

HOUSE No. 4281

The Commonwealth of Massachusetts

PRESENTED BY:

Paul McMurtry

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act protecting vulnerable adults from financial exploitation.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Paul McMurtry</i>	<i>11th Norfolk</i>	<i>12/5/2019</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>12/9/2019</i>
<i>David Paul Linsky</i>	<i>5th Middlesex</i>	<i>12/9/2019</i>
<i>James K. Hawkins</i>	<i>2nd Bristol</i>	<i>12/9/2019</i>
<i>Brian M. Ashe</i>	<i>2nd Hampden</i>	<i>12/9/2019</i>
<i>Hannah Kane</i>	<i>11th Worcester</i>	<i>12/9/2019</i>
<i>Steven S. Howitt</i>	<i>4th Bristol</i>	<i>12/9/2019</i>
<i>Stephan Hay</i>	<i>3rd Worcester</i>	<i>12/9/2019</i>
<i>David Henry Argosky LeBoeuf</i>	<i>17th Worcester</i>	<i>12/9/2019</i>
<i>Danielle W. Gregoire</i>	<i>4th Middlesex</i>	<i>12/9/2019</i>
<i>James Arciero</i>	<i>2nd Middlesex</i>	<i>12/9/2019</i>
<i>Carole A. Fiola</i>	<i>6th Bristol</i>	<i>12/10/2019</i>
<i>Jeffrey N. Roy</i>	<i>10th Norfolk</i>	<i>12/10/2019</i>
<i>Steven Ultrino</i>	<i>33rd Middlesex</i>	<i>12/10/2019</i>
<i>Christopher Hendricks</i>	<i>11th Bristol</i>	<i>12/10/2019</i>
<i>Carmine Lawrence Gentile</i>	<i>13th Middlesex</i>	<i>12/10/2019</i>
<i>Patricia A. Haddad</i>	<i>5th Bristol</i>	<i>12/11/2019</i>
<i>Kathleen R. LaNatra</i>	<i>12th Plymouth</i>	<i>12/11/2019</i>

<i>Patrick M. O'Connor</i>	<i>Plymouth and Norfolk</i>	<i>12/11/2019</i>
<i>Timothy R. Whelan</i>	<i>1st Barnstable</i>	<i>12/11/2019</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>	<i>12/11/2019</i>
<i>David F. DeCoste</i>	<i>5th Plymouth</i>	<i>12/11/2019</i>
<i>Kevin G. Honan</i>	<i>17th Suffolk</i>	<i>12/11/2019</i>
<i>Susannah M. Whipps</i>	<i>2nd Franklin</i>	<i>12/12/2019</i>
<i>Alan Silvia</i>	<i>7th Bristol</i>	<i>12/12/2019</i>
<i>William M. Straus</i>	<i>10th Bristol</i>	<i>12/12/2019</i>

HOUSE No. 4281

By Mr. McMurtry of Dedham, a petition (subject to Joint Rule 12) of Paul McMurtry and others relative to financial exploitation of certain adults with disabilities. Children, Families and Persons with Disabilities.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act protecting vulnerable adults from financial exploitation.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 The General Laws are hereby amended by inserting after chapter 110H the following
2 chapter:-

3 Chapter 110I.

4 FINANCIAL EXPLOITATION

5 Section 1. The following words, whenever used in this chapter shall, unless a different
6 meaning clearly appears from the context, have the following meanings:-

7 “Agencies”, (1) the secretary of the commonwealth and (2) the disabled persons
8 protection commission established pursuant to section 2 of chapter 19C, if the eligible adult is
9 under the age of 60, or the executive office of elder affairs, if the eligible adult is 60 years or
10 older.

11 “Agent”, as defined in section 401 of chapter 110A.

12 “Broker-dealer”, as defined in section 401 of chapter 110A.

13 “Eligible adult”, a person 60 years of age or older or a disabled person, as defined in
14 section 1 of chapter 19C.

15 “Financial exploitation”, (2) the wrongful or unauthorized taking, withholding,
16 appropriation, or use of money, assets or property of an eligible adult; or (2) any act or omission
17 taken by a person, including through the use of a power of attorney, guardianship, or
18 conservatorship of an eligible adult, to: (a) obtain control, through deception, intimidation or
19 undue influence, over the eligible adult’s money, assets or property to deprive the eligible adult
20 of the ownership, use, benefit or possession of his or her money, assets or property; or (b)
21 convert money, assets or property of the eligible adult to deprive such eligible adult of the
22 ownership, use, benefit or possession of his or her money, assets or property.

23 “Investment adviser”, as defined in section 401 of chapter 110A.

