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Criminal and Adult Protection Financial Exploitation Laws in the United States: How Do the Statutes Measure Up to Existing Research?

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**CRIMINAL AND ADULT PROTECTION FINANCIAL
EXPLOITATION LAWS IN THE UNITED STATES: HOW
DO THE STATUTES MEASURE UP TO EXISTING
RESEARCH?**

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I. CRIMINAL AND ADULT PROTECTION FINANCIAL EXPLOITATION LAWS IN THE UNITED STATES: HOW DO THE STATUTES MEASURE UP TO EXISTING RESEARCH?

For well over twenty-five years, researchers have analyzed the concept of financial exploitation of older and vulnerable adults.¹ The crime of financial exploitation, an offense reserved exclusively for vulnerable adult (or, in some states, dependent or older adult) victims, has been described as one of the most difficult crimes to detect and has plagued researchers attempting to document accurate and appropriate warning signs of wrongdoing.² Not only is financial exploitation difficult to detect, but determining the point at which exploitation first occurs is a formidable task.³ Indeed, for every case of financial exploitation reported to either adult protective services (APS) or law enforcement, four to five cases remain unreported and, potentially, undetected.⁴ However, recent research indicates that reporting of financial exploitation cases to law enforcement and APS has increased, partly due to the reauthorization of the Federal Older Americans Act in 2000.⁵

One potential explanation for the increased reporting of financial exploitation may relate to the steady increase of elder adults aged sixty-five and older in the United States. Between 2000 and 2010, the elder population (i.e., those individuals sixty-five and older) has increased by 5.4 million people.⁶ The elder population also has the most wealth compared to other age demographics. For instance, in 2011, a married couple aged sixty-five and older had a median net worth of \$284,170 in assets; in contrast, the median net

1. See, e.g., A. Paul Blunt, *Financial Exploitation of the Incapacitated: Investigation and Remedies*, 5 J. ELDER ABUSE & NEGLECT 19, 21–22 (1993).

2. See Thomas L. Hafemeister, *Aging America Financial Abuse of the Elderly in Domestic Settings*, in ELDER MISTREATMENT: ABUSE, NEGLECT, AND EXPLOITATION IN AN AGING AMERICA 382, 389 (Richard J. Bonnie & Robert B. Wallace eds., 2006).

3. Russell G. Smith, *Fraud and Financial Abuse of Older Persons*, 11 CRIM. JUST. 273, 275 (1999).

4. NAT'L CTR. ON ELDER ABUSE, FACT SHEET: ELDER ABUSE PREVALENCE AND INCIDENCE (2005) (citing NAT'L CTR. ON ELDER ABUSE, NATIONAL ELDER ABUSE INCIDENCE STUDY (1998)).

5. Donna J. Rabiner et al., *Financial Exploitation of Older Persons: Policy Issues and Recommendations for Addressing Them*, 16 J. ELDER ABUSE & NEGLECT 65, 65–67 (2004).

6. U.S. ADMIN. ON AGING, A PROFILE OF OLDER AMERICANS 2 (2011), http://www.aoa.gov/Aging_Statistics/Profile/2011/docs/2011profile.pdf (last visited May 7, 2016).

worth for a married couple, age thirty-five to fifty-four, was approximately \$116,170.⁷

Interestingly, financial exploitation crimes against vulnerable adults continue to increase while other, more violent crimes against the same population decrease.⁸ Contributing to the problem of remediating these crimes is the lack of a single, consistent definition of financial exploitation.⁹ For example, the National Center on Elder Abuse defines financial exploitation as “the illegal or improper use of an older adult’s funds, property, or assets.”¹⁰ Meanwhile, Lachs and Pillemer define it as “misappropriation of [an elder’s] money or property.”¹¹ Dessin conceptualized financial exploitation in four distinct categories: theft, fraud, intentional breach of duty by a fiduciary or caregiver, and negligence.¹²

This particular form of maltreatment has been estimated to cost its victims up to \$2.6 billion annually.¹³ The typical financial exploitation victim is a female who is between seventy and eighty-nine years old, white, and has some form of incapacity.¹⁴ The follow-up survey to the 2009 MetLife Mature Market Survey indicated that women were twice as likely as men to be victims of financial exploitation, with most living alone and needing assistance with activities of daily living.¹⁵ As early as 1993, research indicated that elders who are dependent on caregivers, those with diminished capacity, and those who are widowed and previously did

7. U.S. CENSUS BUREAU, NET WORTH AND ASSET OWNERSHIP OF HOUSEHOLDS (2011), <http://www.census.gov/people/wealth/>.

8. Betty Malks et al., *Combating Elder Financial Abuse: A Multi-Disciplinary Approach to a Growing Problem*, 15 J. ELDER ABUSE & NEGLECT 55, 56 (2003).

9. See Yolanda M. Sanchez, *Distinguishing Cultural Expectations in Assessment of Financial Exploitation*, 8 J. ELDER ABUSE & NEGLECT 49, 51 (1997).

10. TOSHIO TATARA ET AL., NAT’L CTR. ON ELDER ABUSE, NATIONAL ELDER ABUSE INCIDENCE STUDY: FINAL REPORT 12 (1998).

11. Mark S. Lachs & Karl Pillemer, *Elder Abuse*, 364 LANCET 1263, 1264 (2004).

12. Carolyn L. Dessin, *Financial Abuse of the Elderly: Is the Solution a Problem?*, 34 MCGEORGE L. REV. 267, 269–70 (2003).

13. METLIFE MATURE MKT. INST., BROKEN TRUST: ELDERS, FAMILIES, AND FINANCES 4 (2009), <https://www.metlife.com/assets/cao/mmi/publications/studies/mmi-study-broken-trust-elders-family-finances.pdf>.

14. *Id.* at 8.

15. METLIFE MATURE MKRT. INST., THE METLIFE STUDY OF ELDER FINANCIAL ABUSE: CRIMES OF OCCASION, DESPERATION, AND PREDATION AGAINST AMERICA’S ELDERS 3 (2011), <https://www.metlife.com/assets/cao/mmi/publications/studies/2011/mmi-elder-financial-abuse.pdf>.

not handle financial matters were the primary targets of perpetrators.¹⁶ Kemp and Mosqueda noted that financial exploitation accounted for approximately twenty percent of all the cases of substantiated maltreatment from state APS agencies.¹⁷ In addition, financial exploitation is expected to grow due to four main factors: (1) there is a continually expanding older adult population; (2) the majority of the wealth in the United States is held by the older adult population; (3) increasing age often equates to increased vulnerability to perpetrators; and (4) the variety of scams and methods of exploitation continues to grow.¹⁸

Despite its prevalence, financial exploitation is particularly challenging to address, as it is infrequently reported yet relatively common.¹⁹ Elder maltreatment, for many years, was viewed as a civil matter rather than a criminal act.²⁰ However, while law enforcement agencies and government prosecutors are pursuing more cases of financial exploitation, civil actions initiated by the vulnerable adult may be challenging.²¹ As a result of potential diminished capacity, the alleged maltreatment may become a battle of testimonies rather than based on evidence.²² The vulnerable adult may not be able to afford the court costs or the services of an attorney, and the vulnerable adult's funds may be depleted even if the case is proven in court.²³

The research conducted to date has primarily analyzed the risk factors and warning signs of financial exploitation in light of the relationship of the perpetrators who commit such crimes, the

16. Blunt, *supra* note 1, at 21–22.

17. See Bryan J. Kemp & Laura A. Mosqueda, *Elder Financial Abuse: An Evaluation Framework and Supporting Evidence*, 53 J. AM. GERIATRICS SOC'Y 1123, 1123 (2005).

18. *Id.*

19. See Ron Acierno et al., *Prevalence and Correlates of Emotional, Physical, Sexual, and Financial Abuse and Potential Neglect in the United States: The National Elder Mistreatment Study*, 100 AM. J. PUB. HEALTH 292, 292 (2010).

20. See Candace J. Heisler, *Elder Abuse and the Criminal Justice System: New Awareness, New Responses*, 24 J. AM. SOC'Y ON AGING 52, 52 (2000) (“Because elder abuse was rarely viewed as criminal conduct, litigation historically has been brought in civil courts . . .”).

21. See *id.* at 52–53.

22. See generally Lori A. Stiegel, *An Overview of Elder Financial Exploitation*, 36 J. AM. SOC'Y ON AGING 73, 77 (2012) (“Elder abuse cases may be complex and difficult to prove. Physical evidence and witnesses may be unavailable The victim may have lacked capacity . . .”).

23. *Id.*

capacity (or lack thereof) of the vulnerable adult victim, and the amount of time taken to exploit a vulnerable adult.

II. PRIMARY PERPETRATORS

A. Family Members

A nationally representative study of elder maltreatment noted that financial exploitation was primarily committed by non-family members but also reported data in tables demonstrating family members were the primary perpetrators, with adult children comprising the greatest percentage of perpetrators.²⁴ Another national study noted that one in twenty older adult victims indicated that they had experienced financial exploitation by a family member.²⁵ A third study, analyzing New York state APS data, however, found that forty percent of the cases of financial exploitation were committed by persons not related to the vulnerable adult.²⁶ Financial exploitation was more likely to occur in families where there had been a history of conflict and was often perpetrated by those family members who feel they are “entitled” to the money.²⁷

When a family member becomes dependent upon the older vulnerable adult for basic needs, including housing, the potential for financial exploitation increases,²⁸ and the same is true when the vulnerable adult is dependent upon a family member for care.²⁹ The concept of family members as perpetrators also presents another challenge in that vulnerable adult victims may not want to accuse relatives of a crime, due to fear of repercussions or retaliation.³⁰

24. Edward O. Laumann et al., *Elder Mistreatment in the United States: Prevalence Estimates from a Nationally Representative Study*, 63 J. GERONTOLOGY SER. B PSYCHOL. SCI. & SOC. SCI. 1, 12 (2008).

25. Acierno et al., *supra* note 19, at 294 (“We analyzed episodes of financial mistreatment perpetrated by family and found a prevalence of 5.2%.”).

26. Namkee G. Choi & James Mayer, *Elder Abuse, Neglect, and Exploitation: Risk Factors and Prevention Strategies*, 33 J. GERONTOLOGICAL SOC. WORK 5, 17 (2000).

