



**Statement of the Maryland Federation of
National Active and Retired Federal Employees
Senate Judicial Proceedings Committee Hearing, February 5, 2025
On SB 466 – Vulnerable and Senior Adults – Theft of Property by Caregiver,
Family Member or Household Member – Prohibition**

(Position – FAV)

Good afternoon, Chair Williams and Vice-Chair Waldstreicher and members of the Judicial Proceedings Committee. I am Robert M. Doyle testifying on behalf of the State Legislative Committee of the Maryland National and Retired Federal Employees Association (NARFE), representing approximately 317,000 federal annuitants and employees in Maryland. For the continuing protection and benefit of our members and all Maryland seniors, we support and ask you for a favorable report on SB 466, entitled Vulnerable & Senior Adults – Theft of Property by Caregiver, Family member or Household Member – Prohibition. We thank the MD Office of Attorney General for requesting this Bill and President Ferguson for introducing it.

SB 466 will provide strong criminal penalties and fines for senior financial fraud to supplement the protections now available by the Maryland SAFE (Statute against Financial Exploitation) Act passed by the Maryland General Assembly in 2021. (The SAFE Act is discussed after my statement). These penalties and fines get progressively stronger depending on the value of the property stolen from the senior individual (defined as someone at least 68 years old) or the vulnerable adult. These range from up to one year imprisonment or a fine not to exceed \$500, or both, for the misdemeanor theft of property less than \$1500, to the imprisonment up to 20 years or a fine not to exceed \$25,000, or both, for the felony theft of property of \$100,000 or more. In all cases, a person convicted of a violation of the Act “shall restore the property taken or its value to the owner or if the owner is deceased, restore the property or its value to the owner’s estate”. Additionally, SB 466 establishes that a person convicted under this Act is disqualified from inheriting, taking, enjoying, receiving, or otherwise benefiting from the estate, insurance proceeds, or property of the victim.

Why We Need The Protections of SB 466

The problem of elder financial exploitation is pervasive. The Financial Crimes Enforcement Network (FinCEN) issued a report in April 2024 after reviewing Bank Secrecy Act data from June 2022 through June 2023. The Report lays out Elder Financial Exploitation (EFE) incidents, defined as the illegal or improper use of an older adult's funds, property, or assets (older adults are typically considered individuals aged 60 or older.)

This Report showed 31,083 reports of suspicious activity, averaging \$98,863 per incident, for that 12 month period involving Elder Theft, the subject of SB 466. FinCEN defines Elder Theft as situations where persons known by older adults (60 years old and over) steal victims' funds. Elder theft is likely to be underreported and can go undetected because the perpetrators are typically individuals who are trusted by the victim.

Even worse were Elder Scams numbering 123,332 for that period. Elder Scams are defined as theft by fraudsters with no known relationship to their victims, and who are sometimes located outside the US.

Who Perpetrates Elder Theft

The FinCEN Report showed adult children of older parents – who lived near the victimized parents -- are the most frequently identified perpetrators. Next most frequent were professional caregivers such as nurses, aides, rehabilitation facility workers, and in-home care providers. The FinCEN Report revealed that caretakers had access to older adults' banking information, checkbooks, or other personally identifiable information in multiple instances. In a small number of instances, perpetrators included neighbors and financial advisors, though they each accounted for a comparatively negligible number of filings.

How is Elder Theft Accomplished?

The methods that perpetrators of elder theft use to steal from victims vary, but they generally appear to be relatively unsophisticated and straightforward, for example sending or withdrawing money for themselves, but also using stolen funds to make purchases or pay their own bills. These perpetrators made little or no effort to obfuscate the payments.

Unlike scammers, the family members or trusted individuals don't need to orchestrate elaborate scams to obtain access to the victim's accounts. Often the perpetrator already has access, can quickly gain access, or the victim will give them funds if the victim is adequately trusting, or conversely if the perpetrator is intimidating. Here are the methods the FinCEN Report shows:

- Funds transfers: Perpetrators either have access to victims' online banking or trick the victim into performing the transfers on their behalf. Funds are often sent directly to perpetrators, but filers also reported that perpetrators used stolen funds to pay merchants or other individuals.
- Fraudulent checks: Perpetrators with access to a victim's checkbook will write themselves checks and either have victims sign the check or forge the signature.

- Credit/debit card: Perpetrators have access to a victim’s credit/debit card or credit/debit card information and make purchases for themselves.
- Cash withdrawals: Perpetrators use ATMs if they have access to a victim’s debit card or they may escort the victim to the bank and conduct a teller withdrawal.
- Online bill pay: Perpetrators with access to a victim’s account will pay their own bills directly.
- Wire: The least common method of transfer, but frequently associated with large, international transactions.¹

As a powerful weapon against Elder Theft, we applaud the introduction of SB 466 and respectfully request a favorable report.

Thank you.

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Background – The SAFE Act

The SAFE Act creates a new civil cause of action for susceptible and older adults (and their families) to recover lost funds and assets due to financial exploitation, as well as legal fees and up to triple damages.

Prior to the passage of the SAFE Act, there were limited remedies available to victims of financial exploitation. Adult Protective Services and States Attorneys cases were rare because of the lack of resources and the higher burden of proving criminal intent. And victims or their families faced high costs of private attorneys to bring actions against perpetrators of financial

¹ Information on Elder Theft from “Financial Trend Analysis – Elder Financial Exploitation: Theft Patterns and Trend Information, June 2022 to June 2023, published April 2024, by Financial Crimes Enforcement Network (FinCEN), U.S. Department of the Treasury, link to Report at <https://www.fincen.gov/news/news-releases/fincen-issues-analysis-elder-financial-exploitation>

exploitation. The SAFE Act helps victims, guardians, trustees, family members, heirs and estates who bring actions by both increasing allowable damages and also requiring the perpetrator to pay legal fees.

The SAFE Act is aimed at protecting both “older adults” (defined as any person who is 68 years of age or older) and “susceptible adults” (defined as an adult who is unable to execute daily life without assistance due to conditions such as age, disability, illness, or substance abuse).

“Financial exploitation” is defined as one of the following:

- Anyone who obtains assets from a victim who is incompetent and unable to comprehend the transaction;
- Anyone who uses false promises, pretenses, or criminal acts to obtain money from the victim; OR
- Anyone in a position of trust and confidence who abuses that trust to obtain the assets of the victim (a breach of fiduciary duty) and the transaction is not fair nor reasonable.

In successful suits, the Court may award the recovery of lost assets to the exploited adult or their representative, as well as remedies such as injunction or rescission of a contract. The Court may also award a maximum of three times the amount of compensatory damages in contrast with the typical civil suit where only what has been lost may be awarded. In addition, legal fees may also be recovered.²

² From: The SAFE Act: A Powerful New Statute Against Financial Exploitation, Adam Spence, Spence Law Group, found at <https://www.spencefirm.com/marylands-new-and-powerful-statute-against-financial-exploitation/>