

SB 95 A STAFF MEASURE SUMMARY

Senate Committee On Human Services

Action Date: 03/22/17

Action: Do pass with amendments. Refer to Judiciary by prior reference. (Printed A-Eng).

Vote: 3-2-0-0

Yeas: 3 - Dembrow, Gelser, Monnes Anderson

Nays: 2 - Knopp, Olsen

Fiscal: Has minimal fiscal impact

Revenue: No revenue impact

Prepared By: Matt Doumit, LPRO Analyst

WHAT THE MEASURE DOES:

Requires certain securities professionals to report suspected financial exploitation of vulnerable persons to the Department of Consumer and Business Services (DCBS). Requires DCBS to inform Department of Human Services, investigate possible securities violations and notify law enforcement of potential crimes. Exempts financial institution and trust company employees from mandatory reporting requirements. Permits notification of third parties previously designated by victim. Permits securities professionals to delay disbursement of accounts and provide notice upon reasonable belief that disbursement may result in financial exploitation. Defines terms. Establishes penalties.

ISSUES DISCUSSED:

- Role of investment advisors in identifying and reporting financial exploitation
- Liability and immunity issues for securities professionals
- Multiple agency reporting mandate, comparison to other mandatory reporters
- Changes in federal law
- Professions included under measure; professionals included as mandatory reporters
- Educating newly included mandatory reporters about obligations

EFFECT OF AMENDMENT:

Replaces measure.

BACKGROUND:

The Department of Consumer and Business Services (DCBS) reports that there were 4,533 complaints of alleged financial exploitation in 2015, which was a 19.6 percent increase in cases from the year before. DCBS also reports that nearly half of cases involve financial exploitation by a family member of the victim. Current Oregon law makes several categories of professionals "mandatory reporters" of suspected abuse of elderly or disabled persons (including suspected financial exploitation), such as state agency employees, attorneys, medical professionals, behavioral health professionals, and emergency services professionals. At least 60 percent of the reports of financial exploitation in 2013 were made by non-mandatory reporters like securities professionals or a victim's family or friends. In 2013, securities professionals were second only to family members in reporting suspected financial exploitation of seniors and vulnerable adults.

Senate Bill 95-A adds certain securities professionals to the list of mandatory reporters for suspected financial exploitation of certain "vulnerable persons." It requires reports to DCBS, and for DCBS to forward information to the Department of Human Services (DHS). DCBS may investigate any potential securities violations and is required to

This Summary has not been adopted or officially endorsed by action of the committee.

SB 95 A STAFF MEASURE SUMMARY

notify law enforcement of potential crimes. The measure also permits securities professionals to notify certain authorized third parties unless the third party is the suspected exploiter.

Senate Bill 95-A further allows state investment advisers and broker-dealers to delay disbursing funds from a vulnerable person's account if they reasonably believe that disbursement could result in financial exploitation. The advisor is directed to notify DCBS and other relevant parties, conduct an internal review of the suspected financial exploitation, and report findings to both DCBS and DHS. The measure also limits liability for securities professionals that comply in good faith. Finally, Senate Bill 95-A requires securities professionals to provide records related to suspected financial exploitation to DCBS, DHS, or law enforcement upon request.