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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2011

A N A C T

RELATING TO CRIMINAL OFFENSES -- ADULT CRISIS INTERVENTION AND
PROTECTIVE SERVICES

Introduced By: Senators McCaffrey, and Lynch

Date Introduced: February 16, 2011

Referred To: Senate Health & Human Services

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 11-5-10, 11-5-10.1, 11-5-10.2, 11-5-10.3, 11-5-10.4, 11-5-11 and
2 11-5-12 of the General Laws in Chapter 11-5 entitled "Assaults" are hereby amended to read as
3 follows:

4 **11-5-10. Assault on persons 60 years of age or older causing bodily injury.** – (a) Any
5 person who shall commit an assault and battery upon a person sixty (60) years of age or older,
6 causing bodily injury, shall be deemed to have committed a felony and shall be imprisoned not
7 exceeding five (5) years, or fined not exceeding one thousand dollars (\$1,000), or both.

8 (b) After January 1, 2012, pursuant to section 42-7.2-17, the local police department shall
9 request the adult crisis intervention program to provide crisis intervention services for the victim
10 when:

11 (1) Necessary to ensure the immediate health and safety of the victim;

12 (2) The victim relies on the person believed to have committed the abuse, neglect and/or
13 exploitation, for assistance in activities in daily living; and

14 (3) After the victim is informed of his or her right to refuse crisis intervention and/or
15 supportive services.

16 **11-5-10.1. Assault on persons 60 years of age or older causing serious bodily injury.**

17 -- (a) Any person who shall commit an assault or battery, or both, upon a person sixty (60) years
18 of age or older, causing serious bodily injury, shall be deemed to have committed a felony and

1 shall be imprisoned for not less than three (3) years but not more than twenty (20) years, or fined
2 not more than ten thousand dollars (\$10,000), or both. Every person so convicted shall be ordered
3 to make restitution to the victim of the offense or to perform up to five hundred (500) hours of
4 public community restitution work or attend violence counseling and/or substance abuse
5 counseling, or any combination of them imposed by the sentencing judge. The court may not
6 waive the obligation to make restitution and/or public community restitution work. The restitution
7 and/or public community restitution work shall be in addition to any fine or sentence which may
8 be imposed and not in lieu of the fine or sentence.

9 (b) "Serious bodily injury" means physical injury that:

10 (1) Creates a substantial risk of death;

11 (2) Causes protracted loss or impairment of the function of any bodily part, member or
12 organ; or

13 (3) Causes serious permanent disfigurement.

14 (c) After January 1, 2012, pursuant to section 42-7.2-17, the local police department shall
15 request the adult crisis intervention program to provide crisis intervention services for the victim
16 when:

17 (1) Necessary to ensure the immediate health and safety of the victim;

18 (2) The victim relies on the person believed to have committed the abuse, neglect and/or
19 exploitation, for assistance in activities in daily living; and

20 (3) After the victim is informed of his or her right to refuse crisis intervention and/or
21 supportive services.

22 **11-5-10.2. Assault on persons with severe impairments causing serious bodily injury.**

23 == (a) Any person who shall commit an assault or battery, or both, upon a person, with severe
24 impairments causing serious bodily injury, shall be deemed to have committed a felony and shall
25 be imprisoned for not less than two (2) years but not more than twenty (20) years, or fined not
26 more than five thousand dollars (\$5,000), or both. Every person so convicted shall be ordered to
27 make restitution to the victim of the offense or to perform up to five hundred (500) hours of
28 public community restitution work, or both, or any combination of them imposed by the
29 sentencing judge. The court may not waive the obligation to make restitution and/or public
30 community restitution work. The restitution and/or public community restitution work shall be in
31 addition to any fine or sentence which may be imposed and not in lieu of the fine or sentence.

32 (b) "Serious bodily injury" means physical injury that:

33 (1) Creates a substantial risk of death, serious disfigurement;

34 (2) Causes protracted loss or impairment of the function of any bodily part, member or

1 organ; or

2 (3) Causes serious permanent disfigurement.

3 (c) For the purposes of this section:

4 (1) "Adult" means a person over the age of eighteen (18).

5 (2) "Major life activities" means: (i) mobility; (ii) self-care; (iii) communication; (iv)
6 receptive and/or expressive language; (v) learning; (vi) self-direction; (vii) capacity for
7 independent living; or (viii) economic self-sufficiency.

8 (3) "Person with severe impairments" means a child or adult who has a disability which is
9 attributable to a mental or physical impairment or combination of mental and physical
10 impairments and results in substantial functional limitations in one or more major life activities.

11 (d) Violations of this section shall be reported to the local police department.

12 (e) After July 1, ~~2007~~ 2011, pursuant to section ~~40-8.5-2~~ 42-7.2-17, the local police
13 department ~~may~~ shall request the ~~department of mental health, retardation, and hospitals~~ adult
14 crisis intervention program to provide crisis intervention services for the adult victim with severe
15 impairments when:

16 (1) Necessary to ensure the immediate health and safety of the adult victim; ~~and~~

17 (2) The adult victim relies on the person believed to have committed the assault and/or
18 battery, for assistance in performing three (3) or more major life activities; ~~and~~

19 (3) After the victim is informed of his or her right to refuse crisis intervention and/or
20 supportive services.

21 **11-5-10.3. Assault on persons 60 ye ars of age or older by caretaker causing bodily**
22 **injury.** – (a) Any person who shall commit an assault and battery upon a person sixty (60) years
23 of age or older, causing bodily injury, and who was, at the time of the assault and battery,
24 responsible for the care and treatment of the victim, shall be deemed to have committed a felony
25 and shall be imprisoned not exceeding five (5) years, or fined not exceeding two thousand five
26 hundred dollars (\$2,500), or both. Further, if at the time of the assault and battery the person
27 committing the act was employed by a health care facility that either condoned the act or
28 attempted to conceal it, the health care facility shall be fined not exceeding five thousand dollars
29 (\$5,000).

