

By the Committees on Criminal Justice; Children and Families;
and Senators Margolis and Lynn

307-2462-04

1 A bill to be entitled
2 An act relating to protection and care for
3 elders; amending s. 825.102, F.S.;
4 reclassifying the offense of aggravated abuse
5 of an elderly person or disabled adult from a
6 second degree felony to a first degree felony;
7 amending s. 921.0022, F.S., relating to the
8 offense severity ranking chart of the Criminal
9 Punishment Code, to conform; creating s.
10 943.17296, F.S., relating to identification and
11 investigation of elder abuse training for
12 certified law enforcement officers; requiring
13 such training by a time certain; providing that
14 an officer's certification shall become
15 inactive in certain circumstances related to
16 the failure to complete such training; amending
17 s. 430.502, F.S.; providing for the
18 establishment of a memory disorder clinic at
19 Morton Plant Hospital in Pinellas County;
20 providing for the Florida Mental Health
21 Institute at the University of South Florida to
22 establish a workgroup; specifying the purpose
23 and responsibilities of the workgroup;
24 providing for the secretary of the Department
25 of Elderly Affairs and the secretary of the
26 Department of Children and Family Services to
27 appoint members to the workgroup; providing for
28 a report by the workgroup; providing for future
29 repeal; providing an effective date.

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

1 Section 1. Subsection (2) of section 825.102, Florida
2 Statutes, is amended to read:

3 825.102 Abuse, aggravated abuse, and neglect of an
4 elderly person or disabled adult; penalties.--

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

7 (a) Commits aggravated battery on an elderly person or
8 disabled adult;

9 (b) Willfully tortures, maliciously punishes, or
10 willfully and unlawfully cages, an elderly person or disabled
11 adult; or

12 (c) Knowingly or willfully abuses an elderly person or
13 disabled adult and in so doing causes great bodily harm,
14 permanent disability, or permanent disfigurement to the
15 elderly person or disabled adult.

16
17 A person who commits aggravated abuse of an elderly person or
18 disabled adult commits a felony of the first ~~second~~ degree,
19 punishable as provided in s. 775.082, s. 775.083, or s.
20 775.084.

21 Section 2. Paragraph (h) of subsection (3) of section
22 921.0022, Florida Statutes, is amended to read:

23 921.0022 Criminal Punishment Code; offense severity
24 ranking chart.--

25 (3) OFFENSE SEVERITY RANKING CHART

26
27 Florida Felony
28 Statute Degree Description

29
30
31 (h) LEVEL 8

1	316.193		
2	(3)(c)3.a.	2nd	DUI manslaughter.
3	327.35(3)(c)3.	2nd	Vessel BUI manslaughter.
4	499.0051(7)	1st	Forgery of prescription or legend
5			drug labels.
6	499.0052	1st	Trafficking in contraband legend
7			drugs.
8	560.123(8)(b)2.	2nd	Failure to report currency or
9			payment instruments totaling or
10			exceeding \$20,000, but less than
11			\$100,000 by money transmitter.
12	560.125(5)(b)	2nd	Money transmitter business by
13			unauthorized person, currency or
14			payment instruments totaling or
15			exceeding \$20,000, but less than
16			\$100,000.
17	655.50(10)(b)2.	2nd	Failure to report financial
18			transactions totaling or
19			exceeding \$20,000, but less than
20			\$100,000 by financial
21			institutions.
22	777.03(2)(a)	1st	Accessory after the fact, capital
23			felony.
24	782.04(4)	2nd	Killing of human without design
25			when engaged in act or attempt of
26			any felony other than arson,
27			sexual battery, robbery,
28			burglary, kidnapping, aircraft
29			piracy, or unlawfully discharging
30			bomb.
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1	782.051(2)	1st	Attempted felony murder while
2			perpetrating or attempting to
3			perpetrate a felony not
4			enumerated in s. 782.04(3).
5	782.071(1)(b)	1st	Committing vehicular homicide and
6			failing to render aid or give
7			information.
8	782.072(2)	1st	Committing vessel homicide and
9			failing to render aid or give
10			information.
11	790.161(3)	1st	Discharging a destructive device
12			which results in bodily harm or
13			property damage.
14	794.011(5)	2nd	Sexual battery, victim 12 years
15			or over, offender does not use
16			physical force likely to cause
17			serious injury.
18	800.04(4)	2nd	Lewd or lascivious battery.
19	806.01(1)	1st	Maliciously damage dwelling or
20			structure by fire or explosive,
21			believing person in structure.
22	810.02(2)(a)	1st,PBL	Burglary with assault or battery.
23	810.02(2)(b)	1st,PBL	Burglary; armed with explosives
24			or dangerous weapon.
25	810.02(2)(c)	1st	Burglary of a dwelling or
26			structure causing structural
27			damage or \$1,000 or more property
28			damage.
29	812.13(2)(b)	1st	Robbery with a weapon.
30	812.135(2)	1st	Home-invasion robbery.
31			

