

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

Senate Bill 617

**FISCAL
NOTE**

By Senator Willis

[Introduced January 27, 2026; referred
to the Committee on the Judiciary; and then to the
Committee on Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new article,
2 designated §31A-2C-1, §31A-2C-2, §31A-2C-3, §31A-2C-4, §31A-2C-5, §31A-2C-6, and
3 §31A-2C-7, relating to enacting Banking and Financial Services Provider Protections for
4 Eligible Adults from Financial Exploitation; providing findings, purpose, and intent;
5 providing definitions; permitting disclosure of eligible persons financial information to
6 certain third parties and designated government agencies; authorizing depository
7 institutions to delay, refuse, or prevent certain activities and transactions to prevent
8 financial exploitation of an eligible adult; and proscribing immunities for depository
9 institutions.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2C. BANKING AND FINANCIAL SERVICES PROVIDER PROTECTIONS

FOR ELIGIBLE ADULTS FROM FINANCIAL EXPLOITATION.

§31A-2C-1. Short title.

1 This article may be cited as "Banking and Financial Services Provider Protections for
2 Eligible Adults from Financial Exploitation".

§31A-2C-2. Legislative findings, purpose, and intent.

1 (a) The Legislature recognizes that depository institutions have duties imposed by law and
2 by contract to conduct customer-directed transactions in a timely manner, and in accordance with
3 their customers' instructions.

4 (b) The Legislature recognizes that customers are increasingly being induced to authorize
5 transactions that are not in their interest.

6 (c) It is the intent of the Legislature to:

7 (1) Ensure that eligible adults have ready access to their funds;

8 (2) Provide depository institutions with the tools and protections to intervene in customer-
9 directed transactions when, in their discretion, the transaction presents potential significant risk of

10 harm to the customer; and

11 (3) Provide designated state agencies with the tools and information to investigate
12 potential financial exploitation.

13 (4) The Legislature does not intend to create a duty for depository institutions to
14 contravene the valid instructions of their customers and nothing in this chapter creates such a
15 duty.

§31A-2C-3.

Definitions.

1 As used in this article, the following terms and phrases have the following meanings:

2 "Associated third-party" means an individual:

3 (1) Whom an eligible adult authorizes the depository institution to contact in writing;

4 (2) Who is a co-owner, additional authorized signatory, or beneficiary on an eligible adult's
5 account or an agent under a power of attorney; or

6 (3) Who is an attorney, trustee, conservator, guardian or other fiduciary whom a court or a
7 government agency selects to manage some or all of the financial affairs of the eligible adult.

8 "Account" means a contract deposit of funds between the depositor and a depository
9 institution that is one of the following:

10 (A) A consumer account owned by an eligible adult, whether individually or with one or
11 more other persons;

12 (B) A conservatorship or guardianship account of which the eligible adult is a beneficiary;
13 or

14 (C) A line of credit owned by an eligible adult, whether individually or with one or more
15 other persons.

16 "Depository institution" has the same meaning as defined in §31-17A-2 of this code.

17 "Designated state agency" means the entity responsible for receiving reports of alleged or
18 suspected maltreatment or financial exploitation of an eligible adult including the West Virginia

19 Department of Human Services Bureau for Social Services and the West Virginia Attorney
20 General.

21 "Eligible adult" means:

22 (1) A person 65 years of age or older or a person subject to §9-6-1 et seq. of this code; or

23 (2) A person 18 years or older who:

24 (A) Has a substantial mental or functional impairment that significantly interferes with his or

25 her ability to make financial decisions or for whom a guardian has been appointed under state law;

26 and

27 (B) The depository institution has actual knowledge that the person has a substantial
28 mental or functional impairment or that a guardian has been appointed under state law.

29 "Financial exploitation" means:

30 (1) The wrongful or unauthorized taking, withholding, appropriation, expenditure, or use of
31 money, assets, or property owned by an eligible adult; or

32 (2) An act or omission taken by a person, including through the use of a power of attorney,
33 guardianship, trustee, or conservatorship of an eligible adult, to:

34 (A) Obtain control, through deception, intimidation, or undue influence, over the eligible
35 adult's money, assets, or property to deprive the eligible adult of the ownership, use, benefit, or
36 possession of the eligible adult's money, assets, or property; or

37 (B) Convert money, assets, or property of the eligible adult to deprive the eligible adult of
38 the ownership, use, benefit, or possession of the eligible adult's money, assets, or property.

§31A-2C-4.

Government

disclosures.

1 Any depository institution or its employees, or both, who believe that financial exploitation
2 of an eligible adult has occurred, may have been attempted, or is being attempted, shall promptly
3 notify a designated state agency.

§31A-2C-5. Authority to delay, refuse, or prevent certain activities.

