**DRAFT ONLY
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INTRODUCTION**

HOUSE BILL NO.

Financial exploitation of vulnerable adults.

Sponsored by: Joint Judiciary Interim Committee

A BILL

for

AN ACT relating to banks, banking and finance; requiring financial institutions to report financial exploitation of vulnerable adults as specified; authorizing discretionary reporting of suspected financial exploitation of vulnerable adults to third parties; allowing temporary holds on transactions; providing immunity; requiring disclosure of financial records; providing definitions; requiring rulemaking; and providing for effective dates.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 13-1-701 through 13-1-706 are created to read:

ARTICLE 7

PROTECTION OF VULNERABLE ADULTS

13-1-701. Definitions.

(a) As used in this article:

(i) "Agent" means as defined in W.S. 17-4-102(a)(ii);

(ii) "Department" means the department of family services;

(iii) "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;

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STAFF COMMENT

The Committee may wish to consider whether the definition of exploitation is necessary as the term exploitation does not appear separately elsewhere in this bill draft.

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(iv) "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.

(v) "Financial institution" means as defined by W.S. 13-1-401(a)(ii) and, for purposes of this article, shall include broker-dealers as defined in W.S. 17-4-102(a)(iv) and investment advisers as defined in W.S. 17-4-102(a)(xv);

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STAFF COMMENT

The Committee may wish to consider whether special purpose depository institutions created under W.S. 13-12-101 et seq. should be included in the definition of financial institution for purposes of this article.

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(vi) "Investment adviser representative" means as defined in W.S. 17-4-102(a)(xvi);

(vii) "Qualified person" means any agent, investment adviser representative or person who serves in a supervisory, compliance or legal capacity for a financial institution;

(viii) "Vulnerable adult" means as defined by W.S. 35-20-102(a)(xviii).

13-1-702. Reporting financial exploitation of vulnerable adults.

(a) If a qualified person has cause to believe that financial exploitation of a vulnerable adult has occurred, is occurring or has been attempted, the qualified person shall notify the financial institution of the suspected financial exploitation.

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STAFF COMMENT

The Committee may wish to consider that 2022 Senate File 76 required "an employee of a financial institution" to report suspected financial exploitation. The proposed change would require only a "qualified person" to report, narrowing who is required to report suspected financial exploitation.

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(b) If a financial institution is notified of suspected financial exploitation under subsection (a) of this section or otherwise has cause to believe that financial exploitation of a vulnerable adult has occurred, is occurring or has been attempted, the financial institution shall assess the suspected financial exploitation and submit a report to the department containing the same information under W.S. 35-20-103(b). The financial institution shall submit the report required by this subsection not later than the earlier of:

(i) The date the financial institution completes its assessment of the suspected financial exploitation; or

(ii) Five (5) business days after the date the financial institution is notified of the suspected financial exploitation under subsection (a) or otherwise has cause to believe that the financial exploitation of a vulnerable adult 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) of this section is not required to make an additional report of suspected abuse, neglect or exploitation under W.S. 35-20-103 for the same conduct constituting the reported suspected financial exploitation.

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

(i) The qualified persons of the financial institution to make the notifications required under subsection (a) of this section; and

(ii) The financial institution to conduct the assessment and submit the report required under subsection (b) of this section.

(e) The policies, programs, plans or procedures adopted under subsection (d) of this section may authorize the financial institution to report the suspected financial exploitation of a vulnerable adult to any appropriate state or federal agency in addition to the department, including any appropriate law enforcement agency.

13-1-703. 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 this article, 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 of the vulnerable adult, unless the financial institution suspects the third party of financial exploitation of the vulnerable adult.

13-1-704. Temporary hold on transactions.

(a) Notwithstanding any other state law, a financial institution:

(i) May place a hold on any transaction that involves an account of a vulnerable adult or that contains the vulnerable adult's assets or property if the financial institution:

(A) Submits a report of suspected financial exploitation of the vulnerable adult to the department as required under this article; and

(B) Has cause to believe the transaction is related to the suspected financial exploitation alleged in the report.

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

(b) Subject to subsection (c) of this section, a hold placed on any transaction under subsection (a) of this section shall not exceed ten (10) business days after the date the hold is placed.

(c) A financial institution may extend a hold placed on any transaction under subsection (a) of this section for a period not to exceed thirty (30) business days after the expiration of the period prescribed by subsection (b) of this section if requested by a state or federal agency or a law enforcement agency investigating the suspected financial exploitation of a vulnerable adult. The financial institution may also petition a court to extend a hold placed on any transaction under subsection (a) of this section beyond the period prescribed by subsection (b) of this section. A court may enter an order extending 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.

13-1-705. Immunity.

(a) A qualified person who provides notification under W.S. 13-1-702(a), a financial institution that submits a report under W.S. 13-1-702(b) or provides notification to a third party under W.S. 13-1-703 and a qualified person or financial institution that testifies or otherwise participates in a judicial proceeding arising from a notification or report under this article is immune from any civil or criminal liability arising from the notification, report, testimony or participation in the judicial proceeding, unless the qualified person 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 W.S. 13-1-704(a) is immune from any civil or criminal liability or disciplinary action resulting from that action or failure to act.

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STAFF COMMENT

The NASAA model legislation and other states vary on how they treat immunity for reports of financial exploitation of vulnerable adults and holds on transactions.

The Committee may wish to consider the following:

- **The bill draft provides immunity from any civil or criminal liability arising from "testimony or participation in the judicial proceeding." The Committee may wish to consider whether an express exception to immunity if a person commits perjury or another related offense during participation in a judicial proceeding should be included.**
- **Subsection (a) of this section provides immunity "unless the qualified person or financial institution acted in bad faith or with a malicious purpose." The Committee may wish to consider including language that does not provide immunity if the qualified person acts recklessly (i.e., recklessly disregards true facts known to the qualified person).**
- **The Committee may wish to note that the immunity afforded to financial institutions differs from the**

immunity provided to qualified persons in that the immunity exception for bad faith or acting with a malicious purpose is not included in the financial institution language.

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13-1-706. Records.

To the extent permitted by state and 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 district attorney's office, either as part of a report to the department, law enforcement agency or district attorney's office or at the request of the department, law enforcement agency or district attorney's office in accordance with an investigation. Access to records of transactions provided under this section shall be limited to sixty (60) days before the first transaction suspected of involving financial exploitation to sixty (60) days after the last transaction suspected of involving financial exploitation.

Section 2. The department of family services shall promulgate any rules necessary to implement this act.

Section 3.

(a) Except as provided in subsection (b) of this section, this act is effective July 1, 2023.

(b) Sections 2 and 3 of this act are effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

(END)