

Signs of an Active 2017 for Laws Protecting Vulnerable Adults from Financial Exploitation

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The North American Securities Administrators Association (NASAA)'s Model Legislation or Regulation to Protect Vulnerable Adults from Financial Exploitation (Model Act) gained traction in 2016 and appears poised for even more progress in 2017. The Model Act, adopted by NASAA in January 2016, aims to protect citizens over the age of 65 from being victimized by financial fraud by empowering financial services professionals to report on and prevent potential financial exploitation. The hallmarks of the Model Act are: (i) mandatory reporting requirements for potential fraud applicable to certain financial professionals; (ii) notification to pre-approved third parties of potential financial exploitation; (iii) authority to temporarily delay disbursements of funds; (iv) immunity from civil and administrative liability for reporting, notification, and delays; and (v) mandatory record sharing of information related to exploitation with relevant state authorities. The Model Act was the basis of legislation or regulations adopted in four states in 2016. Alabama and Indiana adopted laws, and Vermont promulgated a regulation, which implement the Model Act's mandatory reporting requirements, immunity, and delayed disbursement provisions. Louisiana, on the other hand, passed a law that only provides for voluntary reporting, but maintains the Model Act's immunity and disbursement provisions. Several other states had previously adopted laws and regulations on the subject prior to the Model Act's promulgation last year. Some, like California, adopted the mandatory reporting requirements, while others, like Washington, enacted more robust statutory schemes nearly identical to the Model Act's full set of requirements. All signs point to an even more active year for NASAA's Model Act or its variations. At the federal level, Sen. Susan Collins (R-ME) has re-introduced the SeniorSafe Act of 2017, which passed the House in 2016 but stalled in the Senate. At the state level, dozens of legislators from across the country have introduced bills adopting wholesale or incorporating elements of the Model Act. Maryland, Mississippi, New Mexico, North Dakota, and Oregon, for instance, are all considering bills imposing mandatory reporting requirements in line with the Model Act. At least two other states, New York and Tennessee, are considering bills that would provide for voluntary reporting of suspected financial exploitation. These bills, which regularly attract broad bipartisan support, are often co-sponsored by Democrats and

Republicans, and pass state legislatures unanimously or with little opposition. While not every pending bill will become law, given the amount of legislation, this year should bring even more enactments than the four seen in 2016.

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