

AMENDED IN ASSEMBLY APRIL 28, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 324

Introduced by Assembly Member Beall

(Principal coauthor: Senator Liu)

(Coauthor: Assembly Member Bonnie Lowenthal)

(Coauthors: Senators Hancock, Wiggins, and Wolk)

February 18, 2009

An act to amend Sections 9002, 9014, 9100, 9102, 9400, and 9545 of, and to add Section 9009 to, the Welfare and Institutions Code, relating to aging.

LEGISLATIVE COUNSEL'S DIGEST

AB 324, as amended, Beall. Aging: Elder Economic Security Standard Index.

Existing law, the Mello-Granlund Older Californians Act, creates the California Department of Aging, with prescribed duties.

This bill would require the department, beginning in 2010, to annually update the Elder Economic Security Standard Index (Elder Index), as defined, for each county. This bill would require the department to use the Elder Index to make prescribed calculations and analyses relating to elders living below the Elder Index's poverty threshold. *This bill would permit the department to contract with the UCLA Center for Health Policy Research to carry out these requirements.* This bill would also require the department to report Elder Index data to each service area included in the state plan.

Existing law requires each area agency on aging to create a plan that considers available data and population trends, assesses the need for

services, identifies sources of funding for services, and develops and implements a plan for the delivery of services based on the need.

This bill would ~~delete the requirements that the plan consider available data and population trends, but would~~ also require that the plan utilize the Elder Index, specify the cost of meeting basic needs for elders in each *planning and* service area, and identify which elders are living at or below the Elder Index.

Under existing law, the department allocates funds to area agencies on aging to implement various programs, with allocations to be made in accordance with a prescribed funding formula. Under existing law, the Linkages Program, a community-based services program, provides care and case management services to frail elderly and functionally impaired adults to help prevent or delay placement in nursing facilities.

This bill would declare it to be the policy of the state that specified state needs-based programs for elders use the Elder Index *or a percentage of the Elder Index* to establish income eligibility standards.

This bill would also require area agencies on aging to annually update the intake form for the Linkages Program to include the most current Elder Index, in order to identify elders in economic need and refer these elders to other appropriate resources and programs.

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

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

- 1 SECTION 1. This act shall be known, and may be cited, as
- 2 the Elder Economic Dignity Act of 2009.
- 3 SEC. 2. The Legislature finds and declares all of the following:
- 4 (a) The United States Census Bureau projects that the population
- 5 of people 65 years of age and older is expected to more than double
- 6 from the year 2000 to the year 2030, both nationally and in
- 7 California. People 65 years of age and older comprised 10.6 percent
- 8 of California's population in 2000 but will be 11.5 percent of the
- 9 state's population by 2010, and 17.8 percent in 2030.
- 10 (b) The United States Department of Health and Human Services
- 11 uses the Federal Poverty Guidelines as a benchmark to determine
- 12 eligibility for public assistance programs, and the Federal Poverty
- 13 Guidelines are derived from the United States Census Bureau's
- 14 Federal Poverty Thresholds, which are used to determine poverty
- 15 rates. In 2008, the Federal Poverty Guidelines were ten thousand

1 four hundred dollars (\$10,400) for a one-person household and
2 fourteen thousand dollars (\$14,000) for a two-person household.
3 In 2007, the official poverty rate for the total population was 12.5
4 percent, according to the most recent calculation by the United
5 States Census Bureau.

6 (c) The Federal Poverty Guidelines are an inadequate and
7 antiquated measurement tool that uses a nearly 50-year-old
8 methodology. The method is based solely on one expense: food.
9 It also inaccurately assumes that households today still spend
10 one-third of their income on food when in fact the United States
11 Department of Agriculture states the number is actually one-tenth,
12 or 10 percent. Instead of food, the United States Bureau of Labor
13 Statistics, Consumer Expenditure Survey indicates that households
14 spend closer to one-third of their budget on housing. The Federal
15 Poverty Thresholds exclude the actual costs of housing, health
16 care, transportation, and other essential services. Although updated
17 annually using the Consumer Price Index, the Federal Poverty
18 Thresholds are calculated in the exact same way today, in 2009,
19 as they were in 1962. According to a Senior Fellow at the
20 Brookings Institute, no other economic statistic in use today relies
21 on these antiquated methods. Moreover, this “one-size-fits-all”
22 measurement tool does not take into account factors such as the
23 significant variation in the cost of living across the states, counties,
24 and cities, or the ages of household members.

