

LEGISLATIVE HISTORY CHECKLIST

NJSA: 52:27G-7.1, 52:27G-14

(In stitutionalized Elderly, office of the Ombudsman-- increase certain penalties)

CHAPTER 104

Laws Of: 1987

Bill No: A290/A1756

Sponsor(s): Martin and Loveys

Date Introduced: Pre-filed

Committee: Assembly: Senior Citizens

Senate: Aging

Amended during passage: Yes

Assembly Substitute (OCR) enacted.

Date of Passage: Assembly:

February 27, 1987

Senate:

January 22, 1987

Date of Approval: April 22, 1987

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: Assembly Yes

Senate Yes

Fiscal Note: No

Veto Message: No

Message on Signing: No

Following were printed:

Reports: Yes

Hearings: Yes

974.90 New Jersey. Legislature. Assembly.  
044 Senior Citizens Committee  
1986m Public hearing, held 9-15-86.  
Trenton, 1986.  
(see especially pp. 10-11)

(OVER)

974.90 New Jersey. Advisory Council on Elderly Abuse.  
044 Report... May 15, 1986. Trenton.  
1986g 1986.  
(see especially pp. 3-6)

974.90 New Jersey. Department of Community Affairs.  
044 In the matter of: the public hearing of  
1985b the New Jersey Advisory Council on Elderly  
Abuse, held 9-23-85.  
(see especially pp. 6-7)

See also newspaper clipping-- attached  
"Committees approve bills to aid elderly," 12-9-86 Trenton Times..

14 87  
4-22-81

[OFFICIAL COPY REPRINT]  
ASSEMBLY SUBSTITUTE FOR  
**ASSEMBLY, Nos. 290 and 1756**  
**STATE OF NEW JERSEY**

ADOPTED FEBRUARY 24, 1986

AN ACT concerning the Office of the Ombudsman for the Institutionalized Elderly\***[,]**\* *and*\* amending P. L. 1977, c. 239 and P. L. 1983, c. 43 **[and supplementing chapter 33 of Title 2C of the New Jersey Statutes]**\*.

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

1 1. Section 14 of P. L. 1977, c. 239 (C. 52:27G-14) is amended to  
2 read as follows:

3 14. a. No discriminatory, disciplinary or retaliatory action shall  
4 be taken against any officer or employee of a facility or govern-  
5 ment agency by such facility or government agency or against any  
6 patient, resident, or client of a facility or guardian or family  
7 member thereof, or volunteer, for any communication by him with  
8 the office or for any information given or disclosed by him in good  
9 faith to aid the office in carrying out its duties and responsibilities  
10 Any person who knowingly or willfully violates the provisions of  
11 this subsection **\*[is]**\* **[guilty of a misdemeanor]** **\*[subject to**  
12 *prosecution pursuant to section 3 of P. L. , c. (C. )*  
13 *(now pending before Legislature as this bill)]*\* **\*by instituting**  
13A *discriminatory, disciplinary or retaliatory action against any officer*  
13B *or employee of a facility or government agency or against any*  
13C *patient, resident or client of a facility or guardian or family mem-*  
13D *ber thereof, or volunteer, for any communication by him with the*  
13E *office or for any information given or disclosed by him in good*  
13F *faith to aid the office in carrying out its duties and responsibilities*  
13G *is guilty of a crime of the fourth degree*\*.

14 b. Any person who willfully hinders the lawful actions of the  
15 office or willfully refuses to comply with its lawful demands, in-

**EXPLANATION**—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

\*—Senate committee amendments adopted December 8, 1986.

16 cluding the demand of immediate entry into and inspection of a  
 17 facility or government agency or the demand of immediate access  
 18 to a patient, resident or client thereof, or who offers any compensa-  
 19 tion, gratuity, or promise thereof to the office in an effort to affect  
 20 the outcome of any matter which is being investigated, or is likely  
 21 to be investigated shall be subject to a penalty of not more than  
 22 ~~[\$1,000.00]~~ ~~[\$2,500.00]~~ ~~\*\$5,000.00\*~~. Such penalty shall be ~~\*[re-~~  
 23 ~~coverable by the State in a civil action]\*~~ *\*collected and enforced\**  
 24 by ~~\*[a]\*~~ summary ~~\*[proceeding under]\*~~ *\*proceedings pursuant*  
 25 *to\** "the penalty enforcement law" (N. J. S. 2A :58-1 et seq.) ~~\*[. The~~  
 26 ~~[county district court of the county in which the offense is alleged~~  
 27 ~~to have occurred] Superior Court shall have jurisdiction to enforce~~  
 27A ~~said penalty enforcement law]\*~~ upon complaint of the office or any  
 28 other person. Each violation of this act shall constitute a separate  
 28A offense.

29 c. The office may bring suit in any court of competent jurisdiction  
 30 to enforce any of the powers enumerated in this act.

