

HB60 INTRODUCED



1 HB60
2 L4HXAWW-1
3 By Representative Colvin
4 RFD: Children and Senior Advocacy
5 First Read: 06-Feb-24
6 PFD: 30-Jan-24



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SYNOPSIS:

Under existing law, the abuse, neglect, and financial exploitation of an elderly person is prohibited.

Also under existing law, financial services providers are authorized to refuse or delay execution of a financial transaction if the provider has reasonable cause to suspect that financial exploitation of an elderly or vulnerable adult has occurred.

This bill would create the Alabama Adults with Disabilities Protection Act to prohibit certain intentional and reckless abuse, neglect, and financial exploitation of adults with disabilities.

This bill would create the crimes of abuse and neglect of an adult with a disability in the first, second, and third degrees and provides criminal penalties.

This bill would create the crimes of financial exploitation of an adult with a disability in the first, second, and third degrees, and provides criminal penalties.

This bill would require prosecutions of abuse and neglect of an adult with a disability and financial exploitation of an adult with a disability to be commenced within seven years of the offense.



HB60 INTRODUCED

29 This bill would also provide civil immunity for
30 any individual or entity investigating any report of
31 abuse, neglect, or financial exploitation of an adult
32 with a disability.

33 Section 111.05 of the Constitution of Alabama of
34 2022, prohibits a general law whose purpose or effect
35 would be to require a new or increased expenditure of
36 local funds from becoming effective with regard to a
37 local governmental entity without enactment by a 2/3
38 vote unless: it comes within one of a number of
39 specified exceptions; it is approved by the affected
40 entity; or the Legislature appropriates funds, or
41 provides a local source of revenue, to the entity for
42 the purpose.

43 The purpose or effect of this bill would be to
44 require a new or increased expenditure of local funds
45 within the meaning of the amendment. However, the bill
46 does not require approval of a local governmental
47 entity or enactment by a 2/3 vote to become effective
48 because it comes within one of the specified exceptions
49 contained in the amendment.

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A BILL

TO BE ENTITLED

AN ACT

Relating to the abuse of adults with disabilities; to



HB60 INTRODUCED

57 add Article 13 to Chapter 6 of Title 13A, Code of Alabama
58 1975; to create the Alabama Adults with Disabilities
59 Protection Act; to create the crimes of abuse and neglect of
60 an adult with a disability in the first, second, and third
61 degrees and financial exploitation of an adult with a
62 disability in the first, second, and third degrees; to provide
63 criminal penalties; to establish a statute of limitation; to
64 provide civil immunity in certain circumstances; and in
65 connection therewith would have as its purpose or effect the
66 requirement of a new or increased expenditure of local funds
67 within the meaning of Section 111.05 of the Constitution of
68 Alabama of 2022.

69 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

70 Section 1. Article 13, commencing with Section
71 13A-6-280, is added to Chapter 6 of Title 13A, Code of Alabama
72 1975, to read as follows:

73 Article 13

74 §13A-6-280

75 This article shall be known as and may be cited as the
76 Alabama Adults with Disabilities Protection Act.

77 §13A-6-281

78 For the purposes of this article, the following terms
79 have the following meanings:

80 (1) ADULT WITH A DISABILITY. An individual 19 years of
81 age or older who has physical or mental impairment that
82 substantially limits one or more major life activities.

83 (2) CAREGIVER. An individual who has the responsibility
84 for the care of an adult with a disability as a result of a



HB60 INTRODUCED

85 family relationship or who has assumed the responsibility for
86 the care of the individual voluntarily, for pecuniary gain, by
87 contract, or as a result of the ties of friendship.

88 (3) FINANCIAL EXPLOITATION. The use of deception,
89 intimidation, undue influence, force, or threat of force to
90 obtain or exert unauthorized control over the property of an
91 adult with a disability with the intent to deprive the adult
92 with a disability of his or her property or the breach of a
93 fiduciary duty to an adult with a disability by his or her
94 guardian, conservator, supporter, or agent under a power of
95 attorney which results in an unauthorized appropriation, sale,
96 or transfer of the property of the adult with a disability.

97 (4) INTIMIDATION. A threat of physical or emotional
98 harm to an adult with a disability, or the communication to an
99 adult with a disability that he or she will be deprived of
100 food and nutrition, shelter, property, prescribed medication,
101 or medical care or treatment.

102 (5) NEGLECT. The failure of a caregiver to provide
103 food, shelter, clothing, medical services, medication, or
104 health care for an adult with a disability.

