

## HB60 INTRODUCED



1      HB60  
2      L4HXAWW-1  
3      By Representative Colvin  
4      RFD: Children and Senior Advocacy  
5      First Read: 06-Feb-24  
6      PFD: 30-Jan-24



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## 4 SYNOPSIS:

5                   Under existing law, the abuse, neglect, and  
6 financial exploitation of an elderly person is  
7 prohibited.

8                   Also under existing law, financial services  
9 providers are authorized to refuse or delay execution  
10 of a financial transaction if the provider has  
11 reasonable cause to suspect that financial exploitation  
12 of an elderly or vulnerable adult has occurred.

13                  This bill would create the Alabama Adults with  
14 Disabilities Protection Act to prohibit certain  
15 intentional and reckless abuse, neglect, and financial  
16 exploitation of adults with disabilities.

17                  This bill would create the crimes of abuse and  
18 neglect of an adult with a disability in the first,  
19 second, and third degrees and provides criminal  
20 penalties.

21                  This bill would create the crimes of financial  
22 exploitation of an adult with a disability in the  
23 first, second, and third degrees, and provides criminal  
24 penalties.

25                  This bill would require prosecutions of abuse  
26 and neglect of an adult with a disability and financial  
27 exploitation of an adult with a disability to be  
28 commenced within seven years of the offense.

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29                   This bill would also provide civil immunity for  
30                   any individual or entity investigating any report of  
31                   abuse, neglect, or financial exploitation of an adult  
32                   with a disability.

33                   Section 111.05 of the Constitution of Alabama of  
34                   2022, prohibits a general law whose purpose or effect  
35                   would be to require a new or increased expenditure of  
36                   local funds from becoming effective with regard to a  
37                   local governmental entity without enactment by a 2/3  
38                   vote unless: it comes within one of a number of  
39                   specified exceptions; it is approved by the affected  
40                   entity; or the Legislature appropriates funds, or  
41                   provides a local source of revenue, to the entity for  
42                   the purpose.

43                   The purpose or effect of this bill would be to  
44                   require a new or increased expenditure of local funds  
45                   within the meaning of the amendment. However, the bill  
46                   does not require approval of a local governmental  
47                   entity or enactment by a 2/3 vote to become effective  
48                   because it comes within one of the specified exceptions  
49                   contained in the amendment.

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52                   A BILL

53                   TO BE ENTITLED

54                   AN ACT

55  
56                   Relating to the abuse of adults with disabilities; to

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57 add Article 13 to Chapter 6 of Title 13A, Code of Alabama  
58 1975; to create the Alabama Adults with Disabilities  
59 Protection Act; to create the crimes of abuse and neglect of  
60 an adult with a disability in the first, second, and third  
61 degrees and financial exploitation of an adult with a  
62 disability in the first, second, and third degrees; to provide  
63 criminal penalties; to establish a statute of limitation; to  
64 provide civil immunity in certain circumstances; and in  
65 connection therewith would have as its purpose or effect the  
66 requirement of a new or increased expenditure of local funds  
67 within the meaning of Section 111.05 of the Constitution of  
68 Alabama of 2022.

69 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

70           Section 1. Article 13, commencing with Section  
71 13A-6-280, is added to Chapter 6 of Title 13A, Code of Alabama  
72 1975, to read as follows:

73           Article 13

74           §13A-6-280

75           This article shall be known as and may be cited as the  
76 Alabama Adults with Disabilities Protection Act.

77           §13A-6-281

78           For the purposes of this article, the following terms  
79 have the following meanings:

80           (1) ADULT WITH A DISABILITY. An individual 19 years of  
81 age or older who has physical or mental impairment that  
82 substantially limits one or more major life activities.

83           (2) CAREGIVER. An individual who has the responsibility  
84 for the care of an adult with a disability as a result of a

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85 family relationship or who has assumed the responsibility for  
86 the care of the individual voluntarily, for pecuniary gain, by  
87 contract, or as a result of the ties of friendship.

88 (3) FINANCIAL EXPLOITATION. The use of deception,  
89 intimidation, undue influence, force, or threat of force to  
90 obtain or exert unauthorized control over the property of an  
91 adult with a disability with the intent to deprive the adult  
92 with a disability of his or her property or the breach of a  
93 fiduciary duty to an adult with a disability by his or her  
94 guardian, conservator, supporter, or agent under a power of  
95 attorney which results in an unauthorized appropriation, sale,  
96 or transfer of the property of the adult with a disability.

97 (4) INTIMIDATION. A threat of physical or emotional  
98 harm to an adult with a disability, or the communication to an  
99 adult with a disability that he or she will be deprived of  
100 food and nutrition, shelter, property, prescribed medication,  
101 or medical care or treatment.

