

Financial Exploitation of Eligible Adults Bill Senate File 583

Last Action:
Senate Appropriations
Committee
March 18, 2021

An Act relating to the financial exploitation of designated eligible adults and making an appropriation.

**Fiscal Services Division
Legislative Services Agency**

NOTES ON BILLS AND AMENDMENTS (NOBA)

Available online at www.legis.iowa.gov/publications/information/appropriationBillAnalysis

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EXECUTIVE SUMMARY

FINANCIAL EXPLOITATION OF ELIGIBLE ADULTS BILL

SENATE FILE 583

FUNDING SUMMARY

Senate File 583 provides \$75,000 from the Commerce Revolving Fund for 1.0 full-time equivalent (FTE) position for an Insurance Compliance Analyst to investigate complaints and notifications related to financial exploitation of eligible adults.

Page 6, Line 18

STUDIES AND INTENT

Required Report

Requires the Insurance Division to submit an annual report by January 15th to the Governor and the General Assembly regarding notifications related to potential financial exploitation of eligible adults and the Insurance Division's investigation of the notifications. The report must include the number of notifications the Division received, the amount of time Division employees spent investigating the notifications, and the number of incidents of founded financial exploitation of eligible adults.

Page 6, Line 34

Senate File 583 provides for the following changes to the Code of Iowa.

Page #	Line #	Bill Section	Action	Code Section
1	1	1	Add	502.607.2.g
1	5	2	Amend	502.607.3
1	15	3	New	502.801
2	9	4	New	502.802
2	17	5	New	502.803
2	29	6	New	502.804
3	8	7	New	502.805
3	14	8	New	502.806
5	5	9	New	502.807
5	12	10	New	502.808
5	32	11	New	502.809
6	18	12	New	502.810
6	34	13	New	502.811

1 1 Section 1. Section 502.607, subsection 2, Code 2021, is
 1 2 amended by adding the following new paragraph:
 1 3 NEW PARAGRAPH g. A record obtained by the administrator or
 1 4 by law enforcement under section 502.809.

CODE: Specifies that a record obtained by the administrator or by law enforcement is a confidential record that is not available for public examination.

1 5 Sec. 2. Section 502.607, subsection 3, Code 2021, is amended
 1 6 to read as follows:
 1 7 3. ADMINISTRATOR DISCRETION TO DISCLOSE. If disclosure
 1 8 is for the purpose of a civil, administrative, or criminal
 1 9 investigation, action, or proceeding or to a person specified
 1 10 in section 502.608, subsection 1, the administrator may
 1 11 disclose a record obtained in connection with an audit or
 1 12 inspection under section 502.411, subsection 4, or a record
 1 13 obtained in connection with an investigation under section
 1 14 502.602 or section 502.809.

Provides the administrator with the discretion to disclose a record obtained in connection with an audit, inspection, or investigation for the purpose of a civil, administrative, or criminal investigation, action, or proceeding.

1 15 Sec. 3. NEW SECTION 502.801 DEFINITIONS.
 1 16 For purposes of this article, unless the context otherwise
 1 17 requires:
 1 18 1. "Eligible adult" means any of the following:
 1 19 a. A person sixty-five years of age or older.
 1 20 b. A dependent adult as defined in section 235B.2.
 1 21 2. "Financial exploitation" means any act or omission taken
 1 22 by a person to wrongfully and knowingly deprive an eligible
 1 23 adult of money, assets, or property, or to obtain control over
 1 24 or otherwise use, convert, or divert the benefits, property,
 1 25 resources, or assets of the eligible adult by intimidation,
 1 26 deception, coercion, fraud, extortion, or undue influence.
 1 27 3. "Permissible third party" means any of the following:
 1 28 a. A person the eligible adult previously designated to
 1 29 receive the notification described in section 502.804.
 1 30 b. A person otherwise permitted to receive the notification
 1 31 described in section 502.804 by any state or federal law or any
 1 32 rule issued by the financial industry regulatory authority.
 1 33 4. "Qualified individual" means any of the following:
 1 34 a. An agent who has received training pursuant to section
 1 35 502.808.
 2 1 b. An investment adviser representative who has received
 2 2 training pursuant to section 502.808.
 2 3 c. A person who has received training pursuant to

CODE: Defines an "eligible adult" as a person sixty-five years of age or older, or a dependent adult as defined in Iowa Code section [235B.2](#). Defines "financial exploitation" as 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. A "permissible third party" is defined as a person previously designated by the the eligible adult or a person otherwise permitted to receive notifications of financial exploitation.

