CHAPTER 958-A

ADULT PROTECTIVE SERVICES ACT

SUBCHAPTER 1

GENERAL PROVISIONS

§3470. Title

This Act may be cited as the Adult Protective Services Act. [PL 1981, c. 527, §2 (NEW).]

SECTION HISTORY

PL 1981, c. 527, §2 (NEW).

§3471. Declaration of policy and legislative intent

The Legislature recognizes that many adult citizens of the State, because of incapacitation or dependency, are unable to manage their own affairs or to protect themselves from abuse, neglect or exploitation. Often these persons can not find others able or willing to render assistance. The Legislature intends, through this Act, to establish a program of protective services designed to fill this need and to ensure its availability to all incapacitated and dependent adults who are faced with abuse, neglect, exploitation or the substantial risk of abuse, neglect or exploitation. It is also the intent of the Legislature to authorize only the least possible restriction on the exercise of personal and civil rights consistent with the person's need for services and to require that due process be followed in imposing those restrictions. Any requirements for disclosure of information contained in this chapter do not supersede federal law if federal law prohibits the disclosure of such information in the manner as set forth in this chapter. [PL 2003, c. 653, §1 (AMD).]

SECTION HISTORY

PL 1981, c. 527, §2 (NEW). PL 1991, c. 711, §1 (AMD). PL 2003, c. 653, §1 (AMD).

§3472. Definitions

As used in this chapter, unless the context indicates otherwise, the following terms have the following meanings. [PL 1981, c. 527, §2 (NEW).]

1. Abuse. "Abuse" means the infliction of injury, unreasonable confinement, intimidation or cruel punishment that causes or is likely to cause physical harm or pain or mental anguish; sexual abuse or sexual exploitation; financial exploitation; or the intentional, knowing or reckless deprivation of essential needs. "Abuse" includes acts and omissions.
[PL 2015, c. 306, §4 (AMD).]

2. Adult. "Adult" means any person who has attained 18 years of age or who is a legally emancipated minor.
[PL 2003, c. 653, §2 (AMD).]

2-A. Bureau.
[PL 2011, c. 657, Pt. BB, §3 (RP).]

3. Caretaker. "Caretaker" means any individual or institution who has or assumes the responsibility for the care of an adult.
[PL 1981, c. 527, §2 (NEW).]

4. Commissioner. "Commissioner" means the Commissioner of Health and Human Services or a designated representative in the geographical area in which the person resides or is present.
[PL 2005, c. 397, Pt. A, §21 (AMD).]

5. Department.

[PL 2005, c. 397, Pt. A, §22 (RP).]

6. Dependent adult. "Dependent adult" means an adult who has a physical or mental condition that substantially impairs the adult's ability to adequately provide for that adult's daily needs. "Dependent adult" includes, but is not limited to, any of the following:

A. A resident of a nursing home licensed or required to be licensed under section 1817; [PL 2003, c. 653, §2 (NEW).]

B. A resident of a facility providing assisted living services licensed or required to be licensed pursuant to section 7801; [PL 2011, c. 291, §1 (AMD).]

C. A person considered a dependent person under Title 17-A, section 555; or [PL 2011, c. 291, §1 (AMD).]

D. A person, regardless of where that person resides, who is wholly or partially dependent upon one or more other persons for care or support, either emotional or physical, because the person suffers from a significant limitation in mobility, vision, hearing or emotional or mental functioning. [PL 2011, c. 291, §1 (NEW).]
[PL 2011, c. 291, §1 (AMD).]

7. Emergency. "Emergency" refers to a situation in which:

A. The incapacitated or dependent adult is in immediate risk of serious harm; [PL 1981, c. 527, §2 (NEW).]

B. The incapacitated or dependent adult is unable to consent to services that will diminish or eliminate the risk; and [PL 2003, c. 653, §2 (AMD).]

C. There is no person legally authorized to consent to emergency services. [PL 2003, c. 653, §2 (AMD).]
[PL 2003, c. 653, §2 (AMD).]

8. Emergency services. "Emergency services" refers to those services necessary to avoid serious harm.
[PL 2003, c. 653, §2 (AMD).]

9. Exploitation. "Exploitation" means the illegal or improper use of an incapacitated or dependent adult or that adult's resources for another's profit or advantage.
[PL 2003, c. 653, §2 (AMD).]

9-A. Financial exploitation. "Financial exploitation" means the use of deception, intimidation, undue influence, force or other unlawful means to obtain control over the property of a dependent adult for another's profit or advantage.
[PL 2015, c. 306, §5 (NEW).]

