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SENATE FILE 2381
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO SSB 2293)

Passed Senate, Date (P.719) 3/13/96 Passed House, Date 4/3/96 (P.1378)
Vote: Ayes 47 Nays 0 Vote: Ayes 98 Nays 0
Approved 4-17-96
(P.1257) Passed 4-8-96
Vote 48-0

A BILL FOR

1 An Act relating to dependent adult abuse and providing penalties.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. 2381

1 Section 1. Section 235B.1, Code 1995, is amended to read
2 as follows:

3 235B.1 DEPENDENT ADULT ABUSE SERVICES.

4 The department shall establish and operate a dependent
5 adult abuse services program. The program shall emphasize the
6 reporting and evaluation of cases of abuse of a dependent
7 adult who is unable to protect the adult's own interests or
8 unable to perform ~~or-obtain~~ activities necessary to meet
9 essential ~~services~~ human needs. The program shall include but
10 is not limited to:

11 1. The establishment of local or regional
12 multidisciplinary teams to ~~provide-leadership-at-the-local-and~~
13 ~~district-levels-in-the-delivery-of~~ assist in assessing the
14 needs of, formulating and monitoring a treatment plan for, and
15 coordinating services to victims of dependent adult abuse.
16 The membership of a team shall include individuals who possess
17 knowledge and skills related to the diagnosis, assessment, and
18 disposition of dependent adult abuse cases and who are
19 professionals practicing in the disciplines of medicine,
20 public health, mental health, social work, law, law
21 enforcement, or other disciplines relative to dependent
22 adults. Members of a team shall include, but are not limited
23 to, persons representing the area agencies on aging, county
24 attorneys, health care providers, and other persons involved
25 in advocating or providing services to dependent adults.

26 2. Provisions for information sharing and case
27 consultation among service providers, care providers, and
28 victims of dependent adult abuse.

29 3. Procedures for referral of cases among service
30 providers, including the referral of victims of dependent
31 adult abuse residing in licensed health care facilities.

32 4. a. The establishment of a dependent adult protective
33 advisory council. The advisory council shall do all of the
34 following:

35 (1) Advise the director of human services and the

1 administrator of the division of child and family services of
2 the department of human services regarding dependent adult
3 abuse.

4 (2) Evaluate state law and rules and make recommendations
5 to the general assembly and to executive branch departments
6 regarding laws and rules concerning dependent adults.

7 (3) Receive and review recommendations and complaints from
8 the public concerning the dependent adult abuse services
9 program.

10 b. (1) The advisory council shall consist of ten members.
11 Six members shall be appointed by and serve at the pleasure of
12 the governor. Four of the members appointed shall be
13 appointed on the basis of knowledge and skill related to
14 expertise in the area of dependent adult abuse including
15 professionals practicing in the disciplines of medicine,
16 public health, mental health, long-term care, social work,
17 law, and law enforcement. Two of the members appointed shall
18 be members of the general public with an interest in the area
19 of dependent adult abuse. In addition, the membership of the
20 council shall include the director or the director's designee
21 of the department of human services, the department of elder
22 affairs, the Iowa department of public health, and the
23 department of inspections and appeals.

24 (2) The members of the advisory council shall be appointed
25 to terms of four years beginning May 1. Appointments shall
26 comply with sections 69.16 and 69.16A. Vacancies shall be
27 filled in the same manner as the original appointment.

28 (3) Members shall receive actual expenses incurred while
29 serving in their official capacity.

30 (4) The advisory council shall select a chairperson,
31 annually, from its membership.

32 Sec. 2. Section 235B.2, Code Supplement 1995, is amended
33 to read as follows:

34 235B.2 DEFINITIONS.

35 As used in this chapter, unless the context otherwise

1 requires:

2 1. "Caretaker" means a related or nonrelated person who
3 has the responsibility for the protection, care, ~~or~~ custody,
4 or control of a dependent adult as a result of assuming the
5 responsibility voluntarily, by contract, through employment,
6 or by order of the court.

7 2. "Court" means the district court.

8 3. "Department" means the department of human services.

9 4. "Dependent adult" means a person eighteen years of age
10 or older who is unable as the result of a physical, mental, or
11 other condition as defined by departmental rule to protect the
12 person's own interests or who is unable to adequately perform
13 ~~or-obtain-services~~ activities necessary to meet essential
14 human needs, ~~as-a-result-of-a-physical-or-mental-condition~~
15 ~~which-requires-assistance-from-another,-or-as-defined-by~~
16 ~~departmental-rule.~~

17 5. a. "Dependent adult abuse" means:

18 a. (1) Any of the following as a result of the willful or
19 negligent acts or omissions of a caretaker:

20 (1) (a) Physical injury to, or injury which is at a
21 variance with the history given of the injury, or unreasonable
22 confinement, unreasonable punishment, or assault of a
23 dependent adult.

24 (2) (b) The commission of a sexual offense under chapter
25 709 or section 726.2 with or against a dependent adult.

26 (3) (c) Exploitation of a dependent adult which means the
27 act or process of taking unfair advantage of a dependent adult
28 or the adult's physical or financial resources for one's own
29 personal or pecuniary profit, without the informed consent of
30 the dependent adult, including theft, by the use of undue
31 influence, harassment, duress, deception, false
32 representation, or false pretenses.

33 (4) (d) The deprivation of the minimum food, shelter,
34 clothing, supervision, physical or mental health care, or
35 other care necessary to maintain a dependent adult's life or

1 health.

2 b- (2) The deprivation of the minimum food, shelter,
3 clothing, supervision, physical or mental health care, and
4 other care necessary to maintain a dependent adult's life or
5 health as a result of the acts or omissions of the dependent
6 adult.

7 ~~Dependent-adult-abuse-does-not-include-depriving-a~~
8 ~~dependent-adult-of-medical-treatment-if-the-dependent-adult~~
9 ~~holds-a-belief-or-is-an-adherent-of-a-religion-whose-tenets~~
10 ~~and-practices-call-for-reliance-on-spiritual-means-in-place-of~~
11 ~~reliance-on-medical-treatment.--However,--this-provision-does~~
12 ~~not-preclude-a-court-from-ordering-that-medical-service-be~~
13 ~~provided-to-the-dependent-adult-if-the-dependent-adult's~~
14 ~~health-requires-it.~~

15 ~~Dependent-adult-abuse-does-not-include-the-withholding-or~~
16 ~~withdrawing-of-health-care-from-a-dependent-adult-who-is~~
17 ~~terminally-ill-in-the-opinion-of-a-licensed-physician,--when~~
18 ~~the-withholding-or-withdrawing-of-health-care-is-done-at-the~~
19 ~~request-of-the-dependent-adult-or-at-the-request-of-the~~
20 ~~dependent-adult's-next-of-kin-or-guardian-pursuant-to-the~~
21 ~~applicable-procedures-under-chapter-125,--222,--229,--or-633.~~

22 e- (3) Sexual exploitation of a dependent adult who is a
23 resident of a health care facility, as defined in section
24 135C.1, by a caretaker providing services to or employed by
25 the health care facility, whether within the health care
26 facility or at a location outside of the health care facility.

27 "Sexual exploitation" means any consensual or nonconsensual
28 sexual conduct with a dependent adult for the purpose of
29 arousing or satisfying the sexual desires of the caretaker or
30 dependent adult, which includes but is not limited to kissing;
31 touching of the clothed or unclothed inner thigh, breast,
32 groin, buttock, anus, pubes, or genitals; or a sex act, as
33 defined in section 702.17. Sexual exploitation does not
34 include touching which is part of a necessary examination,
35 treatment, or care by a caretaker acting within the scope of

1 the practice or employment of the caretaker; the exchange of a
2 brief touch or hug between the dependent adult and a caretaker
3 for the purpose of reassurance, comfort, or casual friendship;
4 or touching between spouses.

5 b. "Dependent adult abuse" does not include any of the
6 following:

7 (1) Circumstances in which the dependent adult declines
8 medical treatment if the dependent adult holds a belief or is
9 an adherent of a religion whose tenets and practices call for
10 reliance on spiritual means in place of reliance on medical
11 treatment.

12 (2) Circumstances in which the dependent adult's
13 caretaker, acting in accordance with the dependent adult's
14 stated or implied consent, declines medical treatment if the
15 dependent adult holds a belief or is an adherent of a religion
16 whose tenets and practices call for reliance on spiritual
17 means in place of reliance on medical treatment.

18 (3) The withholding or withdrawing of health care from a
19 dependent adult who is terminally ill in the opinion of a
20 licensed physician, when the withholding or withdrawing of
21 health care is done at the request of the dependent adult or
22 at the request of the dependent adult's next of kin or
23 guardian pursuant to the applicable procedures under chapter
24 125, 222, 229, or 633.

25 5A. "Emergency shelter services" means and includes, but
26 is not limited to, secure crisis shelters or housing for
27 victims of dependent adult abuse.

28 5B. "Family or household member" means a spouse, a person
29 cohabiting with the dependent adult, a parent, or a person
30 related to the dependent adult by consanguinity or affinity,
31 but does not include children of the dependent adult who are
32 less than eighteen years of age.

33 5C. "Immediate danger to health or safety" means a
34 situation in which death or severe bodily injury could
35 reasonably be expected to occur without intervention.

