

**First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 13-0311.01 Richard Sweetman x4333

SENATE BILL 13-111

SENATE SPONSORSHIP

Hudak, Giron, Guzman, Heath, Johnston, Morse, Todd, Ulibarri

HOUSE SPONSORSHIP

Schafer and Stephens,

Senate Committees

Judiciary
Appropriations

House Committees

Judiciary
Appropriations

A BILL FOR AN ACT

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

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>.)

Current law states that specified professionals who have reasonable cause to believe that a person 18 years of age or older who is susceptible to mistreatment, self-neglect, or exploitation because the individual is unable to perform or obtain services necessary for his or her health, safety, or welfare or lacks sufficient understanding or capacity to

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.*

SENATE
3rd Reading Unamended
April 15, 2013

SENATE
Amended 2nd Reading
April 12, 2013

make or communicate responsible decisions concerning his or her person or affairs (at-risk adult) should report that fact to a county department of social services (county department) or a local law enforcement agency.

Under the bill, on and after July 1, 2014, certain professionals (mandatory reporters) who observe the abuse or exploitation of a person who is 70 years of age or older (at-risk elder) or who have reasonable cause to believe that an at-risk elder has been abused or has been exploited and is at imminent risk of abuse or exploitation are required to report such fact to a law enforcement agency within 24 hours after making the observation or discovery. A mandatory reporter who fails to report commits a class 3 misdemeanor.

Within 24 hours after receiving a report of abuse or exploitation of an at-risk elder, a law enforcement agency shall notify the at-risk elder's county department and district attorney's office of the report. The law enforcement agency shall complete a criminal investigation when appropriate. Upon completion of an investigation, the law enforcement agency shall provide a report of the investigation to the at-risk elder's county department and a district attorney's office.

A person who reports an incident of abuse or exploitation to a law enforcement agency is immune from a civil action or criminal prosecution if the report was made in good faith. A person who knowingly makes a false report commits a class 3 misdemeanor.

The new reporting duty does not increase the professional duty of care, if any, that is owed to an at-risk elder by a mandatory reporter.

The bill adds physical therapists, emergency medical service providers, chiropractors, and clergy to the list of professionals who are currently urged to report the mistreatment, self-neglect, or exploitation of an at-risk adult. These professions are also included within the new list of mandatory reporters.

A person who exercises undue influence to convert or take possession of an at-risk elder's money, assets, or other property commits statutory theft.

On or before January 1, 2014, the peace officers standards and training board (P.O.S.T. board) shall create and implement a training curriculum to prepare peace officers to recognize and address incidents of abuse and exploitation of at-risk elders. On and after January 1, 2015, each county sheriff and each municipal law enforcement agency of the state shall employ at least one peace officer who has successfully completed the training curriculum. The P.O.S.T. board may charge a fee to each peace officer who enrolls in the training curriculum. The amount of the fee shall not exceed the direct and indirect costs incurred by the P.O.S.T. board in providing the curriculum.

On and after January 1, 2014, the state department of human services (state department) shall implement a program to generate awareness among:

- ! The residents of the state regarding the mistreatment, self-neglect, and exploitation of at-risk adults;
- ! The professionals who are urged to report the mistreatment, self-neglect, or exploitation of an at-risk adult; and
- ! Mandatory reporters.

On or before December 31, 2016, the state department shall prepare and deliver to the joint budget committee and to the health and human services committee of the senate; the health, insurance, and environment committee of the house of representatives; and the public health care and human services committee of the house of representatives, or to any successor committee, a report concerning the implementation of mandatory reports of abuse and exploitation of at-risk elders.

Under current law, for the purposes of enhanced penalties for offenses committed against at-risk adults, an at-risk adult is defined as any person 60 years of age or older or any person 18 years of age or older who is a person with a disability. The bill changes this definition to raise the minimum age of 60 years of age to 70 years of age.

The bill repeals provisions concerning protection against financial exploitation of at-risk adults.

The bill repeals the elder abuse task force.

