

DEPENDENT ADULT ABUSE REPORTING

235B.2 Definition of Dependent Adult and Dependent Adult Abuse

4. *Dependent adult*” means a person eighteen years of age or older who is unable to protect the person’s own interests or unable to adequately perform or obtain services necessary to meet essential human needs, as a result of a physical or mental condition which requires assistance from another, or as defined by departmental rule.

5. a. *“Dependent adult abuse”* means:

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

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

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

(c) Exploitation of a dependent adult which means the act or process of taking unfair advantage of a dependent adult or the adult’s physical or financial resources, without the informed consent of the dependent adult, including theft, by the use of undue influence, harassment, duress, deception, false representation, or false pretenses.

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

(2) The deprivation of the minimum food, shelter, clothing, supervision, physical or mental health care, and other care necessary to maintain a dependent adult’s life or health as a result of the acts or omissions of the dependent adult.

(3) (a) Sexual exploitation of a dependent adult by a caretaker.

(b) *“Sexual exploitation”* means any consensual or nonconsensual sexual conduct with a dependent adult which includes but is not limited to kissing; touching of the clothed or unclothed inner thigh, breast, groin, buttock, anus, pubes, or genitals; or a sex act, as defined in section 702.17. *“Sexual exploitation”* includes the transmission, display, taking of electronic images of the unclothed breast, groin, buttock, anus, pubes, or genitals of a dependent adult by a caretaker for a purpose not related to treatment or diagnosis or as part of an ongoing assessment, evaluation, or investigation. Sexual exploitation does not include touching which is part of a necessary examination, treatment, or care by a caretaker acting within the scope of the practice or employment of the caretaker; the exchange of a brief touch or hug between the dependent adult and a caretaker for the purpose of reassurance, comfort, or casual friendship; or touching between spouses.

(4) (a) Personal degradation of a dependent adult by a caretaker. (b) (i) *“Personal degradation”* means a willful act or statement by a caretaker intended to shame, degrade, humiliate, or otherwise harm the personal dignity of a dependent adult, or where the caretaker knew or reasonably should have known the act or statement would cause shame, degradation, humiliation, or harm to the personal dignity of a reasonable person. *“Personal degradation”* includes the taking, transmission, or display of an electronic image of a dependent adult by a caretaker, where the caretaker’s actions constitute a willful act or statement intended to shame, degrade, humiliate, or otherwise harm the personal dignity of the dependent adult, or where the caretaker knew or reasonably should have known the act would cause shame, degradation, humiliation, or harm to the personal dignity of a reasonable person.

Definition of Child Abuse 232.68

1. “*Child*” means any person under the age of eighteen years.

2. a. “*Child abuse*” or “*abuse*” means:

(1) Any nonaccidental physical injury, or injury which is at variance with the history given of it, suffered by a child as the result of the acts or omissions of a person responsible for the care of the child.

(2) Any mental injury to a child’s intellectual or psychological capacity as evidenced by an observable and substantial impairment in the child’s ability to function within the child’s normal range of performance and behavior as the result of the acts or omissions of a person responsible for the care of the child, if the impairment is diagnosed and confirmed by a licensed physician or qualified mental health professional as defined in [section 622.10](#).

(3) The commission of a sexual offense with or to a child pursuant to [chapter 709](#), [section 726.2](#), or [section 728.12, subsection 1](#), as a result of the acts or omissions of the person responsible for the care of the child or of a person who is fourteen years of age or older and resides in a home with the child. Notwithstanding [section 702.5](#), the commission of a sexual offense under this subparagraph includes any sexual offense referred to in this subparagraph with or to a person under the age of eighteen years.

(4) (a) The failure on the part of a person responsible for the care of a child to provide for the adequate food, shelter, clothing, medical or mental health treatment, supervision, or other care necessary for the child’s health and welfare when financially able to do so or when offered financial or other reasonable means to do so and the failure occurred within five years of a report.

(b) For the purposes of subparagraph division (a), failure to provide for the adequate supervision of a child means the person failed to provide proper supervision of a child that a reasonable and prudent person would exercise under similar facts and circumstances and the failure resulted in direct harm or created a risk of harm to the child.

(c) A parent or guardian legitimately practicing religious beliefs who does not provide specified medical treatment for a child for that reason alone shall not be considered abusing the child, however this provision shall not preclude a court from ordering that medical service be provided to the child where the child’s health requires it.

(5) The acts or omissions of a person responsible for the care of a child which allow, permit, or encourage the child to engage in acts prohibited pursuant to [section 725.1](#). Notwithstanding [section 702.5](#), acts or omissions under this subparagraph include an act or omission referred to in this subparagraph with or to a person under the age of eighteen years.

(6) An illegal drug is present in a child’s body as a direct and foreseeable consequence of the acts or omissions of the person responsible for the care of the child.

(7) The person responsible for the care of a child, in the presence of a child, as defined in [section 232.96A, subsection 16](#), paragraph “e”, unlawfully uses, possesses, manufactures, cultivates, or distributes a dangerous substance, as defined in [section 232.96A, subsection 16](#), paragraph “f”, or knowingly allows such use, possession, manufacture, cultivation, or distribution by another person in the presence of a child; possesses a product with the intent to use the product as a precursor or an intermediary to a dangerous substance in the presence of a child; or unlawfully uses, possesses, manufactures, cultivates, or distributes a dangerous substance specified in [section 232.96A, subsection 16](#), paragraph “f”, subparagraph (1), (2), or (3), in a child’s home, on the premises, or in a motor vehicle located on the premises and the incident occurred within five years of a report to the department.

