

An Act

HOUSE BILL 16-1394

BY REPRESENTATIVE(S) Young, Esgar, Ginal, Hamner, Kraft-Tharp, Lontine, Melton, Pettersen, Primavera, Ryden, Vigil, Lebsock, Mitsch Bush, Singer;
also SENATOR(S) Grantham, Aguilar, Crowder, Hill, Kefalas, Kerr, Merrifield, Newell, Todd.

CONCERNING CLARIFYING DEFINITIONS RELATED TO AT-RISK PERSONS.

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

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

18-6.5-101. Legislative declaration. The general assembly recognizes that fear of mistreatment is one of the major personal concerns of ~~at-risk adults and at-risk juveniles~~ PERSONS and that ~~at-risk adults and at-risk juveniles~~ PERSONS are more vulnerable to and disproportionately damaged by crime in general but, more specifically, by abuse, exploitation, and neglect because they are less able to protect themselves against offenders, a number of whom are in positions of trust, and because they are more likely to receive serious injury from crimes committed against them and not to fully recover from such injury. ~~At-risk adults and at-risk juveniles~~ PERSONS are more impacted by crime than the general population

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

because they tend to suffer great relative deprivation, financially, physically, and psychologically, as a result of the abuses against them. A significant number of ~~at-risk adults and at-risk juveniles~~ PERSONS are not as physically, INTELLECTUALLY, or emotionally equipped to protect themselves or aid in their own security as ~~non-at-risk adults and non-at-risk juveniles~~ PERSONS in society. They are far more susceptible than the general population to the adverse long-term effects of crimes committed against them, including abuse, exploitation, and neglect. The general assembly therefore finds that penalties for specified crimes committed against ~~at-risk adults and at-risk juveniles~~ PERSONS should be more severe than the penalties for the commission of ~~said~~ THE SAME crimes against other members of society.

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

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

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

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

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

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

~~(d) Caretaker neglect; and~~

~~(e) Exploitation;~~

(2.5) "At-risk adult with an ~~intellectual and developmental disability~~ IDD" 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.

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

(5) "Caretaker" means a person who:

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

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

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

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

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

(c) As used in this subsection (6), "medical directive or order" includes ~~but is not limited to~~ a medical durable power of attorney, a declaration as to medical treatment executed pursuant to section 15-18-104, C.R.S., a medical order for scope of treatment form executed pursuant to article 18.7 of title 15, C.R.S., and a CPR directive executed pursuant to article 18.6 of title 15, C.R.S.

(9) "Crime against an ~~at-risk adult or at-risk juvenile~~ PERSON"

means any offense listed in section 18-6.5-103 or criminal attempt, conspiracy, or solicitation to commit any of those offenses.

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

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

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

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

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

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

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

(a) ABUSE;

(b) CARETAKER NEGLECT; OR

(c) EXPLOITATION.

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

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

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

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

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

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

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

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

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

(b) Any person who commits a crime of assault in the second degree, as such crime is described in section 18-3-203, and the victim is an at-risk adult or an at-risk juvenile PERSON, commits a class 5 felony if the circumstances described in section 18-3-203 (2) (a) are present and a class 3 felony if such circumstances are not present.

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

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

(5) Any person who commits theft, and commits any element or portion of the offense in the presence of the victim, as such crime is

described in section 18-4-401 (1), and the victim is an at-risk adult or an at-risk juvenile PERSON, or who commits theft against an at-risk adult or an at-risk juvenile PERSON while acting in a position of trust, whether or not in the presence of the victim, OR WHO COMMITS THEFT AGAINST AN AT-RISK PERSON KNOWING THE VICTIM IS AN AT-RISK PERSON, WHETHER IN THE PRESENCE OF THE VICTIM OR NOT, commits a class 5 felony if the value of the thing involved is less than five hundred dollars or a class 3 felony if the value of the thing involved is five hundred dollars or more. Theft from the person of an at-risk adult or an at-risk juvenile PERSON by means other than the use of force, threat, or intimidation is a class 4 felony without regard to the value of the thing taken.

~~(5.5) A person who commits theft, and commits any element or portion of the offense in the presence of the victim, as such crime is described in section 18-4-401 (1), and the victim is an at-risk elder, or who commits theft against an at-risk elder while acting in a position of trust, whether or not in the presence of the victim, or commits theft against an at-risk elder knowing the victim is an at-risk elder, whether in the presence of the victim or not, commits a class 5 felony if the value of the thing involved is less than five hundred dollars or a class 3 felony if the value of the thing involved is five hundred dollars or more. Theft from the person of an at-risk elder by means other than the use of force, threat, or intimidation is a class 4 felony without regard to the value of the thing taken.~~

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

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

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

PERSON, commits a class 3 felony.

