

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 16-1069.01 Jerry Barry x4341

HOUSE BILL 16-1394

HOUSE SPONSORSHIP

Young,

SENATE SPONSORSHIP

Grantham,

House Committees

Health, Insurance, & Environment

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING CLARIFYING DEFINITIONS RELATED TO AT-RISK PERSONS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill implements the following recommendations of the at-risk adults with intellectual and developmental disabilities mandatory reporting implementation task force:

- ! Standardizing statutory definitions among the "Colorado Criminal Code", the adult protective services in the department of human services, and the office of community living in the department of health care policy and financing;

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

Capital letters indicate new material to be added to existing statute.

Dashes through the words indicate deletions from existing statute.

HOUSE
3rd Reading Unamended
April 29, 2016

HOUSE
Amended 2nd Reading
April 28, 2016

- ! Specifying that enhanced penalties for crimes against an at-risk person apply to all persons 70 years of age or older and to all persons with a disability; and
- ! Clarifying and expanding the definitions of persons who are required to report instances of mistreatment of at-risk elders or at-risk adults with an intellectual and developmental disability (adults with IDD).

The bill also:

- ! Reduces the time when a law enforcement agency or county department is required to prepare a written report from 48 hours to 24 hours;
- ! Specifies that a county department of human or social services is to conduct an investigation of allegations of mistreatment of an at-risk adult; and
- ! Clarifies that the human rights committee is responsible for ensuring that an investigation of mistreatment of an adult with IDD occurred.

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

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 18-6.5-101
 3 as follows:

4 **18-6.5-101. Legislative declaration.** The general assembly
 5 recognizes that fear of mistreatment is one of the major personal concerns
 6 of ~~at-risk adults and at-risk juveniles~~ PERSONS and that ~~at-risk adults and~~
 7 ~~at-risk juveniles~~ PERSONS are more vulnerable to and disproportionately
 8 damaged by crime in general but, more specifically, by abuse,
 9 exploitation, and neglect because they are less able to protect themselves
 10 against offenders, a number of whom are in positions of trust, and
 11 because they are more likely to receive serious injury from crimes
 12 committed against them and not to fully recover from such injury. At-risk
 13 ~~adults and at-risk juveniles~~ PERSONS are more impacted by crime than the
 14 general population because they tend to suffer great relative deprivation,
 15 financially, physically, and psychologically, as a result of the abuses
 16 against them. A significant number of ~~at-risk adults and at-risk juveniles~~

1 PERSONS are not as physically, INTELLECTUALLY, or emotionally equipped
2 to protect themselves or aid in their own security as non-at-risk adults and
3 ~~non-at-risk juveniles~~ PERSONS in society. They are far more susceptible
4 than the general population to the adverse long-term effects of crimes
5 committed against them, including abuse, exploitation, and neglect. The
6 general assembly therefore finds that penalties for specified crimes
7 committed against at-risk adults and ~~at-risk juveniles~~ PERSONS should be
8 more severe than the penalties for the commission of ~~said~~ THE SAME
9 crimes against other members of society.

10 **SECTION 2.** In Colorado Revised Statutes, 18-6.5-102, **amend**
11 (1), (2.5), (5), (6), (9), (10), and (13); and **add** (4.5) and (10.5) as follows:

12 **18-6.5-102. Definitions.** As used in this article, unless the context
13 otherwise requires:

14 (1) "Abuse" means any of the following acts or omissions
15 committed against an ~~at-risk elder~~ AT-RISK PERSON:

16 (a) The nonaccidental infliction of bodily injury, serious bodily
17 injury, or death;

18 (b) Confinement or restraint that is unreasonable under generally
19 accepted caretaking standards; OR

20 (c) Subjection to sexual conduct or contact classified as a crime
21 under this title.

22 ~~(d) Caretaker neglect; and~~

23 ~~(e) Exploitation.~~

24 (2.5) "At-risk adult with ~~an intellectual and developmental~~
25 ~~disability~~ IDD" means a person who is eighteen years of age or older and
26 is a person with an intellectual and developmental disability, as defined
27 in section 25.5-10-202 (26) (a), C.R.S.

1 (4.5) "AT-RISK PERSON" MEANS AN AT-RISK ADULT, AN AT-RISK
2 ADULT WITH IDD, AN AT-RISK ELDER, OR AN AT-RISK JUVENILE.

3 (5) "Caretaker" means a person who:

4 (a) Is responsible for the care of an ~~at-risk adult, at-risk juvenile,~~
5 ~~or at-risk elder~~, AT-RISK PERSON as a result of a family or legal
6 relationship;

7 (b) Has assumed responsibility for the care of an ~~at-risk adult,~~
8 ~~at-risk juvenile, or at-risk elder~~ AT-RISK PERSON; or

9 (c) Is paid to provide care or services to an ~~at-risk adult, at-risk~~
10 ~~juvenile, or at-risk elder~~ AT-RISK PERSON.

11 (6) (a) "Caretaker neglect" means neglect that occurs when
12 adequate food, clothing, shelter, psychological care, physical care,
13 medical care, ~~or~~ HABILITATION, supervision, OR ANY OTHER TREATMENT
14 NECESSARY FOR THE HEALTH OR SAFETY OF AN AT-RISK PERSON is not
15 secured for an at-risk ~~adult or an at-risk elder~~ PERSON or is not provided
16 by a caretaker in a timely manner and with the degree of care that a
17 reasonable person in the same situation would exercise, ~~except that~~ OR A
18 CARETAKER USES HARASSMENT, UNDUE INFLUENCE, OR INTIMIDATION TO
19 CREATE A HOSTILE OR FEARFUL ENVIRONMENT FOR AN AT-RISK PERSON.

20 (b) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF
21 THIS SUBSECTION (6), the withholding, withdrawing, or refusing of any
22 medication, any medical procedure or device, or any treatment, including
23 but not limited to resuscitation, cardiac pacing, mechanical ventilation,
24 dialysis, and artificial nutrition and hydration, in accordance with any
25 valid medical directive or order or as described in a palliative plan of
26 care, ~~shall not be~~ IS NOT deemed caretaker neglect.

27 (c) As used in this subsection (6), "medical directive or order"

1 includes ~~but is not limited to~~ a medical durable power of attorney, a
2 declaration as to medical treatment executed pursuant to section
3 15-18-104, C.R.S., a medical order for scope of treatment form executed
4 pursuant to article 18.7 of title 15, C.R.S., and a CPR directive executed
5 pursuant to article 18.6 of title 15, C.R.S.

6 (9) "Crime against an at-risk ~~adult or at-risk juvenile~~ PERSON"
7 means any offense listed in section 18-6.5-103 or criminal attempt,
8 conspiracy, or solicitation to commit any of those offenses.

9 (10) "Exploitation" means an act or omission committed by a
10 person who:

11 (a) Uses deception, harassment, intimidation, or undue influence
12 to permanently or temporarily deprive an at-risk ~~elder~~ PERSON of the use,
13 benefit, or possession of any thing of value;

14 (b) ~~In the absence of legal authority:~~

15 (H) Employs the services of a third party for the profit or advantage
16 of the person or another person to the detriment of the at-risk ~~elder~~, or
17 PERSON;

18 (H) (c) Forces, compels, coerces, or entices an at-risk ~~elder~~
19 PERSON to perform services for the profit or advantage of the person or
20 another person against the will of the at-risk ~~elder~~, or PERSON; OR

21 
22 (e) (d) Misuses the property of an at-risk ~~elder~~ PERSON in a
23 manner that adversely affects the at-risk ~~elder's~~ PERSON'S ability to receive
24 health care or health care benefits or to pay bills for basic needs or
25 obligations.

26 (10.5) "MISTREATED" OR "MISTREATMENT" MEANS:

27 (a) ABUSE;

1 (b) CARETAKER NEGLECT; OR

2 (c) EXPLOITATION.

3

4 (13) "Undue influence" means the use of influence to take
5 advantage of an at-risk ~~elder's~~ PERSON'S vulnerable state of mind,
6 neediness, pain, or emotional distress.

