

**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 {(1)~~  
31 **Except as provided in paragraph (2), if a financial institution makes a**  
32 **report pursuant to section 2, and amendments thereto, and such**  
33 **institution reasonably believes that the reported transaction or**  
34 **disbursement may further the financial exploitation of an adult**  
35 **account holder, such institution may, with management approval,**  
36 **place a temporary hold on such reported transaction or disbursement**  
37 **from such adult's account for up to 10 business days.**

38 **(2) A temporary hold shall not be based solely on the:**

39 **(A) Age or perceived vulnerability of the adult account holder;**

40 **(B) size, frequency or timing of the transaction or disbursement;**

41 **or**

42 **(C) adult account holder's refusal to provide additional**  
43 **information related to the transaction or disbursement.**

1       **(3) The provisions of this subsection shall not affect a financial**  
2 **institution's other rights or obligations under contract or other law}.**

3       (b) The financial institution may extend a hold placed on any  
4 transaction under subsection (a) for a period of not to exceed 30 business  
5 days after the expiration of the period prescribed by subsection (a) if  
6 requested by a state or federal agency or a law enforcement agency  
7 investigating the suspected financial exploitation. The financial institution  
8 may also petition a court to extend a hold placed on any transaction under  
9 subsection (a) beyond the period prescribed by this subsection.

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

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

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

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

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

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

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