

## Executive Summary

The Minnesota Vulnerable Adults Act, codified as Minnesota Statutes, [sections 626.557 to 626.5572](#), establishes requirements for reporting alleged maltreatment of vulnerable adults to government agencies, investigating maltreatment reports, and providing protective services to vulnerable adults. The purpose of the act is to ensure that vulnerable adults are safe in their living environments and in the receipt of health care and supportive services. This publication provides an overview of the act and related statutes.

The act identifies who is a vulnerable adult, specifies persons required or permitted to report maltreatment, and defines what constitutes maltreatment—abuse, neglect, or financial exploitation of a vulnerable adult.

Maltreatment reports must be submitted to the common entry point for maltreatment complaints, the Minnesota Adult Abuse Reporting Center (MAARC). In specific circumstances, a report may or must also be made to a health care facility, the Minnesota Department of Health, or law enforcement.

MAARC screens all reports it receives and refers them to the appropriate county agency, law enforcement agency, state agency, medical examiner, ombudsman, or other organization for investigation and a determination, or other resolution. After a lead investigative agency makes a final disposition of a maltreatment report, that disposition may be reconsidered or appealed. The act specifies timelines for screening reports, making final dispositions, and appeals.

The act also includes provisions governing access to maltreatment reports and data, destruction of records, publication of data, multidisciplinary adult protection teams, and education, training, and outreach activities.

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## Identifying Vulnerable Adults

### Who is a vulnerable adult?

A vulnerable adult is a person 18 years of age or older who meets at least one of the following criteria:

- is a resident of a facility;<sup>1</sup>
- receives services from a provider required to be licensed by the Minnesota Department of Human Services (DHS), with certain exceptions;
- receives services from a home care provider, person, or organization that offers, provides, or arranges personal care assistance services; or
- has a physical or mental disability that impairs the person’s ability to adequately care for himself or herself without assistance, and as a result, has an impaired ability to protect himself or herself from maltreatment.

(Minn. Stat. § 626.5572, subd. 21)

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<sup>1</sup> A facility is defined in Minnesota Statutes, section 626.5572, subdivision 6, as a hospital or other entity licensed under Minnesota Statutes, sections 144.50 to 144.58, a licensed nursing home, a facility licensed under chapter 245A, an assisted living facility required to be licensed under chapter 144G, a home care provider required to be licensed under chapter 144A, a licensed hospice provider, or a person or organization that offers, provides, or arranges for personal care assistance services.

# Maltreatment Defined

## What is maltreatment?

Maltreatment means abuse, neglect, or financial exploitation of a vulnerable adult, all of which are defined in Minnesota Statutes, section 626.5572.

## What is abuse?

Abuse includes the following:

- assault;<sup>2</sup>
- the use of drugs to injure or facilitate crime;<sup>3</sup>
- solicitation, inducement, and promotion of prostitution;<sup>4</sup>
- criminal sexual conduct;<sup>5</sup>
- conduct that is not an accident or therapeutic, which produces or would be expected to produce physical pain, injury, or emotional distress including, but not limited to:
  - hitting, slapping, kicking, pinching, biting, or corporal punishment of a vulnerable adult;
  - use of repeated or malicious oral, written, or gestured language toward a vulnerable adult, or disparaging, derogatory, humiliating, harassing, or threatening treatment of a vulnerable adult; or
  - use of any aversive or deprivation procedure, unreasonable confinement, or involuntary seclusion, including the forced separation of the vulnerable adult from other persons against the will of the vulnerable adult or the vulnerable adult's legal representative, unless authorized under statute or rule;
- any sexual contact or penetration between a facility staff person or service provider and a resident, patient, or client of that facility; and
- forcing, compelling, coercing, or enticing a vulnerable adult against the vulnerable adult's will to perform services for the advantage of another.

Abuse *does not* include the following situations:

- when the vulnerable adult or a person with authority to make health care decisions for the vulnerable adult refuses consent or withdraws consent to any therapeutic conduct;
- when the vulnerable adult, a person with authority to make health care decisions for the vulnerable adult, or a caregiver in good faith depends upon spiritual means or prayer for treatment or care in lieu of medical care, provided that this is consistent with the prior practice, belief, or expressed intentions of the vulnerable adult; or

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<sup>2</sup> In the first through fifth degrees, as defined in Minnesota Statutes, sections 609.221 to 609.224.

<sup>3</sup> As defined in Minnesota Statutes, section 609.235.

<sup>4</sup> As defined in Minnesota Statutes, section 609.322.

<sup>5</sup> In the first through fifth degrees, as defined in Minnesota Statutes, sections 609.342 to 609.3451.

- when a vulnerable adult, who is not impaired in judgment or capacity by mental or emotional dysfunction or undue influence, engages in consensual sexual contact with:
  - a person, including a facility staff person, when a consensual sexual personal relationship existed *prior to* the caregiving relationship; or
  - a personal care attendant, regardless of whether the consensual sexual personal relationship existed prior to the caregiving relationship.

(Minn. Stat. § 626.5572, subd. 2)

## What is neglect?

Neglect includes the following:

- the failure or omission by a caregiver to supply a vulnerable adult with care or services that are reasonable and necessary to the vulnerable adult's physical or mental health or safety; or
- self-neglect, defined as neglect by a vulnerable adult of the vulnerable adult's own food, clothing, shelter, health care, or other services that are not the responsibility of a caregiver, which a reasonable person would deem essential to obtain or maintain the vulnerable adult's health, safety, or comfort.

Neglect *does not* include the following situations:

- when the vulnerable adult or a person with authority to make health care decisions for the vulnerable adult refuses consent or withdraws consent to any therapeutic conduct;
- when the vulnerable adult, a person with authority to make health care decisions for the vulnerable adult, or a caregiver in good faith depends upon spiritual means or prayer for treatment or care in lieu of medical care, provided that this is consistent with the prior practice, belief, or expressed intentions of the vulnerable adult;
- when a vulnerable adult, who is not impaired in judgment or capacity by mental or emotional dysfunction or undue influence, engages in consensual sexual contact with:
  - a person, including a facility staff person, when a consensual sexual personal relationship existed *prior to* the caregiving relationship; or
  - a personal care attendant, regardless of whether the consensual sexual personal relationship existed prior to the caregiving relationship;
- when an individual makes an error in the provision of therapeutic conduct to a vulnerable adult that does not result in injury or harm requiring medical or mental health care; or
- when an individual makes an error in the provision of therapeutic conduct to a vulnerable adult that results in injury or harm, which reasonably requires the care of a physician, and:
  - the necessary care is provided in a timely fashion as dictated by the condition of the vulnerable adult;
  - if after receiving care, the health status of the vulnerable adult can be reasonably expected, as determined by the attending physician, to be restored to the vulnerable adult's preexisting condition;

- the error is not part of a pattern of errors by the individual; and
- if in a facility, the error is immediately reported and recorded internally in the facility; the facility identifies and takes corrective action and implements measures designed to reduce the risk of further occurrence of this error and similar errors, and the actions required are sufficiently documented for review and evaluation by the facility and any applicable licensing, certification, and ombudsman agency.

(Minn. Stat. § 626.5572, subd. 17)

## **What is financial exploitation?**

Financial exploitation includes the following, in a breach of a fiduciary obligation:

- unauthorized spending of funds entrusted to a person by the vulnerable adult that results or is likely to result in detriment to the vulnerable adult; and
- failure to use the vulnerable adult’s financial resources to provide for the vulnerable adult’s needs, to the detriment of the vulnerable adult.

It also includes the following actions taken without legal authority:

- willful use, withholding, or disposal of a vulnerable adult’s funds or property;
- obtaining the performance of services for the wrongful profit or advantage of the actor or another, to the detriment of the vulnerable adult;
- acquiring possession or control of, or an interest in, a vulnerable adult’s funds or property through the use of undue influence, harassment, duress, deception, or fraud; and
- forcing, compelling, coercing, or enticing a vulnerable adult, against the vulnerable adult’s will, to perform services for the profit or advantage of another.

