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**WELFARE AND INSTITUTIONS CODE - WIC**

**DIVISION 9. PUBLIC SOCIAL SERVICES [10000 - 18999.98]** ( Division 9 added by Stats. 1965, Ch. 1784. )

**PART 3. AID AND MEDICAL ASSISTANCE [11000 - 15771]** ( Part 3 added by Stats. 1965, Ch. 1784. )

**CHAPTER 11. Elder Abuse and Dependent Adult Civil Protection Act [15600 - 15675]** ( Heading of Chapter 11 amended by Stats. 1991, Ch. 774, Sec. 1. )

**ARTICLE 8.5. Civil Actions for Abuse of Elderly or Dependent Adults [15657 - 15657.8]** ( Article 8.5 added by Stats. 1991, Ch. 774, Sec. 3. )

**15657.** Where it is proven by clear and convincing evidence that a defendant is liable for physical abuse as defined in Section 15610.63, neglect as defined in Section 15610.57, or abandonment as defined in Section 15610.05, and that the defendant has been guilty of recklessness, oppression, fraud, or malice in the commission of this abuse, the following shall apply, in addition to all other remedies otherwise provided by law:

(a) The court shall award to the plaintiff reasonable attorney's fees and costs. The term "costs" includes, but is not limited to, reasonable fees for the services of a conservator, if any, devoted to the litigation of a claim brought under this article.

(b) The limitations imposed by Section 377.34 of the Code of Civil Procedure on the damages recoverable shall not apply. However, the damages recovered shall not exceed the damages permitted to be recovered pursuant to subdivision (b) of Section 3333.2 of the Civil Code.

(c) The standards set forth in subdivision (b) of Section 3294 of the Civil Code regarding the imposition of punitive damages on an employer based upon the acts of an employee shall be satisfied before any damages or attorney's fees permitted under this section may be imposed against an employer.

(Amended by Stats. 2019, Ch. 21, Sec. 1. (SB 314) Effective January 1, 2020.)

**15657.01.** Notwithstanding Section 483.010 of the Code of Civil Procedure, an attachment may be issued in any action for damages pursuant to Section 15657.5 for financial abuse of an elder or dependent adult, as defined in Section 15610.30. The other provisions of the Code of Civil Procedure not inconsistent with this article shall govern the issuance of an attachment pursuant to this section. In an application for a writ of attachment, the claimant shall refer to this section. An attachment may be issued pursuant to this section whether or not other forms of relief are demanded.

(Added by Stats. 2007, Ch. 45, Sec. 1. Effective January 1, 2008.)

**15657.03.** (a) (1) An elder or dependent adult who has suffered abuse, as defined in Section 15610.07, may seek protective orders as provided in this section.

(2) (A) A petition may be brought on behalf of an abused elder or dependent adult by a conservator or a trustee of the elder or dependent adult, an attorney-in-fact of an elder or dependent adult who acts within the authority of a power of attorney, a person appointed as a guardian ad litem for the elder or dependent adult, or other person legally authorized to seek the relief.

(B) (i) Subject to clause (ii), if the petition alleges abuse of an elder or dependent adult in the form of isolation, the term "other person legally authorized to seek the relief" as used in subparagraph (A) includes an interested party as defined in paragraph (3) of subdivision (b).

(ii) Clause (i) shall apply only for the purpose of seeking an order enjoining isolation under subparagraph (E) of paragraph (5) of subdivision (b).

(3) (A) A petition under this section may be brought on behalf of an elder or dependent adult by a county adult protective services agency in either of the following circumstances:

(i) If the elder or dependent adult has suffered abuse as defined in subdivision (b) and has an impaired ability to appreciate and understand the circumstances that place the elder or dependent at risk of harm.

(ii) If the elder or dependent adult has provided written authorization to a county adult protective services agency to act on that person's behalf.

(B) In the case of a petition filed pursuant to clause (i) of subparagraph (A) by a county adult protective services agency, a referral shall be made to the public guardian consistent with Section 2920 of the Probate Code prior to or concurrent with the filing of the petition, unless a petition for appointment of a conservator has already been filed with the probate court by the public guardian or another party.

