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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

A N A C T

RELATING TO CRIMINAL OFFENSES - ADULT CRISIS INTERVENTION - CENTER
AND PROTECTIVE SERVICES

Introduced By: Representatives Naughton, M Rice, and E Coderre

Date Introduced: February 04, 2010

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 11-5-10, 11-5-10.1, 11-5-10.2, 11-5-10.3, 11-5-10.4, 11-5-11 and
2 11-5-12 of the General Laws in Chapter 11-5 entitled "Assaults" are hereby amended to read as
3 follows:

4 **11-5-10. Assault on persons 60 years of age or older causing bodily injury.** -- (a) Any
5 person who shall commit an assault and battery upon a person sixty (60) years of age or older,
6 causing bodily injury, shall be deemed to have committed a felony and shall be imprisoned not
7 exceeding five (5) years, or fined not exceeding one thousand dollars (\$1,000), or both.

8 (b) After January 1, 2011 pursuant to section 42-7.2-17 the local police department shall
9 request the adult crisis intervention center to provide crisis intervention services for the victim
10 when:

11 (1) Necessary to ensure the immediate health and safety of the victim; and

12 (2) The victim relies on the person believed to have committed the abuse, neglect and/or
13 exploitation, for assistance in activities in daily living.

14 **11-5-10.1. Assault on persons 60 years of age or older causing serious bodily injury.**

15 -- (a) Any person who shall commit an assault or battery, or both, upon a person sixty (60) years
16 of age or older, causing serious bodily injury, shall be deemed to have committed a felony and
17 shall be imprisoned for not less than three (3) years but not more than twenty (20) years, or fined
18 not more than ten thousand dollars (\$10,000), or both. Every person so convicted shall be ordered

1 to make restitution to the victim of the offense or to perform up to five hundred (500) hours of
2 public community restitution work or attend violence counseling and/or substance abuse
3 counseling, or any combination of them imposed by the sentencing judge. The court may not
4 waive the obligation to make restitution and/or public community restitution work. The restitution
5 and/or public community restitution work shall be in addition to any fine or sentence which may
6 be imposed and not in lieu of the fine or sentence.

7 (b) "Serious bodily injury" means physical injury that:

8 (1) Creates a substantial risk of death;

9 (2) Causes protracted loss or impairment of the function of any bodily part, member or
10 organ; or

11 (3) Causes serious permanent disfigurement.

12 (c) After January 1, 2011 pursuant to section 42-7.2-17 the local police department shall
13 request the adult crisis intervention center to provide crisis intervention services for the victim
14 when:

15 (1) Necessary to ensure the immediate health and safety of the victim; and

16 (2) The victim relies on the person believed to have committed the abuse, neglect and/or
17 exploitation, for assistance in activities in daily living.

18 **11-5-10.2. Assault on persons with severe impairments causing serious bodily injury.**

19 -- (a) Any person who shall commit an assault or battery, or both, upon a person, with severe
20 impairments causing serious bodily injury, shall be deemed to have committed a felony and shall
21 be imprisoned for not less than two (2) years but not more than twenty (20) years, or fined not
22 more than five thousand dollars (\$5,000), or both. Every person so convicted shall be ordered to
23 make restitution to the victim of the offense or to perform up to five hundred (500) hours of
24 public community restitution work, or both, or any combination of them imposed by the
25 sentencing judge. The court may not waive the obligation to make restitution and/or public
26 community restitution work. The restitution and/or public community restitution work shall be in
27 addition to any fine or sentence which may be imposed and not in lieu of the fine or sentence.

28 (b) "Serious bodily injury" means physical injury that:

29 (1) Creates a substantial risk of death, serious disfigurement;

30 (2) Causes protracted loss or impairment of the function of any bodily part, member or
31 organ; or

32 (3) Causes serious permanent disfigurement.

33 (c) For the purposes of this section:

34 (1) "Adult" means a person over the age of eighteen (18).

1 (2) "Major life activities" means: (i) mobility; (ii) self-care; (iii) communication; (iv)
2 receptive and/or expressive language; (v) learning; (vi) self-direction; (vii) capacity for
3 independent living; or (viii) economic self-sufficiency.

4 (3) "Person with severe impairments" means a child or adult who has a disability which
5 is attributable to a mental or physical impairment or combination of mental and physical
6 impairments and results in substantial functional limitations in one or more major life activities.

7 (d) Violations of this section shall be reported to the local police department.

8 (e) After ~~July 1, 2007~~ January 1, 2011 pursuant to section ~~40-8.5-2~~ 42-7.2-17, the local
9 police department ~~may~~ shall request the ~~department of mental health, retardation, and hospitals~~
10 adult crisis intervention center to provide crisis intervention services for the adult victim with
11 severe impairments when:

12 (1) Necessary to ensure the immediate health and safety of the adult victim; and

13 (2) The adult victim relies on the person believed to have committed the assault and/or
14 battery, for assistance in performing three (3) or more major life activities.

15 **11-5-10.3. Assault on persons 60 years of age or older by caretaker causing bodily**

16 **injury.** -- (a) Any person who shall commit an assault and battery upon a person sixty (60) years
17 of age or older, causing bodily injury, and who was, at the time of the assault and battery,
18 responsible for the care and treatment of the victim, shall be deemed to have committed a felony
19 and shall be imprisoned not exceeding five (5) years, or fined not exceeding two thousand five
20 hundred dollars (\$2,500), or both. Further, if at the time of the assault and battery the person
21 committing the act was employed by a health care facility that either condoned the act or
22 attempted to conceal it, the health care facility shall be fined not exceeding five thousand dollars
23 (\$5,000).

