

**ARTICLE 3.1**  
**PROTECTIVE SERVICES FOR ADULTS AT RISK OF**  
**MISTREATMENT OR SELF NEGLECT**  
**PART 1**  
**PROTECTIVE SERVICES FOR AT-RISK ADULTS**

**26-3.1-101. Definitions.**

As used in this Article 3.1, unless the context otherwise requires:

- (1) "Abuse" means any of the following acts or omissions committed against an at-risk adult:
- (a) The nonaccidental infliction of physical pain or injury, as demonstrated by, but not limited to, substantial or multiple skin bruising, bleeding, malnutrition, dehydration, burns, bone fractures, poisoning, subdural hematoma, soft tissue swelling, or suffocation;
  - (b) Confinement or restraint that is unreasonable under generally accepted caretaking standards; or,
  - (c) Subjection to sexual conduct or contact classified as a crime under the "Colorado Criminal Code", Title 18, C.R.S.
- (1.5) "At-risk adult" means an individual eighteen years of age or older who is susceptible to mistreatment or self-neglect because the individual is unable to perform or obtain services necessary for his or her health, safety, or welfare, or lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his or her person or affairs.
- (1.7) "CAPS" means the Colorado Adult Protective Services data system that includes records of reports of mistreatment of at-risk adults.
- (1.8) "CAPS check" means a check of the Colorado Adult Protective Services data system pursuant to section 26-3.1-111.
- (2) "Caretaker" means a person who:
- (a) Is responsible for the care of an at-risk adult as a result of a family or legal relationship;
  - (b) Has assumed responsibility for the care of an at-risk adult;
  - (c) Is paid to provide care, services, or oversight of services to an at-risk adult.

(2.3)(a) “Caretaker neglect” means neglect that occurs when adequate food, clothing, shelter, psychological care, physical care, medical care, habilitation, supervision, or other treatment necessary for the health or safety of the at-risk adult is not secured for an at-risk adult or is not provided by a caretaker in a timely manner and with the degree of care that a reasonable person in the same situation would exercise, or a caretaker knowingly uses harassment, undue influence, or intimidation to create a hostile or fearful environment for an at-risk adult.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (2.3), the withholding, withdrawing, or refusing of any medication, any medical procedure or device, or any treatment, including but not limited to resuscitation, cardiac pacing, mechanical ventilation, dialysis, artificial nutrition and hydration, any medication or medical procedure or device, in accordance with any valid medical directive or order, or as described in a palliative plan of care, is not deemed caretaker neglect.

(c) As used in this subsection (2.3), “medical directive or order” includes a medical durable power of attorney, a declaration as to medical treatment executed pursuant to Section 15-18-104, C.R.S., A Medical Order for Scope of Treatment form executed pursuant to Article 18.7 of Title 15, C.R.S., and a CPR Directive executed pursuant to Article 18.6 of Title 15, C.R.S.

(2.5) “Clergy member” means a priest; rabbi; duly ordained, commissioned, or licensed minister of a church, member of a religious order, or recognized leader of any religious body.

(3) “County department” means a county or district department of human or social services.

(3.5) “Direct care” means services and supports, including case management services, protective services, physical care, mental health services, or any other service necessary for the at-risk adult’s health, safety, or welfare.

(4) “Exploitation” means an act or omission committed by a person that:

- (a) Uses deception, harassment, intimidation, or undue influence to permanently or temporarily deprive an at-risk adult of the use, benefit, or possession of anything of value;
- (b) Employs the services of a third party for the profit or advantage of the person or another person to the detriment of the at-risk adult;
- (c) Forces, compels, coerces, or entices an at-risk adult to perform services for the profit or advantage of the person or another person against the will of the at-risk adult; or

