

SENATE, No. 2878

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED SEPTEMBER 14, 2020

Sponsored by:
Senator JAMES BEACH
District 6 (Burlington and Camden)

SYNOPSIS

Revises certain requirements concerning reported cases of abuse, neglect, or exploitation of a vulnerable adult.

CURRENT VERSION OF TEXT

As introduced.



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2

1 AN ACT concerning protective services for vulnerable adults and
2 amending P.L.1993, c.249.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 2 of P.L.1993, c.249 (C.52:27D-407) is amended to
8 read as follows:

9 2. As used in this act:

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

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

19 "Commissioner" means the Commissioner of Human Services.

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

26 "County adult protective services provider" means a county
27 Board of Social Services or other public or nonprofit agency with
28 experience as a New Jersey provider of protective services for
29 adults, designated by the county and approved by the commissioner.
30 The county adult protective services provider receives reports made
31 pursuant to this act, maintains pertinent records and provides,
32 arranges, or recommends protective services.

33 "County director" means the director of a county adult protective
34 services provider.

35 "Department" means the Department of Human Services.

36 **["Emergency medical technician" means a person trained in**
37 **basic life support services as defined in section 1 of P.L.1985, c.351**
38 **(C.26:2K-21) and who is certified by the Department of Health to**
39 **provide that level of care.]**

40 "Exploitation" means the act or process of illegally or improperly
41 using a person or his resources for another person's profit or
42 advantage.

43 **["Firefighter" means a paid or volunteer firefighter.**

44 "Health care professional" means a health care professional who
45 is licensed or otherwise authorized, pursuant to Title 45 or Title 52

**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.

1 of the Revised Statutes, to practice a health care profession that is
2 regulated by one of the following boards or by the Director of the
3 Division of Consumer Affairs: the State Board of Medical
4 Examiners, the New Jersey Board of Nursing, the New Jersey State
5 Board of Dentistry, the New Jersey State Board of Optometrists, the
6 New Jersey State Board of Pharmacy, the State Board of
7 Chiropractic Examiners, the Acupuncture Examining Board, the
8 State Board of Physical Therapy, the State Board of Respiratory
9 Care, the Orthotics and Prosthetics Board of Examiners, the State
10 Board of Psychological Examiners, the State Board of Social Work
11 Examiners, the State Board of Examiners of Ophthalmic Dispensers
12 and Ophthalmic Technicians, the Audiology and Speech-Language
13 Pathology Advisory Committee, the State Board of Marriage and
14 Family Therapy Examiners, the Occupational Therapy Advisory
15 Council, the Certified Psychoanalysts Advisory Committee, and the
16 State Board of Polysomnography. "Health care professional" also
17 means a nurse aide or personal care assistant who is certified by the
18 Department of Health. **】**

19 "Neglect" means an act or failure to act by a vulnerable adult or
20 his caretaker which results in the inadequate provision of care or
21 services necessary to maintain the physical and mental health of the
22 vulnerable adult, and which places the vulnerable adult in a
23 situation which can result in serious injury or which is life-
24 threatening.

25 "Protective services" means voluntary or court-ordered social,
26 legal, financial, medical or psychiatric services necessary to
27 safeguard a vulnerable adult's rights and resources, and to protect a
28 vulnerable adult from abuse, neglect or exploitation. Protective
29 services include, but are not limited to: evaluating the need for
30 services, providing or arranging for appropriate services, obtaining
31 financial benefits to which a person is entitled, and arranging for
32 guardianship and other legal actions.

33 "Vulnerable adult" means a person 18 years of age or older who
34 resides in a community setting and who, because of a physical or
35 mental illness, disability or deficiency, lacks sufficient
36 understanding or capacity to make, communicate, or carry out
37 decisions concerning his well-being and is the subject of abuse,
38 neglect or exploitation. A person shall not be deemed to be the
39 subject of abuse, neglect or exploitation or in need of protective
40 services for the sole reason that the person is being furnished
41 nonmedical remedial treatment by spiritual means through prayer
42 alone or in accordance with a recognized religious method of
43 healing in lieu of medical treatment, and in accordance with the
44 tenets and practices of the person's established religious tradition.

