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AMENDED IN SENATE AUGUST 12, 2013

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AMENDED IN ASSEMBLY APRIL 1, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 602

**Introduced by Assembly Member Yamada
(Coauthor: Assembly Member Gorell)**

February 20, 2013

An act to add Section 13515.30 to the Penal Code, and to amend Sections 4427.5 and 15630 of the Welfare and Institutions Code, relating to disabled persons.

LEGISLATIVE COUNSEL'S DIGEST

AB 602, as amended, Yamada. Mentally and developmentally disabled persons: reporting abuse.

Existing law requires the Commission on Peace Officer Standards and Training, in the Department of Justice, to establish and keep updated a continuing education classroom training course relating to law enforcement intervention with mentally disabled persons and requires the course to be developed in consultation with specified groups and entities. Existing law requires the commission to submit a report to the Legislature that contains specified information regarding this training.

This bill would require the commission to establish, by July 1, 2015, and keep updated a training course relating to law enforcement interaction with mentally disabled or developmentally disabled persons living within a state mental hospital or state developmental center, as

specified. The training course would be required for law enforcement personnel in law enforcement agencies with jurisdiction over state mental health hospitals and state developmental centers, as part of the agency's officer training program. By creating new duties for local officials, this bill would impose a state-mandated local program.

Existing law requires specified people, known as mandated reporters, to report cases of elder or dependent adult abuse, as defined. Existing law requires a report to be made to designated investigators of the State Department of State Hospitals or the State Department of Developmental Services, or to the local enforcement agency if the suspected or alleged abuse occurred in a state mental hospital or state developmental center. Existing law also requires mandated reporters in the State Department of Developmental Services to immediately report suspected abuse to the Office of Protective Services or to the local law enforcement agency. Failure to make a report as required by existing law is a misdemeanor.

This bill would instead require a report to be made to designated investigators of the State Department of State Hospitals or the State Department of Developmental Services, and also to the local enforcement agency, as specified, if the suspected or alleged abuse or neglect occurred in a state mental hospital or state developmental center and resulted in any specified incidents, including a death or a sexual assault. By expanding the scope of an existing crime, the bill would impose a state-mandated local program. This bill would also remove the requirement that mandated reporters in the State Department of Developmental Services immediately report suspected abuse to the Office of Protective Services or to the local law enforcement agency.

This bill would also require a local law enforcement agency to coordinate efforts with the designated investigators of the State Department of State Hospitals or the State Department of Developmental Services to provide a response to investigate reports received pursuant to specified provisions. By creating new duties for local officials, this bill would impose a state-mandated local program.

Existing law requires a developmental center to immediately report resident deaths and certain serious injuries, including a sexual assault, to the local law enforcement agency having jurisdiction over the city or county in which the developmental center is located.

This bill would specify that a developmental center is required to report that information immediately, but no later than within 2 hours of the mandated reporter observing, obtaining knowledge of, or suspecting abuse.

This bill would incorporate additional changes in Section 4427.5 of the Welfare and Institutions Code made by SB 651, to become operative if SB 651 and this bill are both enacted and become effective on or before January 1, 2014, and this bill is enacted last.

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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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 13515.30 is added to the Penal Code, to
2 read:
3 13515.30. (a) By July 1, 2015, the Commission on Peace
4 Officer Standards and Training shall establish and keep updated
5 a continuing education training course relating to law enforcement
6 interaction with mentally disabled and developmentally disabled
7 persons living within a state mental hospital or state developmental
8 center. The training course shall be developed by the commission
9 in consultation with appropriate community, local, and state
10 organizations and agencies that have expertise in the area of mental
11 illness and developmental disability, and with appropriate consumer
12 and family advocate groups. In developing the course, the
13 commission shall also examine existing courses certified by the
14 commission that relate to mentally disabled and developmentally
15 disabled persons. The commission shall make the course available
16 to all law enforcement agencies in California, and the course shall
17 be required for law enforcement personnel serving in law
18 enforcement agencies with jurisdiction over state mental hospitals
19 and state developmental centers, as part of the agency's officer
20 training program.

