

FEB 27 2001
APPROPRIATIONS

HOUSE FILE 423

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CONNORS, O'BRIEN, MERTZ, MAY,
FALCK, CHIODO, ATTEBERRY, and
FOEGE

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

HF 423

A BILL FOR

1 An Act relating to healthy and safe families and communities in
2 Iowa by providing for prevention of and response to acts of
3 abuse, providing mental health and substance abuse treatment
4 coverage benefits, modifying the elements of assault and
5 applying penalties, and making appropriations.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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DIVISION I
APPROPRIATIONS

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3 Section 1. ELDER AFFAIRS. There is appropriated from the
4 general fund of the state to the department of elder affairs
5 for the fiscal year beginning July 1, 2001, and ending June
6 30, 2002, the following amount, or so much thereof as is
7 necessary, to be used for the purposes designated, in addition
8 to other appropriations made to the department:

9 For enhancing detection of dependent adult abuse, providing
10 services for dependent adult abuse victims and for Iowans who
11 are residents of long-term care facilities, and providing for
12 other services administered by the department including
13 salaries, support, maintenance, and miscellaneous purposes:

14 \$ 317,800

15 1. Of the amount appropriated in this section, \$217,800 is
16 allocated for enhancing detection of dependent adult abuse and
17 providing services for dependent adult abuse victims.

18 2. Of the amount appropriated in this section, \$60,000 is
19 allocated for a long-term care resident's advocate position.

20 3. Of the amount appropriated in this section, \$40,000 is
21 allocated for expansion of the retired senior volunteer
22 program.

23 Sec. 2. HUMAN SERVICES. There is appropriated from the
24 general fund of the state to the department of human services
25 for the fiscal year beginning July 1, 2001, and ending June
26 30, 2002, the following amounts, or so much thereof as is
27 necessary, to be used for the purposes designated, in addition
28 to other appropriations made to the department:

29 1. For field operations, to be used for additional social
30 workers and social worker supervisors in order to reduce or
31 prevent future occurrences of child abuse, including salaries,
32 support, maintenance, miscellaneous purposes, worker training,
33 and reduction of caseload per worker:

34 \$ 4,994,169

35 2. For child and family services:

1 a. To implement a quality assurance team for child
2 protection services, including salaries, support, maintenance,
3 and miscellaneous purposes:

4 \$ 335,867

5 b. To provide training to mandatory reporters of child
6 abuse and to provide consultation services with mandatory
7 reporters to improve the appropriate reporting of child abuse:

8 \$ 282,442

9 As necessary to carry out the purposes of this section, the
10 department may transfer amounts appropriated in this section
11 to other appropriations made to the department.

12 Sec. 3. PUBLIC HEALTH. There is appropriated from the
13 general fund of the state to the Iowa department of public
14 health for the fiscal year beginning July 1, 2001, and ending
15 June 30, 2002, the following amounts, or so much thereof as is
16 necessary, to be used for the purposes designated, in addition
17 to other appropriations made to the department:

18 1. For addictive disorders, to provide additional
19 substance abuse treatment services to reduce the occurrence of
20 substance abuse:

21 \$ 1,000,000

22 2. For child and adolescent wellness, to expand the
23 activities of the child death review team and ad hoc child
24 death review committees created in accordance with section
25 135.43:

26 \$ 91,152

27 Sec. 4. CORRECTIONS.

28 1. There is appropriated from the general fund of the
29 state to the department of corrections for the fiscal year
30 beginning July 1, 2001, and ending June 30, 2002, the
31 following amount, or so much thereof as is necessary, to be
32 used for the purpose designated, in addition to other
33 appropriations made to the department:

34 For community-based corrections, in addition to other
35 appropriations, to expand sex offender mandatory supervision:

1	.....	\$	503,628
2	2. The amount appropriated in subsection 1 is allocated as		
3	follows:		
4	a. To the first judicial district:		
5	.....	\$	83,938
6	b. To the second judicial district:		
7	.....	\$	83,938
8	c. To the third judicial district:		
9	.....	\$	41,969
10	d. To the fourth judicial district:		
11	.....	\$	41,969
12	e. To the fifth judicial district:		
13	.....	\$	125,907
14	f. To the sixth judicial district:		
15	.....	\$	41,969
16	g. To the seventh judicial district:		
17	.....	\$	41,969
18	h. To the eighth judicial district:		
19	.....	\$	41,969

