



# ELDER ABUSE TASK FORCE

## FEPA Presentation





# **ELDER ABUSE TASK FORCE**

- **Organized in March 2019.**
- **Jointly formed by Attorney General Nessel and the Michigan Supreme Court.**
- **Composed of approximately 100 members from more than 50 organizations.**
- **Meetings occur on a monthly basis.**

The background of the slide features a close-up, soft-focus photograph of two hands shaking. The hand on the left is older, with visible wrinkles and veins, while the hand on the right is younger and smoother. The handshake is centered horizontally and occupies the lower half of the frame. A solid purple rectangular box is overlaid on the upper half of the image, containing the title text in white.

# **Financial Exploitation Prevention Act**

## **MCL 487.2081 et seq**

# **FAST FACTS ABOUT FEPA**

- Effective on September 26, 2021
- Provides a way for financial institutions to report financial exploitation of their customers/members
- Allows financial institutions to freeze transactions/assets under certain circumstances

# WHY IS FEPA IMPORTANT?

A financial institution employee may be the only person who sees suspicious spending if victim is private about finances or socially isolated from friends or family.

# FINANCIAL INSTITUTION DUTIES

Develop a policy and training for:

- Recognizing covered financial exploitation of members/customers
- Reporting that activity to law enforcement/APS
- Freezing assets or transactions when exploitation is suspected



# **“FINANCIAL EXPLOITATION” DEFINED**

“Financial exploitation” means a fraudulent or otherwise illegal, unauthorized, or improper act or process of an individual

- Who uses or attempts to use the financial resources of another individual for monetary or personal benefit, profit, or gain, or,
- That results or is intended to result in depriving another individual of rightful access to or use of benefits, resources, belongings, or assets.

# **“COVERED FINANCIAL EXPLOITATION” DEFINED**

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“Covered financial exploitation” means financial exploitation of an individual through deception, manipulation, coercion, intimidation, or improper leveraging of a caregiver relationship.



# FINANCIAL INSTITUTION REPORTING DUTIES

- FI must report to law enforcement, adult protective services, or both.
- FI may report to county prosecutor if unable to communicate with law enforcement and adult protective services.

# **REPORTER IDENTITY IS CONFIDENTIAL**

The identity of the employee or FI making the report is confidential and restricted to APS/law enforcement/the county prosecutor, except as required to be disclosed in court in a civil or criminal case.

# FINANCIAL INSTITUTION FREEZE

- FI may delay transaction or freeze assets if FI suspects/detects covered financial exploitation of member/customer.
- Duration: According to account agreement/up to 10 business days if no agreement, or until APS/law enforcement investigation is complete/dismissed and FI reasonably believes no continued risk of exploitation.

# FI FREEZE EXCEPTION

Even during a transaction delay/freeze, FI may allow processing of any transaction needed to preserve health/safety/well-being of member/customer, unless related to the suspected exploitation or unless directed by court order.

# **APS/LAW ENFORCEMENT DUTIES: INITIAL NOTICE TO FI**

Duty 1: Provide written notice to designated contact at FI within 10 business days of receiving a report of covered exploitation indicating whether an incident is under investigation or has been referred to law enforcement for investigation.

# INITIAL NOTICE TO FI EXPLAINED

Why do FIs need to know within 10 days if a reported incident is under investigation or has been referred to law enforcement for investigation?

FIs may place an initial/hold freeze on transactions/assets for 10 business days (unless the account agreement says otherwise). FIs can extend that hold/freeze if informed that APS/law enforcement is investigating.

## **FI OPTION TO NOTIFY PROSECUTOR IF DUTY NOT MET**

If the agency that received the report from the FI fails to notify the FI within 10 business days whether an incident is under investigation or has been referred to law enforcement for investigation, the FI may make a report to the county prosecutor.



# **APS/LAW ENFORCEMENT DUTIES: NOTICE TO PROSECUTOR**

Duty 2: Provide written notice to county prosecutor within 10 business days of receiving a report from a financial institution of suspected or detected covered financial exploitation.

# **APS/LAW ENFORCEMENT DUTIES: FINAL NOTICE TO FI**

Duty 3: Notify the FI as soon as practicable of the disposition of the reported incident.

# FINAL NOTICE TO FI EXPLAINED

Why do FIs need to know the disposition of a reported incident?

When an FI is informed an investigation has been opened, they may extend the freeze until the FI is informed of dismissal of the reported incident, or until the FI reasonably believes there is no continued risk of covered financial exploitation, whichever is later.

## **FI OPTION TO NOTIFY PROSECUTOR IF DUTY NOT MET**

If the agency that received the report from the FI fails to notify the FI of the disposition of a reported incident, the FI may make a report to the county prosecutor.

# **MANNER OF NOTIFICATION TO PROSECUTOR'S OFFICE**

- The notice to the prosecutor by APS/law enforcement and by the FIs must be made in a manner prescribed by the attorney general.
- Administrative rule set 2021-34-AG took effect on October 28, 2021.
- Rules were drafted cooperatively by a subcommittee of the Elder Abuse Task Force which included FIs, DIFS, law enforcement prosecutors, and APS.

# ADMINISTRATIVE RULES ON FEPA

The rule set includes:

- A form for APS/law enforcement; and
- A form for FIs; and
- Instructions for FIs on how to determine which county prosecutor to contact.



**FEPa ADULT PROTECTIVE SERVICES  
OR LAW ENFORCEMENT  
NOTICE TO PROSECUTOR**

*In accordance with the Financial Exploitation Prevention Act (FEPA), MCL 400.1 et. seq*

Date:

<b>Agency &amp; Contact Name:</b>	
Phone:	Email:

Date financial institution gave notice of alleged covered financial exploitation:

### Required Information

<input type="checkbox"/>	I attached the report prepared by a member of my agency.
<input type="checkbox"/>	The report contains names and contact information of individuals that possess information about the alleged covered activity reported by the financial institution.
<input type="checkbox"/>	I attached a copy of written report(s) submitted to my agency by the financial institution, or
<input type="checkbox"/>	I work for adult protective services and the attached agency report includes information provided by the financial institution.
Describe the response and actions taken by your agency after receiving notification from the financial institution (including a summary of alleged covered financial exploitation noted if not contained in any attached report):	

### Prosecutor Contact Information

☐ I am using contact information from the PAAM directory.  
I am sending this notification by: ☐ fax ☐ email ☐ hand-delivery (do not mail).  
*Note: If sending notification by fax or email, request the prosecutor's confirmation of receipt.*





## FEPA FINANCIAL INSTITUTION NOTICE TO PROSECUTOR

*In accordance with the Financial Exploitation Prevention Act (FEPA), MCL 400.1 et. seq.*

**Date:**

<b>Financial Institution &amp; Contact Name:</b>	
Phone:	Email:

<b>Adult Protective Services, Law Enforcement, and Prosecutor Contact</b>	
I attempted to contact: <input type="checkbox"/> Adult Protective Services <input type="checkbox"/> Law Enforcement (provide name of agency):	
Date(s) contact attempted:	Method of contact:
Were you able to make contact: <input type="checkbox"/> Yes <input type="checkbox"/> No	
If contact was made, was written notification received within 10 business days of whether the matter was referred to law enforcement or an investigation was opened? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Other notification concerns:	
Previous contact with Prosecutor: <input type="checkbox"/> Yes <input type="checkbox"/> No When:	

<b>Description of Observed Activity</b>
Victim name, address, and phone (if known):
Alleged perpetrator name, address, and phone (if known):
Relationship between victim and alleged perpetrator (if known):
What was observed (alleged covered financial exploitation noted)? Attach additional sheets if necessary.

<b>Prosecutor Contact Information</b>
I am using the PAAM directory to contact the prosecutor in _____ county.
I am contacting this prosecutor's office because: <input type="checkbox"/> Victim's county of residence or <input type="checkbox"/> Victim's residence is unknown, but the alleged covered financial exploitation occurred in this county.
I am sending this notification by: <input type="checkbox"/> Fax <input type="checkbox"/> Email <input type="checkbox"/> Hand-delivery (do not mail).
<i>Note: If sending notification by fax or email, request the prosecutor's confirmation of receipt.</i>

<b>Attorney General Notice</b>
A copy of this notification may be sent to the Department of Attorney General by:
<input type="checkbox"/> Fax 517-335-3098 or <input type="checkbox"/> Email AG-CID@michigan.gov

# **RULES: STEPS FOR FI TO CONTACT PROSECUTOR**

First, FI must contact APS or law enforcement, before contacting the county prosecutor:

- Contact APS statewide by calling 24-hour intake number.
- Contact law enforcement by following rules to determine in which county to contact law enforcement.

## **RULES: DETERMINING LAW ENFORCEMENT AGENCY TO CONTACT**

- Call 911 in an emergency or if exploitation is actively taking place on-site at time of the report.
- If victim's residence is known, contact law enforcement in that county.
- If victim's residence is unknown, contact law enforcement in the county where covered exploitation was observed, or if the covered exploitation took place in another state, contact law enforcement in the county where reporting FI is located.

## **RULES: DETERMINING PROSECUTOR TO CONTACT**

- If FI successfully contacted APS, FI must contact county prosecutor where APS worker is stationed, if known.
- If FI successfully contacted law enforcement, FI must contact county prosecutor where APS worker is stationed, if known.

## **RULES: DETERMINING PROSECUTOR TO CONTACT**

If FI did not successfully contact APS/law enforcement, determine the county prosecutor's office to contact as follows:

- If victim's residence is known, contact county where victim lives.
- If victim's residence is unknown, contact county where the exploitation was observed, or county where FI is located if exploitation took place out-of-state.

# AG'S FEPA PRESENTATION

For FEPA presentation requests, email [stinedurfk@michigan.gov](mailto:stinedurfk@michigan.gov).  
Include the following information:

- Audience description and number of participants
- Format (virtual or in person)
- Date/time (be as flexible as possible)

A close-up, slightly blurred photograph of two hands shaking. The hand on the left is older, with visible wrinkles and veins. The hand on the right is younger and smoother. They are clasped together in a firm grip. The background is a soft, out-of-focus light color.

## **HOW ANYONE CAN HELP: IDENTIFY AND REPORT FINANCIAL EXPLOITATION**



# TYPICAL RACKETS THAT TARGET ELDERLY

- Announcements of a “prize” that the elderly person has won but must pay money to claim
- Phony charities
- Investment fraud

# SIGNS OF FINANCIAL EXPLOITATION



- Significant withdrawals from the elder's accounts. Sudden changes in the elder's financial condition.
- Items or cash missing from the senior's household.
- Suspicious changes in wills, power of attorney, titles, and insurance policies.
- Addition of names to the senior's signature card.
- Unpaid bills or lack of medical care, although the elder has enough money to pay for them.
- Financial activity the senior couldn't have done, such as an ATM withdrawal when the account holder is bedridden.

# SIGNS OF PARASITIC LIVING



- “Joint Bank Account”
  - Victim puts the money in, and the caregiver takes it out.
- Victim “pays” for trips to the casino, bingo, lottery tickets, etc. for the caregiver.
- Caregiver controls the victim’s checkbook.

# **DRAMATIC CHANGE IN SPENDING BEFORE AND AFTER “NEW FRIEND”**



# RED FLAGS FOR FINANCIAL INSTITUTIONS



- Is there someone with your customer that appears to be instructing them or dominating them?
- Is this person trying to put their name on the victim's account?
- Has the number of ATM withdrawals increased substantially?
- Is there a new pattern of online banking?
- Is there a new power of attorney replacing a child or spouse already on the account?

# QUESTIONS FOR VICTIM



- Do you manage your own finances?
- Is this a new task for you (recently widowed)?
- If you don't, who assists you (relative, friend, accountant, bank)?
- Power of attorney, Representative payee, Conservator, Joint account holder
- Do you have a trust (who is trustee)?
- Are you having difficulty with your finances?
- Have you had any problems with your utilities being shut off or have you received shut-off notices?
- Are you getting calls or mail stating that you owe money or that you have won a large amount of money?

# QUESTIONS FOR VICTIM

- Do you have someone who visits with you or comes to help you with tasks on a regular basis? If so:
  - Who are they and what is their relationship?
  - What do they assist you with?
- May we go over your bank statements, check book and bills together?
- Are there missing checks or checks written out of order?
- Are there checks written out to cash in large amounts?
- Are there multiple checks written to the same individual? If so, who is it—this may be legitimate.
- Have there been changes in client's payment habits?
  - Overpayments
  - Underpayments
  - Missing payments



# QUESTIONS FOR FAMILY/FRIENDS



- Have there been any recent changes in the victim's life, health or ability to complete daily tasks?
- Have they been exhibiting confusion or difficulty remembering recent events?
- Do you have concerns with the victim's financial management?
- Do you know how the victim's finances are managed?
- Have you noticed a change in their buying habits?
- Has the victim told you they are having any problems or concerns?
- Are you or do you know who is assisting the victim with their finances?
- Do you know if there is a POA, joint account holder, etc.?
- Are there any concerns with new "friends" of the victim's?

# QUESTIONS FOR FAMILY/FRIENDS



- Have they observed changes in the victim's travel, finances, people they are with?
- Increased traffic around the house?
- Has victim become more isolated?
- New people living in the house?
- New vehicles at the property?
- Change in health or physical condition of the victim?

- **Adult Protective Services**  
**855-444-3911**
- **Law Enforcement**  
**911/local agency phone number**
- **Attorney General's Health Care  
Fraud Division**  
**800-24-ABUSE**  
**800-242-2873**

**NO EXCUSE  
FOR ELDER  
ABUSE.**



**REPORT ABUSE:**  
**855-444-3911**



# ELDER ABUSE TASK FORCE

## PROSECUTION CONTACT INFORMATION

Office of Attorney General  
Financial Crimes Division  
525 W. Ottawa, 6th Floor  
Lansing, MI 48933  
517-335-7560

Assistant Attorney General, Kristen Stinedurf