- (d) Misuses the property of an at-risk adult in a manner that adversely affects the at-risk adult's ability to receive health care or health care benefits or to pay bills for basic needs or obligations.
- (5) "Financial institution" means a state or federal bank, savings bank, savings and loan association or company, building and loan association, trust company, or credit union.
- (6) "Least restrictive intervention" means acquiring or providing services, including protective services, for the shortest duration and to the minimum extent necessary to remedy or prevent situations of actual mistreatment, self neglect, or exploitation.
- (7) "Mistreatment" means:
  - (a) Abuse;
  - (b) Caretaker neglect;
  - (c) Exploitation
  - (d) An act or omission that threatens the health, safety, or welfare of an at-risk adult; or
  - (e) An act or omission that exposes an at-risk adult to a situation or condition that poses an imminent risk of bodily injury to the at-risk adult.
- (8) "Person" means one or more individuals, limited liability companies, partnerships, associations, corporations, legal representatives, trustees, receivers, or the state of Colorado, and all political subdivisions and agencies thereof.
- (9) "Protective services" means services provided by the state or political subdivisions or agencies thereof in order to prevent the mistreatment, self-neglect, or exploitation of an at-risk adult. Such services, include, but are not limited to: Receiving and investigating reports of mistreatment, self-neglect, or exploitation, providing casework and counseling services, and arranging for coordinating, delivering where appropriate, and monitoring services, including medical care for physical or mental health needs, protection from mistreatment, assistance with application for public benefits, referral to community service providers, and initiation of probate proceedings.
- (10) "Self-neglect" means an act or failure to act whereby an at-risk adult substantially endangers his or her health, safety, welfare, or life by not seeking or obtaining services necessary to meet his or her essential human needs. Choice of lifestyle or living arrangements shall not, by itself, be evidence of self-neglect. Refusal of medical treatment, medications, devices, or procedures by an adult or on behalf of an adult by a duly authorized surrogate medical decision maker or in accordance

with a valid medical directive or order, or as described in a palliative plan of care, shall not be deemed self-neglect. Refusal of food and water in the context of a life-limiting illness shall not, by itself, be evidence of self-neglect. As used in this subsection (10), "medical directive or order" includes, but is not limited to, a medical durable power of attorney, a declaration as to medical treatment executed pursuant to Section 15-18-104, C.R.S., a medical order for scope of treatment form executed pursuant to Article 18.7 of Title 15, C.R.S., and a CPR directive executed pursuant to Article 18.6 of Title 15, C.R.S.

(11) "Undue influence" means the use of influence to take advantage of an at-risk adult's vulnerable state of mind, neediness, or pain.

### **26-3.1-102. Reporting requirements.**

- (1) (a) A person specified in paragraph (b) of this subsection (1) who observes the mistreatment, self-neglect, or exploitation of an at-risk adult or who has reasonable cause to believe that an at-risk adult has been mistreated or is self-neglecting and is at imminent risk of mistreatment or self-neglect is urged to report such fact to a county department not more than twenty-four hours after making the observation or discovery.
- (a.5) As required by Section 18-6.5-108, C.R.S., certain persons specified in paragraph (b) of this subsection (1) who observe the mistreatment as defined in section 18-6.5-102 (10.5), C.R.S, of an at-risk elder, as defined in Section 18-6.5-102(3), C.R.S., or an at-risk adult with IDD, as defined in Section 18-6.5-102(2.5), C.R.S, or who have reasonable cause to believe that an at-risk elder or an at-risk adult with IDD has been mistreated or is at imminent risk of mistreatment shall report such fact to a law enforcement agency not more than twenty-four hours after making the observation or discovery.
- (b) The following persons, whether paid or unpaid, are urged to report as described in paragraph (a) of this subsection (1):
- (I) Any person providing health care or health-care-related services including general medical, surgical, or nursing services; medical, surgical, or nursing specialty services; dental services; vision services; pharmacy services; chiropractic services; or physical, occupational, musical, or other therapies;
  - (II) Hospital and long-term care facility personnel engaged in the admission, care, or treatment of patients;
  - (III) First responders, including emergency medical service providers, fire protection personnel, law enforcement officers, and persons

employed by, contracting with, or volunteering with any law enforcement agency, including victim advocates;

