

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, California 95814



January 27, 2003

ALL-COUNTY INFORMATION NOTICE NO. I-07-03

TO: ALL COUNTY WELFARE DIRECTORS
ADULT PROTECTIVE SERVICES
PROGRAM MANAGERS
ALL COUNTY COUNSELS
ALL COUNTY PUBLIC GUARDIAN OFFICES

REASON FOR THIS TRANSMITTAL

- State Law Change
 Federal Law or Regulation
Change
 Court Order
 Clarification Requested by
One or More Counties
 Initiated by CDSS

SUBJECT: CHAPTERED LEGISLATION FOR THE 2001-2002 SESSION
IMPACTING THE ADULT PROTECTIVE SERVICES PROGRAM

This All-County Information Notice provides a summary of legislation enacted during the 2001-2002 legislative session that impacts the Adult Protective Services Program. The attached summary of Assembly Bills and Senate Bills are for general informational purposes only.

Separate All-County Letters or All-County Information Notices have been or will be issued for some statutes to provide more detailed descriptions of specific programmatic issues and implementation procedures, if necessary. Unless otherwise noted, these statutes became effective on January 1, 2003.

If you have any questions regarding this notice, please contact the Adult Protective Services Bureau at (916) 229-0323.

Sincerely,

Original Document Signed By
Donna L. Mandelstam on 1/27/03

DONNA L. MANDELSTAM
Deputy Director
Disability and Adult Programs Division

Attachment

ENACTED 2001-2002 LEGISLATION

AB 255 (Zettel) Chapter 54. Statutes of 2002

Elder abuse. (Welfare and Institutions Code) This bill expands the definition of mandated reporter to include clergy members, care custodians (and redefines the term), humane societies and animal control agencies, health practitioners, fire departments, offices of environmental health and building code enforcement, and works to encourage community members in general to report elder and dependent adult abuse.

The bill adds "abduction" to the types of abuse required to be reported; redefines "neglect", and the "multidisciplinary personnel team"; and defines "imminent danger". The bill requires a county Adult Protective Services (APS) agency to provide specified organizations with instructional materials regarding elder and dependent adult abuse and neglect and their obligation to report.

Existing law requires that each County Welfare Department establish and support a county APS system for elderly and dependent adults who may be subjected to neglect, abuse, or exploitation, or who are unable to protect their own interest and requires each county to have a specialized entity within the County Welfare Department that shall have lead responsibility for the operation of the APS program. This bill defines various terms for purposes of these provisions, and repeals, redefines, and makes changes to many definitions for purposes of consistency. The bill amends Section 15765 of the Welfare and Institutions Code to read: "Commencing with the 1999-2000 fiscal year, Sections 15760 to 15764, inclusive, shall be implemented only to the extent funds are provided in the annual Budget Act."

AB 444 (Oropeza) Chapter 1022. Statutes of 2002

Committee on Budget. Human services. (Welfare and Institutions Code) This bill is a budget trailer bill relating to social services and other programs. As it relates to APS, this bill deletes the requirement for the California Department of Social Services (CDSS) to report annually to the Legislature regarding the number of APS cases determined not to require an immediate or ten day in-person response, and the disposition of those cases. The bill also deletes the criteria for the county's evaluation of the necessity for an in-person response with respect to reports of abuse. The bill requires the CDSS, in consultation with the County Welfare Directors Association, to develop guidelines for implementation of the above requirements and any applicable documentation requirements.

This bill was signed after AB 2735, thus negating provisions proposed in AB 2735 that would have clarified that APS is not required to respond to reports of abuse in correctional facilities.

AB 670 (Strom-Martin) Chapter 134. Statutes of 2002

Animal cruelty, abuse, and neglect. (Penal Code) This bill permits employees of county APS agencies to receive instruction from animal abuse agencies on identifying and reporting animal cruelty, abuse, and neglect. The bill would allow employees to report known or suspected animal cruelty, abuse, or neglect to entities that investigate reports of animal cruelty, abuse, and neglect in that county.

AB 1957 (Pacheco) Chapter 644. Statutes of 2002

Public guardians: criminal history information. (Probate Code) This bill allows, until January 1, 2007, a public guardian or a county conservatorship investigator, upon a referral from a court or an APS agency, to submit fingerprints and related information to the Department of Justice (DOJ) on a potential conservator. The bill requires the DOJ to provide a record of specified convictions and arrests and requires the DOJ to charge a processing fee to be paid by the requesting agency.

ENACTED 2001-2002 LEGISLATION

AB 2140 (Simitian) Chapter 369. Statutes of 2002

Elder abuse. (Penal Code) This bill increases criminal penalties for certain crimes relating to elder and dependent adults. The bill would increase the maximum imprisonment period for battery committed against an elder or dependent adult. The bill would also increase the maximum punishment for a second or subsequent offense of causing or permitting an elder or dependent adult to suffer unjustifiable physical pain or mental suffering . The bill would also increase the maximum punishment for a second or subsequent offense for any person having care or custody of any elder or dependent adult who causes or permits the person or health of the person to be injured or to be placed in a situation where the individual or their health may be endangered.

AB 2735 (Chan) Chapter 552. Statutes of 2002

Elder and dependent adult abuse. (Welfare and Institutions Code) This bill expands the category of persons and entities who may receive and disclose confidential information relevant to the known or suspected abuse of an elder or dependent adult to include the office of the district attorney, the office of the public guardian, and the probate court. For the purpose of providing interagency treatment strategies, the bill allows for the inclusion of mental health agencies on multi-disciplinary teams (MDT) to assist with sharing confidential information during a MDT meeting. It requires that the disclosed confidential information and records be relevant to the prevention, identification, management, or treatment of an abused elder or dependent adult.

Note comments under AB 444. Because the Governor signed this bill before he signed AB 444, Section 15763 in AB 2735 has been superceded by AB 444.

AB 2826 (Daucher) Chapter 534. Statutes of 2002

Domestic violence and familial elder adult abuse. (Penal Code) This bill allows a peace officer to arrest a person who commits an assault or battery against an adult aged 65 or older who is a parent or stepparent of the person if certain circumstances apply.

SB 580 (Figueroa) Chapter 249. Statutes of 2002

Crime prevention: reporting crimes. (Penal Code) Requires the Office of Criminal Justice Planning to establish medical forensic forms instructions, and examination protocol for health practitioners and medical professionals for reporting signs of elder abuse, in violation of Penal Code Section 368.

SB 1895 (Escutia) Chapter 510. Statutes of 2002

Domestic violence. (Penal Code) This bill clarifies existing law by specifying that an endangered person may leave a household to avoid abuse, either *temporarily or permanently*, without affecting the availability of an emergency protective order. The bill requires the Office of Criminal Justice Planning to collaborate closely with an expert advisory council, membership consisting of domestic violence victims' advocates, battered women service providers, and representatives of women's organizations, law enforcement, and other groups involved with domestic violence.