

Substituted for by SF458  
4-17-01  
(P. 1197)

MAR 1 2001  
Place On Calendar

HOUSE FILE 456  
BY COMMITTEE ON HUMAN RESOURCES  
(SUCCESSOR TO HSB 123)

**WITHDRAWN**  
4-17-01  
(P. 1197)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to children's program and juvenile court  
2 provisions involving the department of human services in  
3 regard to the foster home insurance fund, group child care  
4 providers, juvenile delinquency and child in need of  
5 assistance dispositions, and termination of parental rights.  
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 456

1 DIVISION I

2 FOSTER HOME INSURANCE FUND

3 Section 1. Section 237.13, subsection 1, paragraph b, Code  
4 2001, is amended to read as follows:

5 b. A guardian appointed on a voluntary petition pursuant  
6 to section 232.178, or a voluntary petition of a ward pursuant  
7 to section 633.557, or a conservator appointed on a voluntary  
8 petition of a ward pursuant to section 633.572, provided the  
9 ward has an income that does not exceed one hundred fifty  
10 percent of the current federal office of management and budget  
11 poverty guidelines and who does not have resources in excess  
12 of the criteria for resources under the federal supplemental  
13 security income program. However, the ward's ownership of one  
14 residence and one vehicle shall not be considered in  
15 determining resources.

16 Sec. 2. Section 237.13, subsection 5, Code 2001, is  
17 amended to read as follows:

18 5. Except as provided in this section, the fund shall pay,  
19 on behalf of a guardian or conservator, the reasonable and  
20 necessary legal costs incurred in defending against a suit  
21 filed by a ward or the ward's representative and the damages  
22 awarded as a result of the suit, so long as it is determined  
23 that the guardian or conservator acted in good faith in the  
24 performance of ~~their~~ the guardian's or conservator's duties.  
25 A payment shall not be made if there is evidence of  
26 intentional misconduct or a knowing violation of the law by  
27 the guardian or conservator, including, but not limited to,  
28 failure to carry out the applicable responsibilities required  
29 under chapter 232 and sections 633.633 through 633.635 and  
30 633.641 through 633.650.

31 DIVISION II

32 GROUP CHILD CARE PROVIDERS

33 Sec. 3. Section 237A.3, subsection 2, paragraph b, Code  
34 2001, is amended to read as follows:

35 b. Except as provided in subsection 3, a group child care

1 home shall not provide child care to more than eleven children  
2 at any one time. If there are more than six children present  
3 for a period of two hours or more, the group child care home  
4 must have at least one responsible individual who is at least  
5 fourteen years of age present to assist the group child care  
6 provider in accordance with either of the following  
7 conditions:

8 (1) If the responsible individual is a joint holder of the  
9 certificate of registration, not more than four of the  
10 children present shall be ~~less-than-twenty-four-months-of-age~~  
11 ~~and-not-more-than-ten-of-the-children-present-shall-be-twenty-~~  
12 ~~four-months-of-age-or-older-but-not-attending-school-in~~  
13 ~~kindergarten-or-a-higher-grade-level~~ infants. The total  
14 number of children present at any one time who are younger  
15 than school age, including infants, shall not exceed eleven.

16 (2) If the responsible individual is not a joint holder of  
17 the certificate of registration, but is at least fourteen  
18 years of age, not more than four of the children shall be ~~less~~  
19 ~~than-twenty-four-months-of-age~~ infants and each child in  
20 excess of six children shall be ~~attending-school-in~~  
21 ~~kindergarten-or-a-higher-grade-level~~ school age.

22 Sec. 4. Section 237A.3A, subsection 1, Code 2001, is  
23 amended to read as follows:

24 1. PILOT PROJECT. The department shall implement a pilot  
25 project applying the provisions of this section to registered  
26 family or group child care homes located in one county of this  
27 state. The provisions of this section shall not apply to  
28 unregistered family child care homes located in the pilot  
29 project county. The county selected for the pilot project  
30 shall be a rural county where there is interest among child  
31 care providers and consumers in implementing the pilot  
32 project. During the fiscal year beginning July 1, 1999, the  
33 department shall implement the pilot project in one county in  
34 each of the department's regions where there is interest in  
35 implementing the pilot project. In addition, the department

1 may implement the pilot project in one other county in each of  
2 the department's regions where there is interest in  
3 implementing the pilot project. Commencing with the fiscal  
4 year beginning July 1, 2001, the department may implement the  
5 pilot project in other counties where there is an interest in  
6 implementing the pilot project. If a definition in section  
7 237A.1, a provision in section 237A.3, or an administrative  
8 rule adopted under this chapter is in conflict with this  
9 section, this section and the rules adopted to implement this  
10 section shall apply to the pilot project.

