

SENATE FILE 132
BY LUNDBY

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

A BILL FOR

1 An Act relating to procedures and services relating to dependent
2 adults and at-risk older adults.

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

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SF 132
GOVERNMENT OVERSIGHT

1 Section 1. NEW SECTION. 231.56A EMERGENCY SHELTER AND
2 SUPPORT SERVICES -- DEMONSTRATION PROJECTS.

3 1. The department shall identify at least one area agency
4 on aging that has demonstrated the ability to provide a
5 collaborative response to the immediate needs of elders in the
6 area agency on aging service area to implement an emergency
7 shelter and support services demonstration project. The
8 demonstration project shall be implemented only in the
9 counties within an area agency on aging service area that have
10 a multidisciplinary team recognized by the department as
11 provided in chapter 235B.

12 2. The target population of a demonstration project shall
13 be any elder residing in the service area of the area agency
14 on aging who meets both of the following conditions:

15 a. Is the subject of a report of suspected dependent adult
16 abuse pursuant to chapter 235B.

17 b. Is not receiving assistance under a county management
18 plan approved pursuant to section 331.439.

19 3. An area agency on aging implementing a demonstration
20 project shall identify allowable emergency shelter and support
21 services, state funding, outcomes, reporting requirements, and
22 approved community resources from which services may be
23 obtained under the demonstration project. The area agency on
24 aging shall identify at least one provider of case management
25 services for the project area. The area agency on aging shall
26 also act as the fiscal agent for the project.

27 4. The multidisciplinary team for an area agency on aging
28 implementing a demonstration project shall provide oversight
29 for the project and shall coordinate the provider network
30 through the use of referrals or other engagement of community
31 resources to provide services to elders.

32 5. Moneys received by an area agency on aging for a
33 demonstration project shall be deposited in a separate
34 designated services account. The account may also contain
35 other grant moneys, private contributions, and any other

1 source of funding. State moneys received for demonstration
2 projects that remain unencumbered or unobligated at the close
3 of the fiscal year shall remain available to be used to
4 benefit the target population in the succeeding fiscal year.
5 Receipt and expenditures of moneys under a project are subject
6 to examination, including audit, by the department.

7 6. This section shall not be construed and is not intended
8 as, and shall not imply a grant of entitlement for services to
9 individuals who are not otherwise eligible for the services or
10 for utilization of services that do not currently exist or are
11 not otherwise available.

12 Sec. 2. Section 235B.1, unnumbered paragraph 1, Code 2003,
13 is amended to read as follows:

14 The department shall establish and operate a dependent
15 adult abuse services program. The program shall emphasize the
16 reporting and evaluation of cases of ~~abuse-of-a~~ suspected
17 ~~dependent adult who-is-unable-to-protect-the-adult's-own~~
18 ~~interests-or-unable-to-perform-activities-necessary-to-meet~~
19 ~~essential-human-needs~~ abuse. The program shall include but is
20 not limited to:

21 Sec. 3. Section 235B.1, subsections 1 through 3, Code
22 2003, are amended to read as follows:

23 1. The establishment of local or regional
24 multidisciplinary teams to assist in assessing the needs of,
25 formulating and monitoring a treatment plan for, and
26 coordinating services to victims and potential victims of
27 dependent adult abuse. The membership of a team shall include
28 individuals who possess knowledge and skills related to the
29 diagnosis, assessment, and disposition of dependent adult
30 abuse cases and who are professionals practicing in the
31 disciplines of medicine, public health, mental health, social
32 work, law, law enforcement, or other disciplines relative to
33 dependent adults. Members of a team shall include, but are
34 not limited to, persons representing the area agencies on
35 aging, county attorneys, health care providers, and other

1 persons involved in advocating or providing services to
2 dependent adults.

3 2. Provisions for authorizing information sharing and case
4 consultation concerning the assessment and service needs of
5 victims or potential victims of dependent adult abuse among
6 the department, multidisciplinary teams, area agencies on
7 aging, the department of inspections and appeals, service
8 providers, and care providers, and victims of dependent adult
9 abuse.

