

LEGISLATIVE HISTORY CHECKLIST
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"Adult Protective Services Act"

NJSA: 52:27D-406 to 52:27D-426

LAWS OF: 1993 **CHAPTER:** 249

BILL NO: A56

SPONSOR(S) DeCroce and others

DATE INTRODUCED: October 15, 1992

COMMITTEE: **ASSEMBLY:** Senior Citizens
SENATE: Senior Citizens

AMENDED DURING PASSAGE: Yes Amendments during passage
Second reprint enacted denoted by superscript numbers

DATE OF PASSAGE: **ASSEMBLY:** February 8, 1993
SENATE: June 21, 1993

DATE OF APPROVAL: August 11, 1993

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes
SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

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[SECOND REPRINT]

ASSEMBLY, No. 56

STATE OF NEW JERSEY

INTRODUCED OCTOBER 15, 1992

By Assemblyman DeCROCE, Assemblywoman HECK,
Assemblyman Mikulak and Assemblywoman Weber

1 AN ACT concerning the abuse, neglect and exploitation of
2 vulnerable adults ²[¹, amending P.L.1979, c.496 and P.L.1983,
3 c.43,¹² and supplementing Title ¹[30] 52¹ of the Revised
4 Statutes.

5

6 BE IT ENACTED *by the Senate and General Assembly of the*
7 *State of New Jersey:*

8 1. This act shall be known and may be cited as the "Adult
9 Protective Services Act".

10 2. As used in this act:

11 "Abuse" means the willful infliction of physical pain, injury or
12 mental anguish, unreasonable confinement, or the willful
13 deprivation of services which are necessary to maintain a
14 person's physical and mental health.

15 "Caretaker" means a person who has assumed the responsibility
16 for the care of a vulnerable adult as a result of family
17 relationship or who has assumed responsibility for the care of a
18 vulnerable adult voluntarily, by contract, or by order of a court
19 of competent jurisdiction, whether or not they reside together.

20 "Commissioner" means the Commissioner of ¹[Human Services]
21 Community Affairs¹.

22 "Community setting" means a private residence or any
23 noninstitutional setting in which a person may reside alone or
24 with others, but shall not include residential health care
25 facilities, rooming houses or boarding homes or any other facility
26 or living arrangement subject to licensure by, operated by, or
27 under contract with, a State department or agency.

28 "County adult protective services provider" means ²[an office
29 of county government or other agency] a county Board of Social
30 Services or other public or nonprofit agency with experience as a
31 New Jersey provider of protective services for adults,²
32 designated by the county and approved by the commissioner
33 ²[which] . The county adult protective services provider²
34 receives reports made pursuant to this act, maintains pertinent
35 records and provides, arranges, or recommends protective
36 services.

37 "County director" means the director of a county adult
38 protective services provider.

39 "Department" means the Department of ¹[Human Services]
40 Community Affairs¹.

41 "Exploitation" means the act or process of illegally or

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly ASC committee amendments adopted January 11, 1993.

² Senate SSV committee amendments adopted May 10, 1993.

1 improperly using a person or his resources for another person's
2 profit or advantage.

3 "Neglect" means an act or failure to act by a vulnerable adult
4 or his caretaker which results in the inadequate provision of care
5 or services necessary to maintain the physical and mental health
6 of the vulnerable adult, and which places the vulnerable adult in a
7 situation which can result in serious injury or which is
8 life-threatening.

9 "Protective services" means voluntary or court-ordered social,
10 legal, financial, medical or psychiatric services necessary to
11 safeguard a vulnerable adult's rights and resources, and to
12 protect a vulnerable adult from abuse, neglect or exploitation.
13 Protective services include, but are not limited to: evaluating the
14 need for services, providing or arranging for appropriate services,
15 obtaining financial benefits to which a person is entitled, and
16 arranging for guardianship and other legal actions.

