



Senate

General Assembly

File No. 205

January Session, 2023

Substitute Senate Bill No. 1088

Senate, March 23, 2023

The Committee on Banking reported through SEN. MILLER of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING FINANCIAL EXPLOITATION OF SENIOR CITIZENS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 36b-14 of the general statutes is amended by adding
2 subsection (f) as follows (*Effective October 1, 2023*):

3 (NEW) (f) (1) For purposes of this subsection, unless the context
4 otherwise requires:

5 (A) "Eligible adult" means any: (i) Resident of the state who is sixty
6 years of age or older; and (ii) adult who is in the care or custody of the
7 Department of Social Services or any successor agency;

8 (B) "Financial exploitation" means the act or process of taking
9 advantage of an eligible adult by another person or caretaker whether
10 for a monetary, personal or other benefit, gain or profit. Such acts and
11 processes include, but are not limited to: (i) Any wrongful or
12 unauthorized taking, withholding, appropriation or use of an eligible

13 adult's money, assets or property; (ii) any act or omission taken by a
14 person, including, but not limited to, through the use of a power of
15 attorney, guardianship or conservatorship of an eligible adult, to obtain
16 control, through deception, intimidation or undue influence, over the
17 eligible adult's money, assets or property and deprive such eligible
18 adult of the ownership, use, benefit or possession of such eligible adult's
19 money, assets or property; and (iii) converting an eligible adult's money,
20 assets or property to deprive the eligible adult of the ownership, use,
21 benefit or possession of such money, assets or property; and

22 (C) "Qualified person" means: (i) A broker-dealer, investment
23 adviser, broker-dealer agent or investment adviser agent registered, or
24 required to be registered, under this chapter; and (ii) any person serving
25 in a supervisory, compliance or legal capacity for a broker-dealer or
26 investment adviser described in subparagraph (C)(i) of this subdivision.

27 (2) (A) If a qualified person has reasonable cause to suspect or believe
28 that financial exploitation of an eligible adult may have occurred, been
29 attempted or is being attempted, the qualified person may promptly
30 disclose, in any reasonable manner, to the Commissioner of Social
31 Services and the Banking Commissioner such financial exploitation or
32 suspected exploitation and the basis for such suspicion or belief.

33 (B) A qualified person who, in good faith and exercising reasonable
34 care, voluntarily discloses information pursuant to subparagraph (A) of
35 this subdivision shall be immune from any administrative or civil
36 liability that might otherwise arise solely from such disclosure or for any
37 failure to notify the customer or client of such disclosure. Such
38 immunity shall not attach where the qualified person was a participant
39 in the financial exploitation or suspected financial exploitation
40 described in such disclosure. This subdivision shall not affect existing
41 laws imposing criminal liability, including, but not limited to, laws
42 governing perjury or fraudulent or malicious reporting.

43 (3) (A) Where an eligible adult has designated a third party as a
44 trusted contact person to discuss the eligible adult's financial affairs, the
45 qualified person may disclose to such third party such financial

46 exploitation or suspected financial exploitation unless such qualified
47 person reasonably believes that the third party is involved in such
48 financial exploitation, suspected financial exploitation or other abuse of
49 the eligible adult.

50 (B) A qualified person who, in good faith and exercising reasonable
51 care, makes a disclosure to a third-party trusted contact person pursuant
52 to this subdivision shall be immune from any administrative or civil
53 liability that might otherwise arise solely from such disclosure. Such
54 immunity shall not attach where the qualified person was a participant
55 in the misconduct described in such disclosure. This subdivision shall
56 not affect existing laws imposing criminal liability.

57 (C) Except in the case of an institutional account, an investment
58 adviser registered or required to be registered under this chapter shall
59 maintain records reflecting the name and contact information for any
60 trusted contact person who is at least eighteen years of age and whom
61 an advisory client has designated to be contacted concerning the client's
62 account. At the time the advisory account is opened or updated, the
63 investment adviser shall disclose to the client in writing, which may be
64 in an electronic format, that the adviser is authorized to contact the
65 trusted contact person and disclose information about the client's
66 account to address possible financial exploitation, confirm the specifics
67 of the client's current contact information, health status or the identity
68 of any legal guardian, executor, trustee or holder of a power of attorney.
69 The absence of the name of, or contact information for, a trusted contact
70 person shall not prevent an investment adviser from opening or
71 maintaining an account for a client, provided the adviser makes
72 reasonable efforts to obtain the name of, and contact information for, a
73 trusted contact person.

74 (4) (A) A broker-dealer or investment adviser may place a temporary
75 hold on a disbursement of funds or securities or a transaction in
76 securities from the account of an eligible adult, including, but not
77 limited to, an account of which an eligible adult is a beneficiary, if: (i)
78 The broker-dealer or investment adviser reasonably believes that

79 financial exploitation of the eligible adult has occurred, is occurring, has
80 been attempted or will be attempted; (ii) the broker-dealer or investment
81 adviser, not later than two business days after the date that the broker-
82 dealer or investment adviser first placed such temporary hold, provides
83 oral or written notification, which may be in an electronic format, of the
84 temporary hold and the reason therefor to all parties authorized to
85 transact business on the account and to the trusted contact person, if
86 any, unless such party or trusted contact person is unavailable or the
87 broker-dealer or investment adviser reasonably believes that the party
88 or trusted contact person has engaged, is engaged, or will engage in
89 financial exploitation of the eligible adult; and (iii) the broker-dealer or
90 investment adviser immediately initiates an internal review of the facts
91 and circumstances that caused the broker-dealer or investment adviser
92 to reasonably believe that financial exploitation of the eligible adult has
93 occurred, is occurring, has been attempted or will be attempted.

94 (B) The temporary hold authorized by subparagraph (A) of this
95 subdivision shall expire not later than fifteen business days after the
96 date when the broker-dealer or investment adviser first places the
97 temporary hold on the disbursement of funds or securities or the
98 transaction in securities unless otherwise terminated or extended by a
99 state regulator, agency of competent jurisdiction or court of competent
100 jurisdiction, or extended by the broker-dealer or investment adviser
101 pursuant to subparagraph (C) of this subdivision.

