

The House Committee on Judiciary Non-Civil offers the following substitute to HB 803:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 8 of Chapter 5 of Title 16 of the Official Code of Georgia Annotated,
2 relating to protection of elder persons, so as to prohibit trafficking a disabled adult, elder
3 person, or resident; to provide for definitions; to provide for elements of the crime; to provide
4 for punishment; to provide for related matters; to repeal conflicting laws; and for other
5 purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 SECTION 1.

8 Article 8 of Chapter 5 of Title 16 of the Official Code of Georgia Annotated, relating to
9 protection of elder persons, is amended by adding a new Code section to read as follows:

10 "16-5-102.1.

11 (a) As used in this Code section, the term:

12 (1) 'Coercion' means:

13 (A) Causing or threatening to cause bodily harm to any disabled adult, elder person,
14 or resident; physically restraining or confining any disabled adult, elder person, or
15 resident; or threatening to physically restrain or confine any disabled adult, elder
16 person, or resident;

17 (B) Exposing or threatening to expose any fact or information, or disseminating or
18 threatening to disseminate any fact or information, that would tend to subject a disabled
19 adult, elder person, or resident to criminal or immigration proceedings, hatred,
20 contempt, or ridicule;

21 (C) Destroying, concealing, removing, confiscating, or possessing any actual or
22 purported passport or other immigration document, or any other actual or purported
23 government identification document, of a disabled adult, elder person, or resident;

24 (D) Providing a controlled substance to a disabled adult, elder person, or resident for
25 the purpose of compelling him or her to engage in an action against his or her will; or

- 26 (E) Causing or threatening to cause financial harm to a disabled adult, elder person, or
 27 resident or using financial control over a disabled adult, elder person, or resident.
- 28 (2) 'Controlled substance' shall have the same meaning as set forth in Code Section
 29 16-13-21.
- 30 (3) 'Deception' means:
- 31 (A) Creating or confirming another person's impression of an existing fact or past event
 32 which is false and which the accused knows or believes to be false;
- 33 (B) Maintaining the status or condition of a disabled adult, elder person, or resident
 34 arising from a pledge by such disabled adult, elder person, or resident of his or her
 35 personal services as security for a debt, if the value of those services as reasonably
 36 assessed is not applied toward the liquidation of the debt or the length and nature of
 37 those services are not respectively limited and defined, or preventing a disabled adult,
 38 elder person, or resident from acquiring information pertinent to the disposition of such
 39 debt; or
- 40 (C) Promising benefits or the performance of services which the accused does not
 41 intend to deliver or perform or knows will not be delivered or performed.
- 42 (4) 'Exploitation' means illegally or improperly using a disabled adult, elder person, or
 43 resident or such individual's resources through undue influence, harassment, duress, false
 44 representation, false pretense, or other similar means for one's own or another person's
 45 profit or advantage.
- 46 (5) 'Isolation' means preventing a disabled adult, elder person, or resident from having
 47 contact with his or her friends or family, a welfare agency, law enforcement officers,
 48 health providers, or other individuals or entities without the knowledge of such disabled
 49 adult, elder person, or resident or against his or her wishes.
- 50 (b) A person commits the offense of trafficking a disabled adult, elder person, or resident
 51 when such person, through deception, coercion, exploitation, or isolation, knowingly
 52 recruits, harbors, transports, provides, or obtains by any means a disabled adult, elder
 53 person, or resident for the purpose of appropriating the resources of such disabled adult,
 54 elder person, or resident for one's own or another person's benefit.
- 55 (c) Any person who violates subsection (b) of this Code section shall be guilty of a felony,
 56 and upon conviction thereof, shall be punished by imprisonment for not less than one year
 57 nor more than 20 years, a fine not to exceed \$100,000.00, or both.
- 58 (d) Each violation of subsection (b) of this Code section shall constitute a separate offense
 59 and shall not merge with any other offense.
- 60 (e) Evidence of failure to deliver benefits or perform services standing alone shall not be
 61 sufficient to authorize a conviction under this Code section.

62 (f) This Code section shall not apply to a physician nor any person acting under a
63 physician's direction nor to a hospital, hospice, or long-term care facility, nor any agent or
64 employee thereof who is in good faith acting within the scope of his or her employment or
65 agency or who is acting in good faith in accordance with a living will, a durable power of
66 attorney for health care, an advance directive for health care, a Physician Orders for
67 Life-Sustaining Treatment form pursuant to Code Section 31-1-14, an order not to
68 resuscitate, or the instructions of the patient or the patient's lawful surrogate decision
69 maker."

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SECTION 2.

71 All laws and parts of laws in conflict with this Act are repealed.