27. Bryan Kemp & Solomon Liao, *Elder Financial Abuse: Tips for the Medical Director*, 7 J. AM. MED. DIRECTORS ASS’N 591, 591 (2006).

28. *See, e.g.*, Lachs & Pillemer, *supra* note 11, at 1265.

29. Dale Bagshaw et al., *Financial Abuse of Older People by Family Members: Views and Experiences of Older Australians and Their Family Members*, 66 AUSTL. SOC. WORK 86, 99 (2013).

30. *See* Lori A. Stiegel, *Financial Abuse: How It May Impact Your Clients and Your*

B. Caregivers

Financial exploitation has been shown to occur in the context of caregiver stress, when conflicts may arise between care recipient and caregiver over a multitude of reasons, and in situations involving professional fiduciaries (e.g., guardians) who may be appointed by the court to manage a vulnerable adult's resources.³¹ In general, however, financial exploitation is a potential when any caregiver begins to have access to a vulnerable adult's funds.³² Some cases of financial exploitation result from perpetrators creating reliance and dependency on their services alone.³³ Caregivers for vulnerable adults often have sole or primary access to the potential victim, and this is especially true with those persons who live alone in the community.³⁴ While family members often have a sense of entitlement to the vulnerable adult's assets under a rationale of inheritance, family members and caregivers may begin to financially exploit their vulnerable adult care recipients out of notions that they have "earned" the extra compensation improperly taken from the vulnerable adult.³⁵

C. Fiduciaries

One form of financial exploitation in one study was from abuses of a power of attorney, given to a trusted person by the vulnerable adult, and improper gifts made by those with that authority.³⁶ In addition, a departure from regular business ethics (e.g., prudent investing requirements, utilized in many

Practice, NAT'L ACAD. ELDER LAW ATT'YS § 9-1 (2001).

31. Georgia J. Anetzberger, *Caregiving: Primary Cause of Elder Abuse?*, 24 GENERATIONS 46, 46-51 (2000); see also U.S. GOV'T ACCOUNTABILITY OFFICE, GUARDIANSHIPS: CASES OF FINANCIAL EXPLOITATION, NEGLECT, AND ABUSE OF SENIORS 5, 10-15 (2010) [hereinafter GAO GUARDIANSHIP REPORT], <http://www.gao.gov/assets/320/310741.pdf> (noting that financial exploitation is the most common form of elder abuse and detailing cases involving professional fiduciaries and family-member guardians).

32. See GAO GUARDIANSHIP REPORT, *supra* note 31.

33. Kemp & Mosqueda, *supra* note 17, at 1125.

34. LISA NERENBERG, NAT'L CTR. ON ELDER ABUSE, FORGOTTEN VICTIMS OF ELDER FINANCIAL CRIME AND ABUSE: A REPORT AND RECOMMENDATIONS 4 (1999).

35. Bagshaw et al., *supra* note 29, at 100.

36. Miranda Davies et al., *Factors Used in the Detection of Elder Financial Abuse: A Judgement and Decision-Making Study of Social Workers and Their Managers*, 54 INT'L SOC. WORK 404, 416 (2011).

guardianship cases) regularly practiced by fiduciaries indicated the potential for financial exploitation, including the absence of written agreements and the presence of conflicts of interest.³⁷ A recent report from the U.S. Government Accountability Office (GAO) found that many court-appointed guardians for vulnerable adults engaged in financial transactions and schemes that benefited the guardian, not the ward for whom they were responsible.³⁸

III. CAPACITY OF THE VULNERABLE ADULT

Several studies have noted that cognitive impairment of the vulnerable adult victim is one of the most significant risk factors for exploitation.³⁹ This finding is especially noteworthy given the fact that financial exploitation can include theft by coercion or deception.⁴⁰ A study in the United Kingdom found that when a vulnerable adult is perceived to be incapacitated, certain protective workers (e.g., social workers) were more attuned to the potential for financial exploitation,⁴¹ which could potentially reduce the incidence of financial exploitation.

Capacity is especially important to consider in light of the required ability to conduct financial transactions or bestow fiduciary responsibility on a “trusted” individual. Capacity factors are essential for predicting financial exploitation, and studies have indicated a need to distinguish older adults with capacity from those older adults with diminished capacity or a total lack of capacity.⁴² Shulman and Faierman-Shulman assert that financial capacity differs from the ability to make wise decisions and consists of three competencies: (1) capacity to manage property; (2) capacity to authorize a power of attorney; and (3) testamentary

37. See Kemp & Mosqueda, *supra* note 17, at 1125.

38. See GAO GUARDIANSHIP REPORT, *supra* note 31, at 5.

39. Bagshaw et al., *supra* note 29, at 101; Michael J. Tueth, *Exposing Financial Exploitation of Impaired Elderly Persons*, 8 AM. J. GERIATRIC PSYCHIATRY 104, 106 (2000); see also Mark S. Lachs & Karl Pillemer, *Abuse and Neglect of Elderly Persons*, 332 NEW ENG. J. MED. 437, 437–43 (1995); Kathleen H. Wilber & Sandra L. Reynolds, *Introducing a Framework for Defining Financial Abuse of the Elderly*, 8 J. ELDER ABUSE & NEGLECT 61, 61–80 (1997).

40. Kendon J. Conrad et al., *Conceptual Model and Map of Financial Exploitation of Older Adults*, 23 J. ELDER ABUSE & NEGLECT 304, 304–25 (2011); Kemp & Mosqueda, *supra* note 17, at 1124.

41. Davies et al., *supra* note 36, at 412–13.

42. See Donna M. Pinsker et al., *Exploitation in Older Adults: Social Vulnerability and Personal Competence Factors*, 29 J. APPLIED GERONTOLOGY 740, 756 (2010).

capacity (i.e., the capacity to create a will disposing of property).⁴³ Many states include cognitive incapacity in their definition of vulnerable adult, dependent adult, or similar terminology.⁴⁴ Additionally, many states create the potential for a person who is only physically incapacitated yet retains full cognitive function to be included in this definition.⁴⁵

IV. TIMING AND NUMBER OF OFFENSES

One of the main indicators of financial exploitation is the occurrence of spending patterns or transactions that are out of the norm for the potential vulnerable adult victim.⁴⁶ Financial exploitation presents other challenges to appropriately defining warning signs and risk factors because it can occur with the click of a computer mouse in a matter of seconds, or it can be a drawn-out process over months or years that is more “gradual and insidious.”⁴⁷ However, one study showed that financial abuse occurring over an extended length of time tends to be a common element of financial exploitation cases, with multiple transactions occurring over months or years and amounting to hundreds of thousands of dollars pilfered from a potentially unsuspecting victim.⁴⁸ Equally as important to consider, we note, are the cases where the vulnerable adult is poor when financially exploited, making the exploitation just as or more devastating due to the lack of resources.

43. Richard W. Shulman & Claudia A. Faierman-Shulman, *Elder Financial Abuse: A Review for Primary Care Physicians*, 4 CAN. ALZHEIMER DISEASE REV. 8, 10–11 (2000).

44. See, e.g., ARIZ. REV. STAT. ANN. § 46-451(A)(9) (West, Westlaw through 2015 1st Reg. Sess. and 1st Spec. Sess. of the 52d Leg.); WASH. REV. CODE ANN. § 74.34.020(21)(a) (West, Westlaw through 2015 Reg. and Spec. Sess.).

45. Minnesota is a prime example of this expansive definition. In Minnesota Statutes section 626.5572, subdivision 21(a)(4), vulnerable adults not in a facility-based setting or receiving home care can be still classified as “vulnerable.” This two-part test requires a showing that the adult cannot take care of himself or herself because of either cognitive or physical disabilities *and* has the inability to protect himself or herself from harm or the like from other people, which includes the ability to ask for help.

46. See Davies et al., *supra* note 36, at 413; Stiegel, *supra* note 30, at § IV(b); Wilber & Reynolds, *supra* note 39.

47. Conrad et al., *supra* note 40, at 305.

48. Brian K. Payne & Sheryl M. Strasser, *Financial Exploitation of Older Persons in Adult Care Settings: Comparisons to Physical Abuse and the Justice System’s Response*, 24 J. ELDER ABUSE & NEGLECT 231, 231–50 (2012).

V. THE STUDY

This study analyzed the existing literature on financial exploitation to determine the essential components to include in state criminal statutes and APS laws to best address cases of financial exploitation.⁴⁹ In addition, the laws of all fifty states were analyzed to determine which states included proactive approaches to addressing this form of maltreatment and which states needed further advocacy to improve upon their existing laws.⁵⁰

A. Methods

A literature review was conducted to collect and evaluate the articles, studies, and reports analyzing financial exploitation. Given the lack of a uniform definition or terminology, the following search terms were utilized: financial exploitation, financial abuse, material exploitation, material abuse, fiduciary abuse, fiduciary exploitation, and caregiver exploitation. Databases searched included PubMed (through the National Center for Biotechnology Information) and Google Scholar.

After conducting the literature review, state statutes were researched to determine what states currently address under their respective laws. Each state's APS and criminal code laws were located and analyzed separately. For the APS laws, we used a publication titled *Types of Abuse: Provisions and Citations in Adult Protective Services Laws, By State*.⁵¹ For the criminal code laws, we used *Elder Abuse, Neglect, and Exploitation State Statutes*.⁵² Given the fluid nature of state laws and the dates of creation for these two documents, each document served as a foundation to guide the search for more current versions of both state criminal laws and APS laws. Language used in the creation of tables and in analyses came directly from the websites hosted and maintained by state

49. See *infra* Part VI.

50. See *infra* Section V.B.

51. See LORI STIEGEL & ELLEN KLEM, NAT'L CTR. ON ELDER ABUSE, TYPES OF ABUSE: PROVISIONS AND CITATIONS IN ADULT PROTECTIVE SERVICES LAWS, BY STATE (2007), http://www.americanbar.org/content/dam/aba/migrated/aging/about/pdfs/Abuse_Types_Statutory_Provisions_by_State_Chart.authcheckdam.pdf.