DETAIL: A dependent adult is currently defined in Iowa Code section [235B.2](#) as a person eighteen years of age or older who is unable to protect the person's own interests or unable to adequately perform or obtain services necessary to meet essential human needs.

2 4 section 502.808 and who serves in a supervisory, compliance,
 2 5 senior investor protection, or legal capacity for any of the
 2 6 following:
 2 7 (1) A broker-dealer.
 2 8 (2) An investment adviser.

2 9 Sec. 4.NEW SECTION 502.802 NOTIFICATION TO ADMINISTRATOR.
 2 10 If a broker-dealer, investment adviser, or qualified
 2 11 individual reasonably believes financial exploitation of
 2 12 an eligible adult has occurred, has been attempted, or is
 2 13 being attempted, the broker-dealer, investment adviser, or
 2 14 qualified individual may promptly notify the administrator.
 2 15 The administrator may adopt rules regarding the form and manner
 2 16 of the notification under this section.

Allows a broker-dealer, investment adviser, or qualified individual to notify the administrator if financial exploitation of an eligible adult has been attempted or is being attempted. The administrator may adopt rules.

2 17 Sec. 5.NEW SECTION 502.803 NOTIFICATION TO ADMINISTRATOR
 2 18 — IMMUNITY.
 2 19 A broker-dealer, investment adviser, or qualified individual
 2 20 who, acting reasonably and in good faith, makes a disclosure
 2 21 of information to the administrator pursuant to this article
 2 22 shall be immune from administrative or civil liability that
 2 23 might otherwise arise from such disclosure or for any failure
 2 24 to notify the eligible adult of the disclosure. Other than
 2 25 matters related to the reporting of the financial exploitation
 2 26 of an eligible adult pursuant to this section, this section
 2 27 shall not abrogate or modify any existing statutory or common
 2 28 law privileges or immunities.

Provides immunity from administrative or civil liability for a broker-dealer, investment adviser, or qualified individual acting in good faith who makes a disclosure of information to the administrator.

2 29 Sec. 6.NEW SECTION 502.804 NOTIFICATION TO PERMISSIBLE
 2 30 THIRD PARTY.
 2 31 1. If a broker-dealer, investment adviser, or qualified
 2 32 individual reasonably believes financial exploitation of
 2 33 an eligible adult has occurred, has been attempted, or is
 2 34 being attempted, the broker-dealer, investment adviser, or
 2 35 qualified individual may notify a permissible third party. The
 3 1 administrator may adopt rules regarding the form and manner of
 3 2 the notification under this section.

Allows a broker-dealer, investment adviser, or qualified individual to notify a permissible third party if financial exploitation of an eligible adult has occurred.

3 3 2. Broker-dealers, investment advisers, and qualified
 3 4 individuals shall not notify a permissible third party the
 3 5 broker-dealer, investment adviser, or qualified individual
 3 6 reasonably suspects of financial exploitation or other abuse

3 7 of the eligible adult.

3 8 Sec. 7.NEW SECTION 502.805 NOTIFICATION TO PERMISSIBLE

3 9 THIRD PARTY — IMMUNITY.

3 10 A broker-dealer, investment adviser, or qualified individual
 3 11 who, acting reasonably and in good faith, complies with section
 3 12 502.804 shall be immune from any administrative or civil
 3 13 liability that might otherwise arise from such disclosure.

Provides immunity from administrative or civil liability for a broker-dealer, investment adviser, or qualified individual who notifies a permissible third party if financial exploitation of an eligible adult has occurred.

3 14 Sec. 8.NEW SECTION 502.806 DISBURSEMENTS OR TRANSACTIONS

3 15 — DELAY.

3 16 1. If a broker-dealer, investment adviser, or qualified
 3 17 individual reasonably believes a disbursement or transaction
 3 18 will likely result in or contribute to the financial
 3 19 exploitation of an eligible adult, the broker-dealer,
 3 20 investment adviser, or qualified individual shall initiate an
 3 21 internal review of the requested disbursement or transaction.

3 22 2. A broker-dealer or investment adviser may delay a
 3 23 disbursement or transaction from an eligible adult's account or
 3 24 an account on which an eligible adult is a beneficiary if all
 3 25 of the following apply:

3 26 a. The broker-dealer, investment adviser, or qualified
 3 27 individual reasonably believes, after initiating the internal
 3 28 review referenced in subsection 1, that the requested
 3 29 disbursement or transaction will likely result in or contribute
 3 30 to the financial exploitation of an eligible adult.