17 "Vulnerable adult" means a person 18 years of age or older who
18 resides in a community setting and who, because of a physical or
19 mental illness, disability or deficiency, lacks sufficient
20 understanding or capacity to make, communicate, or carry out
21 decisions concerning his well-being and is the subject of abuse,
22 neglect or exploitation. A person shall not be deemed to be the
23 subject of abuse, neglect or exploitation or in need of protective
24 services for the sole reason that the person is being furnished
25 nonmedical remedial treatment by spiritual means through prayer
26 alone or in accordance with a recognized religious method of
27 healing in lieu of medical treatment, and in accordance with the
28 tenets and practices of the person's established religious
29 tradition.

30 3. a. The commissioner shall establish a comprehensive public
31 awareness program to inform the general public and social
32 service agencies as to the nature of abuse, neglect and
33 exploitation, the method for their reporting, and information
34 about the protective services available for vulnerable adults who
35 need them. This comprehensive public awareness program shall
36 be a collaborative effort with existing public awareness and
37 training efforts, including but not limited to, those mandated
38 pursuant to the "Prevention of Domestic Violence Act of 1991",
39 P.L.1991, c.261 (C.2C:25-17 et seq.), the Safe Housing and
40 Transportation program and the "Older Americans Act of 1965,"
41 Pub. L. 89-73 (42 U.S.C. §3001 et seq.).

42 b. A task force shall be established in the department to
43 facilitate the collaboration required for the public awareness
44 program. The task force shall meet at least quarterly to develop
45 initiatives. The task force shall include a representative from
46 each of the following: the Department of Human Services, the
47 Department of Community Affairs, the Administrative Office of
48 the Courts, an agency funded to administer training initiatives
49 under this act, an agency funded to administer training initiatives
50 under the "Older Americans Act of 1965," an agency that
51 delivers protective services and the New Jersey Association of
52 Area Agencies on Aging.

53 4. a. A person who has reasonable cause to believe that a
54 vulnerable adult is the subject of abuse, neglect or exploitation

1 may report the information to the county adult protective
2 services provider.

3 b. The report, if possible, shall contain the name and address
4 of the vulnerable adult; the name and address of the caretaker, if
5 any; the nature and possible extent of the vulnerable adult's
6 injury or condition as a result of abuse, neglect or exploitation;
7 and any other information that the person reporting believes may
8 be helpful.

9 c. A person who reports information pursuant to this act, or
10 provides information concerning the abuse of a vulnerable adult
11 to the county adult protective services provider, or testifies at a
12 grand jury, judicial or administrative proceeding resulting from
13 the report, is immune from civil and criminal liability arising
14 from the report, information, or testimony, unless the person acts
15 in bad faith or with malicious purpose.

16 d. An employer or any other person shall not take any
17 discriminatory or retaliatory action against an individual who
18 reports abuse, neglect or exploitation pursuant to this act. An
19 employer or any other person shall not discharge, demote or
20 reduce the salary of an employee because the employee reported
21 information in good faith pursuant to this act. A person who
22 violates this subsection is liable for a fine of up to \$1,000.

23 e. A county adult protective services provider and its
24 employees are immune from criminal and civil liability when
25 acting in the performance of their official duties, unless their
26 conduct is outside the scope of their employment, or constitutes
27 a crime, actual fraud, actual malice, or willful misconduct.

28 5. a. A county adult protective service provider shall provide
29 ²[24 hour]² access for reporting abuse, neglect and exploitation.
30 Information shall also be available ²[on a 24-hour basis]² to a
31 person who reports abuse, neglect or exploitation on ways to
32 access emergency assistance.

33 b. The county adult protective service provider upon receiving
34 a report that a vulnerable adult is being or has been the subject
35 of abuse, neglect or exploitation, shall initiate a prompt and
36 thorough evaluation of the report within 72 hours.

37 c. If the county adult protective services provider is prevented
38 from conducting an evaluation of a report of abuse, neglect or
39 exploitation, the county adult protective services provider may
40 petition a court of competent jurisdiction for an order to conduct
41 the evaluation.

