

House Research Act Summary

CHAPTER: 28

SESSION: 2011 Regular Session

TOPIC: Vulnerable adults

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Overview

This bill requires an individual convicted of specified types of abuse of a vulnerable adult to register as a predatory offender. It increases the criminal penalty for assault of a vulnerable adult and clarifies responsibilities for investigations of maltreatment of a vulnerable adult. It modifies hearing and notification requirements.

Section

- 1** **Relation to other law; data classification.** Amends § 144.7065, subd. 10. Makes technical changes. Adds the phrase "lead investigative agency" to refer to the entity that investigates allegations that a vulnerable adult has been mistreated.
- 2** **Registration required.** Amends § 243.166, subd. 1b. Adds that a person who is convicted of or adjudicated delinquent for committing, attempting, aiding, abetting, or conspiring to commit criminal abuse of a vulnerable adult under § 609.2325, subdivision 1, paragraph (b), must register as a predatory offender. (Section 609.2324, subdivision 1, paragraph (b), provides that a caregiver, facility staff member, or person providing services in a facility who engages in sexual contact or penetration with a resident, patient, or client of the facility is guilty of criminal abuse.)

Provides that this section is effective August 1, 2011, and applies to crimes committed on or after that date.
- 3** **Vulnerable adult maltreatment review panel.** Amends § 256.021.

 Subd. 1. Creation. Makes technical changes. Changes the word "ombudsperson" to "ombudsman." Identifies the agency responsible for making determinations of maltreatment of a vulnerable adult as the "lead investigative agency." Adds a county

social service administrator to the review panel.

Subd. 2. Review procedure. Requires the review panel to submit a written request for the case file and other documentation to the supervisor of the investigator who conducted the investigation under review. Adds that the review panel must notify the director or manager of the lead investigative agency of its review findings. If the panel recommends the lead investigative agency reconsider its final disposition of the case, the agency must provide a detailed response to each of the recommendations made by the panel.

Requires the panel, upon receipt of the agency response, to notify the vulnerable adult or the person acting on the behalf of the vulnerable adult who requested the review.

Subd. 3. Report. Makes a technical change.

Subd. 4. Data. Adds that data received by the panel as part of a review are private data on individuals.

- 4 **Conduct of hearings.** Amends § 256.045, subd. 4. Adds paragraph (d) which provides that for state agency hearings related to maltreatment of a vulnerable adult, the human services referee must provide notice of the hearing to the vulnerable adult and, if known, the guardian or health care agency of the vulnerable adult. Allows the vulnerable adult, the guardian, or health care agent to submit a written statement which, if submitted, must be considered and included in the record. Under certain conditions, allows the victim to be called as a witness.
- 5 **Procedure, criminal history, and maltreatment records background study.** Amends § 518.165, subd. 5. Makes a technical change by adding the words "lead investigative agency" to specify the agency responsible for investigations of maltreatment of vulnerable adults.
- 6 **Procedure; criminal history, maltreatment records background check.** Amends § 524.5-118, subd. 2. Makes a technical change by adding the words "lead investigative agency" to specify the agency responsible for investigations of maltreatment of vulnerable adults.
- 7 **Vulnerable adult.** Amends § 609.2231, by adding subdivision 8. Adds assault of a vulnerable adult as a fourth degree assault crime. States that violation of this subdivision is a gross misdemeanor.

Provides that this section is effective August 1, 2011, for crimes committed on or after that date.
- 8 **Gross misdemeanor.** Amends § 609.244, subd. 2. Strikes the paragraph making assault of a vulnerable adult by a caregiver a fifth degree assault.

Provides that this section is effective August 1, 2011, for crimes committed on or after that date.
- 9 **Common entry point designation.** Amends § 626.557, subd. 9. Makes technical changes.
- 10 **Evaluation and referral of reports made to common entry point unit.** Amends § 626.557, subd. 9a. Clarifies that the ombudsman for mental health and developmental disabilities is to be contacted if there is a report of a suspicious death of a vulnerable adult.

- 11 **Lead investigative agency; notifications, dispositions, determinations.** Amends § 626.557, subd. 9c. Adds the phrase "lead investigative agency" to refer to the entity that investigates allegations that a vulnerable adult has been mistreated. Adds that notification can be provided to a vulnerable adult's health care agent. Provides that the vulnerable adult or the vulnerable adult's guardian or health care agent must be notified if the final disposition of the case is changed due to reconsideration, review, hearing, or on appeal.
- 12 **Administrative reconsideration; review panel.** Amends § 626.557, subd. 9d. Adds the phrase "lead investigative agency" to refer to the entity that investigates allegations that a vulnerable adult has been mistreated. Updates a cross-reference.
- 13 **Data management.** Amends § 626.557, subd. 12b. Adds the phrase "lead investigative agency" to refer to the entity that investigates allegations that a vulnerable adult has been mistreated. Adds that when the vulnerable adult maltreatment review panel completes its investigation, not public data received from the lead agency must be destroyed. Current law requires the data to be returned to the agency.
- 14 **Contested case hearing.** Amends § 626.557, subd. 21. Provides that if there is a contested case hearing, the administrative law judge must notify the vulnerable adult victim and, if known, the guardian or health care agent of their right to submit a signed written statement which, if submitted, must be considered and included in the record. Under certain conditions, allows the vulnerable adult victim to be called as a witness.
- 15 **Establishment of team.** Amends § 626.5571, subd. 1. Adds representatives from local tribal governments to the entities that may be part of a multidisciplinary adult protection team.
- 16 **Lead investigative agency.** Amends § 626.5572, subd. 13. Paragraph (a) identifies the Department of Health as the lead investigative agency for facilities or services licensed or required to be licensed as hospitals, home care providers, nursing homes, boarding care homes, hospice providers, ICF/MR facilities, or any other facility required to be licensed by the Department of Health. Defines "home care provider."

Paragraph (b) identifies the Department of Human Services as the lead investigative agency for facilities or services required to be licensed as adult day care, adult foster care, programs for individuals with developmental disabilities, family adult day services, mental health programs, mental health clinics, chemical dependency programs, MSOP, or other facilities or services that are licensed or must be licensed by DHS.

Paragraph (c) identifies the county social service agency as the lead investigative agency for all other reports, including reports involving vulnerable adults who receive services from a personal care provider organization.
- 17 **Revisor's instruction.** Instructs the revisor to change the terms "lead agency" to "lead investigative agency" in specified sections of statutes.