

1-1 By: Parker, et al. (Senate Sponsor - Hancock) H.B. No. 3921
1-2 (In the Senate - Received from the House May 5, 2017;
1-3 May 5, 2017, read first time and referred to Committee on Business
1-4 & Commerce; May 11, 2017, reported favorably by the following vote:
1-5 Yeas 9, Nays 0; May 11, 2017, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			

1-17 A BILL TO BE ENTITLED
1-18 AN ACT

1-19 relating to the financial exploitation of certain vulnerable
1-20 adults.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Subtitle Z, Title 3, Finance Code, is amended by
1-23 adding Chapter 280 to read as follows:

1-24 CHAPTER 280. PROTECTION OF VULNERABLE ADULTS FROM FINANCIAL
1-25 EXPLOITATION

1-26 Sec. 280.001. DEFINITIONS. In this chapter:

1-27 (1) "Department" means the Department of Family and
1-28 Protective Services.

1-29 (2) "Exploitation" means the act of forcing,
1-30 compelling, or exerting undue influence over a person causing the
1-31 person to act in a way that is inconsistent with the person's
1-32 relevant past behavior or causing the person to perform services
1-33 for the benefit of another person.

1-34 (3) "Financial exploitation" means:

1-35 (A) the wrongful or unauthorized taking,
1-36 withholding, appropriation, or use of the money, assets, or other
1-37 property or the identifying information of a person; or

1-38 (B) an act or omission by a person, including
1-39 through the use of a power of attorney on behalf of, or as the
1-40 conservator or guardian of, another person, to:

1-41 (i) obtain control, through deception,
1-42 intimidation, fraud, or undue influence, over the other person's
1-43 money, assets, or other property to deprive the other person of the
1-44 ownership, use, benefit, or possession of the property; or

1-45 (ii) convert the money, assets, or other
1-46 property of the other person to deprive the other person of the
1-47 ownership, use, benefit, or possession of the property.

1-48 (4) "Financial institution" has the meaning assigned
1-49 by Section 277.001.

1-50 (5) "Vulnerable adult" means:

1-51 (A) an elderly person as that term is defined by
1-52 Section 48.002, Human Resources Code;

1-53 (B) a person with a disability as that term is
1-54 defined by Section 48.002, Human Resources Code; or

1-55 (C) an individual receiving services as that term
1-56 is defined by rule by the executive commissioner of the Health and
1-57 Human Services Commission as authorized by Section 48.251(b), Human
1-58 Resources Code.

1-59 Sec. 280.002. REPORTING SUSPECTED FINANCIAL EXPLOITATION
1-60 OF VULNERABLE ADULTS. (a) If an employee of a financial
1-61 institution has cause to believe that financial exploitation of a

2-1 vulnerable adult who is an account holder with the financial
 2-2 institution has occurred, is occurring, or has been attempted, the
 2-3 employee shall notify the financial institution of the suspected
 2-4 financial exploitation.

2-5 (b) If a financial institution is notified of suspected
 2-6 financial exploitation under Subsection (a) or otherwise has cause
 2-7 to believe that financial exploitation of a vulnerable adult who is
 2-8 an account holder with the financial institution has occurred, is
 2-9 occurring, or has been attempted, the financial institution shall
 2-10 assess the suspected financial exploitation and submit a report to
 2-11 the department in the same manner as and containing the same
 2-12 information required to be included in a report under Section
 2-13 48.051, Human Resources Code. The financial institution shall
 2-14 submit the report required by this subsection not later than the
 2-15 earlier of:

2-16 (1) the date the financial institution completes the
 2-17 financial institution's assessment of the suspected financial
 2-18 exploitation; or

2-19 (2) the fifth business day after the date the
 2-20 financial institution is notified of the suspected financial
 2-21 exploitation under Subsection (a) or otherwise has cause to believe
 2-22 that the suspected financial exploitation has occurred, is
 2-23 occurring, or has been attempted.

2-24 (c) A financial institution that submits a report to the
 2-25 department of suspected financial exploitation of a vulnerable
 2-26 adult under Subsection (b) is not required to make an additional
 2-27 report of suspected abuse, neglect, or exploitation under Section
 2-28 48.051, Human Resources Code, for the same conduct constituting the
 2-29 reported suspected financial exploitation.

