

2015-2016 Regular Sessions

I N   S E N A T E

(PREFILED)

January 7, 2015

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Introduced by Sen. DIAZ -- read twice and ordered printed, and when printed to be committed to the Committee on Aging

AN ACT to amend the elder law, the penal law, the state finance law, the vehicle and traffic law and the banking law, in relation to enacting the senior anti-violence and enforcement act

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. This act shall be known and may be cited as the "senior  
2 anti-violence and enforcement act" (SAVE).

3     S 2. The elder law is amended by adding a new article 4 to read as  
4 follows:

5                                 ARTICLE 4

6                                 PROTECTION OF THE ELDERLY

7                                 TITLE 1

8                                 SENIOR ANTI-VIOLENCE AND ENFORCEMENT ACT;  
9                                 REPORTS AND FINDINGS

10    SECTION 400. DEFINITIONS.

11        401. STATEWIDE CENTRAL REGISTRY ESTABLISHED; REQUIREMENTS.

12        402. DISPOSITION OF REPORTS RECEIVED BY THE REGISTRY.

13        403. AVAILABILITY OF REPORTS.

14        404. RELEASE OF INFORMATION.

15        405. UNFOUNDED REPORTS.

16        406. PENALTY FOR UNAUTHORIZED DISCLOSURE.

17        407. PERSONS REQUIRED TO REPORT SUSPECTED SENIOR ABUSE OR  
18            MALTREATMENT.

19        408. ANY PERSON PERMITTED TO REPORT.

20        409. REPORTING PROCEDURE.

21        410. IMMUNITY FROM LIABILITY.

22        411. PENALTIES FOR FAILURE TO REPORT.

23        412. ANNUAL REPORTS.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

LBD01422-01-5

S 400. DEFINITIONS. AS USED IN THIS ARTICLE:

1. "SENIOR" MEANS A PERSON SIXTY YEARS OF AGE OR OLDER.

2. "REGISTRY" OR "CENTRAL REGISTRY" MEANS THE STATEWIDE CENTRAL REGISTRY FOR SENIOR ABUSE AND NEGLECT IN THE STATE OFFICE FOR THE AGING.

3. "OFFICE" MEANS THE STATE OFFICE FOR THE AGING.

4. "COUNCIL" MEANS THE COUNCIL ON ELDER ABUSE CREATED PURSUANT TO THIS ARTICLE.

5. "DESIGNATED AGENCY" HAS THE SAME MEANING AS PROVIDED IN SECTION TWO HUNDRED FOURTEEN OF THIS CHAPTER.

6. "LOCAL SERVICE" MEANS THOSE SERVICES AND AGENCIES THAT WORK WITH DESIGNATED AGENCIES AS PART OF THE TEAM IN INVESTIGATING ALLEGATIONS OF ABUSE OF A SENIOR.

7. "ABUSED SENIOR" MEANS AND INCLUDES A SENIOR ABUSED IN ANY OF THE FOLLOWING MANNERS:

(A) PHYSICAL ABUSE, INCLUDING THE SUFFERING OF BODILY INJURY, PHYSICAL PAIN, OR IMPAIRMENT RESULTING FROM THE USE OF PHYSICAL FORCE AGAINST A SENIOR BY ACTS INCLUDING BUT NOT LIMITED TO STRIKING WITH OR WITHOUT AN OBJECT, HITTING, BEATING, PUSHING, SHOVING, SHAKING, SLAPPING, KICKING, PINCHING, AND BURNING, THAT RESULT IN PHYSICAL SIGNS OF IMPAIRMENT OR OF BEING SUBJECTED TO PUNISHMENT, OR SIGNS OF BEING RESTRAINED, OR A SENIOR'S REPORT OF BEING HIT, SLAPPED, KICKED, OR MISTREATED.

(B) SEXUAL ABUSE, INCLUDING NON-CONSENSUAL SEXUAL CONTACT OF ANY KIND WITH A SENIOR, INCLUDING BUT NOT LIMITED TO UNWANTED TOUCHING, SEXUAL ASSAULT OR BATTERY, RAPE, SODOMY, COERCED NUDITY, AND SEXUALLY EXPLICIT PHOTOGRAPHING, THAT RESULT IN PHYSICAL SIGNS OF IMPAIRMENTS OR A SENIOR'S REPORT OF BEING SEXUALLY ASSAULTED OR RAPED.

(C) EMOTIONAL OR PSYCHOLOGICAL ABUSE, INCLUDING THE INFLICTION OF ANGUISH, PAIN, OR DISTRESS THROUGH VERBAL OR NONVERBAL ACTS, INCLUDING BUT NOT LIMITED TO VERBAL ASSAULTS, INSULTS, THREATS, INTIMIDATION, HUMILIATION, AND HARASSMENT, INFANTILIZING A SENIOR, ISOLATING A SENIOR FROM HIS OR HER FAMILY, FRIENDS, OR REGULAR ACTIVITIES, OR ENFORCED SOCIAL ISOLATION, THE RESULTS OF WHICH MAY BE EVINCED BY IMPAIRMENTS INCLUDING BUT NOT LIMITED TO THE CAREGIVER'S REFUSAL TO ALLOW VISITORS TO SEE A SENIOR ALONE, OR CHANGES IN THE SENIOR'S BEHAVIOR THAT RESULT IN THE SENIOR BEING EMOTIONALLY UPSET OR AGITATED, BEING EXTREMELY WITHDRAWN AND NONCOMMUNICATIVE OR NONRESPONSIVE, UNUSUAL BEHAVIOR USUALLY ATTRIBUTED TO DEMENTIA (E.G., SUCKING, BITING, ROCKING).

(D) NEGLECT, INCLUDING THE REFUSAL OR FAILURE TO FULFILL ANY PART OF A PERSON'S OBLIGATIONS OR DUTIES TO A SENIOR, FAILURE OF A PERSON WHO HAS FIDUCIARY RESPONSIBILITIES TO PROVIDE CARE FOR A SENIOR OR THE FAILURE ON THE PART OF AN IN-HOME SERVICE PROVIDER TO PROVIDE SUCH NECESSARY CARE, INCLUDING THE REFUSAL OR FAILURE TO PROVIDE AN ELDERLY PERSON WITH SUCH LIFE NECESSITIES AS FOOD, WATER, CLOTHING, SHELTER, PERSONAL HYGIENE, MEDICINE, COMFORT, PERSONAL SAFETY, AND OTHER ESSENTIALS INCLUDED IN AN IMPLIED OR AGREED-UPON RESPONSIBILITY TO SUCH SENIOR, THE RESULTS OF WHICH MAY BE EVINCED BY SUCH VISIBLE PHYSICAL IMPAIRMENTS AS DEHYDRATION, MALNUTRITION, UNTREATED BED SORES, AND POOR PERSONAL HYGIENE, UNATTENDED OR UNTREATED HEALTH PROBLEMS, HAZARDOUS OR UNSAFE LIVING CONDITION/ARRANGEMENTS, UNSANITARY AND UNCLEAN LIVING CONDITIONS (E.G. DIRT, FLEAS, LICE ON PERSON, SOILED BEDDING, FECAL/URINE SMELL, INADEQUATE CLOTHING).

(E) ABANDONMENT, INCLUDING THE DESERTION OF A SENIOR BY AN INDIVIDUAL WHO HAS ASSUMED RESPONSIBILITY FOR PROVIDING CARE FOR SUCH SENIOR, OR BY A PERSON WITH PHYSICAL CUSTODY OF A SENIOR, INCLUDING BUT NOT LIMITED TO THE DESERTION OF A SENIOR AT A HOSPITAL, A NURSING FACILITY, OR OTHER

1 SIMILAR INSTITUTION, OR THE DESERTION OF A SENIOR AT A SHOPPING CENTER  
2 OR OTHER PUBLIC LOCATION; OR A SENIOR'S REPORT OF BEING ABANDONED.

3 (F) FINANCIAL OR MATERIAL EXPLOITATION, INCLUDING THE ILLEGAL OR  
4 IMPROPER USE OF A SENIOR'S FUNDS, PROPERTY, OR ASSETS, INCLUDING WITHOUT  
5 LIMITATION CASHING A SENIOR'S CHECKS WITHOUT AUTHORIZATION OR PERMIS-  
6 SION, FORGING A SENIOR'S SIGNATURE, MISUSING OR STEALING A SENIOR'S  
7 MONEY OR POSSESSIONS, COERCING OR DECEIVING A SENIOR INTO SIGNING A  
8 DOCUMENT SUCH AS A CONTRACT OR A WILL, OR IMPROPER USE OF CONSERVATOR-  
9 SHIP, GUARDIANSHIP, OR POWER OF ATTORNEY.

10 (G) SELF-NEGLECT, INCLUDING THE BEHAVIOR OF AN ELDERLY PERSON THAT  
11 THREATENS HIS OR HER OWN HEALTH OR SAFETY THROUGH THE REFUSAL OR FAILURE  
12 TO PROVIDE HIMSELF OR HERSELF WITH ADEQUATE FOOD, WATER, CLOTHING, SHEL-  
13 TER, PERSONAL HYGIENE, MEDICATION (WHEN INDICATED), AND SAFETY PRECAU-  
14 TIONS.

15 8. "PERSON LEGALLY RESPONSIBLE FOR A SENIOR" MEANS AND INCLUDES THE  
16 SENIOR'S CUSTODIAN, GUARDIAN OR ANY OTHER PERSON RESPONSIBLE FORMALLY OR  
17 INFORMALLY FOR THE SENIOR'S CARE AT THE RELEVANT TIME, ANY PERSON ACTING  
18 WITH POWER OF ATTORNEY, TRUSTEE APPOINTED BY A COURT, OR ANY PERSON WHO  
19 BY CONSENT, CONTRACT OR LEGAL ORDER ACTS TO ARRANGE THE AFFAIRS OF THE  
20 SENIOR.

21 9. "SUBJECT OF THE REPORT" MEANS A PERSON REPORTED TO THE CENTRAL  
22 REGISTRY AS BEING ALLEGEDLY RESPONSIBLE FOR CAUSING THE INJURY, ABUSE OR  
23 MALTREATMENT THAT HAS RESULTED IN A SENIOR BECOMING AN ABUSED SENIOR OR  
24 WHO ALLEGEDLY ALLOWS SUCH INJURY, ABUSE OR MALTREATMENT TO BE INFLICTED  
25 ON SUCH SENIOR AND WHO IS:

26 (A) A PERSON LEGALLY RESPONSIBLE FOR A SENIOR;

27 (B) A PERSON, INCLUDING A DIRECTOR, OPERATOR, EMPLOYEE, VOLUNTEER, OR  
28 CONTRACTOR, IN A PUBLIC, PRIVATE, OR NOT-FOR-PROFIT ENTITY PROVIDING  
29 GOODS OR SERVICES TO A SENIOR PURSUANT TO A CONTRACT OR OTHER ARRANGE-  
30 MENT;

31 (C) A PERSON RELATED TO THE SENIOR BY CONSANGUINITY OR AFFINITY; OR

32 (D) A PERSON WHO HAS GAINED ACCESS TO OR CONTROL FORMALLY OR  
33 INFORMALLY OVER A SENIOR'S FINANCES, MEDICATION, LIVING ARRANGEMENTS,  
34 SUCH THAT SUCH PERSON MAY CAUSE A SENIOR TO BECOME AN ABUSED SENIOR.

35 10. "OTHER PERSONS NAMED IN THE REPORT" MEANS PERSONS OTHER THAN THE  
36 SUBJECT OF THE REPORT WHO ARE NAMED IN A REPORT OF SENIOR ABUSE. OTHER  
37 PERSONS NAMED IN THE REPORT SHALL BE LIMITED TO THE SENIOR WHO IS  
38 REPORTED TO THE REGISTRY, AND SUCH SENIOR'S GUARDIAN, CUSTODIAN OR OTHER  
39 PERSON LEGALLY RESPONSIBLE FOR THE SENIOR WHO HAS NOT BEEN NAMED IN THE  
40 REPORT AS ALLEGEDLY RESPONSIBLE FOR CAUSING THE SENIOR TO BECOME AN  
41 ABUSED SENIOR.

42 11. AN "UNFOUNDED REPORT" MEANS ANY REPORT MADE PURSUANT TO THIS TITLE  
43 WHICH IS NOT AN INDICATED REPORT.

44 12. AN "INDICATED REPORT" IS A REPORT MADE PURSUANT TO THIS TITLE FOR  
45 WHICH AN INVESTIGATION DETERMINES THAT CREDIBLE EVIDENCE EXISTS THAT A  
46 SENIOR IS AN ABUSED SENIOR.

47 13. "DIRECTOR" MEANS THE DIRECTOR OF THE OFFICE FOR THE AGING AS  
48 DESCRIBED IN SECTION TWO HUNDRED ONE OF THIS CHAPTER.

49 S 401. STATEWIDE CENTRAL REGISTRY ESTABLISHED; REQUIREMENTS. 1. THE  
50 DIRECTOR SHALL ESTABLISH IN THE OFFICE A STATEWIDE CENTRAL REGISTRY TO  
51 RECEIVE, MAINTAIN, AND PROVIDE APPROPRIATE ACCESS TO REPORTS MADE PURSU-  
52 ANT TO THIS TITLE CONCERNING THE ABUSE AND MALTREATMENT OF SENIORS.

53 2. SUCH REGISTRY SHALL BE CAPABLE OF RECEIVING REPORTS BY TELEPHONE  
54 CALL, FAX, E-MAIL, AND ANY OTHER FORMS OF COMMUNICATION THE DIRECTOR  
55 DEEMS APPROPRIATE, ALLEGING THAT A SENIOR HAS BECOME AN ABUSED SENIOR,  
56 OF IMMEDIATELY IDENTIFYING PRIOR REPORTS OF ABUSE INVOLVING SUCH SENIOR

OR OTHER PERSONS NAMED IN THE REPORT, AND SHALL BE CAPABLE OF MONITORING THE PROVISION OF SERVICES TO SUCH SENIOR TWENTY-FOUR HOURS A DAY, SEVEN DAYS A WEEK. IN FURTHERANCE OF THESE REQUIREMENTS,

(A) THE OFFICE SHALL MAINTAIN STATEWIDE TOLL-FREE TELEPHONE VOICE AND FAX NUMBERS AND AN E-MAIL ADDRESS WHICH ANY PERSON, WHETHER MANDATED BY LAW OR NOT, MAY USE TO CONTACT THE REGISTRY TO REPORT AN ALLEGATION THAT A SENIOR HAS BECOME AN ABUSED SENIOR.

(B) THE OFFICE SHALL ADDITIONALLY MAINTAIN AN UNLISTED TELEPHONE NUMBER, FAX NUMBER, E-MAIL ADDRESS, AND SUCH OTHER COMMUNICATION PROTOCOLS AS THE DIRECTOR DEEMS APPROPRIATE, WHICH ONLY PERSONS MANDATED BY THIS CHAPTER MAY USE TO REPORT AN ALLEGATION THAT A SENIOR HAS BECOME AN ABUSED SENIOR.

(C) THE OFFICE SHALL ASSURE THAT THE COMMUNICATION PROTOCOLS REQUIRED BY THIS SECTION SHALL BE CAPABLE OF ALLOWING ALL PERSONS AUTHORIZED BY THIS TITLE TO DETERMINE THE EXISTENCE OF PRIOR REPORTS IN ORDER TO EVALUATE THE CONDITION OR CIRCUMSTANCES OF A SENIOR.

3. INFORMATION MAINTAINED IN THE REGISTRY SHALL INCLUDE BUT NOT BE LIMITED TO:

(A) THE INITIAL DATE OR DATE OF THE CONTACT WITH THE REGISTRY ALLEGING THAT A SENIOR HAS BECOME AN ABUSED SENIOR;

(B) THE TIME AND DATE OF THE COMMUNICATION OF SUCH INFORMATION TO THE DESIGNATED AGENCY, AND THE TIME AND DATE OF ACKNOWLEDGEMENT OF RECEIPT BY THE DESIGNATED AGENCY OF SUCH INFORMATION;

(C) ALL INFORMATION IN THE WRITTEN REPORT REQUIRED BY THIS TITLE;

(D) A RECORD OF THE FINAL DISPOSITION OF THE REPORT, INCLUDING SERVICES OFFERED AND SERVICES ACCEPTED;

(E) THE PLAN FOR REHABILITATIVE TREATMENT;

(F) NAMES AND IDENTIFYING DATA, DATES AND CIRCUMSTANCES OF ANY PERSON REQUESTING OR RECEIVING INFORMATION FROM THE REGISTRY; AND

(G) ANY OTHER INFORMATION THE DIRECTOR DEEMS WILL FURTHER THE PURPOSES AND INTENT OF THIS TITLE.

S 402. DISPOSITION OF REPORTS RECEIVED BY THE REGISTRY. 1. THE DIRECTOR SHALL ESTABLISH IN THE RULES AND REGULATIONS TO IMPLEMENT THE REQUIREMENTS OF THIS SECTION CRITERIA FOR DETERMINING WHETHER A REPORT COULD REASONABLY CONSTITUTE A REPORT OF ABUSE OF A SENIOR. THE INABILITY OF A PERSON MAKING A REPORT TO IDENTIFY THE ALLEGED PERPETRATOR SHALL NOT CONSTITUTE A SUFFICIENT REASON FOR THE REGISTRY TO REJECT THE ALLEGATION OR TO FAIL TO TRANSMIT THE ALLEGATION FOR INVESTIGATION.

2. WHEN AN ALLEGATION REPORTED TO THE REGISTRY COULD REASONABLY CONSTITUTE A REPORT OF ABUSE OF A SENIOR, SUCH ALLEGATION SHALL BE TRANSMITTED BY THE FASTEST MEANS POSSIBLE BY THE OFFICE TO THE DESIGNATED AGENCY FOR INVESTIGATION.

3. IF THE RECORDS INDICATE A PREVIOUS REPORT CONCERNING A SUBJECT OF THE REPORT, OTHER PERSONS NAMED IN THE REPORT OR OTHER PERTINENT INFORMATION, THE DESIGNATED AGENCY SHALL BE NOTIFIED OF THE FACT.

