

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Justin Thurber

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 relative to the prevention of financial exploitation of the elderly.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Justin Thurber</i>	<i>5th Bristol</i>	<i>7/1/2026</i>

HOUSE No.

[Pin Slip]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Fourth General Court
(2025-2026)**

An Act relative to the prevention of financial exploitation of the elderly.

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.

2 Section 14 of Chapter 19A of the General Laws, as appearing in the 2024 Official
3 Edition, is hereby amended by striking out, in lines 26 through 38, the definition of “Financial
4 Exploitation” and inserting in place thereof the following:-

5 “Financial exploitation: an act, omission, or breach of fiduciary duty by another person,
6 which causes a substantial monetary or property loss to an older adult, or causes a substantial
7 monetary or property gain to the other person, which gain would otherwise benefit the older
8 adult but for the act or omission of such other person; provided, however, that such an act,
9 breach, or omission shall not be construed as financial exploitation if the older adult has
10 knowingly consented to such act, breach, or omission, unless such consent is a consequence of
11 misrepresentation, intimidation, undue influence, coercion or threat of force by such other
12 person; and, provided further, that financial exploitation shall not be construed to interfere with

13 or prohibit a bona fide gift by an older adult or to apply to any act or practice in the conduct of
14 any trade or commerce declared unlawful by section two of chapter ninety-three A.”

15 And inserting in the same section the following definitions:-

16 "Intimidation", a threat of physical or emotional harm to an older adult, or the
17 communication to an older adult that they will be deprived of food and nutrition, shelter,
18 prescribed medication, or medical care and treatment.

19 "Undue influence", use of influence by 1 person or entity over an older adult in order to
20 take unfair advantage of that person's vulnerable state of mind, neediness, pain, or agony. Undue
21 influence includes, but is not limited to, the improper or fraudulent use of a power of attorney,
22 guardianship, conservatorship, or other fiduciary authority.

23 “Deception”, a misrepresentation or concealment of material fact relating to the terms of
24 a contract or agreement entered into with the older adult or to the existing or preexisting
25 condition of any of the property involved in such contract or agreement, or the use or
26 employment of any misrepresentation, false pretense or false promise in order to induce,
27 encourage or solicit the older adult to enter into a contract or agreement. Deception includes:

28 (i) Creating or confirming another person's impression which is false and which the
29 offender does not believe to be true;

30 (ii) Failure to correct a false impression which the offender previously has created or
31 confirmed;

32 (iii) Preventing another person from acquiring information pertinent to the disposition of
33 the property involved;

34 (iv) Selling or otherwise transferring or encumbering property, failing to disclose a lien,
35 adverse claim or other legal impediment to the enjoyment of the property, whether such
36 impediment is or is not valid, or is or is not a matter of official record; and

37 (v) Promising performance which the offender does not intend to perform or knows will
38 not be performed. Failure to perform standing alone is not sufficient evidence to prove that the
39 offender did not intend to perform;

40 SECTION 2.

41 Chapter 266 of the General Laws, as appearing in the 2024 Official Edition, is hereby
42 amended by inserting after section 25 the following section:

43 Section 25A.

44 (a) For purposes of this section, the following terms shall have the following meanings:-

45 “Financial exploitation,” as defined in Section 14 of Chapter 19A.

46 “Older adult,” as defined in Section 14 of Chapter 19A.

47 (b) Whoever, after having been convicted of financial exploitation of an older adult
48 commits a first such crime, shall be punished by a punishment commensurate with the level of
49 severity of the crime as determined by the court.

50 (c) Whoever, after having been convicted of said crime commits a second or subsequent
51 such crime, shall be punished by imprisonment. The provisions of section 87 of chapter 276
52 relating to the power of the court to place certain offenders on probation may apply to any person
53 18 years of age or over charged with a violation of this subsection.

54 (d) If a person is charged with financial exploitation of an older adult that involves the
55 taking or loss of property valued at more than \$2,500, a prosecuting attorney may file a petition
56 with the court of the county in which the defendant has been charged to freeze the assets of the
57 defendant in an amount equal to but not greater than the alleged value of lost or stolen property
58 in the defendant's pending criminal proceeding for purposes of restitution to the victim. The
59 burden of proof required to freeze the defendant's assets shall be by a preponderance of the
60 evidence.

61 (c) Nothing in this section shall be construed to limit the remedies available to the victim
62 pursuant to any state law relating to domestic violence.

63 (d) Nothing in this section shall be construed to impose criminal liability on a person
64 who has made a good faith effort to assist the older adult in the management of his or her
65 property, but through no fault of his or her own has been unable to provide such assistance.

66 (e) Nothing in this section shall limit the ability to engage in bona fide estate planning, to
67 transfer property and to otherwise seek to reduce estate and inheritance taxes; provided that such
68 actions do not adversely impact the standard of living to which the older adult has become
69 accustomed at the time of such actions.

70 (f) It shall not be a defense to financial exploitation of an older adult that the accused
71 reasonably believed that the victim was not an older adult.

72 (g) (1) It shall be unlawful in violation of this section for any person receiving or in the
73 possession of funds of a Medicaid-eligible older adult residing in a Commonwealth licensed
74 facility who intentionally fail to remit to the facility in which the Medicaid-eligible person
75 resides all money owing the facility resident from any source, including, but not limited to,

76 Social Security, railroad retirement, or payments from any other source disclosed as resident
77 income contained in the records of the department of social services, family support division or
78 its successor. The appropriate state agency, family support division or its successor is authorized
79 to release information from its records containing the resident's income or assets to any
80 prosecuting or circuit attorney in the commonwealth for purposes of investigating or prosecuting
81 any suspected violation of this section.

82 (2) The prosecuting attorney of any county containing a commonwealth licensed facility,
83 who successfully prosecutes a violation of the provisions of this subsection, may request the
84 court of the county in which the offender admits to or is found guilty of a violation, as a
85 condition of sentence or probation, to order restitution of all amounts unlawfully withheld from a
86 facility in his or her county. Any order of restitution entered by the court or by agreement shall
87 provide that 10 per cent of any restitution installment or payment paid by or on behalf of the
88 defendant or defendants shall be paid to the prosecuting or circuit attorney of the county
89 successfully prosecuting the violation to compensate for the cost of prosecution with the
90 remaining amount to be paid to the facility. If the defendant committed financial exploitation as a
91 result of supporting a substance abuse addiction, when appropriate the preferred sentence shall
92 include treatment for the substance abuse addiction and restitution for the first offense.

93 (h) Civil Liability. A person who is charged by information or indictment with the
94 offense of financial exploitation of an older adult or person with a disability and who fails or
95 refuses to return the victim's property within 60 days following a written demand from the victim
96 or the victim's legal representative shall be liable to the victim or to the estate of the victim in
97 damages of treble the amount of the value of the property obtained, plus reasonable attorney fees
98 and court costs. The burden of proof that the defendant unlawfully obtained the victim's property

99 shall be by a preponderance of the evidence. This subsection shall be operative whether or not
100 the defendant has been convicted of the offense.