

A-Engrossed Senate Bill 95

Ordered by the Senate March 24
Including Senate Amendments dated March 24

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SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Requires certain securities professionals to report suspected financial exploitation of [*elderly, disabled or*] vulnerable [*individual*] **persons** to Department of Consumer and Business Services [*and Department of Human Services*].

Punishes failure to report by maximum of \$2,000 fine.

Permits certain securities professionals to report suspected financial exploitation to **certain** third parties [*previously authorized to receive financial information about suspected victim*].

Permits broker-dealers and state investment advisers to delay disbursements in order to investigate suspected financial exploitation.

A BILL FOR AN ACT

1
2 Relating to reporting of suspected financial abuse; creating new provisions; and amending ORS
3 59.991.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. Sections 2 to 7 of this 2017 Act are added to and made a part of ORS 59.005**
6 **to 59.451.**

7 **SECTION 2. As used in sections 2 to 7 of this 2017 Act:**

8 (1) **"Financial exploitation" has the meaning given that term in ORS 124.050.**

9 (2) **"Financial institution" has the meaning given that term in ORS 706.008.**

10 (3) **"Qualified individual" means an individual who is:**

11 (a) **A salesperson;**

12 (b) **An investment adviser representative; or**

13 (c) **A person who serves in a supervisory, compliance or legal capacity for a broker-dealer**
14 **or state investment adviser, or who is otherwise identified in the written supervisory pro-**
15 **cedures of a broker-dealer or state investment adviser.**

16 (4) **"Trust company" has the meaning given that term in ORS 706.008.**

17 (5) **"Vulnerable person" has the meaning given that term in ORS 124.100.**

18 **SECTION 3. (1) Except as provided in subsection (4) of this section, a qualified individual**
19 **who has reasonable cause to believe that financial exploitation of a vulnerable person with**
20 **whom the qualified individual comes into contact has occurred, has been attempted or is**
21 **being attempted shall immediately notify, orally or in writing, the Department of Consumer**
22 **and Business Services.**

23 (2) **A notification made under subsection (1) of this section must include the following**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 information, if known:

2 (a) The identity and address of the vulnerable person;

3 (b) The identity of all persons that the qualified individual believes are responsible for the
4 suspected or attempted financial exploitation; and

5 (c) The nature and extent of the suspected or attempted financial exploitation.

6 (3) Upon receipt of a notification under subsection (1) of this section, the department
7 shall:

8 (a) Immediately forward the notification to the Department of Human Services;

9 (b) If it reasonably appears that a violation of the Oregon Securities Law or rules adopted
10 thereunder has occurred or is occurring, promptly investigate the suspected or attempted
11 financial exploitation; and

12 (c) If it reasonably appears that a crime has been committed or attempted, promptly
13 notify a law enforcement agency.

14 (4) Subsection (1) of this section does not apply to a qualified individual who is employed
15 by a financial institution or trust company.

16 **SECTION 4.** (1) If a qualified individual has reasonable cause to believe that financial
17 exploitation of a vulnerable person with whom the qualified individual comes into contact has
18 occurred, has been attempted or is being attempted, the qualified individual may notify any
19 third party who was previously designated by the vulnerable person to receive information
20 from the qualified individual regarding the vulnerable person, or whom the qualified individ-
21 ual is otherwise permitted to notify under state or federal law or customer agreement.

22 (2) Disclosure may not be made under this section to any third party that is suspected
23 of actual or attempted financial exploitation or other abuse of the vulnerable person.

24 **SECTION 5.** (1) A broker-dealer or state investment adviser may delay a disbursement
25 from an account of a vulnerable person or an account on which a vulnerable person is a
26 beneficiary if:

27 (a) The broker-dealer, the state investment adviser or a qualified individual reasonably
28 believes that the requested disbursement might result in financial exploitation of a vulner-
29 able person; and

30 (b) The broker-dealer or state investment adviser:

31 (A) Within two business days of the request for disbursement, provides written notifica-
32 tion of the delay and the reason for the delay to all parties authorized to transact business
33 on the account, except to any party that is suspected to have engaged in actual or attempted
34 financial exploitation of the vulnerable person;

35 (B) Within two business days of the request for disbursement, notifies the Department
36 of Consumer and Business Services and the Department of Human Services of the delay and
37 the reason for the delay; and

38 (C) Conducts an internal review of the suspected financial exploitation and reports the
39 results of the review to the Department of Consumer and Business Services and the De-
40 partment of Human Services.