(c) Any person who commits unlawful sexual contact, as such crime is described in section 18-3-404, or sexual assault in the third degree, as such crime was described in section 18-3-404, as it existed prior to July 1, 2000, and the victim is an at-risk ~~adult or an at-risk juvenile~~ PERSON, commits a class 6 felony; except that the person commits a class 3 felony if the person compels the victim to submit by use of such force, intimidation, or threat as specified in section 18-3-402 (4) (a), (4) (b), or (4) (c), or if the actor engages in the conduct described in section 18-3-404 (1) (g) or (1.5).

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

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

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

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

(b) Criminal exploitation of an at-risk ~~elder~~ PERSON is a class 3 felony if the thing of value is five hundred dollars or greater. Criminal exploitation of an at-risk ~~elder~~ PERSON is a class 5 felony if the thing of value is less than five hundred dollars.

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

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

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

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

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

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

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

(3) If an at-risk adult ~~or an at-risk juvenile~~ PERSON has sustained monetary damages as a result of the commission of a crime described in this article against such adult ~~or juvenile~~ PERSON, the court shall order the offender to provide restitution pursuant to article 18.5 of title 16 and article 28 of title 17, C.R.S. If, after a reasonable period not to exceed one hundred eighty-two days, the offender has not, in the opinion of the court, completed adequate restitution, the offender's probation may be revoked.

However, any remaining amount of restitution ~~shall continue~~ CONTINUES to have the full force and effect of a final judgment and remain enforceable pursuant to article 18.5 of title 16, C.R.S.

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

18-6.5-107. Surcharge - collection and distribution of funds - crimes against at-risk persons surcharge fund - creation - report.
(1) Each person who is convicted of a crime against an at-risk ~~adult or at-risk juvenile~~ PERSON or who is convicted of identity theft pursuant to section 18-5-902, when the victim is an at-risk ~~adult or at-risk juvenile~~ PERSON, shall be required to pay a surcharge to the clerk of the court for the judicial district in which the conviction occurs.

(4) (a) There is ~~hereby~~ created in the state treasury the crimes against at-risk persons surcharge fund, referred to in this section as the "fund", that consists of ~~moneys~~ MONEY received by the state treasurer pursuant to this section. The ~~moneys~~ MONEY in the fund ~~shall be~~ IS subject to annual appropriation by the general assembly to the state office on aging in the department of human services, created pursuant to section 26-11-202, C.R.S., for distribution to a fiscal agent that is an affiliate of a national organization that serves individuals affected by a disability and chronic condition across the life span and is working with the state of Colorado to implement the lifespan respite care program, referred to in this section as the "fiscal agent". Provided that programs selected to receive ~~moneys~~ MONEY from the fund meet the guidelines for distribution pursuant to paragraph (b) of this subsection (4), the fiscal agent shall award ~~moneys~~ MONEY to programs selected by a statewide coalition of nonprofit or not-for-profit organizations that focus on the needs of caregivers of at-risk ~~adults or at-risk juveniles~~ PERSONS.

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

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

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

18-6.5-108. Mandatory reports of mistreatment of at-risk elders and at-risk adults with IDD - list of reporters - penalties. (1) (a) On and after July 1, 2016, a person specified in paragraph (b) of this subsection (1) who observes the ~~abuse or exploitation~~ MISTREATMENT of an at-risk elder or an at-risk adult with an ~~intellectual and developmental disability~~ IDD, or who has reasonable cause to believe that an at-risk elder or an at-risk adult with an ~~intellectual and developmental disability~~ IDD has been ~~abused or has been exploited~~ MISTREATED or is at imminent risk of ~~abuse or exploitation~~ MISTREATMENT, 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):

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

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

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

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

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

~~(VI) Chiropractors~~ VETERINARIANS;

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

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

~~(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~~ STAFF OF COMMUNITY-CENTERED BOARDS;

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

~~(XI) Law enforcement officials and personnel~~ STAFF OR CONSULTANTS FOR A LICENSED OR UNLICENSED, CERTIFIED OR UNCERTIFIED, CARE FACILITY, AGENCY, HOME, OR GOVERNING BOARD, INCLUDING BUT NOT LIMITED TO LONG-TERM CARE FACILITIES, HOME CARE AGENCIES, OR HOME HEALTH PROVIDERS;

