

HOUSE No. 1744

The Commonwealth of Massachusetts

PRESENTED BY:

Kate Lipper-Garabedian

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to protect property of elder or disabled persons.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Kate Lipper-Garabedian</i>	<i>32nd Middlesex</i>	<i>1/29/2021</i>
<i>Marian T. Ryan (Middlesex County District Attorney)</i>	<i>15 Commonwealth Ave, Woburn, MA</i>	<i>1/29/2021</i>
<i>Timothy R. Whelan</i>	<i>1st Barnstable</i>	<i>2/24/2021</i>

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By Mrs. Lipper-Garabedian of Melrose, a petition (accompanied by bill, House, No. 1744) of Kate Lipper-Garabedian, Marian T. Ryan (Middlesex County District Attorney) and Timothy R. Whelan relative to the penalties for property crimes against elderly or disabled persons. The Judiciary.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act to protect property of elder or disabled persons.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1: Chapter 266, Section 30 as appearing in the Official 2016 edition of the
2 General Laws is amended by adding subsection (6), as follows:

3 (6) Whoever, without consent of the owner, obtains possession or control over the
4 property of another, sixty years of age or older, or of a person with a disability as defined in
5 section thirteen K of chapter two hundred and sixty-five, if the value of such property exceeds
6 one thousand dollars, shall be guilty of unlawful possession of property, and shall be punished by
7 imprisonment in the state prison for not more than five years or in the house of correction for not
8 more than two and one-half years, or by a fine of not more than twenty-five thousand dollars or
9 by both such fine and imprisonment; if the property is an interest in real estate, whoever is guilty
10 of unlawful possession of property shall be punished by imprisonment in the state prison for not
11 more than ten years or in the house of correction for not more than two and one-half years, or by
12 a fine of not more than fifty thousand dollars or by both such fine and imprisonment, and shall

13 restore or forfeit such interest in real estate to the owner. The court may order, regardless of the
14 value of the property, restitution to be paid to the victim commensurate with the value of the
15 property. If there is a caretaker for the person who is the owner, the consent of the owner shall
16 not be deemed voluntary and lawful to convey the property unless witnessed in writing by the
17 caretaker. A caretaker may not witness the consent of the owner if the caretaker intends to
18 receive or does receive any interest in the property conveyed or any other benefit as witness.
19 Lack of knowledge that a person has a caretaker shall not be a defense to prosecution under this
20 section.

21 For the purposes of this section, “caretaker” is defined as a person with
22 responsibility for the care of an elder or person with a disability, which responsibility may arise
23 as the result of a family relationship, by a fiduciary duty imposed by law, or by a voluntary or
24 contractual duty undertaken on behalf of such elder or person with a disability.

25 Where circumstances give rise to a reasonable doubt as to whether the person who
26 is the owner is competent to enter into such a property transfer, the other party to the transfer
27 must make reasonable inquiry as to whether the owner has a caretaker as defined above.