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

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

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

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

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

1 lacking;

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

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

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

12 (2) The general assembly further finds that:

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

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

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

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

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

25 (3) Now, therefore, the general assembly hereby declares that, in
26 addition to the actions taken within this act to address specific
27 recommendations of the task force, the general assembly expects that

1 either the current general assembly or a future general assembly will take
2 further actions, as follows:

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

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

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

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

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

22 (f) The general assembly should identify assured and sustainable
23 sources of funding to support the enforcement of mandatory reporting and
24 the overall adult protective services infrastructure; and

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

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

1 follows:

2 **18-6.5-108. Mandatory reports of abuse and exploitation of**

3 **at-risk elders - list of reporters - penalties.** (1) (a) ON AND AFTER JULY

4 1, 2014, A PERSON SPECIFIED IN PARAGRAPH (b) OF THIS SUBSECTION (1)

5 WHO OBSERVES THE ABUSE OR EXPLOITATION OF AN AT-RISK ELDER, OR

6 WHO HAS REASONABLE CAUSE TO BELIEVE THAT AN AT-RISK ELDER HAS

7 BEEN ABUSED OR HAS BEEN EXPLOITED OR IS AT IMMINENT RISK OF ABUSE

8 OR EXPLOITATION, SHALL REPORT SUCH FACT TO A LAW ENFORCEMENT

9 AGENCY NOT MORE THAN TWENTY-FOUR HOURS AFTER MAKING THE

10 OBSERVATION OR DISCOVERY.

11 (b) THE FOLLOWING PERSONS, WHETHER PAID OR UNPAID, SHALL

12 REPORT AS REQUIRED BY PARAGRAPH (a) OF THIS SUBSECTION (1):

13 (I) PHYSICIANS, SURGEONS, PHYSICIANS' ASSISTANTS,

14 OSTEOPATHS, PHYSICIANS IN TRAINING, PODIATRISTS, OCCUPATIONAL

15 THERAPISTS, AND PHYSICAL THERAPISTS;

16 (II) MEDICAL EXAMINERS AND CORONERS;

17 (III) REGISTERED NURSES, LICENSED PRACTICAL NURSES, AND

18 NURSE PRACTITIONERS;

19 (IV) EMERGENCY MEDICAL SERVICE PROVIDERS;

20 (V) HOSPITAL AND LONG-TERM CARE FACILITY PERSONNEL

21 ENGAGED IN THE ADMISSION, CARE, OR TREATMENT OF PATIENTS;

22 (VI) CHIROPRACTORS;

23 (VII) PSYCHOLOGISTS AND OTHER MENTAL HEALTH

24 PROFESSIONALS;

25 (VIII) SOCIAL WORK PRACTITIONERS;

26 (IX) CLERGY MEMBERS; EXCEPT THAT THE REPORTING

27 REQUIREMENT DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (1)

1 SHALL NOT APPLY TO A PERSON WHO ACQUIRES REASONABLE CAUSE TO
2 BELIEVE THAT AN AT-RISK ELDER HAS BEEN MISTREATED OR HAS BEEN
3 EXPLOITED OR IS AT IMMINENT RISK OF MISTREATMENT OR EXPLOITATION
4 DURING A COMMUNICATION ABOUT WHICH THE PERSON MAY NOT BE
5 EXAMINED AS A WITNESS PURSUANT TO SECTION 13-90-107 (1)(c), C.R.S.,
6 UNLESS THE PERSON ALSO ACQUIRES SUCH REASONABLE CAUSE FROM A
7 SOURCE OTHER THAN SUCH A COMMUNICATION;

- 8 (X) DENTISTS;
- 9 (XI) LAW ENFORCEMENT OFFICIALS AND PERSONNEL;
- 10 (XII) COURT-APPOINTED GUARDIANS AND CONSERVATORS;
- 11 (XIII) FIRE PROTECTION PERSONNEL;
- 12 (XIV) PHARMACISTS;
- 13 (XV) COMMUNITY-CENTERED BOARD STAFF;
- 14 (XVI) PERSONNEL OF BANKS, SAVINGS AND LOAN ASSOCIATIONS,
- 15 CREDIT UNIONS, AND OTHER LENDING OR FINANCIAL INSTITUTIONS; ■
- 16 (XVII) A CARETAKER, STAFF MEMBER, EMPLOYEE, OR
- 17 CONSULTANT FOR A LICENSED OR CERTIFIED CARE FACILITY, AGENCY,
- 18 HOME, OR GOVERNING BOARD, INCLUDING BUT NOT LIMITED TO HOME
- 19 HEALTH PROVIDERS; AND
- 20 (XVIII) A CARETAKER, STAFF MEMBER, EMPLOYEE OF, OR A
- 21 CONSULTANT FOR, A HOME CARE PLACEMENT AGENCY, AS DEFINED IN
- 22 SECTION 25-27.5-102 (5), C.R.S.

