

## CHAPTER 233

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**HUMAN SERVICES - SOCIAL SERVICES**

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## SENATE BILL 13-111

BY SENATOR(S) Hudak, Giron, Guzman, Heath, Johnston, Morse, Todd, Ulibarri, Aguilar, Carroll, Hodge, Jones, Kefalas, Kerr, King, Newell, Nicholson, Roberts, Steadman, Tochtrop;  
also REPRESENTATIVE(S) Schafer and Stephens, Fields, Fischer, Ginal, Hamner, Hullinghorst, Kagan, Kraft-Tharp, Labuda, Lebsock, Levy, May, Melton, Moreno, Pabon, Peniston, Pettersen, Primavera, Rosenthal, Salazar, Singer, Williams, Young.

**AN ACT**

**CONCERNING ABUSE OF AT-RISK ADULTS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

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

**SECTION 1. Legislative declaration.** (1) The general assembly hereby finds that:

(a) Colorado is one of only three states that do not require certain professionals to report the abuse or exploitation of at-risk elders;

(b) Mandatory reporting of abuse or exploitation of at-risk elders should be implemented in Colorado as soon as possible to address this shortcoming in our laws and provide for criminal penalties for mandatory reporters who fail to report, provided however there shall not be civil liability for damages proximately caused by a failure to report such as those allowed under section 19-3-304 (4), Colorado Revised Statutes;

(c) Although reports and investigations of alleged misconduct are important components of the state's system of adult protective services, meaningful and lasting assistance to elders is hindered where services are lacking;

(d) Colorado's elderly population is steadily increasing, with the state's population of persons aged 70 years or older expected to increase by twenty-eight percent by 2017, and by one hundred forty-two percent by 2032;

(e) Colorado's system of adult protective services is already grossly underfunded;

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

and

(f) In the absence of additional funding, the implementation of mandatory reporting of abuse and exploitation of at-risk elders may exacerbate the problems faced by adult protective services personnel by increasing their individual caseloads.

(2) The general assembly further finds that:

(a) During the 2012 regular session, the general assembly passed, and the governor thereafter signed into law, Senate Bill 12-078, which created the elder abuse task force and charged the task force with certain duties;

(b) The task force met as required during the 2012 interim and has submitted its final report to the general assembly;

(c) As required by Senate Bill 12-078, the final report of the task force includes many recommendations concerning:

(I) The reporting by certain professionals of instances of mistreatment, exploitation, or self-neglect of at-risk adults; and

(II) The administration of adult protective services by county departments of social services.

(3) Now, therefore, the general assembly hereby declares that, in addition to the actions taken within this act to address specific recommendations of the task force, the general assembly expects that either the current general assembly or a future general assembly will take further actions, as follows:

(a) The general assembly should take such action as is necessary to implement a new data system within the state department of human services to accurately measure the impact of mandatory reporting in Colorado, which data system has been described and recommended by the governor in his November 1, 2012, budget proposal to the joint budget committee;

(b) The general assembly should take such action as is necessary, including but not limited to the appropriation of additional moneys to reduce the caseload ratio of county social workers to a maximum of twenty-five cases per social worker;

(c) The general assembly should identify means by which additional moneys may be allocated to county departments of social services to be used by the departments to secure adult protective services for at-risk adults;

(d) The general assembly should study the need for, and potential means of implementing, a public guardianship and conservatorship program, as described in the report of the task force;

(e) The general assembly should study and implement specific recommendations for combating financial exploitation of elder adults;

(f) The general assembly should identify assured and sustainable sources of

funding to support the enforcement of mandatory reporting and the overall adult protective services infrastructure; and

(g) The general assembly is encouraged to examine the impact of this act during the 2017 regular session.

**SECTION 2.** In Colorado Revised Statutes, **add** 18-6.5-108 as follows:

**18-6.5-108. Mandatory reports of abuse and exploitation of at-risk elders - list of reporters - penalties.** (1) (a) ON AND AFTER JULY 1, 2014, A PERSON SPECIFIED IN PARAGRAPH (b) OF THIS SUBSECTION (1) WHO OBSERVES THE ABUSE OR EXPLOITATION OF AN AT-RISK ELDER, OR WHO HAS REASONABLE CAUSE TO BELIEVE THAT AN AT-RISK ELDER 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):

(I) PHYSICIANS, SURGEONS, PHYSICIANS' ASSISTANTS, OSTEOPATHS, PHYSICIANS IN TRAINING, PODIATRISTS, OCCUPATIONAL THERAPISTS, AND PHYSICAL THERAPISTS;

(II) MEDICAL EXAMINERS AND CORONERS;

