



**Substitute Senate Bill No. 1005**

**Public Act No. 15-236**

**AN ACT PROTECTING ELDERLY CONSUMERS FROM EXPLOITATION.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 17b-450 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2015*):

For purposes of sections 17b-450 to 17b-461, inclusive:

(1) The term "elderly person" means any resident of Connecticut who is sixty years of age or older.

(2) An elderly person shall be deemed to be "in need of protective services" if such person is unable to perform or obtain services which are necessary to maintain physical and mental health.

(3) The term "services which are necessary to maintain physical and mental health" includes, but is not limited to: [ , the] (A) The provision of medical care for physical and mental health needs, (B) the relocation of an elderly person to a facility or institution able to offer such care, (C) assistance in personal hygiene, food, clothing, adequately heated and ventilated shelter, (D) protection from health and safety hazards, (E) protection from [maltreatment the result of which includes, but is not limited to, malnutrition, deprivation of necessities or physical

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punishment] abuse, neglect, exploitation or abandonment, and (F) transportation necessary to secure any of the above stated needs, except that this term shall not include taking such person into custody without consent except as provided in sections 17b-450 to 17b-461, inclusive.

(4) The term "protective services" means services provided by the state or other governmental or private organizations or individuals which are necessary to prevent abuse, neglect, exploitation or abandonment. [Abuse]

(5) The term "abuse" includes, but is not limited to, the wilful infliction of physical pain, injury or mental anguish, or the wilful deprivation by a [caretaker] caregiver of services which are necessary to maintain physical and mental health. [Neglect]

(6) The term "neglect" refers to the failure or inability of an elderly person [who is either living alone and not able] to provide for himself or herself the services which are necessary to maintain physical and mental health or [is not receiving such necessary services from the responsible caretaker. Exploitation] the failure to provide or arrange for provision of such necessary services by a caregiver.

(7) The term "exploitation" refers to the act or process of taking advantage of an elderly person by another person or [caretaker] caregiver whether for monetary, personal or other benefit, gain or profit. [Abandonment]

(8) The term "abandonment" refers to the desertion or wilful forsaking of an elderly person by a [caretaker] caregiver or the foregoing of duties or the withdrawal or neglect of duties and obligations owed an elderly person by a [caretaker] caregiver or other person.

[(5)] (9) The term ["caretaker"] "caregiver" means a person who has

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the responsibility for the care of an elderly person as a result of family relationship or who has assumed the responsibility for the care of the elderly person voluntarily, by contract or by order of a court of competent jurisdiction.

Sec. 2. Section 17b-451 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2015*):

(a) [Any] A mandatory reporter, as defined in this section, who has reasonable cause to suspect or believe that any elderly person has been abused, neglected, exploited or abandoned, or is in a condition that is the result of such abuse, neglect, exploitation or abandonment, or is in need of protective services, shall, not later than seventy-two hours after such suspicion or belief arose, report such information or cause a report to be made in any reasonable manner to the Commissioner of Social Services or to the person or persons designated by the commissioner to receive such reports. The term "mandatory reporter" means (1) any physician or surgeon licensed under the provisions of chapter 370, (2) any resident physician or intern in any hospital in this state, whether or not so licensed, (3) any registered nurse, (4) any nursing home administrator, nurse's aide or orderly in a nursing home facility or residential care home, (5) any person paid for caring for a patient in a nursing home facility or residential care home, (6) any staff person employed by a nursing home facility or residential care home, (7) any patients' advocate, (8) any licensed practical nurse, medical examiner, dentist, optometrist, chiropractor, podiatrist, social worker, clergyman, police officer, pharmacist, psychologist or physical therapist, [and] (9) any person paid for caring for an elderly person by any institution, organization, agency or facility, [. Such persons shall include an] including without limitation, any employee of a community-based services provider, senior center, home care agency, homemaker and companion agency, adult day care center, village-model community and congregate housing facility, [who has

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reasonable cause to suspect or believe that any elderly person has been abused, neglected, exploited or abandoned, or is in a condition that is the result of such abuse, neglect, exploitation or abandonment, or is in need of protective services, shall, not later than seventy-two hours after such suspicion or belief arose, report such information or cause a report to be made in any reasonable manner to the Commissioner of Social Services or to the person or persons designated by the commissioner to receive such reports. Any person required to report under the provisions of this section] and (10) any person licensed or certified as an emergency medical services provider pursuant to chapter 368d or chapter 384d, including any such emergency medical services provider who is a member of a municipal fire department. Any mandatory reporter who fails to make such report within the prescribed time period shall be fined not more than five hundred dollars, except that, if such person intentionally fails to make such report within the prescribed time period, such person shall be guilty of a class C misdemeanor for the first offense and a class A misdemeanor for any subsequent offense. Any institution, organization, agency or facility employing individuals to care for persons sixty years of age or older shall provide mandatory training on detecting potential abuse, [and] neglect, exploitation and abandonment of such persons and inform such employees of their obligations under this section.

