

PGCEX_FAV_SB407

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Position: FAV



THE PRINCE GEORGE'S COUNTY GOVERNMENT

OFFICE OF THE COUNTY EXECUTIVE

BILL: Senate Bill 407 – Office of the Attorney General - Senior and Vulnerable Adult Asset Recovery Unit

SPONSOR: Senators Kramer, *et al.*

HEARING DATE: February 12, 2020

COMMITTEE: Judicial Proceedings

CONTACT: Intergovernmental Affairs Office, 301-780-8411

POSITION: SUPPORT

The Office of the Prince George's County Executive **SUPPORTS Senate Bill 407**, which establishes the Senior and Vulnerable Adult Asset Recovery Unit in the Office of the Attorney General to bring civil action against those who financially exploit vulnerable adults and recover damages for property lost or damage.

This bill will have a positive impact on the Adult Protective Services (APS) Program coordinated through the Child, Adult, and Family Services Division within the Prince George's County Department of Social Services. APS investigates allegations of abuse (sexual and physical), neglect (by self or by others), and exploitation (sexual and financial) of vulnerable adults. In cases of financial exploitation, it is difficult to recoup assets stolen from the client. Referrals are made to the Financial Crimes Unit of the local law enforcement, but seldom are the perpetrators prosecuted. Between the years 2017 to 2019, 814 allegations of financial exploitation were investigated, of which 172 were dispositioned as exploitation "Indicated." However, less than 2% were convicted, and it is unknown if any of the victims were able to recover damages. Often, the victim will refuse to provide testimony or information to prosecute because the perpetrator is a relative, and they don't want them to go to jail.

Financial loss can impact a vulnerable adult's ability to remain safe in the community. Financial exploitation of one's resources can result in evictions and foreclosures, thus increasing the homeless population in the county. According to the National Adult Protective Services Association (NAPSA), financial exploitation can also cause Financial Destitution, Depression, Feelings of Fear, Shame, Anger, and Reliance on Government "Safety Net" Programs.

For the reasons stated above, the Office of the Prince George's County Executive **SUPPORTS Senate Bill 407** and asks for a **FAVORABLE** report.

BCA_FAV_SB407

Uploaded by: Blendy, Nicholas

Position: FAV



BERNARD C. "JACK" YOUNG
MAYOR

*Office of Government Relations
88 State Circle
Annapolis, Maryland 21401*

SB 407

February 12, 2020

TO: Members of the Senate Judiciary Proceedings Committee

FROM: Nicholas Blendy, Deputy Director of Government Relations

RE: Senate Bill 407 – Office of the Attorney General – Senior and Vulnerable Adult Asset Recovery Unit

POSITION: SUPPORT

Chair Smith, Vice-Chair Pinsky, and members of the committee, please be advised that the Baltimore City Administration (BCA) **supports** Senate Bill (SB) 407.

The Baltimore City Health Department's Division of Aging and CARE Services houses the Long-Term Care Ombudsman Program, in which certified staff advocate on behalf of long-term care residents, usually residing in nursing homes and assisted living facilities in Baltimore City. The BCA supports SB 407 because it creates a separate enforcement unit within the Office of Attorney General to ensure vulnerable adults have an avenue for restitution.

The Long-Term Care Ombudsman office receives frequent complaints of financial exploitation of older and/or vulnerable adults residing in long-term care. These individuals are increasingly trapped in a cruel web of care providers, health care professionals, who purport to have their best interests at heart, but instead, act quickly to take control of their finances, medical care and ultimately their freedom. They typically assign themselves as the older adult's representative payee, which allows them complete control over the individual's finances and typically, they make financial decisions without the older adult's consent.

Historically, there has been no recourse for such financial abuse. Thus, the BCA strongly supports the creation of Asset Recovery Unit through SB 407 to protect seniors

*Annapolis – phone: 410.269.0207 • fax: 410.269.6785
Baltimore – phone: 410.396.3497 • fax: 410.396.5136
<https://mogr.baltimorecity.gov/>*

and vulnerable adults from financial crimes and possibly to provide restitution to those vulnerable adults who have been victimized.

