

1028

2011-2012 Regular Sessions

I N   S E N A T E

(PREFILED)

January 5, 2011

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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2     REPEALED and a new title 13 is added to read as follows: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.