

1                   A bill to be entitled  
2           An act relating to protection for vulnerable  
3           investors; creating s. 517.34, F.S.; defining terms;  
4           authorizing securities dealers, investment advisers,  
5           and associated persons to delay a transaction on, or a  
6           disbursement of funds or securities from, certain  
7           accounts if such dealer, adviser, or person believes  
8           that financial exploitation of a specified adult has  
9           occurred, is occurring, has been attempted, or will be  
10          attempted and if such dealer, adviser, or person  
11          complies with specified requirements; requiring such  
12          dealers, advisers, or persons to provide certain  
13          notice to the Office of Financial Regulation and  
14          certain persons within a specified timeframe;  
15          providing requirements for such notice; requiring the  
16          office to report annually to the Governor and  
17          Legislature; providing for expiration of such delay  
18          after a specified timeframe; authorizing such dealers,  
19          advisers, and persons to extend the length of such  
20          delay under certain circumstances; authorizing an  
21          agency or court of competent jurisdiction to shorten  
22          or extend the length of such delay; providing  
23          construction; authorizing such dealers, advisers, and  
24          persons to provide certain records to the Department  
25          of Children and Families or law enforcement agencies

26 upon request; requiring such dealers, advisers, and  
 27 persons to make certain records available to the  
 28 Office of Financial Regulation upon request;  
 29 authorizing the department to inform reporting parties  
 30 of certain information; providing that such dealers,  
 31 advisers, and persons are presumed to be acting in  
 32 good faith and are immune from civil or administrative  
 33 liability for certain actions; specifying minimum  
 34 training requirements for such dealers, advisers, and  
 35 persons; requiring such dealers, advisers, and persons  
 36 to maintain a written record of compliance with  
 37 training requirements; providing construction;  
 38 providing an effective date.

39  
 40 Be It Enacted by the Legislature of the State of Florida:

41  
 42 Section 1. Section 517.34, Florida Statutes, is created to  
 43 read:

44 517.34 Protection of specified adults.—

45 (1) As used in this section, the term:

46 (a) "Exploitation" has the same meaning as provided in s.  
 47 415.102.

48 (b) "Law enforcement agency" means an agency or political  
 49 subdivision of this state or of the United States whose primary  
 50 responsibility is the prevention and detection of crime or the

51 enforcement of the penal laws of this state or the United States  
52 and whose agents and officers are empowered by law to conduct  
53 criminal investigations or to make arrests.

54 (c) "Records" has the same meaning as provided in s.  
55 415.102.

56 (d) "Specified adult" means a natural person 65 years of  
57 age or older or a vulnerable adult as defined in s. 415.102.

58 (e) "Trusted contact" means a natural person 18 years of  
59 age or older whom the account owner has expressly identified in  
60 writing as a person who may be contacted about the account.

61 (2) A dealer, investment adviser, or associated person may  
62 delay a transaction on, or a disbursement of funds or securities  
63 from, an account of a specified adult or an account for which a  
64 specified adult is a beneficiary or beneficial owner if the  
65 dealer, investment adviser, or associated person believes in  
66 good faith that financial exploitation of the specified adult  
67 has occurred, is occurring, has been attempted, or will be  
68 attempted in connection with the transaction or disbursement, as  
69 follows:

70 (a) The dealer's, investment adviser's, or associated  
71 person's good faith belief may be based on the facts and  
72 circumstances observed in such dealer's, investment adviser's,  
73 or associated person's business relationship with the specified  
74 adult.

75 (b) If the specified adult is a vulnerable adult as

76 defined in s. 415.102, the dealer, investment adviser, or  
77 associated person must immediately notify the Department of  
78 Children and Families, via its central abuse hotline, of the  
79 suspected exploitation pursuant to chapter 415.

80 (c)1. A dealer, investment adviser, or associated person  
81 must notify the office, on a quarterly basis, of every delay he  
82 or she places and the outcome of such delays. The notice may not  
83 directly or indirectly identify the specified adult or the  
84 parties to the transaction. The notice must include:

85 a. The name of the firm and dealer, investment adviser, or  
86 associated person placing the delay on the transaction or  
87 disbursement.

88 b. A general description of the reason why the dealer,  
89 investment adviser, or associated person placed the delay on the  
90 transaction or disbursement.