10 ~~3. Procedures for referral of cases among service~~
11 ~~providers, including the referral of victims of dependent~~
12 ~~adult abuse residing in licensed health care facilities.~~

13 Sec. 4. Section 235B.2, subsections 1 and 4, Code 2003,
14 are amended to read as follows:

15 1. "Caretaker" means a related or nonrelated person who
16 has the responsibility for the protection, care, or custody of
17 a dependent adult as a result of assuming the responsibility
18 voluntarily, by contract, through employment, or by order of
19 the court. "Caretaker" also includes a person who stands in
20 relationship to a dependent adult such that there is an
21 expectation of trust or the ability to influence the decisions
22 of the dependent adult and such that the actions of the person
23 may result in dependent adult abuse.

24 4. "Dependent adult" means a any of the following:

25 a. A person eighteen years of age or older who, without
26 assistance, is unable to protect the person's own interests or
27 unable to adequately perform or obtain services necessary to
28 meet essential human needs, as a result of a physical or
29 mental condition, which requires assistance from another, or
30 as

31 b. A person certified for residency in a health care
32 facility as defined in section 135C.1.

33 c. A "dependent adult" as defined by departmental rule.

34 Sec. 5. Section 235B.2, subsection 5, paragraph a,
35 subparagraphs (1) and (2), Code 2003, are amended to read as

1 follows:

2 (1) Any of the following as a result of the willful or
3 negligent acts or omissions of a caretaker:

4 (a) Physical injury to, or injury which is at a variance
5 with the history given of the injury, or unreasonable
6 confinement, unreasonable punishment, or assault of a
7 dependent adult.

8 (b) The commission of a sexual offense under chapter 709
9 or section 726.2 with or against a dependent adult.

10 (c) Exploitation of a dependent adult which means the act
11 or process of taking unfair advantage of a dependent adult or
12 the adult's physical or financial resources for one's own
13 personal or pecuniary profit, without the informed consent of
14 the dependent adult, including theft, by the use of undue
15 influence, harassment, duress, deception, false
16 representation, or false pretenses.

17 (d) The deprivation of the minimum food, shelter,
18 clothing, supervision, physical or mental health care, or
19 other care necessary to maintain a dependent adult's life or
20 health.

21 (e) The deliberate infliction of emotional or
22 psychological abuse on a dependent adult by means of repeated
23 oral, written, or gestured language intended to cause fear,
24 intimidation, alarm, agitation, confusion, humiliation, or
25 other serious emotional distress.

26 ~~(2) The-deprivation-of-the-minimum-food,shelter,~~
27 ~~clothing,-supervision,physical-or-mental-health-care,and~~
28 ~~other-care-necessary-to-maintain-a-dependent-adult's-life-or~~
29 ~~health-as-a-result-of-the-acts-or-omissions-of-the~~ Self-denial
30 of critical care by a dependent adult or by an at-risk older
31 adult.

32 Sec. 6. Section 235B.2, Code 2003, is amended by adding
33 the following new subsections:

34 NEW SUBSECTION. 0A. "At-risk older adult" means an
35 individual sixty years of age or older who is not able or

1 willing to adequately maintain the individual's self in an
2 independent living arrangement.

3 NEW SUBSECTION. 12A. "Self-denial of critical care" means
4 living without the minimum food, shelter, clothing,
5 supervision, physical or mental health care, or other care
6 necessary to maintain a dependent adult's or at-risk older
7 adult's life or health as a result of the acts or omissions of
8 the dependent adult or at-risk older adult.

9 Sec. 7. Section 235B.3, subsection 1, Code 2003, is
10 amended to read as follows:

11 1. The department shall receive reports of suspected
12 dependent adult abuse ~~reports~~ and shall collect, maintain, and
13 disseminate the reports by establishing a central registry for
14 dependent adult abuse information. The department shall
15 evaluate the reports expeditiously. However, the department
16 of inspections and appeals is solely responsible for the
17 evaluation and disposition of suspected dependent adult abuse
18 cases within health care facilities and shall inform the
19 department of human services of such evaluations and
20 dispositions.

21 Reports of suspected dependent adult abuse which is the
22 result of ~~the-acts-or-omissions-of-the-dependent-adult~~ self-
23 denial of critical care shall be collected and maintained in
24 the files of the ~~dependent-adult~~ subject of the report as
25 assessments only and shall not be included in the central
26 registry.

