I. CIVIL STATUTE PROTECTING DEPENDENT ADULTS OR ELDERS FROM NEGLECT, ABUSE OR EXPLOITATION

A. Conduct

(1) **Neglect:** The failure of a caregiver to provide essential services necessary to maintain the physical and mental health of a vulnerable adult, or the inability or lack of desire of the vulnerable adult to provide essential services necessary to maintain or safeguard the vulnerable adult’s own physical and mental health. *NDCC §50-25.2-01(11)*

(a) **Essential Services:** Those services necessary to maintain and safeguard the physical and mental health of a vulnerable adult which include sufficient and appropriate food and clothing, temperate and sanitary shelter, treatment for mental or physical needs, appropriate treatment for medical needs as determined by a physician or other health care provider, and proper supervision. *NDCC §50-25.2-01(6)*

(2) **Abuse:** Any willful act or omission of a caregiver or any other person which results in physical injury, mental anguish, unreasonable confinement, sexual abuse or exploitation, or financial exploitation to or of a vulnerable adult. *NDCC §50-25.2-01(1)*

(a) **Physical Injury:** Damage to bodily tissue caused by nontherapeutic conduct, which includes fractures, bruises, lacerations, internal injuries, dislocations, physical pain, illness, or impairment of physical function. *NDCC §50-25.2-01(12)*

(b) **Mental Anguish:** Psychological or emotional damage that requires medical treatment or care or is characterized by behavioral change or physical symptoms. *NDCC §50-25.2-01(10)*

(3) **Exploitation:** The taking or misuse of property or resources of a vulnerable adult by means of undue influence, breach of a fiduciary relationship, deception, harassment, criminal coercion, theft, or other unlawful or improper means. *NDCC §50-25.2-01(7)*

II. CRIMINAL STATUTE PROTECTING DEPENDENT ADULTS OR ELDERS FROM NEGLECT, ABUSE OR EXPLOITATION
A. **Conduct**

A caregiver who knowingly performs an act that causes a disabled adult’s or vulnerable elderly adult’s life to be endangered, health to be injured, or preexisting physical or mental condition to deteriorate, or a caregiver who fails to perform acts that the caregiver knows are necessary to maintain or preserve the life or health of the disabled adult or vulnerable elderly adult and the failure causes the disabled adult’s or vulnerable elderly adult’s life to be endangered, health to be injured, or preexisting physical or mental condition to deteriorate, is guilty of a class B felony. *NDCC §12.1-31-07(1)*

1. **Disabled Adult**: A person eighteen years of age or older who suffers from a condition of physical or mental incapacitation due to a developmental disability or organic brain damage or mental illness or who has one or more physical or mental limitations that restrict the person’s ability to perform the normal activities of daily living. *NDCC §12.1-31-07(1)(b)*

2. **Vulnerable Elderly Adult**: A person sixty years of age or older who is suffering from a disease or infirmity associated with advanced age and manifested by physical, mental, or emotional dysfunctioning to the extent that the person is incapable of adequately providing for the person’s own health or personal care. *NDCC §12.1-31-07(1)(c)*

B. **Applicability**

A caregiver is a person who is responsible for the care of a disabled adult or vulnerable elderly adult as a result of a familiar or legal relationship, or a person who has assumed responsibility for the care of a disabled adult or vulnerable elderly adult. The term does not include a licensed health care provider who is acting within the provider’s legal scope of practice in providing appropriate care or assistance to a disabled adult or vulnerable elderly adult who is the patient or client of the licensed health care provider. *NDCC §12.1-31-07(1)(a)*

C. **Exploitation**

A person is guilty of exploitation of a disabled adult or vulnerable elderly adult if:

(a) The person stands in a position of trust and confidence or has a business relationship with the disabled adult or vulnerable elderly adult and knowingly, by deception or intimidation, obtains or uses, or attempts to obtain or use, the disabled adult’s or vulnerable elderly adult’s funds, assets, or property with the intent to temporarily or permanently deprive the disabled adult or vulnerable elderly adult of the use, benefit, or possession of the

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1 *NDCC §12.1–31–07.1*
property, for the benefit of someone other than the disabled adult or vulnerable elderly adult; or

(b) The person knows that the disabled adult or vulnerable elderly adult lacks the capacity to consent, and obtains or uses, or attempts to obtain or use, or assists another in obtaining or using or attempting to obtain or use, the disabled adult’s or vulnerable elderly adult’s funds, assets, or property with the intent to temporarily or permanently deprive the disabled adult or vulnerable elderly adult of the use, benefit, or possession of the property for the benefit of someone other than the disabled adult or vulnerable elderly adult.

1. **Criminal Penalties:** Exploitation of a disabled adult or vulnerable elderly adult is:

   (a) A class A felony if the value of the exploited funds, assets, or property exceeds one hundred thousand dollars.

   (b) A class B felony if the value of the exploited funds, assets, or property exceeds twenty thousand dollars but does not exceed one hundred thousand dollars.

   (c) A class C felony if the value of the exploited funds, assets, or property is in excess of one thousand dollars but does not exceed twenty thousand dollars.

2. **Defenses:** It is not a defense to a prosecution of a violation of this section that the accused did not know the age of the victim.

3. **Applicability:** This section does not impose criminal liability on a person who has:

   (a) Managed the disabled adult’s or vulnerable elderly adult’s funds, assets, or property in a manner that clearly gives primacy to the needs and welfare of that person or is consistent with any explicit written authorization; or

   (b) Made a good-faith effort to assist in the management of the disabled adult’s or vulnerable elderly adult’s funds, assets, or property.

D. **Length of Proceedings**

   In a criminal proceeding in which a disabled adult or vulnerable elderly adult is a victim, the court and state’s attorney shall take appropriate action to ensure a speedy trial to minimize the length of time the disabled adult or vulnerable elderly adult must endure the stress of involvement in the proceedings. In ruling on any motion or other request for a delay or a continuance of proceedings, the court
shall consider and give weight to any adverse impact the delay or continuance may have on the well-being of the disabled adult or vulnerable elderly adult.

*NDCC §12.1-31-07.2*

III. LEGISLATION AFFECTING CRIMINAL STATUTE

A. Criminal Penalties: Exploitation of a disabled adult or vulnerable elderly adult is:

a. A class A felony if the value of the exploited funds, assets, or property exceeds fifty thousand dollars.

b. A class B felony if the value of the exploited funds, assets, or property exceeds ten thousand dollars but does not exceed fifty thousand dollars.

c. A class C felony if the value of the exploited funds, assets, or property is in excess of one thousand dollars but does not exceed ten thousand dollars.

d. A class A misdemeanor if the value of the exploited funds, assets, or property does not exceed one thousand dollars.