For the foregoing reasons, we respectfully request a **favorable** report on Senate Bill 407.

Bresnahan_Favorable_SB 407

Uploaded by: Bresnahan, Tammy

Position: FAV



200 St. Paul Place, #2510 | Baltimore, MD 21202
1-866-542-8163 | Fax: 410-895-0269 | TTY: 1-877-434-7598
aarp.org/md | mdaarp@aarp.org | twitter: @aarpmaryland
facebook.com/aarpmid

**SB 407 Office of the Attorney General - Senior and Vulnerable Adult Asset Recovery Unit
SUPPORT
Senate Budget and Taxation Committee
February 12, 2020**

Good afternoon Chairman Guzzone and members of the Senate Budget and Taxation Committee. My name is Sherl Streeter. I am Tammy Bresnahan. I am the Director of Advocacy for AARP MD. AARP Maryland is one of the largest membership-based organizations in the State, with almost 900,000 members. AARP MD and its members overwhelming support SB 407. We thank Senator Kramer for introducing this legislation.

AARP is working hard to strengthen retirement security for all Americans by ensuring that workers and retirees have access to their hard earned and hard saved dollars. This advocacy responds to member priorities as revealed in a recent survey of over 1700 AARP Maryland members. Sixty (60) percent responded that maintaining their retirement savings should be an AARP legislative priority.

SB 407 establishes the Senior and Vulnerable Adult Asset Recovery Unit in the Office of the Attorney General for the purpose of protecting seniors and vulnerable adults from financial crimes.

AARP has a long history of fighting for protections against elder financial exploitation and has been on the forefront of advocacy in support of federal and state laws and regulations that prevent this type of abuse.

AARP believes that States should enact and enforce laws that:

- Make it a criminal offense, with enhanced penalties, to abuse, neglect, or exploit a vulnerable individual; and
- Provide victims and their legal representatives adequate civil procedures, criminal processes and remedies including a shift in the burden of proof, the awarding of attorneys' fees and costs, awarding of damages and recovery of assets stolen.

AARP supports SB 407 and respectfully requests the House Judiciary Committee issue a favorable report. For questions please contact Tammy Bresnahan at tbresnahan@aarp.org.



Coalition on Mental Health and Aging_FAV_SB407

Uploaded by: Burton, Kim

Position: FAV

**Support for SB 407 – Office of the Attorney General – Senior and
Vulnerable Adult Asset Recovery Unit**
**Maryland Coalition on Mental Health and Aging,
Senate Judicial Proceedings Committee
February 12, 2020**

The Mental Health Association of Maryland (MHAMD) is a voluntary, non-profit citizens' organization concerned with all aspects of behavioral health. MHAMD's Coalition on Mental Health and Aging is comprised of representatives from aging, mental health, consumer, family and professional associations and government agencies working together to improve the quality and accessibility of behavioral health assessment, treatment, recovery and illness prevention services for older Marylanders.

Crimes of abuse and fraud against vulnerable and older Marylanders are on the rise. It is not uncommon for members of our coalition to share horrific stories of older adults who lose property and assets because they have been unknowing victims of crime. In many instances not only have victims lost dignity, victims have critical financial security.

Presently, the Office of Attorney General is under-resourced to properly and fully respond to crimes against vulnerable and older adults. SB 407 addresses shortcomings by establishing a "Senior and Vulnerable Adult Asset Recovery Unit" within the Office of the Attorney General. The bill requires funds in the amount of at least \$250,000 for each fiscal year after 2021 to cover costs of hiring new staff and investigating and assisting with prosecution by the unit.

We believe Maryland needs to be doing more to protect older and vulnerable adults and to act in their best interest when they have become victims of crime. The recovery of assets can make all the difference in how older victims live out the rest of their lives. If assets aren't recovered, we can at least strive for some semblance of justice. For all that our older Marylanders have given us, they deserve our protection.

The Maryland Coalition on Mental Health and Aging urges your favorable report on SB 407.
Thank you for the opportunity to share our position.

