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HUMAN RESOURCES

HOUSE FILE 2391  
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Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to child protection confidentiality requirements  
2 involving the department of human services.

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

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HF 2391

1 Section 1. Section 217.30, subsection 4, Code 2001, is  
2 amended by adding the following new paragraph:

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

6 Sec. 2. Section 235A.12, Code 2001, is amended to read as  
7 follows:

8 235A.12 LEGISLATIVE FINDINGS AND PURPOSES.

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

19 2. The purposes of this section and sections 235A.13 to  
20 ~~235A.23~~ through 235A.24 are to facilitate the identification  
21 of victims or potential victims of child abuse by making  
22 available a single, statewide source of child abuse data; to  
23 facilitate research on child abuse by making available a  
24 single, statewide source of child abuse data; and to provide  
25 maximum safeguards against the unwarranted invasions of  
26 privacy which such a registry might otherwise entail.

27 Sec. 3. Section 235A.13, subsection 9, Code 2001, is  
28 amended to read as follows:

29 9. "Near fatality" means ~~a-bodily an injury which-involves~~  
30 ~~substantial-risk-of-death, protracted-and-obvious~~  
31 ~~disfigurement, or-protracted-loss-or-impairment-of-the~~  
32 ~~function-of-a-bodily-member, organ, or-mental-faculty-and~~  
33 ~~includes-a-serious-bodily-injury-as-described-in-section~~  
34 702-18 to a child that, as certified by a physician, placed  
35 the child in serious or critical condition.

1 Sec. 4. Section 235A.15, subsections 7 and 8, Code  
2 Supplement 2001, are amended to read as follows:

3 ~~7.--Upon the request of a person listed in this subsection,~~  
4 ~~child abuse information relating to a specific case of child~~  
5 ~~abuse involving a fatality or near fatality to a child and~~  
6 ~~reported to the department shall be disclosed to that person~~  
7 ~~by the director of human services.--The purpose of the~~  
8 ~~disclosure is to provide for oversight of the department and~~  
9 ~~others involved with the state's child protection system in~~  
10 ~~order to improve the system.--After completing a review of the~~  
11 ~~child abuse information received, an authorized requester may~~  
12 ~~issue a report to the governor regarding the specific case of~~  
13 ~~child abuse.--The following persons are authorized to make a~~  
14 ~~request and receive child abuse information under this section~~  
15 ~~relating to a specific case of child abuse involving a~~  
16 ~~fatality or near fatality to a child:~~

17 a.--~~The governor or the governor's designee.~~

18 b.--~~The member of the senate or employee of the general~~  
19 ~~assembly designated by the majority leader or minority leader~~  
20 ~~of the senate.~~

21 c.--~~The member of the house of representatives or employee~~  
22 ~~of the general assembly designated by the speaker or minority~~  
23 ~~leader of the house of representatives.~~

24 7. If the director of human services receives a written  
25 request for information regarding a specific case of child  
26 abuse involving a fatality or near fatality to a child from  
27 the majority or minority leader of the senate or the speaker  
28 or the minority leader of the house of representatives, the  
29 director or the director's designee shall arrange for a  
30 confidential meeting with the requestor or the requestor's  
31 designee. In the confidential meeting the director or the  
32 director's designee shall share all pertinent information  
33 concerning the case, including but not limited to child abuse  
34 information. Any written document distributed by the director  
35 or the director's designee at the confidential meeting shall

1 not be removed from the meeting and a participant in the  
2 meeting shall be subject to the restriction on dissemination  
3 of confidential information applicable to a person under  
4 section 235A.17, subsection 3, for confidential information  
5 disclosed to the participant at the meeting. A participant in  
6 the meeting may issue a report to the governor or make general  
7 public statements concerning the department's handling of the  
8 case of child abuse.

