

By: Representatives Zuber, Willis

To: Banking and Financial
Services

HOUSE BILL NO. 1328

1 AN ACT TO AUTHORIZE A FINANCIAL INSTITUTION TO DELAY THE
2 COMPLETION OF A FINANCIAL TRANSACTION, IF THE INSTITUTION BELIEVES
3 IN GOOD FAITH THAT A REQUESTED TRANSACTION MAY RESULT IN, OR BE
4 THE RESULT OF, EXPLOITATION OF AN ELIGIBLE PERSON; TO PROVIDE THAT
5 A TRANSACTION DELAY WILL EXPIRE UPON EITHER A GOOD FAITH
6 DETERMINATION BY THE FINANCIAL INSTITUTION THAT THE TRANSACTION
7 WILL NOT RESULT IN EXPLOITATION, OR FIFTEEN BUSINESS DAYS, UNLESS
8 THE DEPARTMENT OF HUMAN SERVICES OR A LAW ENFORCEMENT AUTHORITY
9 REQUESTS THAT THE FINANCIAL INSTITUTION EXTEND THE DELAY; TO
10 REQUIRE THE FINANCIAL INSTITUTION TO NOTIFY THE DEPARTMENT OF
11 HUMAN SERVICES AND AUTHORIZE THE FINANCIAL INSTITUTION TO NOTIFY
12 OTHER CERTAIN INDIVIDUALS IF A TRANSACTION IS DELAYED; TO LIMIT
13 THE LIABILITY OF A FINANCIAL INSTITUTION THAT EITHER DELAYS A
14 TRANSACTION OR DOES NOT DELAY A TRANSACTION; AND FOR RELATED
15 PURPOSES.

16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

17 **SECTION 1.** (1) As used in this section, the following terms
18 shall have the following meanings, unless the context clearly
19 requires otherwise:

20 (a) "Eligible person" means a vulnerable person, or any
21 person age 65 or older.

22 (b) "Exploitation" of an eligible person has the same
23 meaning as set forth in Section 43-47-5.



24 (c) "Financial institution" means a bank, trust
25 company, mutual savings bank, savings and loan association or
26 credit union authorized to do business and accept deposits in this
27 state under state or federal law.

28 (d) "Good faith" means honesty in fact.

29 (e) "Vulnerable person" has the same meaning as set
30 forth in Section 43-47-5.

31 (2) If a financial institution believes in good faith that a
32 requested transaction of any kind may result in, or be the result
33 of, exploitation of an eligible person, the institution may delay
34 the completion or execution of the transaction for a period of
35 time not to exceed fifteen (15) business days, unless extended, as
36 otherwise provided in this section.

37 (3) Any delay of a financial transaction as authorized by
38 this section will expire upon either:

39 (a) A good faith determination by the financial
40 institution that the transaction will not result in, or is not the
41 result of, exploitation of the eligible person; or

42 (b) Fifteen (15) business days, unless the Department
43 of Human Services or a law enforcement authority requests that the
44 bank extend the delay, in which case the delay shall be extended
45 for an additional period of up to ten (10) business days unless
46 otherwise extended or terminated by court order. The Department
47 of Human Services, any law enforcement authority or any interested



48 person may petition a court of competent jurisdiction to enter an
49 order extending or terminating the delay of a transaction.

50 (4) If a transaction is delayed, the financial institution
51 shall promptly notify the Department of Human Services, and at its
52 option may notify any federal, state or local law enforcement
53 authority, any other person who is authorized to have access to or
54 transact business on any account of the eligible person with the
55 financial institution, any person reasonably associated with the
56 eligible person, or any other person permitted by state or federal
57 laws or regulations or by customer agreement. The financial
58 institution may disclose in connection with such notification
59 information about the transaction, the reason for the delay, and
60 any information that may be included in a report of abuse, neglect
61 or exploitation as provided in Section 43-47-7.

62 (5) A financial institution and its officers, directors,
63 employees, agents and representatives shall have no duty to act
64 pursuant to this section. Nothing in this section shall change
65 any contractual or other lawful right or authority a financial
66 institution may have to refuse or delay a transaction.

67 (6) A financial institution and its officers, directors,
68 employees, agents and representatives shall be immune from any
69 administrative, civil, or criminal liability that might otherwise
70 arise for taking action or not taking action pursuant to this
71 section and for making any disclosure or delaying any transaction
72 permitted by this section. The immunity provided for in this



73 subsection shall not apply to any individual that is a perpetrator
74 of exploitation of the eligible person.

75 **SECTION 2.** This act shall take effect and be in force from
76 and after July 1, 2019.

