

HB0604_Vulnerable_and_Senior_Adults_Theft_of_Prope

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Position: FAV



TESTIMONY FOR SB0466

Vulnerable and Senior Adults – Theft of Property by Caregiver, Family Member, or Household Member - Prohibition

Bill Sponsor: President

Committee: Judicial Proceedings

Organization Submitting: Maryland Legislative Coalition

Person Submitting: Aileen Alex, co-chair

Position: FAVORABLE

I am submitting this testimony in favor of SB0466 on behalf of the Maryland Legislative Coalition. The Maryland Legislative Coalition is an association of activists - individuals and grassroots groups in every district in the state. We are unpaid citizen lobbyists, and our Coalition supports well over 30,000 members.

As our state population ages, more and more seniors find themselves in a position to rely on others for their care and their well-being. In many of those cases, those who become caregivers are responsible and caring. In some cases, though, the caregiver, whether they are a family member or an outside caregiver, takes advantage of the adult they are supposed to care for.

This bill, if enacted, would set penalties on the theft of property of a vulnerable or senior adult who is older than 68 by their caregiver. If the value of the property is small (less than \$1,500), the theft would be considered a misdemeanor subject to a fine of \$500 and a term of prison not exceeding one year. The bill scales the penalties up to a maximum fine of \$25,000 and up to 20 years in prison for a theft valued at greater than \$100,000. In all cases, the caregiver would have to return the property.

Theft from a vulnerable, or senior adult is a horrible crime. The Maryland Legislative Coalition wholeheartedly supports this bill and recommends a **FAVORABLE** report in committee.

HB0604_FAV_MNCHA_Vulnerable & Senior Adults - Thef

Uploaded by: Danna Kauffman

Position: FAV



Maryland-National Capital Homecare Association

House Judiciary Committee

House Bill 604 – *Vulnerable and Senior Adults – Theft of Property by Caregiver, Family Member, or Household Member – Prohibition*

February 11, 2025

POSITION: SUPPORT

On behalf of the Maryland-National Capital Homecare Association (MNCHA), whose members include Medicare-certified home health agencies, private duty companies, and durable medical equipment suppliers across the State, we support House Bill 604. This bill prohibits a caregiver, family member, or household member from **knowingly and willfully** obtaining an individual's property if the caregiver, family member, or household member knows or reasonably should know that the individual is a vulnerable or senior adult with the intent to deprive the vulnerable or senior adult of the property.

Elder abuse often affects those with limited resources who may not be able to report abuse on their own. Laws that protect elders can help ensure they are treated with dignity, respect, and care and may serve as a deterrent for potential offenders who may be less inclined to harm someone if the legal ramifications are steep. In addition, providing additional tools for prosecution may assist in closing what can be a “revolving door” when a caregiver can leave one contracted position for another, perpetuating the cycle.

For these reasons, we support House Bill 604.

For More Information:

Caitlin Houck
Executive Director
Maryland-National Capital Homecare Association
Cell: 240-383-0420

Danna Kauffman
Schwartz, Metz, Wise & Kauffman, P.A.
dkauffman@smwpa.com
410-244-7000

NASW-Maryland - 2025 HB 604 FAV - Vulnerable and S

Uploaded by: Karessa Proctor

Position: FAV

Testimony Before the House Judiciary Committee

February 11, 2025

**House Bill 604 Vulnerable and Senior Adults - Theft of Property by Caregiver,
Family Member, or Household Member - Prohibition**

**** Support ****

On behalf of the National Association of Social Workers, Maryland Chapter (NASW-MD) Committee on Aging, we would like to express our strong support for House Bill 604 Vulnerable and Senior Adults – Theft of Property by Caregiver, Family Member or Household Member - Prohibition

As social workers who serve Marylanders with disabilities and those with chronic and terminal illnesses, we have seen firsthand the devastating effects that financial exploitation can have on older and vulnerable adults. This bill is crucial because it recognizes the unique position of trust that caregivers, family members, and household members hold, and it ensures that those in positions of power are held accountable when they abuse that trust. Senior and vulnerable adults are often isolated, less likely to report abuse, and more likely to fear retaliation if they do so. In addition, these individuals may struggle to understand or assert their rights to their money or property.

