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FILED MAR 19 1993

SENATE FILE 384  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 158)

Passed Senate, Date 4/28/93 Passed House, Date \_\_\_\_\_  
Vote: Ayes 50 Nays 0 Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

A BILL FOR

1 An Act relating to dependent adult abuse and establishing  
2 criminal penalties.

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

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*SF 384*

1 Section 1. Section 726.8, Code 1993, is amended to read as  
2 follows:

3 726.8 ~~WANTON-NEGLECT~~ DEPENDENT ADULT ABUSE OR NONSUPPORT  
4 OF A DEPENDENT ADULT.

5 1. ~~A caretaker commits wanton neglect of a dependent adult~~  
6 ~~if the caretaker knowingly acts in a manner likely to be~~  
7 ~~injurious to the physical, mental, or emotional welfare of a~~  
8 ~~dependent adult. -- Wanton neglect of a dependent adult is a~~  
9 ~~serious misdemeanor. A person who commits dependent adult~~  
10 abuse which results in serious injury to a dependent adult is  
11 guilty of a class "C" felony.

12 2. A person who commits dependent adult abuse which  
13 results in other than serious injury to a dependent adult is  
14 guilty of an aggravated misdemeanor.

15 2 3. A person who has legal responsibility either through  
16 contract or court order for support of a dependent adult and  
17 who fails or refuses to provide support commits nonsupport.  
18 Nonsupport is a class "D" felony.

19 3 4. A person alleged to have committed ~~wanton neglect~~  
20 dependent adult abuse or nonsupport of a dependent adult shall  
21 be charged with the respective offense unless a charge may be  
22 brought based upon a more serious offense, in which case the  
23 charge of the more serious offense shall supersede the less  
24 serious charge.

25 4 5. For the purposes of this section, "dependent adult"  
26 means a dependent adult as defined in section 235B.2,  
27 subsection 4, "dependent adult abuse" means dependent adult  
28 abuse as defined in section 235B.2, subsection 5, and  
29 "caretaker" means a caretaker as defined in section 235B.2,  
30 subsection 1.

31 EXPLANATION

32 This bill replaces "wanton neglect" of a dependent adult  
33 with references to dependent adult abuse and establishes that  
34 dependent adult abuse which results in serious injury to a  
35 dependent adult is a class "C" felony and dependent adult

1 abuse which results in other than serious injury to a  
2 dependent adult is an aggravated misdemeanor.

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## SENATE FILE 384

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1 Amend Senate File 384 as follows:

2 1. Page 1, by inserting before line 1, the  
3 following:

4 "Section 1. Section 125.14A, Code 1993, is amended  
5 to read as follows:

6 125.14A PERSONNEL OF A LICENSED PROGRAM ADMITTING  
7 JUVENILES.

8 1. If a person is being considered for licensure  
9 under this chapter, or for employment involving direct  
10 responsibility for a child or with access to a child  
11 when the child is alone, by a program admitting  
12 juveniles subject to licensure under this chapter, or  
13 if a person will reside in a facility utilized by such  
14 a program, and if the person has been convicted of a  
15 crime or has a record of founded child or dependent  
16 adult abuse, the department of human services and the  
17 program, for an employee of the program, shall perform  
18 an evaluation to determine whether the crime or  
19 founded child or dependent adult abuse warrants  
20 prohibition of licensure, employment, or residence in  
21 the facility. The department of human services shall  
22 conduct criminal and child and dependent adult abuse  
23 record checks in this state and may conduct these  
24 checks in other states. The evaluation shall be  
25 performed in accordance with procedures adopted for  
26 this purpose by the department of human services.

27 2. If the department of human services determines  
28 that a person has committed a crime or has a record of  
29 founded child or dependent adult abuse and is  
30 licensed, employed by a program licensed under this  
31 chapter, or resides in a licensed facility, the  
32 department shall notify the program that an evaluation  
33 will be conducted to determine whether prohibition of  
34 the person's licensure, employment, or residence is  
35 warranted.

