



CHESTER J. CULVER  
GOVERNOR

**OFFICE OF THE GOVERNOR**

PATTY JUDGE  
LT. GOVERNOR

May 18, 2009

The Honorable Michael Mauro  
Secretary of State  
State Capitol Building  
LOCAL

Dear Mr. Secretary:

I hereby transmit:

**Senate File 438**, an Act relating to actions injurious to dependent adults and providing penalties.

The above Senate File is hereby approved this date.

Sincerely,

A handwritten signature in black ink, appearing to read "Chester J. Culver".

Chester J. Culver  
Governor

CJC:bdj

cc: Secretary of the Senate  
Chief Clerk of the House





SENATE FILE 438

AN ACT

RELATING TO ACTIONS INJURIOUS TO DEPENDENT ADULTS AND  
PROVIDING PENALTIES.

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

Section 1. Section 235B.2, subsection 5, paragraph a, subparagraph (3), Code 2009, is amended to read as follows:

(3) (a) Sexual exploitation of a dependent adult by a caretaker.

(b) "Sexual exploitation" means any consensual or nonconsensual sexual conduct with a dependent adult ~~for the purpose of arousing or satisfying the sexual desires of the caretaker or dependent adult,~~ which includes but is not limited to kissing; touching of the clothed or unclothed inner thigh, breast, groin, buttock, anus, pubes, or genitals; or a sex act, as defined in section 702.17. "Sexual exploitation" includes the transmission, display, taking of electronic images of the unclothed breast, groin, buttock, anus, pubes, or genitals of a dependent adult by a caretaker for a purpose not related to treatment or diagnosis or as part of an ongoing assessment, evaluation, or investigation. Sexual exploitation does not include touching which is part of a necessary examination, treatment, or care by a caretaker acting within the scope of the practice or employment of the caretaker; the exchange of a brief touch or hug between the dependent adult and a caretaker for the purpose of reassurance, comfort, or casual friendship; or touching between spouses.

Sec. 2. Section 235B.17, Code 2009, is amended to read as follows:

235B.17 PROVISION OF PROTECTIVE SERVICES WITH THE CONSENT OF DEPENDENT ADULT -- CARETAKER REFUSAL.

1. If a caretaker of a dependent adult, who consents to the receipt of protective services, refuses to allow provision of the services, the department may petition the court with probate jurisdiction in the county in which the dependent adult resides for an order enjoining the caretaker from interfering with the provision of services.

2. The petition shall be verified and shall allege specific facts sufficient to demonstrate that the dependent adult is in need of protective services and consents to the provision of services and that the caretaker refuses to allow provision of the services. The petition shall include all of the following:

a. The name, date of birth, and address of the dependent adult alleged to be in need of protective services.

b. The protective services required.

c. The name and address of the caretaker refusing to allow the provision of services.

3. The court shall set the case for hearing within fourteen days of the filing of the petition. The dependent adult and the caretaker refusing to allow the provision of services shall receive at least five days' notice of the hearing.

4. If the judge finds by clear and convincing evidence that the dependent adult is in need of protective services and consents to the services and that the caretaker refuses to allow the services, the judge may issue an order enjoining the caretaker from interfering with the provision of the protective services.

Sec. 3. Section 235B.18, Code 2009, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. The petition specified in subsection 1 shall be verified and shall include all of the following:

a. The name, date of birth, and address of the dependent adult alleged to be in need of protective services.

b. The nature of the dependent adult abuse.

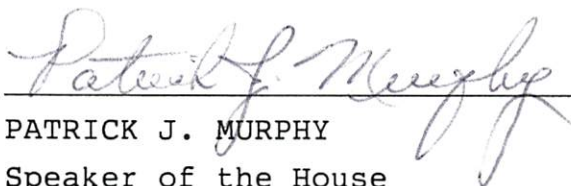
c. The protective services required.

Sec. 4. Section 235B.20, Code 2009, is amended by adding the following new subsection:

NEW SUBSECTION. 6A. A caretaker who otherwise intentionally or knowingly commits dependent adult abuse upon a dependent adult in violation of this chapter is guilty of a serious misdemeanor.



JOHN P. KIBBIE  
President of the Senate



PATRICK J. MURPHY  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 438, Eighty-third General Assembly.



MICHAEL E. MARSHALL  
Secretary of the Senate

Approved May 18<sup>th</sup>, 2009



CHESTER J. CULVER  
Governor