(Minn. Stat. § 626.5572, subd. 9)

## **Reporters of Maltreatment**

### **Who is required to report maltreatment of vulnerable adults?**

Persons required to report maltreatment of vulnerable adults are called “mandated reporters.” A person is a mandated reporter if the person is a professional or professional’s delegate engaged in:

- social services;
- law enforcement;
- education;
- the care of vulnerable adults; or

- any occupation regulated by a health-related licensing board.<sup>6</sup>

A person is also a mandated reporter if the person:

- is an employee of a certified vocational rehabilitation facility;
- is an employee or person providing services in a facility;<sup>7</sup> or
- performs the duties of a medical examiner or coroner.

Any person may voluntarily report suspected maltreatment of a vulnerable adult, even if the person is not a mandated reporter.

(Minn. Stat. §§ 626.5572, subd. 16; 626.557, subd. 3)

## **What actions or behavior must be reported under statute?**

A mandated reporter must immediately report:

- any action that constitutes maltreatment (abuse, neglect, or financial exploitation);
- if a vulnerable adult has sustained a physical injury that is not reasonably explained;
- an error that occurred in the provision of therapeutic conduct to a vulnerable adult, resulting in injury or harm, which reasonably requires the care of a physician;
- if a vulnerable adult was admitted to a facility from another facility, and the reporter has reason to believe the vulnerable adult was maltreated at the previous facility; or
- if the reporter suspects that maltreatment has occurred prior to an individual's admission to a facility, and the individual is a vulnerable adult who has a physical or mental disability that impairs the individual's ability to adequately care for himself or herself without assistance.

(Minn. Stat. § 626.557, subd. 3)

A reporter is *not* required to report the following:

- a circumstance in which federal law specifically prohibits a person from disclosing patient-identifying information in connection with a report of suspected maltreatment, unless the vulnerable adult or the vulnerable adult's legal representative has consented to the disclosure;
- verbal or physical aggression between patients, residents, or clients of a facility, or self-abusive behavior, unless the behavior causes serious harm;<sup>8</sup>

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<sup>6</sup> Listed in Minnesota Statutes, section 214.01, subdivision 2.

<sup>7</sup> As defined in Minnesota Statutes, section 626.5572, subdivision 6.

<sup>8</sup> The operator of a facility or the operator's designee must record incidents of aggression and self-abusive behavior to facilitate review by licensing agencies and county and local welfare agencies.

- accidents;<sup>9</sup>
- events occurring in a facility that result from an individual's error in the provision of therapeutic conduct to a vulnerable adult, that do not result in injury or harm requiring medical or mental health care; or
- incidents for which the reporter knows or has reason to know a report has already been made to the common entry point, the Minnesota Adult Abuse Reporting Center (MAARC).

(Minn. Stat. § 626.557, subds. 3 and 3a)

### **What are the consequences for failing to report maltreatment?**

If a mandated reporter intentionally fails to make a report or intentionally fails to provide all of the known material circumstances surrounding a reported incident, the mandated reporter is guilty of a misdemeanor crime.

If a mandated reporter knows maltreatment caused or contributed to the death or great bodily harm of a vulnerable adult, intentionally fails to make a report, and the failure to report causes or contributes to the death or great bodily harm of a vulnerable adult or protects the reporter's interests, the mandated reporter is guilty of a gross misdemeanor crime. (Minn. Stat. § 609.234)

A mandated reporter who negligently or intentionally fails to report is also liable for damages caused by the failure to report. (Minn. Stat. § 626.557, subd. 7)

### **What are the consequences for filing a false maltreatment report?**

A mandated reporter who knowingly provides false information is guilty of a misdemeanor crime. (Minn. Stat. § 609.234)

A person or facility who intentionally makes a false report of maltreatment is liable in a civil suit for any actual damages suffered as a result of the false report, and for punitive damages up to \$10,000 and attorney fees. (Minn. Stat. § 626.557, subd. 6)

### **Are there any protections for reporters and others?**

**Good-faith reports.** Any person who makes a report of maltreatment in good faith is protected from civil or criminal liability that might otherwise result from making the report or

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<sup>9</sup> As defined in Minnesota Statutes, section 626.5572, subdivision 3, "accident" means a sudden, unforeseen, and unexpected occurrence or event that:

- (1) is not likely to occur and that could not have been prevented by exercise of due care; and
- (2) if occurring while a vulnerable adult is receiving services from a facility, happens when the facility and the employee or person providing services in the facility are in compliance with the laws and rules relevant to the occurrence or event.

participating in an investigation. The reporter is also immune from civil or criminal liability for failing to comply fully with the reporting obligation. (Minn. Stat. § 626.557, subd. 5)

**Identity of reporter.** A reporter's identity may not be disclosed, except as provided under the data management provisions of Minnesota Statutes, section 626.557. (Minn. Stat. § 626.557, subd. 5)

**Persons conducting or supervising investigations.** A person employed by a lead investigative agency or state licensing agency, acting in good faith and exercising due care, who is conducting or supervising an investigation into alleged maltreatment or enforcing the law is immune from any civil or criminal liability that might otherwise result from the person's actions. (Minn. Stat. § 626.557, subd. 5)

**Financial institutions.** A financial institution is immune from any civil or criminal liability that might otherwise result from: (1) cooperating with an agency or authority investigating maltreatment of a vulnerable adult; or (2) complying with reasonable requests to produce financial records as authorized under chapter 13. (Minn. Stat. § 626.557, subd. 5a)

**Retaliation.** A facility is prohibited from retaliating against a mandated reporter for externally reporting an incident of suspected maltreatment, and must provide written notice of this protection to a mandated reporter. In addition, a facility or person is prohibited from retaliating against a person who reports suspected maltreatment, and from retaliating against the vulnerable adult who was the subject of the suspected maltreatment. Any adverse action<sup>10</sup> within 90 days of a report will be assumed to be retaliatory. A facility or person who retaliates under this provision is liable for damages and attorney fees. (Minn. Stat. § 626.557, subs. 4a, 17)

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<sup>10</sup> "Adverse action" means action taken by a facility or person involved in a report against the person making the report or the vulnerable adult who was the subject of the suspected maltreatment because of the report, including, but not limited to:

- (1) discharge or transfer from the facility;
- (2) discharge from or termination of employment;
- (3) demotion or reduction in remuneration for services;
- (4) restriction or prohibition of access to the facility or its residents; or
- (5) any restriction of rights set forth in Minnesota Statutes, section 144.651.

(Minn. Stat. § 626.557, subd. 17)



## Creation of a Report

The Minnesota Vulnerable Adults Act specifies procedures for filing maltreatment reports, referrals of reports received by the common entry point, investigations, and reconsiderations and other appeals of final dispositions made by a lead investigative agency. The flow chart in Appendix A summarizes the process, and the following sections provide more detailed information on each step.

### When must maltreatment be reported?

A mandated reporter must immediately report maltreatment. A person who is not a mandated reporter, but who has reason to believe a vulnerable adult is being or has been maltreated or who knows that a vulnerable adult sustained a physical injury that cannot reasonably be explained, may immediately report. (Minn. Stat. § 626.557, subd. 3)

For purposes of the act, “immediately” means as soon as possible, but no longer than 24 hours after the reporter learns of the incident. (Minn. Stat. § 626.5572, subd. 10)

### Where is a report submitted?

A reporter must report maltreatment either to the common entry point (the **Minnesota Adult Abuse Reporting Center, or MAARC**) or by filing an **internal report with the facility** where the vulnerable adult is receiving care, if the facility has an internal reporting procedure. A facility that receives an internal report must report to MAARC if the report alleges maltreatment.

(Minn. Stat. § 626.557, subds. 3, 4, 4a)

Federally certified facilities must report maltreatment to the Minnesota Department of Health, **Office of Health Facility Complaints (OHFC)** and to MAARC. Federal rules require federally certified health facilities (federally certified nursing homes, federally certified boarding care homes, and hospitals with federally certified swing beds) to ensure that alleged mistreatment, neglect, abuse, or misappropriation of resident property is immediately reported to the state agency responsible for surveying the facility (in Minnesota, the Minnesota Department of Health). (Minn. Stat. § 626.557, subd. 4)

A reporter may also report maltreatment to a **law enforcement agency**. (Minn. Stat. § 626.557, subd. 3)

If a report is submitted to a law enforcement agency or a lead investigative agency, that agency must immediately forward the report to MAARC. If a facility receives a report through its internal reporting procedure, the facility must submit the report to MAARC if the report alleges maltreatment. (Minn. Stat. § 626.557, subds. 4a and 9)

## What must a maltreatment report include?

A maltreatment report made to MAARC must contain:

- sufficient content to identify the vulnerable adult and the vulnerable adult's caregiver;
- the nature and extent of the suspected maltreatment;
- any evidence of previous maltreatment;
- the name and address of the reporter;
- the time, date, and location of the maltreatment incident; and
- any other information the reporter believes might be helpful in the investigation.

