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SENATE FILE 455  
BY COMMITTEE ON HUMAN RESOURCES  
*Substituted for H.F. 605*  
(SUCCESSOR TO SSB 166)

Passed Senate, Date 3/27/91 (p. 597) Passed House, Date 5/3/91 (p. 2023)  
Vote: Ayes 46 Nays 1 Vote: Ayes 97 Nays 1  
Approved June 4, 1991

A BILL FOR

1 An Act relating to the restructuring of the codified provisions  
2 relating to dependent adult abuse, and providing penalties.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 235B.1, Code 1991, is amended by  
2 striking the section and inserting in lieu thereof the  
3 following:

4 235B.1 DEPENDENT ADULT ABUSE SERVICES.

5 The department shall establish and operate a dependent  
6 adult abuse services program. The program shall emphasize the  
7 reporting and evaluation of cases of abuse of a dependent  
8 adult who is unable to protect the adult's own interests or  
9 unable to perform or obtain essential services. The program  
10 shall include but is not limited to:

11 1. The establishment of multidisciplinary teams to provide  
12 leadership at the local and district levels in the delivery of  
13 services to victims of dependent adult abuse. The membership  
14 of a team shall include individuals who possess knowledge and  
15 skills related to the diagnosis, assessment, and disposition  
16 of dependent adult abuse cases and who are professionals  
17 practicing in the disciplines of medicine, public health,  
18 mental health, social work, law, law enforcement, or other  
19 disciplines relative to dependent adults. Members of a team  
20 shall include, but are not limited to, persons representing  
21 the area agencies on aging, county attorneys, health care  
22 providers, and other persons involved in advocating or  
23 providing services to dependent adults.

24 2. Provisions for information sharing and case  
25 consultation among service providers, care providers, and  
26 victims of dependent adult abuse.

27 3. Procedures for referral of cases among service  
28 providers, including the referral of victims of dependent  
29 adult abuse residing in licensed health care facilities.

30 Sec. 2. Section 235B.2, Code 1991, is amended by striking  
31 the section and inserting in lieu thereof the following:

32 235B.2 DEFINITIONS.

33 As used in this chapter, unless the context otherwise  
34 requires:

35 1. "Court" means the district court.

1        2. "Department" means the department of human services.

2        3. "Dependent adult abuse" means:

3        a. Any of the following as a result of the willful or  
4 negligent acts or omissions of a caretaker:

5        (1) Physical injury to or unreasonable confinement or  
6 unreasonable punishment of a dependent adult.

7        (2) The commission of a sexual offense under chapter 709  
8 or section 726.2 with or against a dependent adult.

9        (3) Exploitation of a dependent adult which means the act  
10 or process of taking unfair advantage of a dependent adult or  
11 the adult's physical or financial resources for one's own  
12 personal or pecuniary profit, including theft, by the use of  
13 undue influence, harassment, duress, deception, false  
14 representation, or false pretenses.

15        (4) The deprivation of the minimum food, shelter,  
16 clothing, supervision, physical or mental health care, or  
17 other care necessary to maintain a dependent adult's life or  
18 health.

19        b. The deprivation of the minimum food, shelter, clothing,  
20 supervision, physical and mental health care, and other care  
21 necessary to maintain a dependent adult's life or health as a  
22 result of the acts or omissions of the dependent adult.

23        Dependent adult abuse does not include depriving a  
24 dependent adult of medical treatment if the dependent adult  
25 holds a belief or is an adherent of a religion whose tenets  
26 and practices call for reliance on spiritual means in place of  
27 reliance on medical treatment. However, this provision does  
28 not preclude a court from ordering that medical service be  
29 provided to the dependent adult if the dependent adult's  
30 health requires it.

31        Dependent adult abuse does not include the withholding or  
32 withdrawing of health care from a dependent adult who is  
33 terminally ill in the opinion of a licensed physician, when  
34 the withholding or withdrawing of health care is done at the  
35 request of the dependent adult or at the request of the

1 dependent adult's next of kin or guardian pursuant to the  
2 applicable procedures under chapter 125, 222, 229, or 633.

3 4. "Caretaker" means a related or nonrelated person who  
4 has the responsibility for the protection, care, or custody of  
5 a dependent adult as a result of assuming the responsibility  
6 voluntarily, by contract, through employment, or by order of  
7 the court.

8 5. "Dependent adult" means a person eighteen years of age  
9 or older who is unable to protect the person's own interests  
10 or unable to adequately perform or obtain services necessary  
11 to meet essential human needs, as a result of a physical or  
12 mental condition which requires assistance from another, or as  
13 defined by departmental rule.

14 6. "Individual employed as an outreach person" means a  
15 natural person who, in the course of employment, makes regular  
16 contacts with dependent adults regarding available community  
17 resources.

18 7. "Person" means person as defined in section 4.1.

19 Sec. 3. NEW SECTION. 2353.3 DEPENDENT ADULT ABUSE  
20 REPORTS.

21 1. The department shall receive dependent adult abuse  
22 reports and shall collect, maintain, and disseminate the  
23 reports by establishing a central registry for dependent adult  
24 abuse information. The department shall evaluate the reports  
25 expeditiously. However, the department of inspections and  
26 appeals is solely responsible for the evaluation and  
27 disposition of dependent adult abuse cases within health care  
28 facilities and shall inform the department of human services  
29 of such evaluations and dispositions.

30 2. All of the following persons shall report suspected  
31 dependent adult abuse to the department:

32 a. A self-employed social worker.

33 b. A social worker under the jurisdiction of the  
34 department of human services.

35 c. A social worker employed by a public or private person

1 including a public or private health care facility as defined  
2 in section 135C.1.

3 d. A certified psychologist.

4 e. A person who, in the course of employment, examines,  
5 attends, counsels, or treats a dependent adult and reasonably  
6 believes the dependent adult has suffered abuse, including:

7 (1) A member of the staff of a community mental health  
8 center, a member of the staff of a hospital, a member of the  
9 staff or employee of a public or private health care facility  
10 as defined in section 135C.1.

11 (2) A peace officer.

12 (3) An in-home homemaker-home health aide.

13 (4) An individual employed as an outreach person.

14 (5) A health practitioner, as defined in section 232.68.

15 (6) A member of the staff or an employee of a community,  
16 supervised apartment living arrangement, sheltered workshop,  
17 or work activity center.

18 3. If a staff member or employee is required to report  
19 pursuant to this section the person shall immediately notify  
20 the person in charge or the person's designated agent, and the  
21 person in charge or the designated agent shall make the  
22 report.

23 4. Any other person who believes that a dependent adult  
24 has suffered abuse may report the suspected abuse to the  
25 department of human services.

26 5. Following the reporting of suspected dependent adult  
27 abuse, the department of human services shall complete an  
28 assessment of necessary services and shall make appropriate  
29 referrals for receipt of these services. The department may  
30 provide necessary protective services and may establish a  
31 sliding fee schedule for those persons able to pay a portion  
32 of the protective services.

33 6. Upon a showing of probable cause that a dependent adult  
34 has been abused, a court may authorize a person, also  
35 authorized by the department, to make an evaluation, to enter

1 the residence of, and to examine the dependent adult. Upon a  
2 showing of probable cause that a dependent adult has been  
3 financially exploited, a court may authorize a person, also  
4 authorized by the department, to make an evaluation, and to  
5 gain access to the financial records of the dependent adult.

6 7. The department shall inform the appropriate county  
7 attorneys of any reports of dependent adult abuse. The  
8 department may request information from any person believed to  
9 have knowledge of a case of dependent adult abuse. The  
10 person, including but not limited to a county attorney, a law  
11 enforcement agency, a multidisciplinary team, or a social  
12 services agency in the state shall cooperate and assist in the  
13 evaluation upon the request of the department. County  
14 attorneys and appropriate law enforcement agencies shall also  
15 take any other lawful action necessary or advisable for the  
16 protection of the dependent adult.

17 a. If, upon completion of the evaluation or upon referral  
18 from the department of inspections and appeals, the department  
19 determines that the best interests of the dependent adult  
20 require court action, the department shall initiate action for  
21 the appointment of a guardian or conservator or for admission  
22 or commitment to an appropriate institution or facility  
23 pursuant to the applicable procedures under chapter 125, 222,  
24 229, or 633. The appropriate county attorney shall assist the  
25 department in the preparation of the necessary papers to  
26 initiate the action and shall appear and represent the  
27 department at all district court proceedings.

28 b. The department shall assist the court during all stages  
29 of court proceedings involving a suspected case of dependent  
30 adult abuse.

31 c. In every case involving abuse which is substantiated by  
32 the department and which results in a judicial proceeding on  
33 behalf of the dependent adult, legal counsel shall be  
34 appointed by the court to represent the dependent adult in the  
35 proceedings. The court may also appoint a guardian ad litem

1 to represent the dependent adult if necessary to protect the  
2 dependent adult's best interests. The same attorney may be  
3 appointed to serve both as legal counsel and as guardian ad  
4 litem. Before legal counsel or a guardian ad litem is  
5 appointed pursuant to this section, the court shall require  
6 the dependent adult and any person legally responsible for the  
7 support of the dependent adult to complete under oath a  
8 detailed financial statement. If, on the basis of that  
9 financial statement, the court deems that the dependent adult  
10 or the legally responsible person is able to bear all or a  
11 portion of the cost of the legal counsel or guardian ad litem,  
12 the court shall so order. In cases where the dependent adult  
13 or the legally responsible person is unable to bear the cost  
14 of the legal counsel or guardian ad litem, the expense shall  
15 be paid by the county.

16 8. A person participating in good faith in reporting or  
17 cooperating with or assisting the department in evaluating a  
18 case of dependent adult abuse has immunity from liability,  
19 civil or criminal, which might otherwise be incurred or  
20 imposed based upon the act of making the report or giving the  
21 assistance. The person has the same immunity with respect to  
22 participating in good faith in a judicial proceeding resulting  
23 from the report or cooperation or assistance or relating to  
24 the subject matter of the report, cooperation, or assistance.

25 9. It shall be unlawful for any person or employer to  
26 discharge, suspend, or otherwise discipline a person required  
27 to report or voluntarily reporting an instance of suspected  
28 dependent adult abuse pursuant to subsection 2 or 4, or  
29 cooperating with, or assisting the department of human  
30 services in evaluating a case of dependent adult abuse, or  
31 participating in judicial proceedings relating to the  
32 reporting or cooperation or assistance based solely upon the  
33 person's reporting or assistance relative to the instance of  
34 dependent adult abuse. A person or employer found in  
35 violation of this subsection is guilty of a simple

1 misdemeanor.

2 10. A person required by this section to report a  
3 suspected case of a dependent adult abuse who knowingly and  
4 willfully fails to do so is guilty of a simple misdemeanor. A  
5 person required by this section to report a suspected case of  
6 dependent adult abuse who knowingly fails to do so is civilly  
7 liable for the damages proximately caused by the failure.

