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SENATE
S.B. No. **3475**

Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

The Constitution, Article 15, Section 4 provides:

“The family has the duty to care for its elderly members but the State may also do so through just programs of social security.”

The United Nations Principles for Older Persons, which was adopted by the General Assembly in Resolution 46/91 in 16 December 1991, provides:

“The General Assembly x x x [e]ncourages Governments to incorporate the following principles into their national programmes whenever possible: x x x

“Older persons should be able to live in environments that are safe and adaptable to personal preferences and changing capacities. x x x

“Older persons should benefit from family and community care and protection in accordance with each society’s system of cultural values.

“Older persons should have access to health care to help them to maintain or regain the optimum level of physical, mental and emotional well-being and to prevent or delay the onset of illness.

“Older persons should have access to social and legal services to enhance their autonomy, protection and care.

“Older persons should be able to utilize appropriate levels of institutional care providing protection, rehabilitation and social and mental stimulation in a humane and secure environment.

“Older persons should be able to enjoy human rights and fundamental freedoms when residing in any shelter, care or treatment facility, including full respect for their dignity, beliefs, needs and privacy and for the right to make decisions about their care and the quality of their lives. x x x

“Older persons should be able to live in dignity and security and be free of exploitation and physical or mental abuse.”

The State has the duty to protect its elderly members against violence and other abuses committed against them by those responsible for their care, protection, or custody. This Act penalizes dependent adult abuse, and institute programs and mechanisms for its prevention.

Miriam Defensor Santiago
MIRIAM DEFENSOR SANTIAGO

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RECEIVED



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1 AN ACT
2 PENALIZING DEPENDENT ADULT ABUSE AND INSTITUTING PROGRAMS AND
3 MECHANISMS FOR ITS PREVENTION

Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

4 SECTION 1. *Short Title.* – This Act shall be known as the “Dependent Adult Abuse
5 Prevention Act of 2009.”

6 SECTION 2. *Declaration of Policy.* – It is hereby declared that the State values the
7 dignity of older persons and guarantees full respect for human rights. The State also recognizes
8 the need to protect the family, particularly its elderly members, from violence and threats to their
9 personal safety and security. It is the duty of the family to take care of its elderly members while
10 the State may design programs of social security for them.

11 Towards this end, the State shall exert efforts to address abuses committed against
12 dependent adults.

13 SECTION 3. *Definitions.* – As used in this Act, unless the context otherwise requires:

14 (a) “Caretaker” means a related or nonrelated person who has the responsibility for
15 the protection, care, or custody of a dependent adult as a result of assuming the responsibility
16 voluntarily, by contract, through employment, or by order of the court.

17 (b) “Department” means the Department of Social Welfare and Development.

1 (c) “Dependent adult” means a person eighteen (18) years of age or older who is
2 unable to protect the person’s own interests or unable to adequately perform or obtain services
3 necessary to meet essential human needs, as a result of a physical or mental condition which
4 requires assistance from another, or as defined by departmental rule.

5 (d) “Dependent adult abuse” means:

6 (1) Any of the following as a result of the willful or negligent acts or
7 omissions of a caretaker:

8 (A) Physical injury to, or injury which is at a variance with the history
9 given of the injury, or unreasonable confinement, unreasonable
10 punishment, or assault of a dependent adult.

11 (B) The commission of

12 (C) Exploitation of a dependent adult which means the act or process
13 of taking unfair advantage of a dependent adult or the adult's
14 physical or financial resources for one's own personal or pecuniary
15 profit, without the informed consent of the dependent adult,
16 including theft, by the use of undue influence, harassment, duress,
17 deception, false representation, or false pretenses.

18 (D) The deprivation of the minimum food, shelter, clothing,
19 supervision, physical or mental health care, or other care necessary
20 to maintain a dependent adult's life or health.

21 (E) The deprivation of the minimum food, shelter, clothing,
22 supervision, physical or mental health care, and other care
23 necessary to maintain a dependent adult's life or health as a result
24 of the acts or omissions of the dependent adult.

25 (F) Sexual exploitation of a dependent adult by a caretaker. “Sexual
26 exploitation” means any consensual or nonconsensual sexual
27 conduct with a dependent adult for the purpose of arousing or
28 satisfying the sexual desires of the caretaker or dependent adult,
29 which includes but is not limited to kissing; touching of the clothed

1 or unclothed inner thigh, breast, groin, buttocks, anus, pubes, or
2 genitals; or a sex act.

