

Legislative Analysis



FINANCIAL EXPLOITATION: INCLUDE AS ABUSE OF VULNERABLE ADULT

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 5726 and 5728

Sponsor: Rep. Mark Meadows

Committee: Senior Health, Security, and Retirement

Complete to 5-5-08

A SUMMARY OF HOUSE BILLS 5726 AND 5728 AS INTRODUCED 2-23-08

House Bill 5726 would amend Section 11a of the Social Welfare Act to add an employee of a financial institution to the list of persons required to make report of suspected abuse, neglect or exploitation of a vulnerable adult as prescribed in the act.

House Bill 5728 would amend Section 11 of the Social Welfare Act to specifically add "financial exploitation" to the definition of abuse, and to add related definitions of the terms "deception," "financial institution," "intimidation," and "position of trust" to the act.

The bill would define the terms as follows:

Financial Exploitation would mean the action of a person in a position of trust and confidence and who by *intimidation* or *deception* knowingly takes control, title, use, or management of an incapacitated or vulnerable adult's assets or property with the intent to permanently deprive him or her of the assets or property.

Deception would mean that a person knowingly does the following to an incapacitated or vulnerable adult:

- (1) Creates or confirms a false impression in the mind of a vulnerable adult.
- (2) Fails to correct a false impression that the person is responsible for creating or confirming.
- (3) Makes a promise that the person does not intend to perform or that the person knows will not or cannot be performed. However, a person's failure to perform a promise is not by itself sufficient proof that the person did not intend to perform the promise.
- (4) Misrepresents or conceals a material fact that relates to the terms of a contract or an agreement that he or she enters into with the vulnerable adult or that relates to the existing or preexisting condition of any of the property involved in a contract or an agreement.

(5) Uses any material misrepresentation, false pretense, or false promise to induce, encourage, or solicit an incapacitated or vulnerable adult to enter into a contract or agreement.

Intimidation would include but not be limited to threatening to deprive an incapacitated or vulnerable adult of food, nutrition, shelter, necessary medication, or medical treatment.

Position of Trust would be defined to mean that a person is any of the following: (1) a person who has assumed a duty to provide care to a vulnerable adult; (2) a joint tenant or a tenant in common with a vulnerable adult; or (3) a person who is in a fiduciary relationship with a vulnerable adult, including a de facto guardian or de facto conservator.

Financial Institution would mean a state or nationally chartered bank or a state or federally chartered savings and loan association, savings bank, or credit union that maintains a principal office or branch in this state.

MCL 400.11

FISCAL IMPACT:

The bills would likely increase the number of reports of suspected abuse or neglect of adults filed with Adult Protective Services staff within county offices of the Department of Human Services. Further, it would likely increase complaint referrals to the Bureau of Children and Adult Licensing related to abuse or neglect of individuals served within adult foster care facilities or homes for the aged. Data does not appear to be available to estimate the number of new reports that would result from the bills.

Any increase in reports and referrals of suspected abuse or neglect would increase the workload for Adult Protective Services staff within DHS county offices and for staff within the Bureau of Children and Adult Licensing. The Department of Human Services has indicated they believe the bills will increase staffing needs in these areas. However, they do not yet have a formal estimate of these staffing needs.

Legislative Analyst: E. Best
Fiscal Analyst: Bob Schneider

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.