

DISTRICT OF COLUMBIA
OFFICIAL CODE

TITLE 7.
HUMAN HEALTH CARE AND SAFETY.

CHAPTER 19.
ADULT PROTECTIVE SERVICES.

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DISTRICT OF COLUMBIA OFFICIAL CODE
CHAPTER 19. ADULT PROTECTIVE SERVICES.

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CHAPTER 19. ADULT PROTECTIVE SERVICES.

§ 7-1901. DEFINITIONS.

When used in this chapter, the following terms shall have the meanings ascribed by this section:

(1)(A) "Abuse" means:

- (i) The intentional or reckless infliction of serious physical pain or injury;
- (ii) The use or threatened use of violence to force participation in "sexual conduct," defined in § 22-3101(5);
- (iii) The repeated, intentional imposition of unreasonable confinement or threats to impose unreasonable confinement, resulting in severe mental distress;
- (iv) The repeated use of threats or violence, resulting in shock or an intense, expressed fear for one's life or of serious physical injury; or
- (v) The intentional or deliberately indifferent deprivation of essential food, shelter, or health care in violation of a caregiver's responsibilities, when that deprivation constitutes a serious threat to one's life or physical health.

(B) An adult shall not be considered abused under this chapter for the sole reason that he or she seeks, or his or her caregiver provides or permits to be provided, with the express consent or in accordance with the practice of the adult, treatment by spiritual means through prayer alone in accordance with a religious method of healing, in lieu of medical treatment.

(1A) "Adult" means an individual 18 years of age or older.

(2)(A) "Adult in need of protective services" means an individual 18 years of age or older who:

- (i) Is highly vulnerable to abuse, neglect, self-neglect, or exploitation because of a physical or mental impairment, self-neglect, or incapacity;
- (ii) Has recently been or is being abused, neglected, or exploited by another or meets the criteria for self-neglect; and
- (iii) Has no one willing and able to provide adequate protection.

(B) An adult shall not be considered in need of protective services under this chapter for the sole reason that he or she seeks, or his or her caregiver provides or permits to be provided, with the express consent or in accordance with the practice of the adult, treatment by spiritual means through prayer alone in accordance with a religious method of healing, in lieu of medical treatment.

(3) "Adult protective services worker" (APS worker) means an employee of the District or a private social services agency under contract with the District who conducts investigations or provides protective services under this chapter.

(4) "Caregiver" means a person that, by law, contract, court order, or voluntary action, is charged with or has assumed the responsibility for an adult's essential food, shelter, or health-care needs.

(5) "Court" means the Superior Court of the District of Columbia.

(6) "Department" means the District of Columbia Department of Human Services.

(7) "District" means the District of Columbia.

(8) "Exploitation" means the unlawful appropriation or use of another's "property," defined in § 22-3201, for one's own benefit or that of a 3rd person.

(8A) "Incapacity" means the state of being an incapacitated individual as defined by § 21-2011(11).

(9)(A) "Neglect" means:

- (i) The repeated, careless infliction of serious physical pain or injury;

- (ii) The repeated failure of a caregiver to take reasonable steps, within the purview of his or her responsibilities, to protect against acts of abuse described in paragraph (1)(B) of this section;
- (iii) The repeated, careless imposition of unreasonable confinement, resulting in severe mental distress; or
- (iv) The careless deprivation of essential food, shelter, or health care in violation of a caregiver's responsibilities, when that deprivation constitutes a serious threat to one's life or physical health.

(B) An adult shall not be considered neglected under this chapter for the sole reason that he or she seeks, or his or her caregiver provides or permits to be provided, with the express consent or in accordance with the practice of the adult, treatment by spiritual means through prayer alone in accordance with a religious method of healing, in lieu of medical treatment.

(10) "Person" means an individual, facility, agency, corporation, partnership, the District government, or any other organizational entity.

(11) "Police" means the Metropolitan Police Department of the District of Columbia.

(12) "Protective services" means those services or provisions reasonably calculated to remedy or substantially reduce the likelihood of abuse, neglect, or exploitation by another, or self-neglect, including, but not limited to: Food, heat, shelter, clothing, health care, home care, counseling, legal assistance, and social casework.

(13)(A) "Self-neglect" means the failure of an adult, due to physical or mental impairments or incapacity, to perform essential self-care tasks, including:

- (i) Providing essential food, clothing, shelter, or medical care;
- (ii) Obtaining goods or services necessary to maintain physical health, mental health, emotional well-being, and general safety; or
- (iii) Managing his or her financial affairs.

(B) An adult shall not be considered to be committing self-neglect under this chapter for the sole reason that he or she seeks treatment by spiritual means through prayer alone in accordance with a religious method of healing, in lieu of medical treatment.

(Mar. 14, 1985, D.C. Law 5-156, § 2, 32 DCR 13; Mar. 8, 2006, D.C. Law 16-67, § 2(a), 53 DCR 40.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-2501.

Effect of Amendments

D.C. Law 16-67, rewrote pars. (1), (2), and (9); added pars. (1A), (8A), (13); and, in par. (12), substituted "exploitation by another, or self-neglect," for "exploitation by another,". Prior to amendment, pars. (1), (2), and (9) read as follows:

"(1) 'Abuse' means:

"(A) The intentional or reckless infliction of serious physical pain or injury;

"(B) The use or threatened use of violence to force participation in 'sexual conduct,' defined in § 22-3101(5);

"(C) The repeated, intentional imposition of unreasonable confinement, resulting in severe mental distress;

"(D) The repeated use of threats or violence, resulting in shock or an intense, expressed fear for one's life or of serious physical injury; or

"(E) The intentional or deliberately indifferent deprivation of essential food, shelter, or health care in violation of a caregiver's responsibilities, when that deprivation constitutes a serious threat to one's life or physical health.

