

# STATE OF NEW YORK

4839

2023-2024 Regular Sessions

## IN SENATE

February 15, 2023

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

AN ACT to amend the social services law and the executive law, in relation to creating a statewide central register of elder abuse and maltreatment reports and the elder justice coordinating council

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The social services law is amended by adding a new article  
2 9-C to read as follows:

### ARTICLE 9-C

#### STATEWIDE CENTRAL REGISTER OF ELDER ABUSE AND MALTREATMENT REPORTS

##### Section 473-m. Definitions.

6 473-n. Statewide central register of elder abuse and maltreat-  
7 ment reports.

8 473-o. Mandated reporters.

9 473-p. Penalties for failure to report.

10 473-q. Immunity from liability.

##### § 473-m. Definitions. For the purposes of this article:

12 1. "Abused or maltreated elder" means any resident of New York state  
13 who is sixty years of age or older and who is alleged to be the victim  
14 of physical abuse, sexual abuse, emotional abuse, passive or self-ne-  
15 glect, or financial exploitation, as defined in subdivision six of  
16 section four hundred seventy-three of this chapter.

17 2. "Caregiver" means any person who has assumed full or intermittent  
18 responsibility for the care or custody of an elderly adult, whether or  
19 not he or she receives compensation.

20 § 473-n. Statewide central register of elder abuse and maltreatment  
21 reports. 1. Subject to appropriation, there shall be established in the  
22 office of children and family services a statewide central register of  
23 elder abuse and maltreatment reports made pursuant to this article.

24 2. The central register created by this section shall:

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

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1 (a) be capable of receiving telephone calls alleging elder abuse or  
2 maltreatment and of immediately identifying prior reports of elder abuse  
3 or maltreatment and capable of monitoring the provision of adult protec-  
4 tive services twenty-four hours a day, seven days a week. To effectuate  
5 this purpose, there shall be a single statewide telephone number, in  
6 addition to other special express reporting procedures, that all  
7 persons, whether mandated by the law or not, may use to make telephone  
8 calls alleging elder abuse or maltreatment and that all persons so  
9 authorized may use for determining the existence of prior reports in  
10 order to evaluate the condition of the elder;

11 (b) immediately transmit orally or electronically by the office of  
12 children and family services to the appropriate adult protective service  
13 for investigation, any allegations contained in such telephone calls  
14 when they could reasonably constitute a report of elder abuse or  
15 maltreatment, including such allegations and any previous reports to the  
16 central registry involving the subject of such report or elder named in  
17 such report, and any previous reports containing allegations of elder  
18 abuse and maltreatment alleged to have occurred in other counties and  
19 districts in New York state;

20 (c) immediately transmit orally or electronically to the appropriate  
21 local adult protective service for investigation, any telephone call  
22 made by a person required to report cases of suspected elder abuse or  
23 maltreatment pursuant to this article containing allegations, which if  
24 true would constitute elder abuse or maltreatment;

25 (d) convey by the most expedient means available to the appropriate  
26 law enforcement agency, district attorney, or other public official  
27 empowered to provide necessary aid or assistance, any information  
28 contained in a telephone call to the register where the circumstances  
29 despite not constituting abuse or maltreatment as defined in this arti-  
30 cle, may constitute a crime or an immediate threat to the elder's health  
31 or safety;

32 (e) maintain records including, but not limited to: all the informa-  
33 tion in the written report; a record of the final disposition of the  
34 report; information received from the local social services agency,  
35 including services offered and services accepted, the names and identi-  
36 fying data, dates and circumstances of any person requesting or receiv-  
37 ing information from the register; and any other information which the  
38 commissioner believes might be helpful in the furtherance of the  
39 purposes of this article; and

40 (f) maintain the confidentiality of reports written, information  
41 obtained, or photographs taken concerning such reports in the possession  
42 of the office or local departments, except for law enforcement agencies  
43 and others deemed by the commissioner of the office of children and  
44 family services to have a relevant interest in the materials given their  
45 legal or official status.