27 Sec. 8. Section 235B.3, subsection 2, paragraph c,
28 unnumbered paragraph 1, Code 2003, is amended to read as
29 follows:

30 A person who, in the course of employment, examines,
31 attends, counsels, or treats a dependent adult or an at-risk
32 older adult and reasonably believes the dependent adult or at-
33 risk older adult has suffered abuse, including:

34 Sec. 9. Section 235B.3, subsection 3, paragraph b, Code
35 2003, is amended to read as follows:

1 b. The employer or supervisor of a person who is required
2 to or may make a report pursuant to this section shall not
3 apply a policy, work rule, or other requirement that
4 interferes with the person making a report of suspected
5 dependent adult abuse or that results in the failure of
6 another person to make the report.

7 Sec. 10. Section 235B.3, subsections 4, 5, 7, 8, and 10,
8 Code 2003, are amended to read as follows:

9 4. a. Any other person who believes that ~~a-dependent~~
10 ~~adult-has-suffered~~ an individual is the victim or potential
11 victim of dependent adult abuse may report the suspected abuse
12 to the department of human services.

13 b. A financial institution may report cases of suspected
14 financial exploitation to the department.

15 5. Following the reporting of suspected dependent adult
16 abuse, the department of human services or an agency approved
17 by the department shall complete an assessment of necessary
18 ~~services-and-shall-make-appropriate-referrals-for-receipt-of~~
19 ~~these-services---The-assessment-shall-include-interviews-with~~
20 ~~the-dependent-adult, and, if appropriate, with the alleged~~
21 ~~perpetrator-of-the-dependent-adult-abuse-and-with-any-person~~
22 ~~believed-to-have-knowledge-of-the-circumstances-of-the-case~~
23 the individual who is the subject of the report. The
24 department may provide necessary protective emergency shelter
25 and support services and may establish a sliding fee schedule
26 for those persons able to pay a portion of the protective cost
27 of the services. If the department does not provide services,
28 the department may make referrals to a multidisciplinary team,
29 an area agency on aging, or a public or private agency with
30 the ability to develop a service plan and to coordinate the
31 delivery of services.

32 7. The department shall inform the appropriate county
33 attorneys of any reports of suspected dependent adult abuse.
34 The department may request information from any person
35 believed to have knowledge of a case of suspected dependent

1 adult abuse. The person, including but not limited to a
2 county attorney, a law enforcement agency, a multidisciplinary
3 team, a social services agency in the state, or any person who
4 is required pursuant to subsection 2 to report suspected
5 dependent adult abuse, whether or not the person made the
6 specific dependent adult abuse report, shall cooperate and
7 assist in the evaluation upon the request of the department.
8 If the department's assessment reveals that dependent adult
9 abuse exists which might constitute a criminal offense, a
10 report shall be made to the appropriate law enforcement
11 agency. County attorneys and appropriate law enforcement
12 agencies shall also take any other lawful action necessary or
13 advisable for the protection of the dependent adult.

14 a. If, upon completion of the evaluation or upon referral
15 from the department of inspections and appeals, the department
16 determines that the best interests of the dependent adult or
17 at-risk older adult require court action, the department shall
18 initiate action for the appointment of a guardian or
19 conservator or for admission or commitment to an appropriate
20 institution or facility pursuant to the applicable procedures
21 under chapter 125, 222, 229, or 633, or shall pursue other
22 remedies provided by law. The appropriate county attorney
23 shall assist the department in the preparation of the
24 necessary papers to initiate the action and shall appear and
25 represent the department at all district court proceedings.

26 b. The department shall assist the court during all stages
27 of court proceedings involving a suspected case of dependent
28 adult abuse.

