

133--A

2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

Introduced by M. of A. CRESPO -- read once and referred to the Committee on Aging -- recommitted to the Committee on Aging in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the elder law, the penal law, the state finance law, the vehicle and traffic law and the banking law, in relation to enacting the senior anti-violence and enforcement act

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

1 Section 1. This act shall be known and may be cited as the "senior
2 anti-violence and enforcement act" (SAVE).

3 S 2. The elder law is amended by adding a new article 4 to read as
4 follows:

5 ARTICLE 4

6 PROTECTION OF THE ELDERLY

7 TITLE 1

8 SENIOR ANTI-VIOLENCE AND ENFORCEMENT ACT;

9 REPORTS AND FINDINGS

10 SECTION 400. DEFINITIONS.

11 401. STATEWIDE CENTRAL REGISTRY ESTABLISHED; REQUIREMENTS.

12 402. DISPOSITION OF REPORTS RECEIVED BY THE REGISTRY.

13 403. AVAILABILITY OF REPORTS.

14 404. RELEASE OF INFORMATION.

15 405. UNFOUNDED REPORTS.

16 406. PENALTY FOR UNAUTHORIZED DISCLOSURE.

17 407. PERSONS REQUIRED TO REPORT SUSPECTED SENIOR ABUSE OR
18 MALTREATMENT.

19 408. ANY PERSON PERMITTED TO REPORT.

20 409. REPORTING PROCEDURE.

21 410. IMMUNITY FROM LIABILITY.

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

LBD00878-03-4

411. PENALTIES FOR FAILURE TO REPORT.

412. ANNUAL REPORTS.

S 400. DEFINITIONS. AS USED IN THIS ARTICLE:

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

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

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

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

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

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

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

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

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

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

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

(E) ABANDONMENT, INCLUDING THE DESERTION OF A SENIOR BY AN INDIVIDUAL WHO HAS ASSUMED RESPONSIBILITY FOR PROVIDING CARE FOR SUCH SENIOR, OR BY A PERSON WITH PHYSICAL CUSTODY OF A SENIOR, INCLUDING BUT NOT LIMITED TO

1 THE DESERTION OF A SENIOR AT A HOSPITAL, A NURSING FACILITY, OR OTHER
2 SIMILAR INSTITUTION, OR THE DESERTION OF A SENIOR AT A SHOPPING CENTER
3 OR OTHER PUBLIC LOCATION; OR A SENIOR'S REPORT OF BEING ABANDONED.

4 (F) FINANCIAL OR MATERIAL EXPLOITATION, INCLUDING THE ILLEGAL OR
5 IMPROPER USE OF A SENIOR'S FUNDS, PROPERTY, OR ASSETS, INCLUDING WITHOUT
6 LIMITATION CASHING A SENIOR'S CHECKS WITHOUT AUTHORIZATION OR PERMIS-
7 SION, FORGING A SENIOR'S SIGNATURE, MISUSING OR STEALING A SENIOR'S
8 MONEY OR POSSESSIONS, COERCING OR DECEIVING A SENIOR INTO SIGNING A
9 DOCUMENT SUCH AS A CONTRACT OR A WILL, OR IMPROPER USE OF CONSERVATOR-
10 SHIP, GUARDIANSHIP, OR POWER OF ATTORNEY.

11 (G) SELF-NEGLECT, INCLUDING THE BEHAVIOR OF AN ELDERLY PERSON THAT
12 THREATENS HIS OR HER OWN HEALTH OR SAFETY THROUGH THE REFUSAL OR FAILURE
13 TO PROVIDE HIMSELF OR HERSELF WITH ADEQUATE FOOD, WATER, CLOTHING, SHEL-
14 TER, PERSONAL HYGIENE, MEDICATION (WHEN INDICATED), AND SAFETY PRECAU-
15 TIONS.

16 8. "PERSON LEGALLY RESPONSIBLE FOR A SENIOR" MEANS AND INCLUDES THE
17 SENIOR'S CUSTODIAN, GUARDIAN OR ANY OTHER PERSON RESPONSIBLE FORMALLY OR
18 INFORMALLY FOR THE SENIOR'S CARE AT THE RELEVANT TIME, ANY PERSON ACTING
19 WITH POWER OF ATTORNEY, TRUSTEE APPOINTED BY A COURT, OR ANY PERSON WHO
20 BY CONSENT, CONTRACT OR LEGAL ORDER ACTS TO ARRANGE THE AFFAIRS OF THE
21 SENIOR.

22 9. "SUBJECT OF THE REPORT" MEANS A PERSON REPORTED TO THE CENTRAL
23 REGISTRY AS BEING ALLEGEDLY RESPONSIBLE FOR CAUSING THE INJURY, ABUSE OR
24 MALTREATMENT THAT HAS RESULTED IN A SENIOR BECOMING AN ABUSED SENIOR OR
25 WHO ALLEGEDLY ALLOWS SUCH INJURY, ABUSE OR MALTREATMENT TO BE INFLICTED
26 ON SUCH SENIOR AND WHO IS:

27 (A) A PERSON LEGALLY RESPONSIBLE FOR A SENIOR;

28 (B) A PERSON, INCLUDING A DIRECTOR, OPERATOR, EMPLOYEE, VOLUNTEER, OR
29 CONTRACTOR, IN A PUBLIC, PRIVATE, OR NOT-FOR-PROFIT ENTITY PROVIDING
30 GOODS OR SERVICES TO A SENIOR PURSUANT TO A CONTRACT OR OTHER ARRANGE-
31 MENT;

32 (C) A PERSON RELATED TO THE SENIOR BY CONSANGUINITY OR AFFINITY; OR

33 (D) A PERSON WHO HAS GAINED ACCESS TO OR CONTROL FORMALLY OR
34 INFORMALLY OVER A SENIOR'S FINANCES, MEDICATION, LIVING ARRANGEMENTS,
35 SUCH THAT SUCH PERSON MAY CAUSE A SENIOR TO BECOME AN ABUSED SENIOR.

36 10. "OTHER PERSONS NAMED IN THE REPORT" MEANS PERSONS OTHER THAN THE
37 SUBJECT OF THE REPORT WHO ARE NAMED IN A REPORT OF SENIOR ABUSE. OTHER
38 PERSONS NAMED IN THE REPORT SHALL BE LIMITED TO THE SENIOR WHO IS
39 REPORTED TO THE REGISTRY, AND SUCH SENIOR'S GUARDIAN, CUSTODIAN OR OTHER
40 PERSON LEGALLY RESPONSIBLE FOR THE SENIOR WHO HAS NOT BEEN NAMED IN THE
41 REPORT AS ALLEGEDLY RESPONSIBLE FOR CAUSING THE SENIOR TO BECOME AN
42 ABUSED SENIOR.

43 11. AN "UNFOUNDED REPORT" MEANS ANY REPORT MADE PURSUANT TO THIS TITLE
44 WHICH IS NOT AN INDICATED REPORT.

45 12. AN "INDICATED REPORT" IS A REPORT MADE PURSUANT TO THIS TITLE FOR
46 WHICH AN INVESTIGATION DETERMINES THAT CREDIBLE EVIDENCE EXISTS THAT A
47 SENIOR IS AN ABUSED SENIOR.

48 13. "DIRECTOR" MEANS THE DIRECTOR OF THE OFFICE FOR THE AGING AS
49 DESCRIBED IN SECTION TWO HUNDRED ONE OF THIS CHAPTER.

