

SENATE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

March 15, 2012
Date

Committee on Health and Human Services.

After consideration on the merits, the Committee recommends the following:

SB12-078 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

- 1 Amend printed bill, page 2, strike lines 16 through 19 and substitute:
 - 2 "(2) "Caretaker" means a person ~~as such term is defined in~~
3 ~~subsection (5) of this section~~, who:
 - 4 (a) Is responsible for the care of an at-risk adult ~~as such term is~~
5 ~~defined in subsection (1) of this section~~, as a result of a family or legal
6 relationship;
 - 7 (b) ~~or who~~ Has assumed responsibility for the care of an at-risk
8 adult; OR
 - 9 (c) IS PAID TO PROVIDE CARE OR SERVICES TO AN AT-RISK ADULT."
- 10 Page 3, strike line 1.
- 11 Page 3, strike lines 4 through 22 and substitute:
 - 12 "(4) "EXPLOITATION" MEANS AN ACT OR OMISSION COMMITTED BY
13 A PERSON THAT:
 - 14 (a) USES DECEPTION, HARASSMENT, INTIMIDATION, OR UNDUE
15 INFLUENCE TO PERMANENTLY OR TEMPORARILY DEPRIVE AN AT-RISK
16 ADULT OF THE USE, BENEFIT, OR POSSESSION OF HIS OR HER MONEY,
17 ASSETS, OR PROPERTY;
 - 18 (b) IN THE ABSENCE OF LEGAL AUTHORITY:
 - 19 (I) EMPLOYS THE SERVICES OF A THIRD PARTY FOR THE PROFIT OR
20 ADVANTAGE OF THE PERSON OR ANOTHER PERSON TO THE DETRIMENT OF

1 THE AT-RISK ADULT; OR
2 (II) FORCES, COMPELS, COERCES, OR ENTICES AN AT-RISK ADULT
3 TO PERFORM SERVICES FOR THE PROFIT OR ADVANTAGE OF THE PERSON OR
4 ANOTHER PERSON AGAINST THE WILL OF THE AT-RISK ADULT;
5 (c) MISUSES THE PROPERTY OF AN AT-RISK ADULT IN A MANNER
6 THAT ADVERSELY AFFECTS THE AT-RISK ADULT'S ABILITY TO RECEIVE
7 HEALTH CARE OR HEALTH CARE BENEFITS OR TO PAY BILLS FOR BASIC
8 NEEDS OR OBLIGATIONS; OR
9 (d) BREACHES A FIDUCIARY DUTY EXISTING UNDER A POWER OF
10 ATTORNEY, CONSERVATORSHIP, OR GUARDIANSHIP."

11 Page 5, line 14, strike "for" and substitute "for,".

12 Page 6, strike lines 10 and 11 and substitute:

13 "(I) Physicians, surgeons, physicians' assistants, ~~or~~ osteopaths,
14 ~~including~~ physicians in training, PODIATRISTS, AND OCCUPATIONAL
15 THERAPISTS;"

16 Page 6, strike line 13 and substitute:

17 "(III) Registered nurses, ~~or~~ licensed practical nurses, AND NURSE
18 PRACTITIONERS;"

19 Page 6, line 25, strike "AND".

20 Page 6, strike lines 26 and 27 and substitute:

21 "~~(XIV) State and local long-term care ombudsmen.~~
22 (XV) ~~Any~~ A caretaker, staff member, or employee of or volunteer
23 or consultant for ~~any~~ A licensed OR CERTIFIED care facility, agency, home,
24 or governing board, INCLUDING BUT NOT LIMITED TO HOME HEALTH
25 PROVIDERS; AND
26 (XVI) ATTORNEYS."

27 Page 7, strike lines 1 and 2.

28 Page 8, line 10, after "report" insert "OR FAILS TO MAKE A REPORT".

29 Page 8, strike line 12 and substitute "testimony, or participation in making
30 such report, OR ON ACCOUNT OF SUCH FAILURE TO REPORT, so long as such

- 1 action OR INACTION".
- 2 Page 8, line 13, after "taken" insert "OR NOT TAKEN".
- 3 Page 8, line 16, after "report" insert "OR FAILS TO MAKE A REPORT".
- 4 Page 8, line 17, strike "mistreatment" and substitute "mistreatment,".
- 5 Page 8, strike lines 25 through 27 and substitute:
- 6 "(b) Disclosure of ~~the name and address of an at-risk adult or~~
7 ~~member of said adult's family and other identifying~~ A REPORT OF THE
8 MISTREATMENT, SELF-NEGLECT, OR EXPLOITATION OF AN AT-RISK ADULT
9 AND information ~~contained in~~ RELATING TO AN INVESTIGATION OF SUCH
10 a report shall be permitted only when authorized by a court for good".
- 11 Page 9, line 3, strike "or" and substitute "or".
- 12 Page 9, line 21, strike the second "AND" and substitute "AN".
- 13 Page 9, line 25, strike "PROVISIONS" and substitute "PROVISION".
- 14 Page 10, line 2, strike "Each county" and substitute "EACH COUNTY".
- 15 Page 10, line 3, strike "district attorney's office," and substitute "DISTRICT
16 ATTORNEY'S OFFICE,".
- 17 Page 11, line 8, strike "WRITTEN" and substitute "EXECUTION OF A PRIOR
18 WRITTEN CONSENT FORM BY THE AT-RISK ADULT, IN ACCORDANCE WITH
19 SECTION 6-21-103, C.R.S.".
- 20 Page 11, strike line 9.
- 21 Page 11, line 16, strike "services." and substitute "services, WHICH
22 SERVICES SHALL BE PROVIDED IN ACCORDANCE WITH THE PROVISIONS OF
23 28 CFR PART 35, SUBPART B.".
- 24 Page 12, strike lines 17 through 20 and substitute:
- 25 "26-3.1-107. **Background check.** EACH COUNTY DEPARTMENT
26 SHALL REQUIRE EACH EMPLOYEE HIRED ON OR AFTER THE EFFECTIVE DATE

