

SENATE BILL 291

Q3

6lr2560
CF HB 323

By: **Senator Bailey**

Introduced and read first time: January 21, 2026

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax – Credit for Income Taxes and Penalties Due to Financial**
3 **Exploitation**

4 FOR the purpose of allowing a credit against the State income tax for certain income taxes
5 and penalties attributable to early withdrawal of retirement funds due to financial
6 exploitation; and generally relating to a credit against the State income tax for
7 income taxes and penalties due to financial exploitation.

8 BY repealing and reenacting, without amendments,
9 Article – Estates and Trusts
10 Section 13–601(a), (d), (e), (g), (j), and (k)
11 Annotated Code of Maryland
12 (2022 Replacement Volume and 2025 Supplement)

13 BY adding to
14 Article – Tax – General
15 Section 10–758
16 Annotated Code of Maryland
17 (2022 Replacement Volume and 2025 Supplement)

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

20 **Article – Estates and Trusts**

21 13–601.

22 (a) In this subtitle the following words have the meanings indicated.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(d) “Deception” means a misrepresentation or concealment of a material fact relating to services rendered, disposition of property, or the use of property intended to benefit a susceptible adult or older adult.

(e) (1) “Financial exploitation” means an act taken by a person who:

(i) Stands in a position of trust and confidence with a susceptible adult or older adult and who knowingly obtains or uses, or endeavors to obtain or use, a susceptible adult’s or older adult’s funds, assets, or property with the intent to temporarily or permanently deprive the susceptible adult or older adult of the use, benefit, or possession of the funds, assets, or property for the benefit of someone other than the susceptible adult or older adult, in such a manner that is not fair and reasonable;

(ii) By deception, false pretenses, false promises, larceny, embezzlement, misapplication, conversion, intimidation, coercion, isolation, excessive persuasion, or similar actions and tactics, obtains or uses, or endeavors to obtain or use, a susceptible adult’s or older adult’s funds, assets, or property with the intent to temporarily or permanently deprive the susceptible adult or older adult of the use, benefit, or possession of the funds, assets, or property for the benefit of someone other than the susceptible adult or older adult; or

(iii) Knows or should know that a susceptible adult or older adult lacks capacity to consent and who obtains or uses, or endeavors to obtain or use, the susceptible adult’s or older adult’s funds, assets, or property with the intent to temporarily or permanently deprive the susceptible adult or older adult of the use, benefit, or possession of the funds, assets, or property for the benefit of someone other than the susceptible adult or older adult.

(2) “Financial exploitation” includes:

(i) Breach of a fiduciary relationship resulting in the unauthorized appropriation, sale, or transfer of property;

(ii) Unauthorized taking of personal assets;

(iii) Misappropriation, misuse, or transfer of assets belonging to a susceptible adult or older adult from a personal or joint account; and

(iv) Intentional failure to effectively use a susceptible adult’s or older adult’s income and assets for the necessities required for the susceptible adult’s or older adult’s support and maintenance.

(3) “Financial exploitation” does not include an individual’s good-faith use of a susceptible adult’s or older adult’s assets, including for the purposes of establishing and implementing an estate plan intended to reduce taxes or to maximize eligibility for public benefits in order to preserve assets for an identified or identifiable person.

(g) “Intimidation” means a communication, by word or act, that a susceptible adult or older adult will suffer physical violence or emotional injury or will be deprived of food, nutrition, clothing, shelter, supervision, medicine, medical services, money, social interaction, or emotional or financial support.

(j) “Position of trust and confidence” means a relationship, whether formed by a formal or informal agreement between a susceptible adult or older adult and another person or recognized by a formal declaration or court order, in which:

(1) A person is entrusted with the use or management of the property or assets of the susceptible adult or older adult, or the susceptible adult’s or older adult’s care; or

(2) There is a special confidence or trust placed in a person who, in equity and good conscience, is bound to act in good faith and with due regard to the interests of the susceptible adult or older adult.

(k) “Susceptible adult” means an adult who is unable to perform, without prompting or assistance, one or more activities of daily living, is unable to protect the adult’s rights, or has diminished executive functioning, due to:

(1) Advanced age;

(2) Mental, emotional, sensory, or physical disability or disease;

(3) Impaired mobility;

(4) Habitual drunkenness;

(5) Addiction to drugs; or

(6) Hospitalization.

Article – Tax – General

10–758.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “ELIGIBLE TAXPAYER” MEANS AN INDIVIDUAL WHO IS SUBJECT TO EARLY WITHDRAWAL PENALTIES UNDER § 72(T) OF THE INTERNAL REVENUE CODE.

(3) “FINANCIAL EXPLOITATION” HAS THE MEANING STATED IN § 13–601 OF THE ESTATES AND TRUSTS ARTICLE.

(B) SUBJECT TO SUBSECTION (D) OF THIS SECTION, AN ELIGIBLE TAXPAYER MAY CLAIM A CREDIT AGAINST THE STATE INCOME TAX IN AN AMOUNT EQUAL TO THE LESSER OF:

(1) THE STATE INCOME TAX ATTRIBUTABLE TO AN EARLY WITHDRAWAL OF RETIREMENT FUNDS DUE TO FINANCIAL EXPLOITATION; OR

(2) FEDERAL TAX PENALTIES PAID BY THE ELIGIBLE TAXPAYER IN ACCORDANCE WITH § 72(T) OF THE INTERNAL REVENUE CODE THAT ARE ATTRIBUTABLE TO AN EARLY WITHDRAWAL OF RETIREMENT FUNDS DUE TO FINANCIAL EXPLOITATION.

(C) WHEN CLAIMING A CREDIT UNDER THIS SECTION, AN ELIGIBLE TAXPAYER SHALL PROVIDE:

(1) INFORMATION DEMONSTRATING A LOSS RESULTING FROM FINANCIAL EXPLOITATION, INCLUDING DOCUMENTATION FROM:

(I) ADULT PROTECTIVE SERVICES;

(II) A LAW ENFORCEMENT AGENCY;

(III) A FINANCIAL INSTITUTION THAT HAS REPORTED SUSPECTED FINANCIAL EXPLOITATION UNDER THE MARYLAND STATUTE AGAINST FINANCIAL EXPLOITATION (SAFE) ACT; OR

(IV) A COURT ORDER, A RESTITUTION ORDER, OR ANY OTHER COURT ISSUED DOCUMENTATION RELATED TO THE FINANCIAL LOSS; AND

(2) AN AFFIDAVIT ATTESTING THAT FEDERAL TAX PENALTIES WERE INCURRED AS A RESULT OF EARLY WITHDRAWAL OF RETIREMENT FUNDS DUE TO FINANCIAL EXPLOITATION.

(D) IF THE CREDIT ALLOWED UNDER THIS SECTION IN ANY TAXABLE YEAR EXCEEDS THE STATE INCOME TAX FOR THAT TAXABLE YEAR, THE UNUSED AMOUNT OF THE CREDIT MAY NOT BE CARRIED OVER TO ANY OTHER TAXABLE YEAR.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2026, and shall be applicable to all taxable years beginning after December 31, 2025.