102 (C) If the internal review initiated pursuant to subparagraph (A) of
103 this subdivision supports the broker-dealer's or investment adviser's
104 reasonable belief that financial exploitation of the eligible adult has
105 occurred, is occurring, has been attempted or will be attempted, the
106 temporary hold authorized by this subdivision may be extended by the
107 broker-dealer or investment adviser for not longer than ten business
108 days following the date established by subparagraph (B) of this
109 subdivision, unless otherwise terminated or extended by a state
110 regulator, agency of competent jurisdiction or court of competent
111 jurisdiction, or extended pursuant to subparagraph (D) of this
112 subdivision.

113 (D) If the internal review initiated pursuant to subparagraph (A) of
114 this subdivision supports the broker-dealer's or investment adviser's
115 reasonable belief that the financial exploitation of the eligible adult has
116 occurred, is occurring, has been attempted, or will be attempted and the
117 broker-dealer or investment adviser has reported or provided
118 notification of such reasonable belief to a state regulator, agency of
119 competent jurisdiction or court of competent jurisdiction, the temporary
120 hold authorized by this subdivision may be extended by the broker-
121 dealer or investment adviser for not longer than thirty business days
122 following the date established by subparagraph (C) of this subdivision,
123 unless otherwise terminated or extended by a state regulator, agency of
124 competent jurisdiction or court of competent jurisdiction.

125 (E) Nothing in this subdivision shall preclude the Banking
126 Commissioner, the Commissioner of Social Services or the Probate
127 Court from sooner terminating or extending the temporary hold upon
128 contemporaneous written notice to the broker-dealer or investment
129 adviser.

130 (5) (A) A registered broker-dealer or investment adviser shall provide
131 access to, or copies of, records that are relevant to the suspected or
132 attempted financial exploitation of an eligible adult to the commissioner
133 and to a law enforcement agency, as part of a referral to the
134 commissioner or a law enforcement agency, or upon a request made by
135 the commissioner or law enforcement agency pursuant to an
136 investigation or examination, as the case may be. Nothing in this
137 subsection shall limit or otherwise impede the authority of the
138 commissioner to access or examine the books and records of broker-
139 dealers and investment advisers as provided by other applicable law.
140 All records made available to agencies under this subsection shall not
141 be considered public records for purposes of chapter 14. Pursuant to
142 subsection (c) of section 36b-31, the commissioner may share and
143 exchange with affected social services regulators information and
144 documents related to the suspected financial exploitation.

145 (B) (i) In the case of a broker-dealer, such records relevant to the

146 suspected or attempted financial exploitation, described in
147 subparagraph (A) of this subdivision, shall include the records
148 prescribed under the Securities Exchange Act of 1934 and the
149 regulations thereunder, as amended from time to time, and applicable
150 self-regulatory organization rules.

151 (ii) In the case of an investment adviser registered or required to be
152 registered with the commissioner, such records relevant to the
153 suspected or attempted financial exploitation, described in
154 subparagraph (A) of this subdivision, shall include documentation: (I)
155 Of relevant requests for disbursements; (II) supporting any
156 disbursement delay; (III) supporting the investment adviser's
157 reasonable belief that financial exploitation has occurred or is occurring;
158 (IV) of the name and title of the person authorizing the disbursement
159 delay; (V) of notifications to affected parties; and (VI) relating to the
160 investment adviser's internal review of the matter.

161 (6) A broker-dealer or investment adviser subject to this subsection
162 shall, to the extent not inconsistent with federal law, develop training
163 policies or programs reasonably designed to ensure that qualified
164 persons understand and can effectively carry out the provisions of this
165 subsection where necessary.

166 (7) A broker-dealer or investment adviser that, in good faith and
167 exercising reasonable care, complies with this subsection shall be
168 immune from any administrative or civil liability that might otherwise
169 arise from any action taken by such broker-dealer or investment adviser
170 that is permitted by this subsection.

171 (8) If any provision of this subsection is preempted by federal law,
172 the provisions of federal law shall control.

173 Sec. 2. (NEW) (*Effective October 1, 2023*) (a) As used in this section:

174 (1) "Account" means a customer asset or liability account, including,
175 but not limited to, a safe deposit box, that is established primarily for
176 personal, family or household purposes and that a financial institution

177 holds on behalf of an elderly person;

178 (2) "Elderly person" means any resident of the state who is not less
179 than sixty years of age;

180 (3) "Financial agent" means an employee of a financial institution
181 who, within the employee's scope of employment, has direct contact
182 with an elderly person or reviews or approves an elderly person's
183 financial documents, records or transactions;

184 (4) "Financial exploitation" means the use, control over or
185 withholding of property, income, resources or trust funds of an elderly
186 person by any person or entity, including, but not limited to, an agent
187 of such elderly person pursuant to a power of attorney, for any such
188 person's or entity's profit or advantage at the expense of such elderly
189 person's property, income, resources or trust funds, including, but not
190 limited to, an act constituting a breach of such person's or entity's
191 fiduciary duty to such elderly person, or forcing, compelling or exerting
192 undue influence over such elderly person to cause such elderly person
193 to engage in a transaction or disbursement;

194 (5) "Financial institution" means any Connecticut bank or
195 Connecticut credit union, as those terms are defined in section 36a-2 of
196 the general statutes, any institution that engages in the business of
197 banking or a credit union that is chartered out-of-state, and any
198 subsidiary or affiliate of any such bank, credit union or institution;

199 (6) "Out-of-state" has the same meaning as provided in section 36a-2
200 of the general statutes;

201 (7) "Suspected exploitation policy" means a written policy for any
202 actions permitted by this section when financial exploitation of an
203 elderly person is suspected;

204 (8) "Transaction" includes, but is not limited to, providing access to
205 (A) a safe deposit box, or (B) any nonpublic personal information of an
206 elderly person. For purposes of this subdivision, "nonpublic personal
207 information" has the same meaning as provided in Subtitle A of Title V

208 of the Gramm-Leach-Bliley Financial Modernization Act of 1999, 15 USC
209 6809, and the regulations promulgated thereunder, as amended from
210 time to time; and

211 (9) "Trusted contact person" means an individual that an elderly
212 person identifies and authorizes a financial institution to, at the financial
213 institution's option, contact and disclose information about the account
214 to address possible financial exploitation, or to confirm the specifics of
215 the account holder's current contact information, health status or the
216 identity of any legal guardian, executor, trustee or holder of a power of
217 attorney.

