

**MN Department of Human Services  
Social Services Manual**

**Adult Protective Service**

**XVI-3000**

Based on statutes and rules in effect as of 08/01/99

**XVI**

**Adult Protective Service**

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#### Introduction

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#### Authority

**XVI-3110**

1. Minn. Stat. 13.03; 13.39; 13.46, subd. 3 (1988) (Government Data Practices).
2. Minn. Stat. 144.50 to 144.58 (1988) (Hospitalization).
3. Minn. Stat. 144.651 (1988) (Patient Bill of Rights).
4. Minn. Stat. 144A.02 (1988) (Nursing Home).
5. Minn. Stat. 144A.46 (1988) (Home Care Providers).
6. Minn. Stat. 214.01, subd. 2 (1988) (Health Related Licensing Boards: Examiners of Nursing Home Administrators; Medical Examiners; Nursing; Chiropractic Examiners; Optometry; Psychology; Dentistry; Pharmacy; Podiatry; Veterinary Medicine).
7. Minn. Stat. 245A.01 to 245A.16 (1988) (Human Services Licensing Act).
8. Minn. Stat. 245.825 (1988) (Use of Aversive or Deprivation Procedures in Facilities Serving Persons with Mental Retardation or Related Conditions).
9. Minn. Stat. 245.91 to 245.97 (1988) (Ombudsman for Mental Health and Mental Retardation).
10. Minn. Stat., Chapter 252A (1988) (Mental Retardation Protection Act).
11. Minn. Stat., Chapter 518B (1988) (Domestic Abuse Act).
12. Minn. Stat. 525.539 to 525.6198 (1988) (Guardianships and Conservatorships).
13. Minn. Stat. 525.703 (1988) (Costs in a Guardianship or Conservatorship Procedure).
14. Minn. Stat., Chapter 563 (1988) (Proceedings in Forma Pauperis).
15. Minn. Stat. 595.02 (1988) (Testimony of Witnesses).
16. Minn. Stat. 609.221 to 609.223; 609.23; 609.231; 609.235 (1988) (Crimes Against the Persons).
17. Minn. Stat. 609.322 (1988) (Crimes of Compulsion: Prostitution).
18. Minn. Stat. 609.342 to 609.345 (1988) (Criminal Sexual Conduct).
19. Minn. Stat. 626.557 (1988) (Reporting of Maltreatment of Vulnerable Adults)
20. Minnesota Rules, parts 9555.7100 to 9555.7700 (Department of Human Services, Protective Services to Vulnerable Adults).

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21. Minnesota Rules, parts 9555.8000 to 9555.8500 (Department of Human Services, Reporting Maltreatment of Vulnerable Adults in Licensed Facilities).

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**Definitions**

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1. Abuse:
  - a. Any act which constitutes a violation under Minn. Stat., section 609.221 to 609.223, 609.23 to 609.235 related to crimes against the person; any act which constitutes a violation under Minn. Stat., section 609.322, related to prostitution; any act which constitutes a violation under Minn. Stat., section 609.342 to 609.345 related to criminal sexual conduct; or
  - b. Nontherapeutic conduct which produces or could reasonably be expected to produce pain or injury and is not accidental; or
  - c. Any repeated conduct which produces or could reasonably be expected to produce mental or emotional distress; or
  - d. Any sexual contact between a facility staff person and a resident or client of that facility; or
  - e. The illegal use of a vulnerable adult's person or property for another person's profit or advantage, or the breach of a fiduciary relationship through the use of a person or a person's property for any purpose not in the proper and lawful execution of a trust, including but not limited to situations where a person obtains money, property, or services from a vulnerable adult through the use of undue influence, harassment, duress, deception or fraud; or
  - f. Any aversive or deprivation procedure not authorized under Minn. Stat. 245.825. This refers only to programs providing services to persons with mental retardation or a related condition.

**Minn. Stat. 626.557, subd. 2(d)**
2. Caretaker: An individual or facility who has responsibility for the care of a vulnerable adult as a result of family relationship, or who has assumed responsibility for all or a portion of the care of a vulnerable adult voluntarily, by contract, or by agreement. A person who has assumed only financial responsibility for an adult is not a caretaker.

**Minn. Stat. 626.557, subd. 2(c);  
Part 9555.7200, subpart 3**
3. County of Financial Responsibility: The county designated as the county of financial responsibility pursuant to Minn. Stat., Chapter 256G. (See SSM III-5000.)

**Part 9555.7200, subpart 4**

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4. Education and Law Enforcement Licensing Boards: The board of teaching established pursuant to Minn. Stat., section 125.183, and the peace officer standards and training board established pursuant to Minn. Stat., section 626.841.

**Adapted from Minn. Stat. 626.557, subd. 2(g)**

5. Facility: A hospital or other entity required to be licensed pursuant to Minn. Stat., sections 144.50 to 144.58; a nursing home required to be licensed pursuant to Minn. Stat., section 144A.02; an agency, day care facility, or residential facility required to be licensed to serve adults pursuant to Minn. Stat., Chapter 245A; or a home health care provider licensed under section 144A.46.