1 (b) The course described in subdivision (a) may consist of
 2 video-based or classroom instruction. The course shall include, at
 3 a minimum, core instruction in all of the following:

4 (1) The prevalence, cause, and nature of mental illnesses and
 5 developmental disabilities.

6 (2) The unique characteristics, barriers, and challenges of
 7 individuals who may be a victim of abuse or exploitation living
 8 within a state mental hospital or state developmental center.

9 (3) How to accommodate, interview, and converse with
 10 individuals who may require assistive devices in order to express
 11 themselves.

12 (4) Capacity and consent of individuals with cognitive and
 13 intellectual barriers.

14 (5) Conflict resolution and deescalation techniques for
 15 potentially dangerous situations involving mentally disabled or
 16 developmentally disabled persons.

17 (6) Appropriate language usage when interacting with mentally
 18 disabled or developmentally disabled persons.

19 (7) Community and state resources and advocacy support and
 20 services available to serve mentally disabled or developmentally
 21 disabled persons, and how these resources can be best utilized by
 22 law enforcement to benefit the mentally disabled or
 23 developmentally disabled community.

24 (8) The fact that a crime committed in whole or in part because
 25 of an actual or perceived disability of the victim is a hate crime
 26 punishable under Title 11.6 (commencing with Section 422.55)
 27 of Part 1.

28 (9) Information on the state mental hospital system and the state
 29 developmental center system.

30 (10) Techniques in conducting forensic investigations within
 31 institutional settings where jurisdiction may be shared.

32 (11) Examples of abuse and exploitation perpetrated by
 33 caregivers, staff, contractors, or administrators of state mental
 34 hospitals and state developmental centers, and how to conduct
 35 investigations in instances where a perpetrator may also be a
 36 caregiver or provider of therapeutic or other services.

37 SEC. 2. Section 4427.5 of the Welfare and Institutions Code
 38 is amended to read:

39 4427.5. (a) (1) A developmental center shall immediately,
 40 but no later than within two hours of the developmental center

1 observing, obtaining knowledge of, or suspecting abuse, report
2 the following incidents involving a resident to the local law
3 enforcement agency having jurisdiction over the city or county in
4 which the developmental center is located, regardless of whether
5 the Office of Protective Services has investigated the facts and
6 circumstances relating to the incident:

7 (A) A death.

8 (B) A sexual assault, as defined in Section 15610.63.

9 (C) An assault with a deadly weapon, as described in Section
10 245 of the Penal Code, by a nonresident of the developmental
11 center.

12 (D) An assault with force likely to produce great bodily injury,
13 as described in Section 245 of the Penal Code.

14 (E) An injury to the genitals when the cause of the injury is
15 undetermined.

16 (F) A broken bone when the cause of the break is undetermined.

17 (2) If the incident is reported to the law enforcement agency by
18 telephone, a written report of the incident shall also be submitted
19 to the agency, within two working days.

20 (3) The reporting requirements of this subdivision are in addition
21 to, and do not substitute for, the reporting requirements of
22 mandated reporters, and any other reporting and investigative
23 duties of the developmental center and the department as required
24 by law.

25 (4) This section does not prevent the developmental center from
26 reporting any other criminal act constituting a danger to the health
27 or safety of the residents of the developmental center to the local
28 law enforcement agency.

29 (b) (1) The department shall report to the agency described in
30 subdivision (i) of Section 4900 any of the following incidents
31 involving a resident of a developmental center:

32 (A) Any unexpected or suspicious death, regardless of whether
33 the cause is immediately known.

34 (B) Any allegation of sexual assault, as defined in Section
35 15610.63, in which the alleged perpetrator is a developmental
36 center or department employee or contractor.

37 (C) Any report made to the local law enforcement agency in
38 the jurisdiction in which the facility is located that involves
39 physical abuse, as defined in Section 15610.63, in which a staff
40 member is implicated.

1 (2) A report pursuant to this subdivision shall be made no later
 2 than the close of the first business day following the discovery of
 3 the reportable incident.

