

By Senator Rouson

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1 A bill to be entitled
2 An act relating to protection of specified adults;
3 creating s. 415.10341, F.S.; defining terms; providing
4 legislative findings and intent; authorizing financial
5 institutions, under certain circumstances, to delay a
6 disbursement or transaction from an account of a
7 specified adult; requiring the financial institution
8 to make certain information available upon request by
9 certain entities; specifying that a delay on a
10 disbursement or transaction expires on a certain date;
11 authorizing the financial institution to extend the
12 delay under certain circumstances; authorizing a court
13 of competent jurisdiction to shorten or extend the
14 delay; providing construction; granting financial
15 institutions immunity from certain liability;
16 providing construction; requiring financial
17 institutions to take certain actions before placing a
18 delay on a disbursement or transaction; providing
19 construction; providing an effective date.

20
21 Be It Enacted by the Legislature of the State of Florida:

22
23 Section 1. Section 415.10341, Florida Statutes, is created
24 to read:

25 415.10341 Protection of specified adults.-

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

27 (a) "Financial exploitation" means the wrongful or
28 unauthorized taking, withholding, appropriation, or use of
29 money, assets, or property of a specified adult; or any act or

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30 omission by a person, including through the use of a power of
31 attorney, guardianship, or conservatorship of a specified adult,
32 to:

33 1. Obtain control over the specified adult's money, assets,
34 or property through deception, intimidation, or undue influence
35 to deprive him or her of the ownership, use, benefit, or
36 possession of the money, assets, or property; or

37 2. Divert the specified adult's money, assets, or property
38 to deprive him or her of the ownership, use, benefit, or
39 possession of the money, assets, or property.

40 (b) "Financial institution" means a state financial
41 institution or a federal financial institution as those terms
42 are defined under s. 655.005(1).

43 (c) "Specified adult" means a natural person 65 years of
44 age or older, or a vulnerable adult as defined in s. 415.102.

45 (d) "Trusted contact" means a natural person 18 years of
46 age or older whom the account owner has expressly identified and
47 recorded in a financial institution's books and records as the
48 person who may be contacted about the account.

49 (2) The Legislature finds that many persons in this state,
50 because of age or disability, are at increased risk of financial
51 exploitation and loss of their assets, funds, investments, and
52 investment accounts. The Legislature further finds that
53 specified adults in this state are at a statistically higher
54 risk of being targeted for financial exploitation, regardless of
55 diminished capacity or other disability, because of their
56 accumulation of substantial assets and wealth compared to
57 younger age groups. In enacting this section, the Legislature
58 recognizes the freedom of specified adults to manage their

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59 assets, make investment choices, and spend their funds, and
60 intends that such rights may not be infringed absent a
61 reasonable belief of financial exploitation as provided in this
62 section. The Legislature therefore intends to provide for the
63 prevention of financial exploitation of such persons. The
64 Legislature intends to encourage the constructive involvement of
65 financial institutions that take action based upon the
66 reasonable belief that specified adults who have accounts with
67 such financial institutions have been or are the subject of
68 financial exploitation, and to provide financial institutions
69 and their employees immunity from liability for taking actions
70 as authorized herein. The Legislature intends to balance the
71 rights of specified adults to direct and control their assets,
72 funds, and investments and to exercise their constitutional
73 rights consistent with due process with the need to provide
74 financial institutions the ability to place narrow, time-limited
75 restrictions on these rights in an effort to decrease specified
76 adults' risk of loss due to abuse, neglect, or financial
77 exploitation.

78 (3) If a financial institution reports suspected financial
79 exploitation of a specified adult pursuant to s. 415.1034, it
80 may delay a disbursement or transaction from an account of a
81 specified adult or an account for which a specified adult is a
82 beneficiary or beneficial owner if all of the following apply:

83 (a) The financial institution immediately initiates an
84 internal review of the facts and circumstances that caused an
85 employee of the financial institution to report suspected
86 financial exploitation.

87 (b) Not later than 3 business days after the date on which

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88 the delay was first placed, the financial institution:

89 1. Notifies in writing all parties authorized to transact
90 business on the account and any trusted contact on the account,
91 using the contact information provided for the account, with the
92 exception of any party an employee of the financial institution
93 reasonably believes has engaged in, is engaging in, has
94 attempted to engage in, or will attempt to engage in the
95 suspected financial exploitation of the specified adult. The
96 notice, which may be provided electronically, must provide the
97 reason for the delay.

98 2. Creates and maintains for at least 5 years from the date
99 of the delayed disbursement or transaction a written or
100 electronic record of the delayed disbursement or transaction
101 that includes, at minimum, the following information:

102 a. The date on which the delay was first placed.

103 b. The name and address of the specified adult.

104 c. The business location of the financial institution.

105 d. The name and title of the employee who reported
106 suspected financial exploitation of the specified adult pursuant
107 to s. 415.1034.

108 e. The facts and circumstances that caused the employee to
109 report suspected financial exploitation.

110 (4) The financial institution must make the information
111 required in subparagraph (3) (b)2. available for review upon
112 request by the department, any law enforcement agency conducting
113 an investigation under s. 415.104, or any state or federal
114 agency with regulatory authority over the financial institution.

115 (5) A delay on a disbursement or transaction under
116 subsection (3) expires 15 business days after the date on which

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117 the delay was first placed. However, the financial institution
118 may extend the delay for up to 10 additional business days if
119 the financial institution's review of the available facts and
120 circumstances continues to support the reasonable belief that
121 financial exploitation of the specified adult has occurred, is
122 occurring, has been attempted, or will be attempted. The length
123 of the delay may be shortened or extended at any time by a court
124 of competent jurisdiction. This subsection does not prevent a
125 financial institution from terminating a delay after
126 communication with the parties authorized to transact business
127 on the account and any trusted contact on the account.

128 (6) A financial institution that acts in good faith and
129 exercises reasonable care to comply with this section is immune
130 from any administrative or civil liability that might otherwise
131 arise from such delay in a disbursement or transaction in
132 accordance with this section. This subsection does not supersede
133 or diminish any immunity granted elsewhere in this chapter.

134 (7) Before placing a delay on a disbursement or transaction
135 pursuant to this section, a financial institution must do all of
136 the following:

137 (a) Develop training policies or programs reasonably
138 designed to educate employees on issues pertaining to financial
139 exploitation of specified adults.

140 (b) Conduct training for all employees at least annually
141 and maintain a written record of all trainings conducted.

142 (c) Develop, maintain, and enforce written procedures
143 regarding the manner in which suspected financial exploitation
144 is reviewed internally, including, if applicable, the manner in
145 which suspected financial exploitation is required to be

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146 reported to supervisory personnel.

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

152 (9) This section does not create new rights for or impose
153 new obligations on a financial institution under other
154 applicable law.

155 Section 2. This act shall take effect July 1, 2024.