**Minn. Stat. 626.557, subd. 2(a)**

6. False: Disproved to the satisfaction of the investigating agency.

**Part 9555.7200, subpart 6**

7. Health Related Licensing Board: The Board of Examiners of Nursing Home Administrators established pursuant to Minn. Stat., section 144A.19; the board of Medical Examiners created pursuant to Minn. Stat., section 147.01; the Board of Nursing created pursuant to Minn. Stat., section 148.181; the Board of Chiropractic Examiners established pursuant to Minn. Stat., section 148.02; the Board of Optometry established pursuant to Minn. Stat., section 148.52; the Board of Psychology established pursuant to Minn. Stat., section 148.90; the Board of Dentistry established pursuant to Minn. Stat., section 150A.02; the Board of Podiatry established pursuant to Minn. Stat., section 153.02; and the Board of Veterinary Medicine established pursuant to Minn. Stat., section 156.01.

**Minn. Stat. 214.02, subd. 2**

8. Host County: The county in which a facility is located.

**Part 9555.7200, subpart 7**

9. Impairment of Mental or Physical Function or Emotional Status: A condition which includes being substantially unable to carry out one or more of the essential major activities of daily living, such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning or working; being unable to protect oneself from hazardous or abusive situations without assistance; a substantial disorder of thought or mood which significantly impairs judgment, behavior, capacity to recognize reality or ability to cope with the ordinary demands of life; substantial difficulty in engaging in the rational decision-making process and inability to weigh the possible benefits and risks of seeking assistance; a condition in which an individual is so fearful, so ashamed, so confused, or so anxious about the consequences of reporting that that individual would be unable or unlikely to make a responsible decision regarding whether or not to report abuse or neglect.

**Part 9555.7200, subpart 8**

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10. Inconclusive: A report which cannot be substantiated or disproved to the satisfaction of the investigating agency.  
**Part 9555.7200, subpart 16**
11. Licensing Agency: The Commissioner of Health for facilities which are required to be licensed or certified by the Department of Health; the Commissioner of Human Services for facilities required by Minn. Stat., sections 245A.01 to 245A.16 to be licensed; any licensing board which regulates persons pursuant to Minn. Stat., section 214.01, subdivision 2; and the Department of Health which credentials emergency medical technicians and sanitarians/environmental health specialists pursuant to Minn. Stat., section 214.13 which credentials morticians; and the Department of Jobs and Training which certifies facilities for vocational rehabilitation.  
**Adapted from Minn. Stat. 626.557, subd. 2(g)**
12. Local Social Services Agency: Local agency under the authority of a county or human services board which is responsible for social services.  
**Part 9555.7200, subpart 10**
13. Neglect: Failure by a caretaker to supply or ensure the supply of necessary food, clothing, shelter, health care or supervision for a vulnerable adult; or the absence or likelihood of absence of food, clothing, shelter, health care, or supervision for a vulnerable adult; or the absence or likelihood of absence of necessary financial management to protect a vulnerable adult against abuse as defined in Minn. Stat., section 626.557, subdivision 2, paragraph (d), clause (4). Nothing in this section shall be construed to require a health care facility to provide financial management or supervise financial management for a vulnerable adult except as otherwise required by law.  
**Minn. Stat. 626.557, subd. 2(e);  
Part 9555.7200, subpart 11**
14. Report: Any verbal or written report of abuse or neglect of a vulnerable adult received by the local social services agency, police department, county sheriff, or licensing agency.  
If a local social services agency knows of a violation of section 626.557 that is not a report of abuse or neglect; i.e., failure by a licensed individual to report an incident of abuse or neglect, this should be reported to the appropriate licensing agency.  
**Minn. Stat. 626.557, subd. 2(f);  
Part 9555.7200, subpart 12**
15. State Agency: The Minnesota Department of Human Services.  
**Part 9555.7200, subpart 13**
16. Substantiated: Proved to the satisfaction of the investigating agency.  
**Part 9555.7200, subpart 14**

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17. Vulnerable Adult: Any person 18 years of age or older who is a resident or inpatient of a facility; who receives services at or from a facility required to be licensed to serve adults pursuant to Minn. Stat. sections 245A.01 to 245A.16, Human Services Licensing Act, except a person receiving outpatient services for treatment of chemical dependency or mental illness; who receives services from a home care provider licensed under section 144A.46; or who, regardless of residence or type of service received, is unable or unlikely to report abuse or neglect without assistance because of impairment of mental or physical function or emotional status.

**Minn. Stat. 626.557, subd. 2(b)**

**Public Policy**

**XVI-3130**

The Legislature declares that the public policy of this State is to protect adults who, because of physical or mental disability or dependency on institutional services, are particularly vulnerable to abuse or neglect; to provide safe institutional or residential services or living environments for vulnerable adults who have been abused or neglected; and to assist persons charged with the care of vulnerable adults to provide safe environments. In addition, it is the policy of this State to require the reporting of suspected abuse or neglect of vulnerable adults, to provide for the voluntary reporting of abuse or neglect of vulnerable adults, to require the investigation of the reports, and to provide protective and counseling services in appropriate cases.

