

CHAPTER 726

PROTECTIONS FOR THE FAMILY, DEPENDENT PERSONS, RESIDENTS OF HEALTH CARE FACILITIES, AND OLDER INDIVIDUALS

Referred to in §232.83, 331.307, 364.22, 692A.102, 692A.126, 701.1, 709.13, 901C.3, 915.35, 915.84

Complaint alleging a child is in need of assistance, see §709.13

SUBCHAPTER I		SUBCHAPTER II	
GENERAL PROVISIONS		CHILD IDENTIFICATION AND PROTECTION ACT	
726.1	Bigamy.	726.21	Short title.
726.2	Incest.	726.22	Definitions.
726.3	Neglect or abandonment of a dependent person.	726.23	Fingerprinting of children prohibited — exception — conditions.
726.4	Husband or wife may be witness.		
726.5	Nonsupport.		
726.6	Child endangerment.		
726.6A	Multiple acts of child endangerment — penalty.		
726.7	Wanton neglect of a resident of a health care facility. Transferred to §726.27; 2022 Acts, ch 1132, §8.	726.24	Elder abuse — initiation of charges — penalty.
726.8	Wanton neglect or nonsupport of a dependent adult. Transferred to §726.28; 2022 Acts, ch 1132, §8.	726.25	Financial exploitation of an older individual.
726.9	Reserved.	726.26	Dependent adult abuse — initiation of charges — penalty.
726.10	Sexual motivation.	726.27	Wanton neglect of a resident of a health care facility.
726.11	through 726.20 Reserved.	726.28	Wanton neglect or nonsupport of a dependent adult.

SUBCHAPTER III
RESIDENT, DEPENDENT ADULT, AND OLDER INDIVIDUAL PROTECTION ACT

SUBCHAPTER I
GENERAL PROVISIONS

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, 236A.2, 236A.18, 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 [§135B.34](#), [135C.33](#), [152.5A](#), [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.

1. a. 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 the offense of nonsupport.

b. A person shall not be held to have violated [this section](#) if the person 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.

2. "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.

3. 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](#); [2019 Acts, ch 59, §229](#)

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.

i. Knowingly provides direct supervision of a person under [section 724.22, subsection 5](#), while intoxicated as provided under the conditions set out in [section 321J.2, subsection 1](#), paragraph "a", "b", or "c".

2. A person who is required to register as a sex offender under [chapter 692A](#) for a sex offense against a minor who knowingly has control of a minor, or who knowingly has unsupervised access to a minor, commits child endangerment. However, [this subsection](#) does not apply to any of the following:

a. A person who is required to register as a sex offender under [chapter 692A](#) for a sex offense against a minor who knowingly has control of a minor, or who knowingly has unsupervised access to a minor, when the person is the legal parent or guardian of the minor and the control or unsupervised access is not otherwise illegal.

b. A person who is required to register as a sex offender under [chapter 692A](#) for a sex offense against a minor who knowingly has control of a minor, or who knowingly has unsupervised access to a minor, when the person is married to and living with the legal parent or guardian of the minor and the control or unsupervised access is not otherwise illegal.

3. 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](#).

4. 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.

5. 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.

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

7. 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, or a person who commits child endangerment in violation of [subsection 2](#), is guilty of a class "D" felony.

8. A person who commits child endangerment that is not subject to penalty under subsection 5, 6, or 7 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; 2017 Acts, ch 69, §30; 2017 Acts, ch 170, §50, 51, 53, 54; 2021 Acts, ch 78, §1, 2

Referred to in §124.401C, 229A.2, 233.3, 252B.7, 702.11, 707.2, 724.22, 726.4, 726.6A, 802.2B, 902.12, 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. Transferred to §726.27; 2022 Acts, ch 1132, §8.

726.8 Wanton neglect or nonsupport of a dependent adult. Transferred to §726.28; 2022 Acts, ch 1132, §8.

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.

e. Fingerprints are voluntarily given with the written permission of the child and parent or guardian for the purpose of allowing the child to work as an employee or substitute at a child care center as defined in [section 237A.1](#).

