

§ 14-112.2. Exploitation of an older adult or disabled adult.

(a) The following definitions apply in this section:

- (1) Disabled adult. – A person 18 years of age or older or a lawfully emancipated minor who is present in the State of North Carolina and who is physically or mentally incapacitated as defined in G.S. 108A-101(d).
- (2) Older adult. – A person 65 years of age or older.

(b) It is unlawful for a person: (i) who stands in a position of trust and confidence with an older adult or disabled adult, or (ii) who has a business relationship with an older adult or disabled adult to knowingly, by deception or intimidation, obtain or use, or endeavor to obtain or use, an older adult's or disabled adult's funds, assets, or property with the intent to temporarily or permanently deprive the older adult or disabled adult of the use, benefit, or possession of the funds, assets, or property, or to benefit someone other than the older adult or disabled adult.

(c) It is unlawful for a person to knowingly, by deception or intimidation, obtain or use, endeavor to obtain or use, or conspire with another to obtain or use an older adult's or disabled adult's funds, assets, or property with the intent to temporarily or permanently deprive the older adult or disabled adult of the use, benefit, or possession of the funds, assets, or property, or benefit someone other than the older adult or disabled adult. This subsection shall not apply to a person acting within the scope of that person's lawful authority as the agent for the older adult or disabled adult.

(d) A violation of subsection (b) of this section is punishable as follows:

- (1) If the funds, assets, or property involved in the exploitation of the older adult or disabled adult is valued at one hundred thousand dollars (\$100,000) or more, then the offense is a Class F felony.
- (2) If the funds, assets, or property involved in the exploitation of the older adult or disabled adult is valued at twenty thousand dollars (\$20,000) or more but less than one hundred thousand dollars (\$100,000), then the offense is a Class G felony.
- (3) If the funds, assets, or property involved in the exploitation of the older adult or disabled adult is valued at less than twenty thousand dollars (\$20,000), then the offense is a Class H felony.

(e) A violation of subsection (c) of this section is punishable as follows:

- (1) If the funds, assets, or property involved in the exploitation of the older adult or disabled adult is valued at one hundred thousand dollars (\$100,000) or more, then the offense is a Class G felony.
- (2) If the funds, assets, or property involved in the exploitation of the older adult or disabled adult is valued at twenty thousand dollars (\$20,000) or more but less than one hundred thousand dollars (\$100,000), then the offense is a Class H felony.
- (3) If the funds, assets, or property involved in the exploitation of the older adult or disabled adult is valued at less than twenty thousand dollars (\$20,000), then the offense is a Class I felony.

(f) If a person is charged with a violation of this section that involves funds, assets, or property valued at more than five thousand dollars (\$5,000), the district attorney may file a petition in the pending criminal proceeding before the court with jurisdiction over the pending charges to freeze the funds, assets, or property of the defendant in an amount up to one hundred fifty percent (150%) of the alleged value of funds, assets, or property in the defendant's pending criminal proceeding for purposes of restitution to the victim. The standard of proof required to freeze the defendant's funds, assets, or property shall be by clear and convincing evidence. The

procedure for petitioning the court under this subsection shall be governed by G.S. 14-112.3.
(2005-272, s. 2; 2006-264, s. 99; 2013-203, s. 1; 2013-337, s. 1.)