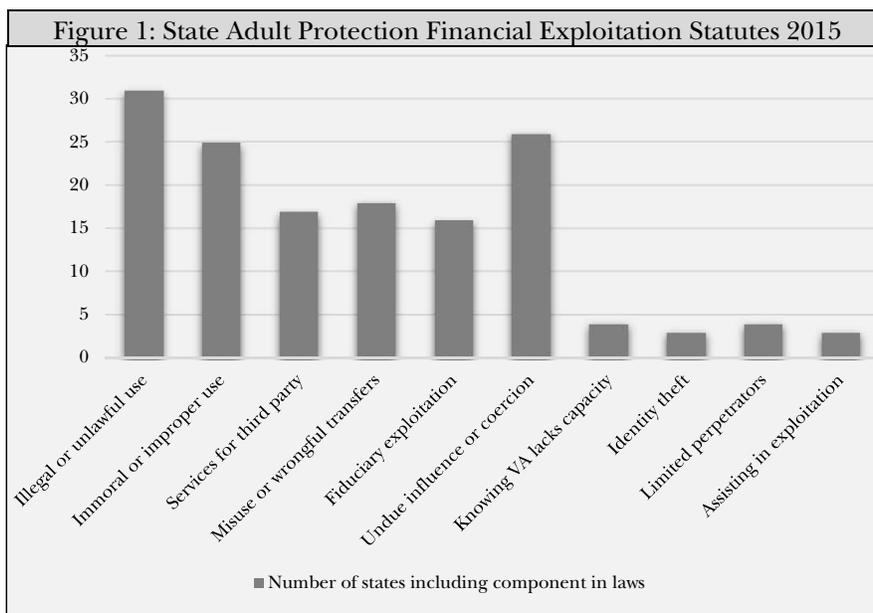
52. See AM. PROB. & PAROLE ASS'N, ELDER ABUSE, NEGLECT, AND EXPLOITATION STATE STATUTES (2007), https://www.appa-net.org/eweb/Training/IREA/assets/EA_Neglect.pdf.

legislative bodies, or their relative equivalent, in each of the fifty states.⁵³

B. Results

1. Adult Protective Services Laws

State APS laws address financial exploitation using several different approaches. The first approach, used by thirty-one states, defines financial exploitation as the illegal, attempted illegal, or unlawful use of a vulnerable adult’s property, assets, or funds.⁵⁴



53. See *infra* tbls.1 & 2.

54. See *infra* tbl.1.

One state, Louisiana, categorizes financial exploitation also in terms of “extortion.”⁵⁵ The second approach predominantly used in state statutes is a moral standard, such that financial exploitation is the “immoral,” “unjust,” or “unfair” use of a vulnerable adult’s assets.⁵⁶ The moral standard is included in twenty-five state statutes, with seventeen of those states also including the “illegal conduct” language.⁵⁷ Other criteria are employed as well: seventeen states include in their definition any services the vulnerable adult is forced to perform for a third party that benefit the perpetrator or the third party;⁵⁸ and eighteen states mention the criterion of misuse, misappropriation, or wrongful transfers of assets to a third party.⁵⁹

Interesting to note is that only sixteen states include mention of a fiduciary committing financial exploitation,⁶⁰ and twenty-six states include financial exploitation committed through the use of undue influence, duress, or coercion.⁶¹ Texas, Utah, and Wisconsin are the only states that include identity theft as financial exploitation.⁶² Comparatively, Florida, Utah, Vermont, and Washington are the only states that impose a standard on the alleged perpetrator that he or she knew or should have known the vulnerable adult lacked capacity to consent to the financial transfer or transaction.⁶³ Six states do not have specific definitions of financial exploitation but, rather, include it as a subcategory under their definition of “abuse” or “neglect.”⁶⁴ Three states—Iowa, Ohio, and Tennessee—limit financial exploitation to acts committed by caregivers, and Texas limits financial exploitation to family, caregivers, or those in an “ongoing relationship” with the vulnerable adult victim.⁶⁵ Table 1 provides states included within each category.

55. LA. STAT. ANN. § 15:1503(8) (West, Westlaw through 2015 Reg. Sess.).

56. *See infra* tbl.1, row B.

57. *See infra* tbl.1, rows A–B.

58. *See infra* tbl.1, rows C.

59. *See infra* tbl.1, rows D.

60. *See infra* tbl.1, rows E.

61. *See infra* tbl.1, rows F.

62. *See infra* tbl.1, rows H.

63. *See infra* tbl.1, rows G.

64. *See infra* tbl.1, rows J.

65. *See infra* tbl.1, rows I.

Categories of Financial Exploitation in APS Statutes with States (2015)**	
Category	Applicable States
A: Illegal, attempted illegal, unlawful, or unauthorized use of a vulnerable adult's funds, assets, or property	AL, AZ, AR, CA, DE, FL, GA, HI, IL, IA, LA, ME, MN, MS, NE, NH, NJ, NC, ND, OH, PA, RI, SC, TX, UT, VT, VA, WA, WV, WI, WY
B: "Immoral, improper, or unjust" use of a vulnerable adult's funds, assets, or property	AK, AZ, AR, CO, DE, GA, ID, IA, KS, LA, ME, MS, NJ, NM, NY, NC, ND, OH, OK, RI, SC, TN, TX, UT, WA
C: Gaining a profit or advantage when vulnerable adult performs a service for a third party	AK, AZ, CO, IA, MD, MN, MS, NH, NJ, NC, OH, PA, SC, UT, VT, VA, WY
D: Misuse, misappropriation, and/or wrongful transfers of a vulnerable adult's funds, assets, or property	CT, FL, HI, KS, KY, MD, MA, MI, MN, MT, NV, ND, OK, OR, VT, WA, WI, WY
E: Exploitation using a fiduciary authority (e.g., power of attorney or guardianship)	AR, HI, LA, MN, MS, MT, NE, NV, NH, ND, RI, SC, UT, WA, WI, WY
F: Exploitation using undue influence, coercion, duress, deception, or intimidation	CA, CO, FL, GA, HI, IA, KS, KY, MA, MN, MT, NE, NV, NH, NY, ND, OK, OR, PA, RI, SC, UT, VT, WA, WI, WY
G: Perpetrator knows or should know the vulnerable adult lacks capacity	FL, UT, VT, WA
H: Exploitation via identity theft	TX, UT, WI
I: Financial exploitation limited to caregivers, family members, or those in a relationship with the vulnerable adult	IA, OH, TN, TX
J: Exploitation as a subset of "abuse" or "neglect"	IL, IN, IA, MO, OR, WV

**Citations to the applicable statutes are provided in the footnote below.⁶⁶

66. Category A: ALA. CODE § 38-9-2(8) (West, Westlaw through Act 2015-559); ARIZ. REV. STAT. ANN. § 46-451(A)(4) (West, Westlaw through 2015); ARK. CODE ANN. § 12-12-1703(6)(A)-(D) (West, Westlaw through 2015); CAL. WELF. & INST. CODE ANN. § 15610.30 (West, Westlaw through 2015); DEL. CODE ANN. tit. 31, § 3902(11) (West, Westlaw through 80 Laws 2015, ch. 194); FLA. STAT. ANN. § 415.102(8)(a)-(b) (West, Westlaw through 2015); GA. CODE ANN. § 30-5-3(8) (West, Westlaw through 2015 Reg. Sess.); HAW. REV. STAT. ANN. § 346-222 (West, Westlaw through Act 243 of the 2015 Reg. Sess.); 320 ILL. COMP. STAT. ANN. 20/2(f-1)-(k) (West, Westlaw through P.A. 99-495 of the 2015 Reg. Sess.); IOWA

CODE ANN. § 235B.2 (West, Westlaw through 2015 Reg. Sess.); LA. STAT. ANN. § 14:403.2 (Westlaw through 2015 Reg. Sess.); ME. REV. STAT. ANN. tit. 22, § 3472(9-A) (West, Westlaw through 2015); MINN. STAT. § 626.5572 (2014 & Supp. 2015); MISS. CODE ANN. § 43-47-5(i) (West, Westlaw through 2015 Reg. Sess.); NEB. REV. STAT. ANN. § 28-351 (West, Westlaw through 2015 1st Reg. Sess.); N.H. REV. STAT. ANN. § 161-F:43(IV) (West, Westlaw through 2015 Reg. Sess.); N.J. STAT. ANN. § 52:27D-407 (West, Westlaw through 2015); N.C. GEN. STAT. ANN. § 108A-101(j) (West, Westlaw through 2015 Reg. Sess.); N.D. CENT. CODE ANN. § 50-25.2-01(7) (West, Westlaw through 2015 Reg. Sess.); OHIO REV. CODE ANN. § 5101.60(G) (West, Westlaw through 2015); 35 PA. STAT. AND CONS. STAT. ANN. § 10225.103 (West, Westlaw through 2015 Reg. Sess.); 42 R.I. GEN. LAWS ANN. § 9.2-2(5) (West, Westlaw through Jan. 2015 Sess.); S.C. CODE ANN. § 43-35-10(3)(a)–(c) (West, Westlaw through 2015 Reg. Sess.); TEX. HUM. RES. CODE ANN. § 48.002(a)(3) (West, Westlaw through 2015 Reg. Sess. of the 84th Leg.); UTAH CODE ANN. § 62A-3-301(14) (West, Westlaw through 2015 1st Spec. Sess.); VT. STAT. ANN. tit. 33, § 6902(6)(A) (B) (West, Westlaw through 2015–2016 1st Sess.); VA. CODE ANN. § 63.2-100 (West, Westlaw through 2015 Reg. Sess.); WASH. REV. CODE ANN. § 74.34.020(7) (West, Westlaw through 2015); W. VA. CODE ANN. § 9-6-1(3)(B) (West, Westlaw through 2015 Reg. Sess.); WIS. STAT. ANN. § 46.90(1)(ed)(1)–(7) (West, Westlaw through 2015 Act 127); WYO. STAT. ANN. § 35-20-102(a)(ix) (West, Westlaw through 2015 Gen. Sess.).

