

April 1998

VULNERABLE ADULT PROTECTIVE SERVICES

At the December 16-17, 1997, Budget Committee on Long-Term Care meeting, a request was made for the Legislative Council staff to provide the committee with a summary of 1989 House Bill No. 1058, which established the vulnerable adult protective services program, including statistics maintained by the Department of Human Services and information on the funding of adult protective services in Minnesota, South Dakota, and Montana.

BACKGROUND

The 1987 Legislative Assembly passed Senate Concurrent Resolution No. 4010 which directed a study of alternative means of providing protective services for vulnerable adults who are subject to abuse, neglect, self-neglect, or exploitation. In addition, 1987 Senate Bill No. 2336 was passed which provided for the establishment of an adult protective services demonstration project to be developed and managed by the Department of Human Services. The 1987-88 interim Law Enforcement Committee was assigned the study of alternative means of providing protective services for vulnerable adults. In addition, the committee received information from the Department of Human Services on the adult protective services demonstration project.

Senate Bill No. 2336 (1987) directed the Department of Human Services to develop the demonstration project pursuant to the following objectives:

- Developing cost estimates and a statewide model for the delivery of protective services to vulnerable adults; and
- Identifying the number of abused, neglected, self-neglected, or exploited vulnerable adults in the project area; the basic and emergency services necessary for, and existing services available to, vulnerable adults; and those services not being provided to vulnerable adults in the project area.

The Department of Human Services selected the counties of Burleigh and Morton to demonstrate the effectiveness of delivering adult protective services utilizing a law enforcement intervention model, which focused on the legal system as the primary mode of delivering adult protective services. Cass County Social Services

was selected to demonstrate the effectiveness of the advocacy intervention model, which emphasized the provision of outreach services and a nonjudgmental, problem-solving approach to dealing with vulnerable adults while maintaining each vulnerable adult's right to accept or refuse adult protective services if the vulnerable adult was mentally competent to do so. The Lake Region Human Service Center was selected to demonstrate the effectiveness of delivering adult protective services on a regional, rather than county, basis. The regional approach was unique because it utilized a multidisciplinary "team" approach to making case decisions.

All three demonstration project sites assessed reports of alleged maltreatment of vulnerable adults, provided other adult protective services, and conducted public education campaigns. The three demonstration project sites serviced a combined population consisting of approximately 34 percent of the state population.

The 1987-88 interim Law Enforcement Committee received information and research data obtained from representatives of the demonstration project for the period October 1, 1987, through July 31, 1988. During that 10-month reporting period, the three demonstration project sites received a total of 277 reports of persons who were believed to be in need of adult protective services. Based on the information obtained, a total incidence ratio for the demonstration project sites was calculated at one reported incident for every 464 adult residents. The contents of the reports were considered "substantiated" or "strongly suspected" in 77 percent of the cases.

The committee received information regarding the characteristics of maltreated vulnerable adults. The information provided indicated the average victim was female (56 percent), white (91 percent), approximately 66 years of age, who lived in his or her own home (75 percent), and suffered from a physical impairment (50 percent). The information also indicated that many of the victims lived alone (32 percent) and that few lived in the homes of relatives or others (12 percent). The information indicated that the victim was reported to have experienced one or more of the following maltreatments: self-neglect (56 percent), exploitation (27 percent), neglect (15 percent), physical abuse (14 percent),

deprivation (12 percent), emotional abuse (11 percent), confinement (4 percent), and sexual abuse (4 percent).

The committee was informed that the criminal prosecution of persons allegedly responsible for adult maltreatment occurred in only one percent of the reported cases. Representatives of the demonstration project recommended that legislation be enacted to establish a statewide adult protective services program designed to serve all adults over the age of 18 who reside in the state, and to provide adequate means for intervention in cases of self-neglect, physical neglect, physical abuse, emotional neglect, financial exploitation, and sexual abuse or exploitation. The recommendation included that the legislation incorporate the protective services functions of the Protection and Advocacy Project and the state long-term care ombudsman program as part of the proposed adult protective services program. The representatives of the demonstration project also recommended that the legislation provide for a system of voluntary reporting until adult protective services become better known and available in the state, at which time the Legislative Assembly could impose reporting requirements on certain categories of professional persons.

