

Date of Hearing: April 22, 2014

ASSEMBLY COMMITTEE ON AGING AND LONG-TERM CARE

Mariko Yamada, Chair

AB 2623 (Pan) – As Amended: April 21, 2014

SUBJECT: Elder abuse training for peace officers.

SUMMARY: Requires peace officers assigned to patrol duties, that respond to elder/dependent adult abuse reports, to complete an updated course of instruction on elder/dependent adult abuse every two years, and requires local law enforcement agencies to provide those officers a card that contains referral resources for the local Adult Protective Services (APS) program, the local Long-Term Care Ombudsman (LTCO) program, and specific information on victims' rights and protective orders. Specifically, this bill:

- 1) Requires local law enforcement agencies to provide a "Victims of Elder Abuse" card that summarizes contact information for local protective agencies including APS, the LTCO, and information on a victim's right to petition the courts for an emergency protective order, including a temporary restraining order, and an immediate, temporary eviction.
- 2) Expands the topics of an existing elder/dependent adult abuse video-based training curriculum, required of all peace officers assigned field or investigative duties within 18 months of appointment, to include information on the verification and enforcement of protective orders, simultaneous "move-out" orders and temporary restraining orders.
- 3) Requires all non-supervisory law enforcement officers assigned patrol duties, and who normally respond to elder abuse reports or domestic violence incidents, to complete an updated course of instruction on elder/dependent adult abuse (which includes information on legal rights and remedies of victims of elder/dependent adult abuse) every two years.

EXISTING LAW:

- 1) Requires people who should reasonably know that a person is an elder or dependent adult, and under circumstances or conditions likely to produce injury or death, willfully causes or permits any elder or dependent adult to suffer, or inflicts unjustifiable physical pain or mental suffering, to be punished by imprisonment in a county jail up to one year, by a fine not to exceed \$6,000, or by both, or by imprisonment in state prison for two, three, or four years.
- 2) Requires caregivers who under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits the person, or health of the elder or dependent adult, to be injured, or willfully causes or permits the elder or dependent adult to be placed in a situation in which his or her person or health is endangered, be punished by imprisonment in a county jail up to one year, by a fine not to exceed \$6,000, or by both, or by imprisonment in state prison for two, three, or four years.
- 3) Requires people, who should reasonably know that a person is an elder or dependent adult, under circumstances or conditions *other than those* likely to produce great bodily harm or death, willfully causes or permits any elder or dependent adult to suffer or inflicts unjustifiable physical pain or mental suffering, is guilty of a misdemeanor. A second or

subsequent violation of this subdivision is punishable by a fine not to exceed \$2,000; by imprisonment in a county jail not to exceed one year; or by both the fine and imprisonment.

- 4) Requires caregivers who under circumstances or conditions *other than those* likely to produce great bodily harm or death, willfully causes or permits the person, or health of the elder or dependent adult, to be injured, or willfully causes or permits the elder or dependent adult to be placed in a situation in which his or her person or health is endangered, is guilty of a misdemeanor. A second or subsequent violation of this subdivision is punishable by a fine not to exceed \$2,000; by imprisonment in a county jail not to exceed one year; or by both the fine and imprisonment.
- 5) Provides that any person convicted of theft, embezzlement, forgery, fraud, or identity theft, with respect to the property or personal identifying information of an elder or a dependent adult, is punishable by imprisonment in a county jail for up to one year, or in the state prison for two, three, or four years (when the moneys, labor, goods, services, or property taken exceeds \$400) and by a fine not exceeding \$1,000. If the value of goods and services do not exceed \$400: imprisonment in a county jail for up to one year, and a fine not to exceed \$1000.
- 6) Provides that every city police officer or deputy sheriff at a supervisory level and below who is assigned field or investigative duties shall complete an elder and dependent abuse training course certified by Peace Officers Standard Training (POST) within 18 months of assignment to field duties which addresses relevant laws, elder/dependent adult abuse recognition, reporting requirements and procedures, neglect, fraud, physical abuse, psychological abuse and community resources for protective services.

FISCAL EFFECT: Unknown

COMMENTS:

Background: California's aged population is growing rapidly. The state's "65+" population will reach 5 million people this year. By 2035, the state's population profile will consist of one-in-five over age 65, a demographic shift expected to present vexing problems for policy makers and governmental agencies attempting prevent the abuse or exploitation of elders and other adults who have similar needs, though are not elderly. While mistreatment of elders and adults with disabilities has traditionally been viewed as a family problem, criminal justice systems are adapting to better address elder/dependent adult abuse and neglect as a criminal issue.

Author's Statement: "Enhancing Law Enforcement Training on Elder Abuse; AB 2623 will protect our growing elderly population and provide our peace officers with the best training available. AB 2623 will address some detrimental and critical issues facing peace officers who respond to elder abuse calls; it will:

- 1) Educate peace officers about the legal rights and remedies available to victims of elder abuse, including the availability of emergency protective orders and elder abuse restraining orders.
- 2) Provide peace officers who normally would respond to elder abuse complaints with a refresher course of instruction on elder abuse every two years. Current law only provides training on elder abuse at the beginning of an officer's career.

- 3) Equip peace officers with a “Victims of Elder Abuse” card listing the legal rights and remedies available to victims of elder abuse, and contact information for organizations that help elders.

