
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 838 Session of
2023

INTRODUCED BY HOWARD, SANCHEZ, PROBST, MADDEN, HILL-EVANS,
CERRATO, SHUSTERMAN AND PARKER, APRIL 4, 2023

REFERRED TO COMMITTEE ON JUDICIARY, APRIL 4, 2023

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, in theft and related offenses, further
3 providing for the offense of financial exploitation of an
4 older adult or care-dependent person and providing for the
5 offense of financial exploitation of a family or household
6 member and for civil causes of action in cases of financial
7 exploitation; and imposing penalties.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. Section 3922.1(b) and the definition of
11 "financial exploitation" in subsection (f) of Title 18 of the
12 Pennsylvania Consolidated Statutes are amended and subsection
13 (f) is amended by adding a definition to read:

14 § 3922.1. Financial exploitation of an older adult or care-
15 dependent person.

16 * * *

17 (b) Grading.--Financial exploitation of an older adult or
18 care-dependent person constitutes a:

19 (1) Felony of the first degree if:

20 (i) the amount involved is at least \$500,000

1 adjusted annually; or

2 (ii) the person participated in a course of conduct
3 resulting in the loss of property of two or more older
4 adults or care-dependent persons.

5 (2) Felony of the second degree if the amount involved
6 is at least \$100,000 but less than \$500,000 adjusted
7 annually.

8 (3) Felony of the third degree if the amount involved
9 exceeds \$2,000 but is less than \$100,000 adjusted annually.

10 (4) Except for offenses under paragraphs (1), (2) and
11 (3), misdemeanor of the first degree.

12 * * *

13 (f) Definitions.--As used in this section, the following
14 words and phrases shall have the meanings given to them in this
15 subsection unless the context clearly indicates otherwise:

16 "Adjusted annually." The dollar amount adjusted each year to
17 reflect changes to the Consumer Price Index for All Urban
18 Consumers for the Pennsylvania, New Jersey, Delaware and
19 Maryland area.

20 * * *

21 "Financial exploitation." Either:

22 (1) The wrongful or unauthorized taking or attempt to
23 take by withholding, appropriating, concealing or using the
24 money, assets or property of an older adult or care-dependent
25 person, including any act or omission taken by a person,
26 including through the use of a power of attorney, guardian,
27 custodian, trustee, personal representative or conservator of
28 an older adult or care-dependent person or by an individual
29 who stands in a position of trust and confidence with an
30 older adult or care-dependent person, including business

1 transactions to:

2 [(1)] (i) obtain or attempt to obtain control,
3 through deception, intimidation or undue influence, over
4 the older adult's or care-dependent person's money,
5 assets or property to deprive the older adult or care-
6 dependent person of the ownership, use, benefit or
7 possession of the older adult's or care-dependent
8 person's money, assets or property; or

9 [(2)] (ii) convert or attempt to convert money,
10 assets or property of the older adult or care-dependent
11 person to deprive the older adult or care-dependent
12 person of the ownership, use, benefit or possession of
13 the older adult's or care-dependent person's money,
14 assets or property.

15 (2) Causing or attempting to cause the financial
16 dependence of an older adult or care-dependent person by:

17 (i) Forbidding, obstructing or otherwise interfering
18 with employment or school attendance.

19 (ii) Unauthorized use of credit or property of the
20 older adult.

21 (iii) Withholding access to money or credit.

22 (iv) Stealing from or defrauding of money or assets.

23 (v) Exploiting the family or household member for
24 personal gain of the defendant.

25 (vi) Withholding physical resources, such as food,
26 clothing, necessary medications or shelter.

27 * * *

28 Section 2. Title 18 is amended by adding sections to read:

29 § 3922.2. Financial exploitation of a family or household
30 member.

1 (a) Offense defined.--An individual who commits the offense
2 of financial exploitation of a family or household member shall
3 be subject to the criminal penalties specified under subsection
4 (b).

