## HOUSE RESEARCH =

## Bill Summary =

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**Version:** Delete-everything amendment (H0424DE2)

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**Subject:** Exploitation of incapacitated or vulnerable adults

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## Overview

This bill provides a civil cause of action against persons who exploit an incapacitated or vulnerable adult.

1 Duty to an incapacitated or vulnerable adult; exploitation.

**Subdivision 1. Definitions.** Provides definitions for a number of terms used in the bill, including "deception," "enterprise," "exploitation," "incapacitated," "informed consent," "interested person," "intimidation," "neglect," "position of trust and confidence," and "vulnerable adult."

**Subd. 2. Duties; liability.** Provides civil liability for persons who cause or permit the life of an incapacitated or vulnerable adult to be endangered or the adult's health to be injured or endangered by neglect, if the person has been employed to provide care, has been appointed a guardian or conservator for the adult, or has assumed a position to provide care even if not legally authorized to do so.

Civil liability is also established for persons who are in a position of trust and confidence to an incapacitated or vulnerable adult. These persons are required to act for the benefit of the adult to the same extent required of a trustee. Liability accrues if the person uses intimidation or deception to knowingly take control, title, use, or management of an adult's assets or property with the intent to permanently deprive the adult of those assets or property.

**Subd. 3. Exclusion; religious healing**. Provides that an adult who relies on treatment from a recognized religious method of healing instead of medical treatment is not considered abused, neglected, or in need of protective services for that reason.

**Subd. 4. Standing; assignment.** Permits an incapacitated or vulnerable adult, or an interested person ("interested person" is a defined term), to file a civil action to enforce the duties required by this section and seek remedies. The rights of a person to commence an action may be assigned to another party.

**Subd. 5. Statute of limitations; survivability of action.** Provides that an action permitted by this section may be filed up to three years after discovery of the facts giving rise to the action. The right to bring an action is not affected by the death of the incapacitated or vulnerable adult. Causes of action that are currently time barred may be brought within one year of the effective date of this section.

**Subd. 6. Remedies.** Specifies the remedies that may be allowed, both before and after a determination of liability. Once liability is found, relief may include an award of up to three times the amount of monetary damages suffered, punitive damages, an order of divestment in an enterprise, other reasonable restrictions prohibiting future similar conduct, and dissolution or reorganization of an enterprise. Costs and reasonable attorney's fees may be awarded to a prevailing party.

A person found to have violated this section forfeits all rights and benefits that the person may have had in a deceased incapacitated or vulnerable adult's estate.

This subdivision also specifies that an action under this section does not affect other remedies that may be provided in law.

The bill is effective August 1, 2012.