

I.C.A. § 232.68



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Iowa Code Annotated [Currentness](#)

Title VI. Human Services

Subtitle 5. Juveniles

Chapter 232. Juvenile Justice ([Refs & Annos](#))

[Division III](#). Child in Need of Assistance Proceedings

[Part 2](#). Child Abuse Reporting, Assessment, and Rehabilitation ([Refs & Annos](#))

→232.68. Definitions

<[Text subject to final changes by the Code Editor for Code Supp. 2005. Updating session laws will remain in KeyCite until text is finalized by the Code Editor.]>

The definitions in [section 235A.13](#) are applicable to this part 2 of division III. As used in [sections 232.67](#) through [232.77](#) and [235A.12](#) through [235A.24](#), unless the context otherwise requires:

1. "Child" means any person under the age of eighteen years.
2. "Child abuse" or "abuse" means:
 - a. Any nonaccidental physical injury, or injury which is at variance with the history given of it, suffered by a child as the result of the acts or omissions of a person responsible for the care of the child.
 - b. Any mental injury to a child's intellectual or psychological capacity as evidenced by an observable and substantial impairment in the child's ability to function within the child's normal range of performance and behavior as the result of the acts or omissions of a person responsible for the care of the child, if the impairment is diagnosed and confirmed by a licensed physician or qualified mental health professional as defined in [section 622.10](#).
 - c. The commission of a sexual offense with or to a child pursuant to chapter 709, [section 726.2](#), or [section 728.12, subsection 1](#), as a result of the acts or omissions of the person responsible for the care of the child. Notwithstanding [section 702.5](#), the commission of a sexual offense under this paragraph includes any sexual offense referred to in this paragraph with or to a person under the age of eighteen years.
 - d. The failure on the part of a person responsible for the care of a child to provide for the adequate food, shelter, clothing or other care necessary for the child's health and welfare when financially able to do so or when offered financial or other reasonable means to do so. A parent or guardian legitimately practicing religious beliefs who does not provide specified medical treatment for a child for that reason alone shall not be considered abusing the child, however this provision shall not preclude a court from ordering that medical service be provided to the child where the child's health requires it.
 - e. The acts or omissions of a person responsible for the care of a child which allow, permit, or encourage the child to engage in acts prohibited pursuant to [section 725.1](#). Notwithstanding [section 702.5](#), acts or omissions under this paragraph include an act or omission referred to in this paragraph with or to a person under the age of eighteen years.
 - f. An illegal drug is present in a child's body as a direct and foreseeable consequence of the acts or omissions of the person responsible for the care of the child.

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g. The person responsible for the care of a child has, in the presence of the child, as defined in [section 232.2, subsection 6](#), paragraph "p", manufactured a dangerous substance, as defined in [section 232.2, subsection 6](#), paragraph "p", or in the presence of the child possesses a product containing ephedrine, its salts, optical isomers, salts of optical isomers, or pseudoephedrine, its salts, optical isomers, salts of optical isomers, with the intent to use the product as a precursor or an intermediary to a dangerous substance.

h. The commission of bestiality in the presence of a minor under [section 717C.1](#) by a person who resides in a home with a child, as a result of the acts or omissions of a person responsible for the care of the child.

i. Cohabitation with a person on the sex offender registry under chapter 692A in violation of [section 726.6](#).

2A. "Child protection worker" means an individual designated by the department to perform an assessment in response to a report of child abuse.

3. "Confidential access to a child" means access to a child, during an assessment of an alleged act of child abuse, who is alleged to be the victim of the child abuse. The access may be accomplished by interview, observation, or examination of the child. As used in this subsection and this part:

a. "Interview" means the verbal exchange between the child protection worker and the child for the purpose of developing information necessary to protect the child. A child protection worker is not precluded from recording visible evidence of abuse.

b. "Observation" means direct physical viewing of a child under the age of four by the child protection worker where the viewing is limited to the child's body other than the genitalia and pubes. "Observation" also means direct physical viewing of a child aged four or older by the child protection worker without touching the child or removing an article of the child's clothing, and doing so without the consent of the child's parent, custodian, or guardian. A child protection worker is not precluded from recording evidence of abuse obtained as a result of a child's voluntary removal of an article of clothing without inducement by the child protection worker. However, if prior consent of the child's parent or guardian, or an ex parte court order, is obtained, "observation" may include viewing the child's unclothed body other than the genitalia and pubes.

c. "Physical examination" means direct physical viewing, touching, and medically necessary manipulation of any area of the child's body by a physician licensed under chapter 148 or 150A.

4. "Department" means the state department of human services and includes the local, county, and service area offices of the department.

