

MAR 15 2005  
Place On Calendar

HOUSE FILE 760  
BY COMMITTEE ON HUMAN  
RESOURCES

(SUCCESSOR TO HF 544)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes 98 Nays 0 Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved 4-22-05

**A BILL FOR**

1 An Act relating to dependent adults and the provision of  
2 protective services.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 760

**HOUSE FILE 760**

**H-1105**

- 1 Amend House File 760 as follows:  
2 1. Page 1, line 28, by inserting after the words  
3 "to the" the following: "physical or financial".  
4 2. Page 2, line 5, by inserting after the words  
5 "to the" the following: "physical or financial".  
6 3. Page 2, line 18, by inserting after the words  
7 "to the" the following: "physical or financial".  
8 4. By renumbering as necessary.

By KURTENBACH of Story

**H-1105** FILED MARCH 17, 2005

1 Section 1. Section 235B.18, subsections 1 and 4, Code  
2 2005, are amended to read as follows:

3 1. If the department reasonably determines that a  
4 dependent adult is a victim of dependent adult abuse and lacks  
5 capacity to consent to the receipt of protective services, the  
6 department may petition the district court in the county in  
7 which the dependent adult resides for an order authorizing the  
8 provision of protective services. The petition shall allege  
9 specific facts sufficient to demonstrate that the dependent  
10 adult is in need of protective services and lacks capacity to  
11 consent to the receipt of services.

12 4. A determination by the court that a dependent adult  
13 lacks the capacity to consent to the receipt of protective  
14 services under this chapter shall not affect incompetency  
15 proceedings under sections 633.552 through 633.556 or any  
16 other proceedings, and incompetency proceedings under sections  
17 633.552 through 633.556 shall not have a conclusive effect on  
18 the question of capacity to consent to the receipt of  
19 protective services under this chapter. A person previously  
20 adjudicated as incompetent under the relevant provisions of  
21 chapter 633 is entitled to the care, protection, and services  
22 under this chapter.

23 Sec. 2. Section 235B.19, subsection 1, Code 2005, is  
24 amended to read as follows:

25 1. If the department determines that a dependent adult is  
26 suffering from dependent adult abuse which presents an  
27 immediate danger to the health or safety of the dependent  
28 adult, or which results in irreparable harm to the resources  
29 or property of the dependent adult, and that the dependent  
30 adult lacks capacity to consent to receive protective  
31 services, and that no consent can be obtained, the department  
32 may petition the court with probate jurisdiction in the county  
33 in which the dependent adult resides for an emergency order  
34 authorizing protective services.

35 Sec. 3. Section 235B.19, subsection 3, unnumbered

1 paragraph 1, Code 2005, is amended to read as follows:

2 Upon finding that there is probable cause to believe that  
3 the dependent adult abuse presents an immediate threat to the  
4 health or safety of the dependent adult or which results in  
5 irreparable harm to the resources or property of the dependent  
6 adult, and that the dependent adult lacks capacity to consent  
7 to the receipt of services, the court may do any of the  
8 following:

9 Sec. 4. Section 235B.19, subsection 5, Code 2005, is  
10 amended to read as follows:

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

1 Sec. 5. Section 235B.19, subsection 6, unnumbered  
2 paragraph 1, Code 2005, is amended to read as follows:

3 The Upon a finding of probable cause to believe that  
4 dependent adult abuse has occurred and is either ongoing or is  
5 likely to reoccur, the court may also enter orders as may be  
6 appropriate to third persons enjoining them from specific  
7 conduct. The orders may include temporary restraining orders  
8 which impose criminal sanctions if violated. The court may  
9 enjoin third persons from any of the following:

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EXPLANATION

11 This bill relates to dependent adults and the provision of  
12 protective services.

13 The bill specifies that the department of human services  
14 may petition the district court in the county in which a  
15 dependent adult resides for an order authorizing the provision  
16 of protective services, and that persons previously  
17 adjudicated as incompetent under the relevant provisions of  
18 Code chapter 633 (Iowa probate code) are entitled to the care,  
19 protection, and services under Code chapter 235B (dependent  
20 adult abuse).

