

Iowa Department of Human Services

DEPENDENT ADULT ABUSE

A Guide for Mandatory Reporters

To report suspected dependent adult abuse, contact your county Department of Human Services office during regular office hours. Reports may also be made at any time by calling the toll-free 24-hour hotline at:

1-800-362-2178

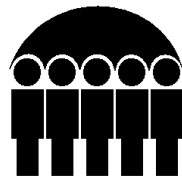


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Dependent Adult Abuse Overview

“Dependent adult” abuse allegations involve people who are aged 18 or over and are incapable of adequate self care due to physical or mental conditions and require assistance from other people. Dependent adults may be elderly or may have diminished physical or mental capacities that prevent them from meeting their own needs adequately.

Researchers estimate that only 1 in 14 incidents of elder abuse actually come to the attention of law enforcement or human service agencies. Elder abuse is one of the most under-recognized and under-reported social problems in the United States. It is far less likely to be reported than child abuse because of the lack of public awareness. Nationally, it is estimated that over 55% of elder abuse is due to self-neglect. Such abuse can happen anywhere... in private homes, at health care facilities and in the community at large.

Iowa has an increasing proportion of people who are aged 60 and over. The group that is 80 and over is increasing more rapidly than any age group. Iowa’s proportion of older adults in the population exceeds that of the United States as a whole. Nationwide, Iowa ranks:

1st	percentage of persons aged 85 +	1.99%
2nd	percentage of persons aged 75 +	7.17%
3rd	percentage of persons aged 65 +	15.35%
4th	percentage of persons aged 60 +	19.91%

In 1993 the Department of Elder Affairs, Iowa State University, and area agencies on aging conducted a statewide needs assessment of non institutionalized Iowans aged 60 - 104. In general, older people in Iowa appear to be doing fairly well, but there are also large numbers who are vulnerable and at risk.

About half of the people in the study lived alone, a trend that is likely to continue into the next century. These people more likely to be older women with lower incomes. The older a woman becomes in our society, the more likely she is to live alone.

Health problems that occur when an elderly person lives alone are more likely to create problems for independent living. While many family and friends provide strong support systems for the elderly, many who live alone have no one to help them and must rely on the provision of services or on paid assistance. In fact, the information shows that a lot of the assistance the elderly are receiving is coming from professionals. The elderly who are living alone must have services available to them in order to maintain their independence.

Dependent adults also include those who have diminished physical or mental capacity. People who have a diminished ability to protect themselves and are dependent on others for basic needs are particularly vulnerable to mistreatment, physical violence, threats of assault, verbal abuse, financial exploitation, physical or emotional neglect, and sexual abuse. Iowa has a sizable population of adults who are dependent but are not elderly.

Iowa Response

The Dependent Adult Abuse Law, Iowa Code Section 235B, was initially enacted effective January 1, 1983 and has been amended yearly since then. This legislation authorizes the Department of Human Services (DHS) to accept reports of suspected dependent adult abuse, evaluate reports, complete an assessment of needed services, make appropriate referrals for services, and maintain a central registry.

Additionally, dependent adult abuse may be a crime. Often times the DHS worker and law enforcement work together. Criminal laws provide for the prosecution of alleged perpetrators in cases where a criminal act has been committed. Other laws provide other means of protection for dependent adults, including guardianships and conservatorships, and, when necessary, the involuntary commitment of adults for substance abuse or mental health reasons.

DHS has legal authority to conduct evaluations and assessments of alleged dependent adult abuse that occurs in the community when it is alleged that:

- ◆ The victim meets the definition of being a dependent adult, and
- ◆ The victim suffers one or more of the four categories of abuse or neglect, and
- ◆ The abuse or neglect occurred as a result of the acts or omissions of a responsible caretaker or of the dependent adult.

DHS conducts approximately 1600 such evaluations annually. Dependent adult abuse that occurs in a licensed health care facility is evaluated by the Department of Inspections and Appeals. The two departments may work together on an abuse evaluation.

Services can be provided for dependent adults. However all adults have a right to self-determination. This means that the dependent adult can refuse services unless a court determines that the person is not competent to make decisions or is threatening his or her own life or that of others.

Iowa Code section 235B.4 creates a central registry in DHS to provide a single source for the statewide collection, maintenance, and dissemination of dependent adult abuse information. The Central Abuse Registry includes report data, investigative data, and disposition data relating to reports of dependent adult abuse.

The purpose of the Registry is to:

- ◆ Facilitate the identification of victims or potential victims of dependent adult abuse by making available a single, statewide source of dependent adult data.
- ◆ Facilitate research on dependent adult abuse by making available a single, statewide source of dependent adult abuse data.
- ◆ Provide maximum safeguards against the unwarranted invasions of privacy which such a registry might otherwise entail.

The Registry issues an annual report on its administrative operation, including information as to the number of requests for dependent adult abuse data, the proportion of requests attributable to each type of authorized access, the frequency and nature of irregularities, and other pertinent matters.

Am I a Mandatory Reporter of Dependent Adult Abuse?

Iowa Code section 235B.3(2) requires all of the following people to report suspected dependent adult abuse to the DHS:

- ◆ A person who in the course of employment examines, attends, counsels, or treats a dependent adult and reasonably believes the dependent adult has suffered abuse, including: a member of the staff of a community mental health center or hospital, and a member of the staff or employee of a public or private health care facility, as defined in Iowa Code section 135C.1
- ◆ A peace officer
- ◆ An in-home homemaker-home health aide
- ◆ A person employed as an outreach person
- ◆ A health practitioner, as defined in Iowa Code section 232.68
- ◆ A member of the staff or an employee of a community supervised apartment living arrangement, sheltered workshop, or work activity center
- ◆ A social worker
- ◆ A certified psychologist
- ◆ A person who performs inspections of elder group homes for the Department of Elder Affairs
- ◆ A care review committee member assigned to an elder group home pursuant to Iowa Code Chapter 231B.
- ◆ A member of the staff or employee of an elder group home, an assisted living program, or an adult day services program.

