

F I N A L R E P O R T

ELDERLY ABUSE AND ELDERLY SERVICE PROGRAMS SUBCOMMITTEE

January, 1982

The Legislative Council approved the creation of the Elderly Abuse and Elderly Service Programs Subcommittee of the Senate and House Standing Committees on Human Resources to study the need for elderly abuse protection and the coordination of elderly services. The Council initially approved a membership of ten legislators and two meeting days. The Council subsequently approved the addition of four new members and one additional meeting day. The membership of the Subcommittee is as follows:

Senator Julia Gentleman, Co-chairperson
Representative B. J. Clark, Co-chairperson
Senator Merlin Hulse
Senator Alvin Miller
Senator Charles Miller
Senator Tom Slater
Senator Richard Vande Hoef
Senator Sue Yenger
Representative Robert Arnould
Representative Janet Carl
Representative Kenneth DeGroot
Representative Andy McKean
Representative Sue Mullins
Representative Marcia Walter

The Subcommittee held organizational meetings on August 13 and 14, 1981 before the daily convening of the 1981 second special session. The Subcommittee received information from Ms. Debbie Westvold of the Legislative Fiscal Bureau regarding the history of the elderly services study committee. The elderly services study committee was established during the 1979 interim and has met several times since then to study the need for and make recommendations concerning the coordination and reorganization of services and programs for the elderly.

The Subcommittee received a summary of Code of Iowa provisions relating to elderly services and funding provisions, an explanation of two bill drafts relating to elderly abuse from the 1981 Session, and summaries of legislation relating to elderly abuse from other states, from the Legislative Service Bureau staff. Mr. Bob Schoene of the Department of Social Services provided the Subcommittee with financial data pertaining to adult protective services and the child abuse budget.

The Subcommittee held its first interim meeting on October 21, 1981. The Subcommittee heard testimony from Representative McKean and Mr. Ted Ellis of the Department of Health regarding the Patients' Bill of Rights legislation, and from Dr. Helen Hageboeck

and Ms. Karen Brandt regarding the Iowa Gerontology Model Project in Davenport and the Project's emphasis on evaluation and elderly care and protection. The Subcommittee divided into elderly abuse and elderly services working committees.

The elderly abuse working committee studied a random survey of local and state agencies and law enforcement offices regarding the compilation of elderly abuse reports. The working committee received and discussed information from Mr. Bob Schoene regarding the Adult Protective Services Unit of the Department of Social Services, the duties and budgets of the Unit, and information relating to the central child abuse registry.

The elderly services working committee studied and discussed documents prepared by the Legislative Fiscal Bureau depicting state and local agencies which provide services to the elderly and summaries of the costs of the services. The working committee discussed the need for interagency coordination of elderly services at the state and local level and the need to continue collecting and compiling financial data.

The second interim meeting of the Subcommittee was held on November 19, 1981. The Subcommittee met in separate working committees.

The elderly abuse working committee discussed a chart compiled by the staff of the Legislative Service Bureau relating to various states' laws relating to elderly abuse and adult protective services. The working committee requested the staff of the Legislative Service Bureau to draft a proposed bill for the reporting of adult abuse and the provision of protective services to dependent and elderly adults. The working committee agreed to review the bill draft at the third interim meeting of the Subcommittee and, if satisfactory, to recommend the bill draft to the full Subcommittee for consideration.

The elderly services working committee heard testimony from several individuals from the Dubuque and Cedar Rapids areas and Johnson and Polk counties regarding local cooperative efforts among service agencies for client assessment and referral.

The Subcommittee met December 10, 1981 for its third interim meeting. The Subcommittee used the morning to meet as working committees and the afternoon to discuss the recommendations of each working committee.

The elderly abuse working committee studied the adult protective services bill draft requested at the previous meeting. The working committee voted to recommend to the full Subcommittee that the proposed bill draft be assigned a study bill number and that study and discussion continue in the Senate and House Committees on Human Resources.

The elderly services working committee studied and modified the preliminary recommendations made at the previous meeting and voted to recommend to the full Subcommittee that the modified recommendations be included in the final report to the Legislative Council.

The full Subcommittee met in the afternoon. The Subcommittee voted to amend the adult protective services bill draft to include the changes made by the elderly abuse working committee and to retain the alternatives not studied by the working committee in the bill draft. Alternative definitions of adult abuse and dependent adult and alternative criminal provisions for adult abuse are contained in the bill draft. The Subcommittee voted to attach the revised bill draft to the final report to the Legislative Council and recommended that the bill draft be assigned to the Senate and House Committees on Human Resources for further study.

The Subcommittee approved the five recommendations of the elderly services working committee, but urged that the implementation of the recommendations take into account past and present cooperative efforts in coordinating the provision of elderly services. The five recommendations follow.

The Elderly Abuse and Elderly Service Programs Subcommittee:

1. Recommends that the Department of Social Services, the Department of Health, and the Commission on the Aging be informed by letter of the work of the Subcommittee during the interim, including the Subcommittee's concerns and recommendations, and the Subcommittee's interest in seeing that the Departments and Commission move in the direction of the recommendations.

2. Recommends that the standing Committees on Human Resources or Human Resources Appropriations Subcommittee direct the Department of Health, the Department of Social Services, and the Commission on the Aging to develop and enter into agreements for state level coordination of services to the elderly through legislation or appropriations.

3. Recommends that the standing Committees on Human Resources develop legislation to direct the Commission on the Aging to work through the area agencies to bring together local providers and funders, including local boards of supervisors, to begin coordination of elderly services.

4. Recommends that funds be appropriated to the Commission on the Aging to provide technical assistance to area agencies for the purpose of helping them to develop coordination and (individual) needs assessment models, including adoption of a common data collection process.

5. Recommends that the chairpersons of the standing Committees on Human Resources appoint elderly services subcommittees to meet jointly during the session to continue elderly services coordination work.

