

## STATE OF MAINE

—  
IN THE YEAR OF OUR LORD  
TWO THOUSAND AND FIFTEEN

—  
S.P. 454 - L.D. 1272

**An Act To Strengthen the Protections for Senior Citizens in the State**

**Emergency preamble.** Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** this legislation needs to take effect before the expiration of the 90-day period in order for the protections it provides for senior citizens to be in place as soon as possible; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 17-A MRSA §555, sub-§1,** as repealed and replaced by PL 2005, c. 431, §1, is amended to read:

1. A person is guilty of endangering the welfare of a dependent person if:
  - A. The person recklessly endangers the health, safety or mental welfare of a dependent person ~~who is unable to perform self care because of advanced age or physical or mental disease, disorder or defect.~~ Violation of this paragraph is a Class D crime; or
  - B. The person intentionally or knowingly endangers the health, safety or mental welfare of a dependent person ~~who is unable to perform self care because of advanced age or physical or mental disease, disorder or defect.~~ Violation of this paragraph is a Class C crime.

**Sec. 2. 17-A MRSA §555, sub-§2,** as repealed and replaced by PL 2005, c. 431, §1, is repealed and the following enacted in its place:

**2. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Endanger" includes a failure to act only when the defendant has a legal duty to protect the health, safety or mental welfare of the dependent person. For purposes of this paragraph, a legal duty may be inferred if the defendant has assumed responsibility in whole or in part for the care of the dependent person.

B. "Dependent person" means a person, regardless of where that person resides, who is wholly or partially dependent upon one or more other persons for care or support because the person suffers from a significant limitation in mobility, vision, hearing or mental functioning or is unable to perform self-care because of advanced age or physical or mental disease, disorder or defect.

**Sec. 3. 17-A MRSA §1151, sub-§8, ¶A**, as enacted by PL 1995, c. 149, §1, is amended to read:

A. The age of the victim, particularly of a victim of an advanced age or of a young age who has a reduced ability to self-protect or who suffers more significant harm due to age; and

**Sec. 4. 22 MRSA §3472, sub-§1**, as amended by PL 2003, c. 653, §2, is further amended to read:

**1. Abuse.** "Abuse" means the infliction of injury, unreasonable confinement, intimidation or cruel punishment that causes or is likely to cause physical harm or pain or mental anguish; sexual abuse or sexual exploitation; financial exploitation; or the intentional, knowing or reckless deprivation of essential needs. "Abuse" includes acts and omissions.

**Sec. 5. 22 MRSA §3472, sub-§9-A** is enacted to read:

**9-A. Financial exploitation.** "Financial exploitation" means the use of deception, intimidation, undue influence, force or other unlawful means to obtain control over the property of a dependent adult for another's profit or advantage.

**Sec. 6. 22 MRSA §3472, sub-§16** is enacted to read:

**16. Undue influence.** "Undue influence" means the misuse of real or apparent authority or the use of manipulation by a person in a trusting, confidential or fiduciary relationship with a person who is a dependent adult or an incapacitated adult.

**Sec. 7. Funding.** The Attorney General may accept any funds available to fund on a limited-period basis positions within the Department of the Attorney General to investigate and prosecute the financial exploitation of dependent adults in accordance with this Act.

**Emergency clause.** In view of the emergency cited in the preamble, this legislation takes effect when approved.