

HOUSE BILL No. 2591

By Committee on Financial Institutions and Pensions

Requested by Cale Beam on behalf of the Kansas Credit Union Association

1-29

1 AN ACT concerning financial institutions; authorizing financial
2 institutions to report suspected financial exploitation of an adult
3 account holder to a designated agency, notify any adult designated as a
4 trusted contact by such account holder of suspected financial
5 exploitation and place a temporary hold on certain transactions or
6 disbursements; limiting liability in any civil or criminal action for
7 taking such actions or choosing not to take such actions.
8

9 *Be it enacted by the Legislature of the State of Kansas:*

10 Section 1. As used in sections 1 through 5, and amendments thereto:
11 (a) "Adult" means any person 18 years of age or older.
12 (b) "Bank holding company" means the same as defined in K.S.A. 9-
13 519, and amendments thereto.
14 (c) "Designated agency" means:
15 (1) Any law enforcement agency with jurisdiction over the matter;
16 and
17 (2) the Kansas department for children and families.
18 (d) "Financial exploitation" means the unlawful or improper use,
19 control or withholding of an adult's property, income, resources or trust
20 funds by any other person or entity in a manner that is not for the profit of
21 or to the advantage of the adult. "Financial exploitation" includes, but is
22 not limited to, the:
23 (1) Breach of a fiduciary duty, including, but not limited to, the
24 misuse of a power of attorney, trust or a guardianship or conservatorship
25 appointment, as it relates to the property, income, resources or trust funds
26 of the adult;
27 (2) unauthorized use of an adult's personal identifying information,
28 financial documents or access devices;
29 (3) use of deception, intimidation, coercion, extortion or undue
30 influence by a person or entity to obtain control over or use an adult's
31 property, income, resources or trust funds in a manner that is for the profit
32 of or to the advantage of such person or entity; or
33 (4) use of fraud, false pretense or misrepresentation for personal gain
34 at the expense of the adult.
35 (e) "Financial institution" means a bank, savings bank, savings and

1 loan association, trust company, credit union or any similar institution
2 chartered and supervised under state or federal law.

3 (f) "Trusted contact" means any adult designated by an adult account
4 holder whom a financial institution may contact in the event of suspected
5 financial exploitation of such account holder.

6 Sec. 2. (a) A financial institution may, in good faith and with
7 reasonable cause, report any suspected financial exploitation of an adult
8 account holder to a designated agency.

9 (b) A report may be made orally or in writing and shall include the
10 information reasonably necessary to assist the designated agency in
11 investigating the suspected financial exploitation.

12 (c) The provisions of this section shall not affect the reporting
13 requirements in K.S.A. 39-1402 or 39-1431, and amendments thereto.

14 Sec. 3. (a) A financial institution may, in good faith, notify a trusted
15 contact of an adult account holder of suspected financial exploitation,
16 unless the institution reasonably believes that the trusted contact has
17 committed or attempted financial exploitation of the adult account holder.

18 (b) When providing information pursuant to this section, a financial
19 institution may disclose that the financial institution has reasonable cause
20 to suspect that the adult account holder is a victim or target of financial
21 exploitation without disclosing any other details or confidential personal
22 information regarding the financial affairs of the adult account holder.

23 (c) Nothing in this section shall be construed to provide a trusted
24 contact who is notified pursuant to this section with the authority to take
25 any action on behalf of an adult account holder.

26 Sec. 4. (a) If a financial institution makes a report pursuant to section
27 2, and amendments thereto, the institution may place a temporary hold on
28 a transaction or disbursement from the adult's account for up to 10
29 business days if the institution, in its discretion, reasonably believes that
30 the transaction may further the financial exploitation of the adult.

31 (b) The financial institution may extend a hold placed on any
32 transaction under subsection (a) for a period of not to exceed 30 business
33 days after the expiration of the period prescribed by subsection (a) if
34 requested by a state or federal agency or a law enforcement agency
35 investigating the suspected financial exploitation. The financial institution
36 may also petition a court to extend a hold placed on any transaction under
37 subsection (a) beyond the period prescribed by this subsection.

38 Sec. 5. (a) A financial institution or bank holding company, or any
39 officer, employee or agent thereof, that in good faith and with reasonable
40 cause takes any of the following actions shall not be liable in any civil or
41 criminal action, including claims of negligence, breach of fiduciary duty,
42 breach of privacy or any other claim under state law, arising from the
43 following actions:

1 (1) Reporting any suspected financial exploitation of an adult account
2 holder to a designated agency pursuant to section 2, and amendments
3 thereto;

4 (2) notifying a trusted contact of an adult account holder of suspected
5 financial exploitation pursuant to section 3, and amendments thereto; or

6 (3) placing or continuing a temporary hold on a transaction or
7 disbursement from an adult's account pursuant to section 4, and
8 amendments thereto.

9 (b) A financial institution or bank holding company, or any officer,
10 employee or agent thereof, that in good faith and without gross negligence
11 chooses not to take an action described in subsection (a) shall not be liable
12 in any civil or criminal action, including claims of negligence, breach of
13 fiduciary duty, breach of privacy or any other claim under state law, arising
14 from such inaction.

15 (c) The immunity from liability provided in this section shall extend
16 to participation in any judicial or administrative proceeding resulting from
17 a report or decision made pursuant to sections 1 through 4, and
18 amendments thereto.

19 Sec. 6. This act shall take effect and be in force from and after its
20 publication in the statute book.