

### **Abbozz ta' Liġi msejjah**

*ATT biex jemenda l-Kodiċi Kriminali (Kap. 9.) u biex jipprovdi għal affarijiet oħra li huma anċillari jew konsgwenzjali għal dan.*

IL-PRESIDENT, bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, u bl-awtorità tal-istess, hareġ b'liġi dan li ġej:-

**1.** It-titolu fil-qosor ta' dan l-Att huwa l-Att tal-2014 li jemenda l-Kodiċi Kriminali (Emenda Nru. 5), u dan l-Att għandu jinqara u jinftiehem haġa waħda mal-Kodiċi Kriminali, hawnhekk iżjed 'il quddiem imsejjah "il-Kodiċi". Titolu fil-qosor.

**2.** Fis-subartikolu (1) tal-artikolu 222A tal-Kodiċi, minflok il-kliem "tiddefendi ruħha sew.", għandhom jidhlu l-kliem "tiddefendi ruħha sew:" u minnufih wara għandu jizjed il-proviso li ġej: Emenda tal-artikolu 222A tal-Kodiċi.

"Izda d-dispożizzjonijiet ta' dan l-artikolu ma japplikawx meta hemm previst digà aggravju tal-piena f'dan il-Kodiċi jew f'xi liġi oħra."

**3.** Minnufih wara l-artikolu 257 tal-Kodiċi għandhom jizjed s-Sub-titolu u l-artikolu godda li ġejjin: Zjieda ta' Sub-titolu u artikoli godda mal-Kodiċi.

#### "Sub-Titolu XI

Dwar l-Abbuż fuq Persuni Anzjani jew  
Persuni Dependent

Meta persuna  
 ġġiegħel jew  
 tippermetti li  
 persuna  
 anzjana jew  
 adult  
 dipendenti  
 jsofru taħt  
 ċirkostanzi li  
 x'aktarx  
 jikkważaw  
 offiża gravi fuq  
 il-persuna jew  
 mewt.

257A. (1) Persuna li tkun taf jew ikun imissha tkun taf li persuna hi anzjana jew adult dipendenti u li, taħt ċirkostanzi jew kondizzjonijiet li x'aktarx jikkważaw offiża gravi fuq il-persuna jew mewt, xjentement iġġiegħel jew tippermetti li xi persuna anzjana adult dipendenti jsofru, jew iġġib fuq dawk il-persuni uġiġħ fiżiku jew tbatija mentali mhux ġustifikabbli jew waqt li jkollha l-kura u l-kustodja ta' persuna anzjana jew adult dipendenti, xjentement iġġiegħel jew tippermetti li l-persuna jew is-saħħa tal-persuna anzjana jew adult dipendenti ssirilhom ħsara, jew xjentement iġġiegħel jew tippermetti li l-persuna anzjana jew l-adult dipendenti jitqiegħdu f'sitwazzjoni li l-persuna jew is-saħħa tagħhom tkun fil-periklu, tkun haġja ta' reat u, mingħajr preġudizzju għal kull piena oħra li jista' jkun hemm għar-reat taħt dan il-Kodiċi jew taħt kull liġi oħra, tehel il-piena ta' prigunerija minn sentejn sa hames snin.

(2) Għall-finijiet ta' dan l-artikolu, persuna li tkun qeġħda ġġib ruhha b'mod dubjuż imissha tkun taf li persuna tkun persuna anzjana jew adult dipendenti jekk fil-qjies ta' persuna raġonevoli li jkollha l-istess informazzjoni din kienet kieku taħseb li dik il-persuna hi persuna anzjana jew adult dipendenti.

(3) Meta bħala rizultat tal-imġiba mfissra fis-subartikolu (1), il-vittma soffri offiża gravi fuq il-persuna, il-piena prevista fis-subartikolu (1) għandha tiżdied kif ġej:

(a) meta l-vittma tkun taħt l-età ta' sebgħin sena, bi grad jew żewġ gradi;

(b) meta l-vittma tkun ta' età 'l fuq minn sebgħin sena, b'żewġ jew bi tliet gradi.

Offiża gravi fuq il-persuna li wara l-offiża l-persuna tmut biha.

