

CHAPTER 115

CHILD ABUSE ASSESSMENT AND REPORTING PROCEDURES

H.F. 590

AN ACT relating to child abuse reporting, assessment procedures, and placement on the central registry for child abuse, and including effective date and applicability provisions.

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

Section 1. Section 232.68, Code 2013, is amended by adding the following new subsection:

NEW SUBSECTION. 4A. “*Differential response*” means an assessment system in which there are two discrete pathways to respond to accepted reports of child abuse, a child abuse assessment and a family assessment. The child abuse assessment pathway shall require a determination of abuse and a determination of whether criteria for placement on the central abuse registry are met. As used in this subsection and this part:

a. “*Assessment*” means the process by which the department responds to all accepted reports of alleged child abuse. An “*assessment*” addresses child safety, family functioning, culturally competent practice, and identifies the family strengths and needs, and engages the family in services if needed. The department’s assessment process occurs either through a child abuse assessment or a family assessment.

b. “*Child abuse assessment*” means an assessment process by which the department responds to all accepted reports of child abuse which allege child abuse as defined in subsection 2, paragraph “a”, subparagraphs (1) through (3) and subparagraphs (5) through (10), or which allege child abuse as defined in subsection 2, paragraph “a”, subparagraph (4), that also allege imminent danger, death, or injury to a child. A “*child abuse assessment*” results in a disposition and a determination of whether a case meets the definition of child abuse and a determination of whether criteria for placement on the registry are met.

c. “*Family assessment*” means an assessment process by which the department responds to all accepted reports of child abuse which allege child abuse as defined in subsection 2, paragraph “a”, subparagraph (4), but do not allege imminent danger, death, or injury to a child. A “*family assessment*” does not include a determination of whether a case meets the definition of child abuse and does not include a determination of whether criteria for placement on the registry are met.

Sec. 2. Section 232.70, subsection 5, Code 2013, is amended to read as follows:

5. Upon receipt of a report, the department shall do all of the following:

a. Immediately, ~~upon receipt of an oral report,~~ make a determination as to whether the report constitutes an allegation of child abuse as defined in section 232.68.

b. Notify the appropriate county attorney of the receipt of the report.

Sec. 3. Section 232.71B, subsections 1, 3, 4, 10, 12, 13, and 14, Code 2013, are amended to read as follows:

1. *Commencement of assessment — differential response — purpose.*

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

(1) Upon acceptance of a report of child abuse, the department shall commence a child abuse assessment when the report alleges child abuse as defined in section 232.68, subsection 2, paragraph “a”, subparagraphs (1) through (3) and subparagraphs (5) through (10), or which alleges child abuse as defined in section 232.68, subsection 2, paragraph “a”, subparagraph (4), that also alleges imminent danger, death, or injury to a child.

(2) Upon acceptance of a report of child abuse, the department shall commence a family assessment when the report alleges child abuse as defined in section 232.68, subsection 2, paragraph “a”, subparagraph (4), but does not allege imminent danger, death, or injury to a child.

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

3. *Involvement of law enforcement.* The department shall apply protocols, developed with the local child protection assistance team established pursuant to section 915.35, to prioritize the actions taken in response to a child abuse reports assessment and to shall work jointly with child protection assistance teams and law enforcement agencies in performing assessment and investigative processes for child abuse reports assessments 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 or if the child abuse report is accepted but assessed under the family assessment, 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

a. A child abuse assessment is subject to or family assessment shall include all of the following:

(1) A safety assessment and risk assessment. If at any time during a family assessment, a child is determined unsafe or in imminent danger, it appears that the immediate safety or well-being of a child is endangered, it appears that the family may flee or the child may disappear, or the facts otherwise warrant, the department shall immediately commence a child abuse assessment.

(2) 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.

b. In addition to the requirements of paragraph "a", a child abuse assessment shall include the following:

a. (1) Identification of the nature, extent, and cause of the injuries, if any, to the child named in the report.

b. (2) Identification of the person or persons responsible for the alleged child abuse.

e. (3) 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. (4) An interview of the person alleged to have committed the child abuse, if the person's identity and location are known. The offer of an interview shall be made to the person prior to any consideration or determination being made that the person committed the alleged abuse. The person shall be informed of the complaint or allegation made regarding the person. The person shall be informed in a manner that protects the confidentiality rights of the individual who reported the child abuse or provided information as part of the assessment process. The purpose of the interview shall be to provide the person with the opportunity to explain or rebut the allegations of the child abuse report or other allegations made during the assessment. The court may waive the requirement to offer the interview only for good cause. The person offered an interview, or the person's attorney on the person's behalf, may decline the offer of an interview of the person.

