

REQUIRE INVESTIGATION FORM TO REPORT VULNERABLE OR ELDER ADULT ABUSE

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House Bill 5813 as reported from committee
Sponsor: Rep. Jim Runestad
Committee: Families, Children, and Seniors
Complete to 6-15-18

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 5813 would amend the Code of Criminal Procedure by adding Section 15h to Chapter IV to require usage of a standard investigative form for incidents involving physical or financial abuse of a *vulnerable adult* or *elder adult*.

Under the bill, *elder adult* would mean an adult who is 65 years of age or older.

Vulnerable adult would mean that term as defined in section 145m of the Michigan Penal Code, namely:

- An individual age 18 or over who, because of age, developmental disability, mental illness, or physical disability, requires supervision or personal care or lacks the personal and social skills required to live independently.
- A person who is placed in an adult foster care family home or an adult foster care small group home under Section 5(6) or (8) of Public Act 116 of 1973 (MCL 722.115).
- A vulnerable person not less than 18 years of age who is suspected of being or believed to be abused, neglected, or exploited.

No later than 30 days after the effective date of the bill, the Department of the Attorney General would be required to develop a standard vulnerable adult/elder adult incident report form.

Beginning 90 days after the effective date of the bill, a peace officer would be required to prepare a vulnerable or elder adult incident report using the standard form developed under the act, or a form substantially similar to that standard form, after responding to an incident involving a vulnerable or elder adult.

The report would need to contain at least all of the following:

- The address, date, and time of the incident.
- The name, address, home and work telephone numbers, race, sex, and date of birth of the vulnerable adult or elder adult.
- The suspect's name, address, home and work telephone numbers, race, sex, and date of birth, and information describing the suspect and whether an injunction or restraining order covering the suspect exists.

- The name, address, home and work telephone numbers, race, sex, and date of birth of any witness, including a child of the vulnerable adult, elder adult, or suspect, and the relationship of the witness to the suspect, vulnerable adult, and elder adult.
- The following information about the incident being investigated:
 - The name of the person who called the law enforcement agency.
 - The relationship of the vulnerable or elder adult and the suspect.
 - Whether alcohol or controlled substance use was involved in the incident, and by whom it was used.
 - A brief narrative describing the incident and the circumstances that led to it.
 - Whether and how many times the suspect physically assaulted the vulnerable or elder adult and a description of any weapon or object used.
 - A description of all injuries sustained by the vulnerable or elder adult and an explanation of how the injuries were sustained.
 - If the vulnerable or elder adult sought medical attention, information concerning where and how the vulnerable or elder adult was transported, whether the vulnerable or elder adult was admitted to a hospital or clinic for treatment, and the name and telephone number of the attending physician.
 - A description of any property damage, or money or property stolen, that is reported by the vulnerable or elder adult or is evident at the scene.
- A description of any previous incidents between the vulnerable or elder adult and the suspect.
- The date and time of the report and the name, badge number, and signature of the peace officer completing the report.
- Certification that the incident has been reported to adult protective services pursuant to section 11a of the Social Welfare Act.
- A lethality assessment for the peace officer to document whether any of the following apply to the relationship between the vulnerable or elder adult and the suspect, to the vulnerable or elder adult's physical or mental health, or to the suspect's behavior:
 - The suspect has engaged in intimidation of the vulnerable or elder adult by threats or yelling.
 - The suspect has used or threatened to use a weapon.
 - The suspect uses or abuses alcohol or a controlled substance.
 - The vulnerable or elder adult is unable or is not allowed to perform *activities of daily living* (see below).
 - The vulnerable or elder adult has open or untreated wounds.
 - The suspect controls the finances of the vulnerable or elder adult.
 - The vulnerable or elder adult is isolated from friends, relatives, or social, recreational, or religious activities.
 - The physical condition of the vulnerable or elder adult appears poor or to be declining.
 - The mental condition of the vulnerable or elder adult appears poor or to be declining.

- The living conditions of the vulnerable or elder adult are poor or substandard.
- There are prior incidents involving the suspect and adult protective services or law enforcement.
- A vulnerable adult assessment that includes all of the following information:
 - Whether the victim is at least 18 years of age.
 - Whether the victim needs help with *activities of daily living* (see below).
 - Whether the victim is unable to protect himself or herself from abuse, neglect, or exploitation.
- A physical risk assessment for the peace officer to document all of the following observations regarding the vulnerable adult or elder adult:
 - Suspected neglect, abuse, or financial harm.
 - Soiled bedding.
 - Soiled bandages.
 - Signs of pain or reported pain.
 - Signs of dehydration.
 - A lack of medication or improper medication.
 - A lock on the outside of an interior door to a room in which the vulnerable or elder adult is living.
 - Bilateral grip marks on any portion of the body of the vulnerable or elder adult.
 - A foul smell.
 - A failure to maintain medical appointments.
 - A lack of access to mobility.
 - Evidence of cleaning prior to the arrival of the peace officer.
 - Inconsistent explanation of care.
 - Signs of malnutrition or lack of food.
 - Narcotic medication.
 - Filthy living conditions.
 - Unusual physical signs.
 - No signs of medication to relieve the vulnerable or elder adult's pain.
- A financial risk assessment for the peace officer to document all of the following regarding the vulnerable adult or elder adult:
 - Evidence of a caregiver whose only income is the vulnerable or elder adult.
 - A caregiver controls the money of the vulnerable or elder adult.
 - Poor or no care being given to the vulnerable or elder adult.
 - Change in ownership of property, including deeds, car titles, and accounts, of the vulnerable adult or elder adult within the last 3 years.
 - Misuse of legal documents to deplete the assets of the vulnerable or elder adult, including documents regarding a durable power of attorney, a guardianship, or a conservatorship.
 - A second mortgage or reverse mortgage given within the last 3 years.

- A recently purchased automobile by the vulnerable or elder adult that he or she does not drive.
- A new or missing credit card.
- Missing valuables or antiques.

The bill would define *activities of daily living* to mean any of the following: walking, talking, cooking, bathing, obtaining or using transportation, sitting, obtaining water or food, getting out of bed, taking medication, banking, or attending medical appointments.

The bill would take effect 90 days after being enacted.

Proposed MCL 764.15h

FISCAL IMPACT:

This bill would have an indeterminate, yet likely nominal, fiscal impact on the Department of State Police and local law enforcement agencies. Any increases in costs would result from the additional reporting requirements, to include personnel hours required to complete the reports and associated administrative costs.

The bill would also create minimal administrative costs for the Department of Attorney General for developing a vulnerable adult/elder adult report form. Any costs would be supported through existing appropriations.

POSITIONS:

The Prosecuting Attorney Association of Michigan is neutral on the bill but supports the concept. (5-17-18)

The Michigan Association of Chiefs of Police indicated opposition to the bill. (5-17-18)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.