

By Representative Machek

1                                   A bill to be entitled  
2           An act relating to exploitation of elderly or  
3           disabled adults; amending s. 825.103, F.S.;  
4           specifying a statute of limitations for  
5           exploitation of the funds, assets, or property  
6           of an elderly person or disabled adult;  
7           providing for tolling of certain statutes of  
8           limitations under certain circumstances;  
9           providing an effective date.

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

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13           Section 1. Section 825.103, Florida Statutes, is  
14 amended to read:

15           825.103 Exploitation of an elderly person or disabled  
16 adult; penalties.--

17           (1) "Exploitation of an elderly person or disabled  
18 adult" means:

19           (a) Knowingly, by deception or intimidation, obtaining  
20 or using, or endeavoring to obtain or use, an elderly person's  
21 or disabled adult's funds, assets, or property with the intent  
22 to temporarily or permanently deprive the elderly person or  
23 disabled adult of the use, benefit, or possession of the  
24 funds, assets, or property, or to benefit someone other than  
25 the elderly person or disabled adult, by a person who:

26           1. Stands in a position of trust and confidence with  
27 the elderly person or disabled adult; or

28           2. Has a business relationship with the elderly person  
29 or disabled adult; or

30           (b) Obtaining or using, endeavoring to obtain or use,  
31 or conspiring with another to obtain or use an elderly

1 person's or disabled adult's funds, assets, or property with  
2 the intent to temporarily or permanently deprive the elderly  
3 person or disabled adult of the use, benefit, or possession of  
4 the funds, assets, or property, or to benefit someone other  
5 than the elderly person or disabled adult, by a person who  
6 knows or reasonably should know that the elderly person or  
7 disabled adult lacks the capacity to consent.

8 (2)(a) If the funds, assets, or property involved in  
9 the exploitation of the elderly person or disabled adult is  
10 valued at \$100,000 or more, the offender commits a felony of  
11 the first degree, punishable as provided in s. 775.082, s.  
12 775.083, or s. 775.084.

13 (b) If the funds, assets, or property involved in the  
14 exploitation of the elderly person or disabled adult is valued  
15 at \$20,000 or more, but less than \$100,000, the offender  
16 commits a felony of the second degree, punishable as provided  
17 in s. 775.082, s. 775.083, or s. 775.084.

18 (c) If the funds, assets, or property involved in the  
19 exploitation of an elderly person or disabled adult is valued  
20 at less than \$20,000, the offender commits a felony of the  
21 third degree, punishable as provided in s. 775.082, s.  
22 775.083, or s. 775.084.

23 (3) Notwithstanding any other provision of law, a  
24 criminal action or proceeding under this section may be  
25 commenced at any time within 5 years after the cause of action  
26 accrues; however, the period of limitation does not run during  
27 any time when the defendant is continuously absent from the  
28 state or is without a reasonably ascertainable place of abode  
29 or work within the state, but in no case shall this extend the  
30 period of limitation otherwise applicable by more than 1 year.  
31 If a criminal prosecution or civil action or other proceeding

1 is brought, or intervened in, to punish, prevent, or restrain  
2 any violation of this section, the running of the period of  
3 limitations prescribed by s. 812.035(10) with respect to any  
4 cause of action arising under s. 812.035(6) or (7) which is  
5 based in whole or in part upon any matter complained of in any  
6 such prosecution, action, or proceeding shall be suspended  
7 during the pendency of such prosecution, action, or proceeding  
8 and for 2 years following its termination.

9 Section 2. This act shall take effect October 1, 2002.

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11 HOUSE SUMMARY

12 Specifies a 5-year statute of limitations for  
13 exploitation of the funds, assets, or property of an  
14 elderly person or disabled adult. Tolls the statute of  
15 limitations for civil causes of action for theft of such  
16 funds, assets, or property during pendency of criminal  
17 prosecution.  
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