

1                   A bill to be entitled  
2           An act relating to the protection of vulnerable  
3           investors; amending s. 415.1034, F.S.; requiring  
4           securities dealers, investment advisers, and  
5           associated persons to immediately report knowledge or  
6           suspicion of abuse, neglect, or exploitation of  
7           vulnerable adults to the Department of Children and  
8           Families' central abuse hotline; creating s. 517.34,  
9           F.S.; providing definitions; authorizing dealers and  
10          investment advisers to delay certain transactions or  
11          disbursements based on a reasonable belief of  
12          exploitation of a specified adult; providing the basis  
13          for such reasonable belief; requiring a dealer or  
14          investment adviser to notify certain persons and the  
15          Office of Financial Regulation of such delays within a  
16          specified timeframe; authorizing the Department of  
17          Children and Families to provide information regarding  
18          certain investigations; specifying the expiration of  
19          such delays; authorizing a dealer or investment  
20          adviser to extend a delay under certain circumstances;  
21          requiring a dealer or investment adviser to notify the  
22          office within a specified timeframe after such  
23          extension begins; providing that the length of such  
24          delays may be shortened or extended by a court of  
25          competent jurisdiction; providing that delays may be

26 terminated by dealers or investment advisers under  
 27 certain circumstances; requiring that certain records  
 28 be made available to the office; providing immunity  
 29 from civil and administrative liability for dealers,  
 30 investment advisers, and associated persons for  
 31 certain actions based on a reasonable belief of  
 32 exploitation; requiring dealers and investment  
 33 advisers to develop and conduct periodic training for  
 34 associated persons and maintain written records of  
 35 compliance with such requirement; providing  
 36 construction; providing an effective date.

37

38 Be It Enacted by the Legislature of the State of Florida:

39

40 Section 1. Paragraph (a) of subsection (1) of section  
 41 415.1034, Florida Statutes, is amended to read:

42 415.1034 Mandatory reporting of abuse, neglect, or  
 43 exploitation of vulnerable adults; mandatory reports of death.-

44 (1) MANDATORY REPORTING.-

45 (a) Any person, including, but not limited to, any:

46 1. Physician, osteopathic physician, medical examiner,  
 47 chiropractic physician, nurse, paramedic, emergency medical  
 48 technician, or hospital personnel engaged in the admission,  
 49 examination, care, or treatment of vulnerable adults;

50           2. Health professional or mental health professional other  
51 than one listed in subparagraph 1.;

52           3. Practitioner who relies solely on spiritual means for  
53 healing;

54           4. Nursing home staff; assisted living facility staff;  
55 adult day care center staff; adult family-care home staff;  
56 social worker; or other professional adult care, residential, or  
57 institutional staff;

58           5. State, county, or municipal criminal justice employee  
59 or law enforcement officer;

60           6. Employee of the Department of Business and Professional  
61 Regulation conducting inspections of public lodging  
62 establishments under s. 509.032;

63           7. Florida advocacy council or Disability Rights Florida  
64 member or a representative of the State Long-Term Care Ombudsman  
65 Program; ~~or~~

66           8. Bank, savings and loan, or credit union officer,  
67 trustee, or employee; or

68           9. Dealer, investment adviser, or associated person under  
69 chapter 517,

70  
71 who knows, or has reasonable cause to suspect, that a vulnerable  
72 adult has been or is being abused, neglected, or exploited must  
73 ~~shall~~ immediately report such knowledge or suspicion to the  
74 central abuse hotline.

75 Section 2. Section 517.34, Florida Statutes, is created to  
 76 read:

77 517.34 Protection of specified adults.-

78 (1) As used in this section, the term:

79 (a) "Exploitation" means the wrongful or unauthorized  
 80 taking, withholding, appropriation, or use of money, assets, or  
 81 property of a specified adult, or any act or omission by a  
 82 person, including through the use of a power of attorney,  
 83 guardianship, or conservatorship of a specified adult, to:

84 1. Obtain control over the specified adult's money,  
 85 assets, or property through deception, intimidation, or undue  
 86 influence to deprive him or her of the ownership, use, benefit,  
 87 or possession of the money, assets, or property; or

88 2. Convert the specified adult's money, assets, or  
 89 property to deprive him or her of the ownership, use, benefit,  
 90 or possession of the money, assets, or property.

91 (b) "Specified adult" means a natural person 65 years of  
 92 age or older or a vulnerable adult as defined in s. 415.102.

