

Missouri Law Pertaining to Elder Abuse



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About this Presentation

This presentation briefly summarizes the statutes and regulations affecting financial exploitation. Nothing in this presentation should be construed as legal advice and you should always consult an attorney about your specific situation.

Unless otherwise specifically noted, the term “financial exploitation” should be read in the broad sense to include all adults, regardless if they are dependent or incapacitated.

Categories of Fraud

- **Financial Exploitation of the Elderly or Disabled:**
 - Enforced primarily by Department of Health and Senior Services, 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 Commerce and 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., RSMo. 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 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 distribution or transaction and make your client aware of any associated 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 allows broker-dealers and investment advisers to help prevent financial exploitation of senior and disabled investors. It allows for two types of actions:
 - **Notification:** Certain 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 (DHSS).
 - **Refusal of Disbursement or Transaction:** If it is suspected that a requested disbursement or transaction is the result of financial exploitation of a senior or disabled client, certain personnel may delay that requested disbursement or transaction for a period of up to ten business days. In this case, notification must be made to the Missouri Securities Division, DHSS, and to the client.

Filing a Notice of Concern

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