

ARTICLE 3.1
PROTECTIVE SERVICES FOR ADULTS AT RISK OF
MISTREATMENT OR SELF NEGLECT
PART 1
PROTECTIVE SERVICES FOR AT-RISK ADULTS

26-3.1-101. Definitions.

As used in this article, unless the context otherwise requires:

(1) "At-risk adult" means an individual eighteen years of age or older who is susceptible to mistreatment as such term is defined in subsection (4) of this section or self-neglect as such term is defined in subsection (7) of this section because the individual is unable to perform or obtain services necessary for the individual's health, safety, or welfare or lacks sufficient understanding or capacity to make or communicate responsible decisions concerning the individual's person or affairs.

(2) "Caretaker" means a person, as such term is defined in subsection (5) of this section, who is responsible for the care of an at-risk adult, as such term is defined in subsection (1) of this section, as a result of a family or legal relationship or who has assumed responsibility for the care of an at-risk adult.

(3) "Least restrictive intervention" means acquiring or providing services, including protective services, for the shortest duration and to the minimum extent necessary to remedy or prevent situations of actual mistreatment or self-neglect.

(4) "Mistreatment" means an act or omission which threatens the health, safety, or welfare of an at-risk adult, as such term is defined in subsection (1) of this section, or which exposes the adult to a situation or condition that poses an imminent risk of death, serious bodily injury, or bodily injury to the adult. "Mistreatment" includes, but is not limited to:

(a) Abuse which occurs:

(I) Where there is infliction of physical pain or injury, as demonstrated by, but not limited to, substantial or multiple skin bruising, bleeding, malnutrition, dehydration, burns, bone fractures, poisoning, subdural hematoma, soft tissue swelling, or suffocation;

(II) Where unreasonable confinement or restraint is imposed; or

(III) Where there is subjection to nonconsensual sexual conduct or contact classified as a crime under the "Colorado Criminal Code", title 18, C.R.S.;

(b) Caretaker neglect which 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 of artificial nourishment in accordance with the "Colorado Medical Treatment Decision Act", article 18 of title 15, C.R.S., shall not be considered as abuse;

(c) Exploitation which is the illegal or improper use of an at-risk adult for another person's advantage.

(5) "Person" means one or more individuals, limited liability companies, partnerships, associations, corporations, legal representatives, trustees, receivers, or the state of Colorado, and all political subdivisions and agencies thereof.

(6) "Protective services" means services provided by the state or political subdivisions or agencies thereof in order to prevent the mistreatment or self-neglect of an at-risk adult. Such services include, but are not limited to: Receiving and investigating reports of mistreatment or self-neglect, the provision of casework and counseling services, arranging for coordinating, delivering where appropriate, and monitoring services, including medical care for physical or mental health needs, protection from mistreatment, and assistance with application for public benefits, referral to community service providers, and initiation of probate proceedings.

(7) "Self-neglect" means an act or failure to act whereby an at-risk adult substantially endangers the adult's health, safety, welfare, or life by not seeking or obtaining services necessary to meet the adult's essential human needs. Choice of lifestyle or living arrangements shall not, by itself, be evidence of self-neglect.

26-3.1-102. Reporting requirements.

(1) (a) An immediate oral report of abuse should be made or caused to be made within twenty-four hours to the 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 person specified in paragraph (b) of this subsection (1) who has observed the mistreatment or self-neglect of an at-risk adult or who has reasonable cause to believe that an at-risk adult has been mistreated or is self-neglected and is at imminent risk of mistreatment or self-neglect.

(b) The following persons are urged to make or initiate an initial oral report within twenty-four hours followed by a written report within forty-eight hours:

(I) Physicians, surgeons, physicians' assistants, or osteopaths, including physicians in training;

(II) Medical examiners or coroners;

(III) Registered nurses or licensed practical nurses;

(IV) Hospital and nursing home personnel engaged in the admission, care, or treatment of patients;

(V) Psychologists and other mental health professionals;

(VI) Social work practitioners;

(VII) Dentists;

(VIII) Law enforcement officials and personnel;

(IX) Court-appointed guardians and conservators;

(X) Fire protection personnel;

(XI) Pharmacists;

(XII) Community centered board staff;

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

(XIV) State and local long-term care ombudsmen;

(XV) Any caretaker, staff member, or employee of or volunteer or consultant for any licensed care facility, agency, home, or governing board.

(c) In addition to those persons urged by this subsection (1) to report known or suspected mistreatment or self-neglect of an at-risk adult and circumstances or conditions which might reasonably result in mistreatment or self-neglect, any other person may report such known or suspected mistreatment or self-neglect and circumstances or conditions which might reasonably result in mistreatment or self-neglect of an at-risk adult to the local law enforcement agency or the county department. Upon receipt of such report, the receiving agency shall prepare a written report within forty-eight hours.

