



General Assembly

**Amendment**

January Session, 2001

LCO No. 8780

Offered by:

REP. GERRATANA, 23<sup>rd</sup> Dist.

REP. MCCLUSKEY, 20<sup>th</sup> Dist.

REP. DIAMANTIS, 79<sup>th</sup> Dist.

REP. VILLANO, 91<sup>st</sup> Dist.

REP. SHEA, 112<sup>th</sup> Dist.

REP. KIRKLEY-BEY, 5<sup>th</sup> Dist.

To: Subst. House Bill No. 6939

File No. 770

Cal. No. 290

**"AN ACT PROMOTING ADMINISTRATIVE EFFICIENCY IN ASSISTANCE PROGRAMS FUNDED OR ADMINISTERED BY THE DEPARTMENT OF SOCIAL SERVICES."**

1 Strike out everything after the enacting clause and substitute the  
2 following in lieu thereof:

3 "Section 1. Subsection (c) of section 17b-451 of the general statutes is  
4 repealed and the following is substituted in lieu thereof:

5 (c) Any other person having reasonable cause to suspect or believe  
6 that an elderly person is being, or has been, abused, neglected,  
7 exploited or abandoned, or who is in need of protective services may  
8 report such information in any reasonable manner to the commissioner  
9 or [his] the commissioner's designee.

10 Sec. 2. Section 17b-452 of the general statutes is repealed and the  
11 following is substituted in lieu thereof:

12 (a) The commissioner upon receiving a report that an elderly person  
13 allegedly is being, or has been, abused, neglected, exploited or  
14 abandoned, or is in need of protective services shall [cause a prompt  
15 and thorough evaluation to be made,] investigate the report to  
16 determine the situation relative to the condition of the elderly person  
17 and what action and services, if any, are required. The [evaluation]  
18 investigation shall include (1) a visit to the named elderly person,  
19 [and] (2) consultation with those individuals having knowledge of the  
20 facts of the particular case, and (3) an interview with the elderly person  
21 alone unless the elderly person refuses to consent to such interview or  
22 the commissioner determines that such interview is not in the best  
23 interests of the elderly person. If the commissioner determines that a  
24 caretaker is interfering with the commissioner's ability to conduct an  
25 interview alone with the elderly person, the commissioner may bring  
26 an action in the Superior Court or Probate Court seeking an order  
27 enjoining such caretaker from interfering with the commissioner's  
28 ability to conduct an interview alone with the elderly person. In  
29 investigating a report under this subsection, the commissioner may  
30 subpoena witnesses, take testimony under oath and compel the  
31 production of any necessary and relevant documents necessary to  
32 investigate the allegations of abuse, neglect or abandonment. The  
33 commissioner may request the Attorney General to petition the  
34 superior court for such order as may be appropriate to enforce the  
35 provisions of this section. Upon completion of the [evaluation of each  
36 case] investigation, written findings shall be prepared which shall  
37 include recommended action and a determination of whether  
38 protective services are needed. The person filing the report shall be  
39 notified of the findings, upon request.

40 (b) The Department of Social Services shall maintain a state-wide  
41 registry of the reports received, the [evaluation] investigation and  
42 findings and the actions taken.

43 (c) The client's file, the original report and the [evaluation]  
44 investigation report shall not be deemed public records nor be subject  
45 to the provisions of section 1-210. The name of the person making the

46 original report or any person mentioned in such report shall not be  
47 disclosed unless the person making the original report specifically  
48 requests such disclosure or unless a judicial proceeding results  
49 therefrom or unless disclosure of the name of the elderly person about  
50 whom the report was made is required to fully [evaluate] investigate a  
51 report.

52 Sec. 3. Section 17b-454 of the general statutes is repealed and the  
53 following is substituted in lieu thereof:

54 Any person, department, agency or commission authorized to carry  
55 out the duties enumerated in sections 17b-450 to 17b-461, inclusive,  
56 shall have access to all relevant records, except that records which are  
57 confidential to an elderly person shall only be divulged with the  
58 written consent of the elderly person or [his] the representative of such  
59 elderly person. If the Commissioner of Social Services has reasonable  
60 cause to believe that the elderly person lacks capacity to give consent  
61 to release confidential records or if the caretaker of such elderly person  
62 is refusing consent and the commissioner has reasonable cause to  
63 believe that such caretaker has abused, neglected, exploited or  
64 abandoned the elderly person, the commissioner may issue a  
65 subpoena to obtain confidential records necessary to investigate the  
66 allegations of abuse, neglect, exploitation or abandonment. The  
67 commissioner may request the Attorney General to petition the  
68 Superior Court for such order as may be appropriate to enforce the  
69 provisions of this section. The authority of the Department of Social  
70 Services shall include, but not be limited to, the right to initiate or  
71 otherwise take those actions necessary to assure the health, safety and  
72 welfare of any elderly person, subject to any specific requirement for  
73 individual consent, and the right to authorize the transfer of an elderly  
74 person from a nursing home.

