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February 10, 2011
10:00 A.M.

CHAIRMEN: Senator Prague
Representative Serra

MEMBERS PRESENT:

SENATORS: Kelly

REPRESENTATIVES: Cook, Frey, Betts,
Tallarita, Villano

REP. SERRA: Good morning. I guess the first speaker is the star of the Department of Social Services, the Honorable Commissioner Mike Starkowski. Morning Commissioner.

COMMISSIONER MICHAEL P. STARKOWSKI: Good morning, Senator Prague, Representative Serra, and distinguished members of the Aging Committee. I'm here today to testify on a handful of bills that could have some impact on either the services we provide at DSS, the eligibility of services and a number of other issues that actually have implications on DSS.

First bill is Senate Bill 365, AN ACT CONCERNING INVESTIGATIONS BY PROTECTIVE SERVICES FOR THE ELDERLY. This bill would amend the current statutory language relating to investigations of suspected abuse, neglect or exploitation of the elderly under the Protective Services for the Elderly program known as the PSE program. The current statute provides immunity from civil or criminal liability to any person making a report of suspected abuse or providing testimony. It notably already provides for liability for purgery.

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This bill would similarly -- this bill would criminalize the actual making of a false or malicious report as a Class D felony if you

made that report to the PSE program. It's taken a number of years for the Department to raise awareness of the PSE program and to actually have people voluntarily come in and provide information where they suspect abuse or they suspect exploitation. It's been very difficult for family members or others or relatives or friends to actually come in and try to divulge information to the agency. We think that if you start to criminalize a situation where it -- there could be -- where we would suspect there was malicious intent, that will discourage people from coming in to make substantiated allegations.

We would be required at DSS to make a determination of what's -- what is or what isn't fraudulent, what is a malicious report, and then it would be up to the Department of Social Services to bring that individual to the criminal justice system based on the preponderance of evidence that we've now made a determination that that individual should be subject to the criminal penalties in this bill.

We understand, and Senator Prague and I have talked about this before, we understand the rationale for having a different system in place. We think that an alternative and a more reasonable alternative would be to provide discretion to the Commissioner to actually make a determination if they feel that a suspected abuse allegation was already sent in within the last six months, that it was already investigated by the Department, the Department felt that there was no abuse, there was no exploitation, and the individual decides that they're going to send in another claim or another allegation of abuse on an elderly individual that the Department should have the discretion to review that, see if

there were any real changes in circumstances. And if there weren't any changes in circumstances and the -- and the individual hasn't proven by their information that they've provided that the -- there was exploitation, that the Department would not have to go through a full investigation.

We do have situations right now. We investigate somewhere in the range of about 3,300 cases a year, sometimes 3,400. Out of the those 3,300 to 3,400 cases, somewhere in the range of 175 to 180 of those cases are repeat cases where someone will come back after the investigation and -- and provide another allegation or a similar allegation. We have some cases that come back three and four times. I mean that number is very small. On an average we probably get about 15 cases a year that -- where somebody will come back a third time, and in recent years we've had four cases where some has come back a fourth time.

The way the law is structured right now, we have to investigate every case. An investigation in every case would require -- requires right now that our social workers go out. They meet with the individual, that is, the elderly individual that there's allegations that that person was exploited. We have about 95 social workers and social work supervisors that work on this program to actually do the investigation on these cases. Those workers also do our ABI program. They do our PCA program. They do a number of other programs that -- where social work is required.

We understand that there's situations where we probably shouldn't have to put the effort in to reinvestigate a case where we've already substantiated there isn't any exploitation or

any abuse, but we feel instead of making that a criminal activity on the person that put in the allegation that the Department should have the discretion to say okay we've reviewed the material that was submitted, we recently investigated this case, there's nothing in here that says that this case has changed or any of this situation has really changed so we're not going to go and impose ourselves and -- and have social workers sent out to interview the individual -- the elderly person that was -- that they said was suspected of being abused.

Just trying to take off the criminal activity on the investigation, understand if there was criminal activity that would be for DSS now to get into a whole different realm of trying to intervene, trying to make a determination that the person that made the allegation was doing it willfully, they were doing it maliciously, it was a false allegation, gathering all that substantiation, going to the judicial system or the authorities trying to say to them here's what we have. And it's difficult, too, to get that elderly individual to come in and then testify that it was something that was done maliciously, and that's going to be hard to do too.

So we think, if we had the discretion to make that judgment ourselves at the Department, we'd end up with the same results that I think that Senator Prague is looking for.

On Senate Bill 366, AN ACT CONCERNING FUNDING FOR ADULT DAY CARE CENTERS, we believe that adult day care centers have always provided a valuable service for our -- our frail elders. We spend about \$12 million a year right now on the program. This proposal would amount to about a 13 percent increase in the rates that

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paying a -- a lower co-pay because there are less services provided. Given the current fiscal climate, we can't support the expansion at this time.

Those are all my remarks. I have staff here if you have any questions and I'd be happy to answer any questions.

REP. SERRA: Senator Prague.

SENATOR PRAGUE: I'm sure you're not surprised, Michael, that I have a couple of questions.

COMMISSIONER MICHAEL P. STARKOWSKI: (Inaudible.)

SENATOR PRAGUE: You know, Michael, we'll start with the first bill. The incident that you and I discussed at length this past summer and fall is the basis of the bill because the family of this elderly person kept complaining, complaining, and your department kept going in to visit this elderly person based on the complaints you continued to get from the family, one family member or the other, and it became a huge problem for this elderly person. It unnerved her. The way your social workers do the interview is that they have to be alone with this person that they're interviewing.

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COMMISSIONER MICHAEL P. STARKOWSKI: That's right.

SENATOR PRAGUE: Which in itself is unnerving because elderly people aren't always comfortable with strangers, number one. It seems to me that this particular case was unfortunate to the elderly person, but maybe fortunate in a way that it's going to make the Department and the Legislature look at this program and see how it can be improved. Now you're suggesting that if the Department gets

two complaints from an -- a family member about a particular elderly person within six months. Is that what you're suggesting?

COMMISSIONER MICHAEL P. STARKOWSKI: Senator Prague, I mean we tried to put a framework in. You know it doesn't have to be six months. It could be another negotiated period if you'd -- if you'd like to change the period. But -- but in essence we're saying if -- if someone's filed a complaint and in a short period of time they file the same complaint and we've done a thorough investigation the first time and there's nothing that's provided to us that would cause us to -- to think that the circumstances have changed at all, then it would be at our discretion to say we're not going to investigate this complaint. So we wouldn't have to go out and interview the elderly individual, and we would close the case right there.

The way the law is written right now, we have to go out and we have to do an investigation, and if we don't do an investigation, we feel that the people that actually made the allegation have a cause of action against the Department for not fulfilling its legal responsibilities.

SENATOR PRAGUE: Okay. I can understand your concern about the liability. We have to work out some language that makes it a better system for the elderly person, and if you want to have somebody in your Department give us some language, we'll take a look at that.

COMMISSIONER MICHAEL P. STARKOWSKI: Okay.

