

SB 95 B STAFF MEASURE SUMMARY

Carrier: Sen. Prozanski

Senate Committee On Judiciary

Action Date: 04/13/17

Action: Do pass with amendments to the A-Eng bill. (Printed B-Eng.)

Vote: 3-2-0-0

Yeas: 3 - Dembrow, Manning Jr, Prozanski

Nays: 2 - Linthicum, Thatcher

Fiscal: Has minimal fiscal impact

Revenue: No revenue impact

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WHAT THE MEASURE DOES:

Requires certain securities professionals to report to Department of Consumer and Business Services (DCBS) suspected financial exploitation of elderly persons, incapacitated persons, and persons with disability. Requires DCBS to notify Department of Human Services (DHS), investigate possible securities violations and notify law enforcement of potential crimes. Permits securities professionals to delay disbursement from account and provide notice to parties other than person suspected of exploitation, upon reasonable belief that disbursement might result in financial exploitation. Requires securities professionals to provide certain records to DCBS, DHS or law enforcement upon request and exempts records from public disclosure. Punishes violation of measure as Class A violation. Provides immunity to security professionals for good faith compliance and noncompliance with measure.

ISSUES DISCUSSED:

- North American Securities Administrators Association model law
- 13 other states considering similar legislation
- Financial advisors in unique position to identify victimization
- Requirement to report immediately
- Exclusion of banks, credit union and trust companies

EFFECT OF AMENDMENT:

Modifies definition of "financial exploitation" to exclude transfers of money or property to qualify a person for Medicaid or any state or federal assistance program. Requires report of suspected financial exploitation to be made "as soon as is practicable" rather than "immediately."

BACKGROUND:

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-B requires that certain security professionals become mandatory reporters for suspected financial exploitation of a defined class of vulnerable persons. The measure requires these professionals to report to DCBS and requires DCBS to forward the information to the Department of Human Services (DHS). DCBS is required to investigate potential securities violations and notify law enforcement of potential crimes. Senate Bill 95-B further

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allows investment advisers and broker-dealers to delay disbursing funds from a vulnerable person's account if they reasonably believe that the 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 DCBS and DHS. The bill establishes timelines for the delays and investigations. The measure limits liability for securities professionals that comply in good faith. Finally, Senate Bill 95-B requires securities professionals to provide records related to suspected financial exploitation to DCBS, DHS or law enforcement, upon request.