

By Representative Hafner

1 A bill to be entitled
 2 An act relating to abuse, neglect, or
 3 exploitation of an elderly person or disabled
 4 adult; amending s. 825.103, F.S.; imposing a
 5 more severe penalty for the offense of
 6 exploiting an elderly person or disabled adult
 7 if the value of the property involved is less
 8 than a specified amount; amending s. 895.02,
 9 F.S.; redefining the term "racketeering
 10 activity" for purposes of the the Florida RICO
 11 Act to include the offense of abuse, neglect,
 12 or exploitation of an elderly person or
 13 disabled adult; reenacting ss. 16.56(1)(a),
 14 27.34(1), 655.50(3)(g), 896.101(1)(g), 905.34,
 15 F.S., relating to the Office of Statewide
 16 Prosecution, salaries and other costs of state
 17 attorneys, unlawful financial transactions, and
 18 statewide grand juries, to incorporate the
 19 amendment to s. 895.02, F.S., in references
 20 thereto; amending s. 921.0012, F.S., relating
 21 to the sentencing guidelines; revising a
 22 penalty to conform to changes made by the act;
 23 providing an effective date.

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 25 Be It Enacted by the Legislature of the State of Florida:

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 27 Section 1. Section 825.103, Florida Statutes, 1996
 28 Supplement, is amended to read:

29 825.103 Exploitation of an elderly person or disabled
 30 adult; penalties.--

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1 (1) "Exploitation of an elderly person or disabled
2 adult" means:
3 (a) Knowingly, by deception or intimidation, obtaining
4 or using, or endeavoring to obtain or use, an elderly person's
5 or disabled adult's funds, assets, or property with the intent
6 to temporarily or permanently deprive the elderly person or
7 disabled adult of the use, benefit, or possession of the
8 funds, assets, or property, or to benefit someone other than
9 the elderly person or disabled adult, by a person who:
10 1. Stands in a position of trust and confidence with
11 the elderly person or disabled adult; or
12 2. Has a business relationship with the elderly person
13 or disabled adult; or
14 (b) Obtaining or using, endeavoring to obtain or use,
15 or conspiring with another to obtain or use an elderly
16 person's or disabled adult's funds, assets, or property with
17 the intent to temporarily or permanently deprive the elderly
18 person or disabled adult of the use, benefit, or possession of
19 the funds, assets, or property, or to benefit someone other
20 than the elderly person or disabled adult, by a person who
21 knows or reasonably should know that the elderly person or
22 disabled adult lacks the capacity to consent.
23 (2)(a) If the funds, assets, or property involved in
24 the exploitation of the elderly person or disabled adult is
25 valued at \$100,000 or more, the offender commits a felony of
26 the first degree, punishable as provided in s. 775.082, s.
27 775.083, or s. 775.084.
28 (b) If the funds, assets, or property involved in the
29 exploitation of the elderly person or disabled adult is valued
30 at \$20,000 or more, but less than \$100,000, the offender
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1 commits a felony of the second degree, punishable as provided
2 in s. 775.082, s. 775.083, or s. 775.084.

3 (c) If the funds, assets, or property involved in the
4 exploitation of an elderly person or disabled adult is valued
5 at ~~\$100 or more~~, but less than \$20,000, the offender commits a
6 felony of the third degree, punishable as provided in s.
7 775.082, s. 775.083, or s. 775.084.

8 ~~(d) If the funds, assets, or property involved in the~~
9 ~~exploitation of an elderly person or disabled adult is valued~~
10 ~~at less than \$100, the offender commits a misdemeanor of the~~
11 ~~first degree, punishable as provided in s. 775.082 or s.~~
12 ~~775.083.~~

13 Section 2. Paragraph (a) of subsection (1) of section
14 895.02, Florida Statutes, 1996 Supplement, is amended to read:
15 895.02 Definitions.--As used in ss. 895.01-895.08, the
16 term:

17 (1) "Racketeering activity" means to commit, to
18 attempt to commit, to conspire to commit, or to solicit,
19 coerce, or intimidate another person to commit:

20 (a) Any crime which is chargeable by indictment or
21 information under the following provisions of the Florida
22 Statutes:

23 1. Section 210.18, relating to evasion of payment of
24 cigarette taxes.