SENATOR PRAGUE: But we must make some positive changes in -- in the program as such.

But I can tell you just as many skilled nursing facilities that come to us for an interim rate increase, I could show the letters that I get from the home health agencies saying the same thing. They're having difficulty hiring staff, maintaining staff, providing benefits for staff and providing the reimbursement that they need to provide to the staff.

So it's -- it's a growing market, it's a burgeoning market, and it's going to be there especially with Money Follows the Person. You know we're going to put more emphasis on the infrastructure. There's more strain on it, but I think it's going to be people that are already in that are going to try to do combinations of funding and -- and try to see where they can actually maintain a revenue stream that's enough to support it.

REP. BETTS: Okay, thank you.

REP. SERRA: Representative Villano.

REP. VILLANO: Thank you Mr. Chair.

Mike, do you have any ready data for us on the incidence of abuse of people in protective services of the elderly. Is it going up or down and what -- what is the trend?

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COMMISSIONER MICHAEL P. STARKOWSKI: Well, what we found lately, I mean, and we -- we looked at it recently and -- and I can't give you the number off the top of my head, but if we investigate 33,000 cases a year, we think that about 25 percent of those cases are substantiated, which is a pretty significant number. That would mean still about 750 to 850 cases a year of substantiated abuse or exploitation or neglect. And that -- and when

those cases are substantiated, remember then we do have to go the next -- and make the next effort to go to the authorities in order to -- to see what we could do with the individual that was doing the exploitation, the individual that was abusing their -- their -- the senior in their family or a senior was a relative of someone.

REP. VILLANO: What is the response time to resolve one of those cases that come to your attention, you know, either abuse, neglect or exploitation?

COMMISSIONER MICHAEL P. STARKOWSKI: The actual process can take a long time. I mean we try to -- try to go out there as soon as possible. We try to go out there within I think (inaudible).

A VOICE: (Inaudible.)

REP. VILLANO: I would think the person would need some immediate attention.

PAMELA GIANNINI: Hi I'm Pam Giannini. I'm the director of the Bureau of Aging and Community and Social Work Services, and I have the responsibility for protective services for the elderly. We triage the cases, Representative Villano, so we have actually different severities, and depending on how severe the case is, we have to go out immediately on some and then depending on what the referral is about if it's -- you know there's different types of abuse. It's either self-neglect or neglect by a caretaker, and then there's financial exploitation, and then there's physical abuse.

On the physical abuse cases, those are immediate. On, you know, neglect by a

caretaker, those are immediate -- within 24 hours is what we consider immediate -- and then others we triage whether it's 72 hours or up to four days to get out to our initial referral.

REP. VILLANO: So what steps do you take to -- to try to guarantee that this doesn't occur again to that person (inaudible) person? Do you move them -- do you move them someplace else?

PAMELA GIANNINI: No our -- our goal with Protective Services for the Elderly is to assist in ending whatever the situation is and hopefully provide that person the ability to stay where they are. If it -- if it's self-neglect, which is the majority of our cases where someone just doesn't know that there are services out there, then what we do is assist them in linking them to the services. Sometimes we have to pay under Protective Services out of our Protective Services account for a few weeks of services until we can link them up to the Connecticut Home Care Program for Elders or find out if they have their own financial ability to pay. Oftentimes people do have the ability to pay on their own. They just don't know how to access the services. So that's just one avenue of how we assist the elderly.

If we find that it's caretaker abuse, we immediately get someone else in. We move that caretaker, if at all possible, and get someone else to take care of that person. So there's various remedies that we work on depending on the situation.

REP. VILLANO: In the past year, have you noticed any trend up or down in the number of reported incidents; in other words, is it getting better hopefully?

PAMELA GIANNINI: Well, our -- our numbers are pretty stagnant over the years. It hangs around between 3,300 and 3,500 cases a year, and it has been that for many years. I've worked with Protective Services for about 20 years in one capacity or another and the trend has stayed the same in Connecticut.

One thing I do -- I'd like to add, though, is nationally and in Connecticut elder abuse is underreported. People don't know to report, so if you look at the national trends, it's just that people hold back from reporting it so -- and what we want is actually more people to report so we can assist them in Connecticut because we have an awful lot of programs to offer people and we think we can help them.

REP. SERRA: Senator Prague.

SENATOR PRAGUE: Pam, where do people report? How do they know that there's a number to call? Where do they get this information?

PAMELA GIANNINI: We -- we have a 1-800 number for Protective Services.

SENATOR PRAGUE: Yeah, but how do you get that out so that people can report?

PAMELA GIANNINI: Well, we have on our web site it's -- it's posted. We do training around the state with providers, with -- at senior centers, you know we work with the area agencies on aging to educate people about elder abuse, and that's how we publicize the number.

SENATOR PRAGUE: So all the senior centers have the 800 number --

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PAMELA GIANNINI: Absolutely.

SENATOR PRAGUE: -- where somebody can call and report what they think is abuse.

PAMELA GIANNINI: Absolutely. If you'd like it, I can give it to you today. It's 1-888-385-4225, that's for reporting any suspected cases of abuse.

SENATOR PRAGUE: I'm going to repeat that, 1-888-385-

PAMELA GIANNINI: 1-888-385-4225 and that's for suspected abuse of a person over the age of 60.

SENATOR PRAGUE: Okay. So when the Commissioner starts picking on me and we're going to report it, we'll have the number.

COMMISSIONER MICHAEL P. STARKOWSKI: As of a couple of days ago that goes the opposite way, too, if you start picking on me.

REP. SERRA: Senator Kelly.

SENATOR KELLY: Thank you, Mr. Chairman.

Thank you, Commissioner Starkowski, for coming here this morning. I appreciate the time you've taken out of what I know to be a very hectic schedule. A couple of questions.

First, what's the average length of time of a Medicaid reimbursement to a home care provider?

COMMISSIONER MICHAEL P. STARKOWSKI: I think the time is -- I mean how long is somebody on the program?

SENATOR PRAGUE: You propose a very interesting system. I think you ought to get in touch with Kathy and see if we could set up a meeting with the Department and see if we can work something out. It's certainly worth looking at. It makes a lot of sense.

JOY MASON: Absolutely. I have one -- one worker that's out in the community from the access agency that -- that has said to me, Joy, if you can find me companions and homemakers to get these people to day care, I'll give you every single one of my clients.

SENATOR PRAGUE: I -- I would urge you to contact Kathy and have Kathy contact us, and we'll set up a meeting with DSS to listen to this proposal.

JOY MASON: Okay.

SENATOR PRAGUE: Okay, thank you.

JOY MASON: Thank you.

REP. SERRA: Thank you.

Mag Morelli followed by Ron Winter.

MAG MORELLI: Thank you, Senator Prague, Representative Serra, members of the Committee. My name is Mag Morelli, and I'm the president of the Connecticut Association of Not-for-Profit Providers for the Aging, CANPFA, and on behalf of CANPFA I'd like to submit testimony on all the bills that are before you today and speak to three of them.

