


At Home under the Dome

Working Effectively with Legislators



A photograph of the Vermont State Capitol building in winter. The building is a large, light-colored stone structure with a prominent golden dome topped by a statue. The foreground is covered in snow, and bare tree branches are visible in the upper left and right corners. A semi-transparent white box is overlaid on the lower half of the image, containing text and a logo.

Carol Stamatakis, Esq.
Executive Director



Council on Aging for Southeastern Vermont

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Build and maintain relationships
with legislators

Build and maintain relationships with legislators

- Make a personal connection BEFORE there is an issue to discuss
 - Tell the story of what you do and why
 - Introduce the agency, staff and programs
- Any bill (positive or negative) can be an opportunity to educate
- Connect legislators with local resources and champions in their district

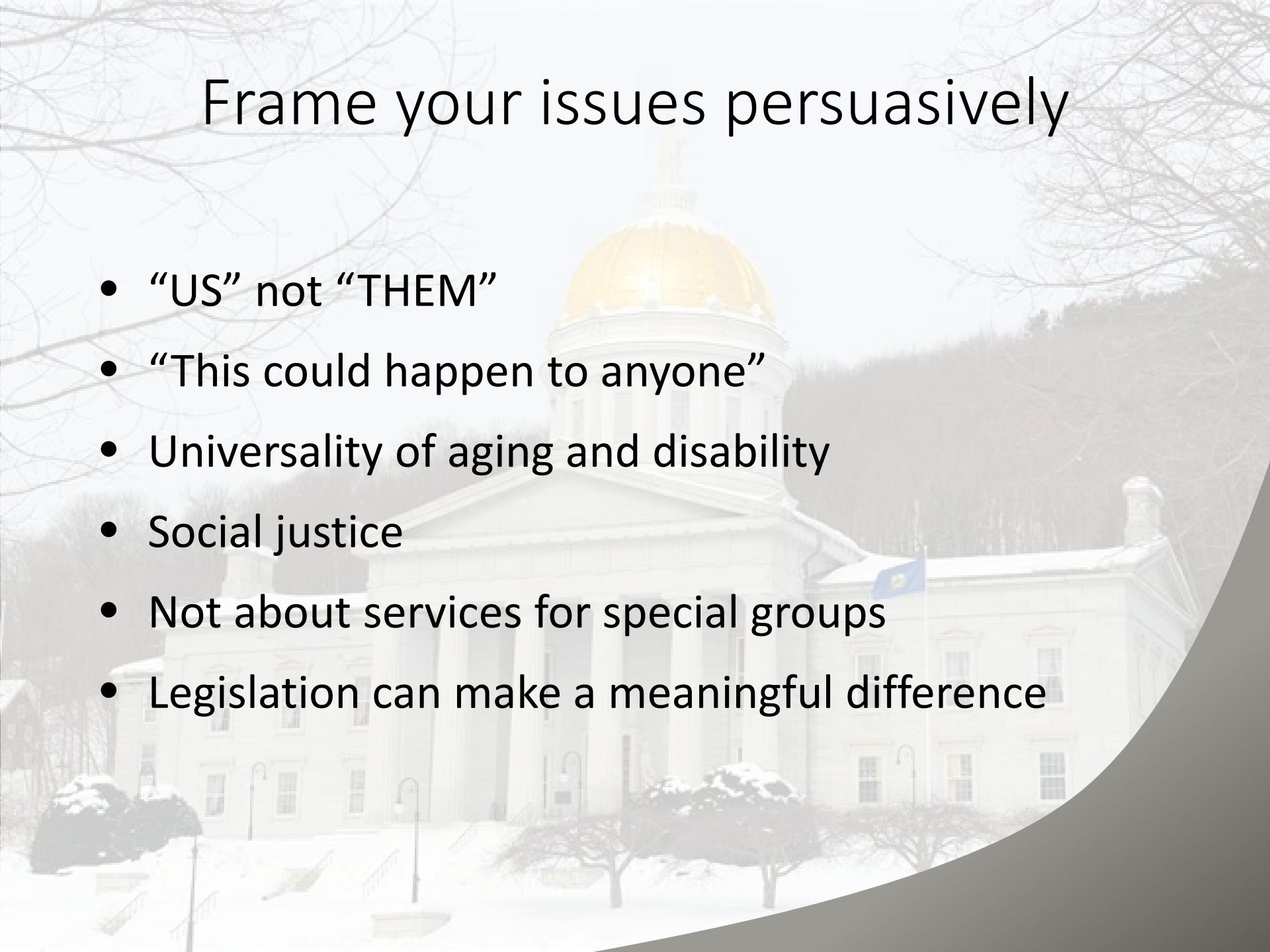
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Frame your issues persuasively

Frame your issues persuasively

- “US” not “THEM”
- “This could happen to anyone”
- Universality of aging and disability
- Social justice
- Not about services for special groups
- Legislation can make a meaningful difference

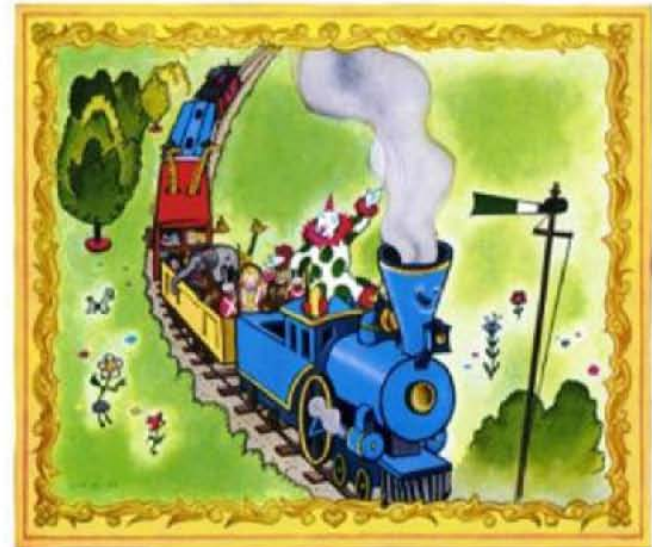


AVOID



Crisis

ADVANCE



Problem-Solving

From Frameworks Institute, Reframing Aging: Seeing What You're Up Against and Finding a Way Forward. May 5, 2015, Susan Nall Bales and Nat Kendall-Taylor, Ph.D.

Emergent Recommendations

Don't

- cue individualism (“choice,” “planning,” “control, “responsibility”...)
- use images or textual cues that “otherize” older Americans (watch your pronouns)
- activate zero sum in discussions of resources (“pies,” “pools” and other limited resource metaphors)
- use crisis messages

From Frameworks Institute, Reframing Aging: Seeing What You're Up Against and Finding a Way Forward. May 5, 2015, Susan Nall Bales and Nat Kendall-Taylor, Ph.D.

Emergent Recommendations

Do

- find the “real real”
- show how context shapes individual actions and outcomes (contextual decisions)
- explain how intervention leads to the change in outcome
- tell stories in which systems and supports are key “characters”
- focus on systemic solutions
- paint the future as a time for potential change and improvement
- highlight solutions when discussing ageism

From Frameworks Institute, Reframing Aging: Seeing What You’re Up Against and Finding a Way Forward. May 5, 2015, Susan Nall Bales and Nat Kendall-Taylor, Ph.D.