(C) A county adult protective services agency shall be subject to any confidentiality restrictions that otherwise apply to its activities under law and shall disclose only those facts as necessary to establish reasonable cause for the filing of the petition, including, in the case of a petition filed pursuant to clause (i) of subparagraph (A), to establish the agency's belief that the elder or dependent adult has suffered abuse and has an impaired ability to appreciate and understand the circumstances that place the elder or dependent adult at risk, and as may be requested by the court in determining whether to issue an order under this section.

(b) For purposes of this section:

(1) "Abuse" has the meaning set forth in Section 15610.07.

(2) "Conservator" means the legally appointed conservator of the person or estate of the petitioner, or both.

(3) "Interested party" means an individual with a personal, preexisting relationship with the elder or dependent adult. A preexisting relationship may be shown by a description of past involvement with the elder or dependent adult, time spent together, and any other proof that the individual spent time with the elder or dependent adult.

(4) "Petitioner" means the elder or dependent adult to be protected by the protective orders and, if the court grants the petition, the protected person.

(5) "Protective order" means an order that includes any of the following restraining orders, whether issued ex parte, after notice and hearing, or in a judgment:

(A) An order enjoining a party from abusing, intimidating, molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, harassing, telephoning, including, but not limited to, making annoying telephone calls as described in Section 653m of the Penal Code, destroying personal property, contacting, either directly or indirectly, by mail or otherwise, or coming within a specified distance of, or disturbing the peace of, the petitioner, and, in the discretion of the court, on a showing of good cause, of other named family or household members or a conservator, if any, of the petitioner. On a showing of good cause, in an order issued pursuant to this subparagraph in connection with an animal owned, possessed, leased, kept, or held by the petitioner, or residing in the residence or household of the petitioner, the court may do either or both of the following:

(i) Grant the petitioner exclusive care, possession, or control of the animal.

(ii) Order the respondent to stay away from the animal and refrain from taking, transferring, encumbering, concealing, molesting, attacking, striking, threatening, harming, or otherwise disposing of the animal.

(B) An order excluding a party from the petitioner's residence or dwelling, except that this order shall not be issued if legal or equitable title to, or lease of, the residence or dwelling is in the sole name of the party to be excluded, or is in the name of the party to be excluded and any other party besides the petitioner.

(C) An order enjoining a party from specified behavior that the court determines is necessary to effectuate orders described in subparagraph (A) or (B).

(D) (i) After notice and a hearing only, a finding that specific debts were incurred as the result of financial abuse of the elder or dependent adult by the respondent. For purposes of this subparagraph, the acts that may support this order include, but are not limited to, the crimes proscribed by Section 530.5 of the Penal Code.

(ii) The finding pursuant to clause (i) shall not entitle the petitioner to any remedies other than those actually set forth in this section. The finding pursuant to clause (i) shall not affect the priority of any lien or other security interest.

(E) (i) After notice and a hearing only, an order enjoining a party from abusing an elder or dependent adult by isolating them. An order may be issued under this subparagraph to restrain the respondent for the purpose of preventing a recurrence of isolation if the court finds by a preponderance of the evidence, to the satisfaction of the court, that the following requirements are met:

(I) The respondent's past act or acts of isolation of the elder or dependent adult repeatedly prevented contact with the interested party.

(II) The elder or dependent adult expressly desires contact with the interested party. A court shall use all means at its disposal to determine whether the elder or dependent adult desires contact with the person and has the capacity to consent to that contact.

(III) The respondent's isolation of the elder or dependent adult from the interested party was not in response to an actual or threatened abuse of the elder or dependent adult by the interested party or the elder or dependent adult's desire not to have contact with the interested party.

(ii) The order may specify the actions to be enjoined, including enjoining the respondent from preventing the interested party from in-person or remote online visits with the elder or dependent adult, including telephone and online contact.

