



**WISCONSIN LEGISLATIVE COUNCIL
AMENDMENT MEMO**

2005 Assembly Bill 539	Assembly Amendments 1, 3, 4, and 5
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2005 Assembly Bill 539

2005 Assembly Bill 539 revises the current statutory provisions of Wisconsin’s elder abuse law. The bill changes the reference in current law from “elder person” to an “elder adult-at-risk,” who is defined as “a person age 60 or older who has experienced, is currently experiencing, or is at risk of experiencing, abuse, neglect, self-neglect, or financial exploitation.”

The bill revises terminology, elder abuse reporting provisions, investigation provisions, and confidentiality of elder abuse reports and records.

The bill also permits counties to assist persons who are at risk of experiencing abuse, neglect, or financial exploitation who are under age 60 (currently, only Milwaukee County has this authority). These persons, who are at risk due to a physical or mental condition are defined as “adults-at-risk” in ch. 55. An “adult-at-risk” is defined as “any adult who has a physical or mental condition that substantially impairs his or her ability to care for his or her needs who has experienced, is currently experiencing, or is at risk of experiencing abuse, neglect, or financial exploitation.” In addition, the draft creates parallel provisions in ch. 55 to the elder abuse system in ch. 46 to permit abuse investigations and follow-up services to be provided on behalf of these adults-at-risk.

Assembly Amendment 1

Under current law, the elder abuse reporting law provides that nothing in that law may be construed to mean that a person is abused, neglected, or in need of direct or protective services solely because he or she consistently relies upon treatment by spiritual means through prayer for healing in accordance with his or her religious tradition.

Assembly Amendment 1 modifies the provision that is present current law, and modified by the bill, to provide that under the law, a person may not be considered to be abused, neglected, or in need of

protection or services solely because he or she consistently relies upon treatment by spiritual means through prayer for healing *in lieu of medical care* in accordance with his or her religious tradition. It also places this same provision in the criminal law relating to abuse and neglect of vulnerable adults. Therefore, the effect of this amendment is to narrow the provision, to make it apply *only* in cases when a person relies on prayer for healing *in lieu of* medical care.

Assembly Amendment 3

Under the bill, the following persons must file a report of suspected abuse or neglect if there is reasonable cause to believe that the elder adult-at-risk or adult-at-risk is at imminent risk of serious bodily harm, death, sexual assault, or significant property loss, and is unable to make an informed judgment about whether to report the risk; or other adults-at-risk, are at risk of serious bodily harm, death, sexual assault, or significant property loss inflicted by the suspected perpetrator:

- An employee of any entity that is licensed, certified, or approved by, or registered with the Department of Health and Family Services (DHFS).
- An employee of a financial institution.
- A health care provider.
- A social worker, professional counselor, or marriage and family therapist.

These persons are not required to file a report, however, if the person believes that filing the report would not be in the best interest of the elder adult-at-risk or adult-at-risk. If the person believes this, the person must document the reasons for this belief in the case file of the person who is the suspected victim.

Assembly Amendment 3 provides that a health care provider is not required to file a report as specified above if the health care provider is one who provides treatment by spiritual means through prayer for healing in lieu of medical care in accordance with his or her religious tradition, and his or her communications with patients are required by his or her religious denomination to be held confidential.

Assembly Amendment 4

Under the bill, if a report of suspected abuse, neglect, self-neglect, or financial exploitation is made to a state official, the state official is required to refer the report to the appropriate elder adult-at-risk or adult-at-risk agency.

Assembly Amendment 4 provides that an employee of the Board on Aging and Long-Term Care is not subject to this requirement if the employee determines that his or her referral of the report would violate confidentiality provisions in the federal law governing state long-term care ombudsman programs.

Assembly Amendment 5

Assembly Amendment 5 does the following:

- Adds the following to the definition of “financial exploitation”: the unauthorized use of an individual’s personal identifying information or documents, as prohibited in s. 943.201; unauthorized use of an entity’s identifying information or documents, as prohibited in s. 943.203; forgery, as prohibited in s. 943.38; and financial card crimes, as prohibited in s. 943.41.
- Deletes outdated references in current law to “senility” and “aged infirm persons.”
- Adds a reference to ch. 813, Stats., relating to injunctions and temporary restraining orders, to the bill’s provisions regarding release of records to an attorney or guardian ad litem (GAL) for the elder adult-at-risk or adult-at-risk who is an alleged victim, to assist the attorney or GAL in preparing for any proceeding under that chapter.
- Deletes the updated references to abuse and financial exploitation from the caregiver background check law, and reverts to the references in current law.
- Permits a person to be taken into custody for emergency protective placement based on a credible report to a sheriff, police officer, fire fighter, guardian, if any, or authorized representative of a board under s. 55.02, or agency designated by the board.
- Deletes a provision that an individual at risk may consent, in writing, to having contact with a respondent who is the subject of a temporary restraining order or injunction.
- Amends a reference in current law making it a crime to negligently abuse or neglect a patient or resident of certain facilities, to instead provide that it is a crime to abuse with negligence, or neglect, a patient or resident.

Legislative History

On February 1, 2006, the Assembly Committee on Aging and Long Term Care recommended adoption of Assembly Amendment 1 by a vote of Ayes, 7; Noes, 1; recommended introduction and adoption of Assembly Amendment 3 by a vote of Ayes, 8; Noes, 0; recommended introduction and adoption of Assembly Amendment 4 by a vote of Ayes, 8; Noes, 0; recommended introduction and adoption of Assembly Amendment 5 by a vote of Ayes, 7; Noes, 0; and recommended passage of the bill, as amended, by a vote of Ayes, 8; Noes, 0.

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