Bill No. HB 409 (2014)

Amendment No. 1

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	COMMITTEE/SUBCOMMITTEE ACTION
	ADOPTED (Y/N)
	ADOPTED AS AMENDED (Y/N)
	ADOPTED W/O OBJECTION (Y/N)
	FAILED TO ADOPT (Y/N)
	WITHDRAWN (Y/N)
	OTHER
1	Committee/Subcommittee hearing bill: Criminal Justice
2	Subcommittee
3	Representative Passidomo offered the following:
4	
5	Amendment (with title amendment)
6	Remove lines 126-181 and insert:
7	sale, or transfer of property. An unauthorized appropriation
8	under this paragraph occurs when the elderly person or disabled
9	adult does not receive the reasonably equivalent financial value
10	in goods or services, or when the fiduciary violates any of
11	these duties:
12	1. For agents appointed under chapter 709:
13	a. Committing fraud in obtaining their appointments;
14	b. Abusing their powers;
15	c. Wasting, embezzling, or intentionally mismanaging the
16	assets of the ward or beneficiary of the trust; or
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17	d. Acting contrary to the principal's sole benefit or best
18	interest.
19	2. For guardians and trustees appointed under chapter 736
20	or chapter 744:
21	a. Committing fraud in obtaining their appointments;
22	b. Abusing their powers; or
23	c. Wasting, embezzling, or intentionally mismanaging the
24	assets of the ward or beneficiary of the trust.
25	(d) Misappropriating, misusing, or transferring without
26	authorization money belonging to an elderly person or disabled
27	adult from an account in which the elderly person or disabled
28	adult placed the funds, owned the funds, and was the sole
29	contributor or payee of the funds before the misappropriation,
30	misuse, or unauthorized transfer. This paragraph only applies
31	to the following types of accounts:
32	1. Personal accounts;
33	2. Joint accounts created with the intent that only the
34	elderly person or disabled adult enjoys all rights, interests,
35	and claims to moneys deposited into such account; or
36	3. Convenience accounts created in accordance with s.
37	<u>655.80.</u>
38	(e) Intentionally or negligently failing to effectively
39	use an elderly person's or disabled adult's income and assets
40	for the necessities required for that person's support and
41	maintenance, by a caregiver or a person who stands in a position
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42	of trust and confidence with the elderly person or disabled
43	adult.
44	(2) Any inter vivos transfer of money or property valued
45	in excess of \$10,000 at the time of the transfer, whether in a
46	single transaction or multiple transactions, by a person age 65
47	or older to a nonrelative whom the transferor knew for fewer
48	than 2 years before the first transfer and for which the
49	transferor did not receive the reasonably equivalent financial
50	value in goods or services creates a permissive presumption that
51	the transfer was the result of exploitation.
52	(a) This subsection applies regardless of whether the
53	transfer or transfers are denoted by the parties as a gift or
54	loan, except that it does not apply to a valid loan evidenced in
55	writing that includes definite repayment dates. However, if
56	repayment of any such loan is in default, in whole or in part,
57	for more than 65 days, the presumption of this subsection
58	applies.
59	(b) This subsection does not apply to:
60	1. Persons who are in the business of making loans.
61	2. Bona fide charitable donations to nonprofit
62	organizations that qualify for tax exempt status under the
63	Internal Revenue Code.
64	(c) In a criminal case to which this subsection applies,
65	if the trial is by jury, jurors shall be instructed that they
66	may, but are not required to, draw an inference of exploitation
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-	10, 20,

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7	upon proof beyond a reasonable doubt of the facts listed in this
	subsection. The
	TITLE AMENDMENT
	Remove line 13 and insert:
	specifying when an unauthorized appropriation occurs;
	specifying when an unauthorized appropriation occurs,
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