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FILED FEB 19 2002

SENATE FILE 2232
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO SF 2147)

Passed Senate, Date ^(p.435) 2/27/02 Passed House, Date _____
Vote: Ayes 48 Nays 0 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:

4 **SENATE FILE 2232**

5 S-5058

6 1 Amend Senate File 2232 as follows:

7 2 1. Page 1, line 17, by inserting after the word
8 3 "obtained," the following: "or if a child care
9 4 provider has agreed to entry of a civil judgment or
10 5 judgment by confession that includes a conclusion of
11 6 law that the child care provider has obtained,".

12 7 2. Page 2, line 30, by striking the words "or in
13 8 lieu of".

By MAGGIE TINSMAN

adopted 2/27/02

14 S-5058 FILED FEBRUARY 26, 2002

SF 2232

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 file a
32 petition with the district court of the county in which the
33 provider is located for issuance of a temporary injunction
34 enjoining the provider from providing child care until the
35 names and addresses are submitted to the department. The

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

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

10

EXPLANATION

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

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

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

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

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

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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, or if
18 a child care provider has agreed to entry of a civil judgment
19 or judgment by confession that includes a conclusion of law
20 that the child care provider has obtained, by fraudulent
21 means, public funding for provision of child care in an amount
22 equal to or in excess of the minimum amount for a fraudulent
23 practice in the second degree under section 714.10, subsection
24 1, the child care provider shall be subject to one of the
25 following sanctions as determined by the department and
26 imposed in an administrative proceeding:

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28 provision of child care is conditioned upon no further
29 violations.

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

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2 determining the sanction or sanctions to be imposed under
3 paragraph "b":

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5 (2) Extent of violations.

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11 the problem.

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13 by fraudulent means, if the public funding is obtained by two
14 or more acts of fraudulent means by the same person or
15 location, or is obtained by different persons by two or more
16 acts which occur in approximately the same location or time
17 period so that the fraudulent means used to obtain the public
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25 care from the provider. The department shall send information
26 to the parents of the children regarding the provider's
27 actions leading to the imposition of the sanction and the
28 nature of the sanction imposed. If the provider fails to
29 submit the names and addresses within five business days of
30 the department notifying the provider, the department shall
31 suspend the provider's registration or license under this
32 chapter until the names and addresses are provided.

*33 b. In addition to applying the suspension, the department
34 may request that the attorney general file a petition with the
35 district court of the county in which the provider is located

1 for issuance of a temporary injunction enjoining the provider
2 from providing child care until the names and addresses are
3 submitted to the department. The attorney general may file
4 the petition upon receiving the request from the department.
5 Any temporary injunction may be granted without a bond being
6 required from the department.

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