4. IRRESPECTIVE OF WHETHER A REPORT REASONABLY CONSTITUTES A REPORT OF ABUSE OF A SENIOR,

(A) IF A REPORT COULD REASONABLY CONSTITUTE A CRIME OR COULD REASONABLY BE CONSTRUED AS POSING AN IMMEDIATE THREAT TO THE SENIOR'S HEALTH OR SAFETY, THE OFFICE SHALL CONVEY BY THE MOST EXPEDIENT MEANS AVAILABLE THE INFORMATION TO THE APPROPRIATE LAW ENFORCEMENT AGENCY, DISTRICT ATTORNEY OR OTHER PUBLIC OFFICIAL EMPOWERED TO PROVIDE NECESSARY AID OR ASSISTANCE.

(B) IF A REPORT COULD REASONABLY CONSTITUTE INSTITUTIONAL NEGLECT OF A SENIOR IN RESIDENTIAL CARE, THE OFFICE SHALL CONVEY BY THE MOST EXPEDIENT MEANS AVAILABLE THE INFORMATION TO THE STATE AGENCY RESPONSIBLE FOR

1 THE OPERATION OR SUPERVISION OF THE RESIDENTIAL FACILITY OR PROGRAM AND,  
2 IN THE CASE OF A FACILITY OPERATED OR CERTIFIED BY AN OFFICE OF THE  
3 DEPARTMENT OF MENTAL HYGIENE, TO THE STATE COMMISSION ON QUALITY OF CARE  
4 FOR THE MENTALLY DISABLED, FOR APPROPRIATE ACTION.

5 5. REPORTS AND RECORDS MADE PURSUANT TO THIS TITLE, INCLUDING ANY  
6 PREVIOUS REPORT CONCERNING A SUBJECT OF THE REPORT, OTHER PERSONS NAMED  
7 IN THE REPORT OR OTHER PERTINENT INFORMATION, INVOLVING SENIORS WHO  
8 RESIDE IN A FACILITY LICENSED OR OPERATED BY THE OFFICE OF MENTAL HEALTH  
9 OR THE OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES, SHALL BE TRAN-  
10 SMITTED IMMEDIATELY BY THE REGISTRY TO THE COMMISSION ON QUALITY OF CARE  
11 FOR THE MENTALLY DISABLED, WHICH SHALL COMMENCE AN APPROPRIATE INVESTI-  
12 GATION IN ACCORDANCE WITH THE MENTAL HYGIENE LAW.

13 S 403. AVAILABILITY OF REPORTS. 1. REPORTS MADE PURSUANT TO THIS TITLE  
14 AS WELL AS ANY OTHER INFORMATION OBTAINED, INCLUDING REPORTS WRITTEN OR  
15 PHOTOGRAPHS TAKEN CONCERNING SUCH REPORTS WHICH ARE IN THE POSSESSION OF  
16 THE OFFICE, DESIGNATED AGENCIES, OR THE COMMISSION ON QUALITY OF CARE  
17 FOR THE MENTALLY DISABLED, SHALL BE CONFIDENTIAL AND SHALL ONLY BE MADE  
18 AVAILABLE TO:

19 (A) A PHYSICIAN WHO, EXAMINING OR HAVING EXAMINED A SENIOR, REASONABLY  
20 SUSPECTS THAT SUCH SENIOR MAY BE AN ABUSED OR MALTREATED SENIOR;

21 (B) A PERSON AUTHORIZED TO PLACE A SENIOR IN PROTECTIVE CUSTODY WHEN  
22 SUCH PERSON HAS BEFORE HIM OR HER A SENIOR WHOM HE OR SHE REASONABLY  
23 SUSPECTS MAY BE AN ABUSED OR MALTREATED SENIOR AND SUCH PERSON REQUIRES  
24 THE INFORMATION TO DETERMINE WHETHER TO PLACE THE SENIOR IN PROTECTIVE  
25 CUSTODY;

26 (C) A DULY AUTHORIZED AGENCY HAVING RESPONSIBILITY FOR THE CARE OR  
27 SUPERVISION OF A SENIOR WHO IS REPORTED TO THE REGISTRY;

28 (D) A PERSON WHO IS THE SUBJECT OF THE REPORT OR OTHER PERSONS NAMED  
29 IN THE REPORT;

30 (E) A COURT, UPON A FINDING THAT THE INFORMATION IS NECESSARY FOR  
31 DETERMINATION OF AN ISSUE BEFORE THE COURT;

32 (F) A GRAND JURY, UPON A FINDING THAT THE INFORMATION IS NECESSARY FOR  
33 DETERMINATION OF CHARGES BEFORE THE GRAND JURY; AND

34 (G) AN APPROPRIATE STATE LEGISLATIVE COMMITTEE RESPONSIBLE FOR PROTEC-  
35 TIVE LEGISLATION OF SENIORS.

36 2. RULES AND REGULATIONS OF THE DIRECTOR SHALL ESTABLISH A LIST OF  
37 SUCH OTHER PERSONS, AGENCIES, INVESTIGATIVE BODIES, AND AUDITING ENTI-  
38 TIES THAT MAY BE GIVEN ACCESS TO THE REGISTRY, AND SHALL ESTABLISH  
39 REQUIREMENTS FOR CONFIDENTIALITY, LIMITATIONS ON RE-DISCLOSURE OF INFOR-  
40 MATION, AND SUCH OTHER REQUIREMENTS AND LIMITATIONS AS THE DIRECTOR  
41 SHALL DEEM NECESSARY.

42 3. ANY INCONSISTENT PROVISION OF ANY OTHER LAW TO THE CONTRARY  
43 NOTWITHSTANDING, THE DIRECTOR MAY WITHHOLD ALL OR PART OF ANY INFORMA-  
44 TION WHICH HE OR SHE IS AUTHORIZED TO MAKE AVAILABLE TO PERSONS OR AGEN-  
45 CIES IDENTIFIED IN THIS SECTION OR IDENTIFIED BY RULE AND REGULATION, IF  
46 THE DIRECTOR DETERMINES THAT SUCH INFORMATION IS NOT RELATED TO THE  
47 PURPOSES FOR WHICH SUCH INFORMATION IS REQUESTED OR THAT DISCLOSURE WILL  
48 BE DETRIMENTAL TO THE SENIOR NAMED IN THE REPORT.

49 4. IF A PERSON OR AGENCY IDENTIFIED IN THIS SECTION, OR BY RULE AND  
50 REGULATION OF THE DIRECTOR, AS ONE TO WHOM ACCESS TO REPORTS AND OTHER  
51 INFORMATION SHALL BE GRANTED, IS DENIED SUCH ACCESS, SUCH PERSON OR  
52 AGENCY MAY BRING A PROCEEDING FOR REVIEW OF SUCH DENIAL PURSUANT TO  
53 ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES.

54 5. NOTHING CONTAINED IN THIS ARTICLE SHALL BE CONSTRUED TO PERMIT  
55 RELEASE, DISCLOSURE OR IDENTIFICATION OF THE NAMES OR IDENTIFYING  
56 DESCRIPTIONS OF PERSONS WHO REPORT SUSPECTED ABUSE OR MALTREATMENT OF A

1 SENIOR TO THE REGISTRY OR SUCH PERSON'S PLACE OF EMPLOYMENT OR WITH WHOM  
2 THEY HAVE AN ASSOCIATION OTHER THAN EMPLOYMENT WITHOUT SUCH PERSON'S  
3 WRITTEN PERMISSION EXCEPT TO SUCH PERSONS, OFFICIALS, AND AGENCIES AS  
4 THE DIRECTOR DETERMINES IN RULE AND REGULATION.

5 S 404. RELEASE OF INFORMATION. 1. INFORMATION CONCERNING REPORTS OR  
6 INVESTIGATIONS MAY BE RELEASED TO THE PUBLIC ONLY BY PERSONS DESIGNATED  
7 IN THE RULES AND REGULATIONS OF THE DIRECTOR TO RELEASE SUCH INFORMA-  
8 TION. INFORMATION THAT MAY BE PROVIDED SHALL BE LIMITED TO THE FOLLOW-  
9 ING:

10 (A) IF A REQUEST FOR INFORMATION IS MADE PRIOR TO THE COMPLETION OF AN  
11 INVESTIGATION OF A REPORT, THE RELEASED INFORMATION SHALL BE LIMITED TO  
12 WHETHER THE REPORT IS "INDICATED", "UNFOUNDED" OR "UNDER INVESTIGATION",  
13 AS THE CASE MAY BE.

14 (B) IF THE REQUEST FOR INFORMATION IS MADE AFTER THE COMPLETION OF AN  
15 INVESTIGATION OF A REPORT, THE RELEASED INFORMATION SHALL BE LIMITED TO  
16 WHETHER THE REPORT IS "INDICATED" OR "UNFOUNDED," AS THE CASE MAY BE.

17 2. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW TO THE CONTRARY,  
18 THE DIRECTOR OR A DESIGNATED AGENCY DIRECTOR MAY DISCLOSE INFORMATION  
19 REGARDING THE ABUSE OR MALTREATMENT OF A SENIOR AS SET FORTH IN THIS  
20 SECTION, AND THE INVESTIGATION THEREOF AND ANY SERVICES RELATED THERETO  
21 IF HE OR SHE DETERMINES THAT SUCH DISCLOSURE SHALL NOT BE CONTRARY TO  
22 THE BEST INTERESTS OF THE SENIOR, AND ANY ONE OF THE FOLLOWING FACTORS  
23 ARE PRESENT:

24 (A) THE SUBJECT OF THE REPORT HAS BEEN CHARGED IN AN ACCUSATORY  
25 INSTRUMENT WITH COMMITTING A CRIME RELATED TO A REPORT MAINTAINED IN THE  
26 REGISTRY; OR

27 (B) THE INVESTIGATION OF THE ABUSE OR MALTREATMENT BY THE DESIGNATED  
28 AGENCY OR THE PROVISION OF SERVICES BY SUCH SERVICE HAS BEEN PUBLICLY  
29 DISCLOSED IN A REPORT REQUIRED TO BE DISCLOSED IN THE COURSE OF THEIR  
30 OFFICIAL DUTIES, BY A LAW ENFORCEMENT AGENCY OR OFFICIAL, A DISTRICT  
31 ATTORNEY, ANY OTHER STATE OR LOCAL INVESTIGATIVE AGENCY OR OFFICIAL OR  
32 BY A JUDGE OF THE UNIFIED COURT SYSTEM; OR

33 (C) THERE HAS BEEN A PRIOR KNOWING, VOLUNTARY, PUBLIC DISCLOSURE BY AN  
34 INDIVIDUAL CONCERNING A REPORT OF ABUSE OR MALTREATMENT IN WHICH SUCH  
35 INDIVIDUAL IS NAMED AS THE SUBJECT OF THE REPORT; OR

36 (D) THE SENIOR IN THE REPORT HAS DIED OR THE REPORT INVOLVES THE NEAR  
37 FATALITY OF A SENIOR. FOR THE PURPOSES OF THIS SECTION, "NEAR FATALITY"  
38 MEANS AN ACT THAT RESULTS IN THE SENIOR BEING PLACED, AS CERTIFIED BY A  
39 PHYSICIAN, IN SERIOUS OR CRITICAL CONDITION.

40 3. FOR THE PURPOSES OF THIS SECTION, THE FOLLOWING INFORMATION MAY BE  
41 DISCLOSED:

42 (A) THE NAME OF THE ABUSED OR MALTREATED SENIOR;

43 (B) THE DETERMINATION BY THE DESIGNATED AGENCY OR THE STATE AGENCY  
44 WHICH INVESTIGATED THE REPORT AND THE FINDINGS OF THE APPLICABLE INVE-  
45 STIGATING AGENCY UPON WHICH SUCH DETERMINATION WAS BASED;

46 (C) IDENTIFICATION OF SERVICES PROVIDED OR ACTIONS TAKEN REGARDING THE  
47 SENIOR NAMED IN THE REPORT AS A RESULT OF ANY SUCH REPORT OR REPORTS;

48 (D) WHETHER ANY REPORT OF ABUSE OR MALTREATMENT REGARDING SUCH SENIOR  
49 HAS BEEN "INDICATED" AS MAINTAINED BY THE REGISTRY;

50 (E) ACTIONS TAKEN BY THE DESIGNATED AGENCY IN RESPONSE TO REPORTS OF  
51 ABUSE OR MALTREATMENT TO THE REGISTRY INCLUDING BUT NOT LIMITED TO  
52 ACTIONS TAKEN AFTER EACH AND EVERY REPORT OF ABUSE OR MALTREATMENT OF  
53 SUCH SENIOR AND THE DATES OF SUCH REPORTS;

54 (F) WHETHER THE SENIOR HAS RECEIVED CARE OR SERVICES FROM THE DESIG-  
55 NATED AGENCY PRIOR TO EACH AND EVERY REPORT OF ABUSE OR MALTREATMENT OF  
56 SUCH SENIOR; AND

(G) ANY EXTRAORDINARY OR PERTINENT INFORMATION CONCERNING THE CIRCUMSTANCES OF THE ABUSE OR MALTREATMENT OF THE SENIOR AND THE INVESTIGATION THEREOF, WHERE THE DIRECTOR DETERMINES SUCH DISCLOSURE IS CONSISTENT WITH THE PUBLIC INTEREST.

4. INFORMATION MAY BE DISCLOSED PURSUANT TO THIS SECTION AS FOLLOWS:

(A) INFORMATION RELEASED PRIOR TO THE COMPLETION OF THE INVESTIGATION OF A REPORT SHALL BE LIMITED TO A STATEMENT THAT A REPORT IS "UNDER INVESTIGATION";

(B) WHEN THERE HAS BEEN A PRIOR DISCLOSURE PURSUANT TO THIS SUBDIVISION, INFORMATION RELEASED IN A CASE IN WHICH THE REPORT HAS BEEN UNFOUNDED SHALL BE LIMITED TO THE STATEMENT THAT "THE INVESTIGATION HAS BEEN COMPLETED, AND THE REPORT HAS BEEN UNFOUNDED";

(C) IF THE REPORT HAS BEEN "INDICATED" THEN INFORMATION MAY BE RELEASED PURSUANT TO SUBDIVISION TWO OF THIS SECTION.

5. ANY DISCLOSURE OF INFORMATION PURSUANT TO THIS SECTION SHALL NOT IDENTIFY OR PROVIDE AN IDENTIFYING DESCRIPTION OF THE SOURCE OF THE REPORT, AND SHALL NOT IDENTIFY THE NAME OF THE PERSON LEGALLY RESPONSIBLE FOR THE SENIOR OR ANY OTHER MEMBERS OF THE SENIOR'S HOUSEHOLD, OTHER THAN THE SUBJECT OF THE REPORT.

6. IN DETERMINING WHETHER DISCLOSURE WILL BE CONTRARY TO THE BEST INTERESTS OF THE SENIOR, THE DIRECTOR OR A DESIGNATED AGENCY DIRECTOR SHALL CONSIDER THE INTEREST IN PRIVACY OF THE SENIOR AND THE SENIOR'S FAMILY AND THE EFFECTS WHICH DISCLOSURE MAY HAVE ON EFFORTS TO PROVIDE SERVICES.

7. WHENEVER A DISCLOSURE OF INFORMATION IS MADE PURSUANT TO THIS SECTION, THE DESIGNATED AGENCY DIRECTOR SHALL MAKE A WRITTEN STATEMENT PRIOR TO DISCLOSING SUCH INFORMATION TO THE CHIEF COUNTY EXECUTIVE OFFICER WHERE THE INCIDENT OCCURRED SETTING FORTH THE CRITERIA UPON WHICH HE OR SHE IS BASING SUCH DISCLOSURE.

8. EXCEPT AS IT APPLIES DIRECTLY TO THE CAUSE OF THE ABUSE OR MALTREATMENT OF THE SENIOR, NOTHING IN THIS SECTION SHALL BE DEEMED TO AUTHORIZE THE RELEASE OR DISCLOSURE OF THE SUBSTANCE OR CONTENT OF ANY PSYCHOLOGICAL, PSYCHIATRIC, THERAPEUTIC, CLINICAL OR MEDICAL REPORTS, EVALUATIONS OR LIKE MATERIALS OR INFORMATION PERTAINING TO SUCH SENIOR OR THE SENIOR'S FAMILY. PRIOR TO THE RELEASE OR DISCLOSURE OF ANY PSYCHOLOGICAL, PSYCHIATRIC OR THERAPEUTIC REPORTS, EVALUATIONS OR LIKE MATERIALS OR INFORMATION PURSUANT TO THIS SUBDIVISION, THE LOCAL SOCIAL SERVICES DIRECTOR SHALL CONSULT WITH THE PERSONNEL OF THE DEPARTMENT OF MENTAL HYGIENE.

S 405. UNFOUNDED REPORTS. 1. UNLESS AN INVESTIGATION OF A REPORT CONDUCTED PURSUANT TO THIS TITLE DETERMINES THAT THERE IS CREDIBLE EVIDENCE OF THE ALLEGED ABUSE OR MALTREATMENT, ALL INFORMATION IDENTIFYING THE SUBJECTS OF THE REPORT AND OTHER PERSONS NAMED IN THE REPORT SHALL BE LEGALLY SEALED BY THE REGISTRY AND ANY DESIGNATED AGENCIES OR THE STATE AGENCY WHICH INVESTIGATED THE REPORT, AND THE REPORT SHALL BE DEEMED "UNFOUNDED". SUCH UNFOUNDED REPORTS MAY ONLY BE UNSEALED AND MADE AVAILABLE TO SUCH PERSONS AND ENTITIES AS SHALL BE ESTABLISHED BY THE DIRECTOR IN RULES AND REGULATIONS FOR SUCH PURPOSES AS REVIEW OF A FATALITY OR INVESTIGATION OF A SUBSEQUENT REPORT OF SUSPECTED ABUSE OR MALTREATMENT INVOLVING A SUBJECT OF THE UNFOUNDED REPORT. SUCH UNFOUNDED REPORTS MAY BE MADE AVAILABLE TO THE FOLLOWING PERSONS AND ENTITIES: A SENIOR NAMED IN THE UNFOUNDED REPORT; OTHER PERSONS NAMED IN THE REPORT; THE SUBJECT OF THE REPORT; A DISTRICT ATTORNEY OR A STATE OR LOCAL POLICE OFFICER WHEN SUCH OFFICIAL VERIFIES THAT THE REPORT IS NECESSARY TO CONDUCT AN ACTIVE CRIMINAL INVESTIGATION OR FOR PROSECUTION OF ELDER ABUSE; OR OTHER PERSONS IN KEEPING WITH THE SPIRIT AND INTENT OF THIS

1 SECTION AS SHALL BE DETERMINED IN THE RULES AND REGULATIONS OF THE  
2 DIRECTOR REQUIRED TO IMPLEMENT THIS SECTION.

3 2. PERSONS GIVEN ACCESS TO SUCH UNFOUNDED REPORTS SHALL NOT REDISCLOSE  
4 SUCH REPORTS EXCEPT AS NECESSARY TO CONDUCT APPROPRIATE INVESTIGATION OR  
5 PROSECUTION AND SHALL REQUEST OF THE COURT THAT ANY COPIES OF SUCH  
6 REPORTS PRODUCED IN ANY COURT PROCEEDINGS BE REDACTED TO REMOVE THE  
7 NAMES OF THE SUBJECTS AND OTHER PERSONS NAMED IN THE REPORTS OR THAT THE  
8 COURT ISSUE AN ORDER PROTECTING THE NAMES OF THE SUBJECTS AND OTHER  
9 PERSONS NAMED IN THE REPORTS FROM PUBLIC DISCLOSURE.

