

By Senator Broxson

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1                   A bill to be entitled  
2           An act relating to the protection of vulnerable  
3           investors; amending s. 415.1034, F.S.; requiring  
4           securities dealers, investment advisers, and  
5           associated persons to immediately report knowledge or  
6           suspicion of abuse, neglect, or exploitation of  
7           vulnerable adults to the Department of Children and  
8           Families' central abuse hotline; creating s. 517.34,  
9           F.S.; defining terms; providing legislative findings  
10          and intent; authorizing dealers and investment  
11          advisers to delay disbursements or transactions of  
12          funds or securities from certain accounts associated  
13          with specified adults if certain conditions are met;  
14          specifying the expiration of a delay; authorizing  
15          dealers and investment advisers to extend delays under  
16          certain circumstances; providing requirements for  
17          notifying the Office of Financial Regulation;  
18          authorizing a court of competent jurisdiction to  
19          shorten or extend a delay; requiring dealers and  
20          investment advisers to make certain records available  
21          to the office upon request; providing for  
22          administrative and civil immunity for dealers,  
23          investment advisers, and associated persons;  
24          specifying training and written procedures  
25          requirements for dealers and investment advisers  
26          before they may place a delay; providing for  
27          rulemaking by the Financial Services Commission;  
28          providing construction; providing an effective date.  
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30 Be It Enacted by the Legislature of the State of Florida:

31  
32 Section 1. Paragraph (a) of subsection (1) of section  
33 415.1034, Florida Statutes, is amended to read:

34 415.1034 Mandatory reporting of abuse, neglect, or  
35 exploitation of vulnerable adults; mandatory reports of death.-

36 (1) MANDATORY REPORTING.-

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

38 1. Physician, osteopathic physician, medical examiner,  
39 chiropractic physician, nurse, paramedic, emergency medical  
40 technician, or hospital personnel engaged in the admission,  
41 examination, care, or treatment of vulnerable adults;

42 2. Health professional or mental health professional other  
43 than one listed in subparagraph 1.;

44 3. Practitioner who relies solely on spiritual means for  
45 healing;

46 4. Nursing home staff; assisted living facility staff;  
47 adult day care center staff; adult family-care home staff;  
48 social worker; or other professional adult care, residential, or  
49 institutional staff;

50 5. State, county, or municipal criminal justice employee or  
51 law enforcement officer;

52 6. Employee of the Department of Business and Professional  
53 Regulation conducting inspections of public lodging  
54 establishments under s. 509.032;

55 7. Florida advocacy council or Disability Rights Florida  
56 member or a representative of the State Long-Term Care Ombudsman  
57 Program; ~~or~~

58 8. Bank, savings and loan, or credit union officer,

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59 trustee, or employee; or

60 9. Dealer, investment adviser, or associated person under  
61 chapter 517,

62  
63 who knows, or has reasonable cause to suspect, that a vulnerable  
64 adult has been or is being abused, neglected, or exploited must  
65 ~~shall~~ immediately report such knowledge or suspicion to the  
66 central abuse hotline.

67 Section 2. Section 517.34, Florida Statutes, is created to  
68 read:

69 517.34 Protection of specified adults.-

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

71 (a) "Financial exploitation" means the wrongful or  
72 unauthorized taking, withholding, appropriation, or use of  
73 money, assets, or property of a specified adult; or any act or  
74 omission by a person, including through the use of a power of  
75 attorney, guardianship, or conservatorship of a specified adult,  
76 to:

77 1. Obtain control over the specified adult's money, assets,  
78 or property through deception, intimidation, or undue influence  
79 to deprive him or her of the ownership, use, benefit, or  
80 possession of the money, assets, or property; or

81 2. Convert the specified adult's money, assets, or property  
82 to deprive him or her of the ownership, use, benefit, or  
83 possession of the money, assets, or property.

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

86 (c) "Trusted contact" means a natural person 18 years of  
87 age or older who the account owner has expressly identified and

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88 who is recorded in a dealer's or investment adviser's books and  
89 records as the person who may be contacted about the account.

90 (2) The Legislature finds that many persons in this state,  
91 because of age or disability, are at increased risk of financial  
92 exploitation and loss of their assets, funds, investments, and  
93 investment accounts. The Legislature further finds that senior  
94 investors in this state are at a statistically higher risk of  
95 being targeted for financial exploitation, regardless of  
96 diminished capacity or other disability, because of their  
97 accumulation of substantial assets and wealth compared to  
98 younger age groups. In enacting this section, the Legislature  
99 recognizes the freedom of specified adults to manage their  
100 assets, make investment choices, and spend their funds, and  
101 intends that such rights may not be infringed absent a  
102 reasonable belief of financial exploitation as provided in this  
103 section. The Legislature therefore intends to provide for the  
104 prevention of financial exploitation of such persons. The  
105 Legislature intends to encourage the constructive involvement of  
106 securities dealers, investment advisers, and associated persons  
107 who take action based upon the reasonable belief that specified  
108 adults with investment accounts have been or are the subject of  
109 exploitation, and to provide securities dealers, investment  
110 advisers, and associated persons immunity from liability for  
111 taking actions as authorized herein. The Legislature intends to  
112 balance the rights of specified adults to direct and control  
113 their assets, funds, and investments and exercise their  
114 constitutional rights consistent with due process with the need  
115 to provide securities dealers, investment advisers, and  
116 associated persons the ability to place narrow, time-limited

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117 restrictions on these rights in an effort to decrease specified  
118 adults' risk of loss due to abuse, neglect, or exploitation.

