

239--B

2015-2016 Regular Sessions

I N S E N A T E

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Introduced by Sen. DIAZ -- read twice and ordered printed, and when printed to be committed to the Committee on Aging -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Aging in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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.

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

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1 409. REPORTING PROCEDURE.

2 410. IMMUNITY FROM LIABILITY.

3 411. PENALTIES FOR FAILURE TO REPORT.

4 412. ANNUAL REPORTS.

5 S 400. DEFINITIONS. AS USED IN THIS ARTICLE:

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

7 2. "REGISTRY" OR "CENTRAL REGISTRY" MEANS THE STATEWIDE CENTRAL REGIS-
8 TRY FOR SENIOR ABUSE AND NEGLECT IN THE STATE OFFICE FOR THE AGING.

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

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

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

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

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

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

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

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

42 (D) NEGLECT, INCLUDING THE REFUSAL OR FAILURE TO FULFILL ANY PART OF A
43 PERSON'S OBLIGATIONS OR DUTIES TO A SENIOR, FAILURE OF A PERSON WHO HAS
44 FIDUCIARY RESPONSIBILITIES TO PROVIDE CARE FOR A SENIOR OR THE FAILURE
45 ON THE PART OF AN IN-HOME SERVICE PROVIDER TO PROVIDE SUCH NECESSARY
46 CARE, INCLUDING THE REFUSAL OR FAILURE TO PROVIDE AN ELDERLY PERSON WITH
47 SUCH LIFE NECESSITIES AS FOOD, WATER, CLOTHING, SHELTER, PERSONAL
48 HYGIENE, MEDICINE, COMFORT, PERSONAL SAFETY, AND OTHER ESSENTIALS
49 INCLUDED IN AN IMPLIED OR AGREED-UPON RESPONSIBILITY TO SUCH SENIOR, THE
50 RESULTS OF WHICH MAY BE EVINCED BY SUCH VISIBLE PHYSICAL IMPAIRMENTS AS
51 DEHYDRATION, MALNUTRITION, UNTREATED BED SORES, AND POOR PERSONAL
52 HYGIENE, UNATTENDED OR UNTREATED HEALTH PROBLEMS, HAZARDOUS OR UNSAFE
53 LIVING CONDITION/ARRANGEMENTS, UNSANITARY AND UNCLEAN LIVING CONDITIONS
54 (E.G. DIRT, FLEAS, LICE ON PERSON, SOILED BEDDING, FECAL/URINE SMELL,
55 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 SIMILAR INSTITUTION, OR THE DESERTION OF A SENIOR AT A SHOPPING CENTER OR OTHER PUBLIC LOCATION; OR A SENIOR'S REPORT OF BEING ABANDONED.

(F) FINANCIAL OR MATERIAL EXPLOITATION, INCLUDING THE ILLEGAL OR IMPROPER USE OF A SENIOR'S FUNDS, PROPERTY, OR ASSETS, INCLUDING WITHOUT LIMITATION CASHING A SENIOR'S CHECKS WITHOUT AUTHORIZATION OR PERMISSION, FORGING A SENIOR'S SIGNATURE, MISUSING OR STEALING A SENIOR'S MONEY OR POSSESSIONS, COERCING OR DECEIVING A SENIOR INTO SIGNING A DOCUMENT SUCH AS A CONTRACT OR A WILL, OR IMPROPER USE OF CONSERVATORSHIP, GUARDIANSHIP, OR POWER OF ATTORNEY.

(G) SELF-NEGLECT, INCLUDING THE BEHAVIOR OF AN ELDERLY PERSON THAT THREATENS HIS OR HER OWN HEALTH OR SAFETY THROUGH THE REFUSAL OR FAILURE TO PROVIDE HIMSELF OR HERSELF WITH ADEQUATE FOOD, WATER, CLOTHING, SHELTER, PERSONAL HYGIENE, MEDICATION (WHEN INDICATED), AND SAFETY PRECAUTIONS.

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

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

(A) A PERSON LEGALLY RESPONSIBLE FOR A SENIOR;

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

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

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

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

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

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

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

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

2. SUCH REGISTRY SHALL BE CAPABLE OF RECEIVING REPORTS BY TELEPHONE CALL, FAX, E-MAIL, AND ANY OTHER FORMS OF COMMUNICATION THE DIRECTOR DEEMS APPROPRIATE, ALLEGING THAT A SENIOR HAS BECOME AN ABUSED SENIOR, 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

1 ATTORNEY OR OTHER PUBLIC OFFICIAL EMPOWERED TO PROVIDE NECESSARY AID OR
2 ASSISTANCE.

3 (B) IF A REPORT COULD REASONABLY CONSTITUTE INSTITUTIONAL NEGLECT OF A
4 SENIOR IN RESIDENTIAL CARE, THE OFFICE SHALL CONVEY BY THE MOST EXPEDI-
5 ENT MEANS AVAILABLE THE INFORMATION TO THE STATE AGENCY RESPONSIBLE FOR
6 THE OPERATION OR SUPERVISION OF THE RESIDENTIAL FACILITY OR PROGRAM AND,
7 IN THE CASE OF A FACILITY OPERATED OR CERTIFIED BY AN OFFICE OF THE
8 DEPARTMENT OF MENTAL HYGIENE, TO THE STATE COMMISSION ON QUALITY OF CARE
9 FOR THE MENTALLY DISABLED, FOR APPROPRIATE ACTION.

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

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

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

26 (B) A PERSON AUTHORIZED TO PLACE A SENIOR IN PROTECTIVE CUSTODY WHEN
27 SUCH PERSON HAS BEFORE HIM OR HER A SENIOR WHOM HE OR SHE REASONABLY
28 SUSPECTS MAY BE AN ABUSED OR MALTREATED SENIOR AND SUCH PERSON REQUIRES
29 THE INFORMATION TO DETERMINE WHETHER TO PLACE THE SENIOR IN PROTECTIVE
30 CUSTODY;

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

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

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

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

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

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

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

54 4. IF A PERSON OR AGENCY IDENTIFIED IN THIS SECTION, OR BY RULE AND
55 REGULATION OF THE DIRECTOR, AS ONE TO WHOM ACCESS TO REPORTS AND OTHER
56 INFORMATION SHALL BE GRANTED, IS DENIED SUCH ACCESS, SUCH PERSON OR

1 AGENCY MAY BRING A PROCEEDING FOR REVIEW OF SUCH DENIAL PURSUANT TO
2 ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES.

