CHAPTER 726

PROTECTION OF THE FAMILY AND DEPENDENT PERSONS

Referred to in §232.83, §331.307, §364.22, §692A.102, §692A.126, §701.1, §709.13, §915.35, §915.84

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SUBCHAPTER I

CRIMINAL VIOLATIONS AND PENALTIES

726.1 Bigamy.

1. *a.* Any person, having a living husband or wife, who marries another, commits bigamy.

b. Any person who marries another who the person knows has another living husband or wife commits bigamy.

2. Bigamy is a serious misdemeanor.

3. Any of the following is a defense to the charge of bigamy:

a. The prior marriage was terminated in accordance with applicable law, or the person reasonably believes on reasonably convincing evidence that the prior marriage was so terminated.

b. The person believes, on reasonably convincing evidence, that the prior spouse is dead.

c. The person has, for three years, had no evidence by which the person can reasonably believe that the prior spouse is alive.

[C51, §2706 – 2708; R60, §4348 – 4350; C73, §4009 – 4011; C97, §4933 – 4935; C24, 27, 31, 35, 39, §**12975 – 12977;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §703.1 – 703.3; C79, 81, §726.1]

2013 Acts, ch 90, §236

726.2 Incest.

A person, except a child as defined in section 702.5, who performs a sex act with another whom the person knows to be related to the person, either legitimately or illegitimately, as an ancestor, descendant, brother or sister of the whole or half blood, aunt, uncle, niece, or nephew, commits incest. Incest is a class "D" felony.

[R60, §4367 – 4369; C73, §4030; C97, §4936; C24, 27, 31, 35, 39, §**12978;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §704.1; C79, 81, §726.2]

86 Acts, ch 1105, §1

Referred to in §232.68, §232.82, §235B.2, §235E.1, §235F.1, §272.2, §692A.102, §692A.121, §802.2A, §903B.2, §915.36, §915.37

726.3 Neglect or abandonment of a dependent person.

A person who is the father, mother, or some other person having custody of a child, or of any other person who by reason of mental or physical disability is not able to care for the person's self, who knowingly or recklessly exposes such person to a hazard or danger against which such person cannot reasonably be expected to protect such person's self or who deserts or

abandons such person, knowing or having reason to believe that the person will be exposed to such hazard or danger, commits a class "C" felony. However, a parent or person authorized by the parent shall not be prosecuted for a violation of this section involving abandonment of a newborn infant, if the parent or the person authorized by the parent has voluntarily released custody of the newborn infant in accordance with section 233.2.

[C51, §2589; R60, §4212; C73, §3870; C97, §4766; C24, 27, 31, 35, 39, §**13236;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §731.7; C79, 81, §726.3]

2001 Acts, ch 67, §11, 13; 2002 Acts, ch 1119, §103

Referred to in **§233.3**, **§252B.7**, **§600B.29**, **§726.4**, **§915.37**

726.4 Husband or wife may be witness.

In all prosecutions under section 726.3, 726.5 or 726.6, the husband or wife is a competent witness for the state and may testify to relevant acts or communications between them.

[S13, §4775-b; C24, 27, 31, 35, 39, §**13231;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §731.2; C79, 81, §726.4]

83 Acts, ch 37, §6

Referred to in **§600B.29**

726.5 Nonsupport.

A person, who being able to do so, fails or refuses to provide support for the person's child or ward under the age of eighteen years for a period longer than one year or in an amount greater than five thousand dollars commits nonsupport; provided that no person shall be held to have violated this section who fails to support any child or ward under the age of eighteen who has left the home of the parent or other person having legal custody of the child or ward without the consent of that parent or person having legal custody of the child or ward. *"Support"*, for the purposes of this section, means any support which has been fixed by court order, or, in the absence of any such order or decree, the minimal requirements of food, clothing or shelter. Nonsupport is a class "D" felony.