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

13 Sec. 5. Section 235A.15, subsection 9, unnumbered  
14 paragraph 1, Code Supplement 2001, is amended to read as  
15 follows:

16 If, apart from a request made pursuant to subsection 7 or  
17 8, the department receives from a member of the public a  
18 request for child-abuse information relating to a case of  
19 founded child abuse involving a fatality or near fatality to a  
20 child, the response to the request shall be made in accordance  
21 with this subsection and subsections 10 and 11. If the  
22 request is received before or during performance of an  
23 assessment of the case in accordance with section 232.71B, the  
24 director of human services or the director's designee shall  
25 initially disclose whether or not the assessment will be or is  
26 being performed. Otherwise, within five business days of  
27 receiving the request or completing the assessment, whichever  
28 is later, the director of human services or the director's  
29 designee shall consult with the county attorney responsible  
30 for prosecution of any alleged perpetrator of the fatality or  
31 near fatality and shall disclose child-abuse information,  
32 including but not limited to child abuse information, relating  
33 to the case and-the-child-in-accordance-with-this-subsection.  
34 ~~The-director-or-the-director's-designee-shall-release-all~~  
35 ~~child-abuse-information-associated-with-the-case-and-the~~

1 child, except for the following:

2 Sec. 6. Section 235A.15, subsection 9, paragraph c, Code  
3 Supplement 2001, is amended by striking the paragraph.

4 Sec. 7. Section 235A.15, Code Supplement 2001, is amended  
5 by adding the following new subsections:

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

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

16 b. Any relevant information concerning social services,  
17 except for financial or medical assistance, provided to the  
18 child or the child's family that would otherwise be  
19 confidential under section 217.30.

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

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

24 NEW SUBSECTION. 11. If a person who made a request for  
25 information under subsection 9 does not believe the department  
26 has substantially complied with the request, the person may  
27 apply to the juvenile court under section 235A.24 for an order  
28 for disclosure of additional information.

29 NEW SUBSECTION. 12. If an individual who is the subject  
30 of a child abuse report listed in subsection 2, paragraph "a",  
31 or another party involved in a child abuse assessment under  
32 section 232.71B releases in a public forum or to the media  
33 information concerning a case of child abuse including but not  
34 limited to child abuse information which would otherwise be  
35 confidential, the director of human services, or the

1 director's designee, may disseminate relevant information  
2 concerning the case of child abuse that was the subject of the  
3 release. Prior to such dissemination, the director or the  
4 director's designee shall consult with the child's parent or  
5 guardian, guardian ad litem, or if deemed appropriate by the  
6 director or the director's designee, the juvenile court.

7 Sec. 8. Section 235A.24, Code 2001, is amended to read as  
8 follows:

9 235A.24 ORDER FOR DISCLOSURE OF CHILD ABUSE INFORMATION.

10 ~~A-person-whose~~ If a person's request for ~~child-abuse~~  
11 information relating to a case of founded child abuse under  
12 section 235A.15, subsection 9, is denied or such person does  
13 not believe the department has substantially complied with the  
14 request and seeks additional information, the person may apply  
15 to the juvenile court for an order compelling disclosure of  
16 the information. The application shall state in reasonable  
17 detail the factors in support of the application. The  
18 juvenile court shall have jurisdiction to issue the order. A  
19 hearing shall be set immediately upon filing of an application  
20 under this section and subsequent proceedings shall be  
21 accorded priority by other courts. In considering the  
22 application, the court shall weigh the public's interest and  
23 right to know the information against the privacy rights of  
24 the victim of the child abuse and other individuals who may be  
25 affected by the release of the information relating to the  
26 case of child abuse. After the court has reviewed the ~~child~~  
27 ~~abuse~~ information relating to the case in camera, unless the  
28 court finds that a restriction listed in section 235A.15,  
29 subsection 9, is applicable, the court ~~shall~~ may issue an  
30 order compelling disclosure of the ~~child-abuse~~ information  
31 relating to the case.

