

SENATE BILL 516

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2002 Regular Session
2lr2195
CF 2lr2196

By: **Senators Jimeno and Collins**
Introduced and read first time: February 1, 2002
Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Abuse or Neglect of Vulnerable Adults - Degrees**

3 FOR the purpose of establishing the felony of abuse or neglect of a vulnerable adult in
4 the first degree, subject to certain penalties; altering the scope of the
5 misdemeanor of abuse or neglect of a vulnerable adult and redesignating it as
6 abuse or neglect of a vulnerable adult in the second degree, subject to certain
7 penalties; providing that certain sentences shall be in addition to certain other
8 sentences except under certain circumstances; defining a certain term; and
9 generally relating to abuse and neglect of vulnerable adults.

10 BY renumbering

11 Article - Criminal Law
12 Section 3-603(e) and 3-604, respectively
13 to be Section 3-605 and 3-606, respectively
14 Annotated Code of Maryland
15 (As enacted by Chapter _____ (H.B. 11) of the Acts of the General Assembly of
16 2002)

17 BY repealing and reenacting, with amendments,

18 Article - Criminal Law
19 Section 3-603 and 3-605
20 Annotated Code of Maryland
21 (As enacted by Chapter _____ (H.B. 11) of the Acts of the General Assembly of
22 2002)
23 (As enacted by Section 1 of this Act)

24 BY adding to

25 Article - Criminal Law
26 Section 3-604
27 Annotated Code of Maryland
28 (As enacted by Chapter _____ (H.B. 11) of the Acts of the General Assembly of
29 2002)

1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That Section(s) 3-603(e) and 3-604, respectively, of Article - Criminal
3 Law of the Annotated Code of Maryland (as enacted by Chapter _____ (H.B. 11) of
4 the Acts of the General Assembly of 2002) be renumbered to be Section(s) 3-605 and
5 3-606, respectively.

6 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
7 read as follows:

8 **Article - Criminal Law**

9 3-603.

10 (a) (1) In this section AND §§ 3-604 AND 3-605 OF THIS SUBTITLE the
11 following words have the meanings indicated.

12 (2) (i) "Abuse" means the sustaining of physical pain or injury by a
13 vulnerable adult as a result of cruel or inhumane treatment or as a result of a
14 malicious act under circumstances that indicate that the vulnerable adult's health or
15 welfare is harmed or threatened.

16 (ii) "Abuse" includes the sexual abuse of a vulnerable adult.

17 (iii) "Abuse" does not include an accepted medical or behavioral
18 procedure ordered by a health care provider authorized to practice under the Health
19 Occupations Article or § 13-516 of the Education Article acting within the scope of the
20 health care provider's practice.

21 (3) "Caregiver" means a person under a duty to care for a vulnerable
22 adult because of a contractual undertaking to provide care.

23 (4) "Family member" means a relative of a vulnerable adult by blood,
24 marriage, adoption, or the marriage of a child.

25 (5) "Household" means the location:

26 (i) in which the vulnerable adult resides;

27 (ii) where the abuse or neglect of a vulnerable adult is alleged to
28 have taken place; or

29 (iii) where the person suspected of abusing or neglecting a
30 vulnerable adult resides.

31 (6) "Household member" means an individual who lives with, or is a
32 regular presence in, a home of a vulnerable adult at the time of the alleged abuse or
33 neglect.

34 (7) (i) "Neglect" means the intentional failure to provide necessary
35 assistance and resources for the physical needs of a vulnerable adult, including:

- 1 1. food;
- 2 2. clothing;
- 3 3. toileting;
- 4 4. essential medical treatment;
- 5 5. shelter; or
- 6 6. supervision.

7 (ii) "Neglect" does not include the provision of nonmedical remedial
8 care and treatment for the healing of injury or disease that is:

- 9 1. given with the consent of the vulnerable adult; and
- 10 2. recognized by State law in place of medical treatment.

11 (8) "SERIOUS PHYSICAL INJURY" MEANS PHYSICAL INJURY THAT:

12 (I) CREATES A SUBSTANTIAL RISK OF DEATH; OR

13 (II) CAUSES PERMANENT OR PROTRACTED SERIOUS:

- 14 1. DISFIGUREMENT;
- 15 2. LOSS OF THE FUNCTION OF ANY BODILY MEMBER OR
16 ORGAN; OR
- 17 3. IMPAIRMENT OF THE FUNCTION OF ANY BODILY MEMBER
18 OR ORGAN.

