As Introduced

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H. B. No. 560

Representatives Swearingen, White, A.

To enact sections 1349.13, 1349.14, 1349.141, 1349.142, 1349.15, 1349.151, 1349.152, and 5101.703 of the Revised Code to prevent financial exploitation and fraud against vulnerable adults and to name this act the Protect Our Parents Act.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 1349.13, 1349.14, 1349.141, 1349.142, 1349.15, 1349.151, 1349.152, and 5101.703 of the Revised Code be enacted to read as follows:

Sec. 1349.13. As used in sections 1349.13 to 1349.152 of the Revised Code:

(A) "Depository institution" means a bank, savings bank, savings and loan association, or credit union that is subject to regulation or supervision by the United States or any state. "Depository institution" includes an employee of any such institution.

(B) "Division" means the division of financial institutions in the department of commerce or the superintendent of financial institutions.

(C) "Eligible adult" means either of the following:

(1) A person sixty years of age or older;

(2) A person eligible to receive protective services pursuant to sections 5101.60 to 5101.71 of the Revised Code.

(D) "Financial exploitation" means either of the following:

(1) The wrongful or unauthorized taking, withholding, directing, appropriation, or use of money, assets, or property of an eligible adult;

(2) Any act or omission by a person, including through the use of a power of attorney or guardianship of an eligible adult, to do either of the following:

(a) Obtain control, through deception, intimidation, or undue influence, of money, assets, or property of an eligible adult and thereby deprive the eligible adult of the ownership, use, benefit, or possession of the money, assets, or property;

(b) Convert money, assets, or property of an eligible adult and thereby deprive the eligible adult of the ownership, use, benefit, or possession of the money, assets, or property.

(E)"Transaction" includes a disbursement from an account.

(F)(1) "Trusted contact" means a natural person eighteen years of age or older whom the account owner has expressly identified and recorded in a depository institution's books and records as the person who may be contacted about the account or the account owner to address possible financial exploitation or to confirm the specifics of any of the following:

(a) The account owner's current contact information or health status;

(b) The identity of any conservator, executor, trustee, or individual or entity granted a power of attorney;

(c) Any other concern reasonably related to the administration of the account.

(2) "Trusted contact" may include a joint account owner or an individual or entity who has been granted a power of attorney.

Sec. 1349.14. (A) If a depository institution has reasonable cause to believe that an eligible adult who is an account holder may be subject to past, current, or attempted financial exploitation, then both of the following apply:

(1) The depository institution shall follow any internal written policy, program, plan, or procedure adopted by the depository institution for the purpose of establishing protocols for the reporting of past, current, or attempted financial exploitation.

(2)(a) The depository institution may place a hold on any transaction impacted by the past, current, or attempted financial exploitation for a period of time not to exceed fifteen business days.

(b) At any time, the division, the county department of job and family services, or a court of competent jurisdiction may terminate or extend a hold placed under division (A)(2)(a) this section.

(B)(1) The depository institution shall report any transactional hold placed pursuant to division (A)(2) of this section, along with a summary of the facts and circumstances leading up to the hold, in writing, immediately to the division and the county department of job and family services for the county in which the eligible adult resides.

(2) The summary required by division (B)(1) of this section may be reported via electronic means.

(C) The depository institution making a report to the division and the county department of job and family services pursuant to division (B) of this section may continue the transactional hold at the request of an investigating federal or state agency or if the depository institution has not heard from either the division or the county department of job and family services within the initial fifteen-day hold period.

(D) Nothing in this section shall be construed as limiting a depository institution's ability to seek injunctive relief from a court of competent jurisdiction at any time for any past, current, or attempted financial exploitation.

Sec. 1349.141. (A) Except as provided in division (C) of this section, if the depository institution places a hold pursuant to section 1349.14 of the Revised Code, then not later than three business days after the date on which the hold was first placed, the depository institution may notify, in writing, all of the following of the hold and the reason for the hold:

(1) All parties authorized to transact business on the account;

(2) Any trusted contact on the account.

(B)(1) The depository institution shall notify all persons notified under division (A) of this section by using the contact information provided for the account.

(2) The notification required under division (A) of this section may be provided by electronic means.