42 d. An evaluation conducted pursuant to this act shall be
43 conducted by a person with appropriate training and experience
44 as set forth by regulation. The evaluation shall be based upon a
45 visit with the vulnerable adult about whom the report was made
46 and upon consultation with others who have knowledge of the
47 particular case to determine whether protective services are
48 needed and what action, if any, is required.

49 e. Records of public agencies, private organizations, banks and
50 other financial institutions, medical institutions and
51 practitioners, which the county director or his designee
52 reasonably believes to be necessary to complete the evaluation,
53 shall be made available to the county adult protective services
54 provider.

1 6. a. If a determination is made by the county adult
2 protective services provider that there is reasonable cause to
3 believe that the vulnerable adult has been the subject of abuse,
4 neglect or exploitation, the county adult protective services
5 provider shall determine the need for protective services. If the
6 vulnerable adult or his legal guardian consents, the county adult
7 protective services provider shall provide or arrange for
8 appropriate protective services, as may be available. The county
9 adult protective services provider shall also make formal
10 referrals to State, county, and local agencies, hospitals and
11 organizations, including county offices on aging for clients age 60
12 and over, for services which the county adult protective services
13 provider is unable to provide directly. The county protective
14 services provider shall follow up on referrals to determine
15 whether services are being provided.

16 b. A county protective services provider may refer a person
17 who needs protective services and who, because of a
18 developmental disability or mental illness, is in need of
19 specialized care, treatment or services, to the Division of
20 Developmental Disabilities or the Division of Mental Health and
21 Hospitals in the Department of Human Services, as appropriate.
22 These divisions shall consider referrals from the county adult
23 protective services providers on a priority basis and assist in
24 providing the specialized services needed to protect abused,
25 neglected, or exploited vulnerable adults, including those 60 years
26 and over.

27 7. a. If the vulnerable adult's caretaker or any other person
28 interferes with the provision of protective services, the county
29 adult protective services provider shall petition the court for an
30 order enjoining the caretaker or other person from interfering
31 with the provision of services. Any other party concerned with
32 the welfare of the vulnerable adult may also petition the court
33 for an order enjoining the caretaker or any other person from
34 interfering with the provision of services.

35 b. The petition shall present facts to show that the vulnerable
36 adult is in need of protective services, and that, although the
37 vulnerable adult or his guardian consents to the receipt of
38 services, the adult's caretaker or other person has interfered
39 with the provision of services. If the judge finds that the
40 vulnerable adult requires protective services and that the
41 vulnerable adult, or his guardian, consents to the services, and
42 the vulnerable adult has been prevented from receiving the
43 protective services by his caretaker or other person, the judge
44 shall issue an order enjoining the caretaker or other person from
45 further interference.

46 8. a. If the county director or his designee reasonably
47 determines that an emergency exists and the vulnerable adult
48 refuses or is unable to consent to the protective services, the
49 county director or his designee shall petition a court of
50 competent jurisdiction for an order authorizing the provision of
51 protective services. The petition shall set forth the name, age
52 and residence of the adult; the nature of the emergency; the
53 proposed protective services; and facts sufficient to show that (1)
54 the adult is a vulnerable adult in need of protective services as a

1 result of abuse, neglect or exploitation; (2) the adult, without
2 protective services, will incur a clear and substantial risk of
3 death or immediate physical harm; (3) the adult refuses or is
4 unable to consent to the protective services; and (4) no other
5 person authorized by law or court order to give consent for the
6 adult is available and willing to arrange for protective services.

7 b. The court shall set the case for hearing within 24 hours of
8 receipt of a petition pursuant to this section. The adult has the
9 right to an attorney of his choice, or the court shall appoint
10 counsel. Every reasonable effort shall be made to provide notice
11 of the hearing, including a copy of the petition, to the adult, his
12 attorney, his legal guardian, his spouse or, if none, to his adult
13 children or next of kin, and his caretaker, if any, prior to the
14 hearing. A reasonable effort shall be made to provide for the
15 participation of the adult at the hearing.

16 c. The court may waive the notice requirement and schedule
17 an ex parte hearing immediately upon receipt of the petition if
18 the court finds that there is a clear and substantial risk to the
19 adult of death or irreparable injury if the order were delayed.

