

**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:

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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

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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.