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March 21, 2022

The Honorable William C. Smith, Jr.
Chair, Judicial Proceedings Committee
2 East Miller Senate Office Building
Annapolis, MD 21401

RE: Support for HB 161

Dear Chairman Smith:

I have great concerns about the crime of financial exploitation against vulnerable adults (Criminal Law Article, section 8-801). I am writing in support of HB 161, which is now under consideration before your committee. The bill addresses a longstanding problem with statute's definition of "undue influence." At present, the statute requires the State to prove that undue influence was exercised by the perpetrator amounting to the level of "force or coercion."

In our experience, such cases rarely include "force or coercion." More typically, the crimes involve an unbalanced relationship where a senior depends on another and consents to virtually any request out of fear of losing that person's company or support. Indeed, other states across the country have also recognized that in the context of vulnerable adults, undue influence rarely rises to the level of "force or coercion."

HB 161 strengthens the definition of "undue influence." It removes the words, "force and coercion," and replaces them with specific elements for a fact finder to consider in determining whether undue influence was used to commit this crime. It could be suggested that the proposed changes will make holding offenders accountable even more difficult, because rather than meeting two elements of force and coercion, the prosecution now must put forth evidence in five different areas and many of those five areas have subtopics to address. However, considerations in the proposed bill are factors in the real world of caring for vulnerable adults. These are circumstances that are considered regularly in determining what level of care (if any) is needed for an older adult and who is best able to provide the needed care.

Making these proposed changes to the statute will help the community by enhancing the ability to hold offenders accountable for their actions when the method of the crime involves manipulation of an individual's ability to exercise free choice. We therefore urge a favorable report.

Sincerely,

Bryan Roslund

Bryan Roslund
Senior Assistant State's Attorney
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