[2005 Acts, ch 132, §3; 2008 Acts, ch 1038, §1; 2022 Acts, ch 1135, §1](#)

Subsection 2, NEW paragraph e

SUBCHAPTER III

RESIDENT, DEPENDENT ADULT, AND OLDER INDIVIDUAL PROTECTION ACT

726.24 Elder abuse — initiation of charges — penalty.

1. As used in [this section](#) unless the context otherwise requires:

a. "Abuse" means the infliction of physical harm or the deprivation of goods or services that are necessary to meet essential needs or to avoid physical harm or psychological harm.

b. "Caregiver" means an individual who has the responsibility for the care or custody of an older individual, whether voluntarily, by contract, by receipt of payment for care, or as a result of the operation of law, and includes but is not limited to a family member or other individual who provides, whether on the individual's own behalf or on behalf of a public or private entity, compensated or uncompensated care to an older individual.

c. "Elder abuse" means the abuse, emotional abuse, neglect, isolation, or sexual exploitation of an older individual. "Elder abuse" does not include any of the following:

(1) Circumstances in which the older individual declines medical treatment if the older individual 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.

(2) Circumstances in which the older individual's caregiver or fiduciary, acting in accordance with the older individual's stated or implied consent, declines medical treatment if the older individual 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.

(3) The withholding or withdrawing of health care from an older individual 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 older individual or at the request of the older

individual's next of kin, attorney in fact, or guardian pursuant to the applicable procedures under [chapter 125](#), [144A](#), [144B](#), [222](#), [229](#), or [633](#).

d. “*Emotional abuse*” means the willful or reckless infliction of psychological harm, emotional or mental anguish, or the use of physical or chemical restraint, medication, or isolation as punishment or as a substitute for treatment or care.

e. “*Fiduciary*” means a guardian, trustee, executor, administrator, receiver, conservator, attorney in fact, or any person, whether individual or corporate, acting in any fiduciary capacity for or on behalf of any older individual.

f. (1) “*Isolate*” or “*isolation*” means preventing an older individual from having contact with another person by any of the following:

(a) Intentionally preventing the older individual from receiving visitors, mail, or telephone calls, including, without limitation, communicating to a person who comes to visit the older individual or a person who telephones the older individual that the older individual is not present or does not want to meet with or talk to the visitor or caller while knowing that the statement is false, contrary to the express wishes of the older individual, and intended to prevent the older individual from having contact with the visitor.

(b) Physically restraining the older individual to prevent the older individual from meeting with a person who comes to visit the older individual.

(c) Permitting any of the acts described in subparagraph division (a) or (b) to be committed against an older individual.

(2) “*Isolate*” or “*isolation*” does not mean an act intended to protect the property or physical or mental welfare of the older individual or an act performed pursuant to the instructions of a physician of the older individual.

g. “*Neglect*” means the failure of a caregiver or fiduciary to provide adequate food, shelter, clothing, supervision, physical or mental health care, and goods or services necessary to maintain the life, health, or safety of an older individual, which if not provided would constitute denial of critical care.

h. “*Older individual*” means a person sixty years of age or older who is unable to protect himself or herself from elder abuse as a result of a mental or physical condition or because of a personal circumstance which results in an increased risk of harm to the person.

i. “*Older individual assault*” means the same as defined in [section 708.2D](#).

j. “*Physical harm*” means bodily injury, bodily pain, impairment, or disease.

k. “*Psychological harm*” means an injury to the intellectual functioning or emotional state of an older individual as evidenced by an observable or measurable reduction in the older adult's ability to function within that individual's customary range of performance and that individual's behavior.

l. “*Serious injury*” means the same as defined in [section 702.18](#).

m. “*Sexual exploitation*” means any sexual contact against an older individual's will. This includes acts in which the older individual is unable to understand the act or is unable to communicate or is under undue influence and includes coerced nudity; fondling, touching, or kissing; making the person fondle someone else's genitals; forcing the person to observe sexual acts; photographing the person in sexually explicit ways whether for purposes of gratification or degradation; and sexual assault.

n. “*Undue influence*” means when a person uses or knowingly assists or causes another person to use that person's role, relationship, or power to exploit the trust, dependency, or fear of an older individual, or uses or knowingly assists or causes another person to use that person's role, relationship, or power to deceptively gain control over an older individual's decision-making process.

2. It shall be unlawful for any person to abuse, emotionally abuse, neglect, isolate, or sexually exploit any older individual.

3. A charge of elder abuse may be initiated as a result of an investigation by a social services agency, or on the direct initiative of the attorney general, a county attorney, or a law enforcement agency.

