

By: Senator(s) Nunnelee, Burton, Hyde-Smith

To: Judiciary, Division A

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2389

1 AN ACT TO DEFINE "POSITION OF TRUST" AND TO TRIPLE THE
2 DAMAGES AVAILABLE IN A CIVIL ACTION AGAINST A PERSON WHO USES HIS
3 POSITION OF TRUST OR A FIDUCIARY OR CONFIDENTIAL RELATIONSHIP WITH
4 A VULNERABLE ADULT TO CONVERT THE VULNERABLE ADULT'S PROPERTY TO
5 HIS OWN USE, OR TO DECEIVE, INTIMIDATE, EXPLOIT OR UNDULY
6 INFLUENCE THE VULNERABLE ADULT SO AS TO OBTAIN CONTROL OVER
7 PROPERTY WITH THE INTENT TO PERMANENTLY DEPRIVE THE VULNERABLE
8 ADULT OF THE OWNERSHIP, BENEFIT OR POSSESSION THEREOF, OR WHO IS
9 PROVEN BY CLEAR AND CONVINCING EVIDENCE TO HAVE EMBEZZLED,
10 EXTORTED, STOLEN OR TAKEN THE VULNERABLE ADULT'S PROPERTY BY FRAUD
11 OR FALSE PRETENSES WHILE HOLDING A POSITION OF TRUST OR BEING IN A
12 FIDUCIARY OR CONFIDENTIAL RELATIONSHIP WITH THE VULNERABLE ADULT;
13 AND FOR RELATED PURPOSES.

14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

15 **SECTION 1.** (1) In any civil action where it is proven that
16 a person obtained or converted property of a vulnerable adult to
17 his own use, or obtained control over or title to the money,
18 assets or property of a vulnerable adult through fraud, theft,
19 embezzlement, extortion, false pretenses, intimidation or other
20 intentional wrongful acts, or by virtue of breach of a fiduciary
21 duty with the intent by the person to permanently deprive the
22 vulnerable adult of the ownership, benefit or possession thereof,
23 whether the action is to recover property or damages in lieu
24 thereof, or both, damages shall be recoverable up to three (3)
25 times the amount of the monetary damages or value of the property
26 obtained or converted, in addition to any other damages.

27 (2) Civil remedies provided under this section shall be
28 supplemental and cumulative, and not exclusive of other remedies
29 afforded under any other law.

30 (3) The cause of action, the right to bring a cause of
31 action, or the right to seek treble damages pursuant to this

32 section shall not be limited or affected by the death of the
33 owner.

34 (4) For purposes of this section, "vulnerable adult" shall
35 mean vulnerable adult as defined in Section 43-47-5.

36 **SECTION 2.** This act shall take effect and be in force from
37 and after July 1, 2006.