

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 253 Protection of Vulnerable Persons
SPONSOR(S): Healthy Families Subcommittee; Passidomo and others
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Healthy Families Subcommittee	11 Y, 0 N, As CS	Poche	Schoolfield
2) Criminal Justice Subcommittee			
3) Justice Appropriations Subcommittee			
4) Health & Human Services Committee			

SUMMARY ANALYSIS

House Bill 253 revises chapter 825, F.S., regarding the abuse, neglect, and exploitation of elderly persons and disabled adults, to provide greater protections to the state's vulnerable adults.

The bill deletes the terms "elderly person" and "disabled adult" from chapter 825, F.S., and replaces them with the term "vulnerable adult," expanding the protections provided by the chapter against abuse, neglect, and exploitation to more people in Florida's most vulnerable populations. The bill revises the criminal provisions contained in chapter 825, F.S., to expand the application of the law to vulnerable adults, which has a broader definition than the current terms of "elderly person" and "disabled adult." The bill will potentially increase prosecutions and convictions of individuals who abuse, neglect, or exploit vulnerable adults.

The bill does not appear to have a fiscal impact.

The bill provides an effective date of October 1, 2013.

FULL ANALYSIS

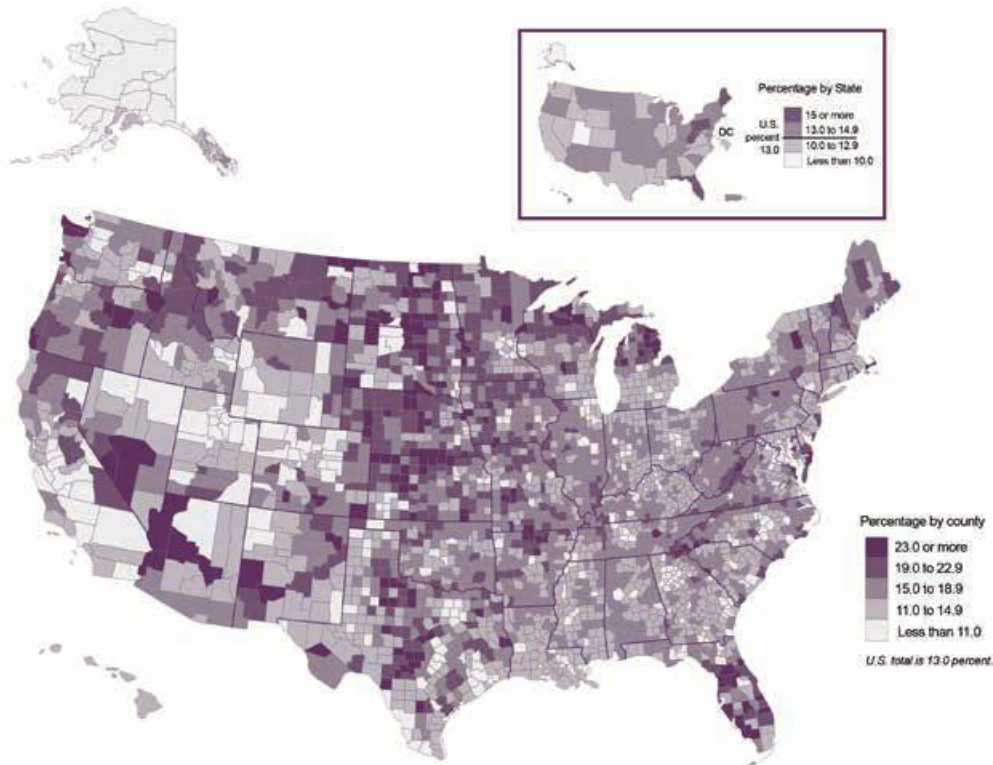
I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Elder Population in the U.S. and Florida

The 2010 Census recorded the greatest number and proportion of people aged 65 and over in the history of the United States- 40,300,000, or 13% of the total population.¹ By 2050, people aged 65 and over are expected to comprise 20% of the total population of the U.S.² The fastest growing segment of the age 65 and over population are those individuals aged 85 and over- in 2010, there were 5,800,000 people in that age range, and by 2050, it is estimated that there will 19,000,000 in that age range.³



