
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2066 Session of
2024

INTRODUCED BY MUNROE, GIRAL, FREEMAN, DONAHUE, SANCHEZ, McNEILL,
GUENST, BRENNAN, CERRATO, PROBST, BOROWSKI, CEPEDA-FREYTIZ,
NEILSON, KHAN, HADDOCK, KAZEEM, KINSEY, MALAGARI AND
HANBIDGE, FEBRUARY 27, 2024

REFERRED TO COMMITTEE ON COMMERCE, FEBRUARY 27, 2024

AN ACT

1 Amending the act of November 6, 1987 (P.L.381, No.79), entitled
2 "An act relating to the protection of the abused, neglected,
3 exploited or abandoned elderly; establishing a uniform
4 Statewide reporting and investigative system for suspected
5 abuse, neglect, exploitation or abandonment of the elderly;
6 providing protective services; providing for funding; and
7 making repeals," providing for financial institutions and
8 fiduciaries.

9 The General Assembly of the Commonwealth of Pennsylvania
10 hereby enacts as follows:

11 Section 1. The act of November 6, 1987 (P.L.381, No.79),
12 known as the Older Adults Protective Services Act, is amended by
13 adding a chapter to read:

14 CHAPTER 6

15 FINANCIAL INSTITUTIONS AND FIDUCIARIES

16 Section 601. Scope of chapter.

17 The purpose of this chapter is to equip financial
18 institutions in this Commonwealth to identify, report and
19 prevent the financial exploitation of older adults.

20 Section 602. Definitions.

1 The following words and phrases when used in this chapter
2 shall have the meanings given to them in this section unless the
3 context clearly indicates otherwise:

4 "A person reasonably associated with the older adult." The
5 term includes:

6 (1) an authorized contact provided by an older adult to
7 a financial institution;

8 (2) a fiduciary authorized to manage some or all of the
9 financial affairs of the older adult;

10 (3) a co-owner, additional authorized signatory or
11 beneficiary on an older adult's account;

12 (4) an attorney or financial professional known to
13 represent or have represented, or to assist in the management
14 of the financial affairs of the older adult;

15 (5) a parent, spouse, adult child, sibling or other
16 known family member or close associate of an older adult; or

17 (6) any other person in a position of trust with respect
18 to the older adult as provided by 18 Pa.C.S. § 3922.1(f)
19 (relating to financial exploitation of an older adult or
20 care-dependent person).

21 "Designated representative of a financial institution." An
22 individual provided immunity from suit for disclosing suspected
23 financial exploitation by 12 U.S.C. § 3423 (relating to immunity
24 from suit for disclosure of financial exploitation of senior
25 citizens).

26 "Fiduciary." A guardian, custodian, trustee, agent, personal
27 representative or other person authorized or required to act on
28 behalf of an older adult.

29 "Financial exploitation." As defined in 18 Pa.C.S. § 3922.1.

30 "Financial institution." Any person defined as a "financial

1 institution" under 31 CFR Subt. B Ch. X (relating to Financial
2 Crimes Enforcement Network, Department of the Treasury) that is
3 required to file suspicious activity reports.

4 Section 603. Voluntary reporting of financial exploitation.

5 (a) Reporting.--Notwithstanding any law limiting or
6 prohibiting disclosure, a fiduciary or designated representative
7 of a financial institution having reasonable cause to believe
8 that financial exploitation of an older adult may have occurred,
9 may have been attempted or is being attempted, may report such
10 information to the agency which is the local provider of
11 protective services, or may report the information to a law
12 enforcement agency or the department. A report made to an agency
13 under this subsection shall provide:

14 (1) the name, age and address of the older adult;

15 (2) the name and address, if known, of the older adult's
16 guardian or next of kin;

17 (3) the name and address of the financial institution or
18 fiduciary and contact information for the individual
19 submitting the report;

20 (4) the nature of the suspected financial exploitation
21 of the older adult; and

22 (5) any specific comments, observations or other
23 information directly related to the alleged incident, the
24 older adult and suspected perpetrator of the financial
25 exploitation that a financial institution or fiduciary
26 determines is needed to facilitate investigation of the
27 report.

