

1 H.582

2 Introduced by Representative Noyes of Wolcott

3 Referred to Committee on

4 Date:

5 Subject: Human services; Department of Disabilities, Aging, and Independent

6 Living; vulnerable adults; adult protective services

7 Statement of purpose of bill as introduced: This bill proposes to modify the

8 definition of neglect for purposes of the statutes protecting vulnerable adults

9 from abuse, neglect, and exploitation. It would require reports of alleged

10 neglect in a State-licensed facility or program or by a State-licensed individual

11 to be reported to the relevant licensing entity. The bill would also extend the

12 time periods within which the Human Services Board must hold a fair hearing,

13 and the hearing officer must issue findings and a recommendation, when an

14 alleged perpetrator requests relief from the Board based on a substantiated

15 report that the alleged perpetrator abused, neglected, or exploited a vulnerable

16 adult.

17 An act relating to adult protective services

18 It is hereby enacted by the General Assembly of the State of Vermont:

19 Sec. 1. 33 V.S.A. § 6902 is amended to read:

20 § 6902. DEFINITIONS

1 As used in this chapter:

* * *

3 (21)(A) "Neglect" means purposeful, knowing, or reckless failure or
4 omission by a caregiver that has resulted in, or could be expected to result in,
5 physical or psychological harm, including a failure or omission to:

6 (i) provide care or arrange for goods or services necessary to
7 maintain the health or safety of a vulnerable adult, including food, clothing,
8 medicine, shelter, supervision, and medical services, unless the caregiver is
9 acting pursuant to the wishes of the vulnerable adult or the vulnerable adult's
10 representative, or an advance directive, as defined in 18 V.S.A. § 9701;

11 (ii) make a reasonable effort, in accordance with the authority
12 granted the caregiver, to protect a vulnerable adult from abuse, neglect, or
13 exploitation by others:

18 (iv) report significant changes in the health status of a vulnerable
19 adult to a physician, nurse, or immediate supervisor, when the caregiver is
20 employed by an organization that offers, provides, or arranges for personal
21 care the failure of a caregiver, agent, or fiduciary to provide the goods or

1 services that are necessary to maintain the health or safety, or both, of a
2 vulnerable adult.

3 (B) Neglect “Neglect” does not include self-neglect.

6 (i) the wishes of the vulnerable adult;

10 advance directive.

* * *

12 (26) "Report" means the statements provided to Adult Protective
13 Services from a reporter alleging that a vulnerable adult has been abused,
14 neglected, or exploited.

15 (27) "Reporter" means the person who has submitted a report to Adult
16 Protective Services or to a licensing entity in accordance with section 6904 of
17 this chapter.

18 (28) "Representative" means a court-appointed guardian, an agent acting
19 under an advance directive ~~executed pursuant to 18 V.S.A. chapter 231~~, or an
20 agent under a power of attorney, unless otherwise specified in the terms of the
21 power of attorney.

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(35) “Advance directive” has the same meaning as in 18 V.S.A. § 9701.

3

(36)(A) “Fiduciary” means an individual or entity with the legal
4 responsibility to:

5

(i) make decisions on behalf of and for the benefit of another
6 individual; and

7

(ii) act in good faith and with fairness.

8

(B) The term “fiduciary” includes a trustee, guardian, conservator,
9 executor, agent under a power of attorney or an advance directive, or
10 representative payee.

11

Sec. 2. 33 V.S.A. § 6904 is amended to read:

12

§ 6904. NATURE AND CONTENT OF REPORT; TO WHOM MADE

13

(a) A Except as otherwise provided for certain reports of neglect in
14 subsection (b) of this section, a report shall be made to the Commissioner or
15 the Commissioner’s designee. To be considered a report to the Commissioner
16 or designee, it shall contain the name and address of the reporter as well as the
17 names and addresses of the vulnerable adult and persons responsible for the
18 vulnerable adult’s care, if known; the age of the vulnerable adult; the nature of
19 the vulnerable adult’s disability; the nature and extent of the vulnerable adult’s
20 abuse, neglect, or exploitation together with any evidence of previous abuse,
21 neglect, or exploitation of the vulnerable adult; and any other information that

1 the reporter believes might be helpful in establishing the cause of any injuries
2 or reasons for the abuse, neglect, or exploitation as well as in protecting the
3 vulnerable adult. If the reporter is in possession of documentation that
4 establishes the alleged victim's conditions, needs, or services, that shall be
5 included in the report. Any evidence of maltreatment shall also be cited in the
6 report. If a report of abuse, neglect, or exploitation involves the acts or
7 omissions of the Commissioner or employees of the Department, then such
8 reports shall be directed to the Secretary of Human Services, who shall cause
9 the report to be investigated by appropriate staff other than staff of the
10 Department.

11 (b)(1) If neglect is alleged to have been perpetrated within a facility
12 licensed by the State or a program licensed by the State, or to have been
13 perpetrated by an individual licensed by the State, the report shall be made to
14 the relevant licensing entity as follows:

15 (A) Neglect within a licensed facility or program shall be reported to
16 the applicable State licensing unit in accordance with State and federal
17 licensing rules and regulations.

18 (B) Neglect by an individual licensed by the Office of Professional
19 Regulation shall be reported to the Office of Professional Regulation.

20 (C) Neglect by an individual licensed by the Board of Medical
21 Practice shall be reported to the Board of Medical Practice.

1 (2) If a licensing entity identifies neglect allegedly perpetrated within a
2 licensed facility or program or by a licensed individual, the licensing entity
3 shall make a report to Adult Protective Services.

4 Sec. 3. 33 V.S.A. § 6906 is amended to read:

5 § 6906. ASSESSMENT AND INVESTIGATION

6 * * *

7 (c) Investigation.

8 * * *

9 (10) Within 30 calendar days after the date of the notice advising that a
10 report has been substantiated, an alleged perpetrator against whom a complaint
11 has been lodged may apply to the Human Services Board for relief on the
12 grounds that it is unsubstantiated. The Human Services Board shall hold a fair
13 hearing under 3 V.S.A. § 3091. Unless the Commissioner agrees otherwise,
14 the hearing shall be given priority by the Human Services Board, and an
15 expedited hearing shall be provided, not later than 30 90 calendar days after
16 the date of the ~~notice advising that a report has been substantiated, and a~~
17 ~~decision~~ alleged perpetrator's request for a fair hearing, and the hearing
18 officer's written findings and recommendation shall be issued within ~~seven~~ 30
19 calendar days after the hearing.

20 * * *

1 Sec. 4. EFFECTIVE DATE

2 This act shall take effect on passage.