

AMENDED IN ASSEMBLY JULY 13, 2005

AMENDED IN ASSEMBLY JULY 11, 2005

AMENDED IN SENATE MAY 10, 2005

SENATE BILL

No. 1018

Introduced by Senator Simitian

(Principal coauthors: Senators Alquist and Scott)

(Principal coauthors: Assembly Members Berg, Evans, *Spitzer*, and Wolk)

(Coauthors: Senators Kuehl and Romero)

(Coauthors: Assembly Members Cohn and Pavley)

February 22, 2005

An act to amend, repeal, and add Section 7480 of the Government Code, and to amend, repeal, and add Sections 15634, 15640, and 15655.5 of, and to add and repeal Section 15630.1 of, the Welfare and Institutions Code, relating to elder and dependent adult abuse.

LEGISLATIVE COUNSEL'S DIGEST

SB 1018, as amended, Simitian. Elder and dependent adult abuse.

Existing law provides for the confidentiality of financial records but does not prohibit various state and local officers and agencies from requesting information from an office or branch of a financial institution and the office or branch from responding to the request, as to whether a person has an account or accounts at that office or branch and if so, any identifying numbers of the account or accounts.

This bill, from January 1, 2007, to January 1, 2013, inclusive, would provide that a county adult protective services office and a long-term care ombudsman when investigating the financial abuse of an elder or dependent adult is similarly not prohibited from requesting financial

information and the office or branch is not prohibited from responding to the request.

Existing law, the Elder Abuse and Dependent Adult Civil Protection Act, establishes procedures for the reporting, investigation, and prosecution of elder and dependent adult abuse. These procedures require persons, defined as mandated reporters, to report known or suspected instances of elder or dependent adult abuse. Under existing law, care custodians of elder or dependent adults and local law enforcement agencies are mandated reporters. A violation of the reporting requirements by a mandated reporter is a misdemeanor.

This bill, from January 1, 2007, to January 1, 2013, inclusive, would include within these reporting requirements mandated reporters of suspected financial abuse, as defined, and would, with certain exceptions, make failure to comply with these requirements subject to a civil penalty.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known as the Financial Elder
2 Abuse Reporting Act of 2005.

3 SEC. 2. Section 7480 of the Government Code is amended to
4 read:

5 7480. Nothing in this chapter prohibits any of the following:

6 (a) The dissemination of any financial information that is not
7 identified with, or identifiable as being derived from, the
8 financial records of a particular customer.

9 (b) When any police or sheriff's department or district
10 attorney in this state certifies to a bank, credit union, or savings
11 association in writing that a crime report has been filed that
12 involves the alleged fraudulent use of drafts, checks, or other
13 orders drawn upon any bank, credit union, or savings association
14 in this state, the police or sheriff's department or district attorney
15 may request a bank, credit union, or savings association to
16 furnish, and a bank, credit union, or savings association shall
17 furnish, a statement setting forth the following information with
18 respect to a customer account specified by the police or sheriff's
19 department or district attorney for a period 30 days prior to, and

1 up to 30 days following, the date of occurrence of the alleged
2 illegal act involving the account:

3 (1) The number of items dishonored.

4 (2) The number of items paid that created overdrafts.

5 (3) The dollar volume of the dishonored items and items paid
6 which created overdrafts and a statement explaining any credit
7 arrangement between the bank, credit union, or savings
8 association and customer to pay overdrafts.

9 (4) The dates and amounts of deposits and debits and the
10 account balance on these dates.

11 (5) A copy of the signature card, including the signature and
12 any addresses appearing on a customer's signature card.

13 (6) The date the account opened and, if applicable, the date the
14 account closed.

15 (7) A bank, credit union, or savings association that provides
16 the requesting party with copies of one or more complete account
17 statements prepared in the regular course of business shall be
18 deemed to be in compliance with paragraphs (1), (2), (3), and (4).

19 (c) When any police or sheriff's department or district attorney
20 in this state certifies to a bank, credit union, or savings
21 association in writing that a crime report has been filed that
22 involves the alleged fraudulent use of drafts, checks, or other
23 orders drawn upon any bank, credit union, or savings association
24 doing business in this state, the police or sheriff's department or
25 district attorney may request, with the consent of the
26 accountholder, the bank, credit union, or savings association to
27 furnish, and the bank, credit union, or savings association shall
28 furnish, a statement setting forth the following information with
29 respect to a customer account specified by the police or sheriff's
30 department or district attorney for a period 30 days prior to, and
31 up to 30 days following, the date of occurrence of the alleged
32 illegal act involving the account:

33 (1) The number of items dishonored.

34 (2) The number of items paid that created overdrafts.

35 (3) The dollar volume of the dishonored items and items paid
36 which created overdrafts and a statement explaining any credit
37 arrangement between the bank, credit union, or savings
38 association and customer to pay overdrafts.

39 (4) The dates and amounts of deposits and debits and the
40 account balance on these dates.

1 (5) A copy of the signature card, including the signature and
2 any addresses appearing on a customer's signature card.

3 (6) The date the account opened and, if applicable, the date the
4 account closed.

5 (7) A bank, credit union, or savings association doing business
6 in this state that provides the requesting party with copies of one
7 or more complete account statements prepared in the regular
8 course of business shall be deemed to be in compliance with
9 paragraphs (1), (2), (3), and (4).

10 (d) For purposes of subdivision (c), consent of the
11 accountholder shall be satisfied if an accountholder provides to
12 the financial institution and the person or entity seeking
13 disclosure, a signed and dated statement containing all of the
14 following:

15 (1) Authorization of the disclosure for the period specified in
16 subdivision (c).

17 (2) The name of the agency or department to which disclosure
18 is authorized and, if applicable, the statutory purpose for which
19 the information is to be obtained.

20 (3) A description of the financial records that are authorized to
21 be disclosed.

22 (e) (1) The Attorney General, a supervisory agency, the
23 Franchise Tax Board, the State Board of Equalization, the
24 Employment Development Department, the Controller or an
25 inheritance tax referee when administering the Prohibition of Gift
26 and Death Taxes (Part 8 (commencing with Section 13301) of
27 Division 2 of the Revenue and Taxation Code), a police or
28 sheriff's department or district attorney, a county adult protective
29 services office when investigating the financial abuse of an elder
30 or dependent adult, a long-term care ombudsman when
31 investigating the financial abuse of an elder or dependent adult, a
32 county welfare department when investigating welfare fraud, a
33 county auditor-controller or director of finance when
34 investigating fraud against the county, or the Department of
35 Corporations when conducting investigations in connection with
36 the enforcement of laws administered by the Commissioner of
37 Corporations, from requesting of an office or branch of a
38 financial institution, and the office or branch from responding to
39 a request, as to whether a person has an account or accounts at

1 that office or branch and, if so, any identifying numbers of the
2 account or accounts.

3 (2) No additional information beyond that specified in this
4 section shall be released to a county welfare department without
5 either the accountholder's written consent or a judicial writ,
6 search warrant, subpoena, or other judicial order.

7 (3) A county auditor-controller or director of finance who
8 unlawfully discloses information he or she is authorized to
9 request under this subdivision is guilty of the unlawful disclosure
10 of confidential data, a misdemeanor, which shall be punishable as
11 set forth in Section 7485.

