

By Mr. Klimm of Barnstable, petition of John C. Klimm, Barbara E. Gray, Robert C. Lawless, Cheryl A. Jacques, Edward M. Lambert, Jr., and Pamela P. Resor relative to the penalty for assault, abuse, neglect and financial exploitation of elderly persons. Criminal Justice.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Four.

AN ACT RELATIVE TO THE ASSAULT, ABUSE, NEGLECT AND FINANCIAL EXPLOITATION OF AN ELDER OR DEPENDENT PERSON.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 265 of the General Laws is hereby
2 amended by adding the following section:—

3 Section 44. (a) For the purpose of this section the following
4 words shall have the following meanings:

5 “Elder”, any person sixty years of age or older.

6 “Dependent Person”, any person between the ages of eighteen
7 and fifty-nine, inclusive, who is physically or mentally disabled,
8 mentally ill, mentally retarded or who is in part or whole depend-
9 ent upon another person or persons to meet his daily living needs.

10 “Abuse”, physical injury, isolation, or restraint as defined in
11 Section 1 of chapter 123 of the General Laws, that creates, the
12 risk of death, serious disfigurement or serious impairment of any
13 bodily function or organ.

14 “Neglect”, the failure to provide treatment and services neces-
15 sary to maintain the health and safety of the elder or dependent
16 person, including, but not limited to, medication and nourishment.

17 “Bodily injury”, substantial impairment of the physical condi-
18 tion including any burn, fracture of any bone, subdural hematoma,
19 injury to any internal organ, any injury which occurs as the result
20 of repeated harm to any bodily function or organ, including
21 human skin or any physical condition which imperils an elder or
22 dependent person’s health or welfare.

23 “Serious bodily injury”, bodily injury which creates a perma-
24 nent disfigurement, protracted loss or impairment of a function of
25 a body member, limb or organ, or substantial risk of death.

26 (b) Whoever commits an assault and battery upon an elder or
27 dependent person, and by such assault and battery causes bodily
28 injury shall be punished by imprisonment in the house of correc-
29 tion for not more than two and one-half years or by a fine of not
30 more than \$1,000 or both such fine and imprisonment.

31 Whoever commits an assault and battery upon an elder or
32 dependent person and by such assault and battery causes serious
33 bodily injury shall be punished by imprisonment in the state
34 prison for not more than ten years or imprisonment in the house of
35 correction for not more than two and one-half years and by a fine
36 of \$5,000 or both such fine and imprisonment.

37 Whoever, having care and custody of an elder or dependent per-
38 son recklessly permits bodily injury to such elder or dependent
39 person or wantonly or recklessly permits another to commit an
40 assault and battery upon such elder or dependent person which
41 assault and battery causes bodily injury, shall be punished by
42 imprisonment for not more than two and one-half years in the
43 house of correction or not more than five years in the state prison
44 and a fine of not more than ten thousand dollars or both such fine
45 and imprisonment.

46 Whoever, having care and custody of an elder or dependent
47 person wantonly or recklessly permits serious bodily injury to
48 such elder or dependent person or wantonly or recklessly permits
49 another to commit an assault and battery upon such elder or
50 dependent person which assault and battery causes serious bodily
51 injury, shall be punished by imprisonment in the state prison for
52 not more than ten years, or by imprisonment in a jail or house of
53 correction for not more than two and one-half years and a fine
54 of not more than ten thousand dollars or both such fine and
55 imprisonment.

56 (c) Whoever wantonly or recklessly causes or permits an elder
57 or dependent person to suffer abuse or neglect shall be punished
58 by imprisonment for not more than ten years or a fine of not more
59 than ten thousand dollars or both.

1 SECTION 2. Chapter 266 of the General Laws is hereby
2 amended by adding the following paragraph to Section 30:—

3 (5) Whoever steals, or with intent to defraud obtains by a false
4 pretense, or whoever unlawfully, and with intent to steal or
5 embezzle, converts, or secretes with intent to convert, the property
6 of another sixty years or older, or from another person between
7 the ages of eighteen and fifty-nine, inclusive, who is physically
8 disabled, mentally ill, mentally retarded, developmentally dis-
9 abled or who is in part or whole dependent on a person or persons
10 to meet his daily living needs, shall be guilty of larceny, and shall,
11 if the value of the property exceeds two hundred fifty dollars, be
12 punished by imprisonment for not more than ten years, or by a
13 fine of not more than fifty thousand dollars and imprisonment for
14 not more than five years; or if the value of the property does not
15 exceed two hundred fifty dollars, shall be punished by imprison-
16 ment for not more than two years or by a fine of not more than six
17 hundred dollars; and the court may order, regardless of the value
18 of the property, restitution to be paid to the victim commensurate
19 with the value of the property.

1 SECTION 3. Chapter 19C of the General Laws, as appearing
2 in the 1992 Official Edition, is hereby amended by inserting in
3 Section 10, line 3, after the words “reportable condition” the
4 following: or any suspicion of suffering from an assault and
5 battery or abuse and neglect; and is further amended by inserting
6 in Section 10, line 3, after the word “commission” the words: and
7 to the district attorney for the county in which such disabled
8 person resides.

1 SECTION 4. Chapter 19A of the General Laws, as appearing
2 in the 1992 Official Edition, is hereby amended by inserting in
3 line 8 of section 15, after the word “abuse”, the following: or
4 neglect or assault and battery; and is further amended by inserting
5 in line 22 after the word “agency” the following words: and to the
6 district attorney for the county in which such elderly person
7 resides; and is further amended by inserting in line 18 after the
8 word “abused” the following words: or neglected, or subject to
9 assault and battery; and is further amended by inserting in line 10
10 after the word “agency” the words: and to the district attorney for

11 the county in which such elderly person resides; and is further
12 amended by inserting a new subsection:—

13 (G) The department shall compile all reports received under
14 this chapter and issue a report on said compilation annually to the
15 governor and the general court.