MSCAN_FAV_SB407

Uploaded by: Burton, Kim

Position: FAV



Maryland Senior Citizens Action Network

MSCAN

AARP Maryland

*Alzheimer's
Association,
Maryland Chapters*

*Baltimore Jewish
Council*

Catholic Charities

*Central Maryland
Ecumenical Council*

Church of the Brethren

*Episcopal Diocese of
Maryland*

*Housing Opportunities
Commission of
Montgomery County*

*Jewish Community
Relations Council of
Greater Washington*

*Lutheran Office on
Public Policy in
Maryland*

*Maryland Association of
Area Agencies on Aging*

*Maryland Catholic
Conference*

*Mental Health
Association of Maryland*

Mid-Atlantic LifeSpan

*National Association of
Social Workers,
Maryland Chapter*

Presbytery of Baltimore

*The Coordinating
Center*

*MSCAN Co-Chairs:
Carol Lienhard
Kimberly Burton
443-901-1550 x 210*

Testimony in Support of SB 407 – Office of the Attorney General – Senior and Vulnerable Adult Asset Recovery Unit **Senate Judicial Proceedings Committee** **February 12, 2020**

The Maryland Senior Citizens Action Network (MSCAN) is a statewide coalition of advocacy groups, service providers, faith-based and mission-driven organizations that supports policies that meet the housing and care needs of Maryland's low and moderate-income seniors.

Scams, fraud and crimes against older and vulnerable adults are unfortunate realities that are becoming more common in Maryland. Many of our members are familiar with cases whereby older and vulnerable adults are victims that have lost what they were relying on for their future security.

We are fortunate to have advocates in the Office of the Attorney General that work on these crimes however, the demand for assistance outpaces the resources that exist to support justice for this vulnerable population. For this reason, MSCAN strongly supports the passage of SB 407 which establishes a "Senior and Vulnerable Adult Asset Recovery Unit" in the Office of the Attorney General. The establishment and funding to staff the unit, and investigate and assist prosecution by the unit, will be important to spare significant loss to an already compromised group of people who likely do not have the means to recover damages on their own.

MSCAN respectfully requests your favorable report on SB 407. Maryland's seniors deserve the protection and assistance that SB 407 will bring.

NASW_FAV_SB 407

Uploaded by: Ciekot, Ann

Position: FAV

Testimony before Senate Judicial Proceedings Committee
****Support****

**Senate Bill 407 – Office of the Attorney General –
Senior and Vulnerable Adult Asset Recovery Unit**

February 12, 2020

On behalf of the National Association of Social Workers, Maryland Chapter (NASW-MD), we would like to express our support for Senate Bill 407, Office of the Attorney General – Senior and Vulnerable Adult Asset Recovery Unit.

Financial abuse of older and vulnerable adults is an epidemic in our state and our country. According to the U.S. Securities and Exchange Commission, up to 6.6% of older adults are victims of financial exploitation. It is also the fastest-growing form of abuse. In Montgomery County, for example, financial exploitation is the second most frequent form of abuse investigated; last year Adult Protective Services in that county investigated 408 cases of financial exploitation, 35% of all investigations in FY 19. Given that most cases go unreported, the numbers are probably much higher. Studies indicate that for every documented case of elder financial exploitation, 44 went unreported.

Financial abuse costs older Americans over \$2.6 billion dollars annually. The harm to older and vulnerable adults goes far beyond money, however. Those who have been financially abused increased morbidity and mortality, depression and social isolation. Elders who are abused, even modestly, have a 300% greater chance of death each year than those who were not abused.

As social workers in geriatric settings, we have seen heartbreaking cases of elders who lose everything they have, usually at the hands of relatives and others close to them who take advantage of the elder's trust to steal their money and their property. We have seen adult children trick seniors into signing over the deed to their homes, then evict their aged parents. We have seen adult grandchildren convince their grandparents to co-sign loans that the younger people have no intention of repaying, thus saddling the seniors with ruinous debt. We have seen nieces and nephews abuse powers of attorney to clean out their elders' bank accounts, leaving them unable to afford their rent or their medications. We have seen elders stripped of all resources by relatives so that they had to leave their beloved continuing care communities and move to inadequate care homes where they face further abuse and neglect.

