

Boal, Ch,
Smith
Boddicker

HSB 662
HUMAN RESOURCES

Succeed
SF (HF) 2561

SENATE/HOUSE FILE _____
BY (PROPOSED GOVERNOR'S BILL)

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

A BILL FOR

1 An Act relating to departmental duties by transferring certain
2 duties from the department of human services to the department
3 of inspections and appeals and the Iowa department of public
4 health, reorganizing the duties of the department of
5 inspections and appeals, and authorizing elimination of
6 certain department of human services' programs offered at the
7 state mental health institute at Mount Pleasant, and making an
8 appropriation of certain grants and gifts, and providing an
9 effective date.

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

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1 DIVISION I

2 DEPARTMENT OF INSPECTIONS AND APPEALS DUTIES

3 Section 1. Section 10A.101, subsection 1, Code 2001, is
4 amended to read as follows:

5 1. "Administrator" means ~~the chief administrative law~~
6 ~~judge, chief inspector, chief investigator, chief auditor, or~~
7 the a person administering coordinating the administration of
8 a division of the department.

9 Sec. 2. Section 10A.104, Code 2001, is amended by adding
10 the following new subsection:

11 NEW SUBSECTION. 11. Administer inspection and licensing
12 of social and charitable gambling pursuant to chapter 99B.

13 Sec. 3. Section 10A.104, subsection 8, Code 2001, is
14 amended to read as follows:

15 8. Establish by rule standards and procedures for
16 certifying that targeted small businesses are eligible to
17 participate in the procurement program established in sections
18 73.15 through 73.21. The procedure for determination of
19 eligibility shall not include self-certification by a
20 business. ~~Rules and guidelines adopted pursuant to this~~
21 ~~subsection are subject to review and approval by the director~~
22 ~~of the department of management.~~ The director shall maintain
23 a current directory of targeted small businesses which that
24 have been certified pursuant to this subsection.

25 Sec. 4. Section 10A.106, subsection 2, Code 2001, is
26 amended to read as follows:

27 2. Audits Child care division.

28 Sec. 5. Section 10A.106, unnumbered paragraph 2, Code
29 2001, is amended to read as follows:

30 The allocation of departmental duties to the divisions of
31 the department in sections ~~10A.302~~, 10A.402, 10A.502, 10A.702,
32 and 10A.801, and 10A.901 does not prohibit the director from
33 reallocating departmental duties within the department. ~~The~~
34 ~~director shall not reallocate any of the duties of the~~
35 ~~division of administrative hearings, created by section~~

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1 ~~10A:801, to any other unit of the department.~~

2 Sec. 6. Section 10A.401, subsection 1, Code 2001, is
3 amended to read as follows:

4 1. "Administrator" means the ~~chief investigator who shall~~
5 coordinate person coordinating the administration of this
6 division.

7 Sec. 7. Section 10A.402, Code 2001, is amended to read as
8 follows:

9 10A.402 RESPONSIBILITIES.

10 The administrator shall coordinate the division's conduct
11 of various audits and investigations as otherwise provided for
12 by law including but not limited to the following:

13 1. Investigations relative to the practice of regulated
14 professions and occupations, except those within the
15 jurisdiction of the board of medical examiners, the board of
16 pharmacy examiners, the board of dental examiners, and the
17 board of nursing.

18 2. ~~Investigations relative to proposed sales within the~~
19 ~~state of subdivided land situated outside of the state.~~
20 Audits relative to the administration of hospitals and health
21 care facilities.

22 3. ~~Investigations relative to applications for beer and~~
23 ~~liquor licenses.~~ Audits relative to administration and
24 disbursement of funding under the state supplementary
25 assistance program and the medical assistance program.

26 4. Investigations and collections relative to the
27 liquidation of overpayment debts owed to the department of
28 human services. Collection methods include but are not
29 limited to small claims filings, debt setoff, distress
30 warrants, and repayment agreements, and are subject to
31 approval by the department of human services.

32 5. Investigations relative to the operations of the
33 department of elder affairs.

34 6. Investigations relative to the administration of the
35 state ~~supplemental~~ supplementary assistance program, the state

1 medical assistance program, the food stamp program, the family
2 investment program, and any other state or federal benefit
3 assistance program.

4 7. Investigations relative to the internal affairs and
5 operations of agencies and departments within the executive
6 branch of state government, except for institutions governed
7 by the state board of regents.

8 8. Evaluation of record checks performed in accordance
9 with section 135C.33.

10 Sec. 8. Section 10A.501, subsection 1, Code 2001, is
11 amended to read as follows:

12 1. "Administrator" means the ~~chief-inspector, who shall~~
13 coordinate person coordinating the administration of this
14 division.

15 Sec. 9. Section 10A.502, Code 2001, is amended to read as
16 follows:

17 10A.502 RESPONSIBILITIES.

18 The administrator shall coordinate the division's conduct
19 of various inspections as otherwise provided for by law
20 including but not limited to the following:

21 1. ~~Inspections and licensing procedures related to social~~
22 ~~and charitable gambling pursuant to chapter 99B of hotels,~~
23 home food establishments, and egg handlers.

24 2. Inspections of food establishments, including
25 restaurants, ~~hotels, food and beverage vending machines, state~~
26 ~~educational, charitable, correctional, and penal institutions,~~
27 and sanitation inspections food processing plants, grocery
28 stores, convenience stores, temporary food establishments, and
29 mobile food units.

30 3. Inspections for sanitation in any locality of the state
31 upon the written petition of five or more residents of a
32 particular the locality.

33 Sec. 10. Section 10A.701, subsection 1, Code 2001, is
34 amended to read as follows:

35 1. "Administrator" means the ~~chief-administrator who shall~~

1 coordinate person coordinating the administration of this
2 division.

3 Sec. 11. Section 10A.702, Code 2001, is amended to read as
4 follows:

5 10A.702 RESPONSIBILITIES.

6 The administrator shall coordinate the division's conduct
7 of various inspections and investigations as otherwise
8 provided by law including, but not limited to, all of the
9 following:

10 1. Investigations relative to the standards and practices
11 of hospitals, hospices, birth centers, and health care
12 facilities, community mental health centers, other providers
13 of mental health services, supported community living
14 programs, and providers of individual case management services
15 for persons with mental retardation, a developmental
16 disability, or chronic mental illness under the medical
17 assistance program.

18 2. Inspections and other licensing procedures relative to
19 the hospice program programs, hospitals, birth centers, and
20 health care facilities, community mental health centers, other
21 providers of mental health services, supported community
22 living programs, and providers of individual case management
23 services for persons with mental retardation, a developmental
24 disability, or chronic mental illness under the medical
25 assistance program. The division is designated as the sole
26 licensing authority for these programs and facilities.

27 3. Inspections relative to hospital and health care
28 facility construction projects.

29 ~~4. Inspections of child foster care facilities and private~~
30 ~~institutions for the care of dependent, neglected, and~~
31 ~~delinquent children.~~

32 Sec. 12. Section 10A.801, subsection 1, paragraph a, Code
33 2001, is amended to read as follows:

34 a. "Administrator" means the ~~chief administrative law~~
35 ~~judge who shall coordinate~~ person coordinating the

1 administration of the division.

2 Sec. 13. Section 10A.801, subsection 2, Code 2001, is
3 amended to read as follows:

4 2. The administrator shall coordinate the division's
5 conduct of appeals and administrative hearings as otherwise
6 provided by law.

7 Sec. 14. Section 10A.801, subsection 7, paragraph c, Code
8 2001, is amended to read as follows:

9 c. To establish standards and procedures for the
10 evaluation, training, promotion, and discipline for the
11 administrative law judges employed by the division. ~~Those~~ The
12 procedures shall include provisions for each agency for whom a
13 particular administrative law judge presides to submit to the
14 division on a periodic basis the agency's views with respect
15 to the performance of that administrative law judge or the
16 need for specified additional training for that administrative
17 law judge. ~~However, the evaluation, training, promotion, and~~
18 ~~discipline of all administrative law judges employed by the~~
19 ~~division shall remain solely within the authority of the~~
20 ~~division.~~

21 Sec. 15. NEW SECTION. 10A.901 CHILD CARE DIVISION.

22 1. DEFINITIONS. For purposes of this section, unless the
23 context otherwise requires:

24 a. "Administrator" means the person coordinating the
25 administration of the division.

26 b. "Division" means the child care division of the
27 department of inspections and appeals.

28 2. The administrator shall coordinate the division's
29 conduct of regulatory activity concerning children as provided
30 by law, including but not limited to all of the following:

31 a. Inspections, investigations, and other child care
32 licensing and registration activities under chapter 237A.

33 b. Inspections, investigations, and other licensing,
34 certification, registration, and accreditation activities for
35 the care of dependent, neglected, or delinquent children under

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1 section 232.142 and chapters 135H, 237, and 238.

2 c. Record checks and evaluation of the record checks
3 relating to facility and program applicants, licensees, or
4 employees of the facilities and programs subject to regulation
5 by the division.

6 Sec. 16. CODE EDITOR. The Code editor shall codify
7 section 10A.901, as enacted by this division of this Act, as a
8 new article of chapter 10A entitled "child care division".

9 Sec. 17. Sections 10A.301 and 10A.302, Code 2001, are
10 repealed.

11 DIVISION II

12 DEPARTMENT OF INSPECTIONS AND APPEALS EVALUATION
13 OF CRIME AND ABUSE RECORDS

14 Sec. 18. Section 125.14A, subsections 1, 2, 3, 4, and 5,
15 Code 2001, are amended to read as follows:

16 1. If a person is being considered for licensure under
17 this chapter, or for employment involving direct
18 responsibility for a child or with access to a child when the
19 child is alone, by a program admitting juveniles subject to
20 licensure under this chapter, or if a person will reside in a
21 facility utilized by such a program, and if the person has
22 been convicted of a crime or has a record of founded child
23 abuse, the department of human-services inspections and
24 appeals and the program, for an employee of the program, shall
25 perform an evaluation to determine whether the crime or
26 founded child abuse warrants prohibition of licensure,
27 employment, or residence in the facility. The department of
28 human-services inspections and appeals shall conduct criminal
29 and child abuse record checks in this state and may conduct
30 these checks in other states. The evaluation shall be
31 performed in accordance with procedures adopted for this
32 purpose by the department of human-services inspections and
33 appeals.

34 2. If ~~the department of human-services determines~~ it is
35 determined that a person has committed a crime or has a record

1 of founded child abuse and is licensed, employed by a program
2 licensed under this chapter, or resides in a licensed facility
3 the department of inspections and appeals shall notify the
4 program that an evaluation will be conducted to determine
5 whether prohibition of the person's licensure, employment, or
6 residence is warranted.

7 3. In an evaluation, the department of **human-services**
8 inspections and appeals and the program for an employee of the
9 program shall consider the nature and seriousness of the crime
10 or founded child abuse in relation to the position sought or
11 held, the time elapsed since the commission of the crime or
12 founded child abuse, the circumstances under which the crime
13 or founded child abuse was committed, the degree of
14 rehabilitation, the likelihood that the person will commit the
15 crime or founded child abuse again, and the number of crimes
16 or acts of founded child abuses abuse committed by the person
17 involved. The department of **human-services** inspections and
18 appeals may permit a person who is evaluated to be licensed,
19 employed, or to reside, or to continue to be licensed,
20 employed, or to reside in a program, if the person complies
21 with the department's conditions relating to the person's
22 licensure, employment, or residence, which may include
23 completion of additional training. For an employee of a
24 licensee, these conditional requirements shall be developed
25 with the licensee. The department of **human-services**
26 inspections and appeals has final authority in determining
27 whether prohibition of the person's licensure, employment, or
28 residence is warranted and in developing any conditional
29 requirements under this subsection.

30 4. If the department of **human-services** inspections and
31 appeals determines that the person has committed a crime or
32 has a record of founded child abuse which warrants prohibition
33 of licensure, employment, or residence, the person shall not
34 be licensed under this chapter to operate a program admitting
35 juveniles and shall not be employed by a program or reside in

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1 a facility admitting juveniles licensed under this chapter.

2 5. In addition to the record checks required under this
3 section, the department of human-services inspections and
4 appeals may conduct dependent adult abuse record checks in
5 this state and may conduct these checks in other states, on a
6 random basis. The provisions of this section, relative to an
7 evaluation following a determination that a person has been
8 convicted of a crime or has a record of founded child abuse,
9 shall also apply to a random check conducted under this
10 subsection.

11 Sec. 19. Section 135C.33, subsections 1, 2, 3, 4, and 5,
12 Code Supplement 2001, are amended to read as follows:

13 1. ~~Beginning-July-1, 1997, prior~~ Prior to employment of a
14 person in a facility, the facility shall request that the
15 department of public safety perform a criminal history check
16 and the department of human-services inspections and appeals
17 perform a dependent adult abuse record check of the person in
18 this state. In addition, the facility may request that the
19 department of human-services inspections and appeals perform a
20 child abuse record check in this state. ~~Beginning-July-1,~~
21 ~~1997, a~~ A facility shall inform all persons prior to
22 employment regarding the performance of the records checks and
23 shall obtain, from the persons, a signed acknowledgment of the
24 receipt of the information. Additionally, a facility shall
25 include the following inquiry in an application for
26 employment: "Do you have a record of founded child or
27 dependent adult abuse or have you ever been convicted of a
28 crime, in this state or any other state?" If the person has
29 been convicted of a crime under a law of any state or has a
30 record of founded child or dependent adult abuse, the
31 department of human-services inspections and appeals shall,
32 upon the facility's request, perform an evaluation to
33 determine whether the crime or founded child or dependent
34 adult abuse warrants prohibition of employment in the
35 facility. The evaluation shall be performed in accordance

1 with procedures adopted for this purpose by the department of
2 ~~human-services~~ inspections and appeals. If a person owns or
3 operates more than one facility, and an employee of one of
4 such facilities is transferred to another such facility
5 without a lapse in employment, the facility is not required to
6 request additional criminal and dependent adult abuse record
7 checks of that employee.

8 2. If the department of public safety determines that a
9 person has committed a crime and is to be employed in a
10 facility licensed under this chapter, the department of public
11 safety shall notify the licensee that an evaluation, if
12 requested by the facility, will be conducted by the department
13 of ~~human-services~~ inspections and appeals to determine whether
14 prohibition of the person's employment is warranted. If a
15 department of ~~human-services~~ inspections and appeals child or
16 dependent adult abuse records check determines the person has
17 a record of founded child or dependent adult abuse, the
18 department of ~~human-services~~ inspections and appeals shall
19 inform the licensee that an evaluation, if requested by the
20 facility, will be conducted to determine whether prohibition
21 of the person's employment is warranted.

22 3. In an evaluation, the department of ~~human-services~~
23 inspections and appeals shall consider the nature and
24 seriousness of the crime or founded child or dependent adult
25 abuse in relation to the position sought or held, the time
26 elapsed since the commission of the crime or founded child or
27 dependent adult abuse, the circumstances under which the crime
28 or founded child or dependent adult abuse was committed, the
29 degree of rehabilitation, the likelihood that the person will
30 commit the crime or founded child or dependent adult abuse
31 again, and the number of crimes or acts of founded child or
32 dependent adult ~~abuses~~ abuse committed by the person involved.
33 The department of ~~human-services~~ inspections and appeals has
34 final authority in determining whether prohibition of the
35 person's employment is warranted.

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1 4. A person shall not be employed in a facility licensed
2 under this chapter unless an evaluation has been performed by
3 the department of ~~human-services~~ inspections and appeals. If
4 the department of ~~human-services~~ inspections and appeals
5 determines from the evaluation that the person has committed a
6 crime or has a record of founded child or dependent adult
7 abuse which warrants prohibition of employment, the person
8 shall not be employed in a facility licensed under this
9 chapter.

10 5. ~~Beginning July 17, 1998, this~~ This section shall apply
11 to prospective employees of all of the following, if the
12 provider is regulated by the state or receives any state or
13 federal funding:

14 a. An employee of a homemaker, home-health aide, home-care
15 aide, adult day services, or other provider of in-home
16 services if the employee provides direct services to
17 consumers.

18 b. An employee of a hospice, if the employee provides
19 direct services to consumers.

20 c. An employee who provides direct services to consumers
21 under a federal home and community-based services waiver.

22 d. An employee of an elder group home certified under
23 chapter 231B, if the employee provides direct services to
24 consumers.

25 e. An employee of an assisted living facility certified or
26 voluntarily accredited under chapter 231C, if the employee
27 provides direct services to consumers.

28 In substantial conformance with the provisions of this
29 section, prior to the employment of such an employee, the
30 provider shall request the performance of the criminal and
31 dependent adult abuse record checks and may request the
32 performance of the child abuse record checks. The provider
33 shall inform the prospective employee and obtain the
34 prospective employee's signed acknowledgment. The department
35 of ~~human-services~~ inspections and appeals shall perform the

1 evaluation of any criminal record or founded child or
2 dependent adult abuse record and shall make the determination
3 of whether a prospective employee of a provider shall not be
4 employed by the provider.

5 Sec. 20. Section 135C.33, subsection 6, paragraph b, Code
6 Supplement 2001, is amended by adding the following new
7 subparagraph:

8 NEW SUBPARAGRAPH. (3) For conducting record checks and
9 evaluations of persons who are applicants for licensure,
10 registration, certification, or accreditation by the
11 department, of individuals who are employed by or are applying
12 for employment with such persons, and of other individuals who
13 are subject to regulation by the department.

14 Sec. 21. Section 135H.7, subsections 2, 3, and 4, Code
15 2001, are amended to read as follows:

16 2. a. If a person is being considered for licensure under
17 this chapter, or for employment involving direct
18 responsibility for a child or with access to a child when the
19 child is alone, by a licensed psychiatric institution, or if a
20 person will reside in a facility utilized by a licensee, and
21 if the person has been convicted of a crime or has a record of
22 founded child abuse, the department ~~of-human-services~~ and the
23 licensee, for an employee of the licensee, shall perform an
24 evaluation to determine whether the crime or founded child
25 abuse warrants prohibition of licensure, employment, or
26 residence in the facility. The department ~~of-human-services~~
27 shall conduct criminal and child abuse record checks in this
28 state and may conduct these checks in other states. The
29 evaluation shall be performed in accordance with procedures
30 adopted for this purpose by the department ~~of-human-services~~.

31 b. If the department ~~of-human-services~~ determines that a
32 person has committed a crime or has a record of founded child
33 abuse and is licensed, employed by a psychiatric institution
34 licensed under this chapter, or resides in a licensed facility
35 the department shall notify the program that an evaluation

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1 will be conducted to determine whether prohibition of the
 2 person's licensure, employment, or residence is warranted.

3 c. In an evaluation, the department ~~of-human-services~~ and
 4 the licensee for an employee of the licensee shall consider
 5 the nature and seriousness of the crime or founded child abuse
 6 in relation to the position sought or held, the time elapsed
 7 since the commission of the crime or founded child abuse, the
 8 circumstances under which the crime or founded child abuse was
 9 committed, the degree of rehabilitation, the likelihood that
 10 the person will commit the crime or founded child abuse again,
 11 and the number of crimes or acts of founded child ~~abuses~~ abuse
 12 committed by the person involved. The department may permit a
 13 person who is evaluated to be licensed, employed, or to
 14 reside, or to continue to be licensed, employed, or to reside
 15 in a licensed facility, if the person complies with the
 16 department's conditions relating to the person's licensure,
 17 employment, or residence, which may include completion of
 18 additional training. For an employee of a licensee, these
 19 conditional requirements shall be developed with the licensee.
 20 The department ~~of-human-services~~ has final authority in
 21 determining whether prohibition of the person's licensure,
 22 employment, or residence is warranted and in developing any
 23 conditional requirements under this paragraph.

24 3. ~~If the department of human services determines~~ it is
 25 determined that the person has committed a crime or has a
 26 record of founded child abuse which warrants prohibition of
 27 licensure, employment, or residence, the person shall not be
 28 licensed under this chapter to operate a psychiatric
 29 institution and shall not be employed by a psychiatric
 30 institution or reside in a facility licensed under this
 31 chapter.

32 4. In addition to the record checks required under
 33 subsection 2, the department ~~of-human-services~~ may conduct
 34 dependent adult abuse record checks in this state and may
 35 conduct these checks in other states, on a random basis. The

1 provisions of subsections 2 and 3, relative to an evaluation
2 following a determination that a person has been convicted of
3 a crime or has a record of founded child abuse, shall also
4 apply to a random dependent adult abuse record check conducted
5 under this subsection.

6 Sec. 22. Section 235A.15, subsection 2, paragraph e, Code
7 Supplement 2001, is amended by adding the following new
8 subparagraph:

9 NEW SUBPARAGRAPH. (18) To the department of inspections
10 and appeals for purposes of conducting record checks and
11 evaluations of persons who are applicants for licensure,
12 registration, certification, or accreditation by the
13 department, of individuals who are employed by or are applying
14 for employment with such persons, and of other individuals who
15 are subject to regulation by the department.

