



STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES
Margaret M. O'Neill Bldg., Third Floor, Suite 1
410 Federal Street
Dover, Delaware 19901
302-739-3621

The Honorable John Carney,
Governor

John McNeal, Director
SCPD

MEMORANDUM

DATE: March 21, 2024

TO: Rep. Sherry Dorsey Walker

FROM: Benjamin Shrader, Chairperson
State Council for Persons with Disabilities

RE: Proposed House Bill 298, Vulnerable Adult Populations Commission (March 2024)

The State Council for Persons with Disabilities (SCPD) has reviewed the proposed amendment to Title 16 intended to add a new Chapter 11A to create a Vulnerable Adult Populations Commission.

SCPD has the following comments and recommendations:

House Bill 298 seeks to amend Title 16 by adding a new Chapter 11A to create 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 since 2017. The Sunset Committee reviewed APS in 2019 and made a number of recommendations.¹ Among these were eliminating the APS Advisory Council² and having it be subsumed 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.

¹ https://legis.delaware.gov/Committee/Sunset/2019_JLOSCReviews. Interestingly, HB 298 is somewhat more limited than what was proposed as draft legislation by the Joint Committee, eliminating the Commission's authority to review fatal or near fatal incidents, including homicides and suicides. These duties have been removed.

² DSAAPD reported that the advisory committee was not functional, and that it already had an advisory committee for the Division as a whole. There appear to be a number of recommendations in the Sunset report that have not been acted upon.

SCPD recommends rescinding 31 Del Code §3903 to eliminate confusion regarding the existence (or not) of the APS Advisory Council.

Further thoughts:

As the new commission is intended to improve the response to and reduction of incidents of vulnerable adult abuse, neglect and exploitation, **SCPD would ask for representation on the commission along with, CLASI, and also consumers.**

Our review also uncovered questions:

SCPD would like to ask why the APS statute does not adopt a more comprehensive definition of vulnerable adult as found in Title 11?

Further, SCPD would inquire if the Joint Committee intends to clarify DSAAPD's and APS's role in addressing cases of self-neglect³, and inquiring about modifications to the APS statute to include self-neglect cases.

Thank you for your consideration and please contact SCPD if you have any questions or comments regarding our observations or recommendations on the proposed regulation.

cc: Ms. Marissa Band, Esquire CLASI, DLP
Governor's Advisory Council for Exceptional Citizens
Developmental Disabilities Council

³The Committee discussed using the Elder Justice Act definition: "The term self-neglect means an adult's inability due to physical or mental impairment or diminished capacity, to perform essential self-care tasks including: obtaining essential food, clothing, shelter and medical care; obtaining goods and services necessary to maintain physical health, mental health or general safety; or managing one's own financial affairs."