(III) REGISTERED NURSES, LICENSED PRACTICAL NURSES, AND NURSE PRACTITIONERS;

(IV) EMERGENCY MEDICAL SERVICE PROVIDERS;

(V) HOSPITAL AND LONG-TERM CARE FACILITY PERSONNEL ENGAGED IN THE ADMISSION, CARE, OR TREATMENT OF PATIENTS;

(VI) CHIROPRACTORS;

(VII) PSYCHOLOGISTS AND OTHER MENTAL HEALTH PROFESSIONALS;

(VIII) SOCIAL WORK PRACTITIONERS;

(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 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;

(X) DENTISTS;

(XI) LAW ENFORCEMENT OFFICIALS AND PERSONNEL;

(XII) COURT-APPOINTED GUARDIANS AND CONSERVATORS;

(XIII) FIRE PROTECTION PERSONNEL;

(XIV) PHARMACISTS;

(XV) COMMUNITY-CENTERED BOARD STAFF;

(XVI) PERSONNEL OF BANKS, SAVINGS AND LOAN ASSOCIATIONS, CREDIT UNIONS, AND OTHER LENDING OR FINANCIAL INSTITUTIONS;

(XVII) A CARETAKER, STAFF MEMBER, EMPLOYEE, OR CONSULTANT FOR A LICENSED OR CERTIFIED CARE FACILITY, AGENCY, HOME, OR GOVERNING BOARD, INCLUDING BUT NOT LIMITED TO HOME HEALTH PROVIDERS; AND

(XVIII) A CARETAKER, STAFF MEMBER, EMPLOYEE OF, OR A CONSULTANT FOR, A HOME CARE PLACEMENT AGENCY, AS DEFINED IN SECTION 25-27.5-102(5), C.R.S.

(c) A PERSON WHO WILLFULLY VIOLATES PARAGRAPH (a) OF THIS SUBSECTION (1) COMMITS A CLASS 3 MISDEMEANOR AND SHALL BE PUNISHED IN ACCORDANCE WITH SECTION 18-1.3-501.

(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 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 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;

(II) THE NAME, AGE, ADDRESS, AND CONTACT INFORMATION OF THE PERSON MAKING THE REPORT;

(III) THE NAME, AGE, ADDRESS, AND CONTACT INFORMATION OF THE AT-RISK ELDER'S CARETAKER, IF ANY;

(IV) THE NAME OF THE ALLEGED PERPETRATOR;

(V) THE NATURE AND EXTENT OF THE AT-RISK ELDER'S INJURY, WHETHER PHYSICAL OR FINANCIAL, IF ANY;

(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, A LAW ENFORCEMENT AGENCY SHALL PROVIDE A NOTIFICATION OF THE REPORT TO THE COUNTY DEPARTMENT OF THE AT-RISK ELDER'S RESIDENCE 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 THE AT-RISK ELDER'S RESIDENCE 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 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 TO A LAW ENFORCEMENT AGENCY COMMITS A CLASS 3 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1.3-501 AND SHALL BE LIABLE FOR DAMAGES PROXIMATELY CAUSED THEREBY.

(5) THE REPORTING DUTY DESCRIBED IN SUBSECTION (1) OF THIS SECTION SHALL NOT BE INTERPRETED AS CREATING A CIVIL DUTY OF CARE OR ESTABLISHING A CIVIL STANDARD OF CARE THAT IS OWED TO AN AT-RISK ELDER BY A PERSON SPECIFIED IN PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION.

**SECTION 3.** In Colorado Revised Statutes, **amend** 18-6.5-102 as follows:

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

(1) "ABUSE" MEANS ANY OF THE FOLLOWING ACTS OR OMISSIONS COMMITTED AGAINST AN AT-RISK ELDER:

(a) THE NONACCIDENTAL INFLICTION OF BODILY INJURY, SERIOUS BODILY INJURY, OR DEATH;

(b) CONFINEMENT OR RESTRAINT THAT IS UNREASONABLE UNDER GENERALLY ACCEPTED CARETAKING STANDARDS;

(c) SUBJECTION TO SEXUAL CONDUCT OR CONTACT CLASSIFIED AS A CRIME UNDER THIS TITLE; AND

(d) CARETAKER NEGLECT.

~~(1)~~ (2) "At-risk adult" means any person who is ~~sixty~~ SEVENTY years of age or older or any person who is eighteen years of age or older and is a person with a disability as said term is defined in ~~subsection (3)~~ SUBSECTION (11) of this section.

