

**ASSEMBLY BILL**

**No. 1780**

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**Introduced by Assembly Member Murray**

February 6, 1998

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An act to amend Section 15630 of the Welfare and Institutions Code, relating to elder abuse.

LEGISLATIVE COUNSEL'S DIGEST

AB 1780, as introduced, Murray. Elder abuse: reporting requirements.

Existing law requires any mandated reporter, as defined, who observes in his or her professional capacity, or within the scope of his or her employment, an instance of physical abuse against an elder or dependent adult, to report the abuse under specified circumstances. The report must be made to the local ombudsman or to a local law enforcement agency if the abuse has occurred in a long-term care facility, except as specified. Failure to make a required report is punishable as a misdemeanor.

This bill would delete the specified circumstances under which the above report is required to be made and would instead require that a report be made when the mandated reporter knows or reasonably suspects that the elder or dependent adult has been the victim of physical abuse. The bill would also expand this reporting duty to include the neglect of an elder or dependent adult. Additionally, the bill would add the Bureau of Medi-Cal Fraud to the list of specified agencies to whom a report may be made concerning abuse and neglect in a long-term care facility. The bill would

require that, except in emergency situations, if the abuse or neglect occurred in a long-term care facility, the report must be made first to the Bureau of Medi-Cal Fraud. Because this bill would expand the definition of a crime and increase the reporting duties of local officials, it would impose a state-mandated local program.

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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

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

1 SECTION 1. Section 15630 of the Welfare and  
2 Institutions Code is amended to read:  
3 15630. (a) Any elder or dependent adult care  
4 custodian, health practitioner, or employee of a county  
5 adult protective services agency or a local law  
6 enforcement agency is a mandated reporter.  
7 (b) Any mandated reporter, who, in his or her  
8 professional capacity, or within the scope of his or her  
9 employment, has ~~observed an incident that reasonably~~  
10 ~~appears to be physical abuse, observed a physical injury~~  
11 ~~where the nature of the injury, its location on the body,~~  
12 ~~or the repetition of the injury clearly indicates that~~



1 ~~physical abuse has occurred or is told by an elder or~~  
2 ~~dependent adult that he or she has experienced behavior~~  
3 ~~constituting physical abuse~~ *knowledge of, or observes an*  
4 *elder or dependent adult, whom he or she knows or*  
5 *reasonably suspects has been the victim of physical abuse*  
6 *or neglect*, shall report the known or suspected instance  
7 of abuse by telephone immediately or as soon as possible,  
8 and by written report sent within two working days, as  
9 follows:

10 (1) If the *physical abuse or neglect* has occurred in a  
11 long-term care facility, except a state mental health  
12 hospital or a state developmental center, the report shall  
13 be made to the *Bureau of Medi-Cal Fraud*, local  
14 ombudsman, or the local law enforcement agency.  
15 *Except in emergency situations, the report shall be made*  
16 *first to the Bureau of Medi-Cal Fraud.*

17 (2) If the suspected or alleged *physical abuse or*  
18 *neglect* occurred in a state mental health hospital or a  
19 state developmental center, the report shall be made to  
20 designated investigators of the State Department of  
21 Mental Health or the State Department of  
22 Developmental Services or to the local law enforcement  
23 agency.

24 (3) If the *physical abuse or neglect* has occurred any  
25 place other than one described in paragraph (1), the  
26 report shall be made to the adult protective services  
27 agency or the local law enforcement agency.

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

35 (2) If the suspected or alleged *physical abuse or*  
36 *neglect* occurred in a long-term care facility other than  
37 a state mental health hospital or a state developmental  
38 center, the report may be made to the long-term care  
39 ombudsman program.



1 (3) If the suspected or alleged *physical* abuse or  
2 *neglect* occurred in a state mental health hospital or a  
3 state developmental center, the report may be made to  
4 the designated investigator of the State Department of  
5 Mental Health or the State Department of  
6 Developmental Services, or to a local law enforcement  
7 agency or to the local ombudsman.

8 (4) If the suspected or alleged *physical* abuse or  
9 *neglect* occurred anywhere else, the report may be made  
10 to the county adult protective services agency.

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

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

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

37 (f) The reporting duties under this section are  
38 individual, and no supervisor or administrator shall  
39 impede or inhibit the reporting duties, and no person  
40 making the report shall be subject to any sanction for



1 making the report. However, internal procedures to  
2 facilitate reporting, ensure confidentiality, and apprise  
3 supervisors and administrators of reports may be  
4 established, provided they are not inconsistent with this  
5 chapter.

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

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

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

25 (h) Failure to report physical abuse *or neglect* of an  
26 elder or dependent adult, in violation of this section, is a  
27 misdemeanor, punishable by not more than six months in  
28 the county jail or by a fine of not more than one thousand  
29 dollars (\$1,000), or by both that fine and imprisonment.

30 SEC. 2. Notwithstanding Section 17610 of the  
31 Government Code, if the Commission on State Mandates  
32 determines that this act contains costs mandated by the  
33 state, reimbursement to local agencies and school  
34 districts for those costs shall be made pursuant to Part 7  
35 (commencing with Section 17500) of Division 4 of Title  
36 2 of the Government Code. If the statewide cost of the  
37 claim for reimbursement does not exceed one million  
38 dollars (\$1,000,000), reimbursement shall be made from  
39 the State Mandates Claims Fund.



1 Moreover, no reimbursement is required by this act  
2 pursuant to Section 6 of Article XIII B of the California  
3 Constitution because the only costs that may be incurred  
4 by a local agency or school district will be incurred  
5 because this act creates a new crime or infraction,  
6 eliminates a crime or infraction, or changes the penalty  
7 for a crime or infraction, within the meaning of Section  
8 17556 of the Government Code, or changes the definition  
9 of a crime within the meaning of Section 6 of Article  
10 XIII B of the California Constitution.

11 Notwithstanding Section 17580 of the Government  
12 Code, unless otherwise specified, the provisions of this act  
13 shall become operative on the same date that the act  
14 takes effect pursuant to the California Constitution.