218 (b) The provisions of this section applicable to financial institutions
219 may be applied to national banking associations, federal savings banks,
220 federal savings and loan associations, or institutions chartered or
221 organized as a federal credit union under the laws of the United States,
222 to the extent that such entities have voluntarily implemented the
223 requirements of this section and provided any such provision is not
224 expressly preempted by federal law, rule, regulation or order.

225 (c) (1) If a financial institution or financial agent has reasonable cause
226 to believe that a transaction or disbursement involving an elderly
227 person's account may involve, facilitate, result in or contribute to
228 financial exploitation of such elderly person, the financial institution or
229 financial agent may suspend the transaction or disbursement for not
230 more than seven business days. Thereafter, the elderly person may
231 renew or resume the transaction or disbursement request and the
232 financial institution shall honor the request unless (A) the financial
233 institution elects to extend the suspension for an additional seven
234 business days for reasonable cause and in accordance with the financial
235 institution's suspected exploitation policy, or (B) the financial institution
236 cannot process the transaction or disbursement due to an applicable
237 law, court order, regulatory requirement or private rule, to which the
238 financial institution is subject, that governs the processing, clearing or
239 payment of transactions or disbursements.

240 (2) If a financial institution or financial agent has reasonable cause to

241 believe that such institution or agent may be subject to any penalty or
242 liability under any law, regulation or governmental or private rule that
243 governs the processing, clearing or payment of transactions or
244 disbursements, as a result of a suspension of a transaction or
245 disbursement pursuant to subdivision (1) of this subsection, such
246 institution or agent may decline or return such transaction or
247 disbursement.

248 (3) A financial institution that has suspended, declined or returned a
249 transaction or disbursement pursuant to this subsection shall notify (A)
250 all account holders of such action, unless the financial institution
251 reasonably believes that an account holder is involved in the suspected
252 financial exploitation or other abuse of the elderly person, and (B) the
253 trusted contact person, if any, unless such trusted contact person is
254 unavailable or the financial institution reasonably believes that the
255 trusted contact person has engaged, is engaged or will engage in
256 financial exploitation of the elderly person.

257 (d) (1) Except as provided in subsection (e) of this section, a financial
258 agent shall be immune from any administrative or civil liability under
259 the laws of this state for any action permitted by this section.

260 (2) Except as provided in subsection (e) of this section, a financial
261 institution that takes any action permitted by this section in good faith
262 shall be immune from any administrative or civil liability under the laws
263 of this state that may otherwise arise from taking such action. For
264 purposes of this subsection, "good faith" exists if:

265 (A) The financial agent who makes the decision to take such action
266 has participated in the mandatory training required by section 17b-463
267 of the general statutes;

268 (B) The financial institution has provided prior written or electronic
269 notice, including as part of a deposit account contract or related
270 disclosures, that the financial institution has a suspected exploitation
271 policy by which such institution may suspend transactions or
272 disbursements to an elderly person in whose name the affected account

273 is held. Notice provided to any person who holds, or is otherwise
274 authorized to have access to, the affected account shall constitute notice
275 to all other persons who hold the affected account. Nothing in this
276 subsection shall be construed to require a financial institution to disclose
277 a copy of such institution's suspected exploitation policy to any account
278 holder;

279 (C) The financial institution or financial agent reports the suspected
280 financial exploitation pursuant to subsection (c) of section 17b-451 of the
281 general statutes, unless (i) any suspension is revoked by the financial
282 institution not later than two business days after such suspension, or (ii)
283 any transaction or disbursement declined or returned by the financial
284 institution is reinitiated and processed by the financial institution not
285 later than two business days after the transaction or disbursement is
286 declined or returned by the financial institution;

287 (D) The financial institution has established a written suspected
288 exploitation policy; and

289 (E) The financial institution retains a record of the suspected financial
290 exploitation, including, but not limited to, any reports to social services,
291 regulatory or law enforcement agencies and supporting documents.
292 Such record shall be retained by the financial institution for a period of
293 seven years.

294 (e) No immunity under subsection (d) of this section shall attach
295 where the financial agent or any other employee of the financial
296 institution was a participant in the suspected financial exploitation.

297 (f) A financial institution may ask the holder or holders of an account
298 held by an elderly person to identify a trusted contact person.

299 Sec. 3. (NEW) (*Effective October 1, 2023*) (a) For purposes of this
300 section:

301 (1) "Elderly person" means (A) an eligible adult, as defined in section
302 36b-14 of the general statutes, as amended by this act, (B) an elderly
303 person, as defined in section 2 of this act, and (C) an individual who

304 would qualify as an eligible adult or elderly person if such individual
305 were a resident of the state;

306 (2) "Financial institution" means (A) a qualified person, as defined in
307 section 36b-14 of the general statutes, as amended by this act, (B) any
308 entity employing a qualified person, and (C) a financial agent or
309 financial institution, as defined in section 2 of this act; and

310 (3) "Financial hold" means the refusal of a financial institution to (A)
311 complete any transaction, including, but not limited to, a transaction as
312 defined in section 2 of this act, or (B) disburse the proceeds of any
313 transaction upon a deposit account, funds, safe deposit box, securities
314 or other property in the custody of the financial institution.