10. Incapacitated adult. "Incapacitated adult" means an adult who is unable to receive and evaluate information or make or communicate informed decisions to such an extent that the adult lacks the ability to meet essential requirements for physical health, safety or self-care, even with reasonably available appropriate technological assistance.
[PL 2017, c. 402, Pt. C, §52 (AMD); PL 2019, c. 417, Pt. B, §14 (AFF).]

11. Neglect. "Neglect" means a threat to an adult's health or welfare by physical or mental injury or impairment, deprivation of essential needs or lack of protection from these.

[PL 1983, c. 313, §2 (AMD).]

12. Protective services. "Protective services" means services that separate incapacitated or dependent adults from danger. Protective services include, but are not limited to, social, medical and psychiatric services necessary to preserve the incapacitated or dependent adult's rights and resources and to maintain the incapacitated or dependent adult's physical and mental well-being.

Protective services may include seeking guardianship or a protective order under Title 18-C, Article 5.
[PL 2017, c. 402, Pt. C, §53 (AMD); PL 2019, c. 417, Pt. B, §14 (AFF).]

13. Serious harm. "Serious harm" means:

A. Serious physical injury or impairment; [PL 1989, c. 259, §3 (AMD).]

B. Serious mental injury or impairment that now or in the future is likely to be evidenced by serious mental, behavioral or personality disorder, including, but not limited to, severe anxiety, depression or withdrawal, untoward aggressive behavior or similar serious dysfunctional behavior; [PL 2003, c. 653, §2 (AMD).]

C. Sexual abuse or sexual exploitation; or [PL 2003, c. 653, §2 (AMD).]

D. Serious waste or dissipation of resources. [PL 2003, c. 653, §2 (NEW).]
[PL 2003, c. 653, §2 (AMD).]

14. Serious injury.

[PL 1989, c. 259, §4 (RP).]

15. Sexual abuse or sexual exploitation. "Sexual abuse or sexual exploitation" means contact or interaction of a sexual nature involving an incapacitated or dependent adult without that adult's informed consent.
[PL 2003, c. 653, §2 (AMD).]

16. Undue influence. "Undue influence" means the misuse of real or apparent authority or the use of manipulation by a person in a trusting, confidential or fiduciary relationship with a person who is a dependent adult or an incapacitated adult.
[PL 2015, c. 306, §6 (NEW).]

SECTION HISTORY

PL 1981, c. 493, §2 (AMD). PL 1981, c. 527, §2 (NEW). PL 1983, c. 313, §§1,2 (AMD). PL 1989, c. 259, §§1-5 (AMD). PL 1989, c. 329, §§3-5 (AMD). PL 1989, c. 858, §4 (AMD). RR 1995, c. 2, §41 (COR). PL 1995, c. 560, §K82 (AMD). PL 1995, c. 560, §K83 (AFF). PL 1995, c. 696, §A38 (AMD). PL 2001, c. 354, §3 (AMD). PL 2003, c. 653, §2 (AMD). PL 2003, c. 689, §B6 (REV). PL 2005, c. 397, §§A21,22 (AMD). PL 2011, c. 291, §1 (AMD). PL 2011, c. 657, Pt. BB, §3 (AMD). PL 2015, c. 306, §§4-6 (AMD). PL 2017, c. 402, Pt. C, §§52, 53 (AMD). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

§3473. Authorizations

1. General. The department shall act to:

A. Protect incapacitated and dependent adults from abuse, neglect and exploitation and protect incapacitated and dependent adults in circumstances that present a substantial risk of abuse, neglect or exploitation; [PL 2003, c. 653, §3 (AMD).]

B. Prevent abuse, neglect or exploitation of incapacitated and dependent adults; [PL 2003, c. 653, §3 (AMD).]

C. Enhance the welfare of these incapacitated and dependent adults; and [PL 1981, c. 527, §2 (NEW).]

D. Promote self-care wherever possible. [PL 1981, c. 527, §2 (NEW).]
[PL 2003, c. 653, §3 (AMD).]

2. Reports. The department shall:

A. Receive, promptly investigate and determine the validity of reports of alleged abuse, neglect or exploitation or the substantial risk of abuse, neglect or exploitation; [PL 1991, c. 711, §3 (AMD).]

B. Take appropriate action, including providing or arranging for the provision of appropriate services and making referrals to law enforcement; [PL 2019, c. 661, §1 (AMD).]

C. Petition for guardianship or a protective order under Title 18-C, Article 5, when all less restrictive alternatives have been tried and have failed to protect the incapacitated adult; and [PL 2019, c. 661, §2 (AMD).]