(b) Such report shall contain the name and address of the involved elderly person, information regarding the nature and extent of the abuse, neglect, exploitation or abandonment, and any other information which the reporter believes might be helpful in an investigation of the case and the protection of such elderly person.

(c) Any other person having reasonable cause to suspect or believe that an elderly person is being, or has been, abused, neglected, exploited or abandoned, or who is in need of protective services, may report such information in any reasonable manner to the commissioner

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or the commissioner's designee.

(d) (1) Subject to subdivision (2) of this subsection, any person who makes any report pursuant to sections 17b-450 to 17b-461, inclusive, as amended by this act, or who testifies in any administrative or judicial proceeding arising from such report shall be immune from any civil or criminal liability on account of such report or testimony, except for liability for perjury.

(2) Any person who makes any report pursuant to sections 17b-450 to 17b-461, inclusive, as amended by this act, is guilty of making a fraudulent or malicious report or providing false testimony when such person (A) wilfully makes a fraudulent or malicious report to the commissioner pursuant to the provisions of this section, (B) conspires with another person to make or cause to be made such report, or (C) wilfully testifies falsely in any administrative or judicial proceeding arising from such report as to the abuse, neglect, exploitation or abandonment of, or need of protective services for, an elderly person. Making a fraudulent or malicious report or providing false testimony is a class A misdemeanor.

(e) Any person who is discharged or in any manner discriminated or retaliated against for making, in good faith, a report pursuant to this section shall be entitled to all remedies available under law including, but not limited to, remedies available under sections 19a-532 and 31-51m, as applicable.

(f) For the purposes of sections 17b-450 to 17b-461, inclusive, as amended by this act, the treatment of any elderly person by a Christian Science practitioner, in lieu of treatment by a licensed practitioner of the healing arts, or the refusal of treatment by an elderly person for religious reasons shall not of itself constitute grounds for the implementation of protective services.

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Sec. 3. (NEW) (*Effective October 1, 2015*) (a) An elderly person who has been the victim of abuse, neglect, exploitation or abandonment, as such terms are defined in section 17b-450 of the general statutes, as amended by this act, may have a cause of action against any perpetrator and may recover actual and punitive damages for such abuse, neglect, exploitation or abandonment together with costs and a reasonable attorney's fee. The action may be brought by the elderly person, or the elderly person's guardian or conservator, by a person or organization acting on behalf of the elderly person with the consent of such elderly person or the elderly person's guardian or conservator, or by the personal representative of the estate of a deceased elderly victim.

(b) In any action to recover damages based upon a claim of exploitation, as defined in section 17b-450 of the general statutes, as amended by this act, the Superior Court shall have jurisdiction to render an order pursuant to chapter 904 of the general statutes prohibiting the defendant from transferring, depleting or otherwise alienating or diminishing any funds, assets or property.

(c) Notwithstanding the preceding provisions of this section, no cause of action for "neglect" or "abandonment" may be brought against any person who has no contractual obligation to provide care to an elderly person unless such neglect was wilful or criminal.

Sec. 4. Section 45a-447 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2015*):

(a) (1) A person finally adjudged guilty, either as the principal or accessory, of any crime under section 53a-54a, 53a-54b, 53a-54c, 53a-54d, 53a-55, [or] 53a-55a, 53a-122, 53a-123 or 53a-321, or in any other jurisdiction, of any crime, the essential elements of which are substantially similar to such crimes, or a person determined to be guilty under any of said sections pursuant to this subdivision, shall not

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inherit or receive any part of the estate of (A) the deceased victim, whether under the provisions of any act relating to intestate succession, or as devisee or legatee, or otherwise under the will of the deceased victim, or receive any property as beneficiary or survivor of the deceased victim, or (B) any other person when such homicide or death terminated an intermediate estate, or hastened the time of enjoyment. For the purposes of this subdivision, an interested person may bring an action in the Superior Court for a determination, by a preponderance of the evidence, that an heir, devisee, legatee or beneficiary of the deceased victim who has predeceased the interested person would have been adjudged guilty, either as the principal or accessory, under section 53a-54a, 53a-54b, 53a-54c, 53a-54d, 53a-55, [or] 53a-55a, 53a-122, 53a-123 or 53a-321, had the heir, devisee, legatee or beneficiary survived.

(2) With respect to inheritance under the will of the deceased victim, or rights to property as heir, devisee, legatee or beneficiary of the deceased victim, the person whose participation in the estate of another or whose right to property as such heir, devisee, legatee or beneficiary is so prevented under the provisions of this section shall be considered to have predeceased the [person killed] deceased victim.

(3) With respect to real property owned in joint tenancy with rights of survivorship with the deceased victim, such final adjudication as guilty shall be a severance of the joint tenancy, and shall convert the joint tenancy into a tenancy in common as to the person so adjudged and the deceased victim but not as to any remaining joint tenant or tenants, such severance being effective as of the time such adjudication of guilty becomes final. When such jointly owned property is real property, a certified copy of the final adjudication as guilty shall be recorded by the fiduciary of the [deceased's] deceased victim's estate, or may be recorded by any other interested party in the land records of the town where such real property is situated.

