Crackdown on elder abuse

With number of financial exploitation cases on rise, new state laws strengthen prevention and prosecution

by Kate Tormey (ktormey@csg.org)

Iowa Rep. Lisa Heddens was recently working with a law firm specializing in elder law, and was shocked to hear the number of cases that involved the financial exploitation of senior citizens. “When I thought about Iowa, which is an aging state with an older population, I wondered, ‘What else do we need to have in place to protect our seniors?’” says Heddens, a Democrat.

It led to what has become a common occurrence in state capitols across the Midwest: New legislation that cracks down on a crime that costs its victims an estimated $2.9 billion each year in the United States.

That figure is on the rise (by 12 percent since 2008, according to a study done by the MetLife Mature Market Institute and the National Committee for the Prevention of Elder Abuse), but Heddens and other lawmakers are hoping to stop that trend with laws that raise awareness about elder financial abuse and increase penalties for perpetrators.

Senior citizens tend to be more vulnerable to financial fraud, scams and manipulation because they are more likely to have a large net worth and to have cognitive impairments that affect their decision making — a dangerous combination.

Typical crimes include forging signatures on financial documents and checking accounts without the account holder’s permission. Some abusers convince seniors to transfer money to other accounts, sign checks without the account holder’s permission or buy expensive items for someone else. In some of the worst cases, caretakers deny medicine or food to victims who don’t agree to give them money or possessions.

As the U.S. population gets older, elder-law experts warn that the problem could worsen. In the 11 Midwestern states, the percentage of people 65 and older is expected to rise from 13.6 percent in 2010 to 20.7 percent in 2030 (1 percentage point higher than the United States as a whole).

The issue received widespread national attention last year after 90-year-old actor Mickey Rooney testified before U.S. Congress about being financially abused by members of his family, who allegedly took over his e-mail account and forced him to grant access to his finances.

In about one-third of the instances of financial abuse, the MetLife Mature Market Institute study found, a family member, friend or neighbor is the perpetrator. It is most common for the abuser to be a stranger (in a little more than half of the cases). The most likely victim is a woman between the ages of 80 and 89.

The same study notes, too, that the $2.9 billion annual cost to victims does not capture the full impact and prevalence of the problem. Cases are often simply not reported.

After looking at the data — and seeing that other states are also addressing the issue — Heddens decided this year to introduce a bill calling on four state agencies to conduct a review of Iowa’s policies on the abuse of people over age 60. Under HF 2387, which was awaiting the governor’s signature as of late March, a report with recommendations for legislative action must be completed by the end of the year.

“This is about coming up with a plan that is right for Iowa,” Heddens says. “It’s a starting point.”

The Iowa agencies are directed by the legislature to look at other states’ laws on elder financial abuse, and the group will likely look to recent actions taken in other states.

### State and projected percentage of population age 65 and older

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Source: U.S. Administration on Aging (based on U.S. Census figures)

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Great Lakes

New York to delay start of discharge standard that would have been region’s toughest

The state of New York has halted plans to implement a ballast water discharge standard next year that would have been the toughest in the Great Lakes region and more stringent than any existing or proposed U.S. or Canadian rules.

For Great Lakes advocates who say existing standards fall short of protecting the ecosystem from invasive species, New York’s plan had been a source of optimism. But it also had been a source of consternation for those who said the state’s numeric discharge standard was unworkable and would have shut down Great Lakes shipping. The federal government of Canada, for example, praised New York for “withdrawing its unattainable ballast water requirements.”

New York officials say they will delay implementation of a state-level standard until at least the end of 2013. They will instead focus on working with Michigan and other states to try to convince the U.S. Environmental Protection Agency to strengthen its proposed discharge permit for ballast water.

“A strong, uniform national standard is the preferred approach to ensuring that vessels install and use achievable and cost-effective technology to treat ballast water discharges,” says Joseph Martens, New York’s Department of Environmental Conservation commissioner.

As proposed, the EPA’s permit would require ships to install technology that meets the International Maritime Organization’s treatment standard for ballast water. In comparison, New York’s numeric standard would have been 100 times more stringent than the one set by the IMO.

Under the EPA proposal, vessels would also have to exchange ballast water to flush out and kill non-native freshwater organisms.

Once finalized, the new EPA permit will replace an existing one that was successfully challenged in U.S. federal court as being too weak.

Some leading Great Lakes conservation groups say that even though the EPA proposal is an improvement on the existing vessel permit, it does not go nearly far enough. They are pushing the agency to adopt tougher standards. Thus far, no state has implemented a standard tougher than the IMO’s.

At the federal level, two entities have the authority to regulate ballast water discharges: the EPA and the U.S. Coast Guard. In March, the Coast Guard published its final rule establishing a new discharge standard. The numeric standard is the same as the IMO’s. The rule will take effect later this spring.

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Economic Development

Midwest lagging rest of U.S. in high-tech employment

Between 2003 and 2008, the Midwest shed high-tech jobs and lagged the nation as a whole in creating high-tech firms, a concerning trend for policymakers who have pinned hopes for their state’s economic future on expanding this industry sector.

The data, part of the National Science Foundation’s “Science and Engineering Indicators 2012” report, capture a tumultuous economic period in the nation, particularly the Great Recession that began in late 2007. But the statistics also show how this region is faring compared to the rest of the country.

Most states in the Midwest, for example, have smaller high-tech economic sectors than the U.S. as a whole. In only two states—Illinois and Minnesota—do high-tech firms make up a relatively large share of total businesses. A few states in the region, though, did experience impressive growth in the high-tech sector over the period studied in the report. In Nebraska, North Dakota and South Dakota, the number of high-tech businesses increased by more than 15 percent, compared to a national rise of less than 10 percent. The rise in high-tech firms, however, did not necessarily translate into a much of a net increase in state jobs in this sector, if at all (see map).

States continue to pursue strategies that target growth in this sector, because it has high growth potential, attracts highly skilled workers and fosters innovation.

