



# Senate

General Assembly

**File No. 499**

*January Session, 2003*

Substitute Senate Bill No. 901

*Senate, April 23, 2003*

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

***AN ACT CONCERNING REPORTS OF SUSPECTED ABUSE,  
NEGLECT, EXPLOITATION OR ABANDONMENT OF ELDERLY  
PERSONS OR PERSONS IN LONG-TERM CARE FACILITIES.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 17b-407 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2003*):

3 (a) Any physician or surgeon licensed under the provisions of  
4 chapter 370, any resident physician or intern in any hospital in this  
5 state, whether or not so licensed, and any registered nurse, licensed  
6 practical nurse, medical examiner, dentist, optometrist, chiropractor,  
7 podiatrist, social worker, clergyman, police officer, pharmacist,  
8 physical therapist, long-term care facility administrator, nurse's aide or  
9 orderly in a long-term care facility, any person paid for caring for a  
10 patient in a long-term care facility, any staff person employed by a  
11 long-term care facility and any person who is a sexual assault  
12 counselor or a battered women's counselor as defined in section

13 52-146k who has reasonable cause to suspect or believe that a resident  
14 in a long-term care facility has been abused, neglected, exploited or  
15 abandoned, or is in a condition that is the result of such abuse, neglect,  
16 exploitation or abandonment, shall, [within five calendar days] not  
17 later than seventy-two hours after such suspicion or belief arose, report  
18 such information or cause a report to be made in any reasonable  
19 manner to the Commissioner of Social Services pursuant to chapter  
20 319dd. Any person required to report under the provision of this  
21 section who fails to make such report within the prescribed time  
22 period shall be [fined not more than five hundred dollars] guilty of a  
23 class C misdemeanor for the first offense and a class A misdemeanor  
24 for any subsequent offense.

25 (b) Such report shall contain the name and address of the long-term  
26 care facility, the name of the involved resident, information regarding  
27 the nature and extent of the abuse, neglect, exploitation or  
28 abandonment and any other information which the reporter believes  
29 might be helpful in an investigation of the case and for the protection  
30 of the resident.

31 (c) Any other person having reasonable cause to believe that a  
32 resident in a long-term care facility is being, or has been, abused,  
33 neglected, exploited or abandoned, or any person who wishes to file  
34 any other complaint regarding a long-term care facility, shall report  
35 such information in accordance with subsection (b) of this section in  
36 any reasonable manner to the Commissioner of Social Services who  
37 shall inform the resident of the services of the Office of the Long-Term  
38 Care Ombudsman.

39 (d) Such report or complaint shall not be deemed a public record,  
40 and shall not be subject to the provisions of section 1-210. Information  
41 derived from such reports or complaints for which reasonable grounds  
42 are determined to exist after investigation as provided for in section  
43 17b-408, as amended by this act, including the identity of the long-term  
44 care facility, the number of complaints received, the number of  
45 complaints substantiated and the types of complaints, may be

46 disclosed by the Commissioner of Social Services, except that in no  
47 case shall the name of the resident or the complainant be revealed,  
48 unless such person specifically requests such disclosure or unless a  
49 judicial proceeding results from such report or complaint.

50 (e) [Anyone] Any person who makes a report or complaint pursuant  
51 to this section or who testifies in any administrative or judicial  
52 proceeding arising from the report shall be immune from any civil or  
53 criminal liability on account of such report or complaint or testimony,  
54 except for liability for perjury, unless such person acted in bad faith or  
55 with malicious purpose.

56 (f) Any person who is discharged or in any manner discriminated or  
57 retaliated against for making, in good faith, a report or complaint  
58 pursuant to this section shall be entitled to all remedies available  
59 under law including, but not limited to, remedies available under  
60 sections 19a-532 and 31-51m, as applicable.

61 [(f)] (g) The person filing a report or complaint pursuant to the  
62 provisions of this section shall be notified of the findings of any  
63 investigation conducted by the Commissioner of Social Services, upon  
64 request.

65 [(g)] (h) The Commissioner of Social Services shall maintain a  
66 registry of the reports received, the investigations made, the findings  
67 and the actions recommended and taken.

