

By Senator Storms

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1 A bill to be entitled
2 An act relating to adult protective services; amending
3 s. 415.101, F.S.; revising terminology; amending s.
4 415.102, F.S.; defining the term "activities of daily
5 living" and revising the term "vulnerable adult";
6 conforming a cross-reference; amending s. 415.103,
7 F.S.; requiring the central abuse hotline to
8 immediately transfer certain calls relating to
9 vulnerable adults to the appropriate local law
10 enforcement agency; amending s. 415.1051, F.S.;
11 authorizing the Department of Children and Family
12 Services to file a petition to determine incapacity;
13 prohibiting the department from acting as guardian or
14 providing legal counsel to the guardian; amending s.
15 322.142, F.S.; providing a cross-reference to
16 authorize the release of certain records for purposes
17 of protective investigations; providing an effective
18 date.

19
20 Be It Enacted by the Legislature of the State of Florida:

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22 Section 1. Subsection (2) of section 415.101, Florida
23 Statutes, is amended to read:

24 415.101 Adult Protective Services Act; legislative intent.-

25 (2) The Legislature recognizes that there are many persons
26 in this state who, because of age or disability, are in need of
27 protective services. Such services should allow such an
28 individual the same rights as other citizens and, at the same
29 time, protect the individual from abuse, neglect, and

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30 exploitation. It is the intent of the Legislature to provide for
31 the detection and correction of abuse, neglect, and exploitation
32 through social services and criminal investigations and to
33 establish a program of protective services for vulnerable adults
34 ~~all disabled adults or elderly persons~~ in need of them. It is
35 intended that the mandatory reporting of such cases will cause
36 the protective services of the state to be brought to bear in an
37 effort to prevent further abuse, neglect, and exploitation of
38 vulnerable adults ~~disabled adults or elderly persons~~. In taking
39 this action, the Legislature intends to place the fewest
40 possible restrictions on personal liberty and the exercise of
41 constitutional rights, consistent with due process and
42 protection from abuse, neglect, and exploitation. Further, the
43 Legislature intends to encourage the constructive involvement of
44 families in the care and protection of vulnerable adults
45 ~~disabled adults or elderly persons~~.

46 Section 2. Present subsections (2) through (27) of section
47 415.102, Florida Statutes, are redesignated as subsections (3)
48 through (28), respectively, present subsections (4) and (26) are
49 amended, and a new subsection (2) is added to that section, to
50 read:

51 415.102 Definitions of terms used in ss. 415.101-415.113.—
52 As used in ss. 415.101-415.113, the term:

53 (2) "Activities of daily living" means functions and tasks
54 for self-care, including eating, bathing, grooming, dressing,
55 ambulating, and other similar tasks.

56 (5) ~~(4)~~ "Caregiver" means a person who has been entrusted
57 with or has assumed the responsibility for frequent and regular
58 care of or services to a vulnerable adult on a temporary or

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59 permanent basis and who has a commitment, agreement, or
60 understanding with that person or that person's guardian that a
61 caregiver role exists. The term "Caregiver" includes, but is not
62 limited to, relatives, household members, guardians, neighbors,
63 and employees and volunteers at a facility ~~of facilities as~~
64 ~~defined in subsection (8)~~. For the purpose of departmental
65 investigative jurisdiction, the term ~~"caregiver"~~ does not
66 include law enforcement officers or employees of municipal or
67 county detention facilities or the Department of Corrections
68 while acting in an official capacity.

69 (27) ~~(26)~~ "Vulnerable adult" means a person 18 years of age
70 or older whose ability to perform the normal activities of daily
71 living or to provide for his or her own care or protection is
72 impaired due to a mental, emotional, long-term physical,
73 sensory, or developmental disability or dysfunction
74 ~~dysfunctioning, or~~ brain damage, or the infirmities of aging.

75 Section 3. Present paragraphs (c), (d), (e), (f), and (g)
76 of subsection (1) of section 415.103, Florida Statutes, are
77 redesignated as paragraphs (d), (e), (f), (g), and (h),
78 respectively, and paragraph (c) is added to that subsection, to
79 read:

80 415.103 Central abuse hotline.—

81 (1) The department shall establish and maintain a central
82 abuse hotline that receives all reports made pursuant to s.
83 415.1034 in writing or through a single statewide toll-free
84 telephone number. Any person may use the statewide toll-free
85 telephone number to report known or suspected abuse, neglect, or
86 exploitation of a vulnerable adult at any hour of the day or
87 night, any day of the week. The central abuse hotline must be

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88 operated in such a manner as to enable the department to:

89 (c) Immediately transfer calls to the appropriate law
90 enforcement agency if the report is of known or suspected abuse
91 by someone other than the vulnerable adult's relative,
92 caregiver, or household member.