**Minn. Stat. 626.557, subd. 1**

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**Reporter and Procedures**

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**Reporters and Procedures**

**XVI-3200**

**Mandated Reporters**

**XVI-3210**

A mandated reporter includes a professional or his delegate who is engaged in one or more of the following:

1. The care of vulnerable adults;
2. Education;
3. Social Services;
4. Law enforcement;
5. The occupations regulated by Licensing Boards cited in SSM XVI-3470;
6. An employee of a rehabilitation facility certified by the Commissioner of Jobs and Training for vocational rehabilitation; or
7. An employee of or person providing services in a facility.

**Minn. Stat. 626.557, subd. 3**

**Incidents to Report**

**XVI-3220**

A report shall be filed by a mandated reporter who has one or more of the following:

1. Knowledge of the abuse or neglect of a vulnerable adult;
2. Reasonable cause to believe that a vulnerable adult is being or has been abused or neglected; or
3. Knowledge that a vulnerable adult has sustained a physical injury which is not reasonably explained by the history of injuries provided by the caretaker or caretakers of the vulnerable adult.

**Minn. Stat. 626.557, subd. 3**

**Agencies Receiving Reports**

**XVI-3230**

A mandated reporter shall immediately report the information to any one of the following:

1. Local police department;
2. County sheriff;
3. Local social services agency; or
4. Appropriate licensing or certifying agency.

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### Reporter and Procedures

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The police department or the county sheriff, upon receiving a report, shall immediately notify the local social services agency.

The local social services agency, upon receiving a report, shall immediately notify the local police department or the county sheriff and the appropriate licensing agency or agencies.

**Adapted from Minn. Stat. 626.557, subd. 3 and 13(a)**

### **Mandatory Reporting to a Medical Examiner or Coroner and the Office of Ombudsman for Mental Retardation and Mental Illness** XVI-3240

When a mandated reporter has reasonable cause to believe that a vulnerable adult has died as a direct or indirect result of abuse or neglect, he shall report that information to the appropriate medical examiner or coroner in addition to the local social services agency, police department or county sheriff or appropriate licensing agency or agencies.

The medical examiner or coroner shall complete an investigation as soon as feasible and report the findings to the police department or county sheriff and the local social services agency.

In addition, when the vulnerable adult was receiving services or treatment for mental illness, mental retardation or a related condition, chemical dependency or emotional disturbance from an agency or program as defined in Minn. Stat., section 245.91, a report must be made by the local agency, the local police or sheriffs' office or licensing agency, of the information and findings of the medical examiner or coroner to the Ombudsman for Mental Health and Mental Retardation.

**Minn. Stat. 626.557, subd. 9**

### **Voluntary Reporters** XVI-3250

A person not required to report may voluntarily report through the same procedures as mandated reporters.

**Minn. Stat. 626.557, subd. 3**

### **Medical Examiners or Coroners** XVI-3260

Medical examiners or coroners shall notify the police department or county sheriff and the local social services agency in instances in which they believe that a vulnerable adult has died as a result of abuse or neglect.

**Adapted from Minn. Stat. 626.557, subd. 3**

### **Duplicated Reporting Not Required** XVI-3270

If the incident has already been reported to the appropriate person, agency or regulating board, it is not necessary to report again.

**Adapted from Minn. Stat. 626.557, subd. 3**

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### Reporter and Procedures

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#### Reports Not Required

XVI-3280

Where federal law specifically prohibits a person from disclosing patient identifying information in connection with a report of suspected abuse or neglect, that person need not make a report unless the vulnerable adult, or the vulnerable adult's guardian, conservator or legal representative has consented to disclosure in a manner which conforms to federal requirements. Facilities whose patients or residents are covered by such a federal law, such as chemical dependency treatment facilities, must seek a consent upon a person's admission to the facility. Persons who are prohibited by federal law from reporting an incident of suspected abuse or neglect shall promptly seek consent to make a report.

Resident-to-resident aggression, whether verbal or physical or self-abusive behavior of residents, patients, or clients of facilities need not be reported by facilities unless the behavior causes serious harm or unless it violates Minn. Stat., sections 609.221 to 609.223, 609.23 to 609.235 (related to crimes against the person), or Minn. Stat., sections 609.342 to 609.345 (related to criminal sexual conduct and prostitution). However, incidents not reported need to be recorded in a manner facilitating review by local social services agencies and licensing agencies.

A report of abuse is not required solely on the basis of the transfer of money or property by gift or as compensation for services rendered.

