

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 96

SPONSOR: Senators Margolis and Fasano

SUBJECT: Protection and Care of Elders

DATE: March 9, 2005

REVISED: _____

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

I. Summary:

Senate Bill 96 increases the felony degree of the offense of aggravated abuse of an elderly or disabled person from a second degree felony to a first degree felony.

The bill also requires that certified law enforcement personnel receive training in the identification and investigation of elder abuse and neglect.

This bill substantially amends ss. 825.102 and 921.002, F.S., and creates s. 943.17296, F.S.

II. Present Situation:

Criminal Penalties

Chapter 825, F.S., is the current criminal penalty statute for abuse, neglect, and exploitation of elderly persons¹ and disabled adults.² Section 825.102(2), F.S., provides that it is a second degree felony to commit aggravated abuse of an elderly person or disabled adult. According to this provision, aggravated abuse of an elderly person or disabled adult occurs when a person:

- Commits aggravated battery on an elderly person or disabled adult;
- Willfully tortures, maliciously punishes, or willfully and unlawfully cages an elderly person or disabled adult; or

¹ "Elderly person" means a person 60 years of age or older who is suffering from the infirmities of aging as manifested by advanced age or organic brain damage, or other physical, mental, or emotional dysfunctioning, to the extent that the ability of the person to provide adequately for the person's own care or protection is impaired. (s. 825.101(5), F.S.)

² "Disabled adult" means a person 18 years of age or older who suffers from a condition of physical or mental incapacitation due to a developmental disability, organic brain damage, or mental illness, or who has one or more physical or mental limitations that restrict the person's ability to perform the normal activities of daily living. (s. 825.101(4), F.S.)

- Knowingly or willfully abuses an elderly person or disabled adult and in so doing causes great bodily harm, permanent disability, or permanent disfigurement to the elderly person or disabled adult.

Chapter 921, F.S., addresses criminal sentencing guidelines with s. 921.0022, F.S., specifying the severity ranking (from least severe to most severe) of crimes that is used to compute a sentence score for felony offenders. Aggravated abuse of an elderly or disabled person is ranked in Level 8 of the Criminal Punishment Code's offense severity ranking chart. (s. 921.002(3)(h), F.S.) Under current law, the lowest permissible sentence for a first time offender who commits this offense and has no additional sentencing factors is 36 months in prison.

Law Enforcement Training

Sections 943.171 through 943.17295, F.S., contain a number of specific requirements relevant to law enforcement officer training including training in subjects such as victims assistance, juvenile sexual offender investigations, and domestic violence. Special training relating to elder abuse is not specifically required by statute. However, the Florida Department of Law Enforcement (FDLE) reports that 12 of the 760 hours of training provided as a part of Basic Recruit Training is devoted to the topic of elder abuse. An advanced, 40 hour course, is available to officers who are already certified.

III. Effect of Proposed Changes:

Senate Bill 96 amends s. 825.102, F.S., to increase the penalty for aggravated abuse of an elderly person or disabled adult from a second degree felony to a first degree felony. Section 921.0022, F.S., the offense severity ranking chart, is amended to make conforming changes. However, the current ranking of the offense in Level 8 is unaffected by the bill. Changing the classification for aggravated abuse of an elderly person or disabled adult to a first degree felony will result in this crime being classified the same as aggravated child abuse (s. 827.03(3), F.S.).

The bill also creates s. 943.17296, F.S., which 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 before June 30, 2008. The training is to be developed in consultation with the Department of Elderly Affairs and must incorporate instruction on identification of and appropriate responses for persons suffering from dementia and on identifying and investigating elder abuse and neglect. If an officer fails to meet the required training, the officer's certification becomes inactive until the employing agency notifies the Criminal Justice Standards and Training Commission that the officer has completed the training.

According to the FDLE, the curriculum provided for Basic Recruit Training already addresses the issue of elder abuse, and the advanced training is available on a voluntary basis to officers for continuing education. FDLE reports that the implementation of this bill would require that some programming changes be made to the Automated Training Management System (ATMS), which is the system that maintains all records for certified officers in Florida.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Office of Economic and Demographic Research estimates that the increase in the felony degree of the offense of aggravated abuse of an elderly person or disabled adult will likely have an insignificant prison bed impact. This is a preliminary estimate; a final estimate must be provided by the Criminal Justice Impact Conference.

The FDLE has not indicated any fiscal impact on the department as a result of the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Summary of Amendments:

None.

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