28 (b) Assistance by persons reasonably associated with an
29 older adult.--At the same time a report is made under subsection
30 (a) regarding the older adult, notwithstanding any law limiting

1 or prohibiting disclosure, the fiduciary or designated
2 representative may provide information regarding the report to a
3 person reasonably associated with the older adult sufficient to
4 enable the person to consult with or assist the older adult in
5 avoiding or remedying the suspected financial exploitation, or
6 exercise any fiduciary powers it possesses to protect the older
7 adult, unless the financial institution has reason to believe
8 the person is knowingly engaged in or facilitating the financial
9 exploitation of the older adult.

10 (c) Access to records.--Notwithstanding the provisions of
11 section 304:

12 (1) A report authorized by this section may include, or
13 may be subsequently supplemented by, records of the older
14 adult that the financial institution or fiduciary believes
15 are needed to provide protective services to the older adult.

16 (2) If records needed to determine if an older adult
17 subject to a report as authorized by this section are
18 provided by a financial institution or fiduciary as
19 authorized by paragraph (1), and the older adult, or a
20 fiduciary acting on behalf of the older adult, does not
21 provide consent to the agency to access such records, the
22 agency may issue an order, subject to 2 Pa.C.S. Chs. 5 Subch.
23 A (relating to practice and procedure of Commonwealth
24 agencies) and 7 Subch. A (relating to judicial review of
25 Commonwealth agency action), directing the production of such
26 records that relate to the financial transactions of the
27 older adult for a period of time up to 60 days prior to the
28 date of the report and the first reported incident of actual
29 or suspected financial exploitation. Other records shall only
30 be available to the extent provided by section 304.

1 Section 604. Model training program.

2 The Department of Aging and the Department of Banking and
3 Securities, in consultation with representatives of the
4 financial services industry, are authorized to jointly develop a
5 model training program for employees of financial institutions
6 and fiduciaries regarding:

7 (1) the identification of activities that constitute the
8 financial exploitation of older adults;

9 (2) the recognition of the signs of potential financial
10 exploitation of older adults;

11 (3) when a fiduciary or a financial institution acting
12 through a designated representative may report suspected
13 financial exploitation;

14 (4) to whom suspected exploitation should be reported;

15 (5) the information to be included in a report; and

16 (6) the applicable laws, rules and regulations that must
17 be followed while reporting suspected financial exploitation.

18 Section 605. Voluntary refusal of disbursements and
19 transactions.

20 (a) Reasonable belief.--If a designated representative or
21 other employee of a financial institution or a fiduciary
22 reasonably believes, after initiating an internal review of a
23 disbursement or transaction, that financial exploitation of an
24 older adult may have occurred, may have been attempted or is
25 being attempted, the financial institution or fiduciary may
26 refuse to disburse money, or engage in a transaction, to prevent
27 financial exploitation of an older adult with respect to:

28 (1) an account of the older adult;

29 (2) an account on which the older adult is a
30 beneficiary, including a trust or guardianship account; and

1 (3) an account of a person suspected of perpetrating
2 financial exploitation of an older adult.

3 (b) Request by area agency on aging or law enforcement
4 agency.--In addition to the authorization provided by subsection
5 (a), a financial institution or fiduciary may refuse to disburse
6 money or engage in a transaction with respect to the accounts
7 designated in subsection (a) if an area agency on aging or law
8 enforcement agency requests the financial institution or
9 fiduciary to do so or provides information to the financial
10 institution or fiduciary demonstrating that it is reasonable to
11 believe that financial exploitation of an older adult may have
12 occurred, may have been attempted or is being attempted.

