

HOUSE BILL 439
By Brown

AN ACT to amend Tennessee Code Annotated, Title 71, Chapter 6,
relative to abused persons.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 71, Chapter 6, Part 1, is amended by
adding the following language as a new, appropriately designated section:

(a) As used in this section, "exploitation" means circumstances in which a
person:

(1) holds a position of trust and confidence, or has a business
relationship, which is characterized by a regular course of dealing, with an elderly
or disabled adult and knowingly, by deception or intimidation, obtains or uses, or
endeavors to obtain or use, such adult's funds, credit, assets or other resources
with the intent to temporarily or permanently deprive such adult of the use,
benefit or possession of such funds, credit, assets or resources for the benefit of
someone other than such adult; or

(2) is a caretaker or relative of the elderly or disabled adult, and knows or
reasonably should know that such elderly or disabled adult lacks the capacity to
consent, and obtains or uses, or endeavors to obtain or use, or assists another in
obtaining or using or endeavoring to obtain or use, such adult's funds, credit,
assets or other resources with the intent to temporarily or permanently deprive

such adult of the use, benefit or possession of such funds, credit, assets or resources for the benefit of someone other than such adult; or

(3) is a caretaker or relative of the elderly or disabled adult persons and improperly uses or manages the funds, credit, assets or other resources of an elderly or disabled adult for the profit or advantage of someone other than such adult.

(b) In at least one county having a population of one hundred thousand (100,000) or more according to the 1990 federal census or any subsequent such census, the department of human services shall establish a pilot program on prevention and prosecution of exploitation and associated criminal offenses. The pilot program shall include a community-based, interagency task force on exploitation. Task force participation shall be voluntary; provided, however, in order to establish a pilot program within any such county, task force membership must minimally include, (but shall not necessarily be limited to), at least one law enforcement officer supplied by the police department of the principal municipality located within such county; at least one law enforcement officer supplied by the county sheriff's department; at least one social worker/counselor supplied by the local office of the department of human services; and one assistant district attorney general supplied by the district attorney general for such county. The task force shall perform the following duties:

(1) to undertake appropriate actions to increase public awareness of exploitation's insidious nature and its deleterious effects on vulnerable elderly and disabled adults;

(2) to seek federal funding and other resources which may be available to support and/or enhance efforts to prevent and prosecute exploitation and associated criminal offenses;

(3) to encourage and facilitate meritorious reports of suspected exploitation;

(4) to ensure that exploitation reports are fully and thoroughly investigated;

(5) to ensure that criminal offenses associated with exploitation are vigorously and successfully pursued and prosecuted; and

(6) to quantify the need for and benefits of such enhanced efforts to protect elderly and disabled adults from exploitation.

(c) The department of human services, in implementing the provisions of this section, shall have the authority to issue, in the name of the commissioner, an administrative subpoena for any financial or other records in the possession of any persons or entities relating to any investigation pursuant to this section. Such subpoena shall be enforceable by any court having jurisdiction pursuant to this part in the county in which the records are sought. Any records obtained by the department pursuant to this subsection shall have the same protections as provided by the confidentiality provisions of § 71-6-118 and shall be used only for purposes of providing protection of elderly adults and disabled adults.

(d) An evaluation report of the status of the pilot project and any recommendations for extension or expansion of the project, or for any recommended statutory changes, shall be submitted to the chair of the Senate Committee on General Welfare, Health and Human Resources and the House Committee on Children and Family Affairs by January 15, 2003. The pilot project established pursuant to this section shall terminate on June 30, 2003, unless otherwise extended by the general assembly.

SECTION 2. This act shall take effect July 1, 1999, the public welfare requiring it, and is hereby repealed on June 30, 2003.