3 5. NOTHING CONTAINED IN THIS ARTICLE SHALL BE CONSTRUED TO PERMIT
4 RELEASE, DISCLOSURE OR IDENTIFICATION OF THE NAMES OR IDENTIFYING
5 DESCRIPTIONS OF PERSONS WHO REPORT SUSPECTED ABUSE OR MALTREATMENT OF A
6 SENIOR TO THE REGISTRY OR SUCH PERSON'S PLACE OF EMPLOYMENT OR WITH WHOM
7 THEY HAVE AN ASSOCIATION OTHER THAN EMPLOYMENT WITHOUT SUCH PERSON'S
8 WRITTEN PERMISSION EXCEPT TO SUCH PERSONS, OFFICIALS, AND AGENCIES AS
9 THE DIRECTOR DETERMINES IN RULE AND REGULATION.

10 S 404. RELEASE OF INFORMATION. 1. INFORMATION CONCERNING REPORTS OR
11 INVESTIGATIONS MAY BE RELEASED TO THE PUBLIC ONLY BY PERSONS DESIGNATED
12 IN THE RULES AND REGULATIONS OF THE DIRECTOR TO RELEASE SUCH INFORMA-
13 TION. INFORMATION THAT MAY BE PROVIDED SHALL BE LIMITED TO THE FOLLOW-
14 ING:

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

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

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

29 (A) THE SUBJECT OF THE REPORT HAS BEEN CHARGED IN AN ACCUSATORY
30 INSTRUMENT WITH COMMITTING A CRIME RELATED TO A REPORT MAINTAINED IN THE
31 REGISTRY; OR

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

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

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

45 3. FOR THE PURPOSES OF THIS SECTION, THE FOLLOWING INFORMATION MAY BE
46 DISCLOSED:

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

48 (B) THE DETERMINATION BY THE DESIGNATED AGENCY OR THE STATE AGENCY
49 WHICH INVESTIGATED THE REPORT AND THE FINDINGS OF THE APPLICABLE INVE-
50 TIGATING AGENCY UPON WHICH SUCH DETERMINATION WAS BASED;

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

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

55 (E) ACTIONS TAKEN BY THE DESIGNATED AGENCY IN RESPONSE TO REPORTS OF
56 ABUSE OR MALTREATMENT TO THE REGISTRY INCLUDING BUT NOT LIMITED TO

1 ACTIONS TAKEN AFTER EACH AND EVERY REPORT OF ABUSE OR MALTREATMENT OF
2 SUCH SENIOR AND THE DATES OF SUCH REPORTS;

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

6 (G) ANY EXTRAORDINARY OR PERTINENT INFORMATION CONCERNING THE CIRCUM-
7 STANCES OF THE ABUSE OR MALTREATMENT OF THE SENIOR AND THE INVESTIGATION
8 THEREOF, WHERE THE DIRECTOR DETERMINES SUCH DISCLOSURE IS CONSISTENT
9 WITH THE PUBLIC INTEREST.

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

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

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

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

20 5. ANY DISCLOSURE OF INFORMATION PURSUANT TO THIS SECTION SHALL NOT
21 IDENTIFY OR PROVIDE AN IDENTIFYING DESCRIPTION OF THE SOURCE OF THE
22 REPORT, AND SHALL NOT IDENTIFY THE NAME OF THE PERSON LEGALLY RESPONSIB-
23 LEBLE FOR THE SENIOR OR ANY OTHER MEMBERS OF THE SENIOR'S HOUSEHOLD, OTHER
24 THAN THE SUBJECT OF THE REPORT.

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

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

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

45 S 405. UNFOUNDED REPORTS. 1. UNLESS AN INVESTIGATION OF A REPORT
46 CONDUCTED PURSUANT TO THIS TITLE DETERMINES THAT THERE IS CREDIBLE
47 EVIDENCE OF THE ALLEGED ABUSE OR MALTREATMENT, ALL INFORMATION IDENTIFY-
48 ING THE SUBJECTS OF THE REPORT AND OTHER PERSONS NAMED IN THE REPORT
49 SHALL BE LEGALLY SEALED BY THE REGISTRY AND ANY DESIGNATED AGENCIES OR
50 THE STATE AGENCY WHICH INVESTIGATED THE REPORT, AND THE REPORT SHALL BE
51 DEEMED "UNFOUNDED". SUCH UNFOUNDED REPORTS MAY ONLY BE UNSEALED AND MADE
52 AVAILABLE TO SUCH PERSONS AND ENTITIES AS SHALL BE ESTABLISHED BY THE
53 DIRECTOR IN RULES AND REGULATIONS FOR SUCH PURPOSES AS REVIEW OF A
54 FATALITY OR INVESTIGATION OF A SUBSEQUENT REPORT OF SUSPECTED ABUSE OR
55 MALTREATMENT INVOLVING A SUBJECT OF THE UNFOUNDED REPORT. SUCH UNFOUNDED
56 REPORTS MAY BE MADE AVAILABLE TO THE FOLLOWING PERSONS AND ENTITIES: A

1 SENIOR NAMED IN THE UNFOUNDED REPORT; OTHER PERSONS NAMED IN THE REPORT;
2 THE SUBJECT OF THE REPORT; A DISTRICT ATTORNEY OR A STATE OR LOCAL
3 POLICE OFFICER WHEN SUCH OFFICIAL VERIFIES THAT THE REPORT IS NECESSARY
4 TO CONDUCT AN ACTIVE CRIMINAL INVESTIGATION OR FOR PROSECUTION OF ELDER
5 ABUSE; OR OTHER PERSONS IN KEEPING WITH THE SPIRIT AND INTENT OF THIS
6 SECTION AS SHALL BE DETERMINED IN THE RULES AND REGULATIONS OF THE
7 DIRECTOR REQUIRED TO IMPLEMENT THIS SECTION.

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

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

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

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

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

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

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

54 7. AT ANY TIME SUBSEQUENT TO THE COMPLETION OF THE INVESTIGATION BUT
55 IN NO EVENT LATER THAN NINETY DAYS AFTER THE SUBJECT OF THE REPORT IS
56 NOTIFIED THAT THE REPORT IS INDICATED THE SUBJECT MAY REQUEST THE DIREC-

TOR TO AMEND THE RECORD OF THE REPORT. IF THE DIRECTOR DOES NOT AMEND THE REPORT IN ACCORDANCE WITH SUCH REQUEST WITHIN NINETY DAYS OF RECEIVING THE REQUEST, THE SUBJECT SHALL HAVE THE RIGHT TO A FAIR HEARING, CONDUCTED IN ACCORDANCE WITH THIS SUBDIVISION, TO DETERMINE WHETHER THE RECORD OF THE REPORT IN THE REGISTRY SHOULD BE AMENDED ON THE GROUNDS THAT IT IS INACCURATE OR IT IS BEING MAINTAINED IN A MANNER INCONSISTENT WITH THIS TITLE.

