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

2337

2013-2014 Regular Sessions

I N S E N A T E

January 16, 2013

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:

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 Title 13 of article 5 of the social services law is REPEALED and a new title 13 is added to read as follows:

TITLE 13
REPORTING OF FINANCIAL EXPLOITATION OF THE ELDERLY

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

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

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

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PREPARER; OR BANKING INSTITUTION, AS DEFINED IN SECTION NINE-F OF THE BANKING LAW. WHENEVER SUCH PERSON IS REQUIRED TO REPORT UNDER THIS SECTION IN HIS OR HER CAPACITY AS A MEMBER OF THE STAFF OF A MEDICAL OR OTHER PUBLIC OR PRIVATE INSTITUTION, FACILITY OR AGENCY, HE OR SHE SHALL IMMEDIATELY NOTIFY THE PERSON IN CHARGE OF SUCH INSTITUTION, FACILITY OR AGENCY, OR HIS OR HER DESIGNATED AGENT, WHO THEN ALSO SHALL BECOME RESPONSIBLE TO REPORT OR CAUSE REPORTS TO BE MADE. HOWEVER, NOTHING IN THIS SECTION IS INTENDED TO REQUIRE MORE THAN ONE REPORT FROM ANY SUCH INSTITUTION, FACILITY OR AGENCY.

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

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

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

S 2. 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 ANY PERSON AGED SIXTY-TWO YEARS OR OLDER TO THE OFFICE FOR THE AGING OR A DESIGNATED AGENCY, PURSUANT TO THE ELDER LAW, SHALL BE LIABLE TO ANY PERSON FOR SUCH DISCLOSURE, OR FOR ANY OTHER ACTION TAKEN IN GOOD FAITH TO COMPLY WITH THE REQUIREMENTS OF SUCH CHAPTER.

S 3. This act shall take effect on the two hundred seventieth day after it shall have become a law; provided that the commissioner of children and family services is authorized to promulgate rules and regulations necessary to implement the provisions of this act on its effective date on or before such date.