25 (d) Despite these significant shortcomings in the underlying
26 data and methodology, the Federal Poverty Guidelines continue
27 to be used to determine eligibility for 82 different state and federal
28 programs, and are used by state and federal policymakers as a
29 benchmark to determine funding allocations to local communities,
30 and to justify cuts to public benefits. Without a precise poverty
31 measurement tool, policy and fiscal decisions intended to tackle
32 poverty will continue to be imprecise.

33 (e) Many of California’s elders often do not receive any public
34 assistance because their incomes are just above the official Federal
35 Poverty Guidelines, and are therefore forced to make untenable
36 choices among basic needs, such as choices between eating three
37 meals a day, foregoing medications, or paying for shelter. Most
38 of these elders have worked hard all of their lives, yet still struggle
39 to pay their bills and live with dignity and economic security in
40 their later years. Although often described as “falling through the

1 cracks,” this group is neither small nor marginal, as that phrase
2 suggests, but rather, it is a substantial proportion of California’s
3 aging community.

4 (f) Using the antiquated Federal Poverty Threshold, the United
5 States Census Bureau reports that, for 2006, only 7.9 percent
6 (295,000) of California’s elders live below the official poverty
7 level. This is a significant underestimate of the number of
8 Californians 65 years of age and older who do not have enough to
9 adequately cover their most basic needs. A recent study conducted
10 by the University of California, Los Angeles, in collaboration with
11 the Insight Center for Community Economic Development, found
12 that approximately 47 percent (1.76 million) of California’s elders
13 65 years of age and older do not have enough income to adequately
14 cover their most basic needs, including food, shelter, medicine,
15 and transportation, the study documents that approximately 40
16 percent (1.46 million) of California’s elders “fall through the
17 cracks” because they have incomes above the official Federal
18 Poverty Thresholds but below what they actually need to make
19 ends meet in today’s economy.

20 (g) The Elder Economic Security Standard Index (Elder Index)
21 is a more sophisticated and updated 21st century calculation of
22 poverty that provides a more accurate picture of the true economic
23 needs of elders and their families. Calculated by the University of
24 California, Los Angeles, in partnership with the Insight Center for
25 Community Economic Development, Wider Opportunities for
26 Women, and the Gerontology Institute at the University of
27 Massachusetts, Boston, the new Elder Index quantifies the actual
28 costs elders, 65 years of age and older, face in meeting all of their
29 basic needs, including food, shelter, health care, transportation,
30 utilities, and essential household items, in the private market.

31 (h) The Elder Index is specific to the costs that elders face. It
32 factors in state and local differences in the cost of living, as well
33 as an elder’s housing situation and health care needs.

34 (i) The Elder Index serves as the guiding tool for broad-based
35 planning, evaluation, research, advocacy, and outreach at the
36 national, state, and local levels. By 2012, each county in every
37 state across the nation will have a customized Elder Index. Among
38 the current five pilot states using the Elder Index, the State of
39 Massachusetts is already using it for planning, programming, and
40 increasing the asset limits for Medicaid home- and

1 community-based services from two thousand dollars (\$2,000) to
2 ten thousand dollars (\$10,000). The Pennsylvania Department of
3 Aging, Illinois Congressional Representative Jan Schakowsky,
4 and former Wisconsin State Assembly Speaker Michael Huebsch
5 have also endorsed the Elder Index in their respective states.

6 (j) A more accurate calculation of the poverty rate among elders
7 will result in a more targeted distribution of federal funding to
8 states to support elders, more effective programs, and strategic
9 planning.

10 SEC. 3. Section 9002 of the Welfare and Institutions Code is
11 amended to read:

12 9002. The Legislature finds and declares all of the following:

13 (a) Programs shall be initiated, promoted, and developed through
14 all of the following:

- 15 (1) Volunteers and volunteer groups.
- 16 (2) Partnership with local governmental agencies.
- 17 (3) Coordinated efforts of state agencies.
- 18 (4) Coordination and cooperation with federal programs.
- 19 (5) Partnership with private health and social service agencies.
- 20 (6) Participation by older individuals in the planning and
21 operation of all programs and services that may affect them.

