

SENATE BILL 646

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2002 Regular Session  
2lr2627  
CF 2lr1069

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By: ~~Senators Teitelbaum, Dyson, and Forehand~~ **Forehand, Ferguson,  
Green, Haines, Jacobs, Jimeno, Mitchell, and Sfikas**

Introduced and read first time: February 1, 2002  
Assigned to: Judicial Proceedings

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Committee Report: Favorable with amendments  
Senate action: Adopted  
Read second time: March 19, 2002

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CHAPTER \_\_\_\_\_

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; providing for the  
16 construction of this Act; defining certain terms; establishing that the District  
17 Court has jurisdiction concurrent with a circuit court in cases involving  
18 financial exploitation of a vulnerable adult; making stylistic changes; and  
19 generally relating to the financial exploitation of a 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

1 Annotated Code of Maryland  
2 (As enacted by Chapter \_\_\_\_ (H.B. 11) of the Acts of the General Assembly of  
3 2002)

4 BY repealing and reenacting, with amendments,  
5 Article - Courts and Judicial Proceedings  
6 Section 4-301(b)(15) and (16) and 4-302(a) and (d)(1)  
7 Annotated Code of Maryland  
8 (1998 Replacement Volume and 2001 Supplement)

9 BY adding to  
10 Article - Courts and Judicial Proceedings  
11 Section 4-301(b)(17)  
12 Annotated Code of Maryland  
13 (1998 Replacement Volume and 2001 Supplement)

14 BY repealing and reenacting, without amendments,  
15 Article - Criminal Law  
16 Section 3-603(a)(9), 7-101(b), (c), (f), and (h), and 7-103(a)  
17 Annotated Code of Maryland  
18 (As enacted by Chapter \_\_\_\_ (H.B. 11) of the Acts of the General Assembly of  
19 2002)

20 BY adding to  
21 Article - Criminal Law  
22 Section 8-801 to be under the new subtitle "Subtitle 8. Financial Crimes Against  
23 Vulnerable Adults"  
24 Annotated Code of Maryland  
25 (As enacted by Chapter \_\_\_\_ (H.B.11) of the Acts of the General Assembly of  
26 2002)

27 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
28 MARYLAND, That Section(s) 8-801 through 8-803 and the subtitle "Subtitle 8.  
29 Miscellaneous Fraud", respectively, of Article - Criminal Law of the Annotated Code  
30 of Maryland (as enacted by Chapter \_\_\_\_ (H.B. 11) of the Acts of the General Assembly  
31 of 2002) be renumbered to be Section(s) 8-901 through 8-903 and the subtitle  
32 "Subtitle 9. Miscellaneous Fraud", respectively.

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

1 **Article - Courts and Judicial Proceedings**

2 4-301.

3 (b) Except as provided in § 4-302 of this subtitle, the District Court also has  
4 exclusive original jurisdiction in a criminal case in which a person at least 18 years  
5 old or a corporation is charged with:

6 (15) Violation of Article 27, § 59 of the Code, whether A felony or  
7 misdemeanor; [or]

8 (16) Violation of Article 27, § 194A of the Code, whether a felony or  
9 misdemeanor; OR

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

11 4-302.

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

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

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

20 (ii) Which is a felony, as provided in § 4-301(b)(2), (6), (7), (8), (9),  
21 (10), (11), (12), (13), (14), (15), [and (16)] (16), AND (17) of this subtitle.

22 **Article - Criminal Law**

23 3-603.

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

26 7-101.

27 (b) (1) "Deception" means knowingly to:

28 (i) create or confirm in another a false impression that the offender  
29 does not believe to be true;

30 (ii) fail to correct a false impression that the offender previously  
31 has created or confirmed;

32 (iii) prevent another from acquiring information pertinent to the  
33 disposition of the property involved;

1                   (iv)     sell or otherwise transfer or encumber property without  
2 disclosing a lien, adverse claim, or other legal impediment to the enjoyment of the  
3 property, regardless of whether the impediment is of value or a matter of official  
4 record;

5                   (v)     insert or deposit a slug in a vending machine;

6                   (vi)    remove or alter a label or price tag;

7                   (vii)   promise performance that the offender does not intend to  
8 perform or knows will not be performed; or

9                   (viii)   misrepresent the value of a motor vehicle offered for sale by  
10 tampering or interfering with its odometer, or by disconnecting, resetting, or altering  
11 its odometer with the intent to change the mileage indicated.

12                 (2)     "Deception" does not include puffing or false statements of  
13 immaterial facts and exaggerated representations that are unlikely to deceive an  
14 ordinary individual.

