

See Judiciary 3/28/85 Do Pass 4/11 (p.1331)

House File 700

JUDICIARY: Mann, Chair; Ritsema and Small  
MARCH 21 1985

Place On Calendar

HOUSE FILE 700

BY COMMITTEE ON JUDICIARY  
AND LAW ENFORCEMENT

(Formerly House Study Bill 250)

Passed House, Date 3-26-85 (p.1085) Passed Senate, Date 4-30-85 (p.1823)

Vote: Ayes 97 Nays 0 Vote: Ayes 34 Nays 1

Approved May 23 1985

Proposed House 5-3-85 (p.2212)  
98-0

# A BILL FOR

- 1 An Act relating to the endangering of certain persons and
- 2 providing penalties.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

HOUSE FILE 700

H-3430

- 1 Amend House File 700 as follows:
- 2 1. Page 1, by striking lines 1 through 9 and
- 3 inserting the following:
- 4 "Section 1. Section 235B.1, subsection 2, is
- 5 amended by striking the subsection and inserting in
- 6 lieu thereof the following:
- 7 2. Dependent adult abuse does not include the
- 8 withholding and withdrawing of health care from a
- 9 dependent adult who is terminally ill in the opinion
- 10 of a licensed physician, when the withholding and
- 11 withdrawing of health care is done at the request of
- 12 the dependent adult or at the request of the dependent
- 13 adult's next-of-kin or guardian pursuant to the
- 14 applicable procedures under chapter 125, 222, 229, or
- 15 633."
- 16 2. Page 2, by striking lines 2 through 8 and
- 17 inserting the following: "emotional health."

H-3430 FILED MARCH 25, 1985 BY SHONING of Woodbury  
4/10 3/26 (p.1085)

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1 Section 1. Section 235B.1, subsection 2, paragraph a, Code  
2 1985, is amended to read as follows:

3 a. Depriving a dependent adult of medical treatment if the  
4 dependent adult holds a belief or is an adherent of a religion  
5 whose tenets and practices call for reliance on spiritual  
6 means in place of reliance on medical treatment. However,  
7 this provision does not preclude a court from ordering that  
8 medical service be provided to the dependent adult if the  
9 dependent adult's health requires it.

10 Sec. 2. Section 702.11, Code 1985, is amended to read as  
11 follows:

12 702.11 FORCIBLE FELONY.

13 A "forcible felony" is any felonious child endangerment,  
14 assault, murder, sexual abuse, kidnapping, robbery, arson in  
15 the first degree, or burglary in the first degree.

16 Sec. 3. Section 726.6, Code 1985, is amended by striking  
17 the section and inserting in lieu thereof the following:

18 726.6 CHILD ENDANGERMENT.

19 1. A person who is the parent, guardian, or person having  
20 custody or control over a child or a mentally or physically  
21 handicapped minor under the age of eighteen, commits child  
22 endangerment when the person does any of the following:

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

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

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

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-4016  
32 d. Willfully deprives a child or minor of necessary food,  
33 clothing, shelter, health care or supervision appropriate to  
34 the child or minor's age, when the person is reasonably able  
35 to make the necessary provisions and which deprivation

1 substantially harms the child or minor's physical, mental or  
2 emotional health. If the person in good faith selects and  
3 depends on spiritual means or prayer for treatment or care of  
4 disease or remedial care of the child or minor, such treatment  
5 constitutes health care for the purposes of this paragraph.  
6 However, this good faith exception shall not in any manner  
7 restrict the right of an interested party to petition the  
8 court on behalf of the best interest of the child or minor.

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

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

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

21 3. A person who commits child endangerment not resulting  
22 in serious injury to a child or minor is guilty of an  
23 aggravated misdemeanor.

24 EXPLANATION

25 This bill creates the crime of child endangerment and sets  
26 out the acts which constitute the commission of the offense.  
27 The bill provides that the penalty for child endangerment re-  
28 sulting in serious injury is a class "C" felony and that the  
29 penalty for child endangerment not resulting in serious injury  
30 is an aggravated misdemeanor. The bill also provides that  
31 felony child endangerment is a forcible felony.

32 The offense of child endangerment created by this bill re-  
33 places the present offense of wanton neglect of a minor.

34 This bill also provides that the present exception from  
35 dependent adult abuse and child neglect for the failure to

1 provide medical services (commonly referred to as the  
2 Christian science exception) does not affect a court's right  
3 to issue an order requiring medical services to be provided.

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SENATE AMENDMENT TO HOUSE FILE 700

H-4177

1 Amend House File 700 as passed by the House as  
2 follows:

3 1. Page 2, by striking lines 2 through 6 and  
4 inserting the following: "emotional health. For  
5 purposes of this paragraph, the failure to provide  
6 specific medical treatment shall not for that reason  
7 alone be considered willful deprivation of health care  
8 if the person can show that such treatment would  
9 conflict with the tenets and practice of a recognized  
10 religious denomination of which the person is an  
11 adherent or member. This exception does not in any  
12 manner".

H-4177 FILED APRIL 30, 1985

RECEIVED FROM THE SENATE

*House concurred 5/3/85*

1 Amend House File 700 as passed by the House as  
 2 follows:  
 3 1. Page 2, by inserting after line 17, the  
 4 following:  
 5 "g. Notwithstanding any other provision of the  
 6 Code, causes or knowingly permits the child or minor  
 7 to engage in a street occupation, as defined in  
 8 section 92.1, subsection 1, in a city having a  
 9 population of ten thousand or more, according to the  
 10 most recent federal census, before seven o'clock a.m."  
 11 2. Page 2, line 18, by inserting after the word  
 12 "endangerment" the following: "by the violation of  
 13 subsection 1, paragraphs "a" through "f",".  
 14 3. Page 2, line 21, by inserting after the word  
 15 "endangerment" the following: "by the violation of  
 16 subsection 1, paragraphs "a" through "f",".  
 17 4. Page 2, by inserting after line 23, the  
 18 following:  
 19 "4. A person who commits child endangerment in  
 20 violation of subsection 1, paragraph "g", is guilty of  
 21 a serious misdemeanor."

