

By the Committee on Banking and Insurance; and Senator Rouson

597-02150-24

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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; specifying that a delay on a
8 disbursement or transaction expires on a certain date;
9 authorizing the financial institution to extend the
10 delay under certain circumstances; authorizing a court
11 of competent jurisdiction to shorten or extend the
12 delay; providing construction; granting financial
13 institutions immunity from certain liability;
14 providing construction; requiring financial
15 institutions to take certain actions before placing a
16 delay on a disbursement or transaction; providing
17 construction; providing an effective date.

18
19 Be It Enacted by the Legislature of the State of Florida:

20
21 Section 1. Section 415.10341, Florida Statutes, is created
22 to read:

23 415.10341 Protection of specified adults.-

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

25 (a) "Financial exploitation" means the wrongful or
26 unauthorized taking, withholding, appropriation, or use of
27 money, assets, or property of a specified adult; or any act or
28 omission by a person, including through the use of a power of
29 attorney, guardianship, or conservatorship of a specified adult,

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30 to:

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

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

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

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

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

47 (2) The Legislature finds that many persons in this state,
48 because of age or disability, are at increased risk of financial
49 exploitation and loss of their assets, funds, investments, and
50 investment accounts. The Legislature further finds that
51 specified adults in this state are at a statistically higher
52 risk of being targeted for financial exploitation, regardless of
53 diminished capacity or other disability, because of their
54 accumulation of substantial assets and wealth compared to
55 younger age groups. In enacting this section, the Legislature
56 recognizes the freedom of specified adults to manage their
57 assets, make investment choices, and spend their funds, and
58 intends that such rights may not be infringed absent a

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59 reasonable belief of financial exploitation as provided in this
60 section. The Legislature therefore intends to provide for the
61 prevention of financial exploitation of such persons. The
62 Legislature intends to encourage the constructive involvement of
63 financial institutions that take action based upon the
64 reasonable belief that specified adults who have accounts with
65 such financial institutions have been or are the subject of
66 financial exploitation, and to provide financial institutions
67 and their employees immunity from liability for taking actions
68 as authorized herein. The Legislature intends to balance the
69 rights of specified adults to direct and control their assets,
70 funds, and investments and to exercise their constitutional
71 rights consistent with due process with the need to provide
72 financial institutions the ability to place narrow, time-limited
73 restrictions on these rights in an effort to decrease specified
74 adults' risk of loss due to abuse, neglect, or financial
75 exploitation.

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

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

85 (b) Not later than 3 business days after the date on which
86 the delay was first placed, the financial institution:

87 1. Notifies in writing all parties authorized to transact

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

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

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

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

102 c. The business location of the financial institution.

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

106 e. The facts and circumstances that caused the employee to
107 report suspected financial exploitation.

108 (4) A delay on a disbursement or transaction under
109 subsection (3) expires 15 business days after the date on which
110 the delay was first placed. However, the financial institution
111 may extend the delay for up to 30 additional business days if
112 the financial institution's review of the available facts and
113 circumstances continues to support the reasonable belief that
114 financial exploitation of the specified adult has occurred, is
115 occurring, has been attempted, or will be attempted. The length
116 of the delay may be shortened or extended at any time by a court

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117 of competent jurisdiction. This subsection does not prevent a
118 financial institution from terminating a delay after
119 communication with the parties authorized to transact business
120 on the account and any trusted contact on the account.

121 (5) A financial institution that acts in good faith and
122 exercises reasonable care to comply with this section is immune
123 from any administrative or civil liability that might otherwise
124 arise from such delay in a disbursement or transaction in
125 accordance with this section. This subsection does not supersede
126 or diminish any immunity granted elsewhere in this chapter.

127 (6) Before placing a delay on a disbursement or transaction
128 pursuant to this section, a financial institution must do all of
129 the following:

130 (a) Develop training policies or programs reasonably
131 designed to educate employees on issues pertaining to financial
132 exploitation of specified adults.

133 (b) Conduct training for all employees as soon as
134 reasonably practicable and maintain a written record of all
135 trainings conducted. With respect to an individual who begins
136 employment with a covered financial institution after July 1,
137 2024, such training must be conducted within 1 year after the
138 date on which the individual becomes employed by or affiliated
139 or associated with the covered financial institution.

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

145 (7) Absent a reasonable belief of financial exploitation as

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146 provided in this section, this section does not otherwise alter
147 a financial institution's obligations to all parties authorized
148 to transact business on an account and any trusted contact named
149 on such account.

150 (8) This section does not create new rights for or impose
151 new obligations on a financial institution under other
152 applicable law.

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