50 S 401. STATEWIDE CENTRAL REGISTRY ESTABLISHED; REQUIREMENTS. 1. THE
51 DIRECTOR SHALL ESTABLISH IN THE OFFICE A STATEWIDE CENTRAL REGISTRY TO
52 RECEIVE, MAINTAIN, AND PROVIDE APPROPRIATE ACCESS TO REPORTS MADE PURSU-
53 ANT TO THIS TITLE CONCERNING THE ABUSE AND MALTREATMENT OF SENIORS.

54 2. SUCH REGISTRY SHALL BE CAPABLE OF RECEIVING REPORTS BY TELEPHONE
55 CALL, FAX, E-MAIL, AND ANY OTHER FORMS OF COMMUNICATION THE DIRECTOR
56 DEEMS APPROPRIATE, ALLEGING THAT A SENIOR HAS BECOME AN ABUSED SENIOR,

1 OF IMMEDIATELY IDENTIFYING PRIOR REPORTS OF ABUSE INVOLVING SUCH SENIOR
2 OR OTHER PERSONS NAMED IN THE REPORT, AND SHALL BE CAPABLE OF MONITORING
3 THE PROVISION OF SERVICES TO SUCH SENIOR TWENTY-FOUR HOURS A DAY, SEVEN
4 DAYS A WEEK. IN FURTHERANCE OF THESE REQUIREMENTS,

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

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

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

18 3. INFORMATION MAINTAINED IN THE REGISTRY SHALL INCLUDE BUT NOT BE
19 LIMITED TO:

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

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

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

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

28 (E) THE PLAN FOR REHABILITATIVE TREATMENT;

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

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

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

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

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

47 4. IRRESPECTIVE OF WHETHER A REPORT REASONABLY CONSTITUTES A REPORT OF
48 ABUSE OF A SENIOR,

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

55 (B) IF A REPORT COULD REASONABLY CONSTITUTE INSTITUTIONAL NEGLECT OF A
56 SENIOR IN RESIDENTIAL CARE, THE OFFICE SHALL CONVEY BY THE MOST EXPEDI-

1 ENT MEANS AVAILABLE THE INFORMATION TO THE STATE AGENCY RESPONSIBLE FOR
2 THE OPERATION OR SUPERVISION OF THE RESIDENTIAL FACILITY OR PROGRAM AND,
3 IN THE CASE OF A FACILITY OPERATED OR CERTIFIED BY AN OFFICE OF THE
4 DEPARTMENT OF MENTAL HYGIENE, TO THE STATE COMMISSION ON QUALITY OF CARE
5 FOR THE MENTALLY DISABLED, FOR APPROPRIATE ACTION.

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

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

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

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

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

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

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

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

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

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

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

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

55 5. NOTHING CONTAINED IN THIS ARTICLE SHALL BE CONSTRUED TO PERMIT
56 RELEASE, DISCLOSURE OR IDENTIFICATION OF THE NAMES OR IDENTIFYING

1 DESCRIPTIONS OF PERSONS WHO REPORT SUSPECTED ABUSE OR MALTREATMENT OF A
2 SENIOR TO THE REGISTRY OR SUCH PERSON'S PLACE OF EMPLOYMENT OR WITH WHOM
3 THEY HAVE AN ASSOCIATION OTHER THAN EMPLOYMENT WITHOUT SUCH PERSON'S
4 WRITTEN PERMISSION EXCEPT TO SUCH PERSONS, OFFICIALS, AND AGENCIES AS
5 THE DIRECTOR DETERMINES IN RULE AND REGULATION.

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

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

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

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

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

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

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

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

41 3. FOR THE PURPOSES OF THIS SECTION, THE FOLLOWING INFORMATION MAY BE
42 DISCLOSED:

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

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

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

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

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

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

4 (G) ANY EXTRAORDINARY OR PERTINENT INFORMATION CONCERNING THE CIRCUM-
5 STANCES OF THE ABUSE OR MALTREATMENT OF THE SENIOR AND THE INVESTIGATION
6 THEREOF, WHERE THE DIRECTOR DETERMINES SUCH DISCLOSURE IS CONSISTENT
7 WITH THE PUBLIC INTEREST.

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

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

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

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

18 5. ANY DISCLOSURE OF INFORMATION PURSUANT TO THIS SECTION SHALL NOT
19 IDENTIFY OR PROVIDE AN IDENTIFYING DESCRIPTION OF THE SOURCE OF THE
20 REPORT, AND SHALL NOT IDENTIFY THE NAME OF THE PERSON LEGALLY RESPONSIB-
21 LE FOR THE SENIOR OR ANY OTHER MEMBERS OF THE SENIOR'S HOUSEHOLD, OTHER
22 THAN THE SUBJECT OF THE REPORT.

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

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

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

43 S 405. UNFOUNDED REPORTS. 1. UNLESS AN INVESTIGATION OF A REPORT
44 CONDUCTED PURSUANT TO THIS TITLE DETERMINES THAT THERE IS CREDIBLE
45 EVIDENCE OF THE ALLEGED ABUSE OR MALTREATMENT, ALL INFORMATION IDENTIFY-
46 ING THE SUBJECTS OF THE REPORT AND OTHER PERSONS NAMED IN THE REPORT
47 SHALL BE LEGALLY SEALED BY THE REGISTRY AND ANY DESIGNATED AGENCIES OR
48 THE STATE AGENCY WHICH INVESTIGATED THE REPORT, AND THE REPORT SHALL BE
49 DEEMED "UNFOUNDED". SUCH UNFOUNDED REPORTS MAY ONLY BE UNSEALED AND MADE
50 AVAILABLE TO SUCH PERSONS AND ENTITIES AS SHALL BE ESTABLISHED BY THE
51 DIRECTOR IN RULES AND REGULATIONS FOR SUCH PURPOSES AS REVIEW OF A
52 FATALITY OR INVESTIGATION OF A SUBSEQUENT REPORT OF SUSPECTED ABUSE OR
53 MALTREATMENT INVOLVING A SUBJECT OF THE UNFOUNDED REPORT. SUCH UNFOUNDED
54 REPORTS MAY BE MADE AVAILABLE TO THE FOLLOWING PERSONS AND ENTITIES: A
55 SENIOR NAMED IN THE UNFOUNDED REPORT; OTHER PERSONS NAMED IN THE REPORT;
56 THE SUBJECT OF THE REPORT; A DISTRICT ATTORNEY OR A STATE OR LOCAL

1 POLICE OFFICER WHEN SUCH OFFICIAL VERIFIES THAT THE REPORT IS NECESSARY
2 TO CONDUCT AN ACTIVE CRIMINAL INVESTIGATION OR FOR PROSECUTION OF ELDER
3 ABUSE; OR OTHER PERSONS IN KEEPING WITH THE SPIRIT AND INTENT OF THIS
4 SECTION AS SHALL BE DETERMINED IN THE RULES AND REGULATIONS OF THE
5 DIRECTOR REQUIRED TO IMPLEMENT THIS SECTION.