20 Sec. 5. JUSTICE. There is appropriated from the general
 21 fund of the state to the department of justice for the fiscal
 22 year beginning July 1, 2001, and ending June 30, 2002, the
 23 following amount, or so much thereof as is necessary, to be
 24 used for the purpose designated, in addition to other
 25 appropriations made to the department:

26 For victim assistance grants, in addition to other
 27 appropriations made for this purpose, in order to continue
 28 efforts in domestic abuse prevention:
 29 \$ 75,000

30 DIVISION II

31 HEALTH COVERAGE COSTS -- MENTAL HEALTH AND
 32 SUBSTANCE ABUSE TREATMENT

33 Sec. 6. NEW SECTION. 514C.21 MENTAL HEALTH AND SUBSTANCE
 34 ABUSE TREATMENT COVERAGE.

35 1. Notwithstanding the uniformity of treatment

1 requirements of section 514C.6, a group policy or contract
2 providing for third-party payment or prepayment of health or
3 medical expenses shall provide mental health and substance
4 abuse treatment coverage benefits and shall not impose
5 limitations on financial terms for coverage of services for
6 serious mental illnesses or substance abuse if similar
7 limitations are not imposed on the coverage benefits for
8 services for medical or surgical conditions.

9 2. For purposes of this section, unless the context
10 otherwise requires:

11 a. "Serious mental illness" means the following disorders,
12 as defined by the American psychiatric association's
13 diagnostic and statistical manual of mental disorders:

- 14 (1) Schizophrenia.
- 15 (2) Schizo-affective disorder.
- 16 (3) Bipolar disorder.
- 17 (4) Major depressive disorder.
- 18 (5) Obsessive-compulsive disorder.
- 19 (6) Autism.
- 20 (7) Pervasive developmental disorders.
- 21 (8) Anxiety disorders.
- 22 (9) Paranoia and other psychotic disorders.
- 23 (10) Eating disorders, including but not limited to
24 bulimia nervosa and anorexia nervosa.
- 25 (11) Mental disorders usually diagnosed in infancy,
26 childhood, or adolescence.

27 b. "Substance abuse" means a pattern of pathological use
28 of alcohol or a drug that causes impairment in social or
29 occupational functioning, or that produces physiological
30 dependency evidenced by physical tolerance or by physical
31 symptoms when the alcohol or drug is withdrawn.

32 3. This section shall not apply to accident-only, specific
33 disease, short-term hospital or medical, hospital confinement
34 indemnity, credit, dental, vision, Medicare supplement, long-
35 term care, basic hospital and medical-surgical expense

1 coverage as defined by the commissioner, disability income
2 insurance coverage, coverage issued as a supplement to
3 liability insurance, workers' compensation or similar
4 insurance, automobile medical payment insurance, or individual
5 accident or sickness policies issued pursuant to chapter 513C.

6 4. A third-party payor may manage the benefits provided
7 through common methods including, but not limited to,
8 providing payment of benefits or providing care and treatment
9 under a capitated payment system, prospective reimbursement
10 rate system, utilization control system, incentive system for
11 the use of least restrictive and least costly levels of care,
12 a preferred provider contract limiting choice of specific
13 provider, or any other system, method, or organization
14 designed to ensure services are medically necessary and
15 clinically appropriate.

16 5. A group policy or contract covered under this section,
17 at a minimum, shall provide for thirty inpatient and sixty
18 outpatient days annually. The policy or contract may also
19 include deductibles, coinsurance, or copayments if such
20 deductibles, coinsurance, or copayments are applicable to
21 other medical or surgical services coverage under the policy
22 or contract. It is not a violation of this section if the
23 policy or contract excludes entirely from coverage benefits
24 the cost of providing the following:

- 25 a. Marital, family, educational, developmental, or
26 training services unless the services are provided by a
27 licensed marital and family therapist.
- 28 b. Care that is substantially custodial in nature.
- 29 c. Services and supplies that are not medically necessary
30 or clinically appropriate.
- 31 d. Experimental treatments.