Most victims of financial exploitation never recover their losses. They don't have the funds or the knowledge to pursue civil actions against their abusers; often there are no civil or criminal consequences for these crimes.

(over)

This bill would allow the Office of the Attorney General to continue its important work in recovering assets in cases of financial exploitation against vulnerable and older adults and would allow for additional staff for the unit so that more victims could be helped.

This bill will help elder and vulnerable victims of financial abuse to regain their assets, their dignity, their lives.

We urge you to vote YES on SB 407.

Thank you,

NASW-MD Committee on Aging

Cashmd_Favorable_SB407

Uploaded by: MCKENNY, ROBIN

Position: FAV



SB 407 - Office of the Attorney General - Senior and Vulnerable Adult Asset Recovery Unit
Senate Judicial Proceedings
February 12th, 2020
SUPPORT

Chairman Smith, Vice-Chair and members of the committee, thank you for the opportunity to provide testimony in support of Senate Bill 407. This bill will create a Senior and Vulnerable Adult Asset Recovery Unit under the Office of the Attorney General (OAG).

The CASH Campaign of Maryland promotes economic advancement for low-to-moderate income individuals and families in Baltimore and across Maryland. CASH accomplishes its mission through operating a portfolio of direct service programs, building organizational and field capacity, and leading policy and advocacy initiatives to strengthen family economic stability. CASH and its partners across the state achieve this by providing free tax preparation services through the IRS program 'VITA', offering free financial education and coaching, and engaging in policy research and advocacy.

Currently, there are more elderly people today than in any other time in this country, and those with cognitive incapacities suffer 100% greater economic losses than those without.¹ Cognitive and physical limitations like dementia and trauma are some of the factors that make older adults particularly vulnerable to abuse. All seniors are frequent targets of scams and financial exploitation.

The Consumer Protection Division of the OAG defines financial exploitation as the misuse of another's money without their consent. Unfortunately, many vulnerable adults are taken advantage of by family members, caregivers, or businesses. Many times vulnerable adults are misled, threatened, or are unaware that they are being taken advantage of. Currently, there is not a dedicated unit for elder abuse. This means that there are elderly and vulnerable adults that receive delayed or limited help. This can lead to extreme financial hardship for vulnerable adults. The OAG is instrumental in protecting and even recovering lost assets for many of these individuals, and we should strengthen their ability to elderly Marylanders.

SB 407 helps strengthens the OAG's ability to aid seniors by:

- Creating a separate unit with the OAG
- Funding the unit so it can be staffed and investigate and prosecute when needed

A dedicated unit should be established and funded within the OAG to focus on elderly victims of exploitation. The unit will bring civil actions against perpetrators, regardless of conviction status, to ensure that Maryland is protecting its elderly and vulnerable. This bill has also been endorsed as a priority of the Financial Education and Capability Commission.

Thus, we encourage you to return a favorable report of Senate Bill 407.

¹ <https://ncea.acl.gov/About-Us/What-We-Do/Research/Statistics-and-Data.aspx#42>

MDDCCUA_FAV_SB407

Uploaded by: Murray, Rory

Position: FAV



Chairman William Smith
2 East
Miller Senate Office Building
Annapolis, MD 21401

SB407: Office of the Attorney General – Senior and Vulnerable Adult Asset Recovery Unit
Testimony on Behalf of MD|DC Credit Union Association
Position: Support

Chairman Smith, Vice-Chair Waldstreicher and Members of the Committee:

On behalf of the MD|DC Credit Union Association and the 84 Credit Unions and their 2 million members that we represent in the State of Maryland, we appreciate the opportunity to testify on this legislation. Credit Unions are member-owned, not-for-profit financial cooperatives whose mission is to promote thrift and provide access to credit for provident and productive purposes for our members. We respectfully support this bill.

The MD|DC Credit Union Association has worked with the Attorney General and multiple other partners on Project SAFE (Stop Adult Financial Exploitation) for several years. Project SAFE has made great strides at informing those who need it most about adult financial exploitation. We are fully engaged in Project SAFE and protecting vulnerable adults from harm and think that it is a vital measure to protect the public. The Senior and Vulnerable Adult Asset Recovery Unit, as contemplated in this bill, would be another beneficial “tool in the toolbox” to protect this population. Accordingly, the MD|DC Credit Union Association respectfully requests the committee to give SB407 a favorable report.

