

FEB 24 2004

JUDICIARY

HOUSE FILE 2339

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 criminal
2 penalties.

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

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HF 2339

1 Section 1. Section 235B.1, subsection 4, paragraph a,
2 subparagraph (1), Code 2003, is amended to read as follows:

3 (1) Advise the ~~director-of-human-services-and-the~~
4 ~~administrator-of-the-division-of-child-and-family-services-of~~
5 ~~the-department-of-human-services-regarding~~ departments charged
6 with the responsibility of addressing dependent adult abuse.

7 Sec. 2. Section 235B.2, subsection 5, paragraph a,
8 subparagraph (1), Code 2003, is amended to read as follows:

9 (1) Any of the following as a result of the willful or
10 negligent acts or omissions of a caretaker person:

11 Sec. 3. Section 235B.2, subsection 5, paragraph a, Code
12 2003, is amended by adding the following new subparagraph:

13 NEW SUBPARAGRAPH. (4) Any mental injury to a dependent
14 adult's intellectual or psychological capacity as evidenced by
15 an observable and substantial impairment in the dependent
16 adult's ability to function within the dependent adult's
17 normal range of performance and behavior as the result of the
18 acts or omissions of a person, if the impairment is diagnosed
19 and confirmed by a licensed physician or qualified mental
20 health professional as defined in section 622.10.

21 Sec. 4. Section 235B.2, subsection 5, paragraph b,
22 subparagraph (2), Code 2003, is amended to read as follows:

23 (2) Circumstances in which ~~the-dependent-adult's-caretaker~~
24 a person, acting in accordance with the dependent adult's
25 stated or implied consent, declines medical treatment on
26 behalf of the dependent adult if the dependent adult holds a
27 belief or is an adherent of a religion whose tenets and
28 practices call for reliance on spiritual means in place of
29 reliance on medical treatment.

30 Sec. 5. Section 235B.20, subsections 2 through 8, Code
31 2003, are amended to read as follows:

32 2. A caretaker person who intentionally commits dependent
33 adult abuse on a dependent adult in violation of this chapter
34 is guilty of a class "C" felony if the intentional dependent
35 adult abuse results in serious injury.

1 3. A caretaker person who recklessly commits dependent
2 adult abuse on a dependent adult in violation of this chapter
3 is guilty of a class "D" felony if the reckless dependent
4 adult abuse results in serious injury.

5 4. A caretaker person who intentionally commits dependent
6 adult abuse on a dependent adult in violation of this chapter
7 is guilty of a class "C" felony if the intentional dependent
8 adult abuse results in physical injury.

9 5. A caretaker person who commits dependent adult abuse by
10 exploiting a dependent adult in violation of this chapter is
11 guilty of a class "D" felony if the value of the property,
12 assets, or resources exceeds one hundred dollars.

13 6. A caretaker person who recklessly commits dependent
14 adult abuse on a person in violation of this chapter is guilty
15 of an aggravated misdemeanor if the reckless dependent adult
16 abuse results in physical injury.

17 7. A caretaker person who commits dependent adult abuse by
18 exploiting a dependent adult in violation of this chapter is
19 guilty of a simple misdemeanor if the value of the property,
20 assets, or resources is one hundred dollars or less.

21 8. A caretaker person alleged to have committed a
22 violation of this chapter shall be charged with the respective
23 offense cited, unless a charge may be brought based upon a
24 more serious offense, in which case the charge of the more
25 serious offense shall supersede the less serious charge.

26 EXPLANATION

27 This bill relates to dependent adult abuse and provides
28 criminal penalties.

29 The bill provides that the dependent adult abuse advisory
30 council is to advise not only the director of human services
31 and the administrator of the division of child and family
32 services regarding dependent adult abuse, but is to advise the
33 departments charged with addressing dependent adult abuse.

34 The bill expands the definition of who may commit dependent
35 adult abuse to include any person who willfully or negligently

1 acts or fails to act in a certain manner in regard to a
2 dependent adult. Current law limits such a person to a
3 caretaker, defined in Code section 235B.2, as a related or
4 nonrelated person who has the responsibility for the
5 protection, care, or custody of a dependent adult as a result
6 of assuming the responsibility voluntarily, by contract,
7 through employment, or by order of the court.

8 The bill further expands the definition of dependent adult
9 abuse to include any mental injury to a dependent adult's
10 intellectual or psychological capacity.

11 The bill provides that a person who commits the crime of
12 dependent adult abuse commits a class "C" felony, a class "D"
13 felony, an aggravated misdemeanor, or a simple misdemeanor,
14 depending on the respective offense. A class "C" felony is
15 punishable by confinement for no more than 10 years and a fine
16 of at least \$1,000 but not more than \$10,000. A class "D"
17 felony is punishable by confinement for no more than five
18 years and a fine of at least \$750 but not more than \$7,500.
19 An aggravated misdemeanor is punishable by confinement for no
20 more than two years and a fine of at least \$500 but not more
21 than \$5,000. A simple misdemeanor is punishable by
22 confinement for no more than 30 days or a fine of at least \$50
23 but not more than \$500 or by both.

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