- (IV) Code Enforcement officers;
- (V) Medical examiners and coroners;
- (VI) Veterinarians;
- (VII) Psychologists, addiction counselors, professional counselors, marriage and family therapists, and registered psychotherapists, as those persons are defined in Article 43 of Title 12, C.R.S.;
- (VIII) Social workers, as defined in part 4 of Article 43 of Title 12, C.R.S.;
- (IX) Staff of community centered boards;
- (X) Staff, consultants, or independent contractors of service agencies, as defined in section 25.5-10-202 (34), C.R.S.;
- (XI) Staff or consultants for a licensed or unlicensed, certified or uncertified, care facility, agency, home, or governing board, including but not limited to long-term care facilities, home care agencies, or home health providers;
- (XII) Caretakers, staff members, employees of, or consultants for, a home care placement agency, as defined in section 25-27.5-102 (5), C.R.S.;
- (XIII) Persons performing case management or assistant services for at-risk adults;
- (XIV) Staff of county departments of human or social services;
- (XV) Staff of the state departments of human services, public health and environment, or health care policy and financing;
- (XVI) Staff of senior congregate centers or senior research or outreach organizations;
- (XVII) Staff, and staff of contracted providers, of area agencies on aging, except the long-term care ombudsmen;
- (XVIII) Employees, contractors, and volunteers operating specialized transportation services for at-risk adults;

(XIX) Landlords and staff of housing and housing authority agencies for at-risk adults;

(XX) Court-appointed guardians and conservators;

(XXI) Personnel at schools serving persons in preschool through twelfth grade;

(XXII) Clergy members; except that the reporting requirement described in paragraph (a) of this subsection (1) does not apply to a person who acquires reasonable cause to believe that an at-risk adult has been mistreated or has been exploited or is at imminent risk of mistreatment or exploitation during a communication about which the person may not be examined as a witness pursuant to section 13-90-107 (1) (c), C.R.S., unless the person also acquires such reasonable cause from a source other than such communication; and,

(XXIII) Persons working in financial services industries, including banks, savings and loan associations, credit unions, and other lending or financial institutions; accountants; mortgage brokers; life insurance agents; and financial planners.

(c) In addition to those persons urged by this subsection (1) to report known or suspected mistreatment or self-neglect of an at-risk adult and circumstances or conditions that might reasonably result in mistreatment or self-neglect, any other person may report such known or suspected mistreatment or self-neglect and circumstances or conditions that might reasonably result in mistreatment or self-neglect of an at-risk adult to the local law enforcement agency or the county department. Upon receipt of such report, the receiving agency shall prepare a written report within forty-eight hours.

(2) Pursuant to subsection (1) of this section, the report must include:

(a) The name and address of the at-risk adult;

(b) The name and address of the at-risk adult's caretaker, if any;

(c) The age, if known, of the at-risk adult;

(d) The nature and extent of the at-risk adult's injury, if any;

(e) The nature and extent of the condition that will reasonably result in mistreatment or self-neglect; and

- (f) Any other pertinent information.
- (3) A copy of the report prepared by the county department in accordance with subsection (1) and (2) of this section shall be forwarded within twenty-four hours to a local law enforcement agency. A report prepared by a local law enforcement agency shall be forwarded within twenty-four hours to the county department.
- (4) A person, including a person specified in subsection (1) of this section, shall not knowingly make a false report of mistreatment or self-neglect to a county department or local law enforcement agency. Any person who willfully violates the provisions of this subsection (4) commits a class 3 misdemeanor and shall be punished as provided in Section 18-1.3-501, C.R.S., and shall be liable for damages proximately caused thereby.
- (5) Any person, except a perpetrator, complicitor, or co-conspirator, who make a report pursuant to this section shall be immune from any civil or criminal liability on account of such report, testimony, or participation in making such report, so long as such action was taken in good faith and not in reckless disregard of the truth or in violation of subsection (4) of this section.
- (6) A person shall not take any discriminatory, disciplinary, or retaliatory action against any person who, in good faith, makes a report or fails to make a report of suspected mistreatment or self-neglect of an at-risk adult.
- (7) (a) Except as provided in paragraph (b) of this subsection (7), reports of the mistreatment or self-neglect of any at-risk adult, including the name and address of any at-risk adult, member of said adult's family, or informant, or any other identifying information contained in such reports, is confidential, and is not public information.  
  
