**A** **BILL**

TO AMEND SECTION 43-35-85, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PENALTIES ASSOCIATED WITH THE ABUSE, NEGLECT, AND EXPLOITATION OF VULNERABLE ADULTS, SO AS TO ADD PENALTIES FOR CERTAIN CAREGIVER CONDUCT.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 43‑35‑85 of the 1976 Code is amended to read:

“Section 43‑35‑85. (A) A person required to report ~~under~~ pursuant to this chapter who knowingly and wilfully fails to report abuse, neglect, or exploitation is guilty of a misdemeanor and, upon conviction, must be fined not more than twenty‑five hundred dollars or imprisoned not more than one year.

(B) Except as otherwise provided in subsections (E) and (F), a person who knowingly and wilfully abuses a vulnerable adult is guilty of a felony and, upon conviction, must be imprisoned not more than five years.

(C) Except as otherwise provided in subsections (E) and (F), a person who knowingly and wilfully neglects a vulnerable adult is guilty of a felony and, upon conviction, must be imprisoned not more than five years.

(D) A person who knowingly and wilfully exploits a vulnerable adult is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than five years, or both, and may be required by the court to make restitution.

(E) A person who knowingly and wilfully abuses or neglects a vulnerable adult resulting in great bodily injury is guilty of a felony and, upon conviction, must be imprisoned not more than fifteen years.

(F) A person who knowingly and wilfully abuses or neglects a vulnerable adult resulting in death is guilty of a felony and, upon conviction, must be imprisoned not more than thirty years.

(G) A person who threatens, intimidates, or attempts to intimidate a vulnerable adult subject of a report, a witness, or any other person cooperating with an investigation conducted pursuant to this chapter is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned ~~for~~ not more than three years.

(H) A person who wilfully and knowingly obstructs or in any way impedes an investigation conducted pursuant to this chapter, upon conviction, is guilty of a misdemeanor and must be fined not more than five thousand dollars or imprisoned ~~for~~ not more than three years.

(I) A caregiver who neglects a vulnerable adult as a result of having failed to follow specific medical instructions or proper procedures as issued by another health care provider is considered to have acted with reckless disregard for the health or safety of the vulnerable adult and is guilty of a misdemeanor and, upon conviction, must be:

(1) fined not more than one thousand dollars or imprisoned not more than one year, or both;

(2) if the vulnerable adult suffers great bodily injury, fined not more than five thousand dollars or imprisoned not more than three years, or both.

(J) A caregiver who neglects a vulnerable adult as a result of having acted or failed to act due to a reckless disregard for the health or safety of the vulnerable adult and the neglect results in the death of the vulnerable adult is guilty of a misdemeanor and, upon conviction, must be fined not more than ten thousand dollars or imprisoned not more than five years, or both.

(K) As used in this section, ‘great bodily injury’ means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

(L) A caregiver may deviate from the established care plan as circumstances require if the caregiver can demonstrate that deviation is in the best interests of the vulnerable adult, or if ordered by a qualified health care provider or an attending physician.”

SECTION 2. This act takes effect upon approval by the Governor.

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