Category B: ALASKA STAT. ANN. § 47.24.900 (West, Westlaw through 2015 1st Reg. Sess. and 3d Spec. Sess.); ARIZ. REV. STAT. ANN. § 46-451 (Westlaw); ARK. CODE ANN. § 12-12-1703 (Westlaw); COLO. REV. STAT. ANN. § 26-3.1-101 (West, Westlaw through 2015 1st Reg. Sess.); DEL. CODE ANN. tit. 31, § 3902 (Westlaw); GA. CODE ANN. § 30-5-3 (Westlaw); IDAHO CODE ANN. § 39-5302 (West, Westlaw through 2015); IOWA CODE ANN. § 235B.2 (Westlaw); KAN. STAT. ANN. § 39-1430 (West, Westlaw through 2015 Reg. Sess.); LA. STAT. ANN. § 14:1503 (Westlaw); ME. REV. STAT. ANN. tit. 22, § 3472 (Westlaw); MISS. CODE ANN. § 43-47-5 (Westlaw); N.J. STAT. ANN. § 52:27D-407 (Westlaw); N.M. STAT. ANN. § 27-7-16 (West, Westlaw through 2015 1st Spec. Sess.); N.Y. SOC. SERV. LAW § 473(I) (McKinney 2015); N.C. GEN. STAT. ANN. § 108A-101 (Westlaw); N.D. CENT. CODE ANN. § 50-25.2-01 (Westlaw); OHIO REV. CODE ANN. § 5101.60 (Westlaw); OKLA. STAT. ANN. tit. 43A, § 10-103 (West, Westlaw through 2015 1st Sess.); 42 R.I. GEN. LAWS ANN. § 66-4.1 (Westlaw); S.C. CODE ANN. § 43-35-10 (Westlaw); TENN. CODE ANN. § 71-6-102 (West, Westlaw through 2015 1st Reg. Sess.); TEX. HUM. RES. CODE ANN. § 48.002 (Westlaw); UTAH CODE ANN. § 62A-3-301 (Westlaw); WASH. REV. CODE ANN. § 74.34.020 (Westlaw).

Category C: ARK. CODE ANN. § 12-12-1703 (Westlaw); ALASKA STAT. ANN. § 47.24.900 (Westlaw); COLO. REV. STAT. ANN. § 26-3.1-101 (Westlaw); IOWA CODE ANN. § 235B.2 (Westlaw); MD. CODE ANN., FAM. LAW § 14-101 (West, Westlaw through 2015 Reg. Sess.); MINN. STAT. § 626.5572; MISS. CODE ANN. § 43-47-5 (Westlaw); N.H. REV. STAT. ANN. § 161-F:43 (Westlaw); N.C. GEN. STAT. ANN. § 108A-101 (Westlaw); OHIO REV. CODE ANN. § 5101.60 (Westlaw); 35 PA. STAT. AND CONS. STAT. ANN. § 10225.103 (Westlaw); S.C. CODE ANN. § 43-35-10 (Westlaw); UTAH CODE ANN. § 62A-3-301 (Westlaw); VT. STAT. ANN. tit 33, § 6902 (Westlaw); VA. CODE ANN. § 63.2-100 (Westlaw); WYO. STAT. ANN. § 35-20-102 (Westlaw).

Category D: CONN. GEN. STAT. ANN. § 17b-450 (West, Westlaw through 2015 Reg. Sess. and June Spec. Sess.); FLA. STAT. ANN. § 415.102 (8)(b)(2) (Westlaw); HAW. REV. STAT. ANN. § 346-222 (Westlaw); KAN. STAT. ANN. § 39-1430 (Westlaw); KY. REV. STAT. ANN. § 209.020 (West, Westlaw through 2015 Reg. Sess.); MD. CODE ANN., FAM. LAW § 14-101 (Westlaw); MASS. GEN. LAWS ANN. ch. 19A, § 14 (West, Westlaw through 2015 1st Ann. Sess.); MICH. COMP. LAWS ANN. § 400.11 (West, Westlaw through 2015 Reg. Sess.); MINN. STAT. § 626.5572; MONT. CODE ANN. § 52-3-803 (West, Westlaw through 2015 Sess.); NEV. REV. STAT. ANN. § 200.5092 (West, Westlaw through 2015 78th Reg. Sess.); N.D. CENT. CODE ANN. § 50-25.2-01 (Westlaw); OKLA. STAT. ANN. tit. 43A, § 10-103 (Westlaw); OR. REV. STAT. ANN. § 124.050 (West, Westlaw through 2015 Reg. Sess.); VT. STAT. ANN. tit. 33, § 6902 (Westlaw); WASH. REV. CODE ANN. § 74.34.020 (Westlaw); WIS. STAT. ANN. § 46.90(1) (Westlaw); WYO. STAT. ANN. § 35-20-102 (Westlaw).

Category E: ARK. CODE ANN. § 12-12-1703 (Westlaw); HAW. REV. STAT. ANN. § 346-222 (Westlaw); LA. STAT. ANN. § 15.1503 (Westlaw); MINN. STAT. § 626.5572; MISS. CODE ANN. § 43-47-5 (Westlaw); MONT. CODE ANN. § 52-3-803 (Westlaw); NEB. REV. STAT. ANN. § 28-351 (Westlaw); NEV. REV. STAT. ANN. § 200.5092 (Westlaw); N.H. REV. STAT. ANN. § 161-F:43 (Westlaw); N.D. CENT. CODE ANN. § 50-25.2-01 (Westlaw); 42 R.I. GEN. LAWS ANN. § 66-4.1 (Westlaw); S.C. CODE ANN. § 43-35-10 (Westlaw); UTAH CODE ANN. § 62A-3-301 (Westlaw); WASH. REV. CODE ANN. § 74.34.020 (Westlaw); WIS. STAT. ANN. § 46.90(1) (Westlaw); WYO. STAT. ANN. § 35-20-102 (Westlaw).

Category F: CAL. WELF. & INST. CODE ANN. § 15610.30 (Westlaw); COLO. REV. STAT. ANN. § 26-3.1-101 (Westlaw); FLA. STAT. ANN. § 415.102 (Westlaw); GA. CODE ANN. § 30-5-3 (Westlaw); HAW. REV. STAT. ANN. § 346-222 (Westlaw); IOWA CODE ANN. § 235B.2 (Westlaw); KAN. STAT. ANN. § 39-1430 (Westlaw); KY. REV. STAT. ANN. § 209.020 (Westlaw); MASS. GEN. LAWS ANN. ch. 19A, § 14 (Westlaw); MINN. STAT. § 626.5572; MONT. CODE ANN. § 52-3-803 (Westlaw); NEB. REV. STAT. ANN. § 28-358 (Westlaw); NEV. REV. STAT. ANN. § 200.5092 (Westlaw); N.H. REV. STAT. ANN. § 161-F:43 (Westlaw); N.Y. SOC. SERV. LAW § 473 (McKinney 2015); N.D. CENT. CODE ANN. § 50-25.2-01 (Westlaw); OKLA. STAT. ANN. tit. 43A, § 10-103 (Westlaw); OR. REV. STAT. ANN. § 124.050 (Westlaw); 35 PA. STAT. AND CONS. STAT. ANN. § 10225.103 (Westlaw); 41 R.I. GEN. LAWS ANN. § 66-4.1 (Westlaw); S.C. CODE ANN. § 43-35-10 (Westlaw); UTAH CODE ANN. § 62A-3-301 (Westlaw); VT. STAT. ANN. tit. 33, § 6902 (Westlaw); WASH. REV. CODE ANN. § 74.34.020 (Westlaw); WIS. STAT. ANN. § 46.90(1) (Westlaw); WYO. STAT. ANN. § 35-20-102 (Westlaw).

Category G: FLA. STAT. ANN. § 415.102 (Westlaw); UTAH CODE ANN. § 62A-3-301 (Westlaw); VT. STAT. ANN. tit. 33, § 6902 (Westlaw); WASH. REV. CODE ANN. § 74.34.020 (Westlaw).

Category H: TEX. HUM. RES. CODE ANN. § 48.002 (Westlaw); UTAH CODE ANN. § 62A-3-301 (Westlaw); WIS. STAT. ANN. § 46.901(1) (Westlaw).

Category I: IOWA CODE ANN. § 235B.2 (Westlaw); OHIO REV. CODE ANN. § 5101.60 (Westlaw); TENN. CODE ANN. § 71-6-102 (Westlaw); TEX. HUM. RES. CODE ANN. § 48.002 (Westlaw).

Category J: 320 ILL. COMP. STAT. ANN. 20/2(f-1)-(k) (Westlaw); IND. CODE ANN. § 12-10-3-2 (West, Westlaw through 2015 1st Reg. Sess.); IOWA CODE ANN. § 235B.2 (Westlaw); MO. ANN. STAT. § 192.2400(14) (West, Westlaw through 2015

Three states (Iowa, Ohio, and Tennessee) limit financial exploitation in their APS laws to acts by a caretaker.⁶⁷ Texas limits financial exploitation to acts by a caretaker, family member, or someone in an “ongoing relationship” with the vulnerable adult.⁶⁸ Nevada uses its criminal code definition of financial exploitation in other areas pertinent to vulnerable adults.⁶⁹ South Dakota is not listed in this chart because there is no APS law for financial exploitation and no cross-reference in the statutes to the criminal code definition. Idaho uses the language “may include but is not limited to,” which may encompass other forms of financial exploitation not displayed in this table.⁷⁰

The state with the most comprehensive approach to financial exploitation in APS statutes is Utah, having language satisfying seven of the criteria mentioned above.⁷¹ Utah also includes language that a person assisting another in committing financial exploitation has also himself or herself committed the act.⁷² Following Utah, the eight states that have the most broad approaches to financial exploitation, defined here as possessing five or more of the criteria mentioned above, include Florida, Minnesota, North Dakota, South Carolina, Vermont, Washington, Wisconsin, and Wyoming.⁷³ The nine states whose statutes are proactive but not as comprehensive—defined here as possessing four of the previously mentioned criteria—include California, Hawaii, Iowa, Kansas, Mississippi, Montana, Nevada, New Hampshire, and Rhode Island.⁷⁴

Veto Sess.); OR. REV. STAT. ANN. § 430.735 (Westlaw); W. VA. CODE ANN. § 9-6-1 (Westlaw).

67. See IOWA CODE ANN. § 235B.2(5)(1)(c) (Westlaw); OHIO REV. CODE ANN. § 5101.60(G) (Westlaw); TENN. CODE ANN. § 71-6-102(8) (Westlaw).