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

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

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

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

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

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

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

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

S 407. PERSONS REQUIRED TO REPORT SUSPECTED SENIOR ABUSE OR MALTREATMENT. 1. THE FOLLOWING PERSONS ARE REQUIRED TO REPORT OR CAUSE A REPORT TO BE MADE IN ACCORDANCE WITH THIS TITLE WHEN, WHILE ACTING IN THEIR PROFESSIONAL OR OFFICIAL CAPACITY, THEY HAVE REASONABLE CAUSE TO SUSPECT THAT A SENIOR COMING BEFORE THEM IS AN ABUSED SENIOR, OR WHEN THEY HAVE REASONABLE CAUSE TO SUSPECT THAT A SENIOR IS AN ABUSED SENIOR WHERE THE

PERSON LEGALLY RESPONSIBLE FOR SUCH SENIOR COMES BEFORE THEM AND STATES FROM PERSONAL KNOWLEDGE FACTS, CONDITIONS OR CIRCUMSTANCES WHICH, IF CORRECT, WOULD RENDER THE SENIOR AN ABUSED SENIOR:

(A) ANY HEALTH CARE WORKER, INCLUDING ANY PHYSICIAN, PHYSICIAN ASSISTANT, SURGEON, MEDICAL EXAMINER, CORONER, DENTIST, DENTAL HYGIENIST, OSTEOPATH, OPTOMETRIST, CHIROPRACTOR, PODIATRIST, RESIDENT, INTERN, PSYCHOLOGIST, REGISTERED NURSE, EMERGENCY MEDICAL TECHNICIAN, OR ANY HOSPITAL OR NURSING HOME PERSONNEL ENGAGED IN THE ADMISSION, EXAMINATION, CARE OR TREATMENT OF PERSONS, OR ANY OTHER HEALTH CARE OR HEALTH SERVICES PRACTITIONER, INCLUDING A CHRISTIAN SCIENCE PRACTITIONER, ACUPUNCTURIST, OR OTHER SUCH PERSON;

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

(C) ANY MENTAL HEALTH PROFESSIONAL; SUBSTANCE ABUSE COUNSELOR; ALCOHOLISM COUNSELOR;

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

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

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

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

2. 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 ADDITIONALLY AND IMMEDIATELY NOTIFY THE PERSON IN CHARGE OF SUCH INSTITUTION, FACILITY OR AGENCY, OR HIS OR HER DESIGNATED AGENT, WHO THEN ALSO SHALL BECOME RESPONSIBLE TO REPORT OR CAUSE REPORTS TO BE MADE, PROVIDED HOWEVER THAT NOTHING IN THIS SECTION SHALL REQUIRE MORE THAN ONE REPORT FROM ANY SUCH INSTITUTION OR AGENCY. AT THE TIME OF MAKING A REPORT, OR AT ANY TIME THEREAFTER, SUCH PERSON OR OFFICIAL MAY REQUEST THE FINDINGS OF AN INVESTIGATION MADE PURSUANT TO THIS TITLE.

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

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

2. WRITTEN REPORTS SHALL BE MADE IN A MANNER PRESCRIBED BY AND ON FORMS SUPPLIED BY THE DIRECTOR AND SHALL INCLUDE THE FOLLOWING INFORMATION:

(A) THE NAME AND ADDRESS OF THE SENIOR;

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

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

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

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

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

(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.

S 412. ANNUAL REPORTS. THE DIRECTOR SHALL REPORT PRIOR TO DECEMBER FIFTEENTH OF EACH YEAR ON THE OPERATIONS OF THE REGISTRY AND THE VARIOUS DESIGNATED AGENCIES. THE REPORT SHALL INCLUDE A FULL STATISTICAL ANALYSIS OF THE REPORTS MADE TO THE REGISTRY TOGETHER WITH A REPORT ON THE IMPLEMENTATION OF THIS ARTICLE, AN EVALUATION OF SERVICES OFFERED AND RECOMMENDATIONS FOR ADDITIONAL LEGISLATION TO FULFILL THE PURPOSES OF THIS ARTICLE. SUCH REPORT SHALL INDICATE THE NUMBER OF ABUSE AND MALTREATMENT REPORTS AND CASES RECEIVED BY THE REGISTRY BY EACH DESIGNATED AGENCY IN THE PRECEDING YEAR, THE NUMBER OF SUCH CASES DETERMINED TO HAVE BEEN INDICATED AND THE NUMBER OF SUCH CASES DETERMINED TO BE UNFOUNDED BY EACH DISTRICT IN THE PRECEDING YEAR, THE NUMBER OF SUCH CASES WHICH HAVE NOT BEEN INDICATED OR UNFOUNDED WITHIN THE TIME PERIOD REQUIRED BY THIS CHAPTER BY EACH DESIGNATED AGENCY IN THE PRECEDING YEAR AND THE NUMBER OF WORKERS ASSIGNED TO THE DESIGNATED AGENCY IN THE PRECEDING YEAR. THE REPORT SHALL ALSO CONTAIN DATA ON THE PROTECTION OF SENIORS IN RESIDENTIAL CARE FROM ABUSE AND MALTREATMENT, INCLUDING REPORTS RECEIVED, RESULTS OF INVESTIGATIONS BY TYPES OF FACILITIES AND PROGRAMS, TYPES OF CORRECTIVE ACTION TAKEN, AS WELL AS EFFORTS UNDERTAKEN BY THE OFFICE TO PROVIDE TRAINING PURSUANT TO THIS CHAPTER.

TITLE 2

DUTIES AND RESPONSIBILITIES OF THE OFFICE AND THE COUNCIL

SECTION 420. DUTIES AND RESPONSIBILITIES OF THE OFFICE.

421. COUNCIL ON ELDER ABUSE; CREATION AND POWERS.

422. COOPERATION OF OTHER AGENCIES.

423. IMPLEMENTATION.

424. SENIOR ANTI-VIOLENCE SERVICES RESPONSIBILITIES AND ORGANIZATION.

425. DUTIES OF THE SAVS UNIT.

426. LOCAL AND REGIONAL FATALITY REVIEW TEAMS.

427. GRANTS FOR SENIOR ANTI-VIOLENCE PROJECTS.

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

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

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

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

4. ISSUE GUIDELINES TO ASSIST DESIGNATED AGENCIES IN THE INTERPRETATION AND ASSESSMENT OF REPORTS OF ABUSE AND MALTREATMENT MADE TO THE

1 REGISTRY, INCLUDING INFORMATION, STANDARDS AND CRITERIA FOR THE IDEN-
2 TIFICATION OF CREDIBLE EVIDENCE OF ALLEGED ABUSE AND MALTREATMENT
3 REQUIRED TO DETERMINE WHETHER A REPORT MAY BE INDICATED.

