

SENATE BILL No. 62

By Committee on Financial Institutions and Insurance

1-19

1 AN ACT concerning securities; relating to financial exploitation and the  
2 protection of vulnerable adults therefrom; enacting the protect  
3 vulnerable adults from financial exploitation act; requiring reporting of  
4 instances of suspected financial exploitation under certain  
5 circumstances; providing civil and administrative immunity to  
6 individuals who report such instances; amending K.S.A. 17-12a412 and  
7 repealing the existing section.  
8

9 *Be it enacted by the Legislature of the State of Kansas:*

10 New Section 1. Sections 1 through 9, and amendments thereto, shall  
11 be known and may be cited as the protect vulnerable adults from financial  
12 exploitation act.

13 New Sec. 2. As used in the protect vulnerable adults from financial  
14 exploitation act:

15 (a) "Act" means the protect vulnerable adults from financial  
16 exploitation act.

17 (b) "Agent" means the same as defined in K.S.A. 17-12a102, and  
18 amendments thereto.

19 (c) "Broker-dealer" means the same as defined in K.S.A. 17-12a102,  
20 and amendments thereto.

21 (d) "Commissioner" means the securities commissioner of Kansas.

22 (e) "Eligible adult" means an elder person or dependent adult as  
23 defined in K.S.A. 21-5417, and amendments thereto.

24 (f) "Financial exploitation," with respect to eligible adults, means the  
25 same as defined in K.S.A. 39-1430, and amendments thereto.

26 (g) "Investment adviser" means the same as defined in K.S.A. 17-  
27 12a102, and amendments thereto.

28 (h) "Investment adviser representative" means the same as defined in  
29 K.S.A. 17-12a102, and amendments thereto.

30 (i) "~~Qualified individual~~" means any agent, investment adviser  
31 representative or person who serves in a supervisory, compliance or legal  
32 capacity for a broker-dealer or investment adviser.

33 New Sec. 3. If a qualified ~~individual~~ reasonably believes that  
34 financial exploitation of an eligible adult may have occurred, may have  
35 been attempted or is being attempted, the qualified ~~individual~~ shall  
36 promptly report the matter to the commissioner, whose office may further

person

broker-dealer,

investment adviser,

person

broker-dealer or investment adviser

1 report the matter as permitted or required by law.

2 New Sec. 4. A qualified individual who, in good faith and exercising  
3 reasonable care, makes a disclosure of information pursuant to section 3,  
4 and amendments thereto, shall be immune from administrative and civil  
5 liability that might otherwise arise from such disclosure or for any failure  
6 to notify the eligible adult of such disclosure.

7 New Sec. 5. If a qualified individual reasonably believes that  
8 financial exploitation of an eligible adult may have occurred, may have  
9 been attempted or is being attempted, a qualified individual may notify  
10 any third party who was previously designated by such eligible adult to  
11 receive such notice or whom the qualified individual is otherwise  
12 permitted to notify under applicable state or federal law or a customer  
13 agreement with such eligible adult, unless the qualified individual suspects  
14 the third party has committed financial exploitation of the eligible adult.

15 New Sec. 6. A qualified individual who, in good faith and exercising  
16 reasonable care, complies with section 5, and amendments thereto, shall be  
17 immune from any administrative and civil liability that might otherwise  
18 arise from such disclosure.

19 New Sec. 7. (a) A broker-dealer or investment adviser may delay a  
20 disbursement from an account of an eligible adult or an account on which  
21 an eligible adult is a beneficiary if:

22 (1) The broker-dealer, investment adviser or qualified individual  
23 reasonably believes, after initiating an internal review of the requested  
24 disbursement and the suspected financial exploitation, that the requested  
25 disbursement may further financial exploitation of an eligible adult; and

26 (2) the broker-dealer or investment adviser:

27 (A) Not later than two business days following the requested  
28 disbursement, provides written notification of the delay and the reason for  
29 such delay to all parties authorized to transact business on the account,  
30 unless such broker-dealer, investment adviser or qualified individual  
31 reasonably believes that any such party engaged in suspected or attempted  
32 financial exploitation of the eligible adult;

33 (B) not later than two business days following the requested  
34 disbursement, notifies the commissioner; and

35 (C) continues its internal review of the suspected or attempted  
36 financial exploitation of the eligible adult, as necessary and reports the  
37 results of such investigation to the commissioner within seven business  
38 days after the requested disbursement.

39 (b) Any delay of a disbursement authorized by this section shall  
40 expire upon the soonest of:

41 (1) A determination by the broker-dealer or investment adviser that  
42 the disbursement will not result in financial exploitation of the eligible  
43 adult; or