

## Senate proposal of amendment

### H. 265

An act relating to the State Long-Term Care Ombudsman

The Senate proposes to the House to amend the bill as follows:

By striking out Sec. 3, effective date, and inserting in lieu thereof three new sections to be Secs. 3–5 to read as follows:

Sec. 3. 33 V.S.A. chapter 69, subchapter 3 is redesignated to read:

Subchapter ~~3~~ 4. Vermont Vulnerable Adult Fatality Review Team

Sec. 4. 33 V.S.A. chapter 69, subchapter 3 is added to read:

Subchapter 3. Protecting Against Financial Exploitation

#### § 6951. DEFINITIONS

As used in this subchapter:

(1) “Agent” shall have the same meaning as in 14 V.S.A. § 3501.

(2) “Guardian” means a person appointed to serve as the guardian for a vulnerable adult pursuant to the process established in 14 V.S.A. chapter 111 or in 18 V.S.A. chapter 215.

(3) “Financial exploitation” means:

(A) using, withholding, transferring, or disposing of funds or property of a vulnerable adult, without or in excess of legal authority, for the wrongful profit or advantage of another;

(B) acquiring possession or control of or an interest in funds or property of a vulnerable adult through the use of undue influence, harassment, duress, or fraud; or

(C) the act of forcing or compelling a vulnerable adult against his or her will to perform services for the profit or financial advantage of another.

(4) “Vulnerable adult” shall have the same meaning as in section 6902 of this chapter.

#### § 6952. CIVIL ACTION FOR RELIEF FROM FINANCIAL EXPLOITATION

(a) Right of action. A vulnerable adult or his or her agent or guardian may bring an action in the Civil Division of the Superior Court pursuant to this section for relief against a natural person who, with reckless disregard or with knowledge, has engaged in the financial exploitation of the vulnerable adult. An action under this section shall be dismissed if the court determines the vulnerable adult is capable of expressing his or her wishes and that he or she

does not wish to pursue the action.

(b)(1) Remedies. If the court finds that financial exploitation of a vulnerable adult has occurred, the court shall grant appropriate relief to the vulnerable adult, which may include money damages, injunctive relief, reasonable costs, attorney's fees, and equitable relief.

(2) If the financial exploitation was intentional, the court may grant exemplary damages not to exceed three times the value of economic damages.

(c) Effects on other parties. No relief granted or otherwise obtained pursuant to this section shall affect or limit in any way the right, title, or interest of a good faith purchaser, mortgagee, holder of a security interest, or other party who obtained an interest in property after its transfer from the vulnerable adult to the natural person who engaged in financial exploitation. No relief granted or otherwise obtained pursuant to this section shall affect any mortgage deed to the extent of the value provided by the mortgagee.

(d) Statute of limitations. The limitations period imposed by 12 V.S.A. § 511 shall apply to all actions brought pursuant to this subchapter.

#### § 6953. OTHER RELIEF STILL AVAILABLE

Nothing in this subchapter shall be construed to limit the availability of other causes of action or relief at law or equity to which a vulnerable adult may be entitled under other State or federal laws or at common law.

#### Sec. 5. EFFECTIVE DATES

(a) Secs. 1 and 2 (State Long-Term Care Ombudsman) shall take effect on July 1, 2017.

(b) Secs. 3 and 4 (protecting against financial exploitation) and this section shall take effect on passage.