[S13, §4775-a; C24, 27, 31, 35, 39, §**13230;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §731.1; C79, 81, §726.5]

2006 Acts, ch 1119, §8

Referred to in **§252B.7**, **§600B.29**, **§726.4**

726.6 Child endangerment.

1. A person who is the parent, guardian, or person having custody or control over a child or a minor under the age of eighteen with a mental or physical disability, or a person who is a member of the household in which a child or such a minor resides, commits child endangerment when the person does any of the following:

a. Knowingly acts in a manner that creates a substantial risk to a child or minor's physical, mental or emotional health or safety.

b. By an intentional act or series of intentional acts, uses unreasonable force, torture or cruelty that results in bodily injury, or that is intended to cause serious injury.

c. By an intentional act or series of intentional acts, evidences unreasonable force, torture or cruelty which causes substantial mental or emotional harm to a child or minor.

d. Willfully deprives a child or minor of necessary food, clothing, shelter, health care or supervision appropriate to the child or minor's age, when the person is reasonably able to make the necessary provisions and which deprivation substantially harms the child or minor's physical, mental or emotional health. For purposes of this paragraph, the failure to provide specific medical treatment shall not for that reason alone be considered willful deprivation of health care if the person can show that such treatment would conflict with the tenets and practice of a recognized religious denomination of which the person is an adherent or member. This exception does not in any manner restrict the right of an interested party to petition the court on behalf of the best interest of the child or minor.

e. Knowingly permits the continuing physical or sexual abuse of a child or minor. However, it is an affirmative defense to this subsection if the person had a reasonable apprehension that any action to stop the continuing abuse would result in substantial bodily harm to the person or the child or minor.

f. Abandons the child or minor to fend for the child or minor's self, knowing that the child or minor is unable to do so.

g. Knowingly permits a child or minor to be present at a location where amphetamine, its salts, isomers, or salts of isomers, or methamphetamine, its salts, isomers, or salts of isomers, is manufactured in violation of section 124.401, subsection 1, or where a product is possessed in violation of section 124.401, subsection 4.

h. Knowingly allows a person custody or control of, or unsupervised access to a child or a minor after knowing the person is required to register or is on the sex offender registry as a sex offender under chapter 692A. However, this paragraph does not apply to a person who is a parent or guardian of a child or a minor, who is required to register as a sex offender, or to a person who is married to and living with a person required to register as a sex offender.

2. A parent or person authorized by the parent shall not be prosecuted for a violation of subsection 1, paragraph *"f"*, relating to abandonment, if the parent or person authorized by the parent has voluntarily released custody of a newborn infant in accordance with section 233.2.

3. For the purposes of subsection 1, *"person having control over a child or a minor"* means any of the following:

a. A person who has accepted, undertaken, or assumed supervision of a child or such a minor from the parent or guardian of the child or minor.

b. A person who has undertaken or assumed temporary supervision of a child or such a minor without explicit consent from the parent or guardian of the child or minor.

c. A person who operates a motor vehicle with a child or such a minor present in the vehicle.

4. A person who commits child endangerment resulting in the death of a child or minor is guilty of a class "B" felony. Notwithstanding section 902.9, subsection 1, paragraph *"b"*, a person convicted of a violation of this subsection shall be confined for no more than fifty years.

5. A person who commits child endangerment resulting in serious injury to a child or minor is guilty of a class "C" felony.

6. A person who commits child endangerment resulting in bodily injury to a child or minor or child endangerment in violation of subsection 1, paragraph *"g"*, that does not result in a serious injury, is guilty of a class "D" felony.

7. A person who commits child endangerment that is not subject to penalty under subsection 4, 5, or 6 is guilty of an aggravated misdemeanor.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, §731A.1 – 731A.3; C79, 81, §726.6]

85 Acts, ch 180, §3; 96 Acts, ch 1129, §109; 2001 Acts, ch 3, §2 – 5; 2001 Acts, ch 67, §12, 13; 2002 Acts, ch 1119, §104; 2004 Acts, ch 1004, §1; 2004 Acts, ch 1151, §3, 4; 2005 Acts, ch 158, §31; 2007 Acts, ch 126, §109; 2009 Acts, ch 119, §65; 2013 Acts, ch 30, §252

Referred to in **§124.401C**, **§229A.2**, **§232.68**, **§233.3**, **§252B.7**, **§702.11**, **§707.2**, **§726.4**, **§726.6A**, **§915.37**
Definition of forcible felony; §702.11

726.6A Multiple acts of child endangerment — penalty.