36 3. In an evaluation, the department of human  
37 services and the program for an employee of the  
38 program shall consider the nature and seriousness of  
39 the crime or founded child or dependent adult abuse in  
40 relation to the position sought or held, the time  
41 elapsed since the commission of the crime or founded  
42 child or dependent adult abuse, the circumstances  
43 under which the crime or founded child or dependent  
44 adult abuse was committed, the degree of  
45 rehabilitation, the likelihood that the person will  
46 commit the crime or founded child or dependent adult  
47 abuse again, and the number of crimes or founded child  
48 or dependent adult abuses committed by the person  
49 involved. The department of human services may permit  
50 a person who is evaluated to be licensed, employed, or

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1 to reside, or to continue to be licensed, employed, or  
2 to reside in a program, if the person complies with  
3 the department's conditions relating to the person's  
4 licensure, employment, or residence, which may include  
5 completion of additional training. For an employee of  
6 a licensee, these conditional requirements shall be  
7 developed with the licensee. The department of human  
8 services has final authority in determining whether  
9 prohibition of the person's licensure, employment, or  
10 residence is warranted and in developing any  
11 conditional requirements under this subsection.

12 4. If the department of human services determines  
13 that the person has committed a crime or has a record  
14 of founded child or dependent adult abuse which  
15 warrants prohibition of licensure, employment, or  
16 residence, the person shall not be licensed under this  
17 chapter to operate a program admitting juveniles and  
18 shall not be employed by a program or reside in a  
19 facility admitting juveniles licensed under this  
20 chapter.

21 Sec.         . NEW SECTION. 135C.33 CHILD OR  
22 DEPENDENT ADULT ABUSE INFORMATION AND CRIMINAL RECORDS -  
23 - EVALUATIONS.

24 1. If a person is being considered for licensure  
25 under this chapter, or for employment involving direct  
26 responsibility for a resident or with access to a  
27 resident when the resident is alone, or if the person  
28 considered for licensure or employment under this  
29 chapter will reside in a facility, and if the person  
30 has been convicted of a crime under a law of any state  
31 or has a record of founded child or dependent adult  
32 abuse, the department of human services shall perform  
33 an evaluation to determine whether the crime or  
34 founded child or dependent adult abuse warrants  
35 prohibition of licensure, employment, or residence in  
36 the facility. The evaluation shall be performed in  
37 accordance with procedures adopted for this purpose by  
38 the department of human services.

39 2. If the department of human services determines  
40 that a person has committed a crime or has a record of  
41 founded child or dependent adult abuse and is  
42 licensed, employed by a facility licensed under this  
43 chapter, or resides in a licensed facility, the  
44 department shall notify the licensee that an  
45 evaluation will be conducted to determine whether  
46 prohibition of the person's licensure, employment, or  
47 residence is warranted.

48 3. In an evaluation, the department of human  
49 services shall consider the nature and seriousness of  
50 the crime or founded child or dependent adult abuse in

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1 relation to the position sought or held, the time  
2 elapsed since the commission of the crime or founded  
3 child or dependent adult abuse, the circumstances  
4 under which the crime or founded child or dependent  
5 adult abuse was committed, the degree of  
6 rehabilitation, the likelihood that the person will  
7 commit the crime or founded child or dependent adult  
8 abuse again, and the number of crimes or founded child  
9 or dependent adult abuses committed by the person  
10 involved. The department of human services has final  
11 authority in determining whether prohibition of the  
12 person's licensure, employment, or residence is  
13 warranted.

14 4. If the department of human services determines  
15 that the person has committed a crime or has a record  
16 of founded child or dependent adult abuse which  
17 warrants prohibition of licensure, employment, or  
18 residence, the person shall not be licensed under this  
19 chapter and shall not be employed by a facility or  
20 reside in a facility licensed under this chapter.

21 Sec. \_\_\_\_\_. Section 135H.7, subsections 2 and 3,  
22 Code 1993, are amended to read as follows:

23 2. a. If a person is being considered for  
24 licensure under this chapter, or for employment  
25 involving direct responsibility for a child or with  
26 access to a child when the child is alone, by a  
27 licensed psychiatric institution, or if a person will  
28 reside in a facility utilized by a licensee, and if  
29 the person has been convicted of a crime or has a  
30 record of founded child or dependent adult abuse, the  
31 department of human services and the licensee, for an  
32 employee of the licensee, shall perform an evaluation  
33 to determine whether the crime or founded child or  
34 dependent adult abuse warrants prohibition of  
35 licensure, employment, or residence in the facility.  
36 The department of human services shall conduct  
37 criminal and child and dependent adult abuse record  
38 checks in this state and may conduct these checks in  
39 other states. The evaluation shall be performed in  
40 accordance with procedures adopted for this purpose by  
41 the department of human services.