11 DIVISION III

12 JUVENILE DELINQUENCY PROCEEDINGS

13 Sec. 5. Section 232.21, subsection 4, Code 2001, is  
14 amended to read as follows:

15 4. A child placed in a shelter care facility under this  
16 section shall not be held for a period in excess of forty-  
17 eight hours without an oral or written court order authorizing  
18 the shelter care. When the action is authorized by an oral  
19 court order, the court shall enter a written order before the  
20 end of the next day confirming the oral order and indicating  
21 the reasons for the order. A child placed in shelter care  
22 pursuant to section 232.19, subsection 1, paragraph "c" shall  
23 not be held in excess of seventy-two hours in any event. If  
24 deemed appropriate by the court, an order authorizing shelter  
25 care placement may include a determination that continuation  
26 of the child in the child's home is contrary to the child's  
27 welfare and that reasonable efforts as defined in section  
28 232.57 have been made. The inclusion of such a determination  
29 shall not under any circumstances be deemed a prerequisite for  
30 entering an order pursuant to this section. However, the  
31 inclusion of such a finding, supported by the record, may  
32 assist the department in obtaining federal funding for the  
33 child's placement.

34 Sec. 6. Section 232.22, Code 2001, is amended by adding  
35 the following new subsection:

1 NEW SUBSECTION. 1A. If deemed appropriate by the court,  
2 an order for placement of a child in detention may include a  
3 determination that continuation of the child in the child's  
4 home is contrary to the child's welfare and that reasonable  
5 efforts as defined in section 232.57 have been made. The  
6 inclusion of such a determination shall not under any  
7 circumstances be deemed a prerequisite for entering an order  
8 pursuant to this section. However, the inclusion of such a  
9 determination, supported by the record, may assist the  
10 department in obtaining federal funding for the child's  
11 placement.

12 Sec. 7. Section 232.52, subsection 6, unnumbered paragraph  
13 1, Code 2001, is amended to read as follows:

14 When the court orders the transfer of legal custody of a  
15 child pursuant to subsection 2, ~~paragraphs~~ paragraph "d", "e",  
16 or "f", the order shall state that reasonable efforts as  
17 defined in section 232.57 have been made ~~to-prevent-or~~  
18 ~~eliminate-the-need-for-removal-of-the-child-from-the-child's~~  
19 ~~home.~~ If deemed appropriate by the court, the order may  
20 include a determination that continuation of the child in the  
21 child's home is contrary to the child's welfare. The  
22 inclusion of such a determination shall not under any  
23 circumstances be deemed a prerequisite for entering an order  
24 pursuant to this section. However, the inclusion of such a  
25 determination, supported by the record, may be used to assist  
26 the department in obtaining federal funding for the child's  
27 placement.

28 Sec. 8. Section 232.53, subsection 4, Code 2001, is  
29 amended to read as follows:

30 4. a. Any person supervising but not having custody of  
31 the child pursuant to such an order shall file a written  
32 report with the court at least every six months concerning the  
33 status and progress of the child.

34 b. Any agency, facility, institution, or person to whom  
35 custody of the child has been transferred pursuant to such

1 order shall file a written report with the court at least  
2 every six months concerning the status and progress of the  
3 child.

4 c. Any report prepared pursuant to this subsection shall  
5 be included in the record considered by the court in a  
6 permanency hearing conducted pursuant to section 232.58.

7 Sec. 9. NEW SECTION. 232.57 REASONABLE EFFORTS DEFINED.

8 1. For the purposes of this division, unless the context  
9 otherwise requires, "reasonable efforts" means the efforts  
10 made to prevent permanent removal of a child from the child's  
11 home and to encourage reunification of the child with the  
12 child's parents and family. If a court order includes a  
13 determination that continuation of the child in the child's  
14 home is not appropriate or not possible, reasonable efforts  
15 may include the efforts made in a timely manner to finalize a  
16 permanency plan for the child.

17 2. If the court determines aggravated circumstances exist,  
18 with written findings of fact based upon evidence in the  
19 record, the court may waive the requirement for making  
20 reasonable efforts. The existence of aggravated circumstances  
21 is indicated by any of the following:

22 a. The parent has abandoned the child.

23 b. The court finds the circumstances described in section  
24 232.116, subsection 1, paragraph "h", are applicable to the  
25 child.

