

# STATE OF COLORADO



**Colorado Department of Human Services**

*people who help people*

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John W. Hickenlooper  
Governor

Reggie Bicha  
Executive Director

November 29, 2012

Senator Betty Boyd, Chair  
Senate Health and Human Services Committee  
200 E. Colfax  
Denver, CO 80203

Representative Ken Summers, Chair  
House Health and Environment Committee  
200 E. Colfax  
Denver, CO 80203

Dear Senator Boyd and Representative Summers,

In accordance with Senate Bill 12-078, the Elder Abuse Task Force was mandated to conduct a thorough review of existing research and deliverables, and complete a final report by December 1, 2012. Through this work, the Task Force concluded that mandatory reporting will identify elders who are being mistreated, deter non-reporters and perpetrators, and assist law enforcement and prosecutors.

David Blake, Deputy Attorney General, and Joscelyn Gay, Director of the Office of Long Term Care, co-chaired biweekly Elder Abuse Task Force meetings. The Task Force was made up of stakeholders from throughout the state, and all of the meetings were open to the public and public comment was solicited at each meeting.

This report summarizes the Task Force's recommendations. The key recommendations made by the Task Force are summarized in the Executive Summary, and described fully in the report.

If you have any questions regarding the information in this report, please contact Joscelyn Gay at 303-866-2806 or [Joscelyn.Gay@state.co.us](mailto:Joscelyn.Gay@state.co.us).

Sincerely,

A handwritten signature in black ink that reads 'Reggie Bicha'. The signature is written in a cursive, flowing style.

Reggie Bicha  
Executive Director

Senator Betty Boyd  
Representative Ken Summers  
November 29, 2012  
Page 2

CC: David Blake, Deputy Attorney General  
Senator Linda Newell, Vice-Chair  
Senator Irene Aguilar  
Senator Joyce Foster  
Senator Kevin Lundberg  
Senator Jeanne Nicholson  
Senator Shawn Mitchell  
Senator Ellen Roberts  
Senator Jean White  
Senator Evie Hudak.  
Representative Cindy Acree, Vice-Chair  
Representative Laura Bradford  
Representative J. Paul Brown  
Representative Rhonda Fields  
Representative Janak Joshi  
Representative John Kefalas  
Representative James Kerr  
Representative Tom Massey  
Representative Beth McCann  
Representative Cheryl Peniston  
Representative Sue Schafer  
Representative Dave Young

**S.B. 12-078**  
**Elder Abuse Task Force**  
**Policy Decisions**

**November 30, 2012**

Table of Contents	Page
I. Elder Abuse Task Force Members	p. 4
II. Letter from Task Force co-chairs	p. 5
III. Executive Summary	p. 6
IV. Final Report	
a. Introduction	p. 9
I. The Current System of Reporting Mistreatment and Self-Neglect	
b. Requirements and recommendations of S.B.12-078	p. 12
I. How to require certain persons to report known or suspected mistreatment or exploitation of at-risk elder adults?	p. 12
A. At-Risk Elders	
B. Location of Mandatory Reporting in Statute	
C. Mandatory Reporters	
D. Criminal Penalties	
E. Immunity	
F. Investigations	
II. Concerning the provision of protective services by county departments to at-risk elder adults who are mistreated or exploited.	p. 25
A. No Definitive Way to Determine the Impact of Mandatory Reporting	
B. Unsustainable Caseload per Worker	
C. Additional Safety Net Resources	
D. Public Guardianship/Conservatorship	
E. Financial Exploitation	
III. What is the minimum age an individual should be considered an at-risk elder adult?	p. 33
IV. What is the estimated cost, including workload impacts, to be incurred by county departments and law enforcement agencies of the state as a result of mandatory reporting?	p. 33
V. Identify sustainable sources of funding, including but not limited to new revenues that may be used to offset the costs to be incurred by the state department, county departments, and law enforcement agencies of the state as a result of mandatory reporting.	p. 35
VI. What training is needed by state and county employees to use outcome-based best practices in the provision of protective services to at-risk elder adults?	p. 39



A. State-Sponsored Training	
B. Quality Assurance and Program Integrity	
C. Law Enforcement	
D. Community Education and Mandated Reporters	
VII. Are existing criminal penalties adequate for offences against at-risk adults as described in Title 18, Article 6.5?	p. 44
VIII. Should the definition of “at-risk adult” in Section 26-3.1-101 C.R.S. be reconciled with the definition of “at-risk adult” in Section 18-6.5-102 (1), C.R.S.?	p. 46
c. Conclusion	p. 46

## Appendices

Appendix 1	Colorado Demographics	p. 48
Appendix 2	Adult Protective Services vs. Child Protective Services	p. 61
Appendix 3	Can Bank Tellers Tell? – Legal Issues Relating to Banks Reporting Financial Abuse of the Elderly	p. 62
Appendix 4	Cumulative Elder Financial Abuse Statutes Comparison	p. 107
Appendix 5	Additional Mandatory Reporters (Clergy, Volunteers, etc.)	p. 113
Appendix 6	CBA’s Minority Report Regarding Task Force Recommendations for Mandatory Reporting Requirements	p. 116
Appendix 7	IBC’s Letter Regarding Elder Task Force Policy Decisions	p. 118
Appendix 8	Minority Report on the Recommendations of SB 78 Task Force Regarding Mandatory Reporting for Licensed Entity Caregivers	p. 120
Appendix 9	Minority Report on the Recommendation of Misdemeanor 3 Penalty for Not Reporting	p. 133
Appendix 10	April 24, 2012 Fiscal Note	p. 135
Appendix 11	Impact of Mandatory Reporting in Other States	p. 140
Appendix 12	Options for Purchasing or Developing a New Data System for Adult Protective Services (APS)	p. 142
Appendix 13	County APS Supervisor’s Survey Results	p. 152
Appendix 14	CCP’s Letter to SB12-78 Task Force	p. 153
Appendix 15	Department of Health Care Policy and Financing’s Sample Advertising Costs	p. 155
Appendix 16	June 27, 2012 Meeting Materials	p. 156
Appendix 17	July 11, 2012 Meeting Materials	p. 226
Appendix 18	July 25, 2012 Meeting Materials	p. 317
Appendix 19	August 8, 2012 Meeting Materials	p. 336
Appendix 20	August 22, 2012 Meeting Materials	p. 382
Appendix 21	September 12, 2012 Meeting Materials	p. 401
Appendix 22	September 26, 2012 Meeting Materials	p. 441
Appendix 23	October 10, 2012 Meeting Materials	p. 453
Appendix 24	October 24, 2012 Meeting Materials	p. 463
Appendix 25	October 31, 2012 Meeting Materials	p. 467
Appendix 26	Finance Subcommittee Documents	p. 478

Elder Abuse Task Force Members

Co-Chair David Blake	Deputy Attorney General	Colorado Attorney General's Office
Co-Chair Joscelyn Gay	Director for the Office of Long Term Care	Colorado Department of Human Services
Vickie Clark	Director	Routt County Department of Human Services
Tammy Conover	Attorney	Steenrod, Schwartz and McMinimee Law Firm
Sterling Harris	Chief Deputy Director	Colorado Organization for Victim Assistance
Anne Kerr	Social Worker	Exempla Luthern Hospice – Collier Hospice Center
Arlene Miles	President and CEO	Colorado Health Care Association
Mary Catherine Rabbitt	Attorney	Legal Center for People with Disabilities and Older People
Jerri Schomaker	Owner	Home Instead Senior Care of Colorado Springs
Scott Storey	District Attorney	First Judicial District
Nancy Sharpe	Commissioner	Arapahoe County
Amy Nofziger	Director	AARP Foundation
Darla Stuart	Executive Director	Arc of Aurora
Jenifer Waller	Sr. Vice President	Colorado Bankers Association
Dr. Herb Jacobs	Representative	Colorado Medical Society
Dr. Rebecca Paskind	Associate Professor	NASW Colorado
Heidi Prentup	Commander	Boulder County Sheriff's Office

Rep. Mark Ferrandino  
Speaker, House of Representatives

Sen. John Morse  
President, Senate

Rep. Mark Waller  
Minority Leader, House of Representatives

Sen. Bill Cadman  
Minority Leader, Senate

Rep. Beth McCann  
House Committee on Health  
and the Environment

Sen. Irene Aguilar  
Senate Committee on Health  
and Human Services

**RE: Recommendations of the S.B. 12-078 Elder Abuse Task Force**

Dear Members of the Colorado General Assembly:

On behalf of the seventeen members of the Elder Abuse Task Force, please find attached to this letter the final report on the best approaches to implementing a complete system of reporting of mistreatment and exploitation of at-risk elders and related necessary statutory changes.

The Task Force and numerous volunteers worked diligently over the summer, meeting more than eight times and creating multiple specialized teams. Task Force participants reviewed thousands of pages of materials and engaged in vigorous debate.

The Task Force uniformly endorses the passage of mandatory reporting for at-risk elders 70 and older. The state must, however, commit adequate resources to allow for a sustainable Adult Protective Services system at the time of implementing mandatory reporting.

We look forward to working with the members of the 69<sup>th</sup> General Assembly on successful passage of bi-partisan legislation to implement the Task Force recommendations. We stand ready to assist you in every way we can.

Sincerely,



Joscelyn Gay  
Co-Chair Elder Abuse Task Force



David Blake  
Co-Chair Elder Abuse Task Force

Cc: Senator Evie Hudak, District 19  
Representative Sue Schafer, District 24

## **EXECUTIVE SUMMARY:**

The Elder Abuse Task Force (Task Force), per its mandate, engaged in a thorough review of existing research and vigorously debated the deliverables of S.B. 12-078. The conclusion of the Task Force is that mandatory reporting will identify additional elders in need of help. Too many situations of elder abuse go unreported. A leading study estimates that for every reported case of elder abuse, there are at least five (5) that are not reported. Mandatory reporting is an effective deterrent to non-reporters and perpetrators, and also creates important mechanisms for law enforcement and prosecutors to address the perpetrator's activity.

However, while reports and investigations of alleged mistreatment are important components of an Adult Protective Services (APS) system, meaningful and lasting assistance to elders is hindered when services are lacking. Thus, mandatory reporting alone is inadequate to protect at-risk elders if necessary protective services are not available to actually reduce the risk to the elder. It is the *right* protective services at the *right* time that will help ensure the at-risk elders' safety and well-being, not merely the issuance of a report. Resolution of this problem demands bold leadership from members of the General Assembly.

### Summary of Recommendations:

- Effective January 1, 2014, Colorado should implement mandatory reporting by certain professional groups for persons age 70 and older in instances of physical abuse, sexual abuse, caretaker neglect, and exploitation. Mandatory reporting should be established by creating a new section of statute in Title 18, Article 6.5, C.R.S. of the criminal code.
- Colorado should implement a data system that will accurately measure the impact of mandatory reporting in Colorado and adjust county resources accordingly, rather than relying on data from other states. The Task Force supports the Governor's request for a new data system, as outlined in his November 1, 2012 Budget submission.
- The current county deficit in caseload ratio should be reduced to the recommended standard of 25:1, and an additional 15% increase in reports due to mandatory reporting must be anticipated. Data from the new data system should determine whether additional study of the impact of mandatory reporting is necessary.
- County departments should receive funding to access protective services (i.e. temporary shelter, assistance for utilities or legal guidance, etc.) for elder adults.
- The General Assembly should study the need for and implementation of a public guardianship and conservatorship program. These are important tools to serve individuals in the area of elder abuse; however, the complexity of the topic requires thorough examination and consideration in order to develop balanced and workable recommendations.

- The General Assembly should study and develop specific recommendations for combating financial exploitation.
- The General Assembly should consider certain improvements to the criminal statutes to facilitate criminal prosecutions of alleged perpetrators.
- Legislative Legal Services (LLS) and Joint Budget Committee (JBC) staff should analyze identified sources of funding and determine the best option for an assured and sustainable source of funds for mandatory reporting and overall Adult Protective Services infrastructure.
- Mandatory reporting must be prioritized for funding by the General Assembly and may require offsetting funding for other important programs if a separate source of funding for mandatory reporting cannot be identified.
- Funding for training, education, outreach, and accountability for county and law enforcement staff, mandatory reporters, and the general public.
- Changes to the APS statute (Title 26) and the criminal code (Title 18) as outlined throughout the report should be made by the General Assembly to strengthen and clarify Colorado’s statutory language regarding elder abuse.
- The total funding of \$5,802,848 to support mandatory reporting is detailed in the table below.

<b>Identified Need</b>	<b>First Year Estimated Cost</b>
36 FTE to reduce current county APS caseload to 25:1.	\$2,730,217
22 FTE to maintain county APS caseload at 25:1 with anticipated 15% increase in reports due to mandatory reporting.	\$1,657,631
Funding to provide protective services for clients when no other agency has services available	\$1,000,000
Training, community education, outreach, and accountability.	\$165,000
APS Data System	\$250,000
<b>Total Task Force Recommendation</b>	<b>\$5,802,848</b>

The Task Force is excited and heartened by the Governor's support for the recommendations addressed in this report. In total the Governor's budget request includes \$5.0 million for the Elder Abuse Task Force recommendations, \$2.0 million for the Older Coloradans Program, and \$250,000 for a new APS data system. The allocation of \$5.0 million in the annual budget request and its submission to the General Assembly represents the first step towards a strong infrastructure for adult protection and mandatory reporting in the State of Colorado.

## INTRODUCTION

During the 68<sup>th</sup> General Assembly a great deal of debate occurred on the subject of elder abuse. Some of the most significant motivations and concerns varied from the fact that Colorado is one of only three states<sup>1</sup> that lacks mandatory reporting for a highly susceptible group of our population – elders – to the gross underfunding of the Adult Protective Services (APS) system here in our State. Indeed, outside of licensed entities and caregivers who have state and federal mandatory reporting requirements, there are no statutes mandating other individuals to report elder abuse.

As a result of these discussions, the General Assembly passed Senate Bill S.B.12-078 sponsored by Senator Evie Hudak and Representative Sue Schafer. Through their leadership, legislation passed both houses of the General Assembly and created the Elder Abuse Task Force. Seventeen experts from across the entire spectrum of the elder adult services system and law enforcement were brought together to work through this extremely complex issue and develop recommendations for an approach to implementing a complete system of reporting of mistreatment and exploitation of at-risk elders and related necessary statutory changes. The Task Force members and several additional key support personnel, met in-person eight (8) times in four (4) hour meetings to discuss and largely come to consensus on the recommendations housed in this report. Several Task Force members and support personnel worked many additional hours serving on sub-groups and drafting this report, which is unanimously recommended to you.

The Task Force, per its mandate, engaged in a thorough review of existing research and vigorously debated the deliverables of S.B.12-078. The conclusion of the Task Force is that while reports and investigations of alleged mistreatment are important components of an APS system, meaningful and lasting assistance to elders is hindered when services are lacking. Thus, mandatory reporting alone is inadequate to protect at-risk elders if necessary protective services are not available to actually reduce the risk to the at-risk elder.

Mandatory reporting will identify additional elders in need of help. Too many situations of elder abuse go unreported. A leading study estimates that for every reported case of elder abuse, there are at least five (5) that are not reported.<sup>2</sup> Mandatory reporting is an effective deterrent to non-reporters and perpetrators, and also creates important mechanisms for law enforcement and prosecutors to address the perpetrator's activity. It is the *right* protective services at the *right* time that will help at-risk elders' safety and well-being, not merely the issuance of a report. Resolution of this problem demands bold leadership from members of the General Assembly.

Colorado's total population and elder demographics are steadily increasing. The total population of the state grew 17% from 2000-2010. Colorado's population of persons age 70 years and over is expected to increase 28% by 2017 and 142% by 2032 (Appendix 1: Colorado Demographics). The

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<sup>1</sup> The other two states are New York and North Dakota but there is an ongoing, high-profile effort to pass a mandatory reporting statute in New York.

<sup>2</sup> National Elder Abuse Incidence Study. 1998. Washington, DC: National Center on Elder Abuse at American Public Human Services Association.

Task Force has concluded that Colorado is not prepared for the impact of an increasing elder population, a portion of whom will be victims of physical or sexual abuse, caretaker neglect, or exploitation, including financial exploitation (herein referred to as “mistreatment”), or who are self-neglecting due to an inability to arrange for their own overall health and welfare. Given the inevitable increase in the elder population, Colorado must implement mandatory reporting of elder abuse now, and commit adequate resources to allow for a sustainable APS system at the time of implementation. Delaying the implementation of mandatory reporting will only make addressing this pressing issue more difficult with time.

While the charge of the Task Force was focused on at-risk elders, there is another important category of at-risk adults. Indeed at-risk elders are merely a subset of a much larger population of persons who, due to physical and/or mental impairments, require protection and assistance. As currently defined in the APS statute, an at-risk adult is an individual 18 years of age or older who is susceptible to mistreatment, abuse, neglect, including 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.

The Task Force acknowledges the importance of protecting **all** at-risk adults. The Task Force strongly supports extending additional safeguards to the 18-69 year old population of at-risk adults in the future when fiscal restraints and some conflicting perspectives can be resolved.<sup>3</sup> Indeed, many of the recommendations are equally applicable to all at-risk adults, not just elders. This is a serious issue and should be taken up by the General Assembly. However, the Task Force followed the guidelines in S.B.12-078 and the recommendations from this point forward refer only to individuals age 70 years and older.

## **The Current System of Reporting Mistreatment and Self-Neglect**

The primary purpose of S.B.12-078 was to make recommendations about how, if at all, to replace urged reporting of abuse of at-risk elders with a requirement to report.

The current process involves making reports of mistreatment to either APS or local law enforcement. As mentioned earlier, with the exception of licensed entities and caregivers, Colorado does not mandate individuals to report abuse. The Task Force believes that many instances of abuse go unreported. How many reports are ignored is unknown and cannot be accurately estimated. However, each member of the Task Force can share anecdotes of egregious instances of elder abuse.

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<sup>3</sup> The Task Force strongly urges the legislature to further explore implementing mandatory reporting for individuals over the age of 18 with a disability, as set forth in CRS 18-6.5-102(3), when that disability causes the individual increased susceptibility to becoming a victim of a crime (CRS 18-6.5-103) because the disability impacts the individual’s ability to perform activities necessary for his or her health, safety or welfare or causes the individual to lack sufficient understanding or capacity to make or communicate decisions concerning his or her person or affairs.



A voluntary report to law enforcement or APS alerts each agency to the possibility of mistreatment or self-neglect and requires a response. Allegations are then triaged to determine the appropriate response. Reporting to APS, which includes all at-risk adults, has remained fairly consistent since FY 2008. However, since FY 2008 the number of reports *that require investigation* has increased by 15%. In FY 2011-12, the number of reports made to county APS departments was 11,000. Of the 11,000 reports, more than 6,500 reports required further investigation.

Law enforcement's role is to conduct the criminal investigation and determine whether the case should be sent to the District Attorney for possible prosecution of the alleged perpetrator. A report does not ensure there is a criminal investigation or prosecution of an abuser or restitution for the victim. County APS' role is to investigate allegations and assess the client to determine the client's ongoing needs (physical, environmental, medical, mental, financial, and support system) and identify available services to meet those needs.

When a report comes into APS, county APS personnel screen the report to determine the type of response and the timeframe of the response. Reports that require further investigation are classified as referrals. About 74% of all referrals result in face-to-face contact with the client, creating an open case. The remaining 26% are either resolved without a face-to-face contact or are closed for reasons, such as the person reporting simply needed information and no investigation was necessary. Open cases require a thorough investigation of the allegations and an overall assessment of the client's needs. A case plan is developed, and with consent of the client, services are implemented in coordination with other agencies and community service providers. Initiation of probate proceedings may be necessary if the client's health and safety are at risk and they appear to lack capacity to make responsible decisions.

Law enforcement agencies and the APS system must be equipped to respond in such a way that ensures the client's safety and that crimes are investigated. This means county APS caseworkers, law enforcement officers, and prosecutors must be adequately trained to investigate the reports and provide subsequent protective and judicial services. The investigation determines the necessary services to support the individual after the investigation has concluded.

Safety net services for a victimized individual are often not available when needed, in order to stop or prevent the mistreatment in the short term. For example, if a report identifies an elder is coerced by violence (or threat of violence) to give money or property to a family member, there is a limited network of community-based services and resources to assist the client. Interventions may include removing the offending family member(s) who may be providing household, personal, or other services, or perhaps moving the client to an emergency shelter until a long-term solution can be identified and implemented.

In other words, mandatory reporting by itself will not resolve the issue of elder abuse, or even ensure increased protection of this susceptible population unless commensurate infrastructure improvements on the services side are made.

The Task Force has identified numerous deficiencies in Colorado’s ability to adequately respond to mistreatment of at-risk elders, each of which must be addressed. These deficiencies include but are not limited to:

- General safety net services, such as food, shelter, transportation, and/or medical care;
- Emergency interventions, such as shelter, medications, house cleaning, home repairs/modifications, utilities, and/or food;
- Respite care for caregivers;
- Capacity evaluations, necessary to determine the client’s ability to make informed decisions about their own health and safety;
- Mental health services;
- Services for persons with a developmental disability;
- Safety planning;
- Placements for clients with difficult and/or violent behaviors and/or criminal histories; and
- Funding for Judicial Districts<sup>4</sup> and law enforcement agencies for investigation and prosecution of crimes against elder adults.

Having completed the above discussion and reviewing other data regarding Colorado’s APS system (Appendix 2: Adult Protective Services vs. Child Protective Services), the Task Force’s recommendations are responsive to the S.B.12-078 directive regarding “the implementation of a *complete* system of reporting of mistreatment and exploitation of at-risk elder adults” in Colorado (emphasis added). A complete system of reporting includes recommendations involving the service provision and legal infrastructure needed to ensure that Colorado’s system of mandatory reporting results in the positive outcomes intended by S.B.12-078 for this rapidly growing population.

## **Requirements and Recommendations of S.B.12-078**

### *I. How to require certain persons to report known or suspected mistreatment or exploitation of at-risk elder adults?*

Requiring persons to report elder abuse is a multi-faceted issue. In considering the core deliverable from the General Assembly, the Task Force examined what it meant to be an at-risk elder, which population of elders were most at risk, the types of criminal activity impacting the most vulnerable,

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<sup>4</sup> The Task Force did not include a representative of the Judicial Department.

how to implement any changes in the Colorado Revised Statutes (C.R.S.), who should be mandated to report, and once a report was made, how law enforcement and APS should process a report.

#### **A. At-Risk Elders**

There is unanimous agreement that elder abuse must be reported. At-risk elders can be as vulnerable, albeit in different ways, as abused and neglected children, where reporting is already mandatory. The Task Force believes Colorado should make the prevention and response to elder abuse a state priority. To do this, members of the General Assembly must be prepared to commit adequate and sustainable resources for the Adult Protective Services system at the time mandatory reporting is implemented. Without adequate funding, many Task Force members would not support changing urged reporting to mandatory reporting because they recognize that Colorado does not currently have both the financial and personnel resources to manage the increased number of reports expected as a result of this policy change.

The Task Force determined that elders age 70 years and above are the most vulnerable and most in need of the protections that mandatory reporting would provide. The Task Force examined data and relied heavily on the experience of the First Judicial District's Elder Abuse Unit which reported that 78% of the prosecutions pursued by the Unit involve elders age 70 years and older. Further, roughly 55% of Adult Protective Services clients in FY 2012 were age 70 years or older. This is how the Task Force determined age 70 years and older as the appropriate definition of elder at-risk adults and therefore the population most in need of mandatory reporting.

The Task Force determined that mandatory reporting should be required for incidents of a criminal nature, such as physical abuse, sexual abuse, caretaker neglect, and financial exploitation. Self-neglect, regardless of the age or situation of the at-risk adult, should not be required to be reported because it is not a criminal act. Self-neglect cases are necessarily different from crimes in which an at-risk elder is victimized by a perpetrator. The Task Force is concerned that mandatory reporting for self-neglect could cause older adults and younger persons with disabilities to be reported to APS simply because of lifestyle choices, such as choosing to use alcohol or to live in a messy home, rather than due to an inability to keep themselves safe or because of cognitive capacity concerns. Additionally, S.B.12-078 mandated the Task Force to look at mandatory reporting for "mistreatment and exploitation", which do not include self-neglect.

The Task Force is aware that S.B.12-078 requested recommendations for implementing mandatory reporting by September 1, 2013. However, the Task Force recommends that the implementation date for mandatory reporting be January 1, 2014. The Task Force believes that this is an appropriate date for several reasons:

- January 1, 2014 marks a new budget year for counties and will allow them to build any anticipated costs into their 2014 budgets.

- The State Department will need time to complete a purchasing process for a new APS data system and have that system configured for Colorado. Additional time will be necessary for the State to train APS workers on the system.
- The State Department will need time to implement a statewide outreach campaign to mandatory reporters informing them of the new reporting requirements.
- County departments will need time to hire and train additional caseworkers.
- Law enforcement will need time to establish processes to implement mandatory reporting and to train dispatchers and other law enforcement personnel.
- District Attorneys will need time to establish processes within their offices to implement mandatory reporting and resultant criminal arrests.
- One of the more viable sources of potential funding, savings from the Old Age Pension program, will not be available until FY 2014 (see page 38 for details).

The Task Force understands that ultimately the General Assembly will determine the implementation date for mandatory reporting but strongly recommends that implementation occur no sooner than six (6) months after the passage of mandatory reporting legislation.

## **B. Location of Mandatory Reporting in Statute**

The Task Force discussed at length the question of where the mandatory reporting provisions should be located within existing statute. However, in order to make an informed decision about the location of mandatory reporting, the Task Force needed to clarify the two different definitions of at-risk adult. The distinctions in the definitions are outlined below and in *Section VIII*. The definition of at-risk adult under Title 26 includes only those individuals age 18 years and older with physical, cognitive, or other types of disabilities that cause the individual to be unable to perform necessary activities for the individual's health and safety, or cause the individual to lack the understanding or capacity to make decisions.

The types of disability under Title 26 (APS statutes) may encompass the same disabilities listed in the criminal code (Title 18), but the criminal code addresses additional disabilities that may make someone vulnerable to criminal activity, but would not otherwise necessitate human services involvement. For instance, someone who is blind or missing a limb would be at risk (i.e., vulnerable to a criminal act) under the criminal code (Title 18), but would not be considered at-risk under Title 26, unless they were also unable to manage their overall health and welfare or lacked capacity to understand and make decisions.

In other words, the at-risk adult definition under Title 18 is intended to be appropriately broad to capture more at-risk adults who may be victims of crimes, but who may, or may not, need human services involvement. Title 26 is intended to be sufficiently narrow to only involve county human

services when the person is unable to manage their overall health and welfare and/or is cognitively impaired to make decisions. Additionally, both definitions are meant to apply to persons aged 18 years and older, which is a broader class than at-risk *elders* that is the focus of the Task Force. The Task Force believes it is important to maintain these distinctions between the law enforcement and APS systems and, therefore, does not recommend the reconciliation of the two definitions of at-risk adult.

Having addressed the differences in definitions, debate moved to the statutory placement of mandatory reporting. The Task Force determined that Title 26 and Title 18 perform very different functions with respect to reporting and protecting at-risk populations. Title 18 primarily deals with the prosecution of perpetrators of mistreatment that is criminal in nature, such as abuse, caretaker neglect, exploitation, and other types of crimes. Title 26 deals with the overall health, safety, and welfare of the victims, regardless of any criminal wrongdoing or prosecution, and also includes self-neglect.

Currently, reports made to Adult Protective Services are related to four primary mistreatment categories: abuse (physical and sexual), caretaker neglect, exploitation, and self-neglect. Any reports involving criminal acts are shared with the appropriate local law enforcement agency and the District Attorney for possible criminal investigation and prosecution. If the report comes to law enforcement first, they in turn share the report with APS.

S.B.12-078 asked the Task Force to look only at mandatory reporting for at-risk elders. This directive required the Task Force to look at both Title 26 (APS) and Title 18 (criminal code) to determine the best location for the mandatory reporting requirement. During the debate, the Task Force members identified several key issues, which are detailed below, that eventually led to the decision to place the mandatory reporting requirement in Title 18.

- The Task Force agreed that mandatory reporting should be in place for persons age 70 years and older, because that age group tends to make up the majority of cases seen in both the APS system and in the First Judicial District's Elder Abuse Unit. Statewide, 55% of all APS reports involve an elder age 70 or older. In the First Judicial District, 78% of prosecutions involve cases of an elder adult over 70.
- The Task Force determined that reports regarding crimes (abuse, neglect, and exploitation) are the most important to receive in order to prevent perpetrators from committing serial offenses on multiple at-risk elders. Law enforcement is the natural agency to receive those reports.
- Title 18, Article 6.5 is a penalty enhancement statute<sup>5</sup> and requiring mandatory reporting for the at-risk elder population would not prevent a district attorney from filing enhanced charges for persons with a disability who are under age 70 years of age.

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<sup>5</sup> A penalty enhancement statute increases the criminal penalties for crimes committed against certain groups. For instance, theft of \$50 from a person who is 30 years of age constitutes a misdemeanor under Colorado law; theft from a person who is 70 years of age is a felony under some circumstances.

- The criminal code increases charges from misdemeanors to felonies when the crime is perpetrated against an at-risk adult or juvenile. Currently in the criminal code, any person age 60 or older is considered at-risk by virtue of age alone. By changing the age criteria from 60 years to 70 years and over, potential fiscal savings could be generated.
- It was brought to the attention of the Task Force that some law enforcement agencies may be reluctant to bring elder abuse prosecutions if the criminal provisions are located in Title 26. Title 26 sets forth the human services code and is generally not a familiar body of law to law enforcement. Most criminal statutes are located in Title 18 and are readily known to law enforcement. Thus, placing mandatory reporting in Title 18 will reinforce and make clear that elder abuse is criminal behavior.
- Some professions in the proposed list of mandatory reporters currently have a requirement to report certain crimes to law enforcement. Placing a requirement for mandatory reporting in the criminal code would eliminate a need for these reporters to file their concerns with multiple agencies. For example, health care professionals working in long-term care facilities are currently required to report crimes to the Colorado Department of Public Health and Environment and to law enforcement. Placing mandatory reporting in the criminal code, rather than in the APS code, maintains this structure and ensures that these professionals are not additionally burdened by a requirement to report the same incident to yet a third agency, i.e. CDHS.
- Title 26 (APS) has urged reporting for the crimes listed above but also includes self-neglect, which is not a crime. The Task Force felt that instances of self-neglect should not be a mandatory report at this time due to current fiscal restraints facing the State, and to deter over-reporting in cases where there is no criminal activity involved.
- The APS program provides necessary protective services to all at-risk adults who are age 18 years and above. The Task Force unanimously agreed that protective services should continue to be available to all at-risk adults, not just at-risk elders. The Task Force wanted to be certain that the existing APS infrastructure remains in place in order to continue to provide services for the broader 18 years of age and older at-risk population that is in need of human services involvement as a result of abuse, neglect (including for self-neglect), and exploitation. Placing mandatory reporting in the APS statute for just over half the current population while leaving urged reporting for the remaining APS target population would cause confusion for mandatory reporters.
- The Task Force made many efforts to limit the scope and fiscal impact of these recommendations to increase the probability of the passage of mandatory reporting in Colorado. Positioning the requirement for mandatory reporting in the criminal code was one such measure to focus and direct mandatory reporting to criminal activities, instead of human services activities and to mitigate erroneous reporting.

To summarize, the Task Force believes it is important that APS maintain its charge to investigate and provide services for *all* vulnerable adults who lack the capacity to provide for their health and safety. Therefore, amendments intended to implement mandatory reporting should be made to Title

18, Article 6.5 only, and create a new section that lists the mandatory reporters and specifically defines that such reporting applies to elders age 70 years and older. Title 26 should remain unchanged except for limited changes discussed below.

### **C. Mandatory Reporters**

The Task Force reviewed the list of urged reporters outlined in C.R.S. Section 26-3.1-102 (1)(b), to determine if modifications should be made. There was disagreement on the Task Force about whether the list of reporters was complete and clear. However, there was unanimous support by members of the Task Force to add to the list the following categories of occupations:

- Emergency Medical Services Providers;
- Physical Therapists;
- Chiropractors; and
- Clergy (as defined in the Children’s Code – C.R.S. Sections 19-3-304(2)(aa), and 13-90-107(1)(c)).

It was determined that these occupations should be added because they are: 1) commonly included in other states mandatory reporting statutes; 2) listed as mandatory reporters in Colorado’s child abuse reporting statute; and 3) among the appropriate populations that will have exposure to at-risk elders and may become aware of abusive situations that should be reported.

While there was no dissent among Task Force members for adding Emergency Medical Services Providers, Physical Therapists, and Chiropractors to the list of reporters, some members expressed concerns about including clergy. Those minority viewpoints are documented below.

The majority of the Task Force members, however, support including clergy in the list of reporters under both Title 26 and 18. Proponents of this addition cited the relationships many elders have with their clergy. Perhaps the most persuasive argument was the fact that clergy are required to report incidents of child abuse and neglect under the Children’s Code. Most members of the Task Force agreed that clergy should be included as a reporter in circumstances of elder abuse. Clergy, however, should only be required to report when both the clergy member and the individual making the confidential communication agree to come forward as outlined in Section 13-90-107(1)(c), C.R.S. Reporting under the same guidelines as the Children’s Code would address this.

In addition to the disagreement described in the minority report to follow, the Task Force had a rigorous discussion about whether volunteers should be added to the list of mandatory reporters. Given that volunteers of licensed care facilities are already listed as reporters in existing statute, but other volunteers working with elder populations throughout the state are not, the Task Force is recommending that statutes be amended to clarify that listed reporters – *whether paid or unpaid* – are treated the same. For example, first responders are a listed reporter and would become mandatory reporters if the Task Force recommendations are adopted. But, many first responders are volunteers (e.g., volunteer firefighters) yet they have colleagues who are full time paid professionals.

Finally, the financial institutions have expressed concerns regarding the ‘reasonable cause’ standard in the draft statutory language that follows. All the members of the Task Force respect the position the financial institutions have taken and their concern that the mandatory reporting standard – as applied to them – may be unacceptable. The financial institutions position, however, failed to garner support by other members of the Task Force. While some members shared the concern, they accepted that any mandatory reporting scheme demands it be enforceable to be effective. Other standards and approaches considered were rejected as unworkable. (Appendix 3: Can Bank Tellers Tell? – Legal Issues Relating to Banks Reporting Financial Abuse of the Elderly).

Central to the concern is the nature of the interaction a financial institution employee has with a customer; that it is often remote. But the nature of the interaction is largely irrelevant or at best one aspect of triggering a report. If a financial institution employee develops knowledge of facts – regardless of whether those facts were obtained through an intimate, repeated, one-time or electronic interaction – it *only* triggers the obligation to report if a reasonable person in the same situation as the employee and with the same information he or she had would have concluded abuse was occurring. Thus, it is not the level of interaction, but the context that matters. Obviously, if an at-risk elder were to admit to a financial institution employee they were being physically threatened if they did not write a check to a caregiver, that would trigger the obligation. But under “urged” reporting, that employee could ignore the admission, process the check, and nobody would become aware of the abuse. Also, any sanction to the employee only flows from that employee’s willful and knowing decision to ignore the information and not report. In the example provided, to willfully disregard the admission of abuse. Both the willful disregard and the employee’s knowledge must be proven to the highest legal standard of beyond a reasonable doubt for any criminal penalty to apply.

Financial institutions are not special in how they interact with their customers. Indeed, all the listed mandatory reporters will interact with the at-risk elderly population differently. Consider a pharmacist. Many prescriptions are filled without the pharmacist speaking to the elderly person. The prescription is electronically sent from the doctor to the pharmacy, dispensed behind the counter into a pill bottle, and a pharmacy technician or cashier conducts the sales transaction. But if the at-risk elder made the same admission to the pharmacy technician (only involving the threat of violence in exchange for opioids), it would trigger a mandatory report. Likewise, through their expertise in the profession (just like a banker) and perhaps information from previous transactions or the oddity of a pattern of prescriptions, a pharmacist might separately develop good faith facts that would trigger their obligation to make a report because any reasonable pharmacist with the same information would have arrived at the same conclusion. Financial institution personnel, like all others, can be trained to assist their at-risk elderly customers by reporting potential abuse when it is justifiable. The nature of the interaction is not a reason to treat financial institutions differently.

In 2011, according to the American Bankers Association’s Cumulative Elder Financial Abuse Statutes Comparison (Appendix 4), 20 states had implemented mandatory reporting requirements for financial institutions (CA, DE, FL, GA, HI, KS, KY, LA, MO, MS, NV, NC, NH, OH, RI, SC, TN, TX, UT, and WY). Many of these states use the reasonable cause to believe standard. Many



states also have misdemeanor penalties that include potential incarceration. If the financial institutions in approximately 20 states can comply, then those in Colorado should be able to as well. National financial institutions are already compliant. And smaller independent banks, because they are not compelled to change their duty of care to the customer under the Task Force recommendation, should not be expected to create new systems or modify current banking practices in order to comply. In fact, with the strong support of the financial institutions, the Task Force unanimously endorsed inclusion of clarifying language to ensure that duty of care remain status quo and no mandatory reporter suffer an elevated duty of care. Thus, institutions would not need to “examine and question every transaction involving a person over the age of 70.”

No civil court decision has been identified to the Task Force in which failure to report was the basis for civil liability of a financial institution despite those laws being in place in numerous other states. Therefore, the fear of increased civil liability lacks objective support. Even under the current “urged” reporting, a tort lawyer could clearly argue an employee at a financial institution willfully ignored known financial exploitation. So, the civil liability risk remains unchanged. Equally important, immunity would cover any employee who makes a report in good faith. This critical incentive structure is necessary to encourage financial institutions (and all mandatory reporters) to report, rather than look the other way while our at-risk elders are exploited.

Finally, according to the experienced law enforcement members of the Task Force, more than 70% of the elder abuse cases they prosecuted were financial exploitation crimes, making financial institutions a critical partner. Financial institutions must work toward implementing a reporting policy on behalf of their at-risk elder customers and cooperate with law enforcement to identify and prosecute the abusers. The Task Force believes that without the willing participation of financial institutions as good corporate citizens, the power of the statute could be significantly weakened.

The recommended change to the Title 26 “urged” reporters should read:

**26-3.1-102. Reporting requirements.** (1) (a) An immediate oral report should be made or caused to be made within twenty-four hours UPON DISCOVERY to a county department or during non-business hours to a local law enforcement agency responsible for investigating violations of state criminal laws protecting at-risk adults by any person PAID OR UNPAID specified in paragraph (b) of this subsection (1) who has observed the mistreatment, self-neglect, or exploitation of an at-risk adult or who has reasonable cause to believe that an at-risk adult has been mistreated, is self-neglected, or has been exploited and is at imminent risk of mistreatment, self-neglect, or exploitation.

(b) AS REQUIRED BY TITLE 18, ARTICLE 6.5, THE PERSONS LISTED IN SUBSECTION (C) OF THIS PART (1) ARE MANDATED TO MAKE A REPORT TO LAW ENFORCEMENT OF ANY INSTANCES OF PHYSICAL ABUSE, SEXUAL ABUSE, CARETAKER NEGLECT, OR EXPLOITATION OF A PERSON AGE 70 OR OLDER.

(c) The following persons are urged to make an oral report within twenty-four hours UPON DISCOVERY:

Assuming mandatory reporting is adopted, the list of reporters from Title 26 should be incorporated into Title 18 and should read:

**18-6.5.XXX MANDATORY REPORTING REQUIREMENTS.** (1) (A) AN IMMEDIATE ORAL REPORT SHALL BE MADE OR CAUSED TO BE MADE WITHIN TWENTY-FOUR HOURS UPON DISCOVERY TO A LOCAL LAW ENFORCEMENT AGENCY RESPONSIBLE FOR INVESTIGATING VIOLATIONS OF STATE CRIMINAL LAWS PROTECTING AT-RISK ELDERS BY ANY PERSON PAID OR UNPAID SPECIFIED IN PARAGRAPH (B) OF THIS SUBSECTION (1) WHO HAS OBSERVED THE PHYSICAL ABUSE, SEXUAL ABUSE, CARETAKER NEGLECT, OR EXPLOITATION OF A PERSON AGED 70 YEARS OR OLDER OR WHO HAS REASONABLE CAUSE TO BELIEVE THAT THE PERSON AGED 70 YEARS OR OLDER HAS BEEN PHYSICALLY OR SEXUALLY ABUSED, NEGLECTED, OR EXPLOITED.

(1) (B) THE FOLLOWING PERSONS SHALL MAKE AN ORAL REPORT WITHIN TWENTY-FOUR HOURS UPON DISCOVERY:

- PHYSICIANS, SURGEONS, PHYSICIANS' ASSISTANTS, OSTEOPATHS, PHYSICIANS IN TRAINING, PODIATRISTS, AND OCCUPATIONAL THERAPISTS;
- MEDICAL EXAMINERS AND CORONERS;
- REGISTERED NURSES, LICENSED PRACTICAL NURSES, AND NURSE PRACTITIONERS;
- HOSPITAL AND LONG-TERM CARE FACILITY PERSONNEL ENGAGED IN THE ADMISSION, CARE, OR TREATMENT OF PATIENTS;
- PSYCHOLOGISTS AND OTHER MENTAL HEALTH PROFESSIONALS;
- SOCIAL WORK PRACTITIONERS;
- DENTISTS;
- LAW ENFORCEMENT OFFICIALS AND PERSONNEL;
- COURT APPOINTED GUARDIANS AND CONSERVATORS;
- FIRE PROTECTION PERSONNEL;
- PHARMACISTS;
- COMMUNITY-CENTERED BOARD STAFF;
- PERSONNEL OF BANKS, SAVINGS AND LOAN ASSOCIATIONS, CREDIT UNIONS, AND OTHER LENDING OR FINANCIAL INSTITUTIONS;
- 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.

- EMERGENCY MEDICAL SERVICES PROVIDERS;
- PHYSICAL THERAPISTS;
- CHIROPRACTORS; AND
- CLERGY (AS DEFINED IN THE CHILDREN’S CODE – CRS 19-3-304(2)(AA) AND CRS 13-90-109(1)(C)).

Recommending implementation of mandatory reporting for elder abuse was a difficult issue upon which to reach consensus, and several concerns were expressed. It was agreed that while the Task Force recommendations were made by consensus, those members with differing views should have their perspectives included in the report to ensure full disclosure. Those concerns are outlined below.

Minority Reports:

*Incomplete List of Reporters:* One member of the Task Force advocated for a different approach to the list of mandatory reporting. It was argued that the current list in Title 26 might be too vague for the criminal code and still satisfy the stringent standards of proof for a criminal case because it might not inform all mandatory reporters of their duty to report and may undermine mandatory reporting. It was also suggested that the scope of listed mandatory reporters should be applied to all volunteers and attorneys in certain circumstances.

This more inclusive approach, especially as it relates to volunteers, was justified by citing the fact that for all groups there are pre-existing mechanisms to train volunteers, for example, just as there are for APS workers. Filing a report is not onerous and by including all volunteers, the chances of identifying potentially victimized elders would increase significantly. Of course, like all reporters they would enjoy immunity if they report. Finally, there is no evidence it will create a “chilling effect” on the ability to recruit volunteers. Indeed, volunteers in other circumstances, such as those interacting with youth must go through finger-print background checks, which is a significantly more onerous requirement (Section 26-6-103.7, C.R.S.). In addition, some volunteers may be empowered to be vigilant and feel more empowered by the sense they are doing something to help. Others may be relieved of the burden about whether to report because that choice would be clear – it will be their duty to report. A draft of proposed language is attached as Appendix 5.

Ultimately, the advocate of this approach could not garner support from any other Task Force members. It was determined that expanding mandatory reporting to all volunteers would chill volunteer recruitment and complicate training. Attorneys on the Task Force, other than the advocate, cited professional ethics requirements – specifically attorney/client privileges – as the duty to report abuse. Other members of the Task Force did not want to

re-draft the list of mandatory reporters as they were concerned it might confuse the public when compared to the list in Title 26.

*Clergy as Mandatory Reporters:* Some felt that clergy should be included and required to report in all circumstances, not just when agreed to by the penitent. Other members of the Task Force were comfortable acknowledging the “priest/penitent privilege” but would not extend such a privilege to religious leaders acting in any capacity.

*Criminal Standard:* An additional concern was expressed by another member of the Task Force regarding the proper standard for a report to become mandatory. Financial institutions are very concerned that given the unique interaction with their customers (which may occur without ever observing the actual individual) that a “reasonable cause to believe” standard is too low. Both the Colorado Bankers Association (CBA) and the Independent Bankers of Colorado (IBC) submitted letters expressing their concerns (Appendix 6: CBA’s Minority Report Regarding Task Force Recommendations for Mandatory Reporting Requirements, and Appendix 7 IBC’s Letter Regarding Elder Task Force Policy Decisions)

*Duplicative Reporting Requirements for Health Care Entities:* Licensed health care entities, as well as their employees and private contractors, have mandatory reporting duties that require notifying the Colorado Department of Public Health and Environment, as the oversight entity for health facilities, and law enforcement when instances of alleged abuse, neglect or exploitation occur. These reports must be made within 24 hours, and significant penalties are in place for failure to report, including fines of up to \$300,000 and exclusion from participation in any federal health care program.

Many of the licensed health care providers serving on the Task Force believe that requiring individuals who work as employees or private contractors of licensed health care entities already mandated to report under state and federal law to also independently report to law enforcement would cause a significant number of duplicate reports. Recognizing that the limited funds available for this project should be used in an efficient manner, those Task Force members in the minority recommend that mandatory reporting should only be required from individuals who are not already required to do so under state and federal law, either as individuals or through their employer. (Appendix 8: Minority Report on the Recommendations of SB 78 Task Force Regarding Mandatory Reporting for Licensed Entity Caregivers)

#### **D. Criminal Penalties**

The majority of Task Force members agree that a misdemeanor 3 penalty is appropriate for individuals who fail to report. A misdemeanor 3 under Section 18-1.3-501, C.R.S., may result in a fine between \$50-\$750, or up to six (6) months in the county jail, or both. The basis for this recommendation includes:

1. For egregious incidents such as ignoring an observed assault which results in maiming or a repeat offender intending deliberate harm, jail time may be an appropriate penalty option;
2. This penalty mirrors the Child Welfare statute for failure to report; and
3. If jail time is not an option, these crimes will not be prioritized for prosecution.

Minority Report:

Some members of the Task Force expressed concern over charging mandatory reporters with a misdemeanor 3 for failing to report elder abuse regardless of whether or not it was a first time offense. Members reasoned that a misdemeanor 3 carries with it the potential for jail time, yet there would be inadequate time for appropriate statewide training. Additional resources will be needed by APS and District Attorneys to investigate more unsubstantiated claims by caregivers who are untrained on exactly what should be reported. These members recommend that any mandatory reporter who willfully fails to report elder abuse be charged with a class 2 petty offense. However, if the failure to report is a second or subsequent offense, or if the failure to report results in serious bodily injury to or death of the elder, the mandated reporter should be charged with a misdemeanor 3 (Appendix 9: Minority Report on the Recommendation of Misdemeanor 3 Penalty for Not Reporting).

## **E. Immunity**

The Task Force unanimously agreed that mandatory reporting should not negatively impact the relationship between a reporter and the elder. Some members expressed the concern that mandatory reporting would change the nature of the care giver client relationship and elevate their duty of care. Thus, the Task Force felt it critical to make it clear in statute that by becoming a mandatory reporter, no covered profession had any additional duties to their clients, except when abuse is known.

The Task Force had extensive discussion related to immunity for mandatory reporters. The discussion involved situations where a report turns out to be unsubstantiated and situations related to the mandatory reporters' inability to identify possible mistreatment. The Task Force recommends the following language be added to the mandatory reporting statute.

18-6.5-XXX (1) A MANDATORY REPORTER WHO REPORTS AN INCIDENT OF PHYSICAL ABUSE, SEXUAL ABUSE, CARETAKER NEGLECT, OR EXPLOITATION TO A LOCAL LAW ENFORCEMENT AGENCY OR A COUNTY DEPARTMENT SHALL HAVE IMMUNITY FROM A CIVIL ACTION OR CRIMINAL PROSECUTION IF SUCH REPORT IS MADE IN GOOD FAITH. NO PERSON, INCLUDING THOSE REQUIRED TO REPORT UNDER THIS STATUTE, SHALL KNOWINGLY MAKE A FALSE REPORT OF ABUSE, NEGLECT, OR

EXPLOITATION TO A LOCAL LAW ENFORCEMENT AGENCY OR COUNTY DEPARTMENT. A PERSON KNOWINGLY MAKING A FALSE REPORT 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.

(2) MANDATORY REPORTING UNDER THIS STATUTE DOES NOT INCREASE THE MANDATORY REPORTERS' DUTY OF CARE IN THEIR RELATIONSHIP WITH AT-RISK ELDERS.

#### **F. Reports to Law Enforcement**

The Task Force unanimously decided a statutory change was needed within Title 18 to specify law enforcement's obligations with regard to these reports. While law enforcement is required to make an oral report to APS, law enforcement is not required to document the report. Therefore, the Task Force unanimously agreed to the recommendation that the following language be added to Title 18 mandating certain action be taken by law enforcement officials when a report is taken:

18-6.5-XXX. UPON RECEIVING A REPORT OF A VIOLATION OF ANY CRIMINAL STATUTE AGAINST AN AT-RISK ELDER, LAW ENFORCEMENT IS REQUIRED TO MAKE A VERBAL REPORT TO THE COUNTY DEPARTMENT WITHIN 24 HOURS OF RECEIPT OF THE INFORMATION. LAW ENFORCEMENT MUST DOCUMENT THE CIRCUMSTANCES OF THE REPORT. THE LAW ENFORCEMENT AGENCY SHALL THEN FORWARD A COPY OF THE FINAL WRITTEN REPORT TO THE COUNTY DEPARTMENT AND TO THE DISTRICT ATTORNEY'S OFFICE WITHIN 24 HOURS OF THE COMPLETION OF THE REPORT. THE LAW ENFORCEMENT AGENCY SHALL COMPLETE A CRIMINAL INVESTIGATION WHEN APPROPRIATE AND UPON COMPLETION OF THE INVESTIGATION FORWARD A COPY OF THE COMPLETED REPORT TO THE COUNTY DEPARTMENT AND THE DISTRICT ATTORNEY'S OFFICE.

THE REPORT SHALL INCLUDE, AT A MINIMUM: THE NAME, AGE, ADDRESS, AND CONTACT INFORMATION OF THE ELDER; THE NAME, AGE, ADDRESS AND CONTACT INFORMATION OF THEIR CARETAKER, IF ONE IS KNOWN; THE CRIMINAL ALLEGATIONS, INCLUDING BUT NOT LIMITED TO, THE NATURE AND EXTENT OF THE ELDER INJURY, WHETHER PHYSICAL OR FINANCIAL; THE NATURE AND EXTENT OF THE CONDITION THAT NECESSITATED A REPORT TO BE MADE; THE REPORTING PARTY'S NAME, ADDRESS, AND CONTACT INFORMATION; THE ALLEGED PERPETRATOR; AND ANY OTHER PERTINENT INFORMATION.

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***Task Force Recommendation: Colorado should implement mandatory reporting:***

- *For persons 70 years of age and older;*
- *In instances of physical abuse, sexual abuse, caretaker neglect and exploitation, including financial exploitation (excludes self—neglect);*
- *By all currently urged reporters listed in Title 26, whether paid or unpaid, plus emergency medical technicians, physical therapists, chiropractors, and clergy as defined in Child Protection;*
- *With a requirement that law enforcement document any report of elder abuse and also orally notifies APS within 24 hours;*
- *Beginning January 1, 2014; and*
- *The Task Force strongly believes that the General Assembly should make statutory changes to Title 18 and Title 26, as outlined throughout this report.*

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***II. Concerning the provision of protective services by county departments to at-risk elder adults who are mistreated or exploited.***

As stated in the beginning of this report, Colorado will need sufficient system infrastructure improvements in place concurrent with the implementation of mandatory reporting. Many Task Force members are extremely concerned that a large fiscal note will scuttle the effort of bringing mandatory reporting to Colorado, as has been the case in the past. Indeed, many members could not justify support of mandatory reporting without appropriate fiscal support. Locating a sustainable funding stream to support the state and counties to receive reports, perform investigations, and provide protective services is imperative, and funding the effort must be a priority. The Task Force has attempted to be conservative in quantifying resource needs throughout the report.

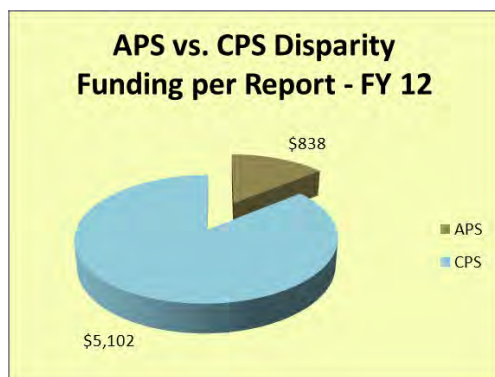
Requiring mandatory reporters to report abuse of those 70 years of age and older is likely to impact county departments of human services, detailed throughout *Section II*. The amount of the increase attributable to mandatory reporting is unknown, but is estimated throughout this report to be 15% per an early S.B.12-078 fiscal note which was estimating the impact of mandatory reporting. Additional county APS staff will be needed to answer phones, record calls, investigate reports within prescribed time frames, identify community resources to enable elders to remain self-sufficient, provide legal support and representation, and provide on-going case management, when appropriate.

As provided in SB.12-078, the intent of the General Assembly is that the Task Force’s recommendations “will lead to the implementation of a complete system of reporting of mistreatment and exploitation of at-risk elderly adults by September 1, 2013 *subject to the availability of sufficient funding for such implementation at the state and county levels* [emphasis added]...” (C.R.S. 26-3.1-301). Sustainable funding is imperative for the implementation of mandatory reporting and without a comprehensive workload analysis, it is difficult to accurately calculate the additional state revenue needed annually to handle mandatory reporting.

While an estimate of workload impacts is a stated deliverable of the S.B.12-078 Task Force, the Task Force does not have the expertise or the funding to contract for a workload analysis. In order to try to estimate the impact of mandatory reporting on the APS system the Task Force thoroughly examined the fiscal note from April 24, 2012 (Appendix 10: April 24, 2012 Fiscal Note), reviewed key data from the state demographer’s office, examined the current reporting trends in other mandatory reporting states (Appendix 11: Impact of Mandatory Reporting in Other States), developed scenarios to attempt to modify data from other states in a manner that might fit Colorado’s proposed model, and conducted a thorough review of national standards related to APS systems. Ultimately, the Task Force was able to agree on several key points:

- APS caseloads are expected to increase given *current* reporting trends.
- The target population age 70 and over is expected to increase significantly over the next decade, given state demographer estimates.
- Using data from other states to determine the impact of mandatory reporting did not provide a sufficient guide for Colorado because the models adopted by these states differed in significant ways, such as the populations targeted for mandatory reporting and the list of mandatory reporters identified.
- Based on conversations with other states that have moved from “urged” to “mandatory” reporting, law enforcement and APS will likely see an initial sharp increase in new reports that may or may not taper off.

The Task Force relied heavily on the structure and approach of the Colorado Child Protection System (CPS) (also known as Child Welfare) because it was often the best analogy. The Task Force discussed that while the needs of the two populations are different, many tools and resources in the CPS system could be very useful to the APS system.



Certain comparisons are particularly revealing regarding the discrepancies between the two systems. While the Task Force does not believe the APS system will need to match the level of resources dedicated to CPS, the accompanying chart clearly demonstrates a significant funding disparity between the two systems.

This chart shows county funding per report, including those reports that result in basic information and referral



to those that require a full investigation and possibly other related interventions. Counties receive more than six (6) times the funding per report for CPS activities than for APS activities.

As the table below demonstrates, child protective services receives a significant amount of funding from federal funds, which cannot be redirected from child protection. There are no equivalent federal funds to assist in addressing elder abuse. The General Assembly should approach the Colorado Congressional delegation about the lack of federal funding for APS and either identify additional funding sources (i.e., the federal Elder Justice Act) or encourage a more balanced approach from the federal government. Additionally, as the table shows, this same disparity is seen at the State and local level in Colorado, where CPS receives more than \$270 million more in state/local funding than is provided for APS. The figures below represent *all* services provided in both systems (e.g. information and referral, investigations, protective services, etc.).

	<b>APS Federal</b>	<b>APS State</b>	<b>APS Local</b>	<b>CPS Federal</b>	<b>CPS State</b>	<b>CPS Local</b>
<b>State Admin</b>	\$ -	\$ 351,449	\$ -	\$ 823,755	\$ 2,819,914	\$ -
<b>County Admin</b>	\$ 1,969,370	\$ 5,350,421	\$ 1,174,483	\$ 109,768,553	\$ 163,843,770	\$ 60,730,814
<b>Training</b>	\$ 18,100	\$ 5,623	\$ -	\$ 3,097,102	\$ 3,000,279	\$ 37,230
<b>Services</b>	\$ -	\$ -	\$ 9,063	\$ 14,052,346	\$ 33,950,988	\$ 9,402,266
<b>Data System</b>	\$ -	\$ 257,000	\$ -	\$ 2,286,931	\$ 2,683,461	\$ -
<b>Quality Assurance</b>	\$ -	\$ 80,100	\$ -	\$ 742,566	\$ 1,371,046	\$ -
<b>Total</b>	<b>\$ 1,987,470</b>	<b>\$ 6,044,593</b>	<b>\$ 1,183,546</b>	<b>\$ 130,771,253</b>	<b>\$ 207,669,458</b>	<b>\$ 70,170,310</b>

Source: County Financial Management System June 2012 and the FY 2012-13 Long Bill.

### **A. No Definitive Way to Determine the Impact of Mandatory Reporting**

As previously stated, Colorado’s population of persons age 70 and older is expected to increase 28% by 2017, and 142% by 2032. Relative to other states, Colorado has a smaller base population of 70+, but will soon experience a rapid increase as more “Baby Boomers” begin to age. The strain of increased services for this cohort will vary regionally as demand goes up. With this phenomenon in mind, estimates for the county’s increased caseloads and associated costs must be adjusted to accurately reflect Colorado’s aging population.

Colorado needs a system that will allow the state to track, monitor, and report on outcomes and performance within its APS system. Without reliable, consistent data it is challenging to identify what is currently occurring in APS, much less best practices that successfully protect elder adults.

Colorado’s APS data system is housed within the Colorado Benefit Management System (CBMS). CBMS was designed as a financial payment system for food and cash assistance programs and was never designed to provide case management and service data. It does not meet many of the *basic* requirements for case documentation and statistical data collection and analysis. For example, the current system does not allow for the collection of basic data such as the number of allegations that are substantiated, the reason for case closure, the outcome of the intervention, and so on. A new

data system would allow tracking of outcomes, interventions, and would assist with improved practices, such as a quantifiable reduction of risk, ability to identify recidivism rates in relation to client consent and self-determination, and service availability and utilization.

Recording information in CBMS is inefficient and unwieldy for caseworkers. Caseworkers have a great deal of difficulty accurately documenting case activities, causing them to spend time correcting errors rather than on more meaningful client-related activities. Additionally, because CBMS combines client demographic information between all CBMS programs, changes such as a new address at the time of placement in an assisted living facility can cause the system to shut down the client's much needed cash, food, or Medicaid benefits, creating additional work for both APS and eligibility staff. APS needs a case management system designed specifically for the needs of the APS program that is not tied to CBMS. Doing so would help APS to track trends in client needs, identify innovative strategies that reduce risk to elder adults, and increase the amount of time caseworkers are in the field assisting clients.

Additionally, a casework system that would allow for complete case documentation in one place could lend efficiencies for both the county programs and for the State APS unit. For example, paper files would no longer be needed; case reviews could be completed entirely in the data system without the need to have the county mail a paper file; and county APS caseworkers would not be documenting in multiple systems, such as CBMS, Word, and a county parallel system. The Task Force supports the Governor's November 1, 2012 budget submission for a new data system for APS. A new case management and data system would align with the Governor's goals of efficiency, effectiveness, and elegance.

For more information about Data System Options, please see Appendix 12: Options for Purchasing or Developing a New Data System for Adult Protective Services (APS).

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***Task Force Recommendation:*** *The Task Force supports the Governor's request for a new data system, as outlined in his November 1, 2012 Budget Submission. Colorado should implement a data system that will accurately measure the impact of mandatory reporting in Colorado and adjust county resources accordingly rather than relying on data from other states. The costs and details of the possible data systems are included in Appendix 12.*

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## **B. Unsustainable Caseload per Worker.**

The April 24, 2012 S.B.12-078 Fiscal Note assumes that APS caseworkers will maintain an active caseload average of 34 cases. The National Adult Protective Services Association (NAPSA) recommends an ongoing caseload of 25 cases per worker. By way of comparison, Child Protection Services caseworkers have a national standard of 12 cases per worker for intake and 17 cases per worker for ongoing cases. An aging population presents increasingly complex issues that require

skilled, competent workers providing comprehensive protective services and safety monitoring. Workloads that reflect caseloads close to the national recommendation of 25 to 1 will improve outcomes and help retain quality county APS staff.

While APS caseworkers are a county's front line staff, APS supervisors oversee the work and county attorneys intervene when necessary. These specialized staff members should increase in proportion with the increase in caseworkers.

Despite the uncertainties inherent in estimating the potential impact of mandatory reporting on Colorado, there was consensus that Colorado should anticipate a 15% increase in APS reports when mandatory reporting is implemented. Eleven states with mandatory reporting receive an average of 15 reports to APS for every 1,000 at-risk adults living in the state. A 15% increase in reports would bring Colorado in line with this multi-state average. Illinois saw a 15% percent increase in reports with the implementation of mandatory reporting, and New Jersey, which does not investigate reports in facilities as does Colorado, saw a 9% increase in reports. A 15% increase in reports was assumed in the April 24, 2012 fiscal note associated with S.B.12-078. Based on these many factors, the Task Force is comfortable that this is as good an estimate as can currently be determined.

The Task Force is aware that the 15% estimated increase in reports is an approximation and the actual increase may turn out to be larger or smaller. Additionally, the Task Force is calculating the 15% increase on the total number of reports made to APS in FY 2012, not just those reports related to the mandatory reporting target population. This was deliberate, for several reasons:

- Reports that are received but screened out account for about 41% of the reports received by APS, and demographic information for those reports is not available, thus there is no way to determine the percentage of those reports that relate to the target population for mandatory reporting. Reports that are screened out still contribute to the overall workload for county APS programs.
- The Task Force believes that reporting for all current categories of mistreatment and all ages of at-risk adults will increase as a direct result of mandatory reporting for the 70 and older population. For example, persons will not decide to report, or not report, based on whether the elder is 69 or 70 years of age. Additionally, mandatory reporters who have not had extensive training on the reporting requirements will report all instances in order to ensure they are meeting the requirements of the law.
- Other states that have changed from urged to mandatory reporting have reported a large spike in reports during the first year of implementation, and then a later leveling of reports as reporters become more familiar with when to report.

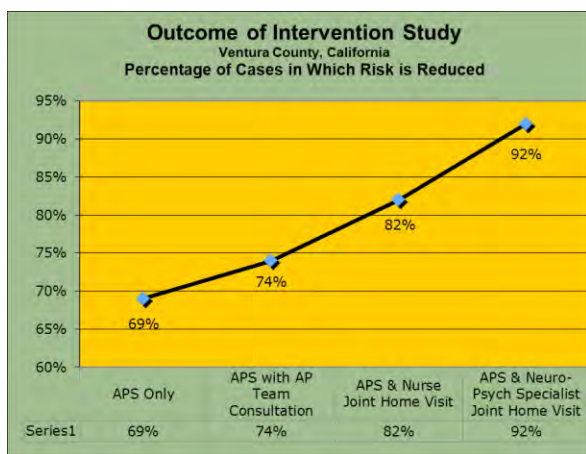
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### **Task Force Recommendation:**

- *The current county deficit in caseload ratio should be reduced to the recommended standard of 25:1. Approximately \$2,730,217 million (the equivalent of approximately 36 county FTE) is needed to bring Colorado to the recommended staff to case ratio with the current number of report. These FTE include caseworkers, supervisors, and county attorneys.*
  - *Colorado projects a 15% increase in reports once mandatory reporting is implemented. This anticipated increase in reports will require an additional \$1,657,631 million for approximately 22 additional FTE for caseworkers, supervisors, and county attorneys to maintain the 25:1 caseload ratio after implementation.*
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### **C. Additional Safety Net Resources**

By statute, when an investigation substantiates mistreatment, counties are required to “immediately provide or arrange for the provision of protective services” (C.R.S 26-3.1-104 (1)). Key to ensuring the emergency needs of APS clients can be met is the ability to identify available protective services such as emergency shelter, food, deep cleaning, home repairs and modifications, utility payments, or medical care.<sup>6</sup> The Task Force acknowledges that in certain areas of the state, there will be services that are unavailable. APS cases may require specialized services such as extended medical evaluations, cognitive capacity evaluations or forensic accounting services. Currently, counties partner with agencies in their communities to provide services. If individual counties and the community at large are not able to provide needed funding, critical service needs cannot be met for APS clients unless pro bono services can be found. Although small and medium sized counties may have fewer APS cases than urban counties, the unmet service needs may be greater in rural areas



where there are fewer providers available. The Task Force researched best practices in service provision to APS clients. A study conducted by Ventura County, California’s APS program showed clear improvements in outcomes for APS clients when specialists were available to assist APS with interventions. As shown in the chart, intervention outcomes were improved when APS worked together with other professionals. Joint home visits with APS and specialists to conduct a medical evaluation or a capacity evaluation clearly provided

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<sup>6</sup> See Appendix 13 for County APS Supervisor’s Survey Results

the most benefit to the client's outcome of intervention, raising the percentage of cases with successful reduction of risk from 69% when APS alone was involved to 82% or greater when other specialists were available to conduct a home visit in conjunction with APS.

The Task Force initially recommended maintaining the \$1.0 million to provide for protective services as identified by the April 24, 2012 S.B. 12-078 Fiscal Note.

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***Task Force Recommendation:*** *Consistent with the April 24, 2012 Fiscal Note for S.B.12-078, the Task Force recommends an appropriation of \$1,000,000 to allow county departments to access protective services for elder adults. This funding enhances existing infrastructure for expected caseload increases associated with expected population growth and increased reporting associated with mandatory reporting.*

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#### **D. Public Guardianship/Conservatorship**

The State of Colorado does not have a public guardianship program for persons in need of guardianship and who do not have appropriate family or friends available to act as the guardian. Additionally, the state does not have the resources available to provide a professional guardian to these individuals. Currently, the State relies on a patchwork system of private and volunteer guardians and Adult Protective Services staff to provide guardianship services for elder adults with no other appropriate guardian available. For example, APS routinely gets calls from health care providers and long-term care facilities requesting that APS take guardianship in order to make health care and end of life decisions for patients or residents with no advanced directive and with no one available to assist with these decisions. Not only is APS prohibited from petitioning for guardianship to make health care decisions, these highly personal and sensitive decisions are outside the statutory authority and ethical scope of the APS program.

Guardianships and conservatorships are the most restrictive interventions used in APS. For APS clients with adequate resources, a private guardian or conservator can be appointed as there are assets available to pay the guardian's and conservator's fees. But, for many APS clients there are not adequate resources to cover the costs of a private guardian or conservator.

Some counties do have a public administrator available to take on the role of conservator. In these situations, APS will generally file the petition for conservatorship with a recommendation to appoint the public administrator. However, the state of Colorado does not have a public guardianship program that can assume this role for clients in need of a guardian. The Denver metro area and the Colorado Springs metro area do have a volunteer guardianship organization that may be utilized for some clients, but this type of organization is not available in other areas of the state. Additionally, volunteer guardianship programs have limitations, particularly in the type of client they can serve and the overall number of clients they can serve. Volunteer organizations generally do not provide services to manage difficult individuals.

County APS units are the guardian and conservator of last resort and the county departments look to others to step in as a client's guardian whenever possible. Family members, clergy, neighbors, and so on are identified and reviewed to determine if they would be appropriate to serve as the client's guardian. But, in many situations, APS is the only appropriate guardian available. In FY 2012, counties held a total of 325 guardianships and 15 conservatorships. APS may petition for guardianship and/or conservatorship on behalf of another party or the public administrator. Data on the number of these petitions is not available.

The costs associated with guardianship and conservatorship cases are many, and vary from case to case. A guardianship and conservatorship can consume the majority of a worker's time on one case. County attorneys, supervisors, Adult Protection Team members, and directors often contribute time to guardianships. Workers are required to have monthly contacts with wards and clients, coordinate and monitor ongoing services, make medical and placement decisions, communicate with family and interested parties, manage financial assets, and provide court reports, in addition to meeting typical APS requirements and documentation.

Judge Elizabeth Leith, the presiding Judge of the Denver County Probate Court, chairs the Probate Advisory Committee (PAC), a statewide judicial committee looking at various probate issues, including public guardianship. The Task Force is aware and supportive of the current work occurring by the PAC under Judge Leith's leadership. The PAC is currently researching practices in other states regarding public guardianship and anticipates launching a pilot project soon. Because of the issues outlined above, the Task Force strongly recommends that the General Assembly study the results of the PAC and consider implementing a statewide public guardianship and conservatorship project at some time in the future.

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***Task Force Recommendation:** The Task Force supports efforts that may lead to a comprehensive public guardianship and conservatorship program, which would eventually take over the county role of petitioning and acting as guardians and conservators.*

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## **E. Financial Exploitation**

Financial exploitation is the fastest growing category of elder abuse. Incidents of financial exploitation have increased steadily since 2008 to comprise 21% of all reported mistreatment categories. The Task Force discussed issues of prevention, intervention, investigation, and prosecution of these types of cases. The overwhelming consensus of the group was that this is an extremely complicated topic worthy of a separate Task Force to make recommendations to the legislature on effective options for preventing this type of mistreatment.

The Task Force found that C.R.S. 6-21-103 has not curbed financial exploitation as was originally anticipated, as indicated by the increasing number of reports of financial exploitation made to law enforcement and APS. The purpose of this legislation was to protect at-risk adults from financial

exploitation by facilitating early access to an at-risk adult's account at a financial institution. Under C.R.S. 6-21-103, a financial institution is required to offer an at-risk adult a consent form for the release of financial records so that law enforcement or the Department of Human Services can access an at-risk adult's account when there is suspected financial exploitation. More than 90% of at-risk adults have refused to sign the consent form. Because this has been a cost to financial institutions without the results anticipated by the legislature, the task force recommends repealing the statute.

At least one member of the public, who has been a vocal leader on the issue of mandatory reporting and whose opinion was a valuable asset to the Task Force, expressed his strong concern about repealing the waiver. He explained to the Task Force that his personal experience when interacting with banks did not support a straight repeal but rather a more aggressive outreach and training effort on behalf of the banks. He believes the banks should pay for the effort themselves.

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***Task Force Recommendation:***

- *In order to develop a comprehensive strategy to combat financial exploitation of at-risk adults as defined in Title 26, the General Assembly should consider a dedicated task force for this purpose.*
- *The Task Force recommends repealing C.R.S. 6-21-103.*

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*III. What is the minimum age an individual should be considered an at-risk elder adult?*

As stated above, the Task Force recommends that individuals age 70 years and older should be considered at-risk elder adults for the purposes of mandatory reporting. In FY 2011-12, 55% of all APS reports were associated with individuals' ages 70 years and older. A more thorough explanation of this decision can be found on page 13.

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***Task Force Recommendation:*** *The Task Force recommends that elders age 70 and older be considered as the initial population considered for mandatory reporting. Mandatory reporting should be expanded to the population over 18 and at-risk as soon as is fiscally feasible.*

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*IV. What is the estimated cost, including workload impacts to be incurred by county departments and law enforcement agencies of the state as a result of mandatory reporting?*

The Task Force had a difficult time assessing the actual workload impact on counties if mandatory reporting is implemented. Some of the reasons for this are outlined above. Specifically, the Task



Force identified a number of problems associated with using other states as a proxy for what would happen in Colorado when mandatory reporting is implemented. In addition, counties have expressed concerns with any estimates that are not supported by a comprehensive workload study performed by an entity specially trained for such analysis. The counties, along with CCI, sent a letter to this effect dated September 24, 2012 (Appendix 14: CCI's Letter to SB12-78 Task Force). In addition, counties cited uncertainties about the implications of federal sequestration on county budgets as another basis for the need for a workload study.

The Task Force did not receive any funding in S.B.12-078 for a workload study, and Task Force members did not possess the requisite knowledge necessary to perform such a detailed analysis. Nonetheless, the Task Force endeavored to gather as much reliable data as it could process and struggled to arrive at consensus on fiscal assumptions, which are contained throughout this report.

The Task Force was able to agree on recommendations related to county workload that might allow Colorado to move forward and implement mandatory reporting. Those recommendations have been discussed previously, but are reiterated here for clarity:

1. Given existing APS caseloads of 34:1, bring the county caseload ratio to the National Adult Protective Services Association's (NAPSA) recommended standard of 25:1. Distribute these funds using current APS reporting levels in Colorado. In addition, provide additional funding to maintain the 25:1 ratio given an estimated 15% increase in reports due to mandatory reporting. This approach results in an increase to counties of \$4,387,848 to allow for the hiring of additional case workers, supervisors and attorneys, using the same rates included in the S.B.12-078 fiscal note.
2. The Task Force supports the Governor's request for a new data system, as outlined in his November 1, 2012 Budget Submission. Provide the funding for a new data system for APS that will allow the state to accurately track the impact of mandatory reporting on the State and counties. Collect data for two years after mandatory reporting is implemented and make appropriate adjustments to county funding to keep the counties at the caseload standard recommended by NAPSA. Cost for a new data system is estimated to be \$250,000 the first year and \$160,000 in subsequent years. These costs include the initial system purchase and modifications for Colorado, ongoing hosting and server costs, user licenses, system security, and annual maintenance and improvement costs.
3. Provide a \$1,000,000 increase to the counties to be used at the counties' discretion to provide safety net and other services necessary to reduce client risk, as identified during APS investigations (see page 31).
4. Training, education, outreach, and accountability activities are critical to the successful implementation of mandatory reporting. These activities include training for county APS caseworkers and supervisors, education for mandatory reporters and the community, and



program evaluation and review to ensure that APS program requirements are met. The cost for these activities is estimated to be \$165,000, as detailed on pages 39 through 46.

5. The Task Force finds merit in post-implementation analyses of the impact of mandatory reporting for at-risk elders. A new data system will include a number of fields and functions to help in analyzing the impact and success of mandatory reporting. Some of these fields include tracking of cases through criminal investigation and prosecution, and utilization of services in relation to client outcomes. The Task Force recommends monitoring the data generated by the new data system for two years after implementation and then gauge whether or not a workload study is necessary.

If, after implementation it is decided that a workload study is necessary, the General Assembly should initiate and fund it. It may be advisable to expand the study beyond just county human services departments to include county and municipal law enforcement and district attorneys in the review. For instance, the study could identify how county human services caseloads have changed since the implementation of mandatory reporting and review all aspects of APS case management, from intake to ongoing case management. The study could also examine all aspects of the law enforcement process, from receiving reports of alleged mistreatment and abuse to reporting findings. A concerted effort should be made to isolate and quantify direct costs associated with the new mandatory reporting policy requirement. To the extent possible, the study could also track internal decisions that may have shifted the use of resources at the local level to addressing elder abuse allegations and away from some other local need and priority.

6. Two years following the implementation of mandatory reporting, require a post-implementation review by the Colorado Legislative Audit Committee to determine if mandatory reporting of adult protective services is being fully implemented and fiscally supported.

*V. Identify sustainable sources of funding, including but not limited to new revenues that may be used to offset the costs to be incurred by the state department, county departments and law enforcement agencies of the state as a result of mandatory reporting.*

The Task Force developed a Financial Subcommittee to work on the cost estimates for the recommendations and to identify possible sources of financing for mandatory reporting. The S.B.12-078 Finance Subcommittee explored the following revenue options as ways to sustainably fund an Adult Protective Services system under mandatory reporting.

Each possible funding source was evaluated for the amount of revenue likely to be generated, the longevity and consistency of the revenue source, and the applicability of the revenue source to the elder population.

The Task Force does not recommend reallocation of county funding from child protection or any other dedicated source to enhance adult protection. The table below outlines the discussion by subcommittee members.

Revenue Source	Overall Viability		Comments
	Not likely to generate substantial and sustainable revenue	Likely to generate substantial and sustainable revenue	
Surcharge on birth/death certificates	X		Statute authorizes the Colorado Department of Public Health and Environment to set birth and death certificate fees that reflect the Office of the State Registrar's direct and indirect costs. A recent \$3 dollar increase on death certificates resulted in roughly \$700,000 to be used for a new electronic death certificate registration system. An additional increase is not likely, nor would it generate sufficient funds.
Increase in county fees for various financial and legal documents	X		The fees associated with many of these documents have not been changed for years. While some may have a nexus to APS, others do not.
Surcharge on crimes against at-risk adults	X		A similar bill passed in 2012 and channeled surcharge revenue to the Judicial Stabilization Cash Fund and a newly created Crimes Against At-Risk Persons Surcharge Fund. Estimates indicated that roughly \$22,000 will be collected in SFY 2014.
Cost savings associated with changing the penalties on crimes against 60-69 year olds from a felony to a misdemeanor		X	See Number 1 below for details.
Create a means test for the senior homestead exemption and use the balance for APS	X		Means testing the homestead exemption requires a constitutional amendment.
OAP sponsor deeming savings		X	See Number 2 below for details.
Medicaid targeted case management		X	See Number 3 below for details.
Surcharge on probate cases on wills	X		Adding an additional surcharge to the probate of wills could result in \$60,000 - \$120,000 in revenue, depending on the surcharge amount.
Long-term care estate recovery		X	Federal regulations may prohibit this option.

In the end, three possible sources of sustainable revenue were identified as feasible.

1. Changing criminal penalties from felonies to misdemeanors.

Section 18-6.5-102(1), C.R.S. of the criminal code defines “at-risk adult” as a person age 60 and above. When crimes such as theft, assault, neglect, and robbery are perpetrated upon an at-risk adult the criminal penalty is enhanced. This enhancement is particularly pronounced for the crime of theft. If the definition of “at-risk adult” under the criminal code is changed to apply to persons age 70 and above, then those who are 18 years and older could still be considered “at-risk” if they are considered disabled and unable to meet their own needs. Crimes against persons age 18 to 69 would still be prosecuted but perpetrators would not receive an enhanced criminal penalty. This modification to the criminal code might result in savings due to decreased incarcerations that could be used for mandatory reporting implementation costs. A more in depth analysis is required to estimate any savings.

There are a number of benefits associated with making this change. While there would continue to be enhanced penalties for crimes committed on the elderly, the change corresponds with an adjustment in the age classification of at-risk in such a manner that is more in line with society’s understanding of who is “elderly”. The modification could also generate substantial savings. One drawback is that some vulnerable adults in their 60s would no longer have “at-risk” status.

2. Old Age Pension (OAP) Sponsor Deeming Savings

In 2010, the General Assembly passed HB 10-1384, which modified the Old Age Pension (OAP) program provisions related to qualified aliens who apply for the state’s OAP cash benefit. The bill delayed eligibility for qualified aliens to receive OAP benefits until they have been in the United States for at least five years. The Bill had two phases, the first was estimated to generate a \$13 million savings to the General Fund in the first year of implementation and approximately \$14 million in savings in subsequent years. The second phase is expected to save an additional \$15 million annually beginning in FY 2013-14.

Unused OAP savings flow into the General Fund. All or a portion of these projected savings could be used for mandatory reporting and related infrastructure improvements without negatively impacting existing funding for other programs. This legislation has already been passed so there is no identified downside related to this option.

3. Targeted Case Management

Medicaid case management services help beneficiaries receive care by identifying needed services, finding providers, and monitoring and evaluating the services delivered. Targeted Case Management (TCM) refers to case management restricted to specific beneficiary groups defined by disease or medical condition, by geographic regions, or other groups identified by a state and approved by the Centers for Medicare and Medicaid Services (CMS). TCM

reimbursement is currently used for APS in at least eight (8) states with an average annual reimbursement of approximately \$1,000,000 per state.

Adults currently receiving TCM in Colorado include Medicaid eligible persons with:

- A developmental disability;
- A mental illness who are in need of case management services; or
- A need for substance abuse treatment.

TCM reimbursement could be a viable source of funding for Colorado APS as it is estimated that APS caseworkers assist up to 50% of their clients with applying for and accessing Medicaid services. However, TCM spending has increased rapidly and adding another target population may be challenging as it requires a state plan amendment to the Centers for Medicare and Medicaid Services. Coordination with current TCM providers, the CDHS divisions of Developmental Disabilities, and Behavioral Health, could minimize any perception of competition for funding. Workload considerations at the county level include requiring caseworkers to track their time, meet educational eligibility requirements, and county participation in post payment reviews of TCM.

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***Task Force Recommendation:*** Request that Legislative Legal Services and Joint Budget Committee staff analyze these and other sources of funding and determine the best option for an assured and sustainable source of funds for mandatory reporting and overall Adult Protective Services infrastructure in order to respond to reports and provide protective services. The Task Force recommends that mandatory reporting must be prioritized by the General Assembly and may require offsetting funding for other important programs if additional money cannot be identified.

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*VI. What training is needed by state and county employees to use outcome-based best practices in the provision of protective services to at-risk elder adults?*

The Task Force had lengthy discussions related to the need for training of APS and law enforcement personnel, education for mandatory reporters related to new reporting requirements, community outreach through a statewide media campaign, and ongoing accountability activities to ensure appropriate interventions and improved outcomes for all at-risk adults served by the APS program. The discussions and recommendations related to training, education, outreach, and accountability are detailed below, along with recommended funding levels.

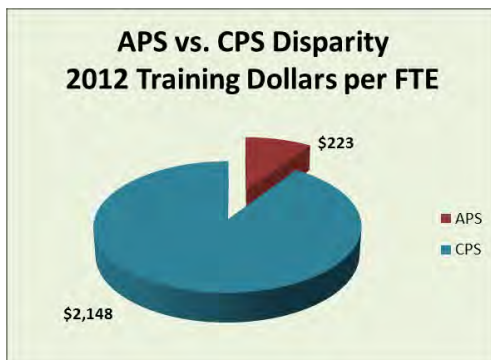
## A. State-Sponsored Training

State statute requires APS investigations and the subsequent provision of protective services to be conducted by trained workers. The APS program has had limited staff resources and operating funds with which to develop and provide adequate training.

Historically, the primary funding available for training APS caseworkers, case aides, and supervisors comes from the federal Title XX Social Services Block Grant (SSBG). Title XX funds are earmarked for training purposes and are available as a grant to county departments, Child Welfare, and APS. Each year for the past decade, APS has submitted a grant request for Title XX funds to support the APS training needs of county and state staff. The grants approved have been decreasing in amount from an initial \$37,000 per year to \$14,000 in FY 2012. In the past three years, the Field Administration unit has provided APS with \$3,000-4,000 of its Title XX award to supplement the APS grant. In FY 2012, the amount provided by Field Administration was \$4,100, for a total Title XX training budget of \$18,100. In FY 2013, APS was awarded \$18,000, which included the \$4,000 previously awarded to Field Administration and sub-awarded to APS. There will be no additional Title XX funds available for APS in FY 2013. Additional operating funds allocated to the Division of Aging and Adult Services have been utilized to cover costs beyond the Title XX allocation. For SFY 2012, APS spent approximately \$23,723 to train county APS staff. Not all costs to attend the training were covered for county APS staff. For example, mileage to the training sites and per diem were not included for APS workers attending training. The state training budget in FY 2012 provided for the following training events:

- 28 new caseworkers attended Training Academy in person.
- 75 caseworkers and supervisors attended one of three regional training opportunities in person.
- 20-25 county APS programs were represented at each quarterly training meeting, either in person or via teleconference.
- 8 new supervisors attended New Supervisor Training via webinar.
- 286 caseworkers and supervisors attended other state provided training opportunities via webinar.

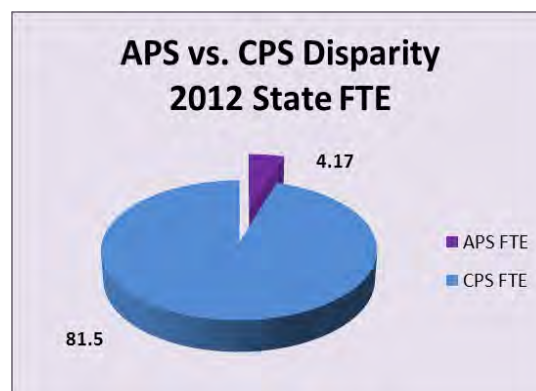
Even with the additional operating funds, a statewide training conference and additional in-person training opportunities are essential to creating effective transfer of learning opportunities. Because of limited funds and limited staff, the number of in-person training opportunities is not optimal.



This chart provides another demonstration of the differences between the Child and Adult Protection systems in the area of training. CPS receives nearly 10 times the funding per FTE than does APS for training caseworkers and other staff. APS' funding is 76% Federal

funds and the remaining is state funds. CPS' funding is 50% federal funds, 49% state and 1% local funds.

Staff resources at the State level to develop and conduct training and to complete all other duties of supervising the APS program, is also deficient. Currently, the State APS unit consists of three full-time program specialists and a half-time manager. These 3.5 FTEs are charged with developing and providing training to county APS staff, handling technical assistance requests, responding to legislative initiatives, writing rules and setting policy, identifying best practices, training workers on the CBMS APS data system and providing technical support in using the data system, assisting the Program Integrity and Assurance Unit with on-site program reviews, conducting desk top reviews, data analysis, and so on. An additional two-thirds FTE is available for APS Quality Assurance and Quality Control (QA/QC) activities. (See page 42 for further details on QA/QC needs.) CPS has nearly 20 times more FTE than APS to supervise the program as outlined above.



The state recently worked with counties to establish minimum training requirements for APS caseworkers. While it is difficult to meet the statutory training requirement with limited funding, the State APS team has found ways to create efficiencies and to leverage resources in a way that allows for maximum training on a very modest budget, such as aligning regional trainings with quarterly meetings to reduce travel costs and by providing webinar training when appropriate. Additionally, the APS program has committed to work closely with Child Welfare to determine whether there are cross-training opportunities, particularly for caseworkers with both Child Protection and APS duties.

The Task Force recommends providing a stable and sustainable training budget of \$80,000, some or all of which could be provided through a set appropriation from Title XX. This would provide the state with a \$285 per person budget to provide training to county caseworkers, supervisors, and case aides. This total of \$80,000 in funding would allow the State to provide the following training:

- Five day Training Academy for 62 new workers at a cost of \$1,000 per worker for a total cost of \$62,000. Costs include mileage and per diem for county staff, lodging, training facility fees, and materials. New workers include the new caseworkers hired as a result of mandatory reporting plus normal turnover of APS staff.
- Six regional training events for new and ongoing workers at a cost of \$17,000. Costs include state staff travel costs, mileage and per diem for up to 180 county staff (30 per event), and materials.

- One-on-one in-county technical assistance visits for up to five counties located outside the Denver metro area for a total cost of \$1,000. One-on-one technical assistance to counties within the Denver metro area would be unlimited and no cost.
- Unlimited webinar hosting for online training events.

## **B. Quality Assurance and Program Integrity**

Another key component to training for the APS program is quality assurance and compliance with APS program directives. Currently, the Division of Aging and Adult Services has a two-thirds (2/3) FTE for quality assurance activities across all 64 county APS programs. This allows for an on-site review of each county APS program just once every three to four years. This is not an effective method of ensuring that counties are providing appropriate interventions for at-risk adults. Additionally, when a statewide review of data or desktop review of a county program identifies critical issues that require in-depth quality assurance activities and potentially lengthy on-site reviews to remedy the issues, the regular schedule for on-site review must be adjusted to accommodate the newly identified critical need. These types of program integrity reviews are critical to ensuring that at-risk adults statewide are receiving appropriate and effective intervention.

Since 2009, the APS program has completed on-site reviews in 31 counties. The reviews have highlighted common problems across all counties related to documentation of APS activities. In almost every county, there was missing or inadequate documentation of the justification for APS involvement, the results of the investigation and client assessment, the case plan for protective services, and the reason the case was closed. While inadequate performance was the cause in some situations, lack of training and skills related to documentation best practices has been identified as the most common cause. Quality assurance/quality control activities are necessary to identify these situations so that APS policy staff can provide appropriate and timely training and technical assistance.

During reviews, the counties have overwhelmingly voiced the need for increased funding, reduced caseloads, increased training opportunities, additional assistance from the State, and additional community resources as the largest needs for the APS program.

The state has begun working with counties on process improvement activities and sharing best-practices across counties. This effort is generating ongoing discussions and improvements in outcomes for the APS system, such as timely response to reports of abuse and neglect. These efforts allow counties to identify wasted activities and other inefficiencies in their processes and practices. Some of this work occurs in regional meetings and some improvements are done through on-site reviews, which allow counties to receive one-on-one technical assistance and training that they would not normally receive. More frequent on-site reviews would lead to more one-on-one assistance.



### **C. Law Enforcement**

The Task Force is recommending that mandatory reporting be located in the criminal code, Title 18, Article 6.5 C.R.S. The reasons for this recommendation can be found on page 14. As a result of the recommendation, law enforcement will now be required to take the mandatory reports of mistreatment of elders. Law enforcement will need additional training on working with elders, screening the reports to determine the need for investigation and follow-up, and when to involve APS.

There is a pre-existing oversight body in Colorado which has funds annually allocated to develop training programs for law enforcement across the State. The Peace Officer Standards and Training (POST) Board should be directed to develop a training program on the problem of elder abuse and investigation best practices. Once developed, the program should be distributed through continuing education efforts for current law enforcement personnel and be mandatory for new recruits.

### **D. Community Education and Mandated Reporters**

Groups identified as mandated reporters may have questions on their reporting requirements and on when and where to report. The Task Force recommends that a standardized training be developed and posted to a website for access by mandatory reporters and/or their employers as a self-directed or employer provided training. Licensing boards operated by the Department of Regulatory Agencies should be required to notify their constituencies of the mandatory reporting requirements and the web-based training.

Additionally, community education is needed and should be targeted to professionals, service providers, and members of the community at large who interact with elder adults on a semi-regular basis, such as persons with jobs that bring them in contact with elder adults, (e.g., cable repair personnel, plumbers, or pizza delivery drivers) or members of the community at large that may have contact with an elder (e.g., neighbor, fellow church member, friend).

The Task Force recommends that public service announcements and a statewide outreach campaign be developed for educating the broader community. The Task Force recommends an initial state-funded outreach campaign to highlight the new requirements. Appendix 15 outlines advertising costs throughout the state that the Colorado Department of Health Care Policy and Financing developed as an internal resource. Some of the costs of the campaign could be addressed through gifts, grants and donations.

It should be noted that counties regularly provide outreach and educational opportunities in their communities. Counties with an Adult Protective Services team are mandated to provide a minimum of five community education activities each fiscal year. Many collaborate with community partners to raise awareness of abuse in the at-risk adult population. The community education is not funded at the State level so County Departments currently utilize their own discretionary funds to support these events.

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***Task Force Recommendation:*** *Training for law enforcement and APS personnel, education of mandatory reporters, community outreach, and program accountability are all key components for ensuring the successful implementation of mandatory reporting. The Task Force recommends \$165,000 to fund these activities, as detailed below.*

*1.) Provide funding of \$80,000 for the additional impact of mandatory reporting on the State and county training budgets.*

*2.) Fund one (1) new FTE (to supplement the current 2/3 FTE) and associated travel expenses at a cost of approximately \$80,000 for the Colorado Department of Human Services' APS Program to conduct Quality Assurance activities, including on-site reviews, of county APS programs. This would allow the state to provide additional technical assistance, eliminate waste, and promote best practices in county APS units.*

*3.) Training must be developed and be mandatory for law enforcement officers. Law enforcement officers should conduct the training for law enforcement personnel to increase the receptivity of the training. Additionally, law enforcement personnel should be encouraged to identify liaisons within their ranks to foster relationships and nurture collaboration. This training is under the purview of the Peace Officers Standards and Training Board, which already has funding for training development for officers.*

*4.) Provide \$5,000 to establish a state-funded public outreach campaign to inform the public at large about the mandatory reporting requirement and the signs of mistreatment and exploitation.*

*5.) Within existing resources provide a state-developed web-based training for mandatory reporters that can be easily accessed by employers and the public.*

*6.) Within existing resources, utilize county public education events to educate the community and mandatory reporters using state-developed materials. Inform the public about web-based training, best practices, and other resources related to mandatory reporting.*

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*VII. Are existing criminal penalties adequate for offenses against at-risk adults as described in Title 18, Article 6.5?*

Law enforcement agencies must be equipped to investigate crimes committed against elders. Equally, judicial districts must be equipped to aggressively prosecute offenders.

The Task Force supports certain changes to the criminal statutes including development of a new “Financial Exploitation of the Elderly” criminal provision modeled on states such as Florida, Missouri, and Minnesota. Specifically, changes to title 18 should include:

- Creation of a specific crime for breach of a fiduciary duty, powers of attorney, guardianship, conservatorship, or persons who assume a fiduciary role but do not necessarily have a legal designation as such.
- Creation of a provision that criminalizes the conversion of an elderly victim’s funds, assets, or property through the use of “undue influence.” As an example, “undue influence” is defined in Missouri as the “use of influence by someone who exercises authority over an elderly person or disabled person to take unfair advantage of the person’s vulnerable state of mind, neediness, pain or agony. Undue influence includes, but is not limited to, the improper or fraudulent use of power of attorney, guardianship, conservatorship or other fiduciary authority.” (see MO ST 570.145.5)

Additionally, the Task Force recommends expanding the existing theft criminal statute that is most often used to prosecute alleged perpetrators in the following way:

- **Existing Statute:** (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 18-4-4-10(1), and the victim is an at-risk adult or an at-risk juvenile, or who commits theft against an at-risk adult or an at-risk juvenile while acting in a position of trust, whether or not in the presence of the victim, 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 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.
- **Proposed Changes:** (5) Any person who commits theft as such crime is described in section 18-4-4-10(1), and
  - Commits any element or portion of the offense in the presence of the victim, and the victim is an at-risk adult or an at-risk juvenile, or
  - Commits theft against an at-risk adult or an at-risk juvenile while acting in a position of trust, whether or not in the presence of the victim, or
  - COMMITS THEFT AGAINST AN AT-RISK ADULT OR AN AT-RISK JUVENILE KNOWING THE VICTIM IS AN AT-RISK ADULT OR AN AT-RISK JUVENILE, WHETHER OR NOT IN THE PRESENCE OF THE VICTIM,

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 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.

*VIII. Should the definition of “at-risk adult” in section 26-3.1-101 C.R.S. be reconciled with the definition of “at-risk adult” in section 18-6.5-102 (1), C.R.S.?*

As stated on page 14, Title 26 and Title 18 perform very different functions with regard to adult reporting and protection. It is important that APS maintain its charge to investigate and provide services for all vulnerable adults who cannot manage their own health and safety. Title 18 provides a vehicle to prosecute crimes, regardless of mental or physical capacity.

## **CONCLUSION**

The Task Force unanimously endorses passage of mandatory reporting to law enforcement of instances of physical abuse, sexual abuse, caretaker neglect, and exploitation of at-risk elderly persons age 70 and older. However, the state must commit adequate resources to allow for a sustainable Adult Protective Services system at the time mandatory reporting is implemented.

The majority of the resources identified in this report address the system infrastructure needs required to be in place when mandatory reporting is adopted. Those needs include additional county caseworkers and associated staff, state quality assurance personnel, emergency services, training costs, and data system costs.

In total, the Task Force identified a \$5,802,848 need for the first year of implantation. Please see the chart below for details. Additional funds will be needed for the ongoing maintenance of the data system, post-implementation analysis reviews necessary to gauge the impact of mandatory reporting, and annual increases for caseload growth.

<b>Identified Need</b>	<b>First Year Estimated Cost</b>
36 FTE to reduce current county APS caseload to 25:1.	\$2,730,217
22 FTE to maintain county APS caseload at 25:1 with anticipated 15% increase in reports due to mandatory reporting.	\$1,657,631
Funding to provide protective services for clients when no other agency has services available	\$1,000,000
Training, community education, outreach, and accountability.	\$165,000
APS Data System	\$250,000
<b>Total Task Force Recommendation</b>	<b>\$5,802,848</b>

Once again, it should be recognized that mandatory reporting alone will not resolve the issue of elder abuse, or even ensure better protection is afforded to those in need of safeguarding unless commensurate improvements are made to the services needed to protect at-risk elders.

On November 1, 2012 the Governor released his proposed budget for the FY 2013-14 and included \$5.0 million to fund the recommendations of the Elder Abuse Task Force, \$2.0 million for the Older Coloradans Program, and \$250,000 for a new APS data system. The Task Force is excited about the Governor's support for the recommendations as evidenced by the inclusion of these funds in his annual budget and submission to the General Assembly. Incorporation of the Task Force's recommendation into any legislation is the first step towards creating a strong system of adult protection and mandatory reporting in Colorado.



## Aging in Colorado

### Introduction

The older population in Colorado is an important and growing segment of its population. Colorado has the 4<sup>th</sup> lowest share among states of its population over the age 65, yet between 2000 and 2010 its population 65 and over grew by 32% (133,552) compared to the state as a whole which grew by 17%. Colorado’s growth in its 65 plus population was 4<sup>th</sup> fastest in the US. Historic migration to Colorado has led to a current age distribution with very few people over the age 65 (11%) and a larger share younger than 65. However, aging of the younger population, especially the “Baby Boomers” born between 1946 and 1964 is forecast to increase the population over 65 by 150% between 2010 and 2030. This report describes the population age groups in Colorado, focusing primarily on the over 65 population. The data for this report are based on the 2010 Census Summary File 1.

### Total Population Snapshot

In 2010 Colorado’s population was 5,029,196. The population increased by 17% over the decade or by 727,935. Throughout the state, county growth rates ranged from an increase of 60% to declines of 17%. Seventeen counties, primarily along the Eastern Plains, lost population. The fastest growing region was the North Front Range (Larimer and Weld Counties) at 27%

followed by the Western Slope at 20%.

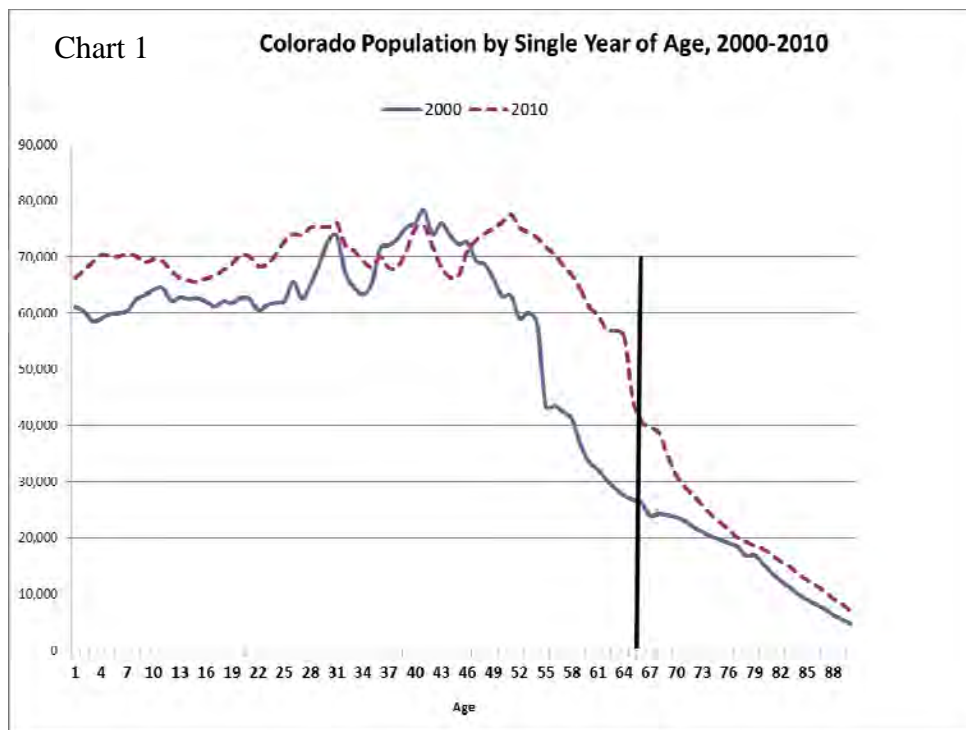


Chart 1 shows the population by single year of age for 2000 and 2010. The black vertical line is drawn at 65 years. The chart shows the relatively small population over the age 65 and the large group age 46-65 pushing up against the black line. Over the next decade (2010-2020) this large share of “Baby

Boomers” will age into the over 65 age group. It is important to note that Colorado is a sum of its counties and each county has a unique age distribution that does not necessarily match the state. County age data is available at: [www.colorado.gov/demography](http://www.colorado.gov/demography)

**Population Change by Age**

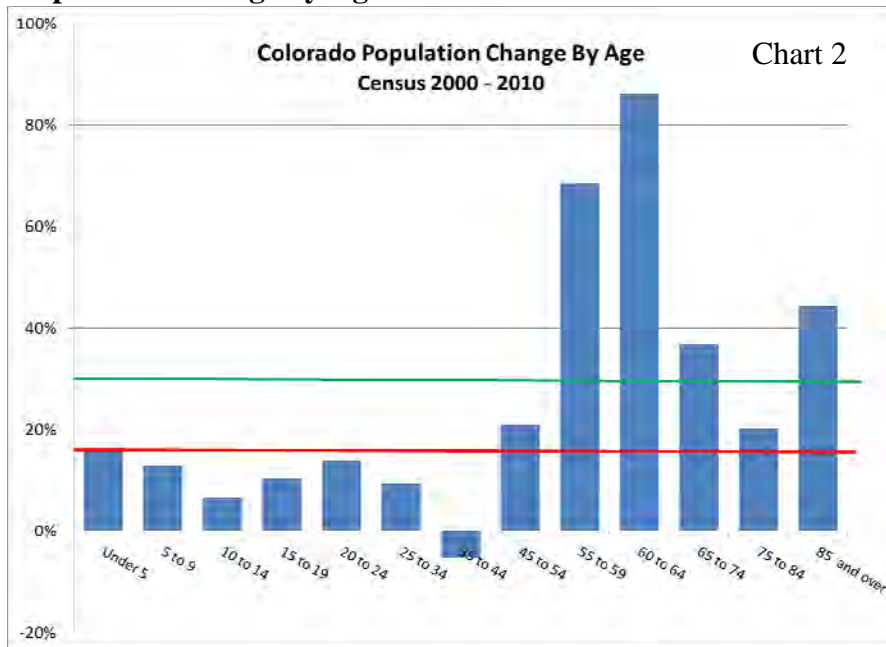


Chart 2 below shows the change in age group between 2000 and 2010. For all age groups younger than 45, the population grew at or below the state growth rate of 17% (shown dark horizontal line). The fastest growing 5 year age group was the 60-64 increasing by 86% or 124,695. The chart also shows there was a decline in the population 35-44. This decline is due to both the “Baby Boomers” aging out of the age cohort and the “Baby Bust” following the “Baby Boom”.

Table 1

**Colorado Population by Age**

	2000	2010	Abs. Ch.	Pct Change
<b>Under 5</b>	297,505	343,960	46,455	15.6%
<b>5 to 9</b>	308,428	348,603	40,175	13.0%
<b>10 to 14</b>	311,497	332,654	21,157	6.8%
<b>15 to 19</b>	307,238	339,475	32,237	10.5%
<b>20 to 24</b>	306,238	348,615	42,377	13.8%
<b>25 to 34</b>	664,027	726,278	62,251	9.4%
<b>35 to 44</b>	736,823	699,644	-37,179	-5.0%
<b>45 to 54</b>	614,125	742,698	128,573	20.9%
<b>55 to 59</b>	194,722	328,364	133,642	68.6%
<b>60 to 64</b>	144,585	269,280	124,695	86.2%
<b>65 to 74</b>	226,310	309,960	83,650	37.0%
<b>75 to 84</b>	141,547	170,052	28,505	20.1%
<b>65+</b>	416,073	549,625	133,552	32.1%
<b>85 +</b>	48,216	69,613	21,397	44.4%
<b>Total pop.</b>	4,301,261	5,029,196	727,935	16.9%

Colorado’s population over 65 increased by 32% or 133,552 (shown by the horizontal line at 32% in Chart 2). The growth in the 65+ population was faster than the total state population and is the first time in Colorado’s history where the population over 65 grew at a faster rate than the state population.

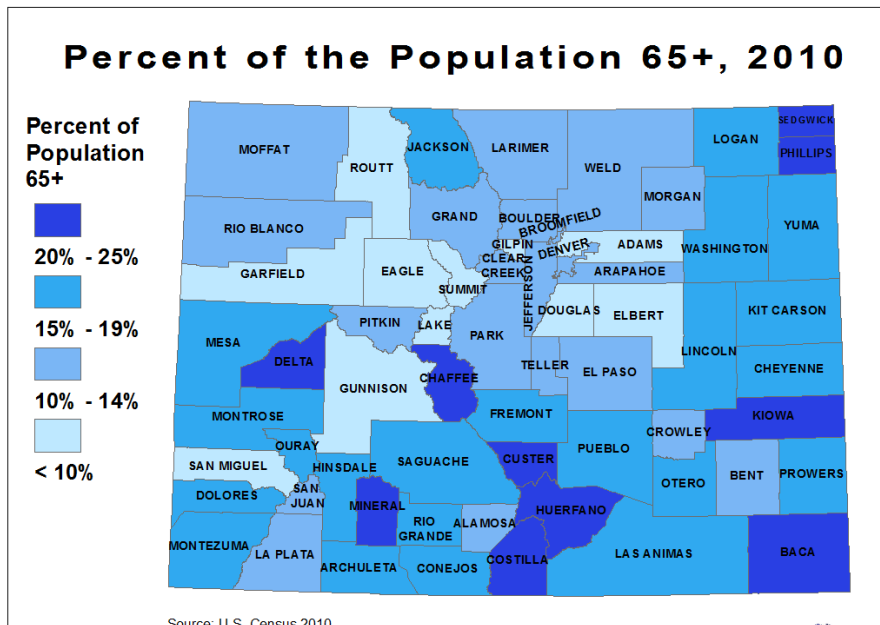
Although Colorado had the 4<sup>th</sup> fastest growth in the 65+ population in the

US, it also has the 4<sup>th</sup> smallest share of its population over 65 in the US. Of the population over 65, the population over 85 was the fastest growing age group growing by 44% or 21,397. The total population over 85 is 69,613 and is 1.3% of the population. Colorado had the 7<sup>th</sup> fastest growing population over 85 in the US. Table 1 shows the population change by age group.

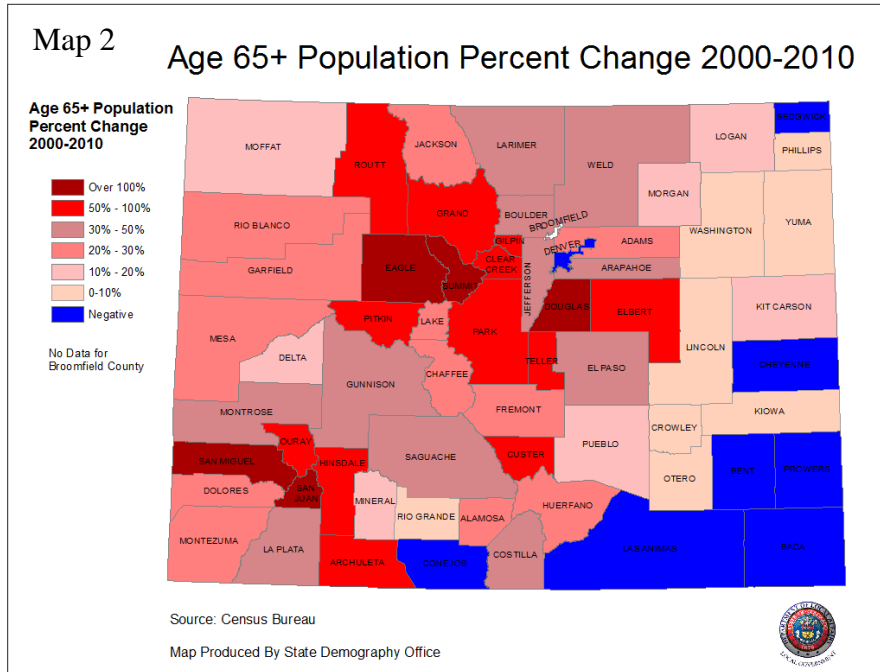
Population over 65 by County

As mentioned earlier, Colorado is a sum of its counties. The counties vary by population size and growth rate as well as share of population by age group. The median age in Colorado is 36.1 meaning that 50% of the population is older than 36.1 and 50% is younger. The median age ranges by county from 53.3 in Custer to 32.4 in Adams. Map 1 shows the percent of the population over 65 years old by county. The darkest shades of blue show the largest share of the population over 65. The Eastern Plains and San Luis Valley regions of the state have the largest share of their population over 65. However, over 45% of all Coloradans over 65 live in the four counties of Jefferson, Denver, El Paso and Arapahoe. The share of the population over 65 ranges from a high of 25% in Huerfano County to a low of 5% in Eagle County. Colorado's share of the population over 65 is 11% and the US average is 13%.

Map 1



There were 5 counties experiencing over 100% growth in the population over 65 shown by the darkest red color in Map 2. Most of these counties were in the mountains except for Douglas County. Interestingly, most of these counties also have the smallest share of their population over 65. This indicates that their small base is increasing rapidly. Eagle County has the smallest share of its population over 65 in the state and over the decade it increased by 135% or by 1,689. Some counties on the Eastern Plains experienced a decline in the population over 65, due to both aging of the already older population and out migration from the area.





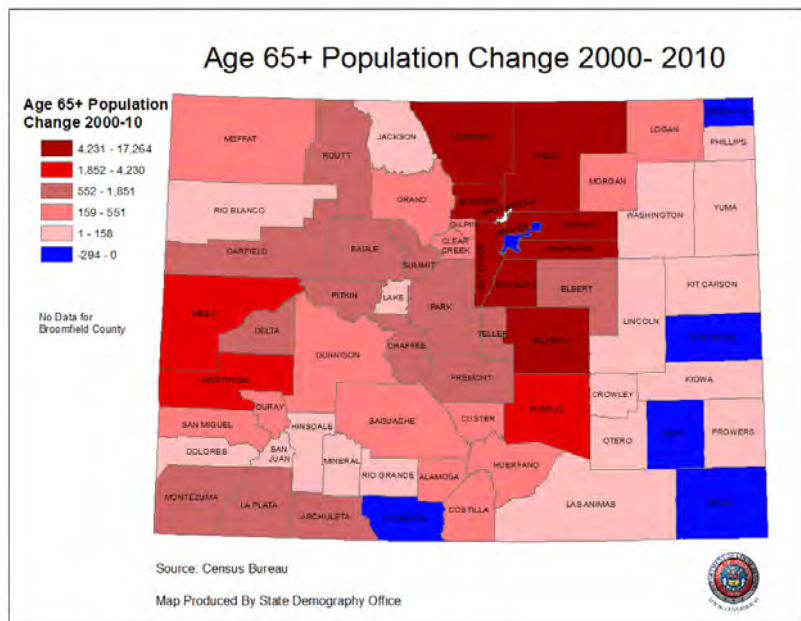
# Appendix 1

Table 2. Population Totals and by 65+ by County in Colorado.

