

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. 430.04, F.S.; providing that the Department  
18          of Elderly Affairs may fund efforts to dispel  
19          stereotypes concerning mature residents in this  
20          state; amending s. 430.502, F.S.; providing for  
21          the establishment of a memory disorder clinic  
22          at Morton Plant Hospital in Pinellas County;  
23          providing for the Florida Mental Health  
24          Institute at the University of South Florida to  
25          establish a workgroup; specifying the purpose  
26          and responsibilities of the workgroup;  
27          providing for the secretary of the Department  
28          of Elderly Affairs and the secretary of the  
29          Department of Children and Family Services to  
30          appoint members to the workgroup; providing for  
31

1 a report by the workgroup; providing for future  
2 repeal; providing an effective date.

3  
4 Be It Enacted by the Legislature of the State of Florida:

5  
6 Section 1. Subsection (2) of section 825.102, Florida  
7 Statutes, is amended to read:

8 825.102 Abuse, aggravated abuse, and neglect of an  
9 elderly person or disabled adult; penalties.--

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

12 (a) Commits aggravated battery on an elderly person or  
13 disabled adult;

14 (b) Willfully tortures, maliciously punishes, or  
15 willfully and unlawfully cages, an elderly person or disabled  
16 adult; or

17 (c) Knowingly or willfully abuses an elderly person or  
18 disabled adult and in so doing causes great bodily harm,  
19 permanent disability, or permanent disfigurement to the  
20 elderly person or disabled adult.

21  
22 A person who commits aggravated abuse of an elderly person or  
23 disabled adult commits a felony of the first ~~second~~ degree,  
24 punishable as provided in s. 775.082, s. 775.083, or s.  
25 775.084.

26 Section 2. Paragraph (h) of subsection (3) of section  
27 921.0022, Florida Statutes, is amended to read:

28 921.0022 Criminal Punishment Code; offense severity  
29 ranking chart.--

30 (3) OFFENSE SEVERITY RANKING CHART  
31

|    |                 |        |                                   |
|----|-----------------|--------|-----------------------------------|
| 1  | Florida         | Felony |                                   |
| 2  | Statute         | Degree | Description                       |
| 3  |                 |        |                                   |
| 4  |                 |        |                                   |
| 5  |                 |        | (h) LEVEL 8                       |
| 6  | 316.193         |        |                                   |
| 7  | (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> <del>2nd</del> | 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         |     |                                   |
| 14 | (1)(b)1.b.      | 1st | Trafficking in cocaine, more than |
| 15 |                 |     | 200 grams, less than 400 grams.   |
| 16 | 893.135         |     |                                   |
| 17 | (1)(c)1.b.      | 1st | Trafficking in illegal drugs,     |
| 18 |                 |     | more than 14 grams, less than 28  |
| 19 |                 |     | grams.                            |
| 20 | 893.135         |     |                                   |
| 21 | (1)(d)1.b.      | 1st | Trafficking in phencyclidine,     |
| 22 |                 |     | more than 200 grams, less than    |
| 23 |                 |     | 400 grams.                        |
| 24 | 893.135         |     |                                   |
| 25 | (1)(e)1.b.      | 1st | Trafficking in methaqualone, more |
| 26 |                 |     | than 5 kilograms, less than 25    |
| 27 |                 |     | kilograms.                        |
| 28 | 893.135         |     |                                   |
| 29 | (1)(f)1.b.      | 1st | Trafficking in amphetamine, more  |
| 30 |                 |     | than 28 grams, less than 200      |
| 31 |                 |     | grams.                            |

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

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. Subsection (17) is added to section 430.04,  
 25 Florida Statutes, to read:

26 430.04 Duties and responsibilities of the Department  
 27 of Elderly Affairs.--The Department of Elderly Affairs shall:  
 28 (17) Address and dispel commonly held misperceptions  
 29 and stereotypes about mature Floridians and ensure Florida's  
 30 position as a premier retirement destination. The department  
 31 may within existing resources, encourage contributions and



1 grants through private, state, and federal sources and to make  
2 expenditures from such contributions and grant funds for the  
3 purposes of carrying out the duties of this subsection.

4 Section 5. Section 430.502, Florida Statutes, is  
5 amended to read:

6 430.502 Alzheimer's disease; memory disorder clinics  
7 and day care and respite care programs.--

8 (1) There is established:

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

11 (b) A memory disorder clinic at a major private  
12 nonprofit research-oriented teaching hospital, and may fund a  
13 memory disorder clinic at any of the other affiliated teaching  
14 hospitals;

15 (c) A memory disorder clinic at the Mayo Clinic in  
16 Jacksonville;

17 (d) A memory disorder clinic at the West Florida  
18 Regional Medical Center;

19 (e) The East Central Florida Memory Disorder Clinic at  
20 the Joint Center for Advanced Therapeutics and Biomedical  
21 Research of the Florida Institute of Technology and Holmes  
22 Regional Medical Center, Inc.;

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

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

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

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1 (i) A memory disorder clinic at Tallahassee Memorial  
2 Healthcare;

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

5 (k) A memory disorder clinic at Sarasota Memorial  
6 Hospital in Sarasota County; ~~and~~

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

9  
10 for the purpose of conducting research and training in a  
11 diagnostic and therapeutic setting for persons suffering from  
12 Alzheimer's disease and related memory disorders. However,  
13 memory disorder clinics funded as of June 30, 1995, shall not  
14 receive decreased funding due solely to subsequent additions  
15 of memory disorder clinics in this subsection.

