

CONFERENCE OF STATE COURT ADMINISTRATORS

Resolution 6

In Support Of Financial Institutions Collaboratively Addressing Suspected Financial Exploitation of Elders

WHEREAS, United States Census data indicate the number of elders in the United States population is projected to reach an unprecedented proportion of the general population (to approximately 20% by 2050); and

WHEREAS, older adults, because they may possess significant assets or equity in their homes, can become easy targets of financial exploitation by family members, caregivers, scam artists, financial advisors, contractors, and fiduciaries; and

WHEREAS, numerous surveys substantiate the increase in elder abuse, neglect, and financial exploitation cases over the last decade with the expectation of further increases; and

WHEREAS, recent studies suggest that, given the increasing risk of physical and cognitive impairment of elders as they age, financial exploitation of elders has become a virtual epidemic and that only a small fraction of such incidents is reported; and

WHEREAS, a study done by MetLife Mature Market Institute in 2009 estimated the financial loss from such financial abuse of elders may amount to \$2.6 billion a year; and

WHEREAS, there is a critical need to timely detect and deter suspected elder financial abuse as it occurs or risk a devastating permanent loss of funds; and

WHEREAS, financial institutions are in a unique position and can play a key role in detecting and preventing suspected financial exploitation of elders in three major ways, by:

- promptly reporting suspected financial exploitation (often facilitated through the misuse of powers of attorney) to adult protective services and law enforcement;
- providing education and training of their employees on the front lines regarding the detection of suspected financial exploitation of elders; and
- delaying suspicious financial transactions for a limited time (for example, five days) to enable the good faith reporting and investigation of suspicious financial transactions; and

WHEREAS, according to a report by the U.S. Government Accountability Office, elder financial exploitation is under-reported by the banks, often in the mistaken belief that federal privacy laws prohibit such legally permissible reporting; and

WHEREAS, some local and multi-state financial institutions have already taken commendable steps in instituting educational training programs for their employees on the topic of financial exploitation of elders; and

WHEREAS, in recognition of the need to promote a uniform and reliable approach to the problem of financial exploitation of elders, approximately eight states and the District of Columbia, have enacted statutes that require financial institutions to report suspected financial exploitation of elders, subject to the protection of immunity for such good faith reporting; and

WHEREAS, one state (Maryland) requires financial institutions to provide training of its employees to help identify elder financial abuse and another state (Washington) authorizes financial institutions to delay transactions when there is a good faith belief that the transaction may involve fraud or abuse;

NOW, THEREFORE, BE IT RESOLVED that the Conference of State Court Administrators, does hereby:

- recognize that more effective steps are needed to promote the prompt detection and prevention of suspected financial exploitation of elders and that such action requires a collaborative effort of all relevant stakeholders, including financial institutions, agencies on aging, and government; and
- urge states and financial institutions to collaboratively promote and adopt effective practices (such as prompt reporting and delaying of suspicious financial transactions, as well as education/training of employees of financial institutions) to address the growing national problem of financial exploitation of our vulnerable elders.

Proposed by the Elders and Courts Committee at the 2015 Midyear Meeting of the Conference of State Court Administrators.