

ASB 622

Martin
Grundberg
Merty

HUMAN RESOURCES

SENATE/HOUSE FILE 02500

BY (PROPOSED DEPARTMENT OF
INSPECTIONS AND APPEALS
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 reports, investigations,
2 and criminal penalties.

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

- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23

1 Section 1. Section 235B.2, subsection 5, paragraph a, Code
2 1999, is amended by striking the paragraph and inserting in
3 lieu thereof the following:

4 a. "Dependent adult abuse" means any of the following acts
5 or omissions, as delineated, of a caretaker:

6 (1) Willful or reckless acts or omissions resulting in
7 physical injury, or injury which is at a variance with the
8 history provided of the injury, to a dependent adult.

9 (2) Willful commission of an assault on a dependent adult.
10 Physical injury need not be established. "Assault" means the
11 caretaker does any of the following, coupled with the apparent
12 ability to execute the act:

13 (a) Performs an act which is intended to cause pain or
14 injury to the dependent adult.

15 (b) Performs an act which is intended to result in
16 physical contact which will be insulting or offensive to the
17 dependent adult.

18 (c) Performs an act which is intended to place the
19 dependent adult in fear of immediate physical contact which
20 will be painful, injurious, insulting or offensive.

21 (3) Willful engagement in the commission of a sexual
22 offense, as defined in chapter 709 or section 726.2, with or
23 against a dependent adult.

24 (4) (a) Willful engagement in the commission of sexual
25 exploitation of a dependent adult who is a resident of a
26 health care facility, as defined in section 135C.1, or a
27 licensed hospital, as defined in section 135B.1, when the
28 caretaker is providing services to or is employed by the
29 health care facility or hospital. Sexual exploitation occurs
30 if the acts occur either within the health care facility or
31 hospital, or at a location outside the health care facility or
32 hospital.

33 (b) "Sexual exploitation" means any consensual or
34 nonconsensual sexual conduct with a dependent adult for the
35 purpose of arousing or satisfying the sexual desires of the

1 caretaker or dependent adult, which includes but is not
2 limited to kissing; touching of the clothed or unclothed inner
3 thigh, breast, groin, buttock, anus, pubes, or genitals; or a
4 sex act, as defined in section 702.17. Sexual exploitation
5 does not include touching, which is part of a necessary
6 examination, treatment or care by a caretaker; the exchange of
7 a brief touch or hug between the dependent adult and a
8 caretaker for the purpose of reassurance, comfort, or casual
9 friendship; or touching between spouses.

10 (5) Unreasonable confinement, unreasonable punishment, or
11 misuses of physical interventions. "Misuses physical
12 interventions" means a caretaker acts to control or modify a
13 dependent adult's behavior by committing or directing acts not
14 approved by a physician's orders, an approved plan of care, or
15 the official policy of a health care facility or hospital.
16 Physical injury need not be established.

17 (6) Willful commission or causing of wanton neglect of a
18 dependent adult. "Wanton neglect" means to knowingly act in a
19 manner likely to be injurious to the physical, mental, or
20 emotional welfare of a dependent adult.

21 (7) Willful causing of exploitation of a dependent adult.
22 "Exploitation" means the act or process of taking unfair
23 advantage of a dependent adult or the dependent adult's
24 physical or financial resources for one's own personal or
25 pecuniary profit, without the informed consent of the
26 dependent adult. Exploitation includes, but is not limited
27 to, theft, the use of undue influence, harassment,
28 intimidation, duress, deception, false representation, or
29 false pretenses.

30 (8) Commission of any crime against a dependent adult or
31 engagement of a dependent adult in any crime. "Any crime"
32 means a crime as defined in chapters 701 through 728, or
33 crimes proscribed by foreign jurisdictions that are punishable
34 by fine or imprisonment.