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Be a resource

Be a resource

- Ask what you can do to help
- Information, data, and statistics are of great value to legislators
- Be credible, reliable and responsive
- Provide summaries or “talking points”
- Concede areas of challenge in your programs
- Admit when you don’t know an answer – and offer to find out

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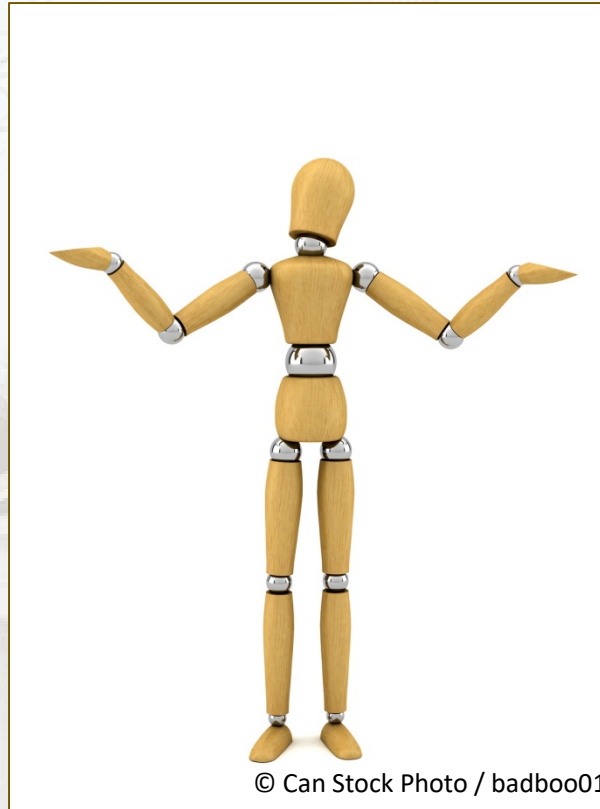


Find the most effective means
of communication

Find the most effective means of communication

- Make no assumptions – Ask how best to communicate (when, where, how?)
- Follow up if no response
- Develop relationships with legislative staff
- Communication between meetings is often important to success

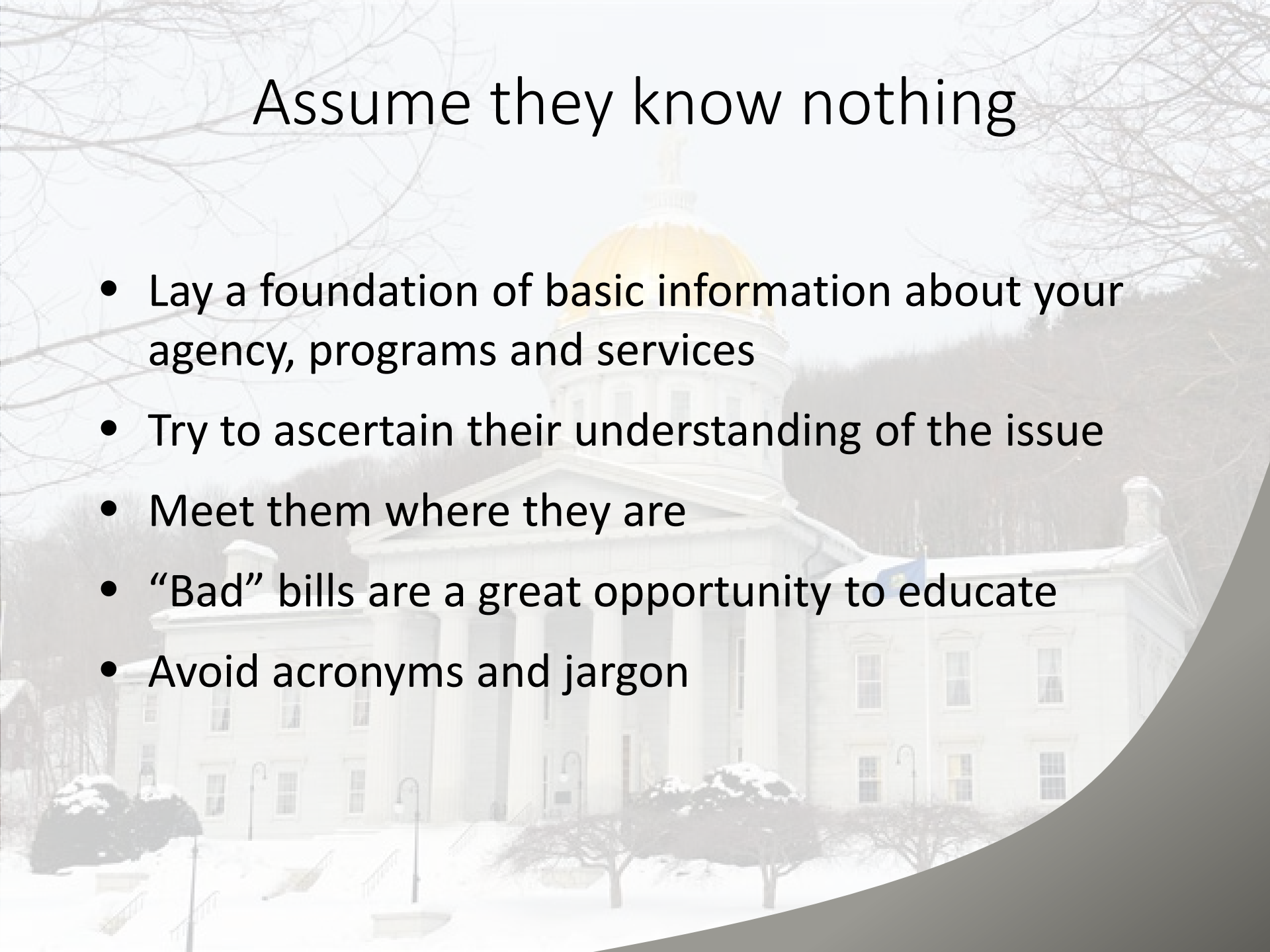
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Assume they know nothing

Assume they know nothing

- Lay a foundation of basic information about your agency, programs and services
- Try to ascertain their understanding of the issue
- Meet them where they are
- “Bad” bills are a great opportunity to educate
- Avoid acronyms and jargon



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Make them look good!

Make them look good!

- The information you provide may be used to:
 - Write a speech
 - Prepare for subcommittee meetings
 - Recruit new co-sponsors or allies
 - Talk to the press



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Have a vision, and let
your vision be your guide

Have a vision, and let your vision be your guide

- Your “north star”
- Measure of success
- Source of inspiration
- Turn to it when the legislative process takes unexpected turns



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You will rarely get more than
what you ask for

You will rarely get more than what you ask for

- Be specific in your “ask”
- Be clear about your agency’s values
- Don’t sell yourself (and those you serve) short
- Compromise is often necessary BUT do not compromise too quickly or ask for too little



