

CHAPTER 278

CRIMINAL LAW AND PROCEDURE

SENATE BILL 15-109

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also REPRESENTATIVE(S) Young, Hamner, Rankin, Conti, Danielson, Esgar, Fields, Ginal, Kagan, Kraft-Tharp, Lee, Lontine, Melton, Mitsch Bush, Pettersen, Primavera, Rosenthal, Ryden, Salazar, Singer, Tyler, Vigil, Williams, Winter, Hullinghorst.

AN ACT

CONCERNING THE MANDATORY REPORTING OF MISTREATMENT AGAINST AN ADULT WITH A DISABILITY.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** 18-6.5-109 as follows:

18-6.5-109. At-risk adults with intellectual and developmental disabilities mandatory reporting implementation task force - report - repeal. (1) THERE IS CREATED IN THE DEPARTMENT OF HUMAN SERVICES THE AT-RISK ADULTS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES MANDATORY REPORTING IMPLEMENTATION TASK FORCE, REFERRED TO IN THIS SECTION AS THE "TASK FORCE", WHICH SHALL MEET DURING THE INTERIM AFTER THE FIRST REGULAR SESSION OF THE SEVENTIETH GENERAL ASSEMBLY.

(2) THE TASK FORCE SHALL STUDY AND PREPARE RECOMMENDATIONS FOR THE IMPLEMENTATION OF MANDATORY REPORTING OF MISTREATMENT, ABUSE, NEGLECT, OR EXPLOITATION OF AT-RISK ADULTS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES, WHICH RECOMMENDATIONS, AT A MINIMUM, SHALL INCLUDE:

(a) RECOMMENDATIONS CONCERNING THE PROVISION OF PROTECTIVE SERVICES BY COUNTY DEPARTMENTS TO ADULTS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES WHO ARE MISTREATED, ABUSED, NEGLECTED, OR EXPLOITED;

(b) RECOMMENDATIONS CONCERNING CONFORMING CHANGES TO THE STATUTORY OR REGULATORY PROVISIONS IN EITHER CIVIL OR CRIMINAL AREAS AS THEY RELATE TO MANDATORY REPORTING AND INVESTIGATING MISTREATMENT, ABUSE, NEGLECT,

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

OR EXPLOITATION OF AN AT-RISK ADULT WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY, INCLUDING DEFINITIONS OF MISTREATMENT AND NEGLECT;

(c) AN ESTIMATE OF THE COSTS, INCLUDING WORKLOAD IMPACTS AND SERVICES, TO BE INCURRED BY STATE DEPARTMENTS, COUNTY DEPARTMENTS, COMMUNITY-CENTERED BOARDS, AND LAW ENFORCEMENT AGENCIES OF THE STATE AS A RESULT OF REQUIRING MANDATORY REPORTERS, AS IDENTIFIED IN SECTION 18-6.5-108, ON AND AFTER JULY 1, 2016, TO REPORT KNOWN OR SUSPECTED MISTREATMENT, ABUSE, NEGLECT, OR EXPLOITATION OF AT-RISK ADULTS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES;

(d) IDENTIFICATION OF SUSTAINABLE SOURCES OF FUNDING, INCLUDING NEW OR EXISTING REVENUES, THAT MAY BE USED TO OFFSET THE COSTS TO BE INCURRED BY STATE DEPARTMENTS, COUNTY DEPARTMENTS, COMMUNITY-CENTERED BOARDS, AND LAW ENFORCEMENT AGENCIES OF THE STATE AS A RESULT OF REQUIRING CERTAIN PERSONS, ON AND AFTER JULY 1, 2016, TO REPORT KNOWN OR SUSPECTED MISTREATMENT, ABUSE, NEGLECT, OR EXPLOITATION OF AT-RISK ADULTS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES;

(e) RECOMMENDATIONS FOR TRAINING EMPLOYEES OF STATE DEPARTMENTS, COUNTY DEPARTMENTS, AND COMMUNITY-CENTERED BOARDS, TO USE OUTCOME-BASED BEST PRACTICES IN THE PROVISION OF PROTECTIVE SERVICES TO AT-RISK ADULTS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES; AND

(f) RECOMMENDATIONS REGARDING THE TRAINING OF MANDATORY REPORTERS IN IDENTIFYING SUSPECTED MISTREATMENT, ABUSE, NEGLECT, OR EXPLOITATION OF AT-RISK ADULTS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES.