10 3. AN UNFOUNDED REPORT SHALL NOT BE ADMISSIBLE IN A JUDICIAL OR ADMIN-  
11 ISTRATIVE PROCEEDING OR ACTION; PROVIDED, HOWEVER, AN UNFOUNDED REPORT  
12 MAY BE INTRODUCED INTO EVIDENCE:

13 (A) BY THE SUBJECT OF THE REPORT WHERE SUCH SUBJECT IS A RESPONDENT IN  
14 A JUDICIAL PROCEEDING PERTAINING TO THE ALLEGATION MADE IN THE REPORT,  
15 OR IS A PLAINTIFF OR PETITIONER IN A CIVIL ACTION OR PROCEEDING ALLEGING  
16 THE FALSE REPORTING OF SENIOR ABUSE OR MALTREATMENT; OR

17 (B) IN A CRIMINAL COURT FOR THE PURPOSE OF PROSECUTING A CRIME AGAINST  
18 A SENIOR. LEGALLY SEALED UNFOUNDED REPORTS SHALL BE EXPUNGED TEN YEARS  
19 AFTER THE RECEIPT OF THE REPORT. WHENEVER THE OFFICE DETERMINES THAT  
20 THERE IS SOME CREDIBLE EVIDENCE OF ABUSE OR MALTREATMENT AS A RESULT OF  
21 AN INVESTIGATION OF A REPORT CONDUCTED PURSUANT TO THE MENTAL HYGIENE  
22 LAW, THE OFFICE SHALL NOTIFY THE COMMISSION ON QUALITY OF CARE FOR THE  
23 MENTALLY DISABLED.

24 4. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE OFFICE MAY IN ITS  
25 DISCRETION GRANT A REQUEST TO EXPUNGE AN UNFOUNDED REPORT WHERE: (A) THE  
26 SOURCE OF THE REPORT WAS CONVICTED OF A VIOLATION OF THE PENAL LAW IN  
27 REGARD TO SUCH REPORT; OR (B) THE SUBJECT OF THE REPORT PRESENTS CLEAR  
28 AND CONVINCING EVIDENCE THAT AFFIRMATIVELY REFUTES THE ALLEGATION OF  
29 ABUSE OR MALTREATMENT; PROVIDED HOWEVER, THAT THE ABSENCE OF CREDIBLE  
30 EVIDENCE SUPPORTING THE ALLEGATION OF ABUSE OR MALTREATMENT SHALL NOT BE  
31 THE SOLE BASIS TO EXPUNGE THE REPORT. NOTHING IN THIS SECTION SHALL  
32 REQUIRE THE OFFICE TO CONDUCT AN ADMINISTRATIVE HEARING IN DECIDING  
33 WHETHER TO EXPUNGE A REPORT. THE OFFICE SHALL MAKE ITS DETERMINATION  
34 UPON REVIEWING THE WRITTEN EVIDENCE SUBMITTED BY THE SUBJECT OF THE  
35 REPORT AND ANY RECORDS OR INFORMATION OBTAINED FROM THE STATE OR LOCAL  
36 AGENCY WHICH INVESTIGATED THE ALLEGATIONS OF ABUSE OR MALTREATMENT.

37 5. IN ANY CASE AND AT ANY TIME, THE DIRECTOR MAY AMEND ANY RECORD UPON  
38 GOOD CAUSE SHOWN AND NOTICE TO THE SUBJECTS OF THE REPORT AND OTHER  
39 PERSONS NAMED IN THE REPORT.

40 6. AT ANY TIME, A SUBJECT OF A REPORT AND OTHER PERSONS NAMED IN THE  
41 REPORT MAY RECEIVE, UPON REQUEST, A COPY OF ALL INFORMATION CONTAINED IN  
42 THE REGISTRY; PROVIDED, HOWEVER, THAT THE DIRECTOR IS AUTHORIZED TO  
43 PROHIBIT THE RELEASE OF DATA THAT WOULD IDENTIFY THE PERSON WHO MADE THE  
44 REPORT OR WHO COOPERATED IN A SUBSEQUENT INVESTIGATION OR THE AGENCY,  
45 INSTITUTION, ORGANIZATION, PROGRAM OR OTHER ENTITY WHERE SUCH PERSON IS  
46 EMPLOYED OR WITH WHICH HE OR SHE IS ASSOCIATED, WHICH HE OR SHE REASON-  
47 ABLY FINDS WILL BE DETRIMENTAL TO THE SAFETY OR INTERESTS OF SUCH  
48 PERSON.

49 7. AT ANY TIME SUBSEQUENT TO THE COMPLETION OF THE INVESTIGATION BUT  
50 IN NO EVENT LATER THAN NINETY DAYS AFTER THE SUBJECT OF THE REPORT IS  
51 NOTIFIED THAT THE REPORT IS INDICATED THE SUBJECT MAY REQUEST THE DIREC-  
52 TOR TO AMEND THE RECORD OF THE REPORT. IF THE DIRECTOR DOES NOT AMEND  
53 THE REPORT IN ACCORDANCE WITH SUCH REQUEST WITHIN NINETY DAYS OF RECEIV-  
54 ING THE REQUEST, THE SUBJECT SHALL HAVE THE RIGHT TO A FAIR HEARING,  
55 CONDUCTED IN ACCORDANCE WITH THIS SUBDIVISION, TO DETERMINE WHETHER THE  
56 RECORD OF THE REPORT IN THE REGISTRY SHOULD BE AMENDED ON THE GROUNDS



1 THAT IT IS INACCURATE OR IT IS BEING MAINTAINED IN A MANNER INCONSISTENT  
2 WITH THIS TITLE.

3 (A) IF IT IS DETERMINED AFTER REVIEW THAT THERE IS NO CREDIBLE  
4 EVIDENCE IN THE RECORD TO FIND THAT THE SUBJECT COMMITTED AN ACT OR ACTS  
5 OF SENIOR ABUSE OR MALTREATMENT, THE OFFICE SHALL AMEND THE RECORD TO  
6 INDICATE THAT THE REPORT IS "UNFOUNDED" AND NOTIFY THE SUBJECT FORTH-  
7 WITH.

8 (B) IF THE OFFICE DOES NOT AMEND THE RECORD IN ACCORDANCE WITH SUCH  
9 REQUEST AND THE PROVISIONS OF THIS SUBDIVISION, THE OFFICE SHALL SCHED-  
10 ULE A FAIR HEARING AND SHALL PROVIDE NOTICE OF THE SCHEDULED HEARING  
11 DATE TO THE SUBJECT, THE REGISTRY AND, AS APPROPRIATE, TO THE DESIGNATED  
12 AGENCY OR THE STATE AGENCY WHICH INVESTIGATED THE REPORT. THE BURDEN OF  
13 PROOF IN SUCH A HEARING SHALL BE ON THE DESIGNATED AGENCY OR THE STATE  
14 AGENCY WHICH INVESTIGATED THE REPORT, AS THE CASE MAY BE.

15 (I) A COURT FINDING OF ABUSE OR NEGLECT AGAINST THE SUBJECT IN REGARD  
16 TO AN ALLEGATION CONTAINED IN THE REPORT SHALL CREATE AN IRREBUTTABLE  
17 PRESUMPTION THAT SAID ALLEGATION IS SUBSTANTIATED BY SOME CREDIBLE  
18 EVIDENCE.

19 (II) IF IT IS DETERMINED AT THE FAIR HEARING THAT THERE IS NO CREDIBLE  
20 EVIDENCE IN THE RECORD TO FIND THAT THE SUBJECT COMMITTED AN ACT OR ACTS  
21 OF ABUSE OR MALTREATMENT OF A SENIOR, THE OFFICE SHALL AMEND THE RECORD  
22 TO REFLECT THAT SUCH A FINDING WAS MADE AT THE ADMINISTRATIVE HEARING,  
23 ORDER ANY DESIGNATED AGENCY OR STATE AGENCY WHICH INVESTIGATED THE  
24 REPORT TO SIMILARLY AMEND ITS RECORDS OF THE REPORT, AND SHALL NOTIFY  
25 THE SUBJECT FORTHWITH OF THE DETERMINATION.

26 (C) THE DIRECTOR OR HIS OR HER DESIGNATED AGENT IS AUTHORIZED AND  
27 EMPOWERED TO MAKE ANY APPROPRIATE ORDER RESPECTING THE AMENDMENT OF A  
28 RECORD TO MAKE IT ACCURATE OR CONSISTENT WITH THE REQUIREMENTS OF THIS  
29 SECTION.

30 (D) SHOULD THE OFFICE GRANT THE REQUEST OF THE SUBJECT OF THE REPORT  
31 PURSUANT TO THIS SUBDIVISION EITHER THROUGH AN ADMINISTRATIVE REVIEW OR  
32 FAIR HEARING TO AMEND AN INDICATED REPORT TO AN UNFOUNDED REPORT, SUCH  
33 REPORT SHALL BE LEGALLY SEALED AND SHALL BE RELEASED AND EXPUNGED IN  
34 ACCORDANCE WITH THE STANDARDS SET FORTH IN THIS SECTION.

35 8. WRITTEN NOTICE OF ANY EXPUNGEMENT OR AMENDMENT OF ANY RECORD, MADE  
36 PURSUANT TO THIS TITLE, SHALL BE SERVED FORTHWITH UPON EACH SUBJECT OF  
37 SUCH RECORD, OTHER PERSONS NAMED IN THE REPORT, THE DIRECTOR, AND SUCH  
38 OTHER PERSONS AND AGENCIES THE DIRECTOR SHALL DEEM APPROPRIATE. THE  
39 DESIGNATED AGENCY OR THE STATE AGENCY WHICH INVESTIGATED THE REPORT,  
40 UPON RECEIPT OF SUCH NOTICE, SHALL TAKE THE APPROPRIATE SIMILAR ACTION  
41 IN REGARD TO ITS REGISTRY AND RECORDS AND INFORM, FOR THE SAME PURPOSE,  
42 ANY OTHER AGENCY WHICH RECEIVED SUCH RECORD.

43 S 406. PENALTY FOR UNAUTHORIZED DISCLOSURE. UNAUTHORIZED DISCLOSURE BY  
44 ANY PARTY OF INFORMATION OBTAINED FROM THE REGISTRY SHALL BE A CLASS A  
45 MISDEMEANOR.

46 S 407. PERSONS REQUIRED TO REPORT SUSPECTED SENIOR ABUSE OR MALTREAT-  
47 MENT. 1. THE FOLLOWING PERSONS ARE REQUIRED TO REPORT OR CAUSE A REPORT  
48 TO BE MADE IN ACCORDANCE WITH THIS TITLE WHEN, WHILE ACTING IN THEIR  
49 PROFESSIONAL OR OFFICIAL CAPACITY, THEY HAVE REASONABLE CAUSE TO SUSPECT  
50 THAT A SENIOR COMING BEFORE THEM IS AN ABUSED SENIOR, OR WHEN THEY HAVE  
51 REASONABLE CAUSE TO SUSPECT THAT A SENIOR IS AN ABUSED SENIOR WHERE THE  
52 PERSON LEGALLY RESPONSIBLE FOR SUCH SENIOR COMES BEFORE THEM AND STATES  
53 FROM PERSONAL KNOWLEDGE FACTS, CONDITIONS OR CIRCUMSTANCES WHICH, IF  
54 CORRECT, WOULD RENDER THE SENIOR AN ABUSED SENIOR:

55 (A) ANY HEALTH CARE WORKER, INCLUDING ANY PHYSICIAN, PHYSICIAN ASSIST-  
56 ANT, SURGEON, MEDICAL EXAMINER, CORONER, DENTIST, DENTAL HYGIENIST,

1 OSTEOPATH, OPTOMETRIST, CHIROPRACTOR, PODIATRIST, RESIDENT, INTERN,  
2 PSYCHOLOGIST, REGISTERED NURSE, EMERGENCY MEDICAL TECHNICIAN, OR ANY  
3 HOSPITAL OR NURSING HOME PERSONNEL ENGAGED IN THE ADMISSION, EXAMINA-  
4 TION, CARE OR TREATMENT OF PERSONS, OR ANY OTHER HEALTH CARE OR HEALTH  
5 SERVICES PRACTITIONER, INCLUDING A CHRISTIAN SCIENCE PRACTITIONER,  
6 ACUPUNCTURIST, OR OTHER SUCH PERSON;

7 (B) ANY SOCIAL WORKER, SOCIAL SERVICES WORKER, DAY CARE CENTER WORKER,  
8 OR ANY PROVIDER OF FAMILY OR GROUP FAMILY DAY CARE;

9 (C) ANY MENTAL HEALTH PROFESSIONAL; SUBSTANCE ABUSE COUNSELOR; ALCO-  
10 HOLISM COUNSELOR;

11 (D) ANY PERSON, INCLUDING A DIRECTOR, OPERATOR, EMPLOYEE, VOLUNTEER,  
12 OR CONTRACTOR, IN A PUBLIC, PRIVATE, OR NOT-FOR-PROFIT FACILITY WHICH  
13 PROVIDES CARE TO ONE OR MORE SENIORS AND WHICH IS LICENSED OR REGISTERED  
14 PURSUANT TO THE PROVISIONS OF THE PUBLIC HEALTH LAW, OR THE SOCIAL  
15 SERVICES LAW;

16 (E) ANY PEACE OFFICER, POLICE OFFICER, DISTRICT ATTORNEY OR ASSISTANT  
17 DISTRICT ATTORNEY, INVESTIGATOR EMPLOYED IN THE OFFICE OF A DISTRICT  
18 ATTORNEY OR OTHER LAW ENFORCEMENT OFFICIAL;

19 (F) ANY BANKER, FINANCIAL CONSULTANT, ATTORNEY, OR PARALEGAL WITH  
20 ACCESS TO A SENIOR'S FINANCIAL RECORDS OR RESOURCES OR LEGAL DOCUMENTS  
21 OR WHO POSSESSES POWER OF ATTORNEY FOR SUCH SENIOR.

22 THE DIRECTOR SHALL FURTHER DEFINE AND ENUMERATE IN REGULATIONS PERSONS  
23 AND OCCUPATIONS WHICH ARE REQUIRED TO REPORT WHEN THEY SUSPECT THAT A  
24 SENIOR HAS BECOME AN ABUSED SENIOR.

25 2. A PERSON REQUIRED TO REPORT UNDER THIS TITLE IN HIS OR HER CAPACITY  
26 AS A MEMBER OF THE STAFF OF A MEDICAL OR OTHER PUBLIC OR PRIVATE INSTI-  
27 TUTION, FACILITY OR AGENCY SHALL ADDITIONALLY AND IMMEDIATELY NOTIFY THE  
28 PERSON IN CHARGE OF SUCH INSTITUTION, FACILITY OR AGENCY, OR HIS OR HER  
29 DESIGNATED AGENT, WHO THEN ALSO SHALL BECOME RESPONSIBLE TO REPORT OR  
30 CAUSE REPORTS TO BE MADE, PROVIDED HOWEVER THAT NOTHING IN THIS SECTION  
31 SHALL REQUIRE MORE THAN ONE REPORT FROM ANY SUCH INSTITUTION OR AGENCY.  
32 AT THE TIME OF MAKING A REPORT, OR AT ANY TIME THEREAFTER, SUCH PERSON  
33 OR OFFICIAL MAY REQUEST THE FINDINGS OF AN INVESTIGATION MADE PURSUANT  
34 TO THIS TITLE.

35 S 408. ANY PERSON PERMITTED TO REPORT. IN ADDITION TO PERSONS AND  
36 OFFICIALS REQUIRED TO REPORT SUSPECTED SENIOR ABUSE PURSUANT TO THIS  
37 CHAPTER, ANY PERSON MAY MAKE SUCH A REPORT IF SUCH PERSON HAS REASONABLE  
38 CAUSE TO SUSPECT THAT A SENIOR IS AN ABUSED SENIOR.

39 S 409. REPORTING PROCEDURE. 1. REPORTS OF SUSPECTED ABUSE MADE PURSU-  
40 ANT TO THIS TITLE SHALL BE MADE IMMEDIATELY BY TELEPHONE, FAX, E-MAIL OR  
41 ANY OTHER COMMUNICATION PROTOCOL ON A FORM SUPPLIED BY THE DIRECTOR.  
42 ORAL REPORTS SHALL BE FOLLOWED BY A REPORT IN WRITING WITHIN FORTY-EIGHT  
43 HOURS AFTER SUCH ORAL REPORT.

