

JAN 31 2005  
PUBLIC SAFETY

HOUSE FILE 157  
BY FORD

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to dependent adult abuse and providing penalties.  
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 157

1 Section 1. Section 235B.19, subsection 1, Code 2005, is  
2 amended to read as follows:

3 1. If the department determines that a dependent adult is  
4 suffering from dependent adult abuse which presents an  
5 immediate danger to the health or safety of the dependent  
6 adult, that the dependent adult lacks capacity to consent to  
7 receive protective services, and that no consent can be  
8 obtained, the department may petition the district court with  
9 probate jurisdiction in the county in which the dependent  
10 adult resides for an emergency order authorizing protective  
11 services.

12 Sec. 2. Section 235B.19, subsection 6, unnumbered  
13 paragraph 1, Code 2005, is amended to read as follows:

14 The department, upon finding that dependent adult abuse has  
15 occurred and is either ongoing or is likely to reoccur, may  
16 petition the district court in the county in which the  
17 dependent adult resides for injunctive relief against the  
18 alleged perpetrator. The petition shall conform to the  
19 requirements of subsection 2 and shall specify the relief  
20 sought. Upon finding that dependent adult abuse has occurred  
21 and that the abuse is either ongoing or likely to reoccur, the  
22 court may ~~also~~ enter temporary orders as may be appropriate to  
23 third persons enjoining them from specific conduct. ~~The~~  
24 ~~orders may include temporary restraining orders which impose~~  
25 ~~criminal sanctions if violated.~~ The court may enjoin third  
26 persons from any of the following:

27 Sec. 3. NEW SECTION. 726.9 DEPENDENT ADULT ABUSE.

28 1. A caretaker commits dependent adult abuse when the  
29 caretaker through willful or negligent acts or omissions does  
30 any of the following:

31 a. Creates a substantial risk to a dependent adult's  
32 physical, mental, or emotional health or safety.

33 b. Uses unreasonable force, torture, or cruelty that  
34 results in bodily injury, or that is intended to cause serious  
35 injury.

1 c. Causes bodily injury to, unreasonably confines,  
2 unreasonably punishes, or assaults a dependent adult.

3 d. Evidences unreasonable force, torture, or cruelty that  
4 causes substantial mental or emotional harm to a dependent  
5 adult.

6 e. Deprives a dependent adult of necessary food, clothing,  
7 shelter, health care, or supervision when the person is  
8 reasonably able to make the necessary provisions and which  
9 deprivation substantially harms the dependent adult.

10 f. Permits the continuing physical or sexual abuse of a  
11 dependent adult.

12 g. With or against a dependent adult, commits a sexual  
13 offense under chapter 709 or section 726.2.

14 h. Abandons the dependent adult to fend for the dependent  
15 adult's own self, knowing that the dependent adult is unable  
16 to do so.

17 i. Exploits the dependent adult by the act or process of  
18 taking financial resources or property from the dependent  
19 adult without the informed consent of the dependent adult,  
20 including by theft, undue influence, harassment, duress,  
21 deception, false representation, or false pretense.

22 Dependent adult abuse does not include the situations  
23 described in section 235B.2, subsection 5, paragraph "b".

24 2. Charges of dependent adult abuse may be initiated upon  
25 the complaint of a private individual or as a result of  
26 investigation by a social services agency or on the direct  
27 initiative of a county attorney or law enforcement agency.

28 3. A caretaker who intentionally commits dependent adult  
29 abuse resulting in serious or bodily injury to a dependent  
30 adult is guilty of a class "C" felony.

31 4. A caretaker who recklessly commits dependent adult  
32 abuse resulting in serious or bodily injury to a dependent  
33 adult is guilty of a class "D" felony.

34 5. A caretaker who negligently commits dependent adult  
35 abuse resulting in serious or bodily injury to a dependent

1 adult is guilty of an aggravated misdemeanor.

2 6. A caretaker who commits dependent adult abuse not  
3 resulting in serious or bodily injury to a dependent adult is  
4 guilty of a serious misdemeanor.

5 7. A caretaker who commits dependent adult abuse by  
6 exploiting a dependent adult by the act or process of taking  
7 financial resources or property without the informed consent  
8 of the dependent adult is guilty of a class "D" felony.