2-30 (d) Each financial institution shall adopt internal
 2-31 policies, programs, plans, or procedures for:

2-32 (1) the employees of the financial institution to make
 2-33 the notification required under Subsection (a); and

2-34 (2) the financial institution to conduct the
 2-35 assessment and submit the report required under Subsection (b).

2-36 (e) The policies, programs, plans, or procedures adopted
 2-37 under Subsection (d) may authorize the financial institution to
 2-38 report the suspected financial exploitation to other appropriate
 2-39 agencies and entities in addition to the department, including the
 2-40 attorney general, the Federal Trade Commission, and the appropriate
 2-41 law enforcement agency.

2-42 Sec. 280.003. NOTIFYING THIRD PARTIES OF SUSPECTED
 2-43 FINANCIAL EXPLOITATION OF VULNERABLE ADULTS. If a financial
 2-44 institution submits a report of suspected financial exploitation of
 2-45 a vulnerable adult to the department under Section 280.002(b), the
 2-46 financial institution may at the time the financial institution
 2-47 submits the report also notify a third party reasonably associated
 2-48 with the vulnerable adult of the suspected financial exploitation,
 2-49 unless the financial institution suspects the third party of
 2-50 financial exploitation of the vulnerable adult.

2-51 Sec. 280.004. TEMPORARY HOLD ON TRANSACTIONS IN CERTAIN
 2-52 CASES OF SUSPECTED FINANCIAL EXPLOITATION OF VULNERABLE ADULTS.

2-53 (a) Notwithstanding any other law, if a financial institution
 2-54 submits a report of suspected financial exploitation of a
 2-55 vulnerable adult to the department under Section 280.002(b), the
 2-56 financial institution:

2-57 (1) may place a hold on any transaction that:

2-58 (A) involves an account of the vulnerable adult;
 2-59 and

2-60 (B) the financial institution has cause to
 2-61 believe is related to the suspected financial exploitation; and

2-62 (2) must place a hold on any transaction involving an
 2-63 account of the vulnerable adult if the hold is requested by the
 2-64 department or a law enforcement agency.

2-65 (b) Subject to Subsection (c), a hold placed on any
 2-66 transaction under Subsection (a) expires on the 10th business day
 2-67 after the date the financial institution submits the report under
 2-68 Section 280.002(b).

2-69 (c) The financial institution may extend a hold placed on

3-1 any transaction under Subsection (a) for a period not to exceed 30
 3-2 business days after the expiration of the period prescribed by
 3-3 Subsection (b) if requested by a state or federal agency or a law
 3-4 enforcement agency investigating the suspected financial
 3-5 exploitation. The financial institution may also petition a court
 3-6 to extend a hold placed on any transaction under Subsection (a)
 3-7 beyond the period prescribed by Subsection (b). A court may enter
 3-8 an order extending or shortening a hold or providing other relief.

3-9 (d) Each financial institution shall adopt internal
 3-10 policies, programs, plans, or procedures for placing a hold on a
 3-11 transaction involving an account of a vulnerable adult under this
 3-12 section.

3-13 Sec. 280.005. IMMUNITY. (a) An employee of a financial
 3-14 institution who makes a notification under Section 280.002(a), a
 3-15 financial institution that submits a report under Section
 3-16 280.002(b) or makes a notification to a third party under Section
 3-17 280.003, or an employee who or financial institution that testifies
 3-18 or otherwise participates in a judicial proceeding arising from a
 3-19 notification or report is immune from any civil or criminal
 3-20 liability arising from the notification, report, testimony, or
 3-21 participation in the judicial proceeding, unless the employee or
 3-22 financial institution acted in bad faith or with a malicious
 3-23 purpose.

3-24 (b) A financial institution that in good faith and with the
 3-25 exercise of reasonable care places or does not place a hold on any
 3-26 transaction under Section 280.004(a)(1) is immune from any civil or
 3-27 criminal liability or disciplinary action resulting from that
 3-28 action or failure to act.

