

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

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

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

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

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

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

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

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

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

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

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

51 (E) ABANDONMENT, INCLUDING THE DESERTION OF A SENIOR BY AN INDIVIDUAL
52 WHO HAS ASSUMED RESPONSIBILITY FOR PROVIDING CARE FOR SUCH SENIOR, OR BY
53 A PERSON WITH PHYSICAL CUSTODY OF A SENIOR, INCLUDING BUT NOT LIMITED TO
54 THE DESERTION OF A SENIOR AT A HOSPITAL, A NURSING FACILITY, OR OTHER
55 SIMILAR INSTITUTION, OR THE DESERTION OF A SENIOR AT A SHOPPING CENTER
56 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

1 THE PROVISION OF SERVICES TO SUCH SENIOR TWENTY-FOUR HOURS A DAY, SEVEN
2 DAYS A WEEK. IN FURTHERANCE OF THESE REQUIREMENTS,

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

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

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

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

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

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

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

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

26 (E) THE PLAN FOR REHABILITATIVE TREATMENT;

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

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

31 S 402. DISPOSITION OF REPORTS RECEIVED BY THE REGISTRY. 1. THE DIREC-
32 TOR SHALL ESTABLISH IN THE RULES AND REGULATIONS TO IMPLEMENT THE
33 REQUIREMENTS OF THIS SECTION CRITERIA FOR DETERMINING WHETHER A REPORT
34 COULD REASONABLY CONSTITUTE A REPORT OF ABUSE OF A SENIOR. THE INABILITY
35 OF A PERSON MAKING A REPORT TO IDENTIFY THE ALLEGED PERPETRATOR SHALL
36 NOT CONSTITUTE A SUFFICIENT REASON FOR THE REGISTRY TO REJECT THE ALLE-
37 GATION OR TO FAIL TO TRANSMIT THE ALLEGATION FOR INVESTIGATION.

38 2. WHEN AN ALLEGATION REPORTED TO THE REGISTRY COULD REASONABLY
39 CONSTITUTE A REPORT OF ABUSE OF A SENIOR, SUCH ALLEGATION SHALL BE TRAN-
40 SMITTED BY THE FASTEST MEANS POSSIBLE BY THE OFFICE TO THE DESIGNATED
41 AGENCY FOR INVESTIGATION.

42 3. IF THE RECORDS INDICATE A PREVIOUS REPORT CONCERNING A SUBJECT OF
43 THE REPORT, OTHER PERSONS NAMED IN THE REPORT OR OTHER PERTINENT INFOR-
44 MATION, THE DESIGNATED AGENCY SHALL BE NOTIFIED OF THE FACT.

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

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

53 (B) IF A REPORT COULD REASONABLY CONSTITUTE INSTITUTIONAL NEGLECT OF A
54 SENIOR IN RESIDENTIAL CARE, THE OFFICE SHALL CONVEY BY THE MOST EXPEDI-
55 ENT MEANS AVAILABLE THE INFORMATION TO THE STATE AGENCY RESPONSIBLE FOR
56 THE OPERATION OR SUPERVISION OF THE RESIDENTIAL FACILITY OR PROGRAM AND,

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

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

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

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

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

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

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

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

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

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

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

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

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

53 5. NOTHING CONTAINED IN THIS ARTICLE SHALL BE CONSTRUED TO PERMIT
54 RELEASE, DISCLOSURE OR IDENTIFICATION OF THE NAMES OR IDENTIFYING
55 DESCRIPTIONS OF PERSONS WHO REPORT SUSPECTED ABUSE OR MALTREATMENT OF A
56 SENIOR TO THE REGISTRY OR SUCH PERSON'S PLACE OF EMPLOYMENT OR WITH WHOM

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. AN UNFOUNDED REPORT SHALL NOT BE ADMISSIBLE IN A JUDICIAL OR ADMINISTRATIVE PROCEEDING OR ACTION; PROVIDED, HOWEVER, AN UNFOUNDED REPORT MAY BE INTRODUCED INTO EVIDENCE:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