8 11. The department of inspections and appeals shall adopt  
9 rules which require licensed health care facilities to  
10 separate an alleged dependent adult abuser from a victim  
11 following an allegation of perpetration of abuse and prior to  
12 the completion of an investigation of the allegation.

13 Sec. 4. NEW SECTION. 235B.4 DEPENDENT ADULT ABUSE  
14 INFORMATION REGISTRY.

15 Legislative findings and purposes.

16 The general assembly finds and declares that a central  
17 registry is required to provide a single source for the  
18 statewide collection, maintenance, and dissemination of  
19 dependent adult abuse information. Such a registry is  
20 imperative for increased effectiveness in dealing with the  
21 problem of dependent adult abuse. The general assembly also  
22 finds that vigorous protection of rights of individual privacy  
23 is an indispensable element of a fair and effective system of  
24 collecting, maintaining, and disseminating dependent adult  
25 abuse information.

26 The purposes of this section and sections 235B.5 to 235B.13  
27 are to facilitate the identification of victims or potential  
28 victims of dependent adult abuse by making available a single,  
29 statewide source of dependent adult abuse data; to facilitate  
30 research on dependent adult abuse by making available a  
31 single, statewide source of dependent adult abuse data; and to  
32 provide maximum safeguards against the unwarranted invasions  
33 of privacy which such a registry might otherwise entail.

34 Sec. 5. NEW SECTION. 235B.5 CREATION AND MAINTENANCE OF  
35 A CENTRAL REGISTRY.

1 1. There is created within the department a central  
2 registry for dependent adult abuse information. The  
3 department shall organize and staff the registry and adopt  
4 rules for its operation.

5 2. The registry shall collect, maintain, and disseminate  
6 dependent adult abuse information as provided in this chapter.

7 3. The department shall maintain a toll-free telephone  
8 line, which shall be available on a twenty-four-hour-a-day,  
9 seven-day-a-week basis and which the department and all other  
10 persons may use to report cases of suspected dependent adult  
11 abuse and that all persons authorized by this chapter may use  
12 for obtaining dependent adult abuse information.

13 4. An oral report of suspected dependent adult abuse  
14 initially made to the central registry shall be immediately  
15 transmitted by the department to the appropriate county  
16 department of human services or law enforcement agency, or  
17 both.

18 5. An oral report of suspected dependent adult abuse  
19 initially made to the central registry regarding a health care  
20 facility shall be transmitted by the department to the  
21 department of inspections and appeals on the first working day  
22 following the submitting of the report.

23 6. The registry, upon receipt of a report of suspected  
24 dependent adult abuse, shall search the records of the  
25 registry, and if the records of the registry reveal any  
26 previous report of dependent adult abuse involving the same  
27 adult or if the records reveal any other pertinent information  
28 with respect to the same adult, the appropriate office of the  
29 department of human services or the appropriate law  
30 enforcement agency shall be immediately notified of that fact.

31 7. The central registry shall include but not be limited  
32 to report data, investigation data, and disposition data.

33 Sec. 6. NEW SECTION. 235B.6 AUTHORIZED ACCESS.

34 1. Notwithstanding chapter 22, the confidentiality of all  
35 dependent adult abuse information shall be maintained, except

1 as specifically provided by subsections 2 and 3.

2 2. Access to dependent adult abuse information other than  
3 unfounded dependent adult abuse information is authorized only  
4 to the following persons:

5 a. A subject of a report including all of the following:

6 (1) To an adult named in a report as a victim of abuse or  
7 to the adult's attorney or guardian ad litem.

8 (2) To a guardian or legal custodian, or that person's  
9 attorney, of an adult named in a report as a victim of abuse.

10 (3) To the person or the attorney for the person named in  
11 a report as having abused an adult.

12 b. A person involved in an investigation of dependent  
13 adult abuse including all of the following:

14 (1) A health practitioner or mental health professional  
15 who is examining, attending, or treating an adult whom such  
16 practitioner or professional believes or has reason to believe  
17 has been the victim of abuse or to a health practitioner or  
18 mental health professional whose consultation with respect to  
19 an adult believed to have been the victim of abuse is  
20 requested by the department.

21 (2) An employee or agent of the department responsible for  
22 the investigation of a dependent adult abuse report.

23 (3) A law enforcement officer responsible for assisting in  
24 an investigation of a dependent adult abuse allegation.

25 (4) A multidisciplinary team, if the department of human  
26 services approves the composition of the multidisciplinary  
27 team and determines that access to the team is necessary to  
28 assist the department in the investigation, diagnosis,  
29 assessment, and disposition of a case of dependent adult  
30 abuse.

31 (5) The mandatory reporter who reported the dependent  
32 adult abuse in an individual case.

33 c. A person providing care to an adult including all of  
34 the following:

35 (1) A licensing authority for a facility providing care to

1 an adult named in a report.

2 (2) A person authorized as responsible for the care or  
3 supervision of an adult named in a report as a victim of abuse  
4 or a person named in a report as having abused an adult if the  
5 court or registry deems access to dependent adult abuse  
6 information by such person to be necessary.

7 (3) An employee or agent of the department responsible for  
8 registering or licensing or approving the registration or  
9 licensing of a person, or to an individual providing care to  
10 an adult and regulated by the department.

11 (4) The legally authorized protection and advocacy agency  
12 recognized pursuant to section 135C.2 if a person identified  
13 in the information as a victim or a perpetrator of abuse  
14 resided in or receives services from a facility or agency  
15 because the person is diagnosed as having a developmental  
16 disability or a mental illness.

17 d. Relating to judicial and administrative proceedings  
18 persons including all of the following:

19 (1) A court upon a finding that information is necessary  
20 for the resolution of an issue arising in any phase of a case  
21 involving dependent adult abuse.

22 (2) A court or administrative agency hearing an appeal for  
23 correction of dependent adult abuse information as provided in  
24 section 235B.10.

25 (3) An expert witness at any stage of an appeal necessary  
26 for correction of dependent adult abuse information as  
27 provided in section 235B.10.

28 e. Other persons including all of the following:

29 (1) A person conducting bona fide research on dependent  
30 adult abuse, but without information identifying individuals  
31 named in a dependent adult abuse report, unless having that  
32 information open to review is essential to the research or  
33 evaluation and the authorized registry officials give prior  
34 written approval and the adult, the adult's guardian or  
35 guardian ad litem, and the person named in a report as having

1 abused an adult give permission to release the information.

2 (2) Registry or department personnel when necessary to the  
3 performance of their official duties or a person or agency  
4 under contract with the department to carry out official  
5 duties and functions of the registry.

6 (3) The department of public safety for the sole purpose  
7 of the filing of a claim for reparation pursuant to section  
8 910A.5 and section 912.4, subsections 3 through 5.

9 (4) A legally constituted adult protection agency of  
10 another state which is investigating or treating an adult  
11 named in a report as having been abused.

12 (5) The attorney for the department who is responsible for  
13 representing the department.

14 (6) A health care facility administrator or the  
15 administrator's designee, following the appeals process, for  
16 the purpose of hiring staff or continued employment of staff.

17 3. Access to unfounded dependent adult abuse information  
18 is authorized only to those persons identified in subsection  
19 2, paragraph "a", paragraph "b", subparagraphs (2) and (5),  
20 and paragraph "e", subparagraph (2).

21 Sec. 7. NEW SECTION. 235B.7 REQUESTS FOR DEPENDENT ADULT  
22 ABUSE INFORMATION.

23 1. Requests for dependent adult abuse information shall be  
24 in writing on forms prescribed by the department, except as  
25 otherwise provided by subsection 2. Request forms shall  
26 require information sufficient to demonstrate authorized  
27 access.

28 2. Requests for dependent adult abuse information may be  
29 made orally by telephone if a person making the request  
30 believes that the information is needed immediately and if  
31 information sufficient to demonstrate authorized access is  
32 provided. If a request is made orally by telephone, a written  
33 request form shall be filed within seventy-two hours of the  
34 oral request.

35 3. Subsections 1 and 2 do not apply to dependent adult

1 abuse information that is disseminated to an employee of the  
2 department or to the attorney representing the department as  
3 authorized by section 235B.6.

4 Sec. 8. NEW SECTION. 235B.8 REDISSEMINATION OF DEPENDENT  
5 ADULT ABUSE INFORMATION.

6 1. A recipient of dependent adult abuse information  
7 authorized to receive the information shall not redisseminate  
8 the information, except that redissemination shall be  
9 permitted when all of the following conditions apply:

10 a. The redissemination is for official purposes in  
11 connection with prescribed duties or, in the case of a health  
12 practitioner, pursuant to professional responsibilities.

13 b. The person to whom such information would be  
14 redisseminated would have independent access to the same  
15 information under section 235B.6.

16 c. A written record is made of the redissemination,  
17 including the name of the recipient and the date and purpose  
18 of the redissemination.

19 d. The written record is forwarded to the registry within  
20 thirty days of the redissemination.

21 2. The department may notify, orally, the mandatory  
22 reporter in an individual dependent adult abuse case of the  
23 results of the case investigation and of the confidentiality  
24 provisions of sections 235B.6 and 235B.12. The department  
25 shall subsequently transmit a written notice to the mandatory  
26 reporter of the results and confidentiality provisions. A  
27 copy of the written notice shall be transmitted to the  
28 registry and shall be maintained by the registry as provided  
29 in section 235B.9.

30 Sec. 9. NEW SECTION. 235B.9 SEALING AND EXPUNGEMENT OF  
31 DEPENDENT ADULT ABUSE INFORMATION.

32 1. Dependent adult abuse information relating to a  
33 particular case of suspected dependent adult abuse shall be  
34 sealed ten years after the receipt of the initial report of  
35 such abuse by the registry unless good cause is shown why the

1 information should remain open to authorized access. If a  
2 subsequent report of a suspected case of dependent adult abuse  
3 involving the adult named in the initial report as the victim  
4 of abuse or a person named in such report as having abused an  
5 adult is received by the registry within the ten-year period,  
6 the information shall be sealed ten years after receipt of the  
7 subsequent report unless good cause is shown why the  
8 information should remain open to authorized access.

9 2. Dependent adult abuse information which cannot be  
10 determined by a preponderance of the evidence to be founded or  
11 unfounded shall be expunged one year after the receipt of the  
12 initial report of abuse and dependent adult abuse information  
13 which is determined by a preponderance of the evidence to be  
14 unfounded shall be expunged immediately when it is determined  
15 to be unfounded.

16 3. However, if a correction of dependent adult abuse  
17 information is requested under section 235B.10 and the issue  
18 is not resolved at the end of one year the information shall  
19 be retained until the issue is resolved and if the dependent  
20 adult abuse information is not determined to be founded, the  
21 information shall be expunged immediately when it is  
22 determined to be unfounded.

23 4. The registry, at least annually, shall review and  
24 determine the current status of dependent adult abuse reports  
25 which are at least one year old and in connection with which  
26 no investigatory report has been filed by the department. If  
27 no investigatory report has been filed, the registry shall  
28 request the department to file a report. If a report is not  
29 filed within ninety days subsequent to a request, the report  
30 and relative information shall be sealed and remain sealed  
31 unless good cause is shown why the information should remain  
32 open to authorized access.