16 Sec. 23. Section 235B.6, subsection 2, paragraph e, Code
17 Supplement 2001, is amended by adding the following new
18 subparagraph:

19 NEW SUBPARAGRAPH. (10) The department of inspections and
20 appeals for purposes of conducting record checks and
21 evaluations of persons who are applicants for licensure,
22 registration, certification, or accreditation by the
23 department, of individuals who are employed by or are applying
24 for employment with such persons, and of other individuals who
25 are subject to regulation by the department.

26 Sec. 24. Section 237.8, subsection 2, Code 2001, is
27 amended to read as follows:

28 2. a. (1) If a person is being considered for licensure
29 under this chapter, or for employment involving direct
30 responsibility for a child or with access to a child when the
31 child is alone, by a licensee under this chapter, or if a
32 person will reside in a facility utilized by a licensee, and
33 if the person has been convicted of a crime or has a record of
34 founded child abuse, the department licensing authority and
35 the licensee for an employee of the licensee shall perform an

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1 evaluation to determine whether the crime or founded child
2 abuse warrants prohibition of licensure, employment, or
3 residence in the facility. The department licensing authority
4 shall conduct criminal and child abuse record checks in this
5 state and may conduct these checks in other states. The
6 evaluation shall be performed in accordance with procedures
7 adopted for this purpose by the department licensing
8 authority.

9 (2) An individual applying to be a foster parent licensee
10 shall not be granted a license and an evaluation shall not be
11 performed under this subsection if the individual has been
12 convicted of any of the following felony offenses:

13 (a) Within the five-year period preceding the application
14 date, a drug-related offense.

15 (b) Child endangerment or neglect or abandonment of a
16 dependent person.

17 (c) Domestic abuse.

18 (d) A crime against a child, including but not limited to
19 sexual exploitation of a minor.

20 (e) A forcible felony.

21 b. Except as otherwise provided in paragraph "a", if the
22 ~~department-determines~~ it is determined that a person has
23 committed a crime or has a record of founded child abuse and
24 is licensed, employed by a licensee, or resides in a licensed
25 facility the department licensing authority shall notify the
26 licensee that an evaluation will be conducted to determine
27 whether prohibition of the person's licensure, employment, or
28 residence is warranted.

29 c. In an evaluation, the department licensing authority
30 and the licensee for an employee of the licensee shall
31 consider the nature and seriousness of the crime or founded
32 child abuse in relation to the position sought or held, the
33 time elapsed since the commission of the crime or founded
34 child abuse, the circumstances under which the crime or
35 founded child abuse was committed, the degree of

1 rehabilitation, the likelihood that the person will commit the
2 crime or founded child abuse again, and the number of crimes
3 or acts of founded child abuses abuse committed by the person
4 involved. The department licensing authority may permit a
5 person who is evaluated to be licensed, employed, or to
6 reside, or to continue to be licensed, employed, or to reside
7 in a licensed facility, if the person complies with the
8 department's licensing authority's conditions relating to the
9 person's licensure, employment, or residence, which may
10 include completion of additional training. For an employee of
11 a licensee, these conditional requirements shall be developed
12 with the licensee. The department licensing authority has
13 final authority in determining whether prohibition of the
14 person's licensure, employment, or residence is warranted and
15 in developing any conditional requirements under this
16 paragraph.

17 d. If the department licensing authority determines that
18 the person has committed a crime or has a record of founded
19 child abuse which warrants prohibition of licensure,
20 employment, or residence, the person shall not be licensed
21 under this chapter and shall not be employed by a licensee or
22 reside in a licensed facility.

23 Sec. 25. Section 237A.5, subsection 2, Code 2001, is
24 amended to read as follows:

25 2. a. If a person is being considered for licensure or
26 registration under this chapter, or for employment involving
27 direct responsibility for a child or with access to a child
28 when the child is alone, by a child care facility subject to
29 licensure or registration under this chapter, or if a person
30 will reside in a facility, and if the person has been
31 convicted of a crime or has a record of founded child abuse,
32 the department of inspections and appeals shall perform an
33 evaluation to determine whether the crime or founded child
34 abuse warrants prohibition of licensure, registration,
35 employment, or residence in the facility. The department of of

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1 inspections and appeals shall conduct criminal and child abuse
2 record checks in this state and may conduct these checks in
3 other states. The evaluation shall be performed in accordance
4 with procedures adopted for this purpose by the department of
5 inspections and appeals.

6 b. If ~~the department determines~~ it is determined that a
7 person has committed a crime or has a record of founded child
8 abuse and is licensed, employed by a licensee or registrant or
9 registered under this chapter, or resides in a licensed or
10 registered facility the department of inspections and appeals
11 shall notify the licensee or registrant that an evaluation
12 will be conducted to determine whether prohibition of the
13 person's licensure, registration, employment, or residence is
14 warranted.

15 c. In an evaluation, the department of inspections and
16 appeals shall consider the nature and seriousness of the crime
17 or founded child abuse in relation to the position sought or
18 held, the time elapsed since the commission of the crime or
19 founded child abuse, the circumstances under which the crime
20 or founded child abuse was committed, the degree of
21 rehabilitation, the likelihood that the person will commit the
22 crime or founded child abuse again, and the number of crimes
23 or acts of founded child ~~abuses~~ abuse committed by the person
24 involved. The department of inspections and appeals may
25 permit a person who is evaluated to be licensed, registered,
26 employed, or to reside, or to continue to be licensed,
27 registered, employed, or to reside in a licensed facility, if
28 the person complies with the ~~department's~~ department of
29 inspections and appeals' conditions relating to the person's
30 licensure, registration, employment, or residence, which may
31 include completion of additional training. The department of
32 inspections and appeals has final authority in determining
33 whether prohibition of the person's licensure, registration,
34 employment, or residence is warranted and in developing any
35 conditional requirements under this paragraph.

1 d. If the department of inspections and appeals determines
2 that the person has committed a crime or has a record of
3 founded child abuse which warrants prohibition of licensure,
4 registration, employment, or residence, the person shall not
5 be licensed or registered under this chapter to operate a
6 child care facility and shall not be employed by a licensee or
7 registrant or reside in a facility licensed or registered
8 under this chapter.

9 e. If it has been determined that a child receiving child
10 care from a child care facility is the victim of founded child
11 abuse committed by an employee, license or registration
12 holder, or resident of the child care facility for which a
13 report is placed in the central registry pursuant to section
14 232.71D, the ~~administrator~~ department of inspections and
15 appeals shall provide notification at the time of the
16 determination to the parents, guardians, and custodians of
17 children receiving care from the facility. A notification
18 made under this paragraph shall identify the type of abuse but
19 shall not identify the victim or perpetrator or circumstances
20 of the founded abuse.

21 Sec. 26. Section 237A.5, subsection 3, Code 2001, is
22 amended to read as follows:

23 3. In addition to the record checks required under
24 subsection 2, the department of human-services inspections and
25 appeals may conduct dependent adult abuse record checks in
26 this state and may conduct these checks in other states, on a
27 random basis. The provisions of subsection 2, relative to an
28 evaluation following a determination that a person has been
29 convicted of a crime or has a record of founded child abuse,
30 shall also apply to a random dependent adult abuse record
31 check conducted under this subsection.

32 Sec. 27. Section 249A.29, subsections 2, 3, 4, and 5, Code
33 2001, are amended to read as follows:

34 2. If a person is being considered by a provider for
35 employment involving direct responsibility for a consumer or

1 with access to a consumer when the consumer is alone, and if
2 the person has been convicted of a crime or has a record of
3 founded child or dependent adult abuse, the department of
4 inspections and appeals shall perform an evaluation to
5 determine whether the crime or founded abuse warrants
6 prohibition of employment by the provider. The department of
7 inspections and appeals shall conduct criminal and child and
8 dependent adult abuse ~~records~~ record checks of the person in
9 this state and may conduct these checks in other states. The
10 ~~records~~ record checks and evaluations required by this section
11 shall be performed in accordance with procedures adopted for
12 this purpose by the department of inspections and appeals.

13 3. If ~~the department determines~~ it is determined that a
14 person employed by a provider has committed a crime or has a
15 record of founded abuse, the department of inspections and
16 appeals shall perform an evaluation to determine whether
17 prohibition of the person's employment is warranted.

18 4. In an evaluation, the department of inspections and
19 appeals shall consider the nature and seriousness of the crime
20 or founded abuse in relation to the position sought or held,
21 the time elapsed since the commission of the crime or founded
22 abuse, the circumstances under which the crime or founded
23 abuse was committed, the degree of rehabilitation, the
24 likelihood that the person will commit the crime or founded
25 abuse again, and the number of crimes or acts of founded
26 ~~abuses~~ abuse committed by the person involved. The department
27 of inspections and appeals may permit a person who is
28 evaluated to be employed or to continue to be employed by the
29 provider if the person complies with the ~~department's~~
30 department of inspections and appeals' conditions relating to
31 the employment, which may include completion of additional
32 training.

33 5. If the department of inspections and appeals determines
34 that the person has committed a crime or has a record of
35 founded abuse which warrants prohibition of employment, the

1 person shall not be employed by a provider.

2 DIVISION III

3 DEPARTMENT OF INSPECTIONS AND APPEALS -- MENTAL HEALTH
4 AND DEVELOPMENTAL DISABILITY SERVICES

5 Sec. 28. Section 225C.4, subsection 1, paragraph o, Code
6 2001, is amended to read as follows:

7 o. Recommend to the commission minimum accreditation
8 standards for the maintenance and operation of community
9 mental health centers, services, and programs under section
10 230A.16. ~~The administrator's review and evaluation of the~~
11 ~~centers, services, and programs for compliance with the~~
12 ~~adopted standards shall be as provided in section 230A.17.~~

13 Sec. 29. Section 225C.4, subsection 1, paragraph p, Code
14 2001, is amended to read as follows:

15 p. Recommend to the commission minimum standards for
16 supported community living services. The administrator
17 department of inspections and appeals shall review and
18 evaluate the services for compliance with the adopted
19 standards.

20 Sec. 30. Section 225C.6, subsection 1, paragraph c, Code
21 Supplement 2001, is amended to read as follows:

22 c. Adopt standards for community mental health centers,
23 services, and programs as recommended under section 230A.16.
24 The commission department of inspections and appeals shall
25 conduct accreditation reviews of the centers, services, and
26 programs and shall determine whether to grant, deny, or revoke
27 the accreditation of the centers, services, and programs.

28 Sec. 31. Section 225C.6, subsection 1, paragraph f, Code
29 Supplement 2001, is amended to read as follows:

30 f. Assure that proper appeal procedures are available to
31 persons aggrieved by decisions, actions, or circumstances
32 relating to accreditation by the department of inspections and
33 appeals.

34 Sec. 32. Section 225C.6, subsection 1, paragraph 1, Code
35 Supplement 2001, is amended to read as follows:

1 1. Establish standards for the provision under medical
2 assistance of individual case management services. The
3 commission department of inspections and appeals shall
4 determine whether to grant, deny, or revoke the accreditation
5 of the services.

6 Sec. 33. Section 225C.21, subsection 2, Code 2001, is
7 amended to read as follows:

8 2. The commission shall adopt rules pursuant to chapter
9 17A establishing minimum standards for supported community
10 living services. The commission department of inspections and
11 appeals shall determine whether to grant, deny, or revoke
12 approval for any supported community living service.

13 Sec. 34. Section 230A.17, Code 2001, is amended to read as
14 follows:

15 230A.17 REVIEW AND EVALUATION.

16 ~~The administrator-of-the-division-of-mental-health-and~~
17 ~~developmental-disabilities-of-the~~ department of human-services
18 inspections and appeals may review and evaluate any community
19 mental health center upon the recommendation of the mental
20 health and developmental disabilities commission, and shall do
21 so upon the written request of the center's board of
22 directors, its chief medical or administrative officer, or the
23 board of supervisors of any county from which the center
24 receives public funds. The cost of the review shall be paid
25 by the division department of inspections and appeals. The
26 department of inspections and appeals shall report the results
27 of a review and evaluation to the mental health and
28 developmental disabilities commission.

29 Sec. 35. Section 422.45, subsection 22, paragraph d, Code
30 Supplement 2001, is amended to read as follows:

31 d. Community mental health centers accredited by the
32 department of human-services inspections and appeals pursuant
33 to chapter-225E section 225C.6.

34 DIVISION IV
35 DEPARTMENT OF INSPECTIONS AND APPEALS -- JUVENILE DETENTION

1 AND SHELTER CARE HOMES

2 Sec. 36. Section 232.142, subsections 4 and 5, Code
3 Supplement 2001, are amended to read as follows:

4 4. The director department of human services shall adopt
5 minimal rules and standards for the establishment,
6 maintenance, and operation of such juvenile detention and
7 shelter care homes as shall be necessary to effect the
8 purposes of this chapter. The rules shall apply the
9 requirements of section 237.8, concerning employment and
10 evaluation of persons with direct responsibility for a child
11 or with access to a child when the child is alone and persons
12 residing in a licensed child foster care facility, to persons
13 employed by or residing in a home approved under this section.
14 The director department of human services shall, upon request,
15 give guidance and consultation in the establishment and
16 administration of the homes and programs for the homes.

17 5. The director department of inspections and appeals
18 shall approve annually all such homes established and
19 maintained under ~~the provisions of~~ this chapter section. A
20 home shall not be approved unless it complies with minimal
21 rules and standards adopted by the director department of
22 human services and has been inspected by the department of
23 inspections and appeals.

24 Sec. 37. Section 331.382, subsection 6, Code 2001, is
25 amended to read as follows:

26 6. The power to operate juvenile detention and shelter
27 care homes is subject to approval of the homes by the director
28 ~~of the department of human services or the director's designee~~
29 inspections and appeals, as provided in section 232.142.

30 DIVISION V

31 DEPARTMENT OF INSPECTIONS AND APPEALS -- GROUP FOSTER CARE

32 Sec. 38. Section 235.3, subsection 3, Code 2001, is
33 amended to read as follows:

34 3. Adopt rules as necessary or advisable for the
35 supervision of the private child-caring agencies or their

1 officers which the ~~administrator-is-empowered-to-license-and~~
2 ~~supervise~~ department of inspections and appeals registers or
3 licenses under chapters 237, 237A, and 238.

4 Sec. 39. Section 235.3, subsections 5 and 8, Code 2001,
5 are amended by striking the subsections.

6 Sec. 40. Section 235.4, Code 2001, is amended to read as
7 follows:

8 235.4 LICENSES.

9 ~~Licenses~~ A license issued to private boarding homes for
10 children and private child-placing agencies ~~by-the~~
11 ~~administrator~~ shall remain in effect for the period for which
12 the license was issued, unless sooner revoked according to
13 ~~law. Thereafter-each-of-such-agencies-shall~~ Following
14 expiration or revocation of a license, a private boarding home
15 for children or private child-placing agency may apply to-the
16 ~~administrator~~ for a new license, and shall ~~submit-to-such~~
17 comply with applicable rules regarding-licensing-as-the
18 ~~administrator-prescribes.~~

19 Sec. 41. Section 237.1, subsection 1, Code 2001, is
20 amended by striking the subsection.

21 Sec. 42. Section 237.1, subsection 8, Code 2001, is
22 amended to read as follows:

23 8. "Licensee" means an individual or an agency licensed by
24 ~~the-administrator~~ under this chapter.

25 Sec. 43. Section 237.1, Code 2001, is amended by adding
26 the following new subsection:

27 NEW SUBSECTION. 9. "Licensing authority" means one of the
28 following:

29 a. For an individual subject to licensing under this
30 chapter, the department of human services.

31 b. For an agency subject to licensing under this chapter,
32 the department of inspections and appeals.

33 Sec. 44. Section 237.3, subsection 1, Code Supplement
34 2001, is amended to read as follows:

35 1. Except as otherwise provided by subsections 3 and 4,

1 ~~the administrator shall promulgate, after their adoption by~~
2 ~~the council on human services, and enforce in accordance with~~
3 ~~chapter 17A, department shall adopt~~ administrative rules
4 necessary to implement this chapter. Formulation of the rules
5 shall include consultation with representatives of child
6 foster care providers, and other persons affected by this
7 chapter. The rules shall encourage the provision of child
8 foster care in a single-family, home environment, exempting
9 the single-family, home facility from inappropriate rules.
10 The appropriate licensing authority shall enforce the rules.

11 Sec. 45. Section 237.3, subsection 2, paragraph i, Code
12 Supplement 2001, is amended to read as follows:

13 i. Records a licensee is required to keep, and reports a
14 licensee is required to make to the administrator licensing
15 authority.

16 Sec. 46. Section 237.3, subsections 3 and 4, Code
17 Supplement 2001, are amended to read as follows:

18 3. Rules governing fire safety in facilities with child
19 foster care provided by agencies shall be promulgated by the
20 state fire marshal pursuant to section 100.1, subsection 5
21 after consultation with the administrator department.

22 4. Rules governing sanitation, water, and waste disposal
23 standards for facilities shall be promulgated adopted by the
24 Iowa department of public health pursuant to section 135.11,
25 subsection 13, after consultation with the administrator
26 department.

27 Sec. 47. Section 237.4, unnumbered paragraph 1, Code 2001,
28 is amended to read as follows:

29 For agencies subject to licensing under this chapter, the
30 department of inspections and appeals shall issue license
31 applications, conduct license inspections and unannounced
32 visits, respond to license complaints, maintain licensing
33 records, and issue licensing reports, decisions, and licenses.
34 For individuals subject to licensing under this chapter, the
35 department of human services shall perform those licensing

1 functions. An individual or an agency, ~~as defined in section~~
2 ~~237.17~~, shall not provide child foster care unless the
3 individual or agency obtains a license issued by ~~the~~
4 ~~administrator~~ under this chapter by the appropriate licensing
5 authority. However, a license is not required of the
6 following:

7 Sec. 48. Section 237.5, Code 2001, is amended to read as
8 follows:

9 237.5 LICENSE APPLICATION AND ISSUANCE -- DENIAL,
10 SUSPENSION, OR REVOCATION -- PROVISIONAL LICENSES.

11 1. An individual or an agency shall apply for a license by
12 completing an application to the ~~administrator~~ appropriate
13 licensing authority upon forms furnished by the ~~administrator~~
14 licensing authority. The ~~administrator~~ licensing authority
15 shall issue or reissue a license if the ~~administrator~~
16 licensing authority determines that the applicant or licensee
17 is or upon commencing operation will provide child foster care
18 in compliance with this chapter. A license is valid for one
19 year from the date of issuance. The license shall state on
20 its face the name of the licensee, the type of facility, the
21 particular premises for which the license is issued, and the
22 number of children who may be cared for by the facility on the
23 premises at one time. The license shall be posted in a
24 conspicuous place in the ~~physical plant of the~~ facility,
25 except that if the facility is in a single-family home the
26 license may be kept where it is readily available for
27 examination upon request.

28 2. The ~~administrator~~ licensing authority, after notice and
29 opportunity for an evidentiary hearing, may deny an
30 application for a license, and may suspend or revoke a
31 license, if the applicant or licensee violates this chapter or
32 the rules ~~promulgated~~ adopted pursuant to this chapter, or
33 knowingly makes a false statement concerning a material fact
34 or conceals a material fact on the license application or in a
35 report regarding operation of the facility submitted to the

1 administrator licensing authority.

2 3. The administrator licensing authority may issue a
3 provisional license for not more than one year to a licensee
4 whose facility does not meet the requirements of this chapter,
5 if written plans to bring the facility into compliance with
6 the applicable requirements are submitted to and approved by
7 the administrator licensing authority. The plans shall state
8 a specific time when compliance will be achieved. Only one
9 provisional license shall be issued for a facility by reason
10 of the same deficiency.

11 Sec. 49. Section 237.6, Code 2001, is amended to read as
12 follows:

13 237.6 RESTRICTED USE OF FACILITY.

14 A licensee shall not furnish child foster care in a
15 building or on premises not designated in the license. A
16 licensee shall not furnish child foster care to a greater
17 number of children than is designated in the license, unless
18 ~~the-administrator-so-authorizes~~ authorized to do so by the
19 licensing authority. Multiple licenses authorizing separate
20 and distinct parts of a facility to provide different
21 categories of child foster care may be issued.

22 Sec. 50. Section 237.7, Code 2001, is amended to read as
23 follows:

24 237.7 REPORTS AND INSPECTIONS.

25 The administrator licensing authority may require
26 submission of reports by a licensee, and shall cause at least
27 one annual unannounced inspection of each facility to assess
28 the quality of the living situation and to determine
29 compliance with applicable requirements and standards. The
30 inspections shall be conducted by the ~~department-of~~
31 ~~inspections-and-appeals~~ appropriate licensing authority. The
32 ~~director-of-the-department-of-inspections-and-appeals~~
33 licensing authority may examine records of a licensee,
34 including but not limited to corporate records and board
35 minutes, and may inquire into matters concerning a licensee

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1 and its employees relating to requirements and standards for
2 child foster care under this chapter.

