



THOMAS J. VILSACK
GOVERNOR

OFFICE OF THE GOVERNOR

SALLY J. PEDERSON
LT. GOVERNOR

May 21, 2003

The Honorable Chester Culver
Secretary of State
State Capitol Building
LOCAL

Dear Mr. Secretary:

I hereby transmit:

House File 225, an Act modifying workers' compensation laws and providing an effective date.

House File 386, an Act relating to the Department of Elder Affairs including provisions relating to the Elder Iowans Act.

House File 674, an Act relating to income tax deductions and exemptions for military personnel and organizations, and including effective and applicability date provisions.

House File 682, an Act relating to wine by providing for native wine permits, providing wine gallonage tax revenue to support grape and wine development, providing for fees, and providing an effective date and retroactive applicability.

The above House Files are hereby approved this date.

Sincerely,

A handwritten signature in black ink, appearing to read "T. Vilsack".

Thomas J. Vilsack
Governor

TJV:jmc

cc: Secretary of the Senate
Chief Clerk of the House





HOUSE FILE 386

AN ACT

RELATING TO THE DEPARTMENT OF ELDER AFFAIRS INCLUDING
PROVISIONS RELATING TO THE ELDER IOWANS ACT.

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

Section 1. Section 231.3, subsections 1, 3, and 4, Code 2003, are amended to read as follows:

1. An adequate income ~~in retirement~~.
3. Suitable housing, ~~appropriate to the special~~ that reflects the needs of older people.
4. Full restorative services for those who require institutional care, and a comprehensive array of community-based, long-term care services adequate to sustain older people in their communities and, whenever possible, in their homes, including support for caregivers.

Sec. 2. Section 231.4, Code 2003, is amended to read as follows:

231.4 DEFINITIONS.

For purposes of this chapter, unless the context otherwise requires:

1. "Administrative action" means an action or decision made by an owner, employee, or agent of a long-term care facility, or by a governmental agency, which affects the service provided to residents covered in this chapter.
2. "Commission" means the commission of elder affairs.
3. ~~---"Comprehensive and coordinated system" means a system for providing all necessary supportive services, including nutrition services, in a manner designed to:~~
 - a. ~~---Facilitate accessibility to, and utilization of, all supportive services and nutrition services provided within the~~

~~geographic-area-served-by-the-system-by-any-public-or-private agency-or-organization.~~

~~b.--Develop-and-make-the-most-efficient-use-of-supportive services-and-nutrition-services-in-meeting-the-needs-of elders.~~

~~c.--Use-available-resources-efficiently-and-with-a-minimum of-duplication.~~

~~4. 3. "Department" means the department of elder affairs.~~

~~5. 4. "Director" means the director of the department of elder affairs.~~

~~6. 5. "Elder" means an individual who is sixty years of age or older. "Elderly" means individuals sixty years of age or older.~~

~~7. 6. "Equivalent support" means in-kind contributions of services, goods, volunteer support time, administrative support, or other support reasonably determined by the commission department as equivalent to a dollar amount.~~

~~8. 7. "Federal Act" means the Older Americans Act of 1965, 42 U.S.C. § 3001 et seq., as amended to-and-including-February 17-1986.~~

~~9.--"Focal-point"-means-a-facility-established-to-encourage the-maximum-collocation-and-coordination-of-services-for elders.~~

~~10.--"Greatest-economic-need"-means-the-need-resulting-from an-income-level-at-or-below-the-poverty-threshold-established by-the-bureau-of-the-census.~~

~~11.--"Greatest-social-need"-means-the-need-caused-by noneconomic-factors-which-include-physical-and-mental disabilities, language-barriers, and-cultural-or-social isolation-including-that-caused-by-racial-or-ethnic-status which-restricts-an-individual's-ability-to-perform-normal daily-tasks-or-which-threatens-the-elder's-capacity-to-live independently.~~

~~12.--"Information-and-referral-source"-means-a-location where-a-department-of-elder-affairs-or-any-public-or-private agency-or-organization.~~

~~a.--Maintains-current-information-with-respect-to-the opportunities-and-services-available-to-elders, and-develops current-lists-of-elders-in-need-of-services-and-opportunities.~~

~~b. -- Employs, where feasible, a specially trained staff to assess the needs and capacities of elders, and to inform elders of the opportunities and services.~~

~~13. -- "Legal assistance" means legal advice and representation by an attorney including, but not limited to, counseling or other appropriate assistance by a paralegal or law student under the supervision of an attorney, and includes counseling or representation by a person who does not possess a juris doctorate, where permitted by law, of elders with economic or social needs.~~