257B. (1) Kull min jinsab hati ta' offiża gravi fuq il-persuna li biha tigrì l-mewt minħabba biss fin-natura jew fil-konsegwenzi naturali tal-hsara kkawżata bl-imgiba mfissra fl-artikolu 257A(1) u mhux għal xi kawża aċċidentali li tinqala' wara, jeħel -

(a) il-piena ta' prigunerija minn disa' snin sa għoxrin sena, jekk il-mewt tigrì fi żmien erbgħin ġurnata li jibdeu iġġhoddu mill-aħħar nofs il-lejl ta' qabel id-delitt;

(b) il-piena ta' prigunerija minn sitt snin sa hmistax-il sena, jekk il-mewt tigrì wara l-erbghin ġurnata hawn fuq imsemmija, imma qabel sena li tibda tgħodd bħal ma jingħad hawn fuq.

(2) Meta l-mewt tigrì minħabba f'xi kawża aċċidentali li tinqala' wara u mhux biss minħabba fin-natura jew il-konsegwenzi naturali tal-offiża, l-akkużat, meta jinsab hati, jeħel il-piena ta' prigunerija għal żmien minn ħames snin sa tnax-il sena.

(3) Jekk l-offiża ssir ġewwa l-limiti tal-ġurisdizzjoni territorjali ta' Malta, id-delitt jitqies li ġie kkunsmat ġewwa dawn il-limiti, ukoll jekk il-mewt tal-persuna offiża tigrì barra minn dawk il-limiti.

(4) Il-pieni previsti f'dan l-artikolu għandhom jizdiedu kif ġej:

(a) meta l-vittma tkun taħt l-età ta' sebgħin sena, bi grad jew żewġ gradi;

(b) meta l-vittma tkun ta' età 'l fuq minn sebgħin sena, b'żewġ jew bi tliet gradi.

Meta persuna ġgiegħel jew tippermetti li persuna anzjana jew adult dipendenti jsofru taħt ċirkostanzi hlief dawk li x'aktarx jikkważaw offiża gravi fuq il-persuna jew mewt.

257Ċ. (1) Persuna li tkun taf jew ikun imissha tkun taf li persuna hi anzjana jew adult dipendenti u li, taħt ċirkostanzi jew kondizzjonijiet, hlief dawk li x'aktarx jikkawżaw offiża gravi fuq il-persuna jew mewt, xjentement iġgiegħel jew tippermetti li persuna anzjana adult dipendenti jsofru, jew iġġib fuq dawk il-persuni uġiġh fiziku jew tbatija mentali mhux ġustifikabbli jew waqt li jkollha l-kura u l-kustodja tal-persuna anzjana jew adult dipendenti, xjentement iġgiegħel jew tippermetti li l-persuna jew is-saħħa tal-persuna anzjana jew adult dipendenti ssirilhom ħsara, jew xjentement iġgiegħel jew tippermetti li l-persuna anzjana jew l-adult dipendenti jitqiegħdu f'sitwazzjoni li l-persuna jew is-saħħa tagħhom tkun fil-periklu, tkun haġja ta' reat u, mingħajr preġudizzju għal kull piena oħra li jista' jkun hemm għar-reat taħt dan il-Kodiċi jew taħt kull liġi oħra, tehel il-piena ta' prigunerija minn sena sa tliet snin.

(2) Meta bħala rizzultat tal-imġiba mfissra fis-subartikolu (1), il-vittma ssofri offiża fuq il-persuna, il-piena prevista fis-subartikolu (1) għandha tiżdied kif ġej:

(a) meta l-vittma tkun taħt l-età ta' sebgħin sena, bi grad wiehed;

(b) meta l-vittma tkun ta' età 'l fuq minn sebgħin sena, b'żewġ gradi.

Reati li għandhom x'jaqsmu ma' delitti kontra l-proprjetà u kontra s-sigurtà pubblika.

257D. (1) Kull persuna li tinsab haġja ta' xi reat taħt it-Titolu IX tat-Taqsima II tal-Ewwel Ktieb, meta r-reat jitwettaq fuq persuna anzjana jew adult dipendenti, tehel il-piena prevista f'dan l-artikolu:

(a) meta l-ammont tal-ħsara magħmula mill-hati huwa aktar minn tlett elef euro (€3,000) il-piena tkun ta' prigunerija minn sentejn sa disa' snin;

(b) meta l-ammont tal-ħsara magħmula mill-hati huwa aktar minn mitejn u hamsin euro (€250) iżda mhux iżjed minn tlett elef euro (€3,000), il-piena tkun dik ta' prigunerija minn disa' xhur sa tliet snin;

Iżda jekk il-piena stabbilita ghar-reat relevanti f'dan is-sub-titolu tkun oġhla mill-piena stabbilita f'dan il-paragrafu, għandha tapplika l-piena l-ewwel imsemmija miżjuda bi grad u fil-każ tar-reat taht l-artikolu 294 il-piena hekk miżjuda ma tingħatax fil-minimu tagħha;

(ċ) meta l-ammont tal-ħsara magħmula mill-ħati ma jkunx aktar minn mitejn u ħamsin euro (€250) il-ħati jehel il-piena ta' prigunerija għal żmien mhux aktar minn sitt xhur.

