
By: **Delegates Mandel, Bobo, Boutin, Bronrott, Burns, Cadden, Cane, Clagett, C. Davis, Dembrow, Dypski, Eckardt, Finifter, Frush, Gladden, Hubers, Hurson, A. Jones, Kirk, La Vay, Marriott, Menes, Mohorovic, Nathan-Pulliam, Paige, Pendergrass, Pitkin, Rawlings, Riley, Rosso, Sher, Sophocleus, Stocksdale, Stull, Goldwater, and Harrison**

Introduced and read first time: February 11, 2000
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Crimes - Fraudulent Appropriation - Fiduciary Relationships with**
3 **Vulnerable Adults and Adults Unable to Live Independently**

4 FOR the purpose of determining fraudulent appropriations in fiduciary relationships;
5 clarifying that a person who has, shares, or exercises control or authority over a
6 vulnerable adult or an adult unable to live independently is presumed to have a
7 fiduciary relationship with the vulnerable adult or adult unable to live
8 independently; making stylistic changes; expanding the definition of
9 "exploitation" to include adults unable to live independently; expanding the
10 scope of the adult protective services program to include adults unable to live
11 independently; and generally relating to fraudulent appropriations in fiduciary
12 relationships.

13 BY repealing and reenacting, with amendments,
14 Article - Family Law
15 Section 14-101(f)
16 Annotated Code of Maryland
17 (1999 Replacement Volume and 1999 Supplement)

18 BY repealing and reenacting, without amendments,
19 Article - Family Law
20 Section 14-101(q)
21 Annotated Code of Maryland
22 (1999 Replacement Volume and 1999 Supplement)

23 BY repealing and reenacting, without amendments,
24 Article - Health - General
25 Section 7-101(k)(1)
26 Annotated Code of Maryland

1 (1994 Replacement Volume and 1999 Supplement)

2 BY repealing and reenacting, with amendments,

3 Article 27 - Crimes and Punishments

4 Section 132

5 Annotated Code of Maryland

6 (1996 Replacement Volume and 1999 Supplement)

7 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

8 MARYLAND, That the Laws of Maryland read as follows:

9 **Article - Family Law**

10 14-101.

11 (f) "Exploitation" means any action which involves the misuse of [a
12 vulnerable adult's funds, property, or person] THE FUNDS, PROPERTY, OR PERSON OF
13 A VULNERABLE ADULT OR AN ADULT WHO IS UNABLE TO LIVE INDEPENDENTLY, AS
14 DEFINED IN § 7-101(K)(1) OF THE HEALTH - GENERAL ARTICLE.

15 (q) "Vulnerable adult" means an adult who lacks the physical or mental
16 capacity to provide for the adult's daily needs.

17 **Article - Health - General**

18 7-101.

19 (k) "Live independently" means:

20 (1) For adults:

21 (i) Managing personal care, such as clothing and medication;

22 (ii) Managing a household, such as menu planning, food
23 preparation and shopping, essential care of the premises, and budgeting; and

24 (iii) Using community resources, such as commercial
25 establishments, transportation, and services of public agencies; or

26 **Article 27 - Crimes and Punishments**

27 132.

28 (A) If any executor, administrator, guardian, committee, trustee, receiver or
29 any fiduciary shall ENGAGE IN EXPLOITATION, AS DEFINED IN § 14-101(F) OF THE
30 FAMILY LAW ARTICLE, FOR THE BENEFIT OF THE FIDUCIARY OR fraudulently and
31 wilfully appropriate to any use and purpose not in the due and lawful execution of
32 [his] THE PERSON'S trust, any money or any other thing of value which may come
33 into [his] THE PERSON'S hands as such executor, administrator, guardian,

1 committee, trustee, receiver, or in any other fiduciary capacity, or secrete it with a
2 fraudulent intent to appropriate it to such use or purpose, [he] THE PERSON shall be
3 deemed guilty of embezzlement, and shall be punished upon conviction by
4 imprisonment in the penitentiary for not less than one year nor more than five years.

5 (B) FOR THE PURPOSES OF THIS SECTION, A PERSON WHO HAS, SHARES, OR
6 EXERCISES CONTROL OR AUTHORITY OVER THE FINANCIAL ASSETS OF A
7 VULNERABLE ADULT, AS DEFINED IN § 14-101(Q) OF THE FAMILY LAW ARTICLE, OR
8 AN ADULT WHO IS UNABLE TO LIVE INDEPENDENTLY, AS DEFINED IN § 7-101(K)(1) OF
9 THE HEALTH - GENERAL ARTICLE, IS PRESUMED TO HAVE A FIDUCIARY
10 RELATIONSHIP WITH THE VULNERABLE ADULT OR THE ADULT WHO IS UNABLE TO
11 LIVE INDEPENDENTLY.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 2000.