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CRIMES AND OFFENSES

Crimes Against the Person: Provide Protection for Elderly Persons and Disabled Adults

CODE SECTIONS: O.C.G.A. §§ 16-5-100 (new), 16-8-12 (amended), 16-9-6, 17-3-2.2 (new), 30-5-4 (amended), -10 (new)

BILL NUMBER: SB 407

ACT NUMBER: 740

GEORGIA LAWS: 2000 Ga. Laws 1085

SUMMARY: The Act provides protection for elderly adults against theft, fraud, and denial of sustenance. The Act provides certain penalties and fines, and it lengthens the statute of limitations for certain crimes committed against elderly persons and disabled adults. The Act also clarifies procedures for reporting abuse, neglect, or exploitation of the elderly. Finally, the Act provides that certain agencies develop training programs about the abuse and exploitation of the elderly.

EFFECTIVE DATE: May 1, 2000¹

History

Senator Greg Hecht of the 34th District was particularly interested in the difficulties experienced by prosecutors when prosecuting crimes committed against elderly victims.² Several organizations, including the Council on Aging, the American Association of Retired Persons, Alzheimer's support groups, and the Prosecuting Attorneys' Council, assisted in crafting this bill.³

1. See 2000 Ga. Laws 1085, §§ 8-9, at 1090. The Act took effect upon the first day of the month following its approval by the Governor. See *id.*

2. See Telephone Interview with Sen. Greg Hecht, Senate District No. 34 (June 5, 2000).

3. See *id.*

SB 407

Senators Greg Hecht, David Scott, and Rene' Kemp of the 34th, 36th, and 3rd Districts, respectively, sponsored SB 407.⁴ It was introduced February 2, 2000, and the Senate referred the bill to the Senate Corrections, Correctional Institutions and Property Committee.⁵ The Committee favorably reported SB 407, as amended, on February 9, 2000.⁶ The Committee amendment removed language that would have included counselors and family therapists in the list of those who were required to report if they have reasonable cause to believe a disabled adult or elderly person has been the victim of a crime, abuse, neglect, or exploitation.⁷ The Senate adopted the Committee amendment and unanimously passed the bill on February 14, 2000.⁸

On February 15, 2000, the House referred SB 407 to its Judiciary Committee.⁹ The House Committee favorably reported the bill, as substituted, on March 7, 2000.¹⁰ The Committee substitute renamed the Act by removing the reference to disabled adults, thus becoming the "Georgia Protection of Elder Persons Act of 2000."¹¹ The House Committee substitute added occupational therapists and licensed professional counselors to the list of those who are required to report abuse or crime.¹² The substitute also inserted "health-related" between "professional" and "services" so that people engaged in "professional health-related services" rather than the broader "professional services" category are required to report.¹³

4. *See* SB 407, as introduced, 2000 Ga. Gen. Assem.

5. *See* State of Georgia Final Composite Status Sheet, Mar. 22, 2000.

6. *See id.*

7. *Compare* SB 407, as introduced, 2000 Ga. Gen. Assem., *with* SB 407 (SCA), 2000 Ga. Gen. Assem.

8. *See* Georgia Senate Voting Record, SB 407 (Feb. 14, 2000).

9. *See* State of Georgia Final Composite Status Sheet, Mar. 22, 2000.

10. *See id.*

11. *Compare* SB 407 (SCA), 2000 Ga. Gen. Assem., *with* SB 407 (HCS), 2000 Ga. Gen. Assem. As introduced in the Senate, SB 407 was entitled the "Georgia Protection of Elder Persons and Disabled Adults Act of 2000." *See* SB 407, as introduced, 2000 Ga. Gen. Assem.

12. *Compare* SB 407 (SCA), 2000 Ga. Gen. Assem., *with* SB 407 (HCS), 2000 Ga. Gen. Assem.

13. *Compare* SB 407 (SCA), 2000 Ga. Gen. Assem., *with* SB 407 (HCS), 2000 Ga. Gen. Assem.