1 (a) When, based on information they have personally observed or information they have
2 received from a government agency or a law-enforcement agency, a depository institution or their
3 employees, believe that financial exploitation of an eligible adult may have occurred, has been
4 attempted, is occurring, or is being attempted the depository institution or its employees may, but
5 are not required to:

6 (1) Delay or refuse one or more transactions with or involving the eligible adult;

7 (2) Delay or refuse to permit the withdrawal or disbursement of funds contained in the
8 eligible adult's account;

9 (3) Prevent a change in ownership of the eligible adult's account;

10 (4) Prevent a transfer of funds from the eligible adult's account to an account owned wholly
11 or partially by another person;

12 (5) Refuse to comply with instructions given to the depository institution by an agent or a
13 person acting for or with an agent under a power of attorney signed or purported to have been
14 signed by the eligible adult; or

15 (6) Prevent the designation or change the designation of beneficiaries to receive any
16 property, benefit, or contract rights for an eligible adult at death.

17 (b) A depository institution or its employees are not required to act under subsection (a) of
18 this section when provided with information alleging that financial exploitation may have occurred,
19 may have been attempted, is occurring, or is being attempted, but may use their sole discretion to
20 determine whether or not to act under subsection (a) of this section based on the information
21 available to them at the time.

22 (c) The authority to delay a transaction set forth in subsection (a) of this section expires
23 upon the sooner of:

24 (1) Fifteen business days after the date on which the depository institution first acted under
25 subsection (a) of this section;

26 (2) When the depository institution is satisfied in its sole discretion that the transaction or
27 act will not likely result in financial exploitation of the eligible adult; or

28 (3) Upon an order of a court of competent jurisdiction directing the release of funds.

29 (d) Notwithstanding any other law to the contrary, the refusal to engage in a transaction as
30 authorized under subsection (a) of this section may not constitute the wrongful dishonor of an item
31 under §46-4-1 *et seq.* of this code.

32 (e) A reasonable belief that payment of a check will facilitate the financial exploitation of an
33 eligible adult constitutes reasonable grounds to doubt the collectability of the item for purposes of
34 the federal Check Clearing for the 21st Century Act, 12 U.S.C. § 5001 *et seq.*, the federal
35 Expedited Funds Availability Act, 12 U.S.C. § 4001 *et seq.*, and 12 C.F.R. part 229. Nothing herein,
36 however, requires depository institutions or their employees to review the checks of eligible adults.

37 (f) A delay or refusal to complete a funds transfer request as authorized under subsection
38 (a) of this section does not violate §46-4A-101 *et seq.* of this code. *Provided*, That if a transaction
39 is delayed under subsection (a) of this section, the payment order is not considered as received
40 until the hold is removed and the depository institution submits the payment order for processing.
41 Funds transfer and payment order have the same meanings as defined in §46-4A-101 *et seq.* of
42 this code.

<u>§31A-2C-6.</u>	<u>Third-party</u>	<u>notifications.</u>
--------------------------	---------------------------	------------------------------

1 (a) A depository institution or its employees may notify an associated third party, if any, if
2 the depository institution or its employees believe that the financial exploitation of the eligible adult
3 is occurring, has or may have occurred, is being attempted, or has been or may have been
4 attempted.

5 (b) A depository institution or its employees, may choose not to notify an associated third
6 party as described in subsection (a) of this section, if the depository institution or its employees
7 believe that the third party is, may be, or may have been engaged in the financial exploitation of the
8 eligible adult.

9 (c) When providing information under subsection (a) of this section, a depository institution
10 or its employees may limit the information provided to disclosing their suspicion that the eligible
11 adult may be a victim or target of financial exploitation.

12 (e) Any disclosure under subsection (a) of this section is exempt from coverage by state
13 privacy laws and requirements.

§31A-2C-7 Immunities.

1 (a) A depository institution or its employees who makes, or chooses not to make a
2 disclosure pursuant to §31A-2C-4 of this code, notify an associated third-party pursuant to §31A-
3 2C-6 of this code, or participate in a judicial proceeding, administrative proceeding, or
4 investigation arising from a notification or report, are immune from any civil, criminal, or
5 administrative liability arising from the disclosure, non-disclosure, notification, or participation,
6 unless the depository institution or its employees had actual knowledge of financial exploitation
7 and acted with a malicious purpose.

8 (b) A depository institution or its employees that delays, refuses, or prevents a transaction
9 pursuant to §31A-2C-5 of this code, or decides not to delay, refuse, or prevent a transaction
10 pursuant to §31A-2C-5 of this code, are immune from any civil, criminal, or administrative liability
11 resulting from that action or inaction, unless the depository institution or its employees acted with
12 actual knowledge of the financial exploitation and with intent to assist in the furtherance of such
13 financial exploitation.

14 (c) A depository institution or its employees who accept from the eligible adult the
15 designation of an associated third-party are immune from any civil, criminal, or administrative
16 liability resulting from an assertion that the information provided by the eligible adult regarding the
17 associated third-party was not validated by the depository institution or its employees.

NOTE: The purpose of this bill is to provide banking protections for eligible adults from financial exploitation by permitting depository institutions to delay, refuse, or prevent certain activities and financial transactions when an entity or employer suspects financial exploitation of an elder adult or incapacitated adult may be at issue. This bill further permits disclosure of such activity or financial transaction to an eligible adults' authorized third-party

as well as a designated state agency.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.