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SENATE FILE 2147

BY TINSMAN

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to administrative sanctions for fraudulent acts  
2 involving publicly funded child care.

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

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OF 2147  
HUMAN RESOURCES

1 Section 1. Section 237A.29, Code 2001, is amended to read  
2 as follows:

3 237A.29 ~~STATE-AND-FEDERAL~~ PUBLIC FUNDING OF CHILD CARE --  
4 FRAUDULENT ACTS -- SANCTIONS.

5 1. State funds and federal funds provided to the state in  
6 accordance with federal requirements shall not be used to pay  
7 for the care, supervision, and guidance of a child for periods  
8 of less than twenty-four hours per day on a regular basis  
9 unless the care, supervision, and guidance is defined as child  
10 care as used in this chapter.

11 2. a. For the purposes of this subsection, "fraudulent  
12 means" means knowingly making or causing to be made a false  
13 statement or a misrepresentation of a material fact, knowingly  
14 failing to disclose a material fact, or committing a  
15 fraudulent practice.

16 b. If a child care provider has been found in an  
17 administrative or judicial proceeding to have obtained, by  
18 fraudulent means, public funding for provision of child care  
19 in an amount equal to or in excess of the minimum amount for a  
20 fraudulent practice in the second degree under section 714.10,  
21 subsection 1, the child care provider shall be subject to one  
22 of the following sanctions as determined by the department and  
23 imposed in an administrative proceeding:

24 (1) A period during which receipt of public funding for  
25 provision of child care is conditioned upon no further  
26 violations.

27 (2) Ineligibility to receive public funding for provision  
28 of child care.

29 (3) Suspension from receipt of public funding for  
30 provision of child care.

31 (4) Special review of the child care provider's claims for  
32 providing publicly funded child care.

33 c. The following factors shall be considered in  
34 determining the sanction or sanctions to be imposed under  
35 paragraph "b":

- 1 (1) Seriousness of the violation.
- 2 (2) Extent of violations.
- 3 (3) History of prior violations.
- 4 (4) Prior imposition of sanctions.
- 5 (5) Prior provision of provider education.
- 6 (6) Provider willingness to obey program rules.
- 7 (7) Whether a lesser sanction will be sufficient to remedy
- 8 the problem.

9 d. In determining the value of the public funding obtained  
10 by fraudulent means, if the public funding is obtained by two  
11 or more acts of fraudulent means by the same person or  
12 location, or is obtained by different persons by two or more  
13 acts which occur in approximately the same location or time  
14 period so that the fraudulent means used to obtain the public  
15 funding are attributable to a single scheme, plan, or  
16 conspiracy, these acts may be considered as a single instance  
17 of the use of fraudulent means and the value may be the total  
18 value of all moneys involved.

19 3. a. If a child care provider is subject to sanction  
20 under subsection 2, the provider shall submit to the  
21 department the names and addresses of children receiving child  
22 care from the provider. The department shall send information  
23 to the parents of the children regarding the provider's  
24 actions leading to the imposition of the sanction and the  
25 nature of the sanction imposed. If the provider fails to  
26 submit the names and addresses within five business days of  
27 the department notifying the provider, the department shall  
28 suspend the provider's registration or license under this  
29 chapter until the names and addresses are provided.

30 b. In addition to or in lieu of applying the suspension,  
31 the department may request that the attorney general or the  
32 county attorney file a petition with the district court of the  
33 county in which the provider is located for issuance of a  
34 temporary injunction enjoining the provider from providing  
35 child care until the names and addresses are submitted to the

1 department. The attorney general or county attorney shall  
2 file the petition upon receiving the request from the  
3 department. Any temporary injunction may be granted without a  
4 bond being required from the department.

5 c. If the sanction imposed under subsection 2 involves the  
6 provider's suspension or ineligibility for receiving public  
7 funding for provision of child care, the department shall not  
8 impose those sanctions before the parents of the affected  
9 children are informed, and upon request, shall provide  
10 assistance to the parents in locating replacement child care.

11 EXPLANATION

12 This bill provides that a child care provider who has been  
13 found in an administrative or judicial proceeding to have used  
14 fraudulent means to obtain public funding for child care is  
15 subject to administrative sanctions from the department of  
16 human services.

17 The bill defines "fraudulent means" to mean knowingly  
18 making a false statement or misrepresenting a material fact,  
19 knowingly failing to disclose a material fact, or committing a  
20 fraudulent practice. If a child care provider is found to  
21 have used fraudulent means to obtain public funding for  
22 provision of child care in an amount equal to or in excess of  
23 the minimum amount for a fraudulent practice in the second  
24 degree, the provider is subject to sanction. The minimum  
25 amount for a fraudulent practice in the second degree under  
26 Code section 714.10(1) is an amount in excess of \$1,000. Such  
27 fraudulent practice is a class "D" felony.

28 The bill specifies the sanctions that may be imposed by the  
29 department of human services and provides factors that are to  
30 be considered in imposing a sanction. The department is  
31 required to provide information to the parents of the children  
32 receiving care from the provider regarding the provider's  
33 actions leading to sanction and the sanction imposed. If the  
34 provider does not provide the names and addresses of the  
35 children receiving care, the department must suspend the

1 provider's registration or license or seek an injunction  
2 enjoining the provider from providing child care, or do both.  
3 The department seeks an injunction through the attorney  
4 general or county attorney who is required to file the  
5 petition with the district court. If the sanction involves a  
6 provider's suspension or ineligibility to receive public  
7 funding from provision of child care, the department is  
8 required to give advance notice to the parents of the affected  
9 children and, upon request, assist those parents in locating  
10 replacement child care.

11 The bill provides that in determining the value of the  
12 public funding obtained by fraudulent means, if two or more  
13 acts of fraudulent means used to obtain the funding are  
14 attributable to a single scheme, plan, or conspiracy, these  
15 acts may be considered to be a single instance of the use of  
16 fraudulent means and the value is the total value of all money  
17 involved.

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