(8) The commission of bestiality in the presence of a minor under [section 717C.1](#) by a person who resides in a home with a child, as a result of the acts or omissions of a person responsible for the care of the child.

(9) (a) A person who is responsible for the care of a child knowingly allowing another person custody of, control over, or unsupervised access to a child under the age of fourteen or a child with a physical or mental disability, after knowing the other person is required to register or is on the sex offender registry under [chapter 692A](#).

(b) This subparagraph does not apply in any of the following circumstances:

(i) A child living with a parent or guardian who is a sex offender required to register or on the sex offender registry under [chapter 692A](#).

(ii) A child living with a parent or guardian who is married to and living with a sex offender required to register or on the sex offender registry under [chapter 692A](#).

(iii) A child who is a sex offender required to register or on the sex offender registry under [chapter 692A](#) who is living with the child's parent, guardian, or foster parent and is also living with the child to whom access was allowed.

(c) For purposes of this subparagraph, "*control over*" means any of the following:

(i) A person who has accepted, undertaken, or assumed supervision of a child from the parent or guardian of the child.

(ii) A person who has undertaken or assumed temporary supervision of a child without explicit consent from the parent or guardian of the child.

(10) The person responsible for the care of the child has knowingly allowed the child access to obscene material as defined in [section 728.1](#) or has knowingly disseminated or exhibited such material to the child.

(11) The recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a child for the purpose of commercial sexual activity as defined in [section 710A.1](#).

Penalties of Mandatory Reporters

A mandatory reporter who does any of the following concerning a suspicion of dependent adult abuse may be committing a simple misdemeanor and may be liable for civil damages:

- Knowingly and willfully fails to report.
- Interferes with the making of a report.
- Applies a requirement that results in the failure to report.

The employer or supervisor of a person who is required to report suspected dependent adult abuse may not apply a policy, work rule, or other requirement that interferes with a person making a report, or results in the failure of another to make a report.

The mandatory reporter may use form 470-2441, Suspected Dependent Adult Abuse Report, which outlines the necessary information

How Do I Report Dependent Adult Abuse?

Legal reference: 441 Iowa Administrative Code 176.4(235B) and 176.5(235B)

Iowa Code Section 235B.3 requires that if you are a mandatory reporter of dependent adult abuse, and you suspect a dependent adult has been abused, you must report it to HHS. Iowa Code Section 235E.2 requires if the abuse occurred in a health care facility, hospital, elder group home, assisted living or adult day services program, you should report it to the Department of Inspections and Appeals (DIA). Make the report to HHS or DIA by telephone or by other means.

HHS receives reports from any person who believes dependent adult abuse has occurred. HHS maintains a toll-free telephone line 1-800-362-2178, which is available on a 24-hour-a-day, seven-day-a-week basis. Any person may use this number to report cases of suspected dependent adult abuse. All authorized persons may also use this number for obtaining dependent adult abuse information. DIA can be contacted at 1-877-686-0027.

In addition to making a report to HHS, if you have reason to believe that immediate protection for the dependent adult is advisable, also make an oral report to the appropriate law enforcement agency. A county attorney or law enforcement agency that receives a report of dependent adult abuse must refer it to HHS.

Previously, a mandatory reporter was required to make a report in writing 48 hours after the oral report. This is no longer required and is optional. If you choose to make a follow-up written report, you can use HHS form 470-2441.

If you are a staff member or employee, you must also immediately notify the person in charge or the person's designated agent. "Immediately" means within 24 hours from the time the mandatory reporter suspects abuse of a dependent adult. The employer or supervisor of a mandatory abuse reporter shall not apply any policy, work rule, or other requirement that interferes with the person making a report of dependent adult abuse or that results in the failure of another person to make the report.

If you are a staff member or employee of a facility or program licensed or certified by the DIA, you must immediately notify the person in charge or the person's designated agent, who then makes the report to the DIA, within 24 hours, unless the person you are to report directly to is the person you suspect of abusing the dependent adult.

Report Requirements

Include in your report the following information, or as much of it as you are able to furnish:

- The names and home addresses of the dependent adult, relatives, caretakers, and other people believed to be responsible for the dependent adult's care.
- The dependent adult's present whereabouts, if not the same as the address given.
- The reason the adult is believed to be dependent.
- The dependent adult's age.
- The nature and extent of the adult abuse, including evidence of previous adult abuse.
- Information concerning the suspected adult abuse of other dependent adults in the same residence.
- Other information that you believe might be helpful in establishing the cause of the abuse or the identity of the people responsible for the abuse or helpful in assisting the dependent adult.
- Your name and address.

A report that meets the criteria will be accepted whether or not it contains all of the information listed.

Process staff must follow to ensure the client's safety upon learning of an allegation

If staff have reason to believe that immediate protection for the dependent adult is advisable, that person shall also make an immediate oral report to an appropriate law enforcement agency.

Process the provider will follow when the alleged perpetrator is an employee

If the alleged perpetrator is an employee, they will not be assigned to work directly with clients until an internal investigation can be completed. If the internal investigation results in founded evidence of staff wrongdoing, the employee will be subject to disciplinary actions, up to and including termination.

Process the provider will follow to insure any provider investigation does not impede the DHS investigation

TLC staff will cooperate with the Department of Human Services and law enforcement as required by law. TLC staff will not act in a way that will impede the DHS investigation.