3 Sec. 51. Section 422.45, subsection 22, paragraph b, Code
4 Supplement 2001, is amended to read as follows:

5 b. Residential child foster care facilities licensed by
6 ~~the-department-of-human-services~~ pursuant to chapter 237,
7 other than those maintained by individuals as defined in
8 section 237.1, subsection 7.

9 DIVISION VI

10 DEPARTMENT OF INSPECTION AND APPEALS -- CHILD CARE

11 Sec. 52. Section 237A.1, subsection 1, Code Supplement
12 2001, is amended by striking the subsection.

13 Sec. 53. Section 237A.1, subsection 12, Code Supplement
14 2001, is amended to read as follows:

15 12. "Licensed center" means a center issued a full or
16 provisional license by the department of inspections and
17 appeals under the provisions of this chapter or a center for
18 which a license is being processed.

19 Sec. 54. Section 237A.2, Code 2001, is amended to read as
20 follows:

21 237A.2 LICENSING OF CHILD CARE CENTERS.

22 1. A person shall not establish or operate a child care
23 center without obtaining a license through the department of
24 inspections and appeals under ~~the-provisions-of~~ this chapter.
25 A center may operate for a specified period of time, to be
26 established by rule of the department, if application for a
27 license has been made. If the department of inspections and
28 appeals denies an application for an initial license,
29 notwithstanding section 17A.8, the applicant center shall not
30 continue to provide child care pending the outcome of an
31 evidentiary hearing. The department of inspections and
32 appeals shall issue a license if it determines that all of the
33 following conditions have been met:

34 a. An application for a license or a renewal has been
35 filed with the ~~administrator~~ department of inspections and

1 appeals on forms provided by the department of inspections and
2 appeals.

3 b. The center is maintained to comply with state health
4 and fire laws.

5 c. The center is maintained to comply with rules adopted
6 under section 237A.12.

7 2. A person denied a license under ~~the-provisions-of~~ this
8 section shall receive written notice of the denial stating the
9 reasons for denial and shall be provided with an opportunity
10 for an evidentiary hearing. Licenses granted under this
11 chapter shall be valid for one year from the date of issuance
12 unless revoked or suspended in accordance with ~~the-provisions~~
13 ~~of~~ section 237A.8 or reduced to a provisional license under
14 subsection 3. A record of the license shall be kept by the
15 department of inspections and appeals. The license shall be
16 posted in a conspicuous place in the center and shall state
17 the particular premises in which child care may be offered and
18 the number of individuals who may be received for care at any
19 one time. A greater number of children than is authorized by
20 the license shall not be kept in the center at any one time.

21 3. The ~~administrator~~ department of inspections and appeals
22 may reduce a previously issued license to a provisional
23 license or issue a provisional license for a period of time
24 not to exceed one year if the center does not meet standards
25 required under this section. A provisional license shall not
26 be renewable in regard to the same standards for more than two
27 consecutive years. A provisional license shall be posted in a
28 conspicuous place in the center as provided in this section.
29 If written plans to bring the center up to standards, giving
30 specific dates for completion of work, are submitted to and
31 approved by the department of inspections and appeals, the
32 provisional license shall be renewable as provided in this
33 subsection.

34 4. A program which is not a child care center by reason of
35 the exceptions to the definition of child care in section

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1 237A.1, subsection 3, but which provides care, supervision,
2 and guidance to a child may be issued a license if the program
3 complies with all the provisions of this chapter.

4 5. If the department of inspections and appeals has denied
5 or revoked a license because the applicant or person has
6 continually or repeatedly failed to operate a licensed center
7 in compliance with this chapter and rules adopted pursuant to
8 this chapter, the person shall not own or operate a child care
9 center for a period of six months from the date the license is
10 denied or revoked. The department of inspections and appeals
11 shall not act on an application for a license submitted by the
12 applicant or person during the six-month period.

13 Sec. 55. Section 237A.3, subsection 1, paragraph a, Code
14 Supplement 2001, is amended to read as follows:

15 a. A person who operates or establishes a family child
16 care home may apply to the department of inspections and
17 appeals for registration under this chapter. The department
18 of inspections and appeals shall issue a certificate of
19 registration upon receipt of a statement from the family child
20 care home that the home complies with rules adopted by the
21 department of human services. The registration certificate
22 shall be posted in a conspicuous place in the family child
23 care home, shall state the name of the registrant, the number
24 of individuals who may be received for care at any one time,
25 and the address of the home, and shall include a check list of
26 registration compliances.

27 Sec. 56. Section 237A.3, subsection 2, paragraph a, Code
28 Supplement 2001, is amended to read as follows:

29 a. A person shall not operate or establish a group child
30 care home unless the person obtains a certificate of
31 registration under this chapter. Two persons who comply with
32 the individual requirements for registration as a group child
33 care provider may request that the certificate be issued to
34 the two persons jointly and the department of inspections and
35 appeals shall issue the joint certificate provided the group

1 child care home requirements for registration are met. All
2 other requirements of this chapter for registered family child
3 care homes and the rules adopted under this chapter for
4 registered family child care homes apply to group child care
5 homes. In addition, the department of human services shall
6 adopt rules relating to the provision in group child care
7 homes for a separate area for sick children. In consultation
8 with the state fire marshal, the department of human services
9 shall adopt rules relating to the provision of fire
10 extinguishers, smoke detectors, and two exits accessible to
11 children.

12 Sec. 57. Section 237A.3, subsections 4 and 5, Code
13 Supplement 2001, are amended to read as follows:

14 4. A person who operates or establishes a child care home
15 and who ~~is-a~~ holds a child foster care ~~licensee~~ license under
16 chapter 237 shall register with the department of inspections
17 and appeals under this chapter. For purposes of registration
18 and determination of the maximum number of children who can be
19 provided child care by the child care home, the children
20 receiving child foster care shall be considered the children
21 of the person operating the child care home.

22 5. If the department of inspections and appeals has denied
23 or revoked a registration because the applicant or person has
24 continually or repeatedly failed to operate a registered child
25 care facility in compliance with this chapter and rules
26 adopted pursuant to this chapter, the person shall not own or
27 operate a registered facility for a period of six months from
28 the date the registration is denied or revoked. The
29 department of inspections and appeals shall not act on an
30 application for registration submitted by the applicant or
31 person during the six-month period.

32 Sec. 58. Section 237A.3A, subsections 5 and 6, Code
33 Supplement 2001, are amended to read as follows:

34 5. REGISTRATION CERTIFICATE. The department of
35 inspections and appeals shall issue a certificate of

1 registration upon receipt of a statement from the child care
 2 home or an inspection verifying that the child care home
 3 complies with rules adopted by the department of human
 4 services. The certificate of registration shall be posted in
 5 a conspicuous place in the child care home and shall state the
 6 name of the registrant, the registration level of the child
 7 care home, the number of children who may be present for care
 8 at any one time, and the address of the child care home. In
 9 addition, the certificate shall include a check list of
 10 registration compliances.

11 6. REVOCATION OR DENIAL OF REGISTRATION. If the
 12 department of inspections and appeals has denied or revoked a
 13 certificate of registration because a person has continually
 14 or repeatedly failed to operate a registered or licensed child
 15 care facility in compliance with this chapter and rules
 16 adopted pursuant to this chapter, the person shall not operate
 17 or establish a registered child care home for a period of six
 18 months from the date the registration or license is denied or
 19 revoked. The department of inspections and appeals shall not
 20 act on an application for registration submitted by the person
 21 during the six-month period.

22 Sec. 59. Section 237A.4, Code 2001, is amended to read as
 23 follows:

24 237A.4 INSPECTION AND EVALUATION.

25 The department of inspections and appeals shall make
 26 periodic inspections of licensed centers to ensure compliance
 27 with licensing requirements provided in this chapter, and the
 28 local boards of health may make periodic inspections of
 29 licensed centers to ensure compliance with health-related
 30 licensing requirements provided in this chapter. The
 31 ~~administrator~~ department of inspections and appeals and the
 32 department of human services may inspect records maintained by
 33 a licensed center and may inquire into matters concerning
 34 these centers and the persons in charge. The ~~administrator~~
 35 department of inspections and appeals shall require that the

1 center be inspected by the state fire marshal or a designee
2 for compliance with rules relating to fire safety before a
3 license is granted or renewed. The ~~administrator~~ department
4 of inspections and appeals or a designee may periodically
5 visit registered child care homes for the purpose of
6 evaluation of an inquiry into matters concerning compliance
7 with rules adopted under section 237A.12. ~~Evaluation-of-child~~
8 ~~care-homes-under-this-section-may-include-consultative~~
9 ~~services-provided-pursuant-to-section-237A-6-~~

10 Sec. 60. Section 237A.6, Code 2001, is amended to read as
11 follows:

12 237A.6 CONSULTATIVE SERVICES.

13 The department ~~shall~~, of human services and the director
14 Iowa department of public health may provide consultative
15 services to a person applying for a license or registration,
16 or licensed or registered ~~by-the-administrator~~ under this
17 chapter.

18 Sec. 61. Section 237A.8, Code 2001, is amended to read as
19 follows:

20 237A.8 VIOLATIONS -- ACTIONS AGAINST LICENSE OR
21 REGISTRATION.

22 ~~The-administrator,~~ After notice and opportunity for
23 an evidentiary hearing, ~~before~~ the department of inspections
24 and appeals, may suspend or revoke a license or certificate of
25 registration issued under this chapter or may reduce a license
26 to a provisional license if the person to whom a license or
27 certificate is issued violates a provision of this chapter or
28 if the person makes false reports regarding the operation of
29 the child care facility to the ~~administrator-or-a-designee-of~~
30 ~~the-administrator~~ department of inspections and appeals. The
31 ~~administrator~~ department of inspections and appeals shall
32 notify the parent, guardian, or legal custodian of each child
33 for whom the person provides child care at the time of action
34 to suspend or revoke a license or certificate of registration.

35 Sec. 62. Section 237A.12, subsection 1, unnumbered

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

2 Subject to the provisions of chapter 17A, the administrator
3 department shall adopt rules setting minimum standards to
4 provide quality child care in the operation and maintenance of
5 child care centers and registered child care homes, relating
6 to all of the following:

7 Sec. 63. Section 237A.12, subsection 1, paragraph c, Code
8 2001, is amended to read as follows:

9 c. The adequacy of activity programs and food services
10 available to the children. The administrator department of
11 human services and the department of inspections and appeals
12 shall not restrict the use of or apply nutritional standards
13 to a lunch or other meal which is brought to the center or
14 child care home by a school-age child for the child's
15 consumption.

16 Sec. 64. Section 237A.12, subsection 4, Code 2001, is
17 amended to read as follows:

18 4. If a building is owned or leased by a school district
19 or accredited nonpublic school and complies with standards
20 adopted by the state fire marshal for school buildings under
21 chapter 100, the building is considered appropriate for use by
22 a child care facility. The rules adopted by the administrator
23 department under this section shall not require the facility
24 to comply with building requirements which differ from
25 requirements for use of the building as a school.

26 Sec. 65. Section 237A.19, Code 2001, is amended to read as
27 follows:

28 237A.19 PENALTY.

29 A person who establishes, conducts, manages, or operates a
30 center without a license shall be guilty of a serious
31 misdemeanor. Each day of continuing violation after
32 conviction, or notice from the department of inspections and
33 appeals by certified mail of the violation, shall be
34 considered a separate offense.

35 If registration is required under section 237A.3, a person

1 who establishes, conducts, manages, or operates a child care
2 home without registering or a person who operates a child care
3 home contrary to section 237A.5, is guilty of a simple
4 misdemeanor. Each day of continuing violation after
5 conviction, or notice from the department of inspections and
6 appeals by certified mail of the violation, is a separate
7 offense. A single charge alleging continuing violation may be
8 made in lieu of filing charges for each day of violation.

9

DIVISION VII

10

DEPARTMENT OF INSPECTIONS AND APPEALS --

11

CHILD-PLACING AGENCIES

12

Sec. 66. Section 238.1, Code 2001, is amended to read as

13

follows:

14

238.1 DEFINITIONS.

15

~~1: For the-purpose purposes~~ of this chapter the-word

16

~~"administrator"-means-administrator-of-the-division-of-child~~

17

~~and-family-services-of-the-department-of-human-services-~~

18

~~2:--The-word,~~ unless the context otherwise requires,

19

"person" or "agency" where used in this chapter ~~shall-include~~

20

includes individuals, institutions, partnerships, voluntary

21

associations, and corporations, other than institutions under

22

the management or control of any division of the department of

23

human services or any administrator thereof of an institution

24

or division.

25

Sec. 67. Section 238.3, Code 2001, is amended to read as

26

follows:

27

238.3 POWER TO LICENSE.

28

The ~~administrator-is-hereby-empowered-to~~ department of

29

inspections and appeals may grant a license for one year for

30

the ~~conduct~~ operation of any child-placing agency that is for

31

the public good, and is conducted by a reputable and

32

responsible person.

33

Sec. 68. Section 238.5, Code 2001, is amended to read as

34

follows:

35

238.5 LICENSE REQUIRED.

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1 No A person shall ~~conduct~~ not operate a child-placing
2 agency or solicit or receive funds for its support without an
3 unrevoked a valid license issued by the administrator
4 department of inspections and appeals within the twelve months
5 preceding to ~~conduct-such~~ operate the agency.

6 Sec. 69. Section 238.8, Code 2001, is amended to read as
7 follows:

8 238.8 RECORD OF LICENSE.

9 A record of ~~the-licenses-so~~ a license issued under this
10 chapter shall be kept by the administrator department of
11 inspections and appeals.

12 Sec. 70. Section 238.10, Code 2001, is amended to read as
13 follows:

14 238.10 REVOCATION OF LICENSE.

15 The administrator department of inspections and appeals
16 may, after due notice and hearing, revoke the license of a
17 child-placing agency under any of the following circumstances:

18 1. ~~In-case-the~~ The person to whom the same license is
19 issued violates any provision of this chapter.

20 2. When in the opinion of the administrator-~~such~~
21 department of inspections and appeals, the agency is
22 maintained in such a way as to waste or misuse funds
23 contributed by the public or without due regard to sanitation
24 or hygiene or to the health, comfort, or well-being of the
25 child cared for or placed by the agency.

26 3. ~~In-case-of-violation-by-the~~ The licensee or the
27 licensee's agents ~~of-any~~ has violated a law of the state in a
28 manner disclosing moral turpitude or unfitness to maintain
29 such the agency.

30 4. ~~In-case-any-such~~ The agency is conducted operated by a
31 person of ill repute or bad moral character.

32 5. ~~In-case-said~~ The agency ~~operates-in-persistent~~
33 ~~violation-of-the-reasonable-regulations-of-the-administrator~~
34 governing-such-agencies persistently violates the rules
35 applicable to the agency.

1 Sec. 71. Section 238.11, Code 2001, is amended to read as
2 follows:

3 238.11 WRITTEN CHARGES -- FINDINGS -- NOTICE.

4 Written charges against the a licensee shall be served upon
5 the licensee at least ten days ~~before~~ prior to a hearing shall
6 ~~be had thereon~~ on the charges and a written copy of the
7 findings and decisions of the ~~administrator~~ department of
8 inspections and appeals upon hearing shall be served upon the
9 licensee in the manner prescribed for the service of original
10 notice in civil actions.

11 Sec. 72. Section 238.12, Code 2001, is amended to read as
12 follows:

13 238.12 APPEAL -- JUDICIAL REVIEW.

14 1. Any A licensee feeling aggrieved by any a decision of
15 the ~~administrator~~ department of inspections and appeals
16 revoking the licensee's license may appeal to the council on
17 human services in the manner ~~of-form~~ prescribed by such the
18 council. The council shall, upon receipt of such an appeal
19 give the licensee reasonable notice and opportunity for a fair
20 hearing before such the council or ~~its-duty~~ the council's
21 authorized representative ~~or-representatives~~. Following such
22 the hearing the council on human services shall take its final
23 action and notify the licensee in writing.

24 2. Judicial review of the actions of the council may be
25 sought in accordance with ~~the-terms-of-the-Iowa-administrative~~
26 ~~procedure-Act~~ chapter 17A.

27 Sec. 73. Section 238.16, Code 2001, is amended to read as
28 follows:

29 238.16 RULES AND REGULATIONS -- LICENSING.

30 1. ~~It shall be the duty of the administrator to provide~~
31 ~~such general regulations and~~ The department of human services
32 shall adopt rules for establishing licensing standards for
33 child-placing agencies. The rules shall address the conduct
34 operation of all such agencies as ~~shall be~~ necessary to effect
35 the purposes of this chapter and of all other laws of the

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1 state relating to children, so-far as the-same-are applicable,
2 and to safeguard the well-being of children placed or cared
3 for by such the agencies.

4 2. The department of inspections and appeals shall issue
5 licensing applications; conduct licensing inspections and
6 unannounced visits; respond to licensing complaints; maintain
7 licensing records; conduct criminal record checks for
8 employees of licensed agencies prior to employment and
9 evaluate those employees with criminal records or records of
10 founded abuse in accordance with the provisions of section
11 237.8 applicable to an agency providing group foster care to
12 determine if prohibition of employment is warranted; and issue
13 licensing reports, decision, and licenses.

14 Sec. 74. Section 238.17, Code 2001, is amended to read as
15 follows:

16 238.17 FORMS FOR REGISTRATION AND RECORD -- PRESERVATION.

17 1. The administrator department of human services shall
18 prescribe forms for the registration and record of persons
19 cared for by any a child-placing agency licensed under this
20 chapter and for reports required by-said-administrator-from
21 the-agencies from a child-placing agency.

22 2. If, for any reason, a child-placing agency as-defined
23 by-section-238-2-shall-cease ceases to exist, all records of
24 registration and placement and all other records of any kind
25 and character kept by such the child-placing agency shall be
26 turned over to the administrator department of inspections and
27 appeals, for preservation, to be kept by-the-said
28 administrator as a permanent record by the department.

29 Sec. 75. Section 238.18, Code 2001, is amended to read as
30 follows:

31 238.18 DUTY OF LICENSEE.

32 The licensee shall keep a-record records and make reports
33 in the form to-be prescribed by said-administrator rules
34 adopted by the department of human services.

35 Sec. 76. Section 238.19, Code 2001, is amended to read as

1 follows:

2 238.19 INSPECTION GENERALLY.

3 Authorized employees of the department of inspections and
4 appeals may inspect the premises and conditions of the a
5 child-placing agency at any time and examine every part of the
6 agency~~;~~and. Authorized employees of the department of
7 inspections and appeals may inquire into all matters
8 concerning the a child-placing agency and the children in the
9 care of the agency.

10 Sec. 77. Section 238.24, Code 2001, is amended to read as
11 follows:

12 238.24 INFORMATION CONFIDENTIAL.

13 1. No individual A person who acquires through the
14 ~~operation of the provisions of sections 238.17 to 238.23,~~
15 ~~inclusive,~~ under this chapter or from the records provided for
16 in this chapter, information relative relating to any an
17 agency or relative to any person individual cared for by such
18 agency or relative to any relative of ~~any such person~~ the
19 individual, shall not directly or indirectly disclose such the
20 information except upon inquiry before a court of law, or
21 before some other tribunal, or for the information of the
22 governor, general assembly, medical examiners, administrator
23 department of human services, department of inspections and
24 appeals, Iowa department of public health, or the local board
25 of health ~~where such~~ in the county in which the agency is
26 located.

27 2. Nothing herein shall prohibit the administrator from
28 ~~disclosing such facts to such proper persons~~ Notwithstanding
29 subsection 1, the department of human services or department
30 of inspections and appeals may disclose information as may be
31 in the interest of a child cared for by such agency or in the
32 interest of the child's parents or foster parents and not
33 inimical to the child, or as may be necessary to protect the
34 interests of the child's prospective foster parents. However,
35 disclosure of termination and adoption records shall be

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1 governed-by is subject to the provisions of sections 600.16
2 and 600.16A.

3 ~~3. Nothing herein shall prohibit the~~ Notwithstanding
4 subsection 1, statistical analysis may be performed by duly
5 authorized persons of data collected ~~by virtue of~~ under this
6 chapter ~~or the publication of the.~~ The results of such
7 analysis may be publicly issued in such a manner as will not
8 disclose confidential information.

9 Sec. 78. Section 238.31, Code 2001, is amended to read as
10 follows:

11 238.31 INSPECTION OF ~~FOSTER-HOMES~~ PLACEMENTS.