The map above shows the percentage of population aged 65 and over in the United States.⁴ Many counties in Florida have an elder population that is greater than 15% of total county population.⁵ In 2010, Florida had the highest proportion of people over the age of 65, making up 17% of the total state population.⁶ Sumter County had the highest proportion of people over the age of 65 in the nation, accounting for 43% of total county population.⁷ Several other counties had the population of individuals age 65 and over exceed 30% of total county population.⁸

¹ Administration on Aging, National Center for Elder Abuse, *America's Growing Elderly Population*, available at www.ncea.aoa.gov/Library/Data/index.aspx (citing U.S. Department of Commerce, U.S. Census Bureau, *The older population: 2010*, 2011, Publication C2010BR-09).

² *Id.*, (citing U.S. Department of Commerce, U.S. Census Bureau, *The next four decades: The older population in the United States: 2010 to 2050*, 2010, Publication P25-1138).

³ *Id.*

⁴ The Federal Interagency Forum on Aging-Related Statistics, *Older Americans 2012- Key Indicators of Well-Being: Percentage of population age 65 and over, by county and state, 2010*, page 3.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

Nationwide, life expectancies of individuals reaching the ages of 65 and 85 are increasing. Individuals who survive to the age of 65 can be expected to live another 19.2 years.⁹ In 2009, men surviving to the age of 85 were expected to live another 5.9 years, while women reaching the same age were expected to live another 7 years.¹⁰ A larger and older population in Florida greatly increases the pool of potential victims of abuse, neglect, or exploitation.

Disabled Population in the U.S. and Florida

In 2011, there were an estimated 35,044,480 disabled persons in the United States who were victims of a crime.¹¹ Of that number, an estimated 14,467,280, or 41.3%, were aged 65 and over. An estimated 19,000,000 were aged 18 to 64.

In 2011, there were 11,468,487 people aged 18 to 64 in Florida.¹² Of that number of people, 1,131,661, or 9.9%, people had at least one disability.¹³ The number of individuals aged 65 and older in Florida in 2011 totaled 3,296,861.¹⁴ Of that number of people, 1,136,372, or 34.5%, had at least one disability.¹⁵

The following chart shows the total number of residents with a specific disability:¹⁶

Florida's Elder Population Disability Status (65+)	
	Population
Hearing difficulty	467,044
Vision difficulty	213,370
Cognitive difficulty	301,211
Ambulatory difficulty	735,714
Self-care difficulty	272,530
Independent living difficulty	483,199
With a disability	1,136,372

According to the Alzheimer's Association, there are an estimated 5,200,000 people in the U.S. aged 65 and over suffering from Alzheimer's disease, which translates to 1 in 8 people in that age range.¹⁷ It is estimated that the number of people suffering from Alzheimer's disease in Florida in 2000 totaled 360,000.¹⁸ That estimate grew to 450,000 people in 2010, an increase of 25% over the 2000 total.¹⁹ Finally, the association estimated that 590,000 people in Florida will have Alzheimer's disease in 2025, an increase of 64% over the 2000 total.²⁰ A study in 2009 found that nearly 50 percent of people with dementia experience some form of abuse.²¹ Another study in 2010 found that 47 percent of participants with dementia had been mistreated by their caregivers.²²

⁹ Id. at page 24.

¹⁰ Id.

¹¹ U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, Harrell, Erika, *Crime Against Persons with Disabilities 2009-2011, Statistical Tables*, December 19, 2012, page 18; available at <http://bjs.ojp.usdoj.gov/content/pub/pdf/capd0911st.pdf>.

¹² U.S. Department of Commerce, U.S. Census Bureau, American FactFinder, *Selected Social Characteristics in the U.S.-Florida-2011 American Community Survey 1 year estimates*, available at http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_11_1YR_DP02&prodType=table

¹³ Id.

¹⁴ Id.

¹⁵ Id.

¹⁶ The chart was compiled using information from Florida Department of Children and Families, *Adult Protective Services Training for Professionals*, presentation given at Florida Department of Elder Affairs on February 8, 2013, slide 5 (available at http://elderaffairs.state.fl.us/doea/docs/APS_Training_for_Professionals_2013.pdf)

¹⁷ Alzheimer's Association, *2012 Alzheimer's disease facts and figures*, Alzheimer's and Dementia: The Journal of the Alzheimer's Association, March 2012; 8:131-168, page 145.