"(2) 'Adult in need of protective services' means an individual aged 18 or older who is:

"(A) Highly vulnerable to abuse, neglect, or exploitation because of a physical or mental impairment;

"(B) Being or has recently been abused, neglected, or exploited by another; and

"(C) Likely to continue being abused, neglected, or exploited by others because he or she has no one willing and able to provide adequate protection."

"(9) 'Neglect' means:

"(A) The repeated, careless infliction of serious physical pain or injury;

"(B) The repeated failure of a caregiver to take reasonable steps, within the purview of his or her responsibilities, to protect against acts of abuse described in paragraph (1)(B) of this section;

"(C) The repeated, careless imposition of unreasonable confinement, resulting in severe mental distress; or

"(D) The careless deprivation of essential food, shelter, or health care in violation of a caregiver's responsibilities, when that deprivation constitutes a serious threat to one's life or physical health."

Legislative History of Laws

Law 5-156, the "Adult Protective Services Act of 1984," was introduced in Council and assigned Bill No. 5-334, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on November 20, 1984, and December 4, 1984, respectively. Signed by the Mayor on December 7, 1984, it was assigned Act No. 5-221 and transmitted to both Houses of Congress for its review.

Law 16-67, the "Karyn Barquin Adult Protective Services Self-Neglect Expansion Amendment Act of 2005", was introduced in Council and assigned Bill No. 16-46 which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on November 1, 2005, and December 6, 2005, respectively. Signed by the Mayor on December 22, 2005, it was assigned Act No. 16-229 and transmitted to both Houses of Congress for its review. D.C. Law 16-67 became effective on March 8, 2006.

Delegation of Authority

Delegation of authority pursuant to title XXIII (Section 2352(a)) of Public Law 97-35, the "Omnibus Budget Reconciliation Act, to Deliver Social Services Block Grant Funded Homemaker Services for Individuals and Families who are in Need of or Receiving Protective Services", see Mayor's Order 97-101, May 28, 1997 (44 DCR 3529).

Re-Delegation of Authority Pursuant to Title XXIII (Sec. 2352(a)) of Public Law 97-35, the "Omnibus Budget Reconciliation Act," as Amended, to Deliver Social Services Block Grant Funded Homemaker Services for Individuals and Families Who are in Need of or Receiving Protective Services, see Mayor's Order 2001-95, June 28, 2001 (48 DCR 6276).

Miscellaneous Notes

Delayed application of Law 5-156: Section 15(b) of D.C. Law 5-156 provided that, except as provided in § 6-2503(e), the applicability of the act shall be delayed until October 1, 1985.

§ 7-1902. LIMITATIONS ON APPLICABILITY.[REPEALED]

(Mar. 14, 1985, D.C. Law 5-156, § 3, 32 DCR 13; Mar. 8, 2006, D.C. Law 16-67, § 2(b), 53 DCR 40.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-2502.

Legislative History of Laws

For legislative history of D.C. Law 5-156, see Historical and Statutory Notes following § 7-1901.

For Law 16-67, see notes following § 7-1901.

Miscellaneous Notes

Delayed application of Law 5-156: See Historical and Statutory Notes following § 7-1901.

§ 7-1903. REPORTING REQUIREMENTS.

(a)(1) Except as provided in subsection (b) of this section, whenever a conservator, court-appointed mental retardation advocate, guardian, health-care administrator, licensed health professional, police officer, humane officer of any agency charged with the enforcement of animal cruelty laws, bank manager, financial manager, or social worker has as a result of his or her appointment, employment, or practice substantial cause to believe that an adult is in need of protective services because of abuse, neglect, or exploitation by another, he or she shall immediately report this belief in accordance with subsection (c) of this section.

(2) Any person may voluntarily report an alleged case of abuse, neglect, self-neglect, or exploitation when he or she has reason to believe that an adult is in need of protective services. Voluntary reporting shall also be effected in accordance with subsection (c) of this section.

(b) The duty to report established by subsection (a)(1) of this section shall not apply to a social worker or licensed health professional who has as a client or patient, or is employed by a lawyer representing, a third person who is allegedly responsible for the abuse or neglect.

(c) A report made pursuant to this section may be either oral or written and shall be transmitted to the division within the Department designated by the Mayor to receive these reports. Each report shall include, if known: The name, age, physical description, and location of the adult alleged to be in need of protective services; the name and location of the person(s) allegedly responsible for the abuse, neglect, or

exploitation; the nature and extent of the abuse, neglect, self-neglect, or exploitation; the basis of the reporter's knowledge; and any other information the reporter believes might be helpful to an investigation. A reporter may be required to identify himself or herself only when obliged to report under subsection (a)(1) of this section.

(d)(1) The Department shall maintain a record of all reports received and be capable of receiving reports 24 hours a day, 7 days a week (including holidays). Except as provided in paragraph (4) of this subsection, the Department may release reports and investigative information acquired pursuant to this chapter only:

(A) To another public or private agency, or to the court-appointed representative of an adult in need of protective services, only to the minimal extent required to conduct an investigation, provide services under this chapter, or petition the court for appointment of a guardian of the person or conservatorship of the estate of the person (or a limited guardianship or conservatorship) under Chapter 20 of Title 21;

(B) To the Attorney General for the District of Columbia or United States Attorney if requested for an investigation, prosecution, or civil or administrative enforcement action;

(B-1) To the Metropolitan Police Department;

(C) If directed by court order; or

(D) For the purposes of and in accordance with Chapter 2A of this title.