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

26 (d) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF
27 THIS SUBSECTION (1), A PERSON DESCRIBED IN PARAGRAPH (b) OF THIS

1 SUBSECTION (1) IS NOT REQUIRED TO REPORT THE ABUSE OR EXPLOITATION
2 OF AN AT-RISK ELDER IF THE PERSON KNOWS THAT ANOTHER PERSON HAS
3 ALREADY REPORTED TO A LAW ENFORCEMENT AGENCY THE SAME ABUSE
4 OR EXPLOITATION THAT WOULD HAVE BEEN THE BASIS OF THE PERSON'S
5 OWN REPORT.

6 (2) (a) A LAW ENFORCEMENT AGENCY THAT RECEIVES A REPORT
7 OF ABUSE OR EXPLOITATION OF AN AT-RISK ELDER SHALL ACQUIRE, TO THE
8 EXTENT POSSIBLE, THE FOLLOWING INFORMATION FROM THE PERSON
9 MAKING THE REPORT:

10 (I) THE NAME, AGE, ADDRESS, AND CONTACT INFORMATION OF THE
11 AT-RISK ELDER;

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

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

16 (IV) THE NAME OF THE ALLEGED PERPETRATOR;

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

19 (VI) THE NATURE AND EXTENT OF THE CONDITION THAT REQUIRED
20 THE REPORT TO BE MADE; AND

21 (VII) ANY OTHER PERTINENT INFORMATION.

22 (b) NOT MORE THAN TWENTY-FOUR HOURS AFTER RECEIVING A
23 REPORT OF ABUSE OR EXPLOITATION OF AN AT-RISK ELDER, A LAW
24 ENFORCEMENT AGENCY SHALL PROVIDE A NOTIFICATION OF THE REPORT
25 TO THE COUNTY DEPARTMENT OF THE AT-RISK ELDER'S RESIDENCE AND
26 THE DISTRICT ATTORNEY'S OFFICE OF THE LOCATION WHERE THE ABUSE OR
27 EXPLOITATION OCCURRED.

1 (c) THE LAW ENFORCEMENT AGENCY SHALL COMPLETE A CRIMINAL
2 INVESTIGATION WHEN APPROPRIATE. THE LAW ENFORCEMENT AGENCY
3 SHALL PROVIDE A SUMMARY REPORT OF THE INVESTIGATION TO THE
4 COUNTY DEPARTMENT OF THE AT-RISK ELDER'S RESIDENCE AND TO THE
5 DISTRICT ATTORNEY'S OFFICE OF THE LOCATION WHERE THE ABUSE OR
6 EXPLOITATION OCCURRED.

7 (3) A PERSON, INCLUDING BUT NOT LIMITED TO A PERSON
8 SPECIFIED IN PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION, WHO
9 REPORTS ABUSE OR EXPLOITATION OF AN AT-RISK ELDER TO A LAW
10 ENFORCEMENT AGENCY PURSUANT TO SUBSECTION (1) OF THIS SECTION IS
11 IMMUNE FROM SUIT AND LIABILITY FOR DAMAGES IN ANY CIVIL ACTION OR
12 CRIMINAL PROSECUTION IF THE REPORT WAS MADE IN GOOD FAITH; EXCEPT
13 THAT SUCH A PERSON IS NOT IMMUNE IF HE OR SHE IS THE ALLEGED
14 PERPETRATOR OF THE ABUSE OR EXPLOITATION.

