

# Report and Hold Legislation: A Vital Tool for Protecting Seniors from Fraud & Financial Exploitation

## Senior Fraud & Financial Exploitation Prevention Working Group

### Executive Summary

The proliferation of Idaho’s senior population, digital technology platform usage, and financial crimes targeting seniors/vulnerable adults is making it essential for Idaho to pass “Report and Hold” legislation. This legislation will enable the financial industry and state investigative agencies to collaborate, disrupt illicit financial activity, protect the financial assets of Idahoans, and hold financial criminals accountable. Idaho is currently one of only eight states that does not provide “Report and Hold” authorities, which is leaving the financial assets of Idahoans in their golden years more vulnerable to financial crime and could cause them to become increasingly dependent on government support programs to recover from financial scams and exploitation.

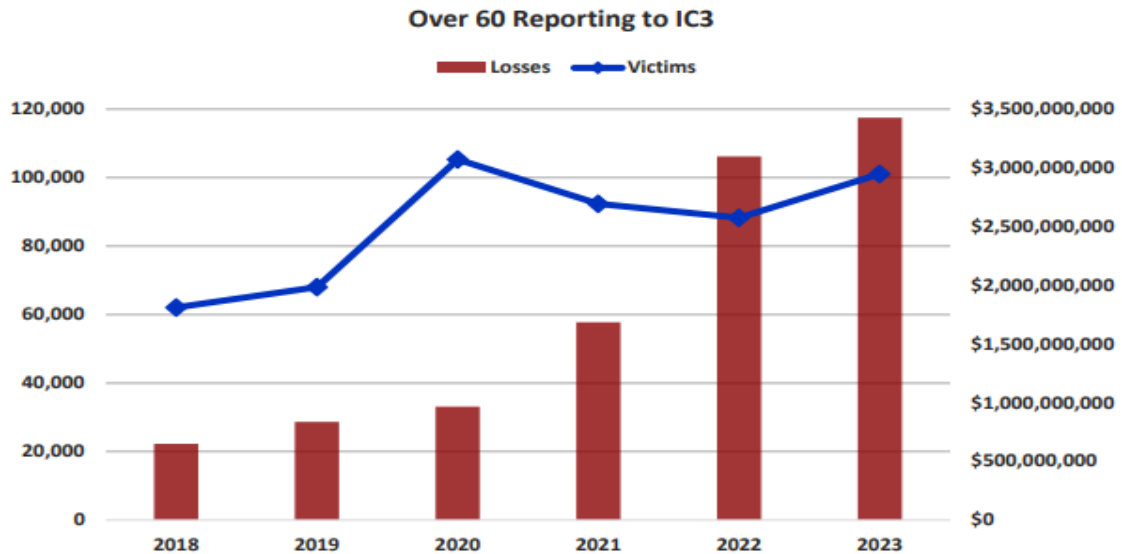
“Report and Hold” laws provide private and public partners with the collaborative, investigative, and information sharing authorities and vehicles they require to identify and stop financial crimes against seniors/vulnerable adults. These laws also help facilitate legal action against the financial criminals who are harming Idahoans. Finally, this legislation allows financial institutions to disrupt illicit financial transactions after evidence is gathered showcasing a likely financial crime, while also providing institutions with protection from the civil liability concerns financial criminals depend upon to carry out their scams against Idaho’s senior and vulnerable adult community.

### Increasing Senior/Vulnerable Adult Financial Losses Makes Legislation Necessary

Financial crime losses are increasing for Idaho seniors/vulnerable adults due to unique challenges ranging from cognitive decline, social isolation, financial insecurity, and the digitization of financial services. Seniors/vulnerable adults are prime targets for fraudsters and in order to prevent future losses and recover stolen assets it is important to hold bad actors accountable by ensuring financial crimes and losses are identified and reported. This makes the creation of legislation that improves incident reporting, stakeholder collaboration, and illicit financial crime prevention necessary.

To understand the scope of the problem, consider the FBI Internet Crime Complaint Center’s (IC3) 2023 statistics, which highlights that victims over the age of 60 reported known losses of \$3.4 billion to fraud and scams; that is an 11% increase from 2022 (see the IC3 chart below illustrating this alarming trend).<sup>1</sup>

## COMPLAINTS FILED BY INDIVIDUALS OVER 60 TRENDS<sup>3</sup>



Idaho requires new legislation that will provide key stakeholders and victims with critical capabilities and authorities that make it easier to report financial crime, improve threat intelligence sharing, and disrupt illicit financial payments/transactions in an effort to better protect Idahoans from harm. True prevention can only happen when communities, caregivers, financial institutions, investigators, and other stakeholders are given the tools and authorities they require to ensure seniors/vulnerable adults receive the protection and support they deserve. To accomplish this goal Idaho will need to approve new legislation.

