

SENATE BILL 646

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2002 Regular Session  
2lr2627  
CF 2lr1069

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By: **Senators Teitelbaum, Dyson, and Forehand**  
Introduced and read first time: February 1, 2002  
Assigned to: Judicial Proceedings

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A BILL ENTITLED

1 AN ACT concerning

2 **Crimes - Vulnerable Adult - Exploitation Prohibited**

3 FOR the purpose of making it unlawful for any person to knowingly and willfully  
4 obtain or use, or endeavor to obtain or use, by deception, intimidation, or undue  
5 influence, certain property of a vulnerable adult with the intent to temporarily  
6 or permanently deprive the vulnerable adult of certain benefits of the property;  
7 providing criminal penalties which depend on the value of the property taken;  
8 providing that the defendant shall restore the property taken or its value to the  
9 vulnerable adult or the vulnerable adult's estate; providing certain sentencing  
10 provisions; providing that a person convicted under this section is disqualified  
11 from inheriting, taking, or otherwise benefitting from certain property of the  
12 vulnerable adult, whether by operation of law or pursuant to a legal document  
13 entered into by the vulnerable adult before the defendant shall have been  
14 convicted under this section and shall have made full restoration of the certain  
15 property taken or of its value to the vulnerable adult; defining certain terms;  
16 establishing that the District Court has jurisdiction concurrent with a circuit  
17 court in cases involving financial exploitation of a vulnerable adult; making  
18 stylistic changes; and generally relating to the financial exploitation of a  
19 vulnerable adult.

20 BY renumbering

21 Article - Criminal Law  
22 Section 8-801 through 8-803 and the subtitle "Subtitle 8. Miscellaneous Fraud",  
23 respectively  
24 to be Section 8-901 through 8-903 and the subtitle "Subtitle 9. Miscellaneous  
25 Fraud", respectively  
26 Annotated Code of Maryland  
27 (As enacted by Chapter \_\_\_\_ (H.B. 11) of the Acts of the General Assembly of  
28 2002)

29 BY repealing and reenacting, with amendments,

30 Article - Courts and Judicial Proceedings  
31 Section 4-301(b)(15) and (16) and 4-302(a) and (d)(1)  
32 Annotated Code of Maryland

1 (1998 Replacement Volume and 2001 Supplement)

2 BY adding to

3 Article - Courts and Judicial Proceedings

4 Section 4-301(b)(17)

5 Annotated Code of Maryland

6 (1998 Replacement Volume and 2001 Supplement)

7 BY repealing and reenacting, without amendments,

8 Article - Criminal Law

9 Section 3-603(a)(9)

10 Annotated Code of Maryland

11 (As enacted by Chapter \_\_\_\_ (H.B. 11) of the Acts of the General Assembly of

12 2002)

13 BY adding to

14 Article - Criminal Law

15 Section 8-801 to be under the new subtitle "Subtitle 8. Financial Crimes Against

16 Vulnerable Adults"

17 Annotated Code of Maryland

18 (As enacted by Chapter \_\_\_\_ (H.B.11) of the Acts of the General Assembly of

19 2002)

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

21 MARYLAND, That Section(s) 8-801 through 8-803 and the subtitle "Subtitle 8.

22 Miscellaneous Fraud", respectively, of Article - Criminal Law of the Annotated Code

23 of Maryland (as enacted by Chapter \_\_\_\_ (H.B. 11) of the Acts of the General Assembly

24 of 2002) be renumbered to be Section(s) 8-901 through 8-903 and the subtitle

25 "Subtitle 9. Miscellaneous Fraud", respectively.

26 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland

27 read as follows:

28 **Article - Courts and Judicial Proceedings**

29 4-301.

30 (b) Except as provided in § 4-302 of this subtitle, the District Court also has

31 exclusive original jurisdiction in a criminal case in which a person at least 18 years

32 old or a corporation is charged with:

33 (15) Violation of Article 27, § 59 of the Code, whether A felony or

34 misdemeanor; [or]

35 (16) Violation of Article 27, § 194A of the Code, whether a felony or

36 misdemeanor; OR

1 (17) VIOLATION OF § 8-801 OF THE CRIMINAL LAW ARTICLE.

2 4-302.

3 (a) Except as provided in § 4-301(b)(2), (6), (7), (8), (9), (10), (11), (12), (13),  
4 (14), (15), [and (16)] (16), AND (17) of this subtitle, the District Court does not have  
5 jurisdiction to try a criminal case charging the commission of a felony.

6 (d) (1) Except as provided in paragraph (2) of this subsection, the  
7 jurisdiction of the District Court is concurrent with that of the circuit court in a  
8 criminal case:

9 (i) In which the penalty may be confinement for three years or  
10 more or a fine of \$2,500 or more; or

11 (ii) Which is a felony, as provided in § 4-301(b)(2), (6), (7), (8), (9),  
12 (10), (11), (12), (13), (14), (15), [and (16)] (16), AND (17) of this subtitle.

13 **Article - Criminal Law**

14 3-603.

15 (a) (9) "Vulnerable adult" means an adult who lacks the physical or mental  
16 capacity to provide for the adult's daily needs.

17 **SUBTITLE 8. FINANCIAL CRIMES AGAINST VULNERABLE ADULTS.**

18 8-801.

19 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
20 INDICATED.