S-3773 Filed April 16, 1985

by HOLDEN

*See german 4/25/85 (p. 1668)*

S-4016

HOUSE FILE 700

1 Amend House File 700 as passed by the House as  
 2 follows:  
 3 1. Page 2, by striking lines 2 through 6 and  
 4 inserting the following: "emotional health. For  
 5 purposes of this paragraph, the failure to provide  
 6 specific medical treatment shall not for that reason  
 7 alone be considered willful deprivation of health care  
 8 if the person can show that such treatment would  
 9 conflict with the tenets and practice of a recognized  
 10 religious denomination of which the person is an  
 11 adherent or member. This exception does not in any  
 12 manner".

*Adopted 4-30-85 (p. 1812)*

S-4016 Filed April 25, 1985

By CARR, MANN &amp; GENTLEMAN

S-4153

HOUSE FILE 700

1 Amend House File 700 as passed by the House as  
 2 follows:  
 3 1. Page 1, by striking lines 1 through 9.

S-4153 Filed April 30, 1985

By GENTLEMAN

*Look 4-30-85 (p. 1823)*

NSB 250

*now NF  
706*

Judiciary & Law Enforcement

SENATE/HOUSE FILE 700

BY (PROPOSED COMMITTEE ON  
JUDICIARY AND COMMITTEE ON  
JUDICIARY AND LAW ENFORCE-  
MENT BILL)

**Study Bill 250**

Judiciary and Law Enforcement: Brammer, Chair; Carl, Clark, Hammond, Running,  
Shoning and Siegrist.

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

# A BILL FOR

1 An Act creating the offense of child endangerment and  
2 providing penalties.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
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2 as follows:

3 702.11 FORCIBLE FELONY.

4 A "forcible felony" is any felonious child endangerment,  
5 assault, murder, sexual abuse, kidnapping, robbery, arson in  
6 the first degree, or burglary in the first degree.

7 Sec. 2. Section 726.6, Code 1985, is amended by striking  
8 the section and inserting in lieu thereof the following:

9 726.6 CHILD ENDANGERMENT.

10 1. A person who is the parent, guardian, or person having  
11 custody or control over a child or a mentally or physically  
12 handicapped minor under the age of eighteen, commits child  
13 endangerment when the person does any of the following:

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

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

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

23 d. Willfully deprives a child or minor of necessary food,  
24 clothing, shelter, health care or supervision appropriate to  
25 the child or minor's age, when the person is reasonably able  
26 to make the necessary provisions and which deprivation  
27 substantially harms the child or minor's physical, mental or  
28 emotional health. However, if the person in good faith  
29 selects and depends on spiritual means or prayer for treatment  
30 or care of disease or remedial care of the child or minor,  
31 such treatment constitutes health care for the purposes of  
32 this paragraph.

33 e. Knowingly permits the continuing physical or sexual  
34 abuse of a child or minor. However, it is an affirmative  
35 defense to this subsection if the person had a reasonable

1 apprehension that any action to stop the continuing abuse  
2 would result in substantial bodily harm to the person or the  
3 child or minor.

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

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

10 3. A person who commits child endangerment not resulting  
11 in serious injury to a child or minor is guilty of an  
12 aggravated misdemeanor.

13 EXPLANATION

14 This bill creates the crime of child endangerment and sets  
15 out the acts which constitute the commission of the offense.  
16 The bill provides that the penalty for child endangerment re-  
17 sulting in serious injury is a class "C" felony and that the  
18 penalty for child endangerment not resulting in serious injury  
19 is an aggravated misdemeanor. The bill also provides that  
20 felony child endangerment is a forcible felony.

21 The offense of child endangerment created by this bill re-  
22 places the present offense of wanton neglect of a minor.

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HOUSE FILE 700

AN ACT  
RELATING TO THE ENDANGERING OF CERTAIN PERSONS AND PROVIDING  
PENALTIES.

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

Section 1. Section 235B.1, subsection 2, paragraph a, Code 1985, is amended to read as follows:

a. Depriving a dependent adult of medical treatment if the dependent adult 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. However, this provision does not preclude a court from ordering that medical service be provided to the dependent adult if the dependent adult's health requires it.

Sec. 2. Section 702.11, Code 1985, is amended to read as follows:

702.11 FORCIBLE FELONY.

A "forcible felony" is any felonious child endangerment, assault, murder, sexual abuse, kidnapping, robbery, arson in the first degree, or burglary in the first degree.

Sec. 3. Section 726.6, Code 1985, is amended by striking the section and inserting in lieu thereof the following:

726.6 CHILD ENDANGERMENT.

1. A person who is the parent, guardian, or person having custody or control over a child or a mentally or physically handicapped minor under the age of eighteen, 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 physical 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.

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

3. A person who commits child endangerment not resulting in serious injury to a child or minor is guilty of an aggravated misdemeanor.

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DONALD D. AVENSON  
Speaker of the House

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ROBERT T. ANDERSON  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 700, Seventy-first General Assembly.

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JOSEPH O'HERN  
Chief Clerk of the House

Approved May 23, 1985

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TERRY E. BRANSTAD  
Governor