

**SENATE JUDICIARY COMMITTEE**  
**Senator Thomas Umberg, Chair**  
**2021-2022 Regular Session**

AB 636 (Maienschein)  
Version: February 12, 2021  
Hearing Date: June 29, 2021  
Fiscal: No  
Urgency: No  
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**SUBJECT**

Financial abuse of elder or dependent adults

**DIGEST**

This bill authorizes confidential information from mandated reporters relating to elder or dependent adult abuse to be shared with local code enforcement agencies and certain federal law enforcement agencies in limited circumstances.

**EXECUTIVE SUMMARY**

The Elder Abuse and Dependent Adult Civil Protection Act establishes procedures and requirements for the reporting, investigation, and prosecution of elder and dependent adult abuse. Reports and reporters of abuse are generally confidential and may be disclosed only to certain entities specified in statute.

This bill provides that information relevant to the incident of elder or dependent adult abuse may be given to a federal law enforcement agency charged with the investigation of elder or dependent adult abuse or to a local code enforcement agency for the sole purpose of investigating a property where the health and safety of an elder or dependent adult resident is at risk. The bill is sponsored by the County of San Diego and supported by a broad range of organizations. There is no known opposition. The bill passed the Senate Public Safety Committee by a vote of 4-0. Clarifying amendments are described on page 5.

**PROPOSED CHANGES TO THE LAW**

Existing law:

- 1) Establishes the Elder Abuse and Dependent Adult Civil Protection Act (Act). (Welf. & Inst. Code § 15600 et seq.)<sup>1</sup> Recognizes that elders and dependent adults may be subjected to abuse, neglect, or abandonment and that California has a responsibility to protect those persons. (§ 15600(a).) States that the purposes of the Act are to do the following:
  - a) require health practitioners, care custodians, clergy members, and employees of county adult protective services agencies and local law enforcement agencies to report known or suspected cases of abuse of elders and dependent adults and to encourage community members in general to make such reports;
  - b) collect information on the numbers of abuse victims, circumstances surrounding the act of abuse, and other data that will aid the state in establishing adequate services to aid all victims of abuse in a timely, compassionate manner; and
  - c) provide for protection under the law for all those persons who report suspected cases of abuse, provided that the report is not made with malicious intent. (§ 15601.)
- 2) Provides that acts of abuse include physical abuse, neglect, abandonment, isolation, abduction, or other treatment with resulting physical harm or pain or mental suffering; the deprivation by a care custodian of goods or services that are necessary to avoid physical harm or mental suffering; and financial abuse. (Welf. & Inst. Code § 15610.07.)
- 3) Provides that any person who has assumed full or intermittent responsibility for the care or custody of an elder or dependent adult, whether or not they receive compensation, including administrators, supervisors, and any licensed staff of a public or private facility that provides care or services for elder or dependent adults, or any elder or dependent adult care custodian, health practitioner, clergy member, or employee of a county adult protective services agency or a local law enforcement agency, is a mandated reporter. (§ 15630(a).)
- 4) Sets forth the circumstances in which a mandated reporter must or may report suspected acts of abuse. (§ 15630 et seq.) Generally provides that such reports are confidential and may be disclosed only to specified persons or agencies. (§ 15633.) Provides that the identity of any person who reports pursuant to the Act is confidential and may be disclosed only among specified agencies or persons representing the agencies. (§ 15633.5(b).)

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<sup>1</sup> All further statutory references are to the Welfare and Institutions Code unless otherwise stated.

- 5) Provides that information relevant to the incident of elder or dependent adult abuse must be given to an investigator from an adult protective services agency, a local law enforcement agency, the office of the district attorney, the office of the public guardian, the probate court, the bureau, the Department of Business Oversight, or an investigator of the Department of Consumer Affairs, Division of Investigation, who is investigating a known or suspected case of elder or dependent adult abuse. (§ 15633.5(a).)

This bill provides that information relevant to the incident of elder or dependent adult abuse may be given to a federal law enforcement agency charged with the investigation of elder or dependent adult abuse or to a local code enforcement agency for the sole purpose of investigating a property where the health and safety of an elder or dependent adult resident is at risk.

### COMMENTS

1. Authorizes information relating to elder or dependent adult abuse to be shared with local code enforcement agencies and certain federal law enforcement agencies

Existing law provides that any person who has assumed responsibility for the care or custody of an elder or dependent adult is a mandated reporter (§ 15630(a)), and sets forth circumstances in which reports must or may be made (§ 15630(b), (c)). The identity of any person who makes a report pursuant to the Act is confidential and may be disclosed only among specified agencies or persons representing the agencies. (§ 15633.5(b).) The reports themselves likewise are confidential and may be disclosed only to specified persons or agencies. (§ 15633.) Information relevant to the incident of elder or dependent adult abuse must be given to an investigator from an adult protective services agency, a local law enforcement agency, the office of the district attorney, the office of the public guardian, the probate court, the bureau, the Department of Business Oversight, or an investigator of the Department of Consumer Affairs, Division of Investigation, who is investigating a known or suspected case of elder or dependent adult abuse. (§ 15633.5(a).)