15 (4) A PERSON, INCLUDING BUT NOT LIMITED TO A PERSON
16 SPECIFIED IN PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION, WHO
17 KNOWINGLY MAKES A FALSE REPORT OF ABUSE OR EXPLOITATION OF AN
18 AT-RISK ELDER TO A LAW ENFORCEMENT AGENCY COMMITS A CLASS 3
19 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION
20 18-1.3-501 AND SHALL BE LIABLE FOR DAMAGES PROXIMATELY CAUSED
21 THEREBY.

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

27 **SECTION 3.** In Colorado Revised Statutes, **amend** 18-6.5-102

1 as follows:

2 **18-6.5-102. Definitions.** As used in this article, unless the context
3 otherwise requires:

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

6 (a) THE NONACCIDENTAL INFLECTION OF BODILY INJURY, SERIOUS
7 BODILY INJURY, OR DEATH;

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

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

12 (d) CARETAKER NEGLECT.

13 ~~(1)~~ (2) "At-risk adult" means any person who is ~~sixty~~ SEVENTY
14 years of age or older or any person who is eighteen years of age or older
15 and is a person with a disability as said term is defined in ~~subsection (3)~~
16 SUBSECTION (11) of this section.

17 ~~(2)~~ (3) "Neglect" ~~has the same meaning as set forth in section~~
18 ~~26-3.1-101 (4) (b), C.R.S.~~ "AT-RISK ELDER" MEANS ANY PERSON WHO IS
19 SEVENTY YEARS OF AGE OR OLDER.

20 ~~(1.5)~~ (4) "At-risk juvenile" means any person who is under the age
21 of eighteen years and is a person with a disability as said term is defined
22 in ~~subsection (3)~~ SUBSECTION (11) of this section.

23 (5) "CARETAKER" MEANS A PERSON WHO:

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

27 (b) HAS ASSUMED RESPONSIBILITY FOR THE CARE OF AN AT-RISK

1 ADULT, AT-RISK JUVENILE, OR AT-RISK ELDER; OR

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

4 (6) "CARETAKER NEGLECT" MEANS NEGLECT THAT OCCURS WHEN
5 ADEQUATE FOOD, CLOTHING, SHELTER, PSYCHOLOGICAL CARE, PHYSICAL
6 CARE, MEDICAL CARE, OR SUPERVISION IS NOT SECURED FOR AN AT-RISK
7 ADULT OR AN AT-RISK ELDER OR IS NOT PROVIDED BY A CARETAKER IN A
8 TIMELY MANNER AND WITH THE DEGREE OF CARE THAT A REASONABLE
9 PERSON IN THE SAME SITUATION WOULD EXERCISE; EXCEPT THAT THE
10 WITHHOLDING, WITHDRAWING, OR REFUSING OF ANY MEDICATION, ANY
11 MEDICAL PROCEDURE OR DEVICE, OR ANY TREATMENT, INCLUDING BUT
12 NOT LIMITED TO RESUSCITATION, CARDIAC PACING, MECHANICAL
13 VENTILATION, DIALYSIS, AND ARTIFICIAL NUTRITION AND HYDRATION, IN
14 ACCORDANCE WITH ANY VALID MEDICAL DIRECTIVE OR ORDER OR AS
15 DESCRIBED IN A PALLIATIVE PLAN OF CARE SHALL NOT BE DEEMED
16 CARETAKER NEGLECT. AS USED IN THIS SUBSECTION (6), "MEDICAL
17 DIRECTIVE OR ORDER" INCLUDES BUT IS NOT LIMITED TO A MEDICAL
18 DURABLE POWER OF ATTORNEY, A DECLARATION AS TO MEDICAL
19 TREATMENT EXECUTED PURSUANT TO SECTION 15-18-104, C.R.S., A
20 MEDICAL ORDER FOR SCOPE OF TREATMENT FORM EXECUTED PURSUANT
21 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 (7) "CLERGY MEMBER" MEANS A PRIEST; RABBI; DULY ORDAINED,
24 COMMISSIONED, OR LICENSED MINISTER OF A CHURCH; MEMBER OF A
25 RELIGIOUS ORDER; OR RECOGNIZED LEADER OF ANY RELIGIOUS BODY.

