

**ASSEMBLY, No. 2854**

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**STATE OF NEW JERSEY**

**220th LEGISLATURE**

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INTRODUCED FEBRUARY 28, 2022

**Sponsored by:**

**Assemblyman DANIEL R. BENSON**

**District 14 (Mercer and Middlesex)**

**Assemblyman ANTHONY S. VERRELLI**

**District 15 (Hunterdon and Mercer)**

**Assemblyman RAJ MUKHERJI**

**District 33 (Hudson)**

**Co-Sponsored by:**

**Assemblyman Stanley**

**SYNOPSIS**

Establishes civil action for abuse, neglect, exploitation or bullying of minor or adult with disability; provides that bullying of vulnerable adult may constitute grounds for investigation by adult protective services and report to law enforcement.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 2/28/2022)**

1 AN ACT concerning the bullying of disabled persons, amending  
2 P.L.1993, c.249 and N.J.S.2A:14-2 and supplementing Title 2A  
3 of the New Jersey Statutes.

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

7  
8 1. N.J.S.2A:14-2 is amended to read as follows:

9 2A:14-2. a. Except as otherwise provided by law, every action  
10 at law for an injury to the person caused by the wrongful act,  
11 neglect or default of any person within this State shall be  
12 commenced within two years next after the cause of any such action  
13 shall have accrued; except that an action by or on behalf of a minor  
14 that has accrued for medical malpractice for injuries sustained at  
15 birth shall be commenced prior to the minor's 13th birthday.

16 b. In the event that an action by or on behalf of a minor that has  
17 accrued for medical malpractice for injuries sustained at birth is not  
18 commenced by the minor's parent or guardian prior to the minor's  
19 12th birthday, the minor or a person 18 years of age or older  
20 designated by the minor to act on the minor's behalf may commence  
21 such an action. For this purpose, the minor or designated person  
22 may petition the court for the appointment of a guardian ad litem to  
23 act on the minor's behalf.

24 c. (1) Every action at law for an injury to a minor with a  
25 disability under the age of 18 where such injury resulted from  
26 abuse, neglect, exploitation, or bullying as defined in section 2 of  
27 P.L.1993, c.249 (C.52:27D-407) and the injury occurred prior to,  
28 on, or after the effective date of P.L. , c. (C. ) (pending before  
29 the Legislature as this bill) shall be commenced within 37 years  
30 after the minor reaches the age of majority, or within seven years  
31 from the date of reasonable discovery of the injury and its causal  
32 relationship to the act, whichever is later.

33 (2) Every action at law for an injury to an adult with a disability  
34 aged 18 or older where such injury resulted from abuse, neglect,  
35 exploitation, or bullying as defined in section 2 of P.L.1993, c.249  
36 (C.52:27D-407) that occurred prior to, on, or after the effective date  
37 of P.L. , c. (C. ) (pending before the Legislature as this bill)  
38 shall be commenced within seven years from the date of reasonable  
39 discovery of the injury and its causal relationship to the act.

40 (cf: P.L.2019, c.120, s.1)

41  
42 2. (New section) a. As used in P.L. , c. (C. )  
43 (pending before the Legislature as this bill), “disability” has the  
44 meaning set forth in subsection q. of section 5 of P.L.1945, c.169  
45 (C.10:5-5).

**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       b. A minor under the age of 18 with a disability shall have a  
2 cause of action for injury resulting from abuse, neglect,  
3 exploitation, or bullying as defined in section 2 of P.L.1993, c.249  
4 (C.52:27D-407). The action shall be commenced within the time  
5 period set forth in paragraph (1) of subsection c. of N.J.S.2A:14-2.

6       c. An adult aged 18 or older with a disability shall have a cause  
7 of action for injury resulting from abuse, neglect, exploitation, or  
8 bullying as defined in section 2 of P.L.1993, c.249 (C.52:27D-407).  
9 The action shall be commenced within the time period set forth in  
10 paragraph (2) of subsection c. of N.J.S.2A:14-2.

11  
12       3. Section 2 of P.L.1993, c.249 (C.52:27D-407) is amended to  
13 read as follows:

14       2. As used in this act:

15       "Abuse" means the willful infliction of physical pain, injury or  
16 mental anguish, unreasonable confinement, or the willful  
17 deprivation of services which are necessary to maintain a person's  
18 physical and mental health.