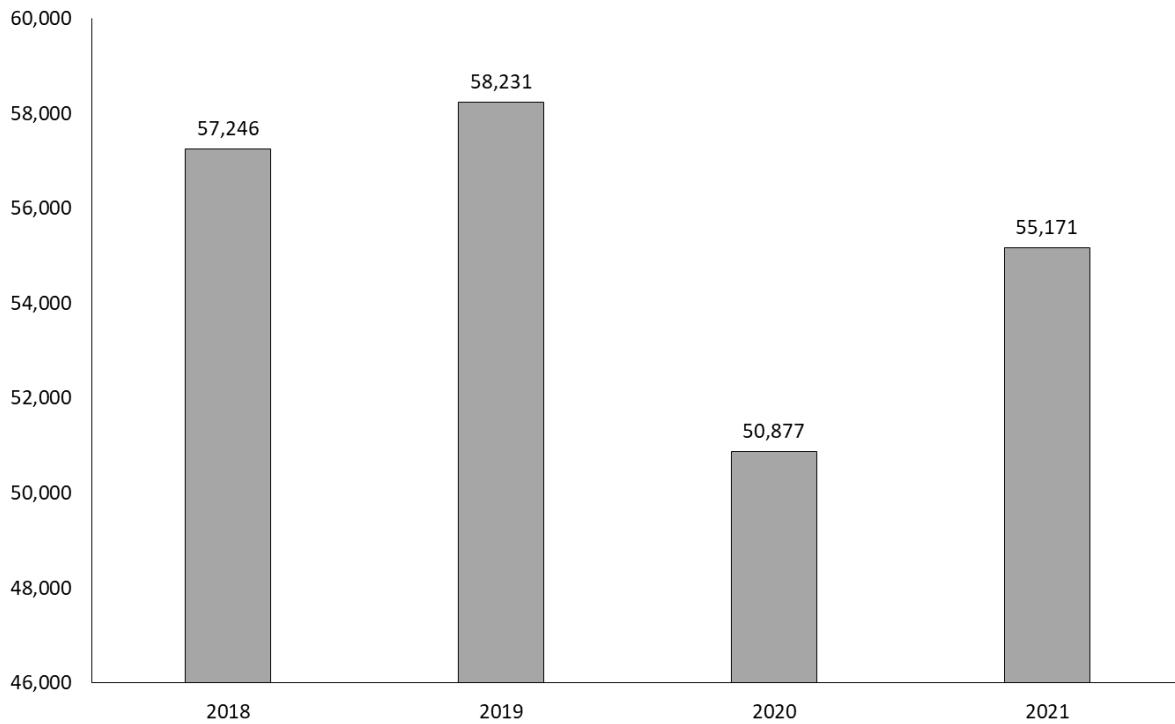
(Minn. Stat. § 626.557, subd. 4)

MAARC has a standard intake form. Requirements for the standard intake form may be found in Minnesota Statutes, section 626.557, subdivision 9.

## How many reports have been filed?

The following charts summarize MAARC reporting data from the **Vulnerable Adult Protection Dashboard**, which may be found at: [https://mn.gov/dhs/assets/CY18-21-VA-AP-dashboard-0922\\_tcm1053-544748.pdf](https://mn.gov/dhs/assets/CY18-21-VA-AP-dashboard-0922_tcm1053-544748.pdf). The dashboard includes data on vulnerable adult maltreatment reports, allegations, lead investigative agencies, agency responses, and determinations.

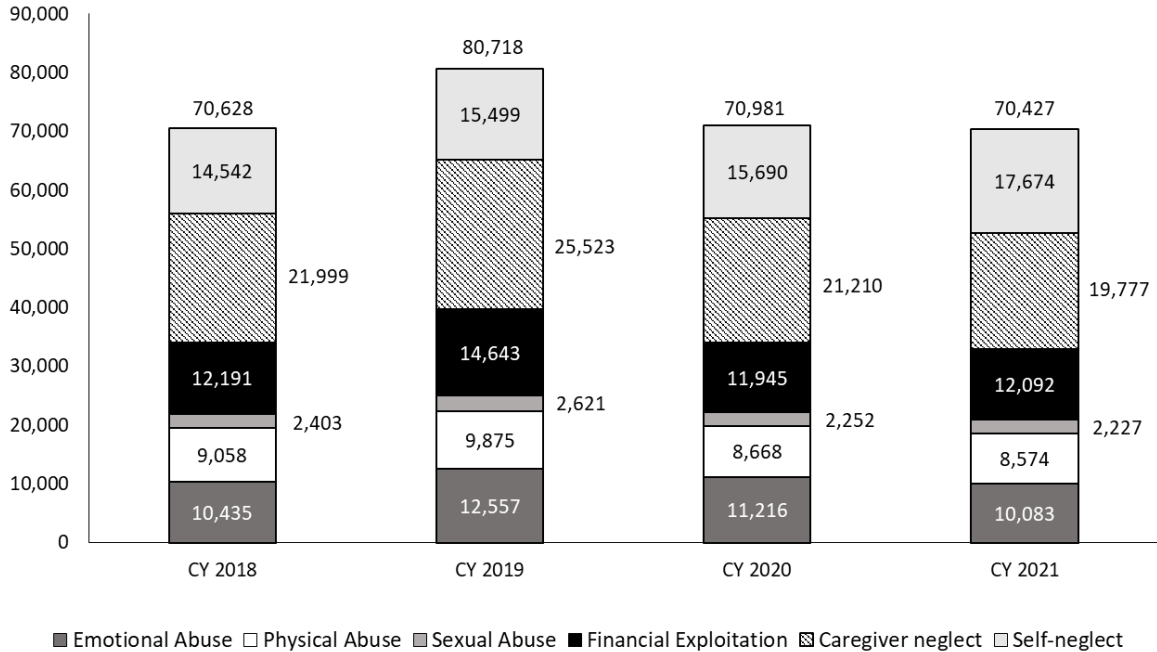
According to MAARC data, the number of reports of suspected vulnerable maltreatment increased from 2018 to 2019, decreased in 2020, and increased again in 2021 (see page 28 for a discussion on the number of reports).

**Total Reports of Suspected Vulnerable Adult Maltreatment: 2018 to 2021**

Source: DHS Vulnerable Adult Protection Dashboard.

Allegations in the reports include emotional abuse, physical abuse, sexual abuse, financial exploitation, caregiver neglect, and self-neglect. Each report may include multiple allegations. As shown in the chart below, the largest category of allegations involves caregiver neglect.

## Allegations Included in MAARC Reports: 2018 to 2021



Source: DHS Vulnerable Adult Protection Dashboard.

## Investigation or Assessment of Reports

### How are reports referred?

When a report is made to MAARC, it is screened and referred as follows:

- if there is a need for emergency adult protective services, MAARC must immediately notify the appropriate **county agency**, which must respond immediately;
- if the report contains possible criminal conduct against a vulnerable adult, MAARC must immediately notify the appropriate **law enforcement agency**;
- MAARC must refer all reports alleging maltreatment to the appropriate **lead investigative agency** as soon as possible, or within two working days;
- if the report contains information about a suspicious death, MAARC must immediately notify the appropriate **law enforcement agencies, the medical examiner, and the ombudsman for mental health and developmental disabilities**; and
- MAARC must refer reports that do not allege maltreatment to other organizations for resolution.

If a report involves multiple locations or changing circumstances, MAARC determines the county agency responsible for emergency adult protective services and the county responsible

as the lead investigative agency, using established referral guidelines. (Minn. Stat. § 626.557, subds. 9, 9a, 10b)

## Which agencies investigate reports?

The primary administrative agency responsible for investigating a report of maltreatment is called the **lead investigative agency**. The agency responsible for investigating a report depends on where the alleged maltreatment occurred, and each lead investigative agency completes the investigation for reports within its jurisdiction.