3 Sexual exploitation includes the transmission, display,
4 taking of electronic images of the unclothed breast, groin, buttocks,
5 anus, pubes, or genitals of a dependent adult by a caretaker for a
6 purpose not related to treatment or diagnosis or as part of an
7 ongoing assessment, evaluation, or investigation. It does not
8 include touching which is part of a necessary examination,
9 treatment, or care by a caretaker acting within the scope of the
10 practice or employment of the caretaker; the exchange of a brief
11 touch or hug between the dependent adult and a caretaker for the
12 purpose of reassurance, comfort, or casual friendship; or touching
13 between spouses.

14 (2) Dependent adult abuse does not include any of the following:

15 (A) Circumstances in which the dependent adult declines medical
16 treatment if the dependent adult holds a belief or is an adherent of
17 a religion whose tenets and practices call for reliance on spiritual
18 means in place of reliance on medical treatment.

19 (B) Circumstances in which the dependent adult's caretaker, acting in
20 accordance with the dependent adult's stated or implied consent,
21 declines medical treatment if the dependent adult holds a belief or
22 is an adherent of a religion whose tenets and practices call for
23 reliance on spiritual means in place of reliance on medical
24 treatment.

25 (C) The withholding or withdrawing of health care from a dependent
26 adult who is terminally ill in the opinion of a licensed physician,
27 when the withholding or withdrawing of health care is done at the
28 request of the dependent adult or at the request of the dependent
29 adult's next of kin or guardian pursuant to law.

1 (e) "Emergency shelter services" means and includes, but is not limited to, secure
2 crisis shelters or housing for victims of dependent adult abuse.

3 (f) "Family or household member" means a spouse, a person cohabiting with the
4 dependent adult, a parent, or a person related to the dependent adult by consanguinity or affinity,
5 but does not include children of the dependent adult who are less than eighteen (18) years of age.

6 (g) "Immediate danger to health or safety" means a situation in which death or severe
7 bodily injury could reasonably be expected to occur without intervention.

8 (h) "Individual employed as an outreach person" means a natural person who, in the
9 course of employment, makes regular contacts with dependent adults regarding available
10 community resources.

11 (i) "Recklessly" means that a person acts or fails to act with respect to a material
12 element of a public offense, when the person is aware of and consciously disregards a substantial
13 and unjustifiable risk that the material element exists or will result from the act or omission. The
14 risk must be of such a nature and degree that disregard of the risk constitutes a gross deviation
15 from the standard conduct that a reasonable person would observe in the situation.

16 (j) "Secretary" refers to the Secretary of Social Work and Development.

17 (k) "Serious injury" means a disabling mental illness, or a bodily injury which creates
18 a substantial risk of death or which causes serious permanent disfigurement, or protracted loss or
19 impairment of the function of any bodily member or organ.

20 (l) "Support services" includes but is not limited to community-based services
21 including aging assistance, mental health services, fiscal management, home health services,
22 housing-related services, counseling services, transportation services, adult day care services,
23 respite services, legal services, and advocacy services.

24 SECTION 4. *Dependent Adult Abuse Services.* – The department shall establish and
25 operate a dependent adult abuse services program. The program shall emphasize the reporting
26 and evaluation of cases of abuse of a dependent adult who is unable to protect the adult's own
27 interests or unable to perform activities necessary to meet essential human needs. The program
28 shall include but is not limited to:

1 (a) The establishment of local or regional multidisciplinary teams to assist in
2 assessing the needs of, formulating and monitoring a treatment plan for, and coordinating
3 services to victims of dependent adult abuse. The membership of a team shall include individuals
4 who possess knowledge and skills related to the diagnosis, assessment, and disposition of
5 dependent adult abuse cases and who are professionals practicing in the disciplines of medicine,
6 public health, mental health, social work, law, law enforcement, or other disciplines relative to
7 dependent adults. Members of a team shall include, but are not limited to, Department social
8 workers, lawyers, health care providers, and other persons involved in advocating or providing
9 services to dependent adults.

10 (b) Provisions for information sharing and case consultation among service providers,
11 care providers, and victims of dependent adult abuse.

12 (c) Procedures for referral of cases among service providers, including the referral of
13 victims of dependent adult abuse residing in licensed health care facilities.

14 SECTION 5. *Dependent Adult Protective Advisory Council.* – There is established a
15 dependent adult protective advisory council.

