

# House Study Bill 622

## Bill Text

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1 1 Section 1. Section [235B.2](#), subsection 5, paragraph a, Code  
1 2 1999, is amended by striking the paragraph and inserting in  
1 3 lieu thereof the following:  
1 4 a. "Dependent adult abuse" means any of the following acts  
1 5 or omissions, as delineated, of a caretaker:  
1 6 (1) Willful or reckless acts or omissions resulting in  
1 7 physical injury, or injury which is at a variance with the  
1 8 history provided of the injury, to a dependent adult.  
1 9 (2) Willful commission of an assault on a dependent adult.  
1 10 Physical injury need not be established. "Assault" means the  
1 11 caretaker does any of the following, coupled with the apparent  
1 12 ability to execute the act:  
1 13 (a) Performs an act which is intended to cause pain or  
1 14 injury to the dependent adult.  
1 15 (b) Performs an act which is intended to result in  
1 16 physical contact which will be insulting or offensive to the  
1 17 dependent adult.  
1 18 (c) Performs an act which is intended to place the  
1 19 dependent adult in fear of immediate physical contact which  
1 20 will be painful, injurious, insulting or offensive.  
1 21 (3) Willful engagement in the commission of a sexual  
1 22 offense, as defined in chapter 709 or section 726.2, with or  
1 23 against a dependent adult.  
1 24 (4) (a) Willful engagement in the commission of sexual  
1 25 exploitation of a dependent adult who is a resident of a  
1 26 health care facility, as defined in section 135C.1, or a  
1 27 licensed hospital, as defined in section 135B.1, when the  
1 28 caretaker is providing services to or is employed by the  
1 29 health care facility or hospital. Sexual exploitation occurs  
1 30 if the acts occur either within the health care facility or  
1 31 hospital, or at a location outside the health care facility or  
1 32 hospital.  
1 33 (b) "Sexual exploitation" means any consensual or  
1 34 nonconsensual sexual conduct with a dependent adult for the  
1 35 purpose of arousing or satisfying the sexual desires of the  
2 1 caretaker or dependent adult, which includes but is not  
2 2 limited to kissing; touching of the clothed or unclothed inner  
2 3 thigh, breast, groin, buttock, anus, pubes, or genitals; or a  
2 4 sex act, as defined in section 702.17. Sexual exploitation  
2 5 does not include touching, which is part of a necessary  
2 6 examination, treatment or care by a caretaker; the exchange of  
2 7 a brief touch or hug between the dependent adult and a  
2 8 caretaker for the purpose of reassurance, comfort, or casual  
2 9 friendship; or touching between spouses.  
2 10 (5) Unreasonable confinement, unreasonable punishment, or  
2 11 misuses of physical interventions. "Misuses physical  
2 12 interventions" means a caretaker acts to control or modify a  
2 13 dependent adult's behavior by committing or directing acts not  
2 14 approved by a physician's orders, an approved plan of care, or  
2 15 the official policy of a health care facility or hospital.  
2 16 Physical injury need not be established.  
2 17 (6) Willful commission or causing of wanton neglect of a  
2 18 dependent adult. "Wanton neglect" means to knowingly act in a  
2 19 manner likely to be injurious to the physical, mental, or  
2 20 emotional welfare of a dependent adult.  
2 21 (7) Willful causing of exploitation of a dependent adult.

2 22 "Exploitation" means the act or process of taking unfair  
2 23 advantage of a dependent adult or the dependent adult's  
2 24 physical or financial resources for one's own personal or  
2 25 pecuniary profit, without the informed consent of the  
2 26 dependent adult. Exploitation includes, but is not limited  
2 27 to, theft, the use of undue influence, harassment,  
2 28 intimidation, duress, deception, false representation, or  
2 29 false pretenses.

2 30 (8) Commission of any crime against a dependent adult or  
2 31 engagement of a dependent adult in any crime. "Any crime"  
2 32 means a crime as defined in chapters 701 through 728, or  
2 33 crimes proscribed by foreign jurisdictions that are punishable  
2 34 by fine or imprisonment.

2 35 (9) Negligent, reckless, or willful commission or causing  
3 1 of the denial of critical care. "Denial of critical care"  
3 2 means acts or omissions that result in the deprivation of the  
3 3 minimum food, shelter, clothing, supervision, physical or  
3 4 mental health care, or other care necessary to maintain a  
3 5 dependent adult's life or health.

3 6 Sec. 2. Section [235B.2](#), subsection 5, Code 1999, is  
3 7 amended by adding the following new lettered paragraph after  
3 8 paragraph a:

3 9 NEW PARAGRAPH. aa. "Dependent adult abuse" also means  
3 10 that a dependent adult acts or fails to act resulting in self-  
3 11 neglect or self-denial of critical care. "Self-neglect or  
3 12 self-denial of critical care" means that acts or omissions of  
3 13 the dependent adult create circumstances that are likely to be  
3 14 injurious to the physical, mental, or emotional welfare of the  
3 15 dependent adult. "Self-neglect or self-denial of critical  
3 16 care" includes acts or omissions by the dependent adult that  
3 17 result in the deprivation of the minimum food, shelter,  
3 18 clothing, supervision, physical or mental health care, or  
3 19 other care necessary to maintain the dependent adult's life or  
3 20 health.

3 21 Sec. 3. Section [726.7](#), subsection 1, Code 1999, is amended  
3 22 to read as follows:

3 23 1. A person commits wanton neglect of a resident of a  
3 24 health care facility when the person knowingly acts in a  
3 25 manner likely to be injurious to the physical,

~~or~~

- mental, or

3 26 emotional welfare of a resident of a health care facility as  
3 27 defined in section 135C.1.

3 28 EXPLANATION

3 29 This bill relates to the regulatory powers of the  
3 30 department of inspections and appeals relating to dependent  
3 31 adult abuse and the definition of "dependent adult abuse".

3 32 The amendment to Code section 235B.2 rewrites the  
3 33 definition of "dependent adult abuse" to provide an element of  
3 34 intent in some instances, whether it be willful, reckless, or  
3 35 negligent, associated with the specific category of abuse.

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

4 12 LSB 5756DP 78

4 13 pf/cls/14