31 *\*d. When a person has been penalized under this section, a letter*  
 32 *making note of the penalty shall immediately be sent by the court*  
 33 *to the licensing authority or the professional board, if any, having*  
 34 *jurisdiction over the person who has been penalized.\**

1 2. Section 2 of P. L. 1983, c. 43 (C. 52:27G-7.1) is amended to  
 2 read as follows:

3 2. ~~\*[(New section)]\*~~ a. Any caretaker, social worker, physician,  
 4 registered or licensed practical nurse or other professional, who, as  
 5 a result of information obtained in the course of his employment,  
 6 has reasonable cause to suspect or believe that an institutionalized  
 7 elderly person is being or has been abused or exploited, shall report  
 8 such information in a timely manner to the ombudsman or to the  
 9 person designated by him to receive such report.

10 b. Such report shall contain the name and address of the elderly  
 11 person, information regarding the nature of the suspected abuse or  
 12 exploitation and any other information which might be helpful in  
 13 an investigation of the case and the protection of such elderly  
 14 person.

15 c. Any other person having reasonable cause to suspect or  
 16 believe that an elderly person is being or has been abused or ex-  
 17 ploited may report such information to the ombudsman or to the  
 18 person designated by him to receive such report.

19 d. The name of any person who reports suspected abuse or  
 20 exploitation pursuant to this act shall not be disclosed, unless the  
 21 person who reported the abuse or exploitation specifically requests  
 22 such disclosure or a judicial proceeding results from such report.

23 e. Any person who reports suspected abuse or exploitation  
 24 pursuant to this act or who testifies in any administrative or judicial  
 25 proceeding arising from such report or testimony shall have im-  
 26 munity from any civil or criminal liability on account of such report  
 27 or testimony, unless such person has acted in bad faith or with  
 28 malicious purpose.

29 f. Any person required to report suspected abuse or exploitation  
 30 pursuant to this act who fails to make such report shall be fined not  
 31 more than ~~[\$500.00]~~ ~~[\$2,500.00]~~ ~~\*\$5,000.00\*~~. Such penalty shall  
 32 be collected and enforced by summary proceedings pursuant to  
 33 "the penalty enforcement law" (N. J. S. 2A :58-1 et seq.). ~~\*[In addi-~~  
 34 ~~tion, when a person has been penalized under this section, a letter~~  
 35 ~~making note of the penalty shall immediately be sent by the court~~  
 36 ~~to the licensing authority or the professional board, if any, having~~  
 37 ~~jurisdiction over the person who has been penalized]\*~~ ~~\*Each viola-~~  
 37A ~~tion of this act shall constitute a separate offense\*.~~

38 g. No provision of this act shall be deemed to require the dis-  
 39 closure of, or penalize the failure to disclose, any information which  
 40 would be privileged pursuant to the provisions of sections 18  
 41 through 23 inclusive of P. L. 1960, c. 52 (C. 2A :84A-18 through  
 42 2A :84A-23).

43 *\*h. When a person has been penalized under this section, a letter*  
 44 *making note of the penalty shall immediately be sent by the court*  
 45 *to the licensing authority or the professional board, if any, having*  
 46 *jurisdiction over the person who has been penalized.*

47 *i. The office may bring suit in a court of competent jurisdiction*  
 48 *to enforce any of the powers enumerated in this section.\**

1 ~~\*[3. (New section) a. Any person who knowingly or willfully vio-~~  
 2 ~~lates the provisions of section 14 of P. L. 1977, c. 239 (C. 52:27G-14)~~  
 3 ~~by instituting discriminatory, disciplinary or retaliatory action~~  
 4 ~~against any officer or employee of a facility or government agency~~  
 5 ~~or against any patient, resident, or client of a facility or guardian~~  
 6 ~~or family member thereof, or volunteer, for any communication by~~  
 7 ~~him with the Office of the Ombudsman or for any information given~~  
 8 ~~or disclosed by him in good faith to aid the Office of the Ombuds-~~  
 9 ~~man in carrying out its duties and responsibilities is guilty of a~~  
 10 ~~crime of the fourth degree.~~

11 b. Any person who knowingly or willfully violates the provisions  
 12 of section 2 of P. L. 1977, c. 239 (C. 52:27G-7.1) by failing to report  
 13 suspected abuse or exploitation of an institutionalized elderly per-  
 14 son is guilty of a crime of the fourth degree.]\*

1 ~~\*[4.]~~ ~~\*3.\*~~ This act shall take effect immediately.

SENIOR CITIZENS

Increases penalties for certain persons interfering with actions of the Ombudsman for the Institutionalized Elderly and failing to report acts of elderly abuse.

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# ASSEMBLY, No. 1756

Introduced Pending Technical Review by Legislative Counsel  
PRE-FILED FOR INTRODUCTION IN THE 1986 SESSION

By Assemblyman GIRGENTI

[SECOND OFFICIAL COPY REPRINT]

# ASSEMBLY, No. 3507

## STATE OF NEW JERSEY

INTRODUCED APRIL 15, 1985

By Assemblymen GIRGENTI, PELLECCHIA, OTLOWSKI,  
CUPROWSKI, KERN, FELICE and MAZUR

AN Act concerning institutionalized elderly persons \***[and]**\* \*\*, amending P. L. 1983, c. 43\*, and supplementing chapter 33 of Title 2C of the New Jersey Statutes\*.

