

AMENDED IN ASSEMBLY APRIL 16, 2001

AMENDED IN ASSEMBLY MARCH 27, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 255

Introduced by Assembly Member Zettel

February 14, 2001

An act to amend Section 1808.4 of the Vehicle Code, and to amend Sections 15601, 15610.17, 15610.23, *15610.37*, 15610.55, 15610.57, 15630, 15633.5, 15634, 15659, 15701, 15760, 15763, to amend and renumber Section 15751 of, to amend, renumber, and add Section 15750 of, to amend and repeal Section 15653.5 of, to add Sections 15610.19 and 15610.39 to, to repeal Sections 15701.1, 15701.15, 15701.2 15701.35, 15752, 15753, 15753.5, and 15761 of, and to repeal the heading of Chapter 13.5 (commencing with Section 15760) of Part 3 of Division 9 of, the Welfare and Institutions Code, relating to elder abuse.

LEGISLATIVE COUNSEL'S DIGEST

AB 255, as amended, Zettel. Elder abuse.

(1) Existing law, the Elder Abuse and Dependent Adult Civil Protection Act, establishes various procedures for the reporting, investigation, and prosecution of elder and dependent adult abuse. These procedures require certain persons called mandated reporters to report known or suspected instances of elder or dependent adult abuse. Under existing law, care custodians of elder or dependent adults and local law enforcement agencies are mandated reporters. A violation of

the reporting requirements by a mandated reporter, as defined, is a misdemeanor.

This bill would revise the provisions setting forth the purposes of the act, would revise the definition of mandated reporter by including a “clergy member,” as defined, and redefining “care custodian” to include, ~~among others,~~ certain employees of ~~the district attorney’s office~~ *humane societies, animal control agencies, fire departments, and offices of environmental health and code enforcement*. The bill would also add abduction to the conduct that is required to be reported under the act, would redefine ~~“dependent adult,”~~ “multidisciplinary personnel team,” and “neglect,” and would define “imminent danger.” *It would also exclude religious practitioners who diagnose, examine, or treat elders or dependent adults from the definition of “health practitioner.”*

(2) Existing law authorizes various entities to receive information relevant to an incident of elder or dependent adult abuse and applies confidentiality requirements and liability limitations to those entities.

This bill would extend to the district attorney’s office the authority to receive this information and apply the related confidentiality and liability provisions to the office.

Because the bill would expand the definition of a crime, it would impose a state-mandated local program.

(3) Existing law specifies procedures under which a law enforcement officer or other designated persons, may take an endangered adult, as defined, into temporary emergency protective custody or, whether or not medical treatment is required, any physician treating the endangered adult may request the law enforcement agency to take that endangered adult into temporary emergency protective custody, under specified circumstances. Existing law defines various terms for purposes of these provisions.

This bill would revise the definition of the terms to conform to the definitions used for purposes of the act.

(4) Existing law requires every county welfare department to establish and maintain within the county welfare department a specialized entity responsible for the operation of an adult protective services program. Existing law defines various terms for purposes of these provisions.

This bill would revise these definitions of the terms to conform to the definitions used for purposes of the act.



(5) Existing law provides for enhanced adult protective services provisions, to the extent funds are provided in the annual Budget Act, that require that adult protective services include certain activities and require each county to establish an emergency response adult protective services program containing specified requirements.

This bill would combine these provisions with those described in paragraph item (4) above and make other changes to conform these provisions to the act. The bill would revise the program requirements related to providing immediate intake or intervention in response to reports and the requirements of an immediate response concerning certain reports involving elder or dependent adults residing in other than long-term care or residential facilities.

(6) Existing law provides for the confidentiality of the home address of certain persons that appears on the records of the Department of Motor Vehicles, upon the request of the person.

This bill would add elder and dependent adult abuse and neglect investigators or social workers working in adult protective services within a county social services department to the persons to whom this confidentiality provision applies.

(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1808.4 of the Vehicle Code is amended
- 2 to read:
- 3 1808.4. (a) The home address of any of the following
- 4 persons, that appears in any record of the department, is
- 5 confidential, if the person requests the confidentiality of that
- 6 information:
- 7 (1) Attorney General.
- 8 (2) State public defender.
- 9 (3) Members of the Legislature.
- 10 (4) Judges or court commissioners.



- 1 (5) District attorneys.
- 2 (6) Public defenders.
- 3 (7) Attorneys employed by the Department of Justice, the
4 office of the State Public Defender, or a county office of the district
5 attorney or public defender.
- 6 (8) City attorneys and attorneys who submit verification from
7 their public employer that they represent the city in matters that
8 routinely place them in personal contact with persons under
9 investigation for, charged with, or convicted of, committing
10 criminal acts, if those attorneys are employed by city attorneys.
- 11 (9) Nonsworn police dispatchers.
- 12 (10) Child abuse and neglect investigators or social workers,
13 working in child protective services within a social services
14 department.
- 15 (11) Active or retired peace officers, as defined in Chapter 4.5
16 (commencing with Section 830) of Title 3 of Part 2 of the Penal
17 Code.
- 18 (12) Employees of the Department of Corrections, the
19 Department of the Youth Authority, or the Prison Industry
20 Authority specified in Sections 20017.77 and 20017.79 of the
21 Government Code.
- 22 (13) Nonsworn employees of a city police department, a
23 county sheriff's office, the Department of the California Highway
24 Patrol, federal, state, and local detention facilities, and local
25 juvenile halls, camps, ranches, and homes, who submit agency
26 verification that, in the normal course of their employment, they
27 control or supervise inmates or are required to have a prisoner in
28 their care or custody.
- 29 (14) County counsels assigned to child abuse cases.
- 30 (15) Investigators employed by the Department of Justice, a
31 county district attorney, or a county public defender.
- 32 (16) Members of a city council.
- 33 (17) Members of a board of supervisors.
- 34 (18) Federal prosecutors and criminal investigators and
35 National Park Service Rangers working in this state.
- 36 (19) Any active or retired city enforcement officer engaged in
37 the enforcement of the Vehicle Code or municipal parking
38 ordinances.