16 (a) The advisory council shall consist of five members to be appointed by the
17 President of the Philippines. The members shall be appointed on the basis of knowledge and
18 skill related to expertise in the area of dependent adult abuse including professionals practicing
19 in the disciplines of medicine, public health, mental health, long-term care, social work, law, and
20 law enforcement.

21 (b) The members of the advisory council shall be appointed to terms of four years
22 beginning May 1.

23 (c) Members shall receive actual expenses incurred while serving in their official
24 capacity.

25 (d) The advisory council shall select a chairperson, annually, from its membership.

26 (e) The advisory council shall: (1) advise the Secretary regarding dependent adult
27 abuse prevention; (2) evaluate laws and rules and make recommendations to Congress and to
28 executive branch departments regarding laws and rules concerning dependent adults; and (3)

1 receive and review recommendations and complaints from the public concerning the dependent
2 adult abuse services program.

3 SECTION 6. *Dependent Adult Abuse Reports.* – (a) The department shall receive
4 dependent adult abuse reports, and shall collect, maintain, and disseminate the reports by
5 establishing a central registry for dependent adult abuse information. The department shall
6 evaluate the reports expeditiously.

7 Reports of dependent adult abuse which is the result of the acts or omissions of the
8 dependent adult shall be collected and maintained in the files of the dependent adult as
9 assessments only and shall not be included in the central registry.

10 (a) All of the following persons shall report suspected dependent adult abuse to the
11 department:

12 (1) A self-employed social worker;

13 (2) A social worker under the department;

14 (3) A social worker employed by a public or private person including a public or
15 private health care facility;

16 (4) A certified psychologist;

17 (5) A person who, in the course of employment, examines, attends, counsels, or treats
18 a dependent adult and reasonably believes the dependent adult has suffered abuse,
19 including, but not limited to:

20 (A) A member of the staff of a public health center, a member of the staff of a
21 hospital, or a member of the staff or employee of a public or private health
22 care facility;

23 (B) A police officer; or

24 (C) A health practitioner.

25 (b) Any other person who believes that a dependent adult has suffered abuse may
26 report the suspected abuse to the department of human services.

27 (c) Following the reporting of suspected dependent adult abuse, the department shall
28 complete an assessment of necessary services and shall make appropriate referrals for receipt of
29 these services. The assessment shall include interviews with the dependent adult, and, if

1 appropriate, with the alleged perpetrator of the dependent adult abuse and with any person
2 believed to have knowledge of the circumstances of the case. The department may provide
3 necessary protective services and may establish a sliding fee schedule for those persons able to
4 pay a portion of the protective services.

5 (d) Upon a showing of probable cause that a dependent adult has been abused, a court
6 may authorize a person, also authorized by the department, to make an evaluation, to enter the
7 residence of, and to examine the dependent adult. Upon a showing of probable cause that a
8 dependent adult has been financially exploited, a court may authorize a person, also authorized
9 by the department, to make an evaluation, and to gain access to the financial records of the
10 dependent adult.

11 (e) The department may request information from any person believed to have
12 knowledge of a case of dependent adult abuse. The person shall cooperate and assist in the
13 evaluation upon the request of the department. If the department's assessment reveals that
14 dependent adult abuse exists which might constitute a criminal offense, a report shall be made to
15 the appropriate government agency. Appropriate government agencies shall also take any other
16 lawful action necessary or advisable for the protection of the dependent adult.

17 (f) If, upon completion of the evaluation, the department determines that the best
18 interests of the dependent adult require court action, the department shall initiate action for the
19 appointment of a guardian or conservator or for admission or commitment to an appropriate
20 institution or facility pursuant to the applicable procedures under the law, or shall pursue other
21 remedies provided by law.

22 (g) The department shall assist the court during all stages of court proceedings
23 involving a suspected case of dependent adult abuse.

24 (h) In every case involving abuse which is substantiated by the department and which
25 results in a judicial proceeding on behalf of the dependent adult, legal counsel shall be appointed
26 by the court to represent the dependent adult in the proceedings, if the dependent adult cannot
27 secure the services of a lawyer. The court may also appoint a guardian *ad litem* to represent the
28 dependent adult if necessary to protect the dependent adult's best interests. The same attorney
29 may be appointed to serve both as legal counsel and as guardian *ad litem*. Before legal counsel or

1 a guardian *ad litem* is appointed pursuant to this section, the court shall require the dependent
2 adult and any person legally responsible for the support of the dependent adult to complete under
3 oath a detailed financial statement. If, on the basis of that financial statement, the court deems
4 that the dependent adult or the legally responsible person is able to bear all or a portion of the
5 cost of the legal counsel or guardian *ad litem*, the court shall so order. In cases where the
6 dependent adult or the legally responsible person is unable to bear the cost of the legal counsel or
7 guardian *ad litem*, the expense shall be paid by the government.