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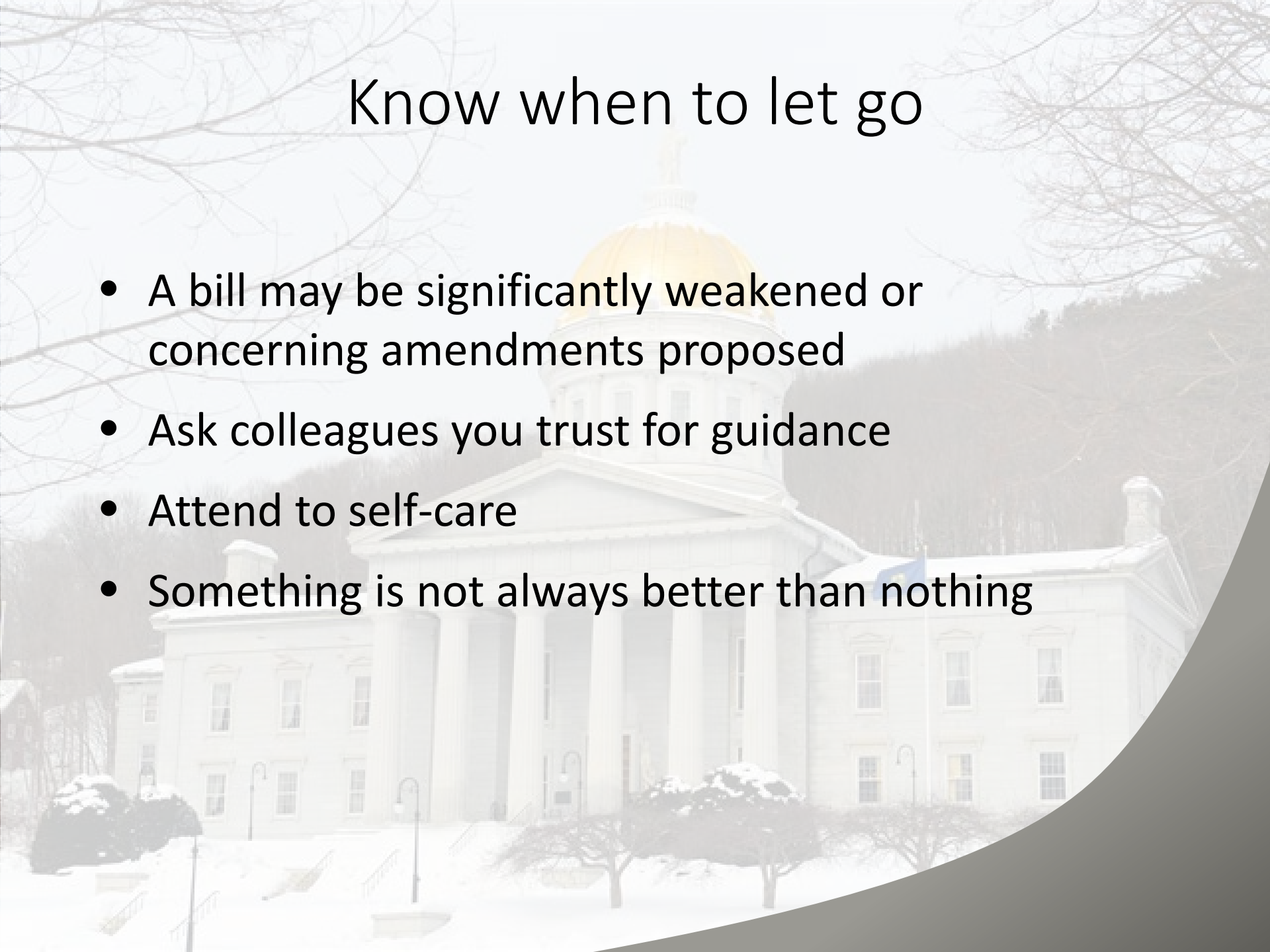


Photo by Ankush Minda on Unsplash

Know when to let go

Know when to let go

- A bill may be significantly weakened or concerning amendments proposed
- Ask colleagues you trust for guidance
- Attend to self-care
- Something is not always better than nothing



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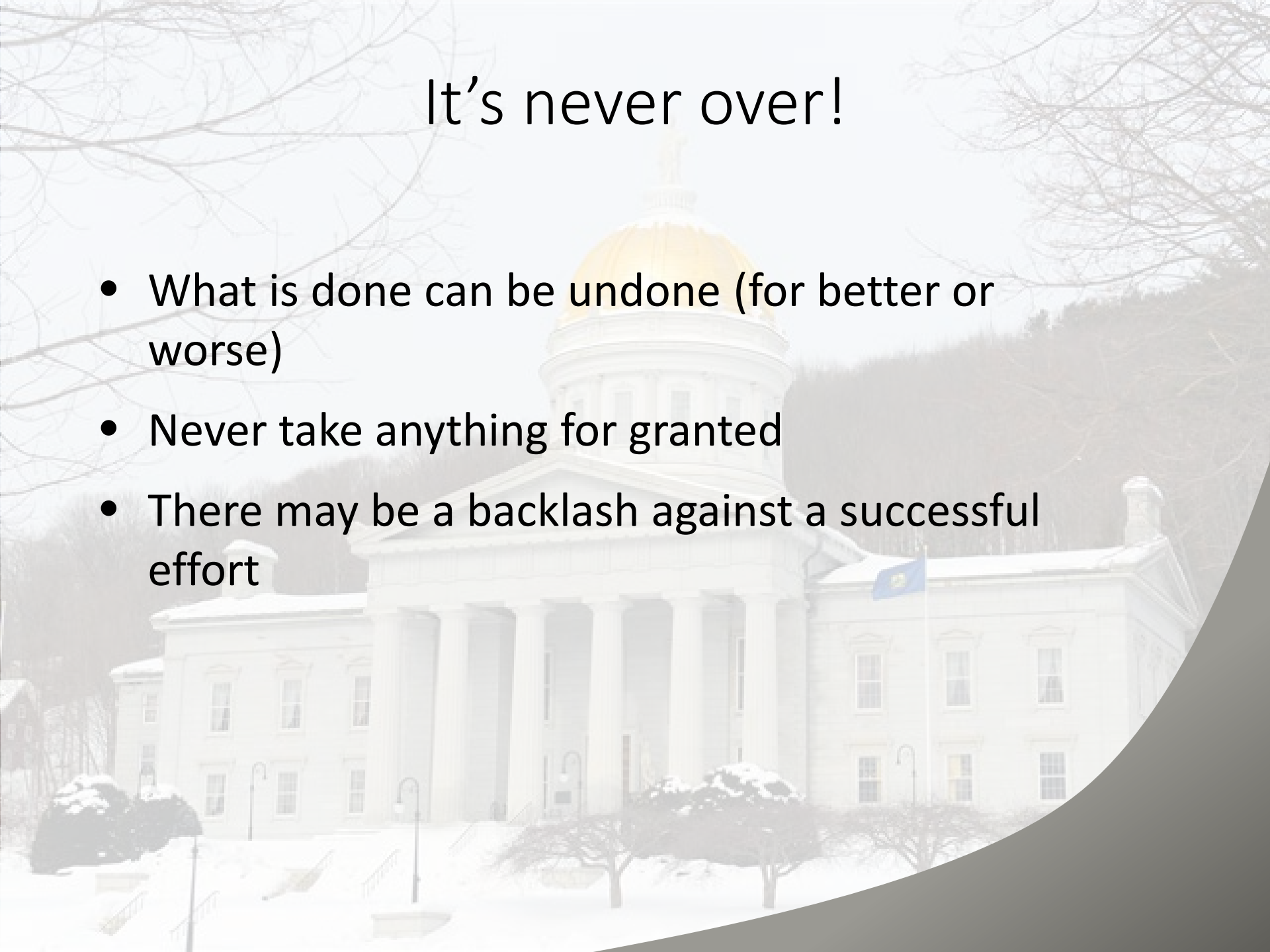


Photo by Jamie Streeton on Unsplash

It's never over!

It's never over!

- What is done can be undone (for better or worse)
- Never take anything for granted
- There may be a backlash against a successful effort



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Special Considerations for Government Agencies and Employees



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Sources of Restrictions and Protections