4. A person who commits a first offense of elder abuse is guilty of the following, as applicable:

a. A person who intentionally commits elder abuse is guilty of a class “C” felony if the intentional elder abuse results in serious injury.

b. A person who recklessly commits elder abuse is guilty of a class “D” felony if the reckless elder abuse results in serious injury.

c. A person who intentionally commits elder abuse is guilty of a class “D” felony if the intentional elder abuse results in physical injury or psychological harm.

d. A person who recklessly commits elder abuse is guilty of an aggravated misdemeanor if the reckless elder abuse results in physical injury or psychological harm.

e. A person who otherwise intentionally commits elder abuse is guilty of a serious misdemeanor.

5. On a second or subsequent offense of elder abuse under [subsection 4](#), paragraph “a”, a person commits a class “B” felony.

6. On a second or subsequent offense of elder abuse under [subsection 4](#), paragraph “b” or “c”, a person commits a class “C” felony.

7. On a second or subsequent offense of elder abuse under [subsection 4](#), paragraph “d” or “e”, a person commits a class “D” felony.

8. It does not constitute a defense to a prosecution for any violation of [this section](#) that the alleged perpetrator did not know the age of the victim.

9. In a criminal action in which an older individual is a victim, the state may move the court to advance the trial on the docket. The presiding judge, after consideration of the age and health of the victim, may advance the trial on the docket. The motion may be filed and served with the information or charges at any time.

10. a. A conviction or deferred judgment for or plea of guilty to a violation of [this section](#) which occurred more than twelve years prior to the date of the violation charged shall not be considered in determining that the violation charged is a second or subsequent offense.

b. For the purpose of determining if a violation charged is a second or subsequent offense, deferred judgments issued pursuant to [section 907.3](#) for violations of [this section](#), or judgments or deferred judgments issued pursuant to [sections 708.2D](#) and [714.2A](#), and convictions or the equivalent of deferred judgments for violations in any other state under statutes substantially corresponding to [this section](#) shall be counted as previous offenses. The courts shall judicially notice the statutes of other states which define offenses substantially equivalent to the offenses defined in [this section](#) and can therefore be considered corresponding statutes. Each previous violation on which conviction or deferral of judgment was entered prior to the date of the offense charged shall be considered and counted as a separate previous offense.

c. An offense shall be considered a prior offense regardless of whether it was committed upon the same victim.

11. If a person is convicted or receives a deferred judgment for, or pleads guilty to a violation of [this section](#), the court shall modify the no-contact order issued upon initial appearance in the manner provided in [section 664A.5](#), regardless of whether the person is placed on probation.

12. The clerk of the district court shall provide notice and copies of a judgment entered under [this section](#) to the applicable law enforcement agencies and the twenty-four-hour dispatcher for the law enforcement agencies, in the manner provided for protective orders under [chapter 235F](#). The clerk shall provide notice and copies of modifications of the judgment in the same manner.

[2022 Acts, ch 1132, §4](#)

Referred to in [§13.2](#)

NEW section

726.25 Financial exploitation of an older individual.

1. For the purposes of [this section](#):

a. “Caregiver” means an individual who has the responsibility for the care or custody of an older individual, whether voluntarily, by contract, through employment, or as a result of the operation of law, and includes but is not limited to a family member or other individual who provides compensated or uncompensated care to an older individual.

b. “Coercion” means communication or conduct which compels an older individual to act or refrain from acting against the older individual’s will.

c. “Older individual” means an individual who is sixty years of age or older.

d. “Stands in a position of trust or confidence” means the person has any of the following relationships relative to the older individual:

(1) Is a relative by consanguinity or affinity of the older individual.

(2) Is a joint tenant or tenant in common with the older individual.

(3) Has a legal or fiduciary relationship with the older individual. For the purposes of this paragraph, a legal or fiduciary relationship with the older individual does not include a legal or fiduciary relationship an older individual may have with a bank incorporated under the provisions of any state or federal law, any savings and loan association or savings bank incorporated under the provisions of any state or federal law, or any credit union organized under the provisions of any state or federal law.

(4) Is a financial planning or investment professional providing or offering to provide financial planning or investment advice to the older individual.

(5) Is a beneficiary of the older individual in a governing instrument.

(6) Is a caregiver for the older individual.

