

House Bill 803

By: Representatives Willard of the 51<sup>st</sup>, Cooper of the 43<sup>rd</sup>, Cox of the 108<sup>th</sup>, Lumsden of the 12<sup>th</sup>, Rynders of the 152<sup>nd</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 8 of Chapter 5 of Title 16 of the Official Code of Georgia Annotated,  
2 relating to protection of elder persons, so as to prohibit trafficking a disabled adult, elder  
3 person, or resident; to provide for definitions; to provide for elements of the crime; to provide  
4 for penalties, mandatory sentences, and exceptions; to provide for related matters; to repeal  
5 conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 8 of Chapter 5 of Title 16 of the Official Code of Georgia Annotated, relating to  
9 protection of elder persons, is amended by adding a new Code section to read as follows:

10 "16-5-102.1.

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

12 (1) 'Coercion' means:

13 (A) Causing or threatening to cause bodily harm to any disabled adult, elder person,  
14 or resident; physically restraining or confining any disabled adult, elder person, or  
15 resident; or threatening to physically restrain or confine any disabled adult, elder  
16 person, or resident;

17 (B) Exposing or threatening to expose any fact or information, or disseminating or  
18 threatening to disseminate any fact or information, that would tend to subject a disabled  
19 adult, elder person, or resident to criminal or immigration proceedings, hatred,  
20 contempt, or ridicule;

21 (C) Destroying, concealing, removing, confiscating, or possessing any actual or  
22 purported passport or other immigration document, or any other actual or purported  
23 government identification document, of a disabled adult, elder person, or resident;

24 (D) Providing a controlled substance to a disabled adult, elder person, or resident for  
25 the purpose of compelling him or her to engage in an action against his or her will; or

26 (E) Causing or threatening to cause financial harm to a disabled adult, elder person, or  
 27 resident or using financial control over a disabled adult, elder person, or resident.

28 (2) 'Controlled substance' shall have the same meaning as set forth in Code Section  
 29 16-13-21.

30 (3) 'Deception' means:

31 (A) Creating or confirming another person's impression of an existing fact or past event  
 32 which is false and which the accused knows or believes to be false;

33 (B) Maintaining the status or condition of a disabled adult, elder person, or resident  
 34 arising from a pledge by such disabled adult, elder person, or resident of his or her  
 35 personal services as security for a debt, if the value of those services as reasonably  
 36 assessed is not applied toward the liquidation of the debt or the length and nature of  
 37 those services are not respectively limited and defined, or preventing a disabled adult,  
 38 elder person, or resident from acquiring information pertinent to the disposition of such  
 39 debt; or

40 (C) Promising benefits or the performance of services which the accused does not  
 41 intend to deliver or perform or knows will not be delivered or performed.

42 (4) 'Exploitation' means illegally or improperly using a disabled adult, elder person, or  
 43 resident or such individual's resources through undue influence, harassment, duress, false  
 44 representation, false pretense, or other similar means for one's own or another person's  
 45 profit or advantage.

46 (5) 'Isolation' means preventing a disabled adult, elder person, or resident from having  
 47 contact with his or her friends or family, a welfare agency, law enforcement officers,  
 48 health providers, or other individuals or entities without the knowledge of such disabled  
 49 adult, elder person, or resident or against his or her wishes.

50 (b) A person commits the offense of trafficking a disabled adult, elder person, or resident  
 51 when such person, through deception, coercion, exploitation, or isolation, knowingly  
 52 recruits, harbors, transports, provides, or obtains by any means a disabled adult, elder  
 53 person, or resident for the purpose of appropriating the resources of such disabled adult,  
 54 elder person, or resident for one's own or another person's benefit.

55 (c) Any person who violates subsection (b) of this Code section shall be guilty of a felony,  
 56 and upon conviction thereof, shall be punished by imprisonment for not less than five nor  
 57 more than 20 years, a fine not to exceed \$100,000.00, or both; provided, however, that if  
 58 the violation involves more than two alleged victims in a single indictment or accusation,  
 59 such person shall be punished by imprisonment as follows:

60 (1) When there are at least three but less than six victims, by imprisonment for not less  
 61 than ten nor more than 20 years;

- 62 (2) When there are at least six but less than ten victims, by imprisonment for not less  
63 than ten nor more than 20 years and shall be sentenced to a mandatory minimum term of  
64 imprisonment of ten years, and no portion of the mandatory minimum sentence imposed  
65 shall be suspended, stayed, probated, deferred, or withheld by the sentencing court;  
66 provided, however, that in the court's discretion, the court may depart from such  
67 mandatory minimum sentence when the prosecuting attorney and defendant have agreed  
68 to a sentence that is below such mandatory minimum; and
- 69 (3) When there are ten or more victims, by imprisonment for not less than 15 nor more  
70 than 25 years and shall be sentenced to a mandatory minimum term of imprisonment of  
71 15 years, and no portion of the mandatory minimum sentence imposed shall be  
72 suspended, stayed, probated, deferred, or withheld by the sentencing court; provided,  
73 however, that in the court's discretion, the court may depart from such mandatory  
74 minimum sentence when the prosecuting attorney and defendant have agreed to a  
75 sentence that is below such mandatory minimum.
- 76 (d) Each violation of subsection (b) of this Code section shall constitute a separate offense  
77 and shall not merge with any other offense.
- 78 (e) Evidence of failure to deliver benefits or perform services standing alone shall not be  
79 sufficient to authorize a conviction under this Code section."

80

**SECTION 2.**

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