

AMENDED IN SENATE MAY 5, 2009
AMENDED IN SENATE APRIL 21, 2009
AMENDED IN SENATE MARCH 25, 2009

SENATE BILL

No. 110

Introduced by Senator Liu
(Coauthor: Senator Hollingsworth)
(Coauthor: Assembly Member Cook)

January 28, 2009

An act to amend Sections 11163.6, 11174.35, 11174.5, 11174.7, 13519.64, 13823.16, 13836, 13836.1, and 14213 of, to amend the heading of Article 2.7 (commencing with Section 11174.4) of Chapter 2 of Title 1 of Part 4 of, to add Sections 368.5 and 13519.65 to, and to add a heading as Chapter 13 (commencing with Section 368) to Title 9 of Part 1 of, the Penal Code, and to amend Sections 4427, 4427.5, 15610.19, and 15763 of, to add Section 4689.25 to, and to add Chapter 10.5 (commencing with Section 15590) to Part 3 of Division 9 of, the Welfare and Institutions Code, relating to people with disabilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 110, as amended, Liu. People with disabilities: victims of crime.

Existing law regulates the investigation and prosecution of crimes against a dependent adult, which is defined to include a person who is between 18 and 64 years of age, inclusive, and who has a physical or mental limitation which restricts his or her ability, or substantially restricts his or her ability, to carry out normal activities or to protect his or her rights, including, but not limited to, a person who has a physical or developmental disability or whose physical or mental abilities have diminished, or significantly diminished, because of age.

Under existing law, the term also includes any person between 18 and 64 years of age, inclusive, who is admitted as an inpatient to certain 24-hour health facilities.

This bill would require the Department of Justice to send a bulletin to law enforcement agencies and district attorneys describing the laws relating to the protection of persons with disabilities, as specified.

Existing law authorizes the creation of Domestic Violence Death Review Teams, Child Death Review Teams, and Elder Death Review Teams, as specified.

This bill would state that information related to deaths of children with disabilities and people with disabilities killed as a result of domestic violence is included in procedures relating to Child Death Review Teams and Domestic Violence Death Review Teams, as specified. This bill would also include within the authority of an Elder Death Review Team the review of deaths involving dependent adults, as specified.

Existing law provides for the training of peace officers.

This bill would require every law enforcement agency that participates in the Peace Officer Standards and Training program to provide training to its peace officers using a specified telecourse relating to crime victims with disabilities if that telecourse is updated, as specified. By imposing new duties on local law enforcement agencies, the bill would create a state-mandated local program.

Existing law regulates the procedures and practices of long-term care ombudsman programs, adult protective services agencies, as well as certain state agencies, relative to the protection, investigation, and reporting of suspected crimes involving persons with disabilities, as specified.

This bill would require the State Department of Developmental Services to either immediately report a case of suspected abuse or neglect of a person held in custody as developmentally disabled to local law enforcement, or ascertain the facts and then report confirmed cases of abuse to the local law enforcement agency, as specified.

Existing law requires criminal record background checks for vendors providing services to family home agencies, as specified.

This bill would allow nonlicensed service providers who have a vendor relationship with a regional center to obtain criminal record background checks on current and prospective employees and volunteers, as specified, and, *subject to exception*, would require the providers to discharge or not hire those persons if *the background check*

indicates that they are convicted of specified offenses or required to register as sex offenders.

Existing law provides that the California Emergency Management Agency is the lead agency responsible for coordinating state agencies involved in protecting elders and dependent adults, as specified.

This bill would require the California Emergency Management Agency to convene a working group on crimes against elders, dependent adults, and people with disabilities, as specified.

Existing law establishes, until January 1, 2010, the Domestic Violence Advisory Council, and specifies its membership.

This bill would state the intent of the Legislature that persons with disabilities be included as members of the council, and would extend the operation of the council to January 1, 2015.

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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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. This act shall be known and may be cited as the
2 Crime Victims with Disabilities Act of 2009.

3 SEC. 2. The Legislature finds and declares as follows:

4 (a) A large body of research indicates that people with mental
5 and physical disabilities in California and throughout the United
6 States are victimized by violent crime and major property crime
7 at much higher rates than the general population.

8 (b) At least 13,500 American adults with disabilities are victims
9 of criminal violence every day—562 every hour. At least 410
10 children with disabilities are victimized every day—17 every hour.

11 (c) People with disabilities who are abused experience both
12 more prolonged and more severe abuse on the average than other
13 crime victims. Evidence suggests that the harmful effects may be
14 more serious and chronic for victims with disabilities.

1 (d) California and national research has found particularly
2 disturbing indications, including:

3 (1) Californians with developmental disabilities are victimized
4 4 to 10 times more frequently than the general population, and
5 they are at a higher risk of revictimization.

6 (2) The rate of victimization of Californians with severe and
7 persistent mental illness is 1,970 percent that of the general
8 population. The rate of victimization for those diagnosed with both
9 mental illness and substance abuse is 6,300 percent of that of the
10 general population.