32 6. The commissioner, by rule, shall increase the mental
33 health and substance abuse treatment lifetime limit in the
34 individual market guaranteed standard product to one hundred
35 thousand dollars.

1 7. A group policy is exempt from this section upon
2 submitting to the commissioner evidence demonstrating a
3 premium increase for the policy term in excess of three
4 percent as a result of the requirements of this section.

5 8. This section applies to third-party payment provider
6 contracts or policies delivered, issued for delivery,
7 continued, or renewed in this state on or after January 1,
8 2002.

9 9. This section is repealed effective July 1, 2004.

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DIVISION III

11 CHILD PROTECTION AND DEPENDENT ADULT ABUSE STATUTORY CHANGES

12 Sec. 7. Section 232.2, subsection 6, Code 2001, is amended
13 by adding the following new paragraph:

14 NEW PARAGRAPH. p. Whose parent, guardian, or custodian
15 unlawfully manufactures a controlled substance, as defined in
16 section 124.101, in the presence of a child, or in the
17 presence of a child possesses a product containing ephedrine,
18 its salts, optical isomers, salts of optical isomers, or
19 pseudoephedrine, its salts, optical isomers, salts of optical
20 isomers, with the intent to use the product as a precursor to
21 an illegal substance or an intermediary to a controlled
22 substance.

23 For the purposes of this paragraph "p", "in the presence of
24 a child" means the physical presence of a child during the
25 manufacture or possession, the manufacture or possession
26 occurred in a child's home, or the manufacture or possession
27 occurred under other circumstances in which a reasonably
28 prudent person would know that the manufacture or possession
29 may be seen or heard by a child.

30 Sec. 8. Section 232.68, subsection 2, Code 2001, is
31 amended by adding the following new paragraph:

32 NEW PARAGRAPH. g. The person responsible for the care of
33 a child has exposed the child or has allowed the child to
34 participate in or to witness the manufacture of a controlled
35 substance as defined in section 124.101.

1 Sec. 9. Section 232.69, subsection 3, Code 2001, is
2 amended to read as follows:

3 3. A person required to make a report under subsection 1,
4 other than a physician whose professional practice does not
5 regularly involve providing primary health care to children,
6 shall complete two hours of training relating to the
7 identification and reporting of child abuse within six months
8 of initial employment or self-employment involving the
9 examination, attending, counseling, or treatment of children
10 on a regular basis. Within one month of initial employment or
11 self-employment, the person shall obtain a statement of the
12 abuse reporting requirements from the person's employer or, if
13 self-employed, from the department. The person shall complete
14 at least two hours of additional child abuse identification
15 and reporting training every five two years. If the person is
16 an employee of a hospital or similar institution, or of a
17 public or private institution, agency, or facility, the
18 employer shall be responsible for providing the child abuse
19 identification and reporting training. If the person is self-
20 employed, the person shall be responsible for obtaining the
21 child abuse identification and reporting training. The person
22 may complete the initial or additional training as part of a
23 continuing education program required under chapter 272C or
24 may complete the training as part of a training program
25 offered by the department of human services, the department of
26 education, an area education agency, a school district, the
27 Iowa law enforcement academy, or a similar public agency.

28 Sec. 10. Section 232.71B, subsection 11, paragraph b, Code
29 2001, is amended to read as follows:

30 b. The written assessment shall be completed within twenty
31 business days of the receipt of the report. However, if one
32 of these circumstances exist the department may delay
33 completion of the written assessment as follows:

34 (1) The county attorney requests the department not to
35 release information to the child's parent, guardian, or

1 custodian because the county attorney is considering filing
2 criminal charges against the child's parent, guardian, or
3 custodian. The department shall complete the written
4 assessment upon receiving notice from the county attorney that
5 charges will or will not be filed.

6 (2) Critical information needed to make a determination
7 regarding the safety of the child is not yet available. The
8 department shall complete the written assessment upon
9 obtaining the critical information.

