

## Assembly Bill No. 255

### CHAPTER 54

An act to amend Sections 15601, 15610.17, 15610.23, 15610.37, 15610.50, 15610.55, 15610.57, 15630, 15633.5, 15634, 15659, 15701, 15760, 15763, and 15765 of, to amend and renumber Section 15751 of, to amend, renumber, and add Section 15750 of, to amend and repeal Section 15653.5 of, to add Sections 15610.19, 15610.39, and 15655.5 to, to repeal Sections 15701.1, 15701.15, 15701.2, 15701.35, 15752, 15753, 15753.5, and 15761 of, and to repeal the heading of Chapter 13.5 (commencing with Section 15760) of Part 3 of Division 9 of, the Welfare and Institutions Code, relating to elder abuse.

[Approved by Governor June 17, 2002. Filed with  
Secretary of State June 17, 2002.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 255, Zettel. Elder abuse.

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

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

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

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

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

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

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

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

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

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

This bill would combine these provisions with those described in (4) above and make other changes to conform these provisions to the act. The bill would revise the program requirements related to providing immediate intake or intervention in response to reports and the requirements of an immediate response concerning certain reports involving elder or dependent adults residing in other than long-term care or residential facilities. It would also require a county adult protective service agency to provide certain organizations with specified instructional materials regarding elder and dependent adult abuse and neglect and their obligations under the act. The imposition of this new requirement on counties would create a state-mandated local program.

(6) Existing law requires that certain investigations of allegations of elder and dependent adult abuse, and the case management of elder and dependent adult abuse cases, be performed by county merit system or civil service employees. Under existing law, a county adult protective service agency may utilize a contracted private or nonprofit telephone



answering service after normal working hours and on weekends and holidays. These provisions are implemented only to the extent that funding is provided in the Budget Act.

This bill would eliminate that restriction on the application of those provisions.

This bill would also make technical revisions.

(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

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.

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

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

15601. The purposes of this act are to:

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

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

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

SEC. 2. Section 15610.17 of the Welfare and Institutions Code is amended to read:

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



- (a) Twenty-four-hour health facilities, as defined in Sections 1250, 1250.2, and 1250.3 of the Health and Safety Code.
- (b) Clinics.
- (c) Home health agencies.
- (d) Agencies providing publicly funded in-home supportive services, nutrition services, or other home and community-based support services.
- (e) Adult day health care centers and adult day care.
- (f) Secondary schools that serve 18- to 22-year-old dependent adults and postsecondary educational institutions that serve dependent adults or elders.
- (g) Independent living centers.
- (h) Camps.
- (i) Alzheimer's Disease day care resource centers.
- (j) Community care facilities, as defined in Section 1502 of the Health and Safety Code, and residential care facilities for the elderly, as defined in Section 1569.2 of the Health and Safety Code.
- (k) Respite care facilities.
- (l) Foster homes.
- (m) Vocational rehabilitation facilities and work activity centers.
- (n) Designated area agencies on aging.
- (o) Regional centers for persons with developmental disabilities.
- (p) State Department of Social Services and State Department of Health Services licensing divisions.
- (q) County welfare departments.
- (r) Offices of patients' rights advocates and clients' rights advocates, including attorneys.
- (s) The office of the long-term care ombudsman.
- (t) Offices of public conservators, public guardians, and court investigators.
- (u) Any protection or advocacy agency or entity that is designated by the Governor to fulfill the requirements and assurances of the following:
  - (1) The federal Developmental Disabilities Assistance and Bill of Rights Act of 2000, contained in Chapter 144 (commencing with Section 15001) of Title 42 of the United States Code, for protection and advocacy of the rights of persons with developmental disabilities.
  - (2) The Protection and Advocacy for the Mentally Ill Individuals Act of 1986, as amended, contained in Chapter 114 (commencing with Section 10801) of Title 42 of the United States Code, for the protection and advocacy of the rights of persons with mental illness.
- (v) Humane societies and animal control agencies.
- (w) Fire departments.
- (x) Offices of environmental health and building code enforcement.



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

SEC. 3. Section 15610.19 is added to the Welfare and Institutions Code, to read:

15610.19. “Clergy member” means a priest, minister, rabbi, religious practitioner, or similar functionary of a church, synagogue, temple, mosque, or recognized religious denomination or organization. “Clergy member” does not include unpaid volunteers whose principal occupation or vocation does not involve active or ordained ministry in a church, synagogue, temple, mosque, or recognized religious denomination or organization, and who periodically visit elder or dependent adults on behalf of that church, synagogue, temple, mosque, or recognized religious denomination or organization.

SEC. 4. Section 15610.23 of the Welfare and Institutions Code is amended to read:

15610.23. (a) “Dependent adult” means any person between the ages of 18 and 64 years who resides in this state and who has physical or mental limitations that restrict his or her ability to carry out normal activities or to protect his or her rights, including, but not limited to, persons who have physical or developmental disabilities, or whose physical or mental abilities have diminished because of age.