21 The bill specifies that if the department of human services  
22 determines a dependent adult is suffering from dependent adult  
23 abuse which presents an immediate danger to the health or  
24 safety of the dependent adult or which results in irreparable  
25 harm to the resources or property of the dependent adult and  
26 that the dependent adult lacks capacity to consent to receive  
27 protective services and that no consent can be obtained, the  
28 department of human services may petition the court with  
29 probate jurisdiction in the county in which the dependent  
30 adult resides for an emergency order authorizing protective  
31 services.

32 The bill further provides that upon a finding of probable  
33 cause to believe that dependent adult abuse has occurred and  
34 is either ongoing or likely to reoccur, the court may enter  
35 the necessary orders, including temporary restraining orders,

1 to third persons enjoining them from specific conduct.

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HOUSE FILE 760  
BY COMMITTEE ON HUMAN  
RESOURCES

(SUCCESSOR TO HF 544)

(As Amended and Passed by the House March 21, 2005)

Passed House, Date \_\_\_\_\_ Passed Senate, Date 4-14-05  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes 50 Nays 0  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to dependent adults and the provision of  
2 protective services.

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

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House Amendments \_\_\_\_\_

1 Section 1. Section 235B.18, subsections 1 and 4, Code  
2 2005, are amended to read as follows:

3 1. If the department reasonably determines that a  
4 dependent adult is a victim of dependent adult abuse and lacks  
5 capacity to consent to the receipt of protective services, the  
6 department may petition the district court in the county in  
7 which the dependent adult resides for an order authorizing the  
8 provision of protective services. The petition shall allege  
9 specific facts sufficient to demonstrate that the dependent  
10 adult is in need of protective services and lacks capacity to  
11 consent to the receipt of services.

12 4. A determination by the court that a dependent adult  
13 lacks the capacity to consent to the receipt of protective  
14 services under this chapter shall not affect incompetency  
15 proceedings under sections 633.552 through 633.556 or any  
16 other proceedings, and incompetency proceedings under sections  
17 633.552 through 633.556 shall not have a conclusive effect on  
18 the question of capacity to consent to the receipt of  
19 protective services under this chapter. A person previously  
20 adjudicated as incompetent under the relevant provisions of  
21 chapter 633 is entitled to the care, protection, and services  
22 under this chapter.

23 Sec. 2. Section 235B.19, subsection 1, Code 2005, is  
24 amended to read as follows:

25 1. If the department determines that a dependent adult is  
26 suffering from dependent adult abuse which presents an  
27 immediate danger to the health or safety of the dependent  
28 adult, or which results in irreparable harm to the physical or  
29 financial resources or property of the dependent adult, and  
30 that the dependent adult lacks capacity to consent to receive  
31 protective services, and that no consent can be obtained, the  
32 department may petition the court with probate jurisdiction in  
33 the county in which the dependent adult resides for an  
34 emergency order authorizing protective services.

35 Sec. 3. Section 235B.19, subsection 3, unnumbered

1 paragraph 1, Code 2005, is amended to read as follows:

2     Upon finding that there is probable cause to believe that  
3 the dependent adult abuse presents an immediate threat to the  
4 health or safety of the dependent adult or which results in  
5 irreparable harm to the physical or financial resources or  
6 property of the dependent adult, and that the dependent adult  
7 lacks capacity to consent to the receipt of services, the  
8 court may do any of the following:

9     Sec. 4. Section 235B.19, subsection 5, Code 2005, is  
10 amended to read as follows:

11     5. If the department cannot obtain an emergency order  
12 under this section due to inaccessibility of the court, the  
13 department may contact law enforcement to remove the dependent  
14 adult to safer surroundings, authorize the provision of  
15 medical treatment, and order the provision of or provide other  
16 available services necessary to remove conditions creating the  
17 immediate danger to the health or safety of the dependent  
18 adult or which are producing irreparable harm to the physical  
19 or financial resources or property of the dependent adult.

20 The department shall obtain an emergency order under this  
21 section not later than four p.m. on the first succeeding  
22 business day after the date on which protective or other  
23 services are provided. If the department does not obtain an  
24 emergency order within the prescribed time period, the  
25 department shall cease providing protective services and, if  
26 necessary, make arrangements for the immediate return of the  
27 person to the place from which the person was removed, to the  
28 person's place of residence in the state, or to another  
29 suitable place. A person, agency, or institution acting in  
30 good faith in removing a dependent adult or in providing  
31 services under this subsection, and an employer of or person  
32 under the direction of such a person, agency, or institution,  
33 shall have immunity from any liability, civil or criminal,  
34 that might otherwise be incurred or imposed as the result of  
35 the removal or provision of services.