1 OF THIS SECTION TO COMPLETE A".

2 Page 12, line 23, strike "PROSPECTIVE".

3 Page 13, strike lines 10 and 11 and substitute:

4 **"SECTION 2. Repeal of relocated and nonrelocated provisions**
5 **in this act.** In Colorado Revised Statutes, **repeal** part 2 of article 3.1 of
6 title 26; of which 26-3.1-201 through 26-3.1-205 and 26-3.1-208 are not
7 relocated."

8 Page 13, strike lines 15 through 17 and substitute:

9 "ELDER ABUSE TASK FORCE
10 **26-3.1-301. Elder abuse task force - legislative declaration -**
11 **creation - duties - report - repeal.** (1) THE GENERAL".

12 Page 13, line 20, strike "AT-RISK ADULTS; AND" and substitute "ELDERLY
13 AT-RISK ADULTS;"

14 Page 13, strike line 21 and substitute:

15 "(b) AT-RISK ELDERLY ADULTS MAY BE SUBJECTED TO
16 MISTREATMENT AND EXPLOITATION, AND THE STATE HAS A
17 RESPONSIBILITY TO PROTECT THESE PERSONS;

18 (c) ISSUES RELATED TO PROTECTIONS FOR AT-RISK ELDERLY
19 ADULTS ARE A".

20 Page 13, strike line 23 and substitute "GENERAL ASSEMBLY; AND

21 (d) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE
22 RECOMMENDATIONS OF THE TASK FORCE CREATED IN THIS SECTION WILL
23 LEAD TO THE IMPLEMENTATION OF A COMPLETE SYSTEM OF REPORTING OF
24 MISTREATMENT AND EXPLOITATION OF AT-RISK ELDERLY ADULTS BY
25 SEPTEMBER 1, 2013."

26 Page 13, strike line 24 and substitute:

27 "(2) THERE IS HEREBY CREATED THE ELDER ABUSE".

28 Page 13, line 25, strike "PROTECTIVE SERVICES".

1 Page 13, line 27, strike "ASSEMBLY TO" and substitute "ASSEMBLY."

2 Page 14, strike lines 1 through 11 and substitute:

3 "(3) THE TASK FORCE SHALL STUDY THE PROBLEM OF
4 MISTREATMENT AND EXPLOITATION OF AT-RISK ELDERLY ADULTS IN
5 COLORADO AND PREPARE RECOMMENDATIONS FOR THE CONSIDERATION
6 OF THE GENERAL ASSEMBLY, WHICH RECOMMENDATIONS, AT A MINIMUM,
7 SHALL INCLUDE:

8 (a) RECOMMENDATIONS CONCERNING HOW TO REQUIRE CERTAIN
9 PERSONS, ON AND AFTER SEPTEMBER 1, 2013, TO REPORT KNOWN OR
10 SUSPECTED MISTREATMENT AND EXPLOITATION OF AT-RISK ELDERLY
11 ADULTS;

12 (b) RECOMMENDATIONS CONCERNING THE PROVISION OF
13 PROTECTIVE SERVICES BY COUNTY DEPARTMENTS TO AT-RISK ELDERLY
14 ADULTS WHO ARE MISTREATED OR EXPLOITED;

15 (c) RECOMMENDATIONS CONCERNING THE MINIMUM AGE FOR A
16 PERSON TO BE CONSIDERED AN "AT-RISK ELDERLY ADULT" FOR THE
17 PURPOSES OF THIS PART 3;

18 (d) AN ESTIMATE OF THE COSTS TO BE INCURRED BY THE STATE
19 DEPARTMENT, COUNTY DEPARTMENTS, AND LAW ENFORCEMENT AGENCIES
20 OF THE STATE AS A RESULT OF REQUIRING CERTAIN PERSONS, ON AND
21 AFTER SEPTEMBER 1, 2013, TO REPORT KNOWN OR SUSPECTED
22 MISTREATMENT AND EXPLOITATION OF AT-RISK ELDERLY ADULTS;

