

AN ACT

Codification  
District of  
Columbia  
Official Code

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the Adult Protective Services Act of 1984 to authorize Adult Protective Services to investigate cases of self-neglect and provide protective services where necessary.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Karyn Barquin Adult Protective Services Self-Neglect Expansion Amendment Act of 2005".

Sec. 2. The Adult Protective Services Act of 1984, effective March 14, 1985 (D.C. Law 5-156; D.C. Official Code § 7-1901 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 7-1901) is amended as follows:

Amend  
§ 7-1901

(1) Paragraph (1) is amended as follows:

(A) Designate the lead-in language as subparagraph (A).

(B) Designate subparagraphs (A), (B), (C), (D), and (E) as subparagraphs (i), (ii), (iii), (iv), and (v).

(C) Newly designated sub-subparagraph (iii) is amended by striking the word "confinement" and inserting the phrase "confinement or threats to impose unreasonable confinement" in its place.

(D) A new subparagraph (B) is added to read as follows:

"(B) An adult shall not be considered abused under this act 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."

(2) A new paragraph (1A) is added to read as follows:

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

(3) Paragraph (2) is amended to read as follows:

"(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 act 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."

(4) A new paragraph (8A) is added to read as follows:

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

(5) Paragraph (9) is amended as follows:

(A) Designate the lead-in language as subparagraph (A).

(B) Redesignate subparagraphs (A), (B), (C), and (D) as subparagraphs (i), (ii), (iii), and (iv).

(C) A new subparagraph (B) is added to read as follows:

"(B) An adult shall not be considered neglected under this act 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."

(6) Paragraph (12) is amended by striking the phrase "exploitation by another," and inserting the phrase "exploitation by another, or self-neglect," in its place.

(7) A new paragraph (13) is added to read as follows:

"(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 act 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."

(b) Section 3 (D.C. Official Code § 7-1902) is repealed.

(c) Section 4 (D.C. Official Code § 7-1903) is amended as follows:

(1) Subsection (a) is amended as follows:

(A) Paragraph (1) is amended as follows:

(i) Strike the phrase "or social worker" and insert the phrase

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§ 7-1902  
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§ 7-1903

"bank manager, financial manager, or social worker" in its place.

(ii) Strike the phrase "abuse or neglect" and insert the phrase "abuse, neglect, or exploitation" in its place.

(B) Paragraph (2) is amended by striking the phrase "or exploitation" and inserting the phrase "self-neglect, or exploitation" in its place.

(2) Subsection (b) is amended by striking the phrase "the 3<sup>rd</sup> person" and inserting the phrase "a third person" in its place.

(3) Subsection (c) is amended by striking the phrase "the nature and extent of the abuse, neglect, or exploitation" and inserting the phrase "the nature and extent of the abuse, neglect, self-neglect, or exploitation" in its place.

(4) Subsection (d) is amended as follows:

(A) Paragraph (1) is amended as follows:

(i) Subparagraph (A) is amended to read as follows:

"(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 act, 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;".

(ii) Subparagraph (B) is amended by striking the phrase "Corporation Counsel" and inserting the phrase "Attorney General for the District of Columbia" in its place and by striking the word "or" at the end.

(iii) A new subparagraph (B-1) is added to read as follows:

"(B-1) To the Metropolitan Police Department; or".

(B) Paragraph (2) is amended by striking the phrase "paragraph (1)(A) through (C)" and inserting the phrase "paragraph (1)" in its place.

(5) A new subsection (d-1) is added to read as follows:

"(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."

(6) Subsection (e) is amended to read as follows:

"(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."

(d) Section 5 (D.C. Official Code § 7-1904) is amended as follows:

(1) Subsection (b) is amended as follows:

(A) Strike the phrase "another, the investigation shall be terminated," and insert the phrase "another or that the adult is incapacitated, the investigation shall be

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terminated," in its place.

(B) Strike the phrase "Corporation Counsel to petition for an ex parte order pursuant to subsection (c) of this section." and insert the phrase "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 section 6(c-1).".

(2) Subsection (c) is amended by striking the phrase "Corporation Counsel" and inserting the phrase "Attorney General" in its place.

(3) Subsection (e) is amended by striking the phrase "neglect," and inserting the phrase "neglect, self-neglect," in its place.