(b) Disclosure of a report of the mistreatment or self-neglect of an at-risk adult and information relating to an investigation of such a report is permitted only when authorized by a court for good cause. A court order is not required, and such disclosure is not prohibited when:
  - (I) A criminal complaint, information, or indictment based on the report is filed;
  - (II) There is a death of a suspected at-risk adult from mistreatment or self-neglect and a law enforcement agency files a formal charge or a grand jury issues an indictment in connection with death; or
  - (III) The disclosure is necessary for the coordination of multiple agencies' investigation of a report or for the provision of protection services to an at-risk adult;

- (IV) The disclosure is necessary for purposes of an audit of a county department of human or social services pursuant to section 26-1-114.5.
  - (V) The disclosure is made for purposes of the appeals process relating to a substantiated case of mistreatment of an at-risk adult pursuant to section 26-3.1-108(2); or
  - (VI) The disclosure is made by the state department to an employer, or to a person or entity conducting employee screening on behalf of the employer, as part of a CAPS check pursuant to section 26-3.1-111 or by a county department pursuant to section 26-3.1-107.
- (c) Any person who violates any provision of this subsection (7) is guilty of a class 2 petty offense and, upon conviction thereof, shall be punished by a fine of not more than three hundred dollars.

### **26-3.1-103. Evaluations – investigations – training – rules**

- (1) The agency receiving a report of mistreatment or self-neglect of an at-risk adult shall immediately make a thorough evaluation of the reported level of risk. The immediate concern of the evaluation is the protection of the at-risk adult. The evaluation, at a minimum, must include a determination of a response time frame and whether an investigation of allegations is required. If a county department determines that an investigation is required, the county department is responsible for ensuring an investigation is conducted and arranging for the subsequent provision of protective services to be conducted by persons trained to conduct such investigations and provide protective services.
- (1.5) The state department shall provide training to all current county department adult protective services caseworkers and supervisors no later than July 1, 2018, and to new county department adult protective services caseworkers and supervisors hired after July 1, 2018, to achieve consistency in the performance of the following duties:
- (a) Investigating reports of suspected mistreatment or self-neglect of at-risk adults and making findings concerning cases and alleged perpetrators;
  - (b) Notifying a person who has been substantiated in a case of mistreatment of an at-risk adult of the finding and of the person's right to appeal the finding to the state department;
  - (c) Assessing the client's strengths and needs and developing a plan for the provision of protective services;



- (d) Determining the appropriateness of case closure;
  - (e) Entering accurate and complete documentation of the report and subsequent casework into CAPS; and
  - (f) Maintaining confidentiality in accordance with state law.
- (2) Each county department, law enforcement agency, district attorney's office, and other agency responsible under federal law or the laws of this state to investigate mistreatment or self-neglect of at-risk adults shall develop and implement cooperative agreements to coordinate the investigative duties of such agencies. The focus of such agreements is to ensure the best protection for at-risk adults. The agreements must provide for special requests by one agency for assistance from another agency and for joint investigations. The agreements must further provide that each agency maintain the confidentiality of the information exchanged pursuant to such joint investigations.
- (3) Each county or contiguous group of counties in the state in which a minimum number of reports of mistreatment or self-neglect of at-risk adults are annually filed shall establish an at-risk adult protection team. The state board shall promulgate rules to specify the minimum number of reports that will require the establishment of an adult at-risk protection team. The at-risk adult protection team shall review the processes used to report and investigate mistreatment or self-neglect of at-risk adults, review the provision of protective services for such adults, facilitate interagency cooperation, and provide community education on the mistreatment and self-neglect of at-risk adults. The director of each county department shall create or coordinate a protection team for the respective county in accordance with rules adopted by the state board of human services. The state board rules shall govern the establishment, composition, and duties of the team and must be consistent with this subsection (3).

**26-3.1-104. Provision of protective services for at risk adults consent – non-consent –least restrictive intervention.**

- (1) If a county director or his or her designee determines that an at-risk adult is being mistreated or self-neglected, or is at risk thereof, and the at-risk adult consents to protective services, the county director or designee shall immediately provide or arrange for the provision of protective services, which services shall be provided in accordance with the provisions of 28 CFR part 35, subpart B.
- (2) If a county director or his or her designee determines that an at-risk adult is being or has been mistreated or self-neglected, or is at risk thereof, and if the at-risk adult appears to lack capacity to make decisions and does not consent to the receipt of protective services, the county director is urged, if no other appropriate person is able or willing to petition the court, pursuant to Part 3 of Article 14 of Title

15, C.R.S., for an order authorizing the provision of specific protective services and for the appointment of a guardian, for an order authorizing the appointment of a conservator pursuant to Part 4 of Article 14 of Title 15, C.R.S., or for a court order providing for any combination of these actions.