1 6. "Individual employed as an outreach person" means a
2 natural person who, in the course of employment, makes regular
3 contacts with dependent adults regarding available community
4 resources.

5 6A. "Legal holiday" means a legal public holiday as
6 defined in section 1C.1.

7 7. "Person" means person as defined in section 4.1.

8 8. "Recklessly" means that a person acts or fails to act
9 with respect to a material element of a public offense, when
10 the person is aware of and consciously disregards a
11 substantial and unjustifiable risk that the material element
12 exists or will result from the act or omission. The risk must
13 be of such a nature and degree that disregard of the risk
14 constitutes a gross deviation from the standard conduct that a
15 reasonable person would observe in the situation.

16 9. "Serious injury" means a disabling mental illness, or a
17 bodily injury which creates a substantial risk of death or
18 which causes serious permanent disfigurement, or protracted
19 loss or impairment of the function of any bodily member or
20 organ.

21 10. "Support services" includes but is not limited to
22 community-based services including area agency on aging
23 assistance, mental health services, fiscal management, home
24 health services, housing-related services, counseling
25 services, transportation services, adult day care services,
26 respite services, legal services, and advocacy services.

27 Sec. 3. Section 235B.3, subsection 5, Code Supplement
28 1995, is amended to read as follows:

29 5. Following the reporting of suspected dependent adult
30 abuse, the department of human services shall complete an
31 assessment of necessary services and shall make appropriate
32 referrals for receipt of these services. The assessment shall
33 include interviews with the dependent adult, and, if
34 appropriate, with the alleged perpetrator of the dependent
35 adult abuse and with any person believed to have knowledge of

1 the circumstances of the case. The department may provide
2 necessary protective services and may establish a sliding fee
3 schedule for those persons able to pay a portion of the
4 protective services.

5 Sec. 4. Section 235B.3, subsection 7, unnumbered paragraph
6 1, Code Supplement 1995, is amended to read as follows:

7 The department shall inform the appropriate county
8 attorneys of any reports of dependent adult abuse. The
9 department may request information from any person believed to
10 have knowledge of a case of dependent adult abuse. The
11 person, including but not limited to a county attorney, a law
12 enforcement agency, a multidisciplinary team, or a social
13 services agency in the state shall cooperate and assist in the
14 evaluation upon the request of the department. If the
15 department's assessment reveals that dependent adult abuse
16 exists which might constitute a criminal offense, a report
17 shall be made to the appropriate law enforcement agency.
18 County attorneys and appropriate law enforcement agencies
19 shall also take any other lawful action necessary or advisable
20 for the protection of the dependent adult.

21 Sec. 5. Section 235B.3, subsection 7, paragraph a, Code
22 Supplement 1995, is amended to read as follows:

23 a. If, upon completion of the evaluation or upon referral
24 from the department of inspections and appeals, the department
25 determines that the best interests of the dependent adult
26 require court action, the department shall initiate
27 ~~appropriate court action for the appointment of a guardian or~~
28 ~~conservator or for admission or commitment to an appropriate~~
29 ~~institution or facility pursuant to the applicable procedures~~
30 ~~under chapter 1257, 2227, 2297, or 633.~~ The appropriate county
31 attorney shall assist the department in the preparation of the
32 necessary papers to initiate the action and shall appear and
33 represent the department at all district court proceedings.

34 Sec. 6. NEW SECTION. 235B.3A PREVENTION OF ADDITIONAL
35 ABUSE -- NOTIFICATION OF RIGHTS -- ARREST -- LIABILITY.

1 1. If a peace officer has reason to believe that dependent
2 adult abuse, which is criminal in nature, has occurred, the
3 officer shall use all reasonable means to prevent further
4 abuse, including but not limited to any of the following:

5 a. If requested, remaining on the scene as long as there
6 is a danger to the dependent adult's physical safety without
7 the presence of a peace officer, including but not limited to
8 staying in the dwelling unit, or if unable to remain at the
9 scene, assisting the dependent adult in leaving the residence
10 and securing support services or emergency shelter services.

11 b. Assisting the dependent adult in obtaining medical
12 treatment necessitated by the dependent adult abuse, including
13 providing assistance to the dependent adult in obtaining
14 transportation to the emergency room of the nearest hospital.

15 c. Providing a dependent adult with immediate and adequate
16 notice of the dependent adult's rights. The notice shall
17 consist of handing the dependent adult a copy of the following
18 written statement, requesting the dependent adult to read the
19 card and asking the dependent adult whether the dependent
20 adult understands the rights:

21 "(1) You have the right to ask the court for the following
22 help on a temporary basis:

23 (a) Keeping the alleged perpetrator away from you, your
24 home, and your place of work.

25 (b) The right to stay at your home without interference
26 from the alleged perpetrator.

27 (c) Professional counseling for you, your family, or
28 household members, and the alleged perpetrator of the
29 dependent adult abuse.

30 (2) If you are in need of medical treatment, you have the
31 right to request that the peace officer present assist you in
32 obtaining transportation to the nearest hospital or otherwise
33 assist you.

34 (3) If you believe that police protection is needed for
35 your physical safety, you have the right to request that the

1 peace officer present remain at the scene until you and other
2 affected parties can leave or safety is otherwise ensured."

3 The notice shall also contain the telephone number of the
4 local emergency shelter services, support services, or crisis
5 lines operating in the area.

6 Sec. 7. NEW SECTION. 235B.17 PROVISION OF PROTECTIVE
7 SERVICES WITH THE CONSENT OF DEPENDENT ADULT -- CARETAKER
8 REFUSAL.

9 If a caretaker of a dependent adult, who consents to the
10 receipt of protective services, refuses to allow provision of
11 the services, the department may petition the court for an
12 order enjoining the caretaker from interfering with the
13 provision of services. The petition shall allege specific
14 facts sufficient to demonstrate that the dependent adult is in
15 need of protective services and consents to the provision of
16 services and that the caretaker refuses to allow provision of
17 the services. If the judge finds by clear and convincing
18 evidence that the dependent adult is in need of protective
19 services and consents to the services and that the caretaker
20 refuses to allow the services, the judge may issue an order
21 enjoining the caretaker from interfering with the provision of
22 the protective services.

23 Sec. 8. NEW SECTION. 235B.18 PROVISION OF SERVICES TO
24 DEPENDENT ADULT WHO LACKS CAPACITY TO CONSENT -- HEARING --
25 FINDINGS.

26 1. If the department reasonably determines that a
27 dependent adult is a victim of dependent adult abuse and lacks
28 capacity to consent to the receipt of protective services, the
29 department may petition the court for an order authorizing the
30 provision of protective services. The petition shall allege
31 specific facts sufficient to demonstrate that the dependent
32 adult is in need of protective services and lacks capacity to
33 consent to the receipt of services.

34 2. The court shall set the case for hearing within
35 fourteen days of the filing of the petition. The dependent

1 adult shall receive at least five days' notice of the hearing.
2 The dependent adult has the right to be present and
3 represented by counsel at the hearing. If the dependent
4 adult, in the determination of the judge, lacks the capacity
5 to waive the right of counsel, the court may appoint a
6 guardian ad litem for the dependent adult.

7 3. If, at the hearing, the judge finds by clear and
8 convincing evidence that the dependent adult is in need of
9 protective services and lacks the capacity to consent to the
10 receipt of protective services, the judge may issue an order
11 authorizing the provision of protective services. The order
12 may include the designation of a person to be responsible for
13 performing or obtaining protective services on behalf of the
14 dependent adult or otherwise consenting to the receipt of
15 protective services on behalf of the dependent adult. Within
16 sixty days of the appointment of such a person the court shall
17 conduct a review to determine if a petition shall be initiated
18 in accordance with section 633.552 for good cause shown. The
19 court may extend the sixty-day period for an additional sixty
20 days, at the end of which the court shall conduct a review to
21 determine if a petition shall be initiated in accordance with
22 section 633.552. A dependent adult shall not be committed to
23 a mental health facility under this section.

24 4. A determination by the court that a dependent adult
25 lacks the capacity to consent to the receipt of protective
26 services under this chapter shall not affect incompetency
27 proceedings under sections 633.552 through 633.556 or any
28 other proceedings, and incompetency proceedings under
29 sections 633.552 through 633.556 shall not have a conclusive
30 effect on the question of capacity to consent to the receipt
31 of protective services under this chapter.

32 5. This section shall not be construed and is not intended
33 as and shall not imply a grant of entitlement for services to
34 persons who are not otherwise eligible for the services or for
35 utilization of services which do not currently exist or are

1 not otherwise available.

2 Sec. 9. NEW SECTION. 235B.19 EMERGENCY ORDER FOR
3 PROTECTIVE SERVICES.

4 1. If the department determines that a dependent adult is
5 suffering from dependent adult abuse which presents an
6 immediate danger to the health or safety of the dependent
7 adult, that the dependent adult lacks capacity to consent to
8 receive protective services, and that no consent can be
9 obtained, the department may petition the court with probate
10 jurisdiction in the county in which the dependent adult
11 resides for an emergency order authorizing protective
12 services.

13 2. The petition shall be verified and shall include all of
14 the following:

15 a. The name, date of birth, and address of the dependent
16 adult who needs protective services.

17 b. The nature of the dependent adult abuse.

18 c. The services required.