(2) A recipient of a report or investigative information released pursuant to paragraph (1) of this subsection shall be subject to the same restrictions on disclosure applicable to the Department under that paragraph.

(3) Any person possessing a report or investigative information acquired pursuant to this chapter shall take reasonable steps to prevent the disclosure of information that might reveal the reporter's identity to the person(s) allegedly responsible for the abuse, neglect, or exploitation.

(4) The Department may release statistics and other data acquired pursuant to this chapter for research, reporting, or educational purposes provided all identifying references to individuals are deleted.

(d-1) The Department may provide outreach and training on the requirements of this section to members of the public and to appropriate governmental personnel, including law enforcement officers, social services personnel, judicial officers, guardians and conservators for incapacitated adults, and others as may be determined by the Mayor.

(e) The Mayor shall widely publicize the phone number and mailing address of the division within the Department designated to receive reports under this section, and may conduct educational programs for those persons required to report under subsection (a)(1) of this section.

(Mar. 14, 1985, D.C. Law 5-156, § 4, 32 DCR 13; Mar. 8, 2006, D.C. Law 16-67, § 2(c), 53 DCR 40; Dec. 5, 2008, D.C. Law 17-281, § 103, 55 DCR 9186; Dec. 4, 2010, D.C. Law 18-273, § 207, 57 DCR 7171.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-2503.

Effect of Amendments

D.C. Law 16-67, in subsec. (a)(1), substituted "bank manager, financial manager, or social worker" for "or social worker" and "abuse, neglect, or exploitation" for "abuse or neglect"; in subsec. (a)(2), substituted "self-neglect, or exploitation" for "or exploitation"; in subsec. (b), substituted "a third person" for "the 3rd person"; in subsec. (c), substituted "the nature and extent of the abuse, neglect, self-neglect, or exploitation" for "the nature and extent of the abuse, neglect, or exploitation"; rewrote subsec. (d)(1)(A); in subsec. (d)(1)(B), substituted "Attorney General for the District of Columbia" for "Corporation Counsel"; added subsec. (d)(1)(B-1); in subsec. (d)(2), substituted "paragraph (1)" for "paragraph (1)(A) through (C)"; added subsec. (d-1); and rewrote subsec. (e). Prior to amendment, subsecs. (d)(1)(A) and (e) read as follows:

"(A) To another public or private agency designated by the Mayor to conduct investigations or provide protective services under this chapter;"

"(e) No later than August 15, 1985, the Mayor shall widely publicize the phone number and mailing address of the division within the Department designated to receive reports under this section, and shall establish a program to educate those persons required to report under subsection (a)(1) of this section about their obligations under this section."

D.C. Law 17-281, in subsec. (a)(1), substituted "police officer, humane officer of any agency charged with the enforcement of animal cruelty laws," for "police officer,".

D.C. Law 18-273, in subsec. (d)(1), deleted "or" from the end of subpar. (B-1), substituted "; or" for a period at the end of subpar. (C), and added subpar. (D).

For temporary (90 day) amendment of section, see § 207 of Data-Sharing and Information Coordination Emergency Amendment Act of 2010 (D.C. Act 18-530, August 6, 2010, 57 DCR 8099).

For temporary (90 day) amendment of section, see § 207 of Data-Sharing and Information Coordination Congressional Review Emergency Amendment Act of 2010 (D.C. Act 18-582, October 20, 2010, 57 DCR 10118).

Legislative History of Laws

For legislative history of D.C. Law 5-156, see Historical and Statutory Notes following § 7-1901.

For Law 16-67, see notes following § 7-1901.

Law 17-281, the "Animal Protection Amendment Act of 2008", was introduced in Council and assigned Bill No. 17-89 which was referred to the Committees on Health and Public Safety and Judiciary. The Bill was adopted on first and second readings on July 1, 2008, and July 15, 2008, respectively. Signed by the Mayor on August 4, 2008, it was assigned Act No. 17-493 and transmitted to both Houses of Congress for its review. D.C. Law 17-281 became effective on December 5, 2008.

For Law 18-273, see notes following § 7-131.

Miscellaneous Notes

Delayed application of Law 5-156: See Historical and Statutory Notes following § 7-1901.

§ 7-1904. INVESTIGATIONS.

(a)(1) In accordance with this section and the rules to be issued by the Mayor pursuant to § 7-1909, the Department shall, except as provided in paragraph (2) of this subsection, either investigate each report received or refer a report for investigation to another public or private agency designated by the Mayor.

(2) The Department shall not be required to investigate a report that:

(A) Fails to allege facts that, if proved, would be sufficient to support the conclusion that the alleged victim is an "adult in need of protective services" as that term is defined in § 7-1901(2); or

(B) Is substantively repetitive of a previously reported incidence of abuse, neglect, or exploitation.

(3) If a report alleges the existence of an immediate, substantial risk of life-threatening harm to an adult in need of protective services, the Department shall immediately notify the police, who shall conduct a prompt investigation to determine the need for police intervention. In addition, within 24 hours of the Department's receiving such a report, an APS worker shall commence an investigation to determine the need for protective services. These 2 investigations may be conducted either jointly or separately.

(4) For reports that allege an adult is in need of protective services but do not allege the existence of an immediate, substantial risk of life-threatening harm, an APS worker shall commence an investigation to determine the need for protective services within 10 days (excluding Saturdays, Sundays, and legal holidays) of the Department's receiving the report.

(5) In accordance with procedures to be established under § 7-1909(1), the Mayor shall ensure that, when appropriate, an APS worker is accompanied by a police officer while conducting an initial or follow-up investigation.