	2000 Total	2000 65+	2000 Share 65+	2010 Total	2010 65+	2010 Share 65+	Total Ch. 2000-2010	Pct Ch. 2000-2010
<b>Colorado</b>	4,301,261	416,073	9.7%	5,029,196	549,625	10.9%	133,552	32.1%
Adams	363,857	28,382	7.8%	441,603	36,862	8.3%	8,480	29.9%
Alamosa	14,966	1,440	9.6%	15,445	1,752	11.3%	312	21.7%
Arapahoe	487,967	41,929	8.6%	572,003	57,580	10.1%	15,651	37.3%
Archuleta	9,898	1,178	11.9%	12,084	2,116	17.5%	938	79.6%
Baca	4,517	1,014	22.4%	3,788	911	24.0%	-103	-10.2%
Bent	5,998	954	15.9%	6,499	888	13.7%	-66	-6.9%
Boulder	291,288	22,670	7.8%	294,567	29,521	10.0%	6,851	30.2%
Broomfield	NA	NA	NA	55,889	5,508	9.9%	NA	NA
Chaffee	16,242	2,762	17.0%	17,809	3,523	19.8%	761	27.6%
Cheyenne	2,231	370	16.6%	1,836	328	17.9%	-42	-11.4%
Clear Creek	9,322	658	7.1%	9,088	1,132	12.5%	474	72.0%
Conejos	8,400	1,258	15.0%	8,256	1,254	15.2%	-4	-0.3%
Costilla	3,663	616	16.8%	3,524	807	22.9%	191	31.0%
Crowley	5,518	597	10.8%	5,823	614	10.5%	17	2.8%
Custer	3,503	517	14.8%	4,255	954	22.4%	437	84.5%
Delta	27,834	5,473	19.7%	30,952	6,239	20.2%	766	14.0%
Denver	554,636	62,426	11.3%	600,158	62,132	10.4%	-294	-0.5%
Dolores	1,844	316	17.1%	2,064	388	18.8%	72	22.8%
Douglas	175,766	7,322	4.2%	285,465	20,343	7.1%	13,021	177.8%
Eagle	41,659	1,249	3.0%	52,197	2,938	5.6%	1,689	135.2%
Elbert	19,872	1,192	6.0%	23,086	2,193	9.5%	1,001	84.0%
El Paso	516,929	44,787	8.7%	622,263	62,051	10.0%	17,264	38.5%
Fremont	46,145	6,729	14.6%	46,824	8,244	17.6%	1,515	22.5%
Garfield	43,791	3,840	8.8%	56,389	4,717	8.4%	877	22.8%
Gilpin	4,757	270	5.7%	5,441	514	9.4%	244	90.4%
Grand	12,442	968	7.8%	14,843	1,519	10.2%	551	56.9%
Gunnison	13,956	965	6.9%	15,324	1,351	8.8%	386	40.0%
Hinsdale	790	92	11.6%	843	147	17.4%	55	59.8%
Huerfano	7,862	1,338	17.0%	6,711	1,689	25.2%	351	26.2%
Jackson	1,577	206	13.1%	1,394	257	18.4%	51	24.8%
Jefferson	527,056	50,826	9.6%	534,543	67,411	12.6%	16,585	32.6%
Kiowa	1,622	285	17.6%	1,398	300	21.5%	15	5.3%
Kit Carson	8,011	1,171	14.6%	8,270	1,322	16.0%	151	12.9%
Lake	7,812	513	6.6%	7,310	647	8.9%	134	26.1%
La Plata	43,941	4,128	9.4%	51,334	5,979	11.6%	1,851	44.8%
Larimer	251,494	24,037	9.6%	299,630	35,541	11.9%	11,504	47.9%
Las Animas	15,207	2,732	18.0%	15,507	2,748	17.7%	16	0.6%
Lincoln	6,087	868	14.3%	5,467	918	16.8%	50	5.8%
Logan	20,504	2,965	14.5%	22,709	3,321	14.6%	356	12.0%
Mesa	116,255	17,642	15.2%	146,723	21,872	14.9%	4,230	24.0%
Mineral	831	144	17.3%	712	164	23.0%	20	13.9%
Moffat	13,184	1,233	9.4%	13,795	1,454	10.5%	221	17.9%
Montezuma	23,830	3,299	13.8%	25,535	4,269	16.7%	970	29.4%
Montrose	33,432	5,098	15.2%	41,276	7,349	17.8%	2,251	44.2%
Morgan	27,171	3,541	13.0%	28,159	3,965	14.1%	424	12.0%
Otero	20,311	3,342	16.5%	18,831	3,458	18.4%	116	3.5%
Ouray	3,742	457	12.2%	4,436	777	17.5%	320	70.0%
Park	14,523	1,059	7.3%	16,206	1,881	11.6%	822	77.6%
Phillips	4,480	867	19.4%	4,442	919	20.7%	52	6.0%
Pitkin	14,872	1,013	6.8%	17,148	1,964	11.5%	951	93.9%
Prowers	14,483	1,832	12.6%	12,551	1,835	14.6%	3	0.2%
Pueblo	141,472	21,456	15.2%	159,063	24,346	15.3%	2,890	13.5%
Rio Blanco	5,986	669	11.2%	6,666	827	12.4%	158	23.6%
Rio Grande	12,413	1,822	14.7%	11,982	1,945	16.2%	123	6.8%
Routt	19,690	992	5.0%	23,509	1,909	8.1%	917	92.4%
Saguache	5,917	641	10.8%	6,108	893	14.6%	252	39.3%
San Juan	558	39	7.0%	699	86	12.3%	47	120.5%
San Miguel	6,594	222	3.4%	7,359	517	7.0%	295	132.9%
Sedgwick	2,747	607	22.1%	2,379	569	23.9%	-38	-6.3%
Summit	23,548	770	3.3%	27,994	2,158	7.7%	1,388	180.3%
Teller	20,555	1,540	7.5%	23,350	3,023	12.9%	1,483	96.3%
Washington	4,926	898	18.2%	4,814	928	19.3%	30	3.3%
Weld	180,936	16,240	9.0%	252,825	24,235	9.6%	7,995	49.2%
Yuma	9,841	1,607	16.3%	10,043	1,623	16.2%	16	1.0%

NA = Broomfield became a county in 2001 therefore 2000 data does not exist.

In absolute terms the population over 65 increased by 133,552 between 2000 and 2010. The 5 fastest growing counties in absolute terms for the population over 65 were: El Paso, Jefferson, Arapahoe, Douglas and Larimer representing 55% of the increase in the population over 65.



The counties shaded blue in Map 3 declined in population. Interestingly, Denver County lost population over 65. The decline was due primarily to an out-migration of the population 75-84.

**Why is Colorado Aging So Fast?**

Colorado is aging fast (represented by a growth rate of the 65+) primarily due to the current relatively small share of the population over the age 65 and the large group of Baby Boomers and pre Baby Boomers aging into the 65+ age group. Migration and aging are the two factors leading to change in the population over 65. Net in-migration was only responsible for approximately 6,000 of the 133,552 increase Colorado’s population over 65, the rest was due to people aging into the 65+ age cohort.

Chart 3.

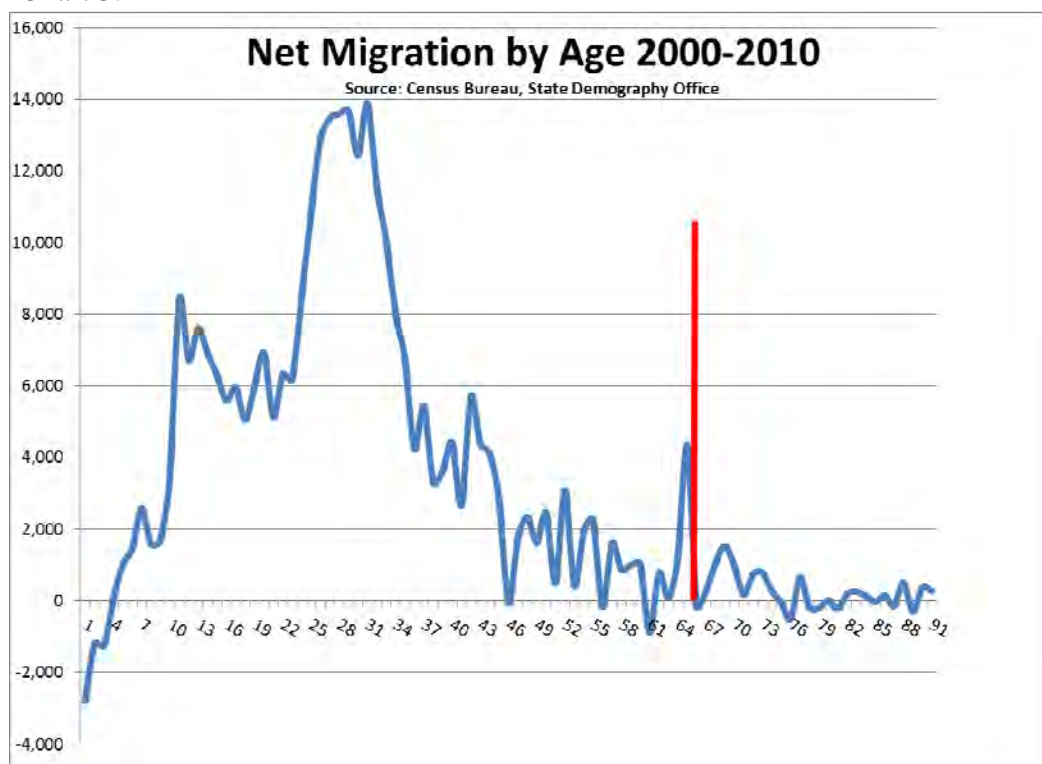


Chart 3 illustrates Colorado net migration by age. The red line is drawn at age 65. The largest share of net migration (“in” minus “outs”) was for ages 23-35. Colorado has a historical pattern for attracting this age group which has

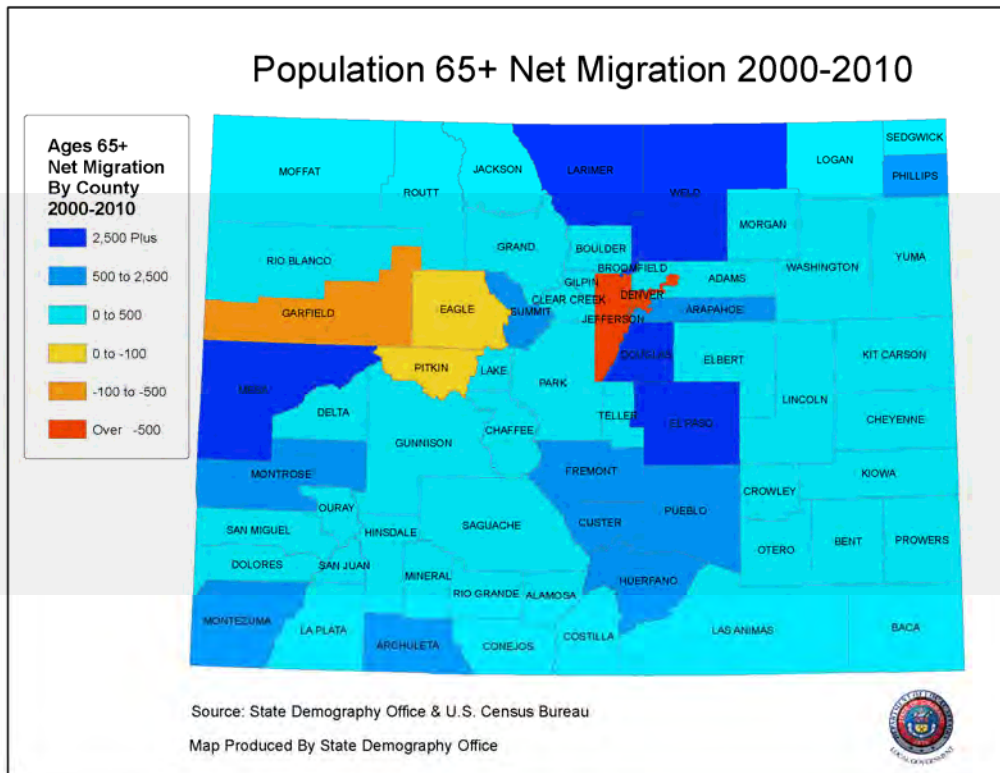
impacted Colorado’s age distribution for decades. Since the majority of the migrants to Colorado are young, Colorado has back-filled its age distribution resulting in a small share of its population over 65 (See Chart 1). It has taken decades for the large group of young migrants in the 1970s to age to 65. Migration was responsible for 70% of the population increase in Colorado from 1970 to 1980. Again they were primarily aged 25-35 and many of them were “Baby Boomers”.

People migrate to Colorado from all age groups but there is a relatively small share migrating to Colorado over the age 65 compared to other age groups. There is a small spike around 64-65 and then slightly positive for most ages over 65.

Migration by age varies by county as well. Not all counties attract and retain the population over 65. Map 4 shows net migration of the population over 65 from 2000-2010. Shades of orange and yellow indicate net out-migration where shades of blue indicate net in-migration. Net in-migration to a county can be from moving from out of state into Larimer County for example, or moving from Denver County to Larimer County.

Denver is highlighted as a county with net out migration for the 65+ population and using both the migration information and total population change, we can calculate that out-migration is the largest factor for the decline in the population over 65 (see Map 3), rather than a large number of deaths.

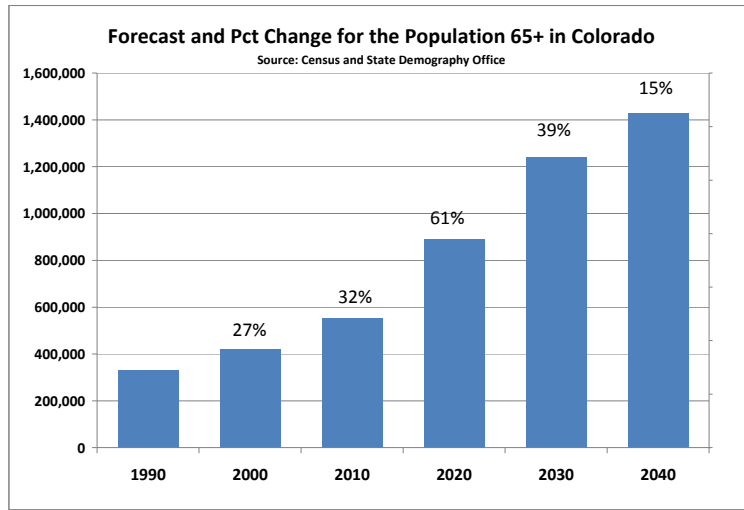
Map 4



**Aging Forecast**

The aging of Colorado is a significant change for two primary reasons: 1. Colorado currently does not have a large share of its population over 65 due to its migration pattern and 2. the “Baby Boomers” age 46-64 in 2010 are 1.3 million strong in Colorado and will be entering the over 65 age cohort over the next 20 years. As mentioned earlier, Colorado has the 4<sup>th</sup> smallest share of its population over 65, 11% vs 13% for the US. Take a current relatively small number of 65+, 549,629 and add 1.3 million “Baby Boomers” and you get a significant shift. Contrary to some beliefs, Colorado does not have a disproportionately large share of “Baby Boomers”. They are 26% of the population and number 1,346,000 strong but their share of the state’s population ranks 21st in the US.

Chart 4

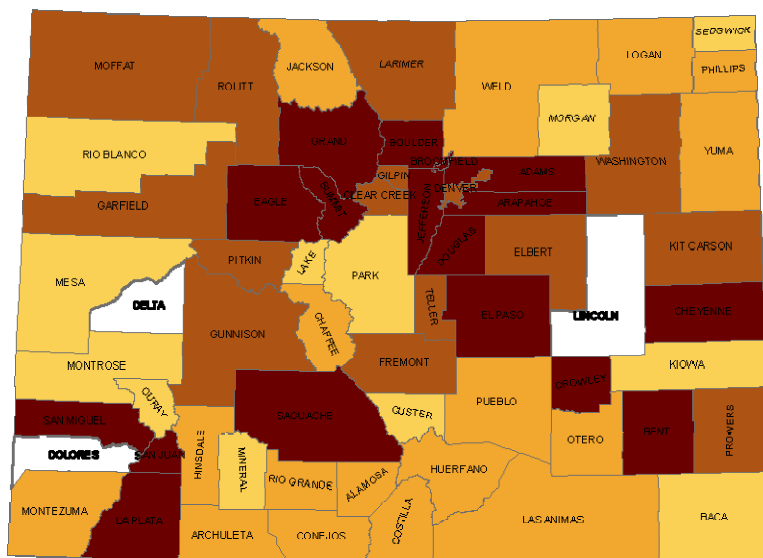


Between 2010 and 2020 Colorado’s 65+ population is forecast to increase by 61% growing from 549,629 (Chart 4) to 891,970. This current decade will be the fastest growing decade for the population over 65. By 2030 the population over 65 is forecast to be 1,242,000. The majority of the increase in the population over 65 will be due to aging rather than migration as discussed earlier. After 2030 the growth rate for the 65+ is expected to slow to a similar rate as the total population, an annual average rate of

1.5%

The leading edge of the “Baby Boomers” (aged 55-64 in 2010) will be aging into the 65-74 age cohort by 7% per year or 70% between 2010 and 2020. The US population of the same age will be increasing by 4.2% per year, again demonstrating that Colorado is different than the US average.

Map 5. Percentage point change of 65+ share of population, 2010 - 2030

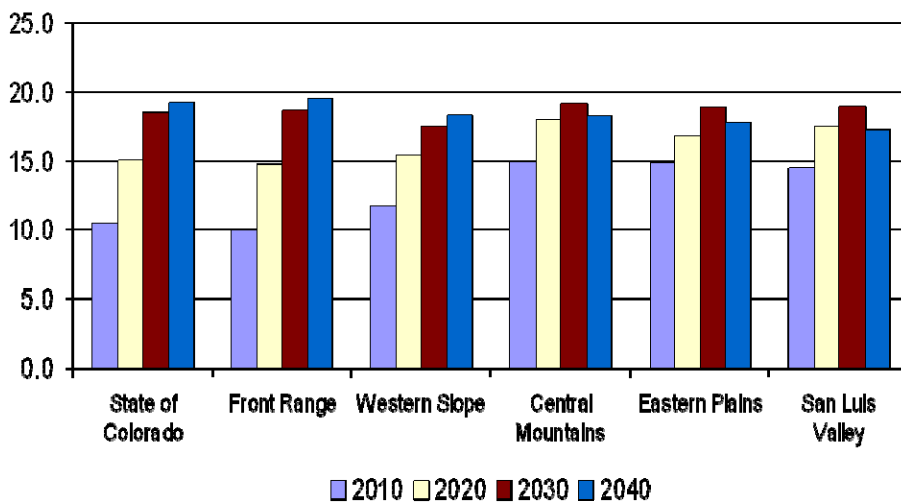


The forecast growth by county will depend on its current age structure and the migration by age pattern. The current (2010) youngest counties (fewest people over 65) are forecast to age the fastest where the older counties (larger share over 65) will change the least. Map 5 shows from darkest to lightest the

fastest growing counties for the 65+ population from 2010 to 2030. Forecast of the population by age by county are in Appendix 1.

The fastest growth for the 65+ population will be along the Front Range and Resort Counties in the Western Slope increasing from 10% to 18% of the population. The change for the Eastern Plains and San Luis Valley will be smaller, increasing from an estimated 15% to 18% of the population. Chart 5 below shows the change in share of the population 65+ by decade by region. Interestingly, by 2040 the Front Range is forecast to have a larger share of its population over 65 compared to the Eastern Plains and San Luis Valley which are regions that have historically had an older population compared to the state and Front Range.

Chart 5 **Percent of the Population 65+**



**Implications**

The significant growth in the population over 65 from 2010 through 2030 will impact Colorado in multiple ways primarily because the 65+ age group on average, buys, works, lives and receives services differently from other age groups. Growth in the 65+ population will impact the labor force, economic development, housing, transportation, health services and public finance just to name a few. Below is a discussion of some of these impacts.

*Labor Force*

The labor force will be impacted by the aging of Colorado in three primary ways.

1. An increasing number of people aging out of the labor force and subsequent replacement,
2. Varying impact by industry. Some industries have a larger share of older workers than others including utilities, government, education, health services.
3. Increase in demands by retirees creating new jobs (health services, tourism etc.).

“Boomers” are 37% of the labor force and over the next 20 years approximately 1 million workers will be aging out of the labor force even with workers staying in the labor force longer. Labor force participation rates (share of the population actively in the labor force) for the 65+ have been increasing both because they want and need to stay in the labor force longer. The labor force participation rate in 2010 for workers over 65 in Colorado is 18% compared to the national rate of 16%. In comparison, the labor force participation rate for 55-59 years olds is 78%.

It is forecast that the largest growth of leavers from the labor force will occur around the years 2020-2022 – basically when the peak of the “Baby Boom” generation reaches 65 years of age. Between 2010 and 2025 the annual numbers of leavers (retirees) are forecasts to increase from 33,000 to 58,000 a 74% increase compared to only a 27% increase in the labor force over the same time period.

It is difficult to imagine now in 2012 with high unemployment that by 2020 Colorado could be facing tight labor markets simply due to aging. Typically employment opportunities are created both by people exiting the labor force and by the creation of new jobs. As the number of people aging out of the labor force increases, more employment opportunities will be created through retirements than through “new” jobs. In 2005 it was estimated that “new jobs” created about 60% of the employment opportunities in the state. “New jobs” are forecast to provide 43% of the employment opportunities by 2025.

Understanding that Colorado could be facing a tight labor market in 2022 gives us an opportunity to plan and take the most advantage of an increased demand for labor. Current research has shown that there are not enough long-term-care workers as well as gerontologists. Additional research on future labor force demands and skills will help to identify education and skills that will be needed by Colorado workers. The increase in leavers (retirees) and subsequent increase in demand for labor will also occur nationally. A prepared and skilled labor force will be critical to maintain Colorado’s competitive edge.

Growth in employment opportunities from both retirements and “new jobs” should also be balanced or compared to the growth of potential “new entrants” into the labor force. If employment opportunities grow faster than potential “new entrants”, increased immigration could occur which brings with it its own set of challenges. Net migration is forecast to be larger than new jobs created from 2015-2025 due to aging of the labor force. This means that for every new job created, Colorado is forecast to need to migrate in a person from out of state.

### *Economic Impact*

Retiree spending is an important economic driver or base industry in Colorado. An economic driver is an industry that brings in money from outside of the area. It is estimated that spending of savings, pensions, 401Ks, etc. by people over the age 65 supported approximately 137,000 jobs in 2010. This equates to approximately one job supported by every 4 people over the age 65. By 2030 it is forecasted that 346,000 jobs will be supported through retiree spending. In specifically the Health Services industry, it is estimated that one job is supported by the spending of every 10 people over the age 65. Jobs in the Health Services industry supported by spending of those over 65 (often Medicare dollars) is forecast to increase from 55,000 in 2010 to 124,500 in 2030 in Colorado.

There is a large growth potential for products, services, entertainment, housing etc. demanded by people over 65 years of age. The market segment of 65+ is forecast to increase by 6% per year from 2010 through 2020 followed by 4% per year from 2020 through 2030. Rarely do businesses have an opportunity to create and provide products and services for a segment growing by 6% per year when the entire population is only increasing by 1.5% per year.

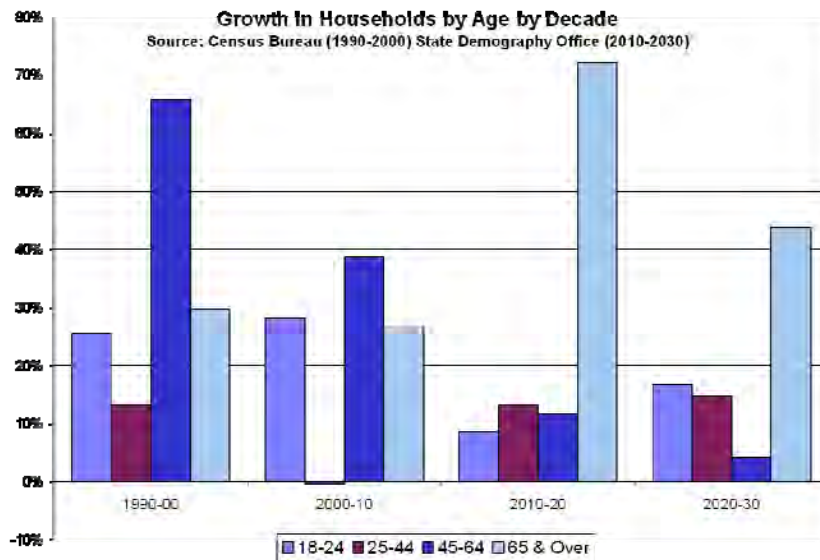
### *Housing*

The fastest growing household by age over the next twenty years will be households over the age 65 as shown below in Chart 6. Reviewing the historical growth in households by age helps to explain housing construction by type especially in the 1990s. There is no forecast decline in any



household age group; however, growth in all but the 65+ households will be hovering around 1% per year compared to the 65+ at over 7% per year.

Chart 6



Location choices for the 65+ will vary by age and disability. Other factors heavily influencing housing choices include proximity to amenities and health services, availability of health services, costs of housing, transportation, and family. If a community has a shortage of doctors accepting Medicare, it will have a difficult time attracting and retaining the 65+ population.

According to the 2010 American Community Survey, 92% people over the age 65 lived in the same house one year ago. 80% of the 65+ live in owner occupied units and 26% of the owners are cost burdened and 54% of the renters are cost burdened (spending more than 30% of their income on housing).

*Health Care*

Demand for health services increases with age. The Health Care industry has been one of the only industries to continue to add jobs during the recession in part due to an aging population. Below in Table 3, data from the Consumer Expenditure Survey show the considerable increase in annual health care expenditures by age. Colorado’s 1.3 million “Baby Boomers” entered the 45-64 age group from 2000 to 2010, partially explaining the increase in health care demand. The demand will continue to increase as “Baby Boomers” enter the 65+ age group where health care expenditures are estimated to increase by 18% to \$4,843 annually.

Table 3

Average annual health care expenditures by age, Consumer Expenditure Survey, 2010						
All consumer units	Under 25 years	25-34 years	35-44 years	45-54 years	55-64 years	65 years and older
\$3,157	\$775	\$1,800	\$2,583	\$3,261	\$3,859	\$4,843

The increase in demand for health care will flow through to increased demand for health care workers. These workers will vary from highly skilled gerontologists and cardiologists to lower skilled home health aides. In order for Colorado to benefit from the growth in this sector, it will be important to have a skilled workforce. Most states will also be confronting growth in the health care industry due to aging of the “baby boomers” and Colorado will be competing with all states to attract and retain quality health care workers.

For more information on the impact of aging to the health care sector please see the document titled **The Aging of the Baby Boomers in Colorado and Related Fiscal Impacts** also posted on our website [www.colorado.gov/demography](http://www.colorado.gov/demography) under presentations.

*Public Finance*

Aging of the “Baby Boomers” will also impact taxes raised through income taxes and sales taxes and property taxes. According to the Consumer Expenditure Survey (CES), average income taxes paid and taxable expenditures decline by age after peaking in the 45-54 year old age cohort. This makes sense as typically incomes decline after retirement. Taxable expenditures also decline with age lower expenditures and a larger share of expenditures in health services. The CES also reports that property taxes paid also decline by age – again peaking in the 45-54 year old age group. Estimated market value of owned homes decline for the population over 65, primarily for the 75+ population where they may have downsized. The lower-valued homes generate lower property taxes. Additionally, Colorado’s Homestead Act provides property tax abatements for several 65+ households resulting in lower property tax revenues to counties.

The impact on revenues results from a decline in the share of the population 18-64 and an increase in the share of the population 65+ as shown in Chart 7. The forecast for Colorado does not suggest an absolute decline in population 18-64, rather a decline in its relative share.

Chart 7

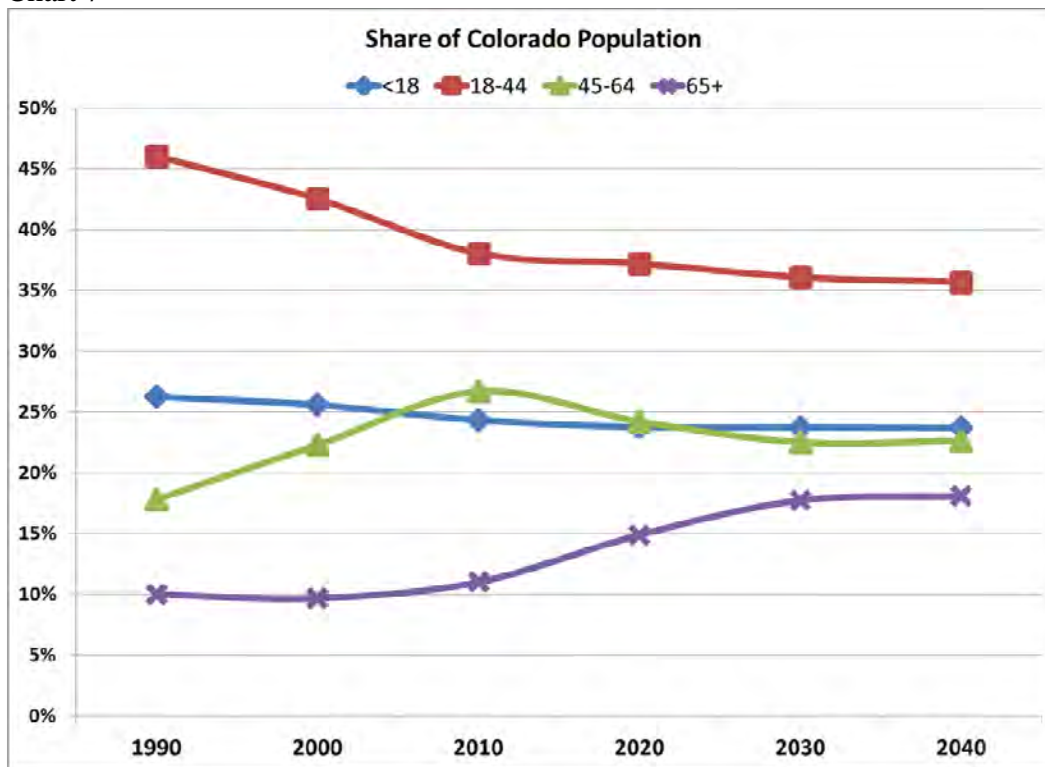


Chart 7 also displays the “Demographic Dividend” Colorado experienced between 1990 and 2010 with a growing share of its population aged 45-64. This age cohort tends to have highest incomes, highest taxable expenditures, and highest property taxes paid. Colorado derived several benefits from this growth including growth in productivity and incomes. From 2010 through 2030 the population 18-64 (working age population) will be declining as a share of the total population from approximately 68% of the population to 59% and then holding relatively stable through the forecast period.



Total tax revenues to state and local governments are not forecast to decrease due to the aging in Colorado, primarily because population declines are not forecasted, especially those aged 25-64. However, per capita tax revenues to the state and many local governments are forecast to decline due to the relative increase in the 65+ population.

**Illustrative Example of Tax and Expenditure Impact using Colorado Household Numbers**

Table 4 is an illustrative example of the impact of household age structure on federal income taxes paid and taxable expenditures (in 2010 dollars) based on Colorado’s households by age. The top line in each panel shows the forecasted increase in households from 2010 through 2030. Taxes paid is computed by taking expenditure data by age from the Consumer Expenditure Survey and applying it to Colorado’s households by age group over time. Taxes paid are forecast to increase as are the number of households; however, due to the changing age structure of households and that households over the age of 65 pay less in federal taxes and spend less on taxable goods, per household taxes paid are forecast to decline.

**Table 4.**

<b>Example of Potential Changes to Federal Taxes Paid</b>			
	<b>Est 2010</b>	<b>Est 2020</b>	<b>Est 2030</b>
<b>Households in CO</b>	2,005,046	2,458,401	2,905,180
<b>Taxes Paid</b>	2.86 Billion	3.31 Billion	3.67 Billion
<b>Per Household Taxes Paid</b>	1,430	1,350	1,266
<b>Example of Potential Changes to Taxable Expenditures</b>			
	<b>Est 2010</b>	<b>Est 2020</b>	<b>Est 2030</b>
<b>Households in CO</b>	2,005,046	2,458,401	2,905,180
<b>Taxable Expenditures</b>	29.4 Billion	35.2 Billion	39.2 Billion
<b>Per Household Taxable Expenditures</b>	14,673	14,345	13,499

Source: Households – State Demography Office, Federal Taxes Paid and Taxable Expenditures – Consumer Expenditure Survey, BLS.

*Conclusion*

The older population in Colorado is an important and growing segment of its population. State and local governments need information on aging populations to implement, evaluate and aid programs that plan services for older adults. It is important to understand the size of the growth itself and why it is so significant in some areas of the state. Baby Boomers have always been in Colorado, first impacting grade schools, then high schools, then universities and the labor force. Now the “boomers” will impact the concept of “retirement” and “aging”. The labor force, economy, housing, transportation, health care and public finance will all be impacted by the aging in Colorado. The fastest growth in the 65+ population is this current decade 2010-2020. Colorado must be ready to confront both the challenges and opportunities this growth generates.

For additional Colorado demographic and economic data please visit the State Demography Office website at [www.colorado.gov/demography](http://www.colorado.gov/demography) or contact our office at 303-866-2156.

# Appendix 1

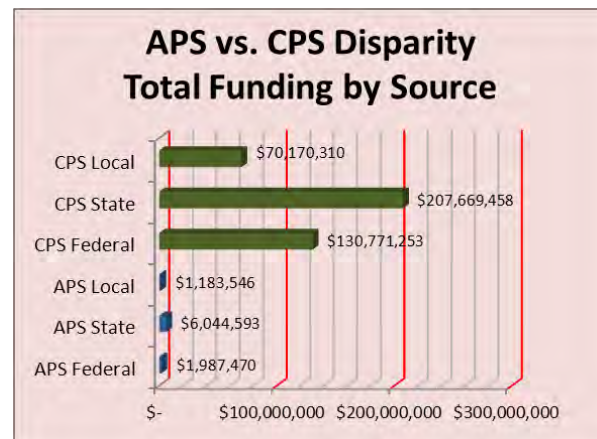
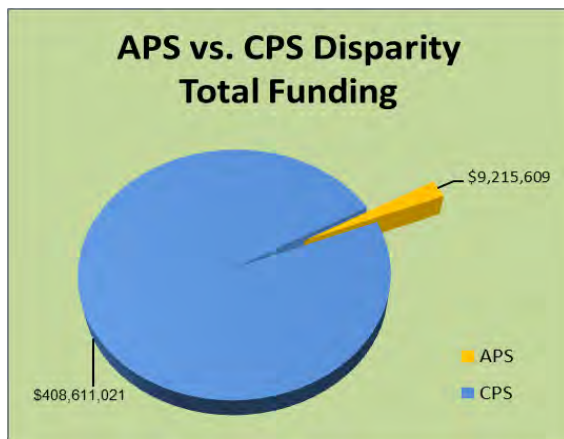
Appendix 1. Forecast Population Totals and 65+ by County 2010-2040								Percentage Change for the 65+			
	2010	2010	2020	2020	2030	2030	2040	2040	Pct Ch.	Pct Ch.	Pct Ch.
	2010 65+	Total Pop	2020 65+	Total Pop	2030 65+	Total Pop	2040 65+	Total Pop	2010-20	2020-30	2030-40
Adams	36,862	441,603	62,915	544,258	94,384	645,884	121,570	742,459	71%	50%	15%
Alamosa	1,752	15,445	2,712	17,860	3,542	21,734	3,641	25,949	55%	31%	19%
Arapahoe	57,580	572,003	98,063	673,230	141,931	774,353	168,034	861,329	70%	45%	11%
Archuleta	2,116	12,084	3,882	17,127	4,851	23,462	4,951	29,892	83%	25%	27%
Baca	911	3,788	927	3,893	955	4,059	881	4,202	2%	3%	4%
Bent	888	6,499	1,073	6,832	1,375	7,011	1,676	6,876	21%	28%	-2%
Boulder	29,521	294,567	51,236	332,107	74,066	366,960	85,227	391,834	74%	45%	7%
Broomfield	5,508	55,889	9,372	71,211	14,346	82,049	18,347	85,929	70%	53%	5%
Chaffee	3,523	17,809	5,325	23,052	6,302	27,700	6,314	30,208	51%	18%	9%
Cheyenne	328	1,836	390	2,082	463	2,263	465	2,391	19%	19%	6%
Clear Creek	1,132	9,088	2,005	10,710	2,395	12,969	2,360	15,198	77%	19%	17%
Conejos	1,254	8,256	1,661	9,253	1,919	10,048	1,926	10,584	32%	16%	5%
Costilla	807	3,524	1,004	3,871	1,018	4,128	883	4,335	24%	1%	5%
Crowley	614	5,823	898	6,643	1,213	7,563	1,333	8,443	46%	35%	12%
Custer	954	4,255	1,660	5,866	1,851	7,590	1,726	9,116	74%	11%	20%
Delta	6,239	30,952	8,749	41,311	10,371	52,713	10,646	61,274	40%	19%	16%
Denver	62,132	600,158	89,171	686,613	112,265	749,555	128,015	817,093	44%	26%	9%
Dolores	388	2,064	450	2,436	459	2,884	467	3,385	16%	2%	17%
Douglas	20,343	285,465	43,828	373,308	75,433	450,846	102,092	510,548	115%	72%	13%
Eagle	2,938	52,197	7,903	71,076	13,280	85,235	18,874	105,511	169%	68%	24%
Elbert	2,193	23,086	5,150	38,173	8,397	54,315	9,821	66,204	135%	63%	22%
El Paso	62,051	622,263	100,786	734,862	144,931	861,381	160,441	984,019	62%	44%	14%
Fremont	8,244	46,824	11,097	54,217	13,156	61,404	13,426	67,381	35%	19%	10%
Garfield	4,717	56,389	9,637	76,939	15,239	101,646	19,659	123,572	104%	58%	22%
Gilpin	514	5,441	1,138	6,519	1,466	7,578	1,506	8,639	121%	29%	14%
Grand	1,519	14,843	3,471	20,090	5,190	25,544	5,983	30,280	129%	50%	19%
Gunnison	1,351	15,324	2,253	17,895	2,729	20,189	3,123	22,034	67%	21%	9%
Hinsdale	147	843	205	1,027	211	1,228	190	1,418	40%	3%	16%
Huerfano	1,689	6,711	2,270	7,527	2,472	8,507	2,166	9,286	34%	9%	9%
Jackson	257	1,394	318	1,598	341	1,709	303	1,802	24%	7%	5%
Jefferson	67,411	534,543	109,193	571,753	150,232	612,885	156,902	630,029	62%	38%	3%
Kiowa	300	1,398	338	1,509	384	1,637	355	1,777	13%	14%	9%
Kit Carson	1,322	8,270	1,533	8,893	1,903	9,401	1,984	9,770	16%	24%	4%
Lake	647	7,310	1,108	9,642	1,354	12,368	1,586	13,958	71%	22%	13%
La Plata	5,979	51,334	11,343	66,714	15,741	81,544	17,849	94,191	90%	39%	16%
Larimer	35,541	299,630	57,592	360,274	78,491	427,926	87,730	487,114	62%	36%	14%
Las Animas	2,748	15,507	4,075	19,217	4,974	22,553	5,062	25,277	48%	22%	12%
Lincoln	918	5,467	1,024	6,193	1,337	7,084	1,305	7,885	11%	31%	11%
Logan	3,321	22,709	4,124	25,734	5,258	29,621	5,609	33,469	24%	27%	13%
Mesa	21,872	146,723	31,221	171,581	39,711	201,973	42,180	231,795	43%	27%	15%
Mineral	164	712	254	870	263	959	211	1,001	55%	3%	4%
Moffat	1,454	13,795	2,198	15,464	2,847	17,689	2,978	19,352	51%	30%	9%
Montezuma	4,269	25,535	6,542	31,171	8,032	37,623	8,343	43,522	53%	23%	16%
Montrose	7,349	41,276	10,350	54,718	12,954	69,252	14,273	80,114	41%	25%	16%
Morgan	3,965	28,159	4,762	32,209	6,095	38,348	6,845	45,292	20%	28%	18%
Otero	3,458	18,831	4,076	20,802	4,431	21,771	4,296	22,351	18%	9%	3%
Ouray	777	4,436	1,212	5,832	1,243	6,177	1,132	6,373	56%	3%	3%
Park	1,881	16,206	3,747	23,816	4,932	32,873	4,938	35,758	99%	32%	9%
Phillips	919	4,442	923	4,670	1,018	4,882	1,013	4,998	0%	10%	2%
Pitkin	1,964	17,148	3,331	21,929	4,032	26,952	4,477	31,725	70%	21%	18%
Prowers	1,835	12,551	2,355	13,633	2,770	14,682	2,817	15,456	28%	18%	5%
Pueblo	24,346	159,063	34,160	185,227	42,353	217,043	44,922	249,435	40%	24%	15%
Rio Blanco	827	6,666	1,180	9,056	1,576	11,503	1,731	13,390	43%	34%	16%
Rio Grande	1,945	11,982	2,600	13,887	3,037	15,520	3,059	16,492	34%	17%	6%
Routt	1,909	23,509	3,859	28,563	5,101	36,367	5,794	44,934	102%	32%	24%
Saguache	893	6,108	1,505	7,101	1,725	8,132	1,650	8,940	69%	15%	10%
San Juan	86	699	152	784	166	811	157	845	77%	9%	4%
San Miguel	517	7,359	1,227	10,367	1,741	13,561	2,177	16,512	137%	42%	22%
Sedgwick	569	2,379	630	2,689	650	2,913	601	3,087	11%	3%	6%
Summit	2,158	27,994	5,269	38,568	8,179	49,267	10,654	57,956	144%	55%	18%
Teller	3,023	23,350	5,336	28,142	6,351	33,058	5,813	37,499	77%	19%	13%
Washington	928	4,814	1,055	5,054	1,217	5,222	1,162	5,279	14%	15%	1%
Weld	24,235	252,825	42,228	331,341	63,347	448,215	81,766	570,463	74%	50%	27%
Yuma	1,623	10,043	1,914	11,001	2,230	11,934	2,371	12,638	18%	17%	6%

Adult Protective Services vs. Child Protection Services

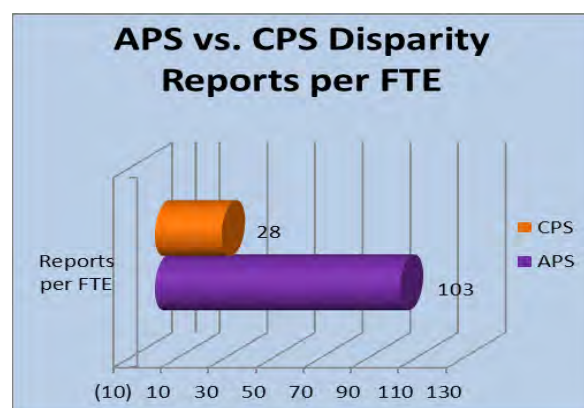
The Task Force made many comparisons to Child Protection Services (CPS). The Task Force discussed that while the needs of the two populations are different, many tools and resources in the CPS system could be very useful to the APS system.

Certain comparisons are particularly telling of the discrepancies between the two systems. While the Task Force does not believe the APS system will need to match the level of resources dedicated to CPS, nor should any current CPS funding be diverted to the APS program, the accompanying charts clearly demonstrate a significant imbalance between the two systems. The disparity between the two systems will become particularly acute as the populations shifts. While the 70+ target population for APS is expected to increase by 26% in the next five (5) years and 142% by 2032, the under 18 age group is expected to only increase by 9% in five (5) years and 37% in the same time period.

These first two charts show the funding disparity between the two systems, by Total Funding and by Funding Source. Overall funding for CPS is more than 44 times that for APS, **while the target population for the two systems varies by just XXX**. Federal funding for CPS is more than 65 times more than funding for APS; at the State level, more than 34 times; and at the local level, CPS receives more than 59 times the funding than APS receives.



The next two charts show the effects of this funding disparity. The first chart shows the amount of funding available per report received, including those reports that result in simple information and referral to those that require a full investigation and possibly other related interventions. Counties receive more than six (6) times the funding per report for CPS activities than for APS activities. The second chart shows the number of reports per FTE. APS workers handle nearly four times as many reports per FTE as to CPS workers.



***CAN BANK TELLERS TELL? –  
LEGAL ISSUES RELATING TO  
BANKS REPORTING FINANCIAL ABUSE OF THE ELDERLY***

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Commission on Law and Aging

## CONTENTS

Introduction.....	1
I. Background.....	3
II. The Legal Issues.....	6
A. State Elder Abuse Reporting Laws.....	7
B. Federal Bank Privacy Laws.....	10
C. State Bank Privacy Laws.....	14
1. Potential liability to the state for violating the state’s financial privacy law.....	14
2. Potential lawsuits by customers for damages allegedly caused by the bank’s report to APS.....	17
D. State and Federal Immunity Laws.....	18
E. Proposed Federal Legislation to Encourage Reporting of Financial Abuse.....	21
III. The Experience in the States.....	24
A. The Experience in States Where Financial Institutions Are Mandatory Reporters.....	24
B. Voluntary Reporting Projects in Permissive Reporting States.....	28
C. Attempts to Amend APS Statutes to Make Banks Mandatory Reporters.....	35
IV. Conclusions.....	41

**CAN BANK TELLERS TELL? --  
LEGAL ISSUES RELATED TO  
BANKS REPORTING FINANCIAL ABUSE OF THE ELDERLY<sup>1</sup>**

By Sandra L. Hughes, J.D.<sup>2</sup>

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<sup>1</sup> This document was developed for the National Center on Elder Abuse and supported, in part, by a grant, No. 90-AP-2144, from the Administration on Aging, Department of Health and Human Services. Grantees undertaking projects under government sponsorship are encouraged to express freely their findings and conclusions. Points of view or opinions do not, therefore, necessarily represent official Administration on Aging policy.

The partner organizations comprising the National Center on Elder Abuse include the National Association of State Units on Aging, the ABA Commission on Law and Aging, the Clearinghouse on Abuse and Neglect at the University of Delaware, the National Association of Adult Protective Services Administrators, the National Committee for the Prevention of Elder Abuse, and the San Francisco Consortium for Elder Abuse Prevention, Institute on Aging. For more information about the National Center on Elder Abuse, visit [www.elderabusecenter.org](http://www.elderabusecenter.org).

Copies of this report and of a shorter, summary version are available on the websites of the National Center for Elder Abuse, [www.elderabusecenter.org](http://www.elderabusecenter.org), and of the ABA Commission on Law and Aging, [www.abanet.org/aging](http://www.abanet.org/aging). Hard copies can also be ordered for a fee from the ABA, 740 15<sup>th</sup> Street, N.W., Washington, D.C. 20005, 202-662-8690,

<sup>2</sup> Consultant, American Bar Association Commission on Law and Aging. The views expressed herein have not been approved by the House of Delegates or the Board of Governors of the American Bar Association except where otherwise indicated, and, accordingly, should not be construed as representing the policy of the American Bar Association.

This report has benefited greatly from the expert advice of Lori Stiegel, J.D., Associate Staff Director of the American Bar Association Commission on Law and Aging, and of John Pickering and Ricardo Delfin of Wilmer, Cutler & Pickering in Washington, D.C., who reviewed the discussion of federal bank privacy law. Commission intern Beverly Blackwell conducted the essential preliminary research for the report. The remaining research was done in late 2001 and early 2002. Thus, information in this report regarding the status of both the law and of bank reporting projects is current as of that date.

Finally, the members of the elder abuse e-mail list sponsored by the National Center on Elder Abuse were an invaluable and very generous source of information regarding both the laws in their states and their experiences with elder abuse reporting by banks and bank reporting projects. E-mail list members sent numerous messages in response to my queries, many of which are quoted and cited in this report.

*Mr. M, an elderly bank customer, appeared confused about his checking account and why his checks were no longer clearing. After investigating, bank personnel learned that Mr. M's bank debit card had been used numerous times, but Mr. M denied that he was responsible for the transactions. The bank, which had established a relationship with the local adult protective services agency, filed a report of possible financial abuse. The agency's investigation revealed that Mr. M had befriended Tim, a young man who had been stealing from Mr. M and using his debit card to finance his drug addiction. In addition, Tim had stolen jewelry from Mr. M's landlady, who had held Mr. M responsible and evicted him. Adult Protective Services helped Mr. M to find new housing and to open a new bank account that would be monitored for unusual transactions. Although a warrant was issued for Tim's arrest, he fled the area and escaped prosecution.<sup>3</sup>*

*When 86-year old Florence Harter was hospitalized in 1996, she confided to a hospital employee that she was worried that some of her bills might be missed and go unpaid while she was in the hospital. The aide, Maria Galacia, volunteered to help, and Harter gave Galacia the keys to her apartment so she could bring Harter her checkbook. After being discharged from the hospital, Harter discovered that her apartment had been burglarized. Harter confronted Galacia, who threatened to sue Harter for accusing her of taking her jewelry. Galacia then intimidated*

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<sup>3</sup> Gillian Price and Craig Fox, "The Massachusetts Bank Reporting Project: An Edge Against Elder Financial Exploitation," 8 (4) J. Elder Abuse of Neglect 59, 60-61 (1997).

*Harter into making regular cash payments to Galacia in exchange for Galacia's agreement not to sue Harter. This scheme continued for over a year until one day, Galacia and Harter went together to Harter's bank and Galacia, who claimed to be Harter's caretaker, attempted to withdraw \$10,000 in cash. This aroused the suspicion of a bank vice president, who questioned Galacia about the transaction. Galacia left the bank without making the withdrawal, but returned with Harter a week later and attempted again to withdraw \$10,000 in cash. This time the bank contacted the Chicago police. Galacia was subsequently convicted of theft by deception and ordered to pay \$45,000 in restitution to Harter.<sup>4</sup>*

The situations described above are not usual. In the communities studied for the National Elder Abuse Incidence Study, reports to APS about "financial/material exploitation" accounted for 30.2 percent of all the substantiated reports.<sup>5</sup> As illustrated by these case histories, banks<sup>6</sup> have the potential to play a critical role in preventing the financial abuse of older persons by reporting suspicious activity to adult protective services agencies and local law enforcement.

In order to induce banks to fulfill this critical role, some state adult protective services (APS) agencies and local organizations have revised their state statutes in order to encourage or require bank personnel to report suspected financial abuse of older persons. Some have also established projects to train bank personnel to recognize and

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<sup>4</sup> Michael Sneed, "Ordeal exposed many problems," Chicago Sun-Times, December 17, 2001. Although the bank's intervention brought a halt to Galacia's exploitation of Harter, the bank vice president felt he could have done more, which prompted him to become active in a county task force to address financial exploitation. *Id.*

<sup>5</sup> The National Center on Elder Abuse, The National Elder Abuse Incidence Study, 1-9 (1998).

<sup>6</sup> Throughout this report, the term "banks" is used to refer collectively to banks, savings associations, and credit unions.



report this exploitation (these projects will be referred to as “bank reporting projects” throughout this paper).

However, despite the obvious potential benefits to their customers, banks have often resisted efforts to require or encourage their personnel to report suspected financial abuse. The objection most commonly voiced by the banking industry is concern that disclosure of confidential information relating to a customer may result in liability. Whether such a concern is well-founded turns on whether the government and/or the customer involved have a legal basis for claiming that the disclosure violated state or federal privacy laws. This report first discusses the possible legal obstacles to greater participation by banks in state and local programs to prevent financial abuse. It then compares the experience in states where bank reporting is mandatory and where it is voluntary and concludes with a discussion of the recent efforts in several states to enact laws mandating bank personnel to report suspected elder abuse.

## **I. Background**

Although the adult protective services statutes in forty nine-states and the District of Columbia now recognize financial abuse or exploitation as a reportable form of elder abuse,<sup>7</sup> the precise definition of the term varies considerably from state to state. However, all definitions focus on the central concept of misuse of the elder’s money or property. Alabama defines “exploitation” as “[t]he expenditure, diminution, or use of the property, assets, or resources of a protected person without the express voluntary consent

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<sup>7</sup> The Oregon APS statute is the only APS statute that does not identify financial abuse as a reportable form of abuse. The Oregon APS agency, however, has adopted administrative rules that contain an expanded definition of abuse. This expanded definition includes “Financial exploitation, which is the illegal or improper use of another individual’s resources for personal profit or gain.” Oregon Administrative Rules §411-020-0002(1)(b), available at [http://arcweb.sos.state.or.us/rules/OARS\\_400/OAR\\_411/411\\_020.html](http://arcweb.sos.state.or.us/rules/OARS_400/OAR_411/411_020.html).

of that person or his or her legally authorized representative.”<sup>8</sup> Louisiana defines the same term somewhat differently: ‘Exploitation’ is the illegal or improper use or management of an aged person’s or disabled adult’s funds, assets, or property, or the use of an aged person’s or disabled adult’s power of attorney or guardianship for one’s own profit or advantage.”<sup>9</sup> In contrast to these relatively general definitions, Minnesota has adopted a lengthy definition that appears to encompass all aspects of financial abuse.<sup>10</sup>

Regardless of the definition used, financial abuse can cause irreparable and devastating harm to the elderly victim.<sup>11</sup> By the time the financial abuse is discovered,

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<sup>8</sup> AL ST §38-9-2(8). Throughout this article, citations to statutes are given in WestLaw format.

<sup>9</sup> LA R.S. §14:403.2(B)(6).

<sup>10</sup> MN ST §626.5572 subd. 9, provides that “Financial exploitation’ means:

- (a) In breach of a fiduciary obligation recognized elsewhere in law, including pertinent regulations, contractual obligations, documented consent by a competent person, or the obligations of a responsible party under section 144.6501, a person:
  - (1) engages in unauthorized expenditure of funds entrusted to the actor by the vulnerable adult which results or is likely to result in detriment to the vulnerable adult; or
  - (2) fails to use the financial resources of the vulnerable adult to provide food, clothing, shelter, health care, therapeutic conduct or supervision for the vulnerable adult, and the failure results or is likely to result in detriment to the vulnerable adult.
- (b) In the absence of legal authority, a person:
  - (1) willfully uses, withholds, or disposes of funds or property of a vulnerable adult;
  - (2) obtains for the actor or another the performance of services by a third person for the wrongful profit or advantage of the actor or another to the detriment of the vulnerable adult;
  - (3) acquires possession or control of, or an interest in, funds or property of a vulnerable adult through the use of undue influence, harassment, duress, deception, or fraud; or
  - (4) forces, compels, coerces, or entices a vulnerable adult against the vulnerable adult’s will to perform services for the profit or advantage of another.

<sup>11</sup> Seymour Moskowitz, “Saving Granny from the Wolf: Elder Abuse and the Neglect – the Legal Framework,” 31 Conn. L. Rev. 77, 101 (Fall, 1998). (“Older persons may have less ability to recover from financial exploitation because of fixed incomes or short

the perpetrator has usually spent or otherwise dissipated the elderly victim's assets. Efforts at restitution therefore are likely to result in only partial recovery at best.<sup>12</sup> The elderly victim often experiences a permanent decline in his or her standard of living,<sup>13</sup> but many victims suffer even more from the feelings of betrayal that typically accompany financial abuse.<sup>14</sup>

Banks have the potential to be the "first line of defense"<sup>15</sup> against financial abuse, by identifying the abuse at its outset, before the elder's assets have been dissipated. "No institution is in a better position to observe and report" suspicious behavior,<sup>16</sup> such as the following:

- An unusual volume of banking activity.
- Banking activity inconsistent with a customer's usual habits.
- Sudden increases in incurred debt when the elder appears unaware of transactions.
- Withdrawal of funds by a fiduciary or someone else handling the elder's affairs, with no apparent benefit to the elder.

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remaining life spans. The loss of a home lived in for many years may be particularly traumatic because of its familiarity, memories, and the trauma of being moved.")

<sup>12</sup> "Banks: The Front Line Defense Against Financial Exploitation," videotape produced by the New York State Office of Children and Family Services.

<sup>13</sup> Carolyn L. Dessin, "Financial Abuse of the Elderly," 36 Idaho L. Rev. 203, 205 (2000) ("The likelihood that an elder person's income is relatively fixed may make it extremely difficult to recover from a financial loss.").

<sup>14</sup> "A New Training Cycle, New Materials As The Bank Reporting Project Enters Its Fourth Year," Massachusetts Banker (Spring, 1999), quoting a 78 year old woman who was defrauded by her longtime housekeeper: "We had become very attached. She became my daughter. As serious as the loss of money is the loss of trust."

<sup>15</sup> "Banks: The Front Line Defense Against Financial Abuse," *supra* note 11. More than half of the assets deposited in banks belong to the elderly. *Id.* See also Dessin, *supra* note 12, at 205.

<sup>16</sup> "Banks: The Front Line Defense Against Financial Abuse," *supra* note 11.

- Implausible reasons for banking activity are given either by the elder or by the person accompanying him/her.<sup>17</sup>

It is this potential for early intervention that has prompted a number of states and counties to develop programs that train bank employees to recognize and report suspected financial abuse.

## II. The Legal Issues

The major obstacle to widespread participation of banks in reporting projects is concern about potential legal liability. Such liability could take several forms. The primary concern is the possibility that the bank may incur civil and/or criminal penalties for violation of federal and state laws regulating the disclosure of personal financial information. Banks are also fearful that a customer may bring an action for damages against the bank for revealing private information. In states that have enacted or considered enacting mandatory reporting laws covering banks, there is the additional fear that the bank may be liable if it fails to report suspected financial abuse.

As explained below, for the most part these fears are unfounded, but to the limited extent that potential liability is a real concern, banks can be protected by the enactment of minor changes in state law.<sup>18</sup>

### A. State Elder Abuse Reporting Laws

Financial abuse is a reportable form of elder abuse in forty-nine states and the District of Columbia.<sup>19</sup> As of the end of 2002, the adult protective services (“APS”) laws

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<sup>17</sup> Price and Fox, *supra* note 2, at 67.

<sup>18</sup> Because of the variation in state adult protective services and financial privacy laws, the American Bankers Association has not actively taken a position on or become directly involved in bank reporting projects, but has shared information and materials with state bankers associations. Telephone interview with Susan Cole, Managing Director of the American Bankers Association’s Education Foundation, dated April 12, 2002.

<sup>19</sup> See note 6, *supra*.

of forty-four states and the District of Columbia mandate reports of suspected elder abuse by “any person” or by specified categories of reporters, or both.<sup>20</sup> Forty-nine states and the District of Columbia encourage both voluntary and mandatory reporting by including immunity provisions in their APS laws that provide protection from liability under state law to individuals who make such reports in good faith.<sup>21</sup> (However, under the Supremacy Clause of the United States Constitution,<sup>22</sup> such an immunity provision is *not* effective to provide immunity from liability under federal laws, such as federal financial privacy legislation.<sup>23</sup>)

Of the states with mandatory reporting laws, only three states, Florida, Georgia and Mississippi,<sup>24</sup> identify banks as mandatory reporters.<sup>25</sup> Fifteen additional states require “any person” to report, which would include employees of banks.<sup>26</sup> A few other states

<sup>20</sup> The six states whose APS statutes do not provide for mandatory reporting are Colorado, New Jersey, New York, North Dakota, South Dakota and Wisconsin.

<sup>21</sup> The exception is South Dakota, which provides immunity only to institutions and “any employee, agent or member of a medical or dental staff thereof” who report abuse. SD ST §22-46-6. The immunity provisions in APS statutes are discussed in greater detail in Section II(D), *infra*.

<sup>22</sup> The second clause of Article VI of the United States Constitution provides in relevant part: “This Constitution, and the Laws of the United States which shall be made in Pursuance thereof... shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.”

<sup>23</sup> Under the same supremacy principle, a *federal* immunity provision could have the effect of superceding state law under which a reporter might otherwise be liable. See discussion of the Annunzio-Wylie Anti-Money Laundering Act in Section II(D), *infra*.

<sup>24</sup> FL ST §415.1034(1)(a)(8); GA ST 30-5-4(a)(1)(B); and MS ST §43-47-7(1)(a)(vii). Both Florida and Mississippi mandate reporting by “any person” but in addition list specific categories that are required to report abuse.

<sup>25</sup> Kansas lists bank trust officers as mandatory reporters. KS ST §39-1431(a). However, it is typically bank tellers and other bank employees who have frequent contact with customers, rather than bank trust officers, who are in a position to observe and report suspicious behavior. Therefore, in this report, Kansas is not categorized as a state in which banks are mandatory reporters of suspected elder financial abuse.

<sup>26</sup> These states are Delaware, DE ST TI 31, §3910(a); Indiana, IN ST 12-10-3-9(a); Kentucky, KY ST §209.030(2); Louisiana, LA R.S. 14:403.2(C); Missouri, MO ST §660.255; New Hampshire, NH ST §161-F:46; New Mexico, NM ST §27-7-30(A); North Carolina, NC ST §108A-102(a); Oklahoma, OK ST T. 43A §10-104(A); Rhode Island,

encourage, but do not mandate, reporting by banks. For example, the Virginia APS statute includes a separate subsection stating that “Any financial institution that suspects that an adult customer has been exploited financially *may* report such suspected exploitation....”<sup>27</sup> Similarly, the Colorado statute, which provides only for voluntary reporting, includes “[p]ersonnel of banks, savings and loan associations, credit unions, and other lending or financial institutions” in a listing of occupations “urged” to report suspected abuse.<sup>28</sup> The Idaho APS statute identifies “officer[s] and employee[s] of a financial institution” as voluntary reporters – but it also provides that the Idaho Commission of Aging and the state’s area agencies on aging “shall make training available to officers and employees of financial institutions in identifying and reporting instances of abuse, neglect or exploitation involving vulnerable adults.”<sup>29</sup>

In most states that have tried to make banks mandatory reporters, the banking industry has opposed such efforts,<sup>30</sup> citing the risk of incurring liability for failure to report. However, the risk of liability is small. First, the primary purpose of mandatory reporting laws is to induce those in a position to observe abuse to bring their suspicions to the attention of APS. The goal is to encourage reporting, rather than punish potential reporters for failing to report. Statutory penalties for failure to report are not severe; the typical statutory penalty is a misdemeanor.<sup>31</sup> Historically, there have been few

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RI ST §42-66-8; South Carolina, SC ST §43-35-25(A) (South Carolina mandates reporting only by any person “who has actual knowledge” of abuse); Tennessee, TN ST §71-6-103(b)(1); Texas, TX HUM RES §48.051(a) and (c); Utah, UT ST §62A-3-305; and Wyoming, WY ST 35-20-103(a).

<sup>27</sup> VA ST §63.1-55.3(D) (emphasis supplied).

<sup>28</sup> CO ST §26-3.1-102(b)(XIII). *See also* WA ST 74.34.020(10) (“Permissive reporter” means any person, employee of a financial institution....”).

<sup>29</sup> ID ST 39-5303(3) and (4).

<sup>30</sup> *See* the discussion of efforts to amend state reporting laws in Section III(C), *infra*.

<sup>31</sup> *See, e.g.*, Arizona, AZ ST §46-454(J) (penalty for failure to report is a class 1 misdemeanor); Hawaii, HI ST §346-224(e) (petty misdemeanor); Idaho, ID ST §39-5303(2) (misdemeanor); Kansas, KS ST §39-1431(e) (class B misdemeanor); Nevada,

prosecutions of mandatory reporters for failure to report. The few reported cases have generally involved situations where the defendant failed to report physical abuse or neglect that resulted in a death or serious injury.

Except in the four states where the APS statute specifically provides for such liability for damages that are proximately caused by the failure to report,<sup>32</sup> civil liability to a customer for damages allegedly resulting from a failure to report financial abuse is also unlikely. The result of the only reported case on that issue indicates why. In that case, the plaintiff argued that a bank was liable under the state's mandatory reporting statute for damages allegedly caused by its failure to report suspected financial abuse of an elderly customer, but the court rejected the plaintiff's theory of liability.<sup>33</sup> The plaintiff,

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NV ST 200.5093(9) (misdemeanor); and New Mexico, NM ST §27-7-30(C) (misdemeanor).

<sup>32</sup> The four states are Arkansas, Iowa, Minnesota and Michigan. In each of these states, the mandatory reporter is liable only for the damages proximately caused by the failure to report. The Arkansas APS statute provides that “[a]ny person or caregiver required by this chapter to report a case of suspected abuse, neglect, or exploitation who purposely fails to do so shall be civilly liable for damages proximately caused by the failure.” AR ST §5-28-202(b). The Iowa APS statute provides in relevant part that “[a] person required by this section to report a suspected case of dependent adult abuse who knowingly and willfully fails to do so... is civilly liable for the damages proximately caused by the failure.” IA ST §235B.3(10). The Michigan APS law provides that “[a] person required to make a report pursuant to section 11a who fails to do so is civilly liable for the damages proximately caused by the failure to report.....” MI ST 400.11e(1). The Minnesota APS statute provides that “[a] mandated reporter who negligently or intentionally fails to report is liable for damages caused by the failure.” MN ST §626.557, subd. 7. The Minnesota courts have held that the damages for such a negligent or intentional failure to report are limited to any additional damages that resulted from the failure to report. Thelen By and Through Helen Thelen v. St Cloud Hosp., 379 N.W.2d 189 (Minn. App. 1985). In addition, the following language in the Washington APS statute could be interpreted as implying that there can be liability for failure to file a mandatory report: “The making of permissive reports as allowed in this chapter does not create a duty to report and no civil liability shall attach for any failure to make a permissive report as allowed under this chapter.” WA ST 74.34.050(1).

<sup>33</sup> Ahrendt v. Granite Bank, 144 N.H. 308, 315, 740 A.2d 1058, 1064 (N.H. 1999). There is also a 1993 Florida case in which the plaintiff unsuccessfully sought to impose liability on a bank for failure to halt and investigate large cash withdrawals by an elderly customer. Republic National Bank of Miami v. Johnson, 622 So.2d 1015 (Fl. Dist. Ct. App. 1993). The events in the case predated the amendment to the Florida APS statute

Ethel Ahrendt, had sent notes to the bank authorizing a series of cash withdrawals totaling \$50,500 to pay a repairman for alleged repairs to her home. Although the bank had called her to confirm that the withdrawals were authorized, Ahrendt contended that the bank had an obligation to investigate the situation further. In dismissing her claims, the court rejected her argument that New Hampshire's mandatory reporting law created a legal duty to customers to report suspected abuse: "Even if the bank was required to report under the statute, its failure to do so cannot be the basis for civil liability where no common law duty exists and the legislature has not expressly or implicitly created such liability."<sup>34</sup> The court also refused to find that a fiduciary relationship – that is a "relationship in which one person is under a duty to act for the benefit of the other on matters within the scope of their relationship"<sup>35</sup> – existed between the customer and the bank.<sup>36</sup>

Moreover, the existence of a mandatory reporting law may actually *protect* banks from liability. In addition to the possibility of a suit for failure to report suspected abuse, banks also fear lawsuits by a customer who objects to the reporting. The bank is in a better position to defend itself in such a suit if the bank made the report under a mandatory reporting law than under a voluntary reporting law – that is, the bank would have the defense that it was legally obligated to make the report.

Finally, banks can protect themselves against potential liability under a mandatory reporting law by adopting and making a good faith effort to follow a policy and protocol

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that made banks mandatory reporters, so the court "express[ed] no opinion on the question whether failure to comply [with the newly enacted reporting obligation] would result in civil liability." 622 So.2d at 1017, n. 5. The Fourth District Court of Appeal of Florida has since ruled "that a violation of the reporting requirement in [the Florida APS statute] does not result in a civil cause of action." Mora v. South Broward Hospital District, 710 So.2d 633,633 (Fl. Dist. Ct. 1998).

<sup>34</sup> 144 N.H. at 315, 740 A.2d at 1064.

<sup>35</sup> Black's Law Dictionary 640 (Bryan A. Garner, et al, eds., 7<sup>th</sup> Ed. 1999).



for reporting suspected financial abuse. A bank that has such a policy is unlikely to incur criminal or civil liability for an isolated instance in which it failed to recognize and report financial abuse.<sup>37</sup>

## B. Federal Bank Privacy Laws

Banks are also concerned about the possibility of being charged with a violation of federal statutes that govern the disclosure of private financial records. (Potential liability under state bank privacy laws is discussed in the next section.) Federal law protecting the privacy of financial records has its genesis in United States v. Miller, a 1976 decision by the United States Supreme Court that held that a bank customer had “no legitimate ‘expectation of privacy’” regarding his banking transactions and that the federal government therefore acted constitutionally when it obtained subpoenaed bank records without prior notice to the customer.<sup>38</sup> The Supreme Court reasoned that the documents obtained through the subpoena, “including financial statements and deposit slips, contain only information voluntarily conveyed to the banks and exposed to their employees in the ordinary course of business.”<sup>39</sup> “The depositor takes the risk, in revealing his affairs to another, that the information will be conveyed by that person to the Government.”<sup>40</sup> In the absence of any constitutionally protected privacy interest in the records, the case was “governed by the general rule that the issuance of a subpoena to

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<sup>36</sup> 144 N.H. at 312, 740 A.2d at 1062.

<sup>37</sup> See also Annotation, “Existence of Fiduciary Relationship between Bank and Depositor or Customer So As to Impose Special Duty of Disclosure upon Bank,” 70 ALR3d 1344, 1350 (1976), noting that “the conventional bank-depositor relationship does not ordinarily impose a fiduciary duty of disclosure upon the bank.”

<sup>38</sup> 425 U.S. 435, 442 (1976).

<sup>39</sup> Id.

<sup>40</sup> Id. at 443.

a third party to obtain the records of that party does not violate the rights of a defendant.”<sup>41</sup>

Recognizing that bank customers generally *do* expect their banks to keep their transactions confidential, in 1978 Congress effectively overruled the Miller decision by passing the Right to Financial Privacy Act (“RFPA”).<sup>42</sup> The RFPA provides that in most circumstances, a customer must be given prior notice and an opportunity to challenge the government’s action in court *before* the government can obtain customer information from a bank. However, the limitations of the RFPA apply only to the *federal* government and, thus, place no restrictions on the actions of state or local authorities in obtaining financial records.<sup>43</sup> Therefore, if a bank reveals customer financial information to APS or to state or local law enforcement, either as part of a voluntary or mandatory report of suspected financial abuse or in response to a request for bank records in connection with an APS investigation, the bank does not risk prosecution by the federal government for a violation of the RFPA.

However, the Financial Services Modernization Act of 1999, popularly known as the Gramm-Leach-Bliley Act, does contain extensive provisions regulating the privacy of financial records that apply both to the federal government and to state and local governments.<sup>44</sup> The primary purpose of the Act is “to enhance competition in the financial services industry by providing a prudential framework for the affiliation of banks, securities firms, insurance companies, and other financial service providers,”<sup>45</sup>

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<sup>41</sup> *Id.* at 444.

<sup>42</sup> The RFPA is codified at 12 U.S.C. §3401 *et seq.*

<sup>43</sup> See 12 U.S.C. §3401(3), defining “Government authority” as “any agency or department of the United States, or any officer, employee, or agent thereof.” See also Matter of Grand Jury Applications for Court-Ordered Subpoenas and Nondisclosure Orders, 142 Misc.2d 241, 248, 536 N.Y.S.2d 939, 943 (N.Y. S. Ct. 1988).

<sup>44</sup> PL 106-102 (S. 900) (1999).

<sup>45</sup> H.R. Conf. Rep. No. 106-434, at 245 (1999), *reprinted in* 1999 U.S.C.C.A.N. 245, 245.

including the sharing of customer financial information by these entities. However, Congress realized that this kind of information sharing “could exacerbate the concerns of consumers regarding the dissemination of personal financial information.”<sup>46</sup> To address these concerns, Title V of the Act contains strong privacy protections,<sup>47</sup> including the requirement that customers be given notice and an opportunity to opt out of this information sharing.<sup>48</sup>

Of more significance to reporting by banks of suspected financial abuse, Section 502(e) of the Act contains several exemptions that permit the disclosure of “nonpublic personal information” to “nonaffiliated third parties” (which includes government officials) *without* prior notice to the customer and an opportunity to opt out.<sup>49</sup> Several of the exemptions contained in Section 502(e) are applicable to both mandatory and voluntary reporting. Subsection (e)(3)(B) permits disclosure “to protect against or prevent actual or potential fraud, unauthorized transactions, claims, or other liability.”<sup>50</sup> Subsection (e)(5) permits disclosure “to the extent specifically permitted or required under other provisions of law... to law enforcement agencies... or for an investigation on a matter related to public safety.”<sup>51</sup> In addition, Subsection (e)(8), which permits disclosure “to comply with Federal, State, or local laws, rules, and other applicable legal requirements,”<sup>52</sup> would allow disclosures in connection with an APS investigation. These exemptions also appear in the regulations promulgated under the Act.<sup>53</sup>

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<sup>46</sup> Individual Reference Services Group, Inc., v. F.T.C., 145 F.Supp.2d 6, 11 (D.D.C. 2001).

<sup>47</sup> Title V is codified at 15 U.S.C. §6801 *et seq.*

<sup>48</sup> 15 U.S.C. §6802.

<sup>49</sup> Section 502(e) is codified at 15 U.S.C. §6802(e).

<sup>50</sup> 15 U.S.C. §6802(e)(3)(B).

<sup>51</sup> 15 U.S.C. §6802(e)(5).

<sup>52</sup> 15 U.S.C. §6802(e)(8).

<sup>53</sup> *See, e.g.*, the Gramm-Leach-Bliley Act regulations of the Federal Deposit Insurance Corporation, 12 C.F.R. §332.14-15.

In an opinion letter regarding the legality of Michigan's bank reporting procedures, the seven federal regulatory agencies responsible for enforcement of the Gramm-Leach-Bliley Act stated that reporting suspected financial abuse falls within the exceptions to the Act that were discussed above.<sup>54</sup> However, the opinion letter indicated the importance of Michigan's investigation and reporting protocols as a factor in formulating the opinion, and it is uncertain whether the same result would have been reached if these protocols did not exist.

APS agencies may, if appropriate, want to consider developing or revising their protocols to address reporting by bank personnel. APS agencies may also want to request a similar opinion letter about their state's law and procedures. Agency directors, state banking officials, and other government officials may request an opinion letter from the federal agencies, or they may ask their Congressional representatives to request such a letter. Regardless of what entity solicits the opinion letter, in order to expedite the response, any request should include copies of pertinent statutes, regulations, and protocols. Agencies that do not currently have protocols may want to submit bank training and other pertinent materials in addition to their state statute(s) and regulation(s).

### **C. State Bank Privacy Laws**

#### **1. Potential liability to the state for violating the state's financial privacy laws**

Most states have statutes, case law, or both that protect the privacy of the records maintained by banks and specify the circumstances under which banks can lawfully

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<sup>54</sup> The seven agencies are Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Securities and Exchange Commission, and the Federal Trade Commission. The text of the letter is available on the websites of the National Center for Elder Abuse, [www.elderabusecenter.org](http://www.elderabusecenter.org), and of the ABA Commission on Law and Aging, [www.abanet.org/aging](http://www.abanet.org/aging).

disclose customer information. The statutory provisions regulating disclosure of financial records vary greatly from state to state, making it impossible to generalize about whether disclosure as part of a report to APS risks violating a state's financial privacy rules.<sup>55</sup> On the one hand, Nevada law provides that a bank may "in its discretion" initiate contact with and disclose "the financial records of a customer to appropriate governmental agencies concerning a suspected violation of any law."<sup>56</sup> Similarly, Connecticut law authorizes "disclosures to appropriate officials of federal, state or local government upon suspected violations of the criminal law."<sup>57</sup> These provisions would seem to apply to both mandatory and voluntary reports, whereas the Alaska provision, which permits disclosures "required by federal or state law or regulation," would apply only to a mandatory report.<sup>58</sup> In other states, the statutory provisions specifying the circumstances in which disclosure is permitted do not apply to either mandatory or voluntary reporting.<sup>59</sup>

The state of Maryland amended its provision on "allowable financial disclosures by fiduciary institutions" to specify that disclosure to APS is a permissible disclosure:

Notwithstanding any other provision of law, a fiduciary institution or an officer, employee, agent, or director of a fiduciary institution may disclose financial records and any other information relating to a customer of the fiduciary institution if the fiduciary institution or its officer, employee, agent, or director:

- (1) Believes that the customer has been subjected to financial exploitation; and

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The opinion letter was issued on July 3, 2002, in response to a request from United States Senator Debbie Stabenow (D-MI).

<sup>55</sup> For an excellent overview of state financial privacy laws, see Chapter 5 in L. Richard Fischer, *The Law of Financial Privacy* (2001).

<sup>56</sup> NV ST §239A.070(3).

<sup>57</sup> CT ST §36A-44(7).

<sup>58</sup> AK ST §06.05.175(a)(2).

<sup>59</sup> See, e.g., MT ST §32-6-105(1)(b) (disclosure permitted only if records are subpoenaed); NJ ST 17:16K-3 and 17:16K-4 (same).

- (2) Makes the disclosure in a report to the adult protective services program in a local department of social services.<sup>60</sup>

In states where there is any doubt about the lawfulness of bank reports to APS, one solution is to enact an amendment along these lines. Other solutions are discussed later in this section and in Section II (D).

Finally, it should be noted that although in most states bank privacy statutes regulate the privacy of financial records, the state's constitution might also place limits on the government's ability to access personal financial information. Most state constitutions contain a provision similar to the Fourth Amendment restrictions on search and seizure that the Miller case interpreted as not applicable to a bank's disclosure of customer financial records.<sup>61</sup> Although some states have followed Miller, other states have not.<sup>62</sup> Some states also have constitutional provisions specifically guaranteeing a citizen's right to privacy, and such provisions may provide another basis for restricting the government's ability to obtain financial records.<sup>63</sup>

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<sup>60</sup> MD FIN INST §1-306(b). This law was enacted after "[t]he bank industry made it clear that it would oppose any bill that required mandatory reporting. Prior to 2000 few banks called in exploitation cases because they were afraid a report would violate our Confidential Financial Records Act." E-mail message from Jeffrey H. Myers, Assistant Attorney General and Principal Counsel, Maryland Department of Aging, dated January 29, 2001.

<sup>61</sup> Fischer, *supra* note 54, at 5-4.

<sup>62</sup> *Id.* at 5-4 – 5-11, and Annotation, "Search and Seizure of Bank Records Pertaining to Customer as Violation of Customer's Rights under State Law," 33 ALR5th 453 (1995), which contains a detailed discussion of the state court decisions following and declining to follow Miller.

<sup>63</sup> For example, the Florida constitution was amended in 1980 to add a provision which provides in relevant part that "Every natural person has the right to be let alone and free from government intrusion into his private life except as otherwise provided herein." Florida Constitution Article I, Section 23. (The United States Constitution does not contain such a provision.) Relying on this provision, Supreme Court of Florida has held that "the law in the State of Florida recognizes an individual's legitimate expectation of privacy in financial institution records." Winfield v. Division of Para-Mutuel Wagering, Department of Business Regulation, 477 So. 2d 544, 548 (Fl. 1985).

If the law in a particular state does not permit disclosure of private financial or account information, a bank may still be able to report other information, such as the names of the customer and perpetrator and the nature of the suspected abuse, without running afoul of the privacy law.<sup>64</sup> Providing this limited information probably will be sufficient to trigger an APS investigation, and APS can then subpoena or otherwise obtain any financial records it may need to complete its investigation.<sup>65</sup> Similarly, if the state's financial privacy law permits reporting to "law enforcement," but not APS, the bank can make its initial report to law enforcement, which can in turn refer the report to APS. Finally, it is important to note that a state's mandatory reporting law and/or the immunity provision in the APS statute<sup>66</sup> may be interpreted as overriding the restrictions in the state's privacy law.

## **2. Potential lawsuits by customers for damages allegedly caused by the bank's report to APS**

Although there are a number of court decisions in which bank customers have sued their banks for damages allegedly resulting from the banks' disclosure of damaging or embarrassing financial information, there do not appear to be any reported cases in

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<sup>64</sup> The viability of this approach will depend on the precise wording of the state's bank privacy law.

<sup>65</sup> Some APS statutes specify the procedures for subpoenaing bank records and some APS statutes authorize APS to obtain bank records upon request. For an example of a subpoena provision, see ME ST T. 22 §3480(1)(A), providing that "[t]he commissioner, his delegate or the legal counsel for the department may... issue subpoenas requiring persons to disclose or provide to the department information or records in their possession which are necessary and relevant to an investigation of a report of suspected abuse, neglect or exploitation..." This section of the statute also provides immunity "from civil or criminal liability that might otherwise result from the act of turning over or providing information or records to the department." ME ST T. 22 §3480(1)(A)(2). For an example of a statute authorizing APS to obtain financial records, see AR ST 5-28-210(d)(2)(B) ("Financial records maintained by a bank or similar institution shall be made available to the department for the purpose of conducting an evaluation or review under this subsection."), which was added to the Arkansas APS law in 2001.

<sup>66</sup> See the next section of this report, which discusses the immunity provisions in state APS laws

which a customer sued a bank for disclosing information in an effort to protect the customer from the suspected unlawful conduct of another person.<sup>67</sup> Nonetheless, there are several theories under which a customer might sue a bank for disclosure of private information, including breach of a contractual duty of confidentiality, defamation, and invasion of privacy.<sup>68</sup> To the extent that the theoretical possibility of such a lawsuit, however remote, may deter banks from reporting that it suspects elder abuse, the simplest solution is to ensure that the bank is adequately protected by an immunity statute.

#### **D. State and Federal Immunity Laws.**

The APS statutes in forty-nine states and the District of Columbia include provisions that provide immunity from civil or both civil and criminal liability to reporters of abuse who act in good faith.<sup>69</sup> If a bank falls within the scope of the APS statute's immunity provision, the bank should be protected both from liability to the state for violation of the state's financial privacy law and from liability to the customer for alleged damages.<sup>70</sup>

The typical state immunity provision gives immunity to "any person" or "anyone" who makes a report of suspected abuse.<sup>71</sup> This raises the question whether such a

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<sup>67</sup> See Annotation, "Bank's Liability, under State Law, for Disclosing Financial Information Concerning Depositor or Customer," 81 ALR4th 377 (1990), and Fischer, *supra* note 54, at 5-11 – 5-23.

<sup>68</sup> *Id.*

<sup>69</sup> South Dakota's immunity statute does not apply to all reporters of abuse. See note 20, *supra*. The laws of five states, Maine, Maryland, Michigan, New York, and Oregon, provide only for immunity from civil liability. ME ST T. 22 §3479-A(1); MD FAMILY §14.309; MI ST 400.11c(1); NY SOC SERV §473-b; and OR ST §124.075(1). Some immunity provisions additionally provide that a reporter's good faith "shall be presumed." See, e.g., AR ST §5-28-215(b).

<sup>70</sup> Although state immunity laws are not effective to provide immunity for violations of federal law, banks have no reason to fear potential liability under federal financial privacy statutes, as previously explained in Section II (B).

<sup>71</sup> Some states have provisions that are somewhat different. For example, New Hampshire provides immunity for "[a]ny person or agency," NH ST §161-F:47, Illinois for "[a]ny person, institution or agency," IL ST CH 320 §20/4(b), and Arkansas for "[a]ny person, official, or institution," AR ST §5-28-215(a). Alabama is unusual in



provision protects both the reporter and the company or institution that employs the reporter, which is almost surely the intent of the statute, or whether only the employee who makes the report is protected. The answer turns on whether the term “any person” or “anyone” is interpreted to describe only natural persons or whether it also includes corporations, associations, and other similar entities.<sup>72</sup> In many states, the term “person” has been interpreted broadly to include corporations and other entities unless such an interpretation is inconsistent with the legislative intent. For example, a District of Columbia court found that the “[s]tatutory use of the word persons to include corporations is so general that to hold corporations are not included requires clear proof of legislative intent to exclude them.”<sup>73</sup> In other states, there is a statutory provision that defines the term for all state laws. Washington law provides that “[t]he term ‘person’ may be construed to include... any public or private corporation or limited liability company, as well as an individual.”<sup>74</sup> Similarly, in New Hampshire, “[t]he word ‘person’ may extend and be applied to bodies corporate and politic as well as to individuals.”<sup>75</sup> In Colorado, the APS statute itself defines the term “person” as “one or more individuals, limited liability companies, partnerships, associations, corporations, legal representatives, trustees, receivers, or the state of Colorado....”<sup>76</sup>

In states where the immunity provision is ambiguous or limited in its scope, leaving banks uncertain about whether they are fully protected, the provision can be amended to

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providing immunity for “[a]ny person, firm or *corporation* making or participating in the making of a report....” AL ST §38-9-9 (emphasis supplied).

<sup>72</sup> The United States Code provides that for purposes of federal law, “the words ‘person’ and ‘whoever’ include corporations, companies, associations, firms, partnerships, societies and joint stock companies, as well as individuals.” 1 U.S.C. §1.

<sup>73</sup> Central Amusement Co. v. District of Columbia, 121 A.2d 865, 866 (D.C. 1956).

<sup>74</sup> WA ST §1.16.080(1).

<sup>75</sup> NH ST §21:9. *See also* WI ST 990.01(26) (“‘Person’ includes all partnerships, associations and bodies politic or corporate.”).

<sup>76</sup> CO ST §26-3.1-101(5).

clarify and expand its application. In Texas, which is currently attempting to implement a bank reporting project modeled on the Oregon and Massachusetts projects, the APS statute's immunity provision was amended in 2001 to reassure the banking community.<sup>77</sup> The statute now specifically provides that an "employer whose employee [makes a report of elder abuse] is immune from civil or criminal liability on account of an employee's report, testimony, or participation in any judicial proceedings arising from a petition, report, or investigation."<sup>78</sup> Similarly, the Georgia APS law provides that:

Any financial institution..., including without limitation officers and directors thereof, that is an employer of anyone who makes a report pursuant to this chapter in his or her capacity as an employee, or who testifies in any judicial proceeding arising from a report made in his or her capacity as an employee, or who participates in a required investigation under the provisions of this chapter in his or her capacity as an employee, shall be immune from any civil or criminal liability on account of such report or testimony or participation of its employee....<sup>79</sup>

Language such as that in the Texas and Georgia provisions should be more than sufficient to reassure banks that they can report suspected elder abuse without risking either law suits by customers or potential liability under state bank privacy law.<sup>80</sup>

Finally, federal law may provide additional protection against possible liability to customers under state law. In 1992, the Annunzio-Wylie Anti-Money Laundering Act

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<sup>77</sup> E-mail message from Paul M. Mixson, Division Administrator, APS Strategic Planning and Program Support, Texas Department of Protective and Regulatory Services, dated November 26, 2001.

<sup>78</sup> TX HUM RES §48.054(d). Texas is a state in which all persons are mandated to report suspected abuse. TX HUM RES §48.051(a).

<sup>79</sup> GA ST 30-5-4(c).

<sup>80</sup> *See also* the 2002 amendments to the Wyoming the APS statute which added the following language to the immunity provision:

The immunity provided under this subsection applies only to those persons whose professional communications are generally confidential or subject to the Wyoming Public Records Act,... including:...(vii) Bank, savings and loan or credit union officers, trustees or employees.

WY ST §35-20-114(a).

amended the federal Bank Secrecy Act to include the following “safe harbor” for banks that voluntarily report suspected violations of the law to the government:

Any financial institution that makes a voluntary disclosure of any violation of law or regulation to a government agency or makes a disclosure pursuant to this subsection or any other authority, and any director, officer, employee, or agent of such institution who makes, or requires another to make any such disclosure, shall not be liable to any person under any law or regulation of the United States, any constitution, law, or regulation of any State or political subdivision of any State,... for such disclosure or for failure to provide notice of such disclosure to the person who is the subject of such disclosure or any other person identified in the disclosure.<sup>81</sup>

Although the term “government agency” is defined to include only the federal government,<sup>82</sup> at least one court has assumed that the term “any other authority” encompasses disclosures to local law enforcement.<sup>83</sup> Therefore, a disclosure that results from a report under a mandatory reporting law, and probably also a voluntary reporting law, cannot provide the basis for legal action by a customer.

#### **E. Proposed Federal Legislation to Encourage Reporting of Financial Abuse**

In an effort to promote reports of abuse by banks, in 1999 Representative Carolyn B. Maloney introduced legislation that would have amended the Right to Financial Privacy Act to provide broad protection for banks that report financial exploitation of older or disabled individuals.<sup>84</sup> The proposed amendment provided that nothing in Title 12 of the United States Code, which covers Banks and Banking, would “preclude a

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<sup>81</sup> 31 U.S.C. §5318(g)(3)(A).

<sup>82</sup> 31 U.S.C. §101.

<sup>83</sup> See Nevin v. Citibank, 107 F.Supp.2d 333 (E.D.N.Y. 2000), in which a credit card company reported suspected fraud by a customer to the store involved, rather than to local law enforcement. The court held that Annunzio-Wylie did not extend to a communication between a financial institution and a private entity, even if the ultimate intention was to contact local law enforcement. *Id.* at 342. See also 12 C.F.R. §208.62(k) stating that the safe harbor applies to all reports of suspected crimes and suspicious activities “to law enforcement and financial institution supervisory authorities.”

<sup>84</sup> H.R. 2062, introduced in 106<sup>th</sup> Congress, June 8, 1999.

financial institution, or officer, employee, or agent thereof, from reporting suspected financial exploitation of an older or disabled individual to State, Federal, or local law enforcement entities, or government-regulated adult protective services entities.” In addition, the bill contained the following blanket immunity provision: “Any financial institution, or officer, employee, or agent thereof, making a disclosure of information and documentation pursuant to this paragraph shall not be liable to the customer under any law or regulation of the United States or any constitution, law, or regulation of any State or political subdivision thereof, for such disclosure.”<sup>85</sup>

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<sup>85</sup> The full text of the bill is as follows:

#### A BILL

To amend the Right to Financial Privacy Act of 1978 with respect to financial exploitation of older or disabled individuals.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Financial Privacy Act Amendments of 1999.”

#### SEC. 2. FINANCIAL EXPLOITATION.

Section 1103(d) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3403(d)) is amended by inserting after paragraph (2) the following:

“(3) Nothing in this title shall preclude a financial institution, or officer, employee, or agent thereof, from reporting suspected financial exploitation of an older or disabled individual to State, Federal, or local law enforcement entities, or government-regulated adult protective services entities. Such report may include only the name or other identifying information concerning an older or disabled individual, the account involved, and the nature of any suspected financial exploitation, including pertinent documentation. Any financial institution, or officer, employee, or agent thereof, making a disclosure of information and documentation pursuant to this paragraph shall not be liable to the customer under any law or regulation of the United States or any constitution, law, or regulation of any State or political subdivision

Because any such federal law would supercede or preempt a conflicting state law, Maloney's bill would have effectively eliminated any concern about liability for violation of federal banking law or to customers under state law, but the proposed legislation apparently did not consider or address the possibility of state imposed sanctions for violation of the state's financial privacy law. In any case, after the bill was referred first to the House Committee on Banking and Financial Services and then to the Subcommittee on Financial Institutions and Consumer Credit, no action was taken.<sup>86</sup>

### III. The Experience in the States

The variation among the states in their APS provisions relating to banks provides an opportunity to examine the extent to which those provisions can help or hinder efforts to encourage banks to report suspected financial abuse. One question is whether the presence of a mandatory reporting law facilitates bank reporting projects. Another question is whether the absence of a mandatory reporting law has hindered the bank reporting projects that have been implemented in several voluntary reporting states. A final question is what has been the experience in states that have attempted to amend their APS statutes by adding a mandatory reporting provision for banks.

#### A. The Experience in States Where Banks Are Mandatory Reporters

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thereof, for such disclosure. For purposes of this paragraph, the term "older or disabled individual" means an individual who is 65 years of age or older or disabled, and the term "exploitation" means any fraud, abuse, or other conduct that constitutes a violation of any Federal or State law, including any legally enforceable professional standard applicable with regard to any profession or occupation, and the unauthorized use of an older or disabled individual's funds, property, or resources for another person's profit or advantage."

<sup>86</sup> The text and status of the bill are available at <http://thomas.loc.gov/cgi-bin/bdquery/D?d106:1:./temp/~bd5w7y:@@L&summ2=m&l/bss/d106query.html> (visited February 4, 2002).

Three states, Florida,<sup>87</sup> Georgia<sup>88</sup> and Mississippi,<sup>89</sup> list banks as mandatory reporters in their APS statutes. Fifteen other states require “any person” to report suspected abuse,<sup>90</sup> but do not specifically identify banks as mandatory reporters. The experience in both categories of states seems similar: the presence of a mandatory reporting law is not sufficient *in and of itself* to result in a marked increase in reports by banks, but the presence of such a law, coupled with educational efforts and/or a formal bank reporting project, can have a significant impact. The following analyses by state APS personnel illustrate their experience.

Chris Shoemaker, the Acting Director of Florida’s Adult Services Program, describes the Florida law as having had a very positive impact, with even better results expected after a statewide bank reporting project is implemented:

In Florida, we have had no opposition from the banking industry in regards to the mandatory reporting provision contained in our APS law. In fact, we are modeling a “banking project” after the Oregon model, and we have the five largest banks in Florida anxious to help set this project in motion. Through various training that has occurred at the local level, banks have been very cooperative in understanding their legislative mandate for reporting. On numerous occasions, I personally have received phone calls from banking officials who have noticed unusual activity with a client’s account and have reported it to our hotline.<sup>91</sup>

<sup>87</sup> FL ST §415.1034(1)(a)(8) mandates reporting by any “[b]ank, savings and loan, or credit union officer, trustee, or employee, who knows, or has reasonable cause to suspect, that a vulnerable adult has been or is being abused, neglected, or exploited.”

<sup>88</sup> GA ST 30-5-4(a)(1)(B) provides in relevant part that “any employee of a financial institution... having reasonable cause to believe that a disabled adult or elder person has been exploited shall report or cause reports to be made....” Subsection 30-5-4(a)(1)(B) refers to the definition of “financial institutions” in GA ST 7-1-4(21), which includes, *inter alia*, banks, trust companies, building and loan associations, and credit unions.

<sup>89</sup> MS ST §43-47-7(1)(a), which requires that “any person who knows or suspects that a vulnerable adult has been or is being abused, neglected or exploited, shall immediately report such knowledge or suspicion,” was amended effective July 1, 2001, to additionally list specific occupations which are mandated to report, including “any officer or employee of a bank, savings and loan, credit union or any other financial service provider.” MS ST §43-47-7(1)(a)(vii).

<sup>90</sup> See note 25, *supra*, listing these states and the citations for their mandatory reporting laws.

<sup>91</sup> E-mail message from Chris Shoemaker dated January 2, 2002.

However, two other observers in Florida view the mandatory reporting law as having only a limited effect. One reports that “I don’t believe that there has been resistance to the mandate that I can see, but nor have I seen a tremendous influx of those we have been able to identify.”<sup>92</sup> An APS worker in Tampa makes a similar comment about the experience in her part of the state: “We have had some reports from bank personnel we might never have had otherwise but there hasn’t been a huge influx of reports from banks such that it has had an impact on workload.”<sup>93</sup>

In Georgia, the mandatory reporting law was enacted despite some resistance from the banking industry.<sup>94</sup> The state legal services developer reports that since the law was enacted, “smaller scale attempts at local training have been initiated with small steps being made in the progression of getting folks on board.”<sup>95</sup> Both she and the state APS program consultant do not believe that the mandatory reporting law has resulted in a significant increase in reporting by banks (the state does not keep statistics on the sources of referrals).<sup>96</sup>

Mississippi’s mandatory reporting statute, which requires “any person” to report suspected abuse, was amended effective July 1, 2001, to list specific occupations, including employees of banks, that are mandated to report.<sup>97</sup> A social worker with the state’s Division of Family and Children’s Services reports: “Mississippi has not yet experienced a significant increase in reports as a result of the legislative amendment.

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<sup>92</sup> E-mail message from Investigator Melissa Otto, Supervisor of Elder Services Unit, Office of the State Attorney, dated January 25, 2002.

<sup>93</sup> E-mail message from Sarah Holbert, Adult Protective Services, Suncoast Region, dated January 25, 2002.

<sup>94</sup> E-mail message from Natalie Thomas, State Legal Services Developer, Georgia Division of Aging Services, dated January 25, 2002.

<sup>95</sup> *Id.*

<sup>96</sup> *Id.* and e-mail message from Mary Martha Allen, APS Program Consultant, Georgia Division of Family and Children’s Services, dated January 25, 2002.

This may be because, to date, there has not been an aggressive public awareness campaign to ensure that banks (and other entities) are aware of their duty to report.”<sup>98</sup>

The experience in Louisiana, as described by Robert J. Seemann, Director of the Elderly Protective Service in the Louisiana Governor’s Office of Elderly Affairs, is typical of the “any person” states that have not implemented education or training programs to make banks aware of their duty to report:

Although the Louisiana Law, R.S. 14:403.2, requires mandated reporting of all reports of suspected elder abuse, I do not think all financial institutions are aware of this requirement. This lack of reporting is probably related to the lack of formal education and training on the complexities of financial abuse. Our state has never attempted a coordinated statewide education and training effort with financial institutions.<sup>99</sup>

Jan Stiles of the Wyoming Division of Protective Services similarly comments: “I have no knowledge of any report being received from a financial institution. I suspect they have little awareness of their duty to report.”<sup>100</sup>

On the other hand, states that already have a mandatory reporting law appear to have an advantage in convincing the banking industry to cooperate in training programs. This has been the experience in Utah, which initiated a bank training program three years ago. As described by C. Ronald Stromberg, Assistant Director of the Utah State Division of Aging and Adult Services:

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<sup>97</sup> See note 88, *supra*.

<sup>98</sup> E-mail message from Edna C. Clark, Social Worker Advanced, Protection Unit – Division of Family and Children’s Services, Mississippi Department of Human Services, dated January 29, 2002.

<sup>99</sup> Letter from Robert J. Seemann, Director, Elderly Protective Service, Louisiana Governor’s Office of Elderly Affairs, dated February 15, 2002.

<sup>100</sup> E-mail message from Jan Stiles, Adult Protective Services Program Consultant, Division of Protective Services, Wyoming Department of Family Services, dated February 5, 2002.



We first met with the State Bankers Association leadership. They were reluctant at first...[because] they were worried about negative publicity implying that their banks might be allowing people to take money from the accounts of elderly customers. They wanted to make sure we did not inform the press of our training or “Bank Reporting Project.” We agreed.

We then met with the Bank Security Committee consisting of the Security Directors from the banks. They were very receptive, welcomed our involvement and training, and went to the Banker's Association and supported our project. If we were to do it again, we would start with the security people....

...We have had a number of very successful results from the banks reporting. Banks are responsible for about 3% of the total referrals we receive from all sources for abuse, neglect and exploitation....

*I think having the mandatory reporting law definitely helps. It pretty much ends the discussion about whether a bank should report and changes the focus to what they need to do to report and how we can work together to help provide their customers with the protections provided in the law.<sup>101</sup>*

## **B. Reporting Projects in Voluntary Reporting States**

Beginning in the 1990s, a number of states and local communities developed projects designed to train bank employees to recognize and report unusual banking activity by elderly customers that might signal elder abuse. These projects typically involved several components: (1) securing the cooperation of the banking industry, which often required enacting legislation to reassure banks regarding potential liability; (2) preparing materials to be used in training bank personnel to recognize signs of financial abuse; (3) development by the banks of an internal protocol to deal with suspected abuse, such as requiring bank employees to report suspected abuse to the bank's security director or branch manager for a determination whether the incident should be reported to APS

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<sup>101</sup> E-mail message from C. Ronald Stromberg, Assistant Director, Utah State Division of Aging and Adult Services, dated February 6, 2002 (emphasis added).

and/or local law enforcement; and (4) implementation of training and the protocol for reporting.<sup>102</sup>

The first statewide project that followed this model was the Massachusetts Bank Reporting Project, which was developed in 1996 after efforts to launch a similar program at the local level were unsuccessful.<sup>103</sup> A state-wide task force was formed, but “[t]he key to success was gaining the sponsorship and active participation in the task force of the private sector, the Massachusetts Bankers Association.”<sup>104</sup> The Massachusetts project differed from earlier projects “because it aimed to engage the banking industry rather than individual banks.”<sup>105</sup> An important part of the project was “the creation of incentives so that banks would participate voluntarily, for example, offering points toward [federal] Community Reinvestment Act approval” for participating banks.<sup>106</sup>

According to Gillian Price and Craig Fox, two APS workers involved in the development of the project, in Massachusetts, as in several other states, obtaining the cooperation of the banking industry required a compromise on the issue of mandatory reporting:

Bank employees are not mandated reporters of elder abuse in Massachusetts although they are, as are all reporters, provided with statutory protection from liability for “good faith” reporting. The project considered changes in legislation that would mandate bank employees to report elder abuse, thus providing them with greater protection from liability. This option was resisted by the industry. The Project decided that, given the resistance, gaining the voluntary cooperation of the industry would prove more effective in encouraging reporting than proposing further legislation.<sup>107</sup>

<sup>102</sup> Many bank reporting projects have also developed training materials that banks can use to conduct consumer education seminars for seniors. These seminars are designed to teach seniors to be alert to financial scams and other ways in which they may be financially exploited.

<sup>103</sup> Price and Fox, *supra* note 2, at 63.

<sup>104</sup> *Id.*

<sup>105</sup> *Id.* at 69.

<sup>106</sup> *Id.* at 63.

<sup>107</sup> *Id.* at 64.

Alan Herman, a researcher at the JDC-Brookdale Institute for Gerontology and Human Development who has studied the Massachusetts project, believes that the absence of mandatory reporting has not hindered the project. He reports that most banks now participate in the project on a voluntary basis:

Though most bank customer service reps statewide have been trained to recognize the signs of elder abuse, reporting to law enforcement offices is not mandatory and solutions are often found at the branch level. Still, the number of reports to law enforcement yearly continues to increase. And, as you know, the difference between mandatory and voluntary is not great in an environment where there is peer pressure to join, prevent and take action.<sup>108</sup>

Drawing on the experience in Massachusetts and other states, the State of Oregon developed a statewide project that was intended to serve as a national model for bank reporting projects. Initially, the state's attorney general met with the chief executive officer of the Oregon Bankers Association ("OBA") to discuss involving banks in reporting elder abuse:

As the ability of bankers to contact local authorities about possible violations was already covered in state law, the attorney general and the OBA decided to add an immunity clause to the Oregon statutes addressing financial institutions. The OBA made it clear that it did not want banking institutions to become "mandatory reporters." All on the attorney general's task force agreed that since the bankers *wanted* to report, they did not need to be mandatory reporters. This resulted in smooth passage of the legislation [amending the Oregon financial privacy law].<sup>109</sup>

Subsequently a public/private partnership consisting of the Oregon Bankers Association, the Oregon Department of Justice, the Oregon Senior and Disabled Services

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<sup>108</sup> E-mail message from Alan Herman dated January 8, 2002.

<sup>109</sup> Aileen P. Kaye and Stephen J. Schneider, "Financial Exploitation and Consumer Fraud, Workshop 3: Innovative Approaches to Financial Exploitation," in Our Aging Population: Promoting Empowerment, Preventing Victimization, and Implementing Coordinated Intervention, a report of proceedings at a national symposium sponsored by the United States Department of Justice, Office of Justice Programs, and the United States Department of Health and Human Services, Appendix 3 at 17-18 (2000) (emphasis

Division and the Oregon AARP was formed to address the problem of financial exploitation of the elderly. The partnership obtained a substantial grant from the Office for Victims of Crime of the United States Department of Justice to develop a training “kit” for a bank reporting program that could easily be replicated by other states. The training kits, which include both video and audio tape instructional materials, are “designed for self-training; however, the kit information recommends that banks contact Adult Protective Services (APS) and law enforcement to assist with training.”<sup>110</sup> Free copies of the kit were sent to the state bankers association, the attorney general and the state APS office in every state.<sup>111</sup> A complimentary copy was also sent to each branch bank in Oregon and to each bank president in the state.<sup>112</sup> A total of 1600 kits have been distributed, including kits requested by individual banks in other states, prosecutors’ offices, attorney generals’ offices, law enforcement, APS offices, area agencies on aging, and five foreign countries.<sup>113</sup>

Oregon’s figures on reports filed with APS by banks have grown from 43 in 1999, to 76 in 2000, and to 130 in 2001.<sup>114</sup> To cope with this three-fold increase in reports, Oregon has developed a second program, Retiree Response Technical Teams, or “R2T2,” to assist APS offices in investigating financial abuse. The program uses the voluntary

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in original). The amendments to the Oregon law on Private Financial Records are OR ST §192.555(2)(a) and §192.575(5).

<sup>110</sup> “Preventing Elder Financial Exploitation: How Banks Can Help,” report prepared for the Senate Special Committee on Aging by the Oregon Department of Human Services, Senior and Disabled Services Division, dated July 19, 2001.

<sup>111</sup> E-mail message from Aileen P. Kaye, Abuse Prevention Program Coordinator, Abuse Prevention Unit, Seniors and People With Disabilities, Oregon Department of Human Services, dated January 29, 2002.

<sup>112</sup> *Id.*

<sup>113</sup> *Id.*

<sup>114</sup> Letter from Aileen P. Kaye dated February 22, 2002. However, “the[se] numbers are lower than in reality as some offices keep their own data and not all offices turn in their statistical reports as they should. The main thing is that the number of bankers who report in Oregon has consistently gone up every year.” *Id.*

services of retired bankers, accountants and other financial experts to assist local APS and other multidisciplinary team members in collecting and analyzing financial records for possible prosecution.<sup>115</sup>

Aileen Kaye, the state's Abuse Prevention Program Coordinator, and Stephen J. Schneider, an attorney with the Abuse Prevention Unit, both of whom were instrumental in developing the program, have summarized the "lessons learned" from the program:

The key lesson learned is that it is necessary to start the program with strong statewide partners, especially the state bankers association. Bankers trust other bankers and will check with each other before adopting the project. Also, it is very important to realize that bankers are extremely busy and must keep up with numerous regulations. Timeliness and a businesslike attitude are crucial to gain their trust.<sup>116</sup>

California, on the other hand, has had a very different experience from that in Oregon and Massachusetts. At the state level, for the last two years there has been a contentious battle with the banking industry over various proposed amendments to the state's APS law, including an amendment that would make banks mandatory reporters, with the larger banks in the state leading the opposition.<sup>117</sup> Meanwhile, several very successful training projects have been undertaken at the local level by the California Community Partnership for the Prevention of Financial Abuse (CCPPFA) and by local law enforcement.

Using the Massachusetts program as a model, what is now the CCPPFA began as the Marin Bank Reporting Project in 1997. The original project was run by the city of Novato through its senior center program, with the assistance of local APS and the Bank of Marin.<sup>118</sup> In 1999, under the leadership of the Novato Community Bank, the program

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<sup>115</sup> Kaye and Schneider, *supra* note 108, at 18.

<sup>116</sup> *Id.*

<sup>117</sup> The ongoing effort to amend the California APS law is discussed in the next section of this report.

<sup>118</sup> Telephone conversation with Jenefer Duane, Executive Director of CCPPFA, dated April 19, 2002.

expanded by inviting other Marin County banks to participate.<sup>119</sup> In 2000 the program became an independent nonprofit organization. It has since conducted training for over 500 bank employees at 25 banks throughout California.<sup>120</sup> Most banks have been very enthusiastic about the program: one bank official told CCPFA Executive Director Jenefer Duane that he didn't care if his bank was sued,<sup>121</sup> and as Duane notes, bank employees typically share his strong motivation to help customers:

Bank staff are (sic) people with mothers, fathers, aunts, uncles and grandmothers.... Many say they don't care what corp[orate] headquarters say, they don't ask permission, they just do the right thing and sleep well at night.... Many I have spoken to have personal experience with financial abuse in their own family.<sup>122</sup>

CCPPFA's latest project is the development of a training video to be used statewide. Several California banks will fund this video, and an ad hoc legal committee of the California Bankers Association will review the script, which discusses liability issues under California law.<sup>123</sup> As in the Massachusetts program, a significant incentive for participation in CCPFA training programs, including use of the video, was the availability of Community Reinvestment Act credit.<sup>124</sup>

Other counties in California have developed locally based programs to address financial abuse. For example, in San Diego, Deputy District Attorney Paul Greenwood conducted extensive training for local community banks.<sup>125</sup> In Los Angeles County, the Fiduciary Abuse Specialist Team (FAST) "works closely with bank personnel to gather

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<sup>119</sup> *Id.*

<sup>120</sup> *Id.*

<sup>121</sup> Telephone interview with Jenefer Duane, dated January 26, 2002.

<sup>122</sup> E-mail message from Jenefer Duane dated April 11, 2002.

<sup>123</sup> *Id.*

<sup>124</sup> *Id.* and telephone conversation with Jenefer Duane dated January 26, 2002.

<sup>125</sup> E-mail message from Paul Greenwood, Deputy District Attorney and Head of the Elder Abuse Prosecution Unit, San Diego District Attorney's Office, dated January 29, 2002

information and secure assets of older persons at risk of exploitation.”<sup>126</sup> In San Luis Obispo County, Kristy Askling, the Elder and Dependent Adult Advocate in the District Attorney’s Office, prepared “Recognizing and Reporting Elder Financial Abuse,” a curriculum for training bank employees that was also used in Santa Barbara County and Ventura County.<sup>127</sup> The District Attorney’s Office for the County of Lake developed a similar financial abuse training curriculum for banks.<sup>128</sup>

Another example of a very successful locally initiated program is that developed by Protective Services for Older Adults of Erie County, New York.<sup>129</sup> The centerpiece of the project is a 29-minute videotape used in training bank personnel to identify abuse. Entitled “Banks: The Front Line Defense Against Financial Exploitation,” the video includes scenes in which bank employees intervene to prevent or report suspicious transactions. James E. Mayer, Director of Protective Services for Older Adults in Erie County, describes the program’s success in uncovering financial abuse:

Before the [program], banks only accounted for making two or three referrals to our APS program each quarter of the year. Now we receive between 14 and 18 referrals per quarter. The best thing is that the referrals are now made before the senior’s money is gone. If banks are approached in the right manner they are more than cooperative in helping APS uncover elder abuse.<sup>130</sup>

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<sup>126</sup> “Financial Exploitation and Consumer Fraud: -- Workshop 3: Innovative Approaches to Financial Exploitation,” in Our Aging Population, *supra* note 108, at 21.

<sup>127</sup> E-mail message from Kristy Askling dated November 26, 2001.

<sup>128</sup> Letter from Sam Laird, Lake County District Attorney’s Office, dated January 30, 2002.

<sup>129</sup> The Elder Abuse Committee of the Erie County Multi-Disciplinary Coordinating Council received the 2001 Elder Abuse Prevention Award from the National Committee to Preserve Social Security and Medicare. New York is one of the six states that do not have a mandatory reporting law. The New York APS statute contains an immunity provision that covers “any person” who makes a report of suspected abuse “in good faith.” NY SOC SERV §473-b.

<sup>130</sup> E-mail message from James E. Mayer, Director of Protective Services for Older Adults, Erie County Department of Senior Services, dated January 25, 2002.

Finally, the state of Washington has encouraged banks to report both financial abuse *and* other problems of the elderly using a rather different approach.<sup>131</sup> Developed in 1978 by the late Raymond Raschko of the Spokane Mental Health Center, the Gatekeeper Model has been used to identify “at risk” older adults in need of a variety of services, not just victims of abuse. Under the model, “gatekeepers” who come in regular contact with the elderly, especially the isolated elderly, such as meter readers, postal carriers and bank employees, are trained to recognize and report the “signs and symptoms that indicate an older adult is at risk of not being able to remain in the community.”<sup>132</sup> Although the program originated in Spokane, it now operates throughout the state of Washington and in other jurisdictions as well.

With regard to the positive role played by banks, one of the researchers involved in the Gatekeeper Project comments:

Bank tellers are great! They learn about signs and symptoms that might indicate the older person needs help, including those who are victims of elder abuse and neglect or “self-neglect.” They are also great at referring older adults who have dementia and may be at risk of future elder abuse/exploitation.<sup>133</sup>

### **C. Attempts to Amend APS Statutes to Make Banks Mandatory Reporters**

In both Massachusetts and Oregon, where the state bankers associations strongly opposed mandatory reporting, a decision was reached to compromise on the issue and instead enact legislation that would reassure bankers regarding potential liability. In most other states that have recently attempted to enact legislation identifying banks as

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<sup>131</sup> Banks are voluntary reporters in Washington. See WA ST 74.34.035(b) and 74.34.020(10), defining “permissive reporter” to include “any...employee of a financial institution.”

<sup>132</sup> Evelyn R. Florio, Todd H. Rockwood, Michael S. Hendryx, Julie E. Jensen, Raymond Raschko, and Dennis G. Dyck, “A Model Gatekeeper Program to Find the At-Risk Elderly,” 5 *Journal of Case Management* 106, 107 (1996).

<sup>133</sup> E-mail message from Julie E. Jensen, PhD, Research Associate, Washington Institute for Mental Illness Research and Training, dated January 25, 2002.



mandatory reporters, the results have been similar. This is so even though banks are likely to have more protection from liability if they make reports under a mandatory reporting law than under a voluntary reporting law.

