

1 A bill to be entitled
2 An act relating to adult abuse, neglect, and
3 exploitation; amending ss. 415.102 and
4 415.1102, F.S.; deleting references to
5 self-neglect from provisions relating to adult
6 protective services cases and reports; defining
7 "disabled adult in need of services" and
8 "elderly person in need of services"; amending
9 s. 415.1045, F.S.; providing for determinations
10 in onsite protective investigations that
11 certain persons are persons in need of
12 services; amending s. 415.105, F.S.; providing
13 for referral of such persons to programs of the
14 Department of Elderly Affairs; amending s.
15 415.1055, F.S.; providing that no
16 classification or notification is required for
17 reports resulting in such determinations;
18 amending s. 415.1065, F.S.; providing for
19 retention and expunction of records of such
20 reports; amending s. 430.205, F.S.; revising
21 circumstances under which certain elderly
22 persons must receive primary consideration for
23 community-care-for-the-elderly services;
24 defining "primary consideration"; providing for
25 a review and follow-up study by the office of
26 Program Policy Analysis and Government
27 Accountability; providing for reports to the
28 Legislature; amending s. 415.107, F.S.;
29 authorizing the Department of Children and
30 Family Services to provide the identity of a
31 person reporting adult abuse, neglect, or

1 exploitation to a law enforcement agency;
2 amending s. 415.111, F.S.; providing for
3 investigation by local law enforcement agencies
4 of possible false reports; providing for law
5 enforcement entities to handle certain reports
6 of abuse, neglect, or exploitation during the
7 pendency of such an investigation; providing
8 procedures; providing for law enforcement
9 agencies to refer certain reports to the state
10 attorney for prosecution; specifying the
11 penalty for knowingly and willfully making or
12 advising another to make a false report;
13 providing for the Department of Children and
14 Family Services to report annually to the
15 Legislature the number of reports referred to
16 law enforcement agencies for investigation of
17 possible false reports; providing for state
18 attorneys to report annually to the Legislature
19 the number of complaints that have resulted in
20 informations or indictments; amending s.
21 415.1113, F.S.; increasing the maximum amount
22 of the administrative fine that may be imposed
23 for knowingly and willfully making or
24 counseling another to make a false report;
25 providing an effective date.

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

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29 Section 1. Subsection (5) of section 415.102, Florida
30 Statutes, is amended, subsection (11) is redesignated as
31 subsection (12), present subsections (12) through (35) are

1 redesignated as subsections (14) through (37), respectively,
2 and new subsections (11) and (13) are added to that section,
3 to read:

4 415.102 Definitions of terms used in ss.

5 415.101-415.113.--As used in ss. 415.101-415.113, the term:

6 (5) "Closed without classification" means the closure
7 of a report in which an adult protective investigator
8 determines that:

9 (a) Some evidence exists that abuse, neglect, or
10 exploitation has occurred, but a preponderance of evidence
11 cannot be established; or

12 (b) A preponderance of the evidence exists that abuse,
13 neglect, or exploitation has occurred, but no perpetrator can
14 be identified. ~~or~~

15 ~~(c) Self-neglect is the sole cause of the neglect.~~

16 (11) "Disabled adult in need of services" means a
17 disabled adult who has been determined by an adult protective
18 services investigator to be suffering from the ill effects of
19 neglect not caused by a second party perpetrator and is in
20 need of protective services or other services to prevent
21 further harm.

22 (13) "Elderly person in need of services" means an
23 elderly person who has been determined by an adult protective
24 services investigator to be suffering from the ill effects of
25 neglect not caused by a second party perpetrator and is in
26 need of protective services or other services to prevent
27 further harm.

28 Section 2. Paragraphs (b) through (f) of subsection
29 (2) of section 415.1045, Florida Statutes, are redesignated as
30 paragraphs (c) through (g), respectively, and a new paragraph
31 (b) is added to said subsection to read:

1 415.1045 Protective investigations; onsite
2 investigations; photographs, videotapes, and medical
3 examinations; abrogation of privileged communications;
4 confidential records and documents; classification or closure
5 of records.--

6 (2) ONSITE INVESTIGATIONS.--For each report it
7 receives, the department shall perform an onsite investigation
8 to:

9 (b) Determine whether the person is a disabled adult
10 in need of services or an elderly person in need of services,
11 as defined in s. 415.102.