12 (f) The examination by, or disclosure to, any supervisory
13 agency of financial records that relate solely to the exercise of its
14 supervisory function. The scope of an agency's supervisory
15 function shall be determined by reference to statutes that grant
16 authority to examine, audit, or require reports of financial records
17 or financial institutions as follows:

18 (1) With respect to the Commissioner of Financial Institutions
19 by reference to Division 1 (commencing with Section 99),
20 Division 1.5 (commencing with Section 4800), Division 2
21 (commencing with Section 5000), Division 5 (commencing with
22 Section 14000), Division 7 (commencing with Section 18000),
23 Division 15 (commencing with Section 31000), and Division 16
24 (commencing with Section 33000) of the Financial Code.

25 (2) With respect to the Controller by reference to Title 10
26 (commencing with Section 1300) of Part 3 of the Code of Civil
27 Procedure.

28 (3) With respect to the Administrator of Local Agency
29 Security by reference to Article 2 (commencing with Section
30 53630) of Chapter 4 of Part 1 of Division 2 of Title 5 of the
31 Government Code.

32 (g) The disclosure to the Franchise Tax Board of (1) the
33 amount of any security interest that a financial institution has in a
34 specified asset of a customer or (2) financial records in
35 connection with the filing or audit of a tax return or tax
36 information return that are required to be filed by the financial
37 institution pursuant to Part 10 (commencing with Section 17001),
38 Part 11 (commencing with Section 23001), or Part 18
39 (commencing with Section 38001) of the Revenue and Taxation
40 Code.

(h) The disclosure to the State Board of Equalization of any of the following:

(1) The information required by Sections 6702, 6703, 8954, 8957, 30313, 30315, 32383, 32387, 38502, 38503, 40153, 40155, 41122, 41123.5, 43443, 43444.2, 44144, 45603, 45605, 46404, 46406, 50134, 50136, 55203, 55205, 60404, and 60407 of the Revenue and Taxation Code.

(2) The financial records in connection with the filing or audit of a tax return required to be filed by the financial institution pursuant to Part 1 (commencing with Section 6001), Part 2 (commencing with Section 7301), Part 3 (commencing with Section 8601), Part 13 (commencing with Section 30001), Part 14 (commencing with Section 32001), and Part 17 (commencing with Section 37001) of Division 2 of the Revenue and Taxation Code.

(3) The amount of any security interest a financial institution has in a specified asset of a customer, if the inquiry is directed to the branch or office where the interest is held.

(i) The disclosure to the Controller of the information required by Section 7853 of the Revenue and Taxation Code.

(j) The disclosure to the Employment Development Department of the amount of any security interest a financial institution has in a specified asset of a customer, if the inquiry is directed to the branch or office where the interest is held.

(k) The disclosure by a construction lender, as defined in Section 3087 of the Civil Code, to the Registrar of Contractors, of information concerning the making of progress payments to a prime contractor requested by the registrar in connection with an investigation under Section 7108.5 of the Business and Professions Code.

(l) Upon receipt of a written request from a local child support agency referring to a support order pursuant to Section 17400 of the Family Code, a financial institution shall disclose the following information concerning the account or the person named in the request, whom the local child support agency shall identify, whenever possible, by social security number:

(1) If the request states the identifying number of an account at a financial institution, the name of each owner of the account.

(2) Each account maintained by the person at the branch to which the request is delivered, and, if the branch is able to make

1 a computerized search, each account maintained by the person at
2 any other branch of the financial institution located in this state.

3 (3) For each account disclosed pursuant to paragraphs (1) and
4 (2), the account number, current balance, street address of the
5 branch where the account is maintained, and, to the extent
6 available through the branch's computerized search, the name
7 and address of any other person listed as an owner.

8 (4) Whenever the request prohibits the disclosure, a financial
9 institution shall not disclose either the request or its response, to
10 an owner of the account or to any other person, except the
11 officers and employees of the financial institution who are
12 involved in responding to the request and to attorneys, employees
13 of the local child support agencies, auditors, and regulatory
14 authorities who have a need to know in order to perform their
15 duties, and except as disclosure may be required by legal process.

16 (5) No financial institution, or any officer, employee, or agent
17 thereof, shall be liable to any person for (A) disclosing
18 information in response to a request pursuant to this subdivision,
19 (B) failing to notify the owner of an account, or complying with
20 a request under this paragraph not to disclose to the owner, the
21 request or disclosure under this subdivision, or (C) failing to
22 discover any account owned by the person named in the request
23 pursuant to a computerized search of the records of the financial
24 institution.

25 (6) The local child support agency may request information
26 pursuant to this subdivision only when the local child support
27 agency has received at least one of the following types of
28 physical evidence:

29 (A) Any of the following, dated within the last three years:

30 (i) Form 599.

31 (ii) Form 1099.

32 (iii) A bank statement.

33 (iv) A check.

34 (v) A bank passbook.

35 (vi) A deposit slip.

36 (vii) A copy of a federal or state income tax return.

37 (viii) A debit or credit advice.

38 (ix) Correspondence that identifies the child support obligor
39 by name, the bank, and the account number.

1 (x) Correspondence that identifies the child support obligor by
2 name, the bank, and the banking services related to the account
3 of the obligor.

4 (xi) An asset identification report from a federal agency.

5 (B) A sworn declaration of the custodial parent during the 12
6 months immediately preceding the request that the person named
7 in the request has had or may have had an account at an office or
8 branch of the financial institution to which the request is made.

9 (7) Information obtained by a local child support agency
10 pursuant to this subdivision shall be used only for purposes that
11 are directly connected with the administration of the duties of the
12 local child support agency pursuant to Section 17400 of the
13 Family Code.

14 (m) (1) As provided in paragraph (1) of subdivision (c) of
15 Section 666 of Title 42 of the United States Code, upon receipt of
16 an administrative subpoena on the current federally approved
17 interstate child support enforcement form, as approved by the
18 federal Office of Management and Budget, a financial institution
19 shall provide the information or documents requested by the
20 administrative subpoena.

21 (2) The administrative subpoena shall refer to the current
22 federal Office of Management and Budget control number and be
23 signed by a person who states that he or she is an authorized
24 agent of a state or county agency responsible for implementing
25 the child support enforcement program set forth in Part D
26 (commencing with Section 651) of Subchapter IV of Chapter 7
27 of Title 42 of the United States Code. A financial institution may
28 rely on the statements made in the subpoena and has no duty to
29 inquire into the truth of any statement in the subpoena.

30 (3) If the person who signs the administrative subpoena directs
31 a financial institution in writing not to disclose either the
32 subpoena or its response to any owner of an account covered by
33 the subpoena, the financial institution shall not disclose the
34 subpoena or its response to the owner.

35 (4) No financial institution, or any officer, employee, or agent
36 thereof, shall be liable to any person for (A) disclosing
37 information or providing documents in response to a subpoena
38 pursuant to this subdivision, (B) failing to notify any owner of an
39 account covered by the subpoena or complying with a request not
40 to disclose to the owner, the subpoena or disclosure under this

1 subdivision, or (C) failing to discover any account owned by the
2 person named in the subpoena pursuant to a computerized search
3 of the records of the financial institution.

4 (n) The dissemination of financial information and records
5 pursuant to any of the following:

6 (1) Compliance by a financial institution with the requirements
7 of Section 2892 of the Probate Code.

8 (2) Compliance by a financial institution with the requirements
9 of Section 2893 of the Probate Code.