4 5. SET FORTH REQUIREMENTS FOR THE PERFORMANCE BY DESIGNATED AGENCIES
5 OF THE DUTIES AND POWERS IMPOSED AND CONFERRED UPON THEM BY THE
6 PROVISIONS OF THIS TITLE, INCLUDING UNIFORM REQUIREMENTS FOR THE INVE-
7 TIGATION OF REPORTS OF ABUSE OR MALTREATMENT, STANDARDS FOR INTER-
8 VENTION, CRITERIA FOR CASE CLOSINGS, CRITERIA FOR DETERMINING WHETHER TO
9 INITIATE A PROCEEDING, AND CRITERIA FOR THE FORMULATION OF TREATMENT
10 PLANS AND FOR THE DELIVERY OF SERVICES.

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

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

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

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

31 2. THE COUNCIL SHALL CONSIST OF FIFTEEN PERSONS APPOINTED BY THE
32 GOVERNOR BY AND WITH THE ADVICE AND CONSENT OF THE SENATE. FOUR MEMBERS
33 SHALL BE APPOINTED ON RECOMMENDATION OF THE TEMPORARY PRESIDENT OF THE
34 SENATE, AND FOUR ON RECOMMENDATION OF THE SPEAKER OF THE ASSEMBLY. THE
35 GOVERNOR SHALL APPOINT A CHAIRPERSON AND A VICE-CHAIRPERSON AS HE OR SHE
36 DEEMS APPROPRIATE.

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

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

52 5. THE COUNCIL MAY EMPLOY EITHER DIRECTLY OR BY CONTRACTUAL ARRANGE-
53 MENT SUCH PERSONNEL AS IT SHALL DEEM NECESSARY FOR THE PERFORMANCE OF
54 ITS FUNCTIONS, WITHIN AMOUNTS MADE AVAILABLE BY APPROPRIATION THEREFOR.
55 IN ADDITION, THE DIRECTOR, ON HIS OR HER INITIATIVE AND THROUGH THE
56 POWERS HEREBY PROVIDED HIM OR HER, MAY PROVIDE THE COUNCIL WITH UP TO

1 TWO LOANED OFFICERS OR EMPLOYEES FROM THE OFFICE, ALONG WITH SUCH ADMIN-
2 ISTRATIVE-SECRETARIAL SUPPORT STAFF AS SHALL BE REQUIRED, THE DUTIES AND
3 WORK OF WHOM ARE HEREBY DECLARED TO BE AN ESSENTIAL STATE PURPOSE. SUCH
4 LOANED EMPLOYEES SHALL SUFFER NO DIMINUTION OF THEIR COMPENSATION OR
5 BENEFITS AS A RESULT OF SUCH ASSIGNMENT, PROVIDED THAT NO SUCH TRANSFER
6 SHALL BE MADE EXCEPT WITH THE APPROVAL OF THE DIRECTOR OF THE BUDGET,
7 AND IN COMPLIANCE WITH THE RULES AND REGULATIONS OF THE CIVIL SERVICE
8 COMMISSION OF THE STATE.

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

21 7. MEMBERS MAY ENGAGE IN PRIVATE EMPLOYMENT, OR IN A PROFESSION OR
22 BUSINESS, SUBJECT TO THE LIMITATIONS CONTAINED IN SECTIONS SEVENTY-THREE
23 AND SEVENTY-FOUR OF THE PUBLIC OFFICERS LAW. THE COUNCIL ON ELDER ABUSE
24 SHALL, FOR THE PURPOSES OF SECTIONS SEVENTY-THREE AND SEVENTY-FOUR OF
25 THE PUBLIC OFFICERS LAW, BE A "STATE AGENCY," AND ITS DIRECTORS SHALL BE
26 "OFFICERS" OF THE AUTHORITY FOR THE PURPOSES OF SUCH SECTIONS.

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

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

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

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

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

53 S 422. COOPERATION OF OTHER AGENCIES. 1. THE OFFICE AND THE OFFICE OF
54 CHILDREN AND FAMILY SERVICES ARE HERewith EMPOWERED TO AND SHALL ENTER
55 INTO A MEMORANDUM OF UNDERSTANDING TO EXECUTE THE PURPOSES AND INTENT OF
56 THIS ARTICLE. SUCH MEMORANDUM OF UNDERSTANDING SHALL ESTABLISH THE

OFFICE, DESIGNATED AGENCIES, AND "SAVS UNITS" (AS DESCRIBED IN SECTION FOUR HUNDRED TWENTY-FOUR OF THIS TITLE) AS THE LEAD AGENCIES FOR INVESTIGATION OF ABUSE AND MALTREATMENT OF SENIORS, SHALL ASSURE THAT ADULT PROTECTIVE SERVICES UNITS ARE AN INTEGRAL PART OF THE LOCAL SERVICES TEAMS, SHALL ASSURE APPROPRIATE SHARING OF INFORMATION, AND INSURE THAT 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. THE DIRECTOR, AFTER CONSULTATION WITH THE COUNCIL, SHALL ESTABLISH TIMELINES FOR COMPLETING THE REQUIREMENTS OF THIS TITLE, AS FOLLOWS:

1. WITHIN ONE YEAR OF THE EFFECTIVE DATE OF THIS TITLE, THE DIRECTOR SHALL:

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

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

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

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

(E) 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.

2. WITHIN EIGHTEEN MONTHS OF THE EFFECTIVE DATE OF THIS TITLE, THE DIRECTOR SHALL:

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

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

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

3. WITHIN TWO YEARS OF THE EFFECTIVE DATE OF THIS TITLE, THE DIRECTOR SHALL:

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

(B) 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.

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

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

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

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

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

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

55 8. A SAVS UNIT SHALL PLAN WITH OTHER PUBLIC, PRIVATE AND VOLUNTARY
56 AGENCIES INCLUDING BUT NOT LIMITED TO HEALTH, MENTAL HEALTH, AGING,

1 LEGAL AND LAW ENFORCEMENT AGENCIES, FOR THE PURPOSE OF ASSURING MAXIMUM
2 LOCAL UNDERSTANDING, COORDINATION AND COOPERATIVE ACTION IN THE
3 PROVISION OF APPROPRIATE SERVICES.

4 S 425. DUTIES OF THE SAVS UNIT. 1. A SAVS UNIT SHALL RECEIVE ON A
5 TWENTY-FOUR HOUR, SEVEN DAY A WEEK BASIS ALL REPORTS OF SUSPECTED ABUSE
6 OR MALTREATMENT OF A SENIOR IN ACCORDANCE WITH THIS TITLE, THE LOCAL
7 PLAN AND THE REGULATIONS OF THE DIRECTOR, AND SHALL MAINTAIN AND KEEP
8 UP-TO-DATE A REGISTRY OF ALL CASES REPORTED UNDER THIS TITLE TOGETHER
9 WITH ANY ADDITIONAL INFORMATION OBTAINED AND A RECORD OF THE FINAL
10 DISPOSITION OF THE REPORT, INCLUDING SERVICES OFFERED AND ACCEPTED.