19       "Bullying" means any gesture, any written, verbal, or physical  
20 act, or any electronic communication that causes a reasonable  
21 person to fear for his safety or fear damage to his property.

22       "Caretaker" means a person who has assumed the responsibility  
23 for the care of a vulnerable adult as a result of family relationship or  
24 who has assumed responsibility for the care of a vulnerable adult  
25 voluntarily, by contract, or by order of a court of competent  
26 jurisdiction, whether or not they reside together.

27       "Commissioner" means the Commissioner of Human Services.

28       "Community setting" means a private residence or any  
29 noninstitutional setting in which a person may reside alone or with  
30 others, but shall not include residential health care facilities,  
31 rooming houses or boarding homes or any other facility or living  
32 arrangement subject to licensure by, operated by, or under contract  
33 with, a State department or agency.

34       "County adult protective services provider" means a county  
35 Board of Social Services or other public or nonprofit agency with  
36 experience as a New Jersey provider of protective services for  
37 adults, designated by the county and approved by the commissioner.  
38 The county adult protective services provider receives reports made  
39 pursuant to this act, maintains pertinent records and provides,  
40 arranges, or recommends protective services.

41       "County director" means the director of a county adult protective  
42 services provider.

43       "Department" means the Department of Human Services.

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

1 "Exploitation" means the act or process of illegally or improperly  
2 using a person or his resources for another person's profit or  
3 advantage.

4 "Firefighter" means a paid or volunteer firefighter.

5 "Health care professional" means a health care professional who  
6 is licensed or otherwise authorized, pursuant to Title 45 or Title 52  
7 of the Revised Statutes, to practice a health care profession that is  
8 regulated by one of the following boards or by the Director of the  
9 Division of Consumer Affairs: the State Board of Medical  
10 Examiners, the New Jersey Board of Nursing, the New Jersey State  
11 Board of Dentistry, the New Jersey State Board of Optometrists, the  
12 New Jersey State Board of Pharmacy, the State Board of  
13 Chiropractic Examiners, the Acupuncture Examining Board, the  
14 State Board of Physical Therapy Examiners, the State Board of  
15 Respiratory Care, the Orthotics and Prosthetics Board of Examiners,  
16 the State Board of Psychological Examiners, the State Board of  
17 Social Work Examiners, the State Board of Examiners of  
18 Ophthalmic Dispensers and Ophthalmic Technicians, the Audiology  
19 and Speech-Language Pathology Advisory Committee, the State  
20 Board of Marriage and Family Therapy Examiners, the  
21 Occupational Therapy Advisory Council, the Certified  
22 Psychoanalysts Advisory Committee, and the State Board of  
23 Polysomnography. "Health care professional" also means a nurse  
24 aide or personal care assistant who is certified by the Department of  
25 Health.

26 "Neglect" means an act or failure to act by a vulnerable adult or  
27 his caretaker which results in the inadequate provision of care or  
28 services necessary to maintain the physical and mental health of the  
29 vulnerable adult, and which places the vulnerable adult in a  
30 situation which can result in serious injury or which is life-  
31 threatening.

32 "Protective services" means voluntary or court-ordered social,  
33 legal, financial, medical or psychiatric services necessary to  
34 safeguard a vulnerable adult's rights and resources, and to protect a  
35 vulnerable adult from abuse, neglect or exploitation. Protective  
36 services include, but are not limited to: evaluating the need for  
37 services, providing or arranging for appropriate services, obtaining  
38 financial benefits to which a person is entitled, and arranging for  
39 guardianship and other legal actions.

40 "Vulnerable adult" means a person 18 years of age or older who  
41 resides in a community setting and who, because of a physical or  
42 mental illness, disability or deficiency, lacks sufficient  
43 understanding or capacity to make, communicate, or carry out  
44 decisions concerning his well-being and is the subject of abuse,  
45 neglect **[or]** exploitation, or bullying. A person shall not be  
46 deemed to be the subject of abuse, neglect **[or]**, exploitation, or  
47 bullying or in need of protective services for the sole reason that the  
48 person is being furnished nonmedical remedial treatment by

1 spiritual means through prayer alone or in accordance with a  
2 recognized religious method of healing in lieu of medical treatment,  
3 and in accordance with the tenets and practices of the person's  
4 established religious tradition.

