

Protecting Older Adults from Abuse and Neglect

FACT SHEET

Overview: The Adult Protective Services (APS) program provides services without regard to income to persons who are victims of abuse, neglect, or exploitation. The State Budget Act of 2021 made statutory changes, through AB 135, to the APS program. As of January 1, 2022, the elderly eligibility age decreased from 65 to 60. Consequently, the age for dependent adults eligible for APS services changes to 18-59.

What Changed?

AB 135 changed the definition of Adult Protective Services pursuant to [Chapter 13](#) of the Welfare and Institutions Code (effective 1/1/22):

- Elder Adult means “any person residing in this state 60 years of age or older.”
- Dependent Adult means “any person residing in this state between 18 and 59 years of age, inclusive, who resides in this state, and who has a combination of a disability and the inability to protect their own interest, or who has an inability to carry out normal activities to protect their rights, including, but not limited to, persons who have physical or developmental disabilities, or whose physical or mental abilities have diminished because of age.”

What Didn't Change?

AB 135 maintained the existing definitions of elder/dependent adult under the Elder Abuse and Dependent Adult Civil Protection Act (Chapter 11), which:

- Continues to define “elder adult” as “any person residing in this state, 65 years of age or older.” (W&I Code 15610.27)
- Continues to define “dependent adult” to mean “a person, regardless of whether the person lives independently, between the ages of 18 and 64 years who resides in this state and who has physical or mental limitations that restrict his or her ability to carry out normal activities or to protect his



or her rights, including, but not limited to, persons who have physical or developmental disabilities, or whose physical or mental abilities have diminished because of age.”

and

- “Dependent adult” includes any person between the ages of 18 and 64 years who is admitted as an inpatient to a 24-hour health facility, as defined in Sections 1250, 1250.2, and 1250.3 of the Health and Safety Code. [W&I Code 15610.23]

Penal Code 368

This definition pursuant to Penal Code Chapter 13 remains the same. Elder is 65 or older and dependent adult remains the same.

How AB 135 impacts Elder Abuse Cases?

- APS staff will accept reports and conduct investigations into reports of abuse and neglect for persons 60 and older as “elders” when those reports are made by mandated reporters, law enforcement, or other community members.
- APS will provide social services and protective services to those persons who need such services.
- APS will cross-report abuse and neglect of persons considered “elderly” if they are 60 and older to law enforcement, as these are crimes against vulnerable persons.

How does AB 135 impact Law Enforcement and District Attorneys?

- Law enforcement and district attorneys will continue to receive reports from APS agencies.
- Law enforcement and district attorneys may follow existing protocols and procedures for investigations and prosecutions for potential penal code violations.
- Penal Code 368 – Elder Abuse enhancement – would not apply for older adults aged 60 through 64.

Why did AB 135 not apply to W&I Code Chapter 11?

- Historically in California, “elder abuse” has been defined as age 65 and above for purposes of prosecution and pursuit of civil remedies.
- AB 135 is intended to align with the age of eligibility for the Older Americans Act programs which serve populations age 60 and above and provide important services such as Meals on Wheels.
- AB 135 focuses on preventive and remedial services to older adults – to encourage access to services at an earlier age before a situation becomes more dire.
- Persons aged 60 through 64 who are abused and neglected are still victims of a crime that may warrant a criminal investigation and prosecution. The perpetrator however may not be charged under the Penal Code 368 enhancement.
- Some advocates are concerned that prosecuting perpetrators of abused victims aged 60 through 64 under the Penal Code 368 enhancement could increase law enforcement and district attorney workload and undermine efforts at pursuing civil remedies on behalf of the victim.

Local law enforcement, district attorneys and county APS agencies are encouraged to continue to work together to best meet the needs of our older adult, vulnerable populations.

If you have any questions contact your local APS agency, or email aps@dss.ca.gov



APS EXPANSION FACT SHEET

Overview: The Adult Protective Services (APS) program provides services without regard to income to persons who are victims of abuse, neglect, or exploitation. The State Budget Act of 2021 made statutory changes, through AB 135, to the APS program. As of January 1, 2022, the elderly eligibility age decreased from 65 to 60. Consequently, the age for dependent adults eligible for APS services changes to 18-59.

What Changed?

AB 135 amends [Chapter 13 of the Welfare & Institutions Code](#), effective 1/1/2022.

- **Age Eligibility:** Elder Adult means “any person residing in this state 60 years of age or older.” Dependent Adult means “any person residing in this state between 18 and 59 years of age, inclusive, who resides in this state, and who has a combination of a disability and the inability to protect their own interest, or who has an inability to carry out normal activities to protect their rights, including, but not limited to, persons who have physical or developmental disabilities, or whose physical or mental abilities have diminished because of age.”
- **Self-Neglect:** AB 135 expands the definition for self-neglect to include an elder or dependent adult who is “determined to be unable to, or has failed to, manage their own finances.” In cases where a client is homeless, self-neglect can be a determining factor for APS intervention if “the elder/dependent adult is unable to meet any of the needs specified in the other paragraphs of the section” (i.e., failure to assist in hygiene or the provision of food, clothing, or shelter, failure to provide medical care, failure to protect from health and safety hazards, failure to prevent malnutrition or dehydration, inability/failure to manage finances, or failure to satisfy any of the above needs due to poor cognitive functioning, mental limitation, substance abuse, or chronic poor health.)
- **Mandated Reporters:** AB 135 does not affect the section of the code (WIC 15630) relating to mandated reporters. The law has not changed with respect to mandated reporters’ legal obligation. Mandated reporters are required by law to report any suspicion of abuse as defined in Section 15610.23. involving dependent adults between the ages of 18 and 64, and elder adults age 65+. While not required to do so, mandated reporters may report cases of abuse in the 60-64 population. APS staff will accept reports and conduct investigations of reports of abuse and neglect for persons 60 and older as “elders” when those reports are made by mandated reporters, law enforcement, or other community members and the reports meet the criteria for APS jurisdiction.
- **Financial Institutions:** Employees of financial institutions, recognized as mandated reporters of financial abuse, are not required by law to report suspicious activity involving the accounts of elderly adults between the ages of 60 and 64. They are required to report abuse for anyone 65+, but may report cases of abuse in the 60-64 age group.
- **Penal Code Enhancement:** AB 135 does not amend Penal Code Chapter 13. Law enforcement and district attorneys may follow existing protocols and procedures for investigations and prosecutions for potential penal code violations. Penal Code 368 – Elder Abuse charge – would not apply for older adults aged 60 through 64 who do not have a disability. Sentencing enhancements for crimes against older adults remain for those 65 and older.
- **Cross Reporting:** APS will continue to cross-report abuse and neglect of all elders (ages 60+) and dependent adults (18-59) to law enforcement and any relevant agencies when there is an applicable penal code violation.

What Did Not Change?

AB 135 maintained the existing definitions of elder/dependent adult under the Elder Abuse and Dependent Adult Civil Protection Act (Chapter 11).