CANPFA is a membership organization representing over 130 mission driven and not-for-profit providers serving elderly and disabled individuals across the continuum of

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option for older adults enrolled in the Home Care Program for Elders.

On Senate Bill 365, AN ACT CONCERNING INVESTIGATIONS BY PROTECTIVE SERVICES FOR THE ELDERLY, we'd like to raise a concern with Section 2(a)(2) of this proposal. We do not understand why this bill is seeking to enable the state to ignore a report of suspected abuse, neglect, or exploitation to protective services for the elderly based only on the timing of the report.

If we're correct in our interpretation, the bill is proposing that if someone were to make a report of suspected abuse or neglect and the state protective services were able to find no basis to that report, then the state could ignore all subsequent reports regarding the same elderly person within a six-month period, unless the subsequent reporter, some of whom may be mandated reporters, provide by a preponderance of evidence that the person is being abused or circumstances have changed. This seems to be an unwarranted and arbitrary timeline for inaction and an onerous standard for the reporter. We therefore raise the concern that this proposal may not be in the best interests of the vulnerable elderly population we serve.

And finally on Senate Bill 149, AN ACT CONCERNING IMPROVED SOCIAL WORKER TO RESIDENT RATIO IN NURSING HOMES, it is difficult for CANPFA to comment on the impact of this bill because it does not include the specific social-worker-to-resident ratio that would be required. However, while modifications to minimum staffing requirements for social workers may not affect every nursing home, it can be expected that an increase in requirements would have a fiscal impact on

many facilities. Therefore any such proposal must include an increase in Medicaid nursing home rates sufficient to cover the cost of the new requirement and to allow homes that currently meet whatever new standards are the ability to maintain their staff.

Thank you for this opportunity to -- to provide this testimony, and I would be happy to answer any questions.

REP. SERRA: Any questions?

Thank you.

MAG MORELLI: Thank you.

REP. SERRA: Next up is Ron Winter.

Good morning.

RON WINTER: Good morning, sir. Thank you.

REP. SERRA: Mr. Winter, if I may say something. Other than Representative Frey, Senator Prague and I have listened to your -- your problem and concern so if you could just really summarize it, we would appreciate it.

RON WINTER: I can do that sir.

REP. SERRA: Thank you.

RON WINTER: On December 22, 2008, my widowed mother, Ella Winter, then age 91, permanently relocated to my home from the Albany, New York area, after living alone for nearly a decade. She had been hospitalized the previous week with potassium deficiency and dehydration. Within days after much needed sleep and adjustments to her nutritional needs, mom regained her faculties but quickly discovered

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that my sister had kept her checkbook in New York.

My mother and sister argued about this for a week, and Mom then rescinded my sister's power of attorney and began transferring her assets to Connecticut. My sister and brother responded by suing my mother in Albany Supreme Court, attempting to force her into an Alzheimer's home near Albany with my sister in possession and control of all of Mom's finances.

But after a grueling day of testimony in late March 2009, Mom won. The suit was dismissed and she was declared competent. My family then employed a different tactic making a myriad false complaints of elder abuse to the Connecticut Department of Social Services, sparking repeated investigations to harass my mother, my family, and myself. They have done this for more than a year, rotating the false complaints between four of them, all claiming that Mom is being abused in our home.

A DSS investigator came to our home unannounced in June 2009 and was given full access to my mother. The investigator concluded that the allegation, made in that case by my sister, was false and the matter was closed. But the complaints continued unabated.

During the second investigation, I also reported that my mother had suffered a bout of stress or fear induced delirium, which is potentially fatal to the elderly, after the previous visit. Mom's doctor diagnosed that attack in writing attributing it to fear over my family's relentless pressure to force her back to New York and into the nursing home.

DSS has formally contacted us four times with two visits to our house and one full investigation. Each contact has resulted in another bout of delirium. DSS has told me that they are required to conduct a new investigation each time they receive what they call new information, and one staffer said that, if they receive 100 complaints, they will conduct 100 investigations. The DSS has become, in effect and in fact, my mother's abusers.

I'll repeat that. The DSS has become, in effect and in fact, my mother's abusers.

The proposed changes to the elder abuse law will give the state the power and hopefully the responsibility to file formal charges against anyone who does this in the future.

There is no change to the existing laws protecting the elderly and no reason to fear prosecution for reporting real abuse or even making a mistake. But malicious false reports will carry a stiff penalty as they should. I strongly urge this panel to approve these changes and truly protect Connecticut's elderly citizens.

REP. SERRA: Any questions?

SENATOR PRAGUE: I want to ask Ron a question.

REP. SERRA: Senator Prague.

SENATOR PRAGUE: Thank you, Mr. Chairman.

I want to go back, Ron, to the testimony that Mag Morelli just gave us. Here it is.

Mag, are you still here? Where are you?
Would you mind coming up. This is a very

important issue for the elderly, and we really have to get this right.

The Department has to change the way they respond to every call they get. Yet on the other hand we don't want to overlook a call that might be valid. On the other hand I went to visit Mrs. Winter, and she, you know, is well cared for. She visibly enjoys herself where she is, and this constant disruption of her life by her family members is -- it's upsetting for her and it's physically damaging as well as emotionally.

So -- but you don't support the bill as written.

MAG MORELLI: No.

SENATOR PRAGUE: Do you have any suggestions?

MAG MORELLI: Sure. You know sometimes it's hard to -- to review these bills sort of out of context, so what we did is we raised a concern. We really didn't object to it, but we raised a concern to the second part of the bill. The first part makes the bill -- makes it a -- a Class D felony, I think, to wilfully make these reports which I think in a -- in a situation like this appears to be a good weapon to use to someone who is repeatedly providing false reports for harassment.

The second part, though, sort of puts that arbitrary six months -- if the Department has investigated something and they get a second report on someone, then they have the, you know, discretion not to investigate it again if it came within the six months and we just thought, well, that's very arbitrary because there's a lot of -- there's some mandating reporting that needs to be done to protective

services. The Federal Justice Act has put in additional requirements for providers to make reports, and we've been encouraging people to use protective services as one of those reporting mechanisms. So the concept that if I make a report because I think someone -- I sense something and -- and nothing is found, someone else makes a report three months later, you know, should the state be left off the hook of investigating that just because it came within the six months?

But I think Commissioner Starkowski addressed it and said, you know, there's more discretion. You know give them some discretion to say, oh, this is the same person, and we're going to investigate that they may be wilfully reporting first, is just ignoring something that comes within the six months.

So I'd -- I'd be comfortable with seeing that -- that our concern is addressed in that matter.

SENATOR PRAGUE: Okay, so if it's a mandated reporter like a physician, like the EMS people who work at the fire departments who are always called when there's an emergency -- I don't know who else a mandated reporter is, probably the VNA or something.

MAG MORELLI: Well, it's hard to make it -- it's hard to make it black and white because maybe a cluster of reports might mean something. You know maybe the postman reports something because the mail is not picked up. Maybe somebody else -- you know a cluster might mean something. I think it's hard to sort of put a black and white, you know, threshold on -- on when they can look at it and when they can't, but I could see if there's a problem.