PROPOSED SENATE/HOUSE FILE _____

BY (PROPOSED COMMITTEES ON HUMAN
RESOURCES BILL BY ELDERLY
ABUSE AND ELDERLY SERVICE PRO-
GRAMS SUBCOMMITTEE)

Passed Senate, Date _____ Passed House, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to the reporting and evaluation of adult abuse,
2 the provision of protective services, and providing penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. NEW SECTION. DEFINITIONS. The definitions
2 in section 235A.13 apply in sections 2 through 13 of this
3 Act, unless the context otherwise requires.

4 Sec. 2. NEW SECTION. MANDATORY AND PERMISSIVE REPORTERS.

5 1. The following persons shall make a report, as provided
6 in section 3 of this Act, of cases of adult abuse:

7 a. A health practitioner who examines, attends, or treats
8 a dependent or elderly adult and who reasonably believes the
9 dependent or elderly adult has suffered adult abuse. If the
10 health practitioner examines, attends, or treats the dependent
11 or elderly adult as a member of the staff of a hospital or
12 similar institution, the health practitioner shall immediately
13 notify the person in charge of the institution or the person's
14 designated agent and the person in charge or the designated
15 agent shall make the report.

16 b. A social worker under the jurisdiction of the department
17 of social services, a social worker employed by a public or
18 private agency or institution, health care facility as defined
19 in section 135C.1, licensed psychologist, member of the staff
20 of a mental health center, member of the staff of a hospital,
21 or member of the staff or employee of a health care facility,
22 or peace officer, who, in the course of employment, examines,
23 attends, counsels, or treats a dependent or elderly adult
24 and reasonably believes the dependent or elderly adult has
25 suffered adult abuse. If a person is required to report under
26 this section as a member of the staff or employee of a public
27 or private institution, agency, or facility, the person shall
28 immediately notify the person in charge of the institution,
29 agency, or facility, or the person's designated agent, and
30 the person in charge or the designated agent shall make the
31 report.

32 2. Any other person who believes that a dependent or
33 elderly adult has suffered adult abuse may make a report as
34 provided in section 3 of this Act.

35 Sec. 3. NEW SECTION. REPORTING PROCEDURE.

- 1 1. A report made by a mandatory reporter pursuant to
2 section 2, subsection 1, paragraph a or b, of this Act, shall
3 be made in writing. A mandatory reporter may make an oral
4 report prior to making the required written report. A report
5 made by a permissive reporter pursuant to section 2, subsection
6 2, of this Act, may be oral or written, or both.
- 7 2. An oral report shall be made by telephone or otherwise
8 to the department. If the person making the report has reason
9 to believe that immediate protection for the dependent or
10 elderly adult is advisable, the person shall also make an
11 oral report to an appropriate law enforcement agency.
- 12 3. A written report shall be made to the department within
13 forty-eight hours after an oral report is made by a mandatory
14 reporter.
- 15 4. The department shall do all of the following:
- 16 a. Immediately, upon receipt of an oral report, make an
17 oral report to the registry.
- 18 b. Forward a copy of the written report to the registry.
- 19 c. Notify the appropriate county attorney of the receipt
20 of the report.
- 21 5. The oral and written reports shall contain the following
22 information, or as much as the person making the report is
23 able to furnish:
- 24 a. The names and home address of the dependent or elderly
25 adult, relatives, or other persons believed to be responsible
26 for the care of the dependent or elderly adult when
27 appropriate.
- 28 b. The dependent or elderly adult's present whereabouts
29 if not the same as the address given.
- 30 c. The dependent or elderly adult's age.
- 31 d. The nature and extent of the injuries, including
32 evidence of previous injuries.
- 33 e. The name, age, and condition of other adults in the
34 same residence.
- 35 f. Other information which the person making the report

1 believes might be helpful in establishing the cause of the
2 injury to the dependent or elderly adult, the identity of
3 the person or persons responsible for the injury, or in
4 providing assistance to the dependent or elderly adult.

5 g. The name and address of the person making the report.

6 6. A report made by a permissive reporter pursuant to
7 section 2, subsection 2, of this Act, may be made to the
8 department, county attorney, or law enforcement agency and
9 shall be regarded as a report pursuant to this chapter whether
10 or not the report contains all of the information required
11 by this section. If the report is made to an agency other
12 than the department, the agency shall promptly refer the
13 report to the department.

14 Sec. 4. NEW SECTION. DUTIES OF THE DEPARTMENT UPON RECEIPT
15 OF REPORT.

16 1. When a report is received, the department shall promptly
17 commence an appropriate evaluation, except that the state
18 department of health shall remain the sole state agency
19 responsible for the evaluation and disposition of a case of
20 adult abuse in a health care facility, as defined in section
21 135C.1, subsection 4. The department shall forward all reports
22 and other information concerning adult abuse in a health care
23 facility to the state department of health. The state
24 department of health shall inform the registry of all actions
25 taken or contemplated concerning the evaluation or disposition
26 of a case of adult abuse in a health care facility. The
27 primary purpose of the evaluation by the department shall
28 be the protection of the dependent or elderly adult named
29 in the report.

30 2. The evaluation shall include all of the following:

31 a. Identification of the nature, extent, and cause of
32 the injuries, if any, to the dependent or elderly adult named
33 in the report.

34 b. The identification of the person or persons responsible
35 for the adult abuse.

1 c. The name, age, and condition of other adults in the
2 same residence as the dependent or elderly adult named in
3 the report.

4 d. A critical examination of the residential environment
5 and relationship of the dependent or elderly adult named in
6 the report and other adults in the same residence as the
7 persons responsible for their care.

8 e. A critical examination of all other pertinent matters.

9 3. The evaluation, with the consent of the person
10 responsible for the care of the dependent or elderly adult,
11 when appropriate, may include a visit to the residence of
12 the dependent or elderly adult named in the report and an
13 examination of the dependent or elderly adult. If permission
14 to enter the residence and to examine the dependent or elderly
15 adult is refused, the district court upon a showing of probable
16 cause, may authorize the person making the evaluation to enter
17 the residence and examine the dependent or elderly adult.

