

SECOND REGULAR SESSION

HOUSE BILL NO. 3278

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE LAUBINGER.

7057H.011

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal sections 192.2400 and 192.2435, RSMo, and to enact in lieu thereof two new sections relating to the disclosure of records for the protection of vulnerable adults, 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Section A. Sections 192.2400 and 192.2435, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 192.2400 and 192.2435, to read as follows:

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

- (1) "Abuse", the infliction of physical, sexual, or emotional injury or harm including financial exploitation by any person, firm, or corporation and bullying;
- (2) "Bullying", intimidation or harassment that causes a reasonable person to fear for his or her physical safety or property and may consist of physical actions including gestures; cyberbullying; oral, electronic, or written communication; and any threat of retaliation for reporting of such acts;
- (3) "Court", the circuit court;
- (4) "Department", the department of health and senior services;
- (5) "Director", director of the department of health and senior services or his or her designees;
- (6) "Eligible adult", a person sixty 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, as defined in section 192.2005, between the ages of eighteen and fifty-nine who is unable to protect his or her own interests

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 or adequately perform or obtain services which are necessary to meet his or her essential
17 human needs;

18 (7) "Home health agency", the same meaning as such term is defined in section
19 197.400;

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

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

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

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

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

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

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

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

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

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

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

49 (15) **"Multidisciplinary adult protection team", a team of two or more persons**
50 **recognized by the department who facilitate the identification, investigation,**
51 **prosecution, prevention, and treatment of offenses against eligible adults as defined in**
52 **this section and supplement any protective services provided by the department. In**

53 **addition to department designees, such teams may include, but are not limited to,**
 54 **representatives from the following entities:**

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

56 **(b) Law enforcement;**

57 **(c) Medical or health providers, including nursing home facilities;**

58 **(d) Mental health providers;**

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

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

64 **(g) Financial institutions or forensic accounting agencies qualified to review**
 65 **financial matters to identify financial abuse;**

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

70 ~~[(16)]~~ **(17) "Protective services", services provided by the state or other governmental**
 71 **or private organizations or individuals which are necessary for the eligible adult to meet his or**
 72 **her essential human needs.**

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

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

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

7 (2) The attorney general;

8 (3) The department of mental health for persons referred to that department;

9 **(4) The department of social services for persons referred to that department;**

10 ~~(5)~~ Any appropriate law enforcement agency; ~~and~~

11 ~~(5)]~~ **(6) Any member of a multidisciplinary adult protection team as defined by**
 12 **section 192.2400 when acting in the member's official capacity as a representative of a**
 13 **participating entity; and**

14 (7) The eligible adult or such adult's legal guardian.

15 3. The name of the reporter shall not be disclosed unless:

16 (1) **Provided to the department of mental health for investigating reported**
 17 **incidents of abuse and neglect of vulnerable persons as defined by section 630.005; or**

18 (2) Such reporter specifically authorizes disclosure of his **or her** name; and
19 ~~[(2)]~~ (3) The department determines that disclosure of the name of the reporter is
20 necessary in order to prevent further harm to an eligible adult.

21 4. **Notwithstanding any other provision of law to the contrary, members of a**
22 **multidisciplinary adult protection team may make available to members of the team all**
23 **information and records that are appropriate and necessary to conduct team activities**
24 **for the benefit of the eligible adults. The case information received by members of the**
25 **multidisciplinary team shall be maintained as confidential, and any person to whom**
26 **information is released pursuant to this section is prohibited from using or releasing the**
27 **information except in the proper performance of the person's official duties. Any**
28 **member of the multidisciplinary team may share information that is acquired in the**
29 **team member's professional capacity with other members of the multidisciplinary team**
30 **to assist the team in its function for the benefit of the eligible adult.**

31 5. Any person who violates the provisions of this section, or who permits or
32 encourages the unauthorized dissemination of information contained in the central registry
33 and in reports and records made pursuant to sections 192.2400 to 192.2470, shall be guilty of
34 a class A misdemeanor.

35 ~~[5-]~~ 6. The department shall maintain a central registry capable of receiving and
36 maintaining reports received in a manner that facilitates rapid access and recall of the
37 information reported, and of subsequent investigations and other relevant information. The
38 department shall electronically record any telephone report of suspected abuse and neglect
39 received by the department and such recorded reports shall be retained by the department for
40 a period of one year after recording.

41 ~~[6-]~~ 7. Although reports to the central registry may be made anonymously, the
42 department shall in all cases, after obtaining relevant information regarding the alleged abuse
43 or neglect, attempt to obtain the name and address of any person making a report.

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