

HOUSE BILL 1458

E1, N2

9lr3272

By: **Delegates Carter, Dumais, Dwyer, Ramirez, Simmons, Smigiel, and Vallario**

Introduced and read first time: February 27, 2009

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Estates – Disqualification – Conviction for Unlawfully Obtaining Property of**
3 **Vulnerable Adult**

4 FOR the purpose of altering the extent to which a person convicted of a certain
5 prohibition against unlawfully obtaining property from a vulnerable adult shall
6 be disqualified from inheriting, taking, enjoying, receiving, or otherwise
7 benefitting from the estate, insurance proceeds, or property of the vulnerable
8 adult; making a clarifying change; providing for the application of this Act; and
9 generally relating to a certain disqualification concerning the estate, insurance
10 proceeds, or property of a vulnerable adult under certain circumstances.

11 BY repealing and reenacting, with amendments,
12 Article – Criminal Law
13 Section 8–801
14 Annotated Code of Maryland
15 (2002 Volume and 2008 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article – Estates and Trusts
18 Section 3–111
19 Annotated Code of Maryland
20 (2001 Replacement Volume and 2008 Supplement)

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

23 **Article – Criminal Law**

24 8–801.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (e) [A conviction under this section shall disqualify the defendant] **IF A**
 2 **DEFENDANT FAILS TO RESTORE FULLY THE PROPERTY TAKEN OR ITS VALUE AS**
 3 **ORDERED UNDER SUBSECTION (C) OF THIS SECTION, THE DEFENDANT IS**
 4 **DISQUALIFIED, TO THE EXTENT OF THE DEFENDANT'S FAILURE TO RESTORE**
 5 **THE PROPERTY OR ITS VALUE**, from inheriting, taking, enjoying, receiving, or
 6 otherwise benefitting from the estate, insurance proceeds, or property of the
 7 vulnerable adult, whether by operation of law or pursuant to a legal document
 8 executed or entered into by the vulnerable adult before the defendant shall have been
 9 convicted under this section [and shall have made full restoration of the property
 10 taken or of its value to the vulnerable adult].

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

15 **Article – Estates and Trusts**

16 3–111.

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

19 (1) (i) The parent is convicted under §§ 3–303 through 3–308, §
 20 3–323, § 3–601, or § 3–602 of the Criminal Law Article; or

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

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

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

26 (B) **A PERSON CONVICTED OF UNLAWFULLY OBTAINING PROPERTY**
 27 **FROM A VULNERABLE ADULT IN VIOLATION OF § 8–801(B) OF THE CRIMINAL**
 28 **LAW ARTICLE SHALL BE DISQUALIFIED FROM INHERITING, TAKING, ENJOYING,**
 29 **RECEIVING, OR OTHERWISE BENEFITTING FROM THE ESTATE, INSURANCE**
 30 **PROCEEDS, OR PROPERTY OF THE VULNERABLE ADULT, TO THE EXTENT**
 31 **PROVIDED IN § 8–801(E) OF THE CRIMINAL LAW ARTICLE.**

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
 33 construed to apply only prospectively and may not be applied or interpreted to have
 34 any effect on or application to any civil action or proceeding to determine a benefit

1 from the estate, insurance proceeds, or property of a vulnerable adult that is pending
2 before the effective date of this Act.

3 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 2009.