9 8. A caretaker alleged to have committed a violation of  
10 this section shall be charged with the respective offense  
11 cited, unless a charge may be brought based upon a more  
12 serious offense, in which case the charge of the more serious  
13 offense shall supercede the less serious charge.

14 9. For the purposes of this section, "dependent adult"  
15 means dependent adult and "caretaker" means caretaker as  
16 defined in section 235B.2.

17 Sec. 4. Section 235B.20, Code 2005, is repealed.

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EXPLANATION

19 This bill relates to dependent adult abuse.

20 The bill specifies that a petition for an order authorizing  
21 the provision of protective services or authorizing an  
22 emergency order for protective services is to be filed with  
23 the district court in the county in which the dependent adult  
24 resides. The bill also provides that if the department of  
25 human services finds that dependent adult abuse has occurred  
26 and is ongoing or likely to reoccur, the department may  
27 petition the court for injunctive relief against the alleged  
28 perpetrator and directs that the court may enter temporary  
29 orders as appropriate. The bill eliminates the court's  
30 discretion to include temporary restraining orders which  
31 impose criminal sanctions if violated.

32 The bill eliminates a provision in Code chapter 235B  
33 relating to initiation of charges and penalties for dependent  
34 adult abuse, modifies the provision, and relocates it in Code  
35 chapter 726 (protection of the family and dependent persons),

1 which is located in the criminal law portion of the Code.

2 Under current law in Code section 235B.20, a caretaker who  
3 intentionally commits dependent adult abuse that results in  
4 serious injury to the dependent adult is guilty of a class "C"  
5 felony and if the abuse was committed in a reckless manner,  
6 the person is guilty of a class "D" felony. Under current  
7 provisions, a caretaker who intentionally commits dependent  
8 adult abuse that results in physical injury is guilty of a  
9 class "C" felony and if the abuse was committed in a reckless  
10 manner, the person is guilty of an aggravated misdemeanor.  
11 Additionally, under current provisions, if a caretaker  
12 exploits a dependent adult, and the value of the property,  
13 assets or resources exceeds \$100, the person is guilty of a  
14 class "D" felony, and if the value is \$100 or less, the person  
15 is guilty of a simple misdemeanor.

16 Under the bill, a caretaker who commits dependent adult  
17 abuse is subject to criminal penalties. Under the bill, a  
18 caretaker commits dependent adult abuse if the caretaker  
19 through willful or negligent acts or omissions does any of the  
20 following:

- 21 1. Creates a substantial risk to a dependent adult's  
22 physical, mental, or emotional health or safety.
- 23 2. Uses unreasonable force, torture, or cruelty that  
24 results in bodily injury, or that is intended to cause serious  
25 injury.
- 26 3. Causes bodily injury to, unreasonably confines,  
27 unreasonably punishes, or assaults a dependent adult.
- 28 4. Evidences unreasonable force, torture, or cruelty, that  
29 causes substantial mental or emotional harm to a dependent  
30 adult.
- 31 5. Deprives a dependent adult of necessary food, clothing,  
32 shelter, health care, or supervision when the caretaker is  
33 reasonably able to make the necessary provisions and which  
34 deprivation substantially harms the dependent adult.
- 35 6. Permits the continuing physical or sexual abuse of a

1 dependent adult.

2 7. With or against a dependent adult commits a sexual  
3 offense under Code chapter 709 or Code section 726.2.

4 8. Abandons the dependent adult to fend for the dependent  
5 adult's own self, knowing that the dependent adult is unable  
6 to do so.

7 9. Exploits a dependent adult by the act or process of  
8 taking financial resources or property from the dependent  
9 adult without the informed consent of the dependent adult,  
10 including by theft, undue influence, harassment, duress,  
11 deception, false representation, or false pretense.

12 The bill provides that if a caretaker intentionally commits  
13 dependent adult abuse that results in serious or bodily  
14 injury, the person is guilty of a class "C" felony, and if the  
15 abuse was committed in a reckless manner, the person is guilty  
16 of a class "D" felony. The bill provides that a caretaker who  
17 negligently commits dependent adult abuse resulting in serious  
18 or bodily injury is guilty of an aggravated misdemeanor. If a  
19 caretaker commits dependent adult abuse that does not result  
20 in serious or bodily injury to a dependent adult, the person  
21 is guilty of a serious misdemeanor. A person who exploits a  
22 dependent adult is guilty of a class "D" felony.

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