



## HOUSE COMMITTEE ON APPROPRIATIONS

# FISCAL NOTE

HOUSE BILL NO. 2064

PRINTER'S NO. 3462

PRIME SPONSOR: Hogan

### COST / (SAVINGS)

FUND	FY 2023/24	FY 2024/25
Lottery Fund	See Fiscal Impact	See Fiscal Impact
General Fund	See Fiscal Impact	See Fiscal Impact

### SUMMARY:

This legislation amends the Older Adults Protective Services Act to require a financial institution and its designated representatives to report suspected financial exploitation of older adults.

### ANALYSIS:

House Bill 2064, Printer's Number 3462 amends Act 79 of 1987, known as the Older Adults Protective Services Act to add Chapter 6 (Financial Institutions). This Chapter includes requirements for financial institutions and designated representatives of financial institutions to report suspected financial exploitation of older adults.

#### Section 602 Duties for financial institutions

Establishes reporting requirements for designated representatives of the financial institutions that believe financial exploitation of older adults may have occurred, may have been attempted, or is being attempted. The designated representative of the financial institution must report such information to a law enforcement agency or the Department of Aging within five (5) business days. When the financial institution is required to follow their established policies, program, plans, and procedures to report suspected financial exploitation to the designated representative of the financial institution.

The financial institution may place a hold on a proposed transaction and file a report, as required by this legislation, by no later than the next business day. The proposed transaction may be held for an additional fifteen (15) business days at the request of the area agency on aging, a law enforcement official or legal representative of the older adult. Except as required by federal or state law, if the financial institution places a hold on a proposed transaction, it must notify the older adult and each person authorized to use the account, except for a person reasonably believed to have engaged in the suspected or attempted financial exploitation.

The designated representative of the financial institution will notify the older adult and each person authorized to transact business on the account, except for a person reasonably believed to have engaged in suspected or attempted financial exploitation, within one business day and state that the financial institution has temporarily blocked the disbursement of money or delayed execution of the transactions and provide the name and telephone number of the contact person at the financial institution.

#### Section 603 Access to Records

A financial institution will provide, at no cost, access to or copies of records that are relevant to the suspected or attempted financial exploitation of an older adult to the area agency on aging, law enforcement agency, or the Department of Aging. Records include historical records and records regarding the most recent transaction or transactions that may constitute financial exploitation.

### Section 604 Compliance policies of financial institutions

A financial institution must create and implement policies, programs, plans, and procedures to comply with the requirements in this legislation.

### Section 605 Model training program

The Department of Aging, in consultation with the Department of Banking and Securities and with representatives of the financial services industry, may jointly develop a model training program for designation representatives of financial institutions regarding the identification of activities that constitute financial exploitation of older adults.

### Section 606 Enforcement

The Attorney General and the Department of Aging may bring action before a court to enforce the requirements in this legislation. A violation that results in a financial loss to an older adult may result in an order for the financial institution to pay a civil penalty not to exceed \$10,000 per violation. A court may also order a financial institution to restore any person interest for losses that resulted the violation which includes an amount not to exceed the actual damages up to \$10,000, or the amount of actual damages up to a maximum of the deposit insurance limit applicable to the owner of the older adult's account.

### Section 607 Immunity

A person acting in good faith in accordance with the requirements of this legislation will have immunity from the liability solely for providing access to records or holding a transaction that might otherwise exist.

This legislation will take effect in 60 days upon enactment.

### **FISCAL IMPACT:**

#### Department of Aging

The area agencies on aging currently investigate reported financial exploitation against older adults. These agencies receive administrative funding through allocations from the Department of Aging. The funding for the Department of Aging is appropriated from the Lottery Fund. This legislation may generate an increase in reports of suspected financial exploitation which may result in increased administrative costs for the area agencies on aging. As a result, the department may need to increase funding provided to these agencies, which will increase costs to the commonwealth. However, the increased costs to the area agency on aging cannot be determined at this time. Therefore, the fiscal impact to the commonwealth is indeterminate.

#### Office of Attorney General

Any increase in administrative costs to the Office of Attorney General will depend on the number of financial institutions that violate the requirements within this legislation which cannot be determined at this time. Therefore, any increase in cost to the commonwealth is indeterminate.

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**DATE:** July 2, 2024

*Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.*