STATE OF NEW YORK

5515

2023-2024 Regular Sessions

IN SENATE

March 7, 2023

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

AN ACT to amend the estates, powers and trusts law, in relation to prohibiting an individual convicted of a crime involving elder abuse from inheriting from the elder's estate as a distributee

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

Section 1. The estates, powers and trusts law is amended by adding a new section 4-1.7 to read as follows:

§ 4-1.7 Disqualification of a caregiver to take intestate share; elder abuse

(a) Notwithstanding any other provision of law to the contrary, a caregiver convicted of a crime against a vulnerable elderly person involving elder abuse shall not be entitled to any distributive share in the estate of such vulnerable elderly person.

(b) For the purposes of this section, the following terms shall have the following meanings:

(1) "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.

(2) "Caregiver" means a person who (i) assumes responsibility for the care of a vulnerable elderly person voluntarily or pursuant to a court order; or (ii) receives monetary or other valuable consideration for providing care for a vulnerable elderly person.

(3) "Elder abuse" means physical abuse, sexual abuse, emotional abuse, active neglect, passive neglect, or financial exploitation of a vulnerable elderly person by a caregiver.

(4) "Physical abuse" means the non-accidental use of force that results in bodily injury, pain or impairment, including but not limited

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

LBD01715-01-3

to, being slapped, burned, cut, bruised or improperly physically restrained.

(5) "Sexual abuse" means non-consensual touching, rape, sodomy, coerced nudity, sexual photography or sexual contact of any kind, including but not limited to, forcing sexual contact or forcing sex with a third party.

(6) "Emotional abuse" means willful infliction of mental or emotional anguish by threat, humiliation, intimidation or other abusive conduct, including but not limited to, frightening or isolating an adult.

(7) "Active neglect" means willful failure by a caregiver to fulfill the care-taking functions and responsibilities assumed by such caregiver, including but not limited to, abandonment, willful deprivation of food, water, heat, clean clothing and bedding, eyeglasses or dentures, or health related services.

(8) "Passive neglect" means non-willful failure of a caregiver to fulfill care-taking functions and responsibilities assumed by such caregiver, including but not limited to, abandonment or denial of food or health related services because of inadequate caregiver knowledge, infirmity, or disputing the value of prescribed services.

(9) "Financial exploitation" means improper use of an adult's funds, property or resources by another individual, including but not limited to, fraud, false pretenses, embezzlement, conspiracy, forgery, falsifying records, coerced property transfers or denial of access to assets.

§ 2. This act shall take effect on the one hundred eightieth day after it shall have become a law.