

HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH SESSION

HOUSE FILE No. 818

February 16, 2009

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The bill was read for the first time and referred to the Committee on Public Safety Policy and Oversight

March 9, 2009

Committee Recommendation and Adoption of Report:

To Pass as Amended and re-referred to the Committee on Commerce and Labor

March 23, 2009

Committee Recommendation and Adoption of Report:

To Pass as Amended and re-referred to the Committee on Civil Justice

March 26, 2009

Committee Recommendation and Adoption of Report:

To Pass and re-referred to the Committee on Health Care and Human Services Policy and Oversight

March 30, 2009

Committee Recommendation and Adoption of Report:

To Pass as Amended and re-referred to the Committee on Finance

April 29, 2009

Committee Recommendation and Adoption of Report:

To Pass as Amended and Read Second Time

May 6, 2009

Calendar For The Day

Amended

Read Third Time as Amended

Passed by the House as Amended and transmitted to the Senate to include Floor Amendments

1.1 A bill for an act
1.2 relating to vulnerable adults; authorizing disclosure of financial records in
1.3 connection with financial exploitation investigations; modifying procedures
1.4 and duties for reporting and investigating maltreatment; specifying duties of
1.5 financial institutions in cases alleging financial exploitation; modifying the
1.6 crime of financial exploitation; imposing criminal and civil penalties; amending
1.7 Minnesota Statutes 2008, sections 13A.02, subdivisions 1, 2; 13A.04, subdivision
1.8 1; 256B.0595, subdivisions 4, 9; 299A.61, subdivision 1; 388.23, subdivision 1;
1.9 609.2335; 609.52, subdivision 3; 611A.033; 626.557, subdivisions 4, 5, 9b, by
1.10 adding subdivisions; 626.5572, subdivision 21; 628.26.

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

1.12 Section 1. Minnesota Statutes 2008, section 13A.02, subdivision 1, is amended to read:

1.13 Subdivision 1. Access by government. Except as authorized by this chapter,
1.14 no government authority may have access to, or obtain copies of, or the information
1.15 contained in, the financial records of any customer from a financial institution unless the
1.16 financial records are reasonably described and:

1.17 (1) the customer has authorized the disclosure;

1.18 (2) the financial records are disclosed in response to a search warrant;

1.19 ~~(3) the financial records are disclosed in response to a judicial or administrative~~
1.20 ~~subpoena; or~~

1.21 (3) the financial records are disclosed to law enforcement, a lead agency as defined
1.22 in section 626.5572, subdivision 13, or prosecuting authority that is investigating financial
1.23 exploitation of a vulnerable adult in response to a judicial subpoena or administrative
1.24 subpoena under section 388.23; or

1.25 (4) the financial records are disclosed pursuant to section 609.535 or other statute or
1.26 rule.

2.1 Sec. 2. Minnesota Statutes 2008, section 13A.02, subdivision 2, is amended to read:

2.2 Subd. 2. **Release prohibited.** No financial institution, or officer, employee, or
2.3 agent of a financial institution, may provide to any government authority access to, or
2.4 copies of, or the information contained in, the financial records of any customer except in
2.5 accordance with the provisions of this chapter.

2.6 Nothing in this chapter shall require a financial institution to inquire or determine
2.7 that those seeking disclosure have duly complied with the requirements of this chapter,
2.8 provided only that the customer authorization, search warrant, subpoena, or written
2.9 certification pursuant to section 609.535, subdivision 6; 626.557; or other statute or rule,
2.10 served on or delivered to a financial institution shows compliance on its face.

2.11 Sec. 3. Minnesota Statutes 2008, section 13A.04, subdivision 1, is amended to read:

2.12 Subdivision 1. **Statutory violations; financial exploitation.** Nothing in this chapter
2.13 precludes any financial institution, or any officer, employee, or agent of a financial
2.14 institution, from notifying a government authority that the institution, or officer, employee,
2.15 or agent has information which may be relevant to a possible violation of any statute or
2.16 rule or the financial exploitation of a vulnerable adult and providing access to financial
2.17 records relevant to the possible violation or financial exploitation.

