

Proposal for Legislation -- 2017

Protect Seniors from Financial Crimes and Clean Up

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1. What is the problem or issue?

- The Adult Protective Services program in the Senior Long Term Care Division is responsible for investigating and providing vulnerable adults protective services from abuse, neglect and exploitation. The statutes that provide APS authority are found in Montana Code Annotated, Title 52, which addresses Family Services, Chapter 3 of which specifically addresses Adult Services. Part 2 of Chapter 3 is the "Protective Services Act for Aged Persons or Disabled Adults", and Part 8 is the "Montana Elder and Persons with Developmental Disabilities Abuse Prevention Act." The Legislature enacted Part 8 after Part 2, and left these two related acts separate, which causes confusion, and sometimes leads client representatives to call agencies other than APS, such as the Quality Assurance Division.
- The National Adult Protective Services Association has stated that financial exploitation is a fast-growing form of abuse of seniors. Although federal law permits employees of financial institutions to report abuse and exploitation, it does not require them to do so, which leaves the reporting of this form of senior abuse in legal grey area.
- Mont. Code Ann. 45-6-333 sets the penalty for exploitation of seniors. The update of the statute during the last legislative session inadvertently included a definition of "seniors" as persons aged 65 years or older. This conflicts with other statutes which define "seniors" as persons aged 60 years or older, including the federal Older Americans Act and the Montana Elder and Persons with Disabilities Abuse Prevention Act.

2. What do you want the legislation to do?

- Combine Title 52, Chapter 3, Parts 2 and 8, and update terminology to alleviate confusion and clarify that investigating abuse, neglect and exploitation of vulnerable adults is the role of APS.
- Make employees of financial institutions mandatory reporters of financial abuse of seniors.
- Amend Mont. Code Ann. § 45-6-333 to define "seniors" as persons aged 60 years or older, consistent with the Older Americans Act and the Montana Elder and Persons with Disabilities Abuse Prevention Act.

3. If possible, please list the MCA (Montana Code Annotated) sections that would need to be amended.

Part 2 (52-3-201 through 207) and Part 8 (52-3-801)

- 4. If the proposed change requires additional funding, what funding sources do you propose?**

There is no projected fiscal impact as a result of these clarifications to the statutes.

- 5. Has similar legislation been requested in the past, been introduced in another state, or provided as a model act? If so, please provide a citation, reference, or point of contact.**

Statutes in other states such as Washington, Idaho, Wyoming, North Dakota, South Dakota, Oregon