

2021 -- S 0264 SUBSTITUTE A

LC001005/SUB A

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

A N A C T

RELATING TO FINANCIAL INSTITUTIONS -- THE ELDER ADULT FINANCIAL
EXPLOITATION PREVENTION ACT

Introduced By: Senators Coyne, Sosnowski, Valverde, Burke, Seveney, and Euer

Date Introduced: February 10, 2021

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 19 of the General Laws entitled "FINANCIAL INSTITUTIONS" is
2 hereby amended by adding thereto the following chapter:

3 CHAPTER 34

4 THE ELDER ADULT FINANCIAL EXPLOITATION PREVENTION ACT

5 **19-34-1. Definitions.**

6 As used in this chapter:

7 (1) "Department" means the Rhode Island office of healthy aging.

8 (2) "Elder adult" means a person who is sixty (60) years of age or older.

9 (3) "Exploitation" means the fraudulent or otherwise illegal, unauthorized or improper act
10 or process of an individual, including, but not limited to, a caregiver or fiduciary that uses the
11 resources of an elder adult for monetary or personal benefit, profit, gain, or that results in depriving
12 an elder adult of rightful access to, or use of benefits, resources, belongings, or assets by use, undue
13 influence, harassment, duress, deception, false representation or false pretenses, or conduct in
14 violation of § 11-68-2.

15 (4) "Financial exploitation" means:

16 (i) The wrongful or unauthorized taking, withholding, appropriation, or use of the money,
17 assets, or other property or the identifying information of a person; or

18 (ii) Any act or omission taken by a person, including through the use of a power of attorney,

1 guardianship or any other legal authority, regarding an elder adult to:

2 (A) Obtain, control through deception, intimidation, fraud or undue influence, over the
3 other person's money, assets, or property to deprive the other person of the ownership, use, benefit
4 or possession of the property; or

5 (B) Convert the money, assets, or other property of the other person to deprive the other
6 person of the ownership, use, benefit, or possession of the property.

7 (5) "Regulated institution" means any financial institution, credit union, or other insured
8 deposit-taking institution, that is authorized to do business in this state, including one authorized
9 by operation of an interstate banking statute that allowed it original entry.

10 **19-34-2. Reporting suspected financial exploitation of elder adults.**

11 (a) If an employee of a regulated institution has reasonable cause to believe that financial
12 exploitation of an elder adult who is an account holder with the regulated institution has occurred,
13 is occurring, or has been attempted, the employee shall notify the regulated institution of the
14 suspected financial exploitation.

15 (b)(1) If a regulated institution is notified of suspected financial exploitation under
16 subsection (a) of this section or otherwise has reasonable cause to believe that financial exploitation
17 of an elder adult who is an account holder with the regulated institution has occurred, is occurring,
18 or has been attempted, the regulated institution shall assess the suspected financial exploitation and
19 submit a report to the department identifying the name, address and, if known, the age of the elder
20 adult; the name and address of any person responsible for the care of the elder adult; the nature and
21 extent of the facts of the suspected activity; the basis of the reporter's knowledge; and any other
22 relevant information; or any other reporting requirements consistent with the provisions of § 42-
23 66-8.

24 (2) The regulated institution shall submit the required report no later than the earlier of:

25 (i) The second business day following the date the regulated institution completes the
26 regulated institution's assessment of the suspected financial exploitation; or

27 (ii) The seventh business day after the date the regulated institution is notified of the
28 suspected financial exploitation under subsection (a) of this section or otherwise has reasonable
29 cause to believe that the suspected financial exploitation has occurred, is occurring, or has been
30 attempted.

31 (c) A regulated institution that submits a report to the department of suspected financial
32 exploitation of an elder adult under subsection (b) of this section is not required to make any
33 additional report of suspected abuse, neglect, or exploitation, for the same conduct constituting the
34 reported suspected financial exploitation.

1 (d) Each regulated institution shall adopt internal policies, programs, plans, or procedures
2 for:

3 (1) The employees of the regulated institution to make the notification required under
4 subsection (a) of this section; and

5 (2) The regulated institution to conduct the assessment and submit the report required under
6 subsection (b) of this section.

7 (e) The policies, programs, plans, or procedures adopted under subsection (d) of this
8 section may authorize the regulated institution to report the suspected financial exploitation to other
9 appropriate agencies and entities in addition to the department, including the attorney general, the
10 Federal Trade Commission, and the appropriate law enforcement agency.

11 **19-34-3. Notifying third parties of suspected financial exploitation or abuse.**

12 If a regulated institution submits a report of suspected financial exploitation or abuse of an
13 elder adult to the department pursuant to § 19-34-2, the regulated institution may at the time the
14 regulated institution submits the report also notify a third party reasonably associated with the elder
15 adult of the suspected financial exploitation or abuse, unless the regulated institution suspects the
16 third party of financial exploitation or abuse of the elder adult.

