

Sixty-fifth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2163

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 subsection 7 of section 50-25.2-01 of the North Dakota Century Code, relating to the definition
4 of financial exploitation; and to provide a penalty.

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

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

8 7. "Financial exploitation" means use or receipt of services provided by the vulnerable
9 adult without just compensation, the taking, acceptance, misappropriation, or misuse
10 of property or resources of a vulnerable adult by means of undue influence, breach of
11 a fiduciary relationship, deception, harassment, criminal coercion, theft, or other
12 unlawful or improper means.

13 **SECTION 2.** A new section to chapter 50-25.2 of the North Dakota Century Code is created
14 and enacted as follows:

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

16 1. A vulnerable adult who has been financially exploited has a cause of action against
17 any perpetrator and may recover damages for that exploitation. The action may be
18 brought in a court of competent jurisdiction by:

- 19 a. The vulnerable adult;
- 20 b. The vulnerable adult's guardian;
- 21 c. Any person acting on behalf of the vulnerable adult with the consent of the
22 vulnerable adult; or
- 23 d. The personal representative of the estate of a deceased victim.

- 1 2. An action for financial exploitation of a vulnerable adult must be proven by clear and
2 convincing evidence. If financial exploitation is proven, the court shall award to the
3 plaintiff actual damages and reasonable attorney's fees and costs, including
4 reasonable fees for the services of a conservator devoted to the litigation of a claim
5 brought under this section.
- 6 3. If the financial exploitation of the vulnerable adult by the perpetrator involved
7 oppression, fraud, deception, or actual malice, the court may award exemplary
8 damages in accordance with subsection 5 of section 32-03.2-11.
- 9 4. An action for damages for financial exploitation of a vulnerable adult must be
10 commenced within four years after the plaintiff discovers or, through exercise of
11 reasonable diligence, should have discovered the facts constituting the financial
12 exploitation.