**Minn. Stat. 626.557, subd. 3a**

#### Family or Guardian Notification by Local Social Service

XVI-3290

When a report is received that alleges neglect, physical abuse, or sexual abuse of a vulnerable adult while in the care of a facility required to be licensed under Minn. Stat., section 144A.02 or sections 245A.01 to 245A.16, the local social services agency investigating the report shall notify the guardian or conservator of the person who is alleged to have been abused or neglected. The local social services agency shall notify the person, if any, designated to be notified in case of an emergency by a vulnerable adult not under guardianship or conservatorship of the person who is alleged to have been abused or neglected, unless consent is denied by the vulnerable adult. The notice shall contain the following information: the name of the facility; the fact that a report of alleged abuse or neglect of a vulnerable adult in the facility has been received; the nature of the alleged abuse or neglect; that the agency is conducting an investigation; any protective or corrective measures being taken pending the outcome of the investigation; and that a written memorandum will be provided when the investigation is completed.

In a case of alleged neglect, physical abuse, or sexual abuse of a vulnerable adult while in the care of a facility required to be licensed under Minn. Stat., sections 245A.01 to 245A.16, the local social services agency may also provide the information above to the guardian or conservator of the person of any other vulnerable adult in the facility who is under guardianship or conservatorship of the person, to any other vulnerable adult in the facility who is not under

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guardianship or conservatorship of the person, and to the person if any, designated to be notified in case of an emergency by any other vulnerable adult in the facility who is not under guardianship or conservatorship of the person, unless consent is denied by the vulnerable adult, if the local social services agency knows or has reason to believe the alleged neglect, physical abuse, or sexual abuse has occurred.

When the investigation of alleged neglect or abuse in a facility is completed, the local social services agency shall provide a written memorandum containing the following information to every guardian or conservator of the person or other person notified by the agency of the investigation:

1. The name of the facility investigated;
2. The nature of the alleged neglect, physical abuse, or sexual abuse;
3. The investigator's name;
4. A summary of the investigative findings;
5. A statement of whether the report was found to be substantiated, inconclusive, or false; and
6. The protective or corrective measures that are being or will be taken.

The memorandum shall be written in a manner that protects the identity of the reporter and the alleged victim and shall not contain the name or, to the extent possible, reveal the identity of the alleged perpetrator or of those interviewed during the investigation.

In a case of neglect, physical abuse, or sexual abuse of a vulnerable adult while in the care of a facility required to be licensed under Minn. Stat, sections 245A.01 to 245A.16, the local social services agency may also provide the written memorandum to:

1. The guardian or conservator of the person of any other vulnerable adult in the facility who is under guardianship or conservatorship of the person;
2. To any other vulnerable adult in the facility who is not under guardianship or conservatorship of the person; and
3. To the person, if any, designated to be notified in case of an emergency by any other vulnerable adult in the facility who is not under guardianship or conservatorship of the person, unless consent is denied by the vulnerable adult, if the report is substantiated or if the investigation is inconclusive and the report is a second or subsequent report of neglect, physical abuse, or sexual abuse of a vulnerable adult while in the care of the facility.

In determining whether to exercise the discretionary authority identified above, the local social services agency shall consider the seriousness and extent of the alleged neglect, physical abuse, or sexual abuse and the impact of notification on the residents of the facility. The facility shall be notified whenever this discretion is exercised.

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Where federal law specifically prohibits the disclosure of patient identifying information, the local social services agency shall not provide any notice or any memorandum unless the vulnerable adult has consented to disclosure in a manner which conforms to federal requirements.

**Minn. Stat. 626.557, subd. 10a**

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### Reports

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### Reports

XVI-3300

### Oral Reports

XVI-3310

A mandated reporter shall make an oral report immediately by telephone or otherwise.

**Minn. Stat. 626.557, subd. 4**

### Written Reports

XVI-3320

A mandated reporter shall also make a report as soon as possible in writing to the appropriate police department, the county sheriff, local social services agency, or appropriate licensing agency. The written report shall identify:

1. The vulnerable adult;
2. The caretaker and license holder;
3. The nature and extent of the suspected abuse or neglect;
4. Any evidence of previous abuse or neglect;
5. The name and address of the reporter; and
6. Any other information that the reporter believes might be helpful in investigating the suspected abuse or neglect, such as the name of the alleged perpetrator.

**Minn. Stat. 626.557, subd. 4**

### Forwarded Reports

XVI-3330

Written reports received by a police department or a county sheriff shall be forwarded immediately to the local social services agency. The police department or the county sheriff may keep copies of reports received by them.

Copies of written reports received by a local social services agency shall be forwarded immediately to the local police department or the county sheriff and the appropriate licensing agency or agencies.

**Minn. Stat. 626.557, subd. 4**

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### Investigation

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### **Coordination of Investigative Agencies**

**XVI-3400**

The police department or county sheriff, upon receiving a report, shall notify the local social services agency.

A local agency or licensing agency which receives a report shall immediately notify the appropriate law enforcement, local social services, and licensing agencies.

Investigating agencies, including the police department, county sheriff, local social services agency, or appropriate licensing agency shall cooperate in coordinating their investigatory activities.

