

AMENDED IN ASSEMBLY JULY 9, 2001

AMENDED IN SENATE MAY 1, 2001

AMENDED IN SENATE APRIL 16, 2001

AMENDED IN SENATE APRIL 5, 2001

**SENATE BILL**

**No. 502**

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**Introduced by Senator Ortiz**  
(*Coauthor: Assembly Member Cohn*)

February 22, 2001

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An act to add Section 11161.2 to the Penal Code, relating to domestic violence and elder and dependent adult abuse *and neglect*, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 502, as amended, Ortiz. Elder abuse.

Existing law requires specified persons to report physical injury as a result of assaultive or abusive behavior, including elder or dependent adult abuse and domestic violence, to local law enforcement. Existing law also authorizes the County of San Mateo to establish a pilot project, as specified, to create, after consultation with the Department of Justice, a standardized form for reporting violence and abuse of elder and dependent adults.

This bill would require the Office of Criminal Justice Planning to cooperate with various agencies to establish medical forensic forms fulfilling specified criteria, instructions, and examination protocol for victims of domestic violence and elder and dependent adult abuse *and neglect*, as specified. This bill would also require the Office of Criminal Justice Planning to determine whether it would be appropriate and

forensically sound to develop separate or joint forms for medical forensic findings relating to these types of abuse.

This bill would also appropriate \$360,500 from the General Fund to the Office of Criminal Justice Planning to carry out the purposes of this act.

Vote: <sup>2</sup>/<sub>3</sub>. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

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

1 SECTION 1. Section 11161.2 is added to the Penal Code, to  
2 read:

3 11161.2. (a) The Legislature finds and declares that adequate  
4 protection of victims of domestic violence and elder and  
5 dependent adult abuse has been hampered by lack of consistent and  
6 comprehensive medical examinations. Enhancing examination  
7 procedures, documentation, and evidence collection will improve  
8 investigation and prosecution efforts.

9 (b) On or before January 1, 2003, the Office of Criminal Justice  
10 Planning shall, in cooperation with the State Department of Health  
11 Services, the Department of Aging and the ombudsman program,  
12 the State Department of Social Services, law enforcement  
13 agencies, the Department of Justice, the California Association of  
14 Crime Lab Directors, the California State District Attorneys  
15 Association, the California State Sheriff's Association, the  
16 California Medical Association, the California Police Chiefs'  
17 Association, domestic violence advocates, the California Medical  
18 Training Center, adult protective services, and other appropriate  
19 experts:

20 (1) Establish medical forensic forms, instructions, and  
21 examination protocol for victims of domestic violence and elder  
22 and dependent adult abuse *and neglect* using as a model the form  
23 and guidelines developed pursuant to Section 13823.5. *The form*  
24 *should include, but not be limited to, a place for a notation*  
25 *concerning each of the following:*

26 (A) *Notification of injuries and a report of suspected domestic*  
27 *violence or elder or dependent adult abuse and neglect to law*  
28 *enforcement authorities, Adult Protective Services, or the State*  
29 *Long-Term Care Ombudsmen, in accordance with existing*  
30 *reporting procedures.*



1 (B) *Obtaining consent for the examination, treatment of*  
2 *injuries, collection of evidence, and photographing if injuries.*  
3 *Consent to treatment shall be obtained in accordance with the*  
4 *usual hospital policy. A victim shall be informed that he or she may*  
5 *refuse to consent to an examination for evidence of domestic*  
6 *violence and elder and dependent adult abuse and neglect,*  
7 *including the collection of physical evidence, but that refusal is not*  
8 *a ground for denial of treatment of injuries and disease, if the*  
9 *person wishes to obtain treatment and consents thereto.*

10 (C) *Taking a patient history of domestic violence or elder or*  
11 *dependent adult abuse and neglect and other relevant medical*  
12 *history.*

13 (D) *Performance of the physical examination for evidence of*  
14 *domestic violence or elder or dependent adult abuse and neglect.*

15 (E) *Collection of physical evidence of domestic violence or*  
16 *elder or dependent adult abuse.*

17 (F) *Collection of other medical and forensic specimens, as*  
18 *indicated.*

19 (G) *Procedures for the preservation and disposition of*  
20 *evidence.*

21 (H) *Complete documentation of medical forensic exam*  
22 *findings.*

23 (2) Determine whether it is appropriate and forensically sound  
24 to develop separate or joint forms for documentation of medical  
25 forensic findings for victims of domestic violence and elder and  
26 dependent adult abuse *and neglect.*

27 ~~(e) The Office of Criminal Justice Planning shall fulfill all of~~  
28 ~~the following criteria in developing medical forensic forms:~~

29 ~~(1) The forms should contain the appropriate documentation~~  
30 ~~necessary to successfully investigate, charge, and prosecute~~  
31 ~~domestic violence and elder and dependent adult abuse in addition~~  
32 ~~to the medical and physical information obtained and documented~~  
33 ~~by the health care professional while treating the patient.~~

34 ~~(2) The forms should provide reliable medical documentation~~  
35 ~~of domestic violence and elder and dependent adult abuse in~~  
36 ~~agreement with existing social services' reporting.~~

37 (3) The forms shall become part of the patient's medical record  
38 pursuant to guidelines established by the Office of Criminal  
39 Justice Planning advisory committee *and subject to the*



1 *confidentiality laws pertaining to release of medical forensic*  
2 *examination records.*

3 ~~(d)~~

4 (c) The forms shall be made accessible for use on the Internet.

5 SEC. 2. The sum of three hundred sixty thousand five hundred  
6 dollars (\$360,500) is hereby appropriated from the General Fund  
7 to the Office of Criminal Justice Planning to carry out the purposes  
8 of this act.

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