105 (6) PERSON. A human being.

106 (7) UNDUE INFLUENCE. Domination, coercion,
107 manipulation, or any other act exercised by another person to
108 the extent that an adult with a disability is prevented from
109 exercising free judgment and choice.

110 §13A-6-282

111 (a) A person commits the crime of abuse and neglect of
112 an adult with a disability in the first degree if he or she



HB60 INTRODUCED

113 intentionally abuses or neglects any adult with a disability
114 and the abuse or neglect causes serious physical injury to the
115 adult with a disability.

116 (b) Abuse and neglect of an adult with a disability in
117 the first degree is a Class A felony.

118 §13A-6-283

119 (a) A person commits the crime of abuse and neglect of
120 an adult with a disability in the second degree if he or she
121 does any of the following:

122 (1) Intentionally abuses or neglects any adult with a
123 disability and the abuse or neglect causes physical injury to
124 the adult with a disability.

125 (2) Recklessly abuses or neglects any adult with a
126 disability and the abuse or neglect causes serious injury to
127 the adult with a disability.

128 (3) Recklessly abuses or neglects any adult with a
129 disability having been previously convicted of abuse and
130 neglect of an adult with a disability in the third degree in
131 any court.

132 (b) Abuse and neglect of an adult with a disability in
133 the second degree is a Class B felony.

134 §13A-6-284

135 (a) A person commits the crime of abuse and neglect of
136 an adult with a disability in the third degree if he or she
137 recklessly abuses or neglects any adult with a disability and
138 the abuse or neglect causes physical injury.

139 (b) Abuse and neglect of an adult with a disability in
140 the third degree is a Class A misdemeanor.



HB60 INTRODUCED

141 §13A-6-285

142 (a) The financial exploitation of an adult with a
143 disability in which the value of the property taken exceeds
144 two thousand five hundred dollars (\$2,500) constitutes
145 financial exploitation of an adult with a disability in the
146 first degree.

147 (b) Financial exploitation of an adult with a
148 disability in the first degree is a Class B felony.

149 §13A-6-286

150 (a) The financial exploitation of an adult with a
151 disability in which the value of the property taken exceeds
152 five hundred dollars (\$500) but does not exceed two thousand
153 five hundred dollars (\$2,500) constitutes financial
154 exploitation of an adult with a disability in the second
155 degree.

156 (b) Financial exploitation of an adult with a
157 disability in the second degree is a Class C felony.

158 §13A-6-287

159 (a) The financial exploitation of an adult with a
160 disability in which the value of the property taken does not
161 exceed five hundred dollars (\$500) constitutes financial
162 exploitation of an adult with a disability in the third
163 degree.

164 (b) Financial exploitation of an adult with a
165 disability in the third degree is a Class A misdemeanor.

166 §13A-6-288

167 (a) In any prosecution brought for financial
168 exploitation of an adult with a disability, the crime shall be



HB60 INTRODUCED

169 considered to be committed in any county in which any party of
170 the crime took place, regardless of whether the defendant was
171 ever actually present in that county, or in the county of
172 residence of the person who is the subject of the financial
173 exploitation.

174 (b) Any prosecution brought for financial exploitation
175 of an adult with a disability shall be commenced within seven
176 years after the commission of the offense.

177 (c) It shall not be a defense to financial exploitation
178 of an adult with a disability that the accused reasonably
179 believed that the victim was not an adult with a disability.

180 §13A-6-289

181 Any person or entity acting pursuant to this article in
182 reporting or investigating any report of abuse and neglect of
183 an adult with a disability or financial exploitation of an
184 adult with a disability, or participating in a judicial
185 proceeding resulting therefrom, shall be immune from any civil
186 liability that might otherwise be incurred or imposed as a
187 result of the report, investigation, or participation, unless
188 the person or entity acted recklessly, in bad faith, or with
189 malicious purpose.

190 §13A-6-290

191 Nothing in this article shall be construed to limit the
192 remedies available to the victims pursuant to any state law
193 relating to domestic violence, the Adult Protective Services
194 Act of 1976, or any other applicable law.

195 Section 2. Although this bill would have as its purpose
196 or effect the requirement of a new or increased expenditure of



HB60 INTRODUCED

197 local funds, the bill is excluded from further requirements
198 and application under Section 111.05 of the Constitution of
199 Alabama of 2022, because the bill defines a new crime or
200 amends the definition of an existing crime.

201 Section 3. This act shall become effective on October
202 1, 2024.