46 § 473-o. Mandated reporters. 1. The following persons and officials  
47 are required to report or cause a report to be made to the central  
48 registry under section four hundred seventy-three-n of this article when  
49 they have reasonable cause to suspect that an elderly person coming  
50 before them in their professional or official capacity is an abused or  
51 maltreated elder; or when they have reasonable cause to suspect that the  
52 individual is an abused or maltreated elder when the spouse, caregiver,  
53 or guardian or other person legally responsible for the elder comes  
54 before them in their professional or official capacity and states from  
55 personal knowledge facts, conditions or circumstances which, if correct,  
56 would render the elder an abused or maltreated elder: any physician;

1 registered physician assistant; surgeon; medical examiner; pharmacist;  
2 coroner; dentist; dental hygienist; osteopath; optometrist; chiroprac-  
3 tor; podiatrist; resident; intern; psychologist; registered nurse;  
4 social worker; emergency medical technician; mental health professional;  
5 licensed marriage and family therapist; licensed mental health counse-  
6 lor; licensed psychoanalyst; licensed behavior analyst; hospital person-  
7 nel engaged in admission, examination, care or treatment of persons;  
8 substance abuse counselor; alcoholism counselor; all persons creden-  
9 tialed by the office of alcoholism and substance abuse services;  
10 licensed master social worker; licensed clinical social worker; any  
11 administrator, employee or volunteer in a nursing home or residential  
12 healthcare facility that is licensed, certified or operated by the  
13 department of health; any employee of a personal care or home health  
14 aide program; any person or employee of any corporation, partnership,  
15 organization or other entity which is under contract to provide patient  
16 care services in a residential health care facility; an employee of a  
17 county adult protective services agency; police officer; district attor-  
18 ney or assistant district attorney; peace officer; investigator employed  
19 in the office of a district attorney; or other law enforcement official;  
20 an attorney so long as it does not violate the New York state rules of  
21 professional conduct.

22 2. Any person who is required to investigate reports of abuse or  
23 maltreatment and who has reasonable cause to suspect that a victim died  
24 as a result of maltreatment or abuse shall immediately report the suspi-  
25 cion to the central registry which shall convey the report through the  
26 most expedient means available to the appropriate medical examiner and  
27 law enforcement authorities, notwithstanding the existence of a death  
28 certificate signed by a practicing physician. The medical examiner shall  
29 accept the report for investigation and shall report the findings of the  
30 investigation, in writing, to the appropriate law enforcement authori-  
31 ties.

32 3. Reports of suspected elder abuse shall be made immediately by tele-  
33 phone or by telephone facsimile on a form supplied by the commissioner  
34 of the office of children and family services to the central registry.  
35 Such telephone reports shall be followed by a report in writing within  
36 twenty-four hours after such oral report.

37 § 473-p. Penalties for failure to report. Any person required by this  
38 article to report a cause of suspected elder abuse or maltreatment who  
39 willfully fails to do so shall be guilty of a class A misdemeanor. Any  
40 person required by this article to report a case of suspected elder  
41 abuse or maltreatment who knowingly and willfully fails to do so shall  
42 be civilly liable for the damages proximately caused by such failure.

43 § 473-q. Immunity from liability. Any person who in good faith makes a  
44 report of allegations of elder abuse or maltreatment as required by this  
45 title, including those who in good faith make a report to the wrong  
46 recipient, shall have immunity from criminal liability which otherwise  
47 result by reason of such actions. Any person who reasonably and in good  
48 faith makes a report of allegations of elder abuse or maltreatment as  
49 required by this title, shall have immunity from civil liability which  
50 might otherwise result by reason of such actions.

51 § 2. The executive law is amended by adding a new article 29 to read  
52 as follows:

#### 53 ARTICLE 29

#### 54 ELDER JUSTICE COORDINATING COUNCIL

55 Section 830. Elder justice coordinating council.

1     § 830. Elder justice coordinating council. 1. The elder justice coor-  
2 inating council is hereby created within the executive department to  
3 facilitate interagency planning and review specific agency initiatives  
4 for their impact on the reporting and investigation of elder abuse and  
5 maltreatment in the state, and to provide a forum for concerns and  
6 discussion related to the formation of a comprehensive state policy  
7 relating to elder abuse and maltreatment. The council shall have and  
8 exercise the functions, powers, and duties provided by this article and  
9 any other provision of law.

