

Boddicker
Hoversten
Smith

HSB 588
HUMAN RESOURCES

HOUSE FILE _____ SF 2552
BY (PROPOSED COMMITTEE ON
HUMAN RESOURCES BILL BY
CHAIRPERSON BODDICKER)

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

A BILL FOR

1 An Act relating to the recording of certain interviews conducted
2 in association with a child abuse assessment.

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

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1 Section 1. Section 232.71B, subsection 4, paragraph e,
2 Code Supplement 2001, is amended to read as follows:
3 e. An interview of the person alleged to have committed
4 the child abuse, if the person's identity and location are
5 known~~7~~. The offer of an interview shall be made to the person
6 prior to any consideration or determination being made that
7 the person committed the alleged abuse. The purpose of the
8 interview shall be to afford provide the person with the
9 opportunity to ~~address-the~~ explain or rebut the allegations of
10 the child abuse report or other allegations made during the
11 assessment. The-interview-shall-be-conducted~~7~~-or-an
12 opportunity-for-an-interview-shall-be-provided~~7~~-prior-to-a
13 determination-of-child-abuse-being-made~~7~~. The court may waive
14 the requirement of to offer the interview only for good cause.
15 The person offered an interview or the person's attorney may
16 decline to be interviewed.

17 Sec. 2. NEW SECTION. 232.77A RECORDINGS OF INTERVIEWS.

18 1. If an interview is conducted as part of a child abuse
19 assessment under section 232.71B, as part of a law enforcement
20 investigative process for an alleged criminal act involving
21 harm to a child, or as part of any other process to determine
22 whether child abuse has occurred or to identify a person
23 alleged to have committed child abuse, the interview is
24 subject to the requirements of this section. A person
25 conducting such an interview is subject to the requirements of
26 this section, including but not limited to an interviewer who
27 is acting under the direction of or supervision of the
28 department or the juvenile court or who is a peace officer.

29 2. For an interview subject to the requirements of this
30 section, the interviewer shall make an audio or audiovisual
31 recording of the entire interview. The failure to make such a
32 recording may be used to impeach the results of the interview
33 if the results are introduced as evidence. The recording
34 shall be preserved until it is no longer relevant to the child
35 abuse assessment, investigative process, or other process, or

1 to any related proceeding.

2 3. This section shall not be construed as limiting or
3 affecting the recording of interviews in other circumstances.

4 Sec. 3. Section 232.96, subsection 6, Code Supplement
5 2001, is amended to read as follows:

6 6. A report, study, record, or other writing or an
7 audiotape-or-videtape audio or audiovisual recording made by
8 the department of human services, a juvenile court officer, a
9 peace officer, or a hospital relating to a child in a
10 proceeding under this division is admissible notwithstanding
11 any objection to hearsay statements contained in it provided
12 it is relevant and material and provided its probative value
13 substantially outweighs the danger of unfair prejudice to the
14 child's parent, guardian, or custodian. The circumstances of
15 the making of the report, study, record, or other writing or
16 an audiotape-or-videtape audio or audiovisual recording,
17 including the maker's lack of personal knowledge, may be
18 proved to affect its weight. If an audio or audiovisual
19 recording of an interview is made in accordance with section
20 232.77A, the recording shall be made available to all parties
21 prior to the proceeding in which the interview or a report
22 concerning the interview is to be introduced. Failure to make
23 the recording available prior to the proceeding shall be
24 grounds for exclusion of the interview or report from
25 evidence.

26 Sec. 4. Section 235A.13, subsection 10, Code 2001, is
27 amended by adding the following new paragraph:

28 NEW PARAGRAPH. g. An audio or audiovisual recording of an
29 interview made and preserved pursuant to section 232.71B or
30 232.77A.

31 EXPLANATION

32 This bill relates to the recording of certain interviews
33 conducted in association with a child abuse assessment.

34 The bill amends Code section 232.71B, relating to the
35 duties of the department of human services upon receiving a

1 child abuse report. Current law provides for an interview or
2 opportunity for an interview with the person alleged to have
3 committed the child abuse in order to afford the person an
4 opportunity to address the allegations of the report. The
5 bill provides that the interview must be offered prior to any
6 consideration or determination being made that the person
7 committed the abuse. Under the bill, the purpose of the
8 interview is to allow the person to explain or rebut the
9 allegations made in the report or during the assessment. The
10 bill narrows current law in that the court may only waive the
11 requirement to offer an interview for good cause. The bill
12 allows the person or the person's attorney to decline the
13 interview.

14 New Code section 232.77A establishes requirements for audio
15 or audiovisual recording of interviews. Such a recording is
16 required for an interview conducted as part of a child abuse
17 assessment under Code section 232.71B, as part of a law
18 enforcement investigative process for an alleged criminal act
19 involving harm to a child, or as part of any other process to
20 determine whether child abuse has occurred or to identify a
21 person alleged to have committed child abuse. Persons subject
22 to the requirement include an interviewer who is acting under
23 the direction of or supervision of the department or the
24 juvenile court or who is a peace officer.

25 The interviewer is responsible for recording the entire
26 interview. Failure to make such a recording may be used to
27 impeach the results of the interview if the results are
28 introduced as evidence. The recording is required to be
29 preserved until it is no longer relevant to the child abuse
30 assessment, investigative process, or other process, or to any
31 related proceeding.

