

SENATE BILL 516

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2002 Regular Session
(2lr2195)

ENROLLED BILL
-- Judicial Proceedings/Judiciary --

Introduced by Senators Jimeno and Collins, Collins, Colburn, Ferguson, Forehand, Green, Haines, Hughes, Jacobs, Mitchell, and Sfikas

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

CHAPTER 321

1 AN ACT concerning

2 **Abuse or Neglect of Vulnerable Adults - Degrees**

3 FOR the purpose of establishing the felony of abuse or neglect of a vulnerable adult in
4 the first degree, subject to certain penalties; altering the scope of the
5 misdemeanor of abuse or neglect of a vulnerable adult and redesignating it as
6 abuse or neglect of a vulnerable adult in the second degree, subject to certain
7 penalties; providing that certain sentences shall be in addition to certain other
8 sentences except under certain circumstances; defining a certain term; and
9 generally relating to abuse and neglect of vulnerable adults.

10 BY renumbering

11 Article - Criminal Law

12 Section 3-603(e) and 3-604, respectively

13 to be Section 3-605 and 3-606, respectively

14 Annotated Code of Maryland

15 (As enacted by Chapter _____ (H.B. 11) of the Acts of the General Assembly of

1 2002)

2 BY repealing and reenacting, with amendments,

3 Article - Criminal Law

4 Section 3-603 and 3-605

5 Annotated Code of Maryland

6 (As enacted by Chapter _____ (H.B. 11) of the Acts of the General Assembly of
7 2002)

8 (As enacted by Section 1 of this Act)

9 BY adding to

10 Article - Criminal Law

11 Section 3-604

12 Annotated Code of Maryland

13 (As enacted by Chapter _____ (H.B. 11) of the Acts of the General Assembly of
14 2002)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
16 MARYLAND, That Section(s) 3-603(e) and 3-604, respectively, of Article - Criminal
17 Law of the Annotated Code of Maryland (as enacted by Chapter _____ (H.B. 11) of
18 the Acts of the General Assembly of 2002) be renumbered to be Section(s) 3-605 and
19 3-606, respectively.

20 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
21 read as follows:

22 **Article - Criminal Law**

23 3-603.

24 (a) (1) In this section AND §§ 3-604 AND 3-605 OF THIS SUBTITLE the
25 following words have the meanings indicated.

26 (2) (i) "Abuse" means the sustaining of physical pain or injury by a
27 vulnerable adult as a result of cruel or inhumane treatment or as a result of a
28 malicious act under circumstances that indicate that the vulnerable adult's health or
29 welfare is harmed or threatened.

30 (ii) "Abuse" includes the sexual abuse of a vulnerable adult.

31 (iii) "Abuse" does not include an accepted medical or behavioral
32 procedure ordered by a health care provider authorized to practice under the Health
33 Occupations Article or § 13-516 of the Education Article acting within the scope of the
34 health care provider's practice.

35 (3) "Caregiver" means a person under a duty to care for a vulnerable
36 adult because of a contractual undertaking to provide care.

1 (4) "Family member" means a relative of a vulnerable adult by blood,
2 marriage, adoption, or the marriage of a child.

3 (5) "Household" means the location:

4 (i) in which the vulnerable adult resides;

5 (ii) where the abuse or neglect of a vulnerable adult is alleged to
6 have taken place; or

7 (iii) where the person suspected of abusing or neglecting a
8 vulnerable adult resides.

9 (6) "Household member" means an individual who lives with, or is a
10 regular presence in, a home of a vulnerable adult at the time of the alleged abuse or
11 neglect.

12 (7) (i) "Neglect" means the intentional failure to provide necessary
13 assistance and resources for the physical needs of a vulnerable adult, including:

14 1. food;

15 2. clothing;

16 3. toileting;

17 4. essential medical treatment;

18 5. shelter; or

19 6. supervision.

20 (ii) "Neglect" does not include the provision of nonmedical remedial
21 care and treatment for the healing of injury or disease that is:

22 1. given with the consent of the vulnerable adult; and

23 2. recognized by State law in place of medical treatment.

24 (8) "SERIOUS PHYSICAL INJURY" MEANS PHYSICAL INJURY THAT:

25 (I) CREATES A SUBSTANTIAL RISK OF DEATH; OR

26 (II) CAUSES PERMANENT OR PROTRACTED SERIOUS:

27 1. DISFIGUREMENT;

28 2. LOSS OF THE FUNCTION OF ANY BODILY MEMBER OR

29 ORGAN; OR

1 3. IMPAIRMENT OF THE FUNCTION OF ANY BODILY MEMBER
2 OR ORGAN.