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

13 3. AN UNFOUNDED REPORT SHALL NOT BE ADMISSIBLE IN A JUDICIAL OR ADMIN-
14 ISTRATIVE PROCEEDING OR ACTION; PROVIDED, HOWEVER, AN UNFOUNDED REPORT
15 MAY BE INTRODUCED INTO EVIDENCE:

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

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

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

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

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

52 7. AT ANY TIME SUBSEQUENT TO THE COMPLETION OF THE INVESTIGATION BUT
53 IN NO EVENT LATER THAN NINETY DAYS AFTER THE SUBJECT OF THE REPORT IS
54 NOTIFIED THAT THE REPORT IS INDICATED THE SUBJECT MAY REQUEST THE DIREC-
55 TOR TO AMEND THE RECORD OF THE REPORT. IF THE DIRECTOR DOES NOT AMEND
56 THE REPORT IN ACCORDANCE WITH SUCH REQUEST WITHIN NINETY DAYS OF RECEIV-

1 ING THE REQUEST, THE SUBJECT SHALL HAVE THE RIGHT TO A FAIR HEARING,
2 CONDUCTED IN ACCORDANCE WITH THIS SUBDIVISION, TO DETERMINE WHETHER THE
3 RECORD OF THE REPORT IN THE REGISTRY SHOULD BE AMENDED ON THE GROUNDS
4 THAT IT IS INACCURATE OR IT IS BEING MAINTAINED IN A MANNER INCONSISTENT
5 WITH THIS TITLE.

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

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

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

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

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

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

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

46 S 406. PENALTY FOR UNAUTHORIZED DISCLOSURE. UNAUTHORIZED DISCLOSURE BY
47 ANY PARTY OF INFORMATION OBTAINED FROM THE REGISTRY SHALL BE A CLASS A
48 MISDEMEANOR.

49 S 407. PERSONS REQUIRED TO REPORT SUSPECTED SENIOR ABUSE OR MALTREAT-
50 MENT. 1. THE FOLLOWING PERSONS ARE REQUIRED TO REPORT OR CAUSE A REPORT
51 TO BE MADE IN ACCORDANCE WITH THIS TITLE WHEN, WHILE ACTING IN THEIR
52 PROFESSIONAL OR OFFICIAL CAPACITY, THEY HAVE REASONABLE CAUSE TO SUSPECT
53 THAT A SENIOR COMING BEFORE THEM IS AN ABUSED SENIOR, OR WHEN THEY HAVE
54 REASONABLE CAUSE TO SUSPECT THAT A SENIOR IS AN ABUSED SENIOR WHERE THE
55 PERSON LEGALLY RESPONSIBLE FOR SUCH SENIOR COMES BEFORE THEM AND STATES

FROM PERSONAL KNOWLEDGE FACTS, CONDITIONS OR CIRCUMSTANCES WHICH, IF CORRECT, WOULD RENDER THE SENIOR AN ABUSED SENIOR:

(A) ANY HEALTH CARE WORKER, INCLUDING ANY PHYSICIAN, PHYSICIAN ASSISTANT, SURGEON, MEDICAL EXAMINER, CORONER, DENTIST, DENTAL HYGIENIST, OSTEOPATH, OPTOMETRIST, CHIROPRACTOR, PODIATRIST, RESIDENT, INTERN, PSYCHOLOGIST, REGISTERED NURSE, EMERGENCY MEDICAL TECHNICIAN, OR ANY HOSPITAL OR NURSING HOME PERSONNEL ENGAGED IN THE ADMISSION, EXAMINATION, CARE OR TREATMENT OF PERSONS, OR ANY OTHER HEALTH CARE OR HEALTH SERVICES PRACTITIONER, INCLUDING A CHRISTIAN SCIENCE PRACTITIONER, ACUPUNCTURIST, OR OTHER SUCH PERSON;

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

(C) ANY MENTAL HEALTH PROFESSIONAL; SUBSTANCE ABUSE COUNSELOR; ALCOHOLISM COUNSELOR;

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

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

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

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

2. A PERSON REQUIRED TO REPORT UNDER THIS TITLE IN HIS OR HER CAPACITY AS A MEMBER OF THE STAFF OF A MEDICAL OR OTHER PUBLIC OR PRIVATE INSTITUTION, FACILITY OR AGENCY SHALL ADDITIONALLY AND 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, PROVIDED HOWEVER THAT NOTHING IN THIS SECTION SHALL REQUIRE MORE THAN ONE REPORT FROM ANY SUCH INSTITUTION OR AGENCY. AT THE TIME OF MAKING A REPORT, OR AT ANY TIME THEREAFTER, SUCH PERSON OR OFFICIAL MAY REQUEST THE FINDINGS OF AN INVESTIGATION MADE PURSUANT TO THIS TITLE.

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

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

2. WRITTEN REPORTS SHALL BE MADE IN A MANNER PRESCRIBED BY AND ON FORMS SUPPLIED BY THE DIRECTOR AND SHALL INCLUDE THE FOLLOWING INFORMATION:

(A) THE NAME AND ADDRESS OF THE SENIOR;

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

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

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

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

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

(G) FAMILY COMPOSITION, WHERE APPROPRIATE;

(H) THE SOURCE OF THE REPORT;

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

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

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

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

4. EXCEPT AS OTHERWISE PROVIDED IN THIS CHAPTER, WRITTEN REPORTS FROM PERSONS OR OFFICIALS REQUIRED BY THIS TITLE TO REPORT SHALL BE ADMISSIBLE IN EVIDENCE IN ANY PROCEEDINGS RELATING TO SENIOR ABUSE OR MALTREATMENT.

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

S 410. IMMUNITY FROM LIABILITY. A PERSON, OFFICIAL, OR INSTITUTION PARTICIPATING IN GOOD FAITH IN PROVIDING OF SERVICES PURSUANT TO THIS TITLE, THE MAKING OF A REPORT, THE TAKING OF PHOTOGRAPHS, THE REMOVAL OR KEEPING OF A SENIOR PURSUANT TO THIS TITLE, OR THE DISCLOSURE OF INFORMATION IN COMPLIANCE WITH THIS TITLE AND RULES AND REGULATIONS PROMULGATED THEREUNDER, SHALL BE IMMUNE FROM ANY LIABILITY, CIVIL OR CRIMINAL, THAT MIGHT OTHERWISE RESULT BY REASON OF SUCH ACTIONS. FOR THE PURPOSE OF ANY PROCEEDING, CIVIL OR CRIMINAL, THE GOOD FAITH OF ANY SUCH PERSON, OFFICIAL, OR INSTITUTION REQUIRED TO REPORT CASES OF SENIOR ABUSE OR MALTREATMENT OR PROVIDING A SERVICE PURSUANT TO THIS TITLE SHALL BE PRESUMED, PROVIDED SUCH PERSON, OFFICIAL OR INSTITUTION WAS ACTING IN DISCHARGE OF THEIR DUTIES AND WITHIN THE SCOPE OF THEIR EMPLOYMENT, AND THAT SUCH LIABILITY DID NOT RESULT FROM THE WILLFUL MISCONDUCT OR GROSS NEGLIGENCE OF SUCH PERSON, OFFICIAL OR INSTITUTION.

S 411. PENALTIES FOR FAILURE TO REPORT. A PERSON, OFFICIAL OR INSTITUTION REQUIRED BY THIS TITLE TO REPORT A CASE OF SUSPECTED ABUSE OR

MALTREATMENT OF A SENIOR WHO WILLFULLY FAILS TO DO SO SHALL BE GUILTY OF A CLASS A MISDEMEANOR.

