



OHIO LEGISLATIVE SERVICE COMMISSION

Final Analysis

Nicholas A. Keller

Am. Sub. S.B. 158 132nd General Assembly (As Passed by the General Assembly)

Sens. Wilson, Terhar, Coley, Gardner, Eklund, Hottinger, Manning, O'Brien, Balderson, Beagle, Brown, Burke, Dolan, Hackett, Hoagland, Huffman, Jordan, Kunze, LaRose, Lehner, Oelslager, Peterson, Skindell, Sykes, Tavares, Thomas, Uecker, Williams, Yuko

Reps. Schaffer, Anielski, Arndt, Barnes, Boggs, Boyd, Brown, Carfagna, Craig, Cupp, Dean, Duffey, Edwards, Fedor, Galonski, Gavarone, Ginter, Green, Greenspan, Hambley, Hill, Holmes, Hoops, Howse, Hughes, Ingram, Kelly, Kent, Koehler, Landis, Lanese, Lepore-Hagan, Manning, Miller, Patterson, Patton, Ramos, Reece, Reineke, Retherford, Riedel, Rogers, Romanchuk, Ryan, Scherer, Schuring, Sheehy, Slaby, K. Smith, T. Smith, Stein, B. Sweeney, Sykes, Thompson, West, Wilkin, Young, Zeltwanger, R. Smith

Effective date: March 20, 2019

ACT SUMMARY

- Increases the penalties for theft from a person in a protected class, misuse of credit cards, forgery, forging identification cards or selling or distributing forged identification cards, securing writings by deception, or identity fraud against a person in a protected class if the victim of any of those offenses is an elderly person.
- Adds to the list of individuals who, having reasonable cause to believe that an adult is being abused, neglected, or exploited, or is in a condition resulting from abuse, neglect, or exploitation, must immediately report that belief to the county department of job and family services.
- Modifies the list of officials who must sign the memoranda of understanding prepared by county departments of job and family services on the procedures that must be followed by those officials related to cases of adult abuse, neglect, and exploitation.

* This version updates the effective date.

- Requires the Attorney General to distribute public awareness publications that provide general information on elder fraud and financial exploitation.
- Requires the Directors of Aging, Commerce, and Job and Family Services, and the Attorney General to develop best practices and standards for preventing elder fraud and financial exploitation and to ensure resources are available to victims.
- Adds five members and three ex-officio members to the Elder Abuse Commission.

CONTENT AND OPERATION

Elderly victims of theft or fraud offenses

The act increases the penalty for theft from a person in a protected class, misuse of credit cards, forgery, forging identification cards or selling or distributing forged identification cards, securing writings by deception, and identity fraud against a person in a protected class, in cases where the victim of the offense is an elderly person. Preexisting law defines an elderly person as a person who is 65 or older.¹ Under the act, an offender who commits any of these offenses in which an elderly person is the victim must pay full restitution to the victim and an additional fine of up to \$50,000. The clerk of court must forward the fines collected to the county department of job and family services to be used for the reporting and investigation of elder abuse, neglect, and exploitation or for the provision or arrangement of protective services under continuing law.²

Mandatory reporters of adult abuse, neglect, or exploitation

The act requires securities dealers, salespersons, and investment adviser representatives licensed under Ohio's Securities Law,³ having reasonable cause to believe that an adult is being abused, neglected, or exploited, or is in a condition that is the result of abuse, neglect, or exploitation, to report that belief to the county department of job and family services.⁴

Many individuals are already subject to this mandatory reporting requirement under continuing law, including attorneys, physicians, psychologists, senior service

¹ R.C. 2913.01(CC), not in the act.

² R.C. 2913.02(B)(3), 2913.21(D)(4), 2913.31(C)(1)(d) and (C)(2)(b), 2913.43(B)(3), and 2913.49(I)(3).

³ R.C. Chapter 1707.

⁴ R.C. 5101.63.



providers, peace officers, coroners, members of the clergy, employees of community mental health facilities, counselors, and social workers.⁵

Public awareness publications

The act requires the Attorney General to distribute at least six public awareness publications each year that provide general information on elder fraud and financial exploitation of the elderly. The awareness publications must include information on:⁶

- Warning signs that may signal that fraud or financial exploitation are occurring;
- Methods for reporting elder fraud or financial exploitation, including a list of agencies that handle those reports; and
- Services and resources that may be available to prevent or remedy elder fraud or financial exploitation.

Memorandum of understanding

The act also eliminates the need for each chief municipal peace officer in each county to sign a memorandum of understanding prepared by county departments of job and family services on the procedures that must be followed by those officials related to cases of adult abuse, neglect, or exploitation. The act requires only the chief peace officer of the largest municipality within the county to sign the memorandum.⁷

Best practices and standards

Under the act, the Directors of Aging, Commerce, and Job and Family Services, and the Attorney General or the Attorney General's designee, must develop best practices and standards for preventing elder fraud and financial exploitation, must provide education on the subject, and must ensure that services and resources are available to victims of elder fraud and financial exploitation. The Directors must do all of these things in consultation with county departments of job and family services, adult protective services agencies, the Ohio Bankers League, the Community Bankers Association of Ohio, the Ohio Credit Union League, and the Securities Industry and Financial Markets Association.

⁵ R.C. 5101.63.

⁶ R.C. 109.67.

⁷ R.C. 5101.621.



The Directors must create a report of the best practices and standards and provide a copy of that report to the Governor, the President and Minority Leader of the Senate, and the Speaker and Minority Leader of the House by December 1, 2019.⁸

Elder Abuse Commission

The act adds the following members, appointed by the Attorney General, to the Elder Abuse Commission:⁹

- A representative of the State Medical Board;
- A representative of the Community Bankers Association of Ohio;
- A representative of an organization representing the interests of senior centers;
- A representative of an organization representing the policy interests of seniors;
- A representative of a research-based academia representing elder abuse research.

The act also adds the following as ex-officio members:¹⁰

- The Director of Commerce or the Director's designee;
- One member of the House, appointed by the Minority Leader;
- One member of the Senate, appointed by the Minority Leader.

Technical changes

The act makes a number of technical and conforming changes to the Adult Protective Services Law to correct inconsistencies and cross-reference errors that were enacted in, or resulted from vetoed portions of, H.B. 49 of the 132nd General Assembly, which is the main operating budget act for the FY 2018-FY 2019 fiscal biennium.¹¹

⁸ R.C. 173.95.

⁹ R.C. 5101.74(A)(1).

¹⁰ R.C. 5101.74(A)(2).

¹¹ R.C. 5101.60(U), 5101.621(A)(2), (B)(2), and (C)(2), and 5105.652.



HISTORY

ACTION	DATE
Introduced	05-25-17
Reported, S. Judiciary	01-31-18
Passed Senate (33-0)	03-21-18
Reported, H. Aging & Long Term Care	06-07-18
Re-Referred, H. Rules & Reference	11-27-18
Re-Reported, H. Aging & Long Term Care	12-06-18
Passed House (87-0)	12-06-18
Senate concurred in House amendments (32-0)	12-12-18