The **Minnesota Department of Health (MDH)** is the lead investigative agency for reports of maltreatment involving the following licensed facilities or providers:

- hospitals;
- home care providers;<sup>11</sup>
- nursing homes;
- boarding care homes;
- hospice providers;
- residential facilities that are federally certified as intermediated care facilities for people with developmental disabilities; and
- any other facility or service caring for vulnerable adults that is licensed or required to be licensed by MDH.

The **Minnesota Department of Human Services (DHS)** is the lead investigative agency for reports of maltreatment involving the following licensed facilities or services:

- adult day care;
- adult foster care;
- community residential settings;
- programs for people with disabilities;
- family adult day services;
- mental health programs;
- mental health clinics;
- substance use disorder programs;
- the Minnesota sex offender program; and
- any other facility or service that is licensed or required to be licensed by DHS.

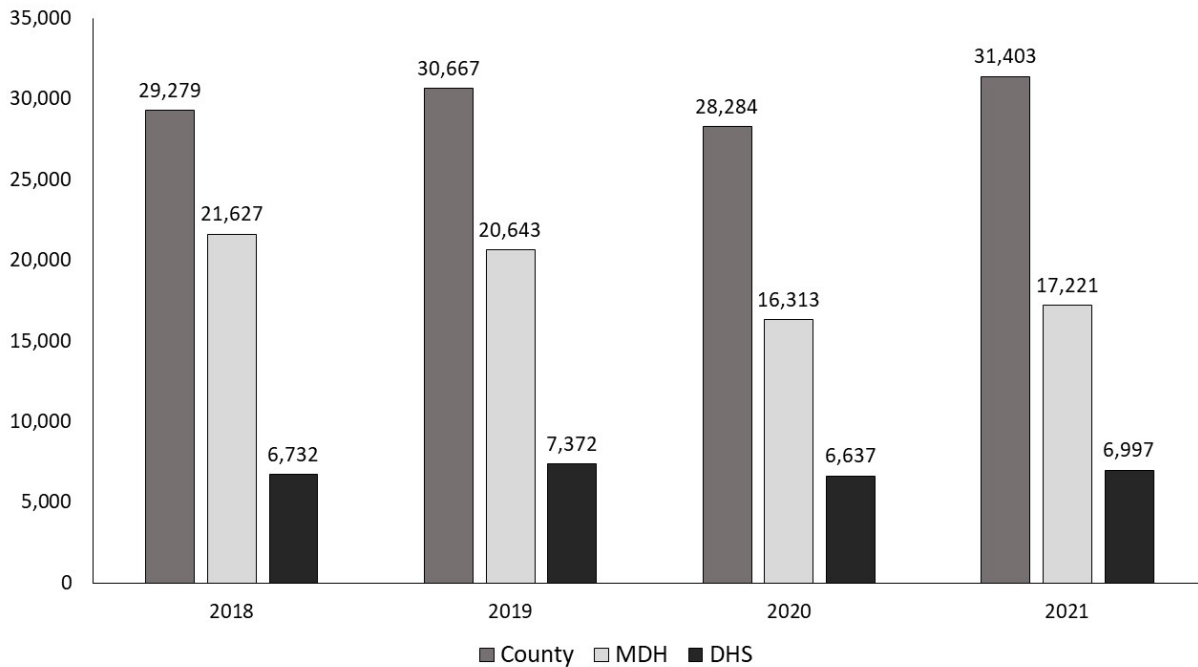
The **county social service agency** or its designee is the lead investigative agency for all other reports, including reports involving personal care provider services. (Minn. Stat. § 626.5572,

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<sup>11</sup> “Home care provider” has the meaning provided in Minnesota Statutes, section 144A.43, subdivision 4, and applies when care or services are delivered in the vulnerable adult's home.

subd. 13) As shown in the graph below, counties represent the largest segment of lead investigative agencies, followed by MDH and DHS.

### MAARC Reports, 2018 to 2021: Lead Investigative Agencies



Source: DHS Vulnerable Adult Protection Dashboard, [https://mn.gov/dhs/assets/CY18-21-VA-AP-dashboard-0922\\_tcm1053-544748.pdf](https://mn.gov/dhs/assets/CY18-21-VA-AP-dashboard-0922_tcm1053-544748.pdf)

### How do lead investigative agencies respond to reports?

Each lead investigative agency is required to develop guidelines for prioritizing reports for investigation. When investigating a report, the lead investigative agency must, as appropriate:

- interview the vulnerable adult;<sup>12</sup>
- interview the reporter and others who may have relevant information;
- interview the individual or facility alleged to be responsible for maltreatment; and
- review relevant records and documentation of the alleged incident.

<sup>12</sup> The lead investigative agency can choose not to interview the vulnerable adult, reporter, or witness if:

- (1) the vulnerable adult, reporter, or witness declines to have an interview with the agency or is unable to be contacted despite the agency's diligent attempts;
- (2) law enforcement or a professional trained in forensic interview previously interviewed the vulnerable adult or reporter and an additional interview will not further the investigation;
- (3) an interview of the witness will not further the investigation; or
- (4) the agency has a reason to believe that the interview will endanger the vulnerable adult.

(Minn. Stat. § 626.557, subd. 10b)

The lead investigative agency must also conduct the following activities, as appropriate, to further an investigation, to prevent further maltreatment, or to safeguard the vulnerable adult:

- examine the environment surrounding the alleged incident;
- consult with professionals; and
- communicate with state, federal, Tribal, and other agencies including service providers, case managers, ombudspersons, and support persons for the vulnerable adult.

(Minn. Stat. § 626.557, subd. 10b)

As part of an investigation, the lead investigative agency, including the county social service agency, has the right to enter facilities and inspect and copy records, and has access to nonpublic data<sup>13</sup> and medical records<sup>14</sup> as necessary. (Minn. Stat. § 626.557, subd. 9b)

While investigating reports and providing adult protective services, the lead investigative agency may coordinate with Tribal agencies, the facility, service providers, the vulnerable adult, a vulnerable adult's primary support person, state licensing boards, federal or state agencies, the ombudsman for long-term care, or the ombudsman for mental health and developmental disabilities, and may coordinate with the vulnerable adult's support persons to safeguard the vulnerable adult and prevent further maltreatment.

When making an initial determination on a maltreatment report, the lead investigative agency may consider previous reports of suspected maltreatment and may request and consider public information, records maintained by a lead investigative agency or licensed providers, and information from any person who may have knowledge about the alleged maltreatment and the basis for the adult's vulnerability.

When an investigation is completed, the lead investigative agency must make a final disposition that a report of maltreatment is substantiated, inconclusive, false, or that no determination will be made. If the maltreatment report is substantiated, the final disposition must also identify the individuals and facility responsible for the maltreatment. (Minn. Stat. §§ 626.557, subd. 9c, and 626.5572, subd. 8)

When a county social service agency is the lead investigative agency and does not accept a report for adult protective services or investigation, the agency may offer assistance to the reporter or the person who was the subject of the report. (Minn. Stat. §§ 626.557, subd. 9c)

**Determining responsibility for substantiated maltreatment.** As part of the investigation, the lead investigative agency determines whether a facility or an individual, or both, are responsible for the substantiated maltreatment. When making this determination, the lead investigative agency must consider the following factors that may diminish responsibility:

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<sup>13</sup> As defined in Minnesota Statutes, section 13.02.

<sup>14</sup> Under Minnesota Statutes, sections 144.291 to 144.298.

- whether the actions of the facility or individual complied with an incorrect physician order, prescription, resident care plan, or directive, *unless* the facility or individual issued the incorrect order or knew or should have known that the order was incorrect and did not act to correct the order;
- the comparative responsibility between the facility, other individual caregivers, and employee requirements placed upon the individual, including, but not limited to, facility compliance with regulatory standards, training, supervision, staffing levels, and the scope of the individual’s authority; and
- whether the facility or individual followed professional standards in exercising professional judgment.