315 (b) An elderly person, or the legal representative of the elderly
316 person, may petition the Probate Court to remove a financial hold
317 imposed by a financial institution under section 2 of this act. The petition
318 shall be filed in the probate district in which the elderly person resides,
319 is domiciled or is located at the time such petition is filed or, if the
320 elderly person does not reside in this state and is not domiciled or
321 currently located in this state, in the probate district where the financial
322 institution maintains an office. The petition shall recite: (1) The name,
323 date of birth and address of the elderly person; (2) the name and address
324 of the elderly person's conservator or guardian, if any; (3) the name and
325 address of the petitioner; (4) the name and address of the financial
326 institution imposing the financial hold; (5) whether the Department of
327 Social Services is known to be investigating the welfare of the elderly
328 person; (6) whether a petition to appoint a conservator or guardian is
329 pending in any court; (7) a description of the transaction that is the
330 subject of the financial hold; and (8) a statement as to why the
331 transaction will not result in financial exploitation of the elderly person.

332 (c) The Probate Court shall give notice of the hearing on the petition
333 by regular mail to each person and institution identified in subdivisions
334 (1) to (4), inclusive, of subsection (b) of this section and to the
335 Commissioner of Social Services. Unless continued by the Probate Court
336 for cause shown, the hearing on the petition shall be held not later than

337 ten days following receipt of the petition by the Probate Court.

338 (d) If the Probate Court determines that there is no reasonable cause
339 to conclude that the transaction or disbursement that is the subject of the
340 hold may involve, facilitate, result in or contribute to the financial
341 exploitation of the elderly person, or finds that the elderly person is not
342 a resident of the state, the Probate Court shall order that the financial
343 hold be released. If the Probate Court determines that there is such
344 reasonable cause, the Probate Court may order that the financial hold be
345 continued or modified for a period not to exceed thirty days from the
346 date of the order or until the appointment of a conservator or guardian
347 for the elderly person, whichever occurs first.

348 (e) Notwithstanding any other provision of this section, the Probate
349 Court having jurisdiction over a conservatorship of the estate of an
350 elderly person or a pending petition to appoint a conservator of the
351 estate of an elderly person may, on the petition of a party to such
352 conservatorship or petition, order the release, continuation or
353 modification of a financial hold on any terms the Probate Court deems
354 appropriate.

355 (f) Upon disposition of a petition under this section, the Probate
356 Court may order that the petitioner be reimbursed for the fee to file the
357 petition set forth in subsection (b) of section 45a-106a of the general
358 statutes, as amended by this act, as the Probate Court deems equitable,
359 except that no financial agent shall be responsible for such
360 reimbursement and a financial institution shall only be liable for such
361 reimbursement if the Probate Court finds that the financial institution
362 did not have reasonable cause to believe that a transaction or
363 disbursement involving an account of an elderly person may have
364 involved, facilitated, resulted in or contributed to the financial
365 exploitation of such elderly person.

366 Sec. 4. Subdivision (10) of subsection (b) of section 45a-106a of the
367 general statutes, as amended by section 52 of public act 22-26, is
368 repealed and the following is substituted in lieu thereof (*Effective October*
369 *1, 2023*):

370 (10) With respect to an elderly person, as defined in section 17b-450
371 or section 2 of this act, or an eligible adult, as defined in section 36b-14,
372 as amended by this act: (A) Enjoin an individual from interfering with
373 the provision of protective services to such elderly person, [and] (B)
374 authorize the Commissioner of Social Services to enter the premises of
375 such elderly person to determine whether such elderly person needs
376 protective services, and (C) release a financial hold imposed by a
377 financial institution;

378 Sec. 5. Subsection (b) of section 36a-290 of the general statutes is
379 repealed and the following is substituted in lieu thereof (*Effective October*
380 *1, 2023*):

381 (b) The establishment of a deposit account or share account which is
382 a joint account under subsection (a) of this section is, in the absence of
383 fraud or undue influence [,] or [other clear and convincing] a
384 preponderance of the evidence to the contrary, prima facie evidence of
385 the intention of all of the named owners thereof to vest title to such
386 account, including all subsequent deposits and additions made thereto,
387 in such survivor or survivors, in any action or proceeding between any
388 two or more of the depositors, respecting the ownership of such account
389 or its proceeds.

390 Sec. 6. Section 36a-318 of the general statutes is repealed and the
391 following is substituted in lieu thereof (*Effective October 1, 2023*):

392 (a) Except as provided in subsection (c) of this section, prior to
393 opening a new deposit account for any depositor or prospective
394 depositor: (1) Each financial institution shall deliver to such depositor
395 or prospective depositor in written form which the depositor can keep
396 a copy of (A) the deposit contract, (B) a listing of deposit account charges
397 and the conditions under which such charges will be imposed
398 including, but not limited to, failure to maintain a minimum balance,
399 and (C) if such account is a time account, deposit account disclosures
400 that govern such account; and (2) each financial institution, other than a
401 Connecticut credit union or federal credit union, shall deliver to each
402 depositor or prospective depositor deposit account disclosures that

403 govern such account if such account is a savings account.

404 (b) The deposit account disclosures and listing of deposit account
405 charges may be contained in more than one document and may be
406 combined with disclosures, fees and contract terms for other accounts
407 as long as the deposit account disclosures and deposit account charges
408 are disclosed clearly and conspicuously and it is clear which deposit
409 account disclosures and deposit account charges are applicable to the
410 types of deposit accounts maintained by the depositor.

