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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/23/2021	.	
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The Committee on Criminal Justice (Burgess) recommended the following:

Senate Amendment

Delete lines 102 - 313

and insert:

(b) Has been convicted in any state or other jurisdiction of abuse, neglect, or exploitation of an elderly person or a disabled adult as those terms are defined in s. 825.101.

(c)~~(b)~~ Is mentally or physically unable to perform the duties.

(d)~~(e)~~ Is under the age of 18 years.



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11 Section 3. Section 732.8031, Florida Statutes, is created
12 to read:

13 732.8031 Forfeiture for abuse, neglect, exploitation, or
14 aggravated manslaughter of an elderly person or disabled adult.-

15 (1) A surviving person who is convicted in any state or
16 other jurisdiction of abuse, neglect, exploitation, or
17 aggravated manslaughter of an elderly person or disabled adult,
18 as those terms are defined in s. 825.101, for conduct against
19 the decedent or another person on whose death such beneficiary's
20 interest depends is not entitled to any benefits under the will
21 of the decedent or the Florida Probate Code, and the estate of
22 the decedent passes as if the abuser, neglector, exploiter, or
23 killer had predeceased the decedent. Property appointed by the
24 will of the decedent to or for the benefit of the abuser,
25 neglector, exploiter, or killer passes as if the abuser,
26 neglector, exploiter, or killer had predeceased the decedent.

27 (a) A conviction for abuse, neglect, exploitation, or
28 aggravated manslaughter of the decedent or other person creates
29 a rebuttable presumption that this section applies.

30 (b) In the absence of a qualifying conviction, the court
31 may determine by the greater weight of the evidence whether the
32 decedent's or other person's death was caused by or contributed
33 to by the conduct of the abuser or neglector as those terms are
34 described in s. 825.102, exploiter as described in s. 825.103,
35 or killer as provided in s. 782.07.

36 (2) A joint tenant who is convicted in any state or other
37 jurisdiction of abuse, neglect, exploitation, or aggravated
38 manslaughter of an elderly person or disabled adult, as those
39 terms are defined in s. 825.101, for conduct against another



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40 joint tenant decedent thereby effects a severance of the
41 interest of the decedent so that the share of the decedent
42 passes as the decedent's sole property and as if the abuser,
43 neglector, exploiter, or killer has no rights by survivorship.
44 This subsection applies to joint tenancies with right of
45 survivorship and tenancies by the entirety in real and personal
46 property; joint and multiple-party accounts in banks, savings
47 and loan associations, credit unions, and other financial
48 institutions; and any other form of coownership with
49 survivorship interests.

50 (a) A conviction for abuse, neglect, exploitation, or
51 aggravated manslaughter of the decedent or other person creates
52 a rebuttable presumption that this section applies.

53 (b) In the absence of a qualifying conviction, the court
54 may determine by the greater weight of the evidence whether the
55 decedent's or other person's death was caused by or contributed
56 to by the conduct of the abuser or neglector as those terms are
57 described in s. 825.102, exploiter as described in s. 825.103,
58 or killer as provided in s. 782.07.

59 (3) A named beneficiary of a bond, life insurance policy,
60 or other contractual arrangement who is convicted in any state
61 or other jurisdiction of abuse, neglect, exploitation, or
62 aggravated manslaughter of an elderly person or disabled adult,
63 as those terms are defined in s. 825.101, for conduct against
64 the owner or principal obligee of the bond, life insurance
65 policy, or other contractual arrangement or the person upon
66 whose life such policy was issued is not entitled to any benefit
67 under the bond, policy, or other contractual arrangement, and
68 the bond, policy, or other contractual arrangement becomes



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69 payable as though the abuser, neglector, exploiter, or killer
70 had predeceased the decedent.

71 (a) A conviction for abuse, neglect, exploitation, or
72 aggravated manslaughter of the decedent or other person creates
73 a rebuttable presumption that this section applies.