1 (20) Elder and dependent adult abuse and neglect investigators
2 or social workers working in adult protective services within a
3 county social services department.

4 (21) (A) The spouse or child of any person listed in paragraphs
5 (1) to (20), inclusive, regardless of the spouse's or child's place of
6 residence.

7 (B) The surviving spouse or child of a peace officer, as defined
8 in Chapter 4.5 (commencing with Section 830) of Title 3 of Part
9 2 of the Penal Code, if the peace officer died in the line of duty.

10 (b) The confidential home address of any of the persons listed
11 in subdivision (a) shall not be disclosed to any person, except a
12 court, a law enforcement agency, the State Board of Equalization,
13 or any governmental agency to which, under any provision of law,
14 information is required to be furnished from records maintained
15 by the department.

16 (c) Any record of the department containing a confidential
17 home address shall be open to public inspection, as provided in
18 Section 1808, if the address is completely obliterated or otherwise
19 removed from the record. The home address shall be withheld
20 from public inspection for three years following termination of
21 office or employment except with respect to retired peace officers,
22 whose home addresses shall be withheld from public inspection
23 permanently upon request of confidentiality at the time the
24 information would otherwise be opened. The home address of the
25 surviving spouse or child listed in subparagraph (B) of paragraph
26 (21) of subdivision (a) shall be withheld from public inspection for
27 three years following the death of the peace officer. The
28 department shall inform any person who requests a confidential
29 home address what agency the individual whose address was
30 requested is employed by or the court at which the judge or court
31 commissioner presides.

32 (d) A violation of subdivision (a) by the disclosure of the
33 confidential home address of a peace officer, as specified in
34 paragraph (11) of subdivision (a), a nonsworn employee of the city
35 police department or county sheriff's office, or the spouses or
36 children of these persons, including, but not limited to, the
37 surviving spouse or child listed in subparagraph (B) of paragraph
38 (21) of subdivision (a), that results in bodily injury to the peace
39 officer, employee of the city police department or county sheriff's
40 office, or the spouses or children of these persons is a felony.



1 SEC. 2. Section 15601 of the Welfare and Institutions Code
2 is amended to read:

3 15601. The purposes of this act are to:

4 (a) Require health practitioners, care custodians, clergy
5 members, and employees of county adult protective services
6 agencies and local law enforcement agencies to report known or
7 suspected cases of abuse of elders and dependent adults and to
8 encourage community members in general to do so.

9 (b) Collect information on the numbers of abuse victims,
10 circumstances surrounding the act of abuse, and other data which
11 will aid the state in establishing adequate services to aid all victims
12 of abuse in a timely, compassionate manner.

13 (c) Provide for protection under the law for all those persons
14 who report suspected cases of abuse, provided that the report is not
15 made with malicious intent.

16 SEC. 3. Section 15610.17 of the Welfare and Institutions
17 Code is amended to read:

18 15610.17. “Care custodian” means an administrator or an
19 employee of any of the following public or private facilities or
20 agencies, or persons providing care or services for elders or
21 dependent adults, including members of the support staff and
22 maintenance staff:

23 (a) Twenty-four-hour health facilities, as defined in Sections
24 1250, 1250.2, and 1250.3 of the Health and Safety Code.

25 (b) Clinics.

26 (c) Home health agencies.

27 (d) Agencies providing publicly funded in-home supportive
28 services, nutrition services, or other home and community-based
29 support services.

30 (e) Adult day health care centers and adult day care.

31 (f) Secondary schools that serve 18- to 22-year-old dependent
32 adults and postsecondary educational institutions that serve
33 dependent adults or elders.

34 (g) Independent living centers.

35 (h) Camps.

36 (i) Alzheimer’s Disease day care resource centers.

37 (j) Community care facilities, as defined in Section 1502 of the
38 Health and Safety Code, and residential care facilities for the
39 elderly, as defined in Section 1569.2 of the Health and Safety
40 Code.



