STATE OF NEW YORK

6379

2025-2026 Regular Sessions

IN SENATE

March 12, 2025

Introduced by Sen. CLEARE -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

AN ACT to amend the general business law, the banking law, and the social services law, in relation to protecting eligible adults from financial exploitation

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The general business law is amended by adding a new section 352-m to read as follows:

§ 352-m. Protecting eligible adults from exploitation. 1. Definitions. As used in this section the following terms shall have the following meanings:

(a) "Adult protective services" means the division of the New York city human resources administration and each county agency responsible for providing adult protective services pursuant to section four hundred seventy-three of the social services law.

(b) "Eligible adult" means an individual who is: sixty years of age or older; or at least the age of eighteen and who, because of mental or physical impairment, is unable to manage their own resources or protect themselves from financial exploitation without assistance from others.

(c) "Financial exploitation" means: (i) the improper use of an eligible adult's funds, property, income or assets; or (ii) any act or omission by a person, including through the use of a power of attorney, guardianship or any other authority regarding an eligible adult to: (A) obtain control, through deception, intimidation, threats or undue influence over the eligible adult's money, assets, income or property; or

(B) convert the eligible adult's money, assets, income or property.

(d) "Law enforcement agency" means any agency, which is empowered by law to make an arrest for a felony, and any agency which is authorized by law to prosecute a felony and including any police officer as defined

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD10910-01-5

by subdivision thirty-four of section 1.20 of the criminal procedure law and any prosecutor.

(e) "Qualified individual" means any agent, investment adviser representative or person who serves in a supervisory, compliance, legal, or senior or vulnerable adult protection capacity for a broker-dealer or investment adviser.

2. Notification. If a broker-dealer, investment adviser, or qualified individual reasonably believes financial exploitation of an eligible adult has occurred, has been attempted, or is being attempted, such broker-dealer, investment adviser, or qualified individual may promptly notify the adult protective services and/or law enforcement.

3. Application of transaction hold. (a) If a broker-dealer, investment adviser, or qualified individual reasonably believes that financial exploitation of an eligible adult may have occurred, may have been attempted, or is being attempted, then such broker-dealer, investment adviser, or qualified individual may place a transaction hold on such transaction.

(b) A broker-dealer, investment adviser, or qualified individual shall hold a transaction if adult protective services or a law enforcement agency notifies such broker-dealer, investment adviser, or qualified individual that it reasonably believes that the transaction is the subject of or related to financial exploitation of an eligible adult.

(c) A broker-dealer, investment adviser, or qualified individual that applies a transaction hold shall: (i) provide notice of such hold, in writing, to all parties authorized to transact business on the account that is the subject of a transaction hold, as well as any designated third party, no later than two business day after the application of the transaction hold; (ii) if the transaction hold has been applied pursuant to paragraph (a) of this subdivision, no later than two business days after application of the transaction hold, notify adult protective services and/or a law enforcement agency of the belief of financial exploitation and the transaction hold; and (iii) at the request of adult protective services or a law enforcement agency, provide any information and documents relating to the transaction hold within three business days after the request for such information or documents.

4. Duration of transaction hold. A transaction hold shall expire fifteen business days after its application except that (i) a transaction hold may be extended for up to forty additional business days if there is a continued reasonable belief of exploitation, unless sooner terminated or further extended by adult protective services, law enforcement, any agency of competent jurisdiction or a court of competent jurisdiction; (ii) if a broker-dealer, investment adviser, or qualified individual no longer reasonably believes that a transaction is the subject of or related to financial exploitation, it shall release such transaction, provided that adult protective services or the law enforcement agency that the broker-dealer, investment adviser, or qualified individual has notified of such hold pursuant to subparagraph (i) of paragraph (c) of subdivision three of this section does not object.

5. Records. A broker-dealer or investment adviser shall provide access to or copies of records that are relevant to the suspected or attempted financial exploitation of an eligible adult to adult protective services, an agency of competent jurisdiction, and law enforcement, either as part of a notification or at the request of adult protective services, a law enforcement agency, or an agency of competent jurisdiction. All records made available to adult protective services, an agency of competent jurisdiction, or law enforcement shall be considered confi-

dential records and shall not be available for examination by the public.