10     2. The council shall be comprised of twenty-one members as follows:  
11 the commissioner of the office of children and family services, the  
12 director of the office for the aging, the commissioner of the division  
13 of criminal justice services, the commissioner of the department of  
14 health, and the commissioner of the office of alcohol and substance  
15 abuse services, and a representative from the department of law, who  
16 shall serve ex officio and who may designate representatives to act on  
17 their behalf. The governor shall appoint seven other members with exper-  
18 tise in elder abuse and maltreatment issues, at least two of whom shall  
19 represent not-for-profit corporations whose primary purpose is to  
20 provide access to experts for the development of elder abuse and  
21 maltreatment services and intervention, and at least two of whom who  
22 shall represent law enforcement agencies that have expertise in the  
23 investigation and prosecution of elder abuse or maltreatment. Eight  
24 members shall be appointed by the governor on the recommendation of the  
25 legislative leaders as follows: the temporary president of the senate  
26 and the speaker of the assembly shall each recommend three members to  
27 the council. One of the three members recommended by the temporary pres-  
28 ident and one of the three members recommended by the speaker shall be a  
29 family member, caregiver, or advocate of a person who has suffered from  
30 elder abuse or maltreatment. One member shall be appointed on the recom-  
31 mendation of the minority leader of the senate and one member shall be  
32 appointed on the recommendation of the minority leader of the assembly.  
33 The commissioner of the office of children and family services and the  
34 director of the office for the aging shall serve, ex officio, as  
35 co-chairs of the council. Administrative duties shall be the responsi-  
36 bility of the office. The members of the council shall receive no  
37 compensation for their services.

38     3. Within one year after the effective date of this section the coun-  
39 cil shall establish community forums to gain input from consumers,  
40 providers, key law enforcement agencies, medical professionals and other  
41 interested parties to provide input and direction on developing a New  
42 York state plan for the identification, investigation, and intervention  
43 into cases of elder abuse and maltreatment. A community forum shall be  
44 established in each of the following regions of the state: Long Island,  
45 New York city, Northern Metropolitan New York, Northwestern New York,  
46 Utica area, central New York, Rochester area, and western New York.  
47 Such state plan shall include but not be limited to recommendations for  
48 the implementation of a statewide central registry for the reporting of  
49 suspected elder abuse and maltreatment, recommendations for the imple-  
50 mentation of mandated reporting guidelines across the state, best prac-  
51 tices in identifying elder abuse and maltreatment signs and symptoms,  
52 the identification of best practices for law enforcement officials in  
53 the identification, investigation, and prosecution of these cases, an  
54 accounting of the incidence of these cases statewide, in addition to a  
55 community assessment of the strengths and gaps in community and state

1 support services, in order to coordinate services among various systems  
2 and agencies, and any other recommendations.

3 4. The council shall meet quarterly or more frequently if its business  
4 shall require. The community forums in the first year of implementation  
5 count as a formal meeting of the council. The members of the council  
6 shall receive no compensation but shall be reimbursed for travel and  
7 other expenses actually and necessarily incurred in the performance of  
8 their duties. The council shall provide reports to the governor and the  
9 legislature on or before October first, two thousand twenty-four, and by  
10 October first of every other year thereafter. Such reports shall include  
11 recommendations for state policy relating to elder abuse and maltreat-  
12 ment and a review of services initiated and coordinated among public and  
13 private agencies to meet the needs of victims.

14 5. The office of children and family services shall serve as the focal  
15 point to develop comprehensive coordinated responses of the various  
16 state and local agencies with regard to elder abuse and maltreatment and  
17 thus to ensure timely and appropriate responses to reports and investi-  
18 gations.

19 6. The office of children and family services, in consultation with  
20 the council, shall utilize data and information compiled and maintained  
21 pursuant to this article to coordinate state funded research efforts to  
22 ensure the most efficient use of funds available for the purposes of  
23 this article.

24 § 3. This act shall take effect October 1, 2023; provided that section  
25 one of this act shall take effect January 1, 2025.