1     Sec. 5. Section 235B.19, subsection 6, unnumbered  
2 paragraph 1, Code 2005, is amended to read as follows:  
3     The Upon a finding of probable cause to believe that  
4 dependent adult abuse has occurred and is either ongoing or is  
5 likely to reoccur, the court may also enter orders as may be  
6 appropriate to third persons enjoining them from specific  
7 conduct. The orders may include temporary restraining orders  
8 which impose criminal sanctions if violated. The court may  
9 enjoin third persons from any of the following:

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HOUSE FILE 760

AN ACT

RELATING TO DEPENDENT ADULTS AND THE PROVISION OF  
PROTECTIVE SERVICES.

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

Section 1. Section 235B.18, subsections 1 and 4, Code 2005, are amended to read as follows:

1. If the department reasonably determines that a dependent adult is a victim of dependent adult abuse and lacks capacity to consent to the receipt of protective services, the department may petition the district court in the county in which the dependent adult resides for an order authorizing the provision of protective services. The petition shall allege

specific facts sufficient to demonstrate that the dependent adult is in need of protective services and lacks capacity to consent to the receipt of services.

4. A determination by the court that a dependent adult lacks the capacity to consent to the receipt of protective services under this chapter shall not affect incompetency proceedings under sections 633.552 through 633.556 or any other proceedings, and incompetency proceedings under sections 633.552 through 633.556 shall not have a conclusive effect on the question of capacity to consent to the receipt of protective services under this chapter. A person previously adjudicated as incompetent under the relevant provisions of chapter 633 is entitled to the care, protection, and services under this chapter.

Sec. 2. Section 235B.19, subsection 1, Code 2005, is amended to read as follows:

1. If the department determines that a dependent adult is suffering from dependent adult abuse which presents an immediate danger to the health or safety of the dependent adult, or which results in irreparable harm to the physical or financial resources or property of the dependent adult, and that the dependent adult lacks capacity to consent to receive protective services, and that no consent can be obtained, the department may petition the court with probate jurisdiction in the county in which the dependent adult resides for an emergency order authorizing protective services.

Sec. 3. Section 235B.19, subsection 3, unnumbered paragraph 1, Code 2005, is amended to read as follows:

Upon finding that there is probable cause to believe that the dependent adult abuse presents an immediate threat to the health or safety of the dependent adult or which results in irreparable harm to the physical or financial resources or property of the dependent adult, and that the dependent adult lacks capacity to consent to the receipt of services, the court may do any of the following:

Sec. 4. Section 235B.19, subsection 5, Code 2005, is amended to read as follows:

5. If the department cannot obtain an emergency order under this section due to inaccessibility of the court, the department may contact law enforcement to remove the dependent adult to safer surroundings, authorize the provision of medical treatment, and order the provision of or provide other available services necessary to remove conditions creating the immediate danger to the health or safety of the dependent adult or which are producing irreparable harm to the physical or financial resources or property of the dependent adult.

The department shall obtain an emergency order under this section not later than four p.m. on the first succeeding business day after the date on which protective or other services are provided. If the department does not obtain an emergency order within the prescribed time period, the department shall cease providing protective services and, if necessary, make arrangements for the immediate return of the person to the place from which the person was removed, to the person's place of residence in the state, or to another suitable place. A person, agency, or institution acting in good faith in removing a dependent adult or in providing services under this subsection, and an employer of or person under the direction of such a person, agency, or institution, shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed as the result of the removal or provision of services.

Sec. 5. Section 235B.19, subsection 6, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The Upon a finding of probable cause to believe that dependent adult abuse has occurred and is either ongoing or is likely to reoccur, the court may also enter orders as may be appropriate to third persons enjoining them from specific conduct. The orders may include temporary restraining orders

which impose criminal sanctions if violated. The court may enjoin third persons from any of the following:

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CHRISTOPHER C. RANTS  
Speaker of the House

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JOHN P. KIBBIE  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 760, Eighty-first General Assembly.

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MARGARET THOMSON  
Chief Clerk of the House

Approved 4/22/, 2005

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THOMAS J. VILSACK  
Governor