

1028

2011-2012 Regular Sessions

I N S E N A T E

(PREFILED)

January 5, 2011

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

AN ACT to amend the social services law and the banking law, in relation to protection of the elderly against financial exploitation; and to repeal title 13 of article 5 of such law relating to state heating fuel crisis assistance

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

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2 REPEALED and a new title 13 is added to read as follows:

3 TITLE 13
4 REPORTING OF FINANCIAL EXPLOITATION OF THE ELDERLY

5 SECTION 370-AA. REPORTING OF FINANCIAL EXPLOITATION OF THE ELDERLY.
6 S 370-AA. REPORTING OF FINANCIAL EXPLOITATION OF THE ELDERLY. 1. THE
7 FOLLOWING PERSONS AND OFFICIALS ARE REQUIRED TO REPORT OR CAUSE A REPORT
8 TO BE MADE IN ACCORDANCE WITH THIS SECTION WHEN THEY HAVE REASONABLE
9 CAUSE TO SUSPECT THAT A PERSON AGED SIXTY-TWO YEARS OR OLDER COMING
10 BEFORE THEM IN THEIR PROFESSIONAL OR OFFICIAL CAPACITY IS A VICTIM OF
11 FINANCIAL EXPLOITATION AS DEFINED IN PARAGRAPH (G) OF SUBDIVISION SIX OF
12 SECTION FOUR HUNDRED SEVENTY-THREE OF THIS CHAPTER: ANY PHYSICIAN;
13 REGISTERED PHYSICIAN ASSISTANT; SURGEON; MEDICAL EXAMINER; CORONER;
14 DENTIST; OSTEOPATH; OPTOMETRIST; CHIROPRACTOR; PODIATRIST; RESIDENT;
15 INTERN; PSYCHOLOGIST; REGISTERED NURSE; HOSPITAL OR NURSING HOME PERSON-
16 NEL ENGAGED IN THE ADMISSION, EXAMINATION, CARE, OR TREATMENT OF
17 PERSONS; SOCIAL SERVICES WORKER; SOCIAL WORKER; MENTAL HEALTH PROFES-
18 SIONAL; SUBSTANCE ABUSE COUNSELOR; ALCOHOLISM COUNSELOR; POLICE OFFICER;
19 DISTRICT ATTORNEY OR ASSISTANT DISTRICT ATTORNEY; INVESTIGATOR EMPLOYED
20 IN THE OFFICE OF A DISTRICT ATTORNEY; OR OTHER LAW ENFORCEMENT OFFICIAL;

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

LBD04315-01-1

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

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

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

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

29 S 2. Subdivision 3 of section 4 of the banking law, as amended by
30 chapter 601 of the laws of 2007, is amended to read as follows:

31 3. No financial institution which discloses information pursuant to
32 subdivision two of this section, or discloses any financial record to
33 the state office of temporary and disability assistance or a child
34 support enforcement unit of a social services district for the purpose
35 of enforcing a child support obligation of such person, shall be liable
36 under any law to any person for such disclosure, or for any other action
37 taken in good faith to comply with subdivision two of this section. NO
38 BANKING ORGANIZATION WHICH REPORTS INSTANCES OF SUSPECTED ABUSE OR
39 MISTREATMENT OF ANY PERSON AGED SIXTY-TWO YEARS OR OLDER TO THE OFFICE
40 FOR THE AGING OR A DESIGNATED AGENCY, PURSUANT TO THE ELDER LAW, SHALL
41 BE LIABLE TO ANY PERSON FOR SUCH DISCLOSURE, OR FOR ANY OTHER ACTION
42 TAKEN IN GOOD FAITH TO COMPLY WITH THE REQUIREMENTS OF SUCH CHAPTER.

43 S 3. This act shall take effect on the two hundred seventieth day
44 after it shall have become a law; provided that the commissioner of
45 children and family services is authorized to promulgate rules and regu-
46 lations necessary to implement the provisions of this act on its effec-
47 tive date on or before such date.