

ONE HUNDRED SEVENTH LEGISLATURE - FIRST SESSION - 2021
COMMITTEE STATEMENT
LB297

Hearing Date: Tuesday January 26, 2021
Committee On: Banking, Commerce and Insurance
Introducer: Lindstrom
One Liner: Adopt the Nebraska Protection of Vulnerable Adults from Financial Exploitation Act

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:
Aye: 8 Senators Aguilar, Bostar, Flood, Lindstrom, McCollister, Pahls, Slama, Williams
Nay:
Absent:
Present Not Voting:

Oral Testimony:

Proponents:

Senator Brett Lindstrom
Kelly Lammers
Mick Mines
Andrea Lowe
Jina Ragland

Representing:

Introducer
Nebraska Department of Banking & Finance
National Association of Insurance & Financial Advisors
Nebraska Department of Health & Human Services
AARP - Nebraska

Opponents:

Representing:

Neutral:

Representing:

Summary of purpose and/or changes:

LB 297, introduced at the request of the Department of Banking and Finance, enacts 6 new sections to be known as the Nebraska Protection of Vulnerable Adults from Financial Exploitation Act. The bill provides, section by section, as follows:

Section 1 provides that the name of the new Act is the Nebraska Protection of Vulnerable Adults from Financial Exploitation Act.

Section 2 provides definitions of the terms used in LB 297 as follows:

"Agencies" is defined as the Adult Protective Services Division of the Department of Health and Human Services, and the Department of Banking and Finance.

"Agent," "broker-dealer," "investment adviser," and "investment adviser representative" are defined by incorporating by reference the corresponding definitions contained in Section 8-1101 of the Securities Act of Nebraska.

"Eligible adult" is defined as a senior adult as defined in Section 28-366.01 (65 years or older) or a vulnerable adult as defined in Section 28-371 (18 years or older with a substantial mental or functional impairment or for whom a guardian or conservator has been appointed).

"Financial exploitation" is defined as the wrongful or unauthorized taking, withholding, appropriation or use of money, assets, or other property of an eligible adult, or any act or omission by a person to obtain control over or convert an eligible adult's money, assets or other property.

"Qualified person" is defined as any broker-dealer, investment adviser, agent, investment adviser representative or a person who serves in a supervisory, compliance or legal capacity for a broker-dealer or investment adviser.

Section 3 provides that a qualified person that reasonably believes that financial exploitation of an eligible adult is occurring may notify the agencies.

Section 4 provides that if a qualified person reasonably believes that financial exploitation of an eligible adult may have occurred, may have been attempted, or is occurring:

The qualified person may notify any third party previously designated by the eligible adult or any person authorized to receive notification under applicable law or customer agreement.

No notification may be made to any designated third party suspected of the financial abuse.

Any qualified person that in good faith and exercising reasonable care in making such notification shall be immune from administrative or civil liability that might otherwise arise out of such notification.

Section 5 provides that a broker-dealer or investment adviser may delay a transaction or disbursement from an account of an eligible adult as follows:

The broker-dealer or investment adviser must reasonably believe that the requested transaction or disbursement may result in financial exploitation of an eligible adult.

The broker-dealer or investment adviser must immediately provide notification of the delay and reason for the delay to any party authorized to conduct business on the account.

The broker-dealer or investment adviser must also notify the agencies of the action and continue its internal review.

The delay shall expire upon the sooner of a determination that the transaction or disbursement will not result in financial exploitation, or fifteen days. The agencies may request that the broker-dealer or investment adviser extend the delay for up to thirty additional days. Either the broker-dealer or investment adviser or the agencies may petition a court for an additional delay.

Any qualified person acting in good faith is immune from liability arising from the initiation of such a delay.

Section 6 provides:

A broker-dealer or investment adviser shall provide access to or copies of records related to suspected or attempted financial exploitation to the Adult Protective Services Division of the Department of Health and Human Services, other agencies charged with administering state adult protective services laws, and law enforcement.

Any qualified person acting in good faith and exercising reasonable care is immune from any administrative or civil liability that might arise from providing access to records.

Any records made available to the agencies or law enforcement shall not be considered public records subject to disclosure.

Explanation of amendments:

The committee amendments would make two clean-up corrections:

First, in Section 2, the amendments would change the spelling of "advisor" to "adviser".

Second, in Section 5, the amendments would change the expression "disbursement" to "transaction or disbursement".

Matt Williams, Chairperson