



COMMISSION ON AGING

February 16, 2016

Good Morning. My name is Rudy Oswald. I am a Commissioner on the Montgomery County Commission on Aging, and the Co-Chair of the Public Policy Committee. I will be brief.

On behalf of the Montgomery County Commission on Aging, I am here to testify in support of HB 718, Asset Recovery for Exploited Seniors.

Financial Exploitation against seniors continues to be the fastest growing crime of this century. It impacts everyone without regard to race, gender or economic wealth, and can have devastating financial, personal, and health effects. Older adults need every tool possible to protect and support them when they are victims of these vicious crimes.

Older adults frequently lack the resources they need to recover property that has been taken from them through deception, intimidation, or undue influence. They may not be able to afford a lawyer to pursue a claim in court. They may be reluctant to sue family members or other people upon whom they depend. They fear that disclosure of their situation will subject them to ridicule or, even worse, to guardianship or institutionalization. Or, they may lack the capacity, or may not be available, to testify against the perpetrator.

Even those victims who can afford to retain legal counsel, may have difficulty finding a lawyer. Legal aid programs are significantly underfunded and limited in the kinds of cases they can handle. Many private attorneys are unwilling to pursue civil actions in these cases for a variety of reasons. These include the possibility that they may not be able to recover damages, or that they are unlikely to be compensated for their fees and costs. There is also the difficulty of proceeding against a perpetrator who does not have a criminal conviction. Additionally, the victim may have diminished capacity, or no family to assist in the process.

Because of these challenges, perpetrators of these crimes consider older adults perfect victims.

And without more targeted legislation for recovering the assets of victims, these crimes will continue to have a serious financial impact on individuals, their families, and the government systems that are called upon to provide support to those who have been swindled out of their life savings. This bill gives another tool to the Attorney General in pursuing criminals. The evidence in a case may be very strong, but not sufficient to seek a criminal case. The ability to seek financial restitution would be an important step in deterring such crimes.

HB 718 is an important piece of legislation. The bill will give the Attorney General the authority to pursue a civil suit for damages on behalf of a victim (or the estate of a victim) of financial exploitation. The bill will also allow the Attorney General to recover attorneys' fees, thereby minimizing any fiscal impact on the state.

Department of Health and Human Services

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