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REP. SERRA: But -- but I think the Commissioner said that that was negotiable, it wasn't necessarily six months.

MAG MORELLI: Right.

REP. SERRA: So it's something that this Committee will take a hard look at with a little more discussion and I agree with you.

SENATOR PRAGUE: Do you have a time frame in mind that you think would be appropriate if these reports keep coming in?

MAG MORELLI: I don't know if source of report versus timing of report maybe. I don't know if the first piece of this legislation might help avoid needing that second piece because, if someone within this period of time gives one or two, you know, willfully false reports then that -- that person will be -- charges will be brought against that person so that reporter would be taken care of.

REP. SERRA: See the issue -- the issue I -- at least to my understanding is the fact that if DSS comes out this week, a complaint comes out two weeks from now again from the same person or some -- they're back out again and they're back -- the same situation and -- and they find nothing, you know, no change after their first investigation, that's what we're trying to deal with.

MAG MORELLI: Right.

REP. SERRA: And this -- this is not isolated. This is the same pattern. So Commissioner Starkowski said he would look at it. I think six months was just put in as a number. It's subject to negotiations so this Committee will

take a hard look at it.

MAG MORELLI: We -- we would like to be helpful in looking at that, really.

SENATOR PRAGUE: Okay.

MAG MORELLI: And we'll take -- knowing the circumstances and what DSS is trying to get at right now, maybe we can come back with some suggestions.

REP. SERRA: All right. Thank you.

SENATOR PRAGUE: That would be helpful. Ron do you want to comment on -- Ron was the one who actually was taking care of the mother.

RON WINTER: On the issue of discretion, I did have a phone conversation with -- with Commissioner Starkowski at Senator Prague's recommendation, and I was very, very discouraged when I had that conversation because it went from nonproductive to counterproductive. At that time it was pending the fourth investigation. My mother went into her worst bout of delirium, and these are awful. I don't know if you're familiar with them, but they're awful. They literally -- the person goes into almost a catatonic state. You have to give them 100 percent care and this one -- this last one lasted a week, and we thought she was going to die and -- and it -- and then coming up out of it was another week, and to be honest with you she hasn't truly recovered.

But when I said to the Commissioner, this was in September, all right how about if I withdraw my objection to you guys coming one more time and -- and if you get another complaint in October, which we're pretty certain you probably will because this is just

harassment, will you then tell these people you've been here and you've investigated us yet again, and he told me, No, I won't give you that guarantee. We don't know that what we might miss in September might be found in October.

And I said, Well, for God sake that's a presumption of guilt. You've already been to my house. The Senator's been to my house. Lawyers have been to my house. Social workers have been to my house. I've got so much company I ought to just open up a barbecue out there. But the thing of it is there was never anything to find, and every one of the people who made a complaint was directly related, involved in the lawsuit in New York, and the -- the shenanigans that went on there were -- were enough to make you -- they were astounding, they were appalling.

And I'll tell you something, I have been writing about this now as a columnist for the -- for the Connecticut Watchdog.com, and I'm getting phone calls every day every time I write a column. This is going on all over the state, and you've been up here talking about money, as well you should be. If people can take their parents or -- or closer relatives into their homes and care for them instead of putting them into the system, you're saving, according to Blum Shapiro, somewhere with the potential of a billion dollars a year in the coming years.

But who in their right mind is going to take a -- a person into their home when there's so much of this -- this fighting going on over people's assets in the probate courts and elsewhere if they know that every time they turn around somebody only has to pick up the phone, make a false complaint and the next

thing there's going to be a knock on the door. They come unannounced. They tell you get out of the way I'm coming in, I'm talking to this person. They wander through your house collecting evidence. You don't have any rights. They'll tell you to get out -- they told me we're not -- you don't -- we don't want you in your house while we talk to your mother because we don't want you to influence her.

Do you know why I sit near my mother when somebody comes to talk to her? She's very hard of hearing, and she might misunderstand you. She often does and she goes off on a tangent, and you'll be twenty minutes waiting to get a word in and she'll be on something else.

REP. SERRA: Mr. Winter, we're well aware of the situation because we had private meetings with you.

RON WINTER: Yeah.

REP. SERRA: We know that. I think Commissioner Starkowski shouldn't have to be defending the Department. I -- I mean if it's in statute, he has a responsibility whether we like it or not. We're looking to work with you to change that. So that's all I have to say.

RON WINTER: I understand that. Actually, I wish the Commissioner hadn't left because I would have rather had him sitting up here so we could go. But I'll give you one suggestion because I do work in media relations and marketing. That 800-888 number that's -- that's no good. It's on websites and in -- in senior centers so a few people will get it. You want to do something like that you've got to have a catch phrase. You've got to have a

way to get it out there, and you've got to let people know. My suggestion is 1-800-SAVEMOM. Come up with something like that. People will think about it, they'll remember it. Put it on the bus stops or something.

SENATOR PRAGUE: (Inaudible.)

RON WINTER: Senator, I -- I did make the other suggestion. I didn't think that -- that the legislation went far enough. I mean the time frame that's something that can be discussed because I was kind of iffy about that myself. I pretty much agree with you on that. The time frame was -- that was something that we were kicking around.

My personal feeling is I don't think it takes very much effort at all to find out whether a complaint is justified or not justified. When a person can come into your house and go through your house, you sit down and you have full access to the person that's involved and interrogate them, they got to know one way or another when they leave. They told me they did. But -- but they're not -- they're not having a hard time determining if the situation is there or -- or is not there. And -- and my feeling is not that the -- the Commissioner should have the opportunity or the ability, he should have the requirement to report this to the Chief State's Attorney's office.

They've got their own -- own division for elder abuse. If somebody is being abused, then they should go -- go look into it. But it's just as bad, it's just as much abuse.

Senator, do you remember when my mother said last time you visited when is someone going to listen to me? That's exactly what she said:

"When is someone going to listen me, I don't want them here anymore but they keep coming."

You know what it reminded me of? It reminded of that thing about the -- the boy scout comes home all beat up and disheveled. And his father says to him, Where have you been? And he says, I was helping an old lady across the street. And he says, Why do you look like that? He said, She didn't want to go. It's -- it's like that. It's -- it's like no one is listening. It's the most frustrating think I've ever been involved in. No one is listening. The law says this, that's what we're going to do it.

And every single time they came, she had another bout of delirium. Her doctor said this is what's causing it, and they said the law says we've got to do it. And I would also make a point that if you go into the law as it exists right now, there are areas of that law where the Commissioner does have discretion. You don't have to make that all black and white. There are areas of that law where the Commissioner did have discretion and chose not to use it.

REP. SERRA: Thank you.

RON WINTER: Thank you.

REP. SERRA: Mary Ann -- Mary Ann Klember, followed by Stephen Karp.

MARY ANN KLEMBER: Good morning Representative Serra and Senator Prague and members of the Aging Committee. I'm Mary Ann Klember. I am the director of Senior Care of East Hartford, an adult day health center. I'm here to speak on behalf of Connecticut's 46 adult day centers.

