



Missouri Law and Elder Abuse



JOHN R. ASHCROFT
SECRETARY OF STATE

About this Presentation

- This presentation was created to assist brokerage industry agents and sales assistants by describing at a high level the Missouri laws affecting financial exploitation.
- Unless otherwise indicated, nothing in this presentation is meant to be construed as legal, statutorily defined language.
- Unless otherwise specifically noted, the term “financial exploitation” should be read in the broad sense to include all adults, whether or not dependent or incapacitated.
- The information provided in these materials is general information and is not intended, or to be relied upon, as legal advice. While the information pertains in part to legal issues, it is not intended as a substitute for the particularized advice of your own counsel. Anyone seeking specific legal advice or assistance should retain an attorney.

Summary of Relevant Provisions of Law to Financial Exploitation

- **Financial Exploitation of the Elderly or Disabled:**
 - Enforced primarily by Department of Health and Senior Services (“DHSS”), Attorney General’s Office and local prosecutors.
- **Securities Fraud:**
 - Enforced administratively primarily by the Missouri Securities Division.
 - Enforced criminally primarily by the Attorney General’s Office and local prosecutors.
- **Fraudulent Insurance Act:**
 - Enforced primarily by the Department of Insurance.
- **Missouri Merchandising Practices Act:**
 - Enforced primarily by the Attorney General’s Office.
- **Stealing by Deceit:**
 - Enforced primarily by local prosecutors.

Financial Exploitation

- 570.145. 1. A person commits the offense of financial exploitation of an elderly person...if such person knowingly obtains control over the property of the elderly person...with the intent to permanently deprive the person of the use, benefit or possession of...property thereby benefitting the offender or detrimentally affecting the elderly person...by:
 - (1) Deceit;
 - (2) Coercion;
 - (3) Creating or confirming another person's [false] impression...;
 - (4) Failing to correct a false impression;
 - (5) Preventing another person from acquiring information pertinent to...disposition of...property...;
 - (6) Selling or otherwise transferring or encumbering property...;
 - (7) Promising performance which the offender does not intend to perform...; or
 - (8) **Undue influence**, which means the use of influence by someone who exercises authority over an elderly person...in order to take unfair advantage of that person's vulnerable state of mind, neediness, pain, or agony. Undue influence includes, but is not limited to, the improper or fraudulent use of a power of attorney, guardianship, conservatorship, or other fiduciary authority.

