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FIRST ENGROSSMENT

Sixty-fifth Legislative Assembly of North Dakota

ENGROSSED SENATE BILL NO. 2163

Introduced by

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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:

- SECTION 1. AMENDMENT. Subsection 7 of section 50-25.2-01 of the North Dakota
 Century Code is amended and reenacted as follows:
 - 7. "Financial exploitation" means <u>use or receipt of services provided by the vulnerable</u>
 <u>adult without just compensation</u>, the taking, <u>acceptance</u>, <u>misappropriation</u>, or misuse
 of property or resources of a vulnerable adult by means of undue influence, breach of
 a fiduciary relationship, deception, harassment, criminal coercion, theft, or other
 unlawful or improper means.
- SECTION 2. A new section to chapter 50-25.2 of the North Dakota Century Code is created and enacted as follows:
- 15 <u>Civil remedy for financial exploitation Damages Commencement of action.</u>
- 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 <u>a. The vulnerable adult;</u>
- 20 <u>b. The vulnerable adult's guardian or conservator;</u>
- 21 c. Any person acting on behalf of the vulnerable adult with the consent of the
 22 vulnerable adult; or
- d. The personal representative of the estate of a deceased victim.

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