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

1 1. Section 2 of P. L. 1983, c. 43 (C. 52:27G-7.1) is amended to  
2 read as follows:

3 2. a. Any caretaker, social worker, physician, registered or  
4 licensed practical nurse or other professional, who, as a result of  
5 information obtained in the course of his employment, has reason-  
6 able cause to suspect or believe that an institutionalized elderly  
7 person is being or has been abused or exploited, shall report such  
8 information in a timely manner to the ombudsman or to the person  
9 designated by him to receive such reports.

10 b. Such report shall contain the name and address of the elderly  
11 person, information regarding the nature of the suspected abuse or  
12 exploitation and any other information which might be helpful in  
13 an investigation of the case and the protection of such elderly  
14 person.

15 c. Any other person having reasonable cause to suspect or  
16 believe that an elderly person is being or has been abused or  
17 exploited may report such information to the ombudsman or to the  
18 person designated by him to receive such report.

19 d. The name of any person who reports suspected abuse or  
20 exploitation pursuant to this act shall not be disclosed, unless the

**EXPLANATION**—Matter enclosed in bold-faced brackets [thus] in the above bill  
is not enacted and is intended to be omitted in the law.

Matter printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

\*—Assembly committee amendments adopted May 13, 1985.

\*\*—Assembly amendment adopted June 17, 1985.

21 person who reported the abuse or exploitation specifically requests  
22 such disclosure or a judicial proceeding results from such report.

23 e. Any person who reports suspected abuse or exploitation  
24 pursuant to this act or who testifies in any administrative or judicial  
25 proceeding arising from such report or testimony shall have im-  
26 munity from any civil or criminal liability on account of such  
27 report or testimony, unless such person has acted in bad faith or  
28 with malicious purpose.

29 f. Any person required to report suspected abuse or exploitation  
30 pursuant to this act who fails to make such report [shall be fined not  
31 more than \$500.00. Such penalty shall be collected and enforced  
32 by summary proceedings pursuant to "the penalty enforcement  
33 law" (N. J. S. 2A:58-1 et seq.)] is **\*[guilty of a disorderly persons  
34 offense]\* \*subject to prosecution \*\*[and any fines which may be  
35 imposed]\*\* pursuant to section 2 of P. L. , c. (C. )  
36 (now pending before the Legislature as this bill)\*. In addition,  
37 when a person is convicted under **\*[this]\*** section \*2 of P. L. ,  
38 c. (C. ) (now pending before the Legislature as this  
39 bill)\*, a letter making note of the conviction shall immediately be  
40 sent by the court to the licensing authority or the professional  
41 board, if any, having jurisdiction over the person who is convicted.**

42 g. No provision of this act shall be deemed to require the dis-  
43 closure of, or penalize the failure to disclose, any information which  
44 would be privileged pursuant to the provisions of sections 18  
45 through 23 inclusive of P. L. 1960, c. 52 (C. 2A:84A-18 through  
46 2A:84A-23).

1 \*2. (New section) A person who is required under section 2 of  
2 P. L. 1983, c. 43 (C. 52:27G-7.1) to report suspected abuse or  
3 exploitation of an institutionalized elderly person as defined in  
4 section 2 of P. L. 1977, c. 239 (C. 52:27G-2) who fails to make the  
5 report is guilty of a disorderly persons offense.\*

1 **\*[2.]\*** \*3.\* This act shall take effect immediately.

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#### STATEMENT

This bill makes it a disorderly persons offense for a caretaker, social worker, physician, nurse or other professional to fail to report suspected abuse or exploitation of an institutionalized elderly person to the Office of the Ombudsman for the Institutionalized Elderly. A person who is guilty of a disorderly persons offense may be fined up to \$1,000.00 or sentenced to imprisonment for up to six months, or both.

The bill also requires the court to send a letter making note of the conviction to the licensing authority or professional board which has jurisdiction over the convicted person.

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**ASSEMBLY, No. 1756**

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**STATE OF NEW JERSEY**

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PRE-FILED FOR INTRODUCTION IN THE 1986 SESSION

By Assemblyman GIRGENTI

AN ACT concerning institutionalized elderly persons **[and]**,  
amending P. L. 1983, c. 43, and supplementing chapter 33 of  
Title 2C of the New Jersey Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

1 1. Section 2 of P. L. 1983, c. 43 (C. 52:27G-7.1) is amended to  
2 read as follows:

3 2. a. Any caretaker, social worker, physician, registered or  
4 licensed practical nurse or other professional, who, as a result of  
5 information obtained in the course of his employment, has reason-  
6 able cause to suspect or believe that an institutionalized elderly  
7 person is being or has been abused or exploited, shall report such  
8 information in a timely manner to the ombudsman or to the person  
9 designated by him to receive such reports.

