

Senate Study Bill 1073 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED ATTORNEY GENERAL
BILL)

A BILL FOR

1 An Act relating to older individuals and dependent adults and
2 creating certain criminal offenses and civil actions, and
3 providing penalties.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

CRIMINAL AND CIVIL RELIEF FOR OLDER INDIVIDUALS

Section 1. NEW SECTION. 708.2D Older individual assault — mandatory minimums, penalties enhanced — extension of no-contact order.

1. For the purposes of this section:

a. "Older individual" means the same as defined in section 726.24.

b. "Older individual assault" means an assault, as defined in section 708.1, of an older individual.

2. On a first offense of older individual assault, the person commits:

a. A simple misdemeanor, except as otherwise provided.

b. A serious misdemeanor, if the older individual assault causes bodily injury or mental illness.

c. An aggravated misdemeanor, if the older individual assault is committed with the intent to inflict a serious injury upon an older individual, or if the person uses or displays a dangerous weapon in connection with the assault.

This paragraph does not apply if section 708.6 or 708.8 applies.

d. An aggravated misdemeanor, if the older individual assault is committed by knowingly impeding the normal breathing or circulation of the blood of an older individual by applying pressure to the throat or neck of the older individual or by obstructing the nose or mouth of the older individual.

3. Except as otherwise provided in subsection 2, on a second older individual assault, a person commits:

a. A serious misdemeanor if the first offense was classified as a simple misdemeanor and the second offense would otherwise be classified as a simple misdemeanor.

b. An aggravated misdemeanor if the first offense was classified as a simple or aggravated misdemeanor and the second offense would otherwise be classified as a serious misdemeanor, or the first offense was classified as a serious or aggravated

1 misdemeanor, and the second offense would otherwise be
2 classified as a simple or serious misdemeanor.

3 4. On a third or subsequent offense of older individual
4 assault, a person commits a class "D" felony.

5 5. For an older individual assault committed by knowingly
6 impeding the normal breathing or circulation of the blood of an
7 older individual by applying pressure to the throat or neck of
8 the older individual or by obstructing the nose or mouth of the
9 older individual, and causing bodily injury, the person commits
10 a class "D" felony.

11 6. *a.* A conviction for, deferred judgment for, or plea of
12 guilty to, a violation of this section which occurred more than
13 twelve years prior to the date of the violation charged shall
14 not be considered in determining that the violation charged is
15 a second or subsequent offense.

16 *b.* For the purpose of determining if a violation charged
17 is a second or subsequent offense, deferred judgments issued
18 pursuant to section 907.3 for violations of section 708.2 or
19 this section, which were issued on older individual assaults,
20 and convictions or the equivalent of deferred judgments for
21 violations in any other states under statutes substantially
22 corresponding to this section shall be counted as previous
23 offenses. The courts shall judicially notice the statutes of
24 other states which define offenses substantially equivalent
25 to the offenses defined in this section and can therefore be
26 considered corresponding statutes. Each previous violation on
27 which conviction or deferral of judgment was entered prior to
28 the date of the offense charged shall be considered and counted
29 as a separate previous offense.

30 *c.* An offense shall be considered a prior offense regardless
31 of whether it was committed upon the same victim.

32 7. *a.* A person convicted of violating subsection 2 or 3
33 shall serve a minimum term of two days of the sentence imposed
34 by law, and shall not be eligible for suspension of the minimum
35 sentence. The minimum term shall be served on consecutive

1 days. The court shall not impose a fine in lieu of the minimum
2 sentence, although a fine may be imposed in addition to the
3 minimum sentence. This section does not prohibit the court
4 from sentencing and the person from serving the maximum term of
5 confinement or from paying the maximum fine permitted pursuant
6 to chapters 902 and 903, and does not prohibit the court from
7 entering a deferred judgment or sentence pursuant to section
8 907.3, if the person has not previously received a deferred
9 sentence or judgment for a violation of section 708.2 or this
10 section which was issued on an older individual assault.

11 b. A person convicted of violating subsection 4 shall
12 be sentenced as provided under section 902.9, subsection 1,
13 paragraph "e", and shall be denied parole or work release until
14 the person has served a minimum of one year of the person's
15 sentence. Notwithstanding section 901.5, subsections 1, 3, and
16 5, and section 907.3, the person cannot receive a suspended or
17 deferred sentence or a deferred judgment; however, the person
18 sentenced shall receive credit for any time the person was
19 confined in a jail or detention facility following arrest.