35 (9) Negligent, reckless, or willful commission or causing

1 of the denial of critical care. "Denial of critical care"
2 means acts or omissions that result in the deprivation of the
3 minimum food, shelter, clothing, supervision, physical or
4 mental health care, or other care necessary to maintain a
5 dependent adult's life or health.

6 Sec. 2. Section 235B.2, subsection 5, Code 1999, is
7 amended by adding the following new lettered paragraph after
8 paragraph a:

9 NEW PARAGRAPH. aa. "Dependent adult abuse" also means
10 that a dependent adult acts or fails to act resulting in self-
11 neglect or self-denial of critical care. "Self-neglect or
12 self-denial of critical care" means that acts or omissions of
13 the dependent adult create circumstances that are likely to be
14 injurious to the physical, mental, or emotional welfare of the
15 dependent adult. "Self-neglect or self-denial of critical
16 care" includes acts or omissions by the dependent adult that
17 result in the deprivation of the minimum food, shelter,
18 clothing, supervision, physical or mental health care, or
19 other care necessary to maintain the dependent adult's life or
20 health.

21 Sec. 3. Section 726.7, subsection 1, Code 1999, is amended
22 to read as follows:

23 1. A person commits wanton neglect of a resident of a
24 health care facility when the person knowingly acts in a
25 manner likely to be injurious to the physical, or mental, or
26 emotional welfare of a resident of a health care facility as
27 defined in section 135C.1.

28

EXPLANATION

29 This bill relates to the regulatory powers of the
30 department of inspections and appeals relating to dependent
31 adult abuse and the definition of "dependent adult abuse".

32 The amendment to Code section 235B.2 rewrites the
33 definition of "dependent adult abuse" to provide an element of
34 intent in some instances, whether it be willful, reckless, or
35 negligent, associated with the specific category of abuse.

1 The Code section also adds and defines the act of "misuse of
2 physical interventions" in the area of unreasonable
3 confinement and unreasonable punishment. The bill adds as a
4 type of dependent adult abuse "wanton neglect" which is
5 currently established as a crime under Code chapter 726. The
6 bill later makes a conforming change to Code section 726.7, so
7 that "wanton neglect" of a dependent adult is defined
8 consistently throughout the Code. The commission of any crime
9 against a dependent adult and engaging a dependent adult in
10 any crime are also added under the definition of "dependent
11 adult abuse".

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

3/21/00 *Removed from Calendar*

FEB 29 2000
Place On Calendar

HOUSE FILE **2500**
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO HSB 622)

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

A BILL FOR

1 An Act relating to dependent adult abuse reports, investigations,
2 and criminal penalties.

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

- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23

HF 2500

1 Section 1. Section 235B.2, subsection 5, paragraph a, Code
2 1999, is amended by striking the paragraph and inserting in
3 lieu thereof the following:

4 a. "Dependent adult abuse" means any of the following acts
5 or omissions, as delineated, of a caretaker:

6 (1) Willful or reckless acts or omissions resulting in
7 physical injury, or injury which is at a variance with the
8 history provided of the injury, to a dependent adult.

9 (2) Willful commission of an assault on a dependent adult.
10 Physical injury need not be established. "Assault" means the
11 caretaker does any of the following, coupled with the apparent
12 ability to execute the act:

13 (a) Performs an act which is intended to cause pain or
14 injury to the dependent adult.

15 (b) Performs an act which is intended to result in
16 physical contact which will be insulting or offensive to the
17 dependent adult.

18 (c) Performs an act which is intended to place the
19 dependent adult in fear of immediate physical contact which
20 will be painful, injurious, insulting or offensive.

21 (3) Willful engagement in the commission of a sexual
22 offense, as defined in chapter 709 or section 726.2, with or
23 against a dependent adult.

24 (4) (a) Willful engagement in the commission of sexual
25 exploitation of a dependent adult who is a resident of a
26 health care facility, as defined in section 135C.1, or a
27 licensed hospital, as defined in section 135B.1, when the
28 caretaker is providing services to or is employed by the
29 health care facility or hospital. Sexual exploitation occurs
30 if the acts occur either within the health care facility or
31 hospital, or at a location outside the health care facility or
32 hospital.

