

FEB 4 1998  
HUMAN RESOURCES

HOUSE FILE 2141  
BY MARTIN

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Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

A BILL FOR

1 An Act establishing dependent adult abuse assessment pilot  
2 projects, defining terms related to dependent adult abuse,  
3 providing a civil penalty for elder dependent adult abuse, and  
4 establishing a dependent adult emergency services fund.

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

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HF 2141

1 Section 1. NEW SECTION. 235B.1A DEPENDENT ADULT ABUSE  
2 ASSESSMENT PILOT PROJECTS.

3 1. The department, in consultation with the department of  
4 elder affairs and the governor's planning council for  
5 developmental disabilities, shall develop and administer an  
6 assessment-based approach to respond to dependent adult abuse  
7 reports made pursuant to section 235B.3. The approach shall  
8 be developed in accordance with the provisions of this section  
9 and in cooperation with appropriate representatives of the  
10 multidisciplinary teams, case management programs, long-term  
11 care providers, and area agencies on aging. The assessment-  
12 based approach shall be utilized on a pilot project basis in  
13 not more than five areas of the state, both urban and rural,  
14 which have existing case management programs as selected by  
15 the department.

16 2. Upon receipt of a dependent adult abuse report in a  
17 pilot project area, the department shall perform an  
18 assessment, using a standard assessment tool approved by the  
19 department. The department shall commence the assessment  
20 within seventy-two hours of the receipt of the report. The  
21 primary purpose of the assessment is to protect the safety of  
22 the dependent adult named in the report. The secondary  
23 purpose of the assessment is to engage the dependent adult's  
24 family or friends in existing community-based support services  
25 to enhance the dependent adult's strengths and to address the  
26 needs of the dependent adult.

27 3. The department shall determine the appropriate person  
28 to conduct the assessment. The assessment shall include  
29 interviews with the dependent adult, if appropriate, with the  
30 person allegedly responsible for the abuse, and with other  
31 persons thought to have knowledge of the circumstances. The  
32 person conducting the assessment shall develop an outcome-  
33 based treatment plan which coordinates services in accordance  
34 with the needs of the dependent adult.

35 4. Notwithstanding contrary provisions of sections 235B.3

1 through 235B.13, the following requirements shall apply to  
2 dependent adult abuse information in an assessment performed  
3 in accordance with this section.

4 a. If the department determines that the dependent adult  
5 suffered serious injury or was placed at great risk of injury,  
6 the name of the dependent adult and the person responsible for  
7 the abuse of the dependent adult shall be placed in the  
8 central registry as a case of founded adult abuse. Any of the  
9 following shall be considered an indicator that the dependent  
10 adult suffered serious injury or was placed in great risk of  
11 injury:

12 (1) The case was referred to the county attorney for  
13 criminal court action as a result of the acts or omissions of  
14 the person allegedly responsible for the abuse.

15 (2) In the opinion of a health practitioner or mental  
16 health professional, the injury to the dependent adult, as a  
17 result of the acts or omissions of the person allegedly  
18 responsible for the abuse, required or should have required  
19 medical or mental health treatment.

20 (3) The department determines in a subsequent assessment  
21 that the dependent adult suffered serious injury or was placed  
22 in great risk of injury due to the acts or omissions of the  
23 same person allegedly responsible for the abuse.

24 b. In any other case, the dependent adult abuse  
25 information shall not be placed in the central registry but  
26 shall be retained in the local case file. Notwithstanding  
27 chapter 22, the confidentiality of the information shall be  
28 maintained.

29 c. If information is placed in the central registry as a  
30 case of founded dependent adult abuse, all the provisions of  
31 sections 235B.3 through 235B.13 which apply to a case of  
32 founded dependent adult abuse shall apply to a case of founded  
33 dependent adult abuse under this section.

34 5. The department shall implement the pilot projects by  
35 January 15, 1999. The department shall submit a report to the

1 governor and to the general assembly which provides an  
2 analysis of the pilot projects by January 15, 2000. It is the  
3 intent of the general assembly to implement an assessment-  
4 based approach statewide to respond to dependent adult abuse  
5 reports beginning July 1, 2000.

6 Sec. 2. NEW SECTION. 235B.1B TRAINING -- DEPENDENT ADULT  
7 ABUSE -- EVALUATIONS OR ASSESSMENTS.

8 1. The department, in consultation with the department of  
9 elder affairs, shall establish a program for the training of  
10 individuals who evaluate or assess reports of dependent adult  
11 abuse. The program shall address issues including but not  
12 limited to the aging process, assessment of mental capacity  
13 and functional abilities, interviewing an elder, interviewing  
14 a person with a disability, and working with the current  
15 network of services for elders and persons with disabilities  
16 to ensure the provision of support services to the dependent  
17 adult.

