

What: South Dakota HB 1238 – An Act to protect financial institutions taking action to prevent the financial exploitation of consenting, senior, or vulnerable adults

When: Effective July 1, 2026

What HB 1238 Does

HB 1238 gives South Dakota financial institutions authority to delay or refuse certain transactions when there is reasonable belief that a consenting, vulnerable, or senior adult may be experiencing financial exploitation.

The law also provides liability protection for banks and employees who act in good faith.

Implementation Guidance Disclaimer

*This document is intended as general implementation guidance for member banks regarding HB 1238. Recommendations contained below **may include, but are not limited to:** operational considerations, staff training topics, escalation procedures, and fraud prevention practices.*

Because each institution’s structure, staffing, and internal processes differ, member banks should determine what procedures are appropriate for their organization and consult with legal counsel and compliance professionals as needed. This document is not intended to establish mandatory policies or provide legal advice.

What Banks Should Know

Banks May:

- Delay or refuse suspicious transactions or account changes on customer accounts
- Escalate concerns internally
- Contact law enforcement or Adult Protective Services when appropriate
- Communicate with **trusted contacts** or legal representatives when permitted

- Consenting (opt-in) customers
- Senior adults (65+)
- Vulnerable adults
- Adults potentially under undue influence

Important Standard ✓:

Banks do **not** need proof of fraud.

A reasonable belief or concern may justify intervention.

Employees should remain alert for:

- Unusual or large withdrawals
- Sudden wire transfer requests
- New individuals directing customer activity
- Changes to beneficiaries or account ownership
- Customer confusion, fear, or pressure during transactions
- Requests tied to romance, imposter, grandparent, or investment scams

Recommended Action Steps for Banks

Before July 1, banks should consider:

1. Review Internal Policies

- Fraud prevention procedures
- Escalation protocols
- Documentation requirements
- Elder/vulnerable/consenting adult abuse response procedures

2. Train Frontline Staff

Ensure employees understand:

- Common scam indicators
- When escalation is appropriate
- Documentation expectations
- Available protections under HB 1238

3. Establish an Internal Response Process

Suggested workflow:

1. Identify suspicious activity
2. Escalate concern internally
3. Document observations
4. Determine whether to delay/refuse transaction
5. Contact appropriate parties if necessary

4. Coordinate with Compliance and Legal Counsel

Banks may wish to review implementation plans with legal and compliance teams before the law takes effect.

Customer Communication Guidance

If concerns arise, employees should:

- Ask clarifying questions
- Encourage customers to slow down before sending funds
- Provide fraud awareness education
- Balance customer autonomy with fraud prevention efforts

Suggested messaging:

“Our bank is committed to helping protect customers from financial scams and exploitation.”

Draft CEO Letter / Email to internal staff and external bank customers

Subject Line Options:

- Preparing for HB 1238 Implementation on July 1
- New Financial Exploitation Protections Take Effect July 1
- HB 1238 Implementation Guidance for Member Banks
- Preparing Your Bank for HB 1238