### Report and Hold Legislation is an Essential Tool for Protecting Idaho

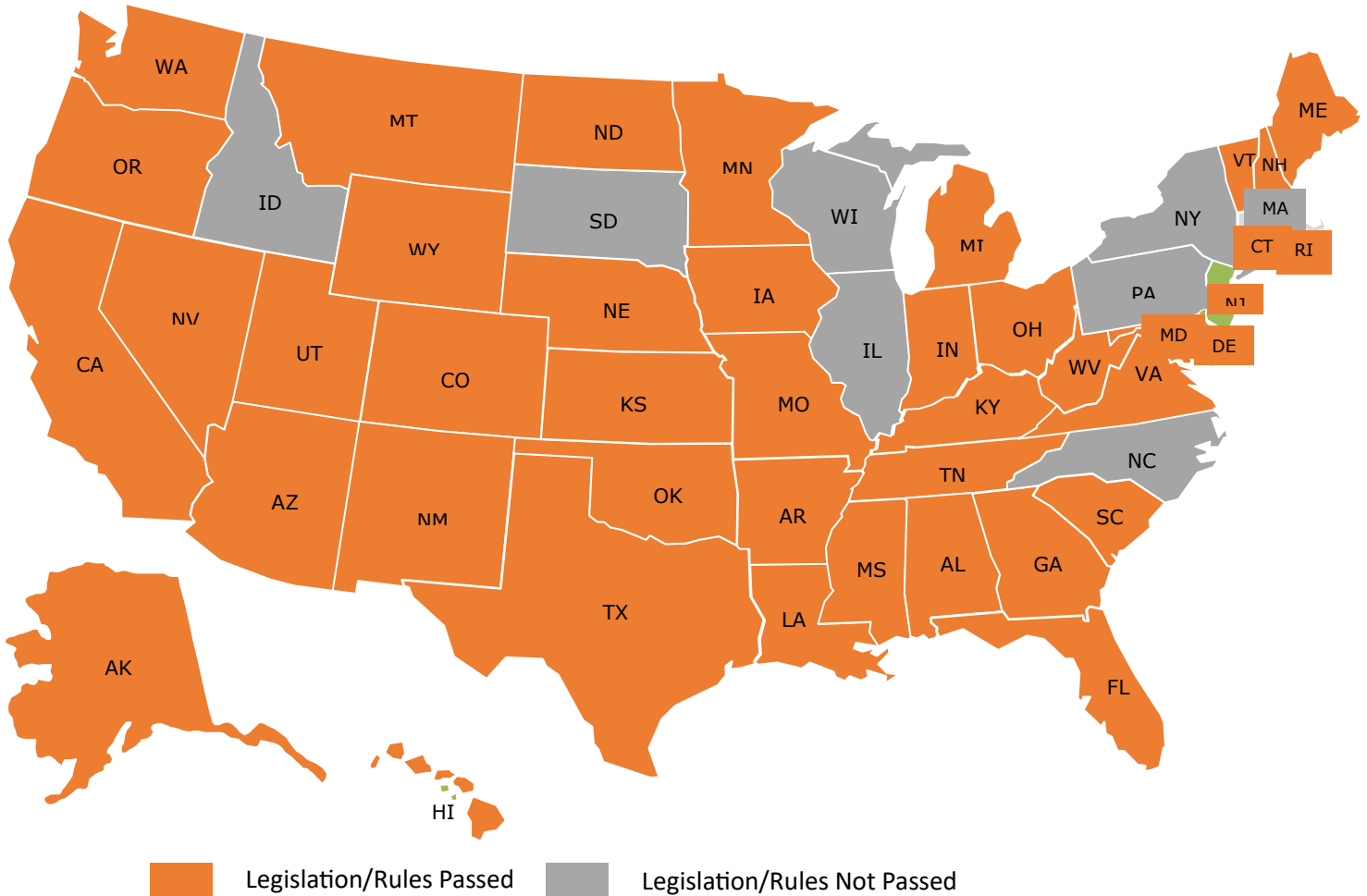
“Report and Hold” legislation is a critical tool that provides private sector financial institutions with the ability to delay financial transactions and report them to state authorities when potential fraud or financial exploitation against seniors/vulnerable adults is identified or strongly suspected. Currently, Idaho financial institutions are lacking key legal protections and authorities to block transactions from illicit actors/scammers who are robbing Idahoans of the financial assets they rely upon to pay necessary living expenses and support themselves in their golden years.

