

SENATE No. 2460

The Commonwealth of Massachusetts

PRESENTED BY:

Paul R. Feeney

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 seniors and adults with disabilities from financial exploitation.

PETITION OF:

NAME:

Paul R. Feeney

William Francis Galvin

DISTRICT/ADDRESS:

Bristol and Norfolk

Secretary of Commonwealth

SENATE No. 2460

By Mr. Feeney, a petition (accompanied by bill, Senate, No. 2460) (subject to Joint Rule 12) of Paul R. Feeney and William Francis Galvin, for legislation to protect seniors and adults with disabilities from financial exploitation. Elder Affairs.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act protecting seniors and adults with disabilities 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. FINANCIAL EXPLOITATION OF SENIORS AND ADULTS WITH
4 DISABILITIES

5 Section 1. The following words, whenever used in this chapter shall have the definitions
6 set forth herein, unless context otherwise requires:

7 “Adult protective services agency” means any office, division, department, or unit in the
8 Commonwealth that is charged with the investigation of abuse, neglect, or exploitation of (a)
9 elder adults or (b) a disabled person, as defined in section 1 of chapter 19C.

10 “Agent” shall have the same meaning as in section 401 of chapter 110A.

11 “Eligible adult” means (a) a person 60 years of age or older or (b) a disabled person, as
12 defined in section 1 of chapter 19C.

13 “Financial exploitation” means (a) the wrongful or unauthorized taking, withholding,
14 appropriation, or use of money, assets, or property of an eligible adult; or (b) any act or omission
15 taken by a person, including through the use of a power of attorney, guardianship, or
16 conservatorship of an eligible adult, to: (1) obtain control, use, or benefit of the eligible adult’s
17 money, assets, or property to deprive the eligible adult of the ownership, use, benefit, or
18 possession of his or her money, assets, or property through deception, intimidation, or undue
19 influence, or by the use of any unethical or dishonest conduct; or (2) 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 “Financial institution” means (a) any broker-dealer as defined under section 401 of
23 chapter 110A, (b) any investment adviser as defined under section 401 of chapter 110A, and (c)
24 any bank chartered by the commonwealth under chapter 168, 170, 171 or 172.

25 “Investment adviser representative” shall have the same meaning as in section 401 of
26 chapter 110A.

27 “Qualified individual” means any agent, investment adviser representative, bank
28 employee, or person who serves in a supervisory, compliance, or legal capacity for a financial
29 institution.

30 “Secretary” means the Secretary of the Commonwealth or his or her designee.

31 Section 2. If a qualified individual has reasonable cause to believe that the financial
32 exploitation of an eligible adult may have occurred, may have been attempted, or is being
33 attempted, then the qualified individual shall promptly notify the Secretary and any relevant
34 adult protective services agency.

35 Section 3. The notification required by section 2 must be made by written communication
36 or by form as issued by the Secretary. Such notice shall include, to the extent possible: (1) the
37 name and address of the eligible adult; (2) the name and address of the eligible adult's caretaker;
38 (3) the age of the eligible adult; (4) the nature and extent of the eligible adult's potential or actual
39 injury or condition resulting from the financial exploitation; (5) any other pertinent information;
40 and (6) any additional information that is required by a rule adopted or form or order issued by
41 the Secretary.

42 Section 4. If a qualified individual has reasonable cause to believe that the financial
43 exploitation of an eligible adult may have occurred, may have been attempted, or is being
44 attempted, then a qualified individual may notify any third party previously designated by the
45 eligible adult; provided, however, that a qualified individual shall not notify any designated third
46 party that is suspected of the financial exploitation or other abuse of the eligible adult.

47 Section 5. (1) A financial institution may delay a disbursement from, or a transaction in
48 connection with, an account of an eligible adult or an account on which an eligible adult is a
49 beneficiary if any qualified individual has reasonable cause to believe that, after initiating an
50 internal review of the requested disbursement or transaction and the suspected financial
51 exploitation, the requested disbursement or transaction may result in the financial exploitation of
52 the eligible adult.

53 (2) If a financial institution delays a disbursement or transaction under this section, the
54 financial institution shall: (a) immediately, and in no event more than two business days after
55 the requested disbursement or transaction was delayed, provide written notification of the delay
56 and the reason for the delay to all parties authorized to transact business on the account, unless
57 there is reasonable cause to believe such party engaged in the suspected or attempted financial
58 exploitation of the eligible adult; (b) immediately, and in no event more than two business days
59 after the requested disbursement or transaction was delayed, notify the Secretary and any
60 relevant adult protective services agency pursuant to section 3; and (c) continue an internal
61 review of the suspected or attempted financial exploitation of the eligible adult, as necessary, and
62 report the investigation's results to the Secretary and any relevant adult protective services
63 agency within 7 business days of the requested disbursement or transaction.

64 (3) The authorization of any delay of a disbursement or transaction pursuant to this
65 section shall expire upon the sooner of: (a) the determination by the financial institution that the
66 disbursement or transaction will not result in the financial exploitation of the eligible adult; or (b)
67 15 business days after the date on which the financial institution first delayed the requested
68 disbursement or transaction. A court of competent jurisdiction may enter an order extending the
69 delay of a disbursement or transaction under this section, or may order other protective relief,
70 upon the petition of the Secretary; adult protective services agency; a financial institution that
71 initiated the delay under this section; or other interested party.

72 Section 6. A financial institution shall provide access to or copies of records that are
73 relevant to the suspected or attempted financial exploitation of an eligible adult to the Secretary,
74 adult protective service agency, or law enforcement pursuant to an investigation. Such records
75 may include historical records and records pertaining to a disbursement or transaction related to

76 the suspected or attempted financial exploitation of an eligible adult. Records made available
77 pursuant to this section shall not be public records and shall not be available for public
78 examination.

79 Section 7. Nothing in this chapter shall limit or otherwise impede the authority of the
80 Secretary from accessing or examining the books and records of a broker-dealer or investment
81 adviser as otherwise provided by law or conducting any lawful investigation into potential
82 violations of chapter 110A.

83 Section 8. A qualified individual that, in good faith and exercising reasonable care,
84 complies with this chapter shall be immune from any administrative or civil liability that might
85 otherwise arise from such action. Notwithstanding the foregoing, nothing in this section shall
86 limit or shield, in any manner, a qualified individual from any administrative or civil liability for
87 any claim, or for reasonable attorneys' fees, costs, and litigation expenses related to such claim,
88 for participating in or materially aiding the financial exploitation of an eligible adult. Any such
89 civil claim may be asserted by the eligible adult, or on his or her behalf by an appropriate
90 guardian or representative who is not involved in or otherwise suspected of participating in the
91 financial exploitation of the eligible adult, by filing a civil action in a court of competent
92 jurisdiction.