Please do not hesitate to contact me at 443-325-0774 or jbratsakis@mddccua.org, or our VP of Advocacy, Rory Murray at rmurray@mddccua.org should you have any questions. Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, which appears to read "John Bratsakis". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

John Bratsakis
President/CEO
MD|DC Credit Union Association

MSBA FAV_SB407

Uploaded by: Sallitto, Elena

Position: FAV

To: Members of The Senate Judicial Proceedings Committee

From: Elena Sallitto, Member, MSBA Vulnerable Adult Exploitation Task Force *and*
MSBA Elder Law & Disability Rights Section

Date: February 12, 2020

Subject: SB407 – Office of the Attorney General - Senior and Vulnerable Adult Asset Recovery Unit

Position: Support

The Maryland State Bar Association (MSBA) Elder Law and Disability Rights Section (ELDR) and the MSBA Vulnerable Adult Exploitation Task Force support Senate Bill 407 that expands the authority and staffing of the Senior and Vulnerable Adult Asset Recovery Unity housed within the Office of the Attorney General.

Attorneys who work with vulnerable adults are witnessing a steady increase in the numbers of people victimized by abuse and exploitation. Most of the perpetrators are trusted family members and caregivers upon whom the victims may be dependent for their most basic needs. The injuries suffered are often catastrophic affecting the victim's health, safety and welfare. Due to the victims' advanced age or compromised health, they are unable to recover from the violation. Often, stripped of their life savings, victims are forced to rely on government programs for their needs, at huge, and unnecessary taxpayer expense. A 2009 study by the MetLife Mature Market Institute found that the financial loss from elder financial abuse is approximately \$2.6 billion. It further concludes "[i]t is estimated to cost Americans tens of billions of dollars annually in health care, social services, investigative and legal costs, and lost income and assets. Elder financial abuse is a problem in every community and among all social strata. It is underrecognized, underreported, and underprosecuted."

The Vulnerable Adult Exploitation Task Force ("Task Force") was organized by the Section Councils of both the Estates & Trusts Section and the ELDR Section of the Maryland State Bar Association to address the growing concerns about the exploitation of vulnerable adults. As part of its initial purpose, the Task Force seeks to provide input and insight supportive of legislation to address the abuse of vulnerable adults. In addition, the Task Force is seeking to work with legislators to create thoughtful and comprehensive civil and criminal legislation to attack this problem head on, providing protections for vulnerable adults and provide both criminal prosecutors and civil attorneys with the ability to enforce those protections. SB407 is a step forward in that direction.

Both the MSBA Joint Vulnerable Adult Task Force and the ELDR Section **supports Senate Bill # 407**. We applaud its sponsors and co-sponsors and urge a favorable report.

For any questions or to learn more about the task force, we invite you to contact

Morris Klein, Esq.
4520 E W Hwy #700,
Bethesda, MD 20814
(301) 652-4462
morrisklein@morrisklein.com

Michael W. Davis
Davis, Agnor, Rapaport & Skalny, LLC
10211 Wincopin Circle, Suite 600
Columbia, MD 21044
410-995-5800

Elena Sallitto
Stavely & Sallitto, LLC
124 South Street
Annapolis, MD 21401
410-268-9246
elena@stavelylaw.com

To: Members of The House Judiciary Committee

From: Elena Sallitto, Member; and Morris Klein, Section Chair

Date: February 12, 2020

Subject: **HB477** – Estates & Trusts- Guardianship of the Property of Disabled Persons – Court-Appointed Attorneys

Position: **Support**

The Elder Law and Disability Rights Section of the Maryland State Bar Association **supports HB477.**

This bill simply allows for the payment of attorney's fees for guardians of the property for indigent persons or where payment is the responsibility of the local Department of Social Services in the same manner as already in the law for guardians of the person. A comparison of the language in effect for Estates and Trusts Code Section 13-705(d) (for guardians of the person) with the language in this legislation shows the similarities.