Examples of state efforts include Ohio’s $2.3 billion Third Frontier program, a bond initiative that invests in new technology-based products, companies and industries. Michigan’s $2 billion 21st Century Jobs Fund supports small businesses in areas such as advanced manufacturing, alternative energy and the life sciences. Kansas, North Dakota and South Dakota, meanwhile, have begun programs to promote university-led research and commercialization, and Nebraska has launched a small-business grant program to help support innovation.

The hope for states is that these investments pay off with the creation of lasting businesses and jobs in an ever-increasingly competitive global economy.

The NSF study shows, for example, that from 2000 to 2010, more than one-quarter of U.S. high-tech manufacturing jobs were lost. Also, the U.S. share of high-tech exports fell about a third between 1998 and 2010, while in a similar time frame, China’s share nearly quadrupled, making it the new world leader in high-tech trade.

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Issue Briefs cover topics of interest to the various groups and policy committees associated with the Midwestern Office of The Council of State Governments. Located in suburban Chicago, CSG Midwest provides staffing services for the Midwestern Legislative Conference, Great Lakes Legislative Caucus, Midwest Interstate Passenger Rail Commission and Midwestern Radioactive Materials Transportation Committee. More information is available at www.csgmidwest.org.
Energy

New EPA emissions rules causing some older power plants in region to shut down

New rules by the U.S. Environmental Protection Agency that limit emissions from power plants have already had one effect: Some of the Midwest’s older coal-fired facilities are shutting down.

Two plants in the city of Chicago are being shuttered, one by the end of this year, as are generating units in Indiana and Ohio. What remains to be seen is the impact of these closures.

The EPA says the tougher regulations will improve health and reduce costs — fewer premature deaths, a reduction in hospital stays for asthma and other respiratory diseases, and better outcomes for children because they are not exposed to harmful levels of mercury.

But will these plant closures impact electricity reliability and consumer costs?

All of the plants being closed are older, and some operated only during periods of peak demand. Still, as Melissa McHenry, a spokeswoman for Ohio-based American Electric Power, notes, “Every plant that we are closing was operating during last summer’s heat wave.”

“The industry and the reliability coordinators don’t yet have a really good handle on how much generation will be retired,” McHenry says.

“The EPA’s estimate of shutdowns for just one of the new rules was 4,500 megawatts for all of the U.S. We [AEP] are shutting more than that, and we are just one company.”

Utilities in almost every state in the coal-dependent Midwest will have to adhere to the new rules. Most likely to close are plants that run on coal and that are costly to retrofit because of their age.

The first of the new regulations is the Cross-State Air Pollution Rule, which requires reductions in emissions from a state’s power plants that lead to ozone and particulate pollution in another state. The rule was set to take effect in January but has been delayed by a court challenge.

The EPA announced standards for the second new rule in December. The rule requires power plants to meet specific numeric emissions standards for mercury and other toxic metals by 2014.

According to the EPA, the cross-state rule will yield up to $230 billion in annual health and environmental benefits, and the mercury rule up to $90 billion.

An industry-supported report on the impact of these rules and other proposed EPA regulations estimates that compliance will cost the industry $21 billion a year. That could cause the price of electricity to double in some regions of the country, the study concluded.

“These have been dubbed the EPA train wreck,” says Ned Leonard, a vice president for the American Coalition for Clean Coal Electricity. Even so, he adds, “We are not so much looking for relief from the standards, as relief from the timeline.”

McHenry says that since 2004, her company has invested $7 billion in retrofitting plants to meet environmental standards. But whether the cost makes sense depends on the age, size and location of a plant.

“There can be physical constraints,” Leonard adds. “In older plants in the middle of a city, there may not be space to add the equipment to meet the new standards.”

In addition to closing plants and upgrading others, utilities are using more natural gas and renewables.

But McHenry adds that “you can’t put in one of these plants overnight,” citing the large capital investment and a long permitting and building process.

Agriculture & Natural Resources

Ohio considers ban on exotic-animal ownership after mass release at farm makes headlines

It made international headlines. The release of 56 wild and exotic animals last October from a farm near Zanesville, Ohio, brought the attention of animal lovers across the world to the small town.

Forty-nine of the animals were killed by local police.

Ohio Sen. Troy Balderson, whose district includes Zanesville, says, “The incident brought to light the fact that Ohio had no laws to regulate the ownership of dangerous and wild animals.” Ohio is one of eight U.S. states without such a law.

Balderson is now sponsoring SB 310, which would place Ohio among the 29 states with some type of ban on owning wild animals. (An additional 13 states allow ownership of exotic animals but require owners to obtain a license.) SB 310 would prohibit the purchase of dangerous wildlife, including primates. In addition, owners of wild animals would face strict permitting standards and be banned from breeding the animals.

The bill has the support of Republican Gov. John Kasich and the state departments of Natural Resources and Agriculture.

David Daniels, director of the Ohio Department of Agriculture, says his agency “would develop the housing, feeding and fencing requirements for wild animals [by] taking into consideration existing standards adopted by zoos and the federal Animal Welfare Act. Applicants would also have to have a plan of action in case of an escape.”

The animals would have to be neutered, registered with the state and implanted with a microchip. Owners would be required to obtain wildlife-shelter permits costing between $500 and $2,000 annually and have liability insurance of $250,000 or more.

Balderson says most people who own wild animals are probably already meeting many of the proposed standards; however, the Zanesville man who released the animals last year would have been prohibited from ownership due to a prior felony conviction.

Laws across the Midwest addressing exotic-pet ownership have increased significantly over the last decade. Public safety concerns like that in Zanesville often motivate the enactment of such laws, so regulations differ for various animals (see graphic).

Nearly every nondomestic animal — from ferrets to wolf hybrids — is regulated in some jurisdiction. However, all state laws banning ownership exclude zoos, circuses, research facilities and certified sanctuaries; Ohio’s bill also excludes schools that own a wild animal as their mascot.

SB 310 opponents were concerned that the standards for housing and care would be so high and impossible to meet. They pointed out that the U.S. Animal Welfare Act already regulates breeders, dealers and caretakers of animals. Many spoke of the animals as being “part of their family,” and said they were encouraged that the proposal at least does not completely ban ownership.

