

SENATE BILL NO. 1505

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR HENDERSON.

6133S.011

KRISTINA MARTIN, Secretary

AN ACT

To repeal sections 192.2400 and 192.2435, RSMo, and to enact in lieu thereof two new sections relating to multidisciplinary adult protection teams, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 192.2400 and 192.2435, RSMo, are
2 repealed and two new sections enacted in lieu thereof, to be
3 known as sections 192.2400 and 192.2435, to read as follows:

192.2400. As used in sections 192.2400 to 192.2505,
2 the following terms mean:

3 (1) "Abuse", the infliction of physical, sexual, or
4 emotional injury or harm including financial exploitation by
5 any person, firm, or corporation and bullying;

6 (2) "Bullying", intimidation or harassment that causes
7 a reasonable person to fear for his or her physical safety
8 or property and may consist of physical actions including
9 gestures; cyberbullying; oral, electronic, or written
10 communication; and any threat of retaliation for reporting
11 of such acts;

12 (3) "Court", the circuit court;

13 (4) "Department", the department of health and senior
14 services;

15 (5) "Director", director of the department of health
16 and senior services or his or her designees;

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

17 (6) "Eligible adult", a person sixty years of age or
18 older who is unable to protect his or her own interests or
19 adequately perform or obtain services which are necessary to
20 meet his or her essential human needs or an adult with a
21 disability, as defined in section 192.2005, between the ages
22 of eighteen and fifty-nine who is unable to protect his or
23 her own interests or adequately perform or obtain services
24 which are necessary to meet his or her essential human needs;

25 (7) "Home health agency", the same meaning as such
26 term is defined in section 197.400;

27 (8) "Home health agency employee", a person employed
28 by a home health agency;

29 (9) "Home health patient", an eligible adult who is
30 receiving services through any home health agency;

31 (10) "In-home services client", an eligible adult who
32 is receiving services in his or her private residence
33 through any in-home services provider agency;

34 (11) "In-home services employee", a person employed by
35 an in-home services provider agency;

36 (12) "In-home services provider agency", a business
37 entity under contract with the department or with a Medicaid
38 participation agreement, which employs persons to deliver
39 any kind of services provided for eligible adults in their
40 private homes;

41 (13) "Least restrictive environment", a physical
42 setting where protective services for the eligible adult and
43 accommodation is provided in a manner no more restrictive of
44 an individual's personal liberty and no more intrusive than
45 necessary to achieve care and treatment objectives;

46 (14) "Likelihood of serious physical harm", one or
47 more of the following:

48 (a) A substantial risk that physical harm to an
49 eligible adult will occur because of his or her failure or
50 inability to provide for his or her essential human needs as
51 evidenced by acts or behavior which has caused such harm or
52 which gives another person probable cause to believe that
53 the eligible adult will sustain such harm;

54 (b) A substantial risk that physical harm will be
55 inflicted by an eligible adult upon himself or herself, as
56 evidenced by recent credible threats, acts, or behavior
57 which has caused such harm or which places another person in
58 reasonable fear that the eligible adult will sustain such
59 harm;

60 (c) A substantial risk that physical harm will be
61 inflicted by another upon an eligible adult as evidenced by
62 recent acts or behavior which has caused such harm or which
63 gives another person probable cause to believe the eligible
64 adult will sustain such harm;

65 (d) A substantial risk that further physical harm will
66 occur to an eligible adult who has suffered physical injury,
67 neglect, sexual or emotional abuse, or other maltreatment or
68 wasting of his or her financial resources by another person;

69 (15) **"Multidisciplinary adult protection team", a team**
70 **of two or more persons recognized by the department who**
71 **facilitate the identification, investigation, prosecution,**
72 **prevention, and treatment of offenses against eligible**
73 **adults and who supplement any protective services provided**
74 **by the department. In addition to department designees,**
75 **such teams may include, but shall not be limited to,**
76 **representatives from the following entities:**

