

State Durable Powers of Attorney Legislative Activity for 2000-2002

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State	Bill Number	Bill Status	Bill Summary
California CAL. PROB. CODE §§ 4124-28, 4206, 4304- 05, 4404	2000 S.B. 163	Vetoed on 10/10/99	A fiduciary abuse specialist team (FAST) would monitor a pilot program to combat the financial abuse of mentally impaired elderly. Proposed certification program enabling public guardians to take immediate control of the elderly person's property if susceptible to financial abuse.
California CAL. PROB. CODE §§ 4124-28, 4206, 4304- 05, 4404	2001 A.B. 109	On 9/6/01 last action was in committee: held under submission	Money for pilot project in select counties to train bank employees to identify and report elder financial abuse, using training materials and a uniform system of reporting.
California CAL. PROB. CODE §§ 4124-28, 4206, 4304- 05, 4404	2001 A.B. 1111	Inactive. 10/14/01 vetoed by governor 1/10/02. Consideration of Gov's veto stricken from file.	Program to help counties using FAST that would respond within 24-48 hours.
California CAL. PROB. CODE §§ 4124-28, 4206, 4304- 05, 4404	2000 S.B. 1881	Inactive. 11/30/00 died on file. Governor vetoed 9/30/00	Study whether to require the licensing and regulation of professional fiduciaries.
California CAL. PROB. CODE §§ 4124-28, 4206, 4304- 05, 4404	2000 S.B. 1742	Ch. 813 of the statutes of 2000	Police officers, members of FAST, or public guardians are authorized as reporters of financial abuse.
California CAL. PROB. CODE §§ 4124-28, 4206, 4304- 05, 4404	2000 A.B. 2253	Failed passage	Financial institution must disclose suspected financial abuse victim's information and the facts that form the basis for suspicion.
California CAL. PROB. CODE §§ 4124-28, 4206, 4304- 05, 4404	2000 A.B. 2107	Ch. 442 of the statutes of 2000	Felony if theft amount over \$100. Also prohibits attorneys to sell annuities if have past or existing client relationship. Sales of financial products for long-term care planning must have disclosures and the right to rescind the application for 30 days.
California CAL. PROB. CODE §§ 4124-28, 4206, 4304- 05, 4404	2001 S.B. 1803	5/30/02 Senate Judiciary Committee	Changes "fiduciary abuse" to "financial abuse."
California CAL. PROB. CODE §§ 4124-28, 4206, 4304- 05, 4404	2001 A.B. 191	Failed passage	Includes criminal prosecution by attorney's office within the list of agencies that may receive reports or disclosure of reports regarding elder abuse.
California CAL. PROB. CODE §§ 4124-28, 4206, 4304- 05, 4404	2001 A.B. 255	Governor signed 6/18/02. In effect 1/1/03.	Establishes clergy members are mandated reporters. Allows information to be exchanged between APS and DA offices. "Abandonment" added to list of situations where mandated reporters are obligated to report, and the "neglect" definition is expanded.

Connecticut CONN. GEN. STAT. §§ 1-43, 1-45, 1-56a-56k	2001 S.B. 575	1/16/01 Referred to Committee on Judiciary	Banks and financial institutions must honor DPA until officially revoked.
Connecticut CONN. GEN. STAT. §§ 1-43, 1-45, 1-56a-56k	2001 H.B. 5412	1/11/01 Referred to Joint Committee on Judiciary	POA effective until principal terminates it or states that it will end upon a certain circumstance or date. Person failing to acknowledge without evidence will be fined.
Connecticut CONN. GEN. STAT. §§ 1-43, 1-45, 1-56a-56k	2001 P.A. 01- 209	Public Act effective 7/1/01	Dept. of Social Services Commissioner must investigate, rather than evaluate, allegations of elder abuse, neglect, exploitation, and abandonment. Financial institutions can disclose confidential information if have consent of elderly person or representative. Financial institution has no obligation to determine the person's capacity to consent.
Florida FLA. STAT. ANN. § 709.08	2001 S.B. 0886	Approved by governor 6/15/01. Filed as Chapter No. 2001-241. Effective date: 1/1/02	New procedures and requirements for execution, exercise, and reliance on the authority granted in a DPA conditioned on a principal's incapacity to manage property. Criminal and civil immunity from liability for physicians who, in good faith, execute affidavits of non-capacity to manage property. Suggested statutory forms for affidavits to attest to the principal's lack of capacity to manage property.