44 2. WRITTEN REPORTS SHALL BE MADE IN A MANNER PRESCRIBED BY AND ON  
45 FORMS SUPPLIED BY THE DIRECTOR AND SHALL INCLUDE THE FOLLOWING INFORMA-  
46 TION:

47 (A) THE NAME AND ADDRESS OF THE SENIOR;

48 (B) THE PERSON RESPONSIBLE FOR HIS OR HER CARE, IF KNOWN;

49 (C) THE NAME AND ADDRESS OF THE CARE FACILITY OR PROGRAM IN WHICH THE  
50 SENIOR RESIDES OR IS RECEIVING CARE;

51 (D) THE SENIOR'S AGE, SEX AND RACE;

52 (E) THE NATURE AND EXTENT OF THE INJURIES, ABUSE OR MALTREATMENT,  
53 INCLUDING ANY EVIDENCE OF PRIOR INJURIES, ABUSE OR MALTREATMENT;

54 (F) THE NAME OF THE PERSON OR PERSONS ALLEGED TO BE RESPONSIBLE FOR  
55 CAUSING THE INJURY, ABUSE OR MALTREATMENT, IF KNOWN;

56 (G) FAMILY COMPOSITION, WHERE APPROPRIATE;

(H) THE SOURCE OF THE REPORT;

(I) THE PERSON MAKING THE REPORT AND WHERE HE OR SHE CAN BE REACHED;

(J) THE ACTIONS TAKEN BY THE REPORTING SOURCE, INCLUDING THE TAKING OF PHOTOGRAPHS AND TECHNOLOGICAL SCANS, OR NOTIFYING THE MEDICAL EXAMINER OR CORONER; AND

(K) ANY OTHER INFORMATION WHICH THE DIRECTOR MAY BY REGULATION REQUIRE, OR WHICH THE PERSON MAKING THE REPORT BELIEVES MIGHT BE HELPFUL, IN THE FURTHERANCE OF THE INTENT AND PURPOSES OF THIS TITLE.

3. ANY PERSON OR OFFICIAL REQUIRED TO REPORT CASES OF SUSPECTED SENIOR ABUSE AND MALTREATMENT MAY TAKE OR CAUSE TO BE TAKEN AT PUBLIC EXPENSE PHOTOGRAPHS OR, IF MEDICALLY INDICATED, OTHER TECHNOLOGICAL OR IMAGING SCANS INCLUDING X-RAYS OF THE AREAS OF TRAUMA VISIBLE ON A SENIOR WHO IS SUBJECT TO A REPORT. ANY SUCH PHOTOGRAPHS OR SCANS TAKEN SHALL BE SENT TO THE DESIGNATED AGENCY AT THE TIME THE WRITTEN REPORT IS SENT, OR AS SOON THEREAFTER AS POSSIBLE. A PERSON REQUIRED TO REPORT UNDER THIS TITLE IN HIS OR HER CAPACITY AS A MEMBER OF THE STAFF OF A MEDICAL OR OTHER PUBLIC OR PRIVATE INSTITUTION, FACILITY, OR AGENCY, SHALL IMMEDIATELY NOTIFY THE PERSON IN CHARGE OF SUCH INSTITUTION, SCHOOL, FACILITY OR AGENCY, OR THE DESIGNATED AGENT OF SUCH PERSON, WHO SHALL THEN TAKE OR CAUSE TO BE TAKEN AT PUBLIC EXPENSE COLOR PHOTOGRAPHS OR, IF MEDICALLY INDICATED, OTHER TECHNOLOGICAL OR IMAGING SCANS INCLUDING X-RAYS, OF THE SENIOR.

4. EXCEPT AS OTHERWISE PROVIDED IN THIS CHAPTER, WRITTEN REPORTS FROM PERSONS OR OFFICIALS REQUIRED BY THIS TITLE TO REPORT SHALL BE ADMISSIBLE IN EVIDENCE IN ANY PROCEEDINGS RELATING TO SENIOR ABUSE OR MALTREATMENT.

5. A PERSON OR OFFICIAL REQUIRED TO REPORT SUSPECTED SENIOR ABUSE OR MALTREATMENT WHO HAS REASONABLE CAUSE TO SUSPECT THAT A SENIOR DIED AS A RESULT OF ABUSE OR MALTREATMENT SHALL REPORT THE FACT TO THE APPROPRIATE MEDICAL EXAMINER OR CORONER. THE MEDICAL EXAMINER OR CORONER SHALL ACCEPT THE REPORT FOR INVESTIGATION AND SHALL REPORT HIS OR HER FINDING TO THE POLICE, THE APPROPRIATE DISTRICT ATTORNEY, THE LOCAL SERVICE, THE OFFICE, AND, IF THE INSTITUTION MAKING THE REPORT IS A HOSPITAL, THE HOSPITAL.

S 410. IMMUNITY FROM LIABILITY. A PERSON, OFFICIAL, OR INSTITUTION PARTICIPATING IN GOOD FAITH IN PROVIDING OF SERVICES PURSUANT TO THIS TITLE, THE MAKING OF A REPORT, THE TAKING OF PHOTOGRAPHS, THE REMOVAL OR KEEPING OF A SENIOR PURSUANT TO THIS TITLE, OR THE DISCLOSURE OF INFORMATION IN COMPLIANCE WITH THIS TITLE AND RULES AND REGULATIONS PROMULGATED THEREUNDER, SHALL BE IMMUNE FROM ANY LIABILITY, CIVIL OR CRIMINAL, THAT MIGHT OTHERWISE RESULT BY REASON OF SUCH ACTIONS. FOR THE PURPOSE OF ANY PROCEEDING, CIVIL OR CRIMINAL, THE GOOD FAITH OF ANY SUCH PERSON, OFFICIAL, OR INSTITUTION REQUIRED TO REPORT CASES OF SENIOR ABUSE OR MALTREATMENT OR PROVIDING A SERVICE PURSUANT TO THIS TITLE SHALL BE PRESUMED, PROVIDED SUCH PERSON, OFFICIAL OR INSTITUTION WAS ACTING IN DISCHARGE OF THEIR DUTIES AND WITHIN THE SCOPE OF THEIR EMPLOYMENT, AND THAT SUCH LIABILITY DID NOT RESULT FROM THE WILLFUL MISCONDUCT OR GROSS NEGLIGENCE OF SUCH PERSON, OFFICIAL OR INSTITUTION.

S 411. PENALTIES FOR FAILURE TO REPORT. A PERSON, OFFICIAL OR INSTITUTION REQUIRED BY THIS TITLE TO REPORT A CASE OF SUSPECTED ABUSE OR MALTREATMENT OF A SENIOR WHO WILLFULLY FAILS TO DO SO SHALL BE GUILTY OF A CLASS A MISDEMEANOR.

ANY PERSON, OFFICIAL OR INSTITUTION REQUIRED BY THIS CHAPTER TO REPORT A CASE OF SUSPECTED SENIOR ABUSE OR MALTREATMENT WHO KNOWINGLY AND WILLFULLY FAILS TO DO SO SHALL BE CIVILLY LIABLE FOR THE DAMAGES PROXIMATELY CAUSED BY SUCH FAILURE.

1 S 412. ANNUAL REPORTS. THE DIRECTOR SHALL REPORT PRIOR TO DECEMBER  
2 FIFTEENTH OF EACH YEAR ON THE OPERATIONS OF THE REGISTRY AND THE VARIOUS  
3 DESIGNATED AGENCIES. THE REPORT SHALL INCLUDE A FULL STATISTICAL ANALY-  
4 SIS OF THE REPORTS MADE TO THE REGISTRY TOGETHER WITH A REPORT ON THE  
5 IMPLEMENTATION OF THIS ARTICLE, AN EVALUATION OF SERVICES OFFERED AND  
6 RECOMMENDATIONS FOR ADDITIONAL LEGISLATION TO FULFILL THE PURPOSES OF  
7 THIS ARTICLE. SUCH REPORT SHALL INDICATE THE NUMBER OF ABUSE AND  
8 MALTREATMENT REPORTS AND CASES RECEIVED BY THE REGISTRY BY EACH DESIG-  
9 NATED AGENCY IN THE PRECEDING YEAR, THE NUMBER OF SUCH CASES DETERMINED  
10 TO HAVE BEEN INDICATED AND THE NUMBER OF SUCH CASES DETERMINED TO BE  
11 UNFOUNDED BY EACH DISTRICT IN THE PRECEDING YEAR, THE NUMBER OF SUCH  
12 CASES WHICH HAVE NOT BEEN INDICATED OR UNFOUNDED WITHIN THE TIME PERIOD  
13 REQUIRED BY THIS CHAPTER BY EACH DESIGNATED AGENCY IN THE PRECEDING YEAR  
14 AND THE NUMBER OF WORKERS ASSIGNED TO THE DESIGNATED AGENCY IN THE  
15 PRECEDING YEAR. THE REPORT SHALL ALSO CONTAIN DATA ON THE PROTECTION OF  
16 SENIORS IN RESIDENTIAL CARE FROM ABUSE AND MALTREATMENT, INCLUDING  
17 REPORTS RECEIVED, RESULTS OF INVESTIGATIONS BY TYPES OF FACILITIES AND  
18 PROGRAMS, TYPES OF CORRECTIVE ACTION TAKEN, AS WELL AS EFFORTS UNDERTAK-  
19 EN BY THE OFFICE TO PROVIDE TRAINING PURSUANT TO THIS CHAPTER.

## 20 TITLE 2

### 21 DUTIES AND RESPONSIBILITIES OF THE OFFICE AND THE COUNCIL

22 SECTION 420. DUTIES AND RESPONSIBILITIES OF THE OFFICE.

23 421. COUNCIL ON ELDER ABUSE; CREATION AND POWERS.

24 422. COOPERATION OF OTHER AGENCIES.

25 423. IMPLEMENTATION.

26 424. SENIOR ANTI-VIOLENCE SERVICES RESPONSIBILITIES AND ORGAN-  
27 IZATION.

28 425. DUTIES OF THE SAVS UNIT.

29 426. LOCAL AND REGIONAL FATALITY REVIEW TEAMS.

30 427. GRANTS FOR SENIOR ANTI-VIOLENCE PROJECTS.

31 S 420. DUTIES AND RESPONSIBILITIES OF THE OFFICE. THE OFFICE SHALL:

32 1. ENCOURAGE THE FULLEST DEGREE OF REPORTING OF SUSPECTED SENIOR ABUSE  
33 OR MALTREATMENT BY CONDUCTING CONTINUING PUBLICITY AND EDUCATION  
34 PROGRAMS FOR PERSONS AND OFFICIALS WHO ARE REQUIRED TO REPORT AS WELL AS  
35 OTHER APPROPRIATE PERSONS.

36 2. PROVIDE TECHNICAL ASSISTANCE ON AN ONGOING BASIS, OR AS NEEDED, OR  
37 UPON REQUEST TO DESIGNATED AGENCIES REGARDING CASE PLANNING, PROVISION  
38 OF SERVICES, AND PERFORMANCE OR OTHER RESPONSIBILITIES PURSUANT TO THIS  
39 TITLE.

40 3. DEVELOP PROTOCOLS AND ISSUE GUIDELINES TO ASSIST DESIGNATED AGEN-  
41 CIES IN EVALUATING AND ESTABLISHING INVESTIGATIVE PRIORITIES FOR REPORTS  
42 DESCRIBING SITUATIONS OR EVENTS WHICH MAY POSE A CLEAR AND PRESENT  
43 DANGER TO THE LIFE, HEALTH OR SAFETY OF A SENIOR AND/OR WHICH REQUIRE  
44 IMMEDIATE, PERSONAL CONTACT BETWEEN THE DESIGNATED AGENCY AND THE  
45 SUBJECT OF THE REPORT, THE SUBJECT'S FAMILY, OR OTHER PERSONS NAMED IN  
46 THE REPORT.

47 4. ISSUE GUIDELINES TO ASSIST DESIGNATED AGENCIES IN THE INTERPRETA-  
48 TION AND ASSESSMENT OF REPORTS OF ABUSE AND MALTREATMENT MADE TO THE  
49 REGISTRY, INCLUDING INFORMATION, STANDARDS AND CRITERIA FOR THE IDEN-  
50 TIFICATION OF CREDIBLE EVIDENCE OF ALLEGED ABUSE AND MALTREATMENT  
51 REQUIRED TO DETERMINE WHETHER A REPORT MAY BE INDICATED.

52 5. SET FORTH REQUIREMENTS FOR THE PERFORMANCE BY DESIGNATED AGENCIES  
53 OF THE DUTIES AND POWERS IMPOSED AND CONFERRED UPON THEM BY THE  
54 PROVISIONS OF THIS TITLE, INCLUDING UNIFORM REQUIREMENTS FOR THE INVES-

1 TIGATION OF REPORTS OF ABUSE OR MALTREATMENT, STANDARDS FOR INTER-  
2 VENTION, CRITERIA FOR CASE CLOSINGS, CRITERIA FOR DETERMINING WHETHER TO  
3 INITIATE A PROCEEDING, AND CRITERIA FOR THE FORMULATION OF TREATMENT  
4 PLANS AND FOR THE DELIVERY OF SERVICES.

5 6. SET FORTH TRAINING REQUIREMENTS WHICH SHALL SPECIFY, AMONG OTHER  
6 THINGS, THAT ALL APPROPRIATE PERSONS HIRED BY A DESIGNATED AGENCY SHALL  
7 HAVE SATISFACTORILY COMPLETED WITHIN THE FIRST THREE MONTHS OF THEIR  
8 EMPLOYMENT A COURSE APPROVED BY THE OFFICE IN THE PRINCIPLES AND TECH-  
9 Niques OF INVESTIGATIONS, RELATIONSHIPS WITH OTHER INVESTIGATIVE BODIES,  
10 LEGAL ISSUES, AND METHODS OF REMEDIATION, DIAGNOSIS, TREATMENT AND  
11 PREVENTION.

12 7. TAKE ALL REASONABLE AND NECESSARY ACTIONS TO ASSURE THAT THE DESIG-  
13 NATED AGENCIES ARE KEPT APPRISED ON A CURRENT BASIS OF THE LAWS, REGU-  
14 LATIONS AND POLICIES OF THE OFFICE CONCERNING SENIOR ABUSE AND MALTREAT-  
15 MENT.

16 8. MONITOR AND SUPERVISE THE PERFORMANCE OF THE LOCAL SERVICES.

17 S 421. COUNCIL ON ELDER ABUSE; CREATION AND POWERS. 1. THE COUNCIL ON  
18 ELDER ABUSE IS HEREBY CREATED WHOSE PURPOSE SHALL BE TO ADVISE AND  
19 CONSULT WITH THE DIRECTOR ON THE DEVELOPMENT OF PROGRAMS AND INITIATIVES  
20 TO COMBAT ELDER ABUSE AS AUTHORIZED OR REQUIRED BY THIS TITLE. THE COUN-  
21 CIL SHALL HAVE POWER BY AFFIRMATIVE VOTE OF A MAJORITY OF ITS MEMBERS TO  
22 ESTABLISH, AND FROM TIME TO TIME, AMEND AND REPEAL RULES AND REGULATIONS  
23 REQUIRED TO BE PROMULGATED PURSUANT TO THIS TITLE, SUBJECT TO APPROVAL  
24 BY THE DIRECTOR.

25 2. THE COUNCIL SHALL CONSIST OF FIFTEEN PERSONS APPOINTED BY THE  
26 GOVERNOR BY AND WITH THE ADVICE AND CONSENT OF THE SENATE. FOUR MEMBERS  
27 SHALL BE APPOINTED ON RECOMMENDATION OF THE TEMPORARY PRESIDENT OF THE  
28 SENATE, AND FOUR ON RECOMMENDATION OF THE SPEAKER OF THE ASSEMBLY. THE  
29 GOVERNOR SHALL APPOINT A CHAIRPERSON AND A VICE-CHAIRPERSON AS HE OR SHE  
30 DEEMS APPROPRIATE.

31 3. MEMBERSHIP ON THE COUNCIL SHALL REFLECT THE DIVERSITY OF THE  
32 STATE'S POPULATION INCLUDING, BUT NOT LIMITED TO, THE VARIOUS GEOGRAPHIC  
33 AREAS OF THE STATE. EACH APPOINTEE SHALL AT THE TIME OF APPOINTMENT HAVE  
34 HAD AT LEAST FIVE YEARS EXPERIENCE IN THE FIELD OF ELDER ABUSE, IN LAW  
35 ENFORCEMENT, THE JUDICIAL SYSTEM, THE PROVISION OF SERVICES, MEDICINE,  
36 ADVOCACY, OR OTHER SIMILAR FIELD THAT ASSURES THAT THE APPOINTEE HAS  
37 RECOGNIZED EXPERTISE IN THE SUBJECT AREA.

38 4. EACH APPOINTEE SHALL SERVE A TERM OF FOUR YEARS, PROVIDED THAT OF  
39 MEMBERS FIRST APPOINTED, EIGHT SHALL SERVE FOR TERMS OF TWO YEARS, AND  
40 THE REMAINDER FOR TERMS OF FOUR YEARS, RESPECTIVELY, FROM JANUARY FIRST  
41 NEXT SUCCEEDING THEIR APPOINTMENT. ANY VACANCY OCCURRING OTHERWISE THAN  
42 BY EXPIRATION OF TERM SHALL BE FILLED IN THE SAME MANNER AS THE ORIGINAL  
43 APPOINTMENT FOR THE BALANCE OF THE UNEXPIRED TERM. MEMBERS OF THE COUN-  
44 CIL SHALL CONTINUE IN OFFICE UNTIL THEIR SUCCESSORS ARE APPOINTED AND  
45 SHALL HAVE QUALIFIED.