(2) B'żieda ma' kull piena li tista' tingħata lil persuna li tinsab ħati ta' reat taht dan is-sub-titolu u b'żieda ma' kull penali li jista' jehel korp magħqud taht id-disposizzjonijiet tal-artikolu 121D, il-qorti tista' tordna lill-ħati li jirrestitwixxi lill-parti offiża kull haġa jew rikavat minnu misruqa jew li hu jkun xjentement laqa' għandu jew akkwista bi frodi jew bi qligħ iehor kontra l-ligi bi ħsara ta' dik il-parti bi jew permezz tar-reat, jew li jhallas lil dik il-parti dak l-ammont ta' flus li jista' jiġi stabbilit mill-qorti bħala kumpens għal dak it-telf kif imsemmi jew għal xi danni jew offiża jew ħsara oħra kaġunati lil dik il-parti bi jew permezz tar-reat; u kull ordni bħal dak jista' jinkludi sew direttiva li ssir restituzzjoni u, fin-nuqqas, li jsir ħlas kif imsemmi qabel. L-ordni jkun jikkostitwixxi titolu eżekuttiv għall-finijiet u l-effetti kollha tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili.

Kap. 12.

Arrest, zamma  
jew sekwestru  
ta' persuna  
anzjana jew  
adult  
dipendenti.

257E. (1) Kull min, bla ordni skont il-ligi, jarresta, iżomm jew jissekwestra lil xi persuna anzjana jew adult dipendenti kontra l-volontà ta' dik il-persuna jew adult, jew b'xi mod jirrestringi jew jostakola l-moviment liberu u aċċess mhux ostakolat ta' persuna anzjana jew ta' adult dipendenti jehel, meta jinsab ħati l-piena ta' prigunerija minn tmintax-il xahar sa erba' snin.

Applikabilità  
ta' dispożizzjonijiet.

(2) Meta l-imġiba mfissra fis-subartikolu (1) tkun twettqet bl-użu tal-vjolenza, forza, tixhim, qerq, ingann, jew billi juri haġa b'ohra, pressjoni mhux kif imiss jew xi mġiba oħra illegali jew bit-theddid ta' aġir bħal dan, il-piena għandha tizzied b'żewġ gradi jew tliet gradi.

257F. (1) Id-dispożizzjonijiet li ġejjin japplikaw għal reati taht l-artikoli 257A sa 257E.

(2) Id-dispożizzjonijiet tal-artikoli 121D u 248E(4) għandhom japplikaw *mutatis mutandis*.

(3) Bla ħsara għad-dispożizzjonijiet tal-artikolu 5, il-qrati ta' Malta għandu jkollhom ġurisdizzjoni ukoll fuq ir-reati msemmija meta:

(a) parti biss mill-azzjoni li tikkostitwixxi l-esekuzzjoni tar-reat tkun saret ġewwa Malta; jew

(b) min jagħmel ir-reat ikun ċittadin jew residenti permanenti f'Malta jew ir-reat twettaq għall-benefiċċju ta' korp magħqud registrat f'Malta; jew

(ċ) ir-reat isir kontra ċittadin ta' Malta jew residenti permanenti f'Malta.

(5) Għall-finijiet ta' dan is-sub-titolu:

"persuna anzjana" tfisser persuna li għalqet l-età ta' sittin sena;

"adult dipendenti" tfisser persuna li jkollha ċerta età li tkun tbatu minn marda tal-ġisem jew tal-moħħ fi grad li minhabba fiha l-kapaċità tagħha li twettaq attivitajiet normali jew li tipproteġi d-drittijiet tagħha jkunu ristretti, inklużi, iżda mhux limitati għal, persuni li jkollhom diżabilitajiet fl-iżvilupp tagħhom jew li l-kapaċitajiet fiżiċi u mentali tagħhom ikunu naqsu minhabba fl-età u tinkludi kull persuna li tkun daħlet bħala pazjent residenti fi faċilità tas-saħha li topera għal erbgħa u għoxrin siegħa kuljum, jew tkun residenti f'istituzzjoni, jew daħlet f'istituzzjoni li toffri xi forma ta' kura medika jew psikoloġika;