- (3) Any protective services provided pursuant to this section shall include only those services constituting the least restrictive intervention.

**26-3.1-105. Prior consent form.** (Repealed 5/16/13)

**26-3.1-106. Training.** The general assembly strongly encourages training that focuses on detecting circumstances or conditions that might reasonably result in mistreatment or self-neglect of an at-risk adult for those persons who are urged by Section 26-3.1-102 (1) to report known or suspected mistreatment or self-neglect of an at-risk adult.

**26-3.1-107. Background check — adult protective services data system check.**

- (1) Each county department shall require each protective services employee hired on or after May 29, 2012, to complete a fingerprint-based criminal history records check utilizing the records of the Colorado Bureau of Investigation and the Federal Bureau of Investigation. The employee shall pay the cost of the fingerprint-based criminal history records check unless the county department chooses to pay the cost. Upon completion of the criminal history records check, the Colorado Bureau of Investigation shall forward the results to the county department. The county department may require a name-based criminal history records check for an applicant or an employee who has twice submitted to a fingerprint-based criminal history records check and whose fingerprints are unclassifiable.
- (2) For each adult protective services employee hired on or after January 1, 2019, each county department shall conduct a CAPS check to determine if the person is substantiated in a case of mistreatment of an at-risk adult. The county department shall conduct the CAPS check pursuant to state department rules.

**26-3.1-108. Notice of report — appeals — rules.**

- (1) The state department shall promulgate appropriate rules for the implementation of this Article 3.1.
- (2) In addition to rules promulgated pursuant to subsection (1) of this section, the state department shall promulgate rules to establish a process at the state level by which a person who is substantiated in a case of mistreatment of an at-risk adult may appeal the finding to the state department. At a minimum, the rules promulgated pursuant to this subsection (2) shall address the following:
  - (a) The process by which a person who is substantiated in a case of mistreatment of an at-risk adult receives adequate and timely written notice from the county

department of that finding and of his or her right to appeal the finding to the state department;

- (b) The effective date of the notification of finding and appeal process;
  - (c) A requirement for and procedures to facilitate the expungement of and prevention of the release of any information contained in CAPS records for purposes of a CAPS check related to a person who is substantiated in a case of mistreatment of an at-risk adult that existed prior to the effective date of this subsection (2); except that the state department and county departments may maintain such information in CAPS to assist in future risk and safety assessments.
  - (d) The timeline and process for appealing the finding of a substantiated case of mistreatment of an at-risk adult;
  - (e) Designation of the entity other than the county department with the authority to accept and respond to an appeal by a person substantiated in a case of mistreatment of an at-risk adult at each stage of the appellate process;
  - (f) The legal standards involved in the appellate process and a designation of the party who bears the burden of establishing that each standard is met; and
  - (g) The confidentiality requirements of the appeals process.
- (3) A county department is not required to provide notice to a person of a finding of a substantiated case of mistreatment of an at-risk adult until CAPS is capable of automatically generating the notice required pursuant to state department rules.

**26-3.1-109. Limitation.** Nothing in this Article shall be construed to mean that a person is mistreated, neglected, exploited, or in need of emergency or protective services for the sole reason that he or she is being furnished or relies upon treatment by spiritual means through prayer alone in accordance with the tenets and practices of that person's recognized church or religious denomination, nor shall anything in this Article be construed to authorize, permit, or require any medical care or treatment in contravention of the stated or implied objection of such a person.

**26-3.1-110. Report Concerning the Implementation of Mandatory Reporting of Elder Abuse and Exploitation – Repeal.** (Repealed 1/1/17)

**26-3.1-111. Access to CAPS — employment checks — confidentiality — fees — rules —legislative declaration — definitions.**

- (1) The general assembly finds and declares that individuals receiving care and services from persons employed in programs or facilities described in subsection (7) of this section are vulnerable to mistreatment, including abuse, neglect, and

exploitation. It is the intent of the general assembly to minimize the potential for employment of persons with a history of mistreatment of at-risk adults in positions that would allow those persons unsupervised access to these adults. As a result, the general assembly finds it necessary to strengthen protections for vulnerable adults by requiring certain employers to request a CAPS check by the state department to determine if a person who will provide direct care to an at-risk adult has been substantiated in a case of mistreatment of an at-risk adult.