¹⁸ Id. at page 151, table 2.

¹⁹ Id.

²⁰ Id.

²¹ See supra, FN 1 (citing Cooper, C., Selwood, A., et al., *Abuse of people with dementia by family carers: Representative cross sectional survey*, British Medical Journal, 338, b155).

²² Id. (citing Wigglesworth, A., Mosqueda, L., et al., *Screening for abuse and neglect of people with dementia*, Journal of the American Geriatrics Society, 58(3), 493-500).

Elder Abuse, Neglect, and Exploitation

The true incidence of elder abuse, neglect, or exploitation is difficult to assess. It appears that female elders are abused more often than male elders and according to the Centers for Disease Control and Prevention, the best available estimate of the prevalence of elder abuse, neglect, or exploitation is that between 1,000,000 and 2,000,000 persons aged 65 and older have been abused, neglected, or exploited by a caregiver.²³ The average annual rate of violent victimization against persons with disabilities aged 65 and older increased from 2010 (3 per 1,000) to 2011 (4.4 to 1,000), a nearly 50% increase.²⁴

The vast majority of individuals who abuse, neglect, or exploit persons with disabilities are most often family members and caregivers. 30% of adults with disabilities who used personal assistance service to support activities of daily living, reported one or more types of mistreatment, including physical abuse, verbal abuse, or financial abuse, by their primary care provider.²⁵ Abuse, neglect, and exploitation most frequently occur in the home environment. However, such maltreatment also occurs in facilities. According to the National Ombudsman Reporting System statistics for 2011, there were a total of 7,550 complaints against facilities in Florida.²⁶ Of those complaints, 189, or 2.5%, involved abuse, gross neglect, or exploitation.²⁷

During fiscal year 2011-2012, the most prevalent relationships of an elder abuse perpetrator to the victim in verified reports of abuse, neglect, or exploitation were son or daughter (29% of total reports), institution employee (nearly 21% of total reports, and “other” (10.5% of total reports).²⁸

In 2011, the statewide abuse hotline received a total of 15,238 reports involving the alleged abuse, neglect or exploitation of a person between the age of 18 and 59. 1,109 of those reports were substantiated and required additional investigation or action. The hotline received 38,394 reports involving someone aged 60 and over. 3,654 of those reports were substantiated and required additional investigation or action. The following chart²⁹ illustrates the number of reports received, broken down by type of abuse, total reports, substantiated reports, and age:

	Age 60+	Substantiated (60+)	Age 18-59	Substantiated (18-59)
Self-Neglect	11,533	1,991 (17%)	2,601	527 (2%)
Physical Abuse	4,638	270 (6%)	3,317	140 (4%)
Emotional Abuse	2,585	76 (3%)	1,351	21 (2%)
Sexual Abuse	296	4 (1%)	603	20 (3%)
Neglect by others	12,841	736 (6%)	5,796	310 (5%)
Financial abuse	6,320	569 (9%)	1,551	87 (6%)
Other abuse (death)	171	8 (5%)	49	4 (8%)
TOTAL	38,384	3,654 (9.5%)	15,238	1,109 (7%)

²³ Centers for Disease Control and Prevention, *Elder Maltreatment: Consequences*, available at www.cdc.gov/ViolencePrevention/eldermaltreatment/consequences/html (citing National Research Council, *Elder mistreatment: abuse, neglect, and exploitation in an aging American*, 2003, In: Bonnie RJ., and Wallace RB, editors, *Panel to Review Risk and Prevalence of Elder Abuse and Neglect*, Washington, D.C.: The National Academies Press).

²⁴ U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, Truman, J., and Planty, M., *Criminal Victimization, 2011*, October 2012, page 5; available at <http://bjs.ojp.usdoj.gov/content/pub/pdf/cv11.pdf>.

²⁵ Oktay, J., and Tompkins, C., *Personal assistance providers' mistreatment of disabled adults*, *Health & Social Work*, 29(3), 177-188; available at http://pascenter.org/publications/publication_home.php?id=372.

²⁶ Administration on Aging, Aging Integrated Database (AGID), National Ombudsman Reporting System (NORS), *Complaints 2011*, available at www.agidnet.org/CustomTables/NORS/Complaints/Data/

²⁷ Id.