42 b. If the department of human services determines  
43 that a person has committed a crime or has a record of  
44 founded child or dependent adult abuse and is  
45 licensed, employed by a psychiatric institution  
46 licensed under this chapter, or resides in a licensed  
47 facility, the department shall notify the program  
48 licensee that an evaluation will be conducted to  
49 determine whether prohibition of the person's  
50 licensure, employment, or residence is warranted.

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1 c. In an evaluation, the department of human  
2 services and the licensee for an employee of the  
3 licensee shall consider the nature and seriousness of  
4 the crime or founded child or dependent adult abuse in  
5 relation to the position sought or held, the time  
6 elapsed since the commission of the crime or founded  
7 child or dependent adult abuse, the circumstances  
8 under which the crime or founded child or dependent  
9 adult abuse was committed, the degree of  
10 rehabilitation, the likelihood that the person will  
11 commit the crime or founded child or dependent adult  
12 abuse again, and the number of crimes or founded child  
13 or dependent adult abuses committed by the person  
14 involved. The department may permit a person who is  
15 evaluated to be licensed, employed, or to reside, or  
16 to continue to be licensed, employed, or to reside in  
17 a licensed facility, if the person complies with the  
18 department's conditions relating to the person's  
19 licensure, employment, or residence, which may include  
20 completion of additional training. For an employee of  
21 a licensee, these conditional requirements shall be  
22 developed with the licensee. The department of human  
23 services has final authority in determining whether  
24 prohibition of the person's licensure, employment, or  
25 residence is warranted and in developing any  
26 conditional requirements under this paragraph.

27 3. If the department of human services determines  
28 that the person has committed a crime or has a record  
29 of founded child or dependent adult abuse which  
30 warrants prohibition of licensure, employment, or  
31 residence, the person shall not be licensed under this  
32 chapter to operate a psychiatric institution and shall  
33 not be employed by a psychiatric institution or reside  
34 in a facility licensed under this chapter.

35 Sec. \_\_\_\_\_. Section 237.8, subsection 2, Code 1993,  
36 is amended to read as follows:

37 2. a. If a person is being considered for  
38 licensure under this chapter, or for employment  
39 involving direct responsibility for a child or with  
40 access to a child when the child is alone, by a  
41 licensee under this chapter, or if a person will  
42 reside in a facility utilized by a licensee, and if  
43 the person has been convicted of a crime or has a  
44 record of founded child or dependent adult abuse, the  
45 department and the licensee for an employee of the  
46 licensee shall perform an evaluation to determine  
47 whether the crime or founded child or dependent adult  
48 abuse warrants prohibition of licensure, employment,  
49 or residence in the facility. The department shall  
50 conduct criminal and child and dependent adult abuse

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1 record checks in this state and may conduct these  
2 checks in other states. The evaluation shall be  
3 performed in accordance with procedures adopted for  
4 this purpose by the department.

5 b. If the department determines that a person has  
6 committed a crime or has a record of founded child or  
7 dependent adult abuse and is licensed, employed by a  
8 licensee, or resides in a licensed facility, the  
9 department shall notify the licensee that an  
10 evaluation will be conducted to determine whether  
11 prohibition of the person's licensure, employment, or  
12 residence is warranted.

13 c. In an evaluation, the department and the  
14 licensee for an employee of the licensee shall  
15 consider the nature and seriousness of the crime or  
16 founded child or dependent adult abuse in relation to  
17 the position sought or held, the time elapsed since  
18 the commission of the crime or founded child or  
19 dependent adult abuse, the circumstances under which  
20 the crime or founded child or dependent adult abuse  
21 was committed, the degree of rehabilitation, the  
22 likelihood that the person will commit the crime or  
23 founded child or dependent adult abuse again, and the  
24 number of crimes or founded child or dependent adult  
25 abuses committed by the person involved. The  
26 department may permit a person who is evaluated to be  
27 licensed, employed, or to reside, or to continue to be  
28 licensed, employed, or to reside in a licensed  
29 facility, if the person complies with the department's  
30 conditions relating to the person's licensure,  
31 employment, or residence, which may include completion  
32 of additional training. For an employee of a  
33 licensee, these conditional requirements shall be  
34 developed with the licensee. The department has final  
35 authority in determining whether prohibition of the  
36 person's licensure, employment, or residence is  
37 warranted and in developing any conditional  
38 requirements under this paragraph.