10 b. Such report shall contain the name and address of the elderly  
11 person, information regarding the nature of the suspected abuse or  
12 exploitation and any other information which might be helpful in  
13 an investigation of the case and the protection of such elderly  
14 person.

15 c. Any other person having reasonable cause to suspect or  
16 believe that an elderly person is being or has been abused or  
17 exploited may report such information to the ombudsman or to the  
18 person designated by him to receive such report.

19 d. The name of any person who reports suspected abuse or  
20 exploitation pursuant to this act shall not be disclosed, unless the  
21 person who reported the abuse or exploitation specifically requests

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill  
is not enacted and is intended to be omitted in the law.  
Matter printed in italics thus is new matter.**

22 such disclosure or a judicial proceeding results from such report.

23 e. Any person who reports suspected abuse or exploitation  
 24 pursuant to this act or who testifies in any administrative or judicial  
 25 proceeding arising from such report or testimony shall have im-  
 26 munity from any civil or criminal liability on account of such  
 27 report or testimony, unless such person has acted in bad faith or  
 28 with malicious purpose.

29 f. Any person required to report suspected abuse or exploitation  
 30 pursuant to this act who fails to make such report [shall be fined not  
 31 more than \$500.00. Such penalty shall be collected and enforced  
 32 by summary proceedings pursuant to "the penalty enforcement  
 33 law" (N. J. S. 2A:58-1 et seq.)] *is subject to prosecution pursuant*  
 34 *to section 2 of P. L. , c. (C. ) (now pending*  
 35 *before the Legislature as this bill). In addition, when a person is*  
 36 *convicted under section 2 of P. L. , c. (C. )*  
 37 *(now pending before the Legislature as this bill), a letter making*  
 38 *note of the conviction shall immediately be sent by the court to the*  
 39 *licensing authority or the professional board, if any, having juris-*  
 40-41 *diction over the person who is convicted.*

42 g. No provision of this act shall be deemed to require the dis-  
 43 closure of, or penalize the failure to disclose, any information which  
 44 would be privileged pursuant to the provisions of sections 18  
 45 through 23 inclusive of P. L. 1960, c. 52 (C. 2A:84A-18 through  
 46 2A:84A-23).

1 2. (New section) A person who is required under section 2 of  
 2 P. L. 1983, c. 43 (C. 52:27G-7.1) to report suspected abuse or  
 3 exploitation of an institutionalized elderly person as defined in  
 4 section 2 of P. L. 1977, c. 239 (C. 52:27G-2) who fails to make  
 5 the report is guilty of a disorderly persons offense.

1 3. This act shall take effect immediately.

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#### SENIOR CITIZENS

Increases the penalties imposed upon certain persons who fail to  
 report suspected abuse or exploitation of an institutionalized  
 elderly person to the office of the Ombudsman for the Institu-  
 tionalized Elderly.

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ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, Nos. 290 and 1756**

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**STATE OF NEW JERSEY**

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ADOPTED FEBRUARY 24, 1986

AN ACT concerning the Office of the Ombudsman for the Institutionalized Elderly, amending P. L. 1977, c. 239 and P. L. 1983, c. 43 and supplementing chapter 33 of Title 2C of the New Jersey Statutes.

1 BE IT ENACTED by the Senate and General Assembly of the State  
2 of New Jersey:

1 1. Section 14 of P. L. 1977, c. 239 (C. 52:27G-14) is amended to  
2 read as follows:

3 14. a. No discriminatory, disciplinary or retaliatory action shall  
4 be taken against any officer or employee of a facility or govern-  
5 ment agency by such facility or government agency or against any  
6 patient, resident, or client of a facility or guardian or family  
7 member thereof, or volunteer, for any communication by him with  
8 the office or for any information given or disclosed by him in good  
9 faith to aid the office in carrying out its duties and responsibilities  
10 Any person who knowingly or willfully violates the provisions of  
11 this subsection is **[guilty of a misdemeanor]** *subject to prosecution*  
12 *pursuant to section 3 of P. L. , c. (C. ) (now*  
13 *pending before Legislature as this bill).*

14 b. Any person who willfully hinders the lawful actions of the  
15 office or willfully refuses to comply with its lawful demands, in-  
16 cluding the demand of immediate entry into and inspection of a  
17 facility or government agency or the demand of immediate access  
18 to a patient, resident or client thereof, or who offers any compensa-  
19 tion, gratuity, or promise thereof to the office in an effort to affect  
20 the outcome of any matter which is being investigated, or is likely  
21 to be investigated shall be subject to a penalty of not more than  
22 **[\$1,000.00]** *\$2,500.00*. Such penalty shall be recoverable by the  
23 State in a civil action by a summary proceeding under "the penalty  
24 enforcement law" (N. J. S. 2A:58-1 et seq.). The **[county district**

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Matter printed in italics *thus* is new matter.