Note: Any other person who believes that a dependent adult has suffered abuse **may** make a report of the suspected abuse to DHS. Mandatory reporters may also report suspected abuse **outside** the scope of their professional practice, as **permissive** reporters. An employee of a financial institution may report suspected financial exploitation of a dependent adult.

How Do I Report Dependent Adult Abuse?

441 Iowa Administrative Code 176.4(235B) and 176.5(235B)

According to Iowa Code Section 235B.3, if you are a mandatory reporter of dependent adult abuse, and you suspect a dependent adult has been abused, you must report it to DHS.

Make the report to DHS by telephone or by other means. Both the DHS Central Abuse Registry and DHS local offices accept reports from mandatory reporters or any other person who believes dependent adult abuse has occurred.

DHS maintain 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.

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 DHS.

You must also make a report in writing within 48 hours after your oral report. You may use DHS form 470-2441, *Suspected Dependent Adult Abuse Reporting Form*, or a format you develop that meets the requirements listed below, based on 441 Iowa Administrative Code 176.5(235B). See the end of this handbook for a sample of 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.

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.

Report Requirements

Your report should contain the following information, or as much of it as you are able to furnish:

- ◆ The names and home addresses of the dependent adult, appropriate relatives, caretakers, and other people believed to be responsible for the care of the dependent adult.

- ◆ 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. (The existence of alleged adult abuse is the second criterion DHS considers before beginning an evaluation.)
- ◆ Information concerning the suspected adult abuse of other dependent adults in the same residence.
- ◆ Other information which 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.

Confidentiality and Immunity from Liability

Iowa Code section 235B.3, states in subsections 7 through 10:

The department shall inform the appropriate county attorneys of any reports of dependent adult abuse. The department may request information from any person believed to have knowledge of a case of dependent adult abuse. The person, including but not limited to a county attorney, a law enforcement agency, a multidisciplinary team, or a social services agency in the state shall cooperate and assist in the evaluation upon the request of the department. ... County attorneys and appropriate law enforcement agencies shall also take any other lawful action necessary or advisable for the protection of the dependent adult.

A person participating in good faith in reporting or cooperating with or assisting the department in evaluating a case of dependent adult abuse has immunity from liability, civil or criminal, which might otherwise be incurred or imposed based upon the act of making the report or giving the assistance. The person has the same immunity with respect to participating in good faith in a judicial proceeding resulting from the report or cooperation or assistance or relating to the subject matter of the report, cooperation, or assistance.

It shall be unlawful for any person or employer to discharge, suspend, or otherwise discipline a person required to report or voluntarily reporting an instance of suspected dependent adult abuse pursuant to subsection 2 or 4, or cooperating with, or assisting the department of human services in evaluating a case of dependent adult abuse, or participating in judicial proceedings relating to the reporting or cooperation or assistance based solely upon the person's reporting or assistance relative to the instance of dependent adult abuse. A person or employer found in violation of this subsection is guilty of a simple misdemeanor.

A person required by this section to report a suspected case of dependent adult abuse who knowingly and willfully fails to do so commits a simple misdemeanor. A person required by this section to report a suspected case of dependent adult abuse who knowingly fails to do so or who knowingly interferes with the making of a dependent adult abuse report or applies a requirement that results in a failure to make a report, is civilly liable for the damages proximately caused by the failure.

Indicators of Possible Dependent Adult Abuse

The following physical, behavioral, and environmental indicators are listed as signs of possible dependent adult abuse for you to consider in making your report. These lists are examples and are not all-inclusive.

Environment

- ◆ No food in the house or rotted, infested food
- ◆ Lack of proper food storage
- ◆ Special dietary foods not available
- ◆ Inadequate cooking facilities or equipment
- ◆ Clothes extremely dirty or uncared for
- ◆ Not dressed appropriately for the weather
- ◆ Inadequate or ill fitting clothing, not dressing
- ◆ Wearing all of one's clothing at once
- ◆ Structure dilapidated or in poor repair
- ◆ Fallen steps, high grass, rotted porch, leaking roof
- ◆ Utilities cut off or lack of heat in winter
- ◆ Doors or windows made out of cardboard
- ◆ Unvented gas heaters, chimney in poor repair
- ◆ No fuel for heating or fuel stored dangerously
- ◆ Lack of water or contaminated water
- ◆ Gross accumulation of garbage, papers, and clutter
- ◆ Lack of access to essential rooms
- ◆ Lack of access to community resources
- ◆ Lives on the street
- ◆ Large number of pets with no apparent means of care
- ◆ No income, unpaid bills
- ◆ Out of money by second week of the month
- ◆ Income does not meet monthly expenditures
- ◆ Signs checks over to others
- ◆ Sudden change in money management habits
- ◆ Sudden withdrawals or closing out of bank accounts
- ◆ No TV, radio, telephone, newspapers, magazines
- ◆ No friends or family visits
- ◆ No means of transportation
- ◆ Not physically able to get out and shop, pay bills, etc.

