## Florida Senate - 2006

## CS for SB 1182

By the Committee on Children and Families; and Senator Rich

586-1737-06

1	A bill to be entitled
2	An act relating to adult protective services;
3	amending s. 415.102, F.S.; redefining the term
4	"abuse" to include actions by a relative or a
5	household member which are likely to harm a
б	vulnerable adult; redefining the term "neglect"
7	to include actions of a vulnerable adult
8	against himself or herself; amending s.
9	415.1051, F.S.; providing for the Department of
10	Children and Family Services to petition the
11	court for an order authorizing the provision of
12	protective services for a vulnerable adult in
13	need of services; amending s. 415.107, F.S.;
14	authorizing the Agency for Persons with
15	Disabilities to have access to certain
16	otherwise confidential records and reports;
17	providing an effective date.
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19	Be It Enacted by the Legislature of the State of Florida:
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21	Section 1. Subsections (1) and (15) of section
22	415.102, Florida Statutes, are amended to read:
23	415.102 Definitions of terms used in ss.
24	415.101-415.113As used in ss. 415.101-415.113, the term:
25	(1) "Abuse" means any willful act or threatened act by
26	a <u>relative,</u> caregiver <u>, or household member which</u> <del>that</del> causes
27	or is likely to cause significant impairment to a vulnerable
28	adult's physical, mental, or emotional health. Abuse includes
29	acts and omissions.
30	(15) "Neglect" means the failure or omission on the
31	part of the caregiver <u>or vulnerable adult</u> to provide the care,
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1 supervision, and services necessary to maintain the physical 2 and mental health of the vulnerable adult, including, but not limited to, food, clothing, medicine, shelter, supervision, 3 and medical services, which that a prudent person would 4 consider essential for the well-being of a vulnerable adult. 5 6 The term "neglect" also means the failure of a caregiver or 7 vulnerable adult to make a reasonable effort to protect a 8 vulnerable adult from abuse, neglect, or exploitation by 9 others. "Neglect" is repeated conduct or a single incident of carelessness which produces or could reasonably be expected to 10 result in serious physical or psychological injury or a 11 12 substantial risk of death. 13 Section 2. Subsection (1) of section 415.1051, Florida Statutes, is amended to read: 14 415.1051 Protective services interventions when 15 16 capacity to consent is lacking; nonemergencies; emergencies; 17 orders; limitations.--(1) NONEMERGENCY PROTECTIVE SERVICES 18 INTERVENTIONS.--If the department has reasonable cause to 19 believe that a vulnerable adult or a vulnerable adult in need 20 21 of services is being abused, neglected, or exploited and is in 22 need of protective services but lacks the capacity to consent 23 to protective services, the department shall petition the court for an order authorizing the provision of protective 2.4 25 services. (a) Nonemergency protective services petition. -- The 26 27 petition must state the name, age, and address of the 2.8 vulnerable adult, allege specific facts sufficient to show 29 that the vulnerable adult is in need of protective services and lacks the capacity to consent to them, and indicate the 30 services needed. 31

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1 (b) Notice.--Notice of the filing of the petition and 2 a copy of the petition must be given to the vulnerable adult, to that person's spouse, guardian, and legal counsel, and, 3 when known, to the adult children or next of kin of the 4 vulnerable adult. Such notice must be given at least 5 days 5 6 before the hearing. 7 (c) Hearing.--8 1. The court shall set the case for hearing within 14 days after the filing of the petition. The vulnerable adult 9 10 and any person given notice of the filing of the petition have the right to be present at the hearing. The department must 11 12 make reasonable efforts to ensure the presence of the 13 vulnerable adult at the hearing. 2. The vulnerable adult has the right to be 14 represented by legal counsel at the hearing. The court shall 15 appoint legal counsel to represent a vulnerable adult who is 16 17 without legal representation. 18 3. The court shall determine whether: a. Protective services, including in-home services, 19 are necessary. 20 21 b. The vulnerable adult lacks the capacity to consent 22 to the provision of such services. 23 (d) Hearing findings. -- If at the hearing the court finds by clear and convincing evidence that the vulnerable 2.4 adult is in need of protective services and lacks the capacity 25 to consent, the court may issue an order authorizing the 26 27 provision of protective services. If an order for protective 2.8 services is issued, it must include a statement of the services to be provided and designate an individual or agency 29 to be responsible for performing or obtaining the essential 30 services on behalf of the vulnerable adult or otherwise 31

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1	consenting to protective services on behalf of the vulnerable
2	adult.
3	(e) Continued protective services
4	1. No more than 60 days after the date of the order
5	authorizing the provision of protective services, the
6	department shall petition the court to determine whether:
7	a. Protective services will be continued with the
8	consent of the vulnerable adult pursuant to subsection (1);
9	b. Protective services will be continued for the
10	vulnerable adult who lacks capacity;
11	c. Protective services will be discontinued; or
12	d. A petition for guardianship should be filed
13	pursuant to chapter 744.
14	2. If the court determines that a petition for
15	guardianship should be filed pursuant to chapter 744, the
16	court, for good cause shown, may order continued protective
17	services until it makes a determination regarding capacity.
18	(f) CostsThe costs of services ordered under this
19	section must be paid by the perpetrator if the perpetrator is
20	financially able to do so; or by third-party reimbursement, if
21	available. If the vulnerable adult is unable to pay for
22	guardianship, application may be made to the public guardian
23	for public guardianship services, if available.
24	Section 3. Paragraphs (a) and (h) of subsection (3) of
25	section 415.107, Florida Statutes, are amended to read:
26	415.107 Confidentiality of reports and records
27	(3) Access to all records, excluding the name of the
28	reporter which shall be released only as provided in
29	subsection (6), shall be granted only to the following
30	persons, officials, and agencies:
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1	(a) Employees or agents of the department, <del>of</del> the
2	Agency for Health Care Administration, the Agency for Persons
3	with Disabilities, or <del>of</del> the Department of Elderly Affairs who
4	are responsible for carrying out protective investigations,
5	ongoing protective services, or licensure or approval of
6	nursing homes, assisted living facilities, adult day care
7	centers, adult family-care homes, home care for the elderly,
8	hospices, or other facilities used for the placement of
9	vulnerable adults.
10	(h) Any appropriate official of the department, <del>of</del> the
11	Agency for Health Care Administration, the Agency for Persons
12	with Disabilities, or <del>of</del> the Department of Elderly Affairs who
13	is responsible for:
14	1. Administration or supervision of the programs for
15	the prevention, investigation, or treatment of abuse, neglect,
16	or exploitation of vulnerable adults when carrying out an
17	official function; or
18	2. Taking appropriate administrative action concerning
19	an employee alleged to have perpetrated abuse, neglect, or
20	exploitation of a vulnerable adult in an institution.
21	Section 4. This act shall take effect upon becoming a
22	law.
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24	STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN COMMITTEE SUBSTITUTE FOR
25	Senate Bill 1182
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27	Redefines the term "abuse" to no longer require a caregiver relationship to exist between the vulnerable adult and the
28	abuser. The new language includes in the definition actions of relatives and household members.
29	Allows the Agency for Persons with Disabilities to access the
30	information stored in the central abuse hotline.
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