
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair
2019 - 2020 Regular

Bill No: SB 1123 **Hearing Date:** May 20, 2020
Author: Chang
Version: March 26, 2020
Urgency: No **Fiscal:** No
Consultant: NS

Subject: *Elder and Dependent Adult Abuse*

HISTORY

Source: Coalition for Elderly and Disability Rights (CEDAR)

Prior Legislation: SB 1191(Hueso) Chapter 513, Stats. 2018
SB 416 (Anderson) failed Senate Appropriations 2017
SB 338 (Morrell) failed Senate Public Safety 2015

Support: The Arc; Advocates for Vulnerable Adults; California District Attorneys Association; L.I.F.E.; Rights Rally; Riverside Sheriffs' Association; United Cerebral Palsy California Collaboration

Opposition: None known

Assembly Floor Vote:

PURPOSE

The purpose of this bill is to define elder and dependent adult abuse in the penal code using cross-references to WIC definitions.

Existing law defines an "elder" to mean any person who is 65 years of age or older. (Pen. Code § 368, subd. (g).)

Existing law defines "dependent adult" to mean any person who is between the ages of 18 and 64, who has physical or mental limitations which restrict his or her ability to carry out normal activities or to protect his or her rights, including, but not limited to, persons who have physical or developmental disabilities or whose physical or mental abilities have diminished because of age. "Dependent adult" also includes any person between the ages of 18 and 64 who is admitted as an inpatient to a 24-hour health facility. (Pen. Code § 368, subd. (h).)

Existing law makes it a crime for a person, entrusted with the care of custody of any elder or dependent adult, to willfully cause the elder to be injured or permit them to be placed in a situation endangering their health. (Pen. Code § 368, subd. (b)(1).)

Existing law authorizes local and state law enforcement agencies with jurisdiction to investigate elder and dependent adult abuse and all other crimes against elder victims and victims with disabilities. (Penal Code § 368.5 (a).)

Existing law grants adult protective services agencies and local long-term care ombudsman programs also have jurisdiction within their statutory authority to investigate elder and dependent adult abuse and criminal neglect, and may assist local law enforcement agencies in criminal investigations at the law enforcement agencies' request, if consistent with federal law; however, law enforcement agencies retain exclusive responsibility for criminal investigations, notwithstanding any law to the contrary. (Penal Code § 368.5 (b).)

Existing law defines elder and dependent adult abuse as “physical abuse, neglect, financial abuse, abandonment, isolation, abduction, or other treatment resulting in physical harm, pain or mental suffering; or the deprivation by a care custodian of goods or services that are necessary to avoid physical harm or mental suffering.” Provided by the Department of Justice’s March 2015 policy and procedures manual. (Penal Code § 368.5 (D).)

This bill amends Penal Code section 368.5 to include cross-references to the Welfare and Institutions codes that define elder and dependent adult abuse.

This bill requires law enforcement agencies to update their policy manuals with the new definition of elder and dependent adult abuse.

COMMENTS

1. Need for This Bill

According to the Author:

“Seniors and dependent adults are more vulnerable and more susceptible to physical, emotional, and financial abuse than other populations. According to a study by the National Adult Protective Services Association, one in nine senior or dependent adults have experienced abuse, neglect, or exploitation over the past year,

California is bracing for a silver tsunami as its population is aging. Estimates project that by 2030, the 21% of the population will be over the age of 65 and 10% of the population will be over the age of 75. With a growing aging population, protection from abuse, neglect, isolation, and other crimes against the elderly should be a priority for our state.

Abuse against elderly or dependent adults can have long lasting effects. Research has shown that forms of physical and mental abuse (which can include social isolation) can lead to an array of physical and mental conditions including heart disease, high blood pressure, weakened immune system, depression, anxiety, and cognitive decline.

Currently, California Penal Code 368.5 lacks definitions of physical, mental, and emotional abuse. By aligning the definitions of abuse found in the Welfare and

Institutions Code, the legal protections that are afforded the elderly or dependent adult populations will be clear.

By amending Penal Code 368.5 to align the definitions of elder and dependent adult abuse with those found in the Welfare and Institutions Code, law enforcement agencies will have accurate and unambiguous terms to use in the course of reporting or investigating claims of abuse.”

2. Consistency of “Elder and Dependent Adult Abuse” definition

Currently elder and dependent adult abuse is defined in Penal Code section 368.5 as “physical abuse, neglect, financial abuse, abandonment, isolation, abduction, or other treatment resulting in physical harm, pain or mental suffering; or the deprivation by a care custodian of goods or services that are necessary to avoid physical harm or mental suffering” by the DOJ’s 2015 policy manual. This bill will replace this definition by cross referencing the welfare and institution code’s (WIC) “elder and dependent adult abuse” definition in that penal code section instead. This allows for clarity and consistency of the definition across codes and for government agencies.

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