32 EXPLANATION

33 This bill relates to child protection confidentiality  
34 requirements involving the department of human services.

35 Code section 217.30, relating to confidentiality of

1 department records, is amended to allow an exception for  
2 disclosure of information as provided by the bill for certain  
3 cases of child abuse involving a child fatality or near  
4 fatality. The information subject to disclosure includes  
5 names and addresses of individuals receiving services or  
6 assistance from the department, the types of services or  
7 amounts of assistance provided, information concerning the  
8 social or economic conditions or circumstances of particular  
9 individuals who are receiving or have received services or  
10 assistance from the department, and agency evaluations of  
11 information about a particular individual.

12 Code section 235A.12, relating to legislative findings and  
13 purposes for the child abuse information registry, is amended  
14 to include a reference to a related Code section and to make  
15 technical changes.

16 Code section 235A.13, providing definitions for the child  
17 abuse registry Code chapter, is amended to revise the term  
18 "near fatality". The revision provides that "near fatality"  
19 means an injury to a child that, as certified by a physician,  
20 placed the child in serious or critical condition.

21 Code section 235A.15, relating to authorized access to  
22 confidential child abuse information, is significantly  
23 amended. Existing law provides a procedure for the governor  
24 and legislative designees to receive disclosure of  
25 confidential information on child abuse cases involving a  
26 fatality or near fatality to a child. The bill provides a  
27 procedure for sharing of such information through a  
28 confidential meeting with the legislative leader or a person  
29 designated by a legislative leader. The bill prohibits  
30 removal of written materials distributed at the meeting and  
31 redissemination of confidential information disclosed at the  
32 meeting. The prohibition against redissemination is the same  
33 as exists in current law in Code section 235A.17, prohibiting  
34 a person who receives confidential information about a child  
35 abuse case from further disseminating, communicating, or

1 attempting to communicate the information to an unauthorized  
2 person. In addition to issuing a report to the governor as is  
3 allowed under current law, the bill allows a participant in  
4 the meeting to make general public statements concerning the  
5 department's handling of the case of child abuse.

6 Current law authorizes the governor to request and receive  
7 disclosure of confidential information concerning any specific  
8 case of child abuse. The bill expands this authority to  
9 include the governor's designee.

10 Existing law allowing any person to request and receive  
11 information concerning a case of child abuse involving a  
12 fatality or near fatality to a child is amended to allow  
13 release of other confidential information in addition to child  
14 abuse information. If the request is received before or  
15 during performance of a child abuse assessment of the case,  
16 initially the director of human services or director's  
17 designee must inform the requestor whether or not the  
18 assessment will be or is being performed. Otherwise, within  
19 five days of receiving the request or completing the  
20 assessment, whichever is later, the director or designee must  
21 release the information. The additional information to be  
22 released by the department is specified to be a summary of the  
23 department's response and findings, social services  
24 information, recommendations made by the department to the  
25 county attorney or juvenile court, and an evaluation of the  
26 department's responses.

27 Existing law for information releases in cases involving a  
28 child fatality or near fatality includes a list of information  
29 items that are restricted from release. This list is also  
30 applicable to the report issued by a special child fatality  
31 review committee appointed by the director of public health.  
32 The bill removes the restriction against the release of  
33 information pertaining to the child, the child's family, or  
34 any other person that is not directly related to the cause of  
35 the fatality or near fatality.

1 If a subject of a child abuse report or another party  
2 involved in a child abuse assessment releases information  
3 concerning a case of child abuse that would otherwise be  
4 confidential concerning the case, the bill allows discretion  
5 for the director of human services or the director's designee  
6 to disseminate relevant information regarding that case.  
7 Consultation with the child's parent, guardian, or guardian ad  
8 litem, or, if deemed appropriate, the juvenile court, is  
9 required prior to the dissemination.

10 Existing law in Code section 235A.24 allows a requestor of  
11 information regarding a case involving a child fatality or  
12 near fatality whose request is denied by the department of  
13 human services to seek relief from the court. The bill also  
14 allows relief if the requestor does not believe the department  
15 has substantially complied with the request.

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