3 [(8)] (9) (i) "Sexual abuse" means an act that involves sexual
4 molestation or exploitation of a vulnerable adult.

5 (ii) "Sexual abuse" includes:

- 6 1. incest;
- 7 2. rape;
- 8 3. sexual offense in any degree;
- 9 4. sodomy; and
- 10 5. unnatural or perverted sexual practices.

11 [(9)] (10) "Vulnerable adult" means an adult who lacks the physical or
12 mental capacity to provide for the adult's daily needs.

13 (b) (1) A caregiver, a parent, or other person who has permanent or
14 temporary care or responsibility for the supervision of a vulnerable adult may not
15 cause abuse or neglect of the vulnerable adult THAT:

16 (I) RESULTS IN THE DEATH OF THE VULNERABLE ADULT;

17 (II) CAUSES SERIOUS ~~BODILY~~ PHYSICAL INJURY TO THE
18 VULNERABLE ADULT; OR

19 (III) INVOLVES SEXUAL ABUSE OF THE VULNERABLE ADULT.

20 (2) A household member or family member may not cause abuse or
21 neglect of a vulnerable adult THAT:

22 (I) RESULTS IN THE DEATH OF THE VULNERABLE ADULT;

23 (II) CAUSES SERIOUS ~~BODILY~~ PHYSICAL INJURY TO THE
24 VULNERABLE ADULT; OR

25 (III) INVOLVES SEXUAL ABUSE OF THE VULNERABLE ADULT.

26 (c) A person who violates this section is guilty of [a misdemeanor] THE
27 FELONY OF ABUSE OR NEGLECT OF A VULNERABLE ADULT IN THE FIRST DEGREE
28 and on conviction is subject to imprisonment not exceeding [5] ~~45~~ 10 years or a fine
29 not exceeding [\$5,000] ~~\$15,000~~ \$10,000 or both.

30 (d) A sentence imposed under this section shall be in addition to any other
31 sentence imposed for a conviction arising from the same facts and circumstances
32 unless the evidence required to prove each crime is substantially identical.

1 3-604.

2 (A) THIS SECTION DOES NOT APPLY TO ABUSE THAT INVOLVES SEXUAL
3 ABUSE OF A VULNERABLE ADULT.

4 (B) (1) A CAREGIVER, A PARENT, OR OTHER PERSON WHO HAS PERMANENT
5 OR TEMPORARY CARE OR RESPONSIBILITY FOR THE SUPERVISION OF A VULNERABLE
6 ADULT MAY NOT CAUSE ABUSE OR NEGLECT OF THE VULNERABLE ADULT.

7 (2) A HOUSEHOLD MEMBER OR FAMILY MEMBER MAY NOT CAUSE
8 ABUSE OR NEGLECT OF A VULNERABLE ADULT.

9 (C) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF THE
10 MISDEMEANOR OF ABUSE OR NEGLECT OF A VULNERABLE ADULT IN THE SECOND
11 DEGREE AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 5
12 YEARS OR A FINE NOT EXCEEDING \$5,000 OR BOTH.

13 (D) A SENTENCE IMPOSED UNDER THIS SECTION SHALL BE IN ADDITION TO
14 ANY OTHER SENTENCE IMPOSED FOR A CONVICTION ARISING FROM THE SAME
15 FACTS AND CIRCUMSTANCES UNLESS THE EVIDENCE REQUIRED TO PROVE EACH
16 CRIME IS SUBSTANTIALLY IDENTICAL.

17 3-605.

18 If a State or local unit receives a report of present or past abuse or neglect of a
19 vulnerable adult, an investigation shall be conducted in accordance with:

20 (1) § 7-1005 of the Health - General Article if the adult has a
21 developmental disability as defined in § 7-101 of the Health - General Article;

22 (2) § 10-705 of the Health - General Article if the adult is in a facility as
23 defined in § 10-101 of the Health - General Article;

24 (3) § 19-346 or § 19-347 of the Health - General Article if the adult is a
25 resident of a related institution as defined in § 19-301 of the Health - General Article;
26 and

27 (4) §§ 14-301 through 14-309 of the Family Law Article if the adult does
28 not meet the criteria of item (1), (2), or (3) of this [subsection] SECTION.

29 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 October 1, 2002.

