

MAR 4 1998
APPROPRIATIONS

HOUSE FILE 2525
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO HF 2141)

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

A BILL FOR

1 An Act relating to the protection of and provision of safe living
2 environments for certain individuals including providing safe
3 assisted living facilities, establishing dependent adult abuse
4 assessment pilot projects, defining terms related to dependent
5 adult abuse, providing a civil penalty for elder dependent
6 adult abuse, and establishing a dependent adult emergency
7 services fund.

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

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

HF 2525

1 Section 1. NEW SECTION. 104A.3A EXISTING BUILDINGS.

2 1. A limited time, determined to be reasonable by the
3 authority having jurisdiction, shall be allowed for compliance
4 with any part of this chapter relative to buildings in
5 existence on July 1, 1998. The determination of the time
6 allowed for compliance shall be commensurate with the
7 magnitude of expenditure, disruption of services, and the
8 degree of hazard presented.

9 2. The requirements for buildings in existence on July 1,
10 1998, may be modified if the authority having jurisdiction
11 determines that compliance would be unreasonable, but only if
12 noncompliance does not present an unreasonable degree of
13 danger.

14 3. For the purposes of assisted living programs as defined
15 in section 231C.2, the authority having jurisdiction is the
16 department of elder affairs.

17 Sec. 2. NEW SECTION. 235B.1A DEPENDENT ADULT ABUSE
18 ASSESSMENT PILOT PROJECTS.

19 1. The department, in consultation with the department of
20 elder affairs and the governor's planning council for
21 developmental disabilities, shall develop and administer an
22 assessment-based approach to respond to dependent adult abuse
23 reports made pursuant to section 235B.3. The approach shall
24 be developed in accordance with the provisions of this section
25 and in cooperation with appropriate representatives of the
26 multidisciplinary teams, case management programs, long-term
27 care providers, and area agencies on aging. The assessment-
28 based approach shall be utilized on a pilot project basis in
29 not more than five areas of the state, both urban and rural,
30 which have existing case management programs as selected by
31 the department.

32 2. Upon receipt of a dependent adult abuse report in a
33 pilot project area, the department shall perform an
34 assessment, using a standard assessment tool approved by the
35 department. The department shall commence the assessment

1 within seventy-two hours of the receipt of the report. The
2 primary purpose of the assessment is to protect the safety of
3 the dependent adult named in the report. The secondary
4 purpose of the assessment is to engage the dependent adult's
5 family or friends in existing community-based support services
6 to enhance the dependent adult's strengths and to address the
7 needs of the dependent adult.

8 3. The department shall determine the appropriate person
9 to conduct the assessment. The assessment shall include
10 interviews with the dependent adult, if appropriate, with the
11 person allegedly responsible for the abuse, and with other
12 persons thought to have knowledge of the circumstances. The
13 person conducting the assessment shall develop an outcome-
14 based treatment plan which coordinates services in accordance
15 with the needs of the dependent adult.

16 4. Notwithstanding contrary provisions of sections 235B.3
17 through 235B.13, the following requirements shall apply to
18 dependent adult abuse information in an assessment performed
19 in accordance with this section.

20 a. If the department determines that the dependent adult
21 suffered serious injury or was placed at great risk of injury,
22 the name of the dependent adult and the person responsible for
23 the abuse of the dependent adult shall be placed in the
24 central registry as a case of founded adult abuse. Any of the
25 following shall be considered an indicator that the dependent
26 adult suffered serious injury or was placed in great risk of
27 injury:

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

31 (2) In the opinion of a health practitioner or mental
32 health professional, the injury to the dependent adult, as a
33 result of the acts or omissions of the person allegedly
34 responsible for the abuse, required or should have required
35 medical or mental health treatment.

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

5 b. In any other case, the dependent adult abuse
6 information shall not be placed in the central registry but
7 shall be retained in the local case file. Notwithstanding
8 chapter 22, the confidentiality of the information shall be
9 maintained.

10 c. If information is placed in the central registry as a
11 case of founded dependent adult abuse, all the provisions of
12 sections 235B.3 through 235B.13 which apply to a case of
13 founded dependent adult abuse shall apply to a case of founded
14 dependent adult abuse under this section.