²⁸ See supra, FN 16 at slide 28.

²⁹ The chart was created using information contained in Florida's 2012 State of Adult Protective Services Baseline Assessment. The assessment is available through the National Adult Protective Services Association at www.napsa-now.org/wp-content/uploads/2013/02/APS-Report-FL.pdf; also, during FY 2011-2012, the Department of Children and Families made three referrals to law enforcement involving false reports of adult abuse, neglect, or exploitation, as required by s. 415.111(5)(a), F.S. The department is also required to report the number of false reports of adult abuse, neglect, or exploitation to the Legislature. The report, entitled *2012 Number of False Reports of Abuse, Neglect or Exploitation of Disabled Adult or Elderly Person Referred to Law Enforcement*, is available at www.dcf.state.fl.us/programs/aps/docs/2012NumberFalseRptsANE.pdf.

According to the Florida Department of Elder Affairs, during fiscal year 2011-2012, the three most prevalent forms of maltreatment of elders were self-neglect, inadequate supervision, and exploitation.³⁰

Financial Exploitation

Financial exploitation is reported less than other forms of abuse. It is believed that only 1 in 14 cases of financial exploitation against disabled adults is reported and that the yearly number of cases nationwide could exceed 850,000. The “typical” victim of financial exploitation is between 70 and 89 years of age, Caucasian, female, frail, and cognitively impaired.³¹

According to the National Center on Elder Abuse, financial exploitation can include “the illegal or improper use of an elder’s funds, property, or assets.”³² Examples of financial exploitation include, but are not limited to, forging an older person’s signature, misusing or stealing an older person’s money or possessions, coercing or deceiving an older person into signing a document, and the improper use of a conservatorship, guardianship, or power of attorney.³³ Financial exploitation can be classified into two general categories - theft of income and theft of assets.³⁴ Theft of income is the most prevalent form of financial exploitation and usually involves \$1,000 to \$5,000 per transaction.³⁵ Theft of assets normally involves abuses of powers of attorneys, fraudulent real estate transactions, identity theft, or tax manipulation.³⁶ The largest category of financial abusers of the elderly include a variety of financial professionals, attorneys, and fiduciary agents.³⁷

Impact of Elder Abuse

Elders who experience abuse had a 300 percent higher risk of death when compared to elders who did not experience abuse.³⁸ Victims of elder abuse also experience significantly higher levels of psychological distress and lower perceived self-efficacy than elders who have not been abused.³⁹ Elders who have experienced abuse also have more health problems than their peers who have not been victims of abuse. Additional health problems as a result of abuse include bone or joint problems, digestive problems, depression or anxiety, and heart problems.⁴⁰ A study has also shown that elder financial abuse has led to a decrease in quality of life for victims and an increase in unnecessary institutionalizations.⁴¹

The direct medical costs associated with elder abuse are substantial. The costs of treatment following instances of violent abuse to elders add an estimated \$5.3 billion to annual health care expenditures in

³⁰ Florida Department of Elder Affairs, *Brochure: The Power to Prevent Elder Abuse Is In Your Hands*, available at http://elderaffairs.state.fl.us/doea/elderabuseprevention/Elder_Abuse_Brochure_English.pdf.

³¹ MetLife Mature Market Institute, the National Committee for the Prevention of Elder Abuse, and the Center for Gerontology at Virginia Polytechnic Institute and State University, *Broken Trust: Elders, Family, and Finances, A Study on Elder Financial Abuse Prevention*, March 2009, page 8; see also The National Committee for the Prevention of Elder Abuse and The National Adult Protective Services Association, *The 2004 Survey of State Adult Protective Services: Abuse of Adults 60 Years of Age and Older*, February 2006, page 20.

³² The National Center on Elder Abuse, *Types of Abuse- Financial or Material Exploitation*, available at http://www.ncea.aoa.gov/FAQ/Type_Abuse/index.aspx#financial.

³³ Id.

³⁴ Financial Services Roundtable, BITS, *Protecting the Elderly and Vulnerable from Financial Fraud and Exploitation*, April 2010, page 6; available at www.bits.org/publications/fraud/BITSProtectingVulnerableAdults0410.pdf.

³⁵ Id.

³⁶ Id.

³⁷ See supra, FN 31 at page 12.

³⁸ Id.; (citing Dong, X., Simon, M.A., et al., *Elder abuse and mortality: The role of psychological and social wellbeing*, *Gerontology*, 57(6), 549-558 (2011)).

³⁹ Id.; (citing Lachs, M.S., Williams, C.S., et al., *The mortality of elder mistreatment*, *Journal of the American Medical Association*, 280(5), 428-432 (1998); see also Comijis, H.C., Penninx, B.W.J.H., et al., *Psychological distress in victims of elder mistreatment: The effects of social support and coping*, *Journal of Gerontology*, 54B(4), 240-245 (1999)).

⁴⁰ Id.; (citing Bitondo Dyer, C., Pavlik, V.N., et al., *The high prevalence of depression and dementia in elder abuse and neglect*, *Journal of the American Geriatrics Society*, 48, 205-208 (2000); see also Fisher, B.S., and Regan, S.L., *The extent and frequency of abuse in the lives of older women and their relationship with health outcomes*, *The Gerontologist*, 46, 200-209 (2006)).

⁴¹ Kemp, B.J., and Mosqueda, L.A., *Elder financial abuse: an evaluation framework and supporting evidence*, *Journal of the American Geriatrics Society*, 53(7), 1123-1127 (2005).

the U.S.⁴² The annual financial loss by elders as a result of financial exploitation were estimated to be \$2.9 billion, which is a 12% increase over the costs of financial exploitation in 2008, which were estimated to be \$2.6 billion.⁴³

The Hearsay Rule in Criminal Cases

“Hearsay”⁴⁴ is a statement,⁴⁵ other than one made by the declarant⁴⁶ while testifying at trial or a hearing,⁴⁷ offered in evidence to prove the truth of the matter asserted.⁴⁸

For example, a victim of domestic violence calls the police. When a police officer arrives, she tells him that “John Doe hit me.” If the officer then testifies for the State at trial that he heard the victim say “John Doe hit me,” the officer’s testimony would be hearsay because “John Doe hit me” is:

- A statement;
- Made outside of the court proceeding; and
- Offered to prove the truth of what it asserts (i.e., that John Doe hit the victim).⁴⁹

Current law provides that hearsay statements are not admissible at trial unless a statutory exception applies.⁵⁰ The reasoning behind excluding hearsay statements is that they are considered unreliable as probative evidence. There are many reasons for this unreliability, including the fact that the statement is not made under oath; jurors cannot observe the demeanor of the declarant and judge the witness’ credibility; and there is no opportunity to cross-examine the declarant and to assess his or her credibility.⁵¹

Exceptions to the Hearsay Rule

Exceptions to the hearsay rule fall into two categories: those under s. 90.803, F.S., where the availability of the declarant is irrelevant, and those under s. 90.804, F.S., where the declarant must be unavailable to testify in court. Section 90.804, F.S., provides that a declarant is “unavailable” as a witness if the declarant:

- Is exempted by a ruling of a court on the ground of privilege from testifying concerning the subject matter of the declarant’s statement (for example, a declarant is unavailable if the trial court sustains an assertion of the Fifth Amendment privilege against self-incrimination);⁵²
- Persists in refusing to testify concerning the subject matter of the declarant’s statement despite a court order to do so;
- Has suffered a lack of memory of the subject matter of his or her statement so as to destroy the declarant’s effectiveness as a witness during the trial;
- Is unable to be present or to testify at the hearing because of death or because of then-existing physical or mental illness or infirmity; or
- Is absent from the hearing, and the proponent of a statement has been unable to procure the declarant’s attendance or testimony by process or other reasonable means.⁵³

⁴² Mouton, C.P., Rodabough, R.J., et al., *Prevalence and 3-year incidence of abuse among postmenopausal women*, American Journal of Public Health, 94(4), 605-612 (2004).

⁴³ National Committee for the Prevention of Elder Abuse, Virginia Tech, MetLife Mature Market Institute, *The MetLife study of elder financial abuse: Crimes of occasion, desperation and predation against America’s elders*, page 2 (2011)(available at [https://www.metlife.com/assets/cao/mmi/publications/studies/2011/mmi-elder-financial-abuse\[1\].pdf](https://www.metlife.com/assets/cao/mmi/publications/studies/2011/mmi-elder-financial-abuse[1].pdf)); see supra, FN 17 at page 5.

⁴⁴ S. 90.801, F.S.

⁴⁵ A “statement” is either an oral or written assertion or nonverbal conduct of a person if it is intended by the person as an assertion; see s. 90.801(1)(a), F.S.

⁴⁶ The “declarant” is the person who made the statement; see s. 90.801(1)(b), F.S.

⁴⁷ Often referred to simply as an “out-of-court statement.”

⁴⁸ S. 90.801(1)(c), F.S.

⁴⁹ See *Rodriguez v. State*, 9 So.3d 745, 745-46 (Fla. 2d DCA 2009).

⁵⁰ S. 90.802, F.S.

⁵¹ See *Lyles v. State*, 412 So.2d 458, 459 (Fla. 2d DCA 1982); see also Charles W. Ehrhardt, *Florida Evidence*, s. 801.1, 770 (2008 ed.).

⁵² See *Perry v. State*, 675 So.2d 976, 980 (Fla. 4th DCA 1996).

⁵³ S. 90.804, F.S.

The section also provides that a witness is not unavailable if the party who seeks to admit the statement caused the unavailability by wrongful conduct.⁵⁴

The party seeking to introduce a hearsay statement under the exception at s. 90.804, F.S., bears the burden of establishing that the declarant is unavailable as a witness. The trial judge makes the determination of such unavailability at a pretrial hearing.⁵⁵

Effect of Proposed Changes

The bill revises criminal provisions in chapter 825, F.S., relating to abuse, neglect, and exploitation of elderly persons and disabled adults, to expand the application of those laws to more vulnerable adults and increase prosecutions and convictions of individuals who abuse, neglect, or exploit vulnerable adults.

The bill eliminates the minimum value of funds, assets or property stolen from a person aged 65 and over to be prosecuted as a third degree felony. The provision makes a relatively minor theft of funds, assets, or property having any value a felony offense, likely increasing the number of prosecutions and possibly increasing the number of convictions for thefts against elders.

The bill renames chapter 825, F.S., from “Abuse, Neglect, and Exploitation of Elderly Persons and Disabled Adults” to “Abuse, Neglect, and Exploitation of Vulnerable Adults.” The title change is consistent with the change in terminology to “vulnerable adult,” discussed below.

In s. 825.101, F.S., the bill deletes the definitions of “disabled adult” and “elderly person” to reflect the change in terminology to “vulnerable adult” throughout the chapter, and incorporates the definition of “vulnerable adult” found in s. 415.102(27), F.S. The bill also deletes the term “lacks capacity to consent” consistent with the changes made in chapter 415, F.S., and reflects the change in standard to “impaired” when referring to a vulnerable adult’s ability to consent throughout the chapter. The term “impaired” is defined to mean, essentially, any loss of physical or mental functioning due to disease, injury, or the process of aging that decreases the ability of a person to perform mental tasks or complete activities of daily living.

The bill deletes the terms “deception” and “intimidation” from the definition of “exploitation of a vulnerable adult.” The removal of these terms as elements necessary to prove exploitation allows a prosecutor to pursue charges against an individual who exploits a vulnerable adult without having the victim testify as to being deceived or intimidated in cases where the alleged crime happened without the vulnerable adult’s knowledge. It will also allow prosecutors to pursue charges against a family member alleged to have exploited a vulnerable adult when the victim refuses to testify, either out of fear of retribution or out of misdirected or misplaced loyalty to the family member.

Finally, the bill changes the reference to a statement of an “elderly person or disabled adult” to a “vulnerable adult” regarding an applicable hearsay exception in the Florida Evidence Code in s. 90.803(24), F.S. It also permits a court, for purposes of determining admissibility of an out-of-court statement of a vulnerable adult under the hearsay exception, to determine that the vulnerable adult is unavailable because he or she is impaired, as defined in s. 825.101, F.S. The proposed change may expand the exception to more victims in criminal cases by allowing evidence that, but for the hearsay exception, would be excluded by a criminal court. This eases the burden of proof faced by state attorneys in prosecuting cases involving the abuse, neglect, or exploitation of a vulnerable adult, especially in cases in which the vulnerable adult victim is not available to testify or refuses to testify.

Conforming Changes

⁵⁴ Id.

⁵⁵ See Jones v. State, 678 So.2d 309, 314 (Fla. 1996).

The bill makes appropriate conforming changes to ss. 435.04(2), 775.084(1)(d), 775.0844(5)(a), 775.0877(1), 782.07(2), 948.06(8)(c), 960.003(2)(b), and 1015.315(1), F.S. The bill also makes conforming changes to the Offense Severity Ranking Chart contained in s. 921.0022(3)(c), F.S., to reflect criminal provisions proposed by the bill.

B. SECTION DIRECTORY:

- Section 1:** Amends s. 812.0145, F.S., relating to theft from persons 65 years of age or older; reclassification of offenses.
- Section 2:** Renames ch. 825, F.S., to "Abuse, Neglect, and Exploitation of Vulnerable Adults."
- Section 3:** Amends s. 825.101, F.S., relating to definitions.
- Section 4:** Amends s. 825.102, F.S., relating to abuse, aggravated abuse, and neglect of an elderly person or disabled adult; penalties.
- Section 5:** Amends s. 825.1025, F.S., relating to lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled person.
- Section 6:** Amends s. 825.103, F.S., relating to exploitation of an elderly person or disabled adult; penalties.
- Section 7:** Amends s. 825.105, F.S., relating to good faith assistance.
- Section 8:** Amends s. 825.106, F.S., relating to criminal actions involving elderly persons or disabled adults; speedy trial.
- Section 9:** Amends s. 90.803, F.S., relating to hearsay exceptions; availability of declarant immaterial.
- Section 10:** Amends s. 435.04, F.S., relating to level 2 screening standards.
- Section 11:** Amends s. 775.084, F.S., relating to violent career criminals; habitual felony offenders and habitual violent felony offenders; three-time violent felony offenders; definitions; procedure; enhanced penalties or mandatory minimum prison terms.
- Section 12:** Amends s. 775.0844, F.S., relating to White Collar Crime Victim Protection Act.
- Section 13:** Amends s. 775.0877, F.S., relating to criminal transmission of HIV; procedures; penalties.
- Section 14:** Amends s. 782.07, F.S., relating to manslaughter; aggravated manslaughter of an elderly person or disabled adult; aggravated manslaughter of a child; aggravated manslaughter of an officer, a firefighter, an emergency medical technician, or a paramedic.
- Section 15:** Amends s. 921.0022, F.S., relating to Criminal Punishment Code; offense severity ranking chart.
- Section 16:** Amends s. 948.06, F.S., relating to violation of probation or community control; revocation; modification; continuance; failure to pay restitution or cost of supervision.
- Section 17:** Amends s. 960.003, F.S., relating to hepatitis and HIV testing for persons charged with or alleged by petition for delinquency to have committed certain offenses; disclosure of results to victims.
- Section 18:** Amends s. 1012.315, F.S., relating to disqualification from employment.
- Section 19:** Provides an effective date of October 1, 2013.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

DCF has sufficient rule-making authority to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 13, 2013, the Healthy Families Subcommittee adopted a strike-all amendment to House Bill 253. The strike-all amendment made the following changes to the bill:

- Removed all proposed revisions to chapter 415, F.S., relating to adult protective services, which eliminated the fiscal impact.
- Renames chapter 825, F.S., to “Abuse, Neglect, and Exploitation of Vulnerable Adults.”
- Deletes the definitions of “deception” and “intimidation” from s. 825.101, F.S., and adds the definition of “impaired” to the same section.
- Clarifies the definition of “vulnerable adult” in s. 825.101, F.S.
- Deletes, from the definition of “exploitation of a vulnerable adult”, the requirement an individual use deception or intimidation to prove exploitation.

- Changes the title of section 90.803(24), F.S., to read “HEARSAY EXCEPTION; STATEMENT OF VULNERABLE ADULT.”
- Allows a court, for purposes of determining admissibility of an out-of-court statement of a vulnerable adult under the hearsay exception, to determine that the vulnerable adult is unavailable because he or she is impaired, as defined in s. 825.101, F.S.

The bill was reported favorably as a committee substitute. The analysis reflects the committee substitute.