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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.

26  
27 Be It Enacted by the Legislature of the State of Florida:

28  
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.

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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.

31

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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