33 Sec. 10. NEW SECTION. 235B.10 EXAMINATION, REQUESTS FOR  
34 CORRECTION OR EXPUNGEMENT AND APPEAL.

35 1. Any person or that person's attorney shall have the

1 right to examine dependent adult abuse information in the  
2 registry which refers to that person. The registry may  
3 prescribe reasonable hours and places of examination.

4 2. A person may file with the department within six months  
5 of the date of the notice of the results of an investigation,  
6 a written statement to the effect that dependent adult abuse  
7 information referring to the person is in whole or in part  
8 erroneous, and may request a correction of that information or  
9 of the findings of the investigation report. The department  
10 shall provide the person with an opportunity for an  
11 evidentiary hearing pursuant to chapter 17A to correct the  
12 information or the findings, unless the department corrects  
13 the information or findings as requested. The department  
14 shall delay the expungement of information which is not  
15 determined to be founded until the conclusion of a proceeding  
16 to correct the information or findings. The department may  
17 defer the hearing until the conclusion of a court case  
18 relating to the information or findings.

19 3. The decision resulting from the hearing may be appealed  
20 to the court of Folk county by the person requesting the  
21 correction or to the court of the district in which the person  
22 resides. Immediately upon appeal the court shall order the  
23 department to file with the court a certified copy of the  
24 dependent adult abuse information. Appeal shall be taken in  
25 accordance with chapter 17A.

26 4. Upon the request of the appellant, the record and  
27 evidence in such cases shall be closed to all but the court  
28 and its officers, and access to the record and evidence shall  
29 be prohibited unless otherwise ordered by the court. The  
30 clerk shall maintain a separate docket for such actions. A  
31 person other than the appellant shall not permit a copy of the  
32 testimony or pleadings or the substance of the testimony or  
33 pleadings to be made available to any person other than a  
34 party to the action or the party's attorney. Violation of the  
35 provisions of this subsection shall be a public offense

1 punishable under section 235B.12.

2 5. If the registry corrects or eliminates information as  
3 requested or as ordered by the court, the registry shall  
4 advise all persons who have received the incorrect information  
5 of the fact. Upon application to the court and service of  
6 notice on the registry, an individual may request and obtain a  
7 list of all persons who have received dependent adult abuse  
8 information referring to the individual.

9 6. In the course of any proceeding provided for by this  
10 section, the identity of the person who reported the disputed  
11 information and the identity of any person who has been  
12 reported as having abused an adult may be withheld upon a  
13 determination by the registry that disclosure of the person's  
14 identity would be detrimental to the person's interest.

15 Sec. 11. NEW SECTION. 235B.11 CIVIL REMEDY.

16 Any aggrieved person may institute a civil action for  
17 damages under chapter 25A or 613A or to restrain the  
18 dissemination of dependent adult abuse information in  
19 violation of this chapter, and any person proven to have  
20 disseminated or to have requested and received dependent adult  
21 abuse information in violation of this chapter shall be liable  
22 for actual damages and exemplary damages for each violation  
23 and shall be liable for court costs, expenses, and reasonable  
24 attorney's fees incurred by the party bringing the action. In  
25 no case shall the award for damages be less than one hundred  
26 dollars.

27 Sec. 12. NEW SECTION. 235B.12 CRIMINAL PENALTIES.

28 1. Any person who willfully requests, obtains, or seeks to  
29 obtain dependent adult abuse information under false  
30 pretenses, or who willfully communicates or seeks to  
31 communicate dependent adult abuse information to any person  
32 except in accordance with sections 235B.6 through 235B.8, or  
33 any person connected with any research authorized pursuant to  
34 section 235B.6 who willfully falsifies dependent adult abuse  
35 information or any records relating to the information is

1 guilty of a serious misdemeanor. Any person who knowingly,  
2 but without criminal purposes, communicates or seeks to  
3 communicate dependent adult abuse information except in  
4 accordance with sections 235B.6 through 235B.8 is guilty of a  
5 simple misdemeanor.

6 2. Any reasonable grounds for belief that a person has  
7 violated any provision of this chapter is grounds for the  
8 immediate withdrawal of any authorized access the person might  
9 otherwise have to dependent adult abuse information.

10 Sec. 13. NEW SECTION. 235B.13 REGISTRY REPORTS.

11 1. The registry may compile statistics, conduct research,  
12 and issue reports on dependent adult abuse, provided  
13 identifying details of the subject of dependent adult abuse  
14 reports are deleted from any report issued.

15 2. The registry shall issue an annual report on its  
16 administrative operation, including information as to the  
17 number of requests for dependent adult abuse data, the  
18 proportion of requests attributable to each type of authorized  
19 access, the frequency and nature of irregularities, and other  
20 pertinent matters.

21 Sec. 14. NEW SECTION. 235B.14 INFORMATION, EDUCATION,  
22 AND TRAINING REQUIREMENTS.

23 1. The department of elder affairs, in cooperation with  
24 the department, shall conduct a public information and  
25 education program. The elements and goals of the program  
26 include but are not limited to:

27 a. Informing the public regarding the laws governing  
28 dependent adult abuse and the reporting requirements for  
29 dependent adult abuse.

30 b. Providing care givers with information regarding  
31 services to alleviate the emotional, psychological, physical,  
32 or financial stress associated with the care giver and  
33 dependent adult relationship.

34 c. Affecting public attitudes regarding the role of a  
35 dependent adult in society.

1        2. The department, in cooperation with the department of  
2 elder affairs and the department of inspections and appeals,  
3 shall institute a program of education and training for  
4 persons, including members of provider groups and family  
5 members, who may come in contact with dependent adult abuse.  
6 The program shall include but is not limited to instruction  
7 regarding recognition of dependent adult abuse and the  
8 procedure for the reporting of suspected abuse.

9        3. The content of the continuing education required  
10 pursuant to chapter 258A for a licensed professional providing  
11 care or service to a dependent adult shall include, but is not  
12 limited to, the responsibilities, obligations, powers, and  
13 duties of a person regarding the reporting of suspected  
14 dependent adult abuse, and training to aid the professional in  
15 identifying instances of dependent adult abuse.

16       4. The department of inspections and appeals shall provide  
17 training to investigators regarding the collection and  
18 preservation of evidence in the case of suspected dependent  
19 adult abuse.

20       5. A person required to report cases of dependent adult  
21 abuse pursuant to section 235B.3, other than a physician whose  
22 professional practice does not regularly involve providing  
23 primary health care to adults, shall complete two hours of  
24 training relating to the identification and reporting of  
25 dependent adult abuse within six months of initial employment  
26 or self-employment which involves the examination, attending,  
27 counseling, or treatment of adults on a regular basis. Within  
28 one month of initial employment or self-employment, the person  
29 shall obtain a statement of the abuse reporting requirements  
30 from the person's employer or, if self-employed, from the  
31 department. The person shall complete at least two hours of  
32 additional dependent adult abuse identification and reporting  
33 training every five years.

34       If the person is an employee of a hospital or similar  
35 public or private facility, the employer shall be responsible

1 for providing the training. To the extent that the employer  
2 provides approved training on the employer's premises, the  
3 hours of training completed by employees shall be included in  
4 the calculation of nursing or service hours required to be  
5 provided to a patient or resident per day. If the person is  
6 self-employed, the person shall be responsible for obtaining  
7 the training.

8 The person may complete the initial or additional training  
9 as a part of a continuing education program required under  
10 chapter 258A or may complete the training as a part of a  
11 training program offered by the department of human services,  
12 the department of elder affairs, the department of inspections  
13 and appeals, the Iowa law enforcement academy, or a similar  
14 public agency.

15 A person required to complete both child abuse and  
16 dependent adult abuse mandatory reporter training may complete  
17 the training through a program which combines child abuse and  
18 dependent adult abuse curricula and thereby meet the training  
19 requirements of both this subsection and section 232.69  
20 simultaneously.

21 6. The department shall require an educational program for  
22 employees of the registry on the proper use and control of  
23 dependent adult abuse information.

24 EXPLANATION

25 This bill restructures the chapter regarding dependent  
26 adult abuse. The provisions of the chapter remain the same as  
27 in the current chapter and additionally include language  
28 regarding the dependent adult abuse registry which was  
29 formerly only incorporated by reference; provides  
30 authorization to dependent adult abuse evaluators to review  
31 financial records of dependent adults who are the suspected  
32 victims of financial exploitation by a caretaker; and includes  
33 the members of the staff and employees of community supervised  
34 apartment living arrangements, sheltered workshops, and work  
35 activity centers in the category of mandatory reporters.

LSB 1282SV 74

SENATE FILE 455

H-3981

1 Amend Senate File 455, as passed by the Senate, as  
2 follows:  
3 1. Page 15, line 25, by striking the word "one"  
4 and inserting the following: "five".

By SVOBODA of Tama  
BURKE of Marshall

H-3981 FILED APRIL 30, 1991

*Adopted 5/3/91 (p 2013)*

SENATE FILE 455

H-4036

1 Amend Senate File 455, as passed by the Senate, as  
2 follows:  
3 1. Page 13, line 12, by inserting after the words  
4 "of abuse" the following: "with the exception of the  
5 name of the alleged abuser which shall be expunged  
6 immediately upon such a determination,".

By BURKE of Marshall  
SVOBODA of Tama

H-4036 FILED MAY 2, 1991

*Adopted 5/3 (p 2073)*

HOUSE AMENDMENT TO  
SENATE FILE 455

S-3703

1 Amend Senate File 455, as passed by the Senate, as  
2 follows:  
3 1. Page 15, line 25, by striking the word "one"  
4 and inserting the following: "five".

RECEIVED FROM THE HOUSE

S-3703 FILED MAY 3, 1991

*Senate Concurred 5/6/91 (p 1682)*

STURGEON, CH.  
SZYMONIAK  
HAGERLA

SSB 166  
Human Resources

SENATE/HOUSE FILE 455  
BY (PROPOSED DEPARTMENT OF  
HUMAN SERVICES BILL)

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

**A BILL FOR**

1 An Act relating to the restructuring of the codified provisions  
2 relating to dependent adult abuse, and providing penalties.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 235B.1, Code 1991, is amended by  
2 striking the section and inserting in lieu thereof the  
3 following:

4 235B.1 DEPENDENT ADULT ABUSE SERVICES.

5 The department shall establish and operate a dependent  
6 adult abuse services program. The program shall emphasize the  
7 reporting and evaluation of cases of abuse of a dependent  
8 adult who is unable to protect the adult's own interests or  
9 unable to perform or obtain essential services. The program  
10 shall include but is not limited to:

11 a. The establishment of multidisciplinary teams to provide  
12 leadership at the local and district levels in the delivery of  
13 services to victims of dependent adult abuse. The membership  
14 of a team shall include individuals who possess knowledge and  
15 skills related to the diagnosis, assessment, and disposition  
16 of dependent adult abuse cases and who are professionals  
17 practicing in the disciplines of medicine, public health,  
18 mental health, social work, law, law enforcement, or other  
19 disciplines relative to dependent adults. Members of a team  
20 shall include, but are not limited to, persons representing  
21 the area agencies on aging, county attorneys, health care  
22 providers, and other persons involved in advocating or  
23 providing services to dependent adults.

