

## **Testimony on House Bill 17-1253, Protection of Vulnerable Adults from Financial Exploitation Act**

My name is John Bunting. I am a Certified Public Accountant (40+ years), Certified Fraud Examiner (25+ years) and more recently, a Forensic Certified Public Accountant. For the better part of the last 4 ½ years, I have volunteered up to 20 hours a week in the Elder Abuse Unit, First Judicial District, District Attorney's Office, serving Jefferson and Gilpin counties. My statement represents my views, although the District Attorney, Pete Weir joins with the Colorado District Attorney Association in supporting House Bill 17-1253.

### **History of Mandatory Reporting of Financial Exploitation**

Senate Bill 13-111 required mandatory reporting of elder abuse and financial exploitation by 22 occupations in health care, social services, and banks. With training on monitoring customers' accounts and red flags for financial exploitation, no Colorado banker has been charged with failure to report elder financial exploitation in the last 2 years and 9 months. Under Senator Grantham's leadership and sponsorship, Senate Bill 15-109 extended these mandatory reporter requirements for 22 occupations including bankers to at-risk adults 18 years and older with intellectual and developmental disabilities.

### **Model Act to Protect Vulnerable Adults**

House Bill 17-1253 is based on the Model Act to Protect Vulnerable Adults adopted by the North American Securities Administrators Association (NASAA), on January 22, 2016. Legislation based on the Model Act and has been adopted in Alabama and Indiana, by regulation by Vermont, and Louisiana has passed legislation that protects voluntary disclosures. In addition, Delaware, Missouri, and Washington State enacted provisions for mandatory reporting of financial exploitation by the securities industry, prior to adoption of the Model Act. More details on the Model Act are at [www.serveourseeniors.org](http://www.serveourseeniors.org).

### **House Bill 17-1253**

House Bill 17-1253 provides mandatory reporting for licensed securities professionals, licensed by the Colorado Securities Commission as investment advisors or broker dealers. Also, HB17-1253 provides immunity to licensed securities professionals for good faith reports from administrative or civil liability. I applaud the Securities Industry and Financial Markets Association for working with the Department of Regulatory Agencies on the provisions of House Bill 17-1253.

In my time with the District Attorney's Office, I have seen more than a dozen \$200,000 or more elder financial exploitation cases. About 25 percent of these high dollar cases involve theft from securities accounts for investment or retirement. These cases begin with a violation of trust by a conservator, power of attorney, or trustee not acting for the benefit of the elder, but for their own personal benefit. By abusing their authority, a conservator, power of attorney or trustee can:

- Set up bank accounts in the elder's name or their own name, unknown to the elder.
- Direct withdrawals from investments or retirement account(s) to bank accounts they control.
- Change the mailing address and online account access, so the elder does not know that his or her investments are being drain thru a series of unauthorized transactions.
- Name themselves as sole beneficiary of the investment or retirement accounts.

These financial exploitation cases are often not discovered until after the money in the investment or retirement account is all gone. My experience is the voluntary reporting of licensed securities professionals is not working for elders or at-risk adults.

These elder financial exploitation cases have never been a one and done event, but a series of checks and online withdrawals over several years, sometimes for up to ten years. One recent case of elder financial exploitation involved the theft from an investment retirement account, by a power of attorney. The defendant pled guilty to a felony: at-risk theft-\$500 or more and was sentenced to serve 8 years with Colorado Department of Corrections and to pay more than \$250,000.00 in restitution. Key features of this case involve multiple withdrawals, over 2 ½ years, from the elder's investment account. In this case, the elder was one of the defendant's parents.

Statewide, Mindy Kemp, Director, Colorado Adult Protective Services will provide details on 1,200 Colorado elders that have been financially exploited for more than \$75 million since passage of the mandatory reporter provisions in Senate Bill 13-111. The losses in these cases could have been dramatically reduced had House Bill 17-1253 been in effect. With licensed securities professionals' mandatory reporting of elder financial exploitation:

- Suspicious activity in an elder's or at-risk adult's investment or retirement accounts can be investigated sooner,
- Investment losses to the elder and at-risk adults can be reduced, and this
- Increases the likelihood that elder or at-risk adults keep more of his or her own investment or retirement account and increases the likelihood of the elder get restitution in his or her lifetime.

With many baby boomers' heavily reliant on investment accounts for their retirement, the number and proportion of elder financial exploitation cases involving investment accounts is very likely to increase dramatically. In Jefferson County, 1 in 4 residents is projected to be more than 60 years of age by 2030.

When financial exploitation wipes out elders' life savings, they are left penniless, heartbroken, and often confused about who to trust. Another very real consequence is that elders, who would have been able to pay for their own in home, assisted living or nursing home living and health care expenses, end up being dependent on Medicaid and other government assistance. By your vote of support for House Bill 17-1253, you not only show your support for vulnerable adults, but help slow the growth of Medicaid.

House Bill 17-1253 is a win for the securities industry, a win for those 70 and over and a win for at-risk adults. I urge your support and vote for House Bill 17-1253. This legislation was needed during the last 4 ½ years I have been volunteering with the Elder Abuse Unit of the District Attorney's Office and is long overdue. Thank you.

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