(iii) An order enjoining isolation under this section is not required for an elder or dependent adult to visit with anyone with whom the elder or dependent adult desires visitation.

(iv) An order enjoining isolation shall not be issued under this section if the elder or dependent adult resides in a long-term care facility, as defined in Section 9701, or a residential facility, as defined in Section 1502 of the Health and Safety Code. In those cases, action may be taken under appropriate federal law.

(v) An order enjoining isolation shall not be issued under this section if the elder or dependent adult is a patient of a health facility as defined in subdivision (a), (b), or (f) of Section 1250 of the Health and Safety Code. In those cases, action may be taken under other appropriate state or federal law.

(6) "Respondent" means the person against whom the protective orders are sought and, if the petition is granted, the restrained or enjoined person.

(c) Except as provided in subdivision (b), an order may be issued under this section, with or without notice, to restrain any person for the purpose of preventing a recurrence of abuse, if a declaration shows, to the satisfaction of the court, reasonable proof of a past act or acts of abuse of the petitioning elder or dependent adult.

(d) Upon filing a petition for protective orders under this section, the petitioner may obtain a temporary restraining order in accordance with Section 527 of the Code of Civil Procedure, except to the extent this section provides a rule that is inconsistent. The temporary restraining order may include any of the protective orders described in paragraph (5) of subdivision (b). However, the court may issue an ex parte order excluding a party from the petitioner's residence or dwelling only on a showing of all of the following:

(1) Facts sufficient for the court to ascertain that the party who will stay in the dwelling has a right under color of law to possession of the premises.

(2) That the party to be excluded has assaulted or threatens to assault the petitioner, other named family or household member of the petitioner, or a conservator of the petitioner.

(3) That physical or emotional harm would otherwise result to the petitioner, other named family or household member of the petitioner, or a conservator of the petitioner.

(e) A request for the issuance of a temporary restraining order without notice under this section shall be granted or denied on the same day that the petition is submitted to the court, unless the petition is filed too late in the day to permit effective review, in which case the order shall be granted or denied on the next day of judicial business in sufficient time for the order to be filed that day with the clerk of the court.

(f) Within 21 days, or, if good cause appears to the court, 25 days, from the date that a request for a temporary restraining order is granted or denied, a hearing shall be held on the petition. If no request for temporary orders is made, the hearing shall be held within 21 days, or, if good cause appears to the court, 25 days, from the date that the petition is filed.

(g) The respondent may file a response that explains or denies the alleged abuse.

(h) The court may issue, upon notice and a hearing, any of the orders set forth in paragraph (5) of subdivision (b). The court may issue, after notice and hearing, an order excluding a person from a residence or dwelling if the court finds that physical or emotional harm would otherwise result to the petitioner, other named family or household member of the petitioner, or conservator of the petitioner.

(i) (1) In the discretion of the court, an order issued after notice and a hearing under this section may have a duration of not more than five years, subject to termination or modification by further order of the court either on written stipulation filed with the court or on the motion of a party. These orders may be renewed upon the request of a party, either for five years or permanently, without a showing of any further abuse since the issuance of the original order, subject to termination or modification by further order of the

court either on written stipulation filed with the court or on the motion of a party. The request for renewal may be brought at any time within the three months before the expiration of the order.

(2) The failure to state the expiration date on the face of the form creates an order with a duration of three years from the date of issuance.

(3) If an action is filed for the purpose of terminating or modifying a protective order prior to the expiration date specified in the order by a party other than the protected party, the party who is protected by the order shall be given notice, pursuant to subdivision (b) of Section 1005 of the Code of Civil Procedure, of the proceeding by personal service or, if the protected party has satisfied the requirements of Chapter 3.1 (commencing with Section 6205) of Division 7 of Title 1 of the Government Code, by service on the Secretary of State. If the party who is protected by the order cannot be notified prior to the hearing for modification or termination of the protective order, the court shall deny the motion to modify or terminate the order without prejudice or continue the hearing until the party who is protected can be properly noticed and may, upon a showing of good cause, specify another method for service of process that is reasonably designed to afford actual notice to the protected party. The protected party may waive the right to notice if that party is physically present in court and does not challenge the sufficiency of the notice.