68 Sec. 2. Section 17b-408 of the general statutes is repealed and the  
69 following is substituted in lieu thereof (*Effective October 1, 2003*):

70 Upon receipt of a report or complaint as provided in section  
71 17b-407, as amended by this act, the commissioner shall determine  
72 immediately whether there are reasonable grounds for an  
73 investigation. If it is determined that reasonable grounds do not exist  
74 for an investigation, the complainant or the person making the report  
75 shall be notified of this determination [within] not later than five  
76 working days after the receipt of such complaint or report. If such

77 reasonable grounds are found, the commissioner shall investigate such  
78 report or complaint [within] not later than ten working days thereafter.  
79 The commissioner shall complete an investigation and make a report  
80 of the findings [, within] not later than fifteen working days after the  
81 receipt of the complaint or report. If the investigation indicates that  
82 there is a possible violation of section 19a-533, 19a-535 [,] or 19a-537,  
83 the commissioner shall refer the report or complaint together with a  
84 report of any investigation the commissioner has undertaken to the  
85 Department of Public Health for action as appropriate. If the  
86 investigation indicates that there is a possible violation of the  
87 provisions of the Public Health Code with respect to licensing  
88 requirements, the commissioner shall refer the report or complaint,  
89 together with a report of the commissioner's investigation, to the  
90 Commissioner of Public Health for appropriate action. If no violation  
91 of the Public Health Code is indicated, the commissioner shall take  
92 whatever action the commissioner deems necessary, and shall notify  
93 the complainant or the person making the report, of the action taken  
94 [within] not later than fifteen working days after receipt of the  
95 complaint or report. If the investigation indicates that a person has  
96 abused, neglected, exploited or abandoned a resident in a long-term  
97 care facility, the commissioner shall refer such information in writing  
98 to the Chief State's Attorney or the Chief State's Attorney's designee  
99 who shall conduct such further investigation, if any, as deemed  
100 necessary and shall determine whether criminal proceedings should be  
101 initiated against such person in accordance with applicable state law.

102 Sec. 3. Section 17b-451 of the general statutes is repealed and the  
103 following is substituted in lieu thereof (*Effective October 1, 2003*):

104 (a) Any physician or surgeon licensed under the provisions of  
105 chapter 370, any resident physician or intern in any hospital in this  
106 state, whether or not so licensed, any registered nurse, any nursing  
107 home administrator, nurse's aide or orderly in a nursing home facility,  
108 any person paid for caring for a patient in a nursing home facility, any  
109 staff person employed by a nursing home facility, any patients'  
110 advocate and any licensed practical nurse, medical examiner, dentist,

111 optometrist, chiropractor, podiatrist, social worker, clergyman, police  
112 officer, pharmacist, psychologist or physical therapist, who has  
113 reasonable cause to suspect or believe that any elderly person has been  
114 abused, neglected, exploited or abandoned, or is in a condition which  
115 is the result of such abuse, neglect, exploitation or abandonment, or  
116 who is in need of protective services, shall, [within five calendar days]  
117 not later than seventy-two hours after such suspicion or belief arose,  
118 report such information or cause a report to be made in any reasonable  
119 manner to the Commissioner of Social Services or to the person or  
120 persons designated by the commissioner to receive such reports. Any  
121 person required to report under the provisions of this section who fails  
122 to make such report shall be [fined not more than five hundred  
123 dollars] guilty of a class C misdemeanor for the first offense and a class  
124 A misdemeanor for any subsequent offense.

125 (b) Such report shall contain the name and address of the involved  
126 elderly person, information regarding the nature and extent of the  
127 abuse, neglect, exploitation or abandonment, and any other  
128 information which the reporter believes might be helpful in an  
129 investigation of the case and the protection of such elderly person.

130 (c) Any other person having reasonable cause to suspect or believe  
131 that an elderly person is being, or has been, abused, neglected,  
132 exploited or abandoned, or who is in need of protective services may  
133 report such information in any reasonable manner to the commissioner  
134 or the commissioner's designee.

135 (d) Any person who makes any report pursuant to sections 17b-450  
136 to 17b-461, inclusive, as amended by this act, or who testifies in any  
137 administrative or judicial proceeding arising from such report shall be  
138 immune from any civil or criminal liability on account of such report  
139 or testimony, except for liability for perjury, unless such person acted  
140 in bad faith or with malicious purpose.