In the last five years, only one state has amended its APS statute to list banks as mandatory reporters. The Mississippi APS statute, which requires “any person” to report suspected abuse, was amended in 2001 by adding a list of occupations that are mandated to report, including “any officer or employee of a bank, savings and loan, credit union or any other financial service provider.”<sup>134</sup> It is significant that banks were already subject to a reporting obligation under the “any person” clause of the statute and that this amendment therefore had the effect only of making that legal obligation more explicit.

The experience in Maine is more typical. Several years ago a study group on crimes against the elderly recommended that the reporting provision of the APS law, which listed a variety of medical and law enforcement professionals as mandatory reporters, be amended by adding bank employees. After the two state bankers associations objected, a compromise was negotiated under which the banks agreed to a training program, the Maine Reporting Project for Financial Institutions, which followed the Massachusetts model.<sup>135</sup> An important element of this training was assurance by the Maine Bureau of

<sup>134</sup> MS ST §43-47-7(1)(a)(vii).

<sup>135</sup> Telephone conversation with Elizabeth Gattine, Legal Services Developer, Bureau of Elder and Adult Services, Maine Department of Human Services, dated March 12, 2002. The Maine Credit Union League did not oppose the legislation, and several reports from the elder abuse e-mail list members indicate that in general, credit unions are more willing than banks to file reports and cooperate with APS investigations. For example, Marianne Bltisch, the Executive Vice President of the Point Mogue Federal Credit Union in California, supports mandatory reporting legislation for financial institutions:

We are much in favor of this type [of mandatory reporting] legislation. We currently have a training program in place for our staff to notify us of suspected abuse of a dependent adult. We do, however, have to be very careful because we are not mandated reporters.... This type of legislation would in fact protect us from liability if we were wrong in our suspicion

Banking that disclosure of information regarding suspected abuse did not violate the state's financial privacy law.<sup>136</sup>

In 2001, several states unsuccessfully attempted to enact legislation listing banks as mandatory reporters. In Virginia, a proposed amendment to the state's APS law was strongly opposed by small rural banks, which feared that if they reported suspected financial abuse, relatives and friends of the suspected abuser would learn of the report and close their bank accounts in retaliation.<sup>137</sup> Legislators agreed to a compromise with

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but referred in the interest of the potential victim. We do understand that many financial institutions do not view it this way but as just another legal requirement, responsibility and expense they don't believe is their domain. We disagree.

E-mail message from Marianne Blitsch dated January 25, 2002.

<sup>136</sup> Telephone conversation with Elizabeth Gattine dated February 15, 2002.

<sup>137</sup> Telephone conversation with William Lukhard, former member of the AARP's Virginia state legislative committee, dated April 8, 2002. The opposition from smaller banks in Virginia is unusual – APS officials and bank reporting programs in several states reported that smaller community banks are generally more cooperative than state-wide or national banks. Typical of such comments is the following statement by Julie Jensen, a researcher who has studied the Gatekeeper Project in Washington State (see discussion in Section III (B), *supra*):

The smaller banks have been more receptive to the training because they already have people in mind but don't know what to do about them or the situation and it seems like the RIGHT thing to do. Some of the larger banks have cooperated and some haven't – especially the really big ones like Bank of America – no way. It seems more and more difficult to get these huge corporate banks' involvement --- you never seem to find the right person to talk to – someone at the corporate office in another state, for example.

E-mail message from Julie E. Jensen, PhD, Research Associate, Washington Institute for Mental Illness Research and Training, dated January 25, 2002 (emphasis in original). Similarly, Paul Greenwood, Deputy District Attorney and Head of the Elder Abuse Prosecution Unit, San Diego District Attorney's Office, comments that in his experience, "local community banks are much more receptive to such outreach and training and realize that it makes good customer sense." E-mail message dated January 29, 2002.

the banking industry under which “financial institutions” are now specifically identified as voluntary reporters.<sup>138</sup>

In New Hampshire, which mandates “any person” to report suspected abuse but also lists specific occupations that are required to file reports, the banking industry defeated an effort to add “financial officers” to this list during the 2001 legislative session. Although the state bankers association initially did not oppose the bill, which was intended simply to clarify the legal obligation of banks under the existing universal reporting statute, the association subsequently changed its position, arguing primarily that federal financial privacy laws do not permit such reporting.<sup>139</sup>

Finally, California has been the site of what is perhaps the most intense legislative battle to date over mandatory reporting by banks. In the past few years, both a bill intended to encourage voluntary reporting and a mandatory reporting bill have been introduced in the California legislature. The first bill, Assembly Bill 2253,<sup>140</sup> was introduced in 2000 and was intended to encourage voluntary reporting. As originally drafted, the bill would have amended the California APS law by: (1) clarifying that notwithstanding other provisions of California law, an officer, employee or agent of a bank may disclose customer information and the facts that form the basis of suspicion

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<sup>138</sup> *Id.* See also discussion at note 26, *supra*. William Lukhard reports that since passage of the law, voluntary reporting by banks has increased and some banks are providing training to their employees. Telephone conversation with William Lukhard dated August 30, 2002. The texts of both the bill as originally proposed and the bill as amended and approved can be found at <http://leg1.state.va.us/cgi-bin/legp504.exe?ses=011&typ=bil&val=hb1581>.

<sup>139</sup> E-mail message from Carol Stamatakis, Legal Coordinator, Division of Elderly and Adult Services, New Hampshire Department of Health and Human Services, dated November 26, 2001.

<sup>140</sup> The text of the bill, including its various amended versions, along with committee reports in the Assembly and the Senate, are available at <http://www.leginfo.ca.gov/>.

when reporting suspected financial abuse;<sup>141</sup> and (2) added an immunity provision that provided an absolute privilege for disclosures in connection with reporting by banks.<sup>142</sup> The final version of the bill passed by the California Senate redrafted the immunity provision so that it applied only to “reasonable and good faith” disclosures.<sup>143</sup> This version also included a provision requiring representatives from banks to organize, develop and implement a model training program.<sup>144</sup>

The Senate’s version of the bill provoked strong opposition by the banking industry. The senior counsel for Wells Fargo issued a memorandum to California legislators contending that the bill as amended would give banks less protection than under existing law and would therefore actually *discourage* participation in voluntary reporting by banks:

As originally introduced, Assembly Bill 2253 displayed laudatory intentions and goals: fostering the protection of elders and dependent adults from the crime of financial abuse by encouraging financial institutions to report suspected financial abuse without running the liability gauntlet....

...Financial institutions currently enjoy protection under the law in reporting suspected crimes, including suspected financial abuse: that protection would be compromised if AB 2253 were enacted....

...[T]he unanticipated result of [the bill as amended] is that it will have a chilling effect on such reporting because it converts the current “absolute” privilege financial institutions enjoy under §47(b)(3) of the Civil Code in reporting all crimes, including suspected financial abuse, to a qualified privilege when suspected financial abuse is reported.<sup>145</sup>

<sup>141</sup> Proposed section 15631.5(a), available at [http://www.leginfo.ca.gov/pub/99-00/bill/asm/ab\\_2251-2300/ab\\_2253\\_bill\\_20000224\\_introduced.htm](http://www.leginfo.ca.gov/pub/99-00/bill/asm/ab_2251-2300/ab_2253_bill_20000224_introduced.htm).

<sup>142</sup> Proposed section 15631.5(b), available at [http://www.leginfo.ca.gov/pub/99-00/bill/asm/ab\\_2251-2300/ab\\_2253\\_bill\\_20000224\\_introduced.htm](http://www.leginfo.ca.gov/pub/99-00/bill/asm/ab_2251-2300/ab_2253_bill_20000224_introduced.htm).

<sup>143</sup> Proposed section 15631.5(b), available at [http://www.leginfo.ca.gov/pub/99-00/bill/asm/ab\\_2251-2300/ab\\_2253\\_bill\\_20000825\\_amended\\_sen.htm](http://www.leginfo.ca.gov/pub/99-00/bill/asm/ab_2251-2300/ab_2253_bill_20000825_amended_sen.htm).

<sup>144</sup> Proposed section 15631.5(d), available at [http://www.leginfo.ca.gov/pub/99-00/bill/asm/ab\\_2251-2300/ab\\_2253\\_bill\\_20000825\\_amended\\_sen.htm](http://www.leginfo.ca.gov/pub/99-00/bill/asm/ab_2251-2300/ab_2253_bill_20000825_amended_sen.htm).

<sup>145</sup> Memo entitled “Wells Fargo Urges the California Legislature to Vote ‘No’ on AB 2253” from Ted Teruo Kitada, Senior Counsel, Wells Fargo Law Department, dated August 28, 2000.

These arguments were effective and the bill was withdrawn.<sup>146</sup>

In 2001, a second bill, Assembly Bill 109, was introduced. As originally written, this bill would have added “any officer, trustee, or employee of a bank, savings and loan association, or bank [sic]” to the list of mandated reporters in Section 15630(a) of the Welfare and Institutions Code<sup>147</sup> and it would have provided immunity for “good faith disclosure of information and facts.”<sup>148</sup> At a subsequent committee hearing on the bill, the California Bankers Association argued that the bill exposed financial institutions to unreasonable risks of liability:

A chief concern raised by the banking industry is the conflict between federal and state laws governing the right to privacy and the requirement to report. “The immunity from liability under this proposed California law will not protect the mistaken bank employee from a Federal claim for privacy violations.” The California Bankers Association states that as drafted, the measure creates unacceptable risks to financial institutions that include the risk of incurring litigation expenses to defend against civil claims of privacy invasion if a financial institution follows the proposed statute *and* a litigation risk if the financial institution fails to prevent elder financial abuse.<sup>149</sup>

As a result of this opposition, the bill was radically revised: “Rather than making bank employees mandated reporters and based on other concerns raised by both the financial institutions and local government, AB 109 was amended simply to establish the pilot programs in [three] named counties so that a training program

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<sup>146</sup> Telephone interview with Jenefer Duane, Executive Director, California Community Partnership for the Prevention of Financial Abuse, dated January 26, 2002.

<sup>147</sup> Proposed amendments to Section 15630(a) are available at [http://www.leginfo.ca.gov/pub/bill/asm/ab\\_0101-0150/ab\\_109\\_bill\\_20010118\\_introduced.html](http://www.leginfo.ca.gov/pub/bill/asm/ab_0101-0150/ab_109_bill_20010118_introduced.html).

<sup>148</sup> Proposed new subsection (i) to Section 15630 is available at [http://www.leginfo.ca.gov/pub/bill/asm/ab\\_0101-0150/ab\\_109\\_bill\\_20010118\\_introduced.html](http://www.leginfo.ca.gov/pub/bill/asm/ab_0101-0150/ab_109_bill_20010118_introduced.html).

<sup>149</sup> Report on April 17, 2001, hearing of the Assembly Committee on Aging and Long Term Care at 3-4, available at [http://www.leginfo.ca.gov/pub/bill/asm/ab\\_0101-0150/ab\\_109\\_cfa\\_20010416\\_142832\\_asm\\_comm.html](http://www.leginfo.ca.gov/pub/bill/asm/ab_0101-0150/ab_109_cfa_20010416_142832_asm_comm.html).

may be developed for statewide implementation if the program is shown to improve identification and reporting of such incidents.”<sup>150</sup>

Although additional proposals for legislation are still being considered in California,<sup>151</sup> the success and growth of locally-based bank reporting programs suggests that this is where future efforts are likely to be focused.

#### IV. CONCLUSIONS

The extensive and varied experience in the states, both with legislative changes intended to promote bank reporting of financial abuse and with the implementation of local and statewide bank reporting projects, supports the following conclusions:

1. Bank reporting programs in both mandatory reporting states and in voluntary reporting states have been very effective in increasing reports of financial abuse and preventing additional losses to the victims.<sup>152</sup> Although many states

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<sup>150</sup> Report of the Senate Judiciary Committee at 4-5, available at [http://www.leginfo.ca.gov/pub/bill/asm/ab\\_0101-0150/ab\\_109\\_cfa\\_20010705\\_095726\\_sen\\_comm.html](http://www.leginfo.ca.gov/pub/bill/asm/ab_0101-0150/ab_109_cfa_20010705_095726_sen_comm.html).

<sup>151</sup> E-mail message from Jenefer Duane, Executive Director of the California Community Partnership for the Prevention of Financial Abuse, dated April 12, 2002.

<sup>152</sup> At least in the state of Massachusetts, an additional benefit of the bank reporting project has been increased cooperation by banks in investigations of reports of financial abuse from sources other than financial institutions. According to Gregory Giuliano, Director of Elder Protective Services (EPS) for the state of Massachusetts, before the state’s bank reporting project, banks viewed EPS’s requests for financial records and other information with suspicion and were often uncooperative. However, banks now understand the investigation process, and EPS is able to get records much more easily. Giuliano believes that “this may be the most important result of the project.” Telephone interview with Gregory Giuliano dated April 12, 2002.

have successfully initiated statewide projects, in other states locally initiated projects have been more successful.<sup>153</sup>

2. Enactment of a mandatory reporting law alone does not seem to result in a significant increase in reporting by banks. However, in states that already have mandatory reporting laws in place, the presence of such a law can be helpful in getting the banking industry to support a reporting project. On the other hand, states that have tried to add mandatory reporting laws before initiating a bank reporting project have usually encountered considerable resistance from the industry.
3. In voluntary reporting states, the absence of mandatory reporting has not been a major obstacle to developing a successful bank reporting project. Although most state bank associations and the banking industry as a whole have opposed mandatory reporting, state bank associations and individual banks have usually been willing, and often enthusiastic, about participating in voluntary bank reporting projects. This suggests that efforts are better directed at securing the cooperation of the banking industry than toward attempting to enact a mandatory reporting law.
4. There are no major legal obstacles to participation in a bank reporting project:
  - a. Banks that participate in reporting have no reason to fear liability under federal law: the Right to Financial Privacy Act applies only to records and information sought by the federal government, and Section 502(e) the

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<sup>153</sup> It may be more than coincidental that the local projects described in this report are in California and New York, two very large states where initiating a state-wide project would likely present a greater challenge than in smaller states such as Oregon and Massachusetts.

Gramm-Leach-Bliley Act contains several exemptions that would cover both mandatory and voluntary reporting.

- b. In some states, minor amendments to either the state bank privacy law and/or the APS statute may be necessary to provide banks with maximum protection from liability. Whether there is potential liability either to the state or to customers for violation of state privacy rules will depend both on the specific privacy provisions in that state and on the scope of the immunity provision in the state's APS statute.



**Cumulative Elder Financial Abuse Statutes**  
Updated as of June 21, 2011

<i>State</i>	<i>Bill Number or Citation</i>	<i>Summary</i>
<b>AK</b>	AS 44.21.410, AS 44.21.415, AS 47.24.015	Creates a state office elder abuse to combat fraud against older persons.
<b>AZ</b>	HB 2344	Permits a person in a position of trust to use an incapacitated or vulnerable adult's assets only in the incapacitated or vulnerable adult's best interest and not for the benefit of the person who is in the position of trust unless the superior court gives prior approval of the transaction or the transaction is specifically authorized in a valid general or nongeneral power of attorney. Signed by Governor as Ch. 119 on 7/13/09
<b>AR</b>	HB 1309- 2007	Deems financial ID fraud of an elderly person a Class B Felony. Signed by Governor on 2/9/07
<b>CA</b>	W&I §15600- 15675	Deems elder financial abuse a crime and provides criminal and civil penalties. Financial institutions are listed among "mandated reporters" of elderly financial abuse requiring officers and employees of such institutions to report suspected abuse.
<b>CA</b>	AB 2249 (Ch. 234)	Requires financial institutions to furnish account information, upon request, to a county adult protective services offices and long-term care ombudsman, when those entities are investigating the financial abuse of an elder or dependant adult. Adopted on 8/1/08
<b>CO</b>	C.R.S. 13-14- 101	Increased for persons or businesses that engage in unfair or deceptive practices, fraud, or financial exploitation against a person 60 years or older.
<b>CO</b>	SB 42	Requires financial institutions to inform account holders who are at-risk adults of their right to voluntarily sign and have placed in their bank records a consent form allowing release of otherwise confidential records to allow the institution to alert or notify local law enforcement and the county or district department of social services of potential financial exploitation to expedite an investigation and minimize losses, and the bill creates civil and criminal immunity for financial institutions and their employees and agents when they either disclose or fail to disclose an account holder's financial information pursuant to a signed prior consent form. Signed by Governor on 6/8/10
<b>DE</b>	ST. Title § 3910, 3913	Deems exploitation of the resources of an "infirm adult" when the value is less than \$500 a class A misdemeanor, when the value is between \$500 and \$5,000 a class G Felony, when the value is between \$5,000 and \$10,000 a class E felony, when the value is between \$10,000 and \$50,000 a class D felony, when the value is more than \$50,000 a class C felony. Any person who has knowledge that an

**Cumulative Elder Financial Abuse Statutes**

Updated as of June 21, 2011

Building Success. Together.

		adult person is "infirm" is required to report such information to the Department of Health and Social Services. Any person who has knowledge of elder financial abuse is considered a mandatory reporter.
FL	Title XLVI § 825.103, Title XXX §415.1034	Prohibits the exploitation of an elderly person's assets through intimidation or deception. Title XXX §415.1034 Requires anyone who knows of, or reasonably suspects a vulnerable adult is being abused, neglected, or exploited to file a report with the central abuse hotline. Statute specifically names: "Bank, savings and loan, or credit union officer, trustee, or employee" among those required to report abuse or suspected abuse. The statute provides immunity to those who file reports or participate in investigations in good faith. A 2 <sup>nd</sup> degree misdemeanor is the penalty for financial institutions failing to report elder financial abuse.
GA	ST 30-5-8, ST 30-5-4	Makes the abuse, neglect or exploitation of an elder person a felony. Requires an employee of a financial institution to report known or reasonably suspected financial exploitation to an adult protection agency or to law enforcement. Failure to report is deemed a misdemeanor. Reporters and institutions acting in good faith are immune from civil and criminal liability for false reports.
HI	SB 1400 2007	Requires financial institutions to report suspected instances of financial abuse against elder or dependant adults but provides immunity to anyone who makes a report in good faith with reasonable belief action is warranted. Signed by Governor on 5/24/07
HI	HB 2150 2008	Adds financial exploitation to the adult protection statute and defines it to include the wrongful or negligent taking, withholding, misappropriation, or use of a vulnerable adult's money, real property, or personal property, including breaches of fiduciary relationships, unauthorized taking of personal assets, misappropriation, misuse, or transfer of money from a personal or joint account, or intentional or negligent failure to effectively use a vulnerable adult's income and assets for the necessities required for the vulnerable adult's support and maintenance. Adopted on 6/9/08
IL	120 ILCS 20/3	Requires the Department on Aging to solicit financial institutions to provide information to the general public about financial exploitation of the elderly and related financial fraud or abuse. The Department is also required to coordinate efforts among other agencies such as the Office of the Attorney General, the State Police, the Illinois Law Enforcement Training Standards Board, the State Triad, the Illinois Criminal Justice Information Authority, the Departments of Public Health, Public Aid, and Human Services, the Family Violence Coordinating Council, the Illinois Violence Prevention Authority, and other entities which may impact awareness of, and response to, elder abuse, neglect, and financial exploitation.
IN	IC 12-10-3-9	Requires the Department on Aging to solicit financial institutions to provide information to the general public about financial exploitation of the elderly and related financial fraud or abuse. The Department is also required to coordinate efforts among other agencies such as the Office of the Attorney General, the State



**Cumulative Elder Financial Abuse Statutes**

Updated as of June 21, 2011

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		Police, the Illinois Law Enforcement Training Standards Board, the State Triad, the Illinois Criminal Justice Information Authority, the Departments of Public Health, Public Aid, and Human Services, the Family Violence Coordinating Council, the Illinois Violence Prevention Authority, and other entities which may impact awareness of, and response to, elder abuse, neglect, and financial exploitation. Any person who has knowledge of elder financial abuse is considered a mandated reporter.
KS	§ 39-1431	"A bank trust officer or any other officers of financial institutions" who has "reasonable cause to believe that an adult is being or has been abused, neglected or exploited" is required to report the information in a "reasonable manner" to the department of social and rehabilitation services. Failure to make a report by a mandatory reporter is a class B misdemeanor. The statute provides civil immunity for false reports filed in good faith and prohibits a company from dismissing someone for solely for reports filed under this act.
KY	§ 209.030, Public Act Ch. 6	Requires any person "having reasonable cause to suspect" exploitation of an adult has suffered exploitation to file a report with the Cabinet for Health and Family Services. Reports and investigation cooperation provided in good faith are immune from civil and criminal liability. Public Act Ch 6 enhances the regulatory duties of the Office of Aging Services, including protection of the elderly from financial abuse. The Office of the Inspector General shall be responsible for the conduct of audits and investigations for detecting the perpetration of fraud or abuse of the elderly.
LA	RS 14:403.2, 14:93.4, RS 15:1237, R.S. 51:1402, 1404 - 1417	Financial exploitation of an adult carries a penalty of up to 10 years imprisonment and/or up to a \$10,000 fine. The statute also requires any person who suspects an adult is being exploited to file a report with a local or state law enforcement agency. The statute also removes cause of action from anyone who makes a report or cooperates with an investigation in good faith. RS 15:1237 Established the Ages and Law Enforcement Response Team Program to address problems aimed at the elderly, including financial fraud. R.S. 51:1402, 1404 – 1417 deems elder financial abuse an unfair trade practice. Fine of up to \$500 and/or 6 months incarceration.
ME	HB 1002 2007	Permits financial institutions to disclose financial records to the Department of Health and Human Services when the financial institution has reasonable cause to suspect that an incapacitated or dependent adult has been or is at substantial risk of abuse, neglect or exploitation and provide immunity for good faith disclosure of financial records for this purpose. Signed by Governor on 5/11/07
MD	HB 571/SB 684 2009	Prohibits a person from using a senior or retiree credential or designation to mislead a person in connection with the offer, sale, or purchase of securities in connection with receiving consideration from another person for advising the other person as to the value, purchase, or sale of securities, or in connection with acting as a broker-dealer, agent, investment advisor, or investment advisor representative.



### Cumulative Elder Financial Abuse Statutes

Updated as of June 21, 2011

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		Enacted as Ch. 302 and Ch. on 5/7/09
<b>MN</b>	HF 818 2009	Authorizes financial information disclosure to law enforcement, lead agencies, or prosecuting authorities for vulnerable adult financial exploitation investigation, requires financial institutions to cooperate with a lead agency, law enforcement, or prosecuting authority that is investigating maltreatment of a vulnerable adult and comply with reasonable requests for production of financial records, and authorize suits for damages and recovery of reasonable attorney fees and costs. Signed by Governor as Ch. 119 on 5/21/09
<b>MO</b>	§ 660.250, 660.255	Requires any person who has a reasonable suspicion that an elder is likely to suffer "serious physical harm" must file a report with the Department of Health and Senior Services. The definition of "serious physical harm" includes "maltreatment of wasting" of financial resources by another person.
<b>MS</b>	ST § 43-47-7	Requires any employee of a bank, savings and loan, credit union, or other financial provider who knows, suspects or "because of circumstances, should have known or suspected beyond a reasonable doubt" that a vulnerable adult is being exploited to file a report with the Department of Human Services. "Any recognized legal financial transaction shall not be considered cause to report the knowledge or suspicion of the financial exploitation of a vulnerable adult." Reports made in good faith are immune from civil and criminal liability. Misdemeanor – up to \$5,000 and/or up to 6 months in jail.
<b>NV</b>	AB 87 2007	Requires banks and credit unions to report suspected or actual elder financial abuse and impose misdemeanor for failure to report. The bill was amended to provide civil penalty for failure to report and immunity for reporting. Signed by Governor on 6/4/07
<b>NC</b>	§ 108A-102	Requires any person with "reasonable cause to believe" that a disabled adult is in need of "protective services" to report the suspected need to the director of the county department of social services. A need of "protective services" is defined to include protection from financial exploitation.
<b>NH</b>	161-F:46	Requires any person who suspects an adult who is, or is suspected to be incapacitated has been exploited to report such incidents or cause a report to be made. Reports made in good faith are immune from criminal and civil liability. Failure to report could result in a misdemeanor charge.
<b>NY</b>	CLS Gen. Bus. § 349-c	Allows for additional civil penalty for consumer fraud against elderly persons. Defines elderly as a person 65 years or older.
<b>OH</b>	§ 5101.60 – 5101.71	Requires any person with reasonable cause to believe a vulnerable adult is the victim of exploitation to file a report with the Department of Human Services or the local DA. Failure to file a report is punishable by up to a year in the county jail and/or a \$1,000 fine. Reports made in good faith are immune from civil or criminal liability.





**Cumulative Elder Financial Abuse Statutes**

Updated as of June 21, 2011

Building Success. Together.

<b>OK</b>	SB 398	Adds the definition of "financial neglect" by a caretaker to elder abuse and exploitation statute. Signed by Governor on 4/30/07
<b>OK</b>	SB 492	Adds financial abuse of a vulnerable adult as a reason for the Department of Human Services to take that adult into emergency protective custody. Signed by Governor on 5/26/11
<b>RI</b>	ST § 42-66-8	Requires any person with reasonable cause to believe a person 60 years of age or older has been exploited to file a report with the Department of Elderly Affairs. Failure to file a report is punishable by imprisonment of up to one year and/or a fine of \$1,000. § 42-66-11 provides immunity from criminal or civil liability for anyone who files a report in good faith. Up to 1 year and/or \$1,000 for violations.
<b>SC</b>	ST § 43-35-25	Requires any person with "actual knowledge" that a vulnerable adult has been exploited to report the incident within 24 hours or on the next business day to the Long Term Care Ombudsman Program or the Adult Protective Services Program. Failure to file a report is a misdemeanor punishable by imprisonment for up to one year and/or a fine up to \$2,500. Reports made in good faith are immune from civil or criminal liability.
<b>TN</b>	ST § 71-6-103(b)(1), Cod Ann. § 71-6-120	Requires any person who with a reasonable cause to suspect the financial exploitation of an adult to file a report with the department of human services. Failure to file a required report is a Class A misdemeanor. Persons filing reports are presumed to be acting in good faith and afforded criminal and civil liability. Cod Ann. § 71-6-120: Enhances the rights of the elderly in recovering property acquired by fraud and provides for that person or by conservator or next friend the right of recovery in a civil action of compensatory damages. An elderly person is defined as a person who is 60 years of age or older.
<b>TX</b>	HUM RES § 48.051	Requires any person who suspects an elderly person is the victim of exploitation to report the information. Statute applies "without exception" to persons whose knowledge of potential exploitation is obtained through the person's employment. Failure to report is a Class A misdemeanor. Reports filed in good faith are immune from criminal and civil liability. Knowingly filing a false report is a Class B misdemeanor.
<b>UT</b>	ST § 62A-3-305	Requires any person who suspects a vulnerable adult has been a victim of exploitation to immediately file a report with Adult Protective Services. Willful failure to file a report is a class B misdemeanor. Reports filed in good faith are immune from criminal and civil liability.
<b>VA</b>	Va. Code Ann. § 63.2-100, §63.2-1606, § 18.2-369	Reporting of suspected financial exploitation by staff of financial institutions is permissive. False reports filed in good faith are immune from civil liability. False reports filed in bad faith are a Class 4 misdemeanor, and upon subsequent convictions a Class 2 misdemeanor.
<b>VT</b>	Vt. Stat. Ann. tit. 33, § 6901 et seq., 13	Prohibits the wrongful or unauthorized financial exploitation of vulnerable adults. Violations of less than \$500 are punishable by up to 18 months in jail and up to a \$10,000 fine. Violations of more than \$500 is punishable by up to 10 years in jail



**Cumulative Elder Financial Abuse Statutes**  
Updated as of June 21, 2011

Building Success. Together.

	V.S.A. § 1380	and up to a \$10,000 fine.
<b>WV</b>	§ 61-2-29	Misappropriation of funds of an elderly person is a felony punishable by up to \$5,000 and between 2 and 10 years in prison. Misuse of funds connected to deception, coercion, or bodily injury or threat is punishable by up to \$5,000 and between 5 and 15 years in prison.
<b>WY</b>	ST § 35-20-103(a)	Requires any person who knows, or has reasonable cause to believe that an adult is a victim of exploitation to make a report with law enforcement or the Department of Adult Protective Services. Failure to file a required report is a misdemeanor punishable by up to one year in jail and/or up to a \$1,000 fine. Reports filed in good faith are immune from civil and criminal liability.

To: Members of the Elder Abuse Task Force  
From: David Blake, Darla Stuart and Jerri Schomaker  
RE: Additional Mandatory Reporters (Clergy, Volunteers, etc.)

At the meeting on August 29, the Task Force created a sub-group to study and make a recommendation on how to deal with mandatory reporters. We could not reach consensus on the issue of the application of mandatory reporting to Volunteers or the definition (i.e. scope) of "Volunteers" but I believe the remainder of the language was not controversial. The language appears below.

\*\*\*\*\*

(XX) The following persons shall report:

(1) Medical or Healthcare Personal, including but not limited to physicians, physicians in training, physicians' assistants, surgeons, residents, interns, osteopaths, podiatrists, optometrists, chiropractors, acupuncturists, physical therapists, occupational therapists, pharmacists, registered nurses, licensed practical nurses, nurse practitioners, dieticians, dentists, dental hygienists, long-term care facility personnel engaged in the admission, care, or treatment of elderly patients, hospital staff, health practitioners or administrative officers of institutions, clinics, or sanitariums, medical examiners and coroners, and any other medical personnel who may be engaged in the admission, examination, care, or treatment of elderly persons.

(2) Mental health professionals, social work practitioners and counselors, including but not limited to psychologists, behavioral health professionals, marriage counselors, family counselors, marital and family therapists, clinical social workers, alcohol and drug counselors, sexual assault counselors, battered women's counselors, domestic abuse advocates and domestic violence shelter employees, community-based victim services, employees of a state registered mental health organization, employees of crisis intervention and prevention programs, and public assistance workers.

(3) All state, county and local government employees while acting in their official capacity, including but not limited to emergency first responders, fire protection personnel, law enforcement officials and personnel, government attorneys, prosecutors, investigators, inspectors, or agency caseworkers, victim/witness coordinators, probation officers, parole officers, social workers, animal control officers, emergency medical technicians and paramedics or any other person called upon to render aid or medical assistance to an elderly person, employees of county welfare departments, workers or evaluators employed by a licensing agency, employees of the Department of Health and Human Services, any State or county public health employees who interact with the elderly, judges, Court-appointed guardians and conservators and employees of a Court-Appointed Special Advocate program.

(4) Any caretaker, staff member, or employee of or consultant for a licensed or certified care facility, agency, home, or governing board, including but not limited to home health providers, any person who has responsibility for the care or treatment of elderly persons, any person paid to care for an elderly adult in any public or private facility, center, group home that is licensed by the State, licensees, administrators, or employees of licensed community care or adult daycare facilities, and Community-centered board staff.

(5) Employees of financial institutions, including but not limited to the personnel of banks, savings and loan associations, credit unions, and other lending or financial institutions.

(6) Members of the clergy except when the communication is made pursuant to church discipline. This does not modify or limit a clergy member's duty to report known or suspected abuse or neglect when the clergy member is acting in any other capacity, such as providing drug counseling, which would otherwise make the clergy member a mandated reporter.

(7) Attorneys practicing in the State of Colorado only when it would be allowable pursuant to Colo. RPC 1.6 (2012).

For reference  
only  
not to be  
substituted  
w/ existing  
statute

(8) Persons in a position of trust, including but not limited to relatives, fiduciaries, trustees, and persons exercising a power of Attorney or a living will.

(XXX) Privileges. The following common law privileges shall not release mandatory reporters from compliance with (X): Accountant-client Privilege, Journalist Privilege, Marital Privilege, Parent-Child Privilege, Physician-Patient Privilege, Priest-Penitent Privilege except as enumerated above, Psychotherapist-Patient Privilege, or any other common law privilege. The Attorney-Client Privilege may be asserted except in circumstances where disclosure would be allowable pursuant to Colo. RPC 1.6 (2012).

**Option 2 -- (XXXX) Volunteers. Uncompensated volunteers, including unpaid caregivers, of any person or entity are urged to report pursuant to (XX). Further, although volunteers are not mandated reporters, they are encouraged to obtain training in the identification and reporting of ~~child abuse and neglect~~ and are further encouraged to report known or suspected instances of ~~child abuse or neglect~~.**

*abuse of at-risk adults*

**Option 1 -- (XXXX) Volunteers. Uncompensated volunteers of any organization required to be registered with the Secretary of State and whose mission is entirely or in part to assist the elderly population or through the course of regular business interacts often with the elderly are required to report pursuant to (XX) above [*who has observed the mistreatment, ~~self-neglect~~, or exploitation of an at-risk elderly adult or who has reasonable cause to believe that an at-risk adult has been mistreated, is self-neglected, or has been exploited and is at imminent risk of mistreatment, self-neglect, or exploitation (this would need to be consistent with new language)]* shall notify a non-volunteer person or employee with supervision of the volunteer and the person so notified shall report or cause a report to be made. A volunteer who makes a report to the person designated pursuant to this paragraph shall be deemed to have fully complied with this subsection.**



COLORADO CHARITABLE SOLICITATIONS ACT

C.R.S. 6-16-103 (2012)

(12) "**Volunteer**" means a person who renders services to a charitable organization or for a charitable purpose and who neither receives nor is expressly or impliedly promised financial remuneration for said services.

C.R.S. 13-21-115.5 (2012)

(c) (I) "**Volunteer**" means a person performing services for a nonprofit organization, a nonprofit corporation, a governmental entity, or a hospital without compensation, other than reimbursement for actual expenses incurred. The term excludes a volunteer serving as a director, officer, or trustee who shall be protected from civil liability in accordance with the provisions of sections 13-21-116 and 13-21-115.7.



COLORADO  
THE BANKERS  
ASSOCIATION

Date: November 5<sup>th</sup>, 2012

Mr. David C. Blake  
Assistant Solicitor General  
Office of the Attorney General  
1525 Sherman Street  
Denver, CO 80203

Ms. Joscelyn Gay  
Director, CDHS- Office of Long Term Care  
1575 Sherman St., 8th Floor  
Denver, CO 80203

Dear Mr. Blake and Ms. Gay,

Re: Minority report regarding task force recommendations for mandatory reporting requirements.

Financial institutions are very concerned about required reporting of elder abuse when the personnel of financial institutions have reasonable cause to believe a person has been physically or sexually abused, neglected or exploited and may not be able to support legislation that includes such a provision.

Financial institution employees may not be in a position, especially in the context of financial exploitation, to determine what is or is not abuse. The application of the "reasonable cause" standard to all personnel of a financial institution overlooks the reality of the interaction of financial institution personnel with their customers, many of whom have no interaction or simply interact on a limited retail transaction such as cashing a check. A majority of financial transactions are conducted electronically without the customer ever being present with financial institution employees. In many instances, a clerk at a grocery store or a personal shopper in a department store may have more in-depth interaction with someone than financial institution personnel.

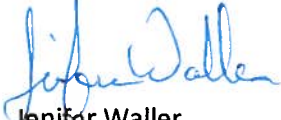
As an example of the difficulties of imposing this standard on financial institution personnel, references were made during the task force to abuse that involved accounts with joint account holders or accessible to an individual with power of attorney. How can a financial institution determine whether exploitation is occurring when an individual has legal authority to use of the funds? Should the mere fact that an account of an at-risk elderly individual has someone identified with power of attorney, or a

joint account holder, be reasonable cause for a financial institution to report those transactions? It is impossible for financial institution employees in the regular course of employment to police accounts of an at-risk elderly individual to determine if the check they wrote to their grandson is abuse or merely a graduation gift. There would likely be an erosion of financial privacy at age 70 with those individuals being subjected to financial institution second guessing the customer financial transactions? Unfortunately, the “reasonable cause” standard and the potential of a criminal penalty, including up to six months in jail, put financial institutions in a position of having to potentially examine and question every transaction involving a person over the age of 70.

The use of the reasonable cause standard subjects banks to a should-have-known hind- sight standard that will lead to unwarranted exposure to financial institution personnel.

Financial institutions appreciate that the task force attempted to minimize some concerns with both the (1) immunity language the task force is recommending regarding reporting in error, and (2) the recommended language clarifying that this measure does not require any additional duty of care (Section E of the report). However, this language does not adequately address the concerns of financial institutions. Indeed, the implication of the immunity provision is that there is no immunity for a financial institution if its personnel fail to report if “reasonable cause” exists, creating a new claim of civil liability against a financial institution that did not exist previously.

Respectfully,



Jennifer Waller

Sr. Vice President

Colorado Bankers Association

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**Independent Bankers of Colorado**

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**Barbara Walker, Executive Director**  
**[walker@ibcbanks.org](mailto:walker@ibcbanks.org)**

November 5, 2012

Colorado Department of Human Services  
Elder Abuse Task Force  
1525 Sherman St., 7<sup>th</sup> Floor  
Denver, CO 80203

Re: Elder task force policy decisions

Dear Members of the Elder Abuse Task Force:

These comments on the recently circulated “S.B. 1278 Task Force Policy Decisions” on mandatory reporting are submitted on behalf of the Independent Bankers of Colorado and its members, and we ask that they be included in any minority report submitted to interested legislators. We have made these points before, but want to be sure they are understood since some of them seem to be misstated or misunderstood in the majority report:

1. We are surprised at the position the committee has taken in not including an immunity provision for good faith failure to report abuse or exploitation since our counsel, John Burrus, understood that everyone in attendance at the August meeting of the subcommittee on this issue supported such a provision. We want to be sure that all interested parties are aware of the likely effects of omitting such a provision. First, the number of incidents reported for investigation will increase exponentially since all mandatory reporters will be forced to adopt a ‘zero tolerance’ policy and report many matters that most reasonable persons may not consider to be of sufficient gravity to warrant a report or an investigation. What this will lead to will be similar to the absurd actions of school officials suspending six-year olds for bringing a plastic knife to school under the school’s ‘zero tolerance’ of knives. This will place unnecessary financial and work-load burdens on investigating agencies that should be clearly acknowledged in any budget projections. Second, because it is well known that seniors do not appreciate having their every activity closely monitored by third parties, we believe it is likely that there will be strong opposition to the bill by senior interest groups once it becomes known to what extent mandatory reporters will be compelled to do just that. And finally, we believe that

November 5, 2012

Page 2

- all mandatory reporters, not just financial institutions, will have similar concerns and we intend to urge them to join our strong opposition to the bill.
2. Some of the committee members seem to be under the impression that we are asking for special treatment for financial institutions, but that is not the case. Although we believe financial institutions will be especially vulnerable to claims based on a failure to report because of the particularly vague standards that would be applied to determine what constitutes sufficient evidence of financial exploitation, as opposed to actual physical abuse, our proposal is to include this sort of immunity provision for *all* mandatory reporters for the same reasons stated above.
  3. The attitude of some committee members seems to be that we are seeking this immunity so that our members can simply ignore financial exploitation of their elderly customers. Nothing could be further from the truth. Bank employees are no different from others in their concern for the interests of their neighbors and customers, and there is no reason to believe that they will be any less likely to report their legitimate concerns if this sort of immunity provision is included. But it is simply unfair to leave banks and other mandatory reporters open to claims of 'failure to report' when they have acted in good faith in deciding that some particular incident did not warrant an investigation and then have that judgment second-guessed by plaintiffs' lawyers looking for deep pockets.
  4. We are especially concerned that the committee wishes to include in the bill a provision making it a criminal offense to fail to report something that the accused 'reasonably should have known' was evidence of abuse or exploitation. This will make ordinary negligence grounds for a criminal prosecution. We know of no other part of our criminal code that does this. For example, the definition of 'criminal negligence' in CRS 18-1-501 requires a showing of 'gross deviation from the standard of care that a reasonable person would exercise' and failing 'to perceive a substantial and unjustifiable risk that a result will occur or that a circumstance exists.' We note also that a failure to report child abuse is not a criminal offense unless it is 'willful'. CRS 19-3-304(4).

Thank you for considering these comments.

Very truly yours,

**The Independent Bankers of Colorado**

By: 

Barbara Walker, Executive Director

To: Senate Bill 12-078 Task Force Members

Date: October 30, 2012

**Minority Report on the Recommendations of the S.B. 78 Task Force Regarding Mandatory Reporting for Licensed Entity Caregivers**

This Minority Report is in regards to the recommendation of the Elder Abuse Task Force that mandates all persons listed in the statute be required to report any instance of abuse, neglect or exploitation, whether actual or perceived. To mandate reporting by individuals who are already required to do so would result in the duplication of reports that cause increased expenditures of time, money and resources. We recommend that, if enacted, the statute should require mandatory reporting only from individuals who do not work in a health care entity that that is already required by state and federal regulations to mandatorily report.

**Colorado Revised Statutes**

The Colorado Department of Public Health and Environment is the licensing body for health facilities listed in C.R.S. 25-3-101 (2012) and C.R.S. 25-1.5-103(1)(a)(I)(A) (2012). See attached. Any facility that is listed in either of these statutes is required to report any occurrence that involves the welfare and safety of a patient or resident under C.R.S. 25-1-124 (2012). See attached. This includes, but is not limited to, any occurrence that:

- Involves physical, sexual, or verbal abuse of a patient or resident by another patient or resident, an employee of the facility, or a visitor to the facility;
- Involves neglect of a patient or resident (as described in C.R.S. 26-3.1-101(4)(b));
- Involves misappropriation of a patient's or resident's property

The Department of Public Health and Environment must investigate each report that is submitted to determine if there was a violation of Colorado statute. A summary of the findings shall be prepared which includes the Department's conclusions, whether there was a violation of licensing standards or deficiency, and whether the facility acted appropriately in response to the occurrence. Then, the Department will write a summary of the occurrence for public viewing. The summaries respect confidentiality and do not reflect the names of the persons involved.

**Colorado Code of Regulations**

The Colorado Board of Health has the statutory authority to promulgate the licensure process of health facilities and entities set forth in C.R.S. 25-1.5-103 and 25-3-101 under 6 CCR 1011 Chap 02. See attached. Occurrence reporting is addressed in Part 3.2 and requires any occurrence that is specified in C.R.S. 25-1-124(2) be reported to the Department of Public Health and Environment by the next business day after the occurrence or the health care entity becomes aware of the occurrence. In order for an entity to be given, and keep, a license "every health care entity shall have a policy for requiring its employees to report occurrences to it." 6 CCR 1011-1 Chap 02 section 3.2. The Department is required to investigate all reports made and make a summary report of the findings. If necessary, following the investigation of the occurrence, the division will cite a deficiency if it finds that state or federal

regulations have been violated. As well, division staff reviews occurrence reports prior to conducting annual surveys in facilities and prior to reissuing a facility's license. Occurrence reports may also be reviewed as part of a complaint investigation.

### **The Elder Justice Act**

The Elder Justice Act requires that any "covered individual" of a facility that receives at least \$10,000 in federal funds be required to report any reasonable suspicion of a crime against any individual who is a resident of, or is receiving care from the facility. See attached. A "covered individual" includes an owner, operator, employee, manager, agent, or contractor of a long term care facility. The report must be made to the Secretary and 1 or more law enforcement entities for the political subdivision in which the facility is located within 24 hours. If a covered individual does not report as required, that individual shall be subject to a civil money penalty of up to \$300,000 and exclusion from participation in any federal health care program.

### **Title 18 Colorado Criminal Code**

C.R.S. 18-8-115 (2012) imposes a duty on "every corporation or person who has reasonable grounds to believe that a crime has been committed to report promptly the suspected crime to law enforcement authorities." See attached. This statute allows a person to disclose information concerning a suspected crime to other persons or corporations for the purpose of giving notice of the possibility that other such criminal conduct may be attempted which may affect the persons or corporations notified. Physical, verbal, and sexual abuse allegations that meet the elements are reportable to the police. C.R.S. 18-3-202, 203, 204, 206, 402, 403, 404, 405 (2012).

### **Summary**

In furtherance of the goals of the Elder Abuse Task Force, there must be an effective and efficient reporting process. Limited funds need to be used in the most resourceful manner so time and money is used in the areas that are most needed. Health facilities and their staff have already implemented successful reporting policies that mandate reporting of abuse to law enforcement and the Colorado Department of Public Health and Environment. If a reporter listed under the proposed statute must independently report to the police, as well as their supervisor, duplication of the same report will filter through the system. Those limited resources will be used to investigate the same complaint many times. Therefore, we recommend that the proposed statute be modified to not include mandatory reporting to law enforcement for any individual working in a licensed health care facility that is already mandated to report abuse by the State of Colorado.

Submitted By:

Colorado Health Care Association and Center for Assisted Living  
Home Care Association of Colorado  
National Private Duty Association  
Professional Pediatric Homecare Coalition

**C.R.S. 25-3-101** (Copy w/ Cite)  
C.R.S. 25-3-101

Pages: 1

COLORADO REVISED STATUTES

\*\*\* This document reflects changes passed at the Second Regular Session and First Extraordinary Session of the Sixty-Eighth General Assembly of the State of Colorado (2012) \*\*\*

TITLE 25. HEALTH  
HOSPITALS  
ARTICLE 3. HOSPITALS  
PART 1. HOSPITALS

C.R.S. 25-3-101 (2012)

25-3-101. Hospitals - health facilities - licensed - definitions

(1) It is unlawful for any person, partnership, association, or corporation to open, conduct, or maintain any general hospital, hospital unit, psychiatric hospital, community clinic, rehabilitation hospital, convalescent center, community mental health center, acute treatment unit, facility for persons with developmental disabilities, as defined in section 25-1.5-103 (2) (c), nursing care facility, hospice care, assisted living residence, except an assisted living residence shall be assessed a license fee as set forth in section 25-27-107, dialysis treatment clinic, ambulatory surgical center, birthing center, home care agency, or other facility of a like nature, except those wholly owned and operated by any governmental unit or agency, without first having obtained a license from the department of public health and environment.

(2) As used in this section, unless the context otherwise requires:

(a) (I) "Community clinic" means a health care facility that provides health care services on an ambulatory basis, is neither licensed as an on-campus department or service of a hospital nor listed as an off-campus location under a hospital's license, and meets at least one of the following criteria:

(A) Operates inpatient beds at the facility for the provision of extended observation and other related services for not more than seventy-two hours;

(B) Provides emergency services at the facility; or

(C) Is not otherwise subject to health facility licensure under this section or section 25-1.5-103 but opts to obtain licensure as a community clinic in order to receive private donations, grants, government funds, or other public or private reimbursement for services rendered.

(II) "Community clinic" includes a prison clinic operated by the department of corrections.

(III) "Community clinic" does not include:

(A) A federally qualified health center, as defined in section 1861 (aa) (4) of the federal "Social Security Act", 42 U.S.C. sec. 1395x (aa) (4);

(B) A rural health clinic, as defined in section 1861 (aa) (2) of the federal "Social Security Act", 42 U.S.C. sec. 1395x (aa) (2);

(C) A facility that functions only as an office for the practice of medicine or the delivery of primary care services by other licensed or certified practitioners.

(b) "Hospital unit" means a physical portion of a licensed or certified general hospital, psychiatric hospital,



maternity hospital, or rehabilitation hospital that is leased or otherwise occupied pursuant to a contractual agreement by a person other than the licensee of the host facility for the purpose of providing outpatient or inpatient services.

(3) Nothing in this section shall be construed to require the licensing of individual services provided by a licensed or certified provider on its own premises.

(4) A health care facility is not required to be licensed as a community clinic solely due to the facility's ownership status, corporate structure, or engagement of outside vendors to perform nonclinical management services. This section permits regulation of a physician's office only to the extent the office is a community clinic as defined in this section.

**HISTORY:** Source: L. 09: p. 411, § 1.C.L. § 1053.CSA: C. 78, § 133.CRS 53: § 66-4-1. C.R.S. 1963: § 66-4-1.L. 71: p. 631, § 1.L. 78: Entire section amended, p. 440, § 3, effective May 18.L. 83: Entire section amended, p. 1051, § 1, effective May 25.L. 84: (1) amended, p. 338, § 4, effective April 25.L. 94: (1) amended, p. 2750, § 404, effective July 1.L. 95: Entire section amended, p. 1023, § 2, effective July 1.L. 2002: (1) amended, p. 1329, § 16, effective July 1.L. 2006: (1) amended, p. 1391, § 23, effective August 7.L. 2008: (1) amended, p. 2233, § 2, effective August 5.L. 2011: (1) and (2) amended, (HB 11-1101), ch. 94, p. 277, § 2, effective April 8; (2)(a) amended, (HB 11-1323), ch. 265, p. 1198, § 2, effective June 2.L. 2012: (1) and (2)(a) amended and (4) added, (HB 12-1294), ch. 252, p. 1253, § 3, effective June 4.

Cross references: For the legislative declaration contained in the 1994 act amending subsection (1), see section 1 of chapter 345, Session Laws of Colorado 1994. For the legislative declaration in the 2012 act amending subsections (1) and (2)(a) and adding subsection (4), see section 1 of chapter 252, Session Laws of Colorado 2012.

#### ANNOTATION

Law reviews. For comment on *Moon v. Mercy Hosp.*, appearing below, see 35 U. Colo. L. Rev. 612 (1963). For article, "Smith v. O'Halloran: Nursing Home Reform in the Courts", see 13 Colo. Law. 2248 (1984).

Hospital license is prerequisite. A license to operate a hospital is a prerequisite to the functioning of such an establishment. *Moon v. Mercy Hosp.*, 150 Colo. 430, 373 P.2d 944 (1962).

Hospitals and doctors require different licenses. This section and § 12-36-107 are expressions of the legislative will that hospitals and doctors require different licenses. These licenses authorize related but different activities, and the issuance of the one does not permit operation under the other. The general assembly plainly and unequivocally has treated these pursuits as separate and distinct pursuits requiring different licenses. *Purcell v. Poor Sisters of St. Francis Seraph*, 147 Colo. 478, 364 P.2d 184 (1961); *Moon v. Mercy Hosp.*, 150 Colo. 430, 373 P.2d 944 (1962).

Licensed hospital covered by malpractice limitations section. A hospital which is licensed under this section is clearly embraced within provisions of § 13-80-105 (now § 13-80-102 (1)(c)) prohibiting the bringing of an action to recover from a "licensed health establishment" due to alleged negligence unless such action be instituted within two years after the cause accrued. *Adams v. Poudre Valley Hosp. Dist.*, 173 Colo. 98, 476 P.2d 565 (1970).

Licensing by home-rule city. The provisions of this article do not conflict with any rights of a home-rule city as to the licensing of a chiropractic sanitarium since the general assembly can provide for the licensing of hospitals within the limits of home-rule cities in the interest of general health. *Spears Free Clinic Hosp. for Poor Children v. State Bd. of Health*, 122 Colo. 147, 220 P.2d 872 (1950).

Applied in *In re Estate of Smith v. O'Halloran*, 557 F. Supp. 289 (D. Colo. 1983).

**C.R.S. 25-1.5-103** (Copy w/ Cite)  
*C.R.S. 25-1.5-103*

Pages: 7

COLORADO REVISED STATUTES

\*\*\* This document reflects changes passed at the Second Regular Session and First Extraordinary Session of the Sixty-Eighth General Assembly of the State of Colorado (2012) \*\*\*

TITLE 25. HEALTH  
ADMINISTRATION  
ARTICLE 1.5. POWERS AND DUTIES OF THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT  
PART 1. GENERAL POWERS AND DUTIES

C.R.S. 25-1.5-103 (2012)

25-1.5-103. Health facilities - powers and duties of department - limitations on rules promulgated by department

(1) The department has, in addition to all other powers and duties imposed upon it by law, the powers and duties provided in this section as follows:

(a) (I) (A) To annually license and to establish and enforce standards for the operation of general hospitals, hospital units as defined in section 25-3-101 (2), psychiatric hospitals, community clinics, rehabilitation hospitals, convalescent centers, community mental health centers, acute treatment units, facilities for persons with developmental disabilities, nursing care facilities, hospice care, assisted living residences, dialysis treatment clinics, ambulatory surgical centers, birthing centers, home care agencies, and other facilities of a like nature, except those wholly owned and operated by any governmental unit or agency.

**C.R.S. 25-1-124** (Copy w/ Cite)  
C.R.S. 25-1-124

Pages: 4

COLORADO REVISED STATUTES

\*\*\* This document reflects changes passed at the Second Regular Session and First Extraordinary Session of the Sixty-Eighth General Assembly of the State of Colorado (2012) \*\*\*

TITLE 25. HEALTH  
ADMINISTRATION  
ARTICLE 1. ADMINISTRATION  
PART 1. DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

C.R.S. 25-1-124 (2012)

25-1-124. Health care facilities - consumer information - reporting - release

(1) The general assembly hereby finds that an increasing number of people are faced with the difficult task of choosing a health care facility for themselves and their family members. This task may be made less difficult by improved access to reliable, helpful, and unbiased information concerning the quality of care and the safety of the environment offered by each health care facility. The general assembly further finds that it is appropriate that the department, in keeping with its role of protecting and improving the public health, solicit this information from health care facilities and disseminate it to the public in a form that will assist people in making informed choices among health care facilities.

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

(a) Any occurrence that results in the death of a patient or resident of the facility and is required to be reported to the coroner pursuant to section 30-10-606, C.R.S., as arising from an unexplained cause or under suspicious circumstances;

(b) Any occurrence that results in any of the following serious injuries to a patient or resident:

(I) Brain or spinal cord injuries;

(II) Life-threatening complications of anesthesia or life-threatening transfusion errors or reactions;

(III) Second- or third-degree burns involving twenty percent or more of the body surface area of an adult patient or resident or fifteen percent or more of the body surface area of a child patient or resident;

(c) Any time that a resident or patient of the facility cannot be located following a search of the facility, the facility grounds, and the area surrounding the facility and there are circumstances that place the resident's health, safety, or welfare at risk or, regardless of whether such circumstances exist, the patient or resident has been missing for eight hours;

(d) Any occurrence involving physical, sexual, or verbal abuse of a patient or resident, as described in section 18-3-202, 18-3-203, 18-3-204, 18-3-206, 18-3-402, 18-3-403, as it existed prior to July 1, 2000, 18-3-404, or 18-3-405, C.R.S., by another patient or resident, an employee of the facility, or a visitor to the facility;

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

(f) Any occurrence involving misappropriation of a patient's or resident's property. For purposes of this paragraph (f), "misappropriation of a patient's or resident's property" means a pattern of or deliberately misplacing, exploiting, or wrongfully using, either temporarily or permanently, a patient's or resident's

belongings or money without the patient's or resident's consent.

(g) Any occurrence in which drugs intended for use by patients or residents are diverted to use by other persons. If the diverted drugs are injectable, the health care facility shall also report the full name and date of birth of any individual who diverted the injectable drugs, if known.

(h) Any occurrence involving the malfunction or intentional or accidental misuse of patient or resident care equipment that occurs during treatment or diagnosis of a patient or resident and that significantly adversely affects or if not averted would have significantly adversely affected a patient or resident of the facility.

(2.5) (a) In addition to the reports required by subsection (2) of this section, if the Colorado attorney general, the division for developmental disabilities in the department of human services, a community centered board, an adult protection service, or a law enforcement agency makes a report of an occurrence as described in subsection (2) of this section involving a licensed long-term care facility, that report shall be provided to the department and shall be made available for inspection consistent with the provisions of subsection (6) of this section. Any reports concerning an adult protection service shall be in compliance with the confidentiality requirements of section 26-3.1-102 (7), C.R.S.

(b) For purposes of this subsection (2.5), a "licensed long-term care facility" means a licensed community residential or group home, a licensed intermediate care facility for the mentally retarded, and a licensed facility for persons with developmental disabilities.

(3) The board by rule shall specify the manner, time period, and form in which the reports required pursuant to subsection (2) of this section shall be made.

(4) Any report submitted pursuant to subsection (2) of this section shall be strictly confidential; except that information in any such report may be transmitted to an appropriate regulatory agency having jurisdiction for disciplinary or license sanctions. The information in such reports shall not be made public upon subpoena, search warrant, discovery proceedings, or otherwise, except as provided in subsection (6) of this section.

(5) The department shall investigate each report submitted pursuant to subsection (2) of this section that it determines was appropriately submitted. For each report investigated, the department shall prepare a summary of its findings, including the department's conclusions and whether there was a violation of licensing standards or a deficiency or whether the facility acted appropriately in response to the occurrence. If the investigation is not conducted on site, the department shall specify in the summary how the investigation was conducted. Any investigation conducted pursuant to this subsection (5) shall be in addition to and not in lieu of any inspection required to be conducted pursuant to section 25-1.5-103 (1) (a) with regard to licensing.

(6) (a) The department shall make the following information available to the public:

(I) Any investigation summaries prepared pursuant to subsection (5) of this section;

(II) Any complaints against a health care facility that have been filed with the department and that the department has investigated, including the conclusions reached by the department and whether there was a violation of licensing standards or a deficiency or whether the facility acted appropriately in response to the subject of the complaint; and

(III) A listing of any deficiency citations issued against each health care facility.

(b) The information released pursuant to this subsection (6) shall not identify the patient or resident or the health care professional involved in the report.

(7) Prior to the completion of an investigation pursuant to this section, the department may respond to any inquiry regarding a report received pursuant to subsection (2) of this section by confirming that it has received such report and that an investigation is pending.

(8) In addition to the report to the department for an occurrence described in paragraph (d) of subsection (2)

of this section, the occurrence shall be reported to a law enforcement agency.

**HISTORY:** Source: . L. 97: Entire section added, p. 504, § 1, effective April 24.L. 2000: (2)(d) amended, p. 708, § 37, effective July 1.L. 2003: IP(2) and (5) amended, p. 708, § 35, effective July 1.L. 2006: (2.5) and (8) added, p. 349, § 1, effective April 6.L. 2010: IP(2) and (2)(g) amended, (HB 10-1414), ch. 338, p. 1552, § 1, effective June 5.

Cross references: For limitation on liability regarding transplants and transfusion of blood, see § 13-22-104.

**6 CCR 1011-1 Chap 02 STANDARDS FOR HOSPITALS AND HEALTH FACILITIES: CHAPTER II - GENERAL LICENSURE STANDARDS**

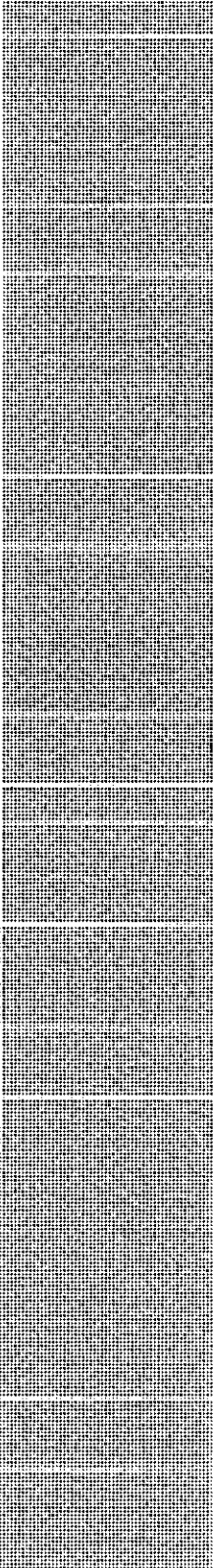
**PART 3. QUALITY MANAGEMENT**

**3.1 QUALITY MANAGEMENT PROGRAM.** Every licensed or certified facility, except personal care boarding homes of nineteen beds or fewer and except, community residential homes for persons with developmental disabilities shall establish a quality management program appropriate to the size and type of facility that evaluates the quality of patient or resident care and safety, and that complies with this part 3.

**3.1.1** Within 90 days of the effective date of this regulation for facilities licensed on the effective date of this regulation and within 90 days of the issuance of a license to a new facility, every facility defined in section 3.1 shall submit to the Department for its approval a plan for a quality management system that includes the following elements:

- (1) a general description of the types of cases, problems, or risks to be reviewed and criteria for identifying potential risks, including without limitation any incidents that may be required by Department regulations to be reported to the Department;
- (2) identification of the personnel or committees responsible for coordinating quality management activities and the means of reporting to the administrator or governing body of the facility.
- (3) a description of the method for systematically reporting information to a person designated by the facility within a prescribed time;
- (4) a description of the method for investigating and analyzing the frequency and causes of individual problems and patterns of problems;
- (5) a description of the methods for taking corrective action to address the problems, including prevention and minimizing problems or risks;
- (6) a description of the method for the follow-up of corrective action to determine the effectiveness of such action;
- (7) a description of the method for coordinating all pertinent case, problem, or risk review information with other applicable quality assurance and/or risk management activities, such as procedures for granting staff or clinical privileges; review of patient or resident care; review of staff or employee conduct; the patient grievance system; and education and training programs;
- (8) documentation of required quality management activities, including cases, problems, or risks identified for review; findings of investigations; and any actions taken to address problems or risks; and
- (9) a schedule for plan implementation not to exceed 90 days after the date the facility receives written notice of the Department's approval of the plan.

**3.1.2** If upon review of the facility's plan, the Department finds that it does not meet the requirements of these regulations, the Department shall return it



patient or resident has been missing for eight hours;

- (4) Any occurrence involving physical, sexual, or verbal abuse of a patient or resident, as described in sections 18-3-202, 18-3-203, 18-3-204, 18-3-206, 18-3-402, 18-3-403, 18-3-404, or 18-3-405, C.R.S., by another patient or resident, an employee of the health care entity or a visitor to the health care entity;
- (5) Any occurrence involving neglect of a patient or resident, as described in section 26-3.1-101 (4)(b) C.R.S.;
- (6) Any occurrence involving misappropriation of a patient's or resident's property. For purposes of this paragraph, "misappropriation of a patient's or resident's property" means a pattern of or deliberately misplacing, exploiting, or wrongfully using, either temporarily or permanently, a patient's or resident's belongings or money without the patient's or resident's consent;
- (7) Any occurrence in which drugs intended for use by patients or residents are diverted to use by other persons; and
- (8) Any occurrence involving the malfunction or intentional or accidental misuse of patient or resident care equipment that occurs during treatment or diagnosis of a patient or resident and that significantly adversely affects or if not averted would have significantly adversely affected a patient or resident of the health care entity.

3.2.2 Any reports submitted shall be strictly confidential in accordance with and pursuant to 25-1-124 (4),(5), and (6) C.R.S.

3.2.3 (not used)

3.2.4 The department may request further oral reports or a written report of the occurrence if it determines a report is necessary for the department's further investigation.

3.2.5 Every health care entity shall have a policy that defines the deaths reportable to the local county coroner under 30-10-606(1), C.R.S. (1977) and that is consistent with the local coroner's reporting policy.

3.2.6 Every health care entity shall have a policy for requiring its employees to report occurrences to it.

3.2.7 No health care entity or officer or employee thereof shall discharge or in any manner discriminate or retaliate against any patient or resident of a health care entity, relative or sponsor thereof, employee of the health care entity, or any other person because such person, relative, legal representative, sponsor, or employee has made in good faith or is about to make in good faith, a report pursuant to this section 3.2 or has provided in good faith or is about to provide in good faith evidence in any proceeding or investigation relating to any occurrence required to be reported by a health care entity.

3.2.9 The department shall investigate all reports made to it under this part, and make a summary report.

- (1) Such report shall include: (a) a summary of finding(s) including the department's conclusion(s); (b) whether any violation of licensing standards was noted or whether a deficiency notice was issued; (c)



## REPORTING TO LAW ENFORCEMENT OF CRIMES OCCURRING IN FEDERALLY FUNDED LONG- TERM CARE FACILITIES<sup>[180]</sup>

### SEC. 1150B. [42 U.S.C. 1320b-25] (a) DETERMINATION AND NOTIFICATION.—

(1) **DETERMINATION.**—The owner or operator of each long-term care facility that receives Federal funds under this Act shall annually determine whether the facility received at least \$10,000 in such Federal funds during the preceding year.

(2) **NOTIFICATION.**—If the owner or operator determines under paragraph (1) that the facility received at least \$10,000 in such Federal funds during the preceding year, such owner or operator shall annually notify each covered individual (as defined in paragraph (3)) of that individual's obligation to comply with the reporting requirements described in subsection (b).

(3) **COVERED INDIVIDUAL DEFINED.**—In this section, the term “covered individual” means each individual who is an owner, operator, employee, manager, agent, or contractor of a long-term care facility that is the subject of a determination described in paragraph (1).

### (b) REPORTING REQUIREMENTS.—

(1) **IN GENERAL.**—Each covered individual shall report to the Secretary and 1 or more law enforcement entities for the political subdivision in which the facility is located any reasonable suspicion of a crime (as defined by the law of the applicable political subdivision) against any individual who is a resident of, or is receiving care from, the facility.

(2) **TIMING.**—If the events that cause the suspicion—

(A) result in serious bodily injury, the individual shall report the suspicion immediately, but not later than 2 hours after forming the suspicion; and

(B) do not result in serious bodily injury, the individual shall report the suspicion not later than 24 hours after forming the suspicion.

### (c) PENALTIES.—

(1) **IN GENERAL.**—If a covered individual violates subsection (b)—

(A) the covered individual shall be subject to a civil money penalty of not more than \$200,000; and

(B) the Secretary may make a determination in the same proceeding to exclude the covered individual from participation in any Federal health care program (as defined in section 1128B(f)).



## Social Security Act §1150B

information with respect to the manner of filing such a complaint.

(e) PROCEDURE.—The provisions of section 1128A (other than subsections (a) and (b) and the second sentence of subsection (f)) shall apply to a civil money penalty or exclusion under this section in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

(f) DEFINITIONS.—In this section, the terms “elder justice”, “long-term care facility”, and “law enforcement” have the meanings given those terms in section 2011.

[180] P.L. 111-148, §6703(b)(3), added this new section 1150B, effective March 23, 2010.

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## C.R.S. 18-8-115

## COLORADO REVISED STATUTES

\*\*\* This document reflects changes passed at the Second Regular Session and First Extraordinary Session of the Sixty-Eighth General Assembly of the State of Colorado (2012) \*\*\*

TITLE 18. CRIMINAL CODE  
ARTICLE 8. OFFENSES - GOVERNMENTAL OPERATIONS  
PART 1. OBSTRUCTION OF PUBLIC JUSTICE

## C.R.S. 18-8-115 (2012)

## 18-8-115. Duty to report a crime - liability for disclosure

It is the duty of every corporation or person who has reasonable grounds to believe that a crime has been committed to report promptly the suspected crime to law enforcement authorities. Notwithstanding any other provision of the law to the contrary, a corporation or person may disclose information concerning a suspected crime to other persons or corporations for the purpose of giving notice of the possibility that other such criminal conduct may be attempted which may affect the persons or corporations notified. When acting in good faith, such corporation or person shall be immune from any civil liability for such reporting or disclosure. This duty shall exist notwithstanding any other provision of the law to the contrary; except that this section shall not require disclosure of any communication privileged by law.

**HISTORY:** Source: . L. 79: Entire section added, p. 729, § 9, effective July 1. L. 81: Entire section amended, p. 976, § 15, effective July 1.

## ANNOTATION

The Tenth Circuit held no general duty exists under this section to stop or report a crime being committed, in context of defending a charge of conspiracy to commit fraud against the government. *U.S. v. Zimmermann*, 943 F.2d 1204 (10th Cir. 1991).

This section does not require the degree of certainty on the part of a citizen reporting the commission of a crime as does the probable cause standard that police officers are held to in making warrantless arrests. *Lunsford v. Western States Life Ins.*, 919 P.2d 899 (Colo. App. 1996).

To: Senate Bill 12-078 Task Force Members

Date: October 30, 2012

### **Minority Report on the Recommendation of Misdemeanor 3 Penalty for Not Reporting**

This Minority Report is in regards to the recommendation of the Elder Abuse Task Force that would charge any person listed as a mandatory reporter with a class 3 misdemeanor if they fail to report an actual or perceived instance of abuse, neglect, or exploitation. To charge first time caregivers with a class 3 misdemeanor that includes the possibility of jail time would unfairly burden both the caregiver, as well as state resources. We recommend that, if enacted, the statute would charge a first time caregiver with a class 2 petty offense. If certain exacerbating conduct by the caregiver is shown after a proper investigation, or the caregiver has a history of not reporting abuse, neglect, or exploitation, the caregiver may be charged with a class 3 misdemeanors.

Under Colorado statute, a class 3 misdemeanor carries the possibility of a \$750 fine and up to six months imprisonment. C.R.S. 18-1.3-501 (2012). To subject mandatory reporters to the possibility of jail time would impose a significant burden on both the caregiver and the state. The educational process that would follow from the enactment of this statute would be widespread and time consuming. Mandatory reporters will need to be trained on legal definitions of abuse, neglect, and exploitation. They will need to be aware of what constitutes abuse and when and where to properly report. To impose the possibility of jail time that would follow from a class 3 misdemeanor conviction raises serious concerns that our caregivers are going to face serious penalties when they have not been properly trained by the State that is charging them.

The possibility of a class 3 misdemeanor would increase caregiver reporting on any instance of perceived or actual abuse, neglect, and exploitation. But, if these caregivers are not properly trained on what to look for before filing a report to law enforcement, a significant increase in unsubstantiated claims would be filed. If a caregiver knows that they face jail time, they are going to be more likely to report anything and everything they remotely suspect to be abuse. Under the language of the statute as presented by the Elder Abuse Task Force, Adult Protective Services and Law Enforcement are required to file a report with the District Attorney's Office. Law Enforcement must also conduct an investigation, independent of APS, if they feel the circumstances are appropriate. Money, time, and resources will be used by 3 different state agencies, not including any state regulating body that may license the caregiver, to determine if the report has merit. With the limited resources that the counties must work with, having untrained caregivers making reports to law enforcement would bring about unnecessary investigations.

A caregiver, if convicted of not mandatorily reporting substantiated abuse, neglect, or exploitation should be penalized with a class 2 petty offense. Under Colorado statute, the class 2 petty offense carries the possibility of a specified fine. C.R.S. 18-1.3-503 (2012). This would lessen the penalty for first time reporters and would not require the possibility of jail time. There are circumstances when charging a mandatory reporter who does not report with a class 3 misdemeanor is appropriate. These circumstances include:

- When the caregiver fails to report an occurrence that results in actual harm;
- When the caregiver has a history in the past 12 months of not reporting abuse, neglect, or exploitation, and they have been counseled and/or re-educated;
- When the caregiver knowingly did not report a willful or wanton case of abuse

When any of these circumstances are present, a tiered penalty rate should be used to determine what level of crime the caregiver will be charged with. But, if the caregiver does not meet any of these exceptions listed above, they should only face a maximum penalty of a class 2 petty offense.

Submitted By:

Colorado Health Care Association

Colorado Legislative Council Staff Fiscal Note

**STATE and LOCAL  
REVISED FISCAL IMPACT**

(replaces fiscal note dated March 30, 2012)

**Drafting Number:** LLS 12-0251

**Date:** April 24, 2012

**Prime Sponsor(s):** Sen. Hudak  
Rep. Schafer S.

**Bill Status:** Legislative Council

**Fiscal Analyst:** Kerry White (303-866-3469)

**TITLE:** CONCERNING PROTECTIONS FOR AT-RISK ADULTS.

<b>Fiscal Impact Summary</b>	<b>FY 2012-2013</b>	<b>FY 2013-2014</b>
<b>State Revenue</b>		
Cash Funds		
CBI Identification Unit Fund	\$1,975	\$1,975
Fines Collection Cash Fund	potential increase.	potential increase.
<b>State Expenditures</b>	<u>at least \$4,148,476</u>	<u>at least \$4,240,211</u>
General Fund	3,318,781	3,392,169
Cash Funds Exempt - County Funds	829,695	848,042
<b>FTE Position Change</b>		
<b>Effective Date:</b> Upon signature of the Governor, or upon becoming law without his signature.		
<b>Appropriation Summary for FY 2012-2013:</b> For FY 2012-13, the Department of Human Services requires an appropriation of \$4,148,476, including \$3,318,781 General Fund and \$829,695 Cash Funds Exempt - County Funds.		
<b>Local Government Impact:</b> See Local Government Impact section.		

**Note:** While all agencies were canvassed for the purposes of the fiscal note, not all agencies were able to respond with complete information within the available time frames. Accordingly, the fiscal note should be considered preliminary. It will be revised if new information becomes available.

**Summary of Legislation**

*As amended by the House Health and Environment Committee*, this bill clarifies definitions and modifies requirements concerning the mistreatment, self-neglect, and exploitation of at-risk adults. Among other things, the bill:

- expands the definition of an at-risk adult to include persons over the age of 70;
- for observed or suspected mistreatment or self-neglect, it requires a person in a specified profession or occupation (mandatory reporter) to make an immediate oral report within 24 hours;
- for observed or suspected fiscal exploitation, it urges a mandatory reporter to make an immediate oral report;
- removes the requirement that an abuse reporter follow an oral report with a written report within 48 hours;

- creates a class 3 misdemeanor for failure to report mistreatment or self-neglect of an at-risk adult; and
- increases the penalty for releasing confidential information about an adult protective services investigation from a class 2 petty offense with a maximum penalty of a \$300 fine to a class 3 misdemeanor.

In addition, it directs each county to require each protective services employee to undergo a fingerprint background check. Background checks are at the employee's expense, unless the county department chooses to pay for them.

The 17-member Elder Abuse Task Force is created and authorized to meet during the 2012 legislative interim. Task force members serve without compensation and include representatives from the legal community, law enforcement, long-term care providers, health care professionals, banking, social services, and agencies of the state that serve at-risk elderly adults. The purpose of the task force is to study, make recommendations, and report on various issues related to at-risk elderly adults, including how to fund and implement a system of mandatory reporting for incidences of mistreatment or exploitation; the provision of services; and the adequacy of existing criminal penalties levied for offenses against this population.

## **Background**

County departments of social services are mandated under Section 26-3.1-103, C.R.S. to investigate all reports of abuse, exploitation, or neglect of at-risk adults. Reports are evaluated and investigated according to the protocol established by rule by the Department of Human Services. The protocol currently classifies responses as a referral, no response needed, urgent and requiring follow up, requiring a response within 24 hours, or requiring a response within 3 days, followed by appropriate services as needed. Services can range from assisting persons with obtaining public benefits and providing case management to seeking emergency placements and guardianship of the at-risk adult.

In prior years, the fiscal note assumptions for legislation requiring mandatory reporting were based on the experience of other states. Most recently, Senate Bill 05-098 assumed a 25 percent increase based on the experience of Minnesota, Oklahoma, California, Texas, Kansas and New Mexico. However, two states with comparable populations to Colorado showed increases of 15 percent (Illinois, law adopted in 1998) and 9 percent (New Jersey, law adopted in 2010).

Colorado data shows that in FY 2010-11, a total of 10,846 new reports were filed. Of this number, 4,481, or 41 percent, required an investigation. In addition, a total of 1,812 investigations were carried forward from the prior fiscal year. Overall, cases requiring investigation have increased by an average of 2 percent per year.

**State Revenue**

**Overall, this bill will increase state cash fund revenue by at least \$1,975 per year.** Revenue is generated from two sources. First, cash fund revenue may increase as a result of persons convicted of a class 3 misdemeanor for failing to make a mandatory report or for releasing confidential information about an adult protective services investigation. Per Section 18-1.3-501 (1)(a), C.R.S., the fine penalty for a class 3 misdemeanor is \$50 to \$750. Unless otherwise provided by law, the fines are to be deposited into the state Fines Collection Cash Fund for annual appropriations to cover associated administrative and personnel costs. All unexpended balances of the cash fund revert to the state General Fund at the end of each fiscal year. Because the courts have the discretion of incarceration or imposing a fine, and the timing of payments are established on a per-offender basis, the impact to the cash fund and the General Fund cannot be determined.

Second, this bill is anticipated to increase state revenue collected by the Colorado Bureau of Investigation (CBI) for county employee fingerprint background checks by \$1,975 per year. Currently, the CBI charges \$39.50 per check, with fee revenue credited to the CBI Identification Unit Fund. The fiscal note assumes that approximately 50 new protective services employees will receive a background check per year.

**State Expenditures**

**This bill will increase expenditures by at least \$4,148,476 in FY 2012-13 and at least \$4,240,211 in FY 2013-14, as described in Table 1 and the discussion that follows.**

<b>Table 1. Department of Human Services County Expenditures Under SB12-078</b>		
<b>Cost Components</b>	<b>FY 2012-13</b>	<b>FY 2013-14</b>
Caseworkers	\$1,965,200	\$2,006,000
Supervisors	409,027	417,549
Attorneys	443,857	459,162
Emergency Placements	1,031,100	1,052,100
Guardianship Costs	299,292	305,400
<b>TOTAL</b>	<b><u>at least \$4,148,476</u></b>	<b><u>at least \$4,240,211</u></b>
<b>General Fund</b>	<b>3,318,781</b>	<b>3,392,169</b>
<b>Cash Fund Exempt - County Funds</b>	<b>829,695</b>	<b>848,042</b>

*Department of Human Services, county expenditures.* Costs shown in Table 1, above, reflect the minimum costs to investigate more cases and provide adult protective services, based on the following assumptions:

- the total number of cases requiring investigation will increase by 15 percent per year, or 982 cases in FY 2012-13 and 1,002 cases in FY 2013-14;

- each caseworker will maintain an active caseload of 34 cases and cost an average of \$68,000, including salary, benefits, operating costs, and travel costs;
- for every six new caseworkers, one supervisor will be added at an average cost of \$85,214, including salary, benefits, operating costs, and travel costs;
- for every ten new caseworkers, one attorney will be added at an average cost of \$153,054, including salary, benefits, operating costs, and travel costs;
- each additional case will require an average of three nights of emergency placement, paid at the rate of \$350 per night; and
- 10 percent of cases will require guardianship costs of \$254.50 per month.

Of the total costs, 80 percent will be paid with General Fund moneys and 20 percent will be paid from county funds.

**Judicial Department.** An increase in the number of reported cases of abuse, neglect, or self-neglect may lead to increased court cases (civil or criminal). The number of cases will depend upon such factors as the severity of abuse and whether the condition of the at-risk adult makes the opening of a probate or mental health case necessary. Additionally, the courts appoint counsel in mental health and probate cases when there is a finding of indigence. To the extent that this bill results in an increase in the number of mental health and probate cases with indigent clients, there will be increased expenditures for court-appointed counsel. As of this writing, no estimate of the increase in court costs is available. However, the fiscal note assumes that any increase in costs will be addressed through the annual budget process.

**Department of Public Safety.** Staff of the CBI are anticipated to process at least 50 additional fingerprint background checks and to forward the results to the appropriate county. This analysis assumes the increase in expenditures will be offset by the increase in state revenue.

**Taskforce participation.** Staff of the Departments of Human Services and Law will experience an increase in workload from serving on the task force. The increase in workload is anticipated to be minimal and will not require an increase in appropriations for any state agency.

**Other departments.** An increase in reported cases of abuse, neglect, or self-neglect may also lead to an increase in caseload for public assistance programs, such as Medicaid. As of this writing, no information about the potential increase in caseload for these programs is available. This analysis assumes any increase in costs will be addressed through the annual budget process.

### **Local Government Impact**

Overall, this bill is anticipated to increase costs for local governments in several ways. First, the bill increases the number of adult protective services reports that are received and must be followed up with an investigation. As described above, the county share of costs is at least \$829,695 for FY 2012-13 and at least \$848,042 for FY 2013-14. Staffing requirements will vary by county, but based on caseload, are anticipated to total 36.6 FTE in FY 2012-13 and 37.4 FTE in FY 2013-14.



Second, this bill may have a minimal impact on county employers for the purposes of ensuring that prospective employees comply with the bill's requirements to obtain a fingerprint background check. The fiscal note assumes that counties will not be required to incur any additional costs, but that the hiring process may be extended. Third, the bill includes representatives of certain local organizations, including the chiefs of police, sheriffs, and district attorneys, as participants on the task force. This analysis assumes that any increase in workload for these agencies is minimal.

Fourth, costs may increase as a result of counties enrolling previously unidentified but eligible at-risk adults in public assistance programs, including low-income housing, food stamps, and Medicaid, among others. The impact of these costs to the counties cannot be estimated as of this writing.

Finally, the bill creates a new class 3 misdemeanor for persons convicted of failing to make a required report or for releasing confidential information about an adult protection services investigation. The penalty for a class 3 misdemeanor is up to six months imprisonment in a county jail, a fine of \$50 to \$750, or both. Because the courts have the discretion of incarceration or imposing a fine, the impact at the local level cannot be determined, but is assumed to be minimal. The cost to house an offender in county jails varies from \$45 to \$50 per day in smaller rural jails to \$62 to \$65 per day for larger Denver-metro area jails. For the current fiscal year, the state reimburses county jails at a daily rate of \$50.44 to house state inmates.

### **State Appropriations**

For FY 2012-13, the Department of Human Services should receive an appropriation of \$4,148,476, including \$3,318,781 General Fund and \$829,695 Cash Funds Exempt - County Funds. The Judicial Department has sufficient spending authority for the Fines Collection Cash Fund and does not require an increase in appropriations.

### **Departments Contacted**

Human Services	Judicial	Law
Public Health and Environment	Public Safety	Regulatory Agencies

Impact of Mandatory Reporting in Other States

There is excellent data showing how caseloads increased in other states that adopted a mandatory reporting requirement. However, in each case there are significant differences between states in regard to: which professions are required to report, the population of the state, and the client population subject to the mandatory reporting requirement. The table below indicates the most recent states to adopt mandatory reporting.

	Illinois	N Jersey	S Dakota
Year	1998	2010	2011
Age	60+	18+ vulnerable	18+ disabled or elder 65+
Mistreatment	all mistreatment	all mistreatment	excludes exploitation
Location	community only	community only	community/facility
Reporters	Professionals during their work with seniors - only If senior unable to report himself - excludes financial institutions	Healthcare professionals and 1st responders only	Healthcare, mental health professionals, others with ongoing contact with elders or disabled
Reports Pre-mandatory	6,213	6,071	705
Reports Post-mandatory	7,157	6,597	1,190
# Increase	944	526	485
% Increase	15%	9%	69%

The 15% increase cited in the fiscal note is based on the increase seen when Illinois transitioned from “urged” to mandatory reporting in 1998. However, there are key differences between Illinois and Colorado that the Task Force believes must be considered when estimating the increase in reporting in Colorado, including:

- Illinois does not conduct investigations in facilities as does Colorado; this constitutes approximately 8% of all reports in Colorado.
- Mandatory reporting in Illinois is required only when the *at-risk adult is unable to self-report*; Colorado would require a report in all situations.
- Illinois’s APS target population is only persons age 60 and over, whereas the Task Force is urging the General Assembly to consider that mandatory reporting apply to persons age 70 and over to start and for and for persons 18 years and older who are at-risk adults if funding allows. Approximately 28% of the caseload consists of clients aged 18-59.

- Mandated reporting parties in Illinois are restricted to persons that work with older persons and exclude financial institutions, whereas the Task Force is recommending a more complete list of mandated reporters.

South Dakota has similar reporting requirements to Colorado, but a much smaller overall population. In South Dakota, in the first year of mandatory reporting implementation from urged reporting, reports increased 69%. The key similarities between South Dakota and Colorado should be considered in determining the estimate of new reports as a result of mandatory reporting, such as:

- South Dakota does conduct investigations in the community and in facilities, as does Colorado.
- Reporting is mandated in South Dakota whenever mistreatment is suspected, as is being recommended by the Task Force in Colorado.
- South Dakota's target population is age 65+ and age 18+ disabled, which is a larger population than the Task Force is recommending, so the increase in reports would not be as great.
- Mandated reporting parties in South Dakota are much more similar to the mandated reporters recommended by the Task Force.

## Issues/Decision Paper

*Office of Long Term Care/Division of Aging and Adult Services*

### **Options for Purchasing or Developing a New Data System for Adult Protective Services (APS)**

*June 5, 2012*

*Authored by:*

*Peggy Rogers*

**DECISION NEEDED:** How to implement a new case management and data system for the Adult Protective Services (APS) program.

**BACKGROUND:** Managing an APS program, at the state and county level, requires a comprehensive and confidential case management and data system. The complex situations involving at-risk adults must be fully documented to ensure that all actions possible are taken to protect the at-risk adult and actions taken by APS caseworkers are legal and appropriate. This documentation must seamlessly combine both narrative and data field documentation to allow for a thorough description of the at-risk adult's health, safety, welfare, and intervention and to provide statistical data collection, including the outcomes of APS intervention.

The APS program's first statewide data system was developed in 2000 in the legacy COIN system. When the COIN system was retired, a decision was made within CBMS and CDHS executive management to move APS into CBMS. APS was not consulted in the design of the APS track and once the APS program saw the initial design, asked for significant changes. Those changes were denied and as a result, the APS track in CBMS does not meet the basic requirements for case documentation and statistical data collection and analysis.

In early 2007 the CBMS system cost calculator was being reassessed, increasing the cost to the state (versus the feds) for the CBMS system by \$9 million annually, with \$5 million of that cost being assessed to the APS program. The APS program disputed this cost and as the result of a time study, the assessed cost for APS in CBMS was lowered to \$297,000 annually as of April 2010. Even with this lower price tag, this is an especially high cost for a system that does not function for APS case management purposes, does not allow collection of data and outcomes, and does not prioritize any maintenance or changes to the system for the APS program. For example, a data fix on a defect in the system, causing data errors on just under 700 cases, was requested in April 2008 and has yet to be prioritized for implementation.

Because of these issues, in early 2009 the Adult sub-PAC requested that the APS Unit of the Division of Aging and Adult Services research alternative data systems designed specifically for APS programs. Over the course of the year, four vendors were identified and contacted. Each vendor provided a web-demo of their system and then provided preliminary quotes regarding the cost of purchasing their system for Colorado's APS program. The preliminary estimates for first year purchase and implementation costs ranged from \$72,000 to \$639,500 with ongoing maintenance fees of \$15,600 to \$255,000 per year. The vendors offer flexible, web-based integrated case management systems configured specifically for APS based on industry best practices and customizable to Colorado APS requirements. The white paper *Deployment of a Case Management System for the APS Program* was written (attached).

No fewer than 30 significant change requests and reports would need to be developed and implemented in CBMS to meet the needs of the APS program. Updating CBMS and required reports is estimated to be \$1 million or more with a time frame for completion of 10 years or longer. See the white paper for details. During a review of the white paper with Pauline Burton and Ron Ozga, Ron asked that Trails be researched as an alternative. This was completed and Trails information added to the white paper.

In October 2010, Steve Fowler asked Deloitte to meet with Peggy to develop a separate module for APS that would be developed in the CBMS Web platform, apart and separate from CBMS eligibility. Peggy pulled together a task group of county APS supervisors and caseworkers to complete the initial design of the new APS module. The design was submitted to Deloitte for review and an order of magnitude for the approximate number of hours and a plan of

completion. This was never returned to the APS program. Numerous attempts in 2011 to follow up with Deloitte, Steve Fowler, and Jack Rudd were made. Deloitte indicated there was a change of plans and referred Peggy to OIT. Jack indicated that Steve would follow up with Peggy but this did not occur.

In December 2011, Colorado was offered an opportunity to receive a free extended demonstration of an APS data system created for Oklahoma APS by Jump Technologies. This was one of the original data systems reviewed for the white paper. After consultation with Chuck Busch, and approval from Ron Ozga, Jump Technologies co-owners traveled to Colorado to train the State and county APS staff on the system. The county APS staff will use the system to enter “fake” cases and reports in order to provide critical feedback to the State on the system design, i.e., what works and what doesn’t. Chuck attended the demonstration and, as a result, asked that Peggy develop an issue paper to inform Reggie Bicha of the history of APS in CBMS and the quest for a new data system.

In May 2012, Peggy was asked to look into Casebook, a data system under consideration by Child Welfare. After talking with a Casebook representative, it appears that Casebook is not a reasonable option for Colorado’s APS data system. Casebook has never been designed for APS. As of May 2012, the only Casebook module completed and in use is the Foster Care module. A second module for case management of child protective services is scheduled for rollout in Indiana in July 2012. Additionally, when asked for a rough estimate of the cost for reconfiguring the data system for APS use, assuming 50% of the system would require reconfiguration, the estimate was at least \$1 million and likely higher. This is vastly more expensive than any other option available and, therefore, should not be considered further at this time.

### **SCOPE:**

**In-Scope:** Falling within the scope of this issue paper are the data system choices and the estimated costs.

**Constraints and Assumptions:** It is assumed that current OAP cash fund in the approximate amount of \$297,000 used to cover the APS portion of CBMS will continue to be available for another data system. It is assumed that some additional general fund may be required during the initial year to purchase and customize a system for Colorado as APS would still be using CBMS during this time frame. It is also assumed that a new data system, including an annual budget for upgrades, maintenance, and hosting, would be less expensive than continuing in CBMS and would lead to overall cost savings for the State in future years. It is assumed that transition to a new data system will require an RFP process.

The table on page 8 provides a side-by-side comparison of the Jump system vs. CBMS Web. Only the significant needs are included in the table. Minor needs, such as missing fields, are not included. Please refer to the APS System High Level Business Requirements (for CBMS Web) for more specific details.

**POTENTIAL POLICY OPTIONS:**

**OPTION 1:** Remain in the current CBMS web system, which was completed in April 2012. Create a limited ad hoc reporting universe, including appropriate security firewalls, for the current APS fields.

**Calculations:** No additional cost to remain in the current system with no new functionality. Cost to add the limited ad hoc universe is projected to be \$15,000.

**Pros:**

- Web platform provides a more user friendly platform than “old” CBMS, but still lacks many functions and fields necessary for comprehensive and accurate case management.
- A limited ad hoc universe would provide for more reporting capacity, such as substantiation of allegations, ongoing risk, client risk factors, service needs, recidivism, and case closure reasons. But because the APS track is lacking many fields, would still have limited data analysis capability.

**Cons:**

- The current system does not allow for collection of even some basic data, such as the number of allegations that are substantiated, the reason for case closure, accurate data related to timely response to reports, and so on.
- Many necessary fields are missing and would need to be added;
- Costs to change the CBMS system to make it a fully functioning APS case management and data system is estimated to cost more than \$1 million and take 10 years or longer to complete. See the white paper for details.
- Even with unlimited funds to pay for changes, Deloitte has a limited ability to complete projects and as such, APS will always be prioritized below those needed by the cash and medical programs. It is not inconceivable to expect that APS changes would not be prioritized for years, if ever.
- The APS track in CBMS is so complex and difficult to navigate, many APS workers in small and medium counties that have only a few APS reports each year often do not use the data system at all. They cannot maintain their access to the system and cannot remember how to navigate the system. This results in inaccurate statewide data and presents issues for State staff in monitoring program compliance.
- APS staff in counties that have regular APS reports have difficulty navigating the system and often have data entry errors as a result. This further compounds the data issues.
- There is no way to prevent non-APS users from knowing that an APS case has been opened on a client, a violation of APS statute.
- There is an inability to collect data that is anticipated to be necessary to draw down federal dollars should the Elder Justice Act be funded.
- Ad hoc reporting is unavailable, the cost and time necessary to develop “canned” reports is prohibitive, and current “canned” reports are not available until 33 days after the report month has closed. Changes to these reports require a change request and prioritization on the 18 month calendar.
- Client ID merge issues would continue to negatively affect cash and medical program cases because of APS. Prior to roll out of CBMS, each APS report on

“repeat” clients were programmed by CBMS staff to roll to CBMS as separate case numbers and client IDs. This caused many APS clients to have 3, 4, and for at least one client 12, separate case numbers and client IDs. In addition, for the first 15 months of CBMS operation, CBMS staff instructed APS to create a separate Client ID from the eligibility case, not understanding the relationship between the Client ID and the client’s SSN. This has caused 100’s if not 1,000’s of duplicate client IDs attached to APS cases, which must be worked through the complex and extremely time-consuming Client ID merge process.

**OPTION 2:** Contract with Deloitte to develop a new APS module using the CBMS web platform. Create a fully functioning ad hoc reporting universe, including appropriate security firewalls, for the current APS fields.

**Calculations:** Because Deloitte never provided the APS program with the order of magnitude on its original High Level Business Requirements (HLBR), it is not possible at this time to determine the cost of this option. However, based on estimates from other change requests, the cost is expected to top \$1,000,000. For example, the cost to implement HB10-1146 was approximately \$440,000 and did not involve creating a system from scratch.

**Pros:**

- The State would be able to design an APS data system that was specific to how Colorado does business. The HLBR are completed and work could start on the more detailed Business Requirements Document (BRD) and Technical Design Document (TDD) immediately.
- The navigation of the system would be much more intuitive and easier for infrequent users to manage.
- Current CBMS information could be housed in a non-operational history database for easy access as needed, allowing APS cases to be deleted from the CBMS system, eliminating many of the client ID merge issues.
- A fully functioning ad hoc universe would provide for complete reporting capacity, such as the ability to pull real time data by state, county, or caseworker; statistically based assessment of risk and outcome of intervention; ability to pull data by age or risk group; substantiation of perpetrators; various written reports; reasons for late response to referrals; civil and criminal outcomes; and service implementation data.

**Cons:**

- The system would be subject to significant costs to upgrade and make changes as federal requirements came online, as Colorado statute changes were implemented, or as business practices changed.
- APS changes would still have to be prioritized against the needs of Medicaid, SNAP, TANF, and Adult Financial, which has never worked in APS’ favor.
- The time to develop a completely new system would likely take 2 to 3 years or longer, delaying the ability to collect needed data and outcomes.



**OPTION 3:** Pursue purchase of a ready-made case and data management system specifically designed for APS.

**Calculations:** Costs to purchase a ready-made system would range from \$72,000 to 639,000 per year, with Jump Technologies at the lowest range. Based on these original estimates, cost savings, in comparison to CBMS, would range from approximately \$76,000 up to \$700,000 over two years; and from \$1.3 to 4.1 million over 10 years. These would need to be updated and OIT brought into the process to ensure that all technical issues are addressed. See the table on the following page for additional detail.

**Pros:**

- Would provide significant cost savings over CBMS once implemented. A portion of the costs savings could be rolled back into general fund and some could be used to continue to upgrade the system.
- Would provide significantly better data collection, allowing for better outcome measures and improved reporting for the Legislature and federal government.
- Would provide significantly easier case management and navigation for APS caseworkers.
- Would be a ready-made system for APS, requiring limited changes to work for Colorado, making it quicker to deploy than developing a system from scratch.
- Would be a system that had most of the “bugs” already worked out by other state’s APS programs.
- Some systems, Jump and Lagan specifically, have functionality that allows State staff to make many upgrades to the system without paying for tech support. For example, the Jump system allows creation of the valid values for all fields in a matter of seconds and development of a scored risk or other assessment in a matter of minutes. For example, creation of a dozen lists of valid values and a 50 question scored risk assessment took just 1.25 hours to complete in the Jump demonstration system.
- Most systems reviewed are housed on a web platform, allowing for instant and seamless changes and improvements to the system.

**Cons:**

- The system would need to be updated for Colorado, tested, and then county APS staff trained. This is anticipated to take six months to a year from contract execution.
- During the period of upgrade, testing, and training, additional general fund might be required to maintain CBMS while paying for the upgrades to the new system.
- Purchase of a new data system will require an approved budget request and therefore funds would not be available until FY2013-14 for purchase of the system.

<b>Estimated Cost* and Savings Comparison Between CBMS and Possible APS Data Systems</b>						
	<b>CBMS – (General Fund)</b>	<b>Trails</b>	<b>Jump Technology</b>	<b>Lagan</b>	<b>Harmony</b>	<b>McWilliams</b>
Costs Year 1 (Purchase, implementation)	\$397,000	\$980,000	\$72,000	\$500,000	\$462,500	\$639,500
Ongoing Costs (maintenance, licenses, hosting fees)	\$397,000	\$140,000	\$15,600	\$69,000	\$255,000	\$201,000
Costs - 2 Years	\$794,000	\$1,120,000	\$87,600	\$569,000	\$717,500	\$840,500
<b>2 Year Savings</b>		<b>-\$326,000</b>	<b>\$706,400</b>	<b>\$225,000</b>	<b>\$76,500</b>	<b>-\$46,500</b>
Costs - 10 Years	\$4,367,000	\$2,380,000	\$228,000	\$1,190,000	\$3,012,500	\$2,649,500
<b>10 Year Savings</b>		<b>\$1,987,000</b>	<b>\$4,139,000</b>	<b>\$3,177,000</b>	<b>\$1,354,500</b>	<b>\$1,717,500</b>
<p>* In 2009 and 2010 State APS staff reached out to various software companies and to Trails staff in search of software systems created specifically for APS. This informal process resulted in live web demonstrations of the various systems and discussion of Colorado processes to determine generally how much modification would need to be done to the software. The various companies then provided a courtesy estimated cost for purchase or for hosting of the system based on our discussion. Neither a formal RFP nor RFI was conducted.</p>						

**OPTION 4:** Pursue purchase of a ready-made case and data management system specifically designed for APS. Create a limited ad hoc reporting universe, including appropriate security firewalls, for the current APS fields in CBMS Web in the interim.

**Calculations:** Costs to purchase a ready-made system would range from \$72,000 to 639,000 per year, with Jump Technologies at the lowest range. Based on these original estimates, cost savings would range from approximately \$76,000 up to \$700,000 over two years; and from \$1.3 to 4.1 million over 10 years. These would need to be updated and OIT brought into the process to ensure that all technical issues are addressed. See table on the following page for additional detail. Cost to add the ad hoc universe in CBMS Web is projected to be \$15,000.

**Pros:**

- Would provide significant cost savings over CBMS once implemented. A portion of the costs savings could be rolled back into general fund and some could be used to continue to upgrade the system.

- Would provide significantly better data collection, allowing for better outcome measures and improved reporting for the Legislature and federal government.
- Would provide significantly easier case management and navigation for APS caseworkers.
- Would be a ready-made system for APS, requiring limited changes to work for Colorado, making it quicker to deploy than developing a system from scratch.
- Would be a system that had most of the “bugs” already worked out by other state’s APS programs.
- Some systems, Jump and Lagan specifically, have functionality that allows State staff to make many upgrades to the system without paying for tech support. For example, the Jump system allows creation of the valid values for all fields in a matter of seconds and development of a scored risk or other assessment in a matter of minutes. For example, creation of a dozen lists of valid values and a 50 question scored risk assessment took just 1.25 hours to complete in the Jump demonstration system.
- Most systems reviewed are housed on a web platform, allowing for instant and seamless changes and improvements to the system.
- Ad hoc universe for CBMS Web would provide for more reporting capacity while bringing online a new system. But because the APS track is lacking many fields, would still have limited data analysis capability.

### **Cons:**

- The system would need to be updated for Colorado, tested, and then county APS staff trained. This is anticipated to take six months to a year from contract execution.
- During the period of upgrade, testing, and training, additional general fund might be required to maintain CBMS while paying for the upgrades to the new system.
- Purchase of a new data system will require an approved budget request and therefore funds would not be available until FY2013-14 for purchase of the system.

**RECOMMENDATION:** Option 4. This option provides the quickest, easiest, most cost-effective solution. These systems were developed specifically for APS casework and data collection and at least two appear to be very intuitive to use. This option would allow Colorado access to a good APS data system in a year or less from budget approval, providing infinitely more data (and accurate data) than the current system. Creating the ad hoc universe for CBMS Web, with appropriate security firewalls in place, would provide additional data (though still incomplete) in the interim.

The system created by Jump Technologies for Oklahoma APS would be the preferred system for several reasons:

- The cost savings over other systems. The Jump system is estimated to cost just under \$71,000 for the first year (including system modifications for Colorado) and just under \$46,000 for year two.
- The cost for two years, approximately \$117,000, allows Colorado to purchase the system without the time-consuming RFP process. Even if system modifications, including report development, was twice the current estimate, the total cost would still be under the \$150,000 limit before an RFP process was required.
- The similarities between Oklahoma APS and Colorado APS would make system modification easier.

- The ability for State APS staff to make changes to the system at no cost (add assessments, valid values, other fields, etc.)
- The small size of the company (12 employees) ensures one-on-one technical assistance and training is available at all times and ensures that the company owners respond directly to the State when needed.
- Oklahoma has worked with Jump Technologies for five years and finds them to be responsive and very quick to make fixes to the system. The owners understand the APS program and are passionate about making a system work for the caseworkers. I asked at one time how long it would take to make a change to the system, such as the addition of a data field. The owner apologized that it could not be done in the same day and said that something of that nature that required the addition of a field and an addition to the database would probably take *three days* to complete.

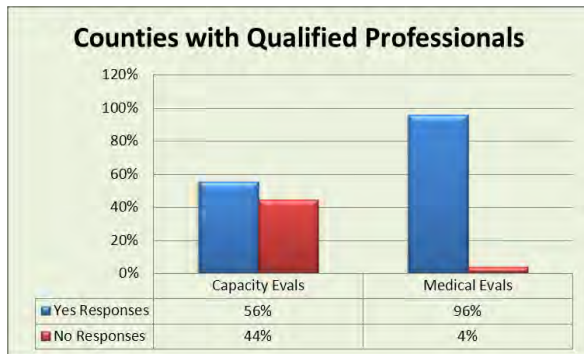
<b>APS Process or System Flexibility</b>	<b>Jump</b> X = Current System SM = Requires Significant System Modification Upon Purchase	<b>CBMS Web</b> X = Current System CR = Requires Change Request
<b>APS Processes</b>		
Intake – ability to document all report information on one screen.	X	CR
Assessment – ability to document all investigation and assessment information on one screen.	SM	CR
Risk Level – ability to quantify the level of risk via a formulaic calculation of risk factors.	X	CR
Case Plan – ability to document the case plan on one screen	X	CR
Perpetrator – ability to document full perpetrator information, including substantiation.	X	CR
Case Closure – ability to close case with overall outcome of intervention.	X	CR
Case Comments – ability to view case comments from within the case.	X	CR
User Dashboard – details current cases, progress by worker. Supervisor has access to all workers via supervisor dashboard.	X	CR
Staff/User/County Information – ability to document staff quals, FTE, training, and other required activities.	SM	CR
<b>Data Analysis</b>		
Data Reporting – ability to have ad hoc universe.	X	CR
Data Reporting – development of a variety of standardized reports with real-time data.	SM	CR
Narrative Reports – development of narrative reports.	SM	CR

<b>APS Process or System Flexibility</b>	<b>Jump</b> X = Current System SM = Requires Significant System Modification Upon Purchase	<b>CBMS Web</b> X = Current System CR = Requires Change Request
<b>System Flexibility</b>		
Confidentiality – ability to protect client name and identifying information from all but other APS users.	X	CR
Auto Population of Fields – system auto populates select data from one window to another.	X	CR
Minor Changes to Windows – ability to add fields, create assessments, change valid values without IT support and/or change request.	X	CR
Scanning – ability to scan and house supportive documentation.	SM	CR

DRAFT

APS Task Force Survey

Adult Protective Services (APS) conducted an online survey between August 27 and August 31, 2012. APS supervisors from all 64 counties in Colorado were asked to participate. A total of 30 supervisors representing 28 counties responded. The 28 responding counties included eight of the ten large counties and accounted for 84% of APS reports and 85% of APS cases in FY 2012. The survey covered three general areas: qualified professionals to conduct medical and capacity evaluations, costs of services, and client needs.

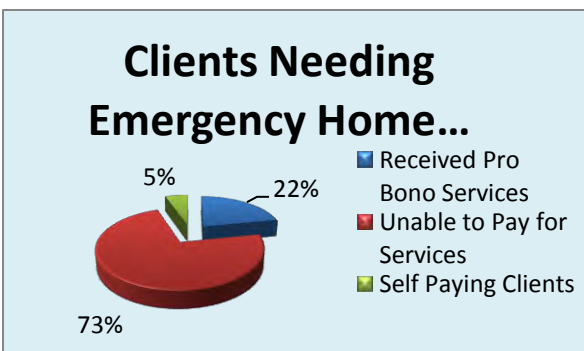
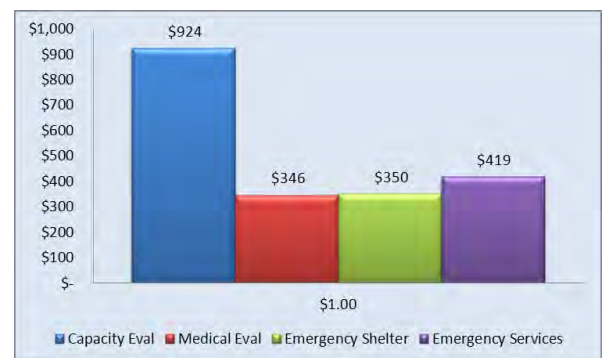


**Qualified Professionals**

This section asked county supervisors if their county had qualified professionals to provide capacity and medical evaluations, and if not, the average distance a client must travel to receive an evaluation by a professional. 56% of the counties that responded have qualified professionals to conduct capacity evaluations, while the remaining 44% must travel an average distance of 71 miles for an evaluation. All but 4% of the counties have qualified professionals to conduct medical evaluations. Those without a qualified medical professional must travel an average distance of 19 miles for an evaluation.

**Cost of Services**

County supervisors were asked to provide an estimate of the average cost of emergency services, such as capacity and medical evaluations; emergency food, shelter, deep cleaning, and home repairs/modifications; and the average annual expenditures for county attorney services related to APS clients, such as for guardianship petitions. Because no counties provided a cost per night of emergency shelter, the cost utilized is the cost outlined in the Fiscal Note for SB12-078.



**Client Needs**

Finally, county supervisors were asked to estimate the number of clients who needed emergency services, such as capacity and medical evaluations; emergency food, shelter, deep cleaning, and home repairs/modifications annually. County supervisors were also asked how many of the clients needing emergency services were able to pay for the services themselves, received pro bono services, or were unable to receive services due to an inability to pay.

**Summary**

Based upon the survey results, summarized in the table to the right, the Task Force agrees there is a large unmet need for emergency services throughout Colorado. Therefore, the Task Force requests an appropriation to be used to purchase needed emergency services.

Service	Average Cost per Service	# Clients Needing Services	Total Estimated Costs
Capacity Evals (per eval)	\$ 924.00	583	\$ 538,692.00
Medical Evals (per eval)	\$ 345.00	766	\$ 264,270.00
Emergency Shelter (per night)	\$ 350.00	931	\$ 325,850.00
Emergency Home Services (avg. per client)	\$ 418.00	1413	\$ 590,634.00
<b>Total Estimated Emergency Services Costs</b>			<b>\$ 1,719,446.00</b>
<b>Estimated Cost of Unmet Needs</b> (73% of Clients Unable to Pay or Secure Pro Bono)			<b>\$ 1,255,195.58</b>



September 24, 2012

Joscelyn Gay  
 Director, CDHS- Office of Long Term Care  
 Colorado Department of Human Services  
 1575 Sherman St., 8th Floor  
 Denver, CO 80203

David Blake  
 Deputy Director  
 Colorado Attorney General's Office  
 1525 Sherman St  
 Denver, CO 80203

Dear Ms. Gay and Mr. Blake:

Colorado Counties Inc. reiterates our support of mandatory reporting for at-risk adults as long as it is fully funded.

We recognize that the SB12-78 Task Force is at a critical point in their decision making and policy recommendations. Many of those decisions will fiscally impact the state and counties. We are writing to register our concerns about the Task Force's ability to accurately and defensibly identify the cost of these decisions in terms of their impact to county departments of human services and county law enforcement.

SB 12-78 charged the task force with estimating the costs, including workload impacts, to be incurred by the state department, as well as the county departments and law enforcement agencies, resulting from the implementation of mandatory reporting in Colorado. We appreciate the opportunity to review data already collected in other states based on workload studies or post-implementation analysis that they conducted for themselves, as well as recommended national APS standards. However, we do need to urge caution in the use of other states' quantitative data since many of those states implemented mandatory reporting before the baby boomer population reached retirement age, which significantly affects the impact of this mandate. Additionally, the state-to-state variations in populations subject to mandatory reporting, the classes of mandatory reporters, and the expectations regarding the use of the system are all material differences that dramatically affect both the cost and ultimate success of a Colorado proposal and the applicability of national standards for adult protective services.

As an example, one critical component needed to determine workload impacts is caseload per caseworker. Adult Protective Services (APS) workers carry an average of 31 cases per worker statewide with caseworkers in the 10 large counties carrying an average of 34 cases. The National Adult Protective Services Association recommends a caseload ratio of 25:1. Recognizing the limits of nationally recommended standard ratios, county cost estimates must include a data justified caseload for Colorado.

As the administrators of APS in Colorado, counties have the front line responsibility for delivering and assisting vulnerable adults. We are statutorily required to have trained APS caseworkers evaluate and investigate reports, arrange for protective services and provide on-going case management. The skills necessary to meet these statutory requirements are acquired, in large part, through state sponsored training; an essential component to achieving the goals set forth in CRS 26-3.1-301(1)(d).

September 24, 2012

Joscelyn Gay  
Director, CDHS- Office of Long Term Care  
Colorado Department of Human Services  
Page 2

David Blake  
Deputy Director  
Colorado Attorney General's Office

Another consideration is that APS uses the Colorado Benefit Management System (CBMS) to track and make payments. CBMS was not built to allow APS caseworkers to record and track client health, safety, welfare and intervention data. Because of this, Colorado lacks the ability to track trends in client needs and analyze the outcomes of APS intervention.

Our workloads will increase when mandatory reporting for elders and/or at-risk adults is implemented. Our County Department of Human Services will receive more reports and there will be an expectation from the community that we have been given the resources to protect elders and/or at-risk adults. If those community expectations are not met due to insufficient resources counties will undoubtedly be the first to hear about it.

We are committed to seeing mandatory reporting for at-risk adults succeed. In order for it to succeed, we have to address shortcomings in our current APS system as well as address the new costs associated with implementing mandatory reporting. Failing to do so sets our communities up for false expectations. It also reaffirms our concerns that a report is simply a report and does not result in the services needed to actually help protect this vulnerable population.

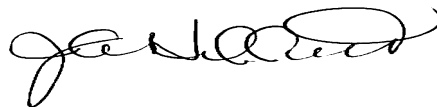
Ultimately, if the costs to our county departments and law enforcement agencies are not accurately and defensibly determined and a sustainable, state revenue source is not identified, it is very likely that CCI members will oppose the implementation of mandatory reporting as an unfunded mandate.

We appreciate the work and commitment of the SB12-78 Task Force and look forward to their final report.

Sincerely,



Nancy Sharpe  
Arapahoe County Commissioner



Jack Hilbert  
CCI President  
Douglas County Commissioner



Denver Metro Area-

Facebook/Online	per click	\$1.10	2,500	\$2,050.00
Radio	30-sec spot	\$194.00	25	\$5,570.00
Print	per impress.	\$2.86	2,500	\$7,150.00
Postage	each	\$0.44	2,000	\$180.00
Printing-brochures	each	\$0.25	10,000	\$2,500.00

Mesa County-

1. Advertising				
TV spot production				\$ 500.00
TV spots, \$500 per station (4) per month		6	2000	\$ 12,000.00
Radio spots		6	1,666	\$ 10,000.00
Print ads		9	555	\$5,000.00
2. Postage	postcard		0.28	1,000 \$ 280.00
3. Printing	Postcards, Flyers		Varies	Varies \$ 1,000.00

Routt and Moffat Counties-

Newspaper Advertising	Week	\$649.75	40	\$25,990.00
Radio Advertising	Spot	\$6.95	720	\$5,004.00
Direct Mail Services	Mailing	\$2962.5	8	\$23,700.00

Fremont County-

Canon City Daily Record newspaper ads	1/4 page	\$300.48	6	\$1,802.88
Canon City Daily Record newspaper ads	1/8 page	\$147.00	20	\$2,940.00
Florence Citizen newspaper ads	1/4 page	\$120.00	12	\$1,440.00
The Shopper newspaper ads	1/4 page	\$125.00	12	\$1,500.00
Radio announcements on KSTY-FM	weekly	\$228.00	12	\$2,736.00
Printing of posters 8 1/2" x 11"	each	\$0.47	10	\$4.70
Postage for mailings to community agencies	each	\$1.06	20	\$21.20

## **Appendix 16**

### **June 27, 2012 Meeting Materials**

# SB12-78 Elder Abuse Task Force

Wednesday, June 27<sup>th</sup>

9:30 am – 11:30 am

Colorado Bar Association

Room: Executive Conference Room (9<sup>th</sup> Floor)

## I. Welcome

Sen. Evie Hudak and Rep. Sue Schafer

Reggie Bicha, Colorado Department of Human Services, Executive Director

## II. Member Introductions (*handout*)

## III. Task Force Guidelines

- a. Review and approve proposed Task Force guidelines (*handout*)
  - i. Proxy question
- b. Adoption of “Working Docs”
- c. Document Call [GINI????]