This bill provides necessary protections to ensure that older and vulnerable adults do not become victimized by their family members, household members and caregivers. We believe that the proposed civil and criminal penalties send a strong message in support of the rights of this population. This bill is a crucial step forward in safeguarding vulnerable adults from financial exploitation, holding offenders accountable, and ensuring that seniors and vulnerable individuals can live with dignity and respect in their communities.

For these reasons, we ask that you give a favorable report on House Bill 604.

Respectfully,

Karessa Proctor, BSW, MSW
Executive Director, NASW-MD

HB 604- FAV - JUD - ALZ Association.pdf

Uploaded by: Megan Peters

Position: FAV



Bill: HB 604 - Vulnerable and Senior Adults - Theft of Property by Caregiver, Family Member, or Household Member - Prohibition

Committee: Judiciary

Position: Favorable

Date: February 11, 2025

On behalf of the 127,000 Marylanders living with Alzheimer's disease, the Alzheimer's Association supports HB 604 - Vulnerable and Senior Adults - Theft of Property by Caregiver, Family Member, or Household Member - Prohibition and urges a favorable report. This legislation will provide additional protections for vulnerable adults and senior adults from exploitation by a caregiver. Specifically, this legislation will ensure appropriate actions can be taken against a caregiver who exploits a vulnerable or senior adult.

Elder abuse is a serious and growing problem. Every year, an estimated five million seniors in the United States are victims of elder abuse, neglect, or exploitation.¹ According to the National Center on Elder Abuse, one in ten older adults experiences some form of abuse, yet it remains underreported.²

Adults living with dementia are particularly vulnerable to abuse, neglect, and exploitation because the disease may prevent them from reporting or recognizing it. Abuse can occur anywhere, including at home and in care settings. Strengthening protections and ensuring appropriate action can be taken against bad actors ensures our vulnerable adults and older adults can live their lives with dignity and security.

The Alzheimer's Association urges a favorable report on HB 604. Please contact Megan Peters, Director of Government Affairs at mrpeters@alz.org with any questions.

¹ <https://acl.gov/news-and-events/events-and-observances/world-elder-abuse-awareness-day>

² <https://ncea.acl.gov/elder-abuse#gsc.tab=0>

Testimony in support of HB0604 - Vulnerable and Se

Uploaded by: Richard KAP Kaplowitz

Position: FAV

HB0604_RichardKaplowitz_FAV

02/11/2025

Richard Keith Kaplowitz
Frederick, MD 21703-7134

TESTIMONY ON HB#0604 - POSITION: FAVORABLE
Vulnerable and Senior Adults - Theft of Property by Caregiver, Family Member, or Household Member – Prohibition

TO: Chair Clippinger, Vice Chair Bartlett, and members of the Judicial Proceedings Committee
FROM: Richard Keith Kaplowitz

My name is Richard Kaplowitz. I am a resident of District 3, Frederick County. I am submitting this testimony in support of/ HB#/0604, Vulnerable and Senior Adults - Theft of Property by Caregiver, Family Member, or Household Member – Prohibition

The Attorney General of Maryland has noted that “The largest population in the United States consists of people over the age of 65. Sadly, many seniors and "vulnerable adults" are targets of crimes ranging from telemarketing fraud to patient abuse in nursing home facilities. “¹

In acknowledging these deprivations of seniors and vulnerable adults the Attorney General has requested authorities on treatment of and prosecution of these criminal acts. Criminal conduct is defined within the bill. This bill will prohibit a caregiver, family member, or household member from knowingly and willfully obtaining the property of an individual the caregiver, family member, or household member knows or reasonably should know is a vulnerable or senior adult with the intent to deprive the vulnerable or senior adult of the property.

Specific treatment under law for enforcement and punishment is provided by making a violation of the Act an unfair, abusive, or deceptive trade practice that is subject to enforcement and penalties under the Maryland Consumer Protection Act; etc.

The Maryland State Plan on Aging² makes the case that our senior population is large and growing and likely needs these protection.

The number of older Marylanders is increasing. Of the nearly 6.1 million people in Maryland in 2020, 22.62% were aged 60 or over. This percentage is expected to increase to 26.57% of Maryland’s projected population of 6.7 million by the year 2040.

I respectfully urge this committee to return a favorable report on HB0604.