(b) Before entering a residence or otherwise approaching an adult who is allegedly in need of protective services, an APS worker conducting an investigation under this section shall first announce his or her purpose and, if accompanied by a police officer, the presence of that officer, and then secure the consents of the adult allegedly in need of protective services and any other adult who is present and appears to have a reasonable expectation of privacy in the residence or immediate premises. If the adult allegedly in need of protective services objects to the investigation and it does not manifestly appear to the APS worker that the objection is prompted by fear or intimidation instilled by another or that the adult is incapacitated, the investigation shall be terminated. If the objection manifestly appears prompted by fear or intimidation instilled by another, or if another person on the premises refuses to allow the investigation to take place, the Department may, either on its own behalf or, if the APS worker is employed by an agency other than the Department, on behalf of the other investigating agency, request the Attorney General to petition for an ex parte order pursuant to subsection (c) of this section. Where good cause exists to believe that a self-neglecting person is incapacitated, the APS worker, the Department, or the Attorney General may provide protective services pursuant to § 7-1905(c-1).

(c) If requested by the Department, the Attorney General shall promptly conduct a factual inquiry and, if legally supportable, file a petition in court for an ex parte order enjoining persons other than the adult who is allegedly in need of protective services from directly or indirectly interfering with the investigation. The petition shall allege specific facts, supported by oath or affirmation, showing that:

(1) There is probable cause to believe an adult located at a specified location is in need of protective services; and

(2) An APS worker conducting an investigation was denied reasonable access to the adult by a 3rd person, or, if the adult objected to the investigation, there is probable cause to believe the objection was prompted by fear or intimidation instilled by another.

(d) If the court finds that a proper showing has been made under subsection (c) (1) and (2) of this section, it shall enjoin the appropriate 3rd person(s) from interfering with an investigation under this section. The court may also order any other relief deemed necessary to facilitate an investigation, but in so doing it shall fully respect the right of an adult who is allegedly in need of protective services to freely object to and terminate that investigation.

(e) The scope of an investigation under this section shall be only that which is minimally necessary for an APS worker to determine whether an adult is in need of protective services, and, if so, what protective services are needed to remedy or substantially reduce the likelihood of abuse, neglect, self-neglect, or exploitation by others.

(Mar. 14, 1985, D.C. Law 5-156, § 5, 32 DCR 13; Mar. 8, 2006, D.C. Law 16-67, § 2(d), 53 DCR 40; Mar. 25, 2009, D.C. Law 17-353, § 102(a), 56 DCR 1117.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-2504.

Effect of Amendments

D.C. Law 16-67, in subsec. (b), substituted "another or that the adult is incapacitated, the investigation shall be terminated, for "another, the investigation shall be terminated," and "Attorney General to petition for an ex parte order pursuant to subsection (c) of this section. Where good cause exists to believe that a self-neglecting person is incapacitated, the APS worker, the Department, or the Attorney General may provide protective services pursuant to § 7-1905(c-1)." for "Corporation Counsel to petition for an ex parte order pursuant to subsection (c) of this section."; in subsec. (c), substituted "Attorney General" for "Corporation Counsel"; and, in subsec. (e), substituted "neglect, self-neglect," for "neglect,".

D.C. Law 17-353 validated a previously made technical correction in subsec. (b).

Legislative History of Laws

For legislative history of D.C. Law 5-156, see Historical and Statutory Notes following § 7-1901.

For Law 16-67, see notes following § 7-1901.

For Law 17-353, see notes following § 7-161.

Miscellaneous Notes

Delayed application of Law 5-156: See Historical and Statutory Notes following § 7-1901.

§ 7-1905. PROVISION OF PROTECTIVE SERVICES.

(a)(1) The Department shall ensure that protective services are promptly provided if:

(A) After an APS worker conducts an investigation under § 7-1904, the Department determines that an adult is in need of protective services due to abuse, neglect, or exploitation by a third party;

(B) The adult in need of protective services, or a person authorized by law or court order to consent to the provision of protective services on behalf of the adult, affirmatively consents to the particular services offered;

(C) Reasonable access is not denied by a 3rd person; and

(D) The adult in need of protective services, if not indigent and exigent circumstances do not dictate otherwise, agrees to reimburse the District or make a reasonable contribution pursuant to the rules to be issued under § 7-1909(3).

(2) The Department's legal obligation to ensure the provision of protective services shall, except as provided in § 7-1912(c)(1), not exceed 90 days of services for each adult found to be in need of protective services. This 90-day limitation shall begin with the 1st day of services, apply to only those days on which services are actually provided, and include any days on which services are provided under a protection order issued pursuant to § 7-1906 or § 7-1907. The Department's decision to limit services in a particular case to fewer than 90 days, its determination as to the type or level of services provided, and allegations of noncompliance with this chapter are judicially reviewable only in accordance with § 7-1912(c)(1).

(a-1) Subject to the availability of resources, the Department may provide protective services if:

(1) After an APS worker conducts an investigation under § 7-1904, the Department determines that an adult is in need of protective services due to self-neglect;

(2) The adult in need of protective services, or a person authorized by law or court order to consent to the provision of protective services on behalf of the adult, affirmatively consents to the particular services offered;

(3) Reasonable access is not denied by a third person; and

(4) The adult in need of protective services, if not indigent and exigent circumstances do not dictate otherwise, agrees to reimburse the District or make reasonable contribution pursuant to the rules issued under § 7-1909.

(b) If an adult in need of protective services due to abuse, neglect, self-neglect, or exploitation objects to the provision of particular services and it does not manifestly appear to the APS worker that the adult is incapacitated or that the objection is prompted by fear or intimidation instilled by another, the adult shall be entitled to refuse those services and this right of refusal shall be fully respected.