"rikavat" tfisser kull vantaġġ ekonomiku u kull proprjetà ġejja jew miksuba, b'mod dirett jew mhux dirett, mill-għemil tar-reat u tinkludi kull qligħ jew benefiċċju ieħor miksub minn dik il-proprjetà;

"proprjetà" tfisser kull attiv ta' liema xorta jkun, sew korporali sew inkorporali, mobbli jew immobbli, tangibbli jew intangibbli, u dokumenti jew strumenti legali li jkunu prova ta' titolu għal dak l-attiv jew xi interess fih."

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### **Għanijiet u Raġunijiet**

L-għanijiet ta' dan l-Abbozz ta' Liġi huma biex jiddaħhlu fil-Kodiċi Kriminali pjeni aktar horox għal min jabbuza jew juza vjolenza fuq anzjani u persuni vulnerabbli.

C 536

**A Bill  
entitled**

*AN ACT to amend the Criminal Code (Cap. 9.) and to provide for any other matters ancillary or consequential thereto.*

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same as follows:-

Short title.

**1.** The short title of this Act is the Criminal Code (Amendment No. 5) Act, 2014, and this Act shall be read and construed as one with the Criminal Code, hereinafter referred to as "the Code".

Amendment of article 222A of the Code.

**2.** In sub-article (1) of article 222A of the Code, for the words "himself adequately.", there shall be substituted the words "himself adequately:" and immediately thereafter there shall be added the following proviso:

"Provided that the provisions of this article shall not apply where an aggravation of punishment is already provided for under this Code or any other law."

Addition of new Sub-title and new articles to the Code.

**3.** Immediately after article 257 of the Code there shall be added the following new Sub-title and articles:

"Sub-Title XI  
Of Elder or Dependent Abuse



Causing or permitting an elder or a dependent adult to suffer under circumstances likely to produce bodily harm or death.

257A. (1) A person who knows or ought to know that a person is an elder or a dependent adult and who, under circumstances or conditions likely to produce grievous bodily harm or death, wilfully causes or permits any elder or dependent adult to suffer, or inflicts on such person unjustifiable physical pain or mental suffering, or having the care or custody of any elder or dependent adult, wilfully causes or permits the person or health of the elder or dependent adult to be injured, or wilfully causes or permits the elder or dependent adult to be placed in a situation in which his person or health is endangered, shall be guilty of an offence and, without prejudice to any other punishment to which he may be liable under any other provision of this Code or of any other law, shall be liable to the punishment of imprisonment for a term from two to five years.

(2) For the purpose of this article, the person whose course of conduct is in question ought to know that a person is an elder or a dependent adult if a reasonable person in possession of the same information would think that the said person is an elder or a dependent adult.

(3) Where as a result of the conduct described in sub-article (1), the victim suffers grievous bodily harm, the punishment provided for under sub-article (1) shall be increased as follows:

(a) where the victim is under seventy years of age, by one to two degrees;

(b) where the victim is over seventy years of age, by two to three degrees.

Grievous bodily harm followed by death.

257B. (1) Whosoever shall be guilty of a grievous bodily harm from which death shall ensue solely as a result of the nature or the natural consequences of the harm caused by the conduct described in article 257A(1) and not of any supervening accidental cause, shall be liable -

(a) to imprisonment for a term from nine to twenty years, if death shall ensue within forty days to be reckoned from the midnight immediately preceding the crime;

(b) to imprisonment for a term from six to fifteen years, if death shall ensue after the said forty days, but within one year to be reckoned as above.

(2) If death shall ensue as a result of a supervening accidental cause and not solely as a result of the nature or the natural consequences of the harm, the offender shall, on conviction, be liable to imprisonment for a term from five to twelve years.

(3) If the bodily harm is inflicted within the limits of the territorial jurisdiction of Malta, the crime shall be held to have been completed within those limits, even if the death of the person injured shall occur outside those limits.

(4) The punishments provided for under this article shall be increased as follows:

(a) where the victim is under seventy years of age by one to two degrees;

(b) where the victim is over seventy years of age by two to three degrees.

Causing or permitting an elder or a dependent adult to suffer under circumstances not likely to produce bodily harm or death.