24 (b) After January 1, 2011 pursuant to section 42-7.2-17 the local police department shall
25 request the adult crisis intervention center to provide crisis intervention services for the victim
26 when:

27 (1) Necessary to ensure the immediate health and safety of the victim; and

28 (2) The victim relies on the person believed to have committed the abuse, neglect and/or
29 exploitation, for assistance in activities in daily living.

30 **11-5-10.4. Assault on persons 60 years of age or older by caretaker causing serious**

31 **bodily injury.** -- (a) Any person who shall commit an assault or battery, or both, upon a person
32 sixty (60) years of age or older, causing serious bodily injury, and who was, at the time of the
33 assault and battery, responsible for the care and treatment of the victim, shall be deemed to have
34 committed a felony and shall be imprisoned for not less than two (2) years but not more than

1 twenty (20) years, or fined not more than ten thousand dollars (\$10,000), or both. Further, if at the
2 time of the assault and battery the person committing the act was employed by a health care
3 facility that either condoned the act or attempted to conceal it, the health care facility shall be
4 fined not exceeding fifteen thousand dollars (\$15,000). Every person so convicted shall be
5 ordered to make restitution to the victim of the offense or to perform up to five hundred (500)
6 hours of public community restitution work or attend violence counseling and/or substance abuse
7 counseling, or any combination of them imposed by the sentencing judge. The court may not
8 waive the obligation to make restitution and/or public community restitution work. The restitution
9 and/or public community restitution work shall be in addition to any fine or sentence which may
10 be imposed and not in lieu of the fine or sentence.

11 (b) "Serious bodily injury" means physical injury that:

12 (1) Creates a substantial risk of death;

13 (2) Causes protracted loss or impairment of the function of any bodily part, member or
14 organ; or

15 (3) Causes serious permanent disfigurement.

16 (c) After January 1, 2011 pursuant to section 42-7.2-17 the local police department shall
17 request the adult crisis intervention center to provide crisis intervention services for the victim
18 when:

19 (1) Necessary to ensure the immediate health and safety of the victim; and

20 (2) The victim relies on the person believed to have committed the abuse, neglect and/or
21 exploitation, for assistance in activities in daily living.

22 **11-5-11. Assault on persons with severe impairments.** -- (a) For the purposes of this
23 section:

24 (1) "adult" means a person over the age of eighteen (18).

25 (2) "major life activities" means: (i) mobility; (ii) self-care; (iii) communication; (iv)
26 receptive and/or expressive language; (v) learning; (vi) self-direction; (vii) capacity for
27 independent living; or (viii) economic self-sufficiency.

28 (3) "person with severe impairments" means a child or adult who has a disability which
29 is attributable to a mental or physical impairment or combination of mental and physical
30 impairments which results in a substantial limitation on the person's ability to function
31 independently in the family or community and in one or more major life activities.

32 (b) Any person who shall commit an assault and battery upon a person who is severely
33 impaired as defined in subsection (a) of this section, causing bodily injury, shall be deemed to
34 have committed a felony and shall be imprisoned not exceeding five (5) years, or fined not

1 exceeding two thousand dollars (\$2,000), or both.

2 (c) Violations of this section shall be reported to the local police department.

3 (d) After ~~July 1, 2007~~ January 1, 2011 pursuant to section ~~40-8.5-2~~ 42-7.2-17, the local
4 police department ~~may~~ shall request the ~~department of mental health, retardation, and hospitals~~
5 adult crisis intervention center to provide crisis intervention services for the adult victim with
6 severe impairments when:

7 (1) Necessary to ensure the immediate health and safety of the adult victim; and

8 (2) The adult victim relies on the person believed to have committed the assault and/or
9 battery, for assistance in performing three (3) or more major life activities.

10 **11-5-12. Abuse, neglect and/or exploitation of adults with severe impairments.** -- (a)

11 Any person primarily responsible for the care of an adult with severe impairments who shall
12 willfully and knowingly abuse, neglect or exploit that adult shall be subject to a fine of not more
13 than two thousand dollars (\$2,000), or imprisoned not more than five (5) years, or both, and
14 ordered to make full restitution of any funds as the result of any exploitation which results in the
15 misappropriation of funds. Every person convicted of or placed on probation for violation of this
16 section shall be ordered by the sentencing judge to attend appropriate professional counseling to
17 address his or her abusive behavior.

18 (b) As used in this section:

19 (1) "Abuse" means the subjection of an adult with a severe impairment to willful
20 infliction of physical pain, willful deprivation of services necessary to maintain the physical or
21 mental health of the person, or unreasonable confinement.

22 (2) "Adult with severe impairments" means a person over the age of eighteen (18) who
23 has a disability which is attributable to a mental or physical impairment or combination of mental
24 and physical impairments and results in substantial functional limitations in one or more of the
25 following areas of major life activity: (i) mobility; (ii) self-care; (iii) communication; (iv)
26 receptive and/or expressive language; (v) learning; (vi) self-direction; (vii) capacity for
27 independent living; or (viii) economic self-sufficiency.

28 (3) "Exploitation" means an act or process of taking pecuniary advantage of impaired
29 persons by use of undue influence, harassment, duress, deception, false representation, false
30 pretenses, or misappropriation of funds.

31 (4) "Neglect" means the willful refusal to provide services necessary to maintain the
32 physical or mental health of an adult with severe impairments.

