

House Bill 636

By: Representatives Mitchell of the 88th and Maxwell of the 17th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 9 of Chapter 1 of Title 7 of the Official Code of Georgia Annotated,
2 relating to criminal and related provisions pertaining to financial institutions, so as to provide
3 for the protection of aged or incapacitated adults; to provide for mandated and voluntary
4 reporting; to provide for civil penalties; to provide for related matters; to provide an effective
5 date; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 9 of Chapter 1 of Title 7 of the Official Code of Georgia Annotated, relating to
9 criminal and related provisions pertaining to financial institutions, is amended by inserting
10 a new Code section as follows:

11 "7-1-847.

12 (a) As used in this Code section, the term:

13 (1) 'Aged or incapacitated adult' means a person 70 years of age or older and any person
14 with mental or physical disabilities.

15 (2) 'Financial exploitation' means the illegal or impermissible taking, encumbering, or
16 use of a person's funds, property, or assets.

17 (3) 'Financial institution' means such institutions as defined by Code Section 7-1-4.

18 (b) Any staff member of any financial institution who has reason to believe that a client
19 of an institution is or has been exploited financially shall report such suspected exploitation
20 to the local county or municipal law enforcement agency where the adult resides or where
21 the exploitation is believed to have occurred.

22 (c) Any person and the employer of any person who makes a report, provides records or
23 information to a representative for an aged or incapacitated adult or law enforcement
24 officer, or who testifies in any judicial proceeding arising from such report, records, or
25 information shall be immune from any civil or criminal liability on account of such report,

26 records, information, or testimony, unless such person acted in bad faith and with a
27 malicious intent.

28 (d) For each willful violation of this Code section, the commissioner may assess upon any
29 financial institution and upon any director, officer, or employee thereof who willfully
30 participates in the violation a civil penalty not exceeding \$1,000.00 for each such violation.
31 Each separate financial transaction shall be considered a separate violation. In the event
32 of the failure of any person to pay any penalty assessed under this Code section, a civil
33 action for recovery thereof may, in the discretion of the commissioner, be brought in the
34 name of the Department of Banking and Finance. Any person who conducts or participates
35 in financial exploitation of an aged or incapacitated adult shall, in addition to any other
36 civil or criminal penalty, fine, or fee provided for by law, be liable to the state for a civil
37 penalty of not more than the amount of the funds involved in the transaction or \$10,000.00,
38 whichever is greater, which fee may be collected by the commissioner."

39 **SECTION 2.**

40 This Act shall become effective upon its approval by the Governor or upon its becoming law
41 without such approval.

42 **SECTION 3.**

43 All laws and parts of laws in conflict with this Act are repealed.