

COUNCIL OF THE DISTRICT OF COLUMBIA

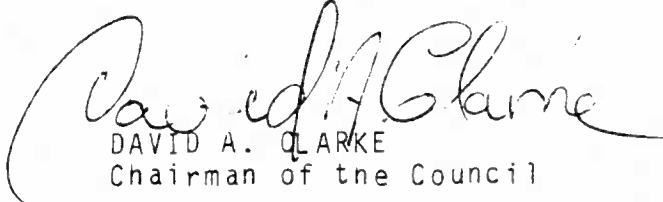
NOTICE

D.C. LAW 5-156

"Adult Protective Services Act of 1984".

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P. L. 93-198, "the Act", the Council of the District of Columbia adopted Bill No. 5-334 on first and second readings, November 20, 1984, and December 4, 1984, respectively. Following the signature of the Mayor on December 7, 1984, this legislation was assigned Act No. 5-221, published in the January 4, 1985, edition of the D.C. Register, (Vol. 32 page 13) and transmitted to Congress on January 8, 1985 for a 30-day review, in accordance with Section 602 (c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired, and therefore, cites this enactment as D.C. Law 5-156, effective March 14, 1985.

  
DAVID A. CLARKE  
Chairman of the Council

Dates Counted During the 30-day Congressional Review Period:

January	22,23,24,25,28,29,30,31
February	1,4,5,6,7,19,20,21,22,25,26,27,28
March	1,4,5,6,7,8,11,12,13

D.C. LAW 5 - 1 5.6

AN ACT

EFFECTIVE  
DATE MAR 14 1985

D.C. ACT 5 - 2 2 1

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DEC 0 7 1984

To address instances of abuse, neglect, and exploitation of impaired adults by establishing a system of reporting, requiring the investigation of each report received, and ensuring the availability of protective services.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Adult Protective Services Act of 1984".

Sec. 2. Definitions.

When used in this act, the following terms shall have the meanings ascribed by this section:

New,  
D.C. Code,  
6-2501  
(1985 supp.)

(1) "Abuse" means:

(A) the intentional or reckless infliction of serious physical pain or injury;

(B) the use or threatened use of violence to force participation in "sexual conduct," defined in D.C. Code, sec. 22-2011(5);

(C) the repeated, intentional imposition of unreasonable confinement, resulting in severe mental distress;

(D) the repeated use of threats or violence, resulting in shock or an intense, expressed fear for one's life or of serious physical injury; or

(E) the intentional or deliberately

indifferent deprivation of essential food, shelter, or health care in violation of a caregiver's responsibilities, when that deprivation constitutes a serious threat to one's life or physical health.

(2) "Adult in need of protective services" means an individual aged 18 or older who is:

(A) highly vulnerable to abuse, neglect, or exploitation because of a physical or mental impairment;

(B) being or has recently been abused, neglected, or exploited by another; and

(C) likely to continue being abused, neglected, or exploited by others because he or she has no one willing and able to provide adequate protection.

(3) "Adult protective services worker" [APS worker] means an employee of the District or a private social services agency under contract with the District who conducts investigations or provides protective services under this act.

(4) "Caregiver" means a person that, by law, contract, court order, or voluntary action, is charged with or has assumed the responsibility for an adult's essential food, shelter, or health-care needs.

(5) "Court" means the Superior Court of the District of Columbia.

(6) "Department" means the District of Columbia Department of Human Services.

(7) "District" means the District of Columbia.

(8) "Exploitation" means the unlawful

appropriation or use of another's "property," defined in D.C. Code, sec. 22-3801, for one's own benefit or that of a third person.

(9) "Neglect" means:

(A) the repeated, careless infliction of serious physical pain or injury;

(B) the repeated failure of a caregiver to take reasonable steps, within the purview of his or her responsibilities, to protect against acts of abuse described in paragraph (1)(B);

(C) the repeated, careless imposition of unreasonable confinement, resulting in severe mental distress; or

(D) the careless deprivation of essential food, shelter, or health care in violation of a caregiver's responsibilities, when that deprivation constitutes a serious threat to one's life or physical health.

(10) "Person" means an individual, facility, agency, corporation, partnership, the District government, or any other organizational entity.

(11) "Police" means the Metropolitan Police Department of the District of Columbia.

(12) "Protective Services" means those services or provisions reasonably calculated to remedy or substantially reduce the likelihood of abuse, neglect, or exploitation by another, including, but not limited to: food, heat, shelter, clothing, health care, home care, counseling, legal assistance, and social casework.

