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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1429 Session of  
2021

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INTRODUCED BY SCHLEGEL CULVER, MASSER, DAY, KLUNK, PICKETT,  
RYAN, DAVANZO, HILL-EVANS, LEWIS DELROSSO, BROOKS, R. BROWN,  
THOMAS, MILLARD AND FEE, MAY 17, 2021

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REFERRED TO COMMITTEE ON AGING AND OLDER ADULT SERVICES,  
MAY 17, 2021

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AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania  
2 Consolidated Statutes, in theft and related offenses,  
3 providing for the offense of financial exploitation of an  
4 older adult or care-dependent person.

5 The General Assembly of the Commonwealth of Pennsylvania  
6 hereby enacts as follows:

7 Section 1. Title 18 of the Pennsylvania Consolidated  
8 Statutes is amended by adding a section to read:

9 § 3922.1. Financial exploitation of an older adult or care-  
10 dependent person.

11 (a) Offense defined.--A person in a position of trust who  
12 commits the offense of financial exploitation of an older adult  
13 or care-dependent person shall be subject to the criminal  
14 penalties specified under subsection (b).

15 (b) Grading.--Financial exploitation of an older adult or  
16 care-dependent person constitutes a:

17 (1) Felony of the first degree if:

18 (i) the amount involved is at least \$500,000; and

1           (ii) the person participated in a course of conduct  
2           resulting in the loss of property of two or more older  
3           adults or care-dependent persons.

4           (2) Felony of the second degree if the amount involved  
5           is at least \$100,000 but less than \$500,000.

6           (3) Felony of the third degree if the amount involved  
7           exceeds \$2,000 but is less than \$100,000.

8           (4) Except for offenses under paragraphs (1), (2) and  
9           (3), misdemeanor of the first degree.

10          (c) Presumptions.--A person acting under a power of attorney  
11          for an older adult or care-dependent person is presumed to  
12          understand the legal obligations under 20 Pa.C.S. Ch. 56  
13          (relating to powers of attorney).

14          (d) Concurrent jurisdiction to prosecute.--In addition to  
15          the authority conferred upon the Attorney General by the act of  
16          October 15, 1980 (P.L.950, No.164), known as the Commonwealth  
17          Attorneys Act, the Attorney General may investigate and  
18          institute criminal proceedings for any violation of this section  
19          or related offenses if the amount involved exceeds \$20,000. No  
20          person charged with a violation of this section by the Attorney  
21          General may challenge the authority of the Attorney General to  
22          investigate or prosecute the case, and, if a challenge is made,  
23          the challenge shall be dismissed, and no relief shall be made  
24          available in the courts of this Commonwealth to the person  
25          making the challenge.

26          (e) Enforcement.--The district attorney of a county shall  
27          have the authority to investigate and institute criminal  
28          proceedings for any violation of this section or related  
29          offenses.

30          (f) Definitions.--As used in this section, the following

1 words and phrases shall have the meanings given to them in this  
2 subsection unless the context clearly indicates otherwise:

3 "Care-dependent person." An adult who, due to physical or  
4 cognitive disability or impairment, requires assistance to meet  
5 needs for food, shelter, clothing, personal care or health care.

6 "Course of conduct." A pattern of actions composed of more  
7 than one act over a period of time, however short, evidencing a  
8 continuity of conduct.

9 "Financial exploitation." The wrongful or unauthorized  
10 taking or attempt to take by withholding, appropriation,  
11 concealment or use of money, assets or property of an older  
12 adult or care-dependent person, including any act or omission  
13 taken by a person through the power of attorney, guardianship,  
14 custodianship or conservatorship, as a trustee or personal  
15 representative or via a business transaction. The term includes  
16 any of the following actions:

17 (1) Obtaining or attempting to obtain control through  
18 deception, intimidation or undue influence of the money,  
19 assets or property of an older adult or care-dependent person  
20 to deprive the older adult or care-dependent person of the  
21 ownership, use, benefit or possession of the money, assets or  
22 property.

23 (2) Converting or attempting to convert money, assets or  
24 property of an older adult or care-dependent person to  
25 deprive the older adult or care-dependent person of the  
26 ownership, use, benefit or possession of the money, assets or  
27 property.

28 "Older adult." A person who is at least 60 years of age.

29 "Position of trust." A person who meets any of the following  
30 criteria:

1           (1) The person is the parent, spouse, adult child or  
2 other relative by blood or affinity of an older adult or  
3 care-dependent person.

4           (2) The person is a joint tenant or tenant in common  
5 with an older adult or care-dependent person.

6           (3) The person has a fiduciary obligation to an older  
7 adult or care-dependent person, including through the power  
8 of attorney, guardianship, custodianship or conservatorship  
9 or as a trustee or personal representative.

10           (4) The person receives monetary or other valuable  
11 consideration for providing care for an older adult or care-  
12 dependent person.

13           (5) The person lives with or provides some component of  
14 home care services on a continuing basis to an older adult or  
15 care-dependent person, including a neighbor or friend who  
16 does not provide home care services on a compensated basis  
17 but has access to the older adult or care-dependent person  
18 based on the relationship.

19           (6) The person is a current or former sexual or intimate  
20 partner with an older adult or care-dependent person.

21 "Property." Anything of value, including real estate,  
22 tangible personal property, contract rights, money, bank  
23 accounts, investment accounts, stocks, bonds, retirement  
24 accounts or any other deposit of money or medium of savings or  
25 collective investment or other interests in or claims to wealth.

26           Section 2. This act shall take effect in 60 days.