

Committee on Children, Families, And Elder Affairs

CS/CS/HB 409 — Offenses Against Vulnerable Persons

by Judiciary Committee; Criminal Justice Subcommittee; and Rep. Passidomo and others (CS/CS/SB 588 by Judiciary Committee; Children, Families, and Elder Affairs Committee; and Senator Richter)

The bill expands the list of persons designated as vulnerable adults who can be victims of personal identification fraud to include an individual who is 60 years of age or older; a disabled adult as defined in s. 825.101, F.S.; a public servant as defined in s. 838.014, F.S.; a veteran as defined in s. 1.01, F.S.; a first responder as defined in s. 125.01045, F.S.; an individual who is employed by the State of Florida; or an individual who is employed by the Federal Government.

The bill deletes the requirement that a person use deception or intimidation to obtain or use a vulnerable adult's funds, assets, or property in committing identity theft. The bill specifies that "unauthorized appropriation" occurs when a vulnerable adult does not receive reasonably equivalent financial value in goods or services or when fiduciaries violate specified duties.

The bill amends s. 825.103(1), F.S., to create additional instances that constitute exploitation of a vulnerable adult including the misappropriation, misuse or transfer without authorization of monies belonging to a vulnerable adult by a caregiver or a person who stands in a position of trust and confidence with the vulnerable adult.

An Identity Theft and Fraud Grant Program is created within the Department of Law Enforcement to award grants to support local law enforcement agencies in the investigation and enforcement of personal identification information theft and fraud.

The bill requires courts to impose a surcharge of \$1,001 against a person that pleads guilty or nolo contendere to, or is found guilty of, regardless of adjudication, a violation of fraudulent use of personal identification information of a vulnerable adult. The surcharge will be distributed to the Florida Department of Law Enforcement (\$500) to provide grants to local law enforcement agencies to investigate offenses related to the criminal use of personal identification information; to the State Attorneys Revenue Trust Fund (\$250) for funding prosecution of offenses relating to the criminal use of personal identification information; to the Public Defenders Revenue Trust Fund (\$250) for purposes of indigent criminal defense related to the criminal use of personal identification information; and to the Clerk of the Court (\$1) as a service charge of the clerk's office. The surcharge cannot be waived by the court.

If approved by the Governor, these provisions take effect October 1, 2014.

Vote: Senate 39-0; House 117-0