AN ACT
relating to the financial exploitation of certain vulnerable adults.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
SECTION 1. Subtitle Z, Title 3, Finance Code, is amended by adding Chapter 280 to read as follows:

CHAPTER 280. PROTECTION OF VULNERABLE ADULTS FROM FINANCIAL EXPLOITATION

Sec. 280.001. DEFINITIONS. In this chapter:
1. "Department" means the Department of Family and Protective Services.
2. "Exploitation" means the act of forcing, compelling, or exerting undue influence over a person causing the person to act in a way that is inconsistent with the person's relevant past behavior or causing the person to perform services for the benefit of another person.
3. "Financial exploitation" means:
   (A) the wrongful or unauthorized taking, withholding, appropriation, or use of the money, assets, or other property or the identifying information of a person; or
   (B) an act or omission by a person, including through the use of a power of attorney on behalf of, or as the conservator or guardian of, another person, to:
      (i) obtain control, through deception,
intimidation, fraud, or undue influence, over the other person's money, assets, or other property to deprive the other person of the ownership, use, benefit, or possession of the property; or

(ii) convert the money, assets, or other property of the other person to deprive the other person of the ownership, use, benefit, or possession of the property.

(4) "Financial institution" has the meaning assigned by Section 277.001.

(5) "Vulnerable adult" means:

(A) an elderly person as that term is defined by Section 48.002, Human Resources Code;

(B) a person with a disability as that term is defined by Section 48.002, Human Resources Code; or

(C) an individual receiving services as that term is defined by rule by the executive commissioner of the Health and Human Services Commission as authorized by Section 48.251(b), Human Resources Code.

Sec. 280.002. REPORTING SUSPECTED FINANCIAL EXPLOITATION OF VULNERABLE ADULTS. (a) If an employee of a financial institution has cause to believe that financial exploitation of a vulnerable adult who is an account holder with the financial institution has occurred, is occurring, or has been attempted, the employee shall notify the financial institution of the suspected financial exploitation.

(b) If a financial institution is notified of suspected financial exploitation under Subsection (a) or otherwise has cause to believe that financial exploitation of a vulnerable adult who is
an account holder with the financial institution has occurred, is occurring, or has been attempted, the financial institution shall assess the suspected financial exploitation and submit a report to the department in the same manner as and containing the same information required to be included in a report under Section 48.051, Human Resources Code. The financial institution shall submit the report required by this subsection not later than the earlier of:

(1) the date the financial institution completes the financial institution's assessment of the suspected financial exploitation; or

(2) the fifth business day after the date the financial institution is notified of the suspected financial exploitation under Subsection (a) or otherwise has cause to believe that the suspected financial exploitation has occurred, is occurring, or has been attempted.

(c) A financial institution that submits a report to the department of suspected financial exploitation of a vulnerable adult under Subsection (b) is not required to make an additional report of suspected abuse, neglect, or exploitation under Section 48.051, Human Resources Code, for the same conduct constituting the reported suspected financial exploitation.

(d) Each financial institution shall adopt internal policies, programs, plans, or procedures for:

(1) the employees of the financial institution to make the notification required under Subsection (a); and

(2) the financial institution to conduct the
assessment and submit the report required under Subsection (b).

(e) The policies, programs, plans, or procedures adopted under Subsection (d) may authorize the financial institution to report the suspected financial exploitation to other appropriate agencies and entities in addition to the department, including the attorney general, the Federal Trade Commission, and the appropriate law enforcement agency.

Sec. 280.003. NOTIFYING THIRD PARTIES OF SUSPECTED FINANCIAL EXPLOITATION OF VULNERABLE ADULTS. If a financial institution submits a report of suspected financial exploitation of a vulnerable adult to the department under Section 280.002(b), the financial institution may at the time the financial institution submits the report also notify a third party reasonably associated with the vulnerable adult of the suspected financial exploitation, unless the financial institution suspects the third party of financial exploitation of the vulnerable adult.

Sec. 280.004. TEMPORARY HOLD ON TRANSACTIONS IN CERTAIN CASES OF SUSPECTED FINANCIAL EXPLOITATION OF VULNERABLE ADULTS. (a) Notwithstanding any other law, if a financial institution submits a report of suspected financial exploitation of a vulnerable adult to the department under Section 280.002(b), the financial institution:

(1) may place a hold on any transaction that:

   (A) involves an account of the vulnerable adult; and

   (B) the financial institution has cause to believe is related to the suspected financial exploitation; and
(2) must place a hold on any transaction involving an account of the vulnerable adult if the hold is requested by the department or a law enforcement agency.