19 3. Upon finding that there is probable cause to believe
20 that the dependent adult abuse presents an immediate threat to
21 the health or safety of the dependent adult and that the
22 dependent adult lacks capacity to consent to the receipt of
23 services, the court may do any of the following:

24 a. Order removal of the dependent adult to safer
25 surroundings.

26 b. Order the provision of medical services.

27 c. Order the provision of other available services
28 necessary to remove conditions creating the danger to health
29 or safety, including the services of peace officers or
30 emergency services personnel.

31 4. The emergency order expires at the end of seventy-two
32 hours from the time of the order unless the seventy-two-hour
33 period ends on a Saturday, Sunday, or legal holiday in which
34 event the order is automatically extended to four p.m. on the
35 first succeeding business day. An order may be renewed for

1 not more than fourteen additional days. A renewal order that
2 ends on a Saturday, Sunday, or legal holiday is automatically
3 extended to four p.m. on the first succeeding business day.
4 The court may modify or terminate the emergency order on the
5 petition of the department, the dependent adult, or any person
6 interested in the dependent adult's welfare.

7 5. If the department cannot obtain an emergency order
8 under this section due to inaccessibility of the court, the
9 department may contact law enforcement to remove the dependent
10 adult to safer surroundings, authorize the provision of
11 medical treatment, and order the provision of or provide other
12 available services necessary to remove conditions creating the
13 immediate danger to the health or safety of the dependent
14 adult. The department shall obtain an emergency order under
15 this section not later than four p.m. on the first succeeding
16 business day after the date on which protective or other
17 services are provided. If the department does not obtain an
18 emergency order within the prescribed time period, the
19 department shall cease providing protective services and, if
20 necessary, make arrangements for the immediate return of the
21 person to the place from which the person was removed, to the
22 person's place of residence in the state, or to another
23 suitable place. A person, agency, or institution acting in
24 good faith in removing a dependent adult or in providing
25 services under this subsection, and an employer of or person
26 under the direction of such a person, agency, or institution,
27 shall have immunity from any liability, civil or criminal,
28 that might otherwise be incurred or imposed as the result of
29 such action.

30 6. The court may also enter orders as may be appropriate
31 to third persons enjoining them from specific conduct. The
32 orders may include temporary restraining orders which impose
33 criminal sanctions if violated. The court may enjoin third
34 persons from any of the following:

35 a. Removing the dependent adult from the care or custody

1 of another.

2 b. Committing dependent adult abuse on the dependent
3 adult.

4 c. Living at the dependent adult's residence.

5 d. Contacting the dependent adult in person or by
6 telephone.

7 e. Selling, removing, or otherwise disposing of the
8 dependent adult's personal property.

9 f. Withdrawing funds from any bank, savings and loan
10 association, credit union, or other financial institution, or
11 from a stock account in which the dependent adult has an
12 interest.

13 g. Negotiating any instruments payable to the dependent
14 adult.

15 h. Selling, mortgaging, or otherwise encumbering any
16 interest that the dependent adult has in real property.

17 i. Exercising any powers on behalf of the dependent adult
18 through representatives of the department, any court-appointed
19 guardian or guardian ad litem, or any official acting on the
20 dependent adult's behalf.

21 j. Engaging in any other specified act which, based upon
22 the facts alleged, would constitute harm or a threat of
23 imminent harm to the dependent adult or would cause damage to
24 or the loss of the dependent adult's property.

25 7. This section shall not be construed and is not intended
26 as and shall not imply a grant of entitlement for services to
27 persons who are not otherwise eligible for the services or for
28 utilization of services which do not currently exist or are
29 not otherwise available.

30 Sec. 10. NEW SECTION. 235B.20 DEPENDENT ADULT ABUSE --
31 INITIATION OF CHARGES -- PENALTY.

32 1. Charges of dependent adult abuse may be initiated upon
33 complaint of private individuals or as a result of
34 investigations by social service agencies or on the direct
35 initiative of a county attorney or law enforcement agency.

1 2. A caretaker who intentionally commits dependent adult
2 abuse on a dependent adult in violation of this chapter is
3 guilty of a class "C" felony if the intentional dependent
4 adult abuse results in serious injury.

5 3. A caretaker who recklessly commits dependent adult
6 abuse on a dependent adult in violation of this chapter is
7 guilty of a class "D" felony if the reckless dependent adult
8 abuse results in serious injury.

9 4. A caretaker who intentionally commits dependent adult
10 abuse on a dependent adult in violation of this chapter is
11 guilty of a class "C" felony if the intentional dependent
12 adult abuse results in physical injury.

13 5. A caretaker who commits dependent adult abuse by
14 exploiting a dependent adult in violation of this chapter is
15 guilty of a class "D" felony if the value of the property,
16 assets, or resources exceeds one hundred dollars.

17 6. A caretaker who recklessly commits dependent adult
18 abuse on a person in violation of this chapter is guilty of an
19 aggravated misdemeanor if the reckless dependent adult abuse
20 results in physical injury.

21 7. A caretaker who commits dependent adult abuse by
22 exploiting a dependent adult in violation of this chapter is
23 guilty of a simple misdemeanor if the value of the property,
24 assets, or resources is one hundred dollars or less.

25 8. A caretaker alleged to have committed a violation of
26 this chapter shall be charged with the respective offense
27 cited, unless a charge may be brought based upon a more
28 serious offense, in which case the charge of the more serious
29 offense shall supersede the less serious charge.

30 EXPLANATION

31 This bill makes several changes in the dependent adult
32 abuse law.

33 In the area of dependent adult abuse services established
34 and operated by the department of human services, the bill
35 provides that the services are to be available to dependent

1 adults who are unable to protect their own interests or to
2 perform the activities necessary to meet basic human needs and
3 deletes application to dependent adults who are unable to
4 obtain essential services. The bill also provides for the
5 establishment of local or regional multidisciplinary teams.
6 Multidisciplinary teams currently exist, but not at the local
7 or regional levels, and the bill also directs these teams to
8 assist in assessing the needs of, formulating and monitoring a
9 treatment plan for, and coordinating services to dependent
10 adult abuse victims. The bill also provides for the
11 establishment of a dependent adult protective advisory council
12 and directs the council to perform certain duties.

13 The bill makes several changes in the definitions used in
14 the dependent adult abuse chapter including "caretaker", which
15 is amended to include persons who have the responsibility for
16 control of a dependent adult; "dependent adult", which is
17 amended to include persons who are unable to perform
18 activities (currently the definition includes those unable to
19 "obtain services") to meet essential human needs due to a
20 physical or mental condition; "dependent adult abuse", which
21 is amended in the area of exploitation to include not having
22 the informed consent of the dependent adult in dealing with
23 the physical or financial resources of the dependent adult;
24 "emergency shelter services"; "family or household member";
25 "immediate danger to health or safety"; "legal holiday";
26 "recklessly"; "serious injury"; and "support services". The
27 bill also provides for the reporting of dependent adult abuse
28 to law enforcement following a departmental assessment which
29 reveals dependent adult abuse which might constitute a
30 criminal offense and for the initiation of appropriate court
31 action.

32 The bill also provides for the prevention of additional
33 abuse through involvement of a peace officer at the scene of a
34 case of dependent adult abuse which is criminal in nature;
35 provides for provision of notice to the dependent adult of the

1 dependent adult's rights; provides for the provision of
2 protective services with the consent of the dependent adult if
3 a caretaker refuses to allow the services, or by obtaining
4 court authorization to provide protective services to a
5 dependent adult who is unable to provide consent, or by
6 obtaining an emergency order for protective services for a
7 dependent adult.

8 The bill also provides penalties ranging from a class "C"
9 felony to a simple misdemeanor for various criminal charges of
10 dependent adult abuse.

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SENATE FILE 2381
FISCAL NOTE

The estimate for Senate File 2381 is hereby submitted as a fiscal note pursuant to Joint Rule 17 and as a correctional impact statement pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 2381 makes a number of changes in statutes pertaining to abuse of dependent adults. The Bill provides that services for abused dependent adults are to be available to adults unable to protect their own interests or to perform the activities necessary to meet basic human needs, and deletes references to dependent adults unable to obtain essential services.

The Bill also provides for the establishment of local or regional multidisciplinary teams to assist in assessing the needs of, formulating and monitoring a treatment plan for, and coordinating services to dependent adult abuse victims.

Senate File 2381 establishes a Dependent Adult Protective Advisory Council and directs the Council to perform specified duties. The Bill changes definitions used in the dependent adult abuse statutes, and provides for the reporting to law enforcement following a DHS assessment which reveals abuse that might constitute a criminal offense and for the initiation of appropriate court action. The Bill also provides for the involvement of a peace officer at the scene of a case of dependent adult abuse which is criminal in nature.

Senate File 2381 provides penalties ranging from a Class "C" felony to a simple misdemeanor for various criminal charges of dependent adult abuse.

ASSUMPTIONS

1. Charge, conviction, and sentencing patterns and trends will not change over the projection period.
2. Prisoner length of stay, revocation rates, and other corrections policies and practices will not change over the projection period.
3. The law will become effective July 1, 1996, with a lag effect of six months.
4. There will be 1,400 additional investigations in FY 1997 and 1,520 in FY 1998.
5. There will be an increase in caseload for the Department of Human Services. If no additional field staff are hired, the average additional cases per social worker are estimated to be .55 in FY 1997 and .60 for FY 1998.