Physical Condition

- ◆ Lack of medical care
- ◆ Lack of personal cleanliness and grooming, body odors
- ◆ Swollen eyes or ankles, decayed teeth or no teeth
- ◆ Bites, fleas, sores, lesions, lacerations
- ◆ Multiple or repeated or untreated injuries
- ◆ Injuries incompatible with explanation
- ◆ Bruises, broken bones or burns
- ◆ Untreated pressure sores
- ◆ Signs of confinement (tied to furniture, locked in a room, etc.)
- ◆ Obesity, malnourishment or dehydration
- ◆ Tremors
- ◆ Difficulty in communication
- ◆ Broken glasses frames or lenses
- ◆ Drunk, overly medicated
- ◆ Lying in urine, feces, old food
- ◆ No use of limbs, lack of mobility

Behavior

- ◆ Intentional physical self-abuse, suicidal statements
- ◆ Persistent liar
- ◆ Does not follow medication directions
- ◆ Refuses needed medical attention
- ◆ Refuses to accept services offered by others
- ◆ Threatens or attacks others physically or verbally
- ◆ Refuses to accept presence of visitor
- ◆ Refuses to open door
- ◆ In total darkness
- ◆ Denies obvious problems (medical conditions, etc.)
- ◆ Increased depression, anxiety or hostility
- ◆ Withdrawn, reclusive, suspicious, timid, unresponsive
- ◆ Refuses to discuss the situation
- ◆ Lack of trust in family as well as in others
- ◆ Refuses to take medication
- ◆ Denies any wrong-doing, medically or otherwise
- ◆ Unjustified pride in self-sufficiency
- ◆ Procrastination
- ◆ Turns off hearing aid
- ◆ Hallucinations, confusion or delusions
- ◆ Disorientation as to place and time
- ◆ Forgetfulness, losing things, not shutting stove off
- ◆ Loneliness, anger, or fearfulness
- ◆ Diminished mental capacity
- ◆ Vague health complaints
- ◆ Longing for death

What Is Dependent Adult Abuse Under Iowa Law?

As defined in Iowa Code section 235B.2, “dependent adult abuse” includes the following four categories of abuse as the result of the willful or negligent acts or omissions of a caretaker:

- ◆ Physical abuse (including unreasonable confinement or punishment and assault)
- ◆ Sexual abuse
- ◆ Financial exploitation
- ◆ Denial of critical care (including denial of critical care by the dependent adult)

Victim

To be accepted for evaluation, a report must concern a **dependent adult**. Iowa Code section 235B.2 defines “dependent adult” as a person 18 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.

Dependent adult abuse does **not** include allegations involving:

- ◆ Domestic abuse in a situation where the victim is not “dependent.”
- ◆ People who are legally incarcerated in a penal setting, either in a local jail or in the custody of the Department of Corrections.

Person Responsible for Abuse

Except for denial of critical care, harm to a dependent adult must occur as the result of the willful or negligent acts or omissions of a caretaker to qualify as dependent adult abuse. Iowa Code section 235B.2 defines “caretaker” as a related or nonrelated person who has the responsibility for the protection, care, or custody of a dependent adult as a result of assuming the responsibility voluntarily, by contract, through employment, or by the order of the court.

Physical Abuse

“Physical abuse” means one of the following, as a result of the willful or negligent acts or omissions of a caretaker:

- ◆ Physical injury to a dependent adult
- ◆ Injury to a dependent adult which is at a variance with the history given of the injury
- ◆ Unreasonable confinement of a dependent adult
- ◆ Unreasonable punishment of a dependent adult
- ◆ Assault of a dependent adult

Note that there does not have to be an injury to constitute physical abuse.

Sexual Abuse

“Sexual abuse” means the commission of a sexual offense under Iowa Code Chapter 709 or Iowa Code section 726.2 with or against a dependent adult as a result of the willful or negligent acts or omissions of a caretaker. This includes the following sub-categories:

- ◆ First degree sexual abuse
- ◆ Second degree sexual abuse
- ◆ Third degree sexual abuse
- ◆ Detention in a brothel
- ◆ Indecent exposure
- ◆ Assault with intent to commit sexual abuse and incest
- ◆ Sexual exploitation by a counselor or therapist
- ◆ Sexual exploitation of a dependent adult who is a resident of a health care facility, as defined in Iowa Code 135C.1, by a caretaker providing services to or employed by the health care facility, whether within the health care facility or at a location outside of the health care facility

Financial Exploitation

“Financial exploitation” means the act or process of:

- ◆ Taking unfair advantage of a dependent adult or the adult’s physical or financial resources for one’s own personal or pecuniary profit without the informed consent of the dependent adult, including theft.
- ◆ By the use of undue influence, harassment, duress, deception, false representation, or false pretenses.
- ◆ As a result of the willful or negligent acts or omissions of a caretaker.

Denial of Critical Care

“Denial of critical care” means 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, as a result of the willful or negligent acts or omissions of a caretaker. This includes the following sub-categories:

- ◆ Denial of or failure to provide adequate food
- ◆ Denial of or failure to provide adequate shelter
- ◆ Denial of or failure to provide adequate clothing
- ◆ Denial of or failure to provide adequate medical care

- ◆ Denial of or failure to provide adequate mental health care
- ◆ Denial of or failure to meet emotional needs necessary for normal functioning
- ◆ Denial of or failure to provide proper supervision
- ◆ Denial of or failure to provide adequate physical care

Note: Denial of critical care may also be 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. (This includes the sub-categories listed above.)

Dependent adult abuse does **not** include the following circumstances:

- ◆ The dependent adult declines medical treatment because the dependent adult holds a belief or is an adherent of a religion whose tenets and practices call for reliance on spiritual means in place of reliance on medical treatment.
- ◆ The dependent adult's caretaker declines such treatment acting in accordance with the dependent adult's stated or implied consent.
- ◆ The dependent adult or the dependent adult's next of kin or guardian requests withholding or withdrawal of health care from a dependent adult who is terminally ill, in the opinion of a licensed physician, pursuant to the applicable procedures under Iowa Code Chapters 125, 144A, 222, 229, or 633.

How Does DHS Respond?

441 Iowa Administrative Code 176.6(235B)

Immediately upon receipt of a report of dependent adult abuse, DHS shall:

- ◆ Make an oral report to the Central Abuse Registry.
- ◆ Forward a copy of the report to the Registry.
- ◆ Notify the appropriate county attorney of the receipt of the report.
- ◆ Commence an appropriate evaluation or assessment.