25 2. Section 403.727(3)(b), relating to environmental
26 control.

27 3. Section 414.39, relating to public assistance
28 fraud.

29 4. Section 409.920, relating to Medicaid provider
30 fraud.

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- 1 5. Section 440.105 or s. 440.106, relating to workers'
2 compensation.
- 3 6. Part IV of chapter 501, relating to telemarketing.
- 4 7. Chapter 517, relating to sale of securities and
5 investor protection.
- 6 8. Section 550.235, s. 550.3551, or s. 550.3605,
7 relating to dogracing and horseracing.
- 8 9. Chapter 550, relating to jai alai frontons.
- 9 10. Chapter 552, relating to the manufacture,
10 distribution, and use of explosives.
- 11 11. Chapter 562, relating to beverage law enforcement.
- 12 12. Section 624.401, relating to transacting insurance
13 without a certificate of authority, s. 624.437(4)(c)1.,
14 relating to operating an unauthorized multiple-employer
15 welfare arrangement, or s. 626.902(1)(b), relating to
16 representing or aiding an unauthorized insurer.
- 17 13. Section 655.50, relating to reports of currency
18 transactions, when such violation is punishable as a felony.
- 19 14. Chapter 687, relating to interest and usurious
20 practices.
- 21 15. Section 721.08, s. 721.09, or s. 721.13, relating
22 to real estate timeshare plans.
- 23 16. Chapter 782, relating to homicide.
- 24 17. Chapter 784, relating to assault and battery.
- 25 18. Chapter 787, relating to kidnapping.
- 26 19. Chapter 790, relating to weapons and firearms.
- 27 20. Section 796.03, s. 796.04, s. 796.05, or s.
28 796.07, relating to prostitution.
- 29 21. Chapter 806, relating to arson.
- 30 22. Section 810.02(2)(c), relating to specified
31 burglary of a dwelling or structure.

- 1 23. Chapter 812, relating to theft, robbery, and
2 related crimes.
- 3 24. Chapter 815, relating to computer-related crimes.
- 4 25. Chapter 817, relating to fraudulent practices,
5 false pretenses, fraud generally, and credit card crimes.
- 6 26. Chapter 825, relating to abuse, neglect, or
7 exploitation of an elderly person or disabled adult.
- 8 ~~27.26.~~ Section 827.071, relating to commercial sexual
9 exploitation of children.
- 10 ~~28.27.~~ Chapter 831, relating to forgery and
11 counterfeiting.
- 12 ~~29.28.~~ Chapter 832, relating to issuance of worthless
13 checks and drafts.
- 14 ~~30.29.~~ Section 836.05, relating to extortion.
- 15 ~~31.30.~~ Chapter 837, relating to perjury.
- 16 ~~32.31.~~ Chapter 838, relating to bribery and misuse of
17 public office.
- 18 ~~33.32.~~ Chapter 843, relating to obstruction of
19 justice.
- 20 ~~34.33.~~ Section 847.011, s. 847.012, s. 847.013, s.
21 847.06, or s. 847.07, relating to obscene literature and
22 profanity.
- 23 ~~35.34.~~ Section 849.09, s. 849.14, s. 849.15, s.
24 849.23, or s. 849.25, relating to gambling.
- 25 ~~36.35.~~ Chapter 874, relating to criminal street gangs.
- 26 ~~37.36.~~ Chapter 893, relating to drug abuse prevention
27 and control.
- 28 ~~38.37.~~ Chapter 896, relating to offenses related to
29 financial transactions.
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1 ~~39.38~~ Sections 914.22 and 914.23, relating to
2 tampering with a witness, victim, or informant, and
3 retaliation against a witness, victim, or informant.

4 ~~40.39~~ Sections 918.12 and 918.13, relating to
5 tampering with jurors and evidence.