Florida FLA. STAT. ANN. § 709.08	2001 H.B. 1031	5/4/01 Died on Special Order Calendar. (Similar S.B. 0886 (above) passed).	Springing DPA effective with affidavit of the atty-in- fact, together with affidavit from treating physician confirming that the principal is unable to manage their property. Physician executing an affidavit in good faith is immune from civil, criminal liability.
Hawaii HAW. REV. STAT. §§ 551 D-1 TO D-7	2002 H.B. 2696	2/15/02 Passed second reading as amended and referred to committee on JHA	Diversion of property, with DPA, of elders or dependent adults. Also adds "agent under a power of attorney" to fiduciary definition.
Illinois ILL. REV. STAT. ch. 755, 45/1-1-45/3-4	2002 H.B. 4829	4/5/02 Re-referred to rules committee	Amends Criminal Code of 1961. Makes small technical changes to the penal language in section 16- 1.3 concerning financial exploitation of an elderly person.
Illinois ILL. REV. STAT. ch. 755, 45/1-1-45/3-4	2001 H.B. 0112	3/16/01 Re-referred to rules committee	Same as above.
Illinois ILL. REV. STAT. ch. 755, 45/1-1-45/3-4	2001 H.B. 0122	3/16/01 Re-referred to rules committee	Amends the Code of Criminal Procedure of 1963. Makes small technical change in section 115-10.3 concerning the admissibility of hearsay evidence in a prosecution for elder abuse, neglect, or financial exploitation.
Illinois ILL. REV. STAT. ch. 755, 45/1-1-45/3-4	2002 H.B. 4548	4/5/02 Re-referred to rules committee	Same as above.
Illinois ILL. REV. STAT. ch. 755, 45/1-1-45/3-4	2001 H.B. 0592	4/6/01 Re-referred to rules committee	Amends the Code of Criminal Procedure of 1963. Elderly victim may testify by deposition taken at his/her residence subject to conditions set forth by the court.

Illinois ILL. REV. STAT. ch. 755, 45/1-1-45/3-4	2001 H.B. 0593	4/6/01 Re-referred to rules committee	Amends the Probate Act of 1975. Denies benefits resulting from individual's death to the persons convicted of financially exploiting, abusing, or neglecting the decedent while the decedent was an elderly person.
Illinois ILL. REV. STAT. ch. 755, 45/1-1-45/3-4	2002 H.B. 4321	Governor signed 8/21/02	Amends the Criminal Code of 1961, Financial exploitation is a Class I felony (rather than a Class II felony) if the victim (now termed elderly person) is over 70 and value of the property is \$15,000 or more or if the victim [elderly person] is 80 or older and the value of the property is \$5,000 or more.
Illinois ILL. REV. STAT. ch. 755, 45/1-1-45/3-4	2002 H.B. 4034	4/5/02 re-referred to rules committee. Effective immediately.	Amends the Elder Abuse and Neglect Act. Dept. on Aging establish and maintain clearinghouse for all reports of elder abuse, neglect, or financial exploitation. Every state agency report to clearinghouse all cases of elder abuse, neglect, or financial exploitation.
Illinois ILL. REV. STAT. ch. 755, 45/1-1-45/3-4	2001 H.B. 0596	4/4/01 referred to senate rules committee.	Bankers and attorneys are mandated reporters. Specified elder abuse training and education program, and a central registry of caregivers convicted of crimes against the elderly. Mandated reporters who do not report abuse may be subject to professional disciplinary actions and criminal penalties. Change elements of and penalties for the offenses of abuse and neglect of a long-term care facility resident, criminal neglect of an elderly person, and financial exploitation of an elderly person. Elderly victims also are allowed to testify through an evidence deposition as opposed to being required to appear in court. Court may sentence a person convicted of elderly offenses to community service, impact incarceration, or an alcohol/substance abuse program, and may not inherit property from a victim.