13 (c) Discretion.--A financial institution or fiduciary is not
14 required to refuse to disburse money or engage in a transaction
15 as authorized by subsection (a) or (b), but may use its sole
16 discretion to determine whether to refuse to disburse money
17 based on the information available to the financial institution
18 or fiduciary.

19 (d) Duties.--Except as provided under Federal or State law,
20 if a financial institution or fiduciary refuses to disburse
21 money or engage in a transaction as authorized by this section
22 to protect an older adult, the designated representative of the
23 financial institution or the fiduciary shall:

24 (1) make an immediate oral report and file a written
25 report containing the information required for a voluntary
26 report under section 603(a) within two business days;

27 (2) notify the older adult, and if requested provide
28 additional information, in the manner provided for
29 notification by an agency under section 308(a); and

30 (3) within two business days, make a reasonable effort

1 to notify, orally or in writing, each person authorized to
2 transact business on the account, that is a beneficiary of
3 the account or that has been authorized by the older adult to
4 receive notifications regarding account activity, except for
5 a person reasonably believed to have engaged in suspected or
6 attempted financial exploitation of the older adult or a
7 payable on death beneficiary designated not to be notified
8 prior to the death of the older adult.

9 (e) Notice of refused disbursement or transaction.--A
10 notification required by subsection (d) (3) shall be sufficient
11 if it:

12 (1) states that the financial institution or fiduciary
13 has temporarily blocked the disbursement of money or delayed
14 the execution of transactions as authorized by this section
15 to protect an older adult from financial exploitation;

16 (2) provides the name of the financial institution or
17 fiduciary and the name and telephone number of a contact
18 person representing the financial institution or fiduciary;
19 and

20 (3) identifies the account or transaction to which the
21 notification applies.

22 (f) Expiration.--Except as provided under subsection (h), a
23 refusal to disburse money or engage in a transaction as
24 authorized by this section shall expire upon the sooner of the
25 following:

26 (1) issuance of a court order directing the financial
27 institution or fiduciary to make the disbursement or engage
28 in the transaction;

29 (2) a determination by the financial institution or
30 fiduciary based on its sole review and discretion to

1 authorize the disbursement or transaction; or

2 (3) 15 business days after the financial institution or
3 fiduciary first refused to disburse the money or engage in
4 the transaction.

5 (g) Extension of expiration.--A financial institution or
6 fiduciary may extend the expiration date of its refusal as
7 provided in subsection (f) (3) by an additional 25 business days
8 if a request is made for a court order as authorized by
9 subsection (h) by a financial institution or fiduciary, or by
10 the local agency on aging, the department or a law enforcement
11 agency to block or extend the refused disbursement or
12 transaction.

13 (h) Order.--A court of competent jurisdiction may enter an
14 order blocking a disbursement or transaction, or further
15 delaying a disbursement or transaction, to protect an older
16 adult from suspected financial exploitation or order other
17 actions to protect the older adult.

18 (i) Recordkeeping.--A request of an area agency on aging or
19 a law enforcement agency to terminate or extend a refusal to
20 disburse money or engage in a transaction as authorized by this
21 section shall be documented in writing.

22 Section 606. Standing of financial institutions and
23 fiduciaries.

24 (a) Initiation of proceedings.--If a financial institution
25 or fiduciary has a reasonable cause to believe an older adult is
26 subject to an imminent and substantial risk of financial
27 exploitation, the financial institution or fiduciary may
28 initiate a proceeding in a court of competent jurisdiction to:

29 (1) extend the period of time the disbursement of money
30 or transactions may be refused under section 605, or prohibit

1 specific disbursements or transactions;

2 (2) request an order necessary to protect the accounts
3 or assets of an older adult, or in which the older adult has
4 interests;

5 (3) request the appointment of a conservator or guardian
6 of the estate of an older adult;

7 (4) remove the powers of a fiduciary engaged in the
8 financial exploitation of an older adult;

9 (5) modify an order issued by an area agency on aging or
10 the department issued under this act or other law to protect
11 an older adult from suspected financial exploitation; or

12 (6) grant other appropriate relief.

