

## **BILL ANALYSIS**

C.S.H.B. 3921  
By: Parker  
Investments & Financial Services  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties contend that certain vulnerable adults lose a significant amount of money each year to fraud and financial exploitation. C.S.H.B. 3921 seeks to protect the financial well-being of these individuals by authorizing financial institutions, securities dealers, and investment advisers to place a hold on suspicious transactions involving these vulnerable adults and by requiring the reporting of suspected financial exploitation.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the State Securities Board in SECTION 2 of this bill.

### **ANALYSIS**

C.S.H.B. 3921 amends the Finance Code to require an employee of a financial institution who has cause to believe that financial exploitation of a vulnerable adult who is an account holder with the institution has occurred, is occurring, or has been attempted to notify the financial institution of the suspected financial exploitation. The bill defines, among other terms, "vulnerable adult" as a person 65 years of age or older, a person with a disability, or an individual receiving services as that term is defined under Human Resources Code provisions relating to investigations of abuse, neglect, or exploitation of individuals receiving services from certain providers. The bill requires a financial institution that is so notified or that otherwise has cause to believe that financial exploitation of a vulnerable adult who is an account holder with the institution has occurred, is occurring, or has been attempted to assess the suspected financial exploitation and to submit a report, by a certain deadline as specified by the bill, to the Department of Family and Protective Services (DFPS) in the same manner as and containing the same information required to be included in a report under Human Resources Code provisions governing reports of abuse, neglect, or exploitation of an elderly person, a person with a disability, or an individual receiving certain services.

C.S.H.B. 3921 establishes that a financial institution that submits such a report to DFPS is not required to make an additional report under such Human Resources Code reporting provisions for the same conduct constituting the reported suspected financial exploitation. The bill requires each financial institution to adopt internal policies, programs, plans, or procedures for the employees of the financial institution to make the required notification and for the financial institution to conduct the assessment and submit such report. The bill authorizes such policies, programs, plans, or procedures to authorize the financial institution to report the suspected financial exploitation to other appropriate agencies and entities in addition to DFPS, including

the attorney general, the Federal Trade Commission, and the appropriate law enforcement agency.

C.S.H.B. 3921 authorizes a financial institution that submits a report of suspected financial exploitation of a vulnerable adult to DFPS, at the time the financial institution submits the report, to also notify a third party reasonably associated with the vulnerable adult of the suspected financial exploitation, unless the financial institution suspects the third party of financial exploitation of the vulnerable adult. The bill authorizes a financial institution that submits such a report to place a hold on any transaction that involves an account of the vulnerable adult and that the financial institution has cause to believe is related to the suspected financial exploitation and requires such an institution to place such a hold if the hold is requested by DFPS or a law enforcement agency. The bill establishes that such a hold expires on the 10th business day after the date the financial institution submits the report but authorizes the institution to extend such a hold for a period not to exceed 30 business days after the expiration of the prescribed period if requested by a state or federal agency or a law enforcement agency investigating the suspected financial exploitation. The bill authorizes a financial institution to also petition a court to extend such a hold beyond the prescribed period and authorizes a court to enter an order extending or shortening a hold or providing other relief. The bill requires each financial institution to adopt internal policies, programs, plans, or procedures for placing a hold on a transaction involving an account of a vulnerable adult.

C.S.H.B. 3921 grants an employee of a financial institution who makes a notification under the bill's provisions, a financial institution that submits a report or makes a notification to a third party under the bill's provisions, and an employee who or financial institution that testifies or otherwise participates in a judicial proceeding arising from a notification or report immunity from any civil or criminal liability arising from the notification, report, testimony, or participation in the judicial proceeding, unless the employee or financial institution acted in bad faith or with a malicious purpose. The bill grants a financial institution that in good faith and with the exercise of reasonable care places or does not place a hold on any transaction involving an account of a vulnerable adult immunity from any civil or criminal liability or disciplinary action resulting from that action or failure to act. The bill requires a financial institution to provide, on request and to the extent permitted by state or federal law, access to or copies of records relevant to the suspected financial exploitation of a vulnerable adult to DFPS, a law enforcement agency, or a prosecuting attorney's office, either as part of a report to or at the request of such entities in accordance with an investigation.

C.S.H.B. 3921 amends The Securities Act, Vernon's Texas Civil Statutes, to require a securities professional who is an agent, an investment adviser representative, or a person who serves in a supervisory or compliance capacity for a dealer or investment adviser or a person serving in a legal capacity for a dealer or investment adviser who has cause to believe that financial exploitation of a vulnerable adult who is an account holder with the dealer or investment adviser has occurred, is occurring, or has been attempted to notify the dealer or investment adviser of the suspected financial exploitation. The bill requires a dealer or investment adviser who is so notified or otherwise has cause to believe that financial exploitation of a vulnerable adult who is an account holder with the dealer or investment adviser has occurred, is occurring, or has been attempted to assess the suspected financial exploitation and to submit a report, by a certain deadline as specified by the bill, to the securities commissioner in accordance with rules adopted under the bill's provisions and to DFPS in the same manner as and containing the same information required to be included in a report under Human Resources Code provisions governing reports of abuse, neglect, or exploitation of an elderly person, a person with a disability, or an individual receiving certain services. The bill establishes that a dealer or investment adviser who submits such a report to DFPS is not required to make an additional report under such Human Resources Code provisions for the same conduct constituting the reported suspected financial exploitation. The bill requires each dealer and investment adviser to adopt internal policies, programs, plans, or procedures for such securities professionals or persons serving in a legal capacity for a dealer or investment adviser to make such notification