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

S 412. ANNUAL REPORTS. THE DIRECTOR SHALL REPORT PRIOR TO DECEMBER FIFTEENTH OF EACH YEAR ON THE OPERATIONS OF THE REGISTRY AND THE VARIOUS DESIGNATED AGENCIES. THE REPORT SHALL INCLUDE A FULL STATISTICAL ANALYSIS OF THE REPORTS MADE TO THE REGISTRY TOGETHER WITH A REPORT ON THE IMPLEMENTATION OF THIS ARTICLE, AN EVALUATION OF SERVICES OFFERED AND RECOMMENDATIONS FOR ADDITIONAL LEGISLATION TO FULFILL THE PURPOSES OF THIS ARTICLE. SUCH REPORT SHALL INDICATE THE NUMBER OF ABUSE AND MALTREATMENT REPORTS AND CASES RECEIVED BY THE REGISTRY BY EACH DESIGNATED AGENCY IN THE PRECEDING YEAR, THE NUMBER OF SUCH CASES DETERMINED TO HAVE BEEN INDICATED AND THE NUMBER OF SUCH CASES DETERMINED TO BE UNFOUNDED BY EACH DISTRICT IN THE PRECEDING YEAR, THE NUMBER OF SUCH CASES WHICH HAVE NOT BEEN INDICATED OR UNFOUNDED WITHIN THE TIME PERIOD REQUIRED BY THIS CHAPTER BY EACH DESIGNATED AGENCY IN THE PRECEDING YEAR AND THE NUMBER OF WORKERS ASSIGNED TO THE DESIGNATED AGENCY IN THE PRECEDING YEAR. THE REPORT SHALL ALSO CONTAIN DATA ON THE PROTECTION OF SENIORS IN RESIDENTIAL CARE FROM ABUSE AND MALTREATMENT, INCLUDING REPORTS RECEIVED, RESULTS OF INVESTIGATIONS BY TYPES OF FACILITIES AND PROGRAMS, TYPES OF CORRECTIVE ACTION TAKEN, AS WELL AS EFFORTS UNDERTAKEN BY THE OFFICE TO PROVIDE TRAINING PURSUANT TO THIS CHAPTER.

TITLE 2

DUTIES AND RESPONSIBILITIES OF THE OFFICE AND THE COUNCIL

SECTION 420. DUTIES AND RESPONSIBILITIES OF THE OFFICE.

421. COUNCIL ON ELDER ABUSE; CREATION AND POWERS.

422. COOPERATION OF OTHER AGENCIES.

423. IMPLEMENTATION.

424. SENIOR ANTI-VIOLENCE SERVICES RESPONSIBILITIES AND ORGANIZATION.

425. DUTIES OF THE SAVS UNIT.

426. LOCAL AND REGIONAL FATALITY REVIEW TEAMS.

427. GRANTS FOR SENIOR ANTI-VIOLENCE PROJECTS.

S 420. DUTIES AND RESPONSIBILITIES OF THE OFFICE. THE OFFICE SHALL:

1. ENCOURAGE THE FULLEST DEGREE OF REPORTING OF SUSPECTED SENIOR ABUSE OR MALTREATMENT BY CONDUCTING CONTINUING PUBLICITY AND EDUCATION PROGRAMS FOR PERSONS AND OFFICIALS WHO ARE REQUIRED TO REPORT AS WELL AS OTHER APPROPRIATE PERSONS.

2. PROVIDE TECHNICAL ASSISTANCE ON AN ONGOING BASIS, OR AS NEEDED, OR UPON REQUEST TO DESIGNATED AGENCIES REGARDING CASE PLANNING, PROVISION OF SERVICES, AND PERFORMANCE OR OTHER RESPONSIBILITIES PURSUANT TO THIS TITLE.

3. DEVELOP PROTOCOLS AND ISSUE GUIDELINES TO ASSIST DESIGNATED AGENCIES IN EVALUATING AND ESTABLISHING INVESTIGATIVE PRIORITIES FOR REPORTS DESCRIBING SITUATIONS OR EVENTS WHICH MAY POSE A CLEAR AND PRESENT DANGER TO THE LIFE, HEALTH OR SAFETY OF A SENIOR AND/OR WHICH REQUIRE IMMEDIATE, PERSONAL CONTACT BETWEEN THE DESIGNATED AGENCY AND THE SUBJECT OF THE REPORT, THE SUBJECT'S FAMILY, OR OTHER PERSONS NAMED IN THE REPORT.

4. ISSUE GUIDELINES TO ASSIST DESIGNATED AGENCIES IN THE INTERPRETATION AND ASSESSMENT OF REPORTS OF ABUSE AND MALTREATMENT MADE TO THE

1 REGISTRY, INCLUDING INFORMATION, STANDARDS AND CRITERIA FOR THE IDEN-
2 TIFICATION OF CREDIBLE EVIDENCE OF ALLEGED ABUSE AND MALTREATMENT
3 REQUIRED TO DETERMINE WHETHER A REPORT MAY BE INDICATED.

4 5. SET FORTH REQUIREMENTS FOR THE PERFORMANCE BY DESIGNATED AGENCIES
5 OF THE DUTIES AND POWERS IMPOSED AND CONFERRED UPON THEM BY THE
6 PROVISIONS OF THIS TITLE, INCLUDING UNIFORM REQUIREMENTS FOR THE INVE-
7 TIGATION OF REPORTS OF ABUSE OR MALTREATMENT, STANDARDS FOR INTER-
8 VENTION, CRITERIA FOR CASE CLOSINGS, CRITERIA FOR DETERMINING WHETHER TO
9 INITIATE A PROCEEDING, AND CRITERIA FOR THE FORMULATION OF TREATMENT
10 PLANS AND FOR THE DELIVERY OF SERVICES.

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

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

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

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

31 2. THE COUNCIL SHALL CONSIST OF FIFTEEN PERSONS APPOINTED BY THE
32 GOVERNOR BY AND WITH THE ADVICE AND CONSENT OF THE SENATE. FOUR MEMBERS
33 SHALL BE APPOINTED ON RECOMMENDATION OF THE TEMPORARY PRESIDENT OF THE
34 SENATE, AND FOUR ON RECOMMENDATION OF THE SPEAKER OF THE ASSEMBLY. THE
35 GOVERNOR SHALL APPOINT A CHAIRPERSON AND A VICE-CHAIRPERSON AS HE OR SHE
36 DEEMS APPROPRIATE.

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

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

52 5. THE COUNCIL MAY EMPLOY EITHER DIRECTLY OR BY CONTRACTUAL ARRANGE-
53 MENT SUCH PERSONNEL AS IT SHALL DEEM NECESSARY FOR THE PERFORMANCE OF
54 ITS FUNCTIONS, WITHIN AMOUNTS MADE AVAILABLE BY APPROPRIATION THEREFOR.
55 IN ADDITION, THE DIRECTOR, ON HIS OR HER INITIATIVE AND THROUGH THE
56 POWERS HEREBY PROVIDED HIM OR HER, MAY PROVIDE THE COUNCIL WITH UP TO

1 TWO LOANED OFFICERS OR EMPLOYEES FROM THE OFFICE, ALONG WITH SUCH ADMIN-
2 ISTRATIVE-SECRETARIAL SUPPORT STAFF AS SHALL BE REQUIRED, THE DUTIES AND
3 WORK OF WHOM ARE HEREBY DECLARED TO BE AN ESSENTIAL STATE PURPOSE. SUCH
4 LOANED EMPLOYEES SHALL SUFFER NO DIMINUTION OF THEIR COMPENSATION OR
5 BENEFITS AS A RESULT OF SUCH ASSIGNMENT, PROVIDED THAT NO SUCH TRANSFER
6 SHALL BE MADE EXCEPT WITH THE APPROVAL OF THE DIRECTOR OF THE BUDGET,
7 AND IN COMPLIANCE WITH THE RULES AND REGULATIONS OF THE CIVIL SERVICE
8 COMMISSION OF THE STATE.