41 (2) A delay of a disbursement under this section may not extend beyond the earlier of:

42 (a) Fifteen business days after the date on which the broker-dealer or state investment
43 adviser first delayed disbursement of the funds; or

44 (b) The date on which a determination is made by the broker-dealer or state investment
45 adviser that the disbursement will not result in financial exploitation of the vulnerable per-

1 son.

2 (3) Notwithstanding subsection (2) of this section, upon request of the Department of
3 Consumer and Business Services, a delay of a disbursement under this section may extend
4 beyond 15 business days after the date on which the broker-dealer or state investment ad-
5 viser first delayed disbursement of the funds, but not beyond the earliest of:

6 (a) Twenty-five business days after the date on which the broker-dealer or state invest-
7 ment adviser first delayed disbursement of the funds;

8 (b) The date on which an order terminating the delay is entered by a court of competent
9 jurisdiction; or

10 (c) The date on which the department issues an order terminating the delay.

11 (4) The department or a broker-dealer or state investment adviser that initiated a delay
12 of a disbursement under this section may petition a court of competent jurisdiction for an
13 order delaying or enjoining a disbursement of funds or for other protective relief on the
14 grounds that financial exploitation of a vulnerable person is otherwise likely to occur.

15 **SECTION 6.** Qualified individuals, broker-dealers and state investment advisers are not
16 liable under state law for the following actions, if performed in good faith, with reasonable
17 cause and with the exercise of reasonable care:

18 (1) Disclosing information under section 3, 4 or 7 of this 2017 Act;

19 (2) Failing to notify a vulnerable person of a disclosure of information under section 3,
20 4 or 7 of this 2017 Act; or

21 (3) Delaying a disbursement under section 5 of this 2017 Act.

22 **SECTION 7.** (1) Upon request of the Department of Consumer and Business Services, the
23 Department of Human Services or a law enforcement agency, a broker-dealer or state in-
24 vestment adviser shall provide copies of records related to any suspected financial exploita-
25 tion of a vulnerable person to the requester. The records may include historical records if
26 relevant to suspected financial exploitation of a vulnerable person.

27 (2) A record made available to an agency under this section is not a public record for
28 purposes of ORS 192.410 to 192.505.

29 (3) Nothing in this section limits the authority of the Department of Consumer and
30 Business Services to access or examine the books and records of broker-dealers and state
31 investment advisers as otherwise provided by law.

32 **SECTION 8.** ORS 59.991 is amended to read:

33 59.991. (1) Except as provided in [subsection (3)] subsections (3) and (4) of this section, violation
34 of any provision of ORS 59.005 to 59.451, 59.710 to 59.830, 59.991 and 59.995 or any rule adopted by
35 the Director of the Department of Consumer and Business Services under ORS 59.005 to 59.451,
36 59.710 to 59.830, 59.991 and 59.995, except ORS 59.315 (2) or 59.810, is a Class B felony.

37 (2) Violation of ORS 59.315 (2) or 59.810 is a Class A misdemeanor.

38 (3) This section does not apply to a failure to file a notice and pay a fee under ORS 59.049 (1),
39 (2) or (3), nor to a failure to file a notice and pay a fee pursuant to ORS 59.165 (7), nor to a failure
40 to pay a fee pursuant to ORS 59.175 (8), nor to a violation of any rule adopted by the director under
41 ORS 59.049 (1), (2) or (3), 59.165 (7) or 59.175 (8).

42 (4) Notwithstanding subsection (1) of this section, violation of section 3 of this 2017 Act
43 or of any rule adopted by the director for administration of sections 2 to 7 of this 2017 Act
44 is a Class A violation.