Source: CSG Midwest research
Study: States need to do more to lower their risk of corruption

The state of Nebraska grades out best in the Midwest in a new national study measuring the risk of corruption in all 50 states. Headed up by the nonpartisan Center for Public Integrity, the study uses a set of more than 300 indicators to evaluate state laws, regulations and practices.

Nebraska was given a B+, a grade that placed it fifth-highest among the 50 states. The state was given particularly high marks in four categories: having an open and transparent redistricting process, a strong internal-auditing framework, an effective state budget process, and procurement policies that protect against “pay to play.”

In all, the center graded states in 14 different categories, many of which directly relate to the work of state legislatures. For example, grades for “legislative accountability” were based on conflict-of-interest rules in place for lawmakers, as well as public access to records on legislative proceedings and to the asset-disclosure records of members. Other indicators examined laws regulating the financing of political parties and disclosure requirements for lobbyists.

Three states in the Midwest were among the eight nationwide given an F in the study’s “Corruption Risk Report Card.” No state received an A. State-by-state reports are available at www.stateintegrity.org.

Minnesota, Kansas and Wisconsin in middle of national voter-ID fight

The flurry of activity over voter-ID laws that began in 2011 has continued this year, in state courthouses and capitols across the Midwest.

In Minnesota, the fate of the law is being left to voters themselves: State legislators passed a proposed constitutional amendment in April that would require individuals to present government-issued photo identification at the polls. The amendment, which will appear on the November ballot, also calls for the state to provide free identification to eligible voters.

The Legislature’s actions came one year after strict voter-ID legislation was vetoed by Democratic Gov. Mark Dayton, who expressed concern over adding barriers to voting. Opponents have also said the new requirements conflict with Minnesota’s same-day voter-registration system. (Minnesota is one of nine U.S. states that allows voters to register on Election Day; Iowa, North Dakota and Wisconsin are among the others.)

Last year, voter-ID bills were signed into law in Kansas and Wisconsin, with supporters saying they will help combat election fraud.

After huge GOP wins in 2010, partisan control of legislatures up for grabs again

When voters go to the polls this November, much of the attention will be focused on the race for president and partisan control of the U.S. Congress. But the elections will also determine which party enjoys majorities in the Midwest’s 20 partisan legislative chambers.

The recent change to voter-ID laws (see story above) is one of many examples of the impact that these election results can have. Republicans largely support requiring photo ID; Democrats mostly oppose it. As a result of the 2010 elections, seven Midwestern states had Republican governors and Republican-led legislatures: Indiana, Kansas, Michigan, North Dakota, Ohio, South Dakota and Wisconsin. In contrast, Democrats have full control of only one Midwestern state, Illinois.

In advance of the 2012 elections, there already has been one shift in power: The Wisconsin Senate is now split after a result of the March resignation of Republican Sen. Pam Galloway. Few states will be watched more closely this election cycle than Wisconsin. In June, three other GOP senators and Republican Gov. Scott Walker face recall elections. Some of the other closely watched races include:

- the race in Indiana to replace term-limited incumbent Republican Gov. Mitch Daniels;
- the battle for control of the Iowa Senate, where Democrats hold a slim 26-24 advantage; and
- control of the legislatures in Indiana, Michigan, Minnesota and Ohio — all states where Republicans hold majorities in both legislative chambers but where control was either split (Indiana, Michigan and Ohio) or in the hands of Democrats (Minnesota) prior to the 2010 elections.
QUESTION OF THE MONTH

One of the many services provided by the Midwestern Office of The Council of State Governments is its Information Help Line, a research service intended to help lawmakers, legislative staff and state officials from across the region. The CSG Midwest staff is always available to respond to members’ inquiries or research needs regarding various public policy issues. The Question of the Month section highlights an inquiry received by this office. To request assistance through CSG Midwest’s Information Help Line, call 630.925.1922 or use the online form available at www.csgmidwest.org.

QUESTION: Which states in the Midwest post the salaries of employees on their websites?

As part of websites created over the past five years to improve state-spending transparency, Illinois, Indiana, Ohio and South Dakota post the salaries of public employees. In Kansas, wages can be viewed by job title and agency. According to the Center for Fiscal Accountability, a project of Americans for Tax Reform, making this information available is part of a broader effort by states to improve public access to information on how taxpayer dollars are spent.

In most of these states, the posting of employee salaries, as well as the transparency websites themselves, is the result of state legislation: Illinois HB 35 in 2009, Indiana HB 1004 in 2011, Kansas HB 2457 in 2007 and Ohio HB 1 in 2009. In South Dakota, the website Open SD was created as the result of an executive order.

The center says these actions reflect a national “spending transparency movement” that began in 2006 with the passage of federal legislation. The U.S. Public Interest Research Group, which regularly reviews and grades states’ online transparency systems, says states have made tremendous strides in recent years, providing more and more data on spending. Greater transparency, PIRG says, can help restore public confidence in government. The group’s latest report card, “Following the Money 2012,” was released in March. It focuses on the availability of “checkbook-level” detail on government contracts, tax subsidies and grants to businesses.

Indiana was one of seven U.S. states given an “A” or “A-” for having easily searchable, detailed data on its website. On the flip side, Iowa was one of five states given an “F” for providing limited or superficial information about government expenditures.

Sunshine Review, a nonprofit organization dedicated to state and local government transparency, grades state websites based on a 10-point transparency checklist. This list includes a review of websites to see if state budgets, government contracts, and taxes and fees are posted. But it also includes non-spending criteria — whether state audits are posted, for example, or whether information on ethics rules and the process for reporting ethics violations is available.

According to Sunshine Review, Illinois, Indiana and Wisconsin have the strongest websites in the region. Each state was given an A- and received low marks in only one category — for a lack of information on taxpayer-funded lobbying, a shortcoming that the group says exists in all 11 Midwestern states.

Sizing up the Minnesota Legislature: The pros and cons of policymaking in the Midwest’s largest legislative body

High above the main entrance to the Minnesota State Capitol building, the Quadriga, a striking gold-leaved copper sculpture of a four-horse chariot and figures, keeps steady watch over the grounds that surround it. But it’s what is inside the historic, 107-year-old landmark that really sets the Minnesota Capitol apart from others in the Midwest.