## IV. Brief Review of SB 78 Deliverables (*handout*)

- a. Mandatory Reporters – how to require certain persons to report
- b. Services offered by counties – provision of county adult protective services (APS) for at-risk elderly
- c. Minimum age – identify minimum age for an ‘at-risk elderly adult’
- d. Cost & Workload Impacts – estimate of costs and workload impacts likely incurred by county and state
- e. Sustainable Funding
- f. APS Training – recommend training on outcome-based best practices
- g. Criminal Penalties – adequacy or inadequacy of penalties for offenses against at-risk adults
- h. Reconcile definitions for at-risk adults – two different definitions in criminal code and human services code

## V. Future meeting topic outline

- a. Statutory Deadlines (Expedited Consideration)
- b. Review proposed meeting dates
  - i. *Wednesday, July 11, 2012*

Cost and Workload Impacts	(26-3.1-301(3)(d))
Sustainable Funding	(26-3.1-301(3)(e))
  - ii. *Wednesday, July 25, 2012*

Count Services	(26-3.1-301(3)(b))
APS Training	(26-3.1-301(3)(f))
  - iii. *Wednesday, August 8, 2012*

Criminal Penalties	(26-3.1-301(3)(g))
Mandatory Reporters	(26-3.1-301(3)(a))
  - iv. *Wednesday, August 22, 2012*

Minimum age	(26-3.1-301(3)(c))
Reconcile definitions	(26-3.1-301(3)(h))
  - v. Future Dates (two weeks vs. three weeks)

## **SB12-78 Elder Abuse Task Force**

**VI. Homework: Brainstorm potential funding streams**

**VII. Public Input**

**Conference call info:** 1-866-200-5786 Outside the Metro area or 303.218.2281 within the Metro area.  
Conference ID 303 824 5309 #

SB78 Elder Abuse Task Force

Wednesday, June 27, 2012

9:30am-11:49am

Meeting convened at 9:35am.

Members Present:

David Blake, Co-Chair

Joscelyn Gay, Co-Chair

Vickie Clark, Routt County Dept. of Human Services

Absent: Tammy Conover, Attorney at Steenrod, Schwartz, and McMinimee Lae Firm-Represented by Tom Rodriguez

Sterling Harris, Chief Deputy Director of Colorado Organization for Victim Assistance

Chris Lines, Director of Colorado Medical Society

Anne Kerr Meier, Social Worker at Exempla Luthern Hospice-Collier Hospice Center

Absent: Arlene Miles, President and CEO of Colorado Health Care Association-Represented by Matt Elder

Absent: Amy Nofzinger, Director of AARP Foundation

Dr. Rebecca Paskind, Ph.D. Associate professor at Metro State College

Heidi Prentup, Commander at Boulder County Sheriff's Department

Mary Catherine Rabbitt, Attorney at the Legal Center for People with Disabilities and Older People

Jerri Schomaker, Owner of Home Instead Senior Care of CO Springs

Nancy Sharpe, Arapahoe County Commissioner

Scott Storey, District Attorney with the Jefferson County DA's Office

Darla Stuart, Executive Director at Arc of Aurora

Jenifer Waller, Senior Vice President at the Colorado Banker's Association

Susanna Bozinovski, Facilitator

Rena Kurberski, Facilitator

Director Bicha asked the task force to take charge of creating a mandatory reporting for at risk elders as well as determine where to direct monetary resources, i.e. –Training, IT System, or services.

Director Bicha also explained the reporting and services process to the group starting with:

Who is vulnerable → Report → Screen → Assessment → Service Provision → Close Case.

He then explained that once a case is closed, there is not a system in place to follow up. He asked the group to also consider this.

10:13am: Task Force Introductions.

10:30: Guidelines Discussions

Proxy votes: Question proposed by Co-Chair David Blake : Should task force members be allowed to have proxies?

Discussion: Task force members should be allowed to have a proxy-this person needs to be an appropriate, senior member of each respective organization. Identified proxies will be compiled and either be emailed to David Blake ([david.blake@state.co.us](mailto:david.blake@state.co.us)) or Joscelyn Gay ([joscelyn.gay@state.co.us](mailto:joscelyn.gay@state.co.us)).

Super Majority Vote: Question proposed by Co-Chair David Blake: Is a 2/3 vote too much? Or, is this appropriate and stay in place?

Discussion: Super majority should remain in place, but should add language to read: “To members present”. This language change will be made by CCI and sent out prior to the July 11, 2012 meeting.

Unanimity of final report: Report should have dissenting views but have a unanimous support to submit report. Discussion of minority report, but was decided to only be included if enough members have a dissenting view.

Adoption of guideline changes: Motion by Arlene Miles. Seconded by Dr. Rebecca Paskind Ph.D.

Question proposed by Co- Chair David Blake: Should the Task Force look at propose a draft bill?

Discussion: Co-Chair Joscelyn Gay suggested that the task force should come up with recommendations, work of f the duties outlined by SB78 and Director Bicha. However, Senator Hudak clarified that the intention of SB78 and the task force is not to create new legislation, but rather create recommendations and explain how to achieve each respective recommendation. Commissioner Sharpe also added in that recommendations need to have data that supports the decisions being made as well as deliverable outcomes/measure outcomes. It was then suggested by the group that background information, “best practices” from other states and the previously proposed five bills relating to elder abuse.

Task Force members are to send any background information, “best practices”, or other relative material to CCI staffer, Brandy DeLange at [bdelange@ccionline.org](mailto:bdelange@ccionline.org) , so that documents may be posted on the task force website at, <http://www.colorado.gov/cs/Satellite/CDHS-ExecDir/CBON/1251624797615>. These initial documents should be submitted prior to July 11<sup>th</sup>, 2012. All other documents are welcomed after this date and will be posted on the website. Task force members are encouraged to routinely check the website for newly posted materials.

At the July 11<sup>th</sup> meeting a presentation of Adult Protective Services will be provided within the first hour. This will include a fact sheet and national data that can be gathered. Co-Chair Joscelyn Gay has agreed to compile and present this information through the Department of Human Services.

Co-Chairman David Blake withdrew his proposal of creating a draft bill.

Document call was also addressed.

Co-Chairman David Blake instructed task force members to review deliverables of SB78 on their own.

Future Meetings Topic Outline.

Meetings have been set to Wednesdays, from 9:00am-1:00pm.

Report deadline: Co-Chair David Blake suggested a self-imposed deadline of first draft due October 1<sup>st</sup>, and a final draft by November 1<sup>st</sup>. This will allow for consideration of the OSPB report. Representative Schafer also suggested that herself and Senator Hudack informally present and keep the JBC “up-to-date” on progress of the Task Force.

Proposed meeting dates: Question brought forth by Co-Chair David Blake and Co-Chair Joscelyn Gay: Should re-order agenda?

Discussion: July 11<sup>th</sup> meeting should focus on background and scope of work; create sub-committees to focus on finances, etc. Will define minimum age as well as definition of “at risk”. Agenda has been re-ordered to reflect:

July 11<sup>th</sup>: Background information. Minimum age and reconcile definitions.

July 25<sup>th</sup>: County Services and APS Training

August 8<sup>th</sup>: Criminal Penalties and Mandatory Reporters

August 22<sup>nd</sup>: Cost and Workload Impacts and Sustainable Funding

Future dates have not yet been determined. Will be discussed at the next meeting.

Meeting adjourned at 11:45am.

# An Act

SENATE BILL 12-078

BY SENATOR(S) Hudak, Aguilar, Jahn, Newell, Roberts, Tochtrop, White, Williams S., Boyd, Foster, Giron, Guzman, Heath, Hodge, Morse, Nicholson, Schwartz;  
also REPRESENTATIVE(S) Schafer S., Fischer, Kerr A., Kerr J., Ramirez, Acree, Brown, Casso, Court, Fields, Hamner, Hullinghorst, Jones, Kefalas, Labuda, Lee, Levy, Looper, McCann, Miklosi, Pabon, Peniston, Ryden, Singer, Solano, Soper, Stephens, Summers, Todd, Tyler, Vigil, Wilson, Young.

CONCERNING PROTECTIONS FOR AT-RISK ADULTS.

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

**SECTION 1.** In Colorado Revised Statutes, **amend** part 1 of article 3.1 of title 26 as follows:

## PART 1 PROTECTIVE SERVICES FOR AT-RISK ADULTS

**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, ~~as such term is defined in subsection (4) of this section or self-neglect as such term is defined in subsection (7) of this section~~ SELF-NEGLECT, OR EXPLOITATION because the individual is unable to perform or obtain services necessary for ~~the individual's~~ HIS OR HER health, safety, or welfare or lacks sufficient understanding or capacity to make or communicate responsible decisions concerning ~~the individual's~~ HIS OR HER person or affairs.

(2) "Caretaker" means a person ~~as such term is defined in subsection (5) of this section~~, who:

(a) Is responsible for the care of an at-risk adult ~~as such term is defined in subsection (1) of this section~~, as a result of a family or legal relationship;

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

(c) IS PAID TO PROVIDE CARE OR SERVICES TO AN AT-RISK ADULT.

(3) "COUNTY DEPARTMENT" MEANS A COUNTY OR DISTRICT DEPARTMENT OF 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;

(b) IN THE ABSENCE OF LEGAL AUTHORITY:

(I) 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

(II) 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

(c) 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.

(5) "FINANCIAL INSTITUTION" HAS THE SAME MEANING AS SET FORTH IN SECTION 6-21-102 (6), C.R.S.

~~(3)~~ (6) "Least restrictive intervention" means acquiring or providing services, including protective services, for the shortest duration and to the minimum extent necessary to remedy or prevent situations of actual mistreatment, ~~or~~ self-neglect, OR EXPLOITATION.

~~(4)~~ (7) "Mistreatment" means an act or omission ~~which~~ THAT threatens the health, safety, or welfare of an at-risk adult ~~as such term is defined in subsection (1) of this section,~~ or ~~which~~ THAT exposes ~~the~~ 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 ~~which~~ 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 ~~which~~ THAT occurs when adequate food, clothing, shelter, psychological care, physical care, medical care, or supervision is not secured for the 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 the withholding, ~~of~~ artificial nourishment in accordance with the "Colorado Medical Treatment Decision Act", article 18 of title 15, C.R.S., shall not be considered as abuse

WITHDRAWING, OR REFUSING OF 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. AS USED IN THIS PARAGRAPH (b), "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 ORDERS 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.

~~(c) Exploitation which is the illegal or improper use of an at-risk adult for another person's advantage.~~

~~(5)~~ (8) "Person" means one or more individuals, limited liability companies, partnerships, associations, corporations, legal representatives, trustees, receivers, or the state of Colorado, and all political subdivisions and agencies thereof.

~~(6)~~ (9) "Protective services" means services provided by the state or political subdivisions or agencies thereof in order to prevent the mistreatment, ~~or~~ self-neglect, OR EXPLOITATION of an at-risk adult. Such services include, but are not limited to: Receiving and investigating reports of mistreatment, ~~or~~ self-neglect, ~~the provision of~~ OR EXPLOITATION, PROVIDING casework and counseling services, AND arranging for, coordinating, delivering where appropriate, and monitoring services, including medical care for physical or mental health needs, protection from mistreatment, ~~and~~ assistance with application for public benefits, referral to community service providers, and initiation of probate proceedings.

~~(7)~~ (10) "Self-neglect" means an act or failure to act whereby an at-risk adult substantially endangers ~~the adult's~~ HIS OR HER health, safety, welfare, or life by not seeking or obtaining services necessary to meet ~~the adult's~~ HIS OR HER essential human needs. Choice of lifestyle or living arrangements shall not, by itself, be evidence of self-neglect. REFUSAL OF MEDICAL TREATMENT, MEDICATIONS, DEVICES, OR PROCEDURES BY AN ADULT OR ON BEHALF OF AN ADULT BY A DULY AUTHORIZED SURROGATE MEDICAL DECISION MAKER OR IN ACCORDANCE WITH A VALID MEDICAL

DIRECTIVE OR ORDER, OR AS DESCRIBED IN A PALLIATIVE PLAN OF CARE, SHALL NOT BE DEEMED SELF-NEGLECT. REFUSAL OF FOOD AND WATER IN THE CONTEXT OF A LIFE-LIMITING ILLNESS SHALL NOT, BY ITSELF, BE EVIDENCE OF SELF-NEGLECT. AS USED IN THIS SUBSECTION (10), "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 ORDERS 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.

**26-3.1-102. Reporting requirements.** (1) (a) An immediate oral report ~~of abuse~~ should be made or caused to be made within twenty-four hours to ~~the~~ A county department or during non-business hours to a local law enforcement agency responsible for investigating violations of state criminal laws protecting at-risk adults by any person specified in paragraph (b) of this subsection (1) who has observed 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 and is at imminent risk of mistreatment, ~~or~~ self-neglect, OR EXPLOITATION.

(b) The following persons are urged to make ~~or initiate~~ an ~~initial~~ oral report within twenty-four hours: ~~followed by a written report within forty-eight hours.~~

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

(II) Medical examiners ~~or~~ AND coroners;

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

(IV) Hospital and ~~nursing-home~~ LONG-TERM CARE FACILITY personnel engaged in the admission, care, or treatment of patients;

(V) Psychologists and other mental health professionals;

- (VI) Social work practitioners;
- (VII) Dentists;
- (VIII) Law enforcement officials and personnel;
- (IX) Court-appointed guardians and conservators;
- (X) Fire protection personnel;
- (XI) Pharmacists;
- (XII) Community-centered board staff;
- (XIII) Personnel of banks, savings and loan associations, credit unions, and other lending or financial institutions; AND
- (XIV) ~~State and local long-term care ombudsmen.~~
- (XV) ~~Any~~ A caretaker, staff member, or employee of or volunteer or consultant for ~~any~~ A licensed OR CERTIFIED care facility, agency, home, or governing board, INCLUDING BUT NOT LIMITED TO HOME HEALTH PROVIDERS.

(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 ~~which~~ 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 ~~which~~ 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 include:

- (a) The name and address of the at-risk adult;

- (b) The name and address of the at-risk adult's caretaker, if any;
- (c) The age, if known, of ~~such~~ THE at-risk adult;
- (d) The nature and extent of ~~such~~ THE at-risk adult's injury, if any;
- (e) The nature and extent of the condition that will reasonably result in mistreatment, ~~or~~ self-neglect, OR EXPLOITATION; and
- (f) Any other pertinent information.

(3) A copy of the report prepared by the county department in accordance with subsections (1) and (2) of this section shall be forwarded within twenty-four hours to the district attorney's office and ~~the~~ A local law enforcement agency. A report prepared by ~~the~~ A local law enforcement agency shall be forwarded within twenty-four hours to the county department and to the district attorney's office.

(4) No person, including a person specified in subsection (1) of this section, shall 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.

(5) Any person, except a perpetrator, complicitor, or coconspirator, who makes a report pursuant to this section shall be immune from any civil or criminal liability on account of such report, testimony, or participation in making such report, so long as such action was taken in good faith and not in reckless disregard of the truth or in violation of subsection (4) of this section.

(6) No person shall 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 neglect~~ 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 confidential, and shall not be public information.

(b) ~~Disclosure of the name and address of an at-risk adult or member of said adult's family and other identifying~~ A REPORT OF THE MISTREATMENT, SELF-NEGLECT, OR EXPLOITATION OF AN AT-RISK ADULT AND information ~~contained in~~ RELATING TO AN INVESTIGATION OF SUCH A report shall be permitted only when authorized by a court for good cause. Such disclosure shall not be prohibited when:

(I) A criminal complaint, information, or indictment based on the report is filed; ~~or~~

(II) ~~when~~ 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; OR

(III) SUCH DISCLOSURE IS NECESSARY FOR THE COORDINATION OF MULTIPLE AGENCIES' INVESTIGATION OF A REPORT OR FOR THE PROVISION OF PROTECTIVE SERVICES TO AN AT-RISK ADULT.

(c) Any person who violates any provision of this subsection (7) is guilty of a class 2 petty offense and, upon conviction thereof, shall be punished by a fine of not more than three hundred dollars.

**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 ~~investigation immediately upon receipt~~ EVALUATION of a ~~report~~ THE REPORTED LEVEL OF RISK. The immediate concern of the ~~report~~ EVALUATION shall be the protection of the at-risk adult. The ~~investigation shall~~ EVALUATION, at a minimum, SHALL include a ~~face-to-face interview~~ DETERMINATION OF A RESPONSE TIME FRAME AND WHETHER AN INVESTIGATION of the ~~at-risk adult alleged to be mistreated or self-neglected~~ ALLEGATIONS is required. IF A COUNTY DEPARTMENT DETERMINES THAT AN INVESTIGATION IS REQUIRED, the county department shall arrange for ~~its~~ AN investigation AND SUBSEQUENT PROVISION OF PROTECTIVE SERVICES to be conducted by persons trained to conduct such investigations AND PROVIDE PROTECTIVE SERVICES.

(2) ~~It is the general assembly's intent that, in each county of the state,~~ EACH COUNTY DEPARTMENT, law enforcement agencies AGENCY, county departments of social services, DISTRICT ATTORNEY'S OFFICE, and ~~any other agencies~~ 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 ~~the~~ SUCH agencies. ~~and that~~ The focus of such agreements shall be to ensure the best protection for at-risk adults. The agreements shall provide for special requests by one agency for assistance from another agency and for joint investigations. THE AGREEMENTS SHALL 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 ~~is directed to~~ SHALL create or coordinate a protection team for the respective county in accordance with rules adopted by the state board of human services, which rules shall govern the establishment, composition, and duties of the team and shall be consistent with this subsection (3).

(4) NOTWITHSTANDING ANY PROVISION OF SECTION 24-72-204, C.R.S., OR SECTION 11-105-110, C.R.S., OR ANY OTHER APPLICABLE LAW CONCERNING THE CONFIDENTIALITY OF FINANCIAL RECORDS TO THE CONTRARY, AGENCIES INVESTIGATING THE EXPLOITATION OF AN AT-RISK ADULT SHALL BE PERMITTED TO INSPECT ALL RECORDS OF THE AT-RISK ADULT ON WHOSE BEHALF THE INVESTIGATION IS BEING CONDUCTED, INCLUDING THE AT-RISK ADULT'S FINANCIAL RECORDS, UPON EXECUTION OF A PRIOR WRITTEN CONSENT FORM BY THE AT-RISK ADULT, IN ACCORDANCE WITH SECTION 6-21-103, C.R.S.



**26-3.1-104. Provision of protective services for at-risk adults - consent - nonconsent - least restrictive intervention.** (1) If ~~the~~ A county director or such director's 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 ~~in writing~~ 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 ~~the~~ A county director or 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.

(3) Any protective services provided pursuant to this section shall include only those services constituting the least restrictive intervention.

**26-3.1-105. [Formerly 26-3.1-206.] Prior consent form.** A financial institution shall offer eligible account holders, as defined in section 6-21-102, C.R.S., the option of signing a prior consent form in accordance with section 6-21-103, C.R.S.

**26-3.1-106. [Formerly 26-3.1-207] Training.** The general assembly strongly encourages training that focuses on detecting ~~financial CIRCUMSTANCES OR CONDITIONS THAT MIGHT REASONABLY RESULT IN MISTREATMENT, SELF-NEGLECT, OR exploitation consistent with the identifiers of financial exploitation stated in section 26-3.1-202,~~ OF AN AT-RISK ADULT for those persons who are urged by ~~section 26-3.1-204~~ SECTION 26-3.1-102 (1) to report known or suspected ~~financial MISTREATMENT, SELF-NEGLECT, OR exploitation of an at-risk adult. and circumstances or conditions that might reasonably result in financial exploitation of an at-risk adult.~~

**26-3.1-107. Background check.** EACH COUNTY DEPARTMENT SHALL

REQUIRE EACH PROTECTIVE SERVICES EMPLOYEE HIRED ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION TO COMPLETE A FINGERPRINT-BASED CRIMINAL HISTORY RECORDS CHECK UTILIZING THE RECORDS OF THE COLORADO BUREAU OF INVESTIGATION AND THE FEDERAL BUREAU OF INVESTIGATION. THE EMPLOYEE SHALL PAY THE COST OF THE FINGERPRINT-BASED CRIMINAL HISTORY RECORDS CHECK UNLESS THE COUNTY DEPARTMENT CHOOSES TO PAY THE COST. UPON COMPLETION OF THE CRIMINAL HISTORY RECORDS CHECK, THE COLORADO BUREAU OF INVESTIGATION SHALL FORWARD THE RESULTS TO THE COUNTY DEPARTMENT. THE COUNTY DEPARTMENT MAY REQUIRE A NAME-BASED CRIMINAL HISTORY RECORDS CHECK FOR AN APPLICANT OR AN EMPLOYEE WHO HAS TWICE SUBMITTED TO A FINGERPRINT-BASED CRIMINAL HISTORY RECORDS CHECK AND WHOSE FINGERPRINTS ARE UNCLASSIFIABLE.

**26-3.1-108. [Formerly 26-3.1-105] Rules.** The state department shall promulgate appropriate rules ~~and regulations~~ for the implementation of this article.

**26-3.1-109. [Formerly 26-3.1-106] Limitation.** Nothing in this article shall be construed to mean that a person is ~~abused~~ MISTREATED, neglected, exploited, or in need of emergency or protective services for the sole reason that he or she is being furnished or relies upon treatment by spiritual means through prayer alone in accordance with the tenets and practices of that person's recognized church or religious denomination, nor shall anything in this article be construed to authorize, permit, or require any medical care or treatment in contravention of the stated or implied objection of such a person.

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

**SECTION 3.** In Colorado Revised Statutes, **add** part 3 of article 3.1 of title 26 as follows:

PART 3  
ELDER ABUSE TASK FORCE

**26-3.1-301. Elder abuse task force - legislative declaration -**

**creation - duties - report - repeal.** (1) THE GENERAL ASSEMBLY HEREBY FINDS, DETERMINES, AND DECLARES THAT:

(a) IT IS WITHIN THE POWER OF THE GENERAL ASSEMBLY TO ADDRESS ISSUES RELATED TO PROTECTIONS FOR ELDERLY AT-RISK ADULTS;

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

(c) ISSUES RELATED TO PROTECTIONS FOR AT-RISK ELDERLY ADULTS ARE A MATTER OF STATEWIDE CONCERN AND SHOULD BE ADDRESSED BY THE GENERAL ASSEMBLY; AND

(d) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE RECOMMENDATIONS OF THE TASK FORCE CREATED IN THIS SECTION WILL LEAD TO THE IMPLEMENTATION OF A COMPLETE SYSTEM OF REPORTING OF MISTREATMENT AND EXPLOITATION OF AT-RISK ELDERLY ADULTS BY SEPTEMBER 1, 2013, SUBJECT TO THE AVAILABILITY OF SUFFICIENT FUNDING FOR SUCH IMPLEMENTATION AT THE STATE AND COUNTY LEVELS, AND THE ENACTMENT OF SUCH STATUTORY CHANGES AS MAY BE NECESSARY FOR SUCH IMPLEMENTATION.

(2) THERE IS HEREBY CREATED THE ELDER ABUSE TASK FORCE, REFERRED TO IN THIS SECTION AS THE "TASK FORCE", WHICH SHALL MEET DURING THE INTERIM AFTER THE SECOND REGULAR SESSION OF THE SIXTY-EIGHTH GENERAL ASSEMBLY.

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

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

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

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

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

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

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

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

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

(4) THE TASK FORCE SHALL CONSIST OF THE FOLLOWING MEMBERS:

(a) THE EXECUTIVE DIRECTOR OF THE STATE DEPARTMENT OR HIS OR HER DESIGNEE; AND

(b) THE FOLLOWING MEMBERS, TO BE APPOINTED BY THE EXECUTIVE DIRECTOR OF THE STATE DEPARTMENT:

(I) A REPRESENTATIVE OF A STATEWIDE ORGANIZATION OF SOCIAL WORKERS;

(II) A REPRESENTATIVE OF A STATEWIDE ORGANIZATION OF DISTRICT ATTORNEYS;

(III) A REPRESENTATIVE OF A STATEWIDE ORGANIZATION OF LONG-TERM CARE PROVIDERS FOR AT-RISK ADULTS;

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

(V) A REPRESENTATIVE OF A STATEWIDE ORGANIZATION OF BANKS AND OTHER FINANCIAL ENTITIES;

(VI) A REPRESENTATIVE OF A STATEWIDE ORGANIZATION OF LAW ENFORCEMENT OFFICERS;

(VII) A REPRESENTATIVE OF A STATEWIDE SOCIETY OF HEALTH CARE PROFESSIONALS;

(VIII) THE ATTORNEY GENERAL OR HIS OR HER DESIGNEE;

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

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

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

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

(XIII) A REPRESENTATIVE OF STATE AND LOCAL LONG-TERM CARE OMBUDSMEN;

(XIV) A REPRESENTATIVE OF A HOSPICE CARE ORGANIZATION;

(XV) A REPRESENTATIVE OF ONE OR MORE AGENCIES THAT PROVIDE NON-MEDICAL HOME CARE TO AT-RISK ADULTS; AND

(XVI) A REPRESENTATIVE OF A STATEWIDE ORGANIZATION THAT REPRESENTS COUNTIES.

(c) ALL APPOINTMENTS TO THE TASK FORCE SHALL BE MADE ON OR BEFORE JUNE 15, 2012.

(5) THE TASK FORCE SHALL SUBMIT A WRITTEN REPORT OF ITS FINDINGS AND RECOMMENDATIONS TO THE HEALTH AND HUMAN SERVICES COMMITTEE OF THE SENATE AND TO THE HEALTH AND ENVIRONMENT COMMITTEE OF THE HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES, ON OR BEFORE DECEMBER 1, 2012. UPON REQUEST OF A MEMBER OF THE TASK FORCE, SUMMARIES OF DISSENTING OPINIONS SHALL BE PREPARED AND ATTACHED TO THE FINAL REPORT OF FINDINGS AND RECOMMENDATIONS.

(6) (a) THE FIRST MEETING OF THE TASK FORCE SHALL OCCUR NO LATER THAN JULY 18, 2012. THE TASK FORCE SHALL MEET AT LEAST FOUR TIMES.

(b) MEETINGS OF THE TASK FORCE SHALL BE PUBLIC MEETINGS.

(7) THE TASK FORCE SHALL SOLICIT AND ACCEPT REPORTS AND PUBLIC TESTIMONY AND MAY REQUEST OTHER SOURCES TO PROVIDE TESTIMONY, WRITTEN COMMENTS, AND OTHER RELEVANT DATA TO THE TASK FORCE.

(8) MEMBERS OF THE TASK FORCE SHALL SERVE WITHOUT COMPENSATION AND SHALL NOT BE ENTITLED TO REIMBURSEMENT FOR EXPENSES.

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

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

**SECTION 4. 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.

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Brandon C. Shaffer  
PRESIDENT OF  
THE SENATE

---

Frank McNulty  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES

---

Cindi L. Markwell  
SECRETARY OF  
THE SENATE

---

Marilyn Eddins  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES

APPROVED \_\_\_\_\_

---

John W. Hickenlooper  
GOVERNOR OF THE STATE OF COLORADO

# Elder Abuse Task Force

## *Operating Guidelines and Procedures*

### **Meetings**

- All meetings are open to the public
- The task force will meet at least four times
- Teleconferencing will be available at all meetings
- Time will be set aside at the end of each meeting for public comment
- At the chair's discretion, public comment may also be solicited throughout the meeting

### **Members**

- Task Force members shall make every effort to attend meetings
- Proxies will ~~not~~ be allowed ~~except for~~ in unavoidable circumstances. ~~The chair will determine whether or not a proxy will be allowed.~~ PROXIES SHOULD BE SUBMITTED TO THE CHAIRS.

### **Communication**

- An email distribution list will be created and maintained and will include both members and non-members of the task force
- At least one week prior to scheduled meetings, a meeting reminder will be sent out and will include meeting minutes and any documents to be discussed at the upcoming meeting
- In an effort to have productive and informed discussions, last minute notification of references and support documents shall be avoided.

### **Decision Making**

- The task force will make every effort possible to reach consensus based decisions and recommendations. Consensus based decisions making is preferred.
- In the event a vote is necessary, only task force members will be allowed to vote
- Assuming a vote is unavoidable, a two-thirds super majority vote (12 of 17) OF MEMBERS PRESENT is required to approve decisions and recommendations

### **Final Report**

- In accordance with SB12-78, a final report is due no later than December 1, 2012.
- The author of the report will circulate draft versions to all task force members for their review and comment.
- Within reason, the author will make every effort to incorporate suggested edits and negotiate acceptable language in keeping with the task force's decisions and recommendations
- A final report – including minority reports, if any – will be submitted only upon the a ~~two-thirds super majority vote (12 of 17)~~ UNANIMOUS approval of all task force members PRESENT



Submitted in Response to

# FOOTNOTE 108

FY 2002-03 Long Bill  
HB 02-1420

Colorado Department of Human Services  
Office of Adult, Disability and Rehabilitation Services  
Division of Aging and Adult Services  
Adult Protective Services

Marva Livingston Hammons, Executive Director

October 1, 2002

# FOOTNOTE 108 ADULT PROTECTIVE SERVICES

<b>EXECUTIVE SUMMARY</b> .....	ii
<b>I. PROGRAM PURPOSE, GOALS, AND SERVICES</b> .....	1
APS PROGRAM HISTORY.....	1
STATUTORY AUTHORITY.....	2
PROGRAM PURPOSE AND SCOPE.....	2
PROGRAM DEFINITION.....	3
PROGRAM GOALS.....	3
<b>II. STATE PROGRAM ROLE</b> .....	5
POLICY DETERMINATION.....	6
PROGRAM SUPERVISION.....	6
County Program Supervision.....	6
Monitor Compliance and Program Operations.....	6
APS Team Development Support.....	7
Inter-program Coordination.....	7
Inter-program Collaboration.....	7
Coalition for Elder Rights and Adult Protection.....	8
Development of Protocols.....	9
CONSUMER INQUIRIES.....	9
TRAINING.....	9
Training Goals.....	9
Types of Training Provided by the State Program.....	10
Training Resources/Resource Limitations.....	11
MANAGEMENT AND OVERSIGHT OF AUTOMATED DATA SYSTEM.....	13
Overview.....	13
Capabilities.....	13
Limitations.....	15
<b>III. PROGRAM OVERVIEW</b> .....	18
REFERRALS.....	18
CASES.....	19
CASELOAD.....	20
INFORMATION AND REFERRAL.....	20
DEMOGRAPHIC OVERVIEW.....	23
MISTREATMENT CATEGORIES.....	24
RESPONSE PRIORITY.....	25
<b>IV. PROGRAM ENTITIES</b> .....	27
APS RELATIONSHIP WITH OTHER AGENCIES.....	27
APS ROLE VS. ROLES OF OTHER PROGRAM ENTITIES.....	29
CASE SCENARIOS.....	34
<b>V. PROGRAM FUNDING</b> .....	37
STATE PROGRAM.....	37
Four-Year APS Plan Summary.....	37
Funding Deficits.....	38
Inter-state Comparison.....	39
COUNTY FUNDING.....	39
<b>VI. SUMMARY AND CONCLUSIONS</b> .....	43

## FOOTNOTE 108—EXECUTIVE SUMMARY

The Colorado Adult Protective Services (APS) Program has been in existence since 1983. The primary purpose of the program is to intervene with or on the behalf of at-risk adults who are age 18 years and over to correct or alleviate situations in which actual or imminent danger of abuse, neglect, or exploitation exists.

Locally administrated county departments of social services provide direct APS services. Such services include, but are not limited to, receiving and investigating reports of mistreatment or self-neglect; the provision of casework and counseling services; arranging, coordinating, delivering (where appropriate) and monitoring services; protection from mistreatment; and assistance with application for public benefits, referral to community service providers, and the initiation of probate proceedings. APS is a highly networked service system that collaborates with numerous program entities such as health care, mental health, law enforcement, ombudsmen programs, victim assistance programs, housing programs and others to meet its goals of protection and safety to at-risk adults.

The role of the state is consultative, educational, preventative, supportive, and evaluative. The primary functions of the state APS program are to determine policy; provide program supervision; monitor statutory compliance; address consumer and public inquiries; provide APS training to APS caseworkers and the network of professionals involved in providing protective services; and provide management and oversight of the Colorado Adult Protective Services (CAPS) automated data system.

The APS program took approximately 6,500 reports of adult abuse, neglect, and exploitation in FY 2001-02, resulting in 4,824 open cases, an increase of 19% in cases over FY 2000-01. The growth in the State's 60 + population (those most likely to be targets of abuse, exploitation and neglect) is projected to increase from 563,269 in 2000 to 787,582 in 2010, an increase of 39.8%. From FY 2000-01 to FY 2001-02, the growth in the 60 + population was 2.3%. The increase in APS referrals in Colorado was 7.5%, which represents an increase in referrals more than three times greater than the elderly population growth.

Funding for APS programs at the county level is based in the County Administration Allocation (CAA). The CAA is used to fund food stamp fraud investigations, adult assistance grant and medical programs, food stamps, Medicaid Only, and adult protection. CAA includes the Title XX Social Services Block Grant (SSBG), general fund monies and local county funds. In FY 01-02, \$1.9 million SSBG dollars were designated in the CAA for adult protection. However, counties spent \$4,921,448 on APS.

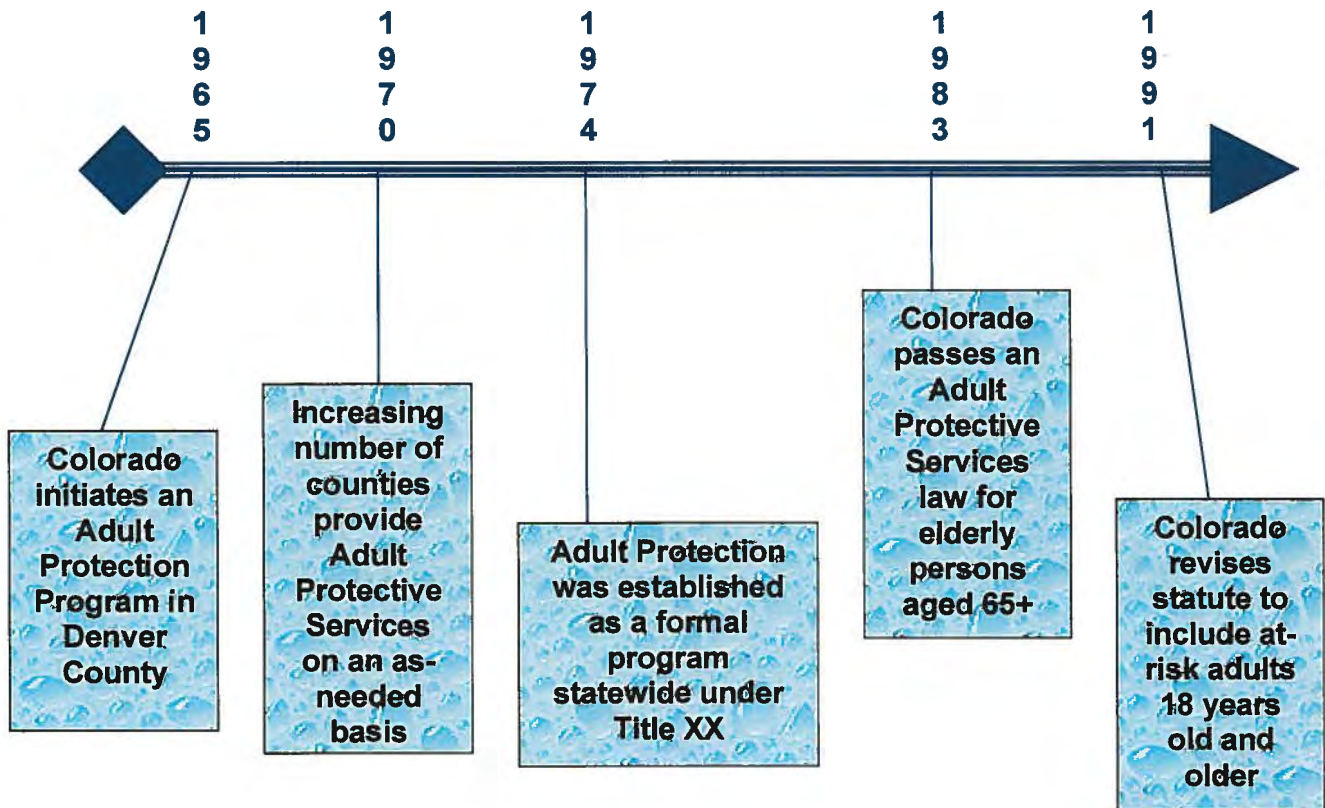
The state APS program does not have a designated funding line in the Long Bill. The state program is staffed by 2.75 FTEs, funded with Old Age Pension monies. This staffing level is inadequate to provide the necessary supervisory oversight of 64 counties. Both the state and counties programs require development of adequate infrastructures to meet the goals of protecting at-risk adults. Further, current resource limitations preclude sufficiently meeting state priorities such as APS worker training. For future consideration, it is recommended that the General Assembly establish formal funding lines in the Long Bill for the state adult protection program at an appropriate level to meet staffing and training needs.

**LANGUAGE OF FOOTNOTE 108: Department of Human Services, Office of Adult and Veterans Services, Aging Services Programs--The Department is requested to submit a plan to the Joint Budget Committee, indicating the department's role, if any, in the adult protection program. The plan should include detailed descriptions of the roles of all entities involved in this program, costs estimates for all components of the program, and sources of funds for supporting the program. The Department is requested to submit such plan on or before October 1, 2002.**

**I. PROGRAM PURPOSE, GOALS AND SERVICES**

**APS PROGRAM HISTORY**

In 1965 Colorado became one of the first states in the nation to initiate an Adult Protection Program through a grant from the Administration on Aging to the Denver County Department of Welfare. During the 1970's, an increasing number of Colorado counties provided protective services to elderly and disabled adults on an as-needed basis because there were no other private or public agencies to fill this need.



Adult Protection was established as a formal program area with the passage of Title XX of the Social Security Act in 1974. This legislation provided both federal sanctions and funding for Adult Protective Services in all fifty states. However, there were no established federal or state statutes to guide service delivery, and to date, a federal Adult Protection Program has not been established. The Title XX Social Service Block Grant (SSBG) continues to be the main source of funding for the Colorado APS program at the county level. The state APS program is formally unfunded.

Colorado passed an Adult Protective Services law in 1983. This statute provided for the voluntary reporting of abuse, exploitation and neglect of elderly persons age 65 and over to county departments of social services. Following passage of the statute, Volume 7 Regulations for Adult Protective Services were developed by a committee of county APS supervisors under the leadership of the State.

In 1991, Senate Bill 91-84, "Protective Services for Adults at Risk of Mistreatment or Self-Neglect" replaced the 1983 statute. The new law, and currently the law in effect, includes voluntary reporting of abuse, exploitation and neglect of at-risk adults age 18 and older. Under this statute, while reporting is still voluntary, county departments of social services are mandated to receive and respond to all reports of abuse, exploitation and neglect of at-risk adults, to provide appropriate services and to share reporting information and investigations with local law enforcement and district attorneys. Counties have struggled to keep up with the demand, and continue to struggle as federal Title XX funding levels lag far behind the growing number of APS referrals.

## **STATUTORY AUTHORITY**

The statutory authority for Adult Protective Services is Title 26-3.1-101, C.R.S., as amended. *No other program entity has the statutory authority to execute adult protective services.* Additional state statutes that focus on the at-risk adult population are C.R.S. 26-3.1-201-206, "Protection Against Financial Exploitation of At-risk Adults Act" and the criminal statute, C.R.S. 18-6.5-101-106, "Wrongs to At-risk Adults."

## **PROGRAM PURPOSE AND SCOPE**

The APS Program is designed to intervene with or on the behalf of at-risk adults to correct or alleviate situations in which actual or imminent danger of abuse, neglect, or exploitation exists and to utilize support systems to provide continuing safety from the incident(s) of abuse, neglect, or exploitation. At-risk adults, as defined by statute, are individuals eighteen years or older who are susceptible to abuse, neglect (including self-neglect), or exploitation *because* they are unable to perform or obtain services necessary for their health, safety, or welfare or lack sufficient understanding or capacity to make or communicate responsible decisions concerning their person or affairs.

## **PROGRAM DEFINITION**

The APS statute defines “protective services” as, “Services provided by the state or political subdivisions or agencies thereof in order to prevent the mistreatment or self-neglect of an at-risk adult. Such services include, but are not limited to:

- Receiving and investigating reports of mistreatment or self-neglect,
- The provision of casework and counseling services,
- Arranging, coordinating, delivering where appropriate, and monitoring services, including:
  - Medical care for physical or mental health needs,
  - Protection from mistreatment, and
  - Assistance with application for public benefits,
- Referral to community service providers, and
- Initiation of probate proceedings.”

## **PROGRAM GOALS**

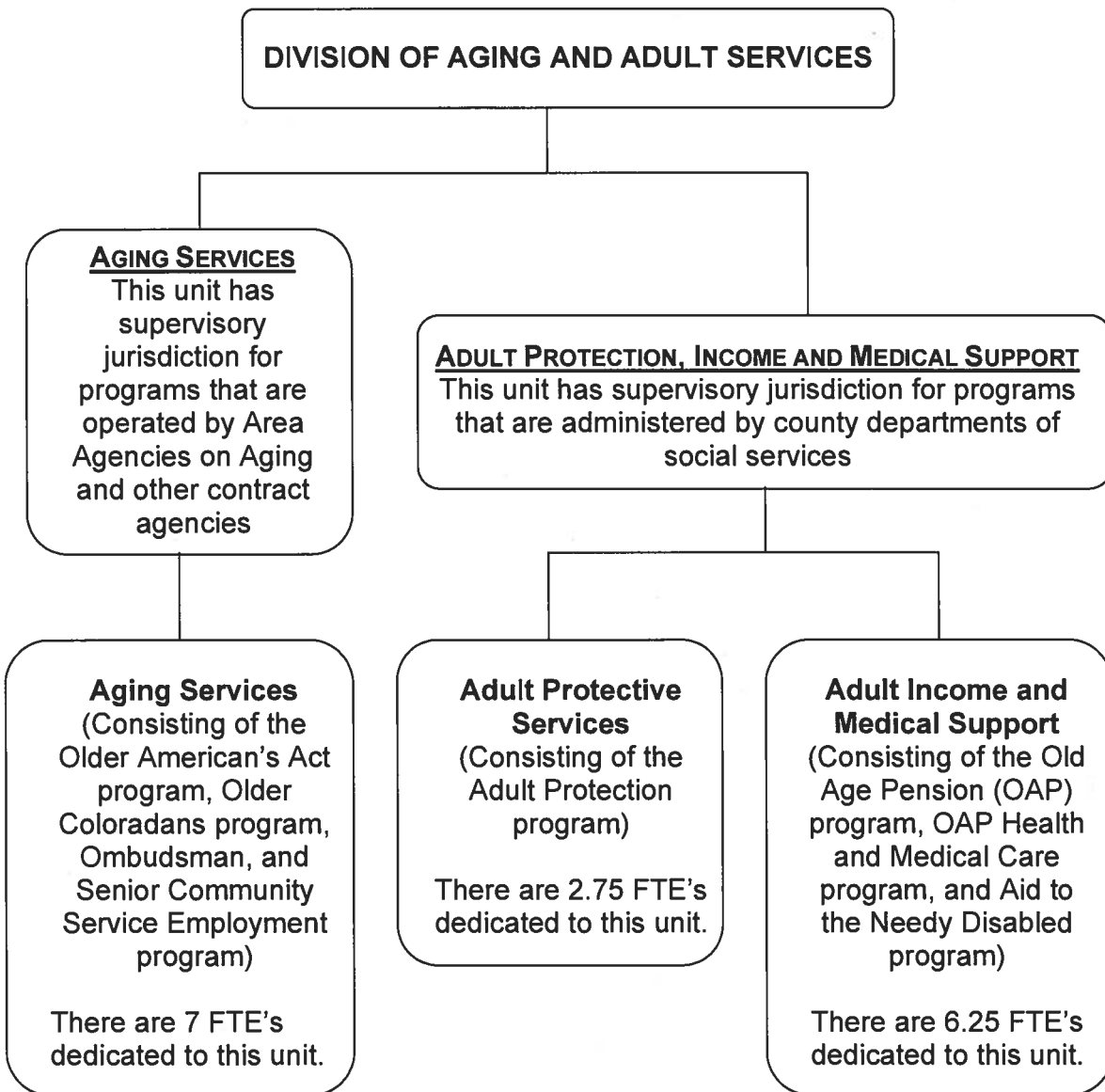
In alignment with statutory obligations and program rules, the following APS program goals have been established to:

1. Receive and investigate reports of abuse, neglect, and exploitation.
2. Provide protective services (as previously defined) to individuals who fall within the program parameters.
3. Respect the recipients of adult protective services by applying the statutory principle of “least restrictive intervention”, establishing and adhering to ethical practices, and respecting victims’ right to self-determination.
4. Increase public awareness regarding the existence, detection, prevention, and reporting process of adult abuse, neglect, and exploitation.
5. Provide adequate training for APS workers and supervisors, as well as to those professionals in the APS network that work with APS programs.
6. Seek criminal sanctions, in conjunction with law enforcement, district attorneys and the courts, against perpetrators of abuse, neglect, and exploitation of adults.
7. Promote the development of legislation and public policy that addresses the needs of at-risk adults.
8. Systematically collect and manage program data toward the development of best practices and favorable outcomes for at-risk adults.

9. Increase efficiencies and effectiveness in service delivery through inter-program and inter-agency collaboration, and through the establishment of multi-disciplinary teams.

## II. STATE APS PROGRAM ROLE

The state APS program is located within the Office of Adult, Disability and Rehabilitation Services, Division of Aging and Adult Services. Please refer to the organizational chart below for reference. The state program provides supervisory oversight of county administered APS programs. The state's role is consultative, educational, preventative, supportive, and evaluative.





## **POLICY DETERMINATION**

The state program acts on behalf of and in consultation with the counties to assess statewide program needs, establish program policy, prepare and carry statutory and rule determination/revision through the legislative process, and disseminate policy and procedural information to counties at appropriate levels through agency letters and other communication, as needed.

## **PROGRAM SUPERVISION**

Program supervision includes guidance and direction on all aspects of program operations.

**County Program Supervision:** State APS staff provides assistance to county social service agencies and collaborating professional agencies with the interpretation of state statutes, rules and regulations, and best practices in areas pertinent to at-risk adults. Statutes frequently brought into question are those dealing with guardian and conservator issues, medical, psychological, and alcohol treatment issues, and the determination of what constitutes a "crime" within the purview of adult abuse, exploitation and neglect.

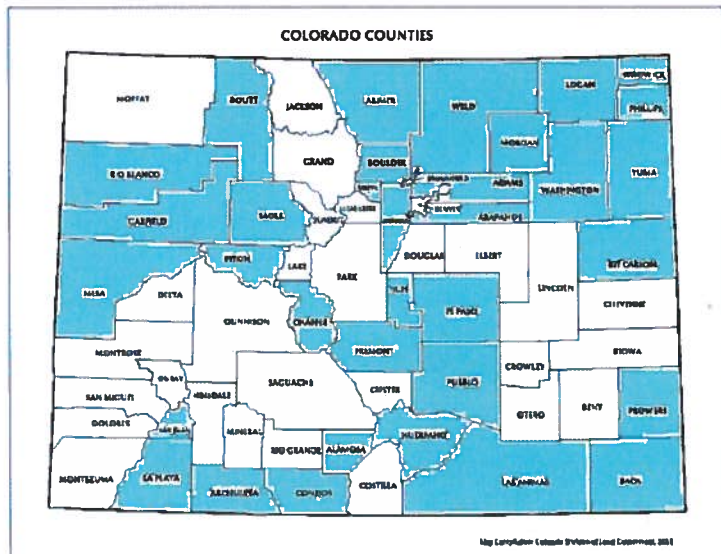
A primary forum for supervision is the bi-monthly statewide APS Supervisors' meeting. The state APS Program Administrator and staff provide national and state legislative updates, present policy issues for discussion and review, statute clarification, and procedural and training updates to this group on a regular basis. County supervisors provide feedback and give input on program and training needs, and share information from their respective programs. Supervision is also provided to workers at all other levels on a county-by-county basis and through surveys, training sessions, and the annual APS conference.

Additionally, state APS staff responds to day-to-day requests from county social service and other service agencies for assistance on issues that local agencies have been unable to resolve themselves. Very often the problems require an interpretation of statute, coordination of multiple program entities, interstate communications, and clarification of legal, jurisdictional, and program service roles.

**Monitor Statutory Compliance and Program Operations:** The state program monitors statutory compliance by tracking a focused objective through the Department's Balanced Scorecard process. Beginning in FY 2000-01 compliance with timeliness in responding to referrals within mandated timelines was monitored. In summary, based on information extracted from the Colorado Adult Protection data management System (CAPS), workers statewide responded according to state statute to "Priority 1 Referrals" (those most imminent and requiring contact within 24 hours) 85% of the time in FY 2000-01 and 94% of the time in FY 2001-02. The target goal for timely response is 100%.

Operational aspects of the APS program, such as the utilization of the CAPS data system, are monitored on a periodic basis. Refer to "Management and Oversight of Automated Data System" later in this section for detailed information regarding CAPS.

**APS Team Development Support:** The State APS program supports the development and maintenance of county and multi-county adult protection collaborative teams by providing educational and organizational materials and resources for existing and developing teams. The APS statute (C.R.S. 26-3.1-103[1]c) encourages the creation of at-risk adult protection teams to review the processes used to investigate mistreatment or self-neglect of at-risk adults, review the provision of services for such adults, encourage interagency cooperation, and provide community education about the mistreatment and self-neglect of at-risk adults. As of June 2002, there are 35 APS teams in Colorado, two of which were established in FY 2001-02. Counties with teams are shaded on the map.



**Inter-program Coordination:** The state program coordinates with other entities as needed to resolve issues for at-risk adults. Examples of such issues are closures of nursing homes and assisted living facilities, and repatriation situations. For example, when nursing facilities close, APS state staff coordinate the efforts of the health department, ombudsman program, and other involved parties, in order to ensure that residents are relocated to appropriate facilities with the least disruption possible. Repatriation situations arise when a U.S. citizen, considered to be at-risk, requires assistance in safely returning to Colorado from outside the United States. Referred individuals require special assistance in securing housing, medical, and/or psychological treatment.

**Inter-program Collaboration:** APS state staff represent the adult at-risk population on inter-program committees to address focused tasks or initiatives. The purpose of these joint or system initiatives are to improve communication between agencies; provide clarification of complementary statutory mandates; decrease potential for duplicative program efforts; identify and address service gaps; share and maximize utilization of resources; and improve coordination of response systems between agencies that directly impact quality and efficiency of consumer services to at-risk adults.

The following are three examples of inter-program participation:

- The Violence Against Women Office within the U.S. Department of Justice funded the National Clearinghouse on Abuse in Later Life to create materials such as pamphlets and videos that will assist professionals in doing safety planning with persons with cognitive limitations and memory deficits. A team of representatives from the Colorado state APS program, Alzheimer's Association, Domestic Violence Initiative for Women with Disabilities program and the Office of Behavioral Health and Housing (representing persons with traumatic brain injury) are developing the materials. The resulting resources will be distributed to state APS administrators to disseminate to programs in respective states that work with persons at-risk due to cognitive disabilities. The target date for project completion is March 2003.
- The Colorado Attorney General's Consumer Fraud Unit has established an Elder Abuse committee to address financial fraud issues facing Colorado seniors. Elder law and other attorneys and representatives of the state APS program, banking and insurance companies and others share program information and identify the need for and coordinate community education efforts on an ongoing basis.
- Initiated by state representative Kelly Daniels, a task force with state and local APS staff, attorneys, the Guardianship Alliance of Colorado, private guardians, private conservators, consumers, and others are working together to determine criteria for courts to use in monitoring guardians and conservators. The committee is also working to establish criteria and guidelines toward the development of a proposal to credential or certify guardians. The approximate target date for these accomplishments is August 2003.

**Colorado Coalition for Elder Rights and Adult Protection (CCERAP):**

CCERAP is a coalition that promotes statewide understanding of elder/adult abuse and the rights and protections available to elder and at-risk adults by:

- Educating the people of Colorado about elder rights and adult protection,
- Promoting projects and supporting laws, regulations and policies that address elder abuse issues, and
- Promoting statewide coordination and cooperation between programs and services that seek to address and prevent elder abuse.

CCERAP is made up of professionals from various legal, political, social services and aging services backgrounds. It is primarily funded by grants from the Older Americans Act funds. This organization meets quarterly and provides its members with educational programs, a quarterly newsletter, and the opportunity to share in legislative and program updates. The State APS program serves as a consultant and legislative resource for CCERAP, monitoring the activities of the

Coalition Coordinator and Steering Committee. The state also monitors the CCERAP toll free number, used as a statewide resource for information and referral of elder abuse and elder rights issues and reports.

**Development of Protocols:** State APS staff coordinates and assists in the development of inter-agency service protocols that directly effect the quality and efficiency of the care provided to at-risk adults across the state. State APS statute (C.R.S. 26-3.1-103[1]b) requires that agencies responsible to investigate mistreatment or self-neglect of at-risk adults develop and implement cooperative agreements to ensure the best protection for at-risk adults. In FY 2001-02, statewide representatives of each program developed the Adult Protection - Mental Health Protocol. Implementation and training has been provided to 40% of the counties and is continuing. Additionally, protocol development has been initiated with Developmental Disability Services, Alcohol and Drug Addiction Division, and with the Health Facilities Division of the Health Department.

## **CONSUMER INQUIRIES**

APS state staff responds to consumer calls with questions or concerns regarding the safety of at-risk adults. Issues are generally related to access of services, process for filing a report, and scope of services. In FY 2001-02, APS state staff took 285 logged APS calls, excluding those calls simply requiring a referral to a county program. (Approximately 135 of the calls came through the CCERAP toll free line.) Responses to consumer calls range from complex coordination of inter-state service providers, extensive reviews with county departments regarding appropriateness of intervention provided, or brief consultations on a multitude of issues.

## **TRAINING**

State APS staff is responsible for training curriculum development, planning and coordination of conferences and training sessions, and direct training.

### **Training Goals:**

1. To ensure that APS workers are knowledgeable and competent in APS responsibilities as identified in C.R.S. 26-3.1, 101-106.
2. To ensure that situations reported to county departments are correctly investigated, and that APS responses are made according to Volume VII guidelines.
3. To ensure that the appropriate services are obtained and coordinated with other community resources in order to reduce the level of risk of abuse, neglect, and exploitation of the at-risk adult.

4. To increase the efficient use of limited resources by improving coordination among community agencies working with APS clients.
5. To raise public awareness of the prevalence of abuse, neglect and exploitation of at-risk adults (vulnerable elderly and people with disabilities) in order to increase the likelihood of a proactive, community participatory approach to detect, refer and facilitate professional intervention into cases of adult abuse.

**Types of Training Provided by the State Program:**

1. *The APS Annual Conference* provides training to County APS staff, field administrators, and a wide array of professionals involved in protection of at-risk adults, such as attorneys, law enforcement, and providers of mental health services. Recent annual conferences have provided training and resource information to between 180 and 240 attending professionals per conference. Training is provided in such critical APS areas as:
  - a. Basic training for APS county staff;
  - b. Financial exploitation;
  - c. Supervisory skill development;
  - d. Working with diverse populations;
  - e. Ethical decision making;
  - f. Developing collaborative community teams;
  - g. Legal adult protective services issues, including guardianships; and
  - h. Removing barriers to successful prosecution of perpetrators.
2. *Regional Trainings* are provided each fiscal year in as many as four different geographical regions of Colorado. The regional trainings are used to deliver essential information about adult protection issues and the at-risk adult population served to smaller, sometimes isolated groups of counties. An average of 40 professionals attend each regional training session. The training agendas used provide comprehensive coverage of APS critical topic areas, such as an overview of the state APS statute, Rules and Regulations, defining, recognizing, and assessing adult abuse, neglect and exploitation, and guardian/conservator issues. Regional training may also focus on building specific skills, such as learning to work collaboratively with other community service organizations, or developing creative solutions to unique concerns and issues of the respective communities.
3. *Community Education* is provided upon request at various senior events, such as senior fairs, or to organizations servicing seniors or persons with disabilities, such as the Denver Victims' Assistance organization. The focus of education generally addresses prevention strategies, or information on defining, identifying and reporting of the abuse, neglect and exploitation of at-risk adults.

4. *Professional Training* is provided to various groups at conferences, seminars, college classes, and targeted professional groups. The focus of such training often includes definition of the at-risk adult population and the abuse categories, process for reporting mistreatment, and best methods for collaborating services among providers. Examples of training in the past year include presentations at the annual Ombudsman Conference and Child Welfare Conference.
5. *Inter-disciplinary training* among APS and other professionals is essential for effective and efficient service integration. An example is the service protocol developed in FY 2000-01 between APS and Mental Health Services (MHS) to improve collaboration of services for persons who meet the "at-risk" criteria and have a diagnosed mental illness. Training on this service protocol has been provided to over 150 professionals from both APS and MHS from 25 counties in FY 2001-02. Training sessions are regional. These trainings enlist local professionals as trainers to enhance effective collaboration between local service providers. Training on this particular protocol is continuing.
6. *Competency based training* is being developed by APS staff, county social services directors, and other specialists to provide consistent, standardized training in areas of competence necessary for APS workers and supervisors. These areas include: laws and regulations, data collection, assessment, investigation, guardian/conservator/Power Of Attorney issues, and ethical decision-making. Competency training will be used to orient APS workers and supervisors to their protective roles, and to update and introduce new skills to seasoned workers. This computer based training continues to be developed and will be released during FY 2004-05.

#### **Training Resources/Resource Limitations:**

***Funding:*** The State APS program relies on an annual budget of approximately \$25,000 for training. This funding must support all training implemented by the state APS program for county agency staff and collaborating professionals. This funding is 100% Federal monies from Title XX grants that are allocated by the Department's Office of Staff Development. The sole purpose of the funding is to provide regional training and the annual conference as described in this document. No other training resources are allotted from any other sources. The APS allocation is inadequate to meet statewide APS training needs. The approximate \$25,000 represents only 19 percent of the \$133,000 projected training budget to meet APS training requirements of Colorado's 197 APS workers.

**Staff shortage:** The very limited staffing of the state APS program precludes the development, coordination and execution of training at necessary levels. The 2.75 FTE that comprise the State APS unit is insufficient to provide the scope of required training. County staff do not provide their own APS training. County APS supervisors often oversee the APS program with little or no knowledge or experience in basic and essential APS issues.

**Gaps in Training:** Insufficient training to all levels of APS staff is a critical limitation of the APS program. Training APS staff has been identified as a number one priority need in a statewide survey in 2000 in which 100% of the counties participated. The Colorado Adult Protective Services Steering Committee also identified training as a top initiative in the development of its four-year strategic plan. This committee was established in FY 2000-01 to determine and oversee a plan to further develop the APS program with an emphasis on standardizing processes across counties and building partnerships among complementary programs. Additionally, a survey sent to APS supervisors in 2002 indicated that the training content for new and longer-term workers, as well as supervisors, varies in content, and that the need for APS training, particularly in the area of investigations, is critically needed.

Training professionals about elder abuse is extremely labor intensive because of the sheer number who need training – not only APS workers, but health & medical professionals, staff of financial institutions, law enforcement, court personnel, medical examiners, counselors, and many others. While funding is allocated in the Long Bill for Child Welfare staff training, no funds are allocated in the Long Bill for APS staff training.

In very general and limited circumstances, such as training professional groups and the community about signs and symptoms of mistreatment and reporting processes, and training staff about basic protective services considerations, Child Welfare and Adult Protection have the potential to integrate training efforts. However, it is far from the case that the training for each of these populations can be the same. In particular, the adult disabled and senior population differs dramatically from the child population with regard to statutory mandates; community resource programs; the roles and rights of the clients and their families in addressing protective services issues; diverse service networks of protection with respect to child and adult issues (for example, schools versus nursing homes); and the unique interventions and practices utilized with the child and adult populations. State funding earmarked specifically for APS training will ensure quality protective services for the increasing numbers of at-risk adults in Colorado.

Formal training and preparedness for new staff is especially significant to the safety of the clients who receive APS services and must be ongoing to address staff turnover. There are few professional schools that offer coursework or specializations in adult protective services, so there is even greater responsibility

for state program staff to provide training. Also, training is necessary from trusted sources that understand APS informational needs and limitations so content can be integrated in a way that builds upon and is compatible with previous training. Interactive training that is provided in the context of communities is also an important consideration. Adult Protection workers are required to address complex, high-risk situations. This requires excellent assessment and decision-making skills and the ability to coordinate numerous aspects of investigations and the arrangement of services.

## **MANAGEMENT AND OVERSIGHT OF AUTOMATED DATA SYSTEM**

### **Overview**

The State APS program manages and oversees all functions related to the automated Colorado Adult Protection (data management) System (CAPS). CAPS was implemented in October 2000. CAPS is a subprogram of the Client Oriented Information Network (COIN) and will be used until the APS component is replaced by the Colorado Benefits Management System (CBMS) in the near future (projected FY 2003-04).

State staff continues to evaluate the usability of the system, address user needs, and develop enhancements to data collection, functionality and program edits in collaboration with Information and Technology Services. State staff also provides training and technical assistance to county caseworkers regarding system access and utilization, interpretation of data fields, and completion of screens.

All county departments of social services are required to use the CAPS automated system to enter information on APS referrals, information and referral (I&R) phone calls, and ongoing open cases. This information is entered directly into CAPS by county APS staff and is immediately available online to authorized staff. Hard copies may be printed when needed.

### **Capabilities**

CAPS houses information at the individual client level with appropriate security to prevent unauthorized access. Aggregate information can be extracted on specific data elements contained in the cases/referrals and is available for each county and the state as a whole through an on-line reports generation function. County staff is also able to access the CAPS database to search for data on overall caseloads or on specific clients or alleged perpetrators. For example, some of the data lists that can be generated are:

- Active referrals or closed cases by worker or by county: These lists provide a quick overview of the caseload in a particular county or the caseload of a particular worker within a county.



- **Particular client information:** By entering the client's name, Social Security number or date of birth, workers can determine if there is a past history on a client and review what actions were taken for a particular client in the past.
- **Alleged perpetrator information:** It can be determined if a particular alleged perpetrator has been named in any other case since the inception of CAPS. This information is useful to the worker in making decisions on how to proceed and what other agencies may need to be involved in the case.

The online reports that are available to county supervisors and state staff provide consolidated, detailed data on all referrals, I&R's and cases that have been entered into the CAPS system since its inception. These reports can generate data for a single county or statewide data for any specified time frame needed. Below is a listing of reports available:

- *Referral Counts Report:* Shows the number of referrals made to a single county or statewide over a specified time frame. It also gives us the number of I&R's that county workers handle in that same time period. It further splits out the referrals by the mistreatment category (neglect, exploitation, or abuse and more specifically, whether the neglect is deemed as self-neglect or other, financial exploitation or other, and physical, sexual or self-abuse).
- *Case Count Report:* Shows the number of on going, newly opened and newly closed cases in any given time frame for a single county or for the state as a whole. It also provides information on the length of time closed cases were open. For example, from July 1, 2001 to June 30, 2002 there were 2930 cases closed. Of those cases, 79 had been open for five years or longer, 1920 had been open for 31-90 days, and so forth.
- *Client Demographics Report:* Provides information on gender, age range of clients, ethnicity and living arrangements.
- *Alleged Perpetrator Demographics Report:* Includes gender and age range of the alleged perpetrator, and the relationship of same to the client.
- *Assessments Counts Report:* Provides the number of assessments that have been done in any particular time frame along with details of the mistreatment categories (exploitation, abuse or neglect). This report can be further delineated to show the risk factor (immediate, preventative or needs further assessment), and whether the report of

abuse, neglect or exploitation was substantiated, unsubstantiated or inconclusive.

- *Services Counts Report*: Tracks the variety of services that a client may need, and the total number of clients needing each service over a specified time period. This report further indicates how many clients have a particular service in place, refused the service, or whether the service is unavailable in their area.
- *Agency Referral Counts Report*: Indicates the number of referrals and cases that were referred to another agency for assistance and the number of clients referred to APS from other agencies.
- *Referral Received Date vs. Client Contact Date Report*: Determines the number of cases that are seen within specified periods of time (same day, one day, 5-10 days, and so forth) from the time of the referral. This enables county supervisors and state staff to determine if caseworkers are meeting statute and rules requirements for response times.
- *Assessments Due Report*: Lists those clients who are due for a six-month review. The report indicates the client's case number, client's name, the date the assessment is due (30 days prior to the assessment due date) and, if the assessment due date is past, the number of days the assessment is past due.

### **Limitations**

The CAPS system was developed and implemented without extensive field-testing in order to take advantage of a funding opportunity that was time and budget limited. Training on CAPS was provided in FY 1999-00 to all caseworkers statewide in a one-time session. This training addressed basic data entry instructions but did not focus on critical definitions of key terms or categorical definitions necessary for collecting sound data. Funding and state staff are lacking to provide additional training to improve consistencies in interpretation and data entry or any mechanism to train workers. In small and medium sized counties, it is often the case that the only training available for a new worker is to be "walked through" the process by state staff via telephone as no one at the county level may have knowledge of the CAPS system. Also, while all counties are required to use CAPS for APS data entry, many of the available fields for data were initially designated as "optional." System edits to increase the range of mandatory fields are being implemented by October 31, 2002. Further, an instructional guidebook developed at the onset of CAPS implementation is obsolete. However, a CAPS user's manual is being developed and is expected to be complete prior to the end of FY 2002-03.

The CAPS system does not easily lend itself to tracking program outcomes. While mistreatment categories, risk factors and outcomes are indicated in the assessments screen of CAPS, the rating codes used are subjective. Initial assessments indicate risk to be "immediate", "preventative", or "needs further assessment". Outcomes (after investigation and intervention, if appropriate) are indicated as "risk reduced", "risk continues", "risk increased", "unfounded" or "undetermined". A more objective and measurable scale would better reflect the outcome of APS services and intervention. For example, an initial assessment indicates a risk of 8 on a scale of 1-10. Following intervention, the risk level is 2, a decrease in risk level of 60%. Such changes require significant design, programming and conversion costs. Further, the usefulness of historic data or comparative data is compromised by changes if not normalized or retro fitted to the new coding scales. Additionally, CAPS change controls must compete with all other COIN programming requirements and budget limitations within APS as well as ITS.

CAPS is a fluid system in that data initially entered on referrals or cases can be changed at any time, and histories are not kept. That is, if a caseworker changes information in a referral or case, there is no record of the initial information that was entered into the system. Therefore, data has the potential to change daily, even if using the same time period from which to draw data. Additionally, caseworkers have been known to enter data into CAPS as many as six months after closing a referral or case. This can significantly skew the data.

This limits interpretation of data to "what it looks like today" which may not be what it looks like tomorrow, or what it looked like yesterday. For comparing data over time, greater caution must be applied to data interpretation. For example, the June 2002 data as extracted from CAPS on July 15, 2002 may look very different than June 2002 data as extracted on October 15, 2002. Likewise, when comparing to June of the prior year, 2001, the data on July 15, 2002 may be different from the data extracted for June 2001 when originally extracted on July 15, 2001. We must rely on monthly extracts and specific point-in-time comparisons.

A CAPS focus committee of state and county APS staff has been working together since September 2001 to address data integrity issues of the CAPS system. The committee has accomplished several objectives toward the goal of maximizing the usability of the CAPS system and improving the reliability and validity of data. Five major achievements are in the process of being implemented in counties throughout the state:

1. Definition of key terms (example I&R, referral and case) have been standardized;
2. Expected timelines for data entry have been established;

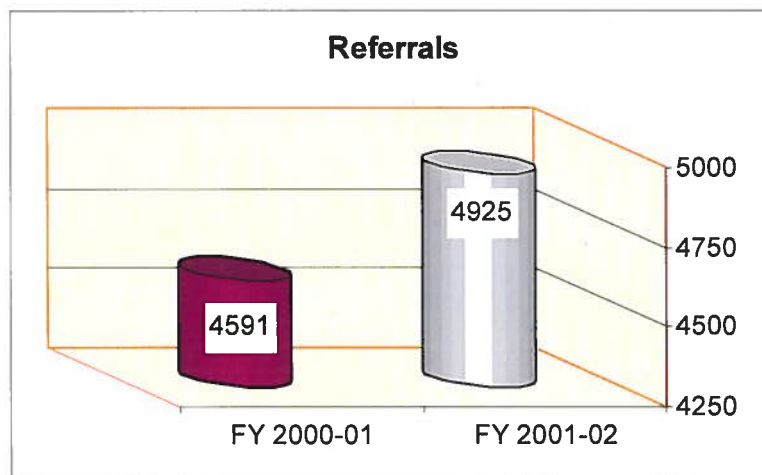
3. Definitions of response priorities to determine the response time for conducting investigations have been standardized;
4. The range of fields specified as mandatory fields for completion have been expanded; and
5. Numerous change controls have been implemented to expand the capabilities of the system (for example, adding additional choices to drop down boxes in screens).

### III. PROGRAM OVERVIEW

Salient aspects of the APS program are described below.

#### REFERRALS

The number of APS referrals has increased from 4,591\* in FY 2000-01 to 4,925 in FY 2001-02, an increase of 8%. Systematically collected trend data for APS referrals in Colorado is unavailable prior to FY 2000-01.



[\* Previously reported referral total for FY 2000-01 was 5019. However, with the addition in FY 2001-02 of the category of Information and Referral (I&R) 428 of the previously reported referrals were actually entered into the CAPS system as I&R's. Therefore, the referral count for FY 2000-01 has been revised to reflect this change so that data comparison for this and future years can be accurately trended and compared.]

The incidence and prevalence of adult abuse, neglect, and exploitation is not known. However, the 1998 National Elder Abuse Incidence Study, one of the most comprehensive and most recently conducted national scale studies, estimates that for every elder abuse report made, an additional five (5) go unreported. This study does not include self-neglect as a form of mistreatment, nor does it include disabled adults under the age of 60 years. Thus, the under reporting of adult mistreatment in Colorado may be significantly greater.

Additionally, according to reports from the National Center on Elder Abuse, during the period from 1986 to 1996, there was an increase of 150% in reports to APS agencies of abuse to elders age 60 and over. This lengthy study can be viewed in its entirety at [www.aoa.dhhs.gov/abuse/report](http://www.aoa.dhhs.gov/abuse/report). During this same ten-year period, the elderly population 60 years and older increased by 10%. The rate of referrals, and perhaps the incidence of abuse and neglect, is increasing at a proportionally higher rate to the increase in the elderly population.

Based on Colorado Population Projections (Demographics, Colorado Department of Local Affairs, 2002), the growth in the State's 60 + population (those most likely to be targets of abuse, exploitation and neglect) is projected to increase from 563,269 in 2000 to 787,582 in 2010, an increase of 39.8% and more immediately, by 9.1% from 2002 (588,246) to 2005 (641,839). From FY 2000-01 to FY 2001-02, the growth in the 60+ population was 2.3%. The increase in APS

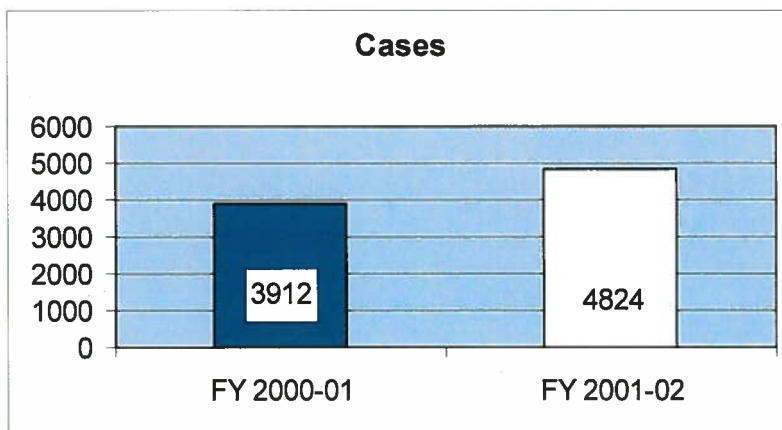
referrals in Colorado was 7.5%, which represents an increase in referrals more than three times greater than the elderly population growth.

In addition to increasing numbers of adults at risk and in need of protection that may be correlated with population growth, several other factors may contribute to the increase in referrals in Colorado. Some reasons include the increased utilization of the CAPS system, partly due to the State's targeted goal to increase data entry efforts, increased training and technical assistance to county workers and supervisors, and an increased awareness of Adult Protection concerns by the public and collaborating agencies.

It is difficult to reliably compare the incidence, as well as several other factors of adult mistreatment, in Colorado with other states. When comparing the number of APS referrals in Colorado with states similar in population size (Kentucky, Louisiana, South Carolina, and Alabama), several variables are encountered that yield comparisons as unreliable. One factor is that states vary greatly regarding the parameters of the population covered by their statutes. For example, some states limit protective services to the population of elder persons (also defined differently by states), exclude the category of self-neglect as a mistreatment category (which is included in the Colorado program), or include emotional and psychological abuse as a mistreatment category (which is excluded from the Colorado program). Another factor is that some APS programs are combined with other program entities, such as with Domestic Violence Services, with no delineation among reports between programs. Also, the terms "report" and "referral" vary widely among states and further, within state regions and jurisdictions. Finally, one additional factor to consider is that *Colorado does not require by statutory authority the reporting of adult mistreatment*, and thus, may have a lower rate of reporting. In addition to Colorado, five (5) other states do not have mandated reporting. They are North Dakota, South Dakota, New Jersey, New York and Wisconsin.

## CASES

All referrals that result in a face-to-face investigation become a case. In FY 2000-01 there were 3,912 active APS cases and in FY 2001-02, 4,824 cases, an increase of 23.5%.



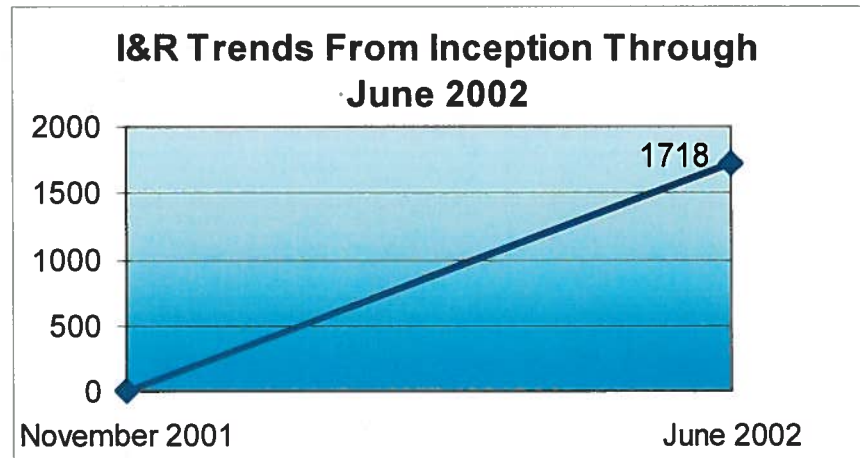
## CASELOAD

During FY 2001-02, there were 4,824 open cases, an increase of 23.5% over FY 2000-01 (3,912 cases). The average ratio of cases per worker is 31:1. The nationally accepted caseload standard for this program is 25 cases per FTE per month. In Colorado, the recommended standard caseload ratio for both Child Welfare and Adult Protection is 17:1. This recommendation is based on a casework/caseload standards study conducted in 1989 by a statewide inter-program committee comprised of Child Welfare, Adult Protection, Adoption and Child Foster Care representatives. This extensive study, using a Delphi methodology, detailed casework practice expectations based on an analysis of specific categories of casework activities for which caseworkers computed time studies over the course of one year. The ratio of 17 cases per worker for both Child Welfare and APS caseworkers is also published as the caseload standard in the most recent department budget instructions.

## INFORMATION AND REFERRAL (I&R)

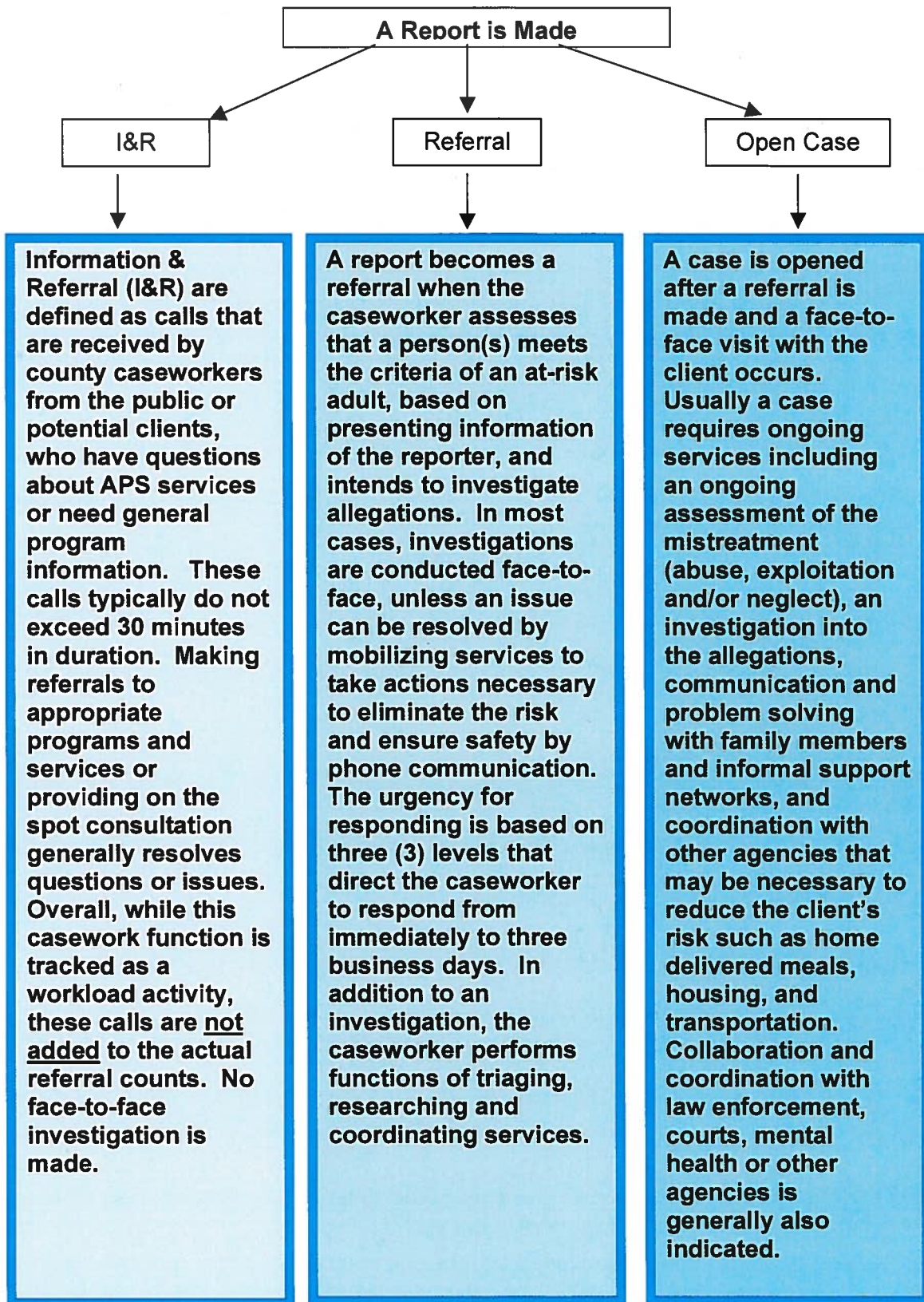
In addition to referrals and cases, caseload volume includes a previously undocumented (until November 2001) caseload function, that of "information and referral" (I&R). APS supervisors and caseworkers estimated that up to 20% of their time is spent on this function. An I&R is an inquiry to APS from any source that pertains to APS related issues but does not meet the criteria of a person at-risk in need of protective services.

This chart shows how I&R input into the CAPS system is increasing as county caseworkers are trained and gain an understanding into the importance of documenting time spent on the I&R function.



The following page illustrates the continuum of services within APS and a brief description of an I&R, Referral and Case.







Following is a brief example of the three types of services.

### I&R

A man from another state calls looking for information that will assist him in placing his 85 year-old mother in a reliable, well-run nursing home in Colorado. He is given a list of available nursing homes in his mother's county and then referred to the Department of Health for facility inspection and complaint record information.

### Referral

A nurse from a home health agency reports that she made an initial visit to an 85-year-old client and found the client and home to be very unkempt. The client did not have prescriptions filled or nutritional food in the house. It appeared that the client was cognitively unable to oversee her own medication administration. The intake worker believes this may require APS intervention and assigns a worker to investigate.

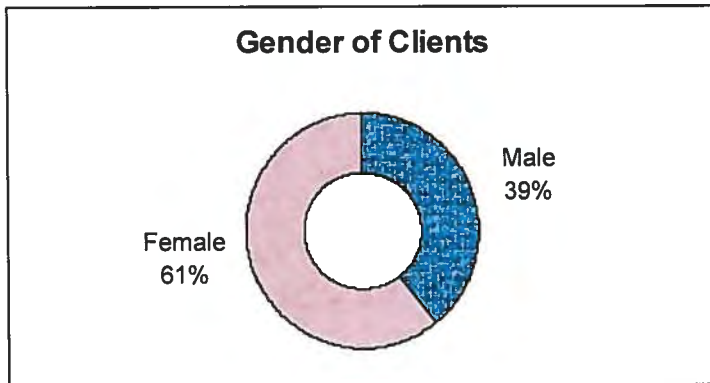
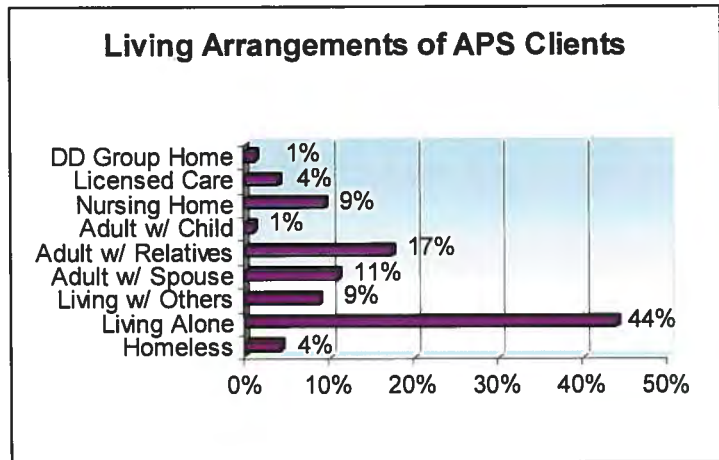
### Case

The APS worker assigned to the referral makes a visit the following afternoon with the client's consent. The presenting facts of the referral are substantiated and further assessment reveals that the client has no family or support system to assist. The case is opened and the worker begins coordinating services the client needs, such as homemaker services and home delivered meals.

## DEMOGRAPHIC OVERVIEW

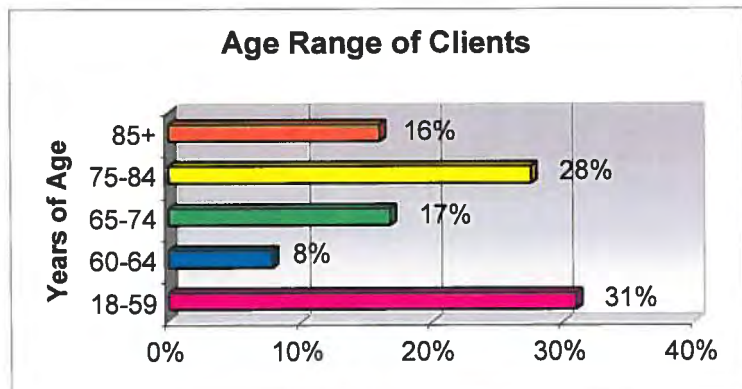
It is important to note that gender, age and living arrangements are optional fields in the CAPS system and represent data recorded on approximately 17.5% of the cases. As mentioned earlier, edits to the CAPS system are being implemented to require these as mandatory fields by October 31, 2002. *Please note: All data shown in this section is for FY 2001-02.*

As indicated by this chart, the majority, by far, of APS clients are living alone at home, with 82% of persons living in their own homes or the residences of others and 14% living in nursing homes or other community based centers.



Nearly 2/3 of the APS referral population is female.

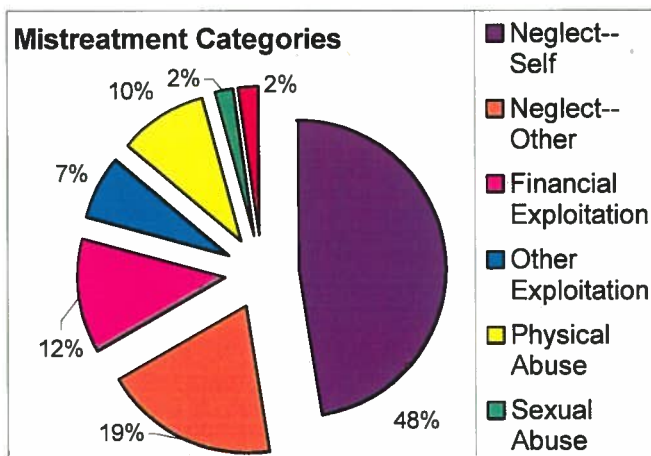
68% of APS clients are over the age of 60. Disabled clients under the age of 60 represent 32% of the APS referral population.



## MISTREATMENT CATEGORIES

Referrals are delineated by several main categories of mistreatment:

- **Physical abuse** includes slapping, hitting, restraining or otherwise harming a person.
- **Sexual abuse** includes any unwanted physical (sexual) contact or advances.
- **Self-abuse** includes deliberate behavior to inflict physical abuse upon oneself.
- **Self-Neglect** includes a refusal to or an inability to eat or bath regularly, take medications at appropriate intervals, seek medical attention when needed, maintain a clean living area, or make reasonable, rational and sound judgments and decisions.
- **Neglect by others** includes intentional or unintentional neglect by family members, homemakers, home health aides, or others who are responsible for the care of the at-risk adult. The closing of a facility that renders persons without care arrangements also falls under this category.
- **Financial Abuse** includes the misappropriation of funds by a family member or other person, or convincing an at-risk adult to make inappropriate purchases or cash gifts, telemarketing sales or sweepstakes promotions and scams.
- **Other Exploitation** includes undue influence by a friend or relative who uses their relationship to influence the at-risk adult to do something they would not ordinarily do, such as provide rent-free housing or loan their car.



This chart shows the percentage of referrals in each mistreatment category.

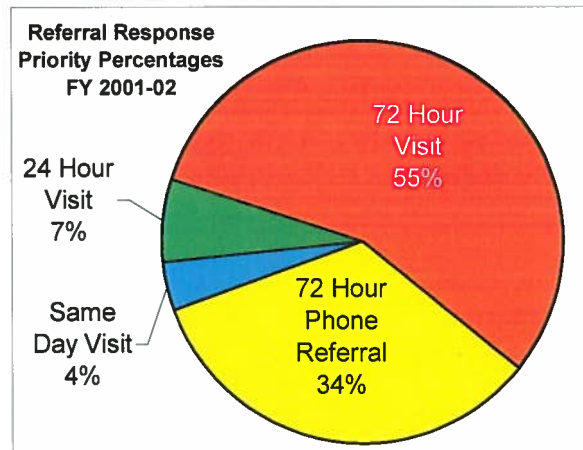
## RESPONSE PRIORITY

The APS worker determines the Response Priority for each referral based on the information that has been gathered from the person making the referral. The caseworker makes the decision based on his/her training and experience with APS cases. There are four levels of priority:

- **Level 1—Emergency.** The worker will meet with the client face-to-face the same working day. *Example: A call comes in from the police department. An 81-year-old female was found walking down a street, frequently falling. She was oriented to herself only. The woman was taken to the E.R. but the hospital will not admit her. APS assistance is requested to assist in determining the woman's identity, where she lives or to find a place for her to live. Services provided will likely lead to the county pursuing a temporary emergency guardianship and placing the woman in a nursing facility until the range of facts surrounding the situation can be determined and a permanent disposition determined.*
- **Level 2—Urgent.** The worker will meet with the client face-to-face within 24 hours of receiving the referral. *Example: A hospital social worker contacts a county APS program concerning a 42-year-old man who is about to be discharged after a brief hospitalization for dehydration. This gentleman is primarily bed bound with advanced multiple sclerosis and resides with a live-in caregiver. The man appears to have cognitive deficits and it is unclear whether he has the capacity to make appropriate decisions regarding his care. The man had been hospitalized several times in the past year for problems that are consistent with poor nutrition and substandard care.*
- **Level 3—Assistance Needed.** The worker will meet face-to-face with the client within three working days. *Example: A 90 year-old female who was recently hospitalized for a broken hip reports that she has recently relocated here with her friends from Nevada. Her only income is \$1,300 a month from social security and she states that she gives it to her friends. Her friends have promised her that she will never have to go to a nursing home; however, she is requesting in-home assistance, as they are only able to offer occasional assistance. She has food and shelter. The APS worker arranges for the county eligibility technician to meet with this lady to assess her eligibility for in-home services and the level of services that will be most helpful to her. Finally, the possibility that this client is being financially exploited will be further investigated.*
- **Level 4—Telephone Assistance.** The worker will contact the client, via telephone, within three working days. The worker will be able to

resolve the client's needs through referral to collaborating agencies or other means without actually meeting with the client. A priority 4 referral is not classified as an I&R because the priority 4 referral is much more time consuming, usually taking anywhere from two hours to 10 hours to resolve. *Example: A daughter calls regarding her mother who is 80 years old and lives alone. Her mother is writing checks to any solicitors or sweepstakes. Her mother is resistant to family assistance with finances. The daughter is the mother's Power Of Attorney. She also is interested in Medicaid and in-home services for her mother. Conservator and payee options were discussed and she is directed to necessary sources to get these things done. She is also referred to Home and Community Based Services for in-home care. All information is discussed over the phone.*

This chart shows the percentage of each Response Priority for FY 2001-02.



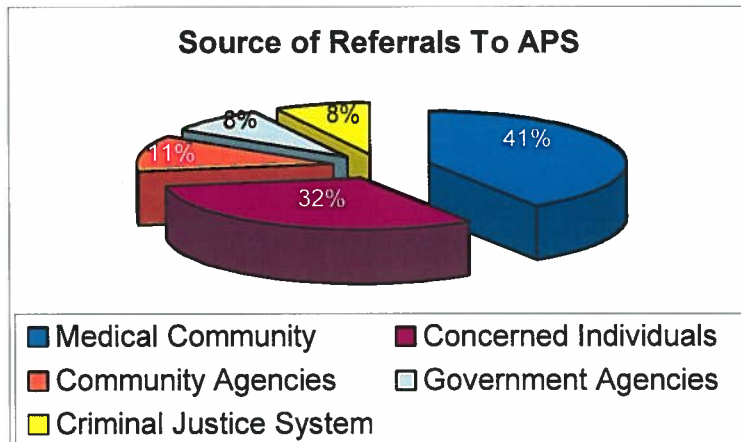
## IV. PROGRAM ENTITIES

### APS RELATIONSHIP WITH OTHER AGENCIES

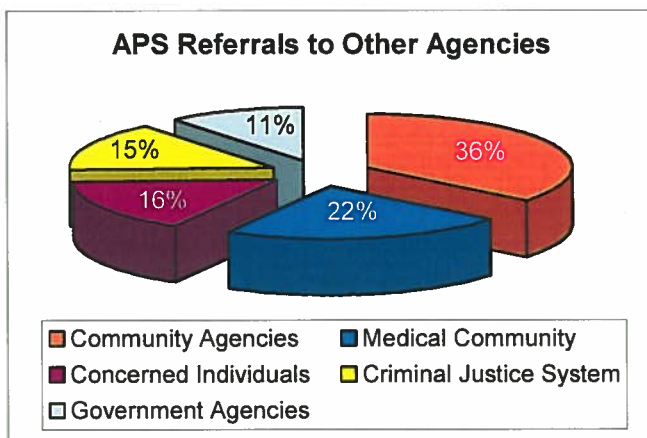
APS is a highly interactive collaborative program. Referrals to Adult Protection come from many sources. Once involved in an APS case, the APS caseworker may refer the client to any number of sources for assistance. The APS worker often coordinates many different services for one client in order to reduce a client's risk as much as possible. The following table illustrates the number and source of referrals to and from the APS program. *Please note: All data shown in this section is for FY 2001-02.*

There are five major groups that make referrals to Adult Protection and with whom APS workers collaborate with on behalf of their clients. These are: the medical community, community agencies, the criminal justice system, concerned individuals and government agencies.

This chart indicates the percentage of reports APS receives from each of these five groups.



APS workers often coordinate services for clients with other agencies and groups in the community.



This chart shows the percentage of referrals made to the five main groups with which APS collaborates.



**Referrals Made TO APS**

(By Most Frequent Referral Source)

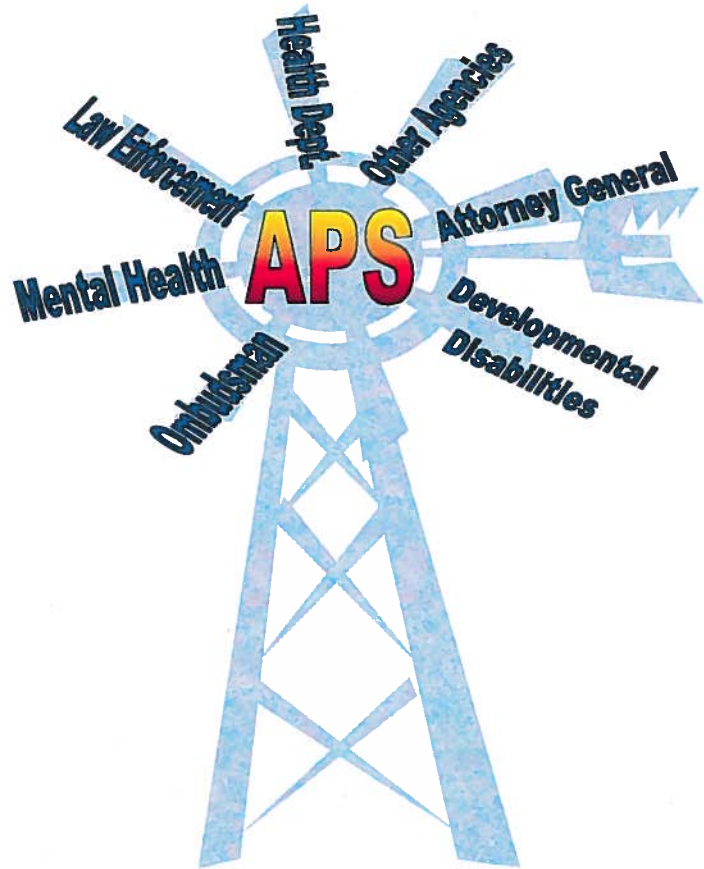
**Referrals Made FROM APS**

(By Most Frequent Referral Source)

<b>Medical Community</b>	<b>1635</b>	<b>40.7%</b>	<b>Community Agencies</b>	<b>504</b>	<b>36%</b>
Hospital	534	13.3%	Mental Health	143	10.2%
Nursing Home	347	8.6%	Area Agency on Aging	90	6.4%
Home Health Agency	310	7.7%	Other Community Agency	81	5.8%
Other Medical Professional	278	6.9%	Developmental Disabilities	78	5.6%
Physician	125	3.1%	Single Entry Points	45	3.2%
Health Department	30	0.7%	Substance Abuse System	20	1.4%
Ombudsman	11	0.3%	Domestic Violence Agency	18	1.3%
			Clergy	8	0.6%
<b>Concerned Individuals</b>	<b>1288</b>	<b>32.1%</b>	Facility Relocation	8	0.6%
Family Member	439	10.9%	School	5	0.4%
Other Individual	376	9.4%	Financial Institution	5	0.4%
Other	150	3.7%	Housing Agency	3	0.2%
Self	135	3.4%			
Friend/Neighbor	123	3.1%	<b>Medical Community</b>	<b>315</b>	<b>22.4%</b>
Anonymous	64	1.6%	Home Health Agency	88	6.3%
Landlord	1	0.0%	Nursing Home	62	4.4%
			Other Medical Professional	46	3.3%
<b>Community Agencies</b>	<b>461</b>	<b>11.5%</b>	Physician	43	3.1%
Developmental Disabilities	143	3.6%	Ombudsman	40	2.8%
Other Community Agency	134	3.3%	Hospital	20	1.4%
Mental Health	54	1.3%	Health Department	16	1.1%
Area Agency on Aging	44	1.1%			
Single Entry Points	28	0.7%	<b>Concerned Individuals</b>	<b>226</b>	<b>16.1%</b>
Financial Institution	17	0.4%	Other	124	8.8%
Clergy	16	0.4%	Family Member	69	4.9%
Substance Abuse System	11	0.3%	Other Individual	17	1.2%
School	6	0.1%	Friend/Neighbor	12	0.9%
Domestic Violence Agency	6	0.1%	Self	3	0.2%
Housing Agency	2	0.0%	Landlord	1	0.1%
Facility Relocation	0	0.0%	Anonymous	0	0.0%
<b>Government Agencies</b>	<b>323</b>	<b>8.0%</b>	<b>Criminal Justice System</b>	<b>206</b>	<b>14.7%</b>
Within County DSS	201	5.0%	Law Enforcement	120	8.5%
Other Govt. Agency	80	2.0%	Legal Services	41	2.9%
Other County DSS	42	1.0%	District Attorney	35	2.5%
Animal Control	0	0.0%	Court	10	0.7%
<b>Criminal Justice System</b>	<b>307</b>	<b>7.6%</b>	<b>Government Agencies</b>	<b>154</b>	<b>11.0%</b>
Law Enforcement	254	6.3%	Within County DSS	94	6.7%
Court	34	0.8%	Other Govt. Agency	33	2.3%
Legal Services	14	0.3%	Other County DSS	22	1.6%
District Attorney	5	0.1%	Animal Control	5	0.4%

## APS ROLE VS. ROLE OF OTHER PROGRAM ENTITIES

Adult Protective Service programs develop and coordinate service networks that result in inter-agency collaboration and understanding. The goal of APS and the service networks is to protect at-risk adults from mistreatment and neglect. It is important to emphasize that only APS has the statutory authority for the protection of ALL at-risk adults in Colorado, while other service programs are limited to service provision for their respective populations. For example, Developmental Disabilities Services (DDS) is authorized to advocate, assess and provide community integration services specifically for persons with developmental disabilities, and likewise, Mental Health Services (MHS) is designed and authorized to meet specific clinical and treatment needs of those adults in Colorado who have mental illnesses. If each program area assumed responsibility for at risk adults according to categorical divisions such as specific disability, diagnosis, or similar defining criteria, unclear lines of responsibility for clients who meet more than one designation would result. Such divisions lead to bifurcation in practice standards, program oversight and data collection. The coordinating and collaborative function of APS is instrumental in minimizing duplication of services and monitoring and addressing gaps in needed services.



The seven program categories listed below are programs that frequently interact and collaborate with APS to reduce risk and ensure safety for at-risk adults with specific disabilities. APS is the central service program that develops a coordination plan between itself and other service programs to assure quality, non-duplicative service provision for at-risk adults. The effective coordination implemented by APS eliminates and/or vastly reduces the gaps through which some of our most vulnerable adults could fall. The grid below details the complementary roles of the major program areas and APS at the service level.



	Agency Role	APS Role
<p data-bbox="248 327 422 464"><b>Criminal Justice and Probate System</b></p> <p data-bbox="248 506 440 600">Police/Sheriff District Attorney Courts</p>	<p data-bbox="496 327 878 422">Investigate and arrest perpetrators of criminal acts against at-risk adults.</p> <p data-bbox="496 506 870 600">Prosecute perpetrators of criminal acts against at-risk adults (DA's).</p> <p data-bbox="496 642 870 737">Provide legal information to victims of crimes during the legal process.</p> <p data-bbox="496 1031 878 1094">Execute "welfare checks" of at-risk adults.</p> <p data-bbox="496 1314 837 1440">Execute "mental health" holds on at-risk adults at risk of harming self or others.</p> <p data-bbox="496 1493 862 1587">Issue and execute restraining orders for the protection of at-risk adults.</p> <p data-bbox="496 1808 821 1860">Review reports and recommendations from</p>	<p data-bbox="911 327 1406 453">Report alleged criminal behavior and provide officers with client and perpetrator information to assist with evidence collection.</p> <p data-bbox="911 506 1406 600">Provide DA's with client and perpetrator information to assist with evidence collection.</p> <p data-bbox="911 642 1406 957">Provide/coordinate supportive services for victimized at-risk adult before, during and after the legal process. In cases of financial exploitation where the at-risk adult is incapable of handling financial details, APS (representing the county) may serve as representative payee.</p> <p data-bbox="911 1031 1406 1272">Resolve cases of self-neglect (often discovered or substantiated by law enforcement's "welfare checks") by coordinating medical, housekeeping and financial services needed by the at-risk adult who has lost the capacity to care for him/herself.</p> <p data-bbox="911 1314 1333 1409">Alert authorities to situations in which an at-risk adult is likely a serious risk to self or others.</p> <p data-bbox="911 1493 1406 1734">Meet with the at-risk adult and assist in determining the need for a restraining order. Once determined necessary to ensure the adult's safety, APS will facilitate the process of obtaining and seeing that the restraining order is enforced.</p> <p data-bbox="911 1808 1357 1860">Provide assessment reports and recommendations on safety and</p>

	<p>various professional sources regarding the capacity of at-risk adults to make decisions in various areas of their lives. Make the determination of the need for the assignment of guardian for the at-risk adult.</p>	<p>capacity issues for the at-risk adult to the court for consideration in guardianship cases. APS caseworkers (representing the county) are sometimes appointed guardians or conservators for at-risk adults when no other options are available to at-risk adult and the court.</p>
	<b>Agency Role</b>	<b>APS Role</b>
<b>Ombudsman Program</b>	<p>Serve as mediator between residents of nursing and assisted living facilities, their families and all staff of that facility, i.e., nurses, dieticians, administrators, to resolve issues related to residents' rights.</p> <p>Concentrate on resolving specific complaints/issues.</p> <p>Monitor facility and advocate for facility change in practices.</p> <p>Make recommendations for appropriate placement of individuals according to care needs and available resources.</p>	<p>Serve as agents of the State as investigators and caseworkers to investigate serious allegations of abuse, neglect or exploitation.</p> <p>Act as guardian for nursing home residents who have no other person to act on their behalf.</p> <p>Coordinate efforts related to facility closures to address overall client welfare, health and safety through the transition and relocation process.</p> <p>Use reputable facilities as resources for placement or other services to meet needs of at-risk adult.</p>
	<b>Agency Role</b>	<b>APS Role</b>
<b>Developmental Disabilities Services (DDS)</b>	<p>Provide assessment of children and adults with suspected development disabilities (DD) to determine eligibility for DDS programs.</p>	<p>Provide advocacy and protection to at-risk adults with all types of disabling conditions, including developmental disabilities, who are in need of and interested in protective services.</p>

	<p>Provide case management and service coordination to enhance community integration and daily living.</p> <p>Provide group and individualized residential services to people with DD who are enrolled in a DDS program. Includes services of the Community Center Boards and Regional Centers.</p>	<p>Refer all interested at-risk adults with developmental disabilities to DDS for long-term community integration and support services.</p> <p>Provide emergency placement for all at-risk adults with DD who are in imminent danger.</p>
	<b>Agency Role</b>	<b>APS Role</b>
<b>Mental Health Services</b>	<p>Provide clinical treatment services to people with mental illnesses who are interested in or court ordered into services.</p> <p>Provide clinical psychiatric evaluations of people experiencing symptoms.</p> <p>Authorize "mental health holds" (C.R.S. 27-10) on persons who are a danger to themselves or others.</p> <p>Provide case management and residential services (in certain situations/areas).</p>	<p>Address the safety issues of at-risk adults with all types of disabling conditions, including mental illness, in the community.</p> <p>Refer at-risk adults with suspected mental illness for clinical psychiatric evaluations.</p> <p>Work with hospital discharge planners to assure the safety of at-risk adults with mental illness.</p> <p>Serve as a resource for mental health case managers and residential service providers in the event of safety concerns for client/resident.</p>
	<b>Agency Role</b>	<b>APS Role</b>
<b>Attorney General's Office</b>	<p>The attorney general's AARP Elder Watch program serves as an information clearinghouse &amp; referral line for seniors regarding</p>	<p>Assess and investigate cases referred by AARP Elder Watch when at-risk adults who are victimized seem confused and/or are unable to understand instructions.</p>

	<p>consumer fraud issues.</p> <p>The Consumers' Protection Unit carries class action suits to court against businesses in Colorado that attempt to perpetrate frauds against the citizens of Colorado.</p> <p>The Victims' Assistance Unit within the AG's office, provides information to victims regarding the Victims' Rights Act and provides referrals to victims for assistance in dealing with the after effects of crimes committed against them.</p>	<p>Report to and assist Attorney General's Office with names of alleged fraudulent businesses and perpetrators that/who victimize at-risk adults.</p> <p>Coordinate and explain services, including victims' assistance services, that provide information and referrals to victims. APS monitors the progress of at-risk adults with the information and referrals provided to ensure the restoration of safety and comfort to at-risk adults who are victimized.</p>
	<b>Agency Role</b>	<b>APS Role</b>
<b>Health Department</b>	<p>Oversee the conduct of nursing facilities and assisted living residences.</p> <p>Oversee the licensures and closures of nursing facilities and assisted living residences</p> <p>Determine, administer, and collect fines from facilities that do not meet statutory criteria for care of elderly and disabled.</p>	<p>Assess and investigate allegations of mistreatment of residents of nursing facilities/assisted living residences.</p> <p>Assist residents in need of relocation who have no other person or service available to assist them.</p> <p>Report alleged crimes perpetrated within nursing facilities to law enforcement and the health department.</p>
	<b>Agency Role</b>	<b>APS Role</b>
<b>Other Program Examples:</b>		<p>Arrange and coordinate for the direct delivery of specific supportive and educational services offered by numerous community programs.</p>

<b>Homeless Shelters</b>	Provide supportive services, primarily shelters.	
<b>Domestic Violence Program</b>	Provide counseling, safety planning, shelters and other services.	
<b>Alzheimer's Association</b>	Provide family and caregiver education and support and public awareness.	
<b>Home Health Care Providers</b>	Provide skilled healthcare or supportive services to maximize independence and well being in the home setting.	

## CASE SCENARIOS

Following are two brief APS case scenarios, which exemplify inter-program coordination and participation, to address the safety of at-risk adults:

*The first case scenario shows APS in collaboration with:*

*Mental Health  
District Attorney*

*Physician  
Victims Assistance Services*

*Police*

A 74 year-old man's oldest daughter, who lives out of state, reports to APS that the younger daughter is physically abusing him. The abusive daughter visits Mr. W. frequently. She has chronic problems with mental illness and a history of refusing treatment.

The APS worker conducts an in-home investigation and confirms the allegation of physical abuse by observing several bruises in various stages of healing. The APS worker obtains specific facts about the abuse, potential for further harm, and other information pertinent to the situation. It is readily apparent that Mr. W. has the capacity for decision-making. The APS worker enlists Mr. W.'s cooperation with contacting law enforcement and provides counseling to address his concerns regarding "getting his daughter in trouble."

The APS worker calls law enforcement and an officer joins them. Mr. W confirms that his daughter visits his home frequently. While there, she torments, harasses, kicks, scratches and bites him. The officer and the APS worker



discuss the option of a restraining order against the offending daughter, and the APS worker assists Mr. W. in obtaining and completing the paperwork. The law enforcement officer files charges of aggravated assault against the daughter.

The APS worker recommends that Mr. W. follow up with supportive counseling with a mental health counselor. Mr. W. is amenable and the worker arranges an appointment. The APS worker arranges an appointment for the following day to a physician for a medical examination and, with Mr. W's permission, discusses the case with the doctor.

Law enforcement files charges with the local District Attorney's office and provides copies of the physician's report regarding the extent and gravity of the injuries incurred by Mr. W. The District Attorney's Office reviews the reports submitted by the officer and begins to develop the case against Mr. W's daughter. The APS worker accompanies Mr. W. to the DA's Victims' Assistance office, where the victims' assistant worker interprets legal information provided and discusses the legal process. The District Attorney's Office meets with Mr. W., meets with and requests records (and eventually testimony) from the APS worker, and communicates, as necessary, with the abusive daughter's attorney.

*The second case scenario shows APS in collaboration with:*

*Ombudsman*

*Law Enforcement*

*Health Department*

A senior program volunteer contacted a nursing home ombudsman to report an allegation of sexual molestation of a 59-year-old resident. The resident has been in this nursing home for 15 years secondary to a traumatic brain injury, and is significantly cognitively impaired. The resident told the volunteer that she had been having sexual relations with her "boyfriend" who was an attendant at the nursing home facility. The resident also told the volunteer that she did not want to continue to live in this facility.

In this particular case, the ombudsman notified the facility management and together they contacted law enforcement, APS, and the Health Department to report the incident. (In some cases, it may be APS who contacts law enforcement, or APS may have been the first recipient of the report and may have contacted the ombudsman). It was learned that the facility had terminated the attendant's employment a few weeks prior for poor work performance. Law enforcement, in conjunction with facility management and the ombudsman, conducted a preliminary investigation with other residents, and determined that no other residents had been victimized. The perpetrator was ultimately charged in this case and is pending trial.

It was learned that the perpetrator had a past criminal record of drug trafficking. However, the facility had not conducted a criminal background investigation on this employee, nor did the facility have written policies regarding the hiring of

persons with felonies. A review by the Health Department determined that background checks were not routinely completed on all new hires, and further, that the facility's policies did not require that background checks be completed on temporary or "float" staff from other agencies with which the facility contracted. The Health Department issued deficiencies to the facility and continues to monitor the facility's Plan of Correction with regard to developing and enforcing safe personnel practices.

The APS worker contacted a nephew who had a durable power of attorney for the resident. The nephew indicated that to his knowledge, the resident was content with residing in this particular nursing home, as it had been her long time home. The nephew stated that he was no longer able or willing to continue his role as decision maker. The APS worker filed a petition and was awarded limited guardianship to act on behalf of the resident with regard to any decisions concerning relocation and follow up treatment for the trauma she sustained with the molestation. It was ultimately decided that the resident would remain in the facility since there was no further threat regarding the perpetrator, but that she would be moved to another wing of the facility. A review of the limited guardianship was scheduled to take place in 6 months, at which time the APS worker, nephew, and courts would have adequate time to determine if another family member or interested party could assume guardianship, or if the county department should extend the limited guardianship to be more encompassing.

## V. PROGRAM FUNDING

### STATE PROGRAM

There is not an established funding line for the state Adult Protection Program in the Long Bill. The state program is staffed by 2.75 FTE's; an administrator and 3 program specialists. Sources of funding for the state APS positions are:

<i>Position</i>	<i>Funding Source</i>	
	<b>APS FTE Status</b>	<b>Old Age Pension</b>
<i>Program Administrator</i>	1.0	100%
<i>Program Specialist GP IV</i>	1.0	100%
<i>Program Specialist GP IV</i>	.25	100%
<i>Program Specialist GP III</i>	.50	100%

State staff resources are lacking to adequately direct, supervise, train, monitor and evaluate APS programs throughout the state. In FY 2000-01, with the reorganization of the Department, APS was identified by the Executive Director of the Colorado Department of Human Services, Marva Livingston Hammons, as a high priority program. An APS Steering Committee comprised of State Staff and county agency directors, was established to determine a 4-year APS work plan to address the many issues, primarily developmental in nature, of APS.

### Four-Year APS Plan Summary

- I. Establish Statewide County Expectations
  - a. Ensure compliance with APS state statutes
  - b. Standardize CAPS utilization (all counties, all fields)
  - c. Collaboration – encourage the development of APS community teams and provide technical assistance in implementation
  - d. Community education: create materials, provide information and training
  - e. Develop minimal standard for new hires
  - f. Develop and provide mandated core training (for all staff), including cross training between APS and Child Welfare



- g. Establish ethical standards for state of Colorado in APS

## II. Promote Consistent Utilization of Data

- a. Develop a reliable system for tracking APS budgets and expenditures
- b. Identify management information required for decision making
- c. Develop a performance management system

## III. Identify Internal Quality Assurance Mechanisms

- a. Identify best practices
- b. Develop outcome measurements and system for tracking

## IV. Generate Training Agendas for APS

- a. Develop curricula for APS caseworkers and supervisors at all levels, APS multidisciplinary teams, medical and health professionals, law enforcement, county directors, court personnel and others
- b. Provide training

## V. Develop Strategies for Program and Delivery System Improvement

- a. Build partnerships among primary programs servicing APS clients
- b. Study and evaluate APS program rules and direction including, for example, the program's and department's position regarding mandatory reporting

Substantial progress has been made in several areas of the plan, especially regarding improvements to the CAPS system and regarding the consistent utilization of data. Work has also been initiated on the development of training curricula for new APS caseworkers and APS supervisors. Financial and staff constraints are barriers to addressing the many necessary components of the plan.

