

Georgia Vulnerable Adult Abuse Laws Over Time: Offense date - 7/1/2015 to present

§16-5-101 – Neglect - a guardian or person supervising the welfare of or having immediate charge, control or custody of an elder person, disabled adult or resident (hereinafter EDR) cannot willfully deprive the victim of health care, shelter, or necessary sustenance to the extent that the health or well-being of the victim is jeopardized. (1 to 20.)

§16-5-102 – Abuse/Exploit/Deprive – it is unlawful to knowingly and willfully exploit an EDR or cause physical pain, physical injury, sexual abuse, mental anguish, or unreasonable confinement to an EDR or to deprive an EDR of essential services. (1 to 20.)

§16-5-103 – An owner, manager, etc. of a facility can be charged with abuse, neglect or exploitation of a resident, if he was a party to the crime or a co-conspirator. (1 to 20.)

NEW §16-5-104 – **VENUE** lies (1) in any county in which any act was performed in furtherance of the violation; or (2) in any county in which any alleged EDR victim resides.

NEW §16-14-3(5)(A)(xlii) – **RICO** now defines violations of 16-5-101, etc. “relating to elder persons” as racketeering activity. **Note – the legislature failed to specifically reference disabled adults and residents in the RICO statute, but they are identified as victims in 16-5-101 etc.**

DEFINITIONS (§16-5-100)

Elder person – a person 65 years of age or older.

Disabled adult - a person 18 years of age or older who is mentally or physically incapacitated or has Alzheimer’s disease or dementia.

NEW – Mentally or physically incapacitated means an impairment which substantially affects an individual’s ability to: (A) provide personal protection; (B) provide necessities, including but not limited to food, shelter, clothing, medical or other health care; (C) carry out the activities of daily living; or (D) manage his or her resources.

Exploit – the illegal or improper use of an elder/disabled adult or that person’s resources through undue influence, coercion, harassment, duress, deception, false representation, false pretense, or other similar means for one’s own or another person’s profit or advantage.

Long-term care facility – any skilled nursing home, intermediate care home, assisted living community, personal care home, or community living arrangement now or hereafter subject to regulation and licensure by the Dept. of Community Health.

Essential services – social, medical, psychiatric or legal services necessary to safeguard a vulnerable adult’s rights and resources and to maintain the physical and mental well-being of such person. Such services may include, but not be limited to, the provision of medical care, assistance in personal hygiene, food, clothing, adequately heated and ventilated shelter, and protection from health and safety hazards.

Sexual abuse – coercion for the purpose of self-gratification by a guardian or other person supervising the welfare or having immediate charge, control, or custody of a disabled/elder adult or resident, to engage in one of six prohibited acts.

Offense date - between 7/1/2013 and 6/30/2015

§16-5-101 – Neglect - a guardian or person supervising the welfare of or having immediate charge, control or custody of an elder person, disabled adult or resident (hereinafter EDR) cannot willfully deprive the victim of health care, shelter, or necessary sustenance to the extent that the health or well-being of the victim is jeopardized. (1 to 20.)

§16-5-102 – Abuse/Exploit/Deprive – it is unlawful to knowingly and willfully exploit an EDR or cause physical pain, physical injury, sexual abuse, mental anguish, or unreasonable confinement to an EDR or to deprive an EDR of essential services. (1 to 20.)

§16-5-103 – An owner, manager, etc. of a facility can be charged with abuse, neglect or exploitation of a resident, if he was a party to the crime or a co-conspirator. (1 to 20.)

§16-5-104 – Non-merger statute. “This article shall be cumulative and supplemental to any other law of this State.” **Note - this principle used to be located in 30-5-8. In the present day, code section 16-5-104 is an expanded venue statute for EDR crimes. However, prior to 7/1/2015, venue was proper only where the crime occurred.**

§16-14-3(A)(9) – RICO - EDR neglect, exploitation or abuse was not identified as “racketeering activity in the RICO statute.

DEFINITIONS (§16-5-100)

Elder person – a person 65 years of age or older.

Disabled adult - a person 18 years of age or older who is mentally or physically incapacitated or has Alzheimer’s disease or dementia. **Note - “mentally or physically incapacitated” was not defined.**

Exploit – the illegal or improper use of an elder/disabled adult or that person’s resources through undue influence, coercion, harassment, duress, deception, false representation, false pretense, or other similar means for one’s own or another person’s profit or advantage.