11 (3) Of Californians with ~~development~~ *developmental* disabilities,
12 about 8 in 10 women and 4 in 10 men have been sexually abused.
13 About 4 in 10 women and 2 in 10 men have been sexually abused
14 at least 10 times.

15 (4) More than 8,000 California children with disabilities were
16 reported by Child Protective Services to be victims of maltreatment
17 in 2005—about one per hour.

18 (5) Mentally ill prison and jail inmates face a significantly higher
19 risk of being the victims of violence, particularly sexual abuse,
20 than other inmates.

21 (6) People often become homeless because of disabilities, and
22 those who were able when they were housed typically become
23 disabled due to their homelessness. Homeless Californians are
24 much more likely than the housed population to become crime
25 victims — more than 6 out of 10 are victimized every year, 2 out
26 of 10 at least five times in one year. Their disabilities increase the
27 likelihood of victimization still further. The lifetime risk of
28 victimization for seriously mentally ill, episodically homeless
29 women is 97 percent.

30 (7) People with disabilities, both those who live at home and
31 those who live in institutions, are often victims of domestic and
32 family violence and other crimes by caregivers.

33 (8) Elders and children with disabilities are particularly at risk
34 of becoming victims of abuse, neglect, and other major crimes.

35 (e) Research indicates that criminals select people with
36 disabilities as their victims because of two major categories of
37 motivations, as follows:

38 (1) Hostility toward those who arouse guilt, fear of those whose
39 visible traits are perceived as disturbing to others, a perception
40 that people with disabilities are inferior and therefore “deserving

1 victims,” and resentment of those who require and increasingly
2 demand alternative physical and social accommodations.

3 (2) Belief that people with disabilities are especially vulnerable,
4 a belief that is often well founded.

5 (f) It is the intent of the Legislature to clarify and enforce
6 existing laws and make California the national leader in humane
7 treatment of people with disabilities.

8 (g) People with disabilities are especially vulnerable to crime
9 and become victims at rates many times higher than the general
10 population. A large majority of these crimes are never reported to
11 law enforcement. In addition, the law previously did not make it
12 clear that abuse is a crime. As a result, many law enforcement
13 officers, prosecutors, and other citizens are unaware of this invisible
14 epidemic.

15 (h) Crimes against victims with disabilities occur in the
16 jurisdiction of every law enforcement agency and every district
17 attorney’s office. Every law enforcement officer encounters persons
18 with disabilities who may be particularly vulnerable to crime and
19 who have a disproportionately high likelihood of becoming victims.

20 (i) Persons with disabilities in specific population groups,
21 including all of the following, often become victims of serious
22 crime, frequently including domestic violence and sexual assault:

23 (1) Children.

24 (2) Elders.

25 (3) Homeless persons.

26 (4) Inmates of prisons, jails, and other incarceration facilities.

27 (5) Residents of public and private treatment and care facilities
28 of all kinds.

29 (j) Many crimes against victims with disabilities are motivated
30 in whole or in part by preexisting negative attitudes toward the
31 victims’ disabilities, including hostility to persons who arouse
32 guilt, fear of or revulsion to persons whose visible traits are
33 disturbing to others, a perception that persons with disabilities are
34 inferior or deserving of victimization, belief that persons with
35 particular disabilities are weak and therefore easy targets, and
36 resentment of those who need and increasingly demand alternative
37 physical and social accommodations. Law enforcement agencies
38 must investigate these crimes as hate crimes and report them to
39 the Department of Justice as Section 13023 of the Penal Code
40 requires.

1 (k) Preventing, recognizing, and responding to crimes against
 2 victims with disabilities often require special training, which all
 3 officers should receive. Investigating and successfully prosecuting
 4 these crimes often require more advanced training, which some
 5 officers in every agency should receive.

6 SEC. 3. The heading of Chapter 13 (commencing with Section
 7 368) is added to Title 9 of Part 1 of the Penal Code, immediately
 8 preceding Section 368, to read:

9

10 CHAPTER 13. CRIMES AGAINST ELDERS, DEPENDENT ADULTS,
 11 AND PERSONS WITH DISABILITIES

12

13 SEC. 4. Section 368.5 is added to the Penal Code, to read:

14 368.5. By February 1, 2010, the Department of Justice shall
 15 electronically send a bulletin to the executive of each state and
 16 local law enforcement agency and to each district attorney. The
 17 content of the bulletin shall include, but not be limited to, each of
 18 the following sections, entitled and described as follows:

19 (a) “New Law: Importance and Urgency.” This section shall
 20 include a statement of the importance and urgency that the law
 21 now places on arresting and convicting criminals who commit
 22 crimes against victims with disabilities and on assisting their
 23 victims, as demonstrated by enactment of the Crime Victims with
 24 Disabilities Act of 2009.

25 (b) “An Invisible Epidemic.” This section shall quote the
 26 findings of subdivisions (g) to (k), inclusive, of Section 2 of the
 27 Crime Victims with Disabilities Act of 2009.

28 (c) “Requirements and Recommendations.” This section shall
 29 include the following requirements for law enforcement agencies
 30 and district attorneys:

31 (1) The requirement that state law enforcement agencies provide
 32 training to their peace officers using the telecourse “Crime Victims
 33 with Disabilities” pursuant to subdivision (a) of Section 13519.65.

