

17-1776. Same; additional penalty for violations involving elderly or disabled person. (a) If any person is found to have violated any provision of the charitable organizations and solicitations act, and such violation is committed against elder or disabled persons, in addition to any civil penalty otherwise provided by law, the court may impose an additional civil penalty not to exceed \$10,000 for each such violation.

(b) In determining whether to impose a civil penalty as provided in this section and the amount of such civil penalty, the court shall consider the extent to which one or more of the following factors are present:

(1) Whether the defendant's conduct was in disregard of the rights of the elder or disabled person;

(2) whether the defendant knew or should have known that the defendant's conduct was directed to an elder or disabled person;

(3) whether the elder or disabled person was more vulnerable to the defendant's conduct because of age, poor health, infirmity, impaired understanding, restricted mobility or disability than other persons and actually suffered substantial physical, emotional or economic damage resulting from the defendant's conduct;

(4) whether the defendant's conduct caused an elder or disabled person to suffer any of the following:

(A) Mental or emotional anguish;

(B) loss of or encumbrance upon a primary residence of the elder or disabled person;

(C) loss of or encumbrance upon the elder or disabled person's principal employment or principal source of income;

(D) loss of funds received under a pension or retirement plan or a government benefits program;

(E) loss of property set aside for retirement or for personal or family care and maintenance;

(F) loss of assets essential to the health and welfare of the elder or disabled person; or

(G) any other factors the court deems appropriate.

(c) As used in this section elder person and disabled person shall mean the same as provided in K.S.A. 50-676, and amendments thereto.

(d) The provisions of this section shall be part of and supplemental to the charitable organizations and solicitations act.

History: L. 2001, ch. 105, § 5; July 1.