

**Department of Legislative Services**  
Maryland General Assembly  
2022 Session

**FISCAL AND POLICY NOTE**  
**Third Reader - Revised**

Senate Bill 175

(Chair, Finance Committee)(By Request - Departmental -  
Human Services)

Finance

Economic Matters

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**Fiduciary Institutions - Investigation of Financial Abuse and Financial  
Exploitation - Records Disclosure**

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This departmental bill requires a fiduciary institution to disclose certain financial records to an adult protective services (APS) program that is investigating suspected financial abuse or financial exploitation. In addition, the bill authorizes an APS agency or a law enforcement agency to share specified information with a fiduciary institution that made a report of suspected financial abuse or financial exploitation.

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**Fiscal Summary**

**State Effect:** The bill does not materially affect State finances but likely results in operational efficiencies.

**Local Effect:** The bill does not materially affect local government finances or operations.

**Small Business Effect:** The Department of Human Services (DHS) has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

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**Analysis**

**Bill Summary:**

*Investigations by Adult Protective Services*

The bill clarifies that, as appropriate, a fiduciary institution may assist in the investigation on request by the local department of social services. The bill also clarifies that a fiduciary

institution that makes (or participates in making) a report or otherwise participates in an investigation or a judicial proceeding resulting from a report is immune from any civil liability that would otherwise result.

### *Disclosure of Financial Records*

The bill establishes an exception to the general requirement that a fiduciary institution (including its officers, employees, agents, and directors) may not disclose financial records relating to a customer. Under the bill, if the institution receives a written request directly from an APS program in a local department of social services that is investigating suspected financial abuse or financial exploitation of the customer, the institution *must* disclose certain information (from a specified period of time) to the APS program.

### *Allowable Disclosures by or to a Fiduciary Institution*

The bill clarifies that a fiduciary institution must provide information requested by certain entities (e.g., APS programs, law enforcement, *etc.*) in connection with an investigation of suspected financial *exploitation* (in addition to suspected financial abuse). The bill also authorizes an APS agency or a law enforcement agency to disclose the status or final disposition of an investigation upon request by the fiduciary institution that made the report.

**Current Law/Background:** Numerous statutory provisions address the financial exploitation/abuse of elders and vulnerable adults and set forth requirements regarding investigations by APS. DHS advises that there is a lack of synchronization among the various statutes. According to DHS, federal policy has made it clear that its privacy statutes and regulations do not preclude fiduciary institutions from sharing information with APS during an APS investigation. However, because of ongoing privacy concerns regarding State law, DHS notes that fiduciary institutions are often hesitant to provide information to APS when APS is conducting a financial abuse or exploitation investigation at the request of someone *other than* the fiduciary institution. This impedes investigations where the fiduciary institution is not the individual reporting the possible exploitation or abuse. Conversely, APS is hindered under current law from sharing information with fiduciary institutions that are anxious to know about the status of their customers whom they suspect are victims of financial abuse or exploitation.

DHS states the bill is intended to better synchronize the various provisions of State law and to allow better communication between APS and fiduciary institutions.

## Additional Information

**Prior Introductions:** None.

**Designated Cross File:** None.

**Information Source(s):** Maryland Department of Aging; Office of the Attorney General (Consumer Protection Division); Department of Human Services; Maryland Department of Labor; Department of Legislative Services

**Fiscal Note History:** First Reader - January 18, 2022  
fnu2/jkb Third Reader - March 22, 2022  
Revised - Amendment(s) - March 22, 2022

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## **ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES**

**TITLE OF BILL:** Fiduciary Institutions – Investigation of Financial Abuse and Financial Exploitation – Records Disclosure

**BILL NUMBER:** SB 175

**PREPARED BY:** DHS

### **PART A. ECONOMIC IMPACT RATING**

This agency estimates that the proposed bill:

**WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS**

**OR**

**WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES**

### **PART B. ECONOMIC IMPACT ANALYSIS**