5 (cf: P.L.2012, c.17, s.424)

6  
7 4. Section 4 of P.L.1993, c.249 (C.52:27D-409) is amended to  
8 read as follows:

9 4. a. (1) A health care professional, law enforcement officer,  
10 firefighter, paramedic or emergency medical technician who has  
11 reasonable cause to believe that a vulnerable adult is the subject of  
12 abuse, neglect **[or]**, exploitation, or bullying as defined in section 2  
13 of P.L.1993, c.249 (C.52:27D-407) shall report the information to  
14 the county adult protective services provider.

15 (2) Any other person who has reasonable cause to believe that a  
16 vulnerable adult is the subject of abuse, neglect**[or]**, exploitation,  
17 or bullying as defined in section 2 of P.L.1993, c.249 (C.52:27D-  
18 407) may report the information to the county adult protective  
19 services provider.

20 b. The report, if possible, shall contain the name and address of  
21 the vulnerable adult; the name and address of the caretaker, if any;  
22 the nature and possible extent of the vulnerable adult's injury or  
23 condition as a result of abuse, neglect**[or]**, exploitation, or bullying  
24 as defined in section 2 of P.L.1993, c.249 (C.52:27D-407); and any  
25 other information that the person reporting believes may be helpful.

26 c. A person who reports information pursuant to this act, or  
27 provides information concerning the abuse of a vulnerable adult to  
28 the county adult protective services provider, or testifies at a grand  
29 jury, judicial or administrative proceeding resulting from the report,  
30 is immune from civil and criminal liability arising from the report,  
31 information, or testimony, unless the person acts in bad faith or  
32 with malicious purpose.

33 d. An employer or any other person shall not take any  
34 discriminatory or retaliatory action against an individual who  
35 reports abuse, neglect**[or]**, exploitation, or bullying as defined in  
36 section 2 of P.L.1993, c.249 (C.52:27D-407) pursuant to this act.  
37 An employer or any other person shall not discharge, demote or  
38 reduce the salary of an employee because the employee reported  
39 information in good faith pursuant to this act. A person who  
40 violates this subsection is liable for a fine of up to \$1,000.

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

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

1       5. Section 14 of P.L.1993, c.249 (C.52:27D-419) is amended to  
2 read as follows:

3       14. If the county director or his designee has reasonable cause to  
4 believe that a caretaker or other person has committed a criminal act  
5 against a vulnerable adult including, but not limited to,  
6 P.L.1989, c.23 (C.2C:24-8) or section 1 of P.L.2015, c.186  
7 (C.2C:24-7.1), he shall immediately report the information to local  
8 law enforcement officials or the prosecutor of the county in which  
9 the alleged criminal act was committed. If the report is made  
10 orally, a written report shall follow in a timely manner.  
11 (cf: P.L.1993, c.249, s.14)

12

13       6. This act shall take effect immediately.

14

15

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#### STATEMENT

17

18       This bill provides for a specific civil action by a disabled minor  
19 or disabled adult for injury resulting from abuse, neglect,  
20 exploitation, or bullying.

21       The bill's definition of "disability" is the same as the definition  
22 set forth in the Law Against Discrimination, P.L.1945, c.169  
23 (C.10:5-1 et seq.): "physical or sensory disability, infirmity,  
24 malformation, or disfigurement which is caused by bodily injury,  
25 birth defect, or illness including epilepsy and other seizure  
26 disorders, and which shall include, but not be limited to, any degree  
27 of paralysis, amputation, lack of physical coordination, blindness or  
28 visual impairment, deafness or hearing impairment, muteness or  
29 speech impairment, or physical reliance on a service or guide dog,  
30 wheelchair, or other remedial appliance or device, or any mental,  
31 psychological, or developmental disability, including autism  
32 spectrum disorders, resulting from anatomical, psychological,  
33 physiological, or neurological conditions which prevents the typical  
34 exercise of any bodily or mental functions or is demonstrable,  
35 medically or psychologically, by accepted clinical or laboratory  
36 diagnostic techniques. Disability shall also mean AIDS or HIV  
37 infection."