20 d. If at the hearing, the judge finds by clear and convincing
21 evidence that (1) the adult is a vulnerable adult in need of
22 protective services as a result of abuse, neglect or exploitation;
23 (2) the adult, without protective services, will incur a clear and
24 substantial risk of death or immediate physical harm; (3) the
25 adult refuses or is unwilling to consent to services; and (4) no
26 other person authorized by law or court order to give consent for
27 the adult is available and willing to arrange for protective
28 services; an order authorizing the provision of protective services
29 shall be issued. The order may designate an individual or
30 organization responsible for the provision or arrangement of
31 protective services for the adult.

32 e. The court shall order only such protective services as are
33 necessary to remove the conditions creating the emergency.

34 f. An emergency order entered under this section by the court
35 may not exceed 72 hours. The county director or his designee,
36 upon determining that continued services are necessary to
37 prevent death or serious physical harm, may apply for
38 continuation of the order for an additional 72-hour period, if a
39 guardian has not been named. If an emergency order is entered
40 ex parte, the vulnerable adult or any other party, on behalf of the
41 vulnerable adult, may petition the court to have the order
42 modified or vacated, and the court shall consider the petition on
43 an emergent basis.

44 9. a. If the county director or his designee reasonably
45 determines that a vulnerable adult will incur a substantial risk of
46 physical harm or deterioration without protective services, and
47 the adult refuses or is unable to consent to the services, the
48 county director or his designee shall petition a court of
49 competent jurisdiction for an order authorizing the provision of
50 protective services. The petition shall set forth the name, age
51 and residence of the adult; the proposed protective services; and
52 facts sufficient to show that: (1) the adult is a vulnerable adult in
53 need of the services as a result of abuse, neglect or exploitation;
54 (2) the adult will incur a substantial risk of physical harm or

1 deterioration without protective services; (3) the adult refuses or
2 is unable to consent to the services; and (4) no other person
3 authorized by law or court order to give consent for the adult is
4 available and willing to arrange for protective services.

5 b. The court shall set the case for hearing within three court
6 days after the filing of the petition. The adult has the right to an
7 attorney of his choice or the court shall appoint counsel. 2If the
8 vulnerable adult refuses protective services, the court may issue
9 an order requiring a psychiatric or psychological assessment or
10 examination to determine the vulnerable adult's understanding or
11 capacity, and the nature of or reason for the refusal.²

12 c. Every reasonable effort shall be made to provide notice of
13 the hearing, including a copy of the petition to the adult, his
14 attorney, his legal guardian, his spouse or, if none, to his adult
15 children or next of kin, and his caretaker, if any. A reasonable
16 effort shall be made to provide for the participation of the adult
17 at the hearing. 2If there has been an assessment or an
18 examination, the psychiatrist or the psychologist shall prepare
19 and provide a report to the court and to the attorney for the
20 vulnerable adult.²

21 d. If, at the hearing, the judge finds by clear and convincing
22 evidence that (1) the adult is a vulnerable adult in need of the
23 services as a result of abuse, neglect or exploitation; (2) the adult
24 will incur a substantial risk of physical harm or deterioration
25 without protective services; (3) the adult refuses or is unable to
26 consent to the services; ²[and]² (4) that no other person
27 authorized by law or court order to give consent for the adult is
28 available and willing to arrange for protective services ²; and (5)
29 if there has been an assessment or an examination, that the
30 report of the psychiatrist or psychologist states that the
31 vulnerable adult lacks the understanding or capacity to refuse the
32 protective services², an order authorizing the provision of
33 protective services may be issued. The order may designate an
34 individual or organization responsible for the provision of,
35 arrangement for, or consent for protective services on behalf of
36 the adult.

37 e. A protective services order shall not exceed 30 days but
38 may be continued for an additional 30-day period upon
39 application of the county director or his designee and proof that
40 the vulnerable adult would suffer a substantial risk of physical
41 harm or deterioration if the protective services were withdrawn.
42 The court shall not grant any further renewal of the order.