17 **19-34-4. Temporary hold on transactions in certain cases of suspected financial**
18 **exploitation.**

19 (a) Notwithstanding any other law, if a regulated institution submits a report of suspected
20 financial exploitation of an elder adult to the department pursuant to § 19-34-2 the regulated
21 institution:

22 (1) May place a temporary hold on any transaction that:

23 (i) Involves an account of the elder adult; and

24 (ii) The regulated institution has reasonable cause to believe that financial exploitation of
25 an elder adult has occurred, is occurring, has been attempted, or will be attempted.

26 (2) Shall place a hold on any transaction involving the account of the elder adult if the hold
27 is requested by the elder abuse unit of the office of attorney general or a law enforcement agency.

28 (b) Subject to subsection (c) of this section, a hold placed on any transaction under
29 subsection (a) of this section shall expire on the fifteenth business day after the date the regulated
30 institution submits its report pursuant to § 19-34-2.

31 (c) The regulated institution may extend a hold placed on any transaction under subsection
32 (a) of this section for a period not to exceed thirty (30) business days after the expiration of the
33 fifteen (15) business day period prescribed by subsection (b) of this section if requested by a state
34 or federal agency or a law enforcement agency investigating the suspected financial exploitation.

1 The regulated institution may also petition a court to extend a hold placed on any transaction
2 pursuant to subsection (a) of this section beyond the fifteenth business day period prescribed by
3 subsection (b) of this section. A court may enter an order extending or shortening a hold or
4 providing other relief.

5 (d) Each regulated institution shall adopt internal policies, programs, plans, or procedures
6 for placing a hold on a transaction involving an account of an elder adult pursuant to this section.

7 **19-34-5. Immunity.**

8 (a) An employee of a regulated institution who makes a notification pursuant to § 19-34-2,
9 or a regulated institution that submits a report pursuant to § 19-34-2 or makes a notification to a
10 third party pursuant to § 19-34-3, or an employee or regulated institution that testifies or otherwise
11 participates in a judicial proceeding arising from a notification or report shall be immune from any
12 civil or criminal liability arising from the notification, report, testimony, or participation in the
13 judicial proceeding, unless the employee or regulated institution acted in bad faith or with a
14 malicious purpose.

15 (b) A regulated institution that in good faith and with the exercise of reasonable care places
16 or does not place a hold on any transaction pursuant to § 19-34-4 shall be immune from any civil
17 or criminal liability or disciplinary action resulting from that action or failure to act.

18 **19-34-6. Records.**

19 To the extent permitted by state or federal law, a regulated institution shall provide, on
20 request, access to or copies of records relevant to the suspected financial exploitation of an elder
21 adult to the department, a law enforcement agency, or the office of attorney general, either as part
22 of a report to the department, law enforcement agency, or the elder abuse unit of the office of
23 attorney general or at the request of the department, law enforcement agency, or the office of
24 attorney general in accordance with an investigation. The records may include historical records as
25 well as records relating to the most recent transaction or transactions that may comprise financial
26 exploitation not to exceed sixty (60) calendar days prior to the first transaction that was reported or
27 sixty (60) days after the last transaction that was reported. An extension of the request for records
28 may be made by the department, law enforcement agency, or the office of attorney general if after
29 receipt of the records, it is determined the suspected financial exploitation has occurred outside the
30 scope of the original request.

31 **19-34-7. Training.**

32 (a) Commencing no later than 45 days following passage of the Act, regulated institutions
33 shall provide training concerning the financial exploitation of elder adults to employees of regulated
34 institutions as defined in § 19-34-1, and shall provide such training to new employees within the

1 first three (3) months of their employment.

2 (b) The training shall include recognition of indicators of financial exploitation of an elder
3 adult, the manner in which employees may report suspected financial exploitation to the department
4 and law enforcement as mandatory reporters, and steps employees may take to prevent suspected
5 financial exploitation of an elder adult as authorized by law or agreement between the regulated
6 institution and customers of the regulated institution. The elder abuse unit of the office of attorney
7 general and the department shall develop standardized training that the regulated institutions may
8 offer, or the regulated institutions may develop their own training.

9 **19-34-8. Disclosure.**

10 Notwithstanding any provision of law, the attorney general and local law enforcement may
11 disclose to a mandated reporter of suspected elder financial abuse, upon request, the general status
12 or final disposition of any investigation that arose from a report made by that mandated reporter of
13 suspected financial abuse of an elder pursuant to this section.

14 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO FINANCIAL INSTITUTIONS -- THE ELDER ADULT FINANCIAL
EXPLOITATION PREVENTION ACT

1 This act would require employees of regulated financial institutions to report suspected
2 financial exploitation of elder adults to the office of healthy aging and provide authority to the
3 regulated financial institutions to place a temporary hold on transactions.

4 This act would take effect upon passage.

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