18 4. County attorneys and law enforcement or social services
19 agencies in the state shall cooperate and assist in the
20 evaluation upon the request of the department. County
21 attorneys and appropriate law enforcement agencies shall also
22 take any other lawful action necessary or advisable for the
23 protection of the dependent or elderly adult.

24 5. The department shall transmit a copy of the report
25 of its evaluation, including actions taken or contemplated,
26 to the registry. The department shall make periodic follow-
27 up reports in a manner prescribed by the registry so that
28 the registry is kept up-to-date and fully informed concerning
29 the handling of a suspected case of adult abuse.

30 6. The department shall also transmit a copy of the report
31 of its evaluation to the appropriate county attorney. The
32 county attorney shall notify the registry of any actions or
33 contemplated actions with respect to a suspected case of adult
34 abuse so that the registry is kept up-to-date and fully
35 informed concerning the handling of a case.

1 7. Based on the evaluation conducted pursuant to this
2 section, the department shall complete an assessment of
3 services needed by a dependent or elderly adult believed to
4 be the victim of adult abuse, the adult's family, or the
5 person responsible for the care of the dependent or elderly
6 adult. The department shall refer the dependent or elderly
7 adult, the adult's family, or the person responsible for the
8 care of the dependent or elderly adult to agencies providing
9 the services as appear necessary or appropriate for the
10 dependent or elderly adult, the family, or the person
11 responsible for the care of the dependent or elderly adult.
12 The department shall arrange for or provide to the dependent
13 or elderly adult, the adult's family, or the person responsible
14 for the care of the dependent or elderly adult those services
15 necessary to maintain the dependent or elderly adult's health
16 and welfare. Homemaker, care management, day-care, in-home
17 health, family life home, and chore services are services
18 which singly or in any combination might be necessary to
19 maintain a dependent or elderly adult's health and welfare.
20 The department may arrange for or provide other services.
21 The department shall explain that the department does not
22 have legal authority to compel the dependent or elderly adult,
23 the adult's family, or the person responsible for the care
24 of the dependent or elderly adult to receive the services
25 except under a court order or pursuant to subsection 11.

26 8. If, upon completion of the evaluation, the department
27 determines that the best interests of the dependent or elderly
28 adult require district court action, the department shall
29 initiate action under this section to establish temporary
30 or long-term protective custody of a dependent or elderly
31 adult, or pursuant to chapter 633 for the appointment of a
32 guardian or conservator. The appropriate county attorney
33 shall assist the department in the preparation of the necessary
34 papers to initiate the action and shall appear and represent
35 the department at all district court proceedings.

1 9. The department shall assist the district court during
2 all stages of court proceedings involving a suspected adult
3 abuse case.

4 10. The department or a law enforcement agency may take
5 a dependent or elderly adult into temporary protective custody
6 for no more than seventy-two hours if the continuation of
7 the dependent or elderly adult's living situation or care
8 or custody by a person responsible for the care of the
9 dependent or elderly person presents imminent danger to the
10 dependent or elderly adult's life or health as a result of
11 serious physical injury, sexual abuse, mental anguish, or
12 deprivation. A law enforcement agency shall immediately
13 notify the department of temporary protective custody. The
14 department shall immediately petition the district court for
15 approval of the temporary protective custody. The district
16 court shall hold a preliminary hearing within forty-eight
17 hours from the time the dependent or elderly adult was taken
18 into temporary protective custody to determine if probable
19 cause of imminent danger exists. If the district court finds
20 that probable cause exists, the district court may order
21 temporary protective custody for no more than fourteen
22 additional days.

23 The department may petition the district court for long-
24 term protective custody if a dependent or elderly adult's
25 living situation or care or custody by a person responsible
26 for the care of the dependent or elderly adult presents a
27 serious danger to the dependent or elderly adult's life or
28 health which cannot be resolved by temporary protective custody
29 or other available relief. The district court shall set a
30 hearing and serve notice of the petition on the dependent
31 or elderly adult, and notify the adult's legal counsel,
32 guardian ad litem, guardian, custodian, person responsible
33 for the care of the dependent or elderly adult, or any other
34 interested person named in the petition, of the hearing at
35 least ten days prior to the hearing.

1 If the district court orders long-term protective custody,
2 the district court and the department shall cooperate to
3 secure available resources and services for the dependent
4 or elderly adult. However, a dependent or elderly adult shall
5 not be involuntarily placed in a facility or institution as
6 an inpatient under this section.

7 An order by the district court for long-term protective
8 custody is effective for a maximum period of one year. An
9 order for long-term protective custody may be appealed to
10 the supreme court for review.

11 Civil rights, other than those abridged due to the necessary
12 establishment of the least restrictive protective custody
13 of a dependent or elderly adult, are not relinquished as a
14 result of temporary or long-term protective custody under
15 this chapter.

16 11. In every case involving adult abuse which results
17 in a judicial proceeding on behalf of the dependent or elderly
18 adult, legal counsel shall be appointed by the court to
19 represent the dependent or elderly adult in the proceedings.
20 The court may also appoint a guardian ad litem to represent
21 the dependent or elderly adult if necessary to protect the
22 adult's best interests. The same attorney may be appointed
23 to serve both as legal counsel and as guardian ad litem.
24 Before legal counsel or a guardian ad litem is appointed
25 pursuant to this section, the court shall require the dependent
26 or elderly adult and any person legally responsible for the
27 support of the dependent or elderly adult to complete under
28 oath a detailed financial statement. If, on the basis of
29 that financial statement, the court deems that the dependent
30 or elderly adult or the legally responsible person is able
31 to bear the cost of the legal counsel or guardian ad litem,
32 the court shall so order. In cases where the dependent or
33 elderly adult or the legally responsible person is unable
34 to bear the cost of the legal counsel or guardian ad litem,
35 the expense shall be paid out of the court expense fund.

1 Sec. 5. NEW SECTION. CHAPTER 236 PRECEDENT. If an
2 incident of adult abuse reported to the department is the
3 basis of a petition filed under chapter 236, the proceedings
4 under chapter 236 take precedence over departmental actions
5 otherwise required under this chapter.