3 31 b. Immediately, but in no event more than two business
 3 32 days after the disbursement or transaction is delayed,
 3 33 the broker-dealer or investment adviser provides written
 3 34 notification of the delay and the reason for the delay to
 3 35 all persons authorized to transact business on the account.

4 1 Broker-dealers, investment advisers, and qualified individuals
 4 2 shall not notify a person authorized to transact business
 4 3 on the account if the broker-dealer, investment adviser,
 4 4 or qualified individual reasonably believes the person
 4 5 has committed financial exploitation, attempted financial
 4 6 exploitation, or other abuse of the eligible adult.

4 7 c. Immediately, but in no event more than two business
 4 8 days after the disbursement or transaction is delayed, the
 4 9 broker-dealer or investment adviser notifies the administrator
 4 10 of the delay and provides to the administrator the reason
 4 11 for the delay, including the results of the internal review

Provides standard protocols for a broker-dealer, investment adviser, or qualified individual for the delay of disbursements of transactions if financial exploitation of an eligible adult is suspected. The administrator may adopt rules.

4 12 referenced in subsection 1.

4 13 d. The broker-dealer or investment adviser continues
4 14 the internal review of the suspected or attempted financial
4 15 exploitation of the eligible adult, as necessary, and provides
4 16 the administrator with updates upon request.

4 17 3. Any delay of a disbursement or transaction authorized by
4 18 this section will expire upon the first to occur of any of the
4 19 following:

4 20 a. A determination by the broker-dealer or investment
4 21 adviser that the disbursement or transaction will not result in
4 22 or contribute to financial exploitation of the eligible adult.

4 23 b. Fifteen business days after the date on which the
4 24 broker-dealer or investment adviser first delayed disbursement
4 25 of the funds or transaction, unless the administrator requests
4 26 the broker-dealer or investment adviser to extend the delay,
4 27 in which case the delay shall expire no more than twenty-five
4 28 business days after the date on which the broker-dealer or
4 29 investment adviser first delayed the disbursement of the funds
4 30 or the transaction.

4 31 4. Notwithstanding subsection 3, upon the petition of
4 32 the administrator, the broker-dealer or investment adviser
4 33 who initiated the delay pursuant to this section, or another
4 34 interested party, a court of competent jurisdiction may enter
4 35 an order terminating, extending, or modifying the delay of the
5 1 disbursement or transaction and may order other protective
5 2 relief.

5 3 5. The administrator may adopt rules regarding the form and
5 4 manner of the notifications under this section.

5 5 Sec. 9.NEW SECTION 502.807 DISBURSEMENTS OF TRANSACTIONS
5 6 — DELAY — IMMUNITY.

5 7 A broker-dealer or investment adviser who, acting reasonably
5 8 and in good faith, complies with section 502.806 shall be
5 9 immune from any administrative or civil liability that
5 10 might otherwise arise from such delay in a disbursement or
5 11 transaction.

Provides immunity from administrative or civil liability for a broker-dealer or investment adviser who delays disbursements of transactions due to suspected financial exploitation of an eligible adult.

5 12 Sec. 10.NEW SECTION 502.808 TRAINING REQUIREMENTS.

5 13 1. A broker-dealer or investment adviser shall provide
5 14 to its qualified individuals training appropriate to the job
5 15 responsibilities of a qualified individual. The training shall
5 16 include all of the following:

Requires broker-dealers or investment advisers to provide training to qualified individuals and specifies what the training will include. Training is required 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

5 17 a. Instruction on how to identify the suspected or attempted
 5 18 exploitation of an eligible adult, including common signs
 5 19 indicating the financial exploitation of an eligible adult,
 5 20 and how to provide notification regarding the suspected or
 5 21 attempted exploitation of an eligible adult.

5 22 b. Instruction regarding privacy and confidentiality
 5 23 requirements.

5 24 2. A broker-dealer or investment adviser shall provide
 5 25 the training required by this section as soon as reasonably
 5 26 practicable, but at least within one year after the date
 5 27 the qualified individual begins employment with or becomes
 5 28 affiliated or associated with a broker-dealer or investment
 5 29 adviser.

5 30 3. The administrator may adopt rules specifying the content
 5 31 and method of the training required by this section.

5 32 Sec. 11.NEW SECTION 502.809 RECORDS.