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

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

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

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

~~(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 adult with an intellectual and developmental disability or who has reasonable cause to believe that 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~~ STAFF OF SENIOR CONGREGATE CENTERS OR SENIOR RESEARCH OR OUTREACH ORGANIZATIONS;

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

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

(XIX) COURT-APPOINTED GUARDIANS AND CONSERVATORS;

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

(XXI) CLERGY MEMBERS; EXCEPT THAT THE REPORTING REQUIREMENT DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (1) DOES NOT APPLY TO A PERSON WHO ACQUIRES REASONABLE CAUSE TO BELIEVE THAT AN AT-RISK ELDER OR AN AT-RISK ADULT WITH IDD 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; AND

(XXII) (A) PERSONNEL OF BANKS, SAVINGS AND LOAN ASSOCIATIONS, CREDIT UNIONS, AND OTHER LENDING OR FINANCIAL INSTITUTIONS WHO DIRECTLY OBSERVE IN PERSON THE MISTREATMENT OF AN AT-RISK ELDER OR WHO HAVE REASONABLE CAUSE TO BELIEVE THAT AN AT-RISK ELDER HAS BEEN MISTREATED OR IS AT IMMINENT RISK OF MISTREATMENT; AND

(B) PERSONNEL OF BANKS, SAVINGS AND LOAN ASSOCIATIONS, CREDIT UNIONS, AND OTHER LENDING OR FINANCIAL INSTITUTIONS WHO DIRECTLY OBSERVE IN PERSON THE MISTREATMENT OF AN AT-RISK ADULT WITH IDD OR WHO HAVE REASONABLE CAUSE TO BELIEVE THAT AN AT-RISK ADULT WITH IDD HAS BEEN MISTREATED OR IS AT IMMINENT RISK OF MISTREATMENT BY REASON OF ACTUAL KNOWLEDGE OF FACTS OR CIRCUMSTANCES INDICATING THE MISTREATMENT.

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

(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~~ MISTREATMENT of an at-risk elder or an at-risk adult with ~~an intellectual and developmental disability~~ IDD if the person knows that another person has already reported to a law enforcement agency the same ~~abuse or exploitation~~ MISTREATMENT 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~~ MISTREATMENT of an at-risk elder or an at-risk adult with ~~an intellectual and developmental disability~~ IDD 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~~ IDD;

(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 or at-risk adult with ~~an intellectual and developmental disability~~ IDD, 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 or at-risk adult with ~~an intellectual and developmental disability~~ IDD;

(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~~ MISTREATMENT of an at-risk elder or an at-risk adult with ~~an intellectual and developmental disability~~ IDD, a law enforcement agency shall provide ~~a notification of~~ the report to the county department for the county in which the at-risk elder or at-risk adult with ~~an intellectual and developmental disability~~ IDD resides and the district attorney's office of the location where the ~~abuse or exploitation~~ MISTREATMENT 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 for the county in which the at-risk elder or at-risk adult with ~~an intellectual and developmental disability~~ IDD resides and to the district attorney's office of the location where the ~~abuse or exploitation~~ MISTREATMENT 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~~ MISTREATMENT of an at-risk elder or an at-risk adult with ~~an intellectual and developmental disability~~ IDD 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~~ MISTREATMENT.

(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~~ MISTREATMENT of an at-risk elder or an at-risk adult with ~~an intellectual and developmental disability~~ IDD to a law enforcement agency commits a class 3 misdemeanor and must be punished as provided in section 18-1.3-501 and is liable for damages proximately caused thereby.

(5) The reporting duty described in subsection (1) of this section 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~~ IDD by a person specified in paragraph (b) of subsection (1) of this section.

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

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

(1) ~~"At-risk adult" means an individual eighteen years of age or older who is susceptible to mistreatment OR 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 make or communicate responsible decisions concerning his or her person or affairs.~~ "ABUSE" MEANS ANY OF THE FOLLOWING ACTS OR OMISSIONS COMMITTED AGAINST AN AT-RISK ADULT:

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

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

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

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

(1.5) "AT-RISK ADULT" MEANS AN INDIVIDUAL EIGHTEEN YEARS OF AGE OR OLDER WHO IS SUSCEPTIBLE TO MISTREATMENT OR SELF-NEGLECT 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 MAKE OR COMMUNICATE RESPONSIBLE DECISIONS CONCERNING HIS OR HER PERSON OR AFFAIRS.

