

Scope of Statutes Subcommittee

Stakeholder Meeting

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William Mitchell College
of Law



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Increased Scope of Statutes Proposed Changes & Status

1.
 - **Proposal:** Remove nursing homes from the Minnesota Vulnerable Adults Act reporting requirements and focus resources on responding to community reports
 - **Status:** Research on Hospital Adverse Health Events Reporting Act; identifying never events in LTC; identifying independent organization to study and propose never events
 - Please see attached

Increased Scope of Statutes Proposed Changes & Status

2.
 - **Proposal:** Making financial institutions and their employees mandated reporters
 - **Status:** Model proposed statute on Oregon law (ORS 192.555 & 192.575); make it voluntary and limit liability; contacting Oregon law makers to inquire as to how it is working; draft language for Minn. Stat. §13A.04 subd 1A

Oregon Revised Statutes 192.555 & 192.575

192.555 Disclosure of financial records prohibited; exceptions.

(2) subsection (1) of this section shall not preclude a financial institution, in its [sic] discretion, from initiating contact with and thereafter communicating with and disclosing customer financial records to:

- (a) appropriate state or local agencies concerning any violation of the law

192.5775 (5) a financial institution shall not be liable to any person for any loss, damage or injury arising out of or in any way pertaining to the release of information pursuant to ORS 192.555

Increased Scope of Statutes Proposed Changes & Status

3.
 - **Proposal:** Allowing recovery of funds through statutes: provisions for criminal and civil penalties against perpetrators by using age categories to allow an agency to seek higher penalties.
 - **Status:** A bill drafted and on hold in committee about financial exploitation and fiduciaries. Work on getting this to this approved.

Increased Scope of Statutes Proposed Changes & Status

4.
 - **Proposal:** Strengthening the current VA review panel or consider its elimination
 - **Status:** Need clarification on goals for this change

Increased Scope of Statutes Proposed Changes & Status

5.
 - **Proposal:** Coordinating domestic violence statutes with elder abuse concerns
 - **Status:** Identifying concerns and research on current definitions under VAA and domestic violence statute to identify overlap or cross-reference.

Increased Scope of Statutes Proposed Changes & Status

6.
 - **Proposal:** Recovery remedy within the Revenue Recapture Act to withhold a tax refund (transfer money to MA program or care facility) or prevent inheritance when a person with substitute decision making power over a VA financially exploits/abuses a family member
 - **Status:** Consider amending Minn. Stat. § 270A allowing for a recovery remedy based on a judgment or judicial determination or court process

Increased Scope of Statutes Proposed Changes & Status

7.
 - **Proposal:** Expand language of statutes from care provider focus to community focus
 - **Status:** Proposed adverse reporting system (see slide 3) would free up resources to focus on responding to reports from the community

Increased Scope of Statutes Proposed Changes & Status

8.
 - **Proposal:** Coordinating Federal and State law to minimize conflict and clarify liability and penalties for each division
 - **Status:** Adverse event reporting system would eliminate dual reporting for SNF/NF

Increased Scope of Statutes Proposed Changes & Status

9.
 - **Proposal:** Requiring notification to APS or relevant office after a guardianship or conservatorship appointment to allow investigation by APS
 - **Status:** Current petition for appointment for guardian/conservator does not require notification of APS; consider amending form to include APS

Increased Scope of Statutes Proposed Changes & Status

10.
 - **Proposal:** Mandating background checks on any individual who provides care or acts in a substitute decision making capacity for another (e.g. POA, guardian, PCA, etc.)
 - **Status:** Scope of proposal too broad; amend NH law on responsible party §144.6501; Guardians, conservators, and PCA already require background checks

Increased Scope of Statutes Proposed Changes & Status

11.
 - **Proposal:** Provide a means of freezing a VA's assets while an investigation or proceeding involving suspected financial exploitation is in progress to secure the VA's assets
 - **Status:** consider tying this into proposal number 2 (slide 4); assess how it can work: what funds, due-process considerations; when can it be used

Increased Scope of Statutes Proposed Changes & Status

- **New proposal:**
Clarify MN Statutes 144.6501 regarding legal representative or responsible party who financially exploits liable using case law language