10 (3) An order by a judge upon a written ex parte application by
11 a peace officer showing specific and articulable facts that there
12 are reasonable grounds to believe that the records or information
13 sought are relevant and material to an ongoing investigation of a
14 felony violation of Section 186.10 or of any felony subject to the
15 enhancement set forth in Section 186.11.

16 (A) The ex parte application shall specify with particularity
17 the records to be produced, which shall be only those of the
18 individual or individuals who are the subject of the criminal
19 investigation.

20 (B) The ex parte application and any subsequent judicial order
21 shall be open to the public as a judicial record unless ordered
22 sealed by the court, for a period of 60 days. The sealing of these
23 records may be extended for 60-day periods upon a showing to
24 the court that it is necessary for the continuance of the
25 investigation. Sixty-day extensions may continue for up to one
26 year or until termination of the investigation of the individual or
27 individuals, whichever is sooner.

28 (C) The records ordered to be produced shall be returned to
29 the peace officer applicant or his or her designee within a
30 reasonable time period after service of the order upon the
31 financial institution.

32 (D) Nothing in this subdivision shall preclude the financial
33 institution from notifying a customer of the receipt of the order
34 for production of records unless a court orders the financial
35 institution to withhold notification to the customer upon a finding
36 that the notice would impede the investigation.

37 (E) Where a court has made an order pursuant to this
38 paragraph to withhold notification to the customer under this
39 paragraph, the peace officer or law enforcement agency who
40 obtained the financial information shall notify the customer by

1 delivering a copy of the ex parte order to the customer within 10
2 days of the termination of the investigation.

3 (4) No financial institution, or any officer, employee, or agent
4 thereof, shall be liable to any person for any of the following:

5 (A) Disclosing information to a probate court pursuant to
6 Sections 2892 and 2893.

7 (B) Disclosing information in response to a court order
8 pursuant to paragraph (3).

9 (C) Complying with a court order under this subdivision not to
10 disclose to the customer, the order, or the dissemination of
11 information pursuant to the court order.

12 (o) Disclosure by a financial institution to a peace officer, as
13 defined in Section 830.1 of the Penal Code, pursuant to the
14 following:

15 (1) Paragraph (1) of subdivision (a) of Section 1748.95 of the
16 Civil Code, provided that the financial institution has first
17 complied with the requirements of paragraph (2) of subdivision
18 (a) and subdivision (b) of Section 1748.95 of the Civil Code.

19 (2) Paragraph (1) of subdivision (a) of Section 4002 of the
20 Financial Code, provided that the financial institution has first
21 complied with the requirements of paragraph (2) of subdivision
22 (a) and subdivision (b) of Section 4002 of the Financial Code.

23 (3) Paragraph (1) of subdivision (a) of Section 22470 of the
24 Financial Code, provided that any financial institution that is a
25 finance lender has first complied with the requirements of
26 paragraph (2) of subdivision (a) and subdivision (b) of Section
27 22470 of the Financial Code.

28 (p) When the governing board of the Public Employees'
29 Retirement System or the State Teachers' Retirement System
30 certifies in writing to a financial institution that a benefit
31 recipient has died and that transfers to the benefit recipient's
32 account at the financial institution from the retirement system
33 occurred after the benefit recipient's date of death, the financial
34 institution shall furnish the retirement system the name and
35 address of any coowner, cosigner, or any other person who had
36 access to the funds in the account following the date of the
37 benefit recipient's death, or if the account has been closed, the
38 name and address of the person who closed the account.

39 (q) When the retirement board of a retirement system
40 established under the County Employees Retirement Law of

1937 certifies in writing to a financial institution that a retired member or the beneficiary of a retired member has died and that transfers to the account of the retired member or beneficiary of a retired member at the financial institution from the retirement system occurred after the date of death of the retired member or beneficiary of a retired member, the financial institution shall furnish the retirement system the name and address of any coowner, cosigner, or any other person who had access to the funds in the account following the date of death of the retired member or beneficiary of a retired member, or if the account has been closed, the name and address of the person who closed the account.

(r) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 3. Section 7480 is added to the Government Code, to read:

7480. Nothing in this chapter prohibits any of the following:

(a) The dissemination of any financial information that is not identified with, or identifiable as being derived from, the financial records of a particular customer.

(b) When any police or sheriff's department or district attorney in this state certifies to a bank, credit union, or savings association in writing that a crime report has been filed that involves the alleged fraudulent use of drafts, checks, or other orders drawn upon any bank, credit union, or savings association in this state, the police or sheriff's department or district attorney may request a bank, credit union, or savings association to furnish, and a bank, credit union, or savings association shall furnish, a statement setting forth the following information with respect to a customer account specified by the police or sheriff's department or district attorney for a period 30 days prior to, and up to 30 days following, the date of occurrence of the alleged illegal act involving the account:

(1) The number of items dishonored.

(2) The number of items paid that created overdrafts.

(3) The dollar volume of the dishonored items and items paid which created overdrafts and a statement explaining any credit

1 arrangement between the bank, credit union, or savings
2 association and customer to pay overdrafts.

3 (4) The dates and amounts of deposits and debits and the
4 account balance on these dates.

5 (5) A copy of the signature card, including the signature and
6 any addresses appearing on a customer's signature card.

7 (6) The date the account opened and, if applicable, the date the
8 account closed.

9 (7) A bank, credit union, or savings association that provides
10 the requesting party with copies of one or more complete account
11 statements prepared in the regular course of business shall be
12 deemed to be in compliance with paragraphs (1), (2), (3), and (4).

13 (c) When any police or sheriff's department or district attorney
14 in this state certifies to a bank, credit union, or savings
15 association in writing that a crime report has been filed that
16 involves the alleged fraudulent use of drafts, checks, or other
17 orders drawn upon any bank, credit union, or savings association
18 doing business in this state, the police or sheriff's department or
19 district attorney may request, with the consent of the
20 accountholder, the bank, credit union, or savings association to
21 furnish, and the bank, credit union, or savings association shall
22 furnish, a statement setting forth the following information with
23 respect to a customer account specified by the police or sheriff's
24 department or district attorney for a period 30 days prior to, and
25 up to 30 days following, the date of occurrence of the alleged
26 illegal act involving the account:

27 (1) The number of items dishonored.

28 (2) The number of items paid that created overdrafts.

29 (3) The dollar volume of the dishonored items and items paid
30 which created overdrafts and a statement explaining any credit
31 arrangement between the bank, credit union, or savings
32 association and customer to pay overdrafts.

33 (4) The dates and amounts of deposits and debits and the
34 account balance on these dates.

35 (5) A copy of the signature card, including the signature and
36 any addresses appearing on a customer's signature card.

37 (6) The date the account opened and, if applicable, the date the
38 account closed.

39 (7) A bank, credit union, or savings association doing business
40 in this state that provides the requesting party with copies of one

1 or more complete account statements prepared in the regular
2 course of business shall be deemed to be in compliance with
3 paragraphs (1), (2), (3), and (4).

4 (d) For purposes of subdivision (c), consent of the
5 accountholder shall be satisfied if an accountholder provides to
6 the financial institution and the person or entity seeking
7 disclosure, a signed and dated statement containing all of the
8 following:

9 (1) Authorization of the disclosure for the period specified in
10 subdivision (c).

11 (2) The name of the agency or department to which disclosure
12 is authorized and, if applicable, the statutory purpose for which
13 the information is to be obtained.

14 (3) A description of the financial records that are authorized to
15 be disclosed.