~~14. 8. "Long-term care facility" means a long-term care unit of a hospital, a licensed hospice program, a foster group home, a group living arrangement, or a facility licensed under section 135C.1 whether the facility is public or private.~~

~~15. -- "Multipurpose senior center" means a community facility for the organization and provision of a broad spectrum of services, which shall include, but not be limited to, health, social, nutritional, and educational services and the provision of facilities for recreational activities for elders.~~

~~16. 9. "Resident's advocate program" means the state long-term care resident's advocate program operated by the commission department of elder affairs and administered by the long-term care resident's advocate.~~

~~10. "Unit of general purpose local government" means a political subdivision of the state whose authority is general and not limited to one function or combination of related functions.~~

~~For the purposes of this chapter, "focal point", "greatest economic need", and "greatest social need" mean as those terms are defined in the federal Act.~~

Sec. 3. Section 231.13, Code 2003, is amended to read as follows:

231.13 MEETINGS -- OFFICERS.

Members of the commission shall elect from the commission's membership a chairperson, and other officers as commission members deem necessary, who shall serve for a period of two years. The commission shall meet at regular intervals at least ~~six~~ four times each year and may hold special meetings at the call of the chairperson or at the request of a majority

of the commission membership. The commission shall meet at the seat of government or such other place as the commission may designate. Members shall be paid a per diem as specified in section 7E.6 and shall receive reimbursement for actual expenses for their official duties.

Sec. 4. Section 231.14, unnumbered paragraph 1, and subsections 6, 7, 8, and 10, Code 2003, are amended to read as follows:

The commission is the policymaking body of the sole state agency responsible for administration of the ~~Older-Americans federal Act of 1965, as amended~~. The commission shall:

6. Adopt policies to assure that the department will take into account the views of ~~recipients of supportive services or nutrition services, or~~ elders using multipurpose senior centers in the development of policy.

7. Adopt a formula for the distribution of federal ~~Older Americans Act~~, state elderly services, and senior living program funds taking into account, to the maximum extent feasible, the best available data on the geographic distribution of elders in the state, and publish the formula for review and comment.

8. Adopt policies and measures to assure that preference will be given to providing services to elders with the greatest economic or social needs, with particular attention to low-income minority elders, ~~and include methods of carrying out the preference in the state plan.~~

~~10. Adopt policies by which eligibility for federal, state, and local funding is established at age sixty, with preference in service delivery given to elders age seventy-five or older.~~

Sec. 5. Section 231.23, subsection 4, Code 2003, is amended to read as follows:

4. Advocate for elders by reviewing and commenting upon all state plans, budgets, laws, rules, regulations, and policies which affect elders and by providing technical assistance to any agency, organization, association, or individual representing the needs of the elders.

Sec. 6. NEW SECTION. 231.23A PROGRAMS AND SERVICES.

The department of elder affairs shall provide or administer, but is not limited to providing or administering, all of the following programs and services:

1. Elderly services including but not limited to home and community-based services such as adult day services, assessment and intervention, transportation, chore services, counseling, homemaker services, material aid, personal care, reassurance, respite services, visitation, caregiver support, emergency response system services, mental health outreach, and home repair.

2. The senior internship program.

3. The retired senior volunteer program.

4. The case management program for the frail elderly.

5. Administration relating to the long-term care resident's advocate program and training for resident advocate committees.

6. Administration relating to the area agencies on aging.

7. Other programs and services authorized by law.

Sec. 7. Section 231.31, Code 2003, is amended by striking the section and inserting in lieu thereof the following:

231.31 STATE PLAN ON AGING.

The department of elder affairs shall develop, and submit to the commission of elder affairs for approval, a multiyear state plan on aging. The state plan on aging shall meet all applicable federal requirements.

Sec. 8. Section 231.32, Code 2003, is amended to read as follows:

231.32 CRITERIA FOR DESIGNATION OF AREA AGENCIES ON AGING.

1. The commission shall designate thirteen area agencies on aging, the same of which existed on July 1, 1985. The commission shall continue the designation until an area agency on aging's designation is removed for cause as determined by the commission or until the agency voluntarily withdraws as an area agency on aging. In that event, the commission shall ~~then~~ proceed in accordance with subsections 2 and 3.

Designated area agencies on aging shall comply with the requirements of the federal Act.