¹

<https://www.marylandattorneygeneral.gov/Pages/seniors.aspx#:~:text=Sadly%2C%20many%20seniors%20and%20%22vulnerable,to%20report%20fraud%20or%20abuse.>

² <https://aging.maryland.gov/SiteAssets/Pages/StatePlanonAging/MD%20State%20Plan%202022-2025.pdf>

HB 604 Seniors -Theft by Caregivers & etc. 020725

Uploaded by: Robert Doyle

Position: FAV



**Statement of the Maryland Federation of
National Active and Retired Federal Employees
House Judiciary Committee Hearing, February 11, 2025
On HB 604 – Vulnerable and Senior Adults – Theft of Property by Caregiver,
Family Member or Household Member – Prohibition**

(Position – FAV)

Good afternoon, Chair Clippinger and Vice-Chair Bartlett and members of the Judiciary 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 HB 604, 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 Speaker Jones for introducing it.

HB 604 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, HB 604 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 HB 604

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 HB 604 and respectfully request a favorable report.

Thank you.

Robert M. Doyle, Co-Chair
Maryland Federation – NARFE
State Legislative Committee
4226 Carvel Lane
Edgewater, MD 21037
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H (410) 798-0079
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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 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.

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>

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/>

BJC Support House Bill 604 Vulnerable and Senior A

Uploaded by: Sarah Miicke

Position: FAV



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- Beth Am Congregation
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- Bnai Israel Congregation
- Bnai Jacob Shaarei Zion Congregation
- Bolton Street Synagogue
- Chevrá A Havas Chesed, Inc.
- Chevrei Tzedek Congregation
- Chizuk Amuno Congregation
- Congregation Beir Tikvah
- Congregation Tiferes Yisroel
- Federation of Jewish Women's Organizations of Maryland
- Hadassah
- Har Sinai - Oheb Shalom Congregation
- J Street
- Jewish Federation of Howard County
- Jewish Labor Committee
- Jewish War Veterans
- Jewish War Veterans, Ladies Auxiliary
- Jewish Women International
- Jews For Judaism
- Moses Montefiore Anshe Emenah Hebrew Congregation
- National Council of Jewish Women
- Ner Tamid Congregation
- Rabbinical Council of America
- Religious Zionists of America
- Shaarei Tfiloh Congregation
- Shomrei Emenah Congregation
- Suburban Orthodox Congregation
- Temple Beth Shalom
- Temple Isaiah
- Zionist Organization of America
- Baltimore District

WRITTEN TESTIMONY

**House Bill 604 Vulnerable and Senior Adults - Theft of Property
by Caregiver, Family Member – Prohibition**

Judiciary Committee

February 11, 2025

Support as Amended by the Sponsor

Background: If enacted, House Bill 604 with sponsor amendments, would make changes to the criminal code article § 8-801 which criminalizes financial crimes committed against vulnerable adults. Those convicted of a felony under this statute are subject to mandatory exclusion from working for any Federal or State funded healthcare system for a period of five years. Currently § 8-801 requires the State to prove that the property was obtained from the victim by “deception, intimidation, or undue influence.” However, deception is very narrowly defined in Maryland’s criminal code, requiring a broken trust where the victim is misled. Therefore, a caregiver who steals money or a credit card from a vulnerable adult in their care, without their knowledge, is not conduct covered by the financial exploitation statute. This bill aims to revise § 8-801 to make financial exploitation of a vulnerable adult an aggravated offense due to a victim’s vulnerability and the caregiver’s status, addressing this gap in the law.

Written Comments: The Baltimore Jewish Council represents the interests of CHANA, an agency of the Associated: Jewish Federation of Baltimore. CHANA is a domestic violence, sexual abuse, and elder abuse agency that serves Baltimore County and City. CHANA provides safety planning, supportive counseling, shelter, crisis intervention, case management and legal advocacy. CHANA has served far too many older adult abuse victims whose caregivers have used them for financial gain. This bill would give victims the ability to seek financial justice and help others from falling victim to the same exploiters.

For these reasons, we urge a favorable report on HB604 as amended by the sponsor.