D. Establish and maintain an adult protective services registry of persons for whom there have been substantiated reports of abuse, neglect or exploitation of dependent adults or incapacitated adults. The department shall adopt routine technical rules to implement this paragraph pursuant to Title 5, chapter 375, subchapter 2-A. [PL 2019, c. 661, §3 (NEW).]
[PL 2019, c. 661, §§1-3 (AMD).]

3. Appearance of designated employees in Probate Court. The commissioner may designate employees of the department to represent the department in Probate Court in:

A. Matters relating to the performance of duties in uncontested guardianship or conservatorship or termination of guardianship or conservatorship proceedings; and [PL 2003, c. 653, §5 (AMD).]

B. Requests for emergency guardianships arising from the need for emergency medical treatment or placement in assisted living programs, residential care facilities or nursing facilities or for orders necessary to apply for or preserve an estate in emergency situations. [PL 2003, c. 653, §5 (AMD).]
[PL 2003, c. 653, §5 (AMD).]

SECTION HISTORY

PL 1981, c. 527, §2 (NEW). PL 1989, c. 858, §5 (AMD). PL 1991, c. 711, §§2-4 (AMD). PL 2003, c. 653, §§3-5 (AMD). PL 2017, c. 402, Pt. C, §54 (AMD). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF). PL 2019, c. 661, §§1-3 (AMD).

§3474. Records; confidentiality, disclosure

1. Confidentiality of adult protective records. All department records which contain personally identifying information and are created or obtained in connection with the department's adult protective activities and activities related to an adult while under the jurisdiction of the department are confidential and subject to release only under the conditions of subsections 2 and 3. Within the department, the records shall be available only to and used by authorized departmental personnel and legal counsel for the department in carrying out their functions.
[PL 1981, c. 527, §2 (NEW).]

2. Optional disclosure of records. The department may disclose relevant information in the records to the following persons, with protection for the identity of reporters and other persons when appropriate:

A. An agency responsible for investigating a report of adult abuse, neglect or exploitation when the investigation is authorized by statute or by an agreement with the department; [PL 2003, c. 653, §6 (AMD).]

B. An advocacy agency conducting an investigation under chapter 961, United States Public Law 88-164, Title I, Part C or United States Public Law 99-319, except as provided in subsection 3, paragraph D; [PL 1989, c. 7, Pt. N, §1 (AMD).]

C. A physician treating an incapacitated or dependent adult who the physician reasonably suspects may be abused, neglected or exploited; [PL 2003, c. 653, §6 (AMD).]

D. The caretaker, guardian or conservator of an incapacitated or dependent adult named in a record who is reported to be abused, neglected or exploited; [PL 2023, c. 151, §2 (AMD).]

E. A person having the legal responsibility or authorization to care for, evaluate, treat or supervise an incapacitated or dependent adult; [PL 1987, c. 714, §3 (AMD).]

F. Any person engaged in bona fide research, provided that no personally identifying information is made available, unless it is essential to the research and the commissioner or the commissioner's designee gives prior approval. If the researcher desires to contact a subject of a record, the subject's consent must be obtained by the department prior to the contact; [PL 1989, c. 858, §6 (AMD).]

G. Persons and organizations pursuant to Title 5, section 9057, subsection 6, and pursuant to chapter 857; [PL 2003, c. 653, §6 (AMD).]

H. A relative by blood, marriage or adoption of an incapacitated or dependent adult named in a record; [PL 2007, c. 140, §1 (AMD).]

I. A member of a panel appointed by the department or the Office of the Attorney General to review the death or serious injury of an incapacitated or dependent adult or a child; [PL 2017, c. 55, §1 (AMD).]

J. The local animal control officer or the animal welfare program of the Department of Agriculture, Conservation and Forestry established pursuant to Title 7, section 3902 when there is a reasonable suspicion of animal cruelty, abuse or neglect. For purposes of this paragraph, "cruelty, abuse or neglect" has the same meaning as provided in Title 34-B, section 1901, subsection 1, paragraph B; and [PL 2017, c. 55, §2 (AMD).]

K. The personal representative of the estate of an incapacitated or dependent adult who dies while under public guardianship or public conservatorship. [PL 2017, c. 55, §3 (NEW).]

[PL 2023, c. 151, §2 (AMD).]

3. Mandatory disclosure of records. The department shall disclose relevant information in the records to the following persons:

A. The guardian ad litem of an incapacitated or dependent adult named in a record who is reported to be abused, neglected or exploited; [PL 1981, c. 527, §2 (NEW).]

B. A court on its finding that access to those records may be necessary for the determination of any issue before the court. Access must be limited to in camera inspection unless the court determines that disclosure of the information is necessary for the resolution of an issue pending before it; [PL 2003, c. 653, §7 (AMD).]