20 8. If a person is convicted for, receives a deferred
21 judgment for, or pleads guilty to a violation of this section,
22 the court shall modify the no-contact order issued upon initial
23 appearance in the manner provided in section 664A.5, regardless
24 of whether the person is placed on probation.

25 9. The clerk of the district court shall provide notice
26 and copies of a judgment entered under this section to the
27 applicable law enforcement agencies and the twenty-four-hour
28 dispatcher for the law enforcement agencies, in the manner
29 provided for protective orders under chapter 235F. The
30 clerk shall provide notice and copies of modifications of the
31 judgment in the same manner.

32 **Sec. 2. NEW SECTION. 714.2A Theft against an older**
33 **individual.**

34 1. If a person commits theft against an individual who
35 was an older individual at the time the theft was committed,

1 notwithstanding the penalties specified in section 714.2, all
2 of the following shall apply:

3 a. If a person commits theft in the first degree pursuant to
4 section 714.2, subsection 1, the person is guilty of a class
5 "B" felony.

6 b. If a person commits theft in the second degree pursuant
7 to section 714.2, subsection 2, the person is guilty of a class
8 "C" felony.

9 c. If a person commits theft in the third degree pursuant to
10 section 714.2, subsection 3, the person is guilty of a class
11 "D" felony.

12 d. If a person commits theft in the fourth degree pursuant
13 to section 714.2, subsection 4, the person is guilty of an
14 aggravated misdemeanor.

15 e. If a person commits theft in the fifth degree pursuant to
16 section 714.2, subsection 5, the person is guilty of a serious
17 misdemeanor.

18 2. For the purposes of this section, "*older individual*"
19 means an individual who is sixty years of age or older.

20 Sec. 3. Section 714.16A, Code 2019, is amended to read as
21 follows:

22 **714.16A Additional civil penalty for consumer frauds**
23 **committed against elderly older individuals — fund established.**

24 1. a. If a person violates [section 714.16](#), and the
25 violation is committed against an older ~~person~~ individual,
26 in an action brought by the attorney general, in addition to
27 any other civil penalty, the court may impose an additional
28 civil penalty not to exceed five thousand dollars for each
29 such violation. Additionally, the attorney general may
30 accept a civil penalty as determined by the attorney general
31 in settlement of an investigation of a violation of section
32 714.16, regardless of whether an action has been filed pursuant
33 to [section 714.16](#).

34 b. A civil penalty imposed by a court or determined and
35 accepted by the attorney general pursuant to [this section](#) shall

1 be paid to the treasurer of state, who shall deposit the money
2 in the elderly victim fund, a separate fund created in the
3 state treasury and administered by the attorney general for the
4 investigation and prosecution of frauds against the elderly.
5 Notwithstanding [section 8.33](#), any balance in the fund on June
6 30 of any fiscal year shall not revert to the general fund
7 of the state. An award of reimbursement pursuant to section
8 714.16 has priority over a civil penalty imposed by the court
9 pursuant to [this subsection](#).

10 2. In determining whether to impose a civil penalty under
11 subsection 1, and the amount of any such penalty, the court
12 shall consider the following:

13 a. Whether the defendant's conduct was in willful disregard
14 of the rights of the older ~~person~~ individual.

15 b. Whether the defendant knew or should have known that the
16 defendant's conduct was directed to an older ~~person~~ individual.

17 c. Whether the older ~~person~~ individual was substantially
18 more vulnerable to the defendant's conduct because of age, poor
19 health, infirmity, impaired understanding, restricted mobility,
20 or disability, than other persons.

21 d. Any other factors the court deems appropriate.

22 3. As used in [this section](#), "~~older person~~" individual" means
23 ~~a person who is sixty-five years of age or older~~ an individual who is
24 sixty years of age or older.