Indiana IND. CODE ANN. §§ 30-5-1 to 30-5-10-4	2001 H.B. 1385	Effective 4/1/01	Penalties for failure to recognize attorney-in-fact and mandates the accounting scheme and procedure attorney-in-fact will carry out.
Indiana IND. CODE ANN. §§ 30-5-1 to 30-5-10-4	2002 S.B. 252	Effective 7/1/02	Specifies more attorney-in-fact powers, such as who the attorney-in-fact can employ.
Indiana IND. CODE ANN. §§ 30-5-1 to 30-5-10-4	2001 S.B. 190	Effective 7/1/01	Same as S.B. 252 (see above), although it came first and provided the foundation.
Iowa IOWA CODE ANN. §§ 633.705-706	2001 SF 169	Governor signed 4/26/01.	Notification provisions, distributions to minors, the effect of dissolution of marriage on will provisions and POAs.
Kentucky KY. REV. STAT. ANN. § 386.093	2002 H.B. 774	2/26/02 Introduced to House. 2/27/02 moved to Judiciary.	Adds section "A DPA for a disabled or incapacitated principal may provide consent for admittance of the principal for psychiatric care at a general hospital that has psychiatric beds for a period of time not to exceed 14 days..."

Maine ME. REV. STAT. ANN. tit. 18-A, §§ 5-501-508	2001 LD 1066 (Pub. L. No. 345)	Governor signed 6/1/01.	Revises the dependent adult abuse, neglect and exploitation mandatory reporting laws; requires a person who has full, intermittent, or occasional responsibility for the care or custody of an adult to report suspected abuse, neglect, or exploitation.
Maine ME. REV. STAT. ANN. tit. 18-A, §§ 5-501-508	2001 L.D. 1222 (Pub. L. No. 121)	Governor signed 5/9/01.	Repeals the prohibition against an electronic or digital signature on a DPA or deed, mortgage, or other document affecting title to real property in order to bring Maine law into conformity with federal law.
Maryland MD. CODE ANN., EST. & TRUSTS §§ 13-601-602	2001 S.B. 105	3/5/01 Unfavorable report by judicial proceedings and in the House there has been no action taken. 4/9/01 No Carryover.	Requires a DPA executed in Maryland on or after Oct. 1, 2001, to be acknowledged before a notary public; requires preprinted DPA forms sold or distributed in Maryland on or after Oct. 1, 2001, to include a specified notice and duties of an AIF/agent; provides that an AIF/agent who commits specified acts is guilty of embezzlement and subject to prison terms.
Massachusetts MASS. GEN. L. ch. 201B, §§ 1-7	2001 H.B. 74	Accompanied H.B. 2533 on 5/14/01	Recommendations of Executive Office of Elder Affairs relates to creating Council on Aging Directors mandated reporters of elder abuse.
Massachusetts MASS. GEN. L. ch. 201B, §§ 1-7	2001 H.B. 1403	1/3/01 House referred to Human Services and Elderly Affairs Committee and Senate concurred on same day. 5/14/01 Accompanied H.B. 2533.	Petitions for legislation to further regulate elderly abuse reporting.
Massachusetts MASS. GEN. L. ch. 201B, §§ 1-7	2001 S.B. 838	3/8/01 Public hearing. Senate accompanied a study order on 7/2/01.	Special commission of 3 House and 3 Senate members investigates and studies the Uniform DPA Act. Commission files report, including recommendations for legislation, with clerks of House and Senate no later than 11/2/01.
Massachusetts MASS. GEN. L. ch. 201B, §§ 1-7	2001 S.B. 995	3/29/01 Public hearing. Senate accompanied a study order on 7/2/01.	Provides that the principal and his successors are bound by the acts of an attorney-in-fact under a valid DPA, even during times of incapacity.
Massachusetts MASS. GEN. L. ch. 201B, §§ 1-7	2001 H.B. 2563	5/24/01 Public hearing scheduled.	No bank, bank holding company, financial institution, fiduciary organization, stock company, or investment company shall require or request a newly executed POA/DPA based on the age or date of execution of the power itself. The powers will be presumptively valid—unless otherwise revoked or deemed invalid by the court.
Massachusetts MASS. GEN. L. ch. 201B, §§ 1-7	2001 H.B. 2533	Referred to Senate Ways and Means on 7/12/01.	Petitions for legislation to further define the term “abuse” as it pertains to elderly persons.