93 Section 4. Paragraph (e) of subsection (1) and paragraph
94 (g) of subsection (2) of section 415.1051, Florida Statutes, are
95 amended to read:

96 415.1051 Protective services interventions when capacity to
97 consent is lacking; nonemergencies; emergencies; orders;
98 limitations.-

99 (1) NONEMERGENCY PROTECTIVE SERVICES INTERVENTIONS.-If the
100 department has reasonable cause to believe that a vulnerable
101 adult or a vulnerable adult in need of services is being abused,
102 neglected, or exploited and is in need of protective services
103 but lacks the capacity to consent to protective services, the
104 department shall petition the court for an order authorizing the
105 provision of protective services.

106 (e) *Continued protective services.*-

107 1. Within ~~No more than~~ 60 days after the date of the order
108 authorizing the provision of protective services, the department
109 shall petition the court to determine whether:

110 a. Protective services will be continued with the consent
111 of the vulnerable adult pursuant to this subsection;

112 b. Protective services will be continued for the vulnerable
113 adult who lacks capacity;

114 c. Protective services will be discontinued; or

115 d. A petition for guardianship should be filed pursuant to
116 chapter 744.

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

121 3. The petition to determine incapacity under s. 744.3201
122 may be filed by the department if the department has a good
123 faith belief that the vulnerable adult lacks capacity. However,
124 once the petition is filed, the department may not be appointed
125 guardian and may not provide legal counsel for the guardian.

126 (2) EMERGENCY PROTECTIVE SERVICES INTERVENTION.—If the
127 department has reasonable cause to believe that a vulnerable
128 adult is suffering from abuse or neglect that presents a risk of
129 death or serious physical injury to the vulnerable adult and
130 that the vulnerable adult lacks the capacity to consent to
131 emergency protective services, the department may take action
132 under this subsection. If the vulnerable adult has the capacity
133 to consent and refuses consent to emergency protective services,
134 emergency protective services may not be provided.

135 (g) *Continued emergency protective services.*—

136 1. Within ~~Not more than~~ 60 days after the date of the order
137 authorizing the provision of emergency protective services, the
138 department shall petition the court to determine whether:

139 a. Emergency protective services will be continued with the
140 consent of the vulnerable adult;

141 b. Emergency protective services will be continued for the
142 vulnerable adult who lacks capacity;

143 c. Emergency protective services will be discontinued; or

144 d. A petition should be filed under chapter 744.

145 2. If it is decided to file a petition under chapter 744,

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146 for good cause shown, the court may order continued emergency
147 protective services until a determination is made by the court.

148 3. The petition to determine incapacity under s. 744.3201
149 may be filed by the department if the department has a good
150 faith belief that the vulnerable adult lacks capacity. However,
151 once the petition is filed, the department may not be appointed
152 guardian and may not provide legal counsel for the guardian.

153 Section 5. Subsection (4) of section 322.142, Florida
154 Statutes, is amended to read:

155 322.142 Color photographic or digital imaged licenses.—

156 (4) The department may maintain a film negative or print
157 file. The department shall maintain a record of the digital
158 image and signature of the licensees, together with other data
159 required by the department for identification and retrieval.
160 Reproductions from the file or digital record are exempt from
161 ~~the provisions of~~ s. 119.07(1) and may shall be made and issued
162 only for ~~departmental~~ administrative purposes; for the issuance
163 of duplicate licenses; in response to law enforcement agency
164 requests; to the Department of State pursuant to an interagency
165 agreement to facilitate determinations of eligibility of voter
166 registration applicants and registered voters in accordance with
167 ss. 98.045 and 98.075; to the Department of Revenue pursuant to
168 an interagency agreement for ~~use in~~ establishing paternity and
169 establishing, modifying, or enforcing support obligations in
170 Title IV-D cases; to the Department of Children and Family
171 Services pursuant to an interagency agreement to conduct
172 protective investigations under part III of chapter 39 or
173 chapter 415; or to the Department of Financial Services pursuant
174 to an interagency agreement to facilitate the location of owners

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175 of unclaimed property, the validation of unclaimed property
176 claims, and the identification of fraudulent or false claims.

177 Section 6. This act shall take effect July 1, 2009.