



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

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H.B. 648

132nd General Assembly
(As Introduced)

Reps. Brown and Scherer, Antonio, Holmes, West, Ingram, Celebrezze, Hill, Cera, Kent

BILL SUMMARY

- Authorizes a financial institution and a qualified individual, such as money transmitter, to place a hold on a transaction if there is reasonable belief that the transaction is related to financial exploitation of a vulnerable adult.
- Defines "vulnerable adult" as a person who is either (1) at least 18 years old and, due to a mental or physical disability, is incapable of managing or directing the management of their own property, or (2) 60 years of age or older.
- Permits the employee of the financial institution or the qualified individual to place a hold on the transaction for up to 15 days.
- Requires the person that places the hold on the transaction to notify specified persons of the suspicious transaction.
- Requires notification of the suspected financial exploitation of the vulnerable adult to the Attorney General's Office of Consumer Protection.
- Requires the Attorney General to adopt rules to implement the bill's provisions, including the procedures for and the content of the notice requirements.
- Provides immunity from any civil or criminal liability or disciplinary action to a financial institution, employee of the financial institution, or a qualified individual that in good faith and with the exercise of reasonable care places or does not place a hold on a transaction.

CONTENT AND OPERATION

General overview

The bill establishes the Suspicious Wire Transfers Temporary Hold Act, which authorizes, but does not require, financial institutions and qualified individuals, such as money transmitters, to place a hold on a transaction related to a vulnerable adult if there is a reasonable belief that the transaction is related to financial exploitation of the vulnerable adult. The bill defines "**financial exploitation**" as the wrongful or unauthorized taking, withholding, appropriation, or use of the money, assets, or other property or the identifying information of a person.¹ A "**vulnerable adult**" is a person who is either:

(1) 60 years of age or older; or

(2) At least 18 years old and, due to a mental or physical disability, is incapable of managing or directing the management of their own property.²

Once the hold is placed, the bill requires that notifications be made to specified individuals, as listed below. These notifications are not public records.³ The bill requires the Attorney General to adopt rules to implement the bill's provisions, including the procedures for and the content of the notice requirements.⁴

Financial institution hold

Under the bill, an employee of a **financial institution**, defined as a federal or state chartered bank, savings bank, savings and loan association, or credit union, or a subsidiary or affiliate, may place a hold on a transaction related to the account of a vulnerable adult if the employee reasonably believes the transaction is related to financial exploitation of the vulnerable adult. If an employee places a hold on the transaction, the employee must report the suspected financial exploitation to a supervisor. The hold can be placed for up to 15 days. If a hold is placed on the transaction, the financial institution must notify (1) the vulnerable adult and any other authorized user on the account, (2) any trustee overseeing the account, and (3) a person with a power of attorney for, or legal guardian of, the vulnerable adult, if there is one on file with the financial institution. However, the financial institution is prohibited from notifying a person that is suspected of the financial exploitation or other abuse of

¹ R.C. 1182.01(A) and 1315.051(A)(1).

² R.C. 1182.01(C) and 1315.051(A)(3).

³ R.C. 1182.02(E) and 1315.051(F).

⁴ R.C. 1182.02(G) and 1315.051(H).



the vulnerable adult. The financial institution must also notify the Attorney General's Office of Consumer Protection.⁵

Under existing law, unchanged by the bill, a financial institution having reasonable cause to believe that an adult is being exploited, or is in a condition that is the result of exploitation must immediately report that belief to the county department of job and family services. Any other person having such a belief is permitted, but not required, to report the suspicion to the county department of job and family services. This provision applies to adults 60 years of age or older who are handicapped by the infirmities of aging or who have a physical or mental impairment that prevents the person from providing for the person's own care or protection, and who resides in an independent living arrangement.⁶

Qualified individual (money transmitter) hold

Similar to the financial institution hold, the bill permits a "**qualified individual**," which is the term used in the bill for an Ohio licensed money transmitter, an authorized delegate or other agent of the money transmitter, or an employee of the money transmitter, delegate, or other agent,⁷ to place a hold on a transaction related to a vulnerable adult if the qualified individual reasonably believes the transaction is related to financial exploitation of the vulnerable adult. Before placing the hold, the qualified individual must report the suspected financial exploitation to a supervisor or controlling person, as applicable. The hold can be placed for up to 15 days from the date the transaction was requested. If a hold is placed, the qualified individual must notify (1) the vulnerable adult and (2) a person with a power of attorney for, or legal guardian of, the vulnerable adult, if known. However, notification should not be made to any person suspected of financial exploitation or other abuse of the vulnerable adult. In addition, the qualified individual must notify the Attorney General's Office of Consumer Protection.⁸

Qualified immunity

The bill provides that a financial institution or an employee, or a qualified individual that in good faith and with exercise of reasonable care places or does not place a hold on a transaction is immune from any civil or criminal liability or disciplinary action resulting from that action or failure to act.⁹

⁵ R.C. 1182.01(B) and 1182.02(A), (B), (C), and (D).

⁶ R.C. 5101.60(C) and 5101.63, not in the bill.

⁷ R.C. 1315.051(A)(2).

⁸ R.C. 1315.051(B), (C), (D), and (E).

⁹ R.C. 1182.02(F) and 1315.051(G).



HISTORY

ACTION

DATE

Introduced

05-14-18