- 1 (k) Respite care facilities.
- 2 (l) Foster homes.
- 3 (m) Vocational rehabilitation facilities and work activity
- 4 centers.
- 5 (n) Designated area agencies on aging.
- 6 (o) Regional centers for persons with developmental
- 7 disabilities.
- 8 (p) State Department of Social Services and State Department
- 9 of Health Services licensing divisions.
- 10 (q) County welfare departments.
- 11 (r) Offices of patients' rights advocates and clients' rights
- 12 advocates, including attorneys.
- 13 (s) The office of the long-term care ombudsman.
- 14 (t) Offices of public conservators, public guardians, and court
- 15 investigators.
- 16 ~~(u) District attorney's offices, including any investigator,~~
- 17 ~~inspector, or family support officer.~~
- 18 ~~(v) —~~
- 19 (u) Any protection or advocacy agency or entity that is
- 20 designated by the Governor to fulfill the requirements and
- 21 assurances of the following:
- 22 (1) The federal Developmental Disability Assistance and Bill
- 23 of Rights Act, as amended, contained in Chapter 75 (commencing
- 24 with Section 6000) of Title 42 of the United States Code, for
- 25 protection and advocacy of the rights of persons with
- 26 developmental disabilities.
- 27 (2) The Protection and Advocacy for the Mentally Ill
- 28 Individuals Act of 1986, as amended, contained in Chapter 114
- 29 (commencing with Section 10801) of Title 42 of the United States
- 30 Code, for the protection and advocacy of the rights of persons with
- 31 mental illnesses.
- 32 ~~(w) Humane society~~
- 33 (v) *Humane societies* and animal control agencies.
- 34 ~~(x) —~~
- 35 (w) Fire departments.
- 36 ~~(y) —~~
- 37 (x) Offices of environmental health and code enforcement.
- 38 ~~(z) —~~



1 (y) Any other protective, public, sectarian, mental health, or
2 private assistance or advocacy agency or person providing health
3 services or social services to elders or dependent adults.

4 SEC. 4. Section 15610.19 is added to the Welfare and
5 Institutions Code, to read:

6 15610.19. “Clergy member” means a priest, minister, rabbi,
7 religious practitioner, or similar functionary of a church, temple,
8 or recognized religious denomination or organization.

9 SEC. 5. Section 15610.23 of the Welfare and Institutions
10 Code is amended to read:

11 15610.23. (a) “Dependent adult” means any person residing
12 in this state, between the ages of 18 and 64 years, who has physical
13 or mental limitations that restrict his or her ability to carry out
14 normal activities and to protect his or her rights including, but not
15 limited to, persons who have physical or developmental
16 disabilities or whose physical or mental abilities have diminished
17 because of age ~~or serious injury or debilitating illness.~~

18 (b) “Dependent adult” includes any person between the ages
19 of 18 and 64 years who is admitted as an inpatient to a 24-hour
20 health facility, as defined in Sections 1250, 1250.2, and 1250.3 of
21 the Health and Safety Code.

22 SEC. 6. *Section 15610.37 of the Welfare and Institutions Code*
23 *is amended to read:*

24 15610.37. “Health practitioner” means a physician and
25 surgeon, psychiatrist, psychologist, dentist, resident, intern,
26 podiatrist, chiropractor, licensed nurse, dental hygienist, licensed
27 clinical social worker, or intern, marriage, family, and child
28 counselor, or any other person who is currently licensed under
29 Division 2 (commencing with Section 500) of the Business and
30 Professions Code, any emergency medical technician I or II,
31 paramedic, a person certified pursuant to Division 2.5
32 (commencing with Section 1797) of the Health and Safety Code,
33 a psychological assistant registered pursuant to Section 2913 of the
34 Business and Professions Code, a marriage, family, and child
35 counselor trainee, as defined in subdivision (c) of Section 4980.03
36 of the Business and Professions Code, or an unlicensed marriage,
37 family, and child counselor intern registered under Section
38 4980.44 of the Business and Professions Code, state or county
39 public health or social service employee who treats an elder or a
40 dependent adult for any condition, *or a coroner, or a religious*



1 ~~practitioner who diagnoses, examines or treats elders or dependent~~
2 ~~adults.~~

3 SEC. 6.5. Section 15610.39 is added to the Welfare and
4 Institutions Code, to read:

5 15610.39. “Imminent danger” means a substantial
6 probability that an elder or dependent adult is in imminent or
7 immediate risk of death or serious physical harm, through either
8 his or her own action or inaction, or as a result of the action or
9 inaction of another person.

10 SEC. 7. Section 15610.55 of the Welfare and Institutions
11 Code is amended to read:

12 15610.55. (a) “Multidisciplinary personnel team” means
13 any team of two or more persons who are trained in the prevention,
14 identification, and treatment of abuse of elderly or dependent
15 adults and who are qualified to provide a broad range of services
16 related to abuse of elderly or dependent adults.

17 (b) A multidisciplinary personnel team may include, but is not
18 limited to, all of the following:

19 (1) Psychiatrists, psychologists, or other trained counseling
20 personnel.

21 (2) Police officers or other law enforcement agents.

22 (3) Medical personnel with sufficient training to provide health
23 services.

24 (4) Social workers with experience or training in prevention of
25 abuse of elderly or dependent adults.

26 (5) Public guardians.

27 SEC. 8. Section 15610.57 of the Welfare and Institutions
28 Code is amended to read:

29 15610.57. (a) “Neglect” means either of the following:

30 (1) The negligent failure of any person having the care or
31 custody of an elder or a dependent adult to exercise that degree of
32 care that a reasonable person in a like position would exercise.