56 (G) FAMILY COMPOSITION, WHERE APPROPRIATE;

1 (H) THE SOURCE OF THE REPORT;

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

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

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

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

23 4. EXCEPT AS OTHERWISE PROVIDED IN THIS CHAPTER, WRITTEN REPORTS FROM
24 PERSONS OR OFFICIALS REQUIRED BY THIS TITLE TO REPORT SHALL BE ADMISSI-
25 BLE IN EVIDENCE IN ANY PROCEEDINGS RELATING TO SENIOR ABUSE OR MALTREAT-
26 MENT.

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

35 S 410. IMMUNITY FROM LIABILITY. A PERSON, OFFICIAL, OR INSTITUTION
36 PARTICIPATING IN GOOD FAITH IN PROVIDING OF SERVICES PURSUANT TO THIS
37 TITLE, THE MAKING OF A REPORT, THE TAKING OF PHOTOGRAPHS, THE REMOVAL OR
38 KEEPING OF A SENIOR PURSUANT TO THIS TITLE, OR THE DISCLOSURE OF INFOR-
39 MATION IN COMPLIANCE WITH THIS TITLE AND RULES AND REGULATIONS PROMUL-
40 GATED THEREUNDER, SHALL BE IMMUNE FROM ANY LIABILITY, CIVIL OR CRIMINAL,
41 THAT MIGHT OTHERWISE RESULT BY REASON OF SUCH ACTIONS. FOR THE PURPOSE
42 OF ANY PROCEEDING, CIVIL OR CRIMINAL, THE GOOD FAITH OF ANY SUCH PERSON,
43 OFFICIAL, OR INSTITUTION REQUIRED TO REPORT CASES OF SENIOR ABUSE OR
44 MALTREATMENT OR PROVIDING A SERVICE PURSUANT TO THIS TITLE SHALL BE
45 PRESUMED, PROVIDED SUCH PERSON, OFFICIAL OR INSTITUTION WAS ACTING IN
46 DISCHARGE OF THEIR DUTIES AND WITHIN THE SCOPE OF THEIR EMPLOYMENT, AND
47 THAT SUCH LIABILITY DID NOT RESULT FROM THE WILLFUL MISCONDUCT OR GROSS
48 NEGLIGENCE OF SUCH PERSON, OFFICIAL OR INSTITUTION.

