



Territory of Guam

Territorio Guam

OFFICE OF THE GOVERNOR
UFISINAN I MAGA'LAHI
AGANA, GUAM 96910 U.S.A.

JAN 30 1989

The Honorable Joe T. San Agustin
Speaker, Twentieth Guam Legislature
Post Office Box CB-1
Agana, Guam 96910

Dear Mr. Speaker:

Transmitted herewith is Bill No. 863, which I have signed into law this date as
Public Law 19-54.

Sincerely,

A handwritten signature in cursive script that reads 'Joseph F. Ada'.

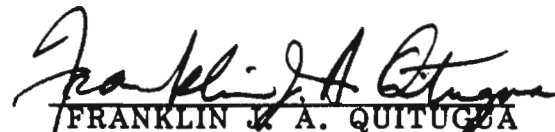
JOSEPH F. ADA
Governor of Guam

Attachment


NINETEENTH GUAM LEGISLATURE
1988 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Bill No. 863, "AN ACT TO ADD ARTICLE 10 TO CHAPTER 2, TITLE 10, GUAM CODE ANNOTATED, TO CREATE AN ADULT PROTECTIVE SERVICES UNIT OF THE DIVISION OF SENIOR CITIZENS, DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES, TO REQUIRE REPORTING OF ELDERLY OR DISABLED ADULT ABUSE, AND MAKING AN APPROPRIATION THEREFOR," was on the 31st day of December, 1988, duly and regularly passed.


FRANKLIN J. A. QUITUGUA
Speaker

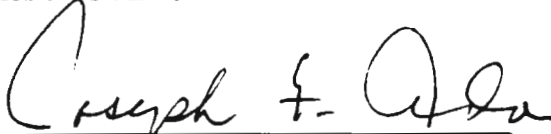
Attested:


PILAR C. LUJAN
Senator and Legislative Secretary

This Act was received by the Governor this 1st day of January, 1989,
at 12:51 o'clock p.m.


Assistant Staff Officer
Governor's Office

APPROVED:


JOSEPH F. ADA
Governor of Guam

Date: JAN 30 1989

Public Law No. 19-54

NINETEENTH GUAM LEGISLATURE
1989 (SECOND) Regular Session

Bill No. 863
As amended by the author

Introduced By:

E.P. Arriola
T.S. Nelson
P.C. Lujan
M. Bordallo
H. Dierking
J. T. San Agustin
F. Santos
F. Quitugua
A.J. Shelton
D. Parkinson
F. Gutierrez
M. Hartsock
G. Bamba
E. Duenas
E. Espaldon
M. Manibusan
J. Miles
J. Rivera
M. Ruth

AN ACT TO ADD ARTICLE 8 TO CHAPTER 2, TITLE 10, GUAM
CODE ANNOTATED, TO CREATE AN ADULT PROTECTIVE
SERVICES UNIT OF THE DIVISION OF SENIOR CITIZENS,
DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES,
TO REQUIRE REPORTING OF ELDERLY OR DISABLED ADULT
ABUSE, AND MAKING AN APPROPRIATION THEREFOR.

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

2 Section 1. A new Article 8 is hereby added to Chapter 2, Title 10, Guam Code Annotated, to
3 read:

4 "Article 8.

5 Adult Protective Services

6 Section 2950. Purpose.

7 The purpose this article is to recognize that abuse, neglect and exploitation of elderly or
8 disabled adults are problems that require attention and intervention as a matter of public policy.
9 Elderly or disabled adults need the same societal protection now being provided by law to
10 abused and neglected children and spouses. The obligation of the government to extend
11 protective care and services to the abused elderly or disabled adult should be carried out in a
12 manner least restrictive of individual rights and in accordance with due process. The family's
13 contribution to the care of its elderly or disabled adults is acknowledged and every effort
14 should be made to assist, support and enhance its caretaking role.

1 Section 2951. Definitions for purposes of this article:

2 "Abandonment" refers to the desertion or willful forsaking of an elderly or disabled
3 adult by his or her caregiver under circumstances in which a reasonable person would continue
4 to provide care or custody.

5 "Adult Protective Services Unit" means the unit established by Section 2955 of this
6 article.

7 "Caregiver" is any family member or any person, health facility, community care
8 facility, clinic, home health care agency or legal guardian who has the care or custody of the
9 elderly or disabled adult.

10 "Department" refers to the Department of Public Health and Social Services.

11 "Elderly" refers to a person sixty (60) years of age or older.

12 "Elderly or Disabled Adult Abuse" means any one (1) or more of the following acts
13 inflicted on an elderly or disabled adult by other than accidental means by another person:
14 physical abuse, neglect, abandonment or self neglect.

15 "Material Abuse" means illegal or improper use of an elderly or disabled adult's
16 money, property or other resources for monetary or personal benefit, profit or gain. It includes
17 but is not limited to theft, misappropriation, concealment, misuse or fraudulent deprivation of
18 money or property belonging to the elderly or disabled adult.

19 "Mental or Emotional Abuse" includes but is not limited to verbal assaults, insults,
20 threats, intimidation, humiliation, harassment, isolation which provokes fear, agitation,
21 confusion or severe depression.

22 "Neglect" means the failure of a caregiver to provide for the physical, mental or
23 emotional health and well-being of the elderly or disabled adult and includes but is not limited
24 to:

25 A. Failure to assist or provide personal hygiene for the elderly or disabled adult.

26 B. Failure to provide adequate food, water, clothing or shelter.

27 C. Failure to provide medical care for the physical and mental health of the elderly
28 or disabled adult. No person shall be deemed neglected or abused for the sole reason that he or
29 she voluntarily relies on treatment by spiritual means through prayer alone in lieu of medical
30 treatment.

31 D. Failure to protect an elderly or disabled adult from health and safety hazards.

32 "Physical Abuse" means the willful infliction of injury which results in physical harm.
33 It includes but is not limited to cruel punishment resulting in physical harm or pain or mental
34 anguish, such as direct beatings, slapping, kicking, biting, choking, burning, sexual assault or
35 molestation, or unreasonable physical restraint or confinement resulting in physical injury.

36 "Physical Harm" means bodily pain, injury, impairment or disease.

37 "Substantiated Report" means a report made pursuant to this Chapter if an
38 investigation by the Adult Protective Services Unit determines that there is sufficient evidence
39 to support the existence of the abuse.

1 "Disabled Adult" is any person over the age of eighteen (18) years who:

2 A. Has a physical or mental impairment which substantially limits one (1) or more
3 major life activities; or

4 B. Has a history of, or has been classified as having an impairment which
5 substantially limits one (1) or more major life activities.

6 "Major Life Activities" means functions such as, but not limited to caring for one's
7 self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and
8 working.

9 Section 2952. Reporting of Elderly or Disabled Adult Abuse.

10 A. Any person who, in the course of his or her employment, occupation of
11 professional practice comes into contact with elderly or disabled adults, has actual knowledge
12 or reasonable cause to believe that an elderly or disabled adult is suffering from or has died as a
13 result of abuse as defined in Section 2951, shall immediately make a verbal report of such
14 information or cause a report to be made to the Adult Protective Services Unit and shall, within
15 forty-eight (48) hours, make a written report to the unit.

16 B. Persons required to report abuse under subsection (A) include but are not limited to
17 physicians, medical interns, medical examiners, nurses, chiropractors, hospital personnel
18 engaged in the admission, examination, care or treatment of persons, social workers,
19 employees of nursing homes and adult day care facilities, police officers, probation officers
20 and employees of homemaker service agencies.

21 C. In addition to persons required to report under subsections A and B, any other
22 person may make such report to the Adult Protective Services Unit if any such person has a
23 reasonable cause to believe that an elderly or disabled adult is suffering from or has died as a
24 result of abuse.

25 D. Oral or written reports from persons required to report under subsection A and B
26 shall include the following information, if available:

- 27 1. The name of the person making the report and where he or she can be reached.
- 28 2. The name, address and approximate age of the elderly or disabled adult.
- 29 3. Information regarding the nature and extent of the abuse, the name of the person's
30 caretaker, if known, and any medical treatment being received or immediately required, if
31 known.
- 32 4. The name of the person or persons responsible for causing the suspected abuse.
- 33 5. The source of the report.
- 34 6. Any other information which may assist in the investigation of the suspected abuse.

35 The identity of the person making the report shall be confidential.

36 Section 2953. Immunity from liability.

37 A. Any person who in good faith makes a report under this article or testifies in any
38 administrative or judicial proceeding related to the report is immune from civil or criminal
39 liability for reporting or testifying.

1 B. Any officer, agent or employee of the Adult Protective Services Unit who performs
2 his or her duties in good faith is not liable for civil or criminal damages as a result of acts or
3 omissions in rendering service or care to an elderly or disabled adult.

4 C. For the purpose of any proceeding, civil or criminal, the good faith referred to in
5 subsections A and B shall be presumed.

6 Section 2954. Failure to report.

7 Any person required by subsection A or B of Section 2952 to report a case of suspected elderly
8 or disabled adult abuse who fails to so report shall be liable for a fine of not more than \$500,
9 except that for a second or subsequent offense, such person shall be guilty of a misdemeanor.

10 Section 2955. Adult Protective Services Unit.

11 The Division of Senior Citizens of the Department of Public Health and Social Services, (the
12 "Department") shall establish an Adult Protective Services Unit, (the "Unit") which shall have
13 sufficient staff to fulfill the purposes of this article and organized in such a way as to maximize
14 the continuity of responsibility, care and services of individual workers toward individual
15 adults and families. The Unit shall be the sole unit responsible for receiving and investigating
16 all reports of elderly or disabled adult abuse made pursuant to this article, specifically including
17 but limited to reports of abuse in facilities operated by the Department and other public or
18 private agencies. The Unit shall have authority to delegate to other social service agencies the
19 responsibility of investigating reports of abuse, but shall monitor the investigations conducted
20 by such other authorized agencies.

21 Section 2956. Duties of the Unit.

22 The Unit shall:

23 A. Receive on a twenty-four (24) hour, seven (7) days a week basis all reports,
24 both oral and written, of suspected elderly or disabled adult abuse in accordance with this
25 article and the regulations of the Department.

26 B. Investigate and evaluate the information in the reports, either through its own
27 investigators or through investigators of other authorized agencies. The investigation and
28 evaluation shall be made within twenty-four (24) hours if the Unit has reasonable cause to
29 believe the adult's health or safety is in immediate danger from further abuse and within seven
30 (7) days for all other such reports. The investigation shall include a visit to the facility or
31 residence, an interview with the adult allegedly abused, a determination of the nature, extent
32 and cause or causes of the abuse, the identity of the person or persons responsible for the
33 abuse, and all other pertinent facts. The investigation shall be completed within thirty (30)
34 days. If the investigating social worker of the Unit or other authorized agency determines that it
35 is appropriate, the social worker may request a law enforcement officer to accompany and
36 assist the worker in the investigation. No social worker of the Unit or other authorized agency
37 shall enter the home of any individual pursuant to the provisions of this article without the
38 consent of the individual, unless authorized pursuant to subsection C of Section 2957 of this
39 article.

1 C. Determine within thirty (30) days whether the report is substantiated or
2 unsubstantiated. If the assessment results in determination that the elderly or disabled adult has
3 suffered serious abuse, report such determination to the Attorney General within forty-eight
4 (48) hours. The Attorney General may investigate and decide whether to initiate criminal
5 proceedings.

6 D. Develop a coordinated system of protective services to prevent further abuses to
7 adults and to provide or arrange for and monitor the provision of those services necessary to
8 safeguard and ensure the adult's well-being and development and preserve and stabilize family
9 life wherever appropriate.

10 E. Make available, among its services for the prevention and treatment of elderly
11 and disabled adult abuse, through authorized individuals and through inter-agency assistance
12 and cooperation, instruction in caring for elderly and disabled adults, protective and preventive
13 social counseling, and emergency shelter care.

14 Section 2957. Consent of Victim; Guardianship.

15 A. An elderly or disabled adult who is a victim or alleged victim of abuse may
16 refuse to cooperate in the investigation, or withdraw consent at any time to the provision of
17 protective services by the Unit. The investigating agency shall act only with the consent of the
18 victim or alleged victim of abuse. However, the Unit shall have the responsibility to complete
19 the investigation, regardless of the lack of cooperation of the victim of abuse.

20 B. If the elderly or disabled adult victim or alleged victim of abuse is so
21 incapacitated that he or she cannot legally give or deny consent to an investigation or protective
22 services, the Unit may initiate a petition for guardianship in accordance with Chapter 38 of Title
23 15 Guam Code Annotated, or initiate a petition for civil commitment pursuant to law.

24 C. If a social worker of the Unit or other authorized agency who is investigating a
25 report of abuse is denied access to the alleged victim by a caregiver or household member, such
26 agency may petition the Superior Court for an order allowing the Unit or agency immediate
27 access to the alleged victim. The court shall give notice to the caregiver or household member
28 who is denying access at least twenty-four (24) hours prior to the hearing. The court may
29 dispense with notice upon finding that immediate and reasonably foreseeable harm to the alleged
30 victim will result from the twenty-four (24) hour delay. If, after the hearing, the court
31 determines, based upon clear and convincing evidence, that the caregiver or household member
32 should be required to allow access, the Court shall so order. The order allowing access shall
33 remain in effect for a period not to exceed seventy-two (72) hours and may be extended for an
34 additional seventy-two (72) hours if the court finds that the extension is necessary for the Unit
35 or agency to gain access to the alleged victim.