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

21 7. MEMBERS MAY ENGAGE IN PRIVATE EMPLOYMENT, OR IN A PROFESSION OR
22 BUSINESS, SUBJECT TO THE LIMITATIONS CONTAINED IN SECTIONS SEVENTY-THREE
23 AND SEVENTY-FOUR OF THE PUBLIC OFFICERS LAW. THE COUNCIL ON ELDER ABUSE
24 SHALL, FOR THE PURPOSES OF SECTIONS SEVENTY-THREE AND SEVENTY-FOUR OF
25 THE PUBLIC OFFICERS LAW, BE A "STATE AGENCY," AND ITS DIRECTORS SHALL BE
26 "OFFICERS" OF THE AUTHORITY FOR THE PURPOSES OF SUCH SECTIONS.

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

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

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

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

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

53 S 422. COOPERATION OF OTHER AGENCIES. 1. THE OFFICE AND THE OFFICE OF
54 CHILDREN AND FAMILY SERVICES ARE HEREWITH EMPOWERED TO AND SHALL ENTER
55 INTO A MEMORANDUM OF UNDERSTANDING TO EXECUTE THE PURPOSES AND INTENT OF
56 THIS ARTICLE. SUCH MEMORANDUM OF UNDERSTANDING SHALL ESTABLISH THE

OFFICE, DESIGNATED AGENCIES, AND "SAVS UNITS" (AS DESCRIBED IN SECTION FOUR HUNDRED TWENTY-FOUR OF THIS TITLE) AS THE LEAD AGENCIES FOR INVESTIGATION OF ABUSE AND MALTREATMENT OF SENIORS, SHALL ASSURE THAT ADULT PROTECTIVE SERVICES UNITS ARE AN INTEGRAL PART OF THE LOCAL SERVICES TEAMS, SHALL ASSURE APPROPRIATE SHARING OF INFORMATION, AND INSURE THAT 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.

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

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

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

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

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

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

55 8. A SAVS UNIT SHALL PLAN WITH OTHER PUBLIC, PRIVATE AND VOLUNTARY
56 AGENCIES INCLUDING BUT NOT LIMITED TO HEALTH, MENTAL HEALTH, AGING,

1 LEGAL AND LAW ENFORCEMENT AGENCIES, FOR THE PURPOSE OF ASSURING MAXIMUM
2 LOCAL UNDERSTANDING, COORDINATION AND COOPERATIVE ACTION IN THE
3 PROVISION OF APPROPRIATE SERVICES.

4 S 425. DUTIES OF THE SAVS UNIT. 1. A SAVS UNIT SHALL RECEIVE ON A
5 TWENTY-FOUR HOUR, SEVEN DAY A WEEK BASIS ALL REPORTS OF SUSPECTED ABUSE
6 OR MALTREATMENT OF A SENIOR IN ACCORDANCE WITH THIS TITLE, THE LOCAL
7 PLAN AND THE REGULATIONS OF THE DIRECTOR, AND SHALL MAINTAIN AND KEEP
8 UP-TO-DATE A REGISTRY OF ALL CASES REPORTED UNDER THIS TITLE TOGETHER
9 WITH ANY ADDITIONAL INFORMATION OBTAINED AND A RECORD OF THE FINAL
10 DISPOSITION OF THE REPORT, INCLUDING SERVICES OFFERED AND ACCEPTED.

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

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

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

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

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

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

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

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

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

15 2. A LOCAL OR REGIONAL FATALITY REVIEW TEAM MUST INCLUDE REPRESENTEN-
16 TATIVES FROM THE LOCAL SERVICE, THE OFFICE, THE OFFICE OF THE DISTRICT
17 ATTORNEY OR LOCAL LAW ENFORCEMENT, OFFICE OF THE MEDICAL EXAMINER OR
18 CORONER, AND A PHYSICIAN OR COMPARABLE MEDICAL PROFESSIONAL. A LOCAL OR
19 REGIONAL FATALITY REVIEW TEAM MAY ALSO INCLUDE REPRESENTATIVES FROM
20 PUBLIC HEALTH AGENCIES, MENTAL HEALTH AGENCIES, AND MEDICAL FACILITIES,
21 INCLUDING HOSPITALS OR OTHER APPROPRIATE AGENCIES OR INSTITUTIONS.

22 S 427. GRANTS FOR SENIOR ANTI-VIOLENCE PROJECTS. THE DIRECTOR SHALL,
23 WITHIN AMOUNTS APPROPRIATED THEREFOR FROM THE SENIOR ANTI-VIOLENCE
24 SERVICES ACCOUNT ESTABLISHED PURSUANT TO SECTION NINETY-SEVEN-LLLL OF
25 THE STATE FINANCE LAW, PROVIDE GRANTS TO LOCAL GOVERNMENTS AND NOT-FOR-
26 PROFIT ORGANIZATIONS TO:

27 1. IMPROVE RESEARCH, DATA COLLECTION, AND REPORTING ON ELDER/ADULT
28 ABUSE.

29 2. IMPLEMENT RESEARCH AND PROGRAM INNOVATION.

30 3. PUBLIC EDUCATION.

31 4. DEVELOPMENT OF INTERGOVERNMENTAL AND PUBLIC-PRIVATE PARTNERSHIPS TO
32 COMBAT ELDER ABUSE.

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

35 6. PROTECTION OF VICTIMS.

36 7. DEVELOPMENT OF BEST AND INNOVATIVE PRACTICES IN CARRYING OUT
37 SERVICES.

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

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

43 10. DEVELOPMENT AND IMPLEMENTATION OF A MULTIDISCIPLINARY RESEARCH
44 AGENDA TO SUSTAIN, ADVANCE AND ASSESS PROFESSIONAL TRAINING AND PRACTICE
45 ON ADULT OR ELDER ABUSE.

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

50 S 3. The section heading and subdivision 1 of section 60.35 of the
51 penal law, as amended by section 1 of part E of chapter 56 of the laws
52 of 2004, subparagraphs (i), (ii) and (iii) of paragraph (a) of subdivi-
53 sion 1 as amended by section 1 of part DD of chapter 56 of the laws of
54 2008, and paragraph (b) of subdivision 1 as amended by chapter 320 of
55 the laws of 2006, are amended to read as follows:

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

4 1. (a) Except as provided in section eighteen hundred nine of the
5 vehicle and traffic law and section 27.12 of the parks, recreation and
6 historic preservation law, whenever proceedings in an administrative
7 tribunal or a court of this state result in a conviction for a felony, a
8 misdemeanor, or a violation, as these terms are defined in section 10.00
9 of this chapter, there shall be levied at sentencing a mandatory
10 surcharge, sex offender registration fee, DNA databank fee [and], a
11 crime victim assistance fee AND A SENIOR ANTI-VIOLENCE SERVICES FEE in
12 addition to any sentence required or permitted by law, in accordance
13 with the following schedule:

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

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

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

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

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

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

46 S 4. The state finance law is amended by adding a new section 97-1111
47 to read as follows:

48 S 97-LLLL. SENIOR ANTI-VIOLENCE SERVICES ACCOUNT. 1. THERE IS HEREBY
49 ESTABLISHED IN THE JOINT CUSTODY OF THE STATE COMPTROLLER AND THE
50 COMMISSIONER OF THE DEPARTMENT OF TAXATION AND FINANCE A SPECIAL REVENUE
51 FUND TO BE KNOWN AS THE "SENIOR ANTI-VIOLENCE SERVICES ACCOUNT".