Massachusetts MASS. GEN. L. ch. 201B, §§ 1-7	2001 H.B. 1957	10/9/01 Accompanied a study order.	Petitions relative to extending the records retention period for unsubstantiated elder abuse assessment reports.

Michigan MICH. COMP. LAWS ANN. §§ 700.5501- .5506	2001 H.B. 4973	Introduced and referred to Committee on Senior Health, Security, and Retirement on 6/19/01.	Sentencing and fine scale for persons convicted of committing or attempting to commit a violation of the act when the victim is a vulnerable adult or is 65 years or older, or both.
Missouri MO. ANN. STAT. §§ 404.700-.735	2002 S.B. 684	Effective 8/28/02.	Adds to list of mandated reporters, establishes volunteer training, and provides a checklist to investigate elder abuse.
Missouri MO. REV. STAT. §§ 404.700-.735	2001 H.B. 633	Last action on 2/15/01 when referred to Judiciary. Bill currently is not on the calendar.	Written consent of all members of a grantor's immediate family before someone who has been granted a DPA may be appointed as the grantor's attorney-in-fact.
New Hampshire N.H. REV. STAT. ANN. §§ 506:5-7	2001 H.B. 703	Approved 7/13/01 and took effect 1/1/02.	Specifies that DPA not authorize an attorney-in-fact to make gifts unless have explicit authorization. Explanatory language may be included in DPA.
New Hampshire N.H. REV. STAT. ANN. §§ 506:5-7	2001 H.B. 377	Passed and adopted 6/8/01 and took effect 1/1/02.	Dept. of Health and Human Services can file petitions seeking judicial review of POA's validity or authority of an agent to act under a POA. Interested party not have to have prior contact with principal to file such a petition, and attempts to clarify the court's authority to grant equitable relief.
New Hampshire N.H. REV. STAT. ANN. §§ 506:5-7	2001 H.B. 463	Governor signed on 4/19/02.	Adults suspected to be vulnerable to financial exploitation, abuse, neglect, and exploitation, shall be reported to the Dept. of Health and Human Services and reporters are immune from liability. "Incapacitated" is changed to "vulnerable." Probate court authorized to order release of records needed for further investigation. Financial officers as mandated reporter.
New Jersey N.J. STAT. ANN. §§ 111.460-70	2002 S.B. 2082	11/14/02 to Senate Committee on Judiciary.	Clarifies that a power of attorney does not generally give the attorney-in-fact the authority to make gifts of the principal'
New York N.Y. GEN. OBLIG. LAW §§ 5-1501-1504	2001 A.B. 226	1/9/02 Referred to Judiciary.	Permits a party aggrieved by a violation of the requirement that banking institutions, public pension funds, and retirement systems honor a properly executed short form power of attorney to bring a civil action for damages and/or an injunction, including the recovery of damages, attorneys' fees and costs.
New York N.Y. GEN. OBLIG. LAW §§ 5-1501-1504	2001 S.B. 2856	1/9/02 Referred to Judiciary	Requires securities brokers, dealers, and firms to accept statutory short form powers of attorney, just as banks are required to do.
New York N.Y. GEN. OBLIG. LAW §§ 5-1501-1504	2001 A.B. 5126	2/4/02 Passed Assembly and delivered to Senate (S.B. 393) and referred to banks.	All banking institutions accept a statutory short form POA and POAs that survive disability or incompetence (DPAs); references existing provisions relating to POAs in the general obligations law.

New York N.Y. GEN. OBLIG. LAW §§ 5-1501-1504	2001 S.B. 5716	1/9/02 to Senate Committee on Judiciary.	Person under a disability can make appearance by an attorney-in-fact where such person has signed a DPA.
New York N.Y. GEN. OBLIG. LAW §§ 5-1501-1504	2001 S.B. 4499	1/9/02 Referred to codes.	Relates to the crimes of endangering the welfare of a vulnerable elderly person in the first and second degree; includes definition of <i>caregiver</i> as a person who holds a POA or other legal or fiduciary relationship with a vulnerable elderly person.
