

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-FIVE

S.P. 586 - L.D. 1445

An Act to Prevent Financial Exploitation of Vulnerable Adults

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 9-B MRSA §162, sub-§5, as amended by PL 2009, c. 213, Pt. AAAA, §3, is further amended to read:

5. Disclosure to the Department of Health and Human Services upon suspicion of financial exploitation. The financial records are disclosed to the Department of Health and Human Services pursuant to Title 22, section 3479 because a financial institution authorized to do business in this State or its affiliate or a credit union authorized to do business in this State or its affiliate has reasonable cause to suspect that an incapacitated or dependent adult has been or is at substantial risk of abuse, neglect or exploitation; ~~or~~

Sec. 2. 9-B MRSA §162, sub-§5-A is enacted to read:

5-A. Disclosure upon suspicion of financial exploitation. The financial records are disclosed to the Office of the Attorney General or a law enforcement agency pursuant to section 245 because a financial institution authorized to do business in this State or its affiliate or a credit union authorized to do business in this State or its affiliate has reasonable cause to believe that a disbursement requested by an individual 62 years of age or older may result in financial exploitation of that person;

Sec. 3. 9-B MRSA §162, sub-§6, as enacted by PL 2009, c. 213, Pt. AAAA, §4, is amended to read:

6. Disclosure in response to a request by the Department of Administrative and Financial Services, Bureau of Revenue Services. The financial records are disclosed in response to a request for information by the Department of Administrative and Financial Services, Bureau of Revenue Services for purposes related to establishing, modifying or enforcing tax debts; or

Sec. 4. 9-B MRSA §245 is enacted to read:

§245. Protection of eligible adults from financial exploitation

1. Definitions. For purposes of this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Eligible adult" means:

- (1) An individual 65 years of age or older; or
- (2) An individual protected under the Adult Protective Services Act.

B. "Financial exploitation" means:

- (1) The wrongful or unauthorized taking, withholding, appropriation or use of money, assets or property of an eligible adult;
- (2) Any act or omission by a person to obtain control, through deception, intimidation or undue influence, over the eligible adult's money, assets or property to deprive the eligible adult of the ownership, use, benefit or possession of the eligible adult's money, assets or property; or
- (3) Any act or omission by a person to obtain or exercise unauthorized control over the eligible adult's property with the intent to deprive the eligible adult of the property.

C. "Trusted contact person" means an individual whom an account holder identifies and authorizes a financial institution or credit union to contact and disclose information to about the account holder's account to address possible financial exploitation or to confirm the specifics of the account holder's current contact information or health status or the identity of any conservator, executor, trustee or holder of a power of attorney.

2. Designation of trusted contact person. A financial institution authorized to do business in this State or a credit union authorized to do business in this State may develop a written policy permitting a customer of the financial institution or member or the credit union to designate, upon each account wholly or partly owned by the customer or member:

- A. At least one trusted contact person other than a co-owner, beneficiary or fiduciary on the account; and
- B. Its procedure for communicating with the trusted contact person if the financial institution or credit union reasonably believes that financial exploitation of an eligible adult may have occurred, may have been attempted or is being attempted.

The financial institution or credit union shall provide a copy of any written policy developed in accordance with this subsection to the customer or member.

3. Delay of account transactions. A financial institution authorized to do business in this State or a credit union authorized to do business in this State may delay a disbursement from an account of an eligible adult if the financial institution or credit union reasonably believes that the requested disbursement may result in financial exploitation of an eligible adult and the financial institution or credit union:

- A. Not more than 2 business days after the requested disbursement, provides notification of the delay, the reason for the delay and the name of the primary employee of the financial institution or credit union that should be contacted regarding the delay to the customer or member and all parties authorized to transact business on the account, unless any such party is reasonably believed to have engaged in suspected or attempted financial exploitation;
- B. Provides notification of the delay to the Office of the Attorney General not more than 2 business days after the requested disbursement; and

C. Continues its internal review of the suspected or attempted financial exploitation of the eligible adult, as necessary, and reports the results of the review to the Office of the Attorney General within 7 business days after the day the financial institution or credit union first delayed disbursement of the funds.

In any communication regarding a delay under this subsection, the financial institution or credit union shall use any method of communication that may be consistent with other time-sensitive communications and that is reasonably calculated to ensure that the recipient is effectively alerted to the nature of the information.

A delay of a disbursement in accordance with this subsection may not continue past the time required by the financial institution or credit union to determine that the disbursement will not result in financial exploitation or 15 business days after the date on which the financial institution or credit union first delayed disbursement of the funds, whichever occurs earlier. A court of competent jurisdiction may enter an order extending the delay of the disbursement of funds or may order other protective relief upon the petition of the financial institution or credit union or another interested party.

4. Immunity. A financial institution authorized to do business in this State or a credit union authorized to do business in this State that, in good faith, takes any action pursuant to this section is immune from administrative or civil liability that might otherwise arise from such an action or for any failure to take such an action.

5. Report to law enforcement. In addition to notifying the Office of the Attorney General, a financial institution authorized to do business in this State or a credit union authorized to do business in this State may make a referral to law enforcement agencies upon imposition of a delay pursuant to subsection 3. A financial institution or credit union may provide access to or copies of records that are relevant to the suspected or attempted financial exploitation of an eligible adult to a law enforcement agency, either as part of a referral to law enforcement or upon request of a law enforcement agency pursuant to an investigation. The records may include historical records as well as records relating to the most recent transaction that may constitute financial exploitation of an eligible adult. Any records made available to a law enforcement agency under this section are confidential.