39 d. If the department determines that the person  
40 has committed a crime or has a record of founded child  
41 or dependent adult abuse which warrants prohibition of  
42 licensure, employment, or residence, the person shall  
43 not be licensed under this chapter and shall not be  
44 employed by a licensee or reside in a licensed  
45 facility.

46 Sec. \_\_\_\_\_. Section 237A.5, subsection 2, Code 1993,  
47 is amended to read as follows:

48 2. a. If a person is being considered for  
49 licensure or registration under this chapter, or for  
50 employment involving direct responsibility for a child

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1 or with access to a child when the child is alone, by  
2 a child day care facility subject to licensure or  
3 registration under this chapter, or if a person will  
4 reside in a facility, and if the person has been  
5 convicted of a crime or has a record of founded child  
6 or dependent adult abuse, the department and the  
7 licensee or registrant for an employee of the licensee  
8 or registrant shall perform an evaluation to determine  
9 whether the crime or founded child or dependent adult  
10 abuse warrants prohibition of licensure, registration,  
11 employment, or residence in the facility. The  
12 department shall conduct criminal and child and  
13 dependent adult abuse record checks in this state and  
14 may conduct these checks in other states. The  
15 evaluation shall be performed in accordance with  
16 procedures adopted for this purpose by the department.

17 b. If the department determines that a person has  
18 committed a crime or has a record of founded child or  
19 dependent adult abuse and is licensed, employed by a  
20 licensee or registrant or registered under this  
21 chapter, or resides in a licensed or registered  
22 facility, the department shall notify the licensee or  
23 registrant that an evaluation will be conducted to  
24 determine whether prohibition of the person's  
25 licensure, registration, employment, or residence is  
26 warranted.

27 c. In an evaluation, the department and the  
28 licensee or registrant for an employee of the licensee  
29 or registrant shall consider the nature and  
30 seriousness of the crime or founded child or dependent  
31 adult abuse in relation to the position sought or  
32 held, the time elapsed since the commission of the  
33 crime or founded child or dependent adult abuse, the  
34 circumstances under which the crime or founded child  
35 or dependent adult abuse was committed, the degree of  
36 rehabilitation, the likelihood that the person will  
37 commit the crime or founded child or dependent adult  
38 abuse again, and the number of crimes or founded child  
39 or dependent adult abuses committed by the person  
40 involved. The department may permit a person who is  
41 evaluated to be licensed, registered, employed, or to  
42 reside, or to continue to be licensed, registered,  
43 employed, or to reside in a licensed facility, if the  
44 person complies with the department's conditions  
45 relating to the person's licensure, registration,  
46 employment, or residence, which may include completion  
47 of additional training. For an employee of a licensee  
48 or registrant, these conditional requirements shall be  
49 developed with the licensee or registrant. The  
50 department has final authority in determining whether

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1 prohibition of the person's licensure, registration,  
2 employment, or residence is warranted and in  
3 developing any conditional requirements under this  
4 paragraph.

5 d. If the department determines that the person  
6 has committed a crime or has a record of founded child  
7 or dependent adult abuse which warrants prohibition of  
8 licensure, registration, employment, or residence, the  
9 person shall not be licensed or registered under this  
10 chapter to operate a child day care facility and shall  
11 not be employed by a licensee or registrant or reside  
12 in a facility licensed or registered under this  
13 chapter.

14 Sec. \_\_\_\_ . Section 692.2, subsection 1, paragraph  
15 c, Code 1993, is amended to read as follows:

16 c. The department of human services for the  
17 purposes of section 135C.33, section 218.13, section  
18 232.71, subsection 16, section 232.142, section 237.8,  
19 subsection 2, section 237A.5, section 237A.20, and  
20 section 600.8, subsections 1 and 2."

21 2. Title page, line 1, by inserting after the  
22 word "adult" the following: "and child".

23 3. By renumbering as necessary.

By JIM LIND

S-3418 FILED APRIL 6, 1993

*adopted 4/28/93 (p. 1420)*

SENATE FILE 384  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 158)  
(AS AMENDED AND PASSED BY THE SENATE APRIL 28, 1993)

\_\_\_\_\_ - New Language by the Senate

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

A BILL FOR

1 An Act relating to dependent adult and child abuse and  
2 establishing criminal penalties.

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

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S.F. 384

1 Section 1. Section 125.14A, Code 1993, is amended to read  
2 as follows:

3 125.14A PERSONNEL OF A LICENSED PROGRAM ADMITTING  
4 JUVENILES.

