

Date of Hearing: April 19, 2016

ASSEMBLY COMMITTEE ON AGING AND LONG-TERM CARE

Cheryl Brown, Chair

AB 2301 (Chu) – As Amended April 13, 2016

SUBJECT: Residential care facilities for the elderly: elder abuse.

SUMMARY: Requires the California Health & Human Services Agency to file a report to the Legislature regarding the manner in which each county in the state invests in and conducts services that train and equip law enforcement officers to identify and investigate instances of elder abuse in long-term care and assisted living facilities within their jurisdictions.

Specifically, **this bill:**

- 1) Requires the Health & Human Services Agency to file a report on or before January 1, 2020, to the Legislature regarding the manner in which each county in the state invests in and conducts services that train and equip law enforcement officers to identify and investigate instances of elder abuse in long-term care and assisted living facilities within their jurisdictions.
- 2) Requires the report to include, but not be limited to, information for each county regarding:
 - a. the size and scope of the county's long-term care ombudsman program;
 - b. whether or not the county sheriff's department maintains an elder abuse task force or a resource officer trained and equipped to investigate elder abuse cases;
 - c. whether the sheriff's department coordinates with the county long-term care ombudsman on elder abuse investigations;
 - d. the way in which these programs are funded;
 - e. how proactive the county's programs are at engaging with long-term care facilities and conducting services, including, but not limited to, routine check-ins with facility managers and residents; and,
 - f. whether or not the county's elder abuse task force or designated resource officer, if any, has contact information available to long-term care facilities and their residents.
- 3) Requires the report to be submitted in compliance with Section 9795 of the Government Code.
- 4) Repeals these provisions on January 1, 2024 pursuant to Section 9795 of the Government Code.

EXISTING LAW:

- 1) Establishes the Elder Abuse and Dependent Adult Civil Protection Act (EADACPA) to protect elder and dependent adults from abuse and exploitation.

- 2) Recognizes that elders and dependent adults may have disabilities and cognitive impairments, such as Alzheimer's disease and other dementia disorders, which often leave them incapable of seeking help and protection from others.
- 3) Recognizes that elders and dependent adults suffer physical impairments and poor health, conditions that place them in a dependent and vulnerable position, and that cases of elder and dependent adult abuse are seldom prosecuted as criminal matters, and that few civil cases are brought in connection with this abuse due to problems of proof, court delays, and the lack of incentives to prosecute these suits.
- 4) Requires a mandated reporter who, within the scope of his or her employment or professional capacity, has knowledge of physical abuse, abandonment, abduction, isolation, financial abuse, or neglect, or is told by an elder or dependent adult, that he or she has experienced abuse, to report the known or suspected abuse, to appropriate parties.
- 5) Creates the Long-Term Care Ombudsman program under the Older Americans Act (OAA) and places it within the California Department of Aging (CDA) under the Older Californians Act (OCA) in order to encourage community contact and involvement with elderly patients or residents of long-term care facilities or residential facilities through the use of volunteers and volunteer programs and generally prohibits an ombudsman from making a disclosure of personal information pertaining to an ombudsman program client, unless the client provides written consent.
- 6) Requires the local ombudsperson or the local law enforcement agency to report suspected abuse to the state Departments of Public Health, Social Services, and Aging with regulatory oversight for the type of long-term care facility, as specified. Also requires the local ombudsperson or local law enforcement agency to make reports to the Bureau of Medi-Cal Fraud and Elder Abuse any case of known or suspected criminal activity, and all cases of known or suspected physical abuse and financial abuse to the local district attorney's office in the county where the abuse occurred.
- 7) Establishes the licensing framework administered by California Department of Social Services (DSS) for residential care facilities for the elderly, facilities that provide personal care and supervision, protective supervision or health related services for persons 60 years of age or older who voluntarily choose to reside in that facility.
- 8) Defines a resident's rights living in an RCFE to promote for individual choice, autonomy to make decisions, and to be protected from physical or mental abuse, neglect, and endangerment.

FISCAL EFFECT: Unknown

COMMENTS: According to the Administration on Aging, in the United States, the 2010 Census recorded the greatest number and proportion of people age 65 and older in all of decennial census history: 40.3 million, or 13% of the total population – the “Boomer Generation” effect. By 2050, people age 65 and older are expected to comprise 20% of the total U.S. population, with the largest proportion in California. The fastest growing segment of American's population consists of those 85 and up. In 2010, there were 5.8 million people aged 85 or older. By 2050, it is projected that there will be 19 million people aged 85 or older.

The most recent major studies on the incidence of elder abuse reported that nearly 10% of study participants experienced abuse in the prior year. Despite the accessibility of Adult Protective Services (APS), as well as mandatory reporting laws for elder abuse in most states, experts agree that a substantial number of cases of abuse and neglect go unreported and untreated each year. One study estimated that only 1 in 14 cases of elder abuse ever comes to the attention of authorities. Elders who experienced abuse, even modest abuse, had a 300% higher risk of death when compared to those who had not been abused. Elder abuse occurs in community settings, such as private homes, as well as institutional settings like nursing homes and other types of long term care facilities. Abuse can also occur perpetrated by family members, most often adult children, spouses, partners, and others.