24 b. Provisions for information sharing and case  
25 consultation among service providers, care providers, and  
26 victims of dependent adult abuse.

27 c. Procedures for referral of cases among service  
28 providers, including the referral of victims of dependent  
29 adult abuse residing in licensed health care facilities.

30 Sec. 2. Section 235B.2, Code 1991, is amended by striking  
31 the section and inserting in lieu thereof the following:

32 235B.2 DEFINITIONS.

33 As used in this chapter, unless the context otherwise  
34 requires:

35 1. "Court" means the district court.

1 2. "Department" means the department of human services.

2 3. "Dependent adult abuse" means:

3 a. Any of the following as a result of the willful or  
4 negligent acts or omissions of a caretaker:

5 (1) Physical injury to or unreasonable confinement or  
6 unreasonable punishment of a dependent adult.

7 (2) The commission of a sexual offense under chapter 709  
8 or section 726.2 with or against a dependent adult.

9 (3) Exploitation of a dependent adult which means the act  
10 or process of taking unfair advantage of a dependent adult or  
11 the adult's physical or financial resources for one's own  
12 personal or pecuniary profit by the use of undue influence,  
13 harassment, duress, deception, false representation, or false  
14 pretenses.

15 (4) The deprivation of the minimum food, shelter,  
16 clothing, supervision, physical or mental health care, or  
17 other care necessary to maintain a dependent adult's life or  
18 health.

19 b. The deprivation of the minimum food, shelter, clothing,  
20 supervision, physical and mental health care, and other care  
21 necessary to maintain a dependent adult's life or health as a  
22 result of the acts or omissions of the dependent adult.

23 Dependent adult abuse does not include depriving a  
24 dependent adult of medical treatment if the dependent adult  
25 holds a belief or is an adherent of a religion whose tenets  
26 and practices call for reliance on spiritual means in place of  
27 reliance on medical treatment. However, this provision does  
28 not preclude a court from ordering that medical service be  
29 provided to the dependent adult if the dependent adult's  
30 health requires it.

31 Dependent adult abuse does not include the withholding or  
32 withdrawing of health care from a dependent adult who is  
33 terminally ill in the opinion of a licensed physician, when  
34 the withholding or withdrawing of health care is done at the  
35 request of the dependent adult or at the request of the

1 dependent adult's next of kin or guardian pursuant to the  
2 applicable procedures under chapter 125, 222, 229, or 633.

3 4. "Caretaker" means a related or nonrelated person who  
4 has the responsibility for the protection, care, or custody of  
5 a dependent adult as a result of assuming the responsibility  
6 voluntarily, by contract, through employment, or by order of  
7 the court.

8 5. "Dependent adult" means a person eighteen years of age  
9 or older who is unable to protect the person's own interests  
10 or unable to adequately perform or obtain services necessary  
11 to meet essential human needs, as a result of a physical or  
12 mental condition which requires assistance from another, or as  
13 defined by departmental rule.

14 6. "Individual employed as an outreach person" means a  
15 natural person who, in the course of employment, makes regular  
16 contacts with dependent adults regarding available community  
17 resources.

18 7. "Person" means person as defined in section 4.1.

19 Sec. 3. NEW SECTION. 235B.3 DEPENDENT ADULT ABUSE  
20 REPORTS.

21 1. The department shall receive dependent adult abuse  
22 reports and shall collect, maintain, and disseminate the  
23 reports by establishing a central registry for dependent adult  
24 abuse information. The department shall evaluate the reports  
25 expeditiously. However, the department of inspections and  
26 appeals is solely responsible for the evaluation and  
27 disposition of dependent adult abuse cases within health care  
28 facilities and shall inform the department of human services  
29 of such evaluations and dispositions.

30 2. All of the following persons shall report suspected  
31 dependent adult abuse to the department:

32 a. A self-employed social worker.

33 b. A social worker under the jurisdiction of the  
34 department of human services.

35 c. A social worker employed by a public or private person

1 including a public or private health care facility as defined  
2 in section 135C.1.

3 d. A certified psychologist.

4 e. A person who, in the course of employment, examines,  
5 attends, counsels, or treats a dependent adult and reasonably  
6 believes the dependent adult has suffered abuse, including:

7 (1) A member of the staff of a community mental health  
8 center, a member of the staff of a hospital, a member of the  
9 staff or employee of a public or private health care facility  
10 as defined in section 135C.1.

11 (2) A peace officer.

12 (3) An in-home homemaker-home health aide.

13 (4) An individual employed as an outreach person.

14 (5) A health practitioner, as defined in section 232.68.

15 (6) A member of the staff or an employee of a community,  
16 supervised apartment living arrangement, sheltered workshop,  
17 or work activity center.

18 3. If a staff member or employee is required to report  
19 pursuant to this section the person shall immediately notify  
20 the person in charge or the person's designated agent, and the  
21 person in charge or the designated agent shall make the  
22 report.

23 4. Any other person who believes that a dependent adult  
24 has suffered abuse may report the suspected abuse to the  
25 department of human services.

26 5. Following the reporting of suspected dependent adult  
27 abuse, the department of human services shall complete an  
28 assessment of necessary services and shall make appropriate  
29 referrals for receipt of these services. The department may  
30 provide necessary protective services and may establish a  
31 sliding fee schedule for those persons able to pay a portion  
32 of the protective services.

33 6. Upon a showing of probable cause that a dependent adult  
34 has been abused, a court may authorize a person, also  
35 authorized by the department, to make an evaluation, to enter

1 the residence of, and to examine the dependent adult. Upon a  
2 showing of probable cause that a dependent adult has been  
3 financially exploited, a court may authorize a person, also  
4 authorized by the department, to make an evaluation, and to  
5 gain access to the financial records of the dependent adult.

6 7. The department shall inform the appropriate county  
7 attorneys of any reports of dependent adult abuse. The  
8 department may request information from any person believed to  
9 have knowledge of a case of dependent adult abuse. The  
10 person, including but not limited to a county attorney, a law  
11 enforcement agency, a multidisciplinary team, or a social  
12 services agency in the state shall cooperate and assist in the  
13 evaluation upon the request of the department. County  
14 attorneys and appropriate law enforcement agencies shall also  
15 take any other lawful action necessary or advisable for the  
16 protection of the dependent adult.

17 a. If, upon completion of the evaluation or upon referral  
18 from the department of inspections and appeals, the department  
19 determines that the best interests of the dependent adult  
20 require court action, the department shall initiate action for  
21 the appointment of a guardian or conservator or for admission  
22 or commitment to an appropriate institution or facility  
23 pursuant to the applicable procedures under chapter 125, 222,  
24 229, or 633. The appropriate county attorney shall assist the  
25 department in the preparation of the necessary papers to  
26 initiate the action and shall appear and represent the  
27 department at all district court proceedings.

28 b. The department shall assist the court during all stages  
29 of court proceedings involving a suspected case of dependent  
30 adult abuse.

31 c. In every case involving abuse which is substantiated by  
32 the department and which results in a judicial proceeding on  
33 behalf of the dependent adult, legal counsel shall be  
34 appointed by the court to represent the dependent adult in the  
35 proceedings. The court may also appoint a guardian ad litem

1 to represent the dependent adult if necessary to protect the  
2 dependent adult's best interests. The same attorney may be  
3 appointed to serve both as legal counsel and as guardian ad  
4 litem. Before legal counsel or a guardian ad litem is  
5 appointed pursuant to this section, the court shall require  
6 the dependent adult and any person legally responsible for the  
7 support of the dependent adult to complete under oath a  
8 detailed financial statement. If, on the basis of that  
9 financial statement, the court deems that the dependent adult  
10 or the legally responsible person is able to bear all or a  
11 portion of the cost of the legal counsel or guardian ad litem,  
12 the court shall so order. In cases where the dependent adult  
13 or the legally responsible person is unable to bear the cost  
14 of the legal counsel or guardian ad litem, the expense shall  
15 be paid by the county.

16 8. A person participating in good faith in reporting or  
17 cooperating with or assisting the department in evaluating a  
18 case of dependent adult abuse has immunity from liability,  
19 civil or criminal, which might otherwise be incurred or  
20 imposed based upon the act of making the report or giving the  
21 assistance. The person has the same immunity with respect to  
22 participating in good faith in a judicial proceeding resulting  
23 from the report or cooperation or assistance or relating to  
24 the subject matter of the report, cooperation, or assistance.

25 9. It shall be unlawful for any person or employer to  
26 discharge, suspend, or otherwise discipline a person required  
27 to report or voluntarily reporting an instance of suspected  
28 dependent adult abuse pursuant to subsection 2 or 4, or  
29 cooperating with, or assisting the department of human  
30 services in evaluating a case of dependent adult abuse, or  
31 participating in judicial proceedings relating to the  
32 reporting or cooperation or assistance based solely upon the  
33 person's reporting or assistance relative to the instance of  
34 dependent adult abuse. A person or employer found in  
35 violation of this subsection is guilty of a simple

1 misdemeanor.

2 10. A person required by this section to report a  
3 suspected case of a dependent adult abuse who knowingly and  
4 willfully fails to do so is guilty of a simple misdemeanor. A  
5 person required by this section to report a suspected case of  
6 dependent adult abuse who knowingly fails to do so is civilly  
7 liable for the damages proximately caused by the failure.

8 11. The department of inspections and appeals shall adopt  
9 rules which require licensed health care facilities to  
10 separate an alleged dependent adult abuser from a victim  
11 following an allegation of perpetration of abuse and prior to  
12 the completion of an investigation of the allegation.

13 Sec. 4. NEW SECTION. 235B.4 DEPENDENT ADULT ABUSE  
14 INFORMATION REGISTRY.

15 Legislative findings and purposes.

16 The general assembly finds and declares that a central  
17 registry is required to provide a single source for the  
18 statewide collection, maintenance, and dissemination of  
19 dependent adult abuse information. Such a registry is  
20 imperative for increased effectiveness in dealing with the  
21 problem of dependent adult abuse. The general assembly also  
22 finds that vigorous protection of rights of individual privacy  
23 is an indispensable element of a fair and effective system of  
24 collecting, maintaining, and disseminating dependent adult  
25 abuse information.

26 The purposes of this section and sections 235B.5 to 235B.13  
27 are to facilitate the identification of victims or potential  
28 victims of dependent adult abuse by making available a single,  
29 statewide source of dependent adult abuse data; to facilitate  
30 research on dependent adult abuse by making available a  
31 single, statewide source of dependent adult abuse data; and to  
32 provide maximum safeguards against the unwarranted invasions  
33 of privacy which such a registry might otherwise entail.