6 Sec. 6. NEW SECTION. IMMUNITY FROM LIABILITY FOR
7 REPORTERS. A person participating in good faith in the making
8 of an adult abuse report has immunity from liability, civil
9 or criminal, which might otherwise be incurred or imposed
10 based upon the act of making the report. The person has the
11 same immunity with respect to participation in good faith
12 in a judicial proceeding resulting from the report or relating
13 to the subject matter of the report.

14 Sec. 7. NEW SECTION. IMMUNITY FROM LIABILITY FOR TAKING
15 INTO TEMPORARY PROTECTIVE CUSTODY. An employee or agent of
16 the department or a law enforcement officer participating
17 in good faith in taking a dependent or elderly adult into
18 temporary protective custody under section 4, subsection 10
19 of this Act, has immunity from liability, civil or criminal,
20 which might otherwise be incurred or imposed based upon the
21 act of taking the dependent or elderly adult into temporary
22 protective custody. The employee, agent, or officer has the
23 same immunity with respect to participation in good faith
24 in a judicial proceeding concerning the dependent or elderly
25 adult taken into temporary protective custody.

26 Sec. 8. NEW SECTION. EVIDENCE NOT PRIVILEGED OR EXCLUDED.
27 Sections 622.7, 622.9 and 622.10 and any other statute or
28 rule of evidence which excludes or makes privileged the
29 testimony of a husband or wife against the other or the
30 testimony of a health practitioner as to confidential
31 communications, does not apply to evidence regarding a
32 dependent or elderly adult's injuries or the cause of the
33 injuries in a judicial proceeding, civil or criminal, resulting
34 from an adult abuse report or relating to the subject matter
35 of the report.

1 Sec. 9. NEW SECTION. SANCTIONS FOR FAILURE TO REPORT.

2 1. A person, official, agency, or institution required
3 by this chapter to report a suspected case of adult abuse
4 who knowingly and willfully fails to do so is guilty of a
5 simple misdemeanor.

6 2. A person, official, agency, or institution required
7 by this chapter to report a suspected case of adult abuse
8 who knowingly fails to do so is civilly liable for the damages
9 proximately caused by the failure.

10 Sec. 10. NEW SECTION. PHOTOGRAPHS AND X RAYS. A person
11 who is required to report a case of adult abuse may take or
12 cause to be taken, at public expense, photographs or X rays
13 of the areas of trauma visible on a dependent or elderly
14 adult. A health practitioner may, if medically indicated,
15 cause to be performed radiological examination of the dependent
16 or elderly adult. A person who takes photographs or X rays
17 pursuant to this section shall notify the department of social
18 services that photographs or X rays have been taken, and shall
19 retain the photographs or X rays for a reasonable time. If
20 a person is required to report a case of adult abuse in that
21 person's capacity as a member of the staff of a medical or
22 other private or public institution, agency, or facility,
23 that person shall immediately notify the person in charge
24 of the institution, agency, or facility or the person's
25 designated agent of the need for photographs or X rays.

26 Sec. 11. NEW SECTION. CRIMINAL PENALTIES FOR ADULT ABUSE.
27 A person responsible for the care of a dependent or elderly
28 adult who intentionally commits or intentionally refuses to
29 prevent an act of adult abuse is guilty of a serious
30 misdemeanor.

31 ALTERNATIVE. A person responsible for the care of a
32 dependent or elderly adult who intentionally commits or
33 intentionally refuses to prevent an act of adult abuse
34 resulting in physical injury to or gross exploitation, severe
35 mental anguish, or severe deprivation of the dependent or

1 elderly adult is guilty of an aggravated misdemeanor.

2 A person responsible for the care of a dependent or elderly
3 adult who intentionally commits or intentionally refuses to
4 prevent an act of adult abuse resulting in great bodily injury
5 to the dependent or elderly adult is guilty of a class "D"
6 felony.

7 Sec. 12. NEW SECTION. PAYMENT FOR SERVICES. A dependent
8 or elderly adult receiving protective or other related services
9 from the department under or pursuant to this chapter is
10 legally liable to the department for the total cost of the
11 services. However, the department may provide by rule for
12 payment for services under a sliding fee schedule by a
13 dependent or elderly adult unable to pay for any or all of
14 the services.

15 Sec. 13. NEW SECTION. RULES. The department shall adopt
16 rules under chapter 17A to implement this chapter.

17 Sec. 14. Section 235A.12, Code 1981, is amended to read
18 as follows:

19 235A.12 LEGISLATIVE FINDINGS AND PURPOSES. The general
20 assembly finds and declares that a central registry is required
21 to provide a single source for the state-wide collection,
22 maintenance and dissemination of child abuse and adult abuse
23 information. ~~Such-a~~ The registry is imperative for increased
24 effectiveness in dealing with the problem of child abuse and
25 adult abuse. The general assembly also finds that vigorous
26 protection of rights of individual privacy is an indispensable
27 element of a fair and effective system of collecting,
28 maintaining and disseminating child abuse and adult abuse
29 information.

30 The purposes of this section and sections 235A.13 to 235A.24
31 are to facilitate the identification of victims or potential
32 victims of child abuse and adult abuse by making available
33 a single, state-wide source of child abuse and adult abuse
34 data; to facilitate research on child abuse and adult abuse
35 by making available a single, state-wide source of child abuse

1 and adult abuse data; and to provide maximum safeguards against
2 the unwarranted invasions of privacy which ~~such-a~~ the registry
3 might otherwise entail.

4 Sec. 15. Section 235A.13, Code 1981, is amended to read
5 as follows:

6 235A.13 DEFINITIONS. As used in sections 235A.12 to
7 235A.24, unless the context otherwise requires:

8 1. "Child abuse information or adult abuse information"
9 means any or all of the following data maintained by the
10 registry in a manual or automated data storage system and
11 individually identified:

- 12 a. Report data.
- 13 b. Investigation or evaluation data.
- 14 c. Disposition data.