When seniors and vulnerable adults become the victims of financial crime, they often lack the ability to recoup their losses and may be forced to rely on government assistance programs or other funding methods to care for themselves. This makes “Report and Hold” legislation a critical tool for protecting victims and state finances. Presently, Idaho is one of only eight states that does not possess “Report and Hold” authorities (see national graphic below) leaving Idahoans less protected than other states.<sup>ii</sup>

“Report and Hold” laws empower financial institutions to prevent the immediate loss of funds by giving organizations time to investigate and partner with state agencies. According to other state

oversight agencies, there are no known formal complaints for legitimate transactions being delayed.<sup>iii</sup> Financial institutions acting in good faith are typically granted immunity from civil liability related to a disbursement delay, allowing private and public partners to work together to protect our most vulnerable citizens.

### Report and Hold Legislation Passage Nationally



### Growing Senior Population & Digital Technology Usage Means Financial Losses are Likely to Rise

The combination of Idaho’s growing senior population and the emergence of new digital financial, social media, and communication platforms means financial crime against seniors and vulnerable adults is likely to continue increasing making the adoption of “Report and Hold” legislation critical.<sup>iv v</sup> Idaho’s top growing demographic is seniors, and 10,000 Americans are turning 65 every day.<sup>vi vii</sup> This means that bad actors will have more seniors to target, and policymakers need to draft and pass legislation that will grant financial institutions and investigators the authorities they require to protect Idaho’s senior/vulnerable adult community.

Digital technology plays a significant role in senior fraud and abuse because it extends the reach of illicit actors and provides them with a level of anonymity to carry out their schemes. The proliferation of social media (e.g., Facebook, WhatsApp, Telegram, etc.), senior dating sites, cryptocurrency, and the emergence of new artificial intelligence (AI) technologies have given criminals virtually unlimited access to potential victims within Idaho’s senior and vulnerable adult populations.

While technology is part of the problem, it can also be a part of the solution. “Report and Hold” laws allow states to intervene on behalf of individual victims and acquire vital data to help detect and prevent future instances. These laws enable key stakeholders such as financial institutions, law enforcement, and state agencies (e.g., Idaho Adult Protective Services and the Idaho Department of Finance) to work together to protect seniors and vulnerable adults.

### **Report & Hold Legislation Keys: Enable Collaboration, Hold Criminals Accountable, Protect Financial Assets, Safeguard Financial Institutions**

A “Report and Hold” law will send a strong message to citizens and bad actors alike that Idaho’s public and private stakeholders are working together to protect the financial assets of Idahoans and are dedicated to maintaining a healthy financial environment to the detriment of financial criminals. An effective “Report and Hold” law should contain the following components:

- **Enables Collaboration-** A “Report and Hold” law does not mandate action but rather enables collaboration between public and private stakeholders to better protect Idaho’s citizens, institutions, and financial system. This law would act as a mechanism to facilitate public and private collaboration that will help safeguard Idaho consumers and citizens from the harms of financial crime.

The best way to protect Idaho’s financial institutions/system is to hold financial criminals accountable by partnering with state investigative agencies. Financial crime corrupts financial institutions since it is illegitimate financial activity that devastates consumers and business operations. The public and private collaboration this legislation enables will help accomplish Idaho’s goal of preventing financial crime and better protecting Idaho’s financial community and seniors/vulnerable adults.

- **Information Sharing Vehicle-** In order to protect the financial assets of Idaho’s seniors and vulnerable adults it is important to make sure that information sharing can occur between the financial industry and state investigative agencies when illicit activity is identified. Information sharing is integral to building criminal, civil, and administrative cases against financial criminals and to ensure that financial institutions have the information they require to make decisions regarding potential illicit activity. “Report and Hold” legislation will create a critical information sharing vehicle that will protect Idahoans and help hold financial criminals accountable for their misdeeds.

- **Investigative Synergy**- The best way to fight financial crime is to use all the investigative authorities available to the financial industry and public authorities, which is what a “Report and Hold” law enables. Financial institutions are able to use their investigative authorities to identify fraud and financial exploitation against seniors/vulnerable adults to protect their financial assets. They are then able to report this illicit activity to their Idaho state partners to investigate these crimes and disrupt the operations of financial criminals and bring legal action against them.
- **Illicit Financial Activity Disruption Authority**- Financial professionals are trained to recognize what legitimate and illegitimate financial activity looks like, so it is important to give them the ability to hold/stop financial transactions they identify as illicit. Financial services companies build their businesses on servicing the financial needs/requests of their customers and will not hold a financial transaction unless they are relatively certain an activity relates to potential financial misconduct/crimes. The only way to protect the assets of seniors/vulnerable adults is to allow financial institutions and their trained professionals to stop financial crime schemes when they recognize them.