(2) Pursuant to subsection (1) of this section, the report shall include: The name and address of the at-risk adult; the name and address of the at-risk adult's caretaker, if any; the age, if known, of such at-risk adult; the nature and extent of such at-risk adult's injury, if any; the nature and extent of the condition that will reasonably result in mistreatment or self-neglect; and any other pertinent information.

(3) A copy of the report prepared by the county department in accordance with subsections (1) and (2) of this section shall be forwarded within twenty-four hours to the district attorney's office and the local law enforcement agency. A report prepared by the local law enforcement agency shall be forwarded within twenty-four hours to the county department and to the district attorney's office.

(4) No person, including a person specified in subsection (1) of this section, shall knowingly make a false report of mistreatment or self-neglect to a county department or local law enforcement agency. Any person who willfully violates the provisions of this subsection (4) commits a class 3 misdemeanor and shall be punished as provided in section [18-1.3-501](#), C.R.S., and liable for damages proximately caused thereby.

(5) Any person, except a perpetrator, complicitor, or coconspirator, who makes a report pursuant to this section shall be immune from any civil or criminal liability on account of such report, testimony, or participation in making such report, so long as such action was taken in good faith and not in reckless disregard of the truth or in violation of subsection (4) of this section.

(6) No person shall take any discriminatory, disciplinary, or retaliatory action against any person who, in good faith, makes a report of suspected mistreatment or neglect of an at-risk adult.

(7) (a) Except as provided in paragraph (b) of this subsection (7), reports of the mistreatment or self-neglect of an at-risk adult, including the name and address of any at-risk adult, member of said adult's family, or informant, or any other identifying information contained in such reports, shall be confidential, and shall not be public information.

(b) Disclosure of the name and address of an at-risk adult or member of said adult's family and other identifying information contained in a report shall be permitted only when authorized by a court for good cause. Such disclosure shall not be prohibited when a criminal complaint, information, or indictment based on the report is filed or when there is a death of a suspected at-risk adult from mistreatment or self-neglect and a law enforcement agency files a formal charge or a grand jury issues an indictment in connection with the death.

(c) Any person who violates any provision of this subsection (7) is guilty of a class 2 petty offense and, upon conviction thereof, shall be punished by a fine of not more than three hundred dollars.

26-3.1-103. Investigations.

(1) The agency receiving a report of mistreatment or self-neglect of an at-risk adult shall make a thorough investigation immediately upon receipt of a report. The immediate concern of the report shall be the protection of the at-risk adult. The investigation shall, at a minimum, include a face-to-face interview of the at-risk adult alleged to be mistreated or self-neglected. The county department shall arrange for its investigation to be conducted by persons trained to conduct such investigations.

(2) It is the general assembly's intent that, in each county of the state, law enforcement agencies, county departments of social services, and any other agencies responsible under federal law or the laws of this state to investigate mistreatment or self-neglect of at-

risk adults develop and implement cooperative agreements to coordinate the investigative duties of the agencies and that the focus of such agreements shall be to ensure the best protection for at-risk adults. The agreements shall provide for special requests by one agency for assistance from another agency and for joint investigations.

(3) Each county or contiguous group of counties in the state in which a minimum number of reports of mistreatment or self-neglect of at-risk adults are annually filed shall establish an at-risk adult protection team. The state board shall promulgate rules to specify the minimum number of reports that will require the establishment of an adult at-risk protection team. The at-risk adult protection team shall review the processes used to investigate mistreatment or self-neglect of at-risk adults, review the provision of protective services for such adults, facilitate interagency cooperation, and provide community education on the mistreatment and self-neglect of at-risk adults. The director of each county department is directed to create or coordinate a protection team for the respective county in accordance with rules adopted by the state board of human services, which rules shall govern the establishment, composition, and duties of the team and shall be consistent with this subsection (3).

26-3.1-104. Provision of protective services for at-risk adults - consent - nonconsent - least restrictive intervention.

(1) If the county director or such director's designee determines that an at-risk adult is being mistreated or self-neglected, or is at risk thereof, and the at-risk adult consents in writing to protective services, the county director or designee shall immediately provide or arrange for the provision of protective services.

(2) If the county director or designee determines that an at-risk adult is being or has been mistreated or self-neglected, or is at risk thereof, and if the at-risk adult does not consent to the receipt of protective services, the county director is urged, if no other appropriate person is able or willing, to petition the court, pursuant to part 3 of article 14 of title 15, C.R.S., for an order authorizing the provision of specific protective services and for the appointment of a guardian, for an order authorizing the appointment of a conservator pursuant to part 4 of article 14 of title 15, C.R.S., or for a court order providing for any combination of these actions.