15 5. The department shall implement the pilot projects by
16 January 15, 1999. The department shall submit a report to the
17 governor and to the general assembly which provides an
18 analysis of the pilot projects by January 15, 2000. The
19 legislative council is requested to appoint a legislative
20 committee to review the report, following submission of the
21 report. The committee shall make recommendations regarding
22 the assessment approach, including but not limited to a
23 recommendation regarding statewide expansion of the program.

24 Sec. 3. NEW SECTION. 235B.1B TRAINING -- DEPENDENT ADULT
25 ABUSE -- EVALUATIONS OR ASSESSMENTS.

26 1. The department, in consultation with the department of
27 elder affairs, shall establish a program for the training of
28 individuals who evaluate or assess reports of dependent adult
29 abuse. The program shall address issues including but not
30 limited to the aging process, assessment of mental capacity
31 and functional abilities, interviewing an elder, interviewing
32 a person with a disability, and working with the current
33 network of services for elders and persons with disabilities
34 to ensure the provision of support services to the dependent
35 adult.

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

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

6 1. "Caretaker" means a related or nonrelated person who
7 cares for, has the responsibility for the protection, care, or
8 custody of or control of, has an interest in the financial
9 matters of, or stands in a position of trust with a dependent
10 adult as a result of assuming the responsibility voluntarily,
11 by contract, through employment, or by order of the court.

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

19 Sec. 5. Section 235B.2, Code 1997, is amended by adding
20 the following new subsection:

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

24 Sec. 6. NEW SECTION. 235B.21 ENHANCED PENALTY --
25 DEPENDENT ADULT ABUSE COMMITTED AGAINST ELDER -- FUND
26 ESTABLISHED.

27 1. A caretaker who commits dependent adult abuse against
28 an elder dependent adult is subject to a civil penalty, in
29 addition to any other civil or criminal penalty provided for
30 the commission of the offense, not to exceed five thousand
31 dollars for each violation.

32 2. In determining whether to impose the additional penalty
33 pursuant to subsection 1 and the amount of the penalty to be
34 imposed, the court shall consider all of the following, as
35 applicable:

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

3 b. Whether the caretaker knew or should have known that
4 the caretaker's conduct was directed to an elder dependent
5 adult.

6 c. Whether the caretaker's relationship with the elder
7 dependent adult was such that the abuse breached a position of
8 trust.

9 d. Any other factors the court deems appropriate.

10 3. An elder dependent adult emergency services fund is
11 created in the state treasury as a separate fund to be
12 administered by the department. Civil penalties imposed and
13 collected under this section shall be deposited in the fund.
14 Notwithstanding section 8.33, any unexpended balances in the
15 fund at the end of each fiscal year shall be retained in the
16 fund. Notwithstanding section 12C.7, subsection 2, interest
17 or earnings on investments or time deposits of the moneys in
18 the fund shall be credited to the fund. Moneys deposited in
19 the fund, subject to appreciation by the general assembly,
20 shall be used for the purposes of sections 235B.17 through
21 235B.19.

22

EXPLANATION

23 This bill establishes provisions relating to the protection
24 of and the provision of safe living environments for certain
25 persons including dependent adults. The bill provides for a
26 deviation from accessibility, for persons with disabilities to
27 buildings and facilities requirements relating to existing
28 buildings, if the deviation does not present an unreasonable
29 degree of changes. The bill defines the authority having
30 jurisdiction over assisted living programs for the purpose of
31 this section as the department of elder affairs.

32 The bill establishes pilot projects for the development and
33 administration of an assessment-based approach to respond to
34 reports of dependent adult abuse. The approach is to be
35 developed by the department of human services in consultation

1 with the department of elder affairs and the governor's
2 planning council for developmental disabilities, and in
3 cooperation with the appropriate representatives of the
4 multidisciplinary teams, case management programs, long-term
5 care providers, and area agencies on aging. The pilot
6 projects are to be established in not more than five areas of
7 the state, both rural and urban, which have existing case
8 management programs. The bill specifies the actions to be
9 taken under the assessment-based approach and the results of
10 certain determinations made following an assessment. The
11 pilot projects are to be implemented by January 15, 1999, with
12 an analysis of the projects submitted to the governor and the
13 general assembly by January 15, 2000. The bill also provides
14 that the legislative council is requested to appoint a
15 legislative committee to review the report and to include
16 recommendations based upon the report, including a
17 recommendation relating to statewide expansion of the
18 assessment-based approach.

