

1 SB271
2 115538-2
3 By Senators Bedford and Smitherman
4 RFD: Governmental Affairs
5 First Read: 19-JAN-10

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8 SYNOPSIS: This bill creates the Alabama Interagency
9 Council for the Prevention of Elder Abuse, provides
10 for the membership and duties of the council,
11 allows the council to adopt rules for its internal
12 operations and establishes a lead agency for the
13 council.

14
15 A BILL
16 TO BE ENTITLED
17 AN ACT
18

19 To create the Alabama Interagency Council for the
20 Prevention of Elder Abuse; to provide for the membership and
21 duties of the council; to allow the council to adopt rules for
22 its internal operations; and to establish a lead agency for
23 the council.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

25 Section 1. This act shall be known and may be cited
26 as the Elder Abuse Prevention Act.

1 Section 2. The Legislature hereby finds and declares
2 the following:

3 (1) Thousands of Alabama's elderly citizens are
4 victims of abuse. This includes psychological and sexual
5 abuse, financial exploitation, neglect, isolation and
6 abandonment.

7 (2) Tens of thousands of cases of abuse,
8 exploitation and neglect of the elderly remain unreported,
9 uninvestigated and unresolved each year.

10 (3) The elderly population of Alabama as in all
11 states, continues to be the most rapidly increasing segment of
12 the public, creating the immediate need for stronger plans for
13 the health, safety, well-being, peace and dignity of this
14 rising population.

15 (4) The current responsibilities for elder safety
16 and protection from abuse, exploitation and neglect is shared
17 by multiple agencies and departments of the State of Alabama,
18 including the executive, judicial and legislative branches of
19 government.

20 (5) There is a need for increased coordination,
21 collaboration, communication, sharing, training and partnering
22 between the state agencies and departments that have unique
23 skills, research, scientific and technical capabilities and
24 professional disciplines that will greatly enhance and create
25 a much stronger, comprehensive system of care for the safety
26 and protection of existing and of potential elder abuse
27 victims.

1 (6) These and other planned steps toward
2 strengthening elder safety will prepare Alabama to
3 aggressively seek and receive federal and private funds, for
4 the purpose of protecting the elderly, providing justice for
5 those who have been victims of elder abuse and protecting and
6 enhancing the lives of Alabama's elderly.

7 (7) Alabama's renewed efforts to create, coordinate
8 and sustain a stronger system of care for its elder citizens'
9 safety, protection and life services will provide,
10 simultaneously, an affirmation of public policy which
11 recognizes, respects and values the safety and dignity of the
12 elderly and which will serve as a positive and proactive
13 opportunity to prevent expensive, burdensome and prolonged
14 litigation against the State over issues of elder safety and
15 care, as has historically occurred in the areas of children's
16 foster care, mental health services and other vital State
17 programs.

18 (8) The State of Alabama, in all of these actions,
19 affirms and pursues the clear Biblical mandates of honor,
20 reverence, mercy, peace and dignity of its elders.

21 (9) There is an urgent and substantial need to
22 develop and implement a statewide comprehensive, coordinated,
23 multidisciplinary interagency system of care for individuals,
24 who are at risk of elder abuse.

25 Section 3. The following words are defined for the
26 purposes of this act.

1 (1) ELDER ABUSE. The maltreatment of an older
2 person, age 60 or above, by any person, including:

3 (a) PHYSICAL ABUSE. The intentional use of physical
4 force that results in bodily injury, pain, or impairment.
5 Examples of physical abuse include beating, slapping,
6 bruising, cutting, burning, pushing or shoving, excessively
7 restraining, force-feeding, and physical punishment.

8 (b) SEXUAL ABUSE. The non-consensual sexual contact
9 of any kind with an elderly individual. Examples include
10 fondling of the breast or genitals, rape, coerced nudity, and
11 sexually explicit photographing.

12 (c) EMOTIONAL/PSYCHOLOGICAL ABUSE. The intentional
13 infliction of mental or emotional anguish by threat,
14 humiliation, intimidation, or other verbal or non-verbal
15 abusive conduct. Examples of psychological abuse include name
16 calling, insulting, ignoring for extended periods of time,
17 frightening, intimidating, and isolating from friends and
18 family.

19 (d) NEGLECT. The intentional or unintentional
20 failure by the caregiver to obtain adequate goods or services
21 for the elderly person's maintenance and well-being. Examples
22 include a caregiver who fails to buy groceries or prescription
23 medications.

24 (e) SELF-NEGLECT. Behaviors of an elderly person
25 that threatens his or her own health or safety. Examples are
26 failure to provide self with adequate food, clothing, shelter,
27 medication, safety and proper hygiene.

1 (f) MATERIAL EXPLOITATION. The unauthorized use of
2 funds or any resources of an elderly individual; the misuse of
3 power of attorney or representative payee status for one's own
4 advantage or profit. Examples include stealing jewelry or
5 other property, obtaining the elderly person's signature for
6 transfer of property or for a will through duress or coercion.

7 (2) COORDINATED SYSTEM OF CARE. The total effort in
8 the state, inclusive of service coordination/case management,
9 that is directed at meeting the needs of individuals, who are
10 at risk of elder abuse.

11 (3) COUNCIL. The Alabama Interagency Council for the
12 Prevention of Elder Abuse.

13 (4) LEAD AGENCY. A participating agency designated
14 to be the lead agency for the council.

15 (5) PARTICIPATING AGENCY. A department, commission,
16 council, board, division, community service provider, or an
17 office or other entity which may provide services to
18 individuals at risk of elder abuse and their families
19 including, but not limited to, the following:

- 20 a. The Alabama 911 Network.
- 21 b. The Alabama Administrative Office of the Courts.
- 22 c. The Alabama Attorney General.
- 23 d. The Alabama Banking Department.
- 24 e. The Alabama Coalition Against Domestic Violence.
- 25 f. The Alabama Crime Victims Compensation
26 Commission.
- 27 g. The Alabama Department of Forensic Sciences.

