

By Senator Rich

34-449-06

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A bill to be entitled

An act relating to adult protective services; amending s. 415.102, F.S.; defining the term "neglect" to include actions of a vulnerable adult against himself or herself; amending s. 415.1051, F.S.; providing that the Department of Children and Family Services may petition the court for an order authorizing the provision of protective services for a vulnerable adult in need of services; providing an effective date.

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

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

415.102 Definitions of terms used in ss.

415.101-415.113.--As used in ss. 415.101-415.113, the term:

(15) "Neglect" means the failure or omission on the part of the caregiver or vulnerable adult to provide the care, supervision, and services necessary to maintain the physical and mental health of the vulnerable adult, including, but not limited to, food, clothing, medicine, shelter, supervision, and medical services, that a prudent person would consider essential for the well-being of a vulnerable adult. The term "neglect" also means the failure of a caregiver or vulnerable adult to make a reasonable effort to protect a vulnerable adult from abuse, neglect, or exploitation by others. "Neglect" is repeated conduct or a single incident of carelessness which produces or could reasonably be expected to

1 result in serious physical or psychological injury or a  
2 substantial risk of death.

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

5 415.1051 Protective services interventions when  
6 capacity to consent is lacking; nonemergencies; emergencies;  
7 orders; limitations.--

8 (1) NONEMERGENCY PROTECTIVE SERVICES  
9 INTERVENTIONS.--If the department has reasonable cause to  
10 believe that a vulnerable adult or a vulnerable adult in need  
11 of services is being abused, neglected, or exploited and is in  
12 need of protective services but lacks the capacity to consent  
13 to protective services, the department shall petition the  
14 court for an order authorizing the provision of protective  
15 services.

16 (a) Nonemergency protective services petition.--The  
17 petition must state the name, age, and address of the  
18 vulnerable adult, allege specific facts sufficient to show  
19 that the vulnerable adult is in need of protective services  
20 and lacks the capacity to consent to them, and indicate the  
21 services needed.

22 (b) Notice.--Notice of the filing of the petition and  
23 a copy of the petition must be given to the vulnerable adult,  
24 to that person's spouse, guardian, and legal counsel, and,  
25 when known, to the adult children or next of kin of the  
26 vulnerable adult. Such notice must be given at least 5 days  
27 before the hearing.

28 (c) Hearing.--

29 1. The court shall set the case for hearing within 14  
30 days after the filing of the petition. The vulnerable adult  
31 and any person given notice of the filing of the petition have

1 the right to be present at the hearing. The department must  
2 make reasonable efforts to ensure the presence of the  
3 vulnerable adult at the hearing.

4         2. The vulnerable adult has the right to be  
5 represented by legal counsel at the hearing. The court shall  
6 appoint legal counsel to represent a vulnerable adult who is  
7 without legal representation.

8         3. The court shall determine whether:

9             a. Protective services, including in-home services,  
10 are necessary.

11             b. The vulnerable adult lacks the capacity to consent  
12 to the provision of such services.

13         (d) Hearing findings.--If at the hearing the court  
14 finds by clear and convincing evidence that the vulnerable  
15 adult is in need of protective services and lacks the capacity  
16 to consent, the court may issue an order authorizing the  
17 provision of protective services. If an order for protective  
18 services is issued, it must include a statement of the  
19 services to be provided and designate an individual or agency  
20 to be responsible for performing or obtaining the essential  
21 services on behalf of the vulnerable adult or otherwise  
22 consenting to protective services on behalf of the vulnerable  
23 adult.

24         (e) Continued protective services.--

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

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

30             b. Protective services will be continued for the  
31 vulnerable adult who lacks capacity;

1 c. Protective services will be discontinued; or  
2 d. A petition for guardianship should be filed  
3 pursuant to chapter 744.

4 2. If the court determines that a petition for  
5 guardianship should be filed pursuant to chapter 744, the  
6 court, for good cause shown, may order continued protective  
7 services until it makes a determination regarding capacity.

8 (f) Costs.--The costs of services ordered under this  
9 section must be paid by the perpetrator if the perpetrator is  
10 financially able to do so; or by third-party reimbursement, if  
11 available. If the vulnerable adult is unable to pay for  
12 guardianship, application may be made to the public guardian  
13 for public guardianship services, if available.

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

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18 SENATE SUMMARY

19 Redefines the term "neglect" to include the neglect a  
20 vulnerable adult can inflict on himself or herself.  
21 Includes a vulnerable adult in need of services among  
22 persons for whom the Department of Children and Family  
23 Services may petition the court to provide protective  
24 services.  
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