68. TEX. HUM. RES. CODE ANN. § 48.002(a)(3) (Westlaw).

69. See NEV. REV. STAT. ANN. § 200.5092(3) (Westlaw).

70. IDAHO CODE ANN. § 39-5302(7) (Westlaw).

71. See UTAH CODE ANN. § 62A-3-301 (Westlaw).

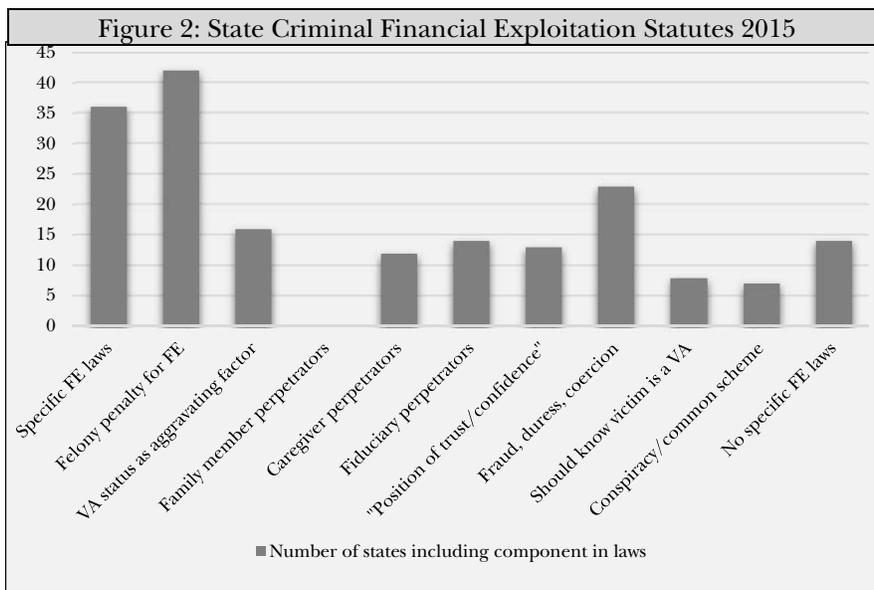
72. *Id.*

73. See FLA. STAT. ANN. § 415.102(8)(a)–(b) (West, Westlaw through 2015 1st Reg. Sess. and Spec. A Sess.); MINN. STAT. § 626.5572, subdiv. 9 (2014 & Supp. 2015); N.D. CENT. CODE ANN. § 50-25.2-01(7) (West, Westlaw through 2015 Reg. Sess.); S.C. CODE ANN. § 43-35-10(3) (West, Westlaw through 2015 Reg. Sess.); VT. STAT. ANN. tit. 33, § 6902(6) (West, Westlaw through 2015 1st Sess.); WASH. REV. CODE ANN. § 74.34.020(7) (West, Westlaw through 2015 Reg. Sess. and 2016 Spec. Sess.); WYO. STAT. ANN. § 35-20-102(a)(ix) (West, Westlaw through 2015 Gen. Sess.).

74. See CAL. WELF. & INST. CODE ANN. § 15610.30 (West, Westlaw through

2. Criminal Laws

Thirty-six states include specific language in their statutes criminalizing financial exploitation,⁷⁵ while fourteen states have APS financial exploitation law but no criminal law equivalent.⁷⁶



Of the thirty-six states with criminal financial exploitation laws, all have felony level penalties for this form of maltreatment.⁷⁷

2015 Reg. Sess. and Ch. 1 of 2015-2016 2d Extraordinary Sess.); HAW. REV. STAT. ANN. § 346-222 (West, Westlaw through 2015 Reg. Sess.); IOWA CODE ANN. § 235B.2(5)(1)(c) (West, Westlaw through 2015 Reg. Sess.); KAN. STAT. ANN. § 39-1430(d) (West, Westlaw through 2015 Reg. Sess.); MISS. CODE ANN. § 43-47-5(i) (West, Westlaw through 2015 Reg. Sess.); MONT. CODE ANN. § 52-3-803(3) (West, Westlaw through 2015 Sess.); NEV. REV. STAT. ANN. § 200.5092(3) (West, Westlaw through 78th Reg. Sess. and 29th Spec. Sess.); N.H. REV. STAT. ANN. § 161-F:43(IV) (West, Westlaw through 2015 Reg. Sess.); 42 R.I. GEN. LAWS ANN. § 66-4.1(2) (West, Westlaw through Jan. 2015 Sess.).

75. See *infra* tbl.2, row A.

76. See *infra* tbl.2, row L (listing Alaska, Arizona, Arkansas, California, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Carolina, North Dakota, Oklahoma, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, West Virginia, Wisconsin, and Wyoming).

77. See *infra* tbl.2, row A–B.

Sixteen states included the person's status as a vulnerable or dependent adult as an aggravating factor in other crimes,⁷⁸ and twelve states included specific mention of caregivers as perpetrators or imposed enhanced penalties for caregivers.⁷⁹ Only fourteen states include specific mention of financial exploitation committed by someone who owes a fiduciary duty to the vulnerable adult,⁸⁰ and thirteen states mention the perpetrator in a "position of trust or confidence" with the vulnerable adult victim.⁸¹ Lastly, only eight states included the criteria of the perpetrator "knowing or having reason to know" that the vulnerable adult victim lacked capacity to consent.⁸² See Table 2 above for states included within each category.

78. See *infra* tbl.2, row A.

79. See *infra* tbl.2, row H.

80. See *infra* tbl.2, row J.

81. See *infra* tbl.2, row E.

82. See *infra* tbl.2, row K.

Table 2: Categories of Financial Exploitation in Criminal Statutes with States (2015) ^{***}	
Category	Applicable States
A: Specific laws addressing financial exploitation of vulnerable or dependent adults	AL, AZ, AR, CA, DE, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MN, MS, MO, MT, NE, NV, NM, NC, ND, OK, OR, RI, SC, SD, TN, TX, UT, VT, WV, WI, WY
B: States with felony penalties for financial exploitation or related financial crimes (contingent upon amount taken)	AL, AZ, AK, CA, CO, DE, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, WV, WI, WY
C: States with only gross misdemeanor or misdemeanor penalties for financial exploitation	None
D: Mention of, or enhanced penalties for, family member perpetrators	None
E: Language for perpetrator in a “position of trust or confidence” with the vulnerable adult	AZ, CO, FL, IL, KS, MT, NV, NJ, NC, ND, OK, RI, UT
F: Language including undue influence, coercion, duress, false impression, or fraud	FL, GA, IL, IA, KS, KY, LA, MD, MN, MO, MT, NV, NC, ND, OK, OR, RI, SC, SD, UT, VT, WV, WY
G: Vulnerable adult status as an aggravating factor for other crimes	CA, CO, CT, FL, HI, IL, MA, MI, NE, NV, NJ, NY, OH, OK, PA, RI
H: Mention of, or enhanced penalties for, caregiver perpetrators	AR, CA, IA, KS, KY, MO, NM, OK, OR, SD, TX, WI
I: Language for a conspiracy or common scheme to exploit	CO, FL, NV, NC, OK, RI
J: Language specific to fiduciary perpetrators	AR, FL, GA, LA, MN, MS, MO, MT, NV, SC, SD, UT, WV, WY
K: Perpetrator knows or should know the vulnerable adult lacked capacity	CA, FL, MD, MN, NJ, NC, ND, UT
L: States without specific language for financial exploitation	AK, CO, CT, HI, ME, MA, MI, NH, NJ, NY, OH, PA, VA, WA

⁸³***Citations to the applicable statutes are provided in the footnote below.

83. Category A: ALA. CODE ANN. § 38-9-7 (West, Westlaw through Westlaw through 2015 Reg., 1st Spec. and 2d Spec. Sess.); ARIZ. REV. STAT. ANN.

§ 13-1802(B) (West, Westlaw through 2015); ARK. CODE ANN. § 5-28-103 (West, Westlaw through 2015 Reg. Sess. and 1st Extraordinary Sess.); CAL. PENAL CODE § 368 (West, Westlaw through 2015 Reg. Sess. and ch. 1 of 2015–2016 2d Extraordinary Sess.); DEL. CODE ANN. tit. 31, § 3913 (West, Westlaw through 80 Laws 2015, ch. 194); FLA. STAT. ANN. § 825.103 (West, Westlaw through 2015 1st Reg. Sess. and Spec. A Sess.); GA. CODE ANN. § 16-8-12 (West, Westlaw through 2015 Reg. Sess.); IDAHO CODE ANN. § 18-1505 (West, Westlaw through 2015 1st Reg. and 1st Extraordinary Sess.); 720 ILL. COMP. STAT. ANN. 5/17-56 (West, Westlaw through P.A. 99-495 of 2015 Reg. Sess.); IND. CODE ANN. § 35-46-1-12 (West, Westlaw through 2015 1st Reg. Sess.); IOWA CODE ANN. § 235B.20 (West, Westlaw through 2015 Reg. Sess.); KAN. STAT. ANN. § 39-1430 (West, Westlaw through 2015 Reg. Sess.); KY. REV. STAT. ANN. § 209.990 (West, Westlaw through 2015 Reg. Sess.); LA. STAT. ANN. § 14:93.4 (Westlaw through 2015 Reg. Sess.); MD. CODE ANN., CRIM. LAW § 8-801 (West, Westlaw through 2015 Reg. Sess.); MINN. STAT. § 609.2335 (2014 & Supp. 2015); MISS. CODE ANN. § 43-47-19 (West, Westlaw through 2015 Reg. Sess.); MO. ANN. STAT. § 570.145 (West, Westlaw through 2015 Veto Sess.); MONT. CODE ANN. § 52-3-803 (West, Westlaw through 2015 Sess.); NEB. REV. STAT. ANN. § 28-386 (West, Westlaw through 2015 1st Reg. Sess.); NEV. REV. STAT. ANN. § 200.5099 (West, Westlaw through 2015 78th Reg. Sess.); N.M. STAT. ANN. § 30-47-6 (West, Westlaw through 2015 1st Spec. Sess.); N.C. GEN. STAT. ANN. § 14-112.2 (West, Westlaw through 2015 Reg. Sess.); N.D. CENT. CODE ANN. § 12.1-31-07.1 (West, Westlaw through 2015 Reg. Sess.); OKLA. STAT. ANN. tit. 21, § 843.4 (West, Westlaw through 2015 1st Sess.); OR. REV. STAT. ANN. § 163.205 (West, Westlaw through 2015 Reg. Sess.); 11 R.I. GEN. LAWS ANN. § 41-5 (West, Westlaw through ch. 285 of Jan. 2015 Sess.); S.C. CODE ANN. § 43-35-85 (Westlaw through 2015 Reg. Sess.); S.D. CODIFIED LAWS § 22-46-3 (Westlaw through 2015 Reg. Sess., Exec. Order 15-1, and Sup. Ct. Rule 15-72); TENN. CODE ANN. § 71-6-117 (West, Westlaw through 2015 1st Reg. Sess.); TEX. PENAL CODE ANN. § 22.04 (West, Westlaw through 2015 Reg. Sess.); UTAH CODE ANN. § 76-5-111 (West, Westlaw through 2015 1st Spec. Sess.); VT. STAT. ANN. tit. 33, § 6913 (West, Westlaw through 2015 1st Sess.); W. VA. CODE ANN. § 61-2-29 (West, Westlaw through 2015 Reg. Sess.); WIS. STAT. ANN. § 943.20 (West, Westlaw through 2015 Act 127); WYO. STAT. ANN. § 6-2-507 (West, Westlaw through 2015 Gen. Sess.)