6 Section 3. For the purpose of incorporating the
7 amendment made by this act to section 895.02, Florida
8 Statutes, 1996 Supplement, in a reference thereto, paragraph
9 (a) of subsection (1) of section 16.56, Florida Statutes, 1996
10 Supplement, is reenacted to read:

11 16.56 Office of Statewide Prosecution.--

12 (1) There is created in the Department of Legal
13 Affairs an Office of Statewide Prosecution. The office shall
14 be a separate "budget entity" as that term is defined in
15 chapter 216. The office may:

16 (a) Investigate and prosecute the offenses of:

17 1. Bribery, burglary, criminal usury, extortion,
18 gambling, kidnapping, larceny, murder, prostitution, perjury,
19 robbery, carjacking, and home-invasion robbery;

20 2. Any crime involving narcotic or other dangerous
21 drugs;

22 3. Any violation of the provisions of the Florida RICO
23 (Racketeer Influenced and Corrupt Organization) Act, including
24 any offense listed in the definition of racketeering activity
25 in s. 895.02(1)(a), providing such listed offense is
26 investigated in connection with a violation of s. 895.03 and
27 is charged in a separate count of an information or indictment
28 containing a count charging a violation of s. 895.03, the
29 prosecution of which listed offense may continue independently
30 if the prosecution of the violation of s. 895.03 is terminated
31 for any reason;

1 4. Any violation of the provisions of the Florida
2 Anti-Fencing Act;

3 5. Any violation of the provisions of the Florida
4 Antitrust Act of 1980, as amended;

5 6. Any crime involving, or resulting in, fraud or
6 deceit upon any person; or

7 7. Any violation of s. 847.0135, relating to computer
8 pornography and child exploitation prevention, or any offense
9 related to a violation of s. 847.0135,

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11 or any attempt, solicitation, or conspiracy to commit any of
12 the crimes specifically enumerated above. The office shall
13 have such power only when any such offense is occurring, or
14 has occurred, in two or more judicial circuits as part of a
15 related transaction, or when any such offense is connected
16 with an organized criminal conspiracy affecting two or more
17 judicial circuits.

18 Section 4. For the purpose of incorporating the
19 amendment made by this act to section 895.02, Florida
20 Statutes, 1996 Supplement, in a reference thereto, subsection
21 (1) of section 27.34, Florida Statutes, 1996 Supplement, is
22 reenacted to read:

23 27.34 Salaries and other related costs of state
24 attorneys' offices; limitations.--

25 (1) No county or municipality shall appropriate or
26 contribute funds to the operation of the various state
27 attorneys, except that a county or municipality may
28 appropriate or contribute funds to pay the salary of one
29 assistant state attorney whose sole function shall be to
30 prosecute violations of special laws or ordinances of the
31 county or municipality and may provide persons employed by the

1 county or municipality to the state attorney to serve as
2 special investigators pursuant to the provisions of s. 27.251.
3 However, any county or municipality may contract with the
4 state attorney of the judicial circuit in which such county or
5 municipality is located for the prosecution of violations of
6 county or municipal ordinances. In addition, a county or
7 municipality may appropriate or contribute funds to pay the
8 salary of one or more assistant state attorneys who are
9 trained in the use of the civil and criminal provisions of the
10 Florida RICO Act, chapter 895, and whose sole function is to
11 investigate and prosecute civil and criminal RICO actions when
12 one or more offenses identified in s. 895.02(1)(a) occur
13 within the boundaries of the municipality or county.

14 Section 5. For the purpose of incorporating the
15 amendment made by this act to section 895.02, Florida
16 Statutes, 1996 Supplement, in a reference thereto, paragraph
17 (g) of subsection (3) of section 655.50, Florida Statutes,
18 1996 Supplement, is reenacted to read:

19 655.50 Florida Control of Money Laundering in
20 Financial Institutions Act; reports of transactions involving
21 currency or monetary instruments; when required; purpose;
22 definitions; penalties.--

23 (3) As used in this section, the term:

24 (g) "Specified unlawful activity" means any
25 "racketeering activity" as defined in s. 895.02.

26 Section 6. For the purpose of incorporating the
27 amendment made by this act to section 895.02, Florida
28 Statutes, 1996 Supplement, in a reference thereto, paragraph
29 (g) of subsection (1) of section 896.101, Florida Statutes,
30 1996 Supplement, is reenacted to read:

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1 896.101 Offense of conduct of financial transaction
2 involving proceeds of unlawful activity; penalties.--

3 (1) DEFINITIONS.--As used in this section, the term:

4 (g) "Specified unlawful activity" means any
5 "racketeering activity" as defined in s. 895.02.