25 **Sec. 4. NEW SECTION. 726.24 Elder abuse — initiation of**
26 **charges — penalty.**

27 1. As used in this section unless the context otherwise
28 requires:

29 a. "*Abuse*" means the knowing infliction of physical or
30 psychological harm or the knowing deprivation of goods or
31 services that are necessary to meet essential needs or to avoid
32 physical harm or psychological harm. "*Abuse*" includes but is
33 not limited to any of the following:

34 (1) Physical injury to, or injury which is at a variance
35 with the history given of the injury, or unreasonable

1 confinement, unreasonable punishment, or assault of an older
2 individual.

3 (2) The commission of a sexual offense under chapter 709 or
4 section 726.2 with or against an older individual.

5 (3) Sexual exploitation of an older individual.

6 (4) The commission of older individual assault under
7 section 708.2D.

8 *b. "Caregiver"* means an individual who has the
9 responsibility for the care or custody of an older individual,
10 whether voluntarily, by contract, by receipt of payment for
11 care, or as a result of the operation of law, and includes
12 but is not limited to a family member or other individual who
13 provides, whether on the individual's own behalf or on behalf
14 of a public or private entity, compensated or uncompensated
15 care to an older individual.

16 *c. "Elder abuse"* means the abuse, neglect, or exploitation
17 of an older individual. *"Elder abuse"* does not include any of
18 the following:

19 (1) Circumstances in which the older individual declines
20 medical treatment if the older individual holds a belief or is
21 an adherent of a religion whose tenets and practices call for
22 reliance on spiritual means in place of reliance on medical
23 treatment.

24 (2) Circumstances in which the older individual's caregiver
25 or fiduciary, acting in accordance with the older individual's
26 stated or implied consent, declines medical treatment if the
27 older individual holds a belief or is an adherent of a religion
28 whose tenets and practices call for reliance on spiritual means
29 in place of reliance on medical treatment.

30 (3) The withholding or withdrawing of health care from
31 an older individual who is terminally ill in the opinion of
32 a licensed physician, when the withholding or withdrawing of
33 health care is done at the request of the older individual or
34 at the request of the older individual's next of kin, attorney
35 in fact, or guardian pursuant to the applicable procedures

1 under chapter 125, 144A, 144B, 222, 229, or 633.

2 *d. "Fiduciary"* means a guardian, trustee, executor,
3 administrator, receiver, conservator, attorney in fact, or
4 any person, whether individual or corporate, acting in any
5 fiduciary capacity for or on behalf of any older individual.

6 *e. "Neglect"* means the failure of a caregiver or fiduciary
7 to provide adequate food, shelter, clothing, supervision,
8 physical or mental health care, and goods or services necessary
9 to maintain the life, health, or safety of an older individual,
10 which if not provided would constitute denial of critical care.

11 *f. "Older individual"* means an individual who is sixty years
12 of age or older.

13 *g. "Older individual assault"* means the same as defined in
14 section 708.2D.

15 *h. "Physical harm"* means bodily injury, impairment, or
16 disease.

17 *i. "Psychological harm"* means an injury to the intellectual
18 functioning or emotional state of an older individual as
19 evidenced by an observable or measurable reduction in the older
20 adult's ability to function within that individual's customary
21 range of performance and that individual's behavior.

22 *j. "Serious injury"* means the same as defined in section
23 702.18.

24 *k. "Sexual exploitation"* includes sexual exploitation
25 and means any sexual contact against an older individual's
26 will. This includes acts in which the older individual is
27 unable to understand the act or is unable to communicate or is
28 under undue influence and includes coerced nudity; fondling,
29 touching, or kissing, particularly the genitals; making the
30 person fondle someone else's genitals; forcing the person to
31 observe sexual acts; photographing the person in sexually
32 explicit ways; sexual assault of any type (coercion to perform
33 sexual acts), including rape or sodomy. Sexual contact is
34 defined as intentional touching (either directly or through the
35 clothing), of the genitalia, anus, groin, breast, mouth, inner

1 thigh, or buttocks.

2 1. "*Undue influence*" means when a person uses or knowingly
3 assists or causes another person to use that person's role,
4 relationship, or power to exploit the trust, dependency, or
5 fear of an older individual, or uses or knowingly assists or
6 causes another person to use that person's role, relationship,
7 or power to deceptively gain control over an older individual's
8 decision making process.

9 2. A charge of elder abuse may be initiated upon complaint
10 of a private individual, as a result of an investigation by
11 a social services agency, or on the direct initiative of the
12 attorney general, a county attorney, or a law enforcement
13 agency.

