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LEGISLATIVE ACTION

Senate

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House

The Committee on Banking and Insurance (Gibson) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (a) of subsection (1) of section
415.1034, Florida Statutes, is amended to read:

415.1034 Mandatory reporting of abuse, neglect, or
exploitation of vulnerable adults; mandatory reports of death.—

(1) MANDATORY REPORTING.—

(a) Any person, including, but not limited to, any:



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- 11 1. Physician, osteopathic physician, medical examiner,
12 chiropractic physician, nurse, paramedic, emergency medical
13 technician, or hospital personnel engaged in the admission,
14 examination, care, or treatment of vulnerable adults;
- 15 2. Health professional or mental health professional other
16 than one listed in subparagraph 1.;
- 17 3. Practitioner who relies solely on spiritual means for
18 healing;
- 19 4. Nursing home staff; assisted living facility staff;
20 adult day care center staff; adult family-care home staff;
21 social worker; or other professional adult care, residential, or
22 institutional staff;
- 23 5. State, county, or municipal criminal justice employee or
24 law enforcement officer;
- 25 6. Employee of the Department of Business and Professional
26 Regulation conducting inspections of public lodging
27 establishments under s. 509.032;
- 28 7. Florida advocacy council or Disability Rights Florida
29 member or a representative of the State Long-Term Care Ombudsman
30 Program; ~~or~~
- 31 8. Bank, savings and loan, or credit union officer,
32 trustee, or employee; or
- 33 9. Dealer, investment adviser, or associated person under
34 chapter 517,
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36 who knows, or has reasonable cause to suspect, that a vulnerable
37 adult has been or is being abused, neglected, or exploited must
38 ~~shall~~ immediately report such knowledge or suspicion to the
39 central abuse hotline.



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40 Section 2. Section 517.34, Florida Statutes, is created to
41 read:

42 517.34 Protection of specified adults.—

43 (1) As used in this section, the term:

44 (a) "Exploitation" means the wrongful or unauthorized
45 taking, withholding, appropriation, or use of money, assets, or
46 property of a specified adult, or any act or omission by a
47 person, including through the use of a power of attorney,
48 guardianship, or conservatorship of a specified adult, to:

49 1. Obtain control over the specified adult's money, assets,
50 or property through deception, intimidation, or undue influence
51 to deprive him or her of the ownership, use, benefit, or
52 possession of the money, assets, or property; or

53 2. Convert the specified adult's money, assets, or property
54 to deprive him or her of the ownership, use, benefit, or
55 possession of the money, assets, or property.

56 (b) "Specified adult" means a natural person 65 years of
57 age or older or a vulnerable adult as defined in s. 415.102.

58 (c) "Trusted contact" means a natural person 18 years of
59 age or older whom the account owner has expressly identified and
60 who is recorded in a dealer's or an investment adviser's books
61 and records as the person who may be contacted about the
62 account.

63 (2) A dealer or an investment adviser may delay a
64 transaction on, or a disbursement of funds or securities from,
65 an account of a specified adult or an account for which a
66 specified adult is a beneficiary or beneficial owner if the
67 dealer or investment adviser reasonably believes that
68 exploitation of the specified adult has occurred, is occurring,



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69 has been attempted, or will be attempted in connection with the
70 transaction or disbursement.

71 (a) The dealer's or investment adviser's reasonable belief
72 of exploitation may be based on the facts and circumstances
73 observed in such dealer's, investment adviser's, or associated
74 person's relationship with the specified adult.

75 (b)1. Within 3 business days after the date on which the
76 delay was first placed, the dealer or investment adviser must
77 notify in writing, which may be provided electronically, all
78 parties authorized to transact business on the account and any
79 trusted contact on the account, using the contact information
80 provided for the account, of the delay and the reason for the
81 delay, unless the dealer or investment adviser reasonably
82 believes that any such party engaged or is engaging in the
83 suspected exploitation of the specified adult.

84 2. Within 3 business days after the date on which the delay
85 was first placed, the dealer or investment adviser must notify
86 the office by telephone using a number designated by the office
87 for such purpose, or in writing, which may be provided
88 electronically, of the delay and the reason for the delay.

89 3. Notwithstanding any law to the contrary, the Department
90 of Children and Families may provide the status or result of any
91 investigation with the reporting dealer or investment adviser.