(7) Is a person who has otherwise formed a relationship of trust or reliance with the older individual such that the person should reasonably expect that the older individual would likely rely upon the person to act in good faith for the older individual’s interest.

e. “Undue influence” means excessive persuasion by a person that causes an older individual to act or refrain from acting by overcoming an older individual’s free will and results in inequity. In determining whether a result was produced by undue influence, all of the following shall be considered:

(1) The vulnerability of the older individual. Evidence of vulnerability may include but is not limited to incapacity, illness, disability, injury, age, education, impaired cognitive function, emotional distress, isolation, or dependency, and whether the person knew or should have known of the alleged older individual’s vulnerability.

(2) The person’s apparent authority. Evidence of apparent authority may include but is not limited to status as a fiduciary, family member, care provider, health care professional, legal professional, spiritual advisor, expert, or other qualifications.

(3) The person’s actions or tactics. Evidence of actions or tactics used may include but is not limited to all of the following:

(a) Controlling necessities of life, medication, the older individual’s interactions with others, access to information, or sleep.

(b) Use of affection, intimidation, or coercion.

(c) Initiation of changes in personal or property rights, use of haste or secrecy in effecting those changes, effecting changes at inappropriate times and places, and claims of expertise in effecting changes.

(4) The equity of the result. Evidence of the equity of the result may include but is not limited to the economic consequences to the older individual; any divergence from the older individual’s prior intent, course of conduct, or dealing; the relationship of the value conveyed to the value of any services or consideration received; or the appropriateness of the change in light of the length and nature of the relationship. Evidence of an inequitable result, without more, is not sufficient to prove undue influence.

2. A person commits financial exploitation of an older individual when the person stands in a position of trust or confidence with the older individual and knowingly and by undue influence, deception, coercion, fraud, breach of fiduciary duty, or extortion, obtains control over or otherwise uses the benefits, property, resources, belongings, or assets of the older individual, to the detriment of the older individual.

3. A person who commits a first offense of financial exploitation of an older individual is guilty of the following, as applicable:

a. A serious misdemeanor if the value of the benefits, property, resources, belongings, or assets is one hundred dollars or less.

b. An aggravated misdemeanor if the value of the benefits, property, resources, belongings, or assets exceeds one hundred dollars but does not exceed one thousand dollars.

c. A class “D” felony if the value of the benefits, property, resources, belongings, or assets exceeds one thousand dollars but does not exceed ten thousand dollars.

d. A class “C” felony if the value of the benefits, property, resources, belongings, or assets exceeds ten thousand dollars but does not exceed fifty thousand dollars.

e. A class “B” felony if the value of the benefits, property, resources, belongings, or assets exceeds fifty thousand dollars, or if the older individual is seventy years of age to eighty years of age and the value of the benefits, property, resources, belongings, or assets is fifteen thousand dollars or more, or if the older individual is eighty years of age or older and the value of the benefits, property, resources, belongings, or assets is five thousand dollars or more.

4. On a second or subsequent offense of financial exploitation of an older individual, a person commits a class “C” felony if the value of the benefits, property, resources, belongings, or assets does not exceed fifty thousand dollars unless [subsection 3](#), paragraph “e”, applies.

5. Nothing in [this section](#) shall be construed to limit other remedies available to the older individual including those provided under [chapters 235F](#) and [236](#).

6. Nothing in [this section](#) shall be construed to alter the competency requirements under [section 633.264](#) relative to a will or under [section 633A.2102](#) relative to a trust.

7. Nothing in [this section](#) shall be construed to impose criminal liability on a person who has made a good-faith effort to assist an older individual regarding or in the management of the older individual’s benefits, property, resources, belongings, or assets, but who has been, in whole or in part, unable to provide such assistance. “*Management of the older individual’s benefits, property, resources, belongings, or assets*” includes estate planning when performed by an attorney licensed to practice law in this state.

8. Nothing in [this section](#) shall be construed to impose criminal liability on a person based solely on the sale of a product or service, including legal services, or on the good-faith solicitation of a bona fide charitable donation to a nonprofit organization that qualifies for tax-exempt status under the Internal Revenue Code.

9. Nothing in [this section](#) shall be construed to impose criminal liability on a person who has made a good-faith effort to assist an older individual in the management of the older individual’s benefits, property, resources, belongings, or assets when the efforts are undertaken for the preservation of the assets of the older individual or the older individual’s spouse or for the safety of the older individual or the older individual’s spouse.

10. It shall not be a defense to financial exploitation of an older individual that the alleged perpetrator did not know the age of the older individual or reasonably believed that the alleged victim was not an older individual.