33 (2) The negligent failure of an elder or dependent adult to
34 exercise that degree of self care that a reasonable person in a like
35 position would exercise.

36 (b) Neglect includes, but is not limited to, all of the following:

37 (1) Failure to assist in personal hygiene, or in the provision of
38 food, clothing, or shelter.

39 (2) Failure to provide medical care for physical and mental
40 health needs. No person shall be deemed neglected or abused for



1 the sole reason that he or she voluntarily relies on treatment by
2 spiritual means through prayer alone in lieu of medical treatment.

3 (3) Failure to protect from health and safety hazards.

4 (4) Failure to prevent malnutrition or dehydration.

5 (5) Failure of an elder or dependent adult to satisfy the needs
6 specified in paragraphs (1) to (4), inclusive, for himself or herself
7 due to poor cognitive functioning, mental limitation, substance
8 abuse, or chronic poor health.

9 SEC. 9. Section 15630 of the Welfare and Institutions Code
10 is amended to read:

11 15630. (a) Any person who has assumed full or intermittent
12 responsibility for care or custody of an elder or dependent adult,
13 whether or not that person receives compensation, including
14 administrators, supervisors, and any licensed staff of a public or
15 private facility that provides care or services for elder or dependent
16 adults, or any elder or dependent adult care custodian, health
17 practitioner, clergy member, or employee of a county adult
18 protective services agency or a local law enforcement agency is a
19 mandated reporter.

20 (b) (1) Any mandated reporter, who, in his or her professional
21 capacity, or within the scope of his or her employment, has
22 observed or has knowledge of an incident that reasonably appears
23 to be physical abuse, abandonment, abduction, isolation, financial
24 abuse, or neglect, or is told by an elder or dependent adult that he
25 or she has experienced behavior constituting physical abuse,
26 abandonment, abduction, isolation, financial abuse, or neglect, or
27 reasonably suspects that abuse shall report the known or suspected
28 instance of abuse by telephone immediately or as soon as
29 practically possible, and by written report sent within two working
30 days, as follows:

31 (A) If the abuse has occurred in a long-term care facility, except
32 a state mental health hospital or a state developmental center, the
33 report shall be made to the local ombudsman or the local law
34 enforcement agency.

35 Except in an emergency, the local ombudsman and the local law
36 enforcement agency shall report any case of known or suspected
37 abuse *occurring in a long-term health care facility, as defined in*
38 *subdivision (a) of Section 1418 of the Health and Safety Code, to*
39 *the State Department of Health Services, any case of known or*
40 *suspected abuse occurring in a residential care facility for the*



1 *elderly, as defined in Section 1569.2 of the Health and Safety Code,*
2 *or in an adult day health center, as defined in subdivision (b) of*
3 *Section 1570.7 of the Health and Safety Code, to the State*
4 *Department of Social Services, and any case of known or suspected*
5 *criminal activity to the Bureau of Medi-Cal Fraud and Elder*
6 *Abuse, as soon as is practical.*

7 (B) If the suspected or alleged abuse occurred in a state mental
8 health hospital or a state developmental center, the report shall be
9 made to designated investigators of the State Department of
10 Mental Health or the State Department of Developmental Services
11 or to the local law enforcement agency.

12 Except in an emergency, the local law enforcement agency shall
13 report any case of known or suspected criminal activity to the
14 Bureau of Medi-Cal Fraud and Elder Abuse, as soon as is practical.

15 (C) If the abuse has occurred any place other than one described
16 in subparagraph (A), the report shall be made to the adult
17 protective services agency or the local law enforcement agency.

18 (2) (A) A mandated reporter who is a clergy member who
19 acquires knowledge or reasonable suspicion of elder or dependent
20 adult abuse during a penitential communication is not subject to
21 paragraph (1). For purposes of this subdivision, “penitential
22 communication” means a communication that is intended to be in
23 confidence, including, but not limited to, a sacramental confession
24 made to a clergy member who, in the course of the discipline or
25 practice of his or her church, denomination, or organization is
26 authorized or accustomed to hear those communications, and
27 under the discipline tenets, customs, or practices of his or her
28 church, denomination, or organization, has a duty to keep those
29 communications secret.

30 (B) Nothing in this subdivision shall be construed to modify or
31 limit a clergy member’s duty to report known or suspected elder
32 and dependent adult abuse when he or she is acting in the capacity
33 of a care custodian, health practitioner, or employee of an adult
34 protective agency.

35 (3) (A) A mandated reporter who is a physician and surgeon,
36 a registered nurse, or a psychotherapist, as defined in Section 1010
37 of the Evidence Code, shall not be required to report, pursuant to
38 paragraph (1), an incident where all of the following conditions
39 exist:



1 (i) The mandated reporter has been told by an elder or
2 dependent adult that he or she has experienced behavior
3 constituting physical abuse, abandonment, abduction, isolation,
4 financial abuse, or neglect.

5 (ii) The mandated reporter is not aware of any independent
6 evidence that corroborates the statement that the abuse has
7 occurred.

8 (iii) The elder or dependent adult has been diagnosed with a
9 mental illness or dementia, or is the subject of a court-ordered
10 conservatorship because of a mental illness or dementia.

