



General Assembly

**Amendment**

January Session, 2001

LCO No. 8585

Offered by:

SEN. PRAGUE, 19<sup>th</sup> Dist.

SEN. HARP, 10<sup>th</sup> Dist.

SEN. HARTLEY, 15<sup>th</sup> Dist.

REP. EBERLE, 15<sup>th</sup> Dist.

To: Subst. Senate Bill No. 1437

File No. 586

Cal. No. 382

**"AN ACT CONCERNING STATE AND NATIONAL CRIMINAL  
HISTORY RECORDS CHECKS."**

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

3 "Section 1. (NEW) As used in sections 2 to 7, inclusive, of this act:

4 (1) "Resident" means any person who resides in a care facility.

5 (2) "Patient" means any person who receives treatment from a care  
6 facility.

7 (3) "Care facility" means any hospital, skilled nursing facility,  
8 intermediate care facility, chronic and convalescent care facility, rest  
9 home, care facility for the mentally retarded, psychiatric facility,  
10 rehabilitation facility, assisted living service agency, home health  
11 agency, ambulatory surgical or out-patient facility, home for the aged

12 or disabled, group home, adult foster care home, adult day care center  
13 and any other health or resident care related facility or home, whether  
14 publicly or privately funded.

15 (4) "Abuse" means any acts or omissions that constitute:

16 (A) Any assault, as defined in sections 53a-59 to 53a-61a, inclusive,  
17 of the general statutes;

18 (B) A pattern of conduct that causes, or that is likely to cause,  
19 physical injury or serious physical injury to a patient or resident,  
20 except when such conduct is a part of the treatment and care and in  
21 furtherance of the health and safety of the patient or resident;

22 (C) A pattern of failure to provide treatment, care, goods or services  
23 necessary to the health or safety of a patient or resident, except when  
24 such failure is the direct result of insufficient staffing levels that have  
25 been reported to a high managerial agent; or

26 (D) The use of a physical or chemical restraint, medication or  
27 isolation as punishment, out of convenience, as a substitute for  
28 treatment, in conflict with a physician's order or in quantities that  
29 preclude or inhibit the effective care of a patient or resident.

30 (5) "Knowingly" means "knowingly", as defined in subdivision (12)  
31 of section 53a-3 of the general statutes.

32 (6) "Recklessly" means "recklessly", as defined in subdivision (13) of  
33 section 53a-3 of the general statutes.

34 (7) "Physical injury" means impairment of physical condition or  
35 pain.

36 (8) "Serious physical injury" means physical injury which creates a  
37 substantial risk of death, or which causes serious disfigurement,  
38 serious impairment of health or serious loss or impairment of the  
39 function of any bodily organ.

40 (9) "Person" means any natural person, corporation, partnership,  
41 limited liability company, unincorporated business or other business  
42 entity.

43 (10) "High managerial agent" means an officer of a care facility, the  
44 administrator and assistant administrator of a care facility, the director  
45 and assistant director of nursing services of a care facility, or any other  
46 agent in a position of comparable authority with respect to the  
47 formulation of the policies of a care facility or the supervision in a  
48 managerial capacity of subordinate employees.

49 Sec. 2. (NEW) (a) A person is guilty of patient or resident abuse in  
50 the first degree when such person knowingly commits abuse of a  
51 patient or resident and causes serious physical injury to such patient or  
52 resident.

53 (b) Patient or resident abuse in the first degree is a class B felony.

54 Sec. 3. (NEW) (a) A person is guilty of patient or resident abuse in  
55 the second degree when such person: (1) Knowingly commits abuse of  
56 a patient or resident and causes physical injury to such patient or  
57 resident, or (2) recklessly commits abuse of a patient or resident and  
58 causes serious physical injury to such patient or resident.

59 (b) Patient or resident abuse in the second degree is a class C felony.

60 Sec. 4. (NEW) (a) A person is guilty of patient or resident abuse in  
61 the third degree when such person recklessly commits abuse of a  
62 patient or resident and causes physical injury.

63 (b) Patient or resident abuse in the third degree is a class D felony.

64 Sec. 5. (NEW) Any high managerial agent that knows that a patient  
65 or resident of the care facility is being abused and subsequently fails to  
66 promptly take corrective action shall be guilty of a class B felony.

