



Maryland Developmental Disabilities Council

EMPOWERMENT • OPPORTUNITY • INCLUSION

Judicial Proceedings Committee

February 20, 2020

SB 702: Criminal Law - Exploitation of Vulnerable Adult or Elderly Individual - Undue Influence

Position: Support

The Maryland Developmental Disabilities Council (DD Council) is an independent, public policy organization that works to improve policies, programs and services that support people with developmental disabilities and their families in our communities. The DD Council is led by people with developmental disabilities and their families. **From that perspective, the DD Council supports SB 702 which redefines the term “undue influence” and adds factors the court must consider when determining whether property was obtained by undue influence.**

WHY is this legislation important?

- It is a sad fact that some adults with disabilities are vulnerable and at risk of a range of exploitative or coercive behaviors including financial, physical or emotional abuse.
- The Attorney’s General office notes that abuses against vulnerable adults are escalating in our communities. Even more troubling is that for every case of abuse that is reported to authorities, experts estimate that as many as five cases go unreported.
- Those who are elderly, or have significant support needs are at an increased risk of losing their assets to those exerting undue influence on them.

WHAT does this legislation do?

- Defines undue influence as excessive persuasion that causes a vulnerable adult or an individual at least age 68 to act or refrain from acting by overcoming that person’s free will and that results in inequity.
- In determining whether property was obtained by undue influence, the court must consider:
 - The vulnerability of the victim, including several specified factors.
 - Whether the defendant knew or should have known of the alleged victim’s vulnerability.
 - The defendant’s apparent authority, including whether the defendant occupied specified roles, such as a fiduciary or care provider.
 - The actions or tactics used by the defendant, including whether the defendant engaged in specified activities.
 - The equity of the result.

The DD Council supports SB 702 because this legislation provides a critical safeguard for Maryland’s most vulnerable residents.

Contact: Keith Walmsley, Director of Public Policy Initiatives
kwalmsley@md-council.org