46 5. THE COUNCIL MAY EMPLOY EITHER DIRECTLY OR BY CONTRACTUAL ARRANGE-  
47 MENT SUCH PERSONNEL AS IT SHALL DEEM NECESSARY FOR THE PERFORMANCE OF  
48 ITS FUNCTIONS, WITHIN AMOUNTS MADE AVAILABLE BY APPROPRIATION THEREFOR.  
49 IN ADDITION, THE DIRECTOR, ON HIS OR HER INITIATIVE AND THROUGH THE  
50 POWERS HEREBY PROVIDED HIM OR HER, MAY PROVIDE THE COUNCIL WITH UP TO  
51 TWO LOANED OFFICERS OR EMPLOYEES FROM THE OFFICE, ALONG WITH SUCH ADMIN-  
52 ISTRACTIVE-SECRETARIAL SUPPORT STAFF AS SHALL BE REQUIRED, THE DUTIES AND  
53 WORK OF WHOM ARE HEREBY DECLARED TO BE AN ESSENTIAL STATE PURPOSE. SUCH  
54 LOANED EMPLOYEES SHALL SUFFER NO DIMINUTION OF THEIR COMPENSATION OR  
55 BENEFITS AS A RESULT OF SUCH ASSIGNMENT, PROVIDED THAT NO SUCH TRANSFER  
56 SHALL BE MADE EXCEPT WITH THE APPROVAL OF THE DIRECTOR OF THE BUDGET,

1 AND IN COMPLIANCE WITH THE RULES AND REGULATIONS OF THE CIVIL SERVICE  
2 COMMISSION OF THE STATE.

3 6. MEMBERS SHALL RECEIVE NO SALARY OR OTHER COMPENSATION, BUT SHALL BE  
4 ENTITLED TO REIMBURSEMENT FOR ACTUAL AND NECESSARY EXPENSES INCURRED IN  
5 THE PERFORMANCE OF OFFICIAL DUTIES. ANY OTHER PROVISION OF THIS OR ANY  
6 OTHER LAW TO THE CONTRARY NOTWITHSTANDING, NO OFFICER OR EMPLOYEE OF THE  
7 STATE, OR OF ANY CIVIL DIVISION THEREOF, SHALL BE DEEMED TO HAVE  
8 FORFEITED OR SHALL FORFEIT HIS OR HER OFFICE OR EMPLOYMENT OR ANY BENE-  
9 FITS PROVIDED UNDER THE RETIREMENT AND SOCIAL SECURITY LAW BY REASON OF  
10 ACCEPTANCE OF MEMBERSHIP ON THE COUNCIL ON ELDER ABUSE, PROVIDED, HOWEV-  
11 ER, THAT A MEMBER WHO HOLDS SUCH OTHER PUBLIC OFFICE OR EMPLOYMENT SHALL  
12 BE ENTITLED TO REIMBURSEMENT FOR ACTUAL AND NECESSARY EXPENSES INCURRED  
13 IN THE PERFORMANCE OF SUCH SERVICES BUT SHALL RECEIVE NO ADDITIONAL  
14 COMPENSATION FOR SERVICES RENDERED PURSUANT TO THIS SECTION.

15 7. MEMBERS MAY ENGAGE IN PRIVATE EMPLOYMENT, OR IN A PROFESSION OR  
16 BUSINESS, SUBJECT TO THE LIMITATIONS CONTAINED IN SECTIONS SEVENTY-THREE  
17 AND SEVENTY-FOUR OF THE PUBLIC OFFICERS LAW. THE COUNCIL ON ELDER ABUSE  
18 SHALL, FOR THE PURPOSES OF SECTIONS SEVENTY-THREE AND SEVENTY-FOUR OF  
19 THE PUBLIC OFFICERS LAW, BE A "STATE AGENCY," AND ITS DIRECTORS SHALL BE  
20 "OFFICERS" OF THE AUTHORITY FOR THE PURPOSES OF SUCH SECTIONS.

21 8. EIGHT MEMBERS OF THE COUNCIL ON ELDER ABUSE SHALL CONSTITUTE A  
22 QUORUM FOR TRANSACTION OF BUSINESS OR THE EXERCISE OF ANY POWER OF THE  
23 COUNCIL, AND THE COUNCIL SHALL HAVE POWER TO ACT BY MAJORITY OF THE  
24 MEMBERS PRESENT AT ANY MEETING AT WHICH A QUORUM IS IN ATTENDANCE. NOTH-  
25 ING CONTAINED IN THIS TITLE SHALL PREVENT THE MEMBERS FROM CONDUCTING  
26 ITS MEETINGS BY TELE-VIDEO OR TELECONFERENCE, OR BY TELEPHONE CONFER-  
27 ENCE, PROVIDED THAT A QUORUM SHALL BE PHYSICALLY PRESENT.

28 9. THE COUNCIL SHALL MEET AT LEAST FOUR TIMES EACH YEAR, AND ADDI-  
29 TIONALLY AS FREQUENTLY AS ITS BUSINESS MAY REQUIRE.

30 10. THE COUNCIL SHALL ENACT AND FROM TIME TO TIME MAY AMEND BY-LAWS IN  
31 RELATION TO ITS MEETINGS AND THE TRANSACTION OF ITS BUSINESS.

32 11. NO CIVIL ACTION SHALL BE BROUGHT IN ANY COURT AGAINST ANY MEMBER  
33 OF THE COUNCIL FOR ANY ACT DONE, FAILURE TO ACT, OR STATEMENT OR OPINION  
34 MADE, WHILE DISCHARGING DUTIES AS A MEMBER OF THE COUNCIL, AND NO MEMBER  
35 SHALL BE LIABLE FOR DAMAGES IN ANY ACTION IF THE MEMBER SHALL HAVE ACTED  
36 IN GOOD FAITH, WITH REASONABLE CARE AND UPON PROBABLE CAUSE.

37 12. THE DIRECTOR SHALL CONSULT WITH THE COUNCIL ON ANY MATTER REQUIRED  
38 BY THIS TITLE RELATING TO ELDER ABUSE, AND THE COUNCIL SHALL CONSIDER  
39 ANY SUCH MATTER AND ADVISE THE DIRECTOR THEREON. THE DIRECTOR SHALL TAKE  
40 NO ACTION REQUIRED BY THIS TITLE WITHOUT FIRST CONSULTING WITH THE COUN-  
41 CIL, PROVIDED HOWEVER THAT THE COUNCIL'S FAILURE TO RESPOND WITHIN THIR-  
42 TY BUSINESS DAYS TO ANY SUCH REQUEST FOR ADVICE AND CONSULTATION SHALL  
43 NOT BE DEEMED AN IMPAIRMENT OF THE DIRECTOR'S POWER, ABILITY, OR RESPON-  
44 SIBILITY TO IMPLEMENT PROVISIONS OF THIS TITLE. THE COUNCIL MAY FROM  
45 TIME TO TIME SUBMIT TO THE DIRECTOR, THE GOVERNOR, AND THE LEGISLATURE,  
46 ANY RECOMMENDATIONS IT MAY HAVE RELATING TO ELDER ABUSE.

47 S 422. COOPERATION OF OTHER AGENCIES. 1. THE OFFICE AND THE OFFICE OF  
48 CHILDREN AND FAMILY SERVICES ARE HEREWITH EMPOWERED TO AND SHALL ENTER  
49 INTO A MEMORANDUM OF UNDERSTANDING TO EXECUTE THE PURPOSES AND INTENT OF  
50 THIS ARTICLE. SUCH MEMORANDUM OF UNDERSTANDING SHALL ESTABLISH THE  
51 OFFICE, DESIGNATED AGENCIES, AND "SAVS UNITS" (AS DESCRIBED IN SECTION  
52 FOUR HUNDRED TWENTY-FOUR OF THIS TITLE) AS THE LEAD AGENCIES FOR INVES-  
53 TIGATION OF ABUSE AND MALTREATMENT OF SENIORS, SHALL ASSURE THAT ADULT  
54 PROTECTIVE SERVICES UNITS ARE AN INTEGRAL PART OF THE LOCAL SERVICES  
55 TEAMS, SHALL ASSURE APPROPRIATE SHARING OF INFORMATION, AND INSURE THAT  
56 APPROPRIATE AMENDMENTS ARE MADE TO LOCAL SERVICES PLANS.

2. TO EFFECTUATE THE PURPOSES OF THIS TITLE, THE DIRECTOR MAY REQUEST AND SHALL RECEIVE FROM OFFICES, BOARDS, BUREAUS, OR OTHER AGENCIES OF THE STATE, OR ANY OF ITS POLITICAL SUBDIVISIONS, OR ANY DULY AUTHORIZED AGENCY, OR ANY OTHER AGENCY PROVIDING SERVICES TO SENIORS SUCH ASSISTANCE AND DATA AS WILL ENABLE THE OFFICE AND DESIGNATED AGENCIES TO FULFILL THEIR RESPONSIBILITIES.

3. IN RELATION TO AN INVESTIGATION OF A REPORT OF ABUSE OR MALTREATMENT INVOLVING A SENIOR IN RESIDENTIAL CARE, SUCH DATA MAY INCLUDE, BUT NEED NOT BE LIMITED TO, THE CASE RECORDS OF THE SENIOR WHO ALLEGEDLY WAS ABUSED OR MALTREATED AND ANY OTHER SENIOR WHO ALLEGEDLY WITNESSED THE ABUSE OR MALTREATMENT AND, CONSISTENT WITH APPROPRIATE COLLECTIVE BARGAINING AGREEMENTS AND APPLICABLE PROVISIONS OF THE CIVIL SERVICE LAW, THOSE PORTIONS OF THE EMPLOYMENT RECORD OF THE SUBJECT OF THE REPORT CONSIDERED BY THE SUBJECT'S EMPLOYER TO BE RELEVANT AND REASONABLY RELATED TO THE ALLEGATIONS BEING INVESTIGATED BY THE OFFICE.

S 423. IMPLEMENTATION. 1. THE DIRECTOR, AFTER CONSULTATION WITH THE COUNCIL, SHALL ESTABLISH TIMELINES FOR COMPLETING THE REQUIREMENTS OF THIS TITLE, AS FOLLOWS:

(A) WITHIN ONE YEAR OF THE EFFECTIVE DATE OF THIS TITLE, THE DIRECTOR SHALL:

(I) ESTABLISH PLANNING PROTOCOLS FOR ESTABLISHMENT OF THE STATEWIDE CENTRAL REGISTRY FOR ABUSE AND NEGLECT;

(II) ESTABLISH A TRAINING REGIME FOR DESIGNATED AGENCIES AND TEAMS OF LOCAL SERVICES;

(III) ESTABLISH INVESTIGATORY PROTOCOLS FOR DESIGNATED AGENCIES AND TEAMS OF LOCAL SERVICES;

(IV) ESTABLISH A WEBSITE TO CONVEY INFORMATION ABOUT SENIOR ABUSE AND MALTREATMENT, AND THE PROVISIONS OF THIS TITLE; AND

(V) COMPLETE AGREEMENTS AS NECESSARY OR REQUIRED PURSUANT TO THIS TITLE WITH OTHER STATE, LOCAL, AND FEDERAL AGENCIES REGARDING THE IMPLEMENTATION OF THE PROVISIONS OF THIS TITLE.

(B) WITHIN EIGHTEEN MONTHS OF THE EFFECTIVE DATE OF THIS TITLE, THE DIRECTOR SHALL:

(I) PROMULGATE REGULATIONS CONCERNING PERSONS WHO SHALL HAVE ACCESS TO INFORMATION AND DATA CONTAINED IN THE REGISTRY, AND THE CONFIDENTIALITY REQUIREMENTS GOVERNING SUCH ACCESS.

(II) PROMULGATE REGULATIONS CONCERNING SHARING OF INFORMATION, DATA, AND REPORTS TO THE REGISTRY FOR INVESTIGATORY PURPOSES.

(III) COMPLETE TRAINING OF DESIGNATED AGENCIES AND TEAMS OF LOCAL SERVICES IN AT LEAST FIFTY PERCENT OF THE COUNTIES OF THE STATE.

(C) WITHIN TWO YEARS OF THE EFFECTIVE DATE OF THIS TITLE, THE DIRECTOR SHALL:

(I) ESTABLISH THE STATEWIDE CENTRAL REGISTRY FOR ABUSE AND NEGLECT.

(II) COMPLETE TRAINING OF THE DESIGNATED AGENCIES AND TEAMS OF LOCAL SERVICES.

S 424. SENIOR ANTI-VIOLENCE SERVICES RESPONSIBILITIES AND ORGANIZATION. 1. EVERY DESIGNATED AGENCY SHALL ESTABLISH A SENIOR ANTI-VIOLENCE SERVICE (SAVS) UNIT WITHIN SUCH AGENCY. THE SERVICE SHALL PERFORM THOSE FUNCTIONS ASSIGNED BY THIS TITLE TO IT AND OTHERS THAT FURTHER THE PURPOSES OF THIS TITLE.

2. EVERY DESIGNATED AGENCY SHALL PROVIDE TO THE SAVS UNIT ANY INFORMATION AVAILABLE TO IT OR IN ITS POSSESSION WHICH IS RELEVANT TO THE INVESTIGATION OF A REPORT OF ABUSE OR MALTREATMENT OF A SENIOR OR TO THE PROVISION OF SERVICES, WHERE THE CONFIDENTIALITY OF SUCH INFORMATION IS NOT EXPRESSLY PROTECTED BY LAW.

1 3. THE SAVS UNIT SHALL HAVE A SUFFICIENT STAFF OF PERSONS WITH SUFFI-  
2 CIENT QUALIFICATIONS TO FULFILL THE PURPOSES OF THIS TITLE, ORGANIZED SO  
3 AS TO MAXIMIZE THE CONTINUITY OF RESPONSIBILITY, CARE AND SERVICE TO  
4 SENIORS. A DESIGNATED AGENCY SHALL HAVE FLEXIBILITY IN ASSIGNING STAFF  
5 TO THE SAVS UNIT PROVIDED THAT SUCH STAFF HAS THE QUALIFICATIONS AND HAS  
6 RECEIVED THE TRAINING REQUIRED BY THE OFFICE.

7 4. CONSISTENT WITH APPROPRIATE COLLECTIVE BARGAINING AGREEMENTS AND  
8 APPLICABLE PROVISIONS OF THE CIVIL SERVICE LAW, EVERY SAVS UNIT SHALL  
9 ESTABLISH A PROCEDURE TO REVIEW AND EVALUATE THE BACKGROUNDS OF AND  
10 INFORMATION SUPPLIED BY APPLICANTS FOR EMPLOYMENT. SUCH PROCEDURES  
11 SHALL INCLUDE BUT NOT BE LIMITED TO REQUIREMENTS THAT THE APPLICANT SET  
12 FORTH HIS OR HER EMPLOYMENT HISTORY, PROVIDE PERSONAL AND EMPLOYMENT  
13 REFERENCES AND RELEVANT EXPERIENTIAL AND EDUCATIONAL INFORMATION, AND  
14 SIGN A SWORN STATEMENT INDICATING WHETHER THE APPLICANT, TO THE BEST OF  
15 HIS OR HER KNOWLEDGE, HAS EVER BEEN CONVICTED OF A CRIME IN THIS STATE  
16 OR ANY OTHER JURISDICTION.

17 5. ANY OTHER PROVISION OF ANY OTHER LAW TO THE CONTRARY NOTWITHSTAND-  
18 ING, THE SAVS UNIT SHALL BE THE LEAD ENTITY RESPONSIBLE FOR RECEIVING  
19 AND INVESTIGATING REPORTS OF ABUSE OR MALTREATMENT OF SENIORS AND FOR  
20 COORDINATING SERVICES TO SUCH SENIORS. IT MAY PURCHASE AND UTILIZE THE  
21 SERVICES OF ANY APPROPRIATE PUBLIC OR VOLUNTARY AGENCY IN PROVIDING OR  
22 ARRANGING FOR SUCH SERVICES. SERVICES PURCHASED BY THE SAVS UNIT PURSU-  
23 ANT TO THIS TITLE SHALL BE REIMBURSED BY THE STATE TO THE LOCALITY.

24 6. EACH DESIGNATED AGENCY SHALL SUBMIT TO THE DIRECTOR, AFTER CONSUL-  
25 TATION WITH LOCAL LAW ENFORCEMENT AGENCIES, THE FAMILY COURT AND APPRO-  
26 PRIATE PUBLIC VOLUNTARY AGENCIES AND AFTER A PUBLIC HEARING, A  
27 DISTRICT-WIDE SENIOR ANTI-VIOLENCE ENFORCEMENT PLAN, AS PRESCRIBED BY  
28 THE DIRECTOR WHICH SHALL DESCRIBE THE IMPLEMENTATION OF THIS TITLE  
29 INCLUDING THE ORGANIZATION, STAFFING, MODE OF OPERATIONS AND FINANCING  
30 OF THE SAVS UNIT AS WELL AS THE PROVISIONS MADE FOR PURCHASE OF SERVICE  
31 AND INTER-AGENCY RELATIONS. EACH DESIGNATED AGENCY SHALL PREPARE AND  
32 SUBMIT ANNUAL IMPLEMENTATION REPORTS INCLUDING INFORMATION RELATED TO  
33 ITS SAVS UNIT TO THE OFFICE FOR ITS REVIEW AND APPROVAL.

34 7. A SAVS UNIT SHALL ESTABLISH A MULTIDISCIPLINARY INVESTIGATIVE TEAM  
35 OR TEAMS FOR THE PURPOSE OF INVESTIGATING REPORTS OF SUSPECTED ABUSE OR  
36 MALTREATMENT OF SENIORS. SUCH MULTIDISCIPLINARY INVESTIGATIVE TEAM MAY  
37 INCLUDE, BUT IS NOT LIMITED TO, REPRESENTATIVES FROM THE ADULT PROTEC-  
38 TIVE SERVICE, OFFICE OF THE DISTRICT ATTORNEY OR LOCAL LAW ENFORCEMENT,  
39 THE MEDICAL PROFESSION, PUBLIC HEALTH AGENCIES, MENTAL HEALTH AGENCIES,  
40 MEDICAL FACILITIES, INCLUDING HOSPITALS OR OTHER APPROPRIATE AGENCIES OR  
41 INSTITUTIONS AND PERSONNEL OF ANY EXISTING SENIOR ADVOCACY OR SERVICE  
42 CENTERS. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY,  
43 MEMBERS OF A MULTIDISCIPLINARY INVESTIGATIVE TEAM MAY SHARE WITH OTHER  
44 TEAM MEMBERS CLIENT-IDENTIFIABLE INFORMATION CONCERNING THE SENIOR OR  
45 SENIOR'S FAMILY TO FACILITATE THE INVESTIGATION OF SUSPECTED ABUSE OR  
46 MALTREATMENT. NOTHING HEREIN SHALL PRECLUDE THE CREATION OF MULTIDISCI-  
47 PLINARY TEAMS WHICH INCLUDE MORE THAN ONE DESIGNATED AGENCY. EACH TEAM  
48 SHALL DEVELOP A WRITTEN PROTOCOL FOR INVESTIGATION OF ABUSE AND FOR  
49 INTERVIEWING ABUSE AND MALTREATMENT VICTIMS.

50 8. A SAVS UNIT SHALL PLAN WITH OTHER PUBLIC, PRIVATE AND VOLUNTARY  
51 AGENCIES INCLUDING BUT NOT LIMITED TO HEALTH, MENTAL HEALTH, AGING,  
52 LEGAL AND LAW ENFORCEMENT AGENCIES, FOR THE PURPOSE OF ASSURING MAXIMUM  
53 LOCAL UNDERSTANDING, COORDINATION AND COOPERATIVE ACTION IN THE  
54 PROVISION OF APPROPRIATE SERVICES.