36 D. No person shall interfere with the provision of protective services to an elderly
37 or disabled adult who requests or consents to receive such services. In the event that
38 interference occurs on a continuing basis, the Unit, its designated protective services agency,
39 or the public guardian may petition the court to enjoin such interference.

1 Section 2958. Central Registry.

2 A. The Unit shall maintain a central registry of reports of elderly or disabled adult
3 abuse, which shall contain and be limited to the following information:

- 4 1. The name, address and birthdate of the elderly or disabled adult.
- 5 2. The date or dates and the nature and extent of the suspected abuse.
- 6 3. The locality in which the suspected abuse occurred.
- 7 4. The name of the person or persons suspected of causing the abuse.
- 8 5. The progress of any legal proceedings brought on the basis of suspected abuse.

9 B. Only substantiated reports, or reports under investigation which have not yet
10 been determined to be substantiated or unsubstantiated, shall be placed and maintained in the
11 central registry. If and when the Unit determines a report to be unsubstantiated, all information
12 identifying the named victim and perpetrator or perpetrators of abuse shall be expunged from
13 the central registry.

14 C. If an investigation of a report of suspected elderly or disabled adult abuse does
15 not determine within ninety (90) days of the date of the initial report that it is a substantiated
16 report or an unsubstantiated report, all information identifying the named victim and perpetrator
17 or perpetrators shall be expunged.

18 Section 2959. Confidentiality.

19 A. All records maintained by the Unit regarding reports of abuse, including but not
20 limited to information contained in the central registry, shall be confidential and shall be
21 released only with the consent of the elderly or disabled adult or, if the adult is not competent,
22 only with the consent of the adult's guardian, and shall be released only to individuals
23 designated in this Section 2959.

24 B. Records may be released, only as necessary to serve and protect the adult, to the
25 following:

26 1. Any agency or individual, authorized, contracted or licensed through the
27 Unit to care for, protect or provide services to an elderly or disabled adult who is a victim of
28 abuse.

29 2. Courts of competent jurisdiction, upon finding that access to the records may
30 be necessary for determination of an issue before the court. Access shall be limited to
31 inspection by the court only, unless the court determines that disclosure of the records to
32 interested parties is necessary for resolution of an issue pending before it.

33 3. Grand juries when connected with the prosecution of a case of elderly or
34 disabled adult abuse.

35 4. Properly constituted authorities or agencies, including police departments,
36 prosecutors and attorneys general investigating a report of known or suspected elderly or
37 disabled adult abuse.

38 5. A physician examining or treating an elderly or disabled adult where the
39 physician suspects the adult of having been abused.

1 6. The elderly or disabled adult's guardian or attorney.

2 7. A duly authorized official of the Unit.

3 8. The victim or alleged victim of the abuse.

4 9. After, and only after, a court proceeding has been initiated regarding the
5 abuse, the perpetrator or alleged perpetrator of the abuse.

6 C. Records may be released to sources other than those identified in subsection B
7 only when a written authorization from the victim or alleged victim, or his or her guardian
8 specifically provides consent to have the record released or reviewed.

9 D. Regardless of subsections A, B and C, identities of persons reporting elderly or
10 disabled adult abuse shall remain anonymous and release of the identity of a person reporting
11 such abuse, or information which would identify the reporter of abuse, is strictly prohibited.

12 E. Any person who wilfully releases or permits the release of any information or
13 records is in violation of this Section 2959 shall be guilty of a misdemeanor.

14 Section 2960. Appropriation.

15 A. Two Hundred Thousand Dollars (\$200,000) are hereby appropriated from the
16 General Fund to the Department for the implementation of the Unit, which appropriation shall
17 cover staffing requirements, logistics, contracting of services, and emergency shelter for
18 victims of elderly and disabled adult abuse.

19 B. Within three (3) months following the end of each fiscal year, the Unit shall
20 submit a report to the Governor, the Superior Court, the Legislature, and the public, which
21 shall include:

22 1. Description of the activities of the Unit and all designated agencies during the
23 preceding year.

24 2. Statistical information about the number and types of reports received during
25 the preceding year.

26 3. Results of the assessments and evaluations conducted and the amount, type,
27 and costs of services provided.

28 4. Information on the quality of services provided and the result of such
29 services in terms of alleviating abuse.

30 5. Identification of problems that may arise in the implementation of this article.

31 6. Recommendation for action on the part of the Legislature whenever deemed
32 vital for the protection of the elderly and disabled adult."

ROLL CALL SHEET

Bill No. 863
 Res No. _____

DATE: 12/31/88

QUESTION: _____

	<u>AYE</u>	<u>NAY</u>	<u>NOT VOTING</u>	<u>ABSENT</u>
E. P. Arriola	✓			
J. G. Bamba	✓			
M. Z. Bordallo	✓			
H. D. Dierking	✓			
E. R. Duenas	✓			
E. M. Espaldon	✓			
F. J. Gutierrez				✓
M. K. Hartsock	✓			
P. C. Lujan	✓			
M. D. A. Manibusan	✓			
J. G. Miles				✓
T. S. Nelson	✓			
D. Parkinson	✓			
F. J. A. Quitugua	✓			
J. M. Rivera	✓			
M. C. Ruth	✓			
J. T. San Agustin	✓			
F. R. Santos	✓			
A. J. Shelton	✓			

17

2

SENATOR ELIZABETH P. ARRIOLA

Chairperson
Committee on Youth, Senior
Citizens, Cultural Affairs
and Human Resources



Nineteenth
Guam Legislature

P.O. BOX CB-1 · AGANA, GUAM 96910
(671) 472-3441/42

December 31, 1988

The Honorable Franklin J. Quitugua
Speaker
Nineteenth Guam Legislature
163 Chalan Santo Papa
Agana, Guam 96910

VIA: Chairman, Committee on Rules

Dear Mr. Speaker:

The Committee on Youth, Senior Citizens, Cultural Affairs and Human Resources to which was referred **Bill 863**, has had the same under consideration and now wishes to report back its recommendation **TO DO PASS AS AMENDED**

Committee votes received:

<u>TO PASS</u>	<u>NOT TO PASS</u>	<u>ABSTAIN</u>	<u>OTHER</u>
7	0	0	3

Attached herewith is the Committee Report and other pertinent documents for your perusal.

Sincerely,

Elizabeth P. Arriola
ELIZABETH P. ARRIOLA

Attachments

NINETEENTH GUAM LEGISLATURE
1989(SECOND) Regular Session

Bill No. 863
As amended by the author

Introduced By:

E.P. ARRIOLA *epa*
T.S. NELSON

AN ACT TO ADD ARTICLE 8 TO CHAPTER 2,
TITLE 10 GCA RELATIVE TO CREATING AN
ADULT PROTECTIVE SERVICES UNIT OF THE
DIVISION OF SENIOR CITIZENS, DEPARTMENT OF
PUBLIC HEALTH AND SOCIAL SERVICES
RELATIVE TO ESTABLISHING REPORTING OF
ELDERLY OR DISABLED ADULT ABUSE.

BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

Section 1. Purpose

It is the purpose of the Legislature in enacting the provisions of this act to recognize that abuse, neglect and exploitation of elderly or disabled adults is a problem that requires attention and intervention as a matter of public policy. Elderly or disabled adults need the same societal protection now being provided by law to abused and neglected children, and spouses. The obligation of the government to extend protective care and services to the abused elderly or disabled adult, however should be carried out in a manner least restrictive of individual rights and in accordance with due process. The family's contribution to the care of its elderly or disabled adults is acknowledged and every effort should be made to assist, support and enhance its caretaking role.

Section 2. Definitions:

"Abandonment" refers to the desertion or willful forsaking of an elderly or disabled adult by his or her caregiver under circumstances in which a reasonable person would continue to provide care or custody.

"Adult Protective Services Unit" means the unit established by

Section 6 of this Act.

"Caregiver" is any family member or any person, health facility, community care facility, clinic, home health care agency or legal guardian who has the care or custody of or who provides goods or services to the elderly or disabled adult which are necessary for his or her physical, mental or emotional health or well-being.

"Department" refers to the Department of Public Health and Social Services.

"Elderly" refers to a person 60 years of age or older.

"Elderly or Disabled Adult Abuse" means any one or more of the following acts inflicted on an elderly or disabled adult by other than accidental means by another person: physical abuse, neglect, abandonment or self neglect.

"Material Abuse" means illegal or improper use of an elderly or disabled adult's money, property or other resources for monetary or personal benefit, profit or gain. It includes but is not limited to theft, misappropriation, concealment, misuse or fraudulent deprivation of money or property belonging to the elderly or disabled adult.

"Mental or Emotional Abuse" includes but is not limited to verbal assaults, insults, threats, intimidation, humiliation, harassment, isolation which provokes fear, agitation, confusion or severe depression.

"Neglect" means the failure of an elderly or disabled adult or a caregiver to provide for the physical, mental or emotional health and well-being of the elderly or disabled adult and includes but is not limited to:

- A. Failure to assist or provide personal hygiene for the elderly or disabled adult.
- B. Failure to provide adequate food, water, clothing or shelter.
- C. Failure to provide medical care for the physical and mental

health of the elderly or disabled adult. No person shall be deemed neglected or abused for the sole reason that he or she voluntarily relies on treatment by spiritual means through prayer alone in lieu of medical treatment.

D. Failure to protect an elderly or disabled adult from health and safety hazards.

"Physical Abuse" means the willful infliction of injury which results in physical harm. It includes but is not limited to cruel punishment resulting in physical harm or pain or mental anguish, such as direct beatings, slapping, kicking, biting, choking, burning, sexual assault or molestation, or unreasonable physical restraint or confinement resulting in physical injury.

"Physical Harm" means bodily pain, injury, impairment or disease.

"Substantiated Report" means a report made pursuant to this Chapter if an investigation by Adult Protective Services Unit determines that there is insufficient evidence to support the existence of the abuse.

"Disabled Adult" is any person over the age of eighteen (18) years who:

A. Has a physical or mental impairment which substantially limits one or more major life activities; or

B. Has a history of, or has been classified as having an impairment which substantially limits one or more major life activities.

"Major Life Activities" means functions such as, but not limited to caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

Section 3. Reporting of Elderly or Disabled Adult Abuse

A. Any person who, in the course of his or her employment,

occupation of professional practice comes into contact with elderly or disabled adults, has actual knowledge or reasonable cause to believe that an elderly or disabled adult is suffering from or has died as a result of abuse as defined in Section 2, shall immediately make a verbal report of such information or cause a report to be made to the Adult Protective Services Unit and shall, within forty-eight (48) hours, make a written report to the unit.

B. Persons required to report abuse under subsection (a) include but are not limited to physicians, medical interns, medical examiners, nurses, chiropractors, hospital personnel engaged in the admission, examination, care or treatment of persons, social workers, employees of nursing homes and adult day care facilities, police officers, probation officers and employees of homemaker service agencies.

C. In addition to persons required to report under subsections (A) and (B), any other person may make such report to adult protective services unit, if any such person has a reasonable cause to believe that an elderly or disabled adult is suffering from or has died as a result of abuse to the Adult Protective Services Unit.

D. Oral or written reports from persons required to report under subsection 3 (A) and 3 (B) shall include the following information, if available:

1. The name of the person making the report and where he or she can be reached.

2. The name, address and approximate age of the elderly or disabled adult.

3. Information regarding the nature and extent of the abuse, the name of the person's caretaker, if known, any medical treatment being received or immediately required, if known.

4. The name of the person or persons responsible for causing the suspected abuse.

5. The source of the report.

6. Any other information which may assist in the investigation of the suspected abuse.

The identity of the person making the report shall be confidential.

Section 4. Immunity From Liability.

A. Any person who in good faith makes a report or testifies in any administrative or judicial proceeding related to the report is immune from civil or criminal liability for reporting or testifying.

B. Any officer, agent or employee of Adult Protective Services Unit who performs his or her duties in good faith is not liable for civil or criminal damages as a result of acts or omissions in rendering service or care to an elderly or disabled adult.

C. For the purpose of any proceeding, civil or criminal, the good faith referred to in subsections (A) and (B) shall be presumed.

Section 5. Failure To Report

Any person required by subsection 3(A) and 3(B) to report a case of suspected elderly or disabled adult abuse who fails to report shall be liable for a fine of not more than \$500.00, except that for a second or subsequent offense, he or she shall be guilty of a misdemeanor.

Section 6. Adult Protective Services Unit

The Division of Senior Citizens of the Department of Public Health and Social Services shall establish an Adult Protective Services Unit, which shall have sufficient staff to fulfill the purposes of this Chapter and organized in such a way as to maximize the continuity of responsibility, care and services of individual workers toward individual adults and families. The Adult Protective Services Unit shall be the sole unit responsible for receiving and investigating all reports of elderly or disabled adult abuse made pursuant to this Chapter, specifically including but limited to reports of abuse facilities operated by the Department and other public or p

agencies. The Adult Protective Services Unit shall have authority to delegate to other social service agencies the responsibility of investigating reports of abuse. The Adult Protective Services Unit shall have the responsibility of monitoring the investigations conducted by such other authorized agencies.

Section 7. Duties of the Adult Protective Services Unit.

