



## Vermont Developmental Disabilities Council

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Testimony RE: H. 171  
An act relating to adult protective services,  
House Committee on Human Services  
February 7, 2023  
Kirsten Murphy, Executive Director

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Thank you for the opportunity to speak with you this morning regarding the important issue of protecting vulnerable adults from abuse, neglect, and exploitation.

By way of background, Congress has established and funded a developmental disability council in every state and territory for the purpose of advocating that people with intellectual and developmental disabilities (I/DD) realize the full benefits of inclusive communities, equitable access to education and employment, and the right to self-determination. Our work is informed by a public board that is composed of 60% individuals with developmental disabilities and their family members. In keeping with our charge to use the levers of public policy, our approach is focused on system level change and on ensuring that systems are equipped to support people with I/DD and their families to achieve lives reflective of the values embedded in the DD Act.

The Council did not serve on the work group that has been closest to this bill. I want to thank our partners at the Disability Law Project, the Vermont Elder Law Project, Cove, DAIL, and other organizations who have great progress in revising this statute.

The Council is supportive of the direction that H. 171 is taking. In particular, we support the two track approach contemplated by having both an assessment and investigation path as this will lead to greater flexibility in redressing harm through protective measure and restorative justice.

The Council wants to briefly weigh in on three matters already raised.

1. The DD Council agrees with testimony provided by Michael Benvenuto from Vermont Legal Aid's Elder Law Project and Ruby Baker from Cove: The bill should do more to separate out and enumerate the rights of the vulnerable adult who is the alleged victim of a case brought forward for assessment and/or investigation. Mr. Benvenuto has suggested appropriate language to this effect.
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The DD Council was recently awarded a grant from the State to provide training about beneficiary rights to individuals receiving Home and Community Based Services (HCBS) and their family members. Providing a “bill of rights” in the Adult Protective Services statute will help us and the people we serve to know what their rights are in this part of our HCBS system.

2. Second, the Council agrees with those who have asked that the period for acting upon reports to APS remain as forty-eight hours, rather than two business days. This ensures the timeliest response even when a weekend or holiday weekend intervene.
3. Third we encourage the Committee to take up a suggestion made by attorney Lindsey Owen at the end of her testimony regarding expanding the relief that may be sought by a vulnerable adult or their representative under section 6933 (page 56). Greater flexibility in ordering relief seems consistent with the bill’s intent to allow for more individualization in addressing these complicated cases.

The Council would also like to take this opportunity to place H. 171 in the broader context of the protections necessary to safeguard vulnerable individuals receiving Medicaid-funded HCBS.

Very sadly, a few months ago, the press reported a high-profile case of abuse and neglect in a developmental services setting. This involved two individuals with I/DD who were each residing in home provider settings in Franklin County that were overseen by designated or specialized services agencies. I am not a party of the facts of this case beyond what was reported in the press. However, in combination with many reports from self-advocates about quality assurance issues in HCBS, this incident has led the DD Council to place high priority on advocating for greater oversight for HCBS programs and for the resources needed to exercise that oversight. For Adult Protective Services to do its important work, other elements in Vermont’s HCBS programs must ensure that abuse, potential abuse, and/or rights violations are immediately noticed and addressed.

In particular, the DD Council has grave concerns about the quality of care in the Developmental Services System. The continuum of quality assurance mechanisms for that program should include an ombuds office for developmental services, a return to using the national core indicators to assess the impact of services on people receiving HCBS, prompt compliance with Medicaid conflict of interest rules, and increased capacity so that designated and specialized services agencies can be reviewed annually. The last of these – adding additional staff to the State’s DDS quality assurance team – is something that this committee worked on last year, and the Council hopes that you will take this issue up again.

The Council would welcome the opportunity to testify about quality assurance issues at a future time. Thank you again for inviting us to share these comments.