~~(2)~~ (3) "Neglect" has the same meaning as set forth in section 26-3.1-101 (4) (b); C.R.S. "AT-RISK ELDER" MEANS ANY PERSON WHO IS SEVENTY YEARS OF AGE OR OLDER.

~~(1.5)~~ (4) "At-risk juvenile" means any person who is under the age of eighteen years and is a person with a disability as said term is defined in ~~subsection (3)~~ SUBSECTION (11) of this section.

(5) "CARETAKER" MEANS A PERSON WHO:

(a) IS RESPONSIBLE FOR THE CARE OF AN AT-RISK ADULT, AT-RISK JUVENILE, OR AT-RISK ELDER AS A RESULT OF A FAMILY OR LEGAL RELATIONSHIP;

(b) HAS ASSUMED RESPONSIBILITY FOR THE CARE OF AN AT-RISK ADULT, AT-RISK JUVENILE, OR AT-RISK ELDER; OR

(c) IS PAID TO PROVIDE CARE OR SERVICES TO AN AT-RISK ADULT, AT-RISK JUVENILE, OR AT-RISK ELDER.

(6) "CARETAKER NEGLECT" MEANS NEGLIGENCE THAT OCCURS WHEN ADEQUATE FOOD, CLOTHING, SHELTER, PSYCHOLOGICAL CARE, PHYSICAL CARE, MEDICAL CARE, OR SUPERVISION IS NOT SECURED FOR AN AT-RISK ADULT OR AN AT-RISK ELDER OR IS NOT PROVIDED BY A CARETAKER IN A TIMELY MANNER AND WITH THE DEGREE OF CARE THAT A REASONABLE PERSON IN THE SAME SITUATION WOULD EXERCISE; EXCEPT THAT THE WITHHOLDING, WITHDRAWING, OR REFUSING OF ANY MEDICATION, ANY MEDICAL PROCEDURE OR DEVICE, OR ANY TREATMENT, INCLUDING BUT NOT LIMITED TO RESUSCITATION, CARDIAC PACING, MECHANICAL VENTILATION, DIALYSIS, AND ARTIFICIAL NUTRITION AND HYDRATION, IN ACCORDANCE WITH ANY VALID MEDICAL DIRECTIVE OR ORDER OR AS DESCRIBED IN A PALLIATIVE PLAN OF CARE SHALL NOT BE DEEMED CARETAKER NEGLIGENCE. AS USED IN THIS SUBSECTION (6), "MEDICAL DIRECTIVE OR ORDER" INCLUDES BUT IS NOT LIMITED TO A MEDICAL DURABLE POWER OF ATTORNEY, A DECLARATION AS TO MEDICAL TREATMENT EXECUTED PURSUANT TO SECTION 15-18-104, C.R.S., A MEDICAL ORDER FOR SCOPE OF TREATMENT FORM EXECUTED PURSUANT TO ARTICLE 18.7 OF TITLE 15, C.R.S., AND A CPR DIRECTIVE EXECUTED PURSUANT TO ARTICLE 18.6 OF TITLE 15, C.R.S.

(7) "CLERGY MEMBER" MEANS A PRIEST; RABBI; DULY ORDAINED, COMMISSIONED, OR LICENSED MINISTER OF A CHURCH; MEMBER OF A RELIGIOUS ORDER; OR RECOGNIZED LEADER OF ANY RELIGIOUS BODY.

~~(1.7)~~ (8) "Convicted" and "conviction" mean a plea of guilty accepted by the court, including a plea of guilty entered pursuant to a deferred sentence under section 18-1.3-102, a verdict of guilty by a judge or jury, or a plea of no contest accepted by the court.

~~(1.8)~~ (9) "Crime against an at-risk adult or at-risk juvenile" means any offense listed in section 18-6.5-103 or criminal attempt, conspiracy, or solicitation to

commit any of those offenses.

(10) "EXPLOITATION" MEANS AN ACT OR OMISSION COMMITTED BY A PERSON WHO:

(a) USES DECEPTION, HARASSMENT, INTIMIDATION, OR UNDUE INFLUENCE TO PERMANENTLY OR TEMPORARILY DEPRIVE AN AT-RISK ELDER OF THE USE, BENEFIT, OR POSSESSION OF HIS OR HER MONEY, ASSETS, OR PROPERTY;

(b) IN THE ABSENCE OF LEGAL AUTHORITY:

(I) EMPLOYS THE SERVICES OF A THIRD PARTY FOR THE PROFIT OR ADVANTAGE OF THE PERSON OR ANOTHER PERSON TO THE DETRIMENT OF THE AT-RISK ELDER; OR

(II) FORCES, COMPELS, COERCES, OR ENTICES AN AT-RISK ELDER TO PERFORM SERVICES FOR THE PROFIT OR ADVANTAGE OF THE PERSON OR ANOTHER PERSON AGAINST THE WILL OF THE AT-RISK ELDER; OR

(c) MISUSES THE PROPERTY OF AN AT-RISK ELDER IN A MANNER THAT ADVERSELY AFFECTS THE AT-RISK ELDER'S ABILITY TO RECEIVE HEALTH CARE OR HEALTH CARE BENEFITS OR TO PAY BILLS FOR BASIC NEEDS OR OBLIGATIONS.