11 (iv) In the exercise of clinical judgment, the physician and
12 surgeon, the registered nurse, or the psychotherapist, as defined in
13 Section 1010 of the Evidence Code, reasonably believes that the
14 abuse did not occur.

15 (B) This paragraph shall not be construed to impose upon
16 mandated reporters a duty to investigate a known or suspected
17 incident of abuse and shall not be construed to lessen or restrict any
18 existing duty of mandated reporters.

19 (4) (A) In a long-term care facility, a mandated reporter shall
20 not be required to report as a suspected incident of abuse, as
21 defined in Section 15610.07, an incident where all of the following
22 conditions exist:

23 (i) The mandated reporter is aware that there is a proper plan
24 of care.

25 (ii) The mandated reporter is aware that the plan of care was
26 properly provided or executed.

27 (iii) A physical, mental, or medical injury occurred as a result
28 of care provided pursuant to clause (i) or (ii).

29 (iv) The mandated reporter reasonably believes that the injury
30 was not the result of abuse.

31 (B) This paragraph shall not be construed to require a mandated
32 reporter to seek, nor to preclude a mandated reporter from seeking,
33 information regarding a known or suspected incident of abuse
34 prior to reporting. This paragraph shall apply only to those
35 categories of mandated reporters that the State Department of
36 Health Services determines, upon approval by the Bureau of
37 Medi-Cal Fraud and Elder Abuse and the state long-term care
38 ombudsman, have access to plans of care and have the training and
39 experience necessary to determine whether the conditions
40 specified in this section have been met.



1 (c) (1) Any mandated reporter who has knowledge of, or
2 reasonably suspects that, types of elder or dependent adult abuse
3 for which reports are not mandated have been inflicted upon an
4 elder or dependent adult or that his or her emotional well-being is
5 endangered in any other way, may report the known or suspected
6 instance of abuse.

7 (2) If the suspected or alleged abuse occurred in a long-term
8 care facility other than a state mental health hospital or a state
9 developmental center, the report may be made to the long-term
10 care ombudsman program. Except in an emergency, the local
11 ombudsman shall report any case of known or suspected abuse to
12 the State Department of Health Services and any case of known or
13 suspected criminal activity to the Bureau of Medi-Cal Fraud and
14 Elder Abuse, as soon as is practical.

15 (3) If the suspected or alleged abuse occurred in a state mental
16 health hospital or a state developmental center, the report may be
17 made to the designated investigator of the State Department of
18 Mental Health or the State Department of Developmental
19 Services, or to a local law enforcement agency or to the local
20 ombudsman. Except in an emergency, the local ombudsman and
21 the local law enforcement agency shall report any case of known
22 or suspected criminal activity to the Bureau of Medi-Cal Fraud and
23 Elder Abuse, as soon as is practical.

24 (4) If the suspected or alleged abuse occurred in a place other
25 than a place described in paragraph (2) or (3), the report may be
26 made to the county adult protective services agency.

27 (5) If the conduct involves criminal activity not covered in
28 subdivision (b), it may be immediately reported to the appropriate
29 law enforcement agency.

30 (d) When two or more mandated reporters are present and
31 jointly have knowledge or reasonably suspect that types of abuse
32 of an elder or a dependent adult for which a report is or is not
33 mandated have occurred, and when there is agreement among
34 them, the telephone report may be made by a member of the team
35 selected by mutual agreement, and a single report may be made
36 and signed by the selected member of the reporting team. Any
37 member who has knowledge that the member designated to report
38 has failed to do so shall thereafter make the report.

39 (e) A telephone report of a known or suspected instance of elder
40 or dependent adult abuse shall include, if known, the name of the



1 person making the report, the name and age of the elder or
2 dependent adult, the present location of the elder or dependent
3 adult, the names and addresses of family members or any other
4 person responsible for the elder or dependent adult's care, the
5 nature and extent of the elder or dependent adult's condition, the
6 date of the incident, and any other information, including
7 information that led that person to suspect elder or dependent adult
8 abuse, requested by the agency receiving the report.

9 (f) The reporting duties under this section are individual, and
10 no supervisor or administrator shall impede or inhibit the reporting
11 duties, and no person making the report shall be subject to any
12 sanction for making the report. However, internal procedures to
13 facilitate reporting, ensure confidentiality, and apprise supervisors
14 and administrators of reports may be established, provided they
15 are not inconsistent with this chapter.

16 (g) (1) Whenever this section requires a county adult
17 protective services agency to report to a law enforcement agency,
18 the law enforcement agency shall, immediately upon request,
19 provide a copy of its investigative report concerning the reported
20 matter to that county adult protective services agency.

21 (2) Whenever this section requires a law enforcement agency
22 to report to a county adult protective services agency, the county
23 adult protective services agency shall, immediately upon request,
24 provide a copy of its investigative report concerning the reported
25 matter to that law enforcement agency.

26 (3) The requirement to disclose investigative reports pursuant
27 to this subdivision shall not include the disclosure of social
28 services records or case files that are confidential, nor shall this
29 subdivision be construed to allow disclosure of any reports or
30 records if the disclosure would be prohibited by any other
31 provision of state or federal law.