(3) THE TASK FORCE SHALL CONSIST OF THE FOLLOWING MEMBERS:

(a) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF HUMAN SERVICES OR HIS OR HER DESIGNEE;

(b) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING OR HIS OR HER DESIGNEE;

(c) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT OR HIS OR HER DESIGNEE; AND

(d) THE FOLLOWING MEMBERS, TO BE APPOINTED JOINTLY BY THE EXECUTIVE DIRECTORS OF THE DEPARTMENT OF HUMAN SERVICES, THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING, AND THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT:

(I) A REPRESENTATIVE OF A STATEWIDE ORGANIZATION OF COMMUNITY-CENTERED BOARDS;

(II) A REPRESENTATIVE OF A STATEWIDE ORGANIZATION OF DISTRICT ATTORNEYS;

(III) A REPRESENTATIVE OF A STATEWIDE ORGANIZATION OF LONG-TERM CARE

PROVIDERS FOR ADULTS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES;

(IV) A REPRESENTATIVE OF A STATEWIDE ORGANIZATION OF PERSONS WHO PROVIDE LEGAL ADVICE TO ADULTS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES;

(V) A REPRESENTATIVE OF A STATEWIDE ORGANIZATION OF LAW ENFORCEMENT OFFICERS;

(VI) A REPRESENTATIVE OF A STATEWIDE ORGANIZATION THAT ADVOCATES ON BEHALF OF ADULTS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES;

(VII) A REPRESENTATIVE OF A STATEWIDE, CROSS-DISABILITY ORGANIZATION THAT ADVOCATES ON BEHALF OF PERSONS WITH A DISABILITY;

(VIII) A REPRESENTATIVE OF COUNTY DEPARTMENTS WHO HAS EXPERIENCE IN THE PROVISION OF PROTECTIVE SERVICES TO AT-RISK ADULTS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES;

(IX) A REPRESENTATIVE OF ONE OR MORE AGENCIES THAT PROVIDE NONMEDICAL HOME CARE TO ADULTS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES;

(X) A REPRESENTATIVE OF A STATEWIDE ORGANIZATION THAT REPRESENTS COUNTIES;

(XI) A PARENT OR GUARDIAN OF AN ADULT WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY; AND

(XII) A REPRESENTATIVE OF A STATEWIDE ORGANIZATION OF FINANCIAL INSTITUTIONS.

(e) ALL APPOINTMENTS TO THE TASK FORCE SHALL BE MADE WITHIN THIRTY DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION.

(4) (a) THE TASK FORCE SHALL SUBMIT A WRITTEN REPORT OF ITS FINDINGS AND RECOMMENDATIONS TO THE GOVERNOR AND TO THE JOINT BUDGET COMMITTEE OF THE GENERAL ASSEMBLY, THE HEALTH AND HUMAN SERVICES COMMITTEE OF THE SENATE, AND TO THE PUBLIC HEALTH CARE AND HUMAN SERVICES COMMITTEE OF THE HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES, ON OR BEFORE DECEMBER 1, 2015. UPON REQUEST OF A MEMBER OF THE TASK FORCE, SUMMARIES OF DISSENTING OPINIONS SHALL BE PREPARED AND ATTACHED TO THE FINAL REPORT OF FINDINGS AND RECOMMENDATIONS.

(b) IN ADDITION TO THE REPORT REQUIRED BY PARAGRAPH (a) OF THIS SUBSECTION (4), THE TASK FORCE SHALL SUBMIT TO THE OFFICE OF STATE PLANNING AND BUDGETING AND TO THE JOINT BUDGET COMMITTEE OF THE GENERAL ASSEMBLY A PRELIMINARY REPORT ON THE COSTS OF IMPLEMENTATION SO THAT THE AMOUNT MAY BE INCLUDED IN THE GOVERNOR'S BUDGET REQUEST.