and for the dealer or investment adviser to conduct the assessment and submit such reports. The bill authorizes such policies, programs, plans, or procedures adopted under these provisions to authorize the dealer or investment adviser to report the suspected financial exploitation to other appropriate agencies and entities in addition to the securities commissioner and DFPS, including the attorney general, the Federal Trade Commission, and the appropriate law enforcement agency.

C.S.H.B. 3921 authorizes a dealer or investment adviser who submits reports of suspected financial exploitation of a vulnerable adult to the securities commissioner and DFPS, at the time the dealer or investment adviser submits the reports, to also notify a third party reasonably associated with the vulnerable adult of the suspected financial exploitation, unless the dealer or investment adviser suspects the third party of financial exploitation of the vulnerable adult. The bill authorizes a dealer or investment adviser that submits a report to place a hold on any transaction that involves an account of the vulnerable adult and that the dealer or investment adviser has cause to believe is related to the suspected financial exploitation and requires such a dealer or adviser to place such a hold if the hold is requested by the securities commissioner, DFPS, or a law enforcement agency. The bill establishes that such a hold expires on the 10th business day after the date the dealer or investment adviser submits the reports but authorizes the dealer or investment adviser to extend such a hold for a period not to exceed 30 business days after the expiration of the prescribed period if requested by a state or federal agency or a law enforcement agency investigating the suspected financial exploitation. The bill authorizes a dealer or investment adviser to also petition a court to extend such a hold beyond the prescribed period and authorizes a court to enter an order extending or shortening a hold or providing other relief. The bill requires each dealer and investment adviser to adopt internal policies, programs, plans, or procedures for placing a hold on a transaction involving an account of a vulnerable adult.

C.S.H.B. 3921 grants such a security professional or a person serving in a legal capacity for a dealer or investment adviser who makes a notification under the bill's provisions, a dealer or investment adviser that submits a report or makes a notification to a third party under the bill's provisions, and such a securities professional, such a person serving in a legal capacity, or a dealer or investment adviser that testifies or otherwise participates in a judicial proceeding arising from the notification or report immunity from any civil or criminal liability arising from the notification, report, testimony, or participation in the judicial proceeding, unless such securities professional, person serving in a legal capacity, or dealer or investment adviser acted in bad faith or with a malicious purpose. The bill grants a dealer or investment adviser that in good faith and with the exercise of reasonable care places or does not place a hold on any transaction involving an account of a vulnerable adult immunity from civil or criminal liability or disciplinary action resulting from the action or failure to act. The bill requires a dealer or investment adviser to provide, on request and to the extent permitted by state or federal law, access to or copies of records relevant to the suspected financial exploitation of a vulnerable adult to the securities commissioner, DFPS, a law enforcement agency, or a prosecuting attorney's office, either as part of a report to or at the request of such entities in accordance with an investigation. The bill requires the State Securities Board to prescribe by rule the form and content of the report required to be submitted by a dealer or investment adviser to the securities commissioner.

#### **EFFECTIVE DATE**

September 1, 2017.

#### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 3921 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Subtitle Z, Title 3, Finance Code, is amended by adding Chapter 280 to read as follows:

CHAPTER 280. PROTECTION OF VULNERABLE ADULTS FROM FINANCIAL EXPLOITATION

Sec. 280.001. DEFINITIONS. In this chapter:

(1) "Adult protective services division" means the adult protective services division of the Department of Family and Protective Services.

(2) "Exploitation" means the act of forcing, compelling, or exerting undue influence over a person causing the person to act in a way that is inconsistent with the person's relevant past behavior or causing the person to perform services for the benefit of another person.

(3) "Financial exploitation" means:

(A) the wrongful or unauthorized taking, withholding, appropriation, or use of the money, assets, or other property or the identifying information of a person; or

(B) an act or omission by a person, including through the use of a power of attorney on behalf of, or as the conservator or guardian of, another person, to:

(i) obtain control, through deception, intimidation, fraud, or undue influence, over the other person's money, assets, or other property to deprive the other person of the ownership, use, benefit, or possession of the property; or

(ii) convert the money, assets, or other property of the other person to deprive the other person of the ownership, use, benefit, or possession of the property.

(4) "Financial institution" has the meaning assigned by Section 277.001.

(5) "Vulnerable adult" means:

(A) an elderly person as that term is defined by Section 48.002, Human Resources Code;

(B) a person with a disability as that term is defined by Section 48.002, Human Resources Code; or

(C) an individual receiving services as that term is defined by rule by the executive commissioner of the Health and Human Services Commission as authorized by Section 48.251(b), Human Resources Code.

