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HOUSE BILL NO. 902

Offered January 13, 2010

Prefiled January 13, 2010

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 elderly.*

Patrons—Bell, Robert B. and Landes

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 elderly or disabled adult; penalty.

A. Any person who is in a position of trust or confidence with an elderly or disabled adult and who by intimidation or deception knowingly takes control of, or otherwise uses, the elderly or disabled adult's property with the intent to permanently deprive that person of such property is guilty of financial exploitation.

B. For purposes of this section:

1. "Elderly or disabled adult" means an adult over the age of 60 years of age, or a person 18 years of age or older who is impaired mentally or physically such that the person lacks the capacity to make, communicate, or carry out reasonable decisions concerning his well-being.

2. "Deception" means:

a. Misrepresenting or concealing a material fact relating to (i) services rendered or the disposition or use of property when such services or property are intended to benefit an elderly or disabled adult; (ii) the terms of a contract or agreement entered into with an elderly or disabled adult; or (iii) the condition of any property involved in a contract or agreement entered into with an elderly or disabled adult; or

b. Using any misrepresentation, false pretense, or false promise in order to induce, encourage, or solicit an elderly or disabled adult to enter into a contract or agreement.

3. "Intimidation" means the communication by word or act to an elderly or disabled adult that such person will be deprived of food, nutrition, clothing, shelter, supervision, medicine, medical services, money or financial support, or will suffer physical violence.

4. "Position of trust or confidence" with respect to an elderly or disabled adult means the position of a person who:

a. Is a parent, spouse, adult child, or other relative by blood or marriage of the elderly or disabled adult;

b. Is a joint tenant or tenant in common with the elderly or disabled adult;

c. Has a legal or fiduciary relationship with the elderly or disabled adult, including but not limited to, a guardian, trustee, attorney, or conservator;

d. Is a caregiver of the elderly or disabled adult; or

e. Is any other person who has been entrusted with or has assumed responsibility for the use or management of the elderly or disabled adult's property.

C. Any person who commits financial exploitation of an elderly or disabled 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.

D. Any person who commits financial exploitation of an elderly or disabled 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 cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 781 of the Acts of Assembly of 2009 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

INTRODUCED

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