

**Sixty-third Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 8, 2013**

SENATE BILL NO. 2345
(Senators Schneider, Armstrong)
(Representatives Guggisberg, Larson, Maragos)

AN ACT to amend and reenact section 12.1-31-07.1 of the North Dakota Century Code, relating to the penalty for the exploitation of a disabled adult or vulnerable elderly adult.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12.1-31-07.1 of the North Dakota Century Code is amended and reenacted as follows:

12.1-31-07.1. Exploitation of a vulnerable adult - Penalty.

1. A person is guilty of exploitation of a disabled adult or vulnerable elderly adult if:
 - a. The person stands in a position of trust and confidence or has a business relationship with the disabled adult or vulnerable elderly adult and knowingly, by deception or intimidation, obtains or uses, or attempts to obtain or use, the disabled adult's or vulnerable elderly adult's funds, assets, or property with the intent to temporarily or permanently deprive the disabled adult or vulnerable elderly adult of the use, benefit, or possession of the property, for the benefit of someone other than the disabled adult or vulnerable elderly adult; or
 - b. The person knows that the disabled adult or vulnerable elderly adult lacks the capacity to consent, and obtains or uses, or attempts to obtain or use, or assists another in obtaining or using or attempting to obtain or use, the disabled adult's or vulnerable elderly adult's funds, assets, or property with the intent to temporarily or permanently deprive the disabled adult or vulnerable elderly adult of the use, benefit, or possession of the property for the benefit of someone other than the disabled adult or vulnerable elderly adult.
2. Exploitation of a disabled adult or vulnerable elderly adult is:
 - a. A class A felony if the value of the exploited funds, assets, or property exceeds ~~one hundred~~fifty thousand dollars.
 - b. A class B felony if the value of the exploited funds, assets, or property exceeds ~~twenty~~ten thousand dollars but does not exceed ~~one hundred~~fifty thousand dollars.
 - c. A class C felony if the value of the exploited funds, assets, or property is in excess of one thousand dollars but does not exceed ~~twenty~~ten thousand dollars.
 - d. A class A misdemeanor if the value of the exploited funds, assets, or property does not exceed one thousand dollars.
3. It is not a defense to a prosecution of a violation of this section that the accused did not know the age of the victim.
4. This section does not impose criminal liability on a person who has:
 - a. Managed the disabled adult's or vulnerable elderly adult's funds, assets, or property in a manner that clearly gives primacy to the needs and welfare of that person or is consistent with any explicit written authorization; or

- b. Made a good-faith effort to assist in the management of the disabled adult's or vulnerable elderly adult's funds, assets, or property.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-third Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2345.

Senate Vote: Yeas 47 Nays 0 Absent 0

House Vote: Yeas 89 Nays 2 Absent 3

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2013.

Approved at _____ M. on _____, 2013.

Governor

Filed in this office this _____ day of _____, 2013,

at _____ o'clock _____ M.

Secretary of State