SB 3166

canpfa

The Connecticut Association of Not-for-profit Providers For the Aging

Testimony to the Aging Committee

Presented by Mag Morelli, President

February 10, 2011

Regarding

- **Senate Bill 149, An Act Concerning Improved Social Worker to Resident Ratios In Nursing Homes**
- **Senate Bill 365, An Act Concerning Investigations by Protective Services for the Elderly**
- **Senate Bill 366, An Act Concerning Funding for Adult Day Care Centers**
- **Senate Bill 774, An Act Increasing Eligibility for the Alzheimer's Respite Care Program**
- **Senate Bill 775, An Act Increasing Eligibility for the Connecticut Home Care Program for the Elderly**
- **House Bill 5499, An Act Concerning Financial Assistance to the State's Assisted Living Pilot Projects**
- **House Bill 6155, An Act Reducing the Individual Contribution under the State Funded Home Care Program for Elders**

Good morning Senator Prague, Representative Serra, and members of the Committee. My name is Mag Morelli and I am the president of the Connecticut Association of Not-for-profit Providers for the Aging (CANPFA). On behalf of CANPFA I would like to submit testimony on all of the bills that are before you today and speak to three of the bills.

CANPFA is a membership organization representing over 130 mission driven and not-for-profit provider organizations serving elderly and disabled individuals across the continuum of care including nursing homes, residential care homes, housing for the elderly, continuing care retirement communities, adult day centers, home care and assisted living agencies. CANPFA members are sponsored by religious, fraternal, community, and governmental organizations that are committed to providing quality care and services to their residents and clients. Our member organizations, many of which have served their communities for generations, are dedicated to providing the services that people need, when they need them, in the place they call home.

CANPFA promotes a vision in which every community offers an integrated and coordinated continuum of high quality and affordable long term health care, housing and community based services. We strongly support the principles of ensuring choice for our seniors regardless of where they fall on the continuum and of investing in services and reforms that will ensure that choice. With this in mind, I submit the following testimony:

Senate Bill 366. An Act Concerning Funding for Adult Day Care Centers

CANPFA supports Connecticut's commitment to building a balanced system of long term care services for our elderly and chronically ill. But quality services cannot be sustained without adequate rates of reimbursement – and without adequate reimbursement, not only will a balanced system of long term care fail to thrive, but long standing, high quality providers within that system will be lost. This principle applies to adult day centers.

Adult day centers are a wonderful community-based long term care resource, but they are endangered by the current low rate of reimbursement they receive from the Connecticut Home Care Program for Elders. Adult day centers provide older adults who are living in the community with the medical care and social interaction they need during the day within a supervised and structured environment. A comprehensive menu of services is offered and "door to door" transportation is provided to and from home. Centers also serve a strong role in care coordination and caregiver support. They can provide respite to family caregivers and allow others to continue working while serving as the primary caregiver for their loved one at home.

Right now the adult day centers are losing on average \$17.78 a day when they care for a Connecticut Home Care Program for Elders client and it is very difficult for these centers to make up this loss through other payer sources. Yet participation in an adult day center program can help families to delay and often avoid nursing home placement, making it an extremely cost effective option for the state – even at a rate of \$75 a day as is proposed in this bill. **It therefore makes sense to provide this rate increase to the adult day centers** in an effort preserve their existence as a viable and *cost effective* option for older adults enrolled in the Connecticut Home Care Program for Elders.

Senate Bill 365. An Act Concerning Investigations by Protective Services for the Elderly

CANPFA would like to raise a concern with Section 2(a)(2) of this proposal. We do not understand why this bill is seeking to enable the state to ignore a report of suspected abuse, neglect, exploitation or abandonment or the need for protective services of an elderly person based only on the timing of the report. If we are correct in our interpretation, this bill is proposing that if someone were to make a report of suspected abuse, neglect, exploitation or abandonment or the need of protective services and the State Protective Services were to find no basis to that report, than the state could ignore all subsequent reports regarding the same elderly person within a 6 month period - unless the subsequent reporters (some of whom may be mandated reporters) prove "by a preponderance of the evidence" that the person is being abused or circumstances have changed. This seems to be an unwarranted and arbitrary timeline for inaction and an onerous standard for the reporter. We therefore raise the concern that this proposal may not be in the best interest of the vulnerable elderly population that we serve.



Greater Hartford Legal Aid

**Written Testimony of Marilyn Denny, Staff Attorney
Greater Hartford Legal Aid, Inc.**

Regarding SB 365, An Act Concerning Investigations by Protective Services for the Elderly

Good morning Chairs and members of the Committee on Aging. My name is Marilyn Denny and I am a staff attorney at Greater Hartford Legal Aid. As such, I specialize in elder law.

I am here today to testify regarding SB 365. This proposal arose out of a case where I was representing an elderly woman living with and being cared for by one of her sons and his family. Some members of my client's family attempted to have her conserved and institutionalized when she lived in New York State. She had modest savings, and she had to use a considerable portion of these to hire an attorney to help her retain her ability to make decisions for herself. She prevailed. As a result of this family dispute, her son invited her to come and live with his family in Connecticut. She accepted this invitation and has now been in Connecticut for about a year.

Her family in New York, however, did not accept the decision of the Probate Court in New York and, in her words, continues to try to control her life. One strategy they use is to call Connecticut's Adult Protective Services to report that she was being neglected. Adult Protective Services responded to the first call and sent a worker to interview her and to examine her living conditions. After a long interview, the worker concluded that there was no cause for concern. However, the family continued to lodge complaints. When a second worker appeared at the door and my client was alone, she refused to let the worker in. When her New York relatives appeared at the door, she also refused to let them in. Two doctors have now stated that she is well and well cared for, but the threat to her health comes from the repeated accusations made by her New York relatives to Adult Protective Services.

Clearly the potential for misusing the protective services system by filing false reports is real. The difficulty comes in weighing the benefits of limiting situations that merit a full-fledged investigation and giving too much discretion to DSS to make this decision without the benefit of objective criterion. SB 365 attempts to create penalties for someone engaged in making fraudulent or malicious reports and allows DSS to use its discretion in determining when an investigation need not be pursued. CGS 17b-452 already gives DSS some discretion to not pursue an investigation but standards and conditions need to be promulgated in order to objectively guide their decision making.

SB 365 needs to be further tweaked in order to honor the intent behind this bill. Questions such as whether a hearing would be required to determine proof by a preponderance of the evidence, how a change in health or living conditions would be proven and how to link those changes to the prior visits from protective services, still need to be answered. The proposed language must also be drafted in a way that doesn't result in a "chilling" effect on those considering filing legitimate reports. Legal Services is happy to be involved in any further discussion in pursuit of developing this language.



Testimony before the Aging Committee

Michael P. Starkowski, Commissioner

February 10, 2011

S.B. No. 365 AN ACT CONCERNING INVESTIGATIONS BY PROTECTIVE SERVICES FOR THE ELDERLY.

