



Governor's Advisory Council for Exceptional Citizens (GACEC)
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MEMORANDUM

DATE: April 8, 2024

TO: **The Honorable Sherry Dorsey Walker, Delaware State House of Representatives**
The Honorable Kyra Hoffner, Delaware State Senate
The Honorable Senators Gay, Huxtable, Pettyjohn and Richardson
The Honorable Representatives Collins, K. Johnson, Parker Selby and Spiegelman

FROM: **Ann Fisher, Chairperson**
GACEC

RE: **House Bill No. 298 Vulnerable Adult Populations Commission**

The Governor's Advisory Council for Exceptional Citizens (GACEC) has reviewed House Bill 298, Vulnerable Adult Populations Commission. Council would like to share the following recommendations on the proposed legislation.

Council understands that HB 298 seeks to amend Title 16 by adding a new Chapter 11A, creating a Vulnerable Adult Populations Commission. This Commission is being created as a result of the Joint Legislative Oversight and Sunset Committee review of Adult Protective Services (APS). APS has been housed at DSAAPD (Division of Services for Aging and Adults with Physical Disabilities) since 2017. The Sunset Committee reviewed APS in 2019 and made a number of recommendations. Among the recommendations was the elimination of the APS Advisory Council and having it be absorbed by the Council on Services for Aging and Adults with Physical Disabilities. This was accomplished in 2022 with the passage of HB 363, which added two seats for public or private entities serving victims of abuse or neglect. However, it is worth noting that HB 363 did not eliminate the APS Advisory Committee, although the synopsis referred to additional legislation intended to do so. 31 Del Code §3903 appears to still be on the books, and is something that needs to be corrected. Council recommends that 31 Del Code §3903 be rescinded, so there is no confusion regarding the existence (or not) of the APS Advisory Council.

The new Commission is being created to improve the response to and reduce the incidents of vulnerable adult abuse, neglect and exploitation. The Commission will be composed of 10 representatives of state agencies and law enforcement, one member of the state House and Senate, and seven at large members appointed by the Governor. These must include a physician, someone from the Senior Protection Initiative of the Delaware DOJ, one person from law enforcement, and four individuals from the "vulnerable adult protection community." This is essentially 15 government, agency or health care representatives and four individuals, who may or may not actually be "vulnerable adults." The GACEC would advocate for representation by the State Council for Persons with Disabilities (SCPD), the Community Legal Aid Society Inc. (CLASI) that includes the Disabilities Law Program

(DLP) and Elder Law Program (ELP) and consumers. The Commission as is appears to be very state agency or state actor heavy and does not include the voices of advocates or affected individuals.

HB 298 uses the definition of vulnerable adult found in Title 11, §1105(c):

“Vulnerable adult” means a person 18 years of age or older who, by reason of isolation, sickness, debilitation, mental illness or physical, mental or cognitive disability, is easily susceptible to abuse, neglect, mistreatment, intimidation, manipulation, coercion or exploitation. Without limitation, the term “vulnerable adult” includes any adult for whom a guardian or the person or property has been appointed.”

This is in some ways a more comprehensive definition than the definition found in the APS statute, 31 Del. Code Chapter 39. 31 Del Code Section §§3902(2) and (3) discuss APS service recipients as either “Impaired adults” or “alleged victims.” Council recommends the APS statute be amended to adopt the more comprehensive definition of vulnerable adult found in Title 11.

Council notes that there has been lengthy discussion by the Joint Committee regarding self-neglect and a recommendation to add a definition of self-neglect to the APS statute. A common criticism of APS is its unwillingness to intervene in situations where a person refuses assistance but circumstances strongly suggest that some sort of direct intervention is clearly needed. Council queries the status of legislation clarifying the role of DSAAPD and APS in addressing cases of self-neglect and any anticipated modifications to the APS statute to allow the inclusion of self-neglect cases.

Thank you for the opportunity to share our observations and concerns with you. We would really like to discuss this legislation and develop a pattern of discussion on any future legislation that may impact individuals with disabilities. Please feel free to contact me or Pam Weir at the GACEC office should you have any questions on our comments and any suggestions on how the GACEC may develop a more collaborative relationship with our legislators.