- (2) As used in this section, unless the context otherwise requires:
  - (a) "Employee" means a person, other than a volunteer, who is employed by or contracted with an employer, and includes a prospective employee.
  - (b) "Employer" means a person, facility, entity, or agency described in subsection (7) of this section and includes a prospective employer. "Employer" also includes a person hiring someone to provide consumer-directed attendant support services pursuant to Article 10 of Title 25.5, if the person requests a CAPS check.
- (3) The state department shall establish and implement a state-level program for employers to obtain a CAPS check to determine if a person who will provide direct care to an at-risk adult is substantiated in a case of mistreatment of an at-risk adult. The state department's program shall be operational for an employer CAPS check on and after January 1, 2019.
- (4) The state department shall not release information relating to any person during a CAPS check unless the person is substantiated in a case of mistreatment of an at-risk adult.
- (5) The state department shall promulgate rules for the implementation of this section, which rules must include the following:
  - (a) The employer process for requesting a CAPS check for an employee who has an active application for employment for a position in which the person will provide direct care to an at-risk adult;
  - (b) The state department or county department employees or employee positions granted access to CAPS;
  - (c) The process for completing a CAPS check and the parameters for establishing and collecting the fee charged to an employer for each CAPS check;
  - (d) The information in CAPS that will be made available to an employer requesting a CAPS check;

- (e) The purposes for which the information in CAPS may be made available; and
  - (f) The consequences of the improper release of the information in CAPS.
- (6) (a) (I) On and after January 1, 2019, prior to hiring or contracting with an employee who will provide direct care to an at-risk adult, an employer described in subsection (7) of this section shall request a CAPS check by the state department pursuant to this section to determine if the person is substantiated in a case of mistreatment of an at-risk adult. Within ten days after the date of the employer's request, if the employee was substantiated in a case of mistreatment of an at-risk adult, unless the finding was expunged through a successful appeal to the state department, the state department shall provide the employer with information concerning the mistreatment through electronic means, or other means if requested by the employer, including the date the mistreatment was reported, the type of mistreatment reported, and the county that investigated the report of mistreatment.
- (II) A person or entity conducting employee screening on behalf of an employer may request a CAPS check pursuant to this section and may receive the results of the CAPS check from the state department. The person or entity conducting employee screening on behalf of the employer shall provide the employer with the results of the CAPS check.
- (b) As a condition of employment or contracting, a person seeking employment or to contract with the employer in a position in which the person will provide direct care to an at-risk adult shall provide to the employer, or to a person or entity conducting employee screening on behalf of the employer, written authorization and any required identifying information necessary to conduct a CAPS check pursuant to this section. The employer shall pay a fee established by the state department for each CAPS check, or may require the person seeking employment or to contract with the employer to pay the required fee for the CAPS check.
- (c) (I) An employer, or a person or entity conducting employee screening on behalf of the employer, that relies upon information obtained through a CAPS check in making an employment decision or concludes that the nature of any information disqualifies a prospective employee from employment is immune from civil liability in an action brought by the prospective employee for that conclusion or decision unless the CAPS information relied upon is false and the employer, or a person or entity conducting employee screening on behalf of the employer, knows the information is false.