30 (b) After July 1, 2011, pursuant to section 42-7.2-17, the local police department shall
31 request the adult crisis intervention program to provide crisis intervention services for the victim
32 when:

33 (1) Necessary to ensure the immediate health and safety of the victim;

34 (2) The victim relies on the person believed to have committed the abuse, neglect and/or

1 [exploitation, for assistance in activities in daily living; and](#)
2 [\(3\) After the victim is informed of his or her right to refuse crisis intervention and/or](#)
3 [supportive services.](#)

4 **11-5-10.4. Assault on persons 60 years of age or older by caretaker causing serious**

5 **bodily injury.** -- (a) Any person who shall commit an assault or battery, or both, upon a person
6 sixty (60) years of age or older, causing serious bodily injury, and who was, at the time of the
7 assault and battery, responsible for the care and treatment of the victim, shall be deemed to have
8 committed a felony and shall be imprisoned for not less than two (2) years but not more than
9 twenty (20) years, or fined not more than ten thousand dollars (\$10,000), or both. Further, if at the
10 time of the assault and battery the person committing the act was employed by a health care
11 facility that either condoned the act or attempted to conceal it, the health care facility shall be
12 fined not exceeding fifteen thousand dollars (\$15,000). Every person so convicted shall be
13 ordered to make restitution to the victim of the offense or to perform up to five hundred (500)
14 hours of public community restitution work or attend violence counseling and/or substance abuse
15 counseling, or any combination of them imposed by the sentencing judge. The court may not
16 waive the obligation to make restitution and/or public community restitution work. The restitution
17 and/or public community restitution work shall be in addition to any fine or sentence which may
18 be imposed and not in lieu of the fine or sentence.

- 19 (b) "Serious bodily injury" means physical injury that:
20 (1) Creates a substantial risk of death;
21 (2) Causes protracted loss or impairment of the function of any bodily part, member or
22 organ; or
23 (3) Causes serious permanent disfigurement.

24 [\(c\) After July 1, 2011, pursuant to section 42-7.2-17, the local police department shall](#)
25 [request the adult crisis intervention program to provide crisis intervention services for the victim](#)
26 [when:](#)

- 27 [\(1\) Necessary to ensure the immediate health and safety of the victim;](#)
28 [\(2\) The victim relies on the person believed to have committed the abuse, neglect and/or](#)
29 [exploitation, for assistance in activities in daily living; and](#)
30 [\(3\) After the victim is informed of his or her right to refuse crisis intervention and/or](#)
31 [supportive services.](#)

32 **11-5-11. Assault on persons with severe impairments.** -- (a) For the purposes of this
33 section:

- 34 (1) "adult" means a person over the age of eighteen (18).

1 (2) "major life activities" means: (i) mobility; (ii) self-care; (iii) communication; (iv)
2 receptive and/or expressive language; (v) learning; (vi) self-direction; (vii) capacity for
3 independent living; or (viii) economic self-sufficiency.

4 (3) "person with severe impairments" means a child or adult who has a disability which is
5 attributable to a mental or physical impairment or combination of mental and physical
6 impairments which results in a substantial limitation on the person's ability to function
7 independently in the family or community and in one or more major life activities.

8 (b) Any person who shall commit an assault and battery upon a person who is severely
9 impaired as defined in subsection (a) of this section, causing bodily injury, shall be deemed to
10 have committed a felony and shall be imprisoned not exceeding five (5) years, or fined not
11 exceeding two thousand dollars (\$2,000), or both.

12 (c) Violations of this section shall be reported to the local police department.

13 (d) After July 1, ~~2007~~ 2011, pursuant to section ~~40-8.5-2~~ 42-7.2-17, the local police
14 department ~~may~~ shall request the ~~department of mental health, retardation, and hospitals~~ adult
15 crisis intervention program to provide crisis intervention services for the adult victim with severe
16 impairments when:

17 (1) Necessary to ensure the immediate health and safety of the adult victim; ~~and~~

18 (2) The adult victim relies on the person believed to have committed the assault and/or
19 battery, for assistance in performing three (3) or more major life activities-; and

20 (3) After the victim is informed of his or her right to refuse crisis intervention and/or
21 supportive services.

22 **11-5-12. Abuse, neglect and/or exploitation of adults with severe impairments. --** (a)
23 Any person primarily responsible for the care of an adult with severe impairments who shall
24 willfully and knowingly abuse, neglect or exploit that adult shall be subject to a fine of not more
25 than two thousand dollars (\$2,000), or imprisoned not more than five (5) years, or both, and
26 ordered to make full restitution of any funds as the result of any exploitation which results in the
27 misappropriation of funds. Every person convicted of or placed on probation for violation of this
28 section shall be ordered by the sentencing judge to attend appropriate professional counseling to
29 address his or her abusive behavior.

30 (b) As used in this section:

31 (1) "Abuse" means the subjection of an adult with a severe impairment to willful
32 infliction of physical pain, willful deprivation of services necessary to maintain the physical or
33 mental health of the person, or unreasonable confinement.

34 (2) "Adult with severe impairments" means a person over the age of eighteen (18) who

1 has a disability which is attributable to a mental or physical impairment or combination of mental
2 and physical impairments and results in substantial functional limitations in one or more of the
3 following areas of major life activity: (i) mobility; (ii) self-care; (iii) communication; (iv)
4 receptive and/or expressive language; (v) learning; (vi) self-direction; (vii) capacity for
5 independent living; or (viii) economic self-sufficiency.

6 (3) "Exploitation" means an act or process of taking pecuniary advantage of impaired
7 persons by use of undue influence, harassment, duress, deception, false representation, false
8 pretenses, or misappropriation of funds.

9 (4) "Neglect" means the willful refusal to provide services necessary to maintain the
10 physical or mental health of an adult with severe impairments.