32 (h) Failure to report physical abuse, abandonment, abduction,
33 isolation, financial abuse, or neglect of an elder or dependent adult,
34 in violation of this section, is a misdemeanor, punishable by not
35 more than six months in the county jail, by a fine of not more than
36 one thousand dollars (\$1,000), or by both that fine and
37 imprisonment. Any mandated reporter who willfully fails to report
38 physical abuse, abandonment, abduction, isolation, financial
39 abuse, or neglect of an elder or dependent adult, in violation of this
40 section, where that abuse results in death or great bodily injury,



1 shall be punished by not more than one year in a county jail, by a
2 fine of not more than five thousand dollars (\$5,000), or by both
3 that fine and imprisonment.

4 SEC. 10. Section 15633.5 of the Welfare and Institutions
5 Code is amended to read:

6 15633.5. (a) Information relevant to the incident of elder or
7 dependent adult abuse may be given to an investigator from an
8 adult protective services agency, a local law enforcement agency,
9 a district attorney's office, or the Bureau of Medi-Cal Fraud and
10 Elder Abuse or investigators of the Department of Consumer
11 Affairs, Division of Investigation who are investigating the known
12 or suspected case of elder or dependent adult abuse.

13 (b) The identity of all persons who report under this chapter
14 shall be confidential and disclosed only among adult protective
15 services agencies, long-term care ombudsman programs, licensing
16 agencies, local law enforcement agencies, district attorney's
17 offices, the bureau, and the Division of Investigation to counsel
18 representing an adult protective services agency, long-term care
19 ombudsman program, licensing agency, or a local law
20 enforcement agency, by the bureau to the district attorney in a
21 criminal prosecution, when persons reporting waive
22 confidentiality, or by court order.

23 (c) Notwithstanding subdivisions (a) and (b), any person
24 reporting pursuant to Section 15631 shall not be required to
25 include his or her name in the report.

26 SEC. 11. Section 15634 of the Welfare and Institutions Code
27 is amended to read:

28 15634. (a) No care custodian, including an employee of the
29 district attorney's office, clergy member, health practitioner, or
30 employee of an adult protective service agency or a local law
31 enforcement agency who reports a known or suspected instance of
32 elder or dependent adult abuse shall be civilly or criminally liable
33 for any report required or authorized by this article. Any other
34 person reporting a known or suspected instance of elder or
35 dependent adult abuse shall not incur civil or criminal liability as
36 a result of any report authorized by this article, unless it can be
37 proven that a false report was made and the person knew that the
38 report was false. No person required to make a report pursuant to
39 this article, or any person taking photographs at his or her
40 discretion, shall incur any civil or criminal liability for taking



1 photographs of a suspected victim of elder or dependent adult
2 abuse or causing photographs to be taken of such a suspected
3 victim or for disseminating the photographs with the reports
4 required by this article. However, this section shall not be
5 construed to grant immunity from this liability with respect to any
6 other use of the photographs.

7 (b) Any care custodian, including an employee of the district
8 attorney's office, clergy member, health practitioner, or employee
9 of an adult protective services agency or a local law enforcement
10 agency who, pursuant to a request from an adult protective services
11 agency or a local law enforcement agency investigating a report of
12 known or suspected elder or dependent adult abuse, provides the
13 requesting agency with access to the victim of a known or
14 suspected instance of elder or dependent adult abuse shall not incur
15 civil or criminal liability as a result of providing that access.

16 (c) The Legislature finds that, even though it has provided
17 immunity from liability to persons required to report elder or
18 dependent adult abuse, that immunity does not eliminate the
19 possibility that actions may be brought against those persons based
20 upon required reports of abuse. In order to further limit the
21 financial hardship that those persons may incur as a result of
22 fulfilling their legal responsibilities, it is necessary that they not be
23 unfairly burdened by legal fees incurred in defending those
24 actions. Therefore, a care custodian, including an employee of the
25 district attorney's office, clergy member, health practitioner, or an
26 employee of an adult protective services agency or a local law
27 enforcement agency may present a claim to the State Board of
28 Control for reasonable attorneys' fees incurred in any action
29 against that person on the basis of making a report required or
30 authorized by this article if the court has dismissed the action upon
31 a demurrer or motion for summary judgment made by that person,
32 or if he or she prevails in the action. The State Board of Control
33 shall allow that claim if the requirements of this subdivision are
34 met, and the claim shall be paid from an appropriation to be made
35 for that purpose. Attorneys' fees awarded pursuant to this section
36 shall not exceed an hourly rate greater than the rate charged by the
37 Attorney General at the time the award is made and shall not
38 exceed an aggregate amount of fifty thousand dollars (\$50,000).
39 This subdivision shall not apply if a public entity has provided for



1 the defense of the action pursuant to Section 995 of the
2 Government Code.

3 SEC. 12. Section 15653.5 of the Welfare and Institutions
4 Code, as added by Chapter 946 of the Statutes of 1998, is repealed.

