

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 892
Judiciary

(Delegate Kaufman, *et al.*)

Judicial Proceedings

Criminal Law - Benefits Exploitation

This bill generally prohibits a person from committing the crime of benefits exploitation, as specified. A violator is guilty of a felony and on conviction subject to a penalty of imprisonment for up to 25 years and/or a \$15,000 maximum fine.

Fiscal Summary

State Effect: General fund expenditures increase by \$1,376 in FY 2025 only for the Judiciary to implement one-time programming changes. Otherwise, the bill is not anticipated to materially affect State finances or operations, including expenditures for the Office of the Public Defender and the Department of Public Safety and Correctional Services. Revenues are not affected.

Local Effect: The bill is not anticipated to materially affect local finances or operations, including the work of the circuit courts, local correctional facilities, and State's Attorney's Offices.

Small Business Effect: None.

Analysis

Bill Summary:

Benefits Exploitation

A person is prohibited from knowingly recruiting, harboring, transporting or obtaining an individual through deception, coercion, exploitation, isolation, or any other means for the

purpose of appropriating the individual's government benefits for personal benefit or to benefit another (general prohibition). A person is also prohibited from knowingly benefitting financially or by receiving anything of value from participating in this prohibited activity. A person may not aid, abet, or conspire with one or more persons to violate the general prohibition established under the bill.

A person who violates any of these prohibitions is guilty of a felony punishable by imprisonment for up to 25 years imprisonment and/or a \$15,000 maximum fine. Each violation is considered a separate offense. A conviction for benefits exploitation does not merge with a conviction for any crime based on the act establishing the violation.

Definitions

“Government benefits” includes (1) Medicare; (2) Medicaid; (3) Temporary Assistance for Needy Families; (4) Special Supplemental Nutrition Program for Women, Infants, and Children; (5) Supplemental Nutrition Assistance Program; (6) Social Security; (7) Social Security Disability; (8) veterans benefits; (9) pension benefits; (10) Temporary Disability Assistance Program; and (11) Public Assistance to Adults.

“Coercion” means (1) causing or threatening to cause bodily harm to an individual or physically restraining or confining or threatening to physically restrain or confine an individual; (2) exposing or disseminating or threatening to expose or disseminate any fact or information that would tend to subject an individual to criminal or immigration proceedings, hatred, contempt, or ridicule; (3) destroying, concealing, removing, confiscating, or possessing any actual or purported passport or other immigration document, or any other actual or purported government identification document, of an individual; (4) providing a controlled dangerous substance to an individual for the purpose of compelling the individual to engage in an action against the individual's will; (5) causing or threatening to cause financial harm to an individual or exerting financial control over a disabled or elderly adult; or (6) depriving an individual of medical care.

The bill also contains definitions for “deception,” “exploitation,” and “isolation.”

Current Law:

Exploitation of a Vulnerable Adult – § 8-801 of the Criminal Law Article

A “vulnerable adult” is an adult who lacks the physical or mental capacity to provide for the adult's daily needs. 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 individual of the individual'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>Maximum Penalty</u>
Less than \$1,500	Misdemeanor – 1 year and/or \$500
\$1,500 to less than \$25,000	Felony – 5 years and/or \$10,000
\$25,000 to less than \$100,000	Felony – 10 years and/or \$15,000
\$100,000 or more	Felony – 20 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.

Office of the Attorney General Enforcement Related to Exploitation of a Vulnerable Adult

Chapter 114 of 2016 generally authorizes the Division of Consumer Protection in the Office of the Attorney General (OAG) to bring a civil action for damages against a person who violates the State’s prohibition against exploitation of a vulnerable adult on behalf of a victim of the offense or, if the victim is deceased, the victim’s estate. Chapter 794 of 2018 extends this authority to the Securities Commissioner of the Division of Securities in OAG. Finally, Chapter 3 of 2021 established the Senior and Vulnerable Adult Asset Recovery Unit in OAG with the authority to bring the same types of claims for the purpose of protecting seniors and vulnerable adults from financial crimes. The division, commissioner, and unit may recover damages for property loss or damage. If the division, commissioner, or unit prevails in an action, the costs of the action may be recovered for the use of OAG.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State's Attorneys' Association; Department of Human Services; Department of Public Safety and Correctional Services; Department of Legislative Services

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