119 (3) A dealer or investment adviser may delay a disbursement  
120 or transaction of funds or securities from an account of a  
121 specified adult or an account for which a specified adult is a  
122 beneficiary or beneficial owner if all of the following apply:

123 (a) The dealer or investment adviser reasonably believes  
124 that financial exploitation of the specified adult has occurred,  
125 is occurring, has been attempted, or will be attempted in  
126 connection with the disbursement or transaction.

127 (b) Not later than 3 business days after the date on which  
128 the delay was first placed, the dealer or investment adviser  
129 notifies in writing all parties authorized to transact business  
130 on the account and any trusted contact on the account, using the  
131 contact information provided for the account, with the exception  
132 of any party the dealer or investment adviser reasonably  
133 believes engaged or is engaging in the suspected financial  
134 exploitation of the specified adult. The notice, which may be  
135 provided electronically, must provide the reason for the delay.

136 (c) Not later than 3 business days after the date on which  
137 the delay was first placed, the dealer or investment adviser  
138 notifies the office of the delay by telephone using a number  
139 designated by the office for such purpose or electronically on a  
140 form prescribed by commission rule. The notice must identify the  
141 dealer or investment adviser that made the delay, the name of  
142 the person who authorized the delay, and the date on which the  
143 delay was made.

144 (d) The dealer or investment adviser immediately initiates  
145 an internal review of the facts and circumstances that caused

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146 the dealer or investment adviser to reasonably believe that the  
147 financial exploitation of the specified adult has occurred, is  
148 occurring, has been attempted, or will be attempted.

149 (4) A delay on a disbursement or transaction under  
150 subsection (3) expires 15 business days after the date on which  
151 the delay was first placed. However, the dealer or investment  
152 adviser may extend the delay for up to 10 additional business  
153 days if the dealer's or investment adviser's review of the  
154 available facts and circumstances continues to support such  
155 dealer's or investment adviser's reasonable belief that  
156 financial exploitation of the specified adult has occurred, is  
157 occurring, has been attempted, or will be attempted. A dealer or  
158 investment adviser who extends a delay shall notify the office  
159 in accordance with paragraph (3) (c) not later than 3 business  
160 days after the date on which the extension was applied. The  
161 notice must identify the dealer or investment adviser that  
162 extended the delay and the date on which the delay was  
163 originally made. The length of the delay may be shortened or  
164 extended at any time by a court of competent jurisdiction. This  
165 subsection does not prevent a dealer or investment adviser from  
166 terminating a delay after communication with the parties  
167 authorized to transact business on the account and any trusted  
168 contact on the account.

169 (5) A dealer or investment adviser must make available to  
170 the office, upon request, all records relating to a delay made  
171 by the dealer or investment adviser pursuant to this section, as  
172 prescribed by commission rule.

173 (6) A dealer, an investment adviser, or an associated  
174 person who in good faith and exercising reasonable care complies

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175 with this section is immune from any administrative or civil  
176 liability that might otherwise arise from such delay in a  
177 disbursement or transaction in accordance with this section.  
178 This subsection does not supersede or diminish any immunity  
179 granted under chapter 415.

180 (7) Before placing a delay on a disbursement or transaction  
181 pursuant to this section, a dealer or an investment adviser  
182 shall do all of the following:

183 (a) Develop training policies or programs reasonably  
184 designed to educate associated persons on issues pertaining to  
185 financial exploitation.

186 (b) Conduct training for all associated persons at least  
187 annually and maintain a written record of all trainings  
188 conducted.

189 (c) Develop, maintain, and enforce written procedures  
190 regarding the manner in which suspected financial exploitation  
191 is reviewed internally, including, if applicable, the manner in  
192 which suspected financial exploitation is required to be  
193 reported to supervisory personnel.

194 (8) Absent a reasonable belief of financial exploitation as  
195 provided in this section, this section does not alter a  
196 dealer's, an investment adviser's, or an associated person's  
197 obligation to comply with instructions from a client to buy or  
198 sell securities, disburse funds or transfer securities from an  
199 account, close an account, or transfer an account to another  
200 dealer, investment adviser, or associated person.

201 (9) This section does not create new rights for or impose  
202 new obligations on a dealer, an investment adviser, or an  
203 associated person under other applicable law. This section does

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204 not limit the right of a dealer, an investment adviser, or an  
205 associated person to otherwise refuse or place a delay on a  
206 disbursement or transaction under other applicable law or under  
207 an applicable customer agreement.

208 Section 3. This act shall take effect July 1, 2020.