RN1716775SP 7

**INTRODUCED BY SENIOR SENATOR MOLNAR**

Legislative Counsel’s Digest

SP 7: MOLNAR. FINANCIAL ELDER ABUSE: REPORTING.

EXISTING LAW, THE ELDER ABUSE AND DEPENDENT ADULT CIVIL PROTECTION ACT, REQUIRES CERTAIN PARTIES AND INSTITUTIONS, KNOWN AS MANDATED REPORTERS, TO REPORT IMMEDIATELY, OR AS SOON AS PRACTICABLY POSSIBLE, KNOWN OR SUSPECTED FINANCIAL ABUSE OF AN ELDER OR DEPENDENT ADULT TO THE LOCAL LAW ENFORCEMENT AGENCY, AS SPECIFIED. EXISTING LAW REQUIRES A CIVIL PENALTY TO BE IMPOSED FOR THE FAILURE TO REPORT THE FINANCIAL ABUSE OF AN ELDER OR DEPENDENT ADULT. EXISTING LAW, THE MONEY TRANSMISSION ACT, PROVIDES FOR THE LICENSURE AND REGULATION OF CERTAIN PERSONS ENGAGED IN THE BUSINESS OF MONEY TRANSMISSION.

THIS MEASURE WOULD MEMORIALIZE THE LEGISLATURE AND THE GOVERNOR TO ENACT LEGISLATION THAT WOULD AMEND THE DEFINITION OF “MANDATORY REPORTERS OF SUSPECTED FINANCIAL ABUSE OF AN ELDER OR DEPENDENT ADULT” TO INCLUDE THE OFFICERS AND EMPLOYEES OF BUSINESSES LICENSED UNDER THE MONEY TRANSMISSION ACT FOR WIRE OR MONEY TRANSFERS, AND THAT WOULD INCREASE PENALTIES, INCLUDING PROVIDING FOR FULL REIMBURSEMENT OF LOSSES, FOR OFFICERS OR EMPLOYEES OF THESE BUSINESSES WHO FAIL TO REPORT AS REQUIRED.

VOTE MAJORITY.

SP 7: RELATING TO FINANCIAL ELDER ABUSE

WHEREAS, MANY SCAMS TARGETING ELDERS INVOLVE TRANSFERRING MONEY THROUGH BUSINESSES ENGAGED IN WIRE SERVICES, MONEY TRANSFER SERVICES, AND PREPAID CREDIT OR DEBIT CARD SERVICES; AND

WHEREAS, THESE SCAMS RELY ON THE USE OF WIRE OR MONEY TRANSFER SERVICES BY BUSINESSES THAT ARE REQUIRED TO BE LICENSED UNDER THE MONEY TRANSMISSION ACT (DIVISION 1.2 (COMMENCING WITH SECTION 2000) OF THE FINANCIAL CODE); AND

WHEREAS, THE OFFICERS AND EMPLOYEES OF THESE SERVICES ARE NOT CURRENTLY INCLUDED AS MANDATED REPORTERS UNDER THE ELDER ABUSE AND DEPENDENT ADULT CIVIL PROTECTION ACT (CHAPTER 11 (COMMENCING WITH SECTION 15600) OF PART 3 OF DIVISION 9 OF THE WELFARE AND INSTITUTIONS CODE); AND

WHEREAS, MANDATED REPORTERS ARE REQUIRED TO REPORT KNOWN OR SUSPECTED FINANCIAL ABUSE OF AN ELDER OR DEPENDENT ADULT IMMEDIATELY, OR AS SOON AS PRACTICABLY POSSIBLE, TO THE LOCAL ADULT PROTECTIVE SERVICES AGENCY OR THE LOCAL LAW ENFORCEMENT AGENCY; AND

WHEREAS, WIRE OR MONEY TRANSFER SERVICES ARE FREQUENTLY USED BY THE PERPETRATORS OF THESE SCAMS TO TRANSFER FUNDS FROM ELDERS; AND

WHEREAS, FUNDS TRANSFERRED THROUGH THESE WIRE OR MONEY TRANSFER SERVICES ARE OFTEN LOST FOREVER, MAKING IT DIFFICULT TO REIMBURSE VICTIMS; AND

WHEREAS, THERE IS NO APPLICABLE PENALTY SCHEME PROPORTIONAL TO THE EGREGIOUS NATURE OF THIS FINANCIAL ABUSE; AND

WHEREAS, THE STATE OF CALIFORNIA HAS THE LARGEST POPULATION OF ELDER RESIDENTS, AND THE UNITED STATES CENSUS BUREAU PROJECTS THAT THE ELDER POPULATION IN CALIFORNIA WILL INCREASE FROM 3.7 MILLION TO 6.4 MILLION WITHIN THE NEXT 20 YEARS; AND

WHEREAS, THE INCREASE IN THE ELDER POPULATION COMBINED WITH THE AMOUNT OF WEALTH CONCENTRATED WITHIN THE “BABY BOOMER” GENERATION CREATES SIGNIFICANT OPPORTUNITY FOR FINANCIAL ELDER ABUSE; AND

