



## SB-278 Elder abuse: emergency financial contact program. (2023-2024)

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CALIFORNIA LEGISLATURE— 2023–2024 REGULAR SESSION

**SENATE BILL**

**NO. 278**

**Introduced by Senator Dodd**

**(Coauthors: Senators Min and Skinner)**

**(Coauthors: Assembly Members Bonta, Gipson, Muratsuchi, and Quirk-Silva)**

**February 01, 2023**

An act to add Article 12 (commencing with Section 15665) to Chapter 11 of Part 3 of Division 9 of the Welfare and Institutions Code, relating to elder abuse.

### LEGISLATIVE COUNSEL'S DIGEST

SB 278, Dodd. Elder abuse: emergency financial contact program.

Existing law, the Elder Abuse and Dependent Adult Civil Protection Act, establishes various procedures for the reporting, investigation, and prosecution of elder and dependent adult abuse. Existing law defines financial abuse for those purposes and provides that it occurs when, among other instances, a person or entity takes, secretes, appropriates, obtains, or retains, or assists in taking, secreting, appropriating, obtaining, or retaining, real or personal property of an elder or dependent adult for a wrongful use or with intent to defraud, or both. Existing law requires a person or entity to be deemed to have taken, secreted,

appropriated, obtained, or retained property for a wrongful use if, among other things, the person or entity takes the property and the person or entity knew or should have known that the conduct is likely to be harmful to the elder or dependent adult. Existing law requires the court to award specified costs if a defendant is found liable for financial abuse, as specified.

Existing law makes the failure to report, or impeding or inhibiting a report of, among other things, financial abuse of an elder or dependent adult, in violation of certain reporting requirements a misdemeanor.

This bill, commencing January 1, 2026, would require a covered person or entity, as defined, to establish an emergency financial contact program for covered accountholders, as specified. The bill would require a covered person or entity to notify a joint accountholder or an emergency financial contact, if one has been provided, if the covered person or entity should reasonably suspect a covered transaction requested by the covered accountholder is the result of financial abuse. The bill would also require a covered person or entity to delay, by at least 3 business days, a covered transaction initiated by a covered accountholder if the covered person or entity should reasonably suspect the transaction is the result of financial abuse and would make a covered person or entity immune from administrative, civil, or other liability that might arise from a delayed or refused transaction. The bill would authorize a covered person or entity to implement an emergency financial contact program for an accountholder who is not an elder or dependent adult, as specified.

Existing law provides for the award of attorney's fees and costs, and damages, to a plaintiff when it is proven by a preponderance of the evidence that the defendant is liable for financial abuse of an elder or dependent adult.

This bill would, if proven by a preponderance of the evidence, subject a covered person or entity to liability for actual and noneconomic damages, for certain specified violations. The bill would prohibit a nonmanagerial employee of a covered entity or a covered person who is an employee of a covered entity who meets certain specifications from being held personally liable in their individual capacity for specified violations. The bill would make these provisions severable, except as specified.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

## THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

**SECTION 1.** Article 12 (commencing with Section 15665) is added to Chapter 11 of Part 3 of Division 9 of the Welfare and Institutions Code, to read:

### **Article 12. Emergency Financial Contact Program**

**15665.** As used in this article, the following definitions apply:

(a) "Covered accountholder" means an accountholder who is an elder or dependent adult if the covered person or entity has actual knowledge that the accountholder is a dependent adult.

(b) "Covered person or entity" means a person who is a mandated reporter of suspected financial abuse of an elder or dependent adult under Section 15630.1 or their employer.

(c) "Covered transaction" means a transaction initiated by a covered accountholder of a covered person or entity described in subdivision (b) that meets all of the following criteria:

(1) The transaction, including the withdrawal of cash, is five thousand dollars (\$5,000) or more.

(2) The elder or dependent adult interacts with one or more employees of the covered person or entity in the process of requesting, initiating, or completing the transaction.

(3) The transaction is requested, initiated, or completed in California.

(d) "Elder or dependent adult" has the same meaning as defined in Sections 15610.23 and 15610.27.

(e) "Emergency financial contact" means an individual who is at least 18 years of age and who, once authorized by an accountholder, may be contacted by a covered person or entity for the purpose of disclosing information about the account or the accountholder regarding the suspected financial abuse.

(f) "Financial abuse" has the same meaning as described in Section 15610.30.

