

SENATE BILL 516

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2002 Regular Session
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CF 2lr2196

By: Senators Jimeno and Collins, Collins, Colburn, Ferguson, Forehand,
Green, Haines, Hughes, Jacobs, Mitchell, and Sfikas

Introduced and read first time: February 1, 2002

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: March 13, 2002

CHAPTER _____

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)

1 BY adding to
2 Article - Criminal Law
3 Section 3-604
4 Annotated Code of Maryland
5 (As enacted by Chapter _____ (H.B. 11) of the Acts of the General Assembly of
6 2002)

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

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

14 **Article - Criminal Law**

15 3-603.

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

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

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

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

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

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

31 (5) "Household" means the location:

32 (i) in which the vulnerable adult resides;

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

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

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

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

- 8 1. food;
- 9 2. clothing;
- 10 3. toileting;
- 11 4. essential medical treatment;
- 12 5. shelter; or
- 13 6. supervision.

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

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

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

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

20 (II) CAUSES PERMANENT OR PROTRACTED SERIOUS:

- 21 1. DISFIGUREMENT;
- 22 2. LOSS OF THE FUNCTION OF ANY BODILY MEMBER OR
23 ORGAN; OR
- 24 3. IMPAIRMENT OF THE FUNCTION OF ANY BODILY MEMBER
25 OR ORGAN.

26 [(8)] (9) (i) "Sexual abuse" means an act that involves sexual
27 molestation or exploitation of a vulnerable adult.

28 (ii) "Sexual abuse" includes:

- 29 1. incest;
- 30 2. rape;

- 1 3. sexual offense in any degree;
- 2 4. sodomy; and
- 3 5. unnatural or perverted sexual practices.

4 [(9)] (10) "Vulnerable adult" means an adult who lacks the physical or
5 mental capacity to provide for the adult's daily needs.

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

- 9 (I) RESULTS IN THE DEATH OF THE VULNERABLE ADULT;
- 10 (II) CAUSES SERIOUS ~~BODILY~~ PHYSICAL INJURY TO THE
11 VULNERABLE ADULT; OR
- 12 (III) INVOLVES SEXUAL ABUSE OF THE VULNERABLE ADULT.

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

- 15 (I) RESULTS IN THE DEATH OF THE VULNERABLE ADULT;
- 16 (II) CAUSES SERIOUS ~~BODILY~~ PHYSICAL INJURY TO THE
17 VULNERABLE ADULT; OR
- 18 (III) INVOLVES SEXUAL ABUSE OF THE VULNERABLE ADULT.

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

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

26 3-604.

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

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

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

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

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

9 3-605.

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

12 (1) § 7-1005 of the Health - General Article if the adult has a
13 developmental disability as defined in § 7-101 of the Health - General Article;

14 (2) § 10-705 of the Health - General Article if the adult is in a facility as
15 defined in § 10-101 of the Health - General Article;

16 (3) § 19-346 or § 19-347 of the Health - General Article if the adult is a
17 resident of a related institution as defined in § 19-301 of the Health - General Article;
18 and

19 (4) §§ 14-301 through 14-309 of the Family Law Article if the adult does
20 not meet the criteria of item (1), (2), or (3) of this [subsection] SECTION.

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