Exception: The state Department of Inspections and Appeals is responsible for the evaluation and disposition of a case of adult abuse in a health care facility, including hospitals as defined in Iowa Code section 135B.1, subsection 1, and facilities as defined in Iowa Code section 135C.1, subsection 5. DHS forwards all information concerning adult abuse in a health care facility to the Department of Inspections and Appeals on the first working day following submission of the report. The Department of Inspections and Appeals informs the Registry of all actions taken or contemplated concerning a reported case of adult abuse in a health care facility.

Upon receipt of a report of suspected dependent adult abuse, the Central Abuse Registry searches its records. If Registry records reveal any previous report of dependent adult abuse involving the same adult or any other pertinent information with respect to the same adult, the Registry immediately notifies the appropriate DHS office or law enforcement agency of that fact.

The primary purpose of the evaluation or assessment is the protection of the dependent adult named in the report. The evaluation or assessment shall include all of the following:

- ◆ Identification of the nature, extent, and cause of the adult abuse, if any, to the dependent adult named in the report.
- ◆ The identification of the person or persons responsible for the adult abuse.
- ◆ A determination of whether other dependent adults in the same residence have been subjected to adult abuse.
- ◆ A critical examination of the residential environment of the dependent adult named in the report, and the dependent adult's relationship with caretakers and other adults in the same residence.
- ◆ A critical explanation of all other pertinent matters.

The DHS process of evaluating reports of dependent adult abuse is as follows:

- ◆ Intake
- ◆ Appropriate evaluation or assessment
 - Contact with the dependent adult at the person's residence or at a care or training program
 - Interview with the alleged perpetrator
 - Obtaining information from subjects of the report and other relevant parties
- ◆ Documentation of evaluative conclusions and recommendations for services or court action
- ◆ Documentation of evaluation through completion of reports
- ◆ Completion of required correspondence to subjects and mandatory reporters

Evaluation/Assessment

DHS may request information from any person believed to have knowledge of a case of dependent adult abuse. This includes but is not limited to a county attorney, a law enforcement agency, a multidisciplinary team, a social services agency in the state, or any person who is required to report dependent adult abuse, whether or not the person made the specific dependent adult abuse report. The person **shall cooperate and assist** in the evaluation upon the request of DHS.

County attorneys, law enforcement agencies, multidisciplinary teams, and social services agencies in the state shall cooperate and assist in the evaluation or assessment upon the request of DHS. County attorneys and law enforcement agencies shall also take any other lawful action necessary or advisable for the protection of the dependent adult.

With the consent of the dependent adult or caretaker, the evaluation or assessment may, when appropriate, include a visit to the residence of the dependent adult named in the report and an examination of the dependent adult.

If permission to enter the residence and to examine the dependent adult is refused, the district court may authorize DHS to enter the dependent adult's residence and to examine the dependent adult to make an evaluation or assessment, upon a showing of probable cause that the dependent adult has been abused. Upon a showing of probable cause that the dependent adult has been financially exploited, a court may authorize DHS to gain access to the financial records of the dependent adult.

DHS transmits a copy of its preliminary report, including actions taken or contemplated, to the Registry within four regular working days after it receives the adult abuse report, unless the Registry grants an extension of time for good cause. If the preliminary report is not a complete report, a complete report must be filed within ten working days of the receipt of the abuse report, unless the Registry grants an extension of time for good cause shown.

Upon completion of the report, **all subjects and mandatory reporters are notified in writing** of the conclusions of the evaluation/assessment report.

Report Conclusions

The conclusion of the investigation is based on an evaluation of all of the information gathered during the investigation. There are three possible outcomes in a dependent adult evaluation/assessment:

- ◆ **Founded:** It has been determined by a preponderance of evidence (more than 50%) that abuse has occurred. Information on founded reports is maintained on the Central Abuse Registry for ten years and then sealed.
Exception: When the dependent adult is responsible for self-denial of critical care, DHS keeps the report in the county office, not on the Central Registry. These are called "assessments" rather than "evaluations."
- ◆ **Unfounded:** It has been determined by a preponderance of evidence (more than 50%) that abuse has not occurred. Information on unfounded reports is destroyed one year from the date they were unfounded.

What Happens after the Evaluation?

Based on the evaluation, DHS completes an assessment of services needed by a dependent adult believed to be the victim of abuse, the dependent adult's family, or a caretaker. In some situations there are treatment services that are available and may be offered to assist the dependent adult.

DHS does not have independent legal authority to compel the acceptance of protective services. Adults have constitutional rights which guarantee certain freedoms. DHS strives to balance a person's right to personal freedom with the need to protect dependent adults who are unable to protect themselves. Adults have a right to self-determination and have the right to voluntarily accept such services or to decline or refuse them.

Upon voluntary acceptance of the offer of services, DHS makes referrals or may provide necessary protective services to eligible dependent adults, their family members, and caretakers. The following services may be offered and provided without regard to income: dependent adult protection, social casework, adult day care, adult support, transportation, and family planning.

Law Enforcement Intervention

Iowa Code section 235B.3A gives the following responsibilities to law enforcement officers:

If a peace officer has reason to believe that dependent adult abuse, which is criminal in nature, has occurred, the officer shall use all reasonable means to prevent further abuse, including but not limited to any of the following:

1. If requested, remaining on the scene as long as there is a danger to the dependent adult's physical safety without the presence of a peace officer, including but not limited to staying in the dwelling unit, or if unable to remain at the scene, assisting the dependent adult in leaving the residence and securing support services or emergency shelter services.
2. Assisting the dependent adult in obtaining medical treatment necessitated by the dependent adult abuse, including providing assistance to the dependent adult in obtaining transportation to the emergency room of the nearest hospital.
3. Providing a dependent adult with immediate and adequate notice of the dependent adult's rights. The notice shall consist of handing the dependent adult a copy of the following written statement, requesting the dependent adult to read the card and asking the dependent adult whether the dependent adult understands the rights:
 - a. You have the right to ask the court for the following help on a temporary basis:
 - (1) Keeping the alleged perpetrator away from you, your home, and your place of work.