6 Section 7. For the purpose of incorporating the
7 amendment made by this act to section 895.02, Florida
8 Statutes, 1996 Supplement, in a reference thereto, section
9 905.34, Florida Statutes, 1996 Supplement, is reenacted to
10 read:

11 905.34 Powers and duties; law applicable.--The
12 jurisdiction of a statewide grand jury impaneled under this
13 chapter shall extend throughout the state. The subject matter
14 jurisdiction of the statewide grand jury shall be limited to
15 the offenses of:

16 (1) Bribery, burglary, carjacking, home-invasion
17 robbery, criminal usury, extortion, gambling, kidnapping,
18 larceny, murder, prostitution, perjury, and robbery;

19 (2) Crimes involving narcotic or other dangerous
20 drugs;

21 (3) Any violation of the provisions of the Florida
22 RICO (Racketeer Influenced and Corrupt Organization) Act,
23 including any offense listed in the definition of racketeering
24 activity in s. 895.02(1)(a), providing such listed offense is
25 investigated in connection with a violation of s. 895.03 and
26 is charged in a separate count of an information or indictment
27 containing a count charging a violation of s. 895.03, the
28 prosecution of which listed offense may continue independently
29 if the prosecution of the violation of s. 895.03 is terminated
30 for any reason;

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1 (4) Any violation of the provisions of the Florida
2 Anti-Fencing Act;

3 (5) Any violation of the provisions of the Florida
4 Antitrust Act of 1980, as amended;

5 (6) Any crime involving, or resulting in, fraud or
6 deceit upon any person;

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8 or any attempt, solicitation, or conspiracy to commit any
9 violation of the crimes specifically enumerated above, when
10 any such offense is occurring, or has occurred, in two or more
11 judicial circuits as part of a related transaction or when any
12 such offense is connected with an organized criminal
13 conspiracy affecting two or more judicial circuits. The
14 statewide grand jury may return indictments and presentments
15 irrespective of the county or judicial circuit where the
16 offense is committed or triable. If an indictment is
17 returned, it shall be certified and transferred for trial to
18 the county where the offense was committed. The powers and
19 duties of, and law applicable to, county grand juries shall
20 apply to a statewide grand jury except when such powers,
21 duties, and law are inconsistent with the provisions of ss.
22 905.31-905.40.

23 Section 8. Paragraph (f) of subsection (3) of section
24 921.0012, Florida Statutes, 1996 Supplement, is amended to
25 read:

26 921.0012 Sentencing guidelines offense levels; offense
27 severity ranking chart.--

28 (3) OFFENSE SEVERITY RANKING CHART

| | | |
|------------|--------|-------------|
| 29 Florida | Felony | |
| 30 Statute | Degree | Description |

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| | | | |
|----|---------------|-----|-----------------------------------|
| 1 | | | (f) LEVEL 6 |
| 2 | 316.027(1)(b) | 2nd | Accident involving death, failure |
| 3 | | | to stop; leaving scene. |
| 4 | 316.193(2)(b) | 3rd | Felony DUI, 4th or subsequent |
| 5 | | | conviction. |
| 6 | 775.0875(1) | 3rd | Taking firearm from law |
| 7 | | | enforcement officer. |
| 8 | 784.021(1)(a) | 3rd | Aggravated assault; deadly weapon |
| 9 | | | without intent to kill. |
| 10 | 784.021(1)(b) | 3rd | Aggravated assault; intent to |
| 11 | | | commit felony. |
| 12 | 784.048(3) | 3rd | Aggravated stalking; credible |
| 13 | | | threat. |
| 14 | 784.07(2)(c) | 2nd | Aggravated assault on law |
| 15 | | | enforcement officer. |
| 16 | 784.08(2)(b) | 2nd | Aggravated assault on a person 65 |
| 17 | | | years of age or older. |
| 18 | 784.081(2) | 2nd | Aggravated assault on specified |
| 19 | | | official or employee. |
| 20 | 784.082(2) | 2nd | Aggravated assault by detained |
| 21 | | | person on visitor or other |
| 22 | | | detainee. |
| 23 | 787.02(2) | 3rd | False imprisonment; restraining |
| 24 | | | with purpose other than those in |
| 25 | | | s. 787.01. |
| 26 | 790.115(2)(d) | 2nd | Discharging firearm or weapon on |
| 27 | | | school property. |
| 28 | 790.161(2) | 2nd | Make, possess, or throw |
| 29 | | | destructive device with intent to |
| 30 | | | do bodily harm or damage |
| 31 | | | property. |