**15666.** (a) (1) A covered person or entity shall establish an emergency financial contact program for covered accountholders.

(2) This program shall include outreach, using the accountholder's designated method of contact, to all existing covered accountholders, and during account origination for new covered accountholders, requesting that they designate an emergency

financial contact who a covered person or entity can alert if the covered person or entity suspects that a covered transaction is the result of financial abuse.

(b) If an emergency financial contact is not provided by a covered accountholder, a covered person or entity shall attempt to contact the covered accountholder annually to request that they designate an emergency financial contact.

(c) A covered person or entity shall maintain records of emergency financial contact information provided by the covered accountholder and shall attempt to confirm with the covered accountholder the accuracy of those records annually.

**15667.** (a) A covered person or entity shall notify a joint accountholder or an emergency financial contact, if one has been provided by a covered accountholder, if the covered person or entity should reasonably suspect a covered transaction requested by the covered accountholder is the result of financial abuse unless the covered person or entity reasonably believes that the joint accountholder or emergency financial contact is participating in the financial abuse.

(b) A covered person or entity may notify, or attempt to notify, the joint accountholder or emergency financial contact before or any time during the three-day hold required under Section 15668.

(c) A covered person or entity that, in good faith and exercising reasonable care, contacts, attempts to contact, or makes a disclosure to a joint accountholder or an emergency financial contact shall be immune from administrative, civil, or other liability that might otherwise arise from that contact, attempted contact, or disclosure.

**15668.** (a) A covered person or entity shall delay, by three business days, a covered transaction initiated by a covered accountholder if the covered person or entity should reasonably suspect the transaction is the result of financial abuse.

(b) This section does not prevent a covered person or entity from delaying a transaction beyond three business days or from refusing a transaction if the covered person or entity reasonably suspects the requested transaction is the result of financial abuse.

(c) A covered person or entity that delays or refuses a transaction based on suspected financial abuse shall be immune from administrative, civil, or other liability, including, but not limited to, liability under Division 11 (commencing with Section 11101) of the Commercial Code, that might arise from that delay or refusal.

**15669.** A covered person or entity may implement an emergency financial contact program for an accountholder who is not an elder or dependent adult and may notify the emergency financial contact, if one has been provided, if the covered person or entity reasonably suspects a transaction requested by the accountholder is the result of financial exploitation unless the covered person or entity reasonably believes that the emergency financial contact is participating in the financial exploitation.

**15669.1.** (a) If it is proven by a preponderance of the evidence that the covered person or entity has violated Section 15667 or 15668 on multiple occasions per covered accountholder and, as a result, the covered accountholder suffered financial abuse, the covered person or entity shall be subject to liability for actual and noneconomic damages.

(b) If it is proven by a preponderance of the evidence that the covered accountholder suffered financial abuse as a result of the covered person or entity's reckless disregard for the obligations imposed by Section 15667 or 15668, the covered person or entity shall be subject to liability for actual and noneconomic damages. Inadvertence, incompetence, unskillfulness, or a failure to take precautions shall not be considered reckless disregard for the purposes of this subdivision.

(c) A prevailing plaintiff in an action brought pursuant to this section shall be entitled to reasonable attorney's fees and costs.

(d) A nonmanagerial employee of a covered entity may not be held personally liable in their individual capacity for violations of Section 15667 or 15668. However, this section does not affect the liability of the covered entity for its own acts or under the theory of respondeat superior.

(e) Notwithstanding anything to the contrary in this article, a covered person who is an employee of a covered entity whose principal place of business is in California or whose activities are localized in California or whose main office, as designated in its articles of association, is located in California shall not be held personally liable in their individual capacity for violations of Section 15667 or 15668. However, this section does not affect the liability of the covered entity for its own acts or under the theory of respondeat superior.

(f) The remedies specified in this section are in addition to any other remedy provided by law, and nothing in this section shall be construed to limit, expand, or otherwise modify any civil liability or remedy that may exist under any other law.

(g) The provisions of this section are severable. If a provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application. However, if a

provision of this section or its application is held invalid as to any covered entity, it shall be invalid as to all covered entities.

**15669.5.** The Legislature finds and declares that this article does not prevent or significantly interfere with a financial institution's exercise of its powers under federal law.

**15669.9.** This article shall become operative on January 1, 2026.