18 2. An individual who evaluates or assesses reports of  
19 dependent adult abuse shall attend the training established in  
20 this section on an annual basis.

21 Sec. 3. Section 235B.2, subsections 1 and 4, Code 1997,  
22 are amended to read as follows:

23 1. "Caretaker" means a related or nonrelated person who  
24 ~~cares for, has the responsibility for the protection, care, or~~  
25 ~~custody of or control of, has an interest in the financial~~  
26 ~~matters of, or stands in a position of trust with a dependent~~  
27 adult as a result of assuming the responsibility voluntarily,  
28 by contract, through employment, or by order of the court.

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

1 Sec. 4. Section 235B.2, Code 1997, is amended by adding  
2 the following new subsection:

3 NEW SUBSECTION. 5A. "Elder dependent adult" means an  
4 individual sixty years of age or older who is a dependent  
5 adult.

6 Sec. 5. NEW SECTION. 235B.21 ENHANCED PENALTY --  
7 DEPENDENT ADULT ABUSE COMMITTED AGAINST ELDER -- FUND  
8 ESTABLISHED.

9 1. A caretaker who commits dependent adult abuse against  
10 an elder dependent adult is subject to a civil penalty, in  
11 addition to any other civil or criminal penalty provided for  
12 the commission of the offense, not to exceed five thousand  
13 dollars for each violation.

14 2. In determining whether to impose the additional penalty  
15 pursuant to subsection 1 and the amount of the penalty to be  
16 imposed, the court shall consider all of the following, as  
17 applicable:

18 a. Whether the caretaker's conduct was in willful  
19 disregard of the rights of the elder dependent adult.

20 b. Whether the caretaker knew or should have known that  
21 the caretaker's conduct was directed to an elder dependent  
22 adult.

23 c. Whether the caretaker's relationship with the elder  
24 dependent adult was such that the abuse breached a position of  
25 trust.

26 d. Any other factors the court deems appropriate.

27 3. An elder dependent adult emergency services fund is  
28 created in the state treasury as a separate fund to be  
29 administered by the department. Civil penalties imposed and  
30 collected under this section shall be deposited in the fund.  
31 Notwithstanding section 8.33, any unexpended balances in the  
32 fund at the end of each fiscal year shall be retained in the  
33 fund. Notwithstanding section 12C.7, subsection 2, interest  
34 or earnings on investments or time deposits of the moneys in  
35 the fund shall be credited to the fund. Moneys deposited in

1 the fund, subject to appreciation by the general assembly,  
2 shall be used for the purposes of sections 235B.17 through  
3 235B.19.

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EXPLANATION

5 This bill establishes provisions relating to dependent  
6 adult abuse.

7 The bill establishes pilot projects for the development and  
8 administration of an assessment-based approach to respond to  
9 reports of dependent adult abuse. The approach is to be  
10 developed by the department of human services in consultation  
11 with the department of elder affairs and the governor's  
12 planning council for developmental disabilities and in  
13 cooperation with the appropriate representatives of the  
14 multidisciplinary teams, case management programs, long-term  
15 care providers, and area agencies on aging. The pilot  
16 projects are to be established in not more than five areas of  
17 the state, both rural and urban, which have existing case  
18 management programs. The bill specifies the actions to be  
19 taken under the assessment-based approach and the results of  
20 certain determinations made following an assessment. The  
21 pilot projects are to be implemented by January 15, 1999, with  
22 an analysis of the projects submitted to the governor and the  
23 general assembly by January 15, 2000. The bill states that it  
24 is the intent of the general assembly to implement the  
25 assessment-based approach statewide beginning July 1, 2000.

26 The bill also redefines the terms "caretaker" and  
27 "dependent adult" and defines "elder dependent adult" for the  
28 purposes of the dependent adult abuse chapter.

29 The bill instructs the department of human services in  
30 consultation with the department of elder affairs to develop a  
31 training program for individuals who perform evaluations or  
32 assessments of dependent adult abuse reports and specifies  
33 issues which should be addressed in the training. The bill  
34 also requires individuals who perform these evaluations or  
35 assessments to attend the training established on an annual

1 basis.

2 The bill establishes an additional civil penalty for the  
3 commission of dependent adult abuse against an elder and  
4 provides a list of issues for the court to consider in  
5 determining whether an additional penalty should be imposed  
6 and the amount of the penalty. The moneys collected are to be  
7 deposited in an elder dependent adult emergency services fund  
8 created in the state treasury and administered by the  
9 department of human services. The moneys in the fund are to  
10 be used for the purposes provided under the sections of the  
11 Code relating to provision of protective and other services to  
12 elder dependent adults.

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