4 (c) The department shall do both of the following:

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

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

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

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

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

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

20 *SEC. 2.5. Section 4427.5 of the Welfare and Institutions Code*
 21 *is amended to read:*

22 4427.5. (a) (1) A developmental center shall ~~immediately~~
 23 *immediately, but no later than within two hours of the*
 24 *developmental center observing, obtaining knowledge of, or*
 25 *suspecting abuse,* report the following incidents involving a
 26 resident to the local law enforcement agency having jurisdiction
 27 over the city or county in which the developmental center is
 28 located, regardless of whether the Office of Protective Services
 29 has investigated the facts and circumstances relating to the incident:

30 (A) A death.

31 (B) A sexual assault, as defined in Section 15610.63.

32 (C) An assault with a deadly weapon, as described in Section
 33 245 of the Penal Code, by a nonresident of the developmental
 34 center.

35 (D) An assault with force likely to produce great bodily injury,
 36 as described in Section 245 of the Penal Code.

37 (E) An injury to the genitals when the cause of the injury is
 38 undetermined.

39 (F) A broken ~~bone,~~ *bone* when the cause of the break is
 40 undetermined.

1 (2) If the incident is reported to the law enforcement agency by
2 telephone, a written report of the incident shall also be submitted
3 to the agency, within two working days.

4 (3) The reporting requirements of this subdivision are in addition
5 to, and do not substitute for, the reporting requirements of
6 mandated reporters, and any other reporting and investigative
7 duties of the developmental center and the department as required
8 by law.

9 ~~(4) Nothing in this subdivision shall be interpreted to~~ *This*
10 *section does not* prevent the developmental center from reporting
11 any other criminal act constituting a danger to the health or safety
12 of the residents of the developmental center to the local law
13 enforcement agency.

14 (b) (1) The department shall report to the agency described in
15 subdivision (i) of Section 4900 any of the following incidents
16 involving a resident of a developmental center:

17 (A) Any unexpected or suspicious death, regardless of whether
18 the cause is immediately known.

19 (B) Any allegation of sexual assault, as defined in Section
20 15610.63, in which the alleged perpetrator is a developmental
21 center or department employee or contractor.

22 (C) Any report made to the local law enforcement agency in
23 the jurisdiction in which the facility is located that involves
24 physical abuse, as defined in Section 15610.63, in which a staff
25 member is implicated.

26 (2) A report pursuant to this subdivision shall be made no later
27 than the close of the first business day following the discovery of
28 the reportable incident.

29 (c) The department shall do both of the following:

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

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

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

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

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

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

6 *(d) A failure to report an incident under subdivision (a) shall*
7 *be deemed a class B violation as provided in Section 1424.6 of the*
8 *Health and Safety Code if the incident occurs in a distinct part*
9 *long-term health care facility. If the incident occurs in the general*
10 *acute care hospital or acute psychiatric hospital portion of the*
11 *developmental center, a failure to report the incident under*
12 *subdivision (a) shall be subject to a civil penalty specified in*
13 *Section 1280.4 of the Health and Safety Code.*

14 SEC. 3. Section 15630 of the Welfare and Institutions Code is
15 amended to read:

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

25 (b) (1) Any mandated reporter who, in his or her professional
26 capacity, or within the scope of his or her employment, has
27 observed or has knowledge of an incident that reasonably appears
28 to be physical abuse, as defined in Section 15610.63, abandonment,
29 abduction, isolation, financial abuse, or neglect, or is told by an
30 elder or dependent adult that he or she has experienced behavior,
31 including an act or omission, constituting physical abuse, as defined
32 in Section 15610.63, abandonment, abduction, isolation, financial
33 abuse, or neglect, or reasonably suspects that abuse, shall report
34 the known or suspected instance of abuse by telephone or through
35 a confidential Internet reporting tool, as authorized by Section
36 15658, immediately or as soon as practicably possible. If reported
37 by telephone, a written report shall be sent, or an Internet report
38 shall be made through the confidential Internet reporting tool
39 established in Section 15658, within two working days.

1 (A) If the suspected or alleged abuse is physical abuse, as
2 defined in Section 15610.63, and the abuse occurred in a long-term
3 care facility, except a state mental health hospital or a state
4 developmental center, the following shall occur:

5 (i) If the suspected abuse results in serious bodily injury, a
6 telephone report shall be made to the local law enforcement agency
7 immediately, but also no later than within two hours of the
8 mandated reporter observing, obtaining knowledge of, or
9 suspecting the physical abuse, and a written report shall be made
10 to the local ombudsman, the corresponding licensing agency, and
11 the local law enforcement agency within two hours of the mandated
12 reporter observing, obtaining knowledge of, or suspecting the
13 physical abuse.