C. A grand jury on its determination that access to those records is necessary in the conduct of its official business; [PL 2021, c. 686, §1 (AMD).]

D. An advocacy agency conducting an investigation under chapter 961, United States Public Law 88-164, Title I, Part C or United States Public Law 99-319, regarding a developmentally disabled person or mentally ill person who is or who, within the last 90 days, was residing in a facility rendering care or treatment, when a complaint has been received by the agency or there is probable cause to believe that that individual has been subject to abuse or neglect, and that person does not have a legal guardian or the person is under public guardianship. The determination of which information and records are relevant to the investigation is made by agreement between the department and the agency; [PL 2023, c. 151, §3 (AMD).]

E. The Maine Developmental Services Oversight and Advisory Board established in Title 5, section 12004-J, subsection 15. Access is limited to aggregate data regarding investigations under

this chapter relating to persons receiving adult developmental services as defined in Title 34-B, section 1001, subsection 1-A. Data must be provided at least quarterly. The determination of aggregate data to be provided is made by agreement between the department and the Maine Developmental Services Oversight and Advisory Board; and [PL 2023, c. 151, §4 (AMD).]

F. The adult who is the subject of the record and the adult's attorney, with protection for identity of reporters and other persons when appropriate. Nothing in this paragraph requires the department to disclose information to a guardian or conservator of the adult who is the subject of the record. [PL 2023, c. 151, §5 (NEW).]

[PL 2023, c. 151, §§3-5 (AMD).]

SECTION HISTORY

PL 1981, c. 527, §2 (NEW). PL 1985, c. 644, §§1-3 (AMD). PL 1987, c. 714, §§3,4 (AMD). PL 1989, c. 7, §§N1,N2 (AMD). PL 1989, c. 858, §§6-10 (AMD). RR 1991, c. 2, §§80,81 (COR). PL 2003, c. 653, §§6,7 (AMD). PL 2007, c. 140, §§1-3 (AMD). PL 2011, c. 657, Pt. W, §5 (REV). PL 2017, c. 55, §§1-3 (AMD). PL 2021, c. 686, §§1-3 (AMD). PL 2023, c. 151, §§2-5 (AMD).

§3475. Penalty for violations

A person who knowingly violates a provision of this chapter commits a civil violation for which a forfeiture of not more than $500 may be adjudged. Any licensed, registered, accredited or certified professional who has been adjudged to have violated a provision of this chapter must, in addition to any financial penalty, be reported by the court or the department to the appropriate professional licensing organization, registration board, accrediting unit or facility. [PL 2003, c. 653, §8 (AMD).]

SECTION HISTORY

PL 1981, c. 527, §2 (NEW). PL 1981, c. 705, §E1 (AMD). PL 2003, c. 653, §8 (AMD).

§3476. Spiritual treatment

1. Treatment not considered abuse, neglect or exploitation. An incapacitated or dependent adult shall not be considered to be abused, neglected or exploited solely because treatment is by spiritual means by an accredited practitioner of a recognized religious organization.
[PL 1981, c. 527, §2 (NEW).]

2. Treatment to be considered if requested. When medical treatment is authorized, under this chapter, treatment by spiritual means by an accredited practitioner of a recognized religious organization may also be considered if requested by the incapacitated or disabled adult or the adult's caretaker.
[RR 2021, c. 2, Pt. B, §172 (COR).]

SECTION HISTORY

PL 1981, c. 527, §2 (NEW). RR 2021, c. 2, Pt. B, §172 (COR).

SUBCHAPTER 1-A

REPORTING OF ABUSE, NEGLECT OR EXPLOITATION

§3477. Persons mandated to report suspected abuse, neglect or exploitation

1. Report required. The following persons immediately shall report to the department when the person knows or has reasonable cause to suspect that an incapacitated or dependent adult has been or is likely to be abused, neglected or exploited:

A. While acting in a professional capacity:

(1) An allopathic or osteopathic physician;

(2) A medical resident or intern;

(3) A medical examiner;

(4) A physician associate;

(5) A dentist, dental hygienist or dental assistant;

(6) A chiropractor;

(7) A podiatrist;

(8) A registered or licensed practical nurse;

(9) A certified nursing assistant;

(10) A social worker;

(11) A psychologist;

(12) A pharmacist;

(13) A physical therapist;

(14) A speech therapist;

(15) An occupational therapist;

(16) A mental health professional;

(17) A law enforcement official, corrections officer or other person holding a certification from the Maine Criminal Justice Academy;

(18) Emergency room personnel;

(19) An ambulance attendant;

(20) An emergency medical technician or other licensed medical service provider;

(21) Unlicensed assistive personnel;

(22) A humane agent employed by the Department of Agriculture, Conservation and Forestry;

(23) A clergy member acquiring the information as a result of clerical professional work except for information received during confidential communications;

(24) A sexual assault counselor;

(25) A family or domestic violence victim advocate;

(26) A naturopathic doctor;

(27) A respiratory therapist;

(28) A court-appointed guardian or conservator; or

(29) A chair of a professional licensing board that has jurisdiction over mandated reporters; [RR 2025, c. 1, Pt. B, §3 (COR).]