- (II) Nothing in this subsection (6)(c) amends, supersedes, or otherwise limits the civil liability of the employer, or a person or entity conducting employee screening on behalf of the employer, with respect to any claim or action related to the employment decision other than a claim or action relating to the information received by the employer, or a person or entity conducting employee screening on behalf of the employer, pursuant to a CAPS check.
- (d) (I) Except as provided in subsection (6)(d)(II) of this section, an employer, or a person or entity conducting employee screening on behalf of the employer, is deemed to have violated subsection (6)(e) of this section if the employer, or a person or entity conducting employee screening on behalf of the employer:
- (A) Requests a CAPS check pursuant to this section for a person who is not an existing employee or who does not have an active application for or is not contracting with the employer, or who does not have an active application to contract with the employer, for a position providing direct care to an at-risk adult; or
  - (B) Releases information obtained pursuant to the CAPS check to any person other than a person directly involved in the employer's hiring process.
- (II) An employer, or a person or entity conducting employee screening on behalf of the employer, has not violated subsection (6)(e) of this section if the employer, or a person or entity conducting employee screening on behalf of the employer, releases information received through a CAPS check:
- (A) To a state agency or its contractor upon the request of the agency or contractor for purposes of an employer inspection or survey; or
  - (B) At the request of a current or prospective employer of a health care worker or caregiver in accordance with section 8-2-111.6 or section 8-2-111.7.
- (e) Any person who improperly releases or who willfully permits or encourages the release of data or information obtained through a CAPS check to persons not permitted access to the information pursuant to this Article 3.1, commits a class 1 misdemeanor and is punished as provided in section 18-1.3-501.

- (f) Nothing in this section prohibits an employer from hiring or contracting with an employee who will provide direct care to an at-risk adult prior to receiving the results of the CAPS check.
- (7) The following employers shall request a CAPS check pursuant to this section:
- (a) A health facility licensed pursuant to section 25-1.5-103, including those wholly owned and operated by any governmental unit;
  - (b) An adult day care facility, as defined in section 25.5-6-303 (1);
  - (c) A community integrated health care service agency, as defined in section 25-3.5-1301 (1);
  - (d) A community-centered board or a program-approved service agency providing or contracting for services and supports pursuant to Article 10 of Title 25.5;
  - (e) A single entry point agency, as described in section 25.5-6-106;
  - (f) An area agency on aging, as defined in section 26-11-201 (2), and any agency or provider the area agency on aging contracts with to provide services;
  - (g) A facility operated by the state department for the care and treatment of persons with mental illness pursuant to Article 65 of Title 27;
  - (h) A facility operated by the state department for the care and treatment of persons with intellectual and developmental disabilities pursuant to Article 10.5 of Title 27; and
  - (i) Veterans community living centers operated pursuant to Article 12 of this Title 26.
- (8) A person hiring someone to provide consumer-directed attendant support services pursuant to Article 10 of Title 25.5 may request a CAPS check pursuant to this section at the person's expense. The person requesting the CAPS check must comply with state department rules and the provisions of subsection (6) of this section relating to the release of information obtained through a CAPS check.
- (9) Except for the costs incurred for the development and initial implementation of the program, direct and indirect costs incurred for the administrative appeals process for persons appealing claims of mistreatment of at-risk adults and the direct and indirect costs of conducting employer-requested CAPS checks pursuant to this section are funded through a fee assessed on an employer for each CAPS check. The state department shall establish and collect the fee pursuant to parameters set

forth in rule established by the state board. At a minimum, the state board's rules must include a provision requiring the state department to provide notice of the fee to interested persons and the maximum fee amount that the state department shall not exceed without the express approval of the state board. The fee established must not exceed direct and indirect costs incurred for the administrative appeals process for persons appealing claims of mistreatment of at-risk adults and the direct and indirect costs of conducting employer-requested CAPS checks pursuant to this section. Fees collected for CAPS checks shall be transferred to the state treasurer and credited to the records and reports fund created in section 19-1-307 (2.5).

- (10) The state department shall review the feasibility and cost of including a feature in CAPS that would provide notification to an employer if a substantiated finding of mistreatment by an employee is subsequently entered into CAPS. If it is feasible to include a notification feature, subject to available money to implement any necessary system changes and completion of those system changes, the state department shall implement the notification feature as part of a CAPS check.

ARTICLE 3.1, PART 2 – PROTECTIVE SERVICES FOR ADULTS AT RISK OF MISTREATMENT OR SELF-NEGLECT– FINANCIAL EXPLOITATION OF AT-RISK ADULTS. (Repealed 5/29/2012)

ARTICLE 3.1, PART 3 – PROTECTIVE SERVICES FOR ADULTS AT RISK OF MISTREATMENT OR SELF-NEGLECT– ELDER ABUSE TASK FORCE. (Repealed 11/2/2013)