55 S 425. DUTIES OF THE SAVS UNIT. 1. A SAVS UNIT SHALL RECEIVE ON A  
56 TWENTY-FOUR HOUR, SEVEN DAY A WEEK BASIS ALL REPORTS OF SUSPECTED ABUSE



1 OR MALTREATMENT OF A SENIOR IN ACCORDANCE WITH THIS TITLE, THE LOCAL  
2 PLAN AND THE REGULATIONS OF THE DIRECTOR, AND SHALL MAINTAIN AND KEEP  
3 UP-TO-DATE A REGISTRY OF ALL CASES REPORTED UNDER THIS TITLE TOGETHER  
4 WITH ANY ADDITIONAL INFORMATION OBTAINED AND A RECORD OF THE FINAL  
5 DISPOSITION OF THE REPORT, INCLUDING SERVICES OFFERED AND ACCEPTED.

6 2. UPON RECEIPT OF A WRITTEN REPORT, THE SAVS UNIT SHALL TRANSMIT A  
7 COPY TO THE STATE REGISTRY, AND WITHIN SEVEN DAYS AFTER RECEIPT OF THE  
8 INITIAL REPORT, SHALL SEND A PRELIMINARY WRITTEN REPORT OF THE INITIAL  
9 INVESTIGATION, INCLUDING EVALUATION AND ACTIONS TAKEN OR CONTEMPLATED,  
10 TO THE REGISTRY. FOLLOW-UP REPORTS SHALL BE MADE AT REGULAR INTERVALS  
11 THEREAFTER IN A MANNER AND FORM PRESCRIBED BY THE DIRECTOR BY REGULATION  
12 TO THE END THAT THE STATE REGISTRY IS KEPT FULLY INFORMED AND UP-TO-DATE  
13 CONCERNING THE HANDLING OF REPORTS.

14 3. A SAVS UNIT SHALL GIVE TELEPHONE NOTICE AND FORWARD IMMEDIATELY A  
15 COPY OF REPORTS MADE PURSUANT TO THIS TITLE WHICH INVOLVE THE DEATH OF A  
16 SENIOR TO THE APPROPRIATE DISTRICT ATTORNEY. IN ADDITION, TELEPHONE  
17 NOTICE SHALL BE GIVEN AND A COPY OF ANY OR ALL REPORTS MADE PURSUANT TO  
18 THIS TITLE SHALL BE FORWARDED IMMEDIATELY TO THE APPROPRIATE DISTRICT  
19 ATTORNEY IF A PRIOR REQUEST IN WRITING FOR SUCH NOTICE AND COPIES HAS  
20 BEEN MADE TO THE UNIT BY THE DISTRICT ATTORNEY, AND IF THE DIRECTOR  
21 SHALL APPROVE. SUCH REQUEST SHALL SPECIFY THE KINDS OF ALLEGATIONS  
22 CONCERNING WHICH THE DISTRICT ATTORNEY REQUIRES SUCH NOTICE AND COPIES  
23 AND SHALL PROVIDE A COPY OF THE RELEVANT PROVISIONS OF LAW.

24 4. UPON RECEIPT OF A REPORT, THE SAVS UNIT SHALL WITHIN TWENTY-FOUR  
25 HOURS COMMENCE AN INVESTIGATION OF THE RISK FOR THE SENIOR TO REMAIN IN  
26 THE EXISTING ENVIRONMENT, A DETERMINATION OF THE NATURE, EXTENT AND  
27 CAUSE OF ANY CONDITION ENUMERATED IN THE REPORT, AND, AFTER SEEING TO  
28 THE SAFETY OF THE SENIOR, NOTIFY THE SUBJECTS OF THE REPORT AND OTHER  
29 PERSONS NAMED IN THE REPORT IN WRITING OF THE EXISTENCE OF THE REPORT  
30 AND EACH PERSON'S RESPECTIVE RIGHTS PURSUANT TO THIS TITLE IN REGARD TO  
31 AMENDMENT.

32 5. THE SAVS UNIT SHALL DETERMINE, WITHIN SIXTY DAYS, WHETHER THE  
33 REPORT IS "INDICATED" OR "UNFOUNDED".

34 6. THE UNIT SHALL REFER ANY SUSPECTED CASES OF FALSELY REPORTING ABUSE  
35 AND MALTREATMENT OF A SENIOR TO THE APPROPRIATE LAW ENFORCEMENT AGENCY  
36 OR DISTRICT ATTORNEY.

37 7. THE SAVS UNIT SHALL TAKE APPROPRIATE ACTION TO PROTECT A SENIOR  
38 FROM FURTHER ABUSE OR MALTREATMENT, INCLUDING OFFERING APPROPRIATE  
39 SERVICES AND IN CASES IN WHICH AN OFFER OF SERVICE IS REFUSED AND THE  
40 SAVS UNIT DETERMINES THAT THE BEST INTERESTS OF THE SENIOR REQUIRE COURT  
41 ACTION, INITIATE THE APPROPRIATE PROCEEDING OR MAKE A REFERRAL TO THE  
42 APPROPRIATE DISTRICT ATTORNEY, OR BOTH.

43 8. ANY DESIGNATED AGENCY OR SAVS UNIT OFFICIAL AUTHORIZED OR REQUIRED  
44 TO DETERMINE THE NEED FOR AND/OR PROVIDE OR ARRANGE FOR THE PROVISION OF  
45 SERVICES TO SENIORS IN ACCORDANCE WITH THE PROVISIONS OF THIS TITLE  
46 SHALL HAVE IMMUNITY FROM ANY CIVIL LIABILITY THAT MIGHT OTHERWISE RESULT  
47 BY REASON OF PROVIDING SUCH SERVICES, PROVIDED SUCH OFFICIAL WAS ACTING  
48 WITHIN THE SCOPE OF EMPLOYMENT AND IN THE DISCHARGE OF OFFICIAL DUTIES,  
49 AND THAT SUCH LIABILITY DID NOT RESULT FROM THE WILLFUL ACT OR GROSS  
50 NEGLIGENCE OF SUCH OFFICIAL OR HIS OR HER DESIGNEE.

51 9. WHEN A SAVS OFFICIAL SHALL HAVE REASON TO BELIEVE THAT A CRIMINAL  
52 OFFENSE HAS BEEN COMMITTED AGAINST A SENIOR WHO HAS BECOME AN ABUSED  
53 SENIOR, THE OFFICIAL SHALL REPORT THIS INFORMATION TO THE APPROPRIATE  
54 POLICE OR SHERIFF'S DEPARTMENT AND THE DISTRICT ATTORNEY'S OFFICE WHEN  
55 SUCH OFFICE HAS REQUESTED SUCH INFORMATION BE REPORTED BY A LOCAL SOCIAL  
56 SERVICES OFFICIAL OR HIS OR HER DESIGNEE.

1 S 426. LOCAL AND REGIONAL FATALITY REVIEW TEAMS. 1. A FATALITY REVIEW  
2 TEAM MAY BE ESTABLISHED AT A LOCAL OR REGIONAL LEVEL, WITH THE APPROVAL  
3 OF THE OFFICE, FOR THE PURPOSE OF INVESTIGATING THE DEATH OF ANY SENIOR  
4 IN THE CASE OF A REPORT MADE TO THE REGISTRY. NOTWITHSTANDING ANY OTHER  
5 PROVISION OF LAW TO THE CONTRARY AND TO THE EXTENT CONSISTENT WITH  
6 FEDERAL LAW, SUCH LOCAL OR REGIONAL FATALITY REVIEW TEAM SHALL HAVE  
7 ACCESS TO THOSE CLIENT-IDENTIFIABLE RECORDS NECESSARY FOR THE PREPARA-  
8 TION OF THE REPORT, AS AUTHORIZED IN ACCORDANCE WITH THIS TITLE.

9 2. A LOCAL OR REGIONAL FATALITY REVIEW TEAM MUST INCLUDE REPRESENTEN-  
10 TATIVES FROM THE LOCAL SERVICE, THE OFFICE, THE OFFICE OF THE DISTRICT  
11 ATTORNEY OR LOCAL LAW ENFORCEMENT, OFFICE OF THE MEDICAL EXAMINER OR  
12 CORONER, AND A PHYSICIAN OR COMPARABLE MEDICAL PROFESSIONAL. A LOCAL OR  
13 REGIONAL FATALITY REVIEW TEAM MAY ALSO INCLUDE REPRESENTATIVES FROM  
14 PUBLIC HEALTH AGENCIES, MENTAL HEALTH AGENCIES, AND MEDICAL FACILITIES,  
15 INCLUDING HOSPITALS OR OTHER APPROPRIATE AGENCIES OR INSTITUTIONS.

16 S 427. GRANTS FOR SENIOR ANTI-VIOLENCE PROJECTS. THE DIRECTOR SHALL,  
17 WITHIN AMOUNTS APPROPRIATED THEREFOR FROM THE SENIOR ANTI-VIOLENCE  
18 SERVICES ACCOUNT ESTABLISHED PURSUANT TO SECTION NINETY-SEVEN-LLLL OF  
19 THE STATE FINANCE LAW, PROVIDE GRANTS TO LOCAL GOVERNMENTS AND NOT-FOR-  
20 PROFIT ORGANIZATIONS TO:

21 1. IMPROVE RESEARCH, DATA COLLECTION, AND REPORTING ON ELDER/ADULT  
22 ABUSE.

23 2. IMPLEMENT RESEARCH AND PROGRAM INNOVATION.

24 3. PUBLIC EDUCATION.

25 4. DEVELOPMENT OF INTERGOVERNMENTAL AND PUBLIC-PRIVATE PARTNERSHIPS TO  
26 COMBAT ELDER ABUSE.

27 5. RESEARCH INTO DELIVERY SYSTEMS AND BARRIERS TO ACCESS THE SERVICES  
28 SYSTEM, DATA COLLECTION AND REPORTING.

29 6. PROTECTION OF VICTIMS.

30 7. DEVELOPMENT OF BEST AND INNOVATIVE PRACTICES IN CARRYING OUT  
31 SERVICES.

32 8. REVIEW OF POLICIES IN ORDER TO BETTER COORDINATE PREVENTIONS,  
33 INTERVENTIONS (INCLUDING PROSECUTION), SERVICES AND VICTIMS' ASSISTANCE  
34 FOR ABUSED, EXPLOITED, AND NEGLECTED ELDERS.

35 9. DEVELOPMENT OF A BROAD-BASED, MULTIDISCIPLINARY TASK FORCE OR  
36 COALITION TO EXAMINE SYSTEMIC APPROACHES TO RESPONDING TO ELDER ABUSE.

37 10. DEVELOPMENT AND IMPLEMENTATION OF A MULTIDISCIPLINARY RESEARCH  
38 AGENDA TO SUSTAIN, ADVANCE AND ASSESS PROFESSIONAL TRAINING AND PRACTICE  
39 ON ADULT OR ELDER ABUSE.

40 11. PROVIDE SPECIALIZED TRAINING TO COMPONENTS OF THE JUSTICE SYSTEM  
41 IS ESSENTIAL TO BETTER IDENTIFY CASES, IMPROVE INVESTIGATIONS, INCREASE  
42 PROSECUTIONS, BETTER SERVE VICTIMS, ESTABLISH INTERDISCIPLINARY COORDI-  
43 NATION, AND PROMOTE ELDER ABUSE AND NEGLECT PREVENTION PROGRAMS.

44 S 3. The section heading and subdivision 1 of section 60.35 of the  
45 penal law, as amended by section 1 of part E of chapter 56 of the laws  
46 of 2004, subparagraphs (i), (ii) and (iii) of paragraph (a) of subdivi-  
47 sion 1 as amended by section 1 of part DD of chapter 56 of the laws of  
48 2008, and paragraph (b) of subdivision 1 as amended by chapter 320 of  
49 the laws of 2006, are amended to read as follows:

50 Mandatory surcharge, sex offender registration fee, DNA databank fee,  
51 supplemental sex offender victim fee [and], crime victim assistance AND  
52 A SENIOR ANTI-VIOLENCE SERVICES fee required in certain cases.

53 1. (a) Except as provided in section eighteen hundred nine of the  
54 vehicle and traffic law and section 27.12 of the parks, recreation and  
55 historic preservation law, whenever proceedings in an administrative  
56 tribunal or a court of this state result in a conviction for a felony, a

1 misdemeanor, or a violation, as these terms are defined in section 10.00  
2 of this chapter, there shall be levied at sentencing a mandatory  
3 surcharge, sex offender registration fee, DNA databank fee [and], a  
4 crime victim assistance fee AND A SENIOR ANTI-VIOLENCE SERVICES FEE in  
5 addition to any sentence required or permitted by law, in accordance  
6 with the following schedule:

7 (i) a person convicted of a felony shall pay a mandatory surcharge of  
8 three hundred dollars [and], a crime victim assistance fee of twenty-  
9 five dollars, AND A SENIOR ANTI-VIOLENCE SERVICES FEE OF FIFTY DOLLARS;

10 (ii) a person convicted of a misdemeanor shall pay a mandatory  
11 surcharge of one hundred seventy-five dollars [and], a crime victim  
12 assistance fee of twenty-five dollars, AND A SENIOR ANTI-VIOLENCE  
13 SERVICES FEE OF FIFTY DOLLARS;

14 (iii) a person convicted of a violation shall pay a mandatory  
15 surcharge of ninety-five dollars [and], a crime victim assistance fee of  
16 twenty-five dollars, AND A SENIOR ANTI-VIOLENCE SERVICES FEE OF FIFTY  
17 DOLLARS;

18 (iv) a person convicted of a sex offense as defined by subdivision two  
19 of section one hundred sixty-eight-a of the correction law or a sexually  
20 violent offense as defined by subdivision three of section one hundred  
21 sixty-eight-a of the correction law shall, in addition to a mandatory  
22 surcharge and crime victim assistance fee, pay a sex offender registra-  
23 tion fee of fifty dollars[.], AND A SENIOR ANTI-VIOLENCE SERVICES FEE OF  
24 FIFTY DOLLARS;

25 (v) a person convicted of a designated offense as defined by subdivi-  
26 sion seven of section nine hundred ninety-five of the executive law  
27 shall, in addition to a mandatory surcharge and crime victim assistance  
28 fee, pay a DNA databank fee of fifty dollars, AND A SENIOR ANTI-VIOLENCE  
29 SERVICES FEE OF FIFTY DOLLARS.

30 (b) When the felony or misdemeanor conviction in [subparagraphs]  
31 SUBPARAGRAPH (i), (ii) or (iv) of paragraph (a) of this subdivision  
32 results from an offense contained in article one hundred thirty of this  
33 chapter, incest in the third, second or first degree as defined in  
34 sections 255.25, 255.26 and 255.27 of this chapter or an offense  
35 contained in article two hundred sixty-three of this chapter, the person  
36 convicted shall pay a supplemental sex offender victim fee of one thou-  
37 sand dollars, AND A SENIOR ANTI-VIOLENCE SERVICES FEE OF FIVE HUNDRED  
38 DOLLARS, in addition to the mandatory surcharge and any other fee.

39 S 4. The state finance law is amended by adding a new section 97-llll  
40 to read as follows:

41 S 97-LLLL. SENIOR ANTI-VIOLENCE SERVICES ACCOUNT. 1. THERE IS HEREBY  
42 ESTABLISHED IN THE JOINT CUSTODY OF THE STATE COMPTROLLER AND THE  
43 COMMISSIONER OF THE DEPARTMENT OF TAXATION AND FINANCE A SPECIAL REVENUE  
44 FUND TO BE KNOWN AS THE "SENIOR ANTI-VIOLENCE SERVICES ACCOUNT".

45 2. THE SENIOR ANTI-VIOLENCE SERVICES ACCOUNT SHALL CONSIST OF THOSE  
46 MONIES RECEIVED BY THE STATE PURSUANT TO SECTION 60.35 OF THE PENAL LAW  
47 AND MONIES RECEIVED BY THE STATE PURSUANT TO SECTION EIGHTEEN HUNDRED  
48 NINE OF THE VEHICLE AND TRAFFIC LAW FROM ANY COURT OF THE UNIFIED COURT  
49 SYSTEM OTHER THAN TOWN OR VILLAGE COURTS AND ALL OTHER FEES, FINES,  
50 GRANTS, BEQUESTS OR OTHER MONIES CREDITED, APPROPRIATED OR TRANSFERRED  
51 THERETO FROM ANY OTHER FUND OR SOURCE.

