county attorney or the juvenile court.

d. If applicable, an evaluation of the department's responses in the case.¹

NEW SUBSECTION. 11. a. If a person who made a request for information under subsection 9 does not believe the department has substantially complied with the request, the person

¹ See chapter 1116, §27 herein

may apply to the juvenile court under section 235A.24 for an order for disclosure of additional information.

b. If release of social services information in addition to that released under subsection 10, paragraph "b", is believed to be in the public's interest and right to know, the director of human services or the director's designee may apply to the court under section 235A.24 requesting a review of the information proposed for release and an order authorizing release of the information. A release of information that would otherwise be confidential under section 217.30 concerning social services provided to the child or the child's family shall not include information concerning financial or medical assistance provided to the child or the child's family.

NEW SUBSECTION. 12. If an individual who is the subject of a child abuse report listed in subsection 2, paragraph "a", or another party involved in a child abuse assessment under section 232.71B releases in a public forum or to the media information concerning a case of child abuse including but not limited to child abuse information which would otherwise be confidential, the director of human services, or the director's designee, may respond with relevant information concerning the case of child abuse that was the subject of the release. Prior to releasing the response, the director or the director's designee shall consult with the child's parent or guardian, or the child's guardian ad litem, and apply to the court under section 235A.24 requesting a review of the information proposed for release and an order authorizing release of the information.

Sec. 8. Section 235A.24, Code 2003, is amended to read as follows:

235A.24 ORDER FOR DISCLOSURE OR RELEASE OF CHILD ABUSE INFORMATION.

1. a. A person whose request for child abuse information relating to a case of founded child abuse under section 235A.15, subsection 9, is denied or such person does not believe the department has substantially complied with the request and seeks additional information, the person may apply to the juvenile court for an order compelling disclosure of the information.

b. The director of human services or the director's designee may apply, if the conditions under section 235A.15, subsection 11 or 12, are met, to the court requesting a review of confidential information proposed for release and an order authorizing the release of information. A release of information that would otherwise be confidential under section 217.30 concerning social services provided to the child or the child's family shall not include information concerning financial or medical assistance provided to the child or the child's family.

2. 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.

3. In considering the application, the court shall weigh the public's interest and right to know the information against the privacy rights of the victim of the child abuse and other individuals who may be affected by the release of the information relating to the case of child abuse.

4. 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 ~~may~~ issue an order compelling disclosure or authorizing release of the ~~child abuse~~ information relating to the case.

Approved May 11, 2004