67 Sec. 6. Section 17b-451 of the general statutes is repealed and the  
68 following is substituted in lieu thereof:

69 (a) Any physician or surgeon licensed under the provisions of  
70 chapter 370, any resident physician or intern in any hospital in this  
71 state, whether or not so licensed, any registered nurse, any nursing  
72 home administrator, nurse's aide or orderly in a nursing home facility,  
73 any person paid for caring for a patient in a nursing home facility, any  
74 staff person employed by a nursing home facility, any patients'  
75 advocate and any licensed practical nurse, medical examiner, dentist,  
76 optometrist, chiropractor, podiatrist, social worker, clergyman, police  
77 officer, pharmacist, psychologist or physical therapist, who has  
78 reasonable cause to suspect or believe that any elderly person or  
79 resident, as defined in section 2 of this act, has been abused, neglected,  
80 exploited or abandoned, or is in a condition which is the result of such  
81 abuse, neglect, exploitation or abandonment, or who is in need of  
82 protective services, shall within five calendar days report such  
83 information or cause a report to be made in any reasonable manner to  
84 the Commissioner of Social Services or to the person or persons  
85 designated by the commissioner to receive such reports. [Any person  
86 required to report under the provisions of this section who fails to  
87 make such report shall be fined not more than five hundred dollars.]

88 (b) Such report shall contain the name and address of the involved  
89 elderly person or resident, as defined in section 2 of this act,  
90 information regarding the nature and extent of the abuse, neglect,  
91 exploitation or abandonment, and any other information [which] that  
92 the reporter believes might be helpful in an investigation of the case  
93 and the protection of such elderly person or resident.

94 (c) Any other person having reasonable cause to believe that an  
95 elderly person or resident, as defined in section 2 of this act, is being,  
96 or has been, abused, neglected, exploited or abandoned, or who is in  
97 need of protective services may report such information in any  
98 reasonable manner to the commissioner or [his] the commissioner's  
99 designee.

100 (d) Any person who makes any report pursuant to sections 17b-450  
101 to 17b-461, inclusive, or who testifies in any administrative or judicial

102 proceeding arising from such report shall be immune from any civil or  
103 criminal liability on account of such report or testimony, except for  
104 liability for perjury, unless such person acted in bad faith or with  
105 malicious purpose.

106 (e) For the purposes of sections 17b-450 to 17b-461, inclusive, the  
107 treatment of any elderly person by a Christian Science practitioner, in  
108 lieu of treatment by a licensed practitioner of the healing arts, or the  
109 refusal of treatment for religious reasons shall not of itself constitute  
110 grounds for the implementation of protective services.

111 (f) No person shall terminate, demote, reject for promotion or  
112 otherwise punish an employee who, acting in good faith, makes any  
113 report pursuant to sections 17b-450 to 17b-461, inclusive, or who  
114 testifies in any administrative or judicial proceeding arising from such  
115 report, except an employee who abuses a patient or resident, as  
116 defined in section 2 of this act.

117 (g) No patient or resident shall be involuntarily transferred or  
118 discharged or otherwise punished for making any report pursuant to  
119 sections 17b-450 to 17b-461, inclusive, or for testifying in any  
120 administrative or judicial proceeding arising from such report.

121 (h) Any person required to report under the provisions of this  
122 section who fails to make such report shall be fined not more than five  
123 hundred dollars.

124 Sec. 7. (NEW) (a) For purposes of this section, "license" means a  
125 license, certification or permit to engage in a profession or occupation  
126 regulated pursuant to the general statutes and issued by the  
127 Department of Public Health and "licensing authority" means the  
128 Department of Public Health.

129 (b) Whenever a person holding a license is convicted of a violation  
130 of section 2, 3, 4 or 5 of this act, the clerk of the court shall transmit a  
131 certificate of conviction to the appropriate licensing authority.

132 (c) The licensing authority shall suspend or revoke the license of  
133 such person for any period or permanently revoke the license of such  
134 person.

135 (d) Each care facility, as defined in section 2 of this act, shall post in  
136 a prominent location the reporting requirement established by section  
137 17b-451 of the general statutes, as amended by this act. All employees,  
138 owners, operators and health care providers who provide services in a  
139 care facility shall be required to sign a form prescribed by the  
140 Department of Public Health acknowledging such reporting  
141 requirement. Such care facility shall retain such forms. Any care  
142 facility that violates the provisions of this subsection shall be subject to  
143 a civil penalty in an amount not exceeding seven thousand five  
144 hundred dollars."