102 (5) NEGLECT. The failure of a caregiver to provide  
103 food, shelter, clothing, medical services, medication, or  
104 health care for an adult with a disability.

105 (6) PERSON. A human being.

106 (7) UNDUE INFLUENCE. Domination, coercion,  
107 manipulation, or any other act exercised by another person to  
108 the extent that an adult with a disability is prevented from  
109 exercising free judgment and choice.

110 §13A-6-282

111 (a) A person commits the crime of abuse and neglect of  
112 an adult with a disability in the first degree if he or she

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113 intentionally abuses or neglects any adult with a disability  
114 and the abuse or neglect causes serious physical injury to the  
115 adult with a disability.

116 (b) Abuse and neglect of an adult with a disability in  
117 the first degree is a Class A felony.

118 §13A-6-283

119 (a) A person commits the crime of abuse and neglect of  
120 an adult with a disability in the second degree if he or she  
121 does any of the following:

122 (1) Intentionally abuses or neglects any adult with a  
123 disability and the abuse or neglect causes physical injury to  
124 the adult with a disability.

125 (2) Recklessly abuses or neglects any adult with a  
126 disability and the abuse or neglect causes serious injury to  
127 the adult with a disability.

128 (3) Recklessly abuses or neglects any adult with a  
129 disability having been previously convicted of abuse and  
130 neglect of an adult with a disability in the third degree in  
131 any court.

132 (b) Abuse and neglect of an adult with a disability in  
133 the second degree is a Class B felony.

134 §13A-6-284

135 (a) A person commits the crime of abuse and neglect of  
136 an adult with a disability in the third degree if he or she  
137 recklessly abuses or neglects any adult with a disability and  
138 the abuse or neglect causes physical injury.

139 (b) Abuse and neglect of an adult with a disability in  
140 the third degree is a Class A misdemeanor.

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141                   \$13A-6-285

142                   (a) The financial exploitation of an adult with a  
143                   disability in which the value of the property taken exceeds  
144                   two thousand five hundred dollars (\$2,500) constitutes  
145                   financial exploitation of an adult with a disability in the  
146                   first degree.

147                   (b) Financial exploitation of an adult with a  
148                   disability in the first degree is a Class B felony.

149                   \$13A-6-286

150                   (a) The financial exploitation of an adult with a  
151                   disability in which the value of the property taken exceeds  
152                   five hundred dollars (\$500) but does not exceed two thousand  
153                   five hundred dollars (\$2,500) constitutes financial  
154                   exploitation of an adult with a disability in the second  
155                   degree.

156                   (b) Financial exploitation of an adult with a  
157                   disability in the second degree is a Class C felony.

158                   \$13A-6-287

159                   (a) The financial exploitation of an adult with a  
160                   disability in which the value of the property taken does not  
161                   exceed five hundred dollars (\$500) constitutes financial  
162                   exploitation of an adult with a disability in the third  
163                   degree.

164                   (b) Financial exploitation of an adult with a  
165                   disability in the third degree is a Class A misdemeanor.

166                   \$13A-6-288

167                   (a) In any prosecution brought for financial  
168                   exploitation of an adult with a disability, the crime shall be



169 considered to be committed in any county in which any party of  
170 the crime took place, regardless of whether the defendant was  
171 ever actually present in that county, or in the county of  
172 residence of the person who is the subject of the financial  
173 exploitation.

174 (b) Any prosecution brought for financial exploitation  
175 of an adult with a disability shall be commenced within seven  
176 years after the commission of the offense.

177 (c) It shall not be a defense to financial exploitation  
178 of an adult with a disability that the accused reasonably  
179 believed that the victim was not an adult with a disability.

180 §13A-6-289

181 Any person or entity acting pursuant to this article in  
182 reporting or investigating any report of abuse and neglect of  
183 an adult with a disability or financial exploitation of an  
184 adult with a disability, or participating in a judicial  
185 proceeding resulting therefrom, shall be immune from any civil  
186 liability that might otherwise be incurred or imposed as a  
187 result of the report, investigation, or participation, unless  
188 the person or entity acted recklessly, in bad faith, or with  
189 malicious purpose.

190 §13A-6-290

191 Nothing in this article shall be construed to limit the  
192 remedies available to the victims pursuant to any state law  
193 relating to domestic violence, the Adult Protective Services  
194 Act of 1976, or any other applicable law.

195 Section 2. Although this bill would have as its purpose  
196 or effect the requirement of a new or increased expenditure of



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197 local funds, the bill is excluded from further requirements  
198 and application under Section 111.05 of the Constitution of  
199 Alabama of 2022, because the bill defines a new crime or  
200 amends the definition of an existing crime.

201 Section 3. This act shall become effective on October  
202 1, 2024.