11 (5) "Person primarily responsible for care" or "caregiver" means any person who is for a
12 significant period of time the primary caregiver or is primarily responsible for the management of
13 the funds of an adult with severe impairments.

14 (c) Violations of this section shall be reported to the local police department.

15 (d) After July 1, ~~2007~~ 2011, pursuant to section ~~40-8.5-2~~ 42-7.2-17, the local police
16 department ~~may~~ shall request the ~~department of mental health, retardation, and hospitals~~ adult
17 crisis intervention program to provide crisis intervention services for the adult victim with severe
18 impairments when:

19 (1) Necessary to ensure the immediate health and safety of the adult victim; ~~and~~

20 (2) The adult victim relies on the person believed to have committed the assault and/or
21 battery, for assistance in performing three (3) or more major life activities- ; and

22 (3) After the victim is informed of his or her right to refuse crisis intervention and/or
23 supportive services.

24 (e) Any person who fails to report known or suspected abuse or neglect shall be guilty of
25 a misdemeanor and upon conviction shall be subject to a fine of not more than five hundred
26 dollars (\$500).

27 (f) Nothing in this section shall be interpreted to apply to the discontinuance of life-
28 support systems or life-sustaining treatment for an adult for whom, if the treatment were
29 terminated, death may result.

30 (g) Any person participating in good faith in making a report pursuant to this chapter,
31 excluding any perpetrator or conspirator of the acts, shall have immunity from any civil liability
32 that might otherwise be incurred or imposed.

33 (h) Nothing in this section shall be interpreted to prohibit the use of any medical or
34 psychological treatment procedure designed and conducted in accordance with applicable

1 professional standards when performed by appropriately trained personnel under the supervision
2 of a person or facility licensed or approved by the state of Rhode Island and when any consent as
3 is required by law has been obtained.

4 (i) Nothing in this chapter shall be construed to mean a person is abused or neglected for
5 the sole reason that the person is being furnished or relies upon treatment by spiritual means
6 through prayer alone in accordance with the tenets and practices of a church or religious
7 denomination recognized by the laws of this state.

8 (j) Nothing in this chapter shall be construed to mean a person is abused or neglected
9 when the parent or legal guardian of an adult with severe impairments, who is the person
10 primarily responsible for care of the adult, (1) decides, in good faith, not to accept support
11 services from a governmental agency, which in the opinion of the parent or legal guardian and the
12 adult, is considered to be inappropriate or inconsistent with the best interests of that adult; or (2)
13 decides, in good faith, to reduce or discontinue assistance to that adult who is developing,
14 acquiring or practicing independent decision-making or living skills.

15 SECTION 2. The title of Chapter 12-1.4 of the General Laws entitled "CITIZENS'
16 COMMISSION FOR THE SAFETY AND CARE OF THE ELDERLY" is hereby amended to
17 read as follows:

18 ~~CHAPTER 12-1.4~~

19 ~~CITIZENS' COMMISSION FOR THE SAFETY AND CARE OF THE ELDERLY~~

20 CHAPTER 12-1.4

21 CITIZENS' COMMISSION FOR THE SAFETY AND CARE OF THE ELDERLY AND

22 ADULTS WITH SEVERE IMPAIRMENTS

23 SECTION 3. Sections 12-1.4-1, 12-1.4-2, 12-1.4-3, 12-1.4-4 and 12-1.4-7 of the General
24 Laws in Chapter 12-1.4 entitled "Citizens' Commission for the Safety and Care of the Elderly" are
25 hereby amended to read as follows:

26 **12-1.4-1. Short title.** -- This chapter shall be known and may be cited as the "Citizens'
27 Commission for the Safety and Care of the Elderly and Adults with Severe Impairments."

28 **12-1.4-2. Creation.** -- There is established within the ~~department of elderly affairs~~
29 executive office of health and human services the citizens' commission for the safety and care of
30 the elderly and adults with severe impairments.

31 **12-1.4-3. Purpose.** -- The purpose of the commission shall be to act as a liaison between
32 the legislature, public safety officials, the ~~department~~ departments of elderly affairs, human
33 services, and behavioral healthcare, developmental disabilities, and hospitals, and the older
34 ~~population~~ disabled populations of Rhode Island in the area of crime against the elderly, fire

1 safety, [adults with disabilities](#), and protective service options available to the elderly [and adults](#)
2 [with disabilities](#).

3 **12-1.4-4. Membership.** -- (a) The commission shall consist of ~~twenty-one (21)~~ [twenty-](#)
4 [nine \(29\)](#) members, eight (8) of whom shall be older citizens appointed by the speaker and seven
5 (7) of whom shall be older citizens appointed by the president of the senate. The speaker shall
6 appoint three (3) members and the president of the senate shall appoint two (2) members for
7 terms of three (3) years; the speaker shall appoint three (3) members and the president of the
8 senate shall appoint two (2) members for terms of two (2) years; and the speaker shall appoint
9 two (2) members and the president of the senate shall appoint three (3) members for a term of one
10 year. [Three \(3\) members of the commission shall be adults with disabilities appointed by the](#)
11 [speaker and two \(2\) of whom shall be adults with disabilities appointed by the president of the](#)
12 [senate. The speaker shall appoint one member and the president of the senate shall appoint one](#)
13 [member for a term of three \(3\) years; the speaker shall appoint one member and the president of](#)
14 [the senate shall appoint one member for a term of two \(2\) years; the speaker shall appoint one](#)
15 [member and the president of the senate shall appoint one member for a term of one year.](#)

16 These terms shall commence with the date of appointment and expire on the January 31
17 after the appointment corresponding with the number of years of the term to which appointed.

18 Appointments shall be made for terms of three (3) years commencing on February 1 in
19 the year of appointment and ending on January 31 in the third year after the appointment. Any
20 vacancy among the members shall be filled by the appointing authority for the remainder of the
21 unexpired term.