B. Any person who has assumed full, intermittent or occasional responsibility for the care or custody of the incapacitated or dependent adult, regardless of whether the person receives compensation; [PL 2011, c. 291, §2 (AMD).]

C. Any person affiliated with a church or religious institution who serves in an administrative capacity or has otherwise assumed a position of trust or responsibility to the members of that church or religious institution, while acting in that capacity, regardless of whether the person receives compensation; or [PL 2011, c. 291, §2 (AMD).]

D. Any person providing transportation services as a volunteer or employee of an agency, business or other entity, whether or not the services are provided for compensation. [PL 2011, c. 291, §2 (NEW).]

The duty to report under this subsection applies to individuals who must report directly to the department. A supervisor or administrator of a person making a report under this section may not impede or inhibit the reporting, and a person making a report may not be subject to any sanction for making a report. Internal procedures to facilitate reporting consistent with this chapter and to ensure confidentiality of and apprise supervisors and administrators of reports may be established as long as those procedures are consistent with this chapter.
[RR 2025, c. 1, Pt. B, §3 (COR).]

1-A. Permitted reporters. An animal control officer, as defined in Title 7, section 3907, subsection 4, may report to the department when that person has reasonable cause to suspect that an incapacitated or dependent adult has been or is at substantial risk of abuse, neglect or exploitation.
[PL 2007, c. 139, §1 (NEW).]

2. Reports. Reports regarding abuse, neglect or exploitation must be made immediately to the department either by telephone or by an online portal designated by the department and must be followed by a written report within 48 hours if requested by the department. The reports must contain the name and address of the involved adult; information regarding the nature and extent of the abuse, neglect or exploitation; the source of the report; and the name of the person making the report, that person's occupation and where that person can be contacted. The report may contain any other information that the reporter believes may be helpful.
[PL 2025, c. 541, §1 (AMD).]

3. Confidentiality in case of treatment of individual suspected of causing abuse, neglect or exploitation. This section does not require any person acting in that person's professional capacity to report when all of the following requirements are met:

A. The factual basis for knowing or suspecting abuse, neglect or exploitation of an adult covered under this subchapter derives from the professional's treatment of the individual suspected of causing the abuse, neglect or exploitation; [PL 1981, c. 705, Pt. E, §2 (NEW).]

B. The treatment was sought by the individual for a problem relating to the abuse, neglect or exploitation; and [PL 1981, c. 705, Pt. E, §2 (NEW).]

C. In the opinion of the person required to report, the abused, neglected or exploited adult's life or health is not immediately threatened. [PL 1981, c. 705, Pt. E, §2 (NEW).]
[PL 2003, c. 653, §11 (AMD).]

4. Confidentiality in case of treatment of individual suspected of being abused, neglected or exploited. This section does not require any person acting in that person's professional capacity to report when all of the following requirements are met:

A. The factual basis for knowing or suspecting abuse, neglect or exploitation of an adult covered under this subchapter derives from the professional's treatment of the individual suspected of being abused, neglected or exploited; [PL 2003, c. 653, §12 (NEW).]

B. The treatment was sought by the individual for a problem relating to the abuse, neglect or exploitation; and [PL 2003, c. 653, §12 (NEW).]

C. In the opinion of the person required to report, the individual is not incapacitated and the individual's life or health is not immediately threatened. [PL 2003, c. 653, §12 (NEW).]
[PL 2003, c. 653, §12 (NEW).]

5. Permissive reporting of animal cruelty, abuse or neglect. Notwithstanding any other provision of state law imposing a duty of confidentiality, a person listed in subsection 1 may report a

reasonable suspicion of animal cruelty, abuse or neglect to the local animal control officer or to the animal welfare program of the Department of Agriculture, Conservation and Forestry established pursuant to Title 7, section 3902. For purposes of this subsection, the reporter shall disclose only such limited confidential information as is necessary for the local animal control officer or animal welfare program employee to identify the animal's location and status and the owner's name and address. For purposes of this subsection, "cruelty, abuse or neglect" has the same meaning as provided in Title 34-B, section 1901, subsection 1, paragraph B. A reporter under this subsection may assert immunity from civil and criminal liability under Title 34-B, chapter 1, subchapter 6.
[PL 2007, c. 140, §4 (NEW); PL 2011, c. 657, Pt. W, §5 (REV).]