52 2. THE SENIOR ANTI-VIOLENCE SERVICES ACCOUNT SHALL CONSIST OF THOSE
53 MONIES RECEIVED BY THE STATE PURSUANT TO SECTION 60.35 OF THE PENAL LAW
54 AND MONIES RECEIVED BY THE STATE PURSUANT TO SECTION EIGHTEEN HUNDRED
55 NINE OF THE VEHICLE AND TRAFFIC LAW FROM ANY COURT OF THE UNIFIED COURT
56 SYSTEM OTHER THAN TOWN OR VILLAGE COURTS AND ALL OTHER FEES, FINES,

GRANTS, BEQUESTS OR OTHER MONIES CREDITED, APPROPRIATED OR TRANSFERRED THERETO FROM ANY OTHER FUND OR SOURCE.

3. MONIES OF THE SENIOR ANTI-VIOLENCE SERVICES ACCOUNT, FOLLOWING APPROPRIATION BY THE LEGISLATURE AND ALLOCATION BY THE DIRECTOR OF THE BUDGET SHALL BE MADE AVAILABLE FOR LOCAL ASSISTANCE SERVICES AND EXPENSES OF PROGRAMS TO PROVIDE SENIOR ANTI-VIOLENCE SERVICES THROUGH THE STATE OFFICE FOR THE AGING, AS ADMINISTERED PURSUANT TO THE ELDER LAW.

S 5. Section 1809 of the vehicle and traffic law, as amended by chapter 55 of the laws of 1992, subdivision 1 as amended by section 2 of part DD of chapter 56 of the laws of 2008, the opening paragraph and paragraph (c) of subdivision 1 as amended by chapter 189 of the laws of 2013, subdivision 2 as amended by section 6 of part C of chapter 55 of the laws of 2013, subdivision 3 as amended by chapter 309 of the laws of 1996, subdivision 5 as amended by chapter 385 of the laws of 1999, subdivision 8 as amended by section 13 of part E of chapter 55 of the laws of 2013, subdivision 9 as amended by chapter 452 of the laws of 1999, and subdivision 10 as added by section 3 of part F of chapter 56 of the laws of 2004, is amended to read as follows:

S 1809. Mandatory surcharge and crime victim assistance fee required in certain cases. 1. Whenever proceedings in an administrative tribunal or a court of this state result in a conviction for an offense 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, or parking 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, or other than an adjudication in accordance with section eleven hundred eleven-c of this chapter for a violation of a bus lane restriction as defined in such section, or other than an adjudication of liability of an owner for a violation of subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty of this chapter in accordance with section eleven hundred eighty-b of this chapter, there shall be levied a crime victim assistance fee, A SENIOR ANTI-VIOLENCE SERVICES FEE and a mandatory surcharge, in addition to any sentence required or permitted by law, in accordance with the following schedule:

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

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

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

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

5 (c) Whenever proceedings in an administrative tribunal or a court of
6 this state result in a conviction for an offense under this chapter
7 other than a crime pursuant to section eleven hundred ninety-two of this
8 chapter, or a traffic infraction under this chapter, or a local law,
9 ordinance, rule or regulation adopted pursuant to this chapter, other
10 than a traffic infraction involving standing, stopping, or parking or
11 violations by pedestrians or bicyclists, or other than an adjudication
12 of liability of an owner for a violation of subdivision (d) of section
13 eleven hundred eleven of this chapter in accordance with section eleven
14 hundred eleven-a of this chapter, or other than an adjudication of
15 liability of an owner for a violation of subdivision (d) of section
16 eleven hundred eleven of this chapter in accordance with section eleven
17 hundred eleven-b of this chapter, or other than an infraction pursuant
18 to article nine of this chapter or other than an adjudication of liability
19 of an owner for a violation of toll collection regulations pursuant
20 to section two thousand nine hundred eighty-five of the public authorities
21 law or sections sixteen-a, sixteen-b and sixteen-c of chapter seven
22 hundred seventy-four of the laws of nineteen hundred fifty or other than
23 an adjudication in accordance with section eleven hundred eleven-c of
24 this chapter for a violation of a bus lane restriction as defined in
25 such section, or other than an adjudication of liability of an owner for
26 a violation of subdivision (b), (c), (d), (f) or (g) of section eleven
27 hundred eighty of this chapter in accordance with section eleven hundred
28 eighty-b of this chapter, there shall be levied a crime victim assistance
29 fee in the amount of five dollars, A SENIOR ANTI-VIOLENCE SERVICES
30 FEE OF FIVE DOLLARS and a mandatory surcharge, in addition to any
31 sentence required or permitted by law, in the amount of fifty-five
32 dollars.

33 2. Where a person is convicted of two or more such crimes or traffic
34 infractions committed through a single act or omission, or through an
35 act or omission which in itself constituted one of the crimes or traffic
36 infractions and also was a material element of the other, the court or
37 administrative tribunal shall impose a crime victim assistance fee and a
38 mandatory surcharge mandated by subdivision one of this section for each
39 such conviction; provided however, that in no event shall the total
40 amount of such crime victim assistance fees and mandatory surcharges
41 imposed pursuant to paragraph (a) or (c) of subdivision one of this
42 section exceed one hundred ninety-six dollars.

43 3. The mandatory surcharge provided for in subdivision one of this
44 section shall be paid to the clerk of the court or administrative tribunal
45 that rendered the conviction. Within the first ten days of the month
46 following collection of the mandatory surcharge the collecting authority
47 shall determine the amount of mandatory surcharge collected and, if it
48 is an administrative tribunal or a town or village justice court, it
49 shall pay such money to the state comptroller who shall deposit such
50 money in the state treasury pursuant to section one hundred twenty-one
51 of the state finance law to the credit of the general fund. If such
52 collecting authority is any other court of the unified court system, it
53 shall, within such period, pay such money to the state commissioner of
54 taxation and finance to the credit of the criminal justice improvement
55 account established by section ninety-seven-bb of the state finance law,
56 OR IN THE CASE OF THE SENIOR ANTI-VIOLENCE SERVICES FEE, TO THE CREDIT

1 OF THE SENIOR ANTI-VIOLENCE SERVICES ACCOUNT ESTABLISHED PURSUANT TO
2 SECTION NINETY-SEVEN-LLLL OF THE STATE FINANCE LAW. The crime victim
3 assistance fee provided for in subdivision one of this section shall be
4 paid to the clerk of the court or administrative tribunal that rendered
5 the conviction. Within the first ten days of the month following
6 collection of the crime victim assistance fee AND THE SENIOR ANTI-VIO-
7 LENCE SERVICES FEE, the collecting authority shall determine the amount
8 of crime victim assistance fee AND THE SENIOR ANTI-VIOLENCE SERVICES FEE
9 collected and, if it is an administrative tribunal or a town or village
10 justice court, it shall pay such money to the state comptroller who
11 shall deposit such money in the state treasury pursuant to section one
12 hundred twenty-one of the state finance law to the credit of the crimi-
13 nal justice improvement account established by section ninety-seven-bb
14 of the state finance law, OR IN THE CASE OF THE SENIOR ANTI-VIOLENCE
15 SERVICES FEE, TO THE CREDIT OF THE SENIOR ANTI-VIOLENCE SERVICES ACCOUNT
16 ESTABLISHED PURSUANT TO SECTION NINETY-SEVEN-LLLL OF THE STATE FINANCE
17 LAW.

18 4. Any person who has paid a mandatory surcharge or crime victim
19 assistance fee OR A SENIOR ANTI-VIOLENCE SERVICES FEE under the authori-
20 ty of this section which is ultimately determined not to be required by
21 this section shall be entitled to a refund of such mandatory surcharge
22 or crime victim assistance fee OR SENIOR ANTI-VIOLENCE SERVICES FEE upon
23 application to the state comptroller. The state comptroller shall
24 require such proof as it is necessary in order to determine whether a
25 refund is required by law.