34 (2) The requirement that every city police officer or deputy
 35 sheriff at a supervisory level and below who is assigned field or
 36 investigative duties shall complete an elder and dependent adult
 37 abuse training course certified by the Commission on Peace Officer
 38 Standards and Training within 18 months of assignment to field
 39 duties, pursuant to Section 13515.

1 (3) The requirement that law enforcement agencies cross-report
2 abuse and neglect of elders and dependent adults to adult protective
3 services agencies, local long-term care ombudsman programs, and
4 state agencies, pursuant to Section 15650 of the Welfare and
5 Institutions Code.

6 (4) The requirement that local law enforcement agencies provide
7 the telecourse “Law Enforcement Response to Homelessness
8 Update” to their officers, and the strong encouragement that local
9 law enforcement agencies provide this training in conjunction with
10 homeless and formerly homeless persons, local agencies, and
11 organizations that serve homeless and formerly homeless people,
12 including homeless persons with disabilities, and invite those local
13 organizations to attend the training sessions and discuss the
14 problem of crime against homeless victims and law enforcement
15 response to homelessness with the agency’s officers, pursuant to
16 paragraph (2) of subdivision (b) of Section 13519.64.

17 (d) The training section of the bulletin also shall list relevant
18 training materials produced or certified by the Commission on
19 Peace Officer Standards and Training, including materials produced
20 pursuant to Sections 13515, 13515.25, 13519.2, 13519.4, 13519.6,
21 and 13519.64, and by the Bureau of Medi-Cal Fraud and Elder
22 Abuse.

23 SEC. 5. Section 11163.6 of the Penal Code is amended to read:
24 11163.6. In order to ensure consistent and uniform results, data
25 may be collected and summarized by the domestic violence death
26 review teams to show the statistical occurrence of domestic
27 violence deaths in the team’s county that occur under the following
28 circumstances:

29 (a) The deceased was a victim of a homicide committed by a
30 current or former spouse, fiancé, or dating partner.

31 (b) The deceased was the victim of a suicide, was the current
32 or former spouse, fiancé, or dating partner of the perpetrator and
33 was also the victim of previous acts of domestic violence.

34 (c) The deceased was the perpetrator of the homicide of a former
35 or current spouse, fiancé, or dating partner and the perpetrator was
36 also the victim of a suicide.

37 (d) The deceased was the perpetrator of the homicide of a former
38 or current spouse, fiancé, or dating partner and the perpetrator was
39 also the victim of a homicide related to the domestic homicide
40 incident.

1 (e) The deceased was a child of either the homicide victim or
2 the perpetrator, or both.

3 (f) The deceased was a current or former spouse, fiancé, or
4 dating partner of the current or former spouse, fiancé, or dating
5 partner of the perpetrator.

6 (g) The deceased was a law enforcement officer, emergency
7 medical personnel, or other agency responding to a domestic
8 violence incident.

9 (h) The deceased was a family member, other than identified
10 above, of the perpetrator.

11 (i) The deceased was the perpetrator of the homicide of a family
12 member, other than identified above.

13 (j) The deceased had a disability and the homicide was related
14 to domestic violence.

15 (k) The deceased was a person not included in the above
16 categories and the homicide was related to domestic violence.

17 SEC. 6. Section 11174.35 of the Penal Code is amended to
18 read:

19 11174.35. The State Department of Social Services shall work
20 with state and local child death review teams and child protective
21 services agencies in order to identify child death cases that were,
22 or should have been, reported to or by county child protective
23 services agencies. Findings made pursuant to this section shall be
24 used to determine the extent of child abuse or neglect fatalities
25 occurring in families known to child protective services agencies
26 and to define child welfare training needs for reporting,
27 cross-reporting, data integration, and involvement by child
28 protective services agencies in multiagency review in child deaths.
29 The State Department of Social Services, the State Department of
30 Public Health, and the Department of Justice, working with the
31 relevant subject matter experts from among those listed in Section
32 15591 of the Welfare and Institutions Code, shall develop a plan
33 to track and maintain data on child deaths from abuse or neglect,
34 including crimes against children with disabilities. Subject to the
35 availability of funding, the plan to track and maintain data shall
36 be updated by January 1, 2011.

37 SEC. 7. The heading of Article 2.7 (commencing with Section
38 11174.4) of Chapter 2 of Title 1 of Part 4 of the Penal Code is
39 amended to read:

1 Article 2.7. Elder and Dependent Adult Death Review Teams

2
3 SEC. 8. Section 11174.5 of the Penal Code is amended to read:

4 11174.5. (a) Each county may establish an interagency elder
5 and dependent adult death team to assist local agencies in
6 identifying and reviewing suspicious elder and dependent adult
7 deaths and facilitating communication among persons who perform
8 autopsies and the various persons and agencies involved in elder
9 and dependent adult abuse or neglect cases.