15 2. "Report data" means information pertaining to ~~any~~ an
16 occasion involving or reasonably believed to involve child
17 abuse or adult abuse, including:

- 18 a. The name and address of the child or the dependent
19 or elderly adult and the child's parents or other persons
20 responsible for the child's or dependent or elderly adult's
21 care.
- 22 b. The age of the child or the dependent or elderly adult.
- 23 c. The nature and extent of the injury, including evidence
24 of any a previous injury.
- 25 d. ~~Any-ether~~ Other information believed to be helpful
26 in establishing the cause of the injury and the identity of
27 the person or persons responsible ~~therefor~~ for the injury.

28 3. "Investigation or evaluation data" means information
29 pertaining to the ~~evaluation~~ examination and critical review
30 of report data, including:

- 31 a. Additional information as to the nature, extent and
32 cause of the injury, and the identity of persons responsible
33 ~~therefor~~ for the injury.

- 34 b. The names and conditions of other children or other
35 adults in the home or residence.

1 c. The child's or dependent or elderly adult's home or
2 residential environment and relationships with parents,
3 children, other adults, or others responsible for his-or-her
4 the care of the child or dependent or elderly adult.

5 4. "Disposition data" means information pertaining to
6 an opinion or decision as to the occurrence of child abuse
7 or adult abuse, including:

8 a. Any An intermediate or ultimate opinion or decision
9 reached by investigative or evaluative personnel.

10 b. Any An opinion or decision reached in the course of
11 judicial proceedings.

12 c. The present status of any a case.

13 5. "Confidentiality" means the withholding of information
14 from any manner of communication, public or private.

15 6. "Expungement" means the process of destroying child
16 abuse or adult abuse information.

17 7. "Individually identified" means any identified by
18 report, investigation or evaluation, or disposition data which
19 names the person or persons responsible or believed responsible
20 for the child abuse or adult abuse.

21 8. "Sealing" means the process of removing child abuse
22 or adult abuse information from authorized access as provided
23 by this chapter.

24 9. "Dependent adult" means a person eighteen years of
25 age or older who is unable to protect the person's own
26 interests or unable to adequately perform or obtain services
27 necessary to meet the person's essential human needs.

28 ALTERNATIVE. 9. "Dependent adult" means a person eighteen
29 years or older whose ability to adequately provide for the
30 person's own protection, care, or custody is substantially
31 impaired by a physical or mental disability.

32 10. "Elderly adult" means a person sixty years of age
33 or older.

34 11. "Exploitation" means the act or process of taking
35 unfair advantage of a dependent or elderly adult or the adult's

1 physical or financial resources for one's own personal or
2 pecuniary profit by the use of undue influence, harassment,
3 duress, deception, false representation, or false pretenses.

4 12. "Adult abuse" means harm or threatened harm occurring
5 to a dependent or elderly adult through:

6 a. A nonaccidental physical injury, or physical injury
7 which is at variance with the history given of it, as the
8 result of the acts or omissions of a person responsible for
9 the care of the dependent or elderly adult.

10 b. The commission of a sexual offense under chapter 709
11 or section 726.2, with or to the dependent or elderly adult,
12 as a result of the acts or omissions of the person responsible
13 for the care of the dependent or elderly adult.

14 c. The failure on the part of a person responsible for
15 the care of the dependent or elderly adult to provide for
16 the adequate food, shelter, clothing, or other care necessary
17 for the dependent or elderly adult's health and welfare when
18 financially able to do so or when offered financial or other
19 reasonable means to do so. A relative or guardian legitimately
20 practicing religious beliefs who does not provide specified
21 medical treatment for a dependent or elderly adult because
22 of those religious beliefs alone shall not be considered
23 abusing the dependent or elderly adult. However, this does
24 not preclude a court from ordering that medical service be
25 provided to the dependent or elderly adult if the dependent
26 or elderly adult's health requires the service.

27 ALTERNATIVE. 12. "Adult abuse" means:

28 a. Any of the following as a result of the willful or
29 negligent acts or omissions of a person responsible for the
30 care of a dependent or elderly adult:

31 (1) Physical injury to or unreasonable confinement or
32 cruel punishment of the dependent or elderly adult.

33 (2) The commission of a sexual offense under chapter 709
34 or section 726.2 with or to the dependent or elderly adult.

35 (3) Exploitation of the dependent or elderly adult.

1 (4) Mental anguish of the dependent or elderly adult.

2 (5) The deprivation of the minimum food, shelter, clothing,
3 supervision, physical and mental health care, and other care
4 necessary to maintain the dependent or elderly adult's health
5 and welfare.

6 b. The deprivation of the minimum food, shelter, clothing,
7 supervision, physical and mental health care, and other care
8 necessary to maintain a dependent or elderly adult's health
9 and welfare as a result of the acts or omissions of the
10 dependent or elderly adult.

11 13. "Department" means the department of social services
12 and includes the local, county, regional, and state offices
13 of the department.

14 14. "Health practitioner" means a licensed physician and
15 surgeon, osteopath, osteopathic physician and surgeon,
16 physician's assistant, dentist, optometrist, podiatrist, or
17 chiropractor; a resident or intern in those professions; and
18 a registered nurse or licensed practical nurse.

19 15. "Registry" means the central registry for child abuse
20 and adult abuse information established in section 235A.14.

21 16. "Person responsible for the care of a dependent or
22 elderly adult" means:

23 a. A relative or other person with whom a dependent or
24 elderly adult resides, without reference to the length of
25 time or continuity of the residence.

26 b. An employee or agent of a public or private facility
27 providing care for a dependent or elderly adult including
28 but not limited to an institution, group home, mental health
29 center, residential treatment center, hospital, or health
30 care facility.

31 c. A person who has the responsibility for the protection,
32 care, or custody of a dependent or elderly adult as a result
33 of a family relationship or who has assumed the responsibility
34 voluntarily, by contract, by order of the court, or as a
35 result of the ties of friendship.