52 3. MONIES OF THE SENIOR ANTI-VIOLENCE SERVICES ACCOUNT, FOLLOWING  
53 APPROPRIATION BY THE LEGISLATURE AND ALLOCATION BY THE DIRECTOR OF THE  
54 BUDGET SHALL BE MADE AVAILABLE FOR LOCAL ASSISTANCE SERVICES AND  
55 EXPENSES OF PROGRAMS TO PROVIDE SENIOR ANTI-VIOLENCE SERVICES THROUGH

1 THE STATE OFFICE FOR THE AGING, AS ADMINISTERED PURSUANT TO THE ELDER  
2 LAW.

3 S 5. Section 1809 of the vehicle and traffic law, as amended by chap-  
4 ter 55 of the laws of 1992, subdivision 1 as amended by section 2 of  
5 part DD of chapter 56 of the laws of 2008, the opening paragraph and  
6 paragraph (c) of subdivision 1 as separately amended by chapters 43, 99,  
7 101, and 123 of the laws of 2014, subdivision 2 as amended by section 6  
8 of part C of chapter 55 of the laws of 2013, subdivision 3 as amended by  
9 chapter 309 of the laws of 1996, subdivision 5 as amended by chapter 385  
10 of the laws of 1999, subdivision 8 as amended by section 13 of part E of  
11 chapter 55 of the laws of 2013, subdivision 9 as amended by chapter 452  
12 of the laws of 1999, and subdivision 10 as added by section 3 of part F  
13 of chapter 56 of the laws of 2004, is amended to read as follows:

14 S 1809. Mandatory surcharge and crime victim assistance fee required  
15 in certain cases.

16 1. Whenever proceedings in an administrative tribunal or a court of  
17 this state result in a conviction for an offense under this chapter or a  
18 traffic infraction under this chapter, or a local law, ordinance, rule  
19 or regulation adopted pursuant to this chapter, other than a traffic  
20 infraction involving standing, stopping, or parking or violations by  
21 pedestrians or bicyclists, or other than an adjudication of liability of  
22 an owner for a violation of subdivision (d) of section eleven hundred  
23 eleven of this chapter in accordance with section eleven hundred  
24 eleven-a of this chapter, or other than an adjudication of liability of  
25 an owner for a violation of subdivision (d) of section eleven hundred  
26 eleven of this chapter in accordance with section eleven hundred  
27 eleven-b of this chapter, or other than an adjudication in accordance  
28 with section eleven hundred eleven-c of this chapter for a violation of  
29 a bus lane restriction as defined in such section, or other than an  
30 adjudication of liability of an owner for a violation of subdivision (d)  
31 of section eleven hundred eleven of this chapter in accordance with  
32 section eleven hundred eleven-d of this chapter, or other than an adju-  
33 dication of liability of an owner for a violation of subdivision (b),  
34 (c), (d), (f) or (g) of section eleven hundred eighty of this chapter in  
35 accordance with section eleven hundred eighty-b of this chapter, or  
36 other than an adjudication of liability of an owner for a violation of  
37 subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty  
38 of this chapter in accordance with section eleven hundred eighty-c of  
39 this chapter, there shall be levied a crime victim assistance fee, A  
40 SENIOR ANTI-VIOLENCE SERVICES FEE and a mandatory surcharge, in addition  
41 to any sentence required or permitted by law, in accordance with the  
42 following schedule:

43 (a) Whenever proceedings in an administrative tribunal or a court of  
44 this state result in a conviction for a traffic infraction pursuant to  
45 article nine of this chapter, there shall be levied a crime victim  
46 assistance fee in the amount of five dollars, A SENIOR ANTI-VIOLENCE  
47 SERVICES FEE OF FIVE DOLLARS and a mandatory surcharge, in addition to  
48 any sentence required or permitted by law, in the amount of twenty-five  
49 dollars.

50 (b) Whenever proceedings in an administrative tribunal or a court of  
51 this state result in a conviction for a misdemeanor or felony pursuant  
52 to section eleven hundred ninety-two of this chapter, there shall be  
53 levied, in addition to any sentence required or permitted by law, a  
54 crime victim assistance fee in the amount of twenty-five dollars, A  
55 SENIOR ANTI-VIOLENCE SERVICES FEE OF FIVE DOLLARS and a mandatory  
56 surcharge in accordance with the following schedule:

1 (i) a person convicted of a felony shall pay a mandatory surcharge of  
2 three hundred dollars;

3 (ii) a person convicted of a misdemeanor shall pay a mandatory  
4 surcharge of one hundred seventy-five dollars.

5 (c) Whenever proceedings in an administrative tribunal or a court of  
6 this state result in a conviction for an offense under this chapter  
7 other than a crime pursuant to section eleven hundred ninety-two of this  
8 chapter, or a traffic infraction under this chapter, or a local law,  
9 ordinance, rule or regulation adopted pursuant to this chapter, other  
10 than a traffic infraction involving standing, stopping, or parking or  
11 violations by pedestrians or bicyclists, or other than an adjudication  
12 of liability of an owner for a violation of subdivision (d) of section  
13 eleven hundred eleven of this chapter in accordance with section eleven  
14 hundred eleven-a of this chapter, or other than an adjudication of  
15 liability of an owner for a violation of subdivision (d) of section  
16 eleven hundred eleven of this chapter in accordance with section eleven  
17 hundred eleven-b of this chapter, or other than an adjudication of  
18 liability of an owner for a violation of subdivision (d) of section  
19 eleven hundred eleven of this chapter in accordance with section eleven  
20 hundred eleven-d of this chapter, or other than an infraction pursuant  
21 to article nine of this chapter or other than an adjudication of liability  
22 of an owner for a violation of toll collection regulations pursuant  
23 to section two thousand nine hundred eighty-five of the public authori-  
24 ties law or sections sixteen-a, sixteen-b and sixteen-c of chapter seven  
25 hundred seventy-four of the laws of nineteen hundred fifty or other than  
26 an adjudication in accordance with section eleven hundred eleven-c of  
27 this chapter for a violation of a bus lane restriction as defined in  
28 such section, or other than an adjudication of liability of an owner for  
29 a violation of subdivision (b), (c), (d), (f) or (g) of section eleven  
30 hundred eighty of this chapter in accordance with section eleven hundred  
31 eighty-b of this chapter, or other than an adjudication of liability of  
32 an owner for a violation of subdivision (b), (c), (d), (f) or (g) of  
33 section eleven hundred eighty of this chapter in accordance with section  
34 eleven hundred eighty-c of this chapter, there shall be levied a crime  
35 victim assistance fee in the amount of five dollars, A SENIOR ANTI-VIO-  
36 LENCE SERVICES FEE OF FIVE DOLLARS and a mandatory surcharge, in addi-  
37 tion to any sentence required or permitted by law, in the amount of  
38 fifty-five dollars.

39 2. Where a person is convicted of two or more such crimes or traffic  
40 infractions committed through a single act or omission, or through an  
41 act or omission which in itself constituted one of the crimes or traffic  
42 infractions and also was a material element of the other, the court or  
43 administrative tribunal shall impose a crime victim assistance fee and a  
44 mandatory surcharge mandated by subdivision one of this section for each  
45 such conviction; provided however, that in no event shall the total  
46 amount of such crime victim assistance fees and mandatory surcharges  
47 imposed pursuant to paragraph (a) or (c) of subdivision one of this  
48 section exceed one hundred ninety-six dollars.

49 3. The mandatory surcharge provided for in subdivision one of this  
50 section shall be paid to the clerk of the court or administrative tribu-  
51 nal that rendered the conviction. Within the first ten days of the month  
52 following collection of the mandatory surcharge the collecting authority  
53 shall determine the amount of mandatory surcharge collected and, if it  
54 is an administrative tribunal or a town or village justice court, it  
55 shall pay such money to the state comptroller who shall deposit such  
56 money in the state treasury pursuant to section one hundred twenty-one

1 of the state finance law to the credit of the general fund. If such  
2 collecting authority is any other court of the unified court system, it  
3 shall, within such period, pay such money to the state commissioner of  
4 taxation and finance to the credit of the criminal justice improvement  
5 account established by section ninety-seven-bb of the state finance law,  
6 OR IN THE CASE OF THE SENIOR ANTI-VIOLENCE SERVICES FEE, TO THE CREDIT  
7 OF THE SENIOR ANTI-VIOLENCE SERVICES ACCOUNT ESTABLISHED PURSUANT TO  
8 SECTION NINETY-SEVEN-LLLL OF THE STATE FINANCE LAW. The crime victim  
9 assistance fee provided for in subdivision one of this section shall be  
10 paid to the clerk of the court or administrative tribunal that rendered  
11 the conviction. Within the first ten days of the month following  
12 collection of the crime victim assistance fee AND THE SENIOR ANTI-VIO-  
13 LENCE SERVICES FEE, the collecting authority shall determine the amount  
14 of crime victim assistance fee AND THE SENIOR ANTI-VIOLENCE SERVICES FEE  
15 collected and, if it is an administrative tribunal or a town or village  
16 justice court, it shall pay such money to the state comptroller who  
17 shall deposit such money in the state treasury pursuant to section one  
18 hundred twenty-one of the state finance law to the credit of the crimi-  
19 nal justice improvement account established by section ninety-seven-bb  
20 of the state finance law, OR IN THE CASE OF THE SENIOR ANTI-VIOLENCE  
21 SERVICES FEE, TO THE CREDIT OF THE SENIOR ANTI-VIOLENCE SERVICES ACCOUNT  
22 ESTABLISHED PURSUANT TO SECTION NINETY-SEVEN-LLLL OF THE STATE FINANCE  
23 LAW.

24 4. Any person who has paid a mandatory surcharge or crime victim  
25 assistance fee OR A SENIOR ANTI-VIOLENCE SERVICES FEE under the authori-  
26 ty of this section which is ultimately determined not to be required by  
27 this section shall be entitled to a refund of such mandatory surcharge  
28 or crime victim assistance fee OR SENIOR ANTI-VIOLENCE SERVICES FEE upon  
29 application to the state comptroller. The state comptroller shall  
30 require such proof as it is necessary in order to determine whether a  
31 refund is required by law.

32 5. When a person who is convicted of a crime or traffic infraction and  
33 sentenced to a term of imprisonment has failed to pay the mandatory  
34 surcharge or crime victim assistance fee OR THE SENIOR ANTI-VIOLENCE  
35 SERVICES FEE required by this section, the clerk of the court or the  
36 administrative tribunal that rendered the conviction shall notify the  
37 superintendent or the municipal official of the facility where the  
38 person is confined. The superintendent or the municipal official shall  
39 cause any amount owing to be collected from such person during his term  
40 of imprisonment from moneys to the credit of an inmates' fund or such  
41 moneys as may be earned by a person in a work release program pursuant  
42 to section eight hundred sixty of the correction law. Such moneys shall  
43 be paid over to the state comptroller to the credit of the criminal  
44 justice improvement account established by section ninety-seven-bb of  
45 the state finance law, OR IN THE CASE OF THE SENIOR ANTI-VIOLENCE  
46 SERVICES FEE, TO THE CREDIT OF THE SENIOR ANTI-VIOLENCE SERVICES ACCOUNT  
47 ESTABLISHED PURSUANT TO SECTION NINETY-SEVEN-LLLL OF THE STATE FINANCE  
48 LAW, except that any such moneys collected which are surcharges or crime  
49 victim assistance fees OR SENIOR ANTI-VIOLENCE SERVICES FEES levied in  
50 relation to convictions obtained in a town or village justice court  
51 shall be paid within thirty days after the receipt thereof by the super-  
52 intendent or municipal official of the facility to the justice of the  
53 court in which the conviction was obtained. For the purposes of collect-  
54 ing such mandatory surcharge or crime victim assistance [fee] OR SENIOR  
55 ANTI-VIOLENCE SERVICES FEES, the state shall be legally entitled to the  
56 money to the credit of an inmates' fund or money which is earned by an

1 inmate in a work release program. For purposes of this subdivision, the  
2 term "inmates' fund" shall mean moneys in the possession of an inmate at  
3 the time of his admission into such facility, funds earned by him as  
4 provided for in section one hundred eighty-seven of the correction law  
5 and any other funds received by him or on his behalf and deposited with  
6 such superintendent or municipal official.

7 5-a. The provisions of subdivision four-a of section five hundred ten,  
8 subdivision three of section five hundred fourteen and subdivision three  
9 of section two hundred twenty-seven of this chapter governing actions  
10 which may be taken for failure to pay a fine or penalty shall be appli-  
11 cable to a mandatory surcharge or crime victim assistance fee OR SENIOR  
12 ANTI-VIOLENCE SERVICES FEE imposed pursuant to this section.

13 6. Notwithstanding any other provision of this section, where a person  
14 has made restitution or reparation pursuant to section 60.27 of the  
15 penal law, such person shall not be required to pay a mandatory  
16 surcharge or crime victim assistance fee OR SENIOR ANTI-VIOLENCE  
17 SERVICES FEE.

18 7. Notwithstanding any other provision of this section, where a manda-  
19 tory surcharge or crime victim assistance fee OR SENIOR ANTI-VIOLENCE  
20 SERVICES FEE is imposed pursuant to the provisions of section 60.35 of  
21 the penal law, no mandatory surcharge or crime victim assistance fee OR  
22 SENIOR ANTI-VIOLENCE SERVICES FEE shall be imposed pursuant to the  
23 provisions of this section.

24 8. The provisions of this section shall only apply to offenses commit-  
25 ted on or before September first, two thousand fifteen.

26 9. Notwithstanding the provisions of subdivision one of this section,  
27 in the event a proceeding is in a town or village court, the court shall  
28 add an additional five dollars to the surcharges imposed by such subdi-  
29 vision one of this section.

30 10. For the purposes of this section, the term conviction means and  
31 includes the conviction of a felony or a misdemeanor for which a youth-  
32 ful offender finding was substituted and upon such a finding there shall  
33 be levied a mandatory surcharge and a crime victim assistance fee to the  
34 same extent and in the same manner and amount provided by this section  
35 for conviction of the felony or misdemeanor, as the case may be, for  
36 which such youthful offender finding was substituted.

37 S 6. Subdivision 1 of section 1809 of the vehicle and traffic law, as  
38 separately amended by section 3-a of chapter 43 and section 10-a of  
39 chapters 99, 101 and 123 of the laws of 2014, is amended to read as  
40 follows:

41 1. Whenever proceedings in an administrative tribunal or a court of  
42 this state result in a conviction for a crime under this chapter or a  
43 traffic infraction under this chapter, or a local law, ordinance, rule  
44 or regulation adopted pursuant to this chapter, other than a traffic  
45 infraction involving standing, stopping, parking or motor vehicle equip-  
46 ment or violations by pedestrians or bicyclists, or other than an adju-  
47 dication of liability of an owner for a violation of subdivision (d) of  
48 section eleven hundred eleven of this chapter in accordance with section  
49 eleven hundred eleven-a of this chapter, or other than an adjudication  
50 of liability of an owner for a violation of subdivision (d) of section  
51 eleven hundred eleven of this chapter in accordance with section eleven  
52 hundred eleven-b of this chapter, or other than an adjudication in  
53 accordance with section eleven hundred eleven-c of this chapter for a  
54 violation of a bus lane restriction as defined in such section, or other  
55 than an adjudication of liability of an owner for a violation of subdi-  
56 vision (d) of section eleven hundred eleven of this chapter in accord-

1   ance with section eleven hundred eleven-d of this chapter, or other than  
2   an adjudication of liability of an owner for a violation of subdivision  
3   (b), (c), (d), (f) or (g) of section eleven hundred eighty of this chap-  
4   ter in accordance with section eleven hundred eighty-b of this chapter,  
5   or other than an adjudication of liability of an owner for a violation  
6   of subdivision (b), (c), (d), (f) or (g) of section eleven hundred  
7   eighty of this chapter in accordance with section eleven hundred eight-  
8   y-c of this chapter, there shall be levied a mandatory surcharge, in  
9   addition to any sentence required or permitted by law, in the amount of  
10  twenty-five dollars, AND A SENIOR ANTI-VIOLENCE SERVICES FEE OF TWENTY-  
11  FIVE DOLLARS.

12   S 6-a. Subdivision 1 of section 1809 of the vehicle and traffic law,  
13   as separately amended by section 3-b of chapter 43 and section 10-b of  
14   chapters 99, 101, and 123 of the laws of 2014, is amended to read as  
15   follows:

16   1. Whenever proceedings in an administrative tribunal or a court of  
17   this state result in a conviction for a crime under this chapter or a  
18   traffic infraction under this chapter other than a traffic infraction  
19   involving standing, stopping, parking or motor vehicle equipment or  
20   violations by pedestrians or bicyclists, or other than an adjudication  
21   in accordance with section eleven hundred eleven-c of this chapter for a  
22   violation of a bus lane restriction as defined in such section, or other  
23   than an adjudication of liability of an owner for a violation of subdi-  
24   vision (d) of section eleven hundred eleven of this chapter in accord-  
25   ance with section eleven hundred eleven-d of this chapter, or other than  
26   an adjudication of liability of an owner for a violation of subdivision  
27   (b), (c), (d), (f) or (g) of section eleven hundred eighty of this chap-  
28   ter in accordance with section eleven hundred eighty-b of this chapter,  
29   or other than an adjudication of liability of an owner for a violation  
30   of subdivision (b), (c), (d), (f) or (g) of section eleven hundred  
31   eighty of this chapter in accordance with section eleven hundred eight-  
32   y-c of this chapter, there shall be levied a mandatory surcharge, in  
33   addition to any sentence required or permitted by law, in the amount of  
34   seventeen dollars, AND A SENIOR ANTI-VIOLENCE SERVICES FEE OF  
35   TWENTY-FIVE DOLLARS.

36   S 7. Subdivision 1 of section 1809 of the vehicle and traffic law, as  
37   separately amended by section 3-c of chapter 43 and section 10-c of  
38   chapters 99, 101, and 123 of the laws of 2014, is amended to read as  
39   follows:

40   1. Whenever proceedings in an administrative tribunal or a court of  
41   this state result in a conviction for a crime under this chapter or a  
42   traffic infraction under this chapter other than a traffic infraction  
43   involving standing, stopping, parking or motor vehicle equipment or  
44   violations by pedestrians or bicyclists, or other than an adjudication  
45   of liability of an owner for a violation of subdivision (b), (c), (d),  
46   (f) or (g) of section eleven hundred eighty of this chapter in accord-  
47   ance with section eleven hundred eighty-b of this chapter, or other than  
48   an adjudication of liability of an owner for a violation of subdivision  
49   (b), (c), (d), (f) or (g) of section eleven hundred eighty of this chap-  
50   ter in accordance with section eleven hundred eighty-c of this chapter,  
51   or other than an adjudication of liability of an owner for a violation  
52   of subdivision (d) of section eleven hundred eleven of this chapter in  
53   accordance with section eleven hundred eleven-d of this chapter, there  
54   shall be levied a mandatory surcharge, in addition to any sentence  
55   required or permitted by law, in the amount of seventeen dollars, AND A  
56   SENIOR ANTI-VIOLENCE SERVICES FEE OF TWENTY-FIVE DOLLARS.



S 8. Subdivision 3 of section 4 of the banking law, as amended by chapter 601 of the laws of 2007, is amended to read as follows:

3. No financial institution which discloses information pursuant to subdivision two of this section, or discloses any financial record to the state office of temporary and disability assistance or a child support enforcement unit of a social services district for the purpose of enforcing a child support obligation of such person, shall be liable under any law to any person for such disclosure, or for any other action taken in good faith to comply with subdivision two of this section. NO BANKING ORGANIZATION WHICH REPORTS INSTANCES OF SUSPECTED ABUSE OR MISTREATMENT OF SENIORS TO THE STATE OFFICE FOR THE AGING, DESIGNATED AGENCIES AND SAVS UNITS, AS SUCH TERMS ARE DEFINED IN ARTICLE FOUR OF THE ELDER LAW, SHALL BE LIABLE UNDER ANY LAW TO ANY PERSON FOR SUCH DISCLOSURE, OR FOR ANY OTHER ACTION TAKEN IN GOOD FAITH TO COMPLY WITH THE REQUIREMENTS OF SUCH ARTICLE.