When the lead investigative agency determines that the substantiated maltreatment was committed by an individual who is also the facility license holder, it must determine that both the individual and the facility are responsible for the maltreatment and are subject to background study disqualification standards and licensing actions. (Minn. Stat. § 626.557, subd. 9c)

**Investigation timeline.** The lead investigative agency must make an initial disposition<sup>15</sup> of a maltreatment report within *five business days* of receiving the report. If the lead investigative agency assigns the report for further investigation, it must investigate and make a final disposition within *60 calendar days*.

If the lead investigative agency cannot complete its final disposition within 60 days, the agency must notify the vulnerable adult or the vulnerable adult’s guardian or health care agent and the facility, and state the reason for the delay and the projected completion date. If the investigation cannot be completed by the projected completion date, the agency must notify the parties again with a revised projected completion date.

Within *ten calendar days* of making the final disposition, if DHS or MDH is the lead investigative agency, the agency must provide a copy of the public portions of the investigation memorandum, required under Minnesota Statutes, section 626.557, subdivision 12b, to the following persons, unless notification would endanger the vulnerable adult:

- the vulnerable adult or the vulnerable adult’s guardian or health care agent;
- the reporter, if the reporter requested notification when making the report;
- the alleged perpetrator, if known;
- the facility; and
- the ombudsman for long-term care or the ombudsman for mental health and developmental disabilities.

If a county agency is the lead investigative agency, it must provide notification to the following persons within *ten calendar days* of making the final disposition:

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<sup>15</sup> An initial disposition is defined in Minnesota Statutes, section 626.5572, subdivision 12, as the lead investigative agency’s determination of whether the report will be assigned for further investigation.



- the vulnerable adult, or the vulnerable adult's guardian or health care agent, if known, when the alleged maltreatment relates to the guardian or health care agent's authority;
- the individual determined to be responsible for maltreatment, if known; and
- the personal care provider organization, when the allegations involve a personal care assistant or provider agency.

(Minn. Stat. § 626.557, subd. 9c)

**Law enforcement.** If a report of alleged maltreatment provides reason to believe a crime has been committed, law enforcement is the primary agency to conduct an investigation and must initiate a response immediately. The lead investigative agency must obtain the results of any investigation conducted by law enforcement. (Minn. Stat. § 626.557, subd. 9b)

**Agency cooperation.** If both the county agency and law enforcement are involved in the investigation, they must cooperate and share data as authorized under statute. In addition, a lead investigative agency, county, adult protective agency, facility, or law enforcement agency must cooperate with other agencies to provide protective services, coordinate investigations, assist other agencies, and share data as authorized under statute. (Minn. Stat. § 626.557, subd. 9b)

## What are the county social service agency's duties?

When the county social service agency is the lead investigative agency or is requested to assist another lead investigative agency, or when MAARC refers a report to the county agency for emergency adult protective services, the county social service agency has certain statutory duties. In these instances, the county social service agency must immediately assess and offer emergency and continuing adult protective services to prevent further maltreatment of the vulnerable adult.

If the county social service agency receives a report or case involving suspected sexual abuse, the agency must immediately arrange for appropriate medical examination and treatment of the vulnerable adult.

The county social service agency is required to use a standardized tool, developed by DHS, for handling reports and investigations of maltreatment of vulnerable adults. Information entered into the standardized tool must be accessible to DHS.

When a county social service agency is the lead investigative agency, the agency must make guidelines publicly available regarding the county's prioritization of reports for investigation and adult protective services. (Minn. Stat. § 626.557, subd. 9b)

**Removal.** The county social service agency must seek authority to remove the vulnerable adult from the situation in which the maltreatment occurred, when necessary to protect the vulnerable adult. If the county social service agency investigates and determines that other vulnerable adults may be at risk of harm due to conditions related to the reported maltreatment, the agency may offer protective services accordingly.

**Intervention.** When necessary, in order to protect a vulnerable adult from serious harm, the county social service agency is required to intervene to assist the family, vulnerable adult, or other interested persons. The county may intervene in the following ways:

- obtaining a restraining order or court order to remove the perpetrator of maltreatment from the vulnerable adult’s residence;
- appointing a guardian or conservator;
- replacing a guardian or conservator suspected of maltreatment with another suitable person; or
- referring the case to the county attorney for possible criminal prosecution.

If a suitable relative or other person is not available to present a guardianship or conservatorship petition, a county employee, represented by the county attorney, must petition for the appointment or change. In such cases, the county must arrange for a suitable person or organization to provide ongoing guardianship services to the vulnerable adult, and in certain circumstances, a county employee may serve as a guardian or conservator. (Minn. Stat. § 626.557, subd. 10)

## **What report or investigation information must be provided during or after an investigation?**

A lead investigative agency must provide the following information to parties to a maltreatment investigation, during or after the investigation:

- Upon the reporter’s request, notice that the lead investigative agency received the report, and information on whether the report will be assigned for further investigation. This requirement does not apply if providing the notification would endanger the vulnerable adult or impede the investigation. (Minn. Stat. § 626.557, subd. 9c)
- Any change to a final disposition following a reconsideration, review, hearing, or appeal must be provided to the vulnerable adult or the vulnerable adult’s guardian or health care agent; the reporter upon request; the alleged perpetrator, if known; the facility; and the ombudsman for long-term care or the ombudsman for mental health and developmental disabilities. (Minn. Stat. § 626.557, subd. 9c)
- If a maltreatment report is substantiated, the lead investigative agency must provide the investigative memorandum to relevant licensing boards. The agency may also provide an investigative memorandum to a licensing board for an inconclusive or false report, if there is reason to believe that an individual violated professional practice standards. (Minn. Stat. § 626.557, subd. 9c)
- Notice that an investigation memorandum was provided to a licensing board and a summary of the memorandum’s findings must be provided to the subject of the investigation memorandum. (Minn. Stat. § 626.557, subd. 9c)
- Information must be provided to affected parties and their authorized representatives if the lead investigative agency believes providing the information will safeguard the wellbeing of affected parties or lessen rumors or unrest in an affected facility. (Minn. Stat. § 626.557, subd. 12b)

- Notice must be provided to the vulnerable adult or the vulnerable adult’s guardian or health care agent, and any person or facility determined to have maltreated a vulnerable adult, of their rights to appeal or review the final disposition. (Minn. Stat. § 626.557, subd. 9c)
- Final dispositions, including names of all perpetrators, must be provided to the Commissioner of Human Services. (Minn. Stat. § 626.557, subd. 9c)

## Appeals

### What is the appeal process for a maltreatment determination made by a lead investigative agency?

After a lead investigative agency makes a maltreatment determination, that determination may be appealed by requesting administrative reconsideration. Following administrative reconsideration, a party may seek a state agency hearing from the Department of Human Services or review by the vulnerable adult maltreatment review panel. In addition, a party has a right to a contested case hearing for cases that include appeals of license denials or licensing sanctions under the Human Services Licensing Act.

**Administrative reconsideration.** If a party to a maltreatment determination contests the lead investigative agency’s final disposition, the party may request that the lead investigative agency reconsider its disposition.

- Administrative reconsideration may be requested by an individual or facility found by a lead investigative agency to have maltreated a vulnerable adult, or by a vulnerable adult or interested person acting on behalf of the vulnerable adult. The request for reconsideration must be submitted in writing to the lead investigative agency within 15 calendar days after the parties in the case received notice of the agency’s final disposition. (Minn. Stat. § 626.557, subd. 9d, para. (a))
- An individual who was found to have maltreated a vulnerable adult and who was disqualified, under chapter 245C, from a position allowing direct contact with or access to vulnerable adults due to serious or recurring maltreatment may request reconsideration of the maltreatment determination and the disqualification. The request for reconsideration must be submitted in writing to the lead investigative agency within 30 calendar days after the individual received notice of disqualification. (Minn. Stat. § 626.557, subd. 9d, paras. (a), (e))
- An individual or facility that appeals a maltreatment determination or disqualification but does not appeal the related license denial or sanction may request administrative reconsideration. (Minn. Stat. § 626.557, subd. 9d, para. (f))

**State agency hearing.** An individual or facility determined by a lead investigative agency to have maltreated a vulnerable adult may request a state agency hearing by DHS under Minnesota Statutes, section 256.045, if:

- the individual or facility requested reconsideration and the lead investigative agency either denied the reconsideration request or failed to act on the request within 15 working days (Minn. Stat. § 626.557, subd. 9d, para. (b)); or
- the lead investigative agency denied an individual’s request for reconsideration and the individual is disqualified under chapter 245C from a position allowing direct contact with or access to vulnerable adults due to serious or recurring maltreatment. (Minn. Stat. § 626.557, subd. 9d, para. (e))

These state agency hearings are conducted by human services judges appointed by the Commissioner of Human Services. Procedural requirements for state agency hearings are specified in Minnesota Statutes, section 256.045.