14 (ii) If the suspected abuse does not result in serious bodily injury,
15 a telephone report shall be made to the local law enforcement
16 agency within 24 hours of the mandated reporter observing,
17 obtaining knowledge of, or suspecting the physical abuse, and a
18 written report shall be made to the local ombudsman, the
19 corresponding licensing agency, and the local law enforcement
20 agency within 24 hours of the mandated reporter observing,
21 obtaining knowledge of, or suspecting the physical abuse.

22 (iii) When the suspected abuse is allegedly caused by a resident
23 with a physician's diagnosis of dementia, and there is no serious
24 bodily injury, as reasonably determined by the mandated reporter,
25 drawing upon his or her training or experience, the reporter shall
26 report to the local ombudsman or law enforcement agency by
27 telephone, immediately or as soon as practicably possible, and by
28 written report, within 24 hours.

29 (iv) When applicable, reports made pursuant to clauses (i) and
30 (ii) shall be deemed to satisfy the reporting requirements of the
31 federal Elder Justice Act of 2009, as set out in Subtitle H of the
32 federal Patient Protection and Affordable Care Act (Public Law
33 111-148), Section 1418.91 of the Health and Safety Code, and
34 Section 72541 of Title 22 of California Code of Regulations. When
35 a local law enforcement agency receives an initial report of
36 suspected abuse in a long-term care facility pursuant to this
37 subparagraph, the local law enforcement agency may coordinate
38 efforts with the local ombudsman to provide the most immediate
39 and appropriate response warranted to investigate the mandated
40 report. The local ombudsman and local law enforcement agencies

1 may collaborate to develop protocols to implement this
2 subparagraph.

3 (B) Notwithstanding the rulemaking provisions of Chapter 3.5
4 (commencing with Section 11340) of Part 1 of Division 3 of Title
5 2 of the Government Code, or any other law, the department may
6 implement subparagraph (A), in whole or in part, by means of
7 all-county letters, provider bulletins, or other similar instructions
8 without taking regulatory action.

9 (C) If the suspected or alleged abuse is abuse other than physical
10 abuse, and the abuse occurred in a long-term care facility, except
11 a state mental health hospital or a state developmental center, a
12 telephone report and a written report shall be made to the local
13 ombudsman or the local law enforcement agency.

14 (D) With regard to abuse reported pursuant to subparagraph
15 (C), the local ombudsman and the local law enforcement agency
16 shall, as soon as practicable, except in the case of an emergency
17 or pursuant to a report required to be made pursuant to clause (v),
18 in which case these actions shall be taken immediately, do all of
19 the following:

20 (i) Report to the State Department of Public Health any case of
21 known or suspected abuse occurring in a long-term health care
22 facility, as defined in subdivision (a) of Section 1418 of the Health
23 and Safety Code.

24 (ii) Report to the State Department of Social Services any case
25 of known or suspected abuse occurring in a residential care facility
26 for the elderly, as defined in Section 1569.2 of the Health and
27 Safety Code, or in an adult day program, as defined in paragraph
28 (2) of subdivision (a) of Section 1502 of the Health and Safety
29 Code.

30 (iii) Report to the State Department of Public Health and the
31 California Department of Aging any case of known or suspected
32 abuse occurring in an adult day health care center, as defined in
33 subdivision (b) of Section 1570.7 of the Health and Safety Code.

34 (iv) Report to the Bureau of Medi-Cal Fraud and Elder Abuse
35 any case of known or suspected criminal activity.

36 (v) Report all cases of known or suspected physical abuse and
37 financial abuse to the local district attorney's office in the county
38 where the abuse occurred.