Category B: ALA. CODE ANN. § 38-9-7 (Westlaw); ARIZ. REV. STAT. ANN. § 13-1802 (Westlaw); ALASKA STAT. ANN. § 11.51.200 (West, Westlaw through 2015 1st Reg. Sess. and 3d Spec. Sess.); CAL. PENAL CODE § 368 (Westlaw); COLO. REV. STAT. ANN. § 18-6.5-103 (West, Westlaw through 2015 1st Reg. Sess.); DEL. CODE ANN. tit. 31, § 3913 (Westlaw); FLA. STAT. ANN. § 825.103 (Westlaw); GA. CODE ANN. § 16-8-12 (Westlaw); HAW. REV. STAT. ANN. §§ 708-830.5 to -831 and 707-765 to -766 (West, Westlaw through 2015 Reg. Sess.) (classifying first and second degree theft and extortion as felonies); IDAHO CODE ANN. § 18-1505 (Westlaw); 720 ILL. COMP. STAT. ANN. 5/17-56 (Westlaw); IND. CODE ANN. § 35-46-1-12 (Westlaw); IOWA CODE ANN. § 235B.20 (Westlaw); KAN. STAT. ANN. § 21-5417 (Westlaw); KY. REV. STAT. ANN. § 209.990 (Westlaw); LA. STAT. ANN. § 14:93.4 (Westlaw); MD. CODE ANN., CRIM. LAW § 8-801 (Westlaw); MASS. GEN. LAWS ANN. ch. 266, § 25 (West, Westlaw through 2015 1st Ann. Sess.); MICH. COMP. LAWS ANN. § 750.174a (West, Westlaw through 2015 Reg. Sess.); MINN. STAT. §§ 609.2335, 609.52, subdiv. 3; MISS. CODE

ANN. § 43-47-19 (Westlaw); MO. ANN. STAT. § 570.145 (Westlaw); MONT. CODE ANN. § 45-6-333 (Westlaw); NEB. REV. STAT. ANN. § 28-386 (Westlaw); NEV. REV. STAT. ANN. § 200.5099 (Westlaw); N.M. STAT. ANN. § 30-47-6 (Westlaw); N.Y. PENAL LAW §§ 155.30-42 (McKinney 2015) (providing felony classifications for grand larceny); N.C. GEN. STAT. ANN. § 14-112.2 (Westlaw); N.D. CENT. CODE ANN. § 12.1-31-07.1 (Westlaw); OHIO REV. CODE ANN. § 2913.02 (West, Westlaw through 2015); OKLA. STAT. ANN. tit. 21, § 843.1-4 (Westlaw); OR. REV. STAT. ANN. § 163.205 (Westlaw); 42 PA. STAT. AND CONS. STAT. ANN. § 9717 (West, Westlaw through 2015 Reg. Sess.); 11 R.I. GEN. LAWS ANN. § 41-5 (Westlaw); S.C. CODE ANN. § 43-35-85 (Westlaw); S.D. CODIFIED LAWS § 22-46-3 (Westlaw); TENN. CODE ANN. § 71-6-117 (Westlaw); TEX. PENAL CODE ANN. § 32.53 (Westlaw); UTAH CODE ANN. § 76-5-111 (Westlaw); VT. STAT. ANN. tit. 33, § 1380 (Westlaw); W. VA. CODE ANN. §§ 61-2-29b, 61-3-13 (West, Westlaw through 2015 Reg. Sess.); WIS. STAT. ANN. § 943.20 (Westlaw); WYO. STAT. ANN. § 6-2-507 (Westlaw).

Category C: None.

Category D: None.

Category E: ARIZ. REV. STAT. ANN. § 13-1802 (Westlaw); COLO. REV. STAT. ANN. § 18-6.5-103 (Westlaw); FLA. STAT. ANN. § 825.103 (Westlaw); 720 ILL. COMP. STAT. ANN. 5/17-56 (Westlaw); KAN. STAT. ANN. § 39-1430 (Westlaw); MONT. CODE ANN. § 52-3-825(2) (Westlaw); NEV. REV. STAT. ANN. § 200.5099 (Westlaw); N.J. STAT. ANN. § 2C:44-1 (West, Westlaw through 2015); N.C. GEN. STAT. ANN. § 14-112.2 (Westlaw); N.D. CENT. CODE ANN. § 12.1-31-07.1 (Westlaw); OKLA. STAT. ANN. tit. 21, § 843.1 (Westlaw); 11 R.I. GEN. LAWS ANN. § 11-68-2 (Westlaw); UTAH CODE ANN. § 76-5-111 (Westlaw).

Category F: FLA. STAT. ANN. § 825.103 (Westlaw); GA. CODE ANN. § 16-8-12(b) (Westlaw); 720 ILL. COMP. STAT. ANN. 5/17-56 (Westlaw); IOWA CODE ANN. § 235B.2 (Westlaw); KAN. STAT. ANN. § 39-1430 (Westlaw); KY. REV. STAT. ANN. § 209.990 (Westlaw); LA. STAT. ANN. § 14:93.4 (Westlaw); MD. CODE ANN., CRIM. LAW § 3-604 (Westlaw); MINN. STAT. § 609.2335; MO. ANN. STAT. § 570.145 (Westlaw); MONT. CODE ANN. § 52-3-803(3) (Westlaw); NEV. REV. STAT. ANN. § 200.5099 (Westlaw); N.C. GEN. STAT. ANN. § 14-112.2 (Westlaw); N.D. CENT. CODE ANN. § 12.1-31-07.1 (Westlaw); OKLA. STAT. ANN. tit. 21, § 843.1 (Westlaw); OR. REV. STAT. ANN. § 163.200 (Westlaw); 11 R.I. GEN. LAWS ANN. § 41-5 (Westlaw); S.C. CODE ANN. § 43-35-85 (Westlaw); S.D. CODIFIED LAWS § 22-46-2 (Westlaw); UTAH CODE ANN. § 76-5-111 (Westlaw); VA. CODE ANN. § 18.2-369 (Westlaw); W. VA. CODE ANN. § 61-2-29 (Westlaw); WYO. STAT. ANN. § 6-2-507 (Westlaw).

Category G: CAL. PENAL CODE § 368 (Westlaw); COLO. REV. STAT. ANN. § 18-6.5-103 (Westlaw); CONN. GEN. STAT. ANN. § 53a-59a (West, Westlaw through 2015 Reg. Sess. and June Spec. Sess.); FLA. STAT. ANN. § 825.103 (Westlaw); HAW. REV. STAT. ANN. § 706-660.2 (Westlaw); 730 ILL. COMP. STAT. ANN. 5/5-5-3.2(a) (23) (Westlaw); MASS. GEN. LAWS ANN. ch. 265, § 13K (Westlaw); MICH. COMP. LAWS ANN. § 750.174a (Westlaw); NEB. REV. STAT. ANN. § 28-386 (Westlaw); NEV. REV. STAT. ANN. § 193.167 (Westlaw); N.J. STAT. ANN. § 2C:44-1 (Westlaw); N.Y. PENAL LAW § 260.25 (McKinney 2015); OHIO REV. CODE ANN. § 2913.02(B)(3) (Westlaw); OKLA. STAT. ANN. tit. 22, § 991a-20 (Westlaw); 42 PA. STAT. AND CONS. STAT. ANN. § 9717 (Westlaw); 11 R.I. GEN. LAWS ANN. § 8-2.3 (Westlaw). Note, however, that some states, such as Minnesota and Hawaii, were not included in this count

While no state specifically mentioned family member perpetrators for financial exploitation, some states addressed this in their “position of trust and confidence” language, if any. Certain states (e.g., New Mexico, Oregon, Wisconsin) limit potential perpetrators to caregivers of a vulnerable adult.⁸⁴ While some states did not have specific financial exploitation crimes, several included the vulnerable adult status of the victim as an aggravating factor for other crimes and had felony-level penalties when the victim was a vulnerable adult. Alaska has an Office of Elder Fraud and Assistance, which is tasked with investigating fraud against older adults (age sixty and older) and pursuing civil actions against perpetrators.⁸⁵

because the “vulnerable adult” definition from the APS statutes is not directly carried over to the penal statutes. Instead, these definitions include references to age or senior citizen status. *See, e.g.*, HAW. REV. STAT. ANN. § 706-660.2(1)(a)(i) (Westlaw) (enhancing prison term for physically injuring victim over sixty years old in the commission of a felony); MINN. STAT. § 609.2336, subdiv. 2 (2014) (enhancing penalty to gross misdemeanor if carried out against a “senior citizen”).

Category H: ARK. CODE ANN. § 5-28-103 (Westlaw); CAL. PENAL CODE § 368(e) (Westlaw); IOWA CODE ANN. § 235B.20 (Westlaw); KAN. STAT. ANN. § 39-943 (Westlaw); KY. REV. STAT. ANN. § 209.030 (Westlaw); MO. ANN. STAT. § 570.145 (Westlaw); N.M. STAT. ANN. § 30-47-6 (Westlaw); OKLA. STAT. ANN. tit. 21, § 843.1 (Westlaw); OR. REV. STAT. ANN. § 163.205 (Westlaw); S.D. CODIFIED LAWS § 22-46-3 (Westlaw); TEX. PENAL CODE ANN. § 22.04 (Westlaw); WIS. STAT. ANN. § 940.295 (Westlaw).

