

SB844 Testimony.pdf

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Finance Committee

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THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

Testimony of Senator Joanne C. Benson
SB 844: Adult Protective Services- Vulnerable Adults Registry- Investigations and Records of Abuse and Neglect and Workgroup Study

Good afternoon Chairman Smith, Vice Chair Waldstreicher and members of the Committee. One of our main duties as public servants is to protect the little people- the most vulnerable in our State. Whether it's our seniors, individuals with mental or physical disabilities, or anyone who often feels helpless and homeless- it's our duty to protect them. Yet according to the National Council on Aging, approximately 1 in 10 Americans aged 60 and up have experienced some form of elder abuse.¹ While in 2012, 1.3 million violent crimes-including rape and physical assault- occurred against people with disabilities, a number that has steadily increased since 2008.² Currently, sections 3-604 and 3-605 of the Criminal Law Article in Maryland prohibits the abuse and neglect of a vulnerable adult. Yet, Maryland doesn't possess a central statewide database of vulnerable adult abuse. So often times, our most vulnerable in society are falling victim to repeat offenders.

Senate Bill 844 seeks to address this issue. Senate 844 creates a statewide confidential and centralized vulnerable adult registry. This bill will also establish a workgroup which will create a space in which experts across the State can study the best practices on how to implement the registry in the State of Maryland.

We must do our due diligence in identifying these bad actors who have abused, neglected or exploited our loved ones and our most vulnerable in our state of Maryland. Currently 26 states have adult abuse registries for perpetrators of elder and vulnerable adult abuse.³ The purpose of this registry is to make information available to individuals, agencies or employers authorized to receive such information. Availing this information will reduce the risk of abuse for vulnerable adults and will improve hiring practices and assist in preventing future abuse for our most vulnerable.

Thus, I urge the committee for a favorable report of Senate Bill 844.

¹ "Adult Protective Services Abuse Registry National Report," USC Center on Elder Mistreatment, University of Southern California, last modified April 01, 2019, <https://eldermistreatment.usc.edu/adult-protective-servicesabuse-registry-national-report/>.

² "Violence Against People with Disabilities Occurs at Alarming Rates," End Abuse of People with Disabilities, Vera Institute of Justice, last modified 2020, <https://www.endabusepwd.org/problem/alarming-rates/>.

³ University of Southern California, "Adult Protective Services Abuse Registry National Report."

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Uploaded by: Brown Burnett, Gloria

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Gloria Brown Burnett
Director

Department of Human Services
Prince George's County Department of Social Services

Senator William C. Smith, Jr., Chair
Senator Jeff Waldstreicher, Vice Chair
Judicial Proceedings Committee

From: Gloria Brown Burnett, Director of Prince George's County Department of Social Services

Date: Tuesday, March 9, 2021

Subject: Support for Senate Bill 844 – Adult Protective Services – Vulnerable Adults Registry – Investigations and Records of Abuse and Neglect and Workgroup Study

As Director of the Prince George's County Department of Social Services (the Department), I ask for your support of Senate Bill 844. This bill will require local departments of social services to report individuals who have been determined after an Adult Protective Services (APS) investigation to have abused or neglected a vulnerable adult to a centralized Vulnerable Adult Abuse Registry. This bill allows the individual to request a conference with the supervisor and contest the finding through an appeals process. Senate Bill 844 also requires that the Social Services Administration (SSA) of the Department of Human Services (DHS) adopt regulations surrounding the acquisition of records, confidentiality, and creation of a centralized confidential database and establishing a workgroup to study best practices for a Vulnerable Adult Registry in Maryland. The workgroup would study and make recommendations to the Governor, General Assembly, and the Department of Legislative Services regarding the implementation of the registry.

Senate Bill 844 will have a positive impact on the Adult Protective Services (APS) Program within the State of Maryland. Currently, the State of Maryland has no reporting system to retain names of indicated maltreaters of vulnerable adults as is within the child welfare system. This has left many vulnerable adults exposed to a population of maltreaters who work in various settings where the vulnerable adult may be considered as prey to them. A reporting registry of vulnerable adult maltreaters indicated by APS investigations would be beneficial in that it would pose consequences for those individuals even if they are not criminally prosecuted. This registry would also serve as a screening tool in assisting community partners such as long-term nursing facilities and other agencies that employ individuals who work with vulnerable adults, seniors, and disabled adults. These community partners, along with the public, would be able to check the registry before offering employment to applicants or onboarding volunteers, providing a safety net of protection to our vulnerable adults, seniors, and the disabled in the community.

Between July 2019 and June 2020, the Department has indicated 306 cases where abuse, neglect or exploitation occurred. In one such case, there was an allegation of neglect and financial exploitation of a senior couple. The alleged maltreater in the referral was listed as their adult son. The case was indicated for neglect by others and financial exploitation by the APS Investigator. The case was then referred to the Financial Crimes unit within Prince George's County Police Department. The Sergeant initiated an investigation. However, the couple

refused to press charges on their son and thus would not cooperate with the investigation. The concern is that he could, at any time, apply for employment with an agency/company that services vulnerable adults. Without an Abuse Registry, the employer, as well as the vulnerable adults, are prey for this indicated maltreater and others like him.