10 (b) Each county may develop a protocol that may be used as a
11 guideline by persons performing autopsies on elders and dependent
12 adults to assist coroners and other persons who perform autopsies
13 in the identification of elder and dependent adult abuse or neglect,
14 in the determination of whether elder or dependent adult abuse or
15 neglect contributed to death or whether elder or dependent adult
16 abuse or neglect had occurred prior to, but was not the actual cause
17 of, death, and in the proper written reporting procedures for elder
18 and dependent adult abuse or neglect, including the designation
19 of the cause and mode of death.

20 SEC. 9. Section 11174.7 of the Penal Code is amended to read:

21 11174.7. (a) An oral or written communication or a document
22 shared within or produced by an elder and dependent adult death
23 review team related to an elder or dependent adult death review
24 is confidential and not subject to disclosure or discoverable by
25 another third party.

26 (b) An oral or written communication or a document provided
27 by a third party to an elder and dependent adult death review team,
28 or between a third party and an elder and dependent adult death
29 review team, is confidential and not subject to disclosure or
30 discoverable by a third party.

31 (c) Notwithstanding subdivisions (a) and (b), recommendations
32 of an elder and dependent adult death review team upon the
33 completion of a review may be disclosed at the discretion of a
34 majority of the members of the elder and dependent adult death
35 review team.

36 SEC. 10. Section 13519.64 of the Penal Code is amended to
37 read:

38 13519.64. (a) The Legislature finds and declares that research,
39 including “Special Report to the Legislature on Senate Resolution
40 18: Crimes Committed Against Homeless Persons” by the

1 Department of Justice (2002); “Crimes Against Homeless Persons”
2 and “Crimes Against Persons with Disabilities” in “Protecting
3 Californians from Hate Crimes: A Progress Report” by the Senate
4 Office of Research (2004); “Voices from the Street: A Survey of
5 Homeless Youth by Their Peers” by the California Research
6 Bureau (2008); and “Hate, Violence, and Death On Main Street
7 USA: A Report on Hate Crimes and Violence Against People
8 Experiencing Homelessness 2007” by the National Coalition for
9 the Homeless and the National Law Center on Homelessness and
10 Poverty (2008), has demonstrated that California has serious
11 unaddressed problems of crime against homeless persons, including
12 homeless persons with disabilities and homeless youth.

13 (b) (1) By July 1, 2005, the Commission on Peace Officer
14 Standards and Training (POST), using available funding, shall
15 develop a two-hour telecourse to be made available to law
16 enforcement agencies that participate in and comply with the POST
17 program in California on crimes against homeless persons and on
18 how to deal effectively and humanely with homeless persons,
19 including homeless persons with disabilities. The telecourse shall
20 include information on multimission criminal extremism, as defined
21 in Section 13519.6. In developing the telecourse, the commission
22 shall consult subject-matter experts including, but not limited to,
23 homeless and formerly homeless persons in California, service
24 providers and advocates for homeless persons in California, experts
25 on the disabilities that homeless persons commonly suffer, the
26 California Council of Churches, the National Coalition for the
27 Homeless, the Senate Office of Research, and the Criminal Justice
28 Statistics Center of the Department of Justice.

29 (2) Every law enforcement agency that participates in and
30 complies with the POST program, to the extent that this
31 requirement does not create a state-mandated local program cost,
32 shall provide the telecourse, “Law Enforcement Response to
33 Homelessness Update,” to its peace officers.

34 SEC. 11. Section 13519.65 is added to the Penal Code, to read:

35 13519.65. (a) (1) Every law enforcement agency that
36 participates in and complies with the POST program shall provide
37 training to its peace officers using the telecourse “Crime Victims
38 with Disabilities,” produced by the Commission on Peace Officer
39 Standards and Training and the Department of Justice. This
40 requirement shall take effect if the commission, the department,

1 or both the commission and the department update the telecourse
2 to reflect changes in law, standards, and information since they
3 produced the telecourse in 2002.

4 (2) The requirement of paragraph (1) replaces the requirement
5 of the portion of paragraph (2) of subdivision (b) of Section
6 13519.64 that was repealed by the act of the 2009–10 Regular
7 Session of the Legislature that enacted this section, and does not
8 create a new cost.

9 (b) Every law enforcement agency that participates in and
10 complies with the POST program may provide training to its
11 officers using the telecourse “Crime Victims with Disabilities,”
12 and the Legislature strongly encourages each local law enforcement
13 agency to do so if the commission, the department, or both the
14 commission and the department update the telecourse.

15 SEC. 12. Section 13823.16 of the Penal Code is amended to
16 read:

17 13823.16. (a) The Comprehensive Statewide Domestic
18 Violence Program established pursuant to Section 13823.15 shall
19 be collaboratively administered by the California Emergency
20 Management Agency and an advisory council. The membership
21 of the Domestic Violence Advisory Council shall consist of experts
22 in the provision of either direct or intervention services to battered
23 women and their children, within the scope and intention of the
24 Domestic Violence Assistance Program.

