

House File 839 - Enrolled

House File 839

AN ACT

RELATING TO THE FINANCIAL EXPLOITATION OF DESIGNATED ELIGIBLE
ADULTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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

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

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

3. *Administrator discretion to disclose.* If disclosure is for the purpose of a civil, administrative, or criminal investigation, action, or proceeding or to a person specified

in [section 502.608, subsection 1](#), the administrator may disclose a record obtained in connection with an audit or inspection under [section 502.411, subsection 4](#), or a record obtained in connection with an investigation under [section 502.602](#) or [section 502.809](#).

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

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

1. *"Eligible adult"* means any of the following:
 - a. A person sixty-five years of age or older.
 - b. A dependent adult as defined in [section 235B.2](#).
2. *"Financial exploitation"* means any act or omission taken by a person to wrongfully and knowingly deprive an eligible adult of money, assets, or property, or to obtain control over or otherwise use, convert, or divert the benefits, property, resources, or assets of the eligible adult by intimidation, deception, coercion, fraud, extortion, or undue influence.
3. *"Permissible third party"* means any of the following:
 - a. A person the eligible adult previously designated to receive the notification described in [section 502.804](#).
 - b. A person otherwise permitted to receive the notification described in [section 502.804](#) by any state or federal law or any rule issued by the financial industry regulatory authority.
4. *"Qualified individual"* means any of the following:
 - a. An agent who has received training pursuant to [section 502.808](#).
 - b. An investment adviser representative who has received training pursuant to [section 502.808](#).
 - c. A person who has received training pursuant to [section 502.808](#) and who serves in a supervisory, compliance, senior investor protection, or legal capacity for any of the following:

- (1) A broker-dealer.
- (2) An investment adviser.

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

If a broker-dealer, investment adviser, or qualified individual reasonably believes financial exploitation of an eligible adult has occurred, has been attempted, or is

being attempted, the broker-dealer, investment adviser, or qualified individual may promptly notify the administrator. The administrator may adopt rules regarding the form and manner of the notification under this section.

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

A broker-dealer, investment adviser, or qualified individual who, acting reasonably and in good faith, makes a disclosure of information to the administrator pursuant to this article shall be immune from administrative or civil liability that might otherwise arise from such disclosure or for any failure to notify the eligible adult of the disclosure. Other than matters related to the reporting of the financial exploitation of an eligible adult pursuant to this section, this section shall not abrogate or modify any existing statutory or common law privileges or immunities.

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

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

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

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

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

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

1. If a broker-dealer, investment adviser, or qualified

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

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

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

b. Immediately, but in no event more than two business days after the disbursement or transaction is delayed, the broker-dealer or investment adviser provides written notification of the delay and the reason for the delay to all persons authorized to transact business on the account. Broker-dealers, investment advisers, and qualified individuals shall not notify a person authorized to transact business on the account if the broker-dealer, investment adviser, or qualified individual reasonably believes the person has committed financial exploitation, attempted financial exploitation, or other abuse of the eligible adult.

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

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

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

a. A determination by the broker-dealer or investment

adviser that the disbursement or transaction will not result in or contribute to financial exploitation of the eligible adult.

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

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

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

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

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

Sec. 10. NEW SECTION. 502.808 Training requirements.

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

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

b. Instruction regarding privacy and confidentiality requirements.

2. A broker-dealer or investment adviser shall provide

the training required by this section as soon as reasonably practicable, but at least within one year after the date the qualified individual begins employment with or becomes affiliated or associated with a broker-dealer or investment adviser.

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

Sec. 11. NEW SECTION. 502.809 **Records.**

A broker-dealer or investment adviser shall provide access to or copies of records that are relevant to the suspected or attempted financial exploitation of an eligible adult to the administrator, either as part of a notification to the administrator pursuant to section 502.802, or upon the request of the administrator. The records may include historical records as well as records relating to the most recent transactions that may comprise financial exploitation of an eligible adult. The administrator may share the records with law enforcement if the administrator determines it is necessary or appropriate in the public interest and for the protection of the eligible adult. All records made available to the administrator or law enforcement pursuant to this section shall be considered confidential public records under chapter 22 and shall not be available for examination by the public pursuant to section 22.2. Nothing in this section shall limit or otherwise impede the authority of the administrator or law enforcement to access or examine the books and records of broker-dealers and investment advisers as otherwise provided by law.

Sec. 12. NEW SECTION. 502.810 **Financial exploitation — reporting.**

Annually, on or before January 15 of each year, the insurance division shall submit a report to the governor and the general assembly concerning the notifications the insurance division received related to the potential financial exploitation of eligible adults, and the insurance division's investigation of the notifications, during the preceding calendar year. The report shall include the number of notifications the insurance division received, the amount of time employees of the insurance division spent investigating the notifications,

and the number of incidents of founded financial exploitation of eligible adults.

PAT GRASSLEY
Speaker of the House

JAKE CHAPMAN
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 839, Eighty-ninth General Assembly.

MEGHAN NELSON
Chief Clerk of the House

Approved _____, 2021

KIM REYNOLDS
Governor