-2-

6. In FY 1993 eight persons were convicted of various crimes involving the nonsupport or wanton neglect of dependent adults. However, the DHS estimates 1,100 cases of dependent adult abuse each year. Because the Bill specifies increased law enforcement involvement in such cases, an increase in charges and convictions is expected. However, there is no data available to estimate the extent of this increase; for purposes of this estimate a 10.0% conviction rate is assumed.

CORRECTIONAL IMPACT

Senate File 2381 is estimated to result in 17 additional prison admissions in FY 1997, and 34 additional admissions in FY 1998, and 34 additional admissions in FY 2001.

FISCAL IMPACT

Under Senate File 2381 the DHS will incur programming costs of approximately \$24,000, and approximately \$5,000 will be spent on travel, meals, and lodging for the Council.

The Department of Corrections will incur increased costs of approximately \$75,000 in FY 1997 and \$150,000 in subsequent years.

SOURCES

Criminal and Juvenile Justice Planning Agency
Department of Human Services

(LSB 3734SV, JMN)

FILED APRIL 8, 1996

BY DENNIS PROUTY, FISCAL DIRECTOR

SENATE FILE 2381

H-5851

1 Amend Senate File 2381, as passed by the Senate, as
2 follows:
3 1. Page 7, by striking lines 27 through 30 and
4 inserting the following: "action for the appointment
5 of a guardian or conservator or for admission or
6 commitment to an appropriate institution or facility
7 pursuant to the applicable procedures under chapter
8 125, 222, 229, or 633, or shall pursue other remedies
9 provided by law. The appropriate county".
10 2. Page 12, by striking line 29, and inserting
11 the following: "the removal or provision of
12 services."

By HOLVECK of Polk
BODDICKER of Cedar

H-5851 FILED APRIL 3, 1996

Adopted (p.1378)

SENATE FILE 2381

H-5547

1 Amend Senate File 2381, as passed by the Senate, as
2 follows:
3 1. Page 3, by striking lines 2 through 6 and
4 inserting the following:
5 "1. "Caretaker" means a related or nonrelated
6 person who has the responsibility for the protection,
7 care, or custody of a dependent adult as a result of
8 assuming the responsibility voluntarily, by contract,
9 through employment, or by order of the court."
10 2. Page 3, by striking lines 9 through 16 and
11 inserting the following:
12 "4. "Dependent adult" means a person eighteen
13 years of age or older who is unable to protect the
14 person's own interests or unable to adequately perform
15 or obtain services necessary to meet essential human
16 needs, as a result of a physical or mental condition
17 which requires assistance from another, or as defined
18 by departmental rule."

By BODDICKER of Cedar

H-5547 FILED MARCH 25, 1996

Adopted 4/3/96 (p.1377)

HOUSE AMENDMENT TO
SENATE FILE 2381

S-5672

- 1 Amend Senate File 2381, as passed by the Senate, as
2 follows:
- 3 1. Page 3, by striking lines 2 through 6 and
4 inserting the following:
5 "1. "Caretaker" means a related or nonrelated
6 person who has the responsibility for the protection,
7 care, or custody of a dependent adult as a result of
8 assuming the responsibility voluntarily, by contract,
9 through employment, or by order of the court."
10 2. Page 3, by striking lines 9 through 16 and
11 inserting the following:
12 "4. "Dependent adult" means a person eighteen
13 years of age or older who is unable to protect the
14 person's own interests or unable to adequately perform
15 or obtain services necessary to meet essential human
16 needs, as a result of a physical or mental condition
17 which requires assistance from another, or as defined
18 by departmental rule."
19 3. Page 7, by striking lines 27 through 30 and
20 inserting the following: "action for the appointment
21 of a guardian or conservator or for admission or
22 commitment to an appropriate institution or facility
23 pursuant to the applicable procedures under chapter
24 125, 222, 229, or 633, or shall pursue other remedies
25 provided by law. The appropriate county".
26 4. Page 12, by striking line 29, and inserting
27 the following: "the removal or provision of
28 services."
29 5. By renumbering, relettering, or redesignating
30 and correcting internal references as necessary.

RECEIVED FROM THE HOUSE

S-5672 FILED APRIL 3, 1996

Senate Concurred
4-8-96

(P.1257)

Szymoniak
Boettger
Dvorsky

SSB-2293

Human Resources
Succeeded By
(SF) HF 2381

SENATE/HOUSE FILE _____
BY (PROPOSED GOVERNOR'S BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to dependent adult abuse and providing penalties.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 235B.1, Code 1995, is amended to read
2 as follows:

3 235B.1 DEPENDENT ADULT ABUSE SERVICES.

4 The department shall establish and operate a dependent
5 adult abuse services program. The program shall emphasize the
6 reporting and evaluation of cases of abuse of a dependent
7 adult who is unable to protect the adult's own interests or
8 unable to perform ~~or-obtain~~ activities necessary to meet
9 essential services human needs. The program shall include but
10 is not limited to:

11 1. The establishment of local or regional
12 ~~multidisciplinary teams to provide leadership at the local and~~
13 ~~district levels in the delivery of~~ assist in assessing the
14 needs of, formulating and monitoring a treatment plan for, and
15 coordinating services to victims of dependent adult abuse.
16 The membership of a team shall include individuals who possess
17 knowledge and skills related to the diagnosis, assessment, and
18 disposition of dependent adult abuse cases and who are
19 professionals practicing in the disciplines of medicine,
20 public health, mental health, social work, law, law
21 enforcement, or other disciplines relative to dependent
22 adults. Members of a team shall include, but are not limited
23 to, persons representing the area agencies on aging, county
24 attorneys, health care providers, and other persons involved
25 in advocating or providing services to dependent adults.

26 2. Provisions for information sharing and case
27 consultation among service providers, care providers, and
28 victims of dependent adult abuse.

29 3. Procedures for referral of cases among service
30 providers, including the referral of victims of dependent
31 adult abuse residing in licensed health care facilities.

32 4. a. The establishment of a dependent adult protective
33 advisory council. The advisory council shall do all of the
34 following:

35 (1) Advise the director of human services and the

1 administrator of the division of child and family services of
2 the department of human services regarding dependent adult
3 abuse.

4 (2) Evaluate state law and rules and make recommendations
5 to the general assembly and to executive branch departments
6 regarding laws and rules concerning dependent adults.

7 (3) Receive and review recommendations and complaints from
8 the public concerning the dependent adult abuse services
9 program.

10 b. (1) The advisory council shall consist of ten members.
11 Six members shall be appointed by and serve at the pleasure of
12 the governor. Four of the members appointed shall be
13 appointed on the basis of knowledge and skill related to
14 expertise in the area of dependent adult abuse including
15 professionals practicing in the disciplines of medicine,
16 public health, mental health, long-term care, social work,
17 law, and law enforcement. Two of the members appointed shall
18 be members of the general public with an interest in the area
19 of dependent adult abuse. In addition, the membership of the
20 council shall include the director or the director's designee
21 of the department of human services, the department of elder
22 affairs, the Iowa department of public health, and the
23 department of inspections and appeals.

24 (2) The members of the advisory council shall be appointed
25 to terms of four years beginning May 1. Appointments shall
26 comply with sections 69.16 and 69.16A. Vacancies shall be
27 filled in the same manner as the original appointment.

28 (3) Members shall receive actual expenses incurred while
29 serving in their official capacity.

30 (4) The advisory council shall select a chairperson,
31 annually, from its membership.

32 Sec. 2. Section 235B.2, Code Supplement 1995, is amended
33 to read as follows:

34 235B.2 DEFINITIONS.

35 As used in this chapter, unless the context otherwise

1 requires:

2 1. "Caretaker" means a related or nonrelated person who
3 has the responsibility for the protection, care, or custody,
4 or control of a dependent adult as a result of assuming the
5 responsibility voluntarily, by contract, through employment,
6 or by order of the court.

7 2. "Court" means the district court.

8 3. "Department" means the department of human services.

9 4. "Dependent adult" means a person eighteen years of age
10 or older who is unable as the result of a physical, mental, or
11 other condition as defined by departmental rule to protect the
12 person's own interests or who is unable to adequately perform
13 or-obtain-services activities necessary to meet essential
14 human needs, ~~as-a-result-of-a-physical-or-mental-condition~~
15 ~~which-requires-assistance-from-another, or-as-defined-by~~
16 ~~departmental-rule.~~

17 5. "Dependent adult abuse" means:

18 a. Any of the following as a result of the willful or
19 negligent acts or omissions of a caretaker:

20 (1) Physical injury to, or injury which is at a variance
21 with the history given of the injury, or unreasonable
22 confinement, unreasonable punishment, or assault of a
23 dependent adult.

24 (2) The commission of a sexual offense under chapter 709
25 or section 726.2 with or against a dependent adult.

26 (3) Exploitation of a dependent adult which means the act
27 or process of taking unfair advantage of a dependent adult or
28 the adult's physical or financial resources for one's own
29 personal or pecuniary profit, without the informed consent of
30 the dependent adult, including theft, by the use of undue
31 influence, harassment, duress, deception, false
32 representation, or false pretenses.

33 (4) The deprivation of the minimum food, shelter,
34 clothing, supervision, physical or mental health care, or
35 other care necessary to maintain a dependent adult's life or

1 health.

