S T A T E O F N E W Y O R K

3918

2009-2010 Regular Sessions

I N A S S E M B L Y

January 29, 2009

Introduced by M. of A. KOON, ABBATE, MAGEE, COLTON, HEASTIE, PHEFFER, WRIGHT, ZEBROWSKI -- Multi-Sponsored by -- M. of A. COOK, ESPAILLAT, HOOPER, JOHN, MAYERSOHN, SCARBOROUGH -- read once and referred to the Committee on Aging

AN ACT to amend the social services law, in relation to protection of the elderly against financial exploitation and repealing certain provisions of such law relating to state heating fuel crisis assistance

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

Section 1. Title 13 of article 5 of the social services law is REPEALED and a new title 13 is added to read as follows:

TITLE 13
MANDATORY REPORTING OF FINANCIAL EXPLOITATION OF THE ELDERLY

SECTION 370-AA. MANDATORY REPORTING OF FINANCIAL EXPLOITATION OF THE ELDERLY.

S 370-AA. MANDATORY REPORTING OF FINANCIAL EXPLOITATION OF THE ELDERLY. 1. THE FOLLOWING PERSONS AND OFFICIALS ARE REQUIRED TO REPORT OR CAUSE A REPORT TO BE MADE IN ACCORDANCE WITH THIS SECTION WHEN THEY HAVE REASONABLE CAUSE TO SUSPECT THAT A PERSON AGED SIXTY-TWO YEARS OR OLDER COMING BEFORE THEM IN THEIR PROFESSIONAL OR OFFICIAL CAPACITY IS A VICTIM OF FINANCIAL EXPLOITATION IN VIOLATION OF THE PENAL LAW: ANY PHYSICIAN; REGISTERED PHYSICIAN ASSISTANT; SURGEON; MEDICAL EXAMINER; CORONER; DENTIST; DENTAL HYGIENIST; OSTEOPATH; OPTOMETRIST; CHIROPRACTOR; PODIATRIST; RESIDENT; INTERN; PSYCHOLOGIST; REGISTERED NURSE; HOSPITAL OR NURSING HOME PERSONNEL ENGAGED IN THE ADMISSION, EXAMINATION, CARE, OR TREATMENT OF PERSONS; SOCIAL SERVICES WORKER; SOCIAL WORKER; MENTAL HEALTH PROFESSIONAL; SUBSTANCE ABUSE COUNSELOR; ALCOHOLISM COUNSELOR; PEACE OFFICER; POLICE OFFICER; DISTRICT ATTORNEY OR

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

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ASSISTANT DISTRICT ATTORNEY; INVESTIGATOR EMPLOYED IN THE OFFICE OF A DISTRICT ATTORNEY; OR OTHER LAW ENFORCEMENT OFFICIAL; LAWYER; PUBLIC ACCOUNTANT OR CERTIFIED PUBLIC ACCOUNTANT; INCOME TAX PREPARER (WHETHER PAID OR UNPAID); OR BANKING INSTITUTION, AS DEFINED IN SECTION NINE-F OF THE BANKING LAW. WHENEVER SUCH PERSON IS REQUIRED TO REPORT UNDER THIS SECTION IN HIS OR HER CAPACITY AS A MEMBER OF THE STAFF OF A MEDICAL OR OTHER PUBLIC OR PRIVATE INSTITUTION, FACILITY, OR AGENCY, HE OR SHE SHALL 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. HOWEVER, NOTHING IN THIS SECTION IS INTENDED TO REQUIRE MORE THAN ONE REPORT FROM ANY SUCH INSTITUTION, FACILITY, OR AGENCY.

2. (A) THE REPORTS REQUIRED TO BE MADE BY SUBDIVISION ONE OF THIS SECTION SHALL BE MADE TO THE LOCAL SOCIAL SERVICES OFFICIAL OF THE SOCIAL SERVICES DISTRICT IN WHICH THE REPORTING PERSON GAINS KNOWLEDGE OF THE ILLEGAL ACTIVITY OR IN WHICH THE ELDERLY PERSON RESIDES.

(B) UPON THE RECEIPT OF SUCH A REPORT, SUCH SOCIAL SERVICES OFFICIAL SHALL INVESTIGATE SUCH REPORT AND TAKE SUCH ACTION AS MAY BE WARRANTED PURSUANT TO THE RULES OF THE COMMISSIONER OF CHILDREN AND FAMILY SERVICES PROMULGATED THEREFOR.

(C) THE COMMISSIONER OF CHILDREN AND FAMILY SERVICES SHALL PROMULGATE RULES PROVIDING FOR THE CONDUCT OF INVESTIGATIONS OF REPORTS MADE PURSUANT TO THIS SECTION AND FOR THE IMPLEMENTATION OF MEASURES TO PROTECT PERSONS AGED SIXTY-TWO YEARS OR OLDER AGAINST SUCH FINANCIAL EXPLOITATION WHEN IT IS FOUND. SUCH RULES SHALL INCLUDE, BUT NOT BE LIMITED TO, NOTIFYING THE APPROPRIATE DISTRICT ATTORNEY, THE ATTORNEY GENERAL, OR OTHER APPROPRIATE LAW ENFORCEMENT OFFICIAL OF ILLEGAL CONDUCT AND NOTIFYING THE NON-IMPLICATED NEXT OF KIN, ATTORNEY-IN-FACT, OR GUARDIAN OR THE PERSON AND/OR PROPERTY OF THE ELDERLY PERSON.

3. ANY PERSON AGED SIXTY-TWO OR OVER OR HIS OR HER ESTATE SHALL HAVE A CAUSE OF ACTION FOR DAMAGES AGAINST ANY PERSON WHO FAILS TO MAKE A REPORT REQUIRED BY SUBDIVISION ONE OF THIS SECTION.

S 2. This act shall take effect on the one hundred twentieth day after it shall have become a law; provided that the commissioner of children and family services is authorized to promulgate any and all rules and regulations and take any other measures necessary to implement this act on its effective date on or before such date.