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SB-314 Elders and dependent adults: abandonment. (2019-2020)

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Senate Bill No. 314

CHAPTER 21

An act to amend Section 15657 of the Welfare and Institutions Code, relating to elders and dependent adults.

[Approved by Governor June 26, 2019. Filed with Secretary of State June 26, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

SB 314, Dodd. Elders and dependent adults: abandonment.

Existing law, the Elder Abuse and Dependent Adult Civil Protection Act, provides for the award of attorney's fees and costs to, and the recovery of damages by, a plaintiff when it is proven by clear and convincing evidence that the defendant is liable for physical abuse or neglect, as defined, and the defendant has also been found guilty of recklessness, oppression, fraud, or malice in the commission of that abuse.

This bill would extend those remedies to cases in which the defendant is liable for abandonment, as defined, and the above conditions have been met.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 15657 of the Welfare and Institutions Code is amended to read:

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.