22 (b) The remaining ~~six (6)~~ [nine \(9\)](#) members of the commission shall be the president of
23 the Police Chiefs' Association or his or her designee; the attorney general or his or her designee;
24 the director of elderly affairs or his or her designee; [the director of the department of human](#)
25 [services, or his or her designee; the director of the department of behavioral healthcare,](#)
26 [developmental disabilities and hospitals, or his or her designee; the chairperson of the governor's](#)
27 [commission on disabilities, or his or her designee;](#) a representative of the state police appointed
28 by the superintendent of the state police, the president of the fire chief's association, or his or her
29 designee and the state fire marshal or his or her designee; all ~~six (6)~~ [eight \(8\)](#) of whom shall be
30 appointed for a term of three (3) years.

31 (c) The members of the commission shall meet at the call of the speaker of the house and
32 organize and shall select a chairperson from among themselves.

33 **12-1.4-7. Cooperation of departments.** -- (a) All departments and agencies of the state
34 shall furnish any advice and information, documentary and otherwise, to the commission and its

1 agents deemed necessary or desirable by the commission to facilitate the purposes of this chapter.

2 (b) Each local police and fire chief shall designate at least one police officer or fire
3 fighter to serve as the department's "senior citizen police advocate" to work as a liaison between
4 the department and the elderly ~~community and disabled communities~~ to help address ~~elderly~~
5 safety and protection issues for elders and adults with disabilities.

6 SECTION 4. Section 23-17.2-5 of the General Laws in Chapter 23-17.2 entitled
7 "Accountability of Services to Patients of Nursing or Personal Care Homes" is hereby amended to
8 read as follows:

9 **23-17.2-5. Duty to report violations.** -- Any person who knows or has reason to know of
10 any violations of this chapter shall report the violations to the ~~director of the department of health~~
11 ~~who~~ adult crisis intervention program that shall conduct an immediate investigation and report his
12 or her findings to the attorney general.

13 SECTION 5. Sections 23-17.8-2 and 23-17.8-3.1 of the General Laws in Chapter 23-17.8
14 entitled "Abuse in Health Care Facilities" are hereby amended to read as follows:

15 **23-17.8-2. Duty to report.** -- (a) Any physician, medical intern, registered nurse,
16 licensed practical nurse, nurse's aide, orderly, certified nursing assistant, medical examiner,
17 dentist, optometrist, optician, chiropractor, podiatrist, coroner, police officer, emergency medical
18 technician, fire-fighter, speech pathologist, audiologist, social worker, pharmacist, physical or
19 occupational therapist, or health officer, or any person, within the scope of their employment at a
20 facility or in their professional capacity, who has knowledge of or reasonable cause to believe that
21 a patient or resident in a facility has been abused, mistreated, or neglected shall make, within
22 twenty-four (24) hours or by the end of the next business day, a telephone report to the ~~director of~~
23 ~~the department of health or his or her designee for those incidents involving health care facilities,~~
24 adult crisis intervention program and in addition to the office of the state long-term care
25 ombudsperson for those incidents involving nursing facilities, assisted living residences, home
26 care and home nursing care providers, veterans' homes and long-term care units in Eleanor Slater
27 Hospital, ~~or to the director of the department of mental health, retardation and hospitals or his or~~
28 ~~her designee for those incidents involving community residences for people who are mentally~~
29 ~~retarded or persons with developmental disabilities.~~ The report shall contain:

30 (1) The name, address, telephone number, occupation, and employer's address and the
31 phone number of the person reporting;

32 (2) The name and address of the patient or resident who is believed to be the victim of the
33 abuse, mistreatment, or neglect;

34 (3) The details, observations, and beliefs concerning the incident(s);

1 (4) Any statements regarding the incident made by the patient or resident and to whom
2 they were made;

3 (5) The date, time, and place of the incident;

4 (6) The name of any individual(s) believed to have knowledge of the incident;

5 (7) The name of any individual(s) believed to have been responsible for the incident.

6 (b) In addition to those persons required to report pursuant to this section, any other
7 person may make a report if that person has reasonable cause to believe that a patient or resident
8 of a facility has been abused, mistreated, or neglected.

9 (c) Any person required to make a report pursuant to this section shall be deemed to have
10 complied with these requirements if a report is made to a high managerial agent of the facility in
11 which the alleged incident occurred. Once notified, the high managerial agent shall be required to
12 meet all reporting requirements of this section within the time frames specified by this chapter.

13 (d) Telephone reports made pursuant to subsection (a) shall be followed-up within three
14 (3) business days with a written report.

15 **23-17.8-3.1. Physician's, certified registered nurse practitioner's and physician**
16 **assistant's report of examination -- Duty of facility. --** Whenever a facility shall receive a
17 report by a person other than a physician or a certified registered nurse practitioner or physician
18 assistant that a patient or resident of the facility has been harmed as a result of abuse, neglect, or
19 mistreatment, the facility shall have the patient examined by a licensed physician or a certified
20 registered nurse practitioner or physician assistant. It shall be mandatory for the physician or
21 certified registered nurse practitioner or physician assistant to make a preliminary report of his or
22 her findings to the department of health for a health care facility, or to the ~~department of mental~~
23 ~~health, retardation and hospitals for a community residence for people who are mentally retarded~~
24 ~~or persons with developmental disabilities and to the facility~~ adult crisis intervention program
25 within forty-eight (48) hours after his or her examination, and a written report within five (5) days
26 after his or her examination.

