

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Bill No. 1736, Page 11, Section 409.6-604, Line 60, by inserting after all of said
2 section and line the following:

3
4 "565.184. 1. A person commits the offense of abuse of an elderly person, a person with a
5 disability, or a vulnerable person if he or she:

6 (1) Purposely engages in conduct involving more than one incident that causes emotional
7 distress to an elderly person, a person with a disability, or a vulnerable person. The course of
8 conduct shall be such as would cause a reasonable elderly person, person with a disability, or
9 vulnerable person to suffer substantial emotional distress; or

10 (2) Intentionally fails to provide care, goods or services to an elderly person, a person with a
11 disability, or a vulnerable person. The result of the conduct shall be such as would cause a
12 reasonable elderly person, person with a disability, or vulnerable person to suffer physical or
13 emotional distress; or

14 (3) ~~[Knowingly]~~ Intentionally acts or ~~[knowingly]~~ intentionally fails to act in a manner
15 which results in a substantial risk of serious harm to the life, body or health of an elderly person, a
16 person with a disability, or a vulnerable person.

17 2. The offense of abuse of an elderly person, a person with a disability, or a vulnerable
18 person is a class ~~[A misdemeanor]~~ E felony. Nothing in this section shall be construed to mean that
19 an elderly person, a person with a disability, or a vulnerable person is abused solely because such
20 person chooses to rely on spiritual means through prayer, in lieu of medical care, for his or her
21 health care, as evidence by such person's explicit consent, advance directive for health care, or
22 practice.

23 570.145. 1. A person commits the offense of financial exploitation of an elderly person or a
24 person with a disability if such person knowingly obtains control over the property of the elderly
25 person or person with a disability with the intent to permanently deprive the person of the use,
26 benefit or possession of his or her property thereby benefitting the offender or detrimentally
27 affecting the elderly person or person with a disability by:

28 (1) Deceit;

29 (2) Coercion;

30 (3) Creating or confirming another person's impression which is false and which the
31 offender does not believe to be true;

32 (4) Failing to correct a false impression which the offender previously has created or
33 confirmed;

34 (5) Preventing another person from acquiring information pertinent to the disposition of the
35 property involved;

36 (6) Selling or otherwise transferring or encumbering property, failing to disclose a lien,

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adverse claim or other legal impediment to the enjoyment of the property, whether such impediment is or is not valid, or is or is not a matter of official record;

(7) Promising performance which the offender does not intend to perform or knows will not be performed. Failure to perform standing alone is not sufficient evidence to prove that the offender did not intend to perform; or

(8) Undue influence, which means the use of influence by someone who exercises authority over an elderly person or person with a disability in order to take unfair advantage of that person's vulnerable state of mind, neediness, pain, or agony. Undue influence includes, but is not limited to, the improper or fraudulent use of a power of attorney, guardianship, conservatorship, or other fiduciary authority.

2. The offense of financial exploitation of an elderly person or person with a disability is a class ~~[A misdemeanor]~~ E felony unless:

(1) ~~[The value of the property is fifty dollars or more, in which case it is a class E felony;~~

~~—(2)]~~ The value of the property is ~~[seven hundred fifty]~~ five hundred dollars or more, in which case it is a class D felony;

~~[(3)]~~ (2) The value of the property is ~~[five]~~ two thousand five hundred dollars or more, in which case it is a class C felony;

~~[(4)]~~ (3) The value of the property is twenty-five thousand dollars or more, in which case it is a class B felony; or

~~[(5)]~~ (4) The value of the property is seventy-five thousand dollars or more, in which case it is a class A felony.

3. Nothing in this section shall be construed to limit the remedies available to the victim pursuant to any state law relating to domestic violence.

4. Nothing in this section shall be construed to impose criminal liability on a person who has made a good faith effort to assist the elderly person or person with a disability in the management of his or her property, but through no fault of his or her own has been unable to provide such assistance.

5. Nothing in this section shall limit the ability to engage in bona fide estate planning, to transfer property and to otherwise seek to reduce estate and inheritance taxes; provided that such actions do not adversely impact the standard of living to which the elderly person or person with a disability has become accustomed at the time of such actions.

6. It shall not be a defense to financial exploitation of an elderly person or person with a disability that the accused reasonably believed that the victim was not an elderly person or person with a disability.

7. (1) It shall be unlawful in violation of this section for any person receiving or in the possession of funds of a Medicaid-eligible elderly person or person with a disability residing in a facility licensed under chapter 198 to fail to remit to the facility in which the Medicaid-eligible person resides all money owing the facility resident from any source, including, but not limited to, Social Security, railroad retirement, or payments from any other source disclosed as resident income contained in the records of the department of social services, family support division or its successor. The department of social services, family support division or its successor is authorized to release information from its records containing the resident's income or assets to any prosecuting or circuit attorney in the state of Missouri for purposes of investigating or prosecuting any suspected violation of this section.

(2) The prosecuting or circuit attorney of any county containing a facility licensed under chapter 198, who successfully prosecutes a violation of the provisions of this subsection, may request the circuit court of the county in which the offender admits to or is found guilty of a violation, as a condition of sentence and/or probation, to order restitution of all amounts unlawfully withheld from a facility in his or her county. Any order of restitution entered by the court or by

1 agreement shall provide that ten percent of any restitution installment or payment paid by or on
2 behalf of the defendant or defendants shall be paid to the prosecuting or circuit attorney of the
3 county successfully prosecuting the violation to compensate for the cost of prosecution with the
4 remaining amount to be paid to the facility."; and
5
6 Further amend said bill by amending the title, enacting clause, and intersectional references
7 accordingly.