
To: Members of House Judiciary Committee

From: Vulnerable Adult Exploitation Joint Task Force

Date: January 14, 2021

Subject: **HB 347:** Criminal Law - Exploitation of Vulnerable Adult or Elderly Individual - Undue Influence

Position: **Support**

The Vulnerable Adult Exploitation Task Force SUPPORTS HB 347: Criminal Law - Exploitation of Vulnerable Adult or Elderly Individual - Undue Influence.

VULNERABLE ADULT EXPLOITATION TASK FORCE

The Vulnerable Adult Exploitation Task Force was organized by the Section Councils of both the Estate & Trust Law Section and the Elder Law and Disability Rights Section of the Maryland State Bar Association to address the growing concerns about the exploitation of vulnerable adults. As part of its purpose, the Task Force seeks to provide input and insight supportive of legislation to redress 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.

VULNERABLE ADULT FINANCIAL EXPLOITATION – THE CRIME OF THE 21ST CENTURY

We believe that financial exploitation of vulnerable adults is endemic in our society today. As attorneys and family counselors, we too often hear allegations of deception, intimidation, and undue influence to defraud vulnerable adults of their assets. Our experiences were reflected in the 2009 report compiled by MetLife Mature Market Institute, the National Committee for the Prevention of Elder Abuse (NCPEA) and Virginia Polytechnic Institute and State University. This was a study conducted about elder physical and emotional abuse and financial exploitation, and is entitled *Broken Trust: Elders, Family and Finances* (commonly referred to as the MetLife Study). *With its authors characterizing financial elder abuse as the crime of the 21st Century*, the MetLife Study states that up to one million older Americans may be targeted, and that related costs like health care, social services, investigations, legal fees, prosecution, lost income and assets can reach tens of millions of dollars annually.

HB347 ADDRESSES VULNERABLE ADULT FINANCIAL EXPLOITATION

If nothing else, the pandemic caused by the COVID 19 virus has proven that the financial security of so many of us is fragile. For our vulnerable adults, this fragility is even more so. We need effective laws that protect the financial security of our vulnerable adults by stopping the wrongdoers who wish only to enrich themselves at the expense of these adults. Our legal system must be organized in such a manner that supports the financial security our vulnerable adults by providing a variety of effective legal tools available to fight financial exploitation. HB347 will help us achieve this goal.

HB347 provides clarity regarding a key factual question in any criminal proceeding for financial exploitation: was there “undue influence?” While a person is always free to give or transfer his treasure to anyone of his or her choice, this is not the case when dealing with a vulnerable adult upon whom excessive persuasion is used to make improperly a gift or transfer that results in inequity. This bill makes it clear how to determine if undue influence was employed for such a purpose.

As a brief preview of things to come, there is a bill currently pending before the Senate’s Judicial Proceedings that will also provide civil remedies for financial exploitation (SB327 - Civil Actions - Financial Exploitation of Vulnerable Adults (Maryland SAFE Act). The bill before you right now, when combined with the Maryland SAFE Act will give both civil attorneys and criminal prosecutors much better tools to address this scourge of our modern society.

THE VULNERABLE ADULT EXPLOITATION TASK FORCE SUPPORTS HB347

We urge you to SUPPORT this bill and to vote favorably to have it submitted to the full House for approval.

FOR MORE INFORMATION

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

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