45 (cf: P.L.1993, c.249, s.2)

46

47 2. Section 4 of P.L.1993, c.149 (C.52:27D-409) is amended to
48 read as follows:

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1 4. a. (1) **【A health care professional, law enforcement officer,**
2 firefighter, paramedic or emergency medical technician who has
3 reasonable cause to believe that a vulnerable adult is the subject of
4 abuse, neglect or exploitation shall report the information to the
5 county adult protective services provider.】 (Deleted by amendment,
6 P.L. , c.) (pending before the Legislature as this bill)

7 (2) Any **【other】** person who has reasonable cause to believe that
8 a vulnerable adult is the subject of abuse, neglect or exploitation
9 **【may】 shall** report the information to the county adult protective
10 services provider.

11 b. The report, if possible, shall contain the name and address of
12 the vulnerable adult; the name and address of the caretaker, if any;
13 the nature and possible extent of the vulnerable adult's injury or
14 condition as a result of abuse, neglect or exploitation; and any other
15 information that the person reporting believes may be helpful.

16 c. A person who reports information pursuant to this act, or
17 provides information concerning the abuse of a vulnerable adult to
18 the county adult protective services provider, or testifies at a grand
19 jury, judicial or administrative proceeding resulting from the report,
20 is immune from civil and criminal liability arising from the report,
21 information, or testimony, unless the person acts in bad faith or
22 with malicious purpose.

23 d. An employer or any other person shall not take any
24 discriminatory or retaliatory action against an individual who
25 reports abuse, neglect or exploitation pursuant to this act. An
26 employer or any other person shall not discharge, demote or reduce
27 the salary of an employee because the employee reported
28 information in good faith pursuant to this act. A person who
29 violates this subsection is liable for a fine of up to \$1,000.

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

35 f. Any person who has reasonable cause to believe that a
36 vulnerable adult is the subject of abuse, neglect, or exploitation who
37 fails to report the information pursuant to subsection a. of this
38 section shall be guilty of a crime of the fourth degree. In addition,
39 the person shall be liable to a civil penalty of not more than \$500,
40 which penalty shall be collected and enforced by summary
41 proceedings pursuant to the "Penalty Enforcement Law of 1999,"
42 P.L.1999, c.274 (C.2A:58-10 et seq.). Each violation of this section
43 shall constitute a separate offense.

44 (cf: P.L.2009, c.276, s.2)

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46 3. Section 5 of P.L.1993, c.249 (C.52:27D-410) is amended to
47 read as follows:

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1 5. a. A county adult protective services provider shall provide
2 access for reporting abuse, neglect and exploitation. Information
3 shall also be available to a person who reports abuse, neglect or
4 exploitation on ways to access emergency assistance.

5 b. The county adult protective services provider upon receiving
6 a report that a vulnerable adult is being or has been the subject of
7 abuse, neglect or exploitation, shall initiate a prompt and thorough
8 evaluation of the report within 72 hours.

9 c. If the county adult protective services provider is prevented
10 from conducting an evaluation of a report of abuse, neglect or
11 exploitation, the county adult protective services provider may
12 petition a court of competent jurisdiction for an order to conduct the
13 evaluation.

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

21 e. Records of public agencies, private organizations, banks and
22 other financial institutions, medical institutions and practitioners,
23 which the county director or his designee reasonably believes to be
24 necessary to complete the evaluation, shall be made available to the
25 county adult protective services provider.

26 f. Any person who willfully interferes with or prevents a
27 county adult protective services provider from conducting an
28 evaluation pursuant to an order issued by a court of competent
29 jurisdiction under subsection c. of this section shall be guilty of a
30 crime of the fourth degree.

31 (cf: P.L.1993, c.249, s.5)

32

33 4. Section 6 of P.L.1993, c.249 (C.52:27D-411) is amended to
34 read as follows:

35 6. a. If a determination is made by the county adult protective
36 services provider that there is reasonable cause to believe that the
37 vulnerable adult has been the subject of abuse, neglect or
38 exploitation, the county adult protective services provider shall
39 determine the need for protective services. If the vulnerable adult
40 or his legal guardian consents, the county adult protective services
41 provider shall provide or arrange for appropriate protective
42 services, as may be available. The county adult protective services
43 provider shall also make formal referrals to State, county, and local
44 agencies, hospitals and organizations, including county offices on
45 aging for clients age 60 and over, for services which the county
46 adult protective services provider is unable to provide directly. The
47 county protective services provider shall follow up on referrals to
48 determine whether services are being provided.

1 b. A county protective services provider may refer a person
2 who needs protective services and who, because of a developmental
3 disability or mental illness, is in need of specialized care, treatment
4 or services, to the Division of Developmental Disabilities or the
5 Division of Mental Health and **【Hospitals】** Addiction Services in
6 the Department of Human Services, as appropriate. These divisions
7 shall consider referrals from the county adult protective services
8 providers on a priority basis and assist in providing the specialized
9 services needed to protect abused, neglected, or exploited
10 vulnerable adults, including those 60 years and over.