The Adult Protective Services Unit shall:

A. Received on a twenty-four (24) hour, seven (7) days a week basis all reports, both oral and written, of suspected elderly or disabled adult abuse in accordance with this chapter and the regulations of the Department.

B. Investigate and evaluate the information in the reports, either through its own investigators or through investigators of other authorized agencies. The investigation and evaluation shall be made within twenty-four (24) hours if the agency has reasonable cause to believe the adult's health or safety is in immediate danger from further abuse and within seven (7) days for all other such reports. The investigation shall include a visit to the facility or residence, an interview with the adult allegedly abused, a determination of the nature, extent and cause or causes of the abuse, the identity of the person or persons responsible for the abuse, and all other pertinent facts. The investigation shall be completed within thirty (30) days. If the investigating social worker of the Adult Protective Services Unit or other authorized agency determines that it is appropriate, the social worker may request a law enforcement officer to accompany and assist the worker in the investigation. No social worker of the Adult Protective Services Unit or other authorized agency shall enter the home of any individual pursuant to the provisions of this Chapter without the consent of the individual, unless authorized pursuant

Section 8 (C).

C. Determine within thirty (30) days whether the report substantiated or unsubstantiated. If the assessment results determination that the elderly or disabled adult has suffered serious abuse, report such determination to the Attorney General within forty-eight (48) hours. The Attorney General may investigate and decide whether to initiate criminal proceedings.

D. Develop a coordinated system of protective services to prevent further abuses to adults and to provide or arrange for and monitor the provision of those services necessary to safeguard and ensure the adult's well-being and development and preserve and stabilize family life wherever appropriate.

E. Make available, among its services for the prevention and treatment of elderly and disabled adult abuse, through authorized individuals and through intra-agency assistance and cooperation, instruction in caring for elderly and disabled adults, protective and preventive social counseling and emergency shelter care.

F. Issue regulations establishing criteria and procedures for designation or redesignation of Protective Services Agency or for the termination or designation or redesignation of Protective Service Agency.

Section 8. Consent of Victim; Guardianship

A. An elderly or disabled adult who is a victim or alleged victim of abuse may refuse to cooperate in the investigation, or withdraw consent at any time to the provision of protective services by the Adult Protective Services Unit. The investigating agency shall act only with the consent of the victim or alleged victim of abuse. However, the Adult Protective Services Unit shall have the responsibility to complete the investigation, regardless of the lack of cooperation.

victim of abuse.

B. If the elderly or disabled adult victim or alleged victim of abuse is so incapacitated that he or she cannot legally give or deny consent to an investigation or protective services, the Adult Protective Services Unit may initiate a petition for guardianship in accordance with Chapter 38 of 15 GCA or initiate a petition for civil commitment pursuant to (Bill No. 413).

C. If a social worker of the Adult Protective Services Unit or other authorized agency who is investigating a report of abuse is denied access to the alleged victim by a caregiver or household member, such agency may petition the court for an order allowing the agency immediate access to the alleged victim. The court shall give notice to the caregiver or household member who is denying access at least twenty-four (24) hours prior to the hearing. The court may dispense with notice upon finding that immediate and reasonably foreseeable harm to the alleged victim will result from the twenty-four (24) hour delay. If, after the hearing, the court determines, based upon clear and convincing evidence, that the caregiver or household member to allow access. The order allowing access shall remain in effect for a period not to exceed seventy-two (72) hours. The order may be extended for an additional seventy-two (72) hours if the court finds that the extension is necessary for the agency to gain access to the alleged victim.

D. No person shall interfere with the provision of protective services to an elderly or disabled adult who requests or consents to receive such services. In the event that interference occurs on a continuing basis, the Protective Services Unit or its designated protective services agency or the public guardian may petition the court to enjoin such interference.

Section 9. Central Registry

A. Adult Protective Services Unit shall maintain a central registry of reports of elderly or disabled adult abuse, which shall contain and be limited to the following information:

1. The name, address and birthdate of the elderly or disabled adult.
2. The date or dates and the nature and extent of the suspected abuse.
3. The locality in which the suspected abuse occurred.
4. The name of the person or persons suspected of causing the abuse.
5. The progress of any legal proceedings brought on the basis of suspected abuse.

B. Only substantiated reports, or reports under investigation which have not yet been determined to be substantiated or unsubstantiated shall be placed and maintained in the central registry. If and when Adult Protective Services Unit determines a report to be unsubstantiated, all information identifying the named victim and perpetrator or perpetrators of abuse shall be expunged from the central registry.

C. If an investigation of a report of suspected elderly or disabled adult abuse does not determine within ninety (90) days of the date of the initial report that it is a substantiated report or an unsubstantiated report, all information identifying the named victim and perpetrator or perpetrators shall be expunged.

Section 10. Confidentiality

A. All records maintained by Adult Protective Services Unit regarding reports of abuse, including but not limited to information contained in the central registry, shall be confidential and shall be released only with the consent of the elderly or disabled adult or, if the adult is not competent, only with the consent of the adult's guardian,

and shall be released only to individuals designated by this section.

B. Records may be released, only as necessary to serve and protect the adult, to the following:

1. Any agency or individual, authorized, contracted or licensed through Adult Protective Services Unit to care for, protect or provide services to an elderly or disabled adult who is a victim of abuse.

2. Courts of competent jurisdiction, upon finding that access to the records may be necessary for determination of an issue before the court. Access shall be limited to inspection by the court only, unless the court determines that disclosure of the records to interested parties is necessary for resolution of an issue pending before it.

3. Grand juries when connected with the prosecution of a case of elderly or disabled adult abuse.

4. Properly constituted authorities or agencies, including police departments, prosecutors and attorney generals investigating a report of known or suspected elderly or disabled adult abuse.

5. A physician examining or treating an elderly or disabled adult where the physician suspects the adult of having been abuse.

6. The elderly or disabled adult's guardian or attorney.

7. A duly authorized official of the Adult Protective Services Unit.

8. The victim or alleged victim of the abuse.

9. After, and only after, a court proceeding has been initiated regarding the abuse, the perpetrator or alleged perpetrator of the abuse.

C. Records may be released to sources other than those identified in subsection (b) only when a written authorization from the

victim or alleged victim, or his or her guardian specifically provide consent to have the record released or reviewed.

D. Regardless of subsections (a), (b) and (C), identities of persons reporting elderly or disabled adult abuse shall remain anonymous and release of the identity of a person reporting such abuse, or information which would identify the reporter of abuse, is strictly prohibited.

E. Any person who wilfully releases or permits the release of any information or records in violation of this section shall be guilty of a misdemeanor.

Section 11. Appropriation

A. The minimum sum of Two Hundred Thousand Dollars, (\$200,000) is hereby appropriated from the General Fund to the Department of Public Health and Social Services for the implementation of the Adult Protective Services Unit.

B. The appropriation shall cover staffing requirements, logistics, contracting of services and emergency shelter for victims of elderly and disabled adult abuse.

C. Within three (3) months following the end of fiscal year, the Adult Protective Services Unit shall submit a report to the Governor of Guam, the Superior Court of Guam, the Guam Legislature, and the Public, which shall include:

1. Description of the activities of the Adult Protective Services Unit and all designated agencies during the preceding year.
2. Statistical information about the number and types of reports received during the preceding year.
3. Results of the assessments and evaluations conducted and the amount, type, and costs of services provided.
4. Information on the quality of services provided and the result of such services in terms of alleviating abuse.

5. Identification of problems that may arise in the implementation of this public law.

6. Recommendation for action on the part of the Guam Legislature whenever deemed vital for the protection of the elderly and disabled adult.

VOTE SHEET

THE COMMITTEE ON YOUTH, SENIOR CITIZENS,
CULTURAL AFFAIRS AND HUMAN RESOURCES

ON BILL NO.863
AN ACT TO ADD ARTICLE 8 TO CHAPTER 2, TO TITLE 10 OF THE GUAM
CODE ANNOTATED RELATIVE TO CREATING AN "ADULT PROTECTIVE
SERVICES AGENCY" OF THE DIVISION OF SENIOR CITIZENS,
DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES RELATIVE TO
ESTABLISHING REPORTING OF ELDERLY OR DISABLED ADULT ABUSE.

Chairperson: To Do Pass Not To Pass Report Out Inactive File

E. Arriola ✓ _____ _____ _____
Elizabeth P. Arriola

Members:

F. R. Santos _____ _____ ✓ _____
Frank R. Santos

Madeleine Bordallo ✓ _____ _____ _____
Madeleine Bordallo

_____ _____ _____ _____ _____
Herminia Dierking

E. Duenas ✓ _____ _____ _____
Edward Duenas

Ernesto Espaldon ✓ _____ _____ _____
Ernesto Espaldon

Marcia Hartssock _____ _____ ✓ _____
Marcia Hartssock

P. C. Lujan _____ _____ ✓ _____
Pilar C. Lujan

Jim Miles ✓ _____ _____ _____
Jim Miles

Ted Nelson ✓ _____ _____ _____
Ted Nelson

Joe T. San Agustin ✓ _____ _____ _____
Joe T. San Agustin

Committee Report

of the

Committee on Youth, Senior Citizens, Cultural Affairs & Human Resources
on Bill No. 863 (COR)

AN ACT TO ADD ARTICLE 8 TO CHAPTER 2, TO TITLE 10 OF THE GUAM CODE ANNOTATED RELATIVE TO CREATING AN ADULT PROTECTIVE SERVICES AGENCY OF THE DIVISION OF SENIOR CITIZENS, DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES, RELATIVE TO ESTABLISHING REPORTING OF ELDERLY OR DISABLED ADULT ABUSE."

Introduced by:

E.P. Arriola

Preface

A public hearing on Bill No. 863 (COR), was held by the Committee on Youth, Senior Citizens, Cultural Affairs & Human Resources on November 29, 1988 at the Legislative Session Hall.

Present and conducting the hearing was the Chairperson, Senator Elizabeth P. Arriola.

Background

Said bill was created and spearheaded by the Task Force on Elderly and Disabled Adult Abuse, under the direct supervision of the Division of Senior Citizens, Department of Public Health and Social Services. Bill 863 recognizes and addresses imperative measures designed and structured to protecting the elderly as well as the disabled adult who have been subjected to physical and emotional abuse, neglect or financial exploitation.

Testimonies

Pedro L.G. Santos, Representative, Catholic Social Service. (Exhibit A.)

Mr. Santos favorably supports the passage of Bill 863 with sincere consideration that pertinent sections of the Bill be amended.

Emmanuel S.N. Perez, Vice-Chairman, Task Force on Adult Abuse (Exhibit B)

With the ever increasing problems of adult abuse, Mr. Perez praised the Task Force for their efforts in developing Bill 863. Referencing section 11 of Bill 863, Mr. Perez noted that major funding is required for implementation to cover staffing, logistics, service contracting and emergency shelter for victims of abuse.

Eric A. Heisel, Executive Director, Guam Legal Services Corporation (Exhibit C)

Mr. Heisel supports Bill 863 primarily in the area of material abuse which is defined as financial exploitation. This dilemma, presently has increased and overwhelmingly practiced islandwide.

Florence P. Shimizu, Administrator, Division of Senior Citizens, DPHSS (Exhibit D)

Representing the Director of DPHSS (Dr. Leticia V. Espaldon), Mrs. Shimizu fully encourages legislation of Bill 863. She also suggested that Section 11 incorporate funding for practical and technical purposes. Additionally, Mrs. Shimizu recommended that the title "Adult Protective Services Agency" be changed to "Adult Protective Services Unit".

Frank C. Lizama, Acting Fire Chief, Guam Fire Department (Exhibit E)

Mr. Lizama indicated that presently there is no agency to report to, and no formal requirements and procedures governing adult abuse. Consequently, the Guam Fire Department stresses the importance of the passage of Bill 863.

Dr. Eddie del Rosario, Administrator, The Advocacy Office (Exhibit F)

Dr. del Rosario strongly recommends full legislation of Bill 863. He stressed two areas of concern. First, in reference to \$200,000 in funding, Dr. del Rosario annotated that this may not be sufficient to provide full services, it was recommended that the committee consider multi-year funding which hopefully would minimize financial constraints. Secondly, Dr. del Rosario recognizes the importance of primary and secondary preventive measures. He commented that educating the general public as early as the elementary grades where promotion of a healthy respect for the elderly and disabled adult is definitely an aspect aimed at measures preventing abuse. With this in mind, self-advocacy will also be developed.

Annie P. Roberto, Representative, Interfaith Volunteer Caregivers, Inc. (Exhibit G)

Not present to testify, however, Mrs. Roberto's written testimony favorably supports the passage of Bill 863.

Jose San Nicolas, Liason Officer, SPIMA/GARP (Exhibit H)

Both organizations highly favor the concept of Bill 863. Clarification on the word "agency" should be defined whether it means a separate entity by itself or program or unit to be implemented by the Division. Additionally, Mr. San Nicolas points out an existing law, PL 16-109(d), Section 9983(d), which clearly notes the reporting of elderly abuse.

David L.G. Baza, Administrator, Medical Social Services, GMH (Exhibit I)

Mr. Baza's staff prepared a statistical study on the categories of abuses and the effect. With the availability of the study conducted, the justification to legislate Bill 863 is highly and strongly encouraged.

Frank M. Portusach, Commissioner of Agana Hieghts)

Mr. Portusach cited that emotional abuse, neglect and financial exploitation presently, is slowly taking its toll among senior citizens in his area of responsibility.