26 ~~(1.7)~~ (8) "Convicted" and "conviction" mean a plea of guilty
27 accepted by the court, including a plea of guilty entered pursuant to a

1 deferred sentence under section 18-1.3-102, a verdict of guilty by a judge
2 or jury, or a plea of no contest accepted by the court.

3 ~~(1.8)~~ (9) "Crime against an at-risk adult or at-risk juvenile" means
4 any offense listed in section 18-6.5-103 or criminal attempt, conspiracy,
5 or solicitation to commit any of those offenses.

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

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

12 (b) IN THE ABSENCE OF LEGAL AUTHORITY:

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

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

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

23 ~~(3)~~ (11) "Person with a disability" means any person who:

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

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

- 1 (c) Is unable to breathe without mechanical assistance; or
- 2 (d) Is developmentally disabled as defined in section 27-10.5-102
- 3 (11), C.R.S.; or
- 4 (e) Is a person with a mental illness as the term is defined in
- 5 section 27-65-102 (14), C.R.S.; or
- 6 (f) Is mentally impaired as the term is defined in section
- 7 24-34-301 (2.5) (b) (III), C.R.S.; or
- 8 (g) Is blind as that term is defined in section 26-2-103 (3), C.R.S.;
- 9 or
- 10 (h) Is receiving care and treatment for a developmental disability
- 11 under article 10.5 of title 27, C.R.S.

12 ~~(3.5)~~ (12) "Position of trust" means assuming a responsibility,

13 duty, or fiduciary relationship toward an at-risk adult or at-risk juvenile.

14 ~~(4) Any subsection, or portion of a subsection, of this section~~

15 ~~declared to be unconstitutional or otherwise invalid shall not impair the~~

16 ~~remaining provisions of this section.~~

17 (13) "UNDUE INFLUENCE" MEANS THE USE OF INFLUENCE BY

18 SOMEONE WHO EXERCISES AUTHORITY OVER AN AT-RISK ELDER IN ORDER

19 TO TAKE UNFAIR ADVANTAGE OF THE AT-RISK ELDER'S VULNERABLE STATE

20 OF MIND, NEEDINESS, PAIN, OR AGONY. ==

21 **SECTION 4.** In Colorado Revised Statutes, 18-6.5-103, **amend**

22 (6) and (8); and **add** (5.5) and (7.5) as follows:

23 **18-6.5-103. Crimes against at-risk adults and at-risk juveniles**

24 **- classifications.** (5.5) A PERSON WHO COMMITS THEFT, AND COMMITS

25 ANY ELEMENT OR PORTION OF THE OFFENSE IN THE PRESENCE OF THE

26 VICTIM, AS SUCH CRIME IS DESCRIBED IN SECTION 18-4-401 (1), AND THE

27 VICTIM IS AN AT-RISK ELDER, OR WHO COMMITS THEFT AGAINST AN

1 AT-RISK ELDER WHILE ACTING IN A POSITION OF TRUST, WHETHER OR NOT
2 IN THE PRESENCE OF THE VICTIM, OR COMMITS THEFT AGAINST AN AT-RISK
3 ELDER KNOWING THE VICTIM IS AN AT-RISK ELDER, WHETHER IN THE
4 PRESENCE OF THE VICTIM OR NOT, COMMITS A CLASS 5 FELONY IF THE
5 VALUE OF THE THING INVOLVED IS LESS THAN FIVE HUNDRED DOLLARS OR
6 A CLASS 3 FELONY IF THE VALUE OF THE THING INVOLVED IS FIVE HUNDRED
7 DOLLARS OR MORE. THEFT FROM THE PERSON OF AN AT-RISK ELDER BY
8 MEANS OTHER THAN THE USE OF FORCE, THREAT, OR INTIMIDATION IS A
9 CLASS 4 FELONY WITHOUT REGARD TO THE VALUE OF THE THING TAKEN.

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

15 (7.5) ANY PERSON WHO EXERCISES UNDUE INFLUENCE TO CONVERT
16 OR TAKE POSSESSION OF AN AT-RISK ELDER'S MONEY, ASSETS, OR OTHER
17 PROPERTY COMMITS THEFT, AS DEFINED IN SECTION 18-4-401.