25 (b) The membership of the council shall consist of domestic
26 violence victims’ advocates, battered women service providers, at
27 least one representative of service providers serving the lesbian,
28 gay, bisexual, and transgender community in connection with
29 domestic violence, and representatives of women’s organizations,
30 law enforcement, and other groups involved with domestic
31 violence. At least one-half of the council membership shall consist
32 of domestic violence victims’ advocates or battered women service
33 providers from organizations such as the California Partnership to
34 End Domestic Violence. It is the intent of the Legislature that the
35 council membership reflect the ethnic, racial, cultural, and
36 geographic diversity of the state, including people with disabilities.
37 The council shall be composed of no more than 13 voting members
38 and two nonvoting ex officio members who shall be appointed, as
39 follows:

40 (1) Seven voting members shall be appointed by the Governor.

1 (2) Three voting members shall be appointed by the Speaker of
2 the Assembly.

3 (3) Three voting members shall be appointed by the Senate
4 Committee on Rules.

5 (4) Two nonvoting ex officio members shall be Members of the
6 Legislature, one appointed by the Speaker of the Assembly and
7 one appointed by the Senate Committee on Rules. Any Member
8 of the Legislature appointed to the council shall meet with the
9 council and participate in its activities to the extent that
10 participation is not incompatible with his or her position as a
11 Member of the Legislature.

12 (c) The California Emergency Management Agency shall
13 collaborate closely with the council in developing funding
14 priorities, framing the request for proposals, and soliciting
15 proposals.

16 (d) This section shall remain in effect only until January 1, 2015,
17 and as of that date is repealed, unless a later enacted statute, that
18 is enacted before January 1, 2015, deletes or extends that date.

19 SEC. 13. Section 13836 of the Penal Code is amended to read:

20 13836. (a) The agency or agencies designated by the Director
21 of Finance pursuant to Section 13820 shall establish an advisory
22 committee which shall develop a course of training for district
23 attorneys in the investigation and prosecution of sexual assault
24 cases, child sexual exploitation cases, and child sexual abuse cases
25 and shall approve grants awarded pursuant to Section 13837. The
26 courses shall include training in the unique emotional trauma
27 experienced by victims of these crimes and the special problems
28 of investigating and prosecuting these crimes when committed
29 against individuals with disabilities.

30 (b) It is the intent of the Legislature in the enactment of this
31 chapter to encourage the establishment of sex crime prosecution
32 units, which shall include, but not be limited to, child sexual
33 exploitation and child sexual abuse cases, in district attorneys'
34 offices throughout the state.

35 SEC. 14. Section 13836.1 of the Penal Code is amended to
36 read:

37 13836.1. (a) The committee shall consist of 11 members. Five
38 shall be appointed by the executive director of the agency or
39 agencies designated by the Director of Finance pursuant to Section
40 13820, and shall include three district attorneys or assistant or

1 deputy district attorneys, one representative of a city police
2 department or a sheriff or a representative of a sheriff's department,
3 and one public defender or assistant or deputy public defender of
4 a county. Six shall be public members appointed by the
5 Commission on the Status of Women, and shall include one
6 representative of a rape crisis center, one expert on crimes against
7 persons with disabilities, and one medical professional experienced
8 in dealing with sexual assault trauma victims. The committee
9 members shall represent the points of view of diverse ethnic and
10 language groups.

11 (b) The requirement that the Commission on the Status of
12 Women appoint an expert on crimes against victims with
13 disabilities shall take effect upon the occurrence of the first vacancy
14 for a member appointed by the commission, other than the member
15 who represents a rape crisis center or the member who is a medical
16 professional, on or after January 1, 2010.

17 (c) Members of the committee shall receive no compensation
18 for their services but shall be reimbursed for their expenses actually
19 and necessarily incurred by them in the performance of their duties.
20 Staff support for the committee shall be provided by the agency
21 or agencies designated by the Director of Finance pursuant to
22 Section 13820.

23 SEC. 15. Section 14213 of the Penal Code is amended to read:

24 14213. (a) As used in this title, "missing person" includes, but
25 is not limited to, a child who has been taken, detained, concealed,
26 enticed away, or retained by a parent in violation of Chapter 4
27 (commencing with Section 277) of Title 9 of Part 1. It also includes
28 any child who is missing voluntarily or involuntarily, or under
29 circumstances not conforming to his or her ordinary habits or
30 behavior and who may be in need of assistance.

31 (b) As used in this title, "evidence that the person is at risk"
32 includes, but is not limited to, evidence or indications of any of
33 the following:

- 34 (1) The person missing is the victim of a crime or foul play.
- 35 (2) The person missing is in need of medical attention.
- 36 (3) The person missing has no pattern of running away or
37 disappearing.
- 38 (4) The person missing may be the victim of parental abduction.
- 39 (5) The person missing has a mental or physical disability.

1 (c) As used in this title, “child” is any person under the age of
2 18.

3 (d) As used in this title, “center” means the Violent Crime
4 Information Center.

5 (e) As used in this title, “dependent adult” is any person
6 described in subdivision (h) of Section 368.

7 (f) As used in this title, “dental or medical records or X-rays,”
8 include all those records or X-rays which are in the possession of
9 a dentist, physician and surgeon, or medical facility.