5 (b) Grading.--Financial exploitation of a family or
6 household member constitutes a:

7 (1) Felony of the first degree if the amount involved is
8 at least \$500,000 adjusted annually in aggregate amongst
9 victims.

10 (2) Felony of the second degree if the amount involved
11 is at least \$100,000 but less than \$500,000 adjusted annually
12 in aggregate amongst victims.

13 (3) Felony of the third degree if the amount involved
14 exceeds \$2,000 but is less than \$100,000 adjusted annually in
15 aggregate amongst victims.

16 (4) Misdemeanor of the first degree, except for offenses
17 under paragraphs (1), (2) and (3).

18 (c) Concurrent jurisdiction to prosecute.--In addition to
19 the authority conferred upon the Attorney General by the act of
20 October 15, 1980 (P.L.950, No.164), known as the Commonwealth
21 Attorneys Act, the Attorney General may investigate and
22 institute criminal proceedings for any violation of this section
23 or related offenses if the amount involved exceeds \$20,000. No
24 individual charged with a violation of this section by the
25 Attorney General may challenge the authority of the Attorney
26 General to investigate or prosecute the case, and, if a
27 challenge is made, the challenge shall be dismissed, and no
28 relief shall be made available in the courts of this
29 Commonwealth to the individual making the challenge.

30 (d) Enforcement.--The district attorney of a county shall

1 have the authority to investigate and institute criminal
2 proceedings for any violation of this section or related
3 offenses.

4 (e) Defense of coercive control.--It is an affirmative
5 defense in a proceeding in which an allegation of coercive
6 control is made that the conduct was reasonable in the
7 particular circumstances. Reasonableness is a question of fact
8 and not of law.

9 (f) Definitions.--As used in this section, the following
10 words and phrases shall have the meanings given to them in this
11 subsection unless the context clearly indicates otherwise:

12 "Abuse." As defined in 23 Pa.C.S. § 6102 (relating to
13 definitions).

14 "Adjusted annually." The dollar amount adjusted each year to
15 reflect changes to the Consumer Price Index for All Urban
16 Consumers for the Pennsylvania, New Jersey, Delaware and
17 Maryland area.

18 "Coercive control." A course of conduct in which an
19 individual gains power over another individual through:

20 (1) Conduct that has, or is reasonably likely to have,
21 one or more of the following effects:

22 (i) Making the other individual dependent on, or
23 subordinate to, the individual.

24 (ii) Isolating the other individual from friends,
25 relatives or other sources of support.

26 (iii) Controlling, regulating or monitoring the
27 other individual's day-to-day activities.

28 (iv) Depriving the other individual of, or
29 restricting the other individual's, freedom of action.

30 (v) Depriving the other individual of, or

1 restricting the other individual's, access to support
2 services, including the services of health practitioners
3 and legal practitioners.

4 (vi) Frightening, humiliating, degrading or
5 punishing the other individual.

6 (2) Conduct that has, may have or is reasonably likely
7 to have, an effect referred under paragraph (1) on an
8 individual even if the conduct is directed at a third
9 individual, including a child, relative or friend, or a
10 companion animal owned by or in the possession of the
11 individual.

12 "Companion animal." The term:

13 (1) Includes:

14 (i) A domestic or feral dog, domestic or feral cat,
15 nonhuman primate, guinea pig, hamster, rabbit not raised
16 for human food or fiber, exotic or native animal, reptile
17 or exotic or native bird.

18 (ii) A feral animal or any animal under the care,
19 custody or ownership of an individual.

20 (iii) An animal that is bought, sold, traded or
21 bartered.

22 (2) Does not include agricultural animals, game species
23 or any animals regulated under Federal law such as research
24 animals.

25 "Course of conduct." A pattern of actions composed of more
26 than one act over a period of time, however short, evidencing a
27 continuity of conduct.