New York N.Y. GEN. OBLIG. LAW §§ 5-1501-1504	2001 S.B. 5513 2001 A.B. 8794	4/24/02 Substituted by A.B. 8794. 6/20/02 to Senate Committee on Rules.	Allows renunciation of property on behalf of a person under a disability to be made by a guardian or by an attorney-in-fact pursuant to a duly executed POA.
New York N.Y. GEN. OBLIG. LAW §§ 5-1501-1504	2001 A.B. 2264	1/22/01 to Assembly Committee on Aging.	Various persons to report financial exploitation of the elderly (62 or older) to a social services official, and provides for a cause of action for failure to do so (similar to child abuse laws); directs the commissioner of children and family services to develop rules for the conduct of investigations and the protection of the exploited.
New York N.Y. GEN. OBLIG. LAW §§ 5-1501-1504	2001 A.B. 3174	1/30/01 Assemble Committee on Codes.	Financial exploitation of the elderly or disabled within the definition of larceny. "Person in position of trust" has fiduciary obligation to the elderly/disabled.
New York N.Y. GEN. OBLIG. LAW §§ 5-1501-1504	2001 A.B. 3175	1/9/02 Referred to Codes.	Criminal neglect of a vulnerable elderly person or a person with a disability is a Class A misdemeanor; Apply in non-institutionalized settings and have no impact on health care providers licensed under the Education Law, such as physicians, dentists, etc., rendering care in the normal course of their profession.
New York N.Y. GEN. OBLIG. LAW §§ 5-1501-1504	2001 A.B. 3614 2001 S.B. 3614	1/9/02 Referred to Codes.	Establishes crimes of financial exploitation of a vulnerable elderly person or a person with a disability in the 1 st through 4 th degree; and there is no defense that defendant lacked knowledge of facts or conditions responsible; provides for civil liability.
North Dakota N.D. CENT. CODE §§ 30.1-30-01 to 301.1- 06	2001 S.B. 2442	2/16/01 Failed to pass (2 yeas and 44 nays).	An act to create and enact a new section to Chapter 30.1-30 of the North Century Code, relating to the DPAs; and to provide a penalty.
Oregon OR. REV. STAT. §§ 127.005, 127.015	2001 H.B. 2365	Effective 1/1/02.	Person cannot refuse to recognize attorney-in-fact or agent's authority under a POA because of time passage since POA was executed. Attorney-in-fact powers unaffected by passage of time. Good faith reliance clause releasing them from liability. Attorney-in-fact must use the property of the principal for the benefit of the principal (unless otherwise stated). When principal designates another attorney-in-fact by a POA in writing and not contain words that otherwise limit the period of time of its effectiveness, then POA shall remain in effect until power revoked by the principal.

Oregon OR. REV. STAT. §§ 127.005, 127.015	2001 S.B. 956	Governor signed on 7/27/01.	Damages and fees that an elderly victim of abuse can request from the court.
Pennsylvania 20 PA. CONS. STAT. §§ 5601-5611	2001 H.B. 171	2/12/01 Referred to Aging and Youth Committee.	Defines “exploitation” as an act or course of conduct by a caretaker or other person, including an individual who is acting under a POA, against an older adult or an older adult’s resources, without the informed consent obtained through misrepresentation, coercion, or threats with force.
Rhode Island R.I. GEN. LAWS §§ 34- 22-6.1, 7	2002 H.B. 7307	6/28/02 awaiting governor’s signature.	Statutory form of DPA for health care (could be same language/procedure for DPA for property, etc.).
Tennessee TENN. CODE ANN. §§ 34-6-101-110	2001 H.B. 2399 2001 S.B. 2611	2/13/02 House assigned to Judiciary. 3/13/02 Senate assigned General Subcommittee. Indefinitely postponed.	Clarifies that report by officer or employee of financial institution is permissible under Financial Records Privacy Act.
Tennessee TENN. CODE ANN. §§ 34-6-101-110	2001 H.B. 1508 2001 S.B. 1604	1/23/02 House: taken off notice for calendar in Judiciary. 5/12/01 Senate: assigned to general subcommittee.	Authorizes financial institution or officer, employee or agent of institution to disclose customer financial records to Dept. of Health and Human Services concerning suspected violation of Adult Protection Act; protects institution or person providing information from liability pertaining to release of such records.
