

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Children and Families Committee

BILL: SB 1360

SPONSOR: Senator Rich

SUBJECT: Adult Protective Services

DATE: March 3, 2005

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Collins</u>	<u>Whiddon</u>	<u>CF</u>	Favorable
2.	_____	_____	<u>HA</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

Senate Bill 1360 amends s. 415.102, F.S., to redefine the term “neglect” to include the neglect a vulnerable adult can inflict on him or herself. The bill also amends s. 415.1051, F.S., allowing the Department of Children and Families (DCF or the department) to petition the court to provide protective services to a vulnerable adult in need of services due to self-neglect.

This bill substantially amends sections 415.102, and 415.1051, of the Florida Statutes.

II. Present Situation:

Chapter 415, F.S., sets forth the statutory framework for Florida’s system of adult protective services which provides for investigating alleged adult abuse, neglect, and exploitation and the provision of services and supervision to protect adults from further abuse, neglect, or exploitation. Adults protected by this chapter are vulnerable adults who are at least 18 years of age and are experiencing an impaired ability to perform the normal activities of daily living or to provide for their own care or protection [s. 415.102(26), F.S.] Reports of known or suspected abuse, neglect, or exploitation are made to the central abuse hotline (s. 415.103 F.S.). For the purposes of adult protective investigations and services “neglect” is defined as the failure or the omission of the caregiver to provide the care, supervision, and services that a vulnerable adult needs to maintain his or her physical or mental health.

Protective investigators of the department conduct an onsite investigation of allegations of abuse, neglect, or exploitation of vulnerable adults to determine the following: if the reported victim is a vulnerable adult; if there is any indication of abuse, neglect, or exploitation and the extent and nature of the injuries; the composition of the family or household; the person responsible for the abuse, neglect, or exploitation; the immediate or long term risk; and the services needed to

protect the vulnerable adult. If the investigation determines that the vulnerable adult is in need of services or supervision to protect the vulnerable adult from further abuse, neglect, or exploitation, the individual must be referred to the Community Care for Disabled Adults program or to the Community Care for the Elderly program administered by the Department of Elder Affairs (s. 415.105, F.S.). If the vulnerable adult determined to need such services and supervision lacks the understanding or capacity to make or communicate responsible decisions, the department may petition the court to authorize the provision of protective services (s. 415.1051, F.S.).

The department's authority to obtain a court order to provide protective services without the consent of the vulnerable adult had historically been based on the definition of "neglect" that, prior to 2000, had included the disabled adult's or elderly person's failure to provide the care needed to maintain his or her own physical or mental health. However, ch. 2000-349, L.O.F., removed reference to the disabled adult or elderly person's failure to provide the care from the definition of "neglect." The department reports that there have been a number of cases across the state where the court has dismissed the department's petition for involuntary adult protective services on the grounds that ch. 415, F.S., no longer applies to "self neglect." Further, The First District Court of Appeals has offered an opinion that "...the statutory definition of 'neglect' requires that the 'neglect' have occurred at the hand of a caregiver..."¹

III. Effect of Proposed Changes:

Senate Bill 1360 amends the definition of "neglect" in s. 415.102, F.S., to include the failure or omission of vulnerable adults to provide themselves with care and services necessary to maintain their physical and mental health and amends s. 415.102, F.S., to expand the department's authority to petition the court to provide protective services to a "vulnerable adult in need of services." These revisions provide authority to the department to utilize the actions available through ch. 415, F.S., to make the services of the Department of Children and Families and the Department of Elder Affairs available when self-neglect of a vulnerable adult is determined.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹ Florida Department of Children and Family Services v. Jo Lynn McKim, Case No. 1D03-2092, District Court of Appeal First District, State of Florida, April 13, 2004.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

The implementation of this bill may result in the provision of increased services to vulnerable adults.

C. Government Sector Impact:

The Department of Elder Affairs reports that the implementation of this bill may result in an increased number of referrals for services under the provisions of s. 430.205(5)(a), F.S. Although the total number of referrals that may occur is unknown, any fiscal impact is expected to be minimal.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

VIII. Summary of Amendments:

None.

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