2.18 Sec. 4. Minnesota Statutes 2008, section 256B.0595, subdivision 4, is amended to read:

2.19 Subd. 4. **Other exceptions to transfer prohibition.** (a) An institutionalized person,
2.20 as defined in subdivision 1, paragraph (h), who has made, or whose spouse has made a
2.21 transfer prohibited by subdivision 1, is not ineligible for long-term care services if one of
2.22 the following conditions applies:

2.23 (1) the assets were transferred to the individual's spouse or to another for the sole
2.24 benefit of the spouse; or

2.25 (2) the institutionalized spouse, prior to being institutionalized, transferred assets
2.26 to a spouse, provided that the spouse to whom the assets were transferred does not then
2.27 transfer those assets to another person for less than fair market value. (At the time when
2.28 one spouse is institutionalized, assets must be allocated between the spouses as provided
2.29 under section 256B.059); or

2.30 (3) the assets were transferred to the individual's child who is blind or permanently
2.31 and totally disabled as determined in the supplemental security income program; or

2.32 (4) a satisfactory showing is made that the individual intended to dispose of the
2.33 assets either at fair market value or for other valuable consideration; or

3.1 (5) the local agency determines that denial of eligibility for long-term care services
3.2 would work an undue hardship and grants a waiver of a ~~penalty period of ineligibility~~
3.3 resulting from a transfer for less than fair market value based on an imminent threat to
3.4 the individual's health and well-being. Imminent threat to the individual's health and
3.5 well-being means that imposing a period of ineligibility would endanger the individual's
3.6 health or life or cause serious deprivation of food, clothing, or shelter. Whenever an
3.7 applicant or recipient is denied eligibility because of a transfer for less than fair market
3.8 value, the local agency shall notify the applicant or recipient that the applicant or recipient
3.9 may request a waiver of the ~~penalty period of ineligibility~~ if the denial of eligibility
3.10 will cause undue hardship. With the written consent of the individual or the personal
3.11 representative of the individual, a long-term care facility in which an individual is
3.12 residing may file an undue hardship waiver request, on behalf of the individual who is
3.13 denied eligibility for long-term care services on or after July 1, 2006, due to a period
3.14 of ineligibility resulting from a transfer on or after February 8, 2006. ~~In evaluating a~~
3.15 ~~waiver, the local agency shall take into account whether the individual was the victim of~~
3.16 ~~financial exploitation, whether the individual has made reasonable efforts to recover the~~
3.17 ~~transferred property or resource, whether the individual has taken any action to prevent~~
3.18 ~~the designation of the department as a remainder beneficiary on an annuity as described in~~
3.19 ~~section 256B.056, subdivision 11, and other factors relevant to a determination of hardship.~~

3.20 (b) Subject to paragraph (c), when evaluating a hardship waiver, the local agency
3.21 shall take into account whether the individual was the victim of financial exploitation,
3.22 whether the individual has made reasonable efforts to recover the transferred property or
3.23 resource, whether the individual has taken any action to prevent the designation of the
3.24 department as a remainder beneficiary on an annuity as described in section 256B.056,
3.25 subdivision 11, and other factors relevant to a determination of hardship.

3.26 (c) In the case of an imminent threat to the individual's health and well-being, the
3.27 local agency shall approve a hardship waiver of the portion of an individual's period of
3.28 ineligibility resulting from a transfer of assets for less than fair market value by or to
3.29 a person:

3.30 (1) convicted of financial exploitation, fraud, or theft upon the individual for such
3.31 transfer of assets; or

3.32 (2) against whom a report of financial exploitation upon the individual has been
3.33 substantiated. For purposes of this paragraph, "financial exploitation" and "substantiated"
3.34 have the meanings given in section 626.5572.

3.35 (d) The local agency shall make a determination within 30 days of the receipt of all
3.36 necessary information needed to make such a determination. If the local agency does not

4.1 approve a hardship waiver, the local agency shall issue a written notice to the individual
 4.2 stating the reasons for the denial and the process for appealing the local agency's decision.

4.3 When a waiver is granted, a cause of action exists against the person to whom the assets
 4.4 were transferred for that portion of long-term care services provided within:

4.5 ~~(i)~~ (1) 30 months of a transfer made on or before August 10, 1993;

4.6 ~~(ii)~~ (2) 60 months of a transfer if the assets were transferred after August 30, 1993,
 4.7 to a trust or portion of a trust that is considered a transfer of assets under federal law;

4.8 ~~(iii)~~ (3) 36 months of a transfer if transferred in any other manner after August
 4.9 10, 1993, but prior to February 8, 2006; ~~or~~

4.10 ~~(iv)~~ (4) 60 months of any transfer made on or after February 8, 2006,

4.11 or the amount of the uncompensated transfer, whichever is less, together with the costs
 4.12 incurred due to the action; or

4.13 ~~(6)~~ (5) for transfers occurring after August 10, 1993, the assets were transferred by
 4.14 the person or person's spouse: (i) into a trust established for the sole benefit of a son or
 4.15 daughter of any age who is blind or disabled as defined by the Supplemental Security
 4.16 Income program; or (ii) into a trust established for the sole benefit of an individual who is
 4.17 under 65 years of age who is disabled as defined by the Supplemental Security Income
 4.18 program.

