

SENATE BILL 175

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2lr0050

(PRE-FILED)

By: **Chair, Finance Committee (By Request – Departmental – Human Services)**

Requested: October 5, 2021

Introduced and read first time: January 12, 2022

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Fiduciary Institutions – Investigation of Financial Abuse and Financial**
3 **Exploitation – Records Disclosure**

4 FOR the purpose of requiring a fiduciary institution to disclose certain financial records to
5 an adult protective services program that is investigating suspected financial abuse
6 or financial exploitation; authorizing an adult protective services agency or a law
7 enforcement agency to share certain information with a fiduciary institution that
8 made a report of suspected financial abuse or financial exploitation; and generally
9 relating to investigations of financial abuse and financial exploitation.

10 BY repealing and reenacting, with amendments,
11 Article – Family Law
12 Section 14–303 and 14–309
13 Annotated Code of Maryland
14 (2019 Replacement Volume and 2021 Supplement)

15 BY repealing and reenacting, with amendments,
16 Article – Financial Institutions
17 Section 1–302 and 1–306(e)
18 Annotated Code of Maryland
19 (2021 Replacement Volume and 2021 Supplement)

20 BY repealing and reenacting, without amendments,
21 Article – Financial Institutions
22 Section 1–306(f) and (g)
23 Annotated Code of Maryland
24 (2021 Replacement Volume and 2021 Supplement)

25 BY adding to
26 Article – Financial Institutions

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Section 1–306(h)
Annotated Code of Maryland
(2021 Replacement Volume and 2021 Supplement)

BY repealing and reenacting, with amendments,
Article – Human Services
Section 1–201
Annotated Code of Maryland
(2019 Replacement Volume and 2021 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Family Law

14–303.

(a) To protect the welfare of the alleged vulnerable adult the local department shall begin a thorough investigation:

(1) within 5 working days after the receipt of the report of suspected abuse, neglect, self–neglect, or exploitation; or

(2) within 24 hours after the receipt of the report of suspected abuse, neglect, self–neglect, or exploitation if the report indicates that an emergency exists.

(b) The investigation shall include:

(1) a determination of whether:

(i) the individual is a vulnerable adult; and

(ii) there has been abuse, neglect, self–neglect, or exploitation; and

(2) if the individual is determined to be a vulnerable adult and to have suffered abuse, neglect, self–neglect, or exploitation:

(i) a determination of the nature, extent, and cause of the abuse, neglect, self–neglect, or exploitation;

(ii) a determination of the identity of the person or persons responsible for the abuse, neglect, self–neglect, or exploitation;

(iii) an evaluation of the home environment; and

(iv) a determination of any other pertinent facts.

(c) (1) On request by the local department, the local State's Attorney or the appropriate law enforcement agency shall assist in the investigation.

(2) As appropriate, the local office on aging or the Department of Aging, local geriatric evaluation service, or any other public or private agency, **INCLUDING A FIDUCIARY INSTITUTION**, providing services or care to the alleged vulnerable adult or whose information or expertise may be of assistance in assessing risk or planning services may assist in the investigation on the request by the local department.

(3) Any agencies set out in this subsection may jointly agree to cooperative arrangements for investigation.

(d) An investigation under this section shall be completed within:

(1) 60 days; or

(2) 10 days if the report indicates that an emergency exists.

(e) Parties participating in an investigation may share pertinent client information relevant to the investigation.

14-309.

Any person, **INCLUDING A FIDUCIARY INSTITUTION**, who makes or participates in making a report under this subtitle or participates in an investigation or a judicial proceeding resulting from a report under this subtitle shall have the immunity from liability described under § 5-622 of the Courts and Judicial Proceedings Article.

Article – Financial Institutions

1-302.

Except as otherwise expressly provided in this subtitle, a fiduciary institution, its officers, employees, agents, and directors:

(1) May not disclose to any person any financial record relating to a customer of the institution unless:

(i) The customer has authorized the disclosure to that person;

(ii) Proceedings have been instituted for appointment of a guardian of the property or of the person of the customer, and court-appointed counsel presents to the fiduciary institution an order of appointment or a certified copy of the order issued by or under the direction or supervision of the court or an officer of the court;

(iii) The customer is disabled and a guardian is appointed or qualified by a court, and the guardian presents to the fiduciary institution an order of appointment

or a certified copy of the order issued by or under the direction or supervision of the court or an officer of the court;

(iv) The customer is deceased and a personal representative is appointed or qualified by a court, and the personal representative presents to the fiduciary institution letters of administration issued by or under the direction or supervision of the court or an officer of the court;

(v) The Department of Human Services requests the financial record in the course of verifying the individual's eligibility for public assistance;

(VI) THE INSTITUTION RECEIVED A REQUEST FOR THE CUSTOMER'S INFORMATION DIRECTLY FROM AN ADULT PROTECTIVE SERVICES PROGRAM IN A LOCAL DEPARTMENT OF SOCIAL SERVICES THAT, UNDER TITLE 14 OF THE FAMILY LAW ARTICLE, IS INVESTIGATING SUSPECTED FINANCIAL ABUSE OR FINANCIAL EXPLOITATION OF THE CUSTOMER;