43 10. Permanent changes in the living situation of an abused,
44 neglected or exploited vulnerable adult shall not be made under
45 authority of this act. If a permanent change in the living
46 situation or nonemergency medical treatment are necessary, the
47 appropriate guardianship, conservatorship or civil commitment
48 action shall be initiated by the county adult protective services
49 provider pursuant to applicable State law.

50 11. In order to protect a vulnerable adult, the county director
51 or his designee may initiate appropriate legal action including,
52 but not limited to, petitioning for guardianship or conservatorship.

53 12. The vulnerable adult, or individual or organization
54 designated responsible for the provision of protective services for

1 the vulnerable adult, has the right to bring a motion for review of
2 a court order issued pursuant to this act, notwithstanding a
3 finding by the court of a lack of capacity to consent to protective
4 services.

5 13. The court may order payments to be made by or on behalf
6 of the vulnerable adult for protective services from his own
7 estate.

8 14. If the county director or his designee has reasonable cause
9 to believe that a caretaker or other person has committed a
10 criminal act against a vulnerable adult including, but not limited
11 to, P.L.1989, c.23 (C.2C:24-8), he shall immediately report the
12 information to local law enforcement officials or the prosecutor
13 of the county in which the alleged criminal act was committed.
14 If the report is made orally, a written report shall follow in a
15 timely manner.

16 15. All records and communications pertaining to any report,
17 evaluation, or service provided pursuant to this act are
18 confidential. All third party information, together with the
19 identities of the reporters, witnesses and the adults allegedly in
20 need of protective services are confidential, except disclosures
21 which may be necessary for the commissioner or the county adult
22 protective services provider to perform his duties and to support
23 any findings that may result from the evaluation of a report.

24 16. The commissioner shall establish a central registry for the
25 receipt and maintenance of all reports of suspected abuse,
26 neglect and exploitation of vulnerable adults. The department
27 shall compile and maintain in the central registry demographic
28 data on vulnerable adults, Statewide statistics related to abuse,
29 neglect and exploitation and other information submitted by
30 county adult protective services providers.

31 17. The commissioner or his designee shall establish a training
32 program for county protective services provider staff which shall
33 be offered at least annually and shall include a minimum of 90
34 classroom hours. This training shall be required during the first
35 year of employment with an adult protective services provider.

36 18. The commissioner shall adopt rules and regulations in
37 accordance with the "Administrative Procedure Act," P.L.1968,
38 c.410 (C.52:14B-1 et seq.) as may be deemed necessary to
39 effectuate the purposes of this act. The rules and regulations
40 shall include but, not be limited to:

41 a. Procedures for intervention and gaining access by a county
42 protective services provider to a vulnerable adult who is the
43 subject of a report of abuse, neglect or exploitation, including the
44 safeguarding of that person's civil liberties;

45 b. Procedures for the reporting, collection, retention and use
46 of information secured at the county and State levels to
47 effectuate this act;

48 c. Procedures for maintaining confidentially when required or
49 when deemed necessary;

50 d. Procedures for the review and evaluation of the
51 performance of a county protective services provider; and

52 e. Procedures for the reallocation of State funds by the
53 director or his designee if programs and services do not meet the
54 requirements of this act or rules established by the commissioner.

1 19. The commissioner shall report annually to the Governor
2 and the Legislature on the effectiveness of this act, and make
3 recommendations for the prevention and alleviation of the abuse,
4 neglect and exploitation of vulnerable adults.

5 20. Nothing in this act shall be deemed or construed to limit or
6 preempt the provisions of P.L.1977, c.239 (C.52:27G-1 et seq.)
7 regarding the institutionalized elderly.

8 ²[121. Section 36 of P.L.1979, c.496 (C.30:1A-3) is amended to
9 read as follows:

10 36. a. As used in this section "abuse" means the willful
11 infliction of physical pain, injury or mental anguish; unreasonable
12 confinement; or, the willful deprivation of services which are
13 necessary to maintain a person's physical and mental health; and
14 "exploitation" means the act or process of using a person or his
15 resources for another person's profit or advantage.