The Baltimore Jewish Council, a coalition of central Maryland Jewish organizations and congregations, advocates at all levels of government, on a variety of social welfare, economic and religious concerns, to protect and promote the interests of the Associated Jewish Community Federation of Baltimore, its agencies and the Greater Baltimore Jewish community.

HB 604- FAV - MSCAN Testimony.pdf

Uploaded by: Sarah Miicke

Position: FAV



Maryland Senior Citizens Action Network

MSCAN

AARP Maryland

*Alzheimer's
Association,
Maryland Chapters*

*Baltimore Jewish
Council*

*Catholic Charities of
Baltimore*

*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
Sarah Mücke
6102460075*

House Bill 604 Vulnerable and Senior Adults - Theft of Property by Caregiver, Family Member – Prohibition Judiciary Committee February 11, 2025 Support as Amended by the Sponsor

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, health, and quality of care needs of Maryland's low and moderate-income seniors.

House Bill 604 with sponsor amendments seeks to make changes to criminal code article § 8 which criminalizes financial crimes committed against vulnerable adults. This bill would make it so that caregivers who financially exploit vulnerable adults in their care can be convicted of a felony and, where eligible, subject to mandatory exclusion from working for any Federal or State funded healthcare system for a period of five years.

Elderly individuals are among the most vulnerable members of our society when it comes to financial fraud and exploitation. Family members, neighbors and professional caregivers all too often exploit them. They often take their credit card or cash without the vulnerable adult's knowledge and defraud them. Currently, this act is not considered deception since Maryland's criminal code requires a broken trust where the victim is misled. By making changes to the criminal code, Maryland will be able to better protect some of its most vulnerable residents.

For these reasons, MSCAN respectfully requests a favorable report for on HB604 as amended by the sponsor.

HB604VulnerableSenior AdultsTheft.FAV.02.11.25.pdf

Uploaded by: Tammy Bresnahan

Position: FAV



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HB 604 Vulnerable and Senior Adults-Theft of Property by Caregiver, Family Member, or Household Member Prohibition
House Judiciary Committee
FAVORABLE
February 11, 2025

Good afternoon, Chair Clippinger and members of the House Judiciary Committee. My name is Tammy Bresnahan, and I serve as the Senior Director of Advocacy for AARP Maryland. As you may know, AARP Maryland is one of the largest membership-based organizations in the in the State, encompassing almost 850,000 members. Thank you for the opportunity to testify in strong support of HB 604.

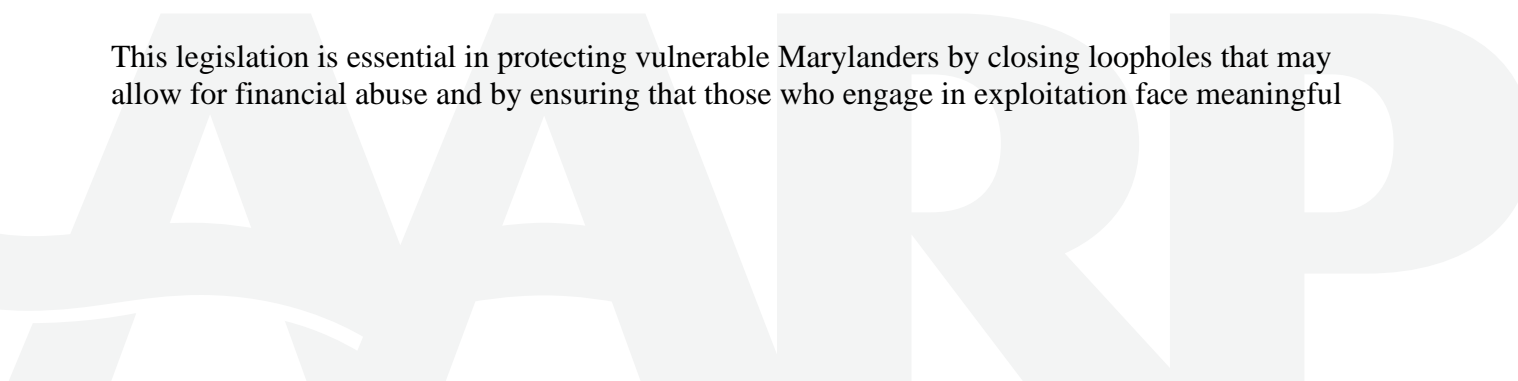
AARP is a nonpartisan, nonprofit, nationwide organization that helps people turn their goals and dreams into real possibilities, strengthens communities, and fights for the issues that matter most to families such as health care, employment and income security, retirement planning, affordable utilities, and protection from financial abuse.

