

By Senator Margolis

35-284A-04

1 A bill to be entitled
2 An act relating to elder abuse and neglect;
3 creating s. 825.108, F.S.; requiring that a
4 case worker or protective investigator from the
5 Department of Children and Family Services
6 request a mental health examination of an
7 elderly victim of abuse or neglect if there is
8 suspicion of mental incompetency; amending s.
9 825.102, F.S.; increasing the penalty for
10 committing aggravated abuse of an elderly
11 person or disabled adult from a second-degree
12 felony to a first-degree felony; creating the
13 Task Force Against Abuse and Neglect of the
14 Elderly within the Department of Children and
15 Family Services; providing for membership and
16 duties of the task force; requiring reports to
17 the Legislature; amending s. 921.0022, F.S.,
18 relating to the offense severity ranking chart
19 of the Criminal Punishment Code; conforming
20 provisions to changes made by the act;
21 providing an effective date.

22

23 Be It Enacted by the Legislature of the State of Florida:

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25 Section 1. Section 825.108, Florida Statutes, is
26 created to read:

27 825.108 Mental health examination.--If a case worker
28 or protective investigator from the Department of Children and
29 Family Services has reason to believe that a person older than
30 65 years of age who is the victim of abuse or neglect is
31 mentally incompetent, the case worker or investigator may

1 request that the person undergo a mental health evaluation by
2 a mental health provider that is under contract with the
3 department. The person must be examined within 48 hours
4 following the initial observation by the case worker or
5 investigator.

6 Section 2. Subsection (2) of section 825.102, Florida
7 Statutes, is amended to read:

8 825.102 Abuse, aggravated abuse, and neglect of an
9 elderly person or disabled adult; penalties.--

10 (2) "Aggravated abuse of an elderly person or disabled
11 adult" occurs when a person:

12 (a) Commits aggravated battery on an elderly person or
13 disabled adult;

14 (b) Willfully tortures, maliciously punishes, or
15 willfully and unlawfully cages, an elderly person or disabled
16 adult; or

17 (c) Knowingly or willfully abuses an elderly person or
18 disabled adult and in so doing causes great bodily harm,
19 permanent disability, or permanent disfigurement to the
20 elderly person or disabled adult.

21
22 A person who commits aggravated abuse of an elderly person or
23 disabled adult commits a felony of the first ~~second~~ degree,
24 punishable as provided in s. 775.082, s. 775.083, or s.
25 775.084.

26 Section 3. Task Force Against Abuse and Neglect of the
27 Elderly.--

28 (1) The Task Force Against Abuse and Neglect of the
29 Elderly is created within the Department of Children and
30 Family Services. The Secretary of Children and Family
31 Services, the Secretary of Elderly Affairs, and the executive

1 director of the Department of Law Enforcement shall each
2 appoint four members to the task force. The Secretary of
3 Children and Family Services shall designate one appointee as
4 the chairperson of the task force.

5 (2) The task force shall:

6 (a) Evaluate the current curriculum used to train law
7 enforcement officers in identifying abuse and neglect of
8 elderly persons. This evaluation must be completed and
9 submitted to the Legislature by July 1, 2005.

10 (b) Prepare a list of recommendations for improving
11 the curriculum used to train law enforcement officers in
12 identifying abuse and neglect of elderly persons and
13 preventing such abuse and neglect. This list of
14 recommendations must be submitted to the Legislature by
15 September 1, 2005.

16 Section 4. Paragraph (h) of subsection (3) of section
17 921.0022, Florida Statutes, is amended to read:

18 921.0022 Criminal Punishment Code; offense severity
19 ranking chart.--

20 (3) OFFENSE SEVERITY RANKING CHART

21	22	23	24	25	26
Florida	Felony				
Statute	Degree		Description		
27				(h) LEVEL 8	
28	316.193				
29	(3)(c)3.a.	2nd	DUI manslaughter.		
30	327.35(3)(c)3.	2nd	Vessel BUI manslaughter.		
31	499.0051(7)	1st	Forgery of prescription or legend drug labels.		

1	499.0052	1st	Trafficking in contraband legend
2			drugs.
3	560.123(8)(b)2.	2nd	Failure to report currency or
4			payment instruments totaling or
5			exceeding \$20,000, but less than
6			\$100,000 by money transmitter.
7	560.125(5)(b)	2nd	Money transmitter business by
8			unauthorized person, currency or
9			payment instruments totaling or
10			exceeding \$20,000, but less than
11			\$100,000.
12	655.50(10)(b)2.	2nd	Failure to report financial
13			transactions totaling or
14			exceeding \$20,000, but less than
15			\$100,000 by financial
16			institutions.
17	777.03(2)(a)	1st	Accessory after the fact, capital
18			felony.
19	782.04(4)	2nd	Killing of human without design
20			when engaged in act or attempt of
21			any felony other than arson,
22			sexual battery, robbery,
23			burglary, kidnapping, aircraft
24			piracy, or unlawfully discharging
25			bomb.
26	782.051(2)	1st	Attempted felony murder while
27			perpetrating or attempting to
28			perpetrate a felony not
29			enumerated in s. 782.04(3).
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31			