4.19 "For the sole benefit of" has the meaning found in section 256B.059, subdivision 1.

4.20 Sec. 5. Minnesota Statutes 2008, section 256B.0595, subdivision 9, is amended to read:

4.21 Subd. 9. **Filing cause of action; limitation.** (a) The county of financial
 4.22 responsibility under chapter 256G may bring a cause of action under any or all of the
 4.23 following:

4.24 (1) subdivision 1, paragraph (f);

4.25 (2) subdivision 2, paragraphs (a) and (b);

4.26 (3) subdivision 3, paragraph (b);

4.27 (4) subdivision 4, ~~clause (5)~~ paragraph (d); and

4.28 (5) subdivision 8

4.29 on behalf of the claimant who must be the commissioner.

4.30 (b) Notwithstanding any other law to the contrary, a cause of action under
 4.31 subdivision 2, paragraph (a) or (b), or 8, must be commenced within six years of the date
 4.32 the local agency determines that a transfer was made for less than fair market value.

4.33 Notwithstanding any other law to the contrary, a cause of action under subdivision 3,
 4.34 paragraph (b), or 4, clause (5), must be commenced within six years of the date of

5.1 approval of a waiver of the penalty period for a transfer for less than fair market value
5.2 based on undue hardship.

5.3 Sec. 6. Minnesota Statutes 2008, section 299A.61, subdivision 1, is amended to read:

5.4 Subdivision 1. **Establishment.** The commissioner of public safety, in cooperation
5.5 with the commissioner of administration, shall develop and maintain an integrated
5.6 criminal alert network to facilitate the communication of crime prevention information
5.7 by electronic means among state agencies, law enforcement officials, and the private
5.8 sector. The network shall disseminate data regarding the commission of crimes, including
5.9 information on missing and endangered children or vulnerable adults, and attempt
5.10 to reduce theft and other crime by the use of electronic transmission of information.
5.11 In addition, the commissioner shall evaluate the feasibility of using the network to
5.12 disseminate data regarding the use of fraudulent checks and the coordination of security
5.13 and antiterrorism efforts with the Federal Bureau of Investigation. If the commissioner
5.14 determines that one or both of these uses are feasible, the commissioner shall ensure that
5.15 the network disseminates data in the area or areas determined to be feasible.

5.16 Sec. 7. Minnesota Statutes 2008, section 388.23, subdivision 1, is amended to read:

5.17 Subdivision 1. **Authority.** The county attorney, or any deputy or assistant county
5.18 attorney whom the county attorney authorizes in writing, has the authority to subpoena
5.19 and require the production of any records of telephone companies, cellular phone
5.20 companies, paging companies, subscribers of private computer networks including
5.21 Internet service providers or computer bulletin board systems, electric companies, gas
5.22 companies, water utilities, chemical suppliers, hotels and motels, pawn shops, airlines,
5.23 buses, taxis, and other entities engaged in the business of transporting people, and freight
5.24 companies, warehousing companies, self-service storage facilities, package delivery
5.25 companies, and other entities engaged in the businesses of transport, storage, or delivery,
5.26 and records of the existence of safe deposit box account numbers and customer savings
5.27 and checking account numbers maintained by financial institutions and safe deposit
5.28 companies, insurance records relating to the monetary payment or settlement of claims,
5.29 the banking, credit card, and financial records of a vulnerable adult, whether held in the
5.30 name of the vulnerable adult or a third party, including but not limited to safe deposit, loan
5.31 and account applications and agreements, signature cards, statements, check, transfers,
5.32 account authorizations, safe deposit access records and documentation of fraud, and
5.33 wage and employment records of an applicant or recipient of public assistance who is
5.34 the subject of a welfare fraud investigation relating to eligibility information for public

6.1 assistance programs. Subpoenas may only be issued for records that are relevant to an
 6.2 ongoing legitimate law enforcement investigation. Administrative subpoenas may only
 6.3 be issued in welfare fraud cases if there is probable cause to believe a crime has been
 6.4 committed. This provision applies only to the records of business entities and does not
 6.5 extend to private individuals or their dwellings.