2 b. The deprivation of the minimum food, shelter, clothing,
3 supervision, physical or mental health care, and other care
4 necessary to maintain a dependent adult's life or health as a
5 result of the acts or omissions of the dependent adult.

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

14 Dependent adult abuse does not include the withholding or
15 withdrawing of health care from a dependent adult who is
16 terminally ill in the opinion of a licensed physician, when
17 the withholding or withdrawing of health care is done at the
18 request of the dependent adult or at the request of the
19 dependent adult's next of kin or guardian pursuant to the
20 applicable procedures under chapter 125, 222, 229, or 633.

21 c. Sexual exploitation of a dependent adult who is a
22 resident of a health care facility, as defined in section
23 135C.1, by a caretaker providing services to or employed by
24 the health care facility, whether within the health care
25 facility or at a location outside of the health care facility.

26 "Sexual exploitation" means any consensual or nonconsensual
27 sexual conduct with a dependent adult for the purpose of
28 arousing or satisfying the sexual desires of the caretaker or
29 dependent adult, which includes but is not limited to kissing;
30 touching of the clothed or unclothed inner thigh, breast,
31 groin, buttock, anus, pubes, or genitals; or a sex act, as
32 defined in section 702.17. Sexual exploitation does not
33 include touching which is part of a necessary examination,
34 treatment, or care by a caretaker acting within the scope of
35 the practice or employment of the caretaker; the exchange of a

1 brief touch or hug between the dependent adult and a caretaker
2 for the purpose of reassurance, comfort, or casual friendship;
3 or touching between spouses.

4 5A. "Emergency shelter services" means and includes, but
5 is not limited to, secure crisis shelters or housing for
6 victims of dependent adult abuse.

7 5B. "Family or household member" means a spouse, a person
8 cohabiting with the dependent adult, a parent, or a person
9 related to the dependent adult by consanguinity or affinity,
10 but does not include children of the dependent adult who are
11 less than eighteen years of age.

12 5C. "Immediate danger to health or safety" means a
13 situation in which death or severe bodily injury could
14 reasonably be expected to occur without intervention.

15 6. "Individual employed as an outreach person" means a
16 natural person who, in the course of employment, makes regular
17 contacts with dependent adults regarding available community
18 resources.

19 6A. "Legal holiday" means a legal public holiday as
20 defined in section 1C.1.

21 7. "Person" means person as defined in section 4.1.

22 8. "Recklessly" means that a person acts or fails to act
23 with respect to a material element of a public offense, when
24 the person is aware of and consciously disregards a
25 substantial and unjustifiable risk that the material element
26 exists or will result from the act or omission. The risk must
27 be of such a nature and degree that disregard of the risk
28 constitutes a gross deviation from the standard conduct that a
29 reasonable person would observe in the situation.

30 9. "Serious injury" means a disabling mental illness, or a
31 bodily injury which creates a substantial risk of death or
32 which causes serious permanent disfigurement, or protracted
33 loss or impairment of the function of any bodily member or
34 organ.

35 10. "Support services" includes but is not limited to

1 community-based services including area agency on aging
2 assistance, mental health services, fiscal management, home
3 health services, housing-related services, counseling
4 services, transportation services, adult day care services,
5 respite services, legal services, and advocacy services.

6 Sec. 3. Section 235B.3, subsection 5, Code Supplement
7 1995, is amended to read as follows:

8 5. Following the reporting of suspected dependent adult
9 abuse, the department of human services shall complete an
10 assessment of necessary services and shall make appropriate
11 referrals for receipt of these services. The assessment shall
12 include interviews with the dependent adult, and, if
13 appropriate, with the alleged perpetrator of the dependent
14 adult abuse and with any person believed to have knowledge of
15 the circumstances of the case. The department may provide
16 necessary protective services and may establish a sliding fee
17 schedule for those persons able to pay a portion of the
18 protective services.

19 Sec. 4. Section 235B.3, subsection 7, unnumbered paragraph
20 1, Code Supplement 1995, is amended to read as follows:

21 The department shall inform the appropriate county
22 attorneys of any reports of dependent adult abuse. The
23 department may request information from any person believed to
24 have knowledge of a case of dependent adult abuse. The
25 person, including but not limited to a county attorney, a law
26 enforcement agency, a multidisciplinary team, or a social
27 services agency in the state shall cooperate and assist in the
28 evaluation upon the request of the department. If the
29 department's assessment reveals that dependent adult abuse
30 exists which might constitute a criminal offense, a report
31 shall be made to the appropriate law enforcement agency.
32 County attorneys and appropriate law enforcement agencies
33 shall also take any other lawful action necessary or advisable
34 for the protection of the dependent adult.

35 Sec. 5. Section 235B.3, subsection 7, paragraph a, Code

1 Supplement 1995, is amended to read as follows:

2 a. If, upon completion of the evaluation or upon referral
3 from the department of inspections and appeals, the department
4 determines that the best interests of the dependent adult
5 require court action, the department shall initiate
6 appropriate court action for-the-appointment-of-a-guardian-or
7 conservator-or-for-admission-or-commitment-to-an-appropriate
8 institution-or-facility-pursuant-to-the-applicable-procedures
9 under-chapter-1257-2227-2297-or-633. The appropriate county
10 attorney shall assist the department in the preparation of the
11 necessary papers to initiate the action and shall appear and
12 represent the department at all district court proceedings.

13 Sec. 6. NEW SECTION. 235B.3A PREVENTION OF ADDITIONAL
14 ABUSE -- NOTIFICATION OF RIGHTS -- ARREST -- LIABILITY.

15 1. If a peace officer has reason to believe that dependent
16 adult abuse, which is criminal in nature, has occurred, the
17 officer shall use all reasonable means to prevent further
18 abuse, including but not limited to any of the following:

19 a. If requested, remaining on the scene as long as there
20 is a danger to the dependent adult's physical safety without
21 the presence of a peace officer, including but not limited to
22 staying in the dwelling unit, or if unable to remain at the
23 scene, assisting the dependent adult in leaving the residence
24 and securing support services or emergency shelter services.

25 b. Assisting the dependent adult in obtaining medical
26 treatment necessitated by the dependent adult abuse, including
27 providing assistance to the dependent adult in obtaining
28 transportation to the emergency room of the nearest hospital.

29 c. Providing a dependent adult with immediate and adequate
30 notice of the dependent adult's rights. The notice shall
31 consist of handing the dependent adult a copy of the following
32 statement written in English and Spanish, requesting the
33 dependent adult to read the card and asking the dependent
34 adult whether the dependent adult understands the rights:

35 "(1) You have the right to ask the court for the following

1 help on a temporary basis:

2 (a) Keeping the alleged perpetrator away from you, your
3 home, and your place of work.

4 (b) The right to stay at your home without interference
5 from the alleged perpetrator.

6 (c) Professional counseling for you, your family, or
7 household members, and the alleged perpetrator of the
8 dependent adult abuse.

9 (2) If you are in need of medical treatment, you have the
10 right to request that the peace officer present assist you in
11 obtaining transportation to the nearest hospital or otherwise
12 assist you.

13 (3) If you believe that police protection is needed for
14 your physical safety, you have the right to request that the
15 peace officer present remain at the scene until you and other
16 affected parties can leave or safety is otherwise ensured."

17 The notice shall also contain the telephone number of the
18 local emergency shelter services, support services, or crisis
19 lines operating in the area.

20 Sec. 7. NEW SECTION. 235B.17 PROVISION OF PROTECTIVE
21 SERVICES WITH THE CONSENT OF DEPENDENT ADULT -- CARETAKER
22 REFUSAL.

23 If a caretaker of a dependent adult, who consents to the
24 receipt of protective services, refuses to allow provision of
25 the services, the department may petition the court for an
26 order enjoining the caretaker from interfering with the
27 provision of services. The petition shall allege specific
28 facts sufficient to demonstrate that the dependent adult is in
29 need of protective services and consents to the provision of
30 services and that the caretaker refuses to allow provision of
31 the services. If the judge finds by clear and convincing
32 evidence that the dependent adult is in need of protective
33 services and consents to the services and that the caretaker
34 refuses to allow the services, the judge may issue an order
35 enjoining the caretaker from interfering with the provision of

1 the protective services.

2 Sec. 8. NEW SECTION. 235B.18 PROVISION OF SERVICES TO
3 DEPENDENT ADULT WHO LACKS CAPACITY TO CONSENT -- HEARING --
4 FINDINGS.

5 1. If the department reasonably determines that a
6 dependent adult is a victim of dependent adult abuse and lacks
7 capacity to consent to the receipt of protective services, the
8 department may petition the court for an order authorizing the
9 provision of protective services. The petition shall allege
10 specific facts sufficient to demonstrate that the dependent
11 adult is in need of protective services and lacks capacity to
12 consent to the receipt of services.

13 2. The court shall set the case for hearing within
14 fourteen days of the filing of the petition. The dependent
15 adult shall receive at least five days' notice of the hearing.
16 The dependent adult has the right to be present and
17 represented by counsel at the hearing. If the dependent
18 adult, in the determination of the judge, lacks the capacity
19 to waive the right of counsel, the court may appoint a
20 guardian ad litem for the dependent adult.

