

CRIMES CODE (18 PA.C.S.) - FINANCIAL EXPLOITATION OF AN OLDER
ADULT OR CARE-DEPENDENT PERSON

Act of Jun. 30, 2021, P.L. 228, No. 48

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HB 1429

AN ACT

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

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

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

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

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

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

(1) **Felony of the first degree if:**

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

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

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

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

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

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

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

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

(f) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

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

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

"Financial exploitation." The wrongful or unauthorized taking or attempt to take by withholding, appropriating, concealing or using the money, assets or property of an older adult or care-dependent person, including any act or omission taken by a person, including through the use of a power of attorney, guardian, custodian, trustee, personal representative or conservator of an older adult or care-dependent person or by an individual who stands in a position of trust and confidence with an older adult or care-dependent person, including business transactions to:

(1) obtain or attempt to obtain control, through deception, intimidation or undue influence, over the older adult's or care-dependent person's money, assets or property to deprive the older adult or care-dependent person of the ownership, use, benefit or possession of the older adult's or care-dependent person's money, assets or property; or

(2) convert or attempt to convert money, assets or property of the older adult or care-dependent person to deprive the older adult or care-dependent person of the ownership, use, benefit or possession of the older adult's or care-dependent person's money, assets or property.

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

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

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

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

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

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

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

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

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

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

