

FINANCIAL EXPLOITATION PREVENTION ACT (EXCERPT)
Act 344 of 2020

487.2085 Training for signs of covered financial exploitation of members or customers; requirements; reporting; notification; disclosure and identification of reporting individual.

Sec. 5.

(1) A financial institution shall develop and implement a policy for training relevant employees to recognize signs of covered financial exploitation of members or customers of the financial institution, and for reporting that activity to a law enforcement agency or adult protective services. A policy described in this subsection must, at a minimum, include training on and procedures for reporting covered financial exploitation of vulnerable adults, but may include any other categories of potentially affected members or customers or apply generally to all members or customers of the financial institution and must provide for all of the following:

(a) Employee training, including, but not limited to, instruction on all of the following:

(i) Common types of covered financial exploitation.

(ii) Signs of potential covered financial exploitation.

(iii) Relevant federal advisory opinions or guidance on elder financial exploitation.

(iv) Internal procedures developed under subdivisions (b) to (d).

(v) Reporting procedures under subdivision (f).

(b) Procedures to follow when covered financial exploitation of a member or customer is suspected or detected based on available facts.

(c) Procedures to follow when, after examination or investigation of available facts, covered financial exploitation of a member or customer is no longer suspected.

(d) Procedures to follow for delaying or placing a freeze on transactions or assets relative to a member's or customer's accounts, individually or jointly held, if covered financial exploitation is suspected or detected.

(e) Designation of 1 or more employees to make a report described in subdivision (f).

(f) Except as provided in subsection (2) or as prohibited under federal law, reporting of suspected or detected covered financial exploitation of a member or customer to which the policy created under this act applies to a law enforcement agency or adult protective services. If a financial institution elects to report to adult protective services instead of law enforcement, a report made to adult protective services must be made according to procedures established by adult protective services under applicable law. In determining whether and to what entity to make a report, the policy must, at a minimum, require:

(i) Consideration of relevant federal advisory opinions or guidance on elder financial exploitation and applicable employee training.

(ii) Consideration of the safety of employees, the customer or member that the financial institution believes is the target of covered financial exploitation, or other customers or members.

(iii) Consideration of the need and ability to preserve funds or assets of the customer or member that the financial institution believes is the target of covered financial exploitation.

(iv) Consideration of whether the financial institution can discern, from available facts and knowledge of the member or customer that is the potential victim of covered financial exploitation, that that member or customer is an adult in need of protective services, as that term is defined in section 11(b) of the social welfare act, 1939 PA 280, MCL 400.11.

(g) A citation to this act, indicating the policy was drafted to comply with this act.

(2) A financial institution is not required to make a report of suspected or detected covered financial exploitation under any policy adopted under subsection (1) if, after investigation or examination of available facts, the financial institution makes a determination that covered financial exploitation has not occurred or is not occurring and no action is necessary.

(3) A report of suspected or detected covered financial exploitation made by a financial institution, or by any other person under section 11(3), must include the name of the individual believed to be the victim, a description of the suspected or detected covered financial exploitation, and a designated contact for notices required under subsection (4) if the reporter is a financial institution. If a report under this subsection is made by telephone, the law enforcement agency or adult protective services that receives the report must make a written record of the information provided in the telephonic report.

(4) Within 10 business days after it receives a report of suspected or detected covered financial exploitation from a financial institution under this section, the law enforcement agency or adult protective services that received the report must provide written notification to the designated contact of the financial institution that clearly indicates whether a reported incident is under investigation or has been referred to a law enforcement agency for investigation. As soon as practicable after the investigation, the law enforcement agency or adult protective services shall notify the financial institution of the disposition of the reported incident.

(5) Within 10 business days after it receives a report of suspected or detected covered financial exploitation from a financial institution under this section, a law enforcement agency or adult protective services must notify the office of the county prosecutor. Notification must be made in a manner prescribed by the attorney general and must include, at a minimum, a copy of each report submitted to or committed to written form by the law enforcement agency or adult protective services and the response to, or actions taken based on, the report by the law enforcement agency or adult protective services.

(6) If a financial institution that attempts to make a report of suspected or detected covered financial exploitation under this section is unable to communicate with a law enforcement agency or adult protective services to make the report, or if the law enforcement agency or adult protective services that receives a report under this act fails to provide notification to the financial institution under subsection (4), the financial institution may notify the office of the county prosecutor. Notification under this subsection must be made in a manner prescribed by the attorney general.

(7) A law enforcement agency, adult protective services, or county prosecutor must not disclose the identity of an individual or financial institution that makes a report of suspected or detected covered financial exploitation without the consent of the individual or financial institution. However, this subsection does not prohibit a disclosure that is made by adult protective services to a law enforcement agency or by a law enforcement agency or adult protective services to the county prosecutor as required under subsection (5), or a disclosure required in a civil or criminal proceeding. A law enforcement agency, adult protective services, or county prosecutor shall not disclose the identity, or personal or account information, of an individual that is the subject of a report of suspected or detected covered financial exploitation as a victim without that individual's consent, except as required under subsection (5) or as required in a civil or criminal proceeding.

(8) The identity of an individual or financial institution that makes a report of suspected or detected covered financial exploitation under this section is exempt from disclosure under section 13(1)(b)(iv) or (d) of the freedom of information act, 1976 PA 442, MCL 15.243. The identity of an individual that is the suspected or confirmed victim of covered financial exploitation or his or her personal or account information is exempt from disclosure under section 13(1)(a), (b)(iii), or (d) of the freedom of information act, 1976 PA 442, MCL 15.243. This subsection does not limit the applicability of any other exceptions to disclosure under section 13 of the freedom of information act, 1976 PA 442, MCL 15.243, to all or any part of a report made under this act.

History: 2020, Act 344, Eff. Sept. 26, 2021