

Introduced by

Senators J. Lee, O. Larsen, Heckaman

Representatives Keiser, K. Koppelman, Delmore

1 A BILL for an Act to create and enact a new section to chapter 10-04 of the North Dakota  
2 Century Code, relating to the financial exploitation of vulnerable adults.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1.** A new section to chapter 10-04 of the North Dakota Century Code is created  
5 and enacted as follows:

6 **Financial exploitation - Vulnerable adult.**

7 1. As used in this section:

8 a. "Eligible adult" means an adult who is at least sixty-five years old or a vulnerable  
9 adult as defined in section 50-25.2-01.

10 b. "Financial exploitation" means:

11 (1) The wrongful or unauthorized taking, withholding, appropriation, or use of  
12 money, assets, or property of an eligible adult; or

13 (2) Any act or omission taken by a person, including through the use of a power  
14 of attorney, guardianship, or conservatorship of an eligible adult, to:

15 (a) Obtain control, through deception, intimidation, or undue influence,  
16 over the eligible adult's money, assets, or property, to deprive the  
17 eligible adult of the ownership, use, benefit, or possession of the  
18 eligible adult's money, assets, or property; or

19 (b) Convert money, assets, or property of the eligible adult to deprive the  
20 eligible adult of the ownership, use, benefit, or possession of the  
21 eligible adult's money, assets, or property.

22 c. "Qualified individual" means any agent, investment adviser representative, or  
23 person who serves in a supervisory, compliance, or legal capacity for a broker-  
24 dealer or investment adviser.

- 1        2. If a qualified individual reasonably believes financial exploitation of an eligible adult  
2            may have occurred, may have been attempted, or is being attempted, the qualified  
3            individual shall notify the department of human services and the commissioner.
- 4        3. If a qualified individual reasonably believes financial exploitation of an eligible adult  
5            may have occurred, may have been attempted, or is being attempted, a qualified  
6            individual may notify a third party reasonably associated with the eligible adult or any  
7            other person permitted under state or federal law or rule, rules of a self-regulating  
8            organization, or customer agreement. Disclosure may not be made to a designated  
9            third party who is suspected of financial exploitation or other abuse of the eligible  
10           adult.
- 11       4. A qualified individual who in good faith and exercising reasonable care discloses  
12           information under this section is immune from administrative or civil liability that might  
13           otherwise result from disclosure or for any failure to notify the customer of the  
14           disclosure.
- 15       5. a. A broker-dealer or investment adviser may delay a disbursement of funds or  
16           securities from an account of an eligible adult or an account on which an eligible  
17           adult is a beneficiary if:
- 18           (1) The broker-dealer or investment adviser reasonably believes the requested  
19           disbursement may result in financial exploitation of an eligible adult after  
20           initiating an internal review of the requested disbursement and the  
21           suspected financial exploitation; and
- 22           (2) The broker-dealer or investment adviser:
- 23           (a) Provides written notification of the delay and the reason for the delay  
24           to all parties authorized to transact business on the account, unless a  
25           party is reasonably believed to have engaged in suspected or  
26           attempted financial exploitation of the eligible adult, within two days  
27           after the requested disbursement;
- 28           (b) Notifies the department of human services and the commissioner  
29           within two days after the requested disbursement; and
- 30           (c) Continues its internal review of the suspected or attempted financial  
31           exploitation of the eligible adult as necessary.

- 1           b. Any delay of a disbursement authorized by this section expires upon the earlier  
2           of:
- 3           (1) A determination by the broker-dealer or investment adviser that the  
4           disbursement will not result in financial exploitation of the eligible adult; or  
5           (2) Fifteen business days after the date on which the broker-dealer or  
6           investment adviser first delayed disbursement of the funds or securities,  
7           unless the department of human services or the commissioner requests the  
8           broker-dealer or investment adviser extend the delay, in which case the  
9           delay expires within twenty-five business days after the date the broker-  
10          dealer or investment adviser first delayed disbursement of the funds or  
11          securities unless the delay is terminated by either of the agencies or an  
12          order of a court of competent jurisdiction.
- 13          c. A court of competent jurisdiction may enter an order extending the delay of the  
14          disbursement of funds or securities or may order other protective relief based on  
15          the broker-dealer, investment adviser, or other interested party's petition that  
16          initiated the delay under this section.
- 17          6. A broker-dealer or investment adviser who in good faith and exercising reasonable  
18          care complies with this section is immune from any administrative or civil liability that  
19          may otherwise arise from a delay in disbursement in accordance with this section.
- 20          7. A broker-dealer or investment adviser shall provide access to or copies of records that  
21          are relevant to the suspected or attempted financial exploitation of an eligible adult to  
22          the department of human services and to law enforcement, either as part of a referral  
23          to the department or to law enforcement, or upon request of the department or law  
24          enforcement pursuant to an investigation. The records may include historical records  
25          and records relating to the most recent transaction that may comprise financial  
26          exploitation of an eligible adult. Any record provided to the department of human  
27          services or law enforcement under this section is an exempt record under chapter  
28          44-04. This section does not limit or otherwise impede the authority of the  
29          commissioner to access or examine the books and records of a broker-dealer or  
30          investment adviser as otherwise provided by law.