

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.; providing definitions; authorizing dealers and
10 investment advisers to delay certain transactions or
11 disbursements based on a reasonable belief of
12 exploitation of a specified adult; providing the basis
13 for such reasonable belief; requiring a dealer or
14 investment adviser to notify certain persons and the
15 Office of Financial Regulation of such delays within a
16 specified timeframe; authorizing the Department of
17 Children and Families to provide information to such
18 dealer or investment adviser regarding certain
19 investigations; specifying the expiration of such
20 delays; authorizing a dealer or investment adviser to
21 extend a delay under certain circumstances; requiring
22 a dealer or investment adviser to notify the office
23 within a specified timeframe after such extension
24 begins; providing that the length of such delays may
25 be shortened or extended by a court of competent

26 jurisdiction; providing that delays may be terminated
27 by dealers or investment advisers under certain
28 circumstances; requiring that certain records be made
29 available to the office; providing immunity from civil
30 and administrative liability for dealers, investment
31 advisers, and associated persons for certain actions
32 based on a reasonable belief of exploitation;
33 requiring dealers and investment advisers to develop
34 and conduct periodic training for associated persons
35 and maintain written records of compliance with such
36 requirement; providing construction; providing an
37 effective date.

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39 Be It Enacted by the Legislature of the State of Florida:

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41 Section 1. Paragraph (a) of subsection (1) of section
42 415.1034, Florida Statutes, is amended to read:

43 415.1034 Mandatory reporting of abuse, neglect, or
44 exploitation of vulnerable adults; mandatory reports of death.—

45 (1) MANDATORY REPORTING.—

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

47 1. Physician, osteopathic physician, medical examiner,
48 chiropractic physician, nurse, paramedic, emergency medical
49 technician, or hospital personnel engaged in the admission,
50 examination, care, or treatment of vulnerable adults;

51 2. Health professional or mental health professional other
52 than one listed in subparagraph 1.;

53 3. Practitioner who relies solely on spiritual means for
54 healing;

55 4. Nursing home staff; assisted living facility staff;
56 adult day care center staff; adult family-care home staff;
57 social worker; or other professional adult care, residential, or
58 institutional staff;

59 5. State, county, or municipal criminal justice employee
60 or law enforcement officer;

61 6. Employee of the Department of Business and Professional
62 Regulation conducting inspections of public lodging
63 establishments under s. 509.032;

64 7. Florida advocacy council or Disability Rights Florida
65 member or a representative of the State Long-Term Care Ombudsman
66 Program; ~~or~~

67 8. Bank, savings and loan, or credit union officer,
68 trustee, or employee; or

69 9. Dealer, investment adviser, or associated person under
70 chapter 517,

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72 who knows, or has reasonable cause to suspect, that a vulnerable
73 adult has been or is being abused, neglected, or exploited must
74 ~~shall~~ immediately report such knowledge or suspicion to the
75 central abuse hotline.

76 Section 2. Section 517.34, Florida Statutes, is created to
 77 read:

78 517.34 Protection of specified adults.-

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

80 (a) "Exploitation" means the wrongful or unauthorized
 81 taking, withholding, appropriation, or use of money, assets, or
 82 property of a specified adult, or any act or omission by a
 83 person, including through the use of a power of attorney,
 84 guardianship, or conservatorship of a specified adult, to:

85 1. Obtain control over the specified adult's money,
 86 assets, or property through deception, intimidation, or undue
 87 influence to deprive him or her of the ownership, use, benefit,
 88 or possession of his or her money, assets, or property; or

89 2. Convert the specified adult's money, assets, or
 90 property to deprive him or her of the ownership, use, benefit,
 91 or possession of his or her money, assets, or property.

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

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

98 (2) A dealer or investment adviser may delay a transaction
 99 on, or a disbursement of funds or securities from, an account of
 100 a specified adult or an account for which a specified adult is a

101 beneficiary or beneficial owner if the dealer or investment
102 adviser reasonably believes that exploitation of the specified
103 adult has occurred, is occurring, has been attempted, or will be
104 attempted in connection with the transaction or disbursement.