77 (a) **A prosecuting attorney's office or a circuit**
78 **attorney's office;**

79 (b) **Law enforcement agencies;**

(c) Medical or health care providers, including long-term care facilities;

(d) Mental health care providers;

(e) Community-based or government agencies that, in some capacity, participate in the prevention, investigation, identification, treatment, or provision of care or needed resources related to the abuse or neglect of eligible adults and that are necessary for the review of cases;

(f) Guardians or conservators, as described in chapter 475; and

(g) Financial institutions or forensic accounting agencies qualified to review financial matters in order to identify financial abuse;

(16) "Neglect", the failure to provide services to an eligible adult by any person, firm or corporation with a legal or contractual duty to do so, when such failure presents either an imminent danger to the health, safety, or welfare of the client or a substantial probability that death or serious physical harm would result;

~~[(16)]~~ (17) "Protective services", services provided by the state or other governmental or private organizations or individuals which are necessary for the eligible adult to meet his or her essential human needs.

192.2435. 1. Reports made pursuant to sections 192.2400 to 192.2470 shall be confidential and shall not be deemed a public record and shall not be subject to the provisions of section 109.180 or chapter 610.

2. Such reports shall be accessible for examination and copying only to the following persons or offices, or to their designees:

(1) The department or any person or agency designated by the department;

- 10 (2) The attorney general;
- 11 (3) The department of mental health for persons
- 12 referred to that department;
- 13 (4) **The department of social services for persons**
- 14 **referred to that department;**
- 15 (5) Any appropriate law enforcement agency; [and]
- 16 (6) **Any member of a multidisciplinary adult protection**
- 17 **team when acting in the member's official capacity as a**
- 18 **representative of a participating entity; and**
- 19 [(5)] (7) The eligible adult or such adult's legal
- 20 guardian.

21 3. The name of the reporter shall not be disclosed

22 unless:

23 (1) **It is provided to the department of mental health**

24 **for investigating reported incidents of abuse and neglect of**

25 **vulnerable persons, as defined in section 630.005; or**

26 (2) (a) Such reporter specifically authorizes

27 disclosure of his name; and

28 [(2)] (b) The department determines that disclosure of

29 the name of the reporter is necessary in order to prevent

30 further harm to an eligible adult.

31 4. **Notwithstanding any other provision of law to the**

32 **contrary, members of a multidisciplinary adult protection**

33 **team may make available to members of the team all**

34 **information and records that are appropriate and necessary**

35 **to conduct team activities for the benefit of the eligible**

36 **adult. The case information received by members of the**

37 **multidisciplinary adult protection team shall be maintained**

38 **as confidential and any person to whom information is**

39 **released under this section is prohibited from using or**

40 **releasing the information except in the proper performance**

41 **of the person's official duties. Any member of the**

42 multidisciplinary adult protection team may share
43 information that is acquired in the team member's
44 professional capacity with other members of the
45 multidisciplinary adult protection team to assist the team
46 in its function for the benefit of the eligible adult.

47 5. Any person who violates the provisions of this
48 section, or who permits or encourages the unauthorized
49 dissemination of information contained in the central
50 registry and in reports and records made pursuant to
51 sections 192.2400 to 192.2470, shall be guilty of a class A
52 misdemeanor.

53 [5.] 6. The department shall maintain a central
54 registry capable of receiving and maintaining reports
55 received in a manner that facilitates rapid access and
56 recall of the information reported, and of subsequent
57 investigations and other relevant information. The
58 department shall electronically record any telephone report
59 of suspected abuse and neglect received by the department
60 and such recorded reports shall be retained by the
61 department for a period of one year after recording.

62 [6.] 7. Although reports to the central registry may
63 be made anonymously, the department shall in all cases,
64 after obtaining relevant information regarding the alleged
65 abuse or neglect, attempt to obtain the name and address of
66 any person making a report.

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