SB 365 would amend the current statutory language relating to investigations of suspected abuse, neglect or exploitation of the elderly under the Protective Services for the Elderly (PSE) program. The current statute provides immunity from civil or criminal liability to any person making a report of suspected abuse or providing testimony. It notably already provides for liability for perjury. In addition to classifying willfully false testimony in any administrative or judicial proceeding arising from a false or malicious report of abuse as a Class D felony, this bill would similarly criminalize the actual making of such report to the PSE program.

It has taken a number of years to raise the awareness of elder abuse in our communities and encourage reporting of suspected incidences. Experience shows that by providing anonymity and protection from liability to reporters, the number of reports has substantially increased thus identifying a number of elders who would have otherwise suffered in silence. Granted, not every case can be substantiated, but the punitive language of this amendment will surely discourage some from making reports for fear of prosecution. Further, the department would be required to make a determination of what is or is not a fraudulent or malicious report before involving the criminal justice system which already cannot handle the volume of prosecutions of suspected perpetrators of the various forms of abuse. Unfortunately this amendment would change the focus of this statute away from the importance of reporting suspected abuse..

The department is opposed to section 1 of the bill.

There is merit, however, in giving the commissioner some options in reinvestigating reports of unsubstantiated abuse made within a relatively short period of time from an initial report. Department experience reflects that subsequent reports have revealed a change in circumstances or willingness to accept services which would be in the best interests of the elderly person. The department would support a standard of reasonableness within the commissioner's discretion rather than "proof beyond a

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HB6155

preponderance of the evidence” to determine whether or not the department pursues a further investigation. Possible substitute language for this section is provided below:

(2) If the commissioner receives a subsequent report alleging abuse, neglect, exploitation or abandonment of, or the need for protective services for, an elderly person who was the subject of an investigation under subdivision (1) of this subsection, within six months of having received such report pertaining to the same elderly person and having concluded that protective services were not needed, the commissioner shall not be required to investigate the subsequent report unless the person filing the subsequent report proves that the elderly person (A) is being, or has been, abused, neglected, exploited or abandoned, or is in need of protective services, or (B) has experienced a change in caretaker, living conditions or health since such investigation.

The department supports section 2 as amended.

S.B. No. 366 AN ACT CONCERNING FUNDING FOR ADULT DAY CARE CENTERS.

Adult Day Care is a valuable service provided to our frail elders. We currently spend a little over \$12 million per year on the program. However this proposal amounts to an approximately 13% increase in adult day care rates which would add a cost to the program of \$1,675,000 per year. Although the increase may be justifiable, given the current budget deficit, the Department cannot support this increase.

S.B. No. 774 AN ACT INCREASING ELIGIBILITY FOR THE ALZHEIMER'S RESPITE CARE PROGRAM.

SB 774 proposes to increase the annual eligibility requirement for an individual with Alzheimer's Disease from \$41,000 to \$50,000 effective July 1, 2011.

The Department opposes the increase in income limits for this program because doing so would likely reduce the amount of funds available to lower income clients, who, with limited resources, are the greatest users of this program and most in need of respite services.

In addition, it should be noted that, under PA 09-75, the annual eligibility requirement for an individual with Alzheimer's Disease was already increased significantly from \$30,000 to \$41,000 effective July 1, 2009. An additional increase at this time of limited resources is not recommended.

S.B. No. 775 AN ACT INCREASING ELIGIBILITY FOR THE CONNECTICUT HOME-CARE PROGRAM FOR THE ELDERLY.

Raising the asset limit as proposed in SB 775 will clearly impact demand for the program. The proposal would increase the current asset limit by over 100%. We

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of heart, and I am grateful to each and every one of you.

Thank you very much. Do not get used to this seat being empty. I will be in it.

SPEAKER DONOVAN:

Hurray! Thank you, Representative Backer.

Thanks, Representative. Great to see you back. We all missed you and we will see you soon.

And with that, thank you, Terry, and with that, will the Clerk please call Calendar Number 587.

THE CLERK:

On Page 28, Calendar 587, Substitute for Senate Bill Number 365 AN ACT CONCERNING INVESTIGATINS BY PROTECTIVE SERVICES FOR THE ELDERLY. Favorable Report of the Committee on Public Safety and Security.

DEPUTY SPEAKER ORANGE:

Representative Michelle Cook, you have the floor.

REP. COOK (65th):

Good afternoon, Madam Speaker, and I'm not exactly sure how I can follow that, but I will try.

Madam Speaker, I move acceptance of the Joint Committee's Favorable Report and passage of the Bill in concurrence with the Senate.

DEPUTY SPEAKER ORANGE:

The question is acceptance of the Joint Committee's Favorable Report and passage of the Bill in concurrence with the Senate. Representative Cook.

REP. COOK (65th):

Madam Speaker, this Bill expands the circumstances under which DSS Commission may not interview an elderly victim of alleged abuse alone as a part of an abuse investigation, as well as eliminates an exception from immunity for bad faith and malicious elder abuse reports, thereby immunizing people who make such reports from civil liability.

Madam Speaker, the Clerk is in possession of Senate Amendment 6413. I ask that he call it and be allowed to summarize it.

DEPUTY SPEAKER ORANGE:

Will the Clerk please call LCO 6413 designated se Senate "A".

THE CLERK:

LCO Number 6413, Senate "A", offered by Senator Prague and Representative Serra.

DEPUTY SPEAKER ORANGE:

The Representative seeks leave of the Chamber to summarize. Is there objection? Seeing none, Representative Cook.

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REP. COOK (65th):

Thank you, Madam Speaker. Madam Speaker, in line 34, this Amendment simply, after the word physician, inserts having examined the elderly person not more than 30 days prior to, or after the date on which the Commissioner receives such a report.

In line 37, strikes the word upon.

In 38, strikes entirety.

And in line 38 strikes interview in the presence of its elderly person counsel.

I move adoption.

DEPUTY SPEAKER ORANGE:

Will you care to remark further on Senate Amendment "A"? Will you care to remark on Senate "A"?

If not, let me try your minds. All those in favor please signify by saying Aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER ORANGE:

All those opposed, Nay. The Ayes have it. The Amendment is adopted.

Will you care to speak further on the Bill as amended? Will you care to speak further?

Representative Floren, good afternoon.

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REP. FLOREN (149th):

Thank you, Madam Speaker. Through you, just a few questions for the proponent.

DEPUTY SPEAKER ORANGE:

Please proceed.

REP. FLOREN (149th):

Could you explain the genesis of this Bill? I know it was one of our important aging bills, and I just thought it would be good if you could explain the magnitude of the problem so that people understood why we brought this forward. Thank you.

DEPUTY SPEAKER ORANGE:

Representative Cook.

REP. COOK (65th):

Thank you, Madam Speaker. Madam Speaker, there was in testimony in Committee, significant testimony regarding the abuse of which people take in nursing homes and the way that we go about investigating them, as well as the fraudulent investigations and how we look at the reports and how many times somebody can constantly report abuse and how it's investigated, and it's indirect how that came upon our, in front of our Committee. Thank you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

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Representative Floren.