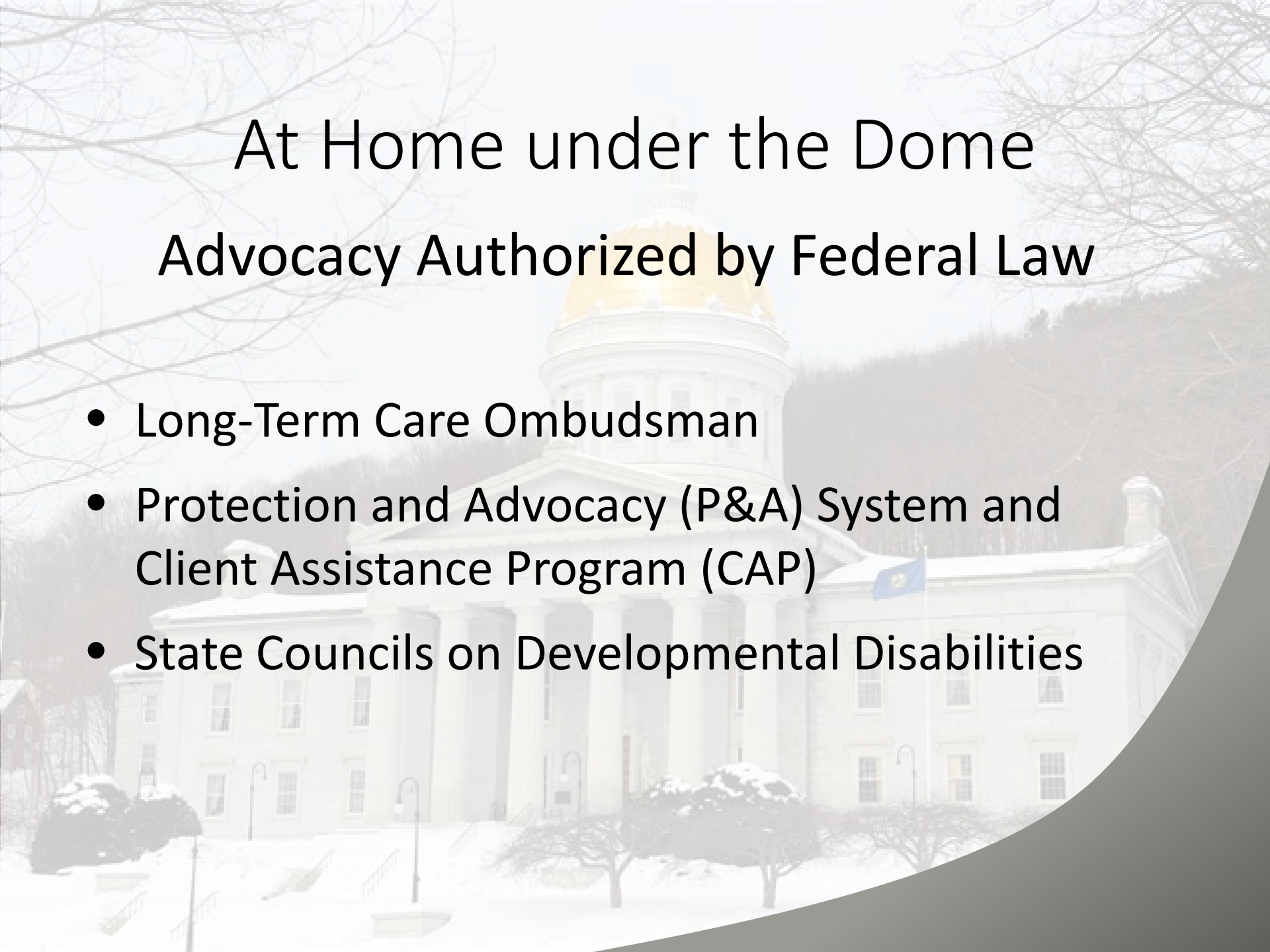
- Federal law *
- State law *
- Municipal ordinances
- Contracts and grants
- Personnel rules
- Collective bargaining agreements
- Professional licensing & regulation

* Constitution, statutes, executive orders, administrative rules

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Advocacy Authorized by Federal Law

- Long-Term Care Ombudsman
- Protection and Advocacy (P&A) System and Client Assistance Program (CAP)
- State Councils on Developmental Disabilities



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Hatch Act

- Intended to Prevent Partisan Influence in Federally-Funded Programs
- Applies (with some exceptions) to:
 - Federal & DC Employees
 - State and Local Government Staff in Federally Funded Activities

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Hatch Act – Prohibited Activities

- Seek public office in partisan elections
- Use official title or authority when engaging in partisan political activity
- Solicit or receive contributions for political candidates or groups
- Engage in political activity while on duty*

** Certain “Further Restricted” Employees are restricted from partisan political activities even while off duty.*

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State Law Restrictions and Protections

- “Little Hatch Acts” – impose political restrictions on employees in state-funded programs
- Most states have some version of such legislation
- State provisions vary and may cover situations not covered by the federal Hatch Act
- Be aware of restrictions on gifts to public employees

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Whistleblower Protections

- Federal Whistleblower Protection Act prohibits the firing, demotion, reduction of pay, reassignment, or change in duties of whistleblowers
- Federal agencies are prohibited from taking adverse personnel actions against federal employees who act as whistleblowers
- Nearly every state has enacted laws that prohibit employers from retaliating against whistleblowers

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Resources

- The Frameworks Institute
Reframing Aging
<http://www.frameworksinstitute.org/reframing-aging.html>
- The Frameworks Institute
Strengthening the Support: How to Talk About Elder Abuse
<http://www.frameworksinstitute.org/pubs/mm/elderabuse>

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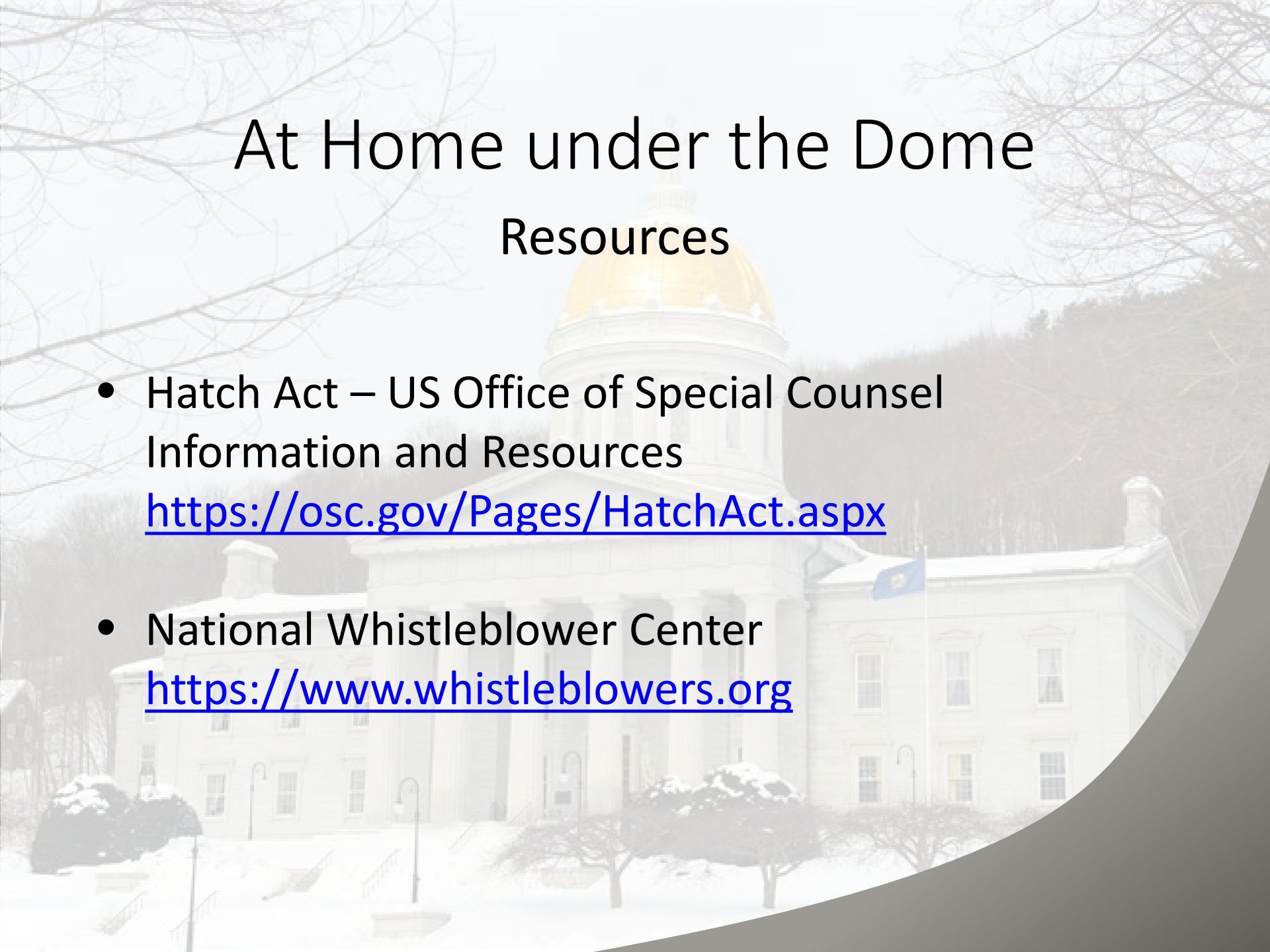
Resources

