



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB2879

Introduced 2/17/2016, by Sen. Michael Connelly

SYNOPSIS AS INTRODUCED:

320 ILCS 20/4.3 new

Amends the Adult Protective Services Act. Provides that pending an investigation by the financial institution, the Department on Aging, or law enforcement, if a financial institution reasonably believes that financial exploitation of an eligible adult may have occurred, may have been attempted, or is being attempted, the financial institution may, but is not required to, refuse a transaction requiring the disbursement of funds contained in the account: (i) of the eligible adult; (ii) on which the eligible adult is a beneficiary, including a trust or guardianship account; or (iii) of a person suspected of perpetrating financial exploitation of an eligible adult. Requires a financial institution that refuses to disburse funds to report the incident to the Adult Protective Services Program, local law enforcement, and other specified persons. Provides that a financial institution's refusal to disburse funds shall expire within certain timeframes under certain conditions; and that a court of competent jurisdiction may enter an order extending the refusal by the financial institution to disburse funds. Exempts a financial institution and its employees from criminal, civil, and administrative liability for refusing to disburse funds or disbursing funds if the determination of whether or not to disburse funds was made in good faith.

LRB099 18888 KTG 43273 b

1 AN ACT concerning aging.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Adult Protective Services Act is amended by
5 adding Section 4.3 as follows:

6 (320 ILCS 20/4.3 new)

7 Sec. 4.3. Financial exploitation; disbursement of funds.

8 (a) Pending an investigation by the financial institution,
9 the Department, or law enforcement, if a financial institution
10 reasonably believes that financial exploitation of an eligible
11 adult may have occurred, may have been attempted, or is being
12 attempted, the financial institution may, but is not required
13 to, refuse a transaction requiring the disbursement of funds
14 contained in the account:

15 (1) of the eligible adult;

16 (2) on which the eligible adult is a beneficiary,
17 including a trust or guardianship account; or

18 (3) of a person suspected of perpetrating financial
19 exploitation of an eligible adult.

20 (b) A financial institution may also refuse to disburse
21 funds under this Section if the Department, law enforcement, or
22 the prosecuting attorney provides information to the financial
23 institution demonstrating that it is reasonable to believe that

1 financial exploitation of an eligible adult may have occurred,
2 may have been attempted, or is being attempted.

3 (c) A financial institution is not required to refuse to
4 disburse funds when provided with information alleging that
5 financial exploitation may have occurred, may have been
6 attempted, or is being attempted, but may use its discretion to
7 determine whether or not to refuse to disburse funds based on
8 the information available to the financial institution.

9 (d) A financial institution that refuses to disburse funds
10 based on a reasonable belief that financial exploitation of an
11 eligible adult may have occurred, may have been attempted, or
12 is being attempted shall:

13 (1) make a reasonable effort to notify all parties
14 authorized to transact business on the account orally or in
15 writing; and

16 (2) report the incident to the Adult Protective
17 Services Program and local law enforcement.

18 (e) Any refusal to disburse funds as authorized by this
19 Section based on the reasonable belief of a financial
20 institution that financial exploitation of an eligible adult
21 may have occurred, may have been attempted, or is being
22 attempted shall expire upon the sooner of:

23 (1) 10 business days after the date on which the
24 financial institution first refused to disburse the funds
25 if the transaction involved the sale of a security or offer
26 to sell a security, as defined in Section 2.1 of the

1 Illinois Securities Law of 1953, unless sooner terminated
2 by an order of a court of competent jurisdiction;

3 (2) 5 business days after the date on which the
4 financial institution first refused to disburse the funds
5 if the transaction did not involve the sale of a security
6 or offer to sell a security, unless sooner terminated by an
7 order of a court of competent jurisdiction; or

8 (3) the time when the financial institution is
9 satisfied that the disbursement will not result in
10 financial exploitation of the eligible adult.

11 (f) A court of competent jurisdiction may enter an order
12 extending the refusal by the financial institution to disburse
13 funds based on a reasonable belief that financial exploitation
14 of an eligible adult may have occurred, may have been
15 attempted, or is being attempted. A court of competent
16 jurisdiction may also order other protective relief.

17 (g) A financial institution or an employee of a financial
18 institution is immune from criminal, civil, and administrative
19 liability for refusing to disburse funds or disbursing funds
20 under this Section and for actions taken in furtherance of that
21 determination if the determination of whether or not to
22 disburse funds was made in good faith.