39 (E) (i) If the suspected or alleged abuse or neglect occurred in
40 a state mental hospital or a state developmental center, and the

1 suspected or alleged abuse or neglect resulted in any of the
2 following incidents, a report shall be made immediately, but no
3 later than within two hours of the mandated reporter observing,
4 obtaining knowledge of, or suspecting abuse, to designated
5 investigators of the State Department of State Hospitals or the
6 State Department of Developmental Services, and also to the local
7 law enforcement agency:

8 (I) A death.

9 (II) A sexual assault, as defined in Section 15610.63.

10 (III) An assault with a deadly weapon, as described in Section
11 245 of the Penal Code, by a nonresident of the state mental hospital
12 or state developmental center.

13 (IV) An assault with force likely to produce great bodily injury,
14 as described in Section 245 of the Penal Code.

15 (V) An injury to the genitals when the cause of the injury is
16 undetermined.

17 (VI) A broken bone when the cause of the break is
18 undetermined.

19 (ii) All other reports of suspected or alleged abuse or neglect
20 that occurred in a state mental hospital or a state developmental
21 center shall be made immediately, but no later than within two
22 hours of the mandated reporter observing, obtaining knowledge
23 of, or suspecting abuse, to designated investigators of the State
24 Department of State Hospitals or the State Department of
25 Developmental Services, or to the local law enforcement agency.

26 (iii) When a local law enforcement agency receives an initial
27 report of suspected or alleged abuse or neglect in a state mental
28 hospital or a state developmental center pursuant to clause (i), the
29 local law enforcement agency shall coordinate efforts with the
30 designated investigators of the State Department of State Hospitals
31 or the State Department of Developmental Services to provide the
32 most immediate and appropriate response warranted to investigate
33 the mandated report. The designated investigators of the State
34 Department of State Hospitals or the State Department of
35 Developmental Services and local law enforcement agencies may
36 collaborate to develop protocols to implement this clause.

37 (iv) Except in an emergency, the local law enforcement agency
38 shall, as soon as practicable, report any case of known or suspected
39 criminal activity to the Bureau of Medi-Cal Fraud and Elder Abuse.

1 (v) Notwithstanding any other law, a mandated reporter who is
2 required to report pursuant to Section 4427.5 shall not be required
3 to report under clause (i).

4 (F) If the abuse has occurred in any place other than a long-term
5 care facility, a state mental hospital, or a state developmental
6 center, the report shall be made to the adult protective services
7 agency or the local law enforcement agency.

8 (2) (A) A mandated reporter who is a clergy member who
9 acquires knowledge or reasonable suspicion of elder or dependent
10 adult abuse during a penitential communication is not subject to
11 paragraph (1). For purposes of this subdivision, “penitential
12 communication” means a communication that is intended to be in
13 confidence, including, but not limited to, a sacramental confession
14 made to a clergy member who, in the course of the discipline or
15 practice of his or her church, denomination, or organization is
16 authorized or accustomed to hear those communications and under
17 the discipline tenets, customs, or practices of his or her church,
18 denomination, or organization, has a duty to keep those
19 communications secret.

20 (B) This subdivision shall not be construed to modify or limit
21 a clergy member’s duty to report known or suspected elder and
22 dependent adult abuse if he or she is acting in the capacity of a
23 care custodian, health practitioner, or employee of an adult
24 protective services agency.

25 (C) Notwithstanding any other provision in this section, a clergy
26 member who is not regularly employed on either a full-time or
27 part-time basis in a long-term care facility or does not have care
28 or custody of an elder or dependent adult shall not be responsible
29 for reporting abuse or neglect that is not reasonably observable or
30 discernible to a reasonably prudent person having no specialized
31 training or experience in elder or dependent care.

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

36 (i) The mandated reporter has been told by an elder or dependent
37 adult that he or she has experienced behavior constituting physical
38 abuse, as defined in Section 15610.63, abandonment, abduction,
39 isolation, financial abuse, or neglect.

1 (ii) The mandated reporter is not aware of any independent
2 evidence that corroborates the statement that the abuse has
3 occurred.

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

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

11 (B) This paragraph shall not be construed to impose upon
12 mandated reporters a duty to investigate a known or suspected
13 incident of abuse and shall not be construed to lessen or restrict
14 any existing duty of mandated reporters.