34 Sec. 5. NEW SECTION. 235B.5 CREATION AND MAINTENANCE OF  
35 A CENTRAL REGISTRY.

1 1. There is created within the department a central  
2 registry for dependent adult abuse information. The  
3 department shall organize and staff the registry and adopt  
4 rules for its operation.

5 2. The registry shall collect, maintain, and disseminate  
6 dependent adult abuse information as provided in this chapter.

7 3. The department shall maintain a toll-free telephone  
8 line, which shall be available on a twenty-four-hour-a-day,  
9 seven-day-a-week basis and which the department and all other  
10 persons may use to report cases of suspected dependent adult  
11 abuse and that all persons authorized by this chapter may use  
12 for obtaining dependent adult abuse information.

13 4. An oral report of suspected dependent adult abuse  
14 initially made to the central registry shall be immediately  
15 transmitted by the department to the appropriate county  
16 department of human services or law enforcement agency, or  
17 both.

18 5. The registry, upon receipt of a report of suspected  
19 dependent adult abuse, shall search the records of the  
20 registry, and if the records of the registry reveal any  
21 previous report of dependent adult abuse involving the same  
22 adult or if the records reveal any other pertinent information  
23 with respect to the same adult, the appropriate office of the  
24 department of human services or the appropriate law  
25 enforcement agency shall be immediately notified of that fact.

26 6. The central registry shall include but not be limited  
27 to report data, investigation data, and disposition data.

28 Sec. 6. NEW SECTION. 235B.6 AUTHORIZED ACCESS.

29 1. Notwithstanding chapter 22, the confidentiality of all  
30 dependent adult abuse information shall be maintained, except  
31 as specifically provided by subsections 2 and 3.

32 2. Access to dependent adult abuse information other than  
33 unfounded dependent adult abuse information is authorized only  
34 to the following persons:

35 a. A subject of a report including all of the following:

1 (1) To an adult named in a report as a victim of abuse or  
2 to the adult's attorney or guardian ad litem.

3 (2) To a guardian or legal custodian, or that person's  
4 attorney, of an adult named in a report as a victim of abuse.

5 (3) To the person or the attorney for the person named in  
6 a report as having abused an adult.

7 b. A person involved in an investigation of dependent  
8 adult abuse including all of the following:

9 (1) A health practitioner or mental health professional  
10 who is examining, attending, or treating an adult whom such  
11 practitioner or professional believes or has reason to believe  
12 has been the victim of abuse or to a health practitioner or  
13 mental health professional whose consultation with respect to  
14 an adult believed to have been the victim of abuse is  
15 requested by the department.

16 (2) An employee or agent of the department responsible for  
17 the investigation of a dependent adult abuse report.

18 (3) A law enforcement officer responsible for assisting in  
19 an investigation of a dependent adult abuse allegation.

20 (4) A multidisciplinary team, if the department of human  
21 services approves the composition of the multidisciplinary  
22 team and determines that access to the team is necessary to  
23 assist the department in the investigation, diagnosis,  
24 assessment, and disposition of a case of dependent adult  
25 abuse.

26 (5) The mandatory reporter who reported the dependent  
27 adult abuse in an individual case.

28 c. A person providing care to an adult including all of  
29 the following:

30 (1) A licensing authority for a facility providing care to  
31 an adult named in a report.

32 (2) A person authorized as responsible for the care or  
33 supervision of an adult named in a report as a victim of abuse  
34 or a person named in a report as having abused an adult if the  
35 court or registry deems access to dependent adult abuse

1 information by such person to be necessary.

2 (3) An employee or agent of the department responsible for  
3 registering or licensing or approving the registration or  
4 licensing of a person, or to an individual providing care to  
5 an adult and regulated by the department.

6 (4) The legally authorized protection and advocacy agency  
7 recognized pursuant to section 135C.2 if a person identified  
8 in the information as a victim or a perpetrator of abuse  
9 resided in or receives services from a facility or agency  
10 because the person is diagnosed as having a developmental  
11 disability or a mental illness.

12 d. Relating to judicial and administrative proceedings  
13 persons including all of the following:

14 (1) A court upon a finding that information is necessary  
15 for the resolution of an issue arising in any phase of a case  
16 involving dependent adult abuse.

17 (2) A court or administrative agency hearing an appeal for  
18 correction of dependent adult abuse information as provided in  
19 section 235B.10.

20 (3) An expert witness at any stage of an appeal necessary  
21 for correction of dependent adult abuse information as  
22 provided in section 235B.10.

23 e. Other persons including all of the following:

24 (1) A person conducting bona fide research on dependent  
25 adult abuse, but without information identifying individuals  
26 named in a dependent adult abuse report, unless having that  
27 information open to review is essential to the research or  
28 evaluation and the authorized registry officials give prior  
29 written approval and the adult, the adult's guardian or  
30 guardian ad litem, and the person named in a report as having  
31 abused an adult give permission to release the information.

32 (2) Registry or department personnel when necessary to the  
33 performance of their official duties or a person or agency  
34 under contract with the department to carry out official  
35 duties and functions of the registry.

1 (3) The department of public safety for the sole purpose  
2 of the filing of a claim for reparation pursuant to section  
3 910A.5 and section 912.4, subsections 3 through 5.

4 (4) A legally constituted adult protection agency of  
5 another state which is investigating or treating an adult  
6 named in a report as having been abused.

7 (5) The attorney for the department who is responsible for  
8 representing the department.

9 3. Access to unfounded dependent adult abuse information  
10 is authorized only to those persons identified in subsection  
11 2, paragraph "a", paragraph "b", subparagraphs (2) and (5),  
12 and paragraph "e", subparagraph (2).

13 Sec. 7. NEW SECTION. 235B.7 REQUESTS FOR DEPENDENT ADULT  
14 ABUSE INFORMATION.

15 1. Requests for dependent adult abuse information shall be  
16 in writing on forms prescribed by the department, except as  
17 otherwise provided by subsection 2. Request forms shall  
18 require information sufficient to demonstrate authorized  
19 access.

20 2. Requests for dependent adult abuse information may be  
21 made orally by telephone if a person making the request  
22 believes that the information is needed immediately and if  
23 information sufficient to demonstrate authorized access is  
24 provided. If a request is made orally by telephone, a written  
25 request form shall be filed within seventy-two hours of the  
26 oral request.

27 3. Subsections 1 and 2 do not apply to dependent adult  
28 abuse information that is disseminated to an employee of the  
29 department or to the attorney representing the department as  
30 authorized by section 235B.6.

31 Sec. 8. NEW SECTION. 235B.8 REDISSEMINATION OF DEPENDENT  
32 ADULT ABUSE INFORMATION.

33 1. A recipient of dependent adult abuse information  
34 authorized to receive the information shall not disseminate  
35 the information, except that dissemination shall be

1 permitted when all of the following conditions apply:

2 a. The redissemination is for official purposes in  
3 connection with prescribed duties or, in the case of a health  
4 practitioner, pursuant to professional responsibilities.

5 b. The person to whom such information would be  
6 redisseminated would have independent access to the same  
7 information under section 235B.6.

8 c. A written record is made of the redissemination,  
9 including the name of the recipient and the date and purpose  
10 of the redissemination.

11 d. The written record is forwarded to the registry within  
12 thirty days of the redissemination.

13 2. The department may notify, orally, the mandatory  
14 reporter in an individual dependent adult abuse case of the  
15 results of the case investigation and of the confidentiality  
16 provisions of sections 235B.6 and 235B.12. The department  
17 shall subsequently transmit a written notice to the mandatory  
18 reporter of the results and confidentiality provisions. A  
19 copy of the written notice shall be transmitted to the  
20 registry and shall be maintained by the registry as provided  
21 in section 235B.9.

22 Sec. 9. NEW SECTION. 235B.9 SEALING AND EXPUNGEMENT OF  
23 DEPENDENT ADULT ABUSE INFORMATION.

24 1. Dependent adult abuse information relating to a  
25 particular case of suspected dependent adult abuse shall be  
26 sealed ten years after the receipt of the initial report of  
27 such abuse by the registry unless good cause is shown why the  
28 information should remain open to authorized access. If a  
29 subsequent report of a suspected case of dependent adult abuse  
30 involving the adult named in the initial report as the victim  
31 of abuse or a person named in such report as having abused an  
32 adult is received by the registry within the ten-year period,  
33 the information shall be sealed ten years after receipt of the  
34 subsequent report unless good cause is shown why the  
35 information should remain open to authorized access.

1 2. Dependent adult abuse information which cannot be  
2 determined by a preponderance of the evidence to be founded or  
3 unfounded shall be expunged one year after the receipt of the  
4 initial report of abuse and dependent adult abuse information  
5 which is determined by a preponderance of the evidence to be  
6 unfounded shall be expunged immediately when it is determined  
7 to be unfounded.

8 3. However, if a correction of dependent adult abuse  
9 information is requested under section 235B.10 and the issue  
10 is not resolved at the end of one year the information shall  
11 be retained until the issue is resolved and if the dependent  
12 adult abuse information is not determined to be founded, the  
13 information shall be expunged immediately when it is  
14 determined to be unfounded.

15 4. The registry, at least annually, shall review and  
16 determine the current status of dependent adult abuse reports  
17 which are at least one year old and in connection with which  
18 no investigatory report has been filed by the department. If  
19 no investigatory report has been filed, the registry shall  
20 request the department to file a report. If a report is not  
21 filed within ninety days subsequent to a request, the report  
22 and relative information shall be sealed and remain sealed  
23 unless good cause is shown why the information should remain  
24 open to authorized access.

25 Sec. 10. NEW SECTION. 235B.10 EXAMINATION, REQUESTS FOR  
26 CORRECTION OR EXPUNGEMENT AND APPEAL.

27 1. Any person or that person's attorney shall have the  
28 right to examine dependent adult abuse information in the  
29 registry which refers to that person. The registry may  
30 prescribe reasonable hours and places of examination.

31 2. A person may file with the department within six months  
32 of the date of the notice of the results of an investigation,  
33 a written statement to the effect that dependent adult abuse  
34 information referring to the person is in whole or in part  
35 erroneous, and may request a correction of that information or

1 of the findings of the investigation report. The department  
2 shall provide the person with an opportunity for an  
3 evidentiary hearing pursuant to chapter 17A to correct the  
4 information or the findings, unless the department corrects  
5 the information or findings as requested. The department  
6 shall delay the expungement of information which is not  
7 determined to be founded until the conclusion of a proceeding  
8 to correct the information or findings. The department may  
9 defer the hearing until the conclusion of a court case  
10 relating to the information or findings.

11 3. The decision resulting from the hearing may be appealed  
12 to the court of Polk county by the person requesting the  
13 correction or to the court of the district in which the person  
14 resides. Immediately upon appeal the court shall order the  
15 department to file with the court a certified copy of the  
16 dependent adult abuse information. Appeal shall be taken in  
17 accordance with chapter 17A.