(5) (a) THE FIRST MEETING OF THE TASK FORCE SHALL OCCUR NO LATER THAN SIXTY DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION. THE TASK FORCE SHALL

MEET AT LEAST FOUR TIMES.

(b) MEETINGS OF THE TASK FORCE SHALL BE PUBLIC MEETINGS.

(6) THE TASK FORCE SHALL SOLICIT AND ACCEPT REPORTS AND PUBLIC TESTIMONY AND MAY REQUEST OTHER SOURCES TO PROVIDE TESTIMONY, WRITTEN COMMENTS, AND OTHER RELEVANT DATA TO THE TASK FORCE.

(7) MEMBERS OF THE TASK FORCE SHALL SERVE WITHOUT COMPENSATION AND SHALL NOT BE ENTITLED TO REIMBURSEMENT FOR EXPENSES.

(8) THE LEGISLATIVE COUNCIL STAFF AND THE OFFICE OF LEGISLATIVE LEGAL SERVICES SHALL NOT PROVIDE STAFF SUPPORT TO THE TASK FORCE.

(9) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2016.

SECTION 2. In Colorado Revised Statutes, 18-6.5-102, **add** (2.5) as follows:

18-6.5-102. Definitions. As used in this article, unless the context otherwise requires:

(2.5) "AT-RISK ADULT WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY" MEANS A PERSON WHO IS EIGHTEEN YEARS OF AGE OR OLDER AND IS A PERSON WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY, AS DEFINED IN SECTION 25.5-10-202 (26) (a), C.R.S.

SECTION 3. In Colorado Revised Statutes, 18-6.5-108, **amend** (1) (a), (1) (b) (IX), (1) (b) (XVI), (1) (d), (2), (3), (4), and (5) as follows:

18-6.5-108. Mandatory reports of abuse and exploitation of at-risk adults - list of reporters - penalties. (1) (a) On and after ~~July 1, 2014~~ JULY 1, 2016, a person specified in paragraph (b) of this subsection (1) who observes the abuse or exploitation of an at-risk elder OR AN AT-RISK ADULT WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY, or who has reasonable cause to believe that an at-risk elder OR AN AT-RISK ADULT WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY has been abused or has been exploited or is at imminent risk of abuse or exploitation, shall report such fact to a law enforcement agency not more than twenty-four hours after making the observation or discovery.

(b) The following persons, whether paid or unpaid, shall report as required by paragraph (a) of this subsection (1):

(IX) Clergy members; except that the reporting requirement described in paragraph (a) of this subsection (1) shall not apply to a person who acquires reasonable cause to believe that an at-risk elder OR AN AT-RISK ADULT WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY has been mistreated or has been exploited or is at imminent risk of mistreatment or exploitation during a communication about which the person may not be examined as a witness pursuant to section 13-90-107 (1) (c), C.R.S., unless the person also acquires such reasonable cause from a source other than such a communication;

(XVI) Personnel of banks, savings and loan associations, credit unions, and other lending or financial institutions; EXCEPT THAT THE REPORTING REQUIREMENT DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (1) ONLY APPLIES TO A PERSON DESCRIBED IN THIS SUBPARAGRAPH (XVI) WHO DIRECTLY OBSERVES IN PERSON THE ABUSE OR EXPLOITATION OF AN AT-RISK ADULT WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY OR WHO HAS REASONABLE CAUSE TO BELIEVE THAT AN AT-RISK ADULT WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY HAS BEEN ABUSED OR HAS BEEN EXPLOITED OR IS AT IMMINENT RISK OF ABUSE OR EXPLOITATION BY REASON OF ACTUAL KNOWLEDGE OF FACTS OR CIRCUMSTANCES INDICATING THE ABUSE OR EXPLOITATION;

(d) Notwithstanding the provisions of paragraph (a) of this subsection (1), a person described in paragraph (b) of this subsection (1) is not required to report the abuse or exploitation of an at-risk elder OR AN AT-RISK ADULT WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY if the person knows that another person has already reported to a law enforcement agency the same abuse or exploitation that would have been the basis of the person's own report.