19 [(8)] (9) (i) "Sexual abuse" means an act that involves sexual
20 molestation or exploitation of a vulnerable adult.

21 (ii) "Sexual abuse" includes:

- 22 1. incest;
- 23 2. rape;
- 24 3. sexual offense in any degree;
- 25 4. sodomy; and
- 26 5. unnatural or perverted sexual practices.

27 [(9)] (10) "Vulnerable adult" means an adult who lacks the physical or
28 mental capacity to provide for the adult's daily needs.

1 (b) (1) A caregiver, a parent, or other person who has permanent or
2 temporary care or responsibility for the supervision of a vulnerable adult may not
3 cause abuse or neglect of the vulnerable adult THAT:

4 (I) RESULTS IN THE DEATH OF THE VULNERABLE ADULT;

5 (II) CAUSES SERIOUS BODILY INJURY TO THE VULNERABLE ADULT;
6 OR

7 (III) INVOLVES SEXUAL ABUSE OF THE VULNERABLE ADULT.

8 (2) A household member or family member may not cause abuse or
9 neglect of a vulnerable adult THAT:

10 (I) RESULTS IN THE DEATH OF THE VULNERABLE ADULT;

11 (II) CAUSES SERIOUS BODILY INJURY TO THE VULNERABLE ADULT;
12 OR

13 (III) INVOLVES SEXUAL ABUSE OF THE VULNERABLE ADULT.

14 (c) A person who violates this section is guilty of [a misdemeanor] THE
15 FELONY OF ABUSE OR NEGLECT OF A VULNERABLE ADULT IN THE FIRST DEGREE
16 and on conviction is subject to imprisonment not exceeding [5] 15 years or a fine not
17 exceeding [\$5,000] \$15,000 or both.

18 (d) A sentence imposed under this section shall be in addition to any other
19 sentence imposed for a conviction arising from the same facts and circumstances
20 unless the evidence required to prove each crime is substantially identical.

21 3-604.

22 (A) THIS SECTION DOES NOT APPLY TO ABUSE THAT INVOLVES SEXUAL
23 ABUSE OF A VULNERABLE ADULT.

24 (B) (1) A CAREGIVER, A PARENT, OR OTHER PERSON WHO HAS PERMANENT
25 OR TEMPORARY CARE OR RESPONSIBILITY FOR THE SUPERVISION OF A VULNERABLE
26 ADULT MAY NOT CAUSE ABUSE OR NEGLECT OF THE VULNERABLE ADULT.

27 (2) A HOUSEHOLD MEMBER OR FAMILY MEMBER MAY NOT CAUSE
28 ABUSE OR NEGLECT OF A VULNERABLE ADULT.

29 (C) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF THE
30 MISDEMEANOR OF ABUSE OR NEGLECT OF A VULNERABLE ADULT IN THE SECOND
31 DEGREE AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 5
32 YEARS OR A FINE NOT EXCEEDING \$5,000 OR BOTH.

33 (D) A SENTENCE IMPOSED UNDER THIS SECTION SHALL BE IN ADDITION TO
34 ANY OTHER SENTENCE IMPOSED FOR A CONVICTION ARISING FROM THE SAME
35 FACTS AND CIRCUMSTANCES UNLESS THE EVIDENCE REQUIRED TO PROVE EACH
36 CRIME IS SUBSTANTIALLY IDENTICAL.

1 3-605.

2 If a State or local unit receives a report of present or past abuse or neglect of a
3 vulnerable adult, an investigation shall be conducted in accordance with:

4 (1) § 7-1005 of the Health - General Article if the adult has a
5 developmental disability as defined in § 7-101 of the Health - General Article;

6 (2) § 10-705 of the Health - General Article if the adult is in a facility as
7 defined in § 10-101 of the Health - General Article;

8 (3) § 19-346 or § 19-347 of the Health - General Article if the adult is a
9 resident of a related institution as defined in § 19-301 of the Health - General Article;
10 and

11 (4) §§ 14-301 through 14-309 of the Family Law Article if the adult does
12 not meet the criteria of item (1), (2), or (3) of this [subsection] SECTION.

13 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 October 1, 2002.