~~(3)~~ (11) "Person with a disability" means any person who:

(a) Is impaired because of the loss of or permanent loss of use of a hand or foot or because of blindness or the permanent impairment of vision of both eyes to such a degree as to constitute virtual blindness; ~~or~~

(b) Is unable to walk, see, hear, or speak; ~~or~~

(c) Is unable to breathe without mechanical assistance; ~~or~~

(d) Is developmentally disabled as defined in section 27-10.5-102 (11), C.R.S.; ~~or~~

(e) Is a person with a mental illness as the term is defined in section 27-65-102 (14), C.R.S.; ~~or~~

(f) Is mentally impaired as the term is defined in section 24-34-301 (2.5) (b) (III), C.R.S.; ~~or~~

(g) Is blind as that term is defined in section 26-2-103 (3), C.R.S.; or

(h) Is receiving care and treatment for a developmental disability under article 10.5 of title 27, C.R.S.

~~(3.5)~~ (12) "Position of trust" means assuming a responsibility, duty, or fiduciary relationship toward an at-risk adult or at-risk juvenile.

~~(4) Any subsection, or portion of a subsection, of this section declared to be unconstitutional or otherwise invalid shall not impair the remaining provisions of~~

~~this section:~~

(13) "UNDUE INFLUENCE" MEANS THE USE OF INFLUENCE BY SOMEONE WHO EXERCISES AUTHORITY OVER AN AT-RISK ELDER IN ORDER TO TAKE UNFAIR ADVANTAGE OF THE AT-RISK ELDER'S VULNERABLE STATE OF MIND, NEEDINESS, PAIN, OR AGONY.

**SECTION 4.** In Colorado Revised Statutes, 18-6.5-103, **amend** (6) and (8); and **add** (5.5) and (7.5) as follows:

**18-6.5-103. Crimes against at-risk adults and at-risk juveniles - classifications.** (5.5) A PERSON WHO COMMITS THEFT, AND COMMITS ANY ELEMENT OR PORTION OF THE OFFENSE IN THE PRESENCE OF THE VICTIM, AS SUCH CRIME IS DESCRIBED IN SECTION 18-4-401 (1), AND THE VICTIM IS AN AT-RISK ELDER, OR WHO COMMITS THEFT AGAINST AN AT-RISK ELDER WHILE ACTING IN A POSITION OF TRUST, WHETHER OR NOT IN THE PRESENCE OF THE VICTIM, OR COMMITS THEFT AGAINST AN AT-RISK ELDER KNOWING THE VICTIM IS AN AT-RISK ELDER, WHETHER IN THE PRESENCE OF THE VICTIM OR NOT, COMMITS A CLASS 5 FELONY IF THE VALUE OF THE THING INVOLVED IS LESS THAN FIVE HUNDRED DOLLARS OR A CLASS 3 FELONY IF THE VALUE OF THE THING INVOLVED IS FIVE HUNDRED DOLLARS OR MORE. THEFT FROM THE PERSON OF AN AT-RISK ELDER BY MEANS OTHER THAN THE USE OF FORCE, THREAT, OR INTIMIDATION IS A CLASS 4 FELONY WITHOUT REGARD TO THE VALUE OF THE THING TAKEN.

(6) ~~Any person who knowingly neglects~~ COMMITS CARETAKER NEGLECT AGAINST an at-risk adult, AN AT-RISK ELDER, or an at-risk juvenile or knowingly acts in a manner likely to be injurious to the physical or mental welfare of an at-risk adult, AN AT-RISK ELDER, or an at-risk juvenile commits a class 1 misdemeanor.

(7.5) ANY PERSON WHO EXERCISES UNDUE INFLUENCE TO CONVERT OR TAKE POSSESSION OF AN AT-RISK ELDER'S MONEY, ASSETS, OR OTHER PROPERTY COMMITS THEFT, AS DEFINED IN SECTION 18-4-401.

