RN1521805 **AP 4**

**INTRODUCED BY SENIOR ASSEMBLY MEMBER KROHN**

Legislative Counsel’s Digest

AP 4: ELDER FINANCIAL ABUSE: REPORTING: FINANCIAL INSTITUTIONS.

UNDER EXISTING LAW, SPECIFIED PEOPLE, KNOWN AS MANDATED REPORTERS, ARE REQUIRED TO REPORT CASES OF ELDER OR DEPENDENT ADULT ABUSE, AS DEFINED. EXISTING LAW PROVIDES THAT FAILURE TO REPORT FINANCIAL ABUSE IS SUBJECT TO A CIVIL PENALTY NOT EXCEEDING $1,000, OR IF THE FAILURE TO REPORT IS WILLFUL, A CIVIL PENALTY NOT EXCEEDING $5,000, THE FINANCIAL INSTITUTION THAT EMPLOYS OF THE MANDATED REPORTER MUST PAY TO THE PARTY BRINGING THE ACTION.

THIS MEASURE WOULD MEMORIALIZE THE LEGISLATURE AND THE GOVERNOR TO ENACT LEGISLATION THAT WOULD INCREASE THE CIVIL PENALTY FOR FAILURE TO REPORT FINANCIAL ABUSE TO A MINIMUM OF $25,000 PER EACH UNREPORTED TRANSACTION, REQUIRE FINANCIAL INSTITUTIONS TO IMPLEMENT TRAINING PROGRAMS TO INFORM EMPLOYEES OF THEIR REPORTING REQUIREMENTS, AND AUTHORIZE A PERSON WHO HAS REPORTED KNOWN OR SUSPECTED FINANCIAL ABUSE TO A FINANCIAL INSTITUTION THAT FAILS TO TAKE ACTION TO MAKE A REPORT TO ADULT PROTECTIVE SERVICES OR LAW ENFORCEMENT, AND BE AWARDED A SPECIFIED PERCENTAGE OF THE CIVIL PENALTY LEVIED AGAINST THE FINANCIAL INSTITUTION.

VOTE: MAJORITY.

AP 4: RELATING TO FINANCIAL ABUSE OF AN ELDER OR DEPENDENT ADULT

WHEREAS, DESPITE EXISTING STATE REQUIREMENTS DESIGNED TO PROTECT ELDER ADULTS FROM FINANCIAL ABUSE, IT IS KNOWN AND REPORTED BY SEVERAL AGENCIES THAT MANY FINANCIAL INSTITUTIONS ARE NOT REPORTING SUSPICIOUS TRANSACTIONS; AND

WHEREAS, FINANCIAL INSTITUTIONS HAVE ARGUED THAT THE FAILURE TO REPORT IS NECESSARY TO PROTECT THE CONFIDENTIALITY AND PRIVACY OF CLIENT ACCOUNTS; AND

WHEREAS, SOME FINANCIAL INSTITUTIONS APPEAR TO HAVE ASSUMED THAT FILING A SUSPICIOUS ACTIVITY REPORT SATISFIES THE REPORTING REQUIREMENT, BUT THE GUIDELINES FOR MANDATED FINANCIAL ABUSE REPORTING AND FEDERAL PRIVACY PROTECTIONS ARE CLEAR THAT FINANCIAL INSTITUTIONS ARE REQUIRED TO COOPERATE WITH LAW ENFORCEMENT BY PROVIDING INFORMATION REGARDING THE SUSPICIOUS ACTIVITIES AND ARE PERMITTED TO DISCLOSE PERSONAL BANKING INFORMATION; AND

WHEREAS, THE FINES CURRENTLY LEVIED FOR FAILING TO REPORT FINANCIAL ABUSE ARE NOT HIGH ENOUGH TO DISCOURAGE EVADING THE DUTY TO REPORT FINANCIAL ABUSE; AND

WHEREAS, THE LACK OF ONGOING TRAINING OF EMPLOYEES AND SUPERVISORS ON THEIR LEGAL RESPONSIBILITIES TO REPORT FINANCIAL ABUSE, COUPLED WITH HIGH EMPLOYEE TURNOVER, EXACERBATES THE PROBLEM OF NONCOMPLIANCE WITH EXISTING FINANCIAL ABUSE REPORTING REQUIREMENTS; NOW, THEREFORE, BE IT

RESOLVED, BY THE SENIOR ASSEMBLY AND THE SENIOR SENATE, JOINTLY, THAT THE SENIOR LEGISLATURE OF THE STATE OF CALIFORNIA AT ITS 2015 REGULAR SESSION, A MAJORITY OF THE MEMBERS VOTING THEREFOR, HEREBY PROPOSES THAT THE CIVIL PENALTY FOR FAILURE TO REPORT KNOWN OR SUSPECTED FINANCIAL ABUSE BE INCREASED TO A MINIMUM OF $25,000 PER EACH UNREPORTED TRANSACTION; AND BE IT FURTHER

RESOLVED, THAT FINANCIAL INSTITUTIONS BE REQUIRED TO IMPLEMENT TRAINING PROGRAMS TO INFORM EMPLOYEES OF THE REQUIREMENT TO REPORT FINANCIAL ABUSE; AND BE IT FURTHER

RESOLVED, THAT A PERSON WHO HAS REPORTED KNOWN OR SUSPECTED FINANCIAL ABUSE TO A FINANCIAL INSTITUTION THAT FAILS TO TAKE FURTHER ACTION BE AUTHORIZED TO MAKE A REPORT TO ADULT PROTECTIVE SERVICES OR LAW ENFORCEMENT AND BE AWARDED A SPECIFIED PERCENTAGE OF THE CIVIL PENALTY LEVIED AGAINST THE FINANCIAL INSTITUTION; AND BE IT FURTHER

RESOLVED, THAT THE SENIOR LEGISLATURE OF THE STATE OF CALIFORNIA RESPECTFULLY MEMORIALIZES THE LEGISLATURE AND THE GOVERNOR OF THE STATE OF CALIFORNIA TO ENACT APPROPRIATE LEGISLATION THAT WOULD ADDRESS THE CONCERNS SET FORTH IN THIS MEASURE; AND BE IT FURTHER

RESOLVED, THAT A COPY OF THIS MEASURE BE TRANSMITTED TO THE SPEAKER OF THE ASSEMBLY, THE PRESIDENT PRO TEMPORE OF THE SENATE, AND THE GOVERNOR OF THE STATE OF CALIFORNIA.