5. "Health practitioner" includes a licensed physician and surgeon, osteopath, osteopathic physician and surgeon, dentist, optometrist, podiatric physician, or chiropractor; a resident or intern in any of such professions; a licensed dental hygienist, a registered nurse or licensed practical nurse; a physician assistant; and an emergency medical care provider certified under [section 147A.6](#).

6. "Mental health professional" means a person who meets the following requirements:

a. Holds at least a master's degree in a mental health field, including, but not limited to, psychology, counseling, nursing, or social work; or is licensed to practice medicine pursuant to chapter 148, 150, or 150A.

b. Holds a license to practice in the appropriate profession.

c. Has at least two years of postdegree experience, supervised by a mental health professional, in assessing mental health problems and needs of individuals used in providing appropriate mental health services for those individuals.

7. "Person responsible for the care of a child" means:

a. A parent, guardian, or foster parent.

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b. A relative or any other person with whom the child resides and who assumes care or supervision of the child, without reference to the length of time or continuity of such residence.

c. An employee or agent of any public or private facility providing care for a child, including an institution, hospital, health care facility, group home, mental health center, residential treatment center, shelter care facility, detention center, or child care facility.

d. Any person providing care for a child, but with whom the child does not reside, without reference to the duration of the care.

8. "Registry" means the central registry for child abuse information established in [section 235A.14](#).

CREDIT(S)

Transferred from 235A.2 by the Code Editor for Code 1979. Amended by Acts 1978 (67 G.A.) ch. 1090, § § 2, 3; Acts 1979 (67 G.A.) ch. 56, § 14; Acts 1983 (70 G.A.) ch. 96, § 157, eff. July 1, 1983; Acts 1984 (70 G.A.) ch. 1207, § § 1, 2; Acts 1985 (71 G.A.) ch. 173, § 2; Acts 1986 (71 G.A.) ch. 1177, § 1; Acts 1987 (72 G.A.) ch. 153, § § 1, 2; [Acts 1989 \(73 G.A.\) ch. 24, § 1](#); [Acts 1989 \(73 G.A.\) ch. 89, § 16](#); [Acts 1989 \(73 G.A.\) ch. 230, § § 3, 4](#); [Acts 1993 \(75 G.A.\) ch. 76, § 1](#); [Acts 1993 \(75 G.A.\) ch. 93, § 2](#); [Acts 1994 \(75 G.A.\) ch. 1130, § § 1, 2](#); [Acts 1995 \(76 G.A.\) ch. 41, § 24](#); [Acts 1995 \(76 G.A.\) ch. 108, § 17](#); [Acts 1995 \(76 G.A.\) ch. 182, § 7](#); [Acts 1996 \(76 G.A.\) ch. 1092, § 2](#), eff. April 15, 1996; [Acts 1997 \(77 G.A.\) ch. 35, § § 4, 5](#), eff. July 1, 1998; [Acts 1997 \(77 G.A.\) ch. 176, § 1](#); [Acts 2001 \(79 G.A.\) ch. 46, § 2](#); [Acts 2001 \(79 G.A.\) ch. 131, § 1](#); [Acts 2003 \(80 G.A.\) ch. 44, § 49](#); [Acts 2004 \(80 G.A.\) ch. 1116, § 6](#); Acts 2005 (81 G.A.) H.F. 619, § 20.

HISTORICAL AND STATUTORY NOTES

2005 Electronic Pocket Part Update

2001 Legislation

The 2001 amendment, by ch. 46, in subsec. 2 added par. g relating to the manufacture of a dangerous substance or possession of a precursor substance in the presence of a child.

The 2001 amendment, by ch. 131, in subsec. 2 added par. h relating to the commission of bestiality.

2003 Legislation

The 2003 amendment in unnum. par. 1, in the second sentence substituted "235A.24" for "235A.23".

2004 Legislation

The 2004 amendment, in subsec. 4, substituted "service area" for "regional".

2005 Legislation

The 2005 amendment added subsec. 2, par. i, relating to cohabitation with a person on the sex offender registry.

Acts 2005 (81 G.A.) H.F. 619, § § 53 and 54, provide:

"Sec. 53. Severability clause. If any provision of this Act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or application of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

"Sec. 54. Implementation of act. Section 25B.2, subsection 3, shall not apply to this Act."

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Acts 2002 (79 G.A.) 2nd Ex.Sess., ch. 1003, § 132, eff. June 12, 2002, provides:

"Sec. 132. Field operations. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2002, and ending June 30, 2003, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

"1. For field operations, including salaries, support, maintenance, and miscellaneous purposes and for not more than the following full-time equivalent positions:

".....\$ 51,204,264

".....FTEs 1,920.00

"Priority in filling full-time equivalent positions shall be given to those positions related to child protection services.

