

By the Committee on Children and Families; and Senator Margolis

300-1204B-04

1 A bill to be entitled
2 An act relating to elder abuse and neglect;
3 amending s. 415.104, F.S.; requiring that a
4 protective investigator from the Department of
5 Children and Family Services request an
6 assessment of a vulnerable adult who is an
7 alleged victim of abuse, neglect, or
8 exploitation if there is suspicion of a lack of
9 capacity to consent; amending s. 825.102, F.S.;
10 increasing the penalty for committing
11 aggravated abuse of an elderly person or
12 disabled adult from a second-degree felony to a
13 first-degree felony; directing that a workgroup
14 be established to evaluate the curriculum for
15 training law enforcement officers in
16 identifying abuse and neglect of the elderly;
17 prescribing membership and duties of the
18 workgroup; requiring a report to the
19 Legislature; amending s. 921.0022, F.S.,
20 relating to the offense severity ranking chart
21 of the Criminal Punishment Code; conforming
22 provisions to changes made by the act;
23 providing an effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

26
27 Section 1. Present subsections (4) through (9) of
28 section 415.104, Florida Statutes, are redesignated as
29 subsections (5) through (10), respectively, and a new
30 subsection (4) is added to that section, to read:

31

1 415.104 Protective investigations of cases of abuse,
2 neglect, or exploitation of vulnerable adults; transmittal of
3 records to state attorney.--

4 (4) Subject to the availability of resources, if a
5 protective investigator from the Department of Children and
6 Family Services has reason to believe that a vulnerable adult
7 who is alleged to be a victim of abuse, neglect, or
8 exploitation lacks the capacity to consent, as defined in s.
9 415.102(14), to protective services, the protective
10 investigator may request that the individual undergo an
11 assessment conducted by a mental health provider to determine
12 the person's capacity to consent. The person must be examined
13 within 48 hours following the initial observation by the
14 protective investigator. If the assessment completed by a
15 mental health provider indicates that the individual lacks
16 capacity to consent, the department shall initiate
17 protective-services interventions as specified in s. 415.1051.

18 Section 2. Subsection (2) of section 825.102, Florida
19 Statutes, is amended to read:

20 825.102 Abuse, aggravated abuse, and neglect of an
21 elderly person or disabled adult; penalties.--

22 (2) "Aggravated abuse of an elderly person or disabled
23 adult" occurs when a person:

24 (a) Commits aggravated battery on an elderly person or
25 disabled adult;

26 (b) Willfully tortures, maliciously punishes, or
27 willfully and unlawfully cages, an elderly person or disabled
28 adult; or

29 (c) Knowingly or willfully abuses an elderly person or
30 disabled adult and in so doing causes great bodily harm,
31

1 permanent disability, or permanent disfigurement to the
2 elderly person or disabled adult.

3
4 A person who commits aggravated abuse of an elderly person or
5 disabled adult commits a felony of the first ~~second~~ degree,
6 punishable as provided in s. 775.082, s. 775.083, or s.
7 775.084.

8 Section 3. (1) The Department of Children and Family
9 Services shall establish a workgroup to evaluate the
10 curriculum for training law enforcement officers in
11 identifying abuse and neglect of elderly persons.

12 (2) The Secretary of Children and Family Services, the
13 Secretary of Elderly Affairs, and the Executive Director of
14 the Department of Law Enforcement shall each appoint at least
15 one member and not more than four members to the workgroup.

16 (3) The workgroup shall:

17 (a) Evaluate the current curriculum used to train law
18 enforcement officers in identifying abuse and neglect of
19 elderly persons.

20 (b) Prepare a list of recommendations for improving
21 the curriculum used to train law enforcement officers in
22 identifying abuse and neglect of elderly persons and
23 preventing such abuse and neglect.

24 (c) Submit the evaluative report, along with
25 recommendations for improving the curriculum, to the
26 Legislature by September 1, 2005.

27 Section 4. Paragraph (h) of subsection (3) of section
28 921.0022, Florida Statutes, is amended to read:

29 921.0022 Criminal Punishment Code; offense severity
30 ranking chart.--

31 (3) OFFENSE SEVERITY RANKING CHART

1			
2	Florida	Felony	
3	Statute	Degree	Description
4			
5			
6			(h) LEVEL 8
7	316.193(3)(c)3.a.	2nd	DUI manslaughter.
8	327.35(3)(c)3.	2nd	Vessel BUI manslaughter.
9	499.0051(7)	1st	Forgery of prescription or legend
10			drug labels.
11	499.0052	1st	Trafficking in contraband legend
12			drugs.
13	560.123(8)(b)2.	2nd	Failure to report currency or
14			payment instruments totaling or
15			exceeding \$20,000, but less than
16			\$100,000 by money transmitter.
17	560.125(5)(b)	2nd	Money transmitter business by
18			unauthorized person, currency or
19			payment instruments totaling or
20			exceeding \$20,000, but less than
21			\$100,000.
22	655.50(10)(b)2.	2nd	Failure to report financial
23			transactions totaling or
24			exceeding \$20,000, but less than
25			\$100,000 by financial
26			institutions.
27	777.03(2)(a)	1st	Accessory after the fact, capital
28			felony.
29			
30			
31			