25 court of the county in which the offense is alleged to have occurred]   
26 *Superior Court* shall have jurisdiction to enforce said penalty   
27 enforcement law upon complaint of the office or any other person.   
28 Each violation of this act shall constitute a separate offense.

29 c. The office may bring suit in any court of competent jurisdiction   
30 to enforce any of the powers enumerated in this act.

1 2. Section 2 of P. L. 1983, c. 43 (C. 52:27G-7.1) is amended to   
2 read as follows:

3 2. (New section) a. Any caretaker, social worker, physician,   
4 registered or licensed practical nurse or other professional, who, as   
5 a result of information obtained in the course of his employment,   
6 has reasonable cause to suspect or believe that an institutionalized   
7 elderly person is being or has been abused or exploited, shall report   
8 such information in a timely manner to the ombudsman or to the   
9 person designated by him to receive such report.

10 b. Such report shall contain the name and address of the elderly   
11 person, information regarding the nature of the suspected abuse or   
12 exploitation and any other information which might be helpful in   
13 an investigation of the case and the protection of such elderly   
14 person.

15 c. Any other person having reasonable cause to suspect or   
16 believe that an elderly person is being or has been abused or ex-   
17 ploited may report such information to the ombudsman or to the   
18 person designated by him to receive such report.

19 d. The name of any person who reports suspected abuse or   
20 exploitation pursuant to this act shall not be disclosed, unless the   
21 person who reported the abuse or exploitation specifically requests   
22 such disclosure or a judicial proceeding results from such report.

23 e. Any person who reports suspected abuse or exploitation   
24 pursuant to this act or who testifies in any administrative or judicial   
25 proceeding arising from such report or testimony shall have im-   
26 munity from any civil or criminal liability on account of such report   
27 or testimony, unless such person has acted in bad faith or with   
28 malicious purpose.

29 f. Any person required to report suspected abuse or exploitation   
30 pursuant to this act who fails to make such report shall be fined not   
31 more than ~~[\$500.00]~~ \$2,500.00. Such penalty shall be collected and   
32 enforced by summary proceedings pursuant to "the penalty enforce-   
33 ment law" (N. J. S. 2A:58-1 et seq.). *In addition, when a person*   
34 *has been penalized under this section, a letter making note of the*   
35 *penalty shall immediately be sent by the court to the licensing au-*   
36 *thority or the professional board, if any, having jurisdiction*   
37 *over the person who has been penalized.*

38 g. No provision of this act shall be deemed to require the dis-  
 39 closure of, or penalize the failure to disclose, any information which  
 40 would be privileged pursuant to the provisions of sections 18  
 41 through 23 inclusive of P. L. 1960, c. 52 (C. 2A:84A-18 through  
 42 2A:84A-23).

1 3. (New section) a. Any person who knowingly or willfully viol-  
 2 lates the provisions of section 14 of P. L. 1977, c. 239 (C. 52:27G-14)  
 3 by instituting discriminatory, disciplinary or retaliatory action  
 4 against any officer or employee of a facility or government agency  
 5 or against any patient, resident, or client of a facility or guardian  
 6 or family member thereof, or volunteer, for any communication by  
 7 him with the Office of the Ombudsman or for any information given  
 8 or disclosed by him in good faith to aid the Office of the Ombuds-  
 9 man in carrying out its duties and responsibilities is guilty of a  
 10 crime of the fourth degree.

11 b. Any person who knowingly or willfully violates the provisions  
 12 of section 2 of P. L. 1977, c. 239 (C. 52:27G-7.1) by failing to report  
 13 suspected abuse or exploitation of an institutionalized elderly per-  
 14 son is guilty of a crime of the fourth degree.

1 4. This act shall take effect immediately.

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#### STATEMENT

This substitute makes it a disorderly persons offense for refus-  
 ing to comply with or hindering the function of the lawful demands  
 of the Office of the Ombudsman for the Institutionalized Elderly or  
 for offering any compensation, gratuity or promise to affect the  
 outcome of any matter before the office, and increases the maximum  
 fine from \$1,000.00 to \$2,500.00. The substitute also makes it a dis-  
 orderly persons offense for the failure of a caretaker, social worker,  
 physician, registered practical nurse or other professional to re-  
 port suspected abuse or exploitation, and increases the maximum  
 fine from \$500.00 to \$2,500.00.

The substitute also requires the court to send a letter making note  
 of the conviction to the licensing authority or professional board  
 which has jurisdiction over the person.

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#### SENIOR CITIZENS

Increases penalties for noncompliance with lawful demands of the  
 Ombudsman for the Institutionalized Elderly regarding the report-  
 ing of suspected abuse or exploitation, or interfering with the of-  
 ficer's investigations.

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SENATE COMMITTEE ON AGING  
STATEMENT TO  
ASSEMBLY SUBSTITUTE FOR  
**ASSEMBLY, Nos. 290 and 1756**  
with Senate committee amendments

**STATE OF NEW JERSEY**

DATED: DECEMBER 8, 1986

The Senate Committee on Aging favorably reports the Assembly Substitute for Assembly Bill Nos. 290 and 1756 with committee amendments.