5 1. If a person is being considered for licensure under  
6 this chapter, or for employment involving direct  
7 responsibility for a child or with access to a child when the  
8 child is alone, by a program admitting juveniles subject to  
9 licensure under this chapter, or if a person will reside in a  
10 facility utilized by such a program, and if the person has  
11 been convicted of a crime or has a record of founded child or  
12 dependent adult abuse, the department of human services and  
13 the program, for an employee of the program, shall perform an  
14 evaluation to determine whether the crime or founded child or  
15 dependent adult abuse warrants prohibition of licensure,  
16 employment, or residence in the facility. The department of  
17 human services shall conduct criminal and child and dependent  
18 adult abuse record checks in this state and may conduct these  
19 checks in other states. The evaluation shall be performed in  
20 accordance with procedures adopted for this purpose by the  
21 department of human services.

22 2. If the department of human services determines that a  
23 person has committed a crime or has a record of founded child  
24 or dependent adult abuse and is licensed, employed by a  
25 program licensed under this chapter, or resides in a licensed  
26 facility, the department shall notify the program that an  
27 evaluation will be conducted to determine whether prohibition  
28 of the person's licensure, employment, or residence is  
29 warranted.

30 3. In an evaluation, the department of human services and  
31 the program for an employee of the program shall consider the  
32 nature and seriousness of the crime or founded child or  
33 dependent adult abuse in relation to the position sought or  
34 held, the time elapsed since the commission of the crime or  
35 founded child or dependent adult abuse, the circumstances

1 under which the crime or founded child or dependent adult  
2 abuse was committed, the degree of rehabilitation, the  
3 likelihood that the person will commit the crime or founded  
4 child or dependent adult abuse again, and the number of crimes  
5 or founded child or dependent adult abuses committed by the  
6 person involved. The department of human services may permit  
7 a person who is evaluated to be licensed, employed, or to  
8 reside, or to continue to be licensed, employed, or to reside  
9 in a program, if the person complies with the department's  
10 conditions relating to the person's licensure, employment, or  
11 residence, which may include completion of additional  
12 training. For an employee of a licensee, these conditional  
13 requirements shall be developed with the licensee. The  
14 department of human services has final authority in  
15 determining whether prohibition of the person's licensure,  
16 employment, or residence is warranted and in developing any  
17 conditional requirements under this subsection.

18 4. If the department of human services determines that the  
19 person has committed a crime or has a record of founded child  
20 or dependent adult abuse which warrants prohibition of  
21 licensure, employment, or residence, the person shall not be  
22 licensed under this chapter to operate a program admitting  
23 juveniles and shall not be employed by a program or reside in  
24 a facility admitting juveniles licensed under this chapter.

25 Sec. 2. NEW SECTION. 135C.33 CHILD OR DEPENDENT ADULT  
26 ABUSE INFORMATION AND CRIMINAL RECORDS --EVALUATIONS.

27 1. If a person is being considered for licensure under  
28 this chapter, or for employment involving direct  
29 responsibility for a resident or with access to a resident  
30 when the resident is alone, or if the person considered for  
31 licensure or employment under this chapter will reside in a  
32 facility, and if the person has been convicted of a crime  
33 under a law of any state or has a record of founded child or  
34 dependent adult abuse, the department of human services shall  
35 perform an evaluation to determine whether the crime or

1 founded child or dependent adult abuse warrants prohibition of  
2 licensure, employment, or residence in the facility. The  
3 evaluation shall be performed in accordance with procedures  
4 adopted for this purpose by the department of human services.

5 2. If the department of human services determines that a  
6 person has committed a crime or has a record of founded child  
7 or dependent adult abuse and is licensed, employed by a  
8 facility licensed under this chapter, or resides in a licensed  
9 facility, the department shall notify the licensee that an  
10 evaluation will be conducted to determine whether prohibition  
11 of the person's licensure, employment, or residence is  
12 warranted.

13 3. In an evaluation, the department of human services  
14 shall consider the nature and seriousness of the crime or  
15 founded child or dependent adult abuse in relation to the  
16 position sought or held, the time elapsed since the commission  
17 of the crime or founded child or dependent adult abuse, the  
18 circumstances under which the crime or founded child or  
19 dependent adult abuse was committed, the degree of  
20 rehabilitation, the likelihood that the person will commit the  
21 crime or founded child or dependent adult abuse again, and the  
22 number of crimes or founded child or dependent adult abuses  
23 committed by the person involved. The department of human  
24 services has final authority in determining whether  
25 prohibition of the person's licensure, employment, or  
26 residence is warranted.

