



## Highlights of the New Adult Protective Services (APS) Law Effective July 1, 2009, Hawaii Revised Statutes, Chapter 346, Part X (Act 154, SLH 2008)

- Instead of a dependent adult, the law focuses on a **vulnerable** adult, who is anyone 18 years or older with a mental, developmental or physical impairment who is also unable to: 1) communicate or make responsible decisions to manage his or her own care or resources; 2) carry out or arrange for essential activities of daily living; or 3) protect oneself from abuse.
- Starting July 1, 2009, the Department of Human Services (DHS) will accept reports on abuse that cover: 1) caregiver neglect; 2) financial exploitation; 3) physical abuse; 4) psychological abuse; 5) self-neglect; and/or 6) sexual abuse. These categories basically cover any type of abuse or neglect that is likely to occur among adults.
- The reports, however, must meet the following standards according to the law: 1) the abuse **has occurred** or the vulnerable adult is in danger of abuse if **immediate** action is not taken; 2) the self-neglect standard is higher and requires that the vulnerable adult appears to be exposed to a situation or condition that poses an **immediate risk of death or serious physical harm**. This means DHS cannot accept reports for an APS investigation that do not meet these standards.
- DHS will investigate the report by contacting family, friends and any agencies known to be involved, along with the alleged perpetrator. If the report to DHS does not meet the criteria for an abuse or neglect investigation, efforts will be made to refer the adult to other resources so that future reports or actual abuse do not occur.
- DHS will contact any public or private case manager for assistance and verification of the alleged report. It is expected that this case manager will help remedy the abuse or neglect and make sure it does not recur. According to the law, upon completion of the protective services intervention, the vulnerable adult shall be referred to the agency responsible for follow-up services. For example, the Department of Health (DOH) is the designated State agency for certain services for eligible adults with serious mental illness, mental retardation and/or developmental disability; accordingly APS will refer such adults to DOH at the conclusion of APS short-term intervention.
- DHS has limited resources to help individuals and was not provided additional staff or funds to implement expansion of the APS law. DHS will access any State resource for which the vulnerable adult is eligible and will contact any private resource which might be able to assist the client. Although DHS can pay for some special services when the usual benefits from other public or private resources are not available, the payment cannot exceed 45 days. That is why a plan to address the abuse and neglect must be in effect before that period ends.
- DHS can only act with the consent of the vulnerable adult, unless a court order for immediate protection is obtained. A court order requires a medical determination that these clients lack the capacity to make decisions concerning themselves and, in cases of self-neglect, there is an immediate risk of death or serious harm. This means that even though someone else thinks a vulnerable adult needs help, if the person is able to make decisions, the person has the right to refuse help and may choose a lifestyle that others do not think is safe or appropriate.
- DHS only provides APS during normal business hours. If there is an emergency at any other time, the police should be contacted.
- The need for guardianship does not necessitate a referral to DHS, **unless** the situation meets the definitions of abuse or self-neglect, and the criteria as described above.
- To file an APS report, call: Oahu: 832-5115; East Hawaii: 933-8820; West Hawaii: 327-6280; Kauai: 241-3337 Maui/Lanai: 243-5151; Molokai: 553-1763.