6.6 Sec. 8. Minnesota Statutes 2008, section 609.2335, is amended to read:

6.7 **609.2335 FINANCIAL EXPLOITATION OF VULNERABLE ADULT.**

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

6.10 (1) in breach of a fiduciary obligation recognized elsewhere in law, including
 6.11 pertinent regulations, contractual obligations, documented consent by a competent person,
 6.12 or the obligations of a responsible party under section 144.6501 intentionally;

6.13 (i) fails to use the real or personal property or other financial resources of the
 6.14 vulnerable adult to provide food, clothing, shelter, health care, therapeutic conduct, or
 6.15 supervision for the vulnerable adult; or

6.16 (ii) uses, manages, or takes either temporarily or permanently the real or personal
 6.17 property or other financial resources of the vulnerable adult, whether held in the name of
 6.18 the vulnerable adult or a third party, for the benefit of someone other than the vulnerable
 6.19 adult; or

6.20 (iii) deprives either temporarily or permanently a vulnerable adult of the vulnerable
 6.21 adult's real or personal property or other financial resources, whether held in the name of
 6.22 the vulnerable adult or a third party, for the benefit of someone other than the vulnerable
 6.23 adult; or

6.24 (2) in the absence of legal authority:

6.25 (i) acquires possession or control of an interest in funds or real or personal property or
 6.26 other financial resources of a vulnerable adult, whether held in the name of the vulnerable
 6.27 adult or a third party, through the use of undue influence, harassment, or duress; or

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

6.30 (iii) establishes a relationship with a fiduciary obligation to a vulnerable adult by use
 6.31 of undue influence, harassment, duress, force, compulsion, coercion, or other enticement.

6.32 Subd. 2. **Defenses.** (a) Nothing in this section requires a facility or caregiver to
 6.33 provide financial management or supervise financial management for a vulnerable adult
 6.34 except as otherwise required by law.

7.1 (b) If the actor knew or had reason to know that the vulnerable adult lacked capacity
7.2 to consent, consent is not a defense to a violation of this section.

7.3 Subd. 3. **Criminal penalties.** A person who violates subdivision 1, clause (1) or (2),
7.4 item (i), may be sentenced as provided in section 609.52, subdivision 3. A person who
7.5 violates subdivision 1, clause (2), item (ii) or (iii), may be sentenced to imprisonment for
7.6 not more than one year or to payment of a fine of not more than \$3,000, or both.

7.7 **EFFECTIVE DATE.** This section is effective August 1, 2009, and applies to crimes
7.8 committed on or after that date.

7.9 Sec. 9. Minnesota Statutes 2008, section 609.52, subdivision 3, is amended to read:

7.10 Subd. 3. **Sentence.** Whoever commits theft may be sentenced as follows:

7.11 (1) to imprisonment for not more than 20 years or to payment of a fine of not more
7.12 than \$100,000, or both, if the property is a firearm, or the value of the property or services
7.13 stolen is more than \$35,000 and the conviction is for a violation of subdivision 2, clause
7.14 (3), (4), (15), or (16), or section 609.2335, subdivision 1, clause (1) or (2), item (i); or

7.15 (2) to imprisonment for not more than ten years or to payment of a fine of not more
7.16 than \$20,000, or both, if the value of the property or services stolen exceeds \$5,000, or if
7.17 the property stolen was an article representing a trade secret, an explosive or incendiary
7.18 device, or a controlled substance listed in schedule I or II pursuant to section 152.02
7.19 with the exception of marijuana; or

7.20 (3) to imprisonment for not more than five years or to payment of a fine of not more
7.21 than \$10,000, or both, if any of the following circumstances exist:

7.22 (a) the value of the property or services stolen is more than \$1,000 but not more
7.23 than \$5,000; or

7.24 (b) the property stolen was a controlled substance listed in schedule III, IV, or V
7.25 pursuant to section 152.02; or