The building is home to the region’s largest legislative body — 134 members in the House, 67 in the Senate.

“We feel large,” Minnesota Rep. Alice Hausman, first vice chair of the Midwestern Legislative Conference, says of the 201-member Legislature.

In comparison, the Midwest’s second-largest legislative body, Illinois, has 177 members and its smallest, Nebraska, has only 49. The national average is just under 148 members.

“The larger the body, the easier it is for members to be invisible — never a good thing,” says Hausman, who once sponsored a bill to replace Minnesota’s bicameral legislature with a unicameral system similar to Nebraska’s. “The smaller the body, the easier it is for everybody to be actively engaged in the process.”

And in an era of limited state resources, smaller might always seem better. However, Rutgers University professor Alan Rosenthal sees some important advantages to having larger legislative bodies.

“The thing legislatures do best is represent distinct constituencies,” says Rosenthal, who has spent most of his career studying state legislatures. Larger bodies with smaller legislative districts, he says, tend to be more representative of the diverse populations they serve.

Patrick McCormack, director of the Minnesota House Research Department, points to having members from “all walks of life” as a plus to having such a large body, but there are also some unique challenges. For example, there is a regular influx of new legislators who must be oriented to the process, often when the Legislature is already in session.

But as members come and go, Rosenthal says, larger legislatures have an advantage under what he calls a “one-third rule” that can be applied to any organization: “One third [of the members] are really good, one third aren’t so good, and one third are in the middle.”

“To do lawmaking well, you have to have good people, and you have to have good leaders,” he says. “The more people you have, the more likely you are to find good people.”

Former Minnesota Sen. Roger Moe, who served as majority leader of the nation’s largest state senate for more than 20 years, also sees the body’s larger size as an asset.

“As policy issues become more complex, you can’t ever have enough talent,” he says. Moe also contends that the Minnesota Legislature’s size helps ensure that its members are accessible to constituents.

Still, as McCormack points out, larger legislatures come with larger budgets that are more likely to get noticed when resources are scarce.

But are smaller bodies necessarily more efficient? Rosenthal does not think so, and as evidence, he points to differences in how state houses of representatives and senates operate across the country. “Houses are usually better organized because they have to be,” he says. “In a larger body, you see more specialization, more deliberation and more effective division of labor than in a smaller body.”

According to Rosenthal, though smaller bodies may be more democratic in some ways, the legislative process benefits from the more hierarchical structure that is typical of larger bodies.

Grades on providing online access to data on state spending

Source: U.S. Public Interest Research Group, “Following the Money 2012”

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New laws require training for financial employees, enhance tools for law enforcement

the Midwest to prevent, investigate and prosecute these cases.

**Michigan bills include measures to curb cases of elder financial abuse**

Like Heddens, Michigan Sen. Tonya Schuitmaker has been shocked to hear story after story of how senior citizens are being taken advantage of in her state.

She recently heard one anecdote of an elderly man who hired a contractor to fix his home. The contractor brought the man breakfast and started recommending more repairs. The two would go to the bank together and withdraw money for work that cost a fraction of what the contractor was charging.

The transactions were finally reported by a bank teller who became suspicious of the unusual account activity, but not until the senior had lost more than $100,000. Bank employees might have spoken sooner if they had received more thorough training, Schuitmaker says, or if they knew they wouldn’t be personally liable for information provided to law enforcement.

That’s one of the reasons why Schuitmaker, a Republican, has led an effort to pass a package of 18 bills related to each of what she calls the “three legs of the stool”: the mental, physical and financial abuse of seniors.

She made the legislative package a priority after seeing similar measures languish in recent years and after hearing from local law enforcement, prosecutors and advocates for seniors that elder financial abuse is a growing problem in Michigan.

In terms of financial abuse, SB 463 would require training for employees of different financial institutions, such as banks and credit unions, to help them identify and report suspected financial exploitation of vulnerable adults. The bill provides civil immunity to people who report suspicious activity to authorities.

A series of bills (SB 456, 460, 604 and 605) would require institutions to notify joint account holders that each depositor is an equal owner of the funds and that each has the ability to add and withdraw money, and that when one account holder dies, the other continues to have full access to the account.

“A lot of times people open up joint accounts and they don’t realize the joint account holder has so much access,” Schuitmaker says. “This bill would strengthen what banking institutions do in terms of notification and awareness.”

As of late March, the bills had passed the Michigan Senate and were being considered in the House.

**Illinois requires training of bank employees, stiffens abuse penalties**

In Illinois, the state receives about 12,000 reports of elder abuse each year, the majority of which are related to financial abuse or exploitation.

According to Claudia Kemple of the Illinois Department on Aging, about 2 percent of the reporters in these cases are financial institutions — a number that her department would like to see increase.

For about a decade, the state has operated a program called B*SAFE, which trains employees at these institutions to spot and report possible financial abuse. The program has two components: The first certifies employees themselves to train their colleagues; the second brings staff from the state Department of Aging or elder-abuse agencies to the banks to conduct the training.

As of Feb. 1, the training is now mandatory for all employees as the result of legislation (SB 3267) passed in 2010.

Each institution must provide a 30-minute program for employees, who must be retrained every three years. Institutions can opt to use the state’s B*SAFE program as a training model or they can integrate the material into training already provided to workers.

Financial institutions are not required to report suspected abuse (attempts to mandate reporting have been unsuccessful in the Illinois legislature), but they are provided legal immunity if a report is made. In fact, anyone can report suspected abuse anonymously through a statewide hot line 24 hours a day, seven days a week. The Department on Aging holds the identities of these individuals in the strictest confidence unless compelled to divulge a name by court order, Kemple says.

Illinois lawmakers have also stiffened the penalties for people who exploit seniors. Under HB 1689, passed last year, cases involving $50,000 or more are now considered a Class 1 felony; previously, the threshold for a Class 1 felony was $100,000 or more in stolen property.

Legislation currently making its way through the Illinois General Assembly would further strengthen the penalties for financial abuse. HB 5653 would allow prosecutors to freeze the assets of a defendant in cases where a senior citizen or disabled person has allegedly been financially exploited.