(3) Any protective services provided pursuant to this section shall include only those services constituting the least restrictive intervention.

26-3.1-105. Rules and regulations.

The state department shall promulgate appropriate rules and regulations for the implementation of this article.

ARTICLE 3.1
PROTECTIVE SERVICES FOR ADULTS AT RISK OF
MISTREATMENT OR SELF-NEGLECT
PART 2
FINANCIAL EXPLOITATION OF AT-RISK ADULTS

26-3.1-201. Short title.

This part 2 shall be known and may be cited as the "Protection Against Financial Exploitation of At-risk Adults Act".

26-3.1-202. Legislative declaration.

The general assembly hereby finds that financial exploitation of at-risk adults is an area of significant concern. At-risk adults comprise an increasingly large segment of society, and the financial exploitation of such persons is occurring at an ever-increasing rate. Persons committing financial exploitation of at-risk adults may be persons known to the at-risk adult or strangers perpetrating fraudulent schemes. The general assembly further finds that certain persons are in unique positions to acquire early knowledge of financial exploitation by noticing indicators such as sudden changes in bank account activity or banking practices; unexplained withdrawals or atypical transactions involving withdrawals; abrupt changes to wills or other financial documents, requested by the at-risk adult; the sudden appearance of previously uninvolved relatives claiming a right to the at-risk adult's affairs and possessions; and unexplained, sudden transfers of assets to a family member of the at-risk adult or another person outside of the at-risk adult's family. Therefore, the general assembly finds and determines that it is appropriate to urge certain persons who may be in such a unique position to observe such indicators to report known or suspected financial exploitation of at-risk adults for the protection of at-risk adults and society.

26-3.1-203. Definitions.

As used in this part 2, unless the context otherwise requires:

(1) "At-risk adult" means an individual eighteen years of age or older who is susceptible to financial exploitation because the individual is unable to perform or obtain services necessary for the individual's health, safety, or welfare or lacks sufficient understanding or capacity to make or communicate responsible decisions concerning the individual's person or affairs.

(2) "Caretaker" means a person who is responsible for the care of an at-risk adult as a result of a family or legal relationship, including, but not limited to, a conservator or a guardian or a person with a fiduciary duty to an at-risk adult.

(3) "County department" means a county or district department of social services.

(4) "Financial exploitation" means the illegal or improper use of an at-risk adult's financial resources for another person's profit or advantage.

(5) "Financial institution" means an organization authorized to do business under state or federal laws pertaining to financial institutions and includes, but is not limited to, a bank, trust company, building and loan association, savings and loan company or association, and credit union.

(6) "Person" means one or more individuals, limited liability companies, partnerships, associations, corporations, legal representatives, trustees, receivers, or the state of Colorado, and all political subdivisions and agencies thereof.

26-3.1-204. Reporting.

(1) (a) Any person specified in paragraph (b) of this subsection (1) who observes an at-risk adult being subjected to circumstances or conditions that may reasonably result in the financial exploitation of the at-risk adult or who has reasonable cause to know or suspect that an at-risk adult has been financially exploited is strongly urged to submit, within twenty-four hours after such observation or after obtaining such reasonable cause, an oral report of known or suspected financial exploitation. Said person may submit the report to the county department of the county in which the at-risk adult resides, if known, or, during non-business hours, to the local law enforcement agency for the jurisdiction in which the at-risk adult resides.

(b) The following persons are strongly urged to report known or suspected financial exploitation of at-risk adults, as provided in paragraph (a) of this subsection (1):

(I) Physicians, surgeons, physicians' assistants, and osteopaths, including physicians in training;

(II) Registered nurses and licensed practical nurses;

(III) Hospital and nursing home personnel engaged in the admission, care, or treatment of patients;

(IV) Dentists;

(V) Psychologists and other mental health professionals;

(VI) Social work practitioners;

(VII) Law enforcement officials and personnel;

(VIII) Court-appointed guardians and conservators;

(IX) Pharmacists;

(X) Community-centered board staff;

(XI) Personnel of financial institutions;

(XII) State and local long-term care ombudsmen;

(XIII) Any caretaker, staff member, or employee of or volunteer at or consultant for any licensed care facility, or nursing facility;

(XIV) Attorneys, so long as such reporting does not violate the Colorado rules of professional conduct.

(c) In addition to those persons who are strongly urged under paragraph (b) of this subsection (1) to report known or suspected financial exploitation of an at-risk adult, any other person may report such known or suspected financial exploitation of an at-risk adult to the local law enforcement agency or the county department of the jurisdiction in which the at-risk adult resides. The receiving agency shall prepare a written report within forty-eight hours after receipt of such a report.