22 (b) It shall be the policy of this state to give attention to the
23 unique concerns of our most frail and vulnerable older individuals.

24 (c) Recognizing the diversity in geography, economy, culture,
25 and lifestyles in California and the diversity of local senior citizen
26 networks, it shall be the policy of this state to encourage and
27 emphasize local control to achieve the most effective blend of state
28 and local authority.

29 (d) In recognition of the many governmental programs serving
30 seniors, and as specified in paragraph (2) of subdivision (c) of
31 Section 9102, the California Department of Aging should
32 coordinate, as existing resources permit, with other state
33 departments in doing all of the following:

- 34 (1) Promote clear and simplified access to information assistance
35 and services arrangements.
- 36 (2) Ensure that older individuals retain the right of free choice
37 in planning and managing their lives.
- 38 (3) Ensure that health and social services are available that do
39 all of the following:

1 (A) Allow older individuals to live independently at home or
2 with others.

3 (B) Provide for advocacy for expansion of existing programs
4 that prevent or minimize illness or social isolation, and allow
5 individuals to maximize their dignity and choice of living.

6 (C) Provide for protection of older individuals from physical
7 and mental abuse, neglect, and fraudulent practices.

8 (4) Foster both preventive and primary health care, including
9 mental and physical health care, to keep older individuals active
10 and contributing members of society.

11 (5) Encourage public and private development of suitable
12 housing.

13 (6) Develop and seek support for plans to ensure access to
14 information, counseling, and screening.

15 (7) Encourage public and private development of suitable
16 housing and recreational opportunities to meet the needs of older
17 individuals.

18 (8) Encourage development of efficient community services
19 including access to low-cost transportation services, that provide
20 a choice in supported living arrangements and social assistance in
21 a coordinated manner and that are readily available when needed.

22 (9) Encourage and develop meaningful employment
23 opportunities for older individuals.

24 (10) Encourage the development of barrier-free construction
25 and the removal of architectural barriers, so that more facilities
26 are accessible to older individuals.

27 (11) Promote development of programs to educate persons who
28 work with older individuals in gerontology and geriatrics.

29 (12) Encourage and support intergenerational programming and
30 participation by community organizations and institutions to
31 promote better understanding among the generations.

32 (e) The California Department of Aging shall ensure that, to the
33 extent possible, the services provided for in accordance with this
34 division shall be coordinated and integrated with services provided
35 to older individuals by other entities of the state. That integration
36 may include, but not be limited to, the reconfiguration of state
37 departments into a coordinated unit that can provide for multiple
38 services to the same consumers. Services provided under this
39 division shall be managed, directly or through contract, by local
40 area agencies on aging or other local systems.

1 (f) It shall be the policy of the state that new California state
2 needs-based programs, and current California state programs which
3 are later modified to become needs based, shall use the Elder
4 Economic Security Standard Index *or a percentage of the Elder*
5 *Economic Security Index* to establish income eligibility standards.

6 SEC. 4. Section 9009 is added to the Welfare and Institutions
7 Code, to read:

8 9009. “Elder Economic Security Standard Index” means an
9 index that quantifies the costs that elders face in meeting their
10 basic needs, including, but not limited to, food, shelter, health care,
11 transportation, utilities, and essential household items, in the private
12 market. It is derived by applying the existing publicly available
13 methodology, developed by the Wider Opportunities for Women
14 and Gerontology Institute, to publicly available data sources on
15 the costs to live in each county of the state.

16 SEC. 5. Section 9014 of the Welfare and Institutions Code is
17 amended to read:

18 9014. “Greatest economic need” means the need resulting from
19 an income level at or below the thresholds established by the Elder
20 Economic Security Standard Index.

21 SEC. 6. Section 9100 of the Welfare and Institutions Code is
22 amended to read:

23 9100. (a) There is in the Health and Welfare Agency the
24 California Department of Aging.

25 (b) The department’s mission shall be to provide leadership to
26 the area agencies on aging in developing systems of home- and
27 community-based services that maintain individuals in their own
28 homes or least restrictive homelike environments.