### **Funding Deficits**

As mentioned, there is no established funding for the APS program at the State level. The current level of staffing of 2.75 FTE's costs approximately \$250,000. Another 2.25 FTE's at the cost of approximately \$175,000 is presently required to

fund the state APS program at an adequate level. This funding would allow the state to carry out the plan for APS program development and implementation as indicated on pages 37-38. Additionally, \$133,000 in training dollars is needed to meet APS worker training requirements. Projected budgets to detail staff and training needs can be provided upon request.

### **Inter-state Comparison**

The degree to which other states fund the APS program at the state level is difficult to determine. Thirteen other states have administrative structures that are similar to Colorado in that they have state administered, county supervised programs. However, these states do not have similar structures to the Colorado APS program. For example, in some cases, states contract for APS services with other organizations (such as the Area Agencies on Aging). In other cases, programs are combined with other service areas (such as family services or senior services), and while it has been determined that APS programs in these states are funded at the state level, it has not been possible to extract the specific amount of funding that is allocated per program.

In May 2002, the National Association of Adult Protective Services Administrators conducted a national survey of all APS programs at the state level. It is expected that the report will be available before the end of this calendar year. Preliminary findings of the survey reflect that a lack of national leadership, guidelines and funding result in a "bewildering array of state and local programs." Further, various program locations result in different approaches to the delivery of services at state and local levels. (Joanne Otto, Executive Director, National Association of Adult Protective Services Administrators (NAAPSA), 2002)

### **COUNTY FUNDING**

The State appropriates a budget to each county designated as the "County Administration Allocation" (CAA). This line was established to cover several programs including adult protection. Other programs are: Food stamp fraud investigations, adult assistance grant and medical programs, food stamps, and Medicaid Only. This allocation covers administrative costs to operate these programs including personal services, operating, travel, contractual services, client services, capital outlay, and leased space. It does not include program dollars for actual financial payments to clients.

The County Administration Allocation (CAA) includes the Social Services Block Grant (SSBG, otherwise known as Title XX, which are federal funds), state general fund monies (GF) and local (county) funds. These dollars are pooled together to form the CAA. The CAA is set up as an 80% - 20% match appropriation so that federal and state monies combine for 80% of the funding and the county provides a 20% match.

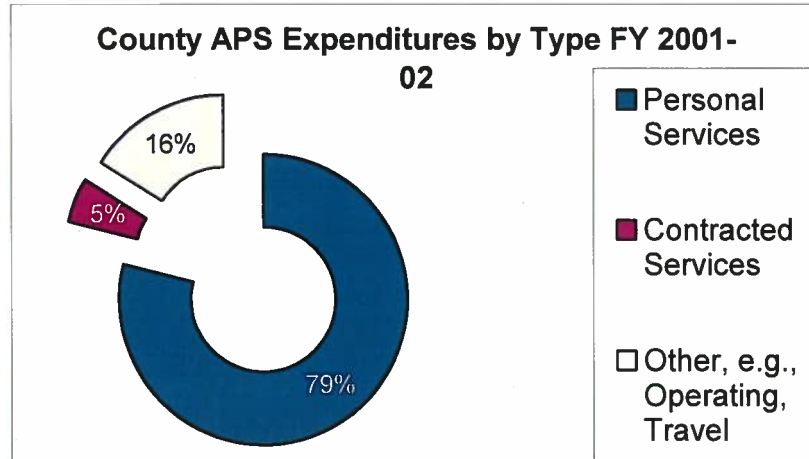
Counties have the flexibility to determine the percentage of funds from the CAA that will be spent on any of the programs in the CAA line. There is, however, a stipulation as to how the SSBG funds, which are included in the CAA, are spent. In the Long Bill for FY 2001-02, \$1.9 million in federal Title XX funds of the total SSBG was designated for APS services statewide and distributed to counties in prorated shares as a portion of the total CAA. Counties are not limited to spending only that portion of the CAA that comes from SSBG on APS expenses. They can choose to use additional monies from the CAA depending on the county needs and priorities.

In FY 2001-02 counties spent \$4,921,448 on APS. This is \$3 million more than the Title XX monies stipulated in the long bill for APS. The difference between the Title XX funds budgeted for APS and actual expenditures came from county administration (CAA) money or county only money when the expenditures were in excess of CAA funds. It is clear that the SSBG funding is insufficient to fund APS programs at the county level. Again, it must be emphasized that this funding is for county and contract staff and is not designated for emergency or other direct client services. Further, the degree to which APS expenditures in particular affect county over expenditures is unknown.

The following allocation summary shows allocations and expenditures of CAA funds of small, medium, and large size counties by category for FY 2001-02:

	<i>Total County Administration Allocation</i>	<i>Total APS Expenditures</i>	<i>Expenditures by Categories</i>			<i>Percentage of CAA Spent on APS</i>
			<i>Personal Services</i>	<i>Contracted Services</i>	<i>Other APS, e.g., Operating, Travel, etc.</i>	
<i>Small Counties Combined</i>	\$2,849,306	\$239,818	\$193,708	\$9,705	\$36,405	8%
<i>Medium Counties Combined</i>	\$7,181,484	\$622,318	\$518,248	\$21,413	\$82,656	9%
<i>Large Counties Combined</i>	\$31,724,118	\$4,059,311	\$3,179,174	\$231,686	\$648,451	13%
<i>Statewide Total</i>	\$41,754,908	\$4,921,448	\$3,891,131	\$262,804	\$767,513	12%

Statewide, the vast majority of county expenditures for APS were designated for personal services.

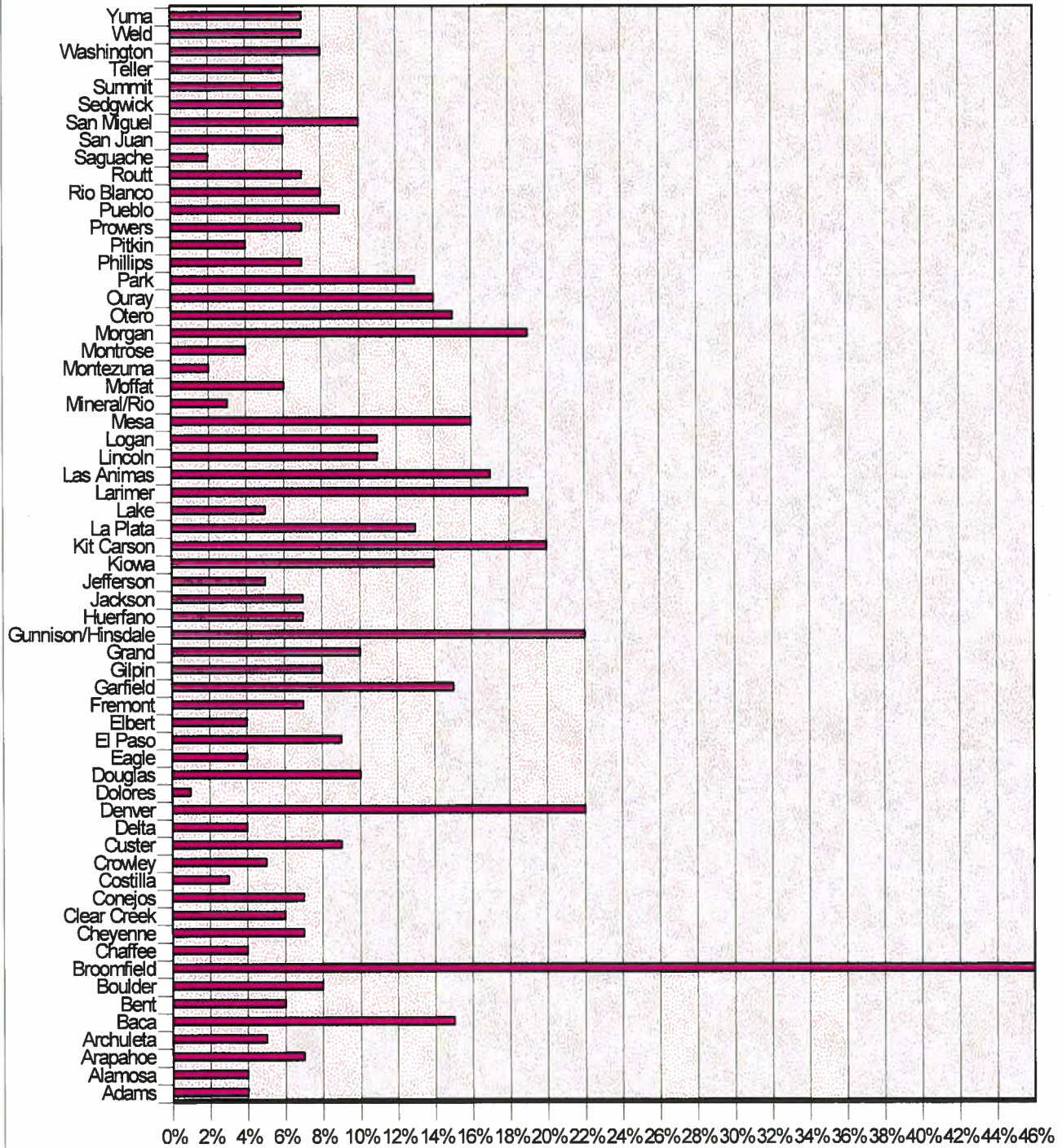


Variances in the amount of funding spent on APS are attributable to several factors. The need for particular services that are a part of the County Administration funding pool may be influenced by income level and age of county residents. Additionally, referral practices regarding APS may be influenced by local cultural beliefs and philosophies. Some counties with tremendous deviation from the mean percentage of funds spent on APS (mean = 9%; median = 7%) have unique circumstances. For example, Broomfield County had its APS program in operation prior to other programs as it rolled out its operations as a new county in FY 2000-01.

The chart on the following page shows the per county percentage of CAA grant monies spent on APS.



# APS Expenditures by County



## VI. SUMMARY AND CONCLUSIONS

The APS program has been formally established as a program in Colorado for 19 years. Funding for the program to counties is based in County Administration, which is made up of SSBG funds and General Funds, as well as local match funds. This current funding arrangement carries the benefit of flexibility for counties to prioritize needs and thus expenditures among a variety of programs, but lacks accountability and commitment for expenditures specific to Adult Protection. With the exception of OAP monies used for 2.75 state staff positions, the state APS program is not funded.

The Colorado APS program and APS programs nationwide struggle with a fragmented policy and service delivery system. A lack of federal oversight results in highly autonomous operations among states. A diminutive federal presence also contributes to inadequate comprehensive research and data collection methods. States with state supervised but locally administered programs contribute to further fragmentation when state programs are unable to adequately meet their responsibility for central oversight. A strong state program is crucial to establishing consistent services that meet statutory requirements, determining program policy, building collaborative relationships at the state program level to coordinate program efforts, and training APS workers according to standardized, competency based curricula.

Despite very limited resources at the state level, the Colorado APS program, to the extent possible, has developed and executed excellent training programs, has taken the leadership to build alliances and practice models with other programs, developed an automated data system along with continued efforts to improve the system's accuracy and usability, provides technical assistance and supervision to counties regarding a multitude of APS related issues, and responds to public inquiries regarding complex adult protection issues.

However, the State program has also been very restricted in the scope and depth that the program can take in each of these endeavors. As outlined in this report, the need for adult protection services is growing at an even faster rate than is the rapidly growing elderly population. APS at both the state and local levels do not have adequate infrastructures with regard to program development, policies and practices, or cooperative arrangements with others in the APS extended network to meet the breadth and complexity of adult protection.

Several recommendations are offered for future consideration when the state economy will allow for it to strengthen the APS program and increase its penetration throughout local programs. First, it is recommended that general funds be designated in the Long Bill to support adequate state level funding for personal services. The present level of staffing, funded by the Old Age Pension program, cannot provide the necessary supervision and oversight for APS programs statewide. The current cost of the 2.75 state staff FTE's is

approximately \$250,000. An additional 2.25 FTE's at the approximate cost of \$175,000 is required to address immediate program needs. Limitations of the state program to provide supervisory oversight and direction of Colorado's APS program are many. Some of the critical needs that should be addressed in the state program include:

- Development and assessment instruments and the conduction of periodic onsite assessments and case audits
- Development of performance criteria and system for measuring and monitoring program outcomes
- Monitoring of accuracy of data input into the CAPS system
- Standardizing program practices across the state to meet statutory requirements
- Development of a comprehensive policy and procedure manual and program manual
- Determination of best practices

Second, it is recommended that training resources be designated in the Long Bill to provide mandated training. No funding is designated for Adult Protective Services training. Approximately \$133,000 is required to adequately train APS staff on an annual basis. The development of training curricula for new APS workers, APS supervisors and other professionals (law enforcement, court personnel, mental health programs, etc.), as well as ongoing program training is critically lacking. Currently, there is no formal, systematic mechanism to ensure that APS workers meet basic competencies to provide complex protective services. County directors and APS staff consistently identify training as the largest unmet need in the adult protection program. Adequately training APS workers, as well as the network of service providers who work with APS programs, will decrease the potential harm to at-risk adults, increase accuracy and effectiveness of investigations, increase successful prosecution of perpetrators, and increase efficiencies and shared responsibilities through collaborative relationships and interdisciplinary teams.

**Appendix 17**  
**July 11, 2012 Meeting Materials**



# SB12-78 Elder Abuse Task Force

**Wednesday, July 11th**

**9:00 am – 1:00 pm**

Colorado Bar Association

Room: Executive Conference Room (9<sup>th</sup> Floor)

\*Please note that lunch will not be provided nor will there be a specific break taken for lunch. But please feel free to bring something to eat if you need to.

## **I. Background and Educational Session on Adult Protective Services (1 hour)**

Presented by the Colorado Department of Human Services

## **II. Frame and Scope of Work (45 mins)**

- a. Discussion of sub-committees for each respective issue
- b. Review required deliverables and determine appropriate order of completion
  - i. Minimum age – identify minimum age for an ‘at-risk elderly adult’
  - ii. Reconcile definitions for at-risk adults – two different definitions in criminal code and human services code
  - iii. Services offered by counties – provision of county adult protective services (APS) for at-risk elderly
  - iv. APS Training – recommend training on outcome-based best practices
  - v. Criminal Penalties – adequacy or inadequacy of penalties for offenses against at-risk adults
  - vi. Mandatory Reporters – how to require certain persons to report
  - vii. Cost & Workload Impacts – estimate of costs and workload impacts likely incurred by county and state
  - viii. Sustainable Funding

**(15 Minute Break)**

## **III. Define Minimum Age and Reconcile Definitions (1 hour 45 mins)**

- a. Define minimum age of elders
- b. Define “At Risk” Adults

### **Future Meetings and Public Comment (15 mins)**

July 25<sup>th</sup>: County Services and APS Training

August 8<sup>th</sup> Criminal Penalties and Mandatory Reporters

August 22<sup>nd</sup>: Cost and Workload Impacts and Sustainable Funding

\*The task force will need to determine future dates of meetings (two or three week span)

SB78 Elder Abuse Task Force

Wednesday, July 11, 2012

9:00am-12:30pm

Meeting convened at 9:00am.

Members Present:

David Blake, Co-Chair

Joscelyn Gay, Co-Chair

Vickie Clark, Routt County Dept. of Human Services

Tammy Conover, Attorney at Steenrod, Schwartz, and McMinimee Law Firm

Sterling Harris, Chief Deputy Director of Colorado Organization for Victim Assistance

Dr. Rebecca Paskind, Ph.D. Associate professor at Metro State College

Heidi Prentup, Commander at Boulder County Sheriff's Department

Mary Catherine Rabbitt, Attorney at the Legal Center for People with Disabilities and Older People

Jerri Schomaker, Owner of Home Instead Senior Care of CO Springs

Nancy Sharpe, Arapahoe County Commissioner

Scott Storey, District Attorney with the Jefferson County DA's Office

Darla Stuart, Executive Director at Arc of Aurora

Amy Nofziger, Director of AARP Foundation

Senator Hudak

Peggy Rogers, Colorado Department of Human Services

Absent: Chris Lines, Director of Colorado Medical Society

Absent: Anne Kerr Meier, Social Worker at Exempla Luthern Hospice-Collier Hospice Center

Absent: Arlene Miles, President and CEO of Colorado Health Care Association-Represented by Matt Elder

Absent: Jenifer Waller, Senior Vice President at the Colorado Banker's Association

Members were asked to announce proxies (see attached document). Those who did not have a proxy are asked to have one as soon as possible.

Peggy Rogers from the Colorado Department of Human Services presented a brief overview of Adult Protective Services to the task force. This presentation highlighted the current practices, the current roles of

the state, counties, and the interface between all the above. This presentation also covered the funding, cases and general comparisons between adult protective services and child protective services. Strategies for improved outcomes were also suggested at the end of the presentation.

Questions asked during the presentations included:

Q-The number of counties that do guardianship

A-Not many do this process.

Q- How many counties have screeners?

A-Only Boulder and Arapahoe counties have screeners. Most counties have case workers that rotate screening calls.

CDHS keeps a database of number of reports going to law enforcement/DA. Some counties have agreements that only those cases with a criminal aspect will go to law enforcement/DA. In any case that there may be doubt of criminality, the case is forwarded to law enforcement/DA .

Subcommittees for all deliverables were discussed. Both chairs as well as facilitators suggested that subcommittees for all deliverables would not be necessary and suggested that rather, a financial subcommittee be created. Those with expertise in specific areas are encouraged to take the lead on conversations, research, etc. Current volunteers for the finance subcommittee:

-Sterling Harris                      -Nancy Sharpe

-Sean Clifford                        - Joscelyn Gay

-Vickie Clarke                        - Arlene Miles

-Invitation to Jenifer Waller (pending)

\*Not wanting to be on the subcommittee, Tammy will have law clerks begin researching how other states fund mandatory reporting. Tammy will also have a report on how other states handle the clergy as mandatory reports as well as first responders.

The subcommittee is charged with taking the lead role in vetting the finance issues that are to be anticipated in relation to mandatory reporting and the other deliverables of SB 78.

Co-chair Joscelyn suggested that intervention and preventative approaches be looked at while discussing the deliverables of SB78.

In agreement, Co-chair David Blake suggested that this discussion will act as an undercurrent and will take a natural part in overall discussions.

Co-chair Joscelyn asked members to bring intervention and prevention materials to the next scheduled meeting on July 25<sup>th</sup>.

Minimum Age Discussion:

Scott Storey lead the discussion by first describing the majority of cases seen and the minimum age. Accordingly, the majority of cases are 70 years and above. The dynamics of society have dramatically shifted, making the elders those who are 70 years and above and adults as 18-69 years of age. However, At-Risk Adult is defined as 60 or above in criminal statute (Title 18).

Scott suggested that At-Risk Elders should be separated from At-Risk Adults. In order to this, a model similar to that of HB12-1352 should be developed, dramatically reducing the penalty structure.

By creating two separate definitions, this would eliminate 10 years of victims from those that are reported, shift costs, and focus more on those who are being financially exploited.

Discussion of reconciling the definitions of Title 26 and Title 18:

Melding these two definitions together would result in many unintended consequences. Peggy Rogers explained that the provisions of Title 18 triggers self-neglect. Title 26 has been left ambiguous to encompass more groups of at-risk adults. Reasoning for not reconciling these definitions: problems of Title 18: Person being prosecuted must be in a position of trust or authority to be considered for a finding of theft. In total, definitions will not be reconciled, Sean and Tammy will draft potential language to bring to July 25<sup>th</sup> meeting. This language will include the suggested age of 70 and add criteria of financial exploitation. The task force overall decided that a minimum age could not be decided until a discussion of mandatory reporting occurs.

Meetings:

July 25<sup>th</sup>: County Services and APS training

August 8<sup>th</sup>: Criminal Penalties and Mandatory Reporting

August 22<sup>nd</sup>: Cost and Workload Impacts and Sustainable Funding

\*Future dates have not yet been determined. Will need to be discussed at the next meeting.

Meeting adjourned at 12:30pm

## Reconciliation of Definition of “At-risk Adult”

[Task force] recommendations, at a minimum, shall include... Recommendations concerning the reconciliation of the definition of “at-risk adult” in section 26-3.1-101 with the definition of “at-risk adult” in Section 18-6.5-102 (1), C.R.S.

### APS Definition (26-3.1-101)

"At-risk adult" means an individual eighteen 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 make or communicate responsible decisions concerning his or her person or affairs.

### Criminal Code Definition (18-6.5-102 (1))

(1) "At-risk adult" means any person who is sixty years of age or older or any person who is eighteen years of age or older and is a person with a disability as said term is defined in subsection (3) of this section.

(3) A "person with a disability" means any person who:

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

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

(c) Is unable to breathe without mechanical assistance; or

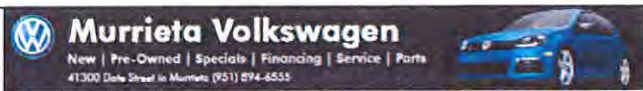
(d) Is developmentally disabled as defined in section 27-10.5-102 (11), C.R.S.; or

(e) Is a person with a mental illness as the term is defined in section 27-10-102 (8.5), C.R.S.; or

(f) Is mentally impaired as the term is defined in section 24-34-301 (2.5) (b) (III), C.R.S.; or

(g) Is blind as that term is defined in section 26-2-103 (3), C.R.S.; or

(h) Is receiving care and treatment for a developmental disability under article 10.5 of title 27, C.R.S.



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### Deputy D.A. prosecutes elder abuse cases

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Thursday, June 21<sup>st</sup>, 2012  
Issue 25, Volume 16.

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SAN DIEGO - Paul R. Greenwood, deputy district attorney and head of the elder abuse prosecution unit within the San Diego District Attorney's office has provided an update on the unit he he was tasked with starting 16 years ago, in January 1996. Greenwood has been dedicated to prosecuting these types of cases.

"I have been privileged to be in the unit because I uncovered criminal activity that I did not know existed," said Greenwood.

Greenwood said the prosecution of elder abuse crimes throughout the nation is "sporadic at best." He pointed to the fact that until the last few years there had been very little emphasis or training for law enforcement and prosecutors regarding how to approach these types of cases. Greenwood likened the situation of the involvement of elder abuse crimes and prosecution to what was happening in domestic violence about 35 years ago.

Some of the practices that the DA's Elder Abuse Unit has learned from the domestic violence model are:

- The importance of taking a multidisciplinary approach with adult protective services and law enforcement.
- The need to raise awareness of elder abuse and the need for people to report potential elder

abuse cases by calling Adult Protective Services at (800) 510-2020.

- The need to expand existing legislation to widen the net of "mandated reporters" such as clergy and employees of financial institutions.
- The importance of assisting local law enforcement with training so that the first responding officer takes an effective report that encompasses the reality of what is happening
- The sharing of the philosophy that not every report of a suspected financial elder exploitation is "just a civil matter."

Some of Greenwood's achievements over the 16 years in the special unit include:

- The creation of dedicated elder abuse units within the San Diego Sheriff's and Police departments.
- The establishment of an elder death review team.
- The coordination of a network with various communities regarding elder abuse issues.
- An increase in successful investigations that have led to prosecution and ultimately the conviction of many perpetrators of elder abuse.

Greenwood said he has suggestions how community members can help prevent elder abuse in their community:

- \*Avoiding the trap of thinking it cannot happen to a family member or a person one knows.
- \*Being aware of the attraction of the crime. The elderly are as vulnerable as young children.
- \*Going with a "gut feeling." If someone sees or hears something, or if something seems not to fit well with one's instincts, make that call. There can be no harm as the caller can remain anonymous if desired unless they are a mandated reporter. (Mandated reporters include caregivers of the elderly- whether paid or unpaid, medical personnel and first responders, bank tellers, and clergy.)

Greenwood said he has seen a "huge increase in the type and number of financial exploitations as well as an increase in the variety of perpetrators." He said that such trends reflect the fluctuation in the economic climate. It is believed that many more professionals who have been negatively impacted by the economy are now looking at clients or former clients as potential victims. Also, adult children who either never left home or who returned have become a part of the increased population of those who abuse the elderly.

Greenwood and other professionals surmise that amongst the younger generation there seems to be less respect for the elderly, and as a result when an elder is victimized there is not that same degree of shame and shock reflected by prior generations. Cynic might say, "They (the elderly victims) were going to die anyway," he said.

Many believe a cultural shift is needed for younger people to respect their elders. Greenwood suggested that high schools and junior colleges that provide education about domestic violence could add a component of elder abuse. Such a course could even be taught with dramatization such as is used by Mothers Against Drunk Driving (MADD).

A decline in physical, mental, social, or emotional ties increases an elder's risk of being seemingly vulnerable and a target for elder abuse.

In San Diego County, approximately 14 percent of the total population is over 65 years old.

"We all need to be especially aware of the potential for victimization as our relatives and friends enter their 70s and 80s," said Greenwood.

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### 2 comments

In the news

Comment #1 | Thursday, Jun 21, 2012 at 1:22 pm

How about that video clip of the elderly grandma riding as a monitor on a school bus and being taunted with derogatory remarks by middle school students? I guess that just goes to reinforce what Greenwood and other professionals surmised, but I don't think it takes a professional to see how the respect for the elderly has declined over the years. It seems, though, to parallel the way much of the upcoming generation has respect for (or lack of respect) for each other. Granted it's not everyone, but it seems that respect is on a downward slope in society as a whole

- Valley News
- Anza Valley Outlook
- Fallbrook.org
- Sourcebook
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- Most Commented**
- 332 Medical marijuan...
  - 239 13-year-old Fall...
  - 200 Arrests now tota...
  - 185 Vote 'yes' on Pr...
  - 187 Man hit, killed ...
  - 166 Marine commits s...
  - 147 13-year-old Fall...
  - 145 EXCLUSIVE UPDATE...
  - 135 Increased Noise ...
  - 133 Little Mexico in...
  - 133 Fallbrook reside...
  - 127 Methamphetamine ...
  - 120 Authorities dist...
  - 116 'Yes' on Prop. 8
  - 115 Double fatality ...

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1. Deputy D.A. prosecutes elder abuse cases

<http://thevillagenews.com/story/64662/>

2. Alameda County judge charged in elder abuse case to take leave of absence; affidavit outlines charges

[http://www.mercurynews.com/elections/ci\\_20965995/alameda-county-judge-charged-elder-abuse-case-take](http://www.mercurynews.com/elections/ci_20965995/alameda-county-judge-charged-elder-abuse-case-take)

3. Los Angeles Adult Protective Services Refuses to Accept Reports of Conservator Abuse

<http://www.salem-news.com/articles/june292012/conservator-abuse-ip.php>

4. Calif man accused in priest assault describes fear

<http://www.sfgate.com/default/article/Calif-man-accused-in-priest-assault-describes-fear-3673934.php>

5. Priest assault trial nearing conclusion in Calif.

[http://www.mercurynews.com/breaking-news/ci\\_20991333/priest-assault-trial-nearing-conclusion-calif](http://www.mercurynews.com/breaking-news/ci_20991333/priest-assault-trial-nearing-conclusion-calif)

6. Santa Clara County's court-appointed personal and estate managers are handing out costly and questionable bills

[http://www.mercurynews.com/trust/ci\\_20980449/santa-clara-countys-court-appointed-personal-and-estate?IADID=Search-www.mercurynews.com-www.mercurynews.com](http://www.mercurynews.com/trust/ci_20980449/santa-clara-countys-court-appointed-personal-and-estate?IADID=Search-www.mercurynews.com-www.mercurynews.com)

7. 3 charged in financial exploitation of 88-year-old Deltona man

<http://www.news-journalonline.com/breakingnews/2012/06/3-charged-in-financial-exploitation-of-88-year-old-deltona-man.html>

8. Report shows more abuse and neglect in Kentucky's care centers

<http://www.kentucky.com/2012/06/29/2243063/report-shows-more-abuse-and-neglect.html#storylink=misearch>

9. Elder abuse: woman robbed of all but 37 cents

<http://www.sunjournal.com/news/maine/0001/11/30/elder-abuse-case-lincoln-county-exposes-pattern-ma/1216635>



10. Elder abuse is prevalent problem

<http://www.eagletribune.com/local/x2004653132/Elder-abuse-is-prevalent-problem>

11. Analyzing abuse, neglect vital to aging society

<http://www.hillsdale.net/newsnow/x1543989449/Analyzing-abuse-neglect-vital-to-aging-society>

12. State takes steps against elder abuse

<http://www.thedailyreporter.com/news/x1873083805/State-takes-steps-against-elder-abuse>

13. Abuse of elderly a silent epidemic

<http://www.sooeveningnews.com/newsnow/x1543989855/Abuse-of-elderly-a-silent-epidemic>

14. Rock Hill woman charged with neglect of vulnerable adult

Read more here: <http://www.charlotteobserver.com/2012/06/30/3353178/rock-hill-oman-charged-with-neglect.html#storylink=misearch#storylink=cpy>

15. Telemarketing scam targeted elderly investors

<http://www.standard.net/stories/2012/06/26/telemarketing-scam-targeted-elderly-investors>

16. Suit accuses Martinsburg attorney of 'undue influence' in parents' wills

<http://wvrecord.com/news/245012-suit-accesses-martinsburg-attorney-of-undue-influence-in-parents-wills>

17. Secret suffering: elder abuse in spotlight

<http://www.burnabynow.com/life/Secret+suffering+elder+abuse+spotlight/6859665/story.html>

18. Government of Canada Highlights Elder Abuse Awareness Project in Whitehorse

<http://www.marketwire.com/press-release/government-of-canada-highlights-elder-abuse-awareness-project-in-whitehorse-1675501.htm>

19. Rogue nurses who attack and steal from patients handed 'licence to abuse' as report reveals how few are actually struck off

<http://www.dailymail.co.uk/health/article-2167927/A-licence-abuse-patients-Theyve-attacked-stolen-vulnerable-care-But-rogue-nurses-struck-off.html>



## AGE - THRESHOLD ELIGIBILITY FOR ADULT PROTECTIVE SERVICES: COMPARISON CHART OF CRITERIA, BY STATE

(Laws current as of 12/31/06)

Prepared by Lori Stiegel and Ellen Klem of the American Bar Association Commission on Law and Aging<sup>1</sup> for the National Center on Elder Abuse<sup>2</sup>

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Research conducted on Westlaw compliments of West Group

**CAUTION:** Read the explanation of this chart before relying upon the chart. You can find the explanation online at

<http://www.abanet.org/aging/about/elderabuse.shtml>.

STATE-PERSONS ELIGIBLE	STATUTORY PROVISION(S) REGARDING AGE	65+	60+	18-64	18-59	18+	EMANCIPATED MINOR*	MINOR
<b>Alabama</b>								
<i>-Adult in Need of Protective Services who is mentally incapable</i>	a person 18 years of age or older					X		
<i>-Adult in need of protective services who has a physical or mental impairment</i>	a person 18 years of age or older					X		
<b>Alaska</b>								
<i>-Vulnerable adult</i>	18 years or older					X		
<b>Arizona</b>								
<i>-Vulnerable adult</i>	eighteen years of age or older					X		
<i>-Incapacitated adult</i>	Adult (by reference to authorization)					X		
<b>Arkansas (#1) Ark. Code Ann. §§ 12-12-1701 – 12-12-1721 (relating to reporting &amp; investigation)</b>								
<i>-Endangered person</i>	eighteen (18) years of age or older					X		

<b>STATE-PERSONS ELIGIBLE</b>	<b>STATUTORY PROVISION(S) REGARDING AGE</b>	<b>65+</b>	<b>60+</b>	<b>18-64</b>	<b>18-59</b>	<b>18+</b>	<b>EMANCIPATED MINOR*</b>	<b>MINOR</b>
<i>-Endangered person in LTCF</i>	None							
<i>-Impaired person</i>	eighteen (18) years of age or older					X		
<i>-Impaired person in LTCF</i>	None							
<b>Arkansas (#2) Ark. Code Ann. §§ 9-20-101 – 9-20-121 (authorizing APS to take victims into protective custody)</b>								
<i>-Endangered adult</i>	eighteen (18) years of age or older					X		
<i>-Endangered adult in LTCF</i>	eighteen (18) years of age or older					X		
<i>-Impaired adult</i>	eighteen (18) years of age or older					X		
<i>-Impaired adult in LTCF</i>	eighteen (18) years of age or older					X		
<b>California</b>								
<i>-Elder</i>	65 years of age or older	X						
<i>-Dependent adult</i>	between the ages of 18 and 64			X				
<i>-Dependent adult admitted as inpatient in 24-hour health facility</i>	any person between the ages of 18 and 64			X				
<b>Colorado</b>								
<i>-At-risk adult</i>	eighteen years of age or older					X		
<b>Connecticut</b>								

<b>STATE-PERSONS ELIGIBLE</b>	<b>STATUTORY PROVISION(S) REGARDING AGE</b>	<b>65+</b>	<b>60+</b>	<b>18-64</b>	<b>18-59</b>	<b>18+</b>	<b>EMANCIPATED MINOR*</b>	<b>MINOR</b>
<i>-Elderly person</i>	sixty years of age or older		X					
<b>Delaware</b>								
<i>-Infirm adult</i>	18 years or over					X		
<i>-Incapacitated person</i>	Adult (by reference to authorization)					X		
<b>District of Columbia</b>								
<i>-Adult in need of protective services</i>	aged 18 or older					X		
<b>Florida</b>								
<i>-Vulnerable adult</i>	18 years of age or older					X		
<b>Georgia</b>								
<i>-Elder person</i>	65 years of age or older	X						
<i>-Disabled adult</i>	18 years of age or older					X		
<b>Guam</b>								
<i>-Elderly</i>	sixty (60) years of age or older		X					
<i>-Disabled adult who has a physical or mental impairment...</i>	over the age of eighteen (18) years					X		
<i>-Disabled adult who has a history of or has been classified as having an impairment</i>	over the age of eighteen (18) years					X		
<b>Hawaii</b>								
<i>-Dependent adult</i>	adult					X		
<b>Idaho</b>								
<i>-Vulnerable adult</i>	eighteen (18) years of age or older					X		
<b>Illinois</b>								

<b>STATE-PERSONS ELIGIBLE</b>	<b>STATUTORY PROVISION(S) REGARDING AGE</b>	<b>65+</b>	<b>60+</b>	<b>18-64</b>	<b>18-59</b>	<b>18+</b>	<b>EMANCIPATED MINOR*</b>	<b>MINOR</b>
<i>-Eligible adult</i>	60 years of age or older		X					
<b>Indiana</b>								
<i>-Endangered adult</i>	at least eighteen (18) years of age					X		
<b>Iowa</b>								
<i>-Dependent adult</i>	eighteen years of age or older					X		
<b>Kansas</b>								
<i>-Adult in own home or home of a family member or home of a friend</i>	18 years of age or older					X		
<i>-Adult in an adult family home</i>	18 years of age or older					X		
<i>-Adult receiving services through a provider of community services and affiliates thereof</i>	18 years of age or older					X		
<b>Kentucky</b>								
<i>-Adult</i>	eighteen (18) years of age or older					X		
<b>Louisiana<sup>#</sup></b>								
<i>-Adult</i>	sixty years of age or older, any disabled person eighteen years of age or older, or an emancipated minor		X			X	X	

<b>STATE-PERSONS ELIGIBLE</b>	<b>STATUTORY PROVISION(S) REGARDING AGE</b>	<b>65+</b>	<b>60+</b>	<b>18-64</b>	<b>18-59</b>	<b>18+</b>	<b>EMANCIPATED MINOR*</b>	<b>MINOR</b>
<i>-Disabled person</i>	sixty years of age or older, any disabled person eighteen years of age or older, or an emancipated minor		X			X	X	
<b>Maine</b>								
<i>-Dependent adult</i>	18 years of age or who is a legally emancipated minor					X	X	
<i>-Dependent adult who resides in a nursing home</i>	18 years of age or who is a legally emancipated minor					X	X	
<i>-Dependent adult who resides in a facility providing assisted living services</i>	18 years of age or who is a legally emancipated minor					X	X	
<i>-Dependent adult who is considered to be a dependent person under Title 17-A, section 555</i>	None							
<i>-Incapacitated adult</i>	18 years of age or who is a legally emancipated minor					X	X	
<b>Maryland</b>								
<i>-Vulnerable adult</i>	adult					X		
<i>-Disabled person</i>	adult					X		
<b>Massachusetts (EPS) Mass. Gen. Laws Ann. ch. 19A, §§ 14 – 26 (applicable to persons who are 60 or older)</b>								

<b>STATE-PERSONS ELIGIBLE</b>	<b>STATUTORY PROVISION(S) REGARDING AGE</b>	<b>65+</b>	<b>60+</b>	<b>18-64</b>	<b>18-59</b>	<b>18+</b>	<b>EMANCIPATED MINOR*</b>	<b>MINOR</b>
<i>-Elderly person</i>	sixty years of age or over		X					
<b>Massachusetts (APS) Mass. Gen. Laws ch. 19C, §§ 1 – 13 (applicable to persons with disabilities)</b>								
<i>-Disabled person</i>	between the ages of eighteen to fifty-nine, inclusive				X			
<b>Michigan</b>								
<i>-Vulnerable person</i>	adult					X		
<b>Minnesota</b>								
<i>-Vulnerable adult who is a facility resident or inpatient</i>	18 years of age or older					X		
<i>-Vulnerable adult who receives services at or from a facility</i>	18 years of age or older					X		
<i>-Vulnerable adult who receives services from a home care provider</i>	18 years of age or older					X		
<i>-Vulnerable adult</i>	18 years of age or older					X		
<b>Mississippi</b>								
<i>-Vulnerable adult</i>	eighteen (18) years of age or older or any minor					X		X
<i>-Vulnerable adult in a care facility</i>	None							
<b>Missouri (#1) Mo. Ann. Stat. §§ 660.250 – 660.295</b>								

<b>STATE-PERSONS ELIGIBLE</b>	<b>STATUTORY PROVISION(S) REGARDING AGE</b>	<b>65+</b>	<b>60+</b>	<b>18-64</b>	<b>18-59</b>	<b>18+</b>	<b>EMANCIPATED MINOR*</b>	<b>MINOR</b>
<i>(applicable only to persons who are unable to protect their own interests or adequately perform or obtain services necessary to meet their essential human needs and are either: (1) 60 or older, or (2) between 18 and 59 and have a disability)</i>								
<i>-Eligible adult</i>	sixty years of age or older		X					
<i>-Eligible adult with a disability</i>	adult/between the ages of eighteen and fifty-nine				X			
<b>Missouri (#2)</b> <b>Mo. Ann. Stat. §§ 660.300 – 660.321</b> <i>(these provisions are applicable only to individuals who are receiving “in home services” as defined by § 660.250(9) “through any in-home services provider agency” as defined by § 660.250(11). Missouri does not have two statutes. We established this</i>								

<b>STATE-PERSONS ELIGIBLE</b>	<b>STATUTORY PROVISION(S) REGARDING AGE</b>	<b>65+</b>	<b>60+</b>	<b>18-64</b>	<b>18-59</b>	<b>18+</b>	<b>EMANCIPATED MINOR*</b>	<b>MINOR</b>
<i>construct to distinguish in the charts between the provisions applicable to individuals who are receiving in home services and those who are not. The statute indicated that the definitions contained in 660.250 apply to what we have labeled as Missouri #2; 660.300 – 660.321. )</i>								
<i>-Eligible adult who is an “in-home services client”</i>	sixty years of age or older		X					
<i>-Eligible adult with a disability who is an “in-home services client”</i>	adult/between the ages of eighteen and fifty-nine				X			
<b>Montana</b>								
<i>-Older person</i>	at least 60 years of age		X					
<i>-Person with a developmental disability</i>	18 years of age or older					X		
<b>Nebraska-</b>								
<i>-Vulnerable adult who has a substantial mental impairment</i>	eighteen years or older					X		



<b>STATE-PERSONS ELIGIBLE</b>	<b>STATUTORY PROVISION(S) REGARDING AGE</b>	<b>65+</b>	<b>60+</b>	<b>18-64</b>	<b>18-59</b>	<b>18+</b>	<b>EMANCIPATED MINOR*</b>	<b>MINOR</b>
<i>-Vulnerable adult who has a substantial functional impairment</i>	eighteen years or older					X		
<i>-Vulnerable adult for whom a guardian has been appointed</i>	eighteen years or older					X		
<b>Nevada</b>								
<i>-Older person</i>	60 years of age or older		X					
<b>New Hampshire</b>								
<i>-Incapacitated adult</i>	18 years of age or older					X		
<b>New Jersey</b>								
<i>-Vulnerable adult</i>	eighteen years of age or older					X		
<b>New Mexico</b>								
<i>-Incapacitated adult</i>	eighteen years of age or older					X		
<i>-Protected adult</i>	eighteen years of age or older					X		
<b>New York</b>								
<i>-Adult</i>	Adult (by reference to authorization)					X		
<b>North Carolina</b>								
<i>-Disabled adult</i>	18 years of age or over or any lawfully emancipated minor					X	X	
<b>North Dakota</b>								
<i>-Vulnerable adult who has a substantial mental impairment</i>	Adult or minor emancipated by marriage					X	X	

<b>STATE-PERSONS ELIGIBLE</b>	<b>STATUTORY PROVISION(S) REGARDING AGE</b>	<b>65+</b>	<b>60+</b>	<b>18-64</b>	<b>18-59</b>	<b>18+</b>	<b>EMANCIPATED MINOR*</b>	<b>MINOR</b>
<i>-Vulnerable adult who has a substantial functional impairment</i>	Adult or minor emancipated by marriage					X	X	
<b>Ohio</b>								
<i>-Adult</i>	sixty years of age or older		X					
<b>Oklahoma</b>								
<i>-Vulnerable adult</i>	adult					X		
<i>-Incapacitated person</i>	eighteen (18) years of age or older					X		
<i>-Incapacitated person with a guardian, limited guardian, or conservator</i>	eighteen (18) years of age or older					X		
<b>Oregon (EPS) Or. Rev. Stat. §§ 124.050 – 124.095 (applicable to persons 65 or older who are not residents of long-term care facilities)</b>								
<i>-Elderly person</i>	65 years of age or older	X						
<b>Oregon (APS) Or. Rev. Stat. §§ 430.735 – 430.768 (applicable only to persons 18 or older who are mentally ill or developmentally disabled and receive services from a community program)</b>								

<b>STATE-PERSONS ELIGIBLE</b>	<b>STATUTORY PROVISION(S) REGARDING AGE</b>	<b>65+</b>	<b>60+</b>	<b>18-64</b>	<b>18-59</b>	<b>18+</b>	<b>EMANCIPATED MINOR*</b>	<b>MINOR</b>
<i>or facility)</i>								
<i>-Adult</i>	18 years of age or older					X		
<b>Pennsylvania</b>								
<i>-Older adult</i>	60 years of age or older		X					
<b>Puerto Rico</b>								
<i>-Aged person</i>	sixty (60) years of age or older		X					
<b>Rhode Island</b>								
<i>-Elderly person</i>	sixty (60) years of age or older		X					
<b>South Carolina</b>								
<i>-Vulnerable adult</i>	eighteen years of age or older					X		
<i>-Vulnerable adult residing in a facility</i>	None							
<b>South Dakota</b> <i>(There is no APS statute but the state's APS program is authorized by S.D. Codified Laws Ann. § 28-1-44.)</i>								
<i>-None</i>	None							
<b>Tennessee</b>								
<i>-Adult</i>	eighteen (18) years of age or older					X		
<i>-Adult of advanced age</i>	sixty (60) years of age or older		X					
<b>Texas</b>								
<i>-Elderly person</i>	65 years of age or older		X					

<b>STATE-PERSONS ELIGIBLE</b>	<b>STATUTORY PROVISION(S) REGARDING AGE</b>	<b>65+</b>	<b>60+</b>	<b>18-64</b>	<b>18-59</b>	<b>18+</b>	<b>EMANCIPATED MINOR*</b>	<b>MINOR</b>
<i>-Disabled person</i>	18 years of age or older; or under 18 years of age and has had the disabilities of minority removed					X	X	
<b>Utah</b>								
<i>-Vulnerable elder adult</i>	65 years of age or older	X						
<i>-Vulnerable adult</i>	adult					X		
<b>Vermont</b>								
<i>-Vulnerable adult who is a facility resident</i>	18 years of age or older					X		
<i>-Vulnerable adult who is a resident of a psychiatric hospital or psych unit of a hospital</i>	18 years of age or older					X		
<i>-Vulnerable adult who has been receiving services for more than a month from a home health agency, etc.</i>	18 years of age or older					X		
<i>-Vulnerable adult who is impaired in ability to provide self-care</i>	18 years of age or older					X		
<i>-Vulnerable adult who is impaired in ability to protect self</i>	18 years of age or older					X		
<b>Virgin Islands</b>								
<i>-Elderly person</i>	sixty (60) years of age or over		X					
<i>-Disabled adult</i>	eighteen (18) years of age or older					X		

<b>STATE-PERSONS ELIGIBLE</b>	<b>STATUTORY PROVISION(S) REGARDING AGE</b>	<b>65+</b>	<b>60+</b>	<b>18-64</b>	<b>18-59</b>	<b>18+</b>	<b>EMANCIPATED MINOR*</b>	<b>MINOR</b>
<b>Virginia</b>								
<i>-Adult</i>	60 years of age or older		X					
<i>-Adult who is incapacitated</i>	18 years of age or older					X		
<b>Washington</b>								
<i>-Vulnerable adult</i>	Sixty years of age or older		X					
<i>-Vulnerable adult who is found incapacitated under the guardianship chapter</i>	Adult					X		
<i>-Vulnerable adult who has a developmental disability</i>	Adult					X		
<i>-Vulnerable adult who is admitted to any facility</i>	Adult					X		
<i>-Vulnerable adult who receives services from home health, hospice, or home care agencies</i>	Adult					X		
<i>-Vulnerable adult who is receiving services from an individual provider</i>	Adult					X		
<i>-Vulnerable adult receiving services from an "individual who for compensation serves as a personal aide to a person who self-directs his or her</i>	Adult					X		

<b>STATE-PERSONS ELIGIBLE</b>	<b>STATUTORY PROVISION(S) REGARDING AGE</b>	<b>65+</b>	<b>60+</b>	<b>18-64</b>	<b>18-59</b>	<b>18+</b>	<b>EMANCIPATED MINOR*</b>	<b>MINOR</b>
<i>own care in his or her home”</i>								
<b>West Virginia</b>								
<i>-Incapacitated adult</i>	adult					X		
<b>Wisconsin (EPS) Wis. Stat. Ann. § 46.90 (applicable to persons who are 60 or older )</b>								
<i>-Elder adult at risk</i>	age 60 years or older		X					
<b>Wisconsin (APS) Wis. Stat. Ann. §§ 55.001 – 55.23 (applicable to adults with disabilities)</b>								
<i>-Adult at risk</i>	adult				X			
<b>Wyoming</b>								
<i>-Vulnerable adult</i>	eighteen (18) years of age or older					X		

<sup>1</sup> The views expressed herein have not been approved by the House of Delegates or the Board of Governors of the American Bar Association and, accordingly, should not be construed as representing the policy of the American Bar Association.

<sup>2</sup> This document was completed for the National Center on Elder Abuse and supported in part by a grant, No. 90AM2792, from the Administration on Aging, U.S. Department of Health and Human Services. Grantees undertaking projects under government sponsorship are encouraged to express freely their findings and conclusions. Therefore, points of view or opinions do not necessarily represent official Administration on Aging policy.

\* Emancipated minor includes “legally emancipated minor,” “lawfully emancipated minor,” “minor emancipated by marriage,” or “has had the disabilities of minority removed.”

# There is one statute but there are two programs. A separate office handles “persons sixty years of age or older” (EPS) and another handles “disabled persons eighteen years of age or older” (APS).

**To: SB78 Elder Abuse Task Force**

**From: Scott Storey, District Attorney, Jefferson and Gilpin Counties**

**Re: proposed mandatory reporting of elder abuse and exploitation**

**Date: 7/5/12**

Attached is the draft of the elder abuse and exploitation reporting statute that we proposed at the stakeholder meetings this past spring. Our draft created a new definition of “at-risk elder.” This definition is completely separate from the existing human services code definition of “at-risk adult.” An “at-risk elder” would be a person seventy years of age or older. Mandated reporting under our draft would be limited to crimes of abuse and exploitation perpetrated against “at-risk elders” only. In addition, only the set of mandated reporters would be required to report. The remaining provisions of the human services code would remain in tact.

We see the benefit of this approach being that we do not tamper excessively with the existing framework of reporting and investigation already set forth in the human services code. Our proposal would simply be an addition to either the human services code or the criminal code. We also believe that this bill is appropriately limited to the elderly. Committing ourselves to reporting of all crimes and self-neglect for all “at-risk adults” is overly broad and unduly expensive at this point. Limiting ourselves to the elderly is an appropriate first step.

Our proposal for paying for the additional resources necessitated by the increase in reporting would come from a modification of the criminal code. Our model for this procedure is HB 10-1352. This law reduced the penalties for simple possession of most types of drugs. The savings generated by reduced prison, probation and public defender costs were then shifted to support drug treatment. Presently, under the criminal code, “at-risk adult” is defined as a person age sixty and above. See 18-6.5-102(1), C.R.S. When crimes such as theft, assault, neglect and robbery are perpetrated upon an at-risk adult the criminal penalty is enhanced. This enhancement is particularly pronounced for the crime of theft. Our proposal is to change the definition of “at-risk adult” under the criminal code only (leaving the definition of “at-risk adult” unchanged in the human services code) to persons age seventy and above. We believe that this would result in significant cost savings by dramatically reducing the penalty for this limited subset of crimes committed against those in their sixties. The prosecution unit in my office sees the majority of serious elder abuse and exploitation being committed against those in their seventies and eighties. This money could then be set aside for the counties and human services.

Lastly, there would be the addition of a criminal penalty for failure to report. This would be a class three misdemeanor.

# DRAFT

## ELDER ABUSE, NEGLECT AND EXPLOITATION REPORTING

### **26-3.1-101. Definitions.**

“At-risk elder” means an individual seventy years of age or older.

“Abuse” means an act or omission which threatens the health, safety, or welfare of an at-risk elder or which exposes the elder to a situation or condition that poses an imminent risk of death, serious bodily injury, or bodily injury to the adult. “Abuse” includes, but is not limited to, abuse:

- (a) 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
- (b) where unreasonable confinement or restraint is imposed; or
- (c) where there is nonconsensual sexual conduct or contact classified as a crime under the “Colorado Criminal Code”, title 18 C.R.S.

“Caretaker Neglect” occurs when adequate food, clothing, shelter, psychological care, physical care, medical care, or supervision is not secured for the at-risk elder 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 the withholding of artificial nourishment in accordance with the “Colorado Medical Treatment Decision Act”, article 18 of title 15, C.R.S. shall not be considered as abuse.

“Caretaker” means a person, as such term is defined in subsection (5) of this section, who is responsible for the care of an at-risk elder as a result of a family or legal relationship or who has assumed responsibility for the care of an at-risk elder.

“County department” means a county or district department of social services

“Financial exploitation” means the illegal or improper use of an at-risk elder’s financial resources for another person’s profit or advantage

### **26-3.1-102 Reporting Requirements.**



(1)(a) Any person specified in paragraph (b) of this subsection (1) who has observed the abuse, caretaker neglect or financial exploitation of an at-risk elder, or who has reasonable cause to believe that an at-risk elder has been abused, neglected by a caretaker or financially exploited or who is at imminent risk of abuse, caretaker neglect or financial exploitation shall make a report to the county department within twenty-four hours. The report, if made during non-business hours of the county department, shall be made to a local law enforcement agency responsible for investigating violations of state criminal laws protecting elderly adults.

(b) The following persons shall make or initiate a report immediately:

(I) Physicians, surgeons, physicians' assistants, or osteopaths, including physicians in training;

(II) Medical examiners or coroners;

(III) Registered nurses or licensed practical nurses;

(IV) Hospital and nursing home personnel engaged in the admission, care, or treatment of patients;

(V) Psychologists and other mental health professionals;

(VI) Social work practitioners;

(VII) Dentists;

(VIII) Law enforcement officials and personnel;

(IX) Court-appointed guardians and conservators;

(X) Fire protection personnel;

(XI) Pharmacists;

(XII) Community-centered board staff;

(XIII) Personnel of banks, savings and loan associations, credit unions, and other lending or financial institutions;

(XIV) State and local long-term care ombudsmen;

(XV) Any caretaker, staff member, or employee of or volunteer or consultant for any licensed care facility, agency, home, or governing board.

(c) In addition to those persons required by this subsection (1) to report known or suspected abuse, caretaker neglect or financial exploitation of an at-risk elder and circumstances or conditions which might reasonably result in abuse, caretaker neglect or financial exploitation, any other person is encouraged to report such known or suspected abuse, caretaker neglect or financial exploitation and circumstances or conditions which might reasonably result in abuse, caretaker neglect or financial exploitation of an at-risk elder 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 include to the extent possible: The name and address of the at-risk adult; the name and address of the at-risk elder's caretaker, if any; the age, if known, of such at-risk elder; the nature and extent of such at-risk elder's injury, if any; the nature and extent of the condition that will reasonably result in abuse or caretaker neglect; the nature and extent of such at-risk elder's financial injury, if any; the nature and extent of the condition or circumstance that is likely to result in financial exploitation; and any other pertinent information.

(3) A copy of the report prepared by the county department in accordance with subsections (1) and (2) of this section shall be forwarded within twenty-four hours to the district attorney's office and the local law enforcement agency. A report prepared by the local law enforcement agency shall be forwarded within twenty-four hours to the county department and to the district attorney's office.

(4) No person, including a person specified in subsection (1) of this section, shall knowingly make a false report of abuse, caretaker neglect or financial 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 liable for damages proximately caused thereby.

(5) Any person, except a perpetrator, complicitor, or coconspirator, who makes a report pursuant to this section shall be immune from any civil or criminal liability on account of such report, testimony, or participation in making such report, so long as such action was taken in good faith and not in reckless disregard of the truth or in violation of subsection (4) of this section.

(6) No person shall take any discriminatory, disciplinary, or retaliatory action against any person who, in good faith, makes a report of suspected abuse, neglect, or exploitation of an at-risk adult.

(7) Any person who knowingly violates the provisions of subsection (1) of this section:

(a) Commits a class three misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S.

(b) Shall be liable for damages proximately caused thereby.

## REPORTING REQUIREMENTS: PROVISIONS AND CITATIONS IN ADULT PROTECTIVE SERVICES LAWS, BY STATE

(Laws current as of 12/31/06)

Prepared by Lori Stiegel and Ellen Klem of the American Bar Association Commission on Law and Aging<sup>1</sup> for the National Center on Elder Abuse<sup>2</sup>

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Research conducted on Westlaw compliments of West Group

**CAUTION:** Read the explanation of this chart before relying upon the chart. You can find the explanation online at

<http://www.abanet.org/aging/about/elderabuse.shtml>

Yellow – Persons Required to Report to Adult Protective Services (APS)

STATE	STATUTORY CITATION(S) AND PROVISION(S)
Alabama	<p>Ala. Code § 38-9-8</p> <p>(a) All physicians and other practitioners of the healing arts or any caregiver having reasonable cause to believe that any protected person has been subjected to physical abuse, neglect, exploitation, sexual abuse, or emotional abuse shall report or cause a report to be made as follows:</p> <p>(1) An oral report, by telephone or otherwise, shall be made immediately, followed by a written report, to the county department of human resources or to the chief of police of the city or city and county, or to the sheriff of the county if the observation is made in an unincorporated territory, except that reports of a nursing home employee who abuses, neglects, or misappropriates the property of a nursing home resident shall be made to the Department of Public Health. The requirements to report suspicion of suspected abuse, neglect, or misappropriation of property of a nursing home resident by an employee of a nursing home shall be deemed satisfied if the report is made in accordance with the rules of the State Board of Health.</p> <p>(2) Within seven days following an oral report, an investigation of any alleged abuse, neglect, exploitation, sexual abuse, or emotional abuse shall be made by the county department of human resources or the law enforcement official, whichever receives the report, and a written report prepared which includes the following:</p> <ul style="list-style-type: none"> <li>a. Name, age, and address of the person.</li> <li>b. Nature and extent of injury suffered by the person.</li> <li>c. Any other facts or circumstances known to the reporter which may aid in the determination of appropriate action.</li> </ul> <p>(b) All reports prepared by a law enforcement official shall be forwarded to the county department of human resources within 24 hours.</p> <p>(c) The county department of human resources shall not be required to investigate any report of abuse, neglect, exploitation, sexual abuse, or emotional abuse that occurs in any facility owned and operated by the Alabama Department of Corrections or the Alabama Department of Mental Health and Mental Retardation.</p> <p>(d) Notwithstanding the foregoing, the Department of Public Health shall investigate all reports that a nursing home employee has abused or neglected a nursing home resident, or misappropriated the property of a nursing home resident, in accordance with the rules of the State Board of Health and the federal regulations and guidelines of the Medicaid and Medicare programs. The Department of Public Health shall investigate the complaints in accordance with the procedures and time frames</p>

Alaska	<p>established by the agency. A county department of human resources shall not be required to investigate the complaints.</p> <p>Alaska Stat. § 47.24.010(a) – (b) and (e) – (f)</p> <p>(a) Except as provided in (e) and (f) of this section, the following persons who, in the performance of their professional duties, have reasonable cause to believe that a vulnerable adult suffers from abandonment, exploitation, abuse, neglect, or self-neglect shall, not later than 24 hours after first having cause for the belief, report the belief to the department's central information and referral service for vulnerable adults:</p> <ol style="list-style-type: none"> <li>(1) a physician or other licensed health care provider;</li> <li>(2) a mental health professional as defined in AS 47.30.915 (11) and including a marital and family therapist licensed under AS 08.63;</li> <li>(3) a pharmacist;</li> <li>(4) an administrator of a nursing home, residential care or health care facility;</li> <li>(5) a guardian or conservator;</li> <li>(6) a police officer;</li> <li>(7) a village public safety officer;</li> <li>(8) a village health aide;</li> <li>(9) a social worker;</li> <li>(10) a member of the clergy;</li> <li>(11) a staff employee of a project funded by the Department of Administration for the provision of services to older Alaskans, the Department of Health and Social Services, or the Council on Domestic Violence and Sexual Assault;</li> <li>(12) an employee of a personal care or home health aide program;</li> <li>(13) an emergency medical technician or a mobile intensive care paramedic;</li> <li>(14) a caregiver of the vulnerable adult;</li> </ol>
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	<p>(15) a certified nurse aide.</p> <p>(b) A report made under this section may include the name and address of the reporting person and must include</p> <p>(1) the name and address of the vulnerable adult;</p> <p>(2) information relating to the nature and extent of the abandonment, exploitation, abuse, neglect, or self-neglect;</p> <p>(3) other information that the reporting person believes might be helpful in an investigation of the case or in providing protection for the vulnerable adult.</p> <p>(e) If a person making a report under this section believes that immediate action is necessary to protect the vulnerable adult from imminent risk of serious physical harm due to abandonment, exploitation, abuse, neglect, or self-neglect and the reporting person cannot immediately contact the department's central information and referral service for vulnerable adults, the reporting person may make the report to a police officer or a village public safety officer. The police officer or village public safety officer shall take immediate action to protect the vulnerable adult and shall, at the earliest opportunity, notify the department....</p> <p>(f) A person listed in (a) of this section who reports to the long term care ombudsman under AS 47.62.015, or to the Department of Health and Social Services, that a vulnerable adult has been exploited, abused, or neglected in an out-of-home care facility is considered to have met the duty to report under (a) of this section.</p>
Arizona	<p>Ariz. Rev. Stat. § 46-454(A)-(C)</p> <p>A. A physician, hospital intern or resident, surgeon, dentist, psychologist, social worker, peace officer or other person who has responsibility for the care of an incapacitated or vulnerable adult and who has a reasonable basis to believe that abuse or neglect of the adult has occurred or that exploitation of the adult's property has occurred shall immediately report or cause reports to be made of such reasonable basis to a peace officer or to a protective services worker. The guardian or conservator of an incapacitated or vulnerable adult shall immediately report or cause reports to be made of such reasonable basis to the superior court. All of the above reports shall be made immediately in person or by telephone and shall be followed by a written report mailed or delivered within forty-eight hours or on the next working day if the forty-eight hours expire on a weekend or holiday.</p> <p>B. An attorney, accountant, trustee, guardian, conservator or other person who has responsibility for preparing the tax records of an incapacitated or vulnerable adult or a person who has responsibility for any other action concerning the use or preservation of the incapacitated or vulnerable adult's property and who, in the course of fulfilling that responsibility, discovers a reasonable basis to believe that exploitation of the adult's property has occurred or that abuse or neglect of the adult has occurred shall immediately report or cause reports to be made of such reasonable basis to a peace officer, to a protective services worker or to the public fiduciary of the county in which the incapacitated or vulnerable adult resides. If the</p>

	<p>public fiduciary is unable to investigate the contents of a report, the public fiduciary shall immediately forward the report to a protective services worker. If a public fiduciary investigates a report and determines that the matter is outside the scope of action of a public fiduciary, then the report shall be immediately forwarded to a protective services worker. All of the above reports shall be made immediately in person or by telephone and shall be followed by a written report mailed or delivered within forty-eight hours or on the next working day if the forty-eight hours expire on a weekend or holiday.</p> <p>C. Reports pursuant to subsections A and B shall contain:</p> <ol style="list-style-type: none"> <li>1. The names and addresses of the adult and any persons having control or custody of the adult, if known.</li> <li>2. The adult's age and the nature and extent of his incapacity or vulnerability.</li> <li>3. The nature and extent of the adult's injuries or physical neglect or of the exploitation of the adult's property.</li> <li>4. Any other information that the person reporting believes might be helpful in establishing the cause of the adult's injuries or physical neglect or of the exploitation of the adult's property.</li> </ol>
<p>Arkansas (#1) Ark. Code Ann. §§ 12-12-1701 – 12-12- 1721 (relating to reporting &amp; investigation)</p>	<p>Ark. Code Ann. § 12-12-1708(a) – (c)</p> <p>(a)(1) Whenever any of the following persons has observed or has reasonable cause to suspect that an endangered person or an impaired person has been subjected to conditions or circumstances that constitute adult maltreatment or long-term care facility resident maltreatment, the person shall immediately report or cause a report to be made in accordance with the provisions of this section:</p> <ol style="list-style-type: none"> <li>(A) A physician;</li> <li>(B) A surgeon;</li> <li>(C) A coroner;</li> <li>(D) A dentist;</li> <li>(E) A dental hygienist;</li> <li>(F) An osteopath;</li> <li>(G) A resident intern;</li> <li>(H) A nurse;</li> <li>(I) A member of a hospital's personnel who is engaged in the administration, examination, care, or treatment of persons;</li> <li>(J) A social worker;</li> <li>(K) A case manager;</li> <li>(L) A home health worker;</li> <li>(M) A mental health professional;</li> <li>(N) A peace officer;</li> <li>(O) A law enforcement officer;</li> <li>(P) A facility administrator or owner;</li> </ol>

- (Q) An employee in a facility;
  - (R) An employee of the Department of Health and Human Services;
  - (S) A firefighter;
  - (T) An emergency medical technician; or
  - (U) An employee of a bank or other financial institution.
- (2) Whenever a person is required to report under this subchapter in his or her capacity as a member of the staff, an employee in or owner of a facility, or an employee of the department, he or she shall immediately notify the person in charge of the institution, facility, or agency, or that person's designated agent, who shall then become responsible for making a report or cause a report to be made within twenty-four (24) hours or on the next business day, whichever is earlier....
- (b)(1) A report for a long-term care facility resident shall be made:
- (A) Immediately to the local law enforcement agency for the jurisdiction in which the long-term care facility is located; and
  - (B) To the Office of Long-Term Care of the Division of Medical Services of the Department of Health and Human Services, under regulations of that office.
- (2) A report of a maltreated adult who does not reside in a long-term care facility shall be made to the adult and long-term care facility maltreatment hotline provided in § 12-12-1607.
- (c) No privilege or contract shall relieve any person required by this subchapter to make a notification or report from the requirement of making the notification or report.

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Ark. Code Ann. § 12-12-1709

- (a)(1) Any person or official who is required to report a case of suspected adult maltreatment or long-term care facility resident maltreatment under this subchapter and who has reasonable cause to suspect that an adult or long-term care facility resident has died as a result of maltreatment shall report the suspected death from maltreatment to the appropriate medical examiner or coroner.
- (2)(A) In all cases of the death of a long-term care facility resident or a hospice facility resident, the long-term care facility or the hospice facility shall immediately report the death to the appropriate coroner.
- (B) The report is required regardless of whether the long-term care facility or the hospital believes the death to be from natural causes or the result of maltreatment or any other cause.
- (3)(A) In all cases of the death in a hospital of a person who was a long-term care facility resident within five (5) days before entering the hospital, the hospital shall immediately report the death to the appropriate coroner.
- (B) The report is required regardless of whether the hospital believes the death to be from natural causes, the result of maltreatment, or any other cause.
- (b)(1) The medical examiner or coroner shall accept the report for investigation and upon finding reasonable cause to suspect that a person has died as a result of maltreatment shall report the findings to a law enforcement agency and the appropriate prosecuting attorney.



	<p>(2) If the institution making the report is a hospital or long-term care facility, the medical examiner or coroner shall report the findings to the hospital or long-term care facility unless the findings are part of a pending or ongoing law enforcement investigation.</p> <p>(c) If it receives findings under subdivision (b)(2) of this section, the medical examiner, coroner, or hospital shall also report findings under subdivision (b) of this section to the Department of Health and Human Services if:</p> <p>(1) Reasonable cause exists to believe the death resulted from maltreatment; or</p> <p>(2) Upon request of the department and there is a pending investigation concerning allegations of maltreatment occurring before death.</p>
<p>Arkansas (#2) Ark. Code Ann. §§ 9-20-101 – 9-20-121 <i>authorizing APS to take victims into protective custody</i></p>	<p>Ark. Code Ann. § 9-20-101 et. seq.</p> <p>This Act does not contain any provisions related to reporting.</p>
<p>California</p>	<p>Cal. Welf. &amp; Inst. Code § 15630(a) – (f)</p> <p>(a) Any person who has assumed full or intermittent responsibility for the care or custody of an elder or dependent adult, whether or not he or she receives compensation, including administrators, supervisors, and any licensed staff of a public or private facility that provides care or services for elder or dependent adults, or any elder or dependent adult care custodian, health practitioner, clergy member, or employee of a county adult protective services agency or a local law enforcement agency, is a mandated reporter.</p> <p>(b)(1) Any mandated reporter who, in his or her professional capacity, or within the scope of his or her employment, has observed or has knowledge of an incident that reasonably appears to be physical abuse, as defined in Section 15610.63 of the Welfare and Institutions Code, abandonment, abduction, isolation, financial abuse, or neglect, or is told by an elder or dependent adult that he or she has experienced behavior, including an act or omission, constituting physical abuse, as defined in Section 15610.63 of the Welfare and Institutions Code, abandonment, abduction, isolation, financial abuse, or neglect, or reasonably suspects that abuse, shall report the known or suspected instance of abuse by telephone immediately or as soon as practicably possible, and by written report sent within two working days, as follows:</p> <p>(A) If the abuse has occurred in a long-term care facility, except a state mental health hospital or a state developmental center, the report shall be made to the local ombudsperson or the local law enforcement agency.</p> <p>Except in an emergency, the local ombudsperson and the local law enforcement agency shall, as soon as practicable, do all of the following:</p> <p>(i) Report to the State Department of Health Services any case of known or suspected abuse occurring in a long-term health</p>

care facility, as defined in subdivision (a) of Section 1418 of the Health and Safety Code.

(ii) Report to the State Department of Social Services any case of known or suspected abuse occurring in a residential care facility for the elderly, as defined in Section 1569.2 of the Health and Safety Code, or in an adult day care facility, as defined in paragraph (2) of subdivision (a) of Section 1502.

(iii) Report to the State Department of Health Services and the California Department of Aging any case of known or suspected abuse occurring in an adult day health care center, as defined in subdivision (b) of Section 1570.7 of the Health and Safety Code.

(iv) Report to the Bureau of Medi-Cal Fraud and Elder Abuse any case of known or suspected criminal activity.

(B) If the suspected or alleged abuse occurred in a state mental hospital or a state developmental center, the report shall be made to designated investigators of the State Department of Mental Health or the State Department of Developmental Services, or to the local law enforcement agency.

Except in an emergency, the local law enforcement agency shall, as soon as practicable, report any case of known or suspected criminal activity to the Bureau of Medi-Cal Fraud and Elder Abuse.

(C) If the abuse has occurred any place other than one described in subparagraph (A), the report shall be made to the adult protective services agency or the local law enforcement agency.

(2)(A) A mandated reporter who is a clergy member who acquires knowledge or reasonable suspicion of elder or dependent adult abuse during a penitential communication is not subject to paragraph (1). For purposes of this subdivision, "penitential communication" means a communication that is intended to be in confidence, including, but not limited to, a sacramental confession made to a clergy member who, in the course of the discipline or practice of his or her church, denomination, or organization is authorized or accustomed to hear those communications and under the discipline tenets, customs, or practices of his or her church, denomination, or organization, has a duty to keep those communications secret.

(B) Nothing in this subdivision shall be construed to modify or limit a clergy member's duty to report known or suspected elder and dependent adult abuse when he or she is acting in the capacity of a care custodian, health practitioner, or employee of an adult protective services agency.

(C) Notwithstanding any other provision in this section, a clergy member who is not regularly employed on either a full-time or part-time basis in a long-term care facility or does not have care or custody of an elder or dependent adult shall not be responsible for reporting abuse or neglect that is not reasonably observable or discernible to a reasonably prudent person having no specialized training or experience in elder or dependent care.

(3)(A) A mandated reporter who is a physician and surgeon, a registered nurse, or a psychotherapist, as defined in Section 1010 of the Evidence Code, shall not be required to report, pursuant to paragraph (1), an incident where all of the following conditions exist:

(i) The mandated reporter has been told by an elder or dependent adult that he or she has experienced behavior constituting physical abuse, as defined in Section 15610.63 of the Welfare and Institutions Code, abandonment, abduction, isolation, financial abuse, or neglect.

(ii) The mandated reporter is not aware of any independent evidence that corroborates the statement that the abuse has occurred.

(iii) The elder or dependent adult has been diagnosed with a mental illness or dementia, or is the subject of a court-ordered conservatorship because of a mental illness or dementia.

(iv) In the exercise of clinical judgment, the physician and surgeon, the registered nurse, or the psychotherapist, as defined in Section 1010 of the Evidence Code, reasonably believes that the abuse did not occur.

(B) This paragraph shall not be construed to impose upon mandated reporters a duty to investigate a known or suspected incident of abuse and shall not be construed to lessen or restrict any existing duty of mandated reporters.

(4)(A) In a long-term care facility, a mandated reporter shall not be required to report as a suspected incident of abuse, as defined in Section 15610.07, an incident where all of the following conditions exist:

(i) The mandated reporter is aware that there is a proper plan of care.

(ii) The mandated reporter is aware that the plan of care was properly provided or executed.

(iii) A physical, mental, or medical injury occurred as a result of care provided pursuant to clause (i) or (ii).

(iv) The mandated reporter reasonably believes that the injury was not the result of abuse.

(B) This paragraph shall not be construed to require a mandated reporter to seek, nor to preclude a mandated reporter from seeking, information regarding a known or suspected incident of abuse prior to reporting. This paragraph shall apply only to those categories of mandated reporters that the State Department of Health Services determines, upon approval by the Bureau of Medi-Cal Fraud and Elder Abuse and the state long-term care ombudsperson, have access to plans of care and have the training and experience necessary to determine whether the conditions specified in this section have been met.

(c)(1) Any mandated reporter who has knowledge, or reasonably suspects, that types of elder or dependent adult abuse for

	<p>which reports are not mandated have been inflicted upon an elder or dependent adult, or that his or her emotional well-being is endangered in any other way, may report the known or suspected instance of abuse.</p> <p>(2) If the suspected or alleged abuse occurred in a long-term care facility other than a state mental health hospital or a state developmental center, the report may be made to the long-term care ombudsperson program. Except in an emergency, the local ombudsperson shall report any case of known or suspected abuse to the State Department of Health Services and any case of known or suspected criminal activity to the Bureau of Medi-Cal Fraud and Elder Abuse, as soon as is practicable.</p> <p>(3) If the suspected or alleged abuse occurred in a state mental health hospital or a state developmental center, the report may be made to the designated investigator of the State Department of Mental Health or the State Department of Developmental Services or to a local law enforcement agency or to the local ombudsperson. Except in an emergency, the local ombudsperson and the local law enforcement agency shall report any case of known or suspected criminal activity to the Bureau of Medi-Cal Fraud and Elder Abuse, as soon as is practicable.</p> <p>(4) If the suspected or alleged abuse occurred in a place other than a place described in paragraph (2) or (3), the report may be made to the county adult protective services agency.</p> <p>(5) If the conduct involves criminal activity not covered in subdivision (b), it may be immediately reported to the appropriate law enforcement agency.</p> <p>(d) When two or more mandated reporters are present and jointly have knowledge or reasonably suspect that types of abuse of an elder or a dependent adult for which a report is or is not mandated have occurred, and when there is agreement among them, the telephone report may be made by a member of the team selected by mutual agreement, and a single report may be made and signed by the selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so shall thereafter make the report.</p> <p>(e) A telephone report of a known or suspected instance of elder or dependent adult abuse shall include, if known, the name of the person making the report, the name and age of the elder or dependent adult, the present location of the elder or dependent adult, the names and addresses of family members or any other adult responsible for the elder's or dependent adult's care, the nature and extent of the elder's or dependent adult's condition, the date of the incident, and any other information, including information that led that person to suspect elder or dependent adult abuse, as requested by the agency receiving the report.</p> <p>(f) The reporting duties under this section are individual, and no supervisor or administrator shall impede or inhibit the reporting duties, and no person making the report shall be subject to any sanction for making the report. However, internal procedures to facilitate reporting, ensure confidentiality, and apprise supervisors and administrators of reports may be established, provided they are not inconsistent with this chapter.</p>
Colorado	Colo. Rev. Stat. § 26-3.1-102(1) - (3)

(1)(a) An immediate oral report of abuse should be made or caused to be made within twenty-four hours to the county department or during non-business hours to a local law enforcement agency responsible for investigating violations of state criminal laws protecting at-risk adults by any person specified in paragraph (b) of this subsection (1) who has observed the mistreatment or self-neglect of an at-risk adult or who has reasonable cause to believe that an at-risk adult has been mistreated or is self-neglected and is at imminent risk of mistreatment or self-neglect.

(b) The following persons are urged to make or initiate an initial oral report within twenty-four hours followed by a written report within forty-eight hours:

(I) Physicians, surgeons, physicians' assistants, or osteopaths, including physicians in training;

(II) Medical examiners or coroners;

(III) Registered nurses or licensed practical nurses;

(IV) Hospital and nursing home personnel engaged in the admission, care, or treatment of patients;

(V) Psychologists and other mental health professionals;

(VI) Social work practitioners;

(VII) Dentists;

(VIII) Law enforcement officials and personnel;

(IX) Court-appointed guardians and conservators;

(X) Fire protection personnel;

(XI) Pharmacists;

(XII) Community centered board staff;

(XIII) Personnel of banks, savings and loan associations, credit unions, and other lending or financial institutions;

(XIV) State and local long-term care ombudsmen;

(XV) Any caretaker, staff member, or employee of or volunteer or consultant for any licensed care facility, agency, home, or

governing board.

(c) In addition to those persons urged by this subsection (1) to report known or suspected mistreatment or self-neglect of an at-risk adult and circumstances or conditions which might reasonably result in mistreatment or self-neglect, any other person may report such known or suspected mistreatment or self-neglect and circumstances or conditions which might reasonably result in mistreatment or self-neglect 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 include: The name and address of the at-risk adult; the name and address of the at-risk adult's caretaker, if any; the age, if known, of such at-risk adult; the nature and extent of such at-risk adult's injury, if any; the nature and extent of the condition that will reasonably result in mistreatment or self-neglect; and any other pertinent information.

(3) A copy of the report prepared by the county department in accordance with subsections (1) and (2) of this section shall be forwarded within twenty-four hours to the district attorney's office and the local law enforcement agency. A report prepared by the local law enforcement agency shall be forwarded within twenty-four hours to the county department and to the district attorney's office.

Colo. Rev. Stat. § 26-3.1-204(1) – (3)

(1)(a) Any person specified in paragraph (b) of this subsection (1) who observes an at-risk adult being subjected to circumstances or conditions that may reasonably result in the financial exploitation of the at-risk adult or who has reasonable cause to know or suspect that an at-risk adult has been financially exploited is strongly urged to submit, within twenty-four hours after such observation or after obtaining such reasonable cause, an oral report of known or suspected financial exploitation. Said person may submit the report to the county department of the county in which the at-risk adult resides, if known, or, during non-business hours, to the local law enforcement agency for the jurisdiction in which the at-risk adult resides.

(b) The following persons are strongly urged to report known or suspected financial exploitation of at-risk adults, as provided in paragraph (a) of this subsection (1):

(I) Physicians, surgeons, physicians' assistants, and osteopaths, including physicians in training;

(II) Registered nurses and licensed practical nurses;

(III) Hospital and nursing home personnel engaged in the admission, care, or treatment of patients;

(IV) Dentists;

(V) Psychologists and other mental health professionals;

(VI) Social work practitioners;

(VII) Law enforcement officials and personnel;

(VIII) Court-appointed guardians and conservators;

(IX) Pharmacists;

(X) Community-centered board staff;

(XI) Personnel of financial institutions;

(XII) State and local long-term care ombudsmen;

(XIII) Any caretaker, staff member, or employee of or volunteer at or consultant for any licensed care facility, or nursing facility;

(XIV) Attorneys, so long as such reporting does not violate the Colorado rules of professional conduct.

(c) In addition to those persons who are strongly urged under paragraph (b) of this subsection (1) to report known or suspected financial exploitation of an at-risk adult, any other person may report such known or suspected financial exploitation of an at-risk adult to the local law enforcement agency or the county department of the jurisdiction in which the at-risk adult resides. The receiving agency shall prepare a written report within forty-eight hours after receipt of such a report.

(2) The written report made by a receiving agency pursuant to paragraph (c) of subsection (1) of this section at a minimum shall include:

(a) The name and address of the at-risk adult;

(b) The name and address of the at-risk adult's caretaker, if any;

(c) The age, if known, of such at-risk adult;

(d) The nature and extent of such at-risk adult's financial injury, if any;

	<p>(e) The nature and extent of the condition or circumstance that is likely to result in financial exploitation; and</p> <p>(f) Any other pertinent information.</p> <p>(3) A copy of the written report prepared by the county department in accordance with subsections (1) and (2) of this section shall be forwarded within twenty-four hours after receipt of an oral report made pursuant to subsection (1) of this section to the district attorney's office and the local law enforcement agency of the jurisdiction in which the at-risk adult resides. A copy of the written report prepared by the local law enforcement agency in accordance with subsections (1) and (2) of this section shall be forwarded within twenty-four hours after receipt of an oral report made pursuant to subsection (1) of this section to the county department and to the district attorney's office.</p>
Connecticut	<p>Conn. Gen. Stat. § 17b-451(a)</p> <p>(a) Any physician or surgeon licensed under the provisions of chapter 370, any resident physician or intern in any hospital in this state, whether or not so licensed, any registered nurse, any nursing home administrator, nurse's aide or orderly in a nursing home facility, any person paid for caring for a patient in a nursing home facility, any staff person employed by a nursing home facility, any patients' advocate and any licensed practical nurse, medical examiner, dentist, optometrist, chiropractor, podiatrist, social worker, clergyman, police officer, pharmacist, psychologist or physical therapist, who has reasonable cause to suspect or believe that any elderly person has been abused, neglected, exploited or abandoned, or is in a condition which is the result of such abuse, neglect, exploitation or abandonment, or is in need of protective services, shall, not later than seventy-two hours after such suspicion or belief arose, report such information or cause a report to be made in any reasonable manner to the Commissioner of Social Services or to the person or persons designated by the commissioner to receive such reports.</p> <p>(b) Such report shall contain the name and address of the involved elderly person, information regarding the nature and extent of the abuse, neglect, exploitation or abandonment, and any other information which the reporter believes might be helpful in an investigation of the case and the protection of such elderly person.</p> <hr/> <p>Conn. Gen. Stat. § 17b-460</p> <p>If, as a result of any investigation initiated under the provisions of sections 17b-450 to 17b-461, inclusive, a determination is made that a caretaker or other person has abused, neglected, exploited or abandoned an elderly person, such information shall be referred in writing to the Chief State's Attorney or the Chief State's Attorney's designee who shall conduct such further investigation, if any, as deemed necessary and shall determine whether criminal proceedings should be initiated against such caretaker or other person, in accordance with applicable state law.</p>
Delaware	<p>Del. Code Ann. tit. 31, § 3910(a)</p> <p>(a) Any person having reasonable cause to believe that an adult person is infirm or incapacitated as defined in § 3902 of this title and is in need of protective services as defined in § 3904 of this title shall report such information to the Department of</p>



	Health and Social Services.
District of Columbia	<p data-bbox="424 164 806 191">D.C. Code Ann. § 7-1903(a)(1)</p> <p data-bbox="424 228 1944 467">(a)(1) Except as provided in subsection (b) of this section, whenever a conservator, court-appointed mental retardation advocate, guardian, health-care administrator, licensed health professional, police officer, bank manager, financial manager, or social worker has as a result of his or her appointment, employment, or practice substantial cause to believe that an adult is in need of protective services because of abuse, neglect or exploitation by another, he or she shall immediately report this belief in accordance with subsection (c) of this section. (2) Any person may voluntarily report an alleged case of abuse, neglect, self-neglect, or exploitation when he or she has reason to believe that an adult is in need of protective services. Voluntary reporting shall also be effected in accordance with subsection (c) of this section.</p> <p data-bbox="424 505 1885 605">(b) The duty to report established by subsection (a)(1) of this section shall not apply to a social worker or licensed health professional who has as a client or patient, or is employed by a lawyer representing, a third person who is allegedly responsible for the abuse or neglect.</p> <p data-bbox="424 643 1944 881">(c) A report made pursuant to this section may be either oral or written and shall be transmitted to the division within the Department designated by the Mayor to receive these reports. Each report shall include, if known: The name, age, physical description, and location of the adult alleged to be in need of protective services; the name and location of the person(s) allegedly responsible for the abuse, neglect, or exploitation; the nature and extent of the abuse, neglect, self-neglect, or exploitation; the basis of the reporter's knowledge; and any other information the reporter believes might be helpful to an investigation. A reporter may be required to identify himself or herself only when obliged to report under subsection (a)(1) of this section.</p> <hr/> <p data-bbox="424 919 806 946">D.C. Code Ann. § 7-1904(a)(3)</p> <p data-bbox="424 984 1938 1154">If a report alleges the existence of an immediate, substantial risk of life-threatening harm to an adult in need of protective services, the Department shall immediately notify the police, who shall conduct a prompt investigation to determine the need for police intervention. In addition, within 24 hours of the Department's receiving such a report, an APS worker shall commence an investigation to determine the need for protective services. These 2 investigations may be conducted either jointly or separately.</p>
Florida	<p data-bbox="424 1167 743 1195">Fla. Stat. Ann. § 415.1034</p> <p data-bbox="424 1232 743 1260">(1) Mandatory reporting.--</p> <p data-bbox="424 1300 1024 1328">(a) Any person, including, but not limited to, any:</p> <p data-bbox="424 1369 1835 1433">1. Physician, osteopathic physician, medical examiner, chiropractic physician, nurse, paramedic, emergency medical technician, or hospital personnel engaged in the admission, examination, care, or treatment of vulnerable adults;</p>

2. Health professional or mental health professional other than one listed in subparagraph 1.;

3. Practitioner who relies solely on spiritual means for healing;

4. Nursing home staff; assisted living facility staff; adult day care center staff; adult family-care home staff; social worker; or other professional adult care, residential, or institutional staff;

5. State, county, or municipal criminal justice employee or law enforcement officer;

6. An employee of the Department of Business and Professional Regulation conducting inspections of public lodging establishments under s. 509.032;

7. Florida advocacy council member or long-term care ombudsman council member; or

8. Bank, savings and loan, or credit union officer, trustee, or employee,

who knows, or has reasonable cause to suspect, that a vulnerable adult has been or is being abused, neglected, or exploited shall immediately report such knowledge or suspicion to the central abuse hotline.

(b) To the extent possible, a report made pursuant to paragraph (a) must contain, but need not be limited to, the following information:

1. Name, age, race, sex, physical description, and location of each victim alleged to have been abused, neglected, or exploited.

2. Names, addresses, and telephone numbers of the victim's family members.

3. Name, address, and telephone number of each alleged perpetrator.

4. Name, address, and telephone number of the caregiver of the victim, if different from the alleged perpetrator.

5. Name, address, and telephone number of the person reporting the alleged abuse, neglect, or exploitation.

6. Description of the physical or psychological injuries sustained.

7. Actions taken by the reporter, if any, such as notification of the criminal justice agency.

8. Any other information available to the reporting person which may establish the cause of abuse, neglect, or exploitation

	<p>that occurred or is occurring.</p> <p>(2) Mandatory reports of death.--Any person who is required to investigate reports of abuse, neglect, or exploitation and who has reasonable cause to suspect that a vulnerable adult died as a result of abuse, neglect, or exploitation shall immediately report the suspicion to the appropriate medical examiner, to the appropriate criminal justice agency, and to the department, notwithstanding the existence of a death certificate signed by a practicing physician. The medical examiner shall accept the report for investigation pursuant to s. 406.11 and shall report the findings of the investigation, in writing, to the appropriate local criminal justice agency, the appropriate state attorney, and the department. Autopsy reports maintained by the medical examiner are not subject to the confidentiality requirements provided for in s. 415.107.</p> <p>Fla. Stat. Ann. § 415.1055(2) – (6)</p> <p>(2) If at any time during a protective investigation the department has reasonable cause to believe that a vulnerable adult has been abused, neglected, or exploited by another person, the state attorney having jurisdiction in the county in which the abuse, neglect, or exploitation occurred shall be notified immediately, either orally or in writing.</p> <p>(3) If at any time during a protective investigation the department has reasonable cause to believe that a vulnerable adult has been abused, neglected, or exploited by another person, the appropriate law enforcement agency shall be immediately notified. Such agency may begin a criminal investigation concurrent with or independent of the protective investigation of the department. This notification may be oral or written.</p> <p>(4) If at any time during a protective investigation the department has reasonable cause to believe that abuse, neglect, or exploitation of a vulnerable adult has occurred within a facility that receives Medicaid funds, the department shall notify the Medicaid Fraud Control Unit within the Department of Legal Affairs, Office of the Attorney General, in order that it may begin an investigation concurrent with the protective investigation of the department. This notification may be oral or written.</p> <p>(5) If at any time during a protective investigation the department has reasonable cause to believe that an employee of a facility, as defined in s. 415.102, is the alleged perpetrator of abuse, neglect, or exploitation of a vulnerable adult, the department shall notify the Agency for Health Care Administration, Division of Health Quality Assurance, in writing.</p> <p>(6) If at any time during a protective investigation the department has reasonable cause to believe that professional licensure violations have occurred, the department shall notify the Division of Medical Quality Assurance within the Department of Health. This notification must be in writing.</p>
Georgia	<p>Ga. Code Ann. § 30-5-4(a)(1) and (b)</p> <p>(A) Any physician, osteopath, intern, resident, other hospital or medical personnel, dentist, psychologist, chiropractor, podiatrist, pharmacist, physical therapist, occupational therapist, licensed professional counselor, nursing personnel, social work personnel, day-care personnel, coroner, medical examiner, employee of a public or private agency engaged in</p>

	<p>professional health related services to elder persons or disabled adults, or law enforcement personnel having reasonable cause to believe that a disabled adult or elder person has had a physical injury or injuries inflicted upon such disabled adult or elder person, other than by accidental means, or has been neglected or exploited shall report or cause reports to be made in accordance with the provisions of this Code section.</p> <p>(B) Except as provided in this paragraph, any employee of a financial institution, as defined in Code Section 7-1-4, having reasonable cause to believe that a disabled adult or elder person has been exploited shall report or cause reports to be made in accordance with the provisions of this Code section; provided, however, that this obligation shall not apply to any employee of a financial institution while that employee is acting as a fiduciary, as defined in Code Section 7-1-4, but only for such assets that the employee is holding or managing in a fiduciary capacity.</p> <p>(C) When the person having a reasonable cause to believe that a disabled adult or elder person is in need of protective services performs services as a member of the staff of a hospital, social agency, financial institution, or similar facility, such person shall notify the person in charge of the facility and such person or that person's designee shall report or cause reports to be made in accordance with the provisions of this Code section.</p> <p>(b)(1) A report that a disabled adult or elder person who is not a resident of a long-term care facility as defined in Code Section 31-8-80 is in need of protective services or has been the victim of abuse, neglect, or exploitation shall be made to an adult protection agency providing protective services, as designated by the department or, if such agency is unavailable, to an appropriate law enforcement agency or prosecuting attorney. If a report of a disabled adult or elder person abuse is made to an adult protection agency or independently discovered by the agency and the agency has reasonable cause to believe such report is true, then the agency shall immediately notify the appropriate law enforcement agency or prosecuting attorney. If the disabled adult or elder person is a resident of a long-term care facility as defined in Code Section 31-8-80, a report shall be made in accordance with Article 4 of Chapter 8 of Title 31. If a report made in accordance with the provisions of this Code section alleges that the abuse or exploitation occurred within a long-term care facility, such report shall be investigated in accordance with Articles 3 and 4 of Chapter 8 of Title 31.</p> <p>(2) The report may be made by oral or written communication. The report shall include the name and address of the disabled adult or elder person and should include the name and address of the disabled adult's or elder person's caretaker, the age of the disabled adult or elder person, the nature and extent of the disabled adult's or elder person's injury or condition resulting from abuse, exploitation, or neglect, and other pertinent information. All such reports prepared by a law enforcement agency shall be forwarded to the director within 24 hours.</p>
Guam	<p>10 Guam Code Ann. § 2952(a)-(b) and (d)-(e)</p> <p>(a) Any person who, in the course of his or her employment, occupation or professional practice comes into contact with elderly or disabled adults, has actual knowledge or reasonable cause to believe that an elderly or disabled adults is suffering from or has died as a result of abuse as defined in § 2951, shall immediately make a verbal report of such information or cause a report to be made to the Adult Protective Services Unit and shall, within forty-eight (48) hours, make a written report to the unit.</p>

	<p>(b) Persons required to report abuse under subsection (A) include but are not limited to physicians, medical interns, medical examiners, nurses, chiropractors, hospital personnel engaged in the admission, examination, care or treatment of persons, social workers, employees of nursing homes and adult day care facilities, police officers, probation officers and employees of homemaker service agencies.</p> <p>(d) Oral or written reports from persons required to report under subsection A and B shall include the following information, if available:</p> <ol style="list-style-type: none"> <li>(1) The name of the person making the report and where he or she can be reached. The identity of the person making the report shall be confidential, but made available to an agency contracted by the Adult Protective Services to provide case investigation.</li> <li>(2) The name, address and approximate age of the elderly or disabled adult.</li> <li>(3) Information regarding the nature and extent of the abuse, the name of the person's caretaker, if known, and any medical treatment being received or immediately required, if known.</li> <li>(4) The name of the person or persons responsible for causing the suspected abuse.</li> <li>(5) The source of the report.</li> <li>(6) Any other information which may assist in the investigation of the suspected abuse. The identity of the person making the report shall be confidential.</li> </ol> <p>(e) Reports of elderly or disabled adult abuse may be made anonymously under this Chapter.</p> <hr/> <p>10 Guam Code Ann § 2956(c)</p> <p>(c) Determine within sixty (60) days whether the report is substantiated or unsubstantiated. If the assessment results in determination that the elderly or disabled adult has suffered serious abuse, report such determination to the Attorney General within forty-eight (48) hours. The Attorney General may investigate and decide whether to initiate criminal proceedings.</p>
Hawaii	<p>Haw. Rev. Stat. § 346-224(a) – (b)</p> <p>(a) The following persons who, in the performance of their professional or official duties, know or have reason to believe that a dependent adult has been abused and is threatened with imminent abuse shall promptly report the matter orally to the department of human services:</p> <ol style="list-style-type: none"> <li>(1) Any licensed or registered professional of the healing arts and any health-related occupation who examines, treats, or provides other professional or specialized services to dependent adults, including, but not limited to, physicians, physicians in training, psychologists, dentists, nurses, osteopathic physicians and surgeons, optometrists, chiropractors, podiatrists, pharmacists, and other health-related professionals;</li> </ol>

	<p>(2) Employees or officers of any public or private agency or institution providing social, medical, hospital or mental health services, including financial assistance;</p> <p>(3) Employees or officers of any law enforcement including, but not limited to, the courts, police departments, correctional institutions, and parole or probation offices;</p> <p>(4) Employees or officers of any adult residential care home, adult day care center, or similar institution; and</p> <p>(5) Medical examiners or coroners.</p> <p>(b) The initial oral report required by subsection (a) shall be followed as soon as possible by a written report to the department; provided that where a police department is the initiating agency, a written report shall not be required unless the police department has declined to take further action and the department informs the police department that it intends to pursue the matter of the orally reported incident of abuse. All written reports shall contain the name and address of the dependent adult and the person who or care organization or care facility which is alleged to have committed or been responsible for the dependent adult abuse, if known; the nature and extent of the dependent adult's injury or harm; and any other information the reporter believes might be helpful in establishing the cause of the dependent adult abuse.</p>
Idaho	<p>Idaho Code § 39-5303(1)</p> <p><del>(1) Any physician, nurse, employee of a public or private health facility, or a state licensed or certified residential facility serving vulnerable adults, medical examiner, dentist, ombudsman for the elderly, osteopath, optometrist, chiropractor, podiatrist, social worker, police officer, pharmacist, physical therapist, or home care worker who has reasonable cause to believe that a vulnerable adult is being or has been abused, neglected or exploited shall immediately report such information to the commission. Provided however, that nursing facilities defined in section 39-1301(b), Idaho Code, and employees of such facilities shall make reports required under this chapter to the department. When there is reasonable cause to believe that abuse or sexual assault has resulted in death or serious physical injury jeopardizing the life, health or safety of a vulnerable adult, any person required to report under this section shall also report such information within four (4) hours to the appropriate law enforcement agency.</del></p> <hr/> <p>Idaho Code § 39-5303A</p> <p>(1) <del>The requirements set forth in section 39-5303, Idaho Code, pertaining to the reporting of instances of abuse, neglect or exploitation of a vulnerable adult to the commission or the department shall not apply to situations involving resident-to-resident contact within public or private health facilities or state licensed or certified facilities which serve vulnerable adults, except in those cases involving sex abuse, death or serious physical injury that jeopardizes the life, health or safety of a vulnerable adult or repeated resident-to-resident physical or verbal altercations, not resulting in observable physical or mental injury, but constituting an ongoing pattern of resident behavior that a facility's staff are unable to remedy through reasonable efforts.</del></p>



	<p>(2) This exemption applies only to reports involving resident-to-resident abuse that are to be directed to the commission or the department pursuant to section 39-5303, Idaho Code. This exemption shall not limit any other reporting obligation or requirement whether statutory or otherwise.</p> <p>Idaho Code § 39-5304</p> <p>(1) When a report is required pursuant to this chapter, such report shall be made immediately to the commission or appropriate contractor. Provided however, that nursing facilities defined in section 39-1301(b), Idaho Code, and employees of such facilities shall make reports required under this chapter to the department. If known, the report shall contain the name and address of the vulnerable adult; the caretaker; the alleged perpetrator; the nature and extent of suspected abuse, neglect or exploitation; and any other information that will be of assistance in the investigation.</p> <p>Idaho Code § 39-5310(1)</p> <p>(1) If, as the result of any investigation initiated under the provisions of this chapter, it appears that the abuse, neglect, or exploitation has caused injury or a serious imposition on the rights of the vulnerable adult, the commission shall immediately notify the appropriate law enforcement agency which shall initiate an investigation and shall determine whether criminal proceedings should be initiated against the caretaker or other persons in accordance with applicable state law. Notwithstanding the prohibition against disclosure of names of persons associated with the written report of an investigation as provided in section 39-5304, Idaho Code, the commission shall disclose names associated with the written report when notification is made as required in this section.</p>
Illinois	<p>320 Ill. Comp. Stat. 20/2(f-5)</p> <p>(f-5) "Mandated reporter" means any of the following persons while engaged in carrying out their professional duties:</p> <p>(1) a professional or professional's delegate while engaged in: (i) social services, (ii) law enforcement, (iii) education, (iv) the care of an eligible adult or eligible adults, or (v) any of the occupations required to be licensed under the Clinical Psychologist Licensing Act, the Clinical Social Work and Social Work Practice Act, the Illinois Dental Practice Act, the Dietetic and Nutrition Services Practice Act, the Marriage and Family Therapy Licensing Act, the Medical Practice Act of 1987, the Naprapathic Practice Act, the Nursing and Advanced Practice Nursing Act, the Nursing Home Administrators Licensing and Disciplinary Act, the Illinois Occupational Therapy Practice Act, the Illinois Optometric Practice Act of 1987, the Pharmacy Practice Act of 1987, the Illinois Physical Therapy Act, the Physician Assistant Practice Act of 1987, the Podiatric Medical Practice Act of 1987, the Respiratory Care Practice Act, the Professional Counselor and Clinical Professional Counselor Licensing Act, the Illinois Speech-Language Pathology and Audiology Practice Act, the Veterinary Medicine and Surgery Practice Act of 2004, and the Illinois Public Accounting Act;</p> <p>(2) an employee of a vocational rehabilitation facility prescribed or supervised by the Department of Human Services;</p> <p>(3) an administrator, employee, or person providing services in or through an unlicensed community based facility;</p> <p>(4) a Christian Science Practitioner;</p>

	<p>(5) field personnel of the Department of Public Aid, Department of Public Health, and Department of Human Services, and any county or municipal health department;</p> <p>(6) personnel of the Department of Human Services, the Guardianship and Advocacy Commission, the State Fire Marshal, local fire departments, the Department on Aging and its subsidiary Area Agencies on Aging and provider agencies, and the Office of State Long Term Care Ombudsman;</p> <p>(7) any employee of the State of Illinois not otherwise specified herein who is involved in providing services to eligible adults, including professionals providing medical or rehabilitation services and all other persons having direct contact with eligible adults;</p> <p>(8) a person who performs the duties of a coroner or medical examiner; or</p> <p>(9) a person who performs the duties of a paramedic or an emergency medical technician.</p> <hr/> <p>320 Ill. Comp. Stat. 20/4(a-5)</p> <p>(a-5) If any mandated reporter has reason to believe that an eligible adult, who because of dysfunction is unable to seek assistance for himself or herself, has, within the previous 12 months, been subjected to abuse, neglect, or financial exploitation, the mandated reporter shall, within 24 hours after developing such belief, report this suspicion to an agency designated to receive such reports under this Act or to the Department. Whenever a mandated reporter is required to report under this Act in his or her capacity as a member of the staff of a medical or other public or private institution, facility, board and care home, or agency, he or she shall make a report to an agency designated to receive such reports under this Act or to the Department in accordance with the provisions of this Act and may also notify the person in charge of the institution, facility, board and care home, or agency or his or her designated agent that the report has been made. Under no circumstances shall any person in charge of such institution, facility, board and care home, or agency, or his or her designated agent to whom the notification has been made, exercise any control, restraint, modification, or other change in the report or the forwarding of the report to an agency designated to receive such reports under this Act or to the Department. The privileged quality of communication between any professional person required to report and his or her patient or client shall not apply to situations involving abused, neglected, or financially exploited eligible adults and shall not constitute grounds for failure to report as required by this Act.</p> <hr/> <p>320 Ill. Comp. Stat. 20/5(b)</p> <p>(b) A provider agency shall refer evidence of crimes against an eligible adult to the appropriate law enforcement agency according to Department policies. A referral to law enforcement may be made at intake or any time during the case. Where a provider agency has reason to believe the death of an eligible adult may be the result of abuse or neglect, the agency shall immediately report the matter to the coroner or medical examiner and shall cooperate fully with any subsequent investigation.</p>
Indiana	<p>Ind. Code Ann. § 12-10-3-9(a)</p> <p>(a) An individual who believes or has reason to believe that another individual is an endangered adult shall make a report under this chapter.</p>



	<p>(b) If an individual is required to make a report under this chapter in the individual's capacity as a member of the staff of a medical or other public or private institution, school, hospital, facility, or agency, the individual shall immediately notify the individual in charge of the institution, school, hospital, facility, or agency, or the individual's designated agent, who also becomes responsible to report or cause a report to be made.</p> <p>(c) This section does not relieve an individual of the obligation to report on the individual's own behalf, unless a report has already been made to the best of the individual's belief.</p> <hr/> <p>Ind. Code Ann. § 12-10-3-10</p> <p>(a) Each endangered adult report made under this chapter shall be communicated immediately to at least one (1) of the following:</p> <ol style="list-style-type: none"> <li>(1) The adult protective services unit.</li> <li>(2) A law enforcement agency.</li> <li>(3) The division by telephone on the statewide toll free telephone number established under section 12 of this chapter.</li> </ol> <p>(b) A law enforcement agency that receives an endangered adult report shall immediately communicate the report to the adult protective services unit and the unit shall notify the division of the report.</p> <p>(c) Reports must include as much of the following information as is known:</p> <ol style="list-style-type: none"> <li>(1) The name, age, and address of the endangered adult.</li> <li>(2) The names and addresses of family members or other persons financially responsible for the endangered adult's care or other individuals who may be able to provide relevant information.</li> <li>(3) The apparent nature and extent of the alleged neglect, battery, or exploitation and the endangered adult's physical and mental condition.</li> <li>(4) The name, address, and telephone number of the reporter and the basis of the reporter's knowledge.</li> <li>(5) The name and address of the alleged offender.</li> <li>(6) Any other relevant information regarding the circumstances of the endangered adult.</li> </ol>
Iowa	<p>Iowa Code § 235B.3(2)-(3)(a) and (9)</p> <p>2. A person who, in the course of employment, examines, attends, counsels, or treats a dependent adult and reasonably believes the dependent adult has suffered abuse, shall report the suspected dependent adult abuse to the department including all of the following:</p> <ol style="list-style-type: none"> <li>a. A member of the staff of a community mental health center, a member of the staff of a hospital, a member of the staff or employee of a public or private health care facility as defined in section 135C.1, a member of the staff or employee of an elder group home as defined in section 231B.1, a member of the staff or employee of an assisted living program certified</li> </ol>

	<p>under section 231C.3, and a member of the staff or employee of an adult day services program as defined in section 231D.1.</p> <p>b. A peace officer.</p> <p>c. An in-home homemaker-home health aide.</p> <p>d. An individual employed as an outreach person.</p> <p>e. A health practitioner, as defined in section 232.68.</p> <p>f. A member of the staff or an employee of a supported community living service, sheltered workshop, or work activity center.</p> <p>g. A social worker.</p> <p>h. A certified psychologist.</p> <p>3. a. If a staff member or employee is required to report pursuant to this section, the person shall immediately notify the department and shall also immediately notify the person in charge or the person's designated agent.</p> <p>(9) The department shall inform the appropriate county attorneys of any reports of dependent adult abuse. The department may request information from any person believed to have knowledge of a case of dependent adult abuse. The person, including but not limited to a county attorney, a law enforcement agency, a multidisciplinary team, a social services agency in the state, or any person who is required pursuant to subsection 2 to report dependent adult abuse, whether or not the person made the specific dependent adult abuse report, shall cooperate and assist in the evaluation upon the request of the department. If the department's assessment reveals that dependent adult abuse exists which might constitute a criminal offense, a report shall be made to the appropriate law enforcement agency. County attorneys and appropriate law enforcement agencies shall also take any other lawful action necessary or advisable for the protection of the dependent adult.</p>
Kansas	<p>Kan. Stat. Ann. § 39-1431(a)-(b)</p> <p>(a) Any person who is licensed to practice any branch of the healing arts, a licensed psychologist, a licensed master level psychologist, a licensed clinical psychotherapist, the chief administrative officer of a medical care facility, a teacher, a licensed social worker, a licensed professional nurse, a licensed practical nurse, a licensed dentist, a licensed marriage and family therapist, a licensed clinical marriage and family therapist, licensed professional counselor, licensed clinical professional counselor, registered alcohol and drug abuse counselor, a law enforcement officer, a case manager, a rehabilitation counselor, a bank trust officer or any other officers of financial institutions, a legal representative, a governmental assistance provider, an owner or operator of a residential care facility, an independent living counselor and the chief administrative officer of a licensed home health agency, the chief administrative officer of an adult family home and the</p>

	<p>chief administrative officer of a provider of community services and affiliates thereof operated or funded by the department of social and rehabilitation services or licensed under K.S.A. 75-3307b and amendments thereto who has reasonable cause to believe that an adult is being or has been abused, neglected or exploited or is in need of protective services shall report, immediately from receipt of the information, such information or cause a report of such information to be made in any reasonable manner. An employee of a domestic violence center shall not be required to report information or cause a report of information to be made under this subsection. Other state agencies receiving reports that are to be referred to the department of social and rehabilitation services and the appropriate law enforcement agency, shall submit the report to the department and agency within six hours, during normal work days, of receiving the information. Reports shall be made to the department of social and rehabilitation services during the normal working week days and hours of operation. Reports shall be made to law enforcement agencies during the time social and rehabilitation services are not in operation. Law enforcement shall submit the report and appropriate information to the department of social and rehabilitation services on the first working day that social and rehabilitation services is in operation after receipt of such information.</p> <p>(b) The report made pursuant to subsection (a) shall contain the name and address of the person making the report and of the caretaker caring for the involved adult, the name and address of the involved adult, information regarding the nature and extent of the abuse, neglect or exploitation, the name of the next of kin of the involved adult, if known, and any other information which the person making the report believes might be helpful in the investigation of the case and the protection of the involved adult.</p>
Kentucky	<p>KY. Rev. Stat. Ann. § 209.030(2)-(6)(a)</p> <p>(2) Any person, including but not limited to physician, law enforcement officer, nurse, social worker, cabinet personnel, coroner, medical examiner, alternate care facility employee, or caretaker, having reasonable cause to suspect that an adult has suffered abuse, neglect, or exploitation, shall report or cause reports to be made in accordance with the provisions of this chapter. Death of the adult does not relieve one of the responsibility for reporting the circumstances surrounding the death.</p> <p>(3) An oral or written report shall be made immediately to the cabinet upon knowledge of suspected abuse, neglect, or exploitation of an adult.</p> <p>(4) Any person making such a report shall provide the following information, if known:</p> <ul style="list-style-type: none"> <li>(a) The name and address of the adult, or of any other person responsible for his care;</li> <li>(b) The age of the adult;</li> <li>(c) The nature and extent of the abuse, neglect, or exploitation, including any evidence of previous abuse, neglect, or exploitation;</li> <li>(d) The identity of the perpetrator, if known;</li> <li>(e) The identity of the complainant, if possible; and</li> <li>(f) Any other information that the person believes might be helpful in establishing the cause of abuse, neglect, or exploitation.</li> </ul> <p>(5) Upon receipt of the report, the cabinet shall conduct an initial assessment and take the following action:</p>

	<p>(a) Notify within twenty-four (24) hours of the receipt of the report the appropriate law enforcement agency. If information is gained through assessment or investigation relating to emergency circumstances or a potential crime, the cabinet shall immediately notify and document notification to the appropriate law enforcement agency;</p> <p>(b) Notify each appropriate authorized agency. The cabinet shall develop standardized procedures for notifying each appropriate authorized agency when an investigation begins and when conditions justify notification during the pendency of an investigation;</p> <p>(c) Initiate an investigation of the complaint; and</p> <p>(d) Make a written report of the initial findings together with a recommendation for further action, if indicated.</p> <p>(6) (a) The cabinet shall, to the extent practicable, coordinate its investigation with the appropriate law enforcement agency and, if indicated, any appropriate authorized agency or agencies.</p>
Louisiana	<p>La. Rev. Stat. Ann. § 14:403.2(C), (D)(1)-(4) and (E)(6)</p> <p>C. Any person, including but not limited to a health, mental health, and social service practitioner, having cause to believe that an adult's physical or mental health or welfare has been or may be further adversely affected by abuse, neglect, or exploitation shall report in accordance with Subsection D of this Section.</p> <p>D. (1) Reports reflecting the reporter's belief that an adult has been abused or neglected shall be made to any adult protection agency or to any local or state law enforcement agency. These reports need not name the persons suspected of the alleged abuse or neglect.</p> <p>(2) All reports shall contain the name and address of the adult, the name and address of the person responsible for the care of the adult, if available, and any other pertinent information.</p> <p>(3) All reports received by a local or state law enforcement agency shall be referred to the appropriate adult protection agency.</p> <p>(4) When the appropriate adult protection agency receives a report of sexual or physical abuse, whether directly or by referral, the agency shall notify the chief law enforcement agency of the parish in which the incident is alleged to have occurred of such report. Such notification shall be made prior to the end of the business day subsequent to the day on which the adult protection agency received the report. For the purposes of this Paragraph, the chief law enforcement agency of Orleans Parish shall be the New Orleans Police Department.</p> <p>(E)(6) If it appears after investigation that an adult has been abused and neglected by other parties and that the problem cannot be remedied by extrajudicial means, the adult protection agency may refer the matter to the appropriate district attorney's office or may initiate judicial proceedings as provided in Subsection F of this Section. Evidence that abuse or neglect has occurred must be presented together with an account of the protective services given or available to the adult and a recommendation as to what services, if ordered, would eliminate the abuse or neglect.</p>

Maine

Me. Rev. Stat. Ann. tit. 22, § 3477(1)-(4)

1. Report required. The following persons immediately shall report to the department when the person has reasonable cause to suspect that an incapacitated or dependent adult has been or is at substantial risk of abuse, neglect or exploitation:

A. While acting in a professional capacity:

- (1) An allopathic or osteopathic physician;
- (2) A medical intern;
- (3) A medical examiner;
- (4) A physician's assistant;
- (5) A dentist;
- (6) A chiropractor;
- (7) A podiatrist;
- (8) A registered or licensed practical nurse;
- (9) A certified nursing assistant;
- (10) A social worker;
- (11) A psychologist;
- (12) A pharmacist;
- (13) A physical therapist;
- (14) A speech therapist;
- (15) An occupational therapist;
- (16) A mental health professional;
- (17) A law enforcement official;
- (18) Emergency room personnel.