29 c. In every case involving dependent adult abuse which is
30 substantiated by the department and which results in a
31 judicial proceeding on behalf of the dependent adult, legal
32 counsel shall be appointed by the court to represent the
33 dependent adult or at-risk older adult in the proceedings.
34 The court may also appoint a guardian ad litem to represent
35 the dependent adult or at-risk older adult if necessary to

1 protect the dependent adult's or at-risk older adult's best
2 interests. The same attorney may be appointed to serve both
3 as legal counsel and as guardian ad litem. Before legal
4 counsel or a guardian ad litem is appointed pursuant to this
5 section, the court shall require the dependent adult or at-
6 risk older adult and any person legally responsible for the
7 support of the dependent adult or at-risk older adult to
8 complete under oath a detailed financial statement. If, on
9 the basis of that financial statement, the court deems that
10 the dependent adult, the at-risk older adult, or the legally
11 responsible person is able to bear all or a portion of the
12 cost of the legal counsel or guardian ad litem, the court
13 shall so order. In cases where the dependent adult, the at-
14 risk older adult, or the legally responsible person is unable
15 to bear the cost of the legal counsel or guardian ad litem,
16 the expense shall be paid by the county.

17 8. A person participating in good faith in reporting a
18 case of suspected dependent adult abuse or cooperating with or
19 assisting the department in evaluating a case of dependent
20 adult abuse has immunity from liability, civil or criminal,
21 which might otherwise be incurred or imposed based upon the
22 act of making the report, or giving the assistance to the
23 department, or providing services to the subject of the
24 report. ~~The person has the~~ same immunity shall apply with
25 respect to participating in good faith in a judicial
26 proceeding resulting from the report or cooperation or
27 assistance or relating to the subject matter of the report,
28 cooperation, or assistance.

29 10. A person required by this section to report a
30 ~~suspected~~ case of suspected dependent adult abuse who
31 knowingly and willfully fails to do so commits a simple
32 misdemeanor. A person required by this section to report a
33 ~~suspected~~ case of suspected dependent adult abuse who
34 knowingly fails to do so or who knowingly, in violation of
35 subsection 3, interferes with the making of such a report or

1 applies a requirement that results in such a failure is
2 civilly liable for the damages proximately caused by the
3 failure.

4 Sec. 11. Section 235B.5, subsection 6, Code 2003, is
5 amended to read as follows:

6 6. The registry, upon receipt of a report of suspected
7 dependent adult abuse, shall search the records of the
8 registry, and if the records of the registry reveal any
9 previous report of dependent adult abuse involving the same
10 dependent adult or if the records reveal any other pertinent
11 information with respect to the same dependent adult, the
12 appropriate office of the department of human services or the
13 appropriate law enforcement agency shall be immediately
14 notified of that fact.

15 Sec. 12. Section 235B.6, subsection 1, Code 2003, is
16 amended to read as follows:

17 1. Notwithstanding chapter 22, the confidentiality of all
18 suspected dependent adult abuse information shall be
19 maintained, except as specifically provided by subsections 2
20 and 3.

21 Sec. 13. Section 235B.6, subsection 2, unnumbered
22 paragraph 1, Code 2003, is amended to read as follows:

23 Access to dependent adult abuse information ~~other-than~~
24 ~~unfounded-dependent-adult-abuse-information~~ concerning founded
25 dependent adult abuse is authorized only to the following
26 persons:

27 Sec. 14. Section 235B.6, subsection 2, paragraph c, Code
28 2003, is amended by adding the following new subparagraph:

29 NEW SUBPARAGRAPH. (8) An employee of an agency requested
30 by the department to provide case management or other services
31 to the adult.

32 Sec. 15. Section 235B.6, subsection 2, paragraph e, Code
33 2003, is amended by adding the following new subparagraph:

34 NEW SUBPARAGRAPH. (10) The long-term care resident's
35 advocate as established in chapter 231, subchapter V, when the

1 victim resides in a long-term care facility or when the
2 alleged perpetrator is an employee of a long-term care
3 facility.

4 Sec. 16. Section 235B.6, subsection 3, Code 2003, is
5 amended to read as follows:

6 3. Access to unfounded dependent adult abuse information
7 is authorized only to those persons identified in subsection
8 2, paragraph "a", paragraph "b", subparagraphs (2), (5), and
9 (6), paragraph "c", subparagraph (8), and paragraph "e",
10 subparagraph (2).