21 3. If, at the hearing, the judge finds by clear and
22 convincing evidence that the dependent adult is in need of
23 protective services and lacks the capacity to consent to the
24 receipt of protective services, the judge may issue an order
25 authorizing the provision of protective services. The order
26 may include the designation of a person to be responsible for
27 performing or obtaining protective services on behalf of the
28 dependent adult or otherwise consenting to the receipt of
29 protective services on behalf of the dependent adult. Within
30 sixty days of the appointment of such a person the court shall
31 conduct a review to determine if a petition shall be initiated
32 in accordance with section 633.552 for good cause shown. The
33 court may extend the sixty-day period for an additional sixty
34 days, at the end of which the court shall conduct a review to
35 determine if a petition shall be initiated in accordance with

1 section 633.552. A dependent adult shall not be committed to
2 a mental health facility under this section.

3 4. A determination by the court that a dependent adult
4 lacks the capacity to consent to the receipt of protective
5 services under this chapter shall not affect incompetency
6 proceedings under sections 633.552 through 633.556 or any
7 other proceedings, and incompetency proceedings under
8 sections 633.552 through 633.556 shall not have a conclusive
9 effect on the question of capacity to consent to the receipt
10 of protective services under this chapter.

11 5. This section shall not be construed and is not intended
12 as and shall not imply a grant of entitlement for services to
13 persons who are not otherwise eligible for the services or for
14 utilization of services which do not currently exist or are
15 not otherwise available.

16 Sec. 9. NEW SECTION. 235B.19 EMERGENCY ORDER FOR
17 PROTECTIVE SERVICES.

18 1. If the department determines that a dependent adult is
19 suffering from dependent adult abuse which presents an
20 immediate danger to the health or safety of the dependent
21 adult, that the dependent adult lacks capacity to consent to
22 receive protective services, and that no consent can be
23 obtained, the department may petition the court with probate
24 jurisdiction in the county in which the dependent adult
25 resides for an emergency order authorizing protective
26 services.

27 2. The petition shall be verified and shall include all of
28 the following:

29 a. The name, date of birth, and address of the dependent
30 adult who needs protective services.

31 b. The nature of the dependent adult abuse.

32 c. The services required.

33 3. Upon finding that there is probable cause to believe
34 that the dependent adult abuse presents an immediate threat to
35 the health or safety of the dependent adult and that the

1 dependent adult lacks capacity to consent to the receipt of
2 services, the court may do any of the following:

3 a. Order removal of the dependent adult to safer
4 surroundings.

5 b. Order the provision of medical services.

6 c. Order the provision of other available services
7 necessary to remove conditions creating the danger to health
8 or safety, including the services of peace officers or
9 emergency services personnel.

10 4. The emergency order expires at the end of seventy-two
11 hours from the time of the order unless the seventy-two-hour
12 period ends on a Saturday, Sunday, or legal holiday in which
13 event the order is automatically extended to four p.m. on the
14 first succeeding business day. An order may be renewed for
15 not more than fourteen additional days. A renewal order that
16 ends on a Saturday, Sunday, or legal holiday is automatically
17 extended to four p.m. on the first succeeding business day.
18 The court may modify or terminate the emergency order on the
19 petition of the department, the dependent adult, or any person
20 interested in the dependent adult's welfare.

21 5. If the department cannot obtain an emergency order
22 under this section due to inaccessibility of the court, the
23 department may contact law enforcement to remove the dependent
24 adult to safer surroundings, authorize the provision of
25 medical treatment, and order the provision of or provide other
26 available services necessary to remove conditions creating the
27 immediate danger to the health or safety of the dependent
28 adult. The department shall obtain an emergency order under
29 this section not later than four p.m. on the first succeeding
30 business day after the date on which protective or other
31 services are provided. If the department does not obtain an
32 emergency order within the prescribed time period, the
33 department shall cease providing protective services and, if
34 necessary, make arrangements for the immediate return of the
35 person to the place from which the person was removed, to the

1 person's place of residence in the state, or to another
2 suitable place. A person, agency, or institution acting in
3 good faith in removing a dependent adult or in providing
4 services under this subsection, and an employer of or person
5 under the direction of such a person, agency, or institution,
6 shall have immunity from any liability, civil or criminal,
7 that might otherwise be incurred or imposed as the result of
8 such action.

9 6. The court may also enter orders as may be appropriate
10 to third persons enjoining them from specific conduct. The
11 orders may include temporary restraining orders which impose
12 criminal sanctions if violated. The court may enjoin third
13 persons from any of the following:

14 a. Removing the dependent adult from the care or custody
15 of another.

16 b. Committing dependent adult abuse on the dependent
17 adult.

18 c. Living at the dependent adult's residence.

19 d. Contacting the dependent adult in person or by
20 telephone.

21 e. Selling, removing, or otherwise disposing of the
22 dependent adult's personal property.

23 f. Withdrawing funds from any bank, savings and loan
24 association, credit union, or other financial institution, or
25 from a stock account in which the dependent adult has an
26 interest.

27 g. Negotiating any instruments payable to the dependent
28 adult.

29 h. Selling, mortgaging, or otherwise encumbering any
30 interest that the dependent adult has in real property.

31 i. Exercising any powers on behalf of the dependent adult
32 through representatives of the department, any court-appointed
33 guardian or guardian ad litem, or any official acting on the
34 dependent adult's behalf.

35 j. Engaging in any other specified act which, based upon

1 the facts alleged, would constitute harm or a threat of
2 imminent harm to the dependent adult or would cause damage to
3 or the loss of the dependent adult's property.

4 7. This section shall not be construed and is not intended
5 as and shall not imply a grant of entitlement for services to
6 persons who are not otherwise eligible for the services or for
7 utilization of services which do not currently exist or are
8 not otherwise available.

9 Sec. 10. NEW SECTION. 235B.20 DEPENDENT ADULT ABUSE --
10 INITIATION OF CHARGES -- PENALTY.

11 1. Charges of dependent adult abuse may be initiated upon
12 complaint of private individuals or as a result of
13 investigations by social service agencies or on the direct
14 initiative of a county attorney or law enforcement agency.

15 2. A caretaker who intentionally commits dependent adult
16 abuse on a dependent adult in violation of this chapter is
17 guilty of a class "C" felony if the intentional dependent
18 adult abuse results in serious injury.

19 3. A caretaker who recklessly commits dependent adult
20 abuse on a dependent adult in violation of this chapter is
21 guilty of a class "D" felony if the reckless dependent adult
22 abuse results in serious injury.

23 4. A caretaker who intentionally commits dependent adult
24 abuse on a dependent adult in violation of this chapter is
25 guilty of a class "C" felony if the intentional dependent
26 adult abuse results in physical injury.

27 5. A caretaker who commits dependent adult abuse by
28 exploiting a dependent adult in violation of this chapter is
29 guilty of a class "D" felony if the value of the property,
30 assets, or resources exceeds one hundred dollars.

31 6. A caretaker who recklessly commits dependent adult
32 abuse on a person in violation of this chapter is guilty of an
33 aggravated misdemeanor if the reckless dependent adult abuse
34 results in physical injury.

35 7. A caretaker who commits dependent adult abuse by

1 exploiting a dependent adult in violation of this chapter is
2 guilty of a simple misdemeanor if the value of the property,
3 assets, or resources is one hundred dollars or less.

4 8. A caretaker alleged to have committed a violation of
5 this chapter shall be charged with the respective offense
6 cited, unless a charge may be brought based upon a more
7 serious offense, in which case the charge of the more serious
8 offense shall supersede the less serious charge.

9

EXPLANATION

10 This bill makes several changes in the dependent adult
11 abuse law.

12 In the area of dependent adult abuse services established
13 and operated by the department of human services, the bill
14 provides that the services are to be available to dependent
15 adults who are unable to protect their own interests or to
16 perform the activities necessary to meet basic human needs and
17 deletes application to dependent adults who are unable to
18 obtain essential services. The bill also provides for the
19 establishment of local or regional multidisciplinary teams.
20 Multidisciplinary teams currently exist, but not at the local
21 or regional levels, and the bill also directs these teams to
22 assist in assessing the needs of, formulating and monitoring a
23 treatment plan for, and coordinating services to dependent
24 adult abuse victims. The bill also provides for the
25 establishment of a dependent adult protective advisory council
26 and directs the council to perform certain duties.

27 The bill makes several changes in the definitions used in
28 the dependent adult abuse chapter including "caretaker", which
29 is amended to include persons who have the responsibility for
30 control of a dependent adult; "dependent adult", which is
31 amended to include persons who are unable to perform
32 activities (currently the definition includes those unable to
33 "obtain services") to meet essential human needs due to a
34 physical or mental condition; "dependent adult abuse", which
35 is amended in the area of exploitation to include not having

1 the informed consent of the dependent adult in dealing with
2 the physical or financial resources of the dependent adult;
3 "emergency shelter services"; "family or household member";
4 "immediate danger to health or safety"; "legal holiday";
5 "recklessly"; "serious injury"; and "support services". The
6 bill also provides for the reporting of dependent adult abuse
7 to law enforcement following a departmental assessment which
8 reveals dependent adult abuse which might constitute a
9 criminal offense and for the initiation of appropriate court
10 action.