Essential services – social, medical, psychiatric or legal services necessary to safeguard a vulnerable adult’s rights and resources and to maintain the physical and mental well-being of such person. Such services may include, but not be limited to, the provision of medical care, assistance in personal hygiene, food, clothing, adequately heated and ventilated shelter, and protection from health and safety hazards.

Long-term care facility – any skilled nursing home, intermediate care home, assisted living community, personal care home, or community living arrangement now or hereafter subject to regulation and licensure by the Dept. of Community Health.

Neglect – willfully depriving an elder/disabled adult or resident of health care, shelter, or necessary sustenance to the extent that the health or well-being of such person is jeopardized.

Sexual abuse – coercion for the purpose of self-gratification by a guardian or other person supervising the welfare or having immediate charge, control, or custody of a disabled/elder adult or resident, to engage in one of six specific prohibited acts.

Offense date – between 7/1/2012 and 6/30/2013

§30-5-8(a)(1)(A) the abuse or exploitation of any disabled adult or elder person shall be unlawful. (1-5 yrs.) **Note – neglect was moved to its own subsection – (a)(1)(B). Elder/disabled persons living in facilities were not covered by this statute except for subsection (a)(2).**

§30-5-8(a)(1)(B) the neglect of any disabled adult or elder person by a guardian, caretaker, or other person supervising the welfare of or having immediate charge or custody of such disabled adult or elder person shall be unlawful. (1-5 yrs.) **(The guardian language was new to the statute.)**

§30-5-8(a)(2) – It shall be unlawful for a person to act with the specific intent to abuse, neglect or commit exploitation of any disabled adult, which for purposes of this paragraph only, means a person 18 or older who is a resident of a long term care facility, and who is mentally or physically incapacitated or has Alzheimer’s disease or dementia. (1-5 yrs) **Note - disabled persons who lived in facilities were covered, but elder persons who lived in facilities were excluded, unless the indictment identified the elder person as a disabled adult.**

Offense date – between 7/1/2009 and 6/30/2012

§30-5-8(a)(1) the abuse, neglect or exploitation of any disabled adult or elder person shall be unlawful. (1-5 yrs.) **Residents of facilities were not covered except for subsection (a)(2).**

§30-5-8(a)(2) – It shall be unlawful for a person to act with the specific intent to abuse, neglect or commit exploitation of any disabled adult, which for purposes of this paragraph only, means a person 18 or older who is a resident of a long term care facility, and who is mentally or physically incapacitated or has Alzheimer’s disease or dementia. (1-5 yrs) **Note - disabled persons who lived in facilities were covered for the first time, but elder persons who lived in facilities were excluded, unless the indictment identified the elder person as a disabled adult.**

§16-5-100 – Cruelty to an elder person (this is essentially the same statute as §16-5-101 today, which has been retitled as Neglect.)

DEFINITIONS (§30-5-3)

Elder person – a person 65 years of age or older who is not a resident of a long-term care facility.

Disabled adult – a person 18 years of age or older who is not a resident of a long-term care facility but who is mentally or physically incapacitated or has Alzheimer’s disease or dementia. **Note - “mentally or physically incapacitated” was not defined.**

Abuse – the willful infliction of physical pain, physical injury, mental anguish, unreasonable confinement, or the willful deprivation of essential services to a disabled adult or elder person. **Note - sexual abuse language was included.**

Neglect – the absence or omission of essential services to the degree that it harms or threatens with harm the physical or emotional health of a disabled adult or elder person.

Offense date - prior to 7/1/2009

§30-5-8 - the abuse, neglect or exploitation of any disabled adult or elder person shall be unlawful. (1-5 yrs). **Elder/disabled victims living in facilities were NOT covered by this statute – no exceptions.**

§16-5-100 – Cruelty to an elder person (this is essentially the same statute as §16-5-101 today, which has been retitled as Neglect.)

DEFINITIONS (§30-5-3)

Elder person – a person 65 years of age or older who is not a resident of a long-term care facility.

Disabled adult – a person 18 years of age or older who is not a resident of a long-term care facility but who is mentally or physically incapacitated or has Alzheimer’s disease or dementia. **Note – there was no definition of “mentally or physically incapacitated.”**

Abuse – the willful infliction of physical pain, physical injury, mental anguish, unreasonable confinement, or the willful deprivation of essential services to a disabled adult or elder person.

Note- no sexual abuse language was included.

Neglect – the absence or omission of essential services to the degree that it harms or threatens with harm the physical or emotional health of a disabled adult or elder person.

