

HOUSE BILL 33

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(PRE-FILED)

olr0614
CF olr1494

By: **Delegates Guyton, Healey, C. Watson, Brooks, Bagnall, Feldmark,
Palakovich Carr, and Bartlett**

Requested: September 4, 2019

Introduced and read first time: January 8, 2020

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Abuse or Neglect of a Vulnerable Adult – Causing Severe**
3 **Emotional Distress**

4 FOR the purpose of prohibiting a certain person from causing abuse or neglect of a
5 vulnerable adult that causes severe emotional distress to the vulnerable adult;
6 altering the definition of “abuse” of a vulnerable adult; and generally relating to the
7 abuse or neglect of vulnerable adults.

8 BY repealing and reenacting, with amendments,

9 Article – Criminal Law

10 Section 3-604

11 Annotated Code of Maryland

12 (2012 Replacement Volume and 2019 Supplement)

13 BY repealing and reenacting, without amendments,

14 Article – Criminal Law

15 Section 3-605

16 Annotated Code of Maryland

17 (2012 Replacement Volume and 2019 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
19 That the Laws of Maryland read as follows:

20 **Article – Criminal Law**

21 3-604.

22 (a) (1) In this section and §§ 3-605 and 3-606 of this subtitle the following
23 words have the meanings indicated.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.

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1 (2) (i) "Abuse" means the sustaining of:

2 1. physical pain or injury by a vulnerable adult as a result of
3 cruel or inhumane treatment or as a result of a malicious act under circumstances that
4 indicate that the vulnerable adult's health or welfare is harmed or threatened; OR

5 2. ~~SEVERE EMOTIONAL DISTRESS RESULTING FROM A~~
6 ~~COURSE OF CONDUCT BY ANOTHER. THE INTENTIONAL AND MALICIOUS~~
7 ~~INFLECTION OF SEVERE EMOTIONAL DISTRESS BY USE OF ACTUAL OR~~
8 ~~THREATENED HARM, HARASSMENT, INTIMIDATION, HUMILIATION,~~
9 ~~ISOLATION, OR OTHER MEANS THAT PROFOUNDLY CONFUSE OR FRIGHTEN~~
10 ~~A VULNERABLE ADULT.~~

7 (ii) "Abuse" includes:

8 1. the sexual abuse of a vulnerable adult;

9 2. ~~DECEPTIVE OR MISLEADING STATEMENTS MADE WITH~~
10 ~~A MALICIOUS INTENT TO AGITATE OR HARM THE VULNERABLE ADULT;~~

11 3. ~~THE DESTRUCTION OF OR HARM TO AN ANIMAL~~
12 ~~OWNED BY THE VULNERABLE ADULT; AND~~

13 4. ~~THE MALICIOUS DISTRIBUTION, DISPLAY, OR~~
14 ~~TRANSMISSION OF INFORMATION IDENTIFYING AND ABOUT THE VULNERABLE~~
15 ~~ADULT USING SOCIAL MEDIA IF THE DISTRIBUTION, DISPLAY, OR TRANSMISSION IS~~
16 ~~MADE WITHOUT THE VULNERABLE ADULT'S PERMISSION.~~

17 (iii) "Abuse" does not include an accepted medical or behavioral
18 procedure ordered by a health care provider authorized to practice under the Health
19 Occupations Article or § 13-516 of the Education Article acting within the scope of the
20 health care provider's practice.

21 (3) "Caregiver" means a person under a duty to care for a vulnerable adult
22 because of a contractual undertaking to provide care.

23 (4) "Family member" means a relative of a vulnerable adult by blood,
24 marriage, adoption, or the marriage of a child.

25 (5) "Household" means the location:

26 (i) in which the vulnerable adult resides;

27 (ii) where the abuse or neglect of a vulnerable adult is alleged to
28 have taken place; or

29
30 adult resides.

(iii) where the person suspected of abusing or neglecting a vulnerable

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1 (6) "Household member" means an individual who lives with or is a regular
2 presence in a home of a vulnerable adult at the time of the alleged abuse or neglect.

3 (7) (i) "Neglect" means the intentional failure to provide necessary
4 assistance and resources for the physical needs of a vulnerable adult, including:

- 5 1. food;
- 6 2. clothing;
- 7 3. toileting;
- 8 4. essential medical treatment;
- 9 5. shelter; or
- 10 6. supervision.

11 (ii) "Neglect" does not include the provision of nonmedical remedial
12 care and treatment for the healing of injury or disease that is:

- 13 1. given with the consent of the vulnerable adult; and
- 14 2. recognized by State law in place of medical treatment.

15 (8) "Serious physical injury" means physical injury that:

16 (i) creates a substantial risk of death; or

17 (ii) causes permanent or protracted serious:

- 18 1. disfigurement;
- 19 2. loss of the function of any bodily member or organ; or
- 20 3. impairment of the function of any bodily member or organ.

21 (9) (i) "Sexual abuse" means an act that involves sexual molestation or
22 exploitation of a vulnerable adult.

23 (ii) "Sexual abuse" includes:

- 24 1. incest;
- 25 2. rape;

- 3. sexual offense in any degree;
- 4. sodomy; and
- 5. unnatural or perverted sexual practices.

(10) "Vulnerable adult" means an adult who lacks the physical or mental capacity to provide for the adult's daily needs.

(b) (1) A caregiver, a parent, or other person who has permanent or temporary care or responsibility for the supervision of a vulnerable adult may not cause abuse or neglect of the vulnerable adult that:

- (i) results in the death of the vulnerable adult;
- (ii) causes serious physical injury **OR SEVERE EMOTIONAL DISTRESS** to the vulnerable adult; or
- (iii) involves sexual abuse of the vulnerable adult.

(2) A household member or family member may not cause abuse or neglect of a vulnerable adult that:

- (i) results in the death of the vulnerable adult;
- (ii) causes serious physical injury **OR SEVERE EMOTIONAL DISTRESS** to the vulnerable adult; or
- (iii) involves sexual abuse of the vulnerable adult.

(c) A person who violates this section is guilty of the felony of abuse or neglect of a vulnerable adult in the first degree and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding \$10,000 or both.

(d) A sentence imposed under this section shall be in addition to any other sentence imposed for a conviction arising from the same facts and circumstances unless the evidence required to prove each crime is substantially identical.

3-605.

(a) This section does not apply to abuse that involves sexual abuse of a vulnerable adult.

(b) (1) A caregiver, a parent, or other person who has permanent or temporary care or responsibility for the supervision of a vulnerable adult may not cause abuse or neglect of the vulnerable adult.

1 (2) A household member or family member may not cause abuse or neglect
2 of a vulnerable adult.

3 (c) A person who violates this section is guilty of the misdemeanor of abuse or
4 neglect of a vulnerable adult in the second degree and on conviction is subject to
5 imprisonment not exceeding 5 years or a fine not exceeding \$5,000 or both.

6 (d) A sentence imposed under this section shall be in addition to any other
7 sentence imposed for a conviction arising from the same facts and circumstances unless the
8 evidence required to prove each crime is substantially identical.

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 October 1, 2020.