5 SEC. 12.3. Section 15653.5 of the Welfare and Institutions
6 Code, as added by Chapter 980 of the Statutes of 1998, is amended
7 to read:

8 15653.5. Training for determining when to refer a report of a
9 known or suspected instance of abuse that occurred in a long-term
10 care facility for potential criminal action shall be included in the
11 training provided by the Bureau of Medi-Cal Fraud and Elder
12 Abuse pursuant to subdivision (h) of Section 12528 of the
13 Government Code.

14 SEC. 12.5. Section 15659 of the Welfare and Institutions
15 Code is amended to read:

16 15659. (a) Any person who enters into employment on or
17 after January 1, 1995, as a care custodian, including an employee
18 of the district attorney's office, clergy member, health practitioner,
19 or with an adult protective services agency or a local law
20 enforcement agency, prior to commencing his or her employment
21 and as a prerequisite to that employment shall sign a statement on
22 a form, that shall be provided by the prospective employer, to the
23 effect that he or she has knowledge of Section 15630 and will
24 comply with its provisions. The employer shall provide a copy of
25 Section 15630 to the employee. The statement shall inform the
26 employee that he or she is a mandated reporter and inform the
27 employee of his or her reporting obligations under Section 15630.
28 The signed statement shall be retained by the employer.

29 (b) Agencies or facilities that employ persons required to make
30 reports pursuant to Section 15630, who were employed prior to
31 January 1, 1995, shall inform those persons of their responsibility
32 to make reports by delivering to them a copy of the statement
33 specified in subdivision (a).

34 (c) The cost of printing, distribution, and filing of these
35 statements shall be borne by the employer.

36 (d) On and after January 1, 1995, when a person is issued a state
37 license or certificate to engage in a profession or occupation the
38 members of which are required to make a report pursuant to
39 Section 15630, the state agency issuing the license or certificate
40 shall send a statement substantially similar to the one contained in



1 subdivision (a) to the person at the same time as it transmits the
2 document indicating licensure or certification to the person.

3 (e) As an alternative to the procedure required by subdivision
4 (d), a state agency may cause the required statement to be printed
5 on all application forms for a license or certificate printed on or
6 after January 1, 1995.

7 (f) The retention of statements required by subdivision (a), and
8 the delivery of statements required by subdivision (b) shall be the
9 full extent of the employer's duty pursuant to this section. The
10 failure of any employee or other person associated with the
11 employer to report abuse of elders or dependent adults pursuant to
12 Section 15630 or otherwise meet the requirements of this chapter
13 shall be the sole responsibility of that person. The employer or
14 facility shall incur no civil or other liability for the failure of these
15 persons to comply with the requirements of this chapter.

16 SEC. 13. Section 15701 of the Welfare and Institutions Code
17 is amended to read:

18 15701. The definitions contained in this article and Chapter
19 11 (commencing with Section 15600) shall govern the
20 construction of this chapter.

21 SEC. 14. Section 15701.1 of the Welfare and Institutions
22 Code is repealed.

23 SEC. 15. Section 15701.15 of the Welfare and Institutions
24 Code is repealed.

25 SEC. 16. Section 15701.2 of the Welfare and Institutions
26 Code is repealed.

27 SEC. 17. Section 15701.35 of the Welfare and Institutions
28 Code is repealed.

29 SEC. 18. Section 15750 of the Welfare and Institutions Code
30 is amended and renumbered to read:

31 15751. Each county welfare department shall establish and
32 support a system of protective services to elderly and dependent
33 adults who may be subjected to neglect, abuse, or exploitation or
34 who are unable to protect their own interest.

35 This system shall be known as the county adult protective
36 services system.

37 SEC. 19. Section 15750 is added to the Welfare and
38 Institutions Code, to read:

39 15750. The definitions contained in Chapter 11 (commencing
40 with Section 15600) shall govern the construction of this chapter.



1 SEC. 20. Section 15751 of the Welfare and Institutions Code
2 is amended and renumbered to read:

3 15752. Each county shall establish and maintain a specialized
4 entity within the county welfare department which shall have lead
5 responsibility for the operation of the adult protective services
6 program.

7 SEC. 21. Section 15752 of the Welfare and Institutions Code
8 is repealed.

9 SEC. 22. Section 15753 of the Welfare and Institutions Code
10 is repealed.

11 SEC. 23. Section 15753.5 of the Welfare and Institutions
12 Code is repealed.

13 SEC. 24. The heading of Chapter 13.5 (commencing with
14 Section 15760) of the Welfare and Institutions Code is repealed.

15 SEC. 25. Section 15760 of the Welfare and Institutions Code
16 is amended to read:

17 15760. Adult protective services shall include investigations,
18 needs assessments, remedial, and preventive social work
19 activities, and the necessary tangible resources such as food,
20 transportation, emergency shelter, and in-home protective care,
21 the use of multidisciplinary teams, and a system in which reporting
22 of abuse can occur on a 24-hour basis.

23 SEC. 26. Section 15761 of the Welfare and Institutions Code
24 is repealed.

25 SEC. 27. Section 15763 of the Welfare and Institutions Code
26 is amended to read:

27 15763. (a) Each county shall establish an emergency
28 response adult protective services program that shall provide
29 in-person response, 24 hours per day, seven days per week, to
30 reports of abuse of an elder or a dependent adult, for the purpose
31 of providing immediate intake or intervention, or both, with regard
32 to new reports involving immediate life threats or imminent
33 danger and to crises in existing cases. The program shall include
34 policies and procedures to accomplish all of the following:

35 (1) Provision of case management services that include
36 investigation of the protection issues, assessment of the person's
37 concerns, needs, strengths, problems, and limitations, stabilization
38 and linking with community services, and development of a
39 service plan to alleviate identified problems utilizing counseling,
40 monitoring, followup, and reassessment.



