

SENATE BILL No. 19

By Committee on Judiciary

1-15

1 AN ACT concerning crimes and punishments; relating to mistreatment of a
2 dependent adult; amending K.S.A. 2012 Supp. 21-5417 and repealing
3 the existing section.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2012 Supp. 21-5417 is hereby amended to read as
7 follows: 21-5417.(a) Mistreatment of a dependent adult is knowingly
8 committing one or more of the following acts:

9 (1) Infliction of physical injury, unreasonable confinement or
10 unreasonable punishment upon a dependent adult;

11 (2) *misappropriation of or* taking unfair advantage of a dependent
12 adult's physical or financial resources, *including, but not limited to,*
13 *moneys held in a personal or joint account,* for another individual's
14 personal or financial advantage by the use of undue influence, coercion,
15 harassment, duress, deception, false representation or false pretense; or

16 (3) omission or deprivation of treatment, goods or services that are
17 necessary to maintain physical or mental health of a dependent adult.

18 (b) Mistreatment of a dependent adult as defined in:

19 (1) Subsection (a)(1) is a severity level 5, person felony;

20 (2) subsection (a)(2) if the aggregate amount of the value of the
21 resources is:

22 (A) \$1,000,000 or more is a severity level 2, person felony;

23 (B) at least \$250,000 but less than \$1,000,000 is a severity level 3,
24 person felony;

25 (C) at least \$100,000 but less than \$250,000 is a severity level 4,
26 person felony;

27 (D) at least \$25,000 but less than \$100,000 is a severity level 5,
28 person felony;

29 (E) at least \$1,000 but less than \$25,000 is a severity level 7, person
30 felony;

31 (F) less than \$1,000 is a class A person misdemeanor, except as
32 provided in subsection (b)(2)(G); and

33 (G) less than \$1,000 and committed by a person who has, within five
34 years immediately preceding commission of the crime, the offender has
35 been convicted of mistreatment of a dependent adult two or more times is
36 a severity level 7, person felony; and

1 (3) subsection (a)(3) is a severity level 8, person felony.

2 (c) No dependent adult is considered to be mistreated for the sole
3 reason that such dependent adult relies upon or is being furnished
4 treatment by spiritual means through prayer in lieu of medical treatment in
5 accordance with the tenets and practices of a recognized church or
6 religious denomination of which such dependent adult is a member or
7 adherent.

8 (d) As used in this section:

9 (1) "Dependent adult" means an individual 18 years of age or older
10 who is unable to protect the individual's own interest. Such term shall
11 include, but is not limited to, any:

12 (1) (A) Resident of an adult care home including, but not limited to,
13 those facilities defined by K.S.A. 39-923, and amendments thereto;

14 (2) (B) adult cared for in a private residence;

15 (3) (C) individual kept, cared for, treated, boarded, confined or
16 otherwise accommodated in a medical care facility;

17 (4) (D) individual with *an* intellectual disability or a developmental
18 disability receiving services through a community facility for people with
19 intellectual disability or residential facility licensed under K.S.A. 75-
20 3307b, and amendments thereto;

21 (5) (E) individual with a developmental disability receiving services
22 provided by a community service provider as provided in the
23 developmental disability reform act; or

24 (6) (F) individual kept, cared for, treated, boarded, confined or
25 otherwise accommodated in a state psychiatric hospital or state institution
26 for people with intellectual disability.

27 ~~(2) "Undue influence" means the use of influence by an individual~~
28 ~~who has authority over a dependent adult in order to take unfair~~
29 ~~advantage of such dependent adult. Undue influence includes, but is not~~
30 ~~limited to, the improper or fraudulent use of a power of attorney, durable~~
31 ~~power of attorney, guardianship, conservatorship, trust or other fiduciary~~
32 ~~authority.~~

33 (2) **"Undue influence" means the use by an individual who stands**
34 **in a position of trust or confidence of the individual's role, relationship**
35 **or authority to wrongfully exploit the trust, dependency or fear of a**
36 **dependent adult to gain control over the decision-making of such**
37 **dependent adult, including decision-making related to finances,**
38 **property, residence and health care.**

39 (e) An offender who violates the provisions of this section may also
40 be prosecuted for, convicted of, and punished for any other offense in
41 article 54, 55, 56 or 58 of chapter 21 of the Kansas Statutes Annotated, or
42 K.S.A. 2012 Supp. 21-6418, and amendments thereto.

43 Sec. 2. K.S.A. 2012 Supp. 21-5417 is hereby repealed.

1 Sec. 3. This act shall take effect and be in force from and after its
2 publication in the statute book.
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