91 c. The length of the delay on the transaction or  
92 disbursement and whether or not the transaction or disbursement  
93 ultimately took place.

94 2. On or before October 1 of each year, the office must  
95 submit a report to the Governor, the President of the Senate,  
96 and the Speaker of the House of Representatives summarizing the  
97 information provided to the office by dealers, investment  
98 advisers, and associated persons under subparagraph 1. during  
99 the prior fiscal year.

100 (d)1. Within 3 business days after the date on which the

101 delay was first placed, the dealer, investment adviser, or  
102 associated person must notify in writing, which may be provided  
103 electronically, all parties authorized to transact business on  
104 the account and any trusted contact on the account, using the  
105 contact information provided for the account, unless the dealer,  
106 investment adviser, or associated person believes in good faith  
107 that any such party engaged or is engaging in the suspected  
108 exploitation of the specified adult.

109 2. The notice provided pursuant to this paragraph must  
110 include, at a minimum, a description of the transaction or  
111 disbursement, a statement that a delay was placed on such  
112 transaction or disbursement pursuant to this section, the basis  
113 for the good faith belief regarding financial exploitation of  
114 the specified adult, and an explanation of the delay process.

115 (3) A delay on a transaction or disbursement under  
116 subsection (2) expires 15 business days after the date on which  
117 the delay was first placed. However, a dealer, investment  
118 adviser, or associated person may extend the delay for up to 10  
119 additional business days if its review of the available facts  
120 and circumstances continues to support its good faith belief  
121 that exploitation of the specified adult has occurred, is  
122 occurring, has been attempted, or will be attempted. The length  
123 of the delay may be shortened or extended at any time by an  
124 agency or court of competent jurisdiction. This subsection does  
125 not prevent a dealer, investment adviser, or associated person

126 from terminating a delay after contact with the specified adult  
127 or trusted contact.

128 (4) A dealer, investment adviser, or associated person may  
129 provide access to or copies of any records that are relevant to  
130 the suspected exploitation of a specified adult to the  
131 Department of Children and Families or a law enforcement agency  
132 at their request. These records may include records of prior  
133 transactions in addition to the transactions comprising the  
134 suspected exploitation. A dealer, investment adviser, or  
135 associated person subject to the jurisdiction of the office must  
136 make available to the office, upon request, all records relating  
137 to a delay or report made by the dealer, investment adviser, or  
138 associated person pursuant to this section.

139 (5) Notwithstanding any law to the contrary, the  
140 Department of Children and Families may inform the reporting  
141 party on the status of an investigation initiated under this  
142 section and any final disposition.

143 (6) A dealer, investment adviser, or associated person who  
144 delays a transaction or disbursement pursuant to this section,  
145 who provides records to an agency of competent jurisdiction  
146 pursuant to this section, or who participates in a judicial or  
147 arbitration proceeding resulting therefrom is presumed to be  
148 acting in good faith and, unless lack of good faith is shown by  
149 clear and convincing evidence, is immune from any civil or  
150 administrative liability that otherwise might be incurred or

151 imposed. This subsection does not supersede or diminish any  
152 immunity in chapter 415.

153 (7) A dealer, investment adviser, or associated person  
154 relying on this section must develop and comply with training  
155 policies or programs reasonably designed to educate employees on  
156 issues pertaining to financial exploitation of specified adults.  
157 Before placing a delay on a transaction or disbursement pursuant  
158 to this section, the dealer, investment adviser, or associated  
159 person must receive a minimum of 1 hour of such training. The  
160 training policies and programs must provide for the dealer,  
161 investment adviser, or associated person to receive a minimum of  
162 1 hour of such training every 3 calendar years after the year in  
163 which the initial training requirement is met. The dealer,  
164 investment adviser, or associated person must maintain a written  
165 record of compliance with this subsection.

166 (8) This section does not create new rights or obligations  
167 of a dealer, investment adviser, or associated person under  
168 other applicable laws or rules. In addition, this section does  
169 not limit the right of a dealer, investment adviser, or  
170 associated person to otherwise refuse or place a delay on a  
171 transaction or disbursement under other applicable laws or rules  
172 or under an applicable customer agreement.

173 Section 2. This act shall take effect July 1, 2018.