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

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

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

20 TITLE 2

21 DUTIES AND RESPONSIBILITIES OF THE OFFICE AND THE COUNCIL

22 SECTION 420. DUTIES AND RESPONSIBILITIES OF THE OFFICE.
23 421. COUNCIL ON ELDER ABUSE; CREATION AND POWERS.
24 422. COOPERATION OF OTHER AGENCIES.
25 423. IMPLEMENTATION.
26 424. SENIOR ANTI-VIOLENCE SERVICES RESPONSIBILITIES AND ORGAN-
27 IZATION.
28 425. DUTIES OF THE SAVS UNIT.
29 426. LOCAL AND REGIONAL FATALITY REVIEW TEAMS.
30 427. GRANTS FOR SENIOR ANTI-VIOLENCE PROJECTS.
31 S 420. DUTIES AND RESPONSIBILITIES OF THE OFFICE. THE OFFICE SHALL:
32 1. ENCOURAGE THE FULLEST DEGREE OF REPORTING OF SUSPECTED SENIOR ABUSE
33 OR MALTREATMENT BY CONDUCTING CONTINUING PUBLICITY AND EDUCATION
34 PROGRAMS FOR PERSONS AND OFFICIALS WHO ARE REQUIRED TO REPORT AS WELL AS
35 OTHER APPROPRIATE PERSONS.
36 2. PROVIDE TECHNICAL ASSISTANCE ON AN ONGOING BASIS, OR AS NEEDED, OR
37 UPON REQUEST TO DESIGNATED AGENCIES REGARDING CASE PLANNING, PROVISION
38 OF SERVICES, AND PERFORMANCE OR OTHER RESPONSIBILITIES PURSUANT TO THIS
39 TITLE.
40 3. DEVELOP PROTOCOLS AND ISSUE GUIDELINES TO ASSIST DESIGNATED AGEN-
41 CIES IN EVALUATING AND ESTABLISHING INVESTIGATIVE PRIORITIES FOR REPORTS
42 DESCRIBING SITUATIONS OR EVENTS WHICH MAY POSE A CLEAR AND PRESENT
43 DANGER TO THE LIFE, HEALTH OR SAFETY OF A SENIOR AND/OR WHICH REQUIRE
44 IMMEDIATE, PERSONAL CONTACT BETWEEN THE DESIGNATED AGENCY AND THE
45 SUBJECT OF THE REPORT, THE SUBJECT'S FAMILY, OR OTHER PERSONS NAMED IN
46 THE REPORT.
47 4. ISSUE GUIDELINES TO ASSIST DESIGNATED AGENCIES IN THE INTERPRETA-
48 TION AND ASSESSMENT OF REPORTS OF ABUSE AND MALTREATMENT MADE TO THE
49 REGISTRY, INCLUDING INFORMATION, STANDARDS AND CRITERIA FOR THE IDEN-
50 TIFICATION OF CREDIBLE EVIDENCE OF ALLEGED ABUSE AND MALTREATMENT
51 REQUIRED TO DETERMINE WHETHER A REPORT MAY BE INDICATED.
52 5. SET FORTH REQUIREMENTS FOR THE PERFORMANCE BY DESIGNATED AGENCIES
53 OF THE DUTIES AND POWERS IMPOSED AND CONFERRED UPON THEM BY THE
54 PROVISIONS OF THIS TITLE, INCLUDING UNIFORM REQUIREMENTS FOR THE INVES-

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 2. IMPLEMENT RESEARCH AND PROGRAM INNOVATION.

24 3. PUBLIC EDUCATION.

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

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

29 6. PROTECTION OF VICTIMS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 S 5. Section 1809 of the vehicle and traffic law, as amended by chap-
4 ter 55 of the laws of 1992, subdivision 1 as amended by section 2 of
5 part DD of chapter 56 of the laws of 2008, the opening paragraph and
6 paragraph (c) of subdivision 1 as separately amended by sections 4, 17,
7 17, 17 and 4 of chapters 19, 20, 21, 22, and 23, respectively, of the
8 laws of 2009, subdivision 2 as amended by section 1 of part I of chapter
9 59 of the laws of 2009, subdivision 3 as amended by chapter 309 of the
10 laws of 1996, subdivision 5 as amended by chapter 385 of the laws of
11 1999, subdivision 8 as amended by section 14 of part U of chapter 56 of
12 the laws of 2009, subdivision 9 as amended by chapter 452 of the laws of
13 1999, and subdivision 10 as added by section 3 of part F of chapter 56
14 of the laws of 2004, is amended to read as follows:

15 S 1809. Mandatory surcharge and crime victim assistance fee required
16 in certain cases. 1. Whenever proceedings in an administrative tribunal
17 or a court of this state result in a conviction for an offense under
18 this chapter or a traffic infraction under this chapter, or a local law,
19 ordinance, rule or regulation adopted pursuant to this chapter, other
20 than a traffic infraction involving standing, stopping, or parking or
21 violations by pedestrians or bicyclists, or other than an adjudication
22 of liability of an owner for a violation of subdivision (d) of section
23 eleven hundred eleven of this chapter in accordance with section eleven
24 hundred eleven-a of this chapter, there shall be levied a crime victim
25 assistance fee, A SENIOR ANTI-VIOLENCE SERVICES FEE and a mandatory
26 surcharge, in addition to any sentence required or permitted by law, in
27 accordance with the following schedule:

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

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

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

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

46 (c) Whenever proceedings in an administrative tribunal or a court of
47 this state result in a conviction for an offense under this chapter
48 other than a crime pursuant to section eleven hundred ninety-two of this
49 chapter, or a traffic infraction under this chapter, or a local law,
50 ordinance, rule or regulation adopted pursuant to this chapter, other
51 than a traffic infraction involving standing, stopping, or parking or
52 violations by pedestrians or bicyclists, or other than an adjudication
53 of liability of an owner for a violation of subdivision (d) of section
54 eleven hundred eleven of this chapter in accordance with section eleven
55 hundred eleven-a of this chapter or other than an infraction pursuant to
56 article nine of this chapter or other than an adjudication of liability

1 of an owner for a violation of toll collection regulations pursuant to
2 section two thousand nine hundred eighty-five of the public authorities
3 law or sections sixteen-a, sixteen-b and sixteen-c of chapter seven
4 hundred seventy-four of the laws of nineteen hundred fifty, there shall
5 be levied a crime victim assistance fee in the amount of five dollars, A
6 SENIOR ANTI-VIOLENCE SERVICES FEE OF FIVE DOLLARS and a mandatory
7 surcharge, in addition to any sentence required or permitted by law, in
8 the amount of fifty-five dollars.

9 2. Where a person is convicted of two or more such crimes or traffic
10 infractions committed through a single act or omission, or through an
11 act or omission which in itself constituted one of the crimes or traffic
12 infractions and also was a material element of the other, the court or
13 administrative tribunal shall impose a crime victim assistance fee and a
14 mandatory surcharge mandated by subdivision one of this section for each
15 such conviction; provided however, that in no event shall the total
16 amount of such crime victim assistance fees and mandatory surcharges
17 imposed pursuant to paragraph (a) or (c) of subdivision one of this
18 section exceed one hundred dollars.

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

50 4. Any person who has paid a mandatory surcharge or crime victim
51 assistance fee OR A SENIOR ANTI-VIOLENCE SERVICES FEE under the authori-
52 ty of this section which is ultimately determined not to be required by
53 this section shall be entitled to a refund of such mandatory surcharge
54 or crime victim assistance fee OR SENIOR ANTI-VIOLENCE SERVICES FEE upon
55 application to the state comptroller. The state comptroller shall

1 require such proof as it is necessary in order to determine whether a
2 refund is required by law.

3 5. When a person who is convicted of a crime or traffic infraction and
4 sentenced to a term of imprisonment has failed to pay the mandatory
5 surcharge or crime victim assistance fee OR THE SENIOR ANTI-VIOLENCE
6 SERVICES FEE required by this section, the clerk of the court or the
7 administrative tribunal that rendered the conviction shall notify the
8 superintendent or the municipal official of the facility where the
9 person is confined. The superintendent or the municipal official shall
10 cause any amount owing to be collected from such person during his term
11 of imprisonment from moneys to the credit of an inmates' fund or such
12 moneys as may be earned by a person in a work release program pursuant
13 to section eight hundred sixty of the correction law. Such moneys shall
14 be paid over to the state comptroller to the credit of the criminal
15 justice improvement account established by section ninety-seven-bb of
16 the state finance law, OR IN THE CASE OF THE SENIOR ANTI-VIOLENCE
17 SERVICES FEE, TO THE CREDIT OF THE SENIOR ANTI-VIOLENCE SERVICES ACCOUNT
18 ESTABLISHED PURSUANT TO SECTION NINETY-SEVEN-JJJJ OF THE STATE FINANCE
19 LAW, except that any such moneys collected which are surcharges or crime
20 victim assistance fees OR SENIOR ANTI-VIOLENCE SERVICES FEES levied in
21 relation to convictions obtained in a town or village justice court
22 shall be paid within thirty days after the receipt thereof by the super-
23 intendent or municipal official of the facility to the justice of the
24 court in which the conviction was obtained. For the purposes of collect-
25 ing such mandatory surcharge or crime victim assistance [fee] OR SENIOR
26 ANTI-VIOLENCE SERVICES FEES, the state shall be legally entitled to the
27 money to the credit of an inmates' fund or money which is earned by an
28 inmate in a work release program. For purposes of this subdivision, the
29 term "inmates' fund" shall mean moneys in the possession of an inmate at
30 the time of his admission into such facility, funds earned by him as
31 provided for in section one hundred eighty-seven of the correction law
32 and any other funds received by him or on his behalf and deposited with
33 such superintendent or municipal official.