Lee Beneze of the Illinois Department of Aging describes this ability to freeze assets as “a very powerful tool for prosecutors,” because they could better track the funds in question and keep perpetrators from spending stolen money prior to their conviction.

The bill passed the House by a vote of 99-1, and, as of late March, was under consideration in the Senate.

**Minnesota adds new type of felony, and new tools for prosecutors**

Policymakers in Minnesota, too, are concerned about the growing trend of elder financial abuse and are taking steps to bring perpetrators to justice.

“Our effort was undertaken with an eye toward improving the ability of investigators to build cases that are effectively prosecuted,” says Iris Freeman, associate director of the Center for Elder Justice and Policy at William Mitchell College of Law in St. Paul, Minn.

Freeman leads the Vulnerable Adult Justice Project, which brings together law students, policy experts and key stakeholders to advocate for policies that help senior citizens and prevent elder abuse.

When it came time for Freeman and her partners to look for a legislative sponsor in Minnesota, they had to look no further than their very own school — to Democratic Rep. Debra Hilstrom, who was working on her law degree when the project launched in 2008.

“When they asked me to be chief author of the bill, it was an honor,” Hilstrom says. “The folks who have come before us have done a good job building our state and our country, and we need to do what we can to protect them.”

HF 818, which passed in 2009, created a new type of felony for the financial exploitation of a vulnerable adult involving an amount greater than $35,000. It carries a sentence of up to 20 years in prison.

The same bill also included several measures to make it easier to investigate and prosecute such cases. For example, the statute of limitations on such cases was extended from three years to five years because these crimes often occur over time, Freeman says.

In addition, county attorneys now have the ability to subpoena the banking and financial records of a vulnerable adult as part of an investigation.

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**Mandatory reporters of elder abuse in Midwestern states (as of March 2011)**

<table>
<thead>
<tr>
<th>State</th>
<th>Everyone</th>
<th>Physicians</th>
<th>Home health care providers</th>
<th>Mental health service providers</th>
<th>Law enforcement authorities</th>
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Source: U.S. Government Accountability Office
And while financial institutions are not required to report suspected abuse, the law encourages them to do so by clarifying their immunity from legal challenges if they make a report “in good faith.”

“We wanted to make it easier for banks to give up records and report when they think there is exploitation going on,” Hilstrom says. “There are no data yet to determine whether the number of reports of abuse has increased since implementation of the law.

However, Freeman says it is already clear that the measure has improved the working relationship between financial institutions and law enforcement.

The bill, which received wide bipartisan support, also calls for operation of a statewide hot line to report abuse. “Previously, statute said that you had to call the area with jurisdiction,” Hilstrom explains. “You had to call where it happened. But if the vulnerable adult was in one place and the person exploiting them lived somewhere else, who do you call?”

Hilstrom is now seeing the law from a slightly different perspective — as an assistant county attorney. She has already prosecuted two cases related to the elder financial abuse legislation.

She says it is “an incredible opportunity” to see that the law she helped shape is already making a difference.

“This is the right thing to do — raising awareness and talking about the warning signs,” she says. “More folks are aware, and when more people are aware, more people are reporting. It really goes a long way to protect people.”

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**Preventing elder financial abuse: Strategies for policymakers**

- Broaden the definition of “financial exploitation” to include the wide array of ways people prey on seniors and vulnerable adults — such as through “undue influence” or purposely taking advantage of someone who lacks decision-making ability.
- Stiffen criminal penalties for defrauding a vulnerable adult.
- Mandate or encourage financial institutions to train employees in identifying and reporting financial abuse.
- Set up one statewide agency to handle financial abuse reports (such as through a hot line).
- Adopt policies that ensure joint account holders are aware of how access to the accounts is granted.
- Make sure that the statute of limitations is long enough to prosecute financial abuse that happens over a long period of time.
- Add groups of people, such as health professionals, lawyers and financial professionals, to the list of mandatory reporters of elder abuse (see page 6 for a state-by-state analysis of mandatory-reporting laws).
- Allow law enforcement to freeze the assets of people charged with crimes related to financial abuse in order to provide investigators with a “money trail” and prevent perpetrators from spending stolen funds before standing trial.
- Grant civil immunity to bank employees who report potential financial abuse to law enforcement.

Sources: Center on Elder Justice and Policy, California Elder Justice Workgroup and CSG Midwest interviews
Sen. Tom Carlson

Raised on a Nebraska farm, he has become a key leader on water issues, and is now pushing to change his state’s term limits law

by Tim Anderson (tanderson@wng.org)

For Nebraska Sen. Tom Carlson, the timing was perfect.

He was ready to retire from the insurance and financial-advising business, and the senator representing his rural Nebraska district was leaving the state’s unicameral legislature due to term limits.

The civic-minded Carlson saw state public office as an extension of what he had been doing for years — serving the community, from stints as president of his local school board to leadership roles in his church, the Rotary Club and the Fellowship of Christian Athletes.

But no one could have prepared Carlson for the campaign that it would take to become a legislator.

“It’s one of the hardest things I’ve ever done in my life,” he says of the initial campaign for a state Senate seat in 2006.

“We went to the homes of all of the registered voters in the district’s seven counties and 46 towns before the primary election. And we repeated it for the general election. That was three pair of shoes and 15 pounds later.”

And all for a job with long hours that pays $12,000 a year with no benefits.

“It’s certainly not something we do for the money,” Carlson says.

Six years later, his motivation continues to be serving the public and changing state policy for the better. More than in perhaps any other U.S. state, Nebraska’s nonpartisan, unicameral legislative branch allows Carlson and each of his fellow senators to do so.

“This has been one of the most interesting and satisfying things I’ve ever done,” Carlson says of his time as a senator.

“In a group of 49 people, one person can make a difference. That’s the satisfying part. This is a unique opportunity.”

Carlson, who grew up on a farm outside the small Nebraska town of Holmde, quickly found his niche in the Legislature, emerging as a state leader on agriculture and water policy.