Discussion: AB 2623 proposes two specific improvements to existing public policy. First, AB 2623 adds a requirement related to a "palm" card which can be easily and discreetly transferred to an alleged victim, designed to assist officers in the field, and others, with directing alleged victims of elder or dependent adult abuse toward resources that could provide protections from on-going abuse. Secondly, AB 2623 enhances existing authorization for required peace officer training curriculum by calling for updates to the training video used for that purpose, then directs that training to be completed every two years, instead of the existing mandate that it be completed once, within 18 months of assignment.

The card envisioned by AB 2623 contains critical information on local resources available to assist a victim with protection, such as the APS office and the LTCO office. The card also informs officers and victims of potential civil remedies that could be undertaken by the complainant/victim, such as a protective order enjoining a party from abusing, intimidating, harassing, or worse; or an order excluding a party from the petitioner’s residence or dwelling. The curriculum enhancements to peace officer's training includes information about civil remedies available to at-risk or abused elders and dependent adults, such as the protective orders mentioned above.

Supporters Argue: Supporters argue that AB 2623 would enable peace officers working in the field to better respond to suspected cases of elder abuse with expanded skills and more timely and relevant training which would include curriculum on legal rights and remedies available to victims. By informing victims of their rights to seek protective orders, consumers will learn quickly what resources the courts can offer to secure protection from abusive individuals.

Recommended Amendments: Vulnerable adults receive the same protections as elders in the eyes of the courts, so statutes should reflect the court's awareness. A concise explanation of the rationale was presented by the Assembly Committee on Public Safety in a recent analysis, reflecting a directive from *People vs. Heitzman* (1994) 9 Cal.4th 189, 194]:

"In 1983, the Legislature passed the state's first law focusing exclusively on those 65 years of age or older, requiring elder care custodians and other specified professionals to report instances of elder abuse. (Welf. & Inst. Code, § 9380-9386, added by Stats. 1983, ch. 1273, § 2 and repealed by Stats. 1986, ch. 769, § 1.3, eff. Sept. 15, 1986.) That same year, Senate Bill No. 248, 1983-1984 Regular Session, was introduced at the request of the Santa Ana Police Department. An analysis of the bill prepared for the Senate Committee on the Judiciary indicates that the goal of the legislation was to aid in the prosecution of people who harm or neglect dependent adults. (Sen. Com. on Judiciary, Analysis of Sen. Bill No. 248 (1983-1984 Reg. Sess.) p. 2.) According to this document, law enforcement agencies receiving reports concerning suspected abuse or neglect of dependent adults were having difficulty finding Penal Code sections under which they could prosecute such cases. (Ibid.) The solution proposed by the bill was to establish the same criminal penalties for the abuse of a dependent adult as those found in sections 273a and 273d for child abuse. (Sen. Com. on Judiciary, Analysis of

Sen. Bill No. 248.) When drafting the new legislation, the bill's author lifted the language of the child abuse statutes in its entirety, replacing the word 'child' with 'dependent adult' throughout (internal citation omitted).

"After the statute was enacted late in 1983, several non-substantive changes were made. (Stats. 1984, ch. 144, § 160, p. 482.) Later, in conjunction with legislation designed to consolidate the two sets of conflicting reporting laws for elder abuse and dependent adult abuse, a 1986 amendment to section 368(a) made the section expressly applicable to elders as well as dependent adults. (Stats. 1986, ch. 769, § 1.2, p. 2531, urgency measure eff. Sept. 15, 1986.) [Heitzman at 245.]"

Amendment #1:

Page 2, line 4: strike "Victims of Elder Abuse" and replace with "Victims of Elder/Dependent Adult Abuse"

Amendment #2:

Page 2, line 5: after "(a)" insert "and (d)"

Amendment #3:

Page 2, line 6: strike "elder abuse" and replace with "elder or dependent adult abuse"

Amendment #4:

Page 2, line 9: after "agency," insert: "the local long-term care ombudsman program,"

Amendment #5:

Page 2, line 11: after "elders" insert: "and other, younger, dependent adults"

Amendment #6:

Page 3, line 15: after the word "Abuse" insert ", the Office of the State Long-Term Care Ombudsman, the Adult Protective Services program"

Related or Previous Legislation:

SB 1233 – Wyland: Theft: elder and dependent adults; increases monetary penalties from \$2,500 to \$25,000 for theft, embezzlement, forgery, fraud, or identity theft when the victim is an elder or dependent adult.

SB 110 – Liu (Chapter 617, Statutes of 2010) – Expanded the scope of provisions related to elders who are victims of crimes, abuse, or neglect to include non-elder dependent adults, including provisions related to law enforcement training and county interagency death review teams.

AB 332 – Butler (Chapter 366, Statutes of 2011) – Elder and dependent adult financial abuse: increased fines from \$1,000 to \$2,500.

AB 1819 – Shelley (Chapter 559, Statutes of 2000) – Expanded the definition of mental suffering of an elder or dependent adult to include, among other things, deceptive acts or false or misleading statements made with malicious intent to agitate, confuse, frighten, or cause severe depression or serious emotional distress.

AB 870 – Hertzberg (Chapter 444, Statutes of 1997) – Requires every city police officer or deputy sheriff at a supervisory level and below to complete an elder abuse training course certified by Peace Officers Standards Training (POST).

REGISTERED SUPPORT / OPPOSITION:

Support

American Federation of State, County and municipal Employees (AFSCME), AFL-CIO  
California Association of Public Authorities (CAPA)  
California Long-Term Care Ombudsman Association (CLTCOA)  
California Police Chiefs Association  
Retired Public Employees Association (RPEA)

Opposition

None on file.

Analysis Prepared by: Robert MacLaughlin / AGING & L.T.C. / (916) 319-3990