

# HOUSE BILL 398

N2

9lr1954

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By: **Delegate Rosenberg**

Introduced and read first time: February 2, 2009

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Estates – Disqualification of Persons Convicted of Unlawfully Obtaining**  
3 **Property from Vulnerable Adults**

4 FOR the purpose of clarifying that a person convicted of a certain prohibition against  
5 unlawfully obtaining property from a vulnerable adult shall be disqualified from  
6 inheriting, taking, enjoying, receiving, or otherwise benefitting from the estate,  
7 insurance proceeds, or property of the vulnerable adult under certain  
8 circumstances; and generally relating to the estates of vulnerable adults.

9 BY repealing and reenacting, without amendments,  
10 Article – Criminal Law  
11 Section 8–801  
12 Annotated Code of Maryland  
13 (2002 Volume and 2008 Supplement)

14 BY repealing and reenacting, with amendments,  
15 Article – Estates and Trusts  
16 Section 3–111  
17 Annotated Code of Maryland  
18 (2001 Replacement Volume and 2008 Supplement)

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

21 **Article – Criminal Law**

22 8–801.

23 (a) (1) In this section the following words have the meanings indicated.

24 (2) “Deception” has the meaning stated in § 7–101 of this article.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (3) “Deprive” has the meaning stated in § 7–101 of this article.

2 (4) “Obtain” has the meaning stated in § 7–101 of this article.

3 (5) “Property” has the meaning stated in § 7–101 of this article.

4 (6) “Value” has the meaning stated in § 7–103 of this article.

5 (7) (i) “Undue influence” means domination and influence  
6 amounting to force and coercion exercised by another person to such an extent that a  
7 vulnerable adult was prevented from exercising free judgment and choice.

8 (ii) “Undue influence” does not include the normal influence  
9 that one member of a family has over another member of the family.

10 (8) “Vulnerable adult” has the meaning stated in § 3–604 of this  
11 article.

12 (b) A person may not knowingly and willfully obtain by deception,  
13 intimidation, or undue influence the property of an individual that the person knows  
14 or reasonably should know is a vulnerable adult with intent to deprive the vulnerable  
15 adult of the vulnerable adult’s property.

16 (c) (1) A person convicted of a violation of this section when the value of  
17 the property is \$500 or more is guilty of a felony and:

18 (i) is subject to imprisonment not exceeding 15 years or a fine  
19 not exceeding \$10,000 or both; and

20 (ii) shall restore the property taken or its value to the owner, or,  
21 if the owner is deceased, restore the property or its value to the owner’s estate.

22 (2) A person convicted of a violation of this section when the value of  
23 the property is less than \$500 is guilty of a misdemeanor and:

24 (i) is subject to imprisonment not exceeding 18 months or a fine  
25 not exceeding \$500 or both; and

26 (ii) shall restore the property taken or its value to the owner, or,  
27 if the owner is deceased, restore the property or its value to the owner’s estate.

28 (d) A sentence imposed under this section may be separate from and  
29 consecutive to or concurrent with a sentence for any crime based on the act or acts  
30 establishing the violation of this section.

31 (e) A conviction under this section shall disqualify the defendant from  
32 inheriting, taking, enjoying, receiving, or otherwise benefitting from the estate,

1 insurance proceeds, or property of the vulnerable adult, whether by operation of law or  
2 pursuant to a legal document executed or entered into by the vulnerable adult before  
3 the defendant shall have been convicted under this section and shall have made full  
4 restoration of the property taken or of its value to the vulnerable adult.

5 (f) This section may not be construed to impose criminal liability on a person  
6 who, at the request of the vulnerable adult, the vulnerable adult's family, or the court  
7 appointed guardian of the vulnerable adult, has made a good faith effort to assist the  
8 vulnerable adult in the management of or transfer of the vulnerable adult's property.

### 9 Article - Estates and Trusts

10 3-111.

11 (A) A surviving parent is not entitled under § 3-104 of this subtitle to a  
12 distribution of the net estate of a child of the parent if:

13 (1) (i) The parent is convicted under §§ 3-303 through 3-308, §  
14 3-323, § 3-601, or § 3-602 of the Criminal Law Article; or

15 (ii) The parent committed any act prohibited under §§ 3-303  
16 through 3-308, § 3-323, § 3-601, or § 3-602 of the Criminal Law Article;

17 (2) The other parent of the child is the victim of the crime or act  
18 described under item (1) of this section; and

19 (3) The other parent of the child is a child of the parent.

20 (B) **A PERSON CONVICTED OF UNLAWFULLY OBTAINING PROPERTY**  
21 **FROM A VULNERABLE ADULT IN VIOLATION OF § 8-801(B) OF THE CRIMINAL**  
22 **LAW ARTICLE SHALL BE DISQUALIFIED FROM INHERITING, TAKING, ENJOYING,**  
23 **RECEIVING, OR OTHERWISE BENEFITTING FROM THE ESTATE, INSURANCE**  
24 **PROCEEDS, OR PROPERTY OF THE VULNERABLE ADULT, AS PROVIDED IN §**  
25 **8-801(E) OF THE CRIMINAL LAW ARTICLE.**

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
27 October 1, 2009.