27 SECTION 6. Section 40-8.5-2 of the General Laws in Chapter 40-8.5 entitled "Health
28 Care for Elderly and Disabled Residents Act" is hereby amended to read as follows:

29 **40-8.5-2. Services for adult victims with severe impairments of abuse, neglect and/or**
30 **exploitation. --** (a) As used in this section the terms:

31 (1) "Adult victim with severe impairments" means:

32 (i) A person over the age of eighteen (18) who has a disability which is attributable to a
33 mental or physical impairment or combination of mental and physical impairments and results in
34 substantial functional limitations in three (3) or more major life activities;

1 (ii) Is an alleged victim of abuse, neglect or exploitation pursuant to section 11-5-12; or
2 assault pursuant to section 11-5-10.2 or 11-5-11 by a caregiver of the victim;

3 (iii) The adult victim relies on the person believed to have committed the abuse, neglect,
4 and/or exploitation, for assistance in performing three (3) or more major life activities; and

5 (iv) Crisis intervention services are necessary to ensure the immediate health and safety
6 of the adult victim.

7 (2) "Crisis intervention services" means the short term provision of health care and
8 residential services in the immediate hours and days following the abuse, neglect and/or
9 exploitation of an adult victim with severe impairments;

10 (3) "Major life activities" mean: (i) mobility; (ii) self-care; (iii) communication; (iv)
11 receptive and/or expressive language; (v) learning; (vi) self-direction; (vii) capacity for
12 independent living; or (viii) economic self-sufficiency; and

13 (4) "Supportive services" means longer term support services for an adult victim with
14 severe impairments, and when appropriate that victim's family.

15 (b) After July 1, ~~2007~~ 2011, local police departments ~~may~~ shall pursuant to section 42-
16 7.2-17 request the adult crisis intervention program ~~department of mental health, retardation, and~~
17 ~~hospitals~~ provide crisis intervention services for the adult victim with severe impairments when:

18 (1) Necessary to ensure the immediate health and safety of the adult victim; ~~and~~

19 (2) The adult victim with severe impairments relies on the person believed to have
20 committed the abuse, neglect and/or exploitation for assistance in performing three (3) or more
21 major life activities; and

22 (3) After the victim is informed of his or her right to refuse crisis intervention and/or
23 supportive services.

24 (c) (1) If the ~~department of mental health, retardation, and hospitals~~ adult crisis
25 intervention program determines that longer term supportive services are necessary, the victim
26 and when appropriate that victim's family will be referred to the public and private agencies and
27 departments whose supportive services are within its statutory and/or regulatory responsibility, as
28 are needed by the victim.

29 (2) In developing the supportive services care plan, the adult victim with severe
30 impairments' rights to self-determination and lifestyle preferences commensurate with his or her
31 needs shall be of prime consideration.

32 (3) If the adult victim with severe impairments withdraws consent or refuses to accept
33 crisis intervention or supportive services, the services shall not be provided.

34 (d) The department of human services is hereby authorized to seek federal approval of a

1 state plan amendment to its title XIX state plan to initiate crisis intervention services and support
2 services for adults who qualify for title XIX services and are victims of severe impairments of
3 abuse, assault, neglect or exploitation.

4 SECTION 7. Section 40.1-5-40.1 of the General Laws in Chapter 40.1-5 entitled "Mental
5 Health Law" is hereby amended to read as follows:

6 **40.1-5-40.1. Duty to report.** -- Any employee who has reasonable cause to believe that
7 an assault or a battery has been committed upon a patient shall make an immediate report,
8 including the identity of parties and witnesses and details of the incident, to the ~~director of the~~
9 ~~department of mental health, retardation, and hospitals~~ adult crisis intervention program, or his or
10 her designee. The ~~director of the department~~ adult crisis intervention program shall cause the
11 report to be investigated immediately and further shall notify the mental health advocate and
12 appropriate law enforcement agencies of the investigation. Any person who fails to make a report
13 shall be guilty of a misdemeanor punishable by a fine of not more than five hundred dollars
14 (\$500).

15 SECTION 8. Section 40.1-5.3-17 of the General Laws in Chapter 40.1-5.3 entitled
16 "Incompetency to Stand Trial and Persons Adjudged Not Guilty by Reason of Insanity" is hereby
17 amended to read as follows:

18 **40.1-5.3-17. Penalties for deprivation of rights -- Disciplinary action -- Duty to**
19 **report.** -- (a) Any person who willfully withholds from or denies to a person committed to a
20 facility pursuant to this chapter any of his or her rights as herein granted, shall, on conviction
21 thereof, be fined not exceeding two thousand dollars (\$2,000) or imprisoned not exceeding two
22 (2) years.

23 (b) Any employee of a facility who shall deny to or withhold from any person any right
24 granted him or her by this chapter shall, independently of the above criminal sanctions, be subject
25 to such disciplinary action as the officer in charge shall see fit to impose, after notice, a hearing,
26 and a finding of a violation of the right.

27 (c) Any employee who has reasonable cause to believe that an assault or a battery has
28 been committed upon a committed person shall make an immediate report, including the identity
29 of parties and witnesses and details of the incident, to the ~~director of the department of mental~~
30 ~~health, retardation, and hospitals or his or her designee~~ adult crisis intervention program. The
31 ~~director of the department~~ adult crisis intervention program shall cause the report to be
32 investigated immediately and further shall notify the mental health advocate and appropriate law
33 enforcement agencies of the results of the investigation. Any person who fails to make such a
34 report shall be guilty of a misdemeanor punishable by a fine of not more than five hundred dollars

1 (\$500).

2 SECTION 9. Sections 40.1-27-2, 40.1-27-3 and 40.1-27-5 of the General Laws in
3 Chapter 40.1-27 entitled "Penalties for Abuse of Persons with Developmental Disabilities" are
4 hereby amended to read as follows:

5 **40.1-27-2. Duty to report.** -- (a) Any person within the scope of their employment at a
6 program or in their professional capacity who has knowledge of or reasonable cause to believe
7 that a participant in a program has been abused, mistreated or neglected shall make, within
8 twenty-four (24) hours or by the end of the next business day, a written report to the [adult crisis](#)
9 [intervention program](#) ~~director of the department of mental health, retardation, and hospitals or his~~
10 ~~or her designee~~. The report shall contain:

11 (1) The name, address, telephone number, occupation, and employer's address and the
12 phone number of the person reporting;

13 (2) The name and address of the participant who is believed to be the victim of the abuse,
14 mistreatment, or neglect;

15 (3) The details, observations, and beliefs concerning the incident(s);

16 (4) Any statements regarding the incident made by the participant and to whom they were
17 made;

18 (5) The date, time, and place of the incident;

19 (6) The name of any individual(s) believed to have knowledge of the incident; and

20 (7) The name of any individual(s) believed to have been responsible for the incident.

