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HOUSE BILL 1076

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

NICK L. SALAZAR

AN ACT

RELATING TO THE ELDERLY; TRANSFERRING CERTAIN SERVICES FOR  
DISABLED AND ELDERLY ADULTS TO THE STATE AGENCY ON AGING;  
TRANSFERRING FUNDS AND PROPERTY TO THE STATE AGENCY ON AGING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 27-7-16 NMSA 1978 (being Laws 1989,  
Chapter 389, Section 3, as amended) is amended to read:

"27-7-16. DEFINITIONS. -- As used in the Adult Protective  
Services Act:

A. "abuse" means:

(1) knowingly, intentionally or negligently and  
without justifiable cause inflicting physical pain, injury or  
mental anguish; or

(2) the intentional deprivation by a caretaker  
or other person of services necessary to maintain the mental and

1 physical health of an adult;

2 B. "adult" means a person eighteen years of age or  
3 older;

4 C. "appropriate facility" means any facility other  
5 than a jail or detention facility;

6 D. "caretaker" means an individual or institution  
7 that has assumed the responsibility for the care of an adult;

8 E. "conservator" means a person who is appointed by  
9 a court to manage the estate of a protected adult;

10 F. "court" means the district court having  
11 jurisdiction;

12 G. "department" means the [~~human services~~  
13 ~~department~~] state agency on aging;

14 H. "emergency" means that an adult is living in  
15 conditions that present a substantial risk of death or immediate  
16 and serious physical harm to himself or others;

17 I. "exploitation" means an unjust or improper use of  
18 an adult's resources for another's profit or advantage,  
19 pecuniary or otherwise;

20 J. "guardian" means a person who is a guardian of an  
21 incapacitated adult pursuant to a court order;

22 K. "incapacitated adult" means any adult who  
23 demonstrates over time partial or complete functional impairment  
24 by reason of mental illness, mental deficiency, physical illness  
25 or disability, chronic use of drugs, chronic intoxication or

1 other causes to the extent that he is unable to manage his  
2 personal care or he is unable to manage his personal property  
3 and financial affairs;

4 L. "independent living arrangements" means a mode of  
5 life maintained on a continuing basis outside of a hospital,  
6 veterans' administration hospital, nursing home or other  
7 facility licensed by or under the jurisdiction of any state  
8 agency;

9 M "interested person" means any adult relative, any  
10 person who has an interest in the welfare of the adult to be  
11 protected under the Adult Protective Services Act or any  
12 official or representative of a protective services agency or of  
13 any public or nonprofit agency, corporation, board or  
14 organization eligible for designation as a protective services  
15 agency;

16 N. "neglect" means failure of the caretaker of an  
17 adult to provide basic needs such as clothing, food, shelter,  
18 supervision and care for the physical and mental health for that  
19 adult or failure by an adult to provide such basic needs for  
20 himself;

21 O. "protected adult" means an adult for whom a  
22 guardian or conservator has been appointed or other protective  
23 order has been made;

24 P. "protective placement" means the transfer of an  
25 adult from independent living arrangements to a hospital,

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1 nursing home, domiciliary or residential care facility, or from  
2 one such institution to another;

3 Q. "protective services" means the services  
4 furnished by the department or a protective services agency or  
5 its delegate, as described in Section 27-7-21 NMSA 1978; and

6 R. "protective services agency" means a corporation,  
7 board or organization authorized by the department pursuant to  
8 the Adult Protective Services Act to furnish protective services  
9 to protected or incapacitated adults or to serve as conservators  
10 or guardians of protected or incapacitated adults upon  
11 appointment by a court. "

12 Section 2. Section 28-4-5 NMSA 1978 (being Laws 1979,  
13 Chapter 203, Section 2) is amended to read:

14 "28-4-5. AGENCY DUTIES. --The state agency on aging shall  
15 establish and maintain a comprehensive statewide program  
16 designed to meet the social service needs of the state's aged  
17 population, including but not limited to the following:

18 A. strengthen and coordinate services of state and  
19 local public bodies for the benefit of the aged;

20 B. promote the utilization of older persons in all  
21 phases of employment;

22 C. disseminate information to the aged relative to  
23 federal, state and local services for the aged;

24 D. encourage training programs, retraining programs  
25 and opportunities for older workers;

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1 E. develop new methods of job placement for older  
2 workers;

3 F. promote public recognition of the advantages of  
4 hiring and retaining older workers; [and]

5 G. promote and develop programs of community  
6 resources and facilities designed to meet the social needs of  
7 older persons;

8 H. provide services pursuant to the disabled and  
9 elderly waiver program; and

10 I. implement the Adult Protective Services Act and  
11 its associated support services."

12 Section 3. Section 28-17-3 NMSA 1978 (being Laws 1989,  
13 Chapter 208, Section 3) is amended to read:

14 "28-17-3. DEFINITIONS. -- As used in the Long-Term Care  
15 Ombudsman Act:

16 A. "adult protective services" means the [~~human~~  
17 ~~services department~~] program implemented pursuant to the Adult  
18 Protective Services Act;

19 B. "agency" means the state agency on aging;

20 C. "director" means the director of the state agency  
21 on aging;

22 D. "licensing and certification" means the licensing  
23 and certification bureau of the public health division of the  
24 department of health [~~and environment department~~];

25 E. "long-term care facility" means:

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- 1 (1) a skilled nursing facility;
- 2 (2) an intermediate care nursing facility;
- 3 (3) an intermediate care facility for the
- 4 mentally retarded;
- 5 (4) a nursing facility;
- 6 (5) an adult residential shelter care home;
- 7 (6) a boarding home;
- 8 (7) any other adult care home;
- 9 (8) a continuing care community;
- 10 (9) any swing bed in an acute care facility or
- 11 extended care facility; and
- 12 (10) any adult day health care facility;

13 F. "office" means the office of the state long-term  
14 care ombudsman;

15 G. "Older Americans Act" means the federal Older  
16 Americans Act;

17 H. "older individual" means any individual who is  
18 sixty years of age or older;

19 I. "ombudsman" means an individual trained and  
20 certified to act as a representative of the office of the state  
21 long-term care ombudsman;

22 J. "ombudsman coordinator" means the coordinator of a  
23 regional or local ombudsman program designated by the office of  
24 the state ombudsman; and

25 K. "state ombudsman" means the state long-term care

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1 ombudsman. "

2 Section 4. TEMPORARY PROVISION. -- On July 1, 1997:

3 A. in regard to adult protective services and all the  
4 support services for that program in the human services  
5 department and the children, youth and families department:

6 (1) all appropriations, money, records and  
7 property pertaining to that program or its support services  
8 shall be transferred to the state agency on aging; and

9 (2) all contracts and agreements pertaining to  
10 that program or its support services shall be binding on and  
11 remain in effect with the state agency on aging; and

12 B. in regard to the disabled and elderly waiver  
13 program and the support services required to implement that  
14 program in the department of health or the human services  
15 department:

16 (1) all appropriations, money, records and  
17 property pertaining to that program and its support services  
18 shall be transferred the state agency on aging; and

19 (2) all contracts and agreements pertaining to  
20 that program and its support services shall be binding on and  
21 remain in effect with the state agency on aging.

22 Section 5. EFFECTIVE DATE. -- The effective date of the  
23 provisions of this act is July 1, 1997.

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# State of New Mexico House of Representatives

FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

March 4, 1997

Mr. Speaker:

Your GOVERNMENT AND URBAN AFFAIRS COMMITTEE, to  
whom has been referred

HOUSE BILL 1076

has had it under consideration and reports same with  
recommendation that it DO PASS, and thence referred to the  
CONSUMER AND PUBLIC AFFAIRS COMMITTEE.

Respectfully submitted,

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Lynda M. Lovejoy, Chairwoman



FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

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Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 5 For 2 Against

Yes: 5

No: Pearce, Wallace

Excused: Hobbs

Absent: None

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