Conception C. Barrett, Senior Citizen)

Mrs. Barrett, attested and recommended a solution to elderly abuse. Preventive measures by redirecting our attitude toward the elderly where we educate our children and generations to come within the community. It is important that we remind our children that because of our parents untiring efforts in fulfilling the ultimate responsibility in the guidance of our development and growth as human beings, we should have empathy, be passive, compassionate as well as sensitive towards their needs. Our children should not perceive this as a challenge, but ought to assess this as a token and envision wisdom and not burden. Thus, the root for our children to acquire this, is first line family education.

Manuel Perez, Chairman, Guam Council on Senior Citizens (Exhibit J)

On behalf of the Council, Mr. Perez supports the Bill, with reservation whether the appropriation of \$200,000 is sufficient to effectively enforce the services of the Bill.

Julie Blaz, Project Director, Retired Senior Volunteer Program

Mr. Blaz spoke favorably and endorses Bill 863.

Florencio Ramirez, GARP

Mr. Ramirez endorses and associates himself with the written testimony submitted by Mr. Jose San Nicolas.

Cristeta V. Alegria, Representative, Medical Social Services, Bureau of Professional Support Services, DPHSS

A social worker for the Home Care Program since 1978, Mrs. Alegria pleads for the passage of Bill 863.

Findings

Based on testimonies both oral and written, it is clear that elderly as well as disabled adult abuses exists island-wide as expounded by statements and statistics provided by those who testified. The committee finds that there is a need to develop the legislation to address these growing concerns.

Recommendation

The Committee on Youth, Senior Citizens, Cultural Affairs and Human Resources to which was referred Bill 863, has had the same under consideration and recommends: TO DO PASS AS AMENDED.

Introduced

MAY 12 '88

NINETEEN GUAM LEGISLATURE
1987 (FIRST) REGULAR SESSION
1988 (SECOND) REGULAR SESSION

Bill No. 863 (COR)

Introduced By:

E.P. Arriola *epa*

AN ACT TO ADD ARTICLE 8 TO CHAPTER 2, TO TITLE 10 OF THE
GUAM CODE ANNOTATED RELATIVE TO CREATING AN "ADULT
PROTECTIVE SERVICES AGENCY" OF THE DIVISION OF SENIOR
CITIZENS, DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES
RELATIVE TO ESTABLISHING REPORTING OF ELDERLY OR
DISABLED ADULT ABUSE

BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

Section 1. Purpose

It is the purpose of the Legislature in enacting the provisions of this act to recognize that abuse, neglect, and exploitation of elderly or disabled adults is a problem that requires attention and intervention as a matter of public policy. Elderly or disabled adults need the same societal protection now being provided by law to abused and neglected children, and spouses. The obligation of the government to extend protective care and services to the abused elderly or disabled adult, however, should be carried out in a manner least restrictive of individual rights and in accord with due process. The family's contribution to the care of its elderly or disabled adults is acknowledged and every effort should be made to assist, support and enhance its caretaking role.

Section 2. Definitions.

"Abandonment" refers to the desertion or willful forsaking of an elderly or disabled adult by his or her caregiver under circumstances in which a reasonable person would continue to provide care or custody.

"Adult Protective Services Agency" means the agency established by Section 6 of this Act.

"Caregiver" is any family member or any person, health facility, community care facility, clinic, home health care agency or legal guardian who has the

care or custody of or who provides goods or services to the elderly or disabled adult which are necessary for his or her physical, mental or emotional health or well-being.

"Department" refers to the Department of Public Health and Social Services.

"Elderly" refers to a person 60 years of age or older.

"Elderly or Disabled Adult Abuse" means any one or more of the following acts inflicted on an elderly or disabled adult by other than accidental means by another person: physical abuse, mental or emotional abuse, material abuse, neglect, abandonment or self neglect.

"Material Abuse" means illegal or improper use of an elderly or disabled adult's money, property or other resources for monetary or personal benefit, profit or gain. It includes but is not limited to theft, misappropriation, concealment, misuse or fraudulent deprivation of money or property belonging to the elderly or disabled adult.

"Mental or Emotional Abuse" includes but is not limited to verbal assaults, insults, threats, intimidation, humiliation, harassment, isolation which provokes fear, agitation, confusion or severe depression.

"Neglect" means the failure of an elderly or disabled adult or a caregiver to provide for the physical, mental or emotional health and well-being of the elderly or disabled adult and includes but is not limited to:

- A. Failure to assist or provide personal hygiene for the elderly or disabled adult.
- B. Failure to provide adequate food, water, clothing or shelter.
- C. Failure to provide medical care for the physical and mental health of the elderly or disabled adult. No person shall be deemed neglected or abused for the sole reason that he or she voluntarily relies on treatment by spiritual means through prayer alone in lieu of medical treatment.
- D. Failure to protect an elderly or disabled adult from health and safety hazards.

"Physical Abuse" means the willful infliction of injury which results in physical harm. It includes but is not limited to cruel punishment resulting in physical harm or pain or mental anguish, such as direct beatings, slapping, kicking, biting, choking, burning, sexual assault or molestation, or unreasonable physical restraint or confinement resulting in physical injury.

"Physical Harm" means bodily pain, injury, impairment or disease.

"Substantiated Report" means a report made pursuant to this Chapter if an investigation by Adult Protective Services Agency determines that substantial evidence of the alleged abuse exists.

"Unsubstantiated Report" means a report made pursuant to this Chapter if an investigation by Adult Protective Services Agency determines that there is insufficient evidence to support the existence of the abuse.

"Disabled Adult" is any person over the age of eighteen (18) years who:

- A. Has a physical or mental impairment which substantially limits one or more major life activities; or
- B. Has a history of, or has been classified as having an impairment which substantially limits one or more major life activities.

"Major Life Activities" means functions such as, but not limited to caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

Section 3. Reporting of Elderly or Disabled Adult Abuse

- A. Any person who, in the course of his or her employment, occupation or professional practice comes into contact with elderly or disabled adults, has actual knowledge or reasonable cause to believe that an elderly or disabled adult has been or is a victim of abuse as defined in Section 2, shall immediately make a verbal report to the Adult

Protective Services Agency and shall, within forty-eight (48) hours, make a written report to the agency.

B. Persons required to report abuse under subsection (A) include but are not limited to physicians, medical interns, medical examiners, nurses, chiropractors, hospital personnel engaged in the admission, examination, care or treatment of persons, social workers, employees of nursing homes and adult day care facilities, police officers, probation officers and employees of homemaker service agencies.

C. In addition to persons required to report under subsections (A) and (B), any person who has actual knowledge or who has reasonable cause to believe that an elderly or disabled adult has been or is a victim of abuse, may report the suspected abuse to Adult Protective Services Agency.

D. Oral or written reports from persons required to report under subsections 3(A) and 3(B) shall include the following information, if available:

1. The name of the person making the report and where he or she can be reached.
2. The name and address of the elderly or disabled adult.
3. The nature and extent of the suspected abuse and of the person's condition.
4. The name of the person or persons responsible for causing the suspected abuse.
5. The source of the report.
6. Any other information which may assist in the investigation of the suspected abuse.

The identity of the person making the report shall be confidential.

Section 4. Immunity From Liability

A. Any person who in good faith makes a report or testifies in any administrative or judicial proceeding related to the report is immune from civil or criminal liability for reporting or testifying.

B. Any officer, agent or employee of Adult Protective Services Agency who performs his or her duties in good faith is not liable for civil or criminal damages as a result of acts or omissions in rendering service or care to an elderly or disabled adult.

C. For the purpose of any proceeding, civil or criminal, the good faith referred to in subsections (A) and (B) shall be presumed.

Section 5. Failure To Report

Any person required by subsections 3(A) and 3(B) to report a case of suspected elderly or disabled adult abuse who fails to report shall be liable for a fine of not more than \$500.00, except that for a second or subsequent offense, he or she shall be guilty of a misdemeanor.

Section 6. Adult Protective Services Agency

The Division of Senior Citizens of the Department of Public Health and Social Services shall establish an Adult Protective Services Agency, which shall have sufficient staff to fulfill the purposes of this Chapter and organized in such a way as to maximize the continuity of responsibility, care and services of individual workers toward individual adults and families. The Adult Protective Services Agency shall be the sole agency responsible for receiving and investigating all reports of elderly or disabled adult abuse made pursuant to this Chapter, specifically including but not limited to reports of abuse in facilities operated by the Department and other public or private agencies. The Adult Protective Services Agency shall have authority to delegate to other social service agencies the responsibility of investigating reports of abuse. The Adult Protective Services Agency shall have the responsibility of monitoring the investigations conducted by such other authorized agencies.

Section 7. Duties of the Adult Protective Services Agency

The Adult Protective Services Agency shall:

A. Receive on a twenty-four (24) hour, seven (7) day a week basis all reports, both oral and written, of suspected elderly or disabled adult abuse in accordance with this Chapter and the regulations of the Department.

B. Investigate and evaluate the information in the reports, either through its own investigators or through investigators of other authorized agencies. The investigation and evaluation shall be made within twenty-four (24) hours if the agency has reasonable cause to believe the adult's health or safety is in immediate danger from further abuse and within seven (7) days for all other such reports. The investigation shall include a visit to the facility or residence, an interview with the adult allegedly abused, a determination of the nature, extent and cause or causes of the abuse, the identity of the person or persons responsible for the abuse, and all other pertinent facts. The investigation shall be completed within thirty (30) days. If the investigating social worker of the Adult Protective Services Agency or other authorized agency determines that it is appropriate, the social worker may request a law enforcement officer to accompany and assist the worker in the investigation. No Social Worker of the Adult Protective Services Agency or other authorized agency shall enter the home of any individual pursuant to the provisions of this Chapter without the consent of the individual, unless authorized pursuant to Section 8 (C).

C. Determine within thirty (30) days whether the report is substantiated or unsubstantiated.

D. Provide protective services to prevent further abuses to adults and to provide or arrange for and monitor the provision of those services necessary to safeguard and ensure the adult's well-being and development and preserve and stabilize family life wherever appropriate.

E. Make available, among its services for the prevention and treatment of elderly and disabled adult abuse, through authorized individuals and through intra-agency assistance and cooperation, instruction in caring for elderly and disabled adults, protective and preventive social counseling and emergency shelter care.

Section 8. Consent of Victim; Guardianship

A. An elderly or disabled adult who is a victim or alleged victim of abuse may refuse to cooperate in the investigation, or withdraw consent at any time to the provision of protective services by the Adult Protective Services Agency. The investigating agency shall act only with the consent of the victim or alleged victim of abuse.

However, the Adult Protective Services Agency shall have the responsibility to complete the investigation, regardless of the lack of cooperation of the victim or alleged victim of abuse.

B. If the elderly or disabled adult victim or alleged victim of abuse is so incapacitated that he or she cannot legally give or deny consent to an investigation or protective services, the Adult Protective Services Agency may initiate a petition for guardianship in accordance with Chapter 38 of 15 G.C.A. or initiate a petition for civil commitment pursuant to (Bill No. 413).

C. If a Social Worker of the Adult Protective Services Agency or other authorized agency who is investigating a report of abuse is denied access to the alleged victim by a caregiver or household member, such agency may petition the court for an order allowing the agency immediate access to the alleged victim. The court shall give notice to the caregiver or household member who is denying access at least twenty-four hours prior to the hearing. The court may dispense with notice upon finding that immediate and reasonably foreseeable harm to the alleged victim will result from the twenty-four hour delay. If, after the hearing, the court determines, based upon clear and convincing evidence, that the caregiver or household member is denying access to the alleged victim, the court may order the caregiver or household member to allow access. The order allowing access shall remain in effect for a period not to exceed seventy-two hours. The order may be extended for an additional seventy-two hours if the court finds that the extension is necessary for the agency to gain access to the alleged victim.

Section 9. Central Registry

A. Adult Protective Services Agency shall maintain a central registry of reports of elderly or disabled adult abuse, which shall contain and be limited to the following information:

1. The name, address and birthdate of the elderly or disabled adult.
2. The date or dates and the nature and extent of the suspected abuse.
3. The locality in which the suspected abuse occurred.

4. The name of the person or persons suspected of causing the abuse.
5. The progress of any legal proceedings brought on the basis of suspected abuse.

B. Only substantiated reports, or reports under investigation which have not yet been determined to be substantiated or unsubstantiated shall be placed and maintained in the central registry. If and when Adult Protective Services Agency determines a report to be unsubstantiated, all information identifying the named victim and perpetrator or perpetrators of abuse shall be expunged from the central registry.

C. If an investigation of a report of suspected elderly or disabled adult abuse does not determine within ninety (90) days of the date of the initial report that it is a substantiated report or an unsubstantiated report, all information identifying the named victim and perpetrator or perpetrators shall be expunged.

Section 10. Confidentiality

A. All records maintained by Adult Protective Services Agency regarding reports of abuse, including but not limited to information contained in the central registry, shall be confidential and shall be released only with the consent of the elderly or disabled adult or, if the adult is not competent, only with the consent of the adult's guardian, and shall be released only to individuals designated by this section.

B. Records may be released, only as necessary to serve and protect the adult, to the following:

1. Any agency or individual, authorized, contracted or licensed through Adult Protective Services Agency to care for, protect or provide services to an elderly or disabled adult who is a victim of abuse.
2. Courts of competent jurisdiction, upon finding that access to the records may be necessary for determination of an issue before the court. Access shall be limited to inspection by the court only, unless the court determines that disclosure of the records to interested parties is necessary for resolution of an issue pending before it.

