

A bill for an act

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

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

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

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

(1) the customer has authorized the disclosure;

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

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

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

(5) the financial records are disclosed to law enforcement, a lead agency as defined in section 626.5572, subdivision 13, or prosecuting authority that certifies in writing that it is investigating financial exploitation of a vulnerable adult under section 609.2335 or 626.557.

Sec. 2. Minnesota Statutes 2008, section 13A.04, subdivision 1, is amended to read:

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

Sec. 3. Minnesota Statutes 2008, section 256B.0595, subdivision 4b, is amended to read:

Subd. 4b. **Other exceptions to transfer prohibition.** This subdivision applies to transfers involving recipients of medical assistance that are made on or after July 1, 2003, and to all transfers involving persons who apply for medical assistance on or after July 1, 2003, regardless of when the transfer occurred, except that this subdivision does not apply to transfers made prior to July 1, 2003. A person or a person's spouse who made a transfer prohibited by subdivision 1b is not ineligible for medical assistance services if one of the following conditions applies:

(1) the assets or income were transferred to the individual's spouse or to another for the sole benefit of the spouse, except that after eligibility is established and the assets have been divided between the spouses as part of the asset allowance under section 256B.059, no further transfers between spouses may be made;

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

(3) the assets or income were transferred to a trust for the sole benefit of the individual's child who is blind or permanently and totally disabled as determined in the supplemental security income program and the trust reverts to the state upon the disabled child's death to the extent the medical assistance has paid for services for the grantor or beneficiary of the trust. This clause applies to a trust established after the commissioner publishes a notice in the State Register that the commissioner has been authorized to implement this clause due to a change in federal law or the approval of a federal waiver;

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

(5) the local agency determines that denial of eligibility for medical assistance services would cause undue hardship and grants a waiver of a penalty resulting from a transfer for less than fair market value because there exists an imminent threat to the individual's health and well-being. Whenever an applicant or recipient is denied eligibility because of a transfer for less than fair market value, the local agency shall notify the applicant or recipient that the applicant or recipient may request a waiver of the penalty if the denial of eligibility will cause undue hardship. In evaluating a waiver, the local agency shall take into account whether the individual was the victim of financial exploitation, whether the individual has made reasonable efforts to recover the transferred property or resource, and other factors relevant to a determination of hardship. The local agency shall grant a hardship waiver to an individual if:

(i) the transferee has been convicted of a crime involving financial exploitation, fraud, or theft as a result of the transfer; or

(ii) the individual demonstrates to the local agency that the individual was the victim of financial exploitation, fraud, or theft by the transferee.

If the local agency does not approve a hardship waiver, the local agency shall issue a written notice to the individual stating the reasons for the denial and the process for appealing the local agency's decision. When a waiver is granted, a cause of action exists against the person to whom the assets were transferred for that portion of medical assistance services granted within 72 months of the date the transferor applied for medical assistance and satisfied all other requirements for eligibility, or the amount of the uncompensated transfer, whichever is less, together with the costs incurred due to the action. The action shall be brought by the state unless the state delegates this responsibility to the local agency responsible for providing medical assistance under this chapter.

Sec. 4. Minnesota Statutes 2008, section 299A.61, subdivision 1, is amended to read:

Subdivision 1. **Establishment.** The commissioner of public safety, in cooperation with the commissioner of administration, shall develop and maintain an integrated criminal alert network to facilitate the communication of crime prevention information by electronic means among state agencies, law enforcement officials, and the private sector. The network shall disseminate data regarding the commission of crimes, including information on missing and endangered children or vulnerable adults, and attempt to reduce theft and other crime by the use of electronic transmission of information. In addition, the commissioner shall evaluate the feasibility of using the network to disseminate data regarding the use of fraudulent checks and the coordination of security and antiterrorism efforts with the Federal Bureau of Investigation. If the commissioner

determines that one or both of these uses are feasible, the commissioner shall ensure that the network disseminates data in the area or areas determined to be feasible.

Sec. 5. Minnesota Statutes 2008, section 388.23, subdivision 1, is amended to read:

Subdivision 1. **Authority.** The county attorney, or any deputy or assistant county attorney whom the county attorney authorizes in writing, has the authority to subpoena and require the production of any records of telephone companies, cellular phone companies, paging companies, subscribers of private computer networks including Internet service providers or computer bulletin board systems, electric companies, gas companies, water utilities, chemical suppliers, hotels and motels, pawn shops, airlines, buses, taxis, and other entities engaged in the business of transporting people, and freight companies, warehousing companies, self-service storage facilities, package delivery companies, and other entities engaged in the businesses of transport, storage, or delivery, and records of the existence of safe deposit box account numbers and customer savings and checking account numbers maintained by financial institutions and safe deposit companies, insurance records relating to the monetary payment or settlement of claims, the banking, credit card, and financial records of a vulnerable adult, whether held in the name of the vulnerable adult or a third party, including but not limited to safe deposit, loan and account applications and agreements, signature cards, statements, check, transfers, account authorizations, safe deposit access records and documentation of fraud, and wage and employment records of an applicant or recipient of public assistance who is the subject of a welfare fraud investigation relating to eligibility information for public assistance programs. Subpoenas may only be issued for records that are relevant to an ongoing legitimate law enforcement investigation. Administrative subpoenas may only be issued in welfare fraud cases if there is probable cause to believe a crime has been committed. This provision applies only to the records of business entities and does not extend to private individuals or their dwellings.

