

HOUSE No. 4462

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, February 22, 2022.

The committee on Children, Families and Persons with Disabilities to whom was referred the petition (accompanied by bill, House, No. 252) of Paul McMurtry and others relative to financial exploitation of certain adults with disabilities, reports recommending that the accompanying bill (House, No. 4462) ought to pass.

For the committee,

MICHAEL J. FINN.

HOUSE No. 4462

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

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 meaning

6 clearly appears from the context, have the following meanings:-

7 “Agencies”, (1) the secretary of the commonwealth and (2) the disabled persons protection

8 commission established pursuant to section 2 of chapter 19C, if the eligible adult is under the age

9 of 60, or the executive office of elder affairs, if the eligible adult is 60 years or older.

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

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

12 “Eligible adult”, a person 60 years of age or older or a disabled person, as defined in section 1 of

13 chapter 19C.

14 “Financial exploitation”, (2) the wrongful or unauthorized taking, withholding, appropriation, or

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

22 "Investment adviser", as defined in section 401 of chapter 110A.

23 "Investment adviser representative", as defined in section 401 of chapter 110A.

24 "Qualified individual", any agent, investment adviser representative or person who serves in a
25 supervisory, compliance or legal capacity for a broker-dealer or investment adviser, or who
26 works in an investor protection capacity for a broker-dealer or investment adviser.

27 Section 2. If a qualified individual reasonably believes that financial exploitation of an eligible
28 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. Following notification from a qualified individual pursuant to this section, the
33 agency shall respond to reasonable inquiries from the qualified individual as to the status of any
34 investigation by the agency, and upon conclusion of any investigation, the agency shall issue a
35 statement of findings to the qualified individual.

36 Section 3. A qualified individual that in good faith and exercising reasonable care makes a
37 disclosure of information pursuant to section 2 shall be immune from administrative or civil

38 liability that might otherwise arise from such disclosure or for any failure to notify the customer
39 of the disclosure.

40 Section 4. If a qualified individual reasonably believes that financial exploitation of an eligible
41 adult may have occurred, may have been attempted, or is being attempted, a qualified individual
42 may notify any third party previously designated by the eligible adult, any third party reasonably
43 associated with the eligible adult, or any third party permitted under state or federal law.

44 Disclosure shall not be made to any designated third party that is suspected of financial
45 exploitation or other abuse of the eligible adult.

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

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

61 Secretary of the Commonwealth, the Executive Office of Elder Affairs, and the Disabled Persons
62 protection Commission upon request.

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

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

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

81 Section 8. A broker-dealer or investment adviser shall provide access to or copies of records that
82 are relevant to the suspected or attempted financial exploitation of an eligible adult to the
83 disabled persons protection commission established pursuant to section 2 of chapter 19C, if the

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

93 Section 9. A qualified individual that, in good faith and exercising reasonable care, complies
94 with section 8 shall be immune from any administrative or civil liability that might otherwise
95 arise from such compliance.