3-29 Sec. 280.006. RECORDS. To the extent permitted by state or
 3-30 federal law, a financial institution shall provide, on request,
 3-31 access to or copies of records relevant to the suspected financial
 3-32 exploitation of a vulnerable adult to the department, a law
 3-33 enforcement agency, or a prosecuting attorney's office, either as
 3-34 part of a report to the department, law enforcement agency, or
 3-35 prosecuting attorney's office or at the request of the department,
 3-36 law enforcement agency, or prosecuting attorney's office in
 3-37 accordance with an investigation.

3-38 SECTION 2. The Securities Act (Article 581-1 et seq.,
 3-39 Vernon's Texas Civil Statutes) is amended by adding Section 45 to
 3-40 read as follows:

3-41 Sec. 45. PROTECTION OF VULNERABLE ADULTS FROM FINANCIAL
 3-42 EXPLOITATION. A. In this section:

3-43 (1) "Department" means the Department of Family and
 3-44 Protective Services.

3-45 (2) "Exploitation," "financial exploitation," and
 3-46 "vulnerable adult" have the meanings assigned by Section 280.001,
 3-47 Finance Code.

3-48 (3) "Securities professional" means an agent, an
 3-49 investment adviser representative, or a person who serves in a
 3-50 supervisory or compliance capacity for a dealer or investment
 3-51 adviser.

3-52 B. If a securities professional or a person serving in a
 3-53 legal capacity for a dealer or investment adviser has cause to
 3-54 believe that financial exploitation of a vulnerable adult who is an
 3-55 account holder with the dealer or investment adviser has occurred,
 3-56 is occurring, or has been attempted, the securities professional or
 3-57 person serving in a legal capacity for the dealer or investment
 3-58 adviser shall notify the dealer or investment adviser of the
 3-59 suspected financial exploitation.

3-60 C. If a dealer or investment adviser is notified of
 3-61 suspected financial exploitation under Subsection B of this section
 3-62 or otherwise has cause to believe that financial exploitation of a
 3-63 vulnerable adult who is an account holder with the dealer or
 3-64 investment adviser has occurred, is occurring, or has been
 3-65 attempted, the dealer or investment adviser shall assess the
 3-66 suspected financial exploitation and submit a report to the
 3-67 Securities Commissioner, in accordance with rules adopted under
 3-68 Subsection N of this section, and the department in the same manner
 3-69 as and containing the same information required to be included in a

4-1 report under Section 48.051, Human Resources Code. The dealer or
 4-2 investment adviser shall submit the reports required by this
 4-3 subsection not later than the earlier of:

4-4 (1) the date the dealer or investment adviser
 4-5 completes the dealer's or investment adviser's assessment of the
 4-6 suspected financial exploitation; or

4-7 (2) the fifth business day after the date the dealer or
 4-8 investment adviser is notified of the suspected financial
 4-9 exploitation under Subsection B of this section or otherwise has
 4-10 cause to believe that the suspected financial exploitation has
 4-11 occurred, is occurring, or has been attempted.

4-12 D. A dealer or investment adviser who submits a report to
 4-13 the department of suspected financial exploitation of a vulnerable
 4-14 adult under Subsection C of this section is not required to make an
 4-15 additional report of suspected abuse, neglect, or exploitation
 4-16 under Section 48.051, Human Resources Code, for the same conduct
 4-17 constituting the reported suspected financial exploitation.

4-18 E. Each dealer and investment adviser shall adopt internal
 4-19 policies, programs, plans, or procedures for the securities
 4-20 professionals or persons serving in a legal capacity for the dealer
 4-21 or investment adviser to make the notification required under
 4-22 Subsection B of this section and for the dealer or investment
 4-23 adviser to conduct the assessment and submit the reports required
 4-24 under Subsection C of this section. The policies, programs, plans,
 4-25 or procedures adopted under this subsection may authorize the
 4-26 dealer or investment adviser to report the suspected financial
 4-27 exploitation to other appropriate agencies and entities in addition
 4-28 to the Securities Commissioner and the department, including the
 4-29 attorney general, the Federal Trade Commission, and the appropriate
 4-30 law enforcement agency.