The representatives of the demonstration project estimated the cost of developing and implementing a statewide program of protective services for vulnerable adults at \$787,160 for the 1989-91 biennium. The estimate was based upon a projection that 994 reports of alleged vulnerable adults in need of protective services would be made during each of the first two years of the program, and on other assumptions, including the assumption that an average of 12.4 hours would be expended by adult protective services staff in client-related activities per report. The representatives of the demonstration project also indicated that the development and implementation of a statewide program of adult protective services would more than likely result in the need to increase funding for and the availability of other services, including certain home and community-based services such as homemaker services, respite care, and case management, as well as specialized services such as legal assistance and guardianships.

Based on the findings and recommendations of the representatives of the demonstration project, the 1987-88 interim Law Enforcement Committee recommended 1989 House Bill No. 1058 to establish a program of protective services for vulnerable adults to be developed and administered by the Department of Human Services with

the advice and cooperation of county social service boards.

1989 HOUSE BILL NO. 1058

House Bill No. 1058, as passed by the 1989 Legislative Assembly, provides for the establishment of a vulnerable adult protective services program. Some of the definitions contained in the bill include:

1. Abuse means any willful act or omission of a caregiver or any other person which results in physical injury, mental anguish, unreasonable confinement, sexual abuse or exploitation, or financial exploitation to or of a vulnerable adult.
2. Vulnerable adult means an adult who has a substantial mental or functional impairment.
3. Adult protective services means remedial, social, legal, health, mental health, and referral services provided for the prevention, correction, or discontinuance of abuse or neglect which are necessary and appropriate under the circumstances to protect an abused or neglected vulnerable adult, ensure that the least restrictive alternative is provided, prevent further abuse or neglect, and promote self-care and independent living.
4. Self-care includes maintaining personal hygiene, eating, and dressing.
5. Living independently includes using the telephone, shopping, preparing food, housekeeping, and administering medications.

The bill provides that the department, with the advice and cooperation of county social service boards, is to develop, administer, and cause to be implemented a program of protective services for vulnerable adults, within the limits of legislative appropriation. The bill provides for voluntary reporting by any person who has reasonable cause to believe that a vulnerable adult has been subject to abuse or neglect, or who observed a vulnerable adult being subjected to conditions or circumstances that reasonably would result in abuse or neglect. The bill provides that any complaints concerning a resident in a long-term care facility, or a person who has been discharged from a long-term care facility within nine months, must be referred to the state long-term care ombudsman for investigation.

The bill provides that if the department or the department's designee determines that a vulnerable adult demonstrates a need for adult protective services, the department or the department's

designee shall provide, or arrange for the provision of, adult protective services, provided the vulnerable adult consents to and accepts the services. If a vulnerable adult who is subject to abuse or neglect is unable to consent and accept, or the caregiver refuses adult protective services determined by the department or the department's designee to be necessary, the department or the department's designee may pursue any administrative, legal, or other remedies authorized by law which are necessary and appropriate under the circumstances to protect the vulnerable adult and prevent further abuse or neglect.

The bill provides that the vulnerable adult is responsible for the cost of providing adult protective services, except the receipt, evaluation, and assessment of reports of suspected abuse or neglect, if the department or the department's designee determines, based on standards set by the department, that the vulnerable adult is financially capable of paying for the protective services received either through the vulnerable adult's own income or resources or other programs for which the vulnerable adult may be eligible.

The bill also provides that the Department of Human Services, in cooperation with county social service boards and law enforcement agencies, is to conduct a public information and education program. The elements and goals of the program are to include:

- Informing the public regarding the laws governing the abuse or neglect of vulnerable adults, the voluntary reporting, and the need for and availability of adult protective services.
- Providing caregivers with information regarding services to alleviate the emotional, psychological, physical, or financial stress associated with the caregiver and vulnerable adult relationship.

The bill also provides that the department, in cooperation with county social service boards and law enforcement agencies, is to institute a program of education and training for the department, the department's designee, and law enforcement agency staff and other persons who provide adult protective services.