16 b. Any person who has reasonable cause to suspect that a
17 resident of a residential health care facility, rooming house or
18 boarding house is suffering or has suffered abuse or exploitation,
19 shall report such information in a timely manner to the
20 Commissioner of the Department of [Human Services]
21 Community Affairs or to the person or agency within the
22 department designated by the commissioner to receive such
23 reports.

24 c. Such report shall contain the name and address of the
25 resident, information regarding the nature of the suspected abuse
26 or exploitation and any other information which might be helpful
27 in an investigation of the case and the protection of the resident.

28 d. The name of any person who reports suspected abuse or
29 exploitation pursuant to this section and the name of any person
30 mentioned in such report shall not be disclosed unless the person
31 who reported the abuse or exploitation specifically requests such
32 disclosure or a judicial proceeding results from such report.

33 e. Any person who reports suspected abuse or exploitation
34 pursuant to this section or who testifies in any administrative or
35 judicial proceeding arising from such report or testimony shall
36 have immunity from any civil or criminal liability on account of
37 such report or testimony, unless such person has acted in bad
38 faith or with malicious purpose.

39 f. Upon receiving a report that a resident of a residential
40 health care facility, rooming house or boarding house may be
41 suffering or may have suffered abuse or exploitation, the
42 commissioner shall promptly notify the Ombudsman for the
43 Institutionalized Elderly when the report involves an elderly
44 person as defined in section 2 of P.L.1977, c.239 (C.52:27G-2),
45 and shall direct the appropriate county [welfare board] adult
46 protective services provider to make a prompt and thorough
47 evaluation of the report, or refer the report for such an
48 evaluation by another appropriate government agency.

49 g. The evaluation shall be based upon a visit with the resident
50 and consultation with others who have knowledge of the
51 particular case, and shall contain written findings and
52 recommendations. The person who reported the suspected abuse
53 or exploitation, the victim of the suspected abuse or exploitation,
54 the owner of the residential health care facility, rooming house

1 or boarding house wherein the suspected abuse or exploitation has
2 occurred, the State agency having a regulatory responsibility for
3 the facility, and the Ombudsman for the Institutionalized Elderly
4 when the case involves an elderly person as defined in section 2
5 of P.L.1977, c.239 (C.52:27G-2), shall be promptly notified of
6 such findings and recommended action.

7 h. If a determination is made that the resident may have
8 suffered abuse or exploitation, the commissioner shall refer such
9 findings, in writing, to the county prosecutor.

10 i. The commissioner shall maintain a central registry of all
11 reports of suspected abuse or exploitation and all evaluations,
12 findings and recommended action. No information received and
13 compiled in such registries shall be construed to be a public
14 record.¹

15 (cf: P.L.1979, c.496, s.36)]²

16 ²[122. Section 3 of P.L.1983, c.43 (C.52:27G-7.2) is amended
17 to read as follows:

18 3. a. Upon receiving a report that an elderly person may be or
19 may have been abused or exploited, the ombudsman shall conduct
20 a prompt and thorough investigation pursuant to section 8 of
21 P.L.1977, c.239 (C.52:27G-8). Within 24 hours of receipt of the
22 report, the ombudsman shall notify the Commissioner of [Human
23 Services] Community Affairs and any other governmental agency
24 which regulates or operates the facility that the report has been
25 received.

26 b. The investigation shall include a visit with the elderly
27 person and consultation with others who have knowledge of the
28 particular case. When the investigation is completed, findings
29 and recommended action shall be prepared in a written report and
30 submitted to the Commissioner of [Human Services] Community
31 Affairs.

32 c. The person who reported the suspected abuse or exploitation
33 shall be promptly notified that action is being taken.