19 The bill also redefines the terms "caretaker" and
20 "dependent adult" and defines "elder dependent adult" for the
21 purposes of the dependent adult abuse chapter.

22 The bill instructs the department of human services in
23 consultation with the department of elder affairs to develop a
24 training program for individuals who perform evaluations or
25 assessments of dependent adult abuse reports and specifies
26 issues which should be addressed in the training. The bill
27 also requires individuals who perform these evaluations or
28 assessments to attend the training established on an annual
29 basis.

30 The bill establishes an additional civil penalty for the
31 commission of dependent adult abuse against an elder and
32 provides a list of issues for the court to consider in
33 determining whether an additional penalty should be imposed
34 and the amount of the penalty. The moneys collected are to be
35 deposited in an elder dependent adult emergency services fund

1 created in the state treasury and administered by the
2 department of human services. The moneys in the fund are to
3 be used for the purposes provided under the sections of the
4 Code relating to provision of protective and other services to
5 elder dependent adults.

- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28
- 29
- 30
- 31
- 32
- 33
- 34
- 35

**HOUSE FILE 2525
FISCAL NOTE**

A fiscal note for House File 2525 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

House File 2525 establishes pilot projects for the development and administration of an assessment-based approach to respond to reports of dependent adult abuse. The Bill requires that pilot projects be established in not more than five areas of the State by January 15, 1999. The Bill also redefines the terms "caretaker" and "dependent adult," and instructs the Department of Human Services (DHS) to develop a training program for individuals performing abuse assessments. The Bill imposes unspecified civil penalties for the commission of dependent adult abuse, and requires penalties collected to be deposited with the State Treasury and expended for protective and other services to elder dependent adults.

ASSUMPTIONS

1. The average time to respond to an abuse report using an assessment-based model would be 32 hours, as compared to the 16 hours to respond to an abuse report using an investigation-based model. Additional staff would be required to respond to each report.
2. Under current law, approximately 1,200 dependent adult abuse reports are filed per fiscal year. Under the modified definitions of "caretaker" and "dependent adult," the number of reports filed would double to 2,400 reports per fiscal year. Additional staff would be required to respond to the increased filings.
3. Training costs for the assessment-based approach would remain the same as current training costs for the investigation-based approach.
4. Five pilot projects would be initiated January 1, 1999. In FY 2000, five pilot projects would operate for the entire fiscal year.
5. The pilot projects would be 100.0% State funded, because no additional federal funds are available to allocate to the projects.
6. The fines collected and the cost to administer cannot be determined and are not included in the fiscal impact estimated below.

FISCAL IMPACT

House File 2525 is expected to cost the State General Fund approximately \$654,000 in FY 1999 and \$675,000 in FY 2000 and subsequent years. The estimate includes salary and support for 15.0 FTE positions in FY 1999 and 18.5 FTE positions in FY 2000 to respond to additional reports and implement an assessment-based approach. The revenues and costs associated with fine collections cannot be determined.

The cost and FTE positions are detailed as follows:

-2-

	<u>FY 1999</u>	<u>FY 2000</u>
<u>Assessment Pilots</u>		
Salaries	\$ 80,000	\$ 160,000
(FTEs)	(3.5)	(7.0)
Support	<u>19,000</u>	<u>2,000</u>
Total Assessment Pilot costs	<u>99,000</u>	<u>162,000</u>
 <u>Re-Definition of Abuse Terms</u>		
Salaries	\$ 503,000	\$ 503,000
(FTEs)	(11.5)	(11.5)
Support	<u>52,000</u>	<u>10,000</u>
Total Re-Definition costs	<u>555,000</u>	<u>513,000</u>
 Total State Cost	 <u>\$ 654,000</u>	 <u>\$ 675,000</u>

SOURCES

Criminal and Juvenile Justice Planning, Department of Human Rights
 Department of Elder Affairs
 Department of Human Services
 Judicial Department

(LSB 3999hv, DAA)

FILED MARCH 24, 1998

BY DENNIS PROUTY, FISCAL DIRECTOR