(8) For purposes of ~~subsections (3) to (7)~~ SUBSECTIONS (3) TO (7.5) of this section, commission of the offenses described in said subsections shall include the attempt, solicitation, or conspiracy to commit such offenses.

**SECTION 5.** In Colorado Revised Statutes, 26-3.1-101, **amend** (5) and (7) (b); and **add** (2.3) and (2.5) as follows:

**26-3.1-101. Definitions.** As used in this article, unless the context otherwise requires:

(2.3) "CARETAKER NEGLECT" MEANS NEGLECT THAT OCCURS WHEN ADEQUATE FOOD, CLOTHING, SHELTER, PSYCHOLOGICAL CARE, PHYSICAL CARE, MEDICAL CARE, OR SUPERVISION IS NOT SECURED FOR AN AT-RISK ADULT OR IS NOT PROVIDED BY A CARETAKER IN A TIMELY MANNER AND WITH THE DEGREE OF CARE THAT A REASONABLE PERSON IN THE SAME SITUATION WOULD EXERCISE; EXCEPT THAT THE WITHHOLDING, WITHDRAWING, OR REFUSING OF ANY TREATMENT, INCLUDING BUT NOT LIMITED TO RESUSCITATION, CARDIAC PACING, MECHANICAL VENTILATION, DIALYSIS, ARTIFICIAL NUTRITION AND HYDRATION, ANY MEDICATION OR MEDICAL

PROCEDURE OR DEVICE, IN ACCORDANCE WITH ANY VALID MEDICAL DIRECTIVE OR ORDER, OR AS DESCRIBED IN A PALLIATIVE PLAN OF CARE, SHALL NOT BE DEEMED CARETAKER NEGLECT. AS USED IN THIS SUBSECTION (2.3), "MEDICAL DIRECTIVE OR ORDER" INCLUDES BUT IS NOT LIMITED TO A MEDICAL DURABLE POWER OF ATTORNEY, A DECLARATION AS TO MEDICAL TREATMENT EXECUTED PURSUANT TO SECTION 15-18-104, C.R.S., A MEDICAL ORDER FOR SCOPE OF TREATMENT FORM EXECUTED PURSUANT TO ARTICLE 18.7 OF TITLE 15, C.R.S., AND A CPR DIRECTIVE EXECUTED PURSUANT TO ARTICLE 18.6 OF TITLE 15, C.R.S.

(2.5) "CLERGY MEMBER" MEANS A PRIEST; RABBI; DULY ORDAINED, COMMISSIONED, OR LICENSED MINISTER OF A CHURCH; MEMBER OF A RELIGIOUS ORDER; OR RECOGNIZED LEADER OF ANY RELIGIOUS BODY.

(5) "Financial institution" ~~has the same meaning as set forth in section 6-21-102 (6), C.R.S.~~ MEANS A STATE OR FEDERAL BANK, SAVINGS BANK, SAVINGS AND LOAN ASSOCIATION OR COMPANY, BUILDING AND LOAN ASSOCIATION, TRUST COMPANY, OR CREDIT UNION.

(7) "Mistreatment" means an act or omission that threatens the health, safety, or welfare of an at-risk adult or that exposes an at-risk adult to a situation or condition that poses an imminent risk of death, serious bodily injury, or bodily injury to the at-risk adult. "Mistreatment" includes, but is not limited to:

(b) Caretaker neglect. ~~that occurs when adequate food, clothing, shelter, psychological care, physical care, medical care, or supervision is not secured for the at-risk adult or is not provided by a caretaker in a timely manner and with the degree of care that a reasonable person in the same situation would exercise; except that the withholding, withdrawing, or refusing of any treatment, including but not limited to resuscitation, cardiac pacing, mechanical ventilation, dialysis, artificial nutrition and hydration, any medication or medical procedure or device, in accordance with any valid medical directive or order, or as described in a palliative plan of care, shall not be deemed caretaker neglect. As used in this paragraph (b), "medical directive or order" includes, but is not limited to, a medical durable power of attorney, a declaration as to medical treatment executed pursuant to section 15-18-104, C.R.S., a medical orders for scope of treatment form executed pursuant to article 18.7 of title 15, C.R.S., and a CPR directive executed pursuant to article 18.6 of title 15, C.R.S.~~

**SECTION 6.** In Colorado Revised Statutes, 26-3.1-102, **amend** (1) (a) and (1) (b); and **add** (1) (a.5) as follows:

**26-3.1-102. Reporting requirements.** (1) (a) ~~An immediate oral report should be made or caused to be made within twenty-four hours to a county department or during non-business hours to a local law enforcement agency responsible for investigating violations of state criminal laws protecting at-risk adults by any~~ A person specified in paragraph (b) of this subsection (1) who ~~has observed~~ OBSERVES the mistreatment, self-neglect, or exploitation of an at-risk adult or who has reasonable cause to believe that an at-risk adult has been mistreated, is self-neglected, or has been exploited and is at imminent risk of mistreatment, self-neglect, or exploitation IS URGED TO REPORT SUCH FACT TO A COUNTY DEPARTMENT NOT MORE THAN TWENTY-FOUR HOURS AFTER MAKING THE

## OBSERVATION OR DISCOVERY.

(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 OF AN AT-RISK ELDER, AS DEFINED IN SECTIONS 18-6.5-102 (1) AND (10), C.R.S., OR WHO HAVE REASONABLE CAUSE TO BELIEVE THAT AN AT-RISK ELDER 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.

(b) The following persons, WHETHER PAID OR UNPAID, are urged to ~~make an oral report within twenty-four hours~~ AS DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (1):

(I) Physicians, surgeons, physicians' assistants, osteopaths, physicians in training, podiatrists, ~~and~~ occupational therapists, AND PHYSICAL THERAPISTS;

(II) Medical examiners and coroners;

(III) Registered nurses, licensed practical nurses, and nurse practitioners;

(IV) EMERGENCY MEDICAL SERVICE PROVIDERS;

~~(IV)~~ (V) Hospital and long-term care facility personnel engaged in the admission, care, or treatment of patients;

(VI) CHIROPRACTORS;

~~(V)~~ (VII) Psychologists and other mental health professionals;

~~(VI)~~ (VIII) Social work practitioners;

(IX) CLERGY MEMBERS;

~~(VII)~~ (X) Dentists;

~~(VIII)~~ (XI) Law enforcement officials and personnel;

~~(IX)~~ (XII) Court-appointed guardians and conservators;

~~(X)~~ (XIII) Fire protection personnel;

~~(XI)~~ (XIV) Pharmacists;

~~(XII)~~ (XV) Community-centered board staff;

~~(XIII)~~ (XVI) Personnel of banks, savings and loan associations, credit unions, and other lending or financial institutions; ~~and~~

~~(XIV)~~ (Deleted by amendment, L. 2012.)

~~(XV)~~ (XVII) A caretaker, staff member, or employee of or volunteer or consultant for a licensed or certified care facility, agency, home, or governing board, including but not limited to home health providers; AND

(XVIII) A CARETAKER, STAFF MEMBER, EMPLOYEE OF, OR A VOLUNTEER OR CONSULTANT FOR, A HOME CARE PLACEMENT AGENCY, AS DEFINED IN SECTION 25-27.5-102 (5), C.R.S.

**SECTION 7.** In Colorado Revised Statutes, **add** 26-3.1-110 as follows:

**26-3.1-110. Report concerning the implementation of mandatory reporting of elder abuse and exploitation - repeal.** (1) ON OR BEFORE DECEMBER 31, 2016, THE STATE DEPARTMENT SHALL PREPARE AND DELIVER TO THE JOINT BUDGET COMMITTEE AND TO THE HEALTH AND HUMAN SERVICES COMMITTEE OF THE SENATE; THE HEALTH, INSURANCE, AND ENVIRONMENT COMMITTEE OF THE HOUSE OF REPRESENTATIVES; AND THE PUBLIC HEALTH CARE AND HUMAN SERVICES COMMITTEE OF THE HOUSE OF REPRESENTATIVES, OR TO ANY SUCCESSOR COMMITTEE, A REPORT CONCERNING THE IMPLEMENTATION OF SENATE BILL 13-111, ENACTED IN 2013, AND MANDATORY REPORTS OF ABUSE AND EXPLOITATION OF AT-RISK ELDERS, AS DESCRIBED IN SECTION 18-6.5-108, C.R.S.

(2) TO THE EXTENT THAT THE STATE DEPARTMENT IS ABLE TO PROVIDE THE DATA, THE REPORT SHALL INCLUDE, BUT NEED NOT BE LIMITED TO, THE FOLLOWING INFORMATION:

(a) CASELOAD INFORMATION, INCLUDING THE NUMBER OF REPORTS AND NUMBER OF INVESTIGATIONS THAT RESULTED IN SUBSTANTIATION OF ALLEGATIONS;

(b) DEMOGRAPHIC INFORMATION RELATED TO EACH AT-RISK ELDER, ALLEGED PERPETRATOR, AND REPORTING PARTY INVOLVED IN EACH REPORT;