34 d. If a determination is made that an elderly person may have
35 been criminally abused or exploited, the ombudsman shall refer
36 such findings, in writing, to the county prosecutor.¹

37 (cf: P.L.1983, c.43, s.3)]²

38 ²[23.1] 21.2 a. All funding, programs and positions created to
39 provide adult protective services by the Division of Youth and
40 Family Services in the Department of Human Services are
41 continued and shall be transferred to the Department of
42 Community Affairs, however, for federal funding and reporting
43 purposes, the Department of Human Services shall remain the
44 designated agency for such programs. The Department of
45 Community Affairs shall provide the Department of Human
46 Services with such information as the Department of Human
47 Services requires to fulfill its reporting requirements.

48 b. The transfers directed by this act shall be made in
49 accordance with the "State Agency Transfer Act," P.L.1971,
50 c.375 (C.52:14D-1 et seq.).¹

51 ¹[21.] ²[24.1] 22.2 This act shall take effect on the 180th day
52 after enactment.

1

2

3 Designated the "Adult Protective Services Act."

1 receipt and maintenance of all reports of suspected abuse,
2 neglect and exploitation of vulnerable adults. The department
3 shall compile and maintain in the central registry demographic
4 data on vulnerable adults, Statewide statistics related to abuse,
5 neglect and exploitation and other information submitted by
6 county adult protective services providers.

7 17. The commissioner or his designee shall establish a training
8 program for county protective services provider staff which shall
9 be offered at least annually and shall include a minimum of 90
10 classroom hours. This training shall be required during the first
11 year of employment with an adult protective services provider.

12 18. The commissioner shall adopt rules and regulations in
13 accordance with the "Administrative Procedure Act," P.L.1968,
14 c.410 (C.52:14B-1 et seq.) as may be deemed necessary to
15 effectuate the purposes of this act. The rules and regulations
16 shall include but, not be limited to:

17 a. Procedures for intervention and gaining access by a county
18 protective services provider to a vulnerable adult who is the
19 subject of a report of abuse, neglect or exploitation, including the
20 safeguarding of that person's civil liberties;

21 b. Procedures for the reporting, collection, retention and use
22 of information secured at the county and State levels to
23 effectuate this act;

24 c. Procedures for maintaining confidentially when required or
25 when deemed necessary;

26 d. Procedures for the review and evaluation of the
27 performance of a county protective services provider; and

28 e. Procedures for the reallocation of State funds by the
29 director or his designee if programs and services do not meet the
30 requirements of this act or rules established by the commissioner.

31 19. The commissioner shall report annually to the Governor
32 and the Legislature on the effectiveness of this act, and make
33 recommendations for the prevention and alleviation of the abuse,
34 neglect and exploitation of vulnerable adults.

35 20. Nothing in this act shall be deemed or construed to limit or
36 preempt the provisions of P.L. 1977, c.239 (C.52:27G-1 et seq.)
37 regarding the institutionalized elderly.

38 21. This act shall take effect on the 180th day after
39 enactment.

40

41

42 STATEMENT

43

44 This bill is designated the "Adult Protective Services Act."
45 Pursuant to the bill a person who reasonably believes that a
46 vulnerable adult is the subject of abuse, neglect or exploitation
47 may report the information to the county adult protective
48 services provider. A vulnerable adult is defined in the bill as a
49 person 18 years of age or older who resides in a community
50 setting and who, because of a physical or mental illness, disability
51 or deficiency, lacks sufficient understanding or capacity to make,
52 communicate, or carry out decisions concerning his well-being.

53 Under the bill a person who reports information concerning
54 abuse, neglect or exploitation or gives testimony is immune from

1 civil or criminal liability, unless the person acts in bad faith or
2 with malicious purpose. The county adult protective services
3 provider and its employees are also immune from civil and
4 criminal liability when acting in the performance of their official
5 duties, unless their conduct is outside the scope of their
6 employment, or constitutes a crime, actual fraud, actual malice,
7 or willful misconduct.

8 The bill provides for judicial intervention if (1) a person
9 interferes with the provision of needed protective services; (2)
10 the vulnerable adult refuses or is unable to consent to protective
11 services that are necessary to avoid a clear and substantial risk
12 of death or immediate physical harm; or (3) the vulnerable adult
13 refuses or is unable to consent to protective services that are
14 necessary to avoid a substantial risk of physical harm or
15 deterioration.