**Contested case hearing.** An individual or facility has the right to a contested case hearing, conducted by an administrative law judge, under chapter 14 if the individual’s or facility’s license under the Human Services Licensing Act was denied or sanctioned because of a maltreatment determination or a disqualification based on serious or recurring maltreatment. The scope of the contested case hearing must include the maltreatment determination, disqualification, and licensing sanction or denial of a license. (Minn. Stat. § 626.557, subd. 9d, para. (f))

**Review by vulnerable adult maltreatment review panel.** A vulnerable adult or an interested person acting on behalf of the vulnerable adult<sup>16</sup> may request that the vulnerable adult maltreatment review panel<sup>17</sup> review a maltreatment determination. Review by this panel is available if the vulnerable adult or interested person requested reconsideration and the lead investigative agency denied or failed to act upon the request, or if the vulnerable adult or interested person contests a reconsideration disposition. The request for review must be submitted in writing to the review panel within 30 calendar days after the vulnerable adult receives a denial of a reconsideration request or a disposition following reconsideration. In the request, the vulnerable adult or interested party must specify the reasons the party is dissatisfied with the determination. (Minn. Stat. § 626.557, subd. 9d, para. (b))

**Notice of change to final disposition.** A lead investigative agency must notify the following individuals and entities if the lead investigative agency changes its final disposition following administrative reconsideration or review:

- the vulnerable adult;
- the vulnerable adult’s guardian or health care agent except in certain circumstances;
- the reporter if the reporter requested notice;

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<sup>16</sup> The panel must not conduct a review if the interested person acting on behalf of the vulnerable adult is also the individual or facility alleged to be responsible for the maltreatment at issue. (Minn. Stat. § 626.557, subd. 9d, para. (b))

<sup>17</sup> The vulnerable adult maltreatment review panel is established by the Commissioner of Human Services and consists of the Commissioner of Health or a designee, the Commissioner of Human Services or a designee, the ombudsman for long-term care or a designee, the ombudsman for mental health and developmental disabilities or a designee, a member of the Board on Aging, and a representative of county human services administrators.

- the alleged perpetrator;
- the facility, if applicable; and
- the ombudsman for long-term care or ombudsman for mental health and developmental disabilities.

(Minn. Stat. § 626.557, subd. 9d, para. (c))

## Data Practices and Access to Reports

### What law controls access to maltreatment reports and data?

The Vulnerable Adults Act classifies data held by lead investigative agencies and MAARC in Minnesota Statutes, section 626.557, subdivision 12b. Data collected by a county social service agency while providing adult protective services is treated as welfare data. During an investigation by DHS or MDH, data collected for the investigation is classified as confidential data on individuals or protected nonpublic data. Data maintained by MAARC is classified as confidential data on individuals or protected nonpublic data.<sup>18</sup> (Minn. Stat. § 626.557, subd. 12b, paras. (a), (b))

If DHS or MDH is the lead investigative agency, that entity must prepare an investigation memorandum. A county social service agency is not required to prepare investigation memoranda. When an investigation is completed, certain data in the investigation memorandum is public, and other data is private data. The name of the reporter is classified as confidential. If the subject of the maltreatment report asks for the name of the reporter, the reporter's identity must be disclosed only if the reporter consents, or if a court finds that the report was false and there is evidence that the report was made in bad faith. (Minn. Stat. § 626.557, subd. 12b, paras. (b), (c))

### How is maltreatment data shared among government agencies?

**Sharing data among investigating, prosecuting, and enforcement entities.** Lead investigative agencies, county agencies responsible for adult protective services, prosecuting authorities, and law enforcement agencies may exchange not public data with a Tribal agency, facility, service provider, vulnerable adult, primary support person, state licensing board, federal or state agency, or the appropriate ombudspersons, if the entity providing the data determines that the data are pertinent and necessary for a maltreatment investigation, to prevent further maltreatment, or to safeguard a vulnerable adult. The lead investigative agency must also provide not public data to the vulnerable adult maltreatment review panel, if necessary for a review by that panel. (Minn. Stat. § 626.557, subd. 12b, para. (g))

**Sharing investigation memoranda with licensing boards.** Lead investigative agencies must routinely share investigation memoranda for substantiated maltreatment reports with appropriate licensing boards. However, lead investigative agencies cannot share

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<sup>18</sup> As defined in Minnesota Statutes, section 13.02.

investigation memoranda for inconclusive or false reports with licensing boards, unless the lead investigative agency's investigation indicates that there was a violation of laws enforced by the licensing board. (Minn. Stat. § 626.557, subd. 9c)

## **Is there a centralized database where maltreatment reports and dispositions are compiled?**

The Commissioner of Human Services must maintain a centralized database containing common entry point data; lead investigative agency data, including maltreatment report dispositions; and appeals data. MAARC must log maltreatment reports into the database. (Minn. Stat. § 626.557, subd. 9)

## **Destruction of Records**

### **What are the record retention and destruction requirements for maltreatment reports?**

**Record retention policy required.** In general, all lead investigative agencies must have a record retention policy. (Minn. Stat. § 626.557, subd. 12b, para. (f))

**Records held by MAARC.** MAARC must maintain maltreatment reports for three calendar years after the date of receipt, and must then destroy the data unless federal law requires a different maintenance and destruction schedule. (Minn. Stat. § 626.557, subd. 12b, para. (a))

**Records held by DHS or MDH.** Data maintained by DHS or MDH must be maintained according to the following schedule and then destroyed, unless federal law requires a different maintenance and destruction schedule:

- 1) Data from reports determined to be false must be maintained for three years after the finding was made.
- 2) Data from reports determined to be inconclusive must be maintained for four years after the finding was made.<sup>19</sup>
- 3) Data from reports determined to be substantiated must be maintained for seven years after the finding was made.<sup>20</sup>
- 4) Data from reports that were not investigated by the lead investigative agency and for which there is no final disposition must be maintained for three years after the date of the report.

(Minn. Stat. § 626.557, subd. 12b, para. (d))

<sup>19</sup> An inconclusive report is a report for which there is less than a preponderance of the evidence to show that maltreatment did or did not occur. (Minn. Stat. § 626.5572, subd. 11)

<sup>20</sup> A substantiated report is a report for which there is a preponderance of the evidence that an act that meets the definition of maltreatment occurred. (Minn. Stat. § 626.5572, subd. 19)

**Records held by law enforcement agencies or county social service agencies.**

Data held by a law enforcement agency or county social service agency will be retained and destroyed according to a general record retention and destruction schedule adopted under state law by the law enforcement agency or county. (Minn. Stat. § 138.17)

**Records held by the vulnerable adult maltreatment review panel.** Upon completion of a maltreatment review, the vulnerable adult maltreatment review panel must destroy all not public data it received related to the review. (Minn. Stat. § 626.557, subd. 12b, para. (g))

## Publication of Data

### What data must be published under the Vulnerable Adults Act?

On an annual basis, the Commissioner of Health and the Commissioner of Human Services must publish the following information on their websites: the number and type of reports of alleged maltreatment involving licensed facilities; the number of reports of alleged maltreatment involving licensed facilities that required investigation; and the results of each investigation.<sup>21</sup>

Every two years, the Commissioner of Health and the Commissioner of Human Services must jointly report to the legislature and the governor, information on the number and type of reports of alleged maltreatment involving licensed facilities, the investigation and resolution of those reports, trends in types of substantiated maltreatment and recommendations to address upward trends in substantiated maltreatment, steps to improve protection of vulnerable adults, information on backlogs in cases and how to address backlogs, and recommendations for changes to statutes.<sup>22</sup> (Minn. Stat. § 626.557, subd. 12b, para. (e))

## Multidisciplinary Adult Protection Teams

A county may establish a multidisciplinary adult protection team in order to provide case consultation and assistance with confidentiality requirements to the county social service agency or local welfare agency, provide education and training, and develop resources for prevention, intervention, and treatment, so that the county agency is better able to carry out its functions.