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Sec. 3. Limitations on Applicability.

New,  
D.C. Code, sec.  
6-2502  
(1985 supp.)

This act shall apply only to cases of an individual's abuse, neglect, or exploitation by another. To the extent that an individual's abuse or neglect of himself or herself gives rise to instances of abuse, neglect, or exploitation by another, the purpose of protective services shall be to substantially reduce the likelihood of further abuse, neglect, or exploitation by others while simultaneously respecting an adult's right to determine his or her own lifestyle.

Sec. 4. Reporting.

New,  
D.C. Code, sec.  
6-2503  
(1985 supp.)

(a)(1) Except as provided in subsection (b), whenever a conservator, court-appointed mental retardation advocate, guardian, health-care administrator, licensed health professional, police officer, or social worker has as a result of his or her appointment, employment, or practice substantial cause to believe that an adult is in need of protective services because of abuse or neglect by another, he or she shall immediately report this belief in accordance with subsection (c).

(2) Any person may voluntarily report an alleged case of abuse, neglect, or exploitation when he or she has reason to believe that an adult is in need of protective services. Voluntary reporting shall also be effected in accordance with subsection (c).

(b) The duty to report established by subsection (a)(1) shall not apply to a social worker or licensed health professional who has as a client or patient, or is employed

by a lawyer representing, the third person who is allegedly responsible for the abuse or neglect.

(c) A report made pursuant to this section may be either oral or written and shall be transmitted to the division within the Department designated by the Mayor to receive these reports. Each report shall include, if known: the name, age, physical description, and location of the adult alleged to be in need of protective services; the name and location of the person(s) allegedly responsible for the abuse, neglect, or exploitation; the nature and extent of the abuse, neglect, or exploitation; the basis of the reporter's knowledge; and any other information the reporter believes might be helpful to an investigation. A reporter may be required to identify himself or herself only when obliged to report under subsection (a)(1).

(d)(1) The Department shall maintain a record of all reports received and be capable of receiving reports 24 hours a day, 7 days a week (including holidays). Except as provided in paragraph (4), the Department may release reports and investigative information acquired pursuant to this act only:

(A) to another public or private agency designated by the Mayor to conduct investigations or provide protective services under this act;

(B) to the Corporation Counsel or United States Attorney if requested for an investigation, prosecution, or civil or administrative enforcement action;

or

(C) if directed by court order.

(2) A recipient of a report or investigative information released pursuant to paragraph (1)(A)-(C) shall be subject to the same restrictions on disclosure applicable to the Department under that paragraph.

(3) Any person possessing a report or investigative information acquired pursuant to this act shall take reasonable steps to prevent the disclosure of information that might reveal the reporter's identity to the person(s) allegedly responsible for the abuse, neglect, or exploitation.

(4) The Department may release statistics and other data acquired pursuant to this act for research, reporting, or educational purposes provided all identifying references to individuals are deleted.

(e) No later than August 15, 1985, the Mayor shall widely publicize the phone number and mailing address of the division within the Department designated to receive reports under this section, and shall establish a program to educate those persons required to report under subsection (a)(1) about their obligations under this section.

Sec. 5. Investigations.

(a)(1) In accordance with this section and the rules to be issued by the Mayor pursuant to section 10, the Department shall, except as provided in paragraph (2), either investigate each report received or refer a report for investigation to another public or private agency designated by the Mayor.

New,  
D.C.Code, sec.  
6-2504  
(1985 supp.)

(2) The Department shall not be required to investigate a report that:

(A) fails to allege facts that, if proved, would be sufficient to support the conclusion that the alleged victim is an "adult in need of protective services" as that term is defined in section 2(2); or

(B) is substantively repetitive of a previously reported incidence of abuse, neglect, or exploitation.

(3) If a report alleges the existence of an immediate, substantial risk of life-threatening harm to an adult in need of protective services, the Department shall immediately notify the police, who shall conduct a prompt investigation to determine the need for police intervention. In addition, within 24 hours of the Department's receiving such a report, an APS worker shall commence an investigation to determine the need for protective services. These two investigations may be conducted either jointly or separately.

(4) For reports that allege an adult is in need of protective services but do not allege the existence of an immediate, substantial risk of life-threatening harm, an APS worker shall commence an investigation to determine the need for protective services within 10 days (excluding Saturdays, Sundays, and legal holidays) of the Department's receiving the report.

(5) In accordance with procedures to be established under section 10(1), the Mayor shall ensure

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