1 17. "Multidisciplinary team" means a group of individuals
2 who possess knowledge and skills related to the diagnosis,
3 assessment, and disposition of child abuse or adult abuse
4 cases and who are professionals practicing in the disciplines
5 of medicine, public health, mental health, social work, child
6 development, education, law, juvenile probation, or law
7 enforcement.

8 The definitions in section 232.68, subsections 1, 2, and
9 6 apply in sections 235A.12 through 235A.24, unless the context
10 otherwise requires.

11 Sec. 16. Section 235A.14, Code 1981, is amended to read
12 as follows:

13 1. There is created within the state department of social
14 services a central registry for child abuse and adult abuse
15 information. The department shall organize and staff the
16 registry and adopt rules for its operation.

17 2. The registry shall collect, maintain and disseminate
18 child abuse and adult abuse information as provided for by
19 this chapter.

20 3. The department shall maintain a toll-free telephone
21 line, which shall be available on a twenty-four hour a day,
22 seven-day a week basis and which the department of social
23 services and all other persons may use to report cases of
24 suspected child abuse or adult abuse and that all persons
25 authorized by this chapter may use for obtaining child abuse
26 and adult abuse information.

27 4. An oral report of suspected child abuse or adult abuse
28 initially made to the central registry shall be immediately
29 transmitted by the department to the appropriate county local
30 office of the department of social services or law enforcement
31 agency, or both.

32 5. The registry, upon receipt of a report of suspected
33 child abuse or adult abuse, shall search the records of the
34 registry, and if the records of the registry reveal any a
35 previous report of child abuse or adult abuse involving the

1 same child or ~~any-ether~~ another child in the same family or
2 the same dependent or elderly adult or another dependent or
3 elderly adult in the same family or residence, or if the
4 records reveal any other pertinent information with respect
5 to the same child or ~~any-ether~~ another child in the same
6 family or the same dependent or elderly adult or another
7 dependent or elderly adult in the same family or residence,
8 the appropriate office of the department of social services
9 or law enforcement agency shall be immediately notified of
10 that fact.

11 6. The central registry shall include but not be limited
12 to report data, investigation or evaluation data and
13 disposition data.

14 Sec. 17. Section 235A.15, Code 1981, is amended to read
15 as follows:

16 1. Notwithstanding chapter 68A, the confidentiality of
17 all child abuse and adult abuse information shall be
18 maintained, except as specifically provided by subsection
19 2.

20 2. Access to child abuse or adult abuse information is
21 authorized only:

22 a. To a health practitioner who is examining, attending
23 or treating a child or a dependent or elderly adult whom the
24 practitioner believes or has reason to believe has been the
25 victim of child abuse or adult abuse.

26 b. To employees of the department of social services
27 having responsibility for the investigation or evaluation
28 of a child abuse or adult abuse report.

29 c. To a law enforcement officer having responsibility
30 for the temporary emergency removal of a child from the child's
31 parent or other legal guardian or of a dependent or elderly
32 adult from the person responsible for the dependent or elderly
33 adult.

34 d. To a juvenile court or district court upon a finding
35 that information is necessary for the resolution of an issue

1 arising in any phase of a case involving child abuse or adult
2 abuse, except that information obtained through the registry
3 shall not be utilized in any aspect of ~~any~~ a criminal
4 prosecution.

5 e. To an authorized person or agency having responsibility
6 for the care or supervision of a child or a dependent or
7 elderly adult named in a report as a victim of child abuse
8 or adult abuse or a person named in a report as having abused
9 a child or a dependent or elderly adult, if ~~the juvenile a~~
10 court or the registry ~~deems~~ determines that access to child
11 abuse or adult abuse information by ~~such~~ the person or agency
12 ~~to-be~~ is necessary.

13 f. To a person conducting bona fide research on child
14 abuse or adult abuse, if the details identifying ~~any~~ a subject
15 of a child abuse or an adult abuse report are deleted.

16 g. To a person who is the subject of any report as provided
17 in section 235A.19.

18 h. To registry or department personnel where necessary
19 to the performance of their official duties.

20 i. To a court hearing an appeal for correction or
21 expungement of registry information as provided in section
22 235A.19.

23 j. In an individual case, to the mandatory reporter who
24 reported the child abuse or adult abuse.

25 k. To a multidisciplinary team, if the department of
26 social services approves the composition of the multi-
27 disciplinary team and determines that access to the team is
28 necessary to assist the department in the diagnosis,
29 assessment, and disposition of a child abuse or adult abuse
30 case.

31 Sec. 18. Section 235A.16, Code 1981, is amended to read
32 as follows:

33 235A.16 REQUESTS FOR CHILD ABUSE AND ADULT ABUSE
34 INFORMATION.

35 1. Requests for child abuse or adult abuse information

1 shall be in writing on forms prescribed by the department,
2 except as otherwise provided by subsection 2. Request forms
3 shall require information sufficient to demonstrate authorized
4 access.

5 2. Requests for child abuse or adult abuse information
6 may be made orally by telephone where a person making such
7 a request believes that the information is needed immediately
8 and where information sufficient to demonstrate authorized
9 access is provided. ~~In-the-event-that~~ If a request is made
10 orally by telephone, a written request form shall ~~nevertheless~~
11 be filed within seventy-two hours.

12 Sec. 19. Section 235A.17, unnumbered paragraph 1, Code
13 1981, is amended to read as follows:

14 A person, agency or other recipient of child abuse or adult
15 abuse information authorized to receive such the information
16 shall not redisseminate such the information, except that
17 redissemination ~~shall-be~~ is permitted when:

18 Sec. 20. Section 235A.18, Code 1981, is amended to read
19 as follows:

20 235A.18 SEALING AND EXPUNGEMENT OF CHILD ABUSE AND ADULT
21 ABUSE INFORMATION.

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

1 2. Child abuse or adult abuse information may be expunged
2 where the probative value of the information is so doubtful
3 as to outweigh its validity. Child abuse or adult abuse
4 information shall be expunged if it is determined to be
5 unfounded as a result of any of the following:

6 a. The investigation or evaluation of a report of suspected
7 child abuse or adult abuse by the department.

