

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 379 Elder Abuse and Neglect
SPONSOR(S): McInvale
TIED BILLS:

IDEN./SIM. BILLS: CS/SB 448

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|--|-----------------------|--------------|----------------|
| 1) <u>Future of Florida's Families</u> | <u>14 Y, 0 N w/CS</u> | <u>Meyer</u> | <u>Liem</u> |
| 2) <u>Public Safety & Crime Prevention</u> | <u></u> | <u></u> | <u></u> |
| 3) <u>Public Safety Appropriations (Sub)</u> | <u></u> | <u></u> | <u></u> |
| 4) <u>Appropriations</u> | <u></u> | <u></u> | <u></u> |
| 5) <u></u> | <u></u> | <u></u> | <u></u> |

SUMMARY ANALYSIS

The bill revises the crime of aggravated abuse of an elderly or disabled person from a second degree felony to a first degree felony. The bill requires certified law enforcement personnel receive training in the identification and investigation of elder abuse and neglect.

The bill designates a new Memory Disorder Clinic as part of the Alzheimer's Disease Initiative and establishes a workgroup to evaluate the use of the Florida Mental Health Act for persons with dementia. The workgroup must submit its report and recommendations by January 1, 2005, and stands repealed February 1, 2005.

This act shall take effect July 1, 2004.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0379a.fff.doc
DATE: March 15, 2004

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|--|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. EFFECT OF PROPOSED CHANGES:

Background

Chapter 825, F.S., is the criminal penalty statute for abuse, neglect, and exploitation of elderly persons and disabled adults. Section 825.102(2), F.S., specifies that a person who commits aggravated abuse of an elderly person or disabled adult commits a felony of the second degree. Chapter 921, F.S., addresses criminal sentencing guidelines with s. 921.0022, F.S., specifying severity ranking of crimes that are used to compute a sentence score for felony offenders. The current severity ranking for this crime is level eight. Section 825.01(9), F.S., provides a definition of "lacks capacity to consent."

The Alzheimer's Disease Initiative (ADI) is found in chapter 430. The ADI includes an Advisory Council appointed by the Governor and programs that include Model Day Care, Respite, the Brain Bank Program, and Memory Disorder Clinics. The statute currently designates 13 MDCs around the state.

Effect

The bill increases the penalty for aggravated abuse of an elder from a second degree to a first degree felony. The bill requires certified law enforcement officers to receive training in identification and investigation of abuse and neglect either as a part of basic recruit training or through continuing education. This training must be completed by June 30, 2008. An officer's certification is inactive if he or she does not complete the training by the deadline. Completion of the training allows the certification to be reactivated.

The bill designates a new Memory Disorder Clinic (MDC) under the Alzheimer's Disease Initiative in Clearwater which is a part of the Department of Elder Affairs' Planning & Service Area (PSA) 5. PSA 5 is the only PSA that does not have at least one MDC. The bill also creates a workgroup at the Florida Mental Health Institute at the University of South Florida. The workgroup is to study the use of the Florida Mental Health Act for involuntary commitment of elderly persons who have dementia. The workgroup is to report its findings and recommendations to the Legislature by January 1, 2005. The workgroup is repealed effective February 1, 2005.

C. SECTION DIRECTORY:

Section 1. This section amends section 825.102, F.S., to reclassify aggravated abuse of an elderly or disabled person from a felony of the 2nd degree to a felony of the 1st degree.

Section 2. This section amends section 921.0022, F.S., the Severity Ranking Chart, to conform to the change made in section 1 of the bill.

Section 3. This section creates section 943.17296, F.S., related to training for certified law enforcement officers.

Section 4. This section designates a new Memory Disorder Clinic in section 430.502, F.S.

Section 5. This section creates a workgroup at the Florida Mental Health Institute at the University of South Florida to study the use of the Florida Mental Health Act for persons with dementia.

Section 6. This act shall take effect July 1, 2004.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

No new revenues are identified.

2. Expenditures:

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

No revenue is identified.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None is projected.

D. FISCAL COMMENTS:

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable.

2. Other:

None are identified at this time.

B. RULE-MAKING AUTHORITY:

No rule making authority is provided.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill does not include a reference to elderly or disabled persons who are victims of exploitation. This is a criminal violation that is included in chapter 825.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

The bill was substantially changed by amendment in the Future of Florida Families Committee. The analysis above is of HB 379 with CS.