1	817.568(6)	2nd	Fraudulent use of personal
2			identification information of an
3			individual under the age of 18.
4	825.102(2)	<u>1st</u> 2nd	Aggravated abuse of an elderly
5			person or disabled adult.
6	825.1025(2)	2nd	Lewd or lascivious battery upon
7			an elderly person or disabled
8			adult.
9	825.103(2)(a)	1st	Exploiting an elderly person or
10			disabled adult and property is
11			valued at \$100,000 or more.
12	837.02(2)	2nd	Perjury in official proceedings
13			relating to prosecution of a
14			capital felony.
15	837.021(2)	2nd	Making contradictory statements
16			in official proceedings relating
17			to prosecution of a capital
18			felony.
19	860.121(2)(c)	1st	Shooting at or throwing any
20			object in path of railroad
21			vehicle resulting in great bodily
22			harm.
23	860.16	1st	Aircraft piracy.
24	893.13(1)(b)	1st	Sell or deliver in excess of 10
25			grams of any substance specified
26			in s. 893.03(1)(a) or (b).
27	893.13(2)(b)	1st	Purchase in excess of 10 grams of
28			any substance specified in s.
29			893.03(1)(a) or (b).
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1	893.13(6)(c)	1st	Possess in excess of 10 grams of
2			any substance specified in s.
3			893.03(1)(a) or (b).
4	893.135(1)(a)2.	1st	Trafficking in cannabis, more
5			than 2,000 lbs., less than 10,000
6			lbs.
7	893.135		
8	(1)(b)1.b.	1st	Trafficking in cocaine, more than
9			200 grams, less than 400 grams.
10	893.135		
11	(1)(c)1.b.	1st	Trafficking in illegal drugs,
12			more than 14 grams, less than 28
13			grams.
14	893.135		
15	(1)(d)1.b.	1st	Trafficking in phencyclidine,
16			more than 200 grams, less than
17			400 grams.
18	893.135		
19	(1)(e)1.b.	1st	Trafficking in methaqualone, more
20			than 5 kilograms, less than 25
21			kilograms.
22	893.135		
23	(1)(f)1.b.	1st	Trafficking in amphetamine, more
24			than 28 grams, less than 200
25			grams.
26	893.135		
27	(1)(g)1.b.	1st	Trafficking in flunitrazepam, 14
28			grams or more, less than 28
29			grams.
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1	893.135		
2	(1)(h)1.b.	1st	Trafficking in
3			gamma-hydroxybutyric acid (GHB),
4			5 kilograms or more, less than 10
5			kilograms.
6	893.135		
7	(1)(j)1.b.	1st	Trafficking in 1,4-Butanediol, 5
8			kilograms or more, less than 10
9			kilograms.
10	893.135		
11	(1)(k)2.b.	1st	Trafficking in Phenethylamines,
12			200 grams or more, less than 400
13			grams.
14	895.03(1)	1st	Use or invest proceeds derived
15			from pattern of racketeering
16			activity.
17	895.03(2)	1st	Acquire or maintain through
18			racketeering activity any
19			interest in or control of any
20			enterprise or real property.
21	895.03(3)	1st	Conduct or participate in any
22			enterprise through pattern of
23			racketeering activity.
24	896.101(5)(b)	2nd	Money laundering, financial
25			transactions totaling or
26			exceeding \$20,000, but less than
27			\$100,000.
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1 896.104(4)(a)2. 2nd Structuring transactions to evade
2 reporting or registration
3 requirements, financial
4 transactions totaling or
5 exceeding \$20,000 but less than
6 \$100,000.