141 (e) Any person who is discharged or in any manner discriminated  
142 or retaliated against for making, in good faith, a report pursuant to this  
143 section shall be entitled to all remedies available under law including,

144 but not limited to, remedies available under sections 19a-532 and 31-  
145 51m, as applicable.

146 [(e)] (f) For the purposes of sections 17b-450 to 17b-461, inclusive, as  
147 amended by this act, the treatment of any elderly person by a Christian  
148 Science practitioner, in lieu of treatment by a licensed practitioner of  
149 the healing arts, or the refusal of treatment by an elderly person for  
150 religious reasons shall not of itself constitute grounds for the  
151 implementation of protective services.

152 Sec. 4. Section 17b-460 of the general statutes is repealed and the  
153 following is substituted in lieu thereof (*Effective October 1, 2003*):

154 If as a result of any investigation initiated under the provisions of  
155 sections 17b-450 to 17b-461, inclusive, as amended by this act, a  
156 determination is made that a caretaker or other person has abused,  
157 neglected, exploited or abandoned an elderly person, such information  
158 shall be referred in writing to the [appropriate office of the state's  
159 attorney, which] Chief State's Attorney or the Chief State's Attorney's  
160 designee who shall conduct such further investigation, if any, [is] as  
161 deemed necessary and shall determine whether criminal proceedings  
162 should be initiated against such caretaker or other person, in  
163 accordance with applicable state law.

164 Sec. 5. Subsection (b) of section 51-164n of the general statutes is  
165 repealed and the following is substituted in lieu thereof (*Effective*  
166 *October 1, 2003*):

167 (b) Notwithstanding any provision of the general statutes to the  
168 contrary, any person who is alleged to have committed (1) a violation  
169 under the provisions of section 1-9, 1-10, 1-11, 4b-13, 7-13, 7-14, 7-35, 7-  
170 41, 7-83, 7-283, 7-325, 7-393, 8-25, 8-27, 9-63, 9-296, 9-305, 9-322, 9-350,  
171 10-193, 10-197, 10-198, 10-230, 10-251, 10-254, 12-52, 12-170aa, 12-292,  
172 12-326g, subdivision (4) of section 12-408, subdivision (3), (5) or (6) of  
173 section 12-411, section 12-435c, 12-476a, 12-476b, 12-487, 13a-71, 13a-  
174 107, 13a-113, 13a-114, 13a-115, 13a-117b, 13a-123, 13a-124, 13a-139, 13a-  
175 140, 13a-143b, 13a-247, 13a-253, subsection (f) of section 13b-42, section

