

Amendment No. 1

17 d. Acting contrary to the principal's sole benefit or best
18 interest.

19 2. For guardians and trustees appointed under chapter 736
20 or chapter 744:

21 a. Committing fraud in obtaining their appointments;

22 b. Abusing their powers; or

23 c. Wasting, embezzling, or intentionally mismanaging the
24 assets of the ward or beneficiary of the trust.

25 (d) Misappropriating, misusing, or transferring without
26 authorization money belonging to an elderly person or disabled
27 adult from an account in which the elderly person or disabled
28 adult placed the funds, owned the funds, and was the sole
29 contributor or payee of the funds before the misappropriation,
30 misuse, or unauthorized transfer. This paragraph only applies
31 to the following types of accounts:

32 1. Personal accounts;

33 2. Joint accounts created with the intent that only the
34 elderly person or disabled adult enjoys all rights, interests,
35 and claims to moneys deposited into such account; or

36 3. Convenience accounts created in accordance with s.
37 655.80.

38 (e) Intentionally or negligently failing to effectively
39 use an elderly person's or disabled adult's income and assets
40 for the necessities required for that person's support and
41 maintenance, by a caregiver or a person who stands in a position

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42 of trust and confidence with the elderly person or disabled
43 adult.

44 (2) Any inter vivos transfer of money or property valued
45 in excess of \$10,000 at the time of the transfer, whether in a
46 single transaction or multiple transactions, by a person age 65
47 or older to a nonrelative whom the transferor knew for fewer
48 than 2 years before the first transfer and for which the
49 transferor did not receive the reasonably equivalent financial
50 value in goods or services creates a permissive presumption that
51 the transfer was the result of exploitation.

52 (a) This subsection applies regardless of whether the
53 transfer or transfers are denoted by the parties as a gift or
54 loan, except that it does not apply to a valid loan evidenced in
55 writing that includes definite repayment dates. However, if
56 repayment of any such loan is in default, in whole or in part,
57 for more than 65 days, the presumption of this subsection
58 applies.

59 (b) This subsection does not apply to:

- 60 1. Persons who are in the business of making loans.
61 2. Bona fide charitable donations to nonprofit
62 organizations that qualify for tax exempt status under the
63 Internal Revenue Code.

64 (c) In a criminal case to which this subsection applies,
65 if the trial is by jury, jurors shall be instructed that they
66 may, but are not required to, draw an inference of exploitation

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67 upon proof beyond a reasonable doubt of the facts listed in this
68 subsection. The

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T I T L E A M E N D M E N T

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Remove line 13 and insert:

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specifying when an unauthorized appropriation occurs;

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