12 Section 3. Subsection (1) of section 415.105, Florida
13 Statutes, is amended to read:

14 415.105 Provision of protective services with consent;
15 withdrawal of consent.--

16 (1) PROTECTIVE SERVICES WITH CONSENT.--If the
17 department determines through its investigation that a
18 disabled adult or an elderly person demonstrates a need for
19 protective services or protective supervision, the department
20 shall immediately provide, or arrange for the provision of,
21 protective services or protective supervision, including
22 in-home services, provided that the disabled adult or elderly
23 person consents. A disabled person in need of services as
24 defined in s. 415.102 shall be referred to the community care
25 for disabled adults program. An elderly person in need of
26 services as defined in s. 415.102 shall be referred to the
27 community care for the elderly program administered by the
28 Department of Elderly Affairs.

29 Section 4. Paragraph (d) of subsection (2) of section
30 415.1055, Florida Statutes, is redesignated as paragraph (e),
31 and a new paragraph (d) is added to said section to read:

1 415.1055 Notification to administrative entities,
2 subjects, and reporters; notification to law enforcement and
3 state attorneys.--

4 (2) NOTIFICATION TO OTHER PERSONS.--

5 (d) In the case of a report that has been determined
6 by an adult protective services investigator to be either a
7 disabled adult in need of services or an elderly person in
8 need of services, as defined in s. 415.102, no classification
9 of the report shall be made and no notification shall be
10 required.

11 Section 5. Subsections (6), (7), and (8) of section
12 415.1065, Florida Statutes, are renumbered as subsections (7),
13 (8), and (9), respectively, and a new subsection (6) is added
14 to said section, to read:

15 415.1065 Records management.--All records must be
16 maintained in their entirety for their full retention period,
17 except as otherwise provided in this section:

18 (6) RECORDS OF REPORTS CLOSED AS DISABLED ADULT IN
19 NEED OF SERVICES OR ELDERLY PERSON IN NEED OF SERVICES.--The
20 department may retain the records of reports determined to be
21 a disabled adult in need of services or an elderly person in
22 need of services for up to 1 year for purposes of facilitating
23 the provision of services, program performance reporting, and
24 research and statistical analysis. After 1 year the record
25 must be expunged in its entirety.

26 Section 6. Paragraph (c) of subsection (2) of section
27 415.1102, Florida Statutes, is amended to read:

28 415.1102 Adult protection teams; services; eligible
29 cases.--Subject to an appropriation, the department may
30 develop, maintain, and coordinate the services of one or more
31 multidisciplinary adult protection teams in each of the

1 districts of the department. Such teams may be composed of,
2 but need not be limited to, representatives of appropriate
3 health, mental health, social service, legal service, and law
4 enforcement agencies.

5 (2) The adult abuse, neglect, or exploitation cases
6 that are appropriate for referral by the adult protective
7 services program to adult protection teams for supportive
8 services include, but are not limited to, cases involving:

9 (c) Reported medical, physical, or emotional neglect,
10 ~~either self or second party,~~ of a disabled adult or an elderly
11 person.

12 Section 7. Subsection (5) of section 430.205, Florida
13 Statutes, is amended to read:

14 430.205 Community care service system.--

15 (5) Any person who has been classified as a
16 functionally impaired elderly person is eligible to receive
17 community-care-for-the-elderly core services. Those elderly
18 persons who are determined by adult protective services to be
19 elderly persons in need of services, pursuant to s.
20 415.1045(2)(b), or to be the functional assessment to be at
21 risk of institutionalization and victims of abuse, neglect, or
22 exploitation who are in need of immediate services to prevent
23 further harm and are referred by adult protective services,
24 shall be given primary consideration for receiving
25 community-care-for-the-elderly services. As used in this
26 subsection, "primary consideration" means that an assessment
27 and services must commence within 72 hours after referral to
28 the department or as established in accordance with department
29 contracts by local protocols developed between department
30 service providers and adult protective services.