[(vi)] (VII) The institution received a request, notice, or subpoena for information directly from the Child Support Administration of the Department of Human Services under § 10–108.2, § 10–108.3, or § 10–108.5 of the Family Law Article or indirectly through the Federal Parent Locator Service under 42 U.S.C. § 666(a)(17); or

[(vii)] (VIII) The institution received a request, notice, or subpoena for information directly from the Comptroller under § 13–804 or § 13–812 of the Tax – General Article;

(2) Shall disclose any information requested in writing by the Department of Human Services relative to money held in a savings deposit, time deposit, demand deposit, or any other deposit held by the fiduciary institution in the name of the individual who is a recipient or applicant for public assistance; [and]

(3) SHALL DISCLOSE ANY INFORMATION REQUESTED IN WRITING BY AN ADULT PROTECTIVE SERVICES PROGRAM IN A LOCAL DEPARTMENT OF SOCIAL SERVICES RELATIVE TO ANY DEPOSIT ACCOUNT, LOAN, OR OTHER FINANCIAL SERVICE PROVIDED BY THE FIDUCIARY INSTITUTION TO AN INDIVIDUAL WHO IS BEING INVESTIGATED UNDER TITLE 14 OF THE FAMILY LAW ARTICLE AS A SUSPECTED VICTIM OF FINANCIAL ABUSE OR FINANCIAL EXPLOITATION; AND

[(3)] (4) Shall disclose any information requested in writing by the Comptroller relative to money held in a savings deposit, time deposit, demand deposit, or any other deposit held by the fiduciary institution in the name of an individual whose property is subject to a tax lien.

(e) (1) Except as provided in paragraph (2) of this subsection, a fiduciary institution or an officer, employee, agent, or director of a fiduciary institution may decline to provide to any person information that would disclose or indicate whether a report of financial exploitation or an abuse report has or has not been filed under this section.

(2) A fiduciary institution or an officer, employee, agent, or director of a fiduciary institution may not decline to provide information requested by a person identified in subsection (d)(4)(i) of this section in connection with an investigation of suspected financial abuse **OR FINANCIAL EXPLOITATION**.

(f) Except as provided in § 1–305(c) of this subtitle, there shall be no liability on the part of and no cause of action of any nature shall arise against, and there shall be immunity from any civil and criminal liability that would otherwise result for, a fiduciary institution or an officer, employee, agent, or director of a fiduciary institution for an action or omission involved with:

(1) Making or participating in making a disclosure or report under this section;

(2) Participating in an investigation or a judicial proceeding resulting from a report filed under this section; or

(3) Declining to provide information as described in subsection (e) of this section.

(g) Except as required under subsection (d) of this section, this section does not create and may not be construed as creating, on the part of a fiduciary institution or an officer, employee, agent, or director of a fiduciary institution, a duty to make a disclosure to an adult protective services program or file a report of financial exploitation under this section.

(H) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AT THE REQUEST OF THE FIDUCIARY INSTITUTION, AN ADULT PROTECTIVE SERVICES AGENCY OR A LAW ENFORCEMENT AGENCY MAY, AND IS ENCOURAGED TO, DISCLOSE THE STATUS OR FINAL DISPOSITION OF AN INVESTIGATION OF SUSPECTED FINANCIAL ABUSE OR FINANCIAL EXPLOITATION TO A FIDUCIARY INSTITUTION THAT MADE THE REPORT OF SUSPECTED FINANCIAL ABUSE OR FINANCIAL EXPLOITATION.

Article – Human Services

1–201.

(a) Except as provided in subsection (b) of this section, a person may not disclose any information concerning an applicant for or recipient of social services, child welfare services, cash assistance, food stamps, or medical assistance that is directly or indirectly derived from the records, investigations, or communications of the State, a county, or a

municipal corporation or a unit of the State, a county, or a municipal corporation or that is acquired in the course of the performance of official duties.

(b) This section does not prohibit the disclosure of information:

(1) in accordance with a court order; [or]

(2) to an officer or employee of any state or local government, the United States, or a fiduciary institution, if the officer or employee is entitled to the information in an official capacity and the disclosure is necessary to administer:

(i) public assistance, medical assistance, social services, or child welfare services programs; or

(ii) voter registration in accordance with § 3–203 of the Election Law Article; **OR**

(3) TO A FIDUCIARY INSTITUTION THAT REPORTED SUSPECTED FINANCIAL ABUSE OR FINANCIAL EXPLOITATION, IF THE FIDUCIARY INSTITUTION IS AUTHORIZED TO REQUEST THE INFORMATION UNDER § 1–306(H) OF THE FINANCIAL INSTITUTIONS ARTICLE.

(c) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 90 days or a fine not exceeding \$500 or both.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2022.