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

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

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

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

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

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

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

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

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

15 2. A LOCAL OR REGIONAL FATALITY REVIEW TEAM MUST INCLUDE REPRESENTEN-
16 TATIVES FROM THE LOCAL SERVICE, THE OFFICE, THE OFFICE OF THE DISTRICT
17 ATTORNEY OR LOCAL LAW ENFORCEMENT, OFFICE OF THE MEDICAL EXAMINER OR
18 CORONER, AND A PHYSICIAN OR COMPARABLE MEDICAL PROFESSIONAL. A LOCAL OR
19 REGIONAL FATALITY REVIEW TEAM MAY ALSO INCLUDE REPRESENTATIVES FROM
20 PUBLIC HEALTH AGENCIES, MENTAL HEALTH AGENCIES, AND MEDICAL FACILITIES,
21 INCLUDING HOSPITALS OR OTHER APPROPRIATE AGENCIES OR INSTITUTIONS.

22 S 427. GRANTS FOR SENIOR ANTI-VIOLENCE PROJECTS. THE DIRECTOR SHALL,
23 WITHIN AMOUNTS APPROPRIATED THEREFOR FROM THE SENIOR ANTI-VIOLENCE
24 SERVICES ACCOUNT ESTABLISHED PURSUANT TO SECTION NINETY-SEVEN-PPPP OF
25 THE STATE FINANCE LAW, PROVIDE GRANTS TO LOCAL GOVERNMENTS AND NOT-FOR-
26 PROFIT ORGANIZATIONS TO:

27 1. IMPROVE RESEARCH, DATA COLLECTION, AND REPORTING ON ELDER/ADULT
28 ABUSE.

29 2. IMPLEMENT RESEARCH AND PROGRAM INNOVATION.

30 3. PUBLIC EDUCATION.

31 4. DEVELOPMENT OF INTERGOVERNMENTAL AND PUBLIC-PRIVATE PARTNERSHIPS TO
32 COMBAT ELDER ABUSE.

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

35 6. PROTECTION OF VICTIMS.

36 7. DEVELOPMENT OF BEST AND INNOVATIVE PRACTICES IN CARRYING OUT
37 SERVICES.

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

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

43 10. DEVELOPMENT AND IMPLEMENTATION OF A MULTIDISCIPLINARY RESEARCH
44 AGENDA TO SUSTAIN, ADVANCE AND ASSESS PROFESSIONAL TRAINING AND PRACTICE
45 ON ADULT OR ELDER ABUSE.

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

50 S 3. The section heading and subdivision 1 of section 60.35 of the
51 penal law, as amended by section 1 of part E of chapter 56 of the laws
52 of 2004, subparagraphs (i), (ii) and (iii) of paragraph (a) of subdivi-
53 sion 1 as amended by section 1 of part DD of chapter 56 of the laws of
54 2008 and paragraph (b) of subdivision 1 as amended by chapter 320 of the
55 laws of 2006, are amended to read as follows:

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

4 1. (a) Except as provided in section eighteen hundred nine of the
5 vehicle and traffic law and section 27.12 of the parks, recreation and
6 historic preservation law, whenever proceedings in an administrative
7 tribunal or a court of this state result in a conviction for a felony, a
8 misdemeanor, or a violation, as these terms are defined in section 10.00
9 of this chapter, there shall be levied at sentencing a mandatory
10 surcharge, sex offender registration fee, DNA databank fee [and], a
11 crime victim assistance fee AND A SENIOR ANTI-VIOLENCE SERVICES FEE in
12 addition to any sentence required or permitted by law, in accordance
13 with the following schedule:

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

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

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

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

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

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

46 S 4. The state finance law is amended by adding a new section 97-pppp
47 to read as follows:

48 S 97-PPPP. SENIOR ANTI-VIOLENCE SERVICES ACCOUNT. 1. THERE IS HEREBY
49 ESTABLISHED IN THE JOINT CUSTODY OF THE STATE COMPTROLLER AND THE
50 COMMISSIONER OF TAXATION AND FINANCE A SPECIAL REVENUE FUND TO BE KNOWN
51 AS THE "SENIOR ANTI-VIOLENCE SERVICES ACCOUNT".

52 2. THE SENIOR ANTI-VIOLENCE SERVICES ACCOUNT SHALL CONSIST OF THOSE
53 MONIES RECEIVED BY THE STATE PURSUANT TO SECTION 60.35 OF THE PENAL LAW
54 AND MONIES RECEIVED BY THE STATE PURSUANT TO SECTION EIGHTEEN HUNDRED
55 NINE OF THE VEHICLE AND TRAFFIC LAW FROM ANY COURT OF THE UNIFIED COURT
56 SYSTEM OTHER THAN TOWN OR VILLAGE COURTS AND ALL OTHER FEES, FINES,

GRANTS, BEQUESTS OR OTHER MONIES CREDITED, APPROPRIATED OR TRANSFERRED THERETO FROM ANY OTHER FUND OR SOURCE.

3. MONIES OF THE SENIOR ANTI-VIOLENCE SERVICES ACCOUNT, FOLLOWING APPROPRIATION BY THE LEGISLATURE AND ALLOCATION BY THE DIRECTOR OF THE BUDGET SHALL BE MADE AVAILABLE FOR LOCAL ASSISTANCE SERVICES AND EXPENSES OF PROGRAMS TO PROVIDE SENIOR ANTI-VIOLENCE SERVICES THROUGH THE STATE OFFICE FOR THE AGING, AS ADMINISTERED PURSUANT TO THE ELDER LAW.