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

SEC. 5. Section 15610.37 of the Welfare and Institutions Code is amended to read:

15610.37. “Health practitioner” means a physician and surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, licensed clinical social worker or associate clinical social worker, marriage, family, and child counselor, or any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code, any emergency medical technician I or II, paramedic, or person certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code, a psychological assistant registered pursuant to Section 2913 of the Business and Professions Code, a marriage, family, and child counselor trainee, as defined in subdivision (c) of Section 4980.03 of the Business and Professions Code, or an unlicensed marriage, family, and child counselor intern registered under Section 4980.44 of the Business and Professions Code, state or county public



health or social service employee who treats an elder or a dependent adult for any condition, or a coroner.

SEC. 6. Section 15610.39 is added to the Welfare and Institutions Code, to read:

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

SEC. 7. Section 15610.50 of the Welfare and Institutions Code is amended to read:

15610.50. “Long-term care ombudsman” means the State Long-Term Care Ombudsman, local ombudsman coordinators, and other persons currently certified as ombudsmen by the Department of Aging as described in Chapter 11 (commencing with Section 9700) of Division 8.5.

SEC. 7.5. Section 15610.55 of the Welfare and Institutions Code is amended to read:

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

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

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

(2) Police officers or other law enforcement agents.

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

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

(5) Public guardians.

(6) The local long-term care ombudsman.

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

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

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

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

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



- (1) Failure to assist in personal hygiene, or in the provision of food, clothing, or shelter.
- (2) Failure to provide medical care for physical and mental health needs. No person shall be deemed neglected or abused for the sole reason that he or she voluntarily relies on treatment by spiritual means through prayer alone in lieu of medical treatment.
- (3) Failure to protect from health and safety hazards.
- (4) Failure to prevent malnutrition or dehydration.
- (5) Failure of an elder or dependent adult to satisfy the needs specified in paragraphs (1) to (4), inclusive, for himself or herself as a result of poor cognitive functioning, mental limitation, substance abuse, or chronic poor health.

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

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

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

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

Except in an emergency, the local ombudsman and the local law enforcement agency shall, as soon as practicable, do all of the following:

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

(ii) Report to the State Department of Social Services any case of known or suspected abuse occurring in a residential care facility for the



elderly, as defined in Section 1569.2 of the Health and Safety Code, or in an adult day care facility, as defined in paragraph (2) of subdivision (a) of Section 1502.

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

(e) A telephone report of a known or suspected instance of elder or dependent adult abuse shall include, if known, the name of the person making the report, the name and age of the elder or dependent adult, the present location of the elder or dependent adult, the names and addresses of family members or any other person responsible for the elder or dependent adult's care, the nature and extent of the elder or dependent adult's condition, the date of the incident, and any other information, including information that led that person to suspect elder or dependent adult abuse, as requested by the agency receiving the report.

(f) The reporting duties under this section are individual, and no supervisor or administrator shall impede or inhibit the reporting duties, and no person making the report shall be subject to any sanction for making the report. However, internal procedures to facilitate reporting, ensure confidentiality, and apprise supervisors and administrators of



reports may be established, provided they are not inconsistent with this chapter.

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

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

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

(h) Failure to report physical abuse, abandonment, abduction, isolation, financial abuse, or neglect of an elder or dependent adult, in violation of this section, is a misdemeanor, punishable by not more than six months in the county jail, by a fine of not more than one thousand dollars (\$1,000), or by both that fine and imprisonment. Any mandated reporter who willfully fails to report physical abuse, abandonment, abduction, isolation, financial abuse, or neglect of an elder or dependent adult, in violation of this section, where that abuse results in death or great bodily injury, shall be punished by not more than one year in a county jail, by a fine of not more than five thousand dollars (\$5,000), or by both that fine and imprisonment.

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

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

(b) The identity of all persons who report under this chapter shall be confidential and disclosed only among adult protective services agencies, long-term care ombudsman programs, licensing agencies, local law enforcement agencies, district attorneys' offices, the bureau, and the Division of Investigation to counsel representing an adult protective services agency, long-term care ombudsman program,



licensing agency, or a local law enforcement agency, by the bureau to the district attorney in a criminal prosecution, when persons reporting waive confidentiality, or by court order.

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

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

15634. (a) No care custodian, clergy member, health practitioner, or employee of an adult protective service agency or a local law enforcement agency who reports a known or suspected instance of elder or dependent adult abuse shall be civilly or criminally liable for any report required or authorized by this article. Any other person reporting a known or suspected instance of elder or dependent adult abuse shall not incur civil or criminal liability as a result of any report authorized by this article, unless it can be proven that a false report was made and the person knew that the report was false. No person required to make a report pursuant to this article, or any person taking photographs at his or her discretion, shall incur any civil or criminal liability for taking photographs of a suspected victim of elder or dependent adult abuse or causing photographs to be taken of such a suspected victim or for disseminating the photographs with the reports required by this article. However, this section shall not be construed to grant immunity from this liability with respect to any other use of the photographs.