HB 604 seeks to protect vulnerable and senior adults by prohibiting caregivers, family members, or household members from knowingly and willfully obtaining the property of individuals they know—or should reasonably know—are vulnerable or senior adults, with the intent to deprive them of their property. Violations of this Act would be classified as unfair, abusive, or deceptive trade practices and would be subject to enforcement and penalties under the Maryland Consumer Protection Act.

AARP has long advocated for policies that safeguard the financial security and well-being of older adults. Our policy calls for strengthened protections against financial exploitation and abuse, including holding those who take advantage of vulnerable adults accountable under consumer protection laws. AARP believes that individuals should be able to age with dignity and without fear of being taken advantage of by those they trust most.

As you know, vulnerable adults—whether elderly, disabled, or otherwise unable to advocate for themselves—face heightened risks of abuse, neglect, and financial exploitation. Research consistently shows that financial exploitation can lead to severe consequences, including emotional distress, loss of assets, and diminished quality of life. The provisions in SB 466 directly address this issue by providing stronger deterrents and remedies for those who prey on seniors.

This legislation is essential in protecting vulnerable Marylanders by closing loopholes that may allow for financial abuse and by ensuring that those who engage in exploitation face meaningful



consequences. AARP firmly believes this measure aligns with our broader efforts to promote consumer protections and financial security for older adults.

We respectfully urge the committee to issue a favorable report on HB 604 and help safeguard the rights, dignity, and financial well-being of Maryland's vulnerable and senior populations. Thank you for your consideration. If you have questions, please contact me at tbresnahan@aarp.org or by calling 410-302-8451.

2025_01_29 AG Testimony in Support of HB 604.pdf

Uploaded by: Anthony Brown

Position: FWA



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Chief Operating Officer

STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL

ANTHONY G. BROWN
Attorney General

January 31, 2025

The Honorable Luke Clippinger
Chair, House Judiciary Committee
101 House Office Building
Annapolis, Maryland 21401

*Re: House Bill 604 - Vulnerable and Senior Adults - Theft of Property by Caregiver,
Family Member, or Household Member - Prohibition*

Dear Chair Clippinger:

The Office of the Attorney General (OAG) supports **House Bill 604 - Vulnerable and Senior Adults - Theft of Property by Caregiver, Family Member, or Household Member – Prohibition** with amendments.

Maryland’s growing population of elderly and vulnerable adults increasingly relies on care providers to assist in the performance of the activities of daily living—from bathing and dressing to preparing meals. For many elderly and vulnerable adults, their relationship with their care providers is not a matter of choice - it is a matter of necessity. Maryland has long recognized that the relationship between a vulnerable adult and a care provider is a relationship of trust and dependence that deserves additional protection. For example, “Abuse or Neglect of a Vulnerable Adult” is a separate crime from simple assault and both crimes may be charged and sentenced separately. Likewise, “Financial Crimes Against Vulnerable Adults” is a separate crime from other types of theft crimes.

At present, however, the “Financial Crimes Against Vulnerable Adults” statute (§ 8-801 of the Criminal Law Article) focuses on an individual’s use of deception or undue influence to deprive a vulnerable adult of their money or property. This approach ignores the lived experience of many vulnerable adults and the exploitation of trust and dependence that occurs anytime a care provider financially victimizes a vulnerable adult. The intent of **House Bill 604** is to refocus the law away from the “how” of the crime and onto the “who” of the victim and the reality of that victim’s life.

The Supreme Court of Maryland has interpreted the current iteration of § 8-801 of the Criminal Law Article to require proof that the defendant obtained the property of the victim by “deception, intimidation, or undue influence.” This requirement ignores the realities of the power dynamics of the relationships between vulnerable adults and their care providers. Indeed, in the seminal case on this issue, *Tarray v. State*, 410 Md. 594 (2009), the former Court of Appeals of Maryland rejected the idea that exploitation of a vulnerable adult’s finances could constitute “aggravated” theft under the current language of § 8-801. Although the paraplegic victim in that case testified that he was “between a rock and a hard place” because he was dependent on his care provider to live, *Tarray*, 410 Md. at 609, the Court determined that § 8-801, as it currently reads, requires additional proof of deception, intimidation, or undue influence of the vulnerable adult.