There is simply no reason to distinguish payment of attorney's fees for guardians of the property and guardians of the person. This legislation removes this difference. Our section supports this legislation.

If you have any questions, please contact Elena Sallitto, Esq. 410-268-9246 elena@stavelaw.com; or Morris Klein, Esq. 301- 652-4462, morrisklein@morrisklein.com.

To: Members of The House Judiciary Committee

From: Elena Sallitto, Member; Morris Klein, Chair; MSBA Elder Law & Disability Rights Section

Date: February 12, 2020

Subject: **Bill # HB304** – Criminal Law-Consumer Protection-Unfair, Abusive or Deceptive trade Practices – Exploitation of Vulnerable Adults

Position: In Support, as amended (see below)

The Maryland State Bar Association Elder Law and Disability Rights Section **SUPPORTS HB304 with the friendly amendment offered by the Vulnerable Adult Exploitation Task Force.**

The Elder Law and Disability Rights Section of the MSBA is comprised of over 700 attorneys working with vulnerable adults in every jurisdiction in the State. Over the years, we have witnessed a steady increase in the number of cases of financial exploitation perpetrated on our most vulnerable citizens. In a 40-page report issued in 2009, The MetLife Mature Market Institute reported that financial abuse of vulnerable adults exceeds \$2.6 billion annually, often stripping the victim of their entire life savings. Given their advanced age or compromised health, these victims are unable to recover from their devastating losses and become reliant on the State to provide their health needs through means tested public assistance programs such as Medicaid Long-Term Care, at huge expense to the State.

States throughout the country are looking for effective ways to stem this growing epidemic. Currently, the Maryland State Bar Association has convened a task force of Elder Law and Estate planning attorneys to review the laws currently on the books and identify ways to strengthen our ability to stop these perpetrators and try to make their victims whole. HB304, as amended, is an excellent step forward.

The amendment offered by the Vulnerable Adult Exploitation Task Force states:

(xxiv) Section 7-304 or §8-801 of the Criminal Law Article. **A CONVICTION FOR AN OFFENSE UNDER §8-801 OF THE CRIMINAL LAW ARTICLE IS NOT A PREREQUISITE FOR THE MAINTENANCE OF AN ACTION FOR A VIOLATION OF §8-801.**



520 West Fayette St., Baltimore, MD 21201
410-685-7878 | 800-492-1964
fax 410-685-1016 | tdd 410-539-3186
msba.org

We support the amendment to more clearly reflect the intentions behind this laudable bill.

Please contact Elena Sallitto, 410-268-9246, elena@Stavelylaw.com; or Morris Klein, 301-652-4462, morrisklein@morrisklein.com if you have any questions.

CPD_FAV_SB 407

Uploaded by: Straughn, Karen

Position: FAV

BRIAN E. FROSH
Attorney General

ELIZABETH F. HARRIS
Chief Deputy Attorney General

CAROLYN QUATTROCKI
Deputy Attorney General



WILLIAM D. GRUHN
Chief
Consumer Protection Division

STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL
CONSUMER PROTECTION DIVISION

Writer's Direct Dial No.
410-576-7942

February 12, 2020

To: The Honorable William C. Smith, Jr.
Chair, Judicial Proceedings Committee

The Honorable Guy Guzzone
Chair, Budget and Taxation Committee

From: Karen S. Straughn
Consumer Protection Division

Re: Senate Bill 407 – Office of the Attorney General – Senior and Vulnerable Adult Asset
Recovery Unit (SUPPORT)

The Office of the Attorney General supports Senate Bill 407, sponsored by Senators Kramer, Carter, Feldman, Hayes, Klausmeier, Rosapepe and Young. The bill would provide funding for the Office to expand its current efforts to assist senior citizens and vulnerable adults who have been victims of financial exploitation to recover the assets taken from them. The Office's Consumer Protection Division was first given authorization to bring these cases by Chapter 114 (2016). Chapter 794 (2018) gave similar authority to the Securities Commissioner. Since the attorney overseeing the program was first hired in January 2017 through the end of fiscal year 2019, the Office has been able to provide the following assistance:

- More than 150 investigations were opened;
- Fifteen cases have been settled or resulted in judgments totaling more than \$900,000;
- No action was taken in 20 cases where the conduct occurred before the July 1, 2016 effective date;
- 20 cases were referred to other agencies;
- 75 cases were not pursued due to insufficient documentation or lack of evidence that a violation had been committed; the victim was represented by private counsel; or a target could not be identified.

