

Committee on Criminal Justice

CS/SB 232 — Exploitation of Vulnerable Persons

by Criminal Justice Committee and Senator Garcia

The bill creates s. 817.5695, F.S., which punishes exploitation of a person 65 years of age or older by:

- Obtaining or using, endeavoring to obtain or use, or conspiring with another to obtain or use, through deception or intimidation, the property of a person 65 years of age or older with the intent to temporarily or permanently:
 - Deprive that person of the use, benefit, or possession of the property; or
 - Benefit someone other than the property owner;
- Obtaining or using, endeavoring to obtain or use, or conspiring with another to obtain or use, through deception or intimidation, the property of a person 65 years of age or older through the intentional modification, alteration, or fraudulent creation of a plan of distribution or disbursement expressed in a will, trust instrument, or other testamentary devise of the person 65 years of age or older; or
- Depriving, endeavoring to deprive, or conspiring with another to deprive, with the intent to defraud and by means of bribery or kickbacks, a person 65 years of age or older of his or her intangible right to honest services provided by an individual who has a legal or fiduciary relationship with such person.

The bill defines “bribe,” “deception,” “endeavor,” “fiduciary relationship,” “intimidation,” “kickback,” “obtains or uses,” “property,” “services,” and “value.”

The bill specifies the felony degree of violations based on value of property, etc., involved in the exploitation and amends s. 921.0022, F.S., to rank the felonies in the Criminal Punishment Code offense severity level ranking chart. If the funds, assets, or property involved in the exploitation are valued at:

- \$50,000 or more, the offender commits a level 7 first degree felony.
- \$10,000 or more, but less than \$50,000, the offender commits a level 6 second degree felony.
- Less than \$10,000, the offender commits a level 4 third degree felony.

It does not constitute a defense to a prosecution for any violation of this section that the accused did not know the victim’s age.

In a criminal action resulting from a violation of s. 817.5695, F.S., the state may move the court to advance a trial on the court’s docket. The presiding judge, after consideration of the age and health of the victim, may advance the trial on the docket. The motion may be filed and served with the information of charges at any time thereafter.

A person 65 years of age or older who is in imminent danger of being exploited may petition for an injunction for protection under s. 825.1035, F.S., which currently applies to a vulnerable adult in imminent danger of being “exploited” (i.e., subject to exploitation as defined in s. 825.103(1),

F.S.). A violation of such injunction shall be handled in the same manner, and such violation shall have the same penalties, as provided in s. 825.1036, F.S.

Conforming changes are made to ss. 825.1035 and 825.1036, F.S., to provide additional guidance as used in those sections, and in addition to the definitions provided in ch. 825, F.S., exploitation of a vulnerable adult includes a person 65 years of age or older who is or may be subject to exploitation as described in s. 817.5695, F.S., (exploitation of a person 65 years or older).

Finally, the bill amends s. 775.15, F.S., to provide that if the 5-year time period under s. 775.15(10)(a), F.S., for prosecution of a felony violation of s. 817.5695, F.S., s. 825.102, F.S., (abuse of an elderly person or disabled adult), or s. 825.103, F.S., (exploitation of an elderly person or disabled adult), has expired, a prosecution may nevertheless be commenced for any offense, a material element of which is either fraud or a breach of fiduciary obligation, within 5 years after discovery of the offense by an aggrieved party or by a person who has a legal duty to represent an aggrieved party and who is not a party to the offense. This change will provide additional time for prosecution of elder abuse and exploitation.

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect October 1, 2023.

Vote: Senate 38-0; House 115-0