3. Grand juries when connected with the prosecution of a case of elderly or disabled adult abuse.
4. Properly constituted authorities or agencies, including police departments, prosecutors and attorney generals, investigating a report of known or suspected elderly or disabled adult abuse.
5. A physician examining or treating an elderly or disabled adult where the physician suspects the adult of having been abused.
6. The elderly or disabled adult's guardian or attorney.
7. A duly authorized official of the Adult Protective Services Agency.
8. The victim or alleged victim of the abuse.
9. After, and only after, a court proceeding has been initiated regarding the abuse, the perpetrator or alleged perpetrator of the abuse.

C. Records may be released to sources other than those identified in subsection (B) only when a written authorization from the victim or alleged victim, or his or her guardian specifically provides consent to have the record released or reviewed.

D. Regardless of subsections (A), (B) and (C), identities of persons reporting elderly or disabled adult abuse shall remain anonymous and release of the identity of a person reporting such abuse, or information which would identify the reporter of abuse, is strictly prohibited.

E. Any person who wilfully releases or permits the release of any information or records in violation of this section shall be guilty of a misdemeanor

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A.J. SONNY SHELTON
SENATOR
CHAIRMAN, COMMITTEE ON RULES



19TH GUAM LEGISLATURE

Vice-Chairman
COMMITTEE ON ENERGY UTILITIES
AND CONSUMER PROTECTION
Member
COMMITTEE ON EDUCATION
COMMITTEE ON TOURISM,
TRANSPORTATION AND COMMUNICATION
COMMITTEE ON ECONOMIC
DEVELOPMENT AND BANKING
COMMITTEE ON FEDERAL, FOREIGN
AND LEGAL AFFAIRS

P.O. BOX CB-1 AGANA, GUAM 96910 TELEPHONE:(671)472-3408,472-3409

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June 6, 1988

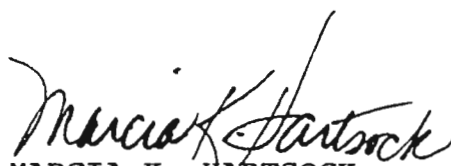
MEMORANDUM

To: Chairperson, Committee on Health, Welfare
& Ecology; and to the Chairperson,
Committee on Youth, Human Resources, Senior
Citizens & Cultural Affairs

From: Acting Chairperson, Committee on Rules

Subject: Referral on Bill No. 863

The above captioned matter is referred to your Committee. Please take note that the referral is subject to ratification by the Committee on Rules at its next meeting.


MARCIA K. HARTSOCK
Acting Chairperson

Attachment



CATHOLIC SOCIAL SERVICE

P.O. Box EJ • Agaña, Guam 96910 • Phone: 646-6163/4974/1924

November 29, 1988

Honorable Elizabeth P. Arriola
Chairperson
Committee on Youth, Senior Citizens,
Cultural Affairs, and Human Resources
19th Guam Legislature
Agaña, Guam

Dear Madam Chairperson and Committee Members:

My Name is Pedro L. G. Santos and I am representing Catholic Social Service. I am here to testify in support of Bill No. 865, "AN ACT TO ADD ARTICLE 8 TO CHAPTER 2, TO TITLE 10 OF THE GUAM CODE ANNOTATED, RELATIVE TO CREATING AN ADULT PROTECTIVE SERVICES AGENCY OF THE DIVISION OF SENIOR CITIZENS, DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES RELATIVE TO ESTABLISHING REPORTING OF ELDERLY OR DISABLED ADULT ABUSE."

I am currently serving as Case Management Supervisor for the Elderly Program, which has been contracted to Catholic Social Service. I am also responsible for operating the Elder Abuse program, another program contracted to Catholic Social Service.

Our agency has been involved for several years in dealing with cases reported as possible elder abuse in the form of physical, emotional, or material abuse, neglect or abandonment. In our experience in dealing with this type of social problem we have often encountered incidences wherein the alleged victim, usually a female elderly, refuses to file a complaint or even seek protective services. There have been instances also when the attending physician will be hesitant to designate physical injuries inflicted on the elder person as possible physical abuse. Why this hesitancy? I can only surmise that it is because of the lack of protection for the individual if a report were to be made. I, personally, have witnessed a case where physical bruises were present all over the elder person's body, but yet the primary physician would not venture to officially declare the injuries as those resulting from physical abuse. I have also personally handled a case where two elderly married couple were referred by a daughter as alleged victims of physical and emotional abuse, with the alleged perpetrator being her own



Dedicated To The Dignity Of The Human Person





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p. 2

sister. In working with the couple, they asked me not to confront the daughter for fear of creating disharmony in the family. These two actual cases of elder abuse are sufficient reasons, in my personal opinion, to justify the need for legislation focused on protecting alleged victims of elder abuse and providing the needed care and services.

The revelation that some elderly persons are mistreated, usually by their own relatives, is frightening because it proves that not all households are the caring, tranquil havens we expect in our island society. The elderly, on the other hand, with the overly forgiving attitude makes it difficult to resolve this type of social problem, especially when the individual refuses to file or press charges. Some form of remedy has to be established to minimize the occurrences of such type of social ill and that remedy is the passage of Bill No. 863

Upon reviewing this Bill, however, I noticed the omission of certain items which I consider essential for efficient and effective enforcement and I am, hereby, recommending their inclusion as follows:

- Amend Section 3 (A) to read:

" Any person who, in the course of his or her employment, occupation, or professional practice comes into contact with elderly or disabled adults, has actual knowledge or reasonable cause to believe that elderly or disabled adult IS SUFFERING FROM OR HAS DIED AS A RESULT OF ABUSE as defined in Section 2, shall immediately make a verbal report OF SUCH INFORMATION OR CAUSE A REPORT TO BE MADE to..."

- Amend Section 3 (C) to read:

" In addition to persons required to report... ANY OTHER PERSON MAY MAKE SUCH A REPORT TO ADULT PROTECTIVE SERVICES AGENCY, IF ANY SUCH PERSON HAS A REASONABLE CAUSE TO BELIEVE THAT AN ELDERLY OR DISABLED ADULT IS SUFFERING FROM OR HAS DIED AS A RESULT OF ABUSE..."

- Amend Section 3 (D) to read:

" 2. THE NAME, ADDRESS, AND APPROXIMATE AGE OF THE ELDERLY OR DISABLED ADULT.
3. INFORMATION REGARDING THE NATURE AND EXTENT OF THE ABUSE, THE NAME OF THE PERSON'S CARETAKER, IF KNOWN, ANY MEDICAL TREATMENT BEING RECEIVED OR IMMEDIATELY





CATHOLIC SOCIAL SERVICE

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p. 5

REQUIRED, IF KNOWN."

- Amend Section 7(C) to read:

" Determine... whether the report is substantiated or unsubstantiated. IF THE ASSESSMENT RESULTS IN DETERMINATION THAT THE ELDERLY OR DISABLED ADULT HAS SUFFERED SERIOUS ABUSE, REPORT SUCH DETERMINATION TO THE ATTORNEY GENERAL WITHIN FORTY-EIGHT (48) HOURS. THE ATTORNEY GENERAL MAY INVESTIGATE AND DECIDE WHETHER TO INITIATE CRIMINAL PROCEEDINGS."

- Amend Section 7(D) to read:

" DEVELOP A COORDINATED SYSTEM OF PROTECTIVE SERVICES... to prevent further abuses..."

- Add a new subsection to Section 7 to read:

" F. ISSUE REGULATIONS ESTABLISHING CRITERIA AND PROCEDURES FOR DESIGNATION OF PROTECTIVE SERVICES AGENCIES OR FOR THE TERMINATION OR DESIGNATION OR REDESIGNATION OF PROTECTIVE SERVICE AGENCIES."

- Add a new subsection to Section 8 to read:

" D. NO PERSON SHALL INTERFERE WITH THE PROVISION OF PROTECTIVE SERVICES TO AN ELDERLY OR DISABLED ADULT WHO REQUESTS OR CONSENTS TO RECEIVE SUCH SERVICES. IN THE EVENT THAT INTERFERENCE OCCURS ON A CONTINUING BASIS, THE PROTECTIVE SERVICES AGENCY OR ITS DESIGNATED PROTECTIVE SERVICES AGENCY OR THE PUBLIC GUARDIAN MAY PETITION THE COURT TO ENJOIN SUCH INTERFERENCE."

- Add a new subsection to Section 11 to read:

" C. WITHIN THREE (3) MONTHS FOLLOWING THE END OF EACH FISCAL YEAR, THE ADULT PROTECTIVE SERVICES AGENCY SHALL SUBMIT A REPORT TO THE GOVERNOR OF GUAM, THE SUPERIOR COURT OF GUAM, THE GUAM LEGISLATURE, AND THE PUBLIC, WHICH SHALL INCLUDE:

1. DESCRIPTION OF THE ACTIVITIES OF THE ADULT PROTECTIVE SERVICES AGENCY AND ALL DESIGNATED AGENCIES DURING THE PRECEDING YEAR
2. STATISTICAL INFORMATION ABOUT THE NUMBER AND TYPES OF REPORTS RECEIVED DURING THE PRECEDING YEAR
3. RESULTS OF THE ASSESSMENTS AND EVALUATIONS CONDUCTED AND THE AMOUNT, TYPE, AND COSTS OF SERVICES PROVIDED
4. INFORMATION ON THE QUALITY OF SERVICES PROVIDED AND THE RESULTS OF SUCH SERVICES IN TERMS OF ALLEVIATING ABUSE





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5. IDENTIFICATION OF PROBLEMS THAT MAY ARISE IN THE IMPLEMENTATION OF THIS PUBLIC LAW
6. RECOMMENDATION FOR ACTION ON THE PART OF THE GUAM LEGISLATURE WHENEVER DEEMED VITAL FOR THE PROTECTION OF THE ELDERLY AND DISABLED ADULT

In closing I want to thank you Senator Arriola and members of this committee for giving me the opportunity to share with you some of my thoughts on this wonderful piece of proposed legislation. It is my sincere hope that you and your colleagues will review my recommendations and, hopefully, include them in the final passage of this law aimed at protecting the elderly and disabled adult.


PEDRO L. G. SANTOS



Dedicated To The Dignity Of The Human Person



November 28, 1988

Honorable Elizabeth Arriola
Chairperson
Committee on Youth, Senior Citizens, Cultural Affairs,
and Human Resources
18th Guam Legislature
Agana, Guam

WRITTEN TESTIMONY ON BILL 863

"AN ACT TO ADD ARTICLE 8 TO CHAPTER 2, TO TITLE 10 OF THE GUAM CODE ANNOTATED RELATIVE TO CREATING AN "ADULT PROTECTIVE SERVICES AGENCY" OF THE DIVISION OF SENIOR CITIZENS, DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES RELATIVE TO ESTABLISHING REPORTING OF ELDERLY OR DISABLED ADULT ABUSE."

Dear Senator Elizabeth P. Arriola, Chairperson and members of the Committee on Youth, Senior Citizens, Cultural Affairs and Human Resources:

As vice chairperson on Adult Abuse Task Force and representative of the Adult Abuse Task Force, we wholeheartedly support Bill No. 863. The historical development of the Task Force on Elderly Abuse was organized by the Department of Public Health and Social Services under the Division of Senior Citizens. Its members consisted of individuals and agencies who are directly involved with the elderly or who have responsibilities for their interest. This group community and its intent to design legislation that considers the unique cultural and socio-economic structures on Guam relatively to elderly abuse have unanimously voted and to include not just senior citizens (55 yrs. and older) but all adults (18 yrs. and older) being define as vulnerable and identified as handicapped disabled or adults likely to be abused and neglected. As a result, the Task Force on Elderly Abuse was then changed to the Task Force on Adult Abuse.

In support of Bill 863, we have concluded that evidence of adult abuse exists within the community and that an adult protective services program and a system in its entirety must be created to provide both a tool for reporting abuse to the victims of the abuse, and providing services to the victims of the abuse and their families. These services are essential for necessary preventive measures to control and to reduce the effects of adult abuse.

The study of Bill No. 359, reveals that it is limited in the establishing of criminal penalties as well as in reporting abuse cases and as a public policy, fails to make provision for services to help the victims. The elderly or disabled adults need the same societal protection and to be a separate entity from child abuse, and spouses which is now being provided by law.

The growing concern of adult abuse must be addressed and the obligation of the government and the people must provide the necessary legislative approach in creating and establishing an agency for the protection of vulnerable adults 18 years and over and its senior citizens for their protection. Testimonies from members and agencies of the task force have provided evidence of this growing concern and the need for legislation to create an Adult Protective Services Agency under the Department of Public Health and Social Services relative to establishing reporting of elderly abuse or disabled adult abuse. With the development of the Task Force on Adult Abuse two years ago, presentations have demonstrated the need to address the issues of adult abuse and subcommittees were established to research and address each section of Bill No. 359. As a result, the members of the task force take pride in presenting the "new draft" legislation for your consideration and disposition.