18 (8) For purposes of ~~subsections (3) to (7)~~ SUBSECTIONS (3) TO
19 (7.5) of this section, commission of the offenses described in said
20 subsections shall include the attempt, solicitation, or conspiracy to
21 commit such offenses.

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

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

26 (2.3) "CARETAKER NEGLECT" MEANS NEGLECT THAT OCCURS
27 WHEN ADEQUATE FOOD, CLOTHING, SHELTER, PSYCHOLOGICAL CARE,

1 PHYSICAL CARE, MEDICAL CARE, OR SUPERVISION IS NOT SECURED FOR AN
2 AT-RISK ADULT OR IS NOT PROVIDED BY A CARETAKER IN A TIMELY
3 MANNER AND WITH THE DEGREE OF CARE THAT A REASONABLE PERSON IN
4 THE SAME SITUATION WOULD EXERCISE; EXCEPT THAT THE WITHHOLDING,
5 WITHDRAWING, OR REFUSING OF ANY TREATMENT, INCLUDING BUT NOT
6 LIMITED TO RESUSCITATION, CARDIAC PACING, MECHANICAL VENTILATION,
7 DIALYSIS, ARTIFICIAL NUTRITION AND HYDRATION, ANY MEDICATION OR
8 MEDICAL PROCEDURE OR DEVICE, IN ACCORDANCE WITH ANY VALID
9 MEDICAL DIRECTIVE OR ORDER, OR AS DESCRIBED IN A PALLIATIVE PLAN
10 OF CARE, SHALL NOT BE DEEMED CARETAKER NEGLECT. AS USED IN THIS
11 SUBSECTION (2.3), "MEDICAL DIRECTIVE OR ORDER" INCLUDES BUT IS NOT
12 LIMITED TO A MEDICAL DURABLE POWER OF ATTORNEY, A DECLARATION
13 AS TO MEDICAL TREATMENT EXECUTED PURSUANT TO SECTION 15-18-104,
14 C.R.S., A MEDICAL ORDER FOR SCOPE OF TREATMENT FORM EXECUTED
15 PURSUANT TO ARTICLE 18.7 OF TITLE 15, C.R.S., AND A CPR DIRECTIVE
16 EXECUTED PURSUANT TO ARTICLE 18.6 OF TITLE 15, C.R.S.

17 (2.5) "CLERGY MEMBER" MEANS A PRIEST; RABBI; DULY
18 ORDAINED, COMMISSIONED, OR LICENSED MINISTER OF A CHURCH; MEMBER
19 OF A RELIGIOUS ORDER; OR RECOGNIZED LEADER OF ANY RELIGIOUS BODY.

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

24 (7) "Mistreatment" means an act or omission that threatens the
25 health, safety, or welfare of an at-risk adult or that exposes an at-risk
26 adult to a situation or condition that poses an imminent risk of death,
27 serious bodily injury, or bodily injury to the at-risk adult. "Mistreatment"

1 includes, but is not limited to:

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

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

20 **26-3.1-102. Reporting requirements.** (1) (a) ~~An immediate oral~~
21 ~~report should be made or caused to be made within twenty-four hours to~~
22 ~~a county department or during non-business hours to a local law~~
23 ~~enforcement agency responsible for investigating violations of state~~
24 ~~criminal laws protecting at-risk adults by any A person specified in~~
25 ~~paragraph (b) of this subsection (1) who has observed OBSERVES the~~
26 ~~mistreatment, self-neglect, or exploitation of an at-risk adult or who has~~
27 ~~reasonable cause to believe that an at-risk adult has been mistreated, is~~

1 self-neglected, or has been exploited and is at imminent risk of
2 mistreatment, self-neglect, or exploitation IS URGED TO REPORT SUCH FACT
3 TO A COUNTY DEPARTMENT NOT MORE THAN TWENTY-FOUR HOURS AFTER
4 MAKING THE OBSERVATION OR DISCOVERY.

