

CHAPTER 1082

CHILD ABUSE REPORTS AND DISPOSITION DATA

H.F. 2226

AN ACT relating to child abuse reports and disposition data.

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

Section 1. Section 232.71D, subsection 2, Code Supplement 2011, is amended to read as follows:

2. Except as otherwise provided in subsections 3 and 4, and section 235A.19, subsection 2, if the department issues a finding that the alleged child abuse meets the definition of child abuse under section 232.68, subsection 2, the names of the child and the alleged perpetrator of the alleged child abuse and any other child abuse information shall be placed in the central registry as a case of founded child abuse.

Sec. 2. Section 235A.18, subsection 1, paragraph a, Code Supplement 2011, is amended to read as follows:

a. Report and disposition data relating to a particular case of alleged child abuse shall be sealed ten years after the initial placement of the data in the registry unless good cause be shown why the data should remain open to authorized access. If a subsequent report of an alleged case of child abuse involving the child named in the initial data placed in the registry as the victim of abuse or a person named in the data as having abused a child is received by the department within this ten-year period, the data shall be sealed ten years after receipt of the subsequent report unless good cause be shown why the data should remain open to authorized access. However, such report and a person named in the initial data placed in the registry as having abused a child shall have the person's name removed from the registry if that person has not had a subsequent case of alleged abuse which resulted in the person's name being placed in the registry as the person responsible for the abuse within the ten-year period. Report and disposition data shall be made available to the department of justice if the department requests access to the alleged child abuse records for purposes of review by the prosecutor's review committee or commitment of sexually violent predators under chapter 229A.

Sec. 3. Section 235A.19, subsection 1, Code Supplement 2011, is amended to read as follows:

1. A subject of a child abuse report, as identified in section 235A.15, subsection 2, paragraph "a", shall have the right to examine report data and disposition data which refers to the subject. The department may prescribe reasonable hours and places of examination. A subject of a child abuse report may provide additional information to the department that is relevant to the report data and disposition data and may request that the department revise the report data and disposition data.

Sec. 4. Section 235A.19, Code Supplement 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. At the time the notice of the results of an assessment performed in accordance with section 232.71B is issued, the department shall provide notice to a person named in the report as having abused a child of the right to a contested case hearing and shall provide notice to subjects other than the person named in the report as having abused a child of the right to intervene in a contested case proceeding, as provided in subsection 2.

Sec. 5. Section 235A.19, subsections 2 and 3, Code Supplement 2011, are amended to read as follows:

2. a. A subject of a child abuse report may file with the department within ninety days of the date of the notice of the results of an assessment performed in accordance with section 232.71B, a written statement to the effect that report data and disposition data referring to the subject is in whole or in part erroneous, and may request a correction of that data or of the findings of the assessment report.

b. The department shall provide the subject a person named in a child abuse report as having abused a child, who has been adversely affected by a founded child abuse disposition, notwithstanding the placement of the report data in the central registry pursuant to section 232.71D, with an opportunity for a contested case hearing pursuant to chapter 17A to correct the data or the findings, unless the department corrects the data or findings as requested.

c. The department shall provide a subject of a child abuse report, other than the person named in the report as having abused a child, with an opportunity to file a motion to intervene in the contested case proceeding.

d. The department may defer the hearing until the conclusion of the adjudicatory phase of a pending juvenile or district court case relating to the data or findings. Upon request of any party to the contested case proceeding, the presiding officer may stay the hearing until the conclusion of the adjudicatory phase of a pending juvenile or district court case relating to the data or findings. An adjudication of a child in need of assistance or a criminal conviction in a district court case relating to the child abuse data or findings may be determinative in a contested case proceeding.

e. A party to a contested case proceeding shall file an appeal of the presiding officer's proposed decision to the director within ten days of the presiding officer's proposed decision. If an appeal is not filed within ten days from the date of a proposed decision, the proposed decision shall be the final agency action. If a party files an appeal within ten days from the date of the proposed decision, the director has forty-five days from the date of the proposed decision to issue a ruling. Upon the director's failure to issue a ruling within forty-five days of the date of the proposed decision, the proposed decision shall be the final agency action.

b. f. The department shall not disclose any report data or disposition data until the conclusion of the proceeding to correct the data or findings, except as follows:

- (1) As necessary for the proceeding itself.
- (2) To the parties and attorneys involved in a judicial proceeding.
- (3) For the regulation of child care or child placement.
- (4) Pursuant to court order.
- (5) To the subject of an assessment or a report.
- (6) For the care or treatment of a child named in a report as a victim of abuse.
- (7) To persons involved in an assessment of child abuse.
- (8) For statutorily authorized record checks for employment of an individual by a provider of adult home care, adult health facility care, or other adult placement facility care.
- (9) For others identified in section 235A.15, subsection 2, paragraph "d", subparagraph (7), and paragraph "e", subparagraphs (9) and (16).

3. The subject of a A person named in a child abuse report as having abused a child, who has been adversely affected by a founded child abuse disposition, notwithstanding the placement of the report data in the central registry pursuant to section 232.71D, may appeal the decision resulting from a hearing held pursuant to subsection 2 to the district court of Polk county or to the district court of the district in which the subject of the child abuse person named in the report as having abused a child resides. Immediately upon appeal the court shall order the department to file with the court a certified copy of the report data or disposition data. Appeal shall be taken in accordance with chapter 17A.

Sec. 6. CHILD ABUSE REPORTS — DIFFERENTIAL RESPONSE REVIEW.

1. The department of human services shall conduct a comprehensive review to determine whether to recommend implementation of a differential response to child abuse reports when the initial report is received by the department pursuant to section 232.70. The department of human services shall also review and recommend the length of time a person named in a child abuse report as having abused a child should remain on the child abuse registry and the circumstances under which the department may remove the name of a person named in the report as having abused a child from the report and disposition data prior to the expiration of a ten-year period.

2. "Differential response", as used in this section, means at least two discrete response options for the screening of cases constituting a child abuse allegation pursuant to the department's assessment process. One of the options shall include a voluntary, noninvestigative response.

3. The department shall, by December 1, 2012, submit a report of its review including findings and recommendations to the governor and general assembly.

Sec. 7. REPORT ON CHILD ABUSE ASSESSMENTS ADMINISTRATIVE APPEALS. The department of human services and the department of inspections and appeals shall, by December 1, 2012, submit a preliminary report to the governor and general assembly regarding the length of time for appeals of placement on the child abuse registry within the last five years. The department of human services and the department of inspections and appeals shall submit a final report to the governor and the general assembly by December 1, 2013. The preliminary and final reports shall include information on the number of persons appealing, the alleged reason for the placement, the length of time for an appeal including the time between a request for a contested case hearing and the occurrence of the contested case hearing, the proposed decision of the presiding officer, and, if the proposed decision was appealed, the review of the director, and the reasons for outliers in the length of time for an appeal.

Approved April 12, 2012