8 (i) A person participating in good faith in reporting or cooperating with or assisting
9 the department in evaluating a case of dependent adult abuse has immunity from liability, civil or
10 criminal, which might otherwise be incurred or imposed based upon the act of making the report
11 or giving the assistance. The person has the same immunity with respect to participating in good
12 faith in a judicial proceeding resulting from the report or cooperation or assistance or relating to
13 the subject matter of the report, cooperation, or assistance.

14 It shall be unlawful for any person or employer to discharge, suspend, or otherwise
15 discipline a person required to report or voluntarily reporting an instance of suspected dependent
16 adult abuse pursuant to this section, or cooperating with, or assisting the department in
17 evaluating a case of dependent adult abuse, or participating in judicial proceedings relating to the
18 reporting or cooperation or assistance based solely upon the person's reporting or assistance
19 relative to the instance of dependent adult abuse. A person or employer found in violation of this
20 subsection shall be guilty of an offense and shall be liable on conviction to imprisonment for a
21 term not exceeding one (1) year and a fine not exceeding fifty thousand pesos (P50,000.00).

22 (j) A person required by this section to report a suspected case of dependent adult
23 abuse who knowingly and willfully fails to do so shall be guilty of an offense and shall be liable
24 on conviction to imprisonment for a term not exceeding one (1) year and a fine not exceeding
25 twenty thousand pesos (P20,000.00). A person required by this section to report a suspected case
26 of dependent adult abuse who knowingly fails to do so is civilly liable for the damages
27 proximately caused by the failure.

1 SECTION 7. *Duties of Police Officers.* – If a police officer has reason to believe that
2 dependent adult abuse, which is criminal in nature, has occurred, the officer shall use all
3 reasonable means to prevent further abuse, including but not limited to any of the following:

4 (a) If requested, remaining on the scene as long as there is a danger to the dependent
5 adult's physical safety without the presence of a police officer, including but not limited to
6 staying in the dwelling unit, or if unable to remain at the scene, assisting the dependent adult in
7 leaving the residence and securing support services or emergency shelter services.

8 (b) Assisting the dependent adult in obtaining medical treatment necessitated by the
9 dependent adult abuse, including providing assistance to the dependent adult in obtaining
10 transportation to the emergency room of the nearest hospital.

11 (c) Providing a dependent adult with immediate and adequate notice of the dependent
12 adult's rights. The notice shall consist of handing the dependent adult a copy of the following
13 written statement, requesting the dependent adult to read the card and asking the dependent adult
14 whether the dependent adult understands the rights:

15 (1) “If you are in need of medical treatment, you have the right to request that
16 the police officer present assist you in obtaining transportation to the
17 nearest hospital or otherwise assist you.”

18 (2) “If you believe that police protection is needed for your physical safety,
19 you have the right to request that the police officer present remain at the
20 scene until you and other affected parties can leave or safety is otherwise
21 ensured.”

22 (3) “You have the right to ask the court for the following help on a temporary
23 basis:

24 (A) Keeping the alleged perpetrator away from you, your home, and
25 your place of work.

26 (B) The right to stay at your home without interference from the
27 alleged perpetrator.

28 (C) Professional counseling for you, your family, or household
29 members, and the alleged perpetrator of the dependent adult abuse.

1 The notice shall also contain the telephone number of the local emergency
2 shelter services, support services, or crisis lines operating in the area.

3 SECTION 8. *Creation and Maintenance of a Central Registry.* – (a) There is created
4 within the department a central registry for dependent adult abuse information. The department
5 shall organize and staff the registry and adopt rules for its operation.

6 (b) The registry shall collect, maintain, and disseminate dependent adult abuse
7 information as provided in this Act.

8 (c) The department shall maintain a toll-free telephone line, which shall be available
9 on a twenty-four-hour-a-day, seven-day-a-week basis and which the department and all other
10 persons may use to report cases of suspected dependent adult abuse and that all persons
11 authorized by this Act may use for obtaining dependent adult abuse information.

12 (d) An oral report of suspected dependent adult abuse initially made to the central
13 registry shall be immediately transmitted by the department to the appropriate government
14 agencies.