In 2007, his first year as a legislator, Carlson sponsored a bill to fund local projects that clear vegetation and improve water flows along the Republican and Platte rivers. The program has had measurable positive effects and continues to this day.

Carlson has since become chair of the unicameral Legislature’s Agriculture Committee.

“Water is the lifeblood of agriculture,” Carlson says. “Irrigation is so terribly important. We have to be good managers of the water, so we make sure there is an adequate supply for today and for generations into the future. That’s a real and ongoing challenge.”

It will be a continuing policy priority for Carlson as he completes his final four-year term in office. In 2014, the same term-limits law that opened up an opportunity for him to win a seat in the Legislature will force him to leave.

Carlson hopes a change in the state’s term limits law is another way he can make a lasting difference in the state. He has led a legislative effort this year to change the law to extend term limits from eight years to 12.

In March, Carlson talked to CSG Midwest about this proposal, his time in the Legislature, and his continued leadership on water issues in Nebraska. Here are excerpts from the interview.

Q: You still point to the legislation you sponsored in 2007 as being among your most important legislative accomplishments. Why?

A: I grew up a mile south of the Platte River, and I remember when it was just water and sand. But partly because of the building of dams and reservoirs, vegetation had taken over the stream beds. It was taking away water and not doing anybody any good.

Through our actions since 2007, we may very well have saved 60,000 acre-feet of water a year in the Republican River basin. That means we’re in a better position to use it for irrigation and still fulfill our compliance issues with Kansas [under an interstate compact that oversees use of the Republican River].

Q: More recently, you sponsored a bill to help create a state plan that ensures the long-term sustainability of water use in the Republican River basin. The task force created through your legislation is looking at ways to increase supply, decrease usage, and better coordinate the use of surface water and groundwater. Why is such state action needed?

A: If you’re using more than what is coming in, and you do that consistently over a period of time, you’re going to go water bankrupt. We’ve got a couple areas of the state where that is happening, and we need to deal with it.

You are going to get push back because people get into habits. They get used to doing something that gives them good production, and they don’t want to change. But we don’t want to become water bankrupt in any area of the state.

Q: Because of term limits, you have only a few more years left to see through your work on this legislation and other priority measures. You have proposed a constitutional amendment that would change the law. Right now, lawmakers are limited to two consecutive four-year terms. You want to extend it to three consecutive terms. Why?

A: Nebraska is the only state that puts term limits at eight years. We’re at the bottom end. The people of Nebraska would be much better served if legislators could serve 12 consecutive years, because the learning curve is pretty steep.

Our head of the Appropriations Committee made the comment, “It took me six years just to really figure out what’s going on [in state government]. And now I’ve got to leave.” [Editor’s note: As of March, Carlson’s proposal (LR 358CA) to change the term limits law had been passed on first reading. On final reading, it needed to pass with 30 of 49 votes to be placed on the ballot in November.]

Q: What is your overall view of term limits in Nebraska?

A: I support term limits. They bring in new people with good ideas and who bring some enthusiasm and energy to the Legislature. But as the law stands now, we’re just seeing too much turnover. In two years, we’re going to be losing 20 members.

We’ve got nine people leaving after this session who have served their eight years. There are several of them, if they could be re-elected for one more four-year term, the extra term would be their most productive. Now they know the system and understand their own strengths and weaknesses.

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<th>Legislative term limits in Midwest</th>
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<td>State</td>
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Wisconsin aiming to ensure equal chemotherapy access for cancer patients

Bill seeks parity in insurance coverage for oral form of treatment

by Rep. Pat Strachota (Rep.Strachota@legis.wisconsin.gov)

Imagine you are diagnosed with cancer. Although the news is devastating, you can still take some small comfort in knowing that the health insurance policy you selected covers chemotherapy treatments. You will be able to fight the cancer, and win.

Different cancers require different types of treatments. If your health insurance plan covers chemotherapy, and you are diagnosed with a cancer that requires orally administered chemotherapy, you might be in for a surprise. Many Wisconsin residents are discovering that while their insurance plan covers injected or intravenous chemotherapy treatments, it does not cover orally administered forms equally.

Because intravenous chemotherapy is done in the doctor’s office or hospital, it is generally covered under a health plan’s medical benefit. Oral chemotherapy, however, is typically covered under a plan’s pharmacy benefit, because it is in an orally administered form. This can lead to massively increased out-of-pocket costs. Instead of focusing on beating cancer, patients must then find a way to pay for a chemotherapy treatment that they thought was covered. Last spring, I introduced legislation to address this situation.

A solution for cancer patients

AB 151 is an important piece of legislation designed to ensure patients equal access to life-saving oral chemotherapy treatments. It prohibits state-regulated health plans from requiring patients to pay higher co-payments, deductibles or co-insurance for oral chemotherapy treatments than for injected or intravenous treatments.

The bill essentially says that if you’re going to cover chemotherapy, you must cover the injected, intravenous and oral forms equally. It does not apply to insurance plans that choose not to cover chemotherapy.

This type of legislation is not unique to Wisconsin. As of late 2011, 14 states across the country, along with the District of Columbia, had passed similar bills, including Illinois, Indiana, Iowa, Kansas and Minnesota in the Midwest. In numerous other states, similar legislation is pending. I am happy to report that here in Wisconsin, both AB 151 and its companion bill, SB 101, have the bipartisan support of more than 40 co-sponsors in the Assembly and Senate.

Treatments used to battle serious conditions such as cancer are constantly evolving, and health insurance plans do not always keep pace. This can leave patients who need coverage without any support, simply because their only chemotherapy option is taken orally instead of intravenously.

The benefits of oral cancer treatments are many. Instead of spending hours hooked up to an IV, a patient can simply swallow a pill. This less invasive method provides a better quality of life and has fewer negative side effects. Often times, oral treatment is the only option a patient has to fight the form of cancer affecting him or her. This is why equitable coverage of oral chemotherapy is so important.

Intravenous chemotherapy continues to be the primary and most widely used form of treatment for cancer patients. However, more than 25 percent of chemotherapy drugs currently in oncology development are of the oral variety. As the number of oral treatments increase in the future, it is important that insurance coverage of those treatments keeps pace.