Category I: COLO. REV. STAT. ANN. § 18-6.5-103 (Westlaw); FLA. STAT. ANN. § 775.0844 (Westlaw); NEV. REV. STAT. ANN. § 200.50995 (Westlaw); N.C. GEN. STAT. ANN. § 14-112.2(c) (Westlaw); OKLA. STAT. ANN. tit. 21, § 843.4 (Westlaw); 11 R.I. GEN. LAWS ANN. § 68-2 (Westlaw).

Category J: ARK. CODE ANN. § 5-28-103 (Westlaw); FLA. STAT. ANN. § 825.103 (Westlaw); GA. CODE ANN. § 16-9-6 (Westlaw); LA. STAT. ANN. § 14:93.4 (Westlaw); MINN. STAT. § 609.2335; MISS. CODE ANN. § 43-47-19 (West, Westlaw through 2015 Reg. Sess.); MO. ANN. STAT. § 198.097 (Westlaw); MONT. CODE ANN. § 52-3-825(2) (Westlaw); NEV. REV. STAT. ANN. § 200.50995 (Westlaw); S.C. CODE ANN. § 43-35-85 (Westlaw); S.D. CODIFIED LAWS § 22-46-2 (Westlaw); UTAH CODE ANN. § 76-5-111 (Westlaw); W. VA. CODE ANN. § 61-2-29 (Westlaw); WYO. STAT. ANN. § 6-2-507 (Westlaw).

Category K: CAL. PENAL CODE § 368(d)–368.5 (Westlaw); FLA. STAT. ANN. § 825.103(1)(b) (Westlaw); MD. CODE ANN., CRIM. LAW § 8-801(b)(1)–(2) (Westlaw); MINN. STAT. § 609.2335, subdiv. 2(b); N.J. STAT. ANN. § 2C:44-1(a)(2) (Westlaw); N.C. GEN. STAT. ANN. § 14-112.2(b)–(c) (Westlaw); N.D. CENT. CODE ANN. § 12.1-31-07.1(1)(a)–(b) (Westlaw); UTAH CODE ANN. § 76-5-111 (Westlaw).

84. *See* N.M. STAT. ANN. § 30-47-6 (Westlaw); OR. REV. STAT. ANN. § 163.200 (Westlaw); WIS. STAT. ANN. § 940.295 (Westlaw).

85. *See* ALASKA STAT. ANN. § 44.21.415(a) (Westlaw).

The state most comprehensive in its criminal law approach to financial exploitation of the elderly is Florida.⁸⁶ Its laws address an abuse of a “position of trust or confidence,” including fraud or coercion in the commission of financial exploitation, and include specific mention of family members and fiduciaries as perpetrators; the potential for undue influence or coercion; and potential conspiracies or common schemes to exploit vulnerable adults.⁸⁷ The Florida laws also require that a perpetrator knows (or should have known) the vulnerable adult lacked capacity for the transaction.⁸⁸ Following this, the four states that are also proactive in addressing financial exploitation, having at least four of the criminal law criteria discussed above, include Nevada, North Carolina, Oklahoma, and Utah.⁸⁹ States also making a concerted effort to address financial exploitation, having three of the criminal law criteria, include Kansas, Minnesota, Missouri, Montana, North Dakota, Rhode Island, and South Dakota.⁹⁰

The fourteen states that do not have specific language addressing financial exploitation include: Alaska, Colorado, Connecticut, Hawaii, Maine, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Virginia, and Washington. It is important to note that several of these states (Colorado, Connecticut, Massachusetts, New Jersey, New York)⁹¹ do

86. See FLA. STAT. ANN. § 825.103 (Westlaw).

87. See *id.*

88. See *id.*

89. NEV. REV. STAT. ANN. §§ 200.5099(3), (4), 200.5092, 200.50995 (West, Westlaw through 2015 78th Reg. Sess.); N.C. GEN. STAT. ANN. § 14-32.3 (West, Westlaw through 2015 Reg. Sess.); OKLA. STAT. ANN. tit. 21, § 843.4 (West, Westlaw through 2015 1st Sess.); UTAH CODE ANN. § 76-5-111 (West, Westlaw through 2015 1st Spec. Sess.).

90. See KAN. STAT. ANN. § 39-1430 (West, Westlaw through 2015 Reg. Sess.); MINN. STAT. § 609.2335 (2014 & Supp. 2015); MO. ANN. STAT. § 570.145 (West, Westlaw through 2015 Veto Sess.); MONT. CODE ANN. § 45-6-333 (West, Westlaw through 2015 Sess.); N.D. CENT. CODE ANN. § 12.1-31-07.1 (West, Westlaw through 2015 Reg. Sess.); 11 R.I. GEN. LAWS ANN. § 68-2 (West, Westlaw through Jan. 2015 Sess.); S.D. CODIFIED LAWS § 22-46-3 (West, Westlaw through 2015 Reg. Sess., Exec. Order 15-1, and Sup. Ct. Rule 15-72); see also *supra* tbl.2.

91. See COLO. REV. STAT. ANN. § 18-6.5-103(5.5) (West, Westlaw through 2015 1st Reg. Sess. of the Gen. Assemb.); CONN. GEN. STAT. ANN. § 53a-59a (West, Westlaw through 2015 Reg. Sess. and June Spec. Sess.); MASS. GEN. LAWS ANN. ch. 266, § 30(5) (West, Westlaw through ch. 171 of 2015 1st Ann. Sess. and ch. 5 of 2016 2d Ann. Sess.); N.J. STAT. ANN. § 2C:24-7 (West, Westlaw through 2015); N.Y. CIV. RIGHTS LAW § 79-n (McKinney, Westlaw through 2016).

tend to use the person's status as a vulnerable or dependent adult as an aggravating factor for other theft crimes, such as larceny or theft by deception. The majority of the states using a vulnerable adult's status as vulnerable do provide a felony level penalty when a perpetrator targets such a victim and takes property or assets of that person.⁹²

All twelve of the states that specifically mention or provide enhanced penalties for caregiver perpetrators have felony level penalties for those who commit this crime.⁹³ The same is true for twelve of the thirteen states that include language about the perpetrator committing exploitation while in a "position of trust or confidence" with the vulnerable adult,⁹⁴ and for all fourteen of the states that specifically criminalize financial exploitation when perpetrators use their fiduciary authority to do so.⁹⁵

VI. DISCUSSION

Given the importance of collaboration—pursuant to the multidisciplinary nature of financial exploitation, with albeit varying levels of collaboration in various jurisdictions—between the individuals in the criminal law aspect of financial exploitation (law enforcement, prosecutors, etc.), and those in the civil law aspect of this maltreatment (e.g., APS), it is important to analyze the amount of discord or harmony in each state's set of laws. States such as Florida, Minnesota, Nevada, and Utah interweave their criminal statutes and APS laws, utilizing similar definitions and prohibiting similar conduct.⁹⁶ States with discord between their criminal and APS statutes include Colorado, Hawaii, Mississippi, New Hampshire, Oklahoma, Pennsylvania, South Dakota, Vermont, and Washington.⁹⁷ Several of these states have much more thorough

92. COLO. REV. STAT. ANN. § 18-6.5-103 (Westlaw); CONN. GEN. STAT. ANN. § 53a-123 (Westlaw).

93. *See supra* tbl.2.

94. *See supra* tbl.2.

95. *See supra* tbl.2.

96. *See* FLA. STAT. ANN. §§ 415.102, 825.1025 (West, Westlaw through 2015 1st Reg. Sess. and Spec. A Sess.); MINN. STAT. §§ 626.5572, 609.2335 (2014 & Supp. 2015); NEV. REV. STAT. ANN. §§ 200.5092, 200.5099 (West, Westlaw through 2015 78th Reg. Sess. of the 2015 29th Spec. Sess.); UTAH CODE ANN. §§ 62A-3-301, 76-5-111 (West, Westlaw through 2015 1st Spec. Sess.).

97. *Compare* COLO. REV. STAT. ANN. § 26-3.1-101 (Westlaw), *with id.* § 18-6.5-102; *compare* HAW. REV. STAT. ANN. § 346-222 (West, Westlaw through 2015

APS laws than they do criminal laws (e.g., Colorado, Hawaii, New Hampshire),⁹⁸ and some have thorough criminal laws with less comprehensive APS financial exploitation laws (e.g., Oklahoma, South Dakota).⁹⁹

Applying the existing research to state laws, no state statute specifically addresses the potential for family members to commit financial exploitation. Indeed, in many state statutes regarding proxy decision-makers for advance directives and for selection of a guardian, the statutory presumption in many jurisdictions is that family members will care for one another and will ultimately make the most appropriate decisions. However, this assumption is not so in many cases, as some families have experienced strife and conflict over a period of years, with the potential of estrangement among family members. Some states, such as Arizona, Florida, and Michigan, do address family member perpetrators with “position of trust or confidence” language, which is often defined as including family members, especially those family members who become informal caregivers for a vulnerable adult.¹⁰⁰

Only twelve states specifically mention caregiver perpetrators or include a caregiver relationship as worthy of an enhanced penalty in their criminal statutes when the caregiver financially exploits the vulnerable adult care recipient.¹⁰¹ Given the amount of

Reg. Sess.), *with id.* § 444-10.7; *compare* MISS. CODE ANN. § 43-47-5 (West, Westlaw through 2015 Reg. Sess.), *with id.* § 43-47-19; *compare* N.H. REV. STAT. ANN. § 161-F:43 (West, Westlaw through 2015 Reg. Sess.), *with id.* § 631:8; *compare* OKLA. STAT. ANN. tit. 43A, § 10-103 (West, Westlaw through 2015 1st Sess.), *with id.* tit. 21, § 843.4; *compare* 35 PA. STAT. AND CONS. STAT. ANN. § 10225.103 (West, Westlaw through 2015 Reg. Sess.), *with id.* § 9717; *compare* S.D. CODIFIED LAWS § 28-1-44 (West, Westlaw through 2015 Reg. Sess., Exec. Order 15-1 and Sup. Ct. Rule 15-72), *with id.* § 22-46-3; *compare* VT. STAT. ANN. tit. 33, § 6902 (West, Westlaw through 2015–2016 1st Sess. of the Gen. Assemb.), *with id.* tit. 33, § 6913; *compare* WASH. REV. CODE ANN. § 74.34.020 (West, Westlaw through 2015 Reg. and Spec. Sess. and 2016 Laws, chs. 1 and 2), *with id.* § 9A.42.020–.060.