Sec. 280.002. REPORTING SUSPECTED

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subtitle Z, Title 3, Finance Code, is amended by adding Chapter 280 to read as follows:

CHAPTER 280. PROTECTION OF VULNERABLE ADULTS FROM FINANCIAL EXPLOITATION

Sec. 280.001. DEFINITIONS. In this chapter:

(1) "Department" means the Department of Family and Protective Services.

(2) "Exploitation" means the act of forcing, compelling, or exerting undue influence over a person causing the person to act in a way that is inconsistent with the person's relevant past behavior or causing the person to perform services for the benefit of another person.

(3) "Financial exploitation" means:

(A) the wrongful or unauthorized taking, withholding, appropriation, or use of the money, assets, or other property or the identifying information of a person; or

(B) an act or omission by a person, including through the use of a power of attorney on behalf of, or as the conservator or guardian of, another person, to:

(i) obtain control, through deception, intimidation, fraud, or undue influence, over the other person's money, assets, or other property to deprive the other person of the ownership, use, benefit, or possession of the property; or

(ii) convert the money, assets, or other property of the other person to deprive the other person of the ownership, use, benefit, or possession of the property.

(4) "Financial institution" has the meaning assigned by Section 277.001.

(5) "Vulnerable adult" means:

(A) an elderly person as that term is defined by Section 48.002, Human Resources Code;

(B) a person with a disability as that term is defined by Section 48.002, Human Resources Code; or

(C) an individual receiving services as that term is defined by rule by the executive commissioner of the Health and Human Services Commission as authorized by Section 48.251(b), Human Resources Code.

Sec. 280.002. REPORTING SUSPECTED

FINANCIAL EXPLOITATION OF VULNERABLE ADULTS. (a) If an employee of a financial institution has cause to believe that financial exploitation of a vulnerable adult who is an account holder with the financial institution has occurred, is occurring, or has been attempted, the employee shall notify the financial institution of the suspected financial exploitation.

(b) If a financial institution is notified of suspected financial exploitation under Subsection (a) or otherwise has cause to believe that financial exploitation of a vulnerable adult who is an account holder with the financial institution has occurred, is occurring, or has been attempted, the financial institution shall investigate the suspected financial exploitation and submit a report to the adult protective services division in accordance with Subchapter B-1, Chapter 48, Human Resources Code.

The financial institution shall submit the report required by this subsection not later than the earlier of:

(1) the date the financial institution completes the investigation; or

(2) the fifth business day after the date the financial institution is notified of the suspected financial exploitation under Subsection (a) or otherwise has cause to believe that the suspected financial exploitation has occurred, is occurring, or has been attempted.

(c) Each financial institution shall adopt internal policies, programs, plans, or procedures for:

(1) the employees of the financial institution to make the notification required under Subsection (a); and

(2) the financial institution to conduct the investigation and submit the report required under Subsection (b).

FINANCIAL EXPLOITATION OF VULNERABLE ADULTS. (a) If an employee of a financial institution has cause to believe that financial exploitation of a vulnerable adult who is an account holder with the financial institution has occurred, is occurring, or has been attempted, the employee shall notify the financial institution of the suspected financial exploitation.

(b) If a financial institution is notified of suspected financial exploitation under Subsection (a) or otherwise has cause to believe that financial exploitation of a vulnerable adult who is an account holder with the financial institution has occurred, is occurring, or has been attempted, the financial institution shall assess the suspected financial exploitation and submit a report to the department in the same manner as and containing the same information required to be included in a report under Section 48.051, Human Resources Code. The financial institution shall submit the report required by this subsection not later than the earlier of:

(1) the date the financial institution completes the financial institution's assessment of the suspected financial exploitation; or

(2) the fifth business day after the date the financial institution is notified of the suspected financial exploitation under Subsection (a) or otherwise has cause to believe that the suspected financial exploitation has occurred, is occurring, or has been attempted.

(c) A financial institution that submits a report to the department of suspected financial exploitation of a vulnerable adult under Subsection (b) is not required to make an additional report of suspected abuse, neglect, or exploitation under Section 48.051, Human Resources Code, for the same conduct constituting the reported suspected financial exploitation.

(d) Each financial institution shall adopt internal policies, programs, plans, or procedures for:

(1) the employees of the financial institution to make the notification required under Subsection (a); and

(2) the financial institution to conduct the assessment and submit the report required under Subsection (b).

(d) The policies, programs, plans, or procedures adopted under Subsection (c) may authorize the financial institution to report the suspected financial exploitation to other appropriate agencies and entities in addition to the adult protective services division, including the attorney general, the Federal Trade Commission, and the appropriate law enforcement agency.

Sec. 280.003. NOTIFYING THIRD PARTIES OF SUSPECTED FINANCIAL EXPLOITATION OF VULNERABLE ADULTS. If a financial institution submits a report of suspected financial exploitation of a vulnerable adult to the adult protective services division under Section 280.002(b), the financial institution may at the time the financial institution submits the report also notify a third party reasonably associated with the vulnerable adult of the suspected financial exploitation, unless the financial institution suspects the third party of financial exploitation of the vulnerable adult.