16 (e) (1) The Attorney General, a supervisory agency, the
17 Franchise Tax Board, the State Board of Equalization, the
18 Employment Development Department, the Controller or an
19 inheritance tax referee when administering the Prohibition of Gift
20 and Death Taxes (Part 8 (commencing with Section 13301) of
21 Division 2 of the Revenue and Taxation Code), a police or
22 sheriff's department or district attorney, a county welfare
23 department when investigating welfare fraud, a county
24 auditor-controller or director of finance when investigating fraud
25 against the county, or the Department of Corporations when
26 conducting investigations in connection with the enforcement of
27 laws administered by the Commissioner of Corporations, from
28 requesting of an office or branch of a financial institution, and
29 the office or branch from responding to a request, as to whether a
30 person has an account or accounts at that office or branch and, if
31 so, any identifying numbers of the account or accounts.

32 (2) No additional information beyond that specified in this
33 section shall be released to a county welfare department without
34 either the accountholder's written consent or a judicial writ,
35 search warrant, subpoena, or other judicial order.

36 (3) A county auditor-controller or director of finance who
37 unlawfully discloses information he or she is authorized to
38 request under this subdivision is guilty of the unlawful disclosure
39 of confidential data, a misdemeanor, which shall be punishable as
40 set forth in Section 7485.

(f) The examination by, or disclosure to, any supervisory agency of financial records that relate solely to the exercise of its supervisory function. The scope of an agency's supervisory function shall be determined by reference to statutes that grant authority to examine, audit, or require reports of financial records or financial institutions as follows:

(1) With respect to the Commissioner of Financial Institutions by reference to Division 1 (commencing with Section 99), Division 1.5 (commencing with Section 4800), Division 2 (commencing with Section 5000), Division 5 (commencing with Section 14000), Division 7 (commencing with Section 18000), Division 15 (commencing with Section 31000), and Division 16 (commencing with Section 33000) of the Financial Code.

(2) With respect to the Controller by reference to Title 10 (commencing with Section 1300) of Part 3 of the Code of Civil Procedure.

(3) With respect to the Administrator of Local Agency Security by reference to Article 2 (commencing with Section 53630) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code.

(g) The disclosure to the Franchise Tax Board of (1) the amount of any security interest that a financial institution has in a specified asset of a customer or (2) financial records in connection with the filing or audit of a tax return or tax information return that are required to be filed by the financial institution pursuant to Part 10 (commencing with Section 17001), Part 11 (commencing with Section 23001), or Part 18 (commencing with Section 38001) of the Revenue and Taxation Code.

(h) The disclosure to the State Board of Equalization of any of the following:

(1) The information required by Sections 6702, 6703, 8954, 8957, 30313, 30315, 32383, 32387, 38502, 38503, 40153, 40155, 41122, 41123.5, 43443, 43444.2, 44144, 45603, 45605, 46404, 46406, 50134, 50136, 55203, 55205, 60404, and 60407 of the Revenue and Taxation Code.

(2) The financial records in connection with the filing or audit of a tax return required to be filed by the financial institution pursuant to Part 1 (commencing with Section 6001), Part 2 (commencing with Section 7301), Part 3 (commencing with

1 Section 8601), Part 13 (commencing with Section 30001), Part
2 14 (commencing with Section 32001), and Part 17 (commencing
3 with Section 37001) of Division 2 of the Revenue and Taxation
4 Code.

5 (3) The amount of any security interest a financial institution
6 has in a specified asset of a customer, if the inquiry is directed to
7 the branch or office where the interest is held.

8 (i) The disclosure to the Controller of the information required
9 by Section 7853 of the Revenue and Taxation Code.

10 (j) The disclosure to the Employment Development
11 Department of the amount of any security interest a financial
12 institution has in a specified asset of a customer, if the inquiry is
13 directed to the branch or office where the interest is held.

14 (k) The disclosure by a construction lender, as defined in
15 Section 3087 of the Civil Code, to the Registrar of Contractors,
16 of information concerning the making of progress payments to a
17 prime contractor requested by the registrar in connection with an
18 investigation under Section 7108.5 of the Business and
19 Professions Code.

20 (l) Upon receipt of a written request from a local child support
21 agency referring to a support order pursuant to Section 17400 of
22 the Family Code, a financial institution shall disclose the
23 following information concerning the account or the person
24 named in the request, whom the local child support agency shall
25 identify, whenever possible, by social security number:

26 (1) If the request states the identifying number of an account at
27 a financial institution, the name of each owner of the account.

28 (2) Each account maintained by the person at the branch to
29 which the request is delivered, and, if the branch is able to make
30 a computerized search, each account maintained by the person at
31 any other branch of the financial institution located in this state.

32 (3) For each account disclosed pursuant to paragraphs (1) and
33 (2), the account number, current balance, street address of the
34 branch where the account is maintained, and, to the extent
35 available through the branch's computerized search, the name
36 and address of any other person listed as an owner.

37 (4) Whenever the request prohibits the disclosure, a financial
38 institution shall not disclose either the request or its response, to
39 an owner of the account or to any other person, except the
40 officers and employees of the financial institution who are

involved in responding to the request and to attorneys, employees of the local child support agencies, auditors, and regulatory authorities who have a need to know in order to perform their duties, and except as disclosure may be required by legal process.

(5) No financial institution, or any officer, employee, or agent thereof, shall be liable to any person for (A) disclosing information in response to a request pursuant to this subdivision, (B) failing to notify the owner of an account, or complying with a request under this paragraph not to disclose to the owner, the request or disclosure under this subdivision, or (C) failing to discover any account owned by the person named in the request pursuant to a computerized search of the records of the financial institution.

(6) The local child support agency may request information pursuant to this subdivision only when the local child support agency has received at least one of the following types of physical evidence:

(A) Any of the following, dated within the last three years:

(i) Form 599.

(ii) Form 1099.

(iii) A bank statement.

(iv) A check.

(v) A bank passbook.

(vi) A deposit slip.

(vii) A copy of a federal or state income tax return.

(viii) A debit or credit advice.

(ix) Correspondence that identifies the child support obligor by name, the bank, and the account number.

(x) Correspondence that identifies the child support obligor by name, the bank, and the banking services related to the account of the obligor.

(xi) An asset identification report from a federal agency.

(B) A sworn declaration of the custodial parent during the 12 months immediately preceding the request that the person named in the request has had or may have had an account at an office or branch of the financial institution to which the request is made.

(7) Information obtained by a local child support agency pursuant to this subdivision shall be used only for purposes that are directly connected with the administration of the duties of the

1 local child support agency pursuant to Section 17400 of the
2 Family Code.

3 (m) (1) As provided in paragraph (1) of subdivision (c) of
4 Section 666 of Title 42 of the United States Code, upon receipt of
5 an administrative subpoena on the current federally approved
6 interstate child support enforcement form, as approved by the
7 federal Office of Management and Budget, a financial institution
8 shall provide the information or documents requested by the
9 administrative subpoena.

10 (2) The administrative subpoena shall refer to the current
11 federal Office of Management and Budget control number and be
12 signed by a person who states that he or she is an authorized
13 agent of a state or county agency responsible for implementing
14 the child support enforcement program set forth in Part D
15 (commencing with Section 651) of Subchapter IV of Chapter 7
16 of Title 42 of the United States Code. A financial institution may
17 rely on the statements made in the subpoena and has no duty to
18 inquire into the truth of any statement in the subpoena.