More access, lower costs

One of the concerns raised with this type of equity legislation is whether or not it will increase costs. But here in the Midwest, the first three states (Iowa, Minnesota and Indiana) that passed such bills have seen no significant increase in premium or insurance costs. The Indiana Department of Insurance stated that despite initial concerns by some insurance carriers that costs would increase to accommodate the new coverage, so far no increases have materialized.

It is reasonable to assume that the results here in Wisconsin would be similar. A study by the Leukemia & Lymphoma Society found that over the last decade, the average monthly wholesale acquisition cost of oral chemotherapy agents was roughly half that of the intravenous counterparts. On the whole, oral treatments are similar or lower in cost when compared to intravenous treatments.

In addition to lower acquisition costs, oral treatments require fewer hospital resources. Intravenous treatments must be administered in a doctor’s office or at the hospital, requiring additional costs for staffing, office and supplies. In fact, a study of the costs to provide intravenous chemotherapy for lung cancer patients found that administration and other visit-related services accounted for nearly half the total treatment costs. Oral chemotherapy does not require these additional expenses. Since it is less invasive than intravenous treatments, oral chemotherapy requires fewer visits to the hospital. Fewer visits mean lower hospital staffing and administration costs, and, most important, fewer complications and risks of infection.

This legislation allows cancer patients whose insurance plan covers chemotherapy to make the best treatment choices possible in order to fight their disease. Certain oral treatments target specific types of cancer for which no comparable injected or intravenous chemotherapy treatments exist. AB 151 keeps the decision on whether or not to use these important drugs between the doctor and patient, and not simply with the insurance company.

There are some who see this type of legislation as a mandate, when in fact it is not. Most health insurance plans in Wisconsin already include chemotherapy coverage. The ones that do not provide coverage will not be mandated to do so; this bill does not apply to them. The Wisconsin commissioner of insurance said, “Since AB 151 does not require coverage, it does not meet the definition of health insurance mandate” under state statute.

I hope to see this bipartisan legislation signed into law in the future. It will bring Wisconsin in line with the numerous other states that have successfully implemented equitable insurance coverage of chemotherapy without any significant cost increases.

Oral chemotherapy is cheaper to acquire and cheaper to administer. There is no reason it should be covered any differently than other forms of treatment. Cancer patients need a level playing field to fight cancer, and win.

Rep. Pat Strachota, a Republican from West Bend, was first elected to the Wisconsin Assembly in 2004.

Submissions welcome

This page is designed to be a forum for legislators and constitutional officers. We accept submissions on a wide range of public policy issues and state initiatives. The opinions expressed on this page do not reflect those of The Council of State Governments or the Midwestern Legislative Conference. Responses to any FirstPerson article are welcome, as are pieces written on other topics. For more information, contact Tim Anderson at 630.925.1922 or tanderson@csbg.org.

Bill seeks parity in insurance coverage for oral form of treatment
MLC committees to discuss key policy issues at Annual Meeting in Cleveland

The Midwestern Legislative Conference’s five policy committees will meet this summer to share ideas on a wide range of issues critical to the region, from state responses to the rise in hydraulic fracturing to the future direction of state health and economic development policy.

The committees will convene July 15, the first day of the four-day MLC Annual Meeting in Cleveland. They are made up of legislators from the 11 Midwestern states and four Canadian provinces of the MLC. Each year, the committees meet to hear from policy experts and engage in collaborative problem-solving on challenges being faced in this region.

All legislators attending the MLC Annual Meeting are encouraged to participate in these committee-led sessions. To register for the MLC meeting, or to learn more about this year’s featured speakers, topics and activities, please visit www.csgmidwest.org.

Here is a list of the preliminary topics that the five policy committees plan to discuss in Cleveland:

### Agriculture & Natural Resources
- The impact of hydraulic fracturing on natural resources and the region’s economy
- An update on federal issues such as the farm bill and new federal regulations and requirements
- Defining and taxing agricultural land
- The impact of scientific innovation on animal agriculture

### Economic Development
- State efforts to enhance their economies through technology-led and innovation-based economic development
- An examination of areas in which Midwestern states can work to promote regional economic development, including:
  - Promoting regional exports and other economic assets, retaining home-grown college-educated talent, stemming the use of incentives by promoting growth from within,
  - Enhancing collaboration among higher education institutions, and
  - Improving the Midwest’s infrastructure

### Energy
- Developments in bilateral energy trade, including the status of the Keystone XL Pipeline (joint session with the MLC Energy Committee)
- A review of the various provisions in Beyond the Border, a Canada-U.S. initiative to promote economic competitiveness, security and regulatory cooperation
- An update on efforts to build a new bridge between Detroit and Windsor, Canada
- How far should Canada and the U.S. move toward economic integration?

The theme of this year’s MLC Annual Meeting is Economic Reinvestment. Throughout the four-day event, sessions will focus on economic-related issues such as the future of state budgets, infrastructure funding and education reform.

Featuring speakers will include legendary political satirist P.J. O’Rourke and nationally known political strategists Donna Brazile and Rich Galen.

A full agenda of the MLC Annual Meeting is available at www.csgmidwest.org. If you have questions, please contact CSG Midwest at 630.925.1922.

The Great Lakes Legislative Caucus will meet July 13 and 14 in Cleveland. The group is meeting in conjunction with the Midwestern Legislative Conference Annual Meeting.

Participation in the caucus is open to all legislators who represent the Great Lakes states and provinces. There is no registration fee for legislators, and a limited travel stipend is being offered to participants on a first-come, first-served basis. To register, please contact CSG Midwest at 630.925.1922 or Lisa Janairo at janairo@csg.org.

At the meeting, legislators plan to discuss recent state activity related to Great Lakes protection, receive an update on the Great Lakes Restoration initiative and ongoing efforts to combat Asian carp, and explore the economic value of the lakes.

Sen. Ann Rest serves as chair of the caucus.
With leadership team in place, binational MLC committee set to hold legislative exchanges

The Midwestern Legislative Conference's Midwest-Canada Relations Committee has a new leadership team in place.