13 (b) Notice to area agency on aging.--Prior to initiating a
14 proceeding under this subsection, at least 24 hours' prior
15 notice must be given to the area agency on aging for the county
16 in which the proceeding is initiated and an offer made to
17 consult with the agency regarding the proceeding, unless
18 delaying the initiation of the proceeding will threaten an older
19 adult with immediate and irreparable injury pursuant to the
20 standards applicable for an application for special relief
21 before notice of a hearing under Pa.R.C.P Rule 1531 (relating to
22 special relief, injunctions). A copy of a petition initiating a
23 proceeding under this section shall be provided to the area
24 agency on aging for the county in which a proceeding is
25 initiated.

26 (c) Intervention.--

27 (1) The area agency on aging in the county in which a
28 petition is filed under this section and the department
29 shall have a right to intervene as a party to the
30 proceeding.

1 (2) A financial institution or fiduciary shall have the
2 right to intervene as a party to a proceeding initiated by
3 an area agency on aging or the department under this act to
4 provide protective services to an older adult customer of a
5 financial institution or to an individual to whom a
6 fiduciary owns a duty of care.

7 Section 607. Access to reports and communications regarding
8 investigations.

9 Notwithstanding the requirements of section 304, an area
10 agency on aging may disclose and discuss with a financial
11 institution or fiduciary reports of the suspected financial
12 exploitation of an older adult and the results of the
13 investigation of such reports to the extent reasonably necessary
14 to facilitate the financial institution's or fiduciary's
15 decision under section 605 to refuse to disburse money or engage
16 in a transaction or to terminate or seek an extension of its
17 refusal to do so.

18 Section 608. Immunity and defenses.

19 (a) Immunity.--Except as provided under subsection (c), a
20 financial institution or fiduciary and its directors, officers,
21 designated representatives, employees or agents shall not be
22 subject to a claim for damages or other civil or criminal
23 liability for taking or failing to take any action authorized,
24 but not required by this chapter, to:

25 (1) identify and report financial exploitation under
26 section 603(a);

27 (2) notify a person reasonably associated with an older
28 adult under section 603(b);

29 (3) provide access to records and information under
30 sections 603(c)(1) and (2) and 607;

1 (4) refuse to allow the disbursement of funds or a
2 transaction under section 605; or

3 (5) initiate or participate in judicial proceedings
4 under section 606.

5 (b) Additional immunities and defenses.--Notwithstanding any
6 other law to the contrary:

7 (1) The refusal by a financial institution to engage in
8 a transaction authorized under this chapter shall not
9 constitute the wrongful dishonor of an item under 13 Pa.C.S.
10 § 4402 (relating to liability of bank to customer for
11 wrongful dishonor; time of determining insufficiency of
12 account).

13 (2) A reasonable belief that payment of a check will
14 facilitate the financial exploitation of an older adult shall
15 constitute reasonable grounds to doubt the collectability of
16 the item for purposes of 12 U.S.C. Chs. 41 (relating to
17 expedited funds availability) and 50 (relating to check
18 truncation) and 12 CFR Pt. 229 (relating to availability of
19 funds and collection of checks).

20 (c) Limitation.--The immunities and defenses provided under
21 this section shall not apply to a financial institution or
22 fiduciary or a director, officer, designated representative,
23 employee or agent of a financial institution or fiduciary that
24 intentionally or knowingly engages in the financial exploitation
25 of an older adult.

26 Section 609. Electronic records and signatures.

27 Any requirements of this chapter requiring a written request,
28 authorization or report may be satisfied by the use of
29 electronic records and signatures as authorized by the act of
30 December 16, 1999 (P.L.971, No.69), known as the Electronic

1 Transactions Act.

2 Section 2. This act shall take effect in 60 days.