32 Under current law in Code section 232.96, relating to child
33 in need of assistance adjudicatory hearings, records,
34 recordings, and testimony containing hearsay statements are
35 admissible in such hearings provided they are relevant and

1 material and the probative value outweighs the danger of
 2 prejudice to the child's parent, guardian, or custodian. The
 3 bill requires that any interview recordings made pursuant to
 4 the bill's requirements must be provided in advance to the
 5 parties to the hearing. Failure to do so is grounds to
 6 exclude the interview and any related reports from evidence.
 7 Code section 235A.13, relating to the definitions used for
 8 the child abuse information registry, is amended to include in
 9 the "report data" definition any audio or audiovisual
 10 recordings made pursuant to the bill's requirements. Report
 11 data includes information about the child, nature of injury to
 12 the child, additional information such as the identity of the
 13 person alleged to be responsible for the injury, names of
 14 other children in the child's home, and any other information
 15 believed to be helpful in regard to the additional
 16 information. Current law restricts access to report data to
 17 authorized parties. Parties to a child abuse report may
 18 examine report data relating to the parties and have specific
 19 rights to challenge the data.

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FEB 28 2002
Place On Calendar

HOUSE FILE 2552
BY COMMITTEE ON HUMAN
RESOURCES

(SUCCESSOR TO HSB 588)

Passed House, (P. 748) Date 3-12-02 Passed Senate, (P. 808) Date 3-26-02
Vote: Ayes 93 Nays 0 Vote: Ayes 50 Nays 0
Approved April 4, 2002

A BILL FOR

1 An Act relating to interviews conducted in association with a
2 child abuse assessment.

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

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HF 2552

1 Section 1. Section 232.71B, subsection 4, paragraph e,
2 Code Supplement 2001, is amended to read as follows:

3 e. An interview of the person alleged to have committed
4 the child abuse, if the person's identity and location are
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7 the person committed the alleged abuse. The purpose of the
8 interview shall be to afford provide the person with the
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10 the child abuse report or other allegations made during the
11 assessment. The-interview-shall-be-conducted~~7~~-or-an
12 opportunity-for-an-interview-shall-be-provided~~7~~-prior-to-a
13 determination-of-child-abuse-being-made~~7~~. The court may waive
14 the requirement of to offer the interview only for good cause.
15 The person offered an interview or the person's attorney may
16 decline to be interviewed.

17 Sec. 2. Section 235A.13, subsection 10, Code 2001, is
18 amended by adding the following new paragraph:

19 NEW PARAGRAPH. g. A recording made of an interview
20 conducted under chapter 232 in association with a child abuse
21 assessment.

22 EXPLANATION

23 This bill relates to interviews conducted in association
24 with a child abuse assessment.

25 The bill amends Code section 232.71B, relating to the
26 duties of the department of human services upon receiving a
27 child abuse report. Current law provides for an interview or
28 opportunity for an interview with the person alleged to have
29 committed the child abuse in order to afford the person an
30 opportunity to address the allegations of the report. The
31 bill provides that the interview must be offered prior to any
32 consideration or determination being made that the person
33 committed the abuse. Under the bill, the purpose of the
34 interview is to allow the person to explain or rebut the
35 allegations made in the report or during the assessment. The

1 bill narrows current law in that the court may only waive the
2 requirement to offer an interview for good cause. The bill
3 allows the person or the person's attorney to decline the
4 interview.

5 Code section 235A.13, relating to the definitions used for
6 the child abuse information registry, is amended to include in
7 the "report data" definition any recording made of an
8 interview conducted under Code chapter 232, the juvenile
9 justice code, in association with a child abuse assessment.
10 Report data in current law includes information about the
11 child, nature of injury to the child, additional information
12 such as the identity of the person alleged to be responsible
13 for the injury, names of other children in the child's home,
14 and any other information believed to be helpful in regard to
15 the additional information. Current law restricts access to
16 report data to authorized parties. Parties to a child abuse
17 report may examine report data relating to the parties and
18 have specific rights to challenge the data.

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NEW PARAGRAPH. g. A recording made of an interview conducted under chapter 232 in association with a child abuse assessment.

HOUSE FILE 2552

AN ACT
RELATING TO INTERVIEWS CONDUCTED IN ASSOCIATION WITH A
CHILD ABUSE ASSESSMENT.

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

Section 1. Section 232.71B, subsection 4, paragraph e, Code Supplement 2001, is amended to read as follows:

e. 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 purpose of the interview shall be to afford provide the person with the opportunity to address the explain or rebut the allegations of the child abuse report or other allegations made during the assessment. The interview shall be conducted, or an opportunity for an interview shall be provided, prior to a determination of child abuse being made. The court may waive the requirement of to offer the interview only for good cause. The person offered an interview or the person's attorney may decline to be interviewed.

Sec. 2. Section 235A.13, subsection 10, Code 2001, is amended by adding the following new paragraph:

BRENT SIEGRIST
Speaker of the House

MARY E. KRAMER
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2552, Seventy-ninth General Assembly.

MARGARET THOMSON
Chief Clerk of the House

Approved 4/4, 2002

THOMAS J. VILSACK
Governor