

SENATE BILL 304

E1
HB 867/08 – JUD

9lr2162
CF 9lr0509

By: **Senators Kramer, DeGrange, Forehand, Glassman, Haines, Middleton, Muse, and Stone**

Introduced and read first time: January 28, 2009

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Crimes – Financial Exploitation of Elderly – Penalty**

3 FOR the purpose of prohibiting a person from knowingly and willfully obtaining by
4 deception, intimidation, or undue influence the property of an individual that
5 the person knows or reasonably should know is of at least a certain age, with
6 intent to deprive the individual of the individual's property; altering a certain
7 definition of "undue influence" to include the exercise, under certain
8 circumstances, of certain dominion and influence over an individual of at least a
9 certain age; applying certain penalties; making conforming changes; and
10 generally relating to the financial exploitation of the elderly.

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

18 **Article – Criminal Law**

19 8–801.

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

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

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (4) "Obtain" has the meaning stated in § 7-101 of this article.

2 (5) "Property" has the meaning stated in § 7-101 of this article.

3 (6) "Value" has the meaning stated in § 7-103 of this article.

4 (7) (i) "Undue influence" means domination and influence
5 amounting to force and coercion exercised by another person to such an extent that a
6 vulnerable adult **OR AN INDIVIDUAL AT LEAST 68 YEARS OLD** was prevented from
7 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) (1) 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 (2) **A PERSON MAY NOT KNOWINGLY AND WILLFULLY OBTAIN BY**
17 **DECEPTION, INTIMIDATION, OR UNDUE INFLUENCE THE PROPERTY OF AN**
18 **INDIVIDUAL THAT THE PERSON KNOWS OR REASONABLY SHOULD KNOW IS AT**
19 **LEAST 68 YEARS OLD, WITH INTENT TO DEPRIVE THE INDIVIDUAL OF THE**
20 **INDIVIDUAL'S PROPERTY.**

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

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

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

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

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

31 (ii) shall restore the property taken or its value to the owner, or,
32 if the owner is deceased, restore the property or its value to the owner's estate.

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

4 (e) A conviction under this section shall disqualify the defendant from
5 inheriting, taking, enjoying, receiving, or otherwise benefiting from the estate,
6 insurance proceeds, or property of the [vulnerable adult] **VICTIM OF THE OFFENSE**,
7 whether by operation of law or pursuant to a legal document executed or entered into
8 by the [vulnerable adult] **VICTIM** before the defendant shall have been convicted
9 under this section and shall have made full restoration of the property taken or of its
10 value to the [vulnerable adult] **VICTIM**.

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

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