34 5-a. The provisions of subdivision four-a of section five hundred ten,
35 subdivision three of section five hundred fourteen and subdivision three
36 of section two hundred twenty-seven of this chapter governing actions
37 which may be taken for failure to pay a fine or penalty shall be appli-
38 cable to a mandatory surcharge or crime victim assistance fee OR SENIOR
39 ANTI-VIOLENCE SERVICES FEE imposed pursuant to this section.

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

45 7. Notwithstanding any other provision of this section, where a manda-
46 tory surcharge or crime victim assistance fee OR SENIOR ANTI-VIOLENCE
47 SERVICES FEE is imposed pursuant to the provisions of section 60.35 of
48 the penal law, no mandatory surcharge or crime victim assistance fee OR
49 SENIOR ANTI-VIOLENCE SERVICES FEE shall be imposed pursuant to the
50 provisions of this section.

51 8. The provisions of this section shall only apply to offenses commit-
52 ted on or before September first, two thousand eleven.

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

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

S 6. Subdivision 1 of section 1809 of the vehicle and traffic law, as separately amended by sections 5, 18, 18, 18 and 5 of chapters 19, 20, 21, 22 and 23, respectively, of the laws of 2009, 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, or a local law, ordinance, rule or regulation adopted pursuant to 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-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, there shall be levied a mandatory surcharge, in addition to any sentence required or permitted by law, in the amount of twenty-five dollars, AND A SENIOR ANTI-VIOLENCE SERVICES FEE OF TWENTY-FIVE DOLLARS.

S 7. Subdivision 1 of section 1809 of the vehicle and traffic law, as separately amended by chapter 16 of the laws of 1983 and chapter 62 of the laws of 1989, 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, 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 8. Subdivision 3 of section 4 of the banking law, as amended by chapter 601 of the laws of 2007, is amended to read as follows:

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

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

ARTICLE 261

OFFENSES AGAINST THE ELDERLY AND DISABLED

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

261.01 CRIMES AGAINST THE ELDERLY AND DISABLED; PRESUMPTION.

261.02 ABANDONMENT OF AN ELDERLY OR DISABLED PERSON.

261.03 ABANDONMENT OF AN ELDERLY OR DISABLED PERSON; DEFENSE.

261.04 ENDANGERING THE WELFARE OF AN ELDERLY OR DISABLED PERSON.

261.05 ENDANGERING THE WELFARE OF AN ELDERLY OR DISABLED PERSON;
CORROBORATION.261.06 ENDANGERING THE WELFARE OF AN ELDERLY OR DISABLED PERSON;
DEFENSE.261.07 ENDANGERING THE WELFARE OF A VULNERABLE ELDERLY PERSON OR
A DISABLED PERSON IN THE SECOND DEGREE.261.08 ENDANGERING THE WELFARE OF A VULNERABLE ELDERLY PERSON OR
A DISABLED PERSON IN THE FIRST DEGREE.

S 261.00 ELDERLY, VULNERABLE ELDERLY AND DISABLED PERSONS; DEFINITIONS.
FOR THE PURPOSE OF THIS ARTICLE, THE FOLLOWING DEFINITIONS SHALL
APPLY:

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

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

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

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

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

S 261.01 CRIMES AGAINST THE ELDERLY AND DISABLED; PRESUMPTION.

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

1 PHYSICAL INJURY AND CARED FOR IN AN APPROPRIATE MANNER, THE DEFENDANT
2 LEFT THE ELDERLY OR DISABLED PERSON WITH AN APPROPRIATE PERSON OR IN A
3 SUITABLE LOCATION AND PROMPTLY NOTIFIED AN APPROPRIATE PERSON OF THE
4 ELDERLY OR DISABLED PERSON'S LOCATION.