12 ~~The administrator shall be satisfied~~ As necessary to ensure
13 that each a licensed child-placing agency is maintaining
14 proper standards ~~in its work, and said administrator, the~~
15 department of inspections and appeals or the department of
16 human services, as applicable, may at any time ~~cause the child~~
17 ~~and home in which the child has been placed to be visited by~~
18 ~~the administrator's agents for the purpose of ascertaining~~
19 inspect the child's placement to determine whether the home
20 placement is a suitable one for the child, ~~and may continue to~~
21 ~~visit and inspect the foster home and the conditions therein~~
22 ~~as they affect said child.~~

23 Sec. 79. Section 238.42, Code 2001, is amended to read as
24 follows:

25 238.42 AGREEMENT IN CHILD PLACEMENTS.

26 ~~Every agency placing a child in a foster home~~ A child-
27 placing agency shall enter into a written agreement with the
28 person ~~taking~~ accepting placement of the child, ~~which.~~ The
29 agreement shall provide that the agency placing the child
30 shall have access at all reasonable times to ~~such~~ the child
31 and to the ~~home in which~~ person with whom the child is ~~living~~
32 placed, and for the return of the child by ~~the~~ that person
33 ~~taking the child~~ whenever, in the opinion of the child-placing
34 ~~agency placing such child,~~ or in the opinion of the
35 administrator department of inspections and appeals or the

1 department of human services, as applicable, the best
2 interests of the child shall-require-it require the child's
3 return.

4 Sec. 80. Section 238.45, Code 2001, is amended to read as
5 follows:

6 238.45 PENALTY.

7 Every A person who violates any of the provisions of this
8 chapter or who intentionally ~~shall-make-any~~ makes false
9 statements or reports to the ~~administrator-with-reference-to~~
10 ~~the-matters-contained-herein,-shall-be-guilty-of~~ department of
11 inspections and appeals commits a fraudulent practice.

12 Sec. 81. Section 600.2, subsection 2, Code 2001, is
13 amended to read as follows:

14 2. "Investigator" means a natural person who is certified
15 or approved by the department of ~~human-services~~ inspections
16 and appeals, after-inspection-by-the-department-of-inspections
17 ~~and-appeals,~~ as being capable of conducting an investigation
18 under section 600.8.

19 Sec. 82. Section 238.23, Code 2001, is repealed.

20 DIVISION VIII

21 IOWA DEPARTMENT OF PUBLIC HEALTH --

22 CHILD ABUSE PREVENTION

23 Sec. 83. Section 135.11, Code Supplement 2001, is amended
24 by adding the following new subsection:

25 NEW SUBSECTION. 29. Administer the program for child
26 abuse prevention in accordance with section 235A.1.

27 Sec. 84. Section 235A.1, subsection 1, unnumbered
28 paragraph 1, Code 2001, is amended to read as follows:

29 A program for the prevention of child abuse is established
30 within the state Iowa department of ~~human-services~~ public
31 health. Any moneys appropriated by the general assembly for
32 child abuse prevention shall be used by the Iowa department of
33 ~~human-services~~ public health solely for the purposes of child
34 abuse prevention and shall not be expended for treatment or
35 other service delivery programs regularly maintained by the

1 department state. Moneys appropriated for child abuse
2 prevention shall be used by the Iowa department of public
3 health through contract with an agency or organization which
4 shall administer the funds with maximum use of voluntary
5 administrative services for the following:

6 Sec. 85. Section 235A.1, subsection 2, Code 2001, is
7 amended to read as follows:

8 2. The director of human-services public health may accept
9 grants, gifts, and bequests from any source for the purposes
10 designated in subsection 1. The director shall remit funds so
11 received to the treasurer of state who shall deposit them in
12 the general fund of the state. The deposited funds are
13 appropriated to the Iowa department of public health for the
14 use of the child abuse prevention program.

15 Sec. 86. Section 235A.1, subsection 4, paragraph a, Code
16 2001, is amended to read as follows:

17 a. ~~Advise the director-of-human-services-and-the~~
18 ~~administrator-of-the-division-of-the-department-of-human~~
19 ~~services-responsible-for-child-and-family-programs Iowa~~
20 department of public health regarding expenditures of funds
21 received for the child abuse prevention program.

22 DIVISION IX

23 SERVICES AT THE STATE MENTAL HEALTH INSTITUTE AT
24 MOUNT PLEASANT

25 Sec. 87. SERVICES AT MOUNT PLEASANT. Notwithstanding any
26 provision of law to the contrary, if the department exercises
27 its authority under 2001 Iowa Acts, Second Extraordinary
28 Session, chapter 6, section 35, to collocate the unit for civil
29 commitment of sexually violent predators at the state mental
30 health institute at Mount Pleasant, the department of human
31 services may eliminate the following services at the state
32 mental health institute at Mount Pleasant during the indicated
33 fiscal year:

34 1. The treatment program for persons with substance abuse
35 problems during the fiscal year beginning July 1, 2001.

1 2. The adult psychiatric program during the fiscal year
2 beginning July 1, 2002.

3 3. The dual-diagnosis mental health and substance abuse
4 program during the fiscal year beginning July 1, 2002.

5 Sec. 88. EFFECTIVE DATE. This division of this Act, being
6 deemed of immediate importance, takes effect upon enactment.

7 DIVISION X

8 OLMSTEAD RULING ACTIVITIES

9 Sec. 89. Section 225C.48, subsections 1 and 2, Code 2001,
10 are amended to read as follows:

11 1. ~~An eleven-member~~ A thirteen-member personal assistance
12 and family support services council is created in the
13 department. The members of the council shall be appointed by
14 the following officials as follows: governor, five members;
15 majority leader of the senate, three members; and speaker of
16 the house, three members. In addition, the governor's
17 developmental disabilities council and a statewide advisory
18 council on independent living centers shall each appoint one
19 member. At least three of the governor's appointments and one
20 of each legislative chamber's appointments shall be a family
21 member of an individual with a disability as defined in
22 section 225C.47. At least five of the members shall be
23 consumers of personal services. Members shall serve for
24 three-year staggered terms. A vacancy on the council shall be
25 filled in the same manner as the original appointment. The
26 members of the council shall be entitled to reimbursement of
27 actual and necessary expenses incurred in the performance of
28 their official duties. The council shall elect officers from
29 among the council's members.

30 2. The council shall provide ongoing guidance, advice, and
31 direction to the department and other agencies working with
32 the department in the development and implementation of the
33 personal assistance services program created in section
34 225C.46 and the comprehensive family support program created
35 in section 225C.47. In addition, the council shall provide

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1 ongoing guidance, advice, and direction to the department and
 2 to persons working with the department to address the holding
 3 in Olmstead v. L.C. and E.W., 119 S. Ct. 2176 (1999),
 4 including but not limited to implementation grants. The
 5 council shall perform an annual evaluation of each program,
 6 and annually make recommendations concerning each program to
 7 the governor and general assembly. The department shall
 8 provide sufficient staff support to the council to enable the
 9 council to carry out its responsibilities.

10 EXPLANATION

11 This bill provides for the transfer of duties performed by
 12 the department of human services to the department of
 13 inspections and appeals and the Iowa department of public
 14 health, and authorizes elimination of certain programs at the
 15 state mental health institute at Mount Pleasant.

16 In division I of the bill, the definition of the term
 17 "administrator" is amended throughout Code chapter 10A,
 18 relating to the department of inspections and appeals, by
 19 providing a general description of each division
 20 administrator.

21 The duties of the director of the department of inspections
 22 and appeals in Code section 10A.104 are amended to include
 23 administration of inspection and licensing of social and
 24 charitable gambling in place of the inspections division. The
 25 bill eliminates a provision making the director of the
 26 department of inspections and appeals' rulemaking authority in
 27 regard to targeted small business subject to the review and
 28 approval of the director of the department of management.

29 Code section 10A.106, providing a list of the divisions of
 30 the department, is amended to replace a reference to the
 31 audits division with the child care division. The audits
 32 division is eliminated.

33 The duties of the investigations division in Code section
 34 10A.402 are amended to eliminate investigation of proposed
 35 sales in this state of subdivided land situated outside the

1 state and investigation of applications for beer and liquor
2 licenses and to add audits of various public assistance
3 programs that are subject to investigation by this division
4 and the duty to evaluate the results of record checks
5 conducted under Code chapter 135C, relating to health
6 facilities.

7 The duties of the inspections division in Code section
8 10A.502 are amended to eliminate responsibility for regulation
9 of social and charitable gambling and inspections of
10 educational, charitable, correctional, and penal institutions
11 and to add responsibility for home food establishments, egg
12 handlers, food processing plants, grocery stores, convenience
13 stores, temporary food establishments, and mobile food units.

14 The duties of the health facilities division in Code
15 section 10A.702 are amended to eliminate responsibility for
16 inspections of child foster care facilities and private
17 providers of care to dependent, neglected, and delinquent
18 children and to add investigations and inspections of
19 responsibility for community mental health centers, and
20 various other providers of services to persons with
21 disabilities.

22 The bill eliminates the sole authority of the division of
23 administrative hearings in Code section 10A.801 for various
24 personnel matters concerning administrative law judges.

25 New Code section 10A.901 establishes a new article in Code
26 chapter 10A creating a child care division. The division has
27 responsibility for regulation of psychiatric medical
28 institutions for children under Code chapter 135H, child
29 foster care providers under Code chapter 237, child care
30 providers under Code chapter 237A, and private child-placing
31 agencies under Code chapter 238. The Code editor is directed
32 to codify this section as a new article of Code chapter 10A.

33 In division II of the bill, the department of inspections
34 and appeals is made responsible for performing abuse record
35 checks and directed to perform an evaluation in place of the

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1 department of human services when a criminal or abuse record
2 check reveals that a person has committed a crime or has been
3 found to have committed child or dependent adult abuse. The
4 evaluation is for the purpose of determining whether the crime
5 or founded abuse warrants prohibition of the person's
6 employment or residence in a registered or licensed program.
7 The following registration, approval, or licensing provisions
8 are affected: Code section 125.14A, relating to licensed
9 substance abuse programs; Code section 135C.33, relating to
10 health care facilities; Code section 135H.7, relating to
11 psychiatric medical institutions for children; Code sections
12 232.142 and 237.8, relating to juvenile detention and shelter
13 care homes and group foster care agency providers; and Code
14 section 237A.5, relating to child care providers.

15 Code section 135C.33 requirements for a single contact
16 registry for conducting criminal and abuse record checks are
17 amended to authorize the department to utilize the registry
18 for performing the record checks and evaluations the
19 department is required to conduct. Code section 235A.15,
20 relating to the child abuse registry, and Code section 235B.6,
21 relating to the dependent adult abuse registry, are amended to
22 authorize the department to have access to these registries
23 for the record checks.

24 In division III of the bill, the duties of the department
25 of human services' administrator for mental health and
26 developmental disabilities in Code sections 225C.5 and 230A.17
27 are amended to transfer responsibility for review, evaluation,
28 and accreditation of community mental health centers to the
29 department of inspections and appeals. In addition,
30 responsibility for accreditation or approval of supported
31 community living services and individual case management
32 services is transferred to the department of inspections and
33 appeals.

34 In division IV of the bill, Code section 232.142 is amended
35 to transfer responsibility for approval of juvenile detention

1 and shelter care homes to the department of inspections and
2 appeals. The department of human services retains rules
3 adoption authority and responsibility to provide guidance and
4 consultation to the homes.

5 In division V of the bill, responsibility for licensing
6 group foster care agency providers is transferred to the
7 department of inspections and appeals. The department of
8 human services retains responsibility for licensing individual
9 foster family home providers and for adopting rules
10 requirements for all foster care licensees.

11 Code section 237.1 is amended to eliminate the term
12 "administrator" and associated references to the individual
13 assigned by the director of human services for foster care
14 regulatory responsibilities. A new term, "licensing
15 authority", provides that the department of human services
16 enforces requirements for individual foster family home
17 providers and the department of inspections and appeals
18 enforces requirements for group foster care agency providers.

19 Conforming changes are made throughout Code chapter 237,
20 the foster care regulatory chapter, to utilize the "new
21 licensing authority" term. In addition, Code section 422.45
22 is amended to revise a departmental reference in the sales tax
23 exemption for residential child foster care facilities.

24 In division VI of the bill, responsibilities under Code
25 chapter 237A, relating to child care registration and
26 licensing, are transferred to the department of inspections
27 and appeals. The department of human services retains
28 responsibility for adopting rules requirements and providing
29 consultative services for child care registrants and
30 licensees.

31 The term "administrator" is eliminated from Code section
32 237A.1, providing definitions. Instead, the bill eliminates
33 the use of this term and refers to either the department of
34 inspections and appeals or the department of human services,
35 as appropriate.

1 In division VII of the bill, responsibility for licensing
 2 private child-placing agencies is transferred to the
 3 department of inspections and appeals. The department of
 4 human services retains responsibility for adopting rules
 5 requirements for child-placing agencies. The department of
 6 inspections and appeals is provided authority for the
 7 licensing and inspection of the agencies, including record
 8 checks of employees utilizing the requirements applicable to
 9 foster care agency providers. In addition, Code section
 10 600.2, relating to the definition of the term "investigator"
 11 used for the person who performs preplacement investigations
 12 for adoptions, is amended to provide that an investigator is
 13 approved or certified by the department of inspections and
 14 appeals instead of the department of human services. Code
 15 section 238.23, requiring child-placing agencies to file an
 16 annual report with the department of human services and
 17 specifying the placement and budget information to be included
 18 in the report, is repealed.

19 In division VIII of the bill, Code section 235A.1 is
 20 amended to transfer responsibility of child abuse prevention
 21 programming from the department of human services to the Iowa
 22 department of public health. Moneys received from grants,
 23 gifts, and bequests are appropriated to the Iowa department of
 24 public health to be used for the child abuse prevention
 25 program.

26 In division IX of the bill, if the department of human
 27 services exercises previously enacted authority to colocate
 28 the unit for sexually violent predators at the state mental
 29 health institute at Mount Pleasant, the department is
 30 authorized to eliminate during fiscal year 2001-2002 the
 31 treatment program for persons with substance abuse problems
 32 and to eliminate these services during fiscal year 2002-2003
 33 at the state mental health institute at Mount Pleasant: the
 34 adult psychiatric program, and the dual-diagnosis mental
 35 health and substance abuse program. This division takes

1 effect upon enactment.

2 In division X of the bill, the membership of the personal
3 assistance and family support services council is expanded
4 from 11 to 13 members with one of the new members appointed by
5 the governor's developmental disabilities council and the
6 other by a statewide advisory council on independent living
7 centers. In addition, the council's duties are expanded to
8 include providing ongoing guidance, advice, and direction to
9 the department and persons working with the department to
10 address the holding of *Olmstead v. L.C. and E.W.*, 119 S. Ct.
11 2176 (1999), including but not limited to implementation
12 grants. This United States supreme court ruling relates to
13 appropriate placement of persons for services under the
14 federal Americans With Disabilities Act.

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3/20/02 Rereferred To: Human Res.

FEB 27 2002
Place On Calendar

HOUSE FILE 2561
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO HSB 662)

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

A BILL FOR

1 An Act relating to departmental duties by transferring certain
2 duties from the department of human services to the department
3 of inspections and appeals and the Iowa department of public
4 health, reorganizing the duties of the department of
5 inspections and appeals, and authorizing the unit for civil
6 commitment of sexually violent predators to be moved and
7 colocated at another state institution, and making an
8 appropriation of certain grants and gifts, and providing an
9 effective date.

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

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HF 2561

DIVISION I

DEPARTMENT OF INSPECTIONS AND APPEALS DUTIES

1
2
3 Section 1. Section 10A.101, subsection 1, Code 2001, is
4 amended to read as follows:

5 1. "Administrator" means ~~the chief administrative law~~
6 ~~judge, chief inspector, chief investigator, chief auditor, or~~
7 the a person administering coordinating the administration of
8 a division of the department.

9 Sec. 2. Section 10A.104, Code 2001, is amended by adding
10 the following new subsection:

11 NEW SUBSECTION. 11. Administer inspection and licensing
12 of social and charitable gambling pursuant to chapter 99B.

13 Sec. 3. Section 10A.104, subsection 8, Code 2001, is
14 amended to read as follows:

15 8. Establish by rule standards and procedures for
16 certifying that targeted small businesses are eligible to
17 participate in the procurement program established in sections
18 73.15 through 73.21. The procedure for determination of
19 eligibility shall not include self-certification by a
20 business. ~~Rules and guidelines adopted pursuant to this~~
21 ~~subsection are subject to review and approval by the director~~
22 ~~of the department of management.~~ The director shall maintain
23 a current directory of targeted small businesses which that
24 have been certified pursuant to this subsection.

25 Sec. 4. Section 10A.106, subsection 2, Code 2001, is
26 amended to read as follows:

27 2. Audits Child care division.

28 Sec. 5. Section 10A.106, unnumbered paragraph 2, Code
29 2001, is amended to read as follows:

30 The allocation of departmental duties to the divisions of
31 the department in sections ~~10A.302,~~ 10A.402, 10A.502, 10A.702,
32 and 10A.801, and 10A.901 does not prohibit the director from
33 reallocating departmental duties within the department. ~~The~~
34 ~~director shall not reallocate any of the duties of the~~
35 ~~division of administrative hearings, created by section~~

~~1 10A-801, to any other unit of the department.~~

2 Sec. 6. Section 10A.401, subsection 1, Code 2001, is
3 amended to read as follows:

4 1. "Administrator" means the chief investigator who shall
5 coordinate person coordinating the administration of this
6 division.

7 Sec. 7. Section 10A.402, Code 2001, is amended to read as
8 follows:

9 10A.402 RESPONSIBILITIES.

10 The administrator shall coordinate the division's conduct
11 of various audits and investigations as otherwise provided for
12 by law including but not limited to the following:

13 1. Investigations relative to the practice of regulated
14 professions and occupations, except those within the
15 jurisdiction of the board of medical examiners, the board of
16 pharmacy examiners, the board of dental examiners, and the
17 board of nursing.

18 2. ~~Investigations relative to proposed sales within the~~
19 ~~state of subdivided land situated outside of the state.~~
20 Audits relative to the administration of hospitals and health
21 care facilities.

22 3. ~~Investigations relative to applications for beer and~~
23 ~~liquor licenses.~~ Audits relative to administration and
24 disbursement of funding under the state supplementary
25 assistance program and the medical assistance program.

26 4. Investigations and collections relative to the
27 liquidation of overpayment debts owed to the department of
28 human services. Collection methods include but are not
29 limited to small claims filings, debt setoff, distress
30 warrants, and repayment agreements, and are subject to
31 approval by the department of human services.

32 5. Investigations relative to the operations of the
33 department of elder affairs.

34 6. Investigations relative to the administration of the
35 state ~~supplemental~~ supplementary assistance program, the state

1 medical assistance program, the food stamp program, the family
2 investment program, and any other state or federal benefit
3 assistance program.

4 7. Investigations relative to the internal affairs and
5 operations of agencies and departments within the executive
6 branch of state government, except for institutions governed
7 by the state board of regents.

8 8. Evaluation of record checks performed in accordance
9 with section 135C.33.

10 Sec. 8. Section 10A.501, subsection 1, Code 2001, is
11 amended to read as follows:

12 1. "Administrator" means the ~~chief-inspector, who shall~~
13 coordinate person coordinating the administration of this
14 division.

15 Sec. 9. Section 10A.502, Code 2001, is amended to read as
16 follows:

17 10A.502 RESPONSIBILITIES.

18 The administrator shall coordinate the division's conduct
19 of various inspections as ~~otherwise provided for by law~~
20 including but not limited to the following:

21 1. ~~Inspections and licensing procedures related to social~~
22 ~~and charitable gambling pursuant to chapter 99B of hotels,~~
23 home food establishments, and egg handlers.

24 2. Inspections of food establishments, including
25 ~~restaurants, hotels, food and beverage vending machines, state~~
26 ~~educational, charitable, correctional, and penal institutions,~~
27 ~~and sanitation inspections~~ food processing plants, grocery
28 stores, convenience stores, temporary food establishments, and
29 mobile food units.

30 3. Inspections for sanitation in any locality of the state
31 upon the written petition of five or more residents of a
32 ~~particular~~ the locality.

33 Sec. 10. Section 10A.701, subsection 1, Code 2001, is
34 amended to read as follows:

35 1. "Administrator" means the ~~chief-administrator who shall~~

1 coordinate person coordinating the administration of this
2 division.

3 Sec. 11. Section 10A.702, Code 2001, is amended to read as
4 follows:

5 10A.702 RESPONSIBILITIES.

6 The administrator shall coordinate the division's conduct
7 of various inspections and investigations as otherwise
8 provided by law including, but not limited to, all of the
9 following:

10 1. Investigations relative to the standards and practices
11 of hospitals, hospices, birth centers, and health care
12 facilities, community mental health centers, other providers
13 of mental health services, supported community living
14 programs, and providers of individual case management services
15 for persons with mental retardation, a developmental
16 disability, or chronic mental illness under the medical
17 assistance program.