6. Trainings and written procedures. Before placing a delay on a disbursement or transaction pursuant to this section, a broker-dealer, investment adviser, or qualified individual must do all of the following: (a) develop training policies or programs reasonably designed to educate employees who perform or approve transactions on behalf of customers on issues pertaining to financial exploitation of specified adults; (b) conduct training for employees described in paragraph (a) of this subdivision as soon as reasonably practicable and maintain a written record of all trainings conducted. With respect to an individual who begins employment with covered broker-dealer, investment adviser, or qualified individual after July first, two thousand twenty-four, such training must be conducted within one year after the date on which the individual becomes employed by or affiliated or associated with the covered broker-dealer, investment adviser, or qualified individual; and (c) develop, maintain, and enforce written procedures regarding the manner in which suspected financial exploitation is reviewed internally, including, if applicable, the manner in which suspected financial exploitation is required to be reported to supervisory personnel.

7. Immunity. A broker-dealer, investment adviser, or a qualified individual shall be immune from civil and administrative liability for good faith actions in relation to the application of this section.

8. Regulations. The attorney general may promulgate regulations to effectuate the purposes of this section, including setting forth factors that a broker-dealer, investment adviser, or qualified individual may consider in determining whether to apply a transaction hold to a transaction pursuant to paragraph (a) of subdivision one of this section, the form and manner of any notification mandated by subdivision one of this section, and the implementation of training programs for a broker-dealer, investment adviser, or qualified individual relating to recognizing financial exploitation.

9. Communication with reporters. Notwithstanding any other law to the contrary, adult protective services, law enforcement or any agency of competent jurisdiction may provide a general case status or final disposition to a broker-dealer, investment adviser, or qualified individual that reported such a case to an agency.

10. Alteration of obligations. Absent a reasonable belief of financial exploitation as provided in this section, this section does not otherwise alter a broker-dealer, investment adviser, or qualified individual's obligations to all parties authorized to transact business on an account and any trusted contact named on such account.

§ 2. The banking law is amended by adding a new section 4-d to read as follows:

§ 4-d. Protecting eligible adults from financial exploitation. 1. Definitions. As used in this section the following terms shall have the following meanings:

(a) "Adult protective services" means the division of the New York city human resources administration and each county agency responsible for providing adult protective services pursuant to section four hundred seventy-three of the social services law.

(b) "Banking institution" means any bank, trust company, savings bank, savings and loan association, credit union or branch of a foreign banking corporation that is chartered, organized or licensed under the laws of this state or any other state or the United States, and, in the ordinary course of business offers deposit accounts in this state.

(c) "Financial exploitation" means: (i) the improper use of an eligible adult's funds, property, income or assets; or (ii) any act or omission by a person, including through the use of a power of attorney, guardianship or any other authority regarding an eligible adult to: (A) obtain control, through deception, intimidation, threats or undue influence over the eligible adult's money, assets, income or property; or

(B) convert the eligible adult's money, assets, income or property.

(d) "Law enforcement agency" means any agency, which is empowered by law to make an arrest for a felony, and any agency which is authorized by law to prosecute a felony and including any police officer as defined by subdivision thirty-four of section 1.20 of the criminal procedure law and any prosecutor.

(e) "Eligible adult" means an individual who is: sixty years of age or older; or at least the age of eighteen and who, because of mental or physical impairment, is unable to manage their own resources or protect themselves from financial exploitation without assistance from others.

2. Application of transaction hold. (a) If a banking institution or an employee of a banking institution reasonably believes that a financial exploitation of an eligible adult may have occurred, may have been attempted, or is being attempted, then the banking institution may place a transaction hold on such transaction.

(b) A banking institution shall apply a transaction hold to a transaction if adult protective services or a law enforcement agency notifies the banking institution that it reasonably believes that the transaction is the subject of or related to financial exploitation of an eligible adult.

(c) A banking institution that applies a transaction hold shall: (i) provide notice of such hold, in writing, to all parties authorized to transact business on the account that is the subject of a transaction hold, as well any designated third party, no later than two business days after the application of the transaction hold; (ii) if the transaction hold has been applied pursuant to paragraph (a) of this subdivision, no later than two business days after application of the transaction hold, notify adult protective services and/or a law enforcement agency of the belief of financial exploitation and the transaction hold; and (iii) at the request of adult protective services or a law enforcement agency, provide any information and documents relating to the transaction hold within three business days after the request for such information or documents.