5 (a.5) AS REQUIRED BY SECTION 18-6.5-108, C.R.S., CERTAIN
6 PERSONS SPECIFIED IN PARAGRAPH (b) OF THIS SUBSECTION (1) WHO
7 OBSERVE THE ABUSE OR EXPLOITATION OF AN AT-RISK ELDER, AS DEFINED
8 IN SECTIONS 18-6.5-102 (1) AND (10), C.R.S., OR WHO HAVE REASONABLE
9 CAUSE TO BELIEVE THAT AN AT-RISK ELDER HAS BEEN ABUSED OR
10 EXPLOITED OR IS AT IMMINENT RISK OF ABUSE OR EXPLOITATION SHALL
11 REPORT SUCH FACT TO A LAW ENFORCEMENT AGENCY NOT MORE THAN
12 TWENTY-FOUR HOURS AFTER MAKING THE OBSERVATION OR DISCOVERY.

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

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

19 (II) Medical examiners and coroners;

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

22 (IV) EMERGENCY MEDICAL SERVICE PROVIDERS;

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

25 (VI) CHIROPRACTORS;

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

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

- 1 (IX) CLERGY MEMBERS;
- 2 ~~(VIII)~~ (X) Dentists;
- 3 ~~(VIII)~~ (XI) Law enforcement officials and personnel;
- 4 ~~(IX)~~ (XII) Court-appointed guardians and conservators;
- 5 ~~(X)~~ (XIII) Fire protection personnel;
- 6 ~~(XI)~~ (XIV) Pharmacists;
- 7 ~~(XII)~~ (XV) Community-centered board staff;
- 8 ~~(XIII)~~ (XVI) Personnel of banks, savings and loan associations,
- 9 credit unions, and other lending or financial institutions; **and**
- 10 ~~(XIV)~~ ~~(Deleted by amendment, L. 2012.)~~
- 11 ~~(XV)~~ (XVII) A caretaker, staff member, or employee of or
- 12 volunteer or consultant for a licensed or certified care facility, agency,
- 13 home, or governing board, including but not limited to home health
- 14 providers; **AND**
- 15 (XVIII) A CARETAKER, STAFF MEMBER, EMPLOYEE OF, OR A
- 16 VOLUNTEER OR CONSULTANT FOR, A HOME CARE PLACEMENT AGENCY, AS
- 17 DEFINED IN SECTION 25-27.5-102 (5), C.R.S.

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

20 **26-3.1-110. Report concerning the implementation of**
 21 **mandatory reporting of elder abuse and exploitation - repeal.** (1) ON
 22 OR BEFORE DECEMBER 31, 2016, THE STATE DEPARTMENT SHALL PREPARE
 23 AND DELIVER TO THE JOINT BUDGET COMMITTEE AND TO THE HEALTH AND
 24 HUMAN SERVICES COMMITTEE OF THE SENATE; THE HEALTH, INSURANCE,
 25 AND ENVIRONMENT COMMITTEE OF THE HOUSE OF REPRESENTATIVES; AND
 26 THE PUBLIC HEALTH CARE AND HUMAN SERVICES COMMITTEE OF THE
 27 HOUSE OF REPRESENTATIVES, OR TO ANY SUCCESSOR COMMITTEE, A

1 REPORT CONCERNING THE IMPLEMENTATION OF S.B. 13-111, ENACTED IN
2 2013, AND MANDATORY REPORTS OF ABUSE AND EXPLOITATION OF
3 AT-RISK ELDERS, AS DESCRIBED IN SECTION 18-6.5-108, C.R.S.

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

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

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

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

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

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

23 (f) AVERAGE PER-WORKER CASELOAD; AND

24 (g) INFORMATION CONCERNING QUALITY ASSURANCE ACTIVITIES.

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

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

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

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

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

9 (k) TO ESTABLISH TRAINING STANDARDS TO PREPARE LAW
10 ENFORCEMENT OFFICERS TO RECOGNIZE AND ADDRESS INCIDENTS OF
11 ABUSE AND EXPLOITATION OF AT-RISK ELDERS, AS DESCRIBED IN SECTIONS
12 18-6.5-102 (1) AND (10), C.R.S.

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

15 **24-31-313. Training concerning abuse and exploitation of**
16 **at-risk elders.** (1) ON OR BEFORE JANUARY 1, 2014, THE P.O.S.T. BOARD
17 SHALL CREATE AND IMPLEMENT A TRAINING CURRICULUM TO PREPARE
18 PEACE OFFICERS TO RECOGNIZE AND ADDRESS INCIDENTS OF ABUSE AND
19 EXPLOITATION OF AT-RISK ELDERS, AS DESCRIBED IN SECTIONS 18-6.5-102
20 (1) AND (10), C.R.S.

