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COMMITTEE REPORT

April 18, 2012

**H. 4516**

Introduced by Rep. Harrison

S. Printed 4/18/12--H.

Read the first time January 10, 2012.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 4516) to amend Section 43‑35‑15, as amended, Code of Laws of South Carolina, 1976, relating to the investigation of abuse, neglect, and exploitation of vulnerable adults, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass:

JAMES H. HARRISON for Committee.

**A** **BILL**

TO AMEND SECTION 43‑35‑15, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE INVESTIGATION OF ABUSE, NEGLECT, AND EXPLOITATION OF VULNERABLE ADULTS IN CERTAIN FACILITIES OPERATED BY THE STATE, SO AS TO PROVIDE THAT NONCRIMINAL REPORTS OF ABUSE, NEGLECT, AND EXPLOITATION OF PERSONS COMMITTED TO THE DEPARTMENT OF MENTAL HEALTH PURSUANT TO THE SEXUALLY VIOLENT PREDATOR ACT MUST BE REFERRED BY THE STATE LAW ENFORCEMENT DIVISION TO THE CLIENT ADVOCACY PROGRAM OF THE DEPARTMENT OF MENTAL HEALTH FOR INVESTIGATION.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 43‑35‑15 of the 1976 Code, as last amended by Act 223 of 2010, is further amended to read:

“Section 43‑35‑15. (A) The Vulnerable Adults Investigations Unit of the South Carolina Law Enforcement Division shall receive and coordinate the referral of all reports of alleged abuse, neglect, or exploitation of vulnerable adults in facilities operated or contracted for operation by the Department of Mental Health or the Department of Disabilities and Special Needs. The unit shall establish a toll free number, which must be operated twenty‑four hours a day, seven days a week, to receive the reports. The unit shall investigate or refer to appropriate law enforcement those reports in which there is reasonable suspicion of criminal conduct. The unit also shall investigate vulnerable adult fatalities as provided for in Article 5, Chapter 35, Title 43. The unit shall refer those reports in which there is no reasonable suspicion of criminal conduct to the appropriate investigative entity for investigation. Upon conclusion of a criminal investigation of abuse, neglect, or exploitation of a vulnerable adult, the unit or other law enforcement shall refer the case to the appropriate prosecutor when further action is necessary. The South Carolina Law Enforcement Division may develop policies, procedures, and memorandum of agreement with other agencies to be used in fulfilling the requirements of this article. However, the South Carolina Law Enforcement Division must not delegate its responsibility to investigate criminal reports of alleged abuse, neglect, and exploitation to the agencies, facilities, or entities that operate or contract for the operation of the facilities. Nothing in this subsection precludes the Department of Mental Health, the Department of Disabilities and Special Needs, or their contractors from performing administrative responsibilities in compliance with applicable state and federal requirements.

(B) Except as otherwise provided in subsection (D), the Long Term Care Ombudsman Program shall investigate or cause to be investigated noncriminal reports of alleged abuse, neglect, and exploitation of vulnerable adults occurring in facilities. The Long Term Care Ombudsman Program may develop policies, procedures, and memoranda of agreement to be used in reporting these incidents and in furthering its investigations. The Long Term Care Ombudsman Program must not delegate its responsibility to investigate noncriminal reports of alleged abuse, neglect, and exploitation to the facilities or to the entities that operate or contract for the operation of the facilities. Nothing in this subsection precludes the Department of Mental Health, the Department of Disabilities and Special Needs, or their contractors from performing administrative responsibilities in compliance with applicable state and federal requirements. The Long Term Care Ombudsman Program shall refer reports of abuse, neglect, and exploitation to the Vulnerable Adults Investigations Unit of the South Carolina Law Enforcement Division if there is reasonable suspicion of criminal conduct.

(C) The Adult Protective Services Program in the Department of Social Services shall investigate or cause to be investigated noncriminal reports of alleged abuse, neglect, and exploitation of vulnerable adults occurring in all settings other than those facilities for which the Long Term Care Ombudsman Program is responsible for the investigation pursuant to this section. The Adult Protective Services Program may promulgate regulations and develop policies, procedures, and memoranda of agreement to be used in reporting these incidents, in furthering its investigations, and in providing protective services. The Adult Protective Services Program shall refer reports of abuse, neglect, and exploitation to the Vulnerable Adults Investigations Unit of the South Carolina Law Enforcement Division if there is reasonable suspicion of criminal conduct.

(D) Notwithstanding another provision of law, the Vulnerable Adults Investigations Unit of the South Carolina Law Enforcement Division shall refer reports of abuse, neglect, and exploitation involving residents committed to the Department of Mental Health pursuant to Chapter 48, Title 44 in which there is no reasonable suspicion of criminal conduct to the Department of Mental Health Client Advocacy Program for investigation.”

SECTION 2. This act takes effect upon approval by the Governor.

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