Each licensing agency which regulates facilities shall develop and disseminate procedures to coordinate its activities with investigations by police and county sheriffs, and provision of protective services by local social services agencies.

**Minn. Stat. 626.557, subd. 13**

NOTE: Local social services agencies are encouraged to make every effort to coordinate investigations of complaints jointly with the licensing agencies. If joint investigations are not possible, the local social services agency shall initiate the investigation on their own. It is especially important that the written summary of investigative findings of such investigations be sent immediately to the appropriate licensing agencies.

### **Report Investigation by Local Social Services Agency**

**XVI-3500**

The local social services agency shall accept and investigate all reports alleging that a vulnerable adult has been abused or neglected in that agency's county. The local agency shall offer emergency and continuing protective social services for purposes of preventing further abuse or neglect and for safe-guarding and enhancing the welfare of the abused or neglected vulnerable adult.

**Minn. Stat. 626.557, subd. 10**

### **Time Limits to Initiate Investigations**

**XVI-3510**

The local social services agency shall begin to investigate all reports within the following time limits:

1. The local social services agency shall conduct an immediate on-site investigation for complaints alleging or from which it can be inferred that a vulnerable adult is in need of immediate care or protection because the adult is life threatened or likely to experience physical injury due to abuse or abandonment.

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2. The local social services agency shall begin its investigation within 24 hours for complaints alleging, or when there is substantial evidence, that a vulnerable adult is not in need of immediate care or protection but is allegedly abused.
3. The local social services agency shall begin its investigation within 72 hours for complaints alleging, or when there is substantial evidence, that a vulnerable adult is not in need of immediate care or protection but is allegedly neglected.

#### **Part 9555.7300, subpart 2**

NOTE: The need for immediate care or protection may include situations of inability to care for oneself because of dehydration, malnutrition and inability to seek assistance.

### Investigations Related to a Facility

XVI-3520

Local social services agencies shall have the right to enter a facility and inspect and copy records as part of an investigation.

The investigation shall not be limited to the written records of the facility but shall include every other available source of information.

In cases of suspected sexual abuse, the local agency shall immediately arrange for and make available to the alleged victim appropriate medical examination and treatment.

When an investigation involves an alleged incident or situation related to a facility, the local social services agency shall make an on-site visit to the facility to assess the validity of the report. This investigation shall include the following activities when necessary to make an accurate assessment, but activities specified in numbers 1, 3 and 5 need not occur on the site of the facility:

1. Discussion with the reporter;
2. Discussion with the facility administrator or responsible designee;
3. Discussion with the physician or other professionals, or any corroborating contacts as necessary;
4. Contact with the alleged victim;
5. Discussion with the alleged perpetrator;
6. Examination of the physical conditions or the psychological climate of the facility; and
7. Inspection of the alleged victim's record.

When necessary in order to protect the vulnerable adult from further harm, the local agency shall seek authority to remove the vulnerable adult from the situation in which the neglect or abuse occurred.

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The local agency shall also investigate to determine whether the conditions which resulted in the reported abuse or neglect place other vulnerable adults in jeopardy of being abused or neglected and offer protective services that are called for by its determination.

The local social services agency shall immediately send a report of its findings to all other agencies notified concerning the report in question.

In performing any of these duties, the local agency shall maintain appropriate records.

**Adapted from Minn. Stat. 626.557;  
Part 9555.7300, subpart 3**

NOTE: See SSM V-2000 for Patient Rights under the Minnesota Commitment Act, the Mental Retardation Act and the Patients' Bill of Rights Act.

### **Investigations Not Related to a Facility**

**XVI-3530**

When an investigation involves an alleged incident or situation which is not related to a facility, the local social services agency shall assess the validity of the report. This investigation shall include the following activities where necessary to make an accurate assessment:

1. Discussion with the alleged victim;
2. Discussion with the reporter or any corroborating contacts, as necessary;
3. Discussion with the alleged perpetrator;
4. Discussion with the physician or other professionals; and
5. Examination of the physical conditions or the psychological climate of the residence.

The local social services agency shall also determine whether the reported abuse or neglect places other vulnerable adults in jeopardy of being abused or neglected.

In cases of suspected sexual abuse the local agency shall immediately arrange for and make available to the victim appropriate medical examination and treatment.

When necessary in order to protect the vulnerable adult from further harm, the local agency shall seek authority to remove the vulnerable adult from the caretaker in whose care the neglect or abuse occurred.

The local social services agency can assist the victim in obtaining an order for protection to remove the perpetrator, assist in establishing a guardianship or referring the situation to law enforcement officials for prosecution.

The local social services agency shall also investigate to determine whether the conditions which resulted in the reported abuse or neglect place other vulnerable adults in jeopardy of being abused or neglected and offer protective services that are called for by its determination.

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In performing any of these duties, the local social services agency shall maintain appropriate records.

