

STATE OF NEW YORK

4476

2025-2026 Regular Sessions

IN ASSEMBLY

February 4, 2025

Introduced by M. of A. JENSEN -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to elder abuse through social media

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

1 Section 1. The penal law is amended by adding a new section 260.40 to
2 read as follows:

3 § 260.40 Unlawful posting of a vulnerable elderly person on social
4 media.

5 A person is guilty of unlawful posting of a vulnerable elderly person
6 on social media when, being a caregiver while performing their duty of
7 care for a vulnerable elderly person, such person posts an image or
8 video of such elderly person on social media including, but not limited
9 to Facebook, YouTube, Twitter, Instagram, Snapchat, Tumblr and Flickr,
10 without such person's consent.

11 1. The following definitions are applicable to this section:

12 (a) "Forcible compulsion" means to compel by either:

13 (i) use of physical force; or

14 (ii) a threat, express or implied, which places a person in fear of
15 immediate death or physical injury to themselves or another person, or in
16 fear that they or another person will immediately be kidnapped.

17 (b) "Physical helplessness" means that a person is unconscious or for
18 any other reason is physically unable to communicate unwillingness to an
19 act.

20 (c) "Mental incapacity" means an individual does not comprehend the
21 nature and consequences of what they consent to.

22 (d) "Mental disability" means that a person suffers from a mental
23 disease or defect which renders them incapable of informed consent.

24 (e) "Caregiver" means a person who (i) assumes responsibility for the
25 care of a vulnerable elderly person pursuant to a court order; (ii)

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

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1 receives monetary or other valuable consideration for providing care for
2 a vulnerable elderly person; (iii) is identified as a caregiver by a
3 patient under the public health law who provides after-care assistance
4 to a patient living in their residence including, but not limited to, a
5 relative, partner, friend or neighbor who has a significant relationship
6 with the patient; or (iv) is an informal caregiver such as a family
7 member, friend, neighbor, or other natural person who normally provides
8 the daily care or supervision of a vulnerable elderly person who may,
9 but need not reside in the same household as the vulnerable elderly
10 person.

11 (f) "Vulnerable elderly person" means a person sixty years of age or
12 older who is suffering from a disease or infirmity associated with
13 advanced age and manifested by demonstrable physical, mental or
14 emotional dysfunction to the extent that the person is incapable of
15 adequately providing for their own health or personal care.

16 2. Lack of consent under this section results from:

17 (a) forcible compulsion;

18 (b) physical helplessness;

19 (c) mental incapacity;

20 (d) mental disability; or

21 (e) any circumstance in which the victim does not expressly or
22 impliedly acquiesce in the actor's conduct.

23 Unlawful posting of a vulnerable elderly person on social media is a
24 class A misdemeanor.

25 § 2. This act shall take effect on the first of November next succeed-
26 ing the date on which it shall have become a law.