24 “Investment adviser representative”, as defined in section 401 of chapter 110A.

25 “Qualified individual”, any agent, investment adviser representative or person who serves
26 in a supervisory, compliance or legal capacity for a broker-dealer or investment adviser.

27 Section 2. If a qualified individual reasonably believes that financial exploitation of an
28 eligible adult may have occurred, may have been attempted, or is being attempted, the qualified
29 individual may promptly notify: (1) the secretary of the commonwealth and (2) the disabled
30 persons protection commission established pursuant to section 2 of chapter 19C, if the eligible
31 adult is under the age of 60, or the executive office of elder affairs, if the eligible adult is 60
32 years or older.

33 Section 3. A qualified individual that in good faith and exercising reasonable care makes
34 a disclosure of information pursuant to section 2 shall be immune from administrative or civil
35 liability that might otherwise arise from such disclosure or for any failure to notify the customer
36 of the disclosure.

37 Section 4. If a qualified individual reasonably believes that financial exploitation of an
38 eligible adult may have occurred, may have been attempted, or is being attempted, a qualified
39 individual may notify any third party previously designated by the eligible adult. Disclosure shall
40 not be made to any designated third party that is suspected of financial exploitation or other
41 abuse of the eligible adult.

42 Section 5. A qualified individual that, in good faith and exercising reasonable care,
43 complies with section 4 shall be immune from any administrative or civil liability that might
44 otherwise arise from such disclosure.

45 Section 6. (1) A broker-dealer or investment adviser may delay a disbursement from an
46 account of an eligible adult or an account on which an eligible adult is a beneficiary if: (a) the
47 broker-dealer, investment adviser or qualified individual reasonably believes, after initiating an
48 internal review of the requested disbursement and the suspected financial exploitation, that the
49 requested disbursement may result in financial exploitation of an eligible adult; and (b) the
50 broker-dealer or investment adviser: (i) immediately, but in no event more than 2 business days
51 after the requested disbursement, provides written notification of the delay and the reason for the
52 delay to all parties authorized to transact business on the account, unless any such party is
53 reasonably believed to have engaged in suspected or attempted financial exploitation of the
54 eligible adult; (ii) immediately, but in no event more than 2 business days after the requested

55 disbursement, notifies the agencies; and (iii) continues its internal review of the suspected or
56 attempted financial exploitation of the eligible adult, as necessary, and reports the investigation's
57 results to the agencies within 7 business days after the requested disbursement.

58 (2) Any delay of a disbursement as authorized by this section will expire upon the sooner
59 of: (a) a determination by the broker-dealer or investment adviser that the disbursement will not
60 result in financial exploitation of the eligible adult; or (b) 15 business days after the date on
61 which the broker-dealer or investment adviser first delayed disbursement of the funds, unless
62 either of the agencies requests that the broker-dealer or investment adviser extend the delay, in
63 which case the delay shall expire no more than 25 business days after the date on which the
64 broker-dealer or investment adviser first delayed disbursement of the funds unless sooner
65 terminated by either of the agencies or an order of a court of competent jurisdiction.

66 (3) A court of competent jurisdiction may enter an order extending the delay of the
67 disbursement of funds or may order other protective relief based on the petition of: (1) the
68 secretary of the commonwealth, (2) the disabled persons protection commission established
69 pursuant to section 2 of chapter 19C, if the eligible adult is under the age of 60, or the executive
70 office of elder affairs, if the eligible adult is 60 years or older, (3) the broker-dealer or investment
71 adviser that initiated the delay pursuant to this section or (4) another interested party.

72 Section 7. A broker-dealer or investment adviser that, in good faith and exercising
73 reasonable care, complies with section 6 shall be immune from any administrative or civil
74 liability that might otherwise arise from such delay in a disbursement.

75 Section 8. A broker-dealer or investment adviser shall provide access to or copies of
76 records that are relevant to the suspected or attempted financial exploitation of an eligible adult

77 to the disabled persons protection commission established pursuant to section 2 of chapter 19C,
78 if the eligible adult is under the age of 60, or the executive office of elder affairs, if the eligible
79 adult is 60 years or older and law enforcement, either as part of a referral to the agency or to law
80 enforcement, or upon request of the agency or law enforcement pursuant to an investigation. The
81 records may include historical records as well as records relating to the most recent transaction
82 or transactions that may comprise financial exploitation of an eligible adult. All records made
83 available to agencies pursuant to this section shall not be considered a public record as defined in
84 section 7 of chapter 4 or chapter 66. Nothing in this section shall limit or otherwise impede the
85 authority of the state secretary to access or examine the books and records of broker-dealers and
86 investment advisers as otherwise provided by law.