S 9. The penal law is amended by adding a new article 261 to read as follows:

#### ARTICLE 261

##### OFFENSES AGAINST THE ELDERLY AND DISABLED

SECTION 261.00 ELDERLY, VULNERABLE ELDERLY AND DISABLED PERSONS; DEFINITIONS.

261.01 CRIMES AGAINST THE ELDERLY AND DISABLED; PRESUMPTION.

261.02 ABANDONMENT OF AN ELDERLY OR DISABLED PERSON.

261.03 ABANDONMENT OF AN ELDERLY OR DISABLED PERSON; DEFENSE.

261.04 ENDANGERING THE WELFARE OF AN ELDERLY OR DISABLED PERSON.

261.05 ENDANGERING THE WELFARE OF AN ELDERLY OR DISABLED PERSON; CORROBORATION.

261.06 ENDANGERING THE WELFARE OF AN ELDERLY OR DISABLED PERSON; DEFENSE.

261.07 ENDANGERING THE WELFARE OF A VULNERABLE ELDERLY PERSON OR A DISABLED PERSON IN THE SECOND DEGREE.

261.08 ENDANGERING THE WELFARE OF A VULNERABLE ELDERLY PERSON OR A DISABLED PERSON IN THE FIRST DEGREE.

S 261.00 ELDERLY, VULNERABLE ELDERLY AND DISABLED PERSONS; DEFINITIONS.

FOR THE PURPOSE OF THIS ARTICLE, THE FOLLOWING DEFINITIONS SHALL APPLY:

1. "CAREGIVER" MEANS A PERSON WHO (I) ASSUMES RESPONSIBILITY FOR THE CARE OF A VULNERABLE ELDERLY PERSON PURSUANT TO A COURT ORDER; OR (II) RECEIVES MONETARY OR OTHER VALUABLE CONSIDERATION FOR PROVIDING CARE FOR A VULNERABLE ELDERLY PERSON.

2. "SEXUAL CONTACT" MEANS ANY TOUCHING OF THE SEXUAL OR OTHER INTIMATE PARTS OF A PERSON NOT MARRIED TO THE ACTOR FOR THE PURPOSE OF GRATIFYING SEXUAL DESIRE OF EITHER PARTY. IT INCLUDES THE TOUCHING OF THE ACTOR BY THE VICTIM, AS WELL AS THE TOUCHING OF THE VICTIM BY THE ACTOR, WHETHER DIRECTLY OR THROUGH CLOTHING.

3. "VULNERABLE ELDERLY PERSON" MEANS A PERSON SIXTY YEARS OF AGE OR OLDER WHO IS SUFFERING FROM A DISEASE OR INFIRMITY ASSOCIATED WITH ADVANCED AGE AND MANIFESTED BY DEMONSTRABLE PHYSICAL, MENTAL OR EMOTIONAL DYSFUNCTION TO THE EXTENT THAT THE PERSON IS INCAPABLE OF ADEQUATELY PROVIDING FOR HIS OR HER OWN HEALTH OR PERSONAL CARE.

4. "ELDERLY PERSON" MEANS A PERSON SIXTY YEARS OF AGE OR OLDER.

5. "DISABLED PERSON" MEANS A PERSON WHO HAS A PHYSICAL OR MENTAL IMPAIRMENT THAT SUBSTANTIALLY LIMITS A MAJOR LIFE ACTIVITY.

S 261.01 CRIMES AGAINST THE ELDERLY AND DISABLED; PRESUMPTION.

1 IN ANY CASE IN WHICH IT SHALL BE SHOWN THAT A PERSON INTENDED TO  
2 COMMIT A SPECIFIED OFFENSE PURSUANT TO SECTION 485.05 OF THIS CHAPTER,  
3 IT SHALL BE A REBUTTAL PRESUMPTION THAT THE PERSON SELECTED THE VICTIM  
4 OR COMMITTED OR INTENDED TO COMMIT THE ACT OR ACTS CONSTITUTING THE  
5 OFFENSE IN WHOLE OR IN SUBSTANTIAL PART BECAUSE OF A BELIEF THAT SUCH  
6 VICTIM IS ELDERLY OR DISABLED.

7 S 261.02 ABANDONMENT OF AN ELDERLY OR DISABLED PERSON.

8 A PERSON IS GUILTY OF ABANDONMENT OF AN ELDERLY OR DISABLED PERSON  
9 WHEN, BEING A PERSON LEGALLY CHARGED WITH THE CARE OR CUSTODY OF AN  
10 ELDERLY OR DISABLED PERSON, HE OR SHE DESERTS SUCH PERSON IN ANY PLACE  
11 WITH INTENT TO WHOLLY ABANDON HIM OR HER.

12 ABANDONMENT OF AN ELDERLY OR DISABLED PERSON IS A CLASS E FELONY.

13 S 261.03 ABANDONMENT OF AN ELDERLY OR DISABLED PERSON; DEFENSE.

14 IN ANY PROSECUTION FOR ABANDONMENT OF AN ELDERLY OR DISABLED PERSON,  
15 PURSUANT TO SECTION 261.02 OF THIS ARTICLE, BASED UPON AN ALLEGED  
16 DESERTION OF AN ELDERLY OR DISABLED PERSON WITH AN INTENT TO WHOLLY  
17 ABANDON SUCH AN ELDERLY OR DISABLED PERSON, IT IS AN AFFIRMATIVE DEFENSE  
18 THAT, WITH THE INTENT THAT THE ELDERLY OR DISABLED PERSON BE SAFE FROM  
19 PHYSICAL INJURY AND CARED FOR IN AN APPROPRIATE MANNER, THE DEFENDANT  
20 LEFT THE ELDERLY OR DISABLED PERSON WITH AN APPROPRIATE PERSON OR IN A  
21 SUITABLE LOCATION AND PROMPTLY NOTIFIED AN APPROPRIATE PERSON OF THE  
22 ELDERLY OR DISABLED PERSON'S LOCATION.

23 S 261.04 ENDANGERING THE WELFARE OF AN ELDERLY OR DISABLED PERSON.

24 A PERSON IS GUILTY OF ENDANGERING THE WELFARE OF AN ELDERLY OR DISA-  
25 BLED PERSON WHEN BEING A PERSON LEGALLY CHARGED WITH THE CARE OR CUSTODY  
26 OF AN ELDERLY OR DISABLED PERSON:

27 1. HE OR SHE KNOWINGLY ACTS IN A MANNER LIKELY TO BE INJURIOUS TO THE  
28 PHYSICAL, MENTAL OR MORAL WELFARE OF AN ELDERLY OR DISABLED PERSON, OR  
29 DIRECTS OR AUTHORIZES SUCH AN ELDERLY OR DISABLED PERSON, TO ENGAGE IN  
30 AN OCCUPATION INVOLVING A SUBSTANTIAL RISK OF DANGER TO HIS OR HER LIFE  
31 OR HEALTH; OR

32 2. HE OR SHE FAILS OR REFUSES TO EXERCISE REASONABLE DILIGENCE IN THE  
33 CONTROL OF SUCH ELDERLY OR DISABLED PERSON TO PREVENT HIM OR HER FROM  
34 PHYSICAL, MENTAL OR MORAL INJURY, OR FROM ENGAGING IN ACTS INVOLVING A  
35 SUBSTANTIAL RISK OF DANGER TO HIS OR HER LIFE OR HEALTH.

36 ENDANGERING THE WELFARE OF AN ELDERLY OR DISABLED PERSON IS A CLASS A  
37 MISDEMEANOR.

38 S 261.05 ENDANGERING THE WELFARE OF AN ELDERLY OR DISABLED PERSON;  
39 CORROBORATION.

40 A PERSON SHALL NOT BE CONVICTED OF ENDANGERING THE WELFARE OF AN  
41 ELDERLY OR DISABLED PERSON, OR OF AN ATTEMPT TO COMMIT THE SAME, UPON  
42 THE TESTIMONY OF A VICTIM WHO IS INCAPABLE OF CONSENT BECAUSE OF MENTAL  
43 DEFECT OR MENTAL INCAPACITY AS TO CONDUCT THAT CONSTITUTES AN OFFENSE OR  
44 AN ATTEMPT TO COMMIT AN OFFENSE REFERRED TO IN SECTION 130.16 OF THIS  
45 CHAPTER, WITHOUT ADDITIONAL EVIDENCE SUFFICIENT PURSUANT TO SECTION  
46 130.16 OF THIS CHAPTER TO SUSTAIN A CONVICTION OF AN OFFENSE REFERRED TO  
47 IN SECTION 130.16 OF THIS CHAPTER, OR OF AN ATTEMPT TO COMMIT THE SAME.

48 S 261.06 ENDANGERING THE WELFARE OF AN ELDERLY OR DISABLED PERSON;  
49 DEFENSE.

50 IN ANY PROSECUTION FOR ENDANGERING THE WELFARE OF AN ELDERLY OR DISA-  
51 BLED PERSON, PURSUANT TO SECTION 261.04 OF THIS ARTICLE:

52 1. BASED UPON AN ALLEGED FAILURE OR REFUSAL TO PROVIDE PROPER MEDICAL  
53 CARE OR TREATMENT TO AN ELDERLY OR DISABLED PERSON, WHO IS ILL, IT IS AN  
54 AFFIRMATIVE DEFENSE THAT THE ELDERLY OR DISABLED PERSON IS A MEMBER OR  
55 ADHERENT OF AN ORGANIZED CHURCH OR RELIGIOUS GROUP THE TENETS OF WHICH  
56 PRESCRIBE PRAYER AS THE PRINCIPAL TREATMENT FOR ILLNESS, AND THAT THE

ELDERLY OR DISABLED PERSON WAS TREATED IN ACCORDANCE WITH SUCH TENETS;  
OR

2. BASED UPON AN ALLEGED DESERTION OF AN ELDERLY OR DISABLED PERSON, IT IS AN AFFIRMATIVE DEFENSE THAT, WITH THE INTENT THAT THE PERSON BE SAFE FROM PHYSICAL INJURY AND CARED FOR IN AN APPROPRIATE MANNER, THE DEFENDANT LEFT THE PERSON WITH AN APPROPRIATE PERSON OR IN A SUITABLE LOCATION AND PROMPTLY NOTIFIED AN APPROPRIATE PERSON OF THE PERSON'S LOCATION.

S 261.07 ENDANGERING THE WELFARE OF A VULNERABLE ELDERLY PERSON OR A DISABLED PERSON IN THE SECOND DEGREE.

A PERSON IS GUILTY OF ENDANGERING THE WELFARE OF A VULNERABLE ELDERLY PERSON OR A DISABLED PERSON IN THE SECOND DEGREE WHEN, BEING A CAREGIVER FOR A VULNERABLE ELDERLY PERSON OR A DISABLED PERSON:

1. WITH INTENT TO CAUSE PHYSICAL INJURY TO SUCH PERSON, HE OR SHE CAUSES SUCH INJURY TO SUCH PERSON; OR

2. HE OR SHE RECKLESSLY CAUSES PHYSICAL INJURY TO SUCH PERSON; OR

3. WITH CRIMINAL NEGLIGENCE, HE OR SHE CAUSES PHYSICAL INJURY TO SUCH PERSON BY MEANS OF A DEADLY WEAPON OR A DANGEROUS INSTRUMENT; OR

4. HE OR SHE SUBJECTS SUCH PERSON TO SEXUAL CONTACT WITHOUT THE LATTER'S CONSENT. LACK OF CONSENT UNDER THIS SUBDIVISION RESULTS FROM FORCIBLE COMPULSION OR INCAPACITY TO CONSENT, AS THOSE TERMS ARE DEFINED IN ARTICLE ONE HUNDRED THIRTY OF THIS CHAPTER, OR ANY OTHER CIRCUMSTANCES IN WHICH THE VULNERABLE ELDERLY PERSON OR DISABLED PERSON DOES NOT EXPRESSLY OR IMPLIEDLY ACQUIESCE IN THE CAREGIVER'S CONDUCT.

IN ANY PROSECUTION UNDER THIS SUBDIVISION IN WHICH THE VICTIM'S ALLEGED LACK OF CONSENT RESULTS SOLELY FROM INCAPACITY TO CONSENT BECAUSE OF THE VICTIM'S MENTAL DISABILITY OR MENTAL INCAPACITY, THE PROVISIONS OF SECTION 130.16 OF THIS CHAPTER SHALL APPLY. IN ADDITION, IN ANY PROSECUTION UNDER THIS SUBDIVISION IN WHICH THE VICTIM'S LACK OF CONSENT IS BASED SOLELY UPON HIS OR HER INCAPACITY TO CONSENT BECAUSE HE OR SHE WAS MENTALLY DISABLED, MENTALLY INCAPACITATED OR PHYSICALLY HELPLESS, IT IS AN AFFIRMATIVE DEFENSE THAT THE DEFENDANT, AT THE TIME HE OR SHE ENGAGED IN THE CONDUCT CONSTITUTING THE OFFENSE, DID NOT KNOW OF THE FACTS OR CONDITIONS RESPONSIBLE FOR SUCH INCAPACITY TO CONSENT.

ENDANGERING THE WELFARE OF A VULNERABLE ELDERLY PERSON OR A DISABLED PERSON IN THE SECOND DEGREE IS A CLASS E FELONY.

S 261.08 ENDANGERING THE WELFARE OF A VULNERABLE ELDERLY PERSON OR A DISABLED PERSON IN THE FIRST DEGREE.

A PERSON IS GUILTY OF ENDANGERING THE WELFARE OF A VULNERABLE ELDERLY PERSON OR A DISABLED PERSON IN THE FIRST DEGREE WHEN, BEING A CAREGIVER FOR A VULNERABLE ELDERLY PERSON OR DISABLED PERSON:

1. WITH INTENT TO CAUSE PHYSICAL INJURY TO SUCH PERSON, HE OR SHE CAUSES SERIOUS PHYSICAL INJURY TO SUCH PERSON; OR

2. HE OR SHE RECKLESSLY CAUSES SERIOUS PHYSICAL INJURY TO SUCH PERSON.

ENDANGERING THE WELFARE OF A VULNERABLE ELDERLY PERSON OR A DISABLED PERSON IN THE FIRST DEGREE IS A CLASS D FELONY.

S 10. Section 120.05 of the penal law is amended by adding a new subdivision 13 to read as follows:

13. BEING EIGHTEEN YEARS OLD OR MORE AND WITH INTENT TO CAUSE PHYSICAL INJURY TO A PERSON SIXTY YEARS OLD OR MORE, OR TO A PERSON WHO HAS A PHYSICAL OR MENTAL IMPAIRMENT THAT SUBSTANTIALLY LIMITS A MAJOR LIFE ACTIVITY, THE DEFENDANT CAUSES SUCH INJURY TO SUCH PERSON.

S 11. Section 135.30 of the penal law is amended to read as follows:

S 135.30 Kidnapping; defense.

1 In any prosecution for kidnapping, it is an affirmative defense that  
2 (a) the defendant was a relative of the person abducted, and (b) his OR  
3 HER sole purpose was to assume control of such person.

4 THIS SECTION SHALL NOT APPLY IN THE CASE WHEN THE PERSON WHO IS  
5 ABDUCTED IS SIXTY YEARS OLD OR MORE, OR TO A PERSON WHO HAS A PHYSICAL  
6 OR MENTAL IMPAIRMENT THAT SUBSTANTIALLY LIMITS A MAJOR LIFE ACTIVITY,  
7 AND THE KIDNAPPING WAS DONE WITH THE INTENTION OF COMPELLING SUCH PERSON  
8 TO TRANSFER AN ASSET TO THE DEFENDANT OR TO A THIRD PARTY.

9 S 12. Section 135.45 of the penal law is amended by adding a new  
10 subdivision 3 to read as follows:

11 3. KNOWING THAT HE OR SHE HAS NO LEGAL RIGHT TO DO SO, HE OR SHE TAKES  
12 OR ENTICES ANY PERSON SIXTY YEARS OF AGE OR MORE, OR A PERSON WHO HAS A  
13 PHYSICAL OR MENTAL IMPAIRMENT THAT SUBSTANTIALLY LIMITS A MAJOR LIFE  
14 ACTIVITY, FROM THE CUSTODY OF ANOTHER PERSON OR INSTITUTION.

15 S 13. Subdivision (g) of section 140.10 of the penal law, as amended  
16 by chapter 176 of the laws of 2011, is amended and a new subdivision (h)  
17 is added to read as follows:

18 (g) where the property consists of a right-of-way or yard of a rail-  
19 road or rapid transit railroad which has been designated and conspicu-  
20 ously posted as a no-trespass railroad zone[.]; OR

21 (H) WHICH IS A DWELLING OCCUPIED BY A PERSON SIXTY YEARS OF AGE OR  
22 OLDER, OR A PERSON WHO HAS A PHYSICAL OR MENTAL IMPAIRMENT THAT SUBSTAN-  
23 Tially LIMITS A MAJOR LIFE ACTIVITY.

24 S 14. Severability. If any provision of this act or the application  
25 thereof to any person or circumstances is held to be invalid, the  
26 remainder of the act and the application of such provision to other  
27 persons or circumstances shall not be affected thereby.

28 S 15. This act shall take effect immediately; provided, however, that  
29 the amendments made to subdivision 1 of section 1809 of the vehicle and  
30 traffic law by section five of this act shall be subject to the expira-  
31 tion and reversion of such subdivision when upon such date the  
32 provisions of section six of this act shall take effect; provided,  
33 however, that the amendments made to subdivision 1 of section 1809 of  
34 the vehicle and traffic law by section six of this act shall be subject  
35 to the expiration and reversion of such subdivision when upon such date  
36 the provisions of section six-a of this act shall take effect; and  
37 provided further, however, that the amendments to subdivision 1 of  
38 section 1809 of the vehicle and traffic law made by section six-a of  
39 this act shall be subject to the expiration and reversion of such subdi-  
40 vision, when upon such date the provisions of section seven of this act  
41 shall take effect; provided further, however, that the amendments made  
42 to subdivision 2 of section 1809 of the vehicle and traffic law by  
43 section five of this act shall not affect the expiration of such subdi-  
44 vision and shall be deemed to expire therewith.