(j) In a proceeding under this section, a support person may accompany a party in court and, if the party is not represented by an attorney, may sit with the party at the table that is generally reserved for the party and the party's attorney. The support person is present to provide moral and emotional support for a person who alleges to be a victim of abuse. The support person is not present as a legal adviser and may not provide legal advice. The support person may assist the person who alleges to be a victim of abuse in feeling more confident that the alleged abuse victim will not be injured or threatened by the other party during the proceedings if the person who alleges to be a victim of abuse and the other party are required to be present in close proximity. This subdivision does not preclude the court from exercising its discretion to remove the support person from the courtroom if the court believes the support person is prompting, swaying, or influencing the party assisted by the support person.

(k) Upon the filing of a petition for protective orders under this section, the respondent shall be personally served with a copy of the petition, notice of the hearing or order to show cause, temporary restraining order, if any, and any declarations in support of the petition. Service shall be made at least five days before the hearing. The court may, on motion of the petitioner or on its own motion, shorten the time for service on the respondent.

(l) A notice of hearing under this section shall notify the respondent that if the respondent does not attend the hearing, the court may make orders against the respondent that could last up to five years.

(m) The respondent shall be entitled, as a matter of course, to one continuance, for a reasonable period, to respond to the petition.

(n) (1) Either party may request a continuance of the hearing, which the court shall grant on a showing of good cause. The request may be made in writing before or at the hearing or orally at the hearing. The court may also grant a continuance on its own motion.

(2) If the court grants a continuance, any temporary restraining order that has been granted shall remain in effect until the end of the continued hearing, unless otherwise ordered by the court. In granting a continuance, the court may modify or terminate a temporary restraining order.

(o) (1) If a respondent, named in an order issued under this section after a hearing, has not been served personally with the order but has received actual notice of the existence and substance of the order through personal appearance in court to hear the terms of the order from the court, no additional proof of service is required for enforcement of the order.

(2) If the respondent named in a temporary restraining order is personally served with the order and notice of hearing with respect to a restraining order or protective order based on the temporary restraining order, but the respondent does not appear at the hearing, either personally or by an attorney, and the terms and conditions of the restraining order or protective order issued at the hearing are identical to the temporary restraining order, except for the duration of the order, then the restraining order or protective order issued at the hearing may be served on the respondent by first-class mail sent to the respondent at the most current address for the respondent that is available to the court.

(3) The Judicial Council form for temporary orders issued pursuant to this subdivision shall contain a statement in substantially the following form:

"If you have been personally served with a temporary restraining order and notice of hearing, but you do not appear at the hearing either in person or by a lawyer, and a restraining order that is the same as this temporary restraining order except for the expiration date is issued at the hearing, a copy of the order will be served on you by mail at the following address:

If that address is not correct or you wish to verify that the temporary restraining order was converted to a restraining order at the hearing without substantive change and to find out the duration of that order, contact the clerk of the court."

(p) (1) Information on a protective order relating to elder or dependent adult abuse issued by a court pursuant to this section shall be transmitted to the Department of Justice in accordance with either paragraph (2) or (3).

(2) The court shall order the petitioner or the attorney for the petitioner to deliver a copy of an order issued under this section, or a reissuance, extension, modification, or termination of the order, and any subsequent proof of service, by the close of the business day on which the order, reissuance, extension, modification, or termination was made, to each law enforcement agency having jurisdiction over the residence of the petitioner, and to any additional law enforcement agencies within the court's discretion as are requested by the petitioner.

(3) Alternatively, the court or its designee shall transmit, within one business day, to law enforcement personnel all information required under subdivision (b) of Section 6380 of the Family Code regarding any order issued under this section, or a reissuance, extension, modification, or termination of the order, and any subsequent proof of service, by either one of the following methods:

(A) Transmitting a physical copy of the order or proof of service to a local law enforcement agency authorized by the Department of Justice to enter orders into the California Law Enforcement Telecommunications System (CLETS).

