

AMENDED IN ASSEMBLY APRIL 15, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 477**

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**Introduced by Assembly Member Chau**

February 19, 2013

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

LEGISLATIVE COUNSEL'S DIGEST

AB 477, as amended, Chau. Elder and dependent adult abuse: mandated reporting.

Existing law, the Financial Elder Abuse Reporting Act of 2005, establishes procedures for the reporting of suspected financial abuse of an elder or dependent adult, as defined. These procedures require mandated reporters of suspected financial abuse of an elder or dependent adult, as defined, to report known or suspected instances of financial abuse of an elder or dependent ~~adult~~. *adult, as specified*. Existing law makes a violation of the reporting requirements subject to a civil penalty.

This bill would include notaries public in the definition of mandated reporters of suspected financial abuse of an elder or dependent ~~adult~~. *adult and would require a notary public to report known or suspected instances of financial abuse of an elder or dependent adult if the notary public has observed or has knowledge of suspected financial abuse in connection with providing notary services.*

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

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

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

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

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

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

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

20 (d) (1) ~~Any mandated reporter of suspected financial abuse of~~  
21 ~~an elder or dependent adult~~ *officer or employee of a financial*  
22 *institution* who has direct contact with the elder or dependent adult  
23 or who reviews or approves the elder or dependent adult’s financial  
24 documents, records, or transactions, in connection with providing  
25 financial services ~~or notary services~~ with respect to an elder or  
26 dependent adult, and who, within the scope of his or her  
27 employment or professional practice, has observed or has  
28 knowledge of an incident, that is directly related to the transaction  
29 or matter that is within that scope of employment or professional  
30 practice, that reasonably appears to be financial abuse, or who  
31 reasonably suspects that abuse, based solely on the information  
32 before him or her at the time of reviewing or approving the  
33 document, record, or transaction in the case of mandated reporters  
34 who do not have direct contact with the elder or dependent adult,  
35 shall report the known or suspected instance of financial abuse by  
36 telephone or through a confidential Internet reporting tool, as  
37 authorized pursuant to Section 15658, immediately, or as soon as  
38 practicably possible. If reported by telephone, a written report shall

1 be sent, or an Internet report shall be made through the confidential  
2 Internet reporting tool established in Section 15658, within two  
3 working days to the local adult protective services agency or the  
4 local law enforcement agency.

5 (2) *Any notary public who, in connection with providing notary*  
6 *services, has observed or has knowledge of suspected financial*  
7 *abuse of an elder or dependent adult shall report the known or*  
8 *suspected instance of financial abuse by telephone or through a*  
9 *confidential Internet reporting tool, as authorized pursuant to*  
10 *Section 15658, immediately, or as soon as practicably possible.*  
11 *If reported by telephone, a written report shall be sent, or an*  
12 *Internet report shall be made through the confidential Internet*  
13 *reporting tool established in Section 15658, within two working*  
14 *days to the local adult protective services agency or the local law*  
15 *enforcement agency.*

16 ~~(2)~~

17 (3) When two or more mandated reporters jointly have  
18 knowledge or reasonably suspect that financial abuse of an elder  
19 or a dependent adult for which the report is mandated has occurred,  
20 and when there is an agreement among them, the telephone report  
21 or Internet report, as authorized by Section 15658, may be made  
22 by a member of the reporting team who is selected by mutual  
23 agreement. A single report may be made and signed by the selected  
24 member of the reporting team. Any member of the team who has  
25 knowledge that the member designated to report has failed to do  
26 so shall thereafter make that report.

27 ~~(3)~~

28 (4) If the mandated reporter knows that the elder or dependent  
29 adult resides in a long-term care facility, as defined in Section  
30 15610.47, the report shall be made to the local ombudsman or local  
31 law enforcement agency.

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

36 (1) The mandated reporter of suspected financial abuse of an  
37 elder or dependent adult is aware of no other corroborating or  
38 independent evidence of the alleged financial abuse of an elder or  
39 dependent adult. The mandated reporter of suspected financial

1 abuse of an elder or dependent adult is not required to investigate  
2 any accusations.

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

7 (f) Failure to report financial abuse under this section shall be  
8 subject to a civil penalty not exceeding one thousand dollars  
9 (\$1,000) or if the failure to report is willful, a civil penalty not  
10 exceeding five thousand dollars (\$5,000), which shall be paid by  
11 the financial institution that is the employer of the mandated  
12 reporter or the notary public to the party bringing the action.  
13 Subdivision (h) of Section 15630 shall not apply to violations of  
14 this section.

15 (g) (1) The civil penalty provided for in subdivision (f) shall  
16 be recovered only in a civil action brought against the financial  
17 institution or the notary public by the Attorney General, district  
18 attorney, or county counsel. No action shall be brought under this  
19 section by any person other than the Attorney General, district  
20 attorney, or county counsel. Multiple actions for the civil penalty  
21 may not be brought for the same violation.

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

25 (h) As used in this section, “suspected financial abuse of an  
26 elder or dependent adult” occurs when a person who is required  
27 to report under subdivision (a) observes or has knowledge of  
28 behavior or unusual circumstances or transactions, or a pattern of  
29 behavior or unusual circumstances or transactions, that would lead  
30 an individual with like training or experience, based on the same  
31 facts, to form a reasonable belief that an elder or dependent adult  
32 is the victim of financial abuse as defined in Section 15610.30.

33 (i) Reports of suspected financial abuse of an elder or dependent  
34 adult made by an employee or officer of a financial institution  
35 pursuant to this section are covered under subdivision (b) of Section  
36 47 of the Civil Code.

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