105 (a) The dealer's or investment adviser's reasonable belief
106 of exploitation may be based on the facts and circumstances
107 observed in such dealer's or investment adviser's, or an
108 associated person's, business relationship with the specified
109 adult.

110 (b)1. Within 3 business days after the date on which the
111 delay was first placed, the dealer or investment adviser must
112 provide written notice, which may be transmitted electronically,
113 to all parties authorized to transact business on the account
114 and any trusted contact on the account, using the contact
115 information provided for the account, of the delay and the
116 reason for the delay, unless the dealer or investment adviser
117 reasonably believes that any such party has engaged in, is
118 engaging in, has attempted to engage in, or will attempt to
119 engage in the suspected exploitation of the specified adult.

120 2. Within 3 business days after the date on which the
121 delay was first placed, the dealer or investment advisor must
122 notify the office by telephone using a number designated by the
123 office for such purpose, or in writing, which may be transmitted
124 electronically, of the delay and the reason for the delay.

125 3. Notwithstanding any law to the contrary, the Department
126 of Children and Families may provide the status or result of any
127 investigation to a dealer or investment adviser who has made a
128 report to the central abuse hotline pursuant to s. 415.1034.

129 (3) A delay on a transaction or disbursement under
130 subsection (2) expires 15 business days after the date on which
131 the delay was first placed. However, the dealer or investment
132 adviser may extend the delay for up to 10 additional business
133 days if the dealer's or investment adviser's review of the
134 available facts and circumstances continues to support such
135 dealer's or investment adviser's reasonable belief that
136 exploitation of the specified adult has occurred, is occurring,
137 has been attempted, or will be attempted. A dealer or investment
138 adviser who extends a delay shall notify the office within 3
139 business days after the date on which such extension begins
140 using the method specified in subparagraph (2)(b)2. The length
141 of the delay may be shortened or extended at any time by a court
142 of competent jurisdiction. This subsection does not prevent a
143 dealer or investment adviser from terminating a delay after
144 communication with the parties authorized to transact business
145 on the account and any trusted contact on the account.

146 (4) A dealer or investment adviser subject to the
147 jurisdiction of the office must make available to the office,
148 upon request, all records relating to a delay or notification

149 made by the dealer or investment adviser pursuant to this
150 section.

151 (5) A dealer, investment adviser, or associated person who
152 delays or participates in the delay of a transaction or
153 disbursement pursuant to this section, who provides records to
154 an agency of competent jurisdiction pursuant to this section, or
155 who participates in a judicial or arbitration proceeding
156 resulting therefrom is presumed to be acting based upon a
157 reasonable belief of exploitation and is immune from any civil
158 or administrative liability that otherwise might be incurred or
159 imposed, unless lack of such reasonable belief is shown by a
160 preponderance of the evidence. This subsection does not
161 supersede or diminish any immunity under chapter 415.

162 (6) (a) Before placing a delay on a transaction or
163 disbursement pursuant to this section, a dealer or investment
164 adviser must develop training policies or programs reasonably
165 designed to educate associated persons on issues pertaining to
166 exploitation, must develop and maintain written procedures
167 regarding the manner in which suspected exploitation is required
168 to be reported to supervisory personnel, when applicable, and
169 must conduct periodic training for all associated persons.

170 (b) The dealer or investment adviser must maintain a
171 written record of compliance with this subsection.

172 (7) This section does not create new rights or obligations
173 of a dealer, investment adviser, or associated person under

174 other applicable laws or rules. In addition, this section does
175 not limit the right of a dealer, investment adviser, or
176 associated person to otherwise refuse or place a delay on a
177 transaction or disbursement under other applicable laws or rules
178 or under an applicable customer agreement.

179 (8) Absent a reasonable belief of exploitation as provided
180 in this section, this section does not alter a dealer's,
181 investment adviser's, or associated person's obligation to
182 comply with instructions from a client to close an account or
183 transfer an account to another dealer, investment adviser, or
184 associated person.

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