

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 127\*

Short Title: Domestic Abuse/Disabled or Elder Adults.

(Public)

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Sponsors: Senators Cochrane; Carpenter, Speed, Martin of Pitt, Perdue, Hoyle, Parnell, and Foxx.

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Referred to: Judiciary I/Constitution.

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February 2, 1995

A BILL TO BE ENTITLED

1 AN ACT TO IMPOSE CRIMINAL PENALTIES FOR THE ABUSE, NEGLECT, OR  
2 EXPLOITATION OF DISABLED OR ELDER ADULTS LIVING IN A  
3 DOMESTIC SETTING.  
4

5 The General Assembly of North Carolina enacts:

6 Section 1. Article 8 of Chapter 14 of the General Statutes is amended by  
7 adding a new section after G.S. 14-32.2 to read:

8 "**§ 14-32.3. Domestic abuse, neglect, and exploitation of disabled or elder adults;**  
9 **punishments.**

10 (a) It shall be unlawful for a caretaker to intentionally abuse a disabled or elder  
11 adult residing in a domestic setting, when the abuse causes physical injury or mental  
12 anguish, deterioration of a preexisting mental or physical condition, or results in  
13 unreasonable confinement.

14 (b) Unless the conduct is prohibited by some other provision of law providing for  
15 greater punishment:

16 (1) A caretaker who intentionally abuses a disabled or elder adult is guilty  
17 of a Class C felony if the abuse proximately causes physical injury or  
18 mental anguish, or deterioration of a preexisting mental or physical  
19 condition.

1           (2) A caretaker who intentionally abuses a disabled or elder adult is guilty  
2           of a Class F felony where the abuse results in unreasonable  
3           confinement.

4           (c) It shall be unlawful for a caretaker of a disabled or elder adult residing in a  
5           domestic setting to engage in culpably negligent conduct which proximately causes  
6           physical or mental injury, deterioration of preexisting mental or physical condition, or  
7           endangers the life of the adult.

8           (d) Unless the conduct is prohibited by some other provision of law providing for  
9           greater punishment:

10          (1) A caretaker of a disabled or elder adult is guilty of a Class E felony  
11          where culpably negligent conduct proximately causes physical or  
12          mental injury or deterioration of a preexisting mental or physical  
13          condition.

14          (2) A caretaker of a disabled or elder adult is guilty of a Class H felony  
15          where culpably negligent conduct proximately causes the disabled or  
16          elder adult's life to be endangered.

17          (e) It shall be unlawful for any person to exploit a disabled or elder adult residing  
18          in a domestic setting when the exploitation is the result of an illegal or improper use of  
19          the disabled or elder adult or his resources.

20          (f) Unless the conduct is prohibited by some other provision of law providing for  
21          greater punishment:

22          (1) Any person who exploits a disabled or elder adult is guilty of a Class G  
23          felony where the exploitation involves resources in excess of one  
24          thousand dollars (\$1,000).

25          (2) Any person who exploits a disabled or elder adult is guilty of a  
26          misdemeanor where the exploitation involves resources less than one  
27          thousand dollars (\$1,000).

28          (g) Definitions. – The following definitions apply in this section:

29          (1) 'Abuse'. – The intentional infliction of physical pain or injury,  
30          unreasonable confinement, or the willful deprivation by a caretaker of  
31          services which are necessary to maintain mental and physical health.

32          (2) 'Caretaker'. – An individual who has the responsibility for the care of a  
33          disabled or elder adult as a result of family relationship or who has  
34          assumed the responsibility for the care of a disabled or elder adult  
35          voluntarily or by contract.

36          (3) 'Culpably negligent'. – Conduct of a gross and flagrant character,  
37          evincing reckless disregard of human life.

38          (4) 'Disabled adult'. – An individual 18 years of age or older or a lawfully  
39          emancipated minor who is present in the State of North Carolina and  
40          who is physically or mentally incapacitated as defined in G.S. 108A-  
41          101(d).

42          (5) 'Domestic setting'. – Any nonfacility setting regardless of ownership or  
43          type of construction and includes, but is not limited to, the following:

1 single family homes, multiple family homes or apartments, or mobile  
2 homes owned by the disabled or elder adult or someone else.

3 (6) 'Elder adult'. – An individual 60 years of age or older who is not able to  
4 provide for the social, medical, psychiatric, psychological, financial or  
5 legal services necessary to safeguard his or her rights and resources and  
6 to maintain his or her physical and mental well-being.

7 (7) 'Exploitation'. – The illegal or improper use of a disabled or elder adult's  
8 funds, assets, or property, or the use of a disabled or elder adult's power  
9 of attorney for another's or one's own profit or advantage.

10 (8) 'Person'. – Any natural person, association, corporation, partnership, or  
11 other individual or entity.

12 (h) Any defense which may arise under G.S. 90-321(h) or G.S. 90-322(d) pursuant  
13 to compliance with Article 23 of Chapter 90 shall be fully applicable to any prosecution  
14 initiated under this section.

15 (i) The provisions of this section shall not supersede any other applicable statutory  
16 or common law offenses.

17 (j) Nothing in this section shall be construed to impose criminal liability on a  
18 person who has made a good faith effort to provide for the health and personal care of a  
19 disabled or elder adult, but through no fault of his own has been unable to provide such  
20 care."

21 Sec. 2. This act becomes effective July 1, 1995, and applies to offenses under  
22 this act that are committed on or after that date.