

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 96*

Short Title: Domestic Abuse/Disabled or Elder Adults.

(Public)

Sponsors: Representatives Edwards; Aldridge, Buchanan, Culp, Gardner, Howard, H. Hunter, Justus, Kiser, and Sexton.

Referred to: Judiciary II.

February 2, 1995

A BILL TO BE ENTITLED

1 AN ACT TO IMPOSE CRIMINAL PENALTIES FOR THE ABUSE, NEGLECT, OR
2 EXPLOITATION OF DISABLED OR ELDER ADULTS LIVING IN A
3 DOMESTIC SETTING.
4

5 The General Assembly of North Carolina enacts:

6 Section 1. Article 8 of Chapter 14 of the General Statutes is amended by
7 adding a new section after G.S. 14-32.2 to read:

8 "**§ 14-32.3. Domestic abuse, neglect, and exploitation of disabled or elder adults;**
9 **punishments.**

10 (a) It shall be unlawful for a caretaker to intentionally abuse a disabled or elder
11 adult residing in a domestic setting, when the abuse causes physical injury or mental
12 anguish, deterioration of a preexisting mental or physical condition, or results in
13 unreasonable confinement.

14 (b) Unless the conduct is prohibited by some other provision of law providing for
15 greater punishment:

16 (1) A caretaker who intentionally abuses a disabled or elder adult is guilty
17 of a Class C felony if the abuse proximately causes physical injury or
18 mental anguish, or deterioration of a preexisting mental or physical
19 condition.

- 1 (2) A caretaker who intentionally abuses a disabled or elder adult is guilty
2 of a Class F felony where the abuse results in unreasonable
3 confinement.
- 4 (c) It shall be unlawful for a caretaker of a disabled or elder adult residing in a
5 domestic setting to engage in culpably negligent conduct which proximately causes
6 physical or mental injury, deterioration of preexisting mental or physical condition, or
7 endangers the life of the adult.
- 8 (d) Unless the conduct is prohibited by some other provision of law providing for
9 greater punishment:
- 10 (1) A caretaker of a disabled or elder adult is guilty of a Class E felony
11 where culpably negligent conduct proximately causes physical or
12 mental injury or deterioration of a preexisting mental or physical
13 condition.
- 14 (2) A caretaker of a disabled or elder adult is guilty of a Class H felony
15 where culpably negligent conduct proximately causes the disabled or
16 elder adult's life to be endangered.
- 17 (e) It shall be unlawful for any person to exploit a disabled or elder adult residing
18 in a domestic setting when the exploitation is the result of an illegal or improper use of
19 the disabled or elder adult or his resources.
- 20 (f) Unless the conduct is prohibited by some other provision of law providing for
21 greater punishment:
- 22 (1) Any person who exploits a disabled or elder adult is guilty of a Class G
23 felony where the exploitation involves resources in excess of one
24 thousand dollars (\$1,000).
- 25 (2) Any person who exploits a disabled or elder adult is guilty of a
26 misdemeanor where the exploitation involves resources less than one
27 thousand dollars (\$1,000).
- 28 (g) Definitions. – The following definitions apply in this section:
- 29 (1) 'Abuse'. – The intentional infliction of physical pain or injury,
30 unreasonable confinement, or the willful deprivation by a caretaker of
31 services which are necessary to maintain mental and physical health.
- 32 (2) 'Caretaker'. – An individual who has the responsibility for the care of a
33 disabled or elder adult as a result of family relationship or who has
34 assumed the responsibility for the care of a disabled or elder adult
35 voluntarily or by contract.
- 36 (3) 'Culpably negligent'. – Conduct of a gross and flagrant character,
37 evinced reckless disregard of human life.
- 38 (4) 'Disabled adult'. – An individual 18 years of age or older or a lawfully
39 emancipated minor who is present in the State of North Carolina and
40 who is physically or mentally incapacitated as defined in G.S. 108A-
41 101(d).
- 42 (5) 'Domestic setting'. – Any nonfacility setting regardless of ownership or
43 type of construction and includes, but is not limited to, the following:

1 single family homes, multiple family homes or apartments, or mobile
2 homes owned by the disabled or elder adult or someone else.

3 (6) 'Elder adult'. – An individual 60 years of age or older who is not able to
4 provide for the social, medical, psychiatric, psychological, financial or
5 legal services necessary to safeguard his or her rights and resources and
6 to maintain his or her physical and mental well-being.

7 (7) 'Exploitation'. – The illegal or improper use of a disabled or elder adult's
8 funds, assets, or property, or the use of a disabled or elder adult's power
9 of attorney for another's or one's own profit or advantage.

10 (8) 'Person'. – Any natural person, association, corporation, partnership, or
11 other individual or entity.

12 (h) Any defense which may arise under G.S. 90-321(h) or G.S. 90-322(d) pursuant
13 to compliance with Article 23 of Chapter 90 shall be fully applicable to any prosecution
14 initiated under this section.

15 (i) The provisions of this section shall not supersede any other applicable statutory
16 or common law offenses.

17 (j) Nothing in this section shall be construed to impose criminal liability on a
18 person who has made a good faith effort to provide for the health and personal care of a
19 disabled or elder adult, but through no fault of his own has been unable to provide such
20 care."

21 Sec. 2. This act becomes effective July 1, 1995, and applies to offenses under
22 this act that are committed on or after that date.