38       Under the bill, every civil action for an injury to a minor with a  
39 disability under the age of 18 where such injury resulted from  
40 abuse, neglect, exploitation, or bullying and the injury occurred  
41 prior to, on, or after the effective date of the bill would be required  
42 to be commenced within 37 years after the minor reaches the age of  
43 majority, or within seven years from the date of reasonable  
44 discovery of the injury and its causal relationship to the act,  
45 whichever is later. The bill provides that every civil action for an  
46 injury to an adult with a disability aged 18 or older where such  
47 injury resulted from abuse, neglect, exploitation, or bullying that  
48 occurred prior to, on, or after the effective date of the bill would be

1 required to be commenced within seven years from the date of  
2 reasonable discovery of the injury and its causal relationship to the  
3 act.

4 The bill also provides that the bullying of a “vulnerable adult”  
5 may constitute grounds for an investigation by adult protective  
6 services and a report to law enforcement for possible criminal  
7 prosecution.

8 Under the “Adult Protective Services Act,” P.L.1993, c.249  
9 (C.52:27D-406 et seq.), a health care professional, law enforcement  
10 officer, firefighter, paramedic or emergency medical technician who  
11 has reasonable cause to believe that a vulnerable adult is the subject  
12 of abuse, neglect or exploitation must report the information to the  
13 county adult protective services provider. Other persons with such  
14 reasonable cause may report the information.

15 The act defines a “vulnerable adult” as “a person 18 years of age  
16 or older who resides in a community setting and who, because of a  
17 physical or mental illness, disability or deficiency, lacks sufficient  
18 understanding or capacity to make, communicate, or carry out  
19 decisions concerning his well-being and is the subject of abuse,  
20 neglect or exploitation.”

21 Under the Adult Protective Services Act, the county adult  
22 protective services provider must initiate an investigation within 72  
23 hours of a report. If necessary, the provider may petition a court for  
24 an order to conduct the investigation. If the provider finds  
25 reasonable cause to believe that the vulnerable adult has been the  
26 subject of abuse, neglect or exploitation, the provider will  
27 determine the need for protective services and arrange for such  
28 services. The director of a county adult services provider may  
29 petition for a court order for services if he determines that the  
30 vulnerable adult will incur a substantial risk of physical harm or  
31 deterioration without protective services, and the adult refuses or is  
32 unable to consent.

33 The act further provides that if the county director or his  
34 designee has reasonable cause to believe that a caretaker or other  
35 person has committed a criminal act against a vulnerable adult, the  
36 director must immediately report the information to local law  
37 enforcement officials or the county prosecutor.

38 This bill would add bullying of a vulnerable adult as grounds for  
39 an investigation and report. The bill defines “bullying” as “any  
40 gesture, any written, verbal, or physical act, or any electronic  
41 communication that causes a reasonable person to fear for his safety  
42 or fear damage to his property.” Under the bill, health care  
43 providers and first responders would be required to report bullying,  
44 in addition to abuse, neglect, or exploitation, and other persons  
45 could report such acts.

46 In addition, the bill adds to the specific criminal acts that the  
47 county director is required to report to law enforcement or the  
48 prosecutor a violation of section 1 of P.L.2015, c.186 (C.2C:24-

1 7.1), Endangering Another Person. Under this statute, creating a  
2 risk of injury to another person is a criminal offense ranging from a  
3 disorderly persons offense to a crime of the third degree, depending  
4 on the offender's criminal culpability and the degree of risk of  
5 injury to the victim. If the offense is committed against a person  
6 with a developmental disability, the criminal penalties are  
7 increased by one degree, so that they range from a crime of the  
8 fourth degree to a crime of the second degree.

9 A crime of the second degree is generally punishable by a term  
10 of five to 10 years or a fine up to \$150,000, or both; a crime of the  
11 third degree, by a term of three to five years or a fine up to \$15,000,  
12 or both; and a crime of the fourth degree, by a term up to 18 months  
13 or a fine up to \$10,000, or both. A disorderly persons offense is  
14 generally punishable by a term of imprisonment of up to six months  
15 or a fine of up to \$1,000, or both.