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SB-1123 Elder and dependent adult abuse. (2019-2020)

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Senate Bill No. 1123

CHAPTER 247

An act to amend Section 368.5 of the Penal Code, relating to elder and dependent adult abuse.

[Approved by Governor September 29, 2020. Filed with Secretary of State September 29, 2020.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1123, Chang. Elder and dependent adult abuse.

Existing law authorizes county adult protective services agencies and local long-term care ombudsman programs to investigate elder and dependent adult abuse, but grants law enforcement agencies the exclusive responsibility for criminal investigations. Existing law requires local law enforcement agencies to revise or include in their policy manuals, if a policy manual exists, specified information regarding elder and dependent adult abuse, including, among other things, the definition of elder and dependent adult abuse provided by the Department of Justice in its March 2015 policy and procedures manual.

This bill would define the term "elder and dependent adult abuse" for the purposes of those provisions and instead require that definition to be included in a law enforcement agency's policy manual, if that policy manual exists.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 368.5 of the Penal Code is amended to read:

368.5. (a) Local law enforcement agencies and state law enforcement agencies with jurisdiction have concurrent jurisdiction to investigate elder and dependent adult abuse and all other crimes against elder victims and victims with disabilities.

(b) Adult protective services agencies and local long-term care ombudsman programs also have jurisdiction within their statutory authority to investigate elder and dependent adult abuse and criminal neglect, and may assist local law enforcement agencies in criminal investigations at the law enforcement agencies' request, if consistent with federal law; however, law enforcement agencies retain exclusive responsibility for criminal investigations, notwithstanding any law to the contrary.

(c) (1) Every local law enforcement agency shall, when the agency next undertakes the policy revision process, revise or include in the portion of its policy manual relating to elder and dependent adult abuse, if that policy manual exists, the following information:

(A) The elements of the offense specified in subdivision (c) of Section 368.

(B) The elements of the offense specified in subdivision (f) of Section 368.

(C) The requirement, pursuant to subdivisions (a) and (b), that law enforcement agencies have the responsibility for criminal investigations of elder and dependent adult abuse and criminal neglect; however, adult protective services agencies and long-term care ombudsman programs have authority to investigate incidents of elder and dependent adult abuse and neglect and may, if requested and consistent with federal law, assist law enforcement agencies with criminal investigations.

(D) As a guideline to investigators and first responders, the definition of elder and dependent adult abuse, as defined in subparagraph (A) of paragraph (2).

(2) As used in this subdivision, the following terms have the following meanings:

(A) (i) "Elder and dependent adult abuse" means any of the following:

(I) Physical abuse, neglect, abandonment, isolation, abduction, or other treatment with resulting physical harm or pain or mental suffering.

(II) The deprivation by a care custodian of goods or services that are necessary to avoid physical harm or mental suffering.

(III) Financial abuse.

(ii) For the purposes of this subparagraph, the terms "abandonment," "abduction," "financial abuse," "goods and services necessary to avoid physical harm or mental suffering," "isolation," "mental suffering," "neglect," and "physical abuse" have the same meanings as in Article 2 (commencing with Section 15610) of Chapter 11 of Part 3 of Division 9 of the Welfare and Institutions Code.

(B) "Local law enforcement agency" means every municipal police department and county sheriffs' department.

(C) "Policy manual" means any general orders, patrol manual, duty manual, or other written document or collection of documents that provides field or investigative personnel with policies, procedures, or guidelines for responding to or investigating crimes, complaints, or incidents.