(2) "Caretaker" means a person who:

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

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

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

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

(b) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (2.3), the withholding, withdrawing, or refusing of any MEDICATION, ANY MEDICAL PROCEDURE OR DEVICE, OR ANY treatment, including but not limited to resuscitation, cardiac pacing, mechanical

ventilation, dialysis, artificial nutrition and hydration, any medication or medical procedure or device, in accordance with any valid medical directive or order, or as described in a palliative plan of care, shall not be IS NOT deemed caretaker neglect.

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

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

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

(a) Uses deception, harassment, intimidation, or undue influence to permanently or temporarily deprive an at-risk adult of the use, benefit, or possession of ~~his or her money, assets, or property~~ ANY THING OF VALUE;

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

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

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

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

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

(a) Abuse; that occurs:

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

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

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

(b) Caretaker neglect;

(c) ~~(Deleted by amendment, L. 2012.)~~ EXPLOITATION;

(d) AN ACT OR OMISSION THAT THREATENS THE HEALTH, SAFETY, OR WELFARE OF AN AT-RISK ADULT; OR

(e) AN ACT OR OMISSION THAT EXPOSES AN AT-RISK ADULT TO A SITUATION OR CONDITION THAT POSES AN IMMINENT RISK OF BODILY INJURY TO THE AT-RISK ADULT.

(11) "UNDUE INFLUENCE" MEANS THE USE OF INFLUENCE TO TAKE ADVANTAGE OF AN AT-RISK ADULT'S VULNERABLE STATE OF MIND, NEEDINESS, PAIN, OR EMOTIONAL DISTRESS.

SECTION 10. In Colorado Revised Statutes, 26-3.1-102, amend (1) (a), (1) (b), (1) (c), (2) introductory portion, (2) (e), (4), (6), (7) (a), (7) (b) introductory portion, and (7) (b) (II); and **amend as it will become effective July 1, 2016**, (1) (a.5) as follows:

26-3.1-102. Reporting requirements. (1) (a) A person specified in paragraph (b) of this subsection (1) who observes the mistreatment OR self-neglect or exploitation of an at-risk adult or who has reasonable cause to believe that an at-risk adult has been mistreated OR is self-neglected or has been exploited SELF-NEGLECTING and is at imminent risk of mistreatment or self-neglect or exploitation is urged to report such fact to a county department not more than twenty-four hours after making the

observation or discovery.

(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);~~ MISTREATMENT, AS DEFINED IN SECTION 18-6.5-102 (10.5), C.R.S., of an at-risk elder, as defined in section 18-6.5-102 (3), C.R.S., or an at-risk adult with an ~~intellectual and developmental disability~~ IDD, 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~~ IDD has been ~~abused or exploited~~ MISTREATED or is at imminent risk of ~~abuse or exploitation~~ MISTREATMENT 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, are urged to report as described in paragraph (a) of this subsection (1):

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

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

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

(IV) ~~Emergency medical service providers~~ CODE ENFORCEMENT OFFICERS;

~~(V) Hospital and long-term care facility personnel engaged in the admission, care, or treatment of patients~~ MEDICAL EXAMINERS AND CORONERS;

(VI) ~~Chiropractors~~ VETERINARIANS;

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

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

(IX) ~~Clergy members~~ STAFF OF COMMUNITY-CENTERED BOARDS;

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

(XI) ~~Law enforcement officials and personnel~~ STAFF OR CONSULTANTS FOR A LICENSED OR UNLICENSED, CERTIFIED OR UNCERTIFIED, CARE FACILITY, AGENCY, HOME, OR GOVERNING BOARD, INCLUDING BUT NOT LIMITED TO LONG-TERM CARE FACILITIES, HOME CARE AGENCIES, OR HOME HEALTH PROVIDERS;

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

(XIII) ~~Fire protection personnel~~ PERSONS PERFORMING CASE MANAGEMENT OR ASSISTANT SERVICES FOR AT-RISK ADULTS;

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

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

(XVI) ~~Personnel of banks, savings and loan associations, credit~~

~~unions, and other lending or financial institutions~~ STAFF OF SENIOR CONGREGATE CENTERS OR SENIOR RESEARCH OR OUTREACH ORGANIZATIONS;

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

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

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

(XX) COURT-APPOINTED GUARDIANS AND CONSERVATORS;

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

(XXII) CLERGY MEMBERS; EXCEPT THAT THE REPORTING REQUIREMENT DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (1) DOES NOT APPLY TO A PERSON WHO ACQUIRES REASONABLE CAUSE TO BELIEVE THAT AN AT-RISK ADULT 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; AND

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

(c) In addition to those persons urged by this subsection (1) to report known or suspected mistreatment OR self-neglect or exploitation of

an at-risk adult and circumstances or conditions that might reasonably result in mistreatment OR self-neglect, ~~or exploitation~~; any other person may report such known or suspected mistreatment OR self-neglect ~~or exploitation~~ and circumstances or conditions that might reasonably result in mistreatment OR self-neglect ~~or exploitation~~ of an at-risk adult to the local law enforcement agency or the county department. Upon receipt of such report, the receiving agency shall prepare a written report within forty-eight hours.

