



Romaine Robert Quinn

STATE SENATOR • 25TH SENATE DISTRICT

From: Senator Romaine Robert Quinn
To: Senate Committee on Financial Institutions and Sporting Heritage
Re: Testimony on Senate Bill 628
Relating to: financial exploitation of vulnerable adults
Date: February 14, 2024

Thank you Chairman Stafsholt and members of the Senate Committee on Financial Institutions and Sporting Heritage for holding this public hearing on Senate Bill 628. This bill may look familiar to you as it stems from Attorney General Schimel's Task Force on Elder Abuse from 2017 and a similar bill passed in the Assembly last session, but failed to get through the Senate.

Financial exploitation of vulnerable adults continues to be a problem in this state and around the country as technology continues to evolve and scammers take on new personas. The sad reality is that many times someone close to the victim commits the abuse, meaning there may not be anyone other than a financial institution who can identify concerning transactions and take steps to help. Senate Bill 628 looks to create tools that financial institutions can use to stop this financial abuse before the money is gone. As a change from last session, the bill applies to individuals age 65 and older (up from age 60).

The tools for the financial institutions include the following:

- Ability to create a list of persons the vulnerable adult authorizes to be contacted if financial exploitation is suspected
- Legal liability protection when they exercise this level of care for customers

The initial bill had some additional tools in place, but a substitute amendment removes some of these provisions. Additionally the substitute amendment will make it so that this applies to Wisconsin chartered financial institutions.

As the vulnerable adult population continues to increase, it's important to make sure that the tools are there to prevent abuse, exploitation, and fraud before it happens. This bill is one tool to help keep the vulnerable safe. Thank you again for your consideration today.



WISCONSIN LEGISLATURE

P.O. BOX 8952 • MADISON, WI 53708

**Committee on Financial Institutions and Sporting Heritage
Testimony on Senate Bill 628
February 14, 2024**

Thank you Mister Chair and to the Committee members for the opportunity to share the goal of Senate Bill 628 which is designed to reduce the level of loss experienced from financial crimes that are being waged against our elder citizens.

- *Estimated Financial Elder Abuse losses in Wisconsin each year: \$3.42 billion with >100,000 cases*
- *In all 50 states, estimated losses due to elder fraud are an estimated \$269.5 billion in 2021 on 7.8 million cases*

Who commits Financial Elder Abuse from a Medicare information site?

The sheer number of financial abuse victims is frightening, but what may be even worse is that someone close to the victim often carries out the abuse. One survey found that family, friends, or other trusted individuals.³ carries out two-thirds of financial crimes against the elderly.

This is not always the case as there are many forms of internet, phone, and mail fraud used to defraud the public. Last week the MJS ran an article where a group of conspirators defrauded elderly citizens out of \$200,000 posing as Judges, attorneys, etc. asking for bail money for a family member. My Mom had the same experience except she told the scammers to "get lost". (Attached)

Background:

No age group is immune to fraud activity but we can observe that elder customers can become increasingly vulnerable over time. We can confirm that not nearly all fraud activity is NOT discovered until after a fraud takes place and the money is gone. In the case of elders as defined in the bill, note that 70% of the income in this country is held by those 50 and over.

As a former bank President, our staff could name hundreds of cases of suspected financial elder abuse. I could share two cases that exceeded \$600,000 each in my personal experience. In far too many cases, we were *unable to act in the customer's interest due to current law.*

Today, under Wisconsin law, in order to generate intervention before a loss is experienced, a caring family member would need to produce a professional opinion or diagnosis as to the elder person's capacity to protect his or her own financial assets. Although many of the elder victims do not meet that level of definition, there are still occasions where they succumb to a fraudulent scheme. Regardless if it is once or multiple occasions, they are still victims of financial elder abuse. Technology, social media, and other influences can be difficult to navigate for many elder customers. New tools for intervention would help reduce these loss experiences.