(c) In any case under this section involving abuse, neglect, or exploitation by a third party that does not meet the requirements of subsection (a)(1) of this section, the Department or other agency designated by the Mayor may provide protective services only after the Attorney General obtains a protection order pursuant to § 7-1906 or § 7-1907.

(c-1) In any case under this section involving self-neglect, if an APS worker has good cause to believe that an adult is incapacitated, the APS worker, the Department, or the Attorney General may:

(1) Petition the court for appointment of a guardianship of the adult or a conservatorship of the estate of the adult (or a limited guardianship or conservatorship) under Chapter 20 of Title 21;

(2) Make referrals or provide information about the adult and the investigation to the appropriate public or private agencies, and monitor the results of any such referrals, as appropriate;

(3) Provide protective services to the extent possible under the circumstances; or

(4) Provide protective services when and if a person authorized by law or court order to consent to the provision of protective services on behalf of the adult, affirmatively consents to the particular services offered.

(d) In accordance with procedures to be established under § 7-1909(1), the Mayor shall ensure that, when appropriate, an APS worker is accompanied by a police officer while providing protective services.

(e) When determining the appropriateness of particular services, the Department or other designated agency shall first consider those protective services that encourage maximum self-determination and are least restrictive of personal liberty.

(f) No provision of subsections (a-1) or (c-1) of this section shall be construed to create an entitlement (either direct or implied) on the part of any individual or family to any services under this chapter for an adult who meets the criteria for self-neglect or who is determined to be at risk due to self-neglect.

(Mar. 14, 1985, D.C. Law 5-156, § 6, 32 DCR 13; Mar. 8, 2006, D.C. Law 16-67, § 2(e), 53 DCR 40.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-2505.

Effect of Amendments

D.C. Law 16-67, in subsec. (a)(1)(A), substituted "services due to abuse, neglect, or exploitation by a third party;" for "services;"; added subsecs. (a-1), (c-1), and (f); and rewrote subsecs. (b) and (c), which had read as follows:

"(b) If an adult in need of protective services objects to the provision of particular services and it does not manifestly appear to the APS worker that the objection is prompted by fear or intimidation instilled by another, the adult shall be entitled to refuse those services and this right of refusal shall be fully respected.

"(c) In any case that does not meet the requirements of subsection (a)(1)(A) through (D) of this section, the Department or other agency designated by the Mayor may provide protective services only after the Corporation Counsel obtains a protection order pursuant to § 7-1906 or § 7-1907."

Legislative History of Laws

For legislative history of D.C. Law 5-156, see Historical and Statutory Notes following § 7-1901.

For Law 16-67, see notes following § 7-1901.

Miscellaneous Notes

Delayed application of Law 5-156: See Historical and Statutory Notes following § 7-1901.

§ 7-1906. PROVISIONAL PROTECTION ORDER.

(a) If requested by the Department, either on its own behalf or on behalf of another public or private agency designated by the Mayor, the Attorney General shall promptly conduct a factual inquiry and, if legally supportable, file a petition in court for a provisional protection order. That petition shall state, insofar as the facts can be ascertained with reasonable diligence:

- (1) The name, age, physical description, and location of the adult determined by the Department to be in need of protective services;
- (2) Whether the adult and any other person(s) expected to be a party to the proceeding are indigent and therefore entitled to the appointment of counsel under subsection (b) of this section;
- (3) Facts to substantiate that the adult is in need of protective services;
- (4) The particular protective services or other relief sought to remedy or substantially reduce the likelihood of abuse, neglect, self-neglect, or exploitation by another; and
- (5) Depending on the circumstances, facts to substantiate that:
 - (A) Failure of the adult in need of protective services to either object or affirmatively consent to those services does not constitute a knowing and voluntary decision to refuse services, but rather is the result of the adult's inability to consent due to extreme physical or mental impairment or incapacity;
 - (B) The adult in need of protective services has objected to the provision of those services out of fear or intimidation instilled by another; or
 - (C) Reasonable access to the adult in need of protective services has been denied by a 3rd person.

(b) Unless continued by the court, a nonjury hearing shall be held on a petition for a provisional protection order within 15 days (excluding Saturdays, Sundays, and legal holidays) after it is filed with the court. The Attorney General shall ensure that, at least 10 days (excluding Saturdays, Sundays, and legal holidays) before the hearing, notice of the hearing date and a copy of the petition are served on the adult in need of protective services and, if applicable and ascertainable with reasonable diligence, the person(s) allegedly responsible for the abuse, neglect, or exploitation, for using fear or intimidation to coerce the adult's objection to the provision of services, or for denying an APS worker reasonable access to the adult. Notice shall be effected by personal service, substitute service on a person of suitable age and discretion at the usual place of abode or employment of the person to be notified, or registered or certified mail. Pursuant to rules to be established by the court, subpoenas shall issue directing the appearance of persons whose presence at the hearing is essential to the relief sought in the petition. The adult in need of protective services and any other person on whom notice is served under this subsection shall have the right to retain counsel, and if indigent, to have counsel promptly appointed by the court upon the Attorney General's filing of a petition under subsection (a) of this section. Every effort shall be made to secure the presence of the adult in need of protective services at the hearing; failure of the adult to appear shall be explained by his or her counsel to the satisfaction of the court. All parties to the proceeding may present evidence and cross-examine witnesses. Testimony of the person(s) allegedly responsible for the abuse, neglect, or exploitation, and the fruits of that testimony, shall be inadmissible as evidence in a subsequent criminal trial except in a prosecution for perjury or false statement.

