

HOUSE BILL 1106

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By: **Delegates Conaway and Robinson**

Introduced and read first time: February 17, 2010

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Limited Immunity – Seeking Care or Medical Assistance for a**
3 **Vulnerable Adult**

4 FOR the purpose of providing that, notwithstanding any other law, a caregiver,
5 parent, or other person who has permanent or temporary care or responsibility
6 for the supervision of a vulnerable adult and who voluntarily seeks care or
7 medical assistance for the vulnerable adult may not be charged with or
8 prosecuted for a certain crime under certain circumstances; providing for the
9 termination of this Act; and generally relating to limited immunity for a person
10 who seeks care or medical assistance for a vulnerable adult.

11 BY repealing and reenacting, without amendments,
12 Article – Criminal Law
13 Section 3–604 and 3–605
14 Annotated Code of Maryland
15 (2002 Volume and 2009 Supplement)

16 BY adding to
17 Article – Criminal Law
18 Section 3–605.1
19 Annotated Code of Maryland
20 (2002 Volume and 2009 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 3–604.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) (1) In this section and §§ 3–605 and 3–606 of this subtitle the
2 following words have the meanings indicated.

3 (2) (i) “Abuse” means the sustaining of physical pain or injury by a
4 vulnerable adult as a result of cruel or inhumane treatment or as a result of a
5 malicious act under circumstances that indicate that the vulnerable adult’s health or
6 welfare is harmed or threatened.

7 (ii) “Abuse” includes the sexual abuse of a vulnerable adult.

8 (iii) “Abuse” does not include an accepted medical or behavioral
9 procedure ordered by a health care provider authorized to practice under the Health
10 Occupations Article or § 13–516 of the Education Article acting within the scope of the
11 health care provider’s practice.

12 (3) “Caregiver” means a person under a duty to care for a vulnerable
13 adult because of a contractual undertaking to provide care.

14 (4) “Family member” means a relative of a vulnerable adult by blood,
15 marriage, adoption, or the marriage of a child.

16 (5) “Household” means the location:

17 (i) in which the vulnerable adult resides;

18 (ii) where the abuse or neglect of a vulnerable adult is alleged to
19 have taken place; or

20 (iii) where the person suspected of abusing or neglecting a
21 vulnerable adult resides.

22 (6) “Household member” means an individual who lives with or is a
23 regular presence in a home of a vulnerable adult at the time of the alleged abuse or
24 neglect.

25 (7) (i) “Neglect” means the intentional failure to provide necessary
26 assistance and resources for the physical needs of a vulnerable adult, including:

27 1. food;

28 2. clothing;

29 3. toileting;

30 4. essential medical treatment;

31 5. shelter; or

1 6. supervision.

2 (ii) “Neglect” does not include the provision of nonmedical
3 remedial care and treatment for the healing of injury or disease that is:

4 1. given with the consent of the vulnerable adult; and

5 2. recognized by State law in place of medical treatment.

6 (8) “Serious physical injury” means physical injury that:

7 (i) creates a substantial risk of death; or

8 (ii) causes permanent or protracted serious:

9 1. disfigurement;

10 2. loss of the function of any bodily member or organ; or

11 3. impairment of the function of any bodily member or
12 organ.

13 (9) (i) “Sexual abuse” means an act that involves sexual
14 molestation or exploitation of a vulnerable adult.

15 (ii) “Sexual abuse” includes:

16 1. incest;

17 2. rape;

18 3. sexual offense in any degree;

19 4. sodomy; and

20 5. unnatural or perverted sexual practices.

21 (10) “Vulnerable adult” means an adult who lacks the physical or
22 mental capacity to provide for the adult’s daily needs.

23 (b) (1) A caregiver, a parent, or other person who has permanent or
24 temporary care or responsibility for the supervision of a vulnerable adult may not
25 cause abuse or neglect of the vulnerable adult that:

26 (i) results in the death of the vulnerable adult;

27 (ii) causes serious physical injury to the vulnerable adult; or

1 (iii) involves sexual abuse of the vulnerable adult.

2 (2) A household member or family member may not cause abuse or
3 neglect of a vulnerable adult that:

4 (i) results in the death of the vulnerable adult;

5 (ii) causes serious physical injury to the vulnerable adult; or

6 (iii) involves sexual abuse of the vulnerable adult.

7 (c) A person who violates this section is guilty of the felony of abuse or
8 neglect of a vulnerable adult in the first degree and on conviction is subject to
9 imprisonment not exceeding 10 years or a fine not exceeding \$10,000 or both.

10 (d) A sentence imposed under this section shall be in addition to any other
11 sentence imposed for a conviction arising from the same facts and circumstances
12 unless the evidence required to prove each crime is substantially identical.

13 **3-605.**

14 (a) This section does not apply to abuse that involves sexual abuse of a
15 vulnerable adult.

16 (b) (1) A caregiver, a parent, or other person who has permanent or
17 temporary care or responsibility for the supervision of a vulnerable adult may not
18 cause abuse or neglect of the vulnerable adult.

19 (2) A household member or family member may not cause abuse or
20 neglect of a vulnerable adult.

21 (c) A person who violates this section is guilty of the misdemeanor of abuse
22 or neglect of a vulnerable adult in the second degree and on conviction is subject to
23 imprisonment not exceeding 5 years or a fine not exceeding \$5,000 or both.

24 (d) A sentence imposed under this section shall be in addition to any other
25 sentence imposed for a conviction arising from the same facts and circumstances
26 unless the evidence required to prove each crime is substantially identical.

27 **3-605.1.**

28 **NOTWITHSTANDING ANY OTHER LAW, A CAREGIVER, A PARENT, OR ANY**
29 **OTHER PERSON WHO HAS PERMANENT OR TEMPORARY CARE OR**
30 **RESPONSIBILITY FOR THE SUPERVISION OF A VULNERABLE ADULT AND WHO, IN**
31 **GOOD FAITH, VOLUNTARILY SEEKS CARE OR MEDICAL ASSISTANCE FOR THE**
32 **VULNERABLE ADULT, MAY NOT BE CHARGED WITH OR PROSECUTED UNDER**
33 **§ 3-604 OR § 3-605 OF THIS SUBTITLE IF THE EVIDENCE FOR THE CRIMINAL**

1 PROSECUTION WAS OBTAINED SOLELY AS A RESULT OF SEEKING CARE OR
2 MEDICAL ASSISTANCE FOR THE VULNERABLE ADULT.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 2010. It shall remain effective for a period of 1 year and, at the end of
5 September 30, 2011, with no further action required by the General Assembly, this Act
6 shall be abrogated and of no further force and effect.