(c) THE AVAILABILITY AND UTILIZATION OF SERVICES FOR AT-RISK ELDERS WHO HAVE EXPERIENCED ABUSE OR EXPLOITATION, OR THE LACK OF AVAILABILITY OF SUCH SERVICES;

(d) COMMUNITY OUTREACH, TRAINING, AND OTHER ACTIVITIES UNDERTAKEN BY THE STATE DEPARTMENT OR COUNTY DEPARTMENTS TO INFORM THE PUBLIC AND TRAIN PERSONS WHO ARE REQUIRED TO REPORT OR TO INVESTIGATE ALLEGATIONS OF ABUSE OR EXPLOITATION OF AT-RISK ELDERS;

(e) DATA CONCERNING PROGRAM EXPENDITURES AT BOTH THE STATE AND LOCAL LEVELS;

(f) AVERAGE PER-WORKER CASELOAD; AND

(g) INFORMATION CONCERNING QUALITY ASSURANCE ACTIVITIES.

(3) THIS SECTION IS REPEALED, EFFECTIVE JANUARY 1, 2017.

**SECTION 8.** In Colorado Revised Statutes, 24-31-303, **amend** (1) (i) and (1) (j); and **add** (1) (k) as follows:

**24-31-303. Duties - powers of the P.O.S.T. board.** (1) The P.O.S.T. board has the following duties:

(i) To promulgate rules and regulations that establish the criteria that shall be applied in determining whether to recommend peace officer status for a group or specific position as provided in section 16-2.5-201 (4), C.R.S.; ~~and~~

(j) To establish standards for training of school resource officers, as described in section 24-31-312; AND

(k) TO ESTABLISH TRAINING STANDARDS TO PREPARE LAW ENFORCEMENT OFFICERS TO RECOGNIZE AND ADDRESS INCIDENTS OF ABUSE AND EXPLOITATION OF AT-RISK ELDERS, AS DESCRIBED IN SECTIONS 18-6.5-102 (1) AND (10), C.R.S.

**SECTION 9.** In Colorado Revised Statutes, **add** 24-31-313 as follows:

**24-31-313. Training concerning abuse and exploitation of at-risk elders.**

(1) ON OR BEFORE JANUARY 1, 2014, THE P.O.S.T. BOARD SHALL CREATE AND IMPLEMENT A TRAINING CURRICULUM TO PREPARE PEACE OFFICERS TO RECOGNIZE AND ADDRESS INCIDENTS OF ABUSE AND EXPLOITATION OF AT-RISK ELDERS, AS DESCRIBED IN SECTIONS 18-6.5-102 (1) AND (10), C.R.S.

(2) ON AND AFTER JANUARY 1, 2015, EACH COUNTY SHERIFF AND EACH MUNICIPAL LAW ENFORCEMENT AGENCY OF THE STATE SHALL EMPLOY AT LEAST ONE PEACE OFFICER WHO HAS SUCCESSFULLY COMPLETED THE TRAINING CURRICULUM DESCRIBED IN SUBSECTION (1) OF THIS SECTION.

(3) THE TRAINING CURRICULUM PROVIDED PURSUANT TO SUBSECTION (1) OF THIS SECTION SHALL INCLUDE A MEANS OF RECOGNIZING AND IDENTIFYING PEACE OFFICERS WHO SUCCESSFULLY COMPLETE THE TRAINING CURRICULUM.

(4) IN PROVIDING THE TRAINING CURRICULUM DESCRIBED IN SUBSECTION (1) OF THIS SECTION, THE P.O.S.T. BOARD MAY INCLUDE PROVISIONS TO ALLOW FOR THE AWARDING OF CREDIT TO A PEACE OFFICER WHO HAS SUCCESSFULLY COMPLETED A SIMILAR TRAINING CURRICULUM OFFERED BY ONE OR MORE PUBLIC OR PRIVATE ENTITIES, WHICH ENTITIES SHALL BE IDENTIFIED BY THE P.O.S.T. BOARD.

(5) THE P.O.S.T. BOARD MAY CHARGE A FEE TO EACH PEACE OFFICER WHO ENROLLS IN THE TRAINING CURRICULUM DESCRIBED IN SUBSECTION (1) OF THIS SECTION. THE AMOUNT OF THE FEE SHALL NOT EXCEED THE DIRECT AND INDIRECT COSTS INCURRED BY THE P.O.S.T. BOARD IN PROVIDING THE CURRICULUM.