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.~~

10. *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 8. Upon the department's request, a multidisciplinary team shall assist the department in the assessment, diagnosis, and disposition of a child abuse report assessment.

12. *Assessment* Written assessment report.

a. The department, upon completion of the child abuse assessment or the family assessment, shall make a written report of the assessment, in accordance with all of the following:

a. (1) The written assessment report shall incorporate the information required by subsection 4, paragraph “a”.

b. (2) The A written child abuse assessment report shall be completed within twenty business days of the receipt of the child abuse report. A written family assessment report shall be completed within ten business days of the receipt of the child abuse report.

e. ~~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. (3) The written assessment report shall identify the strengths and needs of the child, and of the child’s parent, home, and family.

e. (4) The written assessment report 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. (5) 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.

b. In addition to the requirements of paragraph “a”, a written child abuse assessment report 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.

g. c. The Following a child abuse assessment, the department shall notify each subject of the child abuse report, as identified in section 235A.15, subsection 2, paragraph “a”, of the results of the child abuse assessment, of the subject’s right, pursuant to section 235A.19, to correct the report data or disposition data which refers to the subject, and of the procedures to correct the data.

d. Following a family assessment, the department shall notify the parent or guardian of each child listed in the report of suspected child abuse of the completion of the family assessment and any service recommendations. For cases assessed pursuant to a family assessment, there shall be no right to a contested case hearing pursuant to chapter 17A.

h. e. If after completing the assessment process the child protection worker determines, with the concurrence of the worker’s supervisor and the department’s area administrator, that a report of suspected child abuse is a spurious report or that protective concerns are not present, the portions of the written assessment report described under paragraphs “d” and “e” paragraph “a”, subparagraphs (3) and (4) shall not be required.

13. *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. The department may provide or arrange for and monitor services for children and their families on a voluntary basis for cases in which a family assessment is completed.

14. *County attorney — juvenile court.* The department shall provide the juvenile court and the county attorney with a copy of the portion of the written child abuse assessment pertaining to the child abuse report, the written family assessment report for cases in which the department requests a child in need of assistance petition, or other reports for cases in which the department requests a child in need of assistance petition. The juvenile court and the county attorney shall notify the department of any action taken concerning an assessment provided by the department.

Sec. 4. Section 232.71B, Code 2013, is amended by adding the following new subsections:

NEW SUBSECTION. 4A. *Child abuse determination.* 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.

NEW SUBSECTION. 13A. *Safety issue.* If the department determines that a safety issue continues to require a child to reside outside of the child's home at the conclusion of a family assessment, the department shall transfer the assessment to the child abuse assessment pathway for a disposition.

NEW SUBSECTION. 13B. *Conclusion of family assessment.* At the conclusion of a family assessment, the department shall transfer the case, if appropriate, to a contracted provider to review the service plan for the child and family. The contracted provider shall make a referral to the department abuse hotline if a family's noncompliance with a service plan places a child at risk. If any of the criteria for child abuse as defined in section 232.68, subsection 2, paragraph "a", are met, the department shall commence a child abuse assessment. If any of the criteria for a child in need of assistance, as defined in section 232.2, subsection 6, are met, the department shall determine whether to request a child in need of assistance petition.

NEW SUBSECTION. 16. *Rules.* The department shall adopt rules regarding the intake process, assessment process, assessment reports, contact with juvenile court or the county attorney, involvement with law enforcement, case record retention, and dissemination of records for both child abuse assessments and family assessments.

NEW SUBSECTION. 17. *Quality assurance.* The department shall engage external stakeholders, including but not limited to representatives of the county attorneys' offices, service providers, and parent partners to develop a quality assurance component to the differential response system.

Sec. 5. Section 232.71C, Code 2013, is amended to read as follows:

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. 6. Section 232.71D, subsection 1, Code 2013, is amended to read as follows:

1. The requirements of this section shall apply to child abuse information relating to a report of child abuse and to an child abuse assessment performed in accordance with section 232.71B.

Sec. 7. Section 232.71D, subsection 3, paragraph b, subparagraph (2), Code 2013, is amended to read as follows:

(2) The department determines the acts or omissions of the alleged perpetrator meet the definition of child abuse and the department has previously determined within the ~~eighteen-month~~ five-year period preceding the issuance of the department's report that the acts or omissions of the alleged perpetrator in a prior case met the definition of child abuse.