<p>Maryland</p>	<p>Md. Code Ann., Fam. Law § 14-302(a) and (d)</p> <p>(a) Notwithstanding any law on privileged communications, each health practitioner, police officer, or human service worker who contacts, examines, attends, or treats an alleged vulnerable adult, and who has reason to believe that the alleged vulnerable adult has been subjected to abuse, neglect, self-neglect, or exploitation shall:</p> <ol style="list-style-type: none"> <li>(1) notify the local department; and</li> <li>(2) if acting as a staff member of a hospital or public health agency, immediately notify and give all the information required by this section to the head of the institution or the designee of the head.</li> </ol> <p>(d) Insofar as is reasonably possible, an individual who makes a report under this section shall include in the report the following information:</p> <ol style="list-style-type: none"> <li>(1) the name, age, and home address of the alleged vulnerable adult;</li> <li>(2) the name and home address of the person responsible for the care of the alleged vulnerable adult;</li> <li>(3) the whereabouts of the alleged vulnerable adult;</li> <li>(4) the nature of the alleged vulnerable adult's incapacity;</li> <li>(5) the nature and extent of the abuse, neglect, self-neglect, or exploitation of the alleged vulnerable adult, including evidence or information available to the reporter concerning previous injury possibly resulting from abuse, neglect, self-neglect, or exploitation; and</li> <li>(6) any other information that would help to determine: <ol style="list-style-type: none"> <li>(i) the cause of the suspected abuse, neglect, self-neglect, or exploitation; and</li> <li>(ii) the identity of any individual responsible for the abuse, neglect, self-neglect, or exploitation.</li> </ol> </li> </ol> <hr/> <p>Md. Code Ann., Fam. Law § 14-305(3)-(4)</p> <p>Based on the investigation under this subtitle, the local department shall: ...</p> <ol style="list-style-type: none"> <li>(3) report to the appropriate local law enforcement agency any incident of abuse, neglect, or exploitation of an alleged vulnerable adult where the possibility of a crime being committed against the alleged vulnerable person is indicated by information provided in the initial report to the local department or by information obtained in the course of investigation; and</li> <li>(4) send to the local State's Attorney and the appropriate local law enforcement agency a report of the investigation of any incident of abuse, neglect, or exploitation of an alleged vulnerable adult which was or should have been reported to the appropriate local law enforcement agency under paragraph (3) of this section.</li> </ol>
<p>Massachusetts (EPS) Mass. Gen. Laws Ann. ch. 19A, §§ 14 – 26 (applicable to persons who are 60 or older)</p>	<p>Mass. Gen. Laws ch. 19A, § 15(a) - (b) and (e)</p> <p>(a) Any physician, physician assistant, medical intern, dentist, nurse, family counselor, probation officer, social worker, policeman, firefighter, emergency medical technician, licensed psychologist, coroner, registered physical therapist, registered occupational therapist, osteopath, podiatrist, director of a council on aging, outreach worker employed by a council on aging, executive director of a licensed home health agency or executive director of a homemaker service agency or manager of an assisted living residence who has reasonable cause to believe that an elderly person is suffering from or has died as a result of</p>

	<p>abuse, shall immediately make a verbal report of such information or cause a report to be made to the department or its designated agency and shall within forty-eight hours make a written report to the department or its designated agency. Any person so required to make such reports who fails to do so shall be punished by a fine of not more than one thousand dollars.</p> <p>(b) The executive director of a home care corporation, licensed home health agency or homemaker service agency shall establish procedures within such agency to ensure that homemakers, home health aides, case managers or other staff of said agency who have reasonable cause to believe that an elderly person has been abused shall report such case to the executive director of the corporation or agency. The executive director shall immediately make a verbal report of such information or cause a report to be made to the department or its designated agency and shall within forty-eight hours make a written report to the department or its designated agency.</p> <p>(e) Reports made pursuant to subsections (a) and (b) shall contain the name, address and approximate age of the elderly person who is the subject of the report, information regarding the nature and extent of the abuse, the name of the person's caretaker, if known, any medical treatment being received or immediately required, if known, any other information the reporter believes to be relevant to the investigation, and the name and address of the reporter and where said reporter may be contacted, if the reporter wishes to provide said information. The department shall publicize the provisions of this section and the process by which reports of abuse shall be made.</p> <hr/> <p>Mass. Gen. Laws ch. 19A, 16(b)</p> <p>(b) Within this protective services system, the department shall establish a mechanism for the receipt of reports made pursuant to section fifteen which shall operate and be accessible on a twenty-four hour per day basis. If the department or its designated agency has reasonable cause to believe that an elderly person has died as a result of abuse, the death shall be reported immediately to the district attorney of the county in which the abuse occurred. Within forty-five days of the receipt of a report made pursuant to subsection (a) of said section fifteen, the department or its designated agency shall notify the reporter, in writing, of its response to the report. Such notification shall be made to a person who makes a report pursuant to subsection (c) of said section fifteen if said reporter so requests.</p> <hr/> <p>Mass. Gen. Laws ch. 19A, § 18(a)</p> <p>...If an assessment results in a determination that the elderly person has suffered serious abuse, the department or designated agency shall report such determination to the district attorney of the county where the abuse occurred within forty-eight hours. The district attorney may investigate and decide whether to initiate criminal proceedings.</p>
<p>Massachusetts (APS) Mass. Gen. Laws ch. 19C, §§ 1 – 13 <i>(applicable to persons with</i></p>	<p>Mass. Gen. Laws ch. 19C, § 1</p> <p>"Mandated reporter". any physician, medical intern, hospital personnel engaged in the examination, care or treatment of persons, medical examiner, dentist, psychologist, nurse, chiropractor, podiatrist, osteopath, public or private school teacher, educational administrator, guidance or family counselor, day care worker, probation officer, social worker, foster parent,</p>



disabilities)

police officer or person employed by a state agency within the executive office of health and human services as defined by section sixteen of chapter six A, or employed by a private agency providing services to disabled persons who, in his professional capacity shall have reasonable cause to believe that a disabled person is suffering from a reportable condition.

Mass. Gen. Laws ch. 19C, § 4(c)

... Upon receipt of a report of abuse of a disabled person where the screener, in accordance with written standards established by the commission, determines that the report may contain allegations of criminal conduct, the screener shall immediately refer such report to the special investigative unit which shall conduct an initial evaluation and investigation of the alleged criminal conduct and, upon completion of such evaluation and investigation, shall report the results of such evaluation and investigation to the commissioners who shall, if the special investigative unit has determined that there is reason to believe that a criminal offense has been committed, immediately refer such report, together with any relevant information obtained in such initial investigation, to the attorney general or a district attorney for the county wherein the alleged criminal offense occurred. Upon receipt of such report, the attorney general or district attorney for the county wherein the alleged criminal offense occurred shall contact the commission in order to coordinate the investigation of the matters giving rise to the report. As part of such coordination, the attorney general or the district attorney may request that the commission delay or defer its investigation of the noncriminal matters giving rise to the report; provided, however, that such request shall be granted only where the commission determines that the health and the safety of clients of state agencies or of contract providers shall not be adversely affected thereby and that the commission's or department's ability to conduct a later investigation shall not be unreasonably impaired by such delay or deferral. In all cases including, but not limited to, those in which the commission agrees to delay or defer its investigation, the attorney general or district attorney shall keep the commission informed of the status of the criminal investigation and the commission shall provide to the attorney general or the district attorney any and all information that may be relevant to the criminal investigation. In cases in which the commission agrees to delay or defer its investigation, it shall monitor the progress of the criminal investigation and shall determine, after consultation with such law enforcement agencies, when or whether the commission's investigation should be initiated or resumed.

Mass. Gen. Laws ch. 19C, § 5(4)-(5)

(4) If there is reasonable cause to believe that a disabled person has died as a result of abuse, immediately report said death to the commission, the general counsel, the attorney general, the district attorney for the county in which such death occurred, and to the medical examiner as required by section six of chapter thirty-eight.

... Upon receipt of a report of abuse of a disabled person, or upon receipt of a written determination and evaluation prepared and forwarded to the commission pursuant to the provisions of this section, the commission, notwithstanding any provisions of chapter sixty-six A regarding personal data to the contrary, shall immediately report such conditions and forward said investigation and evaluation report, together with any other material or information which the commission has obtained or received and which is relevant to the alleged abuse, to the district attorney for the county in which the abuse is alleged to have occurred if there is reasonable cause to believe that any of the following conditions exist: (a) a disabled person has been sexually abused or raped, or assaulted or battered, as set forth in chapter two hundred and sixty-five; (b) a disabled person has



suffered brain injury, loss or substantial impairment of a bodily function or organ, or substantial disfigurement; or (c) a disabled person has suffered serious bodily injury as a result of a pattern of repetitive actions or inactions by a caretaker...

Mass. Gen. Laws ch. 19C, § 10

Except when prevented by the constraints of professional privilege as hereinafter provided, mandated reporters shall notify the commission orally of any reportable condition immediately upon becoming aware of such condition and shall report in writing within forty-eight hours after such oral report.

Mandated reporters who have reasonable cause to believe that a disabled person has died as a result of a reportable condition shall immediately report such death, in writing, to the commission, to the district attorney for the county in which such death occurred and to the medical examiner as required by section six of chapter thirty-eight.

Any person may file report if such person has reasonable cause to believe that a disabled person is suffering from abuse or has died as a result thereof.

No mandated reporter shall be liable in any civil or criminal action by reason of submitting a report. No other person making a report shall be liable in any civil or criminal action by reason of submitting a report if such report was made in good faith; provided, however, that no person who abuses a disabled person shall be exempt from civil or criminal liability by reason of their reporting such abuse.

No privilege established, by sections one hundred and thirty-five A and one hundred and thirty-five B of chapter one hundred and twelve, by section twenty or twenty B of chapter two hundred and thirty-three, by court decision or by professional code relating to the exclusion of confidential communications and the competency of witnesses may be invoked to prevent a report by a mandated reporter or in any civil action arising out of a report made pursuant to this chapter; provided, however, that a mandated reporter need not report an otherwise reportable condition if the disabled person invokes a privilege, established by law or professional code, to maintain the confidentiality of communications with such mandated reporter.

Any person required by this section to make oral and written reports, who fails to do so, shall be punished by a fine of not more than one thousand dollars.

Mass. Gen. Laws ch. 19C, §13

Upon the death of any disabled person whose caretaker was a state agency or an agency of any subdivision of the commonwealth or a private agency contracting with the commonwealth, said caretaker agency shall immediately orally notify the commission and local law enforcement officials of such death, and shall forward to the commission and local law enforcement officials a written report of such death within twenty-four hours of the death. Said report shall contain the name of the disabled person, the name of the facility in which that person resided, and the facts and circumstances of the death. The

	<p>commission shall take all appropriate measures regarding the report pursuant to its authority under this chapter, including investigating the death, and shall determine whether the cause of death is related to abuse. If it is determined that the death is related to abuse, the commission shall conduct further investigation, or shall oversee further investigation, pursuant to the provisions of this chapter.</p>
Michigan	<p>Mich. Comp. Laws § 400.11a(1) and (4) – (5)</p> <p>(1) A person who is employed, licensed, registered, or certified to provide health care, educational, social welfare, mental health, or other human services; an employee of an agency licensed to provide health care, educational, social welfare, mental health, or other human services; a law enforcement officer; or an employee of the office of the county medical examiner who suspects or has reasonable cause to believe that an adult has been abused, neglected, or exploited shall make immediately, by telephone or otherwise, an oral report to the county department of social services of the county in which the abuse, neglect, or exploitation is suspected of having or believed to have occurred. After making the oral report, the reporting person may file a written report with the county department. A person described in this subsection who is also required to make a report pursuant to section 21771 of the public health code, Act No. 368 of the Public Acts of 1978, as amended, being section 333.21771 of the Michigan Compiled Laws and who makes that report is not required to make a duplicate report to the county department of social services under this section.</p> <p>(4) A report made under this section shall contain the name of the adult and a description of the abuse, neglect, or exploitation. If possible, the report shall contain the adult's age and the names and addresses of the adult's guardian or next of kin, and of the persons with whom the adult resides, including their relationship to the adult. The report shall contain other information available to the reporting person that may establish the cause of the abuse, neglect, or exploitation and the manner in which the abuse, neglect, or exploitation occurred or is occurring. The county department shall reduce to writing the information provided in an oral report received pursuant to this section.</p> <p>(5) The county department shall report to a police agency any criminal activity that it believes to be occurring, upon receipt of the oral report.</p>
Minnesota	<p>Minn. Stat. § 626.557, Subd. 3, Subd. 4 and Subd. 9(d) – (e)</p> <p>Subd. 3. Timing of report. (a) A mandated reporter who has reason to believe that a vulnerable adult is being or has been maltreated, or who has knowledge that a vulnerable adult has sustained a physical injury which is not reasonably explained shall immediately report the information to the common entry point. If an individual is a vulnerable adult solely because the individual is admitted to a facility, a mandated reporter is not required to report suspected maltreatment of the individual that occurred prior to admission, unless:</p> <p>(1) the individual was admitted to the facility from another facility and the reporter has reason to believe the vulnerable adult was maltreated in the previous facility; or</p> <p>(2) the reporter knows or has reason to believe that the individual is a vulnerable adult as defined in section 626.5572.</p>

	<p>subdivision 21, clause (4).</p> <p>(b) A person not required to report under the provisions of this section may voluntarily report as described above.</p> <p>(c) Nothing in this section requires a report of known or suspected maltreatment, if the reporter knows or has reason to know that a report has been made to the common entry point.</p> <p>(d) Nothing in this section shall preclude a reporter from also reporting to a law enforcement agency.</p> <p>Subd. 4. Reporting. A mandated reporter shall immediately make an oral report to the common entry point. Use of a telecommunications device for the deaf or other similar device shall be considered an oral report. The common entry point may not require written reports. To the extent possible, the report must be of sufficient content to identify the vulnerable adult, the caregiver, the nature and extent of the suspected maltreatment, any evidence of previous maltreatment, the name and address of the reporter, the time, date, and location of the incident, and any other information that the reporter believes might be helpful in investigating the suspected maltreatment. A mandated reporter may disclose not public data, as defined in section 13.02, and medical records under section 144.335, to the extent necessary to comply with this subdivision.</p> <p>Subd. 9 (d) The common entry point shall immediately report to a law enforcement agency any incident in which there is reason to believe a crime has been committed.</p> <p>(e) If a report is initially made to a law enforcement agency or a lead agency, those agencies shall take the report on the appropriate common entry point intake forms and immediately forward a copy to the common entry point.</p> <p>Minn. Stat. § 626.5572, Subd. 16</p> <p>Subd. 16. Mandated reporter. "Mandated reporter" means a professional or professional's delegate while engaged in: (1) social services; (2) law enforcement; (3) education; (4) the care of vulnerable adults; (5) any of the occupations referred to in section 214.01, subdivision 2; (6) an employee of a rehabilitation facility certified by the commissioner of jobs and training for vocational rehabilitation; (7) an employee or person providing services in a facility as defined in subdivision 6; or (8) a person that performs the duties of the medical examiner or coroner.</p>
Mississippi	<p>Miss. Code Ann. § 43-47-7(1)(a) – (b) and (2)</p> <p>(1) (a) Except as otherwise provided by Section 43-47-37 for vulnerable adults in care facilities, any person including, but not limited to, the following, who knows or suspects that a vulnerable adult has been or is being abused, neglected or exploited shall immediately report such knowledge or suspicion to the Department of Human Services or to the county department of human services where the vulnerable adult is located:</p> <p>(i) Attorney, physician, osteopathic physician, medical examiner, chiropractor or nurse engaged in the admission, examination, care or treatment of vulnerable adults;</p>

- (ii) Health professional or mental health professional other than one listed in subparagraph (i);
- (iii) Practitioner who relies solely on spiritual means for healing;
- (iv) Social worker, child protection specialist or other professional adult care, residential or institutional staff;
- (v) State, county or municipal criminal justice employee or law enforcement officer;
- (vi) Human rights advocacy committee or long-term care ombudsman council member; or
- (vii) Accountant, stockbroker, financial advisor or consultant, insurance agent or consultant, investment advisor or consultant, financial planner, or any officer or employee of a bank, savings and loan, credit union or any other financial service provider.

(b) To the extent possible, a report made pursuant to paragraph (a) must contain, but need not be limited to, the following information:

- (i) Name, age, race, sex, physical description and location of each vulnerable adult alleged to have been abused, neglected or exploited.
- (ii) Names, addresses and telephone numbers of the vulnerable adult's family members.
- (iii) Name, address and telephone number of each alleged perpetrator.
- (iv) Name, address and telephone number of the caregiver of the vulnerable adult, if different from the alleged perpetrator.
- (v) Description of the neglect, exploitation, physical or psychological injuries sustained.
- (vi) Actions taken by the reporter, if any, such as notification of the criminal justice agency.
- (vii) Any other information available to the reporting person which may establish the cause of abuse, neglect or exploitation that occurred or is occurring.

In addition to the above, any person or entity holding or required to hold a license as specified in Title 73, Professions and Vocations, Mississippi Code of 1972, shall be required to give his, her or its name, address and telephone number in the report of the alleged abuse, neglect or exploitation.

(2) Reports received by law enforcement authorities or other agencies shall be forwarded immediately to the Department of Human Services or the county department of human services. The Department of Human Services shall investigate the reported abuse, neglect or exploitation immediately and shall file a preliminary report of its findings with the Office of the Attorney General within forty-eight (48) hours, and shall make additional reports as new information or evidence becomes available. The Department of Human Services, upon request, shall forward a statement to the person making the initial report required by this section as to what action is being taken, if any.

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Miss. Code Ann. § 43-47-37(1) – (4)

(1) Any person who, within the scope of his employment at a care facility as defined in Section 43-47-5(b), or in his professional or personal capacity, has knowledge of or reasonable cause to believe that any patient or resident of a care facility has been the victim of abuse, neglect or exploitation shall report immediately the abuse, neglect or exploitation.

- (2) The reporting of conduct as required by subsection (1) of this section shall be made:
- (a) By any employee of any home health agency, orally or telephonically, within twenty-four (24) hours of discovery, excluding Saturdays, Sundays and legal holidays, to the department and the Medicaid Fraud Control Unit of the Attorney General's office.
  - (b) By a home health agency, in writing within seventy-two (72) hours of discovery to the department and the Medicaid Fraud Control Unit. Upon initial review, the Medicaid Fraud Control Unit shall make a determination whether or not the person suspected of committing the reported abuse, neglect or exploitation was an employee of the home health agency. If so, the Medicaid Fraud Control Unit shall determine whether there is substantial potential for criminal prosecution, and upon a positive determination, shall investigate and prosecute the complaint or refer it to an appropriate criminal investigative or prosecutive authority. If the alleged perpetrator is not an employee of the home health agency, the department shall investigate and process the complaint or refer it to an appropriate investigative or prosecutive authority.
  - (c) By all other care facilities, orally or telephonically, within twenty-four (24) hours of discovery, excluding Saturdays, Sundays and legal holidays, to the State Department of Health and the Medicaid Fraud Control Unit of the Attorney General's office.
  - (d) By all other care facilities, in writing, within seventy-two (72) hours of the discovery, to the State Department of Health and the Medicaid Fraud Control Unit. If, upon initial review by the State Department of Health and the Medicaid Fraud Control Unit, a determination is made that there is substantial potential for criminal prosecution, the unit will investigate and prosecute the complaint or refer it to an appropriate criminal investigative or prosecutive authority.
- (3) The contents of the reports required by subsections (1) and (2) of this section shall contain the following information unless the information is unobtainable by the person reporting:
- (a) The name, address, telephone number, occupation and employer's address and telephone number of the person reporting;
  - (b) The name and address of the patient or resident who is believed to be the victim of abuse or exploitation;
  - (c) The details, observations and beliefs concerning the incident;
  - (d) Any statements relating to incident made by the patient or resident;
  - (e) The date, time and place of the incident;
  - (f) The name of any individual(s) believed to have knowledge of the incident;
  - (g) The name of the individual(s) believed to be responsible for the incident and their connection to the patient or resident;
- and
- (h) Such other information that may be required by the State Department of Health and/or the Medicaid Fraud Control Unit, as requested.
- (4) Any other individual who has knowledge of or reasonable cause to believe that any patient or resident of a care facility has been the victim of abuse, exploitation or any other criminal offense may make a report to the State Department of Health and the Medicaid Fraud Control Unit.

<p>Missouri (#1)  Mo. Ann. Stat. §§  660.250 – 660.295  <i>(applicable only to persons who are unable to protect their own interests or adequately perform or obtain services necessary to meet their essential human needs and are either: (1) 60 or older, or (2) between 18 and 59 and have a disability)</i></p>	<p>Mo. Rev. Stat. § 660.255(1) – (3)</p> <ol style="list-style-type: none"> <li>1. Any person having reasonable cause to suspect that an eligible adult presents a likelihood of suffering serious physical harm and is in need of protective services shall report such information to the department.</li> <li>2. The report shall be made orally or in writing. It shall include, if known: <ol style="list-style-type: none"> <li>(1) The name, age, and address of the eligible adult;</li> <li>(2) The name and address of any person responsible for the eligible adult's care;</li> <li>(3) The nature and extent of the eligible adult's condition; and</li> <li>(4) Other relevant information.</li> </ol> </li> <li>3. Reports regarding persons determined not to be eligible adults as defined in section 660.250 shall be referred to the appropriate state or local authorities.</li> </ol>
<p>Missouri (#2)  Mo. Ann. Stat. §§  660.300 – 660.321  <i>(these provisions are applicable only to individuals who are receiving "in home services" as defined by § 660.250(9) "through any in-home services provider agency" as defined by § 660.250(11). Missouri does not have two statutes. We established this construct to distinguish in the charts between the provisions applicable to</i></p>	<p>Mo. Rev. Stat. § 660.300(1) – (2) and (5)</p> <ol style="list-style-type: none"> <li>1. When any adult day care worker; chiropractor; Christian Science practitioner; coroner; dentist; embalmer; employee of the departments of social services, mental health, or health and senior services; employee of a local area agency on aging or an organized area agency on aging program; funeral director; home health agency or home health agency employee; hospital and clinic personnel engaged in examination, care, or treatment of persons; in-home services owner, provider, operator, or employee; law enforcement officer; long-term care facility administrator or employee; medical examiner; medical resident or intern; mental health professional; minister; nurse; nurse practitioner; optometrist; other health practitioner; peace officer; pharmacist; physical therapist; physician; physician's assistant; podiatrist; probation or parole officer; psychologist; or social worker has reasonable cause to believe that an in-home services client has been abused or neglected, as a result of in-home services, he or she shall immediately report or cause a report to be made to the department. If the report is made by a physician of the in-home services client, the department shall maintain contact with the physician regarding the progress of the investigation.</li> <li>2. When a report of deteriorating physical condition resulting in possible abuse or neglect of an in-home services client is received by the department, the client's case manager and the department nurse shall be notified. The client's case manager shall investigate and immediately report the results of the investigation to the department nurse. The department may authorize the in-home services provider nurse to assist the case manager with the investigation.</li> <li>5. The report shall contain the names and addresses of the in-home services provider agency, the in-home services employee, the in-home services client, the home health agency, the home health agency employee, information regarding the nature of the abuse or neglect, the name of the complainant, and any other information which might be helpful in an investigation.</li> </ol>

*individuals who are receiving in home services and those who are not. The statute indicated that the definitions contained in 660.250 apply to what we have labeled as Missouri #2; 660.300 – 660.321.)*

Mo. Rev. Stat. § 660.305(4)

4. Upon receipt of a report, the department shall immediately initiate an investigation and report information gained from such investigation to appropriate law enforcement authorities.

Montana

Mont. Code Ann. § 52-3-811(1) & (3)

1) When the professionals and other persons listed in subsection (3) know or have reasonable cause to suspect that an older person or a person with a developmental disability known to them in their professional or official capacities has been subjected to abuse, sexual abuse, neglect, or exploitation, they shall:

(a) if the person is not a resident of a long-term care facility, report the matter to:

(i) the department or its local affiliate; or

(ii) the county attorney of the county in which the person resides or in which the acts that are the subject of the report occurred;

(b) if the person is a resident of a long-term care facility, report the matter to the long-term care ombudsman appointed under the provisions of 42 U.S.C. 3027(a)(12) and to the department. The department shall investigate the matter pursuant to its authority in 50-5-204 and, if it finds any allegations of abuse, sexual abuse, neglect, or exploitation contained in the report to be substantially true, forward a copy of the report to the county attorney as provided in subsection (1)(a)(ii).

3) Professionals and other persons required to report are:

(a) a physician, resident, intern, professional or practical nurse, physician assistant, or member of a hospital staff engaged in the admission, examination, care, or treatment of persons;

(b) an osteopath, dentist, denturist, chiropractor, optometrist, podiatrist, medical examiner, coroner, or any other health or mental health professional;

(c) an ambulance attendant;



(d) a social worker or other employee of the state, a county, or a municipality assisting an older person or a person with a developmental disability in the application for or receipt of public assistance payments or services;

(e) a person who maintains or is employed by a roominghouse, retirement home or complex, nursing home, group home, adult foster care home, adult day-care center, or assisted living facility or an agency or individual that provides home health services or personal care in the home;

(f) an attorney, unless the attorney acquired knowledge of the facts required to be reported from a client and the attorney-client privilege applies;

(g) a peace officer or other law enforcement official;

(h) a person providing services to an older person or a person with a developmental disability pursuant to a contract with a state or federal agency; and

(i) an employee of the department while in the conduct of the employee's duties.

Mont. Code Ann. § 52-3-812

(1) The report required by 52-3-811 may be made in writing or orally, by telephone or in person. A person who receives an oral report shall prepare it in writing as soon as possible.

(2) The report referred to under this section must contain:

(a) the names and addresses of the older person or the person with a developmental disability and the person, if any, responsible for that person's care;

(b) the name and address, if available, of the person who is alleged to have abused, sexually abused, neglected, or exploited the older person or the person with a developmental disability;

(c) to the extent known, the person's age and the nature and extent of the abuse, sexual abuse, neglect, or exploitation, including any evidence of previous injuries, abuse, sexual abuse, neglect, or exploitation sustained by the older person or the person with a developmental disability and any evidence of prior instances of abuse, sexual abuse, neglect, or exploitation of other older persons or persons with developmental disabilities committed by the person alleged to have committed abuse, sexual abuse, neglect, or exploitation; and

(d) the name and address of the person making the report.



Nebraska	<p>Neb. Rev. Stat. § 28-372(1) – (4)</p> <p>(1) When any physician, psychologist, physician assistant, nurse, nursing assistant, other medical, developmental disability, or mental health professional, law enforcement personnel, caregiver or employee of a caregiver, operator or employee of a sheltered workshop, owner, operator, or employee of any facility licensed by the Department of Health and Human Services Regulation and Licensure, or human services professional or paraprofessional not including a member of the clergy has reasonable cause to believe that a vulnerable adult has been subjected to abuse or observes such adult being subjected to conditions or circumstances which reasonably would result in abuse, he or she shall report the incident or cause a report to be made to the appropriate law enforcement agency or to the department. Any other person may report abuse if such person has reasonable cause to believe that a vulnerable adult has been subjected to abuse or observes such adult being subjected to conditions or circumstances which reasonably would result in abuse.</p> <p>(2) Such report may be made by telephone, with the caller giving his or her name and address, and, if requested by the department, shall be followed by a written report within forty-eight hours. To the extent available the report shall contain: (a) The name, address, and age of the vulnerable adult; (b) the address of the caregiver or caregivers of the vulnerable adult; (c) the nature and extent of the alleged abuse or the conditions and circumstances which would reasonably be expected to result in such abuse; (d) any evidence of previous abuse including the nature and extent of the abuse; and (e) any other information which in the opinion of the person making the report may be helpful in establishing the cause of the alleged abuse and the identity of the perpetrator or perpetrators.</p> <p>(3) Any law enforcement agency receiving a report of abuse shall notify the department no later than the next working day by telephone or mail.</p> <p>(4) A report of abuse made to the department which was not previously made to or by a law enforcement agency shall be communicated to the appropriate law enforcement agency by the department no later than the next working day by telephone or mail.</p>
Nevada	<p>Nev. Rev. Stat. 200.5093(1) - (4)</p> <p>1. Any person who is described in subsection 4 and who, in his professional or occupational capacity, knows or has reasonable cause to believe that an older person has been abused, neglected, exploited or isolated shall:</p> <p>(a) Except as otherwise provided in subsection 2, report the abuse, neglect, exploitation or isolation of the older person to:</p> <p>(1) The local office of the Aging Services Division of the Department of Health and Human Services;</p> <p>(2) A police department or sheriff's office;</p> <p>(3) The county's office for protective services, if one exists in the county where the suspected action occurred; or</p> <p>(4) A toll-free telephone service designated by the Aging Services Division of the Department of Health and Human Services;</p> <p>and</p>

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the older person has been abused, neglected, exploited or isolated.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse, neglect, exploitation or isolation of the older person involves an act or omission of the Aging Services Division, another division of the Department of Health and Human Services or a law enforcement agency, the person shall make the report to an agency other than the one alleged to have committed the act or omission.

3. Each agency, after reducing a report to writing, shall forward a copy of the report to the Aging Services Division of the Department of Health and Human Services.

4. A report must be made pursuant to subsection 1 by the following persons:

(a) Every physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, physician assistant, psychiatrist, psychologist, marriage and family therapist, alcohol or drug abuse counselor, athletic trainer, driver of an ambulance, advanced emergency medical technician or other person providing medical services licensed or certified to practice in this State, who examines, attends or treats an older person who appears to have been abused, neglected, exploited or isolated.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of the suspected abuse, neglect, exploitation or isolation of an older person by a member of the staff of the hospital.

(c) A coroner.

(d) Every person who maintains or is employed by an agency to provide personal care services in the home.

(e) Every person who maintains or is employed by an agency to provide personal care services in the home. [sic]

(f) Any employee of the Department of Health and Human Services.

(g) Any employee of a law enforcement agency or a county's office for protective services or an adult or juvenile probation officer.

(h) Any person who maintains or is employed by a facility or establishment that provides care for older persons.

(i) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect, exploitation or isolation of an older person and refers them to persons and agencies where their

requests and needs can be met.

(j) Every social worker.

(k) Any person who owns or is employed by a funeral home or mortuary.

Nev. Rev. Stat. § 200.50935(3)

1. Any person who is described in subsection 3 and who, in his professional or occupational capacity, knows or has reasonable cause to believe that a vulnerable person has been abused, neglected, exploited or isolated shall:

(a) Report the abuse, neglect, exploitation or isolation of the vulnerable person to a law enforcement agency; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the vulnerable person has been abused, neglected, exploited or isolated.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse, neglect, exploitation or isolation of the vulnerable person involves an act or omission of a law enforcement agency, the person shall make the report to a law enforcement agency other than the one alleged to have committed the act or omission.

3. A report must be made pursuant to subsection 1 by the following persons:

(a) Every physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, physician assistant, psychiatrist, psychologist, marriage and family therapist, alcohol or drug abuse counselor, athletic trainer, driver of an ambulance, advanced emergency medical technician or other person providing medical services licensed or certified to practice in this State, who examines, attends or treats a vulnerable person who appears to have been abused, neglected, exploited or isolated.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of the suspected abuse, neglect, exploitation or isolation of a vulnerable person by a member of the staff of the hospital.

(c) A coroner.

(d) Every person who maintains or is employed by an agency to provide nursing in the home.

(e) Any employee of the Department of Health and Human Services.

	<p>(f) Any employee of a law enforcement agency or an adult or juvenile probation officer.</p> <p>(g) Any person who maintains or is employed by a facility or establishment that provides care for vulnerable persons.</p> <p>(h) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect, exploitation or isolation of a vulnerable person and refers them to persons and agencies where their requests and needs can be met.</p> <p>(i) Every social worker.</p> <p>(j) Any person who owns or is employed by a funeral home or mortuary.</p> <hr/> <p>Nev. Rev. Stat. § 200.5094</p> <p>1. A person may make a report pursuant to <u>NRS 200.5093</u> or <u>200.50935</u> by telephone or, in light of all the surrounding facts and circumstances which are known or which reasonably should be known to the person at the time, by any other means of oral, written or electronic communication that a reasonable person would believe, under those facts and circumstances, is a reliable and swift means of communicating information to the person who receives the report. If the report is made orally, the person who receives the report must reduce it to writing as soon as reasonably practicable.</p> <p>2. The report must contain the following information, when possible:</p> <p>(a) The name and address of the older person or vulnerable person;</p> <p>(b) The name and address of the person responsible for his care, if there is one;</p> <p>(c) The name and address, if available, of the person who is alleged to have abused, neglected, exploited or isolated the older person or vulnerable person;</p> <p>(d) The nature and extent of the abuse, neglect, exploitation or isolation of the older person or vulnerable person;</p> <p>(e) Any evidence of previous injuries; and</p> <p>(f) The basis of the reporter's belief that the older person or vulnerable person has been abused, neglected, exploited or isolated.</p>
New Hampshire	<p>N.H. Rev. Stat. Ann. § 161-F:46</p> <p>Any person, including, but not limited to, physicians, other health care professionals, social workers, clergy, and law</p>

	<p>enforcement officials, suspecting or believing in good faith that any adult who is or who is suspected to be incapacitated has been subjected to abuse, neglect, self-neglect, or exploitation or is living in hazardous conditions shall report or cause a report to be made as follows:</p> <p>I. An oral report, by telephone or otherwise, shall be made immediately, followed by a written report, if so requested, to the commissioner or his authorized representative. When oral reports are made after working hours of the department, or on weekends or holidays, such reports shall be made to the police department of the appropriate political subdivision, or to the sheriff of the county, in which the alleged abuse, neglect or exploitation occurred. Law enforcement officials receiving reports under this paragraph shall notify the commissioner within 72 hours of receipt of such reports.</p> <p>II. Within 72 hours following receipt by the commissioner or his authorized representative of such oral reports, an investigation shall be initiated by the commissioner or his authorized representative.</p> <p>III. Investigations shall not be made if the commissioner or his authorized representative determines that the report is frivolous or without a factual basis.</p> <hr/> <p>N.H. Rev. Stat. Ann. § 161-F:51(II)</p> <p>II. The commissioner or his or her authorized representative shall refer all cases of serious bodily injury to an incapacitated adult known or suspected to be the result of abuse, neglect, or exploitation to local law enforcement, the department of justice or to the county attorney for possible criminal prosecution. The commissioner or his or her authorized representative shall also report other cases of abuse, neglect, or exploitation to local law enforcement, the department of justice, or the office of the county attorney for possible criminal prosecution if there is reason to believe a crime has been committed.</p>
New Jersey	<p>N.J. Stat. Ann. § 52:27D-409(a) – (b)</p> <p>a. A person who has reasonable cause to believe that a vulnerable adult is the subject of abuse, neglect or exploitation may report the information to the county adult protective services provider.</p> <p>b. The report, if possible, shall contain the name and address of the vulnerable adult; the name and address of the caretaker, if any; the nature and possible extent of the vulnerable adult's injury or condition as a result of abuse, neglect or exploitation; and any other information that the person reporting believes may be helpful.</p> <hr/> <p>N.J. Stat. Ann. § 52:27D-419</p> <p>If the county director or his designee has reasonable cause to believe that a caretaker or other person has committed a criminal act against a vulnerable adult including, but not limited to, P.L.1989, c. 23 (C. 2C:24-8), he shall immediately report the information to local law enforcement officials or the prosecutor of the county in which the alleged criminal act was committed. If the report is made orally, a written report shall follow in a timely manner.</p>

New Mexico	<p>N.M. Stat. Ann. § 27-7-30(A) – (B)</p> <p>A. Any person having reasonable cause to believe that an incapacitated adult is being abused, neglected or exploited shall immediately report that information to the department.</p> <p>B. The report required in Subsection A of this section may be made orally or in writing. The report shall include the name, age and address of the adult, the name and address of any other person responsible for the adult's care, the nature and extent of the adult's condition, the basis of the reporter's knowledge and other relevant information.</p>
New York	<p>N.Y. Soc. Serv. Law, Art. 9B, § 473</p> <p>Statute is silent on reporting to APS</p> <p>N.Y. Soc. Serv. Law, Art. 9B, § 473(5)</p> <p>5. Whenever a social services official, or his or her designee authorized or required to determine the need for, or to provide or arrange for the provision of protective services to adults in accordance with the provisions of this title has a reason to believe that a criminal offense has been committed, as defined in the penal law, against a person for whom the need for such services is being determined or to whom such services are being provided or arranged, the social services official or his or her designee must report this information to the appropriate police or sheriff's department and the district attorney's office when such office has requested such information be reported by a social services official or his or her designee.</p>
North Carolina	<p>N.C. Gen. Stat. § 108A-102(a) – (b)</p> <p>(a) Any person having reasonable cause to believe that a disabled adult is in need of protective services shall report such information to the director.</p> <p>(b) The report may be made orally or in writing. The report shall include the name and address of the disabled adult; the name and address of the disabled adult's caretaker; the age of the disabled adult; the nature and extent of the disabled adult's injury or condition resulting from abuse or neglect; and other pertinent information.</p>
North Dakota	<p>N.D. Cent. Code § 50-25.2-03</p> <p>1. A person who has reasonable cause to believe that a vulnerable adult has been subjected to abuse or neglect, or who observes a vulnerable adult being subjected to conditions or circumstances that reasonably would result in abuse or neglect, may report the information to the department or the department's designee or to an appropriate law enforcement agency. A law enforcement agency receiving a report under this section shall immediately notify the department or the department's designee of the report.</p> <p>2. A person reporting under this section may make an oral or written report, as soon as possible. To the extent reasonably possible, a person who makes a report under this section shall include in the report:</p>



	<p>a. The name, age, and residence address of the alleged vulnerable adult;</p> <p>b. The name and residence address of the caregiver, if any;</p> <p>c. The nature and extent of the alleged abuse or neglect or the conditions and circumstances that would reasonably be expected to result in abuse or neglect;</p> <p>d. Any evidence of previous abuse or neglect, including the nature and extent of the abuse or neglect; and</p> <p>e. Any other information that in the opinion of the person making the report may be helpful in establishing the cause of the alleged abuse or neglect and the identity of the individual responsible for the alleged abuse or neglect.</p> <p>N.D. Cent. Code § 50-25.2-05(2)</p> <p>2. If a report alleges, or circumstances surrounding the report indicate, a violation of a criminal statute or an imminent danger of serious physical injury or death of the vulnerable adult, the department or the department's designee shall notify the appropriate law enforcement agency. In such a case, the law enforcement agency may investigate the allegations in the report, take immediate steps if necessary to protect the vulnerable adult, and institute legal proceedings if appropriate. The law enforcement agency shall notify the department or the department's designee if such action is taken. This section does not limit the responsibilities of law enforcement agencies to enforce the laws of this state or preclude law enforcement agencies from investigating, as appropriate any alleged criminal conduct. . .</p>
Ohio	<p>Ohio Rev. Code Ann. § 5101.61(A) – (C)</p> <p>Any attorney, physician, osteopath, podiatrist, chiropractor, dentist, psychologist, any employee of a hospital as defined in section 3701.01 of the Revised Code, any nurse licensed under Chapter 4723. of the Revised Code, any employee of an ambulatory health facility, any employee of a home health agency, any employee of an adult care facility as defined in section 3722.01 of the Revised Code, any employee of a community alternative home as defined in section 3724.01 of the Revised Code, any employee of a nursing home, residential care facility, or home for the aging, as defined in section 3721.01 of the Revised Code, any senior service provider, any peace officer, coroner, clergyman, any employee of a community mental health facility, and any person engaged in social work or counseling having reasonable cause to believe that an adult is being abused, neglected, or exploited, or is in a condition which is the result of abuse, neglect, or exploitation shall immediately report such belief to the county department of job and family services. This section does not apply to employees of any hospital or public hospital as defined in section 5122.01 of the Revised Code.</p> <p>(B) Any person having reasonable cause to believe that an adult has suffered abuse, neglect, or exploitation may report, or cause reports to be made of such belief to the department.</p> <p>(C) The reports made under this section shall be made orally or in writing except that oral reports shall be followed by a written report if a written report is requested by the department. Written reports shall include:</p> <p>(1) The name, address, and approximate age of the adult who is the subject of the report;</p>

	<p>(2) The name and address of the individual responsible for the adult's care, if any individual is, and if the individual is known;</p> <p>(3) The nature and extent of the alleged abuse, neglect, or exploitation of the adult;</p> <p>(4) The basis of the reporter's belief that the adult has been abused, neglected, or exploited.</p>
Oklahoma	<p>Okla. Stat. tit. 43A, § 10-104(A) – (C)</p> <p>A. 1. Any person having reasonable cause to believe that a vulnerable adult is suffering from abuse, neglect, or exploitation shall make a report to either the Department of Human Services, the office of the district attorney in the county in which the suspected abuse, neglect, or exploitation occurred or the local municipal police department or sheriff's department as soon as the person is aware of the situation.</p> <p>2. a. If a report is made to the Department of Human Services, the county office, after investigating the report, shall forward its findings to the office of the district attorney in the county in which the suspected abuse, neglect, or exploitation occurred.</p> <p>b. The findings shall also be sent to any state agency with concurrent jurisdiction over persons or issues identified in the investigation, including, where appropriate, the State Department of Health, the Oklahoma Board of Nursing, or any other appropriate state licensure or certification board, agency, or registry.</p> <p>B. Persons required to make reports pursuant to this section shall include, but not be limited to:</p> <ol style="list-style-type: none"> <li>1. Physicians;</li> <li>2. Operators of emergency response vehicles and other medical professionals;</li> <li>3. Social workers and mental health professionals;</li> <li>4. Law enforcement officials;</li> <li>5. Staff of domestic violence programs; and</li> <li>6. Long-term care facility personnel; and</li> <li>7. Other health care professionals.</li> </ol> <p>C. The report shall contain the name and address of the vulnerable adult, the name and address of the caretaker, if any, and a description of the current location and current condition of the vulnerable adult and of the situation which may constitute abuse, neglect or exploitation of the vulnerable adult.</p>



Oregon (EPS)  
Or. Rev. Stat. §§  
124.050 – 124.095  
*(applicable to  
persons 65 or older  
who are not  
residents of long-  
term care facilities)*

Or. Rev. Stat. § 124.050(4)

(4) "Public or private official" means:

- (a) Physician, naturopathic physician, osteopathic physician, chiropractor or podiatric physician and surgeon, including any intern or resident.
- (b) Licensed practical nurse, registered nurse, nurse's aide, home health aide or employee of an in-home health service.
- (c) Employee of the Department of Human Services, county health department or community mental health and developmental disabilities program.
- (d) Peace officer.
- (e) Member of the clergy.
- (f) Licensed clinical social worker.
- (g) Physical, speech or occupational therapists.
- (h) Senior center employee.
- (i) Information and referral or outreach worker.
- (j) Licensed professional counselor or licensed marriage and family therapist.
- (k) Any public official who comes in contact with elderly persons in the performance of the official's official duties.
- (L) Firefighter or emergency medical technician.

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Or. Rev. Stat. § 124.060

Any public or private official having reasonable cause to believe that any person 65 years of age or older with whom the official comes in contact, while acting in an official capacity, has suffered abuse, or that any person with whom the official comes in contact while acting in an official capacity has abused a person 65 years of age or older shall report or cause a report to be made in the manner required in ORS 124.065.

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Or. Rev. Stat. § 124.065(1) – (2)

(1) When a report is required under ORS 124.060, an oral report shall be made immediately by telephone or otherwise to the local office of the Department of Human Services or to a law enforcement agency within the county where the person making the report is at the time of contact. If known, such reports shall contain the names and addresses of the elderly person and any persons responsible for the care of the elderly person, the nature and the extent of the abuse (including any evidence of previous abuse), the explanation given for the abuse and any other information which the person making the report believes might be helpful in establishing the cause of the abuse and the identity of the perpetrator.

(2) When a report is received by the department under ORS 124.060, the department may notify the law enforcement agency having jurisdiction within the county where the report was made....

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Or. Rev. Stat. § 124.070(2)

(2) If the department or law enforcement agency conducting the investigation finds reasonable cause to believe that abuse has occurred, the department or law enforcement agency shall notify in writing the appropriate law enforcement agency or the local office of the department respectively. The investigation shall include a visit to the named elderly person and

Oregon (APS)  
Or. Rev. Stat. §§  
430.735 – 430.768  
*(applicable only to  
persons 18 or older  
who are mentally ill  
or developmentally  
disabled and receive  
services from a  
community program  
or facility)*

Or. Rev. Stat. § 430.735(9)

(9) "Public or private official" means:

- (a) Physician, naturopathic physician, osteopathic physician, psychologist, chiropractor or podiatric physician and surgeon, including any intern or resident;
- (b) Licensed practical nurse, registered nurse, nurse's aide, home health aide or employee of an in-home health service;
- (c) Employee of the Department of Human Services, county health department, community mental health and developmental disabilities program or private agency contracting with a public body to provide any community mental health service;
- (d) Peace officer;
- (e) Member of the clergy;
- (f) Licensed clinical social worker;
- (g) Physical, speech or occupational therapist;
- (h) Information and referral, outreach or crisis worker;
- (i) Attorney;
- (j) Licensed professional counselor or licensed marriage and family therapist; or
- (k) Any public official who comes in contact with adults in the performance of the official's duties.

Or. Rev. Stat. § 430.743

(1) When a report is required under ORS 430.765 (1) and (2), an oral report shall be made immediately by telephone or otherwise to the designee of the Department of Human Services or a law enforcement agency within the county where the person making the report is at the time of contact. If known, the report shall include:

- (a) The name, age and present location of the allegedly abused adult;
- (b) The names and addresses of persons responsible for the adult's care;
- (c) The nature and extent of the alleged abuse, including any evidence of previous abuse;
- (d) Any information that led the person making the report to suspect that abuse has occurred plus any other information that the person believes might be helpful in establishing the cause of the abuse and the identity of the perpetrator; and
- (e) The date of the incident.

(2) When a report is received by the department's designee under this section, the designee shall immediately determine whether the reported victim has sustained any serious injury. If so, the designee shall immediately notify the department. If there is reason to believe a crime has been committed, the designee shall notify the law enforcement agency having jurisdiction within the county where the report was made. If the designee is unable to gain access to the allegedly abused adult, the designee may contact the law enforcement agency for assistance and the agency shall provide assistance. When a report is received by a law enforcement agency, the agency shall immediately notify the law enforcement agency having jurisdiction if the receiving agency does not. The receiving agency shall also immediately notify the department in cases of serious injury or death.

	<p>Or. Rev. Stat. § 430.745(3)</p> <p>(3) In cases in which the department, its designee or the law enforcement agency conducting the investigation finds reasonable cause to believe that an adult has died as a result of abuse, it shall report that information to the appropriate medical examiner. The medical examiner shall complete an investigation as required under ORS chapter 146 and report the findings to the department, its designee or the law enforcement agency.</p> <hr/> <p>Or. Rev. Stat. § 430.765(1)</p> <p>(1) Any public or private official who has reasonable cause to believe that any adult with whom the official comes in contact while acting in an official capacity, has suffered abuse, or that any person with whom the official comes in contact while acting in an official capacity has abused an adult shall report or cause a report to be made in the manner required in ORS 430.743.</p>
Pennsylvania	<p>Pa. Stat. Ann. tit. 35, § 10225.701</p> <p>(a) Mandatory reporting to agency.--</p> <p>(1) An employee or an administrator who has reasonable cause to suspect that a recipient is a victim of abuse shall immediately make an oral report to the agency. If applicable, the agency shall advise the employee or administrator of additional reporting requirements that may pertain under subsection (b). An employee shall notify the administrator immediately following the report to the agency.</p> <p>(2) Within 48 hours of making the oral report, the employee or administrator shall make a written report to the agency. The agency shall notify the administrator that a report of abuse has been made with the agency.</p> <p>(3) The employee may request the administrator to make or to assist the employee to make the oral and written reports required by this subsection.</p> <p>[AUTHORS' NOTE: A "recipient" is "(A)n individual who receives care, services or treatment in or from a facility." Pa. Stat. Ann. tit. 35, § 10225.103]</p> <p>(b) Mandatory reports to law enforcement officials.--</p> <p>(1) An employee or an administrator who has reasonable cause to suspect that a recipient is the victim of sexual abuse, serious physical injury or serious bodily injury or that a death is suspicious shall, in addition to contacting the agency and the department, immediately contact law enforcement officials to make an oral report. An employee shall notify the administrator immediately following the report to law enforcement officials.</p> <p>(2) Within 48 hours of making the oral report, the employee and an administrator shall make a written report to appropriate law enforcement officials.</p> <p>(3) The law enforcement officials shall notify the administrator that a report has been made with the law enforcement officials.</p> <p>(4) The employee may request the administrator to make or to assist the employee to make the oral and written reports to law enforcement required by this subsection.</p>

	<p>(c) Contents of report.--A written report under this section shall be in a manner and on forms prescribed by the department. The report shall include, at a minimum, the following information:</p> <ol style="list-style-type: none"> <li>(1) Name, age and address of the recipient.</li> <li>(2) Name and address of the recipient's guardian or next of kin.</li> <li>(3) Name and address of the facility.</li> <li>(4) Nature of the alleged offense.</li> <li>(5) Any specific comments or observations that are directly related to the alleged incident and the individual involved.</li> </ol> <hr/> <p>Pa. Stat. Ann. tit. 35, § 10225.702(b)</p> <p>(b) Coroner.--For a report under section 701(a) which concerns the death of a recipient, if there is reasonable cause to suspect that the recipient died as a result of abuse, the agency shall give the oral report and forward a copy of the written report to the appropriate coroner within 24 hours.</p>
Puerto Rico	<p>8 P.R. Laws Ann. § 346j</p> <p>Professionals or public officials, public or private and privatized entities that in their professional capacity and in the discharge of their functions learn or suspect that an elderly person is, has been, or is at risk of being a victim of abuse, institutional abuse, abuse by negligence and/or abuse by institutional negligence, are hereby placed under the obligation to report those cases in which there is or there is the suspicion that there is a situation of abuse, institutional abuse, abuse by negligence and/or abuse by institutional negligence against an elderly person; as well as health, education, social work and law enforcement professionals, and persons engaged in directing or working in care institutions or establishments that offer care services during a twenty-four (24)-hour day or part thereof. They shall report such a fact through the "Golden Hotline" and the Puerto Rico Police and/or the Office of Elderly Affairs, attached to the Office of the Governor.</p> <hr/> <p>8 P.R. Laws Ann. § 346k</p> <p>Any person who learns or suspects that an elderly person is a victim of abuse, institutional abuse, abuse by negligence and/or abuse by institutional negligence shall report such a fact through the "Golden Hotline," to the Puerto Rico Police, and/or to the Office of Elderly Affairs, attached to the Office of the Governor, in the manner provided for by this chapter. The information thus furnished shall be kept in strict confidentiality, as well as the identity of the person who furnished the information.</p>
Rhode Island	<p>R.I. Gen. Laws § 42-66-8</p> <p>Any person who has reasonable cause to believe that any person sixty (60) years of age or older has been abused, neglected, exploited, or abandoned shall make an immediate report to the director of the department of elderly affairs or his or her designee. Any person who fails to make the report shall be punished by a fine of not more than one thousand dollars (\$1,000) or shall be imprisoned for a term of not more than one year, or both.</p>

	<p>R.I. Gen. Laws § 42-66-8.2(d)</p> <p>(d) In the event that after investigation, the department has reasonable cause to know or suspect that a person sixty (60) years of age or older has been a victim of: (1) an "assault" as defined in chapter 5 of title 11; or, (2) an "assault" as defined in chapter 37 of title 11; or, (3) an offense under chapter 10 of title 11, or has been a victim of "exploitation" as defined in this chapter, the investigator, with the approval of the director, shall immediately forward that information to the local law enforcement agency.</p>
<p>South Carolina</p>	<p>S.C. Code Ann. § 43-35-25</p> <p>(A) A physician, nurse, dentist, optometrist, medical examiner, coroner, other medical, mental health or allied health professional, Christian Science practitioner, religious healer, school teacher, counselor, psychologist, mental health or mental retardation specialist, social or public assistance worker, caregiver, staff or volunteer of an adult day care center or of a facility, or law enforcement officer having reason to believe that a vulnerable adult has been or is likely to be abused, neglected, or exploited shall report the incident in accordance with this section. Any other person who has actual knowledge that a vulnerable adult has been abused, neglected, or exploited shall report the incident in accordance with this section.</p> <p>(B) Except as provided in subsection (A), any other person who has reason to believe that a vulnerable adult has been or may be abused, neglected, or exploited may report the incident.</p> <p>(C) A person required to report pursuant to this section is personally responsible for making the report; however, a state agency may make a report on behalf of an agency employee if the procedure the agency uses for reporting has been approved in writing by the Vulnerable Adults Investigations Unit of the South Carolina Law Enforcement Division or the investigative entity to which the report is to be made.</p> <p>(D) A person required to report under this section must report the incident within twenty-four hours or the next business day. A report must be made in writing or orally by telephone or otherwise to:</p> <ol style="list-style-type: none"> <li>(1) the Vulnerable Adults Investigations Unit of the South Carolina Law Enforcement Division for incidents occurring in facilities operated or contracted for operation by the Department of Mental Health or the Department of Disabilities and Special Needs;</li> <li>(2) the Long Term Care Ombudsman Program for incidents occurring in facilities, except those facilities provided for in item (1); and</li> <li>(3) the Adult Protective Services Program for incidents occurring in all other settings.</li> </ol> <p>(E) If the Vulnerable Adults Investigations Unit of the South Carolina Law Enforcement Division or an investigative entity receives a report that is not within its investigative jurisdiction, the unit or investigative entity shall forward the report to the appropriate unit or investigative entity not later than the next working day.</p>

	<p>(F) No facility may develop policies or procedures that interfere with the reporting requirements of this section.</p> <p>(G) Provide that the mandatory reporting requirements of this section are met, nothing in this section precludes a person also from reporting directly to law enforcement, and in cases of an emergency, serious injury, or suspected sexual assault law enforcement must be contacted immediately.</p> <p>S.C. Code Ann. § 43-35-35</p> <p>(A) A person required to report or investigate cases under this chapter who has reasonable suspicion to believe that a vulnerable adult died as a result of abuse or neglect shall report the death and suspected cause of death to the coroner or medical examiner. The coroner or medical examiner shall conduct an investigation and may conduct or order an autopsy. The coroner or medical examiner must report the investigative findings to the Vulnerable Adults Investigations Unit of the South Carolina Law Enforcement Division.</p> <p>(B) All deaths involving a vulnerable adult in a facility operated or contracted for operation by the Department of Mental Health, the Department of Disabilities and Special Needs, or their contractors must be referred to the Vulnerable Adults Investigations Unit of the South Carolina Law Enforcement Division for investigation.</p> <p>S.C. Code Ann. § 43-35-40</p> <p>Upon receiving a report, the investigative entity promptly shall initiate an investigation and within two working days of receiving the report must review the report for the purpose of reporting to the Vulnerable Adults Investigations Unit of the South Carolina Law Enforcement Division those cases which indicate reasonable suspicion of criminal conduct. A report to the unit must be made within one working day of completing the review.</p>
South Dakota	<p>S. D. Codified Laws Ann. § 28-1-45</p> <p>Statute is silent.</p>
Tennessee	<p>Tenn. Code Ann. § 71-6-103(b)(1) – (d)(2)</p> <p>(b) (1) Any person, including, but not limited to, a physician, nurse, social worker, department personnel, coroner, medical examiner, alternate care facility employee, or caretaker, having reasonable cause to suspect that an adult has suffered abuse, neglect, or exploitation, shall report or cause reports to be made in accordance with the provisions of this part. Death of the adult does not relieve one of the responsibility for reporting the circumstances surrounding the death. However, unless the report indicates that there are other adults in the same or similar situation and that an investigation and provision of protective services are necessary to prevent their possible abuse, neglect or exploitation, it shall not be necessary for the department to make an investigation of the circumstances surrounding the death; provided, that the appropriate law-enforcement agency is notified.</p>



	<p>(2) If a hospital, clinic, school, or any other organization or agency responsible for the care of adults has a specific procedure, approved by the director of the county office of the department, for the protection of adults who are victims of abuse, neglect, or exploitation, any member of its staff whose duty to report under the provisions of this part arises from the performance of the staff member's services as a member of the staff of the organization may, at the staff member's option, fulfill that duty by reporting instead to the person in charge of the organization or the organization head's designee who shall make the report in accordance with the provisions of this chapter.</p> <p>(c) An oral or written report shall be made immediately to the department upon knowledge of the occurrence of suspected abuse, neglect, or exploitation of an adult. Any person making such a report shall provide the following information, if known: the name and address of the adult, or of any other person responsible for the adult's care; the age of the adult; the nature and extent of the abuse, neglect, or exploitation, including any evidence of previous abuse, neglect, or exploitation; the identity of the perpetrator, if known; the identity of the complainant, if possible; and any other information that the person believes might be helpful in establishing the cause of abuse, neglect, or exploitation. Each report of known or suspected abuse of an adult involving a sexual offense that is a violation of §§ 39-13-501-- 39-13-506 that occurs in a facility licensed by the department of mental health and developmental disabilities as defined in § 33-5-402, or any hospital shall also be made to the local law enforcement agency in the jurisdiction where such offense occurred.</p> <p>(d) Upon receipt of the report, the department shall take the following action as soon as practical:</p> <p>(1) Notify the appropriate law enforcement agency in all cases in which the report involves abuse, neglect, or exploitation of the adult by another person or persons;</p> <p>(2) Notify the appropriate licensing authority if the report concerns an adult who is a resident of, or at the time of any alleged harm is receiving services from, a facility that is required by law to be licensed or the person alleged to have caused or permitted the harm is licensed under title 63. The commissioner of health, upon becoming aware through personal knowledge, receipt of a report or otherwise, of confirmed exploitation, abuse, or neglect of a nursing home resident, shall report such instances to the Tennessee bureau of investigation for a determination by the bureau as to whether the circumstances reported constitute abuse of the medicaid program or other criminal violation;</p>
Texas	<p>Texas Hum. Res. Code Ann. § 48.051</p> <p>(a) Except as prescribed by Subsection (b), a person having cause to believe that an elderly or disabled person is in the state of abuse, neglect, or exploitation shall report the information required by Subsection (d) immediately to the department.</p> <p>(b) If a person has cause to believe that an elderly or disabled person has been abused, neglected, or exploited in a facility operated, licensed, certified, or registered by a state agency other than the Texas Department of Mental Health and Mental Retardation, the person shall report the information to the state agency that operates, licenses, certifies, or registers the facility for investigation by that agency.</p>

	<p>(c) The duty imposed by Subsections (a) and (b) applies without exception to a person whose knowledge concerning possible abuse, neglect, or exploitation is obtained during the scope of the person's employment or whose professional communications are generally confidential, including an attorney, clergy member, medical practitioner, social worker, and mental health professional.</p> <p>(d) The report may be made orally or in writing. It shall include:</p> <ol style="list-style-type: none"> <li>(1) the name, age, and address of the elderly or disabled person;</li> <li>(2) the name and address of any person responsible for the elderly or disabled person's care;</li> <li>(3) the nature and extent of the elderly or disabled person's condition;</li> <li>(4) the basis of the reporter's knowledge; and</li> <li>(5) any other relevant information.</li> </ol> <p>(e) If a person who makes a report under this section chooses to give self-identifying information, the caseworker who investigates the report shall contact the person if necessary to obtain any additional information required to assist the person who is the subject of the report.</p> <hr/> <p>Texas Hum. Res. Code Ann. § 48.1522</p> <p>If during the course of the department's or another state agency's investigation of reported abuse, neglect, or exploitation a caseworker of the department or other state agency, as applicable, or the caseworker's supervisor has cause to believe that the elderly or disabled person has been abused, neglected, or exploited by another person in a manner that constitutes a criminal offense under any law, including Section 22.04, Penal Code, the caseworker or supervisor shall:</p> <ol style="list-style-type: none"> <li>(1) immediately notify an appropriate law enforcement agency; and</li> <li>(2) provide the law enforcement agency with a copy of the investigation report of the department or other state agency, as applicable, in a timely manner.</li> </ol>
Utah	<p>Utah Code Ann. § 62A-3-305(1) – (2)</p> <p>(1) Any person who has reason to believe that any vulnerable adult has been the subject of abuse, neglect, or exploitation shall immediately notify Adult Protective Services intake or the nearest law enforcement agency. When the initial report is made to law enforcement, law enforcement shall immediately notify Adult Protective Services intake. Adult Protective Services and law enforcement shall coordinate, as appropriate, their efforts to provide protection to the vulnerable adult.</p> <p>(2) When the initial report or subsequent investigation by Adult Protective Services indicates that a criminal offense may have occurred against a vulnerable adult, it shall notify the nearest local law enforcement agency. That law enforcement agency shall initiate an investigation in cooperation with Adult Protective Services.</p>
Vermont	<p>Vt. Stat. Ann. tit. 33, § 6903(a)</p> <p>(a) Any of the following, other than a crisis worker acting pursuant to section 1614 of Title 12, who knows of or has received</p>



information of abuse, neglect or exploitation of a vulnerable adult or who has reason to suspect that any vulnerable adult has been abused, neglected or exploited shall report or cause a report to be made in accordance with the provisions of section 6904 of this title within 48 hours:

(1) All employees, contractors and grantees of the agency of human services who are involved in caregiving.

(2) A physician, osteopath, chiropractor or physician's assistant, nurse, medical examiner, licensed nursing assistant, emergency medical services personnel, dentist, or psychologist.

(3) A school teacher, school librarian, school administrator, school guidance counselor, school aide, school bus driver, or school employee or school contractor who works regularly with students.

(4) A mental health professional, social worker, person or organization that offers, provides, or arranges for personal care for vulnerable adults, a caregiver employed by a vulnerable adult, employee of or contractor involved in caregiving for a community mental health center, law enforcement officer, and an individual who works regularly with vulnerable adults and who is an employee of an adult day care center, area agency on aging, senior center, or meal program designed primarily to serve vulnerable adults.

(5) A hospital, nursing home, residential care home, home health agency or any entity providing nursing or nursing related services for remuneration, intermediate care facility for adults with mental retardation, therapeutic community residence, group home, developmental home, school or contractor involved in caregiving, operator or employee of any of these facilities or agencies.

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Vt. Stat. Ann. tit. 33, § 6904

A report shall be made orally or in writing to the commissioner or designee as soon as possible, but in no event later than 48 hours thereafter. The report may also be made to a law enforcement officer. If an oral report is made by telephone or otherwise, the commissioner or designee shall request that it be followed within one week by a report in writing. Reports shall contain the name and address of the reporter as well as the names and addresses of the vulnerable adult and persons responsible for his or her care, if known; the age of the vulnerable adult; the nature of his or her disability, the nature and extent of the vulnerable adult's abuse, neglect or exploitation together with any evidence of previous abuse, neglect or exploitation of the vulnerable adult; and any other information that the reporter believes might be helpful in establishing the cause of any injuries or reasons for the abuse, neglect or exploitation as well as in protecting the vulnerable adult. If a report of abuse, neglect, or exploitation involves the acts or omissions of the commissioner or employees of that department, then such reports shall be directed to the secretary of the agency of human services who shall cause the report to be investigated by appropriate staff other than staff of the department.

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Vt. Stat. Ann. tit. 33, § 6905

	<p>When a person making a report of suspected abuse, neglect or exploitation of a vulnerable adult has reasonable cause to believe that a vulnerable adult died as a result of abuse or neglect, the department shall notify the medical examiner immediately.</p>
Virgin Islands	<p>34 V.I. Code Ann. § 453(a) – (c) and (e)</p> <p>(a) Any physician, medical intern, medical examiner, dentist, nurse, family counselor, probation officer, social worker, police officer, psychologist, coroner, physical therapist, occupational therapist, osteopath, podiatrist, executive director of home care corporation, executive director of licensed home health aide agency or executive director of homemaker service agency who has reasonable cause to believe that an elderly person or disabled adult is suffering from or has died as result of abuse, neglect, abandonment or exploitation shall immediately make a verbal report of such information or cause a report to be made to the Department, and shall within forty-eight (48) hours make a written report to the Department. The Department may bring a complaint in Superior Court against any person so required to make such report who fails to do so. Any person required to make a report under this subsection who fails to do so shall be punished by a fine of not more than one thousand dollars (\$1,000).</p> <p>(b) The executive director of a home care corporation, licensed home health agency or homemaker service agency shall establish procedures within such agency to ensure that homemakers, home health aides, case managers or other staff of said agency who have reasonable cause to believe that an elderly person or disabled adult has been abused, neglected, abandoned or exploited shall report such case to the executive director of the corporation or agency. The executive director shall immediately make a verbal report of such information or cause a report to be made to the Department, and shall within forty-eight (48) hours make a written report to the Department.</p> <p>(c) In addition to those persons required to report under this section, any other person may make such a report to the Department, if any such person has reasonable cause to believe that an elderly person or disabled adult is suffering from or has died as a result of abuse, neglect, abandonment or exploitation.</p> <p>(e) Reports made under subsections (a) and (b) shall contain:</p> <ol style="list-style-type: none"> <li>(1) the name, address and approximate age of the elderly person or disabled adult who is the subject of the report;</li> <li>(2) information regarding the nature and extent of the abuse, neglect, exploitation, or abandonment;</li> <li>(3) the name of the person's caretaker, if known;</li> <li>(4) any medical treatment being received or immediately required, if known;</li> <li>(5) any other information the reporter believes to be relevant to the investigation; and</li> <li>(6) the name and address of the reporter and where said reporter may be contacted, if the reporter wishes to provide said information.</li> </ol>
Virginia	<p>Va. Code Ann. § 63.2-1605(H)</p> <p>H. Local departments or the adult protective services hotline, upon receiving the initial report pursuant to § 63.2-1606, shall immediately notify the local law-enforcement agency where the adult resides, or where the alleged abuse, neglect, or exploitation took place, or if these places are unknown, then where the alleged abuse, neglect, or exploitation was discovered,</p>

when in receipt of a report describing any of the following:

1. Sexual abuse as defined in § 18.2-67.10;
2. Death, serious bodily injury or disease as defined in § 18.2-369 that is believed to be the result of abuse or neglect; or
3. Any other criminal activity involving abuse or neglect that places the adult in imminent danger of death or serious bodily harm.

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Va. Code Ann. § 63.2-1606(A) – (D) and (I) – (J)

A. Matters giving reason to suspect the abuse, neglect or exploitation of adults shall be reported immediately upon the reporting person's determination that there is such reason to suspect. Medical facilities inspectors of the Department of Health are exempt from reporting suspected abuse immediately while conducting federal inspection surveys in accordance with § 1864 of Title XVIII and Title XIX of the Social Security Act, as amended, of certified nursing facilities as defined in § 32.1-123. Reports shall be made to the local department or the adult protective services hotline in accordance with requirements of this section by the following persons acting in their professional capacity:

1. Any person licensed, certified, or registered by health regulatory boards listed in § 54.1-2503, with the exception of persons licensed by the Board of Veterinary Medicine;
2. Any mental health services provider as defined in § 54.1-2400.1;
3. Any emergency medical services personnel certified by the Board of Health pursuant to § 32.1-111.5;
4. Any guardian or conservator of an adult;
5. Any person employed by or contracted with a public or private agency or facility and working with adults in an administrative, supportive or direct care capacity;
6. Any person providing full, intermittent or occasional care to an adult for compensation, including but not limited to, companion, chore, homemaker, and personal care workers; and
7. Any law-enforcement officer.

B. The report shall be made in accordance with subsection A to the local department of the county or city wherein the adult resides or wherein the adult abuse, neglect or exploitation is believed to have occurred or to the adult protective services hotline. Nothing in this section shall be construed to eliminate or supersede any other obligation to report as required by law.

	<p>If a person required to report under this section receives information regarding abuse, neglect or exploitation while providing professional services in a hospital, nursing facility or similar institution, then he may, in lieu of reporting, notify the person in charge of the institution or his designee, who shall report such information, in accordance with the institution's policies and procedures for reporting such matters, immediately upon his determination that there is reason to suspect abuse, neglect or exploitation. Any person required to make the report or notification required by this subsection shall do so either orally or in writing and shall disclose all information that is the basis for the suspicion of adult abuse, neglect or exploitation. Upon request, any person required to make the report shall make available to the adult protective services worker and the local department investigating the reported case of adult abuse, neglect or exploitation any information, records or reports which document the basis for the report. All persons required to report suspected adult abuse, neglect or exploitation shall cooperate with the investigating adult protective services worker of a local department and shall make information, records and reports which are relevant to the investigation available to such worker to the extent permitted by state and federal law. Criminal investigative reports received from law-enforcement agencies shall not be further disseminated by the investigating agency nor shall they be subject to public disclosure.</p> <p>C. Any financial institution staff who suspects that an adult has been exploited financially may report such suspected exploitation to the local department of the county or city wherein the adult resides or wherein the exploitation is believed to have occurred or to the adult protective services hotline. For purposes of this section, financial institution staff means any employee of a bank, savings institution, credit union, securities firm, accounting firm, or insurance company.</p> <p>D. Any person other than those specified in subsection A who suspects that an adult is an abused, neglected or exploited adult may report the matter to the local department of the county or city wherein the adult resides or wherein the abuse, neglect or exploitation is believed to have occurred or to the adult protective services hotline.</p> <p>I. Any mandated reporter who has reasonable cause to suspect that an adult died as a result of abuse or neglect shall immediately report such suspicion to the appropriate medical examiner and to the appropriate law-enforcement agency, notwithstanding the existence of a death certificate signed by a licensed physician. The medical examiner and the law-enforcement agency shall receive the report and determine if an investigation is warranted. The medical examiner may order an autopsy. If an autopsy is conducted, the medical examiner shall report the findings to law enforcement, as appropriate, and to the local department or to the adult protective services hotline.</p> <p>J. No person or entity shall be obligated to report any matter if the person or entity has actual knowledge that the same matter has already been reported to the local department or to the adult protective services hotline.</p>
Washington	<p>Wash. Rev. Code § 74.34.020(8)</p> <p>(8) "Mandated reporter" is an employee of the department; law enforcement officer; social worker; professional school personnel; individual provider; an employee of a facility; an operator of a facility; an employee of a social service, welfare, mental health, adult day health, adult day care, home health, home care, or hospice agency; county coroner or medical examiner; Christian Science practitioner; or health care provider subject to chapter 18.130 RCW.</p>

Wash. Rev. Code § 74.34.035

- (1) When there is reasonable cause to believe that abandonment, abuse, financial exploitation, or neglect of a vulnerable adult has occurred, mandated reporters shall immediately report to the department.
- (2) When there is reason to suspect that sexual assault has occurred, mandated reporters shall immediately report to the appropriate law enforcement agency and to the department.
- (3) When there is reason to suspect that physical assault has occurred or there is reasonable cause to believe that an act has caused fear of imminent harm:
  - (a) Mandated reporters shall immediately report to the department; and
  - (b) Mandated reporters shall immediately report to the appropriate law enforcement agency, except as provided in subsection (4) of this section.
- (4) A mandated reporter is not required to report to a law enforcement agency, unless requested by the injured vulnerable adult or his or her legal representative or family member, an incident of physical assault between vulnerable adults that causes minor bodily injury and does not require more than basic first aid, unless:
  - (a) The injury appears on the back, face, head, neck, chest, breasts, groin, inner thigh, buttock, genital, or anal area;
  - (b) There is a fracture;
  - (c) There is a pattern of physical assault between the same vulnerable adults or involving the same vulnerable adults; or
  - (d) There is an attempt to choke a vulnerable adult.
- (5) Permissive reporters may report to the department or a law enforcement agency when there is reasonable cause to believe that a vulnerable adult is being or has been abandoned, abused, financially exploited, or neglected.
- (6) No facility, as defined by this chapter, agency licensed or required to be licensed under chapter 70.127 RCW, or facility or agency under contract with the department to provide care for vulnerable adults may develop policies or procedures that interfere with the reporting requirements of this chapter.
- (7) Each report, oral or written, must contain as much as possible of the following information:

	<p>(a) The name and address of the person making the report;</p> <p>(b) The name and address of the vulnerable adult and the name of the facility or agency providing care for the vulnerable adult;</p> <p>(c) The name and address of the legal guardian or alternate decision maker;</p> <p>(d) The nature and extent of the abandonment, abuse, financial exploitation, neglect, or self-neglect;</p> <p>(e) Any history of previous abandonment, abuse, financial exploitation, neglect, or self-neglect;</p> <p>(f) The identity of the alleged perpetrator, if known; and</p> <p>(g) Other information that may be helpful in establishing the extent of abandonment, abuse, financial exploitation, neglect, or the cause of death of the deceased vulnerable adult.</p> <p>(8) Unless there is a judicial proceeding or the person consents, the identity of the person making the report under this section is confidential.</p> <hr/> <p>Wash. Rev. Code § 74.34.063(2) – (3)</p> <p>(2) When the initial report or investigation by the department indicates that the alleged abandonment, abuse, financial exploitation, or neglect may be criminal, the department shall make an immediate report to the appropriate law enforcement agency. The department and law enforcement will coordinate in investigating reports made under this chapter. The department may provide protective services and other remedies as specified in this chapter.</p> <p>(3) The law enforcement agency or the department shall report the incident in writing to the proper county prosecutor or city attorney for appropriate action whenever the investigation reveals that a crime may have been committed.</p>
West Virginia	<p>W. Va. Code § 9-6-9(a)</p> <p>(a) If any medical, dental or mental health professional, christian science practitioner, religious healer, social service worker, law-enforcement officer, humane officer, state or regional ombudsman or any employee of any nursing home or other residential facility has reasonable cause to believe that an incapacitated adult or facility resident is or has been neglected, abused or placed in an emergency situation, or if such person observes an incapacitated adult or facility resident being subjected to conditions that are likely to result in abuse, neglect or an emergency situation, the person shall immediately report the circumstances pursuant to the provisions of section eleven of this article: Provided, That nothing in this article is intended to prevent individuals from reporting on their own behalf.</p>

	<p>W. Va. Code § 8-6-11(a) – (c)</p> <p>(a) A report of neglect or abuse of an incapacitated adult or facility resident or of an emergency situation involving such an adult shall be made immediately by telephone to the department's local adult protective services agency and shall be followed by a written report by the complainant or the receiving agency within forty-eight hours. The department shall, upon receiving any such report, take such action as may be appropriate and shall maintain a record thereof. The department shall receive such telephonic reports on its twenty-four hour, seven-day-a-week, toll-free number established to receive calls reporting cases of suspected or known adult abuse or neglect.</p> <p>(b) A copy of any report of abuse, neglect or emergency situation shall be immediately filed with the following agencies:</p> <p>(1) The department of health and human resources;</p> <p>(2) The appropriate law-enforcement agency and the prosecuting attorney, if necessary; or</p> <p>(3) In case of a death, to the appropriate medical examiner or coroner's office.</p> <p>(c) If the person who is alleged to be abused or neglected is a resident of a nursing home or other residential facility, a copy of the report shall also be filed with the state or regional ombudsman and the administrator of the nursing home or facility.</p>
<p>Wisconsin (EPS) Wis. Stat. Ann. § 46.90 (applicable to persons who are 60 or older)</p>	<p>Wis. Stat. § 46.90(4)(ab) – (ar)</p> <p>(4) Reporting. (ab) The following persons shall file reports as specified in par. (ad):</p> <ol style="list-style-type: none"> <li>1. An employee of any entity that is licensed, certified, or approved by or registered with the department.</li> </ol> <p>[sic]</p> <ol style="list-style-type: none"> <li>3. A health care provider, as defined in s. 155.01(7).</li> <li>4. A social worker, professional counselor, or marriage and family therapist certified under ch. 457.</li> </ol> <p>(ad) Except as provided in par. (ae), a person specified in par. (ab) who has seen an elder adult at risk in the course of the person's professional duties shall file a report with the county department, the elder-adult-at-risk agency, a state or local law enforcement agency, the department, or the board on aging and long-term care if the elder adult at risk has requested the person to make the report, or if the person has reasonable cause to believe that any of the following situations exist:</p> <ol style="list-style-type: none"> <li>1. The elder adult at risk is at imminent risk of serious bodily harm, death, sexual assault, or significant property loss and is unable to make an informed judgment about whether to report the risk.</li> </ol>



	<p>2. An elder adult at risk other than the subject of the report is at risk of serious bodily harm, death, sexual assault, or significant property loss inflicted by a suspected perpetrator.</p> <p>(ae) A person specified in par. (ab) to whom any of the following applies is not required to file a report as provided in par. (ad):</p> <p>(ad):</p> <ol style="list-style-type: none"> <li>1. If the person believes that filing a report would not be in the best interest of the elder adult at risk. If the person so believes, the person shall document the reasons for this belief in the case file that the person maintains on the elder adult at risk.</li> <li>2. If a health care provider provides treatment by spiritual means through prayer for healing in lieu of medical care in accordance with his or her religious tradition and his or her communications with patients are required by his or her religious denomination to be held confidential.</li> </ol> <p>(ar) Any person, including an attorney or a person working under the supervision of an attorney, may report to the county department, the elder-adult-at-risk agency, a state or local law enforcement agency, the department, or the board on aging and long-term care that he or she believes that abuse, financial exploitation, neglect, or self-neglect of an elder adult at risk has occurred if the person is aware of facts or circumstances that would lead a reasonable person to believe or suspect that abuse, financial exploitation, neglect, or self-neglect of an elder adult at risk has occurred. The person shall indicate the facts and circumstances of the situation as part of the report.</p>
<p>Wisconsin (APS) Wis. Stat. Ann. §§ 55.001 – 55.23 <i>(applicable to adults with disabilities)</i></p>	<p>Wis. Stat. § 55.043(1m)(a)-(br)</p> <p>(a) The following persons shall file reports as specified in par. (b):</p> <ol style="list-style-type: none"> <li>1. An employee of any entity that is licensed, certified, or approved by or registered with the department.</li> </ol> <p>[sic]</p> <ol style="list-style-type: none"> <li>3. A health care provider, as defined in s. 155.01(7).</li> <li>4. A social worker, professional counselor, or marriage and family therapist certified under ch. 457.</li> </ol> <p>(b) Except as provided in par. (be), a person specified in par. (a) who has seen an adult at risk in the course of the person's professional duties shall file a report with the county department, the adult-at-risk agency, a state or local law enforcement agency, the department, or the board on aging and long-term care if the adult at risk has requested the person to make the report, or if the person has reasonable cause to believe that any of the following situations exist:</p> <ol style="list-style-type: none"> <li>1. The adult at risk is at imminent risk of serious bodily harm, death, sexual assault, or significant property loss and is unable</li> </ol>



	<p>to make an informed judgment about whether to report the risk.</p> <p>2. An adult at risk other than the subject of the report is at risk of serious bodily harm, death, sexual assault, or significant property loss inflicted by a suspected perpetrator.</p> <p>(be) A person specified in par. (a) to whom any of the following applies is not required to file a report as provided in par. (b):</p> <p>1. If the person believes that filing a report would not be in the best interest of the adult at risk. If the person so believes, the person shall document the reasons for this belief in the case file that the person maintains on the adult at risk.</p> <p>2. If a health care provider provides treatment by spiritual means through prayer for healing in lieu of medical care in accordance with his or her religious tradition and his or her communications with patients are required by his or her religious denomination to be held confidential.</p> <p>(br) Any person, including an attorney or a person working under the supervision of an attorney, may report to the county department, adult-at-risk agency, a state or local law enforcement agency, the department, or the board on aging and long-term care that he or she believes that abuse, financial exploitation, neglect, or self-neglect of an adult at risk has occurred if the person is aware of facts or circumstances that would lead a reasonable person to believe or suspect that abuse, financial exploitation, neglect, or self-neglect of an adult at risk has occurred. The person shall indicate the facts and circumstances of the situation as part of the report.</p>
Wyoming	<p>Wyo. Stat. Ann. § 35-20-103(a) – (d)</p> <p>(a) Any person or agency who knows or has reasonable cause to believe that a vulnerable adult is being or has been abused, neglected, exploited or abandoned or is committing self neglect shall report the information immediately to a law enforcement agency or the department. Anyone who in good faith makes a report pursuant to this section is immune from civil liability for making the report.</p> <p>(b) The report may be made orally or in writing. The report shall provide to law enforcement or the department the following, to the extent available:</p> <p>(i) The name, age and address of the vulnerable adult;</p> <p>(ii) The name and address of any person responsible for the vulnerable adult's care;</p> <p>(iii) The nature and extent of the vulnerable adult's condition;</p> <p>(iv) The basis of the reporter's knowledge;</p>

	<p>(v) The names and conditions of the other residents, if the vulnerable adult resides in a facility with other vulnerable adults;</p> <p>(vi) An evaluation of the persons responsible for the care of the residents, if the vulnerable adult resides in a facility with other vulnerable adults;</p> <p>(vii) The adequacy of the facility environment;</p> <p>(viii) Any evidence of previous injuries;</p> <p>(ix) Any collaborative information; and</p> <p>(x) Any other relevant information.</p> <p>(c) After receipt of a report that a vulnerable adult is suspected of being or has been abused, neglected, exploited or abandoned or is committing self neglect, the department shall notify law enforcement and may request assistance from appropriate health or mental health agencies.</p> <p>(d) If a law enforcement officer determines that a vulnerable adult is abused, neglected, exploited or abandoned, or is committing self neglect, he shall notify the department concerning the potential need of the vulnerable adult for protective services.</p>
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<sup>1</sup> The views expressed herein have not been approved by the House of Delegates or the Board of Governors of the American Bar Association and, accordingly, should not be construed as representing the policy of the American Bar Association.

<sup>2</sup> This document was completed for the National Center on Elder Abuse and supported in part by a grant, No. 90AM2792, from the Administration on Aging, U.S. Department of Health and Human Services. Grantees undertaking projects under government sponsorship are encouraged to express freely their findings and conclusions. Therefore, points of view or opinions do not necessarily represent official Administration on Aging policy.

**Appendix 18**  
**July 25, 2012 Meeting Materials**

# SB12-78 Elder Abuse Task Force

Wednesday, July 25<sup>th</sup>

9:00 am – 1:00 pm

Colorado Bar Association

Room: Executive Conference Room (9<sup>th</sup> Floor)

\*Please note that lunch will not be provided nor will there be a specific break taken for lunch. But please feel free to bring something to eat if you need to.

## I. Introductions (15 mins)

- a. Approval of Minutes (5 mins)
- b. Review of Proxies (separate document) (5 mins)
- c. Follow up from last meeting: Criminal Proposal (Sean ???) (5 mins)

## II. Overview of County Services and APS Training (45 mins)

- a. Training may need to be considered with any recommendation developed. What is the current statutory requirement? What type of training is currently provided?
- b. Brief overview of types of services provided by counties (CCI or other county reps at the table to present? Or the state can do it? Either way.).
- c. What is working well and not working well?

## III. Discussion (1 hour): Prevention Evidenced-Based Practices

- a. Prevention: What are the best practices for preventing people from needing APS services?
- b. Public Comment (10 min.)

## Break (15 mins)

## IV. Discussion continued (1.5 hours): Intervention Evidenced-Based Practices

- a. Intervention: Once a situation is reported to APS, how do we get the outcomes we want for the client? What works well in the current system? What could be improved? What are the evidenced-based practices we'd like to consider?
- b. Public Comment (10 min.)

## V. Future Meetings

August 8<sup>th</sup> Criminal Penalties and Mandatory Reporters

August 22<sup>nd</sup>: Cost and Workload Impacts and Sustainable

\*The task force will need to determine future dates of meetings (two or three week span)

Conference call-in code: 1-866-200-5786 outside the Metro area or local: 303-218-2281 the conference code is: 303 824 5309 #

SB78 Elder Abuse Task Force

Wednesday, July 25, 2012

9:00am-1:00pm

Meeting convened at 9:00am.

Members Present:

David Blake, Co-Chair

Joscelyn Gay, Co-Chair

Vickie Clark, Routt County Dept. of Human Services

Tammy Conover, Attorney at Steenrod, Schwartz, and McMinimee Law Firm

Sterling Harris, Chief Deputy Director of Colorado Organization for Victim Assistance

Dr. Rebecca Paskind, Ph.D. Associate professor at Metro State College

Heidi Prentup, Commander at Boulder County Sheriff's Department

Mary Catherine Rabbitt, Attorney at the Legal Center for People with Disabilities and Older People

Jerri Schomaker, Owner of Home Instead Senior Care of CO Springs represented by Jon Jennet

Nancy Sharpe, Arapahoe County Commissioner

Scott Storey, District Attorney with the Jefferson County DA's Office- represented by Sean Clifford

Darla Stuart, Executive Director at Arc of Aurora

Amy Nofziger, Director of AARP Foundation-represented by Bob Toye

Peggy Rogers, Colorado Department of Human Services

Chris Lines, Director of Colorado Medical Society

Anne Kerr Meier, Social Worker at Exempla Luthern Hospice-Collier Hospice Center

Arlene Miles, President and CEO of Colorado Health Care Association

Jenifer Waller, Senior Vice President at the Colorado Banker's Association-represented by Melanie Layton

Sean Clifford reviewed his proposed draft language for criminal penalties for at-risk adults. In his proposed language, Sean suggested changing the existing statute in 18-4-401(1) to include theft by those in a position of "trust, whether or not in the presence of the victim" as well as "theft against an at-risk adult or an at-risk juvenile knowing the victim is an at-risk adult or an at-risk juvenile, whether or not in the presence of the victim". Doing so would make it easier to prosecute financial exploitation of at-risk adults.

In order to create his proposed language, Sean used Florida's current statute as a model specific to financial exploitation by caregivers. However, it was noted that trying to mirror Colorado's statutes along the lines of Florida's statute would require a massive overhaul. Co-Chair Sean explained that law enforcement typically

doesn't take on financial exploitation cases because of the perception that these cases are civil in nature; with this in mind, Joscelyn asked Sean to compile the options of the civil and criminal statute as well as the pros and cons associated with both for the next meeting. During the August 8<sup>th</sup> meeting draft language will once again be reviewed. It was also noted that Florida's statute includes intimidation of an at-risk adult. Other keywords that could be considered as possible changes to Colorado's civil and/or criminal statute to capture financial exploitation include: undue influence, intimidation, willful, capacity, and knowingly. Sean will work on proposed language and send to Brandy DeLange at CCI: [bdelange@ccionline.org](mailto:bdelange@ccionline.org) prior to the August 8, 2012 meeting.

Melanie Layton reported that financial institutions are complying with statutory requirements to send "at-risk" adults consent packets granting access to their accounts when financial exploitation is suspected. Financial institutions are complying and are actually only required to send information to individuals who are perceived to be at-risk adults, however most send information to all customers. Jenifer Waller will be at the August 8<sup>th</sup> meeting and can elaborate more on the criteria used by banks to issue consent packets and reporting.

An overview of county services and APS training was given to the task force by Peggy Rogers from the Colorado Department of Human Services. These presentations focused heavily on the prevention and intervention side of services as well as a list of strategies presented by Peg. Currently, county departments are trained to conduct investigations. As it stands, APS does not have a budget for training, grants for Title XX (SSBG) currently fund any and all training. For SFY12, APS's training budget is approximately \$14,000.

Models from Oklahoma are currently being used and modified to create new curriculums for both case workers and supervisors. August 1, 2012, new rules passed will require: a five day training period, webinars for supervisors, and regional trainings. Additionally, counties attending trainings must complete a workbook before the meeting, four webinars for supervisors are required, and 30 hours of ongoing training for full time case workers, prorated for part time case workers is also required under the new rules. This training can be provided by a multitude of sources, including other organizations, a method of keeping track of other states' provided training, etc. Training is also required for APS teams and may consist of sending out informative letters to the community, community education and/or training, etc; a total of five events must be done. Concern about cost of sending case workers from smaller counties for five day trainings and other informational sessions has arisen and is something that needs to be considered when making recommendations for mandatory reporting. This is especially true for smaller counties where the child welfare caseworkers also handle the 12 APS calls that come in each year.

Strategies and outcome data: Colorado is comparable to other states in the number of elder abuse reports received, however few states have outcome data, so it is difficult to identify practices that are effective at protecting at-risk adults.

Discussion of strategy:

California: Has no state system, all county based; Ventura, California sends their APS team, an RN on contract, as well as a neuropsychologist specialist to visit and assess at-risk adults; Texas's : similar to California, Oklahoma. These three states are mandatory reporting. This practice has greatly reduced the risk for at-risk adults.

In a handout, Peg prioritized the strategies she felt were necessary for APS. Peg also cited the several "big system" issues that APS is faced with. For example, many individuals may not be in the database, making it hard to track issues and/or people over time. Additionally, mental health evaluations are altered to reflect illnesses like dementia once individuals age out of mental health providers. There was a widespread agreement among task force members that Colorado lack services for at-risk adults.

Capacity Evaluations also prove to be a problematic, as most are not done until ordered by a judge, which is often already too far into the legal process. Liability costs associated with said evaluations are also very high. The discussion of capacity frequently arises in the context of conservatorship. Many times the individual will have capacity as well as conservatorship, even if not evident initially. Often times it's difficult to determine when and if someone needs a capacity evaluation, and if necessary, these are only done in a few select languages (mostly English).

Home health providers are hesitant to get involved as liability is considerably high, it adds a level of complexity to the case, and most clients would prefer Human Services not get involved.

Safety Planning is reactive and proactive as it consists of: legal assistance, alternative housing, background checks of caregivers (which also acts as a preventative measure) and other services. Coordinated intervention is the key to both reactive and preventative planning; Denver is a great example of doing all of this.

Currently, Colorado is applying for grants to start up a pilot program that would provide multiple services in one-stop shop format. This implementation will be difficult in rural areas; best practices in these areas will need to be considered. The following task force members offered to bring information on coordinated care initiatives that they are aware of. Each were asked to identify 1.) How the initiative is funded and, 2.) How much it costs: Sterling Harris; Douglas County example; Vicki Clark: Mesa County example, Mary Catherine Rabbitt: Denver example, and Nancy Sharpe: Northern Virginia example.

Questions asked:

David: Are there any organizations that are willing to perform these evaluations pro-bono?

A: Sure, but most organizations charge for this and make the majority of their profits off these evaluations.

Q: Should law enforcement training be considered? What are some other trainings to be considered?

A: APS and law enforcement trainings should be held together, to help create a connectedness and fluidity to the process. Additionally, bank personnel should be included in this training process. This would empower all players involved.

\*Is it possible to change laws around prior consent? Financial institutions should be able to report potential abuse/exploitation without consent.

Changing this law would require a change in the constitution and privacy laws.

David: Is it possible to determine capacity of someone at the APS level?

Peg: Yes, but this would be hard to do in smaller counties with limited workers/small amounts of resources.

Becky: Most case workers are not trained to do capacity evaluations and would be uncomfortable for most case workers to make these evaluations/

David: Is it possible to think outside of the box in this context and use models like Oklahoma?

Becky: What about two stages of determination?

Tammy: APS can do some of this.

Peg/Vicki: One possible recommendation/Solution could be creating regional APS specialists who specifically trained and only conducts capacity evaluations when necessary. This potentially will resolve several conflicts and reduce costs.

Strategies and Recommendations Discussed:

Observation: Lack of services available for at-risk adults include

- General safety net      -Money for capacity evaluations
- Respite (caregiver support)      - Mental health services
- Emergency Medications      -Legal services
- House cleaning      -DD services
- Transportation      -Safety Planning with interdisciplinary teams

Strategies and Recommendations:

1. Community Education: for targeted professionals and services providers going into homes; media campaigns/PSA's. *(To be paired with #5)*
2. Coordinated Intervention: Utilizing existing APS teams, interdisciplinary teams, incorporate safety planning. Model to be looking at include: Mesa, Denver, Douglas. *(County TF members will work on wording) (can be combined with #3)\*Possible all sized counties*
3. Regional APS Resource for small and medium counties (potential APS specialist goes here.): Shared caseworkers, forensic acct, guardianship etc.
4. Capacity Evaluations: Databases, work with NGO's, Pro-bono—result in cost savings, especially when population age increases.
5. Regional training of law enforcement personnel and APS personnel. Development of law enforcement liaisons (people and staff) with APS community and legal attorneys. *(To be paired with #1 and language to be cleaned up and specificity)*
6. Allow financial institutions to hold and/or transactions for at-risk adults. *(Combine with #7)*
7. Encourage federal delegation to exempt banking transactions from privacy (eliminate prior consent form) *(Sean to research state level)*
8. Fiscally neutral ways to prioritize at-risk cases (ideas-incentive structures, encourage dedicated staff) *(David to wordsmith more) (Fiscal subcommittee will make additional recommendations)*
9. Examine guardianship: conservatorship (related to mandatory reporting and rep. payee including, due process and public guardianship.
10. New case management data system: creation of database.
11. Background checks to identify abusers. Type of system (CBI)? Increase coordination and access to data; for whom? *(Darla to research more)*

Task force members identified in the above recommendations are to either craft or research and report back to the group August 8, 2012.

\*Fleshed out language from strategies and recommendations located on separate document.

Future meetings:

September 12: The first draft of the Final Report will be due.

Meeting adjourned: 1:00pm



**SB 78 Elder Abuse Task Force Proxy List**

<u>Task Force Member</u>	<u>Proxy</u>
1 David Blake	George Kal
2 Joscelyn Gay	Peggy Rodgers
3 Amy Nofzinger	Bob Toye
4 Arlene Mile	Matt Elder
5 Heidi Pretup	
6 Jerri Schomaker	John Jennet
7 Becky Paskind	Steve Binder
8 Mary Catherine Rabbitt	Shelly Hit
9 Sterling Harris	Nancy Lewis
10 Scott Storey	Sean Clifford
11 Nancy Sharpe	Susan Adomcheck
12 Vickie Clark	Valerie Brooks
13 Tammy Conover	Tom Rodriguez
14 Chris Lines	
15 Anne Kerr Meier	
16 Darla Staurt	
17 Jenifer Waller	

<b>SB 689</b>	<b>Modifies provisions relating to crimes committed against the elderly and disabled</b>
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<b>Sponsor:</b>	<i>Engler</i>	<i>Co-Sponsor(s)</i>
<b>LR Number:</b>	5371S.04T	<i>Fiscal Note available</i>
<b>Committee:</b>	Judiciary and Civil and Criminal Jurisprudence	
<b>Last Action:</b>	7/11/2012 - Signed by Governor	<b>Journal Page:</b>
<b>Title:</b>	SS SCS SB 689	<b>Calendar Position:</b>
<b>Effective Date:</b>	August 28, 2012	
<b>House Handler:</b>	<i>Schad</i>	

[Full Bill Text](#) | [All Actions](#) | [Available Summaries](#) | [Senate Home Page](#) | [List of 2012 Senate Bills](#)

### Current Bill Summary

SS/SCS/SB 689 - Under current law, a person who recklessly and purposely causes serious injury to an elderly person commits the crime of second degree elder abuse. This act makes it so a person who recklessly or purposely causes such injury has committed the crime.

This act adds undue influence to the types of acts that, when committed against an elderly or disabled person, constitute the crime of financial exploitation.

Undue influence is defined under the act to mean influence by a person who has authority over the elderly or disabled person in order to take unfair advantage of the person's vulnerable state of mind, neediness, pain, or agony. It includes improper use of various types of fiduciary authority.

This act makes it an unlawful violation of the financial exploitation statute to fail to remit to a nursing facility in which a Medicaid eligible person resides all money owing the facility resident from any source.

This act allows the Department of Social Services to release records regarding the income or assets of a resident of a facility licensed under Chapter 198 to prosecuting attorneys who are investigating or prosecuting an offense of financial exploitation.

If a person admits to or is found guilty of failing to remit money owed to a facility licensed under Chapter 198, the court can order the offender to make restitution to the facility as a condition of sentence and/or probation. Any order or agreement for restitution must allow the prosecuting attorney to receive ten percent of each payment toward the restitution as reimbursement for the cost of enforcement.

MEGHAN LUECKE

SECOND REGULAR SESSION  
[TRULY AGREED TO AND FINALLY PASSED]  
SENATE SUBSTITUTE FOR  
SENATE COMMITTEE SUBSTITUTE FOR

# SENATE BILL NO. 689

96TH GENERAL ASSEMBLY  
2012

5371S.04T

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## AN ACT

To repeal sections 565.182 and 570.145, RSMo, and to enact in lieu thereof two new sections relating to crimes against certain types of vulnerable persons, with penalty provisions.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 565.182 and 570.145, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 565.182 and 570.145, to read as follows:

565.182. 1. A person commits the crime of elder abuse in the second degree if he:

(1) Knowingly causes, attempts to cause physical injury to any person sixty years of age or older or an eligible adult, as defined in section 660.250, by means of a deadly weapon or dangerous instrument; or

(2) Recklessly [and] **or** purposely causes serious physical injury, as defined in section 565.002, to a person sixty years of age or older or an eligible adult as defined in section 660.250.

2. Elder abuse in the second degree is a class B felony.

570.145. 1. A person commits the crime of financial exploitation of an elderly or disabled person if such person knowingly [and] by deception, intimidation, **undue influence**, or force obtains control over the elderly or disabled person's property with the intent to permanently deprive the elderly or disabled person of the use, benefit or possession of his or her property thereby benefitting such person or detrimentally affecting the elderly or disabled person. Financial exploitation of an elderly or disabled person is a class A

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

8 misdemeanor if the value of the property is less than fifty dollars, a class D felony  
9 if the value of the property is fifty dollars but less than five hundred dollars, a  
10 class C felony if the value of the property is five hundred dollars but less than  
11 one thousand dollars, a class B felony if the value of the property is one thousand  
12 dollars but less than fifty thousand dollars, and a class A felony if the value of  
13 the property is fifty thousand dollars or more.

14 2. For purposes of this section, the following terms mean:

15 (1) "Deception", a misrepresentation or concealment of material fact  
16 relating to the terms of a contract or agreement entered into with the elderly or  
17 disabled person or to the existing or preexisting condition of any of the property  
18 involved in such contract or agreement, or the use or employment of any  
19 misrepresentation, false pretense or false promise in order to induce, encourage  
20 or solicit the elderly or disabled person to enter into a contract or  
21 agreement. Deception includes:

22 (a) Creating or confirming another person's impression which is false and  
23 which the offender does not believe to be true; or

24 (b) Failure to correct a false impression which the offender previously has  
25 created or confirmed; or

26 (c) Preventing another person from acquiring information pertinent to the  
27 disposition of the property involved; or

28 (d) Selling or otherwise transferring or encumbering property, failing to  
29 disclose a lien, adverse claim or other legal impediment to the enjoyment of the  
30 property, whether such impediment is or is not valid, or is or is not a matter of  
31 official record; or

32 (e) Promising performance which the offender does not intend to perform  
33 or knows will not be performed. Failure to perform standing alone is not  
34 sufficient evidence to prove that the offender did not intend to perform;

35 (2) "Disabled person", a person with a mental, physical, or developmental  
36 disability that substantially impairs the person's ability to provide adequately for  
37 the person's care or protection;

38 (3) "Elderly person", a person sixty years of age or older;

39 (4) "Intimidation", a threat of physical or emotional harm to an elderly or  
40 disabled person, or the communication to an elderly or disabled person that he  
41 or she will be deprived of food and nutrition, shelter, prescribed medication, or  
42 medical care and treatment;

43 (5) "Undue influence", use of influence by someone who exercises



44 **authority over an elderly person or disabled person in order to take**  
45 **unfair advantage of that persons's vulnerable state of mind, neediness,**  
46 **pain, or agony. Undue influence includes, but is not limited to, the**  
47 **improper or fraudulent use of a power of attorney, guardianship,**  
48 **conservatorship, or other fiduciary authority.**

49       3. Nothing in this section shall be construed to limit the remedies  
50 available to the victim pursuant to any state law relating to domestic violence.

51       4. Nothing in this section shall be construed to impose criminal liability  
52 on a person who has made a good faith effort to assist the elderly or disabled  
53 person in the management of his or her property, but through no fault of his or  
54 her own has been unable to provide such assistance.

55       5. Nothing in this section shall limit the ability to engage in bona fide  
56 estate planning, to transfer property and to otherwise seek to reduce estate and  
57 inheritance taxes; provided that such actions do not adversely impact the  
58 standard of living to which the elderly or disabled person has become accustomed  
59 at the time of such actions.

60       6. It shall not be a defense to financial exploitation of an elderly or  
61 disabled person that the accused reasonably believed that the victim was not an  
62 elderly or disabled person.

63       7. (1) **It shall be unlawful in violation of this section for any**  
64 **person receiving or in the possession of funds of a Medicaid eligible**  
65 **elderly or disabled person residing in a facility licensed under chapter**  
66 **198 to fail to remit to the facility in which the Medicaid eligible person**  
67 **resides all money owing the facility resident from any source,**  
68 **including, but not limited to, social security, railroad retirement, or**  
69 **payments from any other source disclosed as resident income contained**  
70 **in the records of the department of social services, family support**  
71 **division or its successor. The department of social services, family**  
72 **support division or its successor is authorized to release information**  
73 **from its records containing the resident's income or assets to any**  
74 **prosecuting or circuit attorney in the state of Missouri for purposes of**  
75 **investigating or prosecuting any suspected violation of this section.**

76       (2) **The prosecuting or circuit attorney of any county containing**  
77 **a facility licensed under chapter 198, who successfully prosecutes a**  
78 **violation of the provisions of this subsection, may request the circuit**  
79 **court of the county in which the offender admits to or is found of guilty**

80 of a violation, as a condition of sentence and/or probation, to order  
81 restitution of all amounts unlawfully withheld from a facility in his or  
82 her county. Any order of restitution entered by the court or by  
83 agreement shall provide that ten percent of any restitution installment  
84 or payment paid by or on behalf of the defendant or defendants shall  
85 be paid to the prosecuting or circuit attorney of the county successfully  
86 prosecuting the violation to compensate for the cost of prosecution  
87 with the remaining amount to be paid to the facility.

✓

**825.103 Exploitation of an elderly person or disabled adult; penalties.—**

(1) "Exploitation of an elderly person or disabled adult" means:

(a) Knowingly, by deception or intimidation, obtaining or using, or endeavoring to obtain or use, an elderly person's or disabled adult's funds, assets, or property with the intent to temporarily or permanently deprive the elderly person or disabled adult of the use, benefit, or possession of the funds, assets, or property, or to benefit someone other than the elderly person or disabled adult, by a person who:

1. Stands in a position of trust and confidence with the elderly person or disabled adult; or

2. Has a business relationship with the elderly person or disabled adult;

(b) Obtaining or using, endeavoring to obtain or use, or conspiring with another to obtain or use an elderly person's or disabled adult's funds, assets, or property with the intent to temporarily or permanently deprive the elderly person or disabled adult of the use, benefit, or possession of the funds, assets, or property, or to benefit someone other than the elderly person or disabled adult, by a person who knows or reasonably should know that the elderly person or disabled adult lacks the capacity to consent; or

(c) Breach of a fiduciary duty to an elderly person or disabled adult by the person's guardian or agent under a power of attorney which results in an unauthorized appropriation, sale, or transfer of property.

(2)(a) If the funds, assets, or property involved in the exploitation of the elderly person or disabled adult is valued at \$100,000 or more, the offender commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) If the funds, assets, or property involved in the exploitation of the elderly person or disabled adult is valued at \$20,000 or more, but less than \$100,000, the offender commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) If the funds, assets, or property involved in the exploitation of an elderly person or disabled adult is valued at less than \$20,000, the offender commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.—s. 4, ch. 95-158; s. 5, ch. 96-322; s. 1, ch. 97-78; s. 29, ch. 2009-223.

**825.101 Definitions.—As used in this chapter:**

(1) **“Business relationship”** means a relationship between two or more individuals or entities where there exists an oral or written contract or agreement for goods or services.

(2) **“Caregiver”** means a person who has been entrusted with or has assumed responsibility for the care or the property of an elderly person or disabled adult. “Caregiver” includes, but is not limited to, relatives, court-appointed or voluntary guardians, adult household members, neighbors, health care providers, and employees and volunteers of facilities as defined in subsection (7).

(3) **“Deception”** means:

(a) Misrepresenting or concealing a material fact relating to:

1. Services rendered, disposition of property, or use of property, when such services or property are intended to benefit an elderly person or disabled adult;
2. Terms of a contract or agreement entered into with an elderly person or disabled adult; or
3. An existing or preexisting condition of any property involved in a contract or agreement entered into with an elderly person or disabled adult; or

(b) Using any misrepresentation, false pretense, or false promise in order to induce, encourage, or solicit an elderly person or disabled adult to enter into a contract or agreement.

(4) **“Disabled adult”** means a person 18 years of age or older who suffers from a condition of physical or mental incapacitation due to a developmental disability, organic brain damage, or mental illness, or who has one or more physical or mental limitations that restrict the person’s ability to perform the normal activities of daily living.

(5) **“Elderly person”** means a person 60 years of age or older who is suffering from the infirmities of aging as manifested by advanced age or organic brain damage, or other physical, mental, or emotional dysfunctioning, to the extent that the ability of the person to provide adequately for the person’s own care or protection is impaired.

(6) **“Endeavor”** means to attempt or try.

(7) **“Facility”** means any location providing day or residential care or treatment for elderly persons or disabled adults. The term “facility” may include, but is not limited to, any hospital, training center, state institution, nursing home, assisted living facility, adult family-care home, adult day care center, group home, mental health treatment center, or continuing care community.



(8) "Intimidation" means the communication by word or act to an elderly person or disabled adult that the elderly person or disabled adult will be deprived of food, nutrition, clothing, shelter, supervision, medicine, medical services, money, or financial support or will suffer physical violence.

(9) "**Lacks capacity to consent**" means an impairment by reason of mental illness, developmental disability, organic brain disorder, physical illness or disability, chronic use of drugs, chronic intoxication, short-term memory loss, or other cause, that causes an elderly person or disabled adult to lack sufficient understanding or capacity to make or communicate reasonable decisions concerning the elderly person's or disabled adult's person or property.

(10) "Obtains or uses" means any manner of:

- (a) Taking or exercising control over property; or
- (b) Making any use, disposition, or transfer of property.

(11) "Position of trust and confidence" with respect to an elderly person or a disabled adult means the position of a person who:

- (a) Is a parent, spouse, adult child, or other relative by blood or marriage of the elderly person or disabled adult;
- (b) Is a joint tenant or tenant in common with the elderly person or disabled adult;
- (c) Has a legal or fiduciary relationship with the elderly person or disabled adult, including, but not limited to, a court-appointed or voluntary guardian, trustee, attorney, or conservator;
- (d) Is a caregiver of the elderly person or disabled adult; or
- (e) Is any other person who has been entrusted with or has assumed responsibility for the use or management of the elderly person's or disabled adult's funds, assets, or property.

(12) "Property" means anything of value and includes:

- (a) Real property, including things growing on, affixed to, and found in land.
- (b) Tangible or intangible personal property, including rights, privileges, interests, and claims.
- (c) Services.

(13) "Services" means anything of value resulting from a person's physical or mental labor or skill, or from the use, possession, or presence of property, and includes:

- (a) Repairs or improvements to property.
- (b) Professional services.

(c) Private, public, or governmental communication, transportation, power, water, or sanitation services.

(d) Lodging accommodations.

(e) Admissions to places of exhibition or entertainment.

(14) "Value" means value determined according to any of the following:

(a) 1. The market value of the property at the time and place of the offense or, if the market value cannot be satisfactorily ascertained, the cost of replacing the property within a reasonable time after the offense.

2. In the case of a written instrument such as a check, draft, or promissory note, which does not have a readily ascertainable market value, the value is the amount due or collectible. The value of any other instrument that creates, releases, discharges, or otherwise affects any valuable legal right, privilege, or obligation is the greatest amount of economic loss that the owner of the instrument might reasonably suffer by the loss of the instrument.

3. The value of a trade secret that does not have a readily ascertainable market value is any reasonable value representing the damage to the owner suffered by reason of losing advantage over those who do not know of or use the trade secret.

(b) If the value of the property cannot be ascertained, the trier of fact may find the value to be not less than a certain amount; if no such minimum value can be ascertained, the value is an amount less than \$100.

(c) Amounts of value of separate properties involved in exploitation committed pursuant to one scheme or course of conduct, whether the exploitation involves the same person or several persons, may be aggregated in determining the degree of the offense.

History.—s. 2, ch. 95-158; s. 1, ch. 96-322; s. 1, ch. 2002-195.

825.102 Abuse, aggravated abuse, and neglect of an elderly person or disabled adult; penalties.—

(1) "Abuse of an elderly person or disabled adult" means:

(a) Intentional infliction of physical or psychological injury upon an elderly person or disabled adult;

(b) An intentional act that could reasonably be expected to result in physical or psychological injury to an elderly person or disabled adult; or

(c) Active encouragement of any person to commit an act that results or could reasonably be expected to result in physical or psychological injury to an elderly person or disabled adult.

A person who knowingly or willfully abuses an elderly person or disabled

**PROPOSED CHANGE TO CRIMES AGAINST AT-RISK ADULTS AND AT-RISK  
JUVENILES**  
**§18-6.5-103**

**Existing Statute:**

(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, or who commits theft against an at-risk adult or an at-risk juvenile while acting in a position of trust, whether or not in the presence of the victim, 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 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.

**Proposed Changes:**

(5) Any person who commits theft as such crime is described in [section 18-4-401\(1\)](#), and

- (a) commits any element or portion of the offense in the presence of the victim, and the victim is an at-risk adult or an at-risk juvenile, or
- (b) commits theft against an at-risk adult or an at-risk juvenile while acting in a position of trust, whether or not in the presence of the victim, or
- (c) commits theft against and at-risk adult or an at-risk juvenile knowing the victim is an at-risk adult or an at-risk juvenile, whether or not in the presence of the victim,

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 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.

Following are upcoming events related to elder abuse in chronological order:

- 26th Annual Elder Rights Conference (July 11-13, 2012), Schaumburg, Illinois. Presented by the Illinois Department on Aging. :<http://cspl.uis.edu/ILLAPS/DOA/index.html>
- 2012 Florida Conference on Aging (August 20-22, 2012). Presented by The Florida Council on Aging (FCOA) and the Florida Association of Aging Services Providers (FASP), in partnership with the Florida Department of Elder Affairs (DOEA). The theme this year will be Aging: New Game – New Rules<http://www.fcoa.org/FCOA%20Sponsor%20Brochure%202012%20FINAL.pdf>
- The Consumer Voice recently announced a brand new "Advocacy in Action" day of training, sharing and advocating, September 10, 2012 in Washington, DC and they will host our day of training in conjunction with the National Association of States United for Aging and Disabilities (NASUAD) National Home and Community-Based Services (HCBS) Conference starting September 11th.
- The 19th Annual New York State Adult Abuse Training Institute will be held October 2-4, 2012, Marriott Hotel and Conference Center, Albany , New York . This year's theme is Broken Trust: How to Recognize and Respond to Financial Exploitation. Oct 2 : Financial Exploitation Summit. More information: <http://www.compassionandsupport.org/pdfs/news/10212-AATIconf.pdf>
- 2012 NAPSA Conference: Ending Adult Abuse: On the Horizon? (October 16-18). This event in Phoenix, Arizona will be followed by the 3rd Annual Elder Financial Exploitation Summit on October 19, 2012. Email [info@apsnetwork.org](mailto:info@apsnetwork.org) for more information.
- Rosalynn Carter Institute for Caregiving, 25th Annual National Summit, Enabling Caring Communities: Promoting Evidence-Based Programs Across the Lifespan, October 24-25, 2012, Georgia Southwestern State University, Americus, GA For more information go to :<http://www.rosalynncarter.org/>
- California District Attorneys Association 2012 National Elder Abuse Symposium (December 4-7, 2012) Guest speakers to include Paul Greenwood, San Diego County Deputy District Attorney, Bob Nichols, Retired Marin County Deputy District Attorney, and many more. More information coming soon

**Appendix 19**  
**August 8, 2012 Meeting Materials**

# **SB12-78 Elder Abuse Task Force**

**Wednesday, August 8<sup>th</sup>, 2012**

**9:00 am – 1:00 pm**

Colorado Bar Association

Room: Executive Conference Room (9<sup>th</sup> Floor)

\*Please note that lunch will not be provided nor will there be a specific break taken for lunch. But please feel free to bring something to eat if you need to.

## **I. Introductions (15 mins)**

- a. Approval of Minutes (5 mins)
- b. Review of Proxies (separate document) (5 mins)
- c. Follow up from last meeting: Consent forms criteria (Jenifer Waller)(5 mins)

## **II. Review of Strategies and Recommendations (45 mins)**

- a. (Will take form in a separate document, and populated by CCI as information is received.)

## **III. Criminal and Civil Code (Presentation and framework done by David, Sean and George) (22mins?)**

## **IV. Mandatory Reporting (22 mins?)**

## **Break (15 mins)**

## **V. Discussion continued (1.5 hours)**

- a. Public comment (10 min)

## **VI. Future Meetings**

August 22<sup>nd</sup>: Cost and Workload Impacts and Sustainability

September 12<sup>th</sup>: First draft of final report due (Is there a consensus that this will be the final meeting, and all other issues will be taken care of via email?)

**Conference call-in code: 1-866-200-5786 outside the Metro area or local: 303-218-2281 the conference code is: 303 824 5309 #**

**\*Reminder The finance subcommittee will meet at CCI, 800 Grant Street, Suite 500 at 2:00pm.**

SB78 Elder Abuse Task Force

Wednesday, August 8<sup>th</sup>, 2012

9:00am-1:00pm

**AMENDED**

Meeting convened at 9:00am.