- (2) The right to stay at your home without interference from the alleged perpetrator.
- (3) Professional counseling for you, your family, or household members, and the alleged perpetrator of the dependent adult abuse.
- b. If you are in need of medical treatment, you have the right to request that the peace officer present assist you in obtaining transportation to the nearest hospital or otherwise assist you.
- c. If you believe that police protection is needed for your physical safety, you have the right to request that the peace officer present remain at the scene until you and other affected parties can leave or safety is otherwise ensured.

The notice shall also contain the telephone number of the local emergency shelter services, support services, or crisis lines operating in the area.

Court Action

DHS transmits a copy of the report of its evaluation or assessment to the appropriate county attorney. The county attorney notifies the DHS county office of any actions or contemplated actions with respect to a suspected case of adult abuse.

When a dependent adult is the victim of a criminal act by the caretaker, the caretaker may be criminally charged for maltreatment of the dependent adult. Some examples are:

Neglect or abandonment of a dependent person	Iowa Code 726.3
Wanton neglect of a dependent adult	Iowa Code 726.8(1)
Nonsupport of a dependent adult	Iowa Code 726.8(2)
Assault (various forms)	Iowa Code 708
Sexual abuse (various forms)	Iowa Code 709
Incest	Iowa Code 726.2
Dependent adult abuse (various forms)	Iowa Code 235B.20

When there is no way to protect a dependent adult adequately with voluntary services, the district court may be petitioned to intervene on behalf of the dependent adult. The district court can be petitioned to do any of the following:

- ◆ Authorize the provision of protective services to a dependent adult in need of such services, but who lacks the capacity to consent to receipt of such services.
- ◆ Enjoin a caretaker from interfering with the provision of protective services to a dependent adult in need of such services to a dependent adult who consents to the receipt of such services.

- ◆ Order the provision of the following services to a dependent adult who has been the victim of dependent adult abuse, and who is in immediate threat to health and safety of the dependent adult, and the dependent adult lacks the capacity to consent to the receipt of such services:
 - Removal of the dependent adult to safer surroundings
 - Provision of medical services to the dependent adult
 - Provision of other needed services to the dependent adult
- ◆ Restrain a caretaker from abusing a dependent adult.

When DHS determines that the best interests of the dependent adult require court action, DHS may initiate action for:

- ◆ The appointment of a guardian or conservator, or
- ◆ The admission or commitment to an appropriate institution or facility, pursuant to the applicable procedures under Iowa Code Chapters 125, 222, 229, or 633.

The appropriate county attorney shall assist DHS in the preparation of the necessary papers to initiate the action, and shall appear and represent DHS at all district court proceedings. DHS assists the district court during all stages of court proceedings involving a suspected case of adult abuse.

In every case involving adult abuse substantiated by DHS which results in a judicial proceeding on behalf of the dependent adult, legal counsel shall be appointed by the court, to represent the dependent adult in the proceedings. The court may also appoint a guardian ad litem to represent the dependent adult when necessary to protect the dependent adult's best interests. The same attorney may be appointed to serve both as legal counsel and as guardian ad litem.

Before legal counsel or a guardian ad litem is appointed pursuant to 1983 Iowa Acts, chapter 153, section 4, the court shall require the dependent adult to complete under oath a detailed financial statement. If, on the basis of that financial statement, the court deems that the dependent adult or the legally responsible person is able to bear all or a portion of the cost of the legal counsel or guardian ad litem, the court shall so order. When the dependent adult or the legally responsible person is unable to bear the cost of the legal counsel or guardian ad litem, the expense shall be paid out of the court expense fund.

Substance Abuse Commitment

Proceedings for the involuntary commitment of a substance abuser to a facility under Iowa Code Chapter 125 may be commenced by the county attorney or an interested person. Proceedings begin with the filing of a verified application with the clerk of the district court of the county where the respondent is presently located or which is the respondent's place of residence. The application must:

- ◆ State that the applicant believes that the respondent is a chronic substance abuser
- ◆ State other pertinent facts
- ◆ Be accompanied by one or more of the following:
 - A written statement of support by a physician
 - One or more supporting affidavits
 - Other corroborative information

An attorney is appointed to represent the respondent. The court orders a hearing and an examination. The court may issue an order for immediate custody if the respondent is believed to be a danger to self or others.

A commitment hearing is held. The respondent's welfare is paramount. If the evidence is clear and convincing, a complete evaluation is ordered. The evaluating facility must report to the court whether the respondent:

- ◆ Does not require further treatment, or
- ◆ Requires full-time (inpatient) treatment, or
- ◆ Requires out patient treatment, or
- ◆ Needs treatment but is not responding to the treatment provided

Further hearings can order continued treatment if warranted.

Mental Health Commitment

Proceedings for the involuntary hospitalization of a person under Iowa chapter Code 229 may be commenced by any interested person. Proceedings are begun by filing a verified application with the clerk of the district court of the county where the respondent is presently located, or which is the respondent's place of residence. The application must:

- ◆ State that the applicant believes that the respondent is seriously mentally impaired
- ◆ State other pertinent facts
- ◆ Be accompanied by one or more of the following:
 - A written statement of support by a physician
 - One or more supporting affidavits
 - Other corroborative information

An attorney is appointed to represent the respondent. The court orders a hearing and an examination. The court may issue an order for immediate custody if the respondent is believed to be a danger to self or others.

A commitment hearing is held. The respondent's welfare is paramount. If the evidence is clear and convincing, a complete evaluation is ordered. The evaluating facility must report to the court whether the respondent:

- ◆ Does not require further treatment, or
- ◆ Requires full-time (inpatient) treatment, or
- ◆ Requires out patient treatment, or
- ◆ Needs treatment but is not responding to the treatment provided

Further hearings can order continued treatment if warranted.