257C. (1) A person who knows or ought to know that a person is an elder or a dependent adult and who, under circumstances or conditions other than those likely to produce grievous bodily harm or death, wilfully causes or permits any elder or dependent adult to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any elder or dependent adult, wilfully causes or permits the person or health of the elder or dependent adult to be injured or wilfully causes or permits the elder or dependent adult to be placed in a situation in which his or her person or health may be endangered, shall be guilty of an offence and, without prejudice to any other punishment to which he may be liable under any other provision of this Code or of any other law, shall be liable to the punishment of imprisonment for a term from one to three years.

(2) Where as a result of the conduct described in sub-article (1), the victim suffers bodily harm, the punishment shall be increased as follows:

(a) where the victim is under seventy years of age by one degree;

(b) where the victim is over seventy years of age by two degrees.

Offences relating to crimes against property and public safety.

257D. (1) Any person found guilty of any offence under Title IX of Part II of Book First, when committed against an elder or a dependent adult, shall be liable to the punishment provided for in this article:

(a) when the amount of the damage caused by the offender exceeds three thousand euro (€3,000) the punishment shall be that of imprisonment from two to nine years;

(b) when the amount of the damage caused by the offender exceeds two hundred and fifty euro (€250) but does not exceed three thousand euro (€3,000), the punishment shall be that of imprisonment from nine months to three years:

Provided that if the punishment laid down for the relevant offence in this sub-title is higher than the punishment laid down in this paragraph, the former punishment shall apply increased by one degree and, in the case of the offence under article 294, the punishment so increased shall not be awarded in its minimum;

(c) when the amount of the damage caused by the offender does not exceed two hundred and fifty euro (€250) the offender shall be liable to imprisonment for a term not exceeding six months.

(2) In addition to any punishment to which the person convicted of an offence under this sub-title may be sentenced and in addition to any penalty to which a body corporate may become liable under the provisions of article 121D, the court may order the offender to make restitution to the injured party of any property or proceeds stolen or knowingly received or obtained by fraud or other unlawful gain to the detriment of such party by or through the offence or to pay to such party such sum of money as may be determined by the court as compensation for any such loss as aforesaid or for any damages or other injury or harm caused to such party by or through the offence; and any such order may include both a direction to make restitution and, in default, to pay as aforesaid. The order shall constitute an executive title for all intents and purposes of the Code of Organization and Civil Procedure.

Unlawful arrest, detention or confinement of an elder or a dependent adult.

257E. (1) Whosoever, without a lawful order, arrests, detains or confines an elder or a dependent adult against the will of the same, or in any manner restricts or impedes the free movement and unrestrained access to an elder or a dependent adult, shall, on conviction, be liable to imprisonment for a term of eighteen months to four years.

(2) Where the conduct described in sub-article (1) has been committed through the use of violence, force, bribery, deceit, device or pretence, improper pressure or any other unlawful conduct or by threats of such conduct, the punishment shall be increased by two to three degrees.

Applicability of provisions.

257F. (1) The following provisions shall apply to the offences under articles 257A to 257E.

(2) The provisions of articles 121D and 248E(4) shall apply *mutatis mutandis*.

(3) Without prejudice to the provisions of article 5, the Maltese courts shall also have jurisdiction over the said offences where:

(a) only part of the action giving execution to the offence took place in Malta; or

(b) the offender is a Maltese national or permanent resident in Malta or the offence was committed for the benefit of a body corporate registered in Malta; or

(c) the offence was committed against a Maltese national or permanent resident in Malta.

(5) For the purposes of this sub-title:

"elder" means a person who has attained the age of sixty years;

"dependent adult" means a person of age suffering from a degree of physical or mental infirmity which restricts his ability to carry out normal activities or to protect his rights, including, but not limited to, persons who have physical or developmental disabilities or whose physical or mental abilities have diminished because of age and includes any person who is admitted as an inpatient to a 24-hour health facility, or is a resident in, or has been admitted to, any institution offering any form of medical or psychological care;

"proceeds" means any economic advantage and any property derived from or obtained, directly or indirectly, through the commission of the offence and includes any income or other benefits derived from such property;

"property" means assets of every kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible, and legal documents or instruments evidencing title to, or interest in, such assets."

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### **Objects and Reasons**

The objects of this Bill are to insert in the Criminal Code harsher penalties on persons found guilty of abuse or violence on elderly and vulnerable persons.