26 c. The parent's parental rights have been terminated under  
27 section 232.116 with respect to another child who is a member  
28 of the same family, and there is clear and convincing evidence  
29 to show that the offer or receipt of services would not be  
30 likely within a reasonable period of time to correct the  
31 conditions which led to the child's removal.

32 d. The parent has been convicted of the murder of another  
33 child of the parent.

34 e. The parent has been convicted of the voluntary  
35 manslaughter of another child of the parent.

1 f. The parent has been convicted of aiding or abetting,  
2 attempting, conspiring in, or soliciting the commission of the  
3 murder or voluntary manslaughter of another child of the  
4 parent.

5 g. The parent has been convicted of a felony assault which  
6 resulted in serious bodily injury of the child or of another  
7 child of the parent.

8 3. Any order entered under this division may include  
9 findings regarding reasonable efforts.

10 Sec. 10. NEW SECTION. 232.58 PERMANENCY HEARINGS.

11 1. If an order entered pursuant to this division for an  
12 out-of-home placement of a child includes a determination that  
13 continuation of the child in the child's home is contrary to  
14 the child's welfare, the court shall review the child's  
15 continued placement by holding a permanency hearing or  
16 hearings in accordance with this section. The initial  
17 permanency hearing shall be the earlier of the following:

18 a. For an order for which the court has not waived  
19 reasonable efforts requirements, the permanency hearing shall  
20 be held within twelve months of the date the child was removed  
21 from the home.

22 b. For an order in a case in which aggravated  
23 circumstances exist for which the court has waived reasonable  
24 efforts requirements, the permanency hearing shall be held  
25 within thirty days of the date the requirements were waived.

26 2. Reasonable notice shall be provided of a permanency  
27 hearing for an out-of-home placement in which the court order  
28 has included a determination that continuation of the child in  
29 the child's home is contrary to the child's welfare. A  
30 permanency hearing shall be conducted in substantial  
31 conformance with the provisions of section 232.99. During the  
32 hearing, the court shall consider the child's need for a  
33 secure and permanent placement in light of any case permanency  
34 plan or evidence submitted to the court. Upon completion of  
35 the hearing, the court shall enter written findings

1 identifying a primary permanency goal for the child. If a  
2 case permanency plan is in effect at the time of the hearing,  
3 the court shall also make a determination as to whether  
4 reasonable progress is being made in achieving the permanency  
5 goal and in complying with the other provisions of that case  
6 permanency plan.

7 3. After a permanency hearing, the court shall do one of  
8 the following:

9 a. Enter an order pursuant to section 232.52 to return the  
10 child to the child's home.

11 b. Enter an order pursuant to section 232.52 to continue  
12 the out-of-home placement of the child for an additional six  
13 months at which time the court shall hold a hearing to  
14 consider modification of its permanency order. An order  
15 entered under this paragraph shall enumerate the specific  
16 factors, conditions, or expected behavioral changes which  
17 comprise the basis for the determination that the need for  
18 removal of the child from the child's home will no longer  
19 exist at the end of the additional six-month period.

20 c. Direct the county attorney or the attorney for the  
21 child to institute proceedings to terminate the parent-child  
22 relationship.

23 d. Enter an order, pursuant to findings based upon the  
24 existence of the evidence required by subsection 4, to do one  
25 of the following:

26 (1) Transfer guardianship and custody of the child to a  
27 suitable person.

28 (2) Transfer sole custody of the child from one parent to  
29 another parent.

30 (3) Transfer custody of the child to a suitable person for  
31 the purpose of long-term care.

32 (4) If the department has documented to the court's  
33 satisfaction a compelling reason for determining that an order  
34 under the other subparagraphs of this paragraph "d" would not  
35 be in the child's best interest, order another planned

1 permanent living arrangement for the child.

2 4. Prior to entering a permanency order pursuant to  
3 subsection 3, paragraph "d", clear and convincing evidence  
4 must exist showing that all of the following apply:

5 a. A termination of the parent-child relationship would  
6 not be in the best interest of the child.

7 b. Services were offered to the child's family to correct  
8 the situation which led to the child's removal from the home.

9 c. The child cannot be returned to the child's home.

10 5. Any permanency order may provide restrictions upon the  
11 contact between the child and the child's parent or parents,  
12 consistent with the best interest of the child.

