



December 2, 2025

**SUBMISSION OF KATHLEEN M. SWEET, ESQ.
PRESIDENT OF THE NEW YORK STATE BAR ASSOCIATION
TO THE JOINT HEARING OF THE ASSEMBLY COMMITTEES ON AGING, BANKS,
& CHILDREN AND FAMILIES
REGARDING “THE ROLE OF ADULT PROTECTIVE SERVICES IN THE
PREVENTION, DETECTION, AND INTERVENTION OF FINANCIAL
EXPLOITATION COMMITTED AGAINST OLDER ADULTS”**

Chairs Seawright, Vanel, and Hevesi, and Honorable Assembly Members:

I respectfully submit this testimony on behalf of the New York State Bar Association (“the Bar Association” or “NYSBA”), the nation’s largest voluntary state bar association, with input from NYSBA’s Elder Law and Special Needs Section (“ELSN”). We thank the chairs for making this issue a priority and holding this hearing. Please accept the following testimony with some amendments as detailed herein.

Background

According to a recent report issued by the AARP Public Policy Institute, in the United States, persons over 60 experience \$28.3 billion in financial loss each year due to fraud, with the vast majority of that loss “about 72% (\$20.3 billion)—aris[ing] from fraud by people the victim knows, compared with losses from stranger-perpetrated incidents (28%, \$8 billion).”¹ New York can do more in their protection of vulnerable elderly persons from financial exploitation. To effectively address these concerns, protocols for the banking industry need to be established defining the methodology to be employed when authorizing a bank employee to freeze an account; the process for notification; reporting to law enforcement authorities; and guidance of bank personnel as to the identification of financial abuse. Within these parameters, banking institutions will be afforded immunity from prosecution. The proposed legislation strikes a balance between establishing policies for intervention in the event of suspected financial exploitation and the banking industry’s concern to protect the privacy of its clients.

There has been a proliferation of Adult Protective Services across the country over the last few decades, to address financial elder abuse. States initiated training programs to identify elder abuse across many disciplines. In some states, mandatory reporting of suspected elder abuse by certain classes of people was required while in others reporting is discretionary. No uniformity exists among the states. While a positive step in the process of identification, the mere presence of Adult Protective Services across the country does not resolve the problem. Moreover, incidents of elder abuse, particularly of the financial nature, remain under-reported and not often prosecuted.

¹ The Scope of Elder Financial Exploitation: What It Costs Victims, <https://www.aarp.org/pri/topics/work-finances-retirement/fraud-consumer-protection/scope-elder-financial-exploitation.html>

To confront the financial exploitation of elderly people in New York, the banking industry requires empowerment through a methodology with which to act in conjunction with law enforcement agencies. Although existing law details the circumstances which warrant investigation and describes the procedures for developing and implementing protective services for adults, a more defined law is required to address financial exploitation of vulnerable elderly people. Moreover, banking institutions must share the responsibility in ensuring that such people are protected.

Assembly Bill 7019 (Seawright)

Whether accomplished through proposals like what has been advanced through executive budget proposals, or an amended version of A.7019, we encourage the legislature to adopt language that is consistent with the following to provide additional protection to the state's most vulnerable population against financial abuse, while ensuring proper due process protections:

Application and Duration of Transaction Holds; Notice to Be Provided

A.7019 would rightly allow for transaction holds if it is reasonably believed that financial exploitation has occurred. The legislation, however, also allows for continued payment of prearranged charges and other expenses that may need to be paid while an investigation is pending. Additionally, the eligible adult can still have access to cash during this time to pay for groceries or other incidentals, setting the transaction hold at fifteen business days after its application, with the ability for financial institutions to extend the hold for up to forty additional days if there is a continued reasonable belief of exploitation, along with the included exceptions. However, we recommend that, to ensure appropriate due process, the language should require notice to interested parties authorized to transact business on the account in question. Should a court decide to prolong the transaction hold, notice shall be given to the principal account holder, the alleged exploiter and the proposed recipient of the fund that the establishment of specific procedures to ensure that proper investigation has been conducted before extending a transaction hold or releasing it, affords maximum protection of an eligible adult. It is important to stress that the notice should be provided to all interested parties, including the "eligible adult."