21 (b) In addition to those persons required to report pursuant to this section, any other
22 person may make a report if that person has reasonable cause to believe that a participant has
23 been abused, mistreated, or neglected.

24 **~~40.1-27-3. Duties of the director of the department of mental health, retardation,~~**
25 **~~and hospitals~~ Adult crisis intervention program.** -- The [adult crisis intervention program](#)
26 [within the](#) ~~director of the department of mental health, retardation, and hospitals~~ [executive office](#)
27 [of health and human services](#) ~~or his or her designee~~ shall:

28 (1) Notify the attorney general or his or her designee, the chair of the program's human
29 rights committee forthwith upon receipt of an oral or written report made pursuant to section
30 40.1-27-2;

31 (2) Investigate and evaluate or cause to be investigated and evaluated the information
32 reported in those reports. The investigation and evaluation shall be made within twenty-four (24)
33 hours if the [adult crisis intervention program](#) ~~director of the department of mental health,~~
34 ~~retardation, and hospitals~~ has reasonable cause to believe the participant's health or safety is in

1 immediate danger of further abuse or neglect and within seven (7) days for all other reports. The
2 investigations shall include a visit to the program, an interview with the participant allegedly
3 abused, mistreated or neglected, an interview with all witnesses to the alleged incident, a
4 determination of the nature, extent, and cause or causes of the injuries, the identity of the person
5 or persons responsible therefor, all other pertinent facts and recommendations to prevent further
6 abuse, mistreatment or neglect of the participant or other program participants. The determination
7 shall be in writing;

8 (3) Evaluate the environment in the program named in the report and make a written
9 determination of the risk of physical or emotional injury to any other participants in the same
10 program;

11 (4) Forward to the attorney general and the chair of the program's human rights
12 committee within fifteen (15) days after a case is initially reported pursuant to section 40.1-27-2 a
13 summary of the findings and recommendations on each case;

14 (5) If the [adult crisis intervention program](#) ~~director of the department of mental health,~~
15 ~~retardation, and hospitals~~ has reasonable cause to believe that a participant had died as a result of
16 abuse, mistreatment, or neglect, immediately report the death to the attorney general and to the
17 office of the medical examiner. The office of the medical examiner shall investigate the report
18 and communicate its preliminary findings, orally within seventy-two (72) hours, and in writing
19 within seven (7) working days to the attorney general and to the [adult crisis intervention program](#)
20 ~~department of mental health, retardation, and hospitals~~. The office of the medical examiner shall
21 also communicate its final findings and conclusions, with the basis therefore to the same parties
22 within sixty (60) days;

23 (6) Promulgate such regulations as may be necessary to implement the provisions of this
24 chapter; and

25 (7) Maintain a file of the written reports prepared pursuant to this chapter. The written
26 reports shall be confidential, but shall be released to the attorney general, to a court of competent
27 jurisdiction, and upon written request to the participant, his or her counsel, the reporting person or
28 agency, the appropriate review board or a social worker assigned to the case.

29 **40.1-27-5. Physician's report of examination -- Duty of program.** -- Whenever a
30 program shall receive a report by a person other than a physician that a participant has been
31 harmed as a result of abuse, neglect, or mistreatment, the program shall have the patient examined
32 by a licensed physician. It shall be mandatory for the physician to make a preliminary report of
33 his or her findings to the [adult crisis intervention program](#) ~~director of the department of mental~~
34 ~~health, retardation, and hospitals~~ and to the program within forty-eight (48) hours after his or her

1 examination, and a written report within five (5) days after his or her examination.

2 SECTION 10. Section 42-7.2-6.1 of the General Laws in Chapter 42-7.2 entitled "Office
3 of Health and Human Services" is hereby amended to read as follows:

4 **42-7.2-6.1. Transfer of powers and functions.** -- (a) There are hereby transferred to the
5 executive office of health and human services the powers and functions of the departments with
6 respect to the following:

7 (1) By July 1, 2007, fiscal services including budget preparation and review, financial
8 management, purchasing and accounting and any related functions and duties deemed necessary
9 by the secretary;

10 (2) By July 1, 2007, legal services including applying and interpreting the law, oversight
11 to the rule-making process, and administrative adjudication duties and any related functions and
12 duties deemed necessary by the secretary;

13 (3) By September 1, 2007, communications including those functions and services related
14 to government relations, public education and outreach and media relations and any related
15 functions and duties deemed necessary by the secretary;

16 (4) By March 1, 2008, policy analysis and planning including those functions and
17 services related to the policy development, planning and evaluation and any related functions and
18 duties deemed necessary by the secretary;

19 (5) By June 30, 2008, information systems and data management including the financing,
20 development and maintenance of all data-bases and information systems and platforms as well as
21 any related operations deemed necessary by the secretary;

22 (6) By October 1, 2009, assessment and coordination for long-term care including those
23 functions related to determining level of care or need for services, development of individual
24 service/care plans and planning, identification of service options, the pricing of service options
25 and choice counseling; and

26 (7) By October 1, 2009, program integrity, quality control and collection and recovery
27 functions including any that detect fraud and abuse or assure that beneficiaries, providers, and
28 third-parties pay their fair share of the cost of services, as well as any that promote alternatives to
29 publicly financed services, such as the long-term care health insurance partnership.