"2. In implementing the transition from a regional system to the service area system established pursuant to 2001 Iowa Acts, Second Extraordinary Session, chapter 4, for the fiscal year beginning July 1, 2002, and ending June 30, 2003, the department shall utilize the service areas and service area administrators in lieu of regions and regional administrators, notwithstanding the references to department regions or regional administrators in sections 232.2, 232.52, 232.68, 232.72, 232.102, 232.117, 232.127, 232.143, 232.188, and 234.35, or other provision in law."

In his veto message pertaining to Acts 2002 (79 G.A.) ch. 1003, the governor wrote: "I am unable to approve the item designated as a portion of Section 132, subsection 2. This item requires the Department of Human Services to submit proposed legislation to correct Code references related to service areas. This appears to be the realm of the Legislative Fiscal Bureau or Code Editor rather than the Department of Human Services, especially at a time when the Department's resources have been severely reduced."

Acts 2003 (80 G.A.) ch. 175, § 28, subsec. 2, provides:

"2. In operating the service area system established pursuant to 2001 Iowa Acts, Second Extraordinary Session, chapter 4, for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the department shall utilize the service areas and service area administrators in lieu of regions and regional administrators, notwithstanding the references to department regions or regional administrators in sections 232.2, 232.52, 232.68, 232.72, 232.102, 232.117, 232.127, 232.143, 232.188, and 234.35, or other provision in law."

In his veto message pertaining to Acts 2003 (80 G.A.) ch. 175, the governor wrote: "I am unable to approve the item designated as a portion of Section 28, subsection 2. This item requires the Department of Human Services to submit proposed legislation to correct Code references related to service areas. This appears to be the realm of the Legislative Service Bureau or Code Editor rather than the Department of Human Services, especially at a time when the Department's resources have been severely reduced."

2000 Main Volume

Derivation:

- Codes 1977, 1975, § 235A.2.
- Acts 1974 (65 G.A.) ch. 1162, § 2.
- Codes 1973, 1971, 1966, § 235A.1.
- Acts 1965 (61 G.A.) ch. 217, § 2.

The 1978 amendment rewrote subsec. 2 which prior thereto read:

" 'Child abuse' or 'abuse' means any nonaccidental physical injury suffered by a child as the result of the acts or omissions of the child's parents, guardians or other person legally responsible for the child." It also added subsec. 6 defining person responsible for the care of a child.

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The 1979 amendment, in subsec. 2, par. b, substituted "offense" for "abuse", "pursuant to" for "defined by" and added "or section 726.2".

The 1983 amendment substituted "human services" for "social services".

The 1984 amendment, in subsec. 2, inserted the reference to § 728.12 in par. b and added par. d.

The 1985 amendment inserted "hospital, health care facility," in subsec. 6, par. c.

The 1986 amendment added final sentences to subsec. 2, pars. b and d which provide that under this section a child is a person under the age of eighteen years.

The 1987 amendment added subsec. 5 and deleted "harm or threatened harm occurring through" following "means" in subsec. 2, unnumbered par. 1. Subsection 5 was renumbered as subsec. 7.

The 1989 amendment by ch. 24, in subsec. 5, inserted the reference to a licensed dental hygienist.

The 1989 amendment by ch. 89, in subsec. 5, added the clause relating to basic emergency medical care providers.

The 1989 amendment by ch. 230 added subsection defining "Confidential access to a child" and added to subsec. 6 (now subsec. 7) a par. d providing "any person providing care for a child, but with whom the child does not reside, without reference to the duration of the care".

The 1993 amendment by ch. 76, in subsec. 2, inserted par. b relating to mental injury; and redesignated former pars. b to d as pars. c to e, respectively.

The 1993 amendment by ch. 93, in subsec. 2, added par. f relating to illegal drug presence as a consequence of acts or omissions of a child's parent, guardian, or custodian.

The 1994 amendment, in subsec. 2, par. f, substituted "person responsible for the care of the child" for "child's parent, guardian, or custodian"; and in subsec. 7, par. b, inserted "and who assumes care or supervision of the child".

The 1995 amendment by ch. 41, in subsec. 5, inserted "a physician assistant;" following "practical nurse;"; substituted "an" for "a basic" preceding "emergency medical", and deleted "certified under section 147.161 or an advanced emergency medical care provider" preceding "certified".

The 1995 amendment by ch. 108, in subsec. 5, substituted "podiatric physician," for "podiatrist".