**Adapted from Minn. Stat. 626.557;  
Part 9555.7300, subpart 4**

### **Investigations by Agencies Not in County of Financial Responsibility**

**XVI-3540**

When a report involves a vulnerable adult who is receiving services from a facility located in a county other than the adult's county of financial responsibility, the local social services agency of the host county shall:

1. Investigate the report and determine whether the report is substantiated, inconclusive or false;
2. Notify each relevant licensing agency, the police or sheriff, and the county of financial responsibility;
3. Consult with the county of financial responsibility, unless the host county must take immediate emergency measures and representatives of the county of financial responsibility are not available;
4. Take whatever measures are necessary to correct the situation or to remove the adult from the facility, and notify the county of financial responsibility of the actions taken to correct the situation or of the removal of the adult from the facility; and

NOTE: The local social services agency will notify all appropriate licensing agencies as to their findings and actions. The local social services agency may make a recommendation to the licensing agency as to correction orders, fines, or negative action it considers appropriate for protection of the vulnerable adult.

5. Complete and transmit all required written forms and findings to appropriate agencies.

The local social services agency of the county of financial responsibility shall then resume responsibility for ensuring ongoing planning and services for the vulnerable adult.

**Part 9555.7300, subpart 5**

### **Use of Outside Experts**

**XVI-3550**

When it is investigating alleged abuse or neglect of a vulnerable adult, the local social services agency shall consult persons with appropriate expertise if the local social services agency believes that it lacks the expertise necessary for making judgments pertaining to the allegations. This consultation may include matters of physical health, mental health, specialized treatment such as behavior modification, geriatrics, or other matters.

**Part 9555.7300, subpart 6**

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#### Investigations After Initial Assessment of Report

XVI-3560

If upon the initial assessment there appears to be substance to a report, the local social services agency shall attempt to determine the following:

1. The risk posed if the vulnerable adult remains in the present circumstances;
2. The current physical and emotional condition of the vulnerable adult, including the history or pattern of abuse or neglect or related prior injuries;
3. The name, address, age, sex, and relationship of the alleged perpetrator to the vulnerable adult;
4. In a report of neglect, the relationship of the caretaker and license holder to the vulnerable adult, including the agreed-upon roles and responsibilities of the caretaker, and license holder and the vulnerable adult; and
5. In a report of self-neglect, the ability of the vulnerable adult to make competent choices about food, clothing, shelter, medical care and financial management are the determining factor in whether protective action is needed and/or taken.

**Adapted from Minn. Stat. 626.557, subd. 2(e)(2);  
Part 9555.7300, subpart 7**

#### Notification of Licensing Agency

XVI-3570

If a report indicates, or if the local social services agency finds that the suspected abuse or neglect occurred at a facility or program or while the vulnerable adult was or should have been under the care of or receiving services from a facility, or that the suspected abuse or neglect involved a person licensed by a licensing agency to provide care or services, the local agency shall immediately notify the appropriate licensing agency or agencies, and provide the licensing agency with a copy of the report and of its investigative findings.

**Adapted from Minn. Stat. 626.557, subd. 10a**

#### NOTES:

1. For a report related to a facility or program licensed by the Minnesota Department of Health, the local social services agency shall notify the Office of Health Facility Complaints in the Minnesota Department of Health.
2. For a report related to a Minnesota Department of Human Services licensed facility or program the local social services agency shall notify the Minnesota Department of Human Services Licensing Division.
3. It is recommended that the local social services agency immediately notify by telephone and make every effort to collaborate with the licensing agency in conducting the investigation.

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The following is a list of agencies and boards responsible for investigating complaints.

<u>Facility, Program,</u>	<u>Address of Agencies and or Professional Boards</u>
Boarding Care Homes	Office of Health Facility Complaints Minnesota Department of Health Telephone: 612/643-2523
Chiropractors	Minnesota Board of Chiropractic Examiners Minnesota Department of Health Telephone: 612/642-0591
Dentists	Minnesota Board of Dentistry Minnesota Department of Health Telephone: 612/642-0579
Developmental Achievement Centers	Division of Licensing Minnesota Department of Human Services Human Services Building Telephone: 612/296-3971
Doctors	Minnesota Board of Medical Examiners Minnesota Department of Health Telephone: 612/642-0538
Emergency Medical Technicians	Emergency Medical Services Section Health Systems Division Minnesota Department of Health Telephone: 612/623-5284
Environmental Health Specialists/Sanitarians	Division of Environmental Health Services Minnesota Department of Health Telephone: 612/623-5320
Home Health Agencies	Survey and Compliance Section Minnesota Department of Health Telephone: 612/623-5420
Hospitals	Office of Health Facility Complaints Minnesota Department of Health Telephone: 612/643-2523
Independent Physical Therapists	Survey and Compliance Section Minnesota Department of Health Telephone: 612/623-5420

