

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

**SESSION LAW 2005-272
HOUSE BILL 1466**

AN ACT TO AMEND THE OFFENSE OF EXPLOITATION OF AN ELDER ADULT
OR DISABLED ADULT AND TO INCREASE THE PENALTY FOR THAT
OFFENSE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-32.3(c) is repealed.

SECTION 2. Article 19 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-112.2. Exploitation of an elder adult or disabled adult.

(a) The following definitions apply in this section:

- (1) Disabled adult. – A person 18 years of age or older or a lawfully emancipated minor who is present in the State of North Carolina and who is physically or mentally incapacitated as defined in G.S. 108A-101(d).
- (2) Elder adult. – A person 60 years of age or older who is not able to provide for the social, medical, psychiatric, psychological, financial, or legal services necessary to safeguard the person's rights and resources and to maintain the person's physical and mental well-being.

(b) It is unlawful for a person: (i) who stands in a position of trust and confidence with an elder adult or disabled adult, or (ii) who has a business relationship with an elder adult or disabled adult to knowingly, by deception or intimidation, obtain or use, or endeavor to obtain or use, an elder adult's or disabled adult's funds, assets, or property with the intent to temporarily or permanently deprive the elder adult or disabled adult of the use, benefit, or possession of the funds, assets, or property, or to benefit someone other than the elder adult or disabled adult.

(c) It is unlawful for a person, who knows or reasonably should know that an elder adult or disabled adult lacks the capacity to consent, to obtain or use, endeavor to obtain or use, or conspire with another to obtain or use an elder adult's or disabled adult's funds, assets, or property with the intent to temporarily or permanently deprive the elder adult or disabled adult of the use, benefit, or possession of the funds, assets, or property, or benefit someone other than the elder adult or disabled adult. This subsection shall not apply to a person acting within the scope of their lawful authority as the agent for the elder adult or disabled adult.

(d) A violation of subsection (b) of this section is punishable as follows:

- (1) If the funds, assets, or property involved in the exploitation of the elderly person or disabled adult is valued at one hundred thousand dollars (\$100,000) or more, then the offense is a Class F felony.
 - (2) If the funds, assets, or property involved in the exploitation of the elderly person or disabled adult is valued at twenty thousand dollars (\$20,000) or more but less than one hundred thousand dollars (\$100,000), then the offense is a Class G felony.
 - (3) If the funds, assets, or property involved in the exploitation of the elderly person or disabled adult is valued at less than twenty thousand dollars (\$20,000), then the offense is a Class H felony.
- (e) A violation of subsection (c) of this section is punishable as follows:
- (1) If the funds, assets, or property involved in the exploitation of the elderly person or disabled adult is valued at one hundred thousand dollars (\$100,000) or more, then the offense is a Class G felony.
 - (2) If the funds, assets, or property involved in the exploitation of the elderly person or disabled adult is valued at twenty thousand dollars (\$20,000) or more but less than one hundred thousand dollars (\$100,000), then the offense is a Class H felony.
 - (3) If the funds, assets, or property involved in the exploitation of the elderly person or disabled adult is valued at less than twenty thousand dollars (\$20,000), then the offense is a Class I felony."

SECTION 3. This act becomes effective December 1, 2005, and applies to offenses committed on or after that date. Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions.

In the General Assembly read three times and ratified this the 2nd day of August, 2005.

s/ Beverly E. Perdue
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 6:20 p.m. this 12th day of August, 2005