As amended, this substitute increases to \$5,000.00 the maximum penalty for hindering the function of or refusing to comply with the lawful demands of the Office of the Ombudsman for the Institutionalized Elderly or for offering any compensation, gratuity or promise to influence the outcome of a matter before that agency. It also increases to \$5,000.00 the maximum penalty which may be levied against a person who is required by the act to report suspected abuse or exploitation of the elderly and fails to do so. The bill requires that any professional licensing board or other authority having jurisdiction over a person penalized for such hindrance, noncompliance or bribery, or for failing to report adult abuse, shall be notified by the court in writing of the penalty assessed against that licensee.

The committee amended the substitute according to the suggestions of the Office of the Ombudsman for the Institutionalized Elderly. The amendments increase from \$2,500.00 to \$5,000.00 the maximum penalty against a person for interfering with the lawful actions of the ombudsman's office and also require that when a person is penalized for this offense the court shall send a letter noting the penalty to the licensing authority or the professional board, if any, having jurisdiction over the person penalized. The amendments also increase from \$2,500.00 to \$5,000.00 the maximum penalty that may be levied against a person who is required to report elderly abuse but fails to do so.

ASSEMBLY, Nos. 290 and 1756

STATE OF NEW JERSEY

ADOPTED FEBRUARY 24, 1986

AN ACT concerning the Office of the Ombudsman for the Institutionalized Elderly\***[,]**\* *and* amending P. L. 1977, c. 239 and P. L. 1983, c. 43 **[and supplementing chapter 33 of Title 2C of the New Jersey Statutes]**\*

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

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2 read as follows:

3 14. a. No discriminatory, disciplinary or retaliatory action shall  
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5 ment agency by such facility or government agency or against any  
6 patient, resident, or client of a facility or guardian or family  
7 member thereof, or volunteer, for any communication by him with  
8 the office or for any information given or disclosed by him in good  
9 faith to aid the office in carrying out its duties and responsibilities  
10 Any person who knowingly or willfully violates the provisions of  
11 this subsection **[is]** **[guilty of a misdemeanor]** **[subject to**  
12 *prosecution pursuant to section 3 of P. L. , c. (C. )*  
13 *(now pending before Legislature as this bill)]* **[by instituting**  
13A *discriminatory, disciplinary or retaliatory action against any officer*  
13B *or employee of a facility or government agency or against any*  
13C *patient, resident or client of a facility or guardian or family mem-*  
13D *ber thereof, or volunteer, for any communication by him with the*  
13E *office or for any information given or disclosed by him in good*  
13F *faith to aid the office in carrying out its duties and responsibilities*  
13G *is guilty of a crime of the fourth degree*\*

14 b. Any person who willfully hinders the lawful actions of the  
15 office or willfully refuses to comply with its lawful demands, in-

**EXPLANATION**—Matter enclosed in bold-faced brackets [thus] in the above bill  
is not enacted and is intended to be omitted in the law.

Matter printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

\*—Senate committee amendments adopted December 8, 1986.

2  
16 cluding the demand of immediate entry into and inspection of a  
17 facility or government agency or the demand of immediate access  
18 to a patient, resident or client thereof, or who offers any compensa-  
19 tion, gratuity, or promise thereof to the office in an effort to affect  
20 the outcome of any matter which is being investigated, or is likely  
21 to be investigated shall be subject to a penalty of not more than  
22 ~~[\$1,000.00]~~ ~~[\$2,500.00]~~ ~~\*\$5,000.00\*~~. Such penalty shall be ~~\*[re-~~  
23 ~~coverable by the State in a civil action]\*~~ *\*collected and enforced\**  
24 by ~~\*[a]~~ summary ~~\*[proceeding under]\*~~ *\*proceedings pursuant*  
25 *to* "the penalty enforcement law" (N. J. S. 2A:58-1 et seq.)~~\*[~~. The  
26 ~~[county district court of the county in which the offense is alleged~~  
27 ~~to have occurred]~~ *Superior Court* shall have jurisdiction to enforce  
27A said penalty enforcement law~~]\*~~ upon complaint of the office or any  
28 other person. Each violation of this act shall constitute a separate  
28A offense.

29 c. The office may bring suit in any court of competent jurisdiction  
30 to enforce any of the powers enumerated in this act.

31 *\*d. When a person has been penalized under this section, a letter*  
32 *making note of the penalty shall immediately be sent by the court*  
33 *to the licensing authority or the professional board, if any, having*  
34 *jurisdiction over the person who has been penalized.\**

1 2. Section 2 of P. L. 1983, c. 43 (C. 52:27G-7.1) is amended to  
2 read as follows:

3 2. ~~\*[(New section)]\*~~ a. Any caretaker, social worker, physician,  
4 registered or licensed practical nurse or other professional, who, as  
5 a result of information obtained in the course of his employment,  
6 has reasonable cause to suspect or believe that an institutionalized  
7 elderly person is being or has been abused or exploited, shall report  
8 such information in a timely manner to the ombudsman or to the  
9 person designated by him to receive such report.