19 (3) If the person who signs the administrative subpoena directs
20 a financial institution in writing not to disclose either the
21 subpoena or its response to any owner of an account covered by
22 the subpoena, the financial institution shall not disclose the
23 subpoena or its response to the owner.

24 (4) No financial institution, or any officer, employee, or agent
25 thereof, shall be liable to any person for (A) disclosing
26 information or providing documents in response to a subpoena
27 pursuant to this subdivision, (B) failing to notify any owner of an
28 account covered by the subpoena or complying with a request not
29 to disclose to the owner, the subpoena or disclosure under this
30 subdivision, or (C) failing to discover any account owned by the
31 person named in the subpoena pursuant to a computerized search
32 of the records of the financial institution.

33 (n) The dissemination of financial information and records
34 pursuant to any of the following:

35 (1) Compliance by a financial institution with the requirements
36 of Section 2892 of the Probate Code.

37 (2) Compliance by a financial institution with the requirements
38 of Section 2893 of the Probate Code.

39 (3) An order by a judge upon a written ex parte application by
40 a peace officer showing specific and articulable facts that there

1 are reasonable grounds to believe that the records or information
2 sought are relevant and material to an ongoing investigation of a
3 felony violation of Section 186.10 or of any felony subject to the
4 enhancement set forth in Section 186.11.

5 (A) The ex parte application shall specify with particularity
6 the records to be produced, which shall be only those of the
7 individual or individuals who are the subject of the criminal
8 investigation.

9 (B) The ex parte application and any subsequent judicial order
10 shall be open to the public as a judicial record unless ordered
11 sealed by the court, for a period of 60 days. The sealing of these
12 records may be extended for 60-day periods upon a showing to
13 the court that it is necessary for the continuance of the
14 investigation. Sixty-day extensions may continue for up to one
15 year or until termination of the investigation of the individual or
16 individuals, whichever is sooner.

17 (C) The records ordered to be produced shall be returned to
18 the peace officer applicant or his or her designee within a
19 reasonable time period after service of the order upon the
20 financial institution.

21 (D) Nothing in this subdivision shall preclude the financial
22 institution from notifying a customer of the receipt of the order
23 for production of records unless a court orders the financial
24 institution to withhold notification to the customer upon a finding
25 that the notice would impede the investigation.

26 (E) Where a court has made an order pursuant to this
27 paragraph to withhold notification to the customer under this
28 paragraph, the peace officer or law enforcement agency who
29 obtained the financial information shall notify the customer by
30 delivering a copy of the ex parte order to the customer within 10
31 days of the termination of the investigation.

32 (4) No financial institution, or any officer, employee, or agent
33 thereof, shall be liable to any person for any of the following:

34 (A) Disclosing information to a probate court pursuant to
35 Sections 2892 and 2893.

36 (B) Disclosing information in response to a court order
37 pursuant to paragraph (3).

38 (C) Complying with a court order under this subdivision not to
39 disclose to the customer, the order, or the dissemination of
40 information pursuant to the court order.

1 (o) Disclosure by a financial institution to a peace officer, as
2 defined in Section 830.1 of the Penal Code, pursuant to the
3 following:

4 (1) Paragraph (1) of subdivision (a) of Section 1748.95 of the
5 Civil Code, provided that the financial institution has first
6 complied with the requirements of paragraph (2) of subdivision
7 (a) and subdivision (b) of Section 1748.95 of the Civil Code.

8 (2) Paragraph (1) of subdivision (a) of Section 4002 of the
9 Financial Code, provided that the financial institution has first
10 complied with the requirements of paragraph (2) of subdivision
11 (a) and subdivision (b) of Section 4002 of the Financial Code.

12 (3) Paragraph (1) of subdivision (a) of Section 22470 of the
13 Financial Code, provided that any financial institution that is a
14 finance lender has first complied with the requirements of
15 paragraph (2) of subdivision (a) and subdivision (b) of Section
16 22470 of the Financial Code.

17 (p) When the governing board of the Public Employees'
18 Retirement System or the State Teachers' Retirement System
19 certifies in writing to a financial institution that a benefit
20 recipient has died and that transfers to the benefit recipient's
21 account at the financial institution from the retirement system
22 occurred after the benefit recipient's date of death, the financial
23 institution shall furnish the retirement system the name and
24 address of any coowner, cosigner, or any other person who had
25 access to the funds in the account following the date of the
26 benefit recipient's death, or if the account has been closed, the
27 name and address of the person who closed the account.

28 (q) When the retirement board of a retirement system
29 established under the County Employees Retirement Law of
30 1937 certifies in writing to a financial institution that a retired
31 member or the beneficiary of a retired member has died and that
32 transfers to the account of the retired member or beneficiary of a
33 retired member at the financial institution from the retirement
34 system occurred after the date of death of the retired member or
35 beneficiary of a retired member, the financial institution shall
36 furnish the retirement system the name and address of any
37 coowner, cosigner, or any other person who had access to the
38 funds in the account following the date of death of the retired
39 member or beneficiary of a retired member, or if the account has

1 been closed, the name and address of the person who closed the
2 account.

3 (r) This section shall become operative on January 1, 2013.

4 SEC. 4. Section 15630.1 is added to the Welfare and
5 Institutions Code, to read:

6 15630.1. (a) As used in this section, “mandated reporter of
7 suspected financial abuse of an elder or dependent adult” means
8 all officers and employees of financial institutions.

9 (b) As used in this section, the term “financial institution”
10 means any of the following:

11 (1) A depository institution, as defined in Section 3(c) of the
12 Federal Deposit Insurance Act (12 U.S.C. Sec. 1813(c)).

13 (2) An institution-affiliated party, as defined in Section 3(u) of
14 the Federal Deposit Insurance Act (12 U.S.C. Sec. 1813(u)).

15 (3) A federal credit union or state credit union, as defined in
16 Section 101 of the Federal Credit Union Act (12 U.S.C. Sec.
17 1752), including, but not limited to, an institution-affiliated party
18 of a credit union, as defined in Section 206(r) of the Federal
19 Credit Union Act (12 U.S.C. Sec. 1786(r)).

20 (c) As used in this section, “financial abuse” has the same
21 meaning as in Section 15610.30.

22 (d) (1) Any mandated reporter of suspected financial abuse of
23 an elder or dependent adult who has direct contact with the elder
24 or dependent adult or who reviews or approves the elder or
25 dependent adult’s financial documents, records, or transactions,
26 in connection with providing financial services with respect to an
27 elder or dependent adult, and who, within the scope of his or her
28 employment or professional practice, has observed or has
29 knowledge of an incident, that is directly related to the
30 transaction or matter that is within that scope of employment or
31 professional practice, that reasonably appears to be financial
32 abuse, or who reasonably suspects that abuse, based *solely* on the
33 information before him or her ~~standing alone at the time of~~
34 *reviewing or approving the document, record, or transaction in*
35 *the case of mandated reporters who do not have direct contact*
36 *with the elder or dependent adult*, shall report the known or
37 suspected instance of financial abuse by telephone immediately,
38 or as soon as practicably possible, and by written report sent
39 within two working days to the local adult protective services
40 agency or the local law enforcement agency.

