
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair

2017 - 2018 Regular

Bill No: AB 1934 **Hearing Date:** May 15, 2018
Author: Jones-Sawyer
Version: February 22, 2018
Urgency: No **Fiscal:** No
Consultant: SC

Subject: *Dependent Persons: Definition*

HISTORY

Source: Arc and United Cerebral Palsy California Collaboration

Prior Legislation: SB 1066 (Galgiani), Ch. 437, Stats. 2014
SB 110 (Liu), Ch. 617, Stats. of 2010

Support: California Alliance for Retired Americans; California Commission on Aging; California District Attorneys Association; California Office of the State Long-Term Care Ombudsman; Congress of California Seniors; National Association of Social Workers, California Chapter

Opposition: None known

Assembly Floor Vote: 66 - 0

PURPOSE

The purpose of this bill is to clarify that the terms “dependent person” and “dependent adult” include a person who lives independently.

Existing law defines “dependent person” for the purposes of punishing caretakers who commit lewd or lascivious acts as, “any person who has a physical or mental impairment that substantially restricts 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 significantly diminished because of age. ‘Dependent person’ includes any person 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.” (Pen. Code, § 288, subd. (f)(3).)

Existing law defines “dependent adult” for the purposes of punishing persons who commit crimes against elders or dependent adults as “any person who is between the ages of 18 and 64, who has physical or mental limitations which 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. “Dependent adult” includes any person between the ages of 18 and 64 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.” (Pen. Code, § 368, subd. (h).)

Existing law defines “dependent person” in criminal proceedings for the purposes of examining a witness conditionally as, “any person who is between the ages of 18 and 65, who has physical or mental limitations which restrict his or her ability to carry out normal activities or 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. ‘Dependent adult’ includes any person between the ages of 18 and 65, who is admitted as an inpatient to a 24-hour facility, as defined in Sections 1250, 1250.2, and 1250.3 of the Health and Safety Code.” (Pen Code, § 1336, subd. (c).)

Existing law defines “dependent adult” under the Elder Abuse and Dependent Adult Civil Protection Act as, “any person 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. ‘Dependent adult’ includes any person between the ages of 18 and 64 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.” (Welf. & Inst. Code, § 15610.23, subds. (a) & (b).)

Existing law defines “dependent person” for the purposes of the Evidence Code as, “any person who has a physical or mental impairment that substantially restricts 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 significantly diminished because of age. ‘Dependent person’ includes any person 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.” (Evid. Code, § 177.)

This bill clarifies that a person is a “dependent person” or “dependent adult” under the applicable definitions irrespective of whether the person lives independently.

Existing law states that, “The Legislature finds and declares that crimes against elders and dependent adults are deserving of special consideration and protection, not unlike the special protections provided for minor children, because elders and dependent adults may be confused, on various medications, mentally or physically impaired, or incompetent, and therefore less able to protect themselves, to understand or report criminal conduct, or to testify in court proceedings on their own behalf.” (Pen. Code, § 368, subd. (a).)

This bill provides instead that “The Legislature finds and declares that elders, adults whose physical or mental disabilities or other limitations restrict their ability to carry out normal activities or to protect their rights, and adults admitted as inpatients to a 24-hour health facility deserve special consideration and protection.”

COMMENTS

1. Need for this Bill

According to the author of this bill:

Elder and dependent adult abuse prevention and law enforcement are hindered by:

- Confusion about the fact that the definitions of “dependent adult” and “dependent person” covers those with significant disabilities regardless of the fact that most live independently.
- The statute equates elders and dependent adults with minor children, perpetuating negative stereotypes and increasing their risk of victimization.

The rate of violent victimization of people 12 years and older with disabilities was 2.5 times higher than for those without disabilities in 2015. Each year from 2009 to 2015, the rate of violent victimization for persons with disabilities was at least twice the age-adjusted rate for persons without disabilities. (Crime Against Persons with Disabilities, 2009-2015 – Statistical Tables, U.S. Bureau of Justice Statistics, July 2017.)

California must take the appropriate steps to protecting individuals with disabilities from becoming victims of violence. Ensuring California laws are clear in their intent is a step in the right direction to curb the uptick in violence against people with disabilities.

2. Federal Classification of Individuals Who Live Alone

The US Census Bureau, in its American Community Survey, classifies an adult as “independent living disabled” if, because of a physical, mental, or emotional condition, they have difficulty doing errands—such as shopping or visiting the doctor’s office—alone. As seen above, the federal definition for a disabled person clearly applies to persons who live alone; whereas, in many instances, California’s definition for “dependent” persons or adults is not so apparent. (<<https://www.census.gov/topics/health/disability/guidance/data-collection-acs.html>> [as of Apr. 28, 2018].)

3. Inconsistency in Existing Laws

Under California law, various statutes using the terms “dependent adult” and “dependent person” give different definitions. In many cases, statutes define the terms by cross-referencing to the sections which would be amended by this bill. Of these, only a few expressly specify that the definition applies regardless of whether the person lives independently. Therefore, amending these sections would amend those remaining statutes and make existing law more uniform.

4. Argument in Support

The Arc and United Cerebral Palsy California Collaboration, the sponsor of this bill, writes:

Abuse of people with disabilities is widespread throughout our society, and there are many obstacles to arrests and convictions of those who commit these heinous crimes against people who may have less capacity to defend themselves.

One of the obstacles to reporting is the fact that the abuse law calls people with disabilities ‘dependent adults’ or ‘dependent persons, sometimes leading law enforcement officers, social workers, and even the victims and their families to believe they are not protected by these laws because they live independently. AB 1934 is a major step toward removing this confusion.

One of the contributing causes of abuse of people with disabilities – and also seniors – is the fact they are often viewed as less than full human beings. The current abuse law may actually contribute to this by equating them with minor children. AB 1934 will remove the aforementioned offensive language.

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