18 2. Inspections and other licensing procedures relative to
19 the hospice program programs, hospitals, birth centers, and
20 health care facilities, community mental health centers, other
21 providers of mental health services, supported community
22 living programs, and providers of individual case management
23 services for persons with mental retardation, a developmental
24 disability, or chronic mental illness under the medical
25 assistance program. The division is designated as the sole
26 licensing authority for these programs and facilities.

27 3. Inspections relative to hospital and health care
28 facility construction projects.

29 ~~4. Inspections of child foster care facilities and private~~
30 ~~institutions for the care of dependent, neglected, and~~
31 ~~delinquent children.~~

32 Sec. 12. Section 10A.801, subsection 1, paragraph a, Code
33 2001, is amended to read as follows:

34 a. "Administrator" means the ~~chief administrative law~~
35 ~~judge who shall coordinate~~ person coordinating the

1 administration of the division.

2 Sec. 13. Section 10A.801, subsection 2, Code 2001, is
3 amended to read as follows:

4 2. The administrator shall coordinate the division's
5 conduct of appeals and administrative hearings as ~~otherwise~~
6 provided by law.

7 Sec. 14. Section 10A.801, subsection 7, paragraph c, Code
8 2001, is amended to read as follows:

9 c. To establish standards and procedures for the
10 evaluation, training, promotion, and discipline for the
11 administrative law judges employed by the division. ~~Those~~ The
12 procedures shall include provisions for each agency for whom a
13 particular administrative law judge presides to submit to the
14 division on a periodic basis the agency's views with respect
15 to the performance of that administrative law judge or the
16 need for specified additional training for that administrative
17 law judge. ~~However, the evaluation, training, promotion, and~~
18 ~~discipline of all administrative law judges employed by the~~
19 ~~division shall remain solely within the authority of the~~
20 ~~division.~~

21 Sec. 15. NEW SECTION. 10A.901 CHILD CARE DIVISION.

22 1. DEFINITIONS. For purposes of this section, unless the
23 context otherwise requires:

24 a. "Administrator" means the person coordinating the
25 administration of the division.

26 b. "Division" means the child care division of the
27 department of inspections and appeals.

28 2. The administrator shall coordinate the division's
29 conduct of regulatory activity concerning children as provided
30 by law, including but not limited to all of the following:

31 a. Inspections, investigations, and other child care
32 licensing and registration activities under chapter 237A.

33 b. Inspections, investigations, and other licensing,
34 certification, registration, and accreditation activities for
35 the care of dependent, neglected, or delinquent children under

1 section 232.142 and chapters 135H, 237, and 238.

2 c. Record checks and evaluation of the record checks
3 relating to facility and program applicants, licensees, or
4 employees of the facilities and programs subject to regulation
5 by the division.

6 Sec. 16. CODE EDITOR. The Code editor shall codify
7 section 10A.901, as enacted by this division of this Act, as a
8 new article of chapter 10A entitled "child care division".

9 Sec. 17. Sections 10A.301 and 10A.302, Code 2001, are
10 repealed.

11 DIVISION II

12 DEPARTMENT OF INSPECTIONS AND APPEALS EVALUATION
13 OF CRIME AND ABUSE RECORDS

14 Sec. 18. Section 125.14A, subsections 1, 2, 3, 4, and 5,
15 Code 2001, are amended to read as follows:

16 1. If a person is being considered for licensure under
17 this chapter, or for employment involving direct
18 responsibility for a child or with access to a child when the
19 child is alone, by a program admitting juveniles subject to
20 licensure under this chapter, or if a person will reside in a
21 facility utilized by such a program, and if the person has
22 been convicted of a crime or has a record of founded child
23 abuse, the department of ~~human-services~~ inspections and
24 appeals and the program, for an employee of the program, shall
25 perform an evaluation to determine whether the crime or
26 founded child abuse warrants prohibition of licensure,
27 employment, or residence in the facility. The department of
28 ~~human-services~~ inspections and appeals shall conduct criminal
29 and child abuse record checks in this state and may conduct
30 these checks in other states. The evaluation shall be
31 performed in accordance with procedures adopted for this
32 purpose by the department of ~~human-services~~ inspections and
33 appeals.

34 2. If ~~the department of human-services determines~~ it is
5 determined that a person has committed a crime or has a record

1 of founded child abuse and is licensed, employed by a program
2 licensed under this chapter, or resides in a licensed facility
3 the department of inspections and appeals shall notify the
4 program that an evaluation will be conducted to determine
5 whether prohibition of the person's licensure, employment, or
6 residence is warranted.

7 3. In an evaluation, the department of **human-services**
8 inspections and appeals and the program for an employee of the
9 program shall consider the nature and seriousness of the crime
10 or founded child abuse in relation to the position sought or
11 held, the time elapsed since the commission of the crime or
12 founded child abuse, the circumstances under which the crime
13 or founded child abuse was committed, the degree of
14 rehabilitation, the likelihood that the person will commit the
15 crime or founded child abuse again, and the number of crimes
16 or acts of founded child **abuses** abuse committed by the person
17 involved. The department of **human-services** inspections and
18 appeals may permit a person who is evaluated to be licensed,
19 employed, or to reside, or to continue to be licensed,
20 employed, or to reside in a program, if the person complies
21 with the department's conditions relating to the person's
22 licensure, employment, or residence, which may include
23 completion of additional training. For an employee of a
24 licensee, these conditional requirements shall be developed
25 with the licensee. The department of **human-services**
26 inspections and appeals has final authority in determining
27 whether prohibition of the person's licensure, employment, or
28 residence is warranted and in developing any conditional
29 requirements under this subsection.

30 4. If the department of **human-services** inspections and
31 appeals determines that the person has committed a crime or
32 has a record of founded child abuse which warrants prohibition
33 of licensure, employment, or residence, the person shall not
34 be licensed under this chapter to operate a program admitting
35 juveniles and shall not be employed by a program or reside in

1 a facility admitting juveniles licensed under this chapter.
2 5. In addition to the record checks required under this
3 section, the department of human-services inspections and
4 appeals may conduct dependent adult abuse record checks in
5 this state and may conduct these checks in other states, on a
6 random basis. The provisions of this section, relative to an
7 evaluation following a determination that a person has been
8 convicted of a crime or has a record of founded child abuse,
9 shall also apply to a random check conducted under this
10 subsection.

11 Sec. 19. Section 135C.33, subsections 1, 2, 3, 4, and 5,
12 Code Supplement 2001, are amended to read as follows:

13 1. ~~Beginning-July-17-1997,-prior~~ Prior to employment of a
14 person in a facility, the facility shall request that the
15 department of public safety perform a criminal history check
16 and the department of human-services inspections and appeals
17 perform a dependent adult abuse record check of the person in
18 this state. In addition, the facility may request that the
19 department of human-services inspections and appeals perform a
20 child abuse record check in this state. ~~Beginning-July-17-~~
21 ~~1997,-a~~ A facility shall inform all persons prior to
22 employment regarding the performance of the records checks and
23 shall obtain, from the persons, a signed acknowledgment of the
24 receipt of the information. Additionally, a facility shall
25 include the following inquiry in an application for
26 employment: "Do you have a record of founded child or
27 dependent adult abuse or have you ever been convicted of a
28 crime, in this state or any other state?" If the person has
29 been convicted of a crime under a law of any state or has a
30 record of founded child or dependent adult abuse, the
31 department of human-services inspections and appeals shall,
32 upon the facility's request, perform an evaluation to
33 determine whether the crime or founded child or dependent
34 adult abuse warrants prohibition of employment in the
35 facility. The evaluation shall be performed in accordance

1 with procedures adopted for this purpose by the department of
2 human-services inspections and appeals. If a person owns or
3 operates more than one facility, and an employee of one of
4 such facilities is transferred to another such facility
5 without a lapse in employment, the facility is not required to
6 request additional criminal and dependent adult abuse record
7 checks of that employee.

8 2. If the department of public safety determines that a
9 person has committed a crime and is to be employed in a
10 facility licensed under this chapter, the department of public
11 safety shall notify the licensee that an evaluation, if
12 requested by the facility, will be conducted by the department
13 of human-services inspections and appeals to determine whether
14 prohibition of the person's employment is warranted. If a
15 department of human-services inspections and appeals child or
16 dependent adult abuse records check determines the person has
17 a record of founded child or dependent adult abuse, the
18 department of human-services inspections and appeals shall
19 inform the licensee that an evaluation, if requested by the
20 facility, will be conducted to determine whether prohibition
21 of the person's employment is warranted.

22 3. In an evaluation, the department of human-services
23 inspections and appeals shall consider the nature and
24 seriousness of the crime or founded child or dependent adult
25 abuse in relation to the position sought or held, the time
26 elapsed since the commission of the crime or founded child or
27 dependent adult abuse, the circumstances under which the crime
28 or founded child or dependent adult abuse was committed, the
29 degree of rehabilitation, the likelihood that the person will
30 commit the crime or founded child or dependent adult abuse
31 again, and the number of crimes or acts of founded child or
32 dependent adult abuses abuse committed by the person involved.
33 The department of human-services inspections and appeals has
34 final authority in determining whether prohibition of the
35 person's employment is warranted.

1 4. A person shall not be employed in a facility licensed
2 under this chapter unless an evaluation has been performed by
3 the department of human-services inspections and appeals. If
4 the department of human-services inspections and appeals
5 determines from the evaluation that the person has committed a
6 crime or has a record of founded child or dependent adult
7 abuse which warrants prohibition of employment, the person
8 shall not be employed in a facility licensed under this
9 chapter.

10 5. ~~Beginning-July-17-1998,-this~~ This section shall apply
11 to prospective employees of all of the following, if the
12 provider is regulated by the state or receives any state or
13 federal funding:

14 a. An employee of a homemaker, home-health aide, home-care
15 aide, adult day services, or other provider of in-home
16 services if the employee provides direct services to
17 consumers.

18 b. An employee of a hospice, if the employee provides
19 direct services to consumers.

20 c. An employee who provides direct services to consumers
21 under a federal home and community-based services waiver.

22 d. An employee of an elder group home certified under
23 chapter 231B, if the employee provides direct services to
24 consumers.

25 e. An employee of an assisted living facility certified or
26 voluntarily accredited under chapter 231C, if the employee
27 provides direct services to consumers.

28 In substantial conformance with the provisions of this
29 section, prior to the employment of such an employee, the
30 provider shall request the performance of the criminal and
31 dependent adult abuse record checks and may request the
32 performance of the child abuse record checks. The provider
33 shall inform the prospective employee and obtain the
34 prospective employee's signed acknowledgment. The department
35 of human-services inspections and appeals shall perform the

1 evaluation of any criminal record or founded child or
2 dependent adult abuse record and shall make the determination
3 of whether a prospective employee of a provider shall not be
4 employed by the provider.

5 Sec. 20. Section 135C.33, subsection 6, paragraph b, Code
6 Supplement 2001, is amended by adding the following new
7 subparagraph:

8 NEW SUBPARAGRAPH. (3) For conducting record checks and
9 evaluations of persons who are applicants for licensure,
10 registration, certification, or accreditation by the
11 department, of individuals who are employed by or are applying
12 for employment with such persons, and of other individuals who
13 are subject to regulation by the department.

14 Sec. 21. Section 135H.7, subsections 2, 3, and 4, Code
15 2001, are amended to read as follows:

16 2. a. If a person is being considered for licensure under
17 this chapter, or for employment involving direct
18 responsibility for a child or with access to a child when the
19 child is alone, by a licensed psychiatric institution, or if a
20 person will reside in a facility utilized by a licensee, and
21 if the person has been convicted of a crime or has a record of
22 founded child abuse, the department ~~of-human-services~~ and the
23 licensee, for an employee of the licensee, shall perform an
24 evaluation to determine whether the crime or founded child
25 abuse warrants prohibition of licensure, employment, or
26 residence in the facility. The department ~~of-human-services~~
27 shall conduct criminal and child abuse record checks in this
28 state and may conduct these checks in other states. The
29 evaluation shall be performed in accordance with procedures
30 adopted for this purpose by the department ~~of-human-services~~.

31 b. If the department ~~of-human-services~~ determines that a
32 person has committed a crime or has a record of founded child
33 abuse and is licensed, employed by a psychiatric institution
34 licensed under this chapter, or resides in a licensed facility
35 the department shall notify the program that an evaluation

1 will be conducted to determine whether prohibition of the
2 person's licensure, employment, or residence is warranted.

3 c. In an evaluation, the department ~~of-human-services~~ and
4 the licensee for an employee of the licensee shall consider
5 the nature and seriousness of the crime or founded child abuse
6 in relation to the position sought or held, the time elapsed
7 since the commission of the crime or founded child abuse, the
8 circumstances under which the crime or founded child abuse was
9 committed, the degree of rehabilitation, the likelihood that
10 the person will commit the crime or founded child abuse again,
11 and the number of crimes or acts of founded child abuses abuse
12 committed by the person involved. The department may permit a
13 person who is evaluated to be licensed, employed, or to
14 reside, or to continue to be licensed, employed, or to reside
15 in a licensed facility, if the person complies with the
16 department's conditions relating to the person's licensure,
17 employment, or residence, which may include completion of
18 additional training. For an employee of a licensee, these
19 conditional requirements shall be developed with the licensee.
20 The department ~~of-human-services~~ has final authority in
21 determining whether prohibition of the person's licensure,
22 employment, or residence is warranted and in developing any
23 conditional requirements under this paragraph.

24 3. If ~~the-department-of-human-services-determines~~ it is
25 determined that the person has committed a crime or has a
26 record of founded child abuse which warrants prohibition of
27 licensure, employment, or residence, the person shall not be
28 licensed under this chapter to operate a psychiatric
29 institution and shall not be employed by a psychiatric
30 institution or reside in a facility licensed under this
31 chapter.

32 4. In addition to the record checks required under
33 subsection 2, the department ~~of-human-services~~ may conduct
34 dependent adult abuse record checks in this state and may
35 conduct these checks in other states, on a random basis. The

1 provisions of subsections 2 and 3, relative to an evaluation
2 following a determination that a person has been convicted of
3 a crime or has a record of founded child abuse, shall also
4 apply to a random dependent adult abuse record check conducted
5 under this subsection.

6 Sec. 22. Section 235A.15, subsection 2, paragraph e, Code
7 Supplement 2001, is amended by adding the following new
8 subparagraph:

9 NEW SUBPARAGRAPH. (18) To the department of inspections
10 and appeals for purposes of conducting record checks and
11 evaluations of persons who are applicants for licensure,
12 registration, certification, or accreditation by the
13 department, of individuals who are employed by or are applying
14 for employment with such persons, and of other individuals who
15 are subject to regulation by the department.

16 Sec. 23. Section 235B.6, subsection 2, paragraph e, Code
17 Supplement 2001, is amended by adding the following new
18 subparagraph:

19 NEW SUBPARAGRAPH. (10) The department of inspections and
20 appeals for purposes of conducting record checks and
21 evaluations of persons who are applicants for licensure,
22 registration, certification, or accreditation by the
23 department, of individuals who are employed by or are applying
24 for employment with such persons, and of other individuals who
25 are subject to regulation by the department.

26 Sec. 24. Section 237.8, subsection 2, Code 2001, is
27 amended to read as follows:

28 2. a. (1) If a person is being considered for licensure
29 under this chapter, or for employment involving direct
30 responsibility for a child or with access to a child when the
31 child is alone, by a licensee under this chapter, or if a
32 person will reside in a facility utilized by a licensee, and
33 if the person has been convicted of a crime or has a record of
34 founded child abuse, the department licensing authority and
35 the licensee for an employee of the licensee shall perform an

1 evaluation to determine whether the crime or founded child
2 abuse warrants prohibition of licensure, employment, or
3 residence in the facility. The department licensing authority
4 shall conduct criminal and child abuse record checks in this
5 state and may conduct these checks in other states. The
6 evaluation shall be performed in accordance with procedures
7 adopted for this purpose by the department licensing
8 authority.

9 (2) An individual applying to be a foster parent licensee
10 shall not be granted a license and an evaluation shall not be
11 performed under this subsection if the individual has been
12 convicted of any of the following felony offenses:

13 (a) Within the five-year period preceding the application
14 date, a drug-related offense.

15 (b) Child endangerment or neglect or abandonment of a
16 dependent person.

17 (c) Domestic abuse.

18 (d) A crime against a child, including but not limited to
19 sexual exploitation of a minor.

20 (e) A forcible felony.

21 b. Except as otherwise provided in paragraph "a", if the
22 department-determines it is determined that a person has
23 committed a crime or has a record of founded child abuse and
24 is licensed, employed by a licensee, or resides in a licensed
25 facility the department licensing authority shall notify the
26 licensee that an evaluation will be conducted to determine
27 whether prohibition of the person's licensure, employment, or
28 residence is warranted.

29 c. In an evaluation, the department licensing authority
30 and the licensee for an employee of the licensee shall
31 consider the nature and seriousness of the crime or founded
32 child abuse in relation to the position sought or held, the
33 time elapsed since the commission of the crime or founded
34 child abuse, the circumstances under which the crime or
5 founded child abuse was committed, the degree of

1 rehabilitation, the likelihood that the person will commit the
2 crime or founded child abuse again, and the number of crimes
3 or acts of founded child abuses abuse committed by the person
4 involved. The department licensing authority may permit a
5 person who is evaluated to be licensed, employed, or to
6 reside, or to continue to be licensed, employed, or to reside
7 in a licensed facility, if the person complies with the
8 department's licensing authority's conditions relating to the
9 person's licensure, employment, or residence, which may
10 include completion of additional training. For an employee of
11 a licensee, these conditional requirements shall be developed
12 with the licensee. The department licensing authority has
13 final authority in determining whether prohibition of the
14 person's licensure, employment, or residence is warranted and
15 in developing any conditional requirements under this
16 paragraph.

17 d. If the department licensing authority determines that
18 the person has committed a crime or has a record of founded
19 child abuse which warrants prohibition of licensure,
20 employment, or residence, the person shall not be licensed
21 under this chapter and shall not be employed by a licensee or
22 reside in a licensed facility.

23 Sec. 25. Section 237A.5, subsection 2, Code 2001, is
24 amended to read as follows:

25 2. a. If a person is being considered for licensure or
26 registration under this chapter, or for employment involving
27 direct responsibility for a child or with access to a child
28 when the child is alone, by a child care facility subject to
29 licensure or registration under this chapter, or if a person
30 will reside in a facility, and if the person has been
31 convicted of a crime or has a record of founded child abuse,
32 the department of inspections and appeals shall perform an
33 evaluation to determine whether the crime or founded child
34 abuse warrants prohibition of licensure, registration,
35 employment, or residence in the facility. The department of

1 inspections and appeals shall conduct criminal and child abuse
2 record checks in this state and may conduct these checks in
3 other states. The evaluation shall be performed in accordance
4 with procedures adopted for this purpose by the department of
5 inspections and appeals.

6 b. If ~~the department determines~~ it is determined that a
7 person has committed a crime or has a record of founded child
8 abuse and is licensed, employed by a licensee or registrant or
9 registered under this chapter, or resides in a licensed or
10 registered facility the department of inspections and appeals
11 shall notify the licensee or registrant that an evaluation
12 will be conducted to determine whether prohibition of the
13 person's licensure, registration, employment, or residence is
14 warranted.

15 c. In an evaluation, the department of inspections and
16 appeals shall consider the nature and seriousness of the crime
17 or founded child abuse in relation to the position sought or
18 held, the time elapsed since the commission of the crime or
19 founded child abuse, the circumstances under which the crime
20 or founded child abuse was committed, the degree of
21 rehabilitation, the likelihood that the person will commit the
22 crime or founded child abuse again, and the number of crimes
23 or acts of founded child ~~abuses~~ abuse committed by the person
24 involved. The department of inspections and appeals may
25 permit a person who is evaluated to be licensed, registered,
26 employed, or to reside, or to continue to be licensed,
27 registered, employed, or to reside in a licensed facility, if
28 the person complies with the ~~department's~~ department of
29 inspections and appeals' conditions relating to the person's
30 licensure, registration, employment, or residence, which may
31 include completion of additional training. The department of
32 inspections and appeals has final authority in determining
33 whether prohibition of the person's licensure, registration,
34 employment, or residence is warranted and in developing any
35 conditional requirements under this paragraph.

1 d. If the department of inspections and appeals determines
2 that the person has committed a crime or has a record of
3 founded child abuse which warrants prohibition of licensure,
4 registration, employment, or residence, the person shall not
5 be licensed or registered under this chapter to operate a
6 child care facility and shall not be employed by a licensee or
7 registrant or reside in a facility licensed or registered
8 under this chapter.

9 e. If it has been determined that a child receiving child
10 care from a child care facility is the victim of founded child
11 abuse committed by an employee, license or registration
12 holder, or resident of the child care facility for which a
13 report is placed in the central registry pursuant to section
14 232.71D, the ~~administrator~~ department of inspections and
15 appeals shall provide notification at the time of the
16 determination to the parents, guardians, and custodians of
17 children receiving care from the facility. A notification
18 made under this paragraph shall identify the type of abuse but
19 shall not identify the victim or perpetrator or circumstances
20 of the founded abuse.