18 4. Upon the request of the appellant, the record and  
19 evidence in such cases shall be closed to all but the court  
20 and its officers, and access to the record and evidence shall  
21 be prohibited unless otherwise ordered by the court. The  
22 clerk shall maintain a separate docket for such actions. A  
23 person other than the appellant shall not permit a copy of the  
24 testimony or pleadings or the substance of the testimony or  
25 pleadings to be made available to any person other than a  
26 party to the action or the party's attorney. Violation of the  
27 provisions of this subsection shall be a public offense  
28 punishable under section 235B.12.

29 5. If the registry corrects or eliminates information as  
30 requested or as ordered by the court, the registry shall  
31 advise all persons who have received the incorrect information  
32 of the fact. Upon application to the court and service of  
33 notice on the registry, an individual may request and obtain a  
34 list of all persons who have received dependent adult abuse  
35 information referring to the individual.

1 6. In the course of any proceeding provided for by this  
2 section, the identity of the person who reported the disputed  
3 information and the identity of any person who has been  
4 reported as having abused an adult may be withheld upon a  
5 determination by the registry that disclosure of the person's  
6 identity would be detrimental to the person's interest.

7 Sec. 11. NEW SECTION. 235B.11 CIVIL REMEDY.

8 Any aggrieved person may institute a civil action for  
9 damages under chapter 25A or 613A or to restrain the  
10 dissemination of dependent adult abuse information in  
11 violation of this chapter, and any person proven to have  
12 disseminated or to have requested and received dependent adult  
13 abuse information in violation of this chapter shall be liable  
14 for actual damages and exemplary damages for each violation  
15 and shall be liable for court costs, expenses, and reasonable  
16 attorney's fees incurred by the party bringing the action. In  
17 no case shall the award for damages be less than one hundred  
18 dollars.

19 Sec. 12. NEW SECTION. 235B.12 CRIMINAL PENALTIES.

20 1. Any person who willfully requests, obtains, or seeks to  
21 obtain dependent adult abuse information under false  
22 pretenses, or who willfully communicates or seeks to  
23 communicate dependent adult abuse information to any person  
24 except in accordance with sections 235B.6 through 235B.8, or  
25 any person connected with any research authorized pursuant to  
26 section 235B.6 who willfully falsifies dependent adult abuse  
27 information or any records relating to the information is  
28 guilty of a serious misdemeanor. Any person who knowingly,  
29 but without criminal purposes, communicates or seeks to  
30 communicate dependent adult abuse information except in  
31 accordance with sections 235B.6 through 235B.8 is guilty of a  
32 simple misdemeanor.

33 2. Any reasonable grounds for belief that a person has  
34 violated any provision of this chapter is grounds for the  
35 immediate withdrawal of any authorized access the person might

1 otherwise have to dependent adult abuse information.

2 Sec. 13. NEW SECTION. 235B.13 REGISTRY REPORTS.

3 1. The registry may compile statistics, conduct research,  
4 and issue reports on dependent adult abuse, provided  
5 identifying details of the subject of dependent adult abuse  
6 reports are deleted from any report issued.

7 2. The registry shall issue an annual report on its  
8 administrative operation, including information as to the  
9 number of requests for dependent adult abuse data, the  
10 proportion of requests attributable to each type of authorized  
11 access, the frequency and nature of irregularities, and other  
12 pertinent matters.

13 Sec. 14. NEW SECTION. 235B.14 INFORMATION, EDUCATION,  
14 AND TRAINING REQUIREMENTS.

15 1. The department of elder affairs, in cooperation with  
16 the department, shall conduct a public information and  
17 education program. The elements and goals of the program  
18 include but are not limited to:

19 a. Informing the public regarding the laws governing  
20 dependent adult abuse and the reporting requirements for  
21 dependent adult abuse.

22 b. Providing care givers with information regarding  
23 services to alleviate the emotional, psychological, physical,  
24 or financial stress associated with the care giver and  
25 dependent adult relationship.

26 c. Affecting public attitudes regarding the role of a  
27 dependent adult in society.

28 2. The department, in cooperation with the department of  
29 elder affairs and the department of inspections and appeals,  
30 shall institute a program of education and training for  
31 persons, including members of provider groups and family  
32 members, who may come in contact with dependent adult abuse.  
33 The program shall include but is not limited to instruction  
34 regarding recognition of dependent adult abuse and the  
35 procedure for the reporting of suspected abuse.

1 3. The content of the continuing education required  
2 pursuant to chapter 258A for a licensed professional providing  
3 care or service to a dependent adult shall include, but is not  
4 limited to, the responsibilities, obligations, powers, and  
5 duties of a person regarding the reporting of suspected  
6 dependent adult abuse, and training to aid the professional in  
7 identifying instances of dependent adult abuse.

8 4. The department of inspections and appeals shall provide  
9 training to investigators regarding the collection and  
10 preservation of evidence in the case of suspected dependent  
11 adult abuse.

12 5. A person required to report cases of dependent adult  
13 abuse pursuant to section 235B.3, other than a physician whose  
14 professional practice does not regularly involve providing  
15 primary health care to adults, shall complete two hours of  
16 training relating to the identification and reporting of  
17 dependent adult abuse within six months of initial employment  
18 or self-employment which involves the examination, attending,  
19 counseling, or treatment of adults on a regular basis. Within  
20 one month of initial employment or self-employment, the person  
21 shall obtain a statement of the abuse reporting requirements  
22 from the person's employer or, if self-employed, from the  
23 department. The person shall complete at least two hours of  
24 additional dependent adult abuse identification and reporting  
25 training every five years.

26 If the person is an employee of a hospital or similar  
27 public or private facility, the employer shall be responsible  
28 for providing the training. To the extent that the employer  
29 provides approved training on the employer's premises, the  
30 hours of training completed by employees shall be included in  
31 the calculation of nursing or service hours required to be  
32 provided to a patient or resident per day. If the person is  
33 self-employed, the person shall be responsible for obtaining  
34 the training.

35 The person may complete the initial or additional training

1 as a part of a continuing education program required under  
2 chapter 258A or may complete the training as a part of a  
3 training program offered by the department of human services,  
4 the department of elder affairs, the department of inspections  
5 and appeals, the Iowa law enforcement academy, or a similar  
6 public agency.

7 A person required to complete both child abuse and  
8 dependent adult abuse mandatory reporter training may complete  
9 the training through a program which combines child abuse and  
10 dependent adult abuse curricula and thereby meet the training  
11 requirements of both this subsection and section 232.69  
12 simultaneously.

13 6. The department shall require an educational program for  
14 employees of the registry on the proper use and control of  
15 dependent adult abuse information.

16 EXPLANATION

17 This bill restructures the chapter regarding dependent  
18 adult abuse. The provisions of the chapter remain the same as  
19 in the current chapter and additionally include language  
20 regarding the dependent adult abuse registry which was  
21 formerly only incorporated by reference; provides  
22 authorization to dependent adult abuse evaluators to review  
23 financial records of dependent adults who are the suspected  
24 victims of financial exploitation by a caretaker; and includes  
25 the members of the staff and employees of community supervised  
26 apartment living arrangements, sheltered workshops, and work  
27 activity centers in the category of mandatory reporters.

28 BACKGROUND STATEMENT

29 SUBMITTED BY THE AGENCY

30 Iowa Code chapter 235B, "dependent adult abuse", has been  
31 amended extensively since the original legislation was passed  
32 in 1982. Child abuse legislation was used as a model for  
33 dependent adult abuse legislation and the central registry for  
34 child abuse was expanded to include dependent adult abuse  
35 reports. Since 1982, chapter 235B has been refined to more

1 clearly reflect dependent adult abuse needs and now varies  
2 greatly from child abuse provisions. It is proposed that  
3 chapter 235B be reorganized and that the central registry  
4 sections of chapter 235A be included in chapter 235B.

5 Financial exploitation of a dependent adult is currently  
6 included as a form of dependent adult abuse pursuant to  
7 chapter 235B. However, dependent adult abuse evaluators do  
8 not currently have the authority to review financial records  
9 of dependent adults who are suspected of being financially  
10 exploited by a caretaker. Therefore, it is recommended that  
11 this authorization be provided. Mandatory reporting of  
12 dependent adult abuse for certain professions has been  
13 codified since July, 1988. Members of the staff and employees  
14 of community supervised apartment living arrangements,  
15 sheltered workshops, and work activity centers have contact  
16 with dependent adults but are not currently mandatory  
17 reporters. These persons should be mandated to report  
18 suspected abuse.

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SENATE FILE 455

AN ACT  
RELATING TO THE RESTRUCTURING OF THE CODIFIED PROVISIONS  
RELATING TO DEPENDENT ADULT ABUSE, AND PROVIDING PENALTIES.

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

Section 1. Section 235B.1, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

235B.1 DEPENDENT ADULT ABUSE SERVICES.

The department shall establish and operate a dependent adult abuse services program. The program shall emphasize the reporting and evaluation of cases of abuse of a dependent adult who is unable to protect the adult's own interests or unable to perform or obtain essential services. The program shall include but is not limited to:

1. The establishment of multidisciplinary teams to provide leadership at the local and district levels in the delivery of services to victims of dependent adult abuse. The membership of a team shall include individuals who possess knowledge and skills related to the diagnosis, assessment, and disposition of dependent adult abuse cases and who are professionals practicing in the disciplines of medicine, public health, mental health, social work, law, law enforcement, or other

disciplines relative to dependent adults. Members of a team shall include, but are not limited to, persons representing the area agencies on aging, county attorneys, health care providers, and other persons involved in advocating or providing services to dependent adults.

2. Provisions for information sharing and case consultation among service providers, care providers, and victims of dependent adult abuse.

3. Procedures for referral of cases among service providers, including the referral of victims of dependent adult abuse residing in licensed health care facilities.

Sec. 2. Section 235B.2, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

235B.2 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Court" means the district court.
2. "Department" means the department of human services.
3. "Dependent adult abuse" means:
  - a. Any of the following as a result of the willful or negligent acts or omissions of a caretaker:
    - (1) Physical injury to or unreasonable confinement or unreasonable punishment of a dependent adult.
    - (2) The commission of a sexual offense under chapter 709 or section 726.2 with or against a dependent adult.
    - (3) Exploitation of a dependent adult which means the act or process of taking unfair advantage of a dependent adult or the adult's physical or financial resources for one's own personal or pecuniary profit, including theft, by the use of undue influence, harassment, duress, deception, false representation, or false pretenses.
    - (4) The deprivation of the minimum food, shelter, clothing, supervision, physical or mental health care, or other care necessary to maintain a dependent adult's life or health.

b. The deprivation of the minimum food, shelter, clothing, supervision, physical and mental health care, and other care necessary to maintain a dependent adult's life or health as a result of the acts or omissions of the dependent adult.

Dependent adult abuse does not include depriving a dependent adult of medical treatment if the dependent adult holds a belief or is an adherent of a religion whose tenets and practices call for reliance on spiritual means in place of reliance on medical treatment. However, this provision does not preclude a court from ordering that medical service be provided to the dependent adult if the dependent adult's health requires it.