7.26 (c) the value of the property or services stolen is more than \$500 but not more
7.27 than \$1,000 and the person has been convicted within the preceding five years for an
7.28 offense under this section, section 256.98; 268.182; 609.24; 609.245; 609.53; 609.582,
7.29 subdivision 1, 2, or 3; 609.625; 609.63; 609.631; or 609.821, or a statute from another
7.30 state, the United States, or a foreign jurisdiction, in conformity with any of those sections,
7.31 and the person received a felony or gross misdemeanor sentence for the offense, or a
7.32 sentence that was stayed under section 609.135 if the offense to which a plea was entered
7.33 would allow imposition of a felony or gross misdemeanor sentence; or

7.34 (d) the value of the property or services stolen is not more than \$1,000, and any of
7.35 the following circumstances exist:

8.1 (i) the property is taken from the person of another or from a corpse, or grave or
8.2 coffin containing a corpse; or

8.3 (ii) the property is a record of a court or officer, or a writing, instrument or record
8.4 kept, filed or deposited according to law with or in the keeping of any public officer or
8.5 office; or

8.6 (iii) the property is taken from a burning, abandoned, or vacant building or upon its
8.7 removal therefrom, or from an area of destruction caused by civil disaster, riot, bombing,
8.8 or the proximity of battle; or

8.9 (iv) the property consists of public funds belonging to the state or to any political
8.10 subdivision or agency thereof; or

8.11 (v) the property stolen is a motor vehicle; or

8.12 (4) to imprisonment for not more than one year or to payment of a fine of not more
8.13 than \$3,000, or both, if the value of the property or services stolen is more than \$500 but
8.14 not more than \$1,000; or

8.15 (5) in all other cases where the value of the property or services stolen is \$500 or less,
8.16 to imprisonment for not more than 90 days or to payment of a fine of not more than \$1,000,
8.17 or both, provided, however, in any prosecution under subdivision 2, clauses (1), (2), (3),
8.18 (4), and (13), the value of the money or property or services received by the defendant in
8.19 violation of any one or more of the above provisions within any six-month period may
8.20 be aggregated and the defendant charged accordingly in applying the provisions of this
8.21 subdivision; provided that when two or more offenses are committed by the same person
8.22 in two or more counties, the accused may be prosecuted in any county in which one of the
8.23 offenses was committed for all of the offenses aggregated under this paragraph.

8.24 **EFFECTIVE DATE.** This section is effective August 1, 2009, and applies to crimes
8.25 committed on or after that date.

8.26 Sec. 10. Minnesota Statutes 2008, section 611A.033, is amended to read:

8.27 **611A.033 SPEEDY TRIAL; NOTICE OF SCHEDULE CHANGE.**

8.28 (a) A victim has the right to request that the prosecutor make a demand under rule
8.29 11.10 of the Rules of Criminal Procedure that the trial be commenced within 60 days of the
8.30 demand. The prosecutor shall make reasonable efforts to comply with the victim's request.

8.31 (b) A prosecutor shall make reasonable efforts to provide advance notice of any
8.32 change in the schedule of the court proceedings to a victim who has been subpoenaed or
8.33 requested to testify.

9.1 (c) In a criminal proceeding in which a vulnerable adult, as defined in section
9.2 609.232, subdivision 11, is a victim, the state may move the court for a speedy trial. The
9.3 court, after consideration of the age and health of the victim, may grant a speedy trial.
9.4 The motion may be filed and served with the complaint or any time after the complaint
9.5 is filed and served.

9.6 Sec. 11. Minnesota Statutes 2008, section 626.557, subdivision 4, is amended to read:

9.7 Subd. 4. **Reporting.** (a) Except as provided in paragraph (b), a mandated
9.8 reporter shall immediately make an oral report to the common entry point. Use of a
9.9 telecommunications device for the deaf or other similar device shall be considered an oral
9.10 report. The common entry point may not require written reports. To the extent possible,
9.11 the report must be of sufficient content to identify the vulnerable adult, the caregiver, the
9.12 nature and extent of the suspected maltreatment, any evidence of previous maltreatment,
9.13 the name and address of the reporter, the time, date, and location of the incident, and any
9.14 other information that the reporter believes might be helpful in investigating the suspected
9.15 maltreatment. A mandated reporter may disclose not public data, as defined in section
9.16 13.02, and medical records under sections 144.291 to 144.298, to the extent necessary
9.17 to comply with this subdivision.