(b) No care custodian, clergy member, health practitioner, or employee of an adult protective services agency or a local law enforcement agency who, pursuant to a request from an adult protective services agency or a local law enforcement agency investigating a report of known or suspected elder or dependent adult abuse, provides the requesting agency with access to the victim of a known or suspected instance of elder or dependent adult abuse, shall incur civil or criminal liability as a result of providing that access.

(c) The Legislature finds that, even though it has provided immunity from liability to persons required to report elder or dependent adult abuse, immunity does not eliminate the possibility that actions may be brought against those persons based upon required reports of abuse. In order to further limit the financial hardship that those persons may incur as a result of fulfilling their legal responsibilities, it is necessary that they not be unfairly burdened by legal fees incurred in defending those actions. Therefore, a care custodian, clergy member, health practitioner, or an employee of an adult protective services agency or a local law enforcement agency may present to the State Board of Control a claim for reasonable attorneys' fees incurred in any action against that person



on the basis of making a report required or authorized by this article if the court has dismissed the action upon a demurrer or motion for summary judgment made by that person, or if he or she prevails in the action. The State Board of Control shall allow that claim if the requirements of this subdivision are met, and the claim shall be paid from an appropriation to be made for that purpose. Attorneys' fees awarded pursuant to this section shall not exceed an hourly rate greater than the rate charged by the Attorney General at the time the award is made and shall not exceed an aggregate amount of fifty thousand dollars (\$50,000). This subdivision shall not apply if a public entity has provided for the defense of the action pursuant to Section 995 of the Government Code.

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

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

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

SEC. 12.5. Section 15655.5 is added to the Welfare and Institutions Code, to read:

15655.5. A county adult protective service agency shall provide the organizations listed in paragraphs (v), (w), and (x) of Section 15610.17 with instructional materials regarding elder and dependent adult abuse and neglect and their obligation to report under this chapter. At a minimum, the instructional materials shall include the following:

- (a) An explanation of elder and dependent adult abuse and neglect, as defined in this chapter.
- (b) Information on how to recognize potential elder and dependent adult abuse and neglect.
- (c) Information on how the county adult protective service agency investigates reports of known or suspected abuse and neglect.
- (d) Instructions on how to report known or suspected incidents of abuse and neglect, including the appropriate telephone numbers to call and what types of information would assist the county adult protective service agency with its investigation of the report.

SEC. 12.7. Section 15659 of the Welfare and Institutions Code is amended to read:

15659. (a) Any person who enters into employment on or after January 1, 1995, as a care custodian, clergy member, health practitioner, or with an adult protective services agency or a local law enforcement



agency, prior to commencing his or her employment and as a prerequisite to that employment, shall sign a statement on a form that shall be provided by the prospective employer, to the effect that he or she has knowledge of Section 15630 and will comply with its provisions. The employer shall provide a copy of Section 15630 to the employee. The statement shall inform the employee that he or she is a mandated reporter and inform the employee of his or her reporting obligations under Section 15630. The signed statement shall be retained by the employer.

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

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

(d) On and after January 1, 1995, when a person is issued a state license or certificate to engage in a profession or occupation the members of which are required to make a report pursuant to Section 15630, the state agency issuing the license or certificate shall send to the person a statement substantially similar to the one contained in subdivision (a) at the same time that it transmits to the person the document indicating licensure or certification.

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 24. The heading of Chapter 13.5 (commencing with Section 15760) of Part 3 of Division 9 of the Welfare and Institutions Code is repealed.

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

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

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

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



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

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

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

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

(b) (1) A county shall respond immediately to any new report of crises in existing cases of, imminent threat to life to, or imminent danger to, any elder or dependent adult residing in other than a long-term care facility, as defined in Section 9701, or a residential facility, as defined in Section 1502 of the Health and Safety Code. For reports involving persons residing in a long-term care facility or a residential care facility, the county shall report to the local long-term care ombudsman program. Adult protective services staff shall consult, coordinate, and support efforts of the ombudsman program to protect vulnerable residents. Except as specified in paragraph (2), the county shall respond to all other reports of danger to an elder or dependent adult in other than a long-term care facility or residential care facility within 10 calendar days or as soon as practicably possible.

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

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



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

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

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

(D) The need for intervention at the time.

(E) The need for protective services.

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

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

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

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

(3) Analysis of problems and strengths.

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

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

(6) Counseling for each client on whom a report has been made and significant others to alleviate the identified problems and to implement the service plan.

(7) Stabilizing and linking each client on whom a report has been made with community services.

(8) Monitoring and followup.

(9) Reassessments, as appropriate.

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



(e) Each county shall designate an adult protective services agency to establish and maintain multidisciplinary teams including, but not limited to, adult protective services, law enforcement, home health care agencies, hospitals, adult protective services staff, the public guardian, private community service agencies, public health agencies, and mental health agencies, for the purpose of providing interagency treatment strategies.

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

SEC. 28. Section 15765 of the Welfare and Institutions Code is amended to read:

15765. This chapter shall become operative on May 1, 1999. Commencing with the 1999–2000 fiscal year, Sections 15760 to 15764, inclusive, shall be implemented only to the extent funds are provided in the annual Budget Act.

SEC. 29. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