Dependent adult abuse does not include the withholding or withdrawing of health care from a dependent adult who is terminally ill in the opinion of a licensed physician, when the withholding or withdrawing of health care is done at the request of the dependent adult or at the request of the dependent adult's next of kin or guardian pursuant to the applicable procedures under chapter 125, 222, 229, or 633.

4. "Caretaker" means a related or nonrelated person who has the responsibility for the protection, care, or custody of a dependent adult as a result of assuming the responsibility voluntarily, by contract, through employment, or by order of the court.

5. "Dependent adult" means a person eighteen years of age or older who is unable to protect the person's own interests or unable to adequately perform or obtain services necessary to meet essential human needs, as a result of a physical or mental condition which requires assistance from another, or as defined by departmental rule.

6. "Individual employed as an outreach person" means a natural person who, in the course of employment, makes regular contacts with dependent adults regarding available community resources.

7. "Person" means person as defined in section 4.1.

Sec. 3. NEW SECTION. 235B 3 DEPENDENT ADULT ABUSE REPORTS.

1. The department shall receive dependent adult abuse reports and shall collect, maintain, and disseminate the reports by establishing a central registry for dependent adult abuse information. The department shall evaluate the reports expeditiously. However, the department of inspections and appeals is solely responsible for the evaluation and disposition of dependent adult abuse cases within health care facilities and shall inform the department of human services of such evaluations and dispositions.

2. All of the following persons shall report suspected dependent adult abuse to the department:

- a. A self-employed social worker.
- b. A social worker under the jurisdiction of the department of human services.
- c. A social worker employed by a public or private person including a public or private health care facility as defined in section 135C.1.
- d. A certified psychologist.
- e. A person who, in the course of employment, examines, attends, counsels, or treats a dependent adult and reasonably believes the dependent adult has suffered abuse, including:
  - (1) A member of the staff of a community mental health center, a member of the staff of a hospital, a member of the staff or employee of a public or private health care facility as defined in section 135C.1.
  - (2) A peace officer.
  - (3) An in-home homemaker-home health aide.
  - (4) An individual employed as an outreach person.
  - (5) A health practitioner, as defined in section 237.68.
  - (6) A member of the staff or an employee of a community, supervised apartment living arrangement, sheltered workshop, or work activity center.

8. A person participating in good faith in reporting or cooperating with or assisting the department in evaluating a case of dependent adult abuse has immunity from liability, civil or criminal, which might otherwise be incurred or imposed based upon the act of making the report or giving the assistance. The person has the same immunity with respect to participating in good faith in a judicial proceeding resulting from the report or cooperation or assistance or relating to the subject matter of the report, cooperation, or assistance.

9. It shall be unlawful for any person or employer to discharge, suspend, or otherwise discipline a person required to report or voluntarily reporting an instance of suspected dependent adult abuse pursuant to subsection 2 or 4, or cooperating with, or assisting the department of human services in evaluating a case of dependent adult abuse, or participating in judicial proceedings relating to the reporting or cooperation or assistance based solely upon the person's reporting or assistance relative to the instance of dependent adult abuse. A person or employer found in violation of this subsection is guilty of a simple misdemeanor.

10. A person required by this section to report a suspected case of a dependent adult abuse who knowingly and willfully fails to do so is guilty of a simple misdemeanor. A person required by this section to report a suspected case of dependent adult abuse who knowingly fails to do so is civilly liable for the damages proximately caused by the failure.

11. The department of inspections and appeals shall adopt rules which require licensed health care facilities to separate an alleged dependent adult abuser from a victim following an allegation of perpetration of abuse and prior to the completion of an investigation of the allegation.

Sec. 4. NEW SECTION. 235B.4 DEPENDENT ADULT ABUSE INFORMATION REGISTRY.

Legislative findings and purposes.

The general assembly finds and declares that a central registry is required to provide a single source for the statewide collection, maintenance, and dissemination of dependent adult abuse information. Such a registry is imperative for increased effectiveness in dealing with the problem of dependent adult abuse. The general assembly also finds that vigorous protection of rights of individual privacy is an indispensable element of a fair and effective system of collecting, maintaining, and disseminating dependent adult abuse information.

The purposes of this section and sections 235B.5 to 235B.11 are to facilitate the identification of victims or potential victims of dependent adult abuse by making available a single, statewide source of dependent adult abuse data; to facilitate research on dependent adult abuse by making available a single, statewide source of dependent adult abuse data; and to provide maximum safeguards against the unwarranted invasions of privacy which such a registry might otherwise entail.

Sec. 5. NEW SECTION. 235B.5 CREATION AND MAINTENANCE OF A CENTRAL REGISTRY.

1. There is created within the department a central registry for dependent adult abuse information. The department shall organize and staff the registry and adopt rules for its operation.

2. The registry shall collect, maintain, and disseminate dependent adult abuse information as provided in this chapter.

3. The department shall maintain a toll-free telephone line, which shall be available on a twenty-four-hour-a-day, seven-day-a-week basis and which the department and all other persons may use to report cases of suspected dependent adult abuse and that all persons authorized by this chapter may use for obtaining dependent adult abuse information.

4. An oral report of suspected dependent adult abuse initially made to the central registry shall be immediately transmitted by the department to the appropriate county

3. If a staff member or employee is required to report pursuant to this section the person shall immediately notify the person in charge or the person's designated agent, and the person in charge or the designated agent shall make the report.

4. Any other person who believes that a dependent adult has suffered abuse may report the suspected abuse to the department of human services.

5. Following the reporting of suspected dependent adult abuse, the department of human services shall complete an assessment of necessary services and shall make appropriate referrals for receipt of these services. The department may provide necessary protective services and may establish a sliding fee schedule for those persons able to pay a portion of the protective services.

6. Upon a showing of probable cause that a dependent adult has been abused, a court may authorize a person, also authorized by the department, to make an evaluation, to enter the residence of, and to examine the dependent adult. Upon a showing of probable cause that a dependent adult has been financially exploited, a court may authorize a person, also authorized by the department, to make an evaluation, and to gain access to the financial records of the dependent adult.

7. The department shall inform the appropriate county attorneys of any reports of dependent adult abuse. The department may request information from any person believed to have knowledge of a case of dependent adult abuse. The person, including but not limited to a county attorney, a law enforcement agency, a multidisciplinary team, or a social services agency in the state shall cooperate and assist in the evaluation upon the request of the department. County attorneys and appropriate law enforcement agencies shall also take any other lawful action necessary or advisable for the protection of the dependent adult.

a. If, upon completion of the evaluation or upon referral from the department of inspections and appeals, the department determines that the best interests of the dependent adult require court action, the department shall initiate action for the appointment of a guardian or conservator or for admission or commitment to an appropriate institution or facility pursuant to the applicable procedures under chapter 275, 222, 229, or 633. The appropriate county attorney shall assist the department in the preparation of the necessary papers to initiate the action and shall appear and represent the department at all district court proceedings.

b. The department shall assist the court during all stages of court proceedings involving a suspected case of dependent adult abuse.

c. In every case involving abuse which is substantiated by the department and which results in a judicial proceeding on behalf of the dependent adult, legal counsel shall be appointed by the court to represent the dependent adult in the proceedings. The court may also appoint a guardian ad litem to represent the dependent adult if necessary to protect the dependent adult's best interests. The same attorney may be appointed to serve both as legal counsel and as guardian ad litem. Before legal counsel or a guardian ad litem is appointed pursuant to this section, the court shall require the dependent adult and any person legally responsible for the support of the dependent adult to complete under oath a detailed financial statement. If, on the basis of that financial statement, the court deems that the dependent adult or the legally responsible person is able to bear all or a portion of the cost of the legal counsel or guardian ad litem, the court shall so order. In cases where the dependent adult or the legally responsible person is unable to bear the cost of the legal counsel or guardian ad litem, the expense shall be paid by the county.

department of human services or law enforcement agency, or both.

5. An oral report of suspected dependent adult abuse initially made to the central registry regarding a health care facility shall be transmitted by the department to the department of inspections and appeals on the first working day following the submitting of the report.

6. The registry, upon receipt of a report of suspected dependent adult abuse, shall search the records of the registry, and if the records of the registry reveal any previous report of dependent adult abuse involving the same adult or if the records reveal any other pertinent information with respect to the same adult, the appropriate office of the department of human services or the appropriate law enforcement agency shall be immediately notified of that fact.

7. The central registry shall include but not be limited to report data, investigation data, and disposition data.

Sec. 6. **NEW SECTION. 235B.6 AUTHORIZED ACCESS.**

1. Notwithstanding chapter 27, the confidentiality of all dependent adult abuse information shall be maintained, except as specifically provided by subsections 2 and 3.

2. Access to dependent adult abuse information other than unfounded dependent adult abuse information is authorized only to the following persons:

a. A subject of a report including all of the following:

- (1) To an adult named in a report as a victim of abuse or to the adult's attorney or guardian ad litem.
- (2) To a guardian or legal custodian, or that person's attorney, of an adult named in a report as a victim of abuse.
- (3) To the person or the attorney for the person named in a report as having abused an adult.

b. A person involved in an investigation of dependent adult abuse including all of the following.

- (1) A health practitioner or mental health professional who is examining, attending, or treating an adult whom such

practitioner or professional believes or has reason to believe has been the victim of abuse or to a health practitioner or mental health professional whose consultation with respect to an adult believed to have been the victim of abuse is requested by the department.

(2) An employee or agent of the department responsible for the investigation of a dependent adult abuse report.

(3) A law enforcement officer responsible for assisting in an investigation of a dependent adult abuse allegation.

(4) A multidisciplinary team, if the department of human services approves the composition of the multidisciplinary team and determines that access to the team is necessary to assist the department in the investigation, diagnosis, assessment, and disposition of a case of dependent adult abuse.

(5) The mandatory reporter who reported the dependent adult abuse in an individual case.

c. A person providing care to an adult including all of the following:

(1) A licensing authority for a facility providing care to an adult named in a report.

(2) A person authorized as responsible for the care or supervision of an adult named in a report as a victim of abuse or a person named in a report as having abused an adult if the court or registry deems access to dependent adult abuse information by such person to be necessary.

(3) An employee or agent of the department responsible for registering or licensing or approving the registration or licensing of a person, or to an individual providing care to an adult and regulated by the department.

