

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 466

(The President)(By Request - Office of the Attorney
General)

Judicial Proceedings and Education, Energy,
and the Environment

**Vulnerable and Senior Adults - Theft of Property by Caregiver, Family Member,
or Household Member - Prohibition**

This bill prohibits a caregiver, family member, or “household member” from knowingly and willfully taking property from a “vulnerable adult” or an individual age 68 or older with the intent to deprive the individual of that property. Violators are subject to graduated penalties based on the value of the stolen property. Violations constitute an unfair, abusive, or deceptive trade practice under the Maryland Consumer Protection Act (MCPA), subjecting violators to MCPA’s civil and criminal penalties. The bill authorizes the Senior and Vulnerable Adult Asset Recovery Unit and the Division of Securities within the Office of the Attorney General (OAG) to bring civil actions for violations of the bill’s prohibitions. The bill also incorporates the new offense into various related provisions, including eligibility for administrative release, authority for a State’s Attorney to freeze assets, disqualifications from benefitting from an estate, and personal liability of a fiduciary.

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 several definitions used in § 3-604 of the Criminal Law Article (abuse or neglect of a vulnerable adult in the first degree), including definitions of a “vulnerable adult” and “household member.”

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

“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.

Theft of Property by Caregiver, Family Member, or Household Member

A caregiver, family member, or household member of an individual may not knowingly and willfully obtain the property of the individual with the intent to deprive the individual of their property if the caregiver, family member, or household member knows or reasonably should know that the individual is a vulnerable adult or age 68 or older. Penalties for the offense vary based on the value of the property, as shown in **Exhibit 1**. Cases charging a violation of this offense are under the exclusive original jurisdiction of the District Court. Any sentence imposed for this offense may be separate from and consecutive or concurrent with a sentence for any crime based on the act or acts establishing the violation. In addition to the penalties below, the court must order a person convicted of this offense to restore the stolen property or its value to the owner, or to the owner’s estate if the owner is deceased.

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

Petition to Freeze Assets

A State’s Attorney may file a petition to freeze the assets of a defendant charged with a violation of the prohibitions established under the bill. The petition is subject to the existing requirements and procedures under § 4-206 of the Criminal Procedure Article.

Exhibit 1
Penalties for the Offense Established Under the Bill

Value of Property

Maximum Penalty

Less than \$1,500	Misdemeanor – 1 year imprisonment and/or \$500 fine
At least \$1,500 but less than \$25,000	Felony – 5 years imprisonment and/or \$10,000 fine
At least \$25,000 but less than \$100,000	Felony – 10 years imprisonment and/or \$15,000 fine
\$100,000 or more	Felony – 20 years imprisonment and/or \$25,000 fine

Source: Department of Legislative Services

Disqualification from Benefitting from Estate and Personal Liability of Fiduciary

If a violator fails to fully restore the taken property or its value as ordered, the violator is disqualified, to the extent of the failure, from inheriting, taking, enjoying, receiving, or otherwise benefiting from the victim’s estate, insurance proceeds, or property, whether by operation of law or pursuant to a legal document executed by the victim before the violator’s conviction. The violator has the burden of proof when establishing evidence that the violator has fully restored the property taken or its value. The bill makes a corresponding reference to related provisions in the Estates and Trusts Article.

A person convicted of unlawfully obtaining property from a victim in violation of the bill must be disqualified from inheriting, taking, enjoying, receiving, or otherwise benefiting from the estate, insurance proceeds, or property of the victim, to the extent provided in the corresponding criminal provisions.

A fiduciary or other person who distributes property in good faith and without actual knowledge of a conviction under the bill is not personally liable for the distribution.

Administrative Release

Under administrative release, an “eligible incarcerated individual” may be released if they have served 25% of their sentence and meet specified requirements. The bill adds a person who is serving a sentence for which the most serious offense is a violation of the bill’s theft prohibitions to the definition of an “eligible incarcerated individual.”

Current Law:

General Theft – § 7-104 of the Criminal Law Article

Under the general theft statute, a person may not, under specified circumstances, (1) willfully or knowingly obtain or exert unauthorized control over property; (2) obtain control over property by willfully or knowingly using deception; (3) possess stolen property knowing that it has been stolen or believing that it probably has been stolen; (4) obtain control over property knowing that the property was lost, mislaid, or delivered under a mistake as to the identity of the recipient or nature or amount of the property; or (5) obtain the services of another that are available only by compensation by deception or with knowledge that the services are provided without the provider’s consent. A violator is required to restore the owner’s property or pay the owner the value of the property or services and is subject to the penalties in **Exhibit 2**.