(B) With the approval of the Department of Justice, entering the order or proof of service into CLETS directly.

(4) Each appropriate law enforcement agency shall make available information as to the existence and current status of these orders to law enforcement officers responding to the scene of reported abuse.

(5) An order issued under this section shall, on request of the petitioner, be served on the respondent, whether or not the respondent has been taken into custody, by any law enforcement officer who is present at the scene of reported abuse involving the parties to the proceeding. The petitioner shall provide the officer with an endorsed copy of the order and a proof of service, which the officer shall complete and send to the issuing court.

(6) Upon receiving information at the scene of an incident of abuse that a protective order has been issued under this section, or that a person who has been taken into custody is the respondent to that order, if the protected person cannot produce an endorsed copy of the order, a law enforcement officer shall immediately attempt to verify the existence of the order.

(7) If the law enforcement officer determines that a protective order has been issued but not served, the officer shall immediately notify the respondent of the terms of the order and where a written copy of the order can be obtained, and the officer shall at that time also enforce the order. The law enforcement officer's oral notice of the terms of the order shall constitute service of the order and is sufficient notice for the purposes of this section and for the purposes of Section 273.6 of the Penal Code.

(8) This subdivision does not apply, and the protective order shall not be subject to the requirements of Section 6380 of the Family Code, if the protective order issued pursuant to this section was made solely on the basis of isolation unaccompanied by force, threat, harassment, intimidation, or any other form of abuse.

(q) This section does not preclude either party from representation by private counsel or from appearing on the party's own behalf.

(r) There shall not be a filing fee for a petition, response, or paper seeking the reissuance, modification, or enforcement of a protective order filed in a proceeding brought pursuant to this section.

(s) Pursuant to paragraph (4) of subdivision (b) of Section 6103.2 of the Government Code, a petitioner shall not be required to pay a fee for law enforcement to serve an order issued under this section.

(t) The prevailing party in an action brought under this section may be awarded court costs and attorney's fees, if any.

(u) (1) A person subject to a protective order under this section shall not own, possess, purchase, receive, or attempt to receive a firearm or ammunition while the protective order is in effect.

(2) The court shall order a person subject to a protective order issued under this section to relinquish any firearms that the person owns or possesses pursuant to Section 527.9 of the Code of Civil Procedure.

(3) Every person who owns, possesses, purchases, or receives, or attempts to purchase or receive a firearm or ammunition while subject to a protective order issued under this section is punishable pursuant to Section 29825 of the Penal Code.

(4) This subdivision does not apply in a case in which a protective order issued under this section was made solely on the basis of financial abuse or isolation unaccompanied by force, threat, harassment, intimidation, or any other form of abuse.

(v) In a proceeding brought under paragraph (3) of subdivision (a), all of the following apply:

(1) Upon the filing of a petition for a protective order, the elder or dependent adult on whose behalf the petition has been filed shall receive a copy of the petition, a notice of the hearing, and any declarations submitted in support of the petition. The elder or dependent adult shall receive this information at least five days before the hearing. The court may, on motion of the petitioner or on its own motion, shorten the time for provision of this information to the elder or dependent adult.

(2) The adult protective services agency shall make reasonable efforts to assist the elder or dependent adult to attend the hearing and provide testimony to the court, if that person wishes to do so. If the elder or dependent adult does not attend the hearing, the

agency shall provide information to the court at the hearing regarding the reasons why the elder or dependent adult is not in attendance.

(3) Upon the filing of a petition for a protective order and upon issuance of an order granting the petition, the county adult protective services agency shall take all reasonable steps to provide for the safety of the elder or dependent adult, pursuant to Chapter 13 (commencing with Section 15750), which may include, but are not limited to, facilitating the location of alternative accommodations for the elder or dependent adult, if needed.

(w) Willful disobedience of a temporary restraining order or restraining order after hearing granted under this section is punishable pursuant to Section 273.6 of the Penal Code.