Conservatorship

A "conservatorship" is a court-authorized relationship under Iowa Code sections 633.566 - 633.667 whereby one person assumes the responsibility for the custody and control of the property of another. The person to whom custody of the property is awarded is called a "conservator." The person over whose property custody is granted is called a "ward."

The appointment of a conservator means that the ward is either under legal age or by reason of mental, physical, or other incapacity is unable to make or carry out important decisions concerning the ward's **financial** affairs. It does not mean that the ward is of unsound mind.

A petition for the appointment of a conservator of the property of a dependent adult may be sought to protect the property of the dependent adult if the protective concern is based on an imminent danger to that person's property. In the absence of legal action, no person has the right to manage the property of an adult contrary to the adult's consent.

A conservator must do all of the following:

- ◆ Take possession of the ward's property and protect and preserve it, invest it prudently and account for it.
- ◆ Maintain a complete list of all receipts and disbursements.
- ◆ Within 60 days of appointment, file an initial report and inventory of the property of the ward in the conservator's possession or of which the conservator has knowledge.
- ◆ File the following reports with the court containing full itemized accounting and a list of all assets:
 - An annual report within 30 days of the anniversary date of the appointment.
 - A final report at the termination of the conservatorship.

Failure in getting the required report filed is a breach of the conservator's duty to the ward and to the court. If the ward's will comes into the conservator's hands, it must be delivered to the court for safekeeping.

A conservator has these general powers:

- ◆ Collect, receive and receipt for any property or income of the ward, including Social Security or Veterans Benefits.
- ◆ Sell or transfer perishable personal property or personal property having an established market value.
- ◆ Receive additional property from any source.
- ◆ Make payments to the ward or to others for the benefit of the ward.
- ◆ After obtaining a court order the conservator may:
 - Invest and reinvest the funds of the ward.
 - Sell, lease or mortgage real estate.
 - Do any other thing the Court determines to be in the best interest of the ward.

Guardianship

When the concern is for the dependent adult's life, rather than the adult's property, a person may seek guardianship appointment to provide for the legal sanction of moving the adult or protecting the adult. In the absence of such legal action, no one has the right to physically relocate an adult against the adult's will. The appointment of a guardian, authorized under Iowa Code sections 633.552 - 633.565, does not constitute an adjudication that the ward is of unsound mind.

The following conditions must be verified before filing a guardianship petition:

- ◆ The dependent adult is incompetent to make decisions regarding the adult's person.
- ◆ A qualified professional has written a document clearly stating that the dependent adult is incompetent to make decisions regarding the adult's person and the reasons for this.
- ◆ A qualified person has agreed to act as the guardian if appointed.

A guardian may be granted the following powers and duties, which may be exercised without prior court approval:

- ◆ Providing for the care, comfort and maintenance of the ward, including the appropriate training and education to maximize the ward's potential.

- ◆ Taking reasonable care of the ward's clothing, furniture, vehicle and other personal effects.
- ◆ Assisting the ward in developing maximum self-reliance and independence.
- ◆ Ensuring the ward receives necessary emergency medical services.
- ◆ Ensuring the ward receives professional care, counseling, treatment or services as necessary.
- ◆ Any other powers or duties the court may specify.

A guardian may be granted the following powers, which may be exercised only upon court approval:

- ◆ Changing the ward's permanent residence at the guardian's request, if the proposed new residence is more restrictive of the ward's liberties than the current residence.
- ◆ Arranging the provisions of major elective surgery or any other non-emergency major medical procedure.
- ◆ Consent to the withholding or withdrawal of life-sustaining procedures in accordance with Iowa Code Chapter 144A.

The court may take into account all available information concerning the capabilities of the ward and any additional evaluation deemed necessary. The court may direct that the guardian have only a specially limited responsibility for the ward. If so, the court shall state those areas of responsibility which shall be supervised by the guardian; all others shall be retained by the ward. The court may alter the respective responsibilities of the guardian and the ward after notice to the ward and an opportunity to be heard.

A guardian must file the following reports with the Court:

- ◆ An initial report within 60 days of appointment.
- ◆ An annual report within 30 days of the anniversary date of the appointment.
- ◆ A final report within 30 days of the event causing termination.

How Is Dependent Adult Abuse Information Handled?

Iowa Code section 235B.6 provides that confidentiality of dependent adult information shall be maintained, except as specifically authorized. DHS must withhold the name of the person who made the report of suspected dependent adult abuse. Only the court or the central registry may allow the release of that person's name.

Access to Information

Access to “founded,” or “unfounded” dependent adult abuse information is authorized to:

- ◆ “Subjects” of a report (the adult victim, the guardian or legal custodian of the adult victim, and the alleged perpetrator) or the attorney for any subject.
- ◆ An employee or agent of DHS responsible for investigating an abuse report.
- ◆ Registry and other DHS personnel when necessary for the performance of their official duties.
- ◆ The mandatory reporter who reported the abuse.
- ◆ The long-term care resident's advocate.
- ◆ Multidisciplinary teams.

Access to “founded” dependent adult abuse information (not to “unfounded” information) is also authorized to:

- ◆ People involved in an investigation of dependent care, including a health practitioner or mental health professional, a law enforcement officer, a multidisciplinary team.
- ◆ Individuals, agencies, or facilities providing care to a dependent adult named in a report under some circumstances. This includes a facility licensing authority, a person or agency responsible for the care of a dependent adult victim or perpetrator, a DHS registration or licensing employee, or a person providing care to an adult who is regulated by DHS, and the legally authorized protection and advocacy agency.
- ◆ Judicial and administrative proceedings, under some circumstances. This may include district court, a court or administrative agency hearing an appeal for correction of dependent adult abuse information, and an expert witness at any stage of an appeal hearing.
- ◆ A person conducting bona fide dependent adult abuse research.
- ◆ DHS personnel, a person or agency under contract with DHS to carry out the duties of the Registry, or the attorney for DHS.
- ◆ The Department of Justice.