8 b. A successful appeal as provided in section 235A.19.

9 c. A court adjudication.

10 3. The registry, at least once a year, shall review and
11 determine the current status of child abuse and adult abuse
12 reports ~~which are transmitted or made to the registry after~~
13 ~~July 1, 1974,~~ which are at least one year old and in connection
14 with which ~~no~~ an investigatory or evaluative report has not
15 been filed by the department of social services pursuant to
16 section 232.71 or section 4 of this Act. If ~~no such an~~ an
17 investigatory or evaluative report has not been filed, the
18 registry shall request the department of social services to
19 file a report. ~~in the event~~ If a report is not filed within
20 ninety days subsequent to ~~such a~~ the request, the report and
21 information relating ~~thereto~~ to the request shall be sealed
22 and remain sealed unless good cause ~~be~~ is shown why the
23 information should remain open to authorized access.

24 Sec. 21. Section 235A.19, subsections 1, 2, 3, 5, and
25 6, Code 1981, are amended to read as follows:

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

30 2. ~~Any~~ A person who files with the registry a written
31 statement to the effect that child abuse or adult abuse
32 information referring to ~~such~~ the person is in whole or in
33 part erroneous, and requests a correction or expungement of
34 that information, shall be notified within sixty days by the
35 registry, in writing, of its decision or order regarding the

1 correction or elimination. All decisions and orders shall
2 be accompanied by findings of fact, and the registry shall
3 provide the opportunity for a fair hearing when ~~it~~ the registry
4 initially determines that the information should not be
5 corrected or expunged as requested.

6 3. The registry's decision or order may be appealed to
7 the district court of Polk county by the person requesting
8 the correction or expungement or to the district court of
9 the district in which ~~such~~ the person resides. Immediately
10 upon ~~such~~ the appeal the court shall order the registry to
11 file with the court a certified copy of the child abuse or
12 adult abuse information. Appeal shall be taken in accordance
13 with ~~the provisions of the Iowa Administrative Procedure Act~~
14 chapter 17A.

15 5. ~~Whenever~~ If the registry corrects or eliminates
16 information as requested or as ordered by the court, the
17 registry shall advise all persons who have received the
18 incorrect information of ~~such~~ the fact. Upon application
19 to the court and service of notice on the registry, ~~any~~ an
20 individual may request and obtain a list of all persons who
21 have received child abuse or adult abuse information referring
22 to ~~him or her~~ the individual.

23 6. In the course of ~~any~~ a proceeding provided for by this
24 section, the ~~identity~~ identities of ~~the person~~ one or more
25 persons who reported the disputed information and the ~~identity~~
26 identities of any ~~person~~ persons who ~~has~~ have been reported
27 as having abused a child or a dependent or elderly adult may
28 be withheld upon a determination by the registry that
29 disclosure of their identities would be detrimental to their
30 interests.

31 Sec. 22. Section 235A.20, Code 1981, is amended to read
32 as follows:

33 235A.20 CIVIL REMEDY. ~~Any~~ An aggrieved person may
34 institute a civil action for damages under chapter 25A or
35 613A or to restrain the dissemination of child abuse or adult

1 abuse information in violation of this chapter ~~and any~~.
2 A person, agency or other recipient proven to have disseminated
3 or to have requested and received child abuse or adult abuse
4 information in violation of this chapter ~~shall be~~ is liable
5 for actual damages and exemplary damages for each violation
6 and ~~shall be~~ is liable for court costs, expenses, and
7 reasonable ~~attorney's~~ fees for attorneys, incurred by the
8 party bringing the action. ~~In no case shall the~~ An award
9 for damages shall not be less than one hundred dollars.

10 Sec. 23. Section 235A.21, Code 1981, is amended to read
11 as follows:

12 235A.21 CRIMINAL PENALTIES.

13 1. Any A person who willfully requests, obtains, or seeks
14 to obtain child abuse or adult abuse information under false
15 pretenses, or who willfully communicates or seeks to
16 communicate child abuse or adult abuse information to any
17 an agency or person except in accordance with sections 235A.15
18 and 235A.17, or any a person connected with any research
19 authorized pursuant to section 235A.15 who willfully falsifies
20 child abuse or adult abuse information or any records relating
21 ~~thereto to the information~~, is guilty of a serious misdemeanor.
22 Any A person who knowingly, but without criminal purposes,
23 communicates or seeks to communicate child abuse or adult
24 abuse information except in accordance with sections 235A.15
25 and 235A.17 ~~shall be~~ is guilty of a simple misdemeanor.

26 2. Any reasonable grounds for belief that a person has
27 violated any a provision of this chapter ~~shall be~~ are grounds
28 for the immediate withdrawal of any authorized access ~~sueh~~
29 the person might otherwise have to child abuse or adult abuse
30 information.

31 Sec. 24. Section 235A.22, Code 1981, is amended to read
32 as follows:

33 235A.22 EDUCATION PROGRAM. The department shall require
34 an educational program for employees of the registry on the
35 proper use and control of child abuse and adult abuse

1 information.

2 Sec. 25. Section 235A.23, Code 1981, is amended to read
3 as follows:

4 235A.23 REGISTRY REPORTS.

5 1. The registry may compile statistics and issue reports
6 on child abuse and adult abuse, provided identifying details
7 of the subject of child abuse and adult abuse reports are
8 deleted.

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

15 Sec. 26. Section 235A.24, subsection 1, Code 1981, is
16 amended to read as follows:

17 1. There is created a council on child abuse and adult
18 abuse information consisting of nine regular members. Two
19 members shall be appointed from the house of representatives
20 by the speaker of the house, no more than one of whom shall
21 be from the same political party. Two members shall be
22 appointed from the senate by the lieutenant governor, no more
23 than one of whom shall be from the same political party.
24 The remaining members of the council shall consist of a judge
25 of the district court appointed by the chief justice of the
26 supreme court, one local law enforcement official appointed
27 by the governor, the commissioner of the department of social
28 services or ~~his~~ the commissioner's designee, and two private
29 citizens not connected with law enforcement appointed by the
30 governor. The council shall select its own ~~chairman~~
31 chairperson. The members shall serve at the pleasure of those
32 by whom their appointments are made.