Sec. 6. Minnesota Statutes 2008, section 609.2335, is amended to read:

609.2335 FINANCIAL EXPLOITATION OF VULNERABLE ADULT.

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

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

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

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

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

(2) in the absence of legal authority:

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

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

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

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

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

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

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

Sec. 7. Minnesota Statutes 2008, section 609.52, subdivision 3, is amended to read:

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

(1) to imprisonment for not more than 20 years or to payment of a fine of not more than \$100,000, or both, if the property is a firearm, or the value of the property or services

6.1 stolen is more than \$35,000 and the conviction is for a violation of subdivision 2, clause
6.2 (3), (4), (15), or (16), or section 609.2335, subdivision 1, clause (1) or (2), item (i); or
6.3 (2) to imprisonment for not more than ten years or to payment of a fine of not more
6.4 than \$20,000, or both, if the value of the property or services stolen exceeds \$5,000, or if
6.5 the property stolen was an article representing a trade secret, an explosive or incendiary
6.6 device, or a controlled substance listed in schedule I or II pursuant to section 152.02
6.7 with the exception of marijuana; or

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 8. Minnesota Statutes 2008, section 611A.033, is amended to read:

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

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

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

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

Sec. 9. Minnesota Statutes 2008, section 626.557, subdivision 4, is amended to read:

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

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

Sec. 10. Minnesota Statutes 2008, section 626.557, subdivision 5, is amended to read:

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

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

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

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

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

9.3 Sec. 11. Minnesota Statutes 2008, section 626.557, is amended by adding a subdivision
9.4 to read:

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

9.11 Sec. 12. Minnesota Statutes 2008, section 626.557, subdivision 9, is amended to read:

9.12 Subd. 9. **Common entry point designation.** (a) ~~Each county board~~ The
9.13 commissioner of human services shall designate establish a common entry point for
9.14 reports of suspected maltreatment. ~~Two or more county boards may jointly designate a~~
9.15 ~~single common entry point.~~ The common entry point is the unit responsible for receiving
9.16 the report of suspected maltreatment under this section.

9.17 (b) The common entry point must be available 24 hours per day to take calls from
9.18 reporters of suspected maltreatment. The common entry point shall use a standard intake
9.19 form that includes:

- 9.20 (1) the time and date of the report;
- 9.21 (2) the name, address, and telephone number of the person reporting;
- 9.22 (3) the time, date, and location of the incident;
- 9.23 (4) the names of the persons involved, including but not limited to, perpetrators,
9.24 alleged victims, and witnesses;
- 9.25 (5) whether there was a risk of imminent danger to the alleged victim;
- 9.26 (6) a description of the suspected maltreatment;
- 9.27 (7) the disability, if any, of the alleged victim;
- 9.28 (8) the relationship of the alleged perpetrator to the alleged victim;
- 9.29 (9) whether a facility was involved and, if so, which agency licenses the facility;
- 9.30 (10) any action taken by the common entry point;
- 9.31 (11) whether law enforcement has been notified;
- 9.32 (12) whether the reporter wishes to receive notification of the initial and final
9.33 reports; and

(13) if the report is from a facility with an internal reporting procedure, the name, mailing address, and telephone number of the person who initiated the report internally.

(c) The common entry point is not required to complete each item on the form prior to dispatching the report to the appropriate investigative agency.

(d) The common entry point shall immediately report to a law enforcement agency any incident in which there is reason to believe a crime has been committed.

(e) If a report is initially made to a law enforcement agency or a lead agency, those agencies shall take the report on the appropriate common entry point intake forms and immediately forward a copy to the common entry point.

(f) The common entry point staff must receive training on how to screen and dispatch reports efficiently and in accordance with this section.

(g) When a centralized database is available, the common entry point has access to the centralized database and must log the reports in on the database.

EFFECTIVE DATE. This section is effective July 1, 2010.

