



Building a Safe Harbor for Vermont Elders through Advocacy and Education

**COVE TESTIMONY ON H.283
SENATE HEALTH & WELFARE
3/24/17 - Gini Milkey, Executive Director**

Thank you for providing COVE the opportunity to testify on H. 238. I'm Gini Milkey, Executive Director of COVE, the Community of Vermont Elders. COVE is a non-profit, membership organization whose mission is to promote and protect a higher quality of life for Vermont's older citizens, through education and advocacy.

COVE has a long history of advocating for protection of vulnerable older Vermonters, including past work with this committee on legislation establishing:

- a vulnerable adult fatality review team;
- access to financial records in APS investigations; and
- requirements for APS data to be reported to the Legislature, just to give a few examples.

COVE's Vermont Senior Medicare Patrol and related educational programs empower older Vermonters with information that helps them to recognize, avoid and report Medicare fraud, errors and waste and to avoid financial exploitation and a range of other scams and fraud.

It is with this strong background that we join our partners in supporting H.238, an act that will provide additional protections for vulnerable adults from financial exploitation.

We need the protections in H.238 because financial exploitation of vulnerable adults is a growing problem in Vermont and nationwide. These folks are being kicked out

of their homes after losing title to their property and need a way to get back the money that has been wrongly taken from them. Courts have struggled with how to help them.

H.238 helps in two ways:

1. **It provides a private right of action** to the vulnerable adult who has been financially exploited, allowing that individual to bring a civil lawsuit against the exploiter. The court can then order the exploiter to pay the victim back, or order other remedies.

2. **It clarifies the rules governing “undue influence”** by creating a rebuttable presumption of undue influence when:

- A vulnerable adult signs away real estate for free or for much less than it is worth, and
- The vulnerable adult is not represented by their own attorney.

This presumption helps vulnerable adults get their property back, and it also helps prevent financial exploitation by making it more likely that the vulnerable adult will get advice from their own lawyer before giving away real estate.

Sources for Legislative language:

- The private right of action draws on recommended language from the Model Civil Statutory Provisions on Elder Financial Exploitation developed by the National Center for Victims of Crime.
- The section addressing real estate transfers by vulnerable adults is based on a law passed by Maine in 1987.
 - Maine’s law is called the Improvident Transfer of Title Act
 - Maine’s 30 years of experience help us predict how it will work in practice

Thank you again for the opportunity for COVE to testify in support of H.238, and I would be happy to answer any non-lawyer questions.