13 6. Subsequent to the entry of a permanency order pursuant  
14 to this section, the child shall not be returned to the care,  
15 custody, or control of the child's parent or parents, over a  
16 formal objection filed by the child's attorney or guardian ad  
17 litem, unless the court finds by a preponderance of the  
18 evidence that returning the child to such custody would be in  
19 the best interest of the child.

20 7. Following an initial permanency hearing and the entry  
21 of a permanency order which places a child in the custody or  
22 guardianship of another person or agency, the court shall  
23 retain jurisdiction and annually review the order to ascertain  
24 whether the best interest of the child is being served. When  
25 the order places the child in the custody of the department  
26 for the purpose of a planned permanent living arrangement, the  
27 review shall be in a hearing that shall not be waived or  
28 continued beyond twelve months after the initial permanency  
29 hearing or the last permanency review hearing. Any  
30 modification shall be accomplished through a hearing procedure  
31 following reasonable notice. During the hearing, all relevant  
32 and material evidence shall be admitted and procedural due  
33 process shall be provided to all parties.

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DIVISION IV  
CHILD IN NEED OF ASSISTANCE PROCEEDINGS

1 Sec. 11. Section 232.78, subsection 7, Code 2001, is  
2 amended to read as follows:

3 7. Any order entered under this section authorizing  
4 temporary removal of a child ~~shall~~ must include both of the  
5 following:

6 a. ~~A statement that the temporary removal is the result of~~  
7 ~~a determination made by the court that continuation of the~~  
8 ~~child remaining in the child's home would be contrary to the~~  
9 ~~welfare of the child, and that reasonable efforts have been~~  
10 ~~made to prevent or eliminate the need for removal of the child~~  
11 ~~from the child's home.~~ Such a determination must be made on a  
12 case-by-case basis. The grounds for the court's determination  
13 must be explicitly documented and stated in the order.  
14 However, preserving the safety of the child must be the  
15 court's paramount consideration. If imminent danger to the  
16 child's life or health exists at the time of the court's  
17 consideration, the determination shall not be a prerequisite  
18 to the removal of the child.

19 b. A statement informing the child's parent that the  
20 consequences of a permanent removal may include termination of  
21 the parent's rights with respect to the child.

22 Sec. 12. Section 232.79, subsection 4, Code 2001, is  
23 amended by adding the following new paragraph:

24 NEW PARAGRAPH. c. If deemed appropriate by the court,  
25 upon being informed that there has been an emergency removal  
26 or keeping of a child without a court order, the court may  
27 enter an order in accordance with section 232.78.

28 Sec. 13. Section 232.95, subsection 2, paragraph a, Code  
29 2001, is amended to read as follows:

30 a. Remove the child from home and place the child in a  
31 shelter care facility or in the custody of a suitable person  
32 or agency pending a final order of disposition if the court  
33 finds that substantial evidence exists to believe that removal  
34 is necessary to avoid imminent risk to the child's life or  
35 health.

1     (1) If removal is ordered, the ~~order shall~~ court must, in  
2 addition, ~~contain a statement that removal from the home is~~  
3 ~~the result of~~ make a determination that continuation of the  
4 child in the child's home would be contrary to the welfare of  
5 the child, and that reasonable efforts, as defined in section  
6 232.102, have been made to prevent or eliminate the need for  
7 removal of the child from the child's home.

8     (2) The court's determination regarding continuation of  
9 the child in the child's home, and regarding reasonable  
10 efforts, including those made to prevent removal and those  
11 made to finalize any permanency plan in effect, as well as any  
12 determination by the court that reasonable efforts are not  
13 required, must be made on a case-by-case basis. The grounds  
14 for each determination must be explicitly documented and  
15 stated in the court order. However, preserving the safety of  
16 the child must be the court's paramount consideration. If  
17 imminent danger to the child's life or health exists at the  
18 time of the court's consideration, the determinations  
19 otherwise required under this paragraph "a" shall not be a  
20 prerequisite for an order for removal of the child.

21     (3) The order shall also include a statement informing the  
22 child's parent that the consequences of a permanent removal  
23 may include termination of the parent's rights with respect to  
24 the child.