176 13b-90, 13b-221, 13b-292, 13b-336, 13b-337, 13b-338, 13b-410a, 13b-410b,  
177 13b-410c, subsection (a), (b) or (c) of section 13b-412, section 13b-414,  
178 subsection (d) of section 14-12, section 14-20a, 14-27a, subsection (e) of  
179 section 14-34a, subsection (d) of section 14-35, section 14-43, 14-49, 14-  
180 50a, 14-58, subsection (b) of section 14-66, section 14-66a, 14-66b, 14-  
181 67a, subsection (f) of section 14-80h, section 14-97a, section 14-100b, 14-  
182 103a, 14-106a, 14-106c, 14-146, 14-152, 14-153, 14-163b, a first violation  
183 as specified in subsection (f) of section 14-164i, section 14-219 specified  
184 in subsection (e) of said section, section 14-240, 14-249, 14-250,  
185 subsection (a), (b) or (c) of section 14-261a, section 14-262, 14-264, 14-  
186 267a, 14-269, 14-270, 14-275a, 14-278, 14-279, subsection (e) of section  
187 14-283, section 14-291, 14-293b, 14-319, 14-320, 14-321, 14-325a, 14-326,  
188 14-330, 14-332a, subdivision (1), (2) or (3) of section 14-386a, section 15-  
189 33, subsection (a) of section 15-115, section 16-256, 16-256e, 16a-15, 16a-  
190 22, subsection (a) or (b) of section 16a-22h, section 17a-24, 17a-145, 17a-  
191 149, 17a-152, 17a-465, 17a-642, 17b-124, 17b-131, 17b-137, [17b-407, 17b-  
192 451,] 17b-734, subsection (b) of section 17b-736, 19a-30, 19a-33, 19a-39,  
193 19a-87, subsection (b) of section 19a-87a, section 19a-91, 19a-105, 19a-  
194 107, 19a-215, 19a-219, 19a-222, 19a-224, 19a-286, 19a-287, 19a-297, 19a-  
195 301, 19a-309, 19a-335, 19a-336, 19a-338, 19a-339, 19a-340, 19a-425, 19a-  
196 502, 20-7a, 20-14, 20-158, 20-231, 20-257, 20-265, 20-324e, subsection (a)  
197 of section 20-341, section 20-341i, 20-597, 20-608, 20-610, 21-30, 21-38,  
198 21-39, 21-43, 21-47, 21-48, 21-63, 21-76a, 21a-21, 21a-25, 21a-26, 21a-30,  
199 subsection (a) of section 21a-37, section 21a-46, 21a-61, 21a-63, 21a-77,  
200 subsection (b) of section 21a-79, section 21a-85, 21a-154, 21a-159, 21a-  
201 201, 21a-211, 22-13, 22-14, 22-15, 22-16, 22-29, 22-34, 22-35, 22-36, 22-37,  
202 22-38, 22-39, 22-39a, 22-39b, 22-39c, 22-39d, 22-39e, 22-49, 22-54, 22-61,  
203 22-89, 22-90, 22-98, 22-99, 22-100, 22-111o, 22-279, 22-280a, 22-318a, 22-  
204 320h, 22-324a, 22-326, 22-342, subsection (b) or (e) of section 22-344,  
205 section 22-359, 22-366, 22-391, 22-413, 22-414, 22-415, 22a-66a, 22a-246,  
206 subsection (a) of section 22a-250, subsection (e) of section 22a-256h,  
207 section 22a-449, 22a-461, 23-37, 23-38, 23-46, 23-61b, subsection (a) or  
208 (b) of section 23-65, section 25-37, 25-40, 26-19, 26-21, 26-31, 26-40, 26-  
209 40a, 26-49, 26-54, 26-59, 26-61, 26-64, 26-79, 26-89, 26-97, 26-107, 26-117,  
210 26-128, 26-131, 26-132, 26-138, 26-141, 26-207, 26-215, 26-224a, 26-227,

211 26-230, 26-294, 28-13, 29-6a, 29-109, 29-161a, 29-161b, 29-198, 29-210, 29-  
 212 243, 29-277, 29-316, 29-318, 29-341, 29-381, 30-48a, 30-86a, 31-3, 31-10,  
 213 31-11, 31-12, 31-13, 31-14, 31-15, 31-16, 31-18, 31-23, 31-24, 31-25, 31-28,  
 214 31-32, 31-36, 31-38, 31-38a, 31-40, 31-44, 31-47, 31-48, 31-51, 31-51k, 31-  
 215 52, 31-52a, 31-54, subsection (a) or (c) of section 31-69, section 31-70, 31-  
 216 74, 31-75, 31-76, 31-76a, 31-89b, 31-134, subsection (g) of section 31-273,  
 217 section 31-288, 36a-787, 42-230, 45a-450, 45a-634, 45a-658, subdivision  
 218 (13) or (14) of section 46a-54, section 46a-59, 46b-22, 46b-24, 46b-34, 47-  
 219 34a, 47-47, 49-8a, 49-16, 53-133, subsection (a) or (b) of section 53-211,  
 220 section 53-212a, 53-249a, 53-252, 53-264, 53-302a, 53-303e, 53-311a, 53-  
 221 321, 53-322, 53-323, 53-331, 53-344 or 53-450, or (2) a violation under the  
 222 provisions of chapter 268, or (3) a violation of any regulation adopted  
 223 in accordance with the provisions of section 12-484, 12-487 or 13b-410,  
 224 shall follow the procedures set forth in this section.

