

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
COMMERCE/INSURANCE DIVISION
BILL)

A BILL FOR

1 An Act relating to the financial exploitation of designated
2 eligible adults, and making an appropriation.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 502.607, subsection 2, Code 2021, is
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. *g.* A record obtained by the administrator or
4 by law enforcement under section 502.809.

5 Sec. 2. Section 502.607, subsection 3, Code 2021, is amended
6 to read as follows:

7 3. *Administrator discretion to disclose.* If disclosure
8 is for the purpose of a civil, administrative, or criminal
9 investigation, action, or proceeding or to a person specified
10 in section 502.608, subsection 1, the administrator may
11 disclose a record obtained in connection with an audit or
12 inspection under section 502.411, subsection 4, or a record
13 obtained in connection with an investigation under section
14 502.602 or section 502.809.

15 Sec. 3. NEW SECTION. **502.801 Definitions.**

16 For purposes of this article, unless the context otherwise
17 requires:

18 1. *"Eligible adult"* means any of the following:

19 *a.* A person sixty-five years of age or older.

20 *b.* A dependent adult as defined in section 235B.2.

21 2. *"Financial exploitation"* means any act or omission taken
22 by a person to wrongfully and knowingly deprive an eligible
23 adult of money, assets, or property, or to obtain control over
24 or otherwise use, convert, or divert the benefits, property,
25 resources, or assets of the eligible adult by intimidation,
26 deception, coercion, fraud, extortion, or undue influence.

27 3. *"Permissible third party"* means any of the following:

28 *a.* A person the eligible adult previously designated to
29 receive the notification described in section 502.804.

30 *b.* A person otherwise permitted to receive the notification
31 described in section 502.804 by any state or federal law or any
32 rule issued by the financial industry regulatory authority.

33 4. *"Qualified individual"* means any of the following:

34 *a.* An agent who has received training pursuant to section
35 502.808.

1 *b.* An investment adviser representative who has received
2 training pursuant to section 502.808.

3 *c.* A person who has received training pursuant to
4 section 502.808 and who serves in a supervisory, compliance,
5 senior investor protection, or legal capacity for any of the
6 following:

7 (1) A broker-dealer.

8 (2) An investment adviser.

9 Sec. 4. NEW SECTION. 502.802 Notification to administrator.

10 If a broker-dealer, investment adviser, or qualified
11 individual reasonably believes financial exploitation of
12 an eligible adult has occurred, has been attempted, or is
13 being attempted, the broker-dealer, investment adviser, or
14 qualified individual may promptly notify the administrator.
15 The administrator may adopt rules regarding the form and manner
16 of the notification under this section.

17 Sec. 5. NEW SECTION. 502.803 Notification to administrator
18 — immunity.

19 A broker-dealer, investment adviser, or qualified individual
20 who, acting reasonably and in good faith, makes a disclosure
21 of information to the administrator pursuant to this article
22 shall be immune from administrative or civil liability that
23 might otherwise arise from such disclosure or for any failure
24 to notify the eligible adult of the disclosure. This section
25 shall not abrogate or modify any existing statutory or common
26 law privileges or immunities.

27 Sec. 6. NEW SECTION. 502.804 Notification to permissible
28 third party.

29 1. If a broker-dealer, investment adviser, or qualified
30 individual reasonably believes financial exploitation of
31 an eligible adult has occurred, has been attempted, or is
32 being attempted, the broker-dealer, investment adviser, or
33 qualified individual may notify a permissible third party. The
34 administrator may adopt rules regarding the form and manner of
35 the notification under this section.

1 2. Broker-dealers, investment advisers, and qualified
2 individuals shall not notify a permissible third party the
3 broker-dealer, investment adviser, or qualified individual
4 reasonably suspects of financial exploitation or other abuse
5 of the eligible adult.

6 Sec. 7. NEW SECTION. 502.805 Notification to permissible
7 third party — immunity.

8 A broker-dealer, investment adviser, or qualified individual
9 who, acting reasonably and in good faith, complies with section
10 502.804 shall be immune from any administrative or civil
11 liability that might otherwise arise from such disclosure.

12 Sec. 8. NEW SECTION. 502.806 Disbursements or transactions
13 — delay.

14 1. If a broker-dealer, investment adviser, or qualified
15 individual reasonably believes a disbursement or transaction
16 will likely result in or contribute to the financial
17 exploitation of an eligible adult, the broker-dealer,
18 investment adviser, or qualified individual shall initiate an
19 internal review of the requested disbursement or transaction.

20 2. A broker-dealer or investment adviser may delay a
21 disbursement or transaction from an eligible adult's account or
22 an account on which an eligible adult is a beneficiary if all
23 of the following apply:

24 a. The broker-dealer, investment adviser, or qualified
25 individual reasonably believes, after initiating the internal
26 review referenced in subsection 1, that the requested
27 disbursement or transaction will likely result in or contribute
28 to the financial exploitation of an eligible adult.