Sec. 280.004. TEMPORARY HOLD ON TRANSACTIONS IN CERTAIN CASES OF SUSPECTED FINANCIAL EXPLOITATION OF VULNERABLE ADULTS. (a) Notwithstanding any other law, if a financial institution submits a report of suspected financial exploitation of a vulnerable adult to the adult protective services division under Section 280.002(b), the financial institution:

(1) may place a hold on a transaction

involving an account of the vulnerable adult; and

(2) must place a hold on a transaction involving an account of the vulnerable adult if the hold is requested by the adult protective services division or a law enforcement agency.

(b) Subject to Subsection (c), a hold placed on a transaction under Subsection (a) expires on the 10th business day after the date the financial institution submits the report under Section 280.002(b).

(c) The financial institution may extend a hold placed on a transaction under Subsection (a) for a period not to exceed 30 business days after the expiration of the

(e) The policies, programs, plans, or procedures adopted under Subsection (d) may authorize the financial institution to report the suspected financial exploitation to other appropriate agencies and entities in addition to the department, including the attorney general, the Federal Trade Commission, and the appropriate law enforcement agency.

Sec. 280.003. NOTIFYING THIRD PARTIES OF SUSPECTED FINANCIAL EXPLOITATION OF VULNERABLE ADULTS. If a financial institution submits a report of suspected financial exploitation of a vulnerable adult to the department under Section 280.002(b), the financial institution may at the time the financial institution submits the report also notify a third party reasonably associated with the vulnerable adult of the suspected financial exploitation, unless the financial institution suspects the third party of financial exploitation of the vulnerable adult.

Sec. 280.004. TEMPORARY HOLD ON TRANSACTIONS IN CERTAIN CASES OF SUSPECTED FINANCIAL EXPLOITATION OF VULNERABLE ADULTS. (a) Notwithstanding any other law, if a financial institution submits a report of suspected financial exploitation of a vulnerable adult to the department under Section 280.002(b), the financial institution:

(1) may place a hold on any transaction that:

(A) involves an account of the vulnerable adult; and

(B) the financial institution has cause to believe is related to the suspected financial exploitation; and

(2) must place a hold on any transaction involving an account of the vulnerable adult if the hold is requested by the department or a law enforcement agency.

(b) Subject to Subsection (c), a hold placed on any transaction under Subsection (a) expires on the 10th business day after the date the financial institution submits the report under Section 280.002(b).

(c) The financial institution may extend a hold placed on any transaction under Subsection (a) for a period not to exceed 30 business days after the expiration of the

period prescribed by Subsection (b) if requested by a state or federal agency or a law enforcement agency investigating the suspected financial exploitation. The financial institution may also petition a court to extend a hold placed on a transaction under Subsection (a) beyond the period prescribed by Subsection (b). A court may enter an order extending or shortening a hold or providing other relief.

Sec. 280.005. IMMUNITY. (a) An employee of a financial institution who makes a notification under Section 280.002(a), a financial institution that submits a report under Section 280.002(b) or makes a notification under Section 280.003, or an employee who or financial institution that testifies or otherwise participates in a judicial proceeding arising from a notification or report is immune from any civil or criminal liability arising from the notification, report, testimony, or participation in the judicial proceeding, unless the employee or financial institution acted in bad faith or with a malicious purpose.

(b) A financial institution that in good faith and with the exercise of reasonable care places or does not place a hold on a transaction under Section 280.004(a)(1) is immune from any civil or criminal liability or disciplinary action resulting from that action or failure to act.

Sec. 280.006. RECORDS. To the extent permitted by state or federal law, a financial institution shall provide, on request, access to or copies of records relevant to the suspected financial exploitation of a vulnerable adult to the adult protective services division, a law enforcement agency, or a prosecuting attorney's office, either as part of a report to the adult protective services division, law enforcement agency, or prosecuting attorney's office or at the request of the adult protective services division, law enforcement agency, or prosecuting attorney's office in accordance with an investigation.

SECTION 2. The Securities Act (Article

period prescribed by Subsection (b) if requested by a state or federal agency or a law enforcement agency investigating the suspected financial exploitation. The financial institution may also petition a court to extend a hold placed on any transaction under Subsection (a) beyond the period prescribed by Subsection (b). A court may enter an order extending or shortening a hold or providing other relief.

(d) Each financial institution shall adopt internal policies, programs, plans, or procedures for placing a hold on a transaction involving an account of a vulnerable adult under this section.

Sec. 280.005. IMMUNITY. (a) An employee of a financial institution who makes a notification under Section 280.002(a), a financial institution that submits a report under Section 280.002(b) or makes a notification to a third party under Section 280.003, or an employee who or financial institution that testifies or otherwise participates in a judicial proceeding arising from a notification or report is immune from any civil or criminal liability arising from the notification, report, testimony, or participation in the judicial proceeding, unless the employee or financial institution acted in bad faith or with a malicious purpose.

(b) A financial institution that in good faith and with the exercise of reasonable care places or does not place a hold on any transaction under Section 280.004(a)(1) is immune from any civil or criminal liability or disciplinary action resulting from that action or failure to act.