(2) (a) A law enforcement agency that receives a report of abuse or exploitation of an at-risk elder OR AN AT-RISK ADULT WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY shall acquire, to the extent possible, the following information from the person making the report:

(I) The name, age, address, and contact information of the at-risk elder OR AT-RISK ADULT WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY;

(II) The name, age, address, and contact information of the person making the report;

(III) The name, age, address, and contact information of the CARETAKER OF THE at-risk ~~elder's caretaker~~ ELDER OR AT-RISK ADULT WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY, if any;

(IV) The name of the alleged perpetrator;

(V) The nature and extent of ANY INJURY, WHETHER PHYSICAL OR FINANCIAL, TO the at-risk ~~elder's injury, whether physical or financial, if any;~~ ELDER OR AT-RISK ADULT WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY;

(VI) The nature and extent of the condition that required the report to be made; and

(VII) Any other pertinent information.

(b) Not more than twenty-four hours after receiving a report of abuse or exploitation of an at-risk elder OR AN AT-RISK ADULT WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY, a law enforcement agency shall provide a notification of the report to the county department of FOR THE COUNTY IN WHICH the at-risk ~~elder's residence~~ ELDER OR AT-RISK ADULT WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY RESIDES and the district attorney's office of the location where the abuse or exploitation occurred.

(c) The law enforcement agency shall complete a criminal investigation when appropriate. The law enforcement agency shall provide a summary report of the investigation to the county department ~~of~~ FOR THE COUNTY IN WHICH the at-risk ~~elder's residence~~ ELDER OR AT-RISK ADULT WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY RESIDES and to the district attorney's office of the location where the abuse or exploitation occurred.

(3) A person, including but not limited to a person specified in paragraph (b) of subsection (1) of this section, who reports abuse or exploitation of an at-risk elder OR AN AT-RISK ADULT WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY to a law enforcement agency pursuant to subsection (1) of this section is immune from suit and liability for damages in any civil action or criminal prosecution if the report was made in good faith; except that such a person is not immune if he or she is the alleged perpetrator of the abuse or exploitation.

(4) A person, including but not limited to a person specified in paragraph (b) of subsection (1) of this section, who knowingly makes a false report of abuse or exploitation of an at-risk elder OR AN AT-RISK ADULT WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY to a law enforcement agency commits a class 3 misdemeanor and ~~shall~~ MUST be punished as provided in section 18-1.3-501 and ~~shall be~~ is liable for damages proximately caused thereby.

(5) The reporting duty described in subsection (1) of this section ~~shall not be interpreted as creating~~ DOES NOT CREATE a civil duty of care or establishing a civil standard of care that is owed to an at-risk elder OR AN AT-RISK ADULT WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY by a person specified in paragraph (b) of subsection (1) of this section.

SECTION 4. In Colorado Revised Statutes, 26-3.1-102, **amend** (1) (a.5) as follows:

26-3.1-102. Reporting requirements. (1) (a.5) As required by section 18-6.5-108, C.R.S., certain persons specified in paragraph (b) of this subsection (1) who observe the abuse or exploitation, AS DEFINED IN SECTION 18-6.5-102 (1) AND (10), C.R.S., of an at-risk elder, as defined in section ~~18-6.5-102 (1) and (10)~~ 18-6.5-102 (3), C.R.S., OR AN AT-RISK ADULT WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY, AS DEFINED IN SECTION 18-6.5-102 (2.5), C.R.S., or who have reasonable cause to believe that an at-risk elder OR AN AT-RISK ADULT WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY has been abused or exploited or is at imminent risk of abuse or exploitation shall report such fact to a law enforcement agency not more than twenty-four hours after making the observation or discovery.

SECTION 5. Effective date - applicability. (1) Except as otherwise provided in this section, this act takes effect upon passage.

(2) Sections 3 through 4 of this act take effect July 1, 2016, and apply to offenses committed on or after said date.

SECTION 6. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 5, 2015