S 5. Section 1809 of the vehicle and traffic law, as amended by chapter 55 of the laws of 1992, subdivision 1 as amended by section 2 of part DD of chapter 56 of the laws of 2008, the opening paragraph and paragraph (c) of subdivision 1 as amended by chapter 222 of the laws of 2015, subdivision 2 as amended by section 6 of part C of chapter 55 of the laws of 2013, subdivision 3 as amended by chapter 309 of the laws of 1996, subdivision 5 as amended by chapter 385 of the laws of 1999, subdivision 8 as amended by section 13 of part B of chapter 55 of the laws of 2015, subdivision 9 as amended by chapter 452 of the laws of 1999 and subdivision 10 as added by section 3 of part F of chapter 56 of the laws of 2004, is amended to read as follows:

S 1809. Mandatory surcharge and crime victim assistance fee required in certain cases. 1. Whenever proceedings in an administrative tribunal or a court of this state result in a conviction for an offense under this chapter or a traffic infraction under this chapter, or a local law, ordinance, rule or regulation adopted pursuant to this chapter, other than a traffic infraction involving standing, stopping, or parking or violations by pedestrians or bicyclists, or other than an adjudication of liability of an owner for a violation of subdivision (d) of section eleven hundred eleven of this chapter in accordance with section eleven hundred eleven-a of this chapter, or other than an adjudication of liability of an owner for a violation of subdivision (d) of section eleven hundred eleven of this chapter in accordance with section eleven hundred eleven-b of this chapter, or other than an adjudication in accordance with section eleven hundred eleven-c of this chapter for a violation of a bus lane restriction as defined in such section, or other than an adjudication of liability of an owner for a violation of subdivision (d) of section eleven hundred eleven of this chapter in accordance with section eleven hundred eleven-d of this chapter, or other than an adjudication of liability of an owner for a violation of subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty of this chapter in accordance with section eleven hundred eighty-b of this chapter, or other than an adjudication of liability of an owner for a violation of subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty of this chapter in accordance with section eleven hundred eighty-c of this chapter, or other than an adjudication of liability of an owner for a violation of subdivision (d) of section eleven hundred eleven of this chapter in accordance with section eleven hundred eleven-e of this chapter, there shall be levied a crime victim assistance fee, A SENIOR ANTI-VIOLENCE SERVICES FEE OF FIVE DOLLARS and a mandatory surcharge, in addition to any sentence required or permitted by law, in accordance with the following schedule:

(a) Whenever proceedings in an administrative tribunal or a court of this state result in a conviction for a traffic infraction pursuant to article nine of this chapter, there shall be levied a crime victim assistance fee in the amount of five dollars, A SENIOR ANTI-VIOLENCE SERVICES FEE OF FIVE DOLLARS and a mandatory surcharge, in addition to

1 any sentence required or permitted by law, in the amount of twenty-five
2 dollars.

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

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

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

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

51 2. Where a person is convicted of two or more such crimes or traffic
52 infractions committed through a single act or omission, or through an
53 act or omission which in itself constituted one of the crimes or traffic
54 infractions and also was a material element of the other, the court or
55 administrative tribunal shall impose a crime victim assistance fee and a
56 mandatory surcharge mandated by subdivision one of this section for each

1 such conviction; provided however, that in no event shall the total
2 amount of such crime victim assistance fees and mandatory surcharges
3 imposed pursuant to paragraph (a) or (c) of subdivision one of this
4 section exceed one hundred ninety-six dollars.

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

36 4. Any person who has paid a mandatory surcharge or crime victim
37 assistance fee OR A SENIOR ANTI-VIOLENCE SERVICES FEE under the authori-
38 ty of this section which is ultimately determined not to be required by
39 this section shall be entitled to a refund of such mandatory surcharge
40 or crime victim assistance fee OR SENIOR ANTI-VIOLENCE SERVICES FEE upon
41 application to the state comptroller. The state comptroller shall
42 require such proof as it is necessary in order to determine whether a
43 refund is required by law.

44 5. When a person who is convicted of a crime or traffic infraction and
45 sentenced to a term of imprisonment has failed to pay the mandatory
46 surcharge or crime victim assistance fee OR THE SENIOR ANTI-VIOLENCE
47 SERVICES FEE required by this section, the clerk of the court or the
48 administrative tribunal that rendered the conviction shall notify the
49 superintendent or the municipal official of the facility where the
50 person is confined. The superintendent or the municipal official shall
51 cause any amount owing to be collected from such person during his term
52 of imprisonment from moneys to the credit of an inmates' fund or such
53 moneys as may be earned by a person in a work release program pursuant
54 to section eight hundred sixty of the correction law. Such moneys shall
55 be paid over to the state comptroller to the credit of the criminal
56 justice improvement account established by section ninety-seven-bb of

1 the state finance law, OR IN THE CASE OF THE SENIOR ANTI-VIOLENCE
2 SERVICES FEE, TO THE CREDIT OF THE SENIOR ANTI-VIOLENCE SERVICES ACCOUNT
3 ESTABLISHED PURSUANT TO SECTION NINETY-SEVEN-PPPP OF THE STATE FINANCE
4 LAW, except that any such moneys collected which are surcharges or crime
5 victim assistance fees OR SENIOR ANTI-VIOLENCE SERVICES FEES levied in
6 relation to convictions obtained in a town or village justice court
7 shall be paid within thirty days after the receipt thereof by the super-
8 intendent or municipal official of the facility to the justice of the
9 court in which the conviction was obtained. For the purposes of collect-
10 ing such mandatory surcharge or crime victim assistance [fee] OR SENIOR
11 ANTI-VIOLENCE SERVICES FEES, the state shall be legally entitled to the
12 money to the credit of an inmates' fund or money which is earned by an
13 inmate in a work release program. For purposes of this subdivision, the
14 term "inmates' fund" shall mean moneys in the possession of an inmate at
15 the time of his admission into such facility, funds earned by him as
16 provided for in section one hundred eighty-seven of the correction law
17 and any other funds received by him or on his behalf and deposited with
18 such superintendent or municipal official.

19 5-a. The provisions of subdivision four-a of section five hundred ten,
20 subdivision three of section five hundred fourteen and subdivision three
21 of section two hundred twenty-seven of this chapter governing actions
22 which may be taken for failure to pay a fine or penalty shall be appli-
23 cable to a mandatory surcharge or crime victim assistance fee OR SENIOR
24 ANTI-VIOLENCE SERVICES FEE imposed pursuant to this section.

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

30 7. Notwithstanding any other provision of this section, where a manda-
31 tory surcharge or crime victim assistance fee OR SENIOR ANTI-VIOLENCE
32 SERVICES FEE is imposed pursuant to the provisions of section 60.35 of
33 the penal law, no mandatory surcharge or crime victim assistance fee OR
34 SENIOR ANTI-VIOLENCE SERVICES FEE shall be imposed pursuant to the
35 provisions of this section.

36 8. The provisions of this section shall only apply to offenses commit-
37 ted on or before September first, two thousand seventeen.

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

42 10. For the purposes of this section, the term conviction means and
43 includes the conviction of a felony or a misdemeanor for which a youth-
44 ful offender finding was substituted and upon such a finding there shall
45 be levied a mandatory surcharge and a crime victim assistance fee to the
46 same extent and in the same manner and amount provided by this section
47 for conviction of the felony or misdemeanor, as the case may be, for
48 which such youthful offender finding was substituted.