The National Adult Protective Services Association (NAPSA) conducted a nationwide study of APS national registries. The project focused on state registries that fit the definition: "a system for maintaining the identity of individuals who are found, only as a result of an APS investigation, to have abused, neglected or exploited seniors or adults (18 and older) with disabilities living in the community or a facility. The purpose of such a registry is to make information available to individuals, agencies, or employers who are authorized to receive such information." The study of existing registries revealed that the registry reduces access of abusers to vulnerable adults and improves the hiring practices of providers. Also, common components of APS abuse registries included perpetrator notification and the existence of due process provisions. It is expected that the workgroup would operate similarly to the NAPSA project and study the best practices of a Vulnerable Adult Registry in Maryland and make the appropriate recommendations before the deadline indicated in the bill.

For the reasons stated above, we ask the committee for a favorable report.

SB844 Adult Protective Services Vulnerable Adults

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**Senate Bill 844 Adult Protective Services - Vulnerable Adults Registry - Investigations and
Records of Abuse and Neglect and Workgroup Study**

Senate Judicial Proceedings Committee

March 9, 2021

Position: Support

The Mental Health Association of Maryland is the state's only volunteer, nonprofit citizen's organization that brings together consumers, families, professionals, advocates and concerned citizens for unified action in all aspects of mental health and mental illness. We appreciate this opportunity to submit testimony in support of Senate Bill 844.

SB 844 seeks to create a centralized database for abused and neglected vulnerable adults and would identify individuals responsible for the abuse or neglect. It would also establish a Workgroup to Study Best Practices for a Vulnerable Adult Registry in Maryland.

The Adult Protective Services statute has remained relatively unchanged since the 1980's, though the incidence of abuse, neglect and exploitation of older adults and adults with disabilities are climbing, and individuals with behavioral health disorders are particularly vulnerable to abuse. According to the National Council on Aging, approximately 1 in 10 Americans aged 60+ have experienced some form of elder abuse, and one study estimated that only 1 in 14 cases of abuse are reported to authorities.

Unfortunately, there are perpetrators of abuse who move across care settings and through communities, and Maryland lacks adequate protections for current and future victims of their abuse. SB 844 seeks to prevent abusers from working with vulnerable adults through the establishment of a registry, with a balance of appeal options. This approach has been effective in Maryland's child welfare system and this bill leverages that success by incorporating language that mirrors the Child Protective Services law established to curb child abuse. In addition, SB 844 calls for a workgroup to study best practices for a Vulnerable Adult Registry in Maryland, reflecting an intent to make the processes and outcomes informed by best practices.

The safety and quality of care for vulnerable adults is a top priority for MHAMD, and we recognize SB 844 to be an important step forward in addressing the systemic problem of elder abuse. For these reasons the Mental Health Association of Maryland would urge a favorable report on Senate Bill 844.

For more information contact:

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Uploaded by: DeMattos, Joseph

Position: UNF



**TESTIMONY BEFORE THE
SENATE JUDICIAL PROCEEDINGS COMMITTEE**

March 9, 2021

Senate Bill 844: Adult Protective Services - Vulnerable Adults Registry -
Investigations and Records of Abuse and Neglect and Workgroup Study

Written Testimony Only

POSITION: UNFAVORABLE

On behalf of the members of the Health Facilities Association of Maryland (HFAM), we appreciate the opportunity to express our opposition for Senate Bill 844.

HFAM represents over 170 skilled nursing centers and assisted living communities in Maryland, as well as nearly 80 associate businesses that offer products and services to healthcare providers. Our members provide services and employ individuals in nearly every jurisdiction of the state. HFAM members provide the majority of post-acute and long-term care to Marylanders in need: 6 million days of care across all payer sources annually, including more than 4 million Medicaid days of care and one million Medicare days of care.

We appreciate the intent of Senate Bill 844, but its proposed care, consumer protection and reporting aims are highly duplicative of existing state and federal law. SB 844 requires the Maryland Social Services Administration (SSA) to maintain a centralized confidential database related to reports, investigations, and assessments of suspected abuse or neglect of vulnerable adults. The bill also establishes a Workgroup to study best practices for a Vulnerable Adult Registry in Maryland.

While we agree that it is a top priority to protect vulnerable adults from neglect and abuse, this legislation would establish entirely duplicate abuse and neglect reporting, due process and related structure in addition to what is already imposed under both state and federal laws by the Maryland Department of Health (MDH) and the Centers for Medicare and Medicaid Services (CMS).

SB 844 raises concerns relative to how this regulatory process overlaps with the extensive abuse and neglect identification, reporting and enforcement applicable to nursing homes and assisted living communities under existing federal and state law. Nursing homes must adhere to those requirements.

This legislation refers to a "licensed adult care facility" but this term is not defined. In the long-term and post-acute care setting, current regulations require that documented abuse of any kind be cited appropriately as a violation; rightfully so.

Because the proposed care, consumer protection and reporting aim of Senate Bill 844 are highly duplicative of existing state and federal law, should the bill be favorably reported, we ask skilled nursing and rehabilitation centers be exempt from this legislation.

Regarding the Workgroup that this legislation proposes, it is problematic that no industry representatives are appointed as members.

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Lastly, this legislation's effective date is problematic as it would cause the bill to go into effect based on when a report is or is not issued. If there is to be a Workgroup, then the legislation is premature given the substantial duplication, cost and relative problems it could cause.

For these reasons, we oppose Senate Bill 844 and request an unfavorable report from the Committee.

Submitted by:

Joseph DeMattos, Jr.

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