Author's statement: According to the author, this bill is needed to “study the ways that addressing elder abuse and providing resources and accountability in elder care facilities and RCFEs differ from county to county.” In addition, “the diminished funding for Adult Protective Services and the Long Term Care Ombudsman has exasperated discrepancies between counties in their ability to properly address elder abuse cases. Despite this, there is little to no existing research on these discrepancies, whether it is the result of funding, extent of training, extent of coordination with facilities, and/or whether the county has a designated law enforcement task force or resource officer equipped to identify and address suspected abuse.”

California's Long-Term Care Ombudsman Program: The Long-Term Care Ombudsman (LTCO) Program investigates complaints of elder abuse in both long-term care facilities and residential care facilities for the elderly. The LTCO also serves as a way for residents to communicate on a confidential basis when other concerns or needs arise.

Funding for LTCO has suffered during the Great Recession in California. Resources in 2016 stand at \$7.29 million compared to \$11.2 million in FY 2007-08. During the intervening years and in response to reduced funding, California's local LTCOs were forced to reduce operating hours and scale back services. Since the cuts to their budget, the local LTCOs have had to greatly reduce the number of long-term care facilities they visit quarterly. This depleted the LTCO capacity to regularly visit facilities. Recent updates in funding have helped restore that capacity.

Last year, additional resources of \$1.4 million were allocated to provide increased support for the LTCO. Local ombudsman programs received \$1 million from the state General Fund for the first time since FY 2007-08. They also received an additional \$400,000 from the California Department of Public Health, Licensing and Certification Program Fund, as a direct result of an increase in the Skilled Nursing Facility Bed Fee. This additional funding permitted the hiring for 27 additional positions needed to work with facilities and respond to resident complaints and substantially increased the amount of training that took place for staff. The additional funding has directly led to increased LTC Ombudsman visits to facilities and assistance to residents, including a 27.3% increase in the number of information and consultation sessions with individuals where Ombudsman representatives provide information about long-term care and answer questions about residents' rights and other issues that residents, family members, and friends may be concerned about. This interaction in turn often empowers residents, families, and friends to resolve issues on their own. The added funds also led to a 13.9% increase in the number of residential care facilities and a 6.2% increase in the number of skilled nursing facilities receiving at least one visit each quarter, not in response to a complaint. During these

unannounced, non-complaint related visits, Ombudsman representatives meet with residents, inform residents of their rights, and build relationships of trust.

Suggested Clarifying Amendments:

On page 2, line 5, insert “how” and delete “the manner in which”. On line 6 delete “conducts services that” and insert “trains and equips.”

On page 2, line 19, insert “frequently and which county” and delete “proactive.” On line 19 delete “at engaging” and insert “able to engage”. On line 20 delete “conducting services” and insert “periodic visits to facilities” and delete “routine check-ins with facility managers and residents.”

On page 3, line 2, delete “has” and insert “makes”

Arguments in Support: The Coalition for Elder & Dependent Abuse Rights (CEDAR) writes in support of a thorough study of law enforcement policies and practices associated with reports of abuse, citing difficulties from prior experience.

Previous and Related Legislation:

SB 1166 (Mello) Chapter 1115, Statutes of 1989 enacted the Residential Care Facilities for the Elderly Reform Act of 1989.

AB 40 (Yamada), Chapter 659, Statutes of 2012 required mandated reporters to report physical abuse which occurs within a long-term care facility, except a state mental hospital or state developmental center, to local law enforcement by telephone within two hours, with the required written follow-up report to be sent to both the law enforcement agency and the LTCO within 24 hours, as well as to the appropriate licensing agency. Defined those crimes that must be reported to law enforcement, at a minimum, to include those defined in WIC 15610.63, which include assault, battery, sexual assault, unreasonable physical restraint, improper use of a physical or chemical restraint or psychotropic drugs, as specified, and other related crimes.

AB 1623 (Atkins), Chapter 85, Statutes of 2014 authorized the creation of Family Justice Centers (FJCs) and defines key aspects of their operations under state law. FJCs are multiagency, multidisciplinary service centers where public and private agencies assign staff members to provide services to victims of domestic violence, sexual assault, elder and dependent adult abuse, or human trafficking in order to reduce the number of places victims must go to for help and increase access to services and support for them and their children.

AB 2171 (Wieckowski), Chapter 702, Statutes of 2014 established a bill of rights for residents of RCFEs in order to strengthen a resident’s right to make choices about his or her care, treatment, and daily life in the facility, ensure that the resident’s choices are respected, and protect residents from physical or mental abuse, neglect, restraint, exploitation, or endangerment.

AB 2379 (Weber), Chapter 62, Statutes of 2014 adds child welfare services personnel to the list of individuals who may be included in multidisciplinary teams that are trained in the prevention, identification, management, or treatment of abuse of elderly or dependent adults.

REGISTERED SUPPORT / OPPOSITION:

Support

Coalition for Elder & Dependent Abuse Rights (CEDAR) – Sponsor
Arc and United Cerebral Palsy California Collaboration

Opposition

None on file.

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