

House \_\_\_\_\_ Amendment NO. \_\_\_\_\_

Offered By

1 AMEND House Bill No. 1736, Page 11, Section 409.6-604, Line 60, by inserting after all of said  
2 section and line the following:

3  
4 "565.184. 1. A person commits the offense of abuse of an elderly person, a person with a  
5 disability, or a vulnerable person if he or she:

6 (1) Purposely engages in conduct involving more than one incident that causes emotional  
7 distress to an elderly person, a person with a disability, or a vulnerable person. The course of  
8 conduct shall be such as would cause a reasonable elderly person, person with a disability, or  
9 vulnerable person to suffer substantial emotional distress; or

10 (2) Intentionally fails to provide care, goods or services to an elderly person, a person with a  
11 disability, or a vulnerable person. The result of the conduct shall be such as would cause a  
12 reasonable elderly person, person with a disability, or vulnerable person to suffer physical or  
13 emotional distress; or

14 (3) ~~Knowingly~~ Intentionally acts or ~~knowingly~~ intentionally fails to act in a manner  
15 which results in a substantial risk of serious harm to the life, body or health of an elderly person, a  
16 person with a disability, or a vulnerable person.

17 2. The offense of abuse of an elderly person, a person with a disability, or a vulnerable  
18 person is a class ~~A misdemeanor~~ E felony. Nothing in this section shall be construed to mean that  
19 an elderly person, a person with a disability, or a vulnerable person is abused solely because such  
20 person chooses to rely on spiritual means through prayer, in lieu of medical care, for his or her  
21 health care, as evidence by such person's explicit consent, advance directive for health care, or  
22 practice.

23 570.145. 1. A person commits the offense of financial exploitation of an elderly person or a  
24 person with a disability if such person knowingly obtains control over the property of the elderly  
25 person or person with a disability with the intent to permanently deprive the person of the use,  
26 benefit or possession of his or her property thereby benefitting the offender or detrimentally  
27 affecting the elderly person or person with a disability by:

28 (1) Deceit;

29 (2) Coercion;

30 (3) Creating or confirming another person's impression which is false and which the  
31 offender does not believe to be true;

32 (4) Failing to correct a false impression which the offender previously has created or  
33 confirmed;

34 (5) Preventing another person from acquiring information pertinent to the disposition of the  
35 property involved;

36 (6) Selling or otherwise transferring or encumbering property, failing to disclose a lien,

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1 adverse claim or other legal impediment to the enjoyment of the property, whether such impediment  
2 is or is not valid, or is or is not a matter of official record;

3 (7) Promising performance which the offender does not intend to perform or knows will not  
4 be performed. Failure to perform standing alone is not sufficient evidence to prove that the offender  
5 did not intend to perform; or

6 (8) Undue influence, which means the use of influence by someone who exercises authority  
7 over an elderly person or person with a disability in order to take unfair advantage of that person's  
8 vulnerable state of mind, neediness, pain, or agony. Undue influence includes, but is not limited to,  
9 the improper or fraudulent use of a power of attorney, guardianship, conservatorship, or other  
10 fiduciary authority.

11 2. The offense of financial exploitation of an elderly person or person with a disability is a  
12 class ~~[A misdemeanor]~~ E felony unless:

13 (1) ~~[The value of the property is fifty dollars or more, in which case it is a class E felony;~~

14 ~~—(2)]~~ The value of the property is ~~[seven hundred fifty]~~ five hundred dollars or more, in  
15 which case it is a class D felony;

16 ~~[(3)]~~ (2) The value of the property is ~~[five]~~ two thousand five hundred dollars or more, in  
17 which case it is a class C felony;

18 ~~[(4)]~~ (3) The value of the property is twenty-five thousand dollars or more, in which case it  
19 is a class B felony; or

20 ~~[(5)]~~ (4) The value of the property is seventy-five thousand dollars or more, in which case it  
21 is a class A felony.

22 3. Nothing in this section shall be construed to limit the remedies available to the victim  
23 pursuant to any state law relating to domestic violence.

24 4. Nothing in this section shall be construed to impose criminal liability on a person who has  
25 made a good faith effort to assist the elderly person or person with a disability in the management of  
26 his or her property, but through no fault of his or her own has been unable to provide such  
27 assistance.

28 5. Nothing in this section shall limit the ability to engage in bona fide estate planning, to  
29 transfer property and to otherwise seek to reduce estate and inheritance taxes; provided that such  
30 actions do not adversely impact the standard of living to which the elderly person or person with a  
31 disability has become accustomed at the time of such actions.

32 6. It shall not be a defense to financial exploitation of an elderly person or person with a  
33 disability that the accused reasonably believed that the victim was not an elderly person or person  
34 with a disability.

35 7. (1) It shall be unlawful in violation of this section for any person receiving or in the  
36 possession of funds of a Medicaid-eligible elderly person or person with a disability residing in a  
37 facility licensed under chapter 198 to fail to remit to the facility in which the Medicaid-eligible  
38 person resides all money owing the facility resident from any source, including, but not limited to,  
39 Social Security, railroad retirement, or payments from any other source disclosed as resident income  
40 contained in the records of the department of social services, family support division or its  
41 successor. The department of social services, family support division or its successor is authorized  
42 to release information from its records containing the resident's income or assets to any prosecuting  
43 or circuit attorney in the state of Missouri for purposes of investigating or prosecuting any suspected  
44 violation of this section.

45 (2) The prosecuting or circuit attorney of any county containing a facility licensed under  
46 chapter 198, who successfully prosecutes a violation of the provisions of this subsection, may  
47 request the circuit court of the county in which the offender admits to or is found guilty of a  
48 violation, as a condition of sentence and/or probation, to order restitution of all amounts unlawfully  
49 withheld from a facility in his or her county. Any order of restitution entered by the court or by

1 agreement shall provide that ten percent of any restitution installment or payment paid by or on  
2 behalf of the defendant or defendants shall be paid to the prosecuting or circuit attorney of the  
3 county successfully prosecuting the violation to compensate for the cost of prosecution with the  
4 remaining amount to be paid to the facility."; and

5  
6 Further amend said bill by amending the title, enacting clause, and intersectional references  
7 accordingly.