- Hatch Act – US Office of Special Counsel Information and Resources

<https://osc.gov/Pages/HatchAct.aspx>

- National Whistleblower Center

<https://www.whistleblowers.org>



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Resources

- National Disability Rights Network - Protection and Advocacy for Individuals with Disabilities
<http://www.ndrn.org/index.php>
- The National Long-Term Care Ombudsman Resource Center <http://ltcombudsman.org/>
- State Councils on Developmental Disabilities (ACL) <https://www.acl.gov/programs/aging-and-disability-networks/state-councils-developmental-disabilities>

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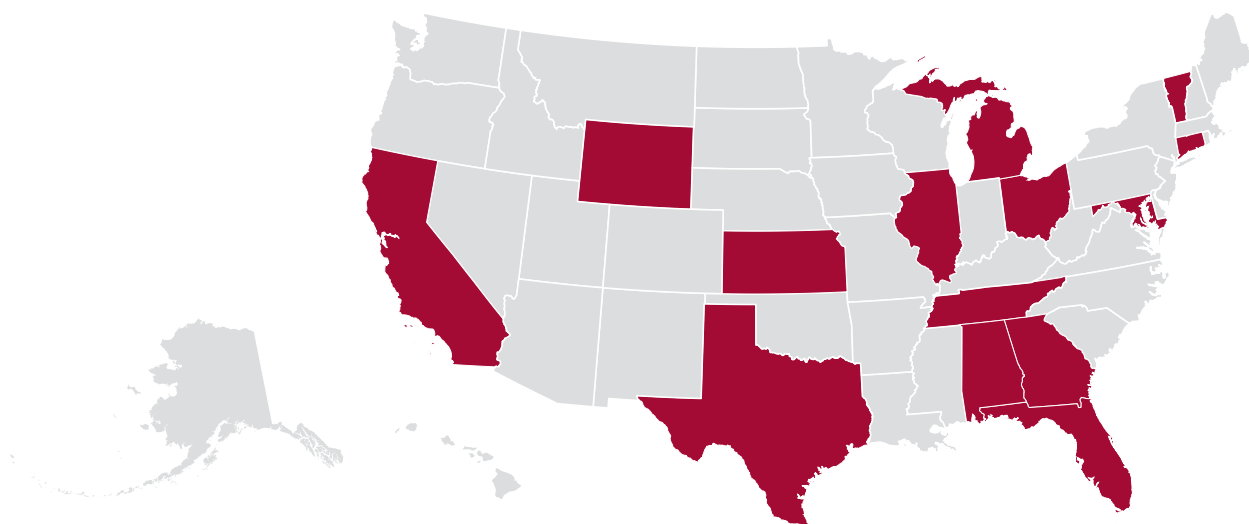


Elder Justice Policy Highlights

2017-2018

The National Center on Elder Abuse (NCEA) seeks to spread awareness on current public policy efforts as well as understand, evaluate and inform policy development to ensure public policy includes effective practices concerning older people and elder abuse.

The legislation found in this document was elicited from the Elder Abuse Listserv and independent websites from **October 2017-January 2018** and finalized **February 2018**. This policy compilation is intended to reflect highlights across the nation and does not include all legislation related to elder justice. However, updates will be sent quarterly and states are encouraged to send significant legislative action to Ageless Alliance. This document reflects activity in **14 states** and highlights at the federal level.



NATIONAL SB 178

➤ [VIEW ONLINE](#)

S.178 Elder Abuse Prevention and Prosecution Act sponsored by Senator Chuck Grassley became a law on October 18, 2017. In this legislation, each Federal judicial district must designate an Elder Justice Coordinator focused on prosecuting cases of elder abuse. In both the Justice Department and the Federal Trade Commission's Bureau of Consumer Protection, Elder Justice Coordinators are appointed to further strengthen the response and understanding of elder abuse. Elder abuse investigation training and information sharing are called for at the federal, state, and local level with the Attorney General's Advisory Committee tasked with forming an elder abuse working group to provide guidance on "elder abuse policies and strategies" at the Department of Justice (DOJ). In addition, federal grants are provided to qualified state courts to evaluate "the effectiveness, safety, and integrity of adult guardianship and conservatorship proceedings."

NATIONAL HR 3759

➤ [VIEW ONLINE](#)

On December 18, 2017, H.R.3759 RAISE Family Caregivers Act passed the House and on January 8, 2018 passed the Senate. On January 22, 2018 this bill was signed by the president and became law. This Act calls the Secretary of Health and Human Services to establish a specified Family Caregiving Advisory Council that provides guidance and recommendations to address gaps and implement strategies to best support family caregivers.

Have questions or want to share some news or legislation with us?



ONLINE
agelessalliance.org



EMAIL
info@agelessalliance.org

ALABAMA SB 274[▶ VIEW ONLINE](#)

The Elder Abuse Protection Order and Enforcement Act went into effect in Alabama on August 1, 2017. This Act allows older people experiencing elder abuse and other specified individuals to petition for an elder abuse protection order. The Act includes penalties for violations and enforcement measures to increased protection and prevention of further incidents of abuse.

CALIFORNIA AB 275[▶ VIEW ONLINE](#)

Approved by the Governor on September 1, 2017, AB 275 amends the Health and Safety Code to add requirements for long-term health care facilities to follow when the facility is unable to care for its residents or patients. Put forth in response to the threat of multiple nursing homes closing in Humboldt County, this legislation “would expand the notice and planning requirements,” such as written notice to the affected residents, guardians, State Long-Term Care Ombudsman and State Department of Health Care Services at least 60 days prior. If 10 or more residents will be impacted and possibly transferred, more information is required with medical assessments required for all residents before relocation.

CALIFORNIA AB 575[▶ VIEW ONLINE](#)

Approved by the Governor on October 2, 2017, this legislation amends the Welfare and Institutions Code, relating to elder and dependent adult abuse, including substance use disorder counselors as mandated reporters. The *Senate Floor Amendments of 8/28/17* defined “substance use disorder counselor” as “a person providing counseling services in an alcoholism or drug abuse recovery and treatment program licensed, certified, or funded under...the Health and Safety Code.”

**CALIFORNIA AB
RESOLUTION NO. 98**[▶ VIEW ONLINE](#)

This measure “proclaims and acknowledges the month of June 2017 as Elder and Vulnerable Adult Abuse Awareness Month” in California, aligning with World Elder Abuse Awareness Day on June 15th. This resolutions was filed with the Secretary of State July 21, 2017.

CALIFORNIA AB 611[▶ VIEW ONLINE](#)

Approved by the Governor October 2, 2017, this legislation authorizes “a mandated reporter of suspected financial abuse of an elder or dependent adult to not honor a power of attorney...about whom

he or she made a report to an adult protective services agency or a local law enforcement agency of any state.” *Senate Floor Amendments of 8/24/17* explains that after a report has been made and the mandated reporter determines to not honor a power of attorney, “the power of attorney shall remain enforceable as to every other attorney-in-fact also designated in the power of attorney about whom a report has not been made.”