11 c. Any person who willfully interferes with the provision of
12 protective services to a vulnerable adult that are provided, arranged
13 for, or for which a formal referral was made pursuant to subsection
14 a. of this section shall be guilty of a crime of the fourth degree.

15 (cf: P.L.1993, c.249, s.6)

16

17 5. Section 16 of P.L.1993, c.249 (C.52:27D-421) is amended to
18 read as follows:

19 16. The commissioner shall establish a central registry for the
20 receipt and maintenance of all reports of suspected abuse, neglect
21 and exploitation of vulnerable adults. The department shall compile
22 and maintain in the central registry demographic data on vulnerable
23 adults, Statewide statistics related to abuse, neglect and exploitation
24 and other information submitted by county adult protective services
25 providers. The department shall make available on its Internet
26 website a publicly-available registry of substantiated acts of abuse,
27 neglect, and exploitation of vulnerable adults, which registry shall
28 include, at a minimum, the name of each individual found to have
29 abused, neglected, or exploited a vulnerable adult, along with a
30 description of the nature of the offense and whether the individual
31 has committed other substantiated acts of abuse, neglect, or
32 exploitation of a vulnerable adult. The publicly-available registry
33 shall not include any personal or identifying information concerning
34 the vulnerable adult.

35 (cf: P.L.1993, c.249, s.16)

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37 6. This act shall take effect 60 days after the date of enactment.

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STATEMENT

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42 This bill revises the “Adult Protective Services Act,” P.L.1993,
43 c.249 (C.52:27D-406 et seq.), to expand the mandatory reporting
44 requirement, establish penalties for failure to make a mandatory
45 report, for interfering with an evaluation of a report, and for
46 interfering with the provision of protective services, and establish a
47 public registry of substantiated acts of abuse, neglect, and
48 exploitation of vulnerable adults.

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1 Current law requires health care professionals, law enforcement
2 officers, firefighters, paramedics, and emergency medical
3 technicians who have reasonable cause to believe that a vulnerable
4 adult is the subject of abuse, neglect, or exploitation to report the
5 information to the county adult protective services provider. For all
6 other people, reporting is permissive.

7 The bill revises these requirements to make reporting abuse,
8 neglect, or exploitation of a vulnerable adult mandatory for every
9 person in the State. A person who has reasonable cause to believe a
10 vulnerable adult is being abused, neglected, or exploited who fails
11 to make a report will be guilty of a crime of the fourth degree,
12 which is punishable by imprisonment for up to 18 months, a fine of
13 up to \$10,000, or both. The person will additionally be liable to a
14 civil penalty of up to \$500.

15 Current law establishes requirements for county adult protective
16 services providers to evaluate reports of abuse, neglect, or
17 exploitation of a vulnerable adult, which include the ability to
18 obtain a court order to compel compliance with an evaluation. The
19 bill provides that anyone who willfully interferes with or prevents
20 an evaluation from being conducted after a court has issued an order
21 to conduct the evaluation will be guilty of a crime of the fourth
22 degree, which is punishable by imprisonment for up to 18 months, a
23 fine of up to \$10,000, or both.

24 Current law provides that, if a county adult protective services
25 provider determines that a vulnerable adult is in need of protective
26 services, and the vulnerable adult or the vulnerable adult's guardian
27 consents, the provider is to provide, arrange for the provision of, or
28 make formal referrals for, appropriate protective services. The bill
29 provides that any person who willfully interferes with the provision
30 of those services is guilty of a crime of the fourth degree.

31 The Department of Human Services currently maintains a central
32 registry of all reports of suspected abuse, neglect, and exploitation
33 of vulnerable adults, which includes demographic data on
34 vulnerable adults, Statewide statistics related to abuse, neglect, and
35 exploitation, and other information submitted by county adult
36 protective services providers. The bill requires the department to
37 make available on its Internet website a publicly-available registry
38 of substantiated acts of abuse, neglect, and exploitation of
39 vulnerable adults, which will include, at a minimum, the name of
40 each individual found to have abused, neglected, or exploited a
41 vulnerable adult, along with a description of the nature of the
42 offense and whether the individual has committed other
43 substantiated acts of abuse, neglect, or exploitation of a vulnerable
44 adult. The publicly-available registry will not include any personal
45 or identifying information concerning the vulnerable adult.