25     Sec. 14. Section 232.96, subsection 10, paragraph a, Code  
26 2001, is amended to read as follows:

27     a. ~~A statement that the temporary removal is the result of~~  
28 a determination that continuation of the child remaining in  
29 the child's home would be contrary to the welfare of the  
30 child, and that reasonable efforts, as defined in section  
31 232.102, have been made to prevent or eliminate the need for  
32 removal of the child from the child's home. The court's  
33 determination regarding continuation of the child in the  
34 child's home, and regarding reasonable efforts, including  
35 those made to prevent removal and those made to finalize any

1 permanency plan in effect, as well as any determination by the  
2 court that reasonable efforts are not required, must be made  
3 on a case-by-case basis. The grounds for each determination  
4 must be explicitly documented and stated in the court order.  
5 However, preserving the safety of the child is the paramount  
6 consideration. If imminent danger to the child's life or  
7 health exists at the time of the court's consideration, the  
8 determinations otherwise required under this paragraph shall  
9 not be a prerequisite for an order for temporary removal of  
10 the child.

11 Sec. 15. Section 232.102, subsection 5, paragraph b,  
12 unnumbered paragraph 2, Code 2001, is amended to read as  
13 follows:

14 ~~The order shall, in addition, contain a statement that~~  
15 ~~removal from the home is the result of a determination that~~ In  
16 order to transfer custody of the child under this subsection,  
17 the court must make a determination that continuation of the  
18 child in the child's home would be contrary to the welfare of  
19 the child, and shall identify the reasonable efforts that have  
20 been made. The court's determination regarding continuation  
21 of the child in the child's home, and regarding reasonable  
22 efforts, including those made to prevent removal and those  
23 made to finalize any permanency plan in effect, as well as any  
24 determination by the court that reasonable efforts are not  
25 required, must be made on a case-by-case basis. The grounds  
26 for each determination must be explicitly documented and  
27 stated in the court order. However, preserving the safety of  
28 the child is the paramount consideration. If imminent danger  
29 to the child's life or health exists at the time of the  
30 court's consideration, the determinations otherwise required  
31 under this paragraph shall not be a prerequisite for an order  
32 for removal of the child.

33 Sec. 16. Section 232.102, subsection 10, paragraph a,  
34 unnumbered paragraph 1, Code 2001, is amended to read as  
35 follows:

1 As used in this section division, "reasonable efforts"  
2 means the efforts made to preserve and unify a family prior to  
3 the out-of-home placement of a child in foster care or to  
4 eliminate the need for removal of the child or make it  
5 possible for the child to safely return to the family's home.  
6 If returning the child to the family's home is not appropriate  
7 or not possible, reasonable efforts shall include the efforts  
8 made in a timely manner to finalize a permanency plan for the  
9 child. A child's health and safety shall be the paramount  
10 concern in making reasonable efforts. Reasonable efforts may  
11 include intensive family preservation services or family-  
12 centered services, if the child's safety in the home can be  
13 maintained during the time the services are provided. In  
14 determining whether reasonable efforts have been made, the  
15 court shall consider both of the following:

16 Sec. 17. Section 232.103, subsection 3, Code 2001, is  
17 amended to read as follows:

18 3. A hearing shall be held on a motion to terminate or  
19 modify a dispositional order except that a hearing on a motion  
20 to terminate an order may be waived upon agreement by all  
21 parties. Reasonable notice of the hearing shall be given in  
22 ~~the same manner as for adjudicatory hearings in cases of~~  
23 ~~juvenile delinquency as provided in section 232.37~~ to the  
24 parties. The hearing shall be conducted in accordance with  
25 the provisions of section 232.50.

26 Sec. 18. Section 232.104, subsection 1, paragraph c, Code  
27 2001, is amended to read as follows:

28 c. Reasonable notice of a permanency hearing ~~in a case of~~  
29 ~~juvenile delinquency~~ shall be provided ~~pursuant to section~~  
30 ~~232.37~~ to the parties. A permanency hearing shall be  
31 conducted in substantial conformance with the provisions of  
32 section 232.99. During the hearing, the court shall consider  
33 the child's need for a secure and permanent placement in light  
34 of any permanency plan or evidence submitted to the court.  
35 Upon completion of the hearing, the court shall enter written

1 findings and make a determination identifying a primary  
2 permanency goal for the child. If a permanency plan is in  
3 effect at the time of the hearing, the court shall also make a  
4 determination as to whether reasonable progress is being made  
5 in achieving the permanency goal and complying with the other  
6 provisions of that permanency plan.

7 Sec. 19. Section 232.104, subsection 2, paragraph d,  
8 subparagraph (4), Code 2001, is amended to read as follows:

9 ~~(4) Order-long-term-foster-care-placement-for-the-child-in~~  
10 ~~a-licensed-foster-care-home-or-facility.~~ If the department  
11 has documented to the court's satisfaction a compelling reason  
12 for determining that an order under the other subparagraphs of  
13 this paragraph "d" would not be in the child's best interest,  
14 order another planned permanent living arrangement for the  
15 child.