21 Sec. 26. Section 237A.5, subsection 3, Code 2001, is
22 amended to read as follows:

23 3. In addition to the record checks required under
24 subsection 2, the department of ~~human-services~~ inspections and
25 appeals may conduct dependent adult abuse record checks in
26 this state and may conduct these checks in other states, on a
27 random basis. The provisions of subsection 2, relative to an
28 evaluation following a determination that a person has been
29 convicted of a crime or has a record of founded child abuse,
30 shall also apply to a random dependent adult abuse record
31 check conducted under this subsection.

32 Sec. 27. Section 249A.29, subsections 2, 3, 4, and 5, Code
33 2001, are amended to read as follows:

34 2. If a person is being considered by a provider for
35 employment involving direct responsibility for a consumer or

1 with access to a consumer when the consumer is alone, and if
2 the person has been convicted of a crime or has a record of
3 founded child or dependent adult abuse, the department of
4 inspections and appeals shall perform an evaluation to
5 determine whether the crime or founded abuse warrants
6 prohibition of employment by the provider. The department of
7 inspections and appeals shall conduct criminal and child and
8 dependent adult abuse ~~records~~ record checks of the person in
9 this state and may conduct these checks in other states. The
10 ~~records~~ record checks and evaluations required by this section
11 shall be performed in accordance with procedures adopted for
12 this purpose by the department of inspections and appeals.

13 3. If ~~the department determines~~ it is determined that a
14 person employed by a provider has committed a crime or has a
15 record of founded abuse, the department of inspections and
16 appeals shall perform an evaluation to determine whether
17 prohibition of the person's employment is warranted.

18 4. In an evaluation, the department of inspections and
19 appeals shall consider the nature and seriousness of the crime
20 or founded abuse in relation to the position sought or held,
21 the time elapsed since the commission of the crime or founded
22 abuse, the circumstances under which the crime or founded
23 abuse was committed, the degree of rehabilitation, the
24 likelihood that the person will commit the crime or founded
25 abuse again, and the number of crimes or acts of founded
26 ~~abuses~~ abuse committed by the person involved. The department
27 of inspections and appeals may permit a person who is
28 evaluated to be employed or to continue to be employed by the
29 provider if the person complies with the ~~department's~~
30 department of inspections and appeals' conditions relating to
31 the employment, which may include completion of additional
32 training.

33 5. If the department of inspections and appeals determines
34 that the person has committed a crime or has a record of
35 founded abuse which warrants prohibition of employment, the

1 person shall not be employed by a provider.

2 DIVISION III

3 DEPARTMENT OF INSPECTIONS AND APPEALS -- MENTAL HEALTH
4 AND DEVELOPMENTAL DISABILITY SERVICES

5 Sec. 28. Section 225C.4, subsection 1, paragraph o, Code
6 2001, is amended to read as follows:

7 o. Recommend to the commission minimum accreditation
8 standards for the maintenance and operation of community
9 mental health centers, services, and programs under section
10 230A.16. ~~The administrator's review and evaluation of the~~
11 ~~centers, services, and programs for compliance with the~~
12 ~~adopted standards shall be as provided in section 230A.17.~~

13 Sec. 29. Section 225C.4, subsection 1, paragraph p, Code
14 2001, is amended to read as follows:

15 p. Recommend to the commission minimum standards for
16 supported community living services. The administrator
17 department of inspections and appeals shall review and
18 evaluate the services for compliance with the adopted
19 standards.

20 Sec. 30. Section 225C.6, subsection 1, paragraph c, Code
21 Supplement 2001, is amended to read as follows:

22 c. Adopt standards for community mental health centers,
23 services, and programs as recommended under section 230A.16.
24 The ~~commission~~ department of inspections and appeals shall
25 conduct accreditation reviews of the centers, services, and
26 programs and shall determine whether to grant, deny, or revoke
27 the accreditation of the centers, services, and programs.

28 Sec. 31. Section 225C.6, subsection 1, paragraph f, Code
29 Supplement 2001, is amended to read as follows:

30 f. Assure that proper appeal procedures are available to
31 persons aggrieved by decisions, actions, or circumstances
32 relating to accreditation by the department of inspections and
33 appeals.

34 Sec. 32. Section 225C.6, subsection 1, paragraph 1, Code
35 Supplement 2001, is amended to read as follows:

1 1. Establish standards for the provision under medical
2 assistance of individual case management services. The
3 commission department of inspections and appeals shall
4 determine whether to grant, deny, or revoke the accreditation
5 of the services.

6 Sec. 33. Section 225C.21, subsection 2, Code 2001, is
7 amended to read as follows:

8 2. The commission shall adopt rules pursuant to chapter
9 17A establishing minimum standards for supported community
10 living services. The commission department of inspections and
11 appeals shall determine whether to grant, deny, or revoke
12 approval for any supported community living service.

13 Sec. 34. Section 230A.17, Code 2001, is amended to read as
14 follows:

15 230A.17 REVIEW AND EVALUATION.

16 The ~~administrator-of-the-division-of-mental-health-and~~
17 ~~developmental-disabilities-of-the~~ department of ~~human-services~~
18 inspections and appeals may review and evaluate any community
19 mental health center upon the recommendation of the mental
20 health and developmental disabilities commission, and shall do
21 so upon the written request of the center's board of
22 directors, its chief medical or administrative officer, or the
23 board of supervisors of any county from which the center
24 receives public funds. The cost of the review shall be paid
25 by the division department of inspections and appeals. The
26 department of inspections and appeals shall report the results
27 of a review and evaluation to the mental health and
28 developmental disabilities commission.

29 Sec. 35. Section 422.45, subsection 22, paragraph d, Code
30 Supplement 2001, is amended to read as follows:

31 d. Community mental health centers accredited by the
32 department of ~~human-services~~ inspections and appeals pursuant
33 to ~~chapter-225C~~ section 225C.6.

34 DIVISION IV
35 DEPARTMENT OF INSPECTIONS AND APPEALS -- JUVENILE DETENTION

1 AND SHELTER CARE HOMES

2 Sec. 36. Section 232.142, subsections 4 and 5, Code
3 Supplement 2001, are amended to read as follows:

4 4. The ~~director~~ department of human services shall adopt
5 minimal rules and standards for the establishment,
6 maintenance, and operation of such juvenile detention and
7 shelter care homes as shall be necessary to effect the
8 purposes of this chapter. The rules shall apply the
9 requirements of section 237.8, concerning employment and
10 evaluation of persons with direct responsibility for a child
11 or with access to a child when the child is alone and persons
12 residing in a licensed child foster care facility, to persons
13 employed by or residing in a home approved under this section.
14 The ~~director~~ department of human services shall, upon request,
15 give guidance and consultation in the establishment and
16 administration of the homes and programs for the homes.

17 5. The ~~director~~ department of inspections and appeals
18 shall approve annually all such homes established and
19 maintained under ~~the-provisions-of~~ this chapter section. A
20 home shall not be approved unless it complies with minimal
21 rules and standards adopted by the ~~director~~ department of
22 human services and has been inspected by the department of
23 inspections and appeals.

24 Sec. 37. Section 331.382, subsection 6, Code 2001, is
25 amended to read as follows:

26 6. The power to operate juvenile detention and shelter
27 care homes is subject to approval of the homes by the ~~director~~
28 ~~of-the~~ department of ~~human-services-or-the-director's-designee~~
29 inspections and appeals, as provided in section 232.142.

30 DIVISION V

31 DEPARTMENT OF INSPECTIONS AND APPEALS -- GROUP FOSTER CARE

32 Sec. 38. Section 235.3, subsection 3, Code 2001, is
33 amended to read as follows:

34 3. Adopt rules as necessary or advisable for the
35 supervision of the private child-caring agencies or their

1 officers which the ~~administrator-is-empowered-to-license-and~~
2 ~~supervise~~ department of inspections and appeals registers or
3 licenses under chapters 237, 237A, and 238.

4 Sec. 39. Section 235.3, subsections 5 and 8, Code 2001,
5 are amended by striking the subsections.

6 Sec. 40. Section 235.4, Code 2001, is amended to read as
7 follows:

8 235.4 LICENSES.

9 ~~Licenses~~ A license issued to private boarding homes for
10 children and private child-placing agencies ~~by-the~~
11 ~~administrator~~ shall remain in effect for the period for which
12 the license was issued, unless sooner revoked according to
13 law. ~~Thereafter-each-of-such-agencies-shall~~ Following
14 expiration or revocation of a license, a private boarding home
15 for children or private child-placing agency may apply to-the
16 ~~administrator~~ for a new license, and shall ~~submit-to-such~~
17 comply with applicable rules ~~regarding-licensing-as-the~~
18 ~~administrator-prescribes.~~

19 Sec. 41. Section 237.1, subsection 1, Code 2001, is
20 amended by striking the subsection.

21 Sec. 42. Section 237.1, subsection 8, Code 2001, is
22 amended to read as follows:

23 8. "Licensee" means an individual or an agency licensed by
24 ~~the-administrator~~ under this chapter.

25 Sec. 43. Section 237.1, Code 2001, is amended by adding
26 the following new subsection:

27 NEW SUBSECTION. 9. "Licensing authority" means one of the
28 following:

29 a. For an individual subject to licensing under this
30 chapter, the department of human services.

31 b. For an agency subject to licensing under this chapter,
32 the department of inspections and appeals.

33 Sec. 44. Section 237.3, subsection 1, Code Supplement
34 2001, is amended to read as follows:

35 1. Except as otherwise provided by subsections 3 and 4,

1 ~~the administrator shall promulgate, after their adoption by~~
2 ~~the council on human services, and enforce in accordance with~~
3 ~~chapter 17A,~~ department shall adopt administrative rules
4 necessary to implement this chapter. Formulation of the rules
5 shall include consultation with representatives of child
6 foster care providers, and other persons affected by this
7 chapter. The rules shall encourage the provision of child
8 foster care in a single-family, home environment, exempting
9 the single-family, home facility from inappropriate rules.
10 The appropriate licensing authority shall enforce the rules.

11 Sec. 45. Section 237.3, subsection 2, paragraph i, Code
12 Supplement 2001, is amended to read as follows:

13 i. Records a licensee is required to keep, and reports a
14 licensee is required to make to the administrator licensing
15 authority.

16 Sec. 46. Section 237.3, subsections 3 and 4, Code
17 Supplement 2001, are amended to read as follows:

18 3. Rules governing fire safety in facilities with child
19 foster care provided by agencies shall be promulgated by the
20 state fire marshal pursuant to section 100.1, subsection 5
21 after consultation with the administrator department.

22 4. Rules governing sanitation, water, and waste disposal
23 standards for facilities shall be ~~promulgated~~ adopted by the
24 Iowa department of public health pursuant to section 135.11,
25 subsection 13, after consultation with the administrator
26 department.

27 Sec. 47. Section 237.4, unnumbered paragraph 1, Code 2001,
28 is amended to read as follows:

29 For agencies subject to licensing under this chapter, the
30 department of inspections and appeals shall issue license
31 applications, conduct license inspections and unannounced
32 visits, respond to license complaints, maintain licensing
33 records, and issue licensing reports, decisions, and licenses.

34 For individuals subject to licensing under this chapter, the
35 department of human services shall perform those licensing

1 functions. An individual or an agency, ~~as defined in section~~
2 ~~237.17~~, shall not provide child foster care unless the
3 individual or agency obtains a license issued ~~by the~~
4 ~~administrator~~ under this chapter by the appropriate licensing
5 authority. However, a license is not required of the
6 following:

7 Sec. 48. Section 237.5, Code 2001, is amended to read as
8 follows:

9 237.5 LICENSE APPLICATION AND ISSUANCE -- DENIAL,
10 SUSPENSION, OR REVOCATION -- PROVISIONAL LICENSES.

11 1. An individual or an agency shall apply for a license by
12 completing an application to the ~~administrator~~ appropriate
13 licensing authority upon forms furnished by the ~~administrator~~
14 licensing authority. The ~~administrator~~ licensing authority
15 shall issue or reissue a license if the ~~administrator~~
16 licensing authority determines that the applicant or licensee
17 is or upon commencing operation will provide child foster care
18 in compliance with this chapter. A license is valid for one
19 year from the date of issuance. The license shall state on
20 its face the name of the licensee, the type of facility, the
21 particular premises for which the license is issued, and the
22 number of children who may be cared for by the facility on the
23 premises at one time. The license shall be posted in a
24 conspicuous place in the ~~physical plant of the~~ facility,
25 except that if the facility is in a single-family home the
26 license may be kept where it is readily available for
27 examination upon request.

28 2. The ~~administrator~~ licensing authority, after notice and
29 opportunity for an evidentiary hearing, may deny an
30 application for a license, and may suspend or revoke a
31 license, if the applicant or licensee violates this chapter or
32 the rules ~~promulgated~~ adopted pursuant to this chapter, or
33 knowingly makes a false statement concerning a material fact
34 or conceals a material fact on the license application or in a
35 report regarding operation of the facility submitted to the

1 ~~administrator~~ licensing authority.

2 3. The ~~administrator~~ licensing authority may issue a
3 provisional license for not more than one year to a licensee
4 whose facility does not meet the requirements of this chapter,
5 if written plans to bring the facility into compliance with
6 the applicable requirements are submitted to and approved by
7 the ~~administrator~~ licensing authority. The plans shall state
8 a specific time when compliance will be achieved. Only one
9 provisional license shall be issued for a facility by reason
10 of the same deficiency.

11 Sec. 49. Section 237.6, Code 2001, is amended to read as
12 follows:

13 237.6 RESTRICTED USE OF FACILITY.

14 A licensee shall not furnish child foster care in a
15 building or on premises not designated in the license. A
16 licensee shall not furnish child foster care to a greater
17 number of children than is designated in the license, unless
18 ~~the-administrator-so-authorizes~~ authorized to do so by the
19 licensing authority. Multiple licenses authorizing separate
20 and distinct parts of a facility to provide different
21 categories of child foster care may be issued.

22 Sec. 50. Section 237.7, Code 2001, is amended to read as
23 follows:

24 237.7 REPORTS AND INSPECTIONS.

25 The ~~administrator~~ licensing authority may require
26 submission of reports by a licensee, and shall cause at least
27 one annual unannounced inspection of each facility to assess
28 the quality of the living situation and to determine
29 compliance with applicable requirements and standards. The
30 inspections shall be conducted by the ~~department-of~~
31 ~~inspections-and-appeals~~ appropriate licensing authority. The
32 ~~director-of-the-department-of-inspections-and-appeals~~
33 licensing authority may examine records of a licensee,
34 including but not limited to corporate records and board
35 minutes, and may inquire into matters concerning a licensee

1 and its employees relating to requirements and standards for
2 child foster care under this chapter.

3 Sec. 51. Section 422.45, subsection 22, paragraph b, Code
4 Supplement 2001, is amended to read as follows:

5 b. Residential child foster care facilities licensed by
6 ~~the department of human services~~ pursuant to chapter 237,
7 other than those maintained by individuals as defined in
8 section 237.1, subsection 7.

9 DIVISION VI

10 DEPARTMENT OF INSPECTION AND APPEALS -- CHILD CARE

11 Sec. 52. Section 237A.1, subsection 1, Code Supplement
12 2001, is amended by striking the subsection.

13 Sec. 53. Section 237A.1, subsection 12, Code Supplement
14 2001, is amended to read as follows:

15 12. "Licensed center" means a center issued a full or
16 provisional license by the department of inspections and
17 appeals under the provisions of this chapter or a center for
18 which a license is being processed.

19 Sec. 54. Section 237A.2, Code 2001, is amended to read as
20 follows:

21 237A.2 LICENSING OF CHILD CARE CENTERS.

22 1. A person shall not establish or operate a child care
23 center without obtaining a license through the department of
24 inspections and appeals under ~~the provisions of~~ this chapter.
25 A center may operate for a specified period of time, to be
26 established by rule of the department, if application for a
27 license has been made. If the department of inspections and
28 appeals denies an application for an initial license,
29 notwithstanding section 17A.8, the applicant center shall not
30 continue to provide child care pending the outcome of an
31 evidentiary hearing. The department of inspections and
32 appeals shall issue a license if it determines that all of the
33 following conditions have been met:

34 a. An application for a license or a renewal has been
35 filed with the ~~administrator~~ department of inspections and

1 appeals on forms provided by the department of inspections and
2 appeals.

3 b. The center is maintained to comply with state health
4 and fire laws.

5 c. The center is maintained to comply with rules adopted
6 under section 237A.12.

7 2. A person denied a license under ~~the-provisions-of~~ this
8 section shall receive written notice of the denial stating the
9 reasons for denial and shall be provided with an opportunity
10 for an evidentiary hearing. Licenses granted under this
11 chapter shall be valid for one year from the date of issuance
12 unless revoked or suspended in accordance with ~~the-provisions~~
13 ~~of~~ section 237A.8 or reduced to a provisional license under
14 subsection 3. A record of the license shall be kept by the
15 department of inspections and appeals. The license shall be
16 posted in a conspicuous place in the center and shall state
17 the particular premises in which child care may be offered and
18 the number of individuals who may be received for care at any
19 one time. A greater number of children than is authorized by
20 the license shall not be kept in the center at any one time.

21 3. The ~~administrator~~ department of inspections and appeals
22 may reduce a previously issued license to a provisional
23 license or issue a provisional license for a period of time
24 not to exceed one year if the center does not meet standards
25 required under this section. A provisional license shall not
26 be renewable in regard to the same standards for more than two
27 consecutive years. A provisional license shall be posted in a
28 conspicuous place in the center as provided in this section.
29 If written plans to bring the center up to standards, giving
30 specific dates for completion of work, are submitted to and
31 approved by the department of inspections and appeals, the
32 provisional license shall be renewable as provided in this
33 subsection.

34 4. A program which is not a child care center by reason of
35 the exceptions to the definition of child care in section

1 237A.1, subsection 3, but which provides care, supervision,
2 and guidance to a child may be issued a license if the program
3 complies with all the provisions of this chapter.

4 5. If the department of inspections and appeals has denied
5 or revoked a license because the applicant or person has
6 continually or repeatedly failed to operate a licensed center
7 in compliance with this chapter and rules adopted pursuant to
8 this chapter, the person shall not own or operate a child care
9 center for a period of six months from the date the license is
10 denied or revoked. The department of inspections and appeals
11 shall not act on an application for a license submitted by the
12 applicant or person during the six-month period.

13 Sec. 55. Section 237A.3, subsection 1, paragraph a, Code
14 Supplement 2001, is amended to read as follows:

15 a. A person who operates or establishes a family child
16 care home may apply to the department of inspections and
17 appeals for registration under this chapter. The department
18 of inspections and appeals shall issue a certificate of
19 registration upon receipt of a statement from the family child
20 care home that the home complies with rules adopted by the
21 department of human services. The registration certificate
22 shall be posted in a conspicuous place in the family child
23 care home, shall state the name of the registrant, the number
24 of individuals who may be received for care at any one time,
25 and the address of the home, and shall include a check list of
26 registration compliances.

27 Sec. 56. Section 237A.3, subsection 2, paragraph a, Code
28 Supplement 2001, is amended to read as follows:

29 a. A person shall not operate or establish a group child
30 care home unless the person obtains a certificate of
31 registration under this chapter. Two persons who comply with
32 the individual requirements for registration as a group child
33 care provider may request that the certificate be issued to
34 the two persons jointly and the department of inspections and
35 appeals shall issue the joint certificate provided the group

1 child care home requirements for registration are met. All
2 other requirements of this chapter for registered family child
3 care homes and the rules adopted under this chapter for
4 registered family child care homes apply to group child care
5 homes. In addition, the department of human services shall
6 adopt rules relating to the provision in group child care
7 homes for a separate area for sick children. In consultation
8 with the state fire marshal, the department of human services
9 shall adopt rules relating to the provision of fire
10 extinguishers, smoke detectors, and two exits accessible to
11 children.

12 Sec. 57. Section 237A.3, subsections 4 and 5, Code
13 Supplement 2001, are amended to read as follows:

14 4. A person who operates or establishes a child care home
15 and who ~~is-a~~ holds a child foster care ~~licensee~~ license under
16 chapter 237 shall register with the department of inspections
17 and appeals under this chapter. For purposes of registration
18 and determination of the maximum number of children who can be
19 provided child care by the child care home, the children
20 receiving child foster care shall be considered the children
21 of the person operating the child care home.

22 5. If the department of inspections and appeals has denied
23 or revoked a registration because the applicant or person has
24 continually or repeatedly failed to operate a registered child
25 care facility in compliance with this chapter and rules
26 adopted pursuant to this chapter, the person shall not own or
27 operate a registered facility for a period of six months from
28 the date the registration is denied or revoked. The
29 department of inspections and appeals shall not act on an
30 application for registration submitted by the applicant or
31 person during the six-month period.

