

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, California 95814



November 20, 2000

ALL-COUNTY INFORMATION NOTICE NO: I-111-00

TO: ALL COUNTY WELFARE DIRECTORS
ADULT PROTECTIVE SERVICES (APS)
PROGRAM MANAGERS
ALL COUNTY COUNSELS
ALL COUNTY PUBLIC GUARDIAN OFFICES

REASON FOR THIS TRANSMITTAL

- State Law Change
- Federal Law or Regulation Change
- Court Order or Settlement Agreement
- Clarification Requested by One or More Counties
- Initiated by CDSS

SUBJECT: 2000 CHAPTERED LEGISLATION IMPACTING THE ADULT PROTECTIVE SERVICES PROGRAM

This All-County Information Notice provides a summary of statutes enacted during the 2000 legislative session that impact the Adult Protective Services (APS) Program. The attached legislative summaries of Assembly Bills (AB) and Senate Bills (SB) are for general informational purposes only.

Separate All-County Letters or All-County Information Notices have been or will be issued for some statutes to provide more detailed descriptions of specific programmatic issues and implementation procedures. Unless otherwise noted, these statutes become effective on January 1, 2001.

If you have any questions regarding this notice, you may contact the Adult Protective Services Bureau, at (916) 229-0323.

Sincerely,

*Original Document Signed by Leonard Tozier for
Donna L. Mandelstam on 11/20/00*

DONNA L. MANDELSTAM
Deputy Director
Disability and Adult Programs Division

Attachment

ADULT PROTECTIVE SERVICES PROGRAM

AB 559 (Nakano) Chapter 214, Statutes of 2000

This legislation amends the punishment provisions of Penal Code Section 368, relating to criminal negligence involving the abuse of elder or dependent adults. The statute now provides for a fine of up to \$6,000 and a jail term of up to one year, or both. Previous provisions permitting imposition of prison terms of 2, 3, or 4 years remain in effect.

AB 1819 (Shelley) Chapter 559, Statutes of 2000

AB 1819 amends the Elder Abuse and Dependent Adult Civil Protection Act by expanding the definition of “mental suffering” to include “deceptive acts or false or misleading statements made with malicious intent to agitate, confuse, frighten, or cause severe depression or serious emotional distress.” In addition, AB 1819 expands the training provided to police officers and deputy sheriffs to include the subjects of physical and psychological abuse of elder and dependent adults and the role of the local adult protective services and public guardian offices. Finally, AB 1819 requires the Attorney General and the Health and Human Services Agency to establish a statewide elder and dependent adult abuse awareness media campaign.

AB 2063 (Zettel) Chapter 97, Statutes of 2000

This legislation amends the Evidence Code to allow the admission of evidence of a defendant’s prior acts of elder or dependent adult abuse or neglect, when the defendant is accused of abuse or neglect of an elder or dependent adult. The legislation also limits what information is admissible. For the purpose of the Evidence Code, the definition of “abuse of an elder or dependent adult” references the definition contained in Welfare and Institutions Code Section 15610.07.

AB 2107 (Scott) Chapter 442, Statutes of 2000

AB 2107 amends the Elder Abuse and Dependent Adult Civil Protection Act by redefining the term “financial abuse” in Welfare and Institutions Code Section 15610.30 as follows:

- (a) “Financial abuse” of an elder or dependent adult occurs when a person or entity does any of the following:
 - (1) Takes, secretes, appropriates, or retains real or personal property of an elder or dependent adult to a wrongful use or with intent to defraud, or both.
 - (2) Assists in taking, secreting, appropriating, or retaining real or personal property of an elder or dependent adult to a wrongful use or with intent to defraud, or both.
- (b) A person or entity shall be deemed to have taken, secreted, appropriated, or retained property for a wrongful use if, among other things, the person or entity takes, secretes, appropriates or retains possession of property in bad faith.

- (1) A person or entity shall be deemed to have acted in bad faith if the person or entity knew or should have known that the elder or dependent adult had the right to have the property transferred or made readily available to the elder or dependent adult or to his or her representative.
- (2) For purposes of this section, a person or entity should have known of a right specified in paragraph (1) if, on the basis of the information received by the person or entity or the person or entity's authorized third party, or both, it is obvious to a reasonable person that the elder or dependent adult has a right specified in paragraph (1).
- (c) For purposes of this section, "representative" means a person or entity that is either of the following:
 - (1) A conservator, trustee, or other representative of the estate of an elder or dependent adult.
 - (2) An attorney-in-fact of an elder or dependent adult who acts within the authority of the power of attorney.

SB 1742 (Hughes) Chapter 813, Statutes of 2000

This legislation amends Probate Code Section 2950 et seq. to allow certain peace officers, in tandem with an Adult Protective Services supervisor, to certify that an elder person is incapable of managing their financial resources due to mental incapacity. Once certified, the Public Guardian is authorized to take immediate possession or control of the elder's property, under specified circumstances, without waiting for a court ruling on competency.