

HOUSE REPUBLICAN STAFF ANALYSIS

Bill:	Senate File 522	House Committee:	PASSED March 15 (17-0)
Committee:	Judiciary	House Floor:	
Floor Manager:	Rep. Hite	Senate Floor:	PASSED March 9, 2021 (47-0)
Date:	March 23, 2022	Governor:	
Staff:	Amanda Wille (1-5230)		

Older Individual Abuse

- Creates criminal offenses related to older individual abuse including, assault, theft, and financial exploitation.
- **Fiscal Note** –Cannot be determined because there is a lack of existing data.

Section by Section Analysis

Division I

Criminal and Civil Relief for Older Individuals

Section 1 – Older Individual Assault- Mandatory Minimums, Penalties Enhanced- Extension of No-Contact Order (7082D)

This new section creates the crime of older individual assault. An older individual is anyone over the age of 60. Penalties are enhanced for assaults against older individuals and in some cases mandatory minimum sentences are required.

Section 2- Theft Against an Older Individual (714.2A)

If a person commits theft against an older individual all of the following apply:

- First degree theft- class “B” felony
- Second degree theft- class “C” felony
- Third degree theft- class “D” felony
- Fourth degree theft- aggravated misdemeanor
- Fifth degree theft- serious misdemeanor.

Section 3-Additional Civil Penalty for Consumer Frauds Committed Against ~~Elderly~~ Older Individuals- Fund Established (714.16A)

Changes elderly to older individual

Section 4- Elder Abuse- Initiation of Charges-Penalty (726.24)

Elder abuse is the abuse, emotional abuse, neglect, isolation or sexual exploitation of an older individual.

It does not include:

- Times when the older individual declines medical treatment

- A caregiver or fiduciary acting in accordance with the individual's implied consent declines medical treatment for the older individual

Charges of elder abuse can be initiated as a result of an investigation by a social service agency, or on the initiative of the attorney general, a county attorney or law enforcement agency.

First offense elder abuse

- Serious injury- class "C" felony
- Physical injury or psychological harm – class "D" felony
- Recklessly commits elder abuse with physical injury or psychological harm- aggravated misdemeanor
- Otherwise intentionally commits elder abuse- serious misdemeanor.

Penalties are increased for second or subsequent offenses.

Section 5- Financial Exploitation of an Older Individual (726.25)

A person commits financial exploitation of an older individual when they stand in a position of trust or confidence with the older individual and knowingly and by undue influence, deception, coercion, fraud, breach fiduciary duty, or extortion obtain control or use the property, assets or resources of the older individual.

- Less than \$100- serious misdemeanor
- \$100-\$1,000- aggravated misdemeanor
- \$1,000-\$10,000- class "D" felony
- \$10,000-\$50,000- class "C" felony
- More than \$50,000, or if individual is over the age of 70 and it is more than \$15,000, or if the individual is over the age of 80 and it is more than \$5,000- class "B" felony

Penalties enhanced for second or subsequent offenses.

Section 6- Dependent Adult Abuse- Initiation of Charges-Penalty (726.26)

A caretaker who commits dependent adult abuse faces charges based on the severity of the abuse. The charges range from a class "C" felony for intentional abuse with serious injury to simple misdemeanor.

**Division II
Conforming Changes**

Section 9-17- Conforming changes

Amendment Analysis

H-8219- Hite

Makes corrective date changes

Changes throughout the bill to protect the spouse of the older individual and those who make a good faith effort to assist an older individual when managing their benefits, property, resources, belongings, or assets when efforts are done for the preservation of the assets for the older individual or their spouse, or for the safety of the older individual or spouse.

H-#### to H-8219 Hite

Clarifies any relative by consanguinity or affinity can be considered to stand in a position of trust and confidence.