10 SEC. 16. Section 4427 of the Welfare and Institutions Code is
11 amended to read:

12 4427. (a) When the department has reason to believe that any
13 person held in custody as developmentally disabled is wrongfully
14 deprived of his or her liberty, is cruelly or negligently treated, that
15 inadequate provision is made for the skillful medical care, proper
16 supervision, and safekeeping of that person, or is otherwise the
17 victim of a crime, the department shall do either of the following:

18 (1) Report the case immediately to the local police department
19 or sheriff’s office that has jurisdiction.

20 (2) Ascertain the facts. It may issue compulsory process for the
21 attendance of witnesses and the production of papers, and may
22 exercise the powers conferred upon a referee in a superior court.
23 It may make such orders for the care and treatment of that person
24 as it deems proper. If the department ascertains that the person is
25 the victim of a crime, the department shall report the case
26 immediately to the local law enforcement agency that has
27 jurisdiction.

28 (b) Whenever the department undertakes an investigation into
29 the general management and administration of any establishment
30 or place of detention for the developmentally disabled, it may give
31 notice of such investigation to the Attorney General, who shall
32 appear personally or by deputy, to examine witnesses in attendance
33 and to assist the department in the exercise of the powers conferred
34 upon it in this code.

35 (c) The department may at any time cause the patients of any
36 county or city almshouse to be visited and examined, in order to
37 ascertain if developmentally disabled persons are kept therein.

38 SEC. 17. Section 4427.5 of the Welfare and Institutions Code
39 is amended to read:

1 4427.5. (a) (1) A developmental center shall immediately
2 report all resident deaths and serious injuries of unknown origin
3 to the appropriate local law enforcement agency, which may, at
4 its discretion, conduct an independent investigation.

5 (2) The reporting requirements of this subdivision are in addition
6 to, and do not substitute for, the reporting requirements of
7 mandated reporters.

8 (b) The department shall do both of the following:

9 (1) Annually provide written information to every developmental
10 center employee regarding all of the following:

11 (A) The statutory and departmental requirements for mandatory
12 reporting of suspected or known abuse.

13 (B) The rights and protections afforded to individuals' reporting
14 of suspected or known abuse.

15 (C) The penalties for failure to report suspected or known abuse.

16 (D) The telephone numbers for reporting suspected or known
17 abuse or neglect to designated investigators of the department and
18 to local law enforcement agencies.

19 (2) On or before August 1, 2001, in consultation with employee
20 organizations, advocates, consumers, and family members, develop
21 a poster that encourages staff, residents, and visitors to report
22 suspected or known abuse and provides information on how to
23 make these reports.

24 SEC. 18. Section 4689.25 is added to the Welfare and
25 Institutions Code, to read:

26 4689.25. (a) A nonlicensed service provider shall submit to
27 the Department of Justice evidence of a vendor relationship with
28 a regional center, showing the effective and ending date, if any.
29 Once approved by the Department of Justice, a nonlicensed service
30 provider may electronically submit fingerprint images and related
31 information required by the Department of Justice of all current
32 or prospective employees or volunteers for the purposes of
33 obtaining information as to the existence and content of a record
34 of state convictions and of those state arrests, for which the
35 Department of Justice establishes that the person is free on bail or
36 on his or her recognizance pending trial or appeal.

37 (1) The Department of Justice shall electronically provide a
38 response to the nonlicensed service provider pursuant to paragraph
39 (1) of subdivision (n) of Section 11105 of the Penal Code.

1 (2) A nonlicensed service provider may request from the
2 Department of Justice subsequent arrest notification service, as
3 provided in Section 11105.2 of the Penal Code, for persons
4 described in subdivision (a).

5 (3) The Department of Justice shall charge a fee sufficient to
6 cover the cost of processing the request described in this section.

7 (b) (1) A nonlicensed service provider that makes submissions
8 to the Department of Justice for all of its current and prospective
9 employees and volunteers pursuant to subdivision (a) shall so
10 inform the regional center.

11 (2) A nonlicensed service provider that makes a submission to
12 the Department of Justice pursuant to subdivision (a) concerning
13 a prospective employee or volunteer shall not hire or accept the
14 services of that person until the nonlicensed service provider
15 receives an initial response from the Department of Justice.

16 (3) ~~If~~ *Except as provided in paragraph (4), if* a nonlicensed
17 service provider receives an initial response or subsequent
18 notification from the Department of Justice that a current or
19 prospective employee or volunteer has been convicted of a serious
20 felony, as defined in Section 1192.7 of the Penal Code, or a violent
21 felony, as defined in Section 667.5 of the Penal Code, or is required
22 to register as a sex offender pursuant to Section 290 of the Penal
23 Code, the nonlicensed service provider shall discharge or not hire
24 or accept services from that person.