(2) When two or more mandated reporters jointly have knowledge or reasonably suspect that financial abuse of an elder or a dependent adult for which the report is mandated has occurred, and when there is an agreement among them, the telephone report may be made by a member of the reporting team who is selected by mutual agreement. A single report may be made and signed by the selected member of the reporting team. Any member of the team who has knowledge that the member designated to report has failed to do so shall thereafter make that report.

(3) If the mandated reporter knows that the elder or dependent adult resides in a long-term care facility, as defined in Section 15610.47, the report shall be made to the local ombudsman or local law enforcement agency.

(e) An allegation by the elder or dependent adult, or any other person, that financial abuse has occurred is not sufficient to trigger the reporting requirement under this section if both of the following conditions are met:

(1) The mandated reporter of suspected financial abuse of an elder or dependent adult is aware of no other corroborating or independent evidence of the alleged financial abuse of an elder or dependent adult. The mandated reporter of suspected financial abuse of an elder or dependent adult is not required to investigate any accusations.

(2) In the exercise of his or her professional judgment, the mandated reporter of suspected financial abuse of an elder or dependent adult reasonably believes that financial abuse of an elder or dependent adult did not occur.

(f) Failure to report financial abuse under this section shall be subject to a civil penalty not exceeding one thousand dollars (\$1,000) or if the failure to report is willful, a civil penalty not exceeding five thousand dollars (\$5,000), which shall be paid by the financial institution ~~who~~ *that* is the employer of the mandated reporter to the party bringing the action. Subdivision (h) of Section 15630 shall not apply to violations of this section.

(g) (1) The civil penalty provided for in subdivision (f) shall be recovered only in a civil action brought against the financial institution by the Attorney General, district attorney, or county counsel. No action shall be brought under this section by any ~~party~~ *person* other than the Attorney General, district attorney, or

1 county counsel. Multiple actions for the civil penalty may not be
2 brought for the same violation.

3 (2) Nothing in ~~this section~~ *the Financial Elder Abuse*
4 *Reporting Act of 2005* shall be construed to limit, expand, or
5 otherwise modify any civil liability or remedy that may exist
6 under this or any other law.

7 (h) As used in this section, “suspected financial abuse of an
8 elder or dependent adult” occurs when a person who is required
9 to report under subdivision (a) observes or has knowledge of
10 behavior or unusual circumstances or transactions, or a pattern of
11 behavior or unusual circumstances or transactions, that would
12 lead an individual with like training or experience, based on the
13 same facts, to form a reasonable belief that an elder or dependent
14 adult is the victim of financial abuse as defined in Section
15 15610.30.

16 (i) Reports of suspected financial abuse of an elder or
17 dependent adult made by an employee or officer of a financial
18 institution pursuant to this section are covered under subdivision
19 (b) of Section 47 of the Civil Code.

20 (j) This section shall remain in effect only until January 1,
21 2013, and as of that date is repealed, unless a later enacted
22 statute, that is enacted before January 1, 2013, deletes or extends
23 that date.

24 SEC. 5. Section 15633 of the Welfare and Institutions Code is
25 amended to read:

26 15633. (a) The reports made pursuant to Sections 15630,
27 15630.1, and 15631 shall be confidential and may be disclosed
28 only as provided in subdivision (b). Any violation of the
29 confidentiality required by this chapter is a misdemeanor
30 punishable by not more than six months in the county jail, by a
31 fine of five hundred dollars (\$500), or by both that fine and
32 imprisonment.

33 (b) Reports of suspected abuse of an elder or dependent adult
34 and information contained therein may be disclosed only to the
35 following:

36 (1) Persons or agencies to whom disclosure of information or
37 the identity of the reporting party is permitted under Section
38 15633.5.

39 (2) (A) Persons who are trained and qualified to serve on
40 multidisciplinary personnel teams may disclose to one another

1 information and records that are relevant to the prevention,
2 identification, or treatment of abuse of elderly or dependent
3 persons.

4 (B) Except as provided in subparagraph (A), any personnel of
5 the multidisciplinary team or agency that receives information
6 pursuant to this chapter, shall be under the same obligations and
7 subject to the same confidentiality penalties as the person
8 disclosing or providing that information. The information
9 obtained shall be maintained in a manner that ensures the
10 maximum protection of privacy and confidentiality rights.

11 (c) This section shall not be construed to allow disclosure of
12 any reports or records relevant to the reports of abuse of an elder
13 or dependent adult if the disclosure would be prohibited by any
14 other provisions of state or federal law applicable to the reports
15 or records relevant to the reports of the abuse, nor shall it be
16 construed to prohibit the disclosure by a financial institution of
17 any reports or records relevant to the reports of abuse of an elder
18 or dependent adult if the disclosure would be required of a
19 financial institution by otherwise applicable state or federal law
20 or court order.

21 (d) This section shall remain in effect only until January 1,
22 2013, and as of that date is repealed, unless a later enacted
23 statute, that is enacted before January 1, 2013, deletes or extends
24 that date.

25 SEC. 6. Section 15633 is added to the Welfare and
26 Institutions Code, to read:

27 15633. (a) The reports made pursuant to Sections 15630 and
28 15631 shall be confidential and may be disclosed only as
29 provided in subdivision (b). Any violation of the confidentiality
30 required by this chapter is a misdemeanor punishable by not
31 more than six months in the county jail, by a fine of five hundred
32 dollars (\$500), or by both that fine and imprisonment.

33 (b) Reports of suspected elder or dependent adult abuse and
34 information contained therein may be disclosed only to the
35 following:

36 (1) Persons or agencies to whom disclosure of information or
37 the identity of the reporting party is permitted under Section
38 15633.5.

39 (2) (A) Persons who are trained and qualified to serve on
40 multidisciplinary personnel teams may disclose to one another

1 information and records that are relevant to the prevention,
2 identification, or treatment of abuse of elderly or dependent
3 persons.

4 (B) Except as provided in subparagraph (A), any personnel of
5 the multidisciplinary team or agency that receives information
6 pursuant to this chapter, shall be under the same obligations and
7 subject to the same confidentiality penalties as the person
8 disclosing or providing that information. The information
9 obtained shall be maintained in a manner that ensures the
10 maximum protection of privacy and confidentiality rights.

11 (c) This section shall not be construed to allow disclosure of
12 any reports or records relevant to the reports of elder or
13 dependent adult abuse if the disclosure would be prohibited by
14 any other provisions of state or federal law applicable to the
15 reports or records relevant to the reports of the abuse.

16 (d) This section shall become operative on January 1, 2013.

17 SEC. 7. Section 15634 of the Welfare and Institutions Code is
18 amended to read:

19 15634. (a) No care custodian, clergy member, health
20 practitioner, mandated reporter of suspected financial abuse of an
21 elder or dependent adult, or employee of an adult protective
22 services agency or a local law enforcement agency who reports a
23 known or suspected instance of abuse of an elder or dependent
24 adult shall be civilly or criminally liable for any report required
25 or authorized by this article. Any other person reporting a known
26 or suspected instance of abuse of an elder or dependent adult
27 shall not incur civil or criminal liability as a result of any report
28 authorized by this article, unless it can be proven that a false
29 report was made and the person knew that the report was false.
30 No person required to make a report pursuant to this article, or
31 any person taking photographs at his or her discretion, shall incur
32 any civil or criminal liability for taking photographs of a
33 suspected victim of abuse of an elder or dependent adult or
34 causing photographs to be taken of such a suspected victim or for
35 disseminating the photographs with the reports required by this
36 article. However, this section shall not be construed to grant
37 immunity from this liability with respect to any other use of the
38 photographs.