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|----|-----------------|-----|-----------------------------------|
| 1 | 790.164(1) | 2nd | False report of deadly explosive |
| 2 | | | or act of arson or violence to |
| 3 | | | state property. |
| 4 | 790.19 | 2nd | Shooting or throwing deadly |
| 5 | | | missiles into dwellings, vessels, |
| 6 | | | or vehicles. |
| 7 | 794.011(8)(a) | 3rd | Solicitation of minor to |
| 8 | | | participate in sexual activity by |
| 9 | | | custodial adult. |
| 10 | 794.05(1) | 2nd | Unlawful sexual activity with |
| 11 | | | specified minor. |
| 12 | 806.031(2) | 2nd | Arson resulting in great bodily |
| 13 | | | harm to firefighter or any other |
| 14 | | | person. |
| 15 | 810.02(3)(c) | 2nd | Burglary of occupied structure; |
| 16 | | | unarmed; no assault or battery. |
| 17 | 812.014(2)(b) | 2nd | Property stolen \$20,000 or more, |
| 18 | | | but less than \$100,000, grand |
| 19 | | | theft in 2nd degree. |
| 20 | 812.13(2)(c) | 2nd | Robbery, no firearm or other |
| 21 | | | weapon (strong-arm robbery). |
| 22 | 817.034(4)(a)1. | 1st | Communications fraud, value |
| 23 | | | greater than \$50,000. |
| 24 | 817.4821(5) | 2nd | Possess cloning paraphernalia |
| 25 | | | with intent to create cloned |
| 26 | | | cellular telephones. |
| 27 | 825.102(1) | 3rd | Abuse of an elderly person or |
| 28 | | | disabled adult. |
| 29 | 825.102(3)(c) | 3rd | Neglect of an elderly person or |
| 30 | | | disabled adult. |
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|----|----------------|-----|--|
| 1 | 825.1025(3) | 3rd | Lewd or lascivious molestation of |
| 2 | | | an elderly person or disabled |
| 3 | | | adult. |
| 4 | 825.103(2)(c) | 3rd | Exploiting an elderly person or |
| 5 | | | disabled adult and property is |
| 6 | | | valued at \$100 or more, but less |
| 7 | | | than \$20,000. |
| 8 | 827.03(1) | 3rd | Abuse of a child. |
| 9 | 827.03(3)(c) | 3rd | Neglect of a child. |
| 10 | 827.071(2)&(3) | 2nd | Use or induce a child in a sexual |
| 11 | | | performance, or promote or direct |
| 12 | | | such performance. |
| 13 | 836.05 | 2nd | Threats; extortion. |
| 14 | 836.10 | 2nd | Written threats to kill or do |
| 15 | | | bodily injury. |
| 16 | 843.12 | 3rd | Aids or assists person to escape. |
| 17 | 914.23 | 2nd | Retaliation against a witness, |
| 18 | | | victim, or informant, with bodily |
| 19 | | | injury. |
| 20 | 944.35(3)(a)2. | 3rd | Committing malicious battery upon |
| 21 | | | or inflicting cruel or inhuman |
| 22 | | | treatment on an inmate or |
| 23 | | | offender on community |
| 24 | | | supervision, resulting in great |
| 25 | | | bodily harm. |
| 26 | 944.40 | 2nd | Escapes. |
| 27 | 944.46 | 3rd | Harboring, concealing, aiding |
| 28 | | | escaped prisoners. |
| 29 | 944.47(1)(a)5. | 2nd | Introduction of contraband |
| 30 | | | (firearm, weapon, or explosive) |
| 31 | | | into correctional facility. |