(x) This section does not apply to any action or proceeding governed by Title 1.6C (commencing with Section 1788) of Part 4 of Division 3 of the Civil Code, Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, or Division 10 (commencing with Section 6200) of the Family Code. This section does not preclude a petitioner's right to use other existing civil remedies.

(y) (1) The Judicial Council shall develop forms, instructions, and rules relating to matters governed by this section. The petition and response forms shall be simple and concise, and shall be used by parties in actions brought pursuant to this section.

(2) On or before February 1, 2023, the Judicial Council shall revise or promulgate forms as necessary to implement the changes made by the act that added this paragraph.

(z) When issuing a protective order pursuant to this section for abuse involving acts described in paragraph (1) or (2) of subdivision (a) of Section 15610.07, after notice and a hearing, the court may, if appropriate, also issue an order requiring the restrained party to participate in mandatory clinical counseling or anger management courses provided by a counselor, psychologist, psychiatrist, therapist, clinical social worker, or other mental or behavioral health professional licensed in the state to provide those services.

(aa) This section shall become operative on January 1, 2023.

*(Repealed in (Sec. 2) and added by Stats. 2021, Ch. 273, Sec. 3. (AB 1243) Effective January 1, 2022. Operative January 1, 2023, by its own provisions.)*

**15657.04.** (a) The court shall order that any party enjoined pursuant to Section 15657.03 be prohibited from taking any action to obtain the address or location of any protected person, unless there is good cause not to make that order.

(b) The Judicial Council shall develop forms necessary to effectuate this section.

*(Amended by Stats. 2010, Ch. 572, Sec. 27. (AB 1596) Effective January 1, 2011. Operative January 1, 2012, by Sec. 28 of Ch. 572.)*

**15657.05.** Where it is proven by clear and convincing evidence that an individual is liable for abduction, as defined in Section 15610.06, in addition to all other remedies otherwise provided by law:

(a) (1) The court shall award to the plaintiff reasonable attorney's fees and costs. The term "costs" shall include, but is not limited to, costs of representing the abductee and his or her family in this state and any other state in any action related to the abduction and returning of the abductee to this state, as well as travel expenses for returning the abductee to this state and reasonable fees for the services of a conservator, if any, devoted to the litigation of a claim brought under this article.

(2) The award of attorney's fees shall be governed by the principles set forth in Section 15657.1.

(b) The limitations imposed by Section 377.34 of the Code of Civil Procedure on the damages recoverable shall not apply. However, the damages recovered shall not exceed the damages permitted to be recovered pursuant to subdivision (b) of Section 3333.2 of the Civil Code.

(c) The standards set forth in subdivision (b) of Section 3294 of the Civil Code regarding the imposition of punitive damages on an employer based upon the acts of an employee shall be satisfied before any damages or attorney's fees permitted under this section may be imposed against an employer.

*(Added by Stats. 1997, Ch. 663, Sec. 4. Effective January 1, 1998.)*

**15657.1.** The award of attorney's fees pursuant to subdivision (a) of Section 15657 shall be based on all factors relevant to the value of the services rendered, including, but not limited to, the factors set forth in Rule 4-200 of the Rules of Professional Conduct of the State Bar of California, and all of the following:

(a) The value of the abuse-related litigation in terms of the quality of life of the elder or dependent adult, and the results obtained.

(b) Whether the defendant took reasonable and timely steps to determine the likelihood and extent of liability.

(c) The reasonableness and timeliness of any written offer in compromise made by a party to the action.

*(Amended by Stats. 1994, Ch. 594, Sec. 23.5. Effective January 1, 1995.)*

**15657.2.** Notwithstanding this article, any cause of action for injury or damage against a health care provider, as defined in Section 340.5 of the Code of Civil Procedure, based on the health care provider's alleged professional negligence, shall be governed by those laws which specifically apply to those professional negligence causes of action.

