
Report to
The Vermont Legislature

Department of Disabilities, Aging and Independent Living

In accordance with:
H.171 (2023), as enacted Act 81,
An act relating to adult protective services and emergency housing transition.

Submitted to: **The House Committee on Human Services**
The Senate Committee on Health and Welfare

Submitted by: **Monica White, Commissioner**
Department of Disabilities, Aging, and Independent Living
(DAIL)

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Report Date: **October 30, 2023**

LEGISLATIVE REQUEST

H.171 (as enacted) Sec. 4. ADULT PROTECTIVE SERVICES; FINANCIAL PROTECTIONS

On or before November 1, 2023, the Department of Disabilities, Aging, and Independent Living, in collaboration with the Department of Financial Regulation and representatives of financial institutions as defined in 33 V.S.A. § 6915, shall submit a report to House Committee on Human Services and to the Senate Committee on Health and Welfare providing proposed legislative changes to protect vulnerable adults from financial abuse, neglect, and exploitation.

EXECUTIVE SUMMARY

DAIL is not proposing legislative changes at this time. Though actionable steps were identified to better protect vulnerable adults from financial abuse, neglect and exploitation, DAIL and financial industry stakeholders agreed these measures could be enacted voluntarily without need for statutory change.

In the interim of the passage of H.171 into law and the submission of this report, draft Federal rules for state Adult Protective Services (APS) programs were published by the Administration for Community Living (ACL). An analysis of the proposed rules vis-à-vis the financial protections considered for this report finds one significant inconsistency in the definitions of abuse, neglect and exploitation. DAIL anticipates submitting recommendation to the Legislature in SFY25 upon final passage of the ACL rules to bring Vermont statute into alignment with the forthcoming new rules in the Older Americans Act.

CONTENT

Adult Protective Services (APS), the Vermont Department of Financial Regulation (DFR), and the Vermont Banking Association met on September 8, 2023, to collaborate on processes to protect vulnerable adults more effectively from financial abuse, neglect, and exploitation. APS presented the current realities and existing authority for obtaining financial records from financial institutions as reflected in 33 V.S.A. § 6915. The group agreed that it would be in the best interest of Vermonters to establish an agreed procedure for APS to gain access to financial records, including standardized requests and a method to authenticate requests in the interest of protecting the privacy of financial institution members. It was further agreed this procedure could be established outside of statutory rule. All parties recognized the common goal of all who were present was to protect vulnerable Vermonters.

While DAIL was preparing this report, the Federal Department of Health and Human Services (HHS) Administration for Community Living (ACL) proposed rulemaking to modify the Older Americans Act to include a new subpart related to Adult Protective Services. An analysis of these proposed regulations finds six areas of discrepancy with statutory language as enacted in H.171. One of these six areas specifically conflicts with the definitions of abuse, neglect and exploitation as they relate to financial maltreatment of vulnerable adults. DAIL agrees with the proposed definitions from ACL and anticipates submitting updated definitions (as well as other proposed areas of needed change to align with Federal rule) in State Fiscal Year 2025 after final regulations are enacted by ACL.

RECOMMENDATIONS

While not requiring legislative change, DAIL has identified the following immediate actionable steps. DAIL APS will:

1. Engage financial institutions in educational workshops about the mission and authority of APS;
2. Provide notice and communicate to stakeholders who at APS can be contacted with questions about records requests;
3. Use a consistent and identifiable records request form;
4. Develop relationships with the financial institutions' legal departments; and
5. Create stronger lines of communication between APS and financial institutions.

These actions will be budget-neutral, and no action is required on the part of the Vermont Legislature.