WHEREAS, RECENTLY, WIRE SERVICE AND MONEY TRANSFER BUSINESS PRACTICES RESULTED IN A $586-MILLION SETTLEMENT WITH THE UNITED STATES DEPARTMENT OF JUSTICE, THE FEDERAL TRADE COMMISSION, AND VARIOUS UNITED STATES ATTORNEYS’ OFFICES, INCLUDING THE UNITED STATES ATTORNEY’S OFFICE FOR THE CENTRAL DISTRICT OF CALIFORNIA FOR FAILING TO MAINTAIN AN EFFECTIVE ANTI-MONEY LAUNDERING PROGRAM AND AIDING AND ABETTING WIRE FRAUD; AND

WHEREAS, BECAUSE WIRE AND MONEY TRANSFER SERVICES ARE USED TO PERPETUATE FRAUD AGAINST ELDERS, ENACTING PROVISIONS TO REQUIRE THOSE BUSINESSES TO REPORT SUSPECTED ABUSE OF AN ELDER OR DEPENDENT ADULT IS ESSENTIAL TO REMEDY OR PREVENT HARM; AND

WHEREAS, THE 2015 TRUE LINK REPORT ON FINANCIAL ELDER ABUSE FOUND THAT ELDERS LOSE $36.48 BILLION EACH YEAR TO FINANCIAL ABUSE, WHICH IS 12 TIMES MORE THAN PREVIOUSLY REPORTED; AND

WHEREAS, MANY CASES OF FINANCIAL ELDER ABUSE GO UNREPORTED BECAUSE THE VICTIMS SUFFER FROM COGNITIVE IMPAIRMENT AND ARE UNAWARE OF WHAT IS HAPPENING OR ARE EMBARRASSED AND DO NOT WANT TO ADMIT THE ABUSE TO FAMILY; AND

WHEREAS, INCLUDING OFFICERS AND EMPLOYEES OF BUSINESSES LICENSED UNDER THE MONEY TRANSMISSION ACT FOR WIRE AND MONEY TRANSFER SERVICES AS MANDATED REPORTERS OF FINANCIAL ELDER ABUSE WOULD REQUIRE THOSE INDIVIDUALS TO REPORT FINANCIAL ABUSE TO THE PROPER AUTHORITIES AND WOULD SUBJECT THOSE INDIVIDUALS TO PENALTIES FOR FAILURES TO REPORT INSTANCES OF FINANCIAL ELDER ABUSE; AND

WHEREAS, WHEREAS, CURRENT PENALTIES UNDER THE ELDER ABUSE AND DEPENDENT ADULT CIVIL PROTECTION ACT ARE INSUFFICIENT TO PREVENT FINANCIAL INSTITUTIONS FROM FAILING TO REPORT FINANCIAL ELDER ABUSE; NOW, THEREFORE, BE IT

RESOLVED, BY THE SENIOR ASSEMBLY AND THE SENIOR SENATE, JOINTLY, THAT THE SENIOR LEGISLATURE OF THE STATE OF CALIFORNIA AT ITS 2017 REGULAR SESSION, A MAJORITY OF THE MEMBERS VOTING THEREFOR, HEREBY PROPOSES THAT (1) BUSINESSES LICENSED UNDER THE MONEY TRANSMISSION ACT (DIVISION 1.2 (COMMENCING WITH SECTION 2000) OF THE FINANCIAL CODE) FOR WIRE OR MONEY TRANSFER SERVICES BE ADDED TO THE DEFINITION OF FINANCIAL INSTITUTIONS SUBJECT TO MANDATORY REPORTING UNDER THE ELDER ABUSE AND DEPENDENT ADULT CIVIL PROTECTION ACT (2)PENALTIES FOR FINANCIAL INSTITUTIONS THAT FAIL TO REPORT FINANCIAL ABUSE BE INCREASED; AND (3) FINANCIAL INSTITUTIONS THAT FAIL TO REPORT ELDER FINANCIAL ABUSE BE LIABLE FOR FULL REIMBURSEMENT OF FINANCIAL LOSSES SUFFERED AS A RESULT OF FINANCIAL ELDER ABUSE; AND BE IT FURTHER

RESOLVED, THAT THE SENIOR LEGISLATURE OF THE STATE OF CALIFORNIA RESPECTFULLY MEMORIALIZES THE LEGISLATURE AND THE GOVERNOR OF THE STATE OF CALIFORNIA TO ENACT APPROPRIATE LEGISLATION THAT WOULD ADDRESS THE CONCERNS SET FORTH IN THIS MEASURE; AND BE IT FURTHER

RESOLVED, THAT A COPY OF THIS MEASURE BE TRANSMITTED TO THE SPEAKER OF THE ASSEMBLY, THE PRESIDENT PRO TEMPORE OF THE SENATE, AND THE GOVERNOR OF THE STATE OF CALIFORNIA.