

DRAFT

§ 609.2335. Financial exploitation of a 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 ~~fails to use the financial resources~~ uses, manages, deprives, or takes either temporarily or permanently the real property, personal property, or other financial resources of the vulnerable adult ~~to provide food, clothing, shelter, health care, therapeutic conduct, or supervision~~ 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 property, personal property, or other financial resources of a vulnerable adult 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) acquires a fiduciary obligation to a vulnerable adult by use of undue influence, harassment, duress, force, compulsion, coercion, or other enticement.

Subd. 2. Defenses. 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. Where the actor knows or should know the vulnerable adult lacks capacity to consent, consent is not a defense to the crime of financial exploitation of a vulnerable adult.

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.

§ 609.52. Subd. 3 Theft;

(1) to imprisonment of not more than 20 years or to payment of fine of not more than \$100,000, or both if the property is a firearm, or the value of the property or services stolen is more than \$35,000 and the conviction is for a violation of subdivision 2, clause 3), (4), (15), ~~or (16)~~, or §609.2335; or

§ 388.23 COUNTY ATTORNEY; ADMINISTRATIVE SUBPOENAS.

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 and financial records of a vulnerable adult, 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.

Subd. 2. **Enforcement.** The subpoena shall be enforceable through the district court.

Subd. 3. **Expenses.** The person directed to produce the records shall be paid reasonable expenses incurred in producing the records.

Subd. 4. **Disclosure prohibited.** The subpoena must state that the person to whom the subpoena is directed may not disclose the fact that the subpoena was issued or the fact that the requested records have been given to law enforcement personnel except:

- (1) insofar as the disclosure is necessary to find and disclose the records; or
- (2) pursuant to court order.

Subd. 5. **Penalty.** The willful failure to produce the documents required by the subpoena is a misdemeanor.

Subd. 6. **Ex parte order.** Upon the ex parte request of the attorney issuing the subpoena, the district court may issue an order directing the production of the records. It is not necessary for either the request or the order to be filed with the court administrator. Failure to comply with the court order subjects the person who fails to comply to civil or criminal contempt of court, or both.

§ 609.233. Criminal Neglect

Subdivision 1. Crime. A caregiver or operator who intentionally neglects a vulnerable adult or knowingly permits conditions to exist that result in the abuse or neglect of a vulnerable adult is guilty of a ~~gross misdemeanor~~ crime. For purposes of this section, “abuse” has the meaning given in section 626.5572, subdivision 2, and “neglect” means a failure to provide a vulnerable adult with necessary food, clothing, shelter, health care or supervision.

Subd. 2. Exemptions.

(no changes)

Subdivision 2. Criminal Penalties. (a) A person who violates subdivision 1, may be sentenced as follows:

- (1) if the act results in the death of a vulnerable adult, imprisonment for not more than 15 years or payment of a fine of not more than \$30,000, or both;
- (2) if the act results in great bodily harm, imprisonment for not more than ten years or payment of a fine of not more than \$20,000, or both;
- (3) if the act results in substantial bodily harm or the risk of death, imprisonment for not more than five years or payment of a fine of not more than \$10,000, or both;
- (4) in other cases, imprisonment for not more than one year or payment of a fine of not more than \$3000, or both.

§ 628.26 Limitations

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

§ 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 to testify.

(c) In a criminal proceeding in which an elderly person or vulnerable adult is a victim, the state may move the court for a speedy trial. The presiding judge, after consideration of the age and health of the victim, shall grant a speedy trial. The motion may be filed and served with the complaint or any time thereafter.