On March 13, 2000, the House passed SB 407, after adopting the Committee substitute and a floor amendment.¹⁴ The floor amendment made technical changes not affecting the substance of the bill.¹⁵ On March 15, 2000, the Senate agreed to the House version and made a further amendment to extend the statute of limitations to fifteen years for all crimes against elderly and disabled victims, except crimes that already have a statute of limitations longer than fifteen years.¹⁶ The House agreed to the Senate's changes on March 22, 2000.¹⁷ Governor Roy Barnes signed SB 407 into law on April 28, 2000.¹⁸

The Act

The Georgia Protection of Elder Persons Act of 2000 provides that "a guardian or other person supervising the welfare or having immediate charge or custody" of a person who is sixty-five years of age or older (elderly person) or disabled adult "commits the offense of cruelty to" an elderly person or disabled adult when he or she willfully deprives that person of necessary sustenance to such an extent that the elderly person or disabled adult's "well-being . . . is jeopardized."¹⁹ The punishment for a person convicted of the felony of cruelty to an elderly person or disabled adult is imprisonment for not less than one nor more than twenty years.²⁰ However, the Act exempts physicians, skilled nursing facilities, hospitals, and others who act in accordance with the patient's instruction, living will, or durable power of attorney for health care.²¹

The Act amends Code section 16-8-12, relating to penalties for theft.²² As amended, Code section 16-8-12(a)(2) includes both

14. See Georgia House of Representatives Voting Record, SB 407 (Mar. 13, 2000); State of Georgia Final Composite Status Sheet, Mar. 22, 2000.

15. Compare SB 407 (HCS), 2000 Ga. Gen. Assem., with SB 407 (HCSFA), 2000 Ga. Gen. Assem.

16. Compare SB 407 (HCSFA), 2000 Ga. Gen. Assem., with SB 407, as passed, 2000 Ga. Gen. Assem.

17. See Georgia House of Representatives Voting Record, SB 407 (Mar. 22, 2000); State of Georgia Final Composite Status Sheet, Mar. 22, 2000.

18. See 2000 Ga. Laws 1085, § 9, at 1090.

19. O.C.G.A. § 16-5-100(a) (Supp. 2000).

20. See *id.* § 16-5-100(c).

21. See *id.* § 16-5-100(b).

22. Compare 1982 Ga. Laws 1371, § 2, at 1372 (formerly found at O.C.G.A. § 16-8-12(a)(2) (1999)), with O.C.G.A. § 16-8-12(a)(2) (Supp. 2000).

male and female fiduciaries and allows a monetary fine in addition to the existing imprisonment as punishment for theft.²³ The Act also adds a new Code section 16-9-6, which provides for punishment “by imprisonment for not less than one nor more than fifteen years, or a fine, . . . or both” for a fiduciary’s forgery or fraud against an elderly person or disabled adult.²⁴

The Act adds a new Code section 17-3-2.2, which extends the statute of limitations for elder abuse crimes to fifteen years.²⁵ The limitations period does not begin to run “until the violation is reported to or discovered by a law enforcement agency, prosecuting attorney, or other governmental agency, whichever occurs earlier.”²⁶

The Act amends Code section 30-5-4(a)(1), the list of those persons required to report suspected abuse, neglect, or exploitation to include: chiropractors, pharmacists, physical therapists, counselors, family therapists, coroners, medical examiners, and employees of a public or private agency engaged in professional health-related services to elder persons or disabled adults.²⁷ The Act also breaks Code section 30-5-4(a)(1) into paragraphs (A), (B), and (C).²⁸

Finally, the Act creates new Code section 30-5-10, which directs the Department of Human Resources, the Georgia Peace Officers Standards in Training Council, the Prosecuting Attorneys’ Council of the State of Georgia, and the Institute of Continuing Judicial Education to develop programs to educate and train social services, criminal justice, and judicial professionals about the abusive exploitation of elderly persons and disabled adults.²⁹

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23. Compare 1982 Ga. Laws 1371, § 2, at 1372 (formerly found at O.C.G.A. § 16-8-12(a)(2) (1999)), with O.C.G.A. § 16-8-12(a)(2) (Supp. 2000).

24. O.C.G.A. § 16-9-6 (Supp. 2000).

25. See *id.* § 17-3-2.2.

26. *Id.*

27. Compare 1997 Ga. Laws 700, § 2, at 704-05 (formerly found at O.C.G.A. § 30-5-4(a)(1) (1994)), with O.C.G.A. § 30-5-4(a)(1) (Supp. 2000).

28. Compare 1997 Ga. Laws 700, § 2, at 704-05 (formerly found at O.C.G.A. § 30-5-4(a)(1) (1994)), with O.C.G.A. § 30-5-4(a)(1) (Supp. 2000).

29. See O.C.G.A. § 30-5-10 (Supp. 2000).