1 (2) Provisions for emergency shelter or in-home protection to
2 guarantee a safe place for the elder or dependent adult to stay until
3 the dangers at home can be resolved.

4 (3) Establishment of multidisciplinary teams to develop
5 interagency treatment strategies, to ensure maximum coordination
6 with existing community resources, to ensure maximum access on
7 behalf of elders and dependent adults, and to avoid duplication of
8 efforts.

9 (b) (1) A county shall respond immediately to any new report
10 of immediate life threats or imminent danger or to crises in existing
11 cases to an elder or dependent adult residing in other than a
12 long-term care facility, as defined in Section 15610.47 of the
13 Welfare and Institutions Code, or a residential facility. For reports
14 involving persons residing in a long-term care facility or a
15 residential care facility, the county shall report to the local
16 long-term care ombudsman program. Adult protective services
17 staff shall consult, coordinate, and support efforts of the
18 ombudsman program to protect vulnerable residents. Except as
19 specified in paragraph (2), the county shall respond to all other
20 reports of danger to an elder or dependent adult in other than a
21 long-term care facility or residential care facility within 10
22 calendar days or as soon as practicably possible.

23 (2) An immediate or 10-day in-person response is not required
24 when the county, based upon an evaluation of risk determines, and
25 documents, that the elder or dependent adult is not in immediate
26 or imminent danger and that an immediate or 10-day in-person
27 response is not necessary to protect the health or safety of the elder
28 or dependent adult.

29 (3) Until criteria and standards are developed to implement
30 paragraph (2), the county's evaluation pursuant to paragraph (2)
31 shall include and document all of the following:

32 (A) The factors that led to the county's decision that an
33 in-person response was not required.

34 (B) The level of risk to the elder or dependent adult, including
35 collateral contacts.

36 (C) A review of previous referrals and other relevant
37 information as indicated for the purpose of resolving or
38 ameliorating the protection issues identified in the service plan.

39 (D) The need for intervention at the time.

40 (E) The need for protective services.



1 (4) On or before April 1, 2001, the State Department of Social
2 Services shall submit a report to the Legislature regarding the
3 number of cases, by county, out of the total number of cases
4 reported to the counties, that were determined not to require an
5 immediate or 10-day in-person response pursuant to paragraph
6 (2), and the disposition of those cases.

7 (5) Paragraphs (2) and (3) shall become inoperative on January
8 1, 2001.

9 (c) A county shall provide case management services to elders
10 and dependent adults who are determined to be in need of adult
11 protective services for the purpose of bringing about changes in the
12 lives of victims and to provide a safety net to enable victims to
13 protect themselves in the future. Case management services shall
14 include the following, to the extent services are appropriate for the
15 individual:

16 (1) Investigation of the protection issues, including, but not
17 limited to, social, medical, environmental, physical, emotional,
18 and developmental.

19 (2) Assessment of the person's concerns and needs on whom
20 the report has been made and the concerns and needs of other
21 members of the family and household.

22 (3) Analysis of problems and strengths.

23 (4) Establishment of a service plan for each person on whom
24 the report has been made to alleviate the identified problems.

25 (5) Client input and acceptance of proposed service plans.

26 (6) Counseling for clients and significant others to alleviate the
27 identified problems and to implement the service plan.

28 (7) Stabilizing and linking with community services.

29 (8) Monitoring and followup.

30 (9) Reassessments, as appropriate.

31 (d) To the extent resources are available, each county shall
32 provide emergency shelter in the form of a safe haven or in-home
33 protection for victims. Shelter and care appropriate to the needs of
34 the victim shall be provided for frail and disabled victims who are
35 in need of assistance with activities of daily living.

36 (e) Each county shall designate an adult protective services
37 agency to establish and maintain multidisciplinary teams
38 including, but not limited to, adult protective services, law
39 enforcement, home health care agencies, hospitals, adult
40 protective services staff, the public guardian, private community



1 service agencies, public health agencies, and mental health
2 agencies for the purpose of providing interagency treatment
3 strategies.

4 (f) Each county shall provide tangible support services, to the
5 extent resources are available, which may include, but not be
6 limited to, emergency food, clothing, repair or replacement of
7 essential appliances, plumbing and electrical repair, blankets,
8 linens, and other household goods, advocacy with utility
9 companies, and emergency response units.

10 SEC. 28. No reimbursement is required by this act pursuant
11 to Section 6 of Article XIII B of the California Constitution
12 because the only costs that may be incurred by a local agency or
13 school district will be incurred because this act creates a new crime
14 or infraction, eliminates a crime or infraction, or changes the
15 penalty for a crime or infraction, within the meaning of Section
16 17556 of the Government Code, or changes the definition of a
17 crime within the meaning of Section 6 of Article XIII B of the
18 California Constitution.