- ◆ A legally constituted adult protection agency from another state for investigative or treatment purposes.
- ◆ A health care facility administrator or designee.

To request dependent adult abuse information, complete form 470-0612, *Request for Dependent Adult Abuse Registry Information*. A sample of this form is included at the end of this handbook. Send this form to the county DHS office or to the Central Abuse Registry at the following address: DHS Central Abuse Registry, 1305 E Walnut St, 5th Floor, Des Moines, Iowa 50319-0114

Request for Correction or Expungement of Dependent Adult Abuse Information

A subject of a dependent adult abuse report who feels there is incorrect or erroneous information contained in the report, or who disagrees with the conclusions of the report, may request correction of the report.

To request a correction of a report, a person must file a written statement to the effect that the information referring to the person is in whole or in part erroneous with DHS within six months of the date of the notice of the results of the evaluation. Submit to: DHS Appeals Section, 1305 E Walnut St, 5th Floor, Des Moines, Iowa 50319-0114

The local office social worker or the social worker's supervisor may wish to review the report, along with any additional information the requester provides. They may uphold, modify or overturn the original finding. A requester not satisfied with the local office review may request an administrative appeal hearing. The administrative law judge may uphold, modify or overturn the finding. DHS may defer the hearing until the conclusion of a court case relating to the information or findings.

If the requester is not satisfied with the decision of the administrative law judge, the matter may be appealed to the district court. The decision resulting from the hearing may be appealed to the court of Polk county or to the court of the district in which the person resides.

Iowa Code section 235B.10 provides in subsections 4, 5, and 6 that:

Upon the request of the appellant, the record and evidence in such cases shall be closed to all but the court and its officers, and access to the record and evidence shall be prohibited unless otherwise ordered by the court. The clerk shall maintain a separate docket for such actions. A person other than the appellant shall not permit a copy of the testimony or pleadings or the substance of the testimony or pleadings to be made available to any person other than a party to the action or the party's attorney. Violation of the provisions of this subsection shall be a public offense punishable under section 235B.12.

If the Registry corrects or eliminates information as requested or as ordered by the court, the Registry shall advise all persons who have received the incorrect information of the fact. Upon application to the court and service of notice on the Registry, an individual may request and obtain a list of all persons who have received dependent adult abuse information referring to that individual.

In the course of any proceeding provided for by this section, the identity of the person who reported the disputed information and the identity of any person who has been reported as having abused an adult may be withheld upon a determination by the registry that disclosure of the person's identity would be detrimental to the person's interest.

What Training Do Mandatory Reporters Need?

Iowa Code section 235B.16 requires that a mandatory reporter whose work involves the examination, attending, counseling, or treatment of adults on a regular basis shall:

- ◆ Obtain a statement of the abuse reporting requirements from the person's employer (or from DHS, if self-employed) within one month of initial employment or self-employment.
- ◆ Complete two hours of training relating to the identification and reporting of dependent adult abuse within six months of initial employment (or self-employment).
- ◆ Complete at least two hours of additional dependent adult abuse identification and reporting training every five years.

Note: These requirements do not apply to a physician whose professional practice does not regularly involve providing primary health care to adults.

If the person is an employee of a hospital or similar public or private facility, the employer is responsible for providing the training. To the extent that the employer provides approved training on the employer's premises, the hours of training completed by employees shall be included in the calculation of nursing or service hours required to be provided to a patient or resident per day.

If the person is self-employed, employed in a licensed or certified profession, or employed by a facility or program that is subject to licensure, regulation, or approval by a state agency, the person shall obtain the training as part of:

- ◆ A continuing education program required under Iowa Code chapter 272C and approved by the applicable licensing board,
- ◆ A training board using a curriculum approved by the abuse education review panel established by the Director of Public Health, or
- ◆ A training program using such an approved curriculum offered by the Department of Human Services, the Department of Elder Affairs, the Department of Inspection and Appeals, the Iowa Law Enforcement Academy, or a similar public agency.

A person required to complete both child abuse and dependent adult abuse mandatory reporter training may complete the training through a program which combines child abuse and dependent adult abuse curricula and thereby meet both training requirements simultaneously. The person may satisfy the combined requirements through completion of a two-hour training program, if the training curriculum is approved by the appropriate licensing or examining board or the abuse education review panel established by the Department of Public Health.

Related provisions of Iowa Code section 235B.10 require:

1. The department of elder affairs in cooperation with the department [of human services] shall conduct a public information and education program. The elements and goals of the program include but are not limited to:
 - a. Informing the public regarding the laws governing dependent adult abuse and the reporting requirements for dependent adult abuse.
 - b. Providing caretakers with information regarding services to alleviate the emotional, psychological, physical, or financial stress associated with the caretaker and dependent adult relationship.
 - c. Affecting public attitudes regarding the role of the dependent adult in society.
2. The department [of human services], in cooperation with the department of elder affairs and the department of inspections and appeals, shall institute a program of education and training for persons, including members of provider groups and family members, who may come in contact with dependent adult abuse. The program shall include but is not limited to Instruction regarding recognition of dependent adult abuse and The procedure for the reporting of suspected abuse.
3. The content of the continuing education required pursuant to [Iowa Code] chapter 272C for a licensed professional providing care or service to a dependent adult shall include, but is not limited to, the responsibilities, obligations, powers, and duties of a person regarding the reporting of suspected dependent adult abuse, and training to aid the professional in identifying instances of dependent adult abuse.