The new draft provides eleven sections which are clearly defined and are divided as follows:

Section 1.	Purpose
Section 2.	Definitions
Section 3.	Reporting of Elderly or Disabled Adult Abuse
Section 4.	Immunity from Liability
Section 5.	Failure to Report
Section 6.	Adult Protective Services Agency
Section 7.	Duties of the Adult Protective Services
Section 8.	Consent of Victim; Guardianship
Section 9.	Central Registry
Section 10.	Confidentiality
Section 11.	Appropriation

In section 11 under Appropriation, a minimum of \$200,000 or more is in need to be appropriated for the Department of Public Health and Social Services for the implementation of the Adult Protective Services Agency and shall cover staffing requirements, logistics, contracting of services and emergency shelter for victims of elderly and disabled adult abuse.

And finally with the "new draft" legislation on the Task Force on Adult Abuse, we strongly encouraged the passage of Bill No. 863 and seek the support of the ^{eighteenth} Guam Legislature in providing the necessary measures to establish an Adult Protective Service Agency for the protection of our elderly and vulnerable adults.

Sincerely,


EMMANEUL S.N. PEREZ
Vice Chairman
Task Force on Adult Abuse

CC: Dir File
Dir Chrono
Dep Dir
Governor

LEGAL
SERVICES
CORPORATION

110 BRADLEY PL.
AGANA, GUAM 96910
477-9877

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FEDERAL BUREAU OF INVESTIGATION
U.S. DEPARTMENT OF JUSTICE
WASHINGTON, D.C. 20535

November 28, 1988

Honorable Elizabeth Arricla
Chairperson
Committee on Youth, Senior Citizens
Cultural Affairs & Human Resources
19th Guam Legislature
Agana, Guam 96910

Dear Madam Chairperson and Committee Members:

For approximately the past two years I have been a member of the Governor's Task Force on Adult Abuse. As requested by you in your letter dated November 28, 1988. I am here to testify on Bill No. 363, An Act to Add Article 8 to Chapter 2, to Title 10 of the G.C.A. Relative to Creating an "Adult Protective Services Agency" of the Division of Senior Citizens, Department of Public Health and Social Services Relative to Establishing Reporting of Elderly or Disabled Adult Abuse.

From GLSC's perspective, adult abuse and neglect does indeed exist on Guam. Over the years, our office has assisted several senior clients who have been subjected to physical and emotional abuse, neglect or financial exploitation. There is no doubt in my mind that many more instances of abuse and neglect of our elderly and disabled citizens have occurred of which we are all unaware.

Reporting of such incidents of abuse or neglect is certainly appropriate in some, if not most, situations. Since, unlike the Child Protective Services Act (10 G.C.A. Sections 2501 et seq.; Public Law No 14-137), the allegedly abused person is an adult rather than a child, involvement of outside agencies in the lives of these adults should be tempered with caution. The disabled or elderly adult who has reportedly been abused or neglected has, and should have, the choice whether to accept outside intervention. This is especially true if reporting of self-neglect is required. If this person declines assistance or involvement by the Adult Protective Service or other agencies, this decision should be honored. These agencies must recognize and respect a disabled or older person's autonomy and self-determination. It is not uncommon,

for example, for a relative to persuade or even pressure a disabled or older person to seek legal assistance to remedy his or her situation. In some instances, such pressure may be unwarranted and may cause more harm than good. Intervention should be accomplished only with the consent of the allegedly abused. A disabled or older person should determine how he or she wants to live, even if it means being subject to abuse or neglect. I think the committee should seriously consider whether reporting of self-neglect should be mandatory. This may cause more problems than it solves.

This legislation should be oriented toward social solutions to problems. In some situations, a legal remedy may be appropriate -- in other circumstances, legal recourse should be a last resort. In most cases, the police should be involved only in extreme circumstances, such as serious physical abuse.

Enactment of this legislation will serve to aid and protect those members of our community who are physically, emotionally or otherwise vulnerable to abuse or neglect by others. Even if they end up not requesting protection and assistance from the various social services agencies who are involved in helping abused adults, they can still benefit by being informed of the services or alternatives available to them. There is comfort in the thought that an Adult Protective Services Agency exists which is willing and able to help.

Sincerely,



ERIC A. HEISEL
Executive Director

EAH/GGS



GOVERNMENT OF GUAM
AGANA, GUAM 96910

November 29, 1988

Honorable Eliabeth Arriola
Chairperson
Committee on Youth, Senior Citizens, Cultural
Affairs and Human Resources
19th Guam Legislature
Agana, Guam

Dear Madame Chairperson and Committee Members:

My name is Florence P. Shimizu, Administrator for the Division of Senior Citizens and I am representing Leticia V. Espaldon, M.D., Director of the Department of Public Health and Social Services. I am here to testify on Bill No. 863...AN ACT TO ADD ARTICLE 8 TO CHAPTER 2, TO TITLE 10 OF THE GUAM CODE ANNOTATED RELATIVE TO CREATING AN "ADULT PROTECTIVE SERVICES AGENCY" OF THE DIVISION OF SENIOR CITIZENS, DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES RELATIVE TO ESTABLISHING REPORTING OF ELDERLY OR DISABLED ADULT ABUSE.

The Department of Public Health and Social Services supports Bill 863 for the following reasons:

ORGANIZATIONAL BACKGROUND

The Division of Senior Citizens of the Department of Public Health and Social Services serves as the island's primary entity for the oversight of services to our seniors. As the State Agency on Aging, Division of Senior Citizens administers funds from the Older Americans Act of 1965, as amended, from the federal government. Initiating, planning, developing and monitoring programs for the elderly are bases for Division of Senior Citizen's existence. The recently reauthorized Older Americans Act provides for "Elder Abuse" as a program priority - this therefore would open the door for continued research, national/regional dialogue, and acknowledgement and fiscal support for local efforts. The Division presently has an informal system in addressing elder abuse with our current service providers, however, legislation to protect our vested interest in this provision is considerably lacking.

A. PERSPECTIVE ON ELDERLY ABUSE

The Division of Senior Citizens, through its involvement with the elderly and leadership role with senior service providers, acknowledges that elderly abuse exists on Guam. Although minimal data is available regarding abuse and neglect

of our seniors, the studies conducted by Awareness House Training and Development Systems, inc., and Guam Legal Services Corporation does in fact indicate that abuse and neglect is not a myth but an unfortunate reality.

Furthermore, testimony has been provided in formal and informal arenas whereas, physicians, nurses, social workers and other service providers have stated their personal experiences and observations of abused and neglected cases.

There are no specific guidelines or legal statutes relative to reporting and handling of abused senior cases. In addition, mechanisms for appropriate intervention have not been formalized or sanctioned. The significant socio-economic changes on Guam throughout the last several decades has impacted on the solidity and cohesiveness of the extended family unit. The economic and social pressures to survive and to achieve status in the community, and at the same time juggling the maintenance of traditional values, has become an enormous task.

Abuse and neglect has manifested itself in this most vulnerable period as it surfaces through spouses, children and the elderly. "If the 1960s were devoted to child abuse and the 1970s to spouse abuse, then the 1980s have certainly been the decade devoted to elder abuse." (Kosberg, 1988). It has only been within this decade that elderly abuse has been brought forth into public forums. The late arrival of community concerns may be interpreted as disbelief that our parents and grandparents are in fact subjected to anything but absolute respect and care.

It is projected that our elderly population will increase significantly (7.73% or 7,975). Economic and social pressures will not subside as Guam looks to further economic development and a new political status. Opportunities for local people to adapt, cope and keep up exist but not formally structured with few identified outcomes to indicate accomplishment. All of these factors can be perceived as constant and contributing to elderly abuse and neglect.

B. NEED FOR LEGISLATION

Laws are created for the specific purpose of articulating the values and norms of its society. If we are to do real justice within this realm, we must view elderly abuse in a holistic spectrum. The continuum of activities to effectively counteract elderly abuse must be inclusive of primary, secondary and tertiary preventative measures. An intricate partner therefore must be a conscientious move to protect the family unit while working towards qualitative life for our seniors. This approach would then require the participation of all aspects in our community and must

was not included in Bill 863. Any serious attempt to address the problem of adult abuse in our community must be accompanied by an appropriation. We suggest the following language be incorporated in Bill 863.

Section 11. Appropriation

- A. The minimum sum of two hundred thousand dollars (\$200,000.00) is hereby appropriated from the General Fund to the Department of Public Health and Social Services for the implementation of the Adult Protective Services Unit.
- B. The appropriation shall cover staffing requirements, logistics, contracting of services and emergency shelter for victims of elderly and disabled adult abuse.

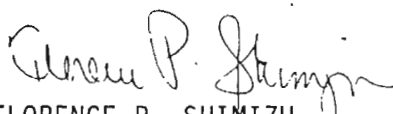
E. SUMMATION

In summation, Division of Senior Citizens, with the involvement and close participation of the various units of our community can and should develop a master plan for the prevention of elderly abuse. Immediate legislation can speak to the concern of reporting and articulating our common goals and values. Within elderly abuse statutes must be the recognition of preventative activities necessary to effectively confront this major social issue. Inclusive would be the appropriate funding and support for these measures and not simply "lip service." Although monies will be needed to bring together a concerted effort for problem resolution, there are existing resources that can be structured. This includes present service providers, social workers, and other aging related and educational entities that can amend or enhance their responsibilities to be aligned with this effort.

We request that the title "Adult Protective Services Agency" be changed to Adult Protective Services Unit, because the word agency connotes a separate department and this service will become a new unit within the Department of Public Health and Social Services, Division of Senior Citizens.

We thank you Madame Chairperson and Committee Members for the opportunity to testify on Bill No. 863. Should you have any questions, I will be happy to respond as best I can.

Sincerely,


FLORENCE P. SHIMIZU

not be perceived as one entity's "problem" or "responsibility." The strategies thereby include affecting social policy, providing information, promoting alternatives, training impactors, and enhancing social competencies. Although enforcement and legal proceedings may be a necessary tool, it must not be perceived as the absolute resolution to this issue. Reporting is the vehicle in which cases can be identified for intervention and data collected to validate our community's efforts towards success in achieving these goals.

Furthermore, the Department recommend that Bill 863 create a "unit" within the Division of Senior Citizens to address Adult Abuse versus creating a new agency. As indicated earlier the Division has already an informal system in place and, therefore, services on elder abuse is not preceived as a new service.

C. REVIEW OF THE DPHSS DIVISION OF SENIOR CITIZENS AS THE ADULT PROTECTIVE SERVICE (APS) UNIT

Through provider services, there is an established network of services which also provides easy access to the vulnerable.

The greater number and percentage of targeted individuals in a preventative and protective system would be elderly.

Elderly and disabled adults' profiles and needs differ significantly that those of children. Approach in policy development and service delivery therefore should reflect this. The direction Adult Protective Service is less punitive and provides for a civil response adult protective services to the issues of adult abuse. Furthermore, the emphasis is on therapeutic intervention and family solidity and struggles for maintaining self-determination.

Division of Senior Citizens has initiated many of the early efforts towards education, prevention and intervention of elder abuse and has worked in strict collaboration in the last couple of years with disabled adults service providers and advocates.

Division of Senior Citizens holds membership with national organizations involved in the protection of adult rights including forerunners such as the American Public Welfare Association (APWA).

D. FUNDING REQUIREMENT

The Department would like to bring to the Committee attention that Section 11 of the draft legislation developed by the Task Force on Adult Abuse as submitted to the Committee



GOVERNMENT OF GUAM
FIRE DEPARTMENT
AGANA, GUAM 96910

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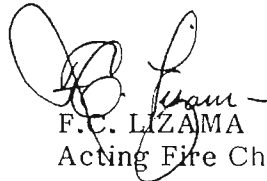
Honorable Elizabeth Arriola
Chairperson
Committee on Youth, Senior Citizens,
Cultural Affairs and Human Resources
19th Guam Legislature
Agana, Guam 96910

Dear Senator Arriola:

Attached is a Testimony on Bill 863, relative to creation of an Adult Protective Services Agency and the establishment of a reporting system for adult abuse.

Transmitted for your review.

Sincerely,


F.C. LIZAMA
Acting Fire Chief

Attachment

5

TESTIMONY ON BILL NUMBER 863

"An Act to add Article 8 to Chapter 2, to Title 10 of the Guam code Annotated relative to creating an "Adult Protective Services Agency" of the Division of Senior citizens, Department of Public Health and Social Services relative to establishing reporting of elderly or disabled adult abuse.

Presented by
Acting Fire Chief F.C. Lizama, Guam Fire Department

The Guam Fire Department having been a member of the Task Force on Elderly Abuse and a participant in the development of this bill, wholly supports this bill and endorses its contents.

The Guam Fire Department is tasked with providing Emergency Medical Services, an ambulance system for the island of Guam. In carrying out this mission we are responsible for the transportation of emergency patients by ambulance and the administration of emergency medical services to emergency patients before or during such transportation. Emergency patient is defined in this case as an individual, who is acutely ill, injured, incapacitated or helpless and who requires emergency care. The Guam Fire Department also provides transportation for many non-emergency patients who are unable to travel by private vehicle, usually due to the fact that they are bedridden.

Our responsibility and perspective regarding this bill is in the treatment and transportation of possible victims of abuse or neglect and the proper reporting of such cases. As of this time there is no agency to report to and no formal requirements or procedures. This leaves our personnel in an unclear situation as to when to report and who to report to. This bill handles these problems very specifically.

