

Introduced by

Senators J. Lee, Dever, Heckaman

Representatives K. Koppelman, Delmore, Hogan

1 A BILL for an Act to create and enact a new section to chapter 50-25.2 of the North Dakota
2 Century Code, relating to the financial exploitation of vulnerable adults; to amend and reenact
3 subsections 1, 7, and 17 of section 50-25.2-01 of the North Dakota Century Code, relating to
4 the definitions of abuse, financial exploitation, and vulnerable adult; and to provide a penalty.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 **SECTION 1. AMENDMENT.** Subsection 1 of section 50-25.2-01 of the North Dakota
7 Century Code is amended and reenacted as follows:

8 1. "Abuse" means any willful act or omission of a caregiver or any other person which
9 results in physical injury, mental anguish, unreasonable confinement, or sexual abuse
10 or exploitation, ~~or financial exploitation~~ to or of a vulnerable adult.

11 **SECTION 2. AMENDMENT.** Subsection 7 of section 50-25.2-01 of the North Dakota
12 Century Code is amended and reenacted as follows:

13 7. "Financial exploitation" means the taking, acceptance, misappropriation, or misuse of
14 property or resources of a vulnerable adult by means of undue influence, breach of a
15 fiduciary relationship, deception, harassment, criminal coercion, theft, or other unlawful
16 or improper means.

17 **SECTION 3. AMENDMENT.** Subsection 17 of section 50-25.2-01 of the North Dakota
18 Century Code is amended and reenacted as follows:

19 17. "Vulnerable adult" means an adult who ~~has a substantial mental or functional~~
20 impairment is unable to protect oneself from abuse, neglect, or financial exploitation by
21 others because of a mental or functional impairment.

22 **SECTION 4.** A new section to chapter 50-25.2 of the North Dakota Century Code is created
23 and enacted as follows:

24 **Civil remedy for financial exploitation - Damages - Commencement of action.**

- 1 1. A vulnerable adult who has been financially exploited has a cause of action against
2 any perpetrator and may recover damages for that exploitation. The action may be
3 brought in a court of competent jurisdiction by:
 - 4 a. The vulnerable adult;
 - 5 b. The vulnerable adult's guardian;
 - 6 c. Any person acting on behalf of the vulnerable adult with the consent of the
7 vulnerable adult; or
 - 8 d. The personal representative of the estate of a deceased victim.
- 9 2. An action for financial exploitation of a vulnerable adult must be proven by clear and
10 convincing evidence. If financial exploitation is proven, the court shall award to the
11 plaintiff actual damages and reasonable attorney's fees and costs, including
12 reasonable fees for the services of a conservator devoted to the litigation of a claim
13 brought under this section.
- 14 3. If the financial exploitation of the vulnerable adult by the perpetrator involved
15 oppression, fraud, deception, or actual malice, the court may award exemplary
16 damages in accordance with subsection 5 of section 32-03.2-11.
- 17 4. An action for damages for financial exploitation of a vulnerable adult must be
18 commenced within four years after the plaintiff discovers or, through exercise of
19 reasonable diligence, should have discovered the facts constituting the financial
20 exploitation.