15 (e) The registry, upon receipt of a report of suspected dependent adult abuse, shall
16 search the records of the registry, and if the records of the registry reveal any previous report of
17 dependent adult abuse involving the same adult or if the records reveal any other pertinent
18 information with respect to the same adult, the appropriate government agencies shall be
19 immediately notified of that fact.

20 (f) The central registry shall include but not be limited to report data, investigation
21 data, and disposition data.

22 SECTION 9. *Authorized Access.* – (a) The confidentiality of all dependent adult abuse
23 information shall be maintained, except as specifically provided by this section.

24 (b) Access to dependent adult abuse information other than unfounded dependent
25 adult abuse information is authorized only to the following persons:

26 (1) A subject of a report including all of the following:

- 1 (A) To an adult named in a report as a victim of abuse or to the adult's attorney
2 or guardian *ad litem*.
- 3 (B) To a guardian or legal custodian, or that person's attorney, of an adult
4 named in a report as a victim of abuse.
- 5 (C) To the person or the attorney for the person named in a report as having
6 abused an adult.
- 7 (2) A person involved in an investigation of dependent adult abuse including all of
8 the following:
- 9 (A) A health practitioner or mental health professional who is examining,
10 attending, or treating an adult whom such practitioner or professional
11 believes or has reason to believe has been the victim of abuse or to a
12 health practitioner or mental health professional whose consultation with
13 respect to an adult believed to have been the victim of abuse is requested
14 by the department.
- 15 (B) An employee or agent of the department responsible for the investigation
16 of a dependent adult abuse report.
- 17 (C) A representative of the department involved in the certification or
18 accreditation of an agency or program providing care or services to a
19 dependent adult believed to have been a victim of abuse.
- 20 (D) A law enforcement officer responsible for assisting in an investigation of a
21 dependent adult abuse allegation.
- 22 (E) A multidisciplinary team, if the department approves the composition of
23 the multidisciplinary team and determines that access to the team is
24 necessary to assist the department in the investigation, diagnosis,
25 assessment, and disposition of a case of dependent adult abuse.
- 26 (F) The mandatory reporter who reported the dependent adult abuse in an
27 individual case.
- 28 (3) A person providing care to an adult including all of the following:

- 1 (A) The licensing authority for a facility providing care to an adult named in a
2 report.
- 3 (B) A person authorized as responsible for the care or supervision of an adult
4 named in a report as a victim of abuse or a person named in a report as
5 having abused an adult if the court or registry deems access to dependent
6 adult abuse information by such person to be necessary.
- 7 (C) An employee or agent of the department responsible for registering or
8 licensing or approving the registration or licensing of a person, or to an
9 individual providing care to an adult and regulated by the department.
- 10 (4) Relating to judicial and administrative proceedings, persons including all of the
11 following:
- 12 (A) A court upon a finding that information is necessary for the resolution of
13 an issue arising in any phase of a case involving dependent adult abuse.
- 14 (B) A court or administrative agency hearing an appeal for correction of
15 dependent adult abuse information as provided in this Act.
- 16 (C) An expert witness at any stage of an appeal necessary for correction of
17 dependent adult abuse information as provided in this Act.
- 18 (5) Other persons including all of the following:
- 19 (A) A person conducting bona fide research on dependent adult abuse, but
20 without information identifying individuals named in a dependent adult
21 abuse report, unless having that information open to review is essential to
22 the research or evaluation and the authorized registry officials give prior
23 written approval and the adult, the adult's guardian or guardian *ad litem*,
24 and the person named in a report as having abused an adult give
25 permission to release the information.
- 26 (B) Registry or department personnel when necessary to the performance of
27 their official duties or a person or agency under contract with the
28 department to carry out official duties and functions of the registry.

1 (C) A health care facility administrator or the administrator's designee,
2 following the appeals process, for the purpose of hiring staff or continued
3 employment of staff.

4 SECTION 10. *Redissemination of Dependent Adult Abuse Information.* – (a) A recipient
5 of dependent adult abuse information authorized to receive the information shall not
6 disseminate the information, except that dissemination shall be permitted when all of the
7 following conditions apply:

8 (1) The dissemination is for official purposes in connection with prescribed duties
9 or, in the case of a health practitioner, pursuant to professional responsibilities.

10 (2) The person to whom such information would be disseminated would have
11 independent access to the same information under section 9.

12 (3) A written record is made of the dissemination, including the name of the
13 recipient and the date and purpose of the dissemination.

14 (4) The written record is forwarded to the registry within thirty (30) days of the
15 dissemination.