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

26 (3) THE TRAINING CURRICULUM PROVIDED PURSUANT TO
27 SUBSECTION (1) OF THIS SECTION SHALL INCLUDE A MEANS OF

1 RECOGNIZING AND IDENTIFYING PEACE OFFICERS WHO SUCCESSFULLY
2 COMPLETE THE TRAINING CURRICULUM.

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

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

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

16 **26-1-105. Department of human services created - executive**
17 **director - powers, duties, and functions.** (4) ON AND AFTER JANUARY
18 1, 2014, THE DEPARTMENT OF HUMAN SERVICES SHALL IMPLEMENT A
19 PROGRAM TO GENERATE AWARENESS AMONG:

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

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

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

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

3 **18-1.3-406. Mandatory sentences for violent crimes.** (2) (c) As
4 used in this section, "at-risk adult" has the same meaning as set forth in
5 ~~section 18-6.5-102 (1)~~ SECTION 18-6.5-102 (2), and "at-risk juvenile" has
6 the same meaning as set forth in ~~section 18-6.5-102 (1.5)~~ SECTION
7 18-6.5-102 (4).

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

10 **18-6.5-103.5. Video tape depositions - at-risk adult victims and**
11 **witnesses.** (1) In any case in which a defendant is charged with a crime
12 against an at-risk adult, ~~as described in section 18-6.5-103~~ or in any case
13 involving a victim or witness who is an at-risk adult, ~~as defined in section~~
14 ~~18-6.5-102 (1)~~, the prosecution may file a motion with the court at any
15 time prior to commencement of the trial, for an order that a deposition be
16 taken of the testimony of the victim or witness and that the deposition be
17 recorded and preserved on video tape.

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

20 **18-9-121. Bias-motivated crimes.** (5) For purposes of this
21 section:

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

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

27 **25-1-124. Health care facilities - consumer information -**

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

4 (e) Any occurrence involving CARETAKER neglect of a patient or
5 resident, as described in ~~section 26-3.1-101 (4) (b), C.R.S.~~ SECTION
6 26-3.1-101 (2.3), C.R.S.;

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

9 **26-3.1-103. Evaluations - investigations - rules.**

10 (4) ~~Notwithstanding any provision of section 24-72-204, C.R.S., or~~
11 ~~section 11-105-110, C.R.S., or any other applicable law concerning the~~
12 ~~confidentiality of financial records to the contrary, agencies investigating~~
13 ~~the exploitation of an at-risk adult shall be permitted to inspect all records~~
14 ~~of the at-risk adult on whose behalf the investigation is being conducted,~~
15 ~~including the at-risk adult's financial records, upon execution of a prior~~
16 ~~written consent form by the at-risk adult, in accordance with section~~
17 ~~6-21-103, C.R.S.~~

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

20 **26-3.1-105. Prior consent form.** ~~A financial institution shall~~
21 ~~offer eligible account holders, as defined in section 6-21-102, C.R.S., the~~
22 ~~option of signing a prior consent form in accordance with section~~
23 ~~6-21-103, C.R.S.~~

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

26 **SECTION 18. Appropriation.** (1) In addition to any other
27 appropriation, there is hereby appropriated, out of any moneys in the

1 general fund not otherwise appropriated, to the department of human
2 services, for the fiscal year beginning July 1, 2013, the sum of \$3,286,208
3 and 1.0 FTE, or so much thereof as may be necessary, to be allocated to
4 the adult assistance programs division for the implementation of this act
5 as follows:

6 (a) \$2,200,000 for the reduction of county adult protective
7 services worker caseloads;

8 (b) \$1,000,000 for the county provision of adult protective
9 services to at risk adults; and

10 (c) \$86,208 and 1.0 FTE for adult protective services training and
11 quality assurance activities.

12 **SECTION 19. Safety clause.** The general assembly hereby finds,
13 determines, and declares that this act is necessary for the immediate
14 preservation of the public peace, health, and safety.