9.18 (b) A boarding care home that is licensed under sections 144.50 to 144.58 and
9.19 certified under Title 19 of the Social Security Act, a nursing home that is licensed under
9.20 section 144A.02 and certified under Title 18 or Title 19 of the Social Security Act, or a
9.21 hospital that is licensed under sections 144.50 to 144.58 and has swing beds certified under
9.22 Code of Federal Regulations, title 42, section 482.66, may submit a report electronically
9.23 to the common entry point instead of submitting an oral report. The report may be a
9.24 duplicate of the initial report the facility submits electronically to the commissioner of
9.25 health to comply with the reporting requirements under Code of Federal Regulations, title
9.26 42, section 483.13. The commissioner of health may modify these reporting requirements
9.27 to include items required under paragraph (a) that are not currently included in the
9.28 electronic reporting form.

9.29 Sec. 12. Minnesota Statutes 2008, section 626.557, subdivision 5, is amended to read:

9.30 Subd. 5. **Immunity; protection for reporters.** (a) A person who makes a good
9.31 faith report is immune from any civil or criminal liability that might otherwise result from
9.32 making the report, or from participating in the investigation, or for failure to comply fully
9.33 with the reporting obligation under section 609.234 or 626.557, subdivision 7.

10.1 (b) A person employed by a lead agency or a state licensing agency who is
10.2 conducting or supervising an investigation or enforcing the law in compliance with this
10.3 section or any related rule or provision of law is immune from any civil or criminal
10.4 liability that might otherwise result from the person's actions, if the person is acting in
10.5 good faith and exercising due care.

10.6 (c) A person who knows or has reason to know a report has been made to a common
10.7 entry point and who in good faith participates in an investigation of alleged maltreatment
10.8 is immune from civil or criminal liability that otherwise might result from making the
10.9 report, or from failure to comply with the reporting obligation or from participating in the
10.10 investigation.

10.11 (d) The identity of any reporter may not be disclosed, except as provided in
10.12 subdivision 12b.

10.13 (e) For purposes of this subdivision, "person" includes a natural person or any form
10.14 of a business or legal entity.

10.15 Sec. 13. Minnesota Statutes 2008, section 626.557, is amended by adding a subdivision
10.16 to read:

10.17 Subd. 5a. **Financial institution cooperation.** Financial institutions shall cooperate
10.18 with a lead agency, law enforcement, or prosecuting authority that is investigating
10.19 maltreatment of a vulnerable adult and comply with reasonable requests for the production
10.20 of financial records as authorized under section 13A.02, subdivision 1. Financial
10.21 institutions are immune from any civil or criminal liability that might otherwise result
10.22 from complying with this subdivision.

10.23 Sec. 14. Minnesota Statutes 2008, section 626.557, subdivision 9b, is amended to read:

10.24 Subd. 9b. **Response to reports.** Law enforcement is the primary agency to
10.25 conduct investigations of any incident in which there is reason to believe a crime has
10.26 been committed. Law enforcement shall initiate a response immediately. If the common
10.27 entry point notified a county agency for adult protective services, law enforcement
10.28 shall cooperate with that county agency when both agencies are involved and shall
10.29 exchange data to the extent authorized in subdivision 12b, paragraph (g). County adult
10.30 protection shall initiate a response immediately. Each lead agency shall complete the
10.31 investigative process for reports within its jurisdiction. ~~Any other~~ A lead agency, county,
10.32 adult protective agency, licensed facility, or law enforcement agency shall cooperate in
10.33 coordinating its investigation with other agencies and may assist another agency upon
10.34 request within the limits of its resources and expertise and shall exchange data to the

11.1 extent authorized in subdivision 12b, paragraph (g). The lead agency shall obtain the
11.2 results of any investigation conducted by law enforcement officials. The lead agency has
11.3 the right to enter facilities and inspect and copy records as part of investigations. The lead
11.4 agency has access to not public data, as defined in section 13.02, and medical records
11.5 under sections 144.291 to 144.298, that are maintained by facilities to the extent necessary
11.6 to conduct its investigation. Each lead agency shall develop guidelines for prioritizing
11.7 reports for investigation.

11.8 Sec. 15. Minnesota Statutes 2008, section 626.557, is amended by adding a subdivision
11.9 to read:

11.10 Subd. 10b. **Investigations; guidelines.** Each lead agency shall develop guidelines
11.11 for prioritizing reports for investigation. When investigating a report, the lead agency shall
11.12 conduct the following activities, as appropriate:

- 11.13 (1) interview of the alleged victim;
11.14 (2) interview of the reporter and others who may have relevant information;
11.15 (3) interview of the alleged perpetrator;
11.16 (4) examination of the environment surrounding the alleged incident;
11.17 (5) review of pertinent documentation of the alleged incident; and
11.18 (6) consultation with professionals.