28 "Family or household member." A spouse or individual who has
29 been a spouse, individuals living as spouses or who have lived
30 as spouses, parents, children, other individuals related by

1 consanguinity or affinity, current or former sexual or intimate
2 partners, individuals residing at the same address or
3 individuals who share biological parenthood.

4 "Financial exploitation." A course of conduct of coercive
5 control or abuse in conjunction with at least one instance of
6 the following:

7 (1) Wrongful or unauthorized taking or attempt to take
8 by withholding, appropriating, concealing or using the money,
9 assets or property of a family or household member, including
10 any act or omission taken by an individual to:

11 (i) obtain or attempt to obtain control, through
12 deception, intimidation or undue influence, over the
13 family or household member's money, assets or property to
14 deprive the family or household member of the ownership,
15 use, benefit or possession of the family or household
16 member's money, assets or property; or

17 (ii) convert or attempt to convert money, assets or
18 property of the family or household member to deprive the
19 family or household member of the ownership, use, benefit
20 or possession of the family or household member's money,
21 assets or property.

22 (2) Causing or attempting to cause the financial
23 dependence of a family or household member by:

24 (i) Forbidding, obstructing or otherwise interfering
25 with employment or school attendance.

26 (ii) Unauthorized use of credit or property.

27 (iii) Withholding access to money or credit.

28 (iv) Stealing from or defrauding of money or assets.

29 (v) Exploiting the family or household member for
30 personal gain of the defendant.

1 "Property." Anything of value, including real estate,
2 tangible personal property, contract rights, money, bank
3 accounts, investment accounts, stocks, bonds, retirement
4 accounts or any other deposit of money or medium of savings or
5 collective investment or other interests in or claims to wealth.

6 § 3922.3. Civil causes of action in cases of financial
7 exploitation.

8 (a) General rule.--An individual who is a victim of
9 financial exploitation under section 3922.1 (relating to
10 financial exploitation of an older adult or care-dependent
11 person) or 3922.2 (relating to financial exploitation of a
12 family or household member) may bring a civil action against any
13 person who participated in the financial exploitation of the
14 individual in the court of common pleas of the county where the
15 individual resides or where any of the alleged violations
16 occurred.

17 (b) Exception.--This section shall not be construed to
18 create liability for any person who provides goods or services
19 to the general public and to a person who would be liable under
20 section 3922.1 or 3922.2, absent a showing that the person:

21 (1) knowingly markets or provides goods or services to a
22 person liable under section 3922.1 or 3922.2;

23 (2) knowingly receives a higher level of compensation
24 from a person liable under section 3922.1 or 3922.2; or

25 (3) supervises or exercises control over a person liable
26 under section 3922.1 or 3922.2.

27 (c) Damages.--The court may award any of the following forms
28 of relief:

29 (1) Actual damages, including, but not limited to,
30 repayment of debts falsely or unjustly owed in the victim's

1 name.

2 (2) Compensatory damages.

3 (3) Punitive damages.

4 (4) Injunctive relief, including:

5 (i) Voiding contracts signed by the victim.

6 (ii) Directing institutions of higher learning to
7 make reasonable accommodations for victims of financial
8 exploitation.

9 (iii) Ordering consumer credit reporting agencies to
10 remove from reports all debts accrued falsely or unjustly
11 in the victim's name.

12 (5) Any other appropriate relief.

13 (d) Attorney fees and costs.--A prevailing plaintiff in a
14 civil action brought under subsection (a) shall be awarded
15 reasonable attorney fees and costs.

16 (e) Treble damages.--Treble damages shall be awarded to the
17 plaintiff on proof of actual damages where the defendant's acts
18 were willful and malicious.

19 (f) Joinder of actions.--In the discretion of the court:

20 (1) Two or more individuals may join in one action under
21 this section as plaintiffs if the plaintiff's respective
22 actions involve at least one defendant in common.

23 (2) Two or more persons may be joined in one action
24 under this section as defendants if the defendants may be
25 liable to at least one plaintiff in common.

26 Section 3. This act shall take effect immediately.