6. Photographs of visible trauma. Whenever a person required to report as a staff member of a law enforcement agency or a hospital sees areas of trauma on an incapacitated or dependent adult, that person shall make reasonable efforts to take, or cause to be taken, color photographs of those areas of trauma.

A. The taking of photographs must be done with minimal trauma to the incapacitated or dependent adult and in a manner consistent with professional forensic standards. Consent to the taking of photographs is not required from the adult's legal guardian or by a health care power of attorney. [PL 2011, c. 291, §3 (NEW).]

B. Photographs must be made available to the department as soon as possible. The department shall pay the reasonable costs of the photographs from funds appropriated for adult protective services. [PL 2011, c. 291, §3 (NEW).]

C. The person shall notify the department as soon as possible if that person is unable to take, or cause to be taken, these photographs. [PL 2011, c. 291, §3 (NEW).]

D. Designated agents of the department may take photographs of any subject matter when necessary and relevant to an investigation of a report of suspected abuse, neglect or exploitation or to subsequent adult protection proceedings. [PL 2011, c. 291, §3 (NEW).]
[PL 2011, c. 291, §3 (NEW).]

7. Information about duty to report. Whenever possible, the department and state licensing boards of professionals required to report under this section shall collaborate to facilitate the dissemination of information regarding the duty to report and the reporting procedure.
[PL 2011, c. 291, §4 (NEW).]

8. Training requirement. A person required to make a report under subsection 1, paragraph A shall complete at least once every 4 years mandated reporter training approved by the department.
[PL 2023, c. 36, §1 (NEW).]

SECTION HISTORY

PL 1981, c. 705, §E2 (NEW). PL 1983, c. 616, §1 (AMD). PL 1989, c. 259, §6 (AMD). PL 1989, c. 858, §11 (AMD). PL 1995, c. 696, §B3 (AMD). PL 1997, c. 453, §4 (AMD). PL 2001, c. 345, §3 (AMD). PL 2003, c. 145, §1 (AMD). PL 2003, c. 210, §§1,2 (AMD). PL 2003, c. 510, §E2 (AMD). PL 2003, c. 510, §E4 (AFF). PL 2003, c. 599, §7 (AMD). PL 2003, c. 599, §§9,14 (AFF). PL 2003, c. 653, §§9-12 (AMD). PL 2007, c. 139, §1 (AMD). PL 2007, c. 140, §4 (AMD). PL 2007, c. 577, §5 (AMD). PL 2011, c. 291, §§2-4 (AMD). PL 2011, c. 657, Pt. W, §5 (REV). PL 2023, c. 36, §1 (AMD). RR 2025, c. 1, Pt. B, §3 (COR). PL 2025, c. 541, §1 (AMD).

§3478. Mandatory reporting to medical examiner for post-mortem investigation

A person required to report cases of known or suspected abuse or neglect who knows or has reasonable cause to suspect that an adult has died as a result of abuse or neglect shall report that fact to the appropriate authority as provided in section 3026. An adult may not be considered to be abused or

neglected solely because the adult was provided with treatment by spiritual means by an accredited practitioner of a recognized religious organization. [RR 2021, c. 2, Pt. B, §173 (COR).]

SECTION HISTORY

PL 1981, c. 705, §E2 (NEW). PL 1983, c. 343, §1 (AMD). RR 2021, c. 2, Pt. B, §173 (COR).

§3479. Optional reporting

Any person may make a report to the department when that person has reasonable cause to suspect an incapacitated or dependent adult has been or is at substantial risk of abuse, neglect or exploitation. [PL 2003, c. 653, §13 (AMD).]

1. Dependent.

[PL 1989, c. 858, §12 (RP).]

2. Incapacitated.

[PL 1989, c. 858, §12 (RP).]

3. Suspected incapacity.

[PL 1989, c. 858, §12 (RP).]

SECTION HISTORY

PL 1981, c. 705, §E2 (NEW). PL 1983, c. 616, §2 (AMD). PL 1989, c. 858, §12 (RPR). PL 2003, c. 653, §13 (AMD).

§3479-A. Immunity from liability

1. Reporting and proceedings. A person participating in good faith in reporting under this subchapter, or in a related adult protection investigation or proceeding, is immune from any civil liability that might otherwise result from these actions, including, but not limited to, any civil liability that might otherwise arise under state or local laws or rules regarding confidentiality of information. [PL 2003, c. 653, §14 (AMD).]