49 S 6. Subdivision 1 of section 1809 of the vehicle and traffic law, as
50 amended by section 10-a of chapter 222 of the laws of 2015, is amended
51 to read as follows:

52 1. Whenever proceedings in an administrative tribunal or a court of
53 this state result in a conviction for a crime under this chapter or a
54 traffic infraction under this chapter, or a local law, ordinance, rule
55 or regulation adopted pursuant to this chapter, other than a traffic
56 infraction involving standing, stopping, parking or motor vehicle equip-

1 ment or violations by pedestrians or bicyclists, or other than an adju-
2 dication of liability of an owner for a violation of subdivision (d) of
3 section eleven hundred eleven of this chapter in accordance with section
4 eleven hundred eleven-a of this chapter, or other than an adjudication
5 of liability of an owner for a violation of subdivision (d) of section
6 eleven hundred eleven of this chapter in accordance with section eleven
7 hundred eleven-b of this chapter, or other than an adjudication in
8 accordance with section eleven hundred eleven-c of this chapter for a
9 violation of a bus lane restriction as defined in such section, or other
10 than an adjudication of liability of an owner for a violation of subdi-
11 vision (d) of section eleven hundred eleven of this chapter in accord-
12 ance with section eleven hundred eleven-d of this chapter, or other than
13 an adjudication of liability of an owner for a violation of subdivision
14 (b), (c), (d), (f) or (g) of section eleven hundred eighty of this chap-
15 ter in accordance with section eleven hundred eighty-b of this chapter,
16 or other than an adjudication of liability of an owner for a violation
17 of subdivision (b), (c), (d), (f) or (g) of section eleven hundred
18 eighty of this chapter in accordance with section eleven hundred eight-
19 y-c of this chapter, or other than an adjudication of liability of an
20 owner for a violation of subdivision (d) of section eleven hundred elev-
21 en of this chapter in accordance with section eleven hundred eleven-e of
22 this chapter, there shall be levied a mandatory surcharge, in addition
23 to any sentence required or permitted by law, in the amount of twenty-
24 five dollars AND A SENIOR ANTI-VIOLENCE SERVICES FEE OF TWENTY-FIVE
25 DOLLARS.

26 S 7. Subdivision 1 of section 1809 of the vehicle and traffic law, as
27 separately amended by section 10-b of chapter 222 of the laws of 2015,
28 is amended to read as follows:

29 1. Whenever proceedings in an administrative tribunal or a court of
30 this state result in a conviction for a crime under this chapter or a
31 traffic infraction under this chapter other than a traffic infraction
32 involving standing, stopping, parking or motor vehicle equipment or
33 violations by pedestrians or bicyclists, or other than an adjudication
34 in accordance with section eleven hundred eleven-c of this chapter for a
35 violation of a bus lane restriction as defined in such section, or other
36 than an adjudication of liability of an owner for a violation of subdi-
37 vision (d) of section eleven hundred eleven of this chapter in accord-
38 ance with section eleven hundred eleven-d of this chapter, or other than
39 an adjudication of liability of an owner for a violation of subdivision
40 (b), (c), (d), (f) or (g) of section eleven hundred eighty of this chap-
41 ter in accordance with section eleven hundred eighty-b of this chapter,
42 or other than an adjudication of liability of an owner for a violation
43 of subdivision (b), (c), (d), (f) or (g) of section eleven hundred
44 eighty of this chapter in accordance with section eleven hundred eight-
45 y-c of this chapter, or other than an adjudication of liability of an
46 owner for a violation of subdivision (d) of section eleven hundred elev-
47 en of this chapter in accordance with section eleven hundred eleven-e of
48 this chapter, there shall be levied a mandatory surcharge, in addition
49 to any sentence required or permitted by law, in the amount of seventeen
50 dollars, AND A SENIOR ANTI-VIOLENCE SERVICES FEE OF TWENTY-FIVE DOLLARS.

51 S 8. Subdivision 1 of section 1809 of the vehicle and traffic law, as
52 separately amended by section 10-c of chapter 222 of the laws of 2015,
53 is amended to read as follows:

54 1. Whenever proceedings in an administrative tribunal or a court of
55 this state result in a conviction for a crime under this chapter or a
56 traffic infraction under this chapter other than a traffic infraction

1 involving standing, stopping, parking or motor vehicle equipment or
2 violations by pedestrians or bicyclists, or other than an adjudication
3 of liability of an owner for a violation of subdivision (b), (c), (d),
4 (f) or (g) of section eleven hundred eighty of this chapter in accord-
5 ance with section eleven hundred eighty-b of this chapter, or other than
6 an adjudication of liability of an owner for a violation of subdivision
7 (b), (c), (d), (f) or (g) of section eleven hundred eighty of this chap-
8 ter in accordance with section eleven hundred eighty-c of this chapter,
9 or other than an adjudication of liability of an owner for a violation
10 of subdivision (d) of section eleven hundred eleven of this chapter in
11 accordance with section eleven hundred eleven-d of this chapter, or
12 other than an adjudication of liability of an owner for a violation of
13 subdivision (d) of section eleven hundred eleven of this chapter in
14 accordance with section eleven hundred eleven-e of this chapter, there
15 shall be levied a mandatory surcharge, in addition to any sentence
16 required or permitted by law, in the amount of seventeen dollars, AND A
17 SENIOR ANTI-VIOLENCE SERVICES FEE OF TWENTY-FIVE DOLLARS.

18 S 9. Subdivision 1 of section 1809 of the vehicle and traffic law, as
19 separately amended by section 10-d of chapter 222 of the laws of 2015,
20 is amended to read as follows:

21 1. Whenever proceedings in an administrative tribunal or a court of
22 this state result in a conviction for a crime under this chapter or a
23 traffic infraction under this chapter other than a traffic infraction
24 involving standing, stopping, parking or motor vehicle equipment or
25 violations by pedestrians or bicyclists, or other than an adjudication
26 of liability of an owner for a violation of subdivision (b), (c), (d),
27 (f) or (g) of section eleven hundred eighty of this chapter in accord-
28 ance with section eleven hundred eighty-c of this chapter, or other than
29 an adjudication of liability of an owner for a violation of subdivision
30 (d) of section eleven hundred eleven of this chapter in accordance with
31 section eleven hundred eleven-d of this chapter, or other than an adju-
32 dication of liability of an owner for a violation of subdivision (d) of
33 section eleven hundred eleven of this chapter in accordance with section
34 eleven hundred eleven-e of this chapter, there shall be levied a manda-
35 tory surcharge, in addition to any sentence required or permitted by
36 law, in the amount of seventeen dollars, AND A SENIOR ANTI-VIOLENCE
37 SERVICES FEE OF TWENTY-FIVE DOLLARS.

