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

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I N A S S E M B L Y

February 12, 2014

Introduced by M. of A. SCHIMMINGER, JAFFEE, OTIS, ROSA, SIMOTAS, ENGLEBRIGHT, GUNTHER, CLARK, COOK -- Multi-Sponsored by -- M. of A. JACOBS, MAGEE, MARKEY, PEOPLES-STOKES, PERRY, SKARTADOS, STECK, SWEENEY, THIELE -- read once and referred to the Committee on Codes

AN ACT to amend the civil practice law and rules, in relation to the mental condition of a victim

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

Section 1. Section 4504 of the civil practice law and rules is amended by adding a new subdivision (e) to read as follows:

(E) MENTAL CONDITION OF A VICTIM. UPON RECEIPT OF A GRAND JURY SUBPOENA ISSUED PURSUANT TO SUBDIVISION TWO OF SECTION 610.20 OF THE CRIMINAL PROCEDURE LAW AND ENDORSED BY A JUDGE OF A SUPERIOR COURT, A MEDICAL PROVIDER MUST, AS INDICATED IN THIS SUBDIVISION, PROVIDE TO THE GRAND JURY THE MEDICAL RECORDS OF THE PERSON NAMED IN THE SUBPOENA. A JUDGE OF A SUPERIOR COURT SHALL ENDORSE SUCH A GRAND JURY SUBPOENA UPON AN EX PARTE SWORN SHOWING BY A DISTRICT ATTORNEY, OR OTHER PROSECUTOR WHERE APPROPRIATE, ESTABLISHING (1) THAT THERE IS REASONABLE CAUSE TO BELIEVE THAT THE PERSON IN QUESTION IS A MENTALLY DISABLED PERSON, AND (2) THAT THERE IS REASONABLE CAUSE TO BELIEVE THAT THE PERSON IN QUESTION HAS BEEN THE VICTIM OF FINANCIAL EXPLOITATION. A PERSON IS "MENTALLY DISABLED" FOR PURPOSES OF THIS SUBDIVISION WHEN THAT PERSON SUFFERS FROM A MENTAL DISEASE, DEFECT OR CONDITION WHICH RENDERS HIM OR HER INCAPABLE OF APPRAISING THE NATURE OF THE CONDUCT CONSTITUTING THE FINANCIAL EXPLOITATION. UPON RECEIPT OF SUCH AN ENDORSED SUBPOENA A MEDICAL PROVIDER, INCLUDING BUT NOT LIMITED TO A PHYSICIAN, PSYCHOLOGIST OR NURSE, SHALL BE REQUIRED TO DISCLOSE INFORMATION RELATING TO THE MENTAL OR COGNITIVE CONDITION OF THE PERSON IN QUESTION THAT THE MEDICAL PROVIDER ACQUIRED IN ATTENDING THE PERSON IN A PROFESSIONAL CAPACITY, AND WHICH WAS NECESSARY TO ENABLE HIM OR HER TO ACT IN THAT CAPACITY.

S 2. This act shall take effect immediately.

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

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