

Introduced by

Senators Heckaman, D. Larson, J. Lee, Unruh

Representative Weisz

1 A BILL for an Act to amend and reenact subsection 7 of section 6-08.1-03, sections 12.1-31-07,  
2 12.1-31-07.1, and 12.1-31-07.2, and subdivision f of subsection 1 of section 19-03.1-22.2 of the  
3 North Dakota Century Code, relating to endangerment or exploitation of a vulnerable adult; and  
4 to provide a penalty.

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

6 **SECTION 1. AMENDMENT.** Subsection 7 of section 6-08.1-03 of the North Dakota Century  
7 Code is amended and reenacted as follows:

8 7. For purposes of reporting suspected exploitation of a ~~disabled adult or vulnerable~~  
9 ~~elderly~~ adult as defined by section 12.1-31-07. Nothing in this subsection may be  
10 construed to impose upon a financial institution a duty to investigate an alleged or  
11 suspected exploitation of a ~~disabled adult or vulnerable elderly~~ adult or to make any  
12 report to a governmental agency or law enforcement agency.

13 **SECTION 2. AMENDMENT.** Section 12.1-31-07 of the North Dakota Century Code is  
14 amended and reenacted as follows:

15 **12.1-31-07. Endangering a vulnerable adult - Penalty.**

16 1. In this chapter, unless the context otherwise requires:

17 a. "Caregiver" means a person who is responsible for the care of a ~~disabled adult or~~  
18 ~~vulnerable elderly~~ adult as a result of a familial or legal relationship, or a person  
19 who has assumed responsibility for the care of a ~~disabled adult or vulnerable~~  
20 ~~elderly~~ adult. The term does not include a licensed health care provider who is  
21 acting within the provider's legal scope of practice in providing appropriate care  
22 or assistance to a ~~disabled adult or vulnerable elderly~~ adult who is the patient or  
23 client of the licensed health care provider.

1           b. ~~"Disabled adult" means a person eighteen years of age or older who suffers from~~  
2           ~~a condition of physical or mental incapacitation due to a developmental disability~~  
3           ~~or organic brain damage or mental illness or who has one or more physical or~~  
4           ~~mental limitations that restrict the person's ability to perform the normal activities~~  
5           ~~of daily living.~~

6           e. ~~"Vulnerable elderly adult" means a person sixty years of age or older who is~~  
7           ~~suffering from a disease or infirmity associated with advanced age and~~  
8           ~~manifested by physical, mental, or emotional dysfunctioning to the extent that the~~  
9           ~~person is incapable of adequately providing for the person's own health or~~  
10          ~~personal care.~~

11          "Vulnerable adult" means:

12          (1) An individual who is at least sixty years of age; or

13          (2) An individual eighteen years of age or older who suffers from a condition of  
14          physical or mental incapacitation due to disease, developmental disability,  
15          organic brain damage, mental illness, or who has a physical or mental  
16          limitation restricting the individual's ability to perform the normal activities of  
17          daily living.

18          2. Except as provided for by chapters 23-06.5 and 30.1-30, a caregiver who knowingly  
19          performs an act that causes a ~~disabled adult's or vulnerable elderly adult's~~ life to be  
20          endangered, health to be injured, or pre-existing physical or mental condition to  
21          deteriorate, or a caregiver who fails to perform acts that the caregiver knows are  
22          necessary to maintain or preserve the life or health of the ~~disabled adult or vulnerable~~  
23          ~~elderly adult~~ and the failure causes the ~~disabled adult's or vulnerable elderly adult's~~ life  
24          to be endangered, health to be injured, or pre-existing physical or mental condition to  
25          deteriorate, is guilty of a class B felony.

26          **SECTION 3. AMENDMENT.** Section 12.1-31-07.1 of the North Dakota Century Code is  
27          amended and reenacted as follows:

28          **12.1-31-07.1. Exploitation of a vulnerable adult - Penalty.**

29          1. A person is guilty of exploitation of a ~~disabled adult or vulnerable elderly adult~~ if:

30          a. The person stands in a position of trust and confidence or has a business

31          relationship with the ~~disabled adult or vulnerable elderly adult~~ and knowingly, by

- 1           deception or intimidation, obtains or uses, or attempts to obtain or use, the  
2           ~~disabled adult's or vulnerable elderly adult's~~ funds, assets, or property with the  
3           intent to temporarily or permanently deprive the ~~disabled adult or vulnerable~~  
4           ~~elderly adult~~ of the use, benefit, or possession of the property, for the benefit of  
5           someone other than the ~~disabled adult or vulnerable elderly adult~~; or
- 6           b. The person knows ~~that the disabled adult or vulnerable elderly adult~~ lacks the  
7           capacity to consent, and obtains or uses, or attempts to obtain or use, or assists  
8           another in obtaining or using or attempting to obtain or use, the ~~disabled adult's-~~  
9           ~~or vulnerable elderly adult's~~ funds, assets, or property with the intent to  
10          temporarily or permanently deprive the ~~disabled adult or vulnerable elderly adult~~  
11          of the use, benefit, or possession of the property for the benefit of someone other  
12          than the ~~disabled adult or vulnerable elderly adult~~.
- 13          2. Exploitation of a ~~disabled adult or vulnerable elderly adult~~ is:
- 14           a. A class A felony if the value of the exploited funds, assets, or property exceeds  
15           fifty thousand dollars.
- 16           b. A class B felony if the value of the exploited funds, assets, or property exceeds  
17           ten thousand dollars but does not exceed fifty thousand dollars.
- 18           c. A class C felony if the value of the exploited funds, assets, or property is in  
19           excess of one thousand dollars but does not exceed ten thousand dollars.
- 20           d. A class A misdemeanor if the value of the exploited funds, assets, or property  
21           does not exceed one thousand dollars.
- 22          3. It is not a defense to a prosecution of a violation of this section that the accused did  
23          not know the age of the victim.
- 24          4. This section does not impose criminal liability on a person who has:
- 25           a. Managed the ~~disabled adult's or vulnerable elderly adult's~~ funds, assets, or  
26           property in a manner that clearly gives primacy to the needs and welfare of that  
27           person or is consistent with any explicit written authorization; or
- 28           b. Made a good-faith effort to assist in the management of the ~~disabled adult's or~~  
29           ~~vulnerable elderly adult's~~ funds, assets, or property.

30           **SECTION 4. AMENDMENT.** Section 12.1-31-07.2 of the North Dakota Century Code is  
31           amended and reenacted as follows:

1           **12.1-31-07.2. Criminal proceeding involving a vulnerable adult - Speedy trial.**

2           In a criminal proceeding in which a ~~disabled adult or vulnerable elderly~~ adult is a victim, the  
3 court and state's attorney shall take appropriate action to ensure a speedy trial to minimize the  
4 length of time the ~~disabled adult or vulnerable elderly~~ adult must endure the stress of  
5 involvement in the proceedings. In ruling on ~~any~~a motion or other request for a delay or a  
6 continuance of proceedings, the court shall consider and give weight to any adverse impact the  
7 delay or continuance may have on the well-being of the ~~disabled adult or vulnerable elderly~~  
8 adult.

9           **SECTION 5. AMENDMENT.** Subdivision f of subsection 1 of section 19-03.1-22.2 of the  
10 North Dakota Century Code is amended and reenacted as follows:

11           f. "Vulnerable adult" means ~~either a disabled adult or vulnerable elderly~~ adult as  
12           ~~those terms are~~ the term is defined in section 12.1-31-07.