CALIFORNIA SB 219[▶ VIEW ONLINE](#)

Approved by the Governor October 4, 2017, this Act adds the Lesbian, Gay, Bisexual, and Transgender Long-Term Care Facility Residents’ Bill of Rights to the Health and Safety Code. This Act makes it “unlawful, except as specified, for any long-term care facility to take specified actions wholly or partially on the basis of a person’s actual or perceived sexual orientation, gender identity, gender expression, or human immunodeficiency virus (HIV) status.” Additional protections for all residents “relating to bodily privacy” is also included.

[The *California Commission on Aging* and the *California Elder Justice Coalition* discuss more legislation and policies affecting older people.](#)

CONNECTICUT SB 772[▶ VIEW ONLINE](#)

Public Act No. 17-62 An Act Requiring Emergency Generators in Certain Housing for the Elderly was signed by the Governor June 30, 2017 and went into effect October 1, 2017. This Act requires specifies requirements for privately owned multifamily housing projects to “install and maintain one or more emergency power generators.”

[The *Connecticut Aging Committee* and *Connecticut Commission on Women, Children and Seniors* lists more legislation affecting older people.](#)

**FLORIDA RULE 59A-4.1265
AND 58A-5.036**[▶ VIEW ONLINE](#)

In response to the tragic death of multiple nursing home residents during a power outage after Hurricane Irma, Governor Rick Scott filed an emergency rule and called for Agency for Health Care Administration (AHCA) and the Department of Elder Affairs (DOEA) permanent rules for nursing home and assisted living facilities. Rule 59A-4.1265, Emergency Environmental Control for Nursing Homes and Rule 58A-5.036, Emergency Environmental Control for Assisted Living Facilities require an additional power sources to be working and in place to “maintain comfortable temperatures for at least 96-hours following a power outage”

ILLINOIS SB 1400[▶ VIEW ONLINE](#)

SB 1400 Public Act 100-0432 became effective immediately after being approved by the Governor on August 25, 2017. The Act designates the Department of Public Health to manage the Health Care Worker Registry, reflecting that change in other statutes. Health care employers and long-term care facilities are banned from hiring, employing, or retaining an individual involved in direct client care, in paid or unpaid roles, that has a finding of "physical or sexual abuse, financial exploitation, or egregious neglect of an individual" by the Department of Human Services in the Health Care Worker Registry.

[*Illinois Department on Aging lists more legislation affecting older people.*](#)

OHIO HB 49[▶ VIEW ONLINE](#)

Effective September 29, 2018, amendments to the state budget bill incorporated certain provisions that changed Ohio's APS law. These changes were based on recommendations from the Attorney General's Elder Abuse Commission, introduced in [HB 78](#). Some of those changes include updating the list of mandated reporters, procedure for releasing information to county departments and law enforcement agencies to conduct investigations, enabling law enforcement to issue temporary restraining orders during investigations to "prevent the interference or obstruction," and the creation of an elder abuse coalition. These and more updates can be found in [Ohio Revised Code sections 5101.60-5101.741](#).

TEXAS HB 2025[▶ VIEW ONLINE](#)

HB 2025 was signed by the Governor on June 15, 2017 and became effective on September 1, 2017. This Act "requires a facility employee who provides direct care to a person with Alzheimer's disease or a related disorder to successfully complete training" specific to care for people with these disorders. The commission is called to also create a tracking system, similar to the the Centers for Medicare and Medicaid Services, to categorize the "scope and severity" violations of appropriate institutions for penalties or "other enforcement action...to deter future violations."

[*More related policy highlights from Texas can be found at **Leading Age Texas Advocacy**.*](#)

TEXAS HB 3921[▶ VIEW ONLINE](#)

HB 3921 passed on June 1, 2017 and became effective on September 1, 2017, strengthened reporting requirements for financial institutions and securities professionals regarding financial exploitation. This law permits financial institutions and securities professionals to place a "temporary hold on transactions in certain cases of suspected financial exploitation of vulnerable adults." Immunity for both groups from "civil or criminal liability or disciplinary action" when acting "in good faith" is also included.

TENNESSEE SB 2588[▶ VIEW ONLINE](#)

This Act was signed by the Governor on April 27, 2016 required the "district attorney general of each judicial district to establish...a vulnerable adult protective investigative team (VAPIT) by January 1, 2017. Representatives from multiple agencies "must meet at least quarterly and conduct coordinated responses and investigations of instances of suspected abuse, neglect, or exploitation of adults." Immunity for participating members acting "in good faith" is also included in this Act. In Shelby County it was reported that between January 1, 2017-October 31, 2017, 830 out of 1,400 cases reported to Adult Protective Services were reviewed by the VAPIT.

VERMONT H.265[▶ VIEW ONLINE](#)

Act No. 23 (H.265) signed by the Governor on May 4, 2017, revises the Long-Term Care Ombudsman statutes to align to the "federal Older Americans Act and related federal regulations." This Act also provides a "private right for action" for vulnerable adults who experienced financial exploitation.

[***The Community of Vermont Elders \(COVE\)** lists more legislation affecting older people.*](#)

WYOMING SF 0105[▶ VIEW ONLINE](#)

The Uniform Power of Attorney Act was signed into law on March 6, 2017 and went into effect on January 1, 2018. Described as "model legislation regulating powers of attorney for persons in case of future incapacity," this act defines and specifies all aspects of the power of attorney role, such as receiving payment, authority related to different assets, and termination.

Legislation Focused on Topic Areas of Interest

Guardianship: [American Bar Association, Commission on Law and Aging](#)

Independent Financial Advisors and Firms: [The Financial Services Institute \(FSI\)](#) tracks and supports legislation in each state that provides protection and mandated reporting for independent financial advisors and firms when they suspect financial exploitation, as well as the ability to temporarily hold account transactions and support investigation efforts.

Financial Exploitation: [National Conference of State Legislatures](#)

Keep on the Watch

NATIONAL SB 81

[VIEW ONLINE](#)

The Seniors Fraud Prevention Act of 2017, Sens. Klobuchar and Collins, identical to H.444, Seniors Fraud Prevention Act of 2017, Rep. Deutsch, passed by Unanimous Consent in the Senate on August 2, 2017. This bill instructs the Federal Trade Commission (FTC) to create “an office within the Bureau of Consumer Protection to advise the FTC on the prevention” and assist in monitoring efforts of fraud targeting seniors. This office will distribute resources and reporting information regarding fraud schemes, record and respond to complaints, and maintain a website with related information.

NATIONAL SB 2155

[VIEW ONLINE](#)

S.2155 Economic Growth, Regulatory Relief, and Consumer Protection Act includes the Senior Safe Act of 2017 in Sec. 303 Immunity From Suit for Disclosure of Financial Exploitation of Senior Citizens. This act was introduced by Senator Mike Crapo on November 16, 2017 and placed on the Senate Legislative Calendar December 18, 2017, with hearings held on January 30, 2018 in the Committee on Banking, Housing, and Urban Affairs. The Senior Safe Act of 2017 provides immunity for individuals who obtained specified training and covered financial institutions for disclosing suspected financial exploitation of an older person. Employee training on the signs of elder financial exploitation and proper reporting procedures would occur within the first year of employment at the covered financial institutions.

NATIONAL SB 2076

[VIEW ONLINE](#)

NATIONAL HB 4256

[VIEW ONLINE](#)

The Building Our Largest Dementia (BOLD) Infrastructure for Alzheimer’s Act aims to appropriate funds to support and bolster “activities related to Alzheimer’s disease, cognitive decline, and brain health” through cooperative agreements to Centers of Excellence in Public Health Practice, Public Health Departments, and public or nonprofit private entities to analyze, monitor, and report data. Some of the Center activities include “reducing the risk of potentially avoidable hospitalizations of individuals with Alzheimer’s disease” and “enhancing support to meet the needs of caregivers of individuals with Alzheimer’s disease.” This bill was introduced in the House and Senate on November 6, 2017.