(2) The written report made by a receiving agency pursuant to paragraph (c) of subsection (1) of this section at a minimum shall include:

(a) The name and address of the at-risk adult;

(b) The name and address of the at-risk adult's caretaker, if any;

(c) The age, if known, of such at-risk adult;

(d) The nature and extent of such at-risk adult's financial injury, if any;

(e) The nature and extent of the condition or circumstance that is likely to result in financial exploitation; and

(f) Any other pertinent information.

(3) A copy of the written report prepared by the county department in accordance with subsections (1) and (2) of this section shall be forwarded within twenty-four hours after receipt of an oral report made pursuant to subsection (1) of this section to the district attorney's office and the local law enforcement agency of the jurisdiction in which the at-risk adult resides. A copy of the written report prepared by the local law enforcement agency in accordance with subsections (1) and (2) of this section shall be forwarded within twenty-four hours after receipt of an oral report made pursuant to subsection (1) of this section to the county department and to the district attorney's office.

(4) No person, including a person specified in subsection (1) of this section, shall knowingly make a false report of known or suspected financial exploitation to a county department or local law enforcement agency.

(5) Any person, except a perpetrator, complicitor, or coconspirator, who makes a report pursuant to this section shall be immune from any civil or criminal liability on account of such report, testimony, or participation in making such report, so long as such action was taken in good faith and not in reckless disregard of the truth or in violation of subsection (4) of this section.

(6) No person shall take any discriminatory, disciplinary, or retaliatory action against any person who, in good faith, makes a report of known or suspected financial exploitation of an at-risk adult.

(7) (a) Except as provided in paragraph (b) of this subsection (7), subsections (1), (2), and (3) of this section, and 26-3.1-205 (2), reports of the known or suspected financial exploitation of an at-risk adult, including the name and address of any at-risk adult, member of said adult's family, or informant and any other identifying information contained in such reports, shall be confidential and shall not be public information.

(b) Disclosure of the name and address of an at-risk adult or member of said adult's family or other identifying information contained in a report shall be permitted only when authorized by a court for good cause. The court shall not prohibit such disclosure when a criminal complaint, information, or indictment based on the report is filed.

(c) Any person who violates any provision of this subsection (7) is guilty of a class 2 petty offense and, upon conviction thereof, shall be punished by a fine of not more than three hundred dollars.

26-3.1-205. Investigations of financial exploitation.

(1) The county department or law enforcement agency receiving a report of known or suspected financial exploitation of an at-risk adult shall make a thorough investigation immediately upon receipt of the report. The immediate concern of the investigation shall be the financial protection of the at-risk adult. The investigation, at a minimum, shall include a face-to-face interview of the at-risk adult alleged to have been exploited. The county department shall arrange for its investigation to be conducted by persons trained to conduct investigations of financial exploitation of at-risk adults.

(2) It is the general assembly's intent that, in each county of the state, law enforcement agencies, county departments, and any other agencies responsible under federal law or the laws of this state to investigate exploitation of at-risk adults develop and implement cooperative agreements to coordinate the investigative duties of the agencies and that the focus of such agreements shall be to ensure the best financial protection for at-risk adults. The agreements shall provide for special requests by one agency for assistance from another agency and for joint investigations. The agreements shall further provide

that each agency shall maintain the confidentiality of the financial information exchanged pursuant to such joint investigations.

(3) It is the general assembly's further intent to encourage the at-risk adult protection teams created pursuant to section 26-3.1-103 (3) to expand their purposes to include a review of the processes used to investigate reports of known or suspected financial exploitation of at-risk adults, a review of the provision of services, if any, given to such adults, an encouragement of interagency cooperation concerning functions related to financial exploitation of at-risk adults, and a provision of community education in identifying and preventing the financial exploitation of at-risk adults.

(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 financial 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 written consent of the at-risk adult.

26-3.1-206. Informed consent form.

Upon request, a financial institution shall offer any adult over the age of sixty or any at-risk adult with an account at such institution the option of signing an informed consent form prior to any report of financial exploitation, for placement in the account holder's file or record maintained by the financial institution. The informed consent form shall waive confidentiality limitations related to an account holder's financial records maintained at the financial institution for the limited purpose of allowing the financial institution, the county department, and a local law enforcement agency access to the account holder's records for the limited purpose of investigating known or suspected financial exploitation of an at-risk adult.

26-3.1-207. Training.

The general assembly strongly encourages training that focuses on detecting financial exploitation, consistent with the identifiers of financial exploitation stated in section 26-3.1-202, for those persons who are urged by section 26-3.1-204 (1) to report known or suspected financial exploitation of an at-risk adult and circumstances or conditions that might reasonably result in financial exploitation of an at-risk adult.

26-3.1-208. Rules.

The state board of human services shall promulgate rules for the implementation of this part 2.