33 Sec. 27. Section 235A.24, subsection 3, paragraph a, Code
34 1981, is amended to read as follows:

35 a. Shall periodically monitor the operation of the child

1 abuse and adult abuse information registry established by
2 this section and sections 235A.12 to 235A.23.

3 EXPLANATION

4 This bill provides procedures for the reporting, collecting,
5 maintaining, disseminating, and evaluation of cases of adult
6 abuse. The bill contains two alternative definitions of adult
7 abuse, both of which cover abuse by caretakers to dependent
8 adults and adults 60 years of age or older. Two alternative
9 definitions of dependent adult are provided.

10 Certain health and social service professionals are required
11 to report abuse. Other persons may report abuse. Reporters
12 acting in good faith are given civil and criminal immunity
13 from liability.

14 Adult abuse information is to be collected, maintained,
15 and disseminated by a statewide central registry established
16 by expanding the child abuse registry. Registry access is
17 authorized for multidisciplinary teams approved by the
18 department.

19 The department of social services is required to evaluate
20 reports of adult abuse and to arrange for or provide necessary
21 services for victims of adult abuse. The department is
22 authorized to take a victim of adult abuse into temporary
23 protective custody for up to 72 hours, without a court order,
24 if imminent danger to the victim's life or health exists.

25 Long-term protective custody requires a court order. A victim
26 could not, however, be involuntarily institutionalized under
27 such an order. A departmental employee, acting in good faith
28 in taking a victim of adult abuse into temporary protective
29 custody, is given civil and criminal immunity from liability.

30 A domestic abuse protection order pursuant to chapter 236
31 takes precedence over departmental action under the bill.

32 The bill provides criminal and certain civil penalties
33 for adult abuse and failure to report adult abuse. Alternative
34 criminal provisions for adult abuse are provided.

35 The bill provides for personal liability for the costs

1 of protective or other services received under the bill, but
2 allows the department to establish a sliding fee schedule
3 for those persons unable to pay for any or all of the services.

4 The bill would become law July 1 following its enactment.

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December 15, 1980

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TO: Dr. Michael V. Reagen, Commissioner
Department of Social Services

Mr. Norman L. Pawlewski, Commissioner of Public Health
Department of Health

Mr. Glenn R. Bowles, Executive Director
Commission on the Aging

Dear Sirs:

On behalf of the Elderly Abuse and Elderly Service Programs Subcommittee and Chairpersons Senator Julia Gentleman and Representative B. J. Clark, I am writing to inform you of the elderly services working committee's concerns and recommendations relating to the coordination of services to the elderly. As reflected in the formal recommendations of the Subcommittee, which are included in this letter, the elderly services working committee and the full Subcommittee urge the cooperation of the Department of Health, the Department of Social Services, and the Commission on the Aging in coordinating elderly services at the state level and urge the Commission on the Aging to initiate the local coordination of elderly services and to provide technical assistance locally by developing coordination and individual needs assessment models and a common data collection process.

The elderly services study committee was established during the 1979 interim and has met intermittently since that time. The elderly services working committee met three times during the 1981 interim. At its first meeting the committee heard testimony from Dr. Helen Hageboeck and Ms. Karen Brandt regarding the Iowa Gerontology Model Project in Davenport and the Project's emphasis on evaluation and elderly care and protection. The elderly services working committee studied and discussed documents prepared by the Legislative Fiscal Bureau depicting state and local agencies which provide services to the elderly and summaries of the costs of the services. The working committee discussed the need for interagency coordination of elderly services at the state and local

level and the need to continue collecting and compiling financial data.

At its second meeting the elderly services working committee heard testimony from several individuals from the Dubuque and Cedar Rapids areas and Johnson and Polk counties regarding local cooperative efforts among service agencies for client assessment and referral. The committee made several preliminary recommendations concerning the coordination of services to the elderly.

At its third meeting the elderly services working committee studied and modified the preliminary recommendations made at the previous meeting and voted to recommend to the full Subcommittee that the modified recommendations be included in the final report to the Legislative Council. The Subcommittee approved the five recommendations of the elderly services working committee, but urged that the implementation of the recommendations take into account past and present cooperative efforts in coordinating the provision of elderly services. The five recommendations follow.

The Elderly Abuse and Elderly Service Programs Subcommittee:

1. Recommends that the Department of Social Services, the Department of Health, and the Commission on the Aging be informed by letter of the work of the Subcommittee during the interim, including the Subcommittee's concerns and recommendations, and the Subcommittee's interest in seeing that the Departments and Commission move in the direction of the recommendations.

2. Recommends that the standing Committees on Human Resources or Human Resources Appropriations Subcommittee direct the Department of Health, the Department of Social Services, and the Commission on the Aging to develop and enter into agreements for state level coordination of services to the elderly through legislation or appropriations.

3. Recommends that the standing Committees on Human Resources develop legislation to direct the Commission on the Aging to work through the area agencies to bring together local providers and funders, including local boards of supervisors, to begin coordination of elderly services.

4. Recommends that funds be appropriated to the Commission on the Aging to provide technical assistance to area agencies for the purpose of helping them to develop coordination and (individual) needs assessment models, including adoption of a common data collection process.

5. Recommends that the chairpersons of the standing Committees on Human Resources appoint elderly services subcommittees to meet jointly during the session to continue elderly services coordination work.

On behalf of the Subcommittee I would like to thank you and your agency for your past assistance and to urge you and your agency to

study the Subcommittee's recommendations and to communicate any concerns to the chairpersons of the Subcommittee.

Sincerely,

A handwritten signature in cursive script that reads "Richard Johnson". The signature is written in dark ink and is positioned above the typed name.

RICHARD JOHNSON
Legal Counsel