
SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

Date: March 16, 1998

Revised: 3/23/98 _____

Subject: Investigation of Cases Involving Abuse, Neglect, and Exploitation

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	Crosby	Whiddon	CF	Fav/1 amendment
2.				
3.				
4.				
5.				

I. Summary:

Senate Bill 1188 provides a definition for cases of self-neglect and provides that such cases not be classified. This bill will permit the Department of Children and Family Services' on-site investigator to assess a situation of self-neglect and allows for referral to the Department of Elderly Affairs, where appropriate. Senate Bill 1188 modifies the requirements for notification in situations where the elderly or disabled person is suffering from neglect but no second party perpetrator is named. The Department of Children and Family Services shall maintain records of self-neglect for 5 years. This bill also amends s. 430.205, F.S., related to the community care system administered by the Department of Elderly Affairs, to revise the referral standards of such clients when they are referred by the Department of Children and Family Services to the Department of Elderly Affairs. The term "primary consideration," as used in s. 430.205, F.S., is defined.

This bill substantially amends the following sections of the Florida Statutes: 415.102, 415.1045, 415.1055, 415.1065, 415.1102, and 430.205.

II. Present Situation:**Department of Children and Family Services**

The Adult Protective Services (APS) office and the Florida Abuse Hotline Information System (FAHIS), commonly known as the Abuse Hotline, are located in the Department of Children and Family Services (DCF). Adult Protective Services is a program within the Aging and Adult Services office while FAHIS is administered by the Children and Families Support office. The APS office is responsible for responding to calls made to the Abuse Hotline; investigating reports of abuse, neglect or exploitation of elderly or disabled adults; providing protective services to

those who require such services; and, for classifying reports made pursuant to the investigations as unfounded, proposed confirmed or confirmed.

The Adult Protective Services law is found in Part I of Chapter 415 (ss. 415.101-415.113), F.S. Presently, the law requires that any person who knows or has reasonable cause to suspect that an elderly or disabled person is being abused must immediately report this information to the central abuse registry and tracking system. The call and information is then referred to the appropriate district office which will then begin an investigation to determine whether there is any indication of abuse, neglect or exploitation. If such a condition exists, services will be provided or the person is removed from the home.

The DCF is required to complete its investigation no later than 45 days after receiving the initial report. After the completion of its investigation, the department must classify a report as either “proposed confirmed” or “unfounded,” unless the report is “closed without classification.” Procedures are stated in law for cases classified as “unfounded” or “proposed confirmed,” but relevant to this bill are cases “closed without classification” because self-neglect falls under the statutory definition of this classification. See s. 415.102(5)(c), F.S.

Currently, when a case is “closed without classification” because it is determined by the investigator to be self-neglect, DCF must provide notices to the guardian of the disabled adult or elderly person, the disabled adult or elderly person, the caregiver of that person, and any person or facility named in the report. Among other things, the notice must advise the person found to be in self-neglect of her right to request amendment or the expunging of the report within 60 days. If this elderly or disabled person appeals the classification and the Secretary denies the appeal, he or she has the right to an administrative hearing pursuant to ch. 120, F.S., but must meet specific time-frames in instituting such an appeal.

Department of Elderly Affairs

The Department of Elderly Affairs (DOEA) was created by the Florida Legislature in 1991. Among the purposes provided in s. 430.03, F.S., the department has the responsibility to “[a]ssist elderly persons to secure needed services . . .” and “[p]romote the prevention of neglect, abuse, or exploitation of elderly persons unable to protect their own interests.” The department, through its area agencies on aging (AAA), administer both federal and state programs for the elderly. At present, elderly persons who have been identified by DCF’s adult protective services program as having been abused, neglected, or exploited may be referred to the DOEA and may receive services on a “primary consideration” basis if a functional assessment determines that they are at risk of institutionalization. Such individuals may be maintained by APS as an open case and may receive services through DCF over an extended period of time.

According to numbers provided by DCF to DOEA, during the 1995-1996 fiscal year, 7213 elderly persons required some level of emergency services intervention to help stabilize either physical or environmental needs. Thirty percent of this group (2923 persons) required immediate, intensive

intervention. An additional 3757 adult protective services referrals, however, were also made (from adult protective services to DOEA) and were provided CCE services.

III. Effect of Proposed Changes:

Section 1. Section 415.102(5)(c), F.S., is amended to specifically not include cases of self neglect within the term “closed without classification.” A definition for the term “self-neglect” is added at subsection (32) to mean the failure of a disabled adult or elderly person to provide for that person’s own basic needs. A list of examples of such needs is included.

Section 2. Section 415.1045, F.S., describing procedures in an on-site investigation, is amended to include the assessment and referral process in a case determined to be one of self-neglect. No classification will be assigned to cases determined to be self-neglect.

Section 3. Section 415.1055, F.S., regarding notification to various parties, is amended to specify and clarify that notification to other persons will include those cases in which an alleged perpetrator is named. Again, language is clarified in a case where an alleged perpetrator is named or suspected and the case is closed without classification.

Section 4. Records of reports of self-neglect will be maintained for 5 years after the report is closed in the central abuse hotline and tracking system.

Section 5. The reference to self-neglect is deleted from the section dealing with referrals from adult protective services to adult protective teams for supportive services.

Section 6. Section 430.205(5), F.S., regarding the Community Care for the Elderly (CCE) program, is amended to ensure that, in the future, a one part, rather than two part, test will be applied to persons eligible for primary consideration for CCE services. This test will be whether the referral is at risk of institutionalization or whether that referral is a victim of abuse, neglect, or exploitation and in need of immediate services to prevent further harm and is referred by adult protective services. The term “primary consideration” is defined to mean within 72 hours of referral or as established in accordance with department contracts in a particular locale.

Section 7. This act shall take effect July 1, 1998.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Senate Bill 1188 defines “primary consideration” to mean within 72 hours of referral or as established in accordance with department contracts in that particular locale. The DOEA reports that this change in definition may substantially affect the Community Care for the Elderly (CCE) program by increasing current service rates due to the need for additional on-call service provider capacity and by requiring that some existing CCE clients may be terminated from receipt of CCE services in order to serve the adult protective services referrals. It is notable as a counter to this point, however, that DCF and DOEA ran information through both data systems in order to determine common clients, specifically those receiving services from area agencies on aging and those who came in through the DCF hotline. In 1997, 70 percent of those elders called in to the hotline were receiving services or were already known to DOEA.

C. Government Sector Impact:

Department of Elderly Affairs (DOEA)

DOEA reports that the actual fiscal impact is unknown at this time but that the impact could be significant due to the large number of seniors who may be served on a priority basis. Again, it is important to bear in mind that, in 1997, 70 percent of those elders called in to the hotline were receiving services or were already known to DOEA.

Department of Children and Family Services (DCF)

DCF estimates that the changes proposed in this bill, related to the investigation and provision of services on a voluntary basis to persons suffering from self-neglect, will result in a total workload reduction of approximately 10 percent. Since the referral requirements of the bill anticipate the services currently being provided by DCF will be supplanted by DOEA-funded services, the fiscal impact on the DCF should be minor.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Presently, about one-third of the annual reports investigated by DCF involve cases of elderly self-neglect. Many of these individuals may already be clients of the DOEA.

VIII. Amendments:

#1 by Children, Families and Seniors:

This amendment directs the Office of Program and Policy Analysis and Government Accountability to conduct a study on the transfer and referral of clients from DCF to DOEA.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