2. The commission shall designate an area agency to serve each planning and service area, after consideration of the views offered by ~~the-political-subdivisions-in-the-area~~ units of general purpose local government. An area agency may be:

a. An established office of aging which is operating within a planning and service area designated by the commission.

b. Any office or agency of a unit of ~~a political subdivision~~ general purpose local government, which is designated for the purpose of serving as an area agency by the chief elected official of such unit.

c. Any office or agency designated by the appropriate chief elected officials of any combination of ~~political subdivisions~~ units of general purpose local government to act on behalf of the combination for such purpose.

d. Any public or nonprofit private agency in a planning and service area or any separate organizational unit within such agency which is under the supervision or direction for this purpose of the department of elder affairs and which can engage in the planning or provision of a broad range of supportive services or nutrition services within the planning and service area.

Each area agency shall provide assurance, determined adequate by the commission, that the area agency has the ability to develop an area plan and to carry out, directly or through contractual or other arrangements, a program in accordance with the plan within the planning and service area. In designating an area agency on aging within the planning and service area, the commission shall give preference to an established office of aging, unless the commission finds that no such office within the planning and service area has the capacity to carry out the area plan.

3. When the commission designates a new area agency on aging the commission shall give the right of first refusal to a ~~political-subdivision~~ unit of general purpose local government if:

a. Such unit can meet the requirements of subsection 1.

b. The boundaries of such a unit and the boundaries of the area are reasonably contiguous.

Sec. 9. Section 231.33, Code 2003, is amended to read as follows:

231.33 AREA AGENCIES ON AGING DUTIES.

Each area agency on aging shall:

1. Develop and administer an area plan on aging.

2. Assess the types and levels of services needed by older persons in the planning and service area, and the effectiveness of other public or private programs serving those needs.

3. Enter into subgrants or contracts to provide all services under the plan.

4. Provide technical assistance as needed, prepare written monitoring reports at least quarterly, and provide a written report of an annual on-site assessment of all service providers funded by the area agency.

5. Coordinate the administration of its plan with federal programs and with other federal, state, and local resources in order to develop a comprehensive and coordinated service system.

6. Establish an advisory council.

7. Give preference in the delivery of services under the area plan to elders with the greatest economic or social need.

8. Assure that elders in the planning and service area have reasonably convenient access to information and referral services.

9. Provide adequate and effective opportunities for elders to express their views to the area agency on policy development and program implementation under the area plan.

10. Designate community focal points.

11. Contact outreach efforts, with special emphasis on the rural elderly, to identify elders with greatest economic or social needs and inform them of the availability of services under the area plan.

12. Develop and publish the methods that the agency uses to establish preferences and priorities for services.

~~13. Attempt to involve the area lawyers in legal assistance activities.~~

~~14.~~ 13. Submit all fiscal and performance reports in accordance with the policies of the commission.

~~15.~~ 14. Monitor, evaluate, and comment on laws, rules, regulations, policies, programs, hearings, levies, and community actions which significantly affect the lives of elders.

~~16.~~ 15. Conduct public hearings on the needs of elders.

~~17.~~ 16. Represent the interests of elders to public officials, public and private agencies, or organizations.

~~18.~~ 17. Coordinate activities in support of the statewide long-term care resident's advocate program.

~~19.~~ 18. Coordinate planning with other agencies and organizations to promote new or expanded benefits and opportunities for elders.

~~20.~~ 19. Coordinate planning with other agencies for assuring the safety of elders in a natural disaster or other safety threatening situation.

~~21.--Submit-a-report-to-the-department-of-elder-affairs every-six-months, of-the-name-of-each-health-care-facility-in its-area-for-which-the-resident-advocate-committee-has-failed to-submit-the-report-required-by-rules-adopted-pursuant-to section-231.44.~~

Sec. 10. Section 231.41, Code 2003, is amended to read as follows:

231.41 PURPOSE.

The purpose of this subchapter is to establish the long-term care resident's advocate program operated by the Iowa commission of elder affairs in accordance with the requirements of the Elder-Americans federal Act of 1965, and to adopt the supporting federal regulations and guidelines for its implementation. In accordance with chapter 17A, the commission of elder affairs shall adopt and enforce rules for the implementation of this subchapter.

