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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2020

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A N A C T

RELATING TO CRIMINAL OFFENSES -- EXPLOITATION OF ELDERS

Introduced By: Senators Coyne, Ruggerio, Lynch Prata, Goodwin, and McCaffrey

Date Introduced: January 21, 2020

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 11-68-1 of the General Laws in Chapter 11-68 entitled  
2 "Exploitation of Elders" is hereby amended to read as follows:

3 **11-68-1. Definitions.**

4 As used in this chapter:

5 (1) "Business relationship" means a relationship between two (2) or more individuals or  
6 entities where there exists an oral or written contract or agreement for goods or services.

7 (2) "Caregiver" means a person who has been entrusted with or has assumed  
8 responsibility for the care or the property of an elder person. Caregiver includes, but is not limited  
9 to, relatives, court-appointed or voluntary guardians, adult household members, neighbors, health  
10 care providers, and employees and volunteers of elder care facilities.

11 (3) "Deception" means misrepresenting or concealing a material fact relating to:

12 (i) Services rendered, disposition of property, or use of property, when such services or  
13 property are intended to benefit an elder person; or

14 (ii) Terms of a contract or agreement entered into with an elder person; or

15 (iii) An existing or preexisting condition of any property involved in a contract or  
16 agreement entered into with an elder person; or

17 (iv) Using any misrepresentation, false pretense, or false promise in order to induce,  
18 encourage or solicit an elder person to enter into a contract or agreement.

19 (4) "Elder person" means a person ~~sixty-five (65)~~ sixty (60) years of age or older.

1           (5) "Intimidation" means the communication by word or act to an elder person that the  
2 elder person will be deprived of food, nutrition, clothing, shelter, supervision, medicine, medical  
3 services, money, or financial support or will suffer physical violence.

4           (6) "Lacks capacity to consent" means an impairment by reason of mental illness,  
5 developmental disability, organic brain disorder, physical illness or disability, short-term memory  
6 loss, or other cause, that causes an elder person to lack sufficient understanding or capacity to  
7 make or communicate reasonable decisions concerning the elder person's person or property.

8           (7) "Position of trust and confidence" with respect to an elder person means the position  
9 of a person who:

- 10           (i) Is a spouse, adult child, or other relative by blood or marriage of the elder person;
- 11           (ii) Is a joint tenant or tenant in common with the elder person;
- 12           (iii) Has a legal or fiduciary relationship with the elder person including, but not limited  
13 to, a court-appointed or voluntary guardian, trustee, attorney, or conservator;
- 14           (iv) Is the caregiver of the elder person; or
- 15           (v) Is any other person who has been entrusted with or has assumed responsibility for the  
16 use or management of the elder person's funds, assets, or property.

17           SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

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1           This act would change the definition of "elder person" for purposes of exploitation of  
2 elders from a person sixty-five (65) years of age or older to a person sixty (60) years of age or  
3 older.

4           This act would take effect upon passage.

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