

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.