411 (c) If all or any part of a maturing or otherwise expiring time account
412 is automatically deposited by renewal, roll-over or otherwise in a new
413 deposit account within thirty days after expiration, the provisions of
414 subsection (a) of this section shall not apply to such new account, except
415 that if the annual percentage yield on such new account is lower than
416 the annual percentage yield on the expiring account, and the maturing
417 time account has a term to maturity of longer than thirty-one days, the
418 financial institution shall deliver to the depositor the notice as required
419 by this subsection. Such notice shall be delivered at least thirty calendar
420 days before the maturity of the existing time account. Alternatively,
421 such notice may be delivered at least twenty calendar days before the
422 end of the grace period on the existing account, provided a grace period
423 of at least five calendar days is allowed. For purposes of this subsection,
424 a grace period means a period following the maturity of an
425 automatically renewing time account during which the depositor may
426 withdraw funds without being assessed a penalty. The notice shall recite
427 the deposit account disclosures and deposit account charges, including
428 the conditions under which such charges will be imposed, applicable to
429 the new account, along with the date the existing account matures and
430 the new maturity date if the account is renewed; provided if the interest
431 rate and annual percentage yield that will be paid for the new account
432 are unknown when the notice is provided, the notice shall state that
433 those rates have not yet been determined, the date when they will be
434 determined and a telephone number the depositor may call to obtain the
435 interest rate and the annual percentage yield that will be paid for the
436 new account. Notwithstanding any provisions of the general statutes to

437 the contrary, if the term to maturity of the maturing time account is one
438 year or less but longer than thirty-one days, the notice is not required to
439 contain the information recited in this subsection other than (1) the date
440 the existing account matures and the new maturity date if the account
441 is renewed; (2) the interest rate and the annual percentage yield if they
442 are known, or if the rates have not yet been determined, the date they
443 will be determined and a telephone number the depositor may call to
444 obtain the interest rate and the annual percentage yield that will be paid
445 for the new account; and (3) any difference in the terms of the new
446 account compared to the deposit account disclosures and deposit
447 account charges governing the existing account.

448 (d) Except for deposit accounts for which a financial institution sends
449 periodic statements, each financial institution that has a policy of
450 imposing dormancy fees in connection with inactive deposit accounts
451 shall, not less than fifteen days prior to the date the institution may
452 impose a dormancy fee, mail a notice to the depositor. The notice shall
453 be printed in capital letters in no less than twelve-point boldface type
454 and shall state that the account will become inactive and that a
455 dormancy fee may be imposed by the financial institution as a result of
456 such inactivity. Such notice shall be mailed to the last-known mailing
457 address maintained by the institution for the deposit account.

458 (e) (1) Except as provided in subdivision (2) of this subsection, each
459 financial institution, upon the closing of a deposit account, shall, not
460 later than ten business days after closing the deposit account, (A) mail a
461 written notice setting forth the reason for closing the deposit account to
462 the depositor at the address the financial institution has on record for
463 the depositor, or (B) if the depositor consented to the delivery of
464 correspondence from the financial institution by electronic mail, send a
465 notice by electronic mail setting forth the reason for closing the deposit
466 account to the depositor at the electronic mail address the financial
467 institution has on record for the depositor.

468 (2) The notice requirements set forth in subdivision (1) of this
469 subsection shall not apply if: (A) The financial institution closes the

470 deposit account because of the financial institution's reasonable belief
471 that the deposit account is being used for fraudulent or other illegal
472 purposes or that one or more depositors are engaging in fraudulent or
473 other illegal activity; (B) the financial institution closes the deposit
474 account because of information it receives indicating that a local, state,
475 or federal law enforcement or regulatory agency is investigating
476 whether any fraudulent or other illegal activity involving the deposit
477 account or any depositor has occurred; (C) the financial institution is
478 asked or directed by any court or local, state or federal law enforcement
479 or regulatory agency to refrain from providing information pertaining
480 to the closing of the deposit account to the depositor; (D) the financial
481 institution is prohibited by state or federal law or regulation from
482 providing such notice; (E) the financial institution has a reasonable
483 belief that providing such notice may put any employee of the financial
484 institution at risk of physical or emotional harm caused by a depositor;
485 or (F) the financial institution complies with any state or federal law that
486 requires the financial institution to provide notice to one or more
487 depositors of the closing of the account.

488 (f) (1) Each financial institution shall comply with the applicable
489 provisions of the Electronic Signatures in Global and National
490 Commerce Act, 15 USC 7001 et seq., as amended from time to time, that
491 (A) require a financial institution to obtain a consumer's consent before
492 the financial institution provides to the consumer periodic statements in
493 an electronic form, (B) allow a consumer to withdraw such consent, and
494 (C) require a financial institution to provide to a consumer a paper copy
495 of any electronic periodic statement upon the consumer's request for
496 such paper copy.

497 (2) Each such financial institution shall comply with the applicable
498 provisions of the Connecticut Uniform Electronic Transactions Act,
499 sections 1-266 to 1-286, inclusive, before providing to a consumer
500 periodic statements in an electronic form.

501 (3) Each financial institution shall comply with the applicable
502 provisions of the Truth in Savings Act, 12 USC 4301 et seq., and the

503 regulations promulgated pursuant to said act, as said act and such
 504 regulations may be amended from time to time, before providing to a
 505 consumer periodic statements in an electronic form.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2023	36b-14(f)
Sec. 2	October 1, 2023	New section
Sec. 3	October 1, 2023	New section
Sec. 4	October 1, 2023	45a-106a(b)(10)
Sec. 5	October 1, 2023	36a-290(b)
Sec. 6	October 1, 2023	36a-318

Statement of Legislative Commissioners:

In Section 1(f)(1)(A), "or" was changed to "and" for clarity; in Section 1(f)(1)(B), "conduct includes, but is not limited to: (i) The" was changed to "acts and processes include, but are not limited to: (i) Any" for internal consistency; in Section 1(f)(1)(C), "or" was changed to "and" and "such broker-dealer or investment adviser" was changed to "a broker-dealer or investment adviser described in subparagraph (C)(i) of this subdivision" for clarity; in Section 1(f)(2)(A), ", in any reasonable manner," was added after "disclose" and "belief in any reasonable manner" was changed to "belief" for clarity; in Section 1(f)(2)(B) and (3)(B), "any" was added after "from" for clarity; in Section 2, Subsec. (a) was redrafted to remove an unnecessary definition and, in Subsec. (a), Subdivs. (3) to (10), inclusive, were redesignated Subdivs. (2) to (9), inclusive, for consistency and Subdiv. (5) was redrafted for conciseness; in Section 3(a)(1) and (2), the provisions were divided into Subparas. and "or" was changed to "and" for clarity; and in Section 3(e), "the probate court having jurisdiction" was changed to "the Probate Court having jurisdiction" for consistency.