26 5. When a person who is convicted of a crime or traffic infraction and
27 sentenced to a term of imprisonment has failed to pay the mandatory
28 surcharge or crime victim assistance fee OR THE SENIOR ANTI-VIOLENCE
29 SERVICES FEE required by this section, the clerk of the court or the
30 administrative tribunal that rendered the conviction shall notify the
31 superintendent or the municipal official of the facility where the
32 person is confined. The superintendent or the municipal official shall
33 cause any amount owing to be collected from such person during his term
34 of imprisonment from moneys to the credit of an inmates' fund or such
35 moneys as may be earned by a person in a work release program pursuant
36 to section eight hundred sixty of the correction law. Such moneys shall
37 be paid over to the state comptroller to the credit of the criminal
38 justice improvement account established by section ninety-seven-bb of
39 the state finance law, OR IN THE CASE OF THE SENIOR ANTI-VIOLENCE
40 SERVICES FEE, TO THE CREDIT OF THE SENIOR ANTI-VIOLENCE SERVICES ACCOUNT
41 ESTABLISHED PURSUANT TO SECTION NINETY-SEVEN-LLLL OF THE STATE FINANCE
42 LAW, except that any such moneys collected which are surcharges or crime
43 victim assistance fees OR SENIOR ANTI-VIOLENCE SERVICES FEES levied in
44 relation to convictions obtained in a town or village justice court
45 shall be paid within thirty days after the receipt thereof by the super-
46 intendent or municipal official of the facility to the justice of the
47 court in which the conviction was obtained. For the purposes of collect-
48 ing such mandatory surcharge or crime victim assistance [fee] OR SENIOR
49 ANTI-VIOLENCE SERVICES FEES, the state shall be legally entitled to the
50 money to the credit of an inmates' fund or money which is earned by an
51 inmate in a work release program. For purposes of this subdivision, the
52 term "inmates' fund" shall mean moneys in the possession of an inmate at
53 the time of his admission into such facility, funds earned by him as
54 provided for in section one hundred eighty-seven of the correction law
55 and any other funds received by him or on his behalf and deposited with
56 such superintendent or municipal official.

1 5-a. The provisions of subdivision four-a of section five hundred ten,
2 subdivision three of section five hundred fourteen and subdivision three
3 of section two hundred twenty-seven of this chapter governing actions
4 which may be taken for failure to pay a fine or penalty shall be appli-
5 cable to a mandatory surcharge or crime victim assistance fee OR SENIOR
6 ANTI-VIOLENCE SERVICES FEE imposed pursuant to this section.

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

12 7. Notwithstanding any other provision of this section, where a manda-
13 tory surcharge or crime victim assistance fee OR SENIOR ANTI-VIOLENCE
14 SERVICES FEE is imposed pursuant to the provisions of section 60.35 of
15 the penal law, no mandatory surcharge or crime victim assistance fee OR
16 SENIOR ANTI-VIOLENCE SERVICES FEE shall be imposed pursuant to the
17 provisions of this section.

18 8. The provisions of this section shall only apply to offenses commit-
19 ted on or before September first, two thousand fifteen.

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

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

31 S 6. Subdivision 1 of section 1809 of the vehicle and traffic law, as
32 amended by section 11-a of chapter 189 of the laws of 2013, is amended
33 to read as follows:

34 1. Whenever proceedings in an administrative tribunal or a court of
35 this state result in a conviction for a crime under this chapter or a
36 traffic infraction under this chapter, or a local law, ordinance, rule
37 or regulation adopted pursuant to this chapter, other than a traffic
38 infraction involving standing, stopping, parking or motor vehicle equip-
39 ment or violations by pedestrians or bicyclists, or other than an adju-
40 dication of liability of an owner for a violation of subdivision (d) of
41 section eleven hundred eleven of this chapter in accordance with section
42 eleven hundred eleven-a of this chapter, or other than an adjudication
43 of liability of an owner for a violation of subdivision (d) of section
44 eleven hundred eleven of this chapter in accordance with section eleven
45 hundred eleven-b of this chapter, or other than an adjudication in
46 accordance with section eleven hundred eleven-c of this chapter for a
47 violation of a bus lane restriction as defined in such section, or other
48 than an adjudication of liability of an owner for a violation of subdi-
49 vision (b), (c), (d), (f) or (g) of section eleven hundred eighty of
50 this chapter in accordance with section eleven hundred eighty-b of this
51 chapter, there shall be levied a mandatory surcharge, in addition to any
52 sentence required or permitted by law, in the amount of twenty-five
53 dollars, AND A SENIOR ANTI-VIOLENCE SERVICES FEE OF TWENTY-FIVE DOLLARS.

54 S 6-a. Subdivision 1 of section 1809 of the vehicle and traffic law,
55 as amended by section 11-b of chapter 189 of the laws of 2013, is
56 amended to read as follows:

1 1. Whenever proceedings in an administrative tribunal or a court of
2 this state result in a conviction for a crime under this chapter or a
3 traffic infraction under this chapter other than a traffic infraction
4 involving standing, stopping, parking or motor vehicle equipment or
5 violations by pedestrians or bicyclists, or other than an adjudication
6 in accordance with section eleven hundred eleven-c of this chapter for a
7 violation of a bus lane restriction as defined in such section, or other
8 than an adjudication of liability of an owner for a violation of subdivi-
9 sion (b), (c), (d), (f) or (g) of section eleven hundred eighty of
10 this chapter in accordance with section eleven hundred eighty-b of this
11 chapter, there shall be levied a mandatory surcharge, in addition to any
12 sentence required or permitted by law, in the amount of seventeen
13 dollars, AND A SENIOR ANTI-VIOLENCE SERVICES FEE OF TWENTY-FIVE DOLLARS.

14 S 7. Subdivision 1 of section 1809 of the vehicle and traffic law, as
15 amended by section 11-c of chapter 189 of the laws of 2013, is amended
16 to read as follows:

17 1. Whenever proceedings in an administrative tribunal or a court of
18 this state result in a conviction for a crime under this chapter or a
19 traffic infraction under this chapter other than a traffic infraction
20 involving standing, stopping, parking or motor vehicle equipment or
21 violations by pedestrians or bicyclists, or other than an adjudication
22 of liability of an owner for a violation of subdivision (b), (c), (d),
23 (f) or (g) of section eleven hundred eighty of this chapter in accord-
24 ance with section eleven hundred eighty-b of this chapter, there shall
25 be levied a mandatory surcharge, in addition to any sentence required or
26 permitted by law, in the amount of seventeen dollars, AND A SENIOR
27 ANTI-VIOLENCE SERVICES FEE OF TWENTY-FIVE DOLLARS.

28 S 8. Subdivision 3 of section 4 of the banking law, as amended by
29 chapter 601 of the laws of 2007, is amended to read as follows:

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

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

45 ARTICLE 261

46 OFFENSES AGAINST THE ELDERLY AND DISABLED

47 SECTION 261.00 ELDERLY, VULNERABLE ELDERLY AND DISABLED PERSONS; DEFI-
48 NITIONS.

49 261.01 CRIMES AGAINST THE ELDERLY AND DISABLED; PRESUMPTION.

50 261.02 ABANDONMENT OF AN ELDERLY OR DISABLED PERSON.

51 261.03 ABANDONMENT OF AN ELDERLY OR DISABLED PERSON; DEFENSE.

52 261.04 ENDANGERING THE WELFARE OF AN ELDERLY OR DISABLED PERSON.