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<sup>21</sup> DHS's publication of fiscal year 2021 data for maltreatment reports in licensed programs serving children *and* vulnerable adults may be found at: <https://mn.gov/dhs/partners-and-providers/news-initiatives-reports-workgroups/adult-protection/dashboard.jsp>.

<sup>22</sup> The most recent report was jointly published in March 2016. It summarizes maltreatment allegations and investigations for state fiscal years 2014 and 2015, and may be found at <https://www.leg.mn.gov/docs/2016/mandated/160406.pdf>. Data from subsequent years are included in the Vulnerable Adult Protection Dashboard publication, which may be found at: [https://mn.gov/dhs/assets/CY18-21-VA-AP-dashboard-0922\\_tcm1053-544748.pdf](https://mn.gov/dhs/assets/CY18-21-VA-AP-dashboard-0922_tcm1053-544748.pdf).

## Who are the members of a multidisciplinary adult protection team?

A team may be comprised of the following members or their designees:

- director of the county social service agency;
- county attorney;
- county sheriff;
- representatives with expertise in health care or public health;
- representatives of mental health or other human services agencies;
- local Tribal government representatives; and
- representatives of adult advocate groups.

## What information can the multidisciplinary adult protection team share?

For the purposes of case consultation, the county social service agency may make all records collected and maintained by the agency under Minnesota Statutes, section 626.557, available to the team. Any member of the case consultation committee may share data, acquired in the member's professional capacity, with the committee to assist the committee in its function.

Members of the adult protection team who are prohibited from disclosing patient-identifying information because of federal or state law must seek consent from each vulnerable adult, patient, or resident, or a guardian, conservator or legal representative, for the disclosure of appropriate data to the case consultation committee.

(Minn. Stat. § 626.5571)

## Requirements for Facilities

### What steps must facilities take to mitigate maltreatment risks and ensure maltreatment is reported?

The Vulnerable Adults Act requires facilities to assess and mitigate the risk of abuse against vulnerable adults using abuse prevention plans, and to maintain internal procedures to ensure compliance with the act.

**Internal procedures to ensure compliance with the act.** A facility must establish and enforce internal procedures to ensure that all cases of suspected maltreatment in the facility are reported. If a facility has an internal procedure for accepting maltreatment reports from a mandated reporter, the mandated reporter may comply with the reporting requirements in the act by reporting using the internal procedure. Within two working days after a facility receives a maltreatment report, the facility must notify the reporter in writing whether the facility reported the incident to MAARC. This notice must protect the confidentiality of the reporter and must state that if the reporter is not satisfied with the facility's failure to report the incident to MAARC, the reporter may report the incident to MAARC. A facility cannot prohibit a



mandated reporter from reporting to MAARC, and a facility cannot retaliate against a mandated reporter who reports an incident in good faith to MAARC. (Minn. Stat. § 626.557, subd. 4a)

**Abuse prevention plan.** All facilities are required to develop an *individual abuse prevention plan* for each vulnerable adult who resides at the facility or receives services from the facility. Each individual plan must assess the vulnerable adult's susceptibility to abuse by other individuals; assess the risk that the vulnerable adult may abuse others; and list specific measures taken to minimize the risk of abuse to that vulnerable adult and other vulnerable adults.

If a facility knows that a vulnerable adult has committed a violent crime or an act of physical aggression, the vulnerable adult's individual abuse prevention plan must list measures to minimize the risk the vulnerable adult poses to facility visitors and persons outside the facility, if unsupervised. (This requirement does not apply to home care providers or personal care attendant services providers.)

In addition, a facility must establish and enforce a *facility-wide abuse prevention plan*. In the facility-wide abuse prevention plan, the facility must identify factors in the facility's physical plant, environment, and population that may encourage or permit abuse, and must specify measures taken by the facility to minimize the risk of abuse. (This requirement does not apply to home care providers or personal care attendant services providers.) (Minn. Stat. § 626.557, subd. 14)

## Education, Training, and Outreach

The Vulnerable Adults Act requires various state agencies to develop an education program on compliance with the act, provide training to personnel who implement the act, and promote the use of MAARC for reporting vulnerable adult maltreatment.

**Education and training.** The commissioners of health, human services, and public safety must develop a joint program to educate lead investigative agency investigators in appropriate techniques for investigating maltreatment complaints. The Commissioner of Human Services, in coordination with the Commissioner of Public Safety, must provide training for MAARC staff on requirements of the Vulnerable Adults Act at least four times a year. Lead investigative agency investigators must complete the education program within 12 months after beginning work as an investigator, and must complete at least eight hours of continuing education or in service training each year. (Minn. Stat. § 626.557, subd. 9e)

The Commissioner of Public Safety must conduct regional training sessions for law enforcement personnel regarding their responsibilities under the Vulnerable Adults Act. (Minn. Stat. § 626.557, subd. 9e)

The commissioners of health, human services, and public safety must offer education at least annually on the requirements and implementation of the Vulnerable Adults Act, and investigation techniques. (Minn. Stat. § 626.557, subd. 9e)

**Outreach.** The Commissioner of Human Services must conduct an outreach campaign, using the Internet and other means of communication, to promote the use of MAARC for reporting vulnerable adult maltreatment. (Minn. Stat. § 626.557, subd. 9e) The commissioner must also educate mandated reporters and the general public about the requirements of the act. (Minn. Stat. § 626.557, subd. 18)

## Background of the Minnesota Vulnerable Adults Act

### Legislative Background

The Minnesota Vulnerable Adults Act was enacted in 1980.<sup>23</sup> As originally enacted, the act required mandated reporters to report allegations of abuse or neglect of a vulnerable adult, by telephone and in writing, to the appropriate law enforcement agency, local welfare agency, or state agency or licensing board that credentialed the relevant facility or occupation. A vulnerable adult was defined as a person age 18 or older who was a resident or patient in certain health care or human services facilities, or who was unable or unlikely to report abuse or neglect without assistance because of a mental, physical, or emotional impairment.

The act was amended numerous times in subsequent years.<sup>24</sup> In 1995 the act was significantly reorganized and amended; substantive changes included:

- requiring a county or group of counties to designate a single entity to receive maltreatment reports (a “common entry point” for reports);
- requiring the lead agency for a report to be responsible for investigating the report;
- prohibiting a common entry point from requiring written maltreatment reports from reporters;
- requiring facilities to establish internal procedures to ensure cases of suspected maltreatment are reported;
- expanding the definition of maltreatment to include financial exploitation;
- establishing procedural and timing requirements for screening, investigating, and making final dispositions of reports; and
- requiring development of a common report form and a statewide database containing maltreatment data collected from common entry points.<sup>25</sup>

In 2013 the act was amended, directing the Commissioner of Human Services to establish a single common entry point to receive and screen all reports of vulnerable adult maltreatment in the state. This common entry point, called the Minnesota Adult Abuse Reporting Center (MAARC), replaced individual common entry points established by a county or group of counties, and began operating July 1, 2015.<sup>26</sup>

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<sup>23</sup> Laws 1980, ch. 542.

<sup>24</sup> For a list of amendments to the act, see the history that follows the text of section 626.557.

<sup>25</sup> Laws 1995, ch. 229, art. 1, §§ 1-21.

<sup>26</sup> Laws 2013, ch. 108, art. 2, §§ 41-42.

## Recent Developments

In recent years, maltreatment of vulnerable adults has garnered increased attention, due to several factors. These factors include the overall aging of the U.S. population, an increase in the number of individuals who meet the definition of vulnerable adult, and growth in the number of vulnerable adult maltreatment reports. The number of reports grew because of the aging population, the establishment of a common entry point for reports, and a campaign to increase public awareness of vulnerable adult maltreatment and promote reporting to the common entry point.