11 Sec. 17. Section 235B.9, subsections 1, 2, and 3, Code
12 2003, are amended to read as follows:

13 1. Dependent adult abuse information ~~relating to a~~
14 ~~particular case of suspected dependent adult abuse~~ which is
15 determined by a preponderance of the evidence to be founded
16 shall be sealed ten years after the receipt of the initial
17 report of such abuse by the registry unless good cause is
18 shown why the information should remain open to authorized
19 access. If a subsequent report of ~~a suspected case of~~ founded
20 dependent adult abuse involving the adult named in the initial
21 report as the victim of abuse or a person named in such report
22 as having abused an adult is received by the registry within
23 the ten-year period, the information shall be sealed ten years
24 after receipt of the subsequent report unless good cause is
25 shown why the information should remain open to authorized
26 access.

27 2. Dependent adult abuse information which ~~cannot be~~
28 ~~determined by a preponderance of the evidence to be founded or~~
29 ~~unfounded shall be expunged one year after the receipt of the~~
30 ~~initial report of abuse and dependent adult abuse information~~
31 ~~which is determined by a preponderance of the evidence to be~~
32 ~~unfounded shall be expunged immediately when it is determined~~
33 ~~to be unfounded~~ one year after the receipt of the initial
34 report.

35 3. However, if a correction of dependent adult abuse

1 information is requested under section 235B.10 and the issue
2 is not resolved at the end of one year the information shall
3 be retained until the issue is resolved and if the dependent
4 adult abuse information is not determined to be founded, the
5 information shall be ~~expunged immediately-when~~ one year from
6 the date it is determined to be unfounded.

7 Sec. 18. Section 235B.10, subsection 6, Code 2003, is
8 amended to read as follows:

9 6. In the course of any proceeding provided for by this
10 section, the identity of the person who reported the disputed
11 information and the identity of any person who has been
12 reported as having ~~abused-an~~ perpetrated dependent adult abuse
13 on a dependent adult may be withheld upon a determination by
14 the registry that disclosure of the person's identity would be
15 detrimental to the person's interest.

16 Sec. 19. 235B.16, subsection 3, Code 2003, is amended to
17 read as follows:

18 3. The content of the continuing education required
19 pursuant to chapter 272C for a licensed professional providing
20 care or service to a dependent adult or at-risk older adult
21 shall include, but is not limited to, the responsibilities,
22 obligations, powers, and duties of a person regarding the
23 reporting of suspected dependent adult abuse, and training to
24 aid the professional in identifying instances of dependent
25 adult abuse.

26 Sec. 20. Section 235B.17, is amended to read as follows:

27 235B.17 PROVISION OF PROTECTIVE SUPPORT SERVICES WITH THE
28 CONSENT OF DEPENDENT ADULT OR AT-RISK OLDER ADULT -- CARETAKER
29 REFUSAL INTERFERENCE BY THIRD PARTY.

30 If a ~~caretaker-of-a~~ dependent adult who, or at-risk older
31 adult consents to the receipt of protective services, but a
32 third party refuses to allow or interferes with provision of
33 the services, the department may petition the district court
34 in the county in which the adult resides for an order
35 enjoining the ~~caretaker~~ third party from interfering with the

1 provision of services. The petition shall allege specific
2 facts sufficient to demonstrate that the dependent adult or
3 at-risk older adult is in need of protective support services
4 and consents to the provision of services and that the
5 caretaker third party refuses to allow provision of the
6 services. If the judge finds by clear and convincing evidence
7 that the dependent adult is in need of protective support
8 services and consents to the services and that the caretaker
9 third party refuses to allow the services, the judge may issue
10 an order enjoining the caretaker third party from interfering
11 with the provision of the protective support services.

12 Sec. 21. Section 235B.18, Code 2003, is amended to read as
13 follows:

14 235B.18 PROVISION OF SUPPORT SERVICES TO DEPENDENT ADULT
15 OR AT-RISK OLDER ADULT WHO LACKS CAPACITY OR IS OTHERWISE
16 UNABLE OR UNWILLING TO CONSENT -- HEARING -- FINDINGS.

17 1. If the department reasonably determines that a
18 dependent adult or at-risk older adult is a victim of
19 dependent adult abuse and lacks capacity or is otherwise
20 unwilling or unable to consent to the receipt of protective
21 support services, the department may petition the district
22 court in the county in which the adult resides for an order
23 authorizing the provision of protective support services. The
24 petition shall allege specific facts sufficient to demonstrate
25 that the dependent adult or at-risk older adult is in need of
26 protective support services and ~~lacks-capacity-to~~ that any
27 attempt to obtain consent to the receipt of services has
28 failed.