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(4) With respect to personal property owned in joint tenancy with rights of survivorship with the deceased victim, such final adjudication as guilty shall convert the personal property to property owned solely by the deceased victim except to the extent that the adjudged guilty person can prove by a preponderance of the evidence the adjudged guilty person's financial contributions to such property.

(b) In all other cases where a defendant has been convicted [of killing another person] under section 53a-54a, 53a-54b, 53a-54c, 53a-54d, 53a-55, 53a-55a, 53a-122, 53a-123 or 53a-321, the right of such [defendant] adjudged guilty person to inherit or take any part of the estate of the [person killed] deceased victim or to inherit or take any estate as to which [such homicide] the death of such deceased victim terminated an intermediate estate, or hastened the time of enjoyment, or to take any property as beneficiary or survivor of the deceased victim shall be determined by the common law, including equity.

(c) (1) A named beneficiary of a life insurance policy or annuity who intentionally causes the death of the person upon whose life the policy is issued or the annuitant, or who is finally adjudged guilty under section 53a-122, 53a-123 or 53a-321, is not entitled to any benefit under the policy or annuity, and the policy or annuity becomes payable as though such beneficiary had predeceased the [decedent] deceased victim.

(2) (A) A conviction under section 53a-54a, 53a-54b, 53a-54c, 53a-54d, 53a-55, [or] 53a-55a, 53a-122, 53a-123 or 53a-321, or a determination pursuant to subparagraph (B) of this subdivision that a named beneficiary would have been found guilty under any of said sections had the named beneficiary survived, shall be conclusive for the purposes of this subsection.

(B) For the purposes of this subsection, an interested person may bring an action in the Superior Court for a determination, by a

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preponderance of the evidence, that a named beneficiary who has predeceased the interested person would have been found guilty under section 53a-54a, 53a-54b, 53a-54c, 53a-54d, 53a-55, [or] 53a-55a, 53a-122, 53a-123 or 53a-321 had the named beneficiary survived.

(C) In the absence of such a conviction or determination, the Superior Court may determine by the common law, including equity, whether the named beneficiary is entitled to any benefit under the policy or annuity.

(D) In any proceeding brought under this subsection, the burden of proof shall be upon the person challenging the eligibility of the named beneficiary for benefits under a life insurance policy or annuity.

(3) Any insurance company making payment according to the terms of its policy or annuity is not liable for any additional payment by reason of this section unless it has received at its home office or principal address written notice of a claim under this section prior to such payment.

(d) Notwithstanding the provisions of subsections (a) to (c), inclusive, of this section, the Superior Court may allow a defendant adjudged guilty under section 53a-122, 53a-123 or 53a-321 to petition a court in equity to override the prohibitions on inheritance or other benefit to the adjudged guilty person under such sections if the court shall determine that overriding such prohibitions would fulfill the intent of the deceased victim or that application of such prohibitions would be grossly inequitable under all of the circumstances, which could include, without limitation, restitution or other substantial benefit provided to the deceased victim during the deceased victim's lifetime or express forgiveness by the deceased victim. The burden of proof and persuasion shall be upon the petitioner.

Sec. 5. (Effective October 1, 2015) (a) The Commission on Aging, in

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consultation with the Connecticut Elder Justice Coalition Coordinating Council, the Department of Social Services, the Department on Aging, the Office of the Long-Term Care Ombudsman and the Chief State's Attorney, shall conduct a study concerning best practices for reporting and identification of the abuse, neglect, exploitation and abandonment of elderly persons. The study shall review: (1) Models nation wide for reporting of such abuse, neglect, exploitation or abandonment, (2) standardized definitions, measurements and uniform reporting mechanisms to accurately capture the nature and scope of such abuse, neglect, exploitation or abandonment in the state, and (3) methods to promote and coordinate communication about such reporting among local and state governmental entities, including law enforcement.

(b) Not later than January 1, 2016, the Commission on Aging shall submit a report, in accordance with the provisions of section 11-4a of the general statutes, to the joint standing committee of the General Assembly having cognizance of matters relating to aging on the results of the study conducted pursuant to subsection (a) of this section.

(c) The Commission on Aging shall establish a forum and clearing house for best practices and free training resources to help financial institutions and financial agents detect potential fraud, exploitation and financial abuse. Not later than January 1, 2016, the Commission on Aging shall establish a single portal for training resources and materials.

Sec. 6. (NEW) (*Effective October 1, 2015*) (a) For purposes of this section, "financial agent" means an officer or employee of a financial institution, as defined in section 32-350 of the general statutes, who (1) has direct contact with an elderly person within the officer's or employee's scope of employment or professional practice, or (2) reviews or approves an elderly person's financial documents, records or transactions.

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(b) A financial agent shall participate in mandatory training to detect potential fraud, exploitation and financial abuse of elderly persons, including utilizing the resources available on the Commission on Aging portal established pursuant to section 5 of this act. All financial agents shall complete such training within six months from availability of training resources on the Commission on Aging web portal, or within the first six months of their employment, if later.

Approved July 7, 2015