5 33 A broker-dealer or investment adviser shall provide access
 5 34 to or copies of records that are relevant to the suspected
 5 35 or attempted financial exploitation of an eligible adult to
 6 1 the administrator, either as part of a notification to the
 6 2 administrator pursuant to section 502.802, or upon the request
 6 3 of the administrator. The records may include historical
 6 4 records as well as records relating to the most recent
 6 5 transactions that may comprise financial exploitation of an
 6 6 eligible adult. The administrator may share the records with
 6 7 law enforcement if the administrator determines it is necessary
 6 8 or appropriate in the public interest and for the protection
 6 9 of the eligible adult. All records made available to the
 6 10 administrator or law enforcement pursuant to this section
 6 11 shall be considered confidential public records under chapter
 6 12 22 and shall not be available for examination by the public
 6 13 pursuant to section 22.2. Nothing in this section shall limit
 6 14 or otherwise impede the authority of the administrator or law
 6 15 enforcement to access or examine the books and records of
 6 16 broker-dealers and investment advisers as otherwise provided
 6 17 by law.

6 18 Sec. 12.NEW SECTION 502.810 FINANCIAL EXPLOITATION —
 6 19 APPROPRIATION.

6 20 1. For the fiscal year beginning July 1, 2021, and each
 6 21 fiscal year thereafter, there is appropriated from the

broker-dealer or investment adviser. The administrator may adopt
 rules specifying the content and method of training.

Requires broker-dealers and investment advisers to provide access to
 or copies of records to the administrator that are relevant to suspected
 or attempted financial exploitation of an eligible adult. The
 administrator may share the records with law enforcement if
 necessary. These records are to be considered confidential public
 records.

Appropriates \$75,000 in FY 2022 from the Commerce Revolving Fund
 to the Insurance Division for 1.0 full-time equivalent (FTE) position for
 an Insurance Compliance Analyst. This position is responsible for
 investigating complaints and notifications related to the financial

6 22 department of commerce revolving fund created in section 546.12
 6 23 to the insurance division seventy-five thousand dollars for
 6 24 the sole and exclusive purpose of investigating complaints
 6 25 and notifications related to financial exploitation of
 6 26 eligible adults. The insurance division shall use the funds
 6 27 appropriated under this subsection for one full-time equivalent
 6 28 position.
 6 29 2. Notwithstanding section 8.33, moneys appropriated in
 6 30 this section that remain unencumbered or unobligated at the
 6 31 close of the fiscal year shall not revert but shall remain
 6 32 available for expenditure for the purposes designated until the
 6 33 close of the succeeding fiscal year.

6 34 Sec. 13.NEW SECTION 502.811 FINANCIAL EXPLOITATION ———
 6 35 REPORTING.

7 1 Annually, on or before January 15 of each year, the insurance
 7 2 division shall submit a report to the governor and the general
 7 3 assembly concerning the notifications the insurance division
 7 4 received related to the potential financial exploitation of
 7 5 eligible adults, and the insurance division's investigation
 7 6 of the notifications, during the preceding calendar year.
 7 7 The report shall include the number of notifications the
 7 8 insurance division received, the amount of time employees of
 7 9 the insurance division spent investigating the notifications,
 7 10 and the number of incidents of founded financial exploitation
 7 11 of eligible adults.

exploitation of eligible adults. This appropriation will remain available
 for expenditure until the close of FY 2023.

Requires the Insurance Division to submit an annual report by January
 15th to the Governor and the General Assembly regarding notifications
 related to potential financial exploitation of eligible adults and the
 Insurance Division's investigation of the notifications. The report must
 include the number of notifications the Division received, the amount
 of time Division employees spent investigating the notifications, and
 the number of incidents of founded financial exploitation of eligible
 adults.

Summary Data

Other Funds

	Actual FY 2020 (1)	Estimated FY 2021 (2)	Senate Approp FY 2022 (3)	Sen Appr FY22 vs Est FY 2021 (4)	Page and Line # (5)
Administration and Regulation	\$ 0	\$ 0	\$ 75,000	\$ 75,000	
Grand Total	\$ 0	\$ 0	\$ 75,000	\$ 75,000	

Administration and Regulation

Other Funds

	Actual FY 2020 <u>(1)</u>	Estimated FY 2021 <u>(2)</u>	Senate Approp FY 2022 <u>(3)</u>	Sen Appr FY22 vs Est FY 2021 <u>(4)</u>	Page and Line # <u>(5)</u>
<u>Commerce, Department of</u>					
Insurance Division					
Financial Exploitation - CMRF	\$ 0	\$ 0	\$ 75,000	\$ 75,000	PG 6 LN 18
Total Commerce, Department of	<u>\$ 0</u>	<u>\$ 0</u>	<u>\$ 75,000</u>	<u>\$ 75,000</u>	
Total Administration and Regulation	<u>\$ 0</u>	<u>\$ 0</u>	<u>\$ 75,000</u>	<u>\$ 75,000</u>	