29 2. The court shall set the case for hearing within
30 fourteen days of the filing of the petition. The dependent
31 adult shall receive at least five days' notice of the hearing.
32 The dependent adult or at-risk older adult has the right to be
33 present and represented by counsel at the hearing. If the
34 dependent adult or at-risk older adult, in the determination
35 of the judge, lacks the capacity to waive the right of

1 counsel, the court may appoint a guardian ad litem for the
2 dependent adult or at-risk older adult.

3 3. If, at the hearing, the judge finds by clear and
4 convincing evidence that the dependent adult or at-risk older
5 adult is in need of protective support services and lacks the
6 capacity or is otherwise unwilling or unable to consent to the
7 receipt of protective support services, the judge may issue an
8 order authorizing the provision of protective support
9 services. The order may include the designation of a person
10 to be responsible for performing or obtaining protective
11 support services on behalf of the dependent adult or at-risk
12 older adult or otherwise consenting to the receipt of
13 protective support services on behalf of the dependent adult
14 or at-risk older adult. Within sixty days of the appointment
15 of such a person the court shall conduct a review to determine
16 if a petition shall be initiated in accordance with section
17 633.552 for good cause shown. The court may extend the sixty-
18 day period for an additional sixty days, at the end of which
19 the court shall conduct a review to determine if a petition
20 shall be initiated in accordance with section 633.552. A
21 dependent adult or at-risk older adult shall not be committed
22 to a mental health facility under this section.

23 4. A determination by the court that a dependent adult or
24 at-risk older adult lacks the capacity or is otherwise
25 unwilling or unable to consent to the receipt of protective
26 support services under this chapter shall not affect
27 incompetency proceedings under sections 633.552 through
28 633.556 or any other proceedings, and incompetency proceedings
29 under sections 633.552 through 633.556 shall not have a
30 conclusive effect on the question of capacity to consent to
31 the receipt of protective support services under this chapter.

32 5. This section shall not be construed and is not intended
33 as and shall not imply a grant of entitlement for services to
34 persons who are not otherwise eligible for the services or for
35 utilization of services which do not currently exist or are

1 not otherwise available.

2 Sec. 22. Section 235B.19, Code 2003, is amended to read as
3 follows:

4 235B.19 EMERGENCY ORDER FOR PROTECTIVE SUPPORT SERVICES.

5 1. If the department determines that a dependent adult or
6 at-risk older adult is suffering from dependent adult abuse
7 which presents an immediate danger to the health or safety of
8 the dependent adult, or at-risk older adult and that the
9 dependent adult or at-risk older adult lacks capacity or is
10 otherwise unable or unwilling to consent to receive protective
11 support services, ~~and that no consent can be obtained,~~ the
12 department may petition the district court with ~~probate~~
13 ~~jurisdiction~~ in the county in which the dependent adult or at-
14 risk older adult resides for an emergency order authorizing
15 protective support services.

16 2. The petition shall be verified and shall include all of
17 the following:

18 a. The name, date of birth, and address of the dependent
19 adult or at-risk older adult who needs protective support
20 services.

21 b. The nature of the dependent adult abuse.

22 c. The services required.

23 3. Upon finding that there is probable cause to believe
24 that the dependent adult abuse presents an immediate threat to
25 the health or safety of the dependent adult or at-risk older
26 adult and that the dependent adult or at-risk older adult
27 lacks capacity or is otherwise unwilling or unable to consent
28 to the receipt of services, the court may do any of the
29 following:

30 a. Order removal of the dependent adult or at-risk older
31 adult to safer surroundings.

32 b. Order the provision of medical services.

33 c. Order the provision of other available services
34 necessary to remove conditions creating the danger to health
35 or safety, including the services of peace officers or

1 emergency services personnel.