This issue is an Islandwide concern. The problem of Adult abuse and neglect is unrealized and disturbing to the traditional cultural ways and values. We can no longer keep our heads in the sand about this problem and although the implementation of laws and the utilization of government agencies is not the "traditional" way to solve things, in this case the Government must step in to help.

Again, the Guam Fire Department fully supports this bill and requests and encourages you, the Legislature to support and fund this important and needed legislation.



PROTECTION AND ADVOCACY FOR THE DEVELOPMENTALLY DISABLED
PROTECTION AND ADVOCACY FOR THE MENTALLY ILL INDIVIDUALS
CLIENT ASSISTANCE PROGRAM

Post Office Box 8830 Tamuning, Guam 96911
Telephone: (671) 646-9026 or 646-9027

TESTIMONY ON BILL NUMBER 863

"An Act to add Article 8 to Chapter 2, to Title 10 of the Guam Code Annotated relative to creating an "Adult Protective Services Agency" of the Division of Senior Citizens, Department of Public Health and Social Services relative to establishing reporting of elderly or disabled adult abuse."

Presented by Dr. Eddie del Rosario

Administrator of the Advocacy Office

Dear Madam Chairperson and Members of the Committee on Youth, Senior Citizens, Cultural Affairs and Human Resources:

The Advocacy Office is in support of Bill #863 introduced by Senator Elizabeth Arriola.

The Advocacy Office was represented in the Task Force by our caseworker Erin Powers. The task force was extremely diligent and deliberate in the choice of wording in this important bill, and as such chose to include the term "disabled adult" as a source of concern.

As an office established thru federal legislation to protect the rights of disabled individuals we have previous knowledge of occassional abuses brought to our attention and consequently can only offer our heartiest support of this important bill.

One concern we have is that the amount of \$200,000 may not be sufficient to provide all the services intended in this bill.

MARIANAS ASSOCIATION FOR RETARDED CITIZENS



INTERFAITH VOLUNTEER CAREGIVERS, INC.

A Coalition Serving the Elderly & Handicapped

November 29, 1988

Honorable Elizabeth Arriola
Chairperson
Committee on Youth, Senior Citizens, Cultural Affairs
and Human Resources
19th Guam Legislature
Agana, Guam

Dear Madame Chairperson and Committee Members:

My Name is Annie P. Roberto and I am representing Interfaith Volunteer Caregivers.

I am here to testify on Bill 863... AN ACT TO ADD ARTICLE 3 TO CHAPTER 2, TO TITLE 10 OF THE GUAM CODE ANNOTATED RELATIVE TO CREATING AN "ADULT PROTECTIVE SERVICES AGENCY" OF THE DIVISION OF SENIOR CITIZENS, DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES RELATIVE TO ESTABLISHING REPORTING OF ELDERLY OR DISABLED ADULT ABUSE.

I wholeheartedly support this bill. While I have no statistics to offer at this point to impress upon you the importance of legalizing Bill No. 863, I have in my many visits to homes of the frail elderly and disabled persons, seen signs of potential abuse. We need to bear in mind, however, that certain idiosyncrasies exist in the relationship of many Chamorro elderly and their families. One such idiosyncrasy which may be an obstacle in enforcing Bill No. 863 should it become legal, is the reluctance to reveal anything which may scandalize the family name. Many Chamorros are still so emotionally tied to family members that they prefer being abused rather than risk severing themselves from the family. Family ties, for all that can be said, still serves as a safety net for many.

However, Guam's population is so culturally and racially diverse that for the non Chamorro segment, this bill can serve as a deterrent for future adult abuse acts. Also, we are seeing a change in the Chamorro family structure. We are becoming less family dependent. For anyone witnessing an abusive act on an elderly or vulnerable adult, it will be a comfort to know that there is a legal instrument which can effectively address the problem.

I, therefore, urge passage of Bill No. 863.

Thank you

Guam Association of Retired Persons

SERVICIO PARA I MANAMKO GUAM (PROJECT)

EMPLOYEES RETIREMENT FUND BUILDING, MAITE, GUAM • P. O. BOX 3057 AGANA, GUAM 96910 • TELEPHONE: 477-9014

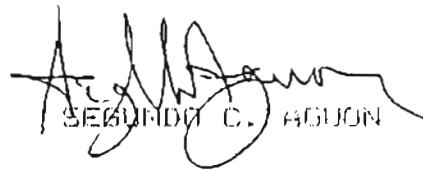
November 28, 1988

Honorable Elizabeth Arriola
Chairperson
Committee on Youth, Senior Citizens,
Cultural Affairs and Human Resources
Guam Legislature
Agana, Guam 96910

Dear Madame Chairperson & Committee Members:

Attached is our position paper on Bill No. 343 for your review and consideration. We appreciate this opportunity to provide our input on the proposal to establish a program to require the reporting of elderly abuse.

Sincerely yours,


SEGUNDO C. AGUIAR

Testimony on Bill No. 863

An Act to create an Adult Protective Services Agency within the Division of Senior Citizens, Department of Public Health and Social Services relative to establishing reporting of elderly or disabled adult abuse.

**Presented by
SPIMA/ GARP**

Dear Madame Chairperson and Members of the Committee on Youth, Senior Citizens, Cultural Affairs and Human Resources:

Our organization is in favor of the concept of "establishing reporting of elderly or disabled adult abuse" under the Division of Senior Citizens as a service or a program. The word "agency" has to be defined whether it means a separate entity by itself or program to be implemented by the Division.

There is an existing Public Law 16-109, Section 9983, Item (d) that gives the Division of Senior Citizens blanket authority (or overall umbrella) to oversee any and all programs and services affecting our elderly citizens. And reporting of elderly abuse is one of them. Let me quote Section 9983, Item (d) which gives DSC that authority:

*"Establish a comprehensive approach to providing or making available services and programs to senior citizens taking into consideration the coordination or consolidation of existing programs and services and **planning and implementing new programs and services where deemed necessary;**"*

Therefore, senior citizens related programs should be under said Division; and the reporting of abuses is of no exception.

In an effort to centralize all programs pertaining to manamkos, may we suggest that under Section 9983 Duties and Responsibilities, insert the following: **“(k) Administer reporting of elderly or disabled adult abuse.”** Or, another approach is to insert the intent of Bill 863 as **Section 9983.2**. By so doing the above, you will include the reporting of elderly abuse as one of the programs and services of the Division of Senior Citizens.

As we have stated, we are in favor of the concept of Bill 863 and that our recommendations above be favorably considered.

Our organization (SPIMA/GARP) will certainly cooperate with the Division to assist within our capabilities since we are operating the 16 senior centers on the Island. Often times, elderly concerns have been brought to our attention and have referred them to various agencies for appropriate action. Henceforth, we will be more cognizant of possible elderly abuse and will report to the Division if we become aware of any.

November 29, 1988

Honorable Elizabeth Arriola
Chairperson
Committee on Youth, Senior Citizens, Cultural Affairs
and Human Resources
19th Guam Legislature
Agana, Guam

Dear Madame Chairperson and Committee Members:

My name is David L.G. Baza and I am representing the Medical Social Services department of Guam Memorial Hospital. I am here to testify on Bill No. 863, an Act to add Article 8 to Chapter 2, to Title 10 of the Guam Code relative to creating an "Adult Protective Services Agency."

I support, wholeheartedly, Bill No. 863. As Administrator of the Medical Social Services department at GMH, I am made aware of social problems experienced by patients who were referred to the department. Social Workers assess family and home social situation as part of the discharge planning function of the department to assist patients during and after hospitalization.

As the hospital's input to the Task Force which contributed to the preparation of this bill (NO. 863), our Social Services department did a study with the patients then assigned to the Intermediate Care Facility (ICF) and the Skilled Nursing Facility (SNF) of the old Hospital. Below reveals our findings on what we identified as abuse of patients by a member of the family, relative, or friend who, prior to or during hospitalization of the patient, is identified to be the caregiver:

ICF (36) pts:	Physical Abuse -	0
	Mental/Emotional Abuse -	29
	Material Abuse -	10
SNF (33) pts:	Physical Abuse -	0
	Mental/Emotional Abuse -	9
	Material Abuse -	10

Note that the study did not reveal any Physical abuse. While there was no documentation on medical charts to indicate Physical abuse, we can truthfully say that there has been evidence, through our social service intervention, to suggest physical abuses but were not reported as such due to non-existing legislation for protective services.

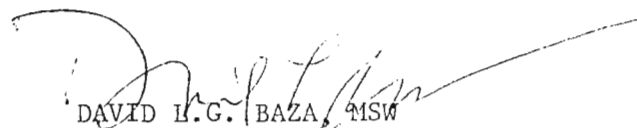
In July 1987, 40 out of 69 patients who were at the Old Hospital were transferred to St. Dominic's Senior Care Home. Ten (10) patients were discharged to home while the balance (19) were transferred to the new GMH. As of this writing, despite aggressive attempts to find placements outside of the hospital, eight (8) patients are still accommodated at the Skilled Nursing Facility (SNF) on the 3rd floor of GMH, even though they have been declared medically fit for discharge by their Attending Physicians. They are still there because they have no place to go. While each one of these patients has his/her own unique social problem, it is safe to say that all of them are victims of abuse

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page-2

or neglect in one way or another - even by their closest member of the family.

Madame Chairperson, and members of this Committee: this legislation is long overdue. If approved, it would provide protective care and services to individuals, vulnerable because of age or disability. They need protection from abuse. I urge your fullest support.



DAVID H.G. BAZA, MSW
Administrator, Medical
Social Services, GMH

November 29, 1988

Honorable Elizabeth Arriola
Chairperson
Committee on Youth, Senior Citizens, Cultural Affairs
and Human Resources
19th Guam Legislature
Agana, Guam

Dear Madame Chairperson and Committee Members:

My name is MANUEL PEREZ, the Chairman of the GUAM COUNCIL ON SENIOR CITIZENS. I am here on behalf of the Council to testify on Bill 863.

The Council which has reviewed the Bill and which has had input into its numerous sections is in full support of the Bill. The condition of elderly abuse, as distasteful as it is, does exist.

The number of reported cases has increased over the years and as more of our people reach their senior years we can expect even more drastic future increases in adult abuse. Bill 863 certainly takes us into the right direction, but it is just a beginning not the final answer.

One reservation we do have is whether the appropriation of \$200,000.00 is sufficient. However we defer to the Department of Public Health as to whether the funding is adequate, but want to stress that we want to insure that there will be enough money made available to fully meet the intention of the Bill. If more funding is required we wish to propose this be incorporated into any legislation before it is presented to the full Legislature.

Should the committee have any questions I will be happy to respond as best I can. If not thank you for your kind consideration.

Honorable Elizabeth P. Arriola
Chairperson, Committee on Youth,
Senior Citizens, Cultural Affairs
and Human Resources
Nineteenth Guam Legislature
Agana, Guam 96910

Dear Senator Arriola:

My name is Cristeta V. Alegria and I am representing Medical Social Services, Bureau of Professional Support Services, Department of Public Health and Social Services. I support Bill 863, An act to add Article 8 to Chapter 2, to Title 10 of the Guam Code annotated relative to creating an "Adult Protective Services Agency" of the Division of Senior Citizens, Department of Public Health and Social Services relative to establishing reporting of elderly or disabled adult abuse. I am here to testify on this bill.

I have been a social worker for the Home Care Program since 1978 and I can testify that I have seen many cases where elderly abuse was evident in our home care patients.

Some cases include: patients not being provided with personal hygiene care and were left soaking in their urine; non-compliance with the doctors' orders or nurses' teachings; patients' property being transferred to their children's name and then were left in the care of the hospital or St. Dominic's Nursing Home; a daughter-in-law inflicting bruises to her elderly mother-in-law while bathing her and a son dropping his mother in front of his sister's house, implying that its the sister's turn to take care of their mother as he had his share of six (6) months care.

Elderlies should have legal protection on their property until their death.

Social problems must be addressed to cover custodial care with MIP coverage.

Adoptive grandparents or foster care for elderlies must be addressed to take care of stable but disabled adults.

There must be incentives for families who take care of their elderlies.