29 (c) In fulfilling its mission, the department shall develop
30 minimum standards for service delivery to ensure that its programs
31 meet consumer needs, operate in a cost-effective manner, and
32 preserve the independence and dignity of aging Californians. In
33 accomplishing its mission, the department shall consider available
34 data and population trends in developing programs and policies,
35 collaborate with area agencies on aging, the commission, and other
36 state and local agencies, and consider the views of advocates,
37 consumers and their families, and service providers. The
38 department shall also report the Elder Economic Security Standard
39 Index data for each service area in its state plan.

(d) The minimum standards for its programs shall ensure that the system meets all of the following requirements:

(1) Have the flexibility to respond to the needs of individuals, their families and caregivers.

(2) Provide for consumer choice and self-determination.

(3) Enable consumers to be involved in designing and monitoring the system.

(4) Be equally accessible to diverse populations regardless of income, consistent with existing state and federal law.

(5) Have consistent statewide policy, with local control and implementation.

(6) Include preventive services and home- and community-based support.

(7) Have cost containment and fiscal incentives consistent with the delivery of appropriate services at the appropriate level.

SEC. 7. Section 9102 of the Welfare and Institutions Code is amended to read:

9102. The duties and powers of the department shall be:

(a) To administer all programs under the Older Americans Act of 1965, as amended, and this division, including providing ongoing oversight, monitoring, and service quality evaluation to ensure that service providers are meeting standards of service performance established by the department. This shall include, but is not limited to, all of the following:

(1) Setting program standards and providing standard materials for training.

(2) Providing technical assistance to area agencies on aging, program managers, staff, and volunteers providing services.

(3) Development of the state plan on aging according to federal law.

(4) Maintain a clearinghouse of information related to the interests and needs of older individuals and provide referral services, if appropriate.

(5) Maintain a management information and reporting system; including a database on service utilization patterns and demographic characteristics of the older population to be cross-classified by age, sex, race, and other information required for the planning process, and eliminate redundant and unnecessary reporting requirements.

1 (6) Encourage and support the involvement of volunteers in
2 services to older individuals.

3 (7) Seek ways to utilize the private sector to assume greater
4 responsibility in meeting the needs of older individuals.

5 (8) Encourage internships to be coordinated with schools of
6 gerontology or related disciplines, including internships for older
7 individuals.

8 (b) The department shall have primary responsibility for
9 information received and dispersed to the area agencies on aging.

10 (c) The department shall be responsible for activities that
11 promote the development, coordination, and utilization of resources
12 to meet the long-term care needs of older individuals, consistent
13 with its mission. The responsibilities shall include, but not be
14 limited to, all of the following:

15 (1) Conduct research in the areas of alternative social and health
16 care systems for older individuals.

17 (2) As specified in Section 9002, coordinate with agencies and
18 departments that administer health, social, and related services for
19 the purposes of policy development, development of care standards,
20 consistency in application of policy, evaluation of alternative uses
21 of available resources toward greater effectiveness in service
22 delivery, including seeking additional federal and private dollars
23 to support achievement of program goals, and ensure ongoing
24 response to the identified special needs of the chronically impaired
25 to provide support that maximizes their level of functioning.

26 (3) Monitor and evaluate programs and services administered
27 by the department, utilizing standardized methodology.

28 (4) Develop and implement training and technical assistance
29 programs designed to achieve program goals.

30 (5) Establish criteria for the designation, sanctioning and
31 defunding of area agencies on aging.

32 (d) In conjunction with the management information and
33 reporting system required under paragraph (5) of subdivision (a),
34 beginning in the 2006 calendar year, the department shall annually
35 submit by January 10 of each year, to the budget, fiscal, and policy
36 committees of the Legislature, and the Legislative Analyst, all of
37 the following information:

38 (1) The number of persons served statewide in each of the prior
39 and current fiscal years for each state or federally funded program

1 or service administered by the department. This information shall
2 also be provided for each Area Agency on Aging service area.

3 (2) To the extent feasible, the number of unduplicated persons
4 served statewide in the prior and current fiscal years for all state
5 or federally funded programs and services administered by the
6 department. To the extent feasible, this information shall also be
7 provided for each Area Agency on Aging service area.

8 (3) Total estimated statewide expenditures in the prior, current,
9 and budget fiscal years for each state or federally funded program
10 or service administered by the department. This information shall
11 also be provided for each Area Agency on Aging service area.