Representative Jerry O'Connor
(608) 267-9152
Rep.O'Connor@legis.wisconsin.gov

How can this bill help stop elderly financial abuse before it takes place:

1. This bill would authorize financial institutions to create a new account owner or “profile” category that would provide for the listing of an “authorized” individual(s) or entity(s), who could be contacted in the event of a suspected fraud act. This could include someone not being an actual account owner.
2. The account owner maintains control. The elder account holder (identified as 65 and over) has no obligation to name an “authorized individual(s) or entity(s)” to their account. This is a voluntary participation. The account owner can still choose to authorize a transaction against advice from the financial institution unless circumstances reach a level where a referral to a law enforcement agency is made for a criminal investigation.
3. If the transaction is determined to be a suspicious fraud attempt, the financial institution may, based on the circumstances suspend the account action and be granted a range of 5-15 days to qualify the legitimate nature of the transaction. *Should the circumstances dictate*, the case could be referred to law enforcement or an elder abuse agency to join the investigation.
4. **AS SOON AS THE TRANSACTION IS VERIFIED FOR LEGITIMACY THE TRANSACTION WILL BE PROCESSED**
5. Financial institutions would voluntarily promote this concept as part of their current regulations to “Know Your Customer” obligations and fraud prevention activities, especially for their elder customers. This could be introduced as a value-added service for elder customers.
6. In a manner akin to the “Good Samaritan Law”, Financial Institutions will be granted legal immunity when they exercise this next level of care for their customers as set forth in this bill language.

There is universal support from DFI, banks, and credit unions and you will hear or see their testimony here today. We could also share hundreds of stories of how customers have appreciated fraud protection tools.

The goal of this bill is to stop the loss before it happens. Financial Elder Abuse is a serious issue and as baby boomers increase in number, the situation can and most likely will get worse. It is my hope that you will join me in voting in favor of this bill today.

Thank you,
Jerry O'Connor
Representative
52nd District

Representative Jerry O'Connor
(608) 267-9152
Rep.O'Connor@legis.wisconsin.gov



One League, One Focus - Your Success!

February 14, 2024

To: Honorable Members – Senate Committee on Financial Institutions and Sporting Heritage
From: Sarah Wainscott, Senior Vice President - Advocacy
Re: Support for AB 578/SB 628 on the Prevention of Financial Elder Abuse

The Wisconsin Credit Union League, the trade association for Wisconsin's Credit Unions® and their 3.8 million members, **supports AB 578/SB 628 as amended.**

By statute, a Wisconsin credit union is a not-for-profit financial cooperative established to, among other things, “provide opportunity for its members to improve their economic and social conditions”- *Wis. Stats. § 186.01(2)*. AB 578/SB 628 as amended, strengthens credit unions’ ability to do so, by providing tools to better protect members’ wealth and financial stability, and be effective partners in preventing financial abuse. Specifically, credit unions would appreciate the ability to offer members the security of a trusted contacts list, of individuals that can be contacted should the credit union suspect financial abuse or fraud.

The follow are excerpts from written testimony previously provided by Wisconsin credit unions, sharing how impactful this legislation, as amended, would be.

“We have a multiple times victim of fraud. I have discussed the situation with our member (who denies being a victim). The credit union has reported to authorities the various frauds against this person. I talked to a statewide fraud task force officer about our reports – who then called and talked to our member. The officer reported back to me that the member is a victim – and that the officer even knew who the person was who was receiving the member’s money. This same officer suggested there was not much they could do without the cooperation of our member. I talked to the Portage County Elder Abuse coordinator who then called our member. That person reported back to me that the member is a victim, but could not do more as the member declined to be assisted. I was told that Portage County would be able to do more once this person becomes destitute. I talked to an assistant district attorney about this situation who indicated there was nothing they could do.

I have known this member for years – her kids grew up with my kids. The problem started after her husband died. While it would be easy enough for me to contact one or both of the children (as our member has no one as joint owner on their account), current laws prevent me from doing so – and may create legal problems for me and my credit union. If/when all of this comes to light, I will have a hard time explaining to this member’s children why I did not let them know. They might also want to know why all of these other organizations did not/or could not do more.

In these situations, we need to be able to take action to assist our member.”

-Rex Fair, former President, Sentry Credit Union

“The creation of a list of 'trusted individuals' would enable our credit union to swiftly respond to potential abuse, ensuring that we can reach out to family members or designated representatives to assess and address suspicious transactions. This proactive approach is crucial in safeguarding our elderly members.”

-Jennifer Grinder, President/CEO, Ripco Credit Union



One League, One Focus - Your Success!

“Credit Union staff and management is often in the best seat to observe elder abuse. We often hear the stories from our members and are able to see both sides of the transaction. If we were able to delay a transaction or notify a trusted family member, we would be able to help dozens of our seniors each year.”

