

**DEPARTMENT OF SOCIAL SERVICES**

744 P Street, Sacramento, CA 95811



November 9, 1992

ALL-COUNTY INFORMATION NOTICE No. I-61-92

TO: ALL-COUNTY WELFARE DIRECTORS

SUBJECT: ELDER ABUSE AND DEPENDENT ADULT CIVIL PROTECTION ACT

This is to direct your attention to the provisions of Chapter 774, Statutes of 1991, (Senate Bill (SB) 679, Mello), the Elder Abuse and Dependent Adult Civil Protection Act,

This legislation authorizes the award, by courts, of attorney's fees and costs where it is proven that a defendant is liable for physical abuse, neglect, or fiduciary abuse as defined under Welfare and Institutions Code (W&IC) Section 15610, and that the defendant has been guilty of recklessness, oppression, fraud, or malice in the commission of the abuse.

The legislation allows the court which has jurisdiction over probate conservatorships to also have concurrent jurisdiction over civil actions involving a claim for relief arising out of the above types of abuse, if a conservator had been appointed for the victim prior to the initiation of the civil action. The court would determine whether it is appropriate to transfer the case to the civil court.

Under the new law, it is very important to note that if the elder or dependent adult becomes deceased, the court does not lose jurisdiction of any claim for relief. If the abuse victim is deceased, upon petition, the representative of the decedent, or person(s) entitled to succeed to the estate, have a right to continue a civil action.

This legislation should help to encourage interested persons to retain attorneys to bring civil action, for damages and attorney's fees, against abusers of elder and dependent adults. Also, the threat of civil action may prove to be a disincentive for potential abusers. Further, the fact that probate conservatorship courts now have concurrent jurisdiction over civil actions will avert the lengthy procedural delays characteristic of civil courts. Finally, this legislation affords greater protection for elder and dependent adults by encouraging representation by attorneys in civil actions against abusers.

Attached is a copy of an article appearing in California Lawyer, June 1992 issue, which provides a description of a case in which civil action was taken under the new law, against abusers of an impaired elder person. The case was won on behalf of the plaintiff although he became deceased before judgment by the court. Also, attached is a copy of the chaptered legislation.

The telephone contact for this letter is the Adult Protective Services Unit of the Adult Services Branch at (916) 657-3543 or (916) 657-2143.



SUTER  
LOREN D. SUTER  
Deputy Director  
Adult and Family Services

Attachment:

[Senate Bill 679 Healing Arts: Therapists and Counselors: Licensing](#)

cc: CWDA