25 (4) *A person may be employed or retained despite being*
26 *convicted of one of the offenses listed in paragraph (3) or being*
27 *required to register pursuant to Section 290 if the nonlicensed*
28 *service provider determines from the evidence presented that the*
29 *person has been rehabilitated for at least five years following any*
30 *probation or incarceration, or has received a certificate of*
31 *rehabilitation and pardon pursuant to Chapter 3.5 (commencing*
32 *with Section 4852.01) of Title 6 of Part 3 of the Penal Code, or if*
33 *the accusation or information against the person has been*
34 *dismissed and he or she has been released from all disabilities*
35 *and penalties resulting from the offense pursuant to Section 1203.4*
36 *of the Penal Code.*

37 (5) A nonlicensed service provider may use any information in
38 the initial response and any subsequent notifications from the
39 Department of Justice in decisions regarding employment,

1 relocation, and termination of an employee or volunteer, except
2 as prohibited by law.

3 (c) (1) The Legislature strongly encourages each nonlicensed
4 service provider to take actions authorized in subdivision (a) in
5 order to protect consumers from abuse, neglect, and other crimes.

6 (2) A nonlicensed service provider that does not take the actions
7 authorized by subdivision (a) concerning each current or
8 prospective employee and volunteer shall provide a disclosure to
9 each consumer served and to the regional center that some or all
10 current or prospective employees and volunteers have not been
11 subject to a fingerprint-based Department of Justice criminal record
12 search. A nonlicensed service provider that has not submitted
13 evidence to the Department of Justice pursuant to subdivision (a)
14 shall provide the disclosure to all current consumers and the
15 regional center by August 1, 2010, and shall provide the disclosure
16 to each new consumer before the consumer receives any services
17 from the nonlicensed service provider.

18 (3) Compliance with paragraph (2) shall not relieve a
19 nonlicensed service provider of any liability for the consequences
20 of not taking the actions authorized by this section.

21 (d) No nonlicensed service provider may charge a fee to any
22 applicant, consumer, employee, regional center, volunteer, or other
23 person for any costs incurred by actions that this section authorizes
24 or requires.

25 (e) Family homes and family home agencies, as defined in
26 subdivisions (b) and (c) of Section 4689.1, consumers of
27 self-directed services, parent vendors who provide services to their
28 children, and consumer vendors who provide services to themselves
29 are exempt from the provisions of this section.

30 (f) This section shall become operative on July 1, 2010.

31 SEC. 19. Chapter 10.5 (commencing with Section 15590) is
32 added to Part 3 of Division 9 of the Welfare and Institutions Code,
33 to read:

34

35 CHAPTER 10.5. CRIMES AGAINST ELDERS, DEPENDENT ADULTS,
36 AND PEOPLE WITH DISABILITIES

37

38 15590. (a) The Abuse Victims with Disabilities Think Tank
39 of the California Emergency Management Agency shall convene
40 a first meeting of a working group on crimes against elders,

1 dependent adults, and people with disabilities, and shall invite
2 subject matter experts including, but not limited to, those listed in
3 Section 15591, to attend. Nothing in this section requires the think
4 tank to convene any further meetings of the working group. The
5 working group may organize itself, including by creating
6 committees, and schedule future meetings.

7 (b) The working group may set goals for itself including the
8 following:

9 (1) Developing one or more models of memoranda of
10 understanding that appropriate agencies and organizations may
11 adopt. The model or models may include protocols covering
12 subjects including, but not limited to, responsibilities for first
13 response to reports of crimes, multidisciplinary teamwork including
14 joint visiting and interviewing where appropriate, provision of
15 victim advocacy and victim and witness translation services, and
16 carrying out individual mandated reporter requirements and agency
17 cross-reporting requirements.

18 (2) Making recommendations to the Governor and Legislature
19 for reform of mandated reporter requirements and of investigation
20 and jurisdiction issues to provide equal protection to crime victims
21 who are elders, dependent adults, and people with disabilities.

22 (c) Nothing in this section requires any state agency to
23 participate in the working group if that participation would create
24 a cost or to pay for travel or other expenses of any person attending
25 working group meetings.

26 15591. "Subject matter experts" includes, but is not limited to,
27 the following, or their successor organizations, the Aging Services
28 of California; Arc of California; Associated Programs of the
29 University of Southern California; Association of Regional Center
30 Agencies; Autism Center for Excellence at California State
31 University, Sacramento; California Advocates for Nursing Home
32 Reform; California Assisted Living Association; California
33 Association for Adult Day Services; California Association of
34 Health Facilities; California Coalition Against Sexual Assault;
35 California Consortium of Child Abuse Councils; California County
36 Welfare Directors; California Emergency Management Agency;
37 California Foundation for Independent Living Centers; California
38 Hospital Association; California Long-Term Care Ombudsman
39 Program Association; California Partnership to End Domestic
40 Violence; Consortium for Elder Abuse Prevention; Departments

1 of Aging, Developmental Services, Justice, Mental Health, Public
2 Health, Social Services, and Corrections and Rehabilitation;
3 Disability Service Network; District Attorneys, Police Chiefs, and
4 Sheriffs Associations; Gray Panthers; Los Angeles City Department
5 on Disability; National Alliance for the Mentally Ill; Older
6 Women’s League; Project REACH; Senate Office of Research;
7 Sociology Departments of the University of California at Berkeley,
8 Davis, and Irvine; State Council on Developmental Disabilities;
9 State Office of Child Abuse Prevention; Tarjan Center of the
10 University of California at Los Angeles; University Centers for
11 Excellence in Developmental Disabilities at the University of
12 California at Davis and Los Angeles and the University of Southern
13 California; and the protection and advocacy agency that the
14 Governor designates pursuant to Section 4900.