74 (b) In the absence of a qualifying conviction, the court
75 may determine by the greater weight of the evidence whether the
76 decedent's or other person's death was caused by or contributed
77 to by the conduct of the abuser or neglector as those terms are
78 described in s. 825.102, exploiter as described in s. 825.103,
79 or killer as provided in s. 782.07.

80 (4) Any other acquisition of property or interest by the
81 abuser, neglector, exploiter, or killer, including a life estate
82 in homestead property, shall be treated in accordance with the
83 principles of this section.

84 (5) (a) This section does not affect the rights of any
85 person who, before rights under this section have been
86 adjudicated, purchases from the abuser, neglector, exploiter, or
87 killer for value and without notice property that the abuser,
88 neglector, exploiter, or killer would have acquired except for
89 this section.

90 (b) The abuser, neglector, exploiter, or killer is liable
91 for the amount of the proceeds or the value of the property
92 under paragraph (a).

93 (6) Any insurance company, bank, or other obligor making
94 payment according to the terms of its policy or obligation is
95 not liable by reason of this section unless before payment it
96 receives at its home office or principal address written notice
97 of a claim under this section.



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98 (7) This section does not apply if, after the conviction of
99 abuse, neglect, or exploitation, the victim of the offense, if
100 capacitated, executes a written instrument, sworn to and
101 witnessed by two persons who would be competent as witnesses to
102 a will, which expresses a specific intent to allow the person so
103 convicted of abuse, neglect, or exploitation to retain his or
104 her inheritance or survivorship rights.

105 Section 4. Subsection (3) is added to section 736.1104,
106 Florida Statutes, to read:

107 736.1104 Person Killer not entitled to receive property or
108 other benefits by reason of victim's death.-

109 (3) A beneficiary of a trust who was convicted in any state
110 or other jurisdiction of abuse, neglect, exploitation, or
111 aggravated manslaughter of an elderly person or disabled adult,
112 as those terms are defined in s. 825.101, for conduct against a
113 settlor or another person on whose death such beneficiary's
114 interest depends is not entitled to any trust interest,
115 including a homestead dependent on the victim's death, and such
116 interest shall devolve as though the abuser, neglecter,
117 exploiter, or killer had predeceased the victim.

118 (a) A conviction for abuse, neglect, exploitation, or
119 aggravated manslaughter of the decedent or other person creates
120 a rebuttable presumption that this section applies.

121 (b) In the absence of a qualifying conviction, the court
122 may determine by the greater weight of the evidence whether the
123 decedent's or other person's death was caused by or contributed
124 to by the conduct of the abuser or neglecter as those terms are
125 described in s. 825.102, exploiter as described in s. 825.103,
126 or killer as provided in s. 782.07.



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127 Section 5. Subsections (8) through (14) of section 825.101,
128 Florida Statutes, are renumbered as subsections (10) through
129 (16), respectively, and new subsections (8) and (9) are added to
130 that section, to read:

131 825.101 Definitions.—As used in this chapter:

132 (8) "Improper benefit" means any remuneration or payment,
133 by or on behalf of any service provider or merchant of goods, to
134 any person as an incentive or inducement to refer customers or
135 patrons for past or future services or goods.

136 (9) "Kickback" has the same meaning as in s. 456.054(1).

137 Section 6. Paragraphs (b) and (c) of subsection (1) of
138 section 825.102, Florida Statutes, are amended, and paragraph
139 (d) is added to that subsection, to read:

140 825.102 Abuse, aggravated abuse, and neglect of an elderly
141 person or disabled adult; penalties.—

142 (1) "Abuse of an elderly person or disabled adult" means:

143 (b) An intentional act that could reasonably be expected to
144 result in physical or psychological injury to an elderly person
145 or disabled adult; ~~or~~

146 (c) Active encouragement of any person to commit an act
147 that results or could reasonably be expected to result in
148 physical or psychological injury to an elderly person or
149 disabled adult; or