27 4. If the department of human services determines that the  
28 person has committed a crime or has a record of founded child  
29 or dependent adult abuse which warrants prohibition of  
30 licensure, employment, or residence, the person shall not be  
31 licensed under this chapter and shall not be employed by a  
32 facility or reside in a facility licensed under this chapter.

33 Sec. 3. Section 135H.7, subsections 2 and 3, Code 1993,  
34 are amended to read as follows:

35 2. a. If a person is being considered for licensure under

1 this chapter, or for employment involving direct  
2 responsibility for a child or with access to a child when the  
3 child is alone, by a licensed psychiatric institution, or if a  
4 person will reside in a facility utilized by a licensee, and  
5 if the person has been convicted of a crime or has a record of  
6 founded child or dependent adult abuse, the department of  
7 human services and the licensee, for an employee of the  
8 licensee, shall perform an evaluation to determine whether the  
9 crime or founded child or dependent adult abuse warrants  
10 prohibition of licensure, employment, or residence in the  
11 facility. The department of human services shall conduct  
12 criminal and child and dependent adult abuse record checks in  
13 this state and may conduct these checks in other states. The  
14 evaluation shall be performed in accordance with procedures  
15 adopted for this purpose by the department of human services.

16 b. If the department of human services determines that a  
17 person has committed a crime or has a record of founded child  
18 or dependent adult abuse and is licensed, employed by a  
19 psychiatric institution licensed under this chapter, or  
20 resides in a licensed facility, the department shall notify  
21 the program licensee that an evaluation will be conducted to  
22 determine whether prohibition of the person's licensure,  
23 employment, or residence is warranted.

24 c. In an evaluation, the department of human services and  
25 the licensee for an employee of the licensee shall consider  
26 the nature and seriousness of the crime or founded child or  
27 dependent adult abuse in relation to the position sought or  
28 held, the time elapsed since the commission of the crime or  
29 founded child or dependent adult abuse, the circumstances  
30 under which the crime or founded child or dependent adult  
31 abuse was committed, the degree of rehabilitation, the  
32 likelihood that the person will commit the crime or founded  
33 child or dependent adult abuse again, and the number of crimes  
34 or founded child or dependent adult abuses committed by the  
35 person involved. The department may permit a person who is

1 evaluated to be licensed, employed, or to reside, or to  
2 continue to be licensed, employed, or to reside in a licensed  
3 facility, if the person complies with the department's  
4 conditions relating to the person's licensure, employment, or  
5 residence, which may include completion of additional  
6 training. For an employee of a licensee, these conditional  
7 requirements shall be developed with the licensee. The  
8 department of human services has final authority in  
9 determining whether prohibition of the person's licensure,  
10 employment, or residence is warranted and in developing any  
11 conditional requirements under this paragraph.

12 3. If the department of human services determines that the  
13 person has committed a crime or has a record of founded child  
14 or dependent adult abuse which warrants prohibition of  
15 licensure, employment, or residence, the person shall not be  
16 licensed under this chapter to operate a psychiatric  
17 institution and shall not be employed by a psychiatric  
18 institution or reside in a facility licensed under this  
19 chapter.

20 Sec. 4. Section 237.8, subsection 2, Code 1993, is amended  
21 to read as follows:

22 2. a. If a person is being considered for licensure under  
23 this chapter, or for employment involving direct  
24 responsibility for a child or with access to a child when the  
25 child is alone, by a licensee under this chapter, or if a  
26 person will reside in a facility utilized by a licensee, and  
27 if the person has been convicted of a crime or has a record of  
28 founded child or dependent adult abuse, the department and the  
29 licensee for an employee of the licensee shall perform an  
30 evaluation to determine whether the crime or founded child or  
31 dependent adult abuse warrants prohibition of licensure,  
32 employment, or residence in the facility. The department  
33 shall conduct criminal and child and dependent adult abuse  
34 record checks in this state and may conduct these checks in  
35 other states. The evaluation shall be performed in accordance

1 with procedures adopted for this purpose by the department.

2     b. If the department determines that a person has  
3 committed a crime or has a record of founded child or  
4 dependent adult abuse and is licensed, employed by a licensee,  
5 or resides in a licensed facility, the department shall notify  
6 the licensee that an evaluation will be conducted to determine  
7 whether prohibition of the person's licensure, employment, or  
8 residence is warranted.