93 (c) "Trusted contact" means a natural person 18 years of  
 94 age or older whom the account owner has expressly identified and  
 95 is recorded in a dealer's or investment adviser's books and  
 96 records as the person who may be contacted about the account.

97 (2) A dealer or investment adviser may delay a transaction  
 98 on, or a disbursement of funds or securities from, an account of  
 99 a specified adult or an account for which a specified adult is a

100 beneficiary or beneficial owner if the dealer or investment  
101 adviser reasonably believes that exploitation of the specified  
102 adult has occurred, is occurring, has been attempted, or will be  
103 attempted in connection with the transaction or disbursement.

104 (a) The dealer's or investment adviser's reasonable belief  
105 of exploitation may be based on the facts and circumstances  
106 observed in such dealer's, investment adviser's, or associated  
107 person's business relationship with the specified adult.

108 (b)1. Within 3 business days after the date on which the  
109 delay was first placed, the dealer or investment adviser must  
110 notify in writing, which may be provided electronically, all  
111 parties authorized to transact business on the account and any  
112 trusted contact on the account, using the contact information  
113 provided for the account, of the delay and the reason for the  
114 delay, unless the dealer or investment adviser reasonably  
115 believes that any such party engaged or is engaging in the  
116 suspected exploitation of the specified adult.

117 2. Within 3 business days after the date on which the  
118 delay was first placed, the dealer or investment advisor must  
119 notify the office by telephone using a number designated by the  
120 office for such purpose, or in writing, which may be provided  
121 electronically, of the delay and the reason for the delay.

122 3. Notwithstanding any law to the contrary, the Department  
123 of Children and Families may provide the status or result of any  
124 investigation with the reporting dealer or investment adviser.

125       (3) A delay on a transaction or disbursement under  
126 subsection (2) expires 15 business days after the date on which  
127 the delay was first placed. However, the dealer or investment  
128 adviser may extend the delay for up to 10 additional business  
129 days if the dealer's or investment adviser's review of the  
130 available facts and circumstances continues to support such  
131 dealer's or investment adviser's reasonable belief that  
132 exploitation of the specified adult has occurred, is occurring,  
133 has been attempted, or will be attempted. A dealer or investment  
134 adviser who extends a delay shall notify the office within 3  
135 business days after the date on which such extension begins  
136 using the method specified in subparagraph (2) (b) 2. The length  
137 of the delay may be shortened or extended at any time by a court  
138 of competent jurisdiction. This subsection does not prevent a  
139 dealer or investment adviser from terminating a delay after  
140 communication with the parties authorized to transact business  
141 on the account and any trusted contact on the account.

142       (4) A dealer or investment adviser subject to the  
143 jurisdiction of the office must make available to the office,  
144 upon request, all records relating to a delay or notification  
145 made by the dealer or investment adviser pursuant to this  
146 section.

147       (5) A dealer, investment adviser, or associated person who  
148 delays or participates in the delay of a transaction or  
149 disbursement pursuant to this section, who provides records to

150 an agency of competent jurisdiction pursuant to this section, or  
151 who participates in a judicial or arbitration proceeding  
152 resulting therefrom is presumed to be acting based upon a  
153 reasonable belief of exploitation and is immune from any civil  
154 or administrative liability that otherwise might be incurred or  
155 imposed, unless lack of such reasonable belief is shown by a  
156 preponderance of the evidence. This subsection does not  
157 supersede or diminish any immunity under chapter 415.

158 (6) (a) Before placing a delay on a transaction or  
159 disbursement pursuant to this section, a dealer or investment  
160 adviser must develop training policies or programs reasonably  
161 designed to educate associated persons on issues pertaining to  
162 exploitation, must develop and maintain written procedures  
163 regarding the manner in which suspected exploitation is required  
164 to be reported to supervisory personnel, when applicable, and  
165 must conduct periodic training for all associated persons.

166 (b) The dealer or investment adviser must maintain a  
167 written record of compliance with this subsection.

168 (7) This section does not create new rights or obligations  
169 of a dealer, investment adviser, or associated person under  
170 other applicable laws or rules. In addition, this section does  
171 not limit the right of a dealer, investment adviser, or  
172 associated person to otherwise refuse or place a delay on a  
173 transaction or disbursement under other applicable laws or rules  
174 or under an applicable customer agreement.

175        (8) Absent a reasonable belief of exploitation as provided  
176 in this section, this section does not alter a dealer's,  
177 investment adviser's, or associated person's obligation to  
178 comply with instructions from a client to close an account or  
179 transfer an account to another dealer, investment adviser, or  
180 associated person.

181        Section 3. This act shall take effect July 1, 2019.