Beginning in 2017, news reports brought increased attention to issues of vulnerable adult maltreatment and investigations. Also in 2017, the OHFC disclosed that with its then-current funding, the office investigated only a small percentage of the maltreatment complaints it received.<sup>27</sup> The OHFC requested additional funding for fiscal year 2019 to investigate more complaints referred to the office, complete investigations by the deadlines required in law, and improve communications about the status of investigations. In January 2018, MDH and DHS initiated a quality improvement project with staff from DHS to address a backlog of maltreatment reports awaiting triage and investigation by the OHFC; this backlog was eliminated in August 2018.<sup>28</sup>

In November 2017, Governor Dayton appointed a consumer work group to recommend changes to state laws to better protect vulnerable adults from maltreatment and to improve the maltreatment investigation process. In addition, in 2017 the Office of the Legislative Auditor (OLA) conducted a program evaluation of the OHFC. Both the governor's consumer work group and the OLA issued reports that included recommendations for changes to the Vulnerable Adults Act.<sup>29</sup> The recommendations addressed topics such as providing information about maltreatment reports and investigations to vulnerable adults and interested persons, prohibiting retaliation against reporters of maltreatment, and appealing findings of maltreatment.

Provisions related to vulnerable adult maltreatment reports and investigations were included in the 2019 law establishing licensure of assisted living facilities. First, provisions were enacted to prohibit retaliation by an assisted living facility, nursing home, or facility agent against a facility resident, employee, or person acting on behalf of the resident for filing a maltreatment report in good faith, or for expressing an intention to file a report. Additionally, a program was established to provide grants to counties and Tribal governments for adult protective services and investigations of maltreatment reports, and money was appropriated for these grants. The definition of vulnerable adult was expanded to include residents of assisted living facilities.

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<sup>27</sup> Minnesota Department of Health, "FY 2018-2019 Biennial Budget proposal," pp. 14-15.

<sup>28</sup> MDH press release, "MDH clears backlog of elder and vulnerable adult maltreatment complaints," August 8, 2018.

<sup>29</sup> The report *Addressing Elder Abuse in Minnesota Long-Term Care Settings: Public Policy Actions Necessary to Prevent and Deter Abuse*, by the Governor's Consumer Work Group can be found at <https://www.leg.state.mn.us/docs/2018/other/180108.pdf>. The OLA's 2018 evaluation of the Office of Health Facility Complaints can be found at <https://www.auditor.leg.state.mn.us/ped/pedrep/ohfc.pdf>.

Finally, money was appropriated to DHS for costs to implement the 24/7 capacity of MAARC and for other regulatory activities related to vulnerable adults, and to MDH to improve regulatory activities, systems, reporting, and communications related to vulnerable adults.<sup>30</sup>

After increases in the numbers of vulnerable adult maltreatment reports and allegations between 2018 and 2019, vulnerable adult maltreatment reports and allegations declined in 2020 and again increased in 2021.<sup>31</sup> DHS attributed the 2020 reductions in reports and allegations to effects of the COVID-19 pandemic, including vulnerable adults not interacting with mandated reporters as frequently or in person, medical appointments for vulnerable adults being delayed or canceled, reduced availability of community services for vulnerable adults, and less interaction with family members and caregivers.<sup>32</sup>

Amendments to the Vulnerable Adults Act in 2022 included modifying the content of the standard intake form, requiring counties to notify the public of the guidelines used to prioritize reports for investigations and services, and specifying information lead investigative agencies may consider before making an initial disposition of a report alleging maltreatment. The duties of county social service agencies and lead investigative agencies were also modified, clarifying changes were made, and obsolete language was removed.<sup>33</sup>

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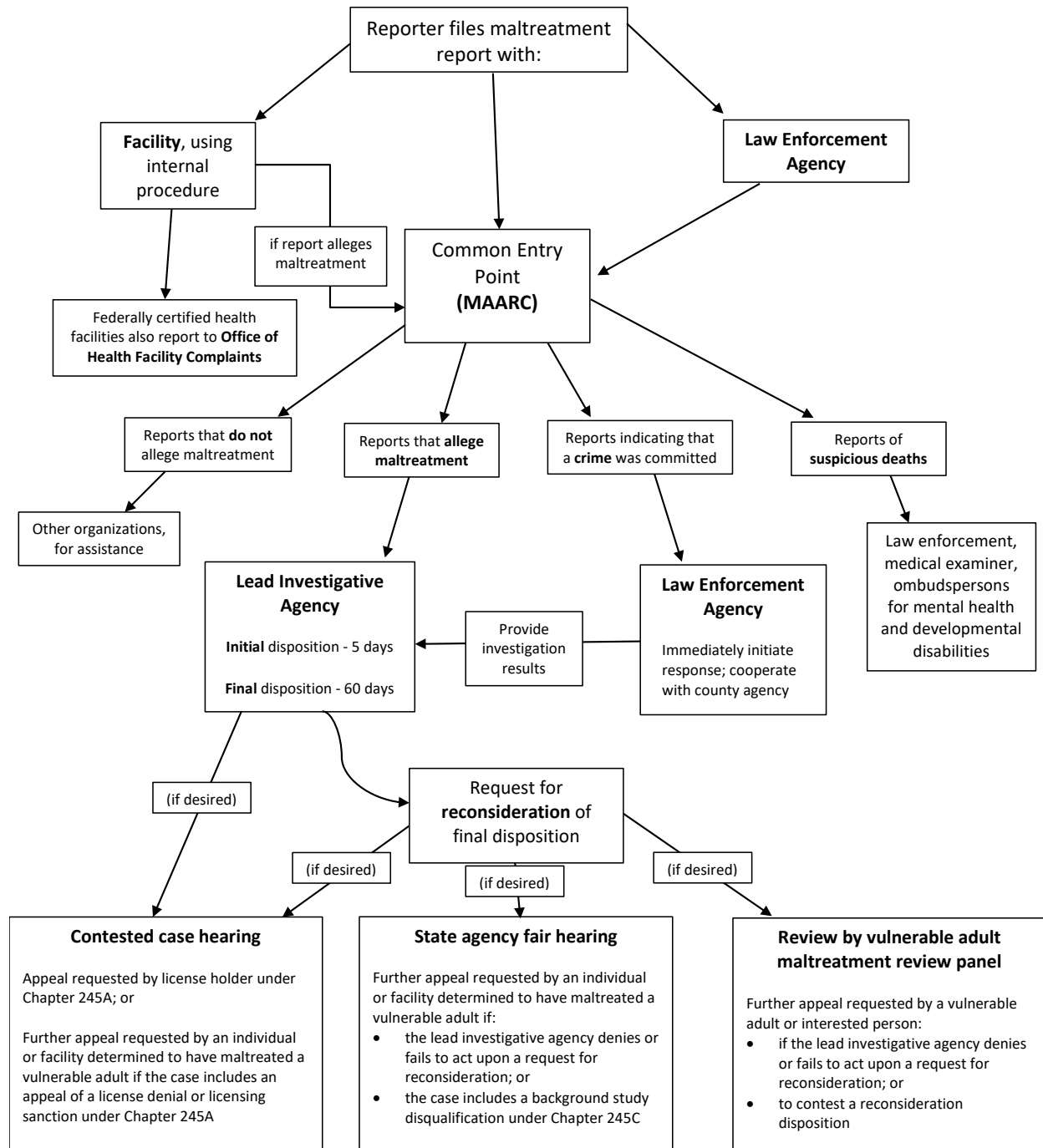
<sup>30</sup> Laws 2019, ch. 60, art. 1, § 42; art. 3, § 2; art. 4, §§ 30, 33; art. 5, §§ 1; 2, subd. 1.

<sup>31</sup> See the Department of Human Services Vulnerable Adult Protection Dashboard at [https://mn.gov/dhs/assets/CY18-21-VA-AP-dashboard-0922\\_tcm1053-544748.pdf](https://mn.gov/dhs/assets/CY18-21-VA-AP-dashboard-0922_tcm1053-544748.pdf).

<sup>32</sup> Department of Human Services news release, "Reporting of the maltreatment of vulnerable adults is down during pandemic," April 6, 2021, found at <https://content.govdelivery.com/accounts/MNDHS/bulletins/2ca0bd4>.

<sup>33</sup> Laws 2022, ch. 98, art 8, §§ 37-49.

# Appendix: Maltreatment Reporting and Investigation Process



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