33 (5) "Person primarily responsible for care" or "caregiver" means any person who is for a
34 significant period of time the primary caregiver or is primarily responsible for the management of

1 the funds of an adult with severe impairments.

2 (c) Violations of this section shall be reported to the local police department.

3 (d) After ~~July 1, 2007~~ January 1, 2011 pursuant to section ~~40-8.5-2~~ 42-7.2-17, the local
4 police department ~~may~~ shall request the ~~department of mental health, retardation, and hospitals~~
5 adult crisis intervention center to provide crisis intervention services for the adult victim with
6 severe impairments when:

7 (1) necessary to ensure the immediate health and safety of the adult victim; and

8 (2) the adult victim relies on the person believed to have committed the abuse, neglect
9 and/or exploitation, for assistance in performing three (3) or more major life activities.

10 (e) Any person who fails to report known or suspected abuse or neglect shall be guilty of
11 a misdemeanor and upon conviction shall be subject to a fine of not more than five hundred
12 dollars (\$500).

13 (f) Nothing in this section shall be interpreted to apply to the discontinuance of life-
14 support systems or life-sustaining treatment for an adult for whom, if the treatment were
15 terminated, death may result.

16 (g) Any person participating in good faith in making a report pursuant to this chapter,
17 excluding any perpetrator or conspirator of the acts, shall have immunity from any civil liability
18 that might otherwise be incurred or imposed.

19 (h) Nothing in this section shall be interpreted to prohibit the use of any medical or
20 psychological treatment procedure designed and conducted in accordance with applicable
21 professional standards when performed by appropriately trained personnel under the supervision
22 of a person or facility licensed or approved by the state of Rhode Island and when any consent as
23 is required by law has been obtained.

24 (i) Nothing in this chapter shall be construed to mean a person is abused or neglected for
25 the sole reason that the person is being furnished or relies upon treatment by spiritual means
26 through prayer alone in accordance with the tenets and practices of a church or religious
27 denomination recognized by the laws of this state.

28 (j) Nothing in this chapter shall be construed to mean a person is abused or neglected
29 when the parent or legal guardian of an adult with severe impairments, who is the person
30 primarily responsible for care of the adult, (1) decides, in good faith, not to accept support
31 services from a governmental agency, which in the opinion of the parent or legal guardian and the
32 adult, is considered to be inappropriate or inconsistent with the best interests of that adult; or (2)
33 decides, in good faith, to reduce or discontinue assistance to that adult who is developing,
34 acquiring or practicing independent decision-making or living skills.

1 SECTION 2. The title of Chapter 12-1.4 of the General Laws entitled "Citizens'
2 Commission for the Safety and Care of the Elderly" is hereby amended to read as follows:

3 ~~CHAPTER 12-1.4~~

4 ~~Citizens' Commission for the Safety and Care of the Elderly~~

5 CHAPTER 12-1.4

6 CITIZENS' COMMISSION FOR THE SAFETY AND CARE OF THE ELDERLY AND
7 ADULTS WITH SEVERE IMPAIRMENTS

8 SECTION 3. Sections 12-1.4-1, 12-1.4-2, 12-1.4-3, 12-1.4-4 and 12-1.4-7 of the General
9 Laws in Chapter 12-1.4 entitled "Citizens' Commission for the Safety and Care of the Elderly" are
10 hereby amended to read as follows:

11 **12-1.4-1. Short title.** -- This chapter shall be known and may be cited as the "Citizens'
12 Commission for the Safety and Care of the Elderly and Adults with Disabilities."

13 **12-1.4-2. Creation.** -- There is established within the ~~department of elderly affairs~~
14 executive office of health and human services the citizens' commission for the safety and care of
15 the elderly and adults with disabilities.

16 **12-1.4-3. Purpose.** -- The purpose of the commission shall be to act as a liaison between
17 the legislature, public safety officials, the ~~department~~ departments of elderly affairs, human
18 services, and mental health, retardation and hospitals, and the older ~~population~~ disabled
19 populations of Rhode Island in the area of crime against the elderly, fire safety, adults with
20 disabilities, and protective service options available to the elderly and adults with disabilities.

21 **12-1.4-4. Membership.** -- (a) The commission shall consist of ~~twenty-one (21)~~ twenty-
22 nine (29) members, eight (8) of whom shall be older citizens appointed by the speaker and seven
23 (7) of whom shall be older citizens appointed by the president of the senate. The speaker shall
24 appoint three (3) members and the president of the senate shall appoint two (2) members for
25 terms of three (3) years; the speaker shall appoint three (3) members and the president of the
26 senate shall appoint two (2) members for terms of two (2) years; and the speaker shall appoint
27 two (2) members and the president of the senate shall appoint three (3) members for a term of one
28 year. Three (3) members of the commission shall be adults with disabilities appointed by the
29 speaker and two (2) of whom shall be adults with disabilities appointed by the president of the
30 senate. The speaker shall appoint one member and the president of the senate shall appoint one
31 member for the terms of three (3) years; the speaker shall appoint one member and the president
32 of the senate shall appoint one member for terms of two (2) years; the speaker shall appoint one
33 member and the president of the senate shall appoint one member for the terms of one year.

34 These terms shall commence with the date of appointment and expire on the January 31 after the

1 appointment corresponding with the number of years of the term to which appointed.
2 Appointments shall be made for terms of three (3) years commencing on February 1 in the year of
3 appointment and ending on January 31 in the third year after the appointment. Any vacancy
4 among the members shall be filled by the appointing authority for the remainder of the unexpired
5 term.