To date, the Consumer Protection Division has provided resources to support the attorney's work, including investigative and support staff time. Funding a Senior and Vulnerable Adult Recovery Unit would allow the Office to assist a greater number of victims of financial exploitation, permit

The Honorable William C. Smith, Jr.
The Honorable Guy Guzzone
Senate Bill 407
February 12, 2020
Page Two

proactive efforts to help educate seniors to avoid financial exploitation and allow the Consumer Protection Division's resources to be used for enforcement of the Consumer Protection Act.

Consequently, the Office of the Attorney General requests that the Judicial Proceedings and Budget and Taxation Committees give Senate Bill 407 a favorable report.

cc: The Honorable Benjamin Kramer
The Honorable Jill P. Carter
The Honorable Brian Feldman
The Honorable Antonio Hayes
The Honorable Katherine Klausmeier
The Honorable Jim Rosapepe
The Honorable Ronald N. Young

Barbara Wilkins_INFO_SB407

Uploaded by: Wilkins, Barbara

Position: INFO



LARRY HOGAN
Governor

BOYD K. RUTHERFORD
Lieutenant Governor

DAVID R. BRINKLEY
Secretary

MARC L. NICOLE
Deputy Secretary

SENATE BILL 407 Office of the Attorney General-Senior and Vulnerable Adult Asset Recovery Unit (Kramer, et al)

STATEMENT OF INFORMATION

DATE: February 12, 2020

COMMITTEE: Senate Judicial Proceedings Committee and Senate Budget & Taxation Committee

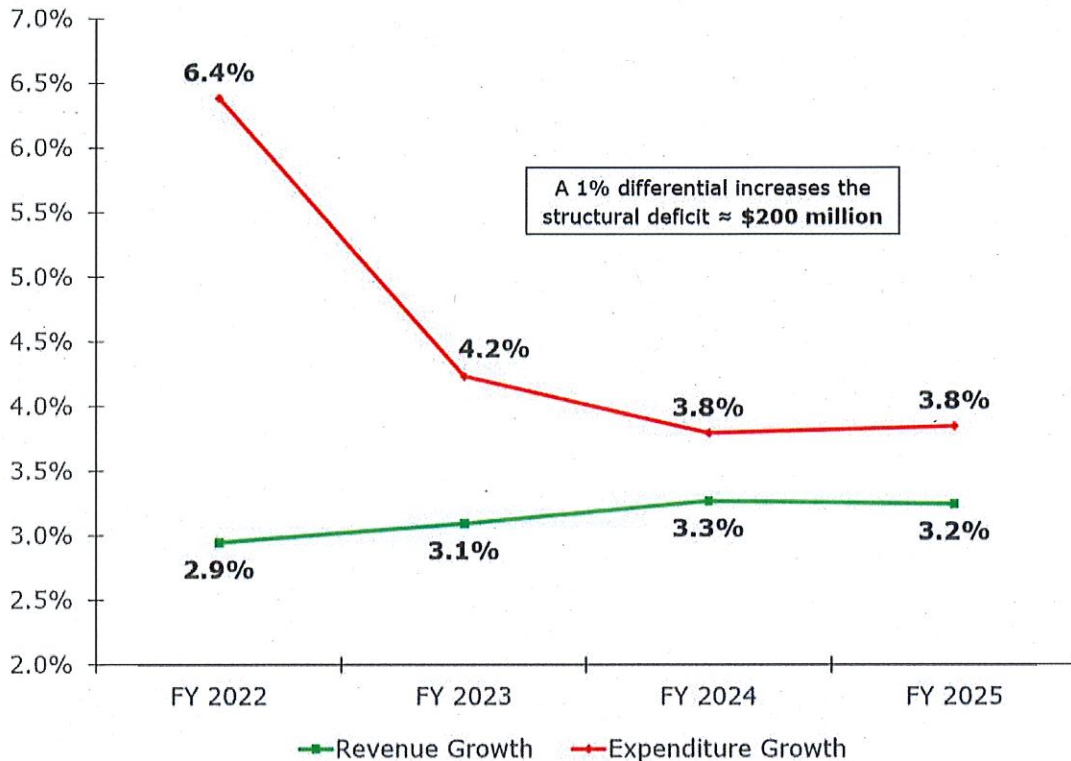
SUMMARY OF BILL: SB 407 mandates an annual appropriation of \$250,000 to the Office of Attorney General for a Senior and Vulnerable Adult Asset Recovery Unit, the purpose of which is to hire new staff and investigate and assist prosecution by the Unit.

