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HOUSE BILL NO. 1441

Offered January 11, 2017

Prefiled November 27, 2016

A *BILL to amend and reenact § 18.2-178.1 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 22.2 of Title 19.2 a section numbered 19.2-386.36, relating to financial exploitation of incapacitated persons; penalty.*

Patrons—Kory, Levine, Plum and Rasoul; Senator: Surovell

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-178.1 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 22.2 of Title 19.2 a section numbered 19.2-386.36 as follows:

§ 18.2-178.1. Financial exploitation of incapacitated persons; penalty.

A. It is unlawful for any person who knows or should know that another person suffers from ~~mental~~ an incapacity to, through the use of that other person's ~~mental~~ incapacity, take, obtain, or convert money or other thing of value belonging to that other person with the intent to permanently deprive him thereof. Any person who violates this section ~~shall be deemed~~ is guilty of larceny.

B. Venue for the trial of an accused charged with a violation of this section shall be in any county or city in which (i) any act was performed in furtherance of the offense or (ii) the accused resided at the time of the offense.

C. This section shall not apply to a transaction or disposition of money or other thing of value in which the accused acted for the benefit of the *incapacitated* person ~~with mental incapacity~~ or made a good faith effort to assist such person with the management of his money or other thing of value.

D. As used in this section, "~~mental~~ incapacity" means that condition of a person existing at the time of the offense described in subsection A *resulting from mental illness, intellectual disability, physical illness or disability, advanced age, or other cause* that prevents him from understanding the nature or consequences of the transaction or disposition of money or other thing of value involved in such offense.

§ 19.2-386.36. Seizure and forfeiture of property used in connection with the financial exploitation of incapacitated persons.

All vehicles, tools, machinery, equipment, and other personal property used in connection with the financial exploitation of incapacitated persons that constitutes a violation of § 18.2-178.1 shall be subject to forfeiture to the Commonwealth pursuant to Chapter 22.1 (§ 19.2-386.1 et seq.) by order of the court in which a conviction under § 18.2-178.1 is obtained.

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 780 of the Acts of Assembly of 2016 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 cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

INTRODUCED

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