

1 TO THE HONORABLE SENATE:

2 The Committee on Health and Welfare to which was referred House Bill  
3 No. 265 entitled “An act relating to the State Long-Term Care Ombudsman”  
4 respectfully reports that it has considered the same and recommends that the  
5 Senate propose to the House that the bill be amended by striking out Sec. 3,  
6 effective date, and inserting in lieu thereof three new sections to be Secs. 3–5  
7 to read as follows:

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

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

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

11 Subchapter 3. Protecting Against Financial Exploitation

12 § 6951. DEFINITIONS

13 As used in this subchapter:

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

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

18 (3) “Financial exploitation” means:

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

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

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

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

8           § 6952. CIVIL ACTION FOR RELIEF FROM FINANCIAL  
9           EXPLOITATION

10          (a) Right of action. A vulnerable adult or his or her agent or guardian may  
11          bring an action in the Civil Division of the Superior Court pursuant to this  
12          section for relief against a natural person who, with reckless disregard or with  
13          knowledge, has engaged in the financial exploitation of the vulnerable adult.  
14          An action under this section shall be dismissed if the court determines the  
15          vulnerable adult is capable of expressing his or her wishes and that he or she  
16          does not wish to pursue the action.

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

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

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

10          (d) Statute of limitations. The limitations period imposed by 12 V.S.A.  
11          § 511 shall apply to all actions brought pursuant to this subchapter. The statute  
12          of limitations shall begin running when the vulnerable adult becomes aware of  
13          the conduct qualifying as financial exploitation.

14          § 6953. OTHER RELIEF STILL AVAILABLE

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

18          Sec. 5. EFFECTIVE DATES

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

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

3  
4

5           (Committee vote: \_\_\_\_\_)

6

\_\_\_\_\_

7

Senator \_\_\_\_\_

8

FOR THE COMMITTEE