Sincerely,

Cristeta V. Alegria
CRISTETA V. ALEGRIA

(11)

COMMITTEE ON YOUTH, SENIOR CITIZENS CULTURAL AFFAIRS AND HUMAN RESOURCES

NINETEENTH GUAM LEGISLATURE REGISTRATION OF WITNESSES FOR A HEARING ON

BILL NO. 863

RELATIVE TO CREATING AN "ADULT PROTECTIVE SERVICES AGENCY"

NOVEMBER 29, 1988

DATE

NAME OF WITNESS	REPRESENTING, AGENCY, DEPARTMENT, FIRM, ETC.	STATEMENT (WRITTEN OR ORAL)	FAVOR OR AGAINST
1. PEDRO L B SANTOS	CSS	BOTH	FAVOR
2. Florence P. Shimizu	DSC - PHSS	BOTH	FAVOR
3. FLORENO RAMIREZ	GAAP	BOTH	FAVOR
4. ERIC HEISEL	GLSC	BOTH	FAVOR
5. EMMANUEL PEREZ	TRK FORCE		
6. F. C. LIZONIA	TRK FORCE		
7. Eddie R. del Rosario	ADVOCACY OFFICE	BOTH	FAVOR
8. F. M. PORTUGACH	COMM OF D/HHS	✓	
9. DAVID L. G. BAZA	GMH MEDICAL SOCIALS	BOTH WRITTEN	FAVOR
10. Concepcion C. Benoit	Senior Citizens		
11. Manuel P. Reyes	Senior Citizens		
12. Annie Sabido	Interfaith Volunteers	WRITTEN	FAVOR
13. JULIE BLAZ	Retired Senior Voluntary Program	ORAL	FAVOR
14. _____			
15. JOSE SAN NICOLAS	LAOAN SPINA/FAK	WRITTEN	

Introduced

NINETEEN GUAM LEGISLATURE
1987 (FIRST) REGULAR SESSION
1988 (SECOND) REGULAR SESSION

MAY 12 '88

Bill No. 863 (COR)

Introduced By:

E.P. Arriola *epa*

AN ACT TO ADD ARTICLE 8 TO CHAPTER 2, TO TITLE 10 OF THE
GUAM CODE ANNOTATED RELATIVE TO CREATING AN "ADULT
PROTECTIVE SERVICES AGENCY" OF THE DIVISION OF SENIOR
CITIZENS, DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES
RELATIVE TO ESTABLISHING REPORTING OF ELDERLY OR
DISABLED ADULT ABUSE

BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

Section 1. Purpose

It is the purpose of the Legislature in enacting the provisions of this act to recognize that abuse, neglect and exploitation of elderly or disabled adults is a problem that requires attention and intervention as a matter of public policy. Elderly or disabled adults need the same societal protection now being provided by law to abused and neglected children, and spouses. The obligation of the government to extend protective care and services to the abused elderly or disabled adult, however, should be carried out in a manner least restrictive of individual rights and in accord with due process. The family's contribution to the care of its elderly or disabled adults is acknowledged and every effort should be made to assist, support and enhance its caretaking role.

Section 2. Definitions.

"Abandonment" refers to the desertion or willful forsaking of an elderly or disabled adult by his or her caregiver under circumstances in which a reasonable person would continue to provide care or custody.

"Adult Protective Services Agency" means the agency established by Section 6 of this Act.

"Caregiver" is any family member or any person, health facility, community care facility, clinic, home health care agency or legal guardian who has the

care or custody of or who provides goods or services to the elderly or disabled adult which are necessary for his or her physical, mental or emotional health or well-being.

"Department" refers to the Department of Public Health and Social Services.

"Elderly" refers to a person 60 years of age or older.

"Elderly or Disabled Adult Abuse" means any one or more of the following acts inflicted on an elderly or disabled adult by other than accidental means by another person: physical abuse, mental or emotional abuse, material abuse, neglect, abandonment or self neglect.

"Material Abuse" means illegal or improper use of an elderly or disabled adult's money, property or other resources for monetary or personal benefit, profit or gain. It includes but is not limited to theft, misappropriation, concealment, misuse or fraudulent deprivation of money or property belonging to the elderly or disabled adult.

"Mental or Emotional Abuse" includes but is not limited to verbal assaults, insults, threats, intimidation, humiliation, harassment, isolation which provokes fear, agitation, confusion or severe depression.

"Neglect" means the failure of an elderly or disabled adult or a caregiver to provide for the physical, mental or emotional health and well-being of the elderly or disabled adult and includes but is not limited to:

- A. Failure to assist or provide personal hygiene for the elderly or disabled adult.
- B. Failure to provide adequate food, water, clothing or shelter.
- C. Failure to provide medical care for the physical and mental health of the elderly or disabled adult. No person shall be deemed neglected or abused for the sole reason that he or she voluntarily relies on treatment by spiritual means through prayer alone in lieu of medical treatment.
- D. Failure to protect an elderly or disabled adult from health and safety hazards.

"Physical Abuse" means the willful infliction of injury which results in physical harm. It includes but is not limited to cruel punishment resulting in physical harm or pain or mental anguish, such as direct beatings, slapping, kicking, biting, choking, burning, sexual assault or molestation, or unreasonable physical restraint or confinement resulting in physical injury.

"Physical Harm" means bodily pain, injury, impairment or disease.

"Substantiated Report" means a report made pursuant to this Chapter if an investigation by Adult Protective Services Agency determines that substantial evidence of the alleged abuse exists.

"Unsubstantiated Report" means a report made pursuant to this Chapter if an investigation by Adult Protective Services Agency determines that there is insufficient evidence to support the existence of the abuse.

"Disabled Adult" is any person over the age of eighteen (18) years who:

- A. Has a physical or mental impairment which substantially limits one or more major life activities; or
- B. Has a history of, or has been classified as having an impairment which substantially limits one or more major life activities.

"Major Life Activities" means functions such as, but not limited to caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

Section 3. Reporting of Elderly or Disabled Adult Abuse

- A. Any person who, in the course of his or her employment, occupation or professional practice comes into contact with elderly or disabled adults, has actual knowledge or reasonable cause to believe that an elderly or disabled adult has been or is a victim of abuse as defined in Section 2, shall immediately make a verbal report to the Adult

Protective Services Agency and shall, within forty-eight (48) hours, make a written report to the agency.

B. Persons required to report abuse under subsection (A) include but are not limited to physicians, medical interns, medical examiners, nurses, chiropractors, hospital personnel engaged in the admission, examination, care or treatment of persons, social workers, employees of nursing homes and adult day care facilities, police officers, probation officers and employees of homemaker service agencies.

C. In addition to persons required to report under subsections (A) and (B), any person who has actual knowledge or who has reasonable cause to believe that an elderly or disabled adult has been or is a victim of abuse, may report the suspected abuse to Adult Protective Services Agency.

D. Oral or written reports from persons required to report under subsections 3(A) and 3(B) shall include the following information, if available:

1. The name of the person making the report and where he or she can be reached.
2. The name and address of the elderly or disabled adult.
3. The nature and extent of the suspected abuse and of the person's condition.
4. The name of the person or persons responsible for causing the suspected abuse.
5. The source of the report.
6. Any other information which may assist in the investigation of the suspected abuse.

The identity of the person making the report shall be confidential.

Section 4. Immunity From Liability

A. Any person who in good faith makes a report or testifies in any administrative or judicial proceeding related to the report is immune from civil or criminal liability for reporting or testifying.

B. Any officer, agent or employee of Adult Protective Services Agency who performs his or her duties in good faith is not liable for civil or criminal damages as a result of acts or omissions in rendering service or care to an elderly or disabled adult.

C. For the purpose of any proceeding, civil or criminal, the good faith referred to in subsections (A) and (B) shall be presumed.

Section 5. Failure To Report

Any person required by subsections 3(A) and 3(B) to report a case of suspected elderly or disabled adult abuse who fails to report shall be liable for a fine of not more than \$500.00, except that for a second or subsequent offense, he or she shall be guilty of a misdemeanor.

Section 6. Adult Protective Services Agency

The Division of Senior Citizens of the Department of Public Health and Social Services shall establish an Adult Protective Services Agency, which shall have sufficient staff to fulfill the purposes of this Chapter and organized in such a way as to maximize the continuity of responsibility, care and services of individual workers toward individual adults and families. The Adult Protective Services Agency shall be the sole agency responsible for receiving and investigating all reports of elderly or disabled adult abuse made pursuant to this Chapter, specifically including but not limited to reports of abuse in facilities operated by the Department and other public or private agencies. The Adult Protective Services Agency shall have authority to delegate to other social service agencies the responsibility of investigating reports of abuse. The Adult Protective Services Agency shall have the responsibility of monitoring the investigations conducted by such other authorized agencies.

Section 7. Duties of the Adult Protective Services Agency

The Adult Protective Services Agency shall:

A. Receive on a twenty-four (24) hour, seven (7) day a week basis all reports, both oral and written, of suspected elderly or disabled adult abuse in accordance with this Chapter and the regulations of the Department.

B. Investigate and evaluate the information in the reports, either through its own investigators or through investigators of other authorized agencies. The investigation and evaluation shall be made within twenty-four (24) hours if the agency has reasonable cause to believe the adult's health or safety is in immediate danger from further abuse and within seven (7) days for all other such reports. The investigation shall include a visit to the facility or residence, an interview with the adult allegedly abused, a determination of the nature, extent and cause or causes of the abuse, the identity of the person or persons responsible for the abuse, and all other pertinent facts. The investigation shall be completed within thirty (30) days. If the investigating social worker of the Adult Protective Services Agency or other authorized agency determines that it is appropriate, the social worker may request a law enforcement officer to accompany and assist the worker in the investigation. No Social Worker of the Adult Protective Services Agency or other authorized agency shall enter the home of any individual pursuant to the provisions of this Chapter without the consent of the individual, unless authorized pursuant to Section 8 (C).

C. Determine within thirty (30) days whether the report is substantiated or unsubstantiated.

D. Provide protective services to prevent further abuses to adults and to provide or arrange for and monitor the provision of those services necessary to safeguard and ensure the adult's well-being and development and preserve and stabilize family life wherever appropriate.

E. Make available, among its services for the prevention and treatment of elderly and disabled adult abuse, through authorized individuals and through intra-agency assistance and cooperation, instruction in caring for elderly and disabled adults, protective and preventive social counseling and emergency shelter care.

Section 8. Consent of Victim; Guardianship

A. An elderly or disabled adult who is a victim or alleged victim of abuse may refuse to cooperate in the investigation, or withdraw consent at any time to the provision of protective services by the Adult Protective Services Agency. The investigating agency shall act only with the consent of the victim or alleged victim of abuse.

However, the Adult Protective Services Agency shall have the responsibility to complete the investigation, regardless of the lack of cooperation of the victim or alleged victim of abuse.

B. If the elderly or disabled adult victim or alleged victim of abuse is so incapacitated that he or she cannot legally give or deny consent to an investigation or protective services, the Adult Protective Services Agency may initiate a petition for guardianship in accordance with Chapter 38 of 15 G.C.A. or initiate a petition for civil commitment pursuant to (Bill No. 413).

C. If a Social Worker of the Adult Protective Services Agency or other authorized agency who is investigating a report of abuse is denied access to the alleged victim by a caregiver or household member, such agency may petition the court for an order allowing the agency immediate access to the alleged victim. The court shall give notice to the caregiver or household member who is denying access at least twenty-four hours prior to the hearing. The court may dispense with notice upon finding that immediate and reasonably foreseeable harm to the alleged victim will result from the twenty-four hour delay. If, after the hearing, the court determines, based upon clear and convincing evidence, that the caregiver or household member is denying access to the alleged victim, the court may order the caregiver or household member to allow access. The order allowing access shall remain in effect for a period not to exceed seventy-two hours. The order may be extended for an additional seventy-two hours if the court finds that the extension is necessary for the agency to gain access to the alleged victim.

Section 9. Central Registry

A. Adult Protective Services Agency shall maintain a central registry of reports of elderly or disabled adult abuse, which shall contain and be limited to the following information:

1. The name, address and birthdate of the elderly or disabled adult.
2. The date or dates and the nature and extent of the suspected abuse.
3. The locality in which the suspected abuse occurred.

4. The name of the person or persons suspected of causing the abuse.
5. The progress of any legal proceedings brought on the basis of suspected abuse.

B. Only substantiated reports, or reports under investigation which have not yet been determined to be substantiated or unsubstantiated shall be placed and maintained in the central registry. If and when Adult Protective Services Agency determines a report to be unsubstantiated, all information identifying the named victim and perpetrator or perpetrators of abuse shall be expunged from the central registry.

C. If an investigation of a report of suspected elderly or disabled adult abuse does not determine within ninety (90) days of the date of the initial report that it is a substantiated report or an unsubstantiated report, all information identifying the named victim and perpetrator or perpetrators shall be expunged.

Section 10. Confidentiality

A. All records maintained by Adult Protective Services Agency regarding reports of abuse, including but not limited to information contained in the central registry, shall be confidential and shall be released only with the consent of the elderly or disabled adult or, if the adult is not competent, only with the consent of the adult's guardian, and shall be released only to individuals designated by this section.

B. Records may be released, only as necessary to serve and protect the adult, to the following:

1. Any agency or individual, authorized, contracted or licensed through Adult Protective Services Agency to care for, protect or provide services to an elderly or disabled adult who is a victim of abuse.
2. Courts of competent jurisdiction, upon finding that access to the records may be necessary for determination of an issue before the court. Access shall be limited to inspection by the court only, unless the court determines that disclosure of the records to interested parties is necessary for resolution of an issue pending before it.

3. Grand juries when connected with the prosecution of a case of elderly or disabled adult abuse.
4. Properly constituted authorities or agencies, including police departments, prosecutors and attorney generals, investigating a report of known or suspected elderly or disabled adult abuse.
5. A physician examining or treating an elderly or disabled adult where the physician suspects the adult of having been abused.
6. The elderly or disabled adult's guardian or attorney.
7. A duly authorized official of the Adult Protective Services Agency.
8. The victim or alleged victim of the abuse.
9. After, and only after, a court proceeding has been initiated regarding the abuse, the perpetrator or alleged perpetrator of the abuse.

C. Records may be released to sources other than those identified in subsection (B) only when a written authorization from the victim or alleged victim, or his or her guardian specifically provides consent to have the record released or reviewed.

D. Regardless of subsections (A), (B) and (C), identities of persons reporting elderly or disabled adult abuse shall remain anonymous and release of the identity of a person reporting such abuse, or information which would identify the reporter of abuse, is strictly prohibited.

E. Any person who wilfully releases or permits the release of any information or records in violation of this section shall be guilty of a misdemeanor

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