A person who engages in a course of conduct including three or more acts of child endangerment as defined in section 726.6 within a period of twelve months involving the same child or a minor with a mental or physical disability, where one or more of the acts results in serious injury to the child or minor or results in a skeletal injury to a child under the age of four years, is guilty of a class "B" felony. Notwithstanding section 902.9, subsection 1, paragraph *"b"*, a person convicted of a violation of this section shall be confined for no more than fifty years.

94 Acts, ch 1172, §59; 96 Acts, ch 1129, §110; 2013 Acts, ch 30, §253

726.7 Wanton neglect of a resident of a health care facility.

1. A person commits wanton neglect of a resident of a health care facility when the person knowingly acts in a manner likely to be injurious to the physical or mental welfare of a resident of a health care facility as defined in section 135C.1.

2. A person who commits wanton neglect resulting in serious injury to a resident of a health care facility is guilty of a class "C" felony.

3. A person who commits wanton neglect not resulting in serious injury to a resident of a health care facility is guilty of an aggravated misdemeanor.

[C79, 81, §726.7]

91 Acts, ch 107, §13

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.2, subsection 4, and *"caretaker"* means a caretaker as defined in section 235B.2, subsection 1.

87 Acts, ch 182, §10

726.9 Reserved.

726.10 Sexual motivation.

A person convicted of any indictable offense under this subchapter shall be required to register as a sex offender pursuant to the provisions of chapter 692A, if the offense was committed against a minor and the fact finder makes a determination that the offense was sexually motivated pursuant to section 692A.126.

2010 Acts, ch 1104, §22, 23

726.11 through 726.20 Reserved.

SUBCHAPTER II

CHILD IDENTIFICATION
AND PROTECTION ACT

726.21 Short title.

This subchapter shall be known as and may be cited as the *"Child Identification and Protection Act"*.

2005 Acts, ch 132, §1

726.22 Definitions.

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

1. *"Child"* means any person under eighteen years of age.

2. *"Governmental unit"* means the state, or any county, municipality, or other political subdivision of the state, or any department, board, division, or other agency of any of these entities; an authorized representative of the state, or any county, municipality, or other political subdivision of the state, or of a department, board, division, or other agency of any of these entities; or a school district or an authorized representative of a school district.

2005 Acts, ch 132, §2

726.23 Fingerprinting of children prohibited — exception — conditions.

1. Except as provided in subsection 2, a governmental unit shall not fingerprint a child.

2. A governmental unit may fingerprint a child if one or more of the following conditions apply:

a. (1) A parent or guardian has given written authorization for the taking of the fingerprints for use in the future in case the child becomes a runaway or a missing child. Only one set of prints shall be taken and the completed fingerprint cards and written authorizations shall be given to the parent or guardian. The fingerprints, written authorizations for fingerprinting, or notice of the fingerprints' existence shall not be recorded, stored, or kept in any manner by a law enforcement agency, except as provided in this subchapter or except at the request of the parent or guardian if the child becomes a runaway or a missing child. When the child is located or the case is otherwise disposed of, the fingerprint cards shall be returned to the parents or guardian.

(2) Nothing in this paragraph *"a"* shall be construed to prohibit a governmental unit from taking the fingerprints of a child at the Iowa state fair or a county or district fair as defined in section 174.1 as long as the governmental unit complies with the requirements of this paragraph *"a"*.

b. Fingerprints are required to be taken pursuant to section 232.148, 690.2, or 690.4.

c. Fingerprints are required by court order.

d. Fingerprints are voluntarily given with the written permission of the child and parent or guardian, upon request of a law enforcement officer, to aid in a specific criminal investigation. Only one set of prints shall be taken and, upon completion of the investigation, the law enforcement agency shall return the fingerprint cards to the parent or guardian of the child.

2005 Acts, ch 132, §3; 2008 Acts, ch 1038, §1