NATIONAL HR 10

[VIEW ONLINE](#)

The Financial CHOICE Act of 2017 introduced on April 26, 2017 by Representative Jeb Hensarling passed/agreed to in the House on June 8, 2017 with 233 Yeas and 186 Nays. This bill revokes “provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act and other laws.” If enacted, the Consumer Financial Protection Bureau (CFPB) will change to the Consumer Law Enforcement Agency, with all five members, Deputy Director, and Inspector General appointed by the President. In this bill, a few of the CFPB changes include: No longer monitoring financial products or services for risks to the consumers; “eliminat[ing] the authority... to supervise and examine financial institutions”; and removing the ability to “exercise any authority with respect to payday loans, vehicle-title loans, or other similar loans.” Agencies, such as the Federal Deposit Insurance Corporation (FDIC), would be subject to the congressional appropriations process.

STATE CARE ACT[▶ VIEW ONLINE](#)

The American Association of Retired Persons (AARP) is working to enact the Caregiver Advise, Record, Enable (CARE) Act in each state that would require hospitals to identify a family caregiver on the medical record, notify that person about their loved one's discharge, and provide further medical instruction to support their loved one at home. Find out if your state or province has signed the CARE Act into law at [AARP Support Caregivers](#).

CONNECTICUT SB 148[▶ VIEW ONLINE](#)

Introduced in 2017 and 2018, the Expanding Eligibility for the Alzheimer's Disease Respite Care Program bill would increase the income cap to allow more individuals to meet the eligibility criteria for respite care services. The Bill states that if enacted, it would be effective July 1, 2018 and on July 1, 2019, "and annually thereafter, the commissioner shall increase such income and asset eligibility criteria...to reflect the annual cost of living adjustment in Social Security income, if any."

FLORIDA HB 1059[▶ VIEW ONLINE](#)

FLORIDA SB 1562[▶ VIEW ONLINE](#)

This bill was introduced to the House on January 9, 2018 and to the Senate on January 17, 2018 and would go into effect July 1, 2018, if passed. The Exploitation of a Vulnerable Adult/Elder Abuse bill creates "a cause of action for an injunction for protection against the exploitation of a vulnerable adult." This bill specifies filing procedures and responsibilities of the clerk of the circuit court, law enforcement, adult protective services, state attorney and financial institutions. The court may freeze assets and any line of credit, temporarily give the vulnerable adult "exclusive use and possession of the dwelling" that they may share with the respondent, block communication and other areas as the court determines is needed.

GEORGIA HB 635[▶ VIEW ONLINE](#)

This bill is to amend the Disabled Adults and Elder Persons Protection Act to create an "at-risk adult protective investigative/coordinating team" organize responses to suspected cases of "abuse, neglect, or exploitation of disabled adults or elder persons." This bill also provides for immunity, memoranda of understanding, confidentiality, and other key areas to support the creation of this investigative/coordinating team. The House passed/adopted by substitute the bill on February 15, 2018.

GEORGIA HB 803[▶ VIEW ONLINE](#)

This bill makes trafficking a disabled adult, elder person, or resident for their benefits illegal, defining terms such as Coercion, Deception, Exploitation, and Isolation. This bill includes penalties and mandatory requirements based on the number of victims and repeals all laws that dispute this Act.

KANSAS HB 2458[▶ VIEW ONLINE](#)

This bill seeks to expand the legal definition of criminal mistreatment to include abuse "of a dependent adult or of an elder person to the list of inherently dangerous felonies." HB 2458 also increases the "monetary limitations for determining severity levels" related to financial exploitation, as well as adjusts the age from 70 to 60 years of age or older in defining an "elder person."

MARYLAND SB 0004[▶ VIEW ONLINE](#)

The Study of Nursing Home Quality of Care bill requires the Department of Aging to research Maryland nursing homes quality of care for residents. Suggestions must be sent to the "Governor and the General Assembly on or before December 1, 2018. A Senate Hearing occurred 2/01/18 at 1pm.

MARYLAND SB 169[▶ VIEW ONLINE](#)

The Prescription Drug and Medical Supply Access and Affordability Workgroup public health bill mandates the Secretary of Health to bring together a workgroup to research and advise the "State forming a generic drugs and medical purchasing cooperative and establishing Maryland as an open formulary State." Recommendations from the workgroup would be required "on or before January 1, 2019."

MARYLAND SB 201[▶ VIEW ONLINE](#)

The Prescription Drug Manufacturers - Sales to Wholesale Distributors mandates a "prescription drug or device manufacturer to submit certain average sales prices to the Maryland Department of Health within 30 days after the end of each calendar quarter." The Department has at least 10 days to display this information on their website. The bill states that a manufacturer cannot deny a wholesale distributor from purchasing a prescription drug or device if they agree to pay the average sales price reported. A Senate Hearing is scheduled for 3/21/18 at 1pm.

MARYLAND SB 214

► [VIEW ONLINE](#)

The Task Force to Study the Need for Enhanced Monitoring of Guardians of Vulnerable Adults bill supports the creation of a Task Force to research and provide guidance on guardian monitoring. If enacted, the Task Force must send their report "to the Governor and General Assembly on or before December 15, 2018."

MICHIGAN

[The Michigan Elder Justice Coordinating Council](#) monitors pending elder abuse legislation within the state. Current legislation relates to financial exploitation, criminal sentencing procedures and sentencing, required training for nursing home administrators, data analysis within the Department of Health and Human Services and more.