Sec. 13. Minnesota Statutes 2008, section 626.557, subdivision 9b, is amended to read:

Subd. 9b. **Response to reports.** Law enforcement is the primary agency to conduct investigations of any incident in which there is reason to believe a crime has been committed. Law enforcement shall initiate a response immediately. If the common entry point notified a county agency for adult protective services, law enforcement shall cooperate with that county agency when both agencies are involved and shall exchange data to the extent authorized in subdivision 12b, paragraph (g). County adult protection shall initiate a response immediately. Each lead agency shall complete the investigative process for reports within its jurisdiction. ~~Any other~~ A lead agency, county, adult protective agency, licensed facility, or law enforcement agency shall cooperate in coordinating its investigation with other agencies and may assist another agency upon request within the limits of its resources and expertise and shall exchange data to the extent authorized in subdivision 12b, paragraph (g). The lead agency shall obtain the results of any investigation conducted by law enforcement officials. The lead agency has the right to enter facilities and inspect and copy records as part of investigations. The lead agency has access to not public data, as defined in section 13.02, and medical records under sections 144.291 to 144.298, that are maintained by facilities to the extent necessary to conduct its investigation. Each lead agency shall develop guidelines for prioritizing reports for investigation.

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

Subd. 9e. **Education requirements.** (a) The commissioners of health, human services, and public safety shall cooperate in the development of a joint program for education of lead agency investigators in the appropriate techniques for investigation of complaints of maltreatment. This program must be developed by July 1, 1996. The program must include but need not be limited to the following areas: (1) information collection and preservation; (2) analysis of facts; (3) levels of evidence; (4) conclusions based on evidence; (5) interviewing skills, including specialized training to interview people with unique needs; (6) report writing; (7) coordination and referral to other necessary agencies such as law enforcement and judicial agencies; (8) human relations and cultural diversity; (9) the dynamics of adult abuse and neglect within family systems and the appropriate methods for interviewing relatives in the course of the assessment or investigation; (10) the protective social services that are available to protect alleged victims from further abuse, neglect, or financial exploitation; (11) the methods by which lead agency investigators and law enforcement workers cooperate in conducting assessments and investigations in order to avoid duplication of efforts; and (12) data practices laws and procedures, including provisions for sharing data.

(b) The commissioners of health, human services, and public safety shall offer at least annual education ~~to others~~ on the requirements of this section, ~~on~~ how this section is implemented, and investigation techniques. The commissioners of health, human services, and public safety shall consult with representatives of lead agencies, advocates for vulnerable adults, and providers of care and services to vulnerable adults in developing and coordinating educational curricula and the use of technology for education programs.

(c) The commissioner of human services, in coordination with the commissioner of public safety shall provide training for the common entry point staff as required in this subdivision and the program courses described in this subdivision, at least four times per year. At a minimum, the training shall be held twice annually in the seven-county metropolitan area and twice annually outside the seven-county metropolitan area. The commissioners shall give priority in the program areas cited in paragraph (a) to persons currently performing assessments and investigations pursuant to this section.

(d) The commissioner of public safety shall notify in writing law enforcement personnel of any new requirements under this section. The commissioner of public safety shall conduct regional training for law enforcement personnel regarding their responsibility under this section.

(e) Each lead agency investigator must complete the education program specified by this subdivision within the first 12 months of work as a lead agency investigator.

12.1 A lead agency investigator employed when these requirements take effect must
12.2 complete the program within the first year after training is available or as soon as training
12.3 is available.

12.4 All lead agency investigators having responsibility for investigation duties under
12.5 this section must receive a minimum of eight hours of continuing education or in-service
12.6 training each year specific to their duties under this section.

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

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

- 12.12 (1) interview of the alleged victim;
- 12.13 (2) interview of the reporter and others who may have relevant information;
- 12.14 (3) interview of the alleged perpetrator;
- 12.15 (4) examination of the environment surrounding the alleged incident;
- 12.16 (5) review of pertinent documentation of the alleged incident; and
- 12.17 (6) consultation with professionals.

12.18 Sec. 16. Minnesota Statutes , section 626.557, is amended by adding a subdivision to
12.19 read:

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

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

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

12.32 Sec. 17. Minnesota Statutes 2008, section 626.5572, subdivision 5, is amended to read:

Subd. 5. **Common entry point.** "Common entry point" means the ~~entity designated by each county responsible for receiving reports~~ common entry point established to receive reports of maltreatment under section 626.557, subdivision 9.

EFFECTIVE DATE. This section is effective July 1, 2010.

Sec. 18. Minnesota Statutes 2008, section 626.5572, subdivision 21, is amended to read:

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

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

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

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

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

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

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

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

Sec. 19. Minnesota Statutes 2008, section 628.26, is amended to read:

628.26 LIMITATIONS.

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

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

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

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

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

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

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

14.26 (h) Indictments or complaints for violation of section 609.2335, 609.52, subdivision
14.27 2, clause (3), items (i) and (ii), (4), (15), or (16), 609.631, or 609.821, where the value of
14.28 the property or services stolen is more than \$35,000, shall be found or made and filed in
14.29 the proper court within five years after the commission of the offense.

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

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

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

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

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

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

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