

Date of Hearing: June 11, 2019

ASSEMBLY COMMITTEE ON AGING AND LONG-TERM CARE

Adrin Nazarian, Chair

SB 338 (Hueso) – As Amended April 9, 2019

SENATE VOTE: 38-0

SUBJECT: Senior and disability victimization: law enforcement policies.

SUMMARY: This bill creates the Senior and Disability Justice Act and requires that local law enforcement agencies follow the guidelines promulgated by the 2018 San Diego County Elder and Dependent Adult Abuse Blueprint when they adopt policies on elder and dependent adult abuse. Specifically, **this bill:**

- 1) Authorizes local law enforcement agencies to adopt a policy regarding senior and disability victimization.
- 2) Requires, if a local law enforcement agency adopts or revises a policy manual on elder and dependent adult abuse on or after October 1, 2020, that they follow the guidelines promulgated by the 2018 San Diego County Elder and Dependent Adult Abuse Blueprint.
- 3) Requires a law enforcement agency that adopts or revises a policy on elder and dependent adult abuse on or after July 1, 2020, to post a copy of that policy on its website.
- 4) Eliminates the duty imposed on long-term care ombudsman programs to revise policies or include specified information regarding elder and dependent adult abuse in their policy manuals.
- 5) Makes clarifying changes to related provisions with respect to the entities that have jurisdiction to investigate elder and dependent adult abuse.

EXISTING LAW:

- 1) Makes it a crime for a person, entrusted with the care of custody of any elder or dependent adult, to willfully cause the elder to be injured or permit them to be placed in a situation endangering their health.
- 2) States that local and state law enforcement agencies with jurisdiction, shall have concurrent jurisdiction to investigate elder and dependent adult abuse and all other crimes against elders and victims with disabilities.
- 3) Authorizes county adult protective services agencies and local long-term care ombudsman programs to investigate elder and dependent adult abuse, but grants law enforcement agencies the exclusive responsibility for criminal investigations.
- 4) Existing law requires local law enforcement agencies and long-term care ombudsman programs to revise or include in their policy manuals, as defined, specified information regarding elder and dependent adult abuse.

FISCAL EFFECT: This bill is keyed non-fiscal by Legislative Counsel.

COMMENTS: According to the author, “SB 338 seeks to protect California’s most vulnerable populations from harm and abuse. Specifically, SB 338 will create the California Senior and Disability Justice Act which will give local law enforcement agencies tools to better protect senior citizens and Californians living with disabilities from abuse, sexual assault, domestic violence, hate crimes, and other major crimes. The bill is largely based on the 2018 San Diego County Elder and Dependent Adult Abuse Blueprint.”

Third Party Training Manuals and Training: Third party organizations provide state-specific, public safety policy content and training. Their services are provided to police, including airport, municipal, campus, port, and tribal officers, sheriff’s departments, custody officers, detention center officers, district attorney offices, probation offices, state and federal agencies, and more. Lexipol is California’s leading officer training manual provider. The Lexipol system allows departments and agencies to customize policy manuals to update, change, and delete content. Lexipol also recommends that a person must allocate 50 to 60 hours for review and editing. The size and scope of departments and agencies which use Lexipol often varies.

In 2014, former Assembly member Pan authored AB 2623 requiring police officers and deputy sheriffs to be trained in the legal rights and remedies available to victims of elder or dependent adult abuse, such as protective orders, simultaneous move-out orders, and temporary restraining orders. (Pen. Code § 13515, subd. (a).) The legislation also requires Peace Officers Standards and Training Council (POST) to consult with local adult protective services offices and the Office of State Long-Term Care Ombudsman when producing new or updated training materials. (Pen. Code § 13515, subd. (b)(1)-(3).)

Case Study on Elder Abuse and Training Manuals: In 2014-2015, Santa Clara County Grand Jury received a complaint regarding law enforcement’s failure to apply California Penal Code 368 in investigating false imprisonment and forced isolation of elderly residents in San Jose. The San Jose Police Department reported, “It does not appear to me that this is a situation of criminal neglect matter”. A Santa Clara County Deputy DA concurred stating, “This is a civil issue”. However, existing law states that any person who willfully causes or permit any elder or dependent adult to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, is guilty of a misdemeanor. (Pen. Code § 368, subd. (c).) Additionally, any person who commits the false imprisonment of an elder or a dependent adult by the use of violence, menace, fraud, or deceit is punishable by imprisonment for two, three, or four years. (Pen. Code § 368, subd. (f).)

The Grand Jury reviewed law enforcement manuals, training materials, and the county’s Elder Abuse Protocol. Out of twelve law enforcement agencies, only one policy and sheriff’s department manuals specifically referenced California Penal Code 368. The study showed that, across 12 counties, officer training manuals were inconsistent in their references to California Penal Code 368 and 368.5.

San Diego County Elder and Dependent Adult Abuse Blueprint: San Diego County District Attorney Summer Stephan, along with the San Diego County Health and Human Services Agency, Aging and Independence Services, the San Diego City Attorney’s Office and local law enforcement unveiled the first ever San Diego County Elder and Dependent Adult Abuse Blueprint. The Blueprint commits San Diego County to a written set of goals and a coordinated community response to elder and dependent adult abuse, including model practices and response by law enforcement, prosecution and others. Responding to an increase in elder abuse crimes

and prosecutions, as well as the impending explosion of the elder population, the District Attorney brought together countywide stakeholders in November of last year for a first ever “think-tank” of experts, including professionals from all disciplines that serve as touchpoints for elder and dependent adults. Those experts identified gaps and needs in our community, and set goals for the future, which resulted in the creation of the new Blueprint.

The San Diego County Elder and Dependent Adult Abuse Blueprint promulgates guidelines and regulations in San Diego for the treatment and enforcement of elder and dependent adult abuse cases.

REGISTERED SUPPORT / OPPOSITION:

Support

California Alliance for Retired Americans (CARA)
California Long-Term Care Ombudsman Association (CLTCOA) – Support of Amended
National Association of Social Workers, California Chapter (NASW-CA)
Peace Officers’ Research Association of California (PORAC)
San Diego District Attorney
United Domestic Workers-UDW/AFSCME Local 3930

Opposition

None on file.

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