Exhibit 2
Penalties for General Theft

Value of Property and/or Services

Maximum Penalty

Less than \$100*	Misdemeanor – 90 days imprisonment and/or \$500 fine
At least \$100 but less than \$1,500*	Misdemeanor – 6 months imprisonment and/or \$500 fine (first conviction) or 1 year imprisonment and/or \$500 fine (second or subsequent conviction)
Less than \$1,500 (four or more prior theft convictions)**	Misdemeanor – 5 years imprisonment and/or \$5,000 fine
At least \$1,500 but less than \$25,000	Felony – 5 years imprisonment and/or \$10,000 fine
At least \$25,000 but less than \$100,000	Felony – 10 years imprisonment and/or \$15,000 fine
\$100,000 or more	Felony – 20 years imprisonment and/or \$25,000 fine

* Subject to two-year statute of limitations.

** Subject to specified notice requirements.

Source: Department of Legislative Services

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

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.

Property Value

Maximum Penalty

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 to assist the victim in the management of or transfer of the victim's property.

Petition to Freeze Assets – § 4-206 of the Criminal Procedure Article

Pursuant to §4-206 of the Criminal Procedure Article, a State's Attorney may file a petition to freeze assets of a defendant charged with exploitation of a vulnerable or elder adult if (1) the petition is filed within 60 days of the defendant being charged with the offense; (2) the alleged value of the lost or stolen property in the criminal charge is \$10,000 or more; (3) the amount of money subject to the petition does not exceed the value of the alleged value of the lost or stolen property in the criminal charge; and (4) the State's Attorney sends a notice of intent to file the petition to each financial institution in possession of money subject to the petition.

A court may grant a petition and issue an order to freeze assets if the State's Attorney proves by a preponderance of the evidence that (1) the defendant has a legal, equitable, or possessory interest in the money listed in the petition and (2) the money listed in the petition is not jointly held, unless the State's Attorney also proves, by a preponderance of the evidence, that the defendant transferred the defendant's money to avoid being subject to an order to freeze assets or the money listed in the petition was used in connection with the exploitation of a vulnerable or elder adult.

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.

Maryland Consumer Protection Act

An unfair, abusive, or deceptive trade practice under MCPA includes, among other acts, any false, falsely disparaging, or misleading oral or written statement, visual description, or other representation of any kind which has the capacity, tendency, or effect of deceiving or misleading consumers. The prohibition against engaging in any unfair, abusive, or deceptive trade practice encompasses the offer for or actual sale, lease, rental, loan, or bailment of any consumer goods, consumer realty, or consumer services; the extension of consumer credit; the collection of consumer debt; or the offer for or actual purchase of consumer goods or consumer realty from a consumer by a merchant whose business includes paying off consumer debt in connection with the purchase of any consumer goods or consumer realty from a consumer.

A violation of the prohibition on exploitation of a vulnerable adult under § 8-801 of the Criminal Law Article is an unfair, abusive or deceptive trade practice under MCPA.

The Consumer Protection Division is responsible for enforcing MCPA and investigating the complaints of aggrieved consumers. The division may attempt to conciliate the matter, issue a cease-and-desist order, or file a civil action in court. A merchant who violates MCPA is subject to a fine of up to \$10,000 for each violation and up to \$25,000 for each repetition of the same violation. In addition to any civil penalties that may be imposed, any

person who violates MCPA is guilty of a misdemeanor and, on conviction, is subject to a fine of up to \$1,000 and/or imprisonment for up to one year.

Disqualification from Benefitting from an Estate and Personal Liability of Fiduciary

Under § 11-111 of the Estates and Trusts Article, a person convicted of unlawfully obtaining property from a victim in violation of the prohibition on exploitation of a vulnerable adult must be disqualified from inheriting, taking, enjoying, receiving, or otherwise benefitting from the estate, insurance proceeds, or property of the victim, to the extent provided in the corresponding criminal statute. A fiduciary or other person who distributes property in good faith and without actual knowledge of the conviction is not personally liable for the distribution.

Administrative Release

The Justice Reinvestment Act (Chapter 515 of 2016) authorized the administrative release of an offender who was convicted of specified offenses, is compliant with their case plan, and has served 25% of their sentence. An offender on administrative release is supervised as if on parole.

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 and litigation. The Department of Legislative Services advises that given existing criminal prohibitions regarding the behavior prohibited under the bill and the bill's limited application to specific victims and defendants, OPD can absorb additional workload 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: HB 604 (The Speaker)(By Request - Office of the Attorney General) - Judiciary.

Information Source(s): Baltimore, Cecil, Frederick, and Montgomery 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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