

Introduced by Senator Wyland

February 21, 2014

An act to amend Section 15657.5 of the Welfare and Institutions Code, relating to financial abuse.

LEGISLATIVE COUNSEL'S DIGEST

SB 1343, as introduced, Wyland. Financial abuse.

The Elder Abuse and Dependent Adult Civil Protection Act authorizes compensatory damages and other relief for an elder or dependent adult who suffers financial abuse. The act defines financial abuse as, among other actions, taking, secreting, appropriating, obtaining, or retaining real or personal property of an elder or dependent adult for a wrongful use or with intent to defraud, or both. Existing law also requires a court to award to the elder or dependent adult reasonable attorney's fees and costs.

This bill would make technical, nonsubstantive changes to the latter provision.

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 15657.5 of the Welfare and Institutions
2 Code is amended to read:
3 15657.5. (a) Where it is proven by a preponderance of the
4 evidence that a defendant is liable for financial abuse, as defined
5 in Section 15610.30, in addition to compensatory damages and all
6 other remedies otherwise provided by law, the court shall award
7 to the plaintiff reasonable attorney's fees and costs. The term

1 “costs” includes, but is not limited to, reasonable fees for the
2 services of a conservator, if any, devoted to the litigation of a claim
3 brought under this article.

4 (b) Where it is proven by a preponderance of the evidence that
5 a defendant is liable for financial abuse, as defined in Section
6 15610.30, and where it is proven by clear and convincing evidence
7 that the defendant has been guilty of recklessness, oppression,
8 fraud, or malice in the commission of the abuse, in addition to
9 reasonable attorney’s fees and costs—~~set forth pursuant to~~ in
10 subdivision (a), compensatory damages, and all other remedies
11 otherwise provided by law, the limitations imposed by Section
12 377.34 of the Code of Civil Procedure on the damages recoverable
13 shall not apply.

14 (c) The standards set forth in subdivision (b) of Section 3294
15 of the Civil Code regarding the imposition of punitive damages
16 on an employer based upon the acts of an employee shall be
17 satisfied before any punitive damages may be imposed against an
18 employer found liable for financial abuse as defined in Section
19 15610.30. This subdivision shall not apply to the recovery of
20 compensatory damages or attorney’s fees and costs.

21 (d) Nothing in this section affects the award of punitive damages
22 under Section 3294 of the Civil Code.

23 (e) Any money judgment in an action under this section shall
24 include a statement that the damages are awarded based on a claim
25 for financial abuse of an elder or dependent adult, as defined in
26 Section 15610.30. If only part of the judgment is based on that
27 claim, the judgment shall specify what amount was awarded on
28 that basis.