REP. FLOREN (149th):

Thank you very much for that answer, and just one other question, through you, please.

DEPUTY SPEAKER ORANGE:

Please proceed.

REP. FLOREN (149th):

Wasn't it one of the most important parts of this legislation that we brought the medical community into the process, in addition to the police, I guess.

DEPUTY SPEAKER ORANGE:

Representative Cook.

REP. COOK (65th):

Through you, Madam Speaker, yes.

DEPUTY SPEAKER ORANGE:

Representative Floren.

REP. FLOREN (149th):

Thank you. I wholeheartedly support this, and it's another example of how wonderful it was that our Select Committee on Aging was given status as a full Committee because I think that this is indicative of the kind of work we were able to do. Thank you very much.

DEPUTY SPEAKER ORANGE:

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Thank you, madam. Will you care to remark further on the Bill as amended? Will you care to remark further? Representative Giegler, you have the floor, madam.

REP. GIEGLER (138th):

Thank you, Madam Chairman. A question, through you to the proponent of the Bill.

DEPUTY SPEAKER ORANGE:

Please proceed.

REP. GIEGLER (138th):

My question to you, on the investigations of elderly, is that, I think you alluded to the fact that it was different facilities.

Now how does it affect those that are elderly that are living, I'm trying to see where, I just noticed where Michelle was. I didn't see her. Those that are living with family members.

Also, those that may have been living in homes, or those that are in like an almost home situation. How is that kind of abuse informed?

DEPUTY SPEAKER ORANGE:

Representative Cook.

REP. COOK (65th):

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Through you, Madam Speaker, to the good Representative. Yes, it does include all of those people in circumstances of which she has recognized, and you would go through DSS with a complaint as you would with any other complaint, whether you're in a home or a residence, and proceedings would go from there. Through you.

DEPUTY SPEAKER ORANGE:

Representative Giegler.

REP. GIEGLER (138th):

Thank you, Madam Speaker. As a follow up to that, if there is an elderly person living with a family member and it's the family member that's doing the abuse and the elderly person is not leaving the home, who would be the one reporting this abuse?

DEPUTY SPEAKER ORANGE:

Representative Cook.

REP. COOK (65th):

Through you, Madam Speaker, that person could be anyone that the elderly person confides in, whether it be a neighbor, another family member, anyone who has the ability to speak for that elderly person who may not be able to speak for themselves. Through you.

DEPUTY SPEAKER ORANGE:

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Representative Giegler.

REP. GIEGLER (138th):

And just having had an opportunity to review the Bill, and it refers to physicians. If an elderly individual is seen on say, a regular health checkup and the physician has concerns about that individual, can they file the abuse as well with the Department?

DEPUTY SPEAKER ORANGE:

Representative Cook.

REP. COOK (65th):

Through you, Madam Speaker, yes.

DEPUTY SPEAKER ORANGE:

Representative Giegler.

REP. GIEGLER (138th):

I thank you very much for your answers, and I, too, support this Bill. I think elder care is something we really need to focus on at this time, when we have an aging population and there's more elderly that are living with family members or in residences. We really need to protect them from any kind of abuse and I support this Bill. Thank you.

DEPUTY SPEAKER ORANGE:

Thank you, madam. Will you care to remark further on the Bill? Will you care to remark further on the Bill as amended?

If not, staff and guests please come to the Well of the House. Members take your seats. The machine will be opened.

THE CLERK:

The House of Representatives is voting by Roll Call. Members to the Chamber.

The House is voting by Roll Call. Members to the Chamber, please.

DEPUTY SPEAKER ORANGE:

Have all Members voted? Have all Members voted?
Have all Members voted? Have all Members voted?
Please check the board to determine if your vote has been properly cast.

If so, the machine will be locked and the Clerk will take a tally, please. Will the Clerk please announce the tally.

THE CLERK:

Senate Bill 365 as amended by Senate "A" in concurrence with the Senate.

Total Number Voting 145

Necessary for Passage 73

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Those voting Yea	145
Those voting Nay	0
Those absent and not voting	6

DEPUTY SPEAKER ORANGE:

The Bill passes in concurrence with the Senate.

DEPUTY SPEAKER ORANGE:

Will the Clerk please call Calendar Number 625.

THE CLERK:

On Page 32, Calendar 625, Substitute for Senate
Bill Number 11 AN ACT CONCERNING THE RATE APPROVAL
PROCESS FOR CERTAIN HEALTH INSURANCE POLICIES.

Favorable Report of the Committee on Appropriations.

DEPUTY SPEAKER ORANGE:

Representative Megna.

REP. MEGNA (97th):

Thank you, Madam Speaker, and good afternoon.

Madam Speaker, I move the Committee's Joint Favorable Report and passage of the Bill in concurrence with the Senate.

DEPUTY SPEAKER ORANGE:

The question is acceptance of the Joint Committee's Favorable Report in concurrence with the Senate.

Representative Megna.

REP. MEGNA (97th):

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Madam President, one other item to mark go, A matter from the General Law Committee, Madam President, it appears on Calendar page 45, Calendar 410, House Bill 5021, Madam President, I believe that item requires an amendment that will require that bill to be returned to the House. And that's why we're marking that bill today.

Thank you. Madam President.

THE CHAIR:

Thank you, Senator.

Now Mr. Clerk, the first order of the day.

THE CLERK:

Madam President, calling from Calendar page 32, Calendar Number 144, substitute for Senate Bill Number 365, AN ACT CONCERNING INVESTIGATIONS BY PROTECTIVE SERVICES FOR THE ELDERLY, Favorable Report on the Committee on Aging, Human Services, Judiciary and Public Safety, and the clerk is in possession of amendments.

THE CHAIR:

Good afternoon, Senator Prague.

SENATOR PRAGUE:

Good afternoon, Madam President; nice to see you up there.

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THE CHAIR:

Same here; nice to be here.

SENATOR PRAGUE:

Thank you.

Madam President, I move the Joint
Committee's Favorable Report and passage of the
bill.

THE CHAIR:

Acting on approval of the bill, will you
remark further, ma'am.

SENATOR PRAGUE:

Madam President, the underlying bill deals
with the system that we currently have in place
over at the Department of Social Services. It's
the Adult Protective Services and it deals with
abuse and neglect of the elderly.

There have been some abuses of this service.
The Department of Social Services offers -- and
the bill before us actually deals with people who
make fraudulent or malicious reports about an
elderly person and the Department goes out and
investigates and they continue to make these
malicious and fraudulent reports which is very
upsetting to the elderly person and the family

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that the elderly person is living with.

So what the bill does is to make it a Class A misdemeanor for a person to report elder abuse fraudulently or maliciously. And it can result in a potential fine. There is an amendment that the clerk has and its LCO 6413. Would he please call the amendment and I be allowed to summarize?

THE CHAIR:

Mr. Clerk, will you call 6413, please?