16 (b) The department may notify, orally, the mandatory reporter in an individual
17 dependent adult abuse case of the results of the case investigation and of the confidentiality
18 provisions of the Act. The department shall subsequently transmit a written notice to the
19 mandatory reporter of the results and confidentiality provisions. A copy of the written notice
20 shall be transmitted to the registry and shall be maintained by the registry as provided in this Act.

21 SECTION 11. *Sealing and Expungement of Dependent Adult Abuse Information.* – (a)
22 Dependent adult abuse information relating to a particular case of suspected dependent adult
23 abuse shall be sealed ten (10) years after the receipt of the initial report of such abuse by the
24 registry unless good cause is shown why the information should remain open to authorized
25 access. If a subsequent report of a suspected case of dependent adult abuse involving the adult
26 named in the initial report as the victim of abuse or a person named in such report as having
27 abused an adult is received by the registry within the ten-year period, the information shall be

1 sealed ten (10) years after receipt of the subsequent report unless good cause is shown why the
2 information should remain open to authorized access.

3 (b) Dependent adult abuse information which cannot be determined by a
4 preponderance of the evidence to be founded or unfounded shall be expunged one (1) year after
5 the receipt of the initial report of abuse and dependent adult abuse information which is
6 determined by a preponderance of the evidence to be unfounded shall be expunged immediately
7 when it is determined to be unfounded.

8 (c) However, if a correction of dependent adult abuse information is requested under
9 section 12 and the issue is not resolved at the end of one year the information shall be retained
10 until the issue is resolved and if the dependent adult abuse information is not determined to be
11 founded, the information shall be expunged immediately when it is determined to be unfounded.

12 (d) The registry, at least annually, shall review and determine the current status of
13 dependent adult abuse reports which are at least one (1) year old and in connection with which
14 no investigatory report has been filed by the department. If no investigatory report has been
15 filed, the registry shall request the department to file a report. If a report is not filed within
16 ninety (90) days subsequent to a request, the report and relative information shall be sealed and
17 remain sealed unless good cause is shown why the information should remain open to authorized
18 access.

19 SECTION 12. *Examination, Requests for Correction or Expungement, and Appeal.* – (a)
20 Any person or that person's attorney shall have the right to examine dependent adult abuse
21 information in the registry which refers to that person. The registry may prescribe reasonable
22 hours and places of examination.

23 (b) A person may file with the department within six (6) months of the date of the
24 notice of the results of an investigation, a written statement to the effect that dependent adult
25 abuse information referring to the person is in whole or in part erroneous, and may request a
26 correction of that information or of the findings of the investigation report. The department shall
27 provide the person with an opportunity for an administrative hearing to correct the information or
28 the findings, unless the department corrects the information or findings as requested. The

1 department shall delay the expungement of information which is not determined to be founded
2 until the conclusion of a proceeding to correct the information or findings. The department may
3 defer the hearing until the conclusion of a court case relating to the information or findings.

4 (c) The decision resulting from the hearing may be appealed to the family court
5 having jurisdiction in the place where the dependent adult resides by the person requesting the
6 correction. Immediately upon appeal the court shall order the department to file with the court a
7 certified copy of the dependent adult abuse information.

8 (d) Upon request of the appellant, the record and evidence in such cases shall be
9 closed to all but the court and its officers, and access to the record and evidence shall be
10 prohibited unless otherwise ordered by the court. The clerk shall maintain a separate docket for
11 such actions. A person other than the appellant shall not permit a copy of the testimony or
12 pleadings or the substance of the testimony or pleadings to be made available to any person other
13 than a party to the action or the party's attorney.

14 (e) If the registry corrects or eliminates information as requested or as ordered by the
15 court, the registry shall advise all persons who have received the incorrect information of the
16 fact. Upon application to the court and service of notice on the registry, an individual may
17 request and obtain a list of all persons who have received dependent adult abuse information
18 referring to the individual.

19 (f) In the course of any proceeding provided for by this section, the identity of the
20 person who reported the disputed information and the identity of any person who has been
21 reported as having abused an adult may be withheld upon a determination by the registry that
22 disclosure of the person's identity would be detrimental to the person's interest.

23 SECTION 13. *Civil Remedy.* – Any aggrieved person may institute a civil action for
24 damages or to restrain the dissemination of dependent adult abuse information in violation of this
25 Act, and any person proven to have disseminated or to have requested and received dependent
26 adult abuse information in violation of this Act shall be liable for actual damages and exemplary
27 damages for each violation and shall be liable for court costs, expenses, and reasonable attorney's
28 fees incurred by the party bringing the action. In no case shall the award for damages be less than

1 ten (10) thousand pesos. The civil action may be instituted simultaneously with the criminal
2 action for violations of this Act.

