

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 323

BY WAYS AND MEANS COMMITTEE

AN ACT

1 RELATING TO THE DEPARTMENT OF FINANCE; AMENDING CHAPTER 27, TITLE 67, IDAHO
2 CODE, BY THE ADDITION OF A NEW SECTION 67-2763, IDAHO CODE, TO ESTAB-
3 LISH PROVISIONS REGARDING THE PROTECTION OF CERTAIN ADULTS FROM FINAN-
4 CIAL EXPLOITATION; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFEC-
5 TIVE DATE.
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7 Be It Enacted by the Legislature of the State of Idaho:

8 SECTION 1. That Chapter 27, Title 67, Idaho Code, be, and the same is
9 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
10 ignated as Section 67-2763, Idaho Code, and to read as follows:

11 67-2763. PROTECTION OF CERTAIN ADULTS FROM FINANCIAL EXPLOITA-
12 TION. (1) In this section, unless the context otherwise requires:

13 (a) "Authorized agencies" means the Idaho commission on aging and the
14 department of finance.

15 (b) "Financial exploitation" means:

16 (i) The wrongful or unauthorized taking, withholding, appropri-
17 ation, or use of a specified adult's funds or securities; or

18 (ii) Any act or omission by a person, including through the use of
19 a power of attorney, guardianship, or any other authority regard-
20 ing a specified adult, to:

21 1. Obtain control through deception, intimidation, or undue
22 influence over a specified adult's money, assets, or prop-
23 erty; or

24 2. Convert a specified adult's money, assets, or property.

25 (c) "Financial institution" means any:

26 (i) State or federally chartered bank, savings bank, savings and
27 loan association, thrift institution, holding company, credit
28 union, or credit union service organization;

29 (ii) Regulated lender subject to the provisions of the Idaho
30 credit code, title 28, Idaho Code;

31 (iii) Collection agency, credit counselor, debt counselor, or
32 credit repair organization subject to the provisions of the Idaho
33 collection agency act, chapter 22, title 26, Idaho Code;

34 (iv) Mortgage lender, mortgage broker, or loan originator subject
35 to the provisions of the Idaho residential mortgage practices act,
36 chapter 31, title 26, Idaho Code;

37 (v) Money transmitters subject to the Idaho money transmitters
38 act, chapter 29, title 26, Idaho Code;

39 (vi) Escrow agency subject to the provisions of the Idaho escrow
40 act, chapter 9, title 30, Idaho Code; or

41 (vii) Broker-dealer or investment adviser subject to the provi-
42 sions of the Idaho uniform securities act (2004), chapter 14, ti-

- 1 tle 30, Idaho Code, or person licensed or registered as a broker-
2 dealer or investment adviser pursuant to federal law or the laws of
3 another state and doing business in Idaho.
- 4 (d) "Reporting person" means:
5 (i) A broker-dealer as defined in section 30-14-102, Idaho Code;
6 (ii) An investment adviser as defined in section 30-14-102, Idaho
7 Code; or
8 (iii) A financial institution.
- 9 (e) "Specified adult" means:
10 (i) A natural person sixty-five (65) years of age or older; or
11 (ii) A natural person eighteen (18) years of age or older who a
12 reporting person reasonably believes has a mental or physical
13 impairment that renders such natural person unable to protect
14 his own interests. A reporting person's reasonable belief may be
15 based on facts and circumstances observed in the reporting per-
16 son's business relationship with the natural person.
- 17 (2) (a) If a reporting person reasonably believes that financial ex-
18 ploitation of a specified adult has occurred, is occurring, has been
19 attempted, or will be attempted, the reporting person may notify the
20 following:
21 (i) Either of the authorized agencies; and
22 (ii) Any third party that is:
23 1. Reasonably associated with the specified adult; or
24 2. Otherwise permitted by law.
- 25 (b) Any report or disclosure made to authorized agencies pursuant to
26 this subsection shall be confidential and is subject to the confiden-
27 tiality requirements of section 30-14-607, Idaho Code. The name of the
28 reporting person shall not be revealed to any person outside of the au-
29 thorized agencies without the permission of the reporting person.
- 30 (3) (a) A reporting person may place a temporary hold on a transaction
31 in or disbursement from an account of a specified adult or an account on
32 which a specified adult is a beneficiary if:
33 (i) The reporting person fulfills any reporting obligations the
34 reporting person may have regarding the status of a transaction or
35 disbursement pursuant to applicable state or federal law or regu-
36 lation;
37 (ii) The reporting person reasonably believes that financial ex-
38 ploitation of a specified adult has occurred, is occurring, has
39 been attempted, or will be attempted; and
40 (iii) No later than two (2) business days after the date the tem-
41 porary hold was first placed, oral or written notification, which
42 may be electronic, of the temporary hold and the reason for the
43 temporary hold is made to:
44 1. All parties authorized to transact business on the ac-
45 count; and
46 2. Any person eighteen (18) years of age or older authorized
47 by the specified adult or such specified adult's legal rep-
48 resentative, in writing, to be contacted about the specified
49 adult's account.

1 (b) (i) Unless otherwise provided in subparagraph (ii) of this
2 paragraph, any temporary hold authorized by this subsection shall
3 expire upon the sooner of:

4 1. A determination by the reporting person that the dis-
5 bursement or transaction will not result in financial ex-
6 ploitation of the specified adult; or

7 2. No later than fifteen (15) business days after the date
8 the reporting person first placed the temporary hold, un-
9 less the reporting person's internal review of the facts and
10 circumstances supports such person's reasonable belief that
11 financial exploitation of the specified adult has occurred,
12 is occurring, has been attempted, or will be attempted, in
13 which case the reporting person may extend the expiration to
14 no later than thirty (30) business days after the date the
15 reporting person first placed the temporary hold.

16 (ii) At any time, an agency of competent jurisdiction, including
17 but not limited to either of the authorized agencies or a court of
18 competent jurisdiction, may terminate or extend a temporary hold
19 authorized by this subsection.

20 (4) Notwithstanding the provisions of subsections (2) and (3) of this
21 section, a notification permitted or required by this section shall not be
22 made to any person who is reasonably suspected of financial exploitation or
23 other abuse of the specified adult.

24 (5) (a) A reporting person shall provide access to or copies of records
25 that are relevant to the suspected or attempted financial exploitation
26 of a specified adult to either of the authorized agencies or to any other
27 agency charged with administering state adult protective services laws
28 and to law enforcement.

29 (b) The records may include historical records as well as records re-
30 lating to the most recent disbursement or disbursements that may com-
31 promise financial exploitation of a specified adult.

32 (6) Notwithstanding any provision of law to the contrary, either of the
33 authorized agencies may disclose to any reporting person the general status
34 or final disposition of any investigation that arose from a report made by
35 the reporting person.

36 (7) A reporting person that exercises good faith in making disclosures,
37 releasing a temporary hold, or providing access to records pursuant to the
38 provisions of this section shall be immune from any administrative or civil
39 liability that might otherwise arise from such activities except when it is
40 proven, by clear and convincing evidence, that the reporting person acted in
41 bad faith with the specific intent to harm the specified adult. For the pur-
42 poses of this subsection, "bad faith" means a dishonest belief or purpose,
43 untrustworthy performance of duties, or a fraudulent intent.

44 SECTION 2. An emergency existing therefor, which emergency is hereby
45 declared to exist, this act shall be in full force and effect on and after
46 July 1, 2025.