



The Missouri Department of Health and Senior Services (DHSS), Division of Senior and Disability Services (DSDS) has statutory authority (192.2415, RSMo) for investigating all allegations of Abuse, Neglect, and Exploitation (ANE) of eligible adults, age 60 and older or age 18-59 with a disability, with a protective service need. This includes eligible adults that are unable to protect his or her own interests or adequately perform or obtain services which are necessary to meet his or her essential human needs.

Mandated reporters are required by law (192.2475, 565.188, 208.912, and 198.070, RSMo) to report suspicions or allegations of ANE **immediately** to the DSDS Central Registry Unit (CRU) at **800-392-0210**. Mandated reporters do not have to witness the ANE in order to make a report. Information gained from a secondary source may reveal ANE and those instances shall also be reported to CRU.

Mandated Reporting of Abuse/Neglect

The law requires mandated reporters to report any suspected abuse or neglect regarding eligible adults, age 60 and older or age 18-59 with a disability, residents of facilities, and Home and Community Based Services (HCBS) participants. A mandated reporter shall immediately report to CRU any situation in which he/she:

- Has reasonable cause to believe that an HCBS participant has been abused or neglected as a result of HCBS (192.2475, RSMo); or
- Has reasonable cause to suspect that a person sixty years of age or older has been subjected to abuse or neglect (565.188, RSMo); or
- Observes a person sixty years of age or older being subjected to conditions or circumstances which would reasonably result in abuse or neglect (565.188, RSMo); or
- Believes that a participant has been abused or neglected as a result of the delivery or failure to deliver Personal Care Assistance within the Consumer-Directed Model (CDS) (208.912, RSMo); or
- Believes that a resident of a facility has been abused or neglected (198.070, RSMo).

Reporter Immunity

Reporters (witnesses) who report (testify) in good faith or cooperate in the administrative or judicial proceedings arising from a report which alleges abuse, neglect, misappropriation of funds/property, or falsification of service delivery documents of HCBS shall be immune from criminal or civil liability for making a report or testifying.

CRU is the central point of intake for reports of ANE. CRU operates from 7 a.m. to midnight, 365 days a year. When calling CRU, DSDS or its designee, shall have available as much information regarding the situation occurring as possible. This includes, but is not limited to:

- The reported adult's (RA) name, address, and phone number;
- The alleged perpetrator (AP) of the ANE and relationship to the RA, if any;

- Nature and extent of the RA's condition;
- A description of the current situation and any information regarding the nature of the ANE;
- The date, time, and frequency of event(s);
- Any involved persons or witnesses to the event;
- Name, address, and phone number of any person responsible for the RA's care; and
- The reporter's name and daytime phone number.

I. Abuse

The infliction of physical, sexual, or emotional injury or harm including financial exploitation by any person, firm or corporation (192.2400, RSMo).

A. Physical abuse: The infliction of physical injury or harm by any person, firm or corporation in accordance with section 192.2400, RSMo. Physical injury or harm may include but is not limited to punching, kicking, striking, wounding, burning, choking, restraining, etc. Other examples include: mistreatment or maltreatment of the eligible adult in a brutal or inhumane manner; handling the eligible adult with more force than is reasonable or apparently necessary under the circumstances; physical contact with an eligible adult knowing it will be regarded as harmful; placing an eligible adult in apprehension of immediate physical injury. Actual observable injury is not required.

B. Sexual abuse: The infliction of sexual injury or harm by any person, firm or corporation in accordance with section 192.2400, RSMo. Sexual injury or harm is considered the result of any actions of a sexual nature inflicted upon an eligible adult by another person, when the eligible adult has not given or is incapable of giving consent. This may involve the use of forcible compulsion. Forcible compulsion means either the use of physical force that overcomes reasonable resistance or a threat, express or implied, that places a person in reasonable fear of death, serious physical injury or kidnapping. Sexual injury or harm includes rape or molestation and may include but is not limited to: punching, striking or wounding a person in the genitals or the breast, touching of another person with the genitals or any touching of the genitals or anus of another person, or the breast directly or through clothing for the purpose of arousing or gratifying sexual desire of any person, promoting/observing activities of the eligible adult for sexual purposes, failure to prevent inappropriate activity observed by a third person when it is known or believed that the eligible adult is at risk of harm or injury, etc.

C. Emotional abuse: The infliction of emotional injury or harm by any person, firm or corporation in accordance with section 192.2400, RSMo. Emotional injury or harm includes incidents that would cause emotional distress to a reasonable adult regardless of age or physical/mental impairment. Emotional injury or harm may result from acts of verbal abuse or the act of purposefully withholding or withdrawing affection from the eligible adult with the intent to provoke distress. Other examples include referring to an eligible adult in their presence with profanity or in a demeaning, undignified, or derogatory manner, etc.

II. Neglect

The failure to provide services to an eligible adult by any person, firm or corporation with a legal or contractual duty to do so, when such failure presents either an imminent danger to the health, safety, or

welfare of the client or a substantial probability that death or serious physical harm would result (192.2400, RSMo).

A. Passive neglect: Careless conduct or a breach of a duty resulting in injury by the unintentional failure to fulfill a caregiving obligation or failure to provide based on ignorance.

B. Active neglect: Careless conduct or a breach of a duty resulting in injury by the intentional failure to fulfill caregiving needs (for example, the deliberate denial of food or medicine).

III. Financial Exploitation

The crime of Financial Exploitation involves allegations that a person (whether a family member, joint tenant, caregiver/attendant, or someone who has assumed fiduciary responsibility) has knowingly by deception, intimidation, undue influence, or force obtained control over an eligible adult's property with the intent to permanently deprive the eligible adult benefit or possession of his or her property as directed in 570.145, RSMo.

IV. Misappropriation of Funds/Property of In-Home Services Participants or CDS Consumers:

Reports which allege an HCBS provider, its employee, or a personal care attendant is believed to have diverted personal property or funds from an HCBS participant for personal use (or the use of the provider) meet the statutory definition of Misappropriation of Funds/Property of in-home services participants or CDS consumers. Such investigations may result in a referral to the Employee Disqualification List (EDL) ([APS Policy 1702.90](#))

V. Falsification of Documents, Verifying Service Delivery:

Allegations of falsification of any documents verifying service delivery to an HCBS participant by any HCBS provider employee or personal care attendant are considered Class A misdemeanors as directed in 192.2480, RSMo, and may result in a referral to the EDL ([APS Policy 1702.90](#)).

VI. Misappropriation of Funds of Elderly or Disabled Nursing Facility Residents:

Reports which allege that a responsible party has misappropriated funds or failed to pay for care of an elderly person in a facility meet the statutory definition of misappropriation of funds of elderly nursing facility residents. Such breach of fiduciary duty is a criminal offense as defined in the statute:

"Misappropriation of funds of elderly or disabled nursing home residents, penalty:" 198.097(1), RSMo. Any person who assumes the responsibility of managing the financial affairs of an elderly or disabled person who is a resident of any facility licensed under this chapter shall be guilty of a Class E felony if such person misappropriates the funds and fails to pay for the facility care of the elderly person or disabled person.

Failure to remit funds of a Medicaid eligible facility resident to a licensed facility is also addressed under the Crime of Financial Exploitation 570.145 (7)(1), RSMo.