7 **SECTION 3.** In Colorado Revised Statutes, **amend** 18-6.5-103
8 as follows:

9 **18-6.5-103. Crimes against at-risk persons - classifications.**

10 (1) Crimes against at-risk ~~adults and at-risk juveniles shall be~~ PERSONS
11 ARE as prescribed in this section.

12 (2) Any person whose conduct amounts to criminal negligence, as
13 defined in section 18-1-501 (3), commits:

14 (a) A class 4 felony if such negligence results in the death of an
15 at-risk ~~adult or an at-risk juvenile~~ PERSON;

16 (b) A class 5 felony if such negligence results in serious bodily
17 injury to an at-risk ~~adult or an at-risk juvenile~~ PERSON; and

18 (c) A class 6 felony if such negligence results in bodily injury to
19 an at-risk ~~adult or an at-risk juvenile~~ PERSON.

20 (3) (a) Any person who commits a crime of assault in the first
21 degree, as such crime is described in section 18-3-202, and the victim is
22 an at-risk ~~adult or an at-risk juvenile~~ PERSON, commits a class 4 felony if
23 the circumstances described in section 18-3-202 (2) (a) are present and a
24 class 2 felony if such circumstances are not present.

25 (b) Any person who commits a crime of assault in the second
26 degree, as such crime is described in section 18-3-203, and the victim is
27 an at-risk ~~adult or an at-risk juvenile~~ PERSON, commits a class 5 felony if

1 the circumstances described in section 18-3-203 (2) (a) are present and a
2 class 3 felony if such circumstances are not present.

3 (c) Any person who commits a crime of assault in the third
4 degree, as such crime is described in section 18-3-204, and the victim is
5 an at-risk ~~adult or an at-risk juvenile~~ PERSON, commits a class 6 felony.

6 (4) Any person who commits robbery, as such crime is described
7 in section 18-4-301 (1), and the victim is an at-risk ~~adult or an at-risk~~
8 ~~juvenile~~ PERSON, commits a class 3 felony. If the offender is convicted of
9 robbery of an at-risk ~~adult or an at-risk juvenile~~ PERSON, the court shall
10 sentence the defendant to the department of corrections for at least the
11 presumptive sentence under section 18-1.3-401 (1).

12 (5) Any person who commits theft, and commits any element or
13 portion of the offense in the presence of the victim, as such crime is
14 described in section 18-4-401 (1), and the victim is an at-risk ~~adult or an~~
15 ~~at-risk juvenile~~ PERSON, or who commits theft against an at-risk ~~adult or~~
16 ~~an at-risk juvenile~~ PERSON while acting in a position of trust, whether or
17 not in the presence of the victim, OR WHO COMMITS THEFT AGAINST AN
18 AT-RISK PERSON KNOWING THE VICTIM IS AN AT-RISK PERSON, WHETHER
19 IN THE PRESENCE OF THE VICTIM OR NOT, commits a class 5 felony if the
20 value of the thing involved is less than five hundred dollars or a class 3
21 felony if the value of the thing involved is five hundred dollars or more.
22 Theft from the person of an at-risk ~~adult or an at-risk juvenile~~ PERSON by
23 means other than the use of force, threat, or intimidation is a class 4
24 felony without regard to the value of the thing taken.

25 ~~(5.5) A person who commits theft, and commits any element or~~
26 ~~portion of the offense in the presence of the victim, as such crime is~~
27 ~~described in section 18-4-401 (1), and the victim is an at-risk elder, or~~

1 ~~who commits theft against an at-risk elder while acting in a position of~~
2 ~~trust, whether or not in the presence of the victim, or commits theft~~
3 ~~against an at-risk elder knowing the victim is an at-risk elder, whether in~~
4 ~~the presence of the victim or not, commits a class 5 felony if the value of~~
5 ~~the thing involved is less than five hundred dollars or a class 3 felony if~~
6 ~~the value of the thing involved is five hundred dollars or more. Theft~~
7 ~~from the person of an at-risk elder by means other than the use of force,~~
8 ~~threat, or intimidation is a class 4 felony without regard to the value of the~~
9 ~~thing taken.~~

10 (6) Any person who knowingly commits caretaker neglect against
11 ~~an at-risk adult, an at-risk elder, or an at-risk juvenile~~ PERSON or
12 knowingly acts in a manner likely to be injurious to the physical or mental
13 welfare of an ~~at-risk adult, an at-risk elder, or an at-risk juvenile~~ PERSON
14 commits a class 1 misdemeanor.

15 (7) (a) Any person who commits a crime of sexual assault, as such
16 crime is described in section 18-3-402, sexual assault in the first degree,
17 as such crime was described in section 18-3-402, as it existed prior to July
18 1, 2000, and the victim is an ~~at-risk adult or an at-risk juvenile~~ PERSON,
19 commits a class 2 felony.

20 (b) Any person who commits a crime of sexual assault in the
21 second degree, as such crime was described in section 18-3-403, as it
22 existed prior to July 1, 2000, and the victim is an ~~at-risk adult or an at-risk~~
23 ~~juvenile~~ PERSON, commits a class 3 felony.

24 (c) Any person who commits unlawful sexual contact, as such
25 crime is described in section 18-3-404, or sexual assault in the third
26 degree, as such crime was described in section 18-3-404, as it existed
27 prior to July 1, 2000, and the victim is an ~~at-risk adult or an at-risk~~

1 juvenile PERSON, commits a class 6 felony; except that the person
2 commits a class 3 felony if the person compels the victim to submit by
3 use of such force, intimidation, or threat as specified in section 18-3-402
4 (4) (a), (4) (b), or (4) (c), or if the actor engages in the conduct described
5 in section 18-3-404 (1) (g) or (1.5).

6 (d) Any person who commits sexual assault on a child, as such
7 crime is described in section 18-3-405, and the victim is an at-risk
8 juvenile, commits a class 3 felony; except that, if the circumstances
9 described in section 18-3-405 (2) (a), (2) (b), (2) (c), or (2) (d) are
10 present, the person commits a class 2 felony.

11 (e) Any person who commits sexual assault on a child by one in
12 a position of trust, as such crime is described in section 18-3-405.3, and
13 the victim is an at-risk juvenile, commits a class 2 felony if the victim is
14 less than fifteen years of age or a class 3 felony if the victim is fifteen
15 years of age or older but less than eighteen years of age.

16 (f) Any person who commits sexual assault on a client by a
17 psychotherapist, as such crime is described in section 18-3-405.5, and the
18 victim is an at-risk ~~adult or an at-risk juvenile~~ PERSON, commits a class
19 3 felony if the circumstances described in section 18-3-405.5 (1) exist or
20 a class 6 felony if such circumstances are not present.

21 (7.5) (a) A person commits criminal exploitation of an at-risk
22 ~~elder~~ PERSON when he or she knowingly uses deception, harassment,
23 intimidation, or undue influence to permanently or temporarily deprive an
24 at-risk ~~elder~~ PERSON of the use, benefit, or possession of any thing of
25 value.

26 (b) Criminal exploitation of an at-risk ~~elder~~ PERSON is a class 3
27 felony if the thing of value is five hundred dollars or greater. Criminal

1 exploitation of an at-risk ~~elder~~ PERSON is a class 5 felony if the thing of
2 value is less than five hundred dollars.

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

6 **SECTION 4.** In Colorado Revised Statutes, **amend** 18-6.5-104
7 as follows:

8 **18-6.5-104. Statutory privilege not allowed.** The statutory
9 privileges provided in section 13-90-107 (1), C.R.S., ~~shall not be~~ ARE NOT
10 available for excluding or refusing testimony in any prosecution for a
11 crime committed against an at-risk ~~adult or an at-risk juvenile~~ PERSON
12 pursuant to this article.

13 **SECTION 5.** In Colorado Revised Statutes, **amend** 18-6.5-105
14 as follows:

15 **18-6.5-105. Preferential trial dates of cases involving crimes**
16 **against at-risk persons.** Consistent with the constitutional right to a
17 speedy trial, all cases involving the commission of a crime against an
18 at-risk ~~adult or an at-risk juvenile~~ ~~shall~~ PERSON MUST take precedence
19 before the court, and the court shall hear these cases as soon as possible
20 after they are filed.

