

1 A bill to be entitled
 2 An act relating to adult protective services; amending s.
 3 415.102, F.S.; redefining "neglect" to include actions of
 4 a vulnerable adult against himself or herself; amending s.
 5 415.1051, F.S.; providing that the Department of Children
 6 and Family Services may petition the court for an order
 7 authorizing protective services for a vulnerable adult in
 8 need of services; providing an effective date.

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

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 12 Section 1. Subsection (15) of section 415.102, Florida
 13 Statutes, is amended to read:

14 415.102 Definitions of terms used in ss. 415.101-
 15 415.113.--As used in ss. 415.101-415.113, the term:

16 (15) "Neglect" means the failure or omission on the part
 17 of the caregiver or vulnerable adult to provide the care,
 18 supervision, and services necessary to maintain the physical and
 19 mental health of the vulnerable adult, including, but not
 20 limited to, food, clothing, medicine, shelter, supervision, and
 21 medical services, that a prudent person would consider essential
 22 for the well-being of a vulnerable adult. The term "neglect"
 23 also means the failure of a caregiver or vulnerable adult to
 24 make a reasonable effort to protect a vulnerable adult from
 25 abuse, neglect, or exploitation by others. "Neglect" is repeated
 26 conduct or a single incident of carelessness which produces or
 27 could reasonably be expected to result in serious physical or
 28 psychological injury or a substantial risk of death.

29 Section 2. Subsection (1) of section 415.1051, Florida
 30 Statutes, is amended to read:

31 415.1051 Protective services interventions when capacity
 32 to consent is lacking; nonemergencies; emergencies; orders;
 33 limitations.--

34 (1) NONEMERGENCY PROTECTIVE SERVICES INTERVENTIONS.--If
 35 the department has reasonable cause to believe that a vulnerable
 36 adult or vulnerable adult in need of services is being abused,
 37 neglected, or exploited and is in need of protective services
 38 but lacks the capacity to consent to protective services, the
 39 department shall petition the court for an order authorizing the
 40 provision of protective services.

41 (a) Nonemergency protective services petition.--The
 42 petition must state the name, age, and address of the vulnerable
 43 adult, allege specific facts sufficient to show that the
 44 vulnerable adult is in need of protective services and lacks the
 45 capacity to consent to them, and indicate the services needed.

46 (b) Notice.--Notice of the filing of the petition and a
 47 copy of the petition must be given to the vulnerable adult, to
 48 that person's spouse, guardian, and legal counsel, and, when
 49 known, to the adult children or next of kin of the vulnerable
 50 adult. Such notice must be given at least 5 days before the
 51 hearing.

52 (c) Hearing.--

53 1. The court shall set the case for hearing within 14 days
 54 after the filing of the petition. The vulnerable adult and any
 55 person given notice of the filing of the petition have the right
 56 to be present at the hearing. The department must make

57 reasonable efforts to ensure the presence of the vulnerable
58 adult at the hearing.

59 2. The vulnerable adult has the right to be represented by
60 legal counsel at the hearing. The court shall appoint legal
61 counsel to represent a vulnerable adult who is without legal
62 representation.

63 3. The court shall determine whether:

64 a. Protective services, including in-home services, are
65 necessary.

66 b. The vulnerable adult lacks the capacity to consent to
67 the provision of such services.

68 (d) Hearing findings.--If at the hearing the court finds
69 by clear and convincing evidence that the vulnerable adult is in
70 need of protective services and lacks the capacity to consent,
71 the court may issue an order authorizing the provision of
72 protective services. If an order for protective services is
73 issued, it must include a statement of the services to be
74 provided and designate an individual or agency to be responsible
75 for performing or obtaining the essential services on behalf of
76 the vulnerable adult or otherwise consenting to protective
77 services on behalf of the vulnerable adult.

78 (e) Continued protective services.--

79 1. No more than 60 days after the date of the order
80 authorizing the provision of protective services, the department
81 shall petition the court to determine whether:

82 a. Protective services will be continued with the consent
83 of the vulnerable adult pursuant to subsection (1);

- 84 b. Protective services will be continued for the
- 85 vulnerable adult who lacks capacity;
- 86 c. Protective services will be discontinued; or
- 87 d. A petition for guardianship should be filed pursuant to
- 88 chapter 744.

89 2. If the court determines that a petition for

90 guardianship should be filed pursuant to chapter 744, the court,

91 for good cause shown, may order continued protective services

92 until it makes a determination regarding capacity.

93 (f) Costs.--The costs of services ordered under this

94 section must be paid by the perpetrator if the perpetrator is

95 financially able to do so; or by third-party reimbursement, if

96 available. If the vulnerable adult is unable to pay for

97 guardianship, application may be made to the public guardian for

98 public guardianship services, if available.

99 Section 3. This act shall take effect upon becoming a law.