14 3. A person who intentionally commits elder abuse is guilty
15 of a class "C" felony if the intentional elder abuse results
16 in serious injury.

17 4. A person who recklessly commits elder abuse is guilty
18 of a class "D" felony if the reckless elder abuse results in
19 serious injury.

20 5. A person who intentionally commits elder abuse is guilty
21 of a class "C" felony if the intentional elder abuse results
22 in physical injury.

23 6. A person who recklessly commits elder abuse is guilty of
24 an aggravated misdemeanor if the reckless elder abuse results
25 in physical injury.

26 7. A person who otherwise intentionally or knowingly
27 commits elder abuse is guilty of a serious misdemeanor.

28 8. A person alleged to have committed a violation under
29 this section shall be charged with the respective offense
30 cited, unless a charge may be brought based upon a more serious
31 offense, in which case the charge of the more serious offense
32 shall supersede the less serious charge.

33 9. It does not constitute a defense to a prosecution for any
34 violation of this section that the alleged perpetrator did not
35 know the age of the victim.

1 10. In a criminal action in which an older individual is
2 a victim, the state may move the court to advance the trial
3 on the docket. The presiding judge, after consideration of
4 the age and health of the victim, may advance the trial on
5 the docket. The motion may be filed and served with the
6 information or charges or at any time.

7 11. *a.* A conviction or deferred judgment for or plea of
8 guilty to a violation of this section which occurred more than
9 twelve years prior to the date of the violation charged shall
10 not be considered in determining that the violation charged is
11 a second or subsequent offense.

12 *b.* For the purpose of determining if a violation charged
13 is a second or subsequent offense, deferred judgments issued
14 pursuant to section 907.3 for violations of this section or
15 section 708.2D, and convictions or the equivalent of deferred
16 judgments for violations in any other state under statutes
17 substantially corresponding to this section shall be counted
18 as previous offenses. The courts shall judicially notice the
19 statutes of other states which define offenses substantially
20 equivalent to the offenses defined in this section and can
21 therefore be considered corresponding statutes. Each previous
22 violation on which conviction or deferral of judgment was
23 entered prior to the date of the offense charged shall be
24 considered and counted as a separate previous offense.

25 *c.* An offense shall be considered a prior offense regardless
26 of whether it was committed upon the same victim.

27 12. If a person is convicted or receives a deferred judgment
28 for, or pleads guilty to a violation of this section, the
29 court shall modify the no-contact order issued upon initial
30 appearance in the manner provided in section 664A.5, regardless
31 of whether the person is placed on probation.

32 13. The clerk of the district court shall provide notice
33 and copies of a judgment entered under this section to the
34 applicable law enforcement agencies and the twenty-four-hour
35 dispatcher for the law enforcement agencies, in the manner

1 provided for protective orders under section 235F. The
2 clerk shall provide notice and copies of modifications of the
3 judgment in the same manner.

4 Sec. 5. NEW SECTION. **726.25 Financial exploitation of an**
5 **older individual.**

6 1. For the purposes of this section:

7 *a. "Caregiver"* means an individual who has the
8 responsibility for the care or custody of an older individual,
9 whether voluntarily, by contract, through employment, or as a
10 result of the operation of law, and includes but is not limited
11 to a family member or other individual who provides compensated
12 or uncompensated care to an older individual.

13 *b. "Coercion"* means communication or conduct which compels
14 an older individual to act or refrain from acting against the
15 older individual's will.

16 *c. "Older individual"* means an individual who is sixty years
17 of age or older.

18 *d. "Stands in a position of trust or confidence"* means the
19 person has any of the following relationships relative to the
20 older individual:

21 (1) Is a parent, spouse, adult child, or other relative by
22 consanguinity or affinity of the older individual.

23 (2) Is a joint tenant or tenant in common with the older
24 individual.

25 (3) Has a legal or fiduciary relationship with the older
26 individual.

27 (4) Is a financial planning or investment professional
28 providing or offering to provide financial planning or
29 investment advice to the older individual.

30 (5) Is a beneficiary of the older individual in a governing
31 instrument.

32 (6) Is a caregiver for the older individual.