Sec. 280.006. RECORDS. To the extent permitted by state or federal law, a financial institution shall provide, on request, access to or copies of records relevant to the suspected financial exploitation of a vulnerable adult to the department, a law enforcement agency, or a prosecuting attorney's office, either as part of a report to the department, law enforcement agency, or prosecuting attorney's office or at the request of the department, law enforcement agency, or prosecuting attorney's office in accordance with an investigation.

SECTION 2. The Securities Act (Article

581-1 et seq., Vernon's Texas Civil Statutes) is amended by adding Section 45 to read as follows:

Sec. 45. PROTECTION OF VULNERABLE ADULTS FROM FINANCIAL EXPLOITATION. A. In this section:

(1) "Adult protective services division" means the adult protective services division of the Department of Family and Protective Services.

(2) "Exploitation," "financial exploitation," and "vulnerable adult" have the meanings assigned by Section 280.001, Finance Code.

(3) "Securities professional" means an agent, an investment adviser representative, or a person who serves in a supervisory or compliance capacity for a dealer or investment adviser.

B. If a securities professional or a person serving in a legal capacity for a dealer or investment adviser has cause to believe that financial exploitation of a vulnerable adult who is an account holder with the dealer or investment adviser has occurred, is occurring, or has been attempted, the securities professional or person serving in a legal capacity for the dealer or investment adviser shall notify the dealer or investment adviser of the suspected financial exploitation.

C. If a dealer or investment adviser is notified of suspected financial exploitation under Subsection B of this section or otherwise has cause to believe that financial exploitation of a vulnerable adult who is an account holder with the dealer or investment adviser has occurred, is occurring, or has been attempted, the dealer or investment adviser shall investigate the suspected financial exploitation and submit a report to the Securities Commissioner, in accordance with rules adopted under Subsection L of this section, and the adult protective services division in accordance with Subchapter B-1, Chapter 48, Human Resources Code.

The dealer or investment adviser shall submit the reports required by this subsection not later than the earlier of:

(1) the date the dealer or investment adviser completes the investigation; or

(2) the fifth business day after the date the

581-1 et seq., Vernon's Texas Civil Statutes) is amended by adding Section 45 to read as follows:

Sec. 45. PROTECTION OF VULNERABLE ADULTS FROM FINANCIAL EXPLOITATION. A. In this section:

(1) "Department" means the Department of Family and Protective Services.

(2) "Exploitation," "financial exploitation," and "vulnerable adult" have the meanings assigned by Section 280.001, Finance Code.

(3) "Securities professional" means an agent, an investment adviser representative, or a person who serves in a supervisory or compliance capacity for a dealer or investment adviser.

B. If a securities professional or a person serving in a legal capacity for a dealer or investment adviser has cause to believe that financial exploitation of a vulnerable adult who is an account holder with the dealer or investment adviser has occurred, is occurring, or has been attempted, the securities professional or person serving in a legal capacity for the dealer or investment adviser shall notify the dealer or investment adviser of the suspected financial exploitation.

C. If a dealer or investment adviser is notified of suspected financial exploitation under Subsection B of this section or otherwise has cause to believe that financial exploitation of a vulnerable adult who is an account holder with the dealer or investment adviser has occurred, is occurring, or has been attempted, the dealer or investment adviser shall assess the suspected financial exploitation and submit a report to the Securities Commissioner, in accordance with rules adopted under Subsection N of this section, and the department in the same manner as and containing the same information required to be included in a report under Section 48.051, Human Resources Code.

The dealer or investment adviser shall submit the reports required by this subsection not later than the earlier of:

(1) the date the dealer or investment adviser completes the dealer's or investment adviser's assessment of the suspected financial exploitation; or

(2) the fifth business day after the date the

dealer or investment adviser is notified of the suspected financial exploitation under Subsection B of this section or otherwise has cause to believe that the suspected financial exploitation has occurred, is occurring, or has been attempted.

D. Each dealer and investment adviser shall adopt internal policies, programs, plans, or procedures for the securities professionals or persons serving in a legal capacity for the dealer or investment adviser to make the notification required under Subsection B of this section and for the dealer or investment adviser to conduct the investigations and submit the reports required under Subsection C of this section. The policies, programs, plans, or procedures adopted under this subsection may authorize the dealer or investment adviser to report the suspected financial exploitation to other appropriate agencies and entities in addition to the Securities Commissioner and the adult protective services division, including the attorney general, the Federal Trade Commission, and the appropriate law enforcement agency.

E. If a dealer or investment adviser submits reports of suspected financial exploitation of a vulnerable adult to the Securities Commissioner and the adult protective services division under Subsection C of this section, the dealer or investment adviser may at the time the dealer or investment adviser submits the reports also notify a third party reasonably associated with the vulnerable adult of the suspected financial exploitation, unless the dealer or investment adviser suspects the third party of financial exploitation of the vulnerable adult.

F. Notwithstanding any other law, if a dealer or investment adviser submits reports of suspected financial exploitation of a vulnerable adult to the Securities Commissioner and the adult protective services division under Subsection C of this

dealer or investment adviser is notified of the suspected financial exploitation under Subsection B of this section or otherwise has cause to believe that the suspected financial exploitation has occurred, is occurring, or has been attempted.