11.19 Sec. 16. Minnesota Statutes 2008, section 626.557, is amended by adding a subdivision
11.20 to read:

11.21 Subd. 20. **Cause of action for financial exploitation; damages.** (a) A vulnerable
11.22 adult who is a victim of financial exploitation has a cause of action against a person who
11.23 committed the financial exploitation. In an action under this subdivision, the vulnerable
11.24 adult is entitled to recover damages equal to three times the amount of compensatory
11.25 damages or \$10,000, whichever is greater.

11.26 (b) In addition to damages under paragraph (a), the vulnerable adult is entitled to
11.27 recover reasonable attorney fees and costs, including reasonable fees for the services of a
11.28 guardian or conservator or guardian ad litem incurred in connection with a claim under
11.29 this subdivision.

11.30 (c) An action may be brought under this subdivision regardless of whether there has
11.31 been a report or final disposition under this section or a criminal complaint or conviction
11.32 related to the financial exploitation.

12.1 Sec. 17. Minnesota Statutes 2008, section 626.5572, subdivision 21, is amended to
12.2 read:

12.3 Subd. 21. **Vulnerable adult.** (a) "Vulnerable adult" means any person 18 years of
12.4 age or older who:

12.5 (1) is a resident or inpatient of a facility;

12.6 (2) receives services at or from a facility required to be licensed to serve adults
12.7 under sections 245A.01 to 245A.15, except that a person receiving outpatient services for
12.8 treatment of chemical dependency or mental illness, or one who is served in the Minnesota
12.9 sex offender program on a court-hold order for commitment, or is committed as a sexual
12.10 psychopathic personality or as a sexually dangerous person under chapter 253B, is not
12.11 considered a vulnerable adult unless the person meets the requirements of clause (4);

12.12 (3) receives services from a home care provider required to be licensed under section
12.13 144A.46; or from a person or organization that exclusively offers, provides, or arranges
12.14 for personal care assistant services under the medical assistance program as authorized
12.15 under sections 256B.04, subdivision 16, 256B.0625, subdivision 19a, 256B.0651, and
12.16 256B.0653 to 256B.0656; or

12.17 (4) regardless of residence or whether any type of service is received, possesses a
12.18 physical or mental infirmity or other physical, mental, or emotional dysfunction:

12.19 (i) that impairs the individual's ability to provide adequately for the individual's
12.20 own care without assistance, including the provision of food, shelter, clothing, health
12.21 care, or supervision; and

12.22 (ii) because of the dysfunction or infirmity and the need for ~~assistance~~ care or
12.23 services, the individual has an impaired ability to protect the ~~individual~~ individual's self
12.24 from maltreatment.

12.25 (b) For purposes of this subdivision, "care or services" means care or services for the
12.26 health, safety, welfare, or maintenance of an individual.

12.27 Sec. 18. Minnesota Statutes 2008, section 628.26, is amended to read:

12.28 **628.26 LIMITATIONS.**

12.29 (a) Indictments or complaints for any crime resulting in the death of the victim may
12.30 be found or made at any time after the death of the person killed.

12.31 (b) Indictments or complaints for a violation of section 609.25 may be found or
12.32 made at any time after the commission of the offense.

12.33 (c) Indictments or complaints for violation of section 609.282 may be found or made
12.34 at any time after the commission of the offense if the victim was under the age of 18 at
12.35 the time of the offense.

13.1 (d) Indictments or complaints for violation of section 609.282 where the victim
13.2 was 18 years of age or older at the time of the offense, or 609.42, subdivision 1, clause
13.3 (1) or (2), shall be found or made and filed in the proper court within six years after
13.4 the commission of the offense.

13.5 (e) Indictments or complaints for violation of sections 609.342 to 609.345 if the
13.6 victim was under the age of 18 years at the time the offense was committed, shall be found
13.7 or made and filed in the proper court within nine years after the commission of the offense
13.8 or, if the victim failed to report the offense within this limitation period, within three years
13.9 after the offense was reported to law enforcement authorities.

