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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1430 Session of  
2021

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INTRODUCED BY DAY, MASSER, SCHLEGEL CULVER, KLUNK, PICKETT,  
RYAN, DAVANZO, HILL-EVANS, LEWIS DELROSSO, BROOKS, R. BROWN,  
THOMAS, MILLARD, HEFFLEY AND FEE, MAY 17, 2021

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REFERRED TO COMMITTEE ON AGING AND OLDER ADULT SERVICES,  
MAY 17, 2021

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AN ACT

1 Amending the act of November 6, 1987 (P.L.381, No.79), entitled  
2 "An act relating to the protection of the abused, neglected,  
3 exploited or abandoned elderly; establishing a uniform  
4 Statewide reporting and investigative system for suspected  
5 abuse, neglect, exploitation or abandonment of the elderly;  
6 providing protective services; providing for funding; and  
7 making repeals," providing for immunity for financial  
8 advisors, for private right of action and for financial  
9 crimes surcharge; establishing the Older Adult Financial  
10 Exploitation Trust Fund; and conferring powers and imposing  
11 duties on the Department of Aging.

12 The General Assembly of the Commonwealth of Pennsylvania  
13 hereby enacts as follows:

14 Section 1. The act of November 6, 1987 (P.L.381, No.79),  
15 known as the Older Adults Protective Services Act, is amended by  
16 adding a chapter to read:

17 CHAPTER 9

18 FINANCIAL EXPLOITATION

19 Section 901. Definitions.

20 The following words and phrases when used in this chapter  
21 shall have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

2 "Financial crimes." Any of the offenses under the following  
3 provisions of 18 Pa.C.S. (relating to crimes and offenses):

4 (1) Section 3921 (relating to theft by unlawful taking  
5 or disposition).

6 (2) Section 3922 (relating to theft by deception).

7 (3) Section 3923 (relating to theft by extortion).

8 (4) Section 3924 (relating to theft of property lost,  
9 mislaid, or delivered by mistake).

10 (5) Section 3925 (relating to receiving stolen  
11 property).

12 (6) Section 3926 (relating to theft of services).

13 (7) Section 3927 (relating to theft by failure to make  
14 required disposition of funds received).

15 (8) Section 3928 (relating to unauthorized use of  
16 automobiles and other vehicles).

17 (9) Section 3934 (relating to theft from a motor  
18 vehicle).

19 (10) Section 4101 (relating to forgery).

20 (11) Section 4105 (relating to bad checks).

21 (12) Section 4106 (relating to access device fraud).

22 (13) Section 4107 (relating to deceptive or fraudulent  
23 business practices).

24 (14) Section 4117 (relating to insurance fraud).

25 (15) Section 4120 (relating to identity theft).

26 "Financial exploitation." The wrongful or unauthorized  
27 taking or attempt to take by withholding, appropriating,  
28 concealing or using the money, assets or property of an older  
29 adult through:

30 (1) the use of a power of attorney, guardianship or

1 custodial, representative or conservator relationship; or  
2 (2) a business transaction that involves deception,  
3 intimidation, undue influence or conversion and that deprives  
4 the older adult of the lawful ownership, use or benefit of  
5 the money, assets or property.

6 "Fund." The Older Adult Financial Exploitation Trust Fund  
7 established under section 905.

8 Section 902. Immunity for financial advisors.

9 (a) General rule.--A financial advisor who has reasonable  
10 cause to believe an older adult is being financially exploited  
11 may report to a law enforcement agency or government agency  
12 information pertaining to any of the following:

13 (1) The possible financial exploitation.

14 (2) Fiduciary abuse.

15 (3) Fraud.

16 (b) Immunity.--A financial advisor making a report under  
17 subsection (a) in good faith shall not be civilly or criminally  
18 liable for the financial advisor's action in making the report.

19 Section 903. Private right of action.

20 (a) General rule.--Any older adult who is injured by an act  
21 of financial exploitation or any person authorized to act on  
22 behalf of the older adult may institute an action, in the court  
23 of common pleas or any other court of competent jurisdiction,  
24 for damages sustained by the older adult.

25 (b) Award.--The following shall apply:

26 (1) If it is proven by a preponderance of the evidence  
27 that a person has engaged in financial exploitation, the  
28 court shall award reasonable attorney fees and costs to the  
29 older adult, in addition to compensatory damages and all  
30 other remedies otherwise provided by law.

1           (2) In addition to the relief provided under paragraph  
2           (1), if it is proven by clear and convincing evidence that  
3           the financial exploitation was done willfully, wantonly or  
4           maliciously or was characterized by aggravating  
5           circumstances, the court may also award punitive damages to  
6           the older adult.

7           (c) Nonexclusivity.--The remedies provided in this section  
8           shall not be considered exclusive and shall not preclude any  
9           other criminal, civil or administrative remedy.

10 Section 904. Financial crimes surcharge.

11           In addition to sentencing a person who has committed a  
12           financial crime against an older adult, the court of competent  
13           jurisdiction shall assess a surcharge of \$100 against the  
14           person. The surcharge shall be collected and transferred to the  
15           Department of Revenue for deposit into the fund established  
16           under section 905.

17 Section 905. Older Adult Financial Exploitation Trust Fund.

18           (a) Establishment.--The Older Adult Financial Exploitation  
19           Trust Fund is established in the State Treasury.

20           (b) Contents.--The fund shall consist of:

21                   (1) Surcharges collected under section 904.

22                   (2) Return on the money in the fund.

23           (c) Purpose.--The fund shall be used to assist older adults  
24           who are the victims of financial exploitation to recover their  
25           income.

26           (d) Regulations.--The department shall promulgate  
27           regulations to administer this section.

28           Section 2. This act shall take effect in 60 days.