39 (b) No care custodian, clergy member, health practitioner,
40 mandated reporter of suspected financial abuse of an elder or

dependent adult, or employee of an adult protective services agency or a local law enforcement agency who, pursuant to a request from an adult protective services agency or a local law enforcement agency investigating a report of known or suspected abuse of an elder or dependent adult, provides the requesting agency with access to the victim of a known or suspected instance of abuse of an elder or dependent adult, shall incur civil or criminal liability as a result of providing that access.

(c) The Legislature finds that, even though it has provided immunity from liability to persons required to report abuse of an elder or dependent adult, immunity does not eliminate the possibility that actions may be brought against those persons based upon required reports of abuse. In order to further limit the financial hardship that those persons may incur as a result of fulfilling their legal responsibilities, it is necessary that they not be unfairly burdened by legal fees incurred in defending those actions. Therefore, a care custodian, clergy member, health practitioner, or an employee of an adult protective services agency or a local law enforcement agency may present to the State Board of Control a claim for reasonable attorneys' fees incurred in any action against that person on the basis of making a report required or authorized by this article if the court has dismissed the action upon a demurrer or motion for summary judgment made by that person, or if he or she prevails in the action. The State Board of Control shall allow that claim if the requirements of this subdivision are met, and the claim shall be paid from an appropriation to be made for that purpose. Attorneys' fees awarded pursuant to this section shall not exceed an hourly rate greater than the rate charged by the Attorney General at the time the award is made and shall not exceed an aggregate amount of fifty thousand dollars (\$50,000). This subdivision shall not apply if a public entity has provided for the defense of the action pursuant to Section 995 of the Government Code.

(d) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 8. Section 15634 is added to the Welfare and Institutions Code, to read:

1 15634. (a) No care custodian, clergy member, health
2 practitioner, or employee of an adult protective service agency or
3 a local law enforcement agency who reports a known or
4 suspected instance of elder or dependent adult abuse shall be
5 civilly or criminally liable for any report required or authorized
6 by this article. Any other person reporting a known or suspected
7 instance of elder or dependent adult abuse shall not incur civil or
8 criminal liability as a result of any report authorized by this
9 article, unless it can be proven that a false report was made and
10 the person knew that the report was false. No person required to
11 make a report pursuant to this article, or any person taking
12 photographs at his or her discretion, shall incur any civil or
13 criminal liability for taking photographs of a suspected victim of
14 elder or dependent adult abuse or causing photographs to be
15 taken of such a suspected victim or for disseminating the
16 photographs with the reports required by this article. However,
17 this section shall not be construed to grant immunity from this
18 liability with respect to any other use of the photographs.

19 (b) No care custodian, clergy member, health practitioner, or
20 employee of an adult protective services agency or a local law
21 enforcement agency who, pursuant to a request from an adult
22 protective services agency or a local law enforcement agency
23 investigating a report of known or suspected elder or dependent
24 adult abuse, provides the requesting agency with access to the
25 victim of a known or suspected instance of elder or dependent
26 adult abuse, shall incur civil or criminal liability as a result of
27 providing that access.

28 (c) The Legislature finds that, even though it has provided
29 immunity from liability to persons required to report elder or
30 dependent adult abuse, immunity does not eliminate the
31 possibility that actions may be brought against those persons
32 based upon required reports of abuse. In order to further limit the
33 financial hardship that those persons may incur as a result of
34 fulfilling their legal responsibilities, it is necessary that they not
35 be unfairly burdened by legal fees incurred in defending those
36 actions. Therefore, a care custodian, clergy member, health
37 practitioner, or an employee of an adult protective services
38 agency or a local law enforcement agency may present to the
39 State Board of Control a claim for reasonable attorneys' fees
40 incurred in any action against that person on the basis of making

1 a report required or authorized by this article if the court has
2 dismissed the action upon a demurrer or motion for summary
3 judgment made by that person, or if he or she prevails in the
4 action. The State Board of Control shall allow that claim if the
5 requirements of this subdivision are met, and the claim shall be
6 paid from an appropriation to be made for that purpose.
7 Attorneys' fees awarded pursuant to this section shall not exceed
8 an hourly rate greater than the rate charged by the Attorney
9 General at the time the award is made and shall not exceed an
10 aggregate amount of fifty thousand dollars (\$50,000). This
11 subdivision shall not apply if a public entity has provided for the
12 defense of the action pursuant to Section 995 of the Government
13 Code.

14 (d) This section shall become operative on January 1, 2013.

15 SEC. 9. Section 15640 of the Welfare and Institutions Code is
16 amended to read:

17 15640. (a) (1) An adult protective services agency shall
18 immediately, or as soon as practically possible, report by
19 telephone to the law enforcement agency having jurisdiction over
20 the case any known or suspected instance of criminal activity,
21 and to any public agency given responsibility for investigation in
22 that jurisdiction of cases of elder and dependent adult abuse,
23 every known or suspected instance of abuse pursuant to Section
24 15630 or 15630.1 of an elder or dependent adult. A county adult
25 protective services agency shall also send a written report thereof
26 within two working days of receiving the information concerning
27 the incident to each agency to which it is required to make a
28 telephone report under this subdivision. Prior to making any
29 cross-report of allegations of financial abuse to law enforcement
30 agencies, an adult protective services agency shall first determine
31 whether there is reasonable suspicion of any criminal activity.

32 (2) If an adult protective services agency receives a report of
33 abuse alleged to have occurred in a long-term care facility, that
34 adult protective services agency shall immediately inform the
35 person making the report that he or she is required to make the
36 report to the long-term care ombudsman program or to a local
37 law enforcement agency. The adult protective services agency
38 shall not accept the report by telephone but shall forward any
39 written report received to the long-term care ombudsman.

(b) If an adult protective services agency or local law enforcement agency or ombudsman program receiving a report of known or suspected elder or dependent adult abuse determines, pursuant to its investigation, that the abuse is being committed by a health practitioner licensed under Division 2 (commencing with Section 500) of the Business and Professions Code, or any related initiative act, or by a person purporting to be a licensee, the adult protective services agency or local law enforcement agency or ombudsman program shall immediately, or as soon as practically possible, report this information to the appropriate licensing agency. The licensing agency shall investigate the report in light of the potential for physical harm. The transmittal of information to the appropriate licensing agency shall not relieve the adult protective services agency or local law enforcement agency or ombudsman program of the responsibility to continue its own investigation as required under applicable provisions of law. The information reported pursuant to this paragraph shall remain confidential and shall not be disclosed.

(c) A local law enforcement agency shall immediately, or as soon as practically possible, report by telephone to the long-term care ombudsman program when the abuse is alleged to have occurred in a long-term care facility or to the county adult protective services agency when it is alleged to have occurred anywhere else, and to the agency given responsibility for the investigation of cases of elder and dependent adult abuse every known or suspected instance of abuse of an elder or dependent adult. A local law enforcement agency shall also send a written report thereof within two working days of receiving the information concerning the incident to any agency to which it is required to make a telephone report under this subdivision.