9     c. In an evaluation, the department and the licensee for  
10 an employee of the licensee shall consider the nature and  
11 seriousness of the crime or founded child or dependent adult  
12 abuse in relation to the position sought or held, the time  
13 elapsed since the commission of the crime or founded child or  
14 dependent adult abuse, the circumstances under which the crime  
15 or founded child or dependent adult abuse was committed, the  
16 degree of rehabilitation, the likelihood that the person will  
17 commit the crime or founded child or dependent adult abuse  
18 again, and the number of crimes or founded child or dependent  
19 adult abuses committed by the person involved. The department  
20 may permit a person who is evaluated to be licensed, employed,  
21 or to reside, or to continue to be licensed, employed, or to  
22 reside in a licensed facility, if the person complies with the  
23 department's conditions relating to the person's licensure,  
24 employment, or residence, which may include completion of  
25 additional training. For an employee of a licensee, these  
26 conditional requirements shall be developed with the licensee.  
27 The department has final authority in determining whether  
28 prohibition of the person's licensure, employment, or  
29 residence is warranted and in developing any conditional  
30 requirements under this paragraph.

31     d. If the department determines that the person has  
32 committed a crime or has a record of founded child or  
33 dependent adult abuse which warrants prohibition of licensure,  
34 employment, or residence, the person shall not be licensed  
35 under this chapter and shall not be employed by a licensee or

1 reside in a licensed facility.

2 Sec. 5. Section 237A.5, subsection 2, Code 1993, is  
3 amended to read as follows:

4 2. a. If a person is being considered for licensure or  
5 registration under this chapter, or for employment involving  
6 direct responsibility for a child or with access to a child  
7 when the child is alone, by a child day care facility subject  
8 to licensure or registration under this chapter, or if a  
9 person will reside in a facility, and if the person has been  
10 convicted of a crime or has a record of founded child or  
11 dependent adult abuse, the department and the licensee or  
12 registrant for an employee of the licensee or registrant shall  
13 perform an evaluation to determine whether the crime or  
14 founded child or dependent adult abuse warrants prohibition of  
15 licensure, registration, employment, or residence in the  
16 facility. The department shall conduct criminal and child and  
17 dependent adult abuse record checks in this state and may  
18 conduct these checks in other states. The evaluation shall be  
19 performed in accordance with procedures adopted for this  
20 purpose by the department.

21 b. If the department determines that a person has  
22 committed a crime or has a record of founded child or  
23 dependent adult abuse and is licensed, employed by a licensee  
24 or registrant or registered under this chapter, or resides in  
25 a licensed or registered facility, the department shall notify  
26 the licensee or registrant that an evaluation will be  
27 conducted to determine whether prohibition of the person's  
28 licensure, registration, employment, or residence is  
29 warranted.

30 c. In an evaluation, the department and the licensee or  
31 registrant for an employee of the licensee or registrant shall  
32 consider the nature and seriousness of the crime or founded  
33 child or dependent adult abuse in relation to the position  
34 sought or held, the time elapsed since the commission of the  
35 crime or founded child or dependent adult abuse, the

1 circumstances under which the crime or founded child or  
2 dependent adult abuse was committed, the degree of  
3 rehabilitation, the likelihood that the person will commit the  
4 crime or founded child or dependent adult abuse again, and the  
5 number of crimes or founded child or dependent adult abuses  
6 committed by the person involved. The department may permit a  
7 person who is evaluated to be licensed, registered, employed,  
8 or to reside, or to continue to be licensed, registered,  
9 employed, or to reside in a licensed facility, if the person  
10 complies with the department's conditions relating to the  
11 person's licensure, registration, employment, or residence,  
12 which may include completion of additional training. For an  
13 employee of a licensee or registrant, these conditional  
14 requirements shall be developed with the licensee or  
15 registrant. The department has final authority in determining  
16 whether prohibition of the person's licensure, registration,  
17 employment, or residence is warranted and in developing any  
18 conditional requirements under this paragraph.

19 d. If the department determines that the person has  
20 committed a crime or has a record of founded child or  
21 dependent adult abuse which warrants prohibition of licensure,  
22 registration, employment, or residence, the person shall not  
23 be licensed or registered under this chapter to operate a  
24 child day care facility and shall not be employed by a  
25 licensee or registrant or reside in a facility licensed or  
26 registered under this chapter.