BA *Joint Favorable Subst. -LCO*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 24 \$	FY 25 \$
Probate Court	PCAF - Potential Revenue Gain	See Below	See Below

Note: PCAF=Probate Court Administration Fund

Municipal Impact: None

Explanation

The bill creates a new circumstance in which a person may petition the Probate Courts. An elderly person or a legal representative of the elderly person may petition the court to remove a hold placed due to suspected elder financial abuse. The filing fee for such a petition is likely to be \$250, which results in a potential revenue gain in the Probate Court Administration Fund for such petitions.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of petitions filed and the associated fee.

OLR Bill Analysis**sSB 1088*****AN ACT CONCERNING FINANCIAL EXPLOITATION OF SENIOR CITIZENS.*****SUMMARY**

This bill authorizes disclosures and other processes by broker-dealers, investment advisors, financial institutions (e.g., banks and credit unions), and probate courts to address the financial exploitation of elderly people and certain others. The bill shields entities that make authorized disclosures from liability in certain cases. It also decreases the evidentiary standard used for determining when ownership of a joint account at a bank or credit union would not vest to the surviving account owners. Additionally, the bill explicitly requires financial institutions to comply with certain federal and state law requirements on providing electronic or paper periodic statements.

EFFECTIVE DATE: October 1, 2023

§ 1 — FINANCIAL EXPLOITATION AND BROKER-DEALERS AND INVESTMENT ADVISORS

The bill expands on the Connecticut Uniform Securities Act's (CUSA) records and financial reports law to address financial exploitation against "eligible adults," which, under the bill, are (1) state residents who are 60 years old or older and (2) adults under the Department of Social Services's (DSS) care or custody.

Under this bill provision, "financial exploitation" is the act or process of taking advantage of an eligible adult by another person or caretaker for a monetary, personal, or other benefit, gain, or profit. It includes the following:

1. any wrongful or unauthorized taking, withholding,

- appropriation, or use of an eligible adult's money, assets, or property;
2. any act or omission to obtain control, through deception, intimidation, or undue influence, over an eligible adult's money, assets, or property and deprive the eligible adult of the ownership, use, benefit, or possession of them, including through power of attorney, guardianship, or conservatorship; and
 3. converting an eligible adult's money, assets, or property to deprive the eligible adult of the ownership, use, benefit, or possession of them.

The bill alternatively authorizes certain disclosures of financial exploitation and related actions by a broker-dealer and an investment adviser, as defined under the existing CUSA, and by a "qualified person" (i.e., a broker-dealer, investment adviser, broker-dealer agent, or investment adviser agent, as defined under CUSA, and any person serving in a supervisory, compliance, or legal capacity for a broker-dealer or investment adviser).

Disclosure Authorizations

The bill allows any qualified person to promptly disclose, in any reasonable manner, to the social services and banking commissioners when he or she has reasonable cause to suspect or believe that financial exploitation of an eligible adult may have occurred, been attempted, or is being attempted, and the basis for this suspicion or belief. A qualified person is further authorized to disclose this financial exploitation to a third party that the eligible adult has designated as a trusted contact person to discuss the eligible adult's financial affairs, so long as the qualified person does not reasonably believe the third party is involved in the financial exploitation or other abuse.

The bill requires investment advisers to maintain records reflecting the name and contact information for any trusted contact person, at least 18 years old, whom an advisory client has designated to be contacted concerning the client's account, except in the case of an institutional

account. Under the bill, when a client opens or updates an advisory account, an investment adviser must disclose that the adviser is authorized to contact the trusted contact person and disclose account information to (1) address possible financial exploitation and (2) confirm the client's current contact information, health status, or the identity of any legal guardian, executor, trustee, or holder of a power of attorney. The disclosure must be in writing and may be in an electronic format. The bill allows an investment adviser to open or maintain an account for a client without a trusted contact person's name and contact information, so long as the adviser makes reasonable efforts to obtain this information.

Under the bill, if a qualified person voluntarily makes the above disclosures to the commissioners or a trusted contact person in good faith and with reasonable care, the qualified person is immune from any administrative or civil liability that might otherwise arise solely from the disclosures or for any failure to notify the customer or client of the disclosure. This immunity does not apply if the qualified person participated in the financial exploitation described in the disclosure. The bill expressly provides that this immunity will not affect existing laws imposing criminal liability (e.g., perjury or fraudulent or malicious reporting).

Temporary Hold

The bill also allows a broker-dealer or investment adviser to place a temporary hold on a disbursement of funds or securities or a transaction in securities from an eligible adult's account, including an account with an eligible adult as a beneficiary, if the broker-dealer or investment adviser reasonably believes that financial exploitation has occurred, is occurring, has been attempted, or will be attempted.

Within two business days after placing a temporary hold, the broker-dealer or investment adviser must notify all parties authorized to transact business on the account and the trusted contact person, if any, of the hold and reason for it unless (1) a party or trusted contact person is unavailable or (2) the broker-dealer or investment adviser reasonably

believes that the party or trusted contact person has engaged, is engaged, or will engage in financial exploitation.

The bill also requires the broker-dealer or investment adviser to immediately initiate an internal review of the facts and circumstances that caused him or her to reasonably believe that financial exploitation has occurred, is occurring, has been attempted, or will be attempted.

Under the bill, a temporary hold must generally expire within 15 business days after it is first placed, but the broker-dealer or investment adviser may extend the hold if the internal review supports it. In these instances, the hold may be extended (1) up to 10 business days or (2) up to 30 business days if the broker-dealer or investment adviser has reported or provided notification about the financial exploitation to a state regulator, agency of competent jurisdiction, or court of competent jurisdiction. However, regardless of the original expiration date or any extensions by a broker-dealer or investment adviser, the bill authorizes state regulators, agencies of competent jurisdiction, and courts of competent jurisdiction to otherwise terminate or extend the hold. The bill expressly provides that nothing in it prevents the social services and banking commissioners and the probate court from sooner terminating or extending the hold upon contemporaneous written notice to the broker-dealer or investment adviser.