(e) Section 6 (D.C. Official Code § 7-1905) is amended as follows:

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§ 7-1905

(1) Subsection (a)(1)(A) is amended by striking the phrase "services;" and inserting the phrase "services due to abuse, neglect, or exploitation by a third party;" in its place.

(2) A new subsection (a-1) is added to read as follows:

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

"(1) After an APS worker conducts an investigation under section 5, 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 section 10."

(3) Subsection (b) is amended to read as follows:

"(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."

(4) Subsection (c) is amended to read as follows:

"(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 sections 7 or 8."

(5) A new subsection (c-1) is added to read as follows:

"(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."

(6) A new subsection (f) is added to read as follows:

"(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 act for an adult who meets the criteria for self-neglect or who is determined to be at risk due to self-neglect."

(f) Section 7 (D.C. Official Code § 7-1906) is amended as follows:

Amend  
§ 7-1906

(1) Subsection (a) is amended as follows:

(A) The lead-in text is amended by striking the phrase "Corporation Counsel" and inserting the phrase "Attorney General" in its place.

(B) Paragraph (4) is amended by striking the phrase "neglect," and inserting the phrase "neglect, self-neglect," in its place.

(C) Paragraph (5)(A) is amended by striking the phrase "impairment;" and inserting the phrase "impairment or incapacity;" in its place.

(2) Subsection (b) is amended as follows:

(A) Strike the phrase "Corporation Counsel" and insert the phrase "Attorney General" in its place.

(B) Strike the phrase "Corporation Counsel's" and insert the phrase "Attorney General's" in its place.

(3) Subsection (d) is amended by striking the phrase "Corporation Counsel" and inserting the phrase "Attorney General" in its place.

(g) Section 8(a) (D.C. Official Code § 7-1907(a)) is amended by striking the phrase "Corporation Counsel" and inserting the phrase "Attorney General" in its place.

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(h) Section 9 (D.C. Official Code § 7-1908) is amended by striking the phrase "neglect," and inserting the phrase "neglect, self-neglect," in its place.

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§ 7-1908  
Amend  
§ 7-1909

(i) Section 10 (D.C. Official Code § 7-1909) is amended as follows:

(1) Designate the existing text as subsection (a).

(2) The newly designated subsection (a) is amended as follows:

**ENROLLED ORIGINAL**

(A) The lead-in text is amended by striking the phrase "no later than October 1, 1985,".

(B) Paragraph (2) is amended to 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 District of Columbia is responsible for the abuse, neglect, or exploitation of an impaired adult;".

(C) Paragraph (3) is amended by striking the phrase "services." and inserting the phrase "services;" in its place.

(D) New paragraphs (4) and (5) are added to read as follows:

"(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.".

(3) A new subsection (b) is added to read as follows:

"(b) Within 60 days of the effective date of the Karyn Barquin Adult Protective Services Self-Neglect Expansion Amendment Act of 2005, as approved by the Committee on Human Services on June 17, 2005 (Committee print of Bill 16-46), the Mayor shall issue rules necessary to implement the provisions of that act.".

(j) Section 11 (D.C. Official Code § 7-1910) is amended as follows:

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§ 7-1910**

(1) Subsection (a) is amended by striking the phrase "Corporation Counsel" and inserting the phrase "Attorney General" in its place.

(2) Subsection (b) is amended by striking the phrase "Corporation Counsel" both times it appears and inserting the phrase "Attorney General" in its place.

(k) Section 13(c) (D.C. Official Code § 7-1912(c)) is amended by striking the phrase "Corporation Counsel" and inserting the phrase "Attorney General" in its place.

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(l) Section 14 (D.C. Official Code § 7-1913) is amended as follows:

(1) The lead-in text is amended by striking the phrase "No later than October 1, 1987, the Mayor shall prepare and submit to the Council a" and inserting the phrase "The Mayor shall submit to the Council an annual" in its place.

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(2) Paragraph 2 is amended as follows:

(A) Subparagraph (E) is amended by striking the word "and" at the end.

(B) Subparagraph (F) is amended by striking the word "and" at the end.

(C) New subparagraphs (G) and (H) are added to read as follows:

"(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 act; and".

**Sec. 3. Fiscal impact statement.**

The Council adopts the October 18, 2005 fiscal impact statement of the Budget Director as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

**Sec. 4. Effective date.**

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

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Chairman  
Council of the District of Columbia

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Mayor  
District of Columbia