D. A dealer or investment adviser who submits a report to the department of suspected financial exploitation of a vulnerable adult under Subsection C of this section is not required to make an additional report of suspected abuse, neglect, or exploitation under Section 48.051, Human Resources Code, for the same conduct constituting the reported suspected financial exploitation.

E. Each dealer and investment adviser shall adopt internal policies, programs, plans, or procedures for the securities professionals or persons serving in a legal capacity for the dealer or investment adviser to make the notification required under Subsection B of this section and for the dealer or investment adviser to conduct the assessment and submit the reports required under Subsection C of this section. The policies, programs, plans, or procedures adopted under this subsection may authorize the dealer or investment adviser to report the suspected financial exploitation to other appropriate agencies and entities in addition to the Securities Commissioner and the department, including the attorney general, the Federal Trade Commission, and the appropriate law enforcement agency.

F. If a dealer or investment adviser submits reports of suspected financial exploitation of a vulnerable adult to the Securities Commissioner and the department under Subsection C of this section, the dealer or investment adviser may at the time the dealer or investment adviser submits the reports also notify a third party reasonably associated with the vulnerable adult of the suspected financial exploitation, unless the dealer or investment adviser suspects the third party of financial exploitation of the vulnerable adult.

G. Notwithstanding any other law, if a dealer or investment adviser submits reports of suspected financial exploitation of a vulnerable adult to the Securities Commissioner and the department under Subsection C of this section, the dealer or

section, the dealer or investment adviser:

(1) may place a hold on a transaction involving an account of the vulnerable adult; and

(2) must place a hold on a transaction involving an account of the vulnerable adult if the hold is requested by the Securities Commissioner, the adult protective services division, or a law enforcement agency.

G. Subject to Subsection H of this section, a hold placed on a transaction under Subsection F of this section expires on the 10th business day after the date the dealer or investment adviser submits the reports under Subsection C of this section.

H. A dealer or investment adviser may extend a hold placed on a transaction under Subsection F of this section for a period not to exceed 30 business days after the expiration of the period prescribed by Subsection G of this section if requested by a state or federal agency or a law enforcement agency investigating the suspected financial exploitation. The dealer or investment adviser may also petition a court to extend a hold placed on a transaction under Subsection F of this section beyond the period prescribed by Subsection G of this section. A court may enter an order extending or shortening a hold or providing other relief.

I. A securities professional or person serving in a legal capacity for a dealer or investment adviser who makes a notification under Subsection B of this section, a dealer or investment adviser that submits a report under Subsection C of this section or makes a notification under Subsection E of this section, or a securities professional or person serving in a legal capacity who or dealer or investment adviser that testifies or otherwise participates in a judicial proceeding arising from a notification or report is immune from any civil or criminal liability arising from the notification, report,

investment adviser:

(1) may place a hold on any transaction that:

(A) involves an account of the vulnerable adult; and

(B) the dealer or investment adviser has cause to believe is related to the suspected financial exploitation; and

(2) must place a hold on any transaction involving an account of the vulnerable adult if the hold is requested by the Securities Commissioner, the department, or a law enforcement agency.

H. Subject to Subsection I of this section, a hold placed on any transaction under Subsection G of this section expires on the 10th business day after the date the dealer or investment adviser submits the reports under Subsection C of this section.

I. A dealer or investment adviser may extend a hold placed on any transaction under Subsection G of this section for a period not to exceed 30 business days after the expiration of the period prescribed by Subsection H of this section if requested by a state or federal agency or a law enforcement agency investigating the suspected financial exploitation. The dealer or investment adviser may also petition a court to extend a hold placed on any transaction under Subsection G of this section beyond the period prescribed by Subsection H of this section. A court may enter an order extending or shortening a hold or providing other relief.

J. Each dealer and investment adviser shall adopt internal policies, programs, plans, or procedures for placing a hold on a transaction involving an account of a vulnerable adult under Subsection G of this section.

K. A securities professional or person serving in a legal capacity for a dealer or investment adviser who makes a notification under Subsection B of this section, a dealer or investment adviser that submits a report under Subsection C of this section or makes a notification to a third party under Subsection F of this section, or a securities professional or person serving in a legal capacity who or dealer or investment adviser that testifies or otherwise participates in a judicial proceeding arising from a notification or report is immune from any civil or criminal liability arising from the

testimony, or participation in the judicial proceeding, unless the securities professional, person serving in a legal capacity for the dealer or investment adviser, or dealer or investment adviser acted in bad faith or with a malicious purpose.

J. A dealer or investment adviser that in good faith and with the exercise of reasonable care places or does not place a hold on a transaction under Subsection F(1) of this section is immune from civil or criminal liability or disciplinary action resulting from the action or failure to act.

K. To the extent permitted by state or federal law, a dealer or investment adviser, on request, shall provide access to or copies of records relevant to the suspected financial exploitation of a vulnerable adult to the Securities Commissioner, the adult protective services division, a law enforcement agency, or a prosecuting attorney's office, either as part of a report to the Securities Commissioner, adult protective services division, law enforcement agency, or prosecuting attorney's office or at the request of the Securities Commissioner, adult protective services division, law enforcement agency, or prosecuting attorney's office in accordance with an investigation.