This act shall take effect as follows:	
Section 1	<i>October 1, 2003</i>
Sec. 2	<i>October 1, 2003</i>
Sec. 3	<i>October 1, 2003</i>
Sec. 4	<i>October 1, 2003</i>
Sec. 5	<i>October 1, 2003</i>

**JUD**      *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Type	FY 04 \$	FY 05 \$
Correction, Dept.; Judicial Dept.	GF - Cost	Potential	Potential
Attorney General; Human Rights & Opportunities, Com.; Criminal Justice, Div.	GF - None	None	None

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The bill increases the penalty for mandated reporters who fail to report suspected abuse, neglect, exploitation, or abandonment of the elderly or someone in a long-term care facility. The bill makes it a crime that is punishable by a fine and/or imprisonment; current law provides for a fine. Few convictions are anticipated since there were no offenses under current law during FY 02. The cost of three months imprisonment is about \$7,500 on average. Alternatively, the average cost of monitoring by the court for three months can range from \$11 to \$65, depending upon the type of community supervision needed for offenders under the bill.

The bill requires the Commissioner of the Department of Social Services to refer substantiated abuse cases involving long-term care residents to prosecutors. This change is not expected to have an impact since referrals are typically done as a matter of practice.

The bill also specifies that any person who is retaliated against for reporting elder abuse is entitled to administrative remedies and subsequent civil actions. Any impact on the caseload of the Attorney General, the Commission on Human Rights and Opportunities, or the

Superior Court under the bill is anticipated to be negligible and could be accomodated within budgeted resources.

**OLR Bill Analysis**

sSB 901

***AN ACT CONCERNING REPORTS OF SUSPECTED ABUSE, NEGLECT, EXPLOITATION OR ABANDONMENT OF ELDERLY PERSONS OR PERSONS IN LONG-TERM CARE FACILITIES*****SUMMARY:**

This bill makes failure to report elder abuse a crime, rather than a violation, and shortens the time that mandated elder abuse reporters have to notify the Department of Social Services (DSS) commissioner about a suspected case of abuse. It also authorizes legal remedies for anyone who is subjected to discrimination or retaliation for, in good faith, (1) reporting elder abuse or (2) complaining to DSS about a nursing or board-and-care home or similar adult care homes.

The bill also specifies that an elderly person's refusal of treatment for religious reasons is not of itself grounds for implementing protective services through DSS's Elderly Protective Services Unit.

EFFECTIVE DATE: October 1, 2003

**MANDATED ELDER ABUSE REPORTING**

By law, mandated reporters must notify DSS when they have reasonable cause to suspect or believe that someone age 60 or over (1) has been abused, neglected, exploited, or abandoned, or is in a condition caused by one of these or (2) is in need of protective services (services designed to protect elderly individuals from such harm). Currently, they must make the report within five calendar days and are subject to fines of up to \$500 for not doing so.

The bill requires them to report the abuse within 72 hours after first suspecting it. Under the bill, failing to do so is a class C misdemeanor for first offenses, punishable by imprisonment for up to three months, a fine of up to \$500, or both. Subsequent offenses are class A misdemeanors, punishable by imprisonment for up to one year, a fine of up to \$2,000, or both.

The bill also requires DSS to refer substantiated abuse cases involving long-term care residents to prosecutors. It must already do this in protective services cases. The bill requires that both types of referrals go to the chief state's attorney or his designee. Currently, protective service referrals go to the appropriate office of the state's attorney. Under the bill, the chief state's attorney or his designee, rather than state's attorneys, investigates and makes prosecution decisions in these cases.

## **NONDISCRIMINATION AGAINST REPORTERS AND OTHERS WHO COMPLAIN**

The bill specifies that any person who is discharged or discriminated or retaliated against for reporting elder abuse or complaining to DSS about a long-term care facility in good faith is entitled to all legal remedies available, including treble damages, reinstatement to his job, back pay and benefits, court costs, and attorney's fees.

## **BACKGROUND**

### ***Elder Abuse Reporters***

The law makes the following mandated elder abuse reporters:

1. licensed physicians and surgeons and licensed or unlicensed residents and interns;
2. registered and licensed practical nurses;
3. nursing home administrators, nurse's aides, orderlies, and anyone else paid for providing care in a nursing home;
4. patient advocates;
5. medical examiners;
6. dentists;
7. osteopaths, optometrists, chiropractors, and podiatrists;
8. psychologists, social workers, and sexual assault or battered women's counselors;

9. clergy;
10. police officers;
11. pharmacists; and
12. physical therapists.

Anyone else who suspects abuse, neglect, exploitation or abandonment can also report it to DSS.

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute  
Yea 36 Nay 0