3. Trainings and written procedures. Before placing a delay on a disbursement or transaction pursuant to this section, a financial institution must do all of the following:

(a) Develop training policies or programs reasonably designed to educate employees who perform or approve transactions on behalf of customers on issues pertaining to financial exploitation of specified adults.

(b) Conduct training for employees described in paragraph (a) of this subdivision as soon as reasonably practicable and maintain a written record of all trainings conducted. With respect to an individual who begins employment with a covered financial institution after July first, two thousand twenty-four, such training must be conducted within one year after the date on which the individual becomes employed by or affiliated or associated with the covered financial institution.

(c) Develop, maintain, and enforce written procedures regarding the manner in which suspected financial exploitation is reviewed internally,

including, if applicable, the manner in which suspected financial exploitation is required to be reported to supervisory personnel.

4. Notification. If a banking institution reasonably believes financial exploitation of an eligible adult has occurred, has been attempted, or is being attempted, the banking institution may promptly notify the adult protective services and law enforcement.

5. Duration of transaction hold. A transaction hold shall expire fifteen business days after its application except that (i) a transaction hold may be extended for up to forty additional business days upon request if there is a continued reasonable belief of exploitation, unless sooner terminated or further extended by adult protective services, law enforcement, any agency of competent jurisdiction or a court of competent jurisdiction; (ii) if a banking institution no longer reasonably believes that a transaction is the subject of or related to financial exploitation, it shall release such transaction, provided that adult protective services or the law enforcement agency that the banking institution has notified of such hold pursuant to subparagraph (i) of paragraph (c) of subdivision two of this section does not object.

6. Records. A banking institution shall provide access to or copies of records that are relevant to the suspected or attempted financial exploitation of an eligible adult to adult protective services, an agency of competent jurisdiction, and law enforcement, either as part of a notification or at the request of adult protective services, a law enforcement agency, or an agency of competent jurisdiction. All records made available to adult protective services, an agency of competent jurisdiction, or law enforcement shall be considered confidential records and shall not be available for examination by the public.

7. Regulations. The superintendent may promulgate regulations to effectuate the purposes of this section, including setting forth factors that a banking institution may consider in determining whether to apply a transaction hold to a transaction pursuant to paragraph (a) of subdivision two of this section, the form and manner of any notification mandated by subdivision two of this section, and the implementation of training programs for banking institution staff relating to recognizing financial exploitation.

8. Immunity. A banking institution or an employee of a banking institution shall be immune from civil and administrative liability for good faith actions in relation to the application of this section.

9. Communication with reporters. Notwithstanding any other law to the contrary, adult protective services, law enforcement or any agency of competent jurisdiction may provide a general case status or final disposition to a banking institution that reported such a case to an agency.

10. Absent a reasonable belief of financial exploitation as provided in this section, this section does not otherwise alter a financial institution's obligations to all parties authorized to transact business on an account and any trusted contact named on such account.

§ 3. Section 473 of the social services law is amended by adding a new subdivision 5-a to read as follows:

5-a. Whenever a social services official, or their designee authorized or required to determine the need for, or to provide or arrange for the provision of protective services to adults in accordance with the provisions of this title has a reason to believe that financial exploitation of an eligible adult has occurred, has been attempted, or is being attempted, the social services official or their designee must report this information to the appropriate law enforcement agency and notify any broker-dealer, investment adviser, or banking institution

involved in the relevant financial transactions of the need to hold a transaction.

§ 4. Paragraph (g) of subdivision 6 of section 473 of the social services law, as added by chapter 395 of the laws of 1995, is amended to read as follows:

(g) "Financial exploitation" means:

(i) the improper use of an adult's funds, property, income or [~~resources by another individual, including but not limited to, fraud, false pretenses, embezzlement, conspiracy, forgery, falsifying records, coerced property transfers or denial of access to assets~~] assets; or

(ii) any act or omission by a person, including through the use of a power of attorney, guardianship or any other authority regarding an adult to: (A) obtain control, through deception, intimidation, threats or undue influence over the adult's money, assets, income or property; or (B) convert the adult's money, assets, income or property.

§ 5. This act shall take effect on the one hundred eightieth day after it shall have become a law.