15         (c)     "Deprive" means to withhold property of another:

16                 (1)     permanently;

17                 (2)     for a period that results in the appropriation of a part of the  
18 property's value;

19                 (3)     with the purpose to restore it only on payment of a reward or other  
20 compensation; or

21                 (4)     to dispose of the property or use or deal with the property in a  
22 manner that makes it unlikely that the owner will recover it.

23         (f)     "Obtain" means:

24                 (1)     in relation to property, to bring about a transfer of interest in or  
25 possession of the property; and

26                 (2)     in relation to a service, to secure the performance of the service.

27         (h)     (1)     "Property" means anything of value.

28                 (2)     "Property" includes:

29                   (i)     real estate;

30                   (ii)    money;

31                   (iii)   a commercial instrument;

32                   (iv)    an admission or transportation ticket;

1                   (v)     a written instrument representing or embodying rights  
 2 concerning anything of value, or services, or anything otherwise of value to the owner;

3                   (vi)    a thing growing on or affixed to, or found on land, or part of or  
 4 affixed to any building;

5                   (vii)   electricity, gas, and water;

6                   (viii)   a bird, animal, or fish that ordinarily is kept in a state of  
 7 confinement;

8                   (ix)     food or drink;

9                   (x)     a sample, culture, microorganism, or specimen;

10                  (xi)     a record, recording, document, blueprint, drawing, map, or a  
 11 whole or partial copy, description, photograph, prototype, or model of any of them;

12                  (xii)    an article, material, device, substance, or a whole or partial  
 13 copy, description, photograph, prototype, or model of any of them that represents  
 14 evidence of, reflects, or records a secret;

15                                 1.     scientific, technical, merchandising, production, or  
 16 management information; or

17                                 2.     designed process, procedure, formula, invention, trade  
 18 secret, or improvement;

19                   (xiii)   a financial instrument; and

20                   (xiv)    information, electronically produced data, and a computer  
 21 software or program in a form readable by machine or individual.

22 7-103.

23     (a)     In this section, "value" means:

24                   (1)     the market value of the property or service at the time and place of  
 25 the crime; or

26                   (2)     if the market value cannot satisfactorily be ascertained, the cost of  
 27 the replacement of the property or service within a reasonable time after the crime.

28   SUBTITLE 8. FINANCIAL CRIMES AGAINST VULNERABLE ADULTS.

29 8-801.

30     (A)     (1)     IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
 31 INDICATED.

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

3                   (I)     ~~CREATING OR CONFIRMING A FALSE IMPRESSION;~~

4                   (II)    ~~FAILING TO CORRECT A FALSE IMPRESSION THAT THE PERSON~~  
5 ~~IS RESPONSIBLE FOR CREATING OR CONFIRMING;~~

6                   (III)   ~~MAKING A PROMISE THAT THE PERSON DOES NOT INTEND TO~~  
7 ~~PERFORM OR THAT THE PERSON KNOWS WILL NOT OR CANNOT BE PERFORMED. A~~  
8 ~~PERSON'S FAILURE TO PERFORM A PROMISE IS NOT BY ITSELF SUFFICIENT PROOF~~  
9 ~~THAT THE PERSON DID NOT INTEND TO PERFORM THE PROMISE;~~

10                  (IV)   ~~MISREPRESENTING OR CONCEALING A MATERIAL FACT THAT~~  
11 ~~RELATES TO THE TERMS OF A CONTRACT OR AN AGREEMENT THAT THE PERSON~~  
12 ~~ENTERS INTO OR THAT RELATES TO THE EXISTING OR PREEXISTING CONDITION OF~~  
13 ~~ANY OF THE PROPERTY INVOLVED IN A CONTRACT OR AN AGREEMENT; OR~~

14                  (V)     ~~USING A MATERIAL MISREPRESENTATION, FALSE PRETENSE,~~  
15 ~~OR FALSE PROMISE TO INDUCE, ENCOURAGE, OR SOLICIT SOMEONE TO ENTER INTO~~  
16 ~~A CONTRACT OR AN AGREEMENT.~~

17           (2)     "DECEPTION" HAS THE MEANING STATED IN § 7-101 OF THIS  
18 ARTICLE.

19           (3)     "DEPRIVE" HAS THE MEANING STATED IN § 7-101 OF THIS ARTICLE.

20           (4)     "OBTAIN" HAS THE MEANING STATED IN § 7-101 OF THIS ARTICLE.

21           (5)     "PROPERTY" HAS THE MEANING STATED IN § 7-101 OF THIS ARTICLE.

22           (6)     "VALUE" HAS THE MEANING STATED IN § 7-103 OF THIS ARTICLE.

