

FEB 26 2004  
JUDICIARY

HOUSE FILE 2386  
BY HUTTER

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act prohibiting persons convicted of dependent adult abuse of  
2 an elderly person or a person with a disability from  
3 inheriting from the dependent adult.

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

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HF 2386

1 Section 1. NEW SECTION. 633.338 DEPENDENT ADULT ABUSE OF  
2 ELDERLY PERSON OR PERSON WITH A DISABILITY.

3 1. A person who is a caretaker, as defined in section  
4 235B.2, who is convicted of dependent adult abuse of an  
5 elderly person or a person with a disability in violation of  
6 section 235B.20, shall not receive any property, benefit, or  
7 other interest by reason of the death of that elderly person  
8 or person with a disability, whether as heir, legatee,  
9 beneficiary, joint tenant, survivor, appointee, or in any  
10 other capacity, and whether the property, benefit, or other  
11 interest passes pursuant to any form of title registration,  
12 testamentary or nontestamentary instrument, intestacy,  
13 renunciation, or any other circumstance. The property,  
14 benefit, or other interest shall pass as if the person  
15 convicted of the dependent adult abuse died before the  
16 decedent, provided that with respect to joint tenancy  
17 property, the interest possessed prior to the death by the  
18 person convicted of the dependent adult abuse shall not be  
19 diminished by the application of this section.

20 2. Notwithstanding subsection 1, a person who is a  
21 caretaker who is convicted of dependent adult abuse of an  
22 elderly person or a person with a disability shall be entitled  
23 to receive property, a benefit, or an interest in any capacity  
24 and under the circumstances described in this section if the  
25 person demonstrates by clear and convincing evidence that the  
26 victim of the offense had prior knowledge of the conviction  
27 and subsequent to the conviction expressed or ratified the  
28 victim's intent to transfer the property, benefit, or interest  
29 to the person convicted of dependent adult abuse.

30 3. The holder of any property subject to the provisions of  
31 this section shall not be liable for distributing or releasing  
32 the property to the person convicted of dependent adult abuse  
33 of an elderly person or a person with a disability if the  
34 distribution or release occurs prior to the conviction.

35 4. As used in this section, "elderly person" means a

1 person sixty years of age or older, and "person with a  
2 disability" means a person eighteen years of age or older with  
3 a mental illness, mental retardation, or another developmental  
4 disability or brain injury.

5 EXPLANATION

6 This bill relates to dependent adult abuse of an elderly  
7 person or a person with a disability by a caretaker and the  
8 caretaker's receipt of any property, benefit, or other  
9 interest by reason of the death of the elderly person or  
10 person with a disability.

11 The bill prohibits a person who is a caretaker of an  
12 elderly person or person with a disability who has been  
13 convicted of dependent adult abuse, pursuant to Code section  
14 235B.20, from receiving any property, benefit, or other  
15 interest by reason of the death of the elderly person or  
16 person with a disability. The bill provides an exception to  
17 the foregoing if the convicted person demonstrates by clear  
18 and convincing evidence that the victim knew about the  
19 conviction and still desired to transfer the property to the  
20 convicted person. Code section 235B.2 defines a caretaker to  
21 mean a related or nonrelated person who has the responsibility  
22 for the protection, care, or custody of a dependent adult as a  
23 result of assuming the responsibility voluntarily, by  
24 contract, or by order of the court.

25 The bill provides that the holder of any property subject  
26 to the provisions of the bill shall not be liable for  
27 distributing or releasing the property to the person convicted  
28 of dependent adult abuse of an elderly person or a person with  
29 a disability if the distribution or release occurs prior to  
30 the conviction.

31 The bill defines "elderly person" to mean a person 60 years  
32 of age or older, and "person with a disability" to mean a  
33 person 18 years of age or older with a mental illness, mental  
34 retardation, or another developmental disability or brain  
35 injury.