33 (7) Is a person who is in a confidential relationship with
34 the older individual. The determination of the existence of a
35 confidential relationship is an issue of fact to be determined

1 by the court based upon the totality of the circumstances.

2 *e. "Undue influence"* means taking advantage of a person's
3 role, relationship, or authority to improperly change or
4 obtain control over the actions or decision making of an older
5 individual.

6 2. A person commits financial exploitation of an older
7 individual when the person stands in a position of trust or
8 confidence with the older individual and knowingly and by undue
9 influence, deception, coercion, fraud, breach of fiduciary
10 duty, or extortion, obtains control over or otherwise uses the
11 benefits, property, resources, belongings, or assets of the
12 older individual.

13 3. A person who commits financial exploitation of an older
14 individual is guilty of the following, as applicable:

15 *a.* A serious misdemeanor if the value of the benefits,
16 property, resources, belongings, or assets is one hundred
17 dollars or less.

18 *b.* A aggravated misdemeanor if the value of the benefits,
19 property, resources, belongings, or assets exceeds one hundred
20 dollars but does not exceed one thousand dollars.

21 *c.* A class "D" felony if the value of the benefits,
22 property, resources, belongings, or assets exceeds one thousand
23 dollars but does not exceed ten thousand dollars.

24 *d.* A class "C" felony if the value of the benefits,
25 property, resources, belongings, or assets exceeds ten thousand
26 dollars but does not exceed fifty thousand dollars.

27 *e.* A class "B" felony if the value of the benefits,
28 property, resources, belongings, or assets exceeds fifty
29 thousand dollars, or if the older individual is seventy years
30 of age to eighty years of age and the value of the benefits,
31 property, resources, belongings, or assets is fifteen thousand
32 dollars or more, or if the older individual is eighty years of
33 age or older and value of the benefits, property, resources,
34 belongings, or assets is five thousand dollars or more.

35 4. Nothing in this section shall be construed to limit other

1 remedies available to the older individual including those
2 provided under chapters 235F and 236.

3 5. A person alleged to have committed a violation under
4 this section shall be charged with the respective offense
5 cited, unless a charge may be brought based upon a more serious
6 offense, in which case the charge of the more serious offense
7 shall supersede the less serious charge.

8 6. Nothing in this section shall be construed to impose
9 criminal liability on a person who has made a good-faith effort
10 to assist an older individual in the management of the older
11 individual's benefits, property, resources, belongings, or
12 assets, but through no fault of the person the person has been
13 unable to provide such assistance.

14 7. It shall not be a defense to financial exploitation of
15 an older individual that the alleged perpetrator did not know
16 the age of the older individual or reasonably believed that the
17 alleged victim was not an older individual.

18 Sec. 6. NEW SECTION. **726.26 Dependent adult abuse —**
19 **initiation of charges — penalty.**

20 1. For the purposes of this section, "*caretaker*", "*dependent*
21 *adult*", and "*dependent adult abuse*" mean the same as defined in
22 section 235B.2.

23 2. A charge of dependent adult abuse may be initiated
24 upon the complaint of a private individual, as a result of an
25 investigation by a social service agency, or on the direct
26 initiative of the office of the attorney general, a county
27 attorney, or a law enforcement agency.

28 3. A caretaker who intentionally commits dependent adult
29 abuse is guilty of a class "C" felony if the intentional
30 dependent adult abuse results in serious injury.

31 4. A caretaker who recklessly commits dependent adult abuse
32 is guilty of a class "D" felony if the reckless dependent adult
33 abuse results in serious injury.

34 5. A caretaker who intentionally commits dependent adult
35 abuse is guilty of a class "C" felony if the intentional

1 dependent adult abuse results in physical injury.

2 6. A caretaker who commits dependent adult abuse by
3 exploitation of a dependent adult is guilty of a class "D"
4 felony if the value of the property, assets, or resources
5 exceeds one hundred dollars.

6 7. A caretaker who recklessly commits dependent adult
7 abuse is guilty of an aggravated misdemeanor if the reckless
8 dependent adult abuse results in physical injury.

9 8. A caretaker who otherwise intentionally or knowingly
10 commits dependent adult abuse is guilty of a serious
11 misdemeanor.

12 9. A caretaker who commits dependent adult abuse by
13 exploitation of a dependent adult is guilty of a simple
14 misdemeanor if the value of the property, assets, or resources
15 is one hundred dollars or less.