98. *Compare* COLO. REV. STAT. ANN. § 26-3.1-101 (Westlaw), *with id.* § 18-6.5-103; *compare* HAW. REV. STAT. ANN. § 346-222 (Westlaw), *with id.* § 444-10.7; *compare* N.H. REV. STAT. ANN. § 161-F:43 (Westlaw), *with id.* § 631:8.

99. *Compare* OKLA. STAT. ANN. tit. 43A, § 10-103 (Westlaw) *with* OKLA. STAT. ANN. tit. 21, § 843.4 (Westlaw); *compare* S.D. CODIFIED LAWS § 28-1-44 (Westlaw), *with* S.D. CODIFIED LAWS ANN. § 22-46-3 (Westlaw).

100. *See* ARIZ. REV. STAT. ANN. § 13-3623 (West, Westlaw through 2015 1st Reg. Sess. and 1st Spec. Sess. of the 52d Leg.); FLA. STAT. ANN. § 825.103 (Westlaw); MONT. CODE ANN. § 52-3-825(2) (Westlaw).

101. *See supra* tbl.2.

literature attempting to analyze and describe caregiver stress,¹⁰² it is not a large intuitive leap that these individuals might be more prone to committing abuse, neglect, or financial exploitation of the person for whom they care. More state statutes could include penalty enhancements for exploitation, whether the perpetrator formally provides care (e.g., a contractually hired home health nurse) or has informally assumed this role (e.g., the family member who does shopping and cooking for a vulnerable adult). It is also important to note that caregivers' access to the care recipient's funds tends to increase the risk for financial exploitation, further necessitating the inclusion of this component in state criminal and APS laws. Of special consideration are the family members who serve as informal caregivers, given that both qualifiers (i.e., "caregiver" and "family") may dispose the family member to increased likelihood of becoming a perpetrator.

In addition to the lack of states addressing caregiver perpetrators of exploitation, only fourteen states specifically address exploitation in criminal statutes when the exploitation is committed by someone owing a fiduciary duty to the vulnerable adult,¹⁰³ an issue that has gained prominence in the research conducted on financial exploitation. Given the colloquial naming of powers of attorney as "license[s] to steal"¹⁰⁴ and the recent GAO report on guardian exploitation of their wards,¹⁰⁵ it would seem prudent for states to revise their statutes to better address exploitation by those entrusted to make decisions on behalf of a principal or ward, both in APS and criminal statutes.

102. L. René Bergeron, *An Elder Abuse Case Study: Caregiver Stress or Domestic Violence? You Decide*, 34 J. GERONTOLOGICAL SOC. WORK 47, 47–63 (2001); see also Lachs & Pillemer, *supra* note 11, at 1263 ("Our aim is to assist clinicians by summarizing recent international research and clinical findings about elder abuse, and to assess their quality, relevance, and feasibility for health-care providers in clinical practice."). See generally Karl Pillemer & David Finkelhor, *Causes of Elder Abuse: Caregiver Stress Versus Problem Relatives*, 59 AM. J. ORTHOPSYCHIATRY 179, 179–87 (1989) (discussing a study that shows caregiver personality problems are linked to elder abuse).

103. See *supra* tbl.2.

104. See generally NERENBERG, *supra* note 34; Mirry M. Hwang, *Durable Power of Attorney: Financial Planning Tool or License to Steal?*, 15 J. LONG TERM HOME HEALTH CARE 13, 13–23 (1996); Hans A. Lapping, *License to Steal: Implied Gift-Giving Authority and Powers of Attorney*, 4 ELDER L.J. 143, 143–71 (1996) (discussing the abilities a person has when assigned power of attorney).

105. See GAO GUARDIANSHIP REPORT *supra* note 31, at 5.

Only a handful of states address a perpetrator's knowledge as to whether he or she "knew or should have known" that the vulnerable or dependent adult lacked capacity to consent to the transaction.¹⁰⁶ To be fair, however, many state definitions of "vulnerable adult" or "dependent adult" include the lack of capacity to protect oneself or meet one's daily needs.¹⁰⁷ Despite this, several states include in their definition of vulnerability someone who is only physically disabled, yet has some or complete cognitive capacity.¹⁰⁸ Given the significance of deteriorating cognition in the likelihood of victimization by exploitation, state statutes could be amended to include the notion of capacity in the criminal and APS statutes for financial exploitation. This focus on capacity is also important given the research that a hallmark of financial exploitation is the use of deception or false impressions to gain access to the vulnerable adult's funds, assets, or property. Minnesota, for example, makes it a crime to even obtain a fiduciary authority or title to property through the use of undue influence, fraud, or coercion.¹⁰⁹

VII. LIMITATIONS

The research conducted in this article is exploratory in nature, as it defines and describes the landscape of existing financial exploitation laws. Several studies have analyzed warning signs and risk factors for exploitation, and other research has compiled all existing laws into one large document for use by professionals and practitioners. The goal of this analysis is to compile existing research and apply it to existing state laws to identify areas for advocacy and improvement by advocates and professionals working daily to combat vulnerable adult financial exploitation. This article did not include the concept of aggregation of offenses but, under a cursory review, it was noted that few states addressed the concept of

106. See *supra* tbl.2.

107. See, e.g., FLA. STAT. ANN. § 825.101(3), (4) & (7) (West, Westlaw through chs. from the 2016 2nd Reg. Sess. of the 24th Leg.) (defining "disabled adult," "elderly person," and "lack of capacity to consent" by "infirmary of aging" and "impairments" involving mental illness or incapacitation); MINN. STAT. § 626.5572 (2014 & Supp. 2015) (including "mental infirmity" or "dysfunction" in the definition for "vulnerable adult").

108. See, e.g., FLA. STAT. ANN. § 825.101(3), (4) (Westlaw); IOWA CODE ANN. § 235B.2(4) (West, Westlaw through the 2016 Reg. Sess.); MINN. STAT. § 626.5572.

109. MINN. STAT. § 609.2335.

aggregation of crimes committed in their financial exploitation statutes (some states addressed this with “common scheme” or “conspiracy” language).¹¹⁰ This concept should be included in future research and analyses given the potential for financial crimes to be drawn out over a span of months or years. In addition, analyses focused on components of financial exploitation in state laws, regardless of whether they might make it harder to establish an incident of exploitation. Such components include a requirement, in some states, that perpetrators know or should know that the victim lacked capacity.¹¹¹ Lastly, it was noted during the search for statutory language that many state legislatures had pending initiatives that may be addressed in the coming legislative sessions. The inherent nature of state laws is that they are constantly in flux and can change rapidly, given political pressures, scandals reported in the media, or the tendency for a lawmaker’s personal experience with this issue to influence their advocacy for such legislation.

VIII. CONCLUSIONS

While comprehensive federal laws prohibiting elder maltreatment or federal definitions and standards on which to model at the state level would be ideal, the general trend has been to allow each state to identify the type or types of maltreatment to address and how best to go about this process. Some assistance, in the form of information to support model laws on financial exploitation, is being pursued by the National Center for Victims of Crime under a specific grant to develop civil statutes to address financial exploitation of vulnerable adults. Given this legislative autonomy, states should strive to develop a synergy between their criminal laws and APS statutes. The rise in prominence and effectiveness of collaborative working groups (e.g., county APS multidisciplinary teams, forensic elder abuse centers, financial abuse specialist teams, and TRIAD teams) supports this notion, especially when some of these working groups increase the number of cases criminally prosecuted.¹¹² The interdisciplinary

110. *See supra* tbl.2.

111. *Id.*

112. Adria E. Navarro et al., *Holding Abusers Accountable: An Elder Abuse Forensic Center Increases Criminal Prosecution of Financial Exploitation*, 0 GERONTOLOGIST 1, 1–10 (2012).

collaboration found in a FAST team model, for example, has been found to enhance legislative and community awareness of elder financial exploitation.¹¹³ Given the increasing number of older adults and the wealth this group of individuals possess, and given the number of technological advances in scams and fraudulent schemes, state legislatures and Congress should respond in a timely and appropriate fashion to stem the tide of rising exploitation of the most vulnerable individuals.

Initiatives should be pursued in the majority of states, using language from Florida, Minnesota, Nevada, and Utah as models, given their proactive and comprehensive approach to combating financial exploitation and the similar language utilized in both the criminal and APS laws.¹¹⁴ In conjunction with proactive legislative efforts and community member involvement, other practical measures could be useful to consider and pursue, such as mandatory accountings for agents under a power of attorney or intermittent state audits of guardianship reports, especially when family members are often pursued as substitute decision-makers. It is incumbent upon advocates for vulnerable adults to advance comprehensive and research-based legislation to ensure exploitation is detected in a timely manner and that perpetrators are sufficiently punished when engaging in this form of maltreatment.

113. Joan Virginia Allen, *Financial Abuse of Elders and Dependent Adults: The FAST (Financial Abuse Specialist Team) Approach*, 12 J. ELDER ABUSE & NEGLECT 85, 85–91 (2000).

114. See, e.g., FLA. STAT. ANN. §§ 825.103, 415.102 (West, Westlaw through 2015 1st Reg. Sess. and Spec. A Sess.) (criminalizing the exploitation of an elderly adult's finances and defining exploitation to include the misappropriation of a vulnerable adult's money); MINN. STAT. §§ 609.2335, 626.5572; NEV. REV. STAT. ANN. §§ 200.50995, 200.5092 (West, Westlaw through 2015 78th Reg. Sess.); UTAH CODE ANN. §§ 76-5-111, 62A-3-301 (West, Westlaw through 2015 1st Spec. Sess.) (defining "emergency" to include a circumstance where a vulnerable adult is vulnerable to financial harm).