Record Sharing

The bill requires registered broker-dealers and investment advisers to provide access to, or copies of, records relevant to suspected or attempted financial exploitation to the banking commissioner and to a law enforcement agency. This must be provided as part of (1) a referral to the commissioner or agency or (2) upon request for an investigation or examination. The bill expressly provides that nothing in it limits or otherwise impedes the banking commissioner's authority to access or examine the books and records of broker-dealers and investment advisers as provided by other applicable law.

The bill exempts all records made available to agencies from the

Freedom of Information Act. The bill retains a provision in existing law allowing the banking commissioner to share and exchange information and documents related to the suspected financial exploitation with affected social services regulators.

The bill specifically identifies certain documents as records relevant to a financial exploitation. For broker-dealers, it includes records prescribed under the federal Securities Exchange Act of 1934 and its regulations, as well as applicable self-regulatory organization rules. For investment advisers, the bill classifies the following documentation as relevant:

1. relevant requests for disbursements,
2. documents supporting any disbursement delay,
3. documents supporting the investment adviser's reasonable belief that financial exploitation has occurred or is occurring,
4. the name and title of the person authorizing the disbursement delay,
5. notifications to affected parties, and
6. documents relating to the investment adviser's internal review.

Training

Under the bill, broker-dealers and investment advisers must, consistent with federal law, develop training policies or programs reasonably designed to ensure that a qualified person understands and can effectively carry out the above requirements when necessary.

Additional Immunity

Beyond the immunities provided to a qualified person described above, the bill further makes broker-dealers and investment advisers who, in good faith and with reasonable care, comply with these requirements immune from any administrative or civil liability that might otherwise arise from any action they take that is permitted under

the bill.

Federal Preemption

The bill expressly provides that if any part of the provisions described above is preempted by federal law, then federal law will control.

§ 2 — FINANCIAL EXPLOITATION AND FINANCIAL INSTITUTIONS

The bill separately addresses another type of financial exploitation against a state resident who is at least 60 years old (i.e., an “elderly person”).

For this population, “financial exploitation” is using, controlling, or withholding an elderly person’s property, income, resources, or trust funds by any person or entity, including an elderly person’s agent pursuant to a power of attorney, for profit or advantage at the elderly person’s expense. It specifically includes acts constituting a breach of fiduciary duty to an elderly person, or forcing, compelling, or exerting undue influence over the elderly person to cause the elderly person to engage in a transaction or disbursement.

Transaction and Disbursement Suspensions

The bill authorizes financial institutions and financial agents to suspend a transaction or disbursement involving an elderly person’s account for up to seven business days if either has reasonable cause to believe that the transaction or disbursement may involve, facilitate, result in, or contribute to financial exploitation.

Under the bill, a “transaction” includes providing access to a safe deposit box or any nonpublic personal information of an elderly person. “Nonpublic personal information” is generally personally identifiable financial information (1) provided by a consumer to a financial institution, (2) resulting from any transaction with the consumer or any service performed for the consumer, or (3) otherwise obtained by the financial institution (15 U.S.C. § 6809(a)).

Under the bill, a “financial institution” is any Connecticut bank or credit union, any institution that engages in the business of banking or a credit union that is chartered out-of-state, and any subsidiary or affiliate of these entities. A “financial agent” is a financial institution employee who, within the scope of employment, has direct contact with an elderly person or reviews or approves an elderly person’s financial documents, records, or transactions. An “account” is a customer asset or liability account (e.g., a safe deposit box), established primarily for personal, family, or household purposes, that a financial institution holds on an elderly person’s behalf.

In addition to these entities, the bill’s provisions also apply to national banking associations, federal savings banks, federal savings and loan associations, and institutions chartered or organized as a federal credit union under federal law, to the extent that they have voluntarily implemented these requirements that are not expressly preempted by federal law, rule, regulation, or order.

Following a suspension, the bill allows the elderly person to renew or resume the transaction or disbursement request. The financial institution must honor the request unless it (1) elects to extend the suspension for an additional seven business days for reasonable cause and in accordance with the financial institution’s “suspected exploitation policy” (i.e., a written policy for any actions permitted under the bill when financial exploitation of an elderly person is suspected) or (2) cannot process the transaction or disbursement due to an applicable law, court order, regulatory requirement, or private rule to which the financial institution is subject that governs the processing, clearing, or payment of transactions or disbursements.

Financial institutions and financial agents may decline or return the suspended transaction or disbursement if they have reasonable cause to believe they may be subject to any penalty or liability under any law, regulation, or governmental or private rule that governs the processing, clearing, or payment of transactions or disbursements due to the suspension.

If a financial institution has suspended, declined, or returned a transaction or disbursement under the bill, it must do the following:

1. notify all account holders of its action unless the financial institution reasonably believes that an account holder is involved in the suspected financial exploitation or other abuse of the elderly person and
2. notify the trusted contact person, if any, unless this person is unavailable or the financial institution reasonably believes that he or she has engaged, is engaged, or will engage in financial exploitation.

Under the bill, a “trusted contact person” is someone whom an elderly person identifies and authorizes a financial institution to contact, at the financial institution’s option, and to whom the institution may disclose information about the account to (1) address possible financial exploitation, or (2) confirm the account holder’s current contact information, health status, or the identity of any legal guardian, executor, trustee, or holder of a power of attorney.

The bill allows financial institutions to ask any holders of an elderly person’s account to identify a trusted contact person.

Immunity

Except for instances where a financial agent or any other financial institution employee participated in a suspected financial exploitation, financial agents and financial institutions are immune from any administrative or civil liability under state law for any action permitted under the bill.