38 S 10. Subdivision 1 of section 1809 of the vehicle and traffic law, as
39 separately amended by section 10-e of chapter 222 of the laws of 2015,
40 is amended to read as 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 other than a traffic infraction
44 involving standing, stopping, parking or motor vehicle equipment or
45 violations by pedestrians or bicyclists, or other than an adjudication
46 of liability of an owner for a violation of subdivision (d) of section
47 eleven hundred eleven of this chapter in accordance with section eleven
48 hundred eleven-d of this chapter, or other than an adjudication of
49 liability of an owner for a violation of subdivision (d) of section
50 eleven hundred eleven of this chapter in accordance with section eleven
51 hundred eleven-e of this chapter, there shall be levied a mandatory
52 surcharge, in addition to any sentence required or permitted by law, in
53 the amount of seventeen dollars, AND A SENIOR ANTI-VIOLENCE SERVICES FEE
54 OF TWENTY-FIVE DOLLARS.

S 11. Subdivision 1 of section 1809 of the vehicle and traffic law, as amended by section 10-f of chapter 222 of the laws of 2015, is amended to read as follows:

1. Whenever proceedings in an administrative tribunal or a court of this state result in a conviction for a crime under this chapter or a traffic infraction under this chapter other than a traffic infraction involving standing, stopping, parking or motor vehicle equipment or violations by pedestrians or bicyclists, or other than an adjudication of liability of an owner for a violation of subdivision (d) of section eleven hundred eleven of this chapter in accordance with section eleven hundred eleven-e of this chapter, there shall be levied a mandatory surcharge, in addition to any sentence required or permitted by law, in the amount of seventeen dollars, AND A SENIOR ANTI-VIOLENCE SERVICES FEE OF TWENTY-FIVE DOLLARS.

S 12. 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 13. 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.

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

S 261.02 ABANDONMENT OF AN ELDERLY OR DISABLED PERSON.

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

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

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

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

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

A PERSON IS GUILTY OF ENDANGERING THE WELFARE OF AN ELDERLY OR DISABLED PERSON WHEN BEING A PERSON LEGALLY CHARGED WITH THE CARE OR CUSTODY OF AN ELDERLY OR DISABLED PERSON:

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

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

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

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

A PERSON SHALL NOT BE CONVICTED OF ENDANGERING THE WELFARE OF AN ELDERLY OR DISABLED PERSON, OR OF AN ATTEMPT TO COMMIT THE SAME, UPON THE TESTIMONY OF A VICTIM WHO IS INCAPABLE OF CONSENT BECAUSE OF MENTAL

1 DEFECT OR MENTAL INCAPACITY AS TO CONDUCT THAT CONSTITUTES AN OFFENSE OR
2 AN ATTEMPT TO COMMIT AN OFFENSE REFERRED TO IN SECTION 130.16 OF THIS
3 CHAPTER, WITHOUT ADDITIONAL EVIDENCE SUFFICIENT PURSUANT TO SECTION
4 130.16 OF THIS CHAPTER TO SUSTAIN A CONVICTION OF AN OFFENSE REFERRED TO
5 IN SECTION 130.16 OF THIS CHAPTER, OR OF AN ATTEMPT TO COMMIT THE SAME.
6 S 261.06 ENDANGERING THE WELFARE OF AN ELDERLY OR DISABLED PERSON;
7 DEFENSE.

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

10 1. BASED UPON AN ALLEGED FAILURE OR REFUSAL TO PROVIDE PROPER MEDICAL
11 CARE OR TREATMENT TO AN ELDERLY OR DISABLED PERSON, WHO IS ILL, IT IS AN
12 AFFIRMATIVE DEFENSE THAT THE ELDERLY OR DISABLED PERSON IS A MEMBER OR
13 ADHERENT OF AN ORGANIZED CHURCH OR RELIGIOUS GROUP THE TENETS OF WHICH
14 PRESCRIBE PRAYER AS THE PRINCIPAL TREATMENT FOR ILLNESS, AND THAT THE
15 ELDERLY OR DISABLED PERSON WAS TREATED IN ACCORDANCE WITH SUCH TENETS;
16 OR

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

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

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

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

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

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

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

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

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

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

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

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

3 2. HE OR SHE RECKLESSLY CAUSES SERIOUS PHYSICAL INJURY TO SUCH PERSON.
4 ENDANGERING THE WELFARE OF A VULNERABLE ELDERLY PERSON OR A DISABLED
5 PERSON IN THE FIRST DEGREE IS A CLASS D FELONY.

6 S 14. Section 120.05 of the penal law is amended by adding a new
7 subdivision 14 to read as follows:

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

12 S 15. Section 135.30 of the penal law is amended to read as follows:
13 S 135.30 Kidnapping; defense.

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

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

22 S 16. Section 135.45 of the penal law is amended by adding a new
23 subdivision 3 to read as follows:

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

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

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

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

37 S 18. Severability. If any provision of this act or the application
38 thereof to any person or circumstances is held to be invalid, the
39 remainder of the act and the application of such provision to other
40 persons or circumstances shall not be affected thereby.

41 S 19. This act shall take effect immediately; provided, however:

42 (a) the amendments to subdivision 1 of section 1809 of the vehicle and
43 traffic law made by section five of this act shall not affect the expi-
44 ration and reversion of such subdivision and shall be deemed to expire
45 therewith, when upon such date the provisions of section six of this act
46 shall take effect;

47 (b) the amendments to subdivision 1 of section 1809 of the vehicle and
48 traffic law made by section six of this act shall not affect the expira-
49 tion and reversion of such subdivision and shall be deemed to expire
50 therewith, when upon such date the provisions of section seven of this
51 act shall take effect;

52 (c) the amendments to subdivision 1 of section 1809 of the vehicle and
53 traffic law made by section seven of this act shall not affect the expi-
54 ration and reversion of such subdivision and shall be deemed to expire
55 therewith, when upon such date the provisions of section eight of this
56 act shall take effect;

1 (d) the amendments to subdivision 1 of section 1809 of the vehicle and
2 traffic law made by section eight of this act shall not affect the expi-
3 ration and reversion of such subdivision and shall be deemed to expire
4 therewith, when upon such date the provisions of section nine of this
5 act shall take effect;

6 (e) the amendments to subdivision 1 of section 1809 of the vehicle and
7 traffic law made by section nine of this act shall not affect the expi-
8 ration and reversion of such subdivision and shall be deemed to expire
9 therewith, when upon such date the provisions of section ten of this act
10 shall take effect;

11 (f) the amendments to subdivision 1 of section 1809 of the vehicle and
12 traffic law made by section ten of this act shall not affect the expira-
13 tion and reversion of such subdivision and shall be deemed to expire
14 therewith, when upon such date the provisions of section eleven of this
15 act shall take effect; and

16 (g) the amendments to subdivision 2 of section 1809 of the vehicle and
17 traffic law made by section five of this act shall not affect the expi-
18 ration of such section and shall be deemed to expire therewith.