6 (b) The remaining ~~six (6)~~ nine (9) members of the commission shall be the president of
7 the Police Chiefs' Association or his or her designee; the attorney general or his or her designee;
8 the director of elderly affairs or his or her designee; the director of the department of human
9 services or his or her designee; the director of the department of mental health, retardation and
10 hospitals or his or her designee; the chairperson of the governor's commission on disabilities or
11 his or her designee; a representative of the state police appointed by the superintendent of the
12 state police, the president of the fire chief's association, or his or her designee and the state fire
13 marshal or his or her designee; all ~~six (6)~~ eight (8) of whom shall be appointed for a term of three
14 (3) years.

15 (c) The members of the commission shall meet at the call of the speaker of the house and
16 organize and shall select a chairperson from among themselves.

17 **12-1.4-7. Cooperation of departments.** -- (a) All departments and agencies of the state
18 shall furnish any advice and information, documentary and otherwise, to the commission and its
19 agents deemed necessary or desirable by the commission to facilitate the purposes of this chapter.

20 (b) Each local police and fire chief shall designate at least one police officer or fire
21 fighter to serve as the department's "senior citizen police advocate" to work as a liaison between
22 the department and the elderly ~~community~~ and disabled communities to help address ~~elderly~~
23 safety and protection issues for elders and adults with disabilities.

24 SECTION 4. Section 23-17.2-5 of the General Laws in Chapter 23-17.2 entitled
25 "Accountability of Services to Patients of Nursing or Personal Care Homes" is hereby amended to
26 read as follows:

27 **23-17.2-5. Duty to report violations.** -- Any person who knows or has reason to know of
28 any violations of this chapter shall report the violations to the ~~director of the department of health~~
29 ~~who~~ adult crisis intervention program that shall conduct an immediate investigation and report his
30 or her findings to the attorney general.

31 SECTION 5. Sections 23-17.8-2 and 23-17.8-3.1 of the General Laws in Chapter 23-17.8
32 entitled "Abuse in Health Care Facilities" are hereby amended to read as follows:

33 **23-17.8-2. Duty to report.** -- (a) Any physician, medical intern, registered nurse,
34 licensed practical nurse, nurse's aide, orderly, certified nursing assistant, medical examiner,

1 dentist, optometrist, optician, chiropractor, podiatrist, coroner, police officer, emergency medical
2 technician, fire-fighter, speech pathologist, audiologist, social worker, pharmacist, physical or
3 occupational therapist, or health officer, or any person, within the scope of their employment at a
4 facility or in their professional capacity, who has knowledge of or reasonable cause to believe that
5 a patient or resident in a facility has been abused, mistreated, or neglected shall make, within
6 twenty-four (24) hours or by the end of the next business day, a telephone report to the ~~director of~~
7 ~~the department of health~~ secretary of the executive office of health and human services or his or
8 her designee ~~for those incidents involving health care facilities, and in addition to the office of the~~
9 ~~state long term care ombudsperson for those incidents involving nursing facilities, assisted living~~
10 ~~residences, home care and home nursing care providers, veterans' homes and long term care units~~
11 ~~in Eleanor Slater Hospital, or to the director of the department of mental health, retardation and~~
12 ~~hospitals or his or her designee for those incidents involving community residences for people~~
13 ~~who are mentally retarded or persons with developmental disabilities.~~ The report shall contain:

14 (1) The name, address, telephone number, occupation, and employer's address and the
15 phone number of the person reporting;

16 (2) The name and address of the patient or resident who is believed to be the victim of
17 the abuse, mistreatment, or neglect;

18 (3) The details, observations, and beliefs concerning the incident(s);

19 (4) Any statements regarding the incident made by the patient or resident and to whom
20 they were made;

21 (5) The date, time, and place of the incident;

22 (6) The name of any individual(s) believed to have knowledge of the incident;

23 (7) The name of any individual(s) believed to have been responsible for the incident.

24 (b) In addition to those persons required to report pursuant to this section, any other
25 person may make a report if that person has reasonable cause to believe that a patient or resident
26 of a facility has been abused, mistreated, or neglected.

27 (c) Any person required to make a report pursuant to this section shall be deemed to have
28 complied with these requirements if a report is made to a high managerial agent of the facility in
29 which the alleged incident occurred. Once notified, the high managerial agent shall be required to
30 meet all reporting requirements of this section within the time frames specified by this chapter.

31 (d) Telephone reports made pursuant to subsection (a) shall be followed-up within three
32 (3) business days with a written report.

33 **23-17.8-3.1. Physician's, certified registered nurse practitioner's and physician**
34 **assistant's report of examination -- Duty of facility. --** Whenever a facility shall receive a

1 report by a person other than a physician or a certified registered nurse practitioner or physician
2 assistant that a patient or resident of the facility has been harmed as a result of abuse, neglect, or
3 mistreatment, the facility shall have the patient examined by a licensed physician or a certified
4 registered nurse practitioner or physician assistant. It shall be mandatory for the physician or
5 certified registered nurse practitioner or physician assistant to make a preliminary report of his or
6 her findings to the department of health for a health care facility, or to the ~~department of mental~~
7 ~~health, retardation and hospitals for a community residence for people who are mentally retarded~~
8 ~~or persons with developmental disabilities and to the facility~~ secretary of the executive office of
9 health and human services within forty-eight (48) hours after his or her examination, and a
10 written report within five (5) days after his or her examination.