92 (3) A delay on a transaction or disbursement under
93 subsection (2) expires 15 business days after the date on which
94 the delay was first placed. However, the dealer or investment
95 adviser may extend the delay for up to 10 additional business
96 days if the dealer's or investment adviser's review of the
97 available facts and circumstances continues to support such



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98 dealer's or investment adviser's reasonable belief that
99 exploitation of the specified adult has occurred, is occurring,
100 has been attempted, or will be attempted. A dealer or investment
101 adviser extending the delay shall notify the office within 3
102 business days after the start of the extension using the
103 procedure specified in subparagraph (2)(b)2. The length of the
104 delay may be shortened or extended at any time by a court of
105 competent jurisdiction. This subsection does not prevent a
106 dealer or investment adviser from terminating a delay after
107 communication with the parties authorized to transact business
108 on the account and any trusted contact on the account.

109 (4) A dealer or investment adviser subject to the
110 jurisdiction of the office must make available to the office,
111 upon request, all records relating to a delay or notification
112 made by the dealer or investment adviser pursuant to this
113 section.

114 (5) A dealer, investment adviser, or associated person who
115 delays or participates in the delay of a transaction or
116 disbursement pursuant to this section, who provides records to
117 an agency of competent jurisdiction pursuant to this section, or
118 who participates in a judicial or arbitration proceeding
119 resulting therefrom is presumed to be acting based upon a
120 reasonable belief of exploitation and is immune from any civil
121 or administrative liability that otherwise might be incurred or
122 imposed, unless lack of such reasonable belief is shown by a
123 preponderance of the evidence. This subsection does not
124 supersede or diminish any immunity under chapter 415.

125 (6) (a) Before placing a delay on a transaction or
126 disbursement pursuant to this section, a dealer or investment



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127 adviser shall develop training policies or programs reasonably
128 designed to educate associated persons on issues pertaining to
129 exploitation, develop and maintain written procedures regarding
130 the manner in which suspected exploitation is required to be
131 reported to supervisory personnel, when applicable, and conduct
132 periodic training for all associated persons.

133 (b) The dealer or investment adviser shall maintain a
134 written record of compliance with this subsection.

135 (7) This section does not create new rights or obligations
136 of a dealer, investment adviser, or associated person under
137 other applicable laws or rules. In addition, this section does
138 not limit the right of a dealer, an investment adviser, or an
139 associated person to otherwise refuse or place a delay on a
140 transaction or disbursement under other applicable laws or rules
141 or under an applicable customer agreement.

142 (8) Absent a reasonable belief of exploitation as provided
143 in this section, this section does not alter a dealer's, an
144 investment adviser's, or an associated person's obligation to
145 comply with instructions from a client to close an account or
146 transfer an account to another dealer, investment adviser, or
147 associated person.

148 Section 3. This act shall take effect July 1, 2019.

150 ===== T I T L E A M E N D M E N T =====

151 And the title is amended as follows:

152 Delete everything before the enacting clause
153 and insert:

154 A bill to be entitled
155 An act relating to the protection of vulnerable



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156 investors; amending s. 415.1034, F.S.; requiring
157 securities dealers, investment advisers, and
158 associated persons to immediately report knowledge or
159 suspicion of abuse, neglect, or exploitation of
160 vulnerable adults to the Department of Children and
161 Families' central abuse hotline; creating s. 517.34,
162 F.S.; defining terms; authorizing dealers and
163 investment advisers to delay certain transactions or
164 disbursements based on a reasonable belief of
165 exploitation of a specified adult; specifying the
166 basis for such reasonable belief; requiring a dealer
167 or investment adviser to notify certain persons and
168 the Office of Financial Regulation of such delays
169 within a specified timeframe; authorizing the
170 Department of Children and Families to provide
171 information regarding certain investigations;
172 specifying the expiration of such delays; authorizing
173 a dealer or investment adviser to extend a delay under
174 certain circumstances; providing that the length of
175 such delays may be shortened or extended by a court of
176 competent jurisdiction; providing that delays may be
177 terminated by dealers or investment advisers under
178 certain circumstances; requiring that certain records
179 be made available to the office; providing immunity
180 from civil and administrative liability for dealers,
181 investment advisers, and associated persons for
182 certain actions based on a reasonable belief of
183 exploitation; requiring dealers and investment
184 advisers to develop and conduct periodic training for



185 associated persons and to maintain written records of
186 compliance with such requirement; providing
187 construction; providing an effective date.