

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 127\*

Judiciary I/Constitution Committee Substitute Adopted 5/4/95

House Committee Substitute Favorable 6/7/95

Short Title: Domestic Abuse/Disabled or Elder Adults.

(Public)

Sponsors:

Referred to:

February 2, 1995

A BILL TO BE ENTITLED

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

The General Assembly of North Carolina enacts:

Section 1. Article 8 of Chapter 14 of the General Statutes is amended by adding a new section:

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

(a) Abuse. – A person is guilty of abuse if that person is a caretaker of a disabled or elder adult who is residing in a domestic setting and, with malice aforethought, knowingly and willfully: (i) assaults, (ii) fails to provide medical or hygienic care, or (iii) confines or restrains the disabled or elder adult in a place or under a condition that is cruel or unsafe, and as a result of the act or failure to act the disabled or elder adult suffers mental or physical injury.

If the disabled or elder adult suffers serious injury from the abuse, the caretaker is guilty of a Class F felony. If the disabled or elder adult suffers injury from the abuse, the caretaker is guilty of a Class H felony.

1 A person is not guilty of an offense under this subsection if the act or failure to act is  
2 in accordance with G.S. 90-321 or G.S. 90-322.

3 (b) Neglect. – A person is guilty of neglect if that person is a caretaker of a  
4 disabled or elder adult who is residing in a domestic setting and, wantonly, recklessly, or  
5 with gross carelessness: (i) fails to provide medical or hygienic care, or (ii) confines or  
6 restrains the disabled or elder adult in a place or under a condition that is unsafe, and as a  
7 result of the act or failure to act the disabled or elder adult suffers mental or physical  
8 injury.

9 If the disabled or elder adult suffers serious injury from the neglect, the caretaker is  
10 guilty of a Class G felony. If the disabled or elder adult suffers injury from the neglect,  
11 the caretaker is guilty of a Class I felony.

12 A person is not guilty of an offense under this subsection if the act or failure to act is  
13 in accordance with G.S. 90-321 or G.S. 90-322.

14 (c) Exploitation. – A person is guilty of exploitation if that person is a caretaker of  
15 a disabled or elder adult who is residing in a domestic setting, and knowingly, willfully  
16 and with the intent to permanently deprive the owner of property or money: (i) makes a  
17 false representation, (ii) abuses a position of trust or fiduciary duty, or (iii) coerces,  
18 commands, or threatens, and, as a result of the act, the disabled or elder adult gives or  
19 loses possession and control of property or money.

20 If the loss of property or money is of a value of more than one thousand dollars  
21 (\$1,000) the caretaker is guilty of a Class H felony. If the loss of property or money is of  
22 a value of less than one thousand dollars (\$1,000) the caretaker is guilty of a Class 1  
23 misdemeanor.

24 (d) Definitions. – The following definitions apply in this section:

25 (1) Caretaker. – A person who has the responsibility for the care of a  
26 disabled or elder adult as a result of family relationship or who has  
27 assumed the responsibility for the care of a disabled or elder adult  
28 voluntarily or by contract.

29 (2) Disabled adult. – A person 18 years of age or older or a lawfully  
30 emancipated minor who is present in the State of North Carolina and  
31 who is physically or mentally incapacitated as defined in G.S. 108A-  
32 101(d).

33 (3) Domestic setting. – Residence in any residential setting except for a  
34 health care facility or residential care facility as these terms are defined  
35 in G.S. 14-32.2.

36 (4) Elder adult. – A person 60 years of age or older who is not able to  
37 provide for the social, medical, psychiatric, psychological, financial, or  
38 legal services necessary to safeguard the person's rights and resources  
39 and to maintain the person's physical and mental well-being."

40 Sec. 2. This act becomes effective December 1, 1995, and applies to offenses  
41 committed on or after that date.