The bill provides that the department and county social service boards are not required to implement or enforce a vulnerable adult protective services program with respect to any region, area, or county of the state if the Legislative Assembly does not provide an appropriation to support the implementation and enforcement of a vulnerable adult protective services program

within the region, area, or county. The Legislative Assembly has never funded a statewide adult protective services program. Cass County has maintained its adult protective services program with county funds. The Lake Region Human Service Center has continued to provide adult protective services through federal dollars received from the Aging Services Division, an internal reallocation of state dollars, and an internal reallocation of existing FTE. The person providing adult protective services for the Lake Region Human Service Center is also the long-term care ombudsman for two regions.

STATISTICS ON EXISTING VULNERABLE ADULT SERVICE CASES

There are currently two areas within the state of North Dakota with an adult protective services program. The services are provided in Cass County by the Cass County Social Service Board and in the Lake Region Human Service Center service area. The following table shows the number of vulnerable adult service cases for Cass County for 1995, 1996, and 1997:

1995	1996	1997
176	145	191

The following table shows the number of vulnerable adult service cases, by county, for the Lake Region Human Service Center service area for 1995, 1996, and 1997:

County	1995	1996	1997
Belcourt	0	0	1
Benson	0	0	2
Cavalier	0	0	0
Eddy	0	1	1
Fort Totten	0	0	1
Ramsey	13	7	23
Rolette	3	4	3
Towner	2	0	0
Total	18	12	31

The 1996 caseload information for the Lake Region Human Service Center area is lower than the 1995 and 1997 caseload numbers because of a lengthy illness of the social worker in this position during 1996. The total number of cases relating to self-neglect was 63 percent for Cass County and 74 percent for the Lake Region Human Service Center service area.

ADULT PROTECTIVE SERVICES PROGRAM FUNDING LEVELS South Dakota

The state of South Dakota adult protective services program is contained in the Adult Services and Aging Office. The program is administered at the state level. Adult protective services is one of many duties performed by the Adult Services and Aging Office; other functions include case management, long-term care ombudsman, homemaker services, in-home services, long-term care preadmission screenings, domestic abuse program, and victims' compensation program. Because the office performs various functions, the funding and staffing information provided is estimated as to the portion relating to adult protective services. There are five field supervisors and 80 staff which provide the various services provided through the Adult Services and Aging Office. It was estimated that approximately five percent or less of their time is spent on adult protective services. The budget for the adult protective services program was estimated to be approximately \$1 million of the total Adult Services and Aging Office budget. Of the \$1 million, it was estimated that about \$800,000 was federal dollars and \$200,000 was state dollars. South Dakota does not have mandatory reporting requirements and the adult protective services program had 536 investigations during the last year.

Minnesota

The state of Minnesota adult protective services program is supervised and monitored at the state level by the Aging Services Office. The adult protective services program is administered at

the county level by the county social service agencies. The state's budget relating to adult protective services is approximately \$218,000 per year of state funds and provides for two FTE. Because each county provides the services through different arrangements, ranging from having it as a separate program to commingling it with other services offered through the county social service agency, statewide cost, FTE, and caseload information is not available for the state of Minnesota. Minnesota has mandatory reporting requirements for certain categories of professional people.

Montana

The state of Montana adult protective services program is contained in the Aging Services Office. The program is administered at the state level. The state is divided into five regions with each region having a supervisor and social workers. In addition, the state has one FTE state manager. The total statewide FTE count for the adult protective services program is 29 FTE. It was indicated that the program would be requesting an additional nine FTE. These 29 FTE only perform adult protective service functions. The 1998 annual budget for adult protective services is \$1,900,000, of which \$1,425,000 is state general fund moneys and \$475,000 is federal funds. The 1999 annual budget is \$1,938,000, of which \$1,453,500 is state general fund moneys and \$484,500 is federal funds. Montana has mandatory reporting requirements for certain categories of professional people with criminal penalties for failure to report. The adult protective services program has an estimated 2,400 to 2,880 referrals per year.