10 Sec. 11. Section 235A.13, subsection 9, Code 2001, is
11 amended to read as follows:

12 9. "Near fatality" means ~~a-bodily-injury-which-involves~~
13 ~~substantial-risk-of-death, protracted-and-obvious~~
14 ~~disfigurement, or protracted loss or impairment of the~~
15 ~~function of a bodily member, organ, or mental faculty and~~
16 ~~includes a serious bodily injury as described in section~~
17 702.18 an act that, as certified by a physician, places a
18 child in serious or critical condition.

19 Sec. 12. Section 235A.24, Code 2001, is amended to read as
20 follows:

21 235A.24 ORDER FOR DISCLOSURE OF CHILD ABUSE INFORMATION.

22 A person whose request for child abuse information under
23 section 235A.15, subsection 9, is denied may apply to the
24 juvenile court for an order compelling disclosure of the
25 information. The application shall state in reasonable detail
26 the factors in support of the application. The juvenile court
27 shall have jurisdiction to issue the order. A hearing shall
28 be set immediately upon filing of an application under this
29 section and subsequent proceedings shall be accorded priority
30 by other courts. In any proceeding held under this section,
31 the child victim of the fatality or near fatality or a
32 guardian ad litem or other advocate for the child, the child's
33 sibling, and the child's parent, guardian, or custodian shall
34 be parties to and shall have the right to counsel in
35 connection with the proceeding. If that person desires but is

1 financially unable to retain counsel, the court shall appoint
2 counsel. After the court has reviewed the child abuse
3 information relating to the case in camera, unless the court
4 finds that a restriction listed in section 235A.15, subsection
5 9, is applicable, the court shall issue an order compelling
6 disclosure of the child abuse information.

7 Sec. 13. Section 235B.16, subsection 5, unnumbered
8 paragraph 1, Code 2001, is amended to read as follows:

9 A person required to report cases of dependent adult abuse
10 pursuant to section 235B.3, other than a physician whose
11 professional practice does not regularly involve providing
12 primary health care to adults, shall complete two hours of
13 training relating to the identification and reporting of
14 dependent adult abuse within six months of initial employment
15 or self-employment which involves the examination, attending,
16 counseling, or treatment of adults on a regular basis. Within
17 one month of initial employment or self-employment, the person
18 shall obtain a statement of the abuse reporting requirements
19 from the person's employer or, if self-employed, from the
20 department. The person shall complete at least two hours of
21 additional dependent adult abuse identification and reporting
22 training every ~~five~~ two years.

23 DIVISION IV

24 OTHER STATUTORY CHANGES

25 Sec. 14. Section 708.1, subsection 2, Code 2001, is
26 amended to read as follows:

27 2. Any act which is intended to place another in fear of
28 ~~immediate~~ imminent physical contact which will be painful,
29 injurious, insulting, or offensive, coupled with the apparent
30 ability to execute the act.

31 EXPLANATION

32 This bill relates to prevention of and response to abuse
33 involving dependent adult abuse, child abuse, substance abuse,
34 sexual offenders, victim services, and third-party payment of
35 health coverage costs for mental health and substance abuse

1 treatment and makes appropriations.

2 Division I of the bill makes appropriations to the
3 departments of elder affairs, human services, public health,
4 corrections, and justice for fiscal year 2001-2002 for abuse
5 prevention and response programs and purposes.

6 Division II of the bill creates new Code section 514C.21
7 and provides that a group policy or contract providing for
8 third-party payment or prepayment of health or medical
9 expenses shall provide coverage benefits for treatment of a
10 serious mental illness and substance abuse. The bill
11 prohibits a group policy or contract from imposing limitations
12 on the financial terms for coverage of services for serious
13 mental illnesses or substance abuse if similar limitations are
14 not imposed on the coverage benefits for services for medical
15 or surgical conditions.

16 Division II of the bill defines "serious mental illness" as
17 schizophrenia, schizo-affective disorder, bipolar disorder,
18 major depressive disorder, obsessive-compulsive disorder,
19 autism, pervasive developmental disorders, anxiety disorders,
20 paranoia and other psychotic disorders, eating disorders,
21 including, but not limited to, bulimia nervosa and anorexia
22 nervosa, and mental disorders usually diagnosed in infancy,
23 childhood, and early adolescence. The bill defines "substance
24 abuse" as a pattern of pathological use of alcohol or a drug
25 that causes impairment in social or occupational functioning,
26 or that produces physiological dependency evidenced by
27 physical tolerance or by physical symptoms when the alcohol or
28 drug is withdrawn.