Likewise, in a case the OAG recently prosecuted, a nursing assistant took advantage of her access to a 79-year-old nursing home resident and stole the elderly resident’s debit card as she slept. The nursing assistant could be charged only with theft because there was no trickery involved. A theft charge alone does not adequately address the blatant exploitation of the caregiving relationship underlying this criminal activity. The vulnerable resident required the care available in a nursing home and had no choice but to trust and rely on the nursing home’s staff.

In cases like these involving dependent vulnerable adults victimized by those on whom they depend for care and survival, a theft charge alone does not sufficiently address the criminal activity. As amended with OAG’s proposed amendments, **House Bill 604** changes § 8-801 of the Criminal Law Article to allow prosecutors to charge a caregiver who exploits this care relationship with an exploitation offense *in addition to* simple theft. Upon conviction, the court would then sentence the Defendant for both crimes, recognizing that not only is it wrong to steal, but it is also wrong to exploit the vulnerability of an elderly or disabled person in one’s care.

Finally, a conviction for exploitation offenses under § 8-801 results in a mandatory exclusion of the care provider from any federal or State-funded healthcare program by the United States Department of Health and Human Services. All care providers who take advantage of their vulnerable wards, whether through trickery or otherwise, ought to be subject to this exclusion. **House Bill 604**, with proposed amendments, fortifies those protections by ensuring that anyone who exploits their care relationship to prey on the vulnerable will be excluded from the health care system and thus keeps the health care system safe for our State’s most vulnerable residents.

House Bill 604 recognizes that caregivers, family members, and household members have a higher duty to a vulnerable adult for whom they care. A caregiver to a vulnerable adult should not need to engage in deception, intimidation, or undue influence when depriving the vulnerable adult of their property to be considered abusing the caregiver relationship that exists between the caregiver and the vulnerable adult. For the foregoing reasons, the Office of the Attorney General urges a favorable report on **House Bill 604** with amendments.

The Honorable Luke Clippinger
Re: House Bill 604
January 31, 2025
Page 3

Sincerely,

A handwritten signature in black ink, appearing to read "AG Brown". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Anthony G. Brown

Enclosure

Proposed Amendments

OAG proposes the following amendments that would achieve the goals discussed above. The nature of financial crimes against vulnerable adults, even those without deception, is exploitive. It preys on obligatory trust and the powerlessness of the victim. Such a crime is rightfully included within the Fraud and Related Crimes title. As written, **House Bill 604** creates a new crime under the Theft title rather than altering the existing § 8-801 of the Criminal Law Article. This is problematic. First, a new crime under the theft statute will “merge” for sentencing, obviating the bill’s purpose of separately punishing a perpetrator’s theft and their violation of a trust relationship with a vulnerable adult. As a result, prosecuting authorities will be left in the same position as they are at present, only able to charge theft in cases such as those described above. With amendments, prosecutors may charge both theft and Financial Crimes Against Vulnerable Adults and obtain separate sentences for both.

Moreover, while the federal exclusion authorities recognize theft in the context of healthcare as an excludable offense, a simple theft conviction does not adequately communicate that. A crime that requires the elements of (1) a care provider relationship; and (2) an exploitation of a patient’s trust is a much cleaner route to exclusion because it mirrors the requirements for exclusion. Relatedly, future employers who run background checks will be better warned of the nature of a candidate’s crimes when there is an exploitation-related conviction rather than a simple theft conviction.

Finally, by leaving the language of § 8-801 intact and simply adding language that removes the requirement of active deceit in the healthcare context, no other powers provided in other statutes relative to § 8-801 will be affected.

[STRIKE BILL IN ITS ENTIRETY AND REPLACE WITH]

Criminal Law - Financial Exploitation of a Vulnerable Adult

By repealing and reenacting, with amendments,
Article – Criminal Law
Section 8-801
Annotated Code of Maryland
(2021 Replacement Volume and 2025 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Criminal Law

8–801.

- (a) (1) In this section the following words have the meanings indicated.