Texas TEX. PROB. CODE ANN. §§ 481-506	2001 H.B. 330	5/28/01 No Carryover.	On execution of DPA, Principal gives notice by certified mail, return-receipt requested, to each person that is related to principal within the second degree by consanguinity or affinity, and whose address is known. Adding revocation language to include that breach of fiduciary duty will allow the court to revoke the DPA.
Texas TEX. PROB. CODE ANN. §§ 481-506	2001 H.B. 1132	Governor signed on 5/22/01. Effective 9/01.	Court authorized if, after execution of a DPA, a court of the principal’s domicile appoints temporarily a guardian of the principal’s estate to suspend the powers of the attorney-in-fact on the qualification of the temporary guardian until temporary guardian’s date expires. Permanent appointment of a guardian terminates agents’ authority under the POA.
Texas TEX. PROB. CODE ANN. §§ 481-506	2001 H.B. 1083	Governor signed on 5/14/01. Effective 9/01.	Filing of bankruptcy petition for principal’s debts does not revoke/terminate the agency relationship between principals and attorney-in-fact. Any act of the attorney-in-fact with respect to the principal’s property is subject to the limitation and requirements of the U.S. Bankruptcy Code until a final determination is made in the bankruptcy proceeding.
Texas TEX. PROB. CODE ANN. §§ 481-506	2001 H.B. 1813	Governor signed on 6/15/01. Effective 9/01.	Attorney-in-fact commits the offense of a misapplication of fiduciary property or property of a financial institution if misapplies property held as fiduciary or property of a financial institution that involves substantial risk of loss to the owner of the property or to a person for whose benefit the property is held.

Texas TEX. PROB. CODE ANN. §§ 481-506	2001 H.B. 1883	Governor signed on 6/15/01. Effective 9/01.	Agent to keep principal informed with records and accountings when asked.
Utah UTAH CODE ANN. §§ 75-5-501-502	2001 S.B. 1006 2001 H.B. 349	Effective 7/5/01. Effective 4/5/01.	Person holding POA for disabled principal may be held accountable by the principal's heirs. Attorney-in-fact must notify all interested persons of his status within 30 days of principal's incapacitation.
Vermont VT. STAT. ANN. tit. 14, §§ 3051-52	2001 S.B. 224	Effective 7/1/02.	Strengthens Vermont's previously weak, almost non-existent, DPA laws. E.g., POA signed in front of witness and notary public, agent must also sign POA attesting they understand their duties under the POA and the law; have clear, concise, defined AIF duties; accounting petition to determine legality of acts; to enjoin attorney-in-fact from taking more illegal actions, or to compel the agent to submit accounting if good cause to believe he has violated statute. Also provides for remedies. Has presumption of validity, could cause future problems.
Washington WASH. REV. CODE ANN. §§ 11.94.010- 140	2001 H.B. 1135	Effective 7/22/01.	Interested person may petition court to compel attorney-in-fact to submit accounting if failed to submit one within 60 days of a written request. Court can order attorney-in-fact to exercise/refrain from exercising their authority.
West Virginia W. VA. CODE §§ 39-4- 1 to 4-7	2001 H.B. 2107	2/14/01 Introduced to House Committee on Judiciary.	Registration system for DPAs and medical POAs with the Secretary of State's office. Failure to register does not, however, invalidate the DPA.
West Virginia W. VA. CODE §§ 39-4- 1 to 4-7	2002 S.B. 572	2/12/02 to Senate Committee on Judiciary.	DPAs to be recorded in county principal resides, before they take effect. Shields third parties from liability for acting in accordance with the POA upon presentation of a certified copy of the POA bearing the clerk's stamp. Requires the recitation of the principal's place of residence on the POA.
Wisconsin WIS. STAT. ANN. §§ 243.07, 243.10	Task force proposal	Rep. Jeff Plale (D- Milwaukee) sent the list of proposed recommendations into drafting.	Not all members of the Elder Law Bar agreed with the proposed recommendations. Some proposals for DPA reform include: more formal execution requirements (e.g., 2 witnesses and notary public), require that the agent sign stating that he accepts the delegation and the fiduciary duty imposed, explain the fiduciary standards that govern the DPA, require mandatory reporting, and permit revocation after incapacitation.