

1 AN ACT relating to the exploitation of adults.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 209.020 is amended to read as follows:

4 As used in this chapter, unless the context otherwise requires:

- 5 (1) "Secretary" means the secretary of the Cabinet for Health and Family Services;
- 6 (2) "Cabinet" means the Cabinet for Health and Family Services;
- 7 (3) "Department" means the Department for Community Based Services of the Cabinet
8 for Health and Family Services;
- 9 (4) "Adult" means a person eighteen (18) years of age or older who, because of mental
10 or physical dysfunctioning, is unable to manage his or her own resources, carry out
11 the activity of daily living, or protect himself or herself from neglect, exploitation,
12 or a hazardous or abusive situation without assistance from others, and who may be
13 in need of protective services;
- 14 (5) "Protective services" means agency services undertaken with or on behalf of an
15 adult in need of protective services who is being abused, neglected, or exploited.
16 These services may include but are not limited to conducting investigations of
17 complaints of possible abuse, neglect, or exploitation to ascertain whether or not the
18 situation and condition of the adult in need of protective services warrants further
19 action; social services aimed at preventing and remedying abuse, neglect, and
20 exploitation; and services directed toward seeking legal determination of whether or
21 not the adult in need of protective services has been abused, neglected, or exploited
22 and to ensure that he or she obtains suitable care in or out of his or her home;
- 23 (6) "Caretaker" means an individual or institution who has been entrusted with or who
24 has the responsibility for the care of the adult as a result of family relationship, or
25 who has assumed the responsibility for the care of the adult person voluntarily or by
26 contract, employment, legal duty, or agreement;
- 27 (7) "Deception" means but is not limited to:

- 1 (a) Creating or reinforcing a false impression, including a false impression as to
2 law, value, intention, or other state of mind;
- 3 (b) Preventing another from acquiring information that would affect his or her
4 judgment of a transaction; or
- 5 (c) Failing to correct a false impression that the deceiver previously created or
6 reinforced, or that the deceiver knows to be influencing another to whom the
7 person stands in a fiduciary or confidential relationship;
- 8 (8) "Abuse" means the infliction of injury, sexual abuse, unreasonable confinement,
9 intimidation, or punishment that results in physical pain or injury, including mental
10 injury;
- 11 (9) "Exploitation" means:
- 12 (a) Obtaining or using another person's resources, including but not limited to
13 funds, assets, or property, by deception, intimidation, or similar means, with
14 the intent to deprive the person of those resources; and
- 15 (b) *Obtaining or using one (1) or more controlled substances prescribed to an*
16 *adult or any member of the adult's household with intent to deprive the*
17 *person of the controlled substances;*
- 18 (10) "Investigation" shall include but is not limited to:
- 19 (a) A personal interview with the individual reported to be abused, neglected, or
20 exploited. When abuse or neglect is allegedly the cause of death, a coroner's or
21 doctor's report shall be examined as part of the investigation;
- 22 (b) An assessment of individual and environmental risk and safety factors;
- 23 (c) Identification of the perpetrator, if possible; and
- 24 (d) Identification by the Office of Inspector General of instances of failure by an
25 administrator or management personnel of a regulated or licensed facility to
26 adopt or enforce appropriate policies and procedures, if that failure
27 contributed to or caused an adult under the facility's care to be abused,

1 neglected, or exploited;

2 (11) "Emergency" means that an adult is living in conditions which present a substantial
3 risk of death or immediate and serious physical harm to himself or herself or others;

4 (12) "Emergency protective services" are protective services furnished an adult in an
5 emergency;

6 (13) "Protective placement" means the transfer of an adult from his or her present living
7 arrangement to another;

8 (14) "Court" means the Circuit Court or the District Court if no judge of that Circuit
9 Court is present in the county;

10 (15) "Records" means the medical, mental, health, and financial records of the adult that
11 are in the possession of any hospital, firm, corporation, or other facility, if necessary
12 to complete the investigation mandated in this chapter. These records shall not be
13 disclosed for any purpose other than the purpose for which they have been obtained;

14 (16) "Neglect" means a situation in which an adult is unable to perform or obtain for
15 himself or herself the goods or services that are necessary to maintain his or her
16 health or welfare, or the deprivation of services by a caretaker that are necessary to
17 maintain the health and welfare of an adult; and

18 (17) "Authorized agency" means:

19 (a) The Cabinet for Health and Family Services;

20 (b) A law enforcement agency or the Department of Kentucky State Police;

21 (c) The office of a Commonwealth's attorney or county attorney; or

22 (d) The appropriate division of the Office of the Attorney General.

23 ➔Section 2. KRS 209.990 is amended to read as follows:

24 (1) Anyone knowingly or wantonly violating the provisions of KRS 209.030(2) shall be
25 guilty of a Class B misdemeanor as designated in KRS 532.090. Each violation
26 shall constitute a separate offense.

27 (2) Any person who knowingly abuses or neglects an adult is guilty of a Class C felony.

- 1 (3) Any person who wantonly abuses or neglects an adult is guilty of a Class D felony.
- 2 (4) Any person who recklessly abuses or neglects an adult is guilty of a Class A
3 misdemeanor.
- 4 (5) Any person who knowingly exploits an adult, resulting in a total loss to the adult of
5 more than three hundred dollars (\$300) in financial or other resources, or both, is
6 guilty of a Class C felony.
- 7 (6) Any person who wantonly or recklessly exploits an adult, resulting in a total loss to
8 the adult of more than three hundred dollars (\$300) in financial or other resources,
9 or both, is guilty of a Class D felony.
- 10 (7) Any person who knowingly, wantonly, or recklessly exploits an adult, resulting in a
11 total loss to the adult of three hundred dollars (\$300) or less in financial or other
12 resources, or both, is guilty of a Class A misdemeanor.
- 13 (8) *A caretaker who exploits an adult by knowingly obtaining or using one (1) or*
14 *more controlled substances prescribed to an adult or any member of the adult's*
15 *household is guilty of a Class C felony.*
- 16 (9) If a defendant is sentenced under subsection (5), (6), or (7) of this section and fails
17 to return the victim's property as defined in KRS 218A.405 within thirty (30) days
18 of an order by the sentencing court to do so, or is thirty (30) days or more
19 delinquent in a court-ordered payment schedule, then the defendant shall be civilly
20 liable to the victim of the offense or the victim's estate for treble damages, plus
21 reasonable attorney fees and court costs. Any interested person or entity, as defined
22 in KRS 387.510, shall have standing to bring a civil action on the victim's behalf to
23 enforce this section. The sentencing judge shall inform the defendant of the
24 provisions of this subsection at sentencing.