This bill would additionally allow for information relevant to the incident of elder or dependent adult abuse to be provided to two additional classes of entities. First, the bill provides that such information may be given to a federal law enforcement agency charged with the investigation of elder or dependent adult abuse. This provision is intended to address situations involving scams or fraud that occurs across state lines. The intent is to enable reports to be provided to appropriate law enforcement entities with federal jurisdiction that are ordinarily charged with investigating elder or dependent adult abuse, such as the FBI. San Diego County District Attorney Summer Stephan, in support of the bill, writes:

The National Council on Aging reports that “while likely under-reported, estimates of elder financial abuse and fraud costs to older Americans range from \$2.9 billion to \$36.5 billion annually.” The monumental task of combatting these international scammers and the extensive money laundering networks here in the United States they rely on cannot be handled by local law enforcement alone. Only through collaboration between local, state, and federal authorities will we be able to conduct effective investigations into these predators.

Second, the bill provides that the information relevant to an incident of elder or dependent adult abuse may be provided to a local code enforcement agency for the sole purpose of investigating a property where the health and safety of an elder or dependent adult resident is at risk. This provision seeks to address the problem of independent living facilities that are unlicensed and provide inadequate care in substandard conditions. According to bill proponent County Welfare Directors Association of California:

This bill is intended to better protect elders who reside in Independent Living Facilities (ILFs) from elder abuse. ILFs are unlicensed facilities that provide care to multiple individuals in one residence. Some of these facilities have been implicated in scandals involving extremely substandard care, which can constitute elder abuse. Low-income people, who are more likely to reside in these facilities, are disproportionately impacted by this abuse. Additionally, as scams against older adults become more prolific and widespread, some ILFs are involved in national and international scams that are under a federal law enforcement agency’s jurisdiction for investigation and prosecution.

Because these facilities are unlicensed, it is difficult for APS to ensure the wellbeing of residents. It is often local code compliance entities (not licensing agencies) who close substandard facilities through code compliance cases. Also, sharing information with law enforcement agencies charged with the investigation of elder or dependent abuse in cross-jurisdictional abuse cases is limited by a definition that only includes state and local law enforcement agencies.

To clarify the intent and scope of the bill, the author has agreed to the following amendment:

Amendment<sup>2</sup>

Strike (a)(2) and replace it with:

*(2)(A) If the incident of elder or dependent adult financial abuse may be within the jurisdiction of a federal law enforcement agency, information relevant to the incident may be given to the federal law enforcement agency for the sole purpose of investigating a financial crime committed against the elder or dependent adult.*  
*(B) Information relevant to the incident of elder or dependent adult abuse may be provided to a local code enforcement agency for the sole purpose of investigating an unlicensed care facility where the health and safety of an elder or dependent adult resident is at risk.*

2. Support

The California Association of Counties writes:

County APS programs have the primary responsibility of responding to and investigating the abuse and neglect of elder and dependent adults. There are many forms of abuse that APS investigates ranging from physical abuse to financial or material exploitation. Counties throughout the state have observed a rise in incidents of abuse, as well as an increase in the complexity of the abuse, particularly in financial exploitation incidents. These complex investigations could require local, state, and federal agency involvement.

AB 636 would explicitly allow APS programs to share information with federal agencies where abuse incidents may go beyond the power of a local or state agency. Information would only be allowed to be shared with federal law enforcement agencies tasked with investigation of elder and dependent abuse. In addition, this bill would allow APS programs to share information with code enforcement agencies regarding potential abuse from substandard care in unlicensed Independent Living Facilities (ILFs). The APS program can already disclose information to the licensing agencies for licensed facilities and this provision would allow the program to disclose the same type of information to the appropriate entity for unlicensed facilities.

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<sup>2</sup> The amendments may also include technical, nonsubstantive changes recommended by the Office of Legislative Counsel, and additional co-authors.

This bill would strengthen the APS program so that counties can effectively respond to the increased and complex reports of abuse and further protect the health and safety of this growing population of elder and dependent adults. [...]

**SUPPORT**

County of San Diego (sponsor)  
California Advocates for Nursing Home Reform  
California Association of Area Agencies on Aging  
California Association of Public Authorities for IHSS  
California Catholic Conference  
California Commission on Aging  
California State Association of Counties  
California Women's Law Center  
County of Contra Costa  
County Welfare Directors Association of California  
National Association of Social Workers, California Chapter  
Retired Public Employees Association  
San Diego County District Attorney's Office  
Sonoma County Human Services Department  
Urban Counties of California

**OPPOSITION**

None known

**RELATED LEGISLATION**

Pending Legislation: None known.

Prior Legislation: AB 2657 (Maienschein, 2020) was substantially similar to this bill. It was referred to the Assembly Committee on Aging and Long-Term Care but was not heard.

**PRIOR VOTES:**

Senate Public Safety Committee (Ayes 4, Noes 0)  
Assembly Floor (Ayes 73, Noes 0)  
Assembly Aging and Long Term Care Committee (Ayes 7, Noes 0)

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