1 Section 8. The Office of Program Policy Analysis and
2 Government Accountability shall conduct a review and follow-up
3 study of the process by which the Department of Children and
4 Family Services elder victims of abuse, neglect, or
5 exploitation are referred to the Department of Elderly Affairs
6 for community services. The study shall also examine the
7 process used by the Department of Elderly Affairs to establish
8 service priorities for and provides service to these persons.
9 The Office of Program Policy Analysis and Government
10 Accountability shall submit a report of the review to the
11 President of the Senate and the Speaker of the House of
12 Representatives no later than December 31, 1998 and a report
13 of the follow-up study no later than December 31, 2000.

14 Section 9. Subsection (6) of section 415.107, Florida
15 Statutes, is amended to read:

16 415.107 Confidentiality of reports and records.--

17 (6) The identity of any person reporting adult abuse,
18 neglect, or exploitation may not be released, without that
19 person's written consent, to any person other than employees
20 of the department responsible for adult protective services,
21 the central abuse registry and tracking system, or the
22 appropriate state attorney or law enforcement agency. This
23 subsection grants protection only for the person who reported
24 the adult abuse, neglect, or exploitation and protects only
25 the fact that the person is the reporter. This subsection does
26 not prohibit the subpoena of a person reporting adult abuse,
27 neglect, or exploitation when deemed necessary by the state
28 attorney or the department to protect a disabled adult or an
29 elderly person who is the subject of a report, if the fact
30 that the person made the report is not disclosed.

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1 Section 10. Present subsections (4) and (5) of section
2 415.111, Florida Statutes, are redesignated as subsections (5)
3 and (6), respectively, and amended, and a new subsection (4)
4 is added to that section, to read:

5 415.111 Criminal penalties.--

6 (4) If the department or its authorized agent has
7 determined after its investigation that a report is false, the
8 department shall, with the consent of the alleged perpetrator,
9 refer the reports to the local law enforcement agency having
10 jurisdiction for an investigation to determine whether
11 sufficient evidence exists to refer the case for prosecution
12 for filing a false report as defined in s. 415.102. During the
13 pendency of the investigation by the local law enforcement
14 agency, the local law enforcement agency must respond to all
15 subsequent reports concerning the same disabled adult or
16 elderly person in accordance with s. 415.104 or s. 415.1045.
17 If the law enforcement agency believes that there are
18 indicators of abuse, neglect, or exploitation, it must
19 immediately notify the department, which must assure the
20 safety of the disabled adult or elderly person. If the law
21 enforcement agency finds sufficient evidence for prosecution
22 for filing a false report, it must refer the case to the
23 appropriate state attorney for prosecution.

24 (5)~~(4)~~ A person who knowingly and willfully makes a
25 false report of abuse, neglect, or exploitation of a disabled
26 adult or an elderly person, or a person who advises another to
27 make a false report, commits a felony of the third ~~misdemeanor~~
28 ~~of the second~~ degree, punishable as provided in s. 775.082 or
29 s. 775.083.

30 (a) The department shall establish procedures for
31 determining whether a false report of abuse, neglect, or

1 exploitation of a disabled adult or an elderly person has been
2 made and for submitting all identifying information relating
3 to such a false report to the local law enforcement agency as
4 provided in this subsection and shall report annually to the
5 Legislature the number of reports referred ~~state attorney for~~
6 ~~prosecution.~~

7 (b) Anyone making a report who is acting in good faith
8 is immune from any liability under this subsection.

9 ~~(6)(5)~~ Each state attorney shall establish and publish
10 procedures to facilitate the prosecution of persons under this
11 section and shall report to the Legislature annually the
12 number of complaints that have resulted in the filing of an
13 information or indictment under this section.

14 Section 11. Subsection (1) of section 415.1113,
15 Florida Statutes, is amended to read:

16 415.1113 Administrative fines for false report of
17 abuse, neglect, or exploitation of a disabled adult or an
18 elderly person.--

19 (1) In addition to any other penalty authorized by
20 this section, chapter 120, or other law, the department may
21 impose a fine, not to exceed \$10,000~~\$1,000~~ for each
22 violation, upon a person who knowingly and willfully makes a
23 false report of abuse, neglect, or exploitation of a disabled
24 adult or an elderly person, or a person who counsels another
25 to make a false report.

26 Section 12. This act shall take effect July 1, 1998.
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