



520 West Fayette St., Baltimore, MD 21201
410-685-7878 | 800-492-1964
fax 410-685-1016 | tdd 410-539-3186
msba.org

To: Members of the House Judiciary Committee

From: Adam M. Spence, Member, Vulnerable Adult Exploitation Task Force

Date: February 10, 2020

Subject: Bill No. HB304 – Criminal Law – Consumer Protection – Unfair, Abusive or Deceptive Trade Practices – Exploitation of Vulnerable Adults

Position: IN SUPPORT, as amended (See below)

The Vulnerable Adult Exploitation Task Force **supports House Bill 304 – Consumer Protection – Unfair, Abusive or Deceptive Trade Practices – Exploitation of Vulnerable Adults, as amended.**

The Vulnerable Adult Exploitation Task Force (“Task Force”) was organized by the Section Councils of both the Estates & Trusts Section and the ELDR Section of the Maryland State Bar Association to address the growing concerns about the exploitation of vulnerable adults. As part of its initial purpose, the Task Force seeks to provide input and insight supportive of legislation to address the abuse of vulnerable adults. In addition, the Task Force is seeking to work with legislators to create thoughtful and comprehensive civil and criminal legislation to attack this problem head on, providing protections for vulnerable adults and provide both criminal prosecutors and civil attorneys with the ability to enforce those protections.

To this end, the Task Force believes that HB 304 is an excellent bill to deter and remedy financial exploitation of our elderly and vulnerable adults. Specifically, HB 304 provides that any violation of § 8-801 of the Criminal Law Article by a “merchant” also constitutes a violation of the Consumer Protection Act of the Commercial Law Article, Title 13.

The Task Force proposes the following friendly amendment to HB 304, at page 5, Line 21 (friendly amendment in underlined, bolded capital letters):

(xxiv) Section 7-304 **OR § 8-801** of the Criminal Law Article. **A CONVICTION FOR AN OFFENSE UNDER § 8-801 OF THE CRIMINAL LAW ARTICLE IS NOT A PREREQUISITE FOR THE MAINTENANCE OF AN ACTION FOR A VIOLATION OF § 8-801.**

This friendly amendment ensures consistency with existing statutes (e.g., § 11-209(b) of the Corp. & Assoc. Art. and § 13-204(b) of the Comm. Law Art.), both of which currently explicitly do not require a conviction as a pre-requisite to bringing a civil action.

As background for the support of the Task Force for House Bill 304, as amended, the following is submitted:

As attorneys and family counselors, we too often see evidence of deception, intimidation, and undue influence to defraud vulnerable adults of their assets. “Merchants” are a class of persons who are considered relatively “sophisticated” under the Consumer Protection Act, and may easily be able to take advantage of vulnerable adults.

In 2009, the MetLife Mature Market Institute, the National Committee for the Prevention of Elder Abuse (NCPEA) and Virginia Polytechnic Institute and State University, conducted a groundbreaking study of elder physical and emotional abuse and financial exploitation, entitled *Broken Trust: Elders, Family and Finances* (commonly referred to as the “MetLife Study”). With its authors characterizing “elder abuse as the crime of the 21st Century,” the MetLife Study states that “up to one million older Americans may be targeted yearly and that related costs like health care, social services, investigations, legal fees, prosecution, lost income and assets reach tens of millions of dollars annually.”

We believe that financial exploitation of vulnerable adults is endemic in our society today. This bill provides a civil remedy that will help address such exploitation of our vulnerable adults, and we believe it deserves your support.

Please contact Adam M. Spence or Michael W. Davis, Chair, Vulnerable Adult Exploitation Task Force, if you have any questions.

Adam M. Spence, Esquire
SPENCE | BRIERLEY, P.C.
409 Washington Avenue, Suite 1000
Towson, MD 21204
410-823-5003

Michael W. Davis
Davis, Agnor, Rapaport & Skalny, LLC
10211 Wincopin Circle, Suite 600
Columbia, MD 21044
(410) 995-5800, ext. 1262