13.10 (f) Notwithstanding the limitations in paragraph (e), indictments or complaints for
13.11 violation of sections 609.342 to 609.344 may be found or made and filed in the proper
13.12 court at any time after commission of the offense, if physical evidence is collected and
13.13 preserved that is capable of being tested for its DNA characteristics. If this evidence is not
13.14 collected and preserved and the victim was 18 years old or older at the time of the offense,
13.15 the prosecution must be commenced within nine years after the commission of the offense.

13.16 (g) Indictments or complaints for violation of sections 609.466 and 609.52,
13.17 subdivision 2, clause (3), item (iii), shall be found or made and filed in the proper court
13.18 within six years after the commission of the offense.

13.19 (h) Indictments or complaints for violation of section 609.2335, 609.52, subdivision
13.20 2, clause (3), items (i) and (ii), (4), (15), or (16), 609.631, or 609.821, where the value of
13.21 the property or services stolen is more than \$35,000, shall be found or made and filed in
13.22 the proper court within five years after the commission of the offense.

13.23 (i) Except for violations relating to false material statements, representations or
13.24 omissions, indictments or complaints for violations of section 609.671 shall be found or
13.25 made and filed in the proper court within five years after the commission of the offense.

13.26 (j) Indictments or complaints for violation of sections 609.561 to 609.563, shall
13.27 be found or made and filed in the proper court within five years after the commission
13.28 of the offense.

13.29 (k) In all other cases, indictments or complaints shall be found or made and filed in
13.30 the proper court within three years after the commission of the offense.

13.31 (l) The limitations periods contained in this section shall exclude any period of time
13.32 during which the defendant was not an inhabitant of or usually resident within this state.

13.33 (m) The limitations periods contained in this section for an offense shall not include
13.34 any period during which the alleged offender participated under a written agreement in a
13.35 pretrial diversion program relating to that offense.

14.1 (n) The limitations periods contained in this section shall not include any period
14.2 of time during which physical evidence relating to the offense was undergoing DNA
14.3 analysis, as defined in section 299C.155, unless the defendant demonstrates that the
14.4 prosecuting or law enforcement agency purposefully delayed the DNA analysis process in
14.5 order to gain an unfair advantage.

14.6 **EFFECTIVE DATE.** This section is effective August 1, 2009, and applies to crimes
14.7 committed on or after that date.

14.8 Sec. 19. **FEDERAL GRANTS TO ESTABLISH AND MAINTAIN A SINGLE**
14.9 **COMMON ENTRY POINT FOR REPORTING MALTREATMENT OF A**
14.10 **VULNERABLE ADULT.**

14.11 (a) The commissioner of human services shall seek federal funding for activities
14.12 to design, implement, maintain, and evaluate the common entry point for reports of
14.13 suspected maltreatment made pursuant to Minnesota Statutes, section 626.557. The
14.14 purpose of the federal grant funds is to establish a common entry point with a statewide
14.15 toll-free telephone number and Web-based system to report known or suspected abuse,
14.16 neglect, or exploitation of a vulnerable adult.

14.17 (b) A common entry point must be operated in such a manner as to enable the
14.18 common entry point staff to:

14.19 (1) operate pursuant to Minnesota Statutes, section 626.557, subdivisions 9,
14.20 paragraph (b), and 9a;

14.21 (2) when appropriate, refer calls that do not allege abuse, neglect, or exploitation of a
14.22 vulnerable adult to other organizations that might better resolve the reporter's concerns; and

14.23 (3) immediately identify and locate prior reports of abuse, neglect, or exploitation.

14.24 (c) A common entry point must be operated in such a manner as to enable the
14.25 commissioner of human services to:

14.26 (1) track critical steps in the investigative process to ensure compliance with all
14.27 requirements for all reports;

14.28 (2) maintain data to facilitate the production of aggregate statistical reports for
14.29 monitoring patterns of abuse, neglect, or exploitation;

14.30 (3) serve as a resource for the evaluation, management, and planning of preventive
14.31 and remedial services for vulnerable adults who have been subject to abuse, neglect,
14.32 or exploitation;

14.33 (4) set standards, priorities, and policies to maximize the efficiency and effectiveness
14.34 of the common entry point; and

- 15.1 (5) develop a system to manage consumer complaints related to the common entry
15.2 point.
- 15.3 (d) The commissioner of human services may take the actions necessary to design
15.4 and implement the common entry point in paragraph (a). Funds awarded by the federal
15.5 government for the purposes of this section are appropriated to the commissioner of
15.6 human services.