

HB0604/523124/1

BY: Judiciary Committee

AMENDMENTS TO HOUSE BILL 604
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, after “**General**” insert “**and Delegates Cardin, Simmons, Phillips, Moon, Conaway, Kaufman, and Williams**”; strike lines 2 and 3 in their entirety and substitute:

“Criminal Law – Financial Exploitation of Vulnerable and Senior Adults”;

and strike beginning with “caregiver” in line 4 down through “victim” in line 20 and substitute “person who is a caregiver to or a family member or household member of an individual from knowingly and willfully obtaining the property of the individual with intent to deprive the individual of the individual’s property under certain circumstances”.

On pages 1 and 2, strike in their entirety the lines beginning with line 22 on page 1 through line 22 on page 2, inclusive.

On page 2, in line 25, strike “7–108” and substitute “8–801”; and strike in their entirety lines 28 through 37, inclusive.

AMENDMENT NO. 2

On pages 3 through 9, strike in their entirety the lines beginning with line 1 on page 3 through line 5 on page 9, inclusive, and substitute:

“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)] (10) “Value” has the meaning stated in § 7-103 of this article.

[(8)] (11) “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 OLD; AND

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

(c) (1) (i) A person convicted of a violation of this section when the value of the property is at least \$1,500 but less than \$25,000 is guilty of a felony and:

1. is subject to imprisonment not exceeding 5 years or a fine not exceeding \$10,000 or both; and

2. 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.

(Over)

HB0604/523124/01 Judiciary Committee
Amendments to HB 604
Page 4 of 5

(ii) A person convicted of a violation of this section when the value of the property is at least \$25,000 but less than \$100,000 is guilty of a felony and:

1. is subject to imprisonment not exceeding 10 years or a fine not exceeding \$15,000 or both; and

2. 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.

(iii) A person convicted of a violation of this section when the value of the property is \$100,000 or more is guilty of a felony and:

1. is subject to imprisonment not exceeding 20 years or a fine not exceeding \$25,000 or both; and

2. 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.

(2) A person convicted of a violation of this section when the value of the property is less than \$1,500 is guilty of a misdemeanor and:

(i) is subject to imprisonment not exceeding 1 year or a fine not exceeding \$500 or both; and

(ii) 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.

(d) (1) A sentence imposed **FOR A CONVICTION** under **SUBSECTION (B)(1) OR (2) OF** this section may be separate from and consecutive to or concurrent with a sentence for any crime based on the act or acts establishing the violation of this section.

(2) A SENTENCE IMPOSED FOR A CONVICTION UNDER SUBSECTION (B)(3) OF THIS SECTION SHALL BE CONCURRENT WITH AND NOT CONSECUTIVE TO A SENTENCE FOR ANY CRIME BASED ON THE ACT OR ACTS ESTABLISHING THE VIOLATION OF THIS SECTION.

(e) (1) If a defendant fails to restore fully the property taken or its value as ordered under subsection (c) of this section, the defendant is disqualified, to the extent of the defendant's failure to restore the property or its value, from inheriting, taking, enjoying, receiving, or otherwise benefiting from the estate, insurance proceeds, or property of the victim of the offense, whether by operation of law or pursuant to a legal document executed or entered into by the victim before the defendant shall have been convicted under this section.

(2) The defendant has the burden of proof with respect to establishing under paragraph (1) of this subsection that the defendant has fully restored the property taken or its value.

(f) This section may not be construed to impose criminal liability on a person who, at the request of the victim of the offense, the victim's family, or the court appointed guardian of the victim, has made a good faith effort to assist the victim in the management of or transfer of the victim's property.

(g) In addition to any penalties set forth in this section, a violation of this section:

(1) is an unfair, abusive, or deceptive trade practice within the meaning of Title 13 of the Commercial Law Article; and

(2) is subject to the enforcement and penalty provisions contained in Title 13 of the Commercial Law Article.”.