4. The department of inspections and appeals shall provide training to investigators regarding the collection and preservation of evidence in the case of suspected dependent adult abuse.
- 5.a. For the purposes of this subsection, “licensing board” means an examining board designated in [Iowa Code] section 147.13, the board of educational examiners created in [Iowa Code] section 272.2, or a licensing board as defined in [Iowa Code] section 272C.1.
- 5.f. A licensing board with authority over the license of a person required to report cases of dependent adult abuse pursuant to [Iowa Code] section 235B.3 shall require as a condition of licensure that the person be in compliance with the requirements for abuse training under this subsection. The licensing board shall require the person upon licensure renewal to accurately document for the licensing board the person’s completion of the training requirements.

However, the licensing board may adopt rules providing for waiver or suspension of the compliance requirements, if the waiver or suspension is in the public interest, applicable to a person who is engaged in active duty in the military service of this state or the United States, to a person for whom compliance with the training requirements would impose a significant hardship, or to a person who is practicing a licensed profession outside this state or is otherwise subject to circumstances that would preclude the person from encountering dependent adult abuse in this state.

- 5.g. For persons required to report cases of dependent adult abuse pursuant to [Iowa Code] section 235B.3, who are not engaged in a licensed profession that is subject to the authority of a licensing board but are employed by a facility or program subject to licensure, registration, or approval by a state agency, the agency shall require as a condition of the renewal of the facility’s or program’s licensure, registration, or approval, that such persons employed by the facility or program are in compliance with the training requirements of this subsection.
- 5.h. For peace officers, the elected or appointed official designated as the head of the agency employing the peace officer shall ensure compliance with the training requirements of this subsection.
- 5.i. For mandatory reporters who are employees of state departments and political subdivisions of the state, the department director or the chief administrator of the political subdivision shall ensure the person’s compliance with the training requirements of this subsection.

SUSPECTED DEPENDENT ADULT ABUSE REPORT

This form may be used as the written report that mandatory reporters file with the Department of Human Services following an oral report of suspected dependent adult abuse. See page 2 for instructions.

There are three criteria for a dependent adult abuse referral:

- (1) A dependent adult. (2) Abuse as defined in Iowa Code 235B. (3) A caretaker, if applicable.

REPORT INFORMATION

Name of Dependent	Phone ()	Birth Date	
Street	City	State	Zip Code
1. Person is a dependent adult because:			
2. Type of abuse noted:			
<input type="checkbox"/> Physical injury	<input type="checkbox"/> Financial exploitation	<input type="checkbox"/> Denial of care by dependent adult him/herself	
<input type="checkbox"/> Sexual offense	<input type="checkbox"/> Unreasonable punishment	<input type="checkbox"/> Denial of care by caretaker	
<input type="checkbox"/> Unreasonable confinement			
Information about suspected abuse: (Incidents, previous abuse, person responsible for abuse, name and address of guardian, etc.)			
3. Caretaker: (Omit if deprivation is <u>by</u> the dependent adult.)			
Name		Phone ()	
Street	City	State	Zip Code
Person is a caretaker because:			

REPORTER INFORMATION

Name	Position	Relationship to Adult
Office Address		Phone ()
Names of other mandatory reporters who have knowledge of the abuse		
Signature of Reporter		Date

**Instructions for Completing Form 470-2441,
Suspected Dependent Adult Abuse Report**

- ⇒ The mandatory reporter who has made the initial oral report of suspected abuse to the Department of Human Services prepares this form.
- ⇒ Submit this form within 48 hours of the oral report to the Protective Service Unit that will be conducting the evaluation or assessment.
- ⇒ If the oral report was not accepted for evaluation or assessment, this form is not necessary.
- ⇒ If your agency has a report form or letter format that includes all of the information requested on this form, you may use the agency format in place of form 470-2441.

Use the space below if there is not enough space for all pertinent information on the front of this form. You can attach collateral reports or other information to the form.

REQUEST FOR DEPENDENT ADULT ABUSE REGISTRY INFORMATION

To request information about dependent adult abuse, complete this form and mail it to:

Central Abuse Registry, Iowa Department of Human Services, 1305 E Walnut, Des Moines, Iowa 50319-0114.

Note: Information will be released only to people who have access to it under Iowa Code section 235B.6.

Criminal Penalties (235B.12)

1. Any person who willfully requests, or seeks to obtain dependent adult abuse information under false pretenses, or who willfully communicates or seeks to communicate dependent adult abuse information to any agency or person except in accordance with section 235B.6 and 235B.8, or any person connected with any research authorized pursuant to section 235B.6 who willfully falsifies dependent adult abuse information or any records relating thereto, is guilty of a serious misdemeanor. Any person who knowingly, but without criminal purposes, communicates or seeks to communicate dependent adult abuse information except in accordance with section 235B.6 and 235B.8 shall be guilty of a simple misdemeanor.
2. Any responsible grounds for belief that a person has violated any provision of this chapter shall be grounds for the immediate withdrawal of any authorized access such person might otherwise have to dependent adult abuse information.

Redissemination of Dependent Adult Abuse Information (235B.8)

1. A recipient of dependent adult abuse information authorized to receive the information shall not redisseminate the information, except that redissemination shall be permitted when all of the following conditions apply:
 - a. The redissemination is for official purposes in connection with prescribed duties or, in the case of a health practitioner, pursuant to professional responsibilities.
 - b. The person to whom such information would be redisseminated would have independent access to the same information under section 235B.6.
 - c. A written record is made of the redissemination, including the name of the recipient and the date and purpose of the redissemination.
 - d. The written record is forwarded to the registry within thirty days of the redissemination.

Name of person making request:		Office phone:	
Office address:			
Position and basis for authorization (Code 235B.6):			
Information requested concerning (name—first, middle, last):		Social security number:	Birth date:
Maiden name or alias (if applicable):	Address:		
What information is requested:			
Date	Signature		
To be completed by Registry personnel			Date:
<input type="checkbox"/> Request approved by:			
<input type="checkbox"/> Request denied because:			
Information released:			