



Press Release

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For More Information
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Legislators Make It More Difficult to Take Advantage of At-Risk Adults

Denver, Co. Everyday older adults are asked or make a decision to give someone they trust a "power of attorney". A power of attorney for financial purposes allows the agent or the designated individual to make decisions and/or to follow the instructions given by the individual.

A power of attorney is a legal document which allows an individual to name an agent to act on his or her behalf. Many individuals give the agent a "durable power of attorney" which enables an agent to continue to act on the individual's behalf even if the individual is incapacitated and cannot give directions.

A power of attorney is a legal tool that can be used to open and close bank accounts, to sell real estate, to pay bills and other obligations, to purchase and/or sell stocks and bonds, and conduct the financial affairs of the at-risk individual.

Most agents who are entrusted with a power of attorney spend the funds for the benefit of the at-risk individual. As with all situations, most agents follow the wishes of the older adult and exercise great caution in carrying out their fiduciary responsibilities. At present an agent acting on a power of attorney is not supervised. Furthermore, agents are not required to report their actions to the court or any other regulatory body, allowing for the opportunity for abuse.

Some at-risk individuals who give an agent a durable power of attorney find themselves the subject of abuse. The agent may use the available funds and property for his or her own benefit. Oftentimes bankers, family members, neighbors and other professionals who work with at-risk individuals report that funds are not being used by the agent for the benefit of the at-risk individual, but rather for the benefit of the agent.

As of July 1, 2007, the Colorado State Legislature created a new classification of theft for agents who steal from an at-risk individual, be it a child or an adult. The new law is meant to offer more protections to at-risk individuals whose agents "take the money or property for their own benefit".

The law is very specific in that if an agent "uses, disposes, or takes title to, or other assumes control of a thing of value" when acting in a position of trust, whether or not in the presence of the victim, the agent commits a Class 5 felony if the value is less

than \$500 or a Class 3 felony if the value is more than \$500. Current law provides that theft from an at-risk adult or juvenile by means other than the use of force, threat, or intimidation is a Class 4 felony without regard to the value of the item taken.

Under Colorado law a person commits theft when he or she knowingly obtains or exercises control over anything of value of another without authorization, or by threat or deception. For theft to occur, the agent must intentionally or knowingly take something from an at-risk individual with the intent to deprive the at-risk individual of the property, such as money or a home.

Any individual who commits a Class 5 felony can be subject to a minimum of one year in jail and a \$1000 fine to a maximum of three years in jail and a \$100,000 fine. Individuals who commit a Class 3 felony can be subject to a minimum of four years in jail and a \$2000 fine to a maximum of twelve years in jail and a \$750,000 dollar fine.

Individuals who suspect an agent (power of attorney) of committing a theft against an at-risk child or adult are encouraged to report it to the local police who will conduct an investigation as appropriate. For more information, call 303-333-3482.

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