
By: **Delegate Mandel**

Introduced and read first time: February 9, 2001

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Crimes - Fiduciary Relationships with Vulnerable Adults and Adults Unable**
3 **to Live Independently - Exploitation Prohibited**

4 FOR the purpose of making it unlawful for any person that has a fiduciary
5 relationship with a vulnerable adult or an adult unable to live independently to
6 engage in exploitation contrary to the trust of the fiduciary; providing that a
7 person who has or exercises control or authority over the financial assets of a
8 vulnerable adult or an adult unable to live independently is presumed to have a
9 fiduciary relationship with the vulnerable adult or adult unable to live
10 independently; making stylistic changes; defining a certain term; applying
11 certain penalties; and generally relating to fiduciary relationships with
12 vulnerable adults and adults unable to live independently.

13 BY repealing and reenacting, without amendments,
14 Article - Family Law
15 Section 14-101(q)
16 Annotated Code of Maryland
17 (1999 Replacement Volume and 2000 Supplement)

18 BY repealing and reenacting, without amendments,
19 Article - Health - General
20 Section 7-101(k)(1)
21 Annotated Code of Maryland
22 (2000 Replacement Volume)

23 BY repealing and reenacting, with amendments,
24 Article 27 - Crimes and Punishments
25 Section 132
26 Annotated Code of Maryland
27 (1996 Replacement Volume and 2000 Supplement)

28 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
29 MARYLAND, That the Laws of Maryland read as follows:

1

Article - Family Law

2 14-101.

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

5

Article - Health - General

6 7-101.

7 (k) "Live independently" means:

8 (1) For adults:

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

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

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

14

Article 27 - Crimes and Punishments

15 132.

16 (A) IN THIS SECTION, "EXPLOITATION" MEANS ANY ACTION WHICH INVOLVES
17 THE MISUSE OF THE FUNDS, PROPERTY, OR PERSON OF A VULNERABLE ADULT, AS
18 DEFINED IN § 14-101(Q) OF THE FAMILY LAW ARTICLE, OR AN ADULT WHO IS UNABLE
19 TO LIVE INDEPENDENTLY, AS DEFINED IN § 7-101(K)(1) OF THE HEALTH - GENERAL
20 ARTICLE.

21 (B) If any executor, administrator, guardian, committee, trustee, receiver or
22 any fiduciary shall ENGAGE IN EXPLOITATION CONTRARY TO THE TRUST OF THE
23 FIDUCIARY OR fraudulently and wilfully appropriate to any use and purpose not in
24 the due and lawful execution of [his] THE PERSON'S trust, any money or any other
25 thing of value which may come into [his] THE PERSON'S hands as such executor,
26 administrator, guardian, committee, trustee, receiver, or in any other fiduciary
27 capacity, or secrete it with a fraudulent intent to appropriate it to such use or
28 purpose, [he] THE PERSON shall be deemed guilty of embezzlement, and shall be
29 punished upon conviction by imprisonment in the penitentiary for not less than one
30 year nor more than five years.

31 (C) FOR THE PURPOSES OF THIS SECTION, A PERSON WHO HAS OR EXERCISES
32 CONTROL OR AUTHORITY OVER THE FINANCIAL ASSETS OF A VULNERABLE ADULT,
33 AS DEFINED IN § 14-101(Q) OF THE FAMILY LAW ARTICLE, OR AN ADULT WHO IS
34 UNABLE TO LIVE INDEPENDENTLY, AS DEFINED IN § 7-101(K)(1) OF THE HEALTH -
35 GENERAL ARTICLE, IS PRESUMED TO HAVE A FIDUCIARY RELATIONSHIP WITH THE
36 VULNERABLE ADULT OR THE ADULT WHO IS UNABLE TO LIVE INDEPENDENTLY.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2001.