

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/CS/SB 448

SPONSOR: Criminal Justice Committee, Children and Families Committee, and Senator Margolis

SUBJECT: Elder Abuse and Neglect

DATE: March 31, 2004 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Collins</u>	<u>Whiddon</u>	<u>CF</u>	<u>Fav/CS</u>
2.	<u>White</u>	<u>Wilson</u>	<u>GO</u>	<u>Fav/2 amendments</u>
3.	<u>Erickson</u>	<u>Cannon</u>	<u>CJ</u>	<u>Fav/CS</u>
4.	_____	_____	<u>AHS</u>	_____
5.	_____	_____	<u>AP</u>	_____
6.	_____	_____	_____	_____

I. Summary:

Committee Substitute for Committee Substitute (CS) for Senate Bill 448 revises the crime of aggravated abuse of an elderly or disabled person from a second degree felony to a first degree felony.

The CS requires certified law enforcement personnel receive training in the identification and investigation of elder abuse and neglect.

The CS designates a new Memory Disorder Clinic as part of the Alzheimer’s Disease Initiative.

The CS establishes a workgroup to evaluate the use of the Florida Mental Health Act for persons with dementia. The workgroup must submit its report and recommendations by January 1, 2005, and stands repealed February 1, 2005.

This CS amends ss. 430.502, 825.102(2) and 921.0022, F.S., and creates s. 943.17296, F.S.

II. Present Situation:

Criminal Penalties

Chapter 825, F.S., is the current criminal penalty statute for abuse, neglect, and exploitation of elderly persons and disabled adults. Section 825.102(2), F.S., provides that it is a second degree felony to commit aggravated abuse of an elderly person or disabled adult. This offense is ranked in Level 8 of the Criminal Punishment Code’s offense severity ranking chart. s. 921.002(3)(h), F.S.

Law Enforcement Training

The department reports having established good working relationships with both the Department of Elderly Affairs (DOEA) and the Florida Department of Law Enforcement (FDLE). The department reports working cooperatively with both agencies to develop modules to be used for training law enforcement officers to respond appropriately to adult abuse situations. The department currently provides assistance by providing specialized training to law enforcement officers upon request.

The training program provided by FDLE includes approximately six hours of new officer training related to abuse of the elderly. The FDLE reports that this topic is also “threaded” into other modules of law enforcement training. Law enforcement officers may also complete a more advanced module and in turn, subsequently receive pay increases. Specialized training relating to the abuse of the elderly is also provided at local levels on an as needed basis.

The current law enforcement training modules were developed with involvement of staff from DCF and DOEA. There are plans to evaluate implementation of these modules by July 2004. The training modules provided for the identification of elderly abuse are comparable to training provided in the areas of domestic violence and child abuse.

Alzheimer’s Disease Initiative

The Alzheimer’s Disease Initiative (ADI) is found in ch. 430, F.S. The ADI includes an Advisory Council appointed by the Governor and programs that include Model Day Care, Respite, the Brain Bank Program, and Memory Disorder Clinics. The statute currently designates 13 MDCs around the state.

III. Effect of Proposed Changes:

The CS amends s. 825.102, F.S., to increase the penalty for aggravated abuse of an elderly person or disabled adult from a second degree felony to a first degree felony. Section 921.0022, F.S., the Criminal Punishment Code’s offense severity ranking chart, is amended to make conforming changes.

Section 943.17296, F.S., is created to require certified law enforcement officers to receive training in identification and investigation of abuse and neglect either as a part of basic recruit training or through continuing education. This training must be completed by June 30, 2008. An officer’s certification is inactive if he or she does not complete the training by the deadline. Completion of the training allows the certification to be reactivated.

Section 430.502, F.S., is amended to designate a new Memory Disorder Clinic (MDC) under the Alzheimer’s Disease Initiative in Clearwater which is a part of the Department of Elder Affairs’ Planning and Service Area (PSA) 5. PSA 5 is the only PSA that does not have at least one MDC.

An unnumbered section is created that creates a workgroup at the Florida Mental Health Institute at the University of South Florida. The workgroup is to study the use of the Florida Mental Health Act for involuntary commitment of elderly persons who have dementia. The workgroup is to report its findings and recommendations to the Legislature by January 1, 2005. The workgroup is repealed effective February 1, 2005.

The CS takes effect July 1, 2004.

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:

The Criminal Justice Impact Conference estimates that the increase in the felony degree of the offense of aggravated abuse of an elderly person or disabled adult will likely have an insignificant prison bed impact.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Committee Substitute for Senate Bill 576, which has passed out of the Committee on Criminal Justice, punishes crimes committed against the elderly or disabled adults. CS/CS/SB 448 does not conflict with CS/SB 576, but if both bills became law, the first degree felony would be reclassified to a first degree felony punishable by life imprisonment.

VIII. Amendments:

None.