

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 11-224—sSB 365

Aging Committee

Human Services Committee

Judiciary Committee

Public Safety and Security Committee

AN ACT CONCERNING INVESTIGATIONS BY PROTECTIVE SERVICES FOR THE ELDERLY

SUMMARY: This act makes it a class A misdemeanor (see Table on Penalties) to willfully (1) make a fraudulent or malicious report in any elder abuse report to, or investigation by, the Department of Social Services (DSS) commissioner or (2) provide fraudulent testimony in any elder abuse judicial or administrative proceeding.

The act expands the circumstances under which the DSS commissioner may not interview an elderly victim of alleged abuse alone as part of an elder abuse investigation.

It also eliminates an exception from immunity for bad faith and malicious elder abuse reports, thereby immunizing people who make such reports from civil liability.

EFFECTIVE DATE: October 1, 2011

FALSE AND MALICIOUS ELDER ABUSE REPORTS

Criminal Liability

Under prior law, except for liability for perjury, a person making an elder abuse report or providing testimony in an administrative or judicial proceeding on one could be criminally liable only for acting in bad faith or maliciously. Instead, the act creates a new class A misdemeanor for making a fraudulent or malicious report or providing false testimony. A person commits this crime if he or she:

1. willfully makes a fraudulent or malicious report to the DSS commissioner;
2. conspires to make or cause such a report to be made; or
3. willfully testifies falsely in any administrative or judicial proceeding arising from such report about abuse, neglect, exploitation, or abandonment of, or need of protective services for, an elderly person.

As under prior law, a person can still be liable for perjury in reporting or testifying.

Civil Liability

Under prior law, anyone who testified in any administrative or judicial proceeding arising from an elder abuse report was immune from civil liability because of the report or testimony, except for liability for perjury, unless the person acted in bad faith or maliciously. The act eliminates the exception from

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immunity for bad faith and malicious actions, thereby immunizing from civil liability people who commit such actions in bad faith or for a malicious purpose.

ELDER ABUSE INTERVIEWS

By law, the DSS commissioner must investigate reports of alleged elder abuse. As part of the investigation, the commissioner must interview the victim alone unless the (1) victim does not consent or (2) commissioner determines that interviewing the victim alone is not in the victim's best interests.

The act also prohibits interviewing the victim alone if a physician provides a letter stating that, in his or her opinion, an interview with the elderly person alone is medically contraindicated. The physician must have examined the victim no more than 30 days before or after the date the commissioner gets the abuse report.

OLR Tracking: VR:JKL:CR:df