2. Presumption of good faith. In a proceeding regarding immunity from liability, there shall be a rebuttable presumption of good faith.
[PL 1981, c. 705, Pt. E, §2 (NEW).]

SECTION HISTORY

PL 1981, c. 705, §E2 (NEW). PL 2003, c. 653, §14 (AMD).

SUBCHAPTER 2

INVESTIGATIONS AND PROTECTIVE SERVICES

§3480. Investigations

1. Subpoenas and obtaining criminal history. The commissioner, the commissioner's delegate or the legal counsel for the department may:

A. Issue subpoenas requiring persons to disclose or provide to the department information or records in their possession that are necessary and relevant to an investigation of a report of suspected abuse, neglect or exploitation or to a subsequent adult protective proceeding, including, but not limited to, health care information that is confidential under section 1711-C.

(1) The department may apply to the District Court and Probate Court to enforce a subpoena.

(2) A person who complies with a subpoena is immune from civil or criminal liability that might otherwise result from the act of turning over or providing information or records to the department; and [PL 2003, c. 653, §15 (AMD).]

B. Obtain confidential criminal history record information and other criminal history record information under Title 16, section 703, which the commissioner, the commissioner's delegate or the legal counsel for the department considers relevant to a case of alleged abuse, neglect or exploitation. [PL 2013, c. 267, Pt. B, §17 (AMD).]

[RR 2021, c. 2, Pt. B, §174 (COR).]

2. Confidentiality. Information or records obtained by subpoena shall be treated in accordance with section 3474.

[PL 1981, c. 527, §2 (NEW).]

3. Right of entry and access to records of licensed facilities. The department and any duly designated officer or employee of the department have the right to enter upon and into the premises of any facility licensed under sections 1817 and 7801 in order to obtain information necessary and relevant to an investigation of a report of suspected abuse, neglect or exploitation or to a subsequent adult protective proceeding. The department has access to all records in the facility's possession that are relevant to the investigation of a report of suspected abuse, neglect or exploitation and any subsequent adult protective proceeding and is not required to issue a subpoena to the facility before obtaining access to the records.

[PL 1995, c. 696, Pt. B, §4 (NEW).]

SECTION HISTORY

PL 1981, c. 527, §2 (NEW). PL 1995, c. 696, §B4 (AMD). PL 2003, c. 653, §15 (AMD). RR 2009, c. 2, §56 (COR). PL 2013, c. 267, Pt. B, §17 (AMD). RR 2021, c. 2, Pt. B, §174 (COR).

§3480-A. Confidential communications

The confidential quality of communications under section 1711-C, Title 24-A, section 4224 and Title 32, sections 7005 and 18393 is abrogated to the extent allowable under federal law in relation to required reporting or cooperating with the department in an investigation or other protective activity under this chapter. Information released to the department pursuant to this section must be kept confidential and may not be disclosed by the department except as provided in section 3474. [PL 2015, c. 429, §6 (AMD).]

SECTION HISTORY

PL 2003, c. 653, §16 (NEW). PL 2015, c. 429, §6 (AMD).

§3481. Providing for protective services with the consent of the person; withdrawal of consent; care taker refusal

When it has been determined that an incapacitated or dependent adult is in need of protective services, the department shall immediately provide or arrange for protective services, provided that the adult consents. [PL 1981, c. 527, §2 (NEW).]

1. Consent. If an incapacitated or dependent adult does not consent to the receipt of protective services, or if the adult withdraws consent, the service may not be provided.

[RR 2021, c. 2, Pt. B, §175 (COR).]

2. Consent refused. When a private guardian or conservator of an incapacitated adult who consents to the receipt of protective services refuses to allow those services to be provided to the incapacitated adult, the department may petition the Probate Court for removal of the guardian pursuant to Title 18-C, section 5-319 or for removal of the conservator pursuant to Title 18-C, section 5-430. When a caretaker or guardian of an incapacitated adult who consents to the receipt of protective services refuses to allow those services to be provided to the incapacitated adult, the department may petition

the Probate Court for temporary guardianship pursuant to Title 18-C, sections 5-124 and 5-312 or for a protective arrangement pursuant to Title 18-C, section 5-501.
[PL 2017, c. 402, Pt. C, §55 (AMD); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 1981, c. 527, §2 (NEW). PL 1993, c. 652, §8 (AMD). PL 2017, c. 402, Pt. C, §55 (AMD). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF). RR 2021, c. 2, Pt. B, §175 (COR).

