
To: Members of Maryland House Judiciary
Committee

From: Adam M. Spence, Member
Susceptible Adult Exploitation Joint Task

Hearing Date: **March 31, 2021**

Subject: **SB 327:** Civil Actions – Financial Exploitation of Susceptible
Adults (Maryland SAFE Act)

Position: **Support**

As both an individual citizen and a member of the Maryland State Bar Association's Susceptible Adult Exploitation Task Force, I SUPPORT SB 327: Civil Actions – Financial Exploitation of Susceptible Adults (The Maryland SAFE Act).

THE HEART-BREAKING REALITY

I am providing this testimony from personal experience as a trial attorney involved in cases involving financial exploitation. The common theme in these cases is families' heart break, emotional and physical distress and monetary loss as their lives are upended by such exploitation.

Clients come to me regularly where a susceptible or elderly adult has been financially exploited at the hands of the client's family, "friends" or caretakers. Such exploitation ranges from (i) liberally taking monies during an elder's life through manipulation or deception, (ii) having them execute Powers of Attorney so as to access the "keys to the [financial] castle" and (iii) even "wheel-chairing" an elder to the bank so as to change the beneficiaries on bank accounts (and life insurance policies) to favor the perpetrator.

The cases of financial exploitation that I encounter are predictable in both pattern and methodology of exploitation. When reviewing a new matter with a client, I can generally sense what has already happened before even being told all the facts. A Susceptible adult has been manipulated or defrauded into trusting someone who then exploits that trust to causing considerable financial loss to the exploited or others in their family. In my career I have seen millions of dollars shifted to perpetrators through exploitation of those who, because of age or infirmity, are no longer able to protect themselves.

REAL PEOPLE EXPLOITED

Victims of exploitation can be well-educated and affluent or illiterate and impoverished, living solely on social security. Regardless of economic circumstance, cognitive and physical decline coupled with money and greed can easily result in exploitation.

Here are but a few instances of exploitation, without exaggeration, for which I sued on behalf of victims, siblings, children, and others:

- A daughter bullied an elderly mother, into agreeing to invest all of an even older grand-mother's savings into home renovation schemes, resulting in considerable liquidity difficulties in being able to afford long-term medical care and only partial repayment after nearly a year of litigation. When the mother raised her concerns about the use of funds, the daughter threatened to move the grandmother out of long-term care and into the mother's house. This was an abhorrent threat, as the mother was both physically and emotionally unable to care for the substantial needs of the grandmother, who would likely die under her care.
- A daughter used a power-of-attorney to divert over \$800,000 from her father's bank accounts while he suffered from severe dementia. The daughter used those monies to make considerable profits off of house renovations, without giving those profits to her father, as required by law and the Power of Attorney she used.
- Two former co-workers (who previously did not even know each other) conspired to divert over \$1,000,000 of monies from an adult in a hospital having long-term medical issues. They did so by using a power-of-attorney and changing beneficiaries to various accounts. A person who was best friends with the adult for over 30 years, -- regularly playing poker and fishing with him, -- had never heard of nor met these two co-workers who became collective millionaires.
- Two caregivers diverted over \$500,000 of monies of an individual on her deathbed through change of beneficiaries on accounts. Notably, these caregivers destroyed all morphine administration records which would have shown how much morphine the susceptible adult was on at the time the changes were effectuated.
- A mother used undue influence to effectuate the execution of a Power-of-Attorney by her daughter to deprive, her susceptible and disabled daughter in her twenties of \$150,000 in life insurance monies from her father's passing. The mother used those monies to buy a beach house. The loss of these monies resulted in the daughter's need for soup kitchen assistance and a stay in a homeless shelter.

- A daughter with financial problems who kidnapped an elite socialite's husband of 50 years after a stroke, solely to take advantage of his substantial pension.

A POWDER KEG READY TO EXPLODE

Regrettably, these stories are legion, both from personal experience and society at large. The National Adult Protective Services Association states that "APS programs report that the number and complexity of reports involving financial abuse of Susceptible and older adults has grown significantly over the past decade. Recent research has found that elder financial exploitation is widespread..." The MetLife seminal study described elder exploitation as the "*Crime of the 21st Century*." A recent Huffington Post article even described it as "*a powder keg ready to explode as older adults become a proportionately larger share of the total population*."

As part of the Task Force, in addition to numerous other materials I researched, I compiled the attached summary of fifteen published academic studies on financial exploitation related just to the elderly. Findings from those studies state that:

- Elderly Abuse is an Epidemic
- More than 50% of all victims needed assistance with activities of daily living
- Abuse is associated with significant morbidity and premature mortality
- Structural issues in society continue to allow the predictable and common financial exploitation of older adults to occur
- Encouragingly, all 50 states have now passed legislation relating to elder abuse

THE SAFE ACT GIVES ACCESS TO JUSTICE

The Safe Act has been carefully drafted to encompass existing Maryland law governing financial exploitation, while providing the additional remedies of fee-shifting and trebling of damages. By doing so, the SAFE Act provides a mechanism for victims, families, and attorneys to work together to obtain justice for victims of exploitation.

Please **SUPPORT SB 327**.

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