33 (b) "Sexual exploitation" means any consensual or
34 nonconsensual sexual conduct with a dependent adult for the
35 purpose of arousing or satisfying the sexual desires of the

1 caretaker or dependent adult, which includes but is not
2 limited to kissing; touching of the clothed or unclothed inner
3 thigh, breast, groin, buttock, anus, pubes, or genitals; or a
4 sex act, as defined in section 702.17. Sexual exploitation
5 does not include touching, which is part of a necessary
6 examination, treatment or care by a caretaker; the exchange of
7 a brief touch or hug between the dependent adult and a
8 caretaker for the purpose of reassurance, comfort, or casual
9 friendship; or touching between spouses.

10 (5) Unreasonable confinement, unreasonable punishment, or
11 misuses of physical interventions. "Misuses physical
12 interventions" means a caretaker acts to control or modify a
13 dependent adult's behavior by committing or directing acts not
14 approved by a physician's orders, an approved plan of care, or
15 the official policy of a health care facility or hospital.
16 Physical injury must be established.

17 (6) Willful commission or causing of wanton neglect of a
18 dependent adult. "Wanton neglect" means to knowingly act in a
19 manner likely to be injurious to the physical or mental
20 welfare of a dependent adult.

21 (7) Willful causing of exploitation of a dependent adult.
22 "Exploitation" means the act or process of taking unfair
23 advantage of a dependent adult or the dependent adult's
24 physical or financial resources for one's own personal or
25 pecuniary profit, without the informed consent of the
26 dependent adult. Exploitation includes, but is not limited
27 to, theft, the use of undue influence, harassment,
28 intimidation, duress, deception, false representation, or
29 false pretenses.

30 (8) Commission of any crime against a dependent adult or
31 engagement of a dependent adult in any crime. "Any crime"
32 means a crime as defined in chapters 701 through 728, or
33 crimes proscribed by foreign jurisdictions that are punishable
34 by fine or imprisonment.

35 (9) Negligent, reckless, or willful commission or causing

1 of the denial of critical care. "Denial of critical care"
2 means acts or omissions that result in the deprivation of the
3 minimum food, shelter, clothing, supervision, physical or
4 mental health care, or other care necessary to maintain a
5 dependent adult's life or health.

6 Sec. 2. Section 235B.2, subsection 5, Code 1999, is
7 amended by adding the following new lettered paragraph after
8 paragraph a:

9 NEW PARAGRAPH. aa. "Dependent adult abuse" also means
10 that a dependent adult acts or fails to act resulting in self-
11 neglect or self-denial of critical care. "Self-neglect or
12 self-denial of critical care" means that acts or omissions of
13 the dependent adult create circumstances that are likely to be
14 injurious to the physical or mental welfare of the dependent
15 adult. "Self-neglect or self-denial of critical care"
16 includes acts or omissions by the dependent adult that result
17 in the deprivation of the minimum food, shelter, clothing,
18 supervision, physical or mental health care, or other care
19 necessary to maintain the dependent adult's life or health.

20 EXPLANATION

21 This bill relates to the regulatory powers of the
22 department of inspections and appeals relating to dependent
23 adult abuse and the definition of "dependent adult abuse".

24 The amendment to Code section 235B.2 rewrites the
25 definition of "dependent adult abuse" to provide an element of
26 intent in some instances, whether it be willful, reckless, or
27 negligent, associated with the specific category of abuse.
28 The Code section also adds and defines the act of "misuse of
29 physical interventions" in the area of unreasonable
30 confinement and unreasonable punishment. The bill adds as a
31 type of dependent adult abuse "wanton neglect" which is
32 currently established as a crime under Code chapter 726. The
33 commission of any crime against a dependent adult and engaging
34 a dependent adult in any crime are also added under the
35 definition of "dependent adult abuse".