**SECTION 10.** In Colorado Revised Statutes, 26-1-105, **add** (4) as follows:

**26-1-105. Department of human services created - executive director - powers, duties, and functions.** (4) ON AND AFTER JANUARY 1, 2014, THE DEPARTMENT OF HUMAN SERVICES SHALL IMPLEMENT A PROGRAM TO GENERATE AWARENESS AMONG:

(a) THE RESIDENTS OF THE STATE REGARDING THE MISTREATMENT, SELF-NEGLECT, AND EXPLOITATION OF AT-RISK ADULTS;

(b) THE PERSONS IDENTIFIED IN SECTION 26-3.1-102 (1) (b) WHO ARE URGED TO REPORT THE MISTREATMENT, SELF-NEGLECT, OR EXPLOITATION OF AN AT-RISK ADULT; AND

(c) THE PERSONS IDENTIFIED IN SECTION 18-6.5-108, C.R.S., WHO ARE REQUIRED TO REPORT THE ABUSE OR EXPLOITATION OF AN AT-RISK ELDER.

**SECTION 11.** In Colorado Revised Statutes, 18-1.3-406, **amend** (2) (c) as follows:

**18-1.3-406. Mandatory sentences for violent crimes.** (2) (c) As used in this section, "at-risk adult" has the same meaning as set forth in ~~section 18-6.5-102 (1)~~ SECTION 18-6.5-102 (2), and "at-risk juvenile" has the same meaning as set forth in ~~section 18-6.5-102 (1.5)~~ SECTION 18-6.5-102 (4).

**SECTION 12.** In Colorado Revised Statutes, 18-6.5-103.5, **amend** (1) as follows:

**18-6.5-103.5. Video tape depositions - at-risk adult victims and witnesses.**

(1) In any case in which a defendant is charged with a crime against an at-risk adult, ~~as described in section 18-6.5-103~~ or in any case involving a victim or witness who is an at-risk adult, ~~as defined in section 18-6.5-102 (1)~~, the prosecution may file a motion with the court at any time prior to commencement of the trial, for an order that a deposition be taken of the testimony of the victim or witness and that the deposition be recorded and preserved on video tape.

**SECTION 13.** In Colorado Revised Statutes, 18-9-121, **amend** (5) (a) as follows:

**18-9-121. Bias-motivated crimes.** (5) For purposes of this section:

(a) "Physical or mental disability" refers to a disability as used in the definition of the term "person with a disability" in ~~section 18-6.5-102 (3)~~ SECTION 18-6.5-102 (11).

**SECTION 14.** In Colorado Revised Statutes, 25-1-124, **amend** (2) (e) as follows:

**25-1-124. Health care facilities - consumer information - reporting - release.**

(2) Each health care facility licensed pursuant to section 25-3-101 or certified pursuant to section 25-1.5-103 (1) (a) (II) shall report to the department all of the following occurrences:

(e) Any occurrence involving ~~CARETAKER~~ neglect of a patient or resident, as described in ~~section 26-3.1-101 (4) (b), C.R.S.~~ SECTION 26-3.1-101 (2.3), C.R.S.;

**SECTION 15.** In Colorado Revised Statutes, 26-3.1-103, **repeal** (4) as follows:

**26-3.1-103. Evaluations - investigations - rules.** (4) ~~Notwithstanding any provision of section 24-72-204, C.R.S., or section 11-105-110, C.R.S., or any other applicable law concerning the confidentiality of financial records to the contrary,~~

~~agencies investigating the exploitation of an at-risk adult shall be permitted to inspect all records of the at-risk adult on whose behalf the investigation is being conducted, including the at-risk adult's financial records, upon execution of a prior written consent form by the at-risk adult, in accordance with section 6-21-103, C.R.S.~~

**SECTION 16.** In Colorado Revised Statutes, **repeal** 26-3.1-105 as follows:

~~**26-3.1-105. Prior consent form.** A financial institution shall offer eligible account holders, as defined in section 6-21-102, C.R.S., the option of signing a prior consent form in accordance with section 6-21-103, C.R.S.~~

**SECTION 17.** In Colorado Revised Statutes, **repeal** article 21 of title 6 and part 3 of article 3.1 of title 26.

**SECTION 18. Appropriation.** (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of human services, for the fiscal year beginning July 1, 2013, the sum of \$3,171,208 and 1.0 FTE, or so much thereof as may be necessary, to be allocated to the adult assistance programs division for the implementation of this act as follows:

- (a) \$2,200,000 for the reduction of county adult protective services worker caseloads;
- (b) \$800,000 for the county provision of adult protective services to at risk adults;
- (c) \$85,000 for the provision of training to county adult protective services workers and other persons who are required to report the abuse or exploitation of an at-risk elder; and
- (d) \$86,208 and 1.0 FTE for adult protective services training and quality assurance activities.

**SECTION 19. 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: May 16, 2013