21 (2) "DECEPTION" MEANS THAT A PERSON DECEIVES A VULNERABLE  
22 ADULT BY KNOWINGLY DOING ANY OF THE FOLLOWING:

23 (I) CREATING OR CONFIRMING A FALSE IMPRESSION;

24 (II) FAILING TO CORRECT A FALSE IMPRESSION THAT THE PERSON  
25 IS RESPONSIBLE FOR CREATING OR CONFIRMING;

26 (III) MAKING A PROMISE THAT THE PERSON DOES NOT INTEND TO  
27 PERFORM OR THAT THE PERSON KNOWS WILL NOT OR CANNOT BE PERFORMED. A  
28 PERSON'S FAILURE TO PERFORM A PROMISE IS NOT BY ITSELF SUFFICIENT PROOF  
29 THAT THE PERSON DID NOT INTEND TO PERFORM THE PROMISE;

30 (IV) MISREPRESENTING OR CONCEALING A MATERIAL FACT THAT  
31 RELATES TO THE TERMS OF A CONTRACT OR AN AGREEMENT THAT THE PERSON  
32 ENTERS INTO OR THAT RELATES TO THE EXISTING OR PREEXISTING CONDITION OF  
33 ANY OF THE PROPERTY INVOLVED IN A CONTRACT OR AN AGREEMENT; OR

1 (V) USING A MATERIAL MISREPRESENTATION, FALSE PRETENSE,  
2 OR FALSE PROMISE TO INDUCE, ENCOURAGE, OR SOLICIT SOMEONE TO ENTER INTO  
3 A CONTRACT OR AN AGREEMENT.

4 (3) "UNDUE INFLUENCE" DOES NOT INCLUDE THE NORMAL INFLUENCE  
5 THAT ONE MEMBER OF A FAMILY HAS OVER ANOTHER MEMBER OF THE FAMILY.

6 (4) "VULNERABLE ADULT" HAS THE MEANING STATED IN § 3-603 OF THIS  
7 ARTICLE.

8 (B) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT A PERSON  
9 CONVICTED OF A VIOLATION OF THIS SECTION SHALL NOT PROFIT FROM THE  
10 PERSON'S CRIME AGAINST THE VULNERABLE ADULT.

11 (C) A PERSON MAY NOT KNOWINGLY AND WILLFULLY OBTAIN OR USE, OR  
12 ENDEAVOR TO OBTAIN OR USE, BY DECEPTION, INTIMIDATION, OR UNDUE  
13 INFLUENCE, THE FUNDS, CREDIT, ASSETS, OR OTHER PROPERTY OF A VULNERABLE  
14 ADULT, SOMEONE WHOM THE PERSON KNOWS OR REASONABLY SHOULD KNOW  
15 LACKS THE PHYSICAL OR MENTAL CAPACITY TO PROVIDE FOR THEIR DAILY NEEDS,  
16 WITH THE INTENT TEMPORARILY OR PERMANENTLY TO DEPRIVE THE VULNERABLE  
17 ADULT OF THE USE, BENEFIT, OR POSSESSION OF THE VULNERABLE ADULT'S FUNDS,  
18 CREDIT, ASSETS, OR OTHER PROPERTY.

19 (D) (1) A PERSON CONVICTED OF A VIOLATION OF THIS SECTION WHEN THE  
20 VALUE OF THE PROPERTY IS \$500 OR MORE IS GUILTY OF A FELONY AND:

21 (I) IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 15 YEARS OR A  
22 FINE NOT EXCEEDING \$10,000 OR BOTH; AND

23 (II) SHALL RESTORE THE PROPERTY TAKEN OR ITS VALUE TO THE  
24 OWNER, OR, IF THE OWNER IS DECEASED, RESTORE THE PROPERTY OR ITS VALUE TO  
25 THE OWNER'S ESTATE.

26 (2) A PERSON CONVICTED OF A VIOLATION OF THIS SECTION WHEN THE  
27 VALUE OF THE PROPERTY IS LESS THAN \$500 IS GUILTY OF A MISDEMEANOR AND:

28 (I) IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 18 MONTHS  
29 OR A FINE NOT EXCEEDING \$500 OR BOTH; AND

30 (II) SHALL RESTORE THE PROPERTY TAKEN OR ITS VALUE TO THE  
31 OWNER, OR, IF THE OWNER IS DECEASED, RESTORE THE PROPERTY OR ITS VALUE TO  
32 THE OWNER'S ESTATE.

33 (E) A SENTENCE IMPOSED UNDER THIS SECTION MAY BE SEPARATE FROM  
34 AND CONSECUTIVE TO OR CONCURRENT WITH A SENTENCE FOR ANY CRIME BASED  
35 ON THE ACT OR ACTS ESTABLISHING THE VIOLATION OF THIS SECTION.

36 (F) A CONVICTION UNDER THIS SECTION SHALL DISQUALIFY THE  
37 DEFENDANT FROM INHERITING, TAKING, ENJOYING, RECEIVING, OR OTHERWISE  
38 BENEFITTING FROM THE ESTATE, INSURANCE PROCEEDS, ASSETS, OR ANY OTHER

1 THING OF VALUE OF THE VULNERABLE ADULT, WHETHER BY OPERATION OF LAW OR  
2 PURSUANT TO A LEGAL DOCUMENT EXECUTED OR ENTERED INTO BY THE  
3 VULNERABLE ADULT BEFORE THE DEFENDANT SHALL HAVE BEEN CONVICTED  
4 UNDER THIS SECTION AND SHALL HAVE MADE FULL RESTORATION OF THE  
5 PROPERTY TAKEN OR OF ITS VALUE TO THE VULNERABLE ADULT.

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