

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE

House Bill 255
Judiciary

(Delegates Dumais and Kramer)

**Criminal Procedure - Seizure and Forfeiture - Property Used in Exploitation of
Vulnerable Adults**

This bill (1) authorizes State and local law enforcement agencies to seize property in connection with a violation of the law prohibiting exploitation of a vulnerable adult and (2) establishes procedures for the seizure, forfeiture, and sale of property related to exploitation of a vulnerable adult.

The bill applies prospectively to offenses committed on or after the bill's October 1, 2015 effective date.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues from the proceeds of seized or forfeited property. It is expected that the bill's provisions can be implemented with existing State resources.

Local Effect: Potential minimal increase in local revenues from the proceeds of seized or forfeited property. The bill's provisions can be implemented with existing local resources.

Small Business Effect: None.

Analysis

Bill Summary: The bill authorizes State or local law enforcement to seize property in connection with a violation of and conviction under the law prohibiting exploitation of a vulnerable adult.

The bill establishes procedures for the seizure and forfeiture of property as a result of exploitation of a vulnerable adult violations, including the types of property that can be seized, the procedures and conditions that must be met for property to be seized, processing of seized property, and forfeiture of property by a defendant found guilty of exploitation of a vulnerable adult.

Proceeds from the sale of seized or forfeited property must, after specified expenses are paid, be distributed to the general fund of the State or of the political subdivision that seized the property.

Current Law: Under the offense of exploitation of a vulnerable adult, a person may not knowingly and willfully obtain by deception, intimidation, or undue influence the property of an individual that the person knows or reasonably should know is at least age 68 or is a vulnerable adult with intent to deprive the vulnerable adult of the vulnerable adult's property. Penalties for the offense vary based on the value of the property, as listed below. A sentence imposed for the offense may be separate from and consecutive to or concurrent with a sentence for any crime based on the act or acts establishing the violation.

<u>Property Value</u>	<u>Penalty</u>
Less than \$1,000	Misdemeanor – 18 months and/or \$500
\$1,000 to less than \$10,000	Felony – 10 years and/or \$10,000
\$10,000 to less than \$100,000	Felony – 15 years and/or \$15,000
\$100,000 or more	Felony – 25 years and/or \$25,000

In addition to the penalties listed above, violators must restore the property taken or its value to the owner or, if the owner is deceased, restore the property or its value to the owner's estate. If a defendant fails to restore fully the property taken or its value as ordered, the defendant is disqualified, to the extent of the defendant's failure to restore the property or its value, from inheriting, taking, enjoying, receiving, or otherwise benefiting from the estate, insurance proceeds, or property of the victim of the offense, whether by operation of law or pursuant to a legal document executed or entered into by the victim before the defendant has been convicted. The defendant has the burden of proof with respect to establishing that the defendant has fully restored the property taken or its value.

The statutory prohibition on exploitation of a vulnerable adult may not be construed to impose criminal liability on a person who, at the request of the victim of the offense, the victim's family, or the court appointed guardian of the victim, has made a good faith effort to assist the victim in the management of or transfer of the victim's property.

Chapter 636 of 2013 established similar seizure and forfeiture procedures for violations of the State's human trafficking laws.

Background: According to the Judiciary, there were 36 exploitation of a vulnerable adult violations filed in the District Court during 2013. Seven of these violations involved property valued between \$1,000 and \$10,000; 29 of these violations involved property with a value of less than \$1,000. The District Court advises that there were 66 vulnerable adult violations in the District Court during fiscal 2014.

The Maryland State Commission on Criminal Sentencing Policy reports that there were seven convictions for exploitation of a vulnerable adult in the circuit courts during fiscal 2013.

Local Fiscal Impact: Harford County advises that the bill does not have a fiscal impact on the county.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Harford County, Department of Budget and Management, Department of Natural Resources, Judiciary (Administrative Office of the Courts), Montgomery County, Department of State Police, Maryland State Commission on Criminal Sentencing Policy, University System of Maryland, Department of Legislative Services

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