16 (2) It is the intent of the Legislature that research  
17 conducted by a memory disorder clinic and supported by state  
18 funds pursuant to subsection (1) be applied research, be  
19 service-related, and be selected in conjunction with the  
20 department. Such research may address, but is not limited to,  
21 diagnostic technique, therapeutic interventions, and  
22 supportive services for persons suffering from Alzheimer's  
23 disease and related memory disorders and their caregivers. A  
24 memory disorder clinic shall conduct such research in  
25 accordance with a research plan developed by the clinic which  
26 establishes research objectives that are in accordance with  
27 this legislative intent. A memory disorder clinic shall also  
28 complete and submit to the department a report of the  
29 findings, conclusions, and recommendations of completed  
30 research. This subsection does not apply to those memory  
31 disorder clinics at the three medical schools in the state or

1 at the major private nonprofit research-oriented teaching  
2 hospital or other affiliated teaching hospital.

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

6 (4) Pursuant to the provisions of s. 287.057, the  
7 Department of Elderly Affairs may contract for the provision  
8 of specialized model day care programs in conjunction with the  
9 memory disorder clinics. The purpose of each model day care  
10 program must be to provide service delivery to persons  
11 suffering from Alzheimer's disease or a related memory  
12 disorder and training for health care and social service  
13 personnel in the care of persons having Alzheimer's disease or  
14 related memory disorders.

15 (5) Pursuant to s. 287.057, the Department of Elderly  
16 Affairs shall contract for the provision of respite care. All  
17 funds appropriated for the provision of respite care shall be  
18 distributed annually by the department to each funded county  
19 according to an allocation formula. In developing the formula,  
20 the department shall consider the number and proportion of the  
21 county population of individuals who are 75 years of age and  
22 older. Each respite care program shall be used as a resource  
23 for research and statistical data by the memory disorder  
24 clinics established in this part. In consultation with the  
25 memory disorder clinics, the department shall specify the  
26 information to be provided by the respite care programs for  
27 research purposes.

28 (6) Each contract entered into pursuant to this  
29 section must contain a requirement for a research component to  
30 be completed and reported on in writing to the department  
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1 according to specifications and within a timeframe provided by  
2 the department.

3 (7) The Agency for Health Care Administration and the  
4 department shall seek a federal waiver to implement a Medicaid  
5 home and community-based waiver targeted to persons with  
6 Alzheimer's disease to test the effectiveness of Alzheimer's  
7 specific interventions to delay or to avoid institutional  
8 placement.

9 (8) The department will implement the waiver program  
10 specified in subsection (7). The agency and the department  
11 shall ensure that providers are selected that have a history  
12 of successfully serving persons with Alzheimer's disease. The  
13 department and the agency shall develop specialized standards  
14 for providers and services tailored to persons in the early,  
15 middle, and late stages of Alzheimer's disease and designate a  
16 level of care determination process and standard that is most  
17 appropriate to this population. The department and the agency  
18 shall include in the waiver services designed to assist the  
19 caregiver in continuing to provide in-home care. The  
20 department shall implement this waiver program subject to a  
21 specific appropriation or as provided in the General  
22 Appropriations Act. The department and the agency shall submit  
23 their program design to the President of the Senate and the  
24 Speaker of the House of Representatives for consultation  
25 during the development process.

26 (9) Authority to continue the waiver program specified  
27 in subsection (7) shall be automatically eliminated at the  
28 close of the 2008 Regular Session of the Legislature unless  
29 further legislative action is taken to continue it prior to  
30 such time.

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1           Section 6. (1) The Florida Mental Health Institute at  
2 the University of South Florida shall establish a workgroup to  
3 focus on the needs of older adults who have dementia or  
4 related disorders and who are subject to the Florida Mental  
5 Health Act for involuntary treatment. This workgroup will  
6 recommend legislation that will be designed to meet the needs  
7 of those older adults whose behaviors present a risk for  
8 self-harm, a risk of harm to others, or self-neglect.

9           (2) The secretary of the Department of Elderly Affairs  
10 and the secretary of the Department of Children and Family  
11 Services shall each appoint at least one member and not more  
12 than seven members to the workgroup.

13           (3) The workgroup shall:

14           (a) Identify and address the problem of excessive and  
15 inappropriate involuntary examination and placement of elders,  
16 especially elders with Alzheimer's disease or related  
17 disorders, by facilities.

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

21           (c) Identify and evaluate the barriers and  
22 restrictions to patient care that result from involuntary  
23 placement.

24           (d) Evaluate less restrictive alternatives that can  
25 meet the crisis stabilization needs of the individual with  
26 dementia or related disorders.

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

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

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

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

9           (4) Members of the workgroup shall serve without  
10 compensation.

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

15           Section 7. This act shall take effect July 1, 2004.