2 4. The emergency order expires at the end of seventy-two
3 hours from the time of the order unless the seventy-two-hour
4 period ends on a Saturday, Sunday, or legal holiday in which
5 event the order is automatically extended to four p.m. on the
6 first succeeding business day. An order may be renewed for
7 not more than fourteen additional days. A renewal order that
8 ends on a Saturday, Sunday, or legal holiday is automatically
9 extended to four p.m. on the first succeeding business day.
10 The court may modify or terminate the emergency order on the
11 petition of the department, the dependent adult or at-risk
12 older adult, or any person interested in the dependent adult's
13 or at-risk older adult's welfare.

14 5. If the department cannot obtain an emergency order
15 under this section due to inaccessibility of the court, the
16 department may contact law enforcement to remove the dependent
17 adult or at-risk older adult to safer surroundings, authorize
18 the provision of medical treatment, and order the provision of
19 or provide other available services necessary to remove
20 conditions creating the immediate danger to the health or
21 safety of the dependent adult or at-risk older adult. The
22 department shall obtain an emergency order under this section
23 not later than four p.m. on the first succeeding business day
24 after the date on which protective support or other services
25 are provided. If the department does not obtain an emergency
26 order within the prescribed time period, the department shall
27 cease providing protective support services and, if necessary,
28 make arrangements for the immediate return of the person to
29 the place from which the person was removed, to the person's
30 place of residence in the state, or to another suitable place.
31 A person, agency, or institution acting in good faith in
32 removing a dependent adult or at-risk older adult or in
33 providing services under this subsection, and an employer of
34 or person under the direction of such a person, agency, or
35 institution, shall have immunity from any liability, civil or

1 criminal, that might otherwise be incurred or imposed as the
2 result of the removal or provision of services.

3 6. The department, upon finding that dependent adult abuse
4 has occurred and is either ongoing or is likely to reoccur,
5 may petition the district court in the county in which the
6 dependent adult or at-risk older adult resides for injunctive
7 relief against a third party. The petition shall conform to
8 the requirements of subsection 2, and shall specify the relief
9 sought. Upon finding that dependent adult abuse has occurred
10 and that the abuse is either ongoing or likely to reoccur, the
11 court may ~~also~~ enter temporary orders as may be appropriate to
12 third persons enjoining them from specific conduct. The
13 orders may include temporary restraining orders which impose
14 criminal sanctions if violated. Temporary orders entered
15 pursuant to this subsection shall remain in effect for a
16 period of thirty days from the date of entry unless extended
17 for good cause. The court may enjoin third persons from any
18 action including but not limited to any of the following:

- 19 a. Removing the dependent adult or at-risk older adult
20 from the care or custody of another.
- 21 b. Committing dependent adult abuse on the dependent adult
22 or at-risk older adult.
- 23 c. Living at the dependent adult's or at-risk older
24 adult's residence.
- 25 d. Contacting the dependent adult or at-risk older adult
26 in person or by telephone.
- 27 e. Selling, removing, or otherwise disposing of the
28 dependent adult's or at-risk older adult's personal property.
- 29 f. Withdrawing funds from any bank, savings and loan
30 association, credit union, or other financial institution, or
31 from a stock account in which the dependent adult or at-risk
32 older adult has an interest.
- 33 g. Negotiating any instruments payable to the dependent
34 adult or at-risk older adult.
- 35 h. Selling, mortgaging, or otherwise encumbering any

1 interest that the dependent adult or at-risk older adult has
2 in real property.

3 i. Exercising any powers on behalf of the dependent adult
4 or at-risk older adult through representatives of the
5 department, any court-appointed guardian or guardian ad litem,
6 or any official acting on the dependent adult's or at-risk
7 older adult's behalf.

8 j. Engaging in any other specified act which, based upon
9 the facts alleged, would constitute harm or a threat of
10 imminent harm to the dependent adult or at-risk older adult or
11 would cause damage to or the loss of the dependent adult's or
12 at-risk older adult's property.

13 7. This section shall not be construed and is not intended
14 as and shall not imply a grant of entitlement for services to
15 persons who are not otherwise eligible for the services or for
16 utilization of services which do not currently exist or are
17 not otherwise available.