Sec. 8. Section 232.71D, subsection 6, paragraph a, Code 2013, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (03) Information pertaining to a report of suspected child abuse for which there was an assessment performed but no determination was made as to whether the definition of child abuse was met.

Sec. 9. Section 232.77, subsection 1, Code 2013, is amended to read as follows:

1. A person who is required to report ~~a case of~~ suspected 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~~ an 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 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.

Sec. 10. Section 232.141, subsection 6, Code 2013, is amended to read as follows:

6. If a child is given physical or mental examinations or treatment relating to ~~a child abuse~~ an assessment performed pursuant to section 232.71B 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. 11. Section 235A.14, subsection 1, Code 2013, is amended to read as follows:

1. There is created within the state department of human services a central registry for certain child abuse information. The department shall organize and staff the registry and adopt rules for its operation.

Sec. 12. Section 235A.15, subsection 12, Code 2013, is amended to read as follows:

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~~ an 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. 13. Section 235A.18, subsection 1, paragraph a, Code 2013, is amended to read as follows:

a. (1) 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, or within the period in which the person's name is in the central registry, 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, 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.~~

(2) Notwithstanding subparagraph (1), 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 after ten years, if not previously removed from the registry pursuant to the other provisions of this subsection, 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.

(3) (a) 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 after five years if the department determined in the report and disposition data that the person committed child abuse as defined in section 232.68, subsection 2, paragraph "a", subparagraph (1), (4), or (6).

(b) Subparagraph division (a) shall not apply, and the name of a person named in the initial data as having abused a child shall remain in the registry as described in subparagraph (1), if the department determined in the initial report and disposition data the person committed child abuse as defined in section 232.68, subsection 2, paragraph "a", subparagraph (1), (4), or (6) and the child abuse resulted in the child's death or a serious injury.

Sec. 14. Section 235A.19, subsection 2, Code 2013, is amended to read as follows:

2. At the time the notice of the results of an a child abuse 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 3.

Sec. 15. Section 235A.19, subsection 3, paragraph a, Code 2013, is amended to read as follows:

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 a child abuse 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 child abuse assessment report.

Sec. 16. Section 915.35, subsection 4, paragraph b, Code 2013, is amended to read as follows:

b. A child protection assistance team may also consult with or include juvenile court officers, medical and mental health professionals, physicians or other hospital-based health professionals, court-appointed special advocates, guardians ad litem, and members of a multidisciplinary team created by the department of human services for child abuse investigations. A child protection assistance team may work cooperatively with the early childhood Iowa area board established under chapter 256I. The child protection assistance team shall work with the department of human services in accordance with section 232.71B, subsection 3, in developing the protocols for prioritizing the actions taken in response to child abuse ~~reports~~ assessments and for law enforcement agencies working jointly with the department at the local level in processes for child abuse ~~reports~~ assessments. The department of justice may provide training and other assistance to support the activities of a child protection assistance team.

Sec. 17. RULES. The department of human services shall adopt rules to implement this Act.

Sec. 18. EFFECTIVE UPON ENACTMENT. The following provision or provisions of this Act, being deemed of immediate importance, take effect upon enactment:

1. The section of this Act requiring the department of human services to adopt rules.

Sec. 19. EFFECTIVE DATE AND IMPLEMENTATION. The following provision or provisions of this Act take effect January 1, 2014, except that the department of human services may begin implementation prior to January 1, 2014, to the extent necessary to transition to full implementation of these provisions of this Act:

1. The sections of this Act amending sections 232.68, 232.70, 232.71B, 232.71C, 232.71D, 232.77, 232.141, 235A.14, 235A.15, 235A.18, 235A.19, and 915.35.

Sec. 20. APPLICABILITY.

1. The section of this Act amending section 232.71D, subsection 3, relating to the placement of the names of the child and the alleged perpetrator of the alleged child abuse and any other child abuse information on the central registry for child abuse information due to a prior case in which the department determined the case met the definition of child abuse, applies to cases in which the prior case which met the definition of child abuse occurred on or after the effective date of that section of this Act.

2. The section of this Act amending section 235A.18, subsection 1, paragraph "a", relating to removal of the name of a person named in the initial data placed in the central registry for child abuse information as having abused a child, shall apply to the name of an alleged perpetrator of the alleged child abuse which is placed in the central registry pursuant to section 232.71D on or after the effective date of that section of this Act.

Approved May 24, 2013