-Christine Moczynski, President/CEO, Prime Financial Credit Union

“A list of 'trusted individuals' that credit unions can promptly contact when abuse is suspected is indispensable. This would expedite the response and enhance the chances of intervening before significant harm occurs. For example, we have been in communication with a member's daughter that was a recently added joint owner, as well as her granddaughter as a recently added POA in regards to assisting them in fighting elder abuse that has unfortunately been occurring for a while. We've been working with them to combat it for awhile now since another member of their family is taking advantage of our member. Unfortunately, since they haven't taken our recommendation of Guardianship paperwork yet, it's been difficult to help prevent it entirely. A financial elder abuse bill might be able to prevent things like this from happening to others in the future and make situations like the one our member is currently in harder to occur in the future.”

-Grant Wheat, Vice President-Risk Management, Verve, A Credit Union

“We want to help, but sometimes we can't because of maybe privacy. Many times, members do things without their spouse knowing. It would be great if we could contact the spouse, or another trusted individual, or maybe delay the transaction, before they do something truly detrimental.

Our most recent fraud involved a member who had her computer taken over by the fraudsters. They then talked her into taking out \$9,600 cash and driving it 45 miles into the inner city to deposit it into a bitcoin ATM. If only we could have called her husband to ask him if this was a legitimate withdrawal, we could have hopefully saved them this huge loss.

Please help us help our members stay safe and keep their funds they worked so hard for.”

-Tami Winkler, President/CEO, Glacier Hills Credit Union

Wisconsin's credit unions support AB 578/SB 628 as amended because it responsibly empowers them to better protect members' when fraud is suspected and support financial wellbeing for all.

On behalf of Wisconsin's credit unions, we thank you for your consideration and ask that you support AB 578/SB 628 as amended.

If you would like additional information on credit unions or have questions regarding the bill, please contact me at swainscott@theleague.coop or (608) 640-4030.



Testimony of Wisconsin Bankers Association

**Lorenzo Cruz-VP Government Relations, WBA and Gindy Powers-BSA and
Security Officer, Capitol Bank**

**Senate Financial Institutions and Sporting Heritage Committee-SB 628/AB
578**

February 14, 2024

Good afternoon, Chairman Stafsholt and members of the Senate Financial Institutions and Sporting Heritage Committee.

My name is Lorenzo Cruz Vice-President of Government Relations for the Wisconsin Bankers Association (WBA) and joining me today is Gindy Powers BSA and Security Officer for the Bank of Sun Prairie.

WBA is the largest financial industry trade association in the state, representing over 200 banks of all sizes and over 30,000 employees. Ninety-eight percent of the banks are members of WBA.

I would like to thank Chairman Stafsholt and committee members for the opportunity to testify on Senate Bill 628/Assembly 578 related to financial exploitation of vulnerable adults. I would also like to thank the authors of the bill, Sen. Romain Quinn and Rep. Jerry O'Connor for their leadership and support with moving this important issue through the legislative process.

WBA strongly supports passage of SB 628/AB 578. You will hear first-hand from some of WBA's experienced bankers who are here to testify and share their views on the elder fraud challenges they contend with at their banks on a regular basis. As you have heard from others, elder fraud continues to be a growing problem confronting the state. According to one study, elder financial exploitation costs WI over \$3B. Over 30 states have already passed laws to protect this vulnerable adult population. Wisconsin is falling behind other states and needs to enact a law to prevent elder abuse in this session.

(over)

SB 628/AB 578 provides financial institutions with critical statutory tools to protect vulnerable adults at risk from these criminals preying upon seniors. At this time, I would like to turn over the microphone to Gindy who will summarize some of the key provisions of the bill and provide her perspectives generally on the issue of elder fraud confronting the state.

Highlights of the key provisions are:

- Allows refusal or delay of transactions when financial exploitation of a vulnerable adult is suspected.
- Vulnerable adult at risk is defined at age 65.
- Transactions may be held for 5 business days by banks and extended 15 business days by agency.
- Allows creation of a list of people the vulnerable adult designates to be contacted if the financial service provider reasonably suspects the vulnerable adult is being exploited.
- Includes reporting requirements.
- Provides liability protection for financial service providers acting in good faith.
- Allows a financial service provider to refuse to accept power of attorney if they suspect the vulnerable adult may be a victim of financial exploitation.

In closing WBA strongly urges the Legislature to support passage of SB 628/AB 578. Thank you, Chair Stafsholt and members, for taking the time to listen and consider WBA's testimony today. We would be happy to answer any questions you may have.

To: Members, Senate Committee on Financial Institutions and Sporting Heritage

From: Lorenzo Cruz – Vice President – Government Relations WBA
Tyler Foti – Director – Government Relations, WBA

Re: Elder Financial Exploitation Legislation – Summary, Supporting Information, FAQ

WI Legislation:

SB 628/AB 578; relating to: financial exploitation of vulnerable adults.

Summary of Provisions:

- Allows refusal or delay of transactions when financial exploitation of a vulnerable adult is suspected.
- Vulnerable adult at risk is defined at age 65.
- Transactions may be held for 5 business days by banks and extended 15 business days by agency.
- Allows creation of a list of people the vulnerable adult designates to be contacted if the financial service provider reasonably suspects the vulnerable adult is being exploited.
- Includes reporting requirements.
- Provides liability protection for financial service providers acting in good faith.
- Allows a financial service provider to refuse to accept power of attorney if they suspect the vulnerable adult may be a victim of financial exploitation.

Supporting information on why these bills are necessary:

A March 2016 [report](#) from the Consumer Financial Protection Bureau (CFPB) report lays out the importance of taking action to address elder financial exploitation.

- Executive summary (verbatim):
 - Elder financial exploitation has been called the crime of the 21st century and deploying effective interventions has never been more important.
 - Older people are attractive targets because they often have assets and regular income.
 - These consumers may be especially vulnerable due to isolation, cognitive decline, physical disability, health problems, or bereavement.
 - Elder financial exploitation robs victims of their resources, dignity and quality of life—and they may never recover from it.
 - Financial institutions play a vital role in preventing and responding to this type of elder abuse. Banks and credit unions are uniquely positioned to detect that an elder account holder has been targeted or victimized, and to take action.
- Demographics information
 - America's population is aging, and 75 million Americans will be age 65+ by 2030.
 - Older consumers are far more likely to use tellers for transactions, so empowering them to act goes a long way.

A February 2019 CFPB [report](#) examining Suspicious Activity Reports (SARs) on elder financial exploitation sheds additional light on the pervasiveness and extent of the problem. This is only what is reported.

- Figures:
 - Suspicious Activity Reports (SARs) filings on elder financial exploitation quadrupled between 2013 and 2017. The 63,500 SARs in 2017 likely represent only a fraction of actual incidents.
 - The financial damage related to suspected activities in 2017 totaled \$1.7 billion.
 - When a monetary loss occurred, seniors lost \$34,200 on average. In 7% of the cases, the losses exceeded \$100,000.
- Demographics information:
 - A full third of individuals who lost money were over 80 years old.
 - The average monetary loss was highest among the 70-79 age group.
- Older adults know the suspect:
 - Monetary losses are more common, and amounts lost are higher when the older adult knew the suspect
 - Additionally, losses were larger and more common when the suspects were fiduciaries, such as an agent under power of attorney
 - 7% of SARs identify a power of attorney as the perpetrator. Again, this is only what has been reported. Paired with information below on how often the victim knew the perpetrator, this percentage is probably much higher.

Additionally, a December 2019 [report](#) from the Financial Crimes Enforcement Network (FinCEN) provides more scope and context of fraud perpetrated against elders by looking at SARs.

- Monthly elder fraud SARs filed by securities companies increased by 300% from 2013 to 2019
- Suspicious activity amounts reported for elder fraud annually have more than doubled in the same time frame to over \$5 billion.



- Elder theft is most often committed by people they trust- 46% of the time it was a family member, 19% of the time it was a non-family caregiver.

Frequently Asked Questions

Q: Does a hold under these bills freeze an entire account?

A: No, only the specific transaction may be delayed. The account would remain active otherwise.

Q: Do prescriptive hold times disincentivize resolution of these cases? Shouldn't we reduce these allowable hold times?

A: Banks work expeditiously to do their due diligence – they lack incentive to hold transactions and doing so would be bad for business. The language in the bills is designed to accommodate Adult Protective Services (APS) and/or law enforcement. Holds often expire while cases are still open at APS or DA's offices. The more time they have, the more likely investigations and prosecutions can be completed. The hold may also be lifted should other criteria be met first.

Q: By allowing refusal of power of attorney, will SB 628/AB 578 allow financial services providers to do so for inappropriate reasons?

A: Financial services providers may already refuse to honor power of attorney under certain circumstances. These provisions are designed to help stop financial exploitation before a loss occurs, whereas the authority under current law is generally moot and can only be triggered by events after the fact. SB 628/AB 578 actually puts narrower guard rails on refusal of POA. Indiscriminately denying POA would also be bad for business.

Q: Who will be making the decisions to pause a transaction?

A: While tellers are on the frontlines and are adept at spotting elder financial abuse, under the normal course of business a transaction pause decision would generally be made higher up the chain of command.

Q: Are these bills 'ageist'?

A: Financial institutions work to prevent exploitation and fraud against people of all ages. The definitions in these bills are consistent with the range of language in legislation enacted in other states.

District Attorney
Susan L. Opper

Deputy District Attorneys
Lesli S. Boese
Michael D. Thurston
Abbey L. Nickolie

Office Services Coordinator
Julie A. Moelter

Victim/Witness Program
Jennifer S. Dunn, Coord.

Support Staff Supervisor
Rebecca L. Gifford



Waukesha County

Office of the District Attorney

Assistant District Attorneys
Mary C. Brejcha
Lindsey H. Hirt
Melissa J. Zilavy
Kristina J. Gordon
Jack A. Pitzo
Molly M. Schmidt
Zachary A. Wittchow
Randolph P. Sitzberger
Claudia P. Ayala Tabares
Peter M. Tempelis
Edward M. Bremberger
Andrew M. Nesheim
Chelsea C. Thompson
Alyssa M. Schaller
Alyssa M. Jay
J.J. Crawford
Ted S. Szczupakiewicz
Jack A. Rieder
Nikole M. Kane
Alexis P. Werthmann
Brooke E. Schultz

February 14, 2024

Wisconsin State Legislature
Wisconsin State Capitol
2 East Main Street
Madison, Wisconsin 53702

Re: Senate Bill 628/ Assembly Bill 578

Good afternoon everyone. My name is April DeValkenaere. I am a White Collar Crime Paralegal certified by the State Bar of Wisconsin working in the Waukesha County District Attorney's Office. I am also a Certified Financial Crimes Investigator (CFCI) through the International Association of Financial Crimes Investigators (IAFCI) and a Certified Cryptocurrency Investigator (CCI) through the Blockchain Intelligence Group.

Most people believe that a majority of elder financial exploitation is being perpetrated by unknown suspects, however studies have shown that approximately 90% of elder financial exploitation is being perpetrated by someone the victim knows and trusts.

I work with several organizations that investigate and collaborate to combat financial crimes and I have firsthand knowledge that these bills will assist in the prosecution of these financial crimes as well as provide an opportunity for the victim to stop, take a breath and think about the action they are taking. The goal is to assist potential victims from losing their hard earned money.

In addition to the IAFCI, we have four Financial Abuse Specialist Teams (FAST) in Wisconsin with the potential of five more within the next three years with the assistance of the new Wisconsin Elder Justice Coalition, and three Financial Crimes Investigation (FCI) groups with a forth in the works.

One of the primary struggles we all have, whether we are in Adult Protective Services, Law Enforcement, Financial Institutions or Prosecutorial teams is the ability to pause a transaction from the start with the first interaction of the victim.

We need Senate Bill 628 / Assembly Bill 578 here in Wisconsin. As they provide a number of benefits in the fight against criminals who engage in fraudulent schemes and manipulation, making victims of our Wisconsin residents. This includes;



1. Allowing prosecution of financial crimes based on the age of a vulnerable adult at age 65, would assist when a victim who is unable or unwilling to be a witness against the defendant because of mental capacity issues or undue influence.
2. Allowing a financial institution to place a 5 day hold on a specific transaction that needs further investigation to determine if it is related to a scam (i.e. Romance, grandparent, home remodel, etc.) or other suspicious transaction (i.e. power of attorney theft, lack of fiduciary responsibility, etc.).
3. Giving the authority for financial institutions to ask for additional assistance from Adult Protective Services, Law Enforcement, or trusted contacts of the victim.

In my role with the District Attorney's Office I work on many cases involving elder financial exploitation. I have assisted in the prosecution of cases where;

1. Documents were utilized by a trusted individual, whether that be a family member, friend or caregiver, who took advantage of their fiduciary duty.
2. Caregivers who were hired to assist older adults with personal hygiene and/or daily routine duties have gained access to financial accounts, stolen identities, stolen funds, changed wills, and added themselves as a beneficiary to the victims assets.
3. Family and/or caregivers have taken advantage of the frail nature of older adults and used it against them, in instances of undue influence.
4. Power of Attorney (POA) documents have been signed unknowingly by victims, multiple POA documents have been drafted and submitted to financial institutions over a short period of time, POA documents have been utilized by the agent(s) to intentionally spend the principals funds to make them eligible for state assistance.

For the reasons stated above and the reasons expressed in my verbal testimony, I am here to wholeheartedly support these Bills as a representative of the Wisconsin chapter of IAFCI along with the Waukesha County District Attorney's Office.

Respectfully Submitted,



April DeValkenaere, SBWCP, CFCI, CCI