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

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

(4) ~~No~~ A person, including a person specified in subsection (1) of this section, shall NOT knowingly make a false report of mistreatment OR self-neglect ~~or exploitation~~ to a county department or local law enforcement agency. Any person who willfully violates the provisions of this subsection (4) commits a class 3 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S., and shall be liable for damages proximately caused thereby.

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

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

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

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

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

26-3.1-103. Evaluations - investigations - rules. (1) The agency receiving a report of mistreatment OR self-neglect ~~or exploitation~~ of an at-risk adult shall immediately make a thorough evaluation of the reported level of risk. The immediate concern of the evaluation ~~shall be~~ IS the protection of the at-risk adult. The evaluation, at a minimum, ~~shall~~ MUST include a determination of a response time frame and whether an investigation of the allegations is required. If a county department determines that an investigation is required, the county department ~~shall arrange for an investigation and~~ IS RESPONSIBLE FOR ENSURING AN INVESTIGATION IS CONDUCTED AND ARRANGING FOR THE subsequent provision of protective services to be conducted by persons trained to conduct such investigations and provide protective services.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1.6) "CARETAKER" MEANS A PERSON WHO:

(a) IS RESPONSIBLE FOR THE CARE OF A PERSON WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY AS A RESULT OF A FAMILY

OR LEGAL RELATIONSHIP;

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

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

(1.8) (a) "CARETAKER NEGLECT" MEANS NEGLECT THAT OCCURS WHEN ADEQUATE FOOD, CLOTHING, SHELTER, PSYCHOLOGICAL CARE, PHYSICAL CARE, MEDICAL CARE, HABILITATION, SUPERVISION, OR OTHER TREATMENT NECESSARY FOR THE HEALTH AND SAFETY OF A PERSON WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY IS NOT SECURED FOR A PERSON WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY OR IS NOT PROVIDED BY A CARETAKER IN A TIMELY MANNER AND WITH THE DEGREE OF CARE THAT A REASONABLE PERSON IN THE SAME SITUATION WOULD EXERCISE, OR A CARETAKER KNOWINGLY USES HARASSMENT, UNDUE INFLUENCE, OR INTIMIDATION TO CREATE A HOSTILE OR FEARFUL ENVIRONMENT FOR AN AT-RISK ADULT WITH IDD.

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

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

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

(a) USES DECEPTION, HARASSMENT, INTIMIDATION, OR UNDUE INFLUENCE TO PERMANENTLY OR TEMPORARILY DEPRIVE A PERSON WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY OF THE USE, BENEFIT, OR POSSESSION OF ANY THING OF VALUE;

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

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

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

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

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

(a) ABUSE;

(b) CARETAKER NEGLECT;

(c) EXPLOITATION;

(d) AN ACT OR OMISSION THAT THREATENS THE HEALTH, SAFETY, OR WELFARE OF A PERSON WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY; OR

(e) AN ACT OR OMISSION THAT EXPOSES A PERSON WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY TO A SITUATION OR CONDITION THAT POSES AN IMMINENT RISK OF BODILY INJURY TO THE PERSON WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY.

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

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

SECTION 16. 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.



Dickey Lee Hullinghorst
SPEAKER OF THE HOUSE
OF REPRESENTATIVES



Bill L. Cadman
PRESIDENT OF
THE SENATE

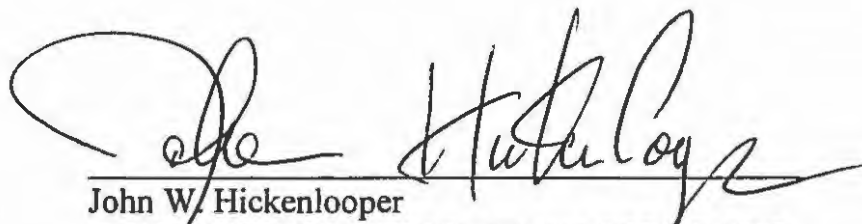


Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES



Effie Ameen
SECRETARY OF
THE SENATE

APPROVED 10:17 am 5/18/16



John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO