

**REPORT OF THE VIRGINIA DEPARTMENT FOR
AGING AND REHABILITATIVE SERVICES**

**Adult Financial Exploitation in
Virginia: Collaborative
Approaches to Address the
Issue**

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



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**Adult Financial Exploitation in Virginia:
Collaborative Approaches to Address the Issue**

**Report to
the Governor and the General Assembly**

**Virginia Department for Aging
and Rehabilitative Services**

**Commonwealth of Virginia
Richmond
December 6, 2016**



COMMONWEALTH OF VIRGINIA
DEPARTMENT FOR AGING AND REHABILITATIVE SERVICES

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December 1, 2016

MEMORANDUM

TO: The Honorable Terence R. McAuliffe
Governor, Commonwealth of the Virginia

Members of the Virginia General Assembly

FROM: James A. Rothrock

A handwritten signature in blue ink, appearing to read "James A. Rothrock", written over the printed name.

SUBJECT: Adult Financial Exploitation in Virginia: Collaborative Approaches to Address the Issue

I am pleased to present the enclosed report on adult financial exploitation in the Commonwealth pursuant to Chapter 355 of the 2016 Acts of Assembly.

Financial exploitation is a serious issue facing older adults and other vulnerable individuals in the Commonwealth. Adult financial exploitation leaves its victims and their family members devastated and weighs heavily on Adult Protective Services (APS) workers, law enforcement personnel, prosecutors, and judges who respond to it. We believe the recommendations included in this report, proposed by a diverse group of stakeholders, illustrate a collaborative approach to combatting the problem.

If you have any questions regarding the report, please do not hesitate to contact me.

JAR/pm
Enclosure

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EXECUTIVE SUMMARY

Adult financial exploitation is difficult to detect, investigate, and stop from happening again. Its effects are devastating to victims and their family members. Witnessing the damage it causes weighs heavily on the response system of Adult Protective Services (APS) workers, law enforcement personnel, prosecutors and judges. Combatting the problem requires collaboration from a diverse group of professionals, community partners and the public.

The safety and financial security of older adults was a focus of the 2016 Virginia Governor's Conference on Aging as well as an ongoing concern to state legislators. During the 2016 Session, the Virginia General Assembly passed House Bill (HB) 676. The legislation, sponsored by Delegate Christopher Peace, required the Department for Aging and Rehabilitative Services (DARS) to study adult financial exploitation in the Commonwealth. The DARS Commissioner, James A. Rothrock, was asked to convene a workgroup of stakeholders to:

- Determine the cost of financial exploitation of adults in the Commonwealth; and
- Develop recommendations for improving the ability of financial institutions to identify financial exploitation, the process by which financial institutions report suspected financial exploitation of adults and interactions between financial institutions and local adult protective services units investigating reports of suspected financial exploitation of adults.

The workgroup met four times between July and October 2016. Members discussed opportunities to improve the interactions between APS and financial institutions staff and ways to strengthen the investigations of reports of adult financial exploitation. The workgroup also reviewed state fiscal year (SFY) 2015 data on substantiated financial exploitation cases obtained from the state APS database. The analysis of these records revealed victims lost an estimated total of \$28,226,512 during the fiscal year.

The workgroup's report highlights eight recommendations including changes to certain definitions in the Code of Virginia, improving training for APS workers, and developing educational materials for financial institutions. A few of the recommendations do not require legislative action and can be accomplished through collaborative efforts of state and local APS staff and a variety of other stakeholders. Commissioner Rothrock also encouraged workgroup members to build on the momentum of the previous four months and form a statewide coalition to help Virginia remain vigilant in preventing and responding to adult financial exploitation.

THE VICTIMS

A man in his mid-60s contacted his bank and reported unauthorized activity on his checking and savings accounts. The bank associate reviewed the account and noticed funds were being transferred from his checking and saving accounts through online banking and deposited into the account of a female relative. The customer stated that he has never done online banking. The female relative had transferred \$1,950 from his savings account and \$16,360 from his checking account.

A male and female friend of a woman in her late 70s offered to perform errands for her. The friends forged eleven checks and used the victim's credit card to make cash advances. They took approximately \$6,650 from her.

A woman in her mid-70s had mid-stage dementia. Her child sold her car without her permission and she did not receive the proceeds. Another child took her debit card and helped herself to \$3,000 and made \$9,500 in charges on the mother's credit card. The victim did not want them prosecuted.

A woman in her mid-70s, asked her relative to take care of her finances. The relative was given power of attorney. The relative diverted \$28,000 of the victim's money for improvements to the relative's home, vehicle repairs, online jewelry purchases, and a home generator. The victim had no knowledge of these purchases. The relative screened the mail and creditors' letters went unanswered. The victim's house was foreclosed upon and a vehicle was repossessed. During the law enforcement interview the relative stated the victim's retirement was the "family slush fund." The relative was charged with six felonies and plead guilty to four. She received 22 years; all but one and half were suspended. She will be on indefinite probation and have to pay \$28,000 in restitution to the victim.

These cases represent four of the more than 1,000 adults, known to Virginia APS, who are financially exploited in the Commonwealth each year.

BACKGROUND ON THE ISSUE

House Bill 676

During the 2016 Session, the Virginia General Assembly passed House Bill (HB) 676 (Appendix A). The legislation, sponsored by Delegate Christopher Peace, required the Department for Aging and Rehabilitative Services (DARS) to study the issue of adult financial exploitation in the Commonwealth. The DARS Commissioner was asked to convene a workgroup of stakeholders to:

- Determine the cost of financial exploitation of adults in the Commonwealth; and
- Develop recommendations for improving the ability of financial institutions to identify financial exploitation, the process by which financial institutions report suspected financial exploitation of adults and interactions between financial institutions and local adult protective services units investigating reports of suspected financial exploitation of adults.

The workgroup met four times between July 2016 and October 2016. Workgroup participants are listed in Appendix B. HB 676 also required DARS to develop recommendations for a plan to educate adults about financial exploitation. The workgroup's activities are summarized in this report.

The Impact of Financial Exploitation

Financial exploitation is one of the most difficult types of abuse to detect, investigate, and stop from happening again. Unlike more obvious signs of physical abuse or caregiver neglect such as broken bones, bruises, or poor hygiene, financial exploitation is often hidden from sight.

Financial exploitation may take a variety forms:

- A grandson who encourages his grandmother to sign over her home to him and then evicts her.
- A caregiver who purchases items for herself using the client's credit card without the client's permission.
- A lottery scam that promises the adult \$1,000,000 in "winnings" if the adult sends \$1,500 to process the award.

Some of the common signs of possible financial exploitation are identified in Appendix C. Nationally it is estimated that older adults lose at least \$2.9 billion annually to financial

exploitation.¹ Nearly one in five individuals age 65 and older has been victimized by financial fraud.²

A study in Utah estimated that, as a result of financial exploitation, Utah seniors, businesses, and governments lost up to \$51,506,100 in 2009.³ This figure included more than just personal items or property that were stolen or misappropriated. It also accounted for the cost of older adults turning to Medicaid for long-term care services because their personal investments, which had been intended to support the adult in later life, had been wiped out.

Financial exploitation not only jeopardizes the victim's long-term financial security but also can affect the individual's emotional well-being once he or she realizes that the resources and assets for which they worked so hard are gone and will likely not be recovered. Financial exploitation may also result in significant non-financial impacts on the victim as well. The 2015 *True Link* study found that 6.7% of financial exploitation victims skipped medical care, while 954,000 seniors, who can no longer make ends meet as a result of the financial abuse, are currently skipping meals.⁴

Why is Financial Exploitation so Hard to Address?

The following information explains some of the reasons that financial exploitation is so challenging to address.

- **It is underreported.** A 2011 report, *Under the Radar: New York State Elder Abuse Prevalence Study*, found an elder abuse incidence rate in New York State that was nearly 24 times greater than the number of cases referred to social services, law enforcement, or legal authorities who have the capacity as well as the responsibility to assist older adult victims. The same study found only 1 in 44 financial exploitation cases were reported.⁵ Many adults are ashamed of what has happened and may not make the report.

¹ *MetLife Study of Elder Financial Abuse*, Retrieved from <https://www.metlife.com/assets/cao/mmi/publications/studies/2011/mmi-elder-financial-abuse.pdf>

² *Elder Investment Fraud and Financial Exploitation Survey*, http://www.investorprotection.org/downloads/IPT_EIFFE_Medical_Survey_Report_03-22-16.pdf

³ Gunther, J. (2010). *The 2010 Utah Cost of Financial Exploitation*, Retrieved from http://www.nlrc.aoa.gov/NLRC/Docs/2010_Cost_of_FE_5_24_LE.pdf

⁴ *True Link Report on Elder Financial Abuse 2015* Retrieved from: https://www.cambiahealth.com/sites/default/files/resources/whitepapers/The%20True%20Link%20Report%20on%20Elder%20Financial%20Abuse%202015_0.pdf

⁵ Lachs, M., Psaty, I & I., & Berman, J. (2011). *Under the radar: New York State elder abuse prevalence study*, Retrieved from <http://www.ocfs.state.ny.us/main/reports/Under%20the%20Radar%2005%2012%2011%20final%20report.pdf>

- **State Adult Protective Services (APS) Programs have no direct federal support.** APS programs are usually the first responders to allegations that an adult is being financially exploited. However, the response system is somewhat fractured. Unlike state child welfare and domestic violence (DV) programs, there is no federal oversight of or funding for state APS programs. Each state has developed its own system for APS intervention, service delivery and funding sources. Mounting a robust response to adult abuse is a challenge. The U.S. Government Accountability Office (GAO) report, *Stronger Federal Leadership Could Enhance National Response to Elder Abuse*, determined that “according to program officials elder abuse caseloads are growing nationwide, and cases are increasingly complex and difficult to resolve.”⁶ The minimal federal funding, such as the Social Services Block Grant (SSBG), that states use to provide services for abuse victims, pales in comparison to direct federal support for child protective services (CPS) or DV programs.

Virginia APS is funded through SSBG. Though APS reports have risen for the past five years, SSBG funding for Virginia APS has remained flat. It is difficult for APS workers to mitigate the effects of financial exploitation such as paying for utility reconnection, temporary housing, or needed medications when there is minimal funding available to do so.

- **The family dynamics associated with an adult financial exploitation are difficult to address.** Most perpetrators of financial exploitation are family members, a fact which adds an additional layer of complexity to any investigation.⁷ Despite the abuse, the victim may be reluctant to cooperate with an investigation for fear that the APS worker will place him or her in a nursing facility or that the family member, who is the only caregiver, will be removed from the home. Tumultuous parent-child relationships that have festered over time may imbue the adult child perpetrator with a sense of entitlement to access or use the adult’s assets, resources, or personal property without asking. Adults with capacity can refuse protective services and in order to protect the perpetrator may rebuff interventions from human service or law enforcement agencies to address the situation.
- **APS workers often lack the skills or access to knowledgeable financial experts to analyze sophisticated financial documents.** Financial records can be complicated and transactions may be difficult to follow. Most APS workers have an educational background in human services fields, not in finance or accounting, and most APS programs cannot afford to contract with accountants or other financial specialists to

⁶ Government Accountability Office (2011). *Stronger federal leadership could enhance national response to elder abuse*. Retrieved from <http://www.gao.gov/assets/320/316224.pdf>

⁷ Acierno, R., Hernandez, M., Amstadter, A., Resnick, H., Steve, K., Muzzy, W., & Kilpatrick, D. (2010). *Prevalence and correlates of emotional, physical, sexual, and financial abuse and potential neglect in the United States: National Elder Mistreatment Study*, US Department of Justice. Retrieved from <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2804623/pdf/292.pdf>

consult on these cases. APS workers may find it easier to investigate incidences of physical abuse or neglect, co-occurring with the financial exploitation, if the worker's involvement stops all of the abuse and exploitation and increases the victim's safety.⁸

- **Victim demographics and risk factors pose a challenge.** The population of potential victims is growing. Older adults, who weathered the recent economic recession, fared better than other age groups.⁹ Nationally adults age 50 and older own 67% of all bank deposits and control at least 70% of the net worth of the nation's households.^{10 11} Significant assets and resources combined with failing health or social isolation make older adults particularly attractive financial exploitation targets. In Virginia approximately 1.4 million individuals are 60 years of age or older. By 2030, 24% of Virginia's population or approximately 2.3 million individuals will be age 60 or older---a 64% increase in two decades.¹² Approximately 140,000 older Virginians have Alzheimer's disease.¹³ This medical condition or other cognitive impairments may make a person more susceptible to being financially exploited. Yet research "has shown that even cognitively normal people may reach a point where financial decision-making becomes more challenging."¹⁴ However, financial exploitation is not limited to just older adults. About 7.6% of Virginians have a disability and even those individuals with limited resources or income may fall victim to financial predators.¹⁵

Virginia's APS System

Pursuant to legislation that passed the 2012 Session of the General Assembly, the APS Division relocated from the Department of Social Services (DSS) to DARS on July 1, 2013. This realignment created better coordination of services for adults in Virginia, as DARS is also the

⁸ Hafemeister, J., & Jackson, S. (2011). *Financial abuse of elderly people vs. other forms of elder abuse: assessing their dynamics, risk factors, and society's response*, US Department of Justice. Retrieved from <https://www.ncjrs.gov/pdffiles1/nij/grants/233613.pdf>

⁹ Pew Research, (2012). *The lost decade of the middle class*. Retrieved from <http://www.pewsocialtrends.org/2012/08/22/the-lost-decade-of-the-middle-class/>

¹⁰ Met Life Study (2009), *Broken Trust: Elders, family and finances*. Retrieved from <https://www.metlife.com/assets/cao/mmi/publications/studies/mmi-study-broken-trust-elders-family-finances.pdf>

¹¹ AARP, *Snapshots: banks empowering customers and fighting exploitation*

¹² Weldon Cooper Center for Public Service, Demographics and Workforce Group, Retrieved from www.coopercenter.org/demographics/

¹³ Alzheimer's Association, *Alzheimer's statistics: Virginia*. Retrieved from http://www.alz.org/documents_custom/facts_2016/statesheet_virginia.pdf

¹⁴ Bernard, T. *As cognition slips, financial skills are often the first to go*. The New York Times. Retrieved from <http://www.nytimes.com/2015/04/25/your-money/as-cognitvity-slips-financial-skills-are-often-the-first-to-go.html>

¹⁵ US Census Bureau, *Quick Facts* Retrieved from <http://www.census.gov/quickfacts/table/PST045215/51>

home to the State Long-term Care Ombudsman Program, the Virginia Division for the Aging, and the Community-Based Services Division, which includes Brain Injury Services Coordination, Personal Assistance Services Programs and Centers for Independent Living. Despite the relocation, DARS and DSS continue to co-manage several APS Division functions including funding for the provision of APS services for adult abuse, neglect, and exploitation victims and the training system for local department of social services (LDSS) APS workers.

APS Division staff in Richmond and five regional offices staff develop policies, procedures, regulations, training, and standards for LDSS programs and are responsible for the monitoring and evaluation of those programs. The Commissioner and Division staff members serve as liaisons to federal and state legislative and executive agencies and to LDSS.

Nationally state APS programs differ by the populations served, settings in which investigations are conducted, report response times, and post-investigation service delivery responsibilities. In Virginia LDSS are responsible for receiving APS reports, determining report validity, conducting the investigations of valid reports, and providing or arranging for needed services to stop or prevent further maltreatment.

A valid APS report does not refer to accuracy of the report, but rather to specific elements that must be present to establish APS authority and jurisdiction:

- The adult must be at least 60 years or older or age 18 to 59 and incapacitated;
- The adult must be living and identifiable;
- Circumstances must allege abuse, neglect, or exploitation; and
- The local department must be the agency of jurisdiction.

APS has its own statutory definition of an incapacitated person. For purposes of validating an APS report, “incapacitated” does not mean that the adult has been found incompetent by a court, but rather that the adult “is impaired by reason of mental illness, intellectual disability, physical illness or disability, advanced age or other causes to the extent that the adult lacks sufficient understanding or capacity to make, communicate or carry out responsible decisions concerning his or her well-being” (§ 63.2-1603 of the Code of Virginia).

If the report is valid, the investigation is initiated within 24 hours. APS workers have 45 days to conclude an investigation from the date a valid report is received at the LDSS. Upon the conclusion of an investigation, the APS worker makes one of the following investigation dispositions:

- Adult needs and accepts protective services;
- Adult needs and refuses protective services;
- Adult needed protective services but the need for protective services no longer exists;
- Unfounded (the allegation of abuse, neglect, or exploitation was not substantiated); or
- Invalid (the report was initially thought to meet validity criteria but later it was determined it did not).

Legislation to Combat Financial Exploitation in Virginia

Over the past few years, several legislative initiatives have attempted to address the problem of adult financial exploitation in Virginia including:

- Making financial exploitation of a mentally incapacitated person a criminal offense. Prior to 2013, Virginia’s Commonwealth’s Attorneys did not have a separate criminal offense under which to prosecute individuals who financially exploited adults with a mental incapacity (2013);
- Establishing a civil remedy process for victims of financial exploitation (2014); and
- Requiring the APS hotline and local department to notify law enforcement immediately if the financial exploitation is suspected to be greater than \$50,000 (2016).

Financial Exploitation Statistics in Virginia

Table 1 details Virginia APS data on substantiated financial exploitation cases over the past five years. In order to substantiate a case, an APS worker must determine that there is a preponderance of evidence that abuse, neglect, or exploitation has occurred or is occurring or the adult is at risk for abuse, neglect, or exploitation and the adult is in need of protective services. About 10% of cases substantiated by APS workers involve adult financial exploitation. Self-neglect, a situation in which the adult is unable to meet his or her basic health or hygiene needs, accounts for 55% of substantiated cases. Approximately 20% of the cases annually are the result of caregiver neglect.

Table 1: Five Years of APS FE¹⁶ Statistics

SFY Year	Total Reports	Total Substantiated	Total FE Substantiated	% FE
2011	17,936	8,941	1,044	10%
2012	19,990	9,610	1,036	9%
2013	20,704	9,075	1,013	10%
2014	21,650	9,140	1,079	10%
2015	22,658	9,224	1,016	10%

FINANCIAL EXPLOITATION CASE RECORD REVIEW

APS case records are confidential and access to the APS database (ASAPS) is restricted to local APS workers and state APS staff. Therefore, state APS staff members conducted the case reviews in order to maintain client and reporter confidentiality and ensure consistent data collection. DARS Information Technology (IT) staff created a report to identify each SFY 2015 substantiated financial exploitation case in ASAPS (N=1,016). The APS Director selected a random sample of cases which were then distributed to each APS Division staff person for data

¹⁶ Financial Exploitation

analysis.¹⁷ APS Division staff interspersed case reviews with other job responsibilities. APS Regional consultants reviewed 123 cases and APS Division Home Office staff reviewed 18 cases. One hundred and forty-one cases, or about 12% of the SFY 2015 total, were included in the review.

Tables 2 and 3 highlight victim demographics. More than 80% of the victims were 60 years of age or older. Fifty-six individuals were age 80 or older. More women (62%) than men were exploited which is a trend that is similar to other financial exploitation studies. Seventy-four percent of the victims resided in their own home or the home of another person.

Table 2: Victim Demographics

Demographics	
60+	117
18-59	24
Female	88
Male	53
White	91
Black	37
Unknown	11
Other	2

Table 3: Victim Living Arrangements

Living Arrangements	
Own Home	89
Other's Home	16
ALF/NF	26
Other/Unknown	6
MI/ID Facility/Group Home	4

Table 4: Co-occurrences of Abuse, Neglect, or Exploitation

It is not uncommon for adults to experience two or three forms of poly-victimization, such as physical abuse and financial exploitation, at the same time. **Table 4** identifies the number of cases in which other types of abuse occurred in conjunction with financial exploitation.

¹⁷ All cases from Fairfax County were removed from the sample before the cases were randomized. Fairfax County does not enter case notes in ASAPS. Instead the agency uses a local database system. Given the time constraints of the project, it was impractical for APS Division staff to review Fairfax hard copy case records.

Co-occurrences of Abuse, Neglect or Exploitation	
Neglect	16
Self-Neglect	16
Mental Abuse	16
Other Exploitation	5
Physical Abuse	4

Table 5: Reporters¹⁸

Financial institution representatives and family members made 40% of the reports. Only nine victims reported the allegation themselves.

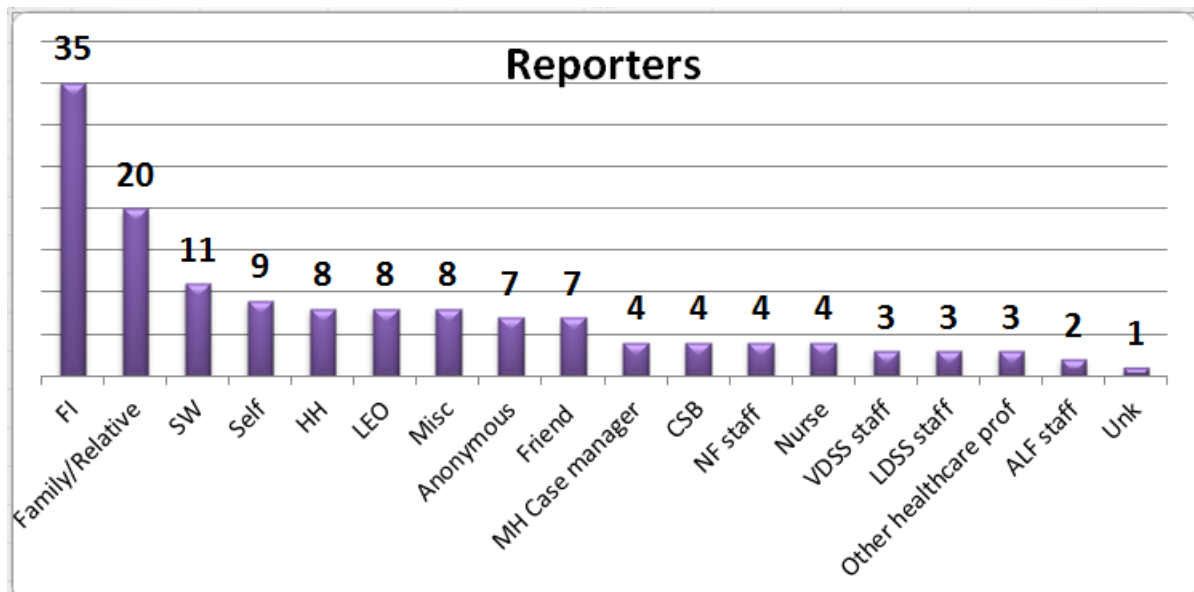


Table 6: Perpetrators of Financial Exploitation

The case review also revealed perpetrator trends comparable to those found in other studies. The most frequent perpetrator of financial exploitation was a member of the victim’s family (N=79)¹⁹. In some of the cases, more than one family member, such as a daughter and son-in-law, financially exploited the adult. Caregivers and scam artists were the next most common perpetrators.

¹⁸ Financial Institution (FI), Social Worker (SW), Home Health (HH), Law enforcement office (LEO), Mental Health (MH), Community Services Board (CSB), Nursing Facility (NF), Virginia Department of Social Services (VDSS), Assisted Living Facility (ALF)

¹⁹ Power of Attorney (POA).

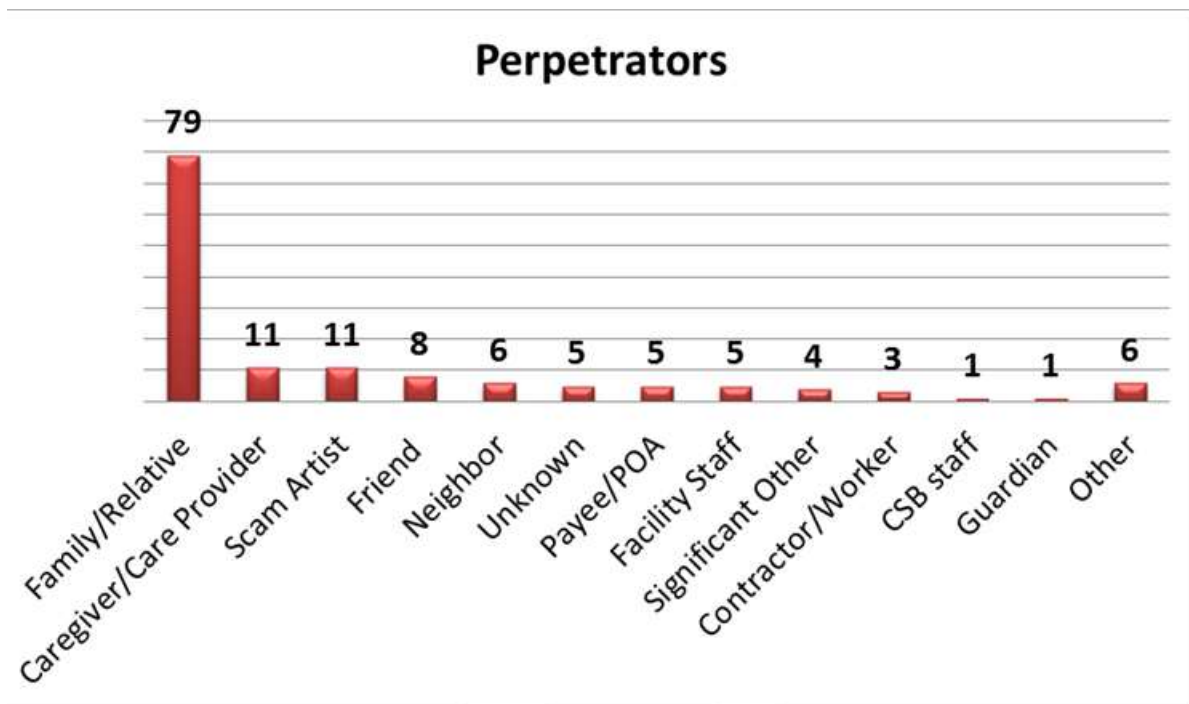


Table 7: Monetary Loss

Not all of the case record narratives described the amount lost due to financial exploitation. However, 76 cases contained enough information in the record to determine the extent of the victim’s loss. APS Division staff classified the method used to perpetrate into three categories:

- **Cash and checks:** theft of currency, stolen or forged checks, and accessing the adult’s financial accounts without permission.
- **Credit card:** accessing or using credit cards to make unauthorized purchases or cash advances and opening up a new credit card in the adult’s name without permission.
- **Scam:** actions perpetrated by a con artist such as lottery scams or fraudulent home repairs.

APS Division staff identified a total of \$2.1 million in losses in 76 cases. The largest amount taken was \$1,000,000 and the smallest was \$10. The smaller losses were typically perpetrated by a caregiver or facility staff person who asked the victim to “loan” them some money. Many of these victims had very limited incomes, usually through federal disability payments such as Supplemental Security Income. Even a small loss has the potential to affect the adult’s ability to pay for medications or other personal items.

	# of Cases	Total Taken	Average Taken	High/Low Taken
Cash/Check	58	\$1,778,639	\$30,666	\$1,000,000/\$10
Credit Card	9	\$62,035	\$6,893	\$20,000/\$830
Scam	9	\$270,780	\$30,087	\$121,900/\$300
Total	76	\$2,111,454		

Table 8: Personal Property and Other Losses

Case records also revealed that in some instances the perpetrator had taken the adult’s property or personal items such as the victim’s home or jewelry. However, the case narratives did not contain adequate descriptions to assign value to the items taken or describe the contents of the wills that were changed.

Perpetrator’s action	# of Cases
House/land deeded/sold	8
Victim evicted from home	3
Car title changed/car sold	2
Will changed	2
Collectibles taken	1
Cell Phone taken	1
Jewelry taken	1

Since law enforcement can play a critical role in stopping the exploitation and preventing the perpetrator from harming others, APS Division staff attempted to identify how many referrals APS workers made to their law enforcement partners. Seventy-two of 141 cases (51%) documented a referral to law enforcement. Additionally, eight cases described a criminal prosecution and two prosecutions resulted in convictions of the perpetrator. It was unknown why there were not more referrals to law enforcement officials. Some victims may have not wanted law enforcement to be involved, particularly if the perpetrator was a family member. Additionally, anecdotal information from APS workers suggests that some law enforcement officials view exploitation involving family members as a civil and not a criminal matter particularly when the victim gave power of attorney to the perpetrator. Some workers may also be aware their local law enforcement agencies are understaffed and tasked with addressing a multitude of challenging issues on a daily basis. Therefore, the workers may only refer very extreme cases of financial exploitation to their law enforcement partners.

QUANTIFYING FINANCIAL EXPLOITATION IN VIRGINIA

Estimating the Financial Loss in SFY 2015

The average per case loss of \$27,782 was determined by dividing the total monetary loss of \$2.1 million by the 76 cases reviewed. By multiplying \$27,782 by 1,016 substantiated financial exploitation cases in SFY 2015, it is estimated that adults age 60 or older or incapacitated adults in Virginia may have lost up to \$28,226,512 during that year.

The analysis of the financial loss did not take into consideration other factors that may contribute to the cost of financial exploitation in the Commonwealth. For example, the APS Division does not track the average length of time it takes an APS worker to investigate a financial exploitation case or provide on-going case management to victims. The APS Division is also not able to quantify the time law enforcement officials contributed to investigating these cases. Additionally, APS interventions are generally short-term and APS workers do not follow victims over a lengthy timeframe. Therefore, the effects of the financial exploitation may not be known as the case was closed after the worker's intervention was complete.

Additionally, it was difficult to discern from the case narratives if the victims had to turn to public assistance programs such as the Supplemental Nutritional Assistance Program or Medicaid-funded long term care services as a direct result of the exploitation.

Impact of Underreporting on Quantifying Loss

Research has suggested that all types of adult abuse and neglect, including financial exploitation, are significantly underreported. As stated earlier in the report, the *Under the Radar* study indicated that for every one elder financial exploitation case reported to authorities, 44 go unreported.

Available reports in ASAPS do not track the number of financial exploitation reports made each year, only the number of financial exploitation reports that were substantiated. However, the APS Division was able to obtain information from the DARS Data Warehouse which interfaces with ASAPS. Through a special report, the APS Division determined that there were 3,708 financial exploitation reports made in SFY 2015. **Table 10** illustrates how many financial exploitation reports there may have been in Virginia and the total loss associated with these reports.

Multiplying the number of financial exploitation reports that were made in SFY 2015 (3,708) by 44, one may estimate that 163,152 financial exploitation reports were unreported that year. This figure was multiplied by .27, since 27% of the financial exploitation reports made in SFY 2015 were substantiated. This calculation resulted in 44,051 reports that could have been substantiated for financial exploitation. Using the SFY 2015 average loss (\$27,782), it is possible that adults age 60 or older and incapacitated individuals age 18-59 may have lost more than \$1.2 billion dollars in SFY 2015.

Table 10: Underreporting and Estimated Financial Loss

	Total FE Reports	%Substantiated	# Substantiated	Estimated Financial Loss
Actual SFY 2015	3,708	27%	1,016	\$28,226,512
Estimate due to Underreporting	163,152	27%	44,051	\$1,223,825,993

REPORT RECOMMENDATIONS

In the first two workgroup meetings, members identified barriers and concerns associated with financial exploitation investigations involving APS workers and financial institutions and proposed solutions to address these issues. The following recommendations are intended to help financial institutions identify adult financial exploitation, strengthen the reporting of financial exploitation, and improve the interactions between financial institutions and local APS workers.

Recommendation #1: Revise the APS definition of adult exploitation in § 63.2-100 of the Code of Virginia.

The Code of Virginia defines adult exploitation as “the illegal use of an incapacitated adult or his resources for another's profit or advantage.” While the definitions of adult abuse and adult neglect reference “adult” throughout the definition, the definition of exploitation references “incapacitated adult” only. This narrow description of the eligible population may not only hinder the reporting of exploitation of adults age 60 or older who have capacity, but could also limit an APS worker’s ability to investigate an allegation and provide protective services for these older individuals. As noted earlier in the report, the APS definition of adult includes “any person 60 years of age or older, or any person 18 years of age or older who is incapacitated” (§ 63.2-1603 of the Code of Virginia). Striking the term “incapacitated” from the exploitation definition would align it with the definitions of adult abuse and neglect and ensure that older victims who are not incapacitated can receive APS assistance.

Further, the current definition refers to “illegal” use of resources, but most APS workers know and research reveals that not all exploitation rises to the level of an illegal activity. In many instances, the adult is coerced or persuaded to “lend” money or property or “help out” family or a caregiver when doing so could jeopardize the adult’s financial security. The adult may also be fearful of the consequences of saying “no” to the perpetrator. APS has a role in responding to these allegations and assisting and supporting the adult even if the perpetrator’s action or activity is not illegal. Broadening the exploitation definition to include activities that are “improper” or “unauthorized” in addition to those that are illegal would align it with definitions codified in other states and federal legislation.

HB 620, introduced by Delegate Paul E. Krizek in the 2016 Virginia General Assembly Session, defined financial exploitation as “wrongful or unauthorized taking, withholding, appropriation, or use of an individual's funds, property, or other assets, tangible or intangible.” The HB 620 definition as well as the examples listed below shaped the proposed revisions offered by the workgroup.

Examples of other financial exploitation definitions:

- New York: The improper use of an adult’s funds, property or resources by another individual including, but not limited to, fraud, false pretenses, embezzlement, conspiracy, forgery, falsifying records, coerced property transfers or denial of access to assets.
- South Carolina (partial definition): An improper, unlawful, or unauthorized use of the funds, assets, property, power of attorney, guardianship, or conservatorship of a vulnerable adult by a person for the profit or advantage of that person or another person; or causing a vulnerable adult to purchase goods or services for the profit or advantage of the seller or another person through: (i) undue influence, (ii) harassment, (iii) duress, (iv) force, (v) coercion, or (vi) swindling by overreaching, cheating, or defrauding the vulnerable adult through cunning arts or devices that delude the vulnerable adult and cause him to lose money or other property.
- North Carolina: The illegal or improper use of a disabled adult’s or older adult’s financial resources for another’s profit or pecuniary advantage.
- Centers for Disease Control and Prevention: The illegal, unauthorized, or improper use of an older individual’s resources by a caregiver or other person in a trusting relationship, for the benefit of someone other than the older individual. This includes, but is not limited to, depriving an older person of rightful access to, information about, or use of, personal benefits, resources, belongings, or assets. Examples include forgery, misuse or theft of money or possessions; use of coercion or deception to surrender finances or property; or improper use of guardianship or power of attorney.
- Elder Justice Act²⁰: The fraudulent or otherwise illegal, unauthorized, or improper act or process of an individual including a caregiver or fiduciary, that uses the resources of the elder for monetary or personal benefit, profit, or gain, or that results in depriving an elder of rightful access to, or use of, benefits, resources, belongings, or assets.

²⁰ The Elder Justice Act is federal legislation that passed in 2010 but has since expired. The legislation has been reintroduced.

The definition of financial exploitation in the “Senior Safe Act of 2016,” which passed the United States House of Representatives in July 2016 and is pending in the Senate, is nearly identical to the Elder Justice Act definition.²¹

Workgroup members reviewed the following proposed revisions to the definition of adult exploitation. Some members preferred one definition, some approved of both definitions, and others did not voice a preference. Workgroup members acknowledged that legislators interested in proposing an amended definition may introduce revisions or modifications that would be different from either option discussed during the workgroup meetings.

- "Adult exploitation" means (i) the illegal or improper use of an adult for another's profit or advantage or (ii) the fraudulent or otherwise illegal, unauthorized, or improper act or process of an adult, including a caregiver or fiduciary, that uses the funds, property or resources of an adult for monetary or personal benefit, profit, or gain, or that results in depriving an adult of rightful access to, or use of, benefits, resources, belongings, or assets.
- “Adult exploitation" means (i) an intentional breach of a fiduciary obligation to an adult that is to the detriment of such adult, (ii) intentionally failing to use the financial resources of an adult causing the neglect of such adult, (iii) the acquisition, the possession or control of financial resources or property of value of an adult through the use of undue influence, harassment or duress and the use or expenditure of such resources or property that is or is likely to be to the detriment of such adult, or (iv) forcing, compelling, coercing or enticing an adult against his will to pay for goods or services or perform services for the profit or advantage of another.

Recommendation #2: Ensure the definition of financial institution staff in § 63.2-1606 of the Code of Virginia covers all financial entities who may report to APS.

Section 63.2-1606 of the Code of Virginia addresses mandatory and voluntary APS reporting, and defines financial institution staff as “any employee of a bank, savings institution, credit union, securities firm, accounting firm, or insurance company.” The definition refers to “employees” but not all staff associated with the institution, such as contractors, agents, and other representatives may be considered employees. In addition, other types of financial entities such as investment firms are not listed in the definition. Broadening the definition ensures that all entities in Virginia that handle financial matters for older adults and individuals with disabilities are aware that they may report suspected financial exploitation to APS.

HB 612, introduced by Delegate Robert Bell in the 2016 Virginia General Assembly Session, would have established another definition of financial institution in addition to the one used in § 63.2-1606. The legislative proposal added other financial entities to those included in the definition in § 63.2-1606. It also applied to more than just “employees” by referencing agent, qualified individual, or representative of financial institutions.

²¹ Retrieved from <https://www.govtrack.us/congress/bills/114/hr4538/text>

Workgroup members discussed the following proposed revision to the definition of financial institution staff in § 63.2-1606 (new language appears in italics):

For purposes of this section, financial institution staff means any employee, *agent, qualified individual, or representative* of a bank, *trust company*, savings institution, *loan association, consumer finance company*, credit union, *investment firm*, securities firm, accounting firm, or insurance company.

Recommendation #3: Ensure the financial exploitation training available to Virginia financial institution staff is Virginia specific and addresses the process for reporting to APS, APS service populations, and the role of APS.

There is no uniform adult financial exploitation training for Virginia financial institutions. National banks or large institutions may utilize in-house trainers, while local entities may receive training via other sources.

The following list provides a few examples of adult financial exploitation training and resources available to financial institutions in Virginia:

- American Bankers Association “Safe Banking for Seniors”:
<http://www.aba.com/Engagement/Pages/safe-banking-for-seniors.aspx>
- Virginia Association of Community Banks: Recognizing & Responding to Elder Fraud: What Every Staff Member Should Know
- North American Securities Administrators Association (NASAA): Senior\$afe Program
www.saveourseniors.org
- Consumer Financial Protection Bureau (CFPB):
 - <http://www.consumerfinance.gov/>
 - <http://www.consumerfinance.gov/about-us/newsroom/cfpb-issues-advisory-and-report-for-financial-institutions-on-preventing-elder-financial-abuse/>
 - <http://www.consumerfinance.gov/older-americans/>
- Virginia Credit Union League Website:
 - <http://www.vacul.org/Education/AARP>
 - <https://www.youtube.com/watch?v=GN-FEV7May8>

To supplement the available training and resources for financial institutions, DARS in collaboration with local APS workers, financial institution representatives, and law enforcement personnel can develop guidance, best practices, and model forms that may be used by financial institutions to educate institution personnel. These materials will address the scope of the Virginia APS service population (60 years of age and older and age 18 to 59 and incapacitated), how to make a thorough APS report, the settings in which Virginia APS is authorized to conduct investigations, and an explanation of the types services APS may offer to stop or prevent further maltreatment. The materials can be disseminated by state and local APS staff, financial institutions, and other community partners, such as the Virginia Bankers Association, the Virginia Credit Union League, and Area Agencies on Aging.

Recommendation #4: Evaluate opportunities to improve information sharing between financial institutions and APS to support the APS investigation process.

In Virginia, financial institutions are not mandated to report to APS. However, there is no doubt that financial institutions are voluntarily making reports to APS. Statewide APS statistics reveal that reports from financial institutions to Virginia APS have increased nearly 200% since SFY 2011 (Table 9).

Table 9: Reporting by Financial Institutions

Reports by Financial Institutions	
2011	315
2012	451
2013	598
2014	736
2015	948

Although there has been an increase in reports by financial institutions, APS workers indicate that it can be difficult to obtain important financial records and documents from financial institutions. This may hinder the worker’s ability to evaluate an exploitation allegation thoroughly.

Financial institutions cite federal law, the Gramm Leach Bliley Act (GLBA), other customer privacy concerns and information security concerns as barriers to financial institutions’ willingness to share customer information with APS workers. GLBA does not specifically identify APS programs as an entity entitled to receive financial records. Some government agencies, including the Federal Trade Commission and the Board of Governors of the Federal Reserve System, have interpreted GLBA to permit disclosure of financial institution customer records to government agencies for civil investigations.²² However, this interpretation is not binding on courts or a plaintiffs’ law firms and many financial institutions are concerned they

²² Retrieved from: <https://www.federalreserve.gov/newsevents/press/bcreg/bcreg20130924a2.pdf>

will be exposed to legal liability for disclosing a customer records absent a subpoena or other valid court order.

In an effort to improve information sharing, in July 2016, the DARS APS Division directed all APS workers to use a National Adult Protective Services Association (NAPSA) and stakeholder developed form “Official Request for Customer Records” when requesting records from financial institutions²³. APS programs in other states have also implemented use of this form. The form cites state law that provides Virginia APS with the authority to conduct financial exploitation investigations. Standardizing the request may help financial institutions respond more quickly as they see the same request form used across Virginia. Anecdotal information from APS workers suggests the form has resulted in a positive response from some institutions.

However, institutions concerned about GLBA may not respond to the form. Absent federal efforts, such as the Senior Safe Act which provides liability protections for financial institutions representatives who share information with authorities, Virginia APS may only see small improvements to information sharing. An additional strategy to address the challenges of sharing customer records with APS may be to grant APS subpoena powers or similar authority to request financial institution customer records. The federal Right to Financial Privacy Act governs the disclosure of financial institution customer records to federal government agencies, and could be used as a guide. Many workgroup members found this issue particularly difficult to address but were motivated to continue to pursue solutions that will ultimately benefit adults who are being victimized financially.

Recommendation #5: DARS will collaborate with DSS, allowing increased oversight of APS worker training by DARS.

Section 51.5-148 of the Code of Virginia, gives the DARS APS Division authority to establish training requirements for APS workers. However, even though the APS Division relocated from DSS to DARS in 2013, management of the training system and funding for LDSS training remained with DSS. Due to the 2011 reorganization of the DSS training system, only mandated APS courses have been made available to APS workers. The list of mandated courses does not include the “Investigating Financial Exploitation” course that has been developed and trained in the past.²⁴

HB 676 workgroup members recommended DARS and DSS take steps to improve the training system including enhancing funding for DARS to adequately meet the training needs of APS workers. Providing DARS more control over APS training would be a step towards completing the relocation that started in 2013 and would streamline training delivery by eliminating a bifurcated APS training system in Virginia.

²³ A list of stakeholders who developed the form is available at <http://www.napsa-now.org/get-informed/banks-and-aps/>

²⁴ APS mandated courses are: New Worker Training, Facility Investigations, Investigation Self-Neglect and Assessing Capacity.

Recommendation #6: Provide APS financial exploitation case documentation training to APS workers.

Fifty-four percent of the substantiated financial exploitation cases reviewed contained comprehensive documentation describing the extent of the financial exploitation or the monetary loss. It is important for workers to describe the scope of the financial exploitation, even if it is only an estimate, for several reasons. First, APS workers are mandated to conduct a thorough investigation which includes appropriate documentation in order to substantiate a case. In addition, documentation of the financial loss may assist with a law enforcement investigation and criminal prosecution of the perpetrator. Finally, detailed documentation may also be needed to help the adult demonstrate a need for public assistance such as Medicaid to pay for long-term care services. The APS Division recently developed a two-hour generic APS case documentation course that is taught by DARS APS Regional Consultants. This course could easily be adapted to include examples of thorough financial exploitation case documentation.

Recommendation #7: Provide technical assistance to APS workers to help them review financial documents.

Financial records and monetary transactions can be complicated and difficult to interpret. Most APS workers have an educational background in human services fields, not in finance or accounting, and most LDSS cannot afford to pay accountants or other financial specialists to consultant on these cases. Currently, the APS Division's five regional consultants provide technical assistance to APS workers on APS policy, investigation procedures, and post-investigation case management requirements, but they lack the expertise to review and interpret financial documents.

Possible solutions to address the lack of technical expertise within the APS Division include:

- Funding a position at DARS to provide consultation to local APS workers on financial exploitation investigations; or
- Providing funding to DARS to contract with financial professionals to provide case consultation

A permanent or contract position could also help DARS enhance financial exploitation training for APS workers, (see Recommendations #5 and #6) as well as act as a liaison to financial institutions requesting additional training. In lieu of funding for a position or a contractor, APS Division staff can compile a list of volunteer or low cost financial professionals who may be willing to provide technical assistance and document review to local APS workers.

Recommendation #8: DARS will invite the HB 676 workgroup members and other stakeholders to form a statewide coalition to address adult financial exploitation in the Commonwealth.

The HB 676 workgroup brought together a variety of professionals to adult address financial exploitation in Virginia. However, the focus of HB 676 was limited in scope and a growing demographic of potential victims and the new techniques used to exploit individuals requires ongoing commitment from concerned and committed stakeholders to ensure the Commonwealth remains vigilant. DARS Commissioner, James A. Rothrock, is eager to support the formation of a permanent statewide coalition comprised of HB 676 members and other community partners. A statewide coalition can leverage expertise from a variety of professional disciplines, open new lines of communication, and harness potential resources to raise awareness of financial exploitation in Virginia.

2016 LEGISLATIVE PROPOSALS: HB 612 and HB 620

The HB 676 workgroup also reviewed two bills that were introduced during the 2016 Session of the Virginia General Assembly. Though neither piece of legislation passed, the bills proposed new solutions to respond to or address adult financial exploitation.

HB 612, introduced by Delegate Rob Bell, would have authorized the development of a diminished financial capacity letter. The letter would identify a trusted person that a financial institution could contact if the adult is experiencing diminished financial capacity. The letter would be similar in concept to a health care advance directive. The adult could provide the letter to the financial institution or upload it to an Advance Health Care Directive Registry. Workgroup members believe that combatting financial exploitation requires a variety of creative strategies. While implementation of a diminished financial capacity letter could be one of these strategies, members also voiced some concerns about the legislative proposal.

- The bill did not address what happens if the “trusted person” identified in the letter is the alleged perpetrator. Contacting the perpetrator could “tip them off,” causing the perpetrator to cover up the actions or accelerate the exploitation.
- The letter did not include language about reporting to APS or local law enforcement, in addition to the trusted person.
- Financial institution employees do not have the medical background in nor do they receive training on evaluating the signs of diminished financial capacity.
- Financial institution employees may not have sufficient in-person interaction time with customers as many transactions are conducted online, by phone, by ATM or in a very brief visit to a branch office.
- The bill established a definition of financial institution in § 54.1-2982 in the Code of Virginia. The second definition could have conflicted with the definition that currently exists in §63.2-1606 of the Code of Virginia.
- It was unclear if the letter would be widely used. Significant effort has been expended in Virginia and nationwide to encourage individuals to complete health care advance directives. However, few individuals actually complete these documents.
- For various reasons, the individual may change the “trusted person” requiring financial institutions to keep track of the most current designee.

HB 620, introduced by Delegate Paul E. Krizek, would have amended §63.2-1606 of the Code of Virginia by permitting financial institution staff to refuse to execute a transaction or disburse funds if the staff believed the transaction could be the result of financial exploitation. Delaying a disbursement and notifying the authorities to take action may thwart the perpetrator from obtaining the funds and depleting the adult's assets. The bill also provided civil or criminal immunity to staff who act in good faith in not executing a transaction. As noted earlier in this report, HB 620 would have created a separate definition of adult financial exploitation.

Over the past two years, bills similar to HB 620 have been introduced or passed in several states including Delaware, Missouri, Washington, Alabama, Louisiana, Vermont, Indiana, and Minnesota. HB 620 was also similar to the "Model Act" recently adopted by NASAA. The Model Act allows broker-dealers or investment advisors to impose an initial 15 day delay on an account disbursement if financial exploitation of eligible adult is suspected. Many APS workers support having a disbursement held to permit additional time to respond to the allegation and to notify other authorities such as law enforcement.

As the legislation is still fairly new in the states where it has passed, the workgroup members were interested in the effect, positive or negative, that these bills have had on financial institutions, APS investigations, and victims of exploitation in other states. Information provided by the administrator of the Alabama APS Program suggested that even though the legislation only became law in August 2016, it has been successful in helping Alabama APS workers thwart approximately 15 transactions related to financial exploitation totaling about \$3,000,000.²⁵ Additionally, NASAA is monitoring the Model Act for disruptive consequences of delaying disbursements. The Model Act does not prohibit the client from initiating an order to sell assets or allow broker-dealers or investment advisors to delay a transaction such as an order to liquidate an investment account. It only delays the distribution of the funds after the order has been initiated.

Workgroup members vocalized some concerns about HB 620 as it was drafted and suggested ways to improve it:

- There was no length of time (e.g. 10 or 15 days) established to delay the disbursement. Adding a timeframe would prevent financial institution staff from having to determine how long to hold a disbursement.
- Only certain types of financial institution staff were covered by the legislation. For example broker-dealers were not included in the bill's language.
- The bill may need clarifying language to ensure that executing a transaction occurs without delay and that only the disbursement is held for a period of time.
- Title 63.2 Welfare (Social Services) may not be the appropriate title in which to make this amendment.

²⁵ APS Division Director's September 27, 2016 phone call with Southeastern Region APS administrators

DARS PUBLIC AWARENESS STRATEGIES

HB 676 also required the DARS Commissioner to develop recommendations for a plan to educate adults regarding financial exploitation, including common methods of exploitation and warning signs that exploitation may be occurring. Implementing an effective public education campaign is particularly challenging for APS programs for a few reasons.

While awareness is increasing, understanding of adult abuse, neglect, and exploitation lags behind knowledge of other social issue such as child abuse or domestic violence. It is also particularly challenging to craft a message for older adults and individuals with disabilities to warn them that the people they may love most in the world, including family and trusted caregivers, are the people most likely to exploit them.

The cost of a public awareness campaign also presents a stumbling block. Virginia is not the only state that lacks meaningful financial support for APS public awareness activities. Despite recognizing the need for public awareness campaigns that focus on APS, most state APS programs indicate that they do not have adequate resources for these efforts.²⁶ The last significant campaign to educate mandated reporters and financial institutions in Virginia occurred after APS reporting laws changed in 2004.

The United States Government Accountability Office (GAO) acknowledged in its 2013 report that there is a “need for greater awareness of elder abuse by the public and training of direct service providers who interact with older adults on a regular basis, to help prevent elder abuse or recognize its symptoms.”²⁷ However, funding constraints certainly hinder a widespread approach to outreach and education. The current APS Division public awareness and outreach budget is \$4,100, all of which is used during Adult Abuse Prevention Month each May to promote the 24-hour toll-free APS hotline number.

The following list outlines the costs associated with a public awareness campaign previously undertaken by the DARS Marketing and Communications Division. This particular public awareness effort was funded by federal money designated for a particular DARS program.

- TV commercials--approximately \$29,990 for 256 airings and 97 bonus airings of an existing 30 second commercial in five markets.

²⁶ National Adult Protective Services Association (2012). *Adult protective services in 2012: increasingly vulnerable*. Retrieved from <http://www.napsa-now.org/wp-content/uploads/2012/06/BaselineSurveyFinal.pdf>

²⁷ Retrieved from <http://www.gao.gov/assets/660/655820.pdf>

- Radio Spots--approximately \$20,440 for 500+ radio spots (30-seconds) to air over a specified 3-week schedule to reach adults 50+ in Southwest, Southside and Fredericksburg, Virginia.
- Wall Calendar--\$7,841 (\$1.12 per unit) for 7,000 hanging wall calendars, including shipping to 25 locations. Full color, with an envelope with printed address inserted into each calendar.
- Billboard Advertisements--average \$500-\$750 per month, depending on location. Cost includes producing artwork.
- Bus Advertisements--average price per month is \$600-800 for one.

Absent money for DARS to conduct a public awareness campaign, the limited available funding will dictate that DARS use creative but inexpensive methods to raise awareness of adult financial exploitation. The scope of the information needing to be disseminated and the wide audience to be reached, means that utilizing the DARS social media profile and establishing a DARS APS Division website that highlights financial exploitation materials and resources may be the most efficient strategy to achieve this goal.

Using Social Media

Social media provides an inexpensive opportunity to reach a wide audience with an important public awareness message. Nearly 65% of people obtain news and information from social media.²⁸ Seventy-two percent of adults use Facebook, one of the best known social media platforms. Of those adults, almost 50% are 65 or older.²⁹

The DARS Facebook page reaches nearly 20,000 individuals a week, 22% of whom are age 55 and older. This demographic includes not only older adults but also their adult children. A DARS financial exploitation awareness Facebook campaign could highlight information such as methods that perpetrators use to exploited victims, new scams that are emerging, and stats about financial exploitation. Additionally, information posted to the Facebook page may be targeted or “boosted” to certain audiences for minimal costs. A recent DARS boosting effort for Disability Employment Awareness Month in Virginia reached 12,500 individuals. As DARS uses other forms of social media such as Twitter, the APS Division would ensure that information about adult financial exploitation is disseminated on a variety of platforms.

²⁸ Pew Research Center, Retrieved from <http://www.pewinternet.org/2015/10/08/social-networking-usage-2005-2015/>

²⁹ Pew Research Center, Retrieved from <http://www.pewinternet.org/2015/08/19/the-demographics-of-social-media-users/>

APS Division Webpage

As stated earlier in the report, several APS Division functions are co-managed by DSS and DARS. Currently, all APS educational materials and resources are housed on the DSS public website at: <http://www.dss.virginia.gov/family/as/aps.cgi>. Since the APS Division is located at DARS, it is confusing for the public to be directed to the DSS public website to obtain information about APS services and adult abuse, neglect and exploitation in Virginia. The APS Division Director, in collaboration with DARS web developers, recently began designing an APS Division webpage for the DARS public website. The DARS APS Division webpage should be available in early 2017.

An APS Division webpage would consolidate financial exploitation education materials from of other organizations' websites and act as a one-stop location for adult exploitation information for older adults, individuals with disabilities and their families in Virginia. DARS would encourage other Health and Human Resources agencies and other community partners to provide a direct link to the APS Division page on their agency or organization website.

ONGOING EFFORTS ARE NEEDED

Professionals beyond APS workers and financial institution staff have a role in combatting adult financial exploitation in Virginia. Though workgroup members limited their efforts to the scope of HB 676, several other concerns related to adult financial exploitation also merit attention. A statewide coalition of concerned stakeholders may be able to take steps to address some the following matters such as:

- Ensuring that law enforcement personnel receive adequate training to respond to adult financial exploitation investigations.
- Ensuring that prosecutors and judges receive adequate training to respond to adult financial exploitation cases that are adjudicated in the court system.
- Establishing strategies to address other forms of adult financial exploitation such as home maintenance scams or health care fraud which may not come to the attention of financial institution staff.
- Increasing funding for services that APS workers use to ameliorate the effects of the exploitation.
- Ensuring that victims of financial exploitation who may lack capacity and who have no friends or family, receive advocacy services from public guardianship programs or other programs that provide suitable surrogate decision makers.

Appendix A: HB 676

VIRGINIA ACTS OF ASSEMBLY -- 2016 SESSION

CHAPTER 355

An Act to require the Commissioner of the Department for Aging and Rehabilitative Services to convene a work group to study financial exploitation of adults in the Commonwealth.

[H 676]

Approved March 11, 2016

Be it enacted by the General Assembly of Virginia:

1. § 1. *That the Commissioner of the Department for Aging and Rehabilitative Services shall, together with the Director of the Department for Planning and Budget or his designee, representatives of the Department for Aging and Rehabilitative Services' Adult Protective Services Unit and local department of social services' adult protective services units, law-enforcement agencies, financial institutions in the Commonwealth, and organizations representing elderly individuals and adults with disabilities, determine the cost of financial exploitation of adults in the Commonwealth and develop recommendations for improving the ability of financial institutions to identify financial exploitation of adults, the process by which financial institutions report suspected financial exploitation of adults, and interactions between financial institutions and local adult protective services units investigating reports of suspected financial exploitation of adults. The Commissioner shall develop recommendations for a plan to educate adults regarding financial exploitation, including common methods of exploitation and warning signs that exploitation may be occurring. The Department for Aging and Rehabilitative Services' Adult Protective Services Unit shall provide information about founded cases of financial exploitation of adults and any related compiled information to the Commissioner, who shall maintain the confidentiality of such information, for his review upon request. The Commissioner shall complete his work and report on his activities and recommendations to the Governor and the General Assembly by January 1, 2017.*

Appendix B: Workgroup Participants

Christi Bowen-Burge

C & F Bank

Gayl Brunk

Virginia Association of Centers for Independent Living

Matt Bruning

Virginia Bankers Association

Anne Coates

Tazewell DSS

Holly D’Heron

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AARP Virginia

Betty Dougherty

Virginia League of Social Service Executives

Lisa Furr

Office of the Attorney General

Nancy Goodman

New Kent DSS

Carter Harrison

Alzheimer’s Association

Colonel David Hines

Hanover Sheriff’s Department

Susan Hockensmith

Frederick DSS

Michael Huberman

Henrico Commonwealth’s Attorney’s Office

Jamie Johnson

Chartway Federal Credit Union

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Virginia Center on Aging

Kenneth McCabe

Department of Planning and Budget

Helena Mock

The Peninsula Center For Estate and Lifelong Planning

Rick Pillow

Virginia Credit Union League

Kathleen Quinn

National Adult Protective Services Association

Ann Rankin

State Corporation Commission

Major Greg Riley

Williamsburg Police Department

Hazel Stewart

State Corporation Commission

Investigator John Street

Ashland Police Department

Wendy Swallow

Virginia Beach DSS

Pamela B. Teaster

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L. C. Tyler

Henrico Police Department

Melvin Tull

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Mary Ware

Office of the Attorney General

Thelma Watson

Senior Connections

Virginia Department for Aging and Rehabilitative Services

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Paige McCleary, APS Division Director

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Andrea Jones, Northern Region APS Consultant

Marjorie Marker, Central Region APS Consultant

Carey Raleigh, Eastern Region APS Consultant

Angie Mountcastle, Piedmont Region APS Consultant

Amy Marschean, J.D, Senior Policy Analyst

Devin Bowers, Dementia Services Coordinator

Venus Bryant, Administrative Assistant

Appendix C: Possible Signs of Adult Financial Exploitation

Unexplained disappearance of funds, valuables, or personal belongings	Change in payee, power of attorney or will
Adult child is financially dependent upon the older person or the older person is dependent on caregiver	Caregiver is overly frugal or refuses to purchase items such as medications or medical equipment
Misuse of adult's money or property by another person	Failure to receive services for which the adult paid
Adult's property or savings are transferred to other accounts	Adult frequently forgets to pay bills
Adult makes excessive payments for care, services, or home maintenance	Adult is kept isolated by a caregiver
Adult is unaware of the amount of his or her income	Adult's bank account is depleted
Adult doesn't know what happened to his or her money	Checks or mail no longer come to the house and are redirected elsewhere
Sudden appearance of previously uninvolved relatives or friends	Adult reports signing papers and doesn't know what was signed
Signatures on check that do not resemble the adult's signature	New credit card accounts are opened in the adult's name

