

1838

2009-2010 Regular Sessions

I N S E N A T E

February 9, 2009

Introduced by Sen. KLEIN -- read twice and ordered printed, and when printed to be committed 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:

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2 REPEALED and a new title 13 is added to read as follows:

3 TITLE 13
4 MANDATORY REPORTING OF FINANCIAL EXPLOITATION OF THE ELDERLY

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

7 S 370-AA. MANDATORY REPORTING OF FINANCIAL EXPLOITATION OF THE ELDER-
8 LY. 1. THE FOLLOWING PERSONS AND OFFICIALS ARE REQUIRED TO REPORT OR
9 CAUSE A REPORT TO BE MADE IN ACCORDANCE WITH THIS SECTION WHEN THEY HAVE
10 REASONABLE CAUSE TO SUSPECT THAT A PERSON AGED SIXTY-TWO YEARS OR OLDER
11 COMING BEFORE THEM IN THEIR PROFESSIONAL OR OFFICIAL CAPACITY IS A
12 VICTIM OF FINANCIAL EXPLOITATION IN VIOLATION OF THE PENAL LAW: ANY
13 PHYSICIAN; REGISTERED PHYSICIAN ASSISTANT; SURGEON; MEDICAL EXAMINER;
14 CORONER; DENTIST; DENTAL HYGIENIST; OSTEOPATH; OPTOMETRIST; CHIROPRACTIC-
15 TOR; PODIATRIST; RESIDENT; INTERN; PSYCHOLOGIST; REGISTERED NURSE;
16 HOSPITAL OR NURSING HOME PERSONNEL ENGAGED IN THE ADMISSION, EXAMINA-
17 TION, CARE, OR TREATMENT OF PERSONS; SOCIAL SERVICES WORKER; SOCIAL
18 WORKER; MENTAL HEALTH PROFESSIONAL; SUBSTANCE ABUSE COUNSELOR; ALCOHOL-
19 ISM COUNSELOR; PEACE OFFICER; POLICE OFFICER; DISTRICT ATTORNEY OR
20 ASSISTANT DISTRICT ATTORNEY; INVESTIGATOR EMPLOYED IN THE OFFICE OF A
21 DISTRICT ATTORNEY; OR OTHER LAW ENFORCEMENT OFFICIAL; LAWYER; PUBLIC

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

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1 ACCOUNTANT OR CERTIFIED PUBLIC ACCOUNTANT; INCOME TAX PREPARER (WHETHER
2 PAID OR UNPAID); OR BANKING INSTITUTION, AS DEFINED IN SECTION NINE-F OF
3 THE BANKING LAW. WHENEVER SUCH PERSON IS REQUIRED TO REPORT UNDER THIS
4 SECTION IN HIS OR HER CAPACITY AS A MEMBER OF THE STAFF OF A MEDICAL OR
5 OTHER PUBLIC OR PRIVATE INSTITUTION, FACILITY, OR AGENCY, HE OR SHE
6 SHALL IMMEDIATELY NOTIFY THE PERSON IN CHARGE OF SUCH INSTITUTION,
7 FACILITY, OR AGENCY, OR HIS OR HER DESIGNATED AGENT, WHO THEN ALSO SHALL
8 BECOME RESPONSIBLE TO REPORT OR CAUSE REPORTS TO BE MADE. HOWEVER, NOTH-
9 ING IN THIS SECTION IS INTENDED TO REQUIRE MORE THAN ONE REPORT FROM ANY
10 SUCH INSTITUTION, FACILITY, OR AGENCY.

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

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

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

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

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