First Regular Session
Seventieth General Assembly
STATE OF COLORADO

ENGROSSED

This Version Includes All Amendments Adopted on Second Reading in the House of Introduction

LLS NO. 15-0732.01 Jerry Barry x4341

SENATE BILL 15-109

SENATE SPONSORSHIP

Grantham, Lambert, Steadman

HOUSE SPONSORSHIP

Young, Hamner, Rankin

Senate Committees
Health & Human Services
Appropriations

House Committees

A BILL FOR AN ACT

CONCERNING THE MANDATORY REPORTING OF MISTREATMENT AGAINST AN ADULT WITH A DISABILITY, AND, IN CONNECTION 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.)

Joint Budget Committee. Under current law, certain persons are required to report to a law enforcement agency if the person observes or has reason to believe that a person 70 years of age or older has been abused or exploited. The bill expands this requirement to also cover a person with a disability who is 18 years of age or older.

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
Amended 2nd Reading
April 14, 2015

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

SECTION 1. In Colorado Revised Statutes, 18-6.5-102, **add** (2.5) as follows:

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

(2.5) "AT-RISK ADULT WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY" MEANS A PERSON WHO IS EIGHTEEN YEARS OF AGE OR OLDER AND IS A PERSON WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY, AS DEFINED IN SECTION 25.5-10-202 (26) (a), C.R.S.

SECTION 2. In Colorado Revised Statutes, 18-6.5-108, **amend** (1) (a), (1) (b) (IX), (1) (b) (XVI), (1) (d), (2), (3), (4), and (5) as follows:

18-6.5-108. Mandatory reports of abuse and exploitation of at-risk adults - list of reporters - penalties. (1) (a) On and after ~~July 1, 2014~~ JULY 1, 2015, a person specified in paragraph (b) of this subsection (1) who observes the abuse or exploitation of an at-risk elder OR AN AT-RISK ADULT WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY, or who has reasonable cause to believe that an at-risk elder OR AN AT-RISK ADULT WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY has been abused or has been exploited or is at imminent risk of abuse or exploitation, shall report such fact to a law enforcement agency not more than twenty-four hours after making the observation or discovery.

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

(IX) Clergy members; except that the reporting requirement

described in paragraph (a) of this subsection (1) shall not apply to a person who acquires reasonable cause to believe that an at-risk elder OR AN AT-RISK ADULT WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY has been mistreated or has been exploited or is at imminent risk of mistreatment or exploitation during a communication about which the person may not be examined as a witness pursuant to section 13-90-107 (1) (c), C.R.S., unless the person also acquires such reasonable cause from a source other than such a communication;

(XVI) Personnel of banks, savings and loan associations, credit unions, and other lending or financial institutions; EXCEPT THAT THE REPORTING REQUIREMENT DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (1) ONLY APPLIES TO A PERSON DESCRIBED IN THIS SUBPARAGRAPH (XVI) WHO DIRECTLY OBSERVES IN PERSON THE ABUSE OR EXPLOITATION OF AN AT-RISK ELDER OR AN AT-RISK ADULT WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY OR WHO HAS REASONABLE CAUSE TO BELIEVE THAT AN AT-RISK ELDER OR AN AT-RISK ADULT WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY HAS BEEN ABUSED OR HAS BEEN EXPLOITED OR IS AT IMMINENT RISK OF ABUSE OR EXPLOITATION BY REASON OF ACTUAL KNOWLEDGE OF FACTS OR CIRCUMSTANCES INDICATING THE ABUSE OR EXPLOITATION;

(d) Notwithstanding the provisions of paragraph (a) of this subsection (1), a person described in paragraph (b) of this subsection (1) is not required to report the abuse or exploitation of an at-risk elder OR AN AT-RISK ADULT WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY if the person knows that another person has already reported to a law enforcement agency the same abuse or exploitation that would have been the basis of the person's own report.

(2) (a) A law enforcement agency that receives a report of abuse or exploitation of an at-risk elder OR AN AT-RISK ADULT WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY shall acquire, to the extent possible, the following information from the person making the report:

(I) The name, age, address, and contact information of the at-risk elder OR AT-RISK ADULT WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY;

(II) The name, age, address, and contact information of the person making the report;

(III) The name, age, address, and contact information of the CARETAKER OF THE at-risk ~~elder's caretaker~~ ELDER OR AT-RISK ADULT WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY, if any;

(IV) The name of the alleged perpetrator;

(V) The nature and extent of ANY INJURY, WHETHER PHYSICAL OR FINANCIAL, TO the at-risk ~~elder's injury, whether physical or financial, if any;~~ ELDER OR AT-RISK ADULT WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY;

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

(VII) Any other pertinent information.

(b) Not more than twenty-four hours after receiving a report of abuse or exploitation of an at-risk elder OR AN AT-RISK ADULT WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY, a law enforcement agency shall provide a notification of the report to the county department ~~of~~ FOR THE COUNTY IN WHICH the at-risk ~~elder's residence~~ ELDER OR AT-RISK ADULT WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY

RESIDES and the district attorney's office of the location where the abuse or exploitation occurred.

(c) The law enforcement agency shall complete a criminal investigation when appropriate. The law enforcement agency shall provide a summary report of the investigation to the county department ~~of~~ FOR THE COUNTY IN WHICH the at-risk ~~elder's residence~~ ELDER OR AT-RISK ADULT WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY RESIDES and to the district attorney's office of the location where the abuse or exploitation occurred.

(3) A person, including but not limited to a person specified in paragraph (b) of subsection (1) of this section, who reports abuse or exploitation of an at-risk elder OR AN AT-RISK ADULT WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY to a law enforcement agency pursuant to subsection (1) of this section is immune from suit and liability for damages in any civil action or criminal prosecution if the report was made in good faith; except that such a person is not immune if he or she is the alleged perpetrator of the abuse or exploitation.

(4) A person, including but not limited to a person specified in paragraph (b) of subsection (1) of this section, who knowingly makes a false report of abuse or exploitation of an at-risk elder OR AN AT-RISK ADULT WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY to a law enforcement agency commits a class 3 misdemeanor and ~~shall~~ MUST be punished as provided in section 18-1.3-501 and ~~shall be~~ IS liable for damages proximately caused thereby.

(5) The reporting duty described in subsection (1) of this section ~~shall not be interpreted as creating~~ DOES NOT CREATE a civil duty of care or establishing a civil standard of care that is owed to an at-risk elder OR

AN AT-RISK ADULT WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY by a person specified in paragraph (b) of subsection (1) of this section.

SECTION 3. In Colorado Revised Statutes, 26-3.1-102, **amend** (1) (a.5) as follows:

26-3.1-102. Reporting requirements. (1) (a.5) As required by section 18-6.5-108, C.R.S., certain persons specified in paragraph (b) of this subsection (1) who observe the abuse or exploitation, AS DEFINED IN SECTION 18-6.5-102 (1) AND (10), C.R.S., of an at-risk elder, as defined in section ~~18-6.5-102 (1) and (10)~~ 18-6.5-102 (3), C.R.S., OR AN AT-RISK ADULT WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY, AS DEFINED IN SECTION 18-6.5-102 (2.5), C.R.S., or who have reasonable cause to believe that an at-risk elder OR AN AT-RISK ADULT WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY has been abused or exploited or is at imminent risk of abuse or exploitation shall report such fact to a law enforcement agency not more than twenty-four hours after making the observation or discovery.

SECTION 4. Appropriation. For the 2015-16 state fiscal year, $111,444 is appropriated to the department of human services for use by the adult assistance programs. This appropriation consists of $89,155 from the general fund and $22,289 from the local funds. To implement this act, the adult assistance programs may use this appropriation for adult protective services.

SECTION 5. Effective date - applicability. This act takes effect July 1, 2015, and applies to offenses committed on or after said date.

SECTION 6. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.