

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 604

(The Speaker, *et al.*) (By Request - Office of the Attorney General)

Judiciary

Judicial Proceedings and Education, Energy,
and the Environment

Criminal Law - Financial Exploitation of Vulnerable and Senior Adults

This bill prohibits a person who is a caregiver to or a family member or household member of an individual from knowingly and willfully obtaining the individual's property with the intent to deprive the individual of their property if (1) the individual is a vulnerable adult or an individual who is at least 68 years old and (2) the person knows or reasonably should know that the individual is a vulnerable adult or is at least 68 years old. Violators are subject to the existing penalties under §8-801 of the Criminal Law Article (exploitation of a vulnerable adult). A sentence imposed for a conviction under this new prohibition must be concurrent with and not consecutive to a sentence for any crime based on the act or acts establishing the violation.

Fiscal Summary

State Effect: The bill is not expected to materially affect State finances or operations.

Local Effect: The bill is not anticipated to materially affect local finances or operations.

Small Business Effect: None.

Analysis

Bill Summary:

Definitions

The bill incorporates the definitions of a “caregiver,” “family member,” and “household member” used in § 3-604 of the Criminal Law Article (abuse or neglect of a vulnerable adult in the first degree). “Caregiver” means a person under a duty to care for a vulnerable adult because of a contractual undertaking to provide care. “Family member” means a relative of a vulnerable adult by blood, marriage, adoption, or the marriage of a child. “Household member” means an individual who lives with or is a regular presence in a home of a vulnerable adult at the time of the alleged abuse or neglect.

Current Law:

Exploitation of a Vulnerable Adult – § 8-801 of the Criminal Law Article

A “vulnerable adult” is an adult who lacks the physical or mental capacity to provide for the adult’s daily needs. Under the offense of exploitation of a vulnerable adult, a person may not knowingly and willfully obtain, by deception, intimidation, or undue influence, the property of an individual that the person knows or reasonably should know is at least age 68 or is a vulnerable adult with intent to deprive the individual of the individual’s property. Penalties for the offense vary based on the value of the property, as listed below. A sentence imposed for the offense may be separate from and consecutive to or concurrent with a sentence for any crime based on the act or acts establishing the violation.

<u>Property Value</u>	<u>Maximum Penalty</u>
Less than \$1,500	Misdemeanor – 1 year and/or \$500
\$1,500 to less than \$25,000	Felony – 5 years and/or \$10,000
\$25,000 to less than \$100,000	Felony – 10 years and/or \$15,000
\$100,000 or more	Felony – 20 years and/or \$25,000

In addition to the penalties listed above, violators must restore the property taken or its value to the owner or, if the owner is deceased, restore the property or its value to the owner’s estate. If a defendant fails to restore fully the property taken or its value as ordered, the defendant is disqualified, to the extent of the defendant’s failure to restore the property or its value, from inheriting, taking, enjoying, receiving, or otherwise benefiting from the estate, insurance proceeds, or property of the victim of the offense, whether by operation of law or pursuant to a legal document executed or entered into by the victim before the defendant has been convicted. The defendant has the burden of proof with respect to establishing that the defendant has fully restored the property taken or its value.

The statutory prohibition on exploitation of a vulnerable adult may not be construed to impose criminal liability on a person who, at the request of the victim of the offense, the victim's family, or the court-appointed guardian of the victim, has made a good faith effort is to assist the victim in the management of or transfer of the victim's property.

In addition to these penalties, a violation of this prohibition is an unfair, abusive or deceptive trade practice under the Maryland Consumer Protection Act (MCPA) and subject to the enforcement and penalty provisions under MCPA. The Consumer Protection Division in the Office of the Attorney General (OAG) is responsible for enforcing MCPA and investigating the complaints of aggrieved consumers.

Office of the Attorney General – Enforcement Related to Exploitation of a Vulnerable Adult

Chapter 114 of 2016 generally authorizes the Division of Consumer Protection in OAG to bring a civil action for damages against a person who violates the State's prohibition against exploitation of a vulnerable adult on behalf of a victim of the offense or, if the victim is deceased, the victim's estate. Chapter 794 of 2018 extends this authority to the Securities Commissioner of the Division of Securities in OAG. Finally, Chapter 3 of 2021 established the Senior and Vulnerable Adult Asset Recovery Unit in OAG with the authority to bring the same types of claims for the purpose of protecting seniors and vulnerable adults from financial crimes. The division, commissioner, and unit may recover damages for property loss or damage. If the division, commissioner, or unit prevails in an action, the costs of the action may be recovered for the use of OAG.

State Fiscal Effect: The bill is not anticipated to materially affect State finances. This estimate assumes that the bill applies to a small number of cases.

OAG advises that the bill does not have a fiscal impact on the office. OAG did not provide information regarding its current enforcement efforts. The Judiciary does not anticipate that the bill will have a significant fiscal or operational impact on the trial courts.

The Office of the Public Defender (OPD) advises that the bill's provisions may result in costs for the agency due to additional cases. The Department of Legislative Services advises that given the bill's limited application to specific victims and defendants, OPD can absorb additional workloads under the bill with existing budgeted resources.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 466 (The President, *et al.*) (By Request - Office of the Attorney General) - Judicial Proceedings and Education, Energy, and the Environment.

Information Source(s): Baltimore, Cecil, Frederick, and Montgomery counties; Maryland Association of Counties; Office of the Attorney General (Consumer Protection Division); Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Orphans' Court of Baltimore County; Office of the Public Defender; Department of Legislative Services

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