(d) A long-term care ombudsman coordinator may report the instance of abuse to the county adult protective services agency or to the local law enforcement agency for assistance in the investigation of the abuse if the victim gives his or her consent. A long-term care ombudsman program and the Licensing and Certification Division of the State Department of Health Services shall immediately report by telephone and in writing within two working days to the bureau any instance of neglect occurring in a health care facility, that has seriously harmed any patient or

1 reasonably appears to present a serious threat to the health or
2 physical well-being of a patient in that facility. If a victim or
3 potential victim of the neglect withholds consent to being
4 identified in that report, the report shall contain circumstantial
5 information about the neglect but shall not identify that victim or
6 potential victim and the bureau and the reporting agency shall
7 maintain the confidentiality of the report until the report becomes
8 a matter of public record.

9 (e) When a county adult protective services agency, a
10 long-term care ombudsman program, or a local law enforcement
11 agency receives a report of abuse, neglect, or abandonment of an
12 elder or dependent adult alleged to have occurred in a long-term
13 care facility, that county adult protective services agency,
14 long-term care ombudsman coordinator, or local law
15 enforcement agency shall report the incident to the licensing
16 agency by telephone as soon as possible.

17 (f) County adult protective services agencies, long-term care
18 ombudsman programs, and local law enforcement agencies shall
19 report the results of their investigations of referrals or reports of
20 abuse to the respective referring or reporting agencies.

21 (g) This section shall remain in effect only until January 1,
22 2013, and as of that date is repealed, unless a later enacted
23 statute, that is enacted before January 1, 2013, deletes or extends
24 that date.

25 SEC. 10. Section 15640 is added to the Welfare and
26 Institutions Code, to read:

27 15640. (a) (1) An adult protective services agency shall
28 immediately, or as soon as practically possible, report by
29 telephone to the law enforcement agency having jurisdiction over
30 the case any known or suspected instance of criminal activity,
31 and to any public agency given responsibility for investigation in
32 that jurisdiction of cases of elder and dependent adult abuse,
33 every known or suspected instance of abuse pursuant to Section
34 15630 of an elder or dependent adult. A county adult protective
35 services agency shall also send a written report thereof within
36 two working days of receiving the information concerning the
37 incident to each agency to which it is required to make a
38 telephone report under this subdivision. Prior to making any
39 cross-report of allegations of financial abuse to law enforcement

1 agencies, an adult protective services agency shall first determine
2 whether there is reasonable suspicion of any criminal activity.

3 (2) If an adult protective services agency receives a report of
4 abuse alleged to have occurred in a long-term care facility, that
5 adult protective services agency shall immediately inform the
6 person making the report that he or she is required to make the
7 report to the long-term care ombudsman program or to a local
8 law enforcement agency. The adult protective services agency
9 shall not accept the report by telephone but shall forward any
10 written report received to the long-term care ombudsman.

11 (b) If an adult protective services agency or local law
12 enforcement agency or ombudsman program receiving a report
13 of known or suspected elder or dependent adult abuse
14 determines, pursuant to its investigation, that the abuse is being
15 committed by a health practitioner licensed under Division 2
16 (commencing with Section 500) of the Business and Professions
17 Code, or any related initiative act, or by a person purporting to be
18 a licensee, the adult protective services agency or local law
19 enforcement agency or ombudsman program shall immediately,
20 or as soon as practically possible, report this information to the
21 appropriate licensing agency. The licensing agency shall
22 investigate the report in light of the potential for physical harm.
23 The transmittal of information to the appropriate licensing
24 agency shall not relieve the adult protective services agency or
25 local law enforcement agency or ombudsman program of the
26 responsibility to continue its own investigation as required under
27 applicable provisions of law. The information reported pursuant
28 to this paragraph shall remain confidential and shall not be
29 disclosed.

30 (c) A local law enforcement agency shall immediately, or as
31 soon as practically possible, report by telephone to the long-term
32 care ombudsman program when the abuse is alleged to have
33 occurred in a long-term care facility or to the county adult
34 protective services agency when it is alleged to have occurred
35 anywhere else, and to the agency given responsibility for the
36 investigation of cases of elder and dependent adult abuse every
37 known or suspected instance of abuse of an elder or dependent
38 adult. A local law enforcement agency shall also send a written
39 report thereof within two working days of receiving the

1 information concerning the incident to any agency to which it is
2 required to make a telephone report under this subdivision.

3 (d) A long-term care ombudsman coordinator may report the
4 instance of abuse to the county adult protective services agency
5 or to the local law enforcement agency for assistance in the
6 investigation of the abuse if the victim gives his or her consent. A
7 long-term care ombudsman program and the Licensing and
8 Certification Division of the State Department of Health Services
9 shall immediately report by telephone and in writing within two
10 working days to the bureau any instance of neglect occurring in a
11 health care facility, that has seriously harmed any patient or
12 reasonably appears to present a serious threat to the health or
13 physical well-being of a patient in that facility. If a victim or
14 potential victim of the neglect withholds consent to being
15 identified in that report, the report shall contain circumstantial
16 information about the neglect but shall not identify that victim or
17 potential victim and the bureau and the reporting agency shall
18 maintain the confidentiality of the report until the report becomes
19 a matter of public record.

20 (e) When a county adult protective services agency, a
21 long-term care ombudsman program, or a local law enforcement
22 agency receives a report of abuse, neglect, or abandonment of an
23 elder or dependent adult alleged to have occurred in a long-term
24 care facility, that county adult protective services agency,
25 long-term care ombudsman coordinator, or local law
26 enforcement agency shall report the incident to the licensing
27 agency by telephone as soon as possible.

28 (f) County adult protective services agencies, long-term care
29 ombudsman programs, and local law enforcement agencies shall
30 report the results of their investigations of referrals or reports of
31 abuse to the respective referring or reporting agencies.

32 (g) This section shall become operative on January 1, 2013.

33 SEC. 11. Section 15655.5 of the Welfare and Institutions
34 Code is amended to read:

35 15655.5. A county adult protective services agency shall
36 provide the organizations listed in paragraphs (v), (w), and (x) of
37 Section 15610.17, and mandated reporters of suspected financial
38 abuse of an elder or dependent adult pursuant to Section 15630.1,
39 with instructional materials regarding abuse and neglect of an
40 elder or dependent adult and their obligation to report under this

chapter. At a minimum, the instructional materials shall include the following:

(a) An explanation of abuse and neglect of an elder or dependent adult, as defined in this chapter.

(b) Information on how to recognize potential abuse and neglect of an elder or dependent adult.

(c) Information on how the county adult protective services agency investigates reports of known or suspected abuse and neglect.

(d) Instructions on how to report known or suspected incidents of abuse and neglect, including the appropriate telephone numbers to call and what types of information would assist the county adult protective services agency with its investigation of the report.

(e) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 12. Section 15655.5 is added to the Welfare and Institutions Code, to read:

15655.5. A county adult protective service agency shall provide the organizations listed in paragraphs (v), (w), and (x) of Section 15610.17 with instructional materials regarding elder and dependent adult abuse and neglect and their obligation to report under this chapter. At a minimum, the instructional materials shall include the following:

(a) An explanation of elder and dependent adult abuse and neglect, as defined in this chapter.

(b) Information on how to recognize potential elder and dependent adult abuse and neglect.

(c) Information on how the county adult protective service agency investigates reports of known or suspected abuse and neglect.

(d) Instructions on how to report known or suspected incidents of abuse and neglect, including the appropriate telephone numbers to call and what types of information would assist the county adult protective service agency with its investigation of the report.

(e) This section shall become operative on January 1, 2013.

1 SEC. 13. Sections 2, 4, 5, 7, 9, and 11 of this act, shall
2 become operative January 1, 2007.

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