30 (8) By ~~January~~ July 1, 2011, ~~client~~ the adult crisis intervention and adult protective
31 services for dependent adults as defined in subdivision 42-7.2-17(b)(2) ~~including any such~~
32 ~~services provided to children, elders and adults with developmental and other disabilities;~~

33 (9) [Deleted by P.L. 2010, ch. 23, art. 7, section 1].

34 (b) The secretary shall determine in collaboration with the department directors whether

1 the officers, employees, agencies, advisory councils, committees, commissions, and task forces of
2 the departments who were performing such functions shall be transferred to the office.

3 (c) In the transference of such functions, the secretary shall be responsible for ensuring:

4 (1) Minimal disruption of services to consumers;

5 (2) Elimination of duplication of functions and operations;

6 (3) Services are coordinated and functions are consolidated where appropriate;

7 (4) Clear lines of authority are delineated and followed;

8 (5) Cost-savings are achieved whenever feasible;

9 (6) Program application and eligibility determination processes are coordinated and,
10 where feasible, integrated; and

11 (7) State and federal funds available to the office and the entities therein are allocated and
12 utilized for service delivery to the fullest extent possible.

13 (d) Except as provided herein, no provision of this chapter or application thereof shall be
14 construed to limit or otherwise restrict the departments of children, youth and families, human
15 services, elderly affairs, health, and mental health, retardation, and hospitals from fulfilling any
16 statutory requirement or complying with any regulation deemed otherwise valid.

17 (e) The secretary shall prepare and submit to the leadership of the house and senate
18 finance committees, by no later than January 1, 2010, a plan for restructuring functional
19 responsibilities across the departments to establish a consumer centered integrated system of
20 health and human services that provides high quality and cost-effective services at the right time
21 and in the right setting across the life-cycle.

22 SECTION 11. Chapter 42-7.2 of the General Laws entitled "Office of Health and Human
23 Services" is hereby amended by adding thereto the following section:

24 **42-7.2-17. Adult crisis intervention and protective services.** – (a)(1) There is hereby
25 established within the executive office of health and human services an adult crisis intervention
26 program to coordinate crisis intervention services for the dependent adult during the immediate
27 hours and days following:

28 (i) The arrest or removal of the caregiver of a dependent adult who is the alleged victim
29 of abuse, neglect or exploitation pursuant to sections 11-5-11, 11-5-12, or 42-66-4.1; or assault
30 pursuant to sections 11-5-10, 11-5-10.1, 11-5-10.2, 11-5-10.3, 11-5-10.4, 11-5-11, 11-37-2 or 42-
31 66-8 by that caregiver; or

32 (ii) The unplanned absence of the caregiver of a dependant adult, due to accident, illness,
33 or death of that caregiver; and

34 (iii) Crisis intervention services are necessary to ensure the immediate health and safety

1 of the dependent adult.

2 (2) On or before July 1, 2011, the center shall provide, for the use of public safety
3 agencies, health and human service providers, and the general public, a statewide toll free,
4 twenty-four (24) hour a day, seven (7) days a week telephone line, to report assault, abuse,
5 neglect, or exploitation of dependent adults.

6 (3) After July 1, 2011, a public safety agency may request the center provide crisis
7 intervention services for the dependent adult victim when:

8 (i) Necessary to ensure the immediate health and safety of the adult victim; and

9 (ii) The dependent adult victim relies on the person believed to have committed the
10 assault and battery, abuse, neglect and/or exploitation for assistance in performing major life
11 activities.

12 (4) After July 1, 2011, public safety, health or human service providers, may request the
13 center provide crisis intervention services for the dependant adult when:

14 (i) Necessary to ensure the immediate health and safety of the dependent adult; and

15 (ii) The dependent adult victim relies on the absent caregiver for assistance in performing
16 major life activities.

17 (iii) The caregiver has an unplanned absence, due to accident, illness, or death involving
18 the caregiver.

19 (5) The center shall, upon being contacted by public safety, health or human service
20 providers, immediately determine if the dependent adult needs and will accept crisis intervention
21 services and/or longer term protective services.

22 (6) The center shall notify the:

23 (i) Attorney general; and

24 (ii) Director of the department of health for those incidents involving health care
25 facilities;

26 (iii) Office of the state long-term care ombudsperson for those incidents involving
27 nursing facilities, assisted living residences, home care and home nursing care providers,
28 veterans' homes and long-term care units in Eleanor Slater Hospital; or

29 (iv) Director of the department of behavioral healthcare, developmental disabilities and
30 hospitals, or his or her designee for those incidents involving community residences for adults
31 with developmental and/or behavioral health disabilities.

32 (7) If the adult crisis intervention program determines that longer term supportive
33 services are necessary, the dependent adult and when appropriate that dependent adult's family,
34 the executive office of health and human services shall coordinate the development of a longer

1 term supportive services care plan to:

2 (i) Identify the appropriate public and private agencies and departments whose supportive
3 services are within its statutory and/or regulatory responsibility, as are needed by the dependent
4 adult; and

5 (ii) Ensure a smooth transition from crisis intervention services to long-term supportive
6 services;

7 (7) In developing the supportive services care plan, the dependent adult's rights to self-
8 determination and lifestyle preferences commensurate with his or her needs shall be of prime
9 consideration.

10 (8) If the dependant adult withdraws consent or refuses to accept crisis intervention
11 services or supportive services, the services shall not be provided.

12 (b) As used in this section the following words and phrases shall have the following
13 meanings unless the context clearly indicates otherwise:

14 (1) "Caregiver" means a person who has assumed the responsibility for the care of the
15 dependent adult voluntarily, by contract or by order of a court of competent jurisdiction, or who is
16 otherwise legally responsible for the care of the dependent adult.

17 (2) "Dependent adult" means:

18 (i) A person over the age of eighteen (18) who due to age and/or disability has substantial
19 functional limitations in performing major life activities; and

20 (ii) Needs the assistance of a caregiver in performing major life activities.