(C) A depository institution shall not send a notification under this section to any party it reasonably believes has engaged in, is engaging in, has attempted to engage in, or will attempt to engage in the suspected financial exploitation of the eligible adult.

(D) Any notice provided under this section may be provided electronically.

Sec. 1349.142. Any record of a transactional hold under sections 1349.13 to 1349.152 of the Revised Code, any report relating to the hold, and any notification of the hold shall be maintained by the depository institution for not less than five years.

Sec. 1349.15. (A) Before placing a hold on a disbursement or transaction pursuant to section 1349.14 of the Revised Code, a depository institution shall do both of the following:

(1) Conduct training for employees described in division (B) of this section as soon as reasonably practicable and maintain a written record of all training conducted, if such training is developed. With respect to an individual who begins employment with a depository institution after the effective date of this section, such training, if developed, shall be conducted within one year after the date on which the individual becomes employed by, or affiliated or associated with, the depository institution;

(2) Develop, maintain, and enforce written procedures regarding the manner in which suspected financial exploitation is reviewed internally, including, if applicable, the manner in which suspected financial exploitation is required to be reported to supervisory personnel.

(B) A depository institution may develop training policies or programs reasonably designed to educate employees who perform or approve transactions on behalf of customers on issues pertaining to financial exploitation of eligible adults.

Sec. 1349.151. (A) Any person participating in good faith in making a report or placing a transactional hold pursuant to sections 1349.13 to 1349.152 of the Revised Code is immune from any civil or administrative liability arising from the report or hold.

(B) A person is immune from any civil or administrative liability arising from failing to place a transactional hold pursuant to sections 1349.13 to 1349.152 of the Revised Code, provided the person attempts in good faith to comply with those sections.

Sec. 1349.152. The superintendent of financial institutions may adopt rules in accordance with Chapter 119. of the Revised Code to implement the requirements of sections 1349.13 to 1349.151 of the Revised Code.

Sec. 5101.703. (A) As used in this section:

(1) "Petitioner" means the county department of job and family services, the department's designee, or the county prosecutor that brings a petition pursuant to section 5101.701 or 5101.702 of the Revised Code, an adult, or a person empowered to act on behalf of an adult pursuant to Chapter 1337. of the Revised Code.

(2) "Unascertainable person" means a person whose identity cannot be determined or whose identity is unknown, and who has communicated with an adult through any means that make tracing the person's identity impractical.

(B)(1) If the petitioner seeks a temporary protection order against an unascertainable person or seeks to stop the proposed transfer of the adult's funds or property to an unascertainable person, the petitioner shall file with the court a sworn affidavit that includes the following:

(a) The facts leading the petitioner to believe that the person is an unascertainable person;

(b) Information regarding how the unascertainable person and the adult have been in contact;

(c) All identifying information for the unascertainable person that is known to the petitioner or the adult, including pseudonyms, tax identification numbers, electronic mail addresses, telephone numbers, software application programs used, or social media usernames and handles;

(d) The facts leading the petitioner to believe that a proposed or initiated transfer of funds or property by the adult is a response to a fraudulent request by the unascertainable person;

(e) A description of the petitioner's attempts to identify the unascertainable person, including using the same method of communication that the unascertainable person used to communicate with the adult.

(2) If the court determines that the person is an unascertainable person based on the petitioner's affidavit, the court shall enter an order requiring the petitioner to serve the unascertainable person through the same means of communication that the unascertainable person used to communicate with the adult. The substitute service shall be made not later than two working days after the date the court issues the order.

(3) The petitioner shall file with the court proof, including a sworn affidavit with screenshots, that the petitioner has attempted to serve the unascertainable person in accordance with division (B)(2) of this section. This constitutes substitute service on the unascertainable person.

(C) In accordance with an order issued under section 5101.701 or 5101.702 of the Revised Code and if using substitute service in accordance with this section, a proposed transfer of funds or property in dispute must be held for thirty days, beginning on the date of the issuance of the order, before such funds or property may be distributed for the benefit of the adult.

(D) The provisions of this section shall be construed in such a way as to best operate for the benefit and protection of an adult in need of protective services.

Section 2. This act shall be known as the Protect Our Parents Act.