7 Section 3. Section 943.17296, Florida Statutes, is
8 created to read:

9 943.17296 Identification and investigation of elder
10 abuse and neglect training.--Certified law enforcement
11 officers shall successfully complete training on
12 identification and investigation of elder abuse and neglect as
13 a part of their basic recruit training required in s.
14 943.13(9) or continuing education pursuant to s. 943.135(1)
15 prior to June 30, 2008. Such training shall be developed in
16 consultation with the Department of Elderly Affairs and shall
17 incorporate instruction on the identification of and
18 appropriate responses for persons suffering from dementia and
19 on the identification and investigation of elder abuse and
20 neglect. If an officer fails to meet the required training,
21 his or her certification shall become inactive until the
22 employing agency notifies the commission that the officer has
23 completed the training.

24 Section 4. Section 430.502, Florida Statutes, is
25 amended to read:

26 430.502 Alzheimer's disease; memory disorder clinics
27 and day care and respite care programs.--

28 (1) There is established:

29 (a) A memory disorder clinic at each of the three
30 medical schools in this state;

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1 (b) A memory disorder clinic at a major private
2 nonprofit research-oriented teaching hospital, and may fund a
3 memory disorder clinic at any of the other affiliated teaching
4 hospitals;

5 (c) A memory disorder clinic at the Mayo Clinic in
6 Jacksonville;

7 (d) A memory disorder clinic at the West Florida
8 Regional Medical Center;

9 (e) The East Central Florida Memory Disorder Clinic at
10 the Joint Center for Advanced Therapeutics and Biomedical
11 Research of the Florida Institute of Technology and Holmes
12 Regional Medical Center, Inc.;

13 (f) A memory disorder clinic at the Orlando Regional
14 Healthcare System, Inc.;

15 (g) A memory disorder center located in a public
16 hospital that is operated by an independent special hospital
17 taxing district that governs multiple hospitals and is located
18 in a county with a population greater than 800,000 persons;

19 (h) A memory disorder clinic at St. Mary's Medical
20 Center in Palm Beach County;

21 (i) A memory disorder clinic at Tallahassee Memorial
22 Healthcare;

23 (j) A memory disorder clinic at Lee Memorial Hospital
24 created by chapter 63-1552, Laws of Florida, as amended; ~~and~~

25 (k) A memory disorder clinic at Sarasota Memorial
26 Hospital in Sarasota County; and

27 (l) A memory disorder clinic at Morton Plant Hospital,
28 Clearwater, in Pinellas County,

29
30 for the purpose of conducting research and training in a
31 diagnostic and therapeutic setting for persons suffering from

1 Alzheimer's disease and related memory disorders. However,
2 memory disorder clinics funded as of June 30, 1995, shall not
3 receive decreased funding due solely to subsequent additions
4 of memory disorder clinics in this subsection.

5 (2) It is the intent of the Legislature that research
6 conducted by a memory disorder clinic and supported by state
7 funds pursuant to subsection (1) be applied research, be
8 service-related, and be selected in conjunction with the
9 department. Such research may address, but is not limited to,
10 diagnostic technique, therapeutic interventions, and
11 supportive services for persons suffering from Alzheimer's
12 disease and related memory disorders and their caregivers. A
13 memory disorder clinic shall conduct such research in
14 accordance with a research plan developed by the clinic which
15 establishes research objectives that are in accordance with
16 this legislative intent. A memory disorder clinic shall also
17 complete and submit to the department a report of the
18 findings, conclusions, and recommendations of completed
19 research. This subsection does not apply to those memory
20 disorder clinics at the three medical schools in the state or
21 at the major private nonprofit research-oriented teaching
22 hospital or other affiliated teaching hospital.

23 (3) The Alzheimer's Disease Advisory Committee must
24 evaluate the need for additional memory disorder clinics in
25 the state. The first report will be due by December 31, 1995.

26 (4) Pursuant to the provisions of s. 287.057, the
27 Department of Elderly Affairs may contract for the provision
28 of specialized model day care programs in conjunction with the
29 memory disorder clinics. The purpose of each model day care
30 program must be to provide service delivery to persons
31 suffering from Alzheimer's disease or a related memory

1 disorder and training for health care and social service
2 personnel in the care of persons having Alzheimer's disease or
3 related memory disorders.

4 (5) Pursuant to s. 287.057, the Department of Elderly
5 Affairs shall contract for the provision of respite care. All
6 funds appropriated for the provision of respite care shall be
7 distributed annually by the department to each funded county
8 according to an allocation formula. In developing the formula,
9 the department shall consider the number and proportion of the
10 county population of individuals who are 75 years of age and
11 older. Each respite care program shall be used as a resource
12 for research and statistical data by the memory disorder
13 clinics established in this part. In consultation with the
14 memory disorder clinics, the department shall specify the
15 information to be provided by the respite care programs for
16 research purposes.