4-31 F. If a dealer or investment adviser submits reports of
 4-32 suspected financial exploitation of a vulnerable adult to the
 4-33 Securities Commissioner and the department under Subsection C of
 4-34 this section, the dealer or investment adviser may at the time the
 4-35 dealer or investment adviser submits the reports also notify a
 4-36 third party reasonably associated with the vulnerable adult of the
 4-37 suspected financial exploitation, unless the dealer or investment
 4-38 adviser suspects the third party of financial exploitation of the
 4-39 vulnerable adult.

4-40 G. Notwithstanding any other law, if a dealer or investment
 4-41 adviser submits reports of suspected financial exploitation of a
 4-42 vulnerable adult to the Securities Commissioner and the department
 4-43 under Subsection C of this section, the dealer or investment
 4-44 adviser:

4-45 (1) may place a hold on any transaction that:

4-46 (A) involves an account of the vulnerable adult;
 4-47 and

4-48 (B) the dealer or investment adviser has cause to
 4-49 believe is related to the suspected financial exploitation; and

4-50 (2) must place a hold on any transaction involving an
 4-51 account of the vulnerable adult if the hold is requested by the
 4-52 Securities Commissioner, the department, or a law enforcement
 4-53 agency.

4-54 H. Subject to Subsection I of this section, a hold placed on
 4-55 any transaction under Subsection G of this section expires on the
 4-56 10th business day after the date the dealer or investment adviser
 4-57 submits the reports under Subsection C of this section.

4-58 I. A dealer or investment adviser may extend a hold placed
 4-59 on any transaction under Subsection G of this section for a period
 4-60 not to exceed 30 business days after the expiration of the period
 4-61 prescribed by Subsection H of this section if requested by a state
 4-62 or federal agency or a law enforcement agency investigating the
 4-63 suspected financial exploitation. The dealer or investment adviser
 4-64 may also petition a court to extend a hold placed on any transaction
 4-65 under Subsection G of this section beyond the period prescribed by
 4-66 Subsection H of this section. A court may enter an order extending
 4-67 or shortening a hold or providing other relief.

4-68 J. Each dealer and investment adviser shall adopt internal
 4-69 policies, programs, plans, or procedures for placing a hold on a

5-1 transaction involving an account of a vulnerable adult under
5-2 Subsection G of this section.

5-3 K. A securities professional or person serving in a legal
5-4 capacity for a dealer or investment adviser who makes a
5-5 notification under Subsection B of this section, a dealer or
5-6 investment adviser that submits a report under Subsection C of this
5-7 section or makes a notification to a third party under Subsection F
5-8 of this section, or a securities professional or person serving in a
5-9 legal capacity who or dealer or investment adviser that testifies
5-10 or otherwise participates in a judicial proceeding arising from a
5-11 notification or report is immune from any civil or criminal
5-12 liability arising from the notification, report, testimony, or
5-13 participation in the judicial proceeding, unless the securities
5-14 professional, person serving in a legal capacity for the dealer or
5-15 investment adviser, or dealer or investment adviser acted in bad
5-16 faith or with a malicious purpose.

5-17 L. A dealer or investment adviser that in good faith and
5-18 with the exercise of reasonable care places or does not place a hold
5-19 on any transaction under Subsection G(1) of this section is immune
5-20 from civil or criminal liability or disciplinary action resulting
5-21 from the action or failure to act.

5-22 M. To the extent permitted by state or federal law, a dealer
5-23 or investment adviser, on request, shall provide access to or
5-24 copies of records relevant to the suspected financial exploitation
5-25 of a vulnerable adult to the Securities Commissioner, the
5-26 department, a law enforcement agency, or a prosecuting attorney's
5-27 office, either as part of a report to the Securities Commissioner,
5-28 department, law enforcement agency, or prosecuting attorney's
5-29 office or at the request of the Securities Commissioner,
5-30 department, law enforcement agency, or prosecuting attorney's
5-31 office in accordance with an investigation.

5-32 N. The Board by rule shall prescribe the form and content of
5-33 the report required to be submitted by a dealer or investment
5-34 adviser to the Securities Commissioner under Subsection C of this
5-35 section.

5-36 SECTION 3. This Act takes effect September 1, 2017.

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