(4) The legally authorized protection and advocacy agency recognized pursuant to section 135C.7 if a person identified in the information as a victim or a perpetrator of abuse resided in or receives services from a facility or agency because the person is diagnosed as having a developmental disability or a mental illness.

d. Relating to judicial and administrative proceedings persons including all of the following:

- (1) A court upon a finding that information is necessary for the resolution of an issue arising in any phase of a case involving dependent adult abuse.
- (2) A court or administrative agency hearing an appeal for correction of dependent adult abuse information as provided in section 235B.10.
- (3) An expert witness at any stage of an appeal necessary for correction of dependent adult abuse information as provided in section 235B.10.

e. Other persons including all of the following:

- (1) A person conducting bona fide research on dependent adult abuse, but without information identifying individuals named in a dependent adult abuse report, unless having that information open to review is essential to the research or evaluation and the authorized registry officials give prior written approval and the adult, the adult's guardian or guardian ad litem, and the person named in a report as having abused an adult give permission to release the information.
- (2) Registry or department personnel when necessary to the performance of their official duties or a person or agency under contract with the department to carry out official duties and functions of the registry.
- (3) The department of public safety for the sole purpose of the filing of a claim for reparation pursuant to section 910A.5 and section 912.4, subsections 3 through 5.
- (4) A legally constituted adult protection agency of another state which is investigating or treating an adult named in a report as having been abused.
- (5) The attorney for the department who is responsible for representing the department.
- (6) A health care facility administrator or the administrator's designee, following the appeals process, for the purpose of hiring staff or continued employment of staff

3. Access to unfounded dependent adult abuse information is authorized only to those persons identified in subsection 2, paragraph "a", paragraph "b", subparagraphs (2) and (5), and paragraph "e", subparagraph (2).

Sec. 7. NEW SECTION. 235B.7 REQUESTS FOR DEPENDENT ADULT ABUSE INFORMATION.

1. Requests for dependent adult abuse information shall be in writing on forms prescribed by the department, except as otherwise provided by subsection 2. Request forms shall require information sufficient to demonstrate authorized access.

2. Requests for dependent adult abuse information may be made orally by telephone if a person making the request believes that the information is needed immediately and if information sufficient to demonstrate authorized access is provided. If a request is made orally by telephone, a written request form shall be filed within seventy-two hours of the oral request.

3. Subsections 1 and 2 do not apply to dependent adult abuse information that is disseminated to an employee of the department or to the attorney representing the department as authorized by section 235B.6.

Sec. 8. NEW SECTION. 235B.8 REDISSEMINATION OF DEPENDENT ADULT ABUSE INFORMATION.

1. A recipient of dependent adult abuse information authorized to receive the information shall not disseminate the information, except that dissemination shall be permitted when all of the following conditions apply:

- a. The dissemination is for official purposes in connection with prescribed duties or, in the case of a health practitioner, pursuant to professional responsibilities.
- b. The person to whom such information would be disseminated would have independent access to the same information under section 235B.6.

c. A written record is made of the redissemination, including the name of the recipient and the date and purpose of the redissemination.

d. The written record is forwarded to the registry within thirty days of the redissemination.

2. The department may notify, orally, the mandatory reporter in an individual dependent adult abuse case of the results of the case investigation and of the confidentiality provisions of sections 235B.6 and 235B.12. The department shall subsequently transmit a written notice to the mandatory reporter of the results and confidentiality provisions. A copy of the written notice shall be transmitted to the registry and shall be maintained by the registry as provided in section 235B.9.

Sec. 9. NEW SECTION. 235B.9 SEALING AND EXPUNGEMENT OF DEPENDENT ADULT ABUSE INFORMATION.

1. Dependent adult abuse information relating to a particular case of suspected dependent adult abuse shall be sealed ten years after the receipt of the initial report of such abuse by the registry unless good cause is shown why the information should remain open to authorized access. If a subsequent report of a suspected case of dependent adult abuse involving the adult named in the initial report as the victim of abuse or a person named in such report as having abused an adult is received by the registry within the ten-year period, the information shall be sealed ten years after receipt of the subsequent report unless good cause is shown why the information should remain open to authorized access.

2. Dependent adult abuse information which cannot be determined by a preponderance of the evidence to be founded or unfounded shall be expunged one year after the receipt of the initial report of abuse and dependent adult abuse information which is determined by a preponderance of the evidence to be unfounded shall be expunged immediately when it is determined to be unfounded.

3. However, if a correction of dependent adult abuse information is requested under section 235B.10 and the issue is not resolved at the end of one year the information shall be retained until the issue is resolved and if the dependent adult abuse information is not determined to be founded, the information shall be expunged immediately when it is determined to be unfounded.

4. The registry, at least annually, shall review and determine the current status of dependent adult abuse reports which are at least one year old and in connection with which no investigatory report has been filed by the department. If no investigatory report has been filed, the registry shall request the department to file a report. If a report is not filed within ninety days subsequent to a request, the report and relative information shall be sealed and remain sealed unless good cause is shown why the information should remain open to authorized access.

Sec. 10. NEW SECTION. 235B.10 EXAMINATION, REQUESTS FOR CORRECTION OR EXPUNGEMENT AND APPEAL.

1. Any person or that person's attorney shall have the right to examine dependent adult abuse information in the registry which refers to that person. The registry may prescribe reasonable hours and places of examination.

2. A person may file with the department within six months of the date of the notice of the results of an investigation, a written statement to the effect that dependent adult abuse information referring to the person is in whole or in part erroneous, and may request a correction of that information or of the findings of the investigation report. The department shall provide the person with an opportunity for an evidentiary hearing pursuant to chapter 17A to correct the information or the findings, unless the department corrects the information or findings as requested. The department shall delay the expungement of information which is not determined to be founded until the conclusion of a proceeding

to correct the information or findings. The department may defer the hearing until the conclusion of a court case relating to the information or findings.

3. The decision resulting from the hearing may be appealed to the court of Polk county by the person requesting the correction or to the court of the district in which the person resides. Immediately upon appeal the court shall order the department to file with the court a certified copy of the dependent adult abuse information. Appeal shall be taken in accordance with chapter 17A.

4. Upon the request of the appellant, the record and evidence in such cases shall be closed to all but the court and its officers, and access to the record and evidence shall be prohibited unless otherwise ordered by the court. The clerk shall maintain a separate docket for such actions. A person other than the appellant shall not permit a copy of the testimony or pleadings or the substance of the testimony or pleadings to be made available to any person other than a party to the action or the party's attorney. Violation of the provisions of this subsection shall be a public offense punishable under section 235B.12.

5. If the registry corrects or eliminates information as requested or as ordered by the court, the registry shall advise all persons who have received the incorrect information of the fact. Upon application to the court and service of notice on the registry, an individual may request and obtain a list of all persons who have received dependent adult abuse information referring to the individual.

6. In the course of any proceeding provided for by this section, the identity of the person who reported the disputed information and the identity of any person who has been reported as having abused an adult may be withheld upon a determination by the registry that disclosure of the person's identity would be detrimental to the person's interest.

Sec. 11. NEW SECTION. 235B.11 CIVIL REMEDY.

Any aggrieved person may institute a civil action for damages under chapter 25A or 613A or to restrain the dissemination of dependent adult abuse information in violation of this chapter, and any person proven to have disseminated or to have requested and received dependent adult abuse information in violation of this chapter shall be liable for actual damages and exemplary damages for each violation and shall be liable for court costs, expenses, and reasonable attorney's fees incurred by the party bringing the action. In no case shall the award for damages be less than five hundred dollars.

Sec. 12. NEW SECTION. 235B.12 CRIMINAL PENALTIES.

1. Any person who willfully requests, obtains, or seeks to obtain dependent adult abuse information under false pretenses, or who willfully communicates or seeks to communicate dependent adult abuse information to any person except in accordance with sections 235B.6 through 235B.8, or any person connected with any research authorized pursuant to section 235B.6 who willfully falsifies dependent adult abuse information or any records relating to the information is guilty of a serious misdemeanor. Any person who knowingly, but without criminal purposes, communicates or seeks to communicate dependent adult abuse information except in accordance with sections 235B.6 through 235B.8 is guilty of a simple misdemeanor.

2. Any reasonable grounds for belief that a person has violated any provision of this chapter is grounds for the immediate withdrawal of any authorized access the person might otherwise have to dependent adult abuse information.

Sec. 13. NEW SECTION. 235B.13 REGISTRY REPORTS.

1. The registry may compile statistics, conduct research, and issue reports on dependent adult abuse, provided identifying details of the subject of dependent adult abuse reports are deleted from any report issued.

2. The registry shall issue an annual report on its administrative operation, including information as to the number of requests for dependent adult abuse data, the proportion of requests attributable to each type of authorized access, the frequency and nature of irregularities, and other pertinent matters.

Sec. 14. NEW SECTION. 235B.14 INFORMATION, EDUCATION, AND TRAINING REQUIREMENTS.

1. The department of elder affairs, in cooperation with the department, shall conduct a public information and education program. The elements and goals of the program include but are not limited to:

a. Informing the public regarding the laws governing dependent adult abuse and the reporting requirements for dependent adult abuse.

b. Providing care givers with information regarding services to alleviate the emotional, psychological, physical, or financial stress associated with the care giver and dependent adult relationship.

c. Affecting public attitudes regarding the role of a dependent adult in society.

2. The department, in cooperation with the department of elder affairs and the department of inspections and appeals, shall institute a program of education and training for persons, including members of provider groups and family members, who may come in contact with dependent adult abuse. The program shall include but is not limited to instruction regarding recognition of dependent adult abuse and the procedure for the reporting of suspected abuse.

3. The content of the continuing education required pursuant to chapter 258A for a licensed professional providing care or service to a dependent adult shall include, but is not limited to, the responsibilities, obligations, powers, and duties of a person regarding the reporting of suspected dependent adult abuse, and training to aid the professional in identifying instances of dependent adult abuse.

4. The department of inspections and appeals shall provide training to investigators regarding the collection and preservation of evidence in the case of suspected dependent adult abuse.

5. A person required to report cases of dependent adult abuse pursuant to section 235B.3, other than a physician whose professional practice does not regularly involve providing primary health care to adults, shall complete two hours of training relating to the identification and reporting of dependent adult abuse within six months of initial employment or self-employment which involves the examination, attending, counseling, or treatment of adults on a regular basis. Within one month of initial employment or self-employment, the person shall obtain a statement of the abuse reporting requirements from the person's employer or, if self-employed, from the department. The person shall complete at least two hours of additional dependent adult abuse identification and reporting training every five years.

If the person is an employee of a hospital or similar public or private facility, the employer shall be responsible for providing the training. To the extent that the employer provides approved training on the employer's premises, the hours of training completed by employees shall be included in the calculation of nursing or service hours required to be provided to a patient or resident per day. If the person is self-employed, the person shall be responsible for obtaining the training.

The person may complete the initial or additional training as a part of a continuing education program required under chapter 258A or may complete the training as a part of a training program offered by the department of human services, the department of elder affairs, the department of inspections and appeals, the Iowa law enforcement academy, or a similar public agency.

A person required to complete both child abuse and dependent adult abuse mandatory reporter training may complete the training through a program which combines child abuse and dependent adult abuse curricula and thereby meet the training requirements of both this subsection and section 232.69 simultaneously.

6. The department shall require an educational program for employees of the registry on the proper use and control of dependent adult abuse information.

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JOE J. WELSH  
President of the Senate

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ROBERT C. ARNOULD  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 455, Seventy-fourth General Assembly.

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JOHN F. DWYER  
Secretary of the Senate

Approved June 4, 1991

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TERRY E. BRANSTAD  
Governor