1	782.04(4)	2nd	Killing of human without design
2			when engaged in act or attempt of
3			any felony other than arson,
4			sexual battery, robbery,
5			burglary, kidnapping, aircraft
6			piracy, or unlawfully discharging
7			bomb.
8	782.051(2)	1st	Attempted felony murder while
9			perpetrating or attempting to
10			perpetrate a felony not
11			enumerated in s. 782.04(3).
12	782.071(1)(b)	1st	Committing vehicular homicide and
13			failing to render aid or give
14			information.
15	782.072(2)	1st	Committing vessel homicide and
16			failing to render aid or give
17			information.
18	790.161(3)	1st	Discharging a destructive device
19			which results in bodily harm or
20			property damage.
21	794.011(5)	2nd	Sexual battery, victim 12 years
22			or over, offender does not use
23			physical force likely to cause
24			serious injury.
25	800.04(4)	2nd	Lewd or lascivious battery.
26	806.01(1)	1st	Maliciously damage dwelling or
27			structure by fire or explosive,
28			believing person in structure.
29	810.02(2)(a)	1st,PBL	Burglary with assault or battery.
30	810.02(2)(b)	1st,PBL	Burglary; armed with explosives
31			or dangerous weapon.

1	810.02(2)(c)	1st	Burglary of a dwelling or
2			structure causing structural
3			damage or \$1,000 or more property
4			damage.
5	812.13(2)(b)	1st	Robbery with a weapon.
6	812.135(2)	1st	Home-invasion robbery.
7	817.568(6)	2nd	Fraudulent use of personal
8			identification information of an
9			individual under the age of 18.
10	825.102(2)	<u>1st</u> 2nd	Aggravated abuse of an elderly
11			person or disabled adult.
12	825.1025(2)	2nd	Lewd or lascivious battery upon
13			an elderly person or disabled
14			adult.
15	825.103(2)(a)	1st	Exploiting an elderly person or
16			disabled adult and property is
17			valued at \$100,000 or more.
18	837.02(2)	2nd	Perjury in official proceedings
19			relating to prosecution of a
20			capital felony.
21	837.021(2)	2nd	Making contradictory statements
22			in official proceedings relating
23			to prosecution of a capital
24			felony.
25	860.121(2)(c)	1st	Shooting at or throwing any
26			object in path of railroad
27			vehicle resulting in great bodily
28			harm.
29	860.16	1st	Aircraft piracy.
30			
31			

1	893.13(1)(b)	1st	Sell or deliver in excess of 10
2			grams of any substance specified
3			in s. 893.03(1)(a) or (b).
4	893.13(2)(b)	1st	Purchase in excess of 10 grams of
5			any substance specified in s.
6			893.03(1)(a) or (b).
7	893.13(6)(c)	1st	Possess in excess of 10 grams of
8			any substance specified in s.
9			893.03(1)(a) or (b).
10	893.135(1)(a)2.	1st	Trafficking in cannabis, more
11			than 2,000 lbs., less than 10,000
12			lbs.
13	893.135(1)(b)1.b.	1st	Trafficking in cocaine, more than
14			200 grams, less than 400 grams.
15	893.135(1)(c)1.b.	1st	Trafficking in illegal drugs,
16			more than 14 grams, less than 28
17			grams.
18	893.135(1)(d)1.b.	1st	Trafficking in phencyclidine,
19			more than 200 grams, less than
20			400 grams.
21	893.135(1)(e)1.b.	1st	Trafficking in methaqualone, more
22			than 5 kilograms, less than 25
23			kilograms.
24	893.135(1)(f)1.b.	1st	Trafficking in amphetamine, more
25			than 28 grams, less than 200
26			grams.
27	893.135(1)(g)1.b.	1st	Trafficking in flunitrazepam, 14
28			grams or more, less than 28
29			grams.
30			
31			

1	893.135(1)(h)1.b.	1st	Trafficking in
2			gamma-hydroxybutyric acid (GHB),
3			5 kilograms or more, less than 10
4			kilograms.
5	893.135(1)(j)1.b.	1st	Trafficking in 1,4-Butanediol, 5
6			kilograms or more, less than 10
7			kilograms.
8	893.135(1)(k)2.b.	1st	Trafficking in Phenethylamines,
9			200 grams or more, less than 400
10			grams.
11	895.03(1)	1st	Use or invest proceeds derived
12			from pattern of racketeering
13			activity.
14	895.03(2)	1st	Acquire or maintain through
15			racketeering activity any
16			interest in or control of any
17			enterprise or real property.
18	895.03(3)	1st	Conduct or participate in any
19			enterprise through pattern of
20			racketeering activity.
21	896.101(5)(b)	2nd	Money laundering, financial
22			transactions totaling or
23			exceeding \$20,000, but less than
24			\$100,000.
25	896.104(4)(a)2.	2nd	Structuring transactions to evade
26			reporting or registration
27			requirements, financial
28			transactions totaling or
29			exceeding \$20,000 but less than
30			\$100,000.
31			Section 5. This act shall take effect July 1, 2004.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 448

Deletes changes to chapter 825, F.S., and instead amends chapter 415, F.S.

Specifies that, subject to availability of resources, the protective investigator may request that a vulnerable adult who is an alleged victim of abuse, neglect, or exploitation undergo an assessment by a mental health provider if there is reason to believe the person lacks the capacity to consent for services.

Directs the department to initiate protective-services interventions specified in s. 415.1051, F.S., if it is determined the alleged victim lacks the capacity to consent.

Directs the Department of Children and Families to establish a workgroup rather than a task force and limits the numbers of members appointed to the workgroup.

Requires the workgroup to provide an evaluative report and recommendations for improvements to the Legislature by September 1, 2005, instead of requiring two reports.