11. In a criminal action in which an older individual is a victim, the state may make a motion to the court to advance the trial on the docket. The presiding judge, after consideration of the age and health of the victim, may grant a motion to advance the trial on the docket. The motion may be filed and served with the information or charges at any time.

12. a. A conviction or deferred judgment for or plea of guilty to a violation of [this section](#) which occurred more than twelve years prior to the date of the violation charged shall not be considered in determining whether the violation charged is a second or subsequent offense.

b. For the purpose of determining if a violation charged is a second or subsequent offense, deferred judgments issued pursuant to [section 907.3](#) for violations of [this section](#) or judgments or deferred judgments issued pursuant to [sections 708.2D](#) and [714.2A](#), and convictions or the equivalent of deferred judgments for violations in any other state under statutes substantially corresponding to [this section](#) shall be counted as previous offenses. The courts shall judicially notice the statutes of other states which define offenses substantially equivalent to the offenses defined in [this section](#) and can therefore be considered corresponding statutes. Each previous violation on which conviction or deferral of judgment was entered prior to the date of the offense charged shall be considered and counted as a separate previous offense.

c. An offense shall be considered a prior offense regardless of whether it was committed upon the same victim.

13. If a person is convicted of, receives a deferred judgment for, or pleads guilty to a violation of [this section](#), the court shall modify the no-contact order issued upon initial

appearance in the manner provided in [section 664A.5](#), regardless of whether the person is placed on probation.

14. The clerk of the district court shall provide notice and copies of a judgment entered under [this section](#) to the applicable law enforcement agencies and the twenty-four-hour dispatcher for the law enforcement agencies, in the manner provided for protective orders under [chapter 235F](#). The clerk shall provide notice and copies of modifications of the judgment in the same manner.

[2022 Acts, ch 1132, §5](#)

Referred to in [§13.2](#)

NEW section

726.26 Dependent adult abuse — initiation of charges — penalty.

1. For the purposes of [this section](#), “*caretaker*”, “*dependent adult*”, and “*dependent adult abuse*” mean the same as defined in [section 235B.2](#).

2. A charge of dependent adult abuse may be initiated upon the complaint of a private individual, as a result of an investigation by a social service agency, or on the direct initiative of the office of the attorney general, a county attorney, or a law enforcement agency.

3. A caretaker who intentionally or recklessly commits dependent adult abuse is guilty of murder in the second degree in violation of [section 707.3](#) if the intentional or reckless dependent adult abuse results in the death of the dependent adult.

4. A caretaker who intentionally commits dependent adult abuse is guilty of a class “C” felony if the intentional dependent adult abuse results in serious injury.

5. A caretaker who recklessly commits dependent adult abuse is guilty of a class “D” felony if the reckless dependent adult abuse results in serious injury.

6. A caretaker who intentionally commits dependent adult abuse is guilty of a class “C” felony if the intentional dependent adult abuse results in physical injury.

7. A caretaker who commits dependent adult abuse by exploitation of a dependent adult is guilty of a class “D” felony if the value of the property, assets, or resources exceeds one hundred dollars.

8. A caretaker who recklessly commits dependent adult abuse is guilty of an aggravated misdemeanor if the reckless dependent adult abuse results in physical injury.

9. A caretaker who otherwise intentionally or knowingly commits dependent adult abuse is guilty of a serious misdemeanor.

10. A caretaker who commits dependent adult abuse by exploitation of a dependent adult is guilty of a simple misdemeanor if the value of the property, assets, or resources is one hundred dollars or less.

11. A caretaker alleged to have committed dependent adult abuse shall be charged with the respective offense cited, 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.

[2022 Acts, ch 1132, §6; 2022 Acts, ch 1153, §47](#)

Referred to in [§235E.4](#), [272C.15](#), [671A.2](#)

NEW section

726.27 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; 2022 Acts, ch 1132, §8](#)

C2023, §726.27

Referred to in [§135B.34](#), [135C.33](#), [152.5A](#)

Section transferred from [§726.7](#) in Code 2023 pursuant to directive in [2022 Acts, ch 1132, §8](#)

726.28 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](#)

CS87, §726.8

[2022 Acts, ch 1132, §8](#)

C2023, §726.28

Referred to in [§135B.34](#), [135C.33](#), [152.5A](#)

Section transferred from [§726.8](#) in Code 2023 pursuant to directive in [2022 Acts, ch 1132, §8](#)