23           (3)     (7)     (I)     "UNDUE INFLUENCE" MEANS DOMINATION AND  
24 INFLUENCE AMOUNTING TO FORCE AND COERCION EXERCISED BY ANOTHER  
25 PERSON TO SUCH AN EXTENT THAT A VULNERABLE ADULT WAS PREVENTED FROM  
26 EXERCISING FREE JUDGMENT AND CHOICE.

27                   (II)    "UNDUE INFLUENCE" DOES NOT INCLUDE THE NORMAL  
28 INFLUENCE THAT ONE MEMBER OF A FAMILY HAS OVER ANOTHER MEMBER OF THE  
29 FAMILY.

30           (4)     (8)     "VULNERABLE ADULT" HAS THE MEANING STATED IN § 3-603 OF  
31 THIS ARTICLE.

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

35     (C)     A PERSON MAY NOT KNOWINGLY AND WILLFULLY OBTAIN OR USE, OR  
36 ENDEAVOR TO OBTAIN OR USE, BY DECEPTION, INTIMIDATION, OR UNDUE

~~1 INFLUENCE, THE FUNDS, CREDIT, ASSETS, OR OTHER PROPERTY OF A VULNERABLE  
2 ADULT, SOMEONE WHOM THE PERSON KNOWS OR REASONABLY SHOULD KNOW  
3 LACKS THE PHYSICAL OR MENTAL CAPACITY TO PROVIDE FOR THEIR DAILY NEEDS,  
4 WITH THE INTENT TEMPORARILY OR PERMANENTLY TO DEPRIVE THE VULNERABLE  
5 ADULT OF THE USE, BENEFIT, OR POSSESSION OF THE VULNERABLE ADULT'S FUNDS,  
6 CREDIT, ASSETS, OR OTHER PROPERTY.~~

7 (B) A PERSON MAY NOT KNOWINGLY AND WILLFULLY OBTAIN BY DECEPTION,  
8 INTIMIDATION, OR UNDUE INFLUENCE THE PROPERTY OF AN INDIVIDUAL THAT THE  
9 PERSON KNOWS OR REASONABLY SHOULD KNOW IS A VULNERABLE ADULT WITH  
10 INTENT TO DEPRIVE THE VULNERABLE ADULT OF THE VULNERABLE ADULT'S  
11 PROPERTY.

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

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

16 (II) SHALL RESTORE THE PROPERTY TAKEN OR ITS VALUE TO THE  
17 OWNER, OR, IF THE OWNER IS DECEASED, RESTORE THE PROPERTY OR ITS VALUE TO  
18 THE OWNER'S ESTATE.

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

21 (I) IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 18 MONTHS  
22 OR A FINE NOT EXCEEDING \$500 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 ~~(E)~~ (D) A SENTENCE IMPOSED UNDER THIS SECTION MAY BE SEPARATE  
27 FROM AND CONSECUTIVE TO OR CONCURRENT WITH A SENTENCE FOR ANY CRIME  
28 BASED ON THE ACT OR ACTS ESTABLISHING THE VIOLATION OF THIS SECTION.

29 ~~(F)~~ (E) A CONVICTION UNDER THIS SECTION SHALL DISQUALIFY THE  
30 DEFENDANT FROM INHERITING, TAKING, ENJOYING, RECEIVING, OR OTHERWISE  
31 BENEFITTING FROM THE ESTATE, INSURANCE PROCEEDS, ~~ASSETS, OR ANY OTHER~~  
32 ~~THING OF VALUE OR PROPERTY~~ OF THE VULNERABLE ADULT, WHETHER BY  
33 OPERATION OF LAW OR PURSUANT TO A LEGAL DOCUMENT EXECUTED OR ENTERED  
34 INTO BY THE VULNERABLE ADULT BEFORE THE DEFENDANT SHALL HAVE BEEN  
35 CONVICTED UNDER THIS SECTION AND SHALL HAVE MADE FULL RESTORATION OF  
36 THE PROPERTY TAKEN OR OF ITS VALUE TO THE VULNERABLE ADULT.

37 (F) THIS SECTION MAY NOT BE CONSTRUED TO IMPOSE CRIMINAL LIABILITY  
38 ON A PERSON WHO, AT THE REQUEST OF THE VULNERABLE ADULT, THE  
39 VULNERABLE ADULT'S FAMILY, OR THE COURT APPOINTED GUARDIAN OF THE  
40 VULNERABLE ADULT, HAS MADE A GOOD FAITH EFFORT TO ASSIST THE

1 VULNERABLE ADULT IN THE MANAGEMENT OF OR TRANSFER OF THE VULNERABLE  
2 ADULT'S PROPERTY.

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