(c) The court shall maintain a register of lawyers who have expressed an interest in representing indigent persons entitled to the appointment of counsel under subsection (b) of this section, and shall attempt insofar as possible to make appointments from this register. Publicly funded or pro bono legal services shall be considered and given priority by the court. If such services are unavailable, compensation for appointed counsel shall be at the hourly rate established pursuant to § 11-2604(a), and, unless expressly waived by the court, shall be subject to a maximum amount of \$750 per proceeding. Counsel shall also be reimbursed for expenses reasonably incurred. Compensation for investigative, expert, and other services shall be in accordance with § 11-2605. This subsection shall be implemented pursuant to procedures established by the court.

(d) If the court finds that the Attorney General has proven the averments in the petition by a preponderance of the evidence, it may:

- (1) Direct any person to refrain from abusing, neglecting, exploiting, directly or indirectly interfering with the provision of services to, residing with, or otherwise contacting the adult in need of protective services;
- (2) Direct a caregiver to fulfill his, her, or its legal or contractual responsibilities, or to refrain from inadequately carrying out voluntarily assumed responsibilities;
- (3) Direct the Mayor to petition for the appointment of a conservator or guardian;
- (4) Direct the Mayor to provide specified or unspecified protective services, including at night and on weekends if necessary; provided, that the court shall not direct the Mayor to provide a type of service

not otherwise made available by the District government;

(5) Direct the Mayor, a caregiver, or, when appropriate, another party to the proceeding to remove the adult in need of protective services to a hospital, nursing home, community residence facility, hospice, or other appropriate facility (except a facility or part of a facility that has as its principal purpose the diagnosis and treatment of mental illnesses and disorders), so long as the placement is the least restrictive setting available in which the adult's needs can be adequately met;

(6) Direct any person to pay or reimburse the District, in accordance with § 7-1910, for relief granted under paragraph (4) or (5) of this subsection; or

(7) Direct any combination of the above.

(e) When granting relief under subsection (d)(3) through (5) of this section, the court shall first consider those remedies that encourage maximum self-determination and are least restrictive of personal liberty. In so doing, the court shall adopt a strong, rebuttable presumption in favor of home care over institutionalization. Secondly, the court shall inquire about and take into consideration potential expense to the District.

(f) The court may modify or rescind a provisional protection order upon the motion of any party to the original proceeding and for good cause shown. Except as provided in subsection (g) of this section, a provisional protection order granting the relief in subsection (d)(4) or (5) of this section shall remain effective as to that relief for such period up to 45 calendar days as the court may specify, except that on the motion of any party to the original proceeding and for good cause shown, the court may grant a single extension for a period not to exceed an additional 45 calendar days. This 90-day time limitation may not be circumvented by the attempted issuance of a new order or reissuance of the original order before or after the extension period has expired. Relief granted under subsection (d)(1) through (3) and (6) of this section shall remain effective for such period as the court may specify.

(g) When determining the duration of a provisional protection order that directs the Mayor to provide protective services, the court shall take into account the number of days, if any, that the District has already provided services pursuant to § 7-1905(a) or § 7-1907, and in no event shall the issuance of a protection order result in the District's being required to provide more than 90 days of services in any particular case.

(Mar. 14, 1985, D.C. Law 5-156, § 7, 32 DCR 13; Mar. 8, 2006, D.C. Law 16-67, § 2(f), 53 DCR 40.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-2506.

Effect of Amendments

D.C. Law 16-67, in the lead-in text of subsec. (a), subsec. (b), and subsec. (d), substituted "Attorney General" for "Corporation Counsel"; in subsec. (b), substituted "Attorney General's" for "Corporation Counsel's"; in subsec. (a)(4), substituted "neglect, self-neglect" for "neglect"; and, in subsec. (a)(5)(A), substituted "impairment or incapacity" for "impairment".

Legislative History of Laws

For legislative history of D.C. Law 5-156, see Historical and Statutory Notes following § 7-1901.

For Law 16-67, see notes following § 7-1901.

Miscellaneous Notes

Delayed application of Law 5-156: See Historical and Statutory Notes following § 7-1901.

§ 7-1907. EX PARTE TEMPORARY PROTECTION ORDER.

(a) If a petition filed in accordance with § 7-1906(a) is supported by affidavit and alleges the existence of an immediate, substantial risk of life-threatening harm to an adult who the Department has determined is in need of protective services, the court may, upon a finding of probable cause and in accordance with § 7-1906(e), grant any relief listed in § 7-1906(d) immediately and without a hearing by issuing an ex parte temporary protection order. The Attorney General shall ensure that, within 48 hours after the issuance of such an order, notice of the hearing date and copies of the petition, supporting affidavit(s), and order are served on the same parties and in the same manner described in § 7-1906(b).

(b) An ex parte temporary protection order shall remain effective for such period as the court may specify until a hearing is held and the petition for a provisional protection order granted or denied pursuant to § 7-1906. The court may modify or rescind an ex parte temporary protection order upon the motion of any person and for good cause shown.

(Mar. 14, 1985, D.C. Law 5-156, § 8, 32 DCR 13; Mar. 8, 2006, D.C. Law 16-67, § 2(g), 53 DCR 40.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-2507.

Effect of Amendments

D.C. Law 16-67, in subsec. (a), substituted "Attorney General" for "Corporation Counsel".

Legislative History of Laws

For legislative history of D.C. Law 5-156, see Historical and Statutory Notes following § 7-1901.

For Law 16-67, see notes following § 7-1901.

Miscellaneous Notes

Delayed application of Law 5-156: See Historical and Statutory Notes following § 7-1901.

§ 7-1908. QUALIFIED IMMUNITY FOR PERSON REPORTING ALLEGED ABUSE.

Any person who reports an alleged case of abuse, neglect, self-neglect, or exploitation pursuant to § 7-1903 shall be immune from civil or criminal liability for so reporting if he, she, or it has acted in good faith.