10 b. Such report shall contain the name and address of the elderly  
11 person, information regarding the nature of the suspected abuse or  
12 exploitation and any other information which might be helpful in  
13 an investigation of the case and the protection of such elderly  
14 person.

15 c. Any other person having reasonable cause to suspect or  
16 believe that an elderly person is being or has been abused or ex-  
17 ploited may report such information to the ombudsman or to the  
18 person designated by him to receive such report.

19 d. The name of any person who reports suspected abuse or  
20 exploitation pursuant to this act shall not be disclosed, unless the  
21 person who reported the abuse or exploitation specifically requests  
22 such disclosure or a judicial proceeding results from such report.



23 e. Any person who reports suspected abuse or exploitation  
24 pursuant to this act or who testifies in any administrative or judicial  
25 proceeding arising from such report or testimony shall have im-  
26 munity from any civil or criminal liability on account of such report  
27 or testimony, unless such person has acted in bad faith or with  
28 malicious purpose.

29 f. Any person required to report suspected abuse or exploitation  
30 pursuant to this act who fails to make such report shall be fined not  
31 more than ~~[\$500.00]~~ ~~[\$2,500.00]~~ ~~\*\$5,000.00\*~~. Such penalty shall  
32 be collected and enforced by summary proceedings pursuant to  
33 "the penalty enforcement law" (N. J. S. 2A:58-1 et seq.). ~~\*[In addi-~~  
34 ~~tion, when a person has been penalized under this section, a letter~~  
35 ~~making note of the penalty shall immediately be sent by the court~~  
36 ~~to the licensing authority or the professional board, if any, having~~  
37 ~~jurisdiction over the person who has been penalized]\*~~ ~~\*Each viola-~~  
37A ~~tion of this act shall constitute a separate offense\*.~~

38 g. No provision of this act shall be deemed to require the dis-  
39 closure of, or penalize the failure to disclose, any information which  
40 would be privileged pursuant to the provisions of sections 18  
41 through 23 inclusive of P. L. 1960, c. 52 (C. 2A:84A-18 through  
42 2A:84A-23).

43 ~~\*h. When a person has been penalized under this section, a letter~~  
44 ~~making note of the penalty shall immediately be sent by the court~~  
45 ~~to the licensing authority or the professional board, if any, having~~  
46 ~~jurisdiction over the person who has been penalized.~~

47 ~~i. The office may bring suit in a court of competent jurisdiction~~  
48 ~~to enforce any of the powers enumerated in this section.\*~~

1 ~~\*[3. (New section) a. Any person who knowingly or willfully vio-~~  
2 ~~lates the provisions of section 14 of P. L. 1977, c. 239 (C. 52:27G-14)~~  
3 ~~by instituting discriminatory, disciplinary or retaliatory action~~  
4 ~~against any officer or employee of a facility or government agency~~  
5 ~~or against any patient, resident, or client of a facility or guardian~~  
6 ~~or family member thereof, or volunteer, for any communication by~~  
7 ~~him with the Office of the Ombudsman or for any information given~~  
8 ~~or disclosed by him in good faith to aid the Office of the Ombuds-~~  
9 ~~man in carrying out its duties and responsibilities is guilty of a~~  
10 ~~crime of the fourth degree.~~

11 ~~b. Any person who knowingly or willfully violates the provisions~~  
12 ~~of section 2 of P. L. 1977, c. 239 (C. 52:27G-7.1) by failing to report~~  
13 ~~suspected abuse or exploitation of an institutionalized elderly per-~~  
14 ~~son is guilty of a crime of the fourth degree.]\*~~

1 ~~\*[4.]\*~~ ~~\*3.\*~~ This act shall take effect immediately.

**SENIOR CITIZENS**

**Increases penalties for certain persons interfering with actions of the Ombudsman for the Institutionalized Elderly and failing to report acts of elderly abuse.**

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# ASSEMBLY, No. 290

Introduced Pending Technical Review by Legislative Counsel  
PRE-FILED FOR INTRODUCTION IN THE 1986 SESSION

By Assemblyman MARTIN

# ASSEMBLY, No. 3559

# STATE OF NEW JERSEY

INTRODUCED APRIL 29, 1985

By Assemblymen MARTIN and LOVEYS

AN ACT concerning the Office of the Ombudsman for the Institutionalized Elderly and amending P. L. 1977, c. 239 and P. L. 1983, c. 43.

