

098013240

**SENATE BILL NO. 1099**

Offered January 14, 2009

Prefiled January 13, 2009

A *BILL to amend the Code of Virginia by adding in Article 7 of Chapter 6 of Title 18.2 a section numbered 18.2-213.2, relating to financial exploitation of incapacitated adults; penalty .*

Patrons—Herring and Deeds

Referred to Committee for Courts of Justice

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Article 7 of Chapter 6 of Title 18.2 a section numbered 18.2-213.2 as follows:**

*§ 18.2-213.2. Financial exploitation of incapacitated adults; penalty.*

*A. For purposes of this section:*

*"Financial exploitation" means (i) knowingly and willfully using, obtaining, taking, secreting, appropriating, or retaining an incapacitated adult's real or personal property or other thing of value with the intent to defraud or with the intent to temporarily or permanently deprive the incapacitated adult of the use, benefit, or possession of the subject property or (ii) knowingly and willfully assisting another in the using, obtaining, taking, secreting, appropriating, or retaining an incapacitated adult's real or personal property or other thing of value with the intent to defraud or with the intent to temporarily or permanently deprive the incapacitated adult of the use, benefit, or possession of the subject property.*

*A person's exercise of undue influence on the incapacitated adult in the using, obtaining, taking, secreting, appropriating, or retaining an incapacitated adult's real or personal property or other thing of value is prima facie evidence of the intent to defraud.*

*"Incapacitated adult" means any person 18 years of age or older who is impaired by reason of mental illness, mental retardation, physical illness or disability, advanced age or other causes to the extent the adult lacks sufficient understanding or capacity to make, communicate, or carry out reasonable decisions concerning his well-being.*

*"Responsible person" means a person who has responsibility for the care, custody, or control of an incapacitated adult by operation of law or who has assumed such responsibility voluntarily, by contract, employment, law, or in fact.*

*B. Any responsible person who commits financial exploitation of an incapacitated adult is guilty of a Class 1 misdemeanor if the value of all real or personal property or other thing of value obtained in violation of this section is less than \$200 in any six-month period.*

*C. Any responsible person who commits financial exploitation of an incapacitated adult is guilty of a Class 6 felony if the value of all real or personal property or other thing of value obtained in violation of this section is \$200 or more in any six-month period.*

**2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is cannot be determined for periods of imprisonment in state adult correctional facilities and is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.**

INTRODUCED

SB1099