3 SECTION 14. *Registry Reports.* – (a) The registry shall compile statistics, conduct
4 research, and issue reports on dependent adult abuse, provided identifying details of the subjects
5 of dependent adult abuse reports are deleted from any report issued.

6 (b) The registry shall issue an annual report on its administrative operation, including
7 information as to the number of requests for dependent adult abuse data, the proportion of
8 requests attributable to each type of authorized access, the frequency and nature of irregularities,
9 and other pertinent matters.

10 SECTION 15. *Emergency Order for Protective Services.* – (a) If the department
11 determines that a dependent adult is suffering from dependent adult abuse which presents an
12 immediate danger to the health or safety of the dependent adult, that the dependent adult lacks
13 capacity to consent to receive protective services, and that no consent can be obtained, the
14 department may petition the family court having jurisdiction over the place where the dependent
15 adult resides for an emergency order authorizing protective services.

16 (b) The petition shall be verified and shall include all of the following:

17 (1) The name, date of birth, and address of the dependent adult who needs
18 protective services.

19 (2) The nature of the dependent adult abuse.

20 (3) The services required.

21 (c) Upon finding that there is probable cause to believe that the dependent adult
22 abuse presents an immediate threat to the health or safety of the dependent adult
23 and that the dependent adult lacks capacity to consent to the receipt of services,
24 the court may do any of the following:

25 (1) Order removal of the dependent adult to safer surroundings.

26 (2) Order the provision of medical services.

1 (3) Order the provision of other available services necessary to remove
2 conditions creating the danger to health or safety, including the services of
3 peace officers or emergency services personnel.

4 (d) The emergency order expires at the end of seventy-two (72) hours from the time
5 of the order unless the seventy-two-hour period ends on a Saturday, Sunday, or
6 legal holiday in which event the order is automatically extended to four p.m. on
7 the first succeeding business day. An order may be renewed for not more than
8 fourteen (14) additional days. A renewal order that ends on a Saturday, Sunday, or
9 legal holiday is automatically extended to four p.m. on the first succeeding
10 business day. The court may modify or terminate the emergency order on the
11 petition of the department, the dependent adult, or any person interested in the
12 dependent adult's welfare.

13 (e) If the department cannot obtain an emergency order under this section due to
14 inaccessibility of the court, the department may contact law enforcement to
15 remove the dependent adult to safer surroundings, authorize the provision of
16 medical treatment, and order the provision of or provide other available services
17 necessary to remove conditions creating the immediate danger to the health or
18 safety of the dependent adult. The department shall obtain an emergency order
19 under this section not later than four p.m. on the first succeeding business day
20 after the date on which protective or other services are provided. If the department
21 does not obtain an emergency order within the prescribed time period, the
22 department shall cease providing protective services and, if necessary, make
23 arrangements for the immediate return of the person to the place from which the
24 person was removed, to the person's place of residence in the state, or to another
25 suitable place. A person, agency, or institution acting in good faith in removing a
26 dependent adult or in providing services under this subsection, and an employer
27 of or person under the direction of such a person, agency, or institution, shall have
28 immunity from any liability, civil or criminal, that might otherwise be incurred or
29 imposed as the result of the removal or provision of services.

1 (f) The court may also enter orders as may be appropriate to third persons enjoining
2 them from specific conduct. The orders may include temporary restraining orders.

3 The court may enjoin third persons from any of the following:

- 4 (1) Removing the dependent adult from the care or custody of another.
- 5 (2) Committing dependent adult abuse on the dependent adult.
- 6 (3) Living at the dependent adult's residence.
- 7 (4) Contacting the dependent adult in person or by telephone.
- 8 (5) Selling, removing, or otherwise disposing of the dependent adult's
9 personal property.
- 10 (6) Withdrawing funds from any bank, savings and loan association, credit
11 union, or other financial institution, or from a stock account in which the
12 dependent adult has an interest.
- 13 (7) Negotiating any instruments payable to the dependent adult.
- 14 (8) Selling, mortgaging, or otherwise encumbering any interest that the
15 dependent adult has in real property.
- 16 (9) Exercising any powers on behalf of the dependent adult through
17 representatives of the department, any court-appointed guardian or
18 guardian *ad litem*, or any official acting on the dependent adult's behalf.
- 19 (10) Engaging in any other specified act which, based upon the facts alleged,
20 would constitute harm or a threat of imminent harm to the dependent adult
21 or would cause damage to or the loss of the dependent adult's property.
- 22 (11) This section shall not be construed and is not intended as and shall not
23 imply a grant of entitlement for services to persons who are not otherwise
24 eligible for the services or for utilization of services which do not
25 currently exist or are not otherwise available.