Two of the committee's officers were appointed in March following Canada's fall provincial elections. Wayne Elhard, a member of the Legislative Assembly from Saskatchewan, was appointed co-chair of the committee, and Drew Caldwell, an MLA from Manitoba, is the co-vice chair.

Elhard and Caldwell are longtime active members of the committee.

They join Kansas Sen. Ray Merrick, co-chair, and Indiana Sen. Ed Charbonneau, co-vice chair, as officers. Merrick and Charbonneau were appointed to their positions in the spring of 2011.

The recent appointments will allow the committee to move ahead with several activities that it has planned for the next few months.

In addition to a planned meeting this summer (see page 10), the binational group will restart its legislative exchange program. The exchanges allow state legislators to spend several days at a Canadian legislative assembly, or provincial lawmakers to travel to state capitols.

Exchange participants have the opportunity to learn about the legislative process, and about how states or provinces have successfully addressed issues of common concern. They are paired up with host legislators, attend committee meetings and observe legislative sessions. The goal of these exchanges is to strengthen state-provincial relationships, as well as build a better understanding of the legislative process in the two countries.

With support from the government of Canada, the committee will be able to put together several exchanges during the coming year.

First created in 1991, the MLC Midwest-Canada Relations Committee is made up of legislators from 11 Midwestern states and four Canadian provinces. Its goals are to provide a forum for legislators to work together on cross-border issues and to ensure that the perspective of states and provinces is presented to federal officials. For more information on the committee, contact Rene Grossman at rgrossman@csg.org.
**States putting pedal to metal in effort to curb rise in copper thefts**

A sharp rise in the theft of copper and other metals is occurring across the country, and parts of the Midwest have become a hub of this activity.

Illinois, Michigan and Ohio are among the 10 U.S. states generating the largest number of metal-theft claims, according to a recent study by the National Insurance Crime Bureau. Ohio tops the list and is one of several states trying to tackle the problem with new legislation. SB 193, passed by the Senate in March, would require scrap-metal dealers to take a photo of each person who sells an item to them.

Illinois HB 3825, passed by the House in March, calls for new restrictions on what can be purchased by dealers and for factoring in the value of property damage when determining penalties for metal thieves.

Last year, Kansas (HB 2312) and Iowa (HF 299) were among the U.S. states to enact metal-theft laws. Kansas now requires dealers to pay for scrap metal by check or to photograph or videotape the seller. The Iowa bill allows for local ordinances that require dealers to keep identifying information on the seller. Under a measure passed in March by the Iowa House (HF 2399), scrap-metal transactions of $50 or more would have to be paid for by check or electronic transfer. For all sales, dealers would have to demand and receive a photo ID.

**In Ohio and Indiana, new laws end estate, inheritance taxes**

Supporters of killing off so-called “death taxes” have had two notable legislative successes in the Midwest over the past two years — passage of a bill in 2013 to end the estate tax in Ohio, and Indiana’s decision in 2012 to phase out the inheritance tax.

Indiana and Ohio are two of the six Midwestern states that levy either an inheritance tax or an estate tax. According to The Tax Foundation, Indiana, Iowa and Nebraska have an inheritance tax — a tax imposed on beneficiaries of an estate. Illinois, Minnesota and Ohio impose a tax on the estate of a deceased individual. Ohio’s estate tax will be repealed in 2013.

Indiana’s SB 293, signed into law in March, calls for elimination of the inheritance tax by 2022. The measure also immediately raises the amount of money exempt from the tax, from $100,000 per beneficiary to $250,000, the Evansville Courier & Press reports. A fiscal analysis of SB 293 estimates that it will cost Indiana up to $16 million in revenue in fiscal year 2013. That amount gradually increases in ensuing fiscal years, reaching $165 million in FY 2024.

Nebraska Gov. Dave Heineman has called for an end to his state’s inheritance tax, but as of March, the proposal appeared unlikely to pass the unicameral Legislature.

**Iowa in middle of fight between agriculture and animal-rights groups**

Under a controversial measure that took more than a year to pass and garnered national attention, Iowa has established a new type of criminal offense — agricultural production facility fraud.

HF 589 targets individuals who seek work in agricultural facilities under false pretenses. It is a response to cases in which individuals have taken jobs in order to investigate conditions at these operations and to uncover animal-welfare abuse. Proponents of the new law say these individuals have intentionally distorted agricultural production practices and staged events inside the facilities. Opponents say HF 589 wrongly silences whistle-blowers — whether they are journalists or animal-rights activists — and targets them for prosecution.

According to The Des Moines Register, the new law is likely to face a legal challenge on grounds that it violates free-speech protections, despite attempts to address these constitutional concerns. (The bill originally made it a crime to film agricultural production facilities without the owner’s consent.)

Measures similar in intent to Iowa’s failed to pass in Illinois (HB 5143) and Indiana (SB 184). As of March, bills were still pending in Minnesota (HF 1369/SB 1118) and Nebraska (LB 915), the Humane Society of the United States reports.

**Michigan is 5th state in Midwest to require autism coverage**

Michigan will soon join four other Midwestern states in requiring insurers to cover therapies for children diagnosed with autism spectrum disorder.

The package of bills (SB 414, 415 and 981) was passed by the Legislature in late March. The new mandate takes effect in October, the Detroit Free Press reports. Coverage for autism treatment will be capped at different dollar amounts depending on the child’s age: $50,000 annually for children under 6; $40,000 for individuals between the ages 7 and 12; and $30,000 for 13- to 17-year-olds. Lawmakers have set up a fund to reimburse insurers for some of the costs related to autism treatment. It was not yet known how much money would be appropriated to the fund.

Michigan is also planning to provide similar coverage to publicly insured children.

According to the advocacy program Autism Votes, Illinois, Indiana, Iowa, Kansas and Wisconsin have previously adopted laws requiring coverage of autism-related treatment. Kansas’ law is considered the weakest because it applies only to state employees; a bill proposed this year (HB 2764) would extend the mandate to all state-regulated group insurance plans. The other four states already require coverage by some or all private plans, with maximum yearly benefit levels usually set between $25,000 and $50,000. Indiana’s law does not establish such caps.