

SECOND REGULAR SESSION

HOUSE BILL NO. 1515

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES SCHAD (Sponsor), TORPEY, SOMMER,
HIGDON AND CIERPIOT (Co-sponsors).

5415L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 565.182 and 570.145, RSMo, and to enact in lieu thereof two new sections relating to crimes against the elderly, with a penalty provision.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 565.182 and 570.145, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 565.182 and 570.145, to read as follows:

565.182. 1. A person commits the crime of elder abuse in the second degree if he:

2 (1) Knowingly causes, attempts to cause physical injury to any person sixty years of age
3 or older or an eligible adult, as defined in section 660.250, by means of a deadly weapon or
4 dangerous instrument; or

5 (2) Recklessly [and] **or** purposely causes serious physical injury, as defined in section
6 565.002, to a person sixty years of age or older or an eligible adult as defined in section 660.250.

7 2. Elder abuse in the second degree is a class B felony.

570.145. 1. A person commits the crime of financial exploitation of an elderly or
2 disabled person if such person knowingly [and] by deception, intimidation, **undue influence**,
3 or force obtains control over the elderly or disabled person's property with the intent to
4 permanently deprive the elderly or disabled person of the use, benefit or possession of his or her
5 property thereby benefitting such person or detrimentally affecting the elderly or disabled person.
6 Financial exploitation of an elderly or disabled person is a class A misdemeanor if the value of
7 the property is less than fifty dollars, a class D felony if the value of the property is fifty dollars
8 but less than five hundred dollars, a class C felony if the value of the property is five hundred
9 dollars but less than one thousand dollars, a class B felony if the value of the property is one

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

10 thousand dollars but less than fifty thousand dollars, and a class A felony if the value of the
11 property is fifty thousand dollars or more.

12 2. For purposes of this section, the following terms mean:

13 (1) "Deception", a misrepresentation or concealment of material fact relating to the terms
14 of a contract or agreement entered into with the elderly or disabled person or to the existing or
15 preexisting condition of any of the property involved in such contract or agreement, or the use
16 or employment of any misrepresentation, false pretense or false promise in order to induce,
17 encourage or solicit the elderly or disabled person to enter into a contract or agreement.

18 Deception includes:

19 (a) Creating or confirming another person's impression which is false and which the
20 offender does not believe to be true; or

21 (b) Failure to correct a false impression which the offender previously has created or
22 confirmed; or

23 (c) Preventing another person from acquiring information pertinent to the disposition of
24 the property involved; or

25 (d) Selling or otherwise transferring or encumbering property, failing to disclose a lien,
26 adverse claim or other legal impediment to the enjoyment of the property, whether such
27 impediment is or is not valid, or is or is not a matter of official record; or

28 (e) Promising performance which the offender does not intend to perform or knows will
29 not be performed. Failure to perform standing alone is not sufficient evidence to prove that the
30 offender did not intend to perform;

31 (2) "Disabled person", a person with a mental, physical, or developmental disability that
32 substantially impairs the person's ability to provide adequately for the person's care or protection;

33 (3) "Elderly person", a person sixty years of age or older;

34 (4) "Intimidation", a threat of physical or emotional harm to an elderly or disabled
35 person, or the communication to an elderly or disabled person that he or she will be deprived of
36 food and nutrition, shelter, prescribed medication, or medical care and treatment;

37 **(5) "Undue influence", use of influence by an individual who exercises authority**
38 **over an elderly person or disabled person in order to take unfair advantage of such**
39 **person's vulnerable state of mind, neediness, pain, or agony. Undue influence includes, but**
40 **is not limited to, the improper or fraudulent use of a power of attorney, guardianship,**
41 **conservatorship, or other fiduciary authority.**

42 3. Nothing in this section shall be construed to limit the remedies available to the victim
43 pursuant to any state law relating to domestic violence.

44 4. Nothing in this section shall be construed to impose criminal liability on a person who
45 has made a good faith effort to assist the elderly or disabled person in the management of his or
46 her property, but through no fault of his or her own has been unable to provide such assistance.

47 5. Nothing in this section shall limit the ability to engage in bona fide estate planning,
48 to transfer property and to otherwise seek to reduce estate and inheritance taxes; provided that
49 such actions do not adversely impact the standard of living to which the elderly or disabled
50 person has become accustomed at the time of such actions.

51 6. It shall not be a defense to financial exploitation of an elderly or disabled person that
52 the accused reasonably believed that the victim was not an elderly or disabled person.

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