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Morticians	Board of Mortuary Science Minnesota Department of Health Telephone: 612/623-5655
Nurses	Minnesota Board of Nursing Minnesota Department of Health Telephone: 612/642-0567
Nursing Home Administrators Minnesota	Minnesota Board of Examiners for Nursing Home Administrators Telephone: 612/642-0595
Nursing Homes	Office of Health Facility Complaints Minnesota Department of Health Telephone: 612/643-2523
Optometrists	Minnesota Board of Optometry Minnesota Department of Health Telephone: 612/642-0594
Outpatient Treatment Programs for Chemically Dependent Persons	Division of Licensing Minnesota Department of Human Services Human Services Building Telephone: 612/296-3971
Peace Officers	Minnesota Board of Peace Officers Standards and Training 500 Metro Square Building St. Paul, MN 55101 Telephone: 612/296-2620
Pharmacists	Minnesota Board of Pharmacy Minnesota Department of Health Telephone: 612/642-0541
Podiatrists	Minnesota Board of Podiatry Minnesota Department of Health Telephone: 612/642-0568
Psychologists	Minnesota Board of Psychology Minnesota Department of Health Telephone: 612/642-0587
Residential Programs for Inebriate and Drug Dependent Persons	Division of Licensing Minnesota Department of Human Services

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	Human Services Building Telephone: 612/296-3971
Residential Programs for Mentally Ill Persons	Division of Licensing Minnesota Department of Human Services Human Services Building Telephone: 612/296-3971
Residential Programs for Persons with Mental Retardation or Related Condition	Division of Licensing Minnesota Department of Human Services Human Services Building Telephone: 612/296-3971
Residential Facilities for Physically Handicapped Persons	Division of Licensing Minnesota Department of Human Services Human Services Building Telephone: 612/296-3971
Semi-Independent Living Services (SILS)	Division of Licensing Minnesota Department of Human Services Human Services Building Telephone: 612/296-3971
Supervised Living Facilities (for persons residing in health care facilities for the chemically dependent, physically handicapped, mentally, retarded, mentally ill, or in licensed detoxification centers)	Office of Health Facility Complaints Minnesota Department of Health Telephone: 612/643-2523
Surgi-Centers	Office of Health Facility Complaints Minnesota Department of Health Telephone: 612/643-2523
Teachers	Minnesota Board of Teaching Room 608 Capitol Square Building St. Paul, MN 55101 Telephone; 612/296-2415
Veterinarians	Minnesota Board of Veterinary Medicine Minnesota Department of Health Telephone: 612/642-0597

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Vocational Rehabilitation  
Facility Employees

Department of Jobs and Training  
Division of Vocational Rehabilitation  
390 North Robert Street  
St. Paul, MN 55101  
Telephone: 612/296-5616

Addresses for Minnesota Department of Health and Minnesota Department of Human Services are as follows:

Minnesota Department of Health  
Office of Health Facility Complaints  
393 North Dunlap  
P.O. Box 64970  
St. Paul, MN 55164-0970  
Telephone: 651/201-4201

Minnesota Department of Human Services  
Division of Licensing  
Human Services Building  
444 Lafayette Road  
St. Paul, MN 55155-3842  
Telephone: 612/296-3971

Minnesota Department of Human Services  
Human Services Building  
444 Lafayette Road  
St. Paul, MN 55155  
Telephone: 612/296-6117

All Minnesota Department of Health Boards are located at:

Minnesota Department of Health  
Colonial Office Building  
2700 University Avenue West  
St. Paul, MN 55114

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**Policy Service**

**XVI-3000**

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**Protective Services by County Social Services Agency XVI-3600**

The local social services agency shall offer emergency and continuing protective social services for purposes of preventing further abuse or neglect and for safeguarding and enhancing the welfare of the abused or neglected vulnerable adult.

When necessary in order to protect a vulnerable adult from serious harm, the local agency shall immediately intervene on behalf of that adult to help the family, victim, or other interested person by seeking any of the following:

1. A restraining order or a court order for removal of the perpetrator from the residence of the vulnerable adult pursuant to Minn. Stat., section 518B.01;
2. The appointment of a guardian or conservator pursuant to Minn. Stat., sections 525.539 to 525.6198, or guardianship or conservatorship pursuant to Minn. Stat., section 252A; (See SSM XIII-5200)
3. Replacement of an abusive or neglectful guardian or conservator and appointment of a suitable person as guardian or conservator pursuant to Minn. Stat., sections 525.539 to 525.6198; or
4. A referral to the prosecuting attorney for possible criminal prosecution of the perpetrator under Minn. Stat., Chapter 609.

In the case of indigent persons, the expenses of legal intervention must be paid by the county under Minn. Stat., section 525.703 and Minn. Stat., section 563.

In guardianship and conservatorship proceedings, if a suitable relative or other person is not available to petition for guardianship or conservatorship, a county employee shall present the petition with representation by the county attorney. The county shall contract with or arrange for a suitable person or nonprofit organization to provide ongoing guardianship services. If the county presents evidence to the probate court that it has made a diligent effort and no other suitable person can be found, a county employee may serve as guardian or conservator. The county shall not retaliate against the employee for any action taken on behalf of the ward or conservatee even if the action is adverse to the county's interest. Any person retaliated against in violation of this subdivision shall have a cause of action against the county and shall be entitled to reasonable attorney fees and costs of the action if the action is upheld by the court.