29 b. Immediately, but in no event more than two business
30 days after the disbursement or transaction is delayed,
31 the broker-dealer or investment adviser provides written
32 notification of the delay and the reason for the delay to
33 all persons authorized to transact business on the account.
34 Broker-dealers, investment advisers, and qualified individuals
35 shall not notify a person authorized to transact business

1 on the account if the broker-dealer, investment adviser,
2 or qualified individual reasonably believes the person
3 has committed financial exploitation, attempted financial
4 exploitation, or other abuse of the eligible adult.

5 *c.* Immediately, but in no event more than two business
6 days after the disbursement or transaction is delayed, the
7 broker-dealer or investment adviser notifies the administrator
8 of the delay and provides to the administrator the reason
9 for the delay, including the results of the internal review
10 referenced in subsection 1.

11 *d.* The broker-dealer or investment adviser continues
12 the internal review of the suspected or attempted financial
13 exploitation of the eligible adult, as necessary, and provides
14 the administrator with updates upon request.

15 3. Any delay of a disbursement or transaction authorized by
16 this section will expire upon the first to occur of any of the
17 following:

18 *a.* A determination by the broker-dealer or investment
19 adviser that the disbursement or transaction will not result in
20 or contribute to financial exploitation of the eligible adult.

21 *b.* Fifteen business days after the date on which the
22 broker-dealer or investment adviser first delayed disbursement
23 of the funds or transaction, unless the administrator requests
24 the broker-dealer or investment adviser to extend the delay,
25 in which case the delay shall expire no more than twenty-five
26 business days after the date on which the broker-dealer or
27 investment adviser first delayed the disbursement of the funds
28 or the transaction.

29 4. Notwithstanding subsection 3, upon the petition of
30 the administrator, the broker-dealer or investment adviser
31 who initiated the delay pursuant to this section, or another
32 interested party, a court of competent jurisdiction may enter
33 an order terminating, extending, or modifying the delay of the
34 disbursement or transaction and may order other protective
35 relief.

1 5. The administrator may adopt rules regarding the form and
2 manner of the notifications under this section.

3 Sec. 9. NEW SECTION. 502.807 Disbursements of transactions
4 — delay — immunity.

5 A broker-dealer or investment adviser who, acting reasonably
6 and in good faith, complies with section 502.806 shall be
7 immune from any administrative or civil liability that
8 might otherwise arise from such delay in a disbursement or
9 transaction.

10 Sec. 10. NEW SECTION. 502.808 Training requirements.

11 1. A broker-dealer or investment adviser shall provide
12 to its qualified individuals training appropriate to the job
13 responsibilities of a qualified individual. The training shall
14 include all of the following:

15 a. Instruction on how to identify the suspected or attempted
16 exploitation of an eligible adult, including common signs
17 indicating the financial exploitation of an eligible adult,
18 and how to provide notification regarding the suspected or
19 attempted exploitation of an eligible adult.

20 b. Instruction regarding privacy and confidentiality
21 requirements.

22 2. A broker-dealer or investment adviser shall provide
23 the training required by this section as soon as reasonably
24 practicable, but at least within one year after the date
25 the qualified individual begins employment with or becomes
26 affiliated or associated with a broker-dealer or investment
27 adviser.

28 3. The administrator may adopt rules specifying the content
29 and method of the training required by this section.

30 Sec. 11. NEW SECTION. 502.809 Records.

31 A broker-dealer or investment adviser shall provide access
32 to or copies of records that are relevant to the suspected
33 or attempted financial exploitation of an eligible adult to
34 the administrator, either as part of a notification to the
35 administrator pursuant to section 502.802, or upon the request

1 of the administrator. The records may include historical
2 records as well as records relating to the most recent
3 transactions that may comprise financial exploitation of an
4 eligible adult. The administrator may share the records with
5 law enforcement if the administrator determines it is necessary
6 or appropriate in the public interest and for the protection
7 of the eligible adult. All records made available to the
8 administrator or law enforcement pursuant to this section
9 shall be considered confidential public records under chapter
10 22 and shall not be available for examination by the public
11 pursuant to section 22.2. Nothing in this section shall limit
12 or otherwise impede the authority of the administrator or law
13 enforcement to access or examine the books and records of
14 broker-dealers and investment advisers as otherwise provided
15 by law.

16 Sec. 12. NEW SECTION. 502.810 Financial exploitation —
17 appropriation.

18 1. For the fiscal year beginning July 1, 2021, and each
19 fiscal year thereafter, there is appropriated from the
20 department of commerce revolving fund created in section 546.12
21 to the insurance division seventy-five thousand dollars for
22 the sole and exclusive purpose of investigating complaints
23 and notifications related to financial exploitation of
24 eligible adults. The insurance division shall use the funds
25 appropriated under this subsection for one full-time equivalent
26 position.