12 (e) The report required by subdivision (d) shall be suspended
13 until the 2010–11 fiscal year. In lieu of that information, the
14 department shall submit to the budget, fiscal, and policy
15 committees of the Legislature, and the Legislative Analyst, by
16 March 1 of each year, copies of the program factsheets for each
17 state and federal program administered by the department. The
18 department shall update the information included in the program
19 factsheets annually, before submitting them as required by this
20 subdivision.

21 (f) The department shall annually, beginning in the 2010
22 calendar year, update the Elder Economic Security Standard Index
23 for each county in the state, using the methodology developed for
24 the 2008 Elder Economic Security Standard Index. The department
25 shall annually, beginning in the 2010 calendar year, calculate the
26 number, percentage, and demographic profile of elders living below
27 the updated Elder Economic Security Standard Index for that year
28 by utilizing the most recent demographic data available. The
29 department shall analyze the number and percentage of elders
30 living below the updated Elder Economic Security Standard Index
31 for that year by county, race, ethnicity, gender, age, housing
32 situation, and other relevant demographic factors. *The department*
33 *may contract with the UCLA Center for Health Policy Research*
34 *for purposes of carrying out the requirements of this subdivision.*

35 SEC. 8. Section 9400 of the Welfare and Institutions Code is
36 amended to read:

37 9400. (a) The Legislature hereby declares and recognizes the
38 area agencies on aging to be the local units on aging in California
39 that are supported from an array of sources, including federal
40 funding largely through the federal Older Americans Act (42

1 U.S.C. Sec. 3001, et seq.), state and local government assistance,
2 the private sector, and individual contributions for services.

3 (b) Area agencies on aging shall operate in compliance with the
4 Older Americans Act and applicable regulations.

5 (c) Each area agency on aging shall maintain a professional
6 staff that is supplemented by volunteers, governed by a board of
7 directors or elected officials, and whose activities are reviewed by
8 an advisory council consisting primarily of older individuals from
9 the community.

10 (d) Each area agency on aging shall create a plan that *considers*
11 *available data and population trends*, utilizes the Elder Economic
12 Security Standard Index, specifies the costs of meeting basic needs
13 for elders in each ~~public~~ *planning and service* area, identifies which
14 elders are living at or below the Elder Economic Security Standard
15 Index, assesses the needs for services provided under this division
16 reflective of the community needs, identifies sources for funding
17 those services, and develops and implements a plan for delivery
18 of those services based on those needs. Each plan shall include
19 developing area home- and community-based systems of care that
20 maintain individuals in their own homes or least restrictive
21 environment, providing better access to these services through
22 information and referral, outreach, and transportation, and
23 advocating for the elderly on local, state, and national levels.

24 (e) Area agencies on aging shall function as the community link
25 at the local level for development of home- and community-based
26 services provided under the department's programs.

27 (f) The area agencies on aging shall implement subdivision (b)
28 of Section 9100 at the local level, with particular emphasis on
29 coordinating with the local systems to enable individuals to live
30 out their lives with maximum independence and dignity in their
31 own homes and communities through the development of
32 comprehensive and coordinated systems of home- and
33 community-based care. Nothing in this division shall preclude
34 local determination and designation of service coordinators other
35 than area agencies on aging, for development and implementation
36 of the long-term care integration pilot projects set forth in Article
37 4.05 (commencing with Section 14139.05) of Chapter 7 of Part 3
38 of Division 9.

39 (g) In fulfilling their mission, area agencies on aging shall build
40 upon the resources and the commitment unique to each community

1 and shall be guided by a 10-point description of a community-based
2 system that shall do all of the following:

3 (1) Have a visible focal point of contact where anyone can go
4 or call for help, information, or referral on any aging issue.

5 (2) Provide a range of service options.

6 (3) Ensure that these options are readily accessible to all older
7 individuals, whether independent, semi-independent, or totally
8 dependent, no matter what their income.

9 (4) Include a commitment of public, private, and voluntary
10 resources committed to supporting the system.

11 (5) Involve collaborative decisionmaking among public, private,
12 voluntary, religious, and fraternal organizations, as well as older
13 individuals and consumers in the community.