§3482. Providing for protective services to incapacitated adults who lack the capacity to consent

If the department reasonably determines that an incapacitated adult is being abused, neglected or exploited and lacks capacity to consent to protective services, the department may petition the Probate Court for guardianship or conservatorship, in accordance with Title 18-C, section 5-701. The petition must allege specific facts sufficient to show that the incapacitated adult is in need of protective services and lacks capacity to consent to them. [PL 2017, c. 402, Pt. C, §56 (AMD); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 1981, c. 527, §2 (NEW). PL 2017, c. 402, Pt. C, §56 (AMD). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

§3483. Emergency intervention; authorized entry of premises; immunity of petitioner

1. Action. When the court has exercised the power of a guardian or has appointed the department temporary guardian pursuant to Title 18-C, sections 5-124 and 5-312, and the ward or a caretaker refuses to relinquish care and custody to the court or to the department, then at the request of the department, a law enforcement officer may take any necessary and reasonable action to obtain physical custody of the ward for the department. Necessary and reasonable action may include entering public or private property with a warrant based on probable cause to believe that the ward is there.
[PL 2017, c. 402, Pt. C, §57 (AMD); PL 2019, c. 417, Pt. B, §14 (AFF).]

2. Liability. No petitioner shall be held liable in any action brought by the incapacitated adult if the petitioner acted in good faith.
[PL 1981, c. 527, §2 (NEW).]

SECTION HISTORY

PL 1981, c. 527, §2 (NEW). PL 1993, c. 652, §9 (AMD). PL 2017, c. 402, Pt. C, §57 (AMD). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

§3484. Payment for protective services

At the time the department makes an evaluation of the case reported, it must be determined, according to regulations set by the commissioner, whether the incapacitated or dependent adult is financially capable of paying for the essential services. To the extent that assets are available to the incapacitated or dependent adult, ward or protected person, the cost of services must be borne by the estate of the person receiving those services. [PL 2003, c. 653, §17 (AMD).]

SECTION HISTORY

PL 1981, c. 527, §2 (NEW). PL 2003, c. 653, §17 (AMD).

§3485. Reporting abuse

1. Immediate report. Subject to the confidentiality provisions of section 3474, subsection 2, paragraph A, when the department receives a report under subchapter 1-A that a person is suspected of abusing, neglecting or exploiting an incapacitated or dependent adult, the department shall immediately

report the suspected abuse, neglect or exploitation to the appropriate district attorney's office, whether or not the department investigates the report.
[PL 2011, c. 291, §5 (NEW).]

2. After investigation. Upon finding evidence indicating that a person has abused, neglected or exploited an incapacitated or dependent adult, resulting in serious harm, the department shall notify the appropriate district attorney or law enforcement agency of that finding.
[PL 2011, c. 291, §5 (NEW).]

SECTION HISTORY

PL 1981, c. 527, §2 (NEW). PL 1989, c. 259, §7 (AMD). PL 1995, c. 183, §1 (AMD). PL 2003, c. 653, §18 (AMD). PL 2011, c. 291, §5 (RPR).

§3486. Cooperation

All other state and local agencies as well as private agencies receiving public funds shall cooperate with the department in rendering protective services on behalf of incapacitated and dependent adults.
[PL 1981, c. 527, §2 (NEW).]

SECTION HISTORY

PL 1981, c. 527, §2 (NEW).

§3487. Adoption of standards

The department shall adopt standards and other procedures and guidelines with forms to insure the effective implementation of this chapter. [PL 1981, c. 527, §2 (NEW).]

SECTION HISTORY

PL 1981, c. 527, §2 (NEW).

SUBCHAPTER 3

PLACEMENT AND THERAPEUTIC SERVICES FOR DEPENDENT AND INCAPACITATED ADULTS WHO ARE NOT MENTALLY RETARDED

§3488. Placement

(REPEALED)

SECTION HISTORY

PL 1983, c. 575, §1 (NEW). PL 2003, c. 653, §19 (RP).

§3489. Levels

(REPEALED)

SECTION HISTORY

PL 1983, c. 575, §1 (NEW). PL 2003, c. 653, §19 (RP).

§3490. Therapeutic services

(REPEALED)

SECTION HISTORY

PL 1983, c. 575, §1 (NEW). PL 2003, c. 653, §19 (RP).

§3491. Training team

(REPEALED)

SECTION HISTORY

PL 1983, c. 575, §1 (NEW). PL 2003, c. 653, §19 (RP).

§3492. Rules

(REPEALED)

SECTION HISTORY

PL 1983, c. 575, §1 (NEW). PL 2003, c. 653, §19 (RP).

SUBCHAPTER 4

RULES

§3493. Rules

The department may adopt rules in accordance with Title 5, chapter 375, subchapter 2-A to carry out this chapter. [PL 2003, c. 653, §20 (NEW).]

SECTION HISTORY

PL 2003, c. 653, §20 (NEW).

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