(Mar. 14, 1985, D.C. Law 5-156, § 9, 32 DCR 13; Mar. 8, 2006, D.C. Law 16-67, § 2(h), 53 DCR 40.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-2508.

Effect of Amendments

D.C. Law 16-67 substituted "neglect, self-neglect," for "neglect,".

Legislative History of Laws

For legislative history of D.C. Law 5-156, see Historical and Statutory Notes following § 7-1901.

For Law 16-67, see notes following § 7-1901.

Miscellaneous Notes

Delayed application of Law 5-156: See Historical and Statutory Notes following § 7-1901.

§ 7-1909. RULES.

(a) The Mayor shall, pursuant to subchapter I of Chapter 5 of Title 2, issue rules deemed necessary to carry out the purposes of this chapter. These rules shall at a minimum include procedures to ensure:

- (1) The effective coordination of investigative efforts by the police and the Department and the availability of police assistance should it be required, pursuant to §§ 7-1904(a) and 7-1905(d);
- (2) The effective coordination of interdepartmental resources and actions when a report made to the Department alleges that an individual, facility, or agency licensed by the District of Columbia is responsible for the abuse, neglect, or exploitation of an impaired adult;
- (3) That, unless exigent circumstances dictate otherwise, nonindigent adults in need of protective services and persons legally responsible for providing any or all of the services provided or contracted for by the District reimburse the District for, or make a reasonable contribution toward, the cost of providing those services;
- (4) The effective coordination of interdepartmental resources and actions when the Department seeks records or documents in the possession of another agency, including exempting the Department from payment of any and all fees otherwise required to obtain a record if the request is made in the course of an investigation or of the provision of protective services by the Department, and ensuring that requests for records or documents by the Department are given high priority by other governmental agencies; and
- (5) The effective coordination of interdepartmental resources and actions, providing for expedited access to governmental services on behalf of an adult in need of protective services, and ensuring that requests for such services are given high priority by other governmental agencies.

(b) Within 60 days of March 8, 2006, the Mayor shall issue rules necessary to implement the provisions of D.C. Law 16-67.

(Mar. 14, 1985, D.C. Law 5-156, § 10, 32 DCR 13; Mar. 8, 2006, D.C. Law 16-67, § 2(i), 53 DCR 40; Mar. 2, 2007, D.C. Law 16-191, § 129, 53 DCR 6794.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-2509.

Effect of Amendments

D.C. Law 16-67, designated the existing text as subsec. (a); in the lead-in text of subsec. (a), deleted "no later than October 1, 1985," following "Mayor shall,"; rewrote subsec. (a)(2); in subsec. (a)(3), substituted "services;" for "services.,"; and added subsecs. (a)(4), (5), and (b). Prior to amendment, subsec. (a)(2) read as follows:

"(2) The effective coordination of interdepartmental resources and actions when a report made to the Department alleges that an individual, facility, or agency licensed by the Department of Consumer and Regulatory Affairs is responsible for the abuse, neglect, or exploitation of an impaired adult; and"

D.C. Law 16-191, in subsec. (a), deleted "and" preceding "pursuant to".

Legislative History of Laws

For legislative history of D.C. Law 5-156, see Historical and Statutory Notes following § 7-1901.

For Law 16-67, see notes following § 7-1901.

For Law 16-191, see notes following § 7-103.

Miscellaneous Notes

Delayed application of Law 5-156: See Historical and Statutory Notes following § 7-1901.

§ 7-1910. PAYMENT OR REIMBURSEMENT FOR COST OF PROTECTIVE SERVICES.

(a) In implementing § 7-1909(3), the Mayor may establish a sliding scale based on one's ability to pay. No adult in need of protective services shall be denied those services because he or she is unable to pay for them or because a person (other than the adult) who is legally responsible for providing any or all of the services refuses to reimburse the District or contribute to their cost. The Attorney General may, either as part of a proceeding for a protection order or in an independent court action, seek an order directing the adult in need of protective services or person(s) legally responsible for those services to pay or reimburse the District for so much of the cost of providing protective services under this chapter as he or she is reasonably able to afford. The court, however, may not direct an adult in need of protective services to pay or reimburse the District for any of the cost of providing those services if the court orders the services over the continued objection of the adult after finding that the objection has been prompted by fear or intimidation instilled by another.

(b) The Attorney General may, either as part of a proceeding for a protection order or in an independent court action, seek an order directing the person(s) responsible for an adult's abuse, neglect, or exploitation to pay or reimburse the District for all or part of the costs associated with conducting the investigation, appointing counsel, and providing protective services in that particular case. In so doing, the Attorney General shall have the burden of proving a person's responsibility for abuse, neglect, or exploitation by a preponderance of the evidence. Testimony of the defendant(s), and the fruits of that testimony, shall be inadmissible as evidence in a subsequent criminal trial except in a prosecution for perjury or false statement.

(Mar. 14, 1985, D.C. Law 5-156, § 11, 32 DCR 13; Mar. 8, 2006, D.C. Law 16-67, § 2(j), 53 DCR 40.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-2510.

Effect of Amendments

D.C. Law 16-67, in subsecs. (a) and (b), substituted "Attorney General" for "Corporation Counsel".

Legislative History of Laws

For legislative history of D.C. Law 5-156, see Historical and Statutory Notes following § 7-1901.

For Law 16-67, see notes following § 7-1901.

Miscellaneous Notes

Delayed application of Law 5-156: See Historical and Statutory Notes following § 7-1901.

§ 7-1911. WAIVER OF PRIVILEGE.

