

House File 2402 - Introduced

HOUSE FILE 2402
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 2105)

A BILL FOR

1 An Act relating to an agent's termination or suspension of
2 authority for a power of attorney.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 633B.110, subsection 2, Code 2018, is
2 amended by adding the following new paragraphs:

3 NEW PARAGRAPH. *e.* The agent is named as having abused the
4 principal in a founded dependent adult abuse report related to
5 the principal's financial resources.

6 NEW PARAGRAPH. *f.* The agent is convicted of dependent adult
7 abuse related to the principal's financial resources.

8 Sec. 2. Section 633B.116, subsection 1, Code 2018, is
9 amended by adding the following new paragraph:

10 NEW PARAGRAPH. *og.* A person who becomes aware of pending
11 criminal charges of dependent adult abuse related to the
12 principal's financial resources.

13 Sec. 3. Section 633B.116, Code 2018, is amended by adding
14 the following new subsection:

15 NEW SUBSECTION. 2A. Upon a petition to the court to review
16 an agent's conduct relating to pending criminal charges of
17 dependent adult abuse related to the principal's financial
18 resources, the court may suspend the agent's power of attorney
19 and may appoint a guardian ad litem to represent the principal.
20 The guardian ad litem shall be a practicing attorney.

21

EXPLANATION

22 The inclusion of this explanation does not constitute agreement with
23 the explanation's substance by the members of the general assembly.

24 This bill relates to the termination or suspension of an
25 agent's authority to act for a principal under a power of
26 attorney.

27 Code section 633B.110 currently provides that an agent's
28 authority for a power of attorney terminates upon the
29 occurrence of several circumstances including but not limited
30 to when the principal revokes the authority; the agent dies,
31 becomes incapacitated, or resigns; or an action is filed for
32 the dissolution or annulment of the agent's marriage to the
33 principal or for their legal separation, unless the power of
34 attorney otherwise provides. The bill amends the Code section
35 to include an additional circumstance under which an agent's

1 authority terminates, namely, if the agent is named as the
2 abuser in a founded dependent adult abuse report related to the
3 principal's financial resources or is convicted of dependent
4 adult abuse related to the principal's financial resources.

5 The bill amends Code section 633B.116, relating to judicial
6 relief of persons who may petition a court to construe a
7 power of attorney or to review an agent's conduct, to include
8 a person who becomes aware of pending criminal charges of
9 dependent adult abuse against a principal related to the
10 principal's financial resources.

11 The amendment also provides that after receiving a petition
12 to review an agent's conduct as a result of pending criminal
13 charges of dependent adult abuse related to the principal's
14 financial resources, the court may suspend the agent's power
15 of attorney and may appoint a guardian ad litem to represent
16 the principal. The bill requires the guardian ad litem to be
17 a practicing attorney.

18 Under current law, a prevailing party who filed such a
19 petition may be awarded reasonable attorney fees and costs.