21 (3) "Crisis intervention services" means the short-term provision of health care and
22 residential services in the immediate hours and days following the abuse, neglect and/or
23 exploitation of a dependent adult;

24 (4) "Major life activities" means: (i) Mobility; (ii) Self-care; (iii) Communication; (iv)
25 receptive and/or expressive language; (v) Learning; (vi) Self-direction; (vii) Capacity for
26 independent living; or (viii) Economic self-sufficiency; and

27 (5) "Supportive Services" means longer term support services for a dependent adult, and
28 when appropriate that adult's family.

29 (c) No person in the classified, non-classified, or unclassified service of the state who is
30 transferred to the "adult crisis intervention and protective services program" on July 1, 2011 shall
31 be discharged, separated from service, or downgraded in service by reason of the enactment of
32 this section as provided by law or in the personnel rules and regulations of the state applicable to
33 affected personnel.

34 SECTION 12. Section 42-9.2-3 of the General Laws in Chapter 42-9.2 entitled "Office of

1 Elder Justice Prosecution Unit" is hereby amended to read as follows:

2 **42-9.2-3. Establishment.** -- There shall be established and funded within the department
3 of attorney general an elder justice prosecution unit. The elder justice prosecution unit shall be an
4 assistant or special assistant attorney general appointed by the attorney general. Additionally, the
5 unit shall have both an inspector and paralegal to be appointed by the attorney general. The elder
6 justice prosecution unit is authorized to perform the following duties as the attorney general may
7 direct:

- 8 (1) Prosecute cases relating to elder abuse, neglect and exploitation;
- 9 (2) Educate law enforcement personnel of the department of elderly affairs ~~personnel and~~
10 adult crisis intervention program on investigative issues unique to elder justice;
- 11 (3) Intervene in, or request that the state or any agency thereof initiate administrative,
12 legal and legislative actions related to elder justice issues as determined by the attorney general.

13 SECTION 13. Section 42-66-8 of the General Laws in Chapter 42-66 entitled "Elderly
14 Affairs Department" is hereby amended to read as follows:

15 **42-66-8. Abuse, neglect, exploitation and self-neglect of elderly persons -- Duty to**
16 **report.** -- Any person who has reasonable cause to believe that any person sixty (60) years of age
17 or older has been abused, neglected, or exploited, or is self-neglecting, shall make an immediate
18 report to the director of the department of elderly affairs or his or her designee. In cases of abuse,
19 neglect or exploitation, any person who fails to make the report shall be punished by a fine of not
20 more than one thousand dollars (\$1,000). Nothing in this section shall require an elder who is a
21 victim of abuse, neglect, exploitation or who is self-neglecting to make a report regarding such
22 abuse, neglect, exploitation or self-neglect to the adult crisis intervention program ~~director or his~~
23 ~~or her designee.~~

24 SECTION 14. Section 42-66.7-5 of the General Laws in Chapter 42-66.7 entitled "Long-
25 Term Care Ombudsperson Act of 1995" is hereby amended to read as follows:

26 **42-66.7-5. Powers and duties.** -- The long-term care ombudsperson shall:

- 27 (1) Identify, investigate, and resolve complaints that: (a) are made by, or on behalf of,
28 residents; and (b) relate to action, inaction, or decisions, that may adversely effect the health,
29 safety, welfare, or rights of the residents (including the welfare and rights of the residents with
30 respect to the appointment and activities of guardians and representative payees) and health care
31 and financial powers of attorney;
- 32 (2) Receive all reports of incidents reportable to the ~~department of health~~ adult crisis
33 intervention program within twenty-four (24) hours, or by the next business day of the
34 occurrence, in cases of resident abuse, neglect, exploitation, theft, sexual abuse, accidents

- 1 involving fires, elopement and patient to patient abuses;
- 2 (3) Receive all reports of thirty (30) day notices of resident discharge from long-term care
- 3 facilities;
- 4 (4) Provide referral services to assist residents in protecting their health, safety, welfare
- 5 and rights;
- 6 (5) Inform residents of their rights and advocate on their behalf to improve their quality
- 7 of life and live with dignity and respect;
- 8 (6) Formulate policies and procedures to identify, investigate, and resolve complaints;
- 9 (7) Make appropriate referrals of investigations to other state agencies, including, but not
- 10 limited to, the departments of health, human services and attorney general;
- 11 (8) Offer assistance and training to public and private organizations on long-term care of
- 12 elders and persons with disabilities;
- 13 (9) Represent the interests of residents of facilities before government agencies and seek
- 14 administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the
- 15 residents including, but not limited to, rights with respect to the appointment or removal of
- 16 guardians and representative payees powers of attorney;
- 17 (10) Review and, if necessary, comment on any existing and proposed laws, regulations,
- 18 and other government policies and actions, that pertain to the rights and well-being of residents of
- 19 facilities.

20 SECTION 15. Section 42-66-8.1 of the General Laws in Chapter 42-66 entitled "Elderly

21 Affairs Department" is hereby repealed.

22 ~~42-66-8.1. Abuse of elderly persons--Telephone line.--The director shall provide, for~~

23 ~~the use of the general public, a statewide toll free, twenty-four (24) hour a day, seven (7) days a~~

24 ~~week telephone line, to report abuse, neglect, exploitation and self neglect of the elderly.~~

25 SECTION 16. This act shall take effect on July 1, 2011.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO CRIMINAL OFFENSES -- ADULT CRISIS INTERVENTION AND
PROTECTIVE SERVICES

1 This act would establish an adult crisis intervention program for vulnerable elders and
2 adults with disabilities within the executive office of health and human services. It would create a
3 single statewide toll-free, twenty-four (24) hour a day, seven (7) days a week telephone line for
4 an adult crisis intervention program, for reporting assaults, abuse, neglect, exploitation and self-
5 neglect of patients/clients in health and human service facilities, or by health and human service
6 practitioners, providers, or caregivers.

7 This act would take effect July 1, 2011.

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