How to Respond

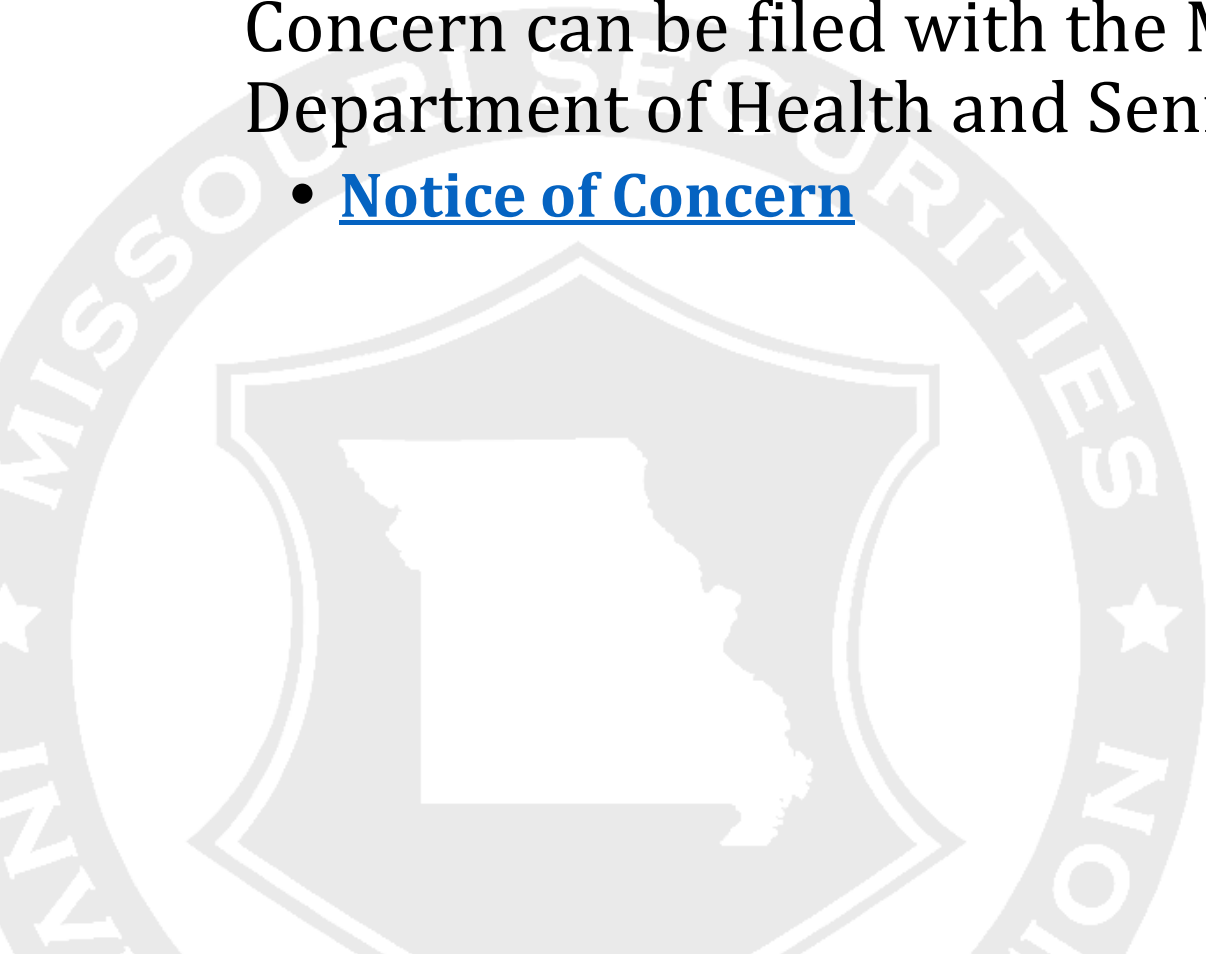
- If you are suspicious:
 - Inquire about the withdrawal and make your client aware of risks.
- If you suspect coercion:
 - Ask to speak to the client directly without the presence of the third party.
- If you suspect your client is in immediate danger:
 - Contact the appropriate personnel at your firm to help determine the next steps to take.
 - Contact 911 for any immediate danger.

Missouri Senior Savings Protection Act ("SSPA")

- The SSPA was enacted in 2015 and allows brokerage industry personnel to help prevent financial exploitation of senior and disabled investors. It allows for two types of actions:
 - Notification:
 - Certain brokerage personnel may notify selected family members of the suspected financial exploitation of a senior or disabled client after notifying the Missouri Securities Division and the Department of Health and Senior Services.
 - Refusal of Disbursement:
 - If a requested disbursement is believed to result in financial exploitation of a senior or disabled client, certain brokerage personnel may delay that requested disbursement for a period of ten days.
 - In this case, notification must be made to the Missouri Securities Division and the DHSS.

Filing a Notice of Concern

- If elder abuse or financial exploitation is suspected, a Notice of Concern can be filed with the Missouri Securities Division and the Department of Health and Senior Services.
 - [Notice of Concern](#)



Sources

- Missouri Department of Health and Senior Services, et al. (2015). Combating Financial Exploitation of the Elderly: The Role of the Brokerage Industry Personnel. [PowerPoint Presentation].
- Missouri Securities Division. (2015). The Missouri Senior Savings Protection Act Introduction.
- Missouri Securities Division. (2015). Quick Response Chart for Front Line Personnel.