L. The Board by rule shall prescribe the form and content of the report required to be submitted by a dealer or investment adviser to the Securities Commissioner under Subsection C of this section.

SECTION 3. Subchapter A, Chapter 48, Human Resources Code, is amended by adding Section 48.008 to read as follows:

Sec. 48.008. CONSOLIDATION OF CERTAIN REPORTS. If cost-effective and feasible and to the extent permitted by law, the executive commissioner by rule may consolidate the form and procedures used to submit a report under Sections 48.051 and 48.072.

SECTION 4. Chapter 48, Human Resources Code, is amended by adding Subchapter B-1 to read as follows:

SUBCHAPTER B-1. FINANCIAL EXPLOITATION OF VULNERABLE ADULTS

Sec. 48.071. DEFINITIONS. In this

notification, report, testimony, or participation in the judicial proceeding, unless the securities professional, person serving in a legal capacity for the dealer or investment adviser, or dealer or investment adviser acted in bad faith or with a malicious purpose.

L. A dealer or investment adviser that in good faith and with the exercise of reasonable care places or does not place a hold on any transaction under Subsection G(1) of this section is immune from civil or criminal liability or disciplinary action resulting from the action or failure to act.

M. To the extent permitted by state or federal law, a dealer or investment adviser, on request, shall provide access to or copies of records relevant to the suspected financial exploitation of a vulnerable adult to the Securities Commissioner, the department, a law enforcement agency, or a prosecuting attorney's office, either as part of a report to the Securities Commissioner, department, law enforcement agency, or prosecuting attorney's office or at the request of the Securities Commissioner, department, law enforcement agency, or prosecuting attorney's office in accordance with an investigation.

N. The Board by rule shall prescribe the form and content of the report required to be submitted by a dealer or investment adviser to the Securities Commissioner under Subsection C of this section.

No equivalent provision.

No equivalent provision.

subchapter:

(1) "Dealer" and "investment adviser" have the meanings assigned by Section 4, The Securities Act (Article 581-4, Vernon's Texas Civil Statutes).

(2) "Financial exploitation," "financial institution," and "vulnerable adult" have the meanings assigned by Section 280.001, Finance Code.

(3) "Securities professional" has the meaning assigned by Section 45, The Securities Act (Article 581-45, Vernon's Texas Civil Statutes).

Sec. 48.072. CERTAIN REPORTS OF SUSPECTED FINANCIAL

EXPLOITATION. (a) The executive commissioner, after consultation with the banking commissioner of Texas, the savings and mortgage lending commissioner, the credit union commissioner, and the securities commissioner, by rule shall prescribe the form and content of the report required to be submitted by a financial institution under Section 280.002(b), Finance Code, and the report required to be submitted by a dealer or investment adviser under Subsection C, Section 45, The Securities Act (Article 581-45, Vernon's Texas Civil Statutes). A report submitted by a financial institution under Section 280.002(b), Finance Code, or a report submitted by a dealer or investment adviser under Subsection C, Section 45, The Securities Act (Article 581-45, Vernon's Texas Civil Statutes), constitutes a report of suspected financial exploitation of a vulnerable adult for purposes of this subchapter.

(b) In adopting rules under this section, the executive commissioner shall ensure that a report of suspected financial exploitation of a vulnerable adult described by Subsection (a) includes to the extent possible the same information required to be included in a report under Section 48.051(d).

(c) A financial institution that submits a report to the department of suspected financial exploitation of a vulnerable adult under Section 280.002(b), Finance Code, or a dealer or investment adviser that submits a report to the department of suspected financial exploitation of a vulnerable adult under Subsection C, Section 45, The Securities Act (Article 581-45, Vernon's Texas Civil Statutes), in accordance with

this section is not required to make an additional report of suspected abuse, neglect, or exploitation under Section 48.051 for the same conduct constituting the financial exploitation reported under this section.

Sec. 48.073. ASSESSMENT, INVESTIGATION, AND DISPOSITION OF REPORTS. (a) The executive commissioner by rule shall adopt procedures for the assessment, investigation, and disposition of a report of suspected financial exploitation of a vulnerable adult received under Section 280.002(b), Finance Code, or Subsection C, Section 45, The Securities Act (Article 581-45, Vernon's Texas Civil Statutes), that must be similar to the procedures used for the assessment, investigation, and disposition of a report of abuse, neglect, or exploitation received by the department under this chapter, other than a report received under Subchapter F.

(b) The procedures adopted under this section must require:

(1) a risk assessment similar to the assessment required under Section 48.004;

(2) investigations similar to the investigations required under Subchapter D, including requirements that the department:

(A) take action on a report within the time frame and in the manner provided by Section 48.151;

(B) perform an interview with the vulnerable adult similar to the interview required by Section 48.152;

(C) if appropriate, implement a system to investigate complex cases similar to the system implemented under Section 48.1521;

(D) report criminal conduct to appropriate law enforcement agencies similar to the reports under Section 48.1522; and

(E) review certain cases involving multiple reports under Section 48.051 and this subchapter similar to the review performed under Section 48.1523; and

(3) a determination of services similar to the determination required by Section 48.202.