11 The bill also provides for the prevention of additional
12 abuse through involvement of a peace officer at the scene of a
13 case of dependent adult abuse which is criminal in nature;
14 provides for provision of notice to the dependent adult of the
15 dependent adult's rights; provides for the provision of
16 protective services with the consent of the dependent adult if
17 a caretaker refuses to allow the services, or by obtaining
18 court authorization to provide protective services to a
19 dependent adult who is unable to provide consent, or by
20 obtaining an emergency order for protective services for a
21 dependent adult.

22 The bill also provides penalties ranging from a class "C"
23 felony to a simple misdemeanor for various criminal charges of
24 dependent adult abuse.

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SENATE FILE 2381

AN ACT

RELATING TO DEPENDENT ADULT ABUSE AND PROVIDING PENALTIES.

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

Section 1. Section 235B.1, Code 1995, is amended to read as follows:

235B.1 DEPENDENT ADULT ABUSE SERVICES.

The department shall establish and operate a dependent adult abuse services program. The program shall emphasize the reporting and evaluation of cases of abuse of a dependent adult who is unable to protect the adult's own interests or unable to perform or obtain activities necessary to meet essential services human needs. The program shall include but is not limited to:

1. The establishment of local or regional multidisciplinary teams to provide leadership-at-the-local-and-district-levels-in-the-delivery-of assist in assessing the needs of, formulating and monitoring a treatment plan for, and coordinating services to victims of dependent adult abuse. The membership of a team shall include individuals who possess knowledge and skills related to the diagnosis, assessment, and disposition of dependent adult abuse cases and who are professionals practicing in the disciplines of medicine, public health, mental health, social work, law, law enforcement, or other disciplines relative to dependent adults. Members of a team shall include, but are not limited to, persons representing the area agencies on aging, county attorneys, health care providers, and other persons involved in advocating or providing services to dependent adults.

2. Provisions for information sharing and case consultation among service providers, care providers, and victims of dependent adult abuse.

3. Procedures for referral of cases among service providers, including the referral of victims of dependent adult abuse residing in licensed health care facilities.

4. a. The establishment of a dependent adult protective advisory council. The advisory council shall do all of the following:

(1) Advise the director of human services and the administrator of the division of child and family services of the department of human services regarding dependent adult abuse.

(2) Evaluate state law and rules and make recommendations to the general assembly and to executive branch departments regarding laws and rules concerning dependent adults.

(3) Receive and review recommendations and complaints from the public concerning the dependent adult abuse services program.

b. (1) The advisory council shall consist of ten members. Six members shall be appointed by and serve at the pleasure of the governor. Four of the members appointed shall be appointed on the basis of knowledge and skill related to expertise in the area of dependent adult abuse including professionals practicing in the disciplines of medicine, public health, mental health, long-term care, social work, law, and law enforcement. Two of the members appointed shall be members of the general public with an interest in the area of dependent adult abuse. In addition, the membership of the council shall include the director or the director's designee of the department of human services, the department of elder affairs, the Iowa department of public health, and the department of inspections and appeals.

(2) The members of the advisory council shall be appointed to terms of four years beginning May 1. Appointments shall comply with sections 69.16 and 69.16A. Vacancies shall be filled in the same manner as the original appointment.

(3) Members shall receive actual expenses incurred while serving in their official capacity.

(4) The advisory council shall select a chairperson, annually, from its membership.

Sec. 2. Section 235B.2, Code Supplement 1995, is amended to read as follows:

235B.2 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Caretaker" means a related or nonrelated person who has the responsibility for the protection, care, or custody of a dependent adult as a result of assuming the responsibility voluntarily, by contract, through employment, or by order of the court.

2. "Court" means the district court.

3. "Department" means the department of human services.

4. "Dependent adult" means a person eighteen years of age or older who is unable to protect the person's own interests or unable to adequately perform or obtain services necessary to meet essential human needs, as a result of a physical or mental condition which requires assistance from another, or as defined by departmental rule.

5. a. "Dependent adult abuse" means:

a- (1) Any of the following as a result of the willful or negligent acts or omissions of a caretaker:

(1) (a) Physical injury to, or injury which is at a variance with the history given of the injury, or unreasonable confinement, unreasonable punishment, or assault of a dependent adult.

(2) (b) The commission of a sexual offense under chapter 709 or section 726.2 with or against a dependent adult.

(3) (c) Exploitation of a dependent adult which means the act or process of taking unfair advantage of a dependent adult or the adult's physical or financial resources for one's own personal or pecuniary profit, without the informed consent of

the dependent adult, including theft, by the use of undue influence, harassment, duress, deception, false representation, or false pretenses.

(4) (d) The deprivation of the minimum food, shelter, clothing, supervision, physical or mental health care, or other care necessary to maintain a dependent adult's life or health.

b- (2) The deprivation of the minimum food, shelter, clothing, supervision, physical or mental health care, and other care necessary to maintain a dependent adult's life or health as a result of the acts or omissions of the dependent adult.

~~Dependent adult abuse does not include 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.~~

~~Dependent adult abuse does not include the withholding or withdrawing of health care from a dependent adult who is terminally ill in the opinion of a licensed physician, when the withholding or withdrawing of health care is done at the request of the dependent adult or at the request of the dependent adult's next of kin or guardian pursuant to the applicable procedures under chapter 257-2227-2297 or 633.~~

c- (3) Sexual exploitation of a dependent adult who is a resident of a health care facility, as defined in section 135C.1, by a caretaker providing services to or employed by the health care facility, whether within the health care facility or at a location outside of the health care facility.

"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 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.

b. "Dependent adult abuse" does not include any of the following:

(1) Circumstances in which the dependent adult declines 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.

(2) Circumstances in which the dependent adult's caretaker, acting in accordance with the dependent adult's stated or implied consent, declines 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.

(3) The withholding or withdrawing of health care from a dependent adult who is terminally ill in the opinion of a licensed physician, when the withholding or withdrawing of health care is done at the request of the dependent adult or at the request of the dependent adult's next of kin or guardian pursuant to the applicable procedures under chapter 125, 222, 229, or 633.

5A. "Emergency shelter services" means and includes, but is not limited to, secure crisis shelters or housing for victims of dependent adult abuse.

5B. "Family or household member" means a spouse, a person cohabiting with the dependent adult, a parent, or a person

related to the dependent adult by consanguinity or affinity, but does not include children of the dependent adult who are less than eighteen years of age.

5C. "Immediate danger to health or safety" means a situation in which death or severe bodily injury could reasonably be expected to occur without intervention.

6. "Individual employed as an outreach person" means a natural person who, in the course of employment, makes regular contacts with dependent adults regarding available community resources.

6A. "Legal holiday" means a legal public holiday as defined in section 1C.1.

7. "Person" means person as defined in section 4.1.

8. "Recklessly" means that a person acts or fails to act with respect to a material element of a public offense, when the person is aware of and consciously disregards a substantial and unjustifiable risk that the material element exists or will result from the act or omission. The risk must be of such a nature and degree that disregard of the risk constitutes a gross deviation from the standard conduct that a reasonable person would observe in the situation.

9. "Serious injury" means a disabling mental illness, or a bodily injury which creates a substantial risk of death or which causes serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

10. "Support services" includes but is not limited to community-based services including area agency on aging assistance, mental health services, fiscal management, home health services, housing-related services, counseling services, transportation services, adult day care services, respite services, legal services, and advocacy services.

Sec. 3. Section 235B.3, subsection 5, Code Supplement 1995, is amended to read as follows:

5. Following the reporting of suspected dependent adult abuse, the department of human services shall complete an assessment of necessary services and shall make appropriate referrals for receipt of these services. The assessment shall include interviews with the dependent adult, and, if appropriate, with the alleged perpetrator of the dependent adult abuse and with any person believed to have knowledge of the circumstances of the case. The department may provide necessary protective services and may establish a sliding fee schedule for those persons able to pay a portion of the protective services.

Sec. 4. Section 235B.3, subsection 7, unnumbered paragraph 1, Code Supplement 1995, is amended to read as follows:

The department shall inform the appropriate county attorneys of any reports of dependent adult abuse. The department may request information from any person believed to have knowledge of a case of dependent adult abuse. The person, including but not limited to a county attorney, a law enforcement agency, a multidisciplinary team, or a social services agency in the state shall cooperate and assist in the evaluation upon the request of the department. If the department's assessment reveals that dependent adult abuse exists which might constitute a criminal offense, a report shall be made to the appropriate law enforcement agency. County attorneys and appropriate law enforcement agencies shall also take any other lawful action necessary or advisable for the protection of the dependent adult.

Sec. 5. Section 235B.3, subsection 7, paragraph a, Code Supplement 1995, is amended to read as follows:

a. If, upon completion of the evaluation or upon referral from the department of inspections and appeals, the department determines that the best interests of the dependent adult require court action, the department shall initiate action for the appointment of a guardian or conservator or for admission or commitment to an appropriate institution or facility

pursuant to the applicable procedures under chapter 125, 222, 229, or 633, or shall pursue other remedies provided by law. The appropriate county attorney shall assist the department in the preparation of the necessary papers to initiate the action and shall appear and represent the department at all district court proceedings.

Sec. 6. NEW SECTION. 235B.3A PREVENTION OF ADDITIONAL ABUSE -- NOTIFICATION OF RIGHTS -- ARREST -- LIABILITY.