(2) “CAREGIVER” HAS THE MEANING STATED IN § 3-604 OF THIS ARTICLE.

[(2)] (3) “Deception” has the meaning stated in § 7–101 of this article.

[(3)] (4) “Deprive” has the meaning stated in § 7–101 of this article.

(5) “Family member” has the meaning stated in **§ 3-604 OF THIS ARTICLE.**

(6) “HOUSEHOLD MEMBER” HAS THE MEANING STATED IN § 3-604 OF THIS ARTICLE.

[(4)] (7) “Obtain” has the meaning stated in § 7–101 of this article.

[(5)] (8) “Property” has the meaning stated in § 7–101 of this article.

[(6)] (9) (i) “Undue influence” means domination and influence amounting to force and coercion exercised by another person to such an extent that a vulnerable adult or an individual at least 68 years old was prevented from exercising free judgment and choice.

(ii) “Undue influence” does not include the normal influence that one member of a family has over another member of the family.

[(7)] (8) “Value” has the meaning stated in § 7–103 of this article.

[(8)] (9) “Vulnerable adult” has the meaning stated in § 3–604 of this article.

(b) (1) A person may not knowingly and willfully obtain by deception, intimidation, or undue influence the property of an individual that the person knows or reasonably should know is a vulnerable adult with intent to deprive the vulnerable adult of the vulnerable adult’s property.

(2) A person may not knowingly and willfully obtain by deception, intimidation, or undue influence the property of an individual that the person knows or reasonably should know is at least 68 years old, with intent to deprive the individual of the individual’s property.

(3) A PERSON WHO IS A CAREGIVER TO OR A FAMILY MEMBER OR HOUSEHOLD MEMBER OF AN INDIVIDUAL MAY NOT KNOWINGLY AND WILLFULLY OBTAIN THE PROPERTY OF THE INDIVIDUAL WITH INTENT TO DEPRIVE THE INDIVIDUAL OF THE INDIVIDUAL’S PROPERTY IF:

(I) THE INDIVIDUAL IS A VULNERABLE ADULT OR AN INDIVIDUAL WHO IS AT LEAST 68 YEARS OF AGE; AND

The Honorable Luke Clippinger

Re: House Bill 604

January 31, 2025

Page 6

**(ii) THE PERSON KNOWS OR REASONABLY SHOULD KNOW THAT
THE INDIVIDUAL IS A VULNERABLE ADULT OR IS AT LEAST 68 YEARS OLD**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2025.

NAELA MD Testimony 2025 - Support with Amendment -

Uploaded by: Elena Sallitto

Position: FWA

To: The Chair and Members of the House Judiciary Committee
Fr: The Maryland/DC Chapter of the National Academy of Elder Law Attorneys
Date: February 11, 2025
Re: HB 604 - Vulnerable and Senior Adults - Theft of Property by Caregiver, Family Member, or Household Member – Prohibition

Position: Support with Amendment

The Maryland/DC Chapter of the National Academy of Elder Law Attorneys is an organization of attorneys whose members serve our senior population.

We support this measure to protect seniors and vulnerable adults against misappropriation of their property by creating a new section of the criminal code, namely Section 7-104.1.

Some persons who become disabled and require long-term services and supports in a nursing home or other care arrangement need to preserve assets to support their spouses and other family members from impoverishment, or set aside funds for disabled family members in a special needs trust. We are pleased that Section F of this legislation recognizes that these types of asset transfers are legitimate and not a crime.

We are concerned that the current language in Section F is not as clear as it could be to clarify that these asset transfers likewise carry legitimate purposes and are not criminal. A similar situation arose during the drafting of the Maryland SAFE Act of 2021 (Chapter 311 of Maryland Laws in 2021). The drafters included the following language which ought to be considered for inclusion in HB-604:

“Financial exploitation” does not include an individual’s good-faith use of a susceptible adult’s or older adult’s assets, including for the purposes of establishing and implementing an estate plan intended to reduce taxes or to maximize eligibility for public benefits in order to preserve assets for an identified or identifiable person. Md. Estate & Trusts Code, §13-601(e)(3).