Sec. 48.074. AUTHORITY OF DEPARTMENT OR OTHER AGENCY. The department or another appropriate state agency has the authority to act on or with respect to an allegation of financial exploitation of a vulnerable adult under this subchapter to the same extent the

department or other agency has the authority to act on or with respect to an allegation of abuse, neglect, or exploitation under Subchapter B.

Sec. 48.075. ACCESS TO INVESTIGATION. (a) To implement an investigation of reported financial exploitation of a vulnerable adult, the probate court, as defined by Section 22.007, Estates Code, may authorize entry into the place of residence of a vulnerable adult.

(b) A peace officer shall accompany and assist the person making a court-ordered entry under this section if the court determines that action is necessary.

Sec. 48.076. INTERFERENCE WITH INVESTIGATION OR SERVICES PROHIBITED. (a) Notwithstanding Section 1151.001, Estates Code, a person, including a guardian, may not interfere with:

(1) an investigation by the department or by another protective services agency of suspected financial exploitation of a vulnerable adult; or

(2) the provision of protective services to a vulnerable adult.

(b) The department or another protective services agency may petition the appropriate court to enjoin any interference with:

(1) an investigation of suspected financial exploitation of a vulnerable adult under this subchapter; or

(2) the provision of protective services, such as removing a vulnerable adult to safer surroundings or safeguarding the vulnerable adult's resources from financial exploitation.

Sec. 48.077. MEMORANDUM OF UNDERSTANDING. The commission, the banking commissioner of Texas, the savings and mortgage lending commissioner, the credit union commissioner, the securities commissioner, and the department shall enter into a memorandum of understanding regarding the reporting and investigation of suspected financial exploitation of a vulnerable adult under this subchapter.

Sec. 48.078. CONFIDENTIALITY. (a) All files, reports, records, communications, and working papers used or developed by the department or other state agency in an investigation made under this subchapter or in providing services as a result of an investigation are confidential and not subject to disclosure under Chapter 552, Government Code.

(b) The department or investigating state agency may establish procedures to exchange with another state agency or governmental entity information that is necessary for the department, state agency, or governmental entity to properly execute its respective duties and responsibilities to provide services to vulnerable adults under this chapter or other law. An exchange of information under this subsection does not affect whether the information is subject to disclosure under Chapter 552, Government Code.

SECTION 5. Subchapter C, Chapter 48, Human Resources Code, is amended by adding Section 48.104 to read as follows:

Sec. 48.104. NONAPPLICABILITY. (a) This subchapter does not apply to a report of financial exploitation of a vulnerable adult made under Subchapter B-1.

(b) The confidentiality of information received or provided by the department in connection with a report of financial exploitation of a vulnerable adult made under Subchapter B-1 is governed by Section 48.078.

No equivalent provision.

SECTION 6. Subchapter D, Chapter 48, Human Resources Code, is amended by adding Section 48.1511 to read as follows:

Sec. 48.1511. NONAPPLICABILITY. This subchapter does not apply to an investigation conducted under Subchapter B-1 unless the executive commissioner by rule requires the application of a provision of this subchapter.

No equivalent provision.

SECTION 7. Section 59.006(a), Finance Code, is amended to read as follows:

(a) This section provides the exclusive method for compelled discovery of a record of a financial institution relating to one or more customers but does not create a right of privacy in a record. This section does not apply to and does not require or authorize a financial institution to give a customer notice of:

(1) a demand or inquiry from a state or federal government agency authorized by law to conduct an examination of the financial institution;

(2) a record request from a state or federal government agency or instrumentality under statutory or administrative authority that

No equivalent provision.

provides for, or is accompanied by, a specific mechanism for discovery and protection of a customer record of a financial institution, including a record request from a federal agency subject to the Right to Financial Privacy Act of 1978 (12 U.S.C. Section 3401 et seq.), as amended, or from the Internal Revenue Service under Section 1205, Internal Revenue Code of 1986;

(3) a record request from or report to a government agency arising out of:

(A) the investigation or prosecution of a criminal offense;

(B) the investigation of alleged abuse, neglect, or exploitation of an elderly or disabled person or of alleged financial exploitation of a vulnerable adult in accordance with Chapter 48, Human Resources Code; or

(C) the assessment for or provision of guardianship services under Subchapter E, Chapter 161, Human Resources Code;

(4) a record request in connection with a garnishment proceeding in which the financial institution is garnishee and the customer is debtor;

(5) a record request by a duly appointed receiver for the customer;

(6) an investigative demand or inquiry from a state legislative investigating committee;

(7) an investigative demand or inquiry from the attorney general of this state as authorized by law other than the procedural law governing discovery in civil cases;

(8) the voluntary use or disclosure of a record by a financial institution subject to other applicable state or federal law; or

(9) a record request in connection with an investigation conducted under Section 1054.151, 1054.152, or 1102.001, Estates Code.

SECTION 8. This Act takes effect September 1, 2017.

SECTION 3. Same as introduced version.