150 (d) Intentionally, and without lawful authority, isolating
151 or restricting access of an elderly person or a disabled adult
152 to family members for any length of time which could reasonably
153 be expected to result in physical or psychological injury to the
154 elderly person or disabled adult, or with the intent to promote,
155 facilitate, conceal, or disguise some form of criminal activity



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156 involving the person or property of the elderly person or
157 disabled adult. It is a defense to a violation of this paragraph
158 that the defendant had reasonable cause to believe that his or
159 her action was necessary to protect the elderly person or
160 disabled adult from danger to his or her welfare.

161
162 A person who knowingly or willfully abuses an elderly person or
163 disabled adult without causing great bodily harm, permanent
164 disability, or permanent disfigurement to the elderly person or
165 disabled adult commits a felony of the third degree, punishable
166 as provided in s. 775.082, s. 775.083, or s. 775.084.

167 Section 7. Paragraphs (c), (d), and (e) of subsection (1)
168 of section 825.103, Florida Statutes, are amended, and paragraph
169 (f) is added to that subsection, to read:

170 825.103 Exploitation of an elderly person or disabled
171 adult; penalties.—

172 (1) "Exploitation of an elderly person or disabled adult"
173 means:

174 (c) Breach of a fiduciary duty to an elderly person or
175 disabled adult by the person's guardian, trustee who is an
176 individual, or agent under a power of attorney which results in
177 an unauthorized appropriation, sale, ~~or~~ transfer of property,
178 kickback, or receipt of an improper benefit. An unauthorized
179 appropriation under this paragraph occurs when the elderly
180 person or disabled adult does not receive the reasonably
181 equivalent financial value in goods or services, or when the
182 fiduciary violates any of these duties:

183 1. For agents appointed under chapter 709:

184 a. Committing fraud in obtaining their appointments;



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185 b. Obtaining appointments with the purpose and design of
186 benefiting someone other than the principal or beneficiary;
187 ~~c.b.~~ Abusing their powers;
188 ~~d.e.~~ Wasting, embezzling, or intentionally mismanaging the
189 assets of the principal or beneficiary; or
190 ~~e.d.~~ Acting contrary to the principal's sole benefit or
191 best interest; or
192 2. For guardians and trustees who are individuals and who
193 are appointed under chapter 736 or chapter 744:
194 a. Committing fraud in obtaining their appointments;
195 b. Obtaining appointments with the purpose and design of
196 benefiting someone other than the principal or beneficiary;
197 ~~c.b.~~ Abusing their powers; or
198 ~~d.e.~~ Wasting, embezzling, or intentionally mismanaging the
199 assets of the ward or beneficiary of the trust;
200 (d) Misappropriating, misusing, or transferring without
201 authorization money belonging to an elderly person or disabled
202 adult from an account in which the elderly person or disabled
203 adult placed the funds, owned the funds, and was the sole
204 contributor or payee of the funds before the misappropriation,
205 misuse, or unauthorized transfer. This paragraph only applies to
206 the following types of accounts:
207 1. Personal accounts;
208 2. Joint accounts created with the intent that only the
209 elderly person or disabled adult enjoys all rights, interests,
210 and claims to moneys deposited into such account; or
211 3. Convenience accounts created in accordance with s.
212 655.80; ~~or~~
213 (e) Intentionally or negligently failing to effectively use



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214 an elderly person's or disabled adult's income and assets for
215 the necessities required for that person's support and
216 maintenance, by a caregiver or a person who stands in a position
217 of trust and confidence with the elderly person or disabled
218 adult; or

219 (f) Knowingly obtaining or using, endeavoring to obtain or
220 use, or conspiring with another to obtain or use an elderly
221 person's or a disabled adult's funds, assets, property, or
222 estate through intentional modification, alteration, or
223 fraudulent creation of a plan