*(Added by Stats. 1991, Ch. 774, Sec. 3.)*

**15657.3.** (a) The department of the superior court having jurisdiction over probate conservatorships shall also have concurrent jurisdiction over civil actions and proceedings involving a claim for relief arising out of the abduction, as defined in Section 15610.06, or the abuse of an elderly or dependent adult, if a conservator has been appointed for the plaintiff prior to the initiation of the action for abuse.

(b) The department of the superior court having jurisdiction over probate conservatorships shall not grant relief under this article if the court determines that the matter should be determined in a civil action, but shall instead transfer the matter to the general civil calendar of the superior court. The court need not abate a proceeding for relief pursuant to this article if the court determines that the civil action was filed for the purpose of delay.

(c) The death of the elder or dependent adult does not cause the court to lose jurisdiction of a claim for relief for abuse of that elder or dependent adult.

(d) (1) Subject to paragraph (2) and subdivision (e), after the death of the elder or dependent adult, the right to commence or maintain an action shall pass to the personal representative of the decedent. If there is no personal representative, the right to commence or maintain an action shall pass to any of the following, if the requirements of Section 377.32 of the Code of Civil Procedure are met:

(A) An intestate heir whose interest is affected by the action.

(B) The decedent's successor in interest, as defined in Section 377.11 of the Code of Civil Procedure.

(C) An interested person, as defined in Section 48 of the Probate Code, as limited in this subparagraph. As used in this subparagraph, "an interested person" does not include a creditor or a person who has a claim against the estate and who is not an heir or beneficiary of the decedent's estate.

(2) If the personal representative refuses to commence or maintain an action or if the personal representative's family or an affiliate, as those terms are defined in subdivision (c) of Section 1064 of the Probate Code, is alleged to have committed abuse of the elder or dependent adult, the persons described in subparagraphs (A), (B), and (C) of paragraph (1) shall have standing to commence or maintain an action for elder abuse. This paragraph does not require the court to resolve the merits of an elder abuse action for purposes of finding that a plaintiff who meets the qualifications of subparagraphs (A), (B), and (C) of paragraph (1) has standing to commence or maintain such an action.

(e) If two or more persons who are either described in subparagraph (A), (B), or (C) of paragraph (1) of subdivision (d) or a personal representative claim to have standing to commence or maintain an action for elder abuse, upon petition or motion, the court in which the action or proceeding is pending, may make any order concerning the parties that is appropriate to ensure the proper administration of justice in the case pursuant to Section 377.33 of the Code of Civil Procedure.

(f) This section does not affect the applicable statute of limitations for commencing an action for relief for abuse of an elderly or dependent adult.

*(Amended by Stats. 2008, Ch. 179, Sec. 249. Effective January 1, 2009.)*

**15657.5.** (a) Where it is proven by a preponderance of the evidence that a defendant is liable for financial abuse, as defined in Section 15610.30, in addition to compensatory damages and all other remedies otherwise provided by law, the court shall award to the plaintiff reasonable attorney's fees and costs. The term "costs" includes, but is not limited to, reasonable fees for the services of a conservator, if any, devoted to the litigation of a claim brought under this article.

(b) Where it is proven by a preponderance of the evidence that a defendant is liable for financial abuse, as defined in Section 15610.30, and where it is proven by clear and convincing evidence that the defendant has been guilty of recklessness, oppression, fraud, or malice in the commission of the abuse, in addition to reasonable attorney's fees and costs set forth in subdivision (a), compensatory damages, and all other remedies otherwise provided by law, the limitations imposed by Section 377.34 of the Code of Civil Procedure on the damages recoverable shall not apply.

(c) The standards set forth in subdivision (b) of Section 3294 of the Civil Code regarding the imposition of punitive damages on an employer based upon the acts of an employee shall be satisfied before any punitive damages may be imposed against an employer found liable for financial abuse as defined in Section 15610.30. This subdivision shall not apply to the recovery of compensatory damages or attorney's fees and costs.

(d) Nothing in this section affects the award of punitive damages under Section 3294 of the Civil Code.