(b) Subject to Subsection (c), a hold placed on any transaction under Subsection (a) expires on the 10th business day after the date the financial institution submits the report under Section 280.002(b).

(c) The financial institution may extend a hold placed on any transaction under Subsection (a) for a period not to exceed 30 business days after the expiration of the period prescribed by Subsection (b) if requested by a state or federal agency or a law enforcement agency investigating the suspected financial exploitation. The financial institution may also petition a court to extend a hold placed on any transaction under Subsection (a) beyond the period prescribed by Subsection (b). A court may enter an order extending or shortening a hold or providing other relief.

(d) Each financial institution shall adopt internal policies, programs, plans, or procedures for placing a hold on a transaction involving an account of a vulnerable adult under this section.

Sec. 280.005. IMMUNITY. (a) An employee of a financial institution who makes a notification under Section 280.002(a), a financial institution that submits a report under Section 280.002(b) or makes a notification to a third party under Section 280.003, or an employee who or financial institution that testifies or otherwise participates in a judicial proceeding arising from a notification or report is immune from any civil or criminal
liability arising from the notification, report, testimony, or participation in the judicial proceeding, unless the employee or financial institution acted in bad faith or with a malicious purpose.

(b) A financial institution that in good faith and with the exercise of reasonable care places or does not place a hold on any transaction under Section 280.004(a)(1) is immune from any civil or criminal liability or disciplinary action resulting from that action or failure to act.

Sec. 280.006. RECORDS. To the extent permitted by state or federal law, a financial institution shall provide, on request, access to or copies of records relevant to the suspected financial exploitation of a vulnerable adult to the department, a law enforcement agency, or a prosecuting attorney's office, either as part of a report to the department, law enforcement agency, or prosecuting attorney's office or at the request of the department, law enforcement agency, or prosecuting attorney's office in accordance with an investigation.

SECTION 2. The Securities Act (Article 581-1 et seq., Vernon's Texas Civil Statutes) is amended by adding Section 45 to read as follows:

Sec. 45. PROTECTION OF VULNERABLE ADULTS FROM FINANCIAL EXPLOITATION. A. In this section:

(1) "Department" means the Department of Family and Protective Services.

(2) "Exploitation," "financial exploitation," and "vulnerable adult" have the meanings assigned by Section 280.001,
Finance Code.

(3) "Securities professional" means an agent, an investment adviser representative, or a person who serves in a supervisory or compliance capacity for a dealer or investment adviser.

B. If a securities professional or a person serving in a legal capacity for a dealer or investment adviser has cause to believe that financial exploitation of a vulnerable adult who is an account holder with the dealer or investment adviser has occurred, is occurring, or has been attempted, the securities professional or person serving in a legal capacity for the dealer or investment adviser shall notify the dealer or investment adviser of the suspected financial exploitation.

C. If a dealer or investment adviser is notified of suspected financial exploitation under Subsection B of this section or otherwise has cause to believe that financial exploitation of a vulnerable adult who is an account holder with the dealer or investment adviser has occurred, is occurring, or has been attempted, the dealer or investment adviser shall assess the suspected financial exploitation and submit a report to the Securities Commissioner, in accordance with rules adopted under Subsection N of this section, and the department in the same manner as and containing the same information required to be included in a report under Section 48.051, Human Resources Code. The dealer or investment adviser shall submit the reports required by this subsection not later than the earlier of:

(1) the date the dealer or investment adviser
completes the dealer's or investment adviser's assessment of the suspected financial exploitation; or

(2) the fifth business day after the date the dealer or investment adviser is notified of the suspected financial exploitation under Subsection B of this section or otherwise has cause to believe that the suspected financial exploitation has occurred, is occurring, or has been attempted.

D. A dealer or investment adviser who submits a report to the department of suspected financial exploitation of a vulnerable adult under Subsection C of this section is not required to make an additional report of suspected abuse, neglect, or exploitation under Section 48.051, Human Resources Code, for the same conduct constituting the reported suspected financial exploitation.

