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: CS/SB 378

INTRODUCER: Children and Families Committee and Senator Margolis

SUBJECT: Protection and Care for Elders

DATE: February 7, 2006   REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE		ACTION
1.	Erickson	Cannon	CJ		**Favorable**
2.	Goltry	Whiddon	CF		**Fav/CS**
3.			JA		
4.					
5.					
6.					

I.   Summary:

Committee Substitute for Senate Bill 378 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 sections 825.102 and 921.0022, and creates section 943.17296, Florida Statutes.

II.   Present Situation:

Criminal Penalties

Chapter 825, F.S., is the current criminal penalty statute for abuse, neglect, and exploitation of elderly persons[1] 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;

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[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.)

- Willfully tortures, maliciously punishes, or willfully and unlawfully cages an elderly person or disabled adult; or
- 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 the Criminal Punishment Code, Florida's general sentencing law, and s. 921.0022, F.S., specifies 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. 921.0022(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. According to the Department of Law Enforcement, the Criminal Justice Professionalism Program (CJPP) is responsible for developing and maintaining the Criminal Justice Standards and Training Commission-approved Basic Recruit Training Curriculum. The Basic Recruit Curriculum includes a six-hour unit, Responding to the Elderly, which addresses the aging process including age-related medical conditions such as dementia, crimes against the elderly, response, and resources. This training unit was developed with the assistance of the Adult Services Program of the Department of Children and Families and the Department of Elderly Affairs. The six-hour unit included in the Basic Recruit Curriculum can be extracted and delivered by law enforcement training schools as a separate specialized course to fulfill the continuing education requirement under s. 943.135, F.S. An advanced, 40 hour course is available to officers who are already certified.

III. Effect of Proposed Changes:

Committee Substitute for Senate Bill 378 amends s. 825.102, F.S., to increase the felony degree of the offense of aggravated abuse of an elderly person or disabled adult from a second degree felony to a first degree felony.[3] 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

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[3] The increase in felony degree means an increase in the maximum penalty that may be imposed for the offense. A second degree felony has a maximum penalty of 15 years in state prison, while a first degree felony generally has a maximum penalty of 30 years in state prison. The court is not required to impose this maximum penalty (unless the lowest permissible sentence scored is the maximum penalty), but the maximum penalty remains a sentencing option for the court.

recruit training or continuing education before June 30, 2009. The training is to be developed in consultation with the Department of Elderly Affairs and the Department of Children and Family Services 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.

The CJPP is responsible for maintaining documentation on the required continuing education for criminal justice officers and, therefore, would be responsible for maintaining records of successful completion of the continuing education requirement stipulated in this bill.

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. Regarding an identical bill filed last year, FDLE reported that the implementation of that 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:

A preliminary estimate based on the estimated impact of an identical bill filed last year is that this bill will likely have an insignificant prison bed impact. 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.

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

VIII.   Summary of Amendments:

None.