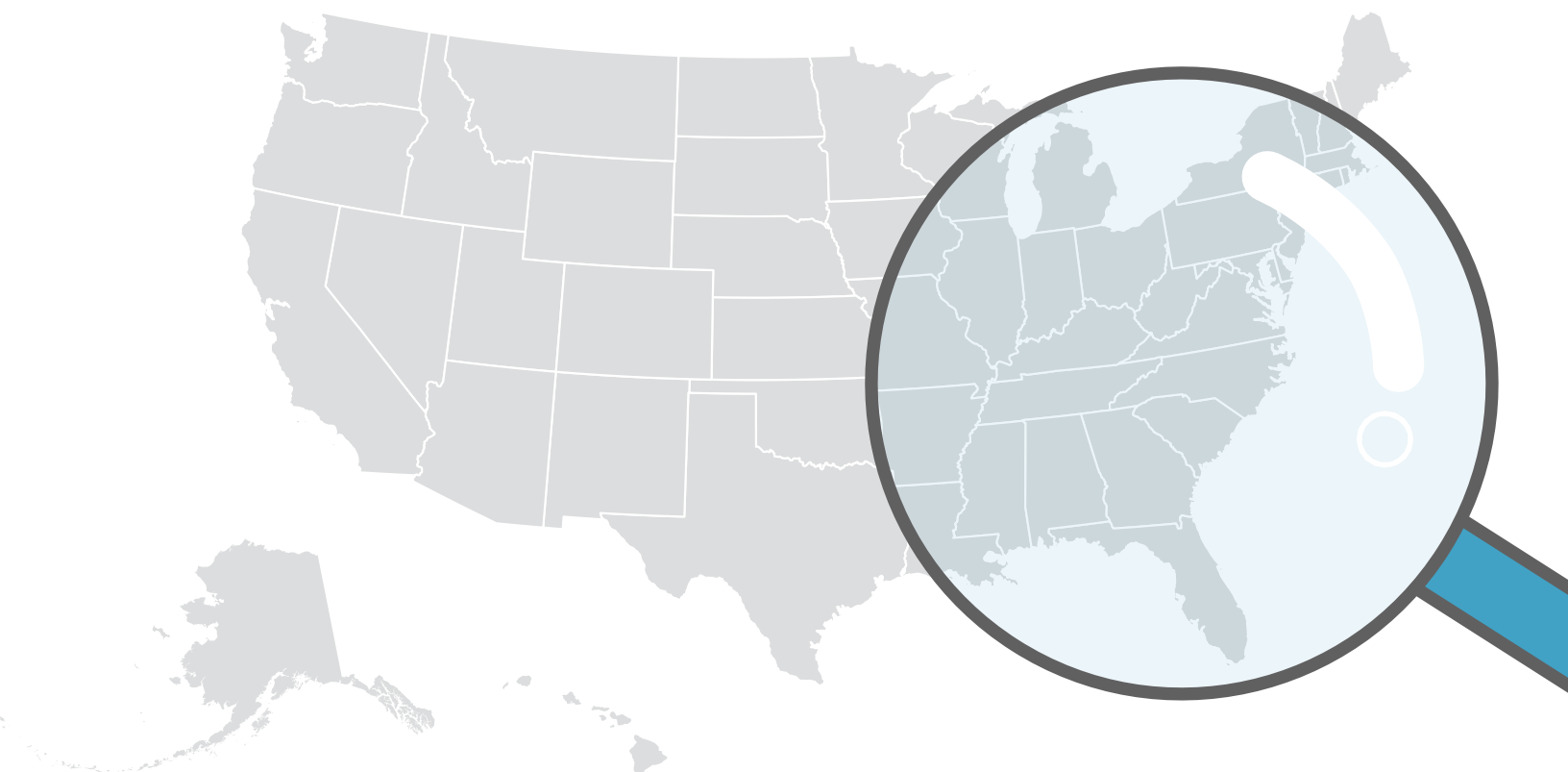


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SUMMARY: Authorizes mandated reporters of financial institutions to not honor any power of attorney if they make, or have actual knowledge that another person has made a report to an adult protective services agency or a local law enforcement agency, if they believe the elder or dependent adult who executed the power of attorney may be subject to financial abuse.

Author's Statement: "This bill provides additional protection for elders and dependent adults by preventing financial abuse before it occurs. Officers and employees of financial institutions can stop financial transactions if they have filed, or know of anyone else that has filed, a financial abuse report on an individual, even if that individual has a power of attorney. The individual with the power of attorney may appeal the action to a Judge."

Elder Financial Abuse: The California Department of Social Services reports that for fiscal year 2015/16 Adult Protective Services received 12,177 reports of financial abuse from financial institutions. This represented 7% of all reports of abuse and neglect and an average of 1,014 reports from financial institutions per month. There was an average of 756 reports of abuse confirmed each month in fiscal year 2015/16. There were an additional 1,556 inconclusive financial abuses cases each month. Inconclusive means that the Department had reason to believe that the abuse occurred but, no proof. Bank officers and employees are regularly presented with situations that require them to honor a power of attorney despite having knowledge that a financial elder abuse report has been filed on the holder of the power of attorney.

According to the True Link Report on Elder Financial Abuse 2015, \$16.99 billion is lost to financial exploitation annually, \$12.76 billion is lost to criminal fraud or identity theft annually, and \$6.67 billion is lost to deceit or theft enabled by a trusting relationship annually.

How Can a Power of Attorney be Used? A Power of Attorney can be used to give another person the right to sell a car, home, or other property in the place of the maker of the Power of Attorney. A Power of Attorney might be used to allow another person to sign a contract for the maker of the Power of Attorney (the person who makes a power of attorney is called the "principal").

It can be used to give another person the authority to make health care decisions, conduct financial transactions, or sign legal documents that the principal cannot do for one reason or another. With few exceptions, Powers of Attorney can give others the right to do any legal acts that the makers of the Powers of Attorney could do them themselves.

Concerns about AB-611: Mandated reporters of suspected financial abuse of an elder or dependent adult: powers of attorney. (2017-2018)

Arguments in Opposition: “California Advocates for Nursing Home Reform opposes AB 611, a bill that would permit bank tellers to refuse to honor a valid power of attorney (POA) presumably freeze all access to an elder or dependent adult’s funds to pay for their food, medicine, and shelter – based on a single, unsubstantiated report to Adult Protective Services (APS) or alleged financial abuse. ...

“We expect that AB 611 would lead to more harm than good by depriving elder and dependent adults access to vital funds. ...

“If we want to empower banks to refuse to accept valid powers of attorney, the evidentiary requirement should be greater than a single report to APS, which anyone can cause simply by making a phone call.”

Other Possible Concerns:

Unintended consequences – the rights of innocent third parties to a transaction could be adversely impacted.

Impact on commerce – all parties should be able to rely on legal instruments.

People who have issues with a Power of Attorney should be required to get a Court order.

Delaying a transaction could result in a lost opportunity for a vulnerable adult.

AB 611 will create confusion that could cause all powers of attorney to be questioned and could delay many legitimate transactions.

If enacted, this legislation will be abused by bickering family members and allow them to drag other people into their disputes.

This bill will undermine the autonomy of older adults and restrict their personal freedom.

Older people and people with disabilities should always be presumed competent.

This will promote prejudices about the abilities of older adults to manage their affairs.

This bill will compromise the rights of adults with disabilities to equal treatment under the law.

People will always exploit vulnerable people – there is only so much we can do.

Banks will be overly conservative and err on the side of not honoring powers of attorney.

This bill is paternalistic.

SUMMARY: Authorizes mandated reporters of financial institutions to not honor any power of attorney if they make, or have actual knowledge that another person has made a report to an adult protective services agency or a local law enforcement agency, if they believe the elder or dependent adult who executed the power of attorney may be subject to financial abuse.

Author's Statement: "This bill provides additional protection for elders and dependent adults by preventing financial abuse before it occurs. Officers and employees of financial institutions can stop financial transactions if they have filed, or know of anyone else that has filed, a financial abuse report on an individual, even if that individual has a power of attorney. The individual with the power of attorney may appeal the action to a Judge."

Elder Financial Abuse: The California Department of Social Services reports that for fiscal year 2015/16 Adult Protective Services received 12,177 reports of financial abuse from financial institutions. This represented 7% of all reports of abuse and neglect and an average of 1,014 reports from financial institutions per month. There was an average of 756 reports of abuse confirmed each month in fiscal year 2015/16. There were an additional 1,556 inconclusive financial abuses cases each month. Inconclusive means that the Department had reason to believe that the abuse occurred but, no proof. Bank officers and employees are regularly presented with situations that require them to honor a power of attorney despite having knowledge that a financial elder abuse report has been filed on the holder of the power of attorney.

According to the True Link Report on Elder Financial Abuse 2015, \$16.99 billion is lost to financial exploitation annually, \$12.76 billion is lost to criminal fraud or identity theft annually, and \$6.67 billion is lost to deceit or theft enabled by a trusting relationship annually.

How Can a Power of Attorney be Used? A Power of Attorney can be used to give another person the right to sell a car, home, or other property in the place of the maker of the Power of Attorney. A Power of Attorney might be used to allow another person to sign a contract for the maker of the Power of Attorney (the person who makes a power of attorney is called the "principal").

It can be used to give another person the authority to make health care decisions, conduct financial transactions, or sign legal documents that the principal cannot do for one reason or another. With few exceptions, Powers of Attorney can give others the right to do any legal acts that the makers of the Powers of Attorney could do them themselves.

Concerns about AB-611: Mandated reporters of suspected financial abuse of an elder or dependent adult: powers of attorney. (2017-2018)

Arguments in Opposition: “California Advocates for Nursing Home Reform opposes AB 611, a bill that would permit bank tellers to refuse to honor a valid power of attorney (POA) presumably freeze all access to an elder or dependent adult’s funds to pay for their food, medicine, and shelter – based on a single, unsubstantiated report to Adult Protective Services (APS) or alleged financial abuse. ...

“We expect that AB 611 would lead to more harm than good by depriving elder and dependent adults access to vital funds. ...

“If we want to empower banks to refuse to accept valid powers of attorney, the evidentiary requirement should be greater than a single report to APS, which anyone can cause simply by making a phone call.”

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