32 Sec. 58. Section 237A.3A, subsections 5 and 6, Code
33 Supplement 2001, are amended to read as follows:

34 5. REGISTRATION CERTIFICATE. The department of
35 inspections and appeals shall issue a certificate of

1 registration upon receipt of a statement from the child care
2 home or an inspection verifying that the child care home
3 complies with rules adopted by the department of human
4 services. The certificate of registration shall be posted in
5 a conspicuous place in the child care home and shall state the
6 name of the registrant, the registration level of the child
7 care home, the number of children who may be present for care
8 at any one time, and the address of the child care home. In
9 addition, the certificate shall include a check list of
10 registration compliances.

11 6. REVOCATION OR DENIAL OF REGISTRATION. If the
12 department of inspections and appeals has denied or revoked a
13 certificate of registration because a person has continually
14 or repeatedly failed to operate a registered or licensed child
15 care facility in compliance with this chapter and rules
16 adopted pursuant to this chapter, the person shall not operate
17 or establish a registered child care home for a period of six
18 months from the date the registration or license is denied or
19 revoked. The department of inspections and appeals shall not
20 act on an application for registration submitted by the person
21 during the six-month period.

22 Sec. 59. Section 237A.4, Code 2001, is amended to read as
23 follows:

24 237A.4 INSPECTION AND EVALUATION.

25 The department of inspections and appeals shall make
26 periodic inspections of licensed centers to ensure compliance
27 with licensing requirements provided in this chapter, and the
28 local boards of health may make periodic inspections of
29 licensed centers to ensure compliance with health-related
30 licensing requirements provided in this chapter. The
31 administrator department of inspections and appeals and the
32 department of human services may inspect records maintained by
33 a licensed center and may inquire into matters concerning
34 these centers and the persons in charge. The administrator
35 department of inspections and appeals shall require that the

1 center be inspected by the state fire marshal or a designee
2 for compliance with rules relating to fire safety before a
3 license is granted or renewed. The administrator department
4 of inspections and appeals or a designee may periodically
5 visit registered child care homes for the purpose of
6 evaluation of an inquiry into matters concerning compliance
7 with rules adopted under section 237A.12. ~~Evaluation-of-child~~
8 ~~care-homes-under-this-section-may-include-consultative~~
9 ~~services-provided-pursuant-to-section-237A-6-~~

10 Sec. 60. Section 237A.6, Code 2001, is amended to read as
11 follows:

12 237A.6 CONSULTATIVE SERVICES.

13 The department ~~shall~~, of human services and the director
14 Iowa department of public health may provide consultative
15 services to a person applying for a license or registration,
16 or licensed or registered ~~by-the-administrator~~ under this
17 chapter.

18 Sec. 61. Section 237A.8, Code 2001, is amended to read as
19 follows:

20 237A.8 VIOLATIONS -- ACTIONS AGAINST LICENSE OR
21 REGISTRATION.

22 ~~The-administrator,-after~~ After notice and opportunity for
23 an evidentiary hearing, ~~before~~ the department of inspections
24 and appeals, may suspend or revoke a license or certificate of
25 registration issued under this chapter or may reduce a license
26 to a provisional license if the person to whom a license or
27 certificate is issued violates a provision of this chapter or
28 if the person makes false reports regarding the operation of
29 the child care facility to the ~~administrator-or-a-designee-of~~
30 ~~the-administrator~~ department of inspections and appeals. The
31 administrator department of inspections and appeals shall
32 notify the parent, guardian, or legal custodian of each child
33 for whom the person provides child care at the time of action
34 to suspend or revoke a license or certificate of registration.

35 Sec. 62. Section 237A.12, subsection 1, unnumbered

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

2 Subject to the provisions of chapter 17A, the administrator
3 department shall adopt rules setting minimum standards to
4 provide quality child care in the operation and maintenance of
5 child care centers and registered child care homes, relating
6 to all of the following:

7 Sec. 63. Section 237A.12, subsection 1, paragraph c, Code
8 2001, is amended to read as follows:

9 c. The adequacy of activity programs and food services
10 available to the children. The administrator department of
11 human services and the department of inspections and appeals
12 shall not restrict the use of or apply nutritional standards
13 to a lunch or other meal which is brought to the center or
14 child care home by a school-age child for the child's
15 consumption.

16 Sec. 64. Section 237A.12, subsection 4, Code 2001, is
17 amended to read as follows:

18 4. If a building is owned or leased by a school district
19 or accredited nonpublic school and complies with standards
20 adopted by the state fire marshal for school buildings under
21 chapter 100, the building is considered appropriate for use by
22 a child care facility. The rules adopted by the administrator
23 department under this section shall not require the facility
24 to comply with building requirements which differ from
25 requirements for use of the building as a school.

26 Sec. 65. Section 237A.19, Code 2001, is amended to read as
27 follows:

28 237A.19 PENALTY.

29 A person who establishes, conducts, manages, or operates a
30 center without a license shall be guilty of a serious
31 misdemeanor. Each day of continuing violation after
32 conviction, or notice from the department of inspections and
33 appeals by certified mail of the violation, shall be
34 considered a separate offense.

35 If registration is required under section 237A.3, a person

1 who establishes, conducts, manages, or operates a child care
2 home without registering or a person who operates a child care
3 home contrary to section 237A.5, is guilty of a simple
4 misdemeanor. Each day of continuing violation after
5 conviction, or notice from the department of inspections and
6 appeals by certified mail of the violation, is a separate
7 offense. A single charge alleging continuing violation may be
8 made in lieu of filing charges for each day of violation.

9 DIVISION VII

10 DEPARTMENT OF INSPECTIONS AND APPEALS --

11 CHILD-PLACING AGENCIES

12 Sec. 66. Section 238.1, Code 2001, is amended to read as
13 follows:

14 238.1 DEFINITIONS.

15 1: For the purpose purposes of this chapter the word
16 "~~administrator~~" means ~~administrator of the division of child~~
17 ~~and family services of the department of human services.~~

18 2: ~~The word~~, unless the context otherwise requires,
19 "person" or "agency" where used in this chapter ~~shall include~~
20 includes individuals, institutions, partnerships, voluntary
21 associations, and corporations, other than institutions under
22 the management or control of any division of the department of
23 human services or any administrator ~~thereof~~ of an institution
24 or division.

25 Sec. 67. Section 238.3, Code 2001, is amended to read as
26 follows:

27 238.3 POWER TO LICENSE.

28 The ~~administrator is hereby empowered to~~ department of
29 inspections and appeals may grant a license for one year for
30 the ~~conduct~~ operation of any child-placing agency that is for
31 the public good, and is conducted by a reputable and
32 responsible person.

33 Sec. 68. Section 238.5, Code 2001, is amended to read as
34 follows:

35 238.5 LICENSE REQUIRED.

1 No A person shall ~~conduct~~ not operate a child-placing
2 agency or solicit or receive funds for its support without an
3 unrevoked a valid license issued by the administrator
4 department of inspections and appeals within the twelve months
5 preceding to ~~conduct-such~~ operate the agency.

6 Sec. 69. Section 238.8, Code 2001, is amended to read as
7 follows:

8 238.8 RECORD OF LICENSE.

9 A record of ~~the-licenses-so~~ a license issued under this
10 chapter shall be kept by the administrator department of
11 inspections and appeals.

12 Sec. 70. Section 238.10, Code 2001, is amended to read as
13 follows:

14 238.10 REVOCATION OF LICENSE.

15 The administrator department of inspections and appeals
16 may, after due notice and hearing, revoke the license of a
17 child-placing agency under any of the following circumstances:

18 1. ~~In-case-the~~ The person to whom the same license is
19 issued violates any provision of this chapter.

20 2. When in the opinion of the ~~administrator-such~~
21 department of inspections and appeals, the agency is
22 maintained in such a way as to waste or misuse funds
23 contributed by the public or without due regard to sanitation
24 or hygiene or to the health, comfort, or well-being of the
25 child cared for or placed by the agency.

26 3. ~~In-case-of-violation-by-the~~ The licensee or the
27 licensee's agents ~~of-any~~ has violated a law of the state in a
28 manner disclosing moral turpitude or unfitness to maintain
29 such the agency.

30 4. ~~In-case-any-such~~ The agency is ~~conducted~~ operated by a
31 person of ill repute or bad moral character.

32 5. ~~In-case-said~~ The agency ~~operates-in-persistent~~
33 ~~violation-of-the-reasonable-regulations-of-the-administrator~~
34 ~~governing-such-agencies~~ persistently violates the rules
35 applicable to the agency.

1 Sec. 71. Section 238.11, Code 2001, is amended to read as
2 follows:

3 238.11 WRITTEN CHARGES -- FINDINGS -- NOTICE.

4 Written charges against the a licensee shall be served upon
5 the licensee at least ten days before prior to a hearing shall
6 be-had-thereon on the charges and a written copy of the
7 findings and decisions of the administrator department of
8 inspections and appeals upon hearing shall be served upon the
9 licensee in the manner prescribed for the service of original
10 notice in civil actions.

11 Sec. 72. Section 238.12, Code 2001, is amended to read as
12 follows:

13 238.12 APPEAL -- JUDICIAL REVIEW.

14 1. Any A licensee feeling aggrieved by any a decision of
15 the administrator department of inspections and appeals
16 revoking the licensee's license may appeal to the council on
17 human services in the manner of-form prescribed by such the
18 council. The council shall, upon receipt of such an appeal
19 give the licensee reasonable notice and opportunity for a fair
20 hearing before such the council or its-duty the council's
21 authorized representative or-representatives. Following such
22 the hearing the council on human services shall take its final
23 action and notify the licensee in writing.

24 2. Judicial review of the actions of the council may be
25 sought in accordance with the-terms-of-the-Iowa-administrative
26 procedure-Act chapter 17A.

27 Sec. 73. Section 238.16, Code 2001, is amended to read as
28 follows:

29 238.16 RULES AND REGULATIONS -- LICENSING.

30 1. It-shall-be-the-duty-of-the-administrator-to-provide
31 such-general-regulations-and The department of human services
32 shall adopt rules for establishing licensing standards for
33 child-placing agencies. The rules shall address the conduct
34 operation of all such agencies as shall-be necessary to effect
35 the purposes of this chapter and of all other laws of the

1 state relating to children, ~~so-far as the-same-are~~ applicable,
2 and to safeguard the well-being of children placed or cared
3 for by ~~such the~~ agencies.

4 2. The department of inspections and appeals shall issue
5 licensing applications; conduct licensing inspections and
6 unannounced visits; respond to licensing complaints; maintain
7 licensing records; conduct criminal record checks for
8 employees of licensed agencies prior to employment and
9 evaluate those employees with criminal records or records of
10 founded abuse in accordance with the provisions of section
11 237.8 applicable to an agency providing group foster care to
12 determine if prohibition of employment is warranted; and issue
13 licensing reports, decisions, and licenses.

14 Sec. 74. Section 238.17, Code 2001, is amended to read as
15 follows:

16 238.17 FORMS FOR REGISTRATION AND RECORD -- PRESERVATION.

17 1. The administrator department of human services shall
18 prescribe forms for the registration and record of persons
19 cared for by any a child-placing agency licensed under this
20 chapter and for reports required by-said-administrator-from
21 the-agencies from a child-placing agency.

22 2. If, for any reason, a child-placing agency as-defined
23 by-section-238-2-shall-~~cease~~ ceases to exist, all records of
24 registration and placement and all other records of any kind
25 and character kept by such the child-placing agency shall be
26 turned over to the administrator department of inspections and
27 appeals, for preservation, to be kept by-the-said
28 administrator as a permanent record by the department.

29 Sec. 75. Section 238.18, Code 2001, is amended to read as
30 follows:

31 238.18 DUTY OF LICENSEE.

32 The licensee shall keep ~~a-record~~ records and make reports
33 in the form ~~to-be~~ prescribed by ~~said-administrator~~ rules
34 adopted by the department of human services.

35 Sec. 76. Section 238.19, Code 2001, is amended to read as

1 follows:

2 238.19 INSPECTION GENERALLY.

3 Authorized employees of the department of inspections and
4 appeals may inspect the premises and conditions of the a
5 child-placing agency at any time and examine every part of the
6 agency; ~~and.~~ Authorized employees of the department of
7 inspections and appeals may inquire into all matters
8 concerning the a child-placing agency and the children in the
9 care of the agency.

10 Sec. 77. Section 238.24, Code 2001, is amended to read as
11 follows:

12 238.24 INFORMATION CONFIDENTIAL.

13 1. No individual A person who acquires through the
14 ~~operation of the provisions of sections 238.17 to 238.23,~~
15 ~~inclusive,~~ under this chapter or from the records provided for
16 in this chapter, information relative relating to any an
17 agency or relative to any person individual cared for by such
18 agency or relative to any relative of ~~any such person~~ the
19 individual, shall not directly or indirectly disclose such the
20 information except upon inquiry before a court of law, or
21 before some other tribunal, or for the information of the
22 governor, general assembly, medical examiners, administrator
23 department of human services, department of inspections and
24 appeals, Iowa department of public health, or the local board
25 of health ~~where such~~ in the county in which the agency is
26 located.

27 2. Nothing herein shall prohibit the administrator from
28 ~~disclosing such facts to such proper persons~~ Notwithstanding
29 subsection 1, the department of human services or department
30 of inspections and appeals may disclose information as may be
31 in the interest of a child cared for by such agency or in the
32 interest of the child's parents or foster parents and not
33 inimical to the child, or as may be necessary to protect the
34 interests of the child's prospective foster parents. However,
35 disclosure of termination and adoption records ~~shall be~~

1 governed-by is subject to the provisions of sections 600.16
2 and 600.16A.

3 ~~3. Nothing herein shall prohibit the~~ Notwithstanding
4 subsection 1, statistical analysis may be performed by duly
5 authorized persons of data collected ~~by-virtue-of~~ under this
6 chapter ~~or-the-publication-of-the.~~ The results of such
7 analysis may be publicly issued in such a manner as will not
8 disclose confidential information.

9 Sec. 78. Section 238.31, Code 2001, is amended to read as
10 follows:

11 238.31 INSPECTION OF FOSTER-HOMES PLACEMENTS.

12 ~~The-administrator-shall-be-satisfied~~ As necessary to ensure
13 that each a licensed child-placing agency is maintaining
14 proper standards ~~in-its-work,-and-said-administrator,~~ the
15 department of inspections and appeals or the department of
16 human services, as applicable, may at any time ~~cause-the-child~~
17 ~~and-home-in-which-the-child-has-been-placed-to-be-visited-by~~
18 ~~the-administrator's-agents-for-the-purpose-of-ascertaining~~
19 inspect the child's placement to determine whether the home
20 placement is a suitable one for the child, ~~and-may-continue-to~~
21 ~~visit-and-inspect-the-foster-home-and-the-conditions-therein~~
22 ~~as-they-affect-said-child.~~

23 Sec. 79. Section 238.42, Code 2001, is amended to read as
24 follows:

25 238.42 AGREEMENT IN CHILD PLACEMENTS.

26 ~~Every-agency-placing-a-child-in-a-foster-home~~ A child-
27 placing agency shall enter into a written agreement with the
28 person taking accepting placement of the child, ~~which.~~ The
29 agreement shall provide that the agency placing the child
30 shall have access at all reasonable times to such the child
31 and to the home-in-which person with whom the child is ~~living~~
32 placed, and for the return of the child by the that person
33 ~~taking-the-child~~ whenever, in the opinion of the child-placing
34 agency ~~placing-such-child,~~ or in the opinion of the
35 administrator department of inspections and appeals or the

1 department of human services, as applicable, the best
2 interests of the child ~~shall-require-it~~ require the child's
3 return.

4 Sec. 80. Section 238.45, Code 2001, is amended to read as
5 follows:

6 238.45 PENALTY.

7 Every A person who violates any of the provisions of this
8 chapter or who intentionally ~~shall-make-any~~ makes false
9 statements or reports to the ~~administrator-with-reference-to~~
10 ~~the-matters-contained-herein,~~ ~~shall-be-guilty-of~~ department of
11 inspections and appeals commits a fraudulent practice.

12 Sec. 81. Section 600.2, subsection 2, Code 2001, is
13 amended to read as follows:

14 2. "Investigator" means a natural person who is certified
15 or approved by the department of ~~human-services~~ inspections
16 and appeals, ~~after-inspection-by-the-department-of-inspections~~
17 ~~and-appeals,~~ as being capable of conducting an investigation
18 under section 600.8.

19 Sec. 82. Section 238.23, Code 2001, is repealed.

20 DIVISION VIII

21 IOWA DEPARTMENT OF PUBLIC HEALTH --

22 CHILD ABUSE PREVENTION

23 Sec. 83. Section 135.11, Code Supplement 2001, is amended
24 by adding the following new subsection:

25 NEW SUBSECTION. 29. Administer the program for child
26 abuse prevention in accordance with section 235A.1.

27 Sec. 84. Section 235A.1, subsection 1, unnumbered
28 paragraph 1, Code 2001, is amended to read as follows:

29 A program for the prevention of child abuse is established
30 within the ~~state~~ Iowa department of ~~human-services~~ public
31 health. Any moneys appropriated by the general assembly for
32 child abuse prevention shall be used by the Iowa department of
33 ~~human-services~~ public health solely for the purposes of child
34 abuse prevention and shall not be expended for treatment or
35 other service delivery programs regularly maintained by the

1 department state. Moneys appropriated for child abuse
2 prevention shall be used by the Iowa department of public
3 health through contract with an agency or organization which
4 shall administer the funds with maximum use of voluntary
5 administrative services for the following:

6 Sec. 85. Section 235A.1, subsection 2, Code 2001, is
7 amended to read as follows:

8 2. The director of ~~human-services~~ public health may accept
9 grants, gifts, and bequests from any source for the purposes
10 designated in subsection 1. The director shall remit funds so
11 received to the treasurer of state who shall deposit them in
12 the general fund of the state. The deposited funds are
13 appropriated to the Iowa department of public health for the
14 use of the child abuse prevention program.

15 Sec. 86. Section 235A.1, subsection 4, paragraph a, Code
16 2001, is amended to read as follows:

17 a. ~~Advise the director-of-human-services-and-the~~
18 ~~administrator-of-the-division-of-the-department-of-human~~
19 ~~services-responsible-for-child-and-family-programs Iowa~~
20 department of public health regarding expenditures of funds
21 received for the child abuse prevention program.

22 DIVISION IX

23 SEXUALLY VIOLENT PREDATORS UNIT

24 Sec. 87. 2001 Iowa Acts, Second Extraordinary Session,
25 chapter 6, section 35, is amended to read as follows:

26 SEC. 35. CIVIL COMMITMENT OF SEXUALLY VIOLENT PREDATORS.

27 ~~The department-of-human-services-may-collocate-the~~ unit for
28 civil commitment of sexually violent predators ~~at-the-mental~~
29 ~~health-institute-at-Mount-Pleasant~~ may be moved and colocated
30 at another state institution.

31 Sec. 88. EFFECTIVE DATE. This division of this Act, being
32 deemed of immediate importance, takes effect upon enactment.

33 DIVISION X

34 OLMSTEAD RULING ACTIVITIES

35 Sec. 89. Section 225C.48, subsections 1 and 2, Code 2001,

1 are amended to read as follows:

2 1. ~~An-eleven-member~~ A thirteen-member personal assistance
3 and family support services council is created in the
4 department. The members of the council shall be appointed by
5 the following officials as follows: governor, five members;
6 majority leader of the senate, three members; and speaker of
7 the house, three members. In addition, the governor's
8 developmental disabilities council and a statewide advisory
9 council on independent living centers shall each appoint one
10 member. At least three of the governor's appointments and one
11 of each legislative chamber's appointments shall be a family
12 member of an individual with a disability as defined in
13 section 225C.47. At least five of the members shall be
14 consumers of personal services. Members shall serve for
15 three-year staggered terms. A vacancy on the council shall be
16 filled in the same manner as the original appointment. The
17 members of the council shall be entitled to reimbursement of
18 actual and necessary expenses incurred in the performance of
19 their official duties. The council shall elect officers from
20 among the council's members.

21 2. The council shall provide ongoing guidance, advice, and
22 direction to the department and other agencies working with
23 the department in the development and implementation of the
24 personal assistance services program created in section
25 225C.46 and the comprehensive family support program created
26 in section 225C.47. In addition, the council shall provide
27 ongoing guidance, advice, and direction to the department and
28 to persons working with the department to address the holding
29 in Olmstead v. L.C. and E.W., 119 S. Ct. 2176 (1999),
30 including but not limited to implementation grants. The
31 council shall perform an annual evaluation of each program,
32 and annually make recommendations concerning each program to
33 the governor and general assembly. The department shall
34 provide sufficient staff support to the council to enable the
35 council to carry out its responsibilities.

