
To: Members of the House Judiciary Committee

From: Vulnerable Adult Exploitation Task Force

Date: January 21, 2020

Subject: **Bill No. HB33 – Criminal Law – Abuse or Neglect of a Vulnerable Adult– Causing Severe Emotional Distress**

Position: **IN SUPPORT, as amended (See below)**

The Vulnerable Adult Exploitation Task Force **supports House Bill 33 – Criminal Law – Abuse or Neglect of a Vulnerable Adult – Causing Severe Emotional Distress, as amended.**

The Vulnerable Adult Exploitation Task Force (“Task Force”) is comprised of a group of attorneys practicing in the areas of estate planning, estate and trust administration, and elder and disability law. As part of its initial purpose, the Task Force seeks to provide input and insight supportive of legislation to address the abuse of vulnerable adults. In addition, the Task Force is seeking to work with legislators to create thoughtful and comprehensive civil and criminal legislation to attack this problem head on, providing protections for vulnerable adults and provide both criminal prosecutors and civil attorneys with the ability to enforce those protections.

The amendment we are offering as a friendly amendment would delete Criminal Law Article, Section 3-604 (a)(2)(i), in its entirety, and insert the following as Section 3-604(a)(2)(i):

(2)(i) “Abuse” means the sustaining of physical pain, severe emotional distress, or injury by a vulnerable adult as a result of cruel or inhumane treatment or as a result of a malicious act under circumstances that indicate that the vulnerable adult’s health or welfare is harmed or threatened.

As background for the support of the Task Force for House Bill 33, as amended, the following is submitted:

As attorneys and family counselors, we too often see evidence of psychological abuse of an elderly client (or other vulnerable adult) which results in emotional distress, physical and mental complications, as well as a reduction in quality of life. This type of abuse may also cause the abuse victim to turn away efforts of well-meaning family and friends due to the emotional distress or the fear of additional abuse, isolating the elderly person from those who would be helpful and kind.

In 2009, the MetLife Mature Market Institute, the National Committee for the Prevention of Elder Abuse (NCPEA) and Virginia Polytechnic Institute and State University, conducted a groundbreaking study of elder physical and emotional abuse and financial exploitation, entitled *Broken Trust: Elders, Family and Finances* (commonly referred to as the “MetLife Study”). With its authors characterizing “elder abuse as the crime of the 21st Century,” the MetLife Study states that “up to one million older Americans may be targeted yearly and that related costs like health care, social services, investigations, legal fees, prosecution, lost income and assets reach tens of millions of dollars annually.”

The current criminal statute addressing abuse of a vulnerable adult, found in Section 3-604(a)(2) of the Criminal Law Article, defines abuse only in terms of physical pain or injury. House Bill 33 would add “severe emotional distress” to the definition of abuse, addressing those cases where a vulnerable adult is harmed, psychologically, “as a result of cruel or inhumane treatment or as a result of a malicious act under circumstances that indicate that the vulnerable adult’s health or welfare is harmed or threatened.”

Indeed, the likelihood of emotional manipulation and abuse of the elderly is as great as that of physical harm. Notably, the MetLife Study suggested that signs of exploitation were not generally physical. Instead, “[s]igns of abuse include indications of intimidation by or fear of a caregiver, isolation from family and friends, disheveled appearance, anxiety about finances, new ‘best friends’ and missing belongings.”

We believe that the abuse of vulnerable adults is endemic in our society today and that this abuse often causes harm which may not be physical but emotional pain. This bill provides a remedy that will help address the abuse of our vulnerable adults, and we believe it deserves your support.

Please contact Michael W. Davis, Chair, Vulnerable Adult Exploitation Task Force, if you have any questions.

Michael W. Davis
Davis, Agnor, Rapaport & Skalny, LLC
10211 Wincopin Circle, Suite 600
Columbia, Maryland 21044
Office: (410) 995-5800
Cell: (443) 472-2965
mdavis@darslaw.com