
To: Members of the Senate Judicial Proceedings Committee

From: MSBA Estate & Trust Law Section

Date: January 29, 2021

Subject: **SB0327 – Financial Exploitation of Vulnerable Adults (Maryland SAFE Act)**

Position: **Support**

The Estate and Trust Law Section of the Maryland State Bar Association (MSBA) **supports Senate Bill 327 entitled Financial Exploitation of Vulnerable Adults (Maryland SAFE Act).**

SB 327 represents a collaborative effort of several sections of the MSBA and creates a civil cause of action for financial exploitation.

The incidents of financial exploitation have been on the rise over the past couple decades. Unfortunately, many members of our section see these issues from clients and family members on a regular basis.

Until now, we have been limited in the claims we could advance on behalf of our clients. Those claims typically have been limited to criminal cases, costly civil litigation or post-death claims. Often times, criminal cases are not pursued. Victims of financial exploitation are unwilling to bring the police into their personal financial matters – perhaps out of embarrassment for falling victim to the exploitation in the first place, or perhaps out of fear of retribution from the perpetrator in the event the higher beyond a reasonable doubt standard is not met and the perpetrator is found not guilty. Civil cases pose their own issues and are notoriously expensive to litigate, particularly when the victim has no funds from which to pay skilled counsel to recover assets. Post-death claims provide no relief to the actual victim of the financial exploitation and are equally difficult to litigate since the victim is no longer able to provide valuable testimony and evidence. As a result of these barriers, many victims of financial exploitation have little access to justice.

SB 327 provides a well-reasoned and efficient method of redress for vulnerable adults who are the victims of financial exploitation.

We support SB 327 because it creates a statutory cause of action for victims of financial exploitation. The SAFE Act provides an alternative method of redress for vulnerable adults and certain representatives to bring an action for financial exploitation. Unlike criminal cases, the SAFE Act does not require police involvement in what often involves a family affair, and the standard of proof is more achievable since it is lower than beyond a reasonable doubt. The SAFE Act also provides a mechanism for vulnerable adults or their representatives to treble damages and



recover attorney's fees and expenses incurred in litigating the action. The removal of the financial burden to recover one's own assets improperly obtained by another will create a much broader access to justice for victims of financial exploitation.

SB 327 protects the rights of vulnerable adults in Maryland and gives them access to the civil justice system.

For the reasons stated above, the MSBA **supports SB 327 and urges a favorable committee report.**

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