15 (4) (A) In a long-term care facility, a mandated reporter shall
16 not be required to report as a suspected incident of abuse, as defined
17 in Section 15610.07, an incident if all of the following conditions
18 exist:

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

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

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

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

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

37 (c) (1) Any mandated reporter who has knowledge, or
38 reasonably suspects, that types of elder or dependent adult abuse
39 for which reports are not mandated have been inflicted upon an
40 elder or dependent adult, or that his or her emotional well-being

1 is endangered in any other way, may report the known or suspected
2 instance of abuse.

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

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

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

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

25 (d) If two or more mandated reporters are present and jointly
26 have knowledge or reasonably suspect that types of abuse of an
27 elder or a dependent adult for which a report is or is not mandated
28 have occurred, and there is agreement among them, the telephone
29 report or Internet report, as authorized by Section 15658, may be
30 made by a member of the team selected by mutual agreement, and
31 a single report may be made and signed by the selected member
32 of the reporting team. Any member who has knowledge that the
33 member designated to report has failed to do so shall thereafter
34 make the report.

35 (e) A telephone report or Internet report, as authorized by
36 Section 15658, of a known or suspected instance of elder or
37 dependent adult abuse shall include, if known, the name of the
38 person making the report, the name and age of the elder or
39 dependent adult, the present location of the elder or dependent
40 adult, the names and addresses of family members or any other

1 adult responsible for the elder's or dependent adult's care, the
2 nature and extent of the elder's or dependent adult's condition, the
3 date of the incident, and any other information, including
4 information that led that person to suspect elder or dependent adult
5 abuse, as requested by the agency receiving the report.

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

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

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

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

29 (h) Failure to report, or impeding or inhibiting a report of,
30 physical abuse, as defined in Section 15610.63, abandonment,
31 abduction, isolation, financial abuse, or neglect of an elder or
32 dependent adult, in violation of this section, is a misdemeanor,
33 punishable by not more than six months in the county jail, by a
34 fine of not more than one thousand dollars (\$1,000), or by both
35 that fine and imprisonment. Any mandated reporter who willfully
36 fails to report, or impedes or inhibits a report of, physical abuse,
37 as defined in Section 15610.63, abandonment, abduction, isolation,
38 financial abuse, or neglect of an elder or dependent adult, in
39 violation of this section, if that abuse results in death or great bodily
40 injury, shall be punished by not more than one year in a county

1 jail, by a fine of not more than five thousand dollars (\$5,000), or
2 by both that fine and imprisonment. If a mandated reporter
3 intentionally conceals his or her failure to report an incident known
4 by the mandated reporter to be abuse or severe neglect under this
5 section, the failure to report is a continuing offense until a law
6 enforcement agency specified in paragraph (1) of subdivision (b)
7 of Section 15630 discovers the offense.

8 (i) For purposes of this section, “dependent adult” shall have
9 the same meaning as in Section 15610.23.

10 *SEC. 4. Section 2.5 of this bill incorporates amendments to*
11 *Section 4427.5 of the Welfare and Institutions Code proposed by*
12 *both this bill and Senate Bill 651. It shall only become operative*
13 *if (1) both bills are enacted and become effective on or before*
14 *January 1, 2014, (2) each bill amends Section 4427.5 of the*
15 *Welfare and Institutions Code, and (3) this bill is enacted after*
16 *Senate Bill 651, in which case Section 2 of this bill shall not*
17 *become operative.*

18 ~~SEC. 4.~~

19 *SEC. 5. No reimbursement is required by this act pursuant to*
20 *Section 6 of Article XIII B of the California Constitution for certain*
21 *costs that may be incurred by a local agency or school district*
22 *because, in that regard, this act creates a new crime or infraction,*
23 *eliminates a crime or infraction, or changes the penalty for a crime*
24 *or infraction, within the meaning of Section 17556 of the*
25 *Government Code, or changes the definition of a crime within the*
26 *meaning of Section 6 of Article XIII B of the California*
27 *Constitution.*

28 However, if the Commission on State Mandates determines that
29 this act contains other costs mandated by the state, reimbursement
30 to local agencies and school districts for those costs shall be made
31 pursuant to Part 7 (commencing with Section 17500) of Division
32 4 of Title 2 of the Government Code.