

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE BILL 1466

Short Title: Exploitation/Elderly or Disabled Adult. (Public)

Sponsors: Representatives Hackney; Alexander, Carney, Coleman, Dickson, England, Faison, Farmer-Butterfield, Fisher, Glazier, Goforth, Goodwin, Haire, Harrell, Harrison, Holliman, Insko, Jeffus, Martin, McLawhorn, Rapp, Ross, Tolson, Underhill, Warren, Weiss, Wilkins, Williams, and Wray.

Referred to: Judiciary I.

April 21, 2005

A BILL TO BE ENTITLED

AN ACT TO AMEND THE OFFENSE OF EXPLOITATION OF AN ELDERLY PERSON OR DISABLED ADULT AND TO INCREASE THE PENALTY FOR THAT OFFENSE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-32.3(c) is repealed.

SECTION 2. Article 19 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-112.2. Exploitation of an elderly person or disabled adult.

(a) The following definitions apply in this section:

(1) Disabled adult. – A person 18 years of age or older or a lawfully emancipated minor who is present in the State of North Carolina and who is physically or mentally incapacitated as defined in G.S. 108A-101(d).

(2) Elder person. – A person 60 years of age or older who is not able to provide for the social, medical, psychiatric, psychological, financial, or legal services necessary to safeguard the person's rights and resources and to maintain the person's physical and mental well-being.

(b) It is unlawful for a person: (i) who stands in a position of trust and confidence with an elderly person or disabled adult, or (ii) who has a business relationship with an elderly person or disabled adult to knowingly, by deception or intimidation, obtain or use, or endeavor to obtain or use, an elderly person's or disabled adult's funds, assets, or property with the intent to temporarily or permanently deprive the elderly person or disabled adult of the use, benefit, or possession of the funds, assets, or property, or to benefit someone other than the elderly person or disabled adult.

1 (c) It is unlawful for a person, who knows or reasonably should know that an
2 elderly person or disabled adult lacks the capacity to consent, to obtain or use, endeavor
3 to obtain or use, or conspire with another to obtain or use an elderly person's or disabled
4 adult's funds, assets, or property with the intent to temporarily or permanently deprive
5 the elderly person or disabled adult of the use, benefit, or possession of the funds,
6 assets, or property, or benefit someone other than the elderly person or disabled adult.

7 (d) A violation of this section is punishable as follows:

8 (1) If the funds, assets, or property involved in the exploitation of the
9 elderly person or disabled adult is valued at one hundred thousand
10 dollars (\$100,000) or more, then the offense is a Class G felony.

11 (2) If the funds, assets, or property involved in the exploitation of the
12 elderly person or disabled adult is valued at twenty thousand dollars
13 (\$20,000) or more but less than one hundred thousand dollars
14 (\$100,000), then the offense is a Class H felony.

15 (3) If the funds, assets, or property involved in the exploitation of the
16 elderly person or disabled adult is valued at less than twenty thousand
17 dollars (\$20,000), then the offense is a Class I felony."

18 **SECTION 3.** This act becomes effective December 1, 2005, and applies to
19 offenses committed on or after that date. Prosecutions for offenses committed before
20 the effective date of this act are not abated or affected by this act, and the statutes that
21 would be applicable but for this act remain applicable to those prosecutions.