15 SEC. 20. Section 15610.19 of the Welfare and Institutions
16 Code is amended to read:

17 15610.19. “Clergy member” means a priest, minister, rabbi,
18 religious practitioner, or similar functionary of a church, gurdwara,
19 mandir, mosque, synagogue, temple, or other recognized religious
20 denomination or organization. “Clergy member” does not include
21 unpaid volunteers whose principal occupation or vocation does
22 not involve active or ordained ministry in a religious denomination
23 or organization, and who periodically visit elders or dependent
24 adults on behalf of that recognized religious denomination or
25 organization.

26 SEC. 21. Section 15763 of the Welfare and Institutions Code
27 is amended to read:

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

36 (1) Provision of case management services that include
37 investigation of the protection issues, assessment of the person’s
38 concerns, needs, strengths, problems, and limitations, stabilization
39 and linking with community services, and development of a service

1 plan to alleviate identified problems utilizing counseling,
2 monitoring, followup, and reassessment.

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

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

11 (b) (1) A county shall respond immediately to any report of
12 imminent danger to an elder or dependent adult in other than a
13 long-term care facility, as defined in Section 9701 of the Welfare
14 and Institutions Code, or a residential facility, as defined in Section
15 1502 of the Health and Safety Code. For reports involving persons
16 in a long-term care facility or a residential care facility, the county
17 shall report to the local long-term care ombudsman program. Adult
18 protective services staff shall consult, coordinate, and support
19 efforts of the ombudsman program to protect vulnerable residents.
20 Except as specified in paragraph (2), the county shall respond to
21 all other reports of danger to an elder or dependent adult in other
22 than a long-term care facility or residential care facility within 10
23 calendar days or as soon as practicably possible.

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

30 (3) The State Department of Social Services, in consultation
31 with the County Welfare Directors Association, shall develop
32 requirements for implementation of paragraph (2), including, but
33 not limited to, guidelines for determining appropriate application
34 of this section and any applicable documentation requirements.

35 (4) Notwithstanding Chapter 3.5 (commencing with Section
36 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
37 the department shall implement the requirements developed
38 pursuant to paragraph (3) by means of all-county letters or similar
39 instructions prior to adopting regulations for that purpose.
40 Thereafter, the department shall adopt regulations in accordance

1 with the requirements of Chapter 3.5 (commencing with Section
2 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

3 (c) A county shall not be required to report or respond to a report
4 pursuant to subdivision (b) that involves danger to an elder or
5 dependent adult residing in any facility for the incarceration of
6 prisoners that is operated by or under contract to the Federal Bureau
7 of Prisons, the Department of Corrections *and Rehabilitation*, ~~the~~
8 ~~California Department of the Youth Authority~~, a county sheriff's
9 department, a county probation department, a city police
10 department, or any other law enforcement agency when the abuse
11 reportedly has occurred in that facility.

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

19 (1) Investigation of the protection issues, including, but not
20 limited to, social, medical, environmental, physical, emotional,
21 and developmental.

22 (2) Assessment of the person's concerns and needs on whom
23 the report has been made and the concerns and needs of other
24 members of the family and household.

25 (3) Analysis of problems and strengths.

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

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

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

31 (7) Stabilizing and linking with community services.

32 (8) Monitoring and followup.

33 (9) Reassessments, as appropriate.

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

39 (f) Each county shall designate an adult protective services
40 agency to establish and maintain multidisciplinary teams including,

1 but not limited to, adult protective services, law enforcement,
2 probation departments, home health care agencies, hospitals, adult
3 protective services staff, the public guardian, private community
4 service agencies, public health agencies, and mental health agencies
5 for the purpose of providing interagency treatment strategies.

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

12 SEC. 22. It is the intent of the Legislature that nothing in this
13 act creates any new substantial General Fund costs. To that end,
14 notwithstanding any provision of law to the contrary, all of the
15 following shall apply:

16 (a) Nothing in this act requires a state agency to revise any form,
17 document, or other material if that revision would create a General
18 Fund cost that is more than minor and absorbable.

19 (b) Nothing in this act requires a state or local agency to adopt
20 or revise a regulation.

21 (c) Nothing in this act creates a new training requirement for
22 any state agency if that training requirement would create a General
23 Fund cost that is more than minor and absorbable.

24 (d) Any provision of this act that requires a state agency to take
25 any action is contingent on the availability and appropriation of
26 adequate funds.

27 SEC. 23. If the Commission on State Mandates determines
28 that this act contains costs mandated by the state, reimbursement
29 to local agencies and school districts for those costs shall be made
30 pursuant to Part 7 (commencing with Section 17500) of Division
31 4 of Title 2 of the Government Code.

O