To modify this language for HB604, we suggest striking Section (F) on page 4, lines 4 through 8 and replacing it with the following:

(F) This Section may not be construed to impose criminal liability on a person who has made a good faith effort to assist the victim in the management of or transfer of the victim’s property, including for the purposes of establishing and implementing an estate plan intended to reduce taxes or to maximize eligibility for public benefits in order to preserve assets for an identified or identifiable person.

Harmonizing the language would protect legitimate efforts to preserve existing estate plans, while furthering efforts to protect vulnerable Marylanders.

Thank you for the opportunity to comment on this important piece of legislation. Please feel free to contact us if you have any questions or wish additional information.

Sincerely,

A handwritten signature in black ink, appearing to read 'Morris Klein', written in a cursive style.

Morris Klein, CELA, Esq.

Elena Sallitto, CELA, Esq.

On behalf of the MD/DC Chapter of the National Academy of Elder Law Attorneys

124 South Street, #1

Annapolis, Maryland 21401

410-268-9246

morrisklein@morrisklein.com

elena@stavelaw.com

NAELA MD Testimony 2025 - Support with Amendment -

Uploaded by: Elena Sallitto

Position: FWA

To: The Chair and Members of the House Judiciary Committee
Fr: The Maryland/DC Chapter of the National Academy of Elder Law Attorneys
Date: February 11, 2025
Re: HB 604 - Vulnerable and Senior Adults - Theft of Property by Caregiver, Family Member, or Household Member – Prohibition

Position: Support with Amendment

The Maryland/DC Chapter of the National Academy of Elder Law Attorneys is an organization of attorneys dedicated to serving our seniors. We are pleased to support HB-604 as a positive step toward protecting seniors from the ever increasing threats of exploitation, particularly by trusted caregivers and family.

However, there are asset transfers that may appear suspicious, but are in fact essential to securing long-term care for seniors needing those services. The drafters of the SAFE Act recognized the potential for confusion and the possibility of the misuse of the SAFE Act's protections when they carved out an exemption for asset transfers serving the legitimate purposes of Medicaid planning or planning for estate taxes.

We encourage the Committee to consider a similar approach in HB-604. Possible language could be the following:

(F) This Section may not be construed to impose criminal liability on a person who has made a good faith effort to assist the victim in the management of or transfer of the victim's property, including for the purposes of establishing and implementing an estate plan intended to reduce taxes or to maximize eligibility for public benefits in order to preserve assets for an identified or identifiable person.

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Sincerely,


Elena Sallitto, CELA, Esq.

On behalf of the MD/DC Chapter of the National Academy of Elder Law Attorneys
124 South Street, #1
Annapolis, Maryland 21401
410-268-9246
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NAELA MD Testimony 2025 - Support with Amendment -

Uploaded by: Elena Sallitto

Position: FWA

To: The Chair and Members of the House Judiciary Committee
Fr: The Maryland/DC Chapter of the National Academy of Elder Law Attorneys
Date: February 11, 2025
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Sincerely,


Elena Sallitto, CELA, Esq.

On behalf of the MD/DC Chapter of the National Academy of Elder Law Attorneys
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hb604.pdf

Uploaded by: Will Vormelker

Position: UNF

HON. STACY A. MAYER
CIRCUIT COURT
JUDGE
BALTIMORE COUNTY
CHAIR

HON. RICHARD SANDY
CIRCUIT COURT
JUDGE
FREDERICK COUNTY
VICE-CHAIR



KELLEY O'CONNOR
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MARYLAND JUDICIAL COUNCIL LEGISLATIVE COMMITTEE

MEMORANDUM

TO: House Judiciary Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: House Bill 604
Vulnerable and Senior Adults – Theft of Property by Caregiver,
Family Member, or Household Member - Prohibition
DATE: January 29, 2025
(2/11)
POSITION: Oppose, as drafted

The Maryland Judiciary opposes House Bill 604, as drafted.

The Judiciary's only opposition is to the language on page 5, line 19, which applies the provisions to any person who is at least 68 years of age. This would place the court in the position of determining the mental and physical fitness of every witness solely based on their age and not whether any facts exist to warrant such a determination. It is not clear why this language is necessary in addition to the individual being a vulnerable adult which is defined in Criminal Law section 3-604.

cc. Hon. Adrienne Jones
Judicial Council
Legislative Committee
Kelley O'Connor