

1 H.413

2 Introduced by Representative Grad of Moretown

3 Referred to Committee on

4 Date:

5 Subject: Crimes; abuse, neglect, exploitation of vulnerable adult

6 Statement of purpose: This bill proposes to allow the attorney general to file a  
7 civil action against a person or caregiver who abuses, neglects, or exploits a  
8 vulnerable adult or against a person or caregiver who negligently allows  
9 another person or caregiver to abuse, neglect, or exploit a vulnerable adult.

10 An act relating to creating a civil action against those who abuse, neglect, or  
11 exploit a vulnerable adult

12 It is hereby enacted by the General Assembly of the State of Vermont:

13 Sec. 1. 13 V.S.A. § 1384 is added to read:

14 § 1384. CIVIL ACTION; RECOVERY BY ATTORNEY GENERAL

15 (a) The attorney general may bring an action for damages against a person  
16 or caregiver who, with reckless disregard or knowledge, violates section 1376  
17 (abuse of a vulnerable adult), 1377 (abuse by unlawful restraint or  
18 confinement), 1378 (neglect of a vulnerable adult), 1380 (financial  
19 exploitation), or 1381 (exploitation of services) of this title, in addition to any  
20 other remedies provided by law, not to exceed the following:

1           (1) \$5,000.00 if no bodily injury results;

2           (2) \$10,000.00 if bodily injury results;

3           (3) \$20,000.00 if serious bodily injury results; and

4           (4) \$50,000.00 if death results.

5           (b) In a civil action brought under this section, the defendant shall have a  
6 right to a jury trial.

7           Sec. 2. 13 V.S.A. § 1385 is added to read:

8           § 1385. CIVIL INVESTIGATION

9           (a)(1) If the attorney general has reason to believe a person or caregiver has  
10 violated section 1376, 1377, 1378, 1380, or 1381 of this title, or an  
11 administrative rule adopted pursuant to those sections, he or she may:

12           (A) examine or cause to be examined any books, records, papers,  
13 memoranda, and physical objects of whatever nature bearing upon each alleged  
14 violation.

15           (B) demand written responses under oath to questions bearing upon  
16 each alleged violation.

17           (C) require the attendance of such person or of any other person  
18 having knowledge in the premises in the county where such person resides or  
19 has a place of business, or in Washington County if such person is a  
20 nonresident or has no place of business within the state.

1           (D) take testimony and require proof material for his or her  
2 information, and administer oaths or take acknowledgment in respect of any  
3 book, record, paper, or memorandum.

4           (2) The attorney general shall serve notice of the time, place, and cause  
5 of such examination or attendance, or notice of the cause of the demand for  
6 written responses, at least ten days prior to the date of such examination,  
7 personally or by certified mail, upon such person at his or her principal place  
8 of business, or, if such place is not known, to his or her last known address.

9           Any book, record, paper, memorandum, or other information produced by any  
10 person pursuant to this section shall not, unless otherwise ordered by a court of  
11 this state for good cause shown, be disclosed to any person other than the  
12 authorized agent or representative of the attorney general or another law  
13 enforcement officer engaged in legitimate law enforcement activities, unless  
14 with the consent of the person producing the same. This subsection shall not  
15 apply to any criminal investigation or prosecution.

16           (b) A person upon whom a notice is served pursuant to this section shall  
17 comply with the terms thereof unless otherwise provided by the court order.  
18 Any person who, with intent to avoid, evade, or prevent compliance, in whole  
19 or in part, with any civil investigation under this section, removes from any  
20 place, conceals, withholds, or destroys, mutilates, alters, or by any other means  
21 falsifies any documentary material in the possession, custody, or control of any

1 person subject of any such notice or mistakes or conceals any information,  
2 shall be subject to a civil fine of not more than \$5,000.00.

3 (c) If a person fails to comply with a notice served pursuant to  
4 subsection (b) of this section, or if satisfactory copying or reproduction of  
5 any such material cannot be done and such person refuses to surrender  
6 such material, the attorney general may file a petition with the superior court  
7 for enforcement of this section. Whenever any petition is filed under this  
8 section, the court shall have jurisdiction to hear and determine the matter  
9 presented, and to enter such orders as may be required to effectuate the  
10 provisions of this section. Failure to comply with an order issued pursuant to  
11 this section shall be punished as contempt.

12 Sec. 3. EFFECTIVE DATE

13 This act shall take effect on July 1, 2011.