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

6 A PERSON IS GUILTY OF ENDANGERING THE WELFARE OF AN ELDERLY OR DISA-
7 BLED PERSON WHEN BEING A PERSON LEGALLY CHARGED WITH THE CARE OR CUSTODY
8 OF AN ELDERLY OR DISABLED PERSON:

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

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

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

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

22 A PERSON SHALL NOT BE CONVICTED OF ENDANGERING THE WELFARE OF AN
23 ELDERLY OR DISABLED PERSON, OR OF AN ATTEMPT TO COMMIT THE SAME, UPON
24 THE TESTIMONY OF A VICTIM WHO IS INCAPABLE OF CONSENT BECAUSE OF MENTAL
25 DEFECT OR MENTAL INCAPACITY AS TO CONDUCT THAT CONSTITUTES AN OFFENSE OR
26 AN ATTEMPT TO COMMIT AN OFFENSE REFERRED TO IN SECTION 130.16 OF THIS
27 CHAPTER, WITHOUT ADDITIONAL EVIDENCE SUFFICIENT PURSUANT TO SECTION
28 130.16 OF THIS CHAPTER TO SUSTAIN A CONVICTION OF AN OFFENSE REFERRED TO
29 IN SECTION 130.16 OF THIS CHAPTER, OR OF AN ATTEMPT TO COMMIT THE SAME.

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

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

34 1. BASED UPON AN ALLEGED FAILURE OR REFUSAL TO PROVIDE PROPER MEDICAL
35 CARE OR TREATMENT TO AN ELDERLY OR DISABLED PERSON, WHO IS ILL, IT IS AN
36 AFFIRMATIVE DEFENSE THAT THE ELDERLY OR DISABLED PERSON IS A MEMBER OR
37 ADHERENT OF AN ORGANIZED CHURCH OR RELIGIOUS GROUP THE TENETS OF WHICH
38 PRESCRIBE PRAYER AS THE PRINCIPAL TREATMENT FOR ILLNESS, AND THAT THE
39 ELDERLY OR DISABLED PERSON WAS TREATED IN ACCORDANCE WITH SUCH TENETS;
40 OR

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 S 135.30 Kidnapping; defense.

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

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

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

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

51 S 13. Section 140.10 of the penal law is amended by adding a new
52 subdivision (h) to read as follows:

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

1 S 14. Severability. If any provision of this act or the application
2 thereof to any person or circumstances is held to be invalid, the
3 remainder of the act and the application of such provision to other
4 persons or circumstances shall not be affected thereby.

5 S 15. This act shall take effect immediately; provided, however, that
6 the amendments made to subdivision 1 of section 1809 of the vehicle and
7 traffic law by section five of this act shall be subject to the expira-
8 tion and reversion of such subdivision pursuant to section 406 of chap-
9 ter 166 of the laws of 1991, as amended, when upon such date the
10 provisions of section six of this act shall take effect; provided,
11 however, that the amendments made to subdivision 1 of section 1809 of
12 the vehicle and traffic law by section six of this act shall be subject
13 to the expiration and reversion of such subdivision pursuant to section
14 17 of chapter 746 of the laws of 1988, as amended, when upon such date
15 the provisions of section seven of this act shall take effect; and
16 provided further, however, that the amendments to the opening paragraph
17 and paragraph (c) of subdivision 1 of section 1809 of the vehicle and
18 traffic law as made by section five of this act shall take effect on the
19 same date as chapters 19, 20, 21, 22 and 23 of the laws of 2009 take
20 effect; and provided further, however, that the amendments made to
21 subdivision 2 of section 2809 of the vehicle and traffic law by section
22 five of this act shall take effect on the same date as section 1 of part
23 I of chapter 59 of the laws of 2009 takes effect and shall not affect
24 the expiration of such subdivision and shall be deemed to expire there-
25 with.