The 1995 amendment by ch. 182, in subsec. 2, par. f, inserted "which a reasonable and prudent person knew or should have known is likely to lead to the drug's presence in the child's body".

The 1996 amendment, in par. f of subsec. 2, deleted "which a reasonable and prudent person knew or should have known is likely to lead to the drug's presence in the child's body" following "child".

The 1997 amendment by ch. 35, inserted subsec. 2A defining "child protection worker"; and in subsec. 3, in unnum. par. 1, in the first sentence, substituted "assessment" for "investigation", in the third sentence, added "and this part", substituted "assessment" for "investigation" and substituted "child protection worker" for "department investigator" and for "investigator" throughout pars. a and b, and in par. c, substituted "Physical examination" for "Examination".

The 1997 amendment by ch. 176, in unnum. par. 1, inserted the first sentence relating to the definitions in § 235A.13.

For disposition of subject matter of § 232.68, Code 1977, see Chapter 232, Code 1977, Disposition Table.

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CROSS REFERENCES

Application for compensation, see [§ 915.84](#).

Medically relevant tests, see [§ 232.73](#).

NOTES OF DECISIONS

Child abuse [2](#)

Persons responsible for care of child [1](#)


Religious exemptions [3](#)



[1](#). Persons responsible for care of child


A "babysitter" falls within the definition of "person responsible for the care of the child" under this section and reports of child abuse made with regard to babysitters should be initially investigated by the department of social services under § 232.71. Op.Atty.Gen. (Reagen), Oct. 2, 1980.


Teachers in public schools are not "persons responsible for the care of the child" within investigative and reporting provisions of Iowa's Child Abuse Report Act. Op.Atty.Gen. (Horn), July 6, 1979.

[2](#). Child abuse

Father was not guilty of child abuse, which is statutorily defined as "nonaccidental physical injury" to child resulting from acts or omissions of person responsible for child's care, simply because, in course of disciplining his eight-year-old daughter by striking her three times on buttocks with wooden spoon, he caused red marks to develop on daughter's skin which did not subside until roughly five days later; even assuming that red marks constituted evidence of physical injury to daughter, Department of Human Services failed to demonstrate that father should reasonably have foreseen such injury, given the rather limited nature of the discipline. [Hildreth v. Iowa Dept. of Human Services, 1996, 550 N.W.2d 157](#). Infants  156


Welts, bruises, or similar markings on child's skin are not "physical injuries" per se, of kind which might support finding of child abuse, but may be and frequently are evidence from which existence of physical injury can be found. [Hildreth v. Iowa Dept. of Human Services, 1996, 550 N.W.2d 157](#). Infants  156; Infants  179

Violation of administrative regulations governing treatment center for sexual abuse victims by center's director, including placing child in control room without his clothing for several hours, did not automatically amount to "child abuse," especially in light of statutory sanctions for regulatory violations; thus, director was entitled to have name expunged from state registry of child abusers. [Pillow v. Iowa Dept. of Human Services, 1994, 521 N.W.2d 746](#). Infants  133

Sex offender who was convicted by guilty plea to committing lascivious acts with a child deserved statutorily required evidentiary hearing on his petition for correction or expungement of his registration on child abuse registry report; ALJ's consideration should have been limited to the content of offender's written request for relief and those matters of which the ALJ could take judicial notice, but instead it dismissed petition solely by virtue of offender's guilty plea in criminal proceeding, which was preclusive of some, but not all, of dispositive issues concerning his request for correction or expungement. [Roland v. Iowa Dept. Of Human Services, App.2003, 671 N.W.2d 532](#), Unreported. Infants  133

Sex offender's conviction by guilty plea to committing lascivious acts with a child precluded, by operation of issue preclusion, relitigation of issue in subsequent administrative proceeding as to whether offender committed child abuse warranting child abuse registry notification; although plea was preclusive of some, but not all, issues

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concerning registration, preclusive effect of plea as to child abuse element, among other benefits, preserved integrity of defendant's plea and resulting judgment of conviction, and minimized abused victim's exposure to further imposition and trauma incident to contested case proceedings. [Roland v. Iowa Dept. Of Human Services, App.2003, 671 N.W.2d 532](#), Unreported. Judgment  648

3. Religious exemptions

All children, including those under spiritual treatment, are subject to the same child abuse reporting, investigation and treatment standards provided in the Iowa Code, regardless of the religious exemption provisions of Iowa Code section 232.68(2)(c). Op.Atty.Gen. (Palmer), June 1, 1993.

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Current through Acts of 2005 1st Reg.Sess.

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