16 10. A caretaker alleged to have committed dependent adult
17 abuse shall be charged with the respective offense cited,
18 unless a charge may be brought based upon a more serious
19 offense, in which case the charge of the more serious offense
20 shall supersede the less serious charge.

21 Sec. 7. REPEAL. Section 235B.20, Code 2019, is repealed.

22 Sec. 8. CODE EDITOR DIRECTIVES. The Code editor shall do
23 all of the following:

24 1. Create a new subchapter in chapter 726, entitled
25 "Resident, Dependent Adult, and Older Individual Protection
26 Act" that includes sections 726.24, 726.25, and 726.26, as
27 enacted in this Act.

28 2. a. Transfer sections 726.7 and 726.8, Code 2019, to
29 the new subchapter and renumber the transferred sections as
30 follows:

31 (1) Section 726.7 as section 726.27.

32 (2) Section 726.8 as section 726.28.

33 b. Correct internal references as necessary.

34 3. Amend the title of the chapter to read "Protections
35 for the family, dependent persons, residents of health care

1 facilities, and older individuals”.

2 DIVISION II

3 CONFORMING CHANGES

4 Sec. 9. Section 13.2, subsection 1, Code 2019, is amended by
5 adding the following new paragraph:

6 NEW PARAGRAPH. *p.* Develop written procedures and policies
7 to be followed by prosecuting attorneys in the prosecution
8 of elder abuse, older individual assault, theft against an
9 older individual, consumer frauds committed against an older
10 individual, and financial exploitation of an older individual
11 under sections 708.2D, 714.2A, 714.16A, 726.24, and 726.25.

12 Sec. 10. Section 598.16, subsection 7, paragraph a, Code
13 2019, is amended to read as follows:

14 *a.* In determining whether a history of elder abuse exists,
15 the court’s consideration shall include but is not limited
16 to commencement of an action pursuant to [section 235F.2](#), the
17 issuance of a court order or consent agreement pursuant to
18 section 235F.6, the issuance of an emergency order pursuant to
19 section 235F.7, the holding of a party in contempt pursuant to
20 section 664A.7, the response of a peace officer to the scene
21 of alleged elder abuse, ~~or~~ the arrest of a party following a
22 response to a report of alleged elder abuse, or a conviction
23 for older individual assault pursuant to section 708.2D.

24 Sec. 11. Section 664A.1, subsection 2, Code 2019, is amended
25 to read as follows:

26 2. “*Protective order*” means a protective order issued
27 pursuant to [chapter 232](#), a court order or court-approved
28 consent agreement entered pursuant to [this chapter](#) or chapter
29 235F, a court order or court-approved consent agreement entered
30 pursuant to [chapter 236](#) or [236A](#), including a valid foreign
31 protective order under [section 236.19, subsection 3](#), or section
32 236A.19, subsection 3, a temporary or permanent protective
33 order or order to vacate the homestead under [chapter 598](#), or an
34 order that establishes conditions of release or is a protective
35 order or sentencing order in a criminal prosecution arising

1 from a domestic abuse assault under section 708.2A or older
2 individual assault under section 708.2D, or a civil injunction
3 issued pursuant to section 915.22.

4 Sec. 12. Section 664A.2, subsection 1, Code 2019, is amended
5 to read as follows:

6 1. This chapter applies to no-contact orders issued for
7 violations or alleged violations of sections 708.2A, 708.2D,
8 708.7, 708.11, 709.2, 709.3, and 709.4, and any other public
9 offense for which there is a victim.

10 Sec. 13. Section 664A.7, subsection 5, Code 2019, is amended
11 to read as follows:

12 5. Violation of a no-contact order entered for the offense
13 or alleged offense of domestic abuse assault in violation
14 of section 708.2A, the offense or alleged offense of older
15 individual assault in violation of section 708.2D, or a
16 violation of a protective order issued pursuant to chapter
17 232, 235F, 236, 236A, 598, or 915 constitutes a public offense
18 and is punishable as a simple misdemeanor. Alternatively,
19 the court may hold a person in contempt of court for such a
20 violation, as provided in subsection 3.