17 (6) Each contract entered into pursuant to this
18 section must contain a requirement for a research component to
19 be completed and reported on in writing to the department
20 according to specifications and within a timeframe provided by
21 the department.

22 (7) The Agency for Health Care Administration and the
23 department shall seek a federal waiver to implement a Medicaid
24 home and community-based waiver targeted to persons with
25 Alzheimer's disease to test the effectiveness of Alzheimer's
26 specific interventions to delay or to avoid institutional
27 placement.

28 (8) The department will implement the waiver program
29 specified in subsection (7). The agency and the department
30 shall ensure that providers are selected that have a history
31 of successfully serving persons with Alzheimer's disease. The

1 department and the agency shall develop specialized standards
2 for providers and services tailored to persons in the early,
3 middle, and late stages of Alzheimer's disease and designate a
4 level of care determination process and standard that is most
5 appropriate to this population. The department and the agency
6 shall include in the waiver services designed to assist the
7 caregiver in continuing to provide in-home care. The
8 department shall implement this waiver program subject to a
9 specific appropriation or as provided in the General
10 Appropriations Act. The department and the agency shall submit
11 their program design to the President of the Senate and the
12 Speaker of the House of Representatives for consultation
13 during the development process.

14 (9) Authority to continue the waiver program specified
15 in subsection (7) shall be automatically eliminated at the
16 close of the 2008 Regular Session of the Legislature unless
17 further legislative action is taken to continue it prior to
18 such time.

19 Section 5. (1) The Florida Mental Health Institute at
20 the University of South Florida shall establish a workgroup to
21 focus on the needs of older adults who have dementia or
22 related disorders and who are subject to the Florida Mental
23 Health Act for involuntary treatment. This workgroup will
24 recommend legislation that will be designed to meet the needs
25 of those older adults whose behaviors present a risk for
26 self-harm, a risk of harm to others, or self-neglect.

27 (2) The secretary of the Department of Elderly Affairs
28 and the secretary of the Department of Children and Family
29 Services shall each appoint at least one member and not more
30 than seven members to the workgroup.

31 (3) The workgroup shall:

1 (a) Identify and address the problem of excessive and
2 inappropriate involuntary examination and placement of elders,
3 especially elders with Alzheimer's disease or related
4 disorders, by facilities.

5 (b) Evaluate the potential for involuntary placement
6 based upon additional criteria, including the history of the
7 dementia sufferer as provided by the family.

8 (c) Identify and evaluate the barriers and
9 restrictions to patient care that result from involuntary
10 placement.

11 (d) Evaluate less restrictive alternatives that can
12 meet the crisis stabilization needs of the individual with
13 dementia or related disorders.

14 (e) Review resources that potentially provide the best
15 opportunities for the older adult to return as quickly as
16 possible to his or her least restrictive environment.

17 (f) Evaluate the current curriculum used to train
18 employees of receiving facilities in how to deal with clients
19 with a diagnosis of Alzheimer's disease or a related dementia.

20 (g) Provide a summary of methods and systems used in
21 other states to serve this population.

22 (h) Recommend a dementia-specific system that would
23 provide the best opportunity for maintaining the dignity and
24 well-being of the state's older adult population.

25 (4) Members of the workgroup shall serve without
26 compensation.

27 (5) The workgroup shall submit a report to the
28 Governor, the Speaker of the House of Representatives, and the
29 President of the Senate no later than January 1, 2005. This
30 section is repealed February 1, 2005.

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

- 1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 CS/SB 448
- 4 - Requires certified law enforcement officers to receive
5 training in identification and investigation of abuse and
6 neglect either as a part of basic recruit training or
7 through continuing education, which must be completed by
8 June 30, 2008.
- 9 - Provides that an officer's certification is inactive if
10 he or she does not complete the training by the deadline,
11 but completion of the training allows the certification
12 to be reactivated.
- 13 - Designate a new Memory Disorder Clinic (MDC) under the
14 Alzheimer's Disease Initiative in Clearwater.
- 15 - Creates a workgroup at the Florida Mental Health
16 Institute at the University of South Florida to study the
17 use of the Florida Mental Health Act for involuntary
18 commitment of elderly persons who have dementia.
- 19 - Provides that the workgroup is to report its findings and
20 recommendations to the Legislature by January 1, 2005,
21 and that the workgroup is repealed effective February 1,
22 2005.
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