

Amendment No. 1 to SB2652

**Person
Signature of Sponsor**

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Date _____
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Comm. Amdt. _____

AMEND Senate Bill No. 2652

House Bill No. 2335*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 39, Chapter 14, Part 1, is amended by adding the following new section:

39-14-151. (a) A person commits the offense of exploitation of an elderly person or disabled adult if such person:

(1) Stands in a position of trust and confidence with the elderly person or disabled adult, or has a business relationship with the elderly person or disabled adult and knowingly, by deception or intimidation, obtains or uses, or attempts or endeavors to obtain or use, an elderly person or disabled adult's funds, assets, or property with the intent to temporarily or permanently deprive the elderly person or disabled adult of the use, benefit, or possession of the funds, assets, or property, or to benefit someone other than the elderly person or disabled adult; or

(2) Knows or reasonably should know that the elderly person or disabled adult lacks the capacity to consent and knowingly, by deception or intimidation obtains or uses, attempts or endeavors to obtain or use, or conspires with another to knowingly, by deception or intimidation obtain an elderly person or disabled adult's funds, assets, or property with the intent to temporarily or permanently deprive the elderly person or disabled adult of the use, benefit, or possession of the funds, assets, or property, or to benefit someone other than the elderly person or disabled adult.

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(b) Exploitation of an elderly person or disabled adult is punishable as theft pursuant to Section 39-14-105, but in no event shall exploitation of an elderly person or disabled adult be less than a Class E felony.

(c)(1) For purposes of this section, "elderly person" means a person who is sixty (60) years of age or older who has some mental or physical dysfunctioning, including any resulting from age.

(2) It does not constitute a defense to a prosecution for a violation of this section that the accused did not know the age of the victim.

(d) For purposes of this section, "disabled adult" means any person who is eighteen (18) years of age or older and who meets one (1) of the following:

(1) Has some impairment of body or mind that makes the person unfit to work at any substantially remunerative employment;

(2) Lacks the capacity to consent;

(3) Has been certified as permanently and totally disabled by an agency of this state or the United States that has the function of so classifying persons;

or

(4) Has been found to be incompetent by a court of proper jurisdiction.

(e) In a criminal action in which an elderly person or disabled adult is a victim of exploitation as provided in this section, the state may move the court to advance the trial on the docket. The presiding judge, after consideration of the age and health of the victim, may advance the trial on the docket. The motion may be filed and served with the indictment or charges or at any time thereafter.

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(f)(1) This act is not intended to impose criminal liability on a person who makes a good faith effort to assist an elderly person or disabled adult in the management of the funds, assets, or property of the elderly person or disabled adult, which effort fails through no fault of the person.

(2) This act is not intended to impose criminal liability on any health care facility or health care provider based on the quality or adequacy of services provided by that person or facility.

SECTION 2. Tennessee Code Annotated, Section 71-6-117, is amended by inserting after the language "Class A misdemeanor" and before the punctuation symbol "." the language "; provided, that if any such person's conduct punishable under this section also constitutes an offense under Section 39-14-151, such person shall be subject to not less than the punishment provided in Section 39-14-151".

SECTION 3. Tennessee Code Annotated, Section 68-11-1001(a), is amended by inserting after the language "vulnerable individuals" and before the punctuation symbol "." the language ", or to have committed an offense under Section 39-14-151".

SECTION 4. Tennessee Code Annotated, Section 68-11-1004(b), is amended by deleting the language "an individual has been convicted of any crime," and inserting instead the language "an individual has been convicted of a violation of Section 39-14-151, or any other crime,".

SECTION 5. Implementation of the provisions of this act shall be subject to the funding being provided in the general appropriations act.

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SECTION 6. This act shall take effect upon becoming a law, the public welfare requiring

it.

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