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State of Minnesota  
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH  
SESSION

HOUSE FILE No. **3514**

February 28, 2008

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The bill was read for the first time and referred to the Committee on Public Safety and Civil Justice

1.1 A bill for an act  
1.2 relating to crime; clarifying fiduciary obligation for crimes against vulnerable  
1.3 adults; amending Minnesota Statutes 2006, sections 609.232, by adding a  
1.4 subdivision; 609.2335, subdivisions 1, 2.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2006, section 609.232, is amended by adding a  
1.7 subdivision to read:

1.8 Subd. 12. **Fiduciary obligation.** "Fiduciary obligation" means a person's obligation  
1.9 to a vulnerable adult who places confidence in the person and the person assumes a  
1.10 position of superiority or influence over the vulnerable adult. In addition to a fiduciary  
1.11 obligation recognized elsewhere in law, a fiduciary obligation occurs when a person is  
1.12 a joint tenant or tenant in common in real property, financial instruments, or financial  
1.13 accounts with a vulnerable adult.

1.14 Sec. 2. Minnesota Statutes 2006, section 609.2335, subdivision 1, is amended to read:

1.15 Subdivision 1. **Crime.** Whoever does any of the following acts commits the crime  
1.16 of financial exploitation:

1.17 (1) in breach of a fiduciary obligation recognized elsewhere in law, including  
1.18 pertinent regulations, contractual obligations, documented consent by a competent person,  
1.19 or the obligations of a responsible party under section 144.6501 intentionally ~~fails to use~~  
1.20 ~~the financial resources~~ uses, manages, deprives, or takes either temporarily or permanently  
1.21 the property, assets, or funds of the vulnerable adult to provide food, clothing, shelter,  
1.22 health care, therapeutic conduct, or supervision for the benefit of someone other than  
1.23 the vulnerable adult; or

2.1 (2) in the absence of legal authority:

2.2 (i) acquires possession or control of an interest in ~~funds or~~ property, assets, or funds  
2.3 of a vulnerable adult through the use of undue influence, harassment, or duress; or

2.4 (ii) forces, compels, coerces, or entices a vulnerable adult against the vulnerable  
2.5 adult's will to perform services for the profit or advantage of another.

2.6 Sec. 3. Minnesota Statutes 2006, section 609.2335, subdivision 2, is amended to read:

2.7 Subd. 2. **Defenses.** Nothing in this section requires a facility or caregiver to provide  
2.8 financial management or supervise financial management for a vulnerable adult except  
2.9 as otherwise required by law. Where the agent knows or should know the vulnerable  
2.10 adult lacks the capacity to consent, consent is not a defense to the crime of financial  
2.11 exploitation of a vulnerable adult.