75 Sec. 4. Section 36a-42 of the general statutes is repealed and the  
76 following is substituted in lieu thereof:

77 A financial institution may not disclose to any person, except to the

78 customer or the customer's duly authorized agent, any financial  
79 records relating to such customer unless the customer has authorized  
80 disclosure to such person or the financial records are disclosed in  
81 response to (1) a certificate signed by the Commissioner of  
82 Administrative Services or the Commissioner of Social Services  
83 pursuant to the provisions of section 17b-137, (2) a lawful subpoena,  
84 summons, warrant or court order as provided in section 36a-43, (3)  
85 interrogatories by a judgment creditor or a demand by a levying  
86 officer as provided in sections 52-351b and 52-356a, (4) a certificate  
87 issued by a medical provider or its attorney under subsection (b) of  
88 section 17b-124, provided nothing in this subsection shall require the  
89 provider or its attorney to furnish to the financial institution any  
90 application for medical assistance filed under section 17b-259 or  
91 pursuant to an agreement with the IV-D agency under subsection (e) of  
92 section 17b-137, [or] (5) a certificate signed by the Commissioner of  
93 Veterans' Affairs pursuant to section 27-117, or (6) the consent of an  
94 elderly person or the representative of such elderly person provided to  
95 a person, department, agency or commission pursuant to section 17b-  
96 454, as amended by this act, provided the financial institution shall  
97 have no obligation to determine the capacity of such elderly person or  
98 the representative of such elderly person to provide such consent.

99 Sec. 5. Subsection (a) of section 36a-43 of the general statutes is  
100 repealed and the following is substituted in lieu thereof:

101 (a) Except as provided in section 36a-44, a financial institution shall  
102 disclose financial records pursuant to a lawful subpoena, summons,  
103 warrant or court order served upon it if the party seeking the records  
104 causes such subpoena, summons, warrant or court order or a certified  
105 copy thereof to be served upon the customer whose records are being  
106 sought, at least ten days prior to the date on which the records are to  
107 be disclosed, provided a court of competent jurisdiction, for good  
108 cause, may waive service of such subpoena, summons, warrant or  
109 court order, or certified copy thereof, upon such customer. If such  
110 subpoena was issued by the Commissioner of Administrative Services  
111 or the Commissioner of Social Services pursuant to section 17b-137,

112 17b-452, as amended by this act, or 17b-454, as amended by this act,  
113 service of such subpoena upon the customer shall not be required.

114 Sec. 6. Subsection (a) of section 45a-650 of the general statutes is  
115 repealed and the following is substituted in lieu thereof:

116 (a) At any hearing for involuntary representation, the court shall  
117 receive evidence regarding the condition of the respondent, including  
118 a written report or testimony by one or more physicians licensed to  
119 practice medicine in the state who have examined the respondent  
120 within thirty days preceding the hearing. The report or testimony shall  
121 contain specific information regarding the disability and the extent of  
122 its incapacitating effect. The court may also consider such other  
123 evidence as may be available and relevant, including but not limited to  
124 a summary of the physical and social functioning level or ability of the  
125 respondent, and the availability of support services from the family,  
126 neighbors, community, or any other appropriate source. Such evidence  
127 may include, if available, reports from the social work service of a  
128 general hospital, municipal social worker, director of social service,  
129 public health nurse, public health agency, psychologist, coordinating  
130 assessment and monitoring agencies, or such other persons as the  
131 court deems qualified to provide such evidence. The court may waive  
132 the requirement that medical evidence be presented if it is shown that  
133 the evidence is impossible to obtain because of the absence of the  
134 respondent or his or her refusal to be examined by a physician or that  
135 the alleged incapacity is not medical in nature. If this requirement is  
136 waived, the court shall make a specific finding in any decree issued on  
137 the petition stating why medical evidence was not required. In any  
138 matter in which the Commissioner of Social Services seeks the  
139 appointment of a conservator pursuant to chapter 319dd and  
140 represents to the court that an examination by an independent  
141 physician, psychologist or psychiatrist is necessary to determine  
142 whether the elderly person is capable of managing his or her personal  
143 or financial affairs, the court shall order such examination unless the  
144 court determines that such examination is not in the best interests of  
145 the elderly person. The court shall order such examination

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146 notwithstanding any medical report submitted to the court by the  
147 elderly person or the caretaker of such elderly person.

148       Sec. 7. This act shall take effect July 1, 2001."