23 (e) IDENTIFICATION OF SUSTAINABLE SOURCES OF FUNDING,
24 INCLUDING BUT NOT LIMITED TO NEW REVENUES, THAT MAY BE USED TO
25 OFFSET THE COSTS TO BE INCURRED BY THE STATE DEPARTMENT, COUNTY
26 DEPARTMENTS, AND LAW ENFORCEMENT AGENCIES OF THE STATE AS A
27 RESULT OF REQUIRING CERTAIN PERSONS, ON AND AFTER SEPTEMBER 1,
28 2013, TO REPORT KNOWN OR SUSPECTED MISTREATMENT AND
29 EXPLOITATION OF AT-RISK ELDERLY ADULTS;

30 (f) RECOMMENDATIONS FOR TRAINING EMPLOYEES OF THE STATE
31 DEPARTMENT AND COUNTY DEPARTMENTS TO USE OUTCOME-BASED BEST
32 PRACTICES IN THE PROVISION OF PROTECTIVE SERVICES TO AT-RISK
33 ELDERLY ADULTS;

34 (g) RECOMMENDATIONS REGARDING THE ADEQUACY OR
35 INADEQUACY OF EXISTING CRIMINAL PENALTIES FOR OFFENSES AGAINST
36 AT-RISK ADULTS, AS DESCRIBED IN ARTICLE 6.5 OF TITLE 18, C.R.S.; AND

37 (h) RECOMMENDATIONS CONCERNING THE RECONCILIATION OF THE
38 DEFINITION OF "AT-RISK ADULT" IN SECTION 26-3.1-101 WITH THE
39 DEFINITION OF "AT-RISK ADULT" IN SECTION 18-6.5-102 (1), C.R.S.

1 (4) THE TASK FORCE SHALL CONSIST OF THE FOLLOWING MEMBERS:
2 (a) THE EXECUTIVE DIRECTOR OF THE STATE DEPARTMENT OR HIS
3 OR HER DESIGNEE; AND
4 (b) THE FOLLOWING MEMBERS, TO BE APPOINTED BY THE
5 EXECUTIVE DIRECTOR OF THE STATE DEPARTMENT:".

6 Renumber succeeding subsections accordingly.

7 Page 14, strike lines 12 through 14.

8 Renumber succeeding subparagraphs accordingly.

9 Page 14, strike line 16 and substitute "WORKERS;".

10 Page 14, strike lines 17 and 18.

11 Renumber succeeding subparagraphs accordingly.

12 Page 14, strike lines 21 through 25 and substitute "NEGLECT, OR
13 EXPLOITATION OF AT-RISK ADULTS;".

14 Renumber succeeding subparagraphs accordingly.

15 Page 14, line 27, strike "ADULTS, TO BE APPOINTED BY" and substitute
16 "ADULTS;".

17 Page 15, strike lines 1 through 4 and substitute:

18 "(IV) A REPRESENTATIVE OF A STATEWIDE ORGANIZATION OF
19 PERSONS WHO PROVIDE LEGAL ADVICE TO AT-RISK ADULTS;".

20 Page 15, strike lines 6 through 12 and substitute "BANKS AND OTHER
21 FINANCIAL ENTITIES;

22 (VI) A REPRESENTATIVE OF A STATEWIDE ORGANIZATION OF LAW
23 ENFORCEMENT OFFICERS;".

24 Renumber succeeding subparagraphs accordingly.

25 Page 15, strike lines 14 through 18 and substitute "CARE
26 PROFESSIONALS;".

1 Renumber succeeding subparagraphs accordingly.

2 Page 15, line 19, strike "DESIGNEE." and substitute "DESIGNEE;".

3 Page 15, after line 19 insert:

4 "(IX) A REPRESENTATIVE OF A STATEWIDE ORGANIZATION THAT
5 ADVOCATES ON BEHALF OF ELDERLY PERSONS;

6 (X) A REPRESENTATIVE OF A STATEWIDE ORGANIZATION THAT
7 ADVOCATES ON BEHALF OF CRIME VICTIMS;

8 (XI) A REPRESENTATIVE OF A STATEWIDE ORGANIZATION THAT
9 ADVOCATES ON BEHALF OF PERSONS WITH DISABILITIES;

10 (XII) A REPRESENTATIVE OF COUNTY DEPARTMENTS WHO HAS
11 EXPERIENCE IN THE PROVISION OF PROTECTIVE SERVICES TO AT-RISK
12 ADULTS; AND

13 (XIII) A REPRESENTATIVE OF STATE AND LOCAL LONG-TERM CARE
14 OMBUDSMEN.".

15 Page 16, line 4, strike "AUGUST 2, 2012." and substitute "JULY 18, 2012.".

16 Page 16, strike line 14 and substitute:

17 "(9) THE LEGISLATIVE COUNCIL STAFF AND THE OFFICE OF
18 LEGISLATIVE LEGAL SERVICES SHALL NOT PROVIDE STAFF SUPPORT TO THE
19 TASK FORCE.

20 (10) THIS PART 3 IS REPEALED, EFFECTIVE NOVEMBER 2, 2013.".

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