E. Each dealer and investment adviser shall adopt internal policies, programs, plans, or procedures for the securities professionals or persons serving in a legal capacity for the dealer or investment adviser to make the notification required under Subsection B of this section and for the dealer or investment adviser to conduct the assessment and submit the reports required under Subsection C of this section. The policies, programs, plans, or procedures adopted under this subsection may authorize the dealer or investment adviser to report the suspected financial exploitation to other appropriate agencies and entities in addition to the Securities Commissioner and the department, including the attorney general, the Federal Trade Commission, and the appropriate law enforcement agency.

F. If a dealer or investment adviser submits reports of
suspected financial exploitation of a vulnerable adult to the Securities Commissioner and the department under Subsection C of this section, the dealer or investment adviser may at the time the dealer or investment adviser submits the reports also notify a third party reasonably associated with the vulnerable adult of the suspected financial exploitation, unless the dealer or investment adviser suspects the third party of financial exploitation of the vulnerable adult.

G. Notwithstanding any other law, if a dealer or investment adviser submits reports of suspected financial exploitation of a vulnerable adult to the Securities Commissioner and the department under Subsection C of this section, the dealer or investment adviser:

(1) may place a hold on any transaction that:

(A) involves an account of the vulnerable adult; and

(B) the dealer or investment adviser has cause to believe is related to the suspected financial exploitation; and

(2) must place a hold on any transaction involving an account of the vulnerable adult if the hold is requested by the Securities Commissioner, the department, or a law enforcement agency.

H. Subject to Subsection I of this section, a hold placed on any transaction under Subsection C of this section expires on the 10th business day after the date the dealer or investment adviser submits the reports under Subsection C of this section.

I. A dealer or investment adviser may extend a hold placed
on any transaction under Subsection G of this section for a period
not to exceed 30 business days after the expiration of the period
prescribed by Subsection H of this section if requested by a state
or federal agency or a law enforcement agency investigating the
suspected financial exploitation. The dealer or investment adviser
may also petition a court to extend a hold placed on any transaction
under Subsection G of this section beyond the period prescribed by
Subsection H of this section. A court may enter an order extending
or shortening a hold or providing other relief.

J. Each dealer and investment adviser shall adopt internal
policies, programs, plans, or procedures for placing a hold on a
transaction involving an account of a vulnerable adult under
Subsection G of this section.

K. A securities professional or person serving in a legal
capacity for a dealer or investment adviser who makes a
notification under Subsection B of this section, a dealer or
investment adviser that submits a report under Subsection C of this
section or makes a notification to a third party under Subsection F
of this section, or a securities professional or person serving in a
legal capacity who or dealer or investment adviser that testifies
or otherwise participates in a judicial proceeding arising from a
notification or report is immune from any civil or criminal
liability arising from the notification, report, testimony, or
participation in the judicial proceeding, unless the securities
professional, person serving in a legal capacity for the dealer or
investment adviser, or dealer or investment adviser acted in bad
faith or with a malicious purpose.
L. A dealer or investment adviser that in good faith and with the exercise of reasonable care places or does not place a hold on any transaction under Subsection G(1) of this section is immune from civil or criminal liability or disciplinary action resulting from the action or failure to act.

M. To the extent permitted by state or federal law, a dealer or investment adviser, on request, shall provide access to or copies of records relevant to the suspected financial exploitation of a vulnerable adult to the Securities Commissioner, the department, a law enforcement agency, or a prosecuting attorney's office, either as part of a report to the Securities Commissioner, department, law enforcement agency, or prosecuting attorney's office or at the request of the Securities Commissioner, department, law enforcement agency, or prosecuting attorney's office in accordance with an investigation.

N. The Board by rule shall prescribe the form and content of the report required to be submitted by a dealer or investment adviser to the Securities Commissioner under Subsection C of this section.

SECTION 3. This Act takes effect September 1, 2017.
H.B. No. 3921

President of the Senate

I certify that H.B. No. 3921 was passed by the House on May 4, 2017, by the following vote: Yeas 128, Nays 10, 2 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 3921 was passed by the Senate on May 22, 2017, by the following vote: Yeas 28, Nays 2.

______________________________
Secretary of the Senate

APPROVED: ______________________

Date

 ________________________________
Governor