

b. Misrepresent in any manner the odds of receiving a particular gift, prize, amount of money, or other item of value.

c. Represent directly or by implication that the number of participants has been significantly limited or that any person has been selected to receive a particular prize, gift, money, or other item of value, unless this fact is true.

d. Label any offer a notice of termination or notice of cancellation.

e. Misrepresent, in any manner, the offer, plan, or program.

Sec. 18. NEW SECTION. 557B.14 REMEDIES.

1. A violation of this chapter or the commission of any act declared to be unlawful under this chapter constitutes a violation of section 714.16, subsection 2, paragraph "a", and the attorney general has all the powers enumerated in that section to enforce the provisions of this chapter.

2. In addition, the attorney general may seek civil penalties of not more than ten thousand dollars for each violation of or the commission of any act declared to be unlawful under this chapter. Each day of continued violation constitutes a separate offense.

3. Any person who fails to pay the filing fees required by this chapter and continues to sell membership camping contracts is liable civilly in an action brought by the attorney general for a penalty in an amount equal to treble the unpaid fees.

4. The provisions of this chapter are cumulative and nonexclusive and do not affect any other available remedy at law or equity, except as otherwise provided in sections 502.202, 503.3, and 537.3310.

Sec. 19. NEW SECTION. 557B.15 EXEMPTIONS BY ATTORNEY GENERAL.

The attorney general may, by rule or order, exempt any person from all or part of the requirements of this chapter if the attorney general finds the requirements unnecessary for the protection of purchasers. In determining exemptions from this chapter, the attorney general shall consider all of the following:

1. The duration of the membership camping contracts involved.

2. The number of membership camping contracts being offered by the operator.

3. The amount of the purchase price of the membership camping contracts.

Sec. 20. NEW SECTION. 557B.16 RULES.

The attorney general may prescribe rules in accordance with this chapter as deemed necessary to carry out the provisions of this chapter.

Approved June 2, 1987

CHAPTER 182

DEPENDENT ADULT ABUSE AND NEGLECT

H.F. 660

AN ACT relating to dependent adult abuse, providing penalties, and establishing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 235A.13, subsection 9, Code 1987, is amended to read as follows:

9. "Multidisciplinary team" means a group of individuals who possess knowledge and skills related to the diagnosis, assessment, and disposition of child abuse cases and who are professionals practicing in the disciplines of medicine, public health, mental health, social work, child development, education, law, juvenile probation, or law enforcement, or a group established pursuant to section 235B.1, subsection 3, paragraph "a".

Sec. 2. Section 235B.1, subsection 1, Code 1987, is amended to read as follows:

1. As used in this section ~~chapter~~, "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 ~~eruel~~ 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 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 and mental health care, and 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.

Sec. 3. Section 235B.1, Code 1987, is amended by adding the following new subsections:

NEW SUBSECTION. 2A. "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.

NEW SUBSECTION. 2B. "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.

Sec. 4. Section 235B.1, subsection 3, Code 1987, is amended to read as follows:

3. The department of human services shall operate a program relating to the providing of services in cases of dependent adult abuse. The program shall emphasize the reporting and evaluation of dependent adult abuse of an adult who is unable to protect the adult's own interests or unable to perform or obtain essential services. The program shall include:

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

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

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

Sec. 5. Section 235B.1, subsection 4, paragraph a, Code 1987, is amended to read as follows:

a. A health practitioner, as defined in section 232.68, who examines, attends, or treats a dependent adult and who reasonably believes the dependent adult has suffered dependent adult abuse, shall report the suspected abuse to the department of human services. If the health practitioner examines, attends, or treats the dependent adult as a member of the staff of a hospital or similar institution, the health practitioner shall immediately notify the person in charge of the institution or the person's designated agent, and the person in charge or the designated agent shall make the report.

A self-employed social worker, a social worker under the jurisdiction of the department of human services, a social worker employed by a public or private agency or institution, or by

a public or private health care facility as defined in section 135C.1, a certified psychologist, a member of the staff of a 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, or a peace officer, who, in the course of employment, examines, attends, counsels, or treats a dependent adult and reasonably believes the dependent adult has suffered adult abuse shall report the suspected abuse to the department of human services. An in-home homemaker/home health aide or an individual employed as an outreach person shall report suspected adult abuse to the department of human services. If a person is required to report under this section as a member of the staff or employee of a public or private institution, agency, or facility, the person shall immediately notify the person in charge of the institution, agency, or facility, or the person's designated agent, and the person in charge or the designated agent shall make the report.

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

PARAGRAPH DIVIDED. The department shall receive dependent adult abuse reports and shall collect, maintain, and disseminate the reports pursuant to sections 235A.12 through 235A.24 by expanding the central registry for child abuse to include reports of dependent adult abuse. The department shall evaluate the reports expeditiously. However, the Iowa department of public health state department of inspections and appeals is solely responsible for the evaluation and disposition of adult abuse cases within health care facilities and shall inform the department of human services of such evaluations and dispositions.

Sec. 6. Section 235B.1, subsection 4, paragraph b, Code 1987, is amended to read as follows:

b. The department of human services shall inform the appropriate county attorneys of any reports. County attorneys, law enforcement agencies, multidisciplinary teams as defined in section 235A.13, subsection 9, and social services agencies 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.

Sec. 7. Section 235B.1, subsection 7, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. 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 4, cooperating 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 assistance based solely upon the person's reporting or participation relative to the instance of dependent adult abuse. A person or employer found in violation of this paragraph shall, upon conviction, be guilty of a simple misdemeanor.

Sec. 8. Section 235B.1, Code 1987, is amended by adding the following new subsections:

NEW SUBSECTION. 8. A person, institution, agency, or facility 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, institution, agency, or facility 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.

NEW SUBSECTION. 9. 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. 9. **NEW SECTION. 235B.2 INFORMATION, EDUCATION, AND TRAINING PROGRAMS.**

1. The department of elder affairs, in cooperation with the department of human services, 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. Changing public attitudes regarding the role of a dependent adult in society.

2. The department of human services, 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 be 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.

Sec. 10. NEW SECTION. 726.8 WANTON NEGLECT OR NONSUPPORT OF A DEPENDENT ADULT.

1. A caretaker commits wanton neglect of a dependent adult if the caretaker knowingly acts in a manner likely to be injurious to the physical, mental, or emotional welfare of a dependent adult. Wanton neglect of a dependent adult is a serious misdemeanor.

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

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

4. For the purposes of this section, "dependent adult" means a dependent adult as defined in section 235B.1, subsection 2A, and "caretaker" means a caretaker as defined in section 235B.1, subsection 2B.

Sec. 11. MONITORING AND REPORTING. The legislative fiscal bureau shall monitor the reporting of dependent adult abuse, the conducting of dependent adult abuse investigations, and the workload and performance of the personnel of the department of human services and department of inspections and appeals regarding dependent adult abuse investigators in order to project the effect of the provisions of this Act relative to workload and performance standards of the departments. The bureau shall report its findings to the general assembly by February 1, 1988. The department of elder affairs, department of human services, and department of inspections and appeals shall cooperate with the legislative fiscal bureau in the implementation of this section. Following its initial report, the legislative fiscal bureau shall continue the monitoring program, and shall report the findings to the general assembly by February 1 of each year.

Sec. 12. EFFECTIVE DATE. Section 5 of this Act shall be effective July 1, 1988.

Approved June 3, 1987