(e) Any money judgment in an action under this section shall include a statement that the damages are awarded based on a claim for financial abuse of an elder or dependent adult, as defined in Section 15610.30. If only part of the judgment is based on that claim, the judgment shall specify what amount was awarded on that basis.

*(Amended (as amended by Stats. 2010, Ch. 64, Sec. 5) by Stats. 2011, Ch. 296, Sec. 336. (AB 1023) Effective January 1, 2012.)*

**15657.6.** A person or entity that takes, secretes, appropriates, obtains, or retains, or assists in taking, secreting, appropriating, obtaining, or retaining the real or personal property of an elder or dependent adult when the elder or dependent adult lacks capacity pursuant to Section 812 of the Probate Code, or is of unsound mind, but not entirely without understanding, pursuant to Section 39 of the Civil Code, shall, upon demand by the elder or dependent adult or a representative of the elder or dependent adult, as defined in subdivision (d) of Section 15610.30, return the property and if that person or entity fails to return the property, the elder or dependent adult shall be entitled to the remedies provided by Section 15657.5, including attorney's fees and costs. This section shall not apply to any agreement entered into by an elder or dependent adult when the elder or dependent adult had capacity.

*(Added by Stats. 2008, Ch. 475, Sec. 3. Effective January 1, 2009.)*

**15657.7.** An action for damages pursuant to Sections 15657.5 and 15657.6 for financial abuse of an elder or dependent adult, as defined in Section 15610.30, shall be commenced within four years after the plaintiff discovers or, through the exercise of reasonable diligence, should have discovered, the facts constituting the financial abuse.

*(Added by Stats. 2008, Ch. 475, Sec. 4. Effective January 1, 2009.)*

**15657.8.** (a) An agreement to settle a civil action for physical abuse, as defined in Section 15610.63, neglect, as defined in Section 15610.57, or financial abuse, as defined in Section 15610.30, of an elder or dependent adult shall not include any of the following provisions, whether the agreement is made before or after filing the action:

(1) A provision that prohibits any party to the dispute from contacting or cooperating with the county adult protective services agency, the local law enforcement agency, the long-term care ombudsman, the California Department of Aging, the Department of Justice, the Licensing and Certification Division of the State Department of Public Health, the State Department of Developmental Services, the State Department of State Hospitals, a licensing or regulatory agency that has jurisdiction over the license or certification of the defendant, any other governmental entity, a protection and advocacy agency, as defined in Section 4900, or the defendant's current employer if the defendant's job responsibilities include contact with elders, dependent adults, or children, provided that the party contacting or cooperating with one of these entities had a good faith belief that the information he or she provided is relevant to the concerns, duties, or obligations of that entity.

(2) A provision that prohibits any party to the dispute from filing a complaint with, or reporting any violation of law to, the county adult protective services agency, the local law enforcement agency, the long-term care ombudsman, the California Department of Aging, the Department of Justice, the Licensing and Certification Division of the State Department of Public Health, the State Department of Developmental Services, the State Department of State Hospitals, a licensing or regulatory agency that has jurisdiction over the license or certification of the defendant, any other governmental entity, a protection and advocacy agency, as defined in Section 4900, or the defendant's current employer if the defendant's job responsibilities include contact with elders, dependent adults, or children.

(3) A provision that requires any party to the dispute to withdraw a complaint he or she has filed with, or a violation he or she has reported to, the county adult protective services agency, the local law enforcement agency, the long-term care ombudsman, the California Department of Aging, the Department of Justice, the Licensing and Certification Division of the State Department of Public Health, the State Department of Developmental Services, the State Department of State Hospitals, a licensing or regulatory agency that has jurisdiction over the license or certification of the defendant, any other governmental entity, a protection and advocacy agency, as defined in Section 4900, or the defendant's current employer if the defendant's job responsibilities include contact with elders, dependent adults, or children.

(b) A provision described in subdivision (a) is void as against public policy.

(c) This section shall apply only to an agreement entered on or after January 1, 2013.

*(Amended by Stats. 2014, Ch. 442, Sec. 40. (SB 1465) Effective September 18, 2014.)*