§ 491. Duty to report incidents. 1. (a) Mandated reporters shall report allegations of reportable incidents to the vulnerable persons' central register as established by section four hundred ninety-two of this article and in accordance with the requirements set forth therein.

(b) Allegations of reportable incidents shall be reported immediately to the vulnerable persons' central register upon discovery. For purposes of this article, "discovery" occurs when the mandated reporter witnesses a suspected reportable incident or when another person, including the vulnerable person, comes before the mandated reporter in the mandated reporter's professional or official capacity and provides the mandated reporter with reasonable cause to suspect that the vulnerable person has been subjected to a reportable incident. A report to the register shall include the name, title and contact information of every person known to the mandated reporter to have the same information as the mandated reporter concerning the reportable incident. Nothing in this subdivision shall be construed to prohibit a mandated reporter from contacting or reporting to law enforcement or emergency services before or after reporting to the vulnerable persons' central register.

(c) The substance or content of any psychological, psychiatric, therapeutic, clinical or medical reports, evaluations or like materials or information pertaining to the treatment of a patient or client of a mandatory reporter who reports a reportable incident of such patient or client pursuant to this article, must be provided by such mandatory reporter upon request of the justice center for the protection of people with special needs if such records are essential for a full investigation of such allegation, notwithstanding any applicable privilege which would otherwise bar the disclosure of such materials and records pursuant to article forty-five of the civil practice law and rules or other provision of law except applicable federal law governing the disclosure of patient and related medical records.

(d) Every mandated reporter is required to make a report to the register as outlined in paragraph (b) of this subdivision unless (i) the reporter has actual knowledge that the reportable incident has been reported to the register; and (ii) that the reporter has been named as a person with knowledge of the incident in such prior report.

2. Any person or official required to report allegations of reportable

incidents pursuant to this section may take or cause to be taken color photographs of visible trauma and the face of the vulnerable person named in the report and upon the consent of a person authorized to consent to medical care for the vulnerable person, shall, if medically indicated, cause to be performed a radiological examination of the vulnerable person. Any photographs or radiological examinations taken shall be provided to the justice center for use only for the purposes of an investigation of a reportable incident.

3. (a) Any human services professional required by this article to report a case of suspected abuse or neglect to the vulnerable persons' central register who knowingly and willfully fails to do so shall be guilty of a class A misdemeanor.

(b) A mandated reporter who knowingly and willfully fails to report a case of suspected abuse or neglect to the vulnerable persons' central register may be subject to termination, subject to any applicable collective bargaining agreement. Any person or official required by this article to report a case of suspected abuse or neglect to the vulnerable persons' central register who knowingly and willfully fails to do so shall be civilly liable for the damages proximately caused by such failure.

4. A medical or other public or private institution, state agency, school, facility or provider agency or its vendors or contractors shall not take any retaliatory personnel action, as such term is defined in paragraph (e) of subdivision one of section seven hundred forty of the labor law, against an employee or agent or vendor or contractor because such employee or agent or vendor or contractor believes that he or she has reasonable cause to suspect that a vulnerable person has been subjected to a reportable incident and that employee or agent or vendor or contractor therefore makes a report in accordance with this section and/or cooperated with the investigation of a reportable incident. A court of competent jurisdiction may grant injunctive relief to any person determined to have been subjected to such retaliation.

5. State oversight agencies shall ensure that all facilities or provider agencies operated, licensed, or certified by such state

oversight agencies have policies and procedures in place to identify and report possible crimes against a service recipient by a custodian. State oversight agencies shall provide guidance to facilities or provider agencies operated, licensed, or certified by such state oversight agencies that do not already have policies and procedures for the identification and reporting of possible crimes.