

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 952

SPONSOR: Criminal Justice Committee and Senator Sanderson

SUBJECT: Statute of Limitations/Exploitation of Elderly or Disabled Adults

DATE: February 5, 2002

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Dugger</u>	<u>Cannon</u>	<u>CJ</u>	<u>Favorable/CS</u>
2.	<u>Barnes</u>	<u>Whiddon</u>	<u>CF</u>	<u>Favorable</u>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

CS/SB 952 provides for a 5-year statute of limitation time period for prosecuting cases involving financial exploitation of an elderly person or disabled adult. Currently, such cases must be prosecuted within 4 years of the violation if the exploitation rises to the level of a first degree felony (value of funds involved is over \$100,000), or within 3 years of the violation for all other exploitation cases.

Accordingly, under the CS, the state gains an additional year to prosecute a case of first degree felony exploitation of an elderly person or disabled adult and an additional 2 years to prosecute all other felony cases of exploiting an elderly person or disabled adult.

The CS also extends the current 4-year time limitation for bringing a felony prosecution for physically abusing or neglecting an elderly person or disabled adult to 5 years.

This bill substantially amends section 775.15 of the Florida Statutes.

II. Present Situation:

The purpose of the statute of limitations for a criminal prosecution is to protect people from being indefinitely threatened by possible criminal prosecution, which might otherwise be delayed until such a time when defense witnesses become unavailable, judges change office, or other time hazards develop which could impede an otherwise good defense. *State v. Hickman*, 189 So.2d 254 (Fla. 2nd DCA 1966), cert. denied, 194 So.2d 618 (1966).

Section 775.15, F.S., controls the time limitations for initiating a criminal prosecution for any felony offense in the following manner:

- For a capital felony, a life felony, or a felony resulting in death, there is no time limitation, s. 775.15(1)(a), F.S.;
- For a first or second degree felony violation of s. 794.011, F.S., which includes several different sexual battery offenses, if reported to a law enforcement agency within 72 hours after commission of the crime, there is no time limitation, s. 775.15 (1)(b), F.S.;
- For any felony that resulted in injury to a person when the felony arises from the use of a “destructive device,” there is a 10-year limitation, s. 775.15 (1)(a), F.S.;
- For a first degree felony, there is a 4-year limitation, s. 775.15 (2)(a), F.S.; and
- For any other felony, there is a 3-year limitation, s. 775.15(2)(b), F.S.

These general time limitation periods are extended for prosecutions involving securities transaction violations, insurance fraud, and Medicaid provider fraud under ch. 517, F.S., s. 409.920, F.S., s. 440.105, F.S., and s. 817.234, F.S. (5 years), prosecutions involving environmental control felony violations under ch. 403, F.S. (5 years), **prosecutions involving felony elderly person or disabled adult abuse under s. 825.102, F.S. (4 years)**, and prosecutions involving certain sexual offenses committed against children under 18 years of age (applicable time limitation does not begin to run until the crime is reported or until the child turns the age of 18 years, whichever occurs first).

Section 825.102, F.S., provides for second and third degree felony penalties for physically abusing or neglecting elderly persons or disabled adults, which, without the extended statute of limitation time period of 4 years, would have to be prosecuted within 3 years of the violation.

Financial exploitation of an elderly person or disabled adult under s. 825.103, F.S., on the other hand, is not included within this 4-year time limitation extension, but rather, is controlled by the general time provisions for felony offenses, depending upon the degree of the applicable felony. When the value of the funds involved in the exploitation of an elderly person or disabled adult is over \$100,000, the offense is punishable as a first degree felony, which triggers the 4-year time limitation. When the value of the funds involved is between \$20,000 and \$100,000, the offense is punishable as a second degree felony, triggering the 3-year time limitation. Similarly, the 3-year time limitation is triggered when the value of the funds involved is less than \$20,000 (third degree felony).

III. Effect of Proposed Changes:

CS/SB 952 would provide for a 5-year statute of limitation time period for prosecuting cases involving financial exploitation of an elderly person or disabled adult. Currently, such cases must be prosecuted within 4 years of the violation if the exploitation rises to the level of a first degree felony (value of funds involved is over \$100,000), or within 3 years of the violation for all other cases involving exploitation of an elderly person or disabled adult.

Accordingly, under the CS, the state would gain an additional year to prosecute a case of first degree felony exploitation of an elderly person or disabled adult, and an additional 2 years to prosecute all other felony cases of exploiting an elderly person or disabled adult.

Additionally, the CS would extend the current 4-year time limitation for bringing a felony prosecution for physically abusing or neglecting an elderly person or disabled adult to 5 years.

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:

None.

C. Government Sector Impact:

Any prison bed impact resulting from this bill is anticipated to be insignificant, based upon prior forecasts for legislation extending statute of limitations in criminal cases. However, the Criminal Justice Impact Conference has not yet met on this bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.