The purpose of the notice requirements is integral to afford real protection to the eligible adult, as such notice serves to alert interested parties that there may be incidents of financial abuse. Recognizing that these sections reference that notification be made in writing, we recommend that the legislation reference specific guidelines for such notice. Moreover, implementation of notice requirements among the banking and financial institutions must be consistent to be effective. Additionally, to protect the constitutional due process rights of eligible adults, the proposal should incorporate specific procedures for providing notice, including service of said notice upon the parties affected, and other forms of follow-up communication, such as telephone calls or electronic communications. Since the financial and banking institutions have broad discretion to place a transaction hold, the account holder has the right to know if this is being done.

We suggest the following amendment to the legislation to achieve that goal:

Notice shall be made by the following methods: (A) personal delivery or overnight delivery service to all parties authorized to transact business on the account for

which the transaction hold was placed and (B) telephone, text, email message or other electronic communication medium to all parties that provided contact information, and multiple notice attempts if the bank does not receive confirmation that the foregoing notice has been received.

Reporting Requirements When a Transaction Hold has been Initiated

An effective financial exploitation statute must include specific guidelines regarding mandatory reporting by banks and financial institutions to adult protective services or a law enforcement agency. We recommend establishing reporting requirements in conjunction with the amended Section 352(m) Section 3(a) of the General Business Law and the proposed new section 4-d(2)(a) of the Banking Law, authorizing an employee of a banking or financial institution to place a transaction hold on a particular transaction if there is reasonable belief of financial exploitation. We further suggest that mandated reporting should be no less than one business day, including a reporting of basis for belief that the transaction is the subject of financial exploitation, and that upon request by adult protective services or law enforcement, information and documents must be provided within three business days.

Training and Education

To ensure continuity of training and education in addressing issues of financial exploitation, specific guidelines need to be required. In 2019 NYSBA advanced similar language below as a way of achieving this goal:

Training and education. 1. The superintendent, in consultation with the director of the office for the aging, the director of the bureau of adult protective services within the office of children and family services, the commissioner of the office of people with developmental disabilities and the director of the office of victim services, shall develop a financial exploitation training and education program for banking institutions as defined in section four hundred seventy-three of the social services law. The superintendent shall also consult with elder advocacy groups and disability rights organizations that possess specialized knowledge in the prevention and/or identification of financial exploitation, advocacy groups that possess specialized knowledge in developmental disabilities, diseases and other conditions that may impair mental and cognitive function, instructors from organizations that provide services to vulnerable elderly persons that may have experience in identifying financial exploitation, and organizations that provide services to individuals with developmental disabilities.

2. Participation in the financial exploitation training and education program shall be voluntary by the banking institution and the superintendent shall not require, by regulation of otherwise, that any director, officer or any other person affiliated with a banking or institution, participate in or attend such training and education program.

3. The financial exploitation training and education program shall be designed to provide information, training and education on how to identify, help prevent and

report the financial exploitation of a vulnerable elderly person as defined in section 260.31 of the Penal Law.

4. The superintendent shall make the materials and instruction of the financial exploitation training and education program available to all banking institutions across the state at no cost, and shall further make such available via both live instruction platforms as well as through online instructional presentations accessible through the websites of the department, the office for the aging, the office of children and family services, the office of people with developmental disabilities and the office of victim services.

5. Each banking institution shall have policies and procedures in place for the banking institution to make the notification required under Subsection 9(e)(i); and for the banking institution to place the temporary account hold and submit the report required under Subsection 9(e)(ii) of Section 473 of the social services law. The policies and procedures adopted under this Subsection shall include language that the banking institution may report the suspected financial exploitation to other appropriate agencies and entities in addition to the department, including the attorney general, the Federal Trade Commission, and the appropriate law enforcement agency.

Social Services Law Amendments

The amendments to the Social Services Law as drafted establish important guidelines for social services officials to report information that financial exploitation has occurred to appropriate law enforcement agencies and to notify a financial or banking institution involved in the relevant financial transactions of the need to apply a transaction hold. Including this section will provide additional protection to vulnerable elderly adults so that even if a financial or banking institution is not yet aware of financial exploitation, a transaction hold can be applied based upon notification from the proper authorities.

We thank you for your time and attention to this important policy matter. If you have any questions, please contact me or NYSBA's Director of Government Relations Matthew Pennello, who can be reached at mpennello@nysba.org, 518-487-5748.