14 (6) Offer special help or targeted resources for the most
15 vulnerable older individuals, those in danger of losing their
16 independence.

17 (7) Provide effective referral from agency to agency to ensure
18 that information or assistance is received, no matter how or where
19 contact is made in the community.

20 (8) Evidence sufficient flexibility to respond with appropriate
21 individualized assistance, especially for the vulnerable older
22 individuals.

23 (9) Have a unique character that is tailored to the specific nature
24 of the community.

25 (10) Be directed by leaders in the community who have the
26 respect, capacity, and authority necessary to convene all interested
27 persons to assess needs, design solutions, track overall success,
28 stimulate change, and plan community responses for the present
29 and for the future.

30 SEC. 9. Section 9545 of the Welfare and Institutions Code is
31 amended to read:

32 9545. (a) The Legislature finds and declares that the purpose
33 of the Linkages Program shall be to provide care and case
34 management services to frail elderly and functionally impaired
35 adults to help prevent or delay placement in nursing facilities. For
36 purposes of this section, “care or case management” means all of
37 the following:

38 (1) As appropriate, ongoing care or case management to frail
39 elderly and functionally impaired adults to help prevent or delay
40 placement in nursing facilities.

1 (2) Client assessment, in conjunction with the development of
2 a service plan with the participant and other appropriate persons,
3 to provide for needs identified by the assessment.

4 (3) Authorization and arrangement for the purchase of services,
5 or referral, with followup, to volunteer, informal, or third-party
6 payer services. Contractors shall maximize to the fullest extent
7 possible the use of existing services resources before using program
8 funds to purchase services for clients. Any benefits received as a
9 result of these purchases either shall not be considered income for
10 purposes of programs provided for under Division 9 (commencing
11 with Section 10000) or shall not be considered an alternative
12 resource pursuant to Section 12301.

13 (4) Service and participant monitoring to determine that the
14 services obtained are appropriate to need, of acceptable quality,
15 and provided in a timely manner.

16 (5) Follow up with clients, including periodic contact and
17 initiation of an interim assessment, if deemed necessary, prior to
18 scheduled reassessment.

19 (6) Assistance to older individuals entering or returning home
20 from nursing facilities and who need help to make the transition.

21 (7) Comprehensive and timely information, when necessary, to
22 individuals and their families about the availability of community
23 resources, to assist functionally impaired adults and the frail elderly
24 to maintain the maximum independence permitted by their
25 functional ability.

26 (8) Short-term specialized assistance, including timely one-time
27 only assistance in securing community resources, counseling, and
28 the arrangement of an action plan, when there is a temporary
29 probable threat to the ability of the frail elderly person or
30 functionally impaired adult to remain in the most independent
31 living arrangement permitted by his or her functional ability.

32 (b) Area agencies on aging shall be required to annually update
33 the Linkages Program intake form to include the most current
34 Elder Economic Security Standard Index, as adopted by the
35 department pursuant to Section 9102, in order to identify elders
36 in economic need and to refer these elders to other resources and
37 programs.

38 (c) Contractors of the Linkages Program shall have experience
39 in community long-term care services and capability to serve the
40 frail elderly and functionally impaired adults, and where applicable,

1 ensure separateness of the programs and demonstrate protective
2 measures to avoid conflict of interest.

3 (d) Contractors of the Linkages Program shall have a systematic
4 means of capturing and reporting all required community-based
5 services program data.

6 (e) (1) Each county shall deposit funds collected pursuant to
7 Section 1465.5 of the Penal Code in its general fund, to be available
8 for use only for the support of services provided under this chapter
9 in that county, including county administrative costs not exceeding
10 10 percent of the funds collected, except as otherwise provided in
11 this subdivision. A county may join with other counties to establish
12 and fund a program of services under this chapter.

13 (2) Funds utilized pursuant to this section shall not supplant, be
14 offset against, or in any way reduce funds otherwise appropriated
15 for the support of services provided under this chapter.

16 *SEC. 10. Nothing in this act shall be construed to mandate*
17 *changes in the current funding allocations to area agencies on*
18 *aging made pursuant to subparagraph (A) of paragraph (2) of*
19 *subdivision (b) of Section 9112 of the Welfare and Institutions*
20 *Code.*