16 DIVISION V

17 TERMINATION OF PARENTAL RIGHTS

18 Sec. 20. Section 232.111, subsection 2, paragraph a,  
19 subparagraph (1), Code 2001, is amended to read as follows:

20 (1) The child has been placed in foster care for fifteen  
21 months ~~or more~~ of the most recent twenty-two-month period.  
22 The petition shall be filed by the end of the child's  
23 fifteenth month of foster care placement.

24 DIVISION VI

25 NOTICE PROVISIONS

26 Sec. 21. Section 232.45, subsection 3, Code 2001, is  
27 amended to read as follows:

28 3. A Reasonable notice that states the time, place, and  
29 purpose of the waiver hearing shall be ~~issued-and-served-in~~  
30 ~~the-same-manner-as~~ provided to the persons required to be  
31 provided notice for adjudicatory hearings ~~as-provided-in~~ under  
32 section 232.37. Summons, subpoenas, and other process may be  
33 issued and served in the same manner as for adjudicatory  
34 hearings as provided in section 232.37.

35 Sec. 22. Section 232.54, subsection 8, unnumbered

1 paragraph 2, Code 2001, is amended to read as follows:

2 Notice requirements of this section shall be satisfied ~~in~~  
3 ~~the same manner as for~~ by providing reasonable notice to the  
4 persons required to be provided notice for adjudicatory  
5 hearings ~~as provided in~~ under section 232.37, except that  
6 notice shall be waived regarding a person who was notified of  
7 the adjudicatory hearing and who failed to appear. At a  
8 hearing under this section all relevant and material evidence  
9 shall be admitted.

10 Sec. 23. Section 232.88, Code 2001, is amended to read as  
11 follows:

12 232.88 SUMMONS, NOTICE, SUBPOENAS, AND SERVICE.

13 After a petition has been filed the court shall issue and  
14 serve summons, ~~notice,~~ subpoenas, and other process in the  
15 same manner as for adjudicatory hearings in cases of juvenile  
16 delinquency as provided in section 232.37. ~~In addition~~  
17 Reasonable notice shall be provided to the persons required to  
18 be provided notice under section 232.37, except that notice  
19 shall be waived regarding a person who was notified of the  
20 adjudicatory hearing and who failed to appear. In addition,  
21 reasonable notice for any hearing under this division shall be  
22 provided to the agency, facility, institution, or person,  
23 including a foster parent, relative, or ~~an~~ other individual  
24 providing preadoptive care, with whom a child has been placed.

25 EXPLANATION

26 This bill relates to children's provisions involving the  
27 department of human services in regard to the foster home  
28 insurance fund, psychiatric medical institutions for children,  
29 group child care providers, juvenile delinquency and child in  
30 need of assistance dispositions, and termination of parental  
31 rights.

32 Division I of the bill relates to the foster home insurance  
33 fund. Code section 237.13 is amended to add coverage under  
34 the fund for guardians appointed on a voluntary petition filed  
35 under Code chapter 232, the juvenile justice code.

1 Division II of the bill relates to group child care  
2 providers under Code section 237A.3. The bill replaces  
3 language regarding children who are less than 24 months of age  
4 with the term "infant", a defined term with the same meaning.  
5 In addition, the bill strikes language applying a separate cap  
6 on the number of preschool children who may receive care from  
7 a joint group child care provider. Under the bill, such a  
8 provider would be limited to caring for up to 11 children at  
9 one time with not more than four of infant age.

10 In addition, under current law in Code section 237A.3A, the  
11 department is operating a pilot project that combines  
12 registered family child care homes and group child care homes  
13 into a single registered child care home classification with  
14 four levels. The pilot project is currently operating in up  
15 to two counties in each of the department's five regions. The  
16 bill authorizes the department to implement the pilot project  
17 in other counties where there is an interest.

18 Division III of the bill relates to juvenile delinquency  
19 provisions under Code chapter 232, the juvenile justice code.

20 Code section 232.21, relating to placement of a child in  
21 shelter care, is amended to provide that a written court order  
22 for the placement may include the determination that the child  
23 remaining in the child's home would be contrary to the child's  
24 welfare and that reasonable efforts to prevent the permanent  
25 removal of the child, as defined later in the bill in new Code  
26 section 232.57, have been made. The inclusion of such a  
27 finding is not to be deemed a prerequisite for entry of the  
28 order for shelter care placement; however, the inclusion of  
29 the finding may assist the department of human services in  
30 obtaining federal funding for the placement.

