

HOUSE BILL 956

D3
HB 495/16 – JUD

8lr1468

By: **Delegates Stein, Barkley, Barve, Beidle, Carey, Frick, Frush, Healey, Hill, C. Howard, Jones, Krimm, Lam, McComas, McDonough, Morhaim, Pena–Melnyk, Sophocleus, Sydnor, West, Wilkins, K. Young, and P. Young**
Introduced and read first time: February 5, 2018
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Civil Action – Offense Against Vulnerable or Elderly Adult**

3 FOR the purpose of authorizing a victim of a certain offense to bring a civil action for treble
4 damages against a certain person; establishing that a certain criminal conviction is
5 not a prerequisite for maintenance of an action under this Act; providing for the
6 recovery of certain attorney’s fees and court costs in an action brought under this
7 Act; providing for the application of this Act; and generally relating to establishing
8 a civil action brought by a victim of a certain offense.

9 BY repealing and reenacting, without amendments,
10 Article – Criminal Law
11 Section 8–801
12 Annotated Code of Maryland
13 (2012 Replacement Volume and 2017 Supplement)

14 BY adding to
15 Article – Courts and Judicial Proceedings
16 Section 3–2101 to be under the new subtitle “Subtitle 21. Civil Action – Offense
17 Against Vulnerable or Elderly Adult”
18 Annotated Code of Maryland
19 (2013 Replacement Volume and 2017 Supplement)

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

22 **Article – Criminal Law**

23 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) (i) “Undue influence” means domination and influence amounting
7 to force and coercion exercised by another person to such an extent that a vulnerable adult
8 or an individual at least 68 years old was prevented from exercising free judgment and
9 choice.

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

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

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

14 (b) (1) A person may not knowingly and willfully obtain by deception,
15 intimidation, or undue influence the property of an individual that the person knows or
16 reasonably should know is a vulnerable adult with intent to deprive the vulnerable adult
17 of the vulnerable adult’s property.

18 (2) A person may not knowingly and willfully obtain by deception,
19 intimidation, or undue influence the property of an individual that the person knows or
20 reasonably should know is at least 68 years old, with intent to deprive the individual of the
21 individual’s property.

22 (c) (1) (i) A person convicted of a violation of this section when the value of
23 the property is at least \$1,500 but less than \$25,000 is guilty of a felony and:

24 1. is subject to imprisonment not exceeding 5 years or a fine
25 not exceeding \$10,000 or both; and

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

28 (ii) A person convicted of a violation of this section when the value of
29 the property is at least \$25,000 but less than \$100,000 is guilty of a felony and:

30 1. is subject to imprisonment not exceeding 10 years or a fine
31 not exceeding \$15,000 or both; and

1 2. shall restore the property taken or its value to the owner,
2 or, if the owner is deceased, restore the property or its value to the owner's estate.

3 (iii) A person convicted of a violation of this section when the value of
4 the property is \$100,000 or more is guilty of a felony and:

5 1. is subject to imprisonment not exceeding 20 years or a fine
6 not exceeding \$25,000 or both; and

7 2. shall restore the property taken or its value to the owner,
8 or, if the owner is deceased, restore the property or its value to the owner's estate.

9 (2) A person convicted of a violation of this section when the value of the
10 property is less than \$1,500 is guilty of a misdemeanor and:

11 (i) is subject to imprisonment not exceeding 1 year or a fine not
12 exceeding \$500 or both; and

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

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

18 (e) (1) If a defendant fails to restore fully the property taken or its value as
19 ordered under subsection (c) of this section, the defendant is disqualified, to the extent of
20 the defendant's failure to restore the property or its value, from inheriting, taking, enjoying,
21 receiving, or otherwise benefiting from the estate, insurance proceeds, or property of the
22 victim of the offense, whether by operation of law or pursuant to a legal document executed
23 or entered into by the victim before the defendant shall have been convicted under this
24 section.

25 (2) The defendant has the burden of proof with respect to establishing
26 under paragraph (1) of this subsection that the defendant has fully restored the property
27 taken or its value.

28 (f) This section may not be construed to impose criminal liability on a person who,
29 at the request of the victim of the offense, the victim's family, or the court appointed
30 guardian of the victim, has made a good faith effort to assist the victim in the management
31 of or transfer of the victim's property.

32 **Article – Courts and Judicial Proceedings**

33 **SUBTITLE 21. CIVIL ACTION – OFFENSE AGAINST VULNERABLE OR ELDERLY**
34 **ADULT.**

1 **3-2101.**

2 **(A) (1) IN ADDITION TO ANY OTHER ACTION AUTHORIZED BY LAW, A**
3 **VICTIM OF AN OFFENSE DESCRIBED IN § 8-801 OF THE CRIMINAL LAW ARTICLE MAY**
4 **BRING A CIVIL ACTION FOR DAMAGES AGAINST A PERSON WHO COMMITTED THE**
5 **OFFENSE.**

6 **(2) A CONVICTION FOR AN OFFENSE UNDER § 8-801 OF THE**
7 **CRIMINAL LAW ARTICLE IS NOT A PREREQUISITE FOR MAINTENANCE OF AN ACTION**
8 **UNDER THIS SECTION.**

9 **(B) A VICTIM MAY RECOVER DAMAGES UP TO THREE TIMES THE AMOUNT OF**
10 **ACTUAL DAMAGES, REASONABLE ATTORNEY'S FEES, AND COURT COSTS UNDER THIS**
11 **SECTION.**

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
13 apply only prospectively and may not be applied or interpreted to have any effect on or
14 application to any cause of action arising before the effective date of this Act.

15 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
16 October 1, 2018.