The choice is binary either allow financial criminals to steal money from Idaho citizens or provide Idaho’s financial community and investigative agencies with the tools they need to protect the financial assets of Idaho’s senior and vulnerable adult community.

- **Good Faith Safe Harbor Clause for Financial Institutions**- It is critical that financial institutions receive protection from civil liability if they report and hold/stop transactions in good faith. Illicit financial actors know that financial institutions are unlikely to disrupt their operations if they could potentially face civil or criminal liability for holding transactions even if they are virtually sure a financial crime is occurring.

Good faith reporting requires financial institutions to collect evidence showcasing that it has reason to believe a financial crime and/or misconduct is occurring. This ensures an objective analysis by a financial institution before an action is taken. Objective analysis protects Idahoans from having legitimate transactions held up, while also ensuring that financial institutions receive the authorities they require to disrupt the operations of financial criminals and safeguard the assets of Idaho’s seniors/vulnerable adults.

The only way to protect Idaho’s senior and vulnerable adult community from increasing financial crime/exploitation is to provide businesses and state investigative agencies with the tools and authorities they need to disrupt financial crime, protect financial assets, and take necessary legal action against financial criminals. “Report and Hold” legislation is the exact tool Idaho needs to accomplish this goal, and legislators should seek to pass this legislation immediately to better defend the assets of Idaho’s seniors/vulnerable adults.

## End Notes

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<sup>i</sup> [https://www.ic3.gov/Media/PDF/AnnualReport/2023\\_IC3ElderFraudReport.pdf](https://www.ic3.gov/Media/PDF/AnnualReport/2023_IC3ElderFraudReport.pdf)

<sup>ii</sup> See list of states in the “Report and Hold Laws/Rules by State Section” below.

<sup>iii</sup> IDOF contacted states via the North American Securities Administrators Association (NASAA) and no respondents reported any formal valid complaints of legitimate transactions being delayed due to “Report and Hold” legislation.

<sup>iv</sup> <https://www.pewresearch.org/short-reads/2022/01/13/share-of-those-65-and-older-who-are-tech-users-has-grown-in-the-past-decade/>

<sup>v</sup> <https://usafacts.org/data/topics/people-society/population-and-demographics/our-changing-population/state/idaho/>

<sup>vi</sup> Ibid.

<sup>vii</sup> <https://www.aarpinternational.org/initiatives/aging-readiness-competitiveness-arc/united-states>

### Report and Hold Laws/Rules by State

Alabama – Act No. 2016-141

Statement of Policy Alaska - Chapter 65 SLA (2018)

Arizona – Chapter 221 (2019)

Arkansas – Act No. 668 (2017), Act 533 (2021)

California - Chapter 272 (2019)

Colorado – Chapter 289, SL of 2017

Connecticut – Public Act No. 23-161 (2023)

Delaware – Title 31, Ch. 39 & Title 6, Ch. 73 Del Code (2015/2018)

Florida – Chapter 2020-157

Georgia – Act 269 (2023)

Hawaii – Act 054 (2021)

Indiana – Act. No. 221 (2016)

Iowa – Chapter 137 (2021)

Kansas – HB 2562 Kentucky – Act 2018, Ch. 127

Louisiana – Act No. 580 (2016)

Maine – Chapter 17 (2019)

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Maryland – Ch. 837, 2017

Michigan – Public Act No. 306 (2023)

Minnesota – Ch. 161, Laws of 2018

Mississippi – Sec. 75-71-413 MS Code 1972 (2017)

Missouri – RSMo 409.600-409.630 (2015), Ch. 409.630 (2020)

Montana – Chapter 84 (2017) Nebraska – Revised Statute 8-2905 (2021)

Nevada – R018-21 (2023)

New Hampshire – Chapter 421-B:5-507-A (2019)

New Jersey – P.L. 2019, c.340

New Mexico – Chapter 106 of 2017

North Dakota – Ch. 10-04-08.5, Code of ND (2017)

Ohio – HB 110 / Sect. 1707.49 (2021)

Oklahoma – 660: 11-15-2 (2020)

Oregon – Chapter 514, 2017 Laws

Rhode Island – Chapter 11.2 (2019)

South Carolina – Act No. 84 (2021)

Tennessee – Pub. Ch. 424 (2017)

Texas – Chapter 269, Sec. 45 (2021)

Utah – Sec. 61-1-201 – 206 U.C.A (2018)

Virginia – Sec. 63.2-1606(L) (2019)

Washington State – Ch. 133, Laws of 2010

West Virginia – Chapter 321, 2020

Vermont – S-2016-01

Wyoming – Ch. 8, Laws of 2023