1. If a peace officer has reason to believe that dependent adult abuse, which is criminal in nature, has occurred, the officer shall use all reasonable means to prevent further abuse, including but not limited to any of the following:

a. If requested, remaining on the scene as long as there is a danger to the dependent adult's physical safety without the presence of a peace officer, including but not limited to staying in the dwelling unit, or if unable to remain at the scene, assisting the dependent adult in leaving the residence and securing support services or emergency shelter services.

b. Assisting the dependent adult in obtaining medical treatment necessitated by the dependent adult abuse, including providing assistance to the dependent adult in obtaining transportation to the emergency room of the nearest hospital.

c. Providing a dependent adult with immediate and adequate notice of the dependent adult's rights. The notice shall consist of handing the dependent adult a copy of the following written statement, requesting the dependent adult to read the card and asking the dependent adult whether the dependent adult understands the rights:

"(1) You have the right to ask the court for the following help on a temporary basis:

(a) Keeping the alleged perpetrator away from you, your home, and your place of work.

(b) The right to stay at your home without interference from the alleged perpetrator.

(c) Professional counseling for you, your family, or household members, and the alleged perpetrator of the dependent adult abuse.

(2) If you are in need of medical treatment, you have the right to request that the peace officer present assist you in obtaining transportation to the nearest hospital or otherwise assist you.

(3) If you believe that police protection is needed for your physical safety, you have the right to request that the peace officer present remain at the scene until you and other affected parties can leave or safety is otherwise ensured."

The notice shall also contain the telephone number of the local emergency shelter services, support services, or crisis lines operating in the area.

Sec. 7. NEW SECTION. 235B.17 PROVISION OF PROTECTIVE SERVICES WITH THE CONSENT OF DEPENDENT ADULT -- CARETAKER REFUSAL.

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 for an order enjoining the caretaker from interfering with the provision of services. The petition 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. 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. 8. NEW SECTION. 235B.18 PROVISION OF SERVICES TO DEPENDENT ADULT WHO LACKS CAPACITY TO CONSENT -- HEARING -- FINDINGS.

1. If the department reasonably determines that a dependent adult is a victim of dependent adult abuse and lacks capacity to consent to the receipt of protective services, the department may petition the court for an order authorizing the provision of protective services. The petition shall allege specific facts sufficient to demonstrate that the dependent adult is in need of protective services and lacks capacity to consent to the receipt of services.

2. The court shall set the case for hearing within fourteen days of the filing of the petition. The dependent adult shall receive at least five days' notice of the hearing. The dependent adult has the right to be present and represented by counsel at the hearing. If the dependent adult, in the determination of the judge, lacks the capacity to waive the right of counsel, the court may appoint a guardian ad litem for the dependent adult.

3. If, at the hearing, the judge finds by clear and convincing evidence that the dependent adult is in need of protective services and lacks the capacity to consent to the receipt of protective services, the judge may issue an order authorizing the provision of protective services. The order may include the designation of a person to be responsible for performing or obtaining protective services on behalf of the dependent adult or otherwise consenting to the receipt of protective services on behalf of the dependent adult. Within sixty days of the appointment of such a person the court shall conduct a review to determine if a petition shall be initiated in accordance with section 633.552 for good cause shown. The court may extend the sixty-day period for an additional sixty days, at the end of which the court shall conduct a review to determine if a petition shall be initiated in accordance with section 633.552. A dependent adult shall not be committed to a mental health facility under this section.

4. A determination by the court that a dependent adult lacks the capacity to consent to the receipt of protective

services under this chapter shall not affect incompetency proceedings under sections 633.552 through 633.556 or any other proceedings, and incompetency proceedings under sections 633.552 through 633.556 shall not have a conclusive effect on the question of capacity to consent to the receipt of protective services under this chapter.

5. This section shall not be construed and is not intended as and shall not imply a grant of entitlement for services to persons who are not otherwise eligible for the services or for utilization of services which do not currently exist or are not otherwise available.

Sec. 9. NEW SECTION. 235B.19 EMERGENCY ORDER FOR PROTECTIVE SERVICES.

1. If the department determines that a dependent adult is suffering from dependent adult abuse which presents an immediate danger to the health or safety of the dependent adult, that the dependent adult lacks capacity to consent to receive protective services, and that no consent can be obtained, the department may petition the court with probate jurisdiction in the county in which the dependent adult resides for an emergency order authorizing protective services.

2. The petition shall be verified and shall include all of the following:

- a. The name, date of birth, and address of the dependent adult who needs protective services.
- b. The nature of the dependent adult abuse.
- c. The services required.

3. Upon finding that there is probable cause to believe that the dependent adult abuse presents an immediate threat to the health or safety of the dependent adult and that the dependent adult lacks capacity to consent to the receipt of services, the court may do any of the following:

- a. Order removal of the dependent adult to safer surroundings.
- b. Order the provision of medical services.

c. Order the provision of other available services necessary to remove conditions creating the danger to health or safety, including the services of peace officers or emergency services personnel.

4. The emergency order expires at the end of seventy-two hours from the time of the order unless the seventy-two-hour period ends on a Saturday, Sunday, or legal holiday in which event the order is automatically extended to four p.m. on the first succeeding business day. An order may be renewed for not more than fourteen additional days. A renewal order that ends on a Saturday, Sunday, or legal holiday is automatically extended to four p.m. on the first succeeding business day. The court may modify or terminate the emergency order on the petition of the department, the dependent adult, or any person interested in the dependent adult's welfare.

5. If the department cannot obtain an emergency order under this section due to inaccessibility of the court, the department may contact law enforcement to remove the dependent adult to safer surroundings, authorize the provision of medical treatment, and order the provision of or provide other available services necessary to remove conditions creating the immediate danger to the health or safety of the dependent adult. The department shall obtain an emergency order under this section not later than four p.m. on the first succeeding business day after the date on which protective or other services are provided. If the department does not obtain an emergency order within the prescribed time period, the department shall cease providing protective services and, if necessary, make arrangements for the immediate return of the person to the place from which the person was removed, to the person's place of residence in the state, or to another suitable place. A person, agency, or institution acting in good faith in removing a dependent adult or in providing services under this subsection, and an employer of or person under the direction of such a person, agency, or institution,

shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed as the result of the removal or provision of services.

6. The court may also enter orders as may be appropriate to third persons enjoining them from specific conduct. The orders may include temporary restraining orders which impose criminal sanctions if violated. The court may enjoin third persons from any of the following:

- a. Removing the dependent adult from the care or custody of another.
 - b. Committing dependent adult abuse on the dependent adult.
 - c. Living at the dependent adult's residence.
 - d. Contacting the dependent adult in person or by telephone.
 - e. Selling, removing, or otherwise disposing of the dependent adult's personal property.
 - f. Withdrawing funds from any bank, savings and loan association, credit union, or other financial institution, or from a stock account in which the dependent adult has an interest.
 - g. Negotiating any instruments payable to the dependent adult.
 - h. Selling, mortgaging, or otherwise encumbering any interest that the dependent adult has in real property.
 - i. Exercising any powers on behalf of the dependent adult through representatives of the department, any court-appointed guardian or guardian ad litem, or any official acting on the dependent adult's behalf.
 - j. Engaging in any other specified act which, based upon the facts alleged, would constitute harm or a threat of imminent harm to the dependent adult or would cause damage to or the loss of the dependent adult's property.
7. This section shall not be construed and is not intended as and shall not imply a grant of entitlement for services to

persons who are not otherwise eligible for the services or for utilization of services which do not currently exist or are not otherwise available.

Sec. 10. NEW SECTION. 235B.20 DEPENDENT ADULT ABUSE -- INITIATION OF CHARGES -- PENALTY.

1. Charges of dependent adult abuse may be initiated upon complaint of private individuals or as a result of investigations by social service agencies or on the direct initiative of a county attorney or law enforcement agency.
2. A caretaker who intentionally commits dependent adult abuse on a dependent adult in violation of this chapter is guilty of a class "C" felony if the intentional dependent adult abuse results in serious injury.
3. A caretaker who recklessly commits dependent adult abuse on a dependent adult in violation of this chapter is guilty of a class "D" felony if the reckless dependent adult abuse results in serious injury.
4. A caretaker who intentionally commits dependent adult abuse on a dependent adult in violation of this chapter is guilty of a class "C" felony if the intentional dependent adult abuse results in physical injury.
5. A caretaker who commits dependent adult abuse by exploiting a dependent adult in violation of this chapter is guilty of a class "D" felony if the value of the property, assets, or resources exceeds one hundred dollars.
6. A caretaker who recklessly commits dependent adult abuse on a person in violation of this chapter is guilty of an aggravated misdemeanor if the reckless dependent adult abuse results in physical injury.
7. A caretaker who commits dependent adult abuse by exploiting a dependent adult in violation of this chapter is guilty of a simple misdemeanor if the value of the property, assets, or resources is one hundred dollars or less.
8. A caretaker alleged to have committed a violation of this chapter shall be charged with the respective offense

cited, unless a charge may be brought based upon a more serious offense, in which case the charge of the more serious offense shall supersede the less serious charge.

LEONARD L. BOSWELL
President of the Senate

RON J. CORBETT
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2381, Seventy-sixth General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved 4/17, 1996

TERRY E. BRANSTAD
Governor