EXPLANATION: DBM's focus is not on the underlying policy proposal being advanced by the legislation, but rather on whether the aggregate increased spending is sustainable when spending growth continues to exceed revenue growth.

The Department of Budget and Management (DBM) is charged with submitting a balanced budget to the General Assembly annually and strives to create a structurally balanced budget, in which the growth in spending is less than the growth in revenues. Actions by the General Assembly to mandate spending levels makes it exceedingly difficult for the Administration to achieve structural balance.

The FY 2022 General Fund forecast shows spending growth of 6.4%, whereas revenue growth is forecast to be 2.9%. Growth in State spending will outpace otherwise healthy revenue growth not only next year, but also for the foreseeable future. The result is a short and long-term structural gap that will continue to strain State resources until the underlying causes have been resolved.

Future Spending Outpaces Revenue Growth



Source: Department of Budget and Management, FY 2021 Budget Highlights Book, Appendix F (January 2020)

General Fund Budget Outlook Fiscal 2022 - 2025

	Est. 2022	Est. 2023	Est. 2024	Est. 2025
Cash Balance	-\$833	-\$1,135	-\$1,201	-\$1,298
Structural Balance	-\$701	-\$905	-\$984	-\$1,071

Department of Legislative Services, January 2020 Fiscal Briefing

For FY 22 – FY 25, the cumulative impact of an ongoing imbalance between spending and revenues is a \$3.6 billion structural gap. Our structural budget problem reflects a spending problem; not a revenue problem.

The ever-increasing use of mandates and entitlement spending by the General Assembly is a more recent practice, making the State's structural budget deficit a chronic challenge. According to the Department of Legislative Services (DLS), 70.2% of the FY 2020 General Fund allowance is mandated or entitlement spending.

Until we achieve long-term structural balance, programs cannot rely on a consistent funding level. Constituencies for these proposed programs or enhanced spending bills should be forewarned that passage

of this legislation does not guarantee future funding. Whatever specific funding is mandated will likely be repealed or otherwise modified in a subsequent Budget Reconciliation and Financing Act (BRFA) – this action is necessary to ensure a constitutionally required balanced budget in the next fiscal year.

The Administration is cognizant of the downside risks facing our economy and, in the FY 2021 Budget, has set aside \$1.3 billion in reserves. The Rainy Day Fund balance is equal to 6.25% of revenues, \$48 million more than recommended by the Spending Affordability Committee (SAC). Moody's Analytics has recently advised of a slowdown in employment growth in the latter part of FY 2021, which DLS estimates would add \$241 million to the structural budget gap in FY 2021 and \$419 million in FY 2022. Historic increases in funding for both K-12 education, as proposed by the Kirwan Commission, and school construction will further aggravate the budget gap.

The 2019 SAC commentary encourages a cautious fiscal approach -- **“Out-year fiscal stress is anticipated despite the expectation that personal income and employment will continue to grow steadily, and entitlement and prison caseloads will hold steady or decline. An imbalance is forecast before accounting for any recommendations from the Commission on Innovation and Excellence in Education.”**

**For additional information, contact Barbara Wilkins at
(410) 260-6371 or barbara.wilkins1@maryland.gov**