26 SECTION 16. *Criminal Penalties.* – (a) Adult abuse information—

- 27 (1) Any person who willfully requests, obtains, or seeks to obtain dependent adult
28 abuse information under false pretenses, or who willfully communicates or seeks

1 to communicate dependent adult abuse information to any person except in
2 accordance with this Act, or any person connected with any research authorized
3 pursuant to this Act who willfully falsifies dependent adult abuse information or
4 any records relating to the information is guilty of a criminal offense, and shall be
5 punished by *arresto mayor* and a fine of ten thousand pesos (P10,000.00). Any
6 person who knowingly, but without criminal purposes, communicates or seeks to
7 communicate dependent adult abuse information except in accordance with this
8 Act, shall be punished with a fine of five thousand pesos (P5,000.00).

9 (2) Any reasonable grounds for belief that a person has violated any provision of this
10 Act is grounds for the immediate withdrawal of any authorized access the person
11 might otherwise have to dependent adult abuse information.

12 (b) Dependent adult abuse—

13 (1) Charges of dependent adult abuse may be initiated upon complaint of
14 private individuals or as a result of investigations by the department or
15 social service agencies or on the direct initiative of a law enforcement
16 agency.

17 (2) A caretaker who intentionally commits dependent adult abuse on a
18 dependent adult in violation of this Act shall be punished by *prision mayor*
19 if the intentional dependent adult abuse results in serious injury.

20 (3) A caretaker who recklessly commits dependent adult abuse on a dependent
21 adult in violation of this Act shall be punished by *prision correccional* if
22 the reckless dependent adult abuse results in serious injury.

23 (4) A caretaker who intentionally commits dependent adult abuse on a
24 dependent adult in violation of this Act shall be punished by *arresto*
25 *mayor* if the intentional dependent adult abuse results in physical injury.

26 (5) A caretaker who recklessly commits dependent adult abuse on a person in
27 violation of this Act shall be punished by *arresto mayor* if the reckless
28 dependent adult abuse results in physical injury.

1 (6) A caretaker who commits dependent adult abuse by exploiting a
2 dependent adult in violation of this Act shall be punished by *prision*
3 *correccional* if the value of the property, assets, or resources exceeds one
4 thousand pesos (P1,000.00).

5 (7) A caretaker who commits dependent adult abuse by exploiting a
6 dependent adult in violation of this Act shall be punished by *arresto*
7 *mayor* if the value of the property, assets, or resources is one thousand
8 pesos (P1,000.00) or less.

9 (8) A caretaker alleged to have committed a violation of this Act shall be
10 charged with the respective offense cited, unless a charge may be brought
11 based upon a more serious offense, as provided for in other laws, in which
12 case the charge of the more serious offense shall supersede the less serious
13 charge.

14 SECTION 17. *Rules and Regulations.* – The Secretary of Social Welfare and
15 Development shall issue the necessary rules and regulations to carry out the objectives of this
16 Act.

17 SECTION 18. *Authorization of Appropriations.* – To carry out the provisions of this Act,
18 there are authorized to be appropriated such sums as may be necessary for each fiscal year.

19 The Dependent Adult Abuse Services Program shall be established with one (1) year
20 after the effectivity of this Act.

21 SECTION 19. *Reportorial requirement.* – Within two (2) years after the effectivity of
22 this Act, the Secretary shall submit a report to Congress on the costs and means to implement the
23 provisions of this Act. Thereafter, the Secretary shall submit an annual report to Congress.

1 SECTION 20. *Separability Clause.* – If any provision, or part hereof is held invalid or
2 unconstitutional, the remainder of the law or the provision not otherwise affected shall remain
3 valid and subsisting.

4 SECTION 21. *Repealing Clause.* – Any law, presidential decree or issuance, executive
5 order, letter of instruction, administrative order, rule or regulation contrary to or inconsistent
6 with, the provisions of this Act is hereby repealed, modified, or amended accordingly.

7 SECTION 22. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its
8 publication in at least two (2) newspapers of general circulation.

Approved,

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