

# HOUSE . . . . . No. 4395

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## The Commonwealth of Massachusetts

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HOUSE OF REPRESENTATIVES, February 15, 2024.

The committee on Children, Families and Persons with Disabilities, to whom was referred the petition (accompanied by bill, House, No. 203) of Paul McMurtry and Brian M. Ashe relative to financial exploitation of certain adults with disabilities, reports recommending that the accompanying bill (House, No. 4395) ought to pass.

For the committee,

JAY D. LIVINGSTONE.

**HOUSE . . . . . No. 4395**

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**The Commonwealth of Massachusetts**

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**In the One Hundred and Ninety-Third General Court  
(2023-2024)**  
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An Act protecting vulnerable adults from financial exploitation.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           The General Laws are hereby amended by inserting after chapter 110H the following  
2 chapter:-

3           Chapter 110I.

4           FINANCIAL EXPLOITATION

5           Section 1. The following words, whenever used in this chapter shall, unless a different  
6 meaning clearly appears from the context, have the following meanings:-

7           “Agencies”, (1) the secretary of the commonwealth and (2) the disabled persons  
8 protection commission established pursuant to section 2 of chapter 19C, if the eligible adult is  
9 under the age of 60, or the executive office of elder affairs, if the eligible adult is 60 years or  
10 older.

11           “Agent”, as defined in section 401 of chapter 110A.

12           “Broker-dealer”, as defined in section 401 of chapter 110A.

13 “Eligible adult”, a person 60 years of age or older or a disabled person, as defined in  
14 section 1 of chapter 19C.

15 “Financial exploitation”, (2) the wrongful or unauthorized taking, withholding,  
16 appropriation, or use of money, assets or property of an eligible adult; or (2) any act or omission  
17 taken by a person, including through the use of a power of attorney, guardianship, or  
18 conservatorship of an eligible adult, to: (a) obtain control, through deception, intimidation or  
19 undue influence, over the eligible adult’s money, assets or property to deprive the eligible adult  
20 of the ownership, use, benefit or possession of his or her money, assets or property; or (b)  
21 convert money, assets or property of the eligible adult to deprive such eligible adult of the  
22 ownership, use, benefit or possession of his or her money, assets or property.

23 “Investment adviser”, as defined in section 401 of chapter 110A.

24 “Investment adviser representative”, as defined in section 401 of chapter 110A.

25 “Qualified individual”, any agent, investment adviser; investment-adviser representative;  
26 broker-dealer; or person who serves in a supervisory, compliance, investor protection or legal  
27 capacity for a broker-dealer or investment adviser.

28 Section 2. If a qualified individual reasonably believes that financial exploitation of an  
29 eligible adult may have occurred, may have been attempted, or is being attempted, the qualified  
30 individual may promptly notify: (1) the secretary of the commonwealth and (2) the disabled  
31 persons protection commission established pursuant to section 2 of chapter 19C, if the eligible  
32 adult is under the age of 60, or the executive office of elder affairs, if the eligible adult is 60  
33 years or older.

34           Section 3. A qualified individual that in good faith and exercising reasonable care makes  
35 a disclosure of information pursuant to section 2 shall be immune from administrative or civil  
36 liability that might otherwise arise from such disclosure or for any failure to notify the customer  
37 of the disclosure.

38           Section 4. If a qualified individual reasonably believes that financial exploitation of an  
39 eligible adult may have occurred, may have been attempted, or is being attempted, a qualified  
40 individual may notify any third party previously designated by the eligible adult or reasonably  
41 associated with the adult permitted under state or federal law, regulation or the rules of a self-  
42 regulatory organization.

43           Disclosure shall not be made to any designated third party that is suspected of financial  
44 exploitation or other abuse of the eligible adult.

45           Section 5. A qualified individual that, in good faith and exercising reasonable care,  
46 complies with section 4 shall be immune from any administrative or civil liability that might  
47 otherwise arise from such disclosure.

48           Section 6. (1) A broker-dealer or investment adviser may delay a disbursement or  
49 transaction from an account of an eligible adult or an account on which an eligible adult is a  
50 beneficiary if: (a) the broker-dealer, investment adviser or qualified individual reasonably  
51 believes, after initiating an internal review of the requested disbursement or transaction and the  
52 suspected financial exploitation, that the requested disbursement or transaction may result in  
53 financial exploitation of an eligible adult; and (b) the broker-dealer or investment adviser: (i)  
54 immediately, but in no event more than 2 business days after the delayed disbursement or  
55 transaction, provides written notification of the delay and the reason for the delay to all parties

56 authorized to transact business on the account, unless any such party is reasonably believed to  
57 have engaged in suspected or attempted financial exploitation of the eligible adult; (ii)  
58 immediately, but in no event more than 2 business days after the delayed disbursement or  
59 transaction, notifies the agencies; and (iii) continues its internal review of the suspected or  
60 attempted financial exploitation of the eligible adult, as necessary, and provides status updates, a  
61 statement of finding and a final disposition of an investigation upon request to the agencies and  
62 to qualified individuals.

63 (2) Any delay of a disbursement or transaction as authorized by this section will expire  
64 upon the sooner of: (a) a determination by the broker-dealer or investment adviser that the  
65 disbursement or transaction will not result in financial exploitation of the eligible adult; or (b) 15  
66 business days after the date on which the broker-dealer or investment adviser delayed  
67 disbursement of the funds or a transaction, unless either of the agencies requests that the broker-  
68 dealer or investment adviser extend the delay, in which case the delay shall expire no more than  
69 55 business days after the date on which the broker-dealer or investment adviser first delayed  
70 disbursement of the funds or a transaction unless otherwise terminated or further extended by  
71 either of the agencies or an order of a court of competent jurisdiction.

72 (3) A court of competent jurisdiction may enter an order extending the delay of the  
73 disbursement of funds or transaction or may order other protective relief based on the petition of:  
74 (1) the secretary of the commonwealth, (2) the disabled persons protection commission  
75 established pursuant to section 2 of chapter 19C, if the eligible adult is under the age of 60, or the  
76 executive office of elder affairs, if the eligible adult is 60 years or older, (3) the broker-dealer or  
77 investment adviser that initiated the delay pursuant to this section or (4) another interested party.

78           Section 7. A broker-dealer or investment adviser that, in good faith and exercising  
79 reasonable care, complies with section 6 shall be immune from any administrative or civil  
80 liability that might otherwise arise from such delay in a disbursement.

81           Section 8. A broker-dealer or investment adviser shall provide access to or copies of  
82 records that are relevant to the suspected or attempted financial exploitation of an eligible adult  
83 to the disabled persons protection commission established pursuant to section 2 of chapter 19C,  
84 if the eligible adult is under the age of 60, or the executive office of elder affairs, if the eligible  
85 adult is 60 years or older and law enforcement, either as part of a referral to the agency or to law  
86 enforcement, or upon request of the agency or law enforcement pursuant to an investigation. The  
87 records may include historical records as well as records relating to the most recent transaction  
88 or transactions that may comprise financial exploitation of an eligible adult. All records made  
89 available to agencies pursuant to this section shall not be considered a public record as defined in  
90 section 7 of chapter 4 or chapter 66. Nothing in this section shall limit or otherwise impede the  
91 authority of the state secretary to access or examine the books and records of broker-dealers and  
92 investment advisers as otherwise provided by law.