**Minn. Stat. 626.557, subd. 10;**  
**Part 9555.7400**

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### Coordination Records

XVI-3000

Based on statutes and rules in effect as of 08/01/99

### Records

**XVI-3700**

#### Classification of Complaints

**XVI-3710**

Within 90 days of receiving the initial report, the local social services agency shall assess, make a finding, and classify all reports as either substantiated, false, or inconclusive.

**Part 9555.7500**

"Substantiated" means proved to the satisfaction of the investigating agency.

"Inconclusive" means a report which cannot be substantiated as disproved to the satisfaction of the investigating agency.

"False" means disproved to the satisfaction of the investigating agency.

**Part 9555.7200**

#### Destruction of Records

**XVI-3720**

Records which are maintained by local social services agencies may be destroyed as follows notwithstanding the provisions of Minn. Stat. 138.163:

1. All data maintained by licensing agencies, facilities, or other public agencies relate to reports which, upon investigation, are found to be false may be destroyed two years after the finding was made;
2. All data maintained by licensing agencies, facilities, or other public agencies which relate to reports which, upon investigation, are found to be inconclusive may be destroyed four years after the finding was made;
3. All data maintained by licensing agencies, facilities, or other public agencies which relate to reports which, upon investigation, are found to be substantiated may be destroyed seven years after the finding was made.

**Adapted from Minn. Stat. 626.557, subd. 12(b)**

#### Reporter Liability

**XVI-3800**

#### Immunity From Liability

**XVI-3810**

1. A person making a voluntary or mandated report or participating in an adult protection investigation is immune from any civil or criminal liability that otherwise might result from the person's actions, if the person is acting in good faith.
2. A person employed by a local social services agency or a licensing agency who is conducting or supervising an adult protection investigation or enforcing the law or any related rule or provision of law is immune from any civil or criminal liability that might

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otherwise result from the person's actions, if the person is acting in good faith and exercising due care.

**Minn. Stat. 626.557; subd. 5**

**Falsified Reports**

**XVI-3820**

A person who intentionally makes a false report shall be liable in a civil suit for any actual damages suffered by the person or persons so reported and for any punitive damages set by the court or jury.

**Adapted from Minn. Stat. 626.557, subd. 6**

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**Reporter Liability**

**XVI-3000**

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**Failure to Report**

**XVI-3830**

A person required to report who intentionally fails to report is guilty of a misdemeanor.

A person required to report who negligently or intentionally fails to report is liable for damages caused by the failure.

**Minn. Stat. 626.557, subd. 7**

**Perpetrator Penalty**

**XVI-3840**

Any caretaker, employee, or volunteer worker of a facility who intentionally abuses or neglects a vulnerable adult, or, being a caretaker, knowingly permits conditions to exist which result in the abuse or neglect of a vulnerable adult, is guilty of a gross misdemeanor.

**Minn. Stat. 626.557, subd. 19**

**Prohibited Retaliation**

**XVI-3850**

A facility or person shall not retaliate against any person who reports in good faith suspected abuse or neglect of a vulnerable adult, or against a vulnerable adult with respect to whom a report is made.

Any facility or person which retaliates against any person because of a report of suspected abuse or neglect is liable to that person for actual damages and, in addition, a penalty up to \$1,000.

There shall be a rebuttable presumption that any adverse action, as defined below, within 90 days of a report, is retaliatory. For purposes of this clause, the term "adverse action" refers to action taken by a facility or person involved in a report against the person making the report or the person with respect to whom the report was made because of the report, and includes, but is not limited to:

1. Discharge or transfer from the facility.
2. Discharge from or termination of employment.
3. Demotion or reduction in remuneration for services.
4. Restriction or prohibition of access to the facility or its residents, patients or clients.
5. Any restriction of rights set forth in Minn. Stat. 144.651, Patient Bill of Rights. (See SSM V-2000)

**Minn. Stat. 626.557, subd. 17**

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**XVI-3000**

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**Forms**

**XVI-3900**

**Report of Vulnerable Adult Maltreatment (DHS-2494)**

**XVI-3910**

1. Every incident of abuse or neglect reported to the local social services agency shall be reported to the Community Social Services Division of the State Agency on forms provided by the State Agency. The reports are for statistical information only. The identity of the victim, the victim's family or the suspected perpetrator should not be included on the form.
2. The reports shall be sent to the State Agency within 20 days of receiving the complaint, whether or not the classification of the report has been determined.
3. Within 90 days of receiving the complaint, the local social services agency shall classify the report as substantiated, inconclusive or false. If the classification has changed subsequent to the time of the initial report to the State Agency, the local social services agency shall advise the State Agency in writing.
4. Information from these reports is aggregated for statewide statistics and used for legislative and programmatic needs. All statistical information is made available to the local social services agencies, other governmental agencies or service organizations upon request.