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

1 1. Section 14 of P. L. 1977, c. 239 (C. 52:27G-14) is amended to  
2 read as follows:

3 14. a. No discriminatory, disciplinary or retaliatory action shall  
4 be taken against any officer or employee of a facility or govern-  
5 ment agency by such facility or government agency or against any  
6 patient, resident, or client of a facility or guardian or family  
7 member thereof, or volunteer, for any communication by him with  
8 the office or for any information given or disclosed by him in good  
9 faith to aid the office in carrying out its duties and responsibilities.  
10 Any person who knowingly or willfully violates the provisions of  
11 this subsection is guilty of a **[misdemeanor]** *crime of the fourth*  
12 *degree.*

13 b. Any person who willfully hinders the lawful actions of the  
14 office or willfully refuses to comply with its lawful demands,  
15 including the demand of immediate entry into and inspection of  
16 a facility or government agency or the demand of immediate access  
17 to a patient, resident or client thereof, or who offers any compensa-  
18 tion, gratuity, or promise thereof to the office in an effort to affect  
19 the outcome of any matter which is being investigated, or is likely  
20 to be investigated shall be subject to a penalty of not more than  
21 **[\$1,000.00]** *\$5,000.00.* Such penalty shall be recoverable by the

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill  
is not enacted and is intended to be omitted in the law.  
Matter printed in italics thus is new matter.

22 State in a civil action by a summary proceeding under "the penalty  
23 enforcement law" (N. J. S. 2A:58-1 et seq.). The [county district  
24 court of the county in which the offense is alleged to have occurred]  
25 *Superior Court* shall have jurisdiction to enforce said penalty  
26 enforcement law upon complaint of the office or any other person.  
27 Each violation of this act shall constitute a separate offense.

28 c. The office may bring suit in any court of competent jurisdiction  
29 to enforce any of the powers enumerated in this act.

1 2. Section 2 of P. L. 1983, c. 43 (C. 52:27G-7.1) is amended to  
2 read as follows:

3 2. a. Any caretaker, social worker, physician, registered or  
4 licensed practical nurse or other professional, who, as a result of  
5 information obtained in the course of his employment, has reason-  
6 able cause to suspect or believe that an institutionalized elderly  
7 person is being or has been abused or exploited, shall report such  
8 information in a timely manner to the ombudsman or to the person  
9 designated by him to receive such reports.

10 b. Such report shall contain the name and address of the elderly  
11 person, information regarding the nature of the suspected abuse or  
12 exploitation and any other information which might be helpful in  
13 an investigation of the case and the protection of such elderly  
14 person.

15 c. Any other person having reasonable cause to suspect or  
16 believe that an elderly person is being or has been abused or  
17 exploited may report such information to the ombudsman or to the  
18 person designated by him to receive such report.

19 d. The name of any person who reports suspected abuse or  
20 exploitation pursuant to this act shall not be disclosed, unless the  
21 person who reported the abuse or exploitation specifically requests  
22 such disclosure or a judicial proceeding results from such report.

23 e. Any person who reports suspected abuse or exploitation  
24 pursuant to this act or who testifies in any administrative or judicial  
25 proceeding arising from such report or testimony shall have im-  
26 munity from any civil or criminal liability on account of such  
27 report or testimony, unless such person has acted in bad faith or  
28 with malicious purpose.

29 f. Any person required to report suspected abuse or exploitation  
30 pursuant to this act who fails to make such report shall be fined not  
31 more than **[\$500.00]**. \$5,000.00. Such penalty shall be collected and  
32 enforced by summary proceedings pursuant to "the penalty  
33 enforcement law" (N. J. S. 2A:58-1 et seq.).

34 g. No provision of this act shall be deemed to require the dis-  
35 closure of, or penalize the failure to disclose, any information which

36 would be privileged pursuant to the provisions of sections 18  
37 through 23 inclusive of P. L. 1960, c. 52 (C. 2A:84A-18 through  
38 2A:84A-23).

1 3. This act shall take effect immediately.

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STATEMENT

This bill increases the maximum penalty for hindering the function of or refusing to comply with the lawful demands of the Office of the Ombudsman for the Institutionalized Elderly or for offering any compensation, gratuity or promise to influence the outcome of a matter before that agency from \$1,000.00 to \$5,000.00. It also increases from \$500.00 to \$5,000.00 the penalty which may be levied against a person who is required by the act to report suspected abuse or exploitation of the elderly and fails to do so.

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ASSEMBLY SENIOR CITIZENS COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 290**

with Assembly committee amendments

**STATE OF NEW JERSEY**

DATED: FEBRUARY 10, 1986

The Assembly Senior Citizens Committee reports favorably Assembly Bill No. 290 with committee amendments.

This bill increases the maximum penalty for refusing to comply with or hindering the function of the lawful demands of the Office of the Ombudsman for the Institutionalized Elderly or for offering any compensation, gratuity or promise to affect the outcome of any matter before the office, from \$1,000.00 to \$5,000.00. The bill also increases the maximum penalty for the failure of a caretaker, social worker, physician, registered practical nurse or other professional to report suspected abuse or exploitation, from \$500.00 to \$5,000.00.

As amended, the bill requires the court to send a letter making note of the conviction to the licensing authority or professional board which has jurisdiction over the convicted person.

This bill was pre-filed for introduction in the 1986-87 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.