11 SECTION 6. Section 40-8.5-2 of the General Laws in Chapter 40-8.5 entitled "Health
12 Care for Elderly and Disabled Residents Act" is hereby amended to read as follows:

13 **40-8.5-2. Services for adult victims with severe impairments of abuse, neglect and/or**
14 **exploitation.** -- (a) As used in this section the terms:

15 (1) "Adult victim with severe impairments" means:

16 (i) A person over the age of eighteen (18) who has a disability which is attributable to a
17 mental or physical impairment or combination of mental and physical impairments and results in
18 substantial functional limitations in three (3) or more major life activities;

19 (ii) Is an alleged victim of abuse, neglect or exploitation pursuant to section 11-5-12; or
20 assault pursuant to section 11-5-10.2 or 11-5-11 by a caregiver of the victim;

21 (iii) The adult victim relies on the person believed to have committed the abuse, neglect,
22 and/or exploitation, for assistance in performing three (3) or more major life activities; and

23 (iv) Crisis intervention services are necessary to ensure the immediate health and safety
24 of the adult victim.

25 (2) "Crisis intervention services" means the short term provision of health care and
26 residential services in the immediate hours and days following the abuse, neglect and/or
27 exploitation of an adult victim with severe impairments;

28 (3) "Major life activities" mean: (i) mobility; (ii) self-care; (iii) communication; (iv)
29 receptive and/or expressive language; (v) learning; (vi) self-direction; (vii) capacity for
30 independent living; or (viii) economic self-sufficiency; and

31 (4) "Supportive services" means longer term support services for an adult victim with
32 severe impairments, and when appropriate that victim's family.

33 (b) After ~~July 1, 2007~~ January 1, 2011, local police departments may pursuant to section
34 42-7.2-17 request the ~~department of mental health, retardation, and hospitals~~ adult crisis

1 [intervention center](#) provide crisis intervention services for the adult victim with severe
2 impairments when:

3 (1) Necessary to ensure the immediate health and safety of the adult victim; and

4 (2) The adult victim with severe impairments relies on the person believed to have
5 committed the abuse, neglect and/or exploitation for assistance in performing three (3) or more
6 major life activities.

7 (c) (1) If the ~~department of mental health, retardation, and hospitals~~ [adult crisis](#)
8 [intervention center](#) determines that longer term supportive services are necessary, the victim and
9 when appropriate that victim's family will be referred to the public and private agencies and
10 departments whose supportive services are within its statutory and/or regulatory responsibility, as
11 are needed by the victim.

12 (2) In developing the supportive services care plan, the adult victim with severe
13 impairments' rights to self-determination and lifestyle preferences commensurate with his or her
14 needs shall be of prime consideration.

15 (3) If the adult victim with severe impairments withdraws consent or refuses to accept
16 crisis intervention or supportive services, the services shall not be provided.

17 (d) The department of human services is hereby authorized to seek federal approval of a
18 state plan amendment to its title XIX state plan to initiate crisis intervention services and support
19 services for adults who qualify for title XIX services and are victims of severe impairments of
20 abuse, assault, neglect or exploitation.

21 SECTION 7. Section 40.1-5-40.1 of the General Laws in Chapter 40.1-5 entitled "Mental
22 Health Law" is hereby amended to read as follows:

23 **40.1-5-40.1. Duty to report.** -- Any employee who has reasonable cause to believe that
24 an assault or a battery has been committed upon a patient shall make an immediate report,
25 including the identity of parties and witnesses and details of the incident, to the ~~director of the~~
26 ~~department of mental health, retardation, and hospitals~~ [adult crisis intervention program](#) or his or
27 her designee. The ~~director of the department~~ [adult crisis intervention program](#) shall cause the
28 report to be investigated immediately and further shall notify the mental health advocate and
29 appropriate law enforcement agencies of the investigation. Any person who fails to make a report
30 shall be guilty of a misdemeanor punishable by a fine of not more than five hundred dollars
31 (\$500).

32 SECTION 8. Section 40.1-5.3-17 of the General Laws in Chapter 40.1-5.3 entitled
33 "Incompetency to Stand Trial and Persons Adjudged Not Guilty by Reason of Insanity" is hereby
34 amended to read as follows:

1 **40.1-5.3-17. Penalties for deprivation of rights -- Disciplinary action -- Duty to**
2 **report.** -- (a) Any person who willfully withholds from or denies to a person committed to a
3 facility pursuant to this chapter any of his or her rights as herein granted, shall, on conviction
4 thereof, be fined not exceeding two thousand dollars (\$2,000) or imprisoned not exceeding two
5 (2) years.

6 (b) Any employee of a facility who shall deny to or withhold from any person any right
7 granted him or her by this chapter shall, independently of the above criminal sanctions, be subject
8 to such disciplinary action as the officer in charge shall see fit to impose, after notice, a hearing,
9 and a finding of a violation of the right.

10 (c) Any employee who has reasonable cause to believe that an assault or a battery has
11 been committed upon a committed person shall make an immediate report, including the identity
12 of parties and witnesses and details of the incident, to the ~~director of the department of mental~~
13 ~~health, retardation, and hospitals or his or her designee~~ adult crisis intervention program. The
14 ~~director of the department~~ adult crisis intervention program shall cause the report to be
15 investigated immediately and further shall notify the mental health advocate and appropriate law
16 enforcement agencies of the results of the investigation. Any person who fails to make such a
17 report shall be guilty of a misdemeanor punishable by a fine of not more than five hundred dollars
18 (\$500).

