



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

HB6175

Introduced 5/23/2012, by Rep. Jerry F. Costello, II - Michelle Mussman - Lawrence M. Walsh, Jr. - Keith Farnham - Daniel Biss, et al.

#### SYNOPSIS AS INTRODUCED:

New Act

Creates the Financial Institutions Elder Abuse Reporting Act. Provides that a financial institution shall make an abuse report if an employee of the financial institution (i) has direct contact with an elder adult or reviews or approves an elder adult's financial documents, records, or transactions in connection with financial services provided by the financial institution to or for the elder adult, and (ii) observes or obtains knowledge of behavior, unusual circumstances, or transactions that leads the employee to know or have reasonable cause to suspect that the elder adult is the victim of financial abuse. Provides that an abuse report made under the Act is confidential. Provides that a financial institution shall establish and implement a training program to (i) assist employees in recognizing signs of potential financial abuse of an elder adult and (ii) inform employees about the requirement to file abuse reports provided by the Act. Provides for civil penalties for failure to file an abuse report.

LRB097 21604 PJG 69841 b

CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

FISCAL NOTE ACT  
MAY APPLY

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the  
5 Financial Institutions Elder Abuse Reporting Act.

6 Section 5. Definitions. As used in this Act:

7 "Abuse report" means the report required under Section 10.

8 "Elder adult" means an individual who is believed to be at  
9 least 65 years old and residing in the State.

10 "Financial abuse" means to take, appropriate, obtain, or  
11 retain, or assist in taking, appropriating, obtaining, or  
12 retaining, real or personal property of an elder adult by any  
13 means, including undue influence, for a wrongful purpose or  
14 with intent to defraud the elder adult.

15 "Financial institution" means a bank, as defined in the  
16 Illinois Banking Act, a savings and loan association, as  
17 defined in the Illinois Savings and Loan Act of 1985, a savings  
18 bank, as defined in the Savings Bank Act, or a credit union, as  
19 defined in the Illinois Credit Union Act.

20 Section 10. Abuse report.

21 (a) A financial institution shall make an abuse report as  
22 provided in this Section if an employee of the financial

1 institution, while acting within the scope of the employee's  
2 employment:

3 (1) has direct contact with an elder adult or reviews  
4 or approves an elder adult's financial documents, records,  
5 or transactions in connection with financial services  
6 provided by the financial institution to or for the elder  
7 adult; and

8 (2) observes or obtains knowledge of behavior, unusual  
9 circumstances, or transactions that leads the employee to  
10 know or have reasonable cause to suspect that the elder  
11 adult is the victim of financial abuse.

12 (b) The abuse report required under subsection (a) of this  
13 Section shall be made to the local law enforcement agency, a  
14 State's attorney, the Department on Aging, or an agency  
15 designated to receive such reports under the Elder Abuse and  
16 Neglect Act:

17 (1) by telephone notification within 24 hours after the  
18 employee knows or has reasonable cause to suspect that the  
19 elder adult is the victim of financial abuse; and

20 (2) in writing sent within 3 business days after the  
21 employee knows or has reasonable cause to suspect that the  
22 elder adult is the victim of financial abuse.

23 (c) A financial institution is not required to:

24 (1) investigate an allegation by an elder adult that  
25 financial abuse of the elder adult has occurred; or

26 (2) make an abuse report under this Section if the same

1 matter already has been reported as required under this  
2 Section.

3 Section 15. Confidentiality and disclosure.

4 (a) Except as provided in subsection (b) of this Section,  
5 an abuse report made under Section 10 is confidential and the  
6 information contained in the abuse report may be disclosed  
7 only:

8 (1) in connection with an investigation of the  
9 suspected financial abuse, to:

10 (A) the Department on Aging;

11 (B) an agency designated to receive such reports  
12 under the Elder Abuse and Neglect Act;

13 (C) a law enforcement agency; and

14 (D) the office of the Attorney General or of a  
15 State's attorney; or

16 (2) as authorized by the elder adult or the legal  
17 guardian of the elder adult.

18 (b) Subsection (a) of this Section may not be construed to:

19 (1) allow the disclosure of an abuse report made under  
20 Section 10 or a record relevant to the abuse report if the  
21 disclosure would be prohibited by any other provision of  
22 State or federal law; or

23 (2) prohibit the disclosure by a financial institution  
24 or an officer, employee, agent, or director of a financial  
25 institution of an abuse report made under Section 10 or a

1 record relevant to the abuse report if the disclosure would  
2 be required by another State law, federal law, or court  
3 order.

4 (c) A financial institution or an officer, employee, agent,  
5 or director of a financial institution may not decline to  
6 provide information requested by a person identified in  
7 paragraph (1) of subsection (a) of this Section in connection  
8 with an investigation of suspected financial abuse.

9 (d) This Section does not prohibit or limit the disclosure  
10 of financial records otherwise permitted under this Act.

11 Section 20. Training program. A financial institution  
12 shall establish and implement a training program to:

13 (1) assist employees in recognizing signs of potential  
14 financial abuse of an elder adult, including, but not  
15 limited to, unusual activity in an elder adult's deposit  
16 accounts, automated teller machine (ATM) withdrawals by an  
17 elder adult who previously never used an ATM or debit card,  
18 and suspicious signatures on checks; and

19 (2) inform employees about the requirement to file  
20 abuse reports as provided under Section 10.

21 Section 25. Penalties.

22 (a) A financial institution that fails to file an abuse  
23 report concerning an elder adult as required under Section 10  
24 of this Act is subject to:

- 1           (1) a civil penalty not exceeding \$1,000; or  
2           (2) if the failure to report is willful, a civil  
3           penalty not exceeding \$5,000.

4           (b) The civil penalties provided under subsection (a) of  
5           this Section:

- 6           (1) may be recovered only in a civil action brought by  
7           the Attorney General against the financial institution;  
8           and

9           (2) shall be paid by the financial institution.

10          (c) A person who discloses information contained in an  
11          abuse report in violation of Section 15 is guilty of a  
12          misdemeanor and, on conviction, is subject to a fine not  
13          exceeding \$500.