Senate Fiscal Agency
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BILL ANALYSIS

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House Bill 4197 (Substitute H-1 as reported without amendment)
Sponsor: Representative Angela Witwer
House Committee: Insurance and Financial Services
Senate Committee: Finance, Insurance, and Consumer Protection

CONTENT

The bill would add Article 5A (Financial Exploitation) to the Uniform Securities Act to do the following:

-- Allow a broker-dealer or investment adviser to delay a disbursement of funds or a transaction if the broker-dealer or investment adviser suspected or detected financial exploitation of a client or customer.
-- Require, if a broker-dealer or investment adviser suspected or detected covered financial exploitation of a vulnerable adult, the broker-dealer or investment adviser to report that activity to a law enforcement agency or adult protective services.
-- Establish notification and reporting requirements for the bill's provisions.
-- Require, within 15 business days after it received a report of suspected or detected covered financial exploitation from a broker-dealer or investment adviser, a law enforcement agency or adult protective services to notify the office of a county prosecutor.
-- Allow a broker-dealer or investment advisor who was not able to contact a law enforcement agency or adult protective services or who did not receive a notification of receipt as required to notify the office of a county prosecutor.
-- Require a broker-dealer or investment adviser to retain specified records related to compliance with Article 5A's provisions and require that those records be readily available to the Department of Licensing and Regulatory Affairs.
-- Require a broker-dealer or investment adviser to provide access to or copies of relevant records to adult protective services and to law enforcement agencies, if applicable.
-- Exempt certain information, such as the identity of an individual who was the suspected or confirmed victim of covered financial exploitation, from disclosure under the Freedom of Information Act.
-- Provide that a broker-dealer or investment adviser that exercised good faith in an action, determination, omission, or practice would be immune from any administrative or civil liability that might otherwise arise while taking action under Article 5A.

The bill would take effect 90 days after its enactment.

MCL 451.531 et al.

BRIEF RATIONALE

According to testimony before the Senate Committee on Finance, Insurance, and Consumer Protection, vulnerable adults, specifically seniors, are disproportionately affected by financial fraud or exploitation. It has been suggested that legislation be enacted to create a structure for institutional protection of these individuals' funds.

Legislative Analyst: Eleni Lionas

FISCAL IMPACT

A violation of the Act could result in legal action on the part of the Attorney General or the appropriate prosecutor's office. While this could result in additional expenditures, it is likely that such costs would be adequately covered by existing appropriations. The bill would have a minimal fiscal impact on State and local law enforcement agencies. Certain communication tasks required under the bill would be assumed by an agency's existing resources.

The bill would have an indeterminate, but likely minor, negative fiscal impact on the Department of Health and Human Services (DHHS). The impact on the DHHS would depend on if the bill resulted in an increase in the number of reports of adult abuse, neglect, and/or exploitation to the Adult Protective Services unit within the DHHS, and if those reports resulted in an increase in investigative caseloads for the unit. Any increase in caseload would be covered by existing departmental appropriations.

Date Completed: 11-8-23

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