31 Similar language is inserted as a new subsection in Code  
32 section 232.22, relating to placement of a child in detention.

33 Code section 232.52, relating to the disposition of a child  
34 found to have committed a delinquent act, is amended to  
35 include a similar provision in orders providing for transfer

1 of legal custody of a child to an adult relative, child  
2 placing agency or other private agency, department of human  
3 services for foster care or state training school placement,  
4 or juvenile court officer for placements involving a community  
5 supervised treatment program.

6 Code section 232.53, relating to the duration of  
7 depositions orders under Code section 232.52, is amended in  
8 regard to the filing of written reports by persons supervising  
9 the children who are subject to the orders. The bill provides  
10 that the reports are to be made part of the record considered  
11 by the court in any delinquency permanency hearing.

12 New Code section 232.57 provides a definition of the term  
13 "reasonable efforts" that is applicable to all juvenile  
14 delinquency proceedings and other provisions of the juvenile  
15 delinquency division of the bill.

16 New Code section 232.58 lays out a process for permanency  
17 hearings for the review of those out-of-home placements of a  
18 child in which the order included the finding that the child  
19 remaining in the child's home is contrary to the child's  
20 welfare.

21 Division IV of the bill relates to child in need of  
22 assistance (CINA) provisions under Code chapter 232, the  
23 juvenile justice code.

24 Code section 232.78, relating to temporary removal of a  
25 child from the child's home pursuant to an ex parte court  
26 order, is amended. The bill strikes a prerequisite that  
27 reasonable efforts must have been made to prevent or eliminate  
28 the need for removal of the child. Under the bill, the court  
29 must still determine that the child remaining in the child's  
30 home would be contrary to the child's welfare. In addition,  
31 the court must make this determination on a case-by-case basis  
32 and explicitly document in the order the grounds for making  
33 the determination.

34 Code section 232.79, relating to emergency removal of a  
35 child without a court order, is amended. Under current law,

1 the court must be informed of such an emergency removal. The  
2 bill provides that upon being informed, the court may order  
3 temporary removal of the child in accordance with Code section  
4 232.78.

5 Code section 232.95, relating to hearings concerning  
6 temporary removal of a child, is amended. Under the bill, if  
7 the court determines that a child's removal from the home is  
8 to be continued, the court must still determine that the child  
9 remaining in the child's home would be contrary to the child's  
10 welfare and that reasonable efforts have been made to prevent  
11 or eliminate the need for the removal. In addition, the court  
12 must make this determination on a case-by-case basis and  
13 explicitly document in the order the grounds for making the  
14 determination. The bill provides that preserving the child's  
15 safety is the paramount consideration and if there is imminent  
16 danger to the child's life or health at the time of the  
17 court's consideration, the court may continue the removal  
18 order without making the otherwise required determinations.

19 Code section 232.96, relating to CINA adjudicatory  
20 hearings, is amended in regard to entry of an order for  
21 temporary removal of a child made when the court has not  
22 previously entered such order. If such an order is entered,  
23 current law requires the court to include a statement that the  
24 child remaining in the child's home is contrary to the child's  
25 welfare and that reasonable efforts have been made. The bill  
26 makes this language consistent with the bill's other  
27 provisions regarding determinations required of a court order  
28 for removal of a child from the child's home.

29 Code section 232.102, relating to transfer of legal custody  
30 of a child and placement, is amended. Under current law,  
31 custody of a child should not be transferred unless the child  
32 cannot be protected from physical abuse without the transfer  
33 or cannot be protected from some harm which would justify  
34 adjudication of the child as a CINA. The bill adds to those  
35 requirements the same set of requirements to make

1 determinations as is added to Code section 232.95.

2 The Code section 232.102 definition of "reasonable efforts"  
3 is made applicable to the entire child in need of assistance  
4 division of Code chapter 232.

5 Code section 232.103, relating to termination,  
6 modification, vacation, and substitution of dispositional  
7 orders, is amended in regard to notice of hearings. Under  
8 current law, notice must be provided by personal service  
9 unless the court orders it to be provided by certified mail.  
10 The bill provides instead that reasonable notice of this type  
11 of hearing is to be provided to the parties.