19 SECTION 9. Sections 40.1-27-2, 40.1-27-3 and 40.1-27-5 of the General Laws in
20 Chapter 40.1-27 entitled "Penalties for Abuse of Persons with Developmental Disabilities" are
21 hereby amended to read as follows:

22 **40.1-27-2. Duty to report.** -- (a) Any person within the scope of their employment at a
23 program or in their professional capacity who has knowledge of or reasonable cause to believe
24 that a participant in a program has been abused, mistreated or neglected shall make, within
25 twenty-four (24) hours or by the end of the next business day, a written report to the ~~director~~
26 secretary of the ~~department of mental health, retardation, and hospitals~~ executive office of health
27 and human services or his or her designee. The report shall contain:

- 28 (1) The name, address, telephone number, occupation, and employer's address and the
29 phone number of the person reporting;
- 30 (2) The name and address of the participant who is believed to be the victim of the
31 abuse, mistreatment, or neglect;
- 32 (3) The details, observations, and beliefs concerning the incident(s);
- 33 (4) Any statements regarding the incident made by the participant and to whom they
34 were made;

- 1 (5) The date, time, and place of the incident;
- 2 (6) The name of any individual(s) believed to have knowledge of the incident; and
- 3 (7) The name of any individual(s) believed to have been responsible for the incident.

4 (b) In addition to those persons required to report pursuant to this section, any other

5 person may make a report if that person has reasonable cause to believe that a participant has

6 been abused, mistreated, or neglected.

7 ~~40.1-27-3. Duties of the director of the department of mental health, retardation,~~

8 ~~and hospitals.-- Duties of the secretary of the executive office of health and human services.~~

9 -- The ~~director~~ secretary of the ~~department of mental health, retardation, and hospitals~~ executive

10 office of health and human services or his or her designee shall:

11 (1) Notify the attorney general or his or her designee, the chair of the program's human

12 rights committee forthwith upon receipt of an oral or written report made pursuant to section

13 40.1-27-2;

14 (2) Investigate and evaluate or cause to be investigated and evaluated the information

15 reported in those reports. The investigation and evaluation shall be made within twenty-four (24)

16 hours if the ~~director~~ secretary of the ~~department of mental health, retardation, and hospitals~~

17 executive office of health and human services has reasonable cause to believe the participant's

18 health or safety is in immediate danger of further abuse or neglect and within seven (7) days for

19 all other reports. The investigations shall include a visit to the program, an interview with the

20 participant allegedly abused, mistreated or neglected, an interview with all witnesses to the

21 alleged incident, a determination of the nature, extent, and cause or causes of the injuries, the

22 identity of the person or persons responsible therefor, all other pertinent facts and

23 recommendations to prevent further abuse, mistreatment or neglect of the participant or other

24 program participants. The determination shall be in writing;

25 (3) Evaluate the environment in the program named in the report and make a written

26 determination of the risk of physical or emotional injury to any other participants in the same

27 program;

28 (4) Forward to the attorney general and the chair of the program's human rights

29 committee within fifteen (15) days after a case is initially reported pursuant to section 40.1-27-2 a

30 summary of the findings and recommendations on each case;

31 (5) If the ~~director~~ secretary of the ~~department of mental health, retardation, and hospitals~~

32 executive office of health and human services has reasonable cause to believe that a participant

33 had died as a result of abuse, mistreatment, or neglect, immediately report the death to the

34 attorney general and to the office of the medical examiner. The office of the medical examiner

1 shall investigate the report and communicate its preliminary findings, orally within seventy-two
2 (72) hours, and in writing within seven (7) working days to the attorney general and to the
3 ~~department of mental health, retardation, and hospitals~~ executive office of health and human
4 services. The office of the medical examiner shall also communicate its final findings and
5 conclusions, with the basis therefore to the same parties within sixty (60) days;

6 (6) Promulgate such regulations as may be necessary to implement the provisions of this
7 chapter; and

8 (7) Maintain a file of the written reports prepared pursuant to this chapter. The written
9 reports shall be confidential, but shall be released to the attorney general, to a court of competent
10 jurisdiction, and upon written request to the participant, his or her counsel, the reporting person or
11 agency, the appropriate review board or a social worker assigned to the case.

12 **40.1-27-5. Physician's report of examination -- Duty of program.** -- Whenever a
13 program shall receive a report by a person other than a physician that a participant has been
14 harmed as a result of abuse, neglect, or mistreatment, the program shall have the patient examined
15 by a licensed physician. It shall be mandatory for the physician to make a preliminary report of
16 his or her findings to the secretary ~~director~~ of the ~~department of mental health, retardation, and~~
17 ~~hospitals~~ executive office of health and human services and to the program within forty-eight (48)
18 hours after his or her examination, and a written report within five (5) days after his or her
19 examination.