THE CLERK:

Madam President, the Clerk is in possession of LCO Number 6413, which shall be designated Senate Amendment Schedule "A". This amendment is introduced by Senator Prague of the 19th and Representative Serra of the 33rd.

THE CHAIR:

Thank you.

Senator Prague.

SENATOR PRAGUE:

Thank you, Madam President.

The amendment before us is --

THE CHAIR:

Would you like to move adoption?

SENATOR PRAGUE:

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I move adoption. Thank you.

THE CHAIR:

Questions on adoption, will you remark?

SENATOR PRAGUE:

The amendment before us was language that we worked out with the Department. They required that the elderly person have an examination by a physician not more than 30 days prior to or after the date on which the report was received by the Commissioner at the Department of Social Services. The rest of the amendment is technical; it eliminates a word here and a word there. But it also strikes in line 38, that the interview of the elderly person has to be in the presence of the elderly person's counsel.

This program -- it was there when I was the Commissioner of the Department of Aging, this program is a very good program but there are times when family members who want to get even with another family member, who abuse the program and consequently when the program is abused and the elderly person is subjected to constant interviews by the Department it's very upsetting mentally and physically for this elderly person.

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And this language before us will correct that and attempt to stop other family members from abusing the system.

So I move adoption of the amendment and I would take a role -- I would take a voice vote on the amendment.

THE CHAIR:

Okay. Will you remark further? Will you remark further?

If not, all in favor please say, aye.

SENATORS:

Aye.

THE CHAIR:

Opposed?

The amendment is adopted.

SENATOR PRAGUE:

Thank you, Madam President.

THE CHAIR:

Senator Prague.

SENATOR PRAGUE:

And with that it makes it a better bill and I would ask for roll call, please.

THE CHAIR:

Yes.

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Will you remark further? Will you remark further?

Senator Kelly.

SENATOR KELLY:

Thank you, Madam President.

I rise in support of this bill. I believe as Senator Prague that this makes a good bill better in that we are going to continue to require mandatory reporters to continue to report these -- these allegations against elderly individuals. But what we're really aiming to do is to -- I'm going to say, reign in those individuals that aren't making bona fide claims and so that we do not use State resources inefficiently pursuing those. So I rise in support of the bill and would urge its passage.

Thank you.

THE CHAIR:

Thank you, Senator.

Will you remark further? Will you remark further?

If not, Mr. Clerk, please call for a roll call vote. The machine will be open.

THE CLERK:

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An immediate roll call vote has been ordered in the Senate. Will all Senators please return to the Chamber? An immediate roll call vote has been ordered in the Senate. Will all Senators please return to the Chamber?

THE CHAIR:

Have all members voted? The machine will be locked.

Mr. Clerk will you call the tally, please.

THE CLERK:

Madam President, the total number voting, 36; those voting yea, 36; those voting nay, zero; absent and not voting, zero.

THE CHAIR:

The bill is passed.

Mr. Clerk.

SENATOR LOONEY:

Madam President?

THE CHAIR:

Yes.

SENATOR LOONEY:

This matter -- just for clarification I believe that the Board stated that that was a -- the last -- the roll call vote was an -- a vote

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THE CHAIR:

Senator LeBeau, do you want to vote, please?

Have all members voted? Have all members voted?

The machine will be locked. Mr. Clerk, will you please call a tally?

THE CLERK:

Madam President, total number voting, 36; those voting yea, 34; those voting nay, 2; absent and not voting, zero.

THE CHAIR:

The bill passed.

Mr. Clerk, will you go back to the Calendar please?

THE CLERK:

Madam President, calling from Calendar page 7, Calendar Number 299, substitute for Senate Bill Number 139, AN ACT CONCERNING PERSONS RESIDING IN ELDERLY HOUSING AND MEMBERS OF SENIOR CENTERS, Report -- Favorable Report of the Aging Committee and the Planning and Development Committee.

THE CHAIR:

Senator Prague?

SENATOR PRAGUE:

Thank you, Madam President.

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Madam President, I move the Joint Committee's Favorable Report passage of the bill.

THE CHAIR:

Acting on approval of the bill, will you remark further, please?

SENATOR PRAGUE:

Madam President, what this bill does, is allows folks who live in elderly housing and who are members of senior centers to have a Bill of Rights. And when an elderly person moves into elderly housing they should be given a list of the Bill of Rights so that they know what they can do, what their rights are, so there's no question that they cannot be denied what is on the Bill of Rights. This is critically important. Some of the seniors living in housing developments are feeling very oppressed and feel that they don't have any right to say anything about what's going on there. I would like to turn to Senator Guglielmo, he and I met with a group and he certainly can describe the need for this bill. I'd like to yield to him.

THE CHAIR:

Senator Guglielmo will you accept the yield?

SENATOR GUGLIELMO:

Yes, thank you, Madam President.

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Yes, we had an issue in my district and Senator Prague was kind enough to come along, we had a meeting and I believe it was a Saturday morning. And there's a certain amount of tension between -- particularly between one of the management folks and the -- and the residents. And in fact I was telling Senator Prague, after, the tension eased for a while but eventually two of the three residents moved out because they felt that much pressure. And they're in a vulnerable position. And so I think something like this is going to be very helpful. And I want to thank Senator Prague for attending the meeting and for following up with this legislation.

Thank you, Senator. Thank you, Madam President.

THE CHAIR:

Thank you.

Senator Prague.

SENATOR PRAGUE:

Madam President, this bill also provides the opportunity if there is land available at the housing development for some of the residents to have a little garden. They have to consult with the management -- you know, and work together, but if there is land and it's possible they should be able to have a little

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garden.

So with that Madam President, I move passage of this bill.

THE CHAIR:

Will you remark further? Will you remark further?

Senator Kelly.

SENATOR KELLY:

Thank you, Madam President.

I have one question for the proponent of the bill.

THE CHAIR:

Please precede, sir.

SENATOR KELLY:

Did the provisions with regards to the outdoor smoking area, was that removed from the legislation?

THE CHAIR:

Senator Prague.

SENATOR PRAGUE:

Madam President, I'm very happy that Senator Kelly asked me that question.

We now have a new policy that has been instituted by HUD, by CHFA. The elderly housing developments have to be smoke free. There can no longer be smoking

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in any of the apartments, which is a policy I agree with. However when they told these elderly folks that they couldn't not smoke in their apartment, they had to leave the area and go out on the street someplace and smoke, I got very upset. And even though I tried to convince them that they ought to offer some kind of a shelter, particularly for the winter time where these elderly folks who have been smoking all their lives, who aren't going to give it up, at least they'd have a place to go to smoke where they'd be protected. Well I couldn't convince anybody, you may find that hard to believe but I could not do it.

THE CHAIR:

I do, madam --

SENATOR PRAGUE:

So I had an amendment on this bill that would mandate a -- a heated shelter where these folks could go in the wintertime and smoke. But I couldn't get that amendment passed by my caucus either so Senator Kelly, through Madam President, I'm sorry to tell you there is no shelter provision attached to this bill. But if you'd like to put one on it's fine with me.

THE CHAIR:

Senator Kelly.