12 Code section 232.104, relating to permanency hearings under  
13 the CINA division, is amended. First, the bill strikes a  
14 reference to permanency hearings for juvenile delinquency to  
15 conform with the permanency hearing provisions included in the  
16 bill for juvenile delinquency. In addition, the notice of the  
17 permanency hearings is to be reasonable rather than by  
18 personal service or certified mail. Second, current law  
19 authorizing the court to order long-term foster care placement  
20 in a home or facility as an option is modified. In lieu of  
21 long-term foster care placement, the court may order a  
22 "planned permanent living arrangement" for the child, provided  
23 the department of human services has documented to the court's  
24 satisfaction a compelling reason that none of these other  
25 options is in the child's best interest: transfer to the  
26 custody of another suitable person, transfer custody from one  
27 parent to another parent, or transfer custody to a suitable  
28 person for the purpose of long-term care.

29 Division V of the bill amends Code section 232.111,  
30 relating to a directive for the county attorney to petition  
31 for termination of parental rights. Under current law, unless  
32 certain conditions exist, the county attorney must file a  
33 petition if a child has been placed in foster care for 15  
34 months or more of the most recent 22-month period. The bill  
35 provides that the petition must be filed by the end of the

1 15th month.

2 Division VI of the bill relates to notice provisions for  
3 various hearings under the juvenile justice code. The bill  
4 amends Code section 232.88 to includes a relative with whom a  
5 child is placed in the list of those who receive notice of a  
6 child in need of assistance judicial proceeding concerning the  
7 child. For hearings that are held following an adjudicatory  
8 hearing, the bill provides that reasonable notice must be  
9 provided to the persons who were required to be notified of  
10 the original adjudicatory hearing, except those who were  
11 notified and failed to appear.

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**HOUSE FILE 456****H-1170**

1 Amend House File 456 as follows:

2 1. Page 5, line 17, by inserting after the word  
3 "determines" the following: "by clear and convincing  
4 evidence that".

5 2. Page 12, by inserting after line 15 the  
6 following:

7 "Sec. \_\_\_\_ . Section 232.102, subsection 12,  
8 unnumbered paragraph 1, Code 2001, is amended to read  
9 as follows:

10 If the court determines by clear and convincing  
11 evidence that aggravated circumstances exist, with  
12 written findings of fact based upon evidence in the  
13 record, the court may waive the requirement for making  
14 reasonable efforts. The existence of aggravated  
15 circumstances is indicated by any of the following:"

16 3. By renumbering as necessary.

**By** KREIMAN of Davis

**H-1170** FILED MARCH 5, 2001

## HOUSE FILE 456

H-1199

1 Amend House File 456 as follows:

2 1. Page 13, by inserting after line 15 the  
3 following:

4 "Sec. 100. REHABILITATIVE TREATMENT SERVICES STAFF  
5 REQUIREMENTS.

6 1. Subject to federal requirements, the department  
7 of human services shall act to change the staff  
8 qualification requirements for rehabilitative  
9 treatment services provided under the medical  
10 assistance program that are applicable to those staff  
11 providing therapy and counseling services, and  
12 psychosocial evaluation and behavioral management  
13 services for children in therapeutic foster care.  
14 Under the change, such staff who have graduated from  
15 an accredited four-year college, institute, or  
16 university with a bachelor's degree in social work in  
17 a program that is accredited by the council on social  
18 work education shall not be required to have full-time  
19 experience in social work or experience in the  
20 delivery of human services in a public or private  
21 area.

22 2. If necessary to implement the change required  
23 by this section, the department shall submit a plan  
24 amendment or otherwise request authorization from the  
25 United States health care financing administration.  
26 In addition, as necessary to quickly implement the  
27 change, the department may adopt emergency rules under  
28 section 17A.4, subsection 2, and section 17A.5,  
29 subsection 2, paragraph "b", to implement the  
30 provisions of this section and the rules shall be  
31 effective immediately upon filing unless a later date  
32 is specified in the rules. Any rules adopted in  
33 accordance with this section shall also be published  
34 as a notice of intended action as provided in section  
35 17A.4.

36 Sec. \_\_\_\_ . EFFECTIVE DATE. Section 100, of this  
37 division of this Act, relating to rehabilitative  
38 treatment services staff requirements, being deemed of  
39 immediate importance, takes effect upon enactment."

40 2. Title page, line 5, by inserting after the  
41 word "rights" the following: ", and providing an  
42 effective date".

43 3. By renumbering as necessary.

By HEATON of Henry	GRUNDBERG of Polk
FOEGE of Linn	BRUNKHORST of Bremer
JOHNSON of Osceola	HOVERSTEN of Woodbury
HOUSER of Pottawattamie	ARNOLD of Lucas

H-1199 FILED MARCH 5, 2001