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19

20 Designated the "Adult Protective Services Act."

ASSEMBLY SENIOR CITIZENS
AND SOCIAL SERVICES COMMITTEE

STATEMENT TO

ASSEMBLY, No. 56

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 11, 1993

The Assembly Senior Citizens and Social Services Committee favorably reports Assembly Bill No. 56 with committee amendments.

As amended, this bill is designated the "Adult Protective Services Act." Pursuant to the bill, a person who reasonably believes that a vulnerable adult is the subject of abuse, neglect or exploitation may report the information to the county adult protective services provider. A vulnerable adult is defined in the bill as a person 18 years of age or older who resides in a community setting and who, because of a physical or mental illness, disability or deficiency, lacks sufficient understanding or capacity to make, communicate, or carry out decisions concerning his well-being.

Under the bill, a person who reports information concerning abuse, neglect or exploitation or gives testimony is immune from civil or criminal liability, unless the person acts in bad faith or with malicious purpose. The county adult protective services provider and its employees are also immune from civil and criminal liability when acting in the performance of their official duties, unless their conduct is outside the scope of their employment, or constitutes a crime, actual fraud, actual malice, or willful misconduct.

The bill provides for judicial intervention if (1) a person interferes with the provision of needed protective services; (2) the vulnerable adult refuses or is unable to consent to protective services that are necessary to avoid a clear and substantial risk of death or immediate physical harm; or (3) the vulnerable adult refuses or is unable to consent to protective services that are necessary to avoid a substantial risk of physical harm or deterioration.

The amendments place this program in the Department of Community Affairs instead of in the Department of Human Services. The amendments also transfer all funding, programs and positions created to provide adult protective services by the Division of Youth and Family Services in the Department of Human Services, to the Department of Community Affairs. In addition, the amendments amend section 36 of P.L.1979, c.496 (C.30:1A-3) and section 3 of P.L.1983, c.43 (C.52:27G-7.2) to reflect these changes.

SENATE SENIOR CITIZENS, VETERANS AFFAIRS
AND AGRICULTURE COMMITTEE

STATEMENT TO

[FIRST REPRINT]

ASSEMBLY, No. 56

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 11, 1993

The Senate Senior Citizens, Veterans Affairs and Agriculture Committee favorably reports Assembly Bill No. 56 [1R] with committee amendments.

As amended, this bill is designated the "Adult Protective Services Act." Pursuant to the bill, a person who reasonably believes that a vulnerable adult is the subject of abuse, neglect or exploitation may report the information to the county adult protective services provider. A vulnerable adult is defined in the bill as a person 18 years of age or older who resides in a community setting and who, because of a physical or mental illness, disability or deficiency, lacks sufficient understanding or capacity to make, communicate, or carry out decisions concerning his well-being.

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The amendments delete the two amendatory sections of law, section 36 of P.L.1979, c.496 (C.30:1A-3) concerning abuse in residential health care facilities, rooming house and boarding houses and section 3 of P.L.1983, c.43 (C.52:27G-7.2) concerning investigations by the Ombudsman for the Institutionalized Elderly. These sections were deleted in order to limit the focus of the bill to those vulnerable adults residing in a community setting, as defined in the bill. The title of the bill was also amended to reflect the deletion of the amendatory sections.

In addition, the amendments remove the requirement that county adult protective service providers provide 24-hour access for reporting abuse, neglect and exploitation and for providing information on ways to access emergency assistance. These services will continue to be provided under the bill, but not on a 24-hour basis.

Amendments are also included that permit a court to order a psychiatric or psychological assessment or examination of the vulnerable adult when the court has been petitioned for an order authorizing the provision of protective services in a situation in which the vulnerable adult is (1) in danger of incurring substantial risk of physical harm or deterioration without protective services and (2) refusing or unable to consent to the services.

As amended, this bill is identical to Senate Bill No. 1274 (Brown) with committee amendments which was also released by this committee on this date.