- 1 h. The Alabama Department of Human Resources.
- 2 i. The Alabama Department of Insurance.
- 3 j. The Alabama Department of Mental Health.
- 4 k. The Alabama Department of Public Health.
- 5 l. The Alabama Department of Public Safety.
- 6 m. The Alabama Department of Senior Services.
- 7 n. The Alabama Department of Veterans Affairs.
- 8 o. The Alabama Governors Office of Faith Based
- 9 Initiatives and Community Service.
- 10 p. The Alabama Medicaid Agency.
- 11 q. The Alabama Office of Prosecution Services.
- 12 r. The Alabama Peace Officers Standards and Training
- 13 Commission.
- 14 s. The Alabama Probate Judges Association.
- 15 t. The Alabama Securities Commission.
- 16 u. The Alabama Sheriffs Association.
- 17 v. The Alabama State Bar Association.

18 (6) POLICIES. Directives by the lead agency,
19 participating agencies, the executive committee, or other
20 written documents that represent the position of the council
21 concerning any matter within the purview of this act.

22 Section 4. The makeup of the Council shall include
23 the following;

24 (1) The chief executive officer, or his or her
25 designee, of each of the following participating agencies and
26 organizations:

- 27 a. The Alabama 911 Network.

- 1 b. The Alabama Administrative Office of the Courts.
- 2 c. The Alabama Attorney General.
- 3 d. The Alabama Banking Department.
- 4 e. The Alabama Coalition Against Domestic Violence.
- 5 f. The Alabama Crime Victims Compensation
- 6 Commission.
- 7 g. The Alabama Department of Forensic Sciences.
- 8 h. The Alabama Department of Human Resources.
- 9 i. The Alabama Department of Insurance.
- 10 j. The Alabama Department of Mental Health.
- 11 k. The Alabama Department of Public Health.
- 12 l. The Alabama Department of Public Safety.
- 13 m. The Alabama Department of Senior Services.
- 14 n. The Alabama Department of Veterans Affairs.
- 15 o. The Alabama Governors Office of Faith Based
- 16 Initiatives and Community Service.
- 17 p. The Alabama Medicaid Agency.
- 18 q. The Alabama Office of Prosecution Services.
- 19 r. The Alabama Peace Officers Standards and Training
- 20 Commission.
- 21 s. The Alabama Probate Judges Association.
- 22 t. The Alabama Securities Commission.
- 23 u. The Alabama Sheriffs Association.
- 24 v. The Alabama State Bar Association.
- 25 (2) The chief executive officers of state agencies
- 26 serving on the council shall serve ex officio.

1 (3) The council shall meet at least bi-monthly and
2 the meetings shall be open to the public.

3 (4) No member of the council shall cast a vote on
4 any matter which would provide direct financial benefit to
5 that member or otherwise give the appearance of a conflict of
6 interest under state law.

7 (5) The Chief Justice of the Alabama Supreme Court
8 shall appoint the chair of the council from among the
9 membership.

10 (6) The Chief Justice of the Alabama Supreme Court
11 shall designate the lead agency for the council upon
12 recommendation of the council.

13 Section 5. The council shall have the following
14 duties and authority:

15 (1) To make recommendations to the Chief Justice of
16 the Alabama Supreme Court regarding the designation of the
17 lead agency.

18 (2) To define the roles and responsibilities of all
19 participating agencies.

20 (3) To adopt rules for the internal operation of the
21 council.

22 (4) To recommend to the Chief Justice of the Alabama
23 Supreme Court the appointment of additional members to serve
24 on the Council as deemed necessary and appropriate.

25 (5) To develop a long-range plan, reviewed
26 semi-annually, for a comprehensive statewide system of care,
27 which, to the extent practical, is derived from scientific

1 based research and nationally recognized best practices. The
2 council shall provide a copy of the plan and a detailed
3 summary of any progress toward implementation of the plan to
4 the Chief Justice of the Alabama Supreme Court, the Governor
5 and the Legislature on or before the 10th legislative day of
6 each regular session. The plan should include, but not be
7 limited to, all of the following:

8 a. The eliminating of barriers to identifying and
9 reporting elder abuse such as duplicative or fragmented
10 policies which may require modification.

11 b. The development of a coordinated program of
12 services for victims of elder abuse to include the
13 identification, intervention, prevention, and prosecution of
14 the crime of elder abuse.

15 c. A comprehensive fiscal review, and analysis with
16 recommendations for state spending on programs and services
17 for elder abuse prevention.

18 d. The identification of annual action steps toward
19 implementation.

20 (6) To ensure interagency collaboration, public
21 participation, and mutual sharing of information to facilitate
22 policy decisions and the implementation of a plan for a
23 comprehensive statewide system of care to those at risk for
24 elder abuse.

25 Section 6. The lead agency shall be responsible for
26 the general administration, supervision, and monitoring of all
27 council activities.

1 Section 7. The implementation of this act shall be
2 subject to the availability of appropriations to expand,
3 intensify, and coordinate the activities of the council. The
4 activities of the council shall include the expansion of
5 council membership.

6 Section 8. The council shall be subject to the
7 Alabama Sunset Law, Chapter 20, Title 41, as an enumerated
8 agency as provided in Section 41-20-3, and shall have a
9 termination date of October 1, 2015, and every four years
10 thereafter, unless continued pursuant to the Alabama Sunset
11 Law.

12 Section 9. This act shall become effective on the
13 first day of the third month following its passage and
14 approval by the Governor, or its otherwise becoming law.