21 Sec. 14. Section 915.22, Code 2019, is amended by adding the
22 following new subsection:

23 NEW SUBSECTION. 6. The clerk of the district court
24 shall provide notice and copies of restraining orders issued
25 pursuant to this section in a criminal case involving an
26 alleged violation of section 708.2D to the applicable law
27 enforcement agencies and the twenty-four-hour dispatch for the
28 law enforcement agencies, in the manner provided for protective
29 orders under section 235F.6. The clerk shall provide notice
30 and copies of modifications or vacations of these orders in the
31 same manner.

32 EXPLANATION

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

35 This bill relates to older individuals and dependent adults

1 and certain criminal offenses and civil actions, and provides
2 penalties.

3 DIVISION I — CRIMINAL AND CIVIL RELIEF FOR OLDER
4 INDIVIDUALS. The bill establishes the crime of older
5 individual assault which is the assault, as defined in Code
6 section 708.1, of an older individual, defined in the bill as
7 an individual 60 years of age or older. The bill provides
8 criminal penalties for older individual assault ranging from
9 a simple misdemeanor to a class "D" felony depending on the
10 circumstances of the assault. The bill also provides for the
11 determination of whether a violation is a second or subsequent
12 offense and provides for minimum sentencing for offenders.

13 The bill establishes the crime of theft against an older
14 individual which enhances the penalties for the existing crime
15 of theft by one degree.

16 The bill changes the existing additional civil penalty for
17 consumer frauds committed against elders (those 65 years of age
18 or older) to apply to older individuals consistent with other
19 provisions relating to older individuals under the bill.

20 The bill establishes criminal penalties for elder abuse
21 ranging from a serious misdemeanor to a class "C" felony
22 depending on the circumstances and resulting injuries of the
23 abuse. Elder abuse is defined as the abuse, neglect, or
24 exploitation of an older individual.

25 The bill establishes the crime of financial exploitation of
26 an older individual. A person commits financial exploitation
27 of an older individual when the person stands in a position of
28 trust or confidence with the older individual and knowingly
29 and by undue influence, deception, coercion, fraud, breach of
30 fiduciary duty, or extortion, obtains control over or otherwise
31 uses the benefits, property, resources, belongings, or assets
32 of the older individual. The criminal penalties range from a
33 serious misdemeanor to a class "B" felony based on the amount
34 of benefits, property, resources, belongings, or assets of the
35 older individual involved.

1 The bill relocates the criminal penalties for dependent
2 adult abuse as they currently exist from Code chapter 235B
3 (dependent adult abuse) to Code chapter 726 (relating to the
4 protection of the family and dependent persons).

5 DIVISION II — CONFORMING CHANGES. The bill makes
6 conforming changes throughout the Code.

7 Code section 13.2: The bill adds as a duty of the attorney
8 general to develop written procedures and policies to be
9 followed by prosecuting attorneys in the prosecution of
10 elder abuse, older individual assault, theft against an
11 older individual, consumer frauds committed against an older
12 individual, and financial exploitation of an older individual.

13 Code section 598.16: The bill provides that, for the
14 waiver from the requirements for the parties to participate
15 in conciliation efforts in dissolution actions, a court may
16 consider a conviction for older individual assault.

17 Code section 664A.1: The bill includes in the definition
18 of "protective orders" under Code chapter 664A (relating to
19 no-contact and enforcement of protective orders), a protective
20 order or sentencing order in a criminal prosecution arising
21 from older individual assault.

22 Code section 664A.2: The bill provides that the Code chapter
23 is applicable to no-contact orders issued for violations or
24 alleged violations related to older individual assault.

25 Code section 664A.7: The bill provides that violation of a
26 no-contact order for the offense of older individual assault
27 constitutes a public offense and is punishable as a simple
28 misdemeanor. Alternatively, the court may hold a person in
29 contempt of court for such violation.

30 Code section 915.23: The bill provides that under Code
31 chapter 915 (victim rights) the clerk of the district court
32 shall provide notice and copies of restraining orders in a
33 criminal case involving alleged older individual assault to the
34 applicable law enforcement agencies and the 24-hour dispatcher
35 for the law enforcement agencies, in the manner provided for

S.F. _____ H.F. _____

1 protective orders under Code section 235F.6. The clerk shall
2 provide notice and copies of modifications or vacations of
3 these orders in the same manner.