Members Present:

David Blake, Co-Chair-represented by George Coddling

Joscelyn Gay, Co-Chair

Vickie Clark, Routt County Dept. of Human Services

Tammy Conover, Attorney at Steenrod, Schwartz, and McMinimee Law Firm

Sterling Harris, Chief Deputy Director of Colorado Organization for Victim Assistance

Dr. Rebecca Paskind, Ph.D. Associate professor at Metro State College

Heidi Prentup, Commander at Boulder County Sheriff's Department

Mary Catherine Rabbitt, Attorney at the Legal Center for People with Disabilities and Older People

Jerri Schomaker, Owner of Home Instead Senior Care of CO Springs-represented by Jon Jennett

Nancy Sharpe, Arapahoe County Commissioner

Scott Storey, District Attorney with the Jefferson County DA's Office- also present, Sean Clifford

Darla Stuart, Executive Director at Arc of Aurora

Amy Nofziger, Director of AARP Foundation-also present, Bob Toye

Peggy Rogers, Colorado Department of Human Services

Chris Lines, Director of Colorado Medical Society

Anne Kerr Meier, Social Worker at Exempla Luthern Hospice-Collier Hospice Center

Arlene Miles, President and CEO of Colorado Health Care Association

Jenifer Waller, Senior Vice President at the Colorado Banker's Association

Task force members were given a matrix created by co-chair Joscelyn Gay to rank the recommendations formulated in the previous meeting on a scale of one to five, one being the least effective and five being the most effective. In addition, they were asked to consider the following criteria laid out in the legislation:



training costs, services, and other staffing costs that possibly could be associated. This matrix is meant to help the group come to a consensus and determine if the agreed upon recommendation(s) are too large for the task force, if a smaller group is needed in order to more thoroughly explore the recommendation(s), or if more time is needed than originally allocated to explore additional recommendations. Please send your matrix to Brandy DeLange at CCI ([bdelange@ccionline.org](mailto:bdelange@ccionline.org)) once you have filled it out.

Discussion with Jenifer Waller was postponed until later in the meeting.

Discussion of recommendations:

Recommendation One, Training and Education: Changes that should be made include: law enforcement training encompass both criminal and civil aspects in identifying abuse, neglect and exploitation. Training should be mandated for law enforcement. This, however, may be a cause for concern as some stakeholders who would be impacted by this recommendation are not currently at the table and mandated training would inevitably affect their members. It was also suggested that training for county APS workers coincide and be coordinated with the Child Welfare Academy to reduce the time and costs of sending social workers out of county for a week or more.

Training state-wide will cost \$65,000 and to expand Adult Protective Services out of different regions would mean that budget would have expanded past the original cost of \$65,000 this however, should be addressed in the financial subcommittee. Additionally, the costs would be left to both the state and counties to train and attend. These costs will also be left to law enforcement, media campaigns and staff, and mandatory reporting.

Recommendation discussions were postponed to allow Jenifer Waller to present on consent forms criteria banks use.

Currently, banks use two methods in sending out consent forms to their customers. The first method used is to send notifications to targeted audiences 60 years of age and over (as suggested by legal council). However, with this methodology there is concern for perceived discrimination. In addition to perceived discrimination, the general response rate is less than 10 percent, as most customers believe that signing the consent form(s) is effectively waiving their rights over private financial information.

Currently in California, law enforcement is required to file a criminal report and banks must surrender all account information as ordered by a judge. With this, it should be noted that all documents surrendered are exempt from California privacy laws but not federal privacy laws.

In Colorado, account information can be accessed only through the subpoena process if a consent form has not been filled out by the customer. Colorado's Constitution protects privacy in a much more stringent way than California's constitution, so mirroring California's process may be tough.

In addition to consent forms, the idea of training tellers to recognize and report financial exploitation was discussed. This could also extend to legislative changes which would mirror California. Many task force members recognized that: "Being able to respond quickly is important" to potential financial exploitation. Banks can report financial exploitation but this typically is a lengthy process and is generally meant to prevent money laundering, terrorism and other various criminal activities. Another obstacle is the limited number of transactions that actually occur in person—approximately only 20 percent of transactions are done in person. If mandatory reporting for tellers becomes a requirement two things must be considered: 1.) Adequate protection from liability both from failure to report in the case of online transactions), and, 2.) What are we releasing exactly?

As it stands, Colorado Bankers Association may try to repeal the existing consent form from statute.

Discussion was redirected towards criminal penalties and mandatory reporting once again.

Criminal Penalties: One of the main questions is how should they be applied for failure to report abuses was raised. For social workers and home care agencies, licenses can be revoked if there is a failure to report. This breach of conduct would be reported to regulatory agencies. *Peg and Joscelyn will review the list of reporters who are urged to report and determine which are actually required to do so by virtue of their license to report.*

Under mandatory reporting, the goal is to reach the community as a whole and not just those who are in facilities, receiving home health services, or those who are interacting with licensed professionals listed in statute.

Sean-If we do mandatory reporting, we need to have a penalty for those who do not report.

Scott-We need to start simple, there may be several unintended consequences, and will need to limit the population, which can be increased/expanded at a later time.

In many cases, nursing facilities over report because the penalties are so high and workers are fearful of the consequences of not reporting. (These people include owners and operators, agent and/or caregivers. If they fail to report they can face losing their license as well as a \$200,000 fine.) This in turn, overwhelms law enforcement and in the end law enforcement is less likely to respond to reports.

Mandatory Reporting:

The task force needs to consider the following:

1. Should we have mandatory reporting?
2. What population are we looking at exactly?
3. Who should be the reporters?
4. What type of things should be considered criminal versus civil, i.e. physical abuse, sexual abuse, financial exploitation, caretaker neglect, and self-neglect.
5. What age should it apply to?
6. Should criminal penalties apply to those who do not report?
7. Where should mandatory reporting be located, either in criminal or civil code?
8. Where and what should the funding source be?

Question One: Should we have mandatory reporting? Task force members believe at risk-adults to be just as valuable and vulnerable as children. Additionally, Colorado is only one of three states that does not currently have mandatory reporting.

Vicki-Do we have proof that by virtue of mandatory reporting we have better outcomes?

Scott-No, we don't. That's why we limit the population to elders and why we track it for five years, to see if there's better outcomes. We also have evidence from 47 other states that mandatory reporting works, giving ability to prosecute.

Becky-Colorado is targeted by criminals because there are very few laws and/or penalties.

Tammy- Yes, we need it [mandatory reporting], but we need to move past that aspect and add these other pieces that make it more effective, especially in the criminal system. If we're going to make these criminal changes, we've got to get APS to send the cases to the DA.

Nancy-To pass legislation that doesn't really solve anything, I can't support. The question is, if we are going to mandate for one specific age group, what difference is that actually going to make? And is it going to achieve the outcomes the legislature wants, too?

Scott-We should model mandatory reporting after the child welfare model, train law enforcement and raise awareness.

Joscelyn-Mandatory reporting is the crux of SB78.

Scott-Jefferson County has a model that could be used to reference to.

Question: Should we have mandatory reporting in Colorado?

Answer (tabled): Yes, we need mandatory reporting in Colorado as long as we proceed with developing a program that supports mandatory reporting.

Question six: Where in statute should mandatory reporting reside?

Sean-Mandatory reporting should be in the criminal code. This would engage law enforcement but still allow APS to handle self-neglect cases.

The task force agrees that the APS statute should not be changed. Reporters should still be urged to report under Title 26. Doing so allows county APS to keep and work self-neglect cases. Title 18 however, should mandate reporters to report in criminal instances of physical abuse and financial exploitation.

Question two: Who should be mandatory reporters be?

Options to choose from were given:

1. Existing statutory list of reporters.
2. Existing list plus: Physical therapists, clergy *to use child welfare statute*, EMT's, volunteers acting in a professional capacity (*to be discussed more in depth*), (most preferred this option)
3. Existing minus financial institutions

Question three: Areas of Behavior to be considered under Mandatory Reporting

1. Physical abuse: include

2. Sexual abuse: include

3. Exploitation of any kind: this needs further clarification. Using the definition provided by APS for criminal code would be best. This would include caretaker neglect but exclude self-neglect. (Sean will create a criminal definition and incorporate a portion of the APS definition as well).

Question four: What should age should mandatory reporting apply to?

1. 70+ (Third choice of TF)
2. 18+ with disability per criminal statute on disability to broader-this would work well to capture a broader/larger population.
3. 18+ at risk (First choice of TF)
4. 18+ at-risk and 70+ at-risk  
\*The attorney generals' believe that 70+ would be less complicated to enact and would be a good starting point.

Joscelyn- Can we create a group of volunteers who would reconcile the differences in ages and come up with a recommendation to the group? Becky, Darla, Peg, Scott, Sean and Mary Catherine agreed to meet and come up with language and ranking/prioritization around each age group suggested earlier.

For the next meeting the following will be considered:

Should mandatory reporting have criminal penalties?

Should investigations be mandatory?

Adjourned: 1:00pm



Colorado  
Legislative  
Council  
Staff

Room 029 State Capitol, Denver, CO 80203-1784  
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MEMORANDUM

*A confidential memorandum is only given to the legislator requesting the research. Staff continue to regard the memorandum as confidential unless the legislator making the request indicates otherwise, although information in the memorandum may be provided in whole or in part to other legislators pursuant to their separate research requests. After receiving the memorandum, the legislator may release the document to interested parties.*

December 2, 2011

**TO:**

**FROM:** Kerry White, Fiscal Analyst, 303-866-3469

**SUBJECT:** Older Adult Abuse Laws of Other States

This memorandum responds to your request for information about how other states address reports and investigations related to the known or suspected abuse (abuse) of older adults. Specifically, you asked:

- which states mandate reports of abuse;
- what penalties are assessed by states for the failure to make a required report;
- how states define persons subject to reporting laws; and
- where funding to conduct abuse investigations is derived from.

**Adult Protective Services**

With the exception of Colorado, New York, North Dakota, and South Dakota, which operate voluntary systems, all states have enacted "adult protective services" laws that, at a minimum, mandate certain professionals to report the abuse of adults. Generally, these laws apply to "vulnerable" adults, who, due to disability or age, are unable to manage their own resources, perform daily living activities, or protect themselves from abuse, neglect, or exploitation. Several states have adopted laws that specifically protect adults who are age 60 or greater (depending on the state), including: Connecticut, Illinois, Massachusetts, Missouri, Ohio, Oregon, Pennsylvania, Rhode Island, South Dakota, Washington, and Wisconsin.

While outside the scope of your initial request, it is worth noting that most states have laws regulating the treatment of patients and residents of long-term care and similar facilities. Additional information on these laws can be provided upon request.

Table 1, appended to this memorandum, provides state-specific, detailed information, including:

- under what circumstances the state requires reports of abuse, if any;
- who is required to file a report and the associated time frames;
- penalties for failure to make reports or otherwise comply with state law;
- whether the state provides exemptions from civil and criminal penalties for reporting in good faith or protections from retaliation;
- which agencies are responsible for receiving and investigating reports, and when known, how costs are provided for in state law; and
- how the law defines a vulnerable adult.

### **Mandatory Reporting**

The majority of states require reports to be filed immediately, or within 24 hours. Generally, mandatory reporters include a variety of health care, social services, and law enforcement professionals. However, in at least 15 states, *all persons* who know or have reasonable cause to suspect abuse, are required to make a report. These states include: Delaware, Indiana, Kentucky, Louisiana, Mississippi, Missouri, New Hampshire, New Mexico, North Carolina, Oklahoma, Rhode Island, Tennessee, Texas, Utah, and Wyoming.

### **Liability and Penalties**

In most states, failure to file a report is classified as a misdemeanor, with penalties ranging up to a maximum of one year in jail, a fine of up to \$5,000, or both. In some states, the law also provides for civil penalties of up to \$30,000 and, for licensed professionals, action by the applicable regulatory board. Most states provide immunity from civil and criminal liability for reports made in good faith, and about half of the states provide protections from retaliation.

### **Reporting, Investigations, and Costs**

Most states receive and investigate reports of abuse of vulnerable adults through the state's human services agency in cooperation with local law enforcement. Certain states cap or make adult protective services contingent upon available moneys or annual appropriations, including Delaware, Illinois, Maryland, Mississippi, New Mexico, New York, North Dakota, Ohio, Oklahoma, Pennsylvania, South Dakota, Tennessee, Virginia, and Wisconsin.

Given the range of state laws and different populations served, staff has not requested budget or operational data from any state. However, additional information on specific states can be furnished upon request.

**Table 1  
Older Adult Abuse Laws in Other States**

State	Has Mandatory Reporting?	Mandatory Reporting Circumstances and Time Frame for Report Filing	Mandatory Reporters	Penalties for Failure to Report or Comply; Exemptions from Penalty; and Protections From Retaliation	Reports and Costs for Investigations	Criteria / Definitions of Applicability
Alabama Section 38-9-1, et. seq., Code of Alabama.	Yes	When a person has reasonable cause to believe that any protected person has been subjected to physical abuse, neglect, exploitation, sexual abuse, or emotional abuse.  Reports are to be filed immediately, followed by a written report within seven days.	All physicians and caregivers.	A physician or practioner of the healing arts only who fail to make reports are guilty of a misdemeanor and upon conviction punishable by up to six months in jail, a fine of up to \$500, or both.  The state provides exemptions from civil and criminal liability for reporting in good faith. The state does not provide protections against retaliation from reporting.	Reports are made to the county department of human resources or to the chief of police or sheriff, except that reports of a nursing home employee who abuses, neglects, or misappropriates the property of a nursing home resident shall be made to the Department of Public Health. The Department of Public Health is to investigate all reports that a nursing home employee has abused or neglected a nursing home resident, or misappropriated the property of a nursing home resident.  No funding information is specified.	The law applies to a person 18 years of age or older whose behavior indicates that he or she is mentally incapable of adequately caring for himself or herself and his or her interests without serious consequences to himself or herself or others, or who, because of physical or mental impairment, is unable to protect himself or herself from abuse, neglect, exploitation, sexual abuse, or emotional abuse by others, and who has no guardian, relative, or other appropriate person able, willing, and available to assume the kind and degree of protection and supervision required under the circumstances.
Alaska Chapter 47.24, Alaska Statutes.	Yes	When persons who, in the performance of their professional duties, have reasonable cause to believe that a vulnerable adult suffers from abandonment, exploitation, abuse, neglect, or self-neglect.  Reports are to be filed within 24 hours.	A physician or other licensed health care provider; a mental health professional; a pharmacist; an administrator of a nursing home, residential care or health care facility; a guardian or conservator; a police officer; a village public safety officer; a village health aide; a social worker; a member of the clergy; a staff employee of any project funded by the Department of Administration that provides services to older adults, the Department of Health and Social Services, or the Council on Domestic Violence and Sexual Assault; an employee of a personal care or home health aide program; an emergency medical technician; a caregiver of a vulnerable adult; and a certified nurse aide.	A person who knowingly fails to comply with the law is guilty of a class B misdemeanor punishable by up to 90 days in jail, a fine of up to \$2,000, or both.  The state provides exemptions from civil and criminal liability for reporting in good faith. The state provides protections against retaliation from reporting.	Reporting and investigations are handled by the Department of Administration, Department of Health and Social Services and/or the Long-term Care Ombudsman (depending on whether the older adult resides in a certain type of facility or not).  No funding information is specified.	The law applies to vulnerable adults. "Vulnerable adult" means a person 18 years of age or older who, because of physical or mental impairment, is unable to meet the person's own needs or to seek help without assistance.
Arizona Sections 46-454 through 46-459; Section 13-3623, Arizona Revised Statutes.	Yes	When a person discovers a reasonable basis to believe that exploitation of the adult's property has occurred or that abuse or neglect of the adult has occurred.  All reports are to be made immediately and followed by a written report within 48 hours or on the next working day if the 48 hours expire on a weekend or holiday.	A physician, registered nurse practitioner, hospital intern or resident, surgeon, dentist, psychologist, social worker, peace officer, attorney, accountant, trustee, guardian, conservator or other person who has responsibility for preparing the tax records.	A person who violates any portion of the law is guilty of a class one misdemeanor punishable by up to six months in jail, a fine of up to \$2,500, or both.  The state provides exemptions from civil and criminal liability for reporting in good faith. The state does not provide protections against retaliation from reporting.	Investigations depend on the nature of the suspected abuse or exploitation and can be managed by a public fiduciary, peace officer, or adult protective services worker of the Arizona Department of Economic Security (Office of the Long-term Care Ombudsman). The Attorney General's Office is charged with maintaining the "elder abuse central registry."  No funding information is specified.	The law applies to vulnerable adults. "Vulnerable adult" means an individual who is 18 years of age or older and who is unable to protect himself from abuse, neglect or exploitation by others because of a physical or mental impairment.

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<p>Arkansas</p> <p>Sections 12-12-1708, 12-12-1710, and 12-12-1720, Arkansas Code.</p>	<p>Yes</p>	<p>Whenever a person has observed or has reasonable cause to suspect that an endangered or impaired adult has been subjected to conditions or circumstances which would reasonably result in abuse, sexual abuse, neglect, or exploitation.</p> <p>Reports are to be filed immediately.</p>	<p>A physician, surgeon, coroner, dentist, dental hygienist, osteopath, resident intern, nurse, hospital personnel engaged in administration or care of persons, social worker, case manager, home health worker, mental health professional, peace officer, law enforcement officer, facility administrator or owner, employee of a facility, employee of the Department of Human Services, firefighter, emergency medical technician, an employee of a bank or other financial institution.</p>	<p>A person or caregiver required to report who purposely fails to do so is guilty of a class B misdemeanor, punishable by up to six months in jail, a fine of up to \$500, or both; and is civilly liable for damages proximately caused by the failure. A person making a false notification is guilty of a class A misdemeanor, punishable by up to one year in jail, a fine of up to \$1,000, or both; except if the person has been previously convicted and then it is a class d felony, punishable by imprisonment of up to six years, a fine of up to \$10,000, or both. A person who releases confidential information is guilty of a class A misdemeanor, punishable by up to one year in jail, a fine of up to \$1,000, or both. A person who fails to report death as a result of suspected mistreatment or fails to provide a timely report of mistreatment is guilty of a class C misdemeanor, punishable by up to 30 days in jail, a fine of up to \$100, or both.</p> <p>The state provides exemptions from civil and criminal liability for reporting in good faith. The state does not provide protections against retaliation from reporting.</p>	<p>Investigations of reports of abused or neglected adults residing in a long-term care facility are made by the Office of Long-Term Care of the Division of Medical Services of the Department of Human Services, which has statutory oversight of investigations. That statute also requires law enforcement agencies to assist in an investigation as requested.</p> <p>No funding information is specified.</p>	<p>The law applies to endangered and impaired persons. "Endangered person" means a person who is 18 or older or long-term care facility resident who is found to be in a situation that poses a danger to himself or herself and demonstrates a lack of capacity to comprehend the nature and consequences of remaining in that situation or condition. "Impaired person" means a person 18 years of age or older who as a result of mental or physical impairment is unable to protect himself or herself from abuse, sexual abuse, neglect, or exploitation.</p>



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<p><b>California</b></p> <p>Section 15630, Chapter 11, California Welfare and Institutions Code; Section 368, California Penal Code.</p>	<p>Yes</p>	<p>When a person who, in his or her professional capacity, or within the scope of his or her employment, has observed or has knowledge of an incident that reasonably appears to be physical abuse, abandonment, abduction, isolation, financial abuse, or neglect, or is told by an elder or dependent adult that he or she has experienced behavior, including an act or omission, constituting physical abuse, abandonment, abduction, isolation, financial abuse, or neglect, or reasonably suspects that abuse; and when financial abuse is suspected.</p> <p>Reports are to be filed immediately, followed by a written report within two working days.</p>	<p>Any person who has assumed full or intermittent responsibility for care or custody of an elder or dependent adult, whether or not that person receives compensation, including administrators, supervisors, and any licensed staff of a public or private facility that provides care or services for elder or dependent adults, or any elder or dependent adult care custodian, health practitioner, or employee of a county adult protective services agency or a local law enforcement agency. For financial abuse, mandatory reporters are all officers and employees of financial institutions.</p>	<p>The law makes some exceptions for certain types of reporters (physician, surgeon, registered nurse, and psychotherapist) to not file a report if they, in their professional judgment, believe the abuse did not occur because of mental illness and lack of evidence; or if the abuse occurred in a facility and the mandated reporter is aware there was a plan of care in place that was followed and the injury was not a result of abuse. Failure to report is a misdemeanor, punishable by up to six months jail, a fine of up to \$1,000, or both. If the report is required as a result of a death, that penalty increases to up to one year in jail, a fine of up to \$5,000, or both. Failure to report financial abuse can result in a civil penalty of up to \$1,000 or, if the failure is willful, up to \$5,000, paid by the employer of the mandatory reporter. Any violation of confidentiality is a misdemeanor punishable by up to six months in the county jail, a fine of \$500, or both.</p> <p>The state provides exemptions from civil and criminal liability for reporting in good faith. The state does not provide protections against retaliation from reporting.</p>	<p>Reports and investigations depend on the facility and circumstances, and are handled by one or more of the following: the local ombudsperson; local law enforcement agency; State Department of Public Health; State Department of Social Services; California Department of Aging; Bureau of Medi-Cal Fraud and Elder Abuse; local district attorney's office; State Department of Mental Health; State Department of Developmental Services. Financial abuse is investigated by the district attorney, county attorney, or Attorney General's office.</p> <p>No funding information is specified.</p>	<p>The law applies to an elder or dependent adult. "Dependent adult" means any person between the age of 18 and 60 who has physical or mental limitations that restrict his/her ability to carry out normal activities or to protect his/her rights. An "elder" is an individual who is 60 years of age or older.</p>
<p><b>Connecticut</b></p> <p>Section 17b-450, General Statutes of Connecticut.</p>	<p>Yes</p>	<p>When a person has reasonable cause to suspect or believes that someone age 60 or over has been abused, neglected, exploited, or abandoned, or is in a condition caused by one of these or is in need of protective services.</p> <p>Reports are to be filed within five days.</p>	<p>A licensed physician and surgeon, licensed or unlicensed resident and intern, registered nurse, licensed practical nurse, nursing home administrator, nurse aide, orderly, anyone paid for providing care in a nursing home, patient advocate, medical examiner, dentist, osteopath, optometrist, chiropractor, podiatrist, psychologist, social workers, clergy, police officer, pharmacist, or physical therapist.</p>	<p>Failure to report can lead to a civil fine of up to \$500.</p> <p>The state provides exemptions from civil and criminal liability for reporting in good faith. The state does not provide protections against retaliation from reporting.</p>	<p>Reports and investigations are the responsibility of the Connecticut Department of Social Services, Protective Services for the Elderly.</p> <p>No funding information is specified.</p>	<p>The law applies to older adults. "Elderly person" means any resident of Connecticut who is 60 years or older and deemed in need of protective services if unable to perform or obtain services which are necessary to maintain physical and mental health.</p>

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<p><b>Delaware</b></p> <p>Chapter 39 of Title 31, Delaware State Codes.</p>	<p>Yes</p>	<p>When any person has reasonable cause to believe that an adult person is impaired or incapacitated and is in need of protective services.</p> <p>No time frame is specified for filing a report.</p>	<p>All persons.</p>	<p>The law does not specify penalties for failure to report.</p> <p>The state provides exemptions from civil and criminal liability for reporting in good faith. The state does not provide protections against retaliation from reporting.</p>	<p>Reports and investigations are the responsibility of the Delaware Department of Health and Social Services (if the adult is in the community) or the Division of Long-term Care Residents Protection (if the adult resides in a licensed long-term care or assisted living facility). Reports and investigations can also be handled by local law enforcement or the Delaware Department of Justice.</p> <p>According to the Delaware Department of Health and Social Services' website, adult protective services are paid with "state funds."</p>	<p>The law applies to impaired or incapacitated adults. "Adult who is impaired" means any person 18 years of age or over who, because of physical or mental disability, is substantially impaired in the ability to provide adequately for the person's own care and custody. "Person who is incapacitated" means a person for whom a guardian of person or property, or both, is appointed.</p>
<p><b>Florida</b></p> <p>Chapter 415 of Title XXX, Florida Statutes.</p>	<p>Yes</p>	<p>When a person has reason to believe that a vulnerable adult has been abused, or the actions or threats of a relative, caregiver, or household member are likely to cause significant impairment to a vulnerable adult's physical, mental, or emotional health.</p> <p>Reports are to be filed immediately.</p>	<p>Assisted living facility staff; adult day care center staff; adult family care home staff; bank, savings and loan, or credit union officer, trustee or employee; chiropractor; Department of Business and Professional Regulation employees conducting inspections of public lodging establishments; emergency medical technician; Florida Advocacy Council member; hospital personnel; health professional; institutional worker; long-term care ombudsman council member; medical examiner; mental health professional; nurse; nursing home staff; osteopath; paramedic; physician; spiritual healing practitioner; professional adult care, residential, or institutional staff; residential care worker; social worker; and state, county, or municipal criminal justice employees or law enforcement officers. Certain individuals are also required to report deaths.</p>	<p>A person commits a misdemeanor in the second degree, punishable by up to 60 days in jail, a fine of up to \$500, or both if: he or she knowingly fails to make a report of known or suspected abuse or neglect; makes public or discloses any confidential information; or refuses to grant access to records or documents within their custody. A person commits a felony in the third degree for knowingly making a false report, punishable by up to five years in prison, five years probation, and a fine of up to \$5,000, or all three. In addition to any other penalty authorized, the department may impose a fine, not to exceed \$10,000 for each violation, upon a person who knowingly and willfully makes a false report of abuse, neglect, or exploitation of a vulnerable adult, or a person who counsels another to make a false report.</p> <p>The state provides exemptions from civil and criminal liability for reporting in good faith. The state provides protections against retaliation from reporting.</p>	<p>The Florida Department of Children and Families handles investigations and provides services but "all criminal justice agencies have a duty and responsibility to cooperate fully with the department..."</p>	<p>The law applies to vulnerable adults. "Vulnerable adult" means a person 18 years of age or older whose ability to perform the normal activities of daily living or to provide for his or her own care or protection is impaired due to a mental, emotional, long-term physical, or developmental disability or dysfunctioning, or brain damage, or the infirmities of aging.</p>

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Georgia  Chapter 5 of Title 30; Chapter 8 of Title 31, Official Code of Georgia.	Yes	When a person has reasonable cause to believe that a disabled adult or elder person has had a physical injury or injuries inflicted upon such disabled adult or elder person, other than by accidental means, or has been neglected or exploited.  Reports are to be filed within 24 hours, and in the case of residents of long-term care facilities, a written report is to follow within 24 hours of the initial report.	Any physician, osteopath, intern, resident, other hospital or medical personnel, dentist, psychologist, chiropractor, podiatrist, pharmacist, physical therapist, occupational therapist, licensed professional counselor, nursing personnel, social work personnel, day-care personnel, coroner, medical examiner, employee of a public or private agency engaged in professional health related services to elder persons or disabled adults, or law enforcement personnel, an employee of a financial institution, an administrator, manager, orderly, ther employee in a hospital or facility, and an employee of a public or private agency engaged in professional services to residents or responsible for inspection of long-term care facilities.	The law does not specify penalties for failure to report.  The state provides exemptions from civil and criminal liability for reporting in good faith. The state does not provide protections against retaliation from reporting.	The Division of Aging Services in the Department of Human Services oversees investigations for members of the community with cooperation of law enforcement and county attorney offices. The Department of Community Health oversees investigations for residents of long-term care facilities in conjunction with law enforcement and county attorney offices.  No funding information is specified.	The law applies to disabled adults and elder persons. "Disabled adult in need of protective services" means a disabled adult who is 18 years of age or older who is not a resident of a long-term care facility, but who is mentally or physically incapacitated, has Alzheimer's disease or dementia and is subject to abuse, neglect, or exploitation as a result of that adult's mental or physical incapacity. "Elder person" means a person 65 years of age or older who is not a resident of a long term care facility.
Hawaii  Sections 346-221 through 346-253, Title 20, Division I, Hawaii Revised Statutes.	Yes	When a person who, in the performance of his or her professional or official duties, knows or has reason to believe that a vulnerable adult has incurred abuse or is in danger of abuse if immediate action is not taken.  An oral report is to be filed immediately, followed "as soon as possible" by a written report.	Any licensed or registered professional of the healing arts and any health-related occupation, including physicians, physicians in training, psychologists, dentists, nurses, osteopathic physicians and surgeons, optometrists, chiropractors, podiatrists, pharmacists, and others; employees or officers of any public or private agency or institution providing social, medical, hospital, or mental health services, including financial assistance; employees or officers of any law enforcement agency; employees or officers of any adult residential care home, adult day care center, or similar institution; medical examiners or coroners; and licensed social workers and non-licensed persons employed in a social worker position.	Any person who knowingly fails to report or who wilfully prevents another person from reporting is guilty of a petty misdemeanor, punishable by up to 30 days in jail, a fine of up to \$1,000, or both. Any person who makes an unauthorized disclosure of a report or records of a report is guilty of a misdemeanor, punishable by up to one year in jail, a fine of up to \$2,000, or both.  The state provides exemptions from civil and criminal liability for reporting in good faith. The state does not provide protections against retaliation from reporting.	The Department of Human Services collects reports and investigates.  No funding information is specified.	The law applies to vulnerable adults. "Vulnerable adult" means a person 18 years of age or older who, because of a development, mental or physical impairment, is unable to communicate or make responsible decisions to manage the person's own care or resources; carry out or arrange for essential activities of daily living; or protect oneself from abuse.
Idaho  Chapter 53 of Title 39, Idaho Code.	Yes	When a person has reasonable cause to believe that a vulnerable adult is being or has been abused, neglected or exploited.  Reports are to be filed immediately or within 4 hours if the result is death or serious injury.	Any physician, nurse, employee of a public or private health facility, or a state licensed or certified residential facility serving vulnerable adults, medical examiner, dentist, ombudsman for the elderly, osteopath, optometrist, chiropractor, podiatrist, social worker, police officer, pharmacist, physical therapist, or home care worker.	Failure to report is a misdemeanor, punishable by up to six months in jail, or a fine of up to \$1,000, or by both.  The state provides exemptions from civil and criminal liability for reporting in good faith. The state does not provide protections against retaliation from reporting.	Idaho Department of Health and Welfare collects reports and conducts investigations, along with local law enforcement.  No funding information is specified.	The law applies to vulnerable adults. "Vulnerable adult" means a person 18 years of age or older who is unable to protect himself from abuse, neglect or exploitation due to physical or mental impairment which affects the person's judgment or behavior to the extent that he lacks sufficient understanding or capacity to make or communicate or implement decisions regarding his person.

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Illinois  Sections 320 20/1 through 20/14, Illinois Compiled Statutes.	Yes	When a person has reason to believe that an eligible adult, who because of dysfunction is unable to seek assistance for himself or herself, has, within the previous 12 months, been subjected to abuse, neglect, or financial exploitation.  Reports are to be filed within 24 hours.	Any professional or their delegate that is engaged in law enforcement, education, the care of an eligible adult, or any occupation required to be licensed under various state acts; an employee of a vocational rehabilitation facility; an administrator, employee or person providing services in or through an unlicensed community based facility; any religious practitioner who provides treatment by prayer or spiritual means alone; field personnel of the Department of Healthcare and Family Services, Department of Public Health, and Department of Human Services, and any county or municipal health department; personnel of the Department of Human Services, the Guardianship and Advocacy Commission, the state fire marshal, local fire departments, the Department on Aging and its subsidiary agencies, and the Office of State Long Term Care Ombudsman; any employee of the State of Illinois not otherwise specified herein who is involved in providing services to eligible adults; any person who performs the duties of a coroner or medical examiner; or a person who performs duties of a paramedic or emergency medical technician.	Any physician, dentist, dental hygienist, or optometrist who willfully fails to report as required is referred to the appropriate licensing board for action. Any other mandated reporter who willfully fails to report is guilty of a class A misdemeanor, punishable up to one year in jail, a fine of up to \$2,500, or both.  The state provides exemptions from civil and criminal liability for reporting in good faith. The state does not provide protections against retaliation from reporting.	Reports and investigations are the purview of the Department of Aging and paid for with appropriations. The department is authorized contract with other agencies as needed and based on funds available.	The law applies to eligible adults. "Eligible adult" means a person 60 years of age or older who resides in a domestic living situation and is, or is alleged to be, abused, neglected, or financially exploited by another individual or who neglects himself or herself.
Indiana  Section 12-10-3, Indiana Code.	Yes	When an individual has reason to believe that a particular adult is an endangered adult if the individual has been presented with evidence that, if presented to an individual of similar background and training, would cause the individual to believe that the adult is an endangered adult.  Reports are to be filed immediately.	All persons.	The law does not specify penalties for failure to report.  The state provides exemptions from civil and criminal liability for reporting in good faith and protections against retaliation for making a report.	Reporting is made to the adult protective services unit of the Family and Social Services Administration and/or law enforcement agency.  No funding information was specified.	The law applies to endangered adults. "Endangered adult" means an individual who is at least 18 years of age; incapable by reason of mental illness, mental retardation, dementia, habitual drunkenness, excessive use of drugs, or other physical or mental incapacity, of managing or directing the management of the individual's property or providing or directing the provision of self-care; and harmed or threatened with harm as a result of neglect, battery or exploitation of the individual's personal services or property.

**Table 1  
Older Adult Abuse Laws in Other States**

State	Has Mandatory Reporting?	Mandatory Reporting Circumstances and Time Frame for Report Filing	Mandatory Reporters	Penalties for Failure to Report or Comply; Exemptions from Penalty; and Protections From Retaliation	Reports and Costs for Investigations	Criteria / Definitions of Applicability
<p>Iowa</p> <p>Section 235B, Iowa Code.</p>	<p>Yes</p>	<p>When a person has reason to believe a dependent adult has been subjected to abuse.</p> <p>Reports are to be filed within 24 hours, followed by a written report within 48 hours.</p>	<p>A member of the staff of a community mental health center; a staff member or employee of a health care facility, hospital, elder group home, assisted living program, or adult day services programs; a peace officer; an in-home homemaker-home health aide; a person employed as an outreach person; a health practitioner; a member of the staff or an employee of a community supervised apartment living arrangement, sheltered workshop or work activity center; a social worker; a certified psychologist; a care review committee member assigned to an elder group home.</p>	<p>Failure to make a report is a simple misdemeanor, punishable by up to 30 days in jail, a fine ranging between \$65 to \$625, or both.</p> <p>The state does not provide for exemptions from civil and criminal liability for reporting in good faith, but does offer protections against retaliation for making a report.</p>	<p>The Department of Human Services is authorized to accept reports of suspected dependent adult abuse, evaluate those reports, complete an assessment of needed services, make referrals for services, and maintain a central registry of abuse information. In certain circumstances, reporters must also notify law enforcement and other agencies of state government. The law says that county attorneys and other appropriate law enforcement agencies are to take any lawful action necessary.</p> <p>No funding information is specified.</p>	<p>The law applies to dependent adults. "Dependent adult" means a person age 18 or over who is incapable of adequate self care due to physical or mental conditions and require assistance from other people. Dependent adults may be elderly or may have diminished physical or mental capacities that prevent them from meeting their own needs adequately.</p>
<p>Kansas</p> <p>Article 14 of Chapter 39, Kansas Statutes Annotated.</p>	<p>Yes</p>	<p>When a person has reasonable cause to believe that an adult is being or has been abused, neglected or exploited or is in need of protective services.</p> <p>Reports are to be filed immediately.</p>	<p>Any person who is licensed to practice any branch of the healing arts; a licensed psychologist, master level psychologist, licensed clinical psychotherapist; the chief administrative officer of a medical care facility; a teacher; licensed social worker; licensed professional or practical nurse; licensed dentist; licensed marriage and family therapy or clinical marriage and family therapist; licensed professional or clinical professional counselor; registered alcohol and drug abuse counselor; law enforcement officer; case manager; rehabilitation counselor; bank trust or any other officers of financial institutions; legal representative; governmental assistance provider; owner or operator of a residential care facility; independent living counselor and the chief administrative officer of a licensed home health agency; the chief administrative officer of an adult family home or provider of community services and affiliates thereof operated or funded by the department of social and rehabilitation services.</p>	<p>The law does not specify penalties for failure to report.</p> <p>The state provides exemptions from civil and criminal liability for reporting in good faith and protections against retaliation for making a report.</p>	<p>The Secretary of Social and Rehabilitation Services may request the assistance of law enforcement, state departments, and/or other public or private agencies, groups or individuals available.</p> <p>No funding information is specified.</p>	<p>The law applies to adults. "Adult" means an individual 18 years of age or older alleged to be unable to protect their own interest and who is harmed or threatened with harm, whether financial, mental or physical in nature, through action or inaction by either another individual or through their own action or inaction when such person is residing in such person's own home, the home of a family member or the home of a friend, such person resides in an adult family home, or such person is receiving services through a provider of community services and affiliates thereof operated or funded by the Department of Social and Rehabilitation Services or the Department on Aging or a residential facility.</p>

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Kentucky Chapter 209.00, Kentucky Revised Statutes.	Yes	When a person has reasonable cause to suspect that an adult has suffered abuse, neglect, or exploitation.  Reports are to be filed immediately.	Any person, including but not limited to physician, law enforcement officer, nurse, social worker, cabinet personnel, coroner, medical examiner, alternate care facility employee, or caretaker.	The law does not specify penalties for failure to report.  The state provides exemptions from civil and criminal liability for reporting in good faith. The state does not provide protections against retaliation from reporting.	The Department for Community Based Services of the Cabinet for Health and Family Services is responsible for reports and investigations.  No funding information is specified.	The law applies to adults. "Adult" means a person 18 years of age or older who, because of mental or physical dysfunctioning, is unable to manage his or her own resources, carry out the activity of daily living, or protect himself or herself from neglect, exploitation, or a hazardous or abusive situation without assistance from others, and who may be in need of protective services.
Louisiana Sections 15:1504(A) and 14:403.2, Louisiana Revised Statutes.	Yes	When a person has cause to believe that an adult's physical or mental health or welfare has been or may be further adversely affected by abuse, neglect, or exploitation.  No time frame is specified for filing a report.	Any person, including but not limited to a health, mental health, or social service practitioner.	A person who knowingly and willfully fails to report is guilty of a misdemeanor, punishable by up to six months in jail, a fine of up to \$500, or both.  The state provides exemptions from civil and criminal liability for reporting in good faith and protections against retaliation for making a report.	The Department of Health and Hospitals is responsible for any individual between the age of 18 and 59 in need of adult protective services; adults 60 or greater are under the purview of the Office of Elderly Affairs in the Office of the Governor. Reports and investigations can also be provided by local law enforcement.  No funding information is specified.	The law applies to adults. "Adult" means any individual 18 years of age or older, or an emancipated minor who, due to a physical, mental, or developmental disability or the infirmities of aging, is unable to manage his own resources, carry out the activities of daily living, or protect himself from abuse, neglect, or exploitation.
Maine Section 3472, Title 22, Section 958-A, Maine Revised Statutes.	Yes	When a person knows or has reasonable cause to suspect that an incapacitated or dependent adult has been or is likely to be abused, neglected or exploited; and when a person knows or has reasonable cause to suspect that an adult has died as a result of abuse or neglect.  Reports regarding abuse, neglect or exploitation must be made immediately by telephone, followed by a written report within 48 hours, if requested by the department.	While acting in a professional capacity: an allopathic or osteopathic physician; medical resident or intern; medical examiner; physician's assistant; dentist; dental hygienist or assistant; chiropractor; podiatrist; registered or licensed practical nurse; certified nursing assistant; social worker; psychologist; pharmacist; physical therapist; speech therapist; occupational therapist; mental health professional; law enforcement official; emergency room personnel; ambulance attendant; emergency medical technician; unlicensed assistive personnel; human agent; clergy member; sexual assault counselor; family or domestic violence victim advocate; naturopathic doctor; respiratory therapist; court-appointed guardian or conservator; or chair of a professional licensing board; any person with full, intermittent or occasional responsibility for the care or custody of the dependent adult; any person affiliated with a church or religious institution who serves in an administrative capacity; or any person providing transportation services as a volunteer or employee.	The law does not specify penalties for failure to report.  The state provides exemptions from civil liability only for reporting in good faith. No protections against retaliation for making a report are provided for in state law.	The Office of Elder Services in the Maine Department of Health and Human Services receives and investigates reports.  No funding information is specified.	The law applies to dependent and incapacitated adults. "Dependent adult" means an adult who has a physical or mental condition that substantially impairs the adult's ability to adequately provide for that adult's daily needs. "Dependent adult" includes, but is not limited to, a resident of nursing home or assisted living facility, or a person, regardless of where that person resides, who is wholly or partially dependent upon one or more other persons for care or support, either emotional or physical, because the person suffers from a significant limitation in mobility, vision, hearing or emotional or mental functioning. "Incapacitated adult" means any adult who is impaired by reason of mental illness, mental deficiency, physical illness or disability to the extent that that individual lacks sufficient understanding or capacity to make or communicate responsible decisions concerning that individual's person, or to the extent the adult can not effectively manage or apply that individual's estate to necessary ends.

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<b>Maryland</b> Section 14-101, Maryland Family Law.	Yes	When a person who contacts, examines, attends, or treats an alleged vulnerable adult, and who has reason to believe that the alleged vulnerable adult has been subjected to abuse, neglect, self-neglect, or exploitation.  Reports are to be filed "as soon as possible."	Any health practitioner, police officer, or human service worker.	The law does not specify penalties for failure to report.  The state provides exemptions from civil liability only for reporting in good faith. No protections against retaliation for making a report are provided for in state law.	Reports and investigations are handled by the local department where the vulnerable adult lives or where the abuse is alleged to have occurred. On request by the local department, the local state's attorney or the appropriate law enforcement agency shall assist in the investigation.  Statute does not define local department further, but does specify that "the adult protective services program shall be funded as provided in the State budget."	The law applies to vulnerable adults. "Vulnerable adult" means an adult who lacks the physical or mental capacity to provide for the adult's daily needs.
<b>Massachusetts</b> Section 14, Chapter 19A, of Title 2, Massachusetts General Laws.	Yes	When a person has reasonable cause to believe that an elderly person is suffering from or has died as a result of abuse.  Verbal reports are to be made immediately, followed by a written report within 48 hours.	Any physician, physician assistant, medical intern, dentist, nurse, family counselor, probation officer, social worker, policeman, firefighter, emergency medical technician, licensed psychologist, coroner, registered physical therapist, registered occupational therapist, osteopath, podiatrist, director of a council on aging, outreach worker employed by a council on aging, executive director of a licensed home health agency or executive director of a homemaker service agency or manager of an assisted living residence.	Any person required to make such reports who fails to do so shall be punished by a fine of up to \$1,000.  The state provides exemptions from civil and criminal liability for reporting in good faith. The state does not provide protections against retaliation from reporting.	Reports and investigations are under the purview of the Department of Elder Affairs.  No funding information is specified.	The law applies to elderly persons. "Elderly person" is defined as someone who is over the age of 60.
<b>Michigan</b> Section 400.11, Michigan Compiled Laws.	Yes	When a person who suspects or has reasonable cause to believe that an adult has been abused, neglected, or exploited.  After making an immediate oral report, the reporting person may file a written report with the county department.	A person who is employed, licensed, registered, or certified to provide health care, educational, social welfare, mental health, or other human services; an employee of an agency licensed to provide health care, educational, social welfare, mental health, or other human services; a law enforcement officer; or an employee of the office of the county medical examiner.	A person required to make a report who fails to do so is liable civilly for the damages proximately caused by the failure to report, and a civil fine of not more than \$500 for each failure to report.  The state does not provide exemptions from civil and criminal liability for reporting in good faith or protections against retaliation from reporting.	Reports and investigations are handled by the county department of social services of the county in which the abuse, neglect, or exploitation is suspected of having or believed to have occurred. The county department shall report to a police agency any criminal activity that it believes to be occurring, upon receipt of the oral report.  No funding information is specified.	The law applies to vulnerable adults. "Adult in need of protective services" or "adult" means a vulnerable person not less than 18 years of age who is suspected of being or believed to be abused, neglected, or exploited.

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<p><b>Minnesota</b> Sections 626.557 and 626.5572, Minnesota Statutes.</p>	<p>Yes</p>	<p>When a person has reason to believe that a vulnerable adult is being or has been maltreated, or who has knowledge that a vulnerable adult has sustained a physical injury which is not reasonably explained. Note: there are a few exceptions related to in-facility care and with respect to reporter judgment.  Reports are to be filed immediately.</p>	<p>Any professional or professional's delegate while engaged in: social services; law enforcement; education; the care of vulnerable adults; any of the occupations referred to in section 214.01, 2 (lists a variety of medical professionals, such as doctors, nurses, dentists, etc.); an employee of a rehabilitation facility certified by the commissioner of jobs and training for vocational rehabilitation; an employee or person providing services in a facility; or a person that performs the duties of the medical examiner or coroner.</p>	<p>A person or facility who intentionally makes a false report is liable in a civil suit for any actual damages suffered by the reported facility, person or persons and for punitive damages up to \$10,000 and attorney's fees. A mandated reporter who negligently or intentionally fails to report is liable for damages caused by the failure.  The state provides exemptions from civil and criminal liability for reporting in good faith and protections against retaliation for making a report.</p>	<p>Reports are made to a "common entry point" established by each county's board. The statute authorizes two or more counties to form an entry point. The common entry point is required to immediately report to a law enforcement agency (including the medical examiner and ombudsman if there is a suspicious death) any incident in which there is reason to believe a crime has been committed. Otherwise, the common entry point agency coordinates with the county agency that provides adult protective services to further investigate and provide those services. The Minnesota Commissioners of Health, Human Services, and Public Safety are tasked with providing training to the local agencies that conduct investigations and provide services.  No funding information is specified.</p>	<p>The law applies to vulnerable adults. "Vulnerable adult" means any person 18 years of age or older who is a resident or inpatient of a facility; receives services at or from a facility required to be licensed to serve adults except that a person receiving outpatient services for treatment of chemical dependency or mental illness, or one who is committed as a sexual psychopathic personality or as a sexually dangerous person; receives services from a home care provider required to be licensed or from a person or organization that exclusively offers, provides, or arranges for personal care assistant services under the medical assistance program; or regardless of residence or whether service are received, possesses a physical or mental infirmity or other physical, mental, or emotional dysfunction: that impairs the individual's ability to provide adequately for the individual's own care without assistance, including the provision of food, shelter, clothing, health care, or supervision; and because of the dysfunction or infirmity and the need for assistance, the individual has an impaired ability to protect the individual from maltreatment.</p>



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Mississippi  Chapter 47 of Title 43, Mississippi Code.	Yes	<p>When a person knows or suspects that a vulnerable person has been or is being abused, neglected or exploited. There are also requirements that care facility employees report financial gifts of greater than \$25.</p> <p>Reports are to be filed immediately, followed up with a report in writing (time lines not specified, except financial gifts to care facility employees must be reported within 24 hours).</p>	Any person.	<p>If a person who should have known or suspected beyond a reasonable doubt that a vulnerable person suffers from abuse and knowingly fails to make a report, upon conviction, he or she is guilty of a misdemeanor, punishable by up to six months in jail, a fine of up to \$ 5,000, or both. An exception is made for any recognized legal financial transaction, which is not considered cause to report the knowledge or suspicion. A person who intentionally makes a false report may be found liable in a civil suit for any actual damages suffered and for any punitive damages set by the court or jury. Any person who willfully permits the release of any data or information obtained to persons or agencies not permitted to such access shall be guilty of a misdemeanor (same penalties as described above). If a care facility employee fails to report the receipt of a gift, they are guilty of a misdemeanor and subject to the same penalties as described above.</p> <p>The state provides exemptions from civil and criminal liability for reporting in good faith. The state does not provide protections against retaliation from reporting.</p>	<p>Statute provides that the Department of Human Services "shall not be prohibited from investigating, and shall have the authority and responsibility to fully investigate, any allegation of abuse, neglect or exploitation regarding a patient in a care facility, if the alleged abuse, neglect or exploitation occurred at a private residence." The department is authorized to seek assistance (and these entities are compelled under statute to provide assistance) from the Department of Health, local law enforcement, the Attorney General's Office, local health departments, mental health clinics and other public or private agencies, to conduct investigations as needed. The department is also authorized to contract with agencies or private physicians to conduct any evaluations needed.</p> <p>Statute specifically references the intent to fund all of these services with available federal and/or state funds. The Attorney General's Office has a specific cash fund to provide training, funded by fines collected.</p>	<p>The law applies to vulnerable persons. "Vulnerable person" means a person, whether a minor or adult, whose ability to perform the normal activities of daily living or to provide for his or her own care or protection from abuse, neglect, exploitation or improper sexual contact is impaired due to a mental, emotional, physical or developmental disability or dysfunction, or brain damage or the infirmities of aging. The term "vulnerable person" also includes all residents or patients, regardless of age, in a care facility.</p>

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<p><b>Missouri</b> Section 660.250 to 660.321, Missouri Annotated Statutes.</p>	<p>Yes</p>	<p>When a person has reasonable cause to suspect that an eligible adult presents a likelihood of suffering serious physical harm and is in need of protective services; or when a mandated reporter has reasonable cause to believe that an in-home services client has been abused or neglected, as a result of in-home services.</p> <p>No time frames for filing reports are specified, except for abuse related to in-home services clients must be reported immediately.</p>	<p>Any person is required to report abuse although the same section of statutes provides for confidential reporting unless you are a mandated reporter. Mandated reporters are listed as any adult day care worker; chiropractor; Christian Science practitioner; coroner; dentist; embalmer; employee of the departments of social services, mental health, or health and senior services; employee of a local area agency on aging or an organized area agency on aging program; funeral director; home health agency or home health agency employee; hospital and clinic personnel engaged in examination, care, or treatment of persons; in-home services owner, provider, operator, or employee; law enforcement officer; long-term care facility administrator or employee; medical examiner; medical resident or intern; mental health professional; minister; nurse; nurse practitioner; optometrist; other health practitioner; peace officer; pharmacist; physical therapist; physician; physician's assistant; podiatrist; probation or parole officer; psychologist; or social worker.</p>	<p>Any person who permits or encourages the unauthorized release of information shall be guilty of a class A misdemeanor. Any person listed as a mandatory reporter for eligible adults receiving in-home services and fails to make a report within a reasonable time after the act of abuse or neglect is guilty of a class A misdemeanor. Class A misdemeanors are punishable by a up to one year in jail, a fine of up to \$1,000, or both.</p> <p>The state provides exemptions from civil and criminal liability for reporting in good faith when the person is making a report on eligible adults receiving in-home services. The state provides protections against retaliation for making a report, but only for persons making a report on eligible adults receiving in-home services.</p>	<p>The Department of Social Services is responsible for receiving reports and conducting investigations, and is to coordinate with local agencies and law enforcement as appropriate and to avoid duplication of services.</p> <p>No funding information is specified.</p>	<p>The law applies to eligible adults. "Eligible adult" means a person 60 years of age or older who is unable to protect his or her own interests or adequately perform or obtain services which are necessary to meet his or her essential human needs or an adult with a disability, or between the ages of 18 and 59 who is unable to protect his or her own interests or adequately perform or obtain services which are necessary to meet his or her essential human needs.</p>

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<p><b>Montana</b> Section 52-3-801 through 52-3-825, Montana Code Annotated.</p>	<p>Yes</p>	<p>When a person knows or has reasonable cause to suspect that an older person or a person with a developmental disability known to them in their professional or official capacities has been subjected to abuse, sexual abuse, neglect, or exploitation.</p> <p>No time frames for filing reports are specified.</p>	<p>A physician, resident, intern, professional or practical nurse, physician assistant, or member of a hospital staff engaged in the admission, examination, care, or treatment of persons; an osteopath, dentist, denturist, chiropractor, optometrist, podiatrist, medical examiner, coroner, or any other health or mental health professional; an ambulance attendant; a social worker or other employee of the state, a county, or a municipality assisting an older person or a person with a developmental disability in the application for or receipt of public assistance; a person who maintains or is employed by a roominghouse, retirement home or complex, nursing home, group home, adult foster care home, adult day-care center, or assisted living facility or an agency or individual that provides home health services or personal care in the home; an attorney, unless the attorney-client privilege applies; a peace officer or other law enforcement official; a person providing services to an older person or a person with a developmental disability pursuant to a contract with a state or federal agency; and an employee of the Department of Public Health and Human Services.</p>	<p>A person who purposely or knowingly fails to make a report or discloses or fails to disclose the contents of a case record or report is guilty of an offense, punishable by up to six months in jail, a fine of up to \$500, or both.</p> <p>The state provides exemptions from civil and criminal liability for reporting in good faith and protections against retaliation for making a report.</p>	<p>The Montana Department of Public Health and Human Services is responsible for most investigations, although if the abuse occurs in certain facilities, the ombudsman is involved. Local agencies, including law enforcement, may assist with investigations.</p> <p>No funding information is specified.</p>	<p>The law applies to older adults and persons over 18 with a developmental disability. "Older adult" means a person who is 60 years of age or older and unable to provide personal protection from abuse, sexual abuse, neglect, or exploitation because of a mental or physical impairment or because of frailties or dependencies brought about by advanced age.</p>
<p><b>Nebraska</b> Sections 348 through 387 of Chapter 28, Nebraska Revised Statutes.</p>	<p>Yes</p>	<p>When a person has reasonable cause to believe that a vulnerable adult has been subjected to abuse or observes such adult being subjected to conditions or circumstances which reasonably would result in abuse.</p> <p>No time frames for filing reports are specified, except the law specifies that reports are made by telephone, and followed by a written report within 48 hours if requested by the Department of Health and Human Services.</p>	<p>Any physician, psychologist, physician assistant, nurse, nursing assistant, other medical, developmental disability, or mental health professional, law enforcement personnel, caregiver or employee of a caregiver, operator or employee of a sheltered workshop, owner, operator, or employee of any facility licensed by the department, or human services professional or paraprofessional not including a member of the clergy.</p>	<p>Any person who willfully fails to make any report or who knowingly releases confidential information is guilty of a class III misdemeanor, punishable by up to three months in jail, a fine of up to \$500, or both.</p> <p>The state provides exemptions from civil and criminal liability for reporting in good faith. No protections against retaliation for making a report are provided for in state law.</p>	<p>Reports are made to local law enforcement and/or the Department of Health and Human Services. Investigations that involve criminal activity are handled by the local law enforcement agency, but reported to the department within specified time frames. The department also conducts investigations.</p> <p>No funding information is specified.</p>	<p>The law applies to vulnerable adults. "Vulnerable adult" means any person 18 or older who has a substantial mental or functional impairment or for whom a guardian has been appointed under the Nebraska Probate Code.</p>

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<p><b>Nevada</b></p> <p>Sections 200.5091 through 200.50995, Nevada Revised Statutes Annotated.</p>	<p>Yes</p>	<p>When a person, in a professional or occupational capacity, knows or has reasonable cause to believe that an older person has been abused, neglected, exploited or isolated; and when a person knows or has reasonable cause to believe that an older person has died as a result of abuse, neglect or isolation.</p> <p>Reports are to be filed as soon as possible, but within 24 hours.</p>	<p>Every physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, physician assistant, perfusionist, psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, alcohol and drug abuse counselor, athletic trainer, driver of an ambulance, advanced emergency medical technician or other person who examines, attends or treats an older person; any personnel of a hospital or similar engaged in the admission, examination, or care of persons or an administrator, manager or other person in charge of a hospital or similar institution; a coroner; every person who maintains or is employed by an agency to provide personal care or nursing services in the home; operators, employees or contractors of an intermediary service organization; any employee of the department, a law enforcement agency or a county's office for protective services; any person who maintains or is employed by a facility that provides care; a social worker; and owners or employees of a funeral home or mortuary.</p>	<p>A person who willfully fails to report or releases confidential information is guilty of a misdemeanor, punishable by up to one year in jail, a fine of up to \$1,000, or both.</p> <p>The state provides exemptions from civil and criminal liability for reporting in good faith. No protections against retaliation for making a report are provided for in state law.</p>	<p>Reports are made to local office of the Aging and Disability Services Division of the Department of Health and Human Services; the local law enforcement agency; or county's office for protective services, if one exists in the county where the suspected action occurred. Deaths are investigated by the medical examiner or coroner.</p> <p>No funding information is specified.</p>	<p>The law applies to vulnerable and older adults. "Older adult" means a person who is 60 years of age or older. "Vulnerable adult" means a person who is 18 years of age or older and suffers from a condition of physical or mental incapacitation because of a developmental disability, organic brain damage or mental illness; or has one or more physical or mental limitations that restrict the ability of the person to perform the normal activities of daily living.</p>
<p><b>New Hampshire</b></p> <p>Sections 161-F:42 through 161-F:57, New Hampshire Revised Statutes.</p>	<p>Yes</p>	<p>When a person suspects or believes in good faith that any adult who is or who is suspected to be incapacitated has been subjected to abuse, neglect, self-neglect, or exploitation or is living in hazardous conditions.</p> <p>Reports are to be filed immediately.</p>	<p>Any person, including, but not limited to, physicians, other health care professionals, social workers, clergy, and law enforcement officials.</p>	<p>A person who knowingly fails to make a report is guilty of a misdemeanor (note: the law does not specify which class of misdemeanor. Under New Hampshire law, the maximum penalty is up to one year in jail, a fine of up to \$2,000, or both.)</p> <p>The state provides exemptions from civil and criminal liability for reporting in good faith. No protections against retaliation for making a report are provided for in state law.</p>	<p>Reports are received by the Department of Health and Human Services, except when the department is closed, reports can be received by local law enforcement agencies. Investigations are made by the department, except where bodily harm is involved, in which case it is referred to the local law enforcement agency for investigation.</p> <p>No funding information is specified.</p>	<p>The law applies to incapacitated persons. "Incapacitated" means that the physical, mental, or emotional ability of a person is such that he or she is unable to manage personal, home, or financial affairs in his own best interest, or he is unable to act or unable to delegate responsibility to a responsible caretaker or caregiver.</p>

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<b>New Jersey</b> Title S2, Chapter 27, Section D-406 through D-426, New Jersey Permanent Statutes.	Yes	When a person has reasonable cause to believe that a vulnerable adult is the subject of abuse, neglect or exploitation.  No time frames for filing reports are specified.	A health care professional, law enforcement officer, firefighter, paramedic, or emergency medical technician.	None specified.  The state provides exemptions from civil and criminal liability for reporting in good faith and protections against retaliation for making a report.	Reports are made to the county adult protective services provider, who also "evaluate reports." The law specifies that records of other agencies may be made available to the county, but doesn't compel the other providers to investigate.  No funding information is specified.	The law applies to vulnerable adults. "Vulnerable adult" means a person 18 years of age or older who resides in a community setting and who, because of a physical or mental illness, disability or deficiency, lacks sufficient understanding or capacity to make, communicate, or carry out decisions concerning his or her well-being and is the subject of abuse, neglect or exploitation.
<b>New Mexico</b> Article 7 of Chapter 27, New Mexico Statutes Unnotated.	Yes	When any person, including a financial institution, has reasonable cause to believe that an incapacitated adult is being abused, neglected or exploited.  Reports are to be filed immediately.	Any person.	Anyone willfully failing to report or interfering with an investigation of adult abuse, neglect or exploitation, is guilty of a misdemeanor, punishable by up to one year in jail, one year of probation, a fine of up to \$1,000, or all three, and may also be subject to a civil penalty by the Department of Aging and Long-term Services of up to \$10,000 per violation.  The state provides exemptions from civil and criminal liability for reporting in good faith and protections against retaliation for making a report.	The law specifically says the act is subject to available funds. Reports and investigations are administered by the New Mexico Department of Aging and Long-term Services.	The law applies to incapacitated and protected adults. "Incapacitated adult" means any adult (person age 18 or older) with a mental, physical or developmental condition that substantially impairs the adult's ability to provide adequately for the adult's own care or protection. "Protected adult" means an adult for whom a guardian or conservator has been appointed or other protective order has been made or an abused, neglected or exploited adult who has consented to protective services or protective placement.
<b>New York</b> Section 473, Title 1 of Article 9B, New York Social Services Law.	No	Not applicable.	Not applicable.	Not applicable.	The laws provide for demonstration projects and investigations at the county level arising from voluntary reporting. The law states that various agencies should cooperate with investigations.  Local county departments of social services are required to investigate reports they receive, but no information about funding is specified.	The law applies to "individuals...who, because of mental or physical impairments, are unable to manage their own resources, carry out the activities of daily living, or protect themselves from physical abuse, sexual abuse, emotional abuse, active, passive or self neglect, financial exploitation or other hazardous situations without assistance from others and have no one available who is willing and able to assist them responsibly."

**Table 1  
Older Adult Abuse Laws in Other States**

State	Has Mandatory Reporting?	Mandatory Reporting Circumstances and Time Frame for Report Filing	Mandatory Reporters	Penalties for Failure to Report or Comply; Exemptions from Penalty; and Protections From Retaliation	Reports and Costs for Investigations	Criteria / Definitions of Applicability
<p><b>North Carolina</b></p> <p>Article 6 of Chapter 108A, North Carolina General Statutes.</p>	<p>Yes</p>	<p>When a person has reasonable cause to believe that a disabled adult is in need of protective services.</p> <p>Reports are to be filed immediately.</p>	<p>Any person.</p>	<p>None specified.</p> <p>The state provides exemptions from civil and criminal liability for reporting in good faith. No protections against retaliation for making a report are provided for in state law.</p>	<p>Reports are made to and investigated by the county department of social services in the county in which the disabled person resides or is present. If the evaluation results in any findings, the county is required to forward the case to the district attorney.</p> <p>Regarding funding, statute specifies that "any funds appropriated by counties for home health care, boarding home, nursing home, emergency assistance, medical or psychiatric evaluations, and other protective services and for the development and improvement of a system of protective services, including additional staff, may be matched by state and federal funds. Such funds shall be utilized by the county department of social services for the benefit of disabled adults in need of protective services."</p>	<p>The law applies to disabled adults in need of protective services. "Disabled adult" means any person 18 years of age or over or any lawfully emancipated minor who is present in the State of North Carolina and who is physically or mentally incapacitated due to mental retardation, cerebral palsy, epilepsy or autism; organic brain damage caused by advanced age or other physical degeneration in connection therewith; or due to conditions incurred at any age which are the result of accident, organic brain damage, mental or physical illness, or continued consumption or absorption of substances. A person is "in need of protective services" if that person, due to his physical or mental incapacity, is unable to perform or obtain for himself essential services and if that person is without able, responsible, and willing persons to perform or obtain for his essential services.</p>
<p><b>North Dakota</b></p> <p>Chapter 25.2 of Title 50, North Dakota Century Code.</p>	<p>No</p>	<p>Not applicable.</p>	<p>Not applicable.</p>	<p>While reports are voluntary, any person who willfully makes a false report, or provides false information which causes the report to be made, is guilty of a class B misdemeanor, punishable by up to 30 days in jail, a fine of up to \$1,000, or both. However, if the false report is made to a law enforcement official, the person who causes the false report to be made is guilty of a class A misdemeanor, punishable by up to one year in jail, a fine of up to \$2,000, or both.</p> <p>The state provides exemptions from civil and criminal liability for reporting in good faith and protections against retaliation for making a report.</p>	<p>Reporting is voluntary; reports and investigations are handled by the Department of Human Services, in cooperation with local law enforcement.</p> <p>The law specifically says that investigations and implementation of the law are subject to available appropriations.</p>	<p>The law applies to vulnerable adults. "Vulnerable adult" means an adult who has a substantial mental or functional impairment. A "substantial functional impairment" means incapable, because of physical limitations, of living independently or providing self-care as determined through observation, diagnosis, evaluation, or assessment. "Substantial mental impairment" means a disorder of thought, mood, perception, orientation, or memory that grossly impairs judgment, behavior, or ability to live independently or provide self-care as revealed by observation, diagnosis, evaluation, or assessment.</p>

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Ohio Chapter 5101.60 to 5101.71 and 5101.99, Ohio Revised Code Annotated.	Yes	When a person has reasonable cause to believe that an adult is being abused, neglected or exploited, or is in a condition which is the result of abuse, neglect, or exploitation.  Reports are to be filed immediately. Reports are oral, but may be followed in writing if the department requests it.	Any attorney, physician, osteopath, podiatrist, chiropractor, dentist, psychologist, employee of a hospital, licensed nurse, employee of an ambulatory health facility, employee of a home health agency, employee of an adult care facility, employee of a nursing home, employee of a residential care facility, employee of a home for the aging, senior service provider, peace officer, coroner, clergyman, employee of a community mental health facility, and any person engaged in social work or counseling.	The penalty for failing to make a report is a fine of up to \$500.  The state provides exemptions from civil and criminal liability for reporting in good faith and protections against retaliation for making a report.	Reports and investigations are the purview of the Department of Job and Family Services, except if there is reason to believe the victim has a mental or developmental disability, in which case the report is forwarded to the county board of developmental disabilities.  The law specifically says that services are subject to available funding and that the department can delegate its responsibilities to another agency.	The law applies to adults. "Adult" means any person 60 years of age or older who is handicapped by the infirmities of aging or who has a physical or mental impairment which prevents the person from providing for the person's own care or protection, and who resides in an independent living arrangement.
Oklahoma Section 43A-10-101, Oklahoma Statutes Annotated.	Yes	When a person has reasonable cause to believe that a vulnerable adult is suffering from abuse, neglect, or exploitation.  Reports are to be filed immediately and followed in writing (no time frames are specified).	All persons are required to report, but statute does list specific included persons such as: physicians; operators of emergency response vehicles and other medical professionals; social workers and mental health professionals; law enforcement officials; staff of domestic violence programs; long-term care facility personnel, including staff of nursing facilities, intermediate care facilities for persons with mental retardation, assisted living facilities, and residential care facilities; other health care professionals; persons entering into transactions with a caretaker or other person who has assumed the role of financial management for a vulnerable adult; staff of residential care facilities, group homes, or employment settings for individuals with developmental disabilities; job coaches, community service workers, and personal care assistants; and municipal employees.	Any person who knowingly and willfully fails to promptly report as required, is guilty of a misdemeanor, punishable by up to one year in jail, a fine of up to \$1,000, or both. Any person who willfully or recklessly makes a false report is civilly liable for any actual damages suffered by the person being reported and for any punitive damages set by the court or jury which may be allowed in the discretion of the court or jury. It is also a misdemeanor (same penalties) to release confidential information.  The state provides exemptions from civil and criminal liability for reporting in good faith and protections against retaliation for making a report.	Reports can be made to either the Department of Human Services, the office of the district attorney in the county in which the suspected abuse, neglect, or exploitation occurred or the local municipal police department or sheriff's department. The department primarily oversees investigations, but all agencies send their reports to the attorney general if further action is warranted. The State Department of Health may conduct separate facility investigations if it chooses.  Costs are subject to available funds.	The law applies to vulnerable adults. "Vulnerable adult" means an individual who is an incapacitated person or who, because of physical or mental disability, incapacity, or other disability, is substantially impaired in the ability to provide adequately for the care or custody of himself or herself, or is unable to manage his or her property and financial affairs effectively, or to meet essential requirements for mental or physical health or safety, or to protect himself or herself from abuse, verbal abuse, neglect, or exploitation without assistance from others.
Oregon Chapter 124 of Title 13, Oregon Revised Statutes.	Yes	When a person has reasonable cause to believe that a person 65 years of age or older has suffered abuse.  Reports are to be filed immediately.	Any public or private official acting in an official capacity.	Failure to report is a class A violation, punishable by a fine of up to \$720.  The state provides exemptions from civil and criminal liability for reporting in good faith and protections against retaliation for making a report.	Reports are made to the Oregon Department of Human Services or the appropriate local law enforcement agency. State law compels law enforcement agencies to assist in investigations as needed.  No funding information is specified.	The law applies to elderly persons. "Elderly person" means a person who is 65 years of age or older and is not a resident of a long-term care facility. Oregon has a similar law under Chapter 410 that provides protections for persons with disabilities or mental illness who receive services from a community program or facility, and who are age 18 or older.

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<p><b>Pennsylvania</b></p> <p>Sections 10225.701 through 10225.707 of Title 35, Pennsylvania Statutes.</p>	<p>Yes</p>	<p>When a person has reasonable cause to believe that an older adult needs protective services.</p> <p>Reports are to be filed immediately.</p>	<p>Reporting is optional and may be anonymous for everyone except those that are administrators or employees of facilities serving older adults (i.e. home health care agency, domiciliary care home, long-term care nursing facility, older adult daily living center or personal care home).</p>	<p>An administrator who willfully fails to comply with or obstructs the reporting, or retaliates against an employee, is subject to an administrative penalty of up to \$2,500. They are also subject to a criminal penalty of a class 3 misdemeanor, which is punishable by up to one year in jail, a fine of up to \$2,500, or both. A mandatory reporter who fails to make a report is subject to a summary offense, which has maximum penalty of 90 days in jail, a fine of up to \$300, or both, on the first occurrence on the first occasion, and a class 3 misdemeanor, punishable by up to one year in jail, a fine of up to \$2,500, or both, on second or subsequent occurrences.</p> <p>The state provides exemptions from civil and criminal liability for reporting in good faith and protections against retaliation for making a report.</p>	<p>Reports and investigations are managed by the Department of Aging of the Commonwealth of Pennsylvania. The statutes authorize them to make use of the local emergency response system or a crisis intervention agency. Investigations for a state licensed facility are forwarded to the licensing agency for further action, but ultimately the law requires the department to ensure an investigation is initiated and completed. The department separates reports into priority and non-priority at intake. The law specifies interagency coordination with law enforcement agencies. The law says the department and counties are limited to what the state has appropriated them to provide services under the act.</p>	<p>The law applies to an "older adult in need of protective services," meaning an incapacitated person within the jurisdiction of the Commonwealth who is 60 years of age or older and unable to perform or obtain services that are necessary to maintain physical or mental health, for which there is no responsible caretaker and who is at imminent risk of danger to his person or property.</p>
<p><b>Rhode Island</b></p> <p>Section 42-66-4.1, Rhode Island General Laws.</p>	<p>Yes</p>	<p>When a person has reasonable cause to believe that any person 60 years of age or older has been abused, neglected, exploited, or is self-neglecting. Reports are to be filed immediately.</p>	<p>All persons.</p>	<p>Penalties for not making a report are limited to a fine of up to \$1,000. Obstructing another person from self-reporting or receiving services is punishable by a fine of up to \$500.</p> <p>The state provides exemptions from civil and criminal liability for reporting in good faith. No protections against retaliation for making a report are provided for in state law.</p>	<p>The Division of Elderly Affairs in the Department of Human Services is required to maintain a 24-hour hotline for the receipt of reports, and is responsible for conducting investigations.</p> <p>No funding information is specified, except that certain aspects of the department are funded by the Department of Administration.</p>	<p>The law applies to an "elderly person" or "elder," which means any person 60 years of age or older.</p>



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<p><b>South Carolina</b></p> <p>Section 43-35-1, South Carolina Code of Laws.</p>	Yes	<p>When a person has reason to believe that a vulnerable adult has been or is likely to be abused, neglected, or exploited; or when any other person has actual knowledge that a vulnerable adult has been abused, neglected, or exploited; or when a person has reasonable suspicion to believe that a vulnerable adult died as a result of abuse or neglect.</p> <p>Reports are to be filed within 24 hours, or the next working day.</p>	<p>A physician, nurse, dentist, optometrist, medical examiner, coroner, other medical, mental health or allied health professional, Christian Science practitioner, religious healer, school teacher, counselor, psychologist, mental health or mental retardation specialist, social or public assistance worker, caregiver, staff or volunteer of an adult day care center or of a facility, or law enforcement officer if there is reason to suspect, but all persons are required to report if they have actual knowledge of abuse.</p>	<p>A person who knowingly and wilfully fails to report is guilty of a misdemeanor, punishable by up to one year in jail, a fine of up to \$2,500, or both. A person who threatens, intimidates, or attempts to intimidate a subject of a report, witness, or any other person cooperating with an investigation is guilty of a misdemeanor, and is subject to up to three years in prison, a fine of up to \$5,000, or both. The Attorney General may also bring an action against a person who fails through pattern or practice to exercise reasonable care in hiring, training, or supervising facility personnel or in staffing or operating a facility, which results in the commission of abuse. The Court may subject this person to a civil fine of up to \$30,000.</p> <p>The state provides exemptions from civil and criminal liability for reporting in good faith and protections against retaliation for making a report.</p>	<p>The Adult Protective Services Program in the Department of Social Services is required to investigate or cause to be investigated noncriminal reports of alleged abuse, neglect, and exploitation of vulnerable adults occurring in all settings other than those facilities for which the Long Term Care Ombudsman Program is responsible for the investigation. The Adult Protective Services Program is required to refer reports of abuse, neglect, and exploitation to the Vulnerable Adults Investigations Unit of the South Carolina Law Enforcement Division if there is reasonable suspicion of criminal conduct. Deaths are investigated by the medical examiner and/or South Carolina Law Enforcement Division.</p> <p>No funding information is specified.</p>	<p>The law applies to vulnerable adults. "Vulnerable adult" means a person 18 years of age or older who has a physical or mental condition which substantially impairs the person from adequately providing for his or her own care or protection. This includes a person who is impaired in the ability to adequately provide for the person's own care or protection because of the infirmities of aging including, but not limited to, organic brain damage, advanced age, and physical, mental, or emotional dysfunction. A resident of a facility is a vulnerable adult.</p>
<p><b>South Dakota</b></p> <p>Chapter 1 of Title 28, South Dakota Codified Laws.</p>	No	Not applicable.	Not applicable.	<p>Not applicable.</p> <p>No exemptions from liability for reporting in good faith are provided for. State law provides protections against retaliation for making a report.</p>	<p>The State Ombudsman Program in the Department of Social Services investigates complaints and reports related to older adults. State law allows the department to cooperate with or request the cooperation of other departments, agencies, and institutions of the state, local, and federal governments, and private nonprofit agencies or institutions as needed.</p> <p>No funding information is specified. It appears that the program is authorized under statute, but not funded.</p>	<p>The law applies to "older individuals" who are residents of nursing facilities, assisted living centers, or other residential facilities for older individuals, relating to action, inaction, or decisions of providers, or their representatives, of long-term care services, of public agencies, or of social service agencies.</p>
<p><b>Tennessee</b></p> <p>Part 1, Chapter 6, of Title 71, Tennessee Code.</p>	Yes	<p>When a person has reasonable cause to suspect that an adult has suffered abuse, neglect, or exploitation.</p> <p>Reports are to be filed immediately.</p>	<p>Any person, including, but not limited to, a physician, nurse, social worker, department personnel, coroner, medical examiner, alternate care facility employee, or caretaker.</p>	<p>Any person who knowingly fails to make a report commits a class A misdemeanor, punishable by up to 11 months and 29 days in jail, a fine of up to \$2,500, or both.</p> <p>The state provides exemptions from civil and criminal liability for reporting in good faith and protections against retaliation for making a report.</p>	<p>Reports and investigations are handled by the Department of Human Services and law enforcement agencies.</p> <p>Statute specifies that "the cost of the administration of this part and the provision of the services hereby authorized shall be limited to the amount of funds specifically appropriated for such purposes by the General Assembly."</p>	<p>The law applies to adults. "Adult" means a person 18 years of age or older who because of mental or physical dysfunctioning or advanced age is unable to manage such person's own resources, carry out the activities of daily living, or protect such person from neglect, hazardous or abusive situations without assistance from others and who has no available, willing, and responsibly able person for assistance and who may be in need of protective services.</p>

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<p><b>Texas</b>  Chapter 48, Subtitle D, of Title 2, Texas Human Resources Code.</p>	<p>Yes</p>	<p>When a person has cause to believe that an elderly or disabled person is in the state of abuse, neglect, or exploitation.  Reports are to be filed immediately.</p>	<p>Everyone; and statute specifically says the duty to report "applies without exception to a person whose knowledge concerning possible abuse, neglect, or exploitation is obtained during the scope of the person's employment or whose professional communications are generally confidential, including an attorney, clergy member, medical practitioner, social worker, and mental health professional."</p>	<p>Knowingly failing to report is a class A misdemeanor, punishable by up to one year in jail, a fine of up to \$4,000, or both. Making a false report is a class B misdemeanor, punishable by up to 180 days in jail, a fine of up to \$2,000, or both.  The state provides exemptions from civil and criminal liability for reporting in good faith and protections against retaliation for making a report.</p>	<p>The Department of Family and Protective Services is responsible for reports and investigations.  No funding information is specified.</p>	<p>The law applies to elderly and disabled persons. "Elderly person" means a person 65 years of age or older. "Disabled person" means a person with a mental, physical, or developmental disability that substantially impairs the person's ability to provide adequately for the person's care or protection and who is: 18 years of age or older; or under 18 years of age and who has had the disabilities of minority removed.</p>
<p><b>Utah</b>  Section 301, Chapter 3, of Title 62A of the Utah Code.</p>	<p>Yes</p>	<p>When a person has reason to believe that any vulnerable adult has been the subject of abuse, neglect, or exploitation.  Reports are to be filed immediately.</p>	<p>All persons.</p>	<p>Any person who willfully fails to report suspected abuse, neglect, or exploitation of a vulnerable adult; or threatens or intimidates a person who is the subject of the report, or who made the report, is guilty of a class B misdemeanor, punishable by up to six months in jail, a fine of up to \$1,000, or both.  The state provides exemptions from civil and criminal liability for reporting in good faith and protections against retaliation for making a report.</p>	<p>Reports and investigations are handled by the Adult Protective Services and/or local law enforcement agency.  No funding information is specified.</p>	<p>The law applies to elder and vulnerable adults. "Elder adult" means a person 65 years of age or older. "Vulnerable adult" means an elder adult, or an adult who has a mental or physical impairment which substantially affects that person's ability to: provide personal protection; provide necessities such as food, shelter, clothing, or mental or other health care; obtain services necessary for health, safety, or welfare; carry out the activities of daily living; manage the adult's own financial resources; or comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation.</p>

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<p><b>Vermont</b> Chapter 69 of Title 22, Vermont Statutes Annotated.</p>	<p>Yes</p>	<p>When a person who knows of or has received information of abuse, neglect, or exploitation of a vulnerable adult or who has reason to suspect that any vulnerable adult has been abused, neglected, or exploited; and when a person has reasonable cause to believe that a vulnerable adult died as a result of abuse or neglect.</p> <p>Reports are to be filed within 48 hours, and if the initial report was oral, a written report is to be made within one week. Exceptions are made for deaths, which are to be reported immediately.</p>	<p>All employees, contractors and grantees of the agency who are involved in caregiving; a physician, osteopath, chiropractor or physician's assistant, nurse, medical examiner, licensed nursing assistant, emergency medical services personnel, dentist, or psychologist; a school teacher, librarian, administrator, guidance counselor, aide, bus driver, or employee or contractor who works regularly with students; a mental health professional, social worker, person or organization that provides or arranges for personal care for vulnerable adults, a caregiver, employee or contractor for a community mental health center, law enforcement officer, and an individual who works with vulnerable adults and is an employee of an adult day care center, or similar program designed primarily to serve vulnerable adults; and a hospital, nursing home, home health agency or any entity providing nursing or nursing-related services for remuneration, intermediate care facility or similar.</p>	<p>The commissioner may impose an administrative penalty not to exceed \$500 per violation. However, the law specifies that for every 24 hours that a report is not made beyond the required time frame, a new and separate violation is constituted, and a mandatory reporter shall be liable for an administrative penalty of not more than \$500 for each 24-hour period, not to exceed a maximum penalty of \$5,000 per reportable incident.</p> <p>The state provides exemptions from civil and criminal liability for reporting in good faith and protections against retaliation for making a report.</p>	<p>Reports and investigations are handled by the Commissioner of the Department of Disabilities, Aging, and Independent Living, or his or her designee, with the relevant local law enforcement agency. The medical examiner investigates deaths.</p> <p>No funding information is specified.</p>	<p>The law applies to vulnerable adults. "Vulnerable adult" means any person 18 years of age or older who: is a resident of a facility that is required to be licensed; is a resident of a psychiatric hospital or a psychiatric unit of a hospital; has been receiving personal care services for more than one month from a home health agency certified by the Vermont Department of Health or from a person or organization that offers, provides, or arranges for personal care; or regardless of residence or whether any type of service is received, is impaired due to brain damage, infirmities of aging, or a physical, mental, or developmental disability that results in some impairment of the individual's ability to provide for his or her own care without assistance, including the provision of food, shelter, clothing, health care, supervision, or management of finances or because of the disability or infirmity, the individual has an impaired ability to protect himself or herself from abuse, neglect, or exploitation.</p>

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<p><b>Virginia</b></p> <p>Section 63.2-1603 et. seq., Code of Virginia.</p>	<p>Yes</p>	<p>When matters give a person reason to suspect the abuse, neglect or exploitation of adults; or when a person has reasonable cause to suspect that an adult died as a result of abuse or neglect.</p> <p>Reports are to be filed immediately.</p>	<p>Any person licensed, certified, or registered by health regulatory boards, except those licensed by the Board of Veterinary Medicine; mental health services providers; emergency medical services personnel certified by the Board of Health unless such personnel immediately reports the suspected abuse, neglect or exploitation directly to the attending physician at the hospital; a guardian or conservator of an adult; any person employed by or contracted with a public or private agency or facility and working with adults in an administrative, supportive or direct care capacity; any person providing full, intermittent or occasional care to an adult for compensation, including but not limited to, companion, chore, homemaker, and personal care workers; and law enforcement.</p>	<p>Any person 14 years of age or older who makes or causes to be made a report of adult abuse, neglect, or exploitation that he knows to be false shall be guilty of a class 4 misdemeanor, punishable by a fine of up to \$250. Any subsequent conviction is a class 2 misdemeanor, punishable by up to six months in jail, a fine of up to \$1,000, or both. Any person who fails to make a required report or notification is also subject to a civil penalty of up to \$500 for the first failure, and between \$100 and \$1,000 for any subsequent failures.</p> <p>The state provides exemptions from civil and criminal liability for reporting in good faith and protections against retaliation for making a report.</p>	<p>Each local board, "to the extent that federal or state matching funds are made available to each locality," is responsible for the provision of adult protective services, including investigations of abuse. Deaths are investigated by the medical examiner and local law enforcement.</p>	<p>The law applies to adults. "Adult" means any person 60 years of age or older, or any person 18 years of age or older who is incapacitated and who resides in the Commonwealth; however, "adult" may include qualifying nonresidents who are temporarily in the Commonwealth and who are in need of temporary or emergency protective services. "Incapacitated person" means any adult who is impaired by reason of mental illness, mental retardation, physical illness or disability, advanced age or other causes to the extent that the adult lacks sufficient understanding or capacity to make, communicate or carry out responsible decisions concerning his or her well-being.</p>
<p><b>Washington</b></p> <p>Chapter 74.34, Revised Code of Washington.</p>	<p>Yes</p>	<p>When a person has reason to believe that the abuse, abandonment, neglect, or financial exploitation of a "vulnerable adult" has occurred.</p> <p>Reports are to be filed immediately.</p>	<p>Employees of the Department of Social and Health Services (DSHS); law enforcement; social workers; professional school personnel; contracted individual providers caring for a DSHS client; employees of a social service, welfare, mental health, home care, hospice, home health, adult day care, and adult day health agency; owners or employees of nursing homes, boarding homes, or adult family homes; health care providers under Title 18 RCW (i.e. nurses and doctors), and Christian Science practitioners.</p>	<p>Failure to file a report is a gross misdemeanor, punishable by up to one year in jail, a fine of \$5,000, or both. Intentionally making a false report is a misdemeanor, punishable by up to 90 days in jail, a fine of \$1,000, probation for up to two years, or all three.</p> <p>The state provides exemptions from civil and criminal liability for reporting in good faith and protections against retaliation for making a report.</p>	<p>Reports and investigations are under the purview of the Department of Social and Human Services, and may be contracted to community-based agencies.</p> <p>No funding information is specified.</p>	<p>The law applies to a person 60 years of age or older who lacks the functional, physical, or mental ability to care for him or herself; an adult with a developmental disability; an adult with a legal guardian; an adult living in a long-term care facility (adult family home, boarding home, or nursing home); an adult living in their own or family's home receiving services from an agency or contracted individual provider; or an adult self-directing his or her care per law.</p>

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Older Adult Abuse Laws in Other States**

State	Has Mandatory Reporting?	Mandatory Reporting Circumstances and Time Frame for Report Filing	Mandatory Reporters	Penalties for Failure to Report or Comply; Exemptions from Penalty; and Protections From Retaliation	Reports and Costs for Investigations	Criteria / Definitions of Applicability
<p><b>West Virginia</b></p> <p>Chapter 6 of Title 9, West Virginia Code.</p>	<p>Yes</p>	<p>When a person has reasonable cause to believe that an incapacitated adult or facility resident is or has been neglected, abused or placed in an emergency situation; if such person observes an incapacitated adult or facility resident being subjected to conditions that are likely to result in abuse, neglect or an emergency situation; or when a person has probable cause to believe that an incapacitated adult or facility resident has died as a result of abuse or neglect.</p> <p>Reports are to be filed immediately, followed by a written report within 48 hours.</p>	<p>A medical, dental or mental health professional; Christian Science practitioner; religious healer; social service worker; law-enforcement officer; humane officer; state or regional ombudsman; or any employee of any nursing home or other residential facility.</p>	<p>Any person subject to mandatory reporting who knowingly fails to make any report or knowingly prevents another person from making such a report is guilty of a misdemeanor, punishable by up to ten days in jail, a fine of up to \$100, or both.</p> <p>The state provides exemptions from civil and criminal liability for reporting in good faith and protections against retaliation for making a report.</p>	<p>Reports of suspected abuse are made to the State Division of Human Services local adult protective services agency. Death as a result of abuse is investigated by the medical examiner or coroner.</p> <p>No funding information is specified.</p>	<p>The law applies to incapacitated adults and facility residents. "Incapacitated adult" means any person who by reason of physical, mental or other infirmity is unable to independently carry on the daily activities of life necessary to sustaining life and reasonable health; "Facility resident" means an individual living in a nursing home or other facility for individuals with an intellectual disability, care home or any other adult residential facility.</p>
<p><b>Wisconsin</b></p> <p>Section 46.90 for older adults; separate statutes address disabled adults who are under 60 (Sections 55.01 through 55.23), Wisconsin Statutes.</p>	<p>Yes</p>	<p>When a mandatory person who has seen an elder adult at risk in the course of the person's professional duties if the elder adult at risk has requested the person to make the report, or if the person has reasonable cause to believe that any of the following situations exist: 1. The elder adult at risk is at imminent risk of serious bodily harm, death, sexual assault, or significant property loss and is unable to make an informed judgment about whether to report the risk; and/or 2. An elder adult at risk other than the subject of the report is at risk of serious bodily harm, death, sexual assault, or significant property loss inflicted by a suspected perpetrator. There are some specific exceptions, such as if the provider thinks it is not in the person's "best interests" to file the report and for spiritual healers.</p> <p>No time frame is specified for filing a report.</p>	<p>An employee of any entity that is licensed, certified, or approved by or registered with the Wisconsin Department of Health Services; a health care provider; and a certified social worker, professional counselor, or marriage and family therapist.</p>	<p>Failure to report is punishable by six months in jail, a fine of up to \$500, or both.</p> <p>The state provides exemptions from civil and criminal liability for reporting in good faith and protections against retaliation for making a report.</p>	<p>Reports are filed with the county department, the elder-adult-at-risk agency, a state or local law enforcement agency, the Department of Health Services, or the board on aging and long-term care, but are generally investigated and handled at the county level (the statute sets up the system in such a way that it is county-specific, and the county offices are specifically tasked with marketing themselves within their area).</p> <p>Statutes reference that services are provided with appropriations made to the Department of Health Services.</p>	<p>The law applies to elder adults at risk. "Elder adult at risk" means any person age 60 or older who has experienced, is currently experiencing, or is at risk of experiencing abuse, neglect, self-neglect, or financial exploitation.</p>

**Table 1  
Older Adult Abuse Laws in Other States**

State	Has Mandatory Reporting?	Mandatory Reporting Circumstances and Time Frame for Report Filing	Mandatory Reporters	Penalties for Failure to Report or Comply; Exemptions from Penalty; and Protections From Retaliation	Reports and Costs for Investigations	Criteria / Definitions of Applicability
Wyoming Section 35-20-103, Wyoming Statutes.	Yes	When any person or agency who knows or has reasonable cause to believe that a vulnerable adult is being or has been abused, neglected, exploited, intimidated or abandoned or is committing self neglect.  Reports are to be filed within 24 hours.	All persons.	A person commits a misdemeanor, punishable by up to one year in jail, a fine of up to \$1,000, or both, if he or she fails to report or knowingly reports false information.  The state provides exemptions from civil and criminal liability for reporting in good faith. No protections against retaliation for making a report are provided for in state law.	Reports and investigations are handled by the Department of Family Services.  No funding information is specified.	The law applies to "any person 18 years or older who is unable to manage and take care of himself or his property without assistance as a result of advanced age or physical or mental disability."

## Home Connections 2004 – 2009

- Home Connections program introduced by Vicki Clark. This program was created to keep people from being institutionalized and stay off Medicaid for as long as possible.
- Other services offered with Home Connections were SAMs and Respite (funding for these were through AAA).
- Qualifying adults had to be 60 and older.
- Multiple Community Partners (AAA, Hilltop, Home Care of the Grand Valley, Mesa Developmental Services, St. Mary's, Colorado West Mental Health, Hospice, and MCDHS) made monetary contributions for the Home Connections program.
- 100.2 was used to determine eligibility for Home Connections using IADL's for need.
- Inter-disciplinary Team to staff Home Connections cases.
- Services/Funding offered: Homemaker, electronic monitoring, case management for Home Connections clients, respite, mental health services, socialization, hearing aids, yard work, bus passes, pet care, hair care and transportation.
- SEP managed Home Connections cases.

## ARCH 2009 – 2010

- ARCH program was introduced by State Unit on Aging that offered Option Counseling. All funding came from AAA through Part B, Part E, and SFSS.
- Due to high volume of calls and requested for case management through the ARCH program an additional Options Counselor was hired.
- Funding was increased by AAA with Part B, Part E, and SFSS funds. Additional funding came from Colorado Health Foundations for Adults under 60, Friends of Man, AV Hunter, and Rocky Mountain Health Plans Health Foundations.
- Home connections, SAMs, and Respite rolled under the ARCH program.
- Additional Services being offered: Filling out applications and short term case management.
- ARCH offered support services for the Home Connections cases.

## ARCH 2010 – Present

- CTI grant was awarded (Home Care of the Grand Valley, St. Mary's, AAA, and MCDHS).
- ARCH adapted the program to provide both case management and support services to the Home Connections program.

- Potential funding through Money Follows the Person for the Colorado Care Transitions program. ARCH will provide an assessment for institutionalized clients to potentially be moved to back into the community.

In 2012 Adult Protection and ARCH were placed under joint supervision in Mesa County. With the limited funding streams for Adult Protection the ARCH program can find those resources that Adult Protection case managers seek. This helps keep the client safe and to remain in the community for as long as possible. The average cost for a client that is being served on the ARCH program is approximately \$90/month (including case management). The cost containment amount for SEP (Medicaid program that offers similar services) is \$167.09/month. The average number of clients we serve on Home Connections is 85. Attached are ARCH stats.

Benefits for the client and the Adult Protection case managers when they make a referral to ARCH helps save on case management time of the Adult Protection case manager and the Options Counselor can find other funding streams for services aside from Medicaid for the client.

**The most unique asset Mesa County has to provide the best outcomes for their clients is the collaborative approach between Adult Protection Services, ARCH, AAA, 211, DHS income maintenance and SEP. They are all collocated in the same building in close proximity of each other, which allows of ongoing communication and strategizing for their clients.**



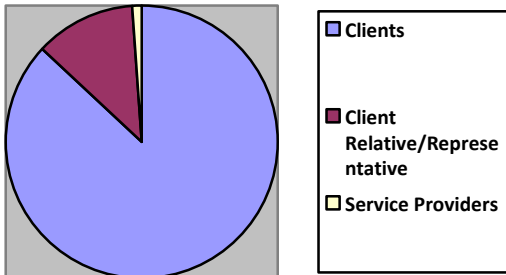


**ARCH Stats for June 2012**  
**June 1, 2012 – June 30, 2012**  
**ARCH Clients serviced by 2-1-1 and ARCH Resource Coordinator**

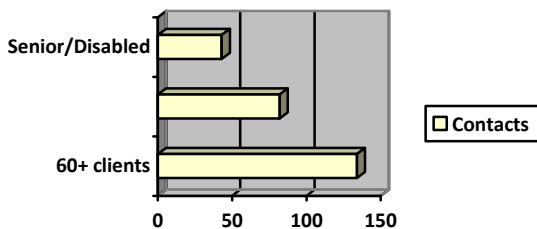
- ARCH had a total of 216 contacts from 161 clients

Month	No. of calls to ARCH (2-1-1, ARCH Resource Coordinator, SEP)
June	216

- Of the contacts made to ARCH
  - 87% were from Clients- 187 total
  - 12% were from Client Relative/Representative - 27 total
  - 1% were from Service Providers - 2 total



- Of the contacts made to ARCH
  - 134 contacts were from clients 60+
  - 82 contacts were from disabled clients (18+)
  - 43 contacts were from clients that are a senior and have a disability



Background and criminal history checks can provide for cost-effective preventative and responsive strategy's to address elder abuse. SB 78 does speak to background checks on page 10, 26-3.1-107. However this language only addresses those employed by a county and in protective services.

**Criminal History Checks as Preventative** – Not hiring an employee who has a history of mistreatment, neglect and exploitation is a sure fire way to reduce risk. Therefore, we recommend that it be mandated that a comprehensive state and federal criminal history check specific to any and all caretakers as defined in 26-3.1-101 (2)(c) *IS PAID TO PROVIDE CARE OR SERVICES TO AN AT-RISK ADULT*. We also recommend that Colorado apply for CMS national background check funding.

**Background Checks as Responsive** – Colorado has multiple non-criminal investigation authorities with subsequent databases in addition to adult protective services. Sadly, none of those investigation authorities coordinate databases or names of alleged or substantiated caretakers as defined in 26-3.101 (2) (c). Therefore, we recommend allowing any criminal or adult protective investigation of any act of mistreatment, neglect and exploitation to upon request have access all relevant Department specific databases to determine if there is a history of allegations or substantiations would be extremely helpful in those types of investigations. Such databases shall include but not be limited to:

The Domestic Violence Center is being developed as a public / private partnership between the domestic violence service providers and the City & County of Denver. The building that will house the Center will be a city-owned building, with a non-profit entity established to coordinate and oversee the services provided within the building. Private dollars will be raised to cover the renovation costs of the building and establish an endowment that will be used to help defray the on-going operating costs of the program. Creation of the Center builds on Denver's long history of collaboration in serving victims and bringing together community agencies and criminal and civil legal system agencies to best serve victims and their children regardless of their choice to report to law enforcement or not.

The Center's mission statement is to improve the lives of domestic violence victims by combining community resources in a single, safe location. Services to be provided on site will include:

- Centralized advocacy and assessment for each victim, providing crisis intervention, risk assessment, safety planning, and linkage with other services.
- Assistance with filing emergency protection orders.
- Screening and assistance with civil remedies, i.e., custody, divorce, housing.
- Individual and group counseling, advocacy for women and their children.
- Intake for emergency shelter.
- Assistance with accessing public benefits.
- Job training seminars and resources to assist with on-going self-sufficiency.
- Non-acute medical care such as follow up treatment for injuries.
- Specialized advocacy for victims who are hearing-impaired or disabled.
- Specialized advocacy for victims with immigration issues.
- Specialized advocacy for victims who are Native American.
- Daily Information & Orientation groups for victims utilizing the criminal legal system to address questions and concerns and link them with other services.
- Referrals and linkage to mental health and substance abuse services.
- Access to counseling and advocacy for children who have witnessed domestic violence.

Currently there are 25 agencies and City departments that have committed to participating either as full- or part-time service providers (eight city departments and 17 community-based agencies).

Rose Andom is our first donor to the Center, contributing one million dollars to kick off our fundraising campaign. While she will be honored and acknowledged for her generous donation, and critically involved in establishing a name for the Center, a final decision about the name of the building and/or program has not yet been determined.

Thanks for this background information, how specifically would you see this applied to at-risk adults and the potential one-stop shop format?

## Douglas County - A Model for Prevention

More information can be found at:

<http://www.douglas.co.us/humanservices/neighbornetwork/index.html>

Douglas County's Neighbor Network Program is a volunteer based program in partnership with Douglas County Human Services and The Castle Rock Senior Center. The program serves our senior citizens and adults with disabilities living here in Douglas County. The concept of the program is "**Neighbors Helping Neighbors**". Volunteers help people stay independent and in their homes as long as safely possible by providing services such as transportation, home care, household upkeep, and companionship.

As a member enters the program, they are interviewed to assess their individual needs. Neighbor Network can then assist in locating resources needed for self-sufficiency. Sometimes that means finding a volunteer to go in once a week to help around the house and offer companionship. Many times it means providing transportation to medical appointments, the grocery store or other errands. Volunteer services also work in cooperation with other agencies' resources to help the receiver maintain maximum independence at a reduced cost.

Most of Neighbor Network clients live alone and do not have the financial resources to pay for transportation or help around the house. The volunteer based program is able to greatly increase that client's quality of life; someone who was lonely now has a friend, someone who was homebound now has a ride, and someone who could not keep up with their house now has help. We take these daily tasks for granted, but when you find that you can no longer do them, it negatively impacts the way you live. For some people it is the difference between staying in their home and having to be placed into assisted living or nursing home care.

Neighbor Network volunteers are trained, supervised and reimbursed for mileage. The Douglas County Sheriff's Department pays for background check and many of their Community Service Volunteers assist with this program. There are over 100 seniors enrolled in the program and over 90 volunteers.

Excerpt from: **Chapter XXVI - Health Facilities Division (HFD) - 6 CCR 1011: Standards for Hospitals and Health Facilities. Regulated by Colorado Department of Public Health and Environment (CDPHE)**

**Section 6. GENERAL REQUIREMENTS FOR ALL LICENSE CATEGORIES**

**6.9 Complaint processing**

(A) The HCA shall develop and implement policies to include the following items:

- (1) Investigation of complaints made by a consumer or others about services or care that is or is not furnished, or about the lack of respect for the consumer's person or property by anyone furnishing services on behalf of the HCA.
- (2) Documentation of the existence, the investigation and the resolution of the complaint. The agency shall notify the complainant of the results of the investigation and the agency's plan to resolve any issue identified.
- (3) Incorporation of the substantiated findings into its quality assurance program in order to evaluate and implement systemic changes where needed.
- (4) Explicit statement that the HCA does not discriminate or retaliate against a consumer for expressing a complaint or multiple complaints.
- (5) Maintenance of a separate record/log/file detailing all activity regarding complaints received, and their investigation and resolution thereof. The record shall be maintained for at least a two (2) year period of time and shall be available for audit and inspection purposes.

**6.10 Agency reporting requirements**

(A) Each HCA shall comply with the occurrence reporting requirements set forth in 6 CCR 1011, Chapter II, section 3.2.

(B) The agency shall investigate each reportable occurrence and institute appropriate measures to prevent similar future occurrences.

- (1) Documentation regarding the investigation, including the appropriate measures to be instituted, shall be made available to the department, upon request.
- (2) A report with the investigation findings shall be available for review by the department within five (5) working days of the occurrence.

(C) Nothing in this section 6.10 shall be construed to limit or modify any statutory or common-law right, privilege, confidentiality or immunity.

(D) An HCA shall notify the department before it initiates discharge of any consumer who requires and desires continuing paid care or services where there are no known transfer arrangements to protect the consumer's health, safety or welfare.

- (1) Emergency discharges necessary to protect the safety and welfare of staff shall be reported to the department within 48 hours of the occurrence.

(E) The home care agency shall ensure that all staff have knowledge of Article 3.1 of Title 26, C.R.S. regarding protective services for at-risk adults, and that all incidents involving neglect, abuse or financial exploitation are reported immediately, through established procedures, to the agency administrator or manager.

- (1) Any home care agency that provides care and/or services to pediatric consumers, shall ensure that all staff have knowledge of Part 3 of Article 3 of Title 19, C.R.S. regarding child abuse or neglect, and that all incidents involving child abuse or neglect are reported immediately, through established procedures, to the agency administrator or manager.
- (2) The agency shall report the incident to the appropriate officials as specified in the statute and, if applicable, to the department as an occurrence. The agency shall make copies of all such reports available to the department upon request.
- (3) The agency shall document that all alleged incidents involving neglect, abuse or health professional misconduct are thoroughly investigated in a timely manner. The agency shall develop and implement a policy that addresses what administrative procedures will be implemented to protect its consumers during the investigation process.

Excerpt from: **Chapter II - Health Facilities Division (HFD) - 6 CCR 1011: General Licensure Standard. Regulated by Colorado Department of Public Health and Environment (CDPHE)**

**3.2 OCCURRENCE REPORTING.** Notwithstanding any other reporting required by state law or regulation, each health care entity licensed pursuant to 25-1.5-103 shall report to the Department the occurrences specified at 25-1-124 (2) C.R.S.

3.2.1 The following occurrences shall be reported to the department in the format required by the Department by the next business day after the occurrence or the health care entity becomes aware of the occurrence:

- (1) Any occurrence that results in the death of a patient or resident of the health care entity and is required to be reported to the coroner pursuant to section 30-10-606, C.R.S., as arising from an unexplained cause or under suspicious circumstances;
- (2) Any occurrence that results in any of the following serious injuries to a patient or resident:
  - (a) Brain or spinal cord injuries;
  - (b) Life-threatening complications of anesthesia or life-threatening transfusion errors or reactions;
  - (c) Second or third degree burns involving twenty percent or more the body surface area of an adult patient or resident or fifteen percent or more of the body surface area of a child patient or resident;
- (3) Any time that a resident or patient of the health care entity cannot be located following a search of the health care entity, the health care entity grounds, and the area surrounding the health care entity and there are circumstances that place the resident's health, safety, or welfare at risk or, regardless of whether such circumstances exist, the patient or resident has been missing for eight hours;
- (4) Any occurrence involving physical, sexual, or verbal abuse of a patient or resident, as described in sections 18-3-202, 18-3-203, 18-3-204, 18-3-206, 18-3-402, 18-3-403, 18-3-404, or 18-3-405, C.R.S., by another patient or resident, an employee of the health care entity or a visitor to the health care entity;
- (5) Any occurrence involving neglect of a patient or resident, as described in section 26-3.1-101 (4)(b) C.R.S.;
- (6) Any occurrence involving misappropriation of a patient's or resident's property. For purposes of this paragraph, "misappropriation of a patient's or resident's property" means a pattern of or deliberately misplacing, exploiting, or wrongfully using, either temporarily or permanently, a patient's or resident's belongings or money without the patient's or resident's consent;
- (7) Any occurrence in which drugs intended for use by patients or residents are diverted to use by other persons; and
- (8) Any occurrence involving the malfunction or intentional or accidental misuse of patient or resident care equipment that occurs during treatment or diagnosis of a patient or resident and that significantly adversely affects or if not averted would have significantly adversely affected a patient or resident of the health care entity.

3.2.2 Any reports submitted shall be strictly confidential in accordance with and pursuant to 25-1-124 (4),(5), and (6) C.R.S.

3.2.3 (not used)

3.2.4 The department may request further oral reports or a written report of the occurrence if it determines a report is necessary for the department's further investigation.

3.2.5 Every health care entity shall have a policy that defines the deaths reportable to the local county coroner under 30-10-606(1), C.R.S. (1977) and that is consistent with the local coroner's reporting policy.

3.2.6 Every health care entity shall have a policy for requiring its employees to report occurrences to it.

3.2.7 No health care entity or officer or employee thereof shall discharge or in any manner discriminate or retaliate against any patient or resident of a health care entity, relative or sponsor thereof, employee of the health care entity, or any other person because such person, relative, legal representative, sponsor, or employee has

made in good faith or is about to make in good faith, a report pursuant to this section 3.2 or has provided in good faith or is about to provide in good faith evidence in any proceeding or investigation relating to any occurrence required to be reported by a health care entity.

3.2.9 The department shall investigate all reports made to it under this part, and make a summary report.

(1) Such report shall include: (a) a summary of finding(s) including the department's conclusion(s); (b) whether any violation of licensing standards was noted or whether a deficiency notice was issued; (c) whether the health care entity acted appropriately in response to the occurrence, and (d) if the investigation was not conducted on site, how the investigation was conducted.

(2) A summary report shall not identify a patient, resident or health care professional.

(3) In response to an inquiry, the department may confirm that it has obtained a report concerning the occurrence and that an investigation is pending.

(4) Prior to releasing a summary report that identifies a health care entity, the department shall notify the health care entity and provide to it a copy of the summary report. The health care entity shall be allowed seven days to review, comment, and verify such information. If immediate release of information is necessary and the department cannot provide at least prior oral notice to the health care entity identified, it shall provide notice as soon as reasonably possible and shall explain why it could not provide prior notice.

3.2.10 Nothing in this part 3 shall be construed to limit or modify any statutory or common law right, privilege, confidentiality or immunity.

3.2.11 Nothing in this part shall affect a person's access to his or her medical record as provided in section 25-1-801, nor shall it affect the right of a family member or any other person to obtain medical record information upon the consent of the patient or his/her authorized representative.

June 2012 DCHS Adult Protection Team Monthly Reports

Report Date Source	Last Name	First Name	Age	Address	Jurisdiction	Safety Concern	At-Risk Category	Mistreatment	Response Priority	Response Date	Disposition	Comments
7/6/12 GVPD			87		DCSO	No	Frail Elderly	Neglect/Self	3 Day	7/9/2012	Open Case	Blaine refused APS services but we were able to work with Dtr for resources - Ger. Care Manager.
7/6/2012 Kaiser			85		PPD	Yes	Dementia	Neglect/Self	3 Day	7/13/2012	Open Case	Worked with family on safety concerns.
7/10/2012 Dtr of Neighbor			92		CRPD	No	Unsure	Neglect/Other	3 Day	7/12/2012	Assessment Only	Provided resources to the family. Son is very involved and supportive of ensuring his mother's safety.
7/10/2012 Bank Fraud Investigator			84		PPD	No	Frail Elderly	Exploitation/Financial	3 Day	7/13/2012	Open Case	Son has POA (when Unette in hospital) was overstepping his rights as POA. Client will NOT press charges.
7/12/2012 DCSO			24		?	Yes	Physical Impairm	Abuse/Self	3 Day	7/18/2012 7/19/2012	Client refused	Offering support for Mother and will bring up to AP Team to see if they have any additional ideas.
7/12/2012 Hospital SW			89		DCSO	Yes	Frail Elderly Possible Dementia	Neglect/Self	3 Day	7/17/12 - Attempt Locked gate - guard dog	Open Case	Saw client on 7/26 after making an appt. Client has PT, OT, and SW from Castle Home Care who feel with their support she is safe at home.
7/13/2012 Friend/Neighbor			?		DCSO	Yes	Frail Elderly Dementia	Neglect/Other	3 Day	8/2/2012	Open Case Assessment Only	Bettie has money, Larry has someone come in a few times a week to bath Bettie and help with house cleaning. He is pretty capable in other areas like cooking etc.
7/13/2012 Drs Office			?		LTPD	Yes	Frail Elderly	Abuse/Emotional not reported as Physical	Immediate	7/13/2012 7/16/2012	Welfare Check by LTPD Open Case	Safety Concerns unfounded by LTPD. APS following up to determine if additional help is needed by either party.
7/16/2012 PPD			83		PPD	Yes	Frail Elderly Dementia	Exploitation/Financial Neglect/Self	3 Day	7/19/12 - Attempt 7/24/12 - Attempt 7/27/12 - Attempt	No Case Opened	Financial handled by POA - new account number and client has not physical access. Still a concern about safety. APS was able to talk with Caregiver who sees her daily and reports she is fine, PPD had no concerns when they visited her, and she is up at th



June 2012 DCHS Adult Protection Team Monthly Reports

Report Date Source	Last Name	First Name	Age	Address	Jurisdiction	Safety Concern	At-Risk Category	Mistreatment	Response Priority	Response Date	Disposition	Comments
7/16/2012 Nursing Home			88		DCSO	Yes	Frail Elderly	Neglect/Other	3 Day	7/16/12-1st atmpmt	Assessment Only	APS talked with family about importance of eyes on supervision, and how to undo a transfer w/o fair consideration that is keeping him from LTC benefits.
7/18/2012 LTCO Case Mngr			21		DCSO	Yes	Developmental Disabilitiy	Abuse/Physical	3 Day	7/19/2012	Assessment Only	Worked with Grandmother and Friend to look at safe housing options. Tressa's Father will be providing care and support for her going forward.
7/18/2012 Self			76		LTPD	Yes	DV	Abuse/Physical	3 Day	7/19/2012	Tried to contact client - playing golf	Still have not been able to contact client - safety concerns, working with DV Advocate
7/19/2012 Dtr			80's		DCSO	No	Frail Elderly	None	I&R	7/20/2012	No Case Opened	Rpt on parents from Kathleen (52 year old who lives in car due to fears of being attacked).
7/20/2012 DCSO			81		DCSO	Yes	Frail Elderly Possible Dementia	Neglect/Self	I&R	7/19/2012	I&R LE located Client and she is now home	Client went missing driving from home to Hospital where husband was. Working with family on support and resources.
7/20/12 Dtr			82		PPD	No	Dementia	Exploitation/Financial	3 Day	7/24/2012	Open Case	Court Case going on, Might be able to help with LTC due to APS Case.
7/25/2012 Bank Fraud Investigator			86		DCSO	No	Frail Elderly	Exploitation/Financial	3 Day		open case	Hoping to get assistance from LE
7/26/12 APS Call			Early 60's		DCSO	Yes	Emotional Impair.	Neglect/Self	3 Day		open case assessment	Sandra iscompetent but emotionally fragile after dealing with a significant decline in her health.
7/30/2012 DCSO			65		DCSO	Yes	Physical Impairment	Abuse/Physical	3 Day	8/2/2012	Open Case Assessment Only	APS went up on Thursday a.m. with Vic. Advocate and Elig Spec.
7/30/2012 Self			58		DCSO	No	Medical Impairment	Exploitation/Financial	I&R	Contact on 7/31/12	I&R	Client called at suggestion of DV advocate - just really wanted resources so APS walked her through the Med and LTC apps.
7/30/12 Neighbor			20		CRPD	No	Possible DD	Neglect/Other Exploitation/Financial	3 Day	7/30/2012 8/1/12	Open Case Assessment Only	Immediate call to CRPD, they indicated he was not a safety concern. APS visited with Allen who is moving on Tuesday 8/7 to Wash State.
7/30/2012 CRPD			64		CRPD	Yes	Dementia	Neglect/Other	Immediate	7/30/2012	APS went out with CRPD	Sat with client until Husband came home, discussed risk issues with him.

**June 2012 DCHS Adult Protection Team Monthly Reports**

Report Date Source	Last Name	First Name	Age	Address	Jurisdiction	Safety Concern	At-Risk Category	Mistreatment	Response Priority	Response Date	Disposition	Comments
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**Open/Ongoing Cases from Previous Months:**

**February**

	Joan	Closed - family involved
	Mildred	Closed - Court appointed nephew as guardian and is supporting all his requests.
	Jean	Closed - discussed with DCHS Attny, nothing more we can do at this point in time
	Chris	Closed - services in place

**March**

	Renee	Closed - Services in place .
	Sonia	
	Mary	Closed - Services in place - LTC continues to work with family to adjust to meet Mary's needs

**April**

	Bonnie	Need permanent order appointing Karen Buchanan as guardian and Tamra Palmer as conservator
	Chester	Closed - Services in place - son has own apt.

**May**

	Billy	Closed - Letter explaining options (care for wife with Dementia)
	Helen	Closed - family providing support - allegations unfounded
	Twila	Closed - Went to Whispering Pines - Alz.
	Janice	Closed - Husband and Dtr providing care, has transportation in place; HCBS in the wings as soon as she can benefit from this
	Joann	Closed - Joann is OK with the status quo. Having her daughter live with her and provide care allows Joann to stay in her home rather than an assisted living.
	Donna	Closed - Assessment only
	Phillip	Closed - Phillip moving to assisted living
	Tamra	Closed - Tamra was seeking legal assistance in Texas where her home is located. Her grandson has moved out.
	Kathleen	Closed - Resources provided - VNA and Neighbor Network

**June**

	Chad Warren	Closed - had parents talk to neighbors
	Grace	
	Margie	
	Dorothy	
	Maria-Teresa	
	Clayton	June - Closed - Client denied needing any help
	Christa	
	Andy	

**July**

	Blaine	
	Betty	
	Wanda	7/27/12 - Closed, unsubstan. Provided additional resources to family including Neighbor Network
	Unetta	8/3/12 - Closed, client took back her accounts, refused to press charges and is considering moving Out of State (currently in Assisted Living)
	Margaret	

**June 2012 DCHS Adult Protection Team Monthly Reports**

Report Date Source	Last Name	First Name	Age	Address	Jurisdiction	Safety Concern	At-Risk Category	Mistreatment	Response Priority	Response Date	Disposition	Comments
	Bettie											
	Nicole											
	Lois											
	Mary											
	Sandra											
	Larry											
	Alan											
	Linda											

8/2/12 - Closed, Assessment Only

**Appendix 20**  
**August 22, 2012 Meeting Materials**

# SB12-78 Elder Abuse Task Force

Wednesday, August 22<sup>nd</sup>, 2012

9:00 am – 1:00 pm

Colorado Counties, Inc.  
800 Grant Street, Suite 500

\*Please note that lunch will not be provided nor will there be a specific break taken for lunch. But please feel free to bring something to eat if you need to.