21 **SECTION 6.** In Colorado Revised Statutes, 18-6.5-106, **amend**
22 (1) and (3) as follows:

23 **18-6.5-106. Payment of treatment costs for victims of crimes**
24 **against at-risk persons - restitution.** (1) In addition to any other penalty
25 provided by law, the court may order any person who is convicted of a
26 crime against an at-risk ~~adult or an at-risk juvenile~~ PERSON, as set forth in
27 this article, to meet all or any portion of the financial obligations of

1 treatment prescribed for the victim or victims of such person's offense.

2 (3) If an at-risk ~~adult or an at-risk juvenile~~ PERSON has sustained
3 monetary damages as a result of the commission of a crime described in
4 this article against such ~~adult or juvenile~~ PERSON, the court shall order the
5 offender to provide restitution pursuant to article 18.5 of title 16 and
6 article 28 of title 17, C.R.S. If, after a reasonable period not to exceed one
7 hundred eighty-two days, the offender has not, in the opinion of the court,
8 completed adequate restitution, the offender's probation may be revoked.
9 However, any remaining amount of restitution ~~shall continue~~ CONTINUES
10 to have the full force and effect of a final judgment and remain
11 enforceable pursuant to article 18.5 of title 16, C.R.S.

12 **SECTION 7.** In Colorado Revised Statutes, 18-6.5-107, **amend**
13 (1), (4) (a), (4) (c), and (5) as follows:

14 **18-6.5-107. Surcharge - collection and distribution of funds -**
15 **crimes against at-risk persons surcharge fund - creation - report.**

16 (1) Each person who is convicted of a crime against an at-risk ~~adult or~~
17 ~~at-risk juvenile~~ PERSON or who is convicted of identity theft pursuant to
18 section 18-5-902, when the victim is an at-risk ~~adult or at-risk juvenile~~
19 PERSON, shall be required to pay a surcharge to the clerk of the court for
20 the judicial district in which the conviction occurs.

21 (4) (a) There is ~~hereby~~ created in the state treasury the crimes
22 against at-risk persons surcharge fund, referred to in this section as the
23 "fund", that consists of ~~moneys~~ MONEY received by the state treasurer
24 pursuant to this section. The ~~moneys~~ MONEY in the fund ~~shall be~~ IS
25 subject to annual appropriation by the general assembly to the state office
26 on aging in the department of human services, created pursuant to section
27 26-11-202, C.R.S., for distribution to a fiscal agent that is an affiliate of

1 a national organization that serves individuals affected by a disability and
2 chronic condition across the life span and is working with the state of
3 Colorado to implement the lifespan respite care program, referred to in
4 this section as the "fiscal agent". Provided that programs selected to
5 receive ~~moneys~~ MONEY from the fund meet the guidelines for distribution
6 pursuant to paragraph (b) of this subsection (4), the fiscal agent shall
7 award ~~moneys~~ MONEY to programs selected by a statewide coalition of
8 nonprofit or not-for-profit organizations that focus on the needs of
9 caregivers of at-risk ~~adults or at-risk juveniles~~ PERSONS.

10 (c) Notwithstanding any provisions of paragraph (a) of this
11 subsection (4) to the contrary, the fiscal agent may use a portion of the
12 ~~moneys~~ MONEY that it receives pursuant to paragraph (a) of this
13 subsection (4) for training and to facilitate the coordination of programs
14 that provide respite services for caregivers of at-risk ~~adults or at-risk~~
15 ~~juveniles~~ PERSONS. The fiscal agent shall distribute the remainder of the
16 ~~moneys~~ MONEY directly to the programs.

17 (5) The court may waive all or any portion of the surcharge
18 required by subsection (1) of this section if the court finds that a person
19 convicted of a crime against an at-risk ~~adult or at-risk juvenile~~ PERSON is
20 indigent or financially unable to pay all or any portion of the surcharge.
21 The court may waive only that portion of the surcharge that the court
22 finds that the person convicted of a crime against an at-risk ~~adult or~~
23 ~~at-risk juvenile~~ PERSON is financially unable to pay.

24 **SECTION 8.** In Colorado Revised Statutes, **amend** 18-6.5-108,
25 and **as they will become effective July 1, 2016**, (1) (a), (1) (b) (IX), (1)
26 (b) (XVI), (1) (d), (2), (3), (4), and (5), as follows:

27 **18-6.5-108. Mandatory reports of mistreatment of at-risk**

1 **elders and at-risk adults with IDD - list of reporters - penalties.**

2 (1) (a) On and after July 1, 2016, a person specified in paragraph (b) of
3 this subsection (1) who observes the ~~abuse or exploitation~~ MISTREATMENT
4 of an at-risk elder or an at-risk adult with ~~an intellectual and~~
5 ~~developmental disability~~ IDD, or who has reasonable cause to believe that
6 an at-risk elder or an at-risk adult with ~~an intellectual and developmental~~
7 ~~disability~~ IDD has been ~~abused or has been exploited~~ MISTREATED or is
8 at imminent risk of ~~abuse or exploitation~~ MISTREATMENT, shall report
9 such fact to a law enforcement agency not more than twenty-four hours
10 after making the observation or discovery.

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

13 (I) ~~Physicians, surgeons, physicians' assistants, osteopaths,~~
14 ~~physicians in training, podiatrists, occupational therapists, and physical~~
15 ~~therapists~~ ANY PERSON PROVIDING HEALTH CARE OR
16 HEALTH-CARE-RELATED SERVICES, INCLUDING GENERAL MEDICAL,
17 SURGICAL, OR NURSING SERVICES; MEDICAL, SURGICAL, OR NURSING
18 SPECIALITY SERVICES; DENTAL SERVICES; VISION SERVICES; PHARMACY
19 SERVICES; CHIROPRACTIC SERVICES; OR PHYSICAL, OCCUPATIONAL,
20 MUSICAL, OR OTHER THERAPIES;

21 (II) ~~Medical examiners and coroners~~ HOSPITAL AND LONG-TERM
22 CARE FACILITY PERSONNEL ENGAGED IN THE ADMISSION, CARE, OR
23 TREATMENT OF PATIENTS;

24 (III) ~~Registered nurses, licensed practical nurses, and nurse~~
25 ~~practitioners~~ FIRST RESPONDERS INCLUDING EMERGENCY MEDICAL
26 SERVICE PROVIDERS, FIRE PROTECTION PERSONNEL, LAW ENFORCEMENT
27 OFFICERS, AND PERSONS EMPLOYED BY, CONTRACTING WITH, OR

1 VOLUNTEERING WITH ANY LAW ENFORCEMENT AGENCY, INCLUDING
2 VICTIM ADVOCATES;

3 (IV) ~~Emergency medical service providers~~ MEDICAL EXAMINERS
4 AND CORONERS;

5 (V) ~~Hospital and long-term care facility personnel engaged in the~~
6 ~~admission, care, or treatment of patients~~ CODE ENFORCEMENT OFFICERS;

7 (VI) ~~Chiropractors~~ VETERINARIANS;

8 (VII) ~~Psychologists, and other mental health professionals~~
9 ADDICTION COUNSELORS, PROFESSIONAL COUNSELORS, MARRIAGE AND
10 FAMILY THERAPISTS, AND REGISTERED PSYCHOTHERAPISTS, AS THOSE
11 PERSONS ARE DEFINED IN ARTICLE 43 OF TITLE 12, C.R.S.;

12 (VIII) ~~Social work practitioners~~ WORKERS, AS DEFINED IN PART 4
13 OF ARTICLE 43 OF TITLE 12, C.R.S.;

14 (IX) ~~Clergy members; except that the reporting requirement~~
15 ~~described in paragraph (a) of this subsection (1) shall not apply to a~~
16 ~~person who acquires reasonable cause to believe that an at-risk elder or~~
17 ~~an at-risk adult with an intellectual and developmental disability has been~~
18 ~~mistreated or has been exploited or is at imminent risk of mistreatment or~~
19 ~~exploitation during a communication about which the person may not be~~
20 ~~examined as a witness pursuant to section 13-90-107 (1) (c), C.R.S.;~~
21 ~~unless the person also acquires such reasonable cause from a source other~~
22 ~~than such a communication~~ STAFF OF COMMUNITY-CENTERED BOARDS;

23 (X) ~~Dentists~~ STAFF, CONSULTANTS, OR INDEPENDENT
24 CONTRACTORS OF SERVICE AGENCIES AS DEFINED IN SECTION 25.5-10-202
25 (34), C.R.S.;

26 (XI) ~~Law enforcement officials and personnel~~ STAFF OR
27 CONSULTANTS FOR A LICENSED OR UNLICENSED, CERTIFIED OR

1 UNCERTIFIED, CARE FACILITY, AGENCY, HOME, OR GOVERNING BOARD,
2 INCLUDING BUT NOT LIMITED TO LONG-TERM CARE FACILITIES, HOME CARE
3 AGENCIES, OR HOME HEALTH PROVIDERS;

4 (XII) ~~Court-appointed guardians and conservators~~ STAFF OF, OR
5 CONSULTANTS FOR, A HOME CARE PLACEMENT AGENCY, AS DEFINED IN
6 SECTION 25-27.5-102 (5), C.R.S.;

7 (XIII) ~~Fire protection personnel~~ PERSONS PERFORMING CASE
8 MANAGEMENT OR ASSISTANT SERVICES FOR AT-RISK ELDERS OR AT-RISK
9 ADULTS WITH IDD;

10 (XIV) ~~Pharmacists~~ STAFF OF COUNTY DEPARTMENTS OF HUMAN
11 OR SOCIAL SERVICES;

12 (XV) ~~Community-centered board staff~~ STAFF OF THE STATE
13 DEPARTMENTS OF HUMAN SERVICES, PUBLIC HEALTH AND ENVIRONMENT,
14 OR HEALTH CARE POLICY AND FINANCING;

15 (XVI) ~~Personnel of banks, savings and loan associations, credit
16 unions, and other lending or financial institutions; except that the
17 reporting requirement described in paragraph (a) of this subsection (1)
18 only applies to a person described in this subparagraph (XVI) who
19 directly observes in person the abuse or exploitation of an at-risk adult
20 with an intellectual and developmental disability or who has reasonable
21 cause to believe that an at-risk adult with an intellectual and
22 developmental disability has been abused or has been exploited or is at
23 imminent risk of abuse or exploitation by reason of actual knowledge of
24 facts or circumstances indicating the abuse or exploitation~~ STAFF OF
25 SENIOR CONGREGATE CENTERS OR SENIOR RESEARCH OR OUTREACH
26 ORGANIZATIONS;

27 (XVII) ~~A caretaker, staff member, employee, or consultant for a~~

1 ~~licensed or certified care facility, agency, home, or governing board,~~
2 ~~including but not limited to home health providers; and STAFF, AND STAFF~~
3 OF CONTRACTED PROVIDERS, OF AREA AGENCIES ON AGING, EXCEPT THE
4 LONG-TERM CARE OMBUDSMEN;

5 (XVIII) ~~A caretaker, staff member, employee of, or a consultant~~
6 ~~for, a home care placement agency, as defined in section 25-27.5-102(5),~~
7 ~~C.R.S.~~ EMPLOYEES, CONTRACTORS, AND VOLUNTEERS OPERATING
8 SPECIALIZED TRANSPORTATION SERVICES FOR AT-RISK ELDERS AND
9 AT-RISK ADULTS WITH IDD;

10

11 (XIX) COURT-APPOINTED GUARDIANS AND CONSERVATORS;

12 (XX) PERSONNEL AT SCHOOLS SERVING PERSONS IN PRESCHOOL
13 THROUGH TWELFTH GRADE;

14 (XXI) CLERGY MEMBERS; EXCEPT THAT THE REPORTING
15 REQUIREMENT DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (1)
16 DOES NOT APPLY TO A PERSON WHO ACQUIRES REASONABLE CAUSE TO
17 BELIEVE THAT AN AT-RISK ELDER OR AN AT-RISK ADULT WITH IDD HAS
18 BEEN MISTREATED OR HAS BEEN EXPLOITED OR IS AT IMMINENT RISK OF
19 MISTREATMENT OR EXPLOITATION DURING A COMMUNICATION ABOUT
20 WHICH THE PERSON MAY NOT BE EXAMINED AS A WITNESS PURSUANT TO
21 SECTION 13-90-107 (1) (c), C.R.S., UNLESS THE PERSON ALSO ACQUIRES
22 SUCH REASONABLE CAUSE FROM A SOURCE OTHER THAN SUCH A
23 COMMUNICATION; AND

24 (XXII) PERSONNEL OF BANKS, SAVINGS AND LOAN ASSOCIATIONS,
25 CREDIT UNIONS, AND OTHER LENDING OR FINANCIAL INSTITUTIONS;
26 EXCEPT THAT THE REPORTING REQUIREMENT DESCRIBED IN PARAGRAPH (a)
27 OF THIS SUBSECTION (1) ONLY APPLIES TO A PERSON DESCRIBED IN THIS

1 SUBPARAGRAPH (XXIII) WHO DIRECTLY OBSERVES IN PERSON THE ABUSE
2 OR EXPLOITATION OF AN AT-RISK ADULT WITH AN INTELLECTUAL AND
3 DEVELOPMENTAL DISABILITY OR WHO HAS REASONABLE CAUSE TO
4 BELIEVE THAT AN AT-RISK ADULT WITH AN INTELLECTUAL AND
5 DEVELOPMENTAL DISABILITY HAS BEEN ABUSED OR HAS BEEN EXPLOITED
6 OR IS AT IMMINENT RISK OF ABUSE OR EXPLOITATION BY REASON OF
7 ACTUAL KNOWLEDGE OF FACTS OR CIRCUMSTANCES INDICATING THE
8 ABUSE OR EXPLOITATION.

9 (c) A person who willfully violates paragraph (a) of this
10 subsection (1) commits a class 3 misdemeanor and shall be punished in
11 accordance with section 18-1.3-501.

12 (d) Notwithstanding the provisions of paragraph (a) of this
13 subsection (1), a person described in paragraph (b) of this subsection (1)
14 is not required to report the ~~abuse or exploitation~~ MISTREATMENT of an
15 at-risk elder or an at-risk adult with ~~an intellectual and developmental~~
16 ~~disability~~ IDD if the person knows that another person has already
17 reported to a law enforcement agency the same ~~abuse or exploitation~~
18 MISTREATMENT that would have been the basis of the person's own report.

19 (2) (a) A law enforcement agency that receives a report of ~~abuse~~
20 ~~or exploitation~~ MISTREATMENT of an at-risk elder or an at-risk adult with
21 ~~an intellectual and developmental disability~~ IDD shall acquire, to the
22 extent possible, the following information from the person making the
23 report:

24 (I) The name, age, address, and contact information of the at-risk
25 elder or at-risk adult with ~~an intellectual and developmental disability~~
26 IDD;

27 (II) The name, age, address, and contact information of the person

1 making the report;

2 (III) The name, age, address, and contact information of the
3 caretaker of the at-risk elder or at-risk adult with ~~an intellectual and~~
4 ~~developmental disability~~ IDD, if any;

5 (IV) The name of the alleged perpetrator;

6 (V) The nature and extent of any injury, whether physical or
7 financial, to the at-risk elder or at-risk adult with ~~an intellectual and~~
8 ~~developmental disability~~ IDD;

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

11 (VII) Any other pertinent information.

12 (b) Not more than twenty-four hours after receiving a report of
13 ~~abuse or exploitation~~ MISTREATMENT of an at-risk elder or an at-risk adult
14 with ~~an intellectual and developmental disability~~ IDD, a law enforcement
15 agency shall provide a ~~notification~~ of the report to the county department
16 for the county in which the at-risk elder or at-risk adult with ~~an~~
17 ~~intellectual and developmental disability~~ IDD resides and the district
18 attorney's office of the location where the ~~abuse or exploitation~~
19 MISTREATMENT occurred.

20 (c) The law enforcement agency shall complete a criminal
21 investigation when appropriate. The law enforcement agency shall
22 provide a summary report of the investigation to the county department
23 for the county in which the at-risk elder or at-risk adult with ~~an~~
24 ~~intellectual and developmental disability~~ IDD resides and to the district
25 attorney's office of the location where the ~~abuse or exploitation~~
26 MISTREATMENT occurred.

27 (3) A person, including but not limited to a person specified in

1 paragraph (b) of subsection (1) of this section, who reports ~~abuse or~~
2 ~~exploitation~~ MISTREATMENT of an at-risk elder or an at-risk adult with an
3 ~~intellectual and developmental disability~~ IDD to a law enforcement
4 agency pursuant to subsection (1) of this section is immune from suit and
5 liability for damages in any civil action or criminal prosecution if the
6 report was made in good faith; except that such a person is not immune
7 if he or she is the alleged perpetrator of the ~~abuse or exploitation~~
8 MISTREATMENT.

9 (4) A person, including but not limited to a person specified in
10 paragraph (b) of subsection (1) of this section, who knowingly makes a
11 false report of ~~abuse or exploitation~~ MISTREATMENT of an at-risk elder or
12 an at-risk adult with an ~~intellectual and developmental disability~~ IDD to
13 a law enforcement agency commits a class 3 misdemeanor and must be
14 punished as provided in section 18-1.3-501 and is liable for damages
15 proximately caused thereby.

16 (5) The reporting duty described in subsection (1) of this section
17 does not create a civil duty of care or establishing a civil standard of care
18 that is owed to an at-risk elder or an at-risk adult with an ~~intellectual and~~
19 ~~developmental disability~~ IDD by a person specified in paragraph (b) of
20 subsection (1) of this section.

21 **SECTION 9.** In Colorado Revised Statutes, 26-3.1-101, **amend**
22 (1), (2), (2.3), (3), (4), and (7); and **add** (1.5) and (11) as follows:

23 **26-3.1-101. Definitions.** As used in this article, unless the context
24 otherwise requires:

25 (1) ~~"At-risk adult" means an individual eighteen years of age or~~
26 ~~older who is susceptible to mistreatment OR self-neglect or exploitation~~
27 ~~because the individual is unable to perform or obtain services necessary~~

1 ~~for his or her health, safety, or welfare or lacks sufficient understanding~~
2 ~~or capacity to make or communicate responsible decisions concerning his~~
3 ~~or her person or affairs.~~ "ABUSE" MEANS ANY OF THE FOLLOWING ACTS OR
4 OMISSIONS COMMITTED AGAINST AN AT-RISK ADULT:

5 (a) THE NONACCIDENTAL INFLECTION OF PHYSICAL PAIN OR INJURY,
6 AS DEMONSTRATED BY, BUT NOT LIMITED TO, SUBSTANTIAL OR MULTIPLE
7 SKIN BRUISING, BLEEDING, MALNUTRITION, DEHYDRATION, BURNS, BONE
8 FRACTURES, POISONING, SUBDURAL HEMATOMA, SOFT TISSUE SWELLING,
9 OR SUFFOCATION;

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

12 (c) SUBJECTION TO SEXUAL CONDUCT OR CONTACT CLASSIFIED AS
13 A CRIME UNDER THE "COLORADO CRIMINAL CODE", TITLE 18, C.R.S.

14 (1.5) "AT-RISK ADULT" MEANS AN INDIVIDUAL EIGHTEEN YEARS
15 OF AGE OR OLDER WHO IS SUSCEPTIBLE TO MISTREATMENT OR
16 SELF-NEGLECT BECAUSE THE INDIVIDUAL IS UNABLE TO PERFORM OR
17 OBTAIN SERVICES NECESSARY FOR HIS OR HER HEALTH, SAFETY, OR
18 WELFARE, OR LACKS SUFFICIENT UNDERSTANDING OR CAPACITY TO MAKE
19 OR COMMUNICATE RESPONSIBLE DECISIONS CONCERNING HIS OR HER
20 PERSON OR AFFAIRS.

21 (2) "Caretaker" means a person who:

22 (a) Is responsible for the care of an at-risk adult as a result of a
23 family or legal relationship;

24 (b) Has assumed responsibility for the care of an at-risk adult; or

25 (c) Is paid to provide care, or services, OR OVERSIGHT OF SERVICES
26 to an at-risk adult.

27 (2.3) (a) "Caretaker neglect" means neglect that occurs when

1 adequate food, clothing, shelter, psychological care, physical care,
2 medical care, ~~or~~ HABILITATION, supervision, OR OTHER TREATMENT
3 NECESSARY FOR THE HEALTH OR SAFETY OF THE AT-RISK ADULT is not
4 secured for an at-risk adult or is not provided by a caretaker in a timely
5 manner and with the degree of care that a reasonable person in the same
6 situation would exercise, ~~except that~~ OR A CARETAKER USES HARASSMENT,
7 UNDUE INFLUENCE, OR INTIMIDATION TO CREATE A HOSTILE OR FEARFUL
8 ENVIRONMENT FOR AN AT-RISK ADULT.

9 (b) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF
10 THIS SUBSECTION (2.3), the withholding, withdrawing, or refusing of any
11 MEDICATION, ANY MEDICAL PROCEDURE OR DEVICE, OR ANY treatment,
12 including but not limited to resuscitation, cardiac pacing, mechanical
13 ventilation, dialysis, artificial nutrition and hydration, any medication or
14 medical procedure or device, in accordance with any valid medical
15 directive or order, or as described in a palliative plan of care, ~~shall not be~~
16 IS NOT deemed caretaker neglect.

17 (c) As used in this subsection (2.3), "medical directive or order"
18 includes ~~but is not limited to~~ a medical durable power of attorney, a
19 declaration as to medical treatment executed pursuant to section
20 15-18-104, C.R.S., a medical order for scope of treatment form executed
21 pursuant to article 18.7 of title 15, C.R.S., and a CPR directive executed
22 pursuant to article 18.6 of title 15, C.R.S.

23 (3) "County department" means a county or district department of
24 HUMAN OR social services.

25 (4) "Exploitation" means an act or omission committed by a
26 person that:

27 (a) Uses deception, harassment, intimidation, or undue influence

1 to permanently or temporarily deprive an at-risk adult of the use, benefit,
2 or possession of ~~his or her money, assets, or property~~ ANY THING OF
3 VALUE;

4 (b) ~~In the absence of legal authority~~

5 (H) Employs the services of a third party for the profit or advantage
6 of the person or another person to the detriment of the at-risk adult; ~~or~~

7 (H) (c) Forces, compels, coerces, or entices an at-risk adult to
8 perform services for the profit or advantage of the person or another
9 person against the will of the at-risk adult; ~~or~~

10

11 (e) (d) Misuses the property of an at-risk adult in a manner that
12 adversely affects the at-risk adult's ability to receive health care or health
13 care benefits or to pay bills for basic needs or obligations.

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

19 (a) Abuse; ~~that occurs:~~

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

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

25 (III) ~~Where there is subjection to nonconsensual sexual conduct~~
26 ~~or contact classified as a crime under the "Colorado Criminal Code", title~~
27 ~~18, C.R.S.;~~

- 1 (b) Caretaker neglect;
- 2 (c) ~~(Deleted by amendment, L. 2012.)~~ EXPLOITATION;
- 3 (d) AN ACT OR OMISSION THAT THREATENS THE HEALTH, SAFETY,
- 4 OR WELFARE OF AN AT-RISK ADULT; OR
- 5 (e) AN ACT OR OMISSION THAT EXPOSES AN AT-RISK ADULT TO A
- 6 SITUATION OR CONDITION THAT POSES AN IMMINENT RISK OF BODILY
- 7 INJURY TO THE AT-RISK ADULT.

8 (11) "UNDUE INFLUENCE" MEANS THE USE OF INFLUENCE TO TAKE

9 ADVANTAGE OF AN AT-RISK ADULT'S VULNERABLE STATE OF MIND,

10 NEEDINESS, PAIN, OR EMOTIONAL DISTRESS.

11 **SECTION 10.** In Colorado Revised Statutes, 26-3.1-102, **amend**

12 (1) (a), (1) (b), (1) (c), (2) introductory portion, (2) (e), (4), (6), (7) (a), (7)

13 (b) introductory portion, and (7) (b) (II); and **amend as it will become**

14 **effective July 1, 2016**, (1) (a.5) as follows:

15 **26-3.1-102. Reporting requirements.** (1) (a) A person specified

16 in paragraph (b) of this subsection (1) who observes the mistreatment OR

17 self-neglect ~~or exploitation~~ of an at-risk adult or who has reasonable

18 cause to believe that an at-risk adult has been mistreated OR is

19 ~~self-neglected or has been exploited~~ SELF-NEGLECTING and is at imminent

20 risk of mistreatment or self-neglect ~~or exploitation~~ is urged to report such

21 fact to a county department not more than twenty-four hours after making

22 the observation or discovery.

23 (a.5) As required by section 18-6.5-108, C.R.S., certain persons

24 specified in paragraph (b) of this subsection (1) who observe the ~~abuse or~~

25 ~~exploitation, as defined in section 18-6.5-102 (1) and (10),~~

26 MISTREATMENT, AS DEFINED IN SECTION 18-6.5-102 (10.5), C.R.S., of an

27 at-risk elder, as defined in section 18-6.5-102 (3), C.R.S., or an at-risk

1 adult with an intellectual and developmental disability IDD, as defined in
2 section 18-6.5-102 (2.5), C.R.S., or who have reasonable cause to believe
3 that an at-risk elder or an at-risk adult with an intellectual and
4 developmental disability IDD has been abused or exploited MISTREATED
5 or is at imminent risk of abuse or exploitation MISTREATMENT shall report
6 such fact to a law enforcement agency not more than twenty-four hours
7 after making the observation or discovery.

8 (b) The following persons, whether paid or unpaid, are urged to
9 report as described in paragraph (a) of this subsection (1):

10 (I) ~~Physicians, surgeons, physicians' assistants, osteopaths,~~
11 ~~physicians in training, podiatrists, occupational therapists, and physical~~
12 ~~therapists~~ ANY PERSON PROVIDING HEALTH CARE OR
13 HEALTH-CARE-RELATED SERVICES INCLUDING GENERAL MEDICAL,
14 SURGICAL, OR NURSING SERVICES; MEDICAL, SURGICAL, OR NURSING
15 SPECIALITY SERVICES; DENTAL SERVICES; VISION SERVICES; PHARMACY
16 SERVICES; CHIROPRACTIC SERVICES; OR PHYSICAL, OCCUPATIONAL,
17 MUSICAL, OR OTHER THERAPIES;

18 (II) ~~Medical examiners and coroners~~ HOSPITAL AND LONG-TERM
19 CARE FACILITY PERSONNEL ENGAGED IN THE ADMISSION, CARE, OR
20 TREATMENT OF PATIENTS;

21 (III) ~~Registered nurses, licensed practical nurses, and nurse~~
22 ~~practitioners~~ FIRST RESPONDERS, INCLUDING EMERGENCY MEDICAL
23 SERVICE PROVIDERS, FIRE PROTECTION PERSONNEL, LAW ENFORCEMENT
24 OFFICERS, AND PERSONS EMPLOYED BY, CONTRACTING WITH, OR
25 VOLUNTEERING WITH ANY LAW ENFORCEMENT AGENCY, INCLUDING
26 VICTIM ADVOCATES;

27 (IV) ~~Emergency medical service providers~~ CODE ENFORCEMENT

- 1 OFFICERS;
- 2 (V) ~~Hospital and long-term care facility personnel engaged in the~~
3 ~~admission, care, or treatment of patients~~ MEDICAL EXAMINERS AND
4 CORONERS;
- 5 (VI) ~~Chiropractors~~ VETERINARIANS;
- 6 (VII) ~~Psychologists, and other mental health professionals~~
7 ADDICTION COUNSELORS, PROFESSIONAL COUNSELORS, MARRIAGE AND
8 FAMILY THERAPISTS, AND REGISTERED PSYCHOTHERAPISTS, AS THOSE
9 PERSONS ARE DEFINED IN ARTICLE 43 OF TITLE 12, C.R.S.;
- 10 (VIII) ~~Social work practitioners~~ WORKERS, AS DEFINED IN PART 4
11 OF ARTICLE 43 OF TITLE 12, C.R.S.;
- 12 (IX) ~~Clergy members~~ STAFF OF COMMUNITY-CENTERED BOARDS;
- 13 (X) ~~Dentists~~ STAFF, CONSULTANTS, OR INDEPENDENT
14 CONTRACTORS OF SERVICE AGENCIES, AS DEFINED IN SECTION 25.5-10-202
15 (34), C.R.S.;
- 16 (XI) ~~Law enforcement officials and personnel~~ STAFF OR
17 CONSULTANTS FOR A LICENSED OR UNLICENSED, CERTIFIED OR
18 UNCERTIFIED, CARE FACILITY, AGENCY, HOME, OR GOVERNING BOARD,
19 INCLUDING BUT NOT LIMITED TO LONG-TERM CARE FACILITIES, HOME CARE
20 AGENCIES, OR HOME HEALTH PROVIDERS;
- 21 (XII) ~~Court-appointed guardians and conservators~~ CARETAKERS,
22 STAFF MEMBERS, EMPLOYEES OF, OR CONSULTANTS FOR, A HOME CARE
23 PLACEMENT AGENCY, AS DEFINED IN SECTION 25-27.5-102 (5), C.R.S.;
- 24 (XIII) ~~Fire protection personnel~~ PERSONS PERFORMING CASE
25 MANAGEMENT OR ASSISTANT SERVICES FOR AT-RISK ADULTS;
- 26 (XIV) ~~Pharmacists~~ STAFF OF COUNTY DEPARTMENTS OF HUMAN
27 OR SOCIAL SERVICES;

1 (XV) ~~Community-centered board staff~~ STAFF OF THE STATE
2 DEPARTMENTS OF HUMAN SERVICES, PUBLIC HEALTH AND ENVIRONMENT,
3 OR HEALTH CARE POLICY AND FINANCING;

4 (XVI) ~~Personnel of banks, savings and loan associations, credit~~
5 ~~unions, and other lending or financial institutions~~ STAFF OF SENIOR
6 CONGREGATE CENTERS OR SENIOR RESEARCH OR OUTREACH
7 ORGANIZATIONS;

8 (XVII) ~~A caretaker, staff member, or employee of or volunteer or~~
9 ~~consultant for a licensed or certified care facility, agency, home, or~~
10 ~~governing board, including but not limited to home health providers; and~~
11 STAFF, AND STAFF OF CONTRACTED PROVIDERS, OF AREA AGENCIES ON
12 AGING, EXCEPT THE LONG-TERM CARE OMBUDSMEN;

13 (XVIII) ~~A caretaker, staff member, employee of, or a volunteer or~~
14 ~~consultant for, a home care placement agency, as defined in section~~
15 ~~25-27.5-102 (5), C.R.S.~~ EMPLOYEES, CONTRACTORS, AND VOLUNTEERS
16 OPERATING SPECIALIZED TRANSPORTATION SERVICES FOR AT-RISK
17 ADULTS;

18 (XIX) LANDLORDS AND STAFF OF HOUSING AND HOUSING
19 AUTHORITY AGENCIES FOR AT-RISK ADULTS;

20 (XX) COURT-APPOINTED GUARDIANS AND CONSERVATORS;

21 (XXI) PERSONNEL AT SCHOOLS SERVING PERSONS IN PRESCHOOL
22 THROUGH TWELFTH GRADE;

23 (XXII) CLERGY MEMBERS; EXCEPT THAT THE REPORTING
24 REQUIREMENT DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (1)
25 DOES NOT APPLY TO A PERSON WHO ACQUIRES REASONABLE CAUSE TO
26 BELIEVE THAT AN AT-RISK ADULT HAS BEEN MISTREATED OR HAS BEEN
27 EXPLOITED OR IS AT IMMINENT RISK OF MISTREATMENT OR EXPLOITATION

1 DURING A COMMUNICATION ABOUT WHICH THE PERSON MAY NOT BE
2 EXAMINED AS A WITNESS PURSUANT TO SECTION 13-90-107(1)(c), C.R.S.,
3 UNLESS THE PERSON ALSO ACQUIRES SUCH REASONABLE CAUSE FROM A
4 SOURCE OTHER THAN SUCH A COMMUNICATION; AND

5 (XXIII) PERSONS WORKING IN FINANCIAL SERVICES INDUSTRIES,
6 INCLUDING BANKS, SAVINGS AND LOAN ASSOCIATIONS, CREDIT UNIONS,
7 AND OTHER LENDING OR FINANCIAL INSTITUTIONS; ACCOUNTANTS;
8 MORTGAGE BROKERS; LIFE INSURANCE AGENTS; AND FINANCIAL
9 PLANNERS.

10 (c) In addition to those persons urged by this subsection (1) to
11 report known or suspected mistreatment OR self-neglect ~~or exploitation~~
12 of an at-risk adult and circumstances or conditions that might reasonably
13 result in mistreatment OR self-neglect, ~~or exploitation~~, any other person
14 may report such known or suspected mistreatment OR self-neglect ~~or~~
15 ~~exploitation~~ and circumstances or conditions that might reasonably result
16 in mistreatment OR self-neglect ~~or exploitation~~ of an at-risk adult to the
17 local law enforcement agency or the county department. Upon receipt of
18 such report, the receiving agency shall prepare a written report within
19 forty-eight hours.

20 (2) Pursuant to subsection (1) of this section, the report ~~shall~~ MUST
21 include:

22 (e) The nature and extent of the condition that will reasonably
23 result in mistreatment OR self-neglect; ~~or exploitation~~ and

24 (4) ~~No~~ A person, including a person specified in subsection (1) of
25 this section, shall NOT knowingly make a false report of mistreatment OR
26 self-neglect ~~or exploitation~~ to a county department or local law
27 enforcement agency. Any person who willfully violates the provisions of

1 this subsection (4) commits a class 3 misdemeanor and shall be punished
2 as provided in section 18-1.3-501, C.R.S., and shall be liable for damages
3 proximately caused thereby.

4 (6) ~~No~~ A person shall NOT take any discriminatory, disciplinary,
5 or retaliatory action against any person who, in good faith, makes a report
6 or fails to make a report of suspected mistreatment OR self-neglect ~~or~~
7 ~~exploitation~~ of an at-risk adult.

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

14 (b) Disclosure of a report of the mistreatment OR self-neglect ~~or~~
15 ~~exploitation~~ of an at-risk adult and information relating to an
16 investigation of such a report ~~shall be~~ IS permitted only when authorized
17 by a court for good cause. Such disclosure ~~shall~~ IS not be prohibited
18 when:

19 (II) There is a death of a suspected at-risk adult from mistreatment
20 OR self-neglect ~~or exploitation~~ and a law enforcement agency files a
21 formal charge or a grand jury issues an indictment in connection with the
22 death;

23 **SECTION 11.** In Colorado Revised Statutes, 26-3.1-103, **amend**
24 (1), (2), and (3) as follows:

25 **26-3.1-103. Evaluations - investigations - rules.** (1) The agency
26 receiving a report of mistreatment OR self-neglect ~~or exploitation~~ of an
27 at-risk adult shall immediately make a thorough evaluation of the reported

1 level of risk. The immediate concern of the evaluation ~~shall be~~ IS the
2 protection of the at-risk adult. The evaluation, at a minimum, ~~shall~~ MUST
3 include a determination of a response time frame and whether an
4 investigation of the allegations is required. If a county department
5 determines that an investigation is required, the county department ~~shall~~
6 ~~arrange for an investigation and~~ IS RESPONSIBLE FOR ENSURING AN
7 INVESTIGATION IS CONDUCTED AND ARRANGING FOR THE subsequent
8 provision of protective services to be conducted by persons trained to
9 conduct such investigations and provide protective services.

10 (2) Each county department, law enforcement agency, district
11 attorney's office, and other agency responsible under federal law or the
12 laws of this state to investigate mistreatment OR self-neglect ~~or~~
13 ~~exploitation~~ of at-risk adults shall develop and implement cooperative
14 agreements to coordinate the investigative duties of such agencies. The
15 focus of such agreements ~~shall be~~ IS to ensure the best protection for
16 at-risk adults. The agreements ~~shall~~ MUST provide for special requests by
17 one agency for assistance from another agency and for joint
18 investigations. The agreements ~~shall~~ MUST further provide that each
19 agency ~~shall~~ maintain the confidentiality of the information exchanged
20 pursuant to such joint investigations.

21 (3) Each county or contiguous group of counties in the state in
22 which a minimum number of reports of mistreatment OR self-neglect ~~or~~
23 ~~exploitation~~ of at-risk adults are annually filed shall establish an at-risk
24 adult protection team. The state board shall promulgate rules to specify
25 the minimum number of reports that will require the establishment of an
26 adult at-risk protection team. The at-risk adult protection team shall
27 review the processes used to report and investigate mistreatment OR

1 self-neglect ~~or exploitation~~ of at-risk adults, review the provision of
2 protective services for such adults, facilitate interagency cooperation, and
3 provide community education on the mistreatment AND self-neglect ~~and~~
4 ~~exploitation~~ of at-risk adults. The director of each county department
5 shall create or coordinate a protection team for the respective county in
6 accordance with rules adopted by the state board of human services.
7 ~~which~~ THE STATE BOARD rules shall govern the establishment,
8 composition, and duties of the team and ~~shall~~ MUST be consistent with
9 this subsection (3).

10 **SECTION 12.** In Colorado Revised Statutes, 26-3.1-104, **amend**
11 (1) and (2) as follows:

12 **26-3.1-104. Provision of protective services for at-risk adults**
13 **- consent - nonconsent - least restrictive intervention.** (1) If a county
14 director or ~~such director's~~ HIS OR HER designee determines that an at-risk
15 adult is being mistreated OR self-neglected, ~~or exploited~~, or is at risk
16 thereof, and the at-risk adult consents to protective services, the county
17 director or designee shall immediately provide or arrange for the
18 provision of protective services, which services shall be provided in
19 accordance with the provisions of 28 CFR part 35, subpart B.

20 (2) If a county director or HIS OR HER designee determines that an
21 at-risk adult is being or has been mistreated OR self-neglected, ~~or~~
22 ~~exploited~~, or is at risk thereof, and if the at-risk adult appears to lack
23 capacity to make decisions and does not consent to the receipt of
24 protective services, the county director is urged, if no other appropriate
25 person is able or willing, to petition the court, pursuant to part 3 of article
26 14 of title 15, C.R.S., for an order authorizing the provision of specific
27 protective services and for the appointment of a guardian, for an order

1 authorizing the appointment of a conservator pursuant to part 4 of article
2 14 of title 15, C.R.S., or for a court order providing for any combination
3 of these actions.

4 **SECTION 13.** In Colorado Revised Statutes, **amend** 26-3.1-106
5 as follows:

6 **26-3.1-106. Training.** The general assembly strongly encourages
7 training that focuses on detecting circumstances or conditions that might
8 reasonably result in mistreatment OR self-neglect ~~or exploitation~~ of an
9 at-risk adult for those persons who are urged by section 26-3.1-102 (1) to
10 report known or suspected mistreatment OR self-neglect ~~or exploitation~~
11 of an at-risk adult.

12 **SECTION 14.** In Colorado Revised Statutes, 25.5-10-202,
13 **amend** (1) and (19); and **add** (1.3), (1.6), (1.8), (15.5), (29.5), and (37.5)
14 as follows:

15 **25.5-10-202. Definitions.** As used in this article, unless the
16 context otherwise requires:

17 (1) ~~"Authorized representative" means a person designated by the~~
18 ~~person receiving services, or by the parent or guardian of the person~~
19 ~~receiving services, if appropriate, to assist the person receiving services~~
20 ~~in acquiring or utilizing services or supports pursuant to this article. The~~
21 ~~extent of the authorized representative's involvement shall be determined~~
22 ~~upon designation. "ABUSE" MEANS ANY OF THE FOLLOWING ACTS OR~~
23 ~~OMISSIONS COMMITTED AGAINST A PERSON WITH AN INTELLECTUAL AND~~
24 ~~DEVELOPMENTAL DISABILITY:~~

25 (a) THE NONACCIDENTAL INFLECTION OF PHYSICAL PAIN OR INJURY,
26 AS DEMONSTRATED BY, BUT NOT LIMITED TO, SUBSTANTIAL OR MULTIPLE
27 SKIN BRUISING, BLEEDING, MALNUTRITION, DEHYDRATION, BURNS, BONE

1 FRACTURES, POISONING, SUBDURAL HEMATOMA, SOFT TISSUE SWELLING,
2 OR SUFFOCATION;

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

5 (c) SUBJECTION TO SEXUAL CONDUCT OR CONTACT CLASSIFIED AS
6 A CRIME UNDER THE "COLORADO CRIMINAL CODE", TITLE 18, C.R.S.

7 (1.3) "AUTHORIZED REPRESENTATIVE" MEANS A PERSON
8 DESIGNATED BY THE PERSON RECEIVING SERVICES, OR BY THE PARENT OR
9 GUARDIAN OF THE PERSON RECEIVING SERVICES, IF APPROPRIATE, TO
10 ASSIST THE PERSON RECEIVING SERVICES IN ACQUIRING OR UTILIZING
11 SERVICES OR SUPPORTS PURSUANT TO THIS ARTICLE. THE EXTENT OF THE
12 AUTHORIZED REPRESENTATIVE'S INVOLVEMENT SHALL BE DETERMINED
13 UPON DESIGNATION.

14 (1.6) "CARETAKER" MEANS A PERSON WHO:

15 (a) IS RESPONSIBLE FOR THE CARE OF A PERSON WITH AN
16 INTELLECTUAL AND DEVELOPMENTAL DISABILITY AS A RESULT OF A
17 FAMILY OR LEGAL RELATIONSHIP;

18 (b) HAS ASSUMED RESPONSIBILITY FOR THE CARE OF A PERSON
19 WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY; OR

20 (c) IS PAID TO PROVIDE CARE, SERVICES, OR OVERSIGHT OF
21 SERVICES TO A PERSON WITH AN INTELLECTUAL AND DEVELOPMENTAL
22 DISABILITY.

23 (1.8) (a) "CARETAKER NEGLECT" MEANS NEGLECT THAT OCCURS
24 WHEN ADEQUATE FOOD, CLOTHING, SHELTER, PSYCHOLOGICAL CARE,
25 PHYSICAL CARE, MEDICAL CARE, HABILITATION, SUPERVISION, OR OTHER
26 TREATMENT NECESSARY FOR THE HEALTH AND SAFETY OF A PERSON WITH
27 AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY IS NOT SECURED FOR

1 A PERSON WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY OR
2 IS NOT PROVIDED BY A CARETAKER IN A TIMELY MANNER AND WITH THE
3 DEGREE OF CARE THAT A REASONABLE PERSON IN THE SAME SITUATION
4 WOULD EXERCISE, OR A CARETAKER USES HARASSMENT, UNDUE
5 INFLUENCE, OR INTIMIDATION TO CREATE A HOSTILE OR FEARFUL
6 ENVIRONMENT FOR AN AT-RISK ADULT WITH IDD.

7 (b) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF
8 THIS SUBSECTION (1.8), THE WITHHOLDING, WITHDRAWING, OR REFUSING
9 OF ANY MEDICATION, ANY MEDICAL PROCEDURE OR DEVICE, OR ANY
10 TREATMENT, INCLUDING BUT NOT LIMITED TO RESUSCITATION, CARDIAC
11 PACING, MECHANICAL VENTILATION, DIALYSIS, ARTIFICIAL NUTRITION AND
12 HYDRATION, ANY MEDICATION OR MEDICAL PROCEDURE OR DEVICE, IN
13 ACCORDANCE WITH ANY VALID MEDICAL DIRECTIVE OR ORDER, OR AS
14 DESCRIBED IN A PALLIATIVE PLAN OF CARE, SHALL NOT BE DEEMED
15 CARETAKER NEGLECT.

16 (c) AS USED IN THIS SUBSECTION (1.8), "MEDICAL DIRECTIVE OR
17 ORDER" INCLUDES A MEDICAL DURABLE POWER OF ATTORNEY, A
18 DECLARATION AS TO MEDICAL TREATMENT EXECUTED PURSUANT TO
19 SECTION 15-18-104, C.R.S., A MEDICAL ORDER FOR SCOPE OF TREATMENT
20 FORM EXECUTED PURSUANT TO ARTICLE 18.7 OF TITLE 15, C.R.S., AND A
21 CPR DIRECTIVE EXECUTED PURSUANT TO ARTICLE 18.6 OF TITLE 15,
22 C.R.S.

23 (15.5) "EXPLOITATION" MEANS AN ACT OR OMISSION COMMITTED
24 BY A PERSON WHO:

25 (a) USES DECEPTION, HARASSMENT, INTIMIDATION, OR UNDUE
26 INFLUENCE TO PERMANENTLY OR TEMPORARILY DEPRIVE A PERSON WITH
27 AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY OF THE USE, BENEFIT,

1 OR POSSESSION OF ANY THING OF VALUE;

2 (b) EMPLOYS THE SERVICES OF A THIRD PARTY FOR THE PROFIT OR
3 ADVANTAGE OF THE PERSON OR ANOTHER PERSON TO THE DETRIMENT OF
4 THE PERSON WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY;

5 (c) FORCES, COMPELS, COERCES, OR ENTICES A PERSON WITH AN
6 INTELLECTUAL AND DEVELOPMENTAL DISABILITY TO PERFORM SERVICES
7 FOR THE PROFIT OR ADVANTAGE OF THE PERSON OR ANOTHER PERSON
8 AGAINST THE WILL OF THE PERSON WITH AN INTELLECTUAL AND
9 DEVELOPMENTAL DISABILITY; OR

10 [REDACTED]

11 (d) MISUSES THE PROPERTY OF A PERSON WITH AN INTELLECTUAL
12 AND DEVELOPMENTAL DISABILITY IN A MANNER THAT ADVERSELY
13 AFFECTS THE PERSON WITH AN INTELLECTUAL AND DEVELOPMENTAL
14 DISABILITY'S ABILITY TO RECEIVE HEALTH CARE OR HEALTH CARE
15 BENEFITS OR TO PAY BILLS FOR BASIC NEEDS OR OBLIGATIONS.

16 (19) "Human rights committee" means a third-party mechanism
17 to adequately safeguard the legal rights of persons receiving services by
18 participating in the granting of informed consent, monitoring the
19 suspension of rights of persons receiving services, monitoring behavioral
20 development programs in which persons with intellectual and
21 developmental disabilities are involved, monitoring the use of
22 psychotropic medication by persons with intellectual and developmental
23 disabilities, and ~~at the committee's option, either providing or ensuring the~~
24 ~~investigation~~ REVIEWING INVESTIGATIONS of allegations of ~~abuse or~~
25 ~~neglect~~ MISTREATMENT of persons with intellectual and developmental
26 disabilities who are receiving services or supports under this article.

27 (29.5) "MISTREATED" OR "MISTREATMENT" MEANS:

- 1 (a) ABUSE;
- 2 (b) CARETAKER NEGLECT;
- 3 (c) EXPLOITATION;
- 4 (d) AN ACT OR OMISSION THAT THREATENS THE HEALTH, SAFETY,
- 5 OR WELFARE OF A PERSON WITH AN INTELLECTUAL AND DEVELOPMENTAL
- 6 DISABILITY; OR
- 7 (e) AN ACT OR OMISSION THAT EXPOSES A PERSON WITH AN
- 8 INTELLECTUAL AND DEVELOPMENTAL DISABILITY TO A SITUATION OR
- 9 CONDITION THAT POSES AN IMMINENT RISK OF BODILY INJURY TO THE
- 10 PERSON WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY.

11 (37.5) "UNDUE INFLUENCE" MEANS THE USE OF INFLUENCE TO
12 TAKE ADVANTAGE OF A PERSON WITH AN INTELLECTUAL AND
13 DEVELOPMENTAL DISABILITY'S VULNERABLE STATE OF MIND, NEEDINESS,
14 PAIN, OR EMOTIONAL DISTRESS.

15 **SECTION 15. Effective date.** This act takes effect July 1, 2016.

16 **SECTION 16. Safety clause.** The general assembly hereby finds,
17 determines, and declares that this act is necessary for the immediate
18 preservation of the public peace, health, and safety.