27 2. Notwithstanding section 8.33, moneys appropriated in
28 this section that remain unencumbered or unobligated at the
29 close of the fiscal year shall not revert but shall remain
30 available for expenditure for the purposes designated until the
31 close of the succeeding fiscal year.

32 Sec. 13. NEW SECTION. 502.811 Financial exploitation —
33 reporting.

34 Annually, on or before January 15 of each year, the insurance
35 division shall submit a report to the governor and the general

1 assembly concerning the notifications the insurance division
2 received related to the potential financial exploitation of
3 eligible adults, and the insurance division's investigation
4 of the notifications, during the preceding calendar year.
5 The report shall include the number of notifications the
6 insurance division received, the amount of time employees of
7 the insurance division spent investigating the notifications,
8 and the number of incidents of founded financial exploitation
9 of eligible adults.

10

EXPLANATION

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The inclusion of this explanation does not constitute agreement with
the explanation's substance by the members of the general assembly.

13 This bill relates to the financial exploitation of persons
14 designated as eligible adults. The bill defines an eligible
15 adult as persons 65 years of age or older and certain dependent
16 adults as defined in Code section 235B.2.

17 The bill authorizes broker-dealers, investment advisers,
18 and qualified individuals to notify the commissioner of
19 insurance if they reasonably believe financial exploitation
20 of an eligible adult has occurred, has been attempted,
21 or is being attempted. The bill provides immunity for
22 broker-dealers, investment advisers, and qualified individuals
23 from administrative or civil liability incurred or imposed as
24 a result of this notification or as a result of any failure to
25 alert the eligible adult of the notification.

26 The bill allows broker-dealers, investment advisers, and
27 qualified individuals to notify permissible third parties
28 if they reasonably believe financial exploitation of an
29 eligible adult has occurred, has been attempted, or is
30 being attempted. The bill similarly provides immunity for
31 broker-dealers, investment advisers, and qualified individuals
32 from administrative or civil liability incurred or imposed as
33 a result of this notification.

34 The bill prohibits broker-dealers, investment advisers,
35 and qualified individuals from notifying a permissible third

1 party if the broker-dealer, investment adviser, or qualified
2 individual reasonably suspects the permissible third party of
3 financial exploitation or other abuse of the eligible adult.

4 The bill requires a broker-dealer, investment adviser,
5 or qualified individual to initiate an internal review of a
6 requested disbursement or transaction if the broker-dealer,
7 investment adviser, or qualified individual reasonably believes
8 the disbursement or transaction will likely result in or
9 contribute to the financial exploitation of an eligible adult.

10 The bill allows a broker-dealer or investment adviser
11 to delay a disbursement or transaction from an eligible
12 adult's account or an account on which an eligible adult is
13 a beneficiary if certain enumerated steps are followed. The
14 bill also prohibits broker-dealers, investment advisers, and
15 qualified individuals from notifying a person authorized
16 to transact business on the eligible adult's account or an
17 account on which an eligible adult is a beneficiary if the
18 broker-dealer, investment adviser, or qualified individual
19 reasonably believes the person has committed financial
20 exploitation or other abuse of the eligible adult.

21 The bill establishes when and under what conditions the
22 delay of the disbursement or transaction is to end. The bill
23 provides immunity for broker-dealers and investment advisers
24 from administrative or civil liability incurred or imposed as
25 a result of the delay.

26 The bill requires broker-dealers or investment advisers
27 to provide to qualified individuals training related to
28 identifying financial exploitation of eligible adults and
29 privacy and confidentiality requirements.

30 The bill also requires broker-dealers and investment
31 advisers to provide the commissioner of insurance access to
32 and copies of records relevant to investigations of financial
33 exploitation of eligible adults in certain enumerated
34 circumstances. The bill authorizes the commissioner to
35 share the records with law enforcement when the administrator

1 determines it is necessary or appropriate in the public
2 interest and for the protection of the eligible adult. The
3 bill provides these records are considered confidential records
4 for purposes of Code chapter 22, and are not available for
5 examination under Code section 22.2.

6 The bill requires the insurance division of the department
7 of commerce to submit an annual report to the governor and the
8 general assembly that includes the number of notifications
9 the insurance division received related to the potential
10 financial exploitation of eligible adults, the amount of time
11 employees of the insurance division spent investigating the
12 notifications, and the number of incidents of founded financial
13 exploitation of eligible adults, during the preceding calendar
14 year.

15 The bill makes an appropriation from the commerce revolving
16 fund created in Code section 546.12 to the insurance division
17 of the department of commerce for the fiscal year beginning
18 July 1, 2021, and each year thereafter, for purposes of
19 investigating complaints and notifications related to financial
20 exploitation of eligible adults.