## I. Introductions (15 mins)

- a. Approval of Minutes (5 mins)

## II. Mandatory Reporting

Continue discussion on the following:

- a. Should we have mandatory reporting?
- b. Statutorily, where should a mandatory reporting statute reside – title 18 (criminal), title 26 (APS) or both?
- c. What areas of behavior should mandatory reporting apply too (i.e. physical abuse, financial exploitation, etc.)
- d. Who should be required to mandatorily report abuse of at-risk adults?
- e. Who should be subject to mandatory reporting (all at-risk, elders, etc)?
  - i. Review proposed reconciliation of criminal and APS definitions (Sub-group)
- f. Should criminal penalties be applied to those who do not report?
- g. Should investigations be mandatory?

## III. Criminal Penalties

Discuss penalties for:

- a. reporters who fail to report (see 'f' above)
- b. perpetrators

## IV. Review of Strategies and Recommendations

- a. Results of EATF matrix review of each recommendation.
- b. Are separate workgroups needed to work through the recommendations on i.) Banking Transactions and ii.) Guardianship?

## V. Public comment

## VI. Future Meetings – Please note the addition of another meeting

September 12<sup>th</sup>: Cost and Workload Impacts and Sustainability

September 26<sup>th</sup>: First draft of final report due

Final Meeting?

CCI Free conference call number: 1-218-862-1300 Pass code: 171009

Reminder: The finance subcommittee will meet at CCI, 800 Grant Street, Suite 500 at 2:00pm.

SB78 Elder Abuse Task Force

Wednesday, August 22<sup>nd</sup>, 2012

9:00am-1:00pm

Meeting convened at 9:00am.

Members Present:

David Blake, Co-Chair-also present George Coddling

Joscelyn Gay, Co-Chair

Vickie Clark, Routt County Dept. of Human Services

Tammy Conover, Attorney at Steenrod, Schwartz, and McMinimee Law Firm

Sterling Harris, Chief Deputy Director of Colorado Organization for Victim Assistance

Dr. Rebecca Paskind, Ph.D. Associate professor at Metro State College- also present, Steve Bender

Heidi Prentup, Commander at Boulder County Sheriff's Department

Mary Catherine Rabbitt, Attorney at the Legal Center for People with Disabilities and Older People

Jerri Schomaker, Owner of Home Instead Senior Care of CO Springs-also present Jon Jennett

Nancy Sharpe, Arapahoe County Commissioner

Scott Storey, District Attorney with the Jefferson County DA's Office- also present, Sean Clifford

Darla Stuart, Executive Director at Arc of Aurora

Amy Nofziger, Director of AARP Foundation

Peggy Rogers, Colorado Department of Human Services

Anne Kerr Meier, Social Worker at Exempla Luthern Hospice-Collier Hospice Center

Arlene Miles, President and CEO of Colorado Health Care Association

Jenifer Waller, Senior Vice President at the Colorado Banker's Association

Re-cap of previous meeting:

Question asked: Should we have mandatory reporters?

Answer: Yes, the APS statute will not be changed; continue to **urge** reporters to report self-neglect under Title 26. Title 18 will be amended to require reports instances of physical abuse, sexual abuse, and financial exploitation for those 70 and older.

Question: Who should be mandatory reporters? The task force is generally leaning towards option two from the last meeting, which maintained the existing list of mandatory reporters but also additionally included physical therapists, clergy (mirroring the language in the child welfare statute-19-3-304(2)(aa) and cross references 13-90-109(1)(c)), EMT's and volunteers.

David Blake, Jerri Schomaker, and Darla Stuart agreed to look at the current statute and list of mandatory reporters further explore whether or not volunteers should be mandatory reporters and if so, what conditions.; and concerns highlighted in the August 17<sup>th</sup> IBC letter.

Option three: Minus the financial institutions, consider recommendations such as guardians.

Joscelyn: Maybe through a separate task force suggested to the Legislature, and then develop a strategy (for financial exploitation).

A financial exploitation subcommittee was also formed consisting of the following members: Scott Storey Tammy Conover, Mary Catherine Rabbitt, Jenifer Waller, Amy Nofziger, and a representative from IBC. This subcommittee will consider financial exploitation itself; mandatory reporters in terms of financial exploitation and the consequences/concerns related to mandatory reporting, whether or not financial institutions should be mandatory reporters

Question: What areas of behavior should be considered, i.e. physical and/or sexual abuse? The task force agrees that physical and sexual abuse, financial exploitation should be subject to mandatory reporting. There is near unanimous agreement to adopt the language developed by Sean, Mary Catherine Rabbitt, Darla, Rebecca and Peg (see attachment A). Jeremy Schupbach with the Alliance agreed to vet this language with his members.

Age: Who should mandatory reporting apply to? This is captured in the definition (see attachment A). Definition agreed upon: Mandatory reporting should apply to all at-risk adult, 18+ but we may need to limit population to 70. August 8<sup>th</sup> minutes were approved as amended.

#### Criminal Penalties

Peg: You will need to consider the penalties for both unintended and intended care-taker neglect.

Scott: Culpable mental state needs to be considered; care-takers can be negligent but not malicious; but mandatory reporters should be able to differentiate between these.

Things to consider when determining mandatory reporting:

1. Should mandatory reporters face penalties for not reporting?
2. What changes should take place in the criminal code to make prosecuting easier?

Nancy: What about good faith immunity? How will that play into criminal prosecution

Scott: If someone reports but is mistaken in their facts they will not be penalized. However, if someone maliciously/falsely reports, that's not considered to be in good faith and therefore is willful.

Nancy: We should be sure to make a statement about good faith immunity in our report in regards to false reporting.

Statute as it stands now:

Proposal: Mandatory reporting for 70+ will be subject to a misdemeanor three for failure to report.

Jenifer: If you create a blanket policy like this, I can assure you that the Banker's Association will be opposed to it. You need a good faith immunity clause.

Arlene: I'm concerned that under the criminal code, caregivers will run the risk of liability, which will de-incentivize people to become and/or apply as CNA's, etc. For the most part, penalties should be administered through the civil code. For those who willfully do not report, criminal code should be applied. A monetary penalty (with range) should be associated with those who fail to report. Those who routinely fail to report should be subject to criminal penalties.

Scott: In cases of child abuse under CRS 19-3-304(4)(a) reporting is mandated. If someone fails to report, they could possibly face a class three misdemeanor (M3). The judge makes the determination as to whether or not jail time or a fine is assessed. It is pretty extraordinary that you'd have a jail sentence. DA's support and want a penalty that mirrors the Child Protection statutes.

David: Policy concerns are an ongoing and classic law enforcement debate. A simple fine is inadequate in egregious situations. You want to have a way of going after people, with jail. Also, this mirrors child welfare statute. If there isn't a criminal penalty (and only a fine) these offenses will be de-prioritized from a prosecution's standpoint.

Categories of penalties:

Class 3 misdemeanor (18-1.3-501): Fines: \$50-750. Jail time: 6 months

Class 1 Petty Offense (18-1.3-503): Fines no more than \$500. Jail time: no more than 6 months

Class 2 Petty Offense (18-1.3-503): A fine specified in the section defining the offense. No jail time

The task force considered and voted on the following proposals:

Proposal #1: M3 for failure to report

Proposal #2: Petty offense for the first offense. Harsher penalties (perhaps with a jail component) multiple occurrences of not reporting.

Proposal #3: Investigations made mandatory (all task members voted against this)

Minority vote: Arlene and Darla.

Currently, APS statute (CRS 26-3.1-102 (4)) includes a penalty for false reporting and is an M3. There is no penalty for not reporting since current statute urges reports and doesn't require it.

Should investigations be mandatory?

Currently, law enforcement has the discretion to decide whether or not to investigate a report that comes in.

Many around the table thought that it would be arrogant of law enforcement to say [we] don't have to investigate if we're also saying have to report.

Proposal #1: Leave as is: law enforcement will determine whether or not they need or want to investigate.

Proposal #2: A small group (Darla, Heidi, Sterling and Peg) will work to consider language and assessment of reports and investigations/statutory change: require law enforcement to take calls and investigate.

David: I don't support mandatory investigation. I want to empower, this will not do that. Also, there are limited resources in counties to support something like this and will in turn, trigger a fiscal note.



Ultimately, it was decided that proposal #2 was the best direction for now. This group will report back on 9/12/12.

Defer discussion on recommendations to next meeting, which will include a modified matrix.

Next Meetings:

September 12 and September 26 at CCI (800 Grant Street, Suite 500)

Meeting adjourned: 1:00pm



1900 Grant Street / Suite 1120 / Denver, CO 80203  
P 303.832.2000 / F 303.832.2040  
[www.ibcbanks.org](http://www.ibcbanks.org)

Barbara Walker, Executive Director  
bwalker@ibcbanks.org

August 17, 2012

Colorado Department of Human Services  
Elder Abuse Task Force  
1525 Sherman St., 7th Floor  
Denver, CO 80203

Re: SB 78 Elder Abuse Task Force: Strategies and Recommendations

Dear Sirs and Mesdames:

The Independent Bankers of Colorado (“IBC”) is a non-profit trade organization exclusively representing the interests of Colorado’s community banking industry throughout the state. IBC member community banks fully support efforts to provide reasonable protection to at-risk adults, but wish to bring to your attention some concerns we have with your recommendations:

1. In implementing the requirements of CRS 6-21-103 to make consent forms available to customers who wish to allow financial institutions to provide financial information to appropriate authorities in connection with suspected exploitation, our members report that many customers, especially those 60 years of age and older, have expressed extreme opposition to being asked to give those institutions that sort of power. Many customers seem to believe that financial institutions and state agencies are attempting to gain unfair control over sensitive private financial information and have returned the forms with various sorts of written comments ranging from simple displeasure to profane suggestions of what the institution should do with these forms. The vast majority of customers simply do not reply to their bank sending the form to them. Not one bank IBC surveyed has received a completed consent form, as you note in the captioned document. We anticipate that as long as “at-risk adult” continues to include *everyone* who reaches the age of 60, or even 70, you can expect strong opposition from elder support groups for any procedures making it easier for state agencies to access their members’ financial information, as has occurred in the past. You may also remember, in years past when legislation was introduced to protect at risk adults from financial exploitation, testimony from the disabled community who were strongly opposed to an assumption in law that anyone with a disability should be considered to be an at risk adult. They found such scrutiny by their financial institution to be offensive and an invasion of their *personal* as well as financial privacy.

2. As we have repeatedly expressed in the past, our biggest concern is the effect mandatory reporting will have on financial institutions. Unless a provision is included which gives those institutions immunity from claims based on a failure to report as well as from those based on reporting suspected

August 17, 2012

Page 2

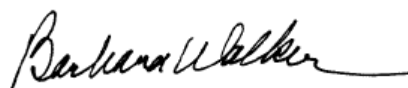
abuse, as now exists, these entities will be compelled to report any possible situation which someone might later argue constituted signs of exploitation. It would be unfair to place financial institutions into a position where they could expect to be sued in virtually every case of financial exploitation based on a theory that some teller should have recognized what was occurring and reported it. We will strongly oppose any mandatory reporting requirement unless an appropriate immunity provision is included which protects our members for good faith failure to report as well as good faith reporting. We believe that similar opposition can be expected from all groups subject to mandatory reporting. In addition, since lack of such a provision will necessarily mean that reports of suspected exploitation will be greatly increased, this would place greater burdens on investigating agencies and courts in dealing with these reports and will likely engender greater opposition from elder support groups and persons with disabilities support groups seeking to protect their members from unnecessary examinations of their members' financial affairs.

3. The captioned document also recommends exploring methods to permit investigating agencies to reach financial records without legal process. While we believe it may be possible to do this without placing undue risk on financial institutions for claims of privacy right violations, we think it is important to note that any such provision will need to be drafted in a manner that takes into account privacy rights under federal law, particularly Federal Reserve Regulation P, as well as the state privacy laws specifically referenced in your report. In addition, we are concerned about the additional time and cost to financial institutions which such a procedure might entail, especially for small banks. We also think it is important that you consider the opposition this might create from elder support groups and persons with disabilities support groups if agencies are permitted routine access to financial information for all those over 60 or 70 years of age, as well as the disabled community, based on nothing more than an unsubstantiated claim or concern of exploitation.

Thank you for considering these comments.

Very truly yours,

**The Independent Bankers of Colorado**

A handwritten signature in cursive script, appearing to read "Barbara Walker".

Barbara Walker, Executive Director

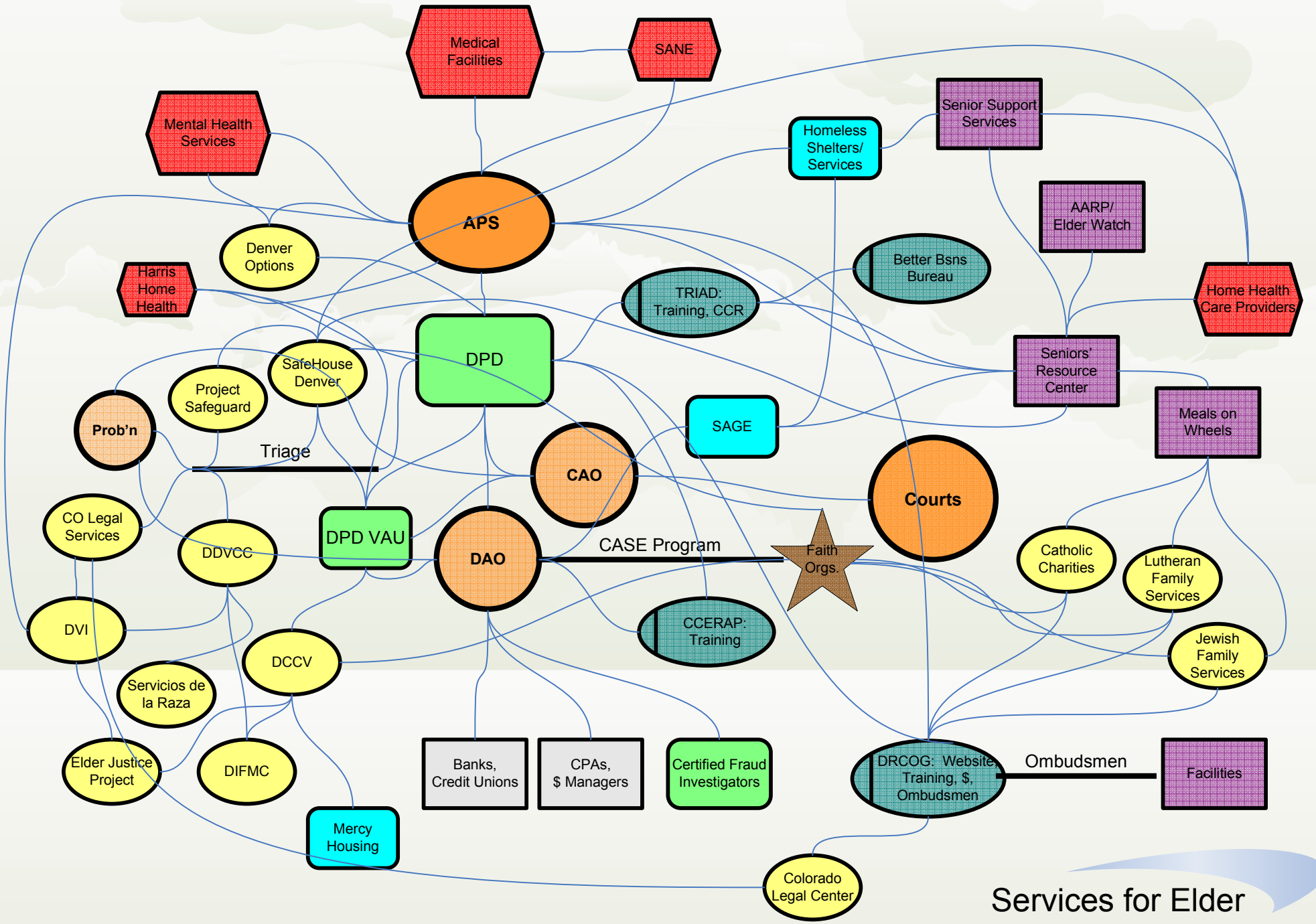
Recommended Language Related to Age and Mandatory Reporting Requirements  
Developed by sub-group of: Sean Clifford, Mary Catherine Rabbitt, Darla Stuart,  
Rebecca Paskind, and Peggy Rogers

We, the committee, believe that elders age seventy and above are the most vulnerable and in need of the protections that mandatory reporting would provide. In addition, we strongly recommend that the legislature seriously consider providing the protections of mandatory reporting to those individuals over the age of eighteen who are disabled, as set forth in 18-6.5-102(3), when that disability causes the individual increased susceptibility to becoming a victim of a crime, as outlined in 18-6.5-103, because the disability impacts the individual's ability to perform activities necessary for his or her health, safety, or welfare, or causes the individual to lack sufficient understanding or capacity to make or communicate decisions concerning his or her person or affairs.

	A	B	C	D	E	F	G	H	I
1	RECOMMENDATION	DESCRIPTION	OUTCOME DESIRED	EFFECTIVENESS:	COST TO IMPLEMENT				
2				Results in positive outcome for at-risk adults (Scale 1-5)	Training	Service Provision	Staff	Other	Other Revenue?
3					1- State Cost				
4					2- County Cost				
5					3- Law Enforcement Cost				
6	<b>1. Education and Training</b>	1. Training budget for APS							
7		2. Public service announcements and media campaigns							
8		3. Law enforcement training - P.O.S.T.							
9	<b>2. Coordinated Intervention and Resources</b>	1. Use County Adult Protective Services Teams to leverage resources to meet the needs of vulnerable adults.							
10		2. Examine other existing models (such as those in the domestic violence field) to see if they could be applied to APS.							
11		3. Look at the Child Protection System for ideas that could be re-modeled for APS.							
12		4. Encourage communities to incorporate safety planning to help at risk adults maintain self-sufficiency.							
13		5. Implement basic and fundamental services and resources as a part of the implementation of mandatory reporting.							
14		6. A change in the statute to allow specially trained personnel (such as APS staff or other Lincensed Clinical Social Workers) to conduct in-home capacity evaluations.							
15		7. Authorize and fund the addition of 5-6 FTE to be based regionally throughout the state to conduct capacity evaluations during home visits with APS and law enforcement.							
16		8. Authorize an apporpriation that can be drawn down by counties to secure capacity evaluations for APS clients from a regionally-based pool of experts.							
17		9. Authorize an apporpriation that can be drawn down by counties to secure medical evaluations for APS clients from a regionally-based pool of experts.							
18		10. Authorize and fund the addition of 5-6 local law enforcement FTE to act as liaisons between APS and local law enforcement agencies to assist with investigation and prosecution of crimes against at-risk adults.							

	A	B	C	D	E	F	G	H	I
1	RECOMMENDATION	DESCRIPTION	OUTCOME DESIRED	EFFECTIVENESS:	COST TO IMPLEMENT				
2				Results in positive outcome for at-risk adults (Scale 1-5)	Training	Service Provision	Staff	Other	Other Revenue?
3					1- State Cost				
4					2- County Cost				
5					3- Law Enforcement Cost				
19		11. Authorize an appropriation that can be drawn down by local law enforcement agencies and/or county APS programs to secure consultative assistance for investigations from state experts.							
20		12. Authorize an appropriation that can be drawn down by counties to secure forensic accounting services from a regionally-based pool of experts.							
21		13. Authorize an appropriation that can be drawn down by counties to secure emergency services for clients.							
22		14. Regional APS resource centers could help address the needs of smaller communities that cannot rely on economics of scale to afford resources available to larger counties.							
23		15. Appoint a separate task force to pursue options and recommendations for implementing a public guardianship program in Colorado.							
24	<b>3. Banking Transactions</b>	1. Evaluate barriers to law enforcement obtaining customer banking information.							
25		2. Liberalize the process for law enforcement to obtain banking information.							
26		3. Remove formal legal process for law enforcement to obtain information.							
27		4. Consider eliminating prior consent laws so financial institutions can hold/ delay transactions in known/ suspected financial exploitation.							
28	<b>4. State Department Prioritization of Protecting At Risk Adults</b>	1. Fiscally neutral ways to prioritize at-risk cases. (David Blake is to populate)							
29	<b>5. Guardianship</b>	1. Examine guardianship/ conservatorship related to mandatory reporting and rep. Payee.							

	A	B	C	D	E	F	G	H	I
1	RECOMMENDATION	DESCRIPTION	OUTCOME DESIRED	EFFECTIVENESS:	COST TO IMPLEMENT				
2				Results in positive outcome for at-risk adults (Scale 1-5)	Training	Service Provision	Staff	Other	Other Revenue?
3					1- State Cost				
4					2- County Cost				
5					3- Law Enforcement Cost				
30	<b>6. Data System</b>	1. APS needs a data system (separate from CBMS) to track trends in client needs, identify strategies to reduce risk, and increase the amount of time caseworkers are in the field assisting clients.							
31	<b>7. Background Checks for Caretakers</b>	1. Mandate comprehensive state and federal criminal history checks for all caretakers.							
32		2. Apply for CMS national background check funding to help cover costs of the mandate.							
33		3. Allow all investigators of mistreatment, neglect, and exploitation of at risk adults to have access to all relevant department specific databases to determine any histories or allegations or substantiations.							
34									
35									
36									
37									



# Services for Elder Victims In Denver



# Undue Influence and Financial Capacity: A Clinical Perspective

Older adults are particularly susceptible to undue influence—the exploitation of the weak, typically for the financial gain of the strong.

As many of those who work frequently with older adults know, cases of undue influence abound. In such instances, typically a second party (the “influencer”) coerces the elder to act in a manner that is not in their best interest, taking advantage of the elder’s vulnerabilities, typically for financial gain. Although there have been cases of such influence that include ends other than financial gain (i.e., sexual abuse), the focus of this article is to provide a clinical framework for understanding the dynamic of undue influence (UI), and to present case examples illustrating aspects of the problem. These cases often involve a gray area that may or may not include issues of financial capacity, cognitive impairment, dependency, and complicated family dynamics.

## Constructs of Undue Influence: A Short History

Undue influence is a legal construct defined differently by the courts dependent upon jurisdiction (Peisah et al., 2009). Definitions typically require some combination of the following elements (Peisah et al., 2009; Spar and Garb, 1992):

- there is a confidential relationship;
- there are factors that increase the susceptibility of the elder (physical dependence, depression, cognitive impairment, etc.);
- there is a power differential resulting in susceptibility to coercion; and
- the coercion results in suspicious financial or testamentary decisions (i.e., not proportionate to services provided).

Theoretical frameworks have included work from social psychology, work with cult members (Singer, 1993), and work on domestic violence (Cialdini, 2008; Singer, 1993; American Bar Association Commission on Law and Aging/the American Psychological Association, 2008). These theoretical accounts share the element of a power differential between the alleged influencer and the older adult.

Despite the rich theoretical and historical work done elucidating the construct of undue influence, empirical data to support these conceptual models have lagged. However, Quinn and colleagues recently completed a study examining definitions and applications of UI in California’s probate courts and based on the observation that UI, while used, is not clearly

## Undue Influence: A Closer Look

Undue influence refers to a coercive dynamic between two individuals that involves unfair persuasion. More formally, an authoritative legal source defines UI as follows: “Undue influence is unfair persuasion of a party who is under the domination of the person exercising the persuasion or who by virtue of the relation between them is justified in assuming that that person will not act in a manner inconsistent with his welfare (Restatement of Contracts, 1981).

defined (Quinn et al., 2010). The report reviewed definitions of UI in all fifty states. To obtain data, the authors conducted a chart review of twenty-five cases in San Francisco Superior Court, with each case being selected because probate court investigators or researchers had determined it had elements of UI.

### *Alleged abusers were noted to be friends, neighbors, family members, or scam artists.*

The preliminary data from the Quinn study (2010) described a population, half of which was male and half female, less likely to be married, more likely to live in some sort of living facility versus in independent homes, cognitively impaired, and frequently experiencing multiple other impairments in such areas as executive functioning, judgment, and insight. Alleged abusers were noted to be friends, neighbors, family members, or scam artists (25 percent). In this small sample there were no cases of people in authority (a party acting in a fiduciary capacity, for example) accused of abuse.

In summary, although, conceptually, undue influence and cognitive impairment are independent constructs, at least in this preliminary sample, cognitive impairment was ubiquitous, underlying the commonsense belief that it is easier to influence individuals who are not

mentally intact (Spar and Garb, 1992). More research on UI is needed to more fully characterize the older adults who have fallen victim to this type of exploitation.

### Clinical Models of Undue Influence

Various clinical models, all with considerable overlap, have been put forth to help clinicians provide a framework for considering undue influence and to build a legal case regarding its presence (American Bar Association Commission on Law and Aging/American Psychological Association, 2008; Blum, 2005; Shulman et al., 2007; Shulman et al., 2009; Singer, 1993; Spar and Garb, 1992). To discuss them all is beyond the scope of this article, but for illustration purposes, three models are described here.

#### The IDEAL model

Psychiatrist Bennett Blum, M.D., created a model emphasizing the social conditions prevalent in cases of alleged undue influence. Blum’s IDEAL model is organized around five categories: isolation from family and friends, dependency on the perpetrator, emotional manipulation of the victim, acquiescence of the victim because of previous factors, and financial loss (Blum, 2005).

#### The SCAM model

The SCAM model, developed by Susan I. Bernatz, Ph.D., has four domains of undue influence: susceptibility factors of the victim, the presence of a confidential and trusting relationship between the victim and perpetrator, initiation (active procurement) of financial transactions by the perpetrator, and monetary loss of the victim (American Bar Association Commission on Law and Aging/American Psychological Association, 2008).

#### The IPA analysis framework

More recently, The International Psychogeriatrics Association (IPA) formed a task force on

Testamentary Capacity and Undue Influence. This series of papers reviews international law and presents commonalities among legal definitions of undue influence (Shulman et al., 2007;

### ***Although Mr. J was described as mentally sound, changes in his financial management skills had been reported.***

Shulman et al., 2009). Specifically, the IPA subcommittee noted several red flags in cases of suspected UI: social or environmental risk factors, psychological and physical risk factors, and legal risk factors.

In the area of social or environmental risk factors, the authors note examples such as social isolation, family conflict, and dependency, especially if there has been some change in circumstances. In terms of psychological or physical risk factors, physical disability, substance use, cognitive impairment, and mental illness are listed as factors that increase susceptibility to undue influence. Regarding legal risk factors, the authors discuss the importance of noting unnatural provisions in a will or evidence of active procurement. This model has considerable overlap with the other clinical frameworks of UI mentioned earlier. However, it may provide another useful framework to help clinicians organize data and court case presentation. To illustrate, the next sections present two case studies on undue influence, employing the IPA conceptual framework.

#### **Case Study 1: The Aged Testator**

Mr. J, eighty-eight years of age and a widower, had approached his longtime attorney to make changes in his estate planning and will. At the time, his grandson was living in Mr. J's home, assisting with some of his care, and attending college. Mr. J had four adult children and six grandchildren. A previous will had split his estate equally among his children, with no specific mention of grandchildren. Now he

wanted to change his will to leave his current home to his grandson, and to provide funds to pay for his grandson's tuition. The estate attorney requested an evaluation of capacity and susceptibility to undue influence based upon the client's age and the increased possibility of litigation given the shift from past dispositions.

In the case of Mr. J, a superficial examination of the facts reveals a number of risk factors that should be evaluated for the potential of UI.

#### **Social or environmental risk factors**

The first element of the IPA model is social or environmental conditions that increase risk. Mr. J had become a widower within the past two years, following a long and happy marriage. Further, the alleged influencer (the grandson) was living with him and providing some care, suggesting dependency, increasing his risk of influence. Also, although Mr. J could still drive, a back injury kept him home more often than in the past, curtailing his social life and making it difficult for him to fix meals and clean his home.

#### **Psychological risk factors**

Mr. J was reported to be mentally sound, but he had made questionable business decisions in the past year. He had augmented his retirement funds with income from four rental properties, purchased twenty years earlier. However, he had heavily leveraged two of them, and with changing market conditions and unfilled units, he was at risk of losing the buildings.

At the attorney's request an assessment was made, including a clinical interview, neuropsychological testing, collateral interviews, and a home visit. Although Mr. J was described as mentally sound, changes in financial management skills had been reported. Impairments in financial capacity are known to be early symptoms of Alzheimer's Disease (Marson et al., 2000).

Mr. J tested well on neuropsychological testing, with mild declines in the area of executive

functioning. There was no evidence of depression on a depression-screening instrument.

When asked about his arrangement with his grandson, he reported that he enjoyed the company and needed the assistance of his grandson around the house since his wife had died. He reported that he provided room and board, and that his grandson assisted with up to twenty hours of care per week. He reported that two of his adult daughters also visited him weekly and helped with meal preparation. Mr. J remained active in his church and attended several group meetings weekly.

### Legal risk factors

In terms of legal risk factors, the change from an equitable distribution to a will that favored one grandchild over others was somewhat “unnatural” and certainly a shift from the wishes of his wife when she was living.

When asked about his decision to change his will, Mr. J noted that his wife had been an educator, and that through less formal mechanisms they had supported the other children and grandchildren through college. Mr. J noted that in that way, the other children had already benefited financially, and that his current choices were “fair.” When asked about the potential loss of his investment properties, Mr. J was able to articulate how the current market conditions had impacted him personally and noted that he retained three properties that were unencumbered.

### Case Study 1 Summary

In summary, although risk factors for undue influence were present, it was the evaluator’s opinion that Mr. J was not being unduly influenced in his decision making. He was not isolated from other family members, he was making changes that reflected long-term values (education), and his potential loss of two investment properties was related to broad market values impacting the state as a whole. The evaluator

recommended that Mr. J consider consulting with a financial planner to assist him with his complex investment portfolio, as there was evidence of mild deficits in executive functioning.

### Case Study 2: The New Friend of an Elderly Lady

Ms. K, a seventy-seven-year-old woman, developed a relationship with a contractor after she discovered they shared a passion for aviation. The contractor had been living in a garage apartment while completing work on the main home. After about two months, he moved into the main home and developed a close friendship with Ms. K. She gave him permission to use her private plane housed at a nearby airport. Neighbors reported that Ms. K had been less social, and reluctant to talk about her new friend. They indicated that she had also demonstrated changes in her habits—which included purchasing new furnishings and a car—when she had been noted to be very frugal in times past.

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### *In the case of Ms. K, several suspicious facts provide a rationale for a retrospective assessment of capacity and undue influence.*

Ms. K was divorced and had no children. Her sister was still living, and their relationship was civil but not close. After about six months, Ms. K fell and was hospitalized for a broken hip. Her friend, the contractor, visited her at the hospital with some legal documents, including a power of attorney and a quitclaim deed. Following her hospitalization, he had her moved to an assisted living facility on the far side of the community; he moved into her main home and continued to use her plane. After her death a few months later, her revised estate plans came to light, leaving everything to the new friend. Her sister contested the new will, raising concerns of undue influence.

In the case of Ms. K, several suspicious facts provide a rationale for a retrospective assess-

ment of capacity and undue influence. Unlike the case of Mr. J, it is not possible to complete an in-person interview. Instead, record reviews (legal, medical, financial, e-mail, cell phone) and collateral interviews (neighbors, friends, family members) must be drawn upon for the assessment. Although the approach is different in a retrospective assessment, that is, one that occurs after the death of the alleged influenced person, one can use the same framework for data collection and presentation.

#### Environmental or social risk factors

There was evidence of family conflict (no close family members) and an increase in dependency. Ms. K had friends in her community, especially other pilots, and was noted by several collaterals to have become less social and more isolated after her relationship with the contractor had started. Most of her friends suspected that the relationship was romantic, but they were not certain. Other collaterals reported that the contractor continued to be involved with another younger woman throughout his relationship with Ms. K, without her knowledge. The interviews described Ms. K as increasingly infatuated with the contractor and willing to capitulate to his desires for nicer furnishings and a new car. These behaviors were described in sharp contrast to a frugal woman whose only luxury was her plane.

#### Psychological risk factors

Medical records noted some risk factors for cognitive impairment (hypertension), and admission records at the hospital described her mental status on the Mini-Mental Status Exam (24/30), as being consistent with some mild cognitive impairment, especially in the area of memory. Prior to her hospitalization, she was reported to have become increasingly dependent upon her tenant for assistance around the house secondary to those changes. But at the same time, she was described as lucid by neighbors.

After her admission to the assisted living facility, Ms. K attempted to leave against medical advice, and a psychologist was asked to complete an assessment of her cognitive functioning and mood. The report indicated that although Ms. K presented well, there were notable impairments in the areas of executive functioning, judgment, and insight. Furthermore, Ms. K reported that she would only be staying at the facility until her friend returned from a business trip in about a month. She was unaware that he remained in the community, living in her home, with access to her financial resources.

#### Legal risk factors

The time of the change in estate planning when Ms. K was hospitalized and her lack of awareness of the implications support a finding of undue influence. A review of financial records indicated that the contractor had been using her ATM to withdraw as much cash as possible, beginning when she was hospitalized, and there was no indication that he was employed. Ms. K contacted an attorney to discuss her situation, but never followed up because her health declined further, and she eventually died due to the effects of a stroke.

### Case Study 2 Summary


Ms. K presented with increased environmental, psychological, and legal risk factors that supported a finding of undue influence. Mild cognitive impairment, physical disability, declining health, and social isolation increased her susceptibility to UI. The unnatural aspects of her estate planning, the evidence of active procurement, and the timing of these events further support a finding of UI. In this matter, a settlement was reached that favored her sister and the case did not go to trial.

### Summary

Undue influence refers to a dynamic between two individuals in which the weaker individual is exploited, often financially. In work with

older adults, UI is most frequently discussed in terms of testamentary capacity, but can occur with other financial transactions as well.

Undue influence is a separate construct from financial or testamentary capacity. A number of clinical frameworks have been put forth to help with assessing and presenting data in these cases. Evidence of factors that may increase dependency (physical, psychological, cognitive), the presence of an uneven personal relationship, and evidence of unusual transac-

tions may serve as red flags to potential cases involving undue influence. 

Stacey Wood, Ph.D., is an associate professor and Chair of Psychology at Scripps College in Claremont, California, and a licensed neuropsychologist with research and practice in the area of elder financial mistreatment. Pi-Ju (Marian) Liu, M.A., is a doctoral student at Claremont Graduate University, and is the winner of the 2011 ASA Graduate Student Research Award.

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## **Appendix 21**

### **September 12, 2012 Meeting Materials**



# SB12-78 Elder Abuse Task Force

Wednesday, September 12<sup>th</sup>, 2012

9:00 am – 1:00 pm

Colorado Counties, Inc.  
800 Grant Street, Suite 500

\*Please note that lunch will not be provided nor will there be a specific break taken for lunch. But please feel free to bring something to eat if you need to.

## I. Introductions (15 mins)

- a. Approval of Minutes (5 mins)

*This includes amended minutes from August 8<sup>th</sup> meeting*

## II. Mandatory Reporting

- a. Should we have mandatory reporting?

*Decision: There is unanimous consensus that at-risk adults are in need of the same level of protection as abused and neglected children. The State needs to commit adequate resources to allow for a sustainable APS system.*

- b. Statutorily, where should a mandatory reporting statute reside – title 18 (criminal), title 26 (APS) or both?

*Decision: Amendment should be made to Title 18; Title 26 should remain unchanged.*

- c. What areas of behavior should mandatory reporting apply too (i.e. physical abuse, financial exploitation, etc.)

*Decision: Pending; waiting for report from Financial Institutions Subcommittee.*

- d. Who should be required to mandatorily report abuse of at-risk adults?

*Decision: Partial decision made: Existing statutory list PLUS, physical therapists, EMT's*

*Decision Pending: Clergy and volunteers. Waiting for report from Mandatory Reporters-Clergy and Volunteers Subcommittee.*

- e. Who should be subject to mandatory reporting (all at-risk, elders, etc)?

*Decision: Ideally, mandatory reporting should be applied to those at-risk adults who are 18+, but due to limited resources, priority should be given to those 70+.*

- f. Should criminal penalties be applied to those who do not report?

*Decision: The majority of the group believes that a misdemeanor three for those who fail to report is appropriate. Additionally, a "Good Faith" Immunity Clause is imperative.*

- g. Should investigations be mandatory?

*Decision Pending: Waiting for a report from the Mandatory Investigation Subcommittee.*



**III. Report from the Financial Institutions Subcommittee**

**IV. Report from the Mandatory Reporters-Clergy and Volunteers Subcommittee**

**V. Report from the Mandatory Investigation Subcommittee**

Continue discussion on the following:

**VI. Review of DRAFT Strategies and Recommendations Document**

a. Review Results of EATF Matrix (for each recommendation)

**VII. Public Comment**

**VIII. Future Meetings**

a. September 26<sup>th</sup> –Final Draft Report Due

**CCI Free conference call number: 1-218-862-1300 Pass code: 171009**

**Reminder: The finance subcommittee will meet at CCI, 800 Grant Street, Suite 500 at 2:00pm.**

SB78 Elder Abuse Task Force  
Wednesday, September 12<sup>th</sup>, 2012

9:15am-12:50pm

AMENDED

Members Present:

David Blake, Co-Chair-also present George Coddling

Joscelyn Gay, Co-Chair

Vickie Clark, Routt County Dept. of Human Services-represented by Valerie Brooks

Tammy Conover, Attorney at Steenrod, Schwartz, and McMinimee Law Firm

Absent: Sterling Harris, Chief Deputy Director of Colorado Organization for Victim Assistance

Dr. Rebecca Paskind, Ph.D. Associate professor at Metro State College- represented by Renee Riviera

Heidi Prentup, Commander at Boulder County Sheriff's Department

Mary Catherine Rabbitt, Attorney at the Legal Center for People with Disabilities and Older People

Jerri Schomaker, Owner of Home Instead Senior Care of CO Springs

Nancy Sharpe, Arapahoe County Commissioner

Scott Storey, District Attorney with the Jefferson County DA's Office- also present, Sean Clifford, Candace Black (soon to be replacing Sean Clifford)

Darla Stuart, Executive Director at Arc of Aurora

Amy Nofziger, Director of AARP Foundation

Peggy Rogers, Colorado Department of Human Services

Anne Kerr Meier, Social Worker at Exempla Luthern Hospice-Collier Hospice Center

Arlene Miles, President and CEO of Colorado Health Care Association-represented by Natalie Kiomp

Jenifer Waller, Senior Vice President at the Colorado Banker's Association

Also present:

Eddie Busam

Juanita Rios-Johnston

Howard Paul-Emergency Medical Association

Meeting convened 9:15am

Approved Amended minutes from the August 8<sup>th</sup> – moved by Mary Catherine and seconded by Nancy.  
Approved minutes for the August 22<sup>nd</sup> – moved by Mary Catherine and seconded by Amy.

Information for following meeting: an official vote for all recommendations will be taken to reflect all perspectives and capture any dissenting opinions if necessary. Please be sure to attend this meeting and/or have your proxy attend.

## II. Mandatory Reporting

- a. Should we have mandatory reporting?  
A distinct “yes” will need to be added to mandatory reporting language.

Original language “There is unanimous consensus that at-risk adults are in need of the same level of protection as abused and neglected children. The State needs to commit adequate resources to allow for a sustainable APS system.”

Mary Catherine: I don’t remember agreeing on the language of same protection for at-risk adults as children.

Joscelyn: We can amend the language to say, ‘similar protection’.

Peg: You want to prepare for the simultaneous influx of money, and reflect this in your language. Maybe modify *needs* with *must*.

The following changes were made (to the last statement): “The State ~~needs~~ **must** to commit adequate resources to allow for a sustainable APS system **at the time of implementation of mandatory reporting**.”

- b. Statutorily, where should mandatory reporting reside Title 18 (criminal) or Title 26 (APS) or both?  
Language will need to be added describing why the group has decided to have the amended language reside in Title 18 and leave Title 26 unchanged. **Gini and Brandy will add this language and clarify further.**
- c. What areas of behavior should mandatory reporting apply to?

Sean: Mandatory reporting of course is good, but if it isn’t protective for financial institutes under both civil and criminal code, financial institutions will have a large concern about the liability associated with mandatory reporting. A negligent standard and reasonable cause will have to be added. We as a subcommittee have also agreed that consent forms will need to be repealed (CRS 6-21-103).

Jenifer: We (financial institutions) will need to see the draft language on these changes.

**Scott will get formal language to the task force.**

- d. Who should be required to mandatorily report abuse of at-risk adults? The existing list PLUS physical therapists and EMT’s with the pending decision of clergy and volunteers.

Jerri: Have we considered the process for mandatory reporting for those who are already licensed, like caretakers?

The following decisions were made: the term *urged* will be used in the APS statute. *Required* will be used under the criminal code and for physical and sexual abuse, CARETAKER NEGLECT, and financial exploitation. Discussion also focused around the fact that clergy should be mandatory reporters when operating in an unofficial capacity (i.e. providing drug counseling, etc.) At any other time, clergy should not be required to report any suspected abuse (i.e. confessionals, etc.). Ultimately, the group decided to

include clergy in the same manner (and with the same guardrails) as they are included in the Children's Code (CRS 19-3-304(2)(aa)).

The subcommittee however, could not come to a consensus as to whether or not volunteers should be mandatory reporters. Co-chair David Blake drafted two options defining volunteers as mandatory reporter:

Option 2 – (XXXX) Volunteers. Uncompensated volunteers, including unpaid caregivers of any person or entity are urged to report pursuant to (XX). Further, although volunteers are not mandated reporters, they are encouraged to obtain training in the identification and reporting a child abuse and neglect and are further encouraged to report known or suspected instances of child abuse or neglect.

Option 1 – (XXXX) Volunteers. Uncompensated volunteers of any organization required to be registered with the Secretary of State and whose mission is entirely or in part to assist the elderly population or through the course of regular business interacts often with the elderly are required to report pursuant to (XX) above [who has observed the mistreatment, self-neglect, or exploitation of an at-risk elderly adult who has reasonable cause to believe that an at-risk adult has been mistreated, is self-neglected, or has been exploited and is at imminent risk of mistreatment, self-neglect, or exploitation (this would be consistent with new language)] shall notify a non-volunteer person or employee with supervision of the volunteer and the person so notified shall report or cause a report to be made. A volunteer who makes a report to the person designated pursuant to this paragraph shall be deemed to have fully complied with this subsection.

Darla: I'm concerned that training for volunteers (under mandatory reporting) wouldn't be good enough (not in depth enough to actually identify abuse, exploitation, etc) and would deter people from volunteering.

Jerri: I also worry about the liability associated with volunteers becoming mandatory reporters, and the risk and negative impact that it puts on organizations that recruit these volunteers.

David: The intention of this was to cast a wide net, to capture the population of people who work most closely with at-risk adults. Additionally, there are training opportunities for volunteers who are working with this segment of people to go to. Those aren't trained should be subject to civil liability. If a volunteer sees something that could be abuse they need to report it to the organization they're working for; they [the volunteer] won't be required to call the police; and this should effectively, remove the volunteer from any direct line of liability. Additionally, training and making the volunteers mandatory reporters empowers them.

Peg: Volunteers as mandatory reporters will probably result in an increase in reports- specifically not the type that we need. Volunteers should be trained on the warning signs, report back to their supervisors and then officials can make the final report to APS.

Joscelyn: Why don't we just put forward the current statutory list plus EMT's (Emergency Medical Service Providers), clergy, physical therapists, and a specification of both paid and unpaid ~~professionals~~ acting in a professional-charitable fashion?

The majority of the task force agreed with this approach.

David: I would like to put forward a minority recommendation, which would capture the type of people that work most directly with the elders and at-risk adults, like volunteers with Meals on Wheels, etc.

- e. Who should be subject to mandatory reporting? The following decision was made: Elders ages 70 and above; however, the task force also believes that when resources are available, mandatory reporting should be expanded to at-risk adults eighteen and over. ***Gini and Brandy will add language further explaining the reasons for starting with age 70 and then later expanding.***

- f. Should criminal penalties be applied to those who do not report? The following was decided: The majority of the task force believes that an M3 (misdemeanor three) resulting in fines between \$50-750 or six months in jail.

Darla: I still would like to see the first penalty to be a class two petty offense and then increase punishment for each of offense.

- g. Should investigations be mandatory? Language drafted by Heidi was presented to the group (see attachment A for language). After consideration, 48 hours was struck from her original language, noting that it generally takes at least a week to get reports out and that in most cases, these reports are shared verbally (and should remain that way) within 24 hours. Additionally, this language is thought to be strictly a criminal investigation tool, and would not apply to things such as investigation of self-neglect. Some cases, however, warrant joint investigations by both Law Enforcement and APS teams. ***Gini and Brandy will create a side-by-side table comparing Title 18 and 26.***

#### Concerns with Strategies and Recommendations

David: I want to be mindful that the terms “at-risk” and elders are being used interchangeably, which is misleading and confusing for those reading the report. I’m also concerned about the level of detail that the current recommendations and strategies are going into. Is it really necessary to detail how many clipboards a caseworker may need? This level of detail will drive the fiscal note up; we should consider doing more with less.

Nancy: I think it’s fair to say that counties are already doing a lot more with a lot less currently. I agree we should be mindful and prioritize what we need—outline what can be done in the short term versus the long term.

Next meeting: September 26<sup>th</sup>.

Draft report due: October 10<sup>th</sup>.

Final Report: October 24<sup>th</sup>.

Meeting adjourned: 12:50pm

## **SB12-078 Elder Abuse Task Force: Strategies and Recommendations**

After thorough research and debate, it is the conclusion of the task force that while reports and investigations of alleged abuse are important components of an Adult Protection Services (APS) system, meaningful and lasting assistance to at risk adults is hampered when services are lacking. It is clear from discussions of available services and needs, that Colorado is not prepared for the impact of an increasingly elderly population, a portion of which will be victims of physical or sexual abuse, caretaker neglect, or exploitation (herein referred to as "mistreatment"), or will be self-neglecting due to an inability to arrange necessary services.

A report to law enforcement or APS alerts each agency to the possibility of mistreatment or self-neglect and requires a response, usually an investigation of the allegations to determine whether the allegations are substantiated. It is the role of law enforcement to conduct the criminal investigation and determine whether the case should be sent to the District Attorney for possible prosecution. It is the role of APS to assess the client and determine the client's ongoing needs (physical, environmental, medical, mental, financial, and support system) to ensure the client's ongoing health, safety, and welfare.

However, when there is a lack of available resources and services, the report to law enforcement and APS becomes just that... a report.

A report does not ensure there is a prosecution or restitution. A law enforcement agency or judicial district that is underfunded may not be able to investigate and prosecute crimes against at-risk adults like they otherwise would if they had funding. A law enforcement agency may not have the ability to send an officer to training to develop the specialized skills necessary to conduct investigations related to crimes against at-risk adults. An under resourced District Attorney may not be able to staff prosecutions of these types of crimes.

A report does not prevent further mistreatment or self-neglect. Safety net services are often not available when immediately necessary to stop the mistreatment or self-neglect in the short term. For example, if a report identifies a client living in a home with no working heat source in the dead of winter, there are no funds available to move that client to emergency shelter until a long-term solution can be identified and implemented.

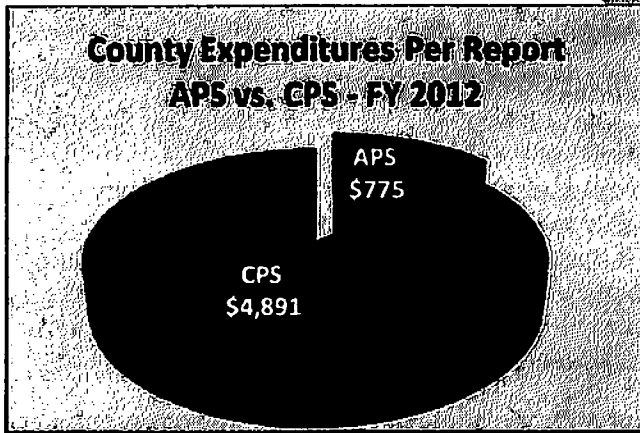
A report does not ensure that the client is safe into the future. Without necessary services and supports available on a long-term basis, the at-risk adult or elderly person will continue to be unsafe, even after an investigation. For example, if a report to APS identifies a developmentally disabled adult (previously unknown to the system) whose care taker parent has just passed away, there may not be an available spot for services due to the extreme number of persons on the wait list for services.

In other words, mandatory reporting will not resolve the concern it is meant to address and will necessarily set up the criminal justice system and APS to fail if a strong infrastructure is not implemented **simultaneously** with mandatory reporting.

Colorado lacks necessary services and resources for APS clients in many areas, some of which include:

- a.) General Safety Net Services, such as food, shelter, transportation, and medical care

- b.) Emergency Interventions, such as shelter, medications, house cleaning, home repairs/modifications, utilities, or food
- c.) Respite Care for care takers
- d.) Capacity evaluations, necessary to determine the client's ability to remain in their home
- e.) Mental health services
- f.) Services for the Developmentally Disabled
- g.) Safety Planning
- h.) Adequate and appropriate placements for clients with difficult and violent behaviors and/or criminal histories
- i.) Adequate funding for Judicial Districts and law enforcement agencies for investigation and prosecution of crimes against at-risk adults.

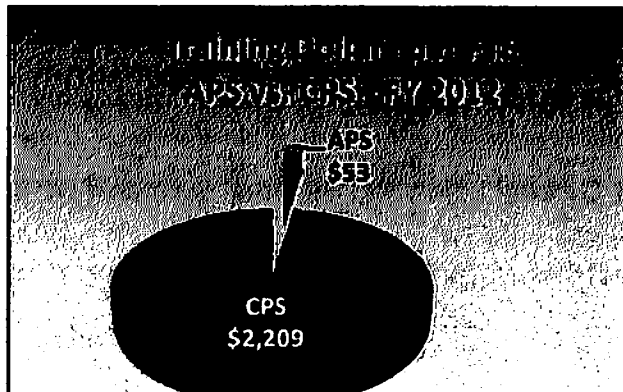


As this chart shows, the funding available for Counties to implement an APS program is severely limited, when compared to the funding available to implement a Child Protection program. Counties receive more than six (6) times the funding per report for CPS activities than for APS activities.

While SB 78 task force members uniformly recognize the lack of services for at-risk adults, the strategies and recommendations listed below may only address this in part. Task Force members, however, agree that the following strategies, if implemented, would strengthen Colorado's APS and criminal justice system.

**I. Education and Training:**

State statute requires APS investigations and the subsequent provision of protective services to be completed by trained workers. However, the APS program has never had a dedicated training budget as there is not an APS line in the state's long bill. Historically, the funding available for training APS caseworkers, case aides, and supervisors comes from Title XX Social Services Block Grant (SSBG). For SFY 2012, APS' training budget was just \$14,500. Currently, there is no Title XX funding available from the Federal government for FY 2013.



Just as there is a significant funding discrepancy for program activities at the county level between CPS and APS, there are huge funding discrepancies between the two programs related to available training dollars. CPS receives more than 41 times the funding received by APS for training caseworkers and other staff.

New rules implemented in August 2012 require new and experienced APS staff to complete minimal training requirements. In order to help counties meet those new requirements, the State APS Team currently provides the following minimal training opportunities for county APS staff:

- Pre-Academy Workbook (PAW) – this is a self-directed manual completed by the caseworker or case aide, under the APS supervisor's guidance. The PAW provides basic information on APS program requirements and best practices. The PAW is mandatory for all new APS caseworkers and case aides. PAW is provided to the counties upon request.
- APS Training Academy – this is a five day comprehensive training for new APS caseworkers. Training Academy is strongly urged for all new APS caseworkers. Case aides may attend, space permitting. Training Academy is held twice per year. Completion of the PAW is a pre-requisite to attending Training Academy.
- New Supervisor Training – this is a four week webinar series. The training provides new supervisors with the information they need to adequately supervise in the APS program and ensure their county program is meeting APS program requirements. New Sups Training is held twice per year.
- Experienced Caseworker Refresher – this training is currently under development to be provided as a webinar series. The training will provide a "back to the basics" refresher for experienced workers, focusing on program requirements and best practices. This training is expected to be available in February 2013.
- Quarterly Training Meetings – these are three hour meetings that provide training and updates related to the APS program for supervisors and caseworkers. Multiple training topics are covered in each meeting. The meetings are hosted live with teleconference available. Two of the four meetings each year are held outside the metro Denver area.
- Regional Training Events – these are half or full day facilitated training events provided on a single subject matter. The State APS Team currently provides three to four of these training events per year.
- Webinar Training – these are short training modules on specific topics, usually one to three hours in length. The State APS Team currently provides webinar training on the CBMS data system quarterly. Other webinar topics are provided as a need is identified.
- One-on-One County Support – the State APS Team will provide intensive technical assistance for up to four counties per year that request additional support for building and improving their county's APS program.

While it is difficult to meet the statutory training requirement with limited funding, the State APS Team has found ways to create efficiencies and to leverage resources in a way that allows for maximum training on a minimalist budget, such as aligning regional training events to quarterly meetings to reduce travel costs or providing webinar training when appropriate. APS has occasionally received additional monies for training from Field Administration. These dollars fill the gap between APS' appropriation for training and actual training needs. Additionally, the APS program has committed to work closely with Child Welfare to determine whether there are



cross-training opportunities, particularly for caseworkers with both Child Protection and APS duties.

The task force recommends a dedicated training budget of \$ \_\_\_\_\_/year for APS. This level of funding would support all the activities above and allow the State APS program to offer:

- Up to Four (4) County One-on-one Technical Assistance Onsite Visits per Year – state staff travel to a specific county to provide technical assistance based on county-identified needs.
- APS Annual Statewide Training – One day training that includes 50 lodging scholarships, noon meal, nationally recognized expert speaker, materials
- APS Clipboards for 100 New Workers – an excellent 'reminder' tool for new workers to take into the field which includes APS assessment process and basic program requirements printed on it.

Additionally, the task force recommends funding for one new FTE for the Colorado Department of Human Services' APS Program who is dedicated solely to APS Training. Salary and benefit costs are estimated at \$65,000/year. Additionally, this individual would need \$ \_\_\_\_\_ to cover travel and lodging costs incurred with state wide training.

Another key component to training for the APS program is quality assurance and compliance with APS program directives. Currently, the APS program has just one FTE for quality assurance activities. This allows for an on-site review of each county APS program just once every three to four years. This is not an effective method of ensuring that counties are following program requirements and providing appropriate intervention for at-risk adults. Additionally, on-site reviews allow counties to receive one-on-one technical assistance and training that they would not normally receive. More frequent on-site reviews would lead to more one-on-one assistance, and thus to better outcomes for APS clients.

To implement the task force recommends funding one new FTE for the Colorado Department of Human Services' APS Program who does Quality Assurance. An individual funding for this purpose would allow state workers to do on-site reviews of county APS programs every one to two years as opposed to on-site reviews every three to four years. Salary and benefit costs are estimated at \$65,000/year. Additionally, this individual would need \$ \_\_\_\_\_ to cover travel and lodging costs incurred with state wide travel and visitation.

More education and training is needed and should be targeted to professionals and service providers who interact with at-risk adults on a semi-regular basis. Some examples of areas where this training should be expanded include:

- Members of the community, whether they be bankers, cable repair personnel or pizza delivery drivers, who may best be suited to identify at-risk adults that need the community's help;
- Public service announcements and media campaigns may be options for educating the broader community. There are a variety of outreach methods that could be used ranging from social media tools to radio and print ads. The targeted audience, available budget, length of campaign and other decisions will drive the cost of a media campaign. Given these unknowns, **Appendix A** outlines advertising costs throughout the state that the Colorado Department of Health Care Policy and Financing developed as an internal resource.

- Law enforcement officers should conduct the training for law enforcement personnel to increase the receptivity of the training. Additionally, law enforcement personnel should be encouraged to attend APS training with caseworkers in their communities and identify liaisons within their ranks to foster relationships and nurture collaboration.

It should be noted that counties regularly provide outreach and educational opportunities in their communities. Counties with an Adult Protective Services team are mandated to provide a minimum of five community education activities each fiscal year. Many collaborate with community partners to raise awareness of abuse in the at-risk adult population. Outreach efforts take on many forms but can include brochures in salons, grocery stores, and banks, informational bookmarks in meal on wheels, displays in public libraries, live presentations to a community or professional group, sponsorship of a community Elder Abuse Awareness Day or similar event, etc. The cost of each activity varies greatly but can range between \$0 - \$8,000, depending on the activity.

## II. County APS System Under Mandatory Reporting

Requiring mandatory reporters to report abuse of those 70 and older will impact county departments of human services. Additional county APS caseworkers will be needed to answer phones, record calls, investigate reports within statutorily prescribed time frames, identify community resources to enable elders to remain self-sufficient, and provide on-going case management.

As stated in SB12-078, the intent of the General Assembly is that the task force's recommendations " will lead to the implementation of a complete system of reporting of mistreatment and exploitation of at-risk elderly adults by September 1, 2013 *subject to the availability of sufficient funding for such implementation at the state and county levels [emphasis added]...*" (CRS 26-3.1-30.1). Sustainable funding is imperative for the implementation of mandatory reporting. Without a workload analysis, however, it is difficult to truly calculate the additional revenue needed per year to handle mandatory reporting. While an estimate of workload impacts is a stated deliverable of the SB12-078 task force, the task force was not granted a budget and had to work within existing resources and studies.

The fiscal note from April 24, 2012 (**Appendix B**) provides a starting point for this discussion. The estimated \$4.1 million implementation cost, however, is too low for the following reasons:

- **Under mandatory reporting, caseloads will increase by more than 15%.** There is excellent data showing how caseloads increased in other states that adopted a mandatory reporting requirement. The 15% increase cited in the fiscal note is based on the increase seen when Illinois transitioned from "urged" to mandatory reporting in 1998. However, there are key differences between Illinois and Colorado that the Task Force believes must be considered when estimating the increase in reporting in Colorado, including:
  - Illinois does not conduct investigations in facilities as does Colorado; this constitutes approximately 10% of all reports in Colorado.
  - Mandatory reporting in Illinois is required only when the at-risk adult is unable to self-report, unlike Colorado that would require a report in all situations.

- Illinois's APS target population is only persons age 60 and over, whereas the Task Force is urging the General Assembly to consider that mandatory reporting apply to persons age 70 and over and also for persons 18 years and older who are at-risk adults. Approximately 26% of the caseload consists of clients aged 18-59.
- Mandated reporting parties in Illinois are restricted to persons that work with older persons and excludes financial institutions, whereas the Task Force is recommending a more complete list of mandated reporters.

Colorado should be compared to the state with the most similar reporting requirements, South Dakota. In South Dakota, in the first year of mandatory reporting implementation, reports increased 69%. The key similarities between South Dakota and Colorado should be considered in determining the estimate of new reports as a result of mandatory reporting, such as:

- South Dakota does conduct investigations in the community and in facilities, as does Colorado.
- Reporting is mandated in South Dakota whenever mistreatment is suspected, as is being recommended by the Task Force in Colorado.
- South Dakota's target population is age 65+ and age 18+ disabled – very similar to the recommendation of the Task Force.
- Mandated reporting parties in South Dakota are much more similar to the mandated reporters recommended by the Task Force.

Additionally, Colorado's elder population is the fastest growing segment of our population. Estimates for the county's increased caseloads must adjust accordingly to capture Colorado's aging population.

- **Unsustainable caseload per worker.** The April 24, 2012 SB12-078 fiscal note assumes that APS caseworkers will maintain an active caseload of 34 cases. The national standard for APS workers recommends an ongoing caseload of 25. By way of comparison, Child Welfare Services caseworkers have a caseload of 17. An aging population presents complex issues that require skilled workers providing increased case management and monitoring for safety. Workloads that reflect caseloads closer to the national recommendation of 25 will improve outcomes and help retain quality county APS staff.
- **Specialized Staff needed in addition to caseworkers.** While APS caseworkers are the county's front line staff, APS supervisors oversee the work and county attorneys intervene when necessary. These specialized staff members should increase in proportion with the increase in caseworkers. While the April 24, 2012 fiscal note provides for such as increase, further analysis is needed as to whether or not the stated ratios (i.e. 1 supervisor/ six new caseworkers and 1 county attorney/ ten new caseworkers) are accurate.
- **Emergency placements.** \_\_\_\_\_ (additional research needed)
- **Estimates on Guardianship vary.** Guardianships are the most intrusive and intensive interventions used in APS. The costs associated with guardianship cases are many

and vary from case to case. Guardianship cases can consume a workers time on one case. County attorneys, supervisors, APT members and directors often contribute time to guardianships. Workers are required to have monthly contacts with wards, coordinate and monitor ongoing services, make medical and placement decisions, communicate with family and interested parties, provide court reports, in addition to APS required reports and documentation. (will revisit with better cost estimates than those included in April 24 fiscal note.)

### **III. Data System**

The APS track in the Colorado Benefit Management System (CBMS) does not meet the basic requirements for case documentation and statistical data collection and analysis. For example, the current system does not allow for the collection of basic data such as the number of allegations that are substantiated, the reason for case closure, the outcome of intervention, and so on.

Without reliable, consistent data, it is challenging to identify best practices that successfully protect at risk adults. Additionally, recording information in CBMS is a non-intuitive exercise for caseworkers that is inefficient and unwieldy. Caseworkers have a great deal of difficulty accurately documenting case activities, causing them to spend time going back to correct errors rather than spending that time on other activities. APS needs to be supported by its own data system and not tied to CBMS. Doing so would help APS to track trends in client needs, identify innovative strategies that reduce risk to at-risk adults and increase the amount of time caseworkers are in the field assisting clients.

Additionally, a casework system that would allow for complete case documentation in one place could lead to cost savings and efficiencies for both the county programs and for the State APS unit. For example, paper files would no longer be needed; case reviews could be completed entirely in the data system without the need to have the county mail a paper file; county APS caseworkers would not be documenting in multiple systems, for example in CBMS, Word, and a county parallel system, and so on. A new case management and data system would align with the Governor's goals of efficiency, effectiveness, and elegance.

For more information about Data System Options, please see **Appendix C Options for Purchasing or Developing a New Data System for Adult Protective Services (APS)**

### **IV. Coordinated Intervention and Resources**

Coordinated care and intervention are key to protecting at risk adults. Services to support at-risk adults must be available in order to reduce risk to the client. Without the necessary service and support infrastructure, the report and subsequent investigation of allegations of mistreatment or self-neglect are just that, a report and investigation that, on their own, does not protect the at-risk adult.

Existing Adult Protective Services Teams, which are in effect in most counties in Colorado, are a component to coordinated care as they bring together community professionals to provide feedback and expertise on pending cases. These community members can also help leverage resources to meet the needs of vulnerable adults. Data has shown that the percentage of cases with a successful outcome increases with the coordination of APS services with the AP Team. A 'successful outcome' is measured in terms of the right services at the right time that enables at-risk adults to maintain self-sufficiency and self-reliance. (See the graph on the following page.)

Other models exist in the domestic violence field and other areas that may offer ideas to enhance the APS system. The strengths of those models should be examined to see if they could be applied to APS. It was suggested that the Child Protection System may provide further ideas that could be re-modeled for APS, including the creation of foster families for at-risk adults.

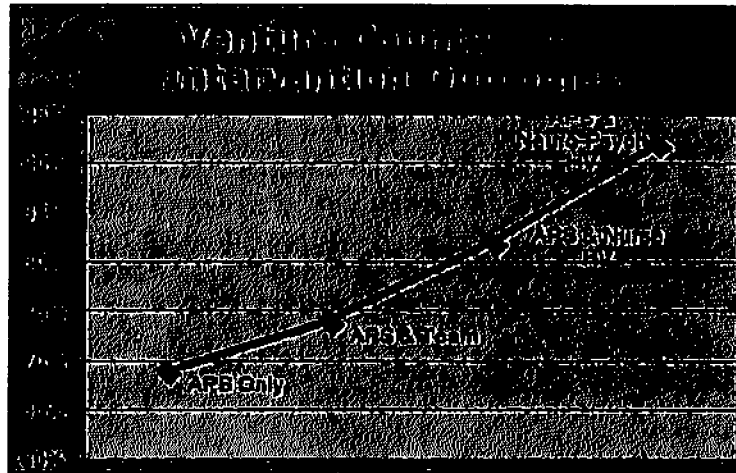
Safety planning is an important aspect to coordinated intervention. To the extent that it is not already being done, communities should be encouraged to incorporate such planning to help at risk adults maintain appropriate self-sufficiency.

*Insert relevant best practices from the volunteered Mesa, Denver and Douglas example. Review the models and consider recommending the common denominator(s) across the models as best practices.*

It is strongly recommended that basic and fundamental services and resources be implemented as part of the implementation of mandatory reporting. Without the necessary infrastructure, the SB12-078 Task Force strongly believes that mandatory reporting will not result in the increased safety of at-risk adults and will cause the Adult Protective Services and the criminal justice systems to fail. The Task Force recommends that the basic infrastructure detailed below be simultaneously implemented with mandatory reporting in some form. The Task Force identified several options for this implementation, which are detailed for each of the following services:

- Cognitive Capacity Evaluations – key to the success of preventing and reducing safety concerns is the ability to appropriately assess a client's cognitive capacity. Currently, there are many areas of the state that either do not have a qualified physician in residence or where none of the physicians in residence will conduct an evaluation of capacity. Additionally, there are no funds with which to pay the cost of an evaluation or for transportation to another part of the state to obtain the evaluations. Outcomes are improved when a licensed medical professional is available to conduct a capacity evaluation during a home visit with the APS caseworker. To implement, the Task Force recommends:
  - Authorize and fund 5-6 FTE who specially trained physicians, psychologist or other court appointed individuals for the purpose of conducting cognitive evaluations. These individuals should be based regionally throughout the state to conduct capacity evaluations during home visits with county APS staff and law enforcement. County APS staff will not be required or expected to perform the cognitive evaluations. These FTE may be housed in Regional Care Collaborative Organizations (RCCOs), hospitals, non-profit organizations or other regional locations to be readily accessible to APS staff.
  - OR, authorize an appropriation that can be drawn down by counties to secure capacity evaluations for APS clients from a regionally-based pool of medically licensed experts.
- Health Care Professionals – another key to the success of preventing and reducing safety concerns is the ability to appropriately assess a client's medical status. County APS workers do not have the specialized medical training to determine a client's medical status nor should they for liability reasons. Currently, there are no funds available to contract for these services. Outcomes are improved when a health care professional, such as a physician or registered nurse, is available to conduct a home visit with the APS caseworker to conduct a medical evaluation. To implement, the Task Force

recommends an appropriation that can be drawn down by counties to secure medical evaluations for APS clients from a regionally-based pool of experts.



- Law Enforcement Liaison – key to ensuring the appropriate criminal investigations are completed is a law enforcement representative that works closely with APS and who has specialized knowledge, understanding of, and compassion for the APS target population. Currently, this is lacking in many areas of the state. In some areas of the state, when APS asks for law enforcement to step in to assist with the criminal nature of mistreatment, there is the reply of, “it’s a family matter”. Additionally, thinly stretched resources within the criminal justice system often prevent a more vigorous response. To implement, the Task Force recommends:
  - Authorize and fund the addition of 5-6 local law enforcement FTE for this purpose. These individuals would be based regionally throughout the state and would act as liaisons between APS and local law enforcement agencies to assist with investigation and prosecution of crimes against at-risk adults as consultants. These FTE would be housed in the Judicial system; or
  - Authorize an appropriation that can be drawn down by local law enforcement agencies and/or county APS programs to secure consultative assistance for investigations from experts.
- Forensic Accountants – key to the successful prosecution of financial exploitation is the ability to “follow the money” and develop the evidence of financial exploitation. Financial exploitation is the only mistreatment category that has been increasing in frequency in recent years. Currently, there are no forensic accountants available to either Adult Protective Services or the criminal justice system to use in these cases. Additionally there are no funds available to pay for such services. To implement, the Task Force recommends an appropriation that can be drawn down by counties to secure forensic accounting services from a regionally-based pool of experts.
- Emergency Services – key to ensuring the emergency needs of APS clients can be met is the ability to provide for emergency shelter, food, deep cleaning, home repairs or utility payments, or medical care. Currently, there are no funds available from which to draw for these services. If individual counties and the community at large are not able to

provide these funds, critical service needs cannot be met for APS clients unless pro bono services can be found. To implement, the Task Force recommends an appropriation that can be drawn down by counties to secure emergency services for clients.

Although small and medium sized counties may have fewer APS cases than urbanized counties, the unmet service needs may be greater in rural areas where there are fewer providers available. In many cases, counties may have less than a dozen APS cases annually. These counties may task their child welfare workers to manage APS cases. Some counties have chosen to consolidate their APS resources. Doing so allows a caseworker that can work primarily with APS clients to develop better skills and expertise for working with the at-risk adult population than workers that only occasionally work with the APS population, leading to better outcomes for the client. To the extent possible and when it is judicious to do so, County Departments are encouraged to look at "sister county" models for APS intervention, similar to La Plata/San Juan, Gunnison/Hinsdale, Rio Grande/Mineral, or Kit Carson/Cheyenne.

Finally, the Task Force has identified needs within other systems that are necessary for the successful intervention and protection of at-risk adults, including:

- **Mental Health Services** – currently, there is a lack of appropriate and adequate mental health services for at-risk adults. In many areas of the state, APS is unable to secure mental health services or evaluations for APS clients.
- **Services for Developmentally Disabled Adults** – currently, there is a shortage of services available in the DD System and there is a lengthy wait list for waiver services. When APS identifies an at-risk adult with a developmental disability who has not been "in the system" prior to APS intervention, services may not be available to protect the adult.
- **Placements for Difficult Clients** – the State of Colorado has a significant shortage of appropriate facility placements for APS clients and other citizens with difficult issues, such as persons with a traumatic brain injury that triggers violent outbursts or sex offenders and other criminals needing nursing home level of care so they are not placed on the same unit with "grandma" or "grandpa".
- **Public Guardianship** – The State of Colorado does not have a public guardianship program for persons in need of guardianship who have no appropriate family or friend available to act as the guardian. The Task Force recommends that a separate task force be appointed to pursue options and recommendations for implementing a public guardianship program in Colorado.

## **V. Banking Transactions**

**Substance could change. Waiting for the Financial Institutions Workgroup to report back.**

Colorado law requires financial institutions to offer customers the option to voluntarily sign a prior consent to Release Financial Information". By signing the consent form, customers waive the confidentiality limitations related to their financial records maintained at the financial

institution for the limited purpose of allowing the financial institution to notify the county department and/or local law enforcement agency of known or suspected financial exploitation.

Reports from financial institutions indicate that customers rarely sign these consent forms.

The legislature should evaluate state or constitutional privacy barriers to law enforcement obtaining customer account information from banking institutions.

Currently, Colorado law limits law enforcement's ability to obtain customers account information. Bank account information is critical information for criminal investigations and prosecutions. While a program currently exists to obtain prior consent from elders, task force members believe that liberalizing the ability of law enforcement to obtain this information would benefit investigations and prosecution.

Allowing law enforcement to obtain this information without formal legal process should be pursued.

Additionally, consideration should be given to eliminating the prior consent law and simply allowing financial institutions to hold and/or delay transactions in cases of known or suspected financial exploitation.

## **VI. State Department Prioritization of Protecting At Risk Adults**

Fiscally neutral ways to prioritize at-risk cases (ideas: incentive structures that reward prioritization of at risk adult services and/or focus among state departments. Encourage state departments to dedicate staff)

*David Blake to flesh out further*

## **VII. Background Checks for Caretakers**

Background and criminal history checks can provide for cost effective preventative and responsive strategies to address elder abuse. Background checks are currently required for county employees engaged in protective services but not for caretakers.

It is recommended that a comprehensive state and federal criminal history check specific to any and all caretakers as defined in CRS 26-3.1-101(2)(c) be mandated. It is also recommended that Colorado apply for CMS national background check funding to help cover the cost of this requirement.

Additionally, it is recommended that entities involved in the investigation of any act of mistreatment, neglect and exploitation to at risk adults have access to all relevant department specific databases to determine if there is a history of allegations or substantiations. The ability to cross reference disparate databases would help protect at risk adults. Databases that should be open to coordinated searches include: \_\_\_\_\_?



DRAFT

# Appendix A

## Denver Metro Area-

Facebook/Online	per click	\$1.10	2,500	\$2,050.00
Radio	30-sec spot	\$194.00	25	\$5,570.00
Print	per impress.	\$2.86	2,500	\$7,150.00
Postage	each	\$0.44	2,000	\$180.00
Printing-brochures	each	\$0.25	10,000	\$2,500.00

## Mesa County-

<b>1. Advertising</b>				
TV spot production				\$ 500.00
TV spots, \$500 per station (4) per month	6	2000		\$ 12,000.00
Radio spots	6	1,666		\$ 10,000.00
Print ads	9	555		\$5,000.00
<b>2. Postage</b>	postcard	0.28	1,000	\$ 280.00
<b>3. Printing</b>	Postcards, Flyers	Varies	Varies	\$ 1,000.00

## Routt and Moffat Counties-

Newspaper Advertising	Week	\$649.75	40	\$25,990.00
Radio Advertising	Spot	\$6.95	720	\$5,004.00
Direct Mail Services	Mailing	\$2962.5	8	\$23,700.00

## Fremont County-

Canon City Daily Record newspaper ads	1/4 page	\$300.48	6	\$1,802.88
Canon City Daily Record newspaper ads	1/8 page	\$147.00	20	\$2,940.00
Florence Citizen newspaper ads	1/4 page	\$120.00	12	\$1,440.00
The Shopper newspaper ads	1/4 page	\$125.00	12	\$1,500.00
Radio announcements on KSTY-FM	weekly	\$228.00	12	\$2,736.00
Printing of posters 8 1/2" x 11"	each	\$0.47	10	\$4.70
Postage for mailings to community agencies	each	\$1.06	20	\$21.20



Colorado Legislative Council Staff Fiscal Note  
**STATE FISCAL**  
**REVISED FISCAL IMPACT**  
(replaces fiscal note dated March 30, 2012)

Drafting Number: LLS 12-0251

Date: April 24, 2012

Prime Sponsor(s): Sen. Hudak  
Rep. Schafer S.

Bill Status: Legislative Council

Fiscal Analyst: Kerry White (303-866-3469)

TITLE: CONCERNING PROTECTIONS FOR AT-RISK ADULTS.

Fiscal Impact Summary	FY 2012-2013	FY 2013-2014
<b>State Revenue</b>		
Cash Funds		
CBI Identification Unit Fund	\$1,975	\$1,975
Fines Collection Cash Fund	potential increase.	potential increase.
<b>State Expenditures</b>	<u>at least \$4,148,476</u>	<u>at least \$4,240,211</u>
General Fund	3,318,781	3,392,169
Cash Funds Exempt - County Funds	829,695	848,042
<b>FTE Position Change</b>		
<b>Effective Date:</b> Upon signature of the Governor, or upon becoming law without his signature.		
<b>Appropriation Summary for FY 2012-2013:</b> For FY 2012-13, the Department of Human Services requires an appropriation of \$4,148,476, including \$3,318,781 General Fund and \$829,695 Cash Funds Exempt - County Funds.		
<b>Local Government Impact:</b> See Local Government Impact section.		

**Note:** While all agencies were canvassed for the purposes of the fiscal note, not all agencies were able to respond with complete information within the available time frames. Accordingly, the fiscal note should be considered preliminary. It will be revised if new information becomes available.

### Summary of Legislation

*As amended by the House Health and Environment Committee*, this bill clarifies definitions and modifies requirements concerning the mistreatment, self-neglect, and exploitation of at-risk adults. Among other things, the bill:

- expands the definition of an at-risk adult to include persons over the age of 70;
- for observed or suspected mistreatment or self-neglect, it requires a person in a specified profession or occupation (mandatory reporter) to make an immediate oral report within 24 hours;
- for observed or suspected fiscal exploitation, it urges a mandatory reporter to make an immediate oral report;
- removes the requirement that an abuse reporter follow an oral report with a written report within 48 hours;

- creates a class 3 misdemeanor for failure to report mistreatment or self-neglect of an at-risk adult; and
- increases the penalty for releasing confidential information about an adult protective services investigation from a class 2 petty offense with a maximum penalty of a \$300 fine to a class 3 misdemeanor.

In addition, it directs each county to require each protective services employee to undergo a fingerprint background check. Background checks are at the employee's expense, unless the county department chooses to pay for them.

The 17-member Elder Abuse Task Force is created and authorized to meet during the 2012 legislative interim. Task force members serve without compensation and include representatives from the legal community, law enforcement, long-term care providers, health care professionals, banking, social services, and agencies of the state that serve at-risk elderly adults. The purpose of the task force is to study, make recommendations, and report on various issues related to at-risk elderly adults, including how to fund and implement a system of mandatory reporting for incidences of mistreatment or exploitation; the provision of services; and the adequacy of existing criminal penalties levied for offenses against this population.

### **Background**

County departments of social services are mandated under Section 26-3.1-103, C.R.S. to investigate all reports of abuse, exploitation, or neglect of at-risk adults. Reports are evaluated and investigated according to the protocol established by rule by the Department of Human Services. The protocol currently classifies responses as a referral, no response needed, urgent and requiring follow up, requiring a response within 24 hours, or requiring a response within 3 days, followed by appropriate services as needed. Services can range from assisting persons with obtaining public benefits and providing case management to seeking emergency placements and guardianship of the at-risk adult.

In prior years, the fiscal note assumptions for legislation requiring mandatory reporting were based on the experience of other states. Most recently, Senate Bill 05-098 assumed a 25 percent increase based on the experience of Minnesota, Oklahoma, California, Texas, Kansas and New Mexico. However, two states with comparable populations to Colorado showed increases of 15 percent (Illinois, law adopted in 1998) and 9 percent (New Jersey, law adopted in 2010).

Colorado data shows that in FY 2010-11, a total of 10,846 new reports were filed. Of this number, 4,481, or 41 percent, required an investigation. In addition, a total of 1,812 investigations were carried forward from the prior fiscal year. Overall, cases requiring investigation have increased by an average of 2 percent per year.

**State Revenue**

**Overall, this bill will increase state cash fund revenue by at least \$1,975 per year.** Revenue is generated from two sources. First, cash fund revenue may increase as a result of persons convicted of a class 3 misdemeanor for failing to make a mandatory report or for releasing confidential information about an adult protective services investigation. Per Section 18-1.3-501 (1)(a), C.R.S., the fine penalty for a class 3 misdemeanor is \$50 to \$750. Unless otherwise provided by law, the fines are to be deposited into the state Fines Collection Cash Fund for annual appropriations to cover associated administrative and personnel costs. All unexpended balances of the cash fund revert to the state General Fund at the end of each fiscal year. Because the courts have the discretion of incarceration or imposing a fine, and the timing of payments are established on a per-offender basis, the impact to the cash fund and the General Fund cannot be determined.

Second, this bill is anticipated to increase state revenue collected by the Colorado Bureau of Investigation (CBI) for county employee fingerprint background checks by \$1,975 per year. Currently, the CBI charges \$39.50 per check, with fee revenue credited to the CBI Identification Unit Fund. The fiscal note assumes that approximately 50 new protective services employees will receive a background check per year.

**State Expenditures**

**This bill will increase expenditures by at least \$4,148,476 in FY 2012-13 and at least \$4,240,211 in FY 2013-14, as described in Table 1 and the discussion that follows.**

<b>Table 1. Department of Human Services County Expenditures Under SB12-078</b>		
<b>Cost Components</b>	<b>FY 2012-13</b>	<b>FY 2013-14</b>
Caseworkers	\$1,965,200	\$2,006,000
Supervisors	409,027	417,549
Attorneys	443,857	459,162
Emergency Placements	1,031,100	1,052,100
Guardianship Costs	299,292	305,400
<b>TOTAL</b>	<b>at least \$4,148,476</b>	<b>at least \$4,240,211</b>
General Fund	3,318,781	3,392,169
Cash Fund Exempt - County Funds	829,695	848,042

*Department of Human Services, county expenditures.* Costs shown in Table 1, above, reflect the minimum costs to investigate more cases and provide adult protective services, based on the following assumptions:

- the total number of cases requiring investigation will increase by 15 percent per year, or 982 cases in FY 2012-13 and 1,002 cases in FY 2013-14;

- each caseworker will maintain an active caseload of 34 cases and cost an average of \$68,000, including salary, benefits, operating costs, and travel costs;
- for every six new caseworkers, one supervisor will be added at an average cost of \$85,214, including salary, benefits, operating costs, and travel costs;
- for every ten new caseworkers, one attorney will be added at an average cost of \$153,054, including salary, benefits, operating costs, and travel costs;
- each additional case will require an average of three nights of emergency placement, paid at the rate of \$350 per night; and
- 10 percent of cases will require guardianship costs of \$254.50 per month.

Of the total costs, 80 percent will be paid with General Fund moneys and 20 percent will be paid from county funds.

**Judicial Department.** An increase in the number of reported cases of abuse, neglect, or self-neglect may lead to increased court cases (civil or criminal). The number of cases will depend upon such factors as the severity of abuse and whether the condition of the at-risk adult makes the opening of a probate or mental health case necessary. Additionally, the courts appoint counsel in mental health and probate cases when there is a finding of indigence. To the extent that this bill results in an increase in the number of mental health and probate cases with indigent clients, there will be increased expenditures for court-appointed counsel. As of this writing, no estimate of the increase in court costs is available. However, the fiscal note assumes that any increase in costs will be addressed through the annual budget process.

**Department of Public Safety.** Staff of the CBI are anticipated to process at least 50 additional fingerprint background checks and to forward the results to the appropriate county. This analysis assumes the increase in expenditures will be offset by the increase in state revenue.

**Taskforce participation.** Staff of the Departments of Human Services and Law will experience an increase in workload from serving on the task force. The increase in workload is anticipated to be minimal and will not require an increase in appropriations for any state agency.

**Other departments.** An increase in reported cases of abuse, neglect, or self-neglect may also lead to an increase in caseload for public assistance programs, such as Medicaid. As of this writing, no information about the potential increase in caseload for these programs is available. This analysis assumes any increase in costs will be addressed through the annual budget process.

### **Local Government Impact**

Overall, this bill is anticipated to increase costs for local governments in several ways. First, the bill increases the number of adult protective services reports that are received and must be followed up with an investigation. As described above, the county share of costs is at least \$829,695 for FY 2012-13 and at least \$848,042 for FY 2013-14. Staffing requirements will vary by county, but based on caseload, are anticipated to total 36.6 FTE in FY 2012-13 and 37.4 FTE in FY 2013-14.

Second, this bill may have a minimal impact on county employers for the purposes of ensuring that prospective employees comply with the bill's requirements to obtain a fingerprint background check. The fiscal note assumes that counties will not be required to incur any additional costs, but that the hiring process may be extended. Third, the bill includes representatives of certain local organizations, including the chiefs of police, sheriffs, and district attorneys, as participants on the task force. This analysis assumes that any increase in workload for these agencies is minimal.

Fourth, costs may increase as a result of counties enrolling previously unidentified but eligible at-risk adults in public assistance programs, including low-income housing, food stamps, and Medicaid, among others. The impact of these costs to the counties cannot be estimated as of this writing.

Finally, the bill creates a new class 3 misdemeanor for persons convicted of failing to make a required report or for releasing confidential information about an adult protection services investigation. The penalty for a class 3 misdemeanor is up to six months imprisonment in a county jail, a fine of \$50 to \$750, or both. Because the courts have the discretion of incarceration or imposing a fine, the impact at the local level cannot be determined, but is assumed to be minimal. The cost to house an offender in county jails varies from \$45 to \$50 per day in smaller rural jails to \$62 to \$65 per day for larger Denver-metro area jails. For the current fiscal year, the state reimburses county jails at a daily rate of \$50.44 to house state inmates.

### **State Appropriations**

For FY 2012-13, the Department of Human Services should receive an appropriation of \$4,148,476, including \$3,318,781 General Fund and \$829,695 Cash Funds Exempt - County Funds. The Judicial Department has sufficient spending authority for the Fines Collection Cash Fund and does not require an increase in appropriations.

### **Departments Contacted**

Human Services  
Public Health and Environment

Judicial  
Public Safety

Law  
Regulatory Agencies

## Issues/Decision Paper

*Office of Long Term Care/Division of Aging and Adult Services*

# Options for Purchasing or Developing a New Data System for Adult Protective Services (APS)

*June 5, 2012*

*Authored by:*

*Peggy Rogers*



**DECISION NEEDED:** How to implement a new case management and data system for the Adult Protective Services (APS) program.

**BACKGROUND:** Managing an APS program, at the state and county level, requires a comprehensive and confidential case management and data system. The complex situations involving at-risk adults must be fully documented to ensure that all actions possible are taken to protect the at-risk adult and actions taken by APS caseworkers are legal and appropriate. This documentation must seamlessly combine both narrative and data field documentation to allow for a thorough description of the at-risk adult's health, safety, welfare, and intervention and to provide statistical data collection, including the outcomes of APS intervention.

The APS program's first statewide data system was developed in 2000 in the legacy COIN system. When the COIN system was retired, a decision was made within CBMS and CDHS executive management to move APS into CBMS. APS was not consulted in the design of the APS track and once the APS program saw the initial design, asked for significant changes. Those changes were denied and as a result, the APS track in CBMS does not meet the basic requirements for case documentation and statistical data collection and analysis.

In early 2007 the CBMS system cost calculator was being reassessed, increasing the cost to the state (versus the feds) for the CBMS system by \$9 million annually, with \$5 million of that cost being assessed to the APS program. The APS program disputed this cost and as the result of a time study, the assessed cost for APS in CBMS was lowered to \$297,000 annually as of April 2010. Even with this lower price tag, this is an especially high cost for a system that does not function for APS case management purposes, does not allow collection of data and outcomes, and does not prioritize any maintenance or changes to the system for the APS program. For example, a data fix on a defect in the system, causing data errors on just under 700 cases, was requested in April 2008 and has yet to be prioritized for implementation.

Because of these issues, in early 2009 the Adult sub-PAC requested that the APS Unit of the Division of Aging and Adult Services research alternative data systems designed specifically for APS programs. Over the course of the year, four vendors were identified and contacted. Each vendor provided a web-demo of their system and then provided preliminary quotes regarding the cost of purchasing their system for Colorado's APS program. The preliminary estimates for first year purchase and implementation costs ranged from \$72,000 to \$639,500 with ongoing maintenance fees of \$15,600 to \$255,000 per year. The vendors offer flexible, web-based integrated case management systems configured specifically for APS based on industry best practices and customizable to Colorado APS requirements. The white paper *Deployment of a Case Management System for the APS Program* was written (attached).

No fewer than 30 significant change requests and reports would need to be developed and implemented in CBMS to meet the needs of the APS program. Updating CBMS and required reports is estimated to be \$1 million or more with a time frame for completion of 10 years or longer. See the white paper for details. During a review of the white paper with Pauline Burton and Ron Ozga, Ron asked that Trails be researched as an alternative. This was completed and Trails information added to the white paper.

In October 2010, Steve Fowler asked Deloitte to meet with Peggy to develop a separate module for APS that would be developed in the CBMS Web platform, apart and separate from CBMS eligibility. Peggy pulled together a task group of county APS supervisors and caseworkers to complete the initial design of the new APS module. The design was submitted to Deloitte for review and an order of magnitude for the approximate number of hours and a plan of

completion. This was never returned to the APS program. Numerous attempts in 2011 to follow up with Deloitte, Steve Fowler, and Jack Rudd were made. Deloitte indicated there was a change of plans and referred Peggy to OIT. Jack indicated that Steve would follow up with Peggy but this did not occur.

In December 2011, Colorado was offered an opportunity to receive a free extended demonstration of an APS data system created for Oklahoma APS by Jump Technologies. This was one of the original data systems reviewed for the white paper. After consultation with Chuck Busch, and approval from Ron Ozga, Jump Technologies co-owners traveled to Colorado to train the State and county APS staff on the system. The county APS staff will use the system to enter "fake" cases and reports in order to provide critical feedback to the State on the system design, i.e., what works and what doesn't. Chuck attended the demonstration and, as a result, asked that Peggy develop an issue paper to inform Reggie Bicha of the history of APS in CBMS and the quest for a new data system.

In May 2012, Peggy was asked to look into Casebook, a data system under consideration by Child Welfare. After talking with a Casebook representative, it appears that Casebook is not a reasonable option for Colorado's APS data system. Casebook has never been designed for APS. As of May 2012, the only Casebook module completed and in use is the Foster Care module. A second module for case management of child protective services is scheduled for rollout in Indiana in July 2012. Additionally, when asked for a rough estimate of the cost for reconfiguring the data system for APS use, assuming 50% of the system would require reconfiguration, the estimate was at least \$1 million and likely higher. This is vastly more expensive than any other option available and, therefore, should not be considered further at this time.

#### **SCOPE:**

**In-Scope:** Falling within the scope of this issue paper are the data system choices and the estimated costs.

**Constraints and Assumptions:** It is assumed that current OAP cash fund in the approximate amount of \$297,000 used to cover the APS portion of CBMS will continue to be available for another data system. It is assumed that some additional general fund may be required during the initial year to purchase and customize a system for Colorado as APS would still be using CBMS during this time frame. It is also assumed that a new data system, including an annual budget for upgrades, maintenance, and hosting, would be less expensive than continuing in CBMS and would lead to overall cost savings for the State in future years. It is assumed that transition to a new data system will require an RFP process.

The table on page 8 provides a side-by-side comparison of the Jump system vs. CBMS Web. Only the significant needs are included in the table. Minor needs, such as missing fields, are not included. Please refer to the APS System High Level Business Requirements (for CBMS Web) for more specific details.

## **POTENTIAL POLICY OPTIONS:**

**OPTION 1:** Remain in the current CBMS web system, which was completed in April 2012. Create a limited ad hoc reporting universe, including appropriate security firewalls, for the current APS fields.

**Calculations:** No additional cost to remain in the current system with no new functionality. Cost to add the limited ad hoc universe is projected to be \$15,000.

### **Pros:**

- Web platform provides a more user friendly platform than "old" CBMS, but still lacks many functions and fields necessary for comprehensive and accurate case management.
- A limited ad hoc universe would provide for more reporting capacity, such as substantiation of allegations, ongoing risk, client risk factors, service needs, recidivism, and case closure reasons. But because the APS track is lacking many fields, would still have limited data analysis capability.

### **Cons:**

- The current system does not allow for collection of even some basic data, such as the number of allegations that are substantiated, the reason for case closure, accurate data related to timely response to reports, and so on.
- Many necessary fields are missing and would need to be added;
- Costs to change the CBMS system to make it a fully functioning APS case management and data system is estimated to cost more than \$1 million and take 10 years or longer to complete. See the white paper for details.
- Even with unlimited funds to pay for changes, Deloitte has a limited ability to complete projects and as such, APS will always be prioritized below those needed by the cash and medical programs. It is not inconceivable to expect that APS changes would not be prioritized for years, if ever.
- The APS track in CBMS is so complex and difficult to navigate, many APS workers in small and medium counties that have only a few APS reports each year often do not use the data system at all. They cannot maintain their access to the system and cannot remember how to navigate the system. This results in inaccurate statewide data and presents issues for State staff in monitoring program compliance.
- APS staff in counties that have regular APS reports have difficulty navigating the system and often have data entry errors as a result. This further compounds the data issues.
- There is no way to prevent non-APS users from knowing that an APS case has been opened on a client, a violation of APS statute.
- There is an inability to collect data that is anticipated to be necessary to draw down federal dollars should the Elder Justice Act be funded.
- Ad hoc reporting is unavailable, the cost and time necessary to develop "canned" reports is prohibitive, and current "canned" reports are not available until 33 days after the report month has closed. Changes to these reports require a change request and prioritization on the 18 month calendar.
- Client ID merge issues would continue to negatively affect cash and medical program cases because of APS. Prior to roll out of CBMS, each APS report on

“repeat” clients were programmed by CBMS staff to roll to CBMS as separate case numbers and client IDs. This caused many APS clients to have 3, 4, and for at least one client 12, separate case numbers and client IDs. In addition, for the first 15 months of CBMS operation, CBMS staff instructed APS to create a separate Client ID from the eligibility case, not understanding the relationship between the Client ID and the client's SSN. This has caused 100's if not 1,000's of duplicate client IDs attached to APS cases, which must be worked through the complex and extremely time-consuming Client ID merge process.

**OPTION 2:** Contract with Deloitte to develop a new APS module using the CBMS web platform. Create a fully functioning ad hoc reporting universe, including appropriate security firewalls, for the current APS fields.

**Calculations:** Because Deloitte never provided the APS program with the order of magnitude on its original High Level Business Requirements (HLBR), it is not possible at this time to determine the cost of this option. However, based on estimates from other change requests, the cost is expected to top \$1,000,000. For example, the cost to implement HB10-1146 was approximately \$440,000 and did not involve creating a system from scratch.

**Pros:**

- The State would be able to design an APS data system that was specific to how Colorado does business. The HLBR are completed and work could start on the more detailed Business Requirements Document (BRD) and Technical Design Document (TDD) immediately.
- The navigation of the system would be much more intuitive and easier for infrequent users to manage.
- Current CBMS information could be housed in a non-operational history database for easy access as needed, allowing APS cases to be deleted from the CBMS system, eliminating many of the client ID merge issues.
- A fully functioning ad hoc universe would provide for complete reporting capacity, such as the ability to pull real time data by state, county, or caseworker; statistically based assessment of risk and outcome of intervention; ability to pull data by age or risk group; substantiation of perpetrators; various written reports; reasons for late response to referrals; civil and criminal outcomes; and service implementation data.

**Cons:**

- The system would be subject to significant costs to upgrade and make changes as federal requirements came online, as Colorado statute changes were implemented, or as business practices changed.
- APS changes would still have to be prioritized against the needs of Medicaid, SNAP, TANF, and Adult Financial, which has never worked in APS' favor.
- The time to develop a completely new system would likely take 2 to 3 years or longer, delaying the ability to collect needed data and outcomes.

**OPTION 3:** Pursue purchase of a ready-made case and data management system specifically designed for APS.

**Calculations:** Costs to purchase a ready-made system would range from \$72,000 to 639,000 per year, with Jump Technologies at the lowest range. Based on these original estimates, cost savings, in comparison to CBMS, would range from approximately \$76,000 up to \$700,000 over two years; and from \$1.3 to 4.1 million over 10 years. These would need to be updated and OIT brought into the process to ensure that all technical issues are addressed. See the table on the following page for additional detail.

**Pros:**

- Would provide significant cost savings over CBMS once implemented. A portion of the costs savings could be rolled back into general fund and some could be used to continue to upgrade the system.
- Would provide significantly better data collection, allowing for better outcome measures and improved reporting for the Legislature and federal government.
- Would provide significantly easier case management and navigation for APS caseworkers.
- Would be a ready-made system for APS, requiring limited changes to work for Colorado, making it quicker to deploy than developing a system from scratch.
- Would be a system that had most of the “bugs” already worked out by other state’s APS programs.
- Some systems, Jump and Lagan specifically, have functionality that allows State staff to make many upgrades to the system without paying for tech support. For example, the Jump system allows creation of the valid values for all fields in a matter of seconds and development of a scored risk or other assessment in a matter of minutes. For example, creation of a dozen lists of valid values and a 50 question scored risk assessment took just 1.25 hours to complete in the Jump demonstration system.
- Most systems reviewed are housed on a web platform, allowing for instant and seamless changes and improvements to the system.

**Cons:**

- The system would need to be updated for Colorado, tested, and then county APS staff trained. This is anticipated to take six months to a year from contract execution.
- During the period of upgrade, testing, and training, additional general fund might be required to maintain CBMS while paying for the upgrades to the new system.
- Purchase of a new data system will require an approved budget request and therefore funds would not be available until FY2013-14 for purchase of the system.

<b>Estimated Cost* and Savings Comparison Between CBMS and Possible APS Data Systems</b>						
	<b>CBMS – (General Fund)</b>	<b>Trails</b>	<b>Jump Technology</b>	<b>Lagan</b>	<b>Harmony</b>	<b>McWilliams</b>
<b>Costs Year 1</b> (Purchase, implementation)	\$397,000	\$980,000	\$72,000	\$500,000	\$462,500	\$639,500
<b>Ongoing Costs</b> (maintenance, licenses, hosting fees)	\$397,000	\$140,000	\$15,600	\$69,000	\$255,000	\$201,000
<b>Costs - 2 Years</b>	\$794,000	\$1,120,000	\$87,600	\$569,000	\$717,500	\$840,500
<b>2 Year Savings</b>		<b>-\$326,000</b>	<b>\$706,400</b>	<b>\$225,000</b>	<b>\$76,500</b>	<b>-\$46,500</b>
<b>Costs - 10 Years</b>	\$4,367,000	\$2,380,000	\$228,000	\$1,190,000	\$3,012,500	\$2,649,500
<b>10 Year Savings</b>		<b>\$1,987,000</b>	<b>\$4,139,000</b>	<b>\$3,177,000</b>	<b>\$1,354,500</b>	<b>\$1,717,500</b>
<p>* In 2009 and 2010 State APS staff reached out to various software companies and to Trails staff in search of software systems created specifically for APS. This informal process resulted in live web demonstrations of the various systems and discussion of Colorado processes to determine generally how much modification would need to be done to the software. The various companies then provided a courtesy estimated cost for purchase or for hosting of the system based on our discussion. Neither a formal RFP nor RFI was conducted.</p>						

**OPTION 4:** Pursue purchase of a ready-made case and data management system specifically designed for APS. Create a limited ad hoc reporting universe, including appropriate security firewalls, for the current APS fields in CBMS Web in the interim.

**Calculations:** Costs to purchase a ready-made system would range from \$72,000 to 639,000 per year, with Jump Technologies at the lowest range. Based on these original estimates, cost savings would range from approximately \$76,000 up to \$700,000 over two years; and from \$1.3 to 4.1 million over 10 years. These would need to be updated and OIT brought into the process to ensure that all technical issues are addressed. See table on the following page for additional detail. Cost to add the ad hoc universe in CBMS Web is projected to be \$15,000.

**Pros:**

- Would provide significant cost savings over CBMS once implemented. A portion of the costs savings could be rolled back into general fund and some could be used to continue to upgrade the system.

- Would provide significantly better data collection, allowing for better outcome measures and improved reporting for the Legislature and federal government.
- Would provide significantly easier case management and navigation for APS caseworkers.
- Would be a ready-made system for APS, requiring limited changes to work for Colorado, making it quicker to deploy than developing a system from scratch.
- Would be a system that had most of the “bugs” already worked out by other state’s APS programs.
- Some systems, Jump and Lagan specifically, have functionality that allows State staff to make many upgrades to the system without paying for tech support. For example, the Jump system allows creation of the valid values for all fields in a matter of seconds and development of a scored risk or other assessment in a matter of minutes. For example, creation of a dozen lists of valid values and a 50 question scored risk assessment took just 1.25 hours to complete in the Jump demonstration system.
- Most systems reviewed are housed on a web platform, allowing for instant and seamless changes and improvements to the system.
- Ad hoc universe for CBMS Web would provide for more reporting capacity while bringing online a new system. But because the APS track is lacking many fields, would still have limited data analysis capability.

**Cons:**

- The system would need to be updated for Colorado, tested, and then county APS staff trained. This is anticipated to take six months to a year from contract execution.
- During the period of upgrade, testing, and training, additional general fund might be required to maintain CBMS while paying for the upgrades to the new system.
- Purchase of a new data system will require an approved budget request and therefore funds would not be available until FY2013-14 for purchase of the system.

**RECOMMENDATION:** Option 4. This option provides the quickest, easiest, most cost-effective solution. These systems were developed specifically for APS casework and data collection and at least two appear to be very intuitive to use. This option would allow Colorado access to a good APS data system in a year or less from budget approval, providing infinitely more data (and accurate data) than the current system. Creating the ad hoc universe for CBMS Web, with appropriate security firewalls in place, would provide additional data (though still incomplete) in the interim.

The system created by Jump Technologies for Oklahoma APS would be the preferred system for several reasons:

- The cost savings over other systems. The Jump system is estimated to cost just under \$71,000 for the first year (including system modifications for Colorado) and just under \$46,000 for year two.
- The cost for two years, approximately \$117,000, allows Colorado to purchase the system without the time-consuming RFP process. Even if system modifications, including report development, was twice the current estimate, the total cost would still be under the \$150,000 limit before an RFP process was required.
- The similarities between Oklahoma APS and Colorado APS would make system modification easier.

- The ability for State APS staff to make changes to the system at no cost (add assessments, valid values, other fields, etc.)
- The small size of the company (12 employees) ensures one-on-one technical assistance and training is available at all times and ensures that the company owners respond directly to the State when needed.
- Oklahoma has worked with Jump Technologies for five years and finds them to be responsive and very quick to make fixes to the system. The owners understand the APS program and are passionate about making a system work for the caseworkers. I asked at one time how long it would take to make a change to the system, such as the addition of a data field. The owner apologized that it could not be done in the same day and said that something of that nature that required the addition of a field and an addition to the database would probably take *three days* to complete.

APS Process or System Flexibility	Jump X = Current System SM = Requires Significant System Modification Upon Purchase	CBMS Web X = Current System CR = Requires Change Request
<b>APS Processes</b>		
Intake – ability to document all report information on one screen.	X	CR
Assessment – ability to document all investigation and assessment information on one screen.	SM	CR
Risk Level – ability to quantify the level of risk via a formulaic calculation of risk factors.	X	CR
Case Plan – ability to document the case plan on one screen.	X	CR
Perpetrator – ability to document full perpetrator information, including substantiation.	X	CR
Case Closure – ability to close case with overall outcome of intervention.	X	CR
Case Comments – ability to view case comments from within the case.	X	CR
User Dashboard – details current cases, progress by worker. Supervisor has access to all workers via supervisor dashboard.	X	CR
Staff/User/County Information – ability to document staff quals, FTE, training, and other required activities.	SM	CR
<b>Data Analysis</b>		
Data Reporting – ability to have ad hoc universe.	X	CR
Data Reporting – development of a variety of standardized reports with real-time data.	SM	CR
Narrative Reports – development of narrative reports.	SM	CR



<b>APS Process or System Flexibility</b>	<b>Jump</b> X = Current System SM = Requires Significant System Modification Upon Purchase	<b>CBMS Web</b> X = Current System CR = Requires Change Request
<b>System Flexibility</b>		
Confidentiality – ability to protect client name and identifying information from all but other APS users.	X	CR
Auto Population of Fields – system auto populates select data from one window to another.	X	CR
Minor Changes to Windows – ability to add fields, create assessments, change valid values without IT support and/or change request.	X	CR
Scanning – ability to scan and house supportive documentation.	SM	CR

DRAFT

**HEALTH CARE ENTITIES REGULATED BY THE  
HEALTH FACILITIES AND EMERGENCY MEDICAL SERVICES DIVISION**

The table below indicates the provides that:

- must be licensed by the state prior to providing services; and
- are surveyed by the Division for the purposes of Medicare and/or Medicaid certification.

Health care entity type	State licensure required?	Does the Division conduct surveys for:	
		Medicare certification?	Medicaid certification?
Acute treatment unit	Yes <sup>1</sup>	No	No
Ambulatory surgical center	Yes	Yes	No
Assisted living residence			
Private pay facility	Yes	No	No
Alternative care facilities	Yes	No	Yes
Residential treatment facility (RTF) - Adult	Yes <sup>2</sup>	No	No
Birth center	Yes	No	No
Chiropractic center and hospital	Yes	No	No
Clinic			
Community clinic/community clinic with emergency center	Yes	No <sup>3</sup>	No <sup>3</sup>
Mental health center	Yes	No	No <sup>4</sup>
Rural health clinic	No	Yes <sup>5</sup>	No
Comprehensive outpatient rehabilitation facility	No	Yes	Yes
Convalescent center	Yes	No	No
Developmentally disabled (DD) facility			
Community residential home/group home	Yes	Yes	Yes <sup>6</sup>
Intermediate care facility (ICF/DD)	Yes	Yes	Yes
Dialysis treatment clinic (also End stage renal dialysis)	Yes	Yes	No

<sup>1</sup> ATUs are subject to program approval by the Department of Human Services.

<sup>2</sup> ALR-RTFs are subject to program approval by the Department of Human Services.

<sup>3</sup> Community clinics may be certified as rural health clinics and may also be Medicare/Medicaid approved by CMS as provider based.

<sup>4</sup> Mental health center certification inspections are conducted by the state Department of Human Services.

<sup>5</sup> Rural health clinics may also be approved by CMS as provider based.

<sup>6</sup> DD group home certification inspections are conducted by both the Colorado Department of Public Health and Environment and the Department of Human Services (DHS). Program approvals are conducted by DHS.

Health care entity type	State licensure required?	Does the Division conduct surveys for:	
		Medicare certification?	Medicaid certification?
Health maintenance organization	Yes <sup>7</sup>	No <sup>8</sup>	No <sup>9</sup>
Home and community based services (HCBS)	<i>Note: The following HCBS programs do <u>not</u> need to be licensed as a home care agency.</i>		
Adult day – Brain injury	No	No	Yes
Adult Day – Elderly, blind and disabled; Mentally Ill and Persons living with Aids	No	No	Yes
Behavioral programming <i>{conducted outside of the consumer's home}</i>	No	No	Yes
Children with autism services <i>{conducted outside of the patient's home}</i>	No	No	Yes
Day treatment – Brain injury	No	No	Yes
Home care agency			
Medical: agencies with nursing <b>and</b> one other skilled service (e.g., CNA, PT, OT, ST or SW)	Yes	Yes	Yes
Medical: agencies that have skilled service(s) but do <b>not</b> have nursing	Yes	No	No
Non-medical home care services	Yes	No	Yes <sup>10</sup>
Outpatient rehabilitation services: physical therapy, speech pathology services <i>(provided in consumer's home and not certified)</i>	Yes	No	No
Behavioral programming <i>(in consumer's home)</i>	Yes	No	Yes
Children with autism services <i>(in consumer's home)</i>	Yes	No	Yes
Home care placement agency	No <sup>11</sup>	No	No
Hospice	Yes	Yes	Yes
Hospital			

<sup>7</sup> The Division of Insurance, within the state Department of Regulatory Agencies, licenses HMOs. As part of the licensure process, the Colorado Department of Public Health and Environment is responsible for determining that HMOs meet certain minimum quality care standards.

<sup>8</sup> Medicare Advantage services are certified by the Centers for Medicare and Medicaid Services (CMS).

<sup>9</sup> Medicaid services are certified by the state Department of Health Care Policy and Financing.

<sup>10</sup> Non-Medical Home Care Agencies include two programs that can be certified by the Home and Community Based Services (HCBS) Medicaid waiver, specifically: 1) Personal Care/Homemaker – Elderly, Blind and Disabled; Mentally Ill and Persons Living with AIDs; Brain Injury; and 2) In Home Support Services (IHSS) – Elderly, Blind and Disabled.

<sup>11</sup> Although home care placement agencies are not subject to licensure, they are required to register with the Department.

Health care entity type	State licensure required?	Does the Division conduct surveys for:	
		Medicare certification?	Medicaid certification?
Critical access	Yes <sup>12</sup>	Yes	Yes
General/Short term	Yes	Yes	Yes
Long-term care	Yes <sup>13</sup>	Yes	Yes
Maternity	Yes	No	No
Psychiatric	Yes	Yes <sup>14</sup>	Yes <sup>14</sup>
Rehabilitation	Yes	Yes	Yes
Hospital unit	Yes	Yes <sup>15</sup>	Yes <sup>15</sup>
Nursing home			
Long-term care facility	Yes	Yes	Yes
Transitional care unit (aka Extended care facility)	Yes	Yes	Yes
Outpatient rehabilitation services: physical therapy, speech pathology services <i>(not provided in consumer's home and not licensed as and home care agency)</i>	No	Yes	Yes
Portable x-ray services	No	Yes	Yes
Psychiatric residential treatment facility - pediatrics	No	Yes	Yes

<sup>12</sup> Critical access hospitals are licensed as general hospitals and federally certified as critical access hospitals.

<sup>13</sup> Long term care hospitals are licensed as general hospitals and federally certified as long term care hospitals.

<sup>14</sup> Psychiatric hospitals are Medicare/Medicaid certified through a two-step process, as follows. Step 1: certification as an acute care hospital – the survey is conducted by state surveyors from the Health Facilities and Emergency Medical Services Division. Step 2: certification as a psychiatric hospital – the survey is arranged by CMS and scheduled at least 6 months after the acute care hospital certification.

<sup>15</sup> Hospital units may Medicare/Medicaid approved by CMS as provider based.

**Legal authority for duty to report by persons urged to report mistreatment of at-risk adults pursuant to C.R.S. 26-3.1-102(1)(b)**

<b>Professional Group</b>	<b>Required to Report (yes or no)</b>	<b>Reports to</b>
Physicians, surgeons, physicians' assistants	Yes	Shall report injuries and "any other injury that the licensee has reason to believe involves a criminal act, including injuries resulting from domestic violence," to law enforcement. C.R.S. 12-36-102.5 (2012)
Osteopaths, physicians in training, podiatrists, and occupational therapists	No under practice act. <sup>i</sup>	
Medical examiners and coroners		
Registered nurses, licensed practical nurses, and nurse practitioners	No under practice act. Yes, if event is considered an occurrence.	To CDPHE/HFD
Hospital and long-term care facility personnel engaged in the admission, care, or treatment of patients;	No under NH Administrators or other practice acts. Yes, if event is considered an occurrence	To CDPHE/HFD
Psychologists and other mental health professionals	No under practice acts. <sup>ii</sup> Yes, if event is considered an occurrence.	To CDPHE/HFD
Social work practitioners	No under practice act. Yes, if event is considered an occurrence. <sup>iii</sup>	To CDPHE/HFD
Dentists	No under practice act.	
Law enforcement officials and personnel	Yes if criminal in nature	To LE
Court appointed guardians and conservators	No	
Fire protection personnel		
Pharmacists	No under practice act	
Community-centered board staff	Yes by rule, conducted by DDS staff.	Incident report to agency administrator or designee and the community centered board or regional center. C.R.S., § 27-10.5-115, CCR 16.580 ABUSE, MISTREATMENT, NEGLECT, AND EXPLOITATION
Personnel of banks, savings and loan associations, credit unions, and other lending or financial institutions	No, unless adult has signed prior consent form. CRS § 6-21-103.	

**Legal authority for duty to report by persons urged to report mistreatment of at-risk adults pursuant to C.R.S. 26-3.1-102(1)(b)**

A caretaker, staff member, or employee of or volunteer or consultant for a licensed or certified care facility, agency, home, <b>or governing board</b> , including but not limited to home health providers	Yes, if event is considered an occurrence	To CDPHE/HFD
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<sup>i</sup> Professionals and relevant professional practice acts and rules are at <http://www.dora.state.co.us/LawsRules.htm>.

<sup>ii</sup> May have legal duty to warn others if known threat/danger exists. *Tarasoff v. Regents of the University of California*, 17 Cal.3d 425, 551 P.2d 334, 131 Cal.Rptr. 14 (1976)

<sup>iii</sup> All healthcare entities licensed by the department are required to report occurrences (facility self-reported incidents) to the Health Facilities and Emergency Medical Services Division. Statutory citations for this can be found at 25-1-124 (CRS) and 25-3-109 (1),(3),(7),(8) and the regulations can be found in 6 CCR 1011-1, Chapter II, Licensing: 3.2 Occurrence Reporting.

Reportable occurrences include unexplained deaths, brain injuries, spinal cord injuries, life-threatening complications of anesthesia, life-threatening transfusion errors/reactions, severe burns, missing persons, physical abuse, verbal abuse, sexual abuse, neglect, misappropriation of property, diverted drugs and malfunction/misuse of equipment.