27 Sec. 6. Section 692.2, subsection 1, paragraph c, Code  
28 1993, is amended to read as follows:

29 c. The department of human services for the purposes of  
30 section 135C.33, section 218.13, section 232.71, subsection  
31 16, section 232.142, section 237.8, subsection 2, section  
32 237A.5, section 237A.20, and section 600.8, subsections 1 and  
33 2.

34 Sec. 7. Section 726.8, Code 1993, is amended to read as  
35 follows:

1 726.8 WANTON-NEGLECT DEPENDENT ADULT ABUSE OR NONSUPPORT  
2 OF A DEPENDENT ADULT.

3 1. ~~A caretaker commits wanton neglect of a dependent adult~~  
4 ~~if the caretaker knowingly acts in a manner likely to be~~  
5 ~~injurious to the physical, mental, or emotional welfare of a~~  
6 ~~dependent adult. -- Wanton neglect of a dependent adult is a~~  
7 serious misdemeanor. A person who commits dependent adult  
8 abuse which results in serious injury to a dependent adult is  
9 guilty of a class "C" felony.

10 2. A person who commits dependent adult abuse which  
11 results in other than serious injury to a dependent adult is  
12 guilty of an aggravated misdemeanor.

13 2 3. A person who has legal responsibility either through  
14 contract or court order for support of a dependent adult and  
15 who fails or refuses to provide support commits nonsupport.  
16 Nonsupport is a class "D" felony.

17 3 4. A person alleged to have committed ~~wanton neglect~~  
18 dependent adult abuse or nonsupport of a dependent adult shall  
19 be charged with the respective offense unless a charge may be  
20 brought based upon a more serious offense, in which case the  
21 charge of the more serious offense shall supersede the less  
22 serious charge.

23 4 5. For the purposes of this section, "dependent adult"  
24 means a dependent adult as defined in section 235B.2,  
25 subsection 4, "dependent adult abuse" means dependent adult  
26 abuse as defined in section 235B.2, subsection 5, and  
27 "caretaker" means a caretaker as defined in section 235B.2,  
28 subsection 1.

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STURGEON, CH.  
ROSENBERG  
SLIFE

SSB 158  
JUDICIARY

SENATE FILE 384  
BY (PROPOSED COMMITTEE ON  
JUDICIARY BILL BY CHAIRPERSON  
STURGEON)

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

A BILL FOR

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

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1 Section 1. Section 726.8, Code 1993, is amended to read as  
2 follows:

3 726.8 ~~WANTON-NEGLECT~~ DEPENDENT ADULT ABUSE OR NONSUPPORT  
4 OF A DEPENDENT ADULT.

5 1. ~~A caretaker commits wanton neglect of a dependent adult~~  
6 ~~if the caretaker knowingly acts in a manner likely to be~~  
7 ~~injurious to the physical, mental, or emotional welfare of a~~  
8 ~~dependent adult. Wanton neglect of a dependent adult is a~~  
9 ~~serious misdemeanor. A person who commits dependent adult~~  
10 abuse which results in serious injury to a dependent adult is  
11 guilty of a class "C" felony.

12 2. A person who commits dependent adult abuse which  
13 results in other than serious injury to a dependent adult is  
14 guilty of an aggravated misdemeanor.

15 2 3. A person who has legal responsibility either through  
16 contract or court order for support of a dependent adult and  
17 who fails or refuses to provide support commits nonsupport.  
18 Nonsupport is a class "D" felony.

19 3 4. A person alleged to have committed ~~wanton neglect~~  
20 dependent adult abuse or nonsupport of a dependent adult shall  
21 be charged with the respective offense unless a charge may be  
22 brought based upon a more serious offense, in which case the  
23 charge of the more serious offense shall supersede the less  
24 serious charge.

25 4 5. For the purposes of this section, "dependent adult"  
26 means a dependent adult as defined in section 235B.2,  
27 subsection 4, "dependent adult abuse" means dependent adult  
28 abuse as defined in section 235B.2, subsection 5, and  
29 "caretaker" means a caretaker as defined in section 235B.2,  
30 subsection 1.

31 EXPLANATION

32 This bill replaces "wanton neglect" of a dependent adult  
33 with references to dependent adult abuse and establishes that  
34 dependent adult abuse which results in serious injury to a  
35 dependent adult is a class "C" felony and dependent adult

1 abuse which results in other than serious injury to a  
2 dependent adult is an aggravated misdemeanor.

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