1
2 EXPLANATION

3 This bill provides for the transfer of duties performed by
4 the department of human services to the department of
5 inspections and appeals and the Iowa department of public
6 health, and authorizes the sexually violent predators unit to
7 be moved and colocated at another state institution.

8 In division I of the bill, the definition of the term
9 "administrator" is amended throughout Code chapter 10A,
10 relating to the department of inspections and appeals, by
11 providing a general description of each division
12 administrator.

13 The duties of the director of the department of inspections
14 and appeals in Code section 10A.104 are amended to include
15 administration of inspection and licensing of social and
16 charitable gambling in place of the inspections division. The
17 bill eliminates a provision making the director of the
18 department of inspections and appeals' rulemaking authority in
19 regard to targeted small business subject to the review and
20 approval of the director of the department of management.

21 Code section 10A.106, providing a list of the divisions of
22 the department, is amended to replace a reference to the
23 audits division with the child care division. The audits
24 division is eliminated.

25 The duties of the investigations division in Code section
26 10A.402 are amended to eliminate investigation of proposed
27 sales in this state of subdivided land situated outside the
28 state and investigation of applications for beer and liquor
29 licenses and to add audits of various public assistance
30 programs that are subject to investigation by this division
31 and the duty to evaluate the results of record checks
32 conducted under Code chapter 135C, relating to health
33 facilities.

34 The duties of the inspections division in Code section
35 10A.502 are amended to eliminate responsibility for regulation
36 of social and charitable gambling and inspections of

1 educational, charitable, correctional, and penal institutions
2 and to add responsibility for home food establishments, egg
3 handlers, food processing plants, grocery stores, convenience
4 stores, temporary food establishments, and mobile food units.

5 The duties of the health facilities division in Code
6 section 10A.702 are amended to eliminate responsibility for
7 inspections of child foster care facilities and private
8 providers of care to dependent, neglected, and delinquent
9 children and to add investigations and inspections of
10 responsibility for community mental health centers, and
11 various other providers of services to persons with
12 disabilities.

13 The bill eliminates the sole authority of the division of
14 administrative hearings in Code section 10A.801 for various
15 personnel matters concerning administrative law judges.

16 New Code section 10A.901 establishes a new article in Code
17 chapter 10A creating a child care division. The division has
18 responsibility for regulation of psychiatric medical
19 institutions for children under Code chapter 135H, child
20 foster care providers under Code chapter 237, child care
21 providers under Code chapter 237A, and private child-placing
22 agencies under Code chapter 238. The Code editor is directed
23 to codify this section as a new article of Code chapter 10A.

24 In division II of the bill, the department of inspections
25 and appeals is made responsible for performing abuse record
26 checks and directed to perform an evaluation in place of the
27 department of human services when a criminal or abuse record
28 check reveals that a person has committed a crime or has been
29 found to have committed child or dependent adult abuse. The
30 evaluation is for the purpose of determining whether the crime
31 or founded abuse warrants prohibition of the person's
32 employment or residence in a registered or licensed program.
33 The following registration, approval, or licensing provisions
34 are affected: Code section 125.14A, relating to licensed
35 substance abuse programs; Code section 135C.33, relating to

1 health care facilities; Code section 135H.7, relating to
2 psychiatric medical institutions for children; Code sections
3 232.142 and 237.8, relating to juvenile detention and shelter
4 care homes and group foster care agency providers; and Code
5 section 237A.5, relating to child care providers.

6 Code section 135C.33 requirements for a single contact
7 registry for conducting criminal and abuse record checks are
8 amended to authorize the department to utilize the registry
9 for performing the record checks and evaluations the
10 department is required to conduct. Code section 235A.15,
11 relating to the child abuse registry, and Code section 235B.6,
12 relating to the dependent adult abuse registry, are amended to
13 authorize the department to have access to these registries
14 for the record checks.

15 In division III of the bill, the duties of the department
16 of human services' administrator for mental health and
17 developmental disabilities in Code sections 225C.5 and 230A.17
18 are amended to transfer responsibility for review, evaluation,
19 and accreditation of community mental health centers to the
20 department of inspections and appeals. In addition,
21 responsibility for accreditation or approval of supported
22 community living services and individual case management
23 services is transferred to the department of inspections and
24 appeals.

25 In division IV of the bill, Code section 232.142 is amended
26 to transfer responsibility for approval of juvenile detention
27 and shelter care homes to the department of inspections and
28 appeals. The department of human services retains rules
29 adoption authority and responsibility to provide guidance and
30 consultation to the homes.

31 In division V of the bill, responsibility for licensing
32 group foster care agency providers is transferred to the
33 department of inspections and appeals. The department of
34 human services retains responsibility for licensing individual
35 foster family home providers and for adopting rules

1 requirements for all foster care licensees.

2 Code section 237.1 is amended to eliminate the term
3 "administrator" and associated references to the individual
4 assigned by the director of human services for foster care
5 regulatory responsibilities. A new term, "licensing
6 authority", provides that the department of human services
7 enforces requirements for individual foster family home
8 providers and the department of inspections and appeals
9 enforces requirements for group foster care agency providers.

10 Conforming changes are made throughout Code chapter 237,
11 the foster care regulatory chapter, to utilize the "new
12 licensing authority" term. In addition, Code section 422.45
13 is amended to revise a departmental reference in the sales tax
14 exemption for residential child foster care facilities.

15 In division VI of the bill, responsibilities under Code
16 chapter 237A, relating to child care registration and
17 licensing, are transferred to the department of inspections
18 and appeals. The department of human services retains
19 responsibility for adopting rules requirements and providing
20 consultative services for child care registrants and
21 licensees.

22 The term "administrator" is eliminated from Code section
23 237A.1, providing definitions. Instead, the bill eliminates
24 the use of this term and refers to either the department of
25 inspections and appeals or the department of human services,
26 as appropriate.

27 In division VII of the bill, responsibility for licensing
28 private child-placing agencies is transferred to the
29 department of inspections and appeals. The department of
30 human services retains responsibility for adopting rules
31 requirements for child-placing agencies. The department of
32 inspections and appeals is provided authority for the
33 licensing and inspection of the agencies, including record
34 checks of employees utilizing the requirements applicable to
35 foster care agency providers. In addition, Code section

600.2, relating to the definition of the term "investigator"
2 used for the person who performs preplacement investigations
3 for adoptions, is amended to provide that an investigator is
4 approved or certified by the department of inspections and
5 appeals instead of the department of human services. Code
6 section 238.23, requiring child-placing agencies to file an
7 annual report with the department of human services and
8 specifying the placement and budget information to be included
9 in the report, is repealed.

10 In division VIII of the bill, Code section 235A.1 is
11 amended to transfer responsibility of child abuse prevention
12 programming from the department of human services to the Iowa
13 department of public health. Moneys received from grants,
14 gifts, and bequests are appropriated to the Iowa department of
15 public health to be used for the child abuse prevention
16 program.

17 In division IX of the bill, previously enacted authority
18 for the department of human services to colocate the unit for
19 sexually violent predators at the state mental health
20 institute at Mount Pleasant is amended to authorize moving the
21 unit to colocate it at another state institution. Currently,
22 the unit is located at the Oakdale campus administered by the
23 department of corrections. This division takes effect upon
24 enactment.

25 In division X of the bill, the membership of the personal
26 assistance and family support services council is expanded
27 from 11 to 13 members with one of the new members appointed by
28 the governor's developmental disabilities council and the
29 other by a statewide advisory council on independent living
30 centers. In addition, the council's duties are expanded to
31 include providing ongoing guidance, advice, and direction to
32 the department and persons working with the department to
33 address the holding of *Olmstead v. L.C. and E.W.*, 119 S. Ct.
34 2176 (1999), including but not limited to implementation
35 grants. This United States supreme court ruling relates to

1 appropriate placement of persons for services under the
2 federal Americans With Disabilities Act.

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Legislative Fiscal Bureau

Fiscal Note

HF 2561 - Department of Human Services Reorganization (LSB 5551 HV)
Analyst: Sue Lerdal (Phone: (515) 281-7794) (sue.lerdal@legis.state.ia.us)
Fiscal Note Version - First Version
Requested by Representative Carmine Boal

Description

House File 2561 transfers various duties from the Department of Human Services (DHS) to the Departments of Inspections and Appeals (DIA) and Public Health (DPH). The Bill also reorganizes the duties of the Department of Inspections and Appeals.

Assumptions

1. The duties currently conducted by the DHS which are transferred to the DIA relating to various facility inspections for child care, foster care, and adoption would remain intact and continue to be conducted in a similar manner.
2. The duties currently conducted by the DHS which are transferred to the DIA relating to various record checks for providers of certain nursing home, home health care, adoption, and foster care services would remain intact and continue to be conducted in a similar manner.
3. The technical assistance contract relating to rehabilitative treatment services which is transferred from the DHS to the DIA would continue.
4. The Child Abuse Prevention Program conducted by the DHS would be transferred to the DPH and would continue to be conducted in a similar manner.
5. The Unit for Civil Commitment of Sexually Violent Predators would be moved from the Iowa Medical Classification Center at Oakdale to a different State institution.
6. The reorganization within the DIA as specified in the Bill would occur without changes in funding.

Fiscal Impact

The fiscal impact of HF 2561 is as follows:

The annual costs associated with the transfer of DHS duties to the DIA and the DPH will be funded from existing budgets.

	Duties Transferred To DIA	Duties Transferred To DPH
General Fund	\$ 674,000	\$ 250,000
FTEs	19.0	0.0
Non General Fund	\$ 912,000	\$ 0
TANF	0	731,000
Total Amount Transferred	<u>\$1,586,000</u>	<u>\$ 981,000</u>
Total FTEs Transferred	19.0	0.0

The one-time General Fund cost of relocation of the Unit for Civil Commitment of Sexually Violent Predators would be between \$1.5 million and \$3.0 million, based on location and existing security at the site. This does not include any additional costs due to increases in population of the Unit, which is related to court action and not the relocation.

Sources

Legislative Fiscal Bureau
Department of Management
Department of Human Services
Department of Inspections and Appeals
Department of Public Health

/s/ Dennis C Prouty

March 5, 2002

The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

HOUSE FILE 2561

H-8259

1 Amend House File 2561 as follows:

2 1. Page 40, by striking lines 12 and 13 and
3 inserting the following: "the general fund of the
4 state for the".

5 2. Title page, by striking lines 7 and 8 and
6 inserting the following: "located at another state
7 institution, and providing an".

By BOAL of Polk

H-8259 FILED MARCH 12, 2002

HOUSE FILE 2561

H-8264

1 Amend House File 2561 as follows:

2 1. Page 1, line 27, by striking the word "care"
3 and inserting the following: "advocacy".

4 2. Page 5, line 21, by striking the word "CARE"
5 and inserting the following: "ADVOCACY".

6 3. Page 5, line 26, by striking the word "care"
7 and inserting the following: "advocacy".

8 4. Page 6, line 8, by striking the word "care"
9 and inserting the following: "advocacy".

10 5. Page 19, line 7, by inserting after the word
11 "Recommend" the following: ", in cooperation with the
12 department of inspections and appeals,".

13 6. Page 19, line 15, by inserting after the word
14 "Recommend" the following: ", in cooperation with the
15 department of inspections and appeals,".

16 7. Page 20, line 1, by inserting after the word
17 "Establish" the following: ", in cooperation with the
18 department of inspections and appeals,".

19 8. Page 20, by inserting after line 12 the
20 following:

21 "Sec. ____ . Section 230A.16, unnumbered paragraph
22 1, Code 2001, is amended to read as follows:

23 The ~~administrator of the division of mental health~~
24 ~~and developmental disabilities of the~~ department of
25 human services shall recommend, in cooperation with
26 the department of inspections and appeals, and the
27 mental health and developmental disabilities
28 commission shall adopt standards for community mental
29 health centers and comprehensive community mental
30 health programs, with the overall objective of
31 ensuring that each center and each affiliate providing
32 services under contract with a center furnishes high
33 quality mental health services within a framework of
34 accountability to the community it serves. The
35 standards shall be in substantial conformity with
36 those of the psychiatric committee of the joint
37 commission on accreditation of health care
38 organizations and other recognized national standards
39 for evaluation of psychiatric facilities unless in the
40 judgment of the ~~administrator of the division of~~
41 ~~mental health and developmental disabilities~~
42 department of human services and the department of
43 inspections and appeals, with approval of the mental
44 health and developmental disabilities commission,
45 there are sound reasons for departing from the
46 standards. When recommending standards under this
47 section, the ~~administrator of the division~~ department
48 of human services shall designate an advisory
49 committee representing boards of directors and
50 professional staff of community mental health centers

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1 to assist in the formulation or revision of standards.
2 At least a simple majority of the members of the
3 advisory committee shall be lay representatives of
4 community mental health center boards of directors.
5 At least one member of the advisory committee shall be
6 a member of a county board of supervisors. The
7 standards recommended under this section shall include
8 requirements that each community mental health center
9 established or operating as authorized by section
10 230A.1 shall:"

11 9. Page 21, line 4, by inserting after the word
12 "shall" the following: ", in cooperation with the
13 department of inspections and appeals,".

14 10. Page 21, line 34, by inserting after the word
15 "rules" the following: ", in cooperation with the
16 department of inspections and appeals,".

17 11. Page 23, line 3, by inserting after the word
18 "department" the following: "of human services, in
19 cooperation with the department of inspections and
20 appeals,".

21 12. Page 23, line 16, by striking the figures and
22 word "3 and 4" and inserting the following: "3, 4,
23 and 8".

24 13. Page 23, line 21, by inserting after the
25 word, "department" the following: "of human services
26 and the department of inspections and appeals".

27 14. Page 23, line 26, by inserting after the
28 word, "department" the following: "of human services
29 and the department of inspections and appeals".

30 15. Page 23, by inserting after line 26, the
31 following:

32 "8. The department of human services, in
33 consultation with the department of inspections and
34 appeals, the judicial branch, the division of criminal
35 and juvenile justice planning of the department of
36 human rights, residential treatment providers, the
37 foster care provider association, and other parties
38 ~~which~~ that may be affected, shall review the licensing
39 rules pertaining to residential treatment facilities,
40 and examine whether the rules allow the facilities to
41 accept and provide effective treatment to juveniles
42 with serious problems who might not otherwise be
43 placed in those facilities."

44 16. Page 28, line 21, by inserting after the word
45 "services" the following: ", in cooperation with the
46 department of inspections and appeals".

47 17. Page 29, line 5, by inserting after the word
48 "services" the following: ", in cooperation with the
49 department of inspections and appeals,".

50 18. Page 29, line 8, by inserting after the word

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1 "marshal" the following: "and the department of
2 inspections and appeals".

3 19. Page 32, line 3, by inserting after the word
4 "rules" the following: ", in cooperation with the
5 department of inspections and appeals,".

6 20. Page 32, by striking lines 16 and 17 and
7 inserting the following:

8 "Sec. ____ . Section 237A.12, subsections 3 and 4,
9 Code 2001, are amended to read as follows:

10 3. Rules relating to fire safety shall be adopted
11 under this chapter by the state fire marshal in
12 consultation with the department of human services and
13 the department of inspections and appeals. Rules
14 adopted by the state fire marshal for a building which
15 is owned or leased by a school district or accredited
16 nonpublic school and used as a child care facility
17 shall not differ from standards adopted by the state
18 fire marshal for school buildings under chapter 100.
19 Rules relating to sanitation shall be adopted by the
20 department of human services in consultation with the
21 director of public health and in cooperation with the
22 department of inspections and appeals. All rules
23 shall be developed in consultation with the state
24 child care advisory council. The state fire marshal
25 shall inspect the facilities."

26 21. Page 33, by inserting after line 8 the
27 following:

28 "Sec. ____ . Section 237A.21, subsection 1, Code
29 2001, is amended to read as follows:

30 1. A state child care advisory council is
31 established consisting of not more than ~~thirty-five~~
32 thirty-six members from urban and rural areas across
33 the state. The membership shall include, but is not
34 limited to, all of the following persons or
35 representatives with an interest in child care: a
36 licensed center, a registered child care home from a
37 county with a population of less than twenty-two
38 thousand, an unregistered child care home, a parent of
39 a child in child care, appropriate governmental
40 agencies, and other members as deemed necessary by the
41 director. The members are eligible for reimbursement
42 of their actual and necessary expenses while engaged
43 in performance of their official duties.

44 Sec. ____ . Section 237A.21, subsection 3, Code
45 2001, is amended by adding the following new
46 paragraph:

47 NEW PARAGRAPH. 11. One designee of the department
48 of inspections and appeals.

49 Sec. ____ . Section 237A.27, Code 2001, is amended
50 to read as follows:

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Page 4

1 237A.27 CRISIS CHILD CARE.

2 The department of human services shall, in
3 cooperation with the department of inspections and
4 appeals, establish a special child care registration
5 or licensure classification for crisis child care
6 which is provided on a temporary emergency basis to a
7 child when there is reason to believe that the child
8 may be subject to abuse or neglect. The special
9 classification is not subject to the definitional
10 restrictions of child care in this chapter relating to
11 the provision of child care for a period of less than
12 twenty-four hours per day on a regular basis.
13 However, the provision of crisis child care shall be
14 limited to a period of not more than seventy-two hours
15 for a child during any single stay. A person
16 providing crisis child care must be registered or
17 licensed under this chapter and must be participating
18 or have previously participated in the federal crisis
19 nursery pilot project. The department shall adopt
20 rules pursuant to chapter 17A, in cooperation with the
21 department of inspections and appeals, to implement
22 this section."

23 22. Page 35, by striking lines 13 through 26, and
24 inserting the following:

25 "238.12 APPEAL -- JUDICIAL REVIEW.

26 1. Any A licensee feeling aggrieved by any a
27 decision of the administrator department of
28 inspections and appeals revoking the licensee's
29 license may appeal to the ~~council on human services~~
30 director of the department of inspections and appeals
31 in the manner ~~of form~~ prescribed by ~~such council the~~
32 director of the department of inspections and appeals.
33 The ~~council~~ director of the department of inspections
34 and appeals shall, upon receipt of such an appeal give
35 the licensee reasonable notice and opportunity for a
36 fair hearing ~~before such council or its duly~~
37 ~~authorized representative or representatives.~~
38 Following ~~such~~ the hearing the ~~council on human~~
39 ~~services~~ director of the department of inspections and
40 appeals shall take ~~its~~ final action and notify the
41 licensee in writing.

42 2. Judicial review of the actions of the ~~council~~
43 director of the department of inspections and appeals
44 may be sought in accordance with ~~the terms of the Iowa~~
45 ~~administrative procedure Act~~ chapter 17A."

46 23. Page 35, line 32, by inserting after the word
47 "~~for~~" the following: ", in cooperation with the
48 department of inspections and appeals,".

49 24. Page 36, lines 26 and 27, by striking the
50 words "of inspections and appeals" and inserting the

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1 following: "of human services".

2 25. Page 41, by inserting after line 35, the
3 following:

4 "DIVISION _____
5 IMPLEMENTATION.

6 Sec. _____. PHASED IMPLEMENTATION OVER ONE YEAR --
7 RULEMAKING.

8 1. This Act takes effect July 1, 2002, except that
9 the department of human services and the department of
10 inspections and appeals may phase in the transfer of
11 duties between the departments as required by this Act
12 during the period beginning July 1, 2002, and ending
13 June 30, 2003. The department of human services shall
14 adopt rules, in cooperation with the department of
15 inspections and appeals, on an emergency basis as
16 provided in this section, establishing the
17 implementation schedule for the transfer of duties.
18 The requirements of this section are applicable to the
19 following divisions of this Act:

20 a. Division I, relating to department of
21 inspections and appeals duties.

22 b. Division II, relating to the department of
23 inspections and appeals' evaluation of crime and abuse
24 records.

25 c. Division III, relating to department of
26 inspections and appeals and mental health and
27 developmental disabilities services.

28 d. Division IV, relating to department of
29 inspections and appeals and juvenile detention and
30 shelter care homes.

31 e. Division V, relating to department of
32 inspections and appeals and group foster care.

33 f. Division VI, relating to department of
34 inspections and appeals and child care.

35 g. Division VII, relating to department of
36 inspections and appeals and child-placing agencies.

37 2. As necessary to establish the implementation
38 schedule required by this section, the department of
39 human services may adopt emergency rules under section
40 17A.4, subsection 2, and section 17A.5, subsection 2,
41 paragraph "b", and the rules shall be effective
42 immediately upon filing or on a later date specified
43 in the rules, unless the rules are delayed by the
44 administrative rules review committee. A rule adopted
45 under this subsection shall not take effect before the
46 administrative rules review committee reviews the
47 rule. The delay authority provided to the
48 administrative rules review committee under section
49 17A.4, subsection 5, and section 17A.8, subsection 9,
50 shall be applicable to a delay imposed under this

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