20 SECTION 10. Section 42-7.2-6.1 of the General Laws in Chapter 42-7.2 entitled "Office
21 of Health and Human Services" is hereby amended to read as follows:

22 **42-7.2-6.1. Transfer of powers and functions.** -- (a) There are hereby transferred to the
23 executive office of health and human services the powers and functions of the departments with
24 respect to the following:

25 (1) By July 1, 2007, fiscal services including budget preparation and review, financial
26 management, purchasing and accounting and any related functions and duties deemed necessary
27 by the secretary;

28 (2) By July 1, 2007, legal services including applying and interpreting the law, oversight
29 to the rule-making process, and administrative adjudication duties and any related functions and
30 duties deemed necessary by the secretary;

31 (3) By September 1, 2007, communications including those functions and services
32 related to government relations, public education and outreach and media relations and any
33 related functions and duties deemed necessary by the secretary;

34 (4) By March 1, 2008, policy analysis and planning including those functions and

1 services related to the policy development, planning and evaluation and any related functions and
2 duties deemed necessary by the secretary;

3 (5) By June 30, 2008, information systems and data management including the
4 financing, development and maintenance of all data-bases and information systems and platforms
5 as well as any related operations deemed necessary by the secretary;

6 (6) By October 1, 2009, assessment and coordination for long-term care including those
7 functions related to determining level of care or need for services, development of individual
8 service/care plans and planning, identification of service options, the pricing of service options
9 and choice counseling; and

10 (7) By October 1, 2009, program integrity, quality control and collection and recovery
11 functions including any that detect fraud and abuse or assure that beneficiaries, providers, and
12 third-parties pay their fair share of the cost of services, as well as any that promote alternatives to
13 publicly financed services, such as the long-term care health insurance partnership.

14 (8) By January 1, 2011, ~~client~~ crisis intervention and adult protective services ~~including~~
15 ~~any such services provided to children, for vulnerable~~ elders and adults with ~~developmental and~~
16 ~~other~~ disabilities;

17 (9) By March 1, 2010, administrative management of food and nutritional services
18 including food stamps, WIC and any other such programs or initiatives in which operational
19 efficiencies that improve access may be achieved through greater consolidation or coordination of
20 functions.

21 (b) The secretary shall determine in collaboration with the department directors whether
22 the officers, employees, agencies, advisory councils, committees, commissions, and task forces of
23 the departments who were performing such functions shall be transferred to the office.

24 (c) In the transference of such functions, the secretary shall be responsible for ensuring:

- 25 (1) Minimal disruption of services to consumers;
- 26 (2) Elimination of duplication of functions and operations;
- 27 (3) Services are coordinated and functions are consolidated where appropriate;
- 28 (4) Clear lines of authority are delineated and followed;
- 29 (5) Cost-savings are achieved whenever feasible;

30 (6) Program application and eligibility determination processes are coordinated and,
31 where feasible, integrated; and

32 (7) State and federal funds available to the office and the entities therein are allocated
33 and utilized for service delivery to the fullest extent possible.

34 (d) Except as provided herein, no provision of this chapter or application thereof shall be

1 construed to limit or otherwise restrict the departments of children, youth and families, human
2 services, elderly affairs, health, and mental health, retardation, and hospitals from fulfilling any
3 statutory requirement or complying with any regulation deemed otherwise valid.

4 (e) The secretary shall prepare and submit to the leadership of the house and senate
5 finance committees, by no later than January 1, 2010, a plan for restructuring functional
6 responsibilities across the departments to establish a consumer centered integrated system of
7 health and human services that provides high quality and cost-effective services at the right time
8 and in the right setting across the life-cycle.

9 SECTION 11. Chapter 42-7.2 of the General Laws entitled "Office of Health and Human
10 Services" is hereby amended by adding thereto the following section:

11 **42-7.2-17. Adult crisis intervention and protective services.** -- (a)(1) There is hereby
12 established within the executive office of health and human services an adult crisis intervention
13 center to coordinate crisis intervention services for the dependent adult during the immediate
14 hours and days following:

15 (i) The arrest or removal of the caregiver of a dependent adult who is the alleged victim
16 of abuse, neglect or exploitation pursuant to sections 11-5-11, 11-5-12, or 42-66-4.1; or assault
17 pursuant to sections 11-5-10, 11-5-10.1, 11-5-10.2, 11-5-10.3, 11-5-10.4, 11-5-11, 11-37-2 or 42-
18 66-8 by that caregiver; or

19 (ii) The unplanned absence of the caregiver of a dependant adult, due to accident, illness,
20 or death of that caregiver; and

21 (iii) Crisis intervention services are necessary to ensure the immediate health and safety
22 of the dependent adult.

23 (2) On or before July 1, 2010 the center shall provide, for the use of public safety
24 agencies, health and human service providers, and the general public a statewide toll free, twenty-
25 four (24) hour a day, seven (7) days a week telephone line, to report assault, abuse, neglect, or
26 exploitation of the dependent adults.

27 (3) After January 1, 2011, public safety agency may request the center provide crisis
28 intervention services for the dependent adult victim when:

29 (i) Necessary to ensure the immediate health and safety of the adult victim; and

30 (ii) The dependant adult victim relies on the person believed to have committed the
31 assault and battery, abuse, neglect and/or exploitation for assistance in performing three (3) or
32 more major life activities.

33 (4) After July 1, 2011, public safety, health or human service providers, may request the
34 center provide crisis intervention services for the dependant adult when:

1 (i) Necessary to ensure the immediate health and safety of the dependant adult; and
2 (ii) The dependent adult victim relies on the absent caregiver for assistance in performing
3 three (3) or more major life activities.
4 (iii) The caregiver has an unplanned absence, due to accident, illness, or death of
5 involving the caregiver.
6 (5) The center shall upon being contacted by public safety, health or human service
7 providers immediately determine if the dependent adult needs and will accept crisis intervention
8 services and/or longer term protective services.
9 (6) The center shall notify the:
10 (i) Attorney general, and
11 (ii) Director of the department of health for those incidents involving health care
12 facilities;
13 (iii) Office of the state long-term care ombudsperson for those incidents involving
14 nursing facilities, assisted living residences, home care and home nursing care providers,
15 veterans' homes and long-term care units in Eleanor Slater Hospital; or
16 (iv) Director of the department of mental health, retardation and hospitals or his or her
17 designee for those incidents involving community residences for adults with developmental and
18 or behavioral health disabilities.
19 (7) If the adult crisis intervention center determines that longer term supportive services
20 are necessary, the dependent adult and when appropriate that dependent adult's family, the
21 executive office of health and human services shall coordinate the development of a longer term
22 supportive services care plan to:
23 (i) Identify the appropriate public and private agencies and departments whose supportive
24 services are within its statutory and/or regulatory responsibility, as are needed by the dependent
25 adult; and
26 (ii) Ensure a smooth transition from crisis intervention services to long-term supportive
27 services;
28 (7) In developing the supportive services care plan, the dependent adult's rights to self-
29 determination and lifestyle preferences commensurate with his or her needs shall be of prime
30 consideration.
31 (8) If the dependant adult withdraws consent or refuses to accept crisis intervention
32 services or supportive services, the services shall not be provided.
33 (b) As used in this section the following words and phrases shall have the following
34 meanings unless the context clearly indicates otherwise.

1 (1) "Caregiver" means a person who has assumed the responsibility for the care of the
2 dependent adult voluntarily, by contract or by order of a court of competent jurisdiction, or who is
3 otherwise legally responsible for the care of the dependant adult.

4 (2) "Dependent adult" means:

5 (i) A person over the age of eighteen (18) who due to age and/or disability has substantial
6 functional limitations in three (3) or more major life activities; and

7 (ii) Needs assistance of a caregiver in performing three (3) or more major life activities.

8 (3) "Crisis intervention services" means the short-term provision of health care and
9 residential services in the immediate hours and days following the abuse, neglect and/or
10 exploitation of a dependent adult;

11 (4) "Major life activities" means: (i) Mobility; (ii) Self-care; (iii) Communication; (iv)
12 receptive and/or expressive language; (v) Learning; (vi) Self-direction; (vii) Capacity for
13 independent living; or (viii) Economic self-sufficiency; and

14 (5) "Supportive Services" means longer term support services for a dependent adult, and
15 when appropriate that adult's family.

16 SECTION 12. Section 42-9.2-3 of the General Laws in Chapter 42-9.2 entitled "Office of
17 Elder Justice Prosecution Unit" is hereby amended to read as follows:

18 **42-9.2-3. Establishment.** -- There shall be established and funded within the department
19 of attorney general an elder justice prosecution unit. The elder justice prosecution unit shall be an
20 assistant or special assistant attorney general appointed by the attorney general. Additionally, the
21 unit shall have both an inspector and paralegal to be appointed by the attorney general. The elder
22 justice prosecution unit is authorized to perform the following duties as the attorney general may
23 direct:

24 (1) Prosecute cases relating to elder abuse, neglect and exploitation;

25 (2) Educate law enforcement personnel of the department of elderly affairs ~~personnel~~
26 and executive office of health and human services on investigative issues unique to elder justice;

27 (3) Intervene in, or request that the state or any agency thereof initiate administrative,
28 legal and legislative actions related to elder justice issues as determined by the attorney general.

29 SECTION 13. Section 42-66-8 of the General Laws in Chapter 42-66 entitled "Elderly
30 Affairs Department" is hereby amended to read as follows:

31 **42-66-8. Abuse, neglect, exploitation and self-neglect of elderly persons -- Duty to**
32 **report.** -- Any person who has reasonable cause to believe that any person sixty (60) years of age
33 or older has been abused, neglected, or exploited, or is self-neglecting, shall make an immediate
34 report to the director of the department of elderly affairs or his or her designee. In cases of abuse,

1 neglect or exploitation, any person who fails to make the report shall be punished by a fine of not
2 more than one thousand dollars (\$1,000). Nothing in this section shall require an elder who is a
3 victim of abuse, neglect, exploitation or who is self-neglecting to make a report regarding such
4 abuse, neglect, exploitation or self-neglect to the ~~director~~ [secretary of the executive office of](#)
5 [health and human services](#) or his or her designee.

6 SECTION 14. Section 42-66-8.1 of the General Laws in Chapter 42-66 entitled "Elderly
7 Affairs Department" is hereby repealed.

8 ~~42-66-8.1. Abuse of elderly persons--Telephone line.--The director shall provide, for~~
9 ~~the use of the general public, a statewide toll free, twenty-four (24) hour a day, seven (7) days a~~
10 ~~week telephone line, to report abuse, neglect, exploitation and self-neglect of the elderly.~~

11 SECTION 15. Sections 2, 3, 6, 8, 10 and 11 shall take effect on July 1, 2010. The
12 remaining sections of this act shall take effect on January 1, 2011.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO CRIMINAL OFFENSES - ADULT CRISIS INTERVENTION - CENTER
AND PROTECTIVE SERVICES

1 This act would establish an adult crisis intervention center for vulnerable elders and
2 adults with disabilities within the executive office of health and human services in accordance
3 with the provisions of Rhode Island Public Law 2009, Chapter 068, Article 05, Section 01. It
4 would create a single statewide toll free, twenty-four (24) hour a day, seven (7) days a week
5 telephone line, for adult crisis intervention services, such as for reporting assaults, abuse, neglect,
6 exploitation and self-neglect of patients/clients in health and human service facilities, or by health
7 and human service practitioners, providers, or caregivers.

8 Sections 2, 3, 6, 8, 10 and 11 would take effect on July 1, 2010. The remaining sections
9 of this act would take effect on January 1, 2011.

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