

Government of the District of Columbia
Office of the Chief Financial Officer



Jeffrey S. DeWitt
Chief Financial Officer

MEMORANDUM

TO: The Honorable Phil Mendelson
Chairman, Council of the District of Columbia

FROM: Jeffrey S. DeWitt
Chief Financial Officer 

DATE: April 18, 2016

SUBJECT: Fiscal Impact Statement – Financial Exploitation of Vulnerable Adults
and the Elderly Amendment Act of 2016

REFERENCE: Committee Print as shared with the Office of Revenue Analysis on
March 21, 2016

Conclusion

Funds are sufficient in the fiscal year 2016 budget and the proposed fiscal year 2017 through fiscal year 2020 budget and financial plan to implement the bill.

Background

Under current law, any person that commits a crime¹ against a senior citizen is subject to enhanced criminal penalties. The bill increases the age at which a victim of a crime is considered to be an elderly person from 60 to 65. Additionally, the bill makes technical adjustment to the D.C. Code to include identity theft under criminal penalties for crimes committed against the elderly.²

¹ Crimes include abduction, arson, aggravated assault, assault with a dangerous weapon, assault with intent to kill, commit first degree sexual abuse, or commit second degree sexual abuse, assault with intent to commit any other offense, burglary, carjacking, armed carjacking, extortion or blackmail accompanied by threats of violence, kidnapping, malicious disfigurement, manslaughter, mayhem, murder, robbery, sexual abuse in the first, second, and third degrees, theft, fraud in the first degree, and fraud in the second degree, or an attempt or conspiracy to commit any of the foregoing offenses.

² Under current law “enhanced penalties” for identity theft fall under The District of Columbia Theft and White Collar Crimes Act of 1982, effective December 1, 1982 (D.C. Law 4-164; D.C. Official Code § 22-3201 et seq.). The bill repeals D.C. Official Code § 22-3227.03(c) and amends D.C. Official Code § 22-3601 to include identity theft.

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FIS: "Financial Exploitation of Vulnerable Adults and the Elderly Amendment Act of 2016," Bill 21-326, Committee Print provided to the Office of Revenue Analysis on March 21, 2016.

The bill criminalizes³ the financial exploitation of vulnerable adults⁴ and persons over the age of 65. Specifically, a person is prohibited from using deception, intimidation, or undue influence on a vulnerable adult or elderly person to:

- Obtain property, including money, with the intent to deprive a vulnerable adult or elderly person;
- Assume a legal obligation on behalf of, or for the benefit of, anyone other than the vulnerable adult or elderly person; or
- Commit theft, extortion, forgery, fraud, or identity theft.

The bill conforms⁵ criminal penalties for abuse and neglect of elderly persons to the current penalties for abuse neglect of vulnerable adults. These penalties include:

- Fine of and/or imprisonment for 180 days;
- Fine and imprisonment for 10 years if the offense causes bodily injury or mental distress; and
- Fine and imprisonment for 20 years if the offense causes permanent bodily harm or death.

The bill establishes⁶ criminal penalties for persons convicted of committing financial exploitation against a vulnerable adult or elderly person. These penalties include:

- For property less than \$1,000, a misdemeanor charge and imprisonment for one year or less and/or a fine;
- For property more than \$1,000 but less than \$10,000, a felony charge and imprisonment not exceeding 3 years and/or a fine;
- For property more than \$10,000, a felony charge and imprisonment not exceeding 15 years and/or a fine;
- Restitution payments prior to payment of fines or civil penalties; and
- For individuals convicted of three misdemeanor violations or two felony violations within a 5-year period, a felony charge regardless of the value of property taken, and imprisonment not exceeding 15 years and/or a maximum fine of \$15,000.

The bill establishes⁷ civil penalties for persons convicted of committing financial exploitation against a vulnerable adult or elderly person. These penalties include:

- A fine of up to \$5,000 per violation;
- Revocation of all permits, certificates, or licenses issued by the District of Columbia authorizing the person to provide services to vulnerable adults or elderly persons; and
- Payment of restitution, prior to payment of fines or civil penalties.

The bill authorizes⁸ the Attorney General to issue subpoenas for documents and materials to investigate financial exploitation of a vulnerable adult or elderly person, and lists the information that must be included in a subpoena.

³ By amending The Criminal Abuse and Neglect of Vulnerable Adults Act of 2000, effective June 8, 2001 (D.C. Law 13-301; D.C. Official Code § 22-931 et seq.).

⁴ "Vulnerable adult" is defined as a person who is 18 years of age or older and has one or more physical or mental limitations which substantially impair the person's ability to independently provide for his or her daily needs or safeguard his or her person, property, or legal interests.

⁵ By amending The Criminal Abuse and Neglect of Vulnerable Adults Act of 2000, effective June 8, 2001 (D.C. Law 13-301; D.C. Official Code § 22-931 et seq.).

⁶ Ibid.

⁷ Ibid.

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The bill provides⁹ the Attorney General or the United States Attorney for the District of Columbia with the means to petition the Superior Court of the District of Columbia for a temporary restraining order, injunctions, freezing of a person's assets, and relief the court approves, when they have reason to believe that a person is committing financial exploitation of a vulnerable adult or elderly person. The bill establishes the circumstances under which the court may grant ex-parte motions for these cases and the length and terms of court action.

Financial Plan Impact

Funds are sufficient in the fiscal year 2016 budget and the proposed fiscal year 2017 through fiscal year 2020 budget and financial plan to implement the bill. Increasing criminal and civil penalties for committing financial exploitation of vulnerable adults and the elderly does not have a cost. Likewise, authorizing the Attorney General to investigate these instances of financial exploitation does not have a cost.

⁸ Ibid.

⁹ Ibid.