However, this immunity only extends to financial institutions if their actions were done in good faith. Under the bill, “good faith” exists under the following circumstances:

1. if the financial agent who decides to take the action has participated in the mandatory training required under existing

- law to detect potential fraud, exploitation, and financial abuse of elderly people (CGS § 17b-463);
2. if the financial institution has provided prior written or electronic notice, including as part of a deposit account contract or related disclosures, that it has a suspected exploitation policy by which it may suspend transactions or disbursements to an elderly person in whose name the affected account is held (notice provided to any person who holds or is authorized to access the affected account must constitute notice to all other persons who hold the affected account, and nothing may be construed to require a financial institution to disclose a copy of its suspected exploitation policy to any account holder);
 3. the financial institution or financial agent reports the suspected financial exploitation to the DSS commissioner or her designee, unless (a) the financial institution revokes any suspension within two business days or (b) the financial institution reinstates and processes any transaction or disbursement it declined or returned within two business days;
 4. the financial institution has established a written suspected exploitation policy; and
 5. the financial institution retains, for seven years, a record of the suspected financial exploitation, including any reports to social services, regulatory, or law enforcement agencies and supporting documents.

§§ 3 & 4 — FINANCIAL EXPLOITATION AND PROBATE COURTS

The bill allows an elderly person, or his or her legal representative, to petition the probate court to remove a financial hold imposed by a financial institution under the bill.

For this provision, an “elderly person” is an (1) “eligible adult” and an “elderly person” as defined by Sections 1 and 2 of the bill, respectively, and (2) individual who would qualify as either if he or she

were a state resident. Additionally, a “financial institution” is a (1) “qualified person” as defined by Section 1 of the bill and any entity employing one and (2) “financial agent” or “financial institution” as defined in Section 2 of the bill. Lastly, a “financial hold” is a financial institution’s refusal to (1) complete any transaction, including a “transaction” as defined in Section 2 of the bill, or (2) disburse the proceeds of any transaction upon a deposit account, funds, safe deposit box, securities, or other property in its custody.

Under the bill, the petition to remove a financial hold must be filed in the probate district where the (1) elderly person resides, is domiciled, or is located at the time the petition is filed or (2) financial institution maintains an office if the elderly person does not reside in Connecticut and is not domiciled or currently located in the state. The petition must include the following information:

1. the elderly person’s name, date of birth, and address;
2. the elderly person’s conservator or guardian’s name and address, if any;
3. the petitioner’s name and address;
4. the name and address of the financial institution imposing the financial hold;
5. whether DSS is known to be investigating the elderly person’s welfare;
6. whether a petition to appoint a conservator or guardian is pending in any court;
7. a description of the transaction subject to the financial hold; and
8. a statement as to why the transaction will not result in financial exploitation of the elderly person.

The bill requires the probate court to give notice of the hearing on the petition by regular mail to the DSS commissioner and each elderly

person, conservator or guardian, petitioner, and financial institution identified in the petition. The hearing must be held within 10 days of receiving the petition unless continued by the probate court for cause shown.

The probate court must order the financial hold released if it (1) determines that there is no reasonable cause to conclude that the transaction or disbursement subject to the hold may involve, facilitate, result in, or contribute to the financial exploitation of the elderly person or (2) finds that the elderly person is not a Connecticut resident. If the probate court determines there is reasonable cause for the hold, it may order that it be continued or modified for up to 30 days from the date of the order or until a conservator or guardian is appointed for the elderly person, whichever occurs first.

However, regardless of the above, the probate court with jurisdiction over a pending or current conservatorship of an elderly person's estate may, on the petition of a party related to the conservatorship, order the release, continuation, or modification of a financial hold on any terms the probate court deems appropriate.

The bill establishes a \$250 probate court fee when filing to release a financial hold imposed by a financial institution on an "eligible adult," as defined in Section 1 of the bill. Once a financial hold petition has been disposed, the probate court may order that the petitioner be reimbursed for this filing fee as the court deems equitable, so long as no financial agent is made responsible for the reimbursement and a financial institution is only liable if the court finds the financial institution did not have reasonable cause to believe that a transaction or disbursement involving the elderly person's account may have involved, facilitated, resulted in, or contributed to his or her financial exploitation.

§ 5 — JOINT BANK ACCOUNT OWNERSHIP

By law, there is a rebuttable presumption that creating a joint account is evidence of intent by the person creating the account to have it vest, if he or she dies, to any other account holders. Current law requires someone challenging the survivor's right to account ownership to show clear and convincing contrary evidence or that there was fraud or undue influence. The bill replaces the clear and convincing evidentiary standard with preponderance of the evidence, which is a lower legal standard (see BACKGROUND).

§ 6 — FINANCIAL INSTITUTIONS' PERIODIC STATEMENTS

The bill requires financial institutions to comply with certain provisions in three federal and state laws that apply to them regarding periodic statements to consumers.

Specifically, the institutions must do the following, as required by the federal Electronic Signatures in Global and National Commerce Act:

1. only provide periodic statements in electronic form to consumers after the consumers consent to receive them in that format,
2. allow consumers to withdraw their consents, and
3. provide paper copies of any electronic statements when requested by consumers (15 U.S.C. § 7001 et seq.).

They must also comply with the Connecticut Uniform Electronic Transactions Act (CGS § 1-266 et seq., which provides uniform rules for electronic commerce transactions) and the federal Truth in Savings Act (12 U.S.C. § 4301 et seq., which, among other things, requires uniform disclosure of interest rate and fee information) before providing consumers with electronic periodic statements.

BACKGROUND***Evidentiary Standards***

A “preponderance of the evidence” means that it is more likely than not that the facts asserted are true. It is the burden of proof in most civil trials. “Clear and convincing” means that it is highly probable or reasonably certain. Clear and convincing is a greater burden of proof than preponderance of the evidence, but less than evidence beyond a reasonable doubt, which is the standard in criminal trials (Black’s Law Dictionary, 11th ed.).

COMMITTEE ACTION

Banking Committee

Joint Favorable

Yea 12 Nay 0 (03/07/2023)