Any professional covered by the privilege established in § 14-307, who has or had as his or her client or patient the adult alleged or determined to be in need of protective services may be required, without the consent of that adult or his or her legal representative, to testify or otherwise disclose confidential information in any court proceeding held pursuant to this chapter if the judge determines that the privilege should be waived in the interest of justice.

(Mar. 14, 1985, D.C. Law 5-156, § 12, 32 DCR 13.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-2511.

Legislative History of Laws

For legislative history of D.C. Law 5-156, see Historical and Statutory Notes following § 7-1901.

Miscellaneous Notes

Delayed application of Law 5-156: See Historical and Statutory Notes following § 7-1901.

§ 7-1912. PENALTIES; ENFORCEMENT.

(a)(1) Any person required to report under § 7-1903(a)(1) who willfully fails to do so shall be guilty of a misdemeanor and, upon conviction, subject to a fine not exceeding \$300.

(2) Any person who willfully makes a report under § 7-1903 containing information that he or she knows to be false shall be guilty of a misdemeanor and, upon conviction, subject to a fine not exceeding \$1,000.

(3) Any person who willfully discloses, receives, uses, or permits the use of a report, investigative information, or other data in violation of § 7-1903(d) shall be guilty of a misdemeanor and, upon conviction, subject to a fine not exceeding \$1,000.

(4) Any person who, because of a report made under § 7-1903 or testimony given in support of the allegations contained in such a report, retaliates against any other person by taking action that adversely affects the latter's rights, privileges, living arrangement, or terms of employment shall be civilly liable for any damages caused by that retaliation and, in addition, subject to punitive damages not exceeding \$5,000.

(5) Any health-care administrator or health professional licensed in the District who willfully fails to make a report required by § 7-1903(a)(1), or willfully makes a report under § 7-1903 containing information that he or she knows to be false, shall be guilty of unprofessional conduct and subject to any sanction available to the governmental board, commission, or other authority responsible for his or her licensure.

(b) Criminal prosecutions brought under subsection (a) of this section shall be in the Superior Court of the District of Columbia by information signed by the Attorney General.

(c)(1) Any person who is aggrieved by a violation of this chapter, or who is acting on or in behalf of a person aggrieved by a violation of this chapter, may maintain an action in court to enjoin the continuation of that violation or the commission of any future violation. In any such action that challenges the adequacy of protective services provided under § 7-1905(a), the court may direct the Mayor to provide additional or different services only upon a finding of bad-faith noncompliance. Should such a finding be made, days on which, in the opinion of the court, the services provided were grossly inadequate shall not be counted against the 90-day limitation in § 7-1905(a)(2). Actions brought under this paragraph shall, commensurate with the exigency of the circumstances alleged, be expedited pursuant to procedures to be established by the court.

(2) No right to monetary relief shall lie against the District for a violation of this chapter. Denial of such a right, however, shall in no way be construed to limit or impede any other action for monetary relief that might be available pursuant to other federal or District law.

(Mar. 14, 1985, D.C. Law 5-156, § 13, 32 DCR 13; Mar. 8, 2006, D.C. Law 16-67, § 2(k), 53 DCR 40; Mar. 25, 2009, D.C. Law 17-353, § 102(b), 56 DCR 1117.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-2512.

Effect of Amendments

D.C. Law 16-67, in subsec. (b), substituted "Attorney General" for "Corporation Counsel".

D.C. Law 17-353 validated a previously made technical correction in subsec. (b).

Legislative History of Laws

For legislative history of D.C. Law 5-156, see Historical and Statutory Notes following § 7-1901.

For Law 16-67, see notes following § 7-1901.

For Law 17-353, see notes following § 7-161.

Miscellaneous Notes

Delayed application of Law 5-156: See Historical and Statutory Notes following § 7-1901.

§ 7-1913. REPORTING TO COUNCIL.

The Mayor shall submit to the Council an annual report on this chapter, which shall at a minimum include the following:

- (1) A description of the specific actions taken to implement this chapter, including the staffing pattern and budget of the responsible administrative unit;
- (2) An analysis by fiscal year of:
 - (A) The number of cases reported, investigations conducted, and reports substantiated;
 - (B) The characteristics of both substantiated and unsubstantiated cases, including a breakdown by age, impairment, individual reporting, police involvement, services refused, and type of abuse, neglect, or exploitation involved;
 - (C) The number of cases referred to court, the reasons for referral, their outcome, and associated court costs;
 - (D) The type, amount, and cost of protective services provided;
 - (E) The percentage of cost reimbursed by or recouped from 3rd parties;
 - (F) The status of substantiated cases at the end of 90 days of services, and the average number of days of services per case;
 - (G) The effectiveness with which government agencies and private organizations collaborate to investigate cases and administer protective services, including any proposals to improve coordination of efforts; and
 - (H) The resources needed by the Department to conduct investigations and provide services as authorized by and required under this chapter; and
- (3) Any recommendations for amendments to this chapter.

(Mar. 14, 1985, D.C. Law 5-156, § 14, 32 DCR 13; Mar. 8, 2006, D.C. Law 16-67, § 2(l), 53 DCR 40.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-2513.

Effect of Amendments

D.C. Law 16-67, in the lead-in text, substituted "The Mayor shall submit to the Council an annual" for "No later than October 1, 1987, the Mayor shall prepare and submit to the Council a"; in pars.(2)(E) and (F), deleted "and" from the end; and added pars.(2)(G) and (H).

Legislative History of Laws

For legislative history of D.C. Law 5-156, see Historical and Statutory Notes following § 7-1901.

For Law 16-67, see notes following § 7-1901.

Miscellaneous Notes

Delayed application of Law 5-156: See Historical and Statutory Notes following § 7-1901.