Sec. 11. Section 231.42, unnumbered paragraph 1, and subsections 1, 3, and 5, Code 2003, are amended to read as follows:

The Iowa commission of elder affairs, in accordance with section 3027(a)(12) of the federal Act, shall establish the office of long-term care resident's advocate within the commission department. The long-term care resident's advocate shall:

1. Investigate and resolve complaints about administrative actions that may adversely affect the health, safety, welfare, or rights of elderly residents in long-term care facilities, excluding facilities licensed primarily to serve persons with mental retardation or mental illness.

3. Provide information to other agencies and to the public about the problems of elderly residents in long-term care facilities, excluding facilities licensed primarily to serve persons with mental retardation or mental illness.

5. Carry out other activities consistent with the ~~resident's-advocate~~ state long-term care ombudsman program provisions of the federal Act.

Sec. 12. Section 231.44, subsections 2, 3, and 4, Code 2003, are amended to read as follows:

2. The responsibilities of the resident advocate committee are in accordance with the rules adopted by the commission pursuant to chapter 17A. When adopting the rules, the commission shall consider the needs of residents of elder group homes as defined in section 231B.1 and each category of licensed health care facility as defined in section 135C.1, subsection 6, and the services each facility may render. The commission shall coordinate the development of rules with the mental health and developmental disabilities commission created in section 225C.5 to the extent the rules would apply to a facility primarily serving persons with mental illness, mental retardation, or a developmental disability. The commission shall coordinate the development of appropriate rules with other state agencies.

3. A ~~health~~ long-term care facility shall disclose the names, addresses, and phone numbers of a resident's family members, if requested, to a resident advocate committee member, unless permission for this disclosure is refused in writing by a family member.

4. ~~Neither-the~~ The state, ~~nor~~ any resident advocate committee member ~~is,~~ any resident advocate coordinator, and any sponsoring area agency on aging are not liable for an action undertaken by a resident advocate committee member or a resident advocate committee coordinator in the performance of duty, if the action is undertaken and carried out reasonably and in good faith.

Sec. 13. Section 231.57, Code 2003, is amended to read as follows:

231.57 COORDINATION OF ADVOCACY.

The department shall establish a program for the coordination of information and assistance provided within the state to assist elders in obtaining and protecting their rights and benefits. ~~The-insurance-division-of-the-department of-commerce, office-of-the-attorney-general, the-citizens'-aide, and-other-state~~ State and local agencies providing

information and assistance to elders in seeking their rights and benefits shall cooperate with the department in developing and implementing this program. ~~The program shall include review of health insurance policies marketed to elders and other health-related written material distributed to elders for marketing purposes.~~

Sec. 14. Section 231.58, subsection 4, paragraph a, Code 2003, is amended to read as follows:

a. Develop, for legislative review, the mechanisms and procedures necessary to implement, ~~utilizing current personnel,~~ a case-managed system of long-term care based on a uniform comprehensive assessment tool.

Sec. 15. Section 514D.5, subsections 3 and 4, Code 2003, are amended to read as follows:

3. The commissioner ~~after consultation with the commission of elder affairs~~ shall prescribe disclosure rules for ~~medicare~~ Medicare supplement coverage which are determined to be in the public interest and which are designed to adequately inform the prospective insured of the need for and extent of coverage offered as ~~medicare~~ Medicare supplement coverage. For ~~medicare~~ Medicare supplement coverage, the outline of coverage required by subsection 2 shall be furnished to the prospective insured with the application form.

4. The commissioner ~~after consultation with the commission of elder affairs~~ shall further prescribe by rule a standard form for and the contents of an informational brochure for persons eligible for ~~medicare~~ Medicare by reason of age, which is intended to improve the buyer's ability to select the most appropriate coverage and to improve the buyer's understanding of ~~medicare~~ Medicare. Except in the case of direct response insurance policies, the commissioner may require by rule that this informational brochure be provided to prospective insureds eligible for ~~medicare~~ Medicare concurrently with delivery of the outline of coverage. With respect to direct response insurance policies, the commissioner may require by rule that this brochure must be provided to prospective insureds eligible for ~~medicare~~ Medicare by reason of age upon request, but not later than at the time of delivery of the policy or contract. ~~The commissioner shall provide the information received from insurers pursuant to subsection 3~~

~~and this subsection and information relating to section 231.59 to the director of the department of elder affairs.~~

Sec. 16. Sections 231.24, 231.54, 231.59, and 231.60, Code 2003, are repealed.



CHRISTOPHER C. RANTS
Speaker of the House




MARY E. KRAMER
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 386, Eightieth General Assembly.



MARGARET THOMSON
Chief Clerk of the House

Approved May 21, 2003



THOMAS J. VILSACK
Governor