53 261.05 ENDANGERING THE WELFARE OF AN ELDERLY OR DISABLED PERSON;
54 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
PHYSICAL INJURY AND CARED FOR IN AN APPROPRIATE MANNER, THE DEFENDANT
LEFT THE ELDERLY OR DISABLED PERSON WITH AN APPROPRIATE PERSON OR IN A
SUITABLE LOCATION AND PROMPTLY NOTIFIED AN APPROPRIATE PERSON OF THE
ELDERLY OR DISABLED PERSON'S LOCATION.

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

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

1. HE OR SHE KNOWINGLY ACTS IN A MANNER LIKELY TO BE INJURIOUS TO THE
PHYSICAL, MENTAL OR MORAL WELFARE OF AN ELDERLY OR DISABLED PERSON, OR

1 DIRECTS OR AUTHORIZES SUCH AN ELDERLY OR DISABLED PERSON, TO ENGAGE IN
2 AN OCCUPATION INVOLVING A SUBSTANTIAL RISK OF DANGER TO HIS OR HER LIFE
3 OR HEALTH; OR

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

8 ENDANGERING THE WELFARE OF AN ELDERLY OR DISABLED PERSON IS A CLASS A
9 MISDEMEANOR.

10 S 261.05 ENDANGERING THE WELFARE OF AN ELDERLY OR DISABLED PERSON;
11 CORROBORATION.

12 A PERSON SHALL NOT BE CONVICTED OF ENDANGERING THE WELFARE OF AN
13 ELDERLY OR DISABLED PERSON, OR OF AN ATTEMPT TO COMMIT THE SAME, UPON
14 THE TESTIMONY OF A VICTIM WHO IS INCAPABLE OF CONSENT BECAUSE OF MENTAL
15 DEFECT OR MENTAL INCAPACITY AS TO CONDUCT THAT CONSTITUTES AN OFFENSE OR
16 AN ATTEMPT TO COMMIT AN OFFENSE REFERRED TO IN SECTION 130.16 OF THIS
17 CHAPTER, WITHOUT ADDITIONAL EVIDENCE SUFFICIENT PURSUANT TO SECTION
18 130.16 OF THIS CHAPTER TO SUSTAIN A CONVICTION OF AN OFFENSE REFERRED TO
19 IN SECTION 130.16 OF THIS CHAPTER, OR OF AN ATTEMPT TO COMMIT THE SAME.

20 S 261.06 ENDANGERING THE WELFARE OF AN ELDERLY OR DISABLED PERSON;
21 DEFENSE.

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

24 1. BASED UPON AN ALLEGED FAILURE OR REFUSAL TO PROVIDE PROPER MEDICAL
25 CARE OR TREATMENT TO AN ELDERLY OR DISABLED PERSON, WHO IS ILL, IT IS AN
26 AFFIRMATIVE DEFENSE THAT THE ELDERLY OR DISABLED PERSON IS A MEMBER OR
27 ADHERENT OF AN ORGANIZED CHURCH OR RELIGIOUS GROUP THE TENETS OF WHICH
28 PRESCRIBE PRAYER AS THE PRINCIPAL TREATMENT FOR ILLNESS, AND THAT THE
29 ELDERLY OR DISABLED PERSON WAS TREATED IN ACCORDANCE WITH SUCH TENETS;
30 OR

31 2. BASED UPON AN ALLEGED DESERTION OF AN ELDERLY OR DISABLED PERSON,
32 IT IS AN AFFIRMATIVE DEFENSE THAT, WITH THE INTENT THAT THE PERSON BE
33 SAFE FROM PHYSICAL INJURY AND CARED FOR IN AN APPROPRIATE MANNER, THE
34 DEFENDANT LEFT THE PERSON WITH AN APPROPRIATE PERSON OR IN A SUITABLE
35 LOCATION AND PROMPTLY NOTIFIED AN APPROPRIATE PERSON OF THE PERSON'S
36 LOCATION.

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

39 A PERSON IS GUILTY OF ENDANGERING THE WELFARE OF A VULNERABLE ELDERLY
40 PERSON OR A DISABLED PERSON IN THE SECOND DEGREE WHEN, BEING A CAREGIVER
41 FOR A VULNERABLE ELDERLY PERSON OR A DISABLED PERSON:

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

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

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

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

53 IN ANY PROSECUTION UNDER THIS SUBDIVISION IN WHICH THE VICTIM'S
54 ALLEGED LACK OF CONSENT RESULTS SOLELY FROM INCAPACITY TO CONSENT
55 BECAUSE OF THE VICTIM'S MENTAL DISABILITY OR MENTAL INCAPACITY, THE
56 PROVISIONS OF SECTION 130.16 OF THIS CHAPTER SHALL APPLY. IN ADDITION,

1 IN ANY PROSECUTION UNDER THIS SUBDIVISION IN WHICH THE VICTIM'S LACK OF
2 CONSENT IS BASED SOLELY UPON HIS OR HER INCAPACITY TO CONSENT BECAUSE HE
3 OR SHE WAS MENTALLY DISABLED, MENTALLY INCAPACITATED OR PHYSICALLY HELP-
4 LESS, IT IS AN AFFIRMATIVE DEFENSE THAT THE DEFENDANT, AT THE TIME HE OR
5 SHE ENGAGED IN THE CONDUCT CONSTITUTING THE OFFENSE, DID NOT KNOW OF THE
6 FACTS OR CONDITIONS RESPONSIBLE FOR SUCH INCAPACITY TO CONSENT.

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

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

11 A PERSON IS GUILTY OF ENDANGERING THE WELFARE OF A VULNERABLE ELDERLY
12 PERSON OR A DISABLED PERSON IN THE FIRST DEGREE WHEN, BEING A CAREGIVER
13 FOR A VULNERABLE ELDERLY PERSON OR DISABLED PERSON:

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

16 2. HE OR SHE RECKLESSLY CAUSES SERIOUS PHYSICAL INJURY TO SUCH PERSON.

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

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

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

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

26 S 135.30 Kidnapping; defense.

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

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

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

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

41 S 13. Subdivision (g) of section 140.10 of the penal law, as amended
42 by chapter 176 of the laws of 2011, is amended and a new subdivision (h)
43 is added to read as follows:

44 (g) where the property consists of a right-of-way or yard of a rail-
45 road or rapid transit railroad which has been designated and conspicu-
46 ously posted as a no-trespass railroad zone[.]; OR

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

50 S 14. Severability. If any provision of this act or the application
51 thereof to any person or circumstances is held to be invalid, the
52 remainder of the act and the application of such provision to other
53 persons or circumstances shall not be affected thereby.

54 S 15. This act shall take effect immediately; provided, however, that
55 the amendments made to subdivision 1 of section 1809 of the vehicle and
56 traffic law by section five of this act shall be subject to the expira-

1 tion and reversion of such subdivision when upon such date the
2 provisions of section six of this act shall take effect; provided,
3 however, that the amendments made to subdivision 1 of section 1809 of
4 the vehicle and traffic law by section six of this act shall be subject
5 to the expiration and reversion of such subdivision when upon such date
6 the provisions of section six-a of this act shall take effect; and
7 provided further, however, that the amendments to subdivision 1 of
8 section 1809 of the vehicle and traffic law made by section six-a of
9 this act shall be subject to the expiration and reversion of such subdivi-
10 vision, when upon such date the provisions of section seven of this act
11 shall take effect; provided further, however, that the amendments made
12 to subdivision 2 of section 1809 of the vehicle and traffic law by
13 section five of this act shall not affect the expiration of such subdivi-
14 vision and shall be deemed to expire therewith.