18 EXPLANATION

19 This bill relates to procedures and services relating to
20 dependent adult abuse.

21 The bill establishes a process for the initiation of
22 emergency shelter and support services demonstration projects
23 through the area agencies on aging. The bill describes the
24 target population of the demonstration projects, specifies
25 requirements for participating area agencies on aging,
26 provides that a multidisciplinary team in a service area is to
27 provide oversight for the project, and provides that moneys
28 received for the demonstration projects are to be deposited in
29 a separate designated services fund.

30 The bill also amends the focus of the dependent adult abuse
31 services program under the department of elder affairs to
32 include not only a population target of victims of dependent
33 adult abuse, but also potential victims of dependent adult
34 abuse. The bill provides that the services program is to
35 include authorizing of information sharing concerning the

1 assessment and service needs of victims or potential victims
2 of dependent adult abuse among various entities rather than
3 the provision of information sharing and case consultation
4 among only service providers and victims.

5 The bill amends the definition of "caretaker" to include a
6 person who stands in relationship to a dependent adult such
7 that there is an expectation of trust or the ability to
8 influence the decisions of the adult and such that the actions
9 of the person may result in dependent adult abuse. The
10 definition of "dependent adult" is amended to include a person
11 certified for residency in a health care facility.

12 The bill amends the definition of "dependent adult abuse"
13 to include emotional or psychological abuse and self-denial of
14 critical care by a dependent adult or an at-risk older adult.
15 "At-risk older adult" is defined as an individual, 60 years of
16 age or older, who is not able or willing to adequately
17 maintain the individual's self in an independent living
18 arrangement.

19 The bill changes references to "dependent adult abuse" to
20 "suspected dependent adult abuse". The bill provides that
21 following the reporting of suspected dependent adult abuse,
22 the department of human services, or an agency approved by the
23 department, is to complete an assessment of the dependent
24 adult or at-risk older adult and changes the reference to
25 services that may be provided from protective services to
26 emergency shelter and support services, and provides for
27 referral by the department or approved agency to other
28 entities to develop a service plan and coordinate delivery of
29 services. The bill authorizes financial institutions to
30 report cases of suspected financial exploitation of a
31 dependent adult.

32 The bill establishes only two categories of dependent adult
33 abuse information: founded and unfounded. Previously there
34 was also an information category referred to as "other than
35 unfounded". The bill adds an employee of an agency requested

1 by the department of elder affairs to provide case management
2 or other services to the adult to the listing of persons
3 authorized to have access to founded dependent adult abuse.
4 The bill adds the long-term care resident's advocate to the
5 listing of people authorized to have access to founded
6 dependent adult abuse if the victim of the abuse resides in a
7 long-term care facility.

8 The bill authorizes access to unfounded dependent adult
9 abuse information to multidisciplinary teams involved in an
10 investigation of dependent adult abuse and an employee of an
11 agency requested by the department of elder affairs to provide
12 case management or other services to the adult.

13 The bill provides that dependent adult abuse information
14 which is determined by a preponderance of the evidence to be
15 founded, not information relating to a particular case of
16 suspected dependent adult abuse, is to be sealed 10 years
17 after the receipt of the initial report unless good cause is
18 shown to continue access to the information. The bill also
19 provides that dependent adult abuse information which is
20 determined by a preponderance of the evidence to be unfounded
21 is to be expunged one year after the receipt of the initial
22 report. Previously the law provided that dependent adult
23 abuse information which could not be determined by a
24 preponderance of the evidence to be founded or unfounded was
25 to be expunged one year after receipt of the initial report
26 and dependent adult abuse information which was determined by
27 a preponderance of the evidence to be unfounded was to be
28 expunged immediately upon determining that the information was
29 unfounded. The bill also provides that if a correction of
30 dependent adult abuse information was requested and the
31 information is not determined to be founded, the information
32 is to be expunged one year from the date it is determined to
33 be unfounded. Previously the information was to be expunged
34 immediately when determined to be unfounded.

35 The bill provides for injunctive relief regarding any third

1 party, not only caretakers, who refuses or interferes with the
2 provision of support services to a dependent adult or at-risk
3 older adult. The bill also provides for actions that may be
4 taken when not only a dependent adult, but an at-risk older
5 adult, is unable or unwilling to consent to support services,
6 including provisions for the obtaining of emergency orders and
7 injunctive relief.

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