

ASSEMBLY BILL

No. 518

Introduced by Assembly Member Wagner

February 15, 2011

An act to amend Section 15630.1 of the Welfare and Institutions Code, relating to elder abuse.

LEGISLATIVE COUNSEL'S DIGEST

AB 518, as introduced, Wagner. Elder and dependent adult abuse: mandated reporters.

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, including, but not limited to financial abuse, as defined. These procedures require persons, defined as mandated reporters, to report known or suspected instances of elder or dependent adult abuse. A violation of the reporting requirements by a mandated reporter is a misdemeanor. Existing law, which will be repealed on January 1, 2013, defines who is a mandated reporter of suspected financial abuse of an elder or dependent adult. A violation of the financial abuse reporting requirements is subject to civil penalties.

This bill would delete the January 1, 2013, repeal date.

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

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

- 1 SECTION 1. Section 15630.1 of the Welfare and Institutions
- 2 Code is amended to read:

1 15630.1. (a) As used in this section, “mandated reporter of
2 suspected financial abuse of an elder or dependent adult” means
3 all officers and employees of financial institutions.

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

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

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

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

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

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

35 (2) When two or more mandated reporters jointly have
36 knowledge or reasonably suspect that financial abuse of an elder
37 or a dependent adult for which the report is mandated has occurred,
38 and when there is an agreement among them, the telephone report
39 may be made by a member of the reporting team who is selected
40 by mutual agreement. A single report may be made and signed by

1 the selected member of the reporting team. Any member of the
2 team who has knowledge that the member designated to report has
3 failed to do so shall, thereafter, make that report.

4 (3) If the mandated reporter knows that the elder or dependent
5 adult resides in a long-term care facility, as defined in Section
6 15610.47, the report shall be made to the local ombudsman or local
7 law enforcement agency.

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

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

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

22 (f) Failure to report financial abuse under this section shall be
23 subject to a civil penalty not exceeding one thousand dollars
24 (\$1,000) or if the failure to report is willful, a civil penalty not
25 exceeding five thousand dollars (\$5,000), which shall be paid by
26 the financial institution that is the employer of the mandated
27 reporter to the party bringing the action. Subdivision (h) of Section
28 15630 shall not apply to violations of this section.

29 (g) (1) The civil penalty provided for in subdivision (f) shall
30 be recovered only in a civil action brought against the financial
31 institution by the Attorney General, district attorney, or county
32 counsel. No action shall be brought under this section by any
33 person other than the Attorney General, district attorney, or county
34 counsel. Multiple actions for the civil penalty may not be brought
35 for the same violation.

36 (2) Nothing in the Financial Elder Abuse Reporting Act of 2005
37 shall be construed to limit, expand, or otherwise modify any civil
38 liability or remedy that may exist under this or any other law.

39 (h) As used in this section, “suspected financial abuse of an
40 elder or dependent adult” occurs when a person who is required

1 to report under subdivision (a) observes or has knowledge of
2 behavior or unusual circumstances or transactions, or a pattern of
3 behavior or unusual circumstances or transactions, that would lead
4 an individual with like training or experience, based on the same
5 facts, to form a reasonable belief that an elder or dependent adult
6 is the victim of financial abuse as defined in Section 15610.30.

7 (i) Reports of suspected financial abuse of an elder or dependent
8 adult made by an employee or officer of a financial institution
9 pursuant to this section are covered under subdivision (b) of Section
10 47 of the Civil Code.

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