

SENATE BILL NO. 629

October 31, 2019, Introduced by Senator RUNESTAD and referred to the Committee on Insurance and Banking.

A bill to amend 2008 PA 551, entitled
"Uniform securities act (2002),"
(MCL 451.2101 to 451.2703) by amending the title, as amended by
2014 PA 355, and by adding article 5A.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 TITLE
2 An act to enact the uniform securities act (2002) relating to
3 the issuance, offer, sale, or purchase of securities; to prohibit

1 fraudulent practices in relation to securities; to establish civil
2 and criminal sanctions for violations of the act and civil
3 sanctions for violation of the rules promulgated pursuant to the
4 act; to require the registration of broker-dealers, agents,
5 investment advisers, and securities; to regulate Michigan
6 investment markets; to make uniform the law with reference to
7 securities; **to authorize certain actions to protect vulnerable**
8 **adults from financial exploitation; to prescribe the powers and**
9 **duties of certain state governmental officers and agencies;** and to
10 repeal acts and parts of acts.

11 **ARTICLE 5A**

12 **FINANCIAL EXPLOITATION OF VULNERABLE ADULTS**

13 **Sec. 531. As used in this article:**

14 (a) "Account" means any account with a broker-dealer or
15 investment advisor for which a vulnerable adult has the authority
16 to transact business.

17 (b) "Financial exploitation" means any of the following:

18 (i) The wrongful or unauthorized taking, withholding,
19 appropriation, or use of a vulnerable adult's funds or securities.

20 (ii) Any act or omission by a person, including through the use
21 of a power of attorney, guardianship, or any other authority
22 regarding a vulnerable adult, to do any of the following:

23 (A) Obtain control, through deception, intimidation, or undue
24 influence, over the vulnerable adult's money, assets, or property.

25 (B) Convert the vulnerable adult's money, assets, or property.

26 (c) "Vulnerable adult" means that term as defined in section
27 145m of the Michigan penal code, 1931 PA 328, MCL 750.145m.

28 **Sec. 533. (1) A broker-dealer or investment advisor may place**
29 **a temporary hold on a disbursement of funds or securities from an**

1 account of a vulnerable adult if all of the following are met:

2 (a) The broker-dealer or investment advisor reasonably
3 believes that financial exploitation of the vulnerable adult has
4 occurred, is occurring, has been attempted, or will be attempted.

5 (b) Within 2 business days after the date that the broker-
6 dealer or investment advisor first placed the temporary hold on the
7 disbursement of funds or securities, the broker-dealer or
8 investment advisor provides notification, orally, electronically,
9 or in writing, of the reason for the temporary hold to all of the
10 following:

11 (i) All parties who are authorized to transact business on the
12 account, unless a party is unavailable or the broker-dealer or
13 investment advisor reasonably believes that the party has engaged,
14 is engaged, or will engage in the financial exploitation of the
15 vulnerable adult.

16 (ii) To any individual previously designated by the vulnerable
17 adult as authorized to receive information about the account,
18 unless that individual is unavailable or the broker-dealer or
19 investment advisor reasonably believes that the individual has
20 engaged, is engaged, or will engage in the financial exploitation
21 of the vulnerable adult.

22 (c) The broker-dealer or investment advisor immediately
23 initiates an internal review of the facts and circumstances that
24 caused the broker-dealer or investment advisor to reasonably
25 believe that the financial exploitation of the vulnerable adult has
26 occurred, is occurring, has been attempted, or will be attempted.

27 (2) A temporary hold authorized under this section expires not
28 later than 15 business days after the date that the broker-dealer
29 or investment advisor first placed the temporary hold on the

1 disbursement of funds or securities, unless otherwise terminated or
2 extended by the administrator, another agency of competent
3 jurisdiction, or a court of competent jurisdiction, or unless
4 extended under subsection (3).

5 (3) If the broker-dealer's or investment advisor's internal
6 review of the facts and circumstances under subsection (1)(c)
7 supports the broker-dealer's or investment advisor's reasonable
8 belief that the financial exploitation of the vulnerable adult has
9 occurred, is occurring, has been attempted, or will be attempted, a
10 broker-dealer or investment advisor may extend a temporary hold
11 authorized under this section for no longer than 10 business days
12 following the date authorized under subsection (2), unless
13 otherwise terminated or extended by the administrator, another
14 agency of competent jurisdiction, or a court of competent
15 jurisdiction.

16 Sec. 535. A broker-dealer or investment advisor shall retain
17 records related to compliance with this article and ensure that
18 those records are readily available to the department on request.
19 The retained records must include records of all of the following:

20 (a) Any requests for disbursement that may constitute
21 financial exploitation of a vulnerable adult and the resulting
22 temporary hold.

23 (b) Any finding of a reasonable belief that financial
24 exploitation has occurred, is occurring, has been attempted, or
25 will be attempted underlying a decision to place a temporary hold
26 on a disbursement.

27 (c) The name and title of the broker-dealer or investment
28 advisor who authorized a temporary hold on a disbursement.

29 (d) Any notifications provided to relevant parties under

1 section 533(1) (b) .

2 (e) Any internal review of facts and circumstances under
3 section 533(1) (c) .

4 Sec. 537. A broker-dealer or investment advisor, or an agent
5 of that broker-dealer or investment advisor, who exercises
6 discretion in placing a temporary hold on disbursements of funds or
7 securities from an account of a vulnerable adult in a manner that
8 is consistent with the requirements of this article is immune from
9 any administrative or civil liability that might otherwise arise
10 under this act from such a delay in disbursement.

11 Sec. 539. (1) This article does not require a broker-dealer or
12 investment advisor to place temporary holds on disbursements of
13 funds or securities from the accounts of vulnerable adults.

14 (2) A broker-dealer or investment advisor who relies on this
15 article shall develop and document training policies or programs
16 reasonably designed to ensure that the broker-dealer or investment
17 advisor complies with the requirements of this article.

18 (3) A broker-dealer's or investment advisor's reasonable
19 belief that an individual who is 18 years of age or older has a
20 mental or physical impairment that renders the individual unable to
21 protect his or her own interests may be based on the facts and
22 circumstances observed in the broker-dealer's or investment
23 advisor's business relationship with the individual.

24 Enacting section 1. This amendatory act takes effect 90 days
25 after the date it is enacted into law.