29 Division II of the bill requires that a third-party payor
30 may manage the benefits provided through common methods
31 including, but not limited to, providing payment of benefits
32 or providing care and treatment under a capitated payment
33 system, prospective reimbursement rate system, utilization
34 control system, incentive system for the use of least
35 restrictive and least costly levels of care, a preferred

1 provider contract limiting choice of specific provider, or any
2 other system, method, or organization designed to ensure
3 services are medically necessary and clinically appropriate.

4 Division II of the bill requires the commissioner, by rule,
5 to increase the mental health and substance abuse lifetime
6 limit in the individual market guaranteed standard product to
7 \$100,000.

8 Division II of the bill provides that a group policy is
9 exempt from the requirements of the new Code section upon
10 submitting to the commissioner evidence demonstrating a
11 premium increase for the policy term in excess of 3 percent as
12 a result of the requirements of the new Code section.

13 Division II of the bill provides that the new Code section
14 applies to third-party payment provider contracts or policies
15 delivered, issued for delivery, continued, or renewed in this
16 state on or after January 1, 2002. The new Code section is
17 repealed effective July 1, 2004.

18 Division III of the bill amends child protection provisions
19 in the juvenile justice code and in the child abuse registry
20 Code chapter.

21 Code section 232.2, relating to the definition of child in
22 need of assistance, is amended. Under the bill, the
23 definition would include an unmarried child in whose presence
24 the parent, guardian, or custodian: unlawfully manufactures a
25 controlled substance as defined in the controlled substances
26 chapter, or possesses ephedrine, pseudoephedrine, or chemical
27 derivatives of those substances with the intent to use the
28 substances as a precursor to an illegal substance or
29 intermediary to a controlled substance. The term "in the
30 presence of a child" is defined to include manufacture or
31 possession occurring in the physical presence of a child, in
32 the home of a child, or under circumstances in which a
33 reasonably prudent person would know that the manufacture or
34 possession may be heard or seen by a child.

35 Code section 232.68, relating to child abuse definitions,

1 is amended. The bill includes in the definition of child
2 abuse, circumstances in which a person responsible for the
3 care of the child has exposed the child to or allowed the
4 child to participate in or witness the manufacture of a
5 controlled substance.

6 Code section 232.69, relating to mandatory reporters of
7 child abuse, is amended to change the frequency of training
8 required for mandatory reports from every five years to every
9 two years.

10 Under Code section 232.71B, the department of human
11 services is required to complete within 20 business days a
12 written child abuse assessment in response to a report of
13 child abuse. The bill allows this time period to be extended
14 if the county attorney requests withholding of information
15 because the county attorney is considering filing charges
16 against the child's parent, guardian, or custodian, or if
17 critical information needed to make a determination regarding
18 the child's safety is not available.

19 The bill amends the definition of "near fatality" used in
20 Code section 235A.13 regarding the public disclosure of
21 information to the governor and the public in cases of child
22 fatality or near fatality. The new language matches a
23 definition in federal law in 42 U.S.C. § 5106a(b)(4).

24 The bill also amends Code section 235A.24 by providing that
25 in legal proceedings regarding the public disclosure of
26 information in cases of a child fatality or near fatality, the
27 child victim or guardian ad litem or another advocate for that
28 child, siblings of the victim, and the child's parent,
29 guardian, or custodian are parties to the proceedings and have
30 the right to counsel. If the person is financially unable to
31 employ counsel, the court is required to appoint counsel.

32 The bill amends Code section 235B.16, relating to dependent
33 adult abuse, to change the frequency of training required for
34 mandatory reporters of such abuse from every five years to
35 every two years.

1 Division IV of the bill amends the definition of assault
2 contained in Code section 708.1 by changing the phrase "place
3 another in fear of immediate physical contact" to "place
4 another in fear of imminent physical contact".

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