1	782.071(1)(b)	1st	Committing vehicular homicide and
2			failing to render aid or give
3			information.
4	782.072(2)	1st	Committing vessel homicide and
5			failing to render aid or give
6			information.
7	790.161(3)	1st	Discharging a destructive device
8			which results in bodily harm or
9			property damage.
10	794.011(5)	2nd	Sexual battery, victim 12 years
11			or over, offender does not use
12			physical force likely to cause
13			serious injury.
14	800.04(4)	2nd	Lewd or lascivious battery.
15	806.01(1)	1st	Maliciously damage dwelling or
16			structure by fire or explosive,
17			believing person in structure.
18	810.02(2)(a)	1st,PBL	Burglary with assault or battery.
19	810.02(2)(b)	1st,PBL	Burglary; armed with explosives
20			or dangerous weapon.
21	810.02(2)(c)	1st	Burglary of a dwelling or
22			structure causing structural
23			damage or \$1,000 or more property
24			damage.
25	812.13(2)(b)	1st	Robbery with a weapon.
26	812.135(2)	1st	Home-invasion robbery.
27	817.568(6)	2nd	Fraudulent use of personal
28			identification information of an
29			individual under the age of 18.
30	825.102(2)	<u>1st</u> 2nd	Aggravated abuse of an elderly
31			person or disabled adult.

1	825.1025(2)	2nd	Lewd or lascivious battery upon
2			an elderly person or disabled
3			adult.
4	825.103(2)(a)	1st	Exploiting an elderly person or
5			disabled adult and property is
6			valued at \$100,000 or more.
7	837.02(2)	2nd	Perjury in official proceedings
8			relating to prosecution of a
9			capital felony.
10	837.021(2)	2nd	Making contradictory statements
11			in official proceedings relating
12			to prosecution of a capital
13			felony.
14	860.121(2)(c)	1st	Shooting at or throwing any
15			object in path of railroad
16			vehicle resulting in great bodily
17			harm.
18	860.16	1st	Aircraft piracy.
19	893.13(1)(b)	1st	Sell or deliver in excess of 10
20			grams of any substance specified
21			in s. 893.03(1)(a) or (b).
22	893.13(2)(b)	1st	Purchase in excess of 10 grams of
23			any substance specified in s.
24			893.03(1)(a) or (b).
25	893.13(6)(c)	1st	Possess in excess of 10 grams of
26			any substance specified in s.
27			893.03(1)(a) or (b).
28	893.135(1)(a)2.	1st	Trafficking in cannabis, more
29			than 2,000 lbs., less than 10,000
30			lbs.
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1	893.135		
2	(1)(b)1.b.	1st	Trafficking in cocaine, more than
3			200 grams, less than 400 grams.
4	893.135		
5	(1)(c)1.b.	1st	Trafficking in illegal drugs,
6			more than 14 grams, less than 28
7			grams.
8	893.135		
9	(1)(d)1.b.	1st	Trafficking in phencyclidine,
10			more than 200 grams, less than
11			400 grams.
12	893.135		
13	(1)(e)1.b.	1st	Trafficking in methaqualone, more
14			than 5 kilograms, less than 25
15			kilograms.
16	893.135		
17	(1)(f)1.b.	1st	Trafficking in amphetamine, more
18			than 28 grams, less than 200
19			grams.
20	893.135		
21	(1)(g)1.b.	1st	Trafficking in flunitrazepam, 14
22			grams or more, less than 28
23			grams.
24	893.135		
25	(1)(h)1.b.	1st	Trafficking in
26			gamma-hydroxybutyric acid (GHB),
27			5 kilograms or more, less than 10
28			kilograms.
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1 893.135
2 (1)(j)1.b. 1st Trafficking in 1,4-Butanediol, 5
3 kilograms or more, less than 10
4 kilograms.
5 893.135
6 (1)(k)2.b. 1st Trafficking in Phenethylamines,
7 200 grams or more, less than 400
8 grams.
9 895.03(1) 1st Use or invest proceeds derived
10 from pattern of racketeering
11 activity.
12 895.03(2) 1st Acquire or maintain through
13 racketeering activity any
14 interest in or control of any
15 enterprise or real property.
16 895.03(3) 1st Conduct or participate in any
17 enterprise through pattern of
18 racketeering activity.
19 896.101(5)(b) 2nd Money laundering, financial
20 transactions totaling or
21 exceeding \$20,000, but less than
22 \$100,000.
23 896.104(4)(a)2. 2nd Structuring transactions to evade
24 reporting or registration
25 requirements, financial
26 transactions totaling or
27 exceeding \$20,000 but less than
28 